

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24M-0274R

IN THE MATTER OF THE DEVELOPMENT OF TEMPLATE CONSTRUCTION AND MAINTENANCE AGREEMENTS AND PRELIMINARY ENGINEERING AGREEMENTS FOR USE IN PUBLIC CROSSING PROJECTS IN COLORADO CONSISTENT WITH RULE 4 CODE OF COLORADO REGULATIONS 723-7-7214.

**INTERIM DECISION
ESTABLISHING DEADLINE AND
REQUIRING PARTICIPANTS TO
REGISTER FOR SCHEDULED HEARING**

Issued Date: July 22, 2025

I. STATEMENT, SUMMARY, AND PROCEDURAL HISTORY

A. Statement and Summary

1. This Decision memorializes what occurred during the July 8, 2025 hearing; establishes an August 8, 2025 deadline by which participants must meet to discuss consensus template agreements; and requires participants to register to attend the September 8, 2025 10:00 a.m. hearing to receive the information necessary to join the hearing.

B. Procedural History¹

2. On June 14, 2024, the Commission initiated this Proceeding as a forum to develop Commission-approved template agreements for use as required by newly adopted Rule 7214 of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and

¹ Only the procedural history necessary to understand this Decision is included.

Rail Crossings, 4 *Code of Colorado Regulations* (“CCR”) 723-7.² At the same time, the Commission referred this Proceeding to an administrative law judge (“ALJ”).³

3. To date, the participants have held several meetings or workshops to reach a consensus on template agreements required by Rule 7214, 4 CCR 723-7, and the ALJ has held several hearings to discuss the outcomes of those meetings and establish next steps to move this matter forward.⁴ As relevant here, the ALJ scheduled fully remote hearings for July 8, 2025 at 3:00 p.m., and September 8, 2025 at 10:00 a.m.⁵

4. The ALJ held the July 8, 2025 hearing, as noticed. Numerous participants appeared. This Decision memorializes what occurred during that hearing, among other things.

II. FINDINGS AND CONCLUSIONS

5. During the July 8, 2025 hearing, participants explained that they met on May 28 and June 30, 2025, and are close to finalizing template construction and maintenance agreements for at-grade crossing projects. Participants worked off a template that Union Pacific Railway Company (“Union Pacific”) provided and are close to finalizing this template. Once it is finalized, they will finish adjusting the resulting template to address items unique or specific to BNSF Railway (“BNSF”). Participants reported that they do not anticipate any remaining adjustments will be contentious or otherwise difficult to make. As such, although template construction and maintenance agreements for at-grade crossing projects are not finalized, they will be soon.

6. Participants agreed that they will next work on reaching consensus template construction and maintenance agreements for grade-separated crossing projects. The ALJ asked

² Decision No. C24-0420 at 1 (issued June 14, 2024) (“Decision No. C24-0420”).

³ *Id.* at 5-7.

⁴ See Decision Nos. R24-0649-I (issued September 11, 2024); R24-0927-I (issued December 19, 2024); R25-0230-I (issued March 27, 2025); and R25-0346-I (issued May 14, 2025).

⁵ Decision No. R25-0346-I at 6.

participants whether a template preliminary engineering agreement could be used for any type of crossing project over which the Commission has jurisdiction. Participants were uncertain about this but indicated they would consider this. The ALJ indicated that if a template preliminary engineering agreement could be used for any type of crossing project over which the Commission has jurisdiction, it may be appropriate for participants to prioritize addressing this template agreement (after grade-separated crossing template agreements).

7. To ensure that progress continues, the ALJ established an August 8, 2025 deadline by which participants must meet to continue to work on template agreements.⁶ As with prior stakeholder meetings, the ALJ will not participate, and all those who filed a notice of intent to participate in this Proceeding must be invited to the meeting, but participation in the meeting is voluntary. During the hearing, some participants noted that they were not invited to the last stakeholder meeting while others noted difficulty with identifying all those who should be invited. Many new notices of intent to participate have recently been filed, which may complicate this further. The ALJ explained that participants may be able to use the certificate(s) of service for this Decision as a guide on who should be invited to the next meeting, as the ALJ previously ordered that only those who file a notice of intent to participate in this matter will be served with future Decisions.⁷ However, due to concerns with service and in an abundance of caution, in addition to serving those who filed a notice of intent to participate, this Decision will be served on: (a) entities who have not filed a notice of intent to participate, but who are registered with the Commission's E-Filing System; and (b) entities who have not filed a notice of intent to participate, are not registered with E-Filings, and from whom the Commission received notice that Decision No. R25-

⁶ This timeframe allows participants to meet a second time after that meeting, but before the September 8, 2025 hearing, if necessary.

⁷ See Decision No. R25-0346-I at 4-5.

0346-I (issued May 14, 2025) was returned as undeliverable.⁸ Thus, the certificate(s) of service for this Decision includes many entities who have not filed a notice of intent to participate in this Proceeding (*i.e.* entities who do not need to be invited to the next stakeholder meeting).

8. During the hearing, some participants expressed concern that they had trouble receiving the Zoom information necessary to join the hearing. To address this concern, the ALJ is modifying the manner in which such information is shared with participants for the September 8, 2025 hearing. Specifically, participants must register to attend the hearing to receive the Zoom information for the hearing. Participants may register by clicking on the registration link included for the September 8, 2025 hearing on the Commission's calendar of events on its website, at <https://puc.colorado.gov/puccalendar>. Zoom will email registered participants the information needed to join the hearing. To be clear, Commission staff *will not email* the hearing Zoom information to all participants who have filed a notice of intent to participate. Rather, Zoom will email the information *only to those who register* to attend the hearing, as explained above.

9. Additional information on participating in the hearing is provided in Attachment A to this Decision. Participants will appear at the hearing from remote locations by videoconference and may not appear in person. The remote hearing will be held using the web-hosted service, Zoom. All those participating in the hearings must carefully review and follow all requirements in this Decision and Attachment A. To minimize the potential that the videoconference hearings may be disrupted by non-participants, the link and meeting ID or access code to attend the hearing will

⁸ Except for entities for whom the Commission received notice that Decision No. R25-0346-I was undeliverable, this Decision is not served on entities that have not filed a notice of intent to participate *and* who are not registered with E-Filings. As noted, the Decision is being served on entities who did not file a notice of intent to participate but who *are* registered with E-Filings. Doing so creates no additional administrative burden on the Commission, whereas serving those not registered with E-Filings who have not filed a notice of intent to participate, *and* for whom the Commission did not receive notice that Decision No. R25-0346-I was undeliverable creates an immense administrative burden with no benefit.

be provided only to participants who register for the hearing as explained above, and participants are prohibited from distributing that information to anyone not participating in the hearing.

10. All those participating in this Proceeding are strongly encouraged to register for the Commission's free E-Filing System, which will allow them to electronically file and receive pleadings in near-real time. Interested persons may register for the E-Filing System at: <https://www.dora.state.co.us/pls/efi/EFI.homepage>. Likewise, participants are encouraged to provide email addresses at which they may be reached to facilitate their participation in stakeholder meetings.

III. ORDER

A. It Is Ordered That:

1. On or by August 8, 2025, participants must hold an informal meeting to reach a consensus on template agreements required by Rule 7214 of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* 723-7. All those who have made a filing indicating they will participate in this Proceeding must be invited to this meeting, consistent with the above discussion. Participation in the meeting is voluntary.

2. To attend the fully remote hearing scheduled for September 8, 2025 at 10:00 a.m. (by Decision No. R25-0346-I, issued May 14, 2025), participants must register to attend the hearing using the registration link for the scheduled hearing on the Commission's calendar of events on its website, at <https://puc.colorado.gov/pucalendar>. Zoom will email all registrants the information needed to join the hearing; the Commission will not separately email this information to all those who have filed a notice of intent to participate in this Proceeding.

3. Participants are not permitted to distribute or share the Zoom information for the hearing to anyone not participating in the hearing. Non-participants in the hearing may observe the hearing live through the Commission’s webcast for the Hearing Room assigned for the hearing at: <https://www.youtube.com/@COPublicUtilitiesCommission/featured>.

4. Participants in the hearings may not appear at the Commission’s office in person but will appear by videoconference or telephone.

5. All those participating in the hearing must comply with the requirements in Attachment A to this Decision, which is incorporated as if fully set forth.

6. This Order is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads 'Rebecca E. White'.

Rebecca E. White,
Director