

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA



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ADMINISTRATIVE LAW JUDGE ANDREA McGARY, presiding

Application of the San Joaquin	)	PREHEARING
Regional Rail Commission for	)	CONFERENCE
Authority to Construct Two	)	
Grade-Separated Underpasses for the	)	
Union Pacific Railroad (UP) Fresno	)	
Subdivision at Mile Post 85.07,	)	
Proposed CPUC Number,	)	
001BEL-85.07-B, USDOT 980273X, and	)	Application
UP Oakland Subdivision at Mile Post	)	24-04-013
92.75, Proposed CPUC Number,	)	
004-92.75-B, USDOT 980272R, Both	)	
Crossing Over Dr. Martin Luther	)	
King, Jr. Blvd Formerly Known as	)	
Charter Way, in the City of	)	
Stockton, San Joaquin County,	)	
California.	)	

REPORTER'S TRANSCRIPT
Virtual Proceeding
June 11, 2024
Pages 1 - 12
Volume 1

Reported by: Jacquelyn Haupt, CSR No. 13964

VIRTUAL PROCEEDING

JUNE 11, 2024 - 2:35 P.M.

* * * * *

ADMINISTRATIVE LAW JUDGE McGARY: So good afternoon. My name is Andrea McGary. I'm the administrative law judge assigned to this proceeding.

We are present for the Webex remote-only prehearing conference for -- oh, actually, I'm looking at the wrong one. Sorry about that -- for A. -- Application 24-04-013, the Application of San Joaquin Regional Rail Commission for authority to construct two grade-separated underpasses for the Union Pacific Railroad Fresno Subdivision at Mile Post 85.07 and the Union Pacific Railroad Oakland Subdivision at Mile Post 92.75, both crossing over Dr. Martin Luther King, Jr. Boulevard formerly known as Charter Way, in the City of Stockton, in the County of San Joaquin, California.

The assigned commissioner is Commissioner Matthew Baker. Commissioner Baker will not be present today, but an advisor for his team -- his office is on the -- on the call in listen-only mode, Ravinder Mangat. I'll be working closely with Commissioner Baker and Advisor Mangat in this proceeding.

Again, I'm the assigned administrative law judge. But the assigned -- the presiding officer

1 designation will be noticed via the scoping memo.

2 I've already given my -- please note this
3 hearing is being transcribed by court reporters
4 Joanna Kostapapas and Jacquelyn Haupt. Please speak
5 slowly and clearly. I remind myself of the same, as I
6 have quite a quick tempo at times. Each time you speak,
7 please announce your name again. If you are using a
8 cell phone or you have a cell phone near you, please
9 silence your phones. If you have to take a call, please
10 mute yourself or step away from this hearing so that we
11 cannot hear your call.

12 The purpose of this prehearing conference, also
13 referred to as "PHC" for the record, is to gather
14 information to complete the scope and schedule of the
15 proceeding. Final determinations of the matters that we
16 discuss today will be made in the scoping memo, which
17 will be issued by Commissioner Baker. We're also -- can
18 also in this PHC address any known or anticipated
19 housekeeping items.

20 This is currently a ratesetting matter, so
21 please note that Commission Rule 8 related to ex parte
22 communications and communications with me as the
23 administrative law judge do apply. If you're not
24 familiar with Commission Rule 8, please visit the
25 Commission's website at www.cpuc.ca.gov and familiarize

1 yourself with those rules.

2 Today we're going to go ahead and make
3 appearances, review any motion items -- any law and
4 motion items, discuss the scope of the proceeding,
5 categorization, evidentiary hearings, and the schedule.

6 Does anyone have any questions before you make
7 your appearances?

8 (No response.)

9 ALJ McGARY: Okay. So hearing none, counsel
10 for San Joaquin Regional Rail Commission, please make
11 your appearance for the record and spell your name for
12 the benefit of the court reporter.

13 MS. MAGDICH: Good afternoon, your Honor.
14 Janice, J-a-n-i-c-e, Magdich, M-a-g-d-i-c-h, for
15 Applicant San Joaquin Regional Rail Commission, a
16 California Joint Powers Authority.

17 ALJ McGARY: Thank you, Counsel Magdich.

18 Counsel for Rail Safety Division of the CPUC,
19 please make your appearance for the record and spell
20 your name for the benefit of the court reporter.

21 MR. HILL: Yes. Thank you, your Honor.
22 Roderick Hill for the Rail Safety Division.
23 R-o-d-e-r-i-c-k H-i-l-l.

24 ALJ McGARY: Thank you, Counsel Hill.

25 Is there anybody else present that will be

1 speaking on the record? If you intend to speak on the
2 record or you know that you intend to speak on the
3 record, we will need your appearance. If you simply
4 decide later, we can take that appearance at that time.

5 Anyone else?

6 (No response.)

7 ALJ MCGARY: All right. Hearing none, let's go
8 ahead and get a few procedural background items onto the
9 record.

10 The original date of the application was
11 April 26, 2024. The application was filed with a -- a
12 Rule 2.9 request for expedited schedule. And it's
13 Exhibit F.

14 The subject matter of this proceeding is
15 San Joaquin Regional Rail Commission's proposed
16 construction of two new grade-separated highway rail
17 underpass crossings over Dr. Martin Luther King
18 Drive Boulevard (sic) in the city of Stockton, county of
19 San Joaquin, California at Dr. Martin Luther King
20 Boulevard (sic) at mile post 85.07 of the Union Pacific
21 Railroad Fresno Substation; Dr. Martin Luther King, Jr.
22 Boulevard Drive (sic) at mile post 92.75 of the Union
23 Pacific Railroad Oakland Subdivision as a direct
24 connection to the Stockton Diamond project.

25 The applicant is San Joaquin Regional Rail

1 Commission, which is sometimes hereafter "SJRRRC."

2 A response to the application was filed by the
3 California Public Utilities Commission Rail Safety
4 Division on May 29, 2024.

5 This PHC, as noted, was set pursuant to my
6 ruling issued on May 28th, which also required the
7 parties to meet and confer and issue -- and file a
8 prehearing conference statement. The prehearing
9 conference -- joint prehearing conference statement was
10 received from the parties on June 6th, 2024.

11 Thank you very much for taking care of that,
12 Applicant and Respondent.

13 Again, the applicant seeks Commission
14 authorization for the two new grade-separated highway
15 rail crossings to connect to the Stockton Diamond
16 project. Accordingly, Commission permission is required
17 pursuant to -- it's Commission Rule 3.7, which is public
18 road across railway, and Commission Rule 3.10, which
19 governs railroad across railroad crossings, and also
20 Public Utilities Code 1201 to 1205 related to the
21 crossings I've enumerated earlier in the record.

22 Let's go -- move on to the PHC statement.
23 They -- the statement indicates that the parties do not
24 think an evidentiary hearing is necessary. None has
25 been requested. And there's a stipulation that none is

1 required.

2 Related to legal issues and material disputed
3 facts, the parties do not identify any outstanding legal
4 issues, facts in dispute, or stipulated facts.

5 There are no pending motions in this
6 proceeding.

7 The parties do not anticipate any discovery or
8 data requests or disclosures.

9 No language access issues.

10 The related cases are listed as proceeding
11 A.24-04-011, A.24-04-012, and A.24-04-014.

12 On to scope, unless anyone has anything to add
13 to that.

14 (No response.)

15 ALJ McGARY: Okay. Hearing none -- oh,
16 actually, let me pause and allow you to -- no?

17 (No response.)

18 ALJ McGARY: Again hearing none.

19 So related to scope, I have received --
20 reviewed the application, the response from RSD, the
21 attached exhibits and appendices to the application.
22 Based on that review, I've identified a number of
23 scoping items that I intend to recommend to
24 Commissioner Baker.

25 Those include: Is the application complete and

1 inclusive of all information needed to render a
2 decision?

3 Does the proposed -- do the proposed crossings
4 or the -- I mean are the proposed crossings or the
5 proposed transaction adverse to public interest?

6 Whether the Commission should grant San Joaquin
7 Rail Commission authority to construct two new
8 grade-separated highway rail crossings at Dr. Martin
9 Luther King Boulevard (sic), MP 85.07 of the Union
10 Pacific Railroad Fresno Subdivision; Dr. Martin Luther
11 King Boulevard (sic), MP 92.75 of the Union Pacific
12 Railroad Oakland Subdivision in the city of Stockton,
13 the county of San Joaquin, California as a direct
14 connection to the Stockton Diamond project.

15 The next item for potential scope is whether
16 the San Joaquin Regional Rail Commission has complied
17 with the California Environmental Quality Act, also
18 referred to as SEQA, S-E-Q-A; whether the Commission
19 should grant the applicant a period of three years or
20 36 months from the application approval date to complete
21 the construction of the proposed crossing; and whether
22 the application aligns with or promotes the achievements
23 of the nine goals of the Commission's Environmental and
24 Social Justice Action Plan.

25 Do the parties have any additional issues they

1 wish to add, Counsel Gadich (sic) or Counsel Hill?

2 MS. MAGDICH: This is Janice Magdich. Nothing
3 to add, your Honor.

4 ALJ McGARY: Apologies, Counsel. I said,
5 "Gadich." I apologize.

6 MS. MAGDICH: No problem. I've had it
7 pronounced all kinds of ways.

8 ALJ McGARY: Okay.

9 MR. HILL: Nothing else, your Honor.

10 ALJ McGARY: Thank you, Counsel Hill.

11 Hearing none, I propose to recommend these
12 issues to Commissioner Baker for inclusion in this
13 scoping memo.

14 ALJ Resolution 176-3545 preliminarily
15 categorizes this as ratesetting. Does any party
16 disagree with the categorization?

17 MR. HILL: On behalf of Rail Safety Division,
18 no, your Honor.

19 ALJ McGARY: Thank you.

20 MS. MAGDICH: Janice Magdich on behalf of the
21 Commission. No, your Honor.

22 ALJ McGARY: Thank you.

23 Accordingly, I do agree with the ratesetting
24 categorization for this proceeding, and I will recommend
25 it to Commissioner Baker.

1 Okay. We've already covered the need for a
2 hearing and that the parties jointly agree no
3 evidentiary hearing is needed. I will recommend to
4 Commissioner Baker that none is needed.

5 Related to scheduling, there are no known dates
6 of unavailability and none indicated in the joint PHC
7 statement.

8 I believe we've covered all the standard
9 housekeeping matters, but I will give counsel an
10 opportunity to add any other matters, including their
11 position on the ordering paragraphs.

12 MR. HILL: Yes. Thank you, your Honor.
13 Rod Hill for Rail Safety Division. We would just ask
14 that you consider the proposed ordering paragraphs that
15 are included in our response to the application in any
16 decision that you make.

17 ALJ McGARY: Thank you.

18 MS. MAGDICH: Your Honor, Janice Magdich for
19 the Commission. No objection to the ordering
20 paragraphs. And I would like to ask that the Court
21 consider consolidation of the related matters as noted
22 in the joint pretrial conference statement.

23 ALJ McGARY: Okay. Thank you very much. Duly
24 noted. I'll take both requests under submission.

25 I think that's all we have for today. And I

1 will thank you for your participation. And we are
2 adjourned and off record.

3 (At the hour of 2:49 p.m., this matter having
4 been concluded, the Commission then
5 adjourned.)

6 * * * * *

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

CERTIFICATION OF TRANSCRIPT OF PROCEEDING

I, JACQUELYN HAUPT, CERTIFIED SHORTHAND REPORTER
NO. 13964, IN AND FOR THE STATE OF CALIFORNIA, DO
HEREBY CERTIFY THAT THE PAGES OF THIS TRANSCRIPT
PREPARED BY ME COMPRISE A FULL, TRUE, AND CORRECT
TRANSCRIPT OF THE TESTIMONY AND PROCEEDINGS HELD IN
THIS MATTER ON JUNE 11, 2024.

I FURTHER CERTIFY THAT I HAVE NO INTEREST IN THE
EVENTS OF THE MATTER OR THE OUTCOME OF THE PROCEEDING.
EXECUTED THIS AUGUST 06, 2024.


JACQUELYN HAUPT
CSR NO. 13964

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