

Decision No. C18-0333

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 18A-0167R

IN THE MATTER OF THE APPLICATION OF THE TOWN OF ERIE, FOR AUTHORITY TO CONSTRUCT A NEW AT-GRADE PATHWAY CROSSING AND INSTALL PASSIVE WARNING SIGNS AND STRIPING AT TRACKS OWNED BY THE REGIONAL TRANSPORTATION DISTRICT, USDOT NO. TBD, IN WELD COUNTY, STATE OF COLORADO.

RECEIVED

**COMMISSION DECISION DEEMING APPLICATION
COMPLETE AND GRANTING APPLICATION**

MAY 24 2018

MARK R. SHAPIRO, P.C.

Mailed Date: May 15, 2018
Adopted Date: May 9, 2018

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the Town of Erie (Erie) on March 16, 2018, requesting authority to construct a new at-grade, passive warning pedestrian crossing of the tracks owned by the Regional Transportation District (RTD) inactive Denver Division, Boulder RTD at railroad milepost 24.39, no current National Inventory Number, located in Erie, County of Weld, State of Colorado.

2. The Commission gave notice of this Application (Notice) to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S. The Notice was mailed March 26, 2018.

3. On April 24, 2018, the BNSF Railway Company (BNSF) filed a Passive Notice of Intervention. BNSF does not contest or oppose the Application.

4. The Commission reviewed the record in this matter and deems that the Application is complete within the meaning of § 40-6-109.5, C.R.S.

5. Now being fully advised in the matter, we grant the Application.

B. Findings of Fact

6. The Commission gave notice to all interested parties, including the adjacent property owners. No intervention was received opposing the Application.

7. Erie proposes to construct an at-grade, 10 foot wide pedestrian pathway and installation of crossing surface panels to connect a trail from downtown Erie on the north side of the RTD tracks to a trail south of the tracks to allow downtown residents direct access to the community trail. Erie proposes that the crossing be marked with crossbucks, yield signs, and "Exempt" signs on each approach to the crossing.

8. Erie estimates that 25 to 35 pedestrians per day and 35 to 50 bicycles per day will use the crossing in the next 5 to 20 years. This section of the RTD Denver Division is currently inactive, so there is no train traffic using the proposed crossing location.

9. Erie proposes to start the project in July 2018 and be completed by February 2019. Erie will be required to inform the Commission in writing that all work is complete and operational within ten days of completion. The Commission will expect this letter no later than February 28, 2019. However, the Commission does understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

10. Erie estimates the cost of the crossing work for the trail connection project at \$24,253 with the funds being paid by Erie's Capital Improvement Plan budget.

11. RTD will be required to obtain a U.S. DOT crossing inventory number for the crossing and to file a copy of the new crossing inventory form in this proceeding by February 28, 2019.

C. Conclusions

12. The Commission has jurisdiction in this matter under §§ 40-4-106(2)(a) and (3)(a), C.R.S.

13. No intervenor that filed a petition to intervene or other pleading contests or opposes the Application.

14. Because the Application is unopposed, the Commission finds that it will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 1403, Commission Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

15. We find that good cause exists to grant the Application consistent with the above discussion.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the Town of Erie (Erie) on March 16, 2018, requesting authority to construct a new at-grade, passive warning pedestrian crossing of the tracks owned by the Regional Transportation District (RTD) inactive Denver Division, Boulder RTD at railroad milepost 24.39, no current National Inventory Number, located in Erie, County of Weld, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The intervention of BNSF Railway Company is granted.

3. The Application is granted.

4. Erie is authorized and ordered to proceed with construction of a new at-grade pedestrian trail crossing with the posting of crossbucks, yield signs, and "Exempt" signs at railroad milepost 24.39 of the RTD Denver Division, Boulder RTD tracks in Erie, Colorado.

5. Erie shall inform the Commission in writing when the construction is complete and operational within ten days of completion. The Commission will expect the letter by February 28, 2019. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

6. RTD shall obtain a U.S. DOT crossing inventory number for the crossing and file a copy of the new crossing inventory form in this proceeding by February 28, 2019.

7. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

8. The Commission retains jurisdiction to enter further decisions as necessary.

9. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 9, 2018.**

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

WENDY M. MOSER

Commissioners

ATTEST: A TRUE COPY

Doug Dean,
Director

