



**FILED**

07-26-12  
10:50 AM

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

In the Matter of the Application of the City of San Clemente for an order authorizing the alteration and improvement of seven existing San Clemente Beach Trail At-Grade Crossings.

Application 11-08-004  
(Filed August 2, 2011)

**ADMINISTRATIVE LAW JUDGE'S RULING SETTING A PREHEARING CONFERENCE AND ORDERING THE APPLICANT, CITY OF SAN CLEMENTE, TO MEET AND CONFER WITH BNSF RAILWAY COMPANY AND NATIONAL RAILROAD PASSENGER CORPORATION IN ORDER TO FILE A JOINT PREHEARING CONFERENCE STATEMENT**

**1. The Prehearing Conference (PHC)**

This ruling schedules a PHC for October 26, 2012 at 10:00 a.m. at the San Francisco Commission Courtroom, 505 Van Ness Avenue, San Francisco, California. This ruling further instructs the applicant, City of San Clemente, to meet and confer with BNSF Railway Company and National Railroad Passenger Corporation in order to file a joint PHC statement by October 19, 2012. A PHC is called to: (1) determine the parties; (2) accept appearances and establish the permanent service list; (3) determine the positions of the parties; (4) identify issues for inclusion in the scoping memo for this proceeding; (5) discuss the schedule for this proceeding; (6) determine if there are any challenges to either the categorization of this proceeding or to the preliminary determination that there is a need for hearings; and (7) discuss any additional procedural matters relevant to this proceeding.

## **2. The PHC Statement**

In preparation for the PHC, the parties shall meet and confer either in person, e-mail, or telephonically to discuss the following subjects:

1. Identify the issues and determine what are the parties' respective positions as to each issue that the Commission needs to decide in this case;
2. What material facts are undisputed;
3. What material facts are disputed;
4. The status of settlement discussions, if any;
5. Whether mediation conducted by a neutral Administrative Law Judge (ALJ), other than the assigned ALJ, would be helpful in resolving the disputed issues;
6. Whether any discovery is needed and the anticipated date that discovery will be completed;
7. Whether hearings are needed;
8. If the parties believe that a hearing is needed, the estimated number of days required, and the number of witnesses that each side plans to present at the hearing; and
9. A proposed schedule for this case, including dates for completing discovery, filing prepared written testimony, and for hearing.

The prepared joint PHC statement shall include the parties' determinations of the issues for resolution, a list of the undisputed material facts, and a list of the disputed material facts.

## **3. Filing, Service, and Service List**

The parties shall file their joint PHC statement that addresses the above subjects with the Commission's Docket Office, and a copy to me, by no later than October 19, 2012. Parties shall submit their copy to me by e-mail addressed to [rim@cpuc.ca.gov](mailto:rim@cpuc.ca.gov). A second copy shall be submitted to me by personal delivery or mail.

Parties are encouraged to file and serve electronically, whenever possible. This proceeding will follow the electronic service protocols adopted by the Commission in Rule 1.10 for all documents, whether formally filed or just served. This rule allows electronic service of documents, in a searchable format, unless the party or state service list member did not provide an e-mail address. If no e-mail address was provided, service should be made by U.S. mail. Concurrent e-mail service to ALL persons on the service list for whom an e-mail address is available, including those listed under "Information Only," is required. Parties are expected to provide paper copies of served documents upon request. More information regarding electronic filing is available at <http://www.cpuc.ca.gov/puc/efiling>.

Parties are responsible for ensuring that the correct information is contained on the service list, and notifying the Commission's Process Office and other parties of corrections or ministerial changes. (See Rules of Practice and Procedure Rule 1.9(f).)

If either party has questions regarding Commission procedures, please contact the Commission's Public Advisors Office by phone at (866) 849-8390 or (415) 703-2074 or by e-mail at [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov). The Commission's Rules of Practice and Procedure are also available for review on our website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov).

**IT IS RULED** that:

1. The Commission has set a prehearing conference in the above-captioned matter for October 26, 2012, at 10:00 a.m. at the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.
2. The Parties shall file and serve their joint prehearing conference (PHC) statement, as described above, no later than October 19, 2012. Please also serve

the undersigned with the joint PHC statement by same day e-mail service at [rim@cpuc.ca.gov](mailto:rim@cpuc.ca.gov).

3. To the extent discovery is required, parties shall not wait for the prehearing conference to commence it.

Dated July 26, 2012, at San Francisco, California.

/s/ ROBERT M. MASON III

Robert M. Mason III  
Administrative Law Judge