

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25A-0086R

IN THE MATTER OF THE APPLICATION OF THE CITY OF ARVADA FOR AUTHORITY TO CONSTRUCT A TEMPORARY AT-GRADE RAIL CROSSING AND PERMANENT GRADE-SEPARATED CROSSING AT THE UNION PACIFIC TRACKS AT WEST 72ND AVENUE IN ARVADA, COLORADO, AUTHORITY TO REMOVE THE EXISTING AT-GRADE CROSSING AT THE UNION PACIFIC TRACKS AT WEST 72ND AVENUE IN ARVADA, COLORADO, AND REQUEST FOR COST ALLOCATION OF A GRADE-SEPARATED CROSSING PURSUANT TO PUBLIC UTILITIES COMMISSION RULE 7207.

**INTERIM DECISION GRANTING THE CITY OF
ARVADA’S UNOPPOSED MOTION FOR EXTENSION OF
TIME, VACATING EXISTING PROCEDURAL
SCHEDULE, CONTINUING HEARING, AND REQUIRING
APPLICANT TO PROVIDE UPDATE BY SEPTEMBER 26,
2025 IF NECESSARY**

Issued Date: July 29, 2025

I. STATEMENT, SUMMARY, AND PROCEDURAL HISTORY

A. Statement and Summary

1. This Decision grants the City of Arvada’s (“Arvada”) Unopposed Motion for Extension of Time (“Unopposed Motion”); vacates the existing procedural schedule; continues the currently scheduled hearing; and requires Arvada to take certain steps if the parties do not settle by their expected date of September 17, 2025.

B. Relevant Procedural History

2. On February 26, 2025, Arvada initiated this matter by filing the above-captioned Application (“Application”). Arvada requests authority to construct a temporary at-grade crossing, remove the existing at-grade crossing, construct a permanent grade separation underpass, and

request cost allocation of the permanent grade separated underpass pursuant to Rule 7207 of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Colorado Code of Regulations* ("CCR") 723-7.

3. On April 3, 2025, Union Pacific Railroad ("Union Pacific") filed an Entry of Appearance, Notice of Intervention, and Opposition ("Intervention"). Union Pacific opposes and contests the Application "on the basis that it seeks a cost allocation of 50% of the theoretical structure cost with [Union Pacific]."¹

4. Arvada sought both a final approval of its plans and a preliminary approval of its "conceptual level design plans/drawings" as contemplated by Rule 7204(a), 4 CCR 723-7. On July 2, 2025, by Decision No. R25-0491-I, the Administrative Law Judge ("ALJ") granted preliminary approval of Arvada's Application.²

5. Per the governing procedural schedule set forth in Decision No. R25-0459-I, Union Pacific certified via a filing in the Commission's e-filing system that it had provided finalized plan sets to Arvada. Under the procedural schedule, Arvada was required to file its Amended Application no later than July 23, 2025.

6. On July 23, 2025, Arvada did not file its Amended Application and instead filed its Unopposed Motion. Specifically, Arvada requests that the ALJ: (a) extend the deadline for Arvada to file its Amended Application until August 25, 2025; and (b) stay this Proceeding until September 17, 2025.³ Arvada states the basis for this request is to allow the parties to focus on

¹ Intervention at pg. 1.

² At a June 11, 2025 prehearing conference, Union Pacific stated it objected to both preliminary and final approval of Arvada's Application. The ALJ gave Union Pacific a set amount of time to file its rationale for objecting to preliminary approval, but on June 20, 2025, Union Pacific withdrew its objection to preliminary approval of the Application.

³ See Motion to Extend at p. 2.

settlement, with the ultimate goal of vacating the hearing date and dismissing this Proceeding.⁴ Because Arvada's Motion for Extension is unopposed, Arvada also requests a waiver of response time.⁵

7. Based on the Unopposed Motion, the prior procedural schedule will be vacated and the following amended procedural schedule will govern:

Procedural Activity	Date
Union Pacific Motion objecting to preliminary approval of Initial Application	Completed
Arvada response to Motion objecting to preliminary approval of Initial Application	Completed
Finalized plan sets from Union Pacific to Arvada and Union Pacific to file certification of this in e-filing	Completed
Arvada to file Amended Application	August 25, 2025
Settlement Agreement	September 17, 2025 ⁶
Settlement Testimony	September 26, 2025
Arvada to file status report if parties have not settled which must include a revised procedural schedule if matter expected to go to hearing.	September 26, 2025

⁴ *Id.*

⁵ *Id.*

⁶ This date is based on Arvada's date in the Unopposed Motion. However, in the Order section, the parties will have until September 26, 2025 to provide the ALJ evidence of the settlement to ensure the parties have adequate time to finalize all settlement details or to develop a new proposed procedural schedule.

II. FINDINGS AND CONCLUSIONS

A. **Good Cause Exists to Hold Proceeding in Abeyance**

8. The Commission has jurisdiction over this matter per §§ 40-4-106(2) and (3)(a), C.R.S.

9. Arvada waived the statutory deadline for a final Commission decision to issue, per § 40-6-109.5(3), C.R.S.⁷

10. The ALJ finds that the Unopposed Motion establishes good cause to hold this Proceeding in abeyance, and as such, will grant the Unopposed Motion. In so doing, the ALJ again acknowledges that Arvada has waived the statutory deadline for a final Commission decision to issue per § 40-6-109.5(3), C.R.S. Arvada stated in its Unopposed Motion that the parties expect to finalize settlement by September 17, 2025. If the parties do not file the final settlement agreement by September 17, 2025, the ALJ will require Arvada to file a status report by September 26, 2025 that provides an update on whether this Proceeding should continue to be held in abeyance or whether the ALJ should enter appropriate orders to move this Proceeding forward. If by September 26, 2025 Arvada believes that the matter is ready to move forward to hearing, Arvada must confer with Union Pacific on procedural deadlines and a hearing schedule and include a proposed procedural schedule in its status report.

B. **Response Time Waived**

11. Arvada states in the Unopposed Motion states that it is unopposed, and requests the Commission waive the response time to it.⁸

⁷ See Application at p. 24.

⁸ See Unopposed Motion at p. 2.

12. Responses to motions must be filed within 14 days after service of the motion, but the Commission has discretion to shorten, lengthen or waive that response time.⁹ In this instance, the ALJ finds that good cause exists to waive the response time and will order as such.

III. **ORDER**

A. **It Is Ordered That:**

1. Applicant City of Arvada's ("Arvada") Unopposed Motion for Extension of Time is granted consistent with the above discussion. The ALJ waives Union Pacific Railroad's ("Union Pacific") response time as the motion is unopposed.

2. This Proceeding is held in abeyance until **August 25, 2025**, by which time Arvada must file its Amended Application.

3. The deadlines set forth in Decision No. R25-0459-I (issued June 20, 2025) are vacated, except as set forth in this Order. This includes continuing the September 29-30, 2025 hearing until a later date. The September 29-30, 2025 hearing may be vacated by a separate decision if Arvada and Union Pacific settle this matter.

4. Arvada must file a status report consistent with the above discussion on or before **September 26, 2025** if Arvada and Union Pacific have not settled the matter and provided the settlement agreement and any settlement testimony in the Commission's e-filing system prior to that date. If Arvada believes an evidentiary hearing will be necessary to adjudicate this Proceeding, Arvada must include a revised proposed procedural schedule in the September 26, 2025 status report. Arvada must confer with Union Pacific when developing the revised proposed procedural schedule (if applicable).

⁹ Rule 1400(b), 4 CCR 723-1.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

KELLY A. ROSENBERG

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director