

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22I-0471R

IN THE MATTER OF THE REGIONAL TRANSPORTATION DISTRICT'S CORRECTIVE ACTION PLAN REGARDING THE SABLE BOULEVARD AND EXPOSITION AVENUE DERAILMENT, RULE 4 CCR 723-7-7347

NOTICE OF CONFIDENTIALITY: A PORTION OF THIS DOCUMENT HAS BEEN FILED UNDER SEAL

Pursuant to Commission Rule 1101(a), the Regional Transportation District ("RTD") has filed under seal the redacted portions of the following Unopposed Motion Requesting Protection of Confidential Information, Decision on Release of Records in Response to Law Enforcement Subpoena, Expedited Review, and Waiver of Response Time. Specifically, Confidential Information on page 2, paragraphs 4 and 5 regarding the Law Enforcement subpoena is redacted.

IN THE MATTER OF THE REGIONAL TRANSPORTATION DISTRICT'S CORRECTIVE ACTION PLAN REGARDING THE SABLE BOULEVARD AND EXPOSITION AVENUE DERAILMENT, RULE 4 CCR 723-7-7347

REGIONAL TRANSPORTATION DISTRICT'S UNOPPOSED MOTION REQUESTING PROTECTION OF CONFIDENTIAL INFORMATION, DECISION ON RELEASE OF RECORDS IN RESPONSE TO LAW ENFORCEMENT SUBPOENA, EXPEDITED REVIEW, AND WAIVER OF RESPONSE TIME

The Regional Transportation District ("RTD"), by and through its undersigned counsel, respectfully requests a decision from the Commission pursuant to Commission Rule 1101(b) and Rule 7349(d)(IV) accepting the redacted portions of this motion as a Confidential filing, and either authorizing or prohibiting RTD's release of records in response to a law enforcement subpoena. As grounds for this motion and in support thereof RTD states the following:

1. By Decision No. C22-0675, the Commission opened an investigation proceeding for the derailment of two light rail vehicles at the intersection of South Sable Boulevard and East Exposition Avenue ("Derailment").

2. Pursuant to § 40-18-104, C.R.S., and Commission Rules 7349(d)(III) and (IV), the Derailment Accident Report, including all information, reports, and other evidence aiding in the formulation of the conclusion as to the cause of the accident, as well as the Corrective Action Plan ("CAP") and implementation schedule, shall be submitted under seal and designated as Highly Confidential. Upon submission, such report, in whole or in part, is an investigative report of the Commission that shall be afforded extraordinary protections as highly confidential information unless modified by a subsequent Commission decision. Rule 7349(d)(IV).

3. By Decision No. C22-0763, the Commission modified the Highly Confidential classification and ordered that the CAPs filed in this proceeding be reclassified as non-confidential documents. The Derailment Accident Report remains Highly Confidential.

4. On [REDACTED], the [REDACTED] [REDACTED] (“Law Enforcement Agency”) served on RTD a subpoena duces tecum [REDACTED] [REDACTED] requesting various records, including all information and data related to RTD’s investigation of the Derailment (“Subpoena”).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6. In order to preserve the integrity of the Law Enforcement Agency’s investigation, RTD requests the Commission accept the redacted portions of this motion as a Confidential filing consistent with §24-72-302(4), C.R.S. (records made, maintained, or kept by any criminal justice agency in the state for use in the exercise of functions required or authorized by law), §24-72-305(5), C.R.S. (records of criminal justice investigations), and § 24-72-204(2)(a), C.R.S. (records of law enforcement investigations). For these reasons, RTD also requests that the Commission waive the requirements of a form of nondisclosure agreement (Commission Rule 1101(b)(V)) and affidavit (Commission Rule 1101(b)(VI)) containing the names of all persons with access to unredacted portions of this motion. Consistent with Commission Rule 1100(i), RTD requests that only the Commission, Commission staff, Commission advisory counsel, and Commission staff counsel shall have access to the unredacted portions of this motion.

7. Consistent with Rule 1101(a), RTD has made a public filing of this motion with redactions that reflects the information for which Confidential protection is requested. As such, consistent with Commission Rule 1101(b)(VII), RTD has not filed an additional exhibit describing such information because providing such information is impractical and too sensitive for disclosure.

8. Finally, RTD also requests a decision from the Commission regarding whether the Derailment Accident Report and related information, reports, and other evidence aiding in the formulation of the conclusion as to the cause of the accident may be disclosed by RTD in response to the Subpoena to the Law Enforcement Agency.

9. There are no other parties to this administrative proceeding. This motion is therefore unopposed and RTD respectfully requests expedited review and that the Commission waive any response time, pursuant to Commission Rule 1308(c).

WHEREFORE, RTD respectfully requests a decision from the Commission accepting the redacted portions of this motion as a confidential filing, and either authorizing or prohibiting RTD's disclosure of the Derailment Accident Report and related information, reports, and other evidence aiding in the formulation of the conclusion as to the cause of the accident may be disclosed in response to the Subpoena to the Law Enforcement Agency.

Respectfully submitted this 28th day of July, 2023.

Regional Transportation District

/s/ Melanie J. Snyder

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