

Decision 10-09-037 September 23, 2010

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

Pasadena Avenue Monterey Road Committee,

Complainant,

vs.

Los Angeles County Metropolitan Transportation  
Authority, Los Angeles to Pasadena Metro Blue  
Line Construction Authority, and the City of  
South Pasadena,

Defendants.

Case 06-10-015  
(Filed October 10, 2006)

**DECISION EXTENDING STATUTORY DEADLINE**

**Summary**

Public Utilities Code Section 1701.2(d) provides that adjudicatory cases, such as this one, shall be resolved within 12 months of initiation unless the Commission makes findings as to why that deadline cannot be met and issues a decision extending that deadline. In this proceeding, the 12-month deadline for resolving the complaint is October 11, 2010. However, additional time is necessary for the presiding officer's decision to be issued for the reasons stated below. Therefore, this decision extends the time for completion of this proceeding until October 11, 2011.

No anticipated costs of this extension of time are foreseen.

## **Background**

This proceeding involves a complaint filed by the Pasadena Avenue Monterey Road Committee, alleging that Defendants have failed to comply with a number of measures required by the settlement agreement approved by the Commission in Decision (D.) 05-02-032, and modified in D.05-09-040 (the Settlement Agreement). These measures were required in order to mitigate noise caused by the operations of the Gold Line light rail system (Gold Line) and to improve safety at two crossings located in the City of South Pasadena (City).

As required by the scoping ruling and the orders of the assigned Administrative Law Judge (ALJ) in this case, Defendants have filed regular status reports regarding their progress toward implementation of the Settlement Agreement. The most recent status reports were filed in February 2010. Although Defendants have made substantial progress toward completion of the mitigation measures, some of the mitigation measures, most significantly the reconfiguration of the two light rail crossings located in the City, have not yet been completed due to problems with bidding for one of the crossings and the time required for regulatory approvals and design of the projects.

Defendant Metro Gold Line Foothill Extension Construction Authority (Construction Authority) estimated that the Mission Street/Meridian Avenue crossing might be completed by the end of 2009. As of May 2009, Defendant City estimated that work on the Glendon Way/El Centro crossing might be completed by early 2010.

Complainants have raised legal issues regarding whether certain mitigation measures completed by Defendants adequately reduce noise resulting from the operations of the Gold Line to the levels required by the Settlement Agreement. In addition, City and Complainants have raised issues regarding

Construction Authority's claim that sufficient project funds are not available to complete all of the sound walls described in the Settlement Agreement.<sup>1</sup>

### **Discussion**

Based on the history of this case, additional time is needed to complete this proceeding so that the Commission may continue to monitor Defendant's progress on reconfiguration of the two crossings in order to ensure that these projects are completed as promptly as possible in order to serve the public interest, and additional time is also needed to resolve the additional issues raised by the parties.

Based on the current status of the case, this proceeding cannot be completed by October 11, 2010. An extension of time for an additional 12 months is necessary for resolution of this matter.

### **Waiver of Comments on Proposed Decision**

Under Rule 14.6(c)(4) of the Rules of Practice and Procedure, the Commission may waive the otherwise applicable 30-day period for public review and comment on a decision that extends the 12-month deadline set forth in Pub. Util. Code § 1701.2(d). Under the circumstances of this case, it is appropriate to waive the 30-day period for public review and comment.

### **Assignment of Proceeding**

Dian M. Grueneich is the assigned Commissioner and Bruce DeBerry is the assigned ALJ in this proceeding.

---

<sup>1</sup> City and Construction Authority assert that the sound walls not completed are not mandatory mitigation measures, but were to be constructed if sufficient surplus revenues were available to fund these items.

## **Findings of Fact**

1. The complaint in this case was filed on October 10, 2006.
2. Based upon the 12-month statutory deadline, this proceeding must be resolved on or before October 9, 2007, unless this date is extended.
3. In D.06-10-015, the Commission extended the time for completion of this proceeding, based on issues raised by the parties and the need for additional time for Defendants to complete the mitigation measures ordered in D.05-02-032, as modified in D.05-09-040, until October 9, 2007.
4. In D.08-10-009, the Commission extended the time for completion of this proceeding, based on issues raised by the parties and the need for additional time for Defendants to complete the mitigation measures ordered in D.05-02-032, as modified in D.05-09-040, until October 9, 2009. The Commission noted that although Defendants had made substantial progress, additional time was needed to complete the mitigation measures.
5. In D.09-10-013, the Commission extended the time for completion of this proceeding, based on issues raised by the parties and the need for additional time for Defendants to complete the mitigation measures ordered in D.05-02-032, as modified in D.05-09-040, until October 11, 2010. The Commission again noted that although Defendants had made substantial progress, additional time was needed to complete the mitigation measures.
6. Although Defendants have continued to make substantial progress toward completion of the mitigation measures, additional time is needed for the issuance of the presiding officer's decision because of the complexity of this matter; the need for the Commission to monitor Defendants' completion of the mitigation measures, particularly the reconfiguration of two crossings located in the City; and to consider other issues raised by the parties.

**Conclusions of Law**

1. Because of the need to monitor the mitigation measures, reconfigure two crossings and consider other issues, it will not be possible to resolve this case within the 12-month period provided for in Pub. Util. Code § 1701.2(d).
2. The 12-month statutory deadline should be further extended for 12 months to allow for resolution of this proceeding.

**O R D E R**

**IT IS ORDERED** that the 12-month statutory deadline in this proceeding, October 11, 2010, is extended for an additional 12 months, until October 11, 2011. This order is effective today.

Dated September 23, 2010, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
TIMOTHY ALAN SIMON  
NANCY E. RYAN  
Commissioners

Commissioner John A. Bohn, being necessarily absent, did not participate.