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A2404008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Metropolitan Transit System For An Order Authorizing Construction Of One At-Grade In-Station Pedestrian Crossing For the 12th and Imperial Station In San Diego, California Crossing San Diego Metropolitan Transit System Owned Railroad on Green Line, County of San Diego at Milepost 1.28.

Application 24-04-008

ASSIGNED COMMISSIONER’S SCOPING MEMO AND RULING

This Scoping Memo and Ruling (Scoping Memo) sets forth the category, issues to be addressed, and schedule of the above captioned proceeding pursuant to Public Utilities Code Section 1701.1 and Article 7 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure (Rules).¹

1. Background

Pursuant to Public Utilities (Pub. Util.) Code Section 99152 and Commission Rules 3.7 on April 18, 2024, the San Diego Metropolitan Transit System (SDMTS) filed Application (A.) 24-04-008 with its incorporated Exhibits A through G, seeking authority to construct one (1) at-grade in-station pedestrian crossing of the Green Line light rail at Milepost 1.28 at the 12th and Imperial Station in the City and County of San Diego, California (the

¹ California Code of Regulations, Title 20, Div. 1, Ch. 1.

Application). The crossing proposed in A.24-04-008 are part of Applicant SDMTS' larger Bayside Imperial Transit Double Track Construction Project.²

Commissioner Matthew Baker and Administrative Law Judge (ALJ) Andrea D. McGary were assigned to this A.24-04-008 proceeding on May 10, 2024.

On May 20, 2024, *Administrative Law Judge's Ruling Setting Remote Prehearing Conference & Prehearing Conference Statement Deadline* was issued setting a prehearing conference (PHC) for June 11, 2024 (11:00 a.m.).

The Commission's Rail Safety Division (RSD) filed a Response to the Application on May 24, 2024.³ A PHC was held on June 11, 2024, to discuss the issues of law and fact, the need for hearing, and schedule for resolving this matter.

After considering the Application and the proceeding record, the Commission has determined the issues and schedule of the proceeding to be as set forth in this Scoping Memo.

2. Issues

The issues to be determined or otherwise considered are:

1. Does the Application meet all of the Commission's requirements, including Rules 3.11 and 3.7, for the Commission to grant San Diego Metropolitan Transit System authority to construct one (1) at-grade in-station pedestrian crossing of the Green Line light rail at Milepost 1.28 at the 12th and Imperial Station in the City and County of San Diego, California;

² Application at 2-3; Exhibit A (*Vicinity Map/Bayside Double Track: 12th & Imperials Station – Green Line*) and Exhibit B (*Pedestrian Concept Plan/Bayside Double Track: 12th and Imperials Station – Green Line*).

³ *Response Of the Rail Safety Division To The Application of San Diego Metropolitan Transit System To Construct An At-Grade In-Station Pedestrian-Light Rail Crossing* (May 24, 2024 RSD Response).

2. Are there any safety concerns associated with the authority requested in A.24-04-008;
3. Has the Applicant complied with the California Environmental Quality Act;
4. Whether the Commission should grant the authority requested in A.24-04-008;
5. Should the Commission grant the Applicant a period of five (5) years from the Application approval date to complete the proposed project; and
6. Does the Application align with or promote the achievement of the nine goals of the Commission's Environmental and Social Justice Action Plan?

3. Need for Evidentiary Hearing

Based on review of the record, A.24-04-008 is unopposed and there are no material disputed facts. Applicant SDMTS and Respondent RSD agree that there are no known issues of material disputed fact requiring an evidentiary hearing.⁴ Accordingly, no evidentiary hearing is needed.

4. Schedule

The proceeding will stand submitted upon consideration of the environmental document(s) for the underlying project and determination that no further information or evidence is needed to adequately inform and evaluate the issues in the instant proceeding. At such time, the ALJ will issue a ruling closing the record of the proceeding. The ALJ may adjust the proceeding schedule and may require further evidence or argument if necessary. Based on the projected schedule, the proceeding is expected to be resolved within eighteen (18) months as required by Public Utilities Code section 1701.5.

⁴ *Joint Pre-Hearing Conference Statement* (June 6, 2024).

5. Category of Proceeding and Ex Parte Restrictions

This A.24-04-008 proceeding was preliminarily categorized as ratesetting.⁵ No objections to the category were made at the June 11, 2024, PHC. This ruling confirms the Commission’s preliminary determination that this is a ratesetting proceeding. Accordingly, *ex parte* communications are restricted and must be reported pursuant to Article 8 of the Rules.

6. Public Outreach

Pursuant to Pub. Util. Code Section 1711(a), we hereby report that the Commission sought the participation of those likely to be affected by this matter by update to local officials, the San Diego Association of Governments, and a number of community based organizations in San Diego County, California area.

7. Intervenor Compensation

Pursuant to Pub. Util. Code Section 1804(a)(1), an intervenor who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by July 12, 2024, or 30 days after the PHC.

8. Response to Public Comments

Parties may, but are not required to, respond to written comments received from the public.⁶ Parties may do so by posting such response using the “Add Public Comment” button on the “Public Comment” tab of the online docket card for the proceeding.

9. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or has questions about the

⁵ Resolution ALJ-176-3545 (May 9, 2024).

⁶ Pub. Util Code Section 1701.1(g).

electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission's Public Advisor at 866-849-8390 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

10. Filing, Service, and Service List

The official Service List has been created and is on the Commission's website. Parties should confirm that their information on the Service List is correct and serve notice of any errors on the Commission's Process office, the Service List, and the ALJ. Persons may become a party pursuant to Rule 1.4.⁷

When serving any document, each party must ensure that it is using the current official Service List on the Commission's website.

This proceeding will follow the electronic service protocol set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official Service List, parties must only provide electronic service. Parties must not send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at

⁷ The form to request additions and changes to the Service List may be found at <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/additiontoservicelisttranscriptordercompliant.pdf>

process_office@cpuc.ca.gov to request addition to the “Information Only” category of the official Service List pursuant to Rule 1.9(f).

The Commission encourages those who seek information-only status on the Service List to consider the Commission’s subscription service as an alternative. The subscription service sends individual notifications to each subscriber of formal e-filings tendered and accepted by the Commission. Notices sent through subscription service are less likely to be flagged by spam or other filters. Notifications can be for a specific proceeding, a range of documents and daily or weekly digests.

11. Receiving Electronic Service from the Commission

Parties and other persons on the Service List are advised that it is the responsibility of each person or entity on the Service List for Commission proceedings to ensure their ability to receive e-mails from the Commission. Please add “@cpuc.ca.gov” to your e-mail safe sender list and update your e-mail screening practices, settings and filters to ensure receipt of e-mails from the Commission.

12. Assignment of Proceeding

Commissioner Matthew Baker is the assigned Commissioner and Andrea D. McGary is the assigned Administrative Law Judge.

IT IS RULED that:

1. The scope of the proceeding for Application 24-04-008 is described above and is adopted.
2. The schedule of Application 24-04-008 is set forth above and is adopted.
3. Evidentiary hearings are not needed.
4. The category of Application 24-04-008 is ratesetting.
5. The presiding officer is Administrative Law Judge Andrea D. McGary.

6. The assigned Commissioner or assigned Administrative Law Judge may modify the schedule, as required, to promote efficient and fair resolution of the proceeding.

This order is effective today.

Dated July 31, 2024, at San Francisco, California.

/s/ MATTHEW BAKER

Matthew Baker
Assigned Commissioner