

Decision No. C25-0451

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 25A-0113R

---

IN THE MATTER OF THE APPLICATION OF THE CITY AND COUNTY OF DENVER FOR AUTHORITY TO ALTER THE EXISTING ALAMEDA AVENUE UNDERPASS GRADE SEPARATED CROSSINGS UNDER THE TRACKS OF THE BNSF RAILWAY COMPANY, UNION PACIFIC RAILROAD COMPANY AND REGIONAL TRANSPORTATION DISTRICT (US DOT #253027H AND #245391A) BY ADDING A NEW ELEVATED PEDESTRIAN SIDEWALK ABOVE THE ROAD SURFACE AS PART OF THE ALAMEDA UNDERPASS REHABILITATION PROJECT IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO.

---

**COMMISSION DECISION GRANTING, IN PART,  
UNOPPOSED MOTION FOR EXTENSION OF TIME**

---

---

Issued Date: July 2, 2025

Adopted Date: July 2, 2025

**I. BY THE COMMISSION**

**A. Statement**

1. This matter comes before the Commission for consideration of an Unopposed Motion for Extension of Time (“Motion”), filed by the City and County of Denver (“Denver”) on May 22, 2025. Through the Motion, Denver requests an extension of time to June 30, 2025, to file a signed Right of Entry (“ROE”) Agreement with the Commission.

2. Now being fully advised in the matter, we grant the Motion, in part, granting an extension from the original deadline of May 31, 2025, to July 31, 2025, to allow Denver to file the Construction and Maintenance Agreement (“C&M”) Agreement previously ordered by the Commission, consistent with the discussion below.

**B. Procedural History**

3. On March 17, 2025, Denver filed an Application, for an order authorizing the construction of a new elevated pedestrian sidewalk above the road surface within the existing Alameda Avenue underpass grade separated crossings under the tracks of the BNSF Railway Company (“BNSF”), Union Pacific Railroad Company (“UPRR”), and Regional Transportation District (“RTD”) at BNSF railroad milepost 3.752 of the Pikes Peak Subdivision, 20th Street-Pueblo Branch, National Inventory No. 245391A, and at UPRR railroad milepost 3.387, Burnham Lead Subdivision, National Inventory No. 253027H in the City and County of Denver, State of Colorado. This filing commenced Proceeding No. 25A-0113R.

4. By Decision No. C25-0347, issued May 5, 2025, the Commission deemed the Application complete and granted the Application.

5. Paragraph 14 of Decision No. C25-0347 states: “... Denver will be required to provide a copy of the signed Construction and Maintenance Agreement with BNSF for this project by May 31, 2025, prior to starting construction on this project.” Likewise, Ordering Paragraph 5 of Decision No. C25-0347 states: “Denver shall file a copy of the signed Construction and Maintenance Agreement with BNSF for this project by May 31, 2025, prior to starting work at the crossing.”

6. On June 5, 2025, Denver filed into this Proceeding a copy of the ROE Agreement that its contractor entered into with BNSF.

**C. Findings and Conclusions**

7. Denver’s Motion states that its contractor contacted BNSF about entering into a C&M Agreement and was told that because there are existing agreements in place that allow Denver’s contractor to access the crossing, a C&M Agreement is not needed. The Motion states

that instead, BSNF will be issuing Denver's contractor a ROE Agreement. Further, the Motion states the ROE Agreement will not be completed prior to May 31, 2025, and as a result, Denver is requesting an extension of time to file the signed ROE Agreement with the Commission. BNSF, UPRR or RTD do not oppose the relief requested in the Motion.

8. We find the Motion states good cause to grant a 30-day extension to submit the signed C&M Agreement ordered by the Commission in Decision No. C25-0347.

9. We recognize that the Motion requests a filing deadline of June 30, 2025, to file a ROE Agreement; however, we do not find good cause to construe the Motion as a request for variance from the Commission's directive in Decision No. C25-0347 to file a C&M Agreement nor would we find good cause in the Motion to grant such variance, given the lack of explanation and justification provided in the Motion. Most important, the Motion does not address who will pay for ongoing maintenance at the crossing, which is a matter typically covered by a C&M Agreement. The Commission would entertain a request for variance of the requirement to file a C&M Agreement, but the Commission does not find good cause in this Motion, particularly because the issue of ongoing maintenance is still outstanding for this new element of the crossing.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The Unopposed Motion for Extension of Time filed by the City and County of Denver ("Denver") on May 22, 2025, is granted, in part, consistent with the discussion above.

2. Denver shall file a copy of the signed Construction and Maintenance Agreement ordered by Decision No. C25-0347 no later than July 31, 2025.

3. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
July 2, 2025.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

ERIC BLANK

---

MEGAN M. GILMAN

---

TOM PLANT

---

Commissioners