

Decision No. R14-0880-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0459R

IN THE MATTER OF THE APPLICATION OF THE REGIONAL TRANSPORTATION DISTRICT FOR AUTHORITY TO CONSTRUCT AN AT-GRADE LIGHT RAIL CROSSING OF E. 17TH AVENUE ADJACENT TO FITZSIMONS PARKWAY WITHIN THE CITY OF AURORA, ADAMS COUNTY, COLORADO.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
PAUL C. GOMEZ
GRANTING MOTION TO BIFURCATE PROCEEDING;
GRANTING APPLICATION TO CONSTRUCT CROSSING
EXCEPT FOR TRAFFIC SIGNAL PROGRAMMING;
ORDERING STATUS FILINGS; AND ACKNOWLEDGING
WAIVER OF 210-DAY STATUTORY DEADLINE**

Mailed Date: July 24, 2014

I. STATEMENT

1. On May 12, 2014, the Regional Transportation District (RTD) filed an application for an Order requesting authority to construct an at-grade light rail transit crossing at East 17th Avenue adjacent to Fitzsimons Parkway, including the installation of new crossing surfaces for two tracks, roadway profiling, flashing lights, entrance gates, bells, cantilever flashing lights, medians, traffic signal reconstruction, signage, pavement markings, blank-out sign indications for the movements into the crossing, detectable warning panels, and pedestrian related signing (Application). The crossing is located within the City of Aurora, Arapahoe County, Colorado.

2. Notice of the Application was provided by the Commission to all interested parties pursuant to § 40-6-108(2), C.R.S., on May 14, 2014.

3. The Commission deemed the Application complete and referred the matter to an Administrative Law Judge (ALJ) for disposition on June 25, 2014. The matter was subsequently assigned to the undersigned ALJ.

4. The intervenors in this proceeding are the City of Aurora (Aurora) and Railroad Staff of the Commission (Staff).

5. Interim Decision No. R14-0758-I, issued July 2, 2014, granted the intervention of Aurora, noted the intervention of Staff and required RTD to file a motion to bifurcate the Application to allow construction of the at-grade crossing to move forward, while issues regarding modeling, analysis, and bench testing of signalization timing alternatives are worked out, similar to motions filed in previous applications. Past similar proceedings involving RTD light rail crossings in Aurora have involved setting a pre-hearing conference, which was later vacated by motion of the parties. In order to conserve resources and save time, no pre-hearing conference was set and RTD was ordered to file its motion by July 11, 2014.

6. On July 9, 2014, RTD, Staff, and Aurora (Joint Parties) filed a Joint Motion to Bifurcate Proceedings to Permit Construction, and for Approval of Procedural Stipulation (Joint Motion). The Joint Parties represent that the crossing geometry and signal installations at the crossing at issue will be the same, no matter which traffic signal timing option is selected. RTD asserts that the inability to begin construction at the crossing at issue between the date of the Application and approval of traffic signal timing would harm the public interest by delaying the construction of the I-225 Corridor.

7. The Joint Parties agree that RTD's design for the crossing as depicted in the civil plans filed with the Application is acceptable and it is in the public interest to bifurcate this proceeding into two phases. Phase I would allow the immediate construction of the crossing's

civil and hard signal infrastructure elements as set forth in the Application, including, but not limited to trackway, curb and gutter, medians, utility work, signal foundations, traffic signals, railroad crossing signals, pedestrian swing gates and main control equipment, pending selection of a traffic signal timing option and finalization of the traffic signal timing related to the traffic signal-train interaction.

8. In the event the Joint Parties' request to bifurcate this proceeding is granted as described above, RTD represents that it will voluntarily waive the 210-day statutory time limitation in which to issue a final decision in this matter pursuant to § 40-6-109.5(3), C.R.S.

9. The Joint Parties also move to approve a procedural stipulation because the Joint Parties believe that the entire Application may very well be resolved by stipulation without a hearing. However, the Joint Parties cannot predict with any certainty when the traffic signalization modeling, subsequent analysis, and bench testing will be completed. While an initial deadline is contemplated in Section 4.d of the Application, the Joint Parties indicate that the deadline may be exceeded.

10. As a result, the Joint Parties propose that as part of Phase II of the proposed bifurcated proceeding, they file quarterly joint status reports which detail progress made, if any, toward selection of a traffic signal timing option and finalization of traffic signal timings. The first report is proposed to be filed on October 31, 2014 and every three months subsequent on the last day of each third month.

11. Good cause is found to grant the relief requested in the Joint Motion. This proceeding will be bifurcated into Phase I and Phase II as set out above. Phase I, the proposed construction plan as proposed by RTD in the civil plan of the Application will be allowed to go forward to immediately construct the crossing at issue in this proceeding

consisting of the civil and hard signal infrastructure elements as depicted in the Application, including, but not limited to construction of two new tracks with new crossing surfaces, roadway profiling, curb and gutter, medians, utility work, signal foundations, traffic signal reconstruction, railroad signal construction, signage, pavement markings, blank-out sign indication installation, detectable warning panel installation, pedestrian swing gate installation, and main control equipment.

12. In Phase II of the bifurcated proceeding, Staff and RTD will be required to make regular status updates as set out above detailing the progress made in resolving the issues between the two parties regarding modeling, analysis, and bench testing of the signalization timing alternatives. In the event it appears to the undersigned ALJ that no progress is occurring over a period of time, a hearing may be convened to determine what issues are causing such lack of progress and to determine how the issue or issues may be resolved.

13. Response time to the Joint Motion will be waived

14. RTD's voluntary waiver of the statutory deadline in which to issue a final Commission Decision in this proceeding is noted.

II. ORDER

A. It Is Ordered That:

1. The Joint Motion to Bifurcate Proceedings to Permit Construction and for Approval of Procedural Stipulation filed by the Regional Transportation District (RTD), the City of Aurora, Colorado (Aurora), and Commission Staff (Staff) is granted consistent with the discussion above.

2. Response time to the motion is waived.

3. This proceeding shall be bifurcated consistent with the discussion above.

4. As part of Phase I of the bifurcated proceeding, RTD is granted authority to immediately begin construction at the at-grade light rail transit crossing at East 17th Avenue adjacent to the Fitzsimons Parkway intersection, including, but not limited to the installation of new crossing surfaces for construction of two new tracks, roadway profiling, curb and gutter, medians, utility work, signal foundations, traffic signal reconstruction, railroad signal construction, signage, pavement markings, blank-out sign indication installation, detectable warning panel installation, pedestrian swing gates, and main control equipment.

5. As part of Phase II of the bifurcated proceeding, Staff, RTD, and Aurora shall make quarterly status updates as set out above, detailing the progress made in resolving the issues between the parties regarding modeling, analysis, and bench testing of the signalization timing alternatives.

6. The first status update report shall be due on October 31, 2014.

7. Each subsequent quarterly status update report shall be filed every three months thereafter on the last day of each quarterly month.

8. The waiver of the 210-day period to issue a final Commission Decision pursuant to § 40-6-109.5(3), C.R.S., by RTD is noted.

9. The Commission retains jurisdiction to enter further orders as necessary.

10. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PAUL C. GOMEZ

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director