

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Pasadena Avenue Monterey Road Committee

Complaint,

vs.

Los Angeles County Metropolitan Transportation Authority, the Los Angeles to Pasadena Metro Blue Line Construction Authority, and the City of South Pasadena,

Defendants.

Case 06-10-015
(Filed October 10, 2006)

DECISION EXTENDING STATUTORY DEADLINE

1. Summary

Public Utilities Code Section 1701.2(d) provides that adjudicatory cases, such as this one, shall be resolved within 12 months of initiation unless the Commission makes findings as to why that deadline cannot be met and issues a decision extending that deadline. In this proceeding, the 12-month deadline for resolving the complaint is October 11, 2013. However, additional time is necessary for the presiding officer's decision to be issued for the reasons stated below. Therefore, this decision extends the time for completion of this proceeding until October 11, 2014.

No anticipated costs of this extension of time are foreseen.

2. Background

This proceeding involves a complaint filed by the Pasadena Avenue Monterey Road Committee, alleging that Defendants have failed to comply with a number of measures required by the settlement agreement approved by the Commission in Decision (D.) 05-02-032, and modified in D.05-09-040 (the Settlement Agreement). These measures were required in order to mitigate noise caused by the operations of the Gold Line light rail system (Gold Line) and to improve safety at two crossings located in the City of South Pasadena (City).

As required by the scoping ruling and the orders of the assigned Administrative Law Judge (ALJ) in this case, Defendants have filed regular status reports regarding their progress toward implementation of the Settlement Agreement. The most recent status reports were filed in August 2013 and prior to that, August 2012. Defendant Los Angeles County Metropolitan Transportation Authority (MTA) respectfully requested and was granted exemption from future status report filing requirements given that all of its required mitigation measures were completed prior to the filing of the complaint.^{1,2}

Defendants have made progress toward completion of the mitigation measures. However, one item in particular remains outstanding, the

¹ In an April 22, 2008 report filed by the MTA, the MTA respectfully requested to be exempted from future status report filing requirements. From 9/22/2008 through 2011, the assigned ALJ did not include MTA on the Rulings requiring the filing of status reports.

² Fifth Status Report of Los Angeles County Metropolitan Transportation Authority, August 24, 2012 at 3.

construction for the crossing at Glendon Way and El Centro Street in the City of South Pasadena.

Metro Gold Line Foothill Extension Construction Authority (Construction Authority) maintains that it “has completed all measures required by Section 5.b. of the Settlement Agreement that are within the scope of the PAMRC complaint and the Construction Authority’s responsibility (*footnote omitted*).³

In its status report, the City reiterated that sound wall and privacy screen installations have been completed. According to the City, the one mitigation measure remaining to be completed is the Glendon Crossing. The City reports that it awarded a contract for the construction of this crossing on June 20, 2012. However, during the permitting process, the contractor discovered that a new review of the plans is necessary given the five-year delay of the project.⁴ The City received approval of the plans in June 2013 and anticipates the Glendon Way - El Centro reconfiguration project to be completed by the end of September 2013.⁵

Complainants did not file a response to the September 2013 Status Reports. However, in responses to past status reports, Complainants have raised legal issues regarding whether certain mitigation measures completed by Defendants adequately reduce Gold Line operational noise to the levels required by the Settlement Agreement. In addition, City and Complainants have raised issues

³ September 2013 Status Report of Metro Goldline Foothill Extension Construction Authority, September 3, 2013 at 3.

⁴ September 2013 Status Report of Defendant City of South Pasadena, September 3, 2013 at 4.

⁵ *Id.* at 4.

regarding Construction Authority's claim that sufficient project funds are not available to complete all of the sound walls described in the Settlement Agreement.⁶

3. Discussion

Based on the history of this case, additional time is needed to complete this proceeding so that the Commission may continue to monitor Defendant's progress on reconfiguration of the final crossing in order to ensure that these projects are completed to serve the public interest, and additional time is also needed to resolve the additional issues raised by the parties.

Based on the current status of the case, this proceeding cannot be completed by October 11, 2013. An extension of time for an additional 12 months is necessary for resolution of this matter.

4. Waiver of Comments on Proposed Decision

Under Rule 14.6(c)(4) of the Rules of Practice and Procedure, the Commission may waive the otherwise applicable 30-day period for public review and comment on a decision that extends the 12-month deadline set forth in Pub. Util. Code § 1701.2(d). Under the circumstances of this case, it is appropriate to waive the 30-day period for public review and comment.

5. Assignment of Proceeding

Mark J. Ferron is the assigned Commissioner and Kelly A. Hymes is the assigned ALJ in this proceeding.

⁶ City and Construction Authority assert that the sound walls not completed are not mandatory mitigation measures, but were to be constructed if sufficient surplus revenues were available to fund these items.

Findings of Fact

1. The complaint in this case was filed on October 10, 2006.
2. Based upon the 12-month statutory deadline, this proceeding must be resolved on or before October 11, 2013, unless this date is extended.
3. Although Defendants have continued to make progress toward completion of the mitigation measures, additional time is needed for the issuance of the presiding officer's decision because of the complexity of this matter; the need for the Commission to monitor Defendants' completion of the mitigation measures, particularly the reconfiguration of the crossing located in the City; and to consider other issues raised by the parties.

Conclusions of Law

1. Because of the need to monitor the mitigation measures, reconfigure two crossings and consider other issues, it will not be possible to resolve this case within the 12-month period provided for in Pub. Util. Code § 1701.2(d).
2. The 12-month statutory deadline should be further extended for 12 months to allow for resolution of this proceeding.

O R D E R

IT IS ORDERED that the 12-month statutory deadline in this proceeding, October 11, 2013, is extended for an additional 12 months, until October 11, 2014.

This order is effective today.

Dated _____, at San Francisco, California.