

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25A-0067R

IN THE MATTER OF THE APPLICATION OF THE CITY OF FORT COLLINS FOR AUTHORITY TO INSTALL AN AT-GRADE HIGHWAY-RAIL CROSSING AT THE PROPOSED INTERSECTION OF GREENFIELDS DRIVE AND THE GREAT WESTERN RAILWAY (USDOT NO. 256551) BLACK HOLLOW RAIL LINE IN THE CITY OF FORT COLLINS, LARIMER COUNTY, STATE OF COLORADO.

**INTERIM DECISION PRELIMINARILY APPROVING
CONCEPTUAL PLANS, VACATING HEARING AND
PROCEDURAL SCHEDULE, GRANTING MOTION TO
VACATE PROCEDURAL SCHEDULE AND HEARING,
DENYING MOTION OF EXTENSION OF TIME AS MOOT,
AND SETTING A DEADLINE FOR THE FILING
OF FINAL PLANS**

Issued Date: August 19, 2025

I. STATEMENT¹

1. On February 7, 2025, the City of Fort Collins (the “City” or “Applicant” or “Intervenor”) filed the above-captioned Application requesting authority to install an at-grade highway-rail crossing at the proposed intersection of Greenfields Drive and the Great Western Railway (USDOT No. 256551) Black Hollow Rail Line in the City of Fort Collins, Larimer County, State of Colorado (“Application”). With the Application, the City filed testimony and documentary attachments in support of the Application.² In the Application, Applicant “estimated that construction would begin by March 2026.”³

¹ Only the procedural history necessary to understand this Decision is included.

² See Hr. Ex. 101-105 and corresponding attachments, filed February 7, 2025.

³ Hr. Ex. 100, Application at p. 6.

2. Notice of the Application was provided by the Commission to all interested persons, firms and Corporations, on February 12, 2025.

3. On February 14, 2025, the Staff of the Colorado Public Utilities Commission (“Staff”) issued a deficiency letter (the “Deficiency Letter”) to the Applicant, requesting supplementation of certain information that had not been included with the Application.

4. On February 24, 2025, Applicant filed its response to the Deficiency Letter (“Deficiency Response”).

5. On March 13, 2025, Great Western Railway of Colorado, L.L.C. (“GWR”) filed its Entry of Appearance and Notice of Intervention contesting and opposing the Application.⁴

6. By Decision No. C25-0229, issued March 26, 2025, the Commission deemed the Application complete; noted Great Western Railway’s intervention; and referred this matter to an administrative law judge (“ALJ”) for determination of the merits of the Application and to obtain additional information regarding information missing from the original Application.

7. By Decision No. R25-0432-I, issued June 4, 2025, the undersigned ALJ adopted a procedural schedule, pursuant to which, among other things, GWR was to submit its witness and exhibit list by August 11, 2025 and scheduled a remote hearing in this matter for September 3-4, 2025.

8. On July 29, 2025, GWR filed its Notice of Withdrawal of Opposition (“Withdrawal”).

9. On August 7, 2025, the Joint Motion to Vacate Hearing and Stipulation (“Motion to Vacate”) was filed by Applicant.

⁴ Intervention at p. 1.

10. On August 11, 2025, the Unopposed Motion for Extension of Time (“Motion for Extension of Time”) was filed by GWR.

II. FINDINGS AND CONCLUSIONS

A. Motion to Vacate

11. In the Withdrawal, GWR stated: “[b]y filing [the Withdrawal], [GWR] is not opposing or contesting the granting of the Application, subject to [GWR]’s right to comment on the proposed design and to raise any objections before the Commission to the extent they cannot be resolved during the review and comment process.”⁵

12. In the Motion to Vacate, the parties “stipulate and agree that a hearing is no longer necessary in this matter... and request that the hearing set for September 3-4, 2025 and the remaining procedural deadlines associated with that hearing be vacated.”⁶ The parties explain that “no party objects to the granting of the Application at this time.”⁷ The Motion to Vacate was filed jointly by both parties in this Proceeding.

13. The ALJ finds and concludes that the parties stated good cause for the relief sought in the Motion to Vacate. Therefore, response time to the Motion to Vacate will be waived *sua sponte* and the Motion to Vacate will be granted, as ordered below.

B. Motion for Extension of Time

14. In the Motion for Extension of Time, GWR requests “the date it must file its witness list and exhibits be extended until such time as the hearing is vacated or until two weeks after this Motion is ruled upon by the [ALJ], whichever is later.”⁸ The Motion for Extension of Time is unopposed.

⁵ Withdrawal at p. 2.

⁶ Motion to Vacate at p. 1.

⁷ *Id.* at p. 2.

⁸ Motion for Extension of Time at p.3.

15. Given the granting of the Motion to Vacate herein, the filing of a witness and exhibits list by GWR is unnecessary. Therefore, response time to the Motion will be waived *sua sponte*, and the Motion for Extension of Time will be denied as Moot, as ordered below.

C. Approval of Conceptual Plans

16. Commission rules allow road authorities to submit an application seeking preliminary approval of conceptual level designs and plans.⁹ As such, the City's request for preliminary approval is authorized by law.

17. According to the Application and Deficiency Response (hereinafter together "Amended Application"):

City of Fort Collin Master Street Plan (MSP) designated railway crossing location for an arterial road with new development within the City of Fort Collins Growth Management Area (GMA). Greenfields Dr. as shown in the MSP will provide a critical link in the overall roadway network for this portion of the City. Greenfields Dr. will provide an alternative to the congested intersection at Timberline Rd. and Vine Dr., allowing trips to be distributed across the road network as drivers move to and from Mulberry St. (SH 14). Greenfields will ultimately serve more than just the adjacent development, providing redundancy in the network. This is also a benefit to public safety, as it allows more options for emergency vehicles, should the BNSF's Powder River Subdivision line be occupied by a train...¹⁰

18. Applicant estimates that construction would begin by March 2026 and conclude by January 2027.¹¹

19. Based on an estimate submitted by prepared by Hartford Homes, Applicant estimates that the cost of the construction in connection with the Amended Application would be

⁹ Rule 7204(a) of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, *Code of Colorado Regulations* ("CCR") 723-7.

¹⁰ Hr. Ex. 100, Application, at p. 5; *see also*, Hr. Ex. 101 – 105.

¹¹ Application at p. 6.

\$620,045, to be paid by “Hartford Homes and/or Mulberry Development, LLC, using metro district bond revenue, traditional financing, and/or developer cash.”¹²

20. Based on the foregoing, the ALJ concludes that Applicant has submitted sufficient information for the ALJ to grant the City’s request for preliminary approval of the Application’s conceptual plans, and that the preponderance of the evidence supports such preliminary approval.¹³

21. As set forth in the Withdrawal and Motion to Vacate, GWR does not oppose the approval of the Conceptual Plans.

22. Based on the foregoing, the conceptual plans that were submitted as a part of the Amended Application will be preliminarily approved, as ordered below.

D. Deadline for Filing of Final Plans

23. In the Deficiency Response, Applicant stated, among other things, that “[a]ssuming a favorable decision by the Commission and an order requiring GWR to assist the City in preparation of final plans the City believes final plans can be submitted by December 31, 2025.”¹⁴

24. Therefore, the City will be required to submit its final plans and drawings for Commission review and action by December 31, 2025, as ordered below.

25. Notwithstanding the foregoing requirement, the undersigned ALJ will entertain any reasonable motion for an extension of time to submit the Applicant’s final plans and drawings, and/or a motion requesting that a prehearing conference be held in this matter.

¹² *Id.*; Hearing Exhibit 104, Attachment JP-4, filed with the Application on February 7, 2025.

¹³ See § 24-4-105(7), C.R.S.; Rule 1500 of the Rules and Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

¹⁴ Deficiency Response at p. 2.

III. **ORDER**

A. **It Is Ordered That:**

1. Consistent with the discussion above, response time to the Joint Motion to Vacate Hearing and Stipulation (“Motion to Vacate”), filed August 7, 2025, is waived *sua sponte*.
2. Consistent with the discussion above, the Motion to Vacate is granted.
3. The hearing scheduled for September 3-4, 2025, and the corresponding procedural schedule, are vacated.
4. Consistent with the discussion above, response time to the Unopposed Motion for Extension of Time (“Motion for Extension of Time”), filed August 11, 2025, is waived *sua sponte*.
5. Consistent with the discussion above, the Motion for Extension of Time is denied as moot.
6. Consistent with the discussion above, the conceptual plans that were submitted as a part of the above-captioned Application on February 7, 2025 are preliminarily approved.
7. Consistent with the discussion above, the City of Fort Collins shall submit its plans and drawings for final Commission approval by December 31, 2025.

8. This Decision is effective immediately.

(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

AVIV SEGEV

Administrative Law Judge