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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the California High-Speed Rail Authority to construct proposed high-speed tracks and rail-rail grade separation (MP 195.15) over BNSF's existing spur track (MP 994.4) in Fresno County, California.

Application 17-05-014

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

This Scoping Memo and Ruling sets forth the category, issues, need for hearing, schedule, and other matters necessary to scope this proceeding pursuant to Public Utilities Code § 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure¹.

1. Background

By this application, the California High-Speed Rail Authority (CHSRA) seeks authority to construct two high-speed rail tracks and a rail-rail grade separation (Mile Post (MP) 195.15) over BNSF's existing spur track (MP 994.4) in the City of Fresno as part of the California High-Speed Train System (CHSTS) Project Construction Package 1 (CP1 Project). The CP1 Project is the first construction project of the CHSTS. CHSRA requests that the Commission allow seventy-two months from the date of a Commission order to complete the work

¹ California Code of Regulations, Title 20, Division 1, Chapter 1; hereinafter, Rule or Rules.

requested. The extended period of time is requested due to the complexity, size, and unique nature of the CP1 Project.

The Commission's Safety and Enforcement Division (SED) filed a response to the application on July 7, 2017. In its response, SED states that it has conducted a review of the project and that the application meets the requirements of SED staff, Commission General Orders and Rule 3.7. SED staff recommends that the Commission grant CHSRA authorization for this project.

Included in Attachment C of the application, CHSRA includes a letter from BNSF Railway to SED affirming its concurrence with the proposed rail to rail grade separation at MP 944.4 on BNSF's Fresno Industry Park Subdivision. CHSRA, as the designated lead agency, prepared the *Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Fresno to Bakersfield Section of the California High-Speed Train Project*. The Notice of Determination (NOD) for the Final EIR/EIS was certified on May 7, 2014 and the Record of Decision (ROD) was dated June 27, 2014.

The assigned Administrative Law Judge (ALJ) convened a telephonic prehearing conference on August 23, 2017. SED was in attendance; the applicant did not attend.

2. Scope

Upon consideration of the application and discussion at the prehearing conference, the issues in scope of this proceeding are as set forth below:

- 1) Should the Commission authorize construction of the rail-rail grade separation of CHSTS tracks at MP 195.15 over BNSF's existing spur track (MP 994.4) pursuant to Pub. Util. Code §§ 1201-1205?
- 2) Should the Commission authorize seventy-two months from the date of a Commission order within which to complete the work requested?

Any party that wishes to suggest a correction or clarification to the scope of this proceeding as described may file comments no later than ten days after issuance of this scoping memo.

3. California Environmental Quality Act (CEQA)

Under the California Environmental Quality Act (CEQA), the Commission is a responsible agency for this project (CEQA Guideline 15281). Accordingly, the Commission will review the CHSRA's *Environmental Impact Report/Environmental Impact Statement for the Fresno to Bakersfield Section of the California High-Speed Train Project* and make the necessary findings. (CEQA Guideline 15091)

4. Categorization/ Ex Parte Requirements

The Commission in Resolution ALJ 176-3399, issued on June 15, 2017, preliminarily determined that the category of the proceeding is ratesetting. This scoping memo confirms the categorization. Anyone who disagrees with this categorization must file an appeal of the categorization no later than ten days after the date of this scoping ruling. (*See* Rule 7.6.)

Ex parte communications are restricted and subject to reporting requirements as set forth in Rule 8.1 et seq. and in PU Code 1701.1 and 1701.3.²

5. Need for Hearing

The Commission in Resolution ALJ 176-3399 also preliminarily determined that hearings are required. Based on the record of this proceeding, there are no disputed issues of material fact. Accordingly, evidentiary hearings are not necessary at this time.

² Interested persons are advised that, to the extent that the requirements of Rule 8.1 et seq. deviate from PU Code sections 1701.1 and 1701.3 as amended by SB 215, effective January 1, 2017, the statutory provisions govern.

6. Assigned Commissioner and Administrative Law Judge

Commissioner Liane M Randolph is the assigned Commissioner and Melissa K. Semcer is the assigned Administrative Law Judge (ALJ).

7. Filing, Service and Service List

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocols set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Parties are reminded, when serving copies of documents, the document format must be consistent with the requirements set forth in Rules 1.5 and 1.6. Additionally, Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents.

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. Parties can find information about electronic filing of documents at the Commission's Docket Office at www.cpuc.ca.gov/PUC/efiling. All documents formally filed with the Commission's Docket Office must include the caption approved by the Docket Office and this caption must be accurate.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at

process_office@cpuc.ca.gov to request addition to the “Information Only” category of the official service list pursuant to Rule 1.9(f). Discovery

8. Schedule

The schedule for this proceeding is:

EVENT	DATE
Prehearing Conference	August 23, 2017
Proposed Decision Issued ³	Q4 2017

The assigned Commissioner or assigned ALJ may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding. It is the Commission’s intent to complete this proceeding within 18 months from the date the Application was filed. This deadline may be extended by order of the Commission. (Public Utilities Code § 1701.5.)

IT IS RULED:

1. The category of this proceeding is ratesetting. Appeals as to category, if any, must be filed and served within ten days from the date of this scoping memo.
2. The scope of the issues for this proceeding is as stated in “Section 2. Scope” of this ruling.
3. Any party that wishes to suggest a correction or clarification to the scope of this proceeding as described in this scoping memo may file comments with those suggestions no later than ten days after the date of this scoping memo.

³ The comment period on the proposed decision may be waived or reduced under certain specified conditions (Rule 14.6).

4. Evidentiary hearings are not needed.

5. The schedule for the proceeding is set in “Section 7. Schedule” of this ruling. This Assigned Commissioner or Administrative Law Judge may adjust this schedule as necessary for efficient management and fair resolution of this proceeding.

6. With limited exceptions that are subject to reporting requirements, *ex parte* communications are prohibited. (See Public Utilities Code § 1701.3(h); Article 8 of the Commission’s Rules of Practice and Procedure.)

Dated September 13, 2017, at San Francisco, California.

/s/ LIANE M. RANDOLPH

Liane M. Randolph
Assigned Commissioner