

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25A-0320R

IN THE MATTER OF THE APPLICATION OF THE E-470 PUBLIC HIGHWAY AUTHORITY FOR AUTHORITY TO WIDEN THE EXISTING HIGHWAY CROSSING UNDER TRACKS OWNED BY THE REGIONAL TRANSPORTATION DISTRICT, USDOT NO. 945-891F, IN DENVER COUNTY, STATE OF COLORADO.

**COMMISSION DECISION DEEMING APPLICATION
INCOMPLETE AND DISMISSING APPLICATION**

Issued Date: August 19, 2025

Adopted Date: August 13, 2025

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an Application (“Application”) filed by the E-470 Public Highway Authority (“E470”) on July 28, 2025, requesting authority to widen the existing E-470 highway crossing under the commuter rail tracks of the Regional Transportation District (“RTD”) East Rail Line at railroad milepost 18.49, National Inventory No. 945891R, City and County of Denver, 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 August 8, 2025.

3. On August 11, 2025, RTD filed an Entry of Appearance and Notice of Intervention as of Right. RTD does not contest or oppose the Application.

B. Findings of Fact

4. The Commission's rules require at Rule 7204(X Section 40-4-106(2)(a) of the Commission's Rules regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* 723-7, that "detailed plans/drawings of a suitable scale, showing the crossing, including signing and striping, tracks, buildings, structures, property lines, and public highways within the ROW limits of the railroad."

5. The plans provided by E470 are not recent plans that show the new roadway configuration under the bridge structure with the additional lanes being added. The plans provided for the application are RTD's as-built plans for the bridge structure with notes added and E470's as-built plans with an added note showing the location of the RTD bridge structure. These plans are not in compliance with the Commission's rules

6. E470 states in their Application that construction was started October 10, 2023, and that construction is estimated to be completed on August 25, 2025, which date is before notice of the application will expire.

7. E470 states the Application was filed to comply with PUC rules.

C. Discussion

8. E470's Application being filed when the project is nearly complete poses a unique circumstance for the Commission. The application is requesting authority to make changes after the fact, which is contrary to statute and Commission rules, § 40-4-106(2)(a) and (3)(a), C.R.S., and, *e.g.*, Rule 7002 and Rule 7204, requiring an application be submitted and granted before the applicant starts construction of the project.

D. Conclusion

9. Given the unique circumstances of this application being incomplete with non-compliant plans being filed and that the application is being applied for after the fact contrary to statute and Commission rules, we will deem the Application incomplete and dismiss the Application.

10. Since we are deeming the Application incomplete and dismissing the Application, we will also deny RTD's intervention as moot.

11. Should E470 submit a revised application for this project, E470 needs to provide compliant plans and state good cause as to why the Commission should grant the requested authority after the fact since the Commission did not review and approve the Application prior to the start of construction.

II. ORDER**A. The Commission Orders That:**

1. The Application ("Application") filed by the E-470 Public Highway Authority on July 28, 2025, requesting authority to widen the existing E-470 highway crossing under the commuter rail tracks of the Regional Transportation District ("RTD") East Rail Line at railroad milepost 18.49, National Inventory No. 945891R, City and County of Denver, State of Colorado, is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The intervention of RTD is denied as moot.

3. The Application is dismissed.

4. The 20-day period provided for in § 40-6-114, C.R.S., within which to file an Application for Rehearing, Reargument, or Reconsideration, begins on the first day following the effective date of this Decision.

5. The Commission retains jurisdiction to enter further decisions as necessary.
6. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 13, 2025.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners