

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 DECISION GRANTING PRELIMINARY
APPROVAL OF THE APPLICATION**

Issued Date: July 2, 2025

I. STATEMENT, SUMMARY, AND PROCEDURAL HISTORY

A. Statement and Summary

1. This Decision provides preliminary approval of the City of Arvada's ("Arvada's") initial application.

B. Relevant Procedural History

2. On February 26, 2025, Arvada initiated this matter by filing the above-captioned Application ("Application"). Arvada requests 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 Rule 7207, of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Colorado Code of Regulations* ("CCR") 723-7.

3. Arvada seeks both a final approval of its plans and a preliminary approval of its “conceptual level design plans/drawings” as contemplated by Rule 7204(a), 4 CCR 723-7.

4. On April 3, 2025, Union Pacific Railroad (“Union Pacific”) filed an Entry of Appearance, Notice of Intervention, and Opposition (“Intervention”). Union Pacific opposes and contests the Application “on the basis that it seeks a cost allocation of 50% of the theoretical structure cost with [Union Pacific].”¹

5. On April 18, 2025, by Decision No. C25-0306-I, the Commission deemed the Application complete and referred the matter to an Administrative Law Judge (“ALJ”) for a determination of the merits of the Application and to obtain additional information regarding information missing from the Application.² In the same decision the Commission acknowledged Union Pacific’s Intervention.³

6. The undersigned ALJ issued Decision No. R25-0408-I, wherein she set a prehearing conference to discuss specific issues. One issue included whether Union Pacific objected to Arvada’s request for preliminary approval, final approval, or both. The parties participated in a remote prehearing conference on June 11, 2025. At the prehearing conference, Union Pacific’s counsel noted that Union Pacific objected to both preliminary and final approval of Arvada’s Application. The ALJ gave Union Pacific the option of providing a written motion objecting to preliminary approval and set a deadline of June 20, 2025 for the motion in Decision No. R25-0459-I. On June 20, Union Pacific filed a withdrawal of its objection to preliminary approval of Arvada’s concept level designs.⁴

¹ Intervention at pg. 1.

² See Decision No. C25-0306-I at pgs. 3-4.

³ *Id.* at pg. 4.

⁴ On June 26, 2025, Arvada filed a response to Union Pacific’s withdrawal, wherein Arvada noted that the issue of cost allocation remained.

II. FINDINGS AND CONCLUSIONS

7. The Commission has jurisdiction over this matter per §§ 40-4-106(2) and (3)(a), C.R.S.

8. Arvada seeks 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 Rule 7207, 4 CCR 723-7.

9. Arvada's proposed modifications are not finalized.⁵ Indeed, the Initial Application seeks preliminary approval of conceptual level design plans, with such plans representing finalized geometries for bridge and alignments for the track, shoofly, roadway, roadway detour, and temporary at-grade crossing.⁶

10. Commission rules allow authorities to submit an application seeking preliminary approval of conceptual level designs and plans.⁷ Accordingly, Arvada's request for preliminary approval is authorized by law.

11. Arvada seeks to modify the subject crossing to alleviate congestion on the West 72nd Ave Corridor and to increase the safety of the traveling public.⁸ Arvada states that analysis of other design alternatives shows that only a below-grade crossing is both practical and effective to address congestion on the West 72nd Ave corridor.⁹

12. The 2019 train traffic at the existing crossing was 11 freight trains per day with a maximum timetable speed of 45 miles per hour ("mph") and two passenger trains per day with a

⁵ Application at p. 11.

⁶ *Id.* (Arvada seeks preliminary approval of "Attachment CB-4 72nd Ave – UP 100% Bridge Plans 100% Bridge and Attachment CB-2-72nd Ave – UP 90% Shoofly Rail Plan").

⁷ Rule 7204(a), 4 CCR 723-7, of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings.

⁸ Application at pp. at 5-6.

⁹ *Id.*

maximum timetable speed of 60 mph.¹⁰ The current train traffic is seven freight trains per day with a maximum timetable speed of 45 mph and two passenger trains per day with a maximum timetable speed of 60 mph.¹¹

13. Prior to constructing the new underpass, a shoofly track will be installed and the current at-grade crossing will be relocated to allow for construction of the new bridge.¹² Ultimately, Arvada's crossing project will carry the existing Union Pacific mainline with room for an additional future track at 20-foot track centers or two additional tracks at 14-foot track centers, and is designed in accordance with the published UP-BNSF Guidelines for Railroad Grade Separated Projects.¹³ Existing utilities will be relocated and new utility crossings will be provided separately.¹⁴

14. Arvada will provide additional details on the final level plans upon receipt from Union Pacific of finalized plan sets.¹⁵ Arvada will then file the final Application for review and approval by July 23, 2025.¹⁶

15. Based on the foregoing, the ALJ concludes that Arvada has submitted sufficient information for the ALJ to grant Arvada's request for preliminary approval of the Application's concept plans, and that the preponderance of the evidence supports such preliminary approval.¹⁷ As such, the concept plans submitted as a part of the Application are preliminarily approved.

¹⁰ *Id.* at p. 6.

¹¹ *Id.*

¹² *Id.* at p. 7.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ See Decision No. R25-0459-I (issued June 20, 2025) (Union Pacific will provide finalized plan sets to Arvada and e-file a certification of such by July 16, 2025).

¹⁶ *Id.*

¹⁷ § 24-4-105(7), C.R.S.; Rule 1500, 4 CCR 723-1.

16. Preliminarily approving the Application's concept plans does not grant Arvada authority to modify or begin construction on the subject crossing, nor does it imply that Arvada will be granted such authority or that Union Pacific will be assessed costs as Arvada requests. The Application lacks certain information (including final data and plans) that must be submitted for review before Arvada may be granted such authority. It is Arvada's responsibility to ensure that it provides all required information with its amended Application.

17. Consistent with Arvada's request, it will be required to submit its final Application with all supporting materials by July 23, 2025.¹⁸ Because the final Application amends the original Application, Arvada is required to submit this as an amended application.

III. ORDER

A. It Is Ordered That:

1. The concept plans presented in the City of Arvada's ("Arvada") Application, filed February 26, 2025, are preliminarily approved.

2. The deadlines set forth in Decision No. R25-0459-I (issued June 20, 2025) remain in effect.

¹⁸ Arvada has until July 30, 2025 to file any supplemental direct testimony. *See* Decision No. R25-0459-I (issued June 20, 2025).

3. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

KELLY A. ROSENBERG

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director