

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.

**RECOMMENDED DECISION APPROVING THE
PARTIES' SETTLEMENT AGREEMENT, GRANTING THE
CITY OF ARVADA'S AMENDED APPLICATION, AND
CLOSING PROCEEDING**

Issued Date: October 27, 2025

TABLE OF CONTENTS

I.	STATEMENT, SUMMARY, AND PROCEDURAL HISTORY	1
A.	Statement and Summary	1
B.	Relevant Procedural History	2
II.	ANALYSIS, FINDINGS, AND CONCLUSIONS	4
III.	ORDER	8
A.	The Commission Orders That:	8

I. STATEMENT, SUMMARY, AND PROCEDURAL HISTORY

A. Statement and Summary

1. This Decision approves the parties' settlement agreement, grants the City of Arvada's ("Arvada") application as amended, and closes the proceeding.

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. This filing commenced Proceeding No. 25A-0086R. In this filing, Arvada waived its statutory right to a decision within 120 days after the Commission deemed the Application complete pursuant to §40-6-109.5(3), C.R.S.

3. On April 3, 2025, Union Pacific Railroad (“Union Pacific”) filed an intervention. Union Pacific opposed and contested the Application “on the basis that it seeks a cost allocation of 50% of the theoretical structure cost with [Union Pacific].”¹

4. By Decision No. C25-0306-I, the Commission deemed the Application complete and referred this matter to an Administrative Law Judge (“ALJ”) for determination of the merits of the Application. The Commission also acknowledged Union Pacific’s intervention.

5. By Decision No. R25-0408-I, the ALJ set a remote prehearing conference for June 10, 2025. At the prehearing conference, both parties appeared with counsel and noted that they were working together to settle the matter. The parties also discussed how Arvada sought 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. At the prehearing conference, Union Pacific noted that it objected to both preliminary and final approval. On June 20, 2025,

¹ Intervention at pg. 1.

Union Pacific withdrew its objection to the preliminary approval of Arvada's application, and on July 2, 2025, by Decision No. R25-0491-I, the ALJ granted preliminary approval of Arvada's Application.

6. By Decision No. R25-0459-I, issued June 20, 2025, the ALJ set the Proceeding for a remote hearing to occur September 29 and 30, 2025. The ALJ also adopted a procedural schedule to govern the Proceeding based on the parties' input.

7. On July 23, 2025, Arvada filed an Unopposed Motion for Extension of Time ("Motion for Extension"), wherein the parties requested to stay the proceedings until September 17, 2025, the date by which the parties believed they would settle the matter.

8. By Decision No. R25-0558-I, issued July 29, 2025, the ALJ granted Arvada's Motion for Extension.

9. On September 17, 2025, Arvada filed an Executed Settlement Agreement ("Settlement Agreement") on behalf of Arvada and Union Pacific. On September 26, 2025, Arvada filed testimony in support of the Settlement Agreement as well as an Amended Application.² In addition, Union Pacific withdrew its opposition to the Application.³

10. As part of the Settlement Agreement, Arvada strikes from the record the portion of any of the exhibits or testimony that reference Arvada's request for cost allocation. This includes, but is not limited to, Hearing Exhibit 101 – Testimony of Britton Thomas; Hearing Exhibit 104 – Attachment CB-4 100% Bridge Plans; Hearing Exhibit 104 – Attachment CB-7 Theoretical Structure Concept Plan; and Hearing Exhibit 104 – Attachment CB-8 Theoretical Structure Cost Estimate.⁴

² Hearing Exhibit 100 Rev.

³ Settlement Agreement at p. 3. The ALJ considers the parties' Executed Settlement Agreement to be a motion to approve the agreement and treats it as such.

⁴ *Id.*

11. The parties affirm that the Settlement Agreement resolves all disputes within the Proceeding.⁵ In the Settlement Agreement, the parties set forth obligations of each party to facilitate the project at issue in the Amended Application.⁶

II. ANALYSIS, FINDINGS, AND CONCLUSIONS

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

13. The Commission gave notice of this Application to all interested parties, including adjacent property owners.

14. Both Arvada and Union Pacific seek the Commission's approval of Arvada's Amended Application. As such, they bear the burden of proof by a preponderance of the evidence.⁷ The preponderance of the evidence standard requires the fact finder to determine whether the existence of a contested fact is more probable than its non-existence.⁸ A party has met this burden of proof when the evidence, on the whole and however slightly, tips in favor of that party.⁹

15. The Commission may decide a matter under modified procedure, without a hearing, if the relief the parties seek is unopposed.¹⁰ Because the Settlement Agreement and Amended Application are unanimous, unopposed, supported by testimony verifying sufficient facts that adequately support the requested relief, and no hearing is requested or required, the ALJ will decide whether to approve the Settlement Agreement and Amended Application based on the record, without a hearing.¹¹

⁵ *Id.* at p. 1.

⁶ *Id.*

⁷ §§ 13-25-127(1) and 24-4-205(7), C.R.S.; Rule 1500 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1.

⁸ *Swain v. Colorado Department of Revenue*, 717 P.2d 507, 508 (Colo. App. 1985).

⁹ *Schocke v. State, Dep't of Revenue*, 719 P.2d 361, 363 (Colo. App. 1986).

¹⁰ See Rule 1403(a), 4 CCR 723-1.

¹¹ *Id.*

16. Union Pacific is the owner of the tracks at the existing at-grade crossing 72nd Avenue located on Union Pacific Moffat Tunnel Subdivision at railroad milepost 10.23. The new grade-separated crossing will be constructed at this location.

17. Arvada requests authority for the construction of a temporary at-grade crossing, removal of the existing at-grade crossing, and construction of a permanent grade separation underpass in Arvada, Colorado. The proposed grade-separated crossing project is necessary to alleviate congestion on the West 72nd Ave Corridor. The crossing project consists of constructing an underpass structure. The proposed structure 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. The proposed railroad underpass structure has been designed to protect and preserve the railroad and is designed in accordance with the published UP-BNSF Guidelines for Railroad Grade Separation Projects, dated May 2016. The existing utilities that are currently located under the existing at-grade crossing will be relocated and new utility crossings will be provided separately. Prior to the underpass being constructed a shoofly track will be installed 34 feet from the existing mainline track. The current at-grade crossing at West 72nd Avenue will be relocated to allow for the construction of the new bridge. The temporary at-grade crossing will have gates, bells and flashing lights and include Grade Crossing Pavement Marking symbols, W10-1 Grade Crossing Advance Warning and W10-9P No Train Horn warning signs on each approach with R15-1 crossbucks and R15-2P 2 Tracks warning signs installed on the crossing signal assembly on each approach. The cross section of the detour road at the crossing will consist of an M606-14 barrier, an 11-foot-wide thru lane, a 5-foot median, a second 11-foot-wide thru lane, and a 6-foot-wide sidewalk separated from the second thru lane at a distance of 11 feet and 9 inches. A R15-8 double-sided Look sign will be placed on each approach of the sidewalk to the crossing.

18. The relocated crossing will be temporary and will be located approximately 155 feet to the north to allow for the construction of the new bridge. This work will include the installation of new crossing panels, new gates, bells and flashing lights and a road detour with new signing and striping in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways, 2009 Edition. Once the bridge structure is complete, new track will be installed across the bridge allowing passage of train traffic and the relocated grade crossing will be closed and removed.

19. Arvada states the most recent traffic volume at the subject crossing as of 2019 was 18,000 vehicles per day (“VPD”) as of 2019 with two percent estimated to be heavy vehicles. School buses use the 72nd Avenue crossing. There are two bus routes, with an approximate average of four movements per day. The five-year average daily traffic volume projection of vehicles using the crossing is 17,783 VPD and the twenty-year average daily volume projection is 20,950 VPD. The posted speed limit at the crossing is 40 miles per hour (“MPH”). The 2019 train traffic at the crossing is 11 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 with no anticipated changes in train volume in the future.

20. The proposed underpass structure consists of two spans each of 75 feet in length. The total length of the structure is 158 feet, 4 inches from face to face of the bridge backwalls. The minimum vertical clearance for vehicles from the top of the pavement to the bottom of the bridge structure is proposed to be 17 feet-4 inches. The bridge is proposed to be 52 feet out-to-out, with the centerline of the Union Pacific mainline track to be 9 feet from the north side of the bridge, and the location of the center line of the proposed future tracks will be 20 feet from the mainline center line. The roadway cross section under the bridge is proposed to consist of a 12-foot sidewalk

with wall and a minimum vertical clearance of 11 feet-6 inches, two 12-foot southbound thru lanes, a 1-foot-6 inch barrier, a 13-foot median, another 1-foot-6-inch barrier, two northbound thru lanes, and another 12-foot sidewalk with wall.

21. The proposed minimum clearances for the bridge structure and proposed distance between tracks meet or exceed the minimum requirements found in Rules 7326 and 7327, 4 CCR 723-7.

22. The estimated cost of the temporary at-grade crossing relocation is \$3,149,818. The estimated cost of the proposed grade separation is \$29,211,960. The overall project cost for all project components is \$63,225,124.47. Arvada will pay for the costs of the project.

23. Arvada proposes to start the construction of the temporary at-grade crossing in December of 2025, and completion of the project is anticipated to be December of 2028. Arvada will be required to inform the Commission in writing that all work is complete within ten days of completion. The Commission will expect this letter no later than December 31, 2028. However, the Commission understands this letter may be provided later than this date depending on changes or delays to the construction schedule.

24. Union Pacific will be required to update the US DOT Crossing Inventory Form for the crossing. Union Pacific will file this form in this Proceeding no later than December 31, 2028.

25. The ALJ finds that Arvada constructing a temporary at-grade crossing, removing the existing at-grade crossing, and constructing a permanent grade separation underpass at West 72nd Avenue at milepost 10.23 of the Moffat Tunnel subdivision, National Inventory number 53292E, in the City of Arvada, Jefferson County, Colorado, and removing the temporary at-grade crossing, consistent with the above discussion, will improve the overall safety of the traveling

public and the operational safety of the Union Pacific line within Arvada, and is consistent with public convenience and necessity. The ALJ will approve the Amended Application.

III. ORDER

A. The Commission Orders That:

1. Consistent with the discussion above, the City of Arvada's ("Arvada") and Union Pacific Railroad's ("Union Pacific") Executed Settlement Agreement, filed September 17, 2025, is approved, consistent with the above discussion.

2. Arvada's Application filed February 26, 2025, as amended by Arvada on September 26, 2025 ("Amended Application"), to construct a temporary at-grade crossing; remove the existing at-grade crossing; to construct a permanent grade separation underpass at West 72nd Avenue at milepost 10.23 of the Moffat Tunnel subdivision, National Inventory number 253293E, in the City of Arvada, Jefferson County, Colorado; and to remove the temporary at-grade crossing with Union Pacific's tracks, is granted.

3. As it relates to the Amended Application, Arvada is authorized and ordered to construct a temporary at-grade crossing; remove the existing at-grade crossing; and construct a permanent grade separation underpass at West 72nd Avenue; and remove the temporary at-grade crossing, consistent with the above discussion.

4. As it relates to the Amended Application, Arvada must inform the Commission in writing that the work is complete within ten days after completion. Arvada must file this letter into this Proceeding no later than December 31, 2028. However, the Commission understands that this latter may be provided later than this date depending on changes or delays to the construction schedule.

5. As it relates to the Amended Application, Union Pacific must file an updated US DOT Crossing Inventory Form for the crossing into this Proceeding no later than December 31, 2028.

6. Proceeding No.25A-0086R is closed.

7. The Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

8. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

- a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.
- b. If a party seeks to amend, modify, annul, or reverse a basic finding of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge; and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

9. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded. Responses to exceptions are due within seven days of the date exceptions are served.

(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