

Decision No. C25-0306-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25A-0086R

IN THE MATTER OF THE APPLICATION OF THE CITY OF ARVADA FOR AUTHORITY TO CONSTRUCT A TEMPORARY AT-GRADE RAIL CROSSING AND PERMANENT GRADE-SEPARATED CROSSING AT THE UNION PACIFIC TRACKS AT WEST 72ND AVENUE IN ARVADA, COLORADO, AUTHORITY TO REMOVE THE EXISTING AT-GRADE CROSSING AT THE UNION PACIFIC TRACKS AT WEST 72ND AVENUE IN ARVADA, COLORADO AND REQUEST FOR COST ALLOCATION OF A GRADE SEPARATED CROSSING PURSUANT TO PUBLIC UTILITIES COMMISSION RULE 7207.

**INTERIM COMMISSION DECISION DEEMING
APPLICATION COMPLETE AND REFERRING MATTER
TO AN ADMINISTRATIVE LAW JUDGE**

Issued Date: April 18, 2025

Adopted Date: April 16, 2025

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an Application (“Application”) filed by the City of Arvada (“Arvada”) on February 26, 2025, requesting authority to construct a temporary at-grade crossing, remove the existing at-grade crossing, construct a permanent grade separation underpass, and request cost allocation of the permanent grade separated underpass pursuant to PUC Rule 7207, at the crossing of West 72nd Avenue across the tracks owned by Union Pacific Railroad Company (“UPRR”) at milepost 10.23 of the Moffat Tunnel subdivision, National Inventory No. 253292E, in the City of Arvada, Jefferson County, State of Colorado.

2. Notice of the Application was provided by the Commission to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S., on March 4, 2025.

3. On April 3, 2025, UPRR filed an Intervention which opposes and contests the Application and requests a hearing. UPRR opposes and contests the Application on the basis that it seeks a cost allocation of 50 percent of the theoretical structure cost with UPRR. UPRR states that the allocation being requested violates a Memorandum of Understanding dated November 13, 2020, between UPRR and the Applicant (the "MOU"). UPRR states that the MOU was entered into to facilitate and progress discussions related to the project's design and construction, and that UPRR was neither consulted with nor notified that the Applicant would seek a contribution from UPRR. UPRR challenges the Applicant's mischaracterization that the project's anticipated work start dates in 2021 were pushed to 2025 due to UPRR's approval process. UPRR states the Applicant voluntarily withdrew its 2020 application for this same project and entered into the MOU with UPRR for purposes of collaborating and advancing the project design, and that the Applicant's references to the withdrawn 2020 application's expected work start dates are irrelevant to the current proceeding and are seemingly mentioned to suggest that UPRR's approval process is the primary cause of the delay. UPRR states this is incorrect and that the Applicant's choice to construct a grade-separated underpass instead of an overpass, and the fact that the Applicant's consultants failed to follow the Union Pacific Railroad-BNSF Guidelines for Railroad Grade Separation Projects, are significant factors that continue to impact the project's timeline. UPRR states that during discussions, UPRR recommended proceeding with a grade-separated overpass based on factors such as cost, design and construction complexity, structure maintenance, and future use of UPRR's right of-way. UPRR states that UPRR apprised the Applicant that the approval process is generally quicker for an overpass grade separation and

that the Applicant opted for an underpass instead, which in turn (1) significantly raised their project costs (costs UPRR state the applicant agreed to in writing to assume full responsibility of), and (2) extended the project timeline. UPRR states an underpass structure design is highly complex and must comply with stringent UPRR and American Railway Engineering and Maintenance-of-Way Association (“AREMA”) standards. UPRR states the Applicant must also submit and obtain approval of the track designs for the shoofly, final track alignment, and temporary at-grade crossing. UPRR states that the Applicant’s final design is currently under UPRR review. UPRR states it reserves its right to (1) comment on specific aspects of the proposed design and request appropriate revisions and (2) to raise appropriate objections before final approval by the Commission, to the extent that any proposed design issues cannot be resolved during the review and comment process. UPRR states it further reserves the right to add additional objections and concerns when the Application contains all the information required by Rule 7204.

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

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

6. Now being fully advised in the matter, we refer the Application to an Administrative Law Judge for determination of the merits of the Application, and to obtain additional information regarding the missing information from the original Application.

II. ORDER

A. It Is Ordered That:

1. The Application (“Application”) filed by the City of Fort Collins (“Ft. Collins”) on February 26, 2025, requesting authority to construct a temporary at-grade crossing, remove the

existing at-grade crossing, construct a permanent grade separation underpass, and request cost allocation of the permanent grade separated underpass pursuant to PUC Rule 7207, at the crossing of West 72nd Avenue across the tracks owned by Union Pacific Railroad Company (“UPRR”) at milepost 10.23 of the Moffat Tunnel subdivision, National Inventory No. 253292E, in the City of Arvada, Jefferson County, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The intervention of UPRR is noted.

3. Proceeding No. 25A-0086R is referred to an Administrative Law Judge of the Colorado Public Utilities Commission for determination of the merits of the Application and to obtain additional information regarding the missing information from the original Application.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
April 16, 2025.**

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

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Commissioners

Rebecca E. White,
Director