

Decision \_\_\_\_\_

**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 Eucalyptus Avenue, across Centinela Avenue and a Pedestrian grade separated Crossing in the City of Inglewood.

Application 12-11-018  
(Filed November 16, 2012)

**INTERIM DECISION APPROVING SETTLEMENT AGREEMENT BETWEEN  
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY  
AND FAITHFUL CENTRAL BIBLE CHURCH**

**1. Summary**

This interim decision approves the proposed Settlement and Release Agreement (Settlement Agreement) between the Los Angeles County Metropolitan Transportation Authority and the Faithful Central Bible Church and disposes of Faithful Central Bible Church's protest to the application. We find that the Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest, and approve it.

**2. Parties to Settlement**

The Los Angeles County Metropolitan Transportation Authority (LACMTA or Applicant) was created by the Legislature in order to design, build, and operate an efficient and safe transportation system in southern California and to improve public transportation in the region. It is the successor agency to

the Southern California Rapid Transit District (SCRTD) and the Los Angeles County Transportation Commission (LACTC).

Faithful Central Bible Church (FCBC) is a 501(c)(3) non-profit church established in Inglewood, California, in 1936. It currently has over 13,000 members who attend church services and other religious and community events and programs at its facilities. The Church Campus is adjacent to Eucalyptus Avenue, and is bisected by the existing rail line.

The City of Inglewood (Inglewood or City) is a city in southwestern Los Angeles County, southwest of downtown Los Angeles. It is a municipal corporation, incorporated on February 14, 1908, with a population of approximately 110,000. The City is a party in the proceeding but is not a party to the instant Settlement Agreement.

### **3. Background**

On November 16, 2012 the LACMTA filed Application (A.) 12-11-018 for an order authorizing the construction, maintenance, and operation of three crossings: (i) an at-grade track crossing at Eucalyptus Avenue, (ii) an at-grade track crossing at Centinela Avenue, and (iii) a pedestrian grade separation (Pedestrian Underpass) near Eucalyptus Avenue in the City of Inglewood.

LACMTA has constructed and is operating several light rail transit and subway lines in Southern California, including the Metro “Blue,” “Green,” “Red,” “Gold” and “Exposition” lines.<sup>1</sup> The proposed Crenshaw/LAX Project is an 8.5 mile rail line that would begin at the southern terminus of the Metro

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<sup>1</sup> LACMTA, A.12-11-018, at 2.

Green Line and follow existing railroad right-of-way adjacent to Aviation Boulevard and Florence Avenue northeast to Crenshaw Boulevard.<sup>2</sup> From Crenshaw the line would travel north within the Crenshaw Boulevard right of way to the Exposition/Crenshaw Station located adjacent to the Metro Exposition Line.<sup>3</sup> The project will include six transit stations, park-and-ride lots and maintenance facilities.

On December 21, 2012, FCBC filed a protest to the Application and on December 31 the City of Inglewood also filed a protest. The church campus is adjacent to Eucalyptus Avenue, and is bisected by the existing rail line. The majority of FCBC parishioners park their vehicles in the parking structure on the south side of the rail line, and then travel on foot across the currently inactive rail line to reach church services held at the Tabernacle, on the north side of the rail line. Approximately 4,000 people attend FCBC church services at the Tabernacle on Sundays.

On January 10, 2013, LACMTA filed a reply to FCBC's protests of the Application. On February 19, 2013, A.12-11-018 was assigned to an Administrative Law Judge (ALJ).

Prior to, and in anticipation of LACMTA filing an application for this project, FCBC filed a complaint, Case (C.) 12-07-008, against LACMTA. In its complaint, FCBC expressed concerns about the impact of increased train traffic on pedestrians accessing the at-grade crossing at Eucalyptus. FCBC asserted that an at-grade crossing would inadequately protect pedestrians. Instead, they

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<sup>2</sup> *Id.* at 3.

<sup>3</sup> *Id.*

argued that a “trenched” crossing would be economically viable and would offer sufficient protection to pedestrians.

A prehearing conference (PHC) in C.12-07-008 was held on October 1, 2012. Motivated by comments of the assigned ALJ at the PHC, the parties discussed and proposed plans for a mid-block pedestrian underpass (Pedestrian Underpass) to be constructed by LACMTA and to be operated and controlled by FCBC. On October 26, 2012, FCBC and LACMTA filed a Joint Brief in C.12-07-008, requesting that the Complaint be held in abeyance, pending the parties’ negotiations and LACMTA’s submission of applications regarding the crossings to the Commission. The Commission granted that request by a ruling issued February 27, 2013.

On November 16, 2012, LACMTA filed A.12-11-018. Although FCBC and LACMTA had already begun settlement negotiations, FCBC filed a protest to the application in order to preserve its rights should negotiations fail. The City of Inglewood also filed a protest. A protest was also filed by the Environmental Justice for Light Rail Coalition. The protest was rejected as untimely. On January 10, 2013, LACMTA filed a reply to all of these protests.

A PHC in the instant proceeding was scheduled for April 9, 2013. In anticipation of the PHC, an agreement was reached between LACTMA and FCBC on the terms of a private below grade crossing and easement agreement (Easement Agreement), defining rights and responsibilities for construction, operation, and maintenance of the proposed Pedestrian Undercrossing and related matters; and a Settlement and Release Agreement (Settlement Agreement) to settle issues presented by FCBC in this proceeding and in C.12-11-018.

The proposed settlement was discussed at the April 9, 2013 PHC, where LACMTA, FCBC and the City of Inglewood were in attendance. A representative from the Commission's Safety and Enforcement Division (SED) also attended. LACMTA and FCBC stated that they were satisfied with the proposed terms of the Settlement Agreement. The representative for the City of Inglewood did not oppose the proposed Settlement Agreement, but stated that he would need to consult further with his client. No objection or comment has since been filed. The SED representative stated that he was participating as an observer and that SED was not a party to the proceeding. Thus, no party has contested the proposed Settlement Agreement.

On May 8, 2013 LACMTA and FCBC filed a Joint Motion for Interim Decision approving Settlement Agreement. On June 4, 2013, C.12-07-008 was dismissed.<sup>4</sup> On June 13, 2013, LACMTA and FCBC filed a Supplement to Joint Motion for Interim Decision Approving Settlement Agreement (Supplement), which included an executed copy of the Settlement. The submitted changes in the Supplement slightly modified the version, of the Settlement Agreement submitted with the Joint Motion on May 8, 2013.

On June 14, a second PHC was held. At the PHC a representative for LACMTA indicated that it and FCBC were cooperating and that the Settlement Agreement was close to being finalized.<sup>5</sup> The City of Inglewood did not object to the proposed Settlement Agreement but reiterated its objections to the at-grade crossings at Eucalyptus Avenue and at Centinela Avenue. An

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<sup>4</sup> See Decision 13-05-038.

<sup>5</sup> PHC Transcript in A.12-11-018 and A.13-01-012, 88:3-17.

Additional Supplement to the Joint Motion was filed on August 12, 2013. The modifications to the Settlement Agreement contained in the Supplement and the Additional Supplement are clearly listed and do not materially change the terms or conditions of the Settlement Agreement.

The respective Boards of LACMTA and FCBC each fully approve of the Settlement Agreement and the Easement Agreement, and duly authorized representatives have executed the agreements. As indicated in the Additional Supplement, FCBC's lender has reviewed both agreements and has provided its required approval to the Easement Agreement.

#### **4. Scope of the Proceeding**

On October 3, 2013, a Scoping Ruling was issued setting forth the scope and schedule of this proceeding. The ultimate issue to be addressed in this proceeding is whether the proposed: (i) at-grade track crossing at Eucalyptus Avenue, (ii) at-grade track crossing at Centinela Avenue, and (iii) pedestrian grade separated crossing (Pedestrian Underpass) near Eucalyptus Avenue for the Crenshaw/LAX Transit Light Rail Line (Crenshaw/LAX Project) are in compliance with applicable Commission safety rules, procedures, guidelines and criteria.

Included in this issue are the following sub-issues:

1. Are the proposed at-grade track crossings at Eucalyptus Avenue and Centinela Avenue consistent with the intent of Section 2 of the Commission's General Order 75-D?
2. Are the proposed at-grade track crossings at Eucalyptus Avenue and Centinela Avenue in compliance with Rule 3.7(c) of the Commission's Rules of Practice and Procedure?
3. What are the additional costs of grade separated crossings at Eucalyptus Avenue and Centinela Avenue? How

and/or should the Commission incorporate financial considerations in determining the appropriateness of at-grade crossings or grade separated crossings at Eucalyptus Avenue and Centinela Avenue?

4. Is the proposed pedestrian grade separated crossing (Pedestrian Underpass) near Eucalyptus Avenue as set forth in the proposed Settlement Agreement between FCBC and LACMTA reasonable in light of the whole record, consistent with law, and in the public interest.

Sub-issue #4 of the Scoping Ruling is the subject of the instant Interim Decision.

Sub-Issues 1-3 remain open.

### **5. Terms of the Settlement Agreement**

The Settlement Agreement was entered into by the LACMTA and the FCBC as of June 5, 2013. At the request of the complainant, FCBC, the Commission dismissed and closed C.12-07-008 on May 31, 2013. Upon execution of the Settlement Agreement, FCBC has also agreed to withdraw its protest, and discontinue any opposition to A.12-11-018.

While the attached Settlement Agreement should be referred to for a detailed examination of its terms, some of the more important terms of the Settlement Agreement and Pedestrian Undercrossing include:

- LACMTA will own the Pedestrian Undercrossing; FCBC will own the Stairs and Access Ramp; LACTMA will be responsible for the structural integrity of the Pedestrian Undercrossing, Stairs, and Access Ramps; and FCBC will be responsible for the general day-to-day operation, access, cleaning and maintenance of the Pedestrian Undercrossing, Stairs and Access Ramps.<sup>6</sup>

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<sup>6</sup> See Section (E) of Agreement.

- LACTMA shall construct the Pedestrian Undercrossing, the Stairs, and Access Ramps in compliance with all terms of Settlement Agreement, applicable laws, rules and regulations. The final design of each element is to be reviewed by FCBC.
- FCBC shall grant an easement to LACMTA to enter upon and use the stairs and ramp and the driveway for the purpose of allowing LACTMA contractors, employees, and agents: 1) to construct the Pedestrian Undercrossing, the Stairs and Access Ramps and the Driveway; and 2) to maintain the structural integrity of the Pedestrian Undercrossing, the Stairs and Access Ramps.<sup>7</sup>
- LACTMA shall grant an easement to FCBC to enter upon and use the Pedestrian Undercrossing subject to the terms of Agreement.<sup>8</sup>
- The Pedestrian Undercrossing shall be classified as private per California Public Utility Commission General Order 75-D and Public Utilities Code Section 7537.<sup>9</sup>

## **6. Discussion**

Pursuant to Rule 12.1(d), the Commission will not approve a settlement unless it is reasonable in light of the whole record, consistent with law, and in the public interest. As discussed below, the Settlement Agreement satisfies Rule 12.1(d) and the Commission's other requirements specified in Rule 12.1 for approval of formal settlements.

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<sup>7</sup> See Section (3) of Agreement.

<sup>8</sup> See Section (4) of Agreement. See Section (10) of Agreement for LACMTA responsibilities with regard to their responsibility for the structural integrity of the Passenger Undercrossing.

<sup>9</sup> See Section (5) of Agreement.

**6.1. The Settlement is Reasonable in Light of the Whole Record**

Before adopting a settlement, the Commission must be satisfied that the parties have a sound and thorough understanding of the issues and information included in the record.

Concerning the record in this proceeding, the stipulation of facts in the Settlement constitutes a clear and succinct description of the facts surrounding the dispute between the parties. The Joint Motion by LACMTA and FCBC proposes and agrees upon a solution that reasonably addresses both parties' objectives and concerns. A private Pedestrian Undercrossing will likely meet the needs of both parties by providing a safe and effective method for FCBC pedestrians to travel between FCBC's property, which is separated by railroad tracks. By constructing the Pedestrian Undercrossing, LACMTA's objectives are also met as it will no longer face opposition by FCBC in the construction of their railway project.

**6.2. The Proposed Settlement Is Consistent With the Law**

The Commission finds that nothing in the Settlement Agreement contravenes any statutory provisions or prior Commission decisions. The Settlement Agreement does not contradict current Commission rules and it does not constitute a precedent regarding any principle or issue in this proceeding or any future proceeding. The design and features of the at-grade Eucalyptus Avenue crossing and the Pedestrian Undercrossing are fully consistent with the requirements of the Commission's rules and regulations. Both LACMTA and FCBC have voluntarily entered into this agreement, by vote of their respective boards, and with the review and advice of their respective legal counsel and technical staff.

Therefore, the Commission finds the Settlement Agreement to be fully consistent with the law.

**6.3. The Proposed Settlement and its Approval by an Interim Decision are in the Public Interest.**

The proposed Settlement Agreement is in the public interest. It is consistent with the Commission's well-established policy of supporting resolution of disputed matters through settlement, it reflects a reasonable compromise, and it avoids the time, expense, and uncertainty of evidentiary hearings and further litigation. The Settlement Agreement achieves a significant savings in time, resources, and expense for LACMTA, FCBC, and the Commission; it also will assist in processing further issues surrounding this project.

As required, the parties properly noticed and held a settlement conference on April 19, 2013. At the settlement conference, there was no explicit opposition to the Settlement Agreement and no party has contested the Settlement Agreement.

Approval of the Settlement Agreement by the Commission will likely facilitate LACMTA's efforts to begin construction and operation of the Crenshaw/LAX Project, a modern light-rail system that is intended to be a key component in the regional transportation plan, which is also intended by LACMTA to alleviate local and regional traffic congestions.

In summary, we find the Settlement Agreement is reasonable in light of the record as a whole, consistent with law, and in the public interest. Accordingly, this decision adopts the Settlement Agreement.

**7. Categorization and Need for Hearing**

In Resolution ALJ-176-3305, dated November 29, 2012, the Commission preliminarily categorized this proceeding as ratesetting, and preliminarily determined that hearings were not necessary. Based on the record, the Commission concludes that a public hearing is not necessary at this time; thus, the preliminary determinations in ALJ-176-3305 will not be altered.

**8. Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

**9. Assignment of Proceeding**

Commission Michael R. Peevey is the assigned Commissioner and W. Anthony Colbert is the assigned Administrative Law Judge in this proceeding.

**Findings of Fact**

1. On November 16, 2012, LACMTA filed A.12-11-018, requesting the Commission's authorization in constructing two-track at-grade crossings for the Crenshaw/LAX Transit Corridor Project Light Rail Line across Eucalyptus Avenue, across Centinela Avenue, and a pedestrian grade-separated crossing in the City of Inglewood.

2. On July 9, 2012, in anticipation of LACMTA's application, FCBC filed C. 12-07-008, regarding the project's crossing at Eucalyptus Avenue.

3. In response to FCBC's concerns about safety in C. 12-07-008, LACTMA and FCBC agreed to terms, which include a private grade separated pedestrian crossing, among other things, in A.12-11-018.

4. As a result of settlement negotiations between LACTMTA and FCBC, on October 26, 2012, the parties filed a Joint Brief on October 26, 2012, asking the Commission to hold C.12-07-008 in abeyance pending the CPUC's review and consideration of A.12-11-018.

5. FCBC filed a Protest to LACMTA's Application on December 21, 2012.

6. The City of Inglewood filed a Protest to A.12-11-018 on December 31, 2012.

7. On February 27, 2013, the Commission granted LACMTA and FCBC's Joint Request to Hold C.12-07-008 in abeyance.

8. On May 8, 2013 LACMTA and FCBC filed a Joint Motion for Interim Decision approving Proposed Settlement Agreement.

9. On June 4, 2013, C.12-07-008 was dismissed in accordance with FCBC's request.

10. The City of Inglewood continues to object to the at-grade at Eucalyptus Avenue and Centinela Avenue and their protest remains open.

11. On June 13, 2013, LACMTA and FCBC filed a Supplement to their proposed Settlement Agreement.

12. On August 12, 2013, an Additional Supplement to the Joint Settlement Motion was filed.

13. On October 3, 2013, the Scoping Ruling in the instant proceeding was issued.

14. The instant Interim Decision addresses Sub-Issue #4 in the Scoping Ruling, all other issues remain open.

15. The respective Boards of LACMTA and FCBC have each met and fully approved the Settlement Agreement and Easement Agreement as modified, and duly authorized representatives have executed the agreements.

16. FCBC's lender has reviewed the Settlement Agreement and approved the Easement Agreement.

17. No parties in this proceeding have protested the proposed Settlement Agreement.

**Conclusions of Law**

1. Nothing in the Settlement Agreement contravenes any statute or Commission decision or rule.

2. The benefits to the public of the Settlement Agreement outweigh the benefits of continued litigation.

3. The Settlement Agreement is in the public interest.

4. The proposed terms and conditions of the Settlement Agreement are reasonable given the totality of the circumstances.

5. The Settlement Agreement should be approved.

6. Hearings are not necessary in this portion of the proceeding.

**O R D E R**

**IT IS ORDERED** that:

1. The Settlement Agreement between the Los Angeles County Metropolitan Transportation Authority and the Faithful Central Bible Church, attached hereto as Attachment A, is approved.

2. The preliminary hearing determination for this proceeding, of no hearings necessary, is unchanged.

3. Application 12-11-018 remains open.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.