

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19I-0347R

IN THE MATTER OF THE REGIONAL TRANSPORTATION DISTRICT'S CORRECTIVE ACTION PLAN REGARDING THE SABLE BOULEVARD AND EXPOSITION AVENUE DERAILEMENT, RULE 4 CCR 723-7-7347.

**COMMISSION DECISION GRANTING
EXTENSION OF TIME TO FILE BUDGET ANALYSIS AS
PART OF THE RTD CORRECTIVE ACTION PLAN**

Mailed Date: September 11, 2020

Adopted Date: September 9, 2020

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I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of a Second Motion for Extension of Time to Provide Analysis of Budget Issues Regarding Technological Mitigation and Plan to Move Forward (Motion), filed by the Regional Transportation District (RTD) on

August 28, 2020. In the Motion, RTD requests an extension to January 31, 2021, to file the budget analysis ordered by the Commission through Decision No. C19-0829, issued in this investigation proceeding on October 11, 2019.

B. Background

2. By Decision No. C19-0535, issued June 19, 2019, the Commission opened this investigation and required RTD to file a Corrective Action Plan (CAP) regarding the Sable Boulevard and Exposition Avenue derailment and any associated hazard analysis, if necessary.

3. RTD filed its proposed CAP and associated hazard analysis on July 18, 2019.

4. By Decision No. C19-0665, issued August 6, 2019, the Commission requested additional information and actions to be included in RTD's CAP. The Commission found RTD's proposed CAP addressed most of the human factors related to the accident, but did not provide enough analysis of some of the potential mechanical issues, additional equipment that could be used on the alignment to alert operators to speed restricted areas, and additional human factor issues. The Commission determined to add specific actions and requirements to the CAP that must be completed before it would approve the corrective action for the accident.

5. On September 16, 2019, RTD filed an addition to its CAP adding proposed mitigation measures and supplemental information responding to the questions posed by the Commission.

6. The part of the CAP that is the subject of this Motion involves RTD evaluating possible technology that could be installed in the light rail vehicles that would either enhance operator awareness, provide better oversight of operations, or prevent speeding. These technologies include the following: 1) upgraded cameras to be included in the cab and forward facing cameras which have been included in the 29 new LRV's placed in service, but which will

need to be added to the existing 172 vehicles, which will cost approximately \$4M for which no budget has been identified or appropriated by RTD in the short- or long-term; 2) enhanced ATC which would establish vehicle to wayside communications to monitor vehicle position and speed and would provide signal enforcement and civil speed control of all trains, thus eliminating red signal violations and govern the speed of all trains at a cost of \$12 to 15M for which RTD states \$7M is in the current short-term budget for 2019, \$2M in the 2020 budget, and \$1M per year in budget years 2021 through 2025 (RTD states this budget allows for some type of enhanced ATC system, but is insufficient to acquire any type of system currently available for a fleet of RTD's size); and 3) communication based train control/ultra wide band communications, which would provide very sophisticated control of train position, speed, braking distance, signal systems, etc. at an approximate cost of \$100M, which RTD indicates is cost prohibitive. RTD is evaluating grant funding opportunities, alternatives, and budget adjustments. However, RTD reports these technology enhancements are cost prohibitive in the short-term and long-term under its current budget.

7. By Decision No. C19-0829, issued October 11, 2019, the Commission approved RTD's CAP and the amended CAP. The Commission ordered RTD to move forward with the proposed mitigation measures discussed in the original and amended CAP filings. The Commission further ordered RTD to, by April 30, 2020, make an additional filing in this proceeding providing a full analysis of RTD's budget issues regarding adding technological mitigation to its light rail system and proposing how RTD plans to move forward with enhancing its system and operations with additional technologies.

8. On May 26, 2020, RTD submitted a first Motion for Extension of Time to Provide Analysis of Budget Issues Regarding Technological Mitigation and Plan to Move Forward,

requesting an extension to August 31, 2020, to provide the required budget analysis. The request was made due to circumstances arising from the novel coronavirus (COVID-19) pandemic. RTD stated it had been deeply involved with the unprecedented demands of the COVID-19 crisis management for its mass transit system since March 2020. RTD further stated, as a result of COVID-19, it had been required to make amendments to its budget to cover COVID-19 financial impacts, which impacts had not yet been finalized at that time. RTD indicated that it expected the long-range effects of COVID-19 on work practices, operations, and budget would become more apparent, and the burden of these issues related to the budget would have been met, by the requested new filing date of August 31, 2020. By Decision No. C20-0417, issued June 4, 2020, the Commission granted RTD's request to extend the filing date of the budget analysis to August 31, 2020.

9. On August 28, 2020, RTD filed this second Motion, requesting a further extension to January 31, 2021, to file the required budget analysis.

C. Analysis

10. As grounds for the Motion, RTD states that, through Executive Order D 2020 152, Governor Polis amended and extended various executive orders declaring a disaster emergency due to the presence of COVID-19 in Colorado for an additional 30 days from August 4, 2020.

11. RTD explains that COVID-19 has greatly reduced its 2020 revenues from levels that would otherwise have occurred. RTD indicates that, according to the University Of Colorado Leeds School Of Business report provided to RTD in July 2020, the 2021 revenue projection indicates medium scenario revenues would be \$168 million less than RTD's anticipated expenses, which is over 20 percent of RTD's typical annual budget. RTD states this issue is outside of its control. RTD further explains, because of the projected revenue shortfall, it

will have to make additional severe cuts from the current reduced expenditures to produce a balanced 2021 budget. RTD states these budget changes will not be approved by the RTD Board of Directors until December 2020. RTD states it cannot meaningfully evaluate its options and present a proposed enhancement plan before the 2021 budget is approved. RTD requests an extension to January 31, 2021, to submit the required budget analysis.

12. We note the CAP in this matter was approved prior to the start of the effects of the COVID-19 pandemic. We recognize the public health crisis management efforts that RTD has been required to be involved with as a result of COVID-19 have created necessary changes to the RTD budget and ongoing COVID-19 related issues that could not have possibly been analyzed by the current August 31, 2020 filing deadline. We recognize that, for public health purposes, RTD needs to continue to concentrate on responding to COVID-19 issues, needs to determine exactly where its budget stands, and needs to determine how to mitigate revenue shortfalls for the next fiscal year. With these considerations, we find reasonable RTD's request to extend the deadline for the required budget analysis until the 2021 budget is passed by the RTD Board of Directors.

13. To date, RTD has completed all required mitigation measures of this CAP except for this outstanding budget analysis.

14. Finally, the Commission notes its concern with the significant budget shortfall that RTD has reported in this proceeding and how RTD's efforts to remedy that shortfall could affect public safety. We reiterate our concern that public safety must always come first. We expect that no decision made by RTD in remedying its budget issues would fail to, at a minimum, maintain the current level of safety practices. We find it critical that RTD maintains existing safety levels, including the number of members in its Safety Department, because RTD

must continue improving upon its Public Transportation Agency Safety Plan and must continue moving forward with improving safety through the implementation of Safety Management Systems as required by our State Safety Oversight Program Standard and the requirements of 49 *Code of Federal Regulations* Part 673.

D. Conclusions

15. We find that RTD has been steadily working to complete the required mitigation actions involved with this CAP. We agree the ongoing COVID-19 circumstances beyond RTD's control are the reason RTD has not yet been able to fully complete the CAP implementation by performing the required budget analysis.

16. We find that good cause exists to grant the Motion consistent with the above discussion.

II. ORDER

A. The Commission Orders That:

1. The Second Motion for Extension of Time to Provide Analysis of Budget Issues Regarding Technological Mitigation and Plan to Move Forward, filed by the Regional Transportation District (RTD) on August 28, 2020, requesting an extension to January 31, 2021, to file the required budget analysis, is granted, consistent with the discussion above.

2. RTD is required to provide a full analysis of its budget issues regarding adding technological mitigation to its light rail system, and provide the Commission with a plan of how RTD proposes to move forward with enhancing its system and operations with additional technologies by **January 31, 2021**.

3. The Commission retains jurisdiction to require that additional mitigation measures be added to the Corrective Action Plan based on the outcome of the outstanding items to be filed in this proceeding.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 9, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners