



FILED

7-01-16

WAC/ek4 7/1/2016

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the Los Angeles County Metropolitan Transportation Authority for an order authorizing the construction of two-track at-grade crossings for the Crenshaw/LAX Transit Corridor Project Light Rail Line across West 59th Street, Slauson Avenue, West 57th Street, West 54th Street, West 52nd Street, West 50th Street and across West 48th Street in the City of Los Angeles.

Application 13-01-012
(Filed January 23, 2013)

ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING ADDITIONAL INFORMATION, SETTING BRIEFING SCHEDULE AND DENYING PETITIONER'S MOTION TO CORRECT THE PRE-HEARING CONFERENCE TRANSCRIPT

By this Ruling the Los Angeles County Metropolitan Transportation Authority (LACMTA) is ordered to provide details of the information it provided to the Park Mesa Heights and surrounding communities concerning the Crenshaw/LAX Transit Corridor Light Rail Project. In addition, this Ruling sets the briefing schedule for this proceeding and finally, the Ruling denies the Petitioner's Motion to "Correct the Pre-Hearing Conference Transcript".

Background

On February 26, 2016, Chandra Mosley (Petitioner) filed a Petition for Modification of Decision D.14-08-045. D.14-08-045, was issued on August 28, 2014, and granted the Los Angeles County Metropolitan Transportation Authority (LACMTA) authorization to construct seven two-track at-grade rail crossings for the Crenshaw/LAX Transit Corridor Project Light Rail Line (The Project) across West 59th Street, Slauson Avenue, West 57th Street, West 54th Street, West 52nd Street, West 50th Street and across West 48th Street

all located in the City of Los Angeles, and denied the protest of the Crenshaw Subway Coalition. The Petitioner is an individual who has resided in Los Angeles, California, for the past 34 years. Ms. Mosely resides approximately one mile from the approved Project location on Crenshaw Boulevard. In the petition for modification, Ms. Mosely has raised safety concerns regarding the populations of school children and senior citizens within the direct vicinity of the Project.¹ Specifically, Petitioner points to the seven private and public schools on Crenshaw Boulevard to the east and west of the proposed Crenshaw/LAX rail corridor.² Accordingly, Petitioner requests that LACMTA make one or more of the following safety revisions to the Project: (1) grade separations at all seven intersections along the Crenshaw/LAX light rail line; (2) underground the rail line as previously recommended; or (3) construct an overhead rail line.³

Pursuant to Rule 16.4(d)⁴, “a petition for modification must be filed and served within one year of the effective date of the decision proposed to be modified. If more than one year has elapsed, the petition must also explain why the petition could not have been presented within one year of the effective date of the decision. If the Commission determines that the late submission has not been justified, it may on that ground issue summary denial of the petition.”

Ms. Mosley states that there were two reasons for the more than eighteen month delay in filing the Petition for Modification: (1) Petitioner was not made aware of the at-grade nature of the Project until June 27, 2015, due to LACMTA’s

¹ Petition for Modification at 2-4.

² *Id.* at 3-4.

³ *Id.* at 10.

⁴ All Rules refer to the Commission’s Rules of Practice and Procedure.

inadequate public notice of the Project details; and (2) a chronic and life-threatening health condition and ongoing hospitalization over the past three years.⁵

In its response to the petition for modification, LACMTA argued that Petitioner's request must be denied for the following reasons: (1) the petition was filed more than a year and half after the issued decision, well outside of Rule 16.4(d)'s one-year time window; (2) Petitioner's explanation for the delayed filing is meritless because LACMTA provided extensive public notice of Project details, including through mass mailings and flyers to nearby residents and businesses; and (3) the issues Petitioner now raises were already raised by other interested parties, and heard and addressed by the Commission through formal proceeding.

1. Additional Information to be Provided by LACMTA

LACMTA contends that it provided public notice of the Project between 2007 and 2011 as part of a comprehensive public outreach program.⁶ Specifically, LACMTA contends that it released details regarding the at-grade nature of the crossing in fall of 2009 when it distributed its Draft Environmental Impact Report (DEIR), at which time the public was given ample opportunity to comment.⁷ By public request, LACMTA supervisor Mark Ridley-Thomas completed a detailed study of an undergrounding alternative, which was

⁵ Petition for Modification at 7-9.

⁶ Prehearing Conference Testimony, RT 65:26-28.

⁷ RT 65:14-66:28.

ultimately not adopted in the Final Environmental Impact Report (FEIR) released in fall of 2011.⁸

At a Prehearing Conference (PHC) held on May 24, 2016, LACMTA stated that it distributed numerous flyers as well as direct mailings to residents and businesses within the direct vicinity of the Crenshaw/LAX Project rail line. However LACMTA was unable to provide copies of those documents at the PHC. In order to properly examine the merits of Petitioner's complaints and request for modification, the Commission must fully understand the extent of LACMTA's Project outreach program.

Accordingly, LACMTA shall: Describe in detail the outreach attempted and/or accomplished by LACMTA regarding the Crenshaw/LAX Project as referenced in PHC Exhibits 2 and 3. Specifically, LACMTA is to provide the content of the flyers, direct mailings and other information, referenced by Ms. Kimberly Ong, the Deputy Crenshaw/LAX Project Director, at the PHC.⁹ In the event that LACMTA cannot provide copies of the relevant flyers, direct mailings and other communications, it should provide the specific text/language used in the documents as well as The specific dates on which those flyers were distributed and the radius within the proposed Project rail line that the flyers were distributed.

LACMTA is to provide this additional information by July 15, 2016.

⁸ RT 67:2-23.

⁹ RT 38: 12-28, 39:1-1-18.

2. Briefing Schedule

Parties shall brief the following issues:

On which specific legal and factual basis should the Commission grant or deny Petitioner's request for modification? Parties should address Public Utilities Commission Rules of Practice and Procedure Sections 16.4(d) and (e), and any other statutes or case law deemed relevant. Parties should provide the legal reason(s) that they believe a decision granting or denying the petition for modification is necessary, including all supporting details refuting or defending LACMTA's claims that: (1) LACMTA issued adequate public notice during the Project proposal phase and subsequent to when Decision (D.) 14-08-045 was issued; and (2) Petitioner raises no new issues that were not previously addressed by the Commission in response to the interested parties' protests.

Briefs should be filed and served concurrently, by both Parties, on August 5, 2016. Reply briefs should be filed and served concurrently, by both Parties, on August 15, 2016.

3. Denying Petitioner's Motion to Correct the Prehearing Transcript

On June 22, 2016, Petitioner submitted a motion to correct the May 24, 2016 Prehearing Conference transcript pursuant to Rule 11.1. LACMTA provided a timely response to Petitioner's motion on June 27, 2016 pursuant to Rule 11.1(e). As LACMTA's response points out, the revisions Petitioner seeks to make to the transcript are inappropriate in that they reflect what Petitioner intended to say, rather than what Petitioner actually said and what was recorded at the hearing.¹⁰ Accordingly, the Petitioner's motion should be denied. However, as LACMTA

¹⁰ Response to Petitioner's Motion at 2.

also pointed out in its response, Petitioner will have an opportunity to explain and/or clarify her positions and thoughts by way of the briefing process as set forth in this Ruling.¹¹

IT IS RULED that:

1. The Los Angeles County Metropolitan Transportation Authority (LACMTA) shall file a complete response to the requested information regarding the flyers it distributed between 2007 and 2011 no later July 15, 2016, as set forth in Section 1.

2. The Los Angeles County Metropolitan Transportation Authority and Petitioner Chandra Mosley (Petitioner) shall concurrently file and serve brief responding to the above issues no later than August 5, 2016, as set forth in Section 2.

3. The Los Angeles County Metropolitan Transportation Authority and Petitioner shall each file and serve a reply brief no later than August 15, 2016, as set forth in Section 2.

4. Petitioner's motion to correct the Prehearing Conference Transcript is denied.

Dated July 1, 2016, at San Francisco, California.

/s/ W. ANTHONY COLBERT
W. Anthony Colbert
Administrative Law Judge

¹¹ *Id.* at 4.