

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division
Rail Transit and Crossings Branch
Rail Crossings Engineering Section

RESOLUTION SX-76
February 15, 2007

RESOLUTION

RESOLUTION SX-76 AUTHORIZING THE SUPERVISOR OF THE RAIL CROSSINGS ENGINEERING SECTION, OF THE COMMISSION'S CONSUMER PROTECTION AND SAFETY DIVISION, TO GRANT TEMPORARY DEVIATIONS FROM GENERAL ORDER 26-D CLEARANCE REQUIREMENTS.

SUMMARY

General Order (GO) 26-D provides regulations governing clearances on highway-rail crossings. GO 88-B provides rules for Staff approval of projects to alter existing highway-rail crossings. Occasionally, in conjunction with their GO 88-B request, applicants request a temporary deviation from the clearance requirements of GO 26-D. This resolution authorizes the Supervisor of the Rail Crossings Engineering Section (RCES), of the Commission's Consumer Protection & Safety Division, to also grant temporary deviations from GO 26-D at the time the authorization to alter the crossing is granted pursuant to GO 88-B.

BACKGROUND AND DISCUSSION

On a regular basis, applicants, by letter to the Commission staff, request authority, pursuant to GO 88-B, Section 2.7, to alter or reconstruct an existing grade-separated crossing or, under Section 2.8, to construct a grade-separation that eliminates an existing at-grade highway-rail crossing. Occasionally, with their GO 88-B request, applicants request a temporary deviation, pursuant to GO 26-D, Section 16.2, from GO 26-D, Section 2.1, which requires a minimum overhead clearance above railroad tracks used for transporting freight cars of 22 feet 6 inches. Typically, during the construction period of grade-separated

crossings, temporary support structures are constructed that may intrude into the track clearance envelope required by GO 26-D. After construction is completed, the temporary support structures are removed and clearance is permanently restored to GO 26-D minimum requirements.

GO 88-B was promulgated in order to allow for alterations of existing highway-rail crossings in an efficient and expedient manner. Section 4 of GO 88-B states, "Notice of the proposed alteration and a request for authority shall be served on the Commission staff at least 45 days before the date the alteration is planned to start. The staff shall review the request covering the alteration and within 45 days from the date of receipt indicate to the party desiring the change its position." Under this process, GO 88-B requests are granted by letter signed by the RCES Supervisor after review, evaluation and an approval recommendation by RCES staff.

Thus, currently, if an applicant requests a temporary deviation from GO 26-D in conjunction with a GO 88-B request to construct or reconstruct a grade-separation structure, Staff can evaluate and grant the request partially but the Commission must also rule on the temporary deviation portion of the request. This adds significantly to the time required to process the request, results in a significant expenditure of Staff time to draft, review, and approve such a resolution, and additional time and effort to get the resolution reviewed by the Administrative Law Judge Division and Process office and finally on to the regularly scheduled Commission Agenda meeting.

A potential alternative that provides for the efficient and expedient approval of such projects is to authorize the RCES Supervisor to grant temporary deviations from GO 26-D in conjunction with the approval of GO 88-B requests, provided the request includes the GO 88-B required letter(s) of agreement by the involved railroad(s), as well as the GO 26-D required railroad statement of the conditions and reason for the requested deviation.

Section 3.1 of GO 88-B requires agreement between the parties regarding the proposal, and Section 5.8 of GO 88-B requires applicants submit evidence of that agreement. In cases where the public roadway agency is the applicant, this is typically accomplished by submission of a letter or email from the operating railroad(s) indicating their agreement with the proposal.

Section 16.2 of GO 26-D allows for exemptions (deviations) from the requirements of GO 26-D when accompanied by a statement of the conditions and reason for the requested deviation. If clearances will be insufficient during construction as proposed, the public roadway agencies will usually include such a deviation request in their GO 88-B request letter. The letter will also include correspondence from the affected railroad that it understands the purpose for, and does not object to, the temporary impaired clearance, or to the Commission granting of a temporary deviation from the GO 26-D requirements.

The current process to grant a temporary deviation from GO 26-D requires more than the 45 days allowed by GO 88-B, and includes a staff resolution recommending formal approval of the GO 26-D deviation by the Commission at its regularly scheduled meeting. Authorizing the RCES Supervisor to grant temporary deviations from GO 26-D when received in conjunction with GO 88-B requests, as described above, will significantly streamline the process, without compromising safety.

Because such a request following these suggested requirements would be uncontested (letters of railroad agreement are required) the matter is uncontested and no public notice period would be required.

FINDINGS

1. Requests for authorization to alter highway-rail crossings, pursuant to GO 88-B, sometimes include requests for a temporary deviation (during construction) from GO 26-D clearance requirements.
2. Currently, the RCES Supervisor grants authority to alter existing highway-rail crossings pursuant to GO 88-B.
3. GO 88-B requires the agreement of the involved railroad with the proposed alterations.
4. GO 26-D requires exemption requests be supported by a statement of the circumstances and need for the deviation.
5. The current process to grant a temporary deviation from GO 26-D requires more than the 45 days provided for by GO 88-B, and necessitates a Staff resolution recommending formal approval by the Commission at its regularly scheduled meeting.
6. Allowing the RCES Supervisor to also grant GO 26-D deviations, when granting authority to alter crossings pursuant to GO 88-B, will reduce staff workload and improve service, without compromising safety.

7. Staff recommends that this resolution be adopted.

THEREFORE, IT IS ORDERED THAT:

The Supervisor of the Rail Crossings Engineering Section of the Consumer Protection & Safety Division is authorized to grant temporary deviations from GO 26-D when received in conjunction with GO 88-B requests.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted by the Commission at its regularly scheduled meeting on February 15, 2007. The following Commissioners voted favorably thereon:

/s/ STEVE LARSON

STEVE LARSON
Executive Director

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