

Decision No. C25-0568

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 25A-0113R

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IN THE MATTER OF THE APPLICATION OF THE CITY AND COUNTY OF DENVER FOR AUTHORITY TO ALTER THE EXISTING ALAMEDA AVENUE UNDERPASS GRADE SEPARATED CROSSINGS UNDER THE TRACKS OF THE BNSF RAILWAY COMPANY, UNION PACIFIC RAILROAD COMPANY AND REGIONAL TRANSPORTATION DISTRICT (US DOT #253027H AND #245391A) BY ADDING A NEW ELEVATED PEDESTRIAN SIDEWALK ABOVE THE ROAD SURFACE AS PART OF THE ALAMEDA UNDERPASS REHABILITATION PROJECT IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO.

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**COMMISSION DECISION GRANTING UNOPPOSED  
MOTION FOR VARIANCE**

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Issued Date: August 6, 2025

Adopted Date: July 30, 2025

**I. STATEMENT**

**A. Procedural History**

1. This matter comes before the Commission for consideration of a Motion (“Motion”) filed by the City and County of Denver (“Denver”) filed on July 11, 2025, for a variance of the requirement to file a signed Construction and Maintenance Agreement (“C&M Agreement”) with the BNSF Railway Company (“BNSF”).

2. By Decision No. C25-0347, issued May 5, 2025, the Commission deemed the Application complete, granted the Application, and required Denver to file a copy of the signed C&M Agreement with BNSF for this project by May 31, 2025 prior to starting work at the crossing.

3. On May 22, 2025, Denver filed its Motion for Extension of Time, requesting an extension of time to June 30, 2025, to file a signed Right of Entry Agreement with the Commission.

4. By Decision No. C25-0451, issued June 11, 2025, the Commission granted in part Denver's Motion for Extension of Time and required Denver to file a copy of the signed C&M Agreement ordered by Decision No. C25-0347 no later than July 31, 2025,

5. On July 11, Denver filed its motion for a variance of the requirement to file a signed C&M Agreement with BNSF. Denver's motion states the City and BNSF have entered into an agreement that outlines the terms for the design, construction, operation and maintenance of the crossing at issue in this proceeding. Denver filed a true and correct copy of the Agreement in the proceeding. Paragraph 11 on Page 9 of the Agreement addresses coverage of the maintenance costs required by the Commission in Decision No. C25-0347, and states that Denver "shall, at its own expense, maintain, repair, renew and reconstruct, when necessary, the said subway and approaches, and roadway therein".

**B. Conclusion**

6. The Motion states good cause to grant a variance of the requirement to file a signed C&M Agreement with BNSF.

7. The Motion will not create any safety issues since the crossing in question is grade separated.

8. Now being fully advised, we grant Denver's Motion.

## II. ORDER

### A. The Commission Orders That:

1. The Motion filed by the City and County of Denver (“Denver”) filed on July 11, 2025, for a variance of the requirement to file a signed Construction and Maintenance Agreement (C&M Agreement) with the BNSF Railway Company (“BNSF”) is granted.

2. The remaining compliance ordered in Decision No. C25-0347 remains as ordered.
3. This Decision is effective upon its Issued Date.

### B. **ADOPTED IN COMMISSIONERS’ WEEKLY MEETING July 30, 2025.**

(S E A L)



ATTEST: A TRUE COPY

*Rebecca E. White*

Rebecca E. White,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

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Commissioners