

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19V-0692R

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

**COMMISSION DECISION
GRANTING VARIANCE**

Mailed Date: January 31, 2020
Adopted Date: January 29, 2020

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. This matter comes before the Commission for consideration of a petition (Petition) filed on December 5, 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 7'-2" at 17 locations along the North Metro Rail Line including nine locations in the City and County of Denver, three locations in Commerce City, four locations in Thornton, and one location in Northglenn, 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 December 9, 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 17 locations along the North Metro Rail Line including signal coupler cabinets, signal transformer cabinets, and motor operated disconnected (MOD) cabinets, all needed for proper signal, train control, and overhead catenary system operations. At these locations, the cabinets themselves meet the 8'-6" requirement when cabinet doors are closed. However, when doors on these cabinets are open, the open door violates the minimum clearance with door open clearances at these 17 locations ranging from 7'2" to 8'4.5". The specific locations and requested variances are shown in Table A of the Petition. RTD states that right-of-way is constrained at these locations by available right-of-way, fencing, and cabinet mounting requirements. MOD cabinets are mounted to the OCS poles, which cannot be moved. The remaining cabinets were placed as far away from the tracks as possible given available space and any constraint by fencing, walls, or roadways.

7. RTD requests a permanent variance at these 17 locations from 7'2" at two locations to 8'4.5" at one location. RTD states that its maintenance personnel that would access these cases will require on track protection before being allowed to open the doors, which will

mitigate side-swipe dangers the open doors may create. RTD states that it is also developing standard operating procedures for working around these items. Additionally, RTD will post “Danger No Clearance” signs at these locations to alert and remind roadway workers about the locations with these limited clearance distances. RTD believes that similar safety considerations originated in days when railroad employees performed some of their duties on the outside of railcars making them vulnerable to these types of side clearance impacts. Employees and passengers will be prohibited from riding on the outside of the commuter rail vehicles, and any worker at the location of the case will be under the safety requirements of the Roadway Worker Protection operating procedures should the case door need to be opened while commuter rail vehicles are operating.

8. The Commission finds that RTD has shown good cause to grant a permanent variance of Rule 7325(a)(I) to allow reduced minimum side clearances at the 17 cases located along the North Metro Rail Line from 7’2” at two locations to 8’4.5” at one location. While we are granting these variances, we do request that RTD relook at these case locations to determine if the doors could be changed to open away from the trackway as opposed to opening towards the trackway to alleviate the need for the variance. RTD will be required to follow its Roadway Worker Protection operating procedures and provide flagging protection at these locations when Maintenance-of-Way workers are working in these cases.

II. ORDER

A. The Commission Orders That:

1. The Petition filed on December 5, 2019, by the Regional Transportation District (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* 723-7-7325(a)(I) to no less than 7'-2" at 17 locations along the North Metro Rail Line including nine locations in the City and County of Denver, three locations in Commerce City, four locations in Thornton, and one location in Northglenn, County of Adams, State of Colorado is granted. These permanent variances shall be for the life of the affected commuter rail line.

2. We do request that RTD relook at these case locations to determine if the doors could be changed to open away from the trackway as opposed to opening towards the trackway to alleviate the need for the variance

3. 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.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 29, 2020.**

(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