

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the fatal accident at the San Francisco Municipal Transportation Agency's Mission Rock Station in the City and County of San Francisco, on December 1, 2012.

Investigation 13-09-012
(Filed September 19, 2013)

ORDER EXTENDING STATUTORY DEADLINE

Summary

This decision extends the statutory deadline in this proceeding to September 14, 2015.

Background

Public Utilities Code Section 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of the date that they are initiated unless the Commission makes findings as to why that deadline cannot be met and issues an order extending that deadline. This matter has been categorized as adjudicatory and the statutory deadline for its resolution is March 13, 2015.

On September 19, 2013, the Commission instituted a formal investigation into the San Francisco Municipal Transportation Agency (SFMTA or Muni). The issue is whether the SFMTA, after being served with a subpoena *duces tecum* from the Commission's Safety and Enforcement Division (SED), Rail Transit Safety Section, violated state and federal law when it failed to produce the personnel records of a Muni employee who operated a Muni Light Rail Train on

December 1, 2012, that allegedly struck and killed a pedestrian at or near the Mission Rock station on Third Street in San Francisco, California.

The evidentiary hearing in this matter was held on June 26, 2014. Post-hearing opening briefs were filed on July 17, 2014. Post-hearing reply briefs were filed on July 24, 2014.

On August 11, 2014, SED filed a Motion to reopen the record to permit the introduction of recently received records from the SFMTA (the records were received after the June 26, 2014 evidentiary hearing) concerning its train operator involved in the accident which is the subject of the above-entitled proceeding.

The motion was granted and the parties were given additional time to brief the impact, if any, of the recently received records on the outcome of this proceeding.

The Presiding Officer's Decision (POD) was served on February 13, 2015. Pursuant to Rule 14.4(a), any party may file an appeal of the POD within 30 days of the date the POD is served. Pursuant to Rule 14.4(b), any Commissioner may request review of the POD within 30 days of the date the POD is served. The 30 day period expires on March 16, 2015.

Due to the time that may be needed if either a party files an appeal or a Commissioner requests review of the POD, an extension of the statutory deadline is necessary so that the appeal and review rights are exhausted. Therefore the statutory deadline for resolving this matter should be extended to September 14, 2015.

Waiver of Comment Period

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of proposed decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, the otherwise applicable period for public review is being waived.

Assignment of Proceeding

Michael Picker is the assigned Commissioner and Robert M. Mason III is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The Commission instituted this investigation on September 19, 2013.
2. An evidentiary hearing was held on June 26, 2014.
3. Post-hearing opening and reply briefs were filed on July 17, 2014 and July 24, 2014, respectively.
4. On August 11, 2014, SED filed a Motion to reopen the record to permit the introduction of recently received records from the SFMTA concerning its train operator involved in the accident which is the subject of this proceeding. The motion was granted and the parties were given an opportunity to brief the impact, if any, of the recently received records on this proceeding.
5. Decision 14-09-007 extended the statutory deadline to March 13, 2015.
6. On February 13, 2015, the POD was served on the parties.
7. The deadline for an appeal or a request for review is 30 days from the date the POD is served. In this proceeding, the deadline is March 16, 2015.
8. An extension of the statutory deadline is necessary to allow the parties and the Commission to exhaust the appeal and review options provided by Rule 14.4(a) and (b).

Conclusions of Law

1. The statutory deadline imposed by Public Utilities Code Section 1701.2(d) should be extended until September 14, 2015.
2. This order should be effective immediately.

IT IS ORDERED that the statutory deadline in this proceeding is extended to September 14, 2015.

This order is effective immediately.

Dated _____, at San Francisco, California.