

Decision 20-08-017 August 6, 2020

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Ione for a public road crossing at the extension of Foothill Boulevard and Mile Post No.0.84 of the Amador Central Railroad (AMC) Recreational Railroad – Coalition Historical Society (RRCHS), City of Ione, County of Amador, State of California.

Application 18-08-010

ORDER EXTENDING STATUTORY DEADLINE

Summary

This decision extends the statutory deadline in this proceeding until November 20, 2020.

1. Background

Public Utilities Code (Pub. Util. Code) § 1701.5(a) provides that the Commission shall resolve the issues raised in the scoping memo of a ratesetting proceeding within 18 months of the date the proceeding is initiated, unless the Commission makes a written determination that the deadline cannot be met, and issues an order extending that deadline. In this proceeding, the statutory deadline for resolving this application is August 21, 2020.

On August 21, 2018, the City of Ione (City or Ione) filed this application for an order authorizing it to convert a closed, private crossing at Mile Post (MP) 0.84 of the Amador Central Railroad (AMC) to an open, public crossing in order

to facilitate the construction of 276 single-family homes in an 85-acre pasture that the City had previously annexed and rezoned for residential development. In its application, Ione asked to be permitted to construct the public rail crossing up to three years after final action on its application by the Commission. On September 28, 2018, the Rail Safety Division responded to the application by supporting the application in its entirety.

A prehearing conference (PHC) was held on October 22, 2018 in Sacramento to discuss the issues of law and fact and to determine the need for a hearing and the schedule for resolving the matter. At the PHC, AMC appeared and requested permission to participate in the proceeding as a party. AMC's request was granted.

In an unexpected development during the PHC, in response to questioning by the assigned Administrative Law Judge (ALJ), Ione's City Manager disclosed that Ione had already built the public crossing at MP 0.84; that the crossing had been used by a housing developer and the public for a considerable period of time to construct infrastructure and houses on the parcel; that houses had been sold and were already occupied; that the City's request for a three-year period after a final decision by the Commission in this proceeding to build the public crossing was inappropriate; and that, unlike what the City represented in its Mitigated Negative Declaration for the project, the City had allowed the developer to build only a single means of ingress/egress for the first one hundred

homes in the project.¹ In the Mitigated Negative Declaration for the project, which the City attached to its application, the City had determined that at least two means of ingress/egress to the development for the residents and the public, as well as access roads for first responders into specific areas of the development, were necessary to mitigate “the project’s potential for exposure to wildland fires [which] is considered potentially significant.”²

On February 1, 2019, the assigned Commissioner issued her Scoping Memo. She divided the proceeding into two phases: Phase I to address safety and CEQA issues; and, Phase II to address penalty issues for violation of Pub. Util. Code §1201, *et seq.* and Commission Rule 1.1.

A proposed decision in Phase I is anticipated to issue very soon.

An extension of the statutory deadline until August 21, 2020, was previously ordered by the Commission on January 16, 2020 with Decision (D.) 20-01-025, to allow further time for the Commission to deliberate. Due in part to difficulties associated with operating during the Covid-19 pandemic, a further extension beyond August 21, 2020, is necessary to complete review of the serious issues raised by the City’s actions and to allow time to issue a proposed decision for public review and comments, and to allow the Commission time to deliberate and issue its final decisions in Phases I and II.

¹ PHC Transcript, October 22, 2018, at 7, line 19 – at 14, line 2.

² Application, Exhibit D, at 44, par. (h).

2. Waiver of Comment Period

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of the proposed decisions extending the deadline for resolving ratesetting proceedings. Accordingly, the otherwise applicable period for public review and comment is being waived.

3. Assignment of Proceeding

Liane Randolph is the assigned Commissioner and Charles Ferguson is the assigned ALJ in this proceeding.

Findings of Fact

1. This application was filed by the City of Ione on August 21, 2018.
2. A PHC was held on October 22, 2018.
3. On February 1, 2019, the scoping memo and ruling was issued.
4. Evidentiary hearings were held on May 13-14, 2019 in Sacramento, California.
5. An extension of the statutory deadline to August 21, 2020 was issued on January 16, 2020 by D.20-01-025.
6. Due to difficulties associated with operating during the Covid-19 pandemic, a further extension of the statutory deadline is necessary to complete review of the serious issues raised by the City's actions; to allow time to issue proposed decisions for each phase of the proceeding for public review and comment; and to allow the Commission time to deliberate and issue its final decisions in Phases I and II.

Conclusion of Law

Pursuant to the authority granted to the Commission under Pub. Util. Code § 1701.5(a), the statutory deadline for this proceeding should be extended to November 20, 2020.

IT IS ORDERED that the statutory deadline for this proceeding is extended until November 20, 2020.

This order is effective today.

Dated August 6, 2020, at San Francisco, California.

MARYBEL BATJER

President

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

Commissioners