

Decision 09-09-010 September 10, 2009

**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 a two lane grade separated roadway crossing for an extension of the Bus Rapid Transit Orange Line above and across the tracks operated by Southern California Regional Rail Authority, Union Pacific Railroad and Amtrak at Mile Post 445.73 in Chatsworth, City and County of Los Angeles.

Application 09-03-032  
(Filed March 27, 2009)

**DECISION GRANTING AUTHORIZATION TO THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY TO CONSTRUCT A GRADE SEPARATION OVER THE SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY TRACKS IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES**

**Summary**

This decision grants the Los Angeles County Metropolitan Transportation Authority (LACMTA) authorization to construct a two-lane grade-separated crossing over the Southern California Regional Rail Authority (SCRRA) Ventura Subdivision tracks in the City of Chatsworth, Los Angeles County. The grade separation is part of the LACMTA extension of the Bus Rapid Transit Metro Orange Line. The new crossing is to be identified as CPUC Crossing No. 101VE-445.73-A.

## **Discussion**

LACMTA is one of the five member agencies of the SCRRA, which operates Metrolink commuter trains over this railroad line. In addition to Metrolink commuter trains, National Railroad Passenger Corporation (Amtrak) operates Amtrak passenger trains, and the Union Pacific Railroad Company (UPRR) operates freight trains over this railroad line.

LACMTA constructed and is operating a Bus Rapid Transit Line called the Metro Orange line (MOL) between Lankershim Boulevard and Warner Center in Los Angeles. The MOL extension will begin at its present terminal near the intersection with Canoga Avenue and follow the LACMTA-owned right-of-way until it crosses at separated grades over the SCRRA and UPRR tracks. The grade separated structure will be a two-lane roadway that will cross the UPRR and SCRRA tracks at Mile Post 445.73 and finally terminate at the Metrolink Chatsworth Station parking lot.

The minimum vertical clearance over the tracks from bottom of grade-separated structure to top of rail will be 25 ft 9 in. The design and construction of the overpass grade-separation structure shall comply with the minimum clearance requirements set forth in California Public Utilities Commission General Order 26-D.

## **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. Since 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 the project,<sup>1</sup> or the one with the greatest responsibility for supervising or approving the project as a whole.<sup>2</sup> Here, LACMTA is the lead agency for this project because it is undertaking and constructing 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 this project.<sup>3</sup>

LACMTA prepared an Environmental Impact Report (EIR) for the Canoga Transportation Corridor, Metro Orange Line Extension project and found that the project will have a significant effect on the environment. In particular, LACMTA found that noise related to construction activity would result in an unavoidable significant impact. Noise impacts are within the scope of the Commission's permitting process and with respect to the significant noise impacts identified in the EIR, the Commission finds that the LACMTA adopted reasonable and feasible mitigation measures to reduce the impact of noise during construction. However, mitigation measures will not be able to reduce the

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<sup>1</sup> CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(a).

<sup>2</sup> CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

<sup>3</sup> CEQA Guidelines, Sections 15050(b) and 15096.

impact of noise during construction to a less-than-significant level. LACMTA filed a Notice of Determination (NOD) on January 22, 2009 with the County Clerk adopting a Statement of Overriding Considerations (SOC) for those impacts that could not be mitigated to less-than-significant levels.

We will adopt LACMTA's environmental findings and mitigations for purposes of our approval

### **Filing Requirements and Staff Recommendations**

The application is in compliance with the Commission's filing requirements, including Rule 3.7 of Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section has reviewed and analyzed the plans submitted with the application, and recommends that the requested authority to construct the subject crossing be granted for a period of three years.

### **Categorization and Need for Hearings**

In Resolution ALJ 176-3232, dated April 16, 2009, and published in the Commission Daily Calendar on April 17, 2009, the Commission preliminarily categorized this application as ratesetting and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments, it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3232.

### **Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

### **Assignment of Proceeding**

Richard Clark is the assigned Examiner in this proceeding.

### **Findings of Fact**

1. Notice of the application was published in the Commission's Daily Calendar on April 17, 2009. There are no unresolved matters or protests. A public hearing is not necessary.

2. LACMTA requests authority, under Public Utilities Code Sections 1201-1205 and 99152, to construct a new grade-separated crossing over SCRRA/UPRR railroad tracks.

3. LACMTA is the lead agency for this project under CEQA, as amended.

4. LACMTA prepared an EIR and issued a NOD adopting a SOC.

5. The Commission is a responsible agency for this project and has reviewed and considered LACMTA's environmental documentation, including its EIR, NOD and SOC.

### **Conclusions of Law**

1. The EIR, NOD and SOC, as required by CEQA and as adopted by LACMTA, are adequate for our decision-making purposes.

2. The application is uncontested and a public hearing is not necessary.

3. The application should be granted as set forth in the following order.

## **O R D E R**

**IT IS ORDERED** that:

1. Los Angeles County Metropolitan Transportation Authority (LACMTA) is authorized to construct a new grade-separated crossing over the Southern California Regional Rail Authority Ventura Subdivision tracks, to be identified as

CPUC Crossing No. 101VE-445.73-A, in the City of Chatsworth, County of Los Angeles.

2. LACMTA shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices.

3. LACMTA shall notify the Commission's Consumer Protection and Safety Division - Rail Crossing Engineering Section (RCES) at least five (5) business days prior to opening the crossing. Notification should be made to [rces@cpuc.ca.gov](mailto:rces@cpuc.ca.gov).

4. Within 30 days after completion of the work under this order, LACMTA shall notify RCES in writing, by submitting a completed standard Commission 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 CPUC web site Form G page at <http://www.cpuc.ca.gov/formg>. This report may be submitted electronically to [rces@cpuc.ca.gov](mailto:rces@cpuc.ca.gov) as outlined on the web page.

5. This authorization shall expire if not exercised within three years, unless time is extended or if the above conditions are not satisfied. The Commission may revoke or modify authorization if public convenience, necessity, or safety so require.

6. A request for extension of the three-year authorization period must be submitted to RCES at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

7. The application is granted as set forth above.

8. Application 09-03-032 is closed.

This order becomes effective 30 days from today.

Dated September 10, 2009, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners