

Decision No. C14-0850

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14V-0560R

PETITION OF THE REGIONAL TRANSPORTATION DISTRICT FOR WAIVER OF, OR VARIANCE FROM, 4 CCR 723-7 7325(A) CONCERNING THE SIDE CLEARANCE AT THE COMMUTER RAIL MAINTENANCE FACILITY IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO.

**COMMISSION DECISION
GRANTING VARIANCE**

Mailed Date: July 21, 2014
Adopted Date: July 17, 2014

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. This matter comes before the Commission for consideration of a petition filed on May 30, 2014, by the Regional Transportation District (RTD). In this petition, RTD requests a permanent partial waiver of, or variance from the 10'-0" minimum side clearance standard stated in the Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* (CCR) 723-7-7325(a)(II) to a 6'-4" minimum clearance for two train wash control pedestals and three local control pannels located in the commuter rail maintenance facility (CRMF) yard.

2. The Commission noticed this petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on June 9, 2014.

3. No interventions were filed in this matter.

4. No petition to intervene in opposition or otherwise participate in this proceeding has been filed. This proceeding is therefore uncontested. Pursuant to § 40-6-109(5), C.R.S., this matter may be determined without a hearing.

5. Pursuant to Rule 1003 of the Rules of Practice and Procedure, 4 CCR 723-1, the Commission may grant waivers or variances from tariffs, Commission rules, and substantive requirements contained in Commission decisions and orders for good cause. In making a determination, the Commission may take into account, but is not limited to, considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.

6. Rule 7325(a) requires that generally, side clearances shall be 8'-6", and that wherever practicable, all posts, pipes, warning signs, and other small obstructions should be given a side clearance of at least 10'-0".

7. The RTD CRMF yard contains a train wash area with pedestals that need to be located as close as possible to the track centerline so that train operators can access the keypad while still in the train. The train wash control pedestals and local control panels cannot be accessed at the minimum 10'-0" clearance distance required. These access panels will be accessible to only CRMF yard personnel. No train passengers or the public will have access to the CRMF yard.

8. RTD requests a permanent variance of the side clearance for these control panels to 6'-4". As justification for this permanent variance of Rule 7325(a), RTD states that they believe that the side clearance standard originated in the days where railroad employees customarily performed some of their duties on the outside of railcars, making these employees vulnerable to side clearance impacts. RTD states that only CRMF authorized personnel will have access to the reduced clearance area.

9. The Commission finds that RTD has shown good cause to grant a permanent variance of Rule 7325(a) to allow a shortened side clearance distance to 6'-4" from the centerline of track to the train wash and control pedestals located in the CRMF yard. Because use will be restricted to CRMF employees only, there is not a public safety issue with this request, and authorized personnel will be aware of the reduced side clearance of the equipment.

II. ORDER

A. The Commission Orders That:

1. The Regional Transportation District is granted a permanent variance of Rule 7325(a) of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* 723-7 to a minimum side clearance distance of 6'-4" to the centerline of track for the two train wash control and three other local control panels located in the commuter rail maintenance facility yard. This permanent variance shall be for the life of the commuter rail maintenance facility.

2. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails this Decision.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 17, 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

Commissioners

COMMISSIONER GLENN A. VAAD
ABSENT.