

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0335R

IN THE MATTER OF THE APPLICATION OF CITY AND COUNTY OF DENVER FOR AUTHORITY TO MODIFY AN AT-GRADE CROSSING OF THE TRACKS OWNED BY THE REGIONAL TRANSPORTATION DISTRICT AT THE INTERSECTION OF 16TH STREET AND CALIFORNIA STREET (US DOT NO. 966728S, MILE POST 3.87) IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
AVIV SEGEV
GRANTING UNOPPOSED MOTION FOR EXTENSION OF
TIME TO FILE FINAL APPLICATION**

Mailed Date: November 23, 2022

I. STATEMENT

A. Procedural Background

1. The City and County of Denver (Denver) initiated this proceeding by filing the above-captioned Application (Application) with the Colorado Public Utilities Commission (Commission) on July 15, 2021. The Application requests authority to make changes at the existing at-grade crossing on California Street at 16th Street where it crosses the tracks of the Regional Transportation District (RTD) Central Corridor Light Rail Line Milepost 3.87, National Inventory No. 966728S, in Denver, State of Colorado.¹ The Application sought preliminary approval of conceptual level design plans, rather than approval of final design

¹ Application at 1, 5-7.

plans, and proposed to file a final amended application with final design plans (Final Application) by December 31, 2022.²

2. On July 19, 2021, the Commission gave notice of this Application to all interested parties and set a 30-day intervention deadline.³

3. On August 18, 2021, RTD filed an Entry of Appearance and Notice of Intervention as of Right in which it opposes the Application and requests a hearing in this matter.

4. On September 3, 2021, by Decision No. C21-0539-I, the Commission deemed the Application complete within the meaning of § 40-6-109.5, C.R.S.; found that it has jurisdiction over the Application per §§ 40-4-106(2)(a) and (3)(a), C.R.S.; and referred this matter to an Administrative Law Judge (ALJ) for disposition.

5. On September 27, 2021, Denver filed a Stipulation, Provisional Withdrawal of Opposition of Regional Transportation District, and Motion to Vacate Prehearing Conference (Stipulation and RTD's Provisional Withdrawal), executed by all parties.

6. On September 28, 2021, by Decision No. R21-0607-I, the ALJ approved and accepted the parties' stipulations, as stated in the Stipulation and RTD's Provisional Withdrawal, acknowledged RTD's provisional withdrawal to the Application, and vacated the prehearing conference.

7. On November 8, 2021, by Decision No. R21-0699-I, the ALJ approved Denver's concept plans presented in the Application and ordered Denver to file an amended application with final data and plans by December 31, 2022.

² *Id.* at 6, 7, and 20.

³ Notice of Application Filed, dated July 19, 2021.

8. On November 18, 2022, Denver filed an Unopposed Motion for Extension of Time to File a Final Application (Motion for Extension of Time). The Motion for Extension of Time is the subject of this Interim Decision.

B. Findings and Conclusions

9. The Commission has jurisdiction in this matter pursuant to §§ 40-4-106(2)(a) and (3)(a), C.R.S.

10. Pursuant to Rule 7204, 4 *Code of Colorado Regulations* (CCR) 723-7, of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, "[a]n application may be filed for final approval of plans/drawings or for preliminary approval of conceptual level design plans/drawings..."

11. Pursuant to Rule 1400, 4 CCR 723-1, of the Commission's Rules of Practice and Procedure, "... any motion involving a contested issue of law shall be supported by a recitation of legal authority incorporated into the motion. Before filing a motion, moving counsel shall make a reasonable good faith effort to confer with all parties about the motion and report when the requested relief is unopposed..."

12. Through the Motion for Extension of Time, Denver seeks to have the Commission enter an order extending the time for Denver to file its final application until September 29, 2023. Denver is requesting additional nine months to submit the Final Application because of "staffing issues and the complexity of the '16th Street Mall Design-Build Project.'" The Motion for Extension of Time is unopposed.

13. Based on the record, no public safety concerns are anticipated as a result of the granting of the Motion for Extension of Time.

14. Because the requested relief is unopposed, it is appropriate for response time to be waived. For good cause shown, the ALJ will grant the Motion for Extension of Time. Denver will be required to submit the Final Application, with all supporting materials, by September 29, 2023.

II. ORDER

A. It Is Ordered That:

1. Response time to the City and County of Denver’s (Denver) Unopposed Motion for Extension of Time to File Final Application, filed November 18, 2022, is waived and Denver’s requested relief is granted.

2. Denver must file its final amended application, with final design plans and final supporting materials, by September 29, 2023.

3. This Decision shall be effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director