

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



November 20, 2003

Agenda ID # 2971
Ratesetting

TO: PARTIES OF RECORD IN THE PETITION FOR MODIFICATION OF DECISION
97-04-077, in APPLICATION 96-11-012

This is the draft decision of Examiner Richard Clark. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on Examiner Clark and Bree Arnett, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

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/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

ANG:vdl

Attachment

Decision **DRAFT DECISION OF EXAMINER CLARK** (Mailed 11/20/03)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of the City of West Sacramento for an Order authorizing construction of a crossing at grade between Devon Avenue and tracks of the Yolo Shortline Railroad Company

Application 96-11-012
(Filed November 8, 1996;
Petition For Modification
filed November 17, 1998)

OPINION DISMISSING PETITION FOR MODIFICATION**Summary**

The City of West Sacramento (City) requests authority to modify Decision (D.) 97-04-077 to extend the expiration date for a period of one year. The new expiration date would be April 23, 2000. The Commission's Consumer Protection and Safety Division — Rail Crossings Engineering Section staff (RCES) recommends that the Petition for Modification of D.97-04-077, in Application (A.) 96-11-012, be dismissed.

Discussion

By D.97-04-077, dated April 23, 1997, in A.96-11-012, City was authorized to construct a new at grade highway-rail crossing (crossing) at Devon Avenue. On November 17, 1998, the City filed a Petition for Modification of D.97-04-077 requesting an extension of the expiration date by one year to April 23, 2000.

The Commission was notified per Form G (Report of Changes at Highway Grade Crossings and Separations) that the crossing construction was completed on December 15, 1999. As the crossing has been constructed, the City's petition for modification is now moot.

Notice of the petition for modification was published in the Commission's Daily Calendar on November 19, 1998. No protests have been received. A public hearing is not necessary.

RCES recommends that the petition for modification be dismissed without prejudice.

Comments on Draft Decision

The draft decision of the Examiner in this matter was mailed to the parties in accordance with Section 311(g)(1) of the Public Utilities Code and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The City requests authority to modify D.97-04-077 by extending the expiration date by one year to April 23, 2000.
2. The construction of the new crossing authorized in D.97-04-077 was completed on December 15, 1999.
3. The request to extend the expiration date is now moot, as the work has been completed.
4. RCES recommends that the petition for modification be dismissed without prejudice.

Conclusion of Law

The petition for modification should be dismissed without prejudice.

O R D E R

IT IS ORDERED that:

1. The Petition for Modification of Decision 97-04-077, in Application (A.) 96-11-012, is dismissed without prejudice.
2. A.96-11-012 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.