

Decision No. C14-0005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-1220R

IN THE MATTER OF THE APPLICATION OF THE REGIONAL TRANSPORTATION DISTRICT FOR AUTHORITY TO ALTER AN AT-GRADE CROSSING AT PEORIA STREET ON THE BORDER OF THE CITY AND COUNTY OF DENVER AND THE CITY OF AURORA IN ADAMS COUNTY, STATE OF COLORADO.

**COMMISSION DECISION DEEMING APPLICATION
COMPLETE AND GRANTING APPLICATION**

Mailed Date: January 3, 2014
Adopted Date: January 2, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the Regional Transportation District (RTD) on November 14, 2013, requesting authority to add a single new commuter rail track immediately south of the existing Union Pacific Railroad Company (UPRR) tracks at the existing at-grade crossing of Peoria Street, National Inventory No. 804605J, on the boarder of the City and County of Denver and the City of Aurora, County of Adams, State of Colorado.

2. The Commission gave notice of this Application (Notice) to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S. The Notice was mailed November 21, 2013.

3. On December 4, 2013, UPRR filed an Entry of Appearance and Notice of Intervention. UPRR does not contest or oppose the Application.

4. On December 16, 2013, the City and County of Denver (Denver) filed a Notice of Intervention as of Right. Denver does not contest or oppose the Application.

5. On December 19, 2013, the City of Aurora (Aurora) filed an Entry of Appearance and Motion to Intervene. Aurora does not object to the relief sought in the Application.

6. The Commission has reviewed the record in this matter and deems that the Application is complete within the meaning of § 40-6-109.5, C.R.S.

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

8. Now being fully advised in the matter, we grant the Application.

B. Findings of Fact

9. The Commission gave notice to all interested parties, including the adjacent property owners. No interventions were received opposing the Application.

10. RTD seeks to add a single new commuter rail track immediately south of the existing UPRR tracks at the existing at-grade crossing of Peoria Street located on the boarder of Denver and Aurora.

11. RTD, Denver, and Aurora jointly requested authority to construct a new grade separated crossing of Peoria Street, to construct two new commuter rail tracks under the new grade separation structure, and to abolish the existing at-grade crossing of Peoria Street in Proceeding No. 12A-1290R. The new structure is expected to be open to traffic sometime in the spring of 2015 with work being completed on the new structure by the end of 2015. The at-grade crossing of Peoria Street is anticipated to be closed and the work to abolish the crossing being completed within 45 days of the bridge structure being open to vehicle traffic. The Commission granted this authority by Decision No. C13-0219 mailed February 15, 2013.

12. As grounds for this Application, RTD states that in order to maintain the East Corridor project construction schedule, the at-grade commuter rail track crossing is necessary to facilitate the design-build construction sequence for the East Corridor by allowing construction materials to be moved through the crossing. RTD needs to begin material movements from the stockyard west of the Havana Street crossing via rail to locations east of the Peoria Street crossing via rail work equipment prior to the projected spring 2015 time period where motor vehicles are anticipated to start using the grade separated crossing.

13. RTD does not propose to move the existing active warning devices currently positioned for the UPRR tracks. UPRR trains would continue to move through the crossing on UPRR tracks under the existing active warning devices. RTD proposes to operate work equipment on its commuter rail track by stopping the equipment prior to entering the crossing and flagging motor vehicles to stop prior to moving equipment through the crossing. RTD anticipates using the commuter rail track through the crossing on average twice per day at a speed of no more than ten miles per hour. RTD also states that there will be no revenue service or passenger service provided on the new track until the grade separated crossing is open. We will request that RTD time its equipment movements through the crossing to not interfere with UPRR train movements through the crossing as southbound vehicles might be inadvertently stopped on the UPRR tracks during these equipment moves.

14. Warning devices for the at-grade commuter rail track will consist of installing crossbucks (R15-1) and "Do Not Stop on Tracks" (R8-8) signs for motorists on both sides of the new track. Temporary bollards with chain barriers across the new track would be installed just prior to the crossing with "Tracks Not Active" signs hanging from the chain barrier. This new

track and warning devices would be part of the abolishment of the Peoria Street at-grade crossing pursuant to Commission Decision No. C13-0219.

15. RTD estimates the cost for the new at-grade commuter rail track, signage, bollards, and chain at \$157,600 with RTD paying for these costs.

16. RTD would begin construction of the new at-grade track upon Commission approval of the Application with the new track and signage being incorporated as part of the Peoria Street at-grade crossing abolishment once vehicle traffic has been moved to the new grade separated crossing. RTD will be required to inform the Commission in writing when the new commuter rail track and associated signage is in place and operational. The Commission will expect this letter within ten days of completion and will establish a target date of no later than February 28, 2014 to receive this notification. Work equipment will not be allowed to use the new track until the Commission has received this notification. RTD will also be required to inform the Commission in writing in this proceeding when the abolishment of the Peoria Street at-grade crossing is complete. The Commission will expect this letter no later than June 30, 2015 with an understanding that this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

C. Conclusions

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

18. No intervenor that filed a petition to intervene or other pleading contests or opposes the construction of the new crossing and active warning equipment.

19. Because the Application is unopposed, the Commission will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 1403, Commission Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

20. Based on the Findings of Fact, the Application is granted.

II. **ORDER**

A. **The Commission Orders That:**

1. The application (Application) filed by the Regional Transportation District (RTD) on November 14, 2013, requesting authority to add a single new commuter rail track immediately south of the existing Union Pacific Railroad Company (UPRR) tracks at the existing at-grade crossing of Peoria Street, National Inventory No. 804605J, on the boarder of the City and County of Denver and the City of Aurora, County of Adams, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Intervention of UPRR is granted.

3. The Intervention of the City and County of Denver (Denver) is granted.

4. The Intervention of the City of Aurora (Aurora) is granted.

5. The Application is granted.

6. RTD is authorized and ordered to proceed with construction of a new commuter rail track through the existing at-grade crossing of Peoria Street including installation of crossbuck signs, “Do Not Stop on Tracks” signs, and temporary bollards with chain barrier and “Tracks not Active” signs across the tracks prior to the crossing on the boarder of Denver and Aurora.

7. RTD is authorized to flag its work equipment through the commuter rail track and is requested to time its equipment movements through the crossing to not interfere with UPRR train movements through the crossing as southbound vehicles might be inadvertently stopped on the UPRR tracks during these equipment moves.

8. RTD is required to inform the Commission in writing that the authorized crossing work is complete and operational within ten days of completion with a target date of February 28, 2014 by which to provide this letter. Work equipment will not be allowed to use the new track until the Commission has received this notification.

9. RTD is also required to inform the Commission in writing when the abolishment of the Peoria Street at-grade crossing is complete. We shall expect this letter by June 30, 2015. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

10. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

11. The Commission retains jurisdiction to enter further decisions as necessary.

12. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 2, 2014.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

JAMES K. TARPEY

Commissioners

COMMISSIONER PAMELA J. PATTON ABSENT.