

Decision No. C19-0662

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19V-0349R

PETITION OF THE REGIONAL TRANSPORTATION DISTRICT FOR WAIVER OF, OR VARIANCE FROM, 4 CCR 723-7 7325(G) CONCERNING THE SIDE CLEARANCE IN ONE LOCATION NORTHEAST OF THE SOUTH PLATTE RIVER TRAIL (DENARGO) CROSSING IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO.

**COMMISSION DECISION
GRANTING VARIANCE**

Mailed Date: August 6, 2019
Adopted Date: July 31, 2019

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. This matter comes before the Commission for consideration of a petition (Petition) filed on June 20, 2019, by the Regional Transportation District (RTD). In this Petition, RTD requests a permanent partial waiver of, or variance from the 8'-3" minimum side clearance standard for a signal or switch stand that is over 3'-0" high stated in the Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* (CCR) 723-7-7325(g)(II) to a minimum clearance of 6'-10 3/8" for one signal located at Station 186+85 on the North Metro Rail Line located northeast of the South Platte River Trail in the City and County of Denver, State of Colorado.

2. The Commission noticed this Petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on June 21, 2019.

3. No intervention or petition in opposition has been filed in this matter. This proceeding is therefore uncontested. Pursuant to § 40-6-109(5), C.R.S., this matter may be determined without a hearing.

4. Pursuant to Rule 1003 of the Rules of Practice and Procedure, 4 CCR 723-1, the Commission may grant waivers or variances from tariffs, Commission rules, and substantive requirements contained in Commission decisions and orders for good cause. In making a determination, the Commission may take into account, but is not limited to, considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.

5. Rule 7325(g)(II) requires that generally, side clearances for signals or switch stands that are over 3'-0" high shall be a minimum of 8'-3".

6. The signal in question, the 2S signal located at Station 186+85 on the RTD North Metro Rail Line was constructed as designed and is obstructed by an OSC pole in its alignment. Because of the obstruction, the signal needs to be installed on an aluminum offset pole that will leave less than 8'-3" of clearance per the rule. Exhibit B to the Application shows the signal location and Exhibit C to the Application shows how the signal will be obstructed by the OCS pole if the train is on the track in the left side of the photo. Page 2 of Exhibit B shows the proposed offset that will move the signal out of compliance with the rule, but which will make the signal visible to train operators. RTD requests a permanent variance of the side clearance for the signal at this location so commuter rail operators will be able to see the signal rather than have the signal obstructed from their view.

7. As justification for this permanent variance of Rule 7325(g)(II), RTD states that they believe that the side clearance standard originated in the days where railroad employees customarily performed some of their duties on the outside of railcars, making these employees

vulnerable to side clearance impacts on fast moving trains. RTD states that commuter rail employees will not be working on the outside of these operating cars, and that rail workers and passengers will not be allowed to access the exterior portions of the vehicles while trains are in service. Because it will not be possible for commuter rail employees or passengers to ride on the outside of the cars, the reduced side clearance impact will not affect anyone and the impact will be eliminated.

8. The Commission finds that RTD has shown good cause to grant a permanent variance of Rule 7325(g)(II) to allow a shortened side clearance distance for Signal 2S on the North Metro Rail Line.

II. **ORDER**

A. **The Commission Orders That:**

1. The Regional Transportation District petition requesting a permanent partial waiver of, or variance from the 8'-3" minimum side clearance standard for a signal or switch stand that is over 3'-0" high stated in the Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* 723-7-7325(g)(II) to a minimum clearance of 6'-10 3/8" for one signal located at Station 186+85 on the North Metro Rail Line located northeast of the South Platte River Trail in the City and County of Denver is granted. This permanent variance shall be for the life of the affected commuter rail line.

2. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails this Decision.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 31, 2019.**

(S E A L)



ATTEST: A TRUE COPY

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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners