

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT to Construct a Grade-Separated Rail Over Crossings and Under Crossings at Twelve (12) Intersections in the Cities of Pittsburg and Antioch, County of Contra Costa, State of California.

Application 17-06-003

DECISION GRANTING PETITION TO MODIFY DECISION 17-11-025**Summary**

This decision grants the Commission's Safety and Enforcement Division (SED) Petition to Modify Decision (D.) 17-11-025. In particular, we grant SED's request to add requirements that will allow SED to catalog and monitor the crossings authorized in D.17-11-025. This proceeding is closed.

1. Background

In D.17-11-025, the Commission approved the request of San Francisco Bay Area Rapid Transit (BART), to construct new grade-separated over and under crossings at 12 intersections in the cities of Pittsburg and Antioch, California.

On January 4, 2018, SED filed a Petition to Modify D.17-11-025 (Petition), in which it requested that the Commission adopt multiple requirements that will allow SED to catalog and monitor the crossings authorized in D.17-11-025.

SED's Petition is uncontested.

2. Procedural Requirements Under Rule 16.4

Rule 16.4 of the Commission's Rules of Practice and Procedure¹ governs the process for the filing and consideration of petitions for modification. Rule 16.4(b) requires that a petition for modification concisely state the justification for the proposed relief and propose specific wording for all requested modifications, and that such petition be filed within one year of the effective date of the decision.

SED's Petition contained a concise but thorough statement of justification for the proposed modifications, and was filed within the one-year time-frame set forth by Rule 16.4. SED's Petition complies with the requirements of Rule 16.4.

3. Requested Relief

On January 4, 2018, SED filed a petition to modify D.17-11-025, in which it requested that the Commission add language which would allow it to catalog and monitor the crossings approved in D.17-11-025. In particular, SED requested addition of the following language to the decision:

Findings of Fact:

1. The new crossings will be identified as CPUC Crossing Numbers shown below:

Crossing	CPUC No.
Railroad Ave:	080E-31.30-A
Harbor St:	080E-31.70-A
Loveridge Rd:	080E-32.60-A
Century Blvd:	080E-33.30-B
Somersville Rd:	080E-34.30-B

¹ All references to Rules in this decision refer to the Commission's Rules of Practice and Procedure.

L St:	080E-35.20-B
G St:	080E-35.60-A
A St:	080E-36.10-B
Roosevelt Ln Pedestrian:	080E-36.35-BD
Cavallo Rd:	080E-36.50-B
Hillcrest Ave:	080E-37.20-A
Antioch Station Pedestrian:	080E-37.50-AD

Ordering Paragraphs:

1. The twelve new grade-separated over and under crossings shall be identified as the following California Public Utilities Commission Crossing Numbers:

Crossing	CPUC No.
Railroad Ave:	080E-31.30-A
Harbor St:	080E-31.70-A
Loveridge Rd:	080E-32.60-A
Century Blvd:	080E-33.30-B
Somersville Rd:	080E-34.30-B
L St:	080E-35.20-B
G St:	080E-35.60-A
A St:	080E-36.10-B
Roosevelt Ln Pedestrian:	080E-36.35-BD
Cavallo Rd:	080E-36.50-B
Hillcrest Ave:	080E-37.20-A
Antioch Station Pedestrian:	080E-37.50-AD

2. The San Francisco Bay Area Rapid Transit District shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices.

3. The San Francisco Bay Area Rapid Transit District shall notify the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Safety Enforcement Division at least 30 days prior to the opening of each grade-separated crossing authorized by this Decision. Notification should be made by e-mail to rceb@cpuc.ca.gov.

4. Within 30 days after completion of each grade-separated crossing authorized by this Decision, the San Francisco Bay Area Rapid Transit District shall notify the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Safety Enforcement Division, by submitting a completed California Public Utilities Commission Standard Form G (Report of Changes at Highway Grade Crossing and Separations), of the completion of each new grade-separated crossing. Form G requirements and forms can be obtained at the California Public Utilities Commission web site. The completed report must be submitted via email to rceb@cpuc.ca.gov.

5. This authorization shall expire if not exercised within five years of the issuance of this decision 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.

6. A request for extension of the five-year authorization must be submitted to the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Safety Enforcement Division at least 30 days before the expiration of that period.

The Commission has regularly included similar requirements in other rail crossing decisions,² and it is reasonable to include them here. The only possible exception is SED's requested Ordering Paragraph that reads:

The San Francisco Bay Area Rapid Transit District shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices.

It is not necessary to repeat in every decision authorizing a rail crossing that BART must comply with all applicable rules (such as Commission General Orders), as BART is already required to comply with all applicable rules. We will, however, repeat that direction here, as requested by SED, with the clarification that the direction that BART comply with all applicable rules is ongoing. With that clarification, SED's Petition is granted.

4. Waiver of Comment Period

This is an uncontested matter that grants the relief requested. The comment period is waived pursuant to Pub. Util. Code § 311(g)(2).

5. Assignment of Proceeding

Liane M. Randolph is the assigned Commissioner and Peter V. Allen is the assigned ALJ in this proceeding.

Findings of Fact

1. D.17-11-025 approved the request of BART to construct new grade-separated over and under crossings at 12 intersections in the cities of Pittsburg and Antioch, California.

2. On January 4, 2018, SED filed a Petition to Modify D.17-11-025, in which it requested that the Commission add language which would allow SED to catalog

² See, e.g., D.16-05-011.

and monitor the crossings.

3. The language requested by SED is similar to language regularly included in previous Commission rail crossing decisions.

4. SED’s Petition is uncontested.

Conclusions of Law

1. SED’s Petition satisfies the requirements of Rule 16.4.

2. SED’s Petition should be granted.

O R D E R

IT IS ORDERED that:

1. The Commission’s Safety and Enforcement Division’s Petition to Modify Decision 17-11-025 is granted

2. The Commission adds the following Ordering Paragraphs to the approval granted in Decision 17-11-025:

Ordering Paragraphs:

1. The twelve new grade-separated over and under crossings shall be identified as the following California Public Utilities Commission Crossing Numbers:

Crossing	CPUC No.
Railroad Ave:	080E-31.30-A
Harbor St:	080E-31.70-A
Loveridge Rd:	080E-32.60-A
Century Blvd:	080E-33.30-B
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L St:	080E-35.20-B
G St:	080E-35.60-A
A St:	080E-36.10-B

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2. The San Francisco Bay Area Rapid Transit District shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices.

3. The San Francisco Bay Area Rapid Transit District shall notify the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Safety Enforcement Division at least 30 days prior to the opening of each grade-separated crossing authorized by this Decision. Notification should be made by e-mail to rceb@cpuc.ca.gov.

4. Within 30 days after completion of each grade-separated crossing authorized by this Decision, the San Francisco Bay Area Rapid Transit District shall notify the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Safety Enforcement Division, by submitting a completed California Public Utilities Commission Standard Form G (Report of Changes at Highway Grade Crossing and Separations), of the completion of each new grade-separated crossing. Form G requirements and forms can be obtained at the California Public Utilities Commission web site. The completed report must be submitted via email to rceb@cpuc.ca.gov.

5. This authorization shall expire if not exercised within five years of the issuance of this decision 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.

6. A request for extension of the five-year authorization must be submitted to the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Safety Enforcement Division at least 30 days before the expiration of that period.

7. Application 17-06-003 is closed.

8. This order is effective today.

Dated _____, at San Francisco, California.