

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 05A-361R

IN THE MATTER OF THE APPLICATION OF THE CITY OF THORNTON, COLORADO FOR THE AUTHORITY TO CONSTRUCT CANTILEVER LIGHT SIGNALS, AUTOMATIC GATE ARMS, AND CONCRETE PAD CROSSING SURFACE, AT THE CROSSING OF THE UNION PACIFIC RAILROAD TRACKS ON 144TH AVENUE.

**COMMISSION DECISION GRANTING
MOTION TO EXTEND TEMPORARY VARIANCE**

Mailed Date: March 14, 2014
Adopted Date: March 12, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of a Consent Motion to Extend Temporary Variance (Motion) filed by the Regional Transportation District (RTD) on February 28, 2014 requesting that the temporary variance of Rule 7211(b) of the Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* (CCR) 723-7 granted by the Commission by Decision No. R11-1218, mailed November 10, 2011 be extended to April 30, 2019.

2. As grounds, RTD states that as part of the original Joint Motion for Temporary Variance from Crossing Surface Width Requirements of Rail Rule 7211(b), RTD and the City of Thornton (Thornton) indicated that the RTD North Metro Corridor could be under construction as early as 2013, and that improvements similar to the completed improvements would need to be installed at the crossing. To reduce waste in removing the completed improvements only to install them again, RTD and Thornton requested the temporary variance. The Commission

granted the temporary variance requested with the temporary variance expiring on April 30, 2014 unless RTD filed on, or before, March 1, 2014, an application for modification of the 144th Avenue crossing for the FasTracks North Metro Rail Line.

3. RTD has since entered into a contract for the construction of the North Metro Rail Line with groundbreaking scheduled for March 20, 2014. While the contract calls for construction of the North Metro Rail Line only to 124th Avenue by 2018, the contract contains an option that RTD may exercise for extension of the project to 162nd Avenue as funding becomes available. RTD believes, but is not certain, that such funding will become available, and that such an extension will involve the 144th Avenue crossing.

4. RTD is unable to predict with certainty if and when it would file an application to modify the 144th Avenue crossing and therefore requests that the expiration of the temporary variance be extended to April 30, 2019 with a requirement that RTD file an application for modification of the 144th Avenue crossing by March 1, 2019.

5. RTD conferred with Thornton, and there appears to have been no reported accidents at the 144th Avenue crossing since the installation of jersey barriers and railroad grade markings required by the Commission.

6. Additionally, the Union Pacific Railroad Company (UPRR) sought an abandonment exemption by the Surface Transportation Board for the portion of the Boulder Industrial Lead that included the 144th Avenue crossing, and the abandonment has since been consummated by UPRR. As such, there are currently no freight rail train movements through the 144th Avenue crossing.

7. The 144th Avenue crossing has experienced false activations for which RTD has disabled the crossing warning devices at the crossing. RTD states that it will file a separate

application for authority from the Commission for the disabling of the signals. We will require RTD to file this application forthwith, and any additional applications for any additional crossings on this corridor where similar actions have been taken as all such crossings are currently not in compliance with the Commissions orders regarding those crossings and are in violation of Rule 4 CCR 723-7-7301(a).

8. RTD has conferred with UPRR regarding this Motion and is authorized to state that UPRR does not oppose the Motion.

9. RTD has conferred with Thornton regarding this Motion and is authorized to state that Thornton supports and consents to the relief requested by the Motion.

10. Given that RTD has been authorized to represent the positions of all parties in this proceeding regarding the Motion, we will waive response time to the Motion on our own motion.

11. Now being fully advised in the matter, we grant the Motion.

II. ORDER

A. The Commission Orders That:

1. The Consent Motion to Extend Temporary Variance filed by the Regional Transportation District (RTD) on February 28, 2014 requesting that the temporary variance of Rule 7211(b) of the Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* 723-7 granted by the Commission by Decision No. R11-1218, mailed November 10, 2011 be extended to April 30, 2019 is granted.

2. The temporary variance shall expire on April 30, 2019 unless RTD files, on or before March 1, 2019, an application for modification of the 144th Avenue crossing for the FasTracks North Metro Rail Line.

3. RTD is also ordered to file an application for authority from the Commission to disable the grade crossing signals at the 144th Avenue crossing and any additional applications for any additional crossings on this corridor where similar actions have been taken forthwith.

4. The Commission retains jurisdiction to enter further decisions in this matter.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 12, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners