

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

PROCEEDING NO. 24M-0274R

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IN THE MATTER OF THE DEVELOPMENT OF TEMPLATE CONSTRUCTION AND MAINTENANCE AGREEMENTS AND PRELIMINARY ENGINEERING AGREEMENTS FOR USE IN PUBLIC CROSSING PROJECTS IN COLORADO CONSISTENT WITH RULE 4 CODE OF COLORADO REGULATIONS 723-7-7214.

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**INTERIM DECISION  
ESTABLISHING DEADLINES AND  
SCHEDULING HEARINGS**

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Issued Date: May 14, 2025

**I. STATEMENT, SUMMARY, AND PROCEDURAL HISTORY**

**A. Statement and Summary**

1. This Decision establishes a May 23, 2025 deadline for potential participants to file a notice of intent to participate and a May 28, 2025 deadline by which participants must meet to discuss consensus template agreements; schedules a remote hearing for July 8, 2025 at 3:00 p.m. and September 8, 2025 at 10:00 a.m.; and explains the purpose of those hearings.

**B. Procedural History<sup>1</sup>**

2. On June 14, 2024, the Commission initiated this Proceeding as a forum to develop Commission-approved template agreements for use as required by newly adopted Rule 7214 of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* ("CCR") 723-7.<sup>2</sup> At the same time, the Commission referred this Proceeding to an administrative law judge ("ALJ").<sup>3</sup>

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<sup>1</sup> Only the procedural history necessary to understand this Decision is included.

<sup>2</sup> Decision No. C24-0420 at 1 (issued June 14, 2024) ("Decision No. C24-0420").

<sup>3</sup> *Id.* at 5-7.

3. To date, the participants have held at least two meetings or workshops to reach a consensus on template agreements required by Rule 7214, 4 CCR 723-7, and the ALJ has held two hearings to discuss the outcomes of those meetings and establish next steps to move this matter forward.<sup>4</sup> The ALJ held the most recent hearing on May 1, 2025.<sup>5</sup> Numerous participants appeared. This Decision memorializes what occurred during that hearing, among other things.

## II. FINDINGS AND CONCLUSIONS

4. During the hearing, participants explained that they last met on April 14, 2025 and have made great strides toward reaching consensus language for a template construction and maintenance agreement for at-grade crossing projects. Participants worked off a template that Union Pacific Railway Company (“Union Pacific”) provided and are close to finalizing the resulting template agreement (“Union Pacific At-Grade Crossing Template Agreement”). BNSF Railway (“BNSF”) explained that once the Union Pacific At-Grade Crossing Template Agreement is finalized, BNSF will incorporate that Agreement’s essential terms into BNSF’s form agreement for such projects and will work with participants on language addressing issues specific to BNSF that BNSF wishes to see in a final template agreement. Although BNSF was unable to articulate the specifics of those issues, BNSF anticipated that the participants should be able to reach a consensus on additional BNSF-specific language without delay.

5. Participants are planning to meet again on May 28, 2025. The ALJ will establish May 28, 2025 as the deadline to hold at least one more meeting to avoid potential delay in meeting again and to ensure the next steps in this Proceeding (including additional scheduled hearings) move forward without issue.

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<sup>4</sup> See Decision No. R24-0649-I (issued September 11, 2024); Decision No. R24-0927-I (issued December 19, 2024); Decision No. R25-0230-I (issued March 27, 2025).

<sup>5</sup> See Decision No. R25-0230-I.

6. During the hearing, participants agreed to work toward finalizing the Union Pacific At-Grade Crossing Template Agreement prior to meeting on May 28, 2025 so that the meeting can focus on finalizing a BNSF At-Grade Crossing Template Agreement. As discussed during the hearing, when they meet on May 28, 2025, participants will also discuss the next type of template agreement that they should work on so that they may present a consensus on this issue during the next hearing.<sup>6</sup>

7. The ALJ will not participate in the May 28, 2025 meeting. All those who filed a notice of intent to participate in this Proceeding must be invited to the meeting, but participation in the meeting is voluntary (not mandatory).<sup>7</sup>

8. With the participants' input, the ALJ scheduled two more remote hearings as set forth in the ordering paragraphs below. During those hearings, participants will provide status updates on their efforts to reach consensus on template agreements that Rule 7214 requires; identify the next agreement they intend to work on; discuss appropriate next steps to move this matter forward; and any other relevant issue that a participant raises. Participants will appear at the remote hearings from remote locations by videoconference and may not appear in person. The remote hearings will be held using the web-hosted service, Zoom. Attachment A hereto includes important technical information and requirements to facilitate holding the hearings remotely. All

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<sup>6</sup> Rule 7214, 4 CCR 723-7, requires templates of construction and maintenance agreements and preliminary engineering agreements for public crossing projects over which the Commission has jurisdiction, including: highway-rail at-grade crossings, grade separated crossings, pathway-rail at-grade crossings, pathway grade separated crossings, utility crossings, existing at-grade crossing modifications, relocating crossings, traffic signal interconnection, crossing status change (private to public or public to private), crossing closures, crossing active warning signal improvements, crossing passive warning improvements, and crossing surface improvements. As a result, Rule 7214 requires numerous template agreements to be developed, in addition to the one that participants have worked on so far.

<sup>7</sup> The ALJ does not suggest that the participants modify their current meeting date to accommodate entities or persons who file a notice of intent to participate after this Decision is issued. Such entities must be invited to the May 28, 2025 meeting, but there is no requirement to change the meeting date to accommodate new participants. The ALJ expects the participants to work cooperatively with each other to address any issues resulting from new participants joining the Proceeding.

those participating in the hearings must carefully review and follow all requirements in this Decision and Attachment A. To minimize the potential that the videoconference hearings may be disrupted by non-participants, the link and meeting ID or access code to attend the hearing will be provided to the participants by email before the hearing, and participants will be prohibited from distributing that information to anyone not participating in the hearing.

9. During the hearing, some participants noted that smaller railroad companies and public utilities have not been participating in hearings or the participants' meetings to reach consensus on template agreements. This is somewhat concerning given that smaller railroad companies will be required to use the template agreements that come out of this Proceeding and utilities will be subject to template agreements on utility crossings that come out of this Proceeding.<sup>8</sup> The Commission has provided notice of this Proceeding to railroad companies operating in Colorado, but no smaller railroad company has filed a notice of intent to participate in this matter.<sup>9</sup> Because the Commission only provides notice of Decisions in this Proceeding to those who have filed a notice of intent to participate, smaller railroad companies are no longer being served with Decisions in this matter.<sup>10</sup> To encourage smaller railroad companies to participate in this matter and the ongoing discussions between participants, the ALJ will give smaller railroads another opportunity to file a notice of intent to participate. To this end, this Decision will be served on smaller railroad companies with Colorado crossings, but if they fail to make a filing indicating they will participate in this matter by the established deadline, no further

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<sup>8</sup> During the hearing, some participants noted that the majority of utility crossing projects they have experience with involve a municipal utility (*e.g.*, water and sewer), most of which are represented through their respective local governments, many of which have been actively participating in this Proceeding.

<sup>9</sup> See Certificates of Service (including all Supplemental Certificates of Service) for Decision Nos. C24-0420, R24-0522-I, and R24-0560-I.

<sup>10</sup> See Decision No. R24-0560-I at 5-7 (issued August 7, 2024) (discussing service on potential participants; establishing an August 19, 2024 deadline to file a notice of intent to participate; and explaining that any potential participant who fails to file a notice of intent to participate by the established deadline will no longer be served with decisions issued in this Proceeding).

decisions will be served on them. Any smaller railroad that fails to participate in this Proceeding does so at their own risk.

10. It does not appear that non-municipal public utilities or cooperative associations providing utility service were served with Decisions requiring a notice of intent to participate in this Proceeding. As a result, this Decision will be served on non-municipal public utilities and cooperative associations providing utility service, and they will be given an opportunity to file a notice of intent to participate. If they fail to make a filing indicating they will participate in this matter by the established deadline, no further decisions will be served on them. Any utility or cooperative association who fail to participate in this Proceeding does so at their own risk.

11. Entities filing a notice of intent to participate as permitted by this Decision must include an email address at which they may be served filings or other important information (such as Zoom information to join future hearings and workshops) in their notice of intent to participate. It is also important that such participants provide a valid email address because the Zoom information necessary to join the remote hearings in this matter will be emailed to participants at the email addresses that they provide. As such, *it is vitally important* that participants ensure that the Commission has the correct email address for them in this Proceeding.

12. Entities filing a notice of intent to participate are strongly encouraged to register for the Commission's free E-Filing System, which will allow them to electronically file and receive pleadings in near-real time. Interested persons may register for the E-Filing System at: <https://www.dora.state.co.us/pls/efi/EFI.homepage>.

### III. **ORDER**

#### A. **It Is Ordered That:**

1. On or by May 23, 2025, anyone wishing to participate in this Proceeding must file a notice of intent to participate in this Proceeding that includes an email address at which they may be served filings or other important information, consistent with the above discussion.

2. On or by May 28, 2025, participants must hold an informal meeting to reach a consensus on template agreements required by Rule 7214 of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* 723-7. All those who have made a filing indicating they will participate in this Proceeding must be invited to this meeting, consistent with the above discussion. Participation in the meeting session is voluntary.

3. A fully remote hearing is scheduled as follows:

DATE: July 8, 2025

TIME: 3:00 p.m.

PLACE: By video conference or telephone using Zoom information emailed to participants.

4. A fully remote hearing is scheduled as follows:

DATE: September 8, 2025

TIME: 10:00 a.m.

PLACE: By video conference or telephone using Zoom information emailed to participants.

5. Participants are not permitted to distribute or share the Zoom information for the above hearings to anyone not participating in the hearings. Non-participants in the hearings may

observe the hearings live through the Commission's webcast for the Hearing Room assigned for the hearings at: <https://www.youtube.com/@COPublicUtilitiesCommission/featured>.

6. Participants in the hearings may not appear at the Commission's office in person but will appear by videoconference or telephone.

7. All those participating in the hearings must comply with the requirements in Attachment A to this Decision, which is incorporated as if fully set forth.

8. This Order is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

MELODY MIRBABA

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Administrative Law Judge

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

Rebecca E. White,  
Director