

Decision No. C23-0148

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0035R

IN THE MATTER OF THE TOWN OF ERIE, FOR AUTHORITY TO CONSTRUCT A NEW AT-GRADE PUBLIC ROADWAY CROSSING ACROSS TRACKS OWNED BY THE REGIONAL TRANSPORTATION DISTRICT IN THE TOWN OF ERIE, BOULDER COUNTY, STATE OF COLORADO.

**COMMISSION DECISION DEEMING APPLICATION
COMPLETE AND GRANTING APPLICATION**

Mailed Date: March 3, 2023
Adopted Date: March 1, 2023

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the Town of Erie (Erie) on January 13, 2023, requesting authority to construct a new at-grade, passive warning public highway-rail grade crossing of the extension of Lombardi Street across the existing tracks owned by the Regional Transportation District (RTD) inactive Denver Division, Boulder RTD at railroad milepost 24.95, no current National Inventory Number, located in Erie, County of Weld, 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 January 17, 2023.

3. On January 17, 2023, Erie filed the exhibits associated with the Application.

4. On February 1, 2023, RTD filed an Entry of Appearance and Notice of Intervention as of Right. RTD does not contest or oppose the Application.

5. The Commission reviewed the record in this matter and deems that the Application is complete within the meaning of § 40-6-109.5, C.R.S.

6. Now being fully advised in the matter, we grant the Application.

B. Findings of Fact

7. The Commission gave notice to all interested parties, including the adjacent property owners. No intervention was received opposing the Application.

8. Erie proposes to construct a new at-grade highway-rail public roadway crossing of the extension of Lombardi Street across the existing tracks of RTD that are currently out of service. The purpose of the crossing is to connect Lombardi Street through the Canyon Creek Filing No. 7 across the RTD tracks to create a north/south connection according to Erie's Transportation Master Plan. The developer will be responsible for construction of the roadway east of the crossing into the development. The roadway is proposed to be constructed as a two-lane collector with 2 12' lanes, 2 4' paved bikeable shoulders, and curb and gutter. Sidewalks are not proposed at this time. Erie proposes that the crossing be marked with crossbucks, yield signs and "Exempt" signs on each approach to the crossing. Additionally, Erie proposes using W10-1 advanced warning signs with a W10-1a "Exempt" plaque.

9. Erie estimates that once the roadway is open, there will be approximately 2700 vehicles per day (VPD) using the crossing in 2025 at a speed of 35 MPH, and projects that 950 VPD will be using the crossing in 2040. This section of the RTD Denver Division is currently inactive, so there is no train traffic using the proposed crossing location.

10. Erie proposes to start the project in December 2022 and be completed by July 2023. Erie will be required to inform the Commission in writing that all work is complete and operational within ten days of completion. The Commission will expect this letter no later than July 31, 2023. However, the Commission does understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

11. Erie estimates the cost of the crossing work for the new roadway at \$315,800 with the funds being paid by the Canyon Creek No 7 developer.

12. RTD will be required to obtain a U.S. DOT crossing inventory number for the crossing and to file a copy of the new crossing inventory form in this proceeding by July 31, 2023.

C. Conclusions

13. The Commission has jurisdiction in this matter under §§ 40-4-106(2)(a) and (3)(a), C.R.S.

14. No intervenor that filed a petition to intervene or other pleading contests or opposes the Application.

15. Because the Application is unopposed, the Commission finds that it will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 1403, Commission Rules of Practice and Procedure, 4 CCR 723-1.

16. We find that good cause exists to grant the Application consistent with the above discussion.

II. ORDER

A. The Commission Orders That:

1. The application (Application filed by the Town of Erie (Erie) on January 13, 2023, requesting authority to construct a new at-grade, passive warning public highway-rail grade crossing of the extension of Lombardi Street across the existing tracks owned by the Regional Transportation District (RTD) inactive Denver Division, Boulder RTD at railroad milepost 24.95, no current National Inventory Number, located in Erie, County of Weld, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The intervention of RTD is noted.

3. The Application is granted.

4. Erie is authorized and ordered to proceed with construction of a new at-grade highway-rail grade crossing of the extension of Lombardi Street with the posting of crossbucks, yield signs, and “Exempt” signs at railroad milepost 24.95 of the RTD Denver Division, Boulder RTD tracks in Erie, Colorado.

5. Erie shall inform the Commission in writing when the construction is complete and operational within ten days of completion. The Commission will expect the letter by July 31, 2023. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

6. RTD shall obtain a U.S. DOT crossing inventory number for the crossing and file a copy of the new crossing inventory form in this proceeding by July 31, 2023.

7. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

8. The Commission retains jurisdiction to enter further decisions, as necessary.

9. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 1, 2023.**

(S E A L)



ATTEST: A TRUE COPY

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners