BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SONOMA-MARIN AREA RAIL TRANSIT DISTRICT (SMART) for an order authorizing a public at-grade pedestrian crossing at the Santa Rosa Downtown Station at 4th Street, MP 53.74, DOT #943167R

Application 17-01-025

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

This Scoping Memo and Ruling (Scoping Memo) 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 California Public Utility Commission’s (CPUC or Commission) Rules of Practice and Procedure.

1. Background

On January 26, 2017, the Sonoma-Marin Area Rail Transit District (SMART) filed an application for authority to construct an at-grade pedestrian crossing on the SMART rail system in the City of Santa Rosa. A prehearing conference (PHC) was set by a ruling dated October 31, 2017. On December 19, 2017, the PHC was held to determine parties, discuss the scope, the schedule, and other procedural matters. James L. Duncan (Duncan) became a party to the proceeding by filing a response in support of the application under Rule 1.4. After filing numerous motions and participating in the PHC, on
January 18, 2018, Duncan filed a final motion to withdraw all of his outstanding motions and terminate his party status in this proceeding. The Administrative Law Judge (ALJ) granted Duncan’s final motion. The Commission’s Safety and Enforcement Division (SED) became a party by filing a motion for party status under Rule 1.4, which was granted by a ruling of the ALJ.

2. Scope
   Based on the application, responses and the discussion at the PHC, the following issues are within the scope of this proceeding:

   1. Whether the applicant satisfies the Commission’s requirements under Rule 3.7, such that the Commission should grant the application to construct a public at-grade pedestrian crossing at the Santa Rosa Downtown Station at 4th Street, MP 53.74, DOT #943167R; and

   2. Whether the application poses any safety issues or concerns.

3. Categorization and Need for Hearings
   The Commission in Resolution ALJ 176-3396, issued on April 27, 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 Memo. (Rule 7.6.)

4. Need for Hearing
   The Commission in Resolution ALJ 176-3396 also preliminarily determined that hearings are not required. This Scoping Memo confirms this preliminary determination.
5. *Ex Parte* Communications

In a ratesetting proceeding such as this one, *ex parte* communications with the assigned Commissioner, other Commissioners, their advisors and the ALJ are only permitted as described at Public Utilities Code § 1701.3(h) and Article 8 of the Rules.¹

6. **Assigned Commissioner, Presiding Officer**

   Clifford Rechtschaffen is the assigned Commissioner and Dan H. Burcham is the assigned ALJ. Pursuant to Public Utilities Code § 1701.3(b) and Rule 13.2(b), ALJ Burcham is designated as the Presiding Officer in the event hearings are needed.

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. Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents. In this

¹ Interested persons are advised that, to the extent that the requirements of Rule 8.1 *et seq.* deviate from Public Utilities Code sections 1701.1 and 1701.3 as amended by Senate Bill 215, effective January 1, 2017, the statutory provisions govern.
proceeding, parties are directed to serve documents to the assigned ALJ and
assigned Commissioner in electronic format only. Parties are directed not to
serve a paper copy on the assigned ALJ or on the assigned Commissioner.

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).

8. Discovery

Discovery may be conducted by the parties consistent with Article 10 of
the Commission’s Rules. Any party issuing or responding to a discovery request
shall serve a copy of the request or response simultaneously on all parties.
Electronic service under Rule 1.10 is sufficient, except Rule 1.10(e) does not apply
to the service of discovery and discovery shall not be served on the ALJ.
Deadlines for responses may be determined by the parties. Motions to compel or
limit discovery shall comply with Rule 11.3.

9. Public Advisor

Any person interested in participating in this proceeding who is
unfamiliar with the Commission’s procedures or who has questions about the
electronic filing procedures is encouraged to obtain more information at
http://consumers.cpuc.ca.gov/pao/ or contact the Commission’s
Public Advisor at 1-866-849-8390 or 415-703-2074 or 1- 866-836-7825 (TTY), or
send an e-mail to public.advisor@cpuc.ca.gov.
10. Schedule

The adopted schedule is:

<table>
<thead>
<tr>
<th>EVENT</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prehearing Conference</td>
<td>December 19, 2017</td>
</tr>
<tr>
<td>Scoping Memo and Ruling Issued</td>
<td>February 7, 2018</td>
</tr>
<tr>
<td>Commission Voting Meeting Target Date</td>
<td>April 26, 2018</td>
</tr>
</tbody>
</table>

The assigned Commissioner or 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 of the date this proceeding was initiated. This deadline may be extended by order of the Commission. (Public Utilities Code § 1701.5(a).)

If there are any workshops in this proceeding, notice of such workshops will be posted on the Commission’s Daily Calendar to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

11. Settlement and Alternative Dispute Resolution

While the schedule does not include specific dates for settlement conferences it does not preclude parties from meeting at other times provided notice is given consistent with our Rules.

The Commission offers Alternative Dispute Resolution (ADR) services consisting of mediation, facilitation, or early neutral evaluation. Use of ADR services is voluntary, confidential, and at no cost to the parties. Trained ALJs serve as neutrals. The parties are encouraged to visit the Commission’s ADR webpage at http://www.cpuc.ca.gov/adr, for more information.
If requested, the assigned ALJ will refer this proceeding, or a portion of it, to the Commission’s ADR Coordinator. Alternatively, the parties may contact the ADR Coordinator directly at adr_program@cpuc.ca.gov. The parties will be notified as soon as a neutral has been assigned; thereafter, the neutral will contact the parties to make pertinent scheduling and process arrangements. Alternatively, and at their own expense, the parties may agree to use outside ADR services.

12. Final Oral Argument

A party in a ratesetting proceeding in which a hearing is held has the right to make a Final Oral Argument before the Commission, if the argument is requested before the proceeding is submitted. (Rule 13.13.)

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. Clifford Rechtschaffen is the assigned Commissioner and Dan H. Burcham is the assigned ALJ and Presiding Officer in the event hearings are needed.

3. The scope of the issues for this proceeding is as stated in “Section 2. Scope” of this ruling.

4. Hearings may be necessary but are not scheduled at this time.

5. The schedule for the proceeding is set in “Section 11. Schedule” of this ruling. The assigned Commissioner or Presiding Officer 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.)

7. A party shall submit a request for Final Oral Argument before the proceeding is submitted, but the right to Final Oral Argument ceases to exist if hearing is not needed.

8. Parties shall submit all testimony and other types of documents to as described in Appendix A.

   Dated February 7, 2018, at San Francisco, California.

/s/ CLIFFORD RECHTSCHAFFEN  
Clifford Rechtschaffen  
Assigned Commissioner
APPENDIX A

1. Electronic Submission and Format of Supporting Documents

The Commission’s web site now allows electronic submittal of supporting documents (such as testimony and work papers).

Parties shall submit their testimony or workpapers in this proceeding through the Commission’s electronic filing system. Parties must adhere to the following:

- The Instructions for Using the “Supporting Documents” Feature, [http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=158653546](http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=158653546) and

- The Supporting Document feature does not change or replace the Commission’s Rules of Practice and Procedure. Parties must continue to adhere to all rules and guidelines in the Commission’s Rules of Practice and Procedures including but not limited to rules for participating in a formal proceeding, filing and serving formal documents.

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2 These instructions are for submitting supporting documents such as testimony and work papers in formal proceedings through the Commission’s electronic filing system. Parties must follow all other rules regarding serving testimony. Any document that needs to be formally filed such as motions, briefs, comments, etc., should be submitted using Tabs 1 through 4 in the electronic filing screen.
documents and rules for written and oral communications with Commissioners and advisors (i.e. “ex parte communications”) or other matters related to a proceeding.

- The Supporting Document feature is intended to be solely for the purpose of parties submitting electronic public copies of testimony, work papers and workshop reports (unless instructed otherwise by the Administrative Law Judge), and does not replace the requirement to serve documents to other parties in a proceeding.

- Unauthorized or improper use of the Supporting Document feature will result in the removal of the submitted document by the CPUC.

- Supporting Documents should not be construed as the formal files of the proceeding. The documents submitted through the Supporting Document feature are for information only and are not part of the formal file (i.e. “record”) unless accepted into the record by the Administrative Law Judge.

All documents submitted through the “Supporting Documents” Feature shall be in PDF/A format. The reasons for requiring PDF/A format are:

- Security – PDF/A prohibits the use of programming or links to external executable files. Therefore, it does not allow malicious codes in the document.

- Retention – The Commission is required by Resolution L-204, dated September 20, 1978, to retain documents in formal proceedings for 30 years. PDF/A is an independent standard and the Commission staff anticipates that programs will remain available in 30 years to read PDF/A.
Accessibility – PDF/A requires text behind the PDF graphics so the files can be read by devices designed for those with limited sight. PDF/A is also searchable.

Until further notice, the “Supporting Documents” do not appear on the “Docket Card”. In order to find the supporting documents that are submitted electronically, go to:

- Online documents, choose: “E-filed Documents”,
- Select “Supporting Document” as the document type, (do not choose testimony)
- Type in the proceeding number and hit search.

Please refer all technical questions regarding submitting supporting documents to:

- Kale Williams (kale.williams@cpuc.ca.gov) 415 703-3251 and
- Ryan Cayabyab (ryan.cayabyab@cpuc.ca.gov) 415 703-5999