

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19V-0376R

PETITION OF THE REGIONAL TRANSPORTATION DISTRICT FOR WAIVER OF, OR VARIANCE FROM, 4 CCR 723-7 7325(A) CONCERNING THE SIDE CLEARANCE AT TWO LOCATIONS IN THE CITY AND COUNTY OF DENVER AND ONE LOCATION IN COMMERCE CITY, ADAMS COUNTY, STATE OF COLORADO.

**COMMISSION DECISION
GRANTING VARIANCE**

Mailed Date: August 29, 2019

Adopted Date: August 28, 2019

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. This matter comes before the Commission for consideration of a petition (Petition) filed on July 9, 2019, by the Regional Transportation District (RTD). In this Petition, RTD requests a permanent partial waiver of, or variance from the 8'-6" minimum general side clearance stated in the Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* (CCR) 723-7-7325(a)(I) to no less than 8'-3" at three locations along the North Metro Rail Line located northeast of the South Platte River Trail in the City and County of Denver (Denver) and the City of Commerce City (Commerce City), County of Adams, State of Colorado.

2. The Commission noticed this Petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on July 10, 2019.

3. No intervention or petition in opposition has been filed in this matter. This proceeding is therefore uncontested. Pursuant to § 40-6-109(5), C.R.S., this matter may be determined without a hearing.

4. Pursuant to Rule 1003 of the Rules of Practice and Procedure, 4 CCR 723-1, the Commission may grant waivers or variances from tariffs, Commission rules, and substantive requirements contained in Commission decisions and orders for good cause. In making a determination, the Commission may take into account, but is not limited to, considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.

5. Rule 7325(a)(I) requires that generally, side clearances shall be at least 8'-6".

6. There are three locations along the RTD North Metro Rail Line that RTD is requesting a permanent partial waiver of, or variance from. The first location is at Station 150+10 at Milepost 0.63 in Denver where conduit leading from a disconnect switch cabinet has been placed as closely against an adjacent wall as possible, but the conduit is 3" short of meeting the minimum requirement. RTD requests a variance at this location of 8'-3". The second location is at Station 213+91 at Milepost 1.84 in Denver where a disconnect switch cabinet is mounted to an OCS pole that has a side clearance that is 1" short of meeting the minimum clearance. RTD requests a variance at this location of 8'-5". The third location is at Station 432+00 at Milepost 5.96 in Commerce City where conduit leading from a disconnect switch cabinet has been placed as closely against an adjacent wall as possible, but the conduit is 2" short of meeting the minimum requirement. RTD requests a variance at this location of 8'-4".

7. As justification for this permanent variance of Rule 7325(a)(I), RTD states that they believe that the side clearance standard originated in the days where railroad employees customarily performed some of their duties on the outside of railcars, making these employees

vulnerable to side clearance impacts on fast moving trains. RTD states that commuter rail employees will not be working on the outside of these operating cars, and that rail workers and passengers will not be allowed to access the exterior portions of the vehicles while trains are in service. Because it will not be possible for commuter rail employees or passengers to ride on the outside of the cars, the reduced side clearance impact will not affect anyone and the impact will be eliminated.

8. The Commission finds that RTD has shown good cause to grant a permanent variance of Rule 7325(a)(I) to allow shortened side clearance distances for the three locations stated above on the North Metro Rail Line.

II. ORDER

A. The Commission Orders That:

1. The Regional Transportation District petition requesting a permanent partial waiver of, or variance from the 8'-6" minimum general side clearance stated in the Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* 723-7-7325(a)(I) to no less than 8'-3" at three locations along the North Metro Rail Line located northeast of the South Platte River Trail in the City and County of Denver and the City of Commerce City, County of Adams, State of Colorado is granted. These permanent variances shall be for the life of the affected commuter rail line.

2. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails this Decision.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 28, 2019.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners