

Decision PROPOSED DECISION OF ALJ COLBERT (Mailed 7/28/14)

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)

DECISION PERMITTING THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY TO CONSTRUCT TWO-TRACK AT-GRADE RAIL 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

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**DECISION PERMITTING THE LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION AUTHORITY TO CONSTRUCT
TWO-TRACK AT-GRADE RAIL 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**

1. Summary

This decision grants the Los Angeles County Metropolitan Transportation Authority authorization to construct seven two-track at-grade rail 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 all located in the City of Los Angeles and denies the protest of the Crenshaw Subway Coalition. The proceeding is closed.

2. Parties

The Los Angeles County Metropolitan Transportation Authority (LACMTA or Applicant) was created by the California State 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. LACMTA is the successor agency to the Southern California Rapid Transit District and the Los Angeles County Transportation Commission.

The Crenshaw Subway Coalition (Subway Coalition) is a California 501(c) non-profit organization incorporated in 2011. The Subway Coalition is comprised of and led by property owners, residents, business owners and other stakeholders along the Crenshaw Boulevard corridor that will be impacted by

the proposed Crenshaw/LAX Transit Light Rail Line (Crenshaw/LAX Project or Project).

The Park Mesa Heights Community Council (Park Mesa) is a neighborhood council which represents residents and businesses in the Los Angeles neighborhoods of Hyde Park, Angeles Mesa and View Heights.

The Community Health Council (Health Council) is a non-profit 501(c)(3) health policy advocacy organization. The Health Council is headquartered near Crenshaw Boulevard and has a general policy interest in the enhancement of the health and welfare of the community.

3. Factual and Procedural Background

On January 23, 2013, LACMTA filed the application for an order authorizing the construction, maintenance, and operation of the two tracks of the Crenshaw/LAX Project at-grade across West 59th Street, Slauson Avenue, West 57th Street, West 54th Street, West 52nd Street, West 50th Street and West 48th Street in the City of Los Angeles. Notice of the application appeared on the Commission's Daily Calendar on January 31, 2013.

LACMTA has constructed and is operating several light rail transit (LRT) and subway lines in Southern California, including the Metro "Blue," "Green," "Red," "Gold" and "Exposition" lines.¹ The proposed Crenshaw/LAX Project is an 8.5 mile fixed guideway rail system that would begin at the southern terminus of the Metro Green Line and follow existing railroad right of way adjacent to Aviation Boulevard and Florence Avenue northeast to Crenshaw Boulevard.²

¹ LACMTA Application (A) 12-11-018 at 2.

² *Id.* at 3.

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.³ Grade separations would occur adjacent to the LAX south runway complex, aerial across Century Boulevard, Manchester Avenue, and La Cienega Boulevard, and below grade across La Brea Avenue, between Victoria Avenue and 60th Street, and between 48th Street and Exposition Boulevard. The project will include six transit stations, park and ride lots and maintenance facilities. As proposed, when travelling at-grade, trains would run parallel with traffic and be controlled by existing traffic signals.⁴

On March 4, 2013, the Subway Coalition filed a protest to the application and a request for evidentiary hearings. Neither Park Mesa nor the Health Council has filed a formal protest but they both indicated at the prehearing conference (PHC), held on June 14, 2013, that their concerns about the project, in many ways, mirror those of the Subway Coalition.

The Subway Coalition cites two main grounds for its protest: 1) LACMTA has failed to prove that grade separation of the seven crossings is impracticable; and 2) Commission approval of the crossing would violate Government Code Section 11135(a).⁵

In arguing that LACMTA has failed to prove that grade separation of the seven crossings is impracticable the Subway Coalition's protest asserts that the Commission has established a list of issues to be used for judging practicability

³ LACMTA Application 12-11-018 at 2.

⁴ 6/14/2013 Prehearing Conference Transcript 106:1-22.

⁵ Subway Coalition Protest, 4:10-13.

in grade crossing cases.⁶ The Subway Coalition's protest contends that LACMTA has failed to properly address the seven issues established for judging practicability by demonstrating and/or addressing: 1) All potential safety hazards have been eliminated; 2) The concurrence of local authorities; 3) The concurrence of local emergency authorities; 4) The opinions of the general public; 5) Comparative costs of an at-grade crossing to a grade-separated crossing; 6) A recommendation by California Public Utilities Commission (Commission) Staff that it concurs in the safety of the proposed crossing; and 7) Commission precedent in factually similar crossings.⁷

In arguing that Commission approval of the crossings would violate Government Code Section 11135(a) the Subway Coalition's protest claims that granting the application would have a discriminatory impact based on race.⁸ The Subway Coalition asserts that constructing the seven at-grade crossings would result in significant land use, traffic, noise, aesthetic, blighting and construction impacts in the predominantly African-American Crenshaw Boulevard community.⁹

On April 25 2013, LACMTA filed a motion for leave to late file a reply to the protest of the Application. The reply was contained in Appendix A of the motion. On the same day, the assigned Administrative Law Judge (ALJ) issued an electronic mail (e-mail) ruling granting LACMTA's motion.

⁶ *Id.* 4:18-20.

⁷ Subway Coalition Protest, 4:25-28 & 5:1-22.

⁸ Subway Coalition Protest, 6:9-12.

⁹ *Id.*

In its reply LACMTA claims that Subway Coalition's protest complains about aspects of the Crenshaw/LAX Project that are not relevant to the Commission's evaluation and review of the application, such as removal of trees and loss of parking spaces.¹⁰ LACMTA contends that the potential environmental impacts should have been raised during the California Environmental Quality Act (CEQA) and National Environmental Policy Act environmental review process.¹¹

LACMTA rejects the Subway Coalition's contention that it did not adequately evaluate the safety of the crossings for pedestrians and motorist or fail to meet its burden of demonstrating that grade separating the crossings is impracticable.¹² LACMTA contends that the decision on whether to use at-grade or grade-separated crossings for the Crenshaw/LAX Project was based on the application of the "Policy for Grade Crossings for Light Rail Transit," and only after a number of studies were completed.¹³

In addition, LACMTA points out that each of the at-grade crossing designs was individually evaluated for pedestrian and motorist safety through the "Rail Crossing Hazard Analysis" process mandated by Commission General Order (GO) 143-B.¹⁴ LACMTA contends that these evaluations included site visits, engineering evaluations, and extensive participation by and consultation with Commission and City of Los Angeles staff, members of the public and

¹⁰ LACMTA Reply to Protest at 3.

¹¹ *Id.* at 4.

¹² LACMTA Reply to Protest at 5.

¹³ *Id.*

¹⁴ *Id.*

stakeholder groups.¹⁵ As a result of these evaluations, design modifications were made and mitigation measures taken which in turn have been evaluated in the “Safety and Security” section of the Final Environmental Impact Statement/Environmental Impact Report (FEIS/FEIR).¹⁶ LACMTA claims that the result of this process has confirmed that the proposed design of the at-grade crossings for Crenshaw/LAX Project will be safe for vehicles and pedestrians, and that grade-separating the crossing is impracticable.¹⁷

LACMTA argues that public safety was the foremost consideration when it evaluated whether at-grade or grade-separated crossings for the Crenshaw/LAX Project were practicable but that such decisions are not made in a vacuum.¹⁸ It states that it also had to consider the financial implications of grade separation on the project’s overall costs. LACMTA claims that an analysis of fully grade-separating the segment of track between 48th Street and 59th Street with an underground station at Slauson Avenue would add \$250 to \$300 million to the project.¹⁹

LACMTA argues that the nature of the Crenshaw/LAX Project makes application of the Commission’s practicability analysis difficult. LACMTA asserts that practicability analysis was designed to address the interaction of traditional freight and heavy rail traffic with urban settings not light-rail projects

¹⁵ *Id.*

¹⁶ *Id.* at 6. LACMTA Reply to Protest at 3.

¹⁷ *Id.*

¹⁸ LACMTA Reply to Protest at 9.

¹⁹ *Id.* at 7.

serving commercial districts.²⁰ LACMTA contends that street level light rail is easily accessible to passengers and helps support the vitality of commercial districts by allowing passengers to see businesses they may want to patronize. Additional benefits noted include facilitating passenger access to the community and community member access to trains.²¹

LACMTA asserts that the Subway Coalition's claims that Commission approval of the crossings would violate Government Code Section 11135(a) are without merit.²² LACMTA contends that the decision not to grade-separate the tracks was not racially motivated nor will it have a discriminatory impact.²³ LACMTA points out that the FEIS/FEIR analysis of "environmental justice and impacts to minority communities" concluded that not implementing the Crenshaw/LAX Project would have adverse impacts on the community because it would result in transit service inequities and traffic congestion.²⁴

On June 14, 2013, a PHC was held in the instant proceeding. On October 14, 2013, the assigned Commissioner issued a Scoping Memo and Ruling (Scoping Ruling). The Scoping Ruling established the scope of the proceeding and determined that hearings were not necessary but included opening and reply briefs in the procedural schedule. On December 16, 2013, LACMTA filed its opening brief, and on January 6, 2014 its reply brief. No other party filed any

²⁰ *Id.* at 8.

²¹ LACMTA Reply to Protest at 8.

²² *Id.* at 9.

²³ *Id.*

²⁴ LACMTA Reply to Protest at 9.

briefs or other responsive pleadings in this proceeding (except for the Subway Coalition's protest to the application).

As briefly described, *supra*, LACMTA filed an application on January 23, 2013, as amended, for an order authorizing the construction, maintenance, and operation of seven 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 all located in the City of Los Angeles.

Table 1 below lists relevant information and the location for each proposed crossing:

Table 1: List of At-Grade Crossings:

Crossings at grade	Proposed CPUC Numbers	Warning Devices for each of the Grade Crossings
59th Street	84A - 6.06	Traffic signals for motor vehicles, bar signals for Light Rail trains, non-mountable curb with fence on both sides of the track, block out Light Emitting Diode (LED) train crossing sign, photo enforcement, pedestrian train crossing signs, and appropriate pavement markings and audible warning. ²⁵
Slauson Avenue	84A - 6.19	
57th Street	84A - 6.32	
54th Street	84A - 6.47	
52nd Street	84A - 6.6	
50th Street	84A - 6.79	
48th Street	84A - 6.95	

²⁵ LACMTA Application at 7.

Vehicular Crossings

As noted in Table 1 above, LACMTA proposes to construct seven vehicular at-grade crossings across West 59th Street, Slauson Avenue, West 57th Street, West 54th Street, West 52nd Street, West 50th Street and across West 48th Street. All of the proposed vehicular at-grade crossings will have one or more of the following safety features: Commission Standard warning devices; standard traffic control signals; active LED “NO-LEFT” or “NO-RIGHT” turn blank-out signals where appropriate for regulating conflicting vehicular turn movements onto the crossings; median islands; enhanced signing and striping in compliance with the California Manual on Uniform Traffic Control Devices (CA MUTCD); and Americans with Disabilities Act (ADA) compliant detectable warning tactile strips on each pedestrian approach to the tracks, as shown in the plans attached to the application. LACMTA's designs for the seven proposed signalized, street-running crossings along Crenshaw Boulevard include the following safety devices and strategies:

- Non-mountable curbs to separate alignment from vehicular traffic;
- Continuous median fencing along both sides of the tracks;
- Transit priority signal operation (with green extension earlygreen for traffic along Crenshaw Boulevard to accommodate light rail vehicle movements);
- Programming of traffic signals to accommodate through movement of vehicles and pedestrians parallel to rail;
- Train-activated LED "TRAIN" signs on mast arms to give warning of approaching trains to vehicle operators and pedestrians on all approaches;
- Crossing pavement markings and advance warning signage on cross-streets;

- Fully protected left-turn phasing;
- All-red signal phase of at least one second between conflicting signal phases to ensure safe timing;
- Photo red-light enforcement cameras to monitor left turns crossing the tracks;
- Pedestrian push buttons and accessible pedestrian signals for the visually impaired, including count down signals; and
- Tactile warning strips at curb access ramps at each corner.

4. Scope of the Proceeding

Pursuant to the October 14, 2013 Scoping Ruling, the issue to be addressed in this proceeding is whether the seven proposed at-grade track crossings for the Crenshaw/LAX Project are in compliance with applicable Commission safety rules, procedures, guidelines and criteria. Included in this issue is whether LACMTA has met its burden of demonstrating that grade-separated crossings for the Crenshaw/LAX Project are impracticable.

Parties were given an opportunity to brief these issues but only LACMTA filed briefs. We first address LACMTA's response to sub-issue 1 and then resolve the ultimate issue.

4.1. Has LACMTA met its burden and demonstrated that grade-separating the crossings for the Crenshaw/LAX Project is impracticable?

Rule 3.7(c) requires applications to construct a railroad crossing be made by the municipal, county, state or other governmental authority which proposes construction and, if the proposed crossing is at-grade, the applicant must demonstrate that: 1) There is a public need to be served by the crossing; 2) A grade separation of the crossing is not practicable and; 3) There are warning

signs, signals and other devices at the crossing.²⁶ All three elements of Rule 3.7(c) must be satisfied in order for the application to be approved.

4.2. The Seven Factor Impracticability Test: Rule 3.7(c)(2)

Rule 3.7(c)(2) requires that in order for an at-grade crossing to be approved, the applicant must demonstrate that construction of a grade-separated crossing is not practicable. As set forth in Decision (D.) 13-08-005, the Commission uses the following seven criteria for judging practicability in all at-grade crossing cases (light-rail transit, passenger railroad, and freight railroad):

1. A demonstration of public need for the crossing;
2. A convincing showing that LACMTA has eliminated all potential safety hazards;
3. The concurrence of local community and emergency authorities;
4. The opinions of the general public, and specifically those who may be affected by an at-grade crossing;
5. A recommendation by Staff that it concurs in the safety of the proposed crossing, including any conditions;
6. Although less persuasive than safety considerations, the comparative costs of an at-grade crossing with a grade separation; and
7. Commission precedent in factually similar crossings.²⁷

LACMTA asserts that when applying the seven-factor test to evaluate an applicant's evidence that a grade-separated crossing is not practicable, the

²⁶ Rule 3.7(c).

²⁷ LACMTA Opening Brief at 15 citing D.13-08-005 at 50.

Commission does not give all factors the same weight.²⁸ The Commission's primary goal is safety, and the safety of an at-grade crossing must be convincingly shown.²⁹ LACMTA contends that none of the other factors, in and of themselves, are determinative. LACMTA asserts, however, that cost becomes an important factor when an applicant has adequately addressed safety concerns, has accommodated the views of the Commission's safety staff, and has made reasonable efforts to entertain and respond to the views of local agencies and the affected communities.³⁰ The Commission agrees with LACMTA's interpretation and application of the seven-factor test and that the safety of an at-grade crossing is of paramount concern. Once a convincing showing that all potential safety hazards have been eliminated, cost considerations may be a persuasive factor as to the impracticability of a grade-separated crossing.

**4.2.1. The demonstration of a public need:
Rule 3.7(c)(1)**

Rule 3.7(c)(1) requires the LACMTA to demonstrate that there is a public need to be served by the proposed crossings. LACMTA includes as Exhibit I to the application of the Federal Transit Administration's (FTA's) Record of Decision (ROD) for the Crenshaw/LAX Project. The ROD concludes that the Crenshaw/LAX Project will improve transit service within the Crenshaw/LAX Transit Corridor and increase regional connectivity throughout the Los Angeles County region. Moreover, implementation of an effective north-south transportation network within the corridor is vital to alleviate current and

²⁸ LACMTA Opening Brief at 15.

²⁹ *Id.* citing D.02-05-047 at 12-13 and D.02-10-023 at 6.

³⁰ LACMTA Opening Brief at 15.

projected connectivity and mobility problems affecting corridor residents and businesses. The network does this by providing essential linkages from residential areas to commercial activity, employment, and institutional centers within and adjacent to the corridor.³¹ LACMTA contends that public transit options in the Crenshaw/LAX corridor are presently insufficient to meet the public need. LACMTA asserts that many residents travel on existing Metro bus lines north along Crenshaw Boulevard and then west along Wilshire Boulevard to reach destinations to the west, demonstrating a need for north-south transportation improvements.³²

In furtherance of its argument that a substantial public need for the seven at-grade crossings exists LACMTA contends that the Crenshaw/LAX corridor is becoming ever more dependent on public transit. Citing the FEIS/FEIR prepared for the Project, LACMTA asserts that the population and employment density in the corridor are four times higher than in Los Angeles County as a whole.³³ LACMTA states that the corridor has a high concentration of low-income, minority, and transit-dependent residents and that more than 49 percent of all corridor households are designated as low income. In addition, 16 percent of all households in the corridor do not have access to an automobile, compared to eight percent in the county's urbanized areas.³⁴

³¹ LACMTA Opening Brief at 16 citing FTA's ROD at 2.

³² LACMTA Opening Brief at 17.

³³ *Id. citing* FEIS/FEIR at 1-52.

³⁴ LACMTA Opening Brief at 17.

4.2.2. There is a substantial public need served by the crossing.

There is a public need for the seven proposed at-grade crossings. The Commission views the data presented by LACMTA as a strong indication that a public need for new modes of public transit exists within the Crenshaw corridor. The Project will improve transit service within the Crenshaw/LAX Transit Corridor and increase regional connectivity throughout the Los Angeles County region. LACMTA asserts that implementation of an effective north-south transportation network within the corridor is vital to alleviate current and projected connectivity and mobility problems affecting corridor residents and businesses. LACMTA maintains that this is accomplished by providing essential linkages from residential areas to commercial, activity, employment, and institutional centers within and adjacent to the transit corridor.

LACMTA has constructed and is operating LRT and subway lines in Southern California, including the Metro “Blue,” “Green,” “Red,” “Gold” and “Exposition” lines. As proposed, the instant Project would begin at the southern terminus of the Metro Green Line and follow an existing railroad right of way adjacent to Aviation Boulevard and Florence Avenue northeast to Crenshaw Boulevard and would travel north within the Crenshaw Boulevard right of way to the Exposition/Crenshaw Station located adjacent to the Metro Exposition Line. The Project fits into the overall scheme of public/light-rail transit in the L.A. metropolitan area. LACMTA has clearly articulated the need to be served by the proposed at-grade crossings along Crenshaw Boulevard between 59th Street and 48th Street.

4.2.3. Impracticability requires a convincing showing that LACMTA has eliminated all potential safety hazards.

Where there is a request for an at-grade crossing, [t]he safety of the proposed at-grade crossing must be convincingly shown.³⁵ LACMTA contends that such a showing does not require the complete elimination of any and all potential safety hazards but instead requires a showing that an at-grade crossing will provide an adequate level of safety.³⁶ LACMTA asserts that the focus of the Commission's inquiry is whether the proposed crossing design substantially diminishes the safety issues created by an at-grade crossing such that the crossing is adequately safe.³⁷

LACMTA states that in order to standardize and make publicly transparent its grade-separation evaluation methodology, LACMTA follows its "Policy for Grade Crossings for Light Rail Transit," which the LACMTA Board adopted and published on December 4, 2003.³⁸ According to LACMTA, this policy sets specific, explicit criteria and methodologies for evaluating safety, operational, institutional, and financial issues related to proposed light rail crossings. LACMTA states that the policy requires a four-stage evaluation process consisting of initial screening, detailed analysis, verification, and final decision.³⁹ According to LACMTA, these stages provide for participation by relevant parties, including local municipalities and the Commission, as

³⁵ LACMTA Opening Brief at 19 citing D.02-10-023 and D.02-05-047.

³⁶ LACMTA Opening Brief citing D.04-08-013 at 9.

³⁷ *Id.* at 20 citing D.10-07-026 at 12.

³⁸ *Id.* at 20.

³⁹ *Id.* at 21.

appropriate. LACMTA states that the determination to employ at-grade alignments at the seven proposed crossings along Crenshaw Boulevard was based on an application of the Policy for Grade Crossings for Light Rail Transit.⁴⁰

LACMTA states that in accordance with GO 164-D, it consulted with the Commission's rail safety staff during the process of developing the Draft EIS/EIR. LACMTA explains why the intersections for which crossings are proposed in the application were not good candidates for closure or grade separation. To support its explanation, LACMTA provides information about planned light rail operations, street traffic, schools and emergency facilities in the general vicinity of the crossings, and preliminary drawings of the proposed crossings and nearby streets and structures. For the seven proposed crossings along Crenshaw Boulevard, LACMTA developed the same types of safety-related information as was described in the prior Commission decisions and are provided for in GO 164-D.⁴¹

- LACMTA's designs for the seven proposed signalized, street-running crossings along Crenshaw Boulevard include the following state-of-the-art safety devices and strategies: Non-mountable curbs to separate alignment from vehicular traffic;
- Continuous median fencing along both sides of the tracks;
- Transit priority signal operation (with green extension or early green for traffic along Crenshaw Boulevard to accommodate light rail vehicle movements);
- Programming of traffic signals to accommodate through movement of vehicles and pedestrians parallel to rail;

⁴⁰ *Id.*

⁴¹ LACMTA Opening Brief at 22.

- Train-activated LED "TRAIN" signs on mast arms to give warning of approaching trains to vehicle operators and pedestrians on all approaches;
- Crossing pavement markings and advance warning signage on cross-streets;
- Fully protected left-turn phasing;
- All-red signal phase of at least one second between conflicting signal phases to ensure safe timing;
- Photo red-light enforcement cameras to monitor left turns crossing the tracks;
- Pedestrian push buttons and accessible pedestrian signals for the visually impaired, including count down signals; and
- Tactile warning strips at curb access ramps at each corner.⁴²

LACMTA states that within the wide section of Crenshaw Boulevard between 59th Street and 48th Street, the light rail line is designed to operate in street-running mode, following the street-running procedures prescribed by Commission GO 143-B. LACMTA points out that in order to protect the safety of motorists, pedestrians, and train passengers, the light rail vehicles will operate in a semi-exclusive right-of-way with non-mountable curbs and fencing on both sides of the track between intersections.⁴³ LACMTA states that movement of all vehicles, including the light rail vehicles, and of pedestrians

⁴² LACMTA Opening Brief at 23-24.

⁴³ *Id.* at 44.

through each intersection, will be controlled by traffic signals, train signals and other signage and warning devices.⁴⁴

LACMTA states that the traffic signals on Crenshaw Boulevard are part of the City of Los Angeles Automated Traffic Surveillance and Control System, and will be coordinated to give priority to train traffic (with green extensions or early green). LACMTA contends that for added safety, the signals also will be timed to allow for an all-red phase of at least one second between each conflicting vehicle traffic signal phase at these intersections. LACMTA points out that the maximum speed of the light rail vehicles in this street-running section is 35 miles per hour, which is the posted speed limit for automobiles along Crenshaw Boulevard and also the limit prescribed by GO 143-B for street-running operation of light-rail vehicles.⁴⁵ In addition, LACMTA states that vehicles making left turns from Crenshaw Boulevard that cross the tracks will be controlled by an exclusive signal phase and will face an LED "TRAIN" warning sign at near eye-level when facing the left-turn pocket. LACMTA says it also plans to install red-light photo cameras to record vehicles making illegal left-turns. To further enhance crossing safety at the cross-streets, LACMTA states that the at-grade crossings will have train-actuated LED "TRAIN" warning signs to alert drivers and pedestrians to approaching light rail trains.⁴⁶

LACMTA states that, with the exception of Slauson Avenue, all of the streets crossings Crenshaw Boulevard operate with low volumes of traffic.

⁴⁴ *Id.* citing, Exhibit D, (Declaration of James M. Okazaki Declaration at 3).

⁴⁵ LACMTA Opening Brief, Citing Declaration of James M. Okazaki Declaration at 3-4 (Exhibit D).

⁴⁶ LACMTA Opening Brief at 25.

LACMTA acknowledges that Slauson Avenue has the highest traffic volume of any of the seven street-running crossings. Slauson Avenue is a major thoroughfare, and the only station along the street-running segment will be constructed in the median of Crenshaw Boulevard just south of the Slauson Avenue crossing. LACMTA contends that because the Slauson Avenue crossing is planned as the location for the only station within the street-running segment of the line, light rail vehicles will not be traveling at the full authorized speed through this crossing.⁴⁷ LACMTA points out that trains will stop at the station platforms, which will be located south of the crossing, and even when leaving or arriving at the station with a green traffic signal, will be running at a lower speed through the Slauson Avenue crossing.⁴⁸

LACMTA contends that measures it takes to assure safe operations of its at-grade crossings extend far beyond the physical devices and measures at and around the crossings.⁴⁹ LACMTA states that it has also devoted substantial resources to developing and implementing public safety information programs. LACMTA contends that prior to commencing operations on any new light rail alignment, its staff conducts extensive outreach seminars about safe behavior in the vicinity of rail tracks and crossings for both children and adults.⁵⁰ LACMTA states that its staff makes presentations at every school near the alignment to prepare children for the arrival of light rail in their neighborhoods and offers similar presentations at centers for seniors and the disabled. LACMTA avers

⁴⁷ LACMTA Opening Brief at 25.

⁴⁸ LACMTA Opening Brief at 26.

⁴⁹ *Id.* at 26.

⁵⁰ *Id.*

that it will continue its safety information outreach after the Project goes into operation.⁵¹

LACMTA asserts that it has implemented a Safety Ambassador program, which will be employed on the Crenshaw/LAX Project. The program utilizes retired bus and rail operators as Metro's eyes and ears at the grade crossings in the community to observe behaviors so additional safety enhancements can be evaluated, educate the public about grade crossing safety, and promote safety awareness among users once the line is operational.⁵² LACMTA points out that it also contracts with the Los Angeles County Sheriff's Department to provide security services on its rail and bus system. LACMTA states that a dedicated team of deputies enforces traffic laws at rail crossings along the light rail system in cooperation with local law enforcement.⁵³ LACMTA contends that through its Red Light Photo Enforcement Camera program, it will employ digital cameras to observe left turns at the grade crossings along Crenshaw Boulevard and issue citations to motorists who fail to heed traffic signals.⁵⁴ LACMTA contends that these ongoing programs will supplement and secure the effectiveness of the safety measures, traffic signals and lane markings, visual and audible warning devices, and protective barriers, which are included in the designs for the seven at-grade crossings proposed in the application.

⁵¹ *Id.*

⁵² LACMTA Opening Brief at 26, citing Declaration of Vijay Khawani at 5 (Exhibit C).

⁵³ LACMTA Opening Brief at 27.

⁵⁴ *Id.*

4.2.4. The warning signs, signals and other devices at the crossings are adequate.

As noted, *supra*, all of the seven proposed vehicular at-grade crossings between 59th Street and 48th Street along Crenshaw Boulevard will have one or more of the following safety features: Commission Standard warning devices; standard traffic control signals; active LED “NO-LEFT” or “NO-RIGHT” turn blank-out signals where appropriate for regulating conflicting vehicular turn movements onto the crossings; median islands; enhanced signing and striping in compliance with the CA MUTCD; and ADA compliant detectable warning tactile strips on each pedestrian approach to the tracks, as shown in the plans attached to the application LACMTA's designs for the seven proposed signalized. The Commission believes that the physical safety devices and strategies for street-running crossings along Crenshaw Boulevard proposed by the LACMTA and noted, *supra*, as well as its ongoing efforts to educate the public of rail safety are reasonable and adequate.

4.2.5. LACMTA's actions have adequately concurred with the Commission's rail safety staff, local community and emergency authorities and considered the opinions of the general public.

LACMTA argues that to assess the concurrence of relevant stakeholders, the Commission examines an applicant's cooperative efforts with the Commission's rail safety staff and with local governments and emergency authorities, as well as its outreach to the general public.⁵⁵ LACMTA contends that while three of the seven factors in the Commission's practicability standard

⁵⁵ LACMTA Opening Brief at 32

relate to the concurrence of various entities, so long as the proposed crossings are not opposed by the Commission's rail safety staff, the concurrence of other interests tends to be accorded less weight than safety or cost considerations, and the Commission has approved at-grade crossings where concurrence on all three fronts was not obtained.⁵⁶ LACMTA argues that some public opposition to a specific crossing is not determinative, particularly if an applicant has made reasonable public outreach efforts and other elements of the Commission's practicability standard are satisfied.⁵⁷

LACMTA contends that with respect to the LAX/Crenshaw Project there has been extensive outreach efforts beginning with the environmental review process. LACMTA states that the FTA's ROD notes that LACMTA implemented a robust and extensive public outreach and involvement program.⁵⁸ LACMTA points out that the FEIS/FEIR thoroughly documents the public participation process. LACMTA contends that Chapter 7 of the FEIS/FEIR thoroughly documents the public participation process and activities from the scoping period (September to November 2007) through a series of three public scoping workshops that preceded release of the Draft FEIS/FEIR for comment in September 2009.⁵⁹ LACMTA contends that over 30 business groups and companies, almost the same number of schools and universities, church groups, neighborhood groups, block clubs, community organizations and homeowner's

⁵⁶ *Id.*

⁵⁷ LACMTA Opening Brief at 32.

⁵⁸ *Id.* at 33.

⁵⁹ LACMTA Opening Brief at 33

associations were contacted for the Project.⁶⁰ LACMTA asserts that public participation in the development of the Crenshaw/LAX project was continuous, forceful, and effective in focusing project staff and decision makers on issues of concern to the community and its representatives.⁶¹

LACMTA contends that throughout the design and evaluation process for the seven proposed at-grade crossings along Crenshaw Boulevard, it has made a concerted effort to consult with the Commission's rail safety staff, with City of Los Angeles Department of Transportation and with representatives of the Park Mesa Heights community.⁶² LACMTA states that the only crossing along Crenshaw Boulevard that was of particular concern to the Commission's rail safety staff was the proposed crossing at Slauson Avenue. LACMTA says that Commission staff was concerned about pedestrian access to the station planned for construction in the median right-of-way immediately south of Slauson Avenue and about existing and potentially worsening traffic congestion at the busy intersection of Slauson and Crenshaw.⁶³

In response to Commission Staff concerns, LACMTA states that it developed plans for widening the roadway of Slauson Avenue to accommodate double left-turn lanes in either direction on Slauson Avenue.⁶⁴ LACMTA contends that additional planned safety measures that will help assure safe operation of the Slauson Avenue crossing include the installation of

⁶⁰ *Id.* at 34.

⁶¹ *Id.* at 36.

⁶² LACMTA Opening Brief at 37

⁶³ *Id.*

⁶⁴ *Id.* at 37.

-LED "TRAIN" warning signs directed to pedestrians and a pedestrian "PUSH" button to change the pedestrian signals for crossing the street. LACMTA states that it is also in the process of seeking Commission staff concurrence in further pedestrian enhancements requested by the City of Los Angeles.⁶⁵ The Commission believes the LACMTA's efforts with the Commission's rail safety staff, local governments, emergency authorities, and outreach to public has been cooperative and sufficient.

4.2.6. Review of the comparative costs of an at-grade crossing with a grade separation

LACMTA acknowledges that safety is the most important consideration in determining whether or not a crossing should be grade-separated but also understands that the Commission recognizes that the cost to taxpayers is also a consideration.⁶⁶ LACMTA contends that the Commission does not apply a formal cost-benefit approach, but instead evaluates whether the added expense to construct a grade-separated crossing is justified based on the resulting increase in safety.⁶⁷ CMTA asserts that the Commission's scrutiny of cost varies depending on the safety of a proposed at-grade crossing, the difference in cost between a proposed at-grade crossing and a grade-separated crossing, and whether an applicant has sought funding for a grade-separated project.⁶⁸

⁶⁵ *Id.*

⁶⁶ LACMTA Opening Brief Citing D.02-05-047.

⁶⁷ *Id.*

⁶⁸ *Id.* at 27, Citing D.06-06-032 at 9.

LACMTA asserts that it has attempted to estimate the incremental cost of a grade separation, as compared to at-grade construction through the Park Mesa Heights section of the Project. LACMTA states that the analysis was conducted during the environmental review process for the Project in response to comments on the Draft EIS/EIR, and estimated, to be \$167 million (in 2010 dollars) without a planned station at Slauson Avenue. The addition of an underground Slauson Avenue station increased the incremental cost estimate to \$219 million (in 2010 dollars).⁶⁹ LACMTA argues that the incremental cost estimates in the Park Mesa Analysis did not reflect the anticipated year of expenditures and did not include any cost associated with the related delay in completion of the overall project, which at that early time in project development was estimated as between two and 16 months.⁷⁰

LACMTA contends that its current estimate of the cost of grade separating the proposed at-grade crossings includes cost escalation factors beyond those described above, due to significant additional cost impacts associated with the advanced stage of the Project.⁷¹ LACMTA claims that a tunneling alternative for the Park Mesa Heights section of Crenshaw Boulevard would have to be constructed by change order, issued in accordance with the terms of the design-build contract. LACMTA asserts that the change order process would take an estimated nine months to complete, after a 16-month process for additional environmental review and approval.⁷² LACMTA contends that it

⁶⁹ LACMTA Opening Brief at 28.

⁷⁰ LACMTA Opening Brief at 28.

⁷¹ *Id.*

⁷² *Id.* at 29 & 30, Citing Declaration of Kimberly Ong at 5-9 (Exhibit E).

would be an additional 14 months to complete the new crossing design; 14 to 18 months for construction; and 19 months for systems installation and testing. LACMTA argues that the overall completion of the Project would be delayed by approximately 27 months with a current increased cost estimate of \$643 million.⁷³

LACMTA argues that the investment required to plan, design, and construct the Park Mesa Heights section of the Crenshaw/LAX Project in a tunnel under the Crenshaw Boulevard crossings would be very substantial. As previously indicated, LACMTA contends that the cost of delaying completion of the overall project by 27 months would result in an enormous expenditure of public funds. LACMTA reiterates that the proposed light rail system will operate in street-running mode through signal-controlled at-grade crossings along this segment of Crenshaw Boulevard.⁷⁴ It is LACMTA's contention that the investment required to grade-separate the seven Crenshaw Boulevard crossings is not a worthwhile use of limited public resources even if such additional funding could be identified.⁷⁵

4.2.7. Review of Commission precedent in factually similar crossings

LACMTA notes that many cities, including Sacramento, San Francisco, San Jose, San Diego, and Los Angeles, operate light rail systems on semi-exclusive rights of way shared with city streets with at-grade crossing

⁷³ *Id.*

⁷⁴ LACMTA Opening Brief at 31.

⁷⁵ *Id.*

configurations.⁷⁶ LACMTA asserts that light rail systems have proven to be safe when operating at street level and at-grade. LACMTA argues that a review of recent Commission decisions demonstrates that the Commission has consistently approved requested at-grade light rail crossings where an applicant has adequately addressed the safety issues associated with the crossings.

Specifically LACMTA points to Commission decisions in: *Expo Rail Phase 2*, D.13-08-005, *Expo Rail Phase 1*, D.07-12-029 and D.10-07-026, *City of San Diego*, D.03-12-018, and *to Pasadena Blue Line*, D.02-05-047 and D.02-10-023.⁷⁷

LACMTA asserts that it has provided extensive evidence, through its Application as well as through the Declarations attached to its brief, that the seven proposed at-grade crossings meet the Commission's safety standard. LACMTA also contends that it has sufficiently considered the hazards that are unique to these crossings.⁷⁸ In addition, LACMTA argues that it has provided evidence showing that grade-separating the seven crossings between 59th Street and 48th Street along Crenshaw Boulevard would be drastically more costly than the proposed at grade crossings.⁷⁹ In conclusion, LACMTA contends that it has satisfied the Commission's practicability standard for the at-grade crossings in the instant Application and that Commission has repeatedly approved, in factually-similar light rail decisions, at-grade crossings.

⁷⁶ *Id.* at 38.

⁷⁷ *Id.*

⁷⁸ LACMTA Opening Brief at 40.

⁷⁹ *Id.* at 41.

4.3. The seven proposed at-grade Project comply with applicable Commission safety rules, procedures, guidelines and criteria

LACMTA asserts that it has met its burden, in compliance with Rule 3.7 and demonstrated that grade separation of the seven crossings along Crenshaw Boulevard is impracticable. LACMTA contends that it has successfully addressed the seven practicability factors used by the Commission to determine whether to require at-grade or grade-separated crossings.⁸⁰ LACMTA argues that it has made a convincing showing of the safety of its at-grade crossing proposals, the proven public need for the Crenshaw/LAX Project and the current high estimates of the costs of grade-separating the seven crossings. LACMTA asserts that application of all seven factors to the 59th Street to 48th Street segment of the Project supports the conclusion that the proposed at-grade crossings should be approved.⁸¹ LACMTA asserts that it has demonstrated that the seven proposed at-grade crossings are in full compliance with all applicable Commission safety rules, procedures, guidelines and criteria and states that the Commission recognized in D.13-08-005 that "at-grade crossings are necessary in the design of modern light-rail systems." LACMTA points out that light rail provides a transportation alternative that frequently operates at-grade and emphasizes that if street crossings are designed properly utilizing the latest and best safety devices and technology, light rail is a safe and

⁸⁰ *Id.* at 43.

⁸¹ LACMTA Opening Brief at 43.

cost effective means to meet the mobility needs of California's major cities and to integrate urban communities.⁸² The Commission agrees with these assertions.

In addition to compliance with the Commission's practicability standards, LACMTA contends that the proposed at-grade crossings along Crenshaw Boulevard between 59th Street and 48th Street comply with all applicable provisions of GO 75-D, which sets forth the Commission's requirements for warning device standards for at-grade rail crossings.⁸³ LACMTA points out that the signage and safety measures planned to be implemented and installed at the seven at-grade crossings along Crenshaw Boulevard, as illustrated in the diagrams of crossings accompanying its Application and opening brief, conform to the standards for warning devices set forth in Sections 6, 8 and 9 of GO 75-D.⁸⁴ LACMTA emphasizes that the proposed designs achieve the purpose of GO 75-D (Section 1), which is to reduce hazards associated with at-grade crossings in order to help "afford safety for all persons traversing at-grade crossings."⁸⁵

LACMTA states that its design for the seven proposed crossings are in conformance with all other applicable Commission rules, procedures, guidelines and criteria including: (i) GO 72-B, which sets forth standards for types of pavement construction at railroad grade crossings; (ii) GO 143-B, which establishes safety requirements governing the design, construction, operation and maintenance of light-rail transit systems in California, including especially semi-exclusive alignments as provided for in Section 9.04.b(3) and Table 1 of that

⁸² *Id.* at 44.

⁸³ *Id.*

⁸⁴ *Id.* at 43.

⁸⁵ LACMTA Opening Brief at 43 Citing GO 75-D.

GO; and (iii) Rules 3.7 and 3.9, which set forth the necessary elements of an application for rail crossing authority.⁸⁶ In addition, LACMTA asserts that designs for the seven proposed signalized, "street-running" crossings along Crenshaw Boulevard were developed in close consultation with Commission rail safety staff and local agencies and in strict accordance with the requirements of GO 164-D.⁸⁷

The Commission agrees. The seven proposed at-grade crossings between 59th Street and 48th Street along Crenshaw Boulevard are fully consistent with the Commission's safety standards as it pertains to light rail crossings. The Commission has approved numerous at-grade crossings comparable to the at-grade crossings at issue in the instant proceeding, recognizing that at-grade crossings are necessary in the design of modern light-rail systems. As currently configured the proposed crossings are safe and the cost of grade-separated crossings at these intersections is disproportionate to any increase in safety.

4.4. A grade separation of the crossings is impracticable.

All relevant factors/criteria for determining the practicability, as set forth in D.13-08-005, support the conclusion that grade-separation of the seven proposed crossings between 59th Street and 48th Street along Crenshaw Boulevard is not practicable. LACMTA asserts that the design for the seven crossings along Crenshaw Boulevard, are fully consistent with the Commission's practicability standard for at-grade crossings on LRT systems. LACMTA states that over the past decade, the Commission has faced a challenge

⁸⁶ *Id.* at 43-44.

⁸⁷ *Id.* at 44.

in applying the practicability concept in the very different context of municipal LRT systems, but has developed a set of seven criteria for judging the practicability of constructing grade-separated versus at-grade crossings.⁸⁸ LACMTA notes that the Commission has approved numerous at-grade crossings comparable to those designed for Crenshaw/LAX Project and recognized that at-grade crossings are necessary in the design of modern light-rail systems.⁸⁹ LACMTA argues that the at-grade crossings proposed between 59th Street and 48th Street along Crenshaw Boulevard are comparable to those previously authorized by the Commission for the Gold and Exposition Lines of the LACMTA light rail system.

LACMTA reiterates its contention that it has demonstrated a compelling public need for the Crenshaw/LAX Light Rail Transit Project and for construction of the seven proposed at-grade crossings. LACMTA asserts that with the designs and features attentive to safety, as described in the Khawani and Okazaki Declarations,⁹⁰ the at-grade crossings planned for Crenshaw Boulevard will operate safely and efficiently.⁹¹ It is also LACMTA's contention that the cost of a grade-separated alternative to the seven at-grade crossings would be excessive and disproportionate to any enhancement of safety.⁹² LACMTA also reiterates that it has engaged in substantial public outreach throughout the development of the Project, especially during the environmental

⁸⁸ LACMTA Opening Brief at 44.

⁸⁹ *Id.* at 42, Citing D.13-08-005.

⁹⁰ See LACMTA Opening Brief, Attachment C & Attachment D.

⁹¹ *Id.* at 42.

⁹² *Id.*

review phase that led to certification of the FEIS/FEIR and has closely cooperated with the Commission's rail safety staff. LACMTA states that all these factors support its contention that grade- separation of the seven proposed crossings between 59th Street and 48th Street along Crenshaw Boulevard is not practicable.⁹³

LACMTA has adequately demonstrated that construction of a grade-separated crossing is not practicable. LACMTA has satisfied the Commission's practicability standard by demonstrating that there is a compelling public need for the Crenshaw/LAX Light Rail Transit Project and for construction of the seven proposed at-grade crossings. The cost of a grade-separated alternative to the seven at-grade crossings would be excessive and disproportionate to any enhancement of safety.⁹⁴ LACMTA has engaged in substantial public outreach throughout the development of the Project, especially during the environmental review phase that led to certification of the FEIS/FEIR, and has closely cooperated with the Commission's rail safety staff. These factors show that grade-separation of the seven proposed crossings between 59th Street and 48th Street along Crenshaw Boulevard is not practicable.⁹⁵

5. Conclusion

In the light of the whole record and consistent with the law, grade separation of the proposed at-grade crossings along Crenshaw Boulevard between 59th Street and 48th Street is not practicable nor in the public interest.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ LACMTA Opening Brief at 42.

LACMTA is a public agency that 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. LACMTA satisfies the requirement that application to construct a railroad crossing must be made by the municipal, county, state or other governmental authority which proposes construction. The seven proposed 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 all located in the City of Los Angeles are in compliance with applicable Commission safety rules, procedures, guidelines and criteria. LACMTA should be granted authorization to construct the three crossings.

6. Environmental Review and CEQA Compliance

The California Environmental Quality Act of 1970 (CEQA, as amended, Public Resources Code Section 21000 *et seq.*) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision makers and the public about potential, significant environmental effects of the proposed activities. Because the Project is subject to CEQA and the Commission must issue a discretionary decision in order for the Project to proceed (i.e., the Commission has the exclusive authority to approve the Project pursuant to Section 1202 of the Public Utilities Code), the Commission must consider the environmental consequences of the Project by acting as either a lead or responsible agency under CEQA.

The lead agency is either the public agency that carries out a project,⁹⁶ or the one with the greatest responsibility for supervising or approving a project as a whole.⁹⁷ Here, LACMTA is the lead agency for the Project, and the Commission is a responsible agency because it has jurisdiction to issue a permit for the Project. As a responsible agency under CEQA, the Commission must consider the lead agency's environmental documents and findings before acting on or approving the Project.⁹⁸ As a responsible agency, the Commission is responsible for mitigating or avoiding only the direct or indirect environmental effects of those parts of a project which it decides to carry out, finance, or approve.⁹⁹

The LACMTA prepared a FEIS/FEIR, dated August 2011. The FTA issued a Record of Decision on December 30, 2011.

The FEIS/FEIR identified potentially significant environmental impacts and associated mitigation measures related to the project. Impacts identified under CEQA, relating to the rail crossings are under the Commission's jurisdiction. The impacts related to the Commission's jurisdiction are noise and safety. However those impacts can be mitigated to a less than significant level.

Regarding safety, the environmental review found that there may be potential for motorist and pedestrian confusion at pedestrian crossings when freight train and LRT vehicles come in sequence. Safety around the trackway would be ensured through implementation of appropriate warning devices.

⁹⁶ CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(a).

⁹⁷ *Id.*, Section 15051(b).

⁹⁸ CEQA Guidelines, Sections 15050(b) and 15096.

⁹⁹ CEQA Guideline Section 15096(g).

Also, the speed of the light rail train would not exceed 35 mph when it is running at-grade in the center of the street and crossing would occur with traffic signals, or the train speed would exceed 35 mph and barriers would impede access to the tracks. At designated crossings, pedestrian and motorist gates and visual and audible warning devices would be provided.

The following mitigation measures will reduce these impacts to less than significant:

- SS6 - LACMTA shall implement appropriate measures to ensure pedestrian crossing safety at all locations with adjacent schools, churches, and high pedestrian areas to satisfy the requirements of determined by the Commission.
- SS7 - LACMTA shall conduct a hazard analysis before the start of final design, using current safety analysis as a reference. The hazard analysis shall determine a design basis for warning devices as required by the Commission.
- SS8 - LACMTA will implement appropriate vehicular and pedestrian warning measures, such as signage along the length of the LRT station platforms. Gates will be provided at vehicular and pedestrian at-grade crossings of the LRT and/or BNSF tracks within the Harbor Subdivision. These measures will be provided to alert motorists and pedestrians to potential conflict in the area.
- SS9 - To discourage trespassing and enhance safety, such as near Faithful Central Bible Church, LACMTA will provide fencing along either side of the alignment, between the parking lot and church buildings, and ensure adequate pedestrian safety devices at designated at-grade crossings.

LACMTA further prepared a Supplemental Environmental Assessment (SEA) dated July 2, 2012. The SEA was prepared to address project modifications that occurred during the preliminary engineering phase to reduce cost, reduce

right-of-way impacts, and improve traffic circulation and pedestrian crossings, among other items. Specifically, the SEA identified the types of equipment at the crossings and features along the corridor that would be required for the project. During preliminary engineering and in consultation with the Commission's Rail Crossings Engineering Section staff – designs for street, driveway, and sidewalk modifications were refined to accommodate crossing gates, center medians at crossings, equipment, bus bays, and other amenities to facilitate vehicular and pedestrian circulation when feasible. Additional pedestrian crossing improvements, including a midblock pedestrian crossing, were included in response to public comments.

Subsequently, under the requirements of the NEPA, the FTA issued a Finding of No Significant Impact on September 4, 2012.

The Commission reviewed and considered LACMTA's FEIS/FEIR and SEA, and finds the documents adequate for its decision-making purposes.

7. Proceeding Category and Need for Hearing

In Resolution ALJ-176-3309, dated February 13, 2013, the Commission preliminarily categorized this proceeding as ratesetting, and preliminarily determined that hearings were not necessary. The designation of ratesetting and determination that hearings are not necessary remains.

8. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on August 15, 2014 by LACMTA. No other party filed comments and there were no reply comments.

9. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and W. Anthony Colbert is the assigned ALJ.

Findings of Fact

1. On January 23, 2013, LACMTA filed the instant application (A.13-01-012) for an order authorizing the construction, maintenance, and operation 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 all located in the City of Los Angeles. Notice of the application appeared on the Commission's Daily Calendar on January 31, 2013.

2. LACMTA has constructed and is operating several LRT and subway lines in southern California, including the Metro "Blue," "Green," "Red," "Gold" and "Exposition" lines.

3. The proposed Crenshaw/LAX Project is an 8.5 mile rail line that would begin at the southern terminus of the Metro Green Line and follow existing railroad right of way adjacent to Aviation Boulevard and Florence Avenue northeast to Crenshaw Boulevard and the Exposition line.

4. The Subway Coalition filed a protest to LACMTA's application on March 4, 2013.

5. On April 25 2013, LACMTA filed a motion for leave to late file a reply to the protest of the Application.

6. Except for its protest, the Subway Coalition has not filed any briefs or other responsive pleadings in this proceeding.

7. LACMTA has eliminated all potential safety hazards regarding the seven proposed 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.

8. LACMTA obtained the concurrence of local community and emergency authorities regarding the Crenshaw/LAX Project.

9. LACMTA solicited the opinions of the general public and those who may be affected by the Crenshaw/LAX Project.

10. LACMTA conducted a sufficient comparative study of the costs for the Crenshaw/LAX Project.

11. The seven proposed 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 fit into the overall scheme of public/light-rail transit in the Los Angeles metropolitan area.

12. LACMTA is the lead agency, under CEQA, for the Project.

13. The Commission is a responsible agency, under CEQA, for this Project.

14. LACMTA prepared a FEIS/FEIR dated August 2011.

15. The FTA issued a Record of Decision on December 30, 2011.

Conclusions of Law

1. There is substantial evidence that LACMTA has adopted feasible mitigation measures to either eliminate or substantially lessen the Project's environmental impacts to less-than-significant levels.

2. There is a public need for the seven proposed two-track at-grade crossings for the Crenshaw/LAX Transit Corridor Light Rail Project.

3. The seven proposed two-track at-grade crossings for the Crenshaw/LAX Transit Corridor Light Rail Project are fully consistent with the Commission's practicability standard as it pertains to light rail crossings.

4. The Subway Coalition's protest to the application should be denied.

5. There are no errors regarding the cost issues and compliance with the Commission's standards of practicability for the seven proposed 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.

6. At-grade crossings are necessary in the design of modern light-rail systems.

8. The Commission reviewed and considered LACMTA's FEIS/FEIR and SEA, and finds the documents adequate for its decision-making purposes.

9. Hearings are not necessary in this proceeding.

O R D E R

IT IS ORDERED that:

1. The Application of the Los Angeles County Metropolitan Transportation Authority for authorization to construct seven two rail 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 all located in the City of Los Angeles is approved.

2. The Crenshaw Subway Coalition's protest to the Application is denied.

3. We adopt and incorporate by reference the significant environmental impacts and proposed mitigations set forth in the Final Environmental

Impact Report regarding the Crenshaw/LAX Transit Corridor Project Light Rail Line.

4. We adopt and incorporate by reference the significant unavoidable impacts set forth in the Final Environmental Impact Report regarding Crenshaw/LAX Transit Corridor Project Light Rail Line.

5. We adopt and incorporate by reference the Findings of Fact in the Final Environmental Impact Report of the Crenshaw/LAX Transit Corridor Project Light Rail Line.

6. The signs, signals and/or other crossing warning devices planned to be installed at the proposed seven 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 are approved.

7. The Los Angeles County Metropolitan Transportation Authority shall provide the Commission's Rail Transit and Crossing Branch, Rail Crossings Engineering Section, of the Safety Enforcement Division finalized engineering crossing designs prior to commencement of construction activities. The Commission's Rail Transit and Crossing Branch, Rail Crossings Engineering Section will evaluate their conformance with the crossing designs approved by this decision.

8. The Los Angeles County Metropolitan Transportation Authority shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices.

9. The Los Angeles County Metropolitan Transportation Authority shall notify the Commission's Rail Transit and Crossing Branch, Rail Crossings Engineering Section of the Safety Enforcement Division, at least 30 days prior to

opening the crossings. Notification should be made via certified U.S. Mail and by email to rces@cpuc.ca.gov.

10. Within 30 days after completion of the work authorized by this decision, the Los Angeles County Metropolitan Transportation Authority shall notify the Commission's Rail Transit and Crossing Branch, Rail Crossings Engineering Section of the Safety Enforcement Division, in writing, by submitting a completed Commission Standard Form G (Report of Changes at Highway Grade Crossings and Separations), of the completion of the authorized work. Form G requirements and forms can be obtained at the California Public Utilities Commission web site Form G at <http://www.cpuc.ca.gov/formg>. This report may be submitted electronically to rces@cpuc.ca.gov as outlined on the web page.

11. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not satisfied. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

12. A request for extension of the three year authorization must be submitted to the Rail Crossings Engineering Section of the Commission's Safety Enforcement Division at least 30 days before the expiration of that period.

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

14. Application 13-01-012 is closed.

This order is effective today.

Dated _____, at San Francisco, California.