



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE

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11-08-11
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In the matter of the Application of the County of Santa Cruz for an Order authorizing County to convert an existing at-grade crossing at Aptos Creek Road (CPUC No. 017B-12-.65X) from a private crossing to a public crossing and to construct roadway improvements, a traffic signal with railroad pre-emption, and railroad crossing gates at the tracks of Sierra Northern Railway (MP 12.65) in the County of Santa Cruz, State of California

Application No.: A1110010

PROTEST OF UNION PACIFIC RAILROAD COMPANY

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November 8, 2011

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CALIFORNIA**

In the matter of the Application of the County of Santa Cruz for an Order authorizing the County to convert an existing at-grade crossing at Aptos Creek Road (CPUC No. 017B-12.65-X) from a private crossing to a public crossing and to construct roadway improvements, a traffic signal with railroad pre-emption, and railroad crossing gates at the tracks of Sierra Northern Railway (MP 12.65) in the County of Santa Cruz, State of California

Application No. A1110010

PROTEST OF UNION PACIFIC RAILROAD COMPANY

Pursuant to Rule 2.6 of the Commission’s Rules of Practice and Procedure, Union Pacific Railroad Company (“Union Pacific”) submits this protest to the application of the County of Santa Cruz (“County”) for authority to convert an existing at-grade crossing at Aptos Creek Road from a private crossing to a public crossing and to construct roadway improvements, a traffic signal with railroad pre-emption, and railroad crossing gates at the tracks of Sierra Northern Railway (MP 12.65) in the County of Santa Cruz, State of California. The Application first appeared in the Commission’s Daily Calendar on October 14, 2011.

Union Pacific currently owns the rail corridor, and leases the rail line to Sierra Northern Railway. Union Pacific protests this application on the following grounds:

1. This application is duplicative of the County’s pending application for a new public at-grade crossing at Parade Street (Sierra Northern Railway’s Milepost 12.55). Moreover, a public crossing at this location is redundant with two nearby public crossings currently existing at Sierra Northern Railway Mileposts 12.5 and 12.7. *See In re City of San Mateo*, 8 Cal.P.U.C.2d 572, at *8 (Cal. P.U.C. 1982)

(applicant must demonstrate that the “public convenience and necessity *absolutely* require a crossing at grade”).

2. The County has not provided evidentiary support for its conclusion that a grade-separation at this location is “impracticable.” *In re City of Gridley*, 2006 WL 1749618 (Cal. P.U.C. 2006); *In re L.A. to Pasadena Metro Blue Line Construction Authority*, 2002 WL 31398627 (Cal. P.U.C. 2002); *In re City of San Mateo*, 8 CPUC 2d 572, at *8 (Cal. P.U.C. 1982); *City of San Mateo v. R.R. Comm’n of Cal.*, 9 Cal.2d 1, 10 (1937); Cal. Pub. Util. Code 1202(c) (West 2006); Cmm’n Rule of Practice 3.7(c).
3. The County has not made a convincing showing that all potential safety hazards have been eliminated. *In re L.A. to Pasadena Metro Blue Line Construction Authority*, 2002 WL 31398627 (Cal. P.U.C. 2002). Specifically, the application is deficient in that it fails to provide a current traffic study, or to address bicycle or pedestrian traffic volume at the proposed crossing location. *Id.*
4. The County has not provided an engineering study to justify the public crossing. *In re City of Oceanside*, 43 Cal.P.U.C.2d 46 (Cal. P.U.C. 1992).

Union Pacific hereby requests an evidentiary hearing to be held no sooner than ten months after the date on which the County filed its Application. This schedule is necessary for the parties to have sufficient time to hold further project-development discussions and develop such evidence as may be necessary to present at the time of the hearing.

Dated this November 8, 2011 at Sacramento, CA.

Respectfully submitted,

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