



**FILED**

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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of the Exposition Metro Line Construction Authority for an order authorizing the construction of a two-track at-grade crossing for the Exposition Boulevard Corridor Light Rail Transit Line across Jefferson Boulevard, Adams Boulevard, and 23rd Street, all three crossings located along Flower Street in the City of Los Angeles, County of Los Angeles, California.

Application 06-12-005  
(Filed December 6, 2006)

And Related Matters.

Application 06-12-020  
Application 07-01-004  
Application 07-01-017  
Application 07-01-044  
Application 07-02-007  
Application 07-02-017  
Application 07-03-004  
Application 07-05-012  
Application 07-05-013

**AMENDED SCOPING MEMO AND RULING  
OF ASSIGNED COMMISSIONER DETERMINING  
THE FURTHER SCOPE AND PROCEDURAL SCHEDULE**

**1. Summary**

This Amended Scoping Memo and Ruling sets forth the ongoing scope, procedural schedule and related issues to be addressed to facilitate the further processing of this consolidated proceeding.

## **2. Background**

The initial Scoping Memo and Ruling (Scoping Memo) in this proceeding was issued in October, 2007, and Interim Decision (D.) 07-12-029 authorized the construction of 36 of the 38 crossings. On February 20, 2009, the Commission addressed the two remaining crossings in D.09-02-031 and found that it is practicable to construct a grade-separated pedestrian crossing at Farmdale Avenue on the Exposition Boulevard Corridor Light Rail Transit Line, in Los Angeles County.<sup>1</sup> That decision also authorized the applicant, Exposition Metro Line Construction Authority (Expo) to file amendments or a new application consistent with the February decision for the Farmdale crossing.

On July 29, 2009, Expo filed and served its amendment to Application 07-05-013. Protests were filed by the Unified Community Association, jointly with Neighbors for Smart Rail, and the Los Angeles Unified School District.

On September 30, 2009, the assigned Administrative Law Judge (ALJ) convened a prehearing conference. The parties requested an opportunity to enter into settlement negotiations, and subsequently reported to the ALJ that such discussions had been fruitful, with a final agreement anticipated in early 2010.

Today's Amended Scoping Memo addresses the ongoing procedural schedule and scope related to the Farmdale crossing.

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<sup>1</sup> Susan Miller Dorsey (Dorsey) High School is adjacent to the proposed Farmdale Ave. crossing.

### **3. Scope and Issues to be Addressed**

In its amended application, Expo Authority offered four alternatives to its original at-grade crossing at Farmdale Ave. for both vehicles and pedestrians:

1. Grade-separated pedestrian overcrossing with Farmdale Avenue closed to vehicular traffic.
2. At-grade pedestrian and vehicular crossing, subject to a permanent "Stop and Proceed" order for all light rail vehicles.
3. At-grade pedestrian and vehicular crossing with a station including platforms east and west of Farmdale Avenue which would require all light rail vehicles to come to a full stop at the crossing.
4. Alternative #2 as a temporary measure pending construction of station as described in Alternative #3.

The Commission's standards for evaluating grade crossings are set forth in D.09-02-031. These standards will be applied when considering these alternatives. Expo has the burden of proving that its proposed crossing at Farmdale Avenue meets the Commission's standards.

### **4. Reconsideration of Motion to Strike Alternatives**

On September 2, 2009, the Unified Community Association, jointly with Neighbors for Smart Rail moved to strike Alternatives 2, 3, and 4 as being foreclosed by D.09-02-031. These moving parties argued that the Commission's finding the grade separation was practicable precluded Expo from re-proposing any type of at-grade crossing. The ALJ denied the motion at the prehearing conference after finding that the Commission's decision left open the possibility for these types of amendments. The moving parties sought rehearing of this ruling on October 30, 2009, contending that the Commission's decision required a grade-separated crossing. Expo replied that the Commission's directives in

D.09-02-031 did not limit future proposals by Expo to grade-separated crossing options.

I have reviewed the record on this matter and uphold the ruling denying the motion to strike. The decision authorized Expo to amend its application and did not limit the options to a pedestrian separated crossing closed to vehicles. Therefore, I conclude that all four of Expo's proposed alternatives should be included in our consideration and evaluation.

## **5. Schedule**

The parties are involved in settlement negotiations and have made a positive report. At this point, I will set a flexible procedural schedule for submitting the results of the settlement efforts, with a date certain for a prehearing conference to either extend the settlement efforts or to set evidentiary hearings. As set forth in D.09-02-031, I will also provide for submitting California Environmental Quality Act (CEQA) documentation.

Event	Date
Parties to continue settlement discussions and, if successful, to submit motion to approve an agreement.	Continuing through April 30, 2010
Submission of updated Proponent's Environmental Documents to Commission's CEQA team, and evaluation by the team. <sup>2</sup>	As soon as prepared.
IF NO SETTLEMENT MOTION FILED: Prehearing Conference Commission's Los Angeles Office	May 3, 2010, at 10:00 a.m. Junipero Serra State Office Building 320 West 4 <sup>th</sup> Street, Suite 500 Los Angeles, CA 90013
Commission Decision	No later than July 1, 2011 <sup>3</sup>

**6. Category of Proceeding and Presiding Officer**

D.07-12-029 previously determined this consolidated proceeding is ratesetting. On September 11, 2009, the Chief ALJ reassigned this proceeding to ALJ Maribeth A. Bushey. This proceeding remains categorized as ratesetting, and ALJ Bushey is designated the presiding officer.

**7. Ex Parte Communications**

In ratesetting proceedings such as this, *ex parte* communications are subject to the restrictions set forth in Rule 8.2, and the reporting requirements in Rule 8.3.

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<sup>2</sup> Consistent with D.09-02-031, if the environmental review is a supplement or an addendum to the existing Environmental Impact Report (EIR), the Commission will act in lead role in the review. The Commission will not take a lead role if the review includes a new EIR.

<sup>3</sup> See Pub. Util. Code § 1701.5(a).

**IT IS RULED** that:

1. The issues to be addressed, and the ongoing schedule and related activities for this proceeding are set forth above, unless subsequently modified by the assigned Commissioner or Administrative Law Judge.
2. This proceeding remains categorized as ratesetting, and Administrative Law Judge Maribeth A. Bushey is the presiding officer.

Dated December 21, 2009, at San Francisco, California.

/s/ TIMOTHY ALAN SIMON  
Timothy Alan Simon  
Assigned Commissioner

**INFORMATION REGARDING SERVICE**

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability [or hard copy] of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability [or hard copy] of the filed document is current as of today's date.

Dated December 21, 2009, at San Francisco, California.

\_\_\_\_\_  
/s/ LILLIAN LI  
Lillian Li

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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\*\*\*\*\* SERVICE LIST \*\*\*\*\*

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