

Decision \_\_\_\_\_

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

Application of the City of Santa Rosa  
for Approval to Construct a Public  
Pedestrian and Bicycle At-Grade  
Crossing of the Sonoma-Marín Area  
Rail Transit (SMART) Track at  
Jennings Avenue Located in Santa  
Rosa, Sonoma County, State of  
California.

Application 15-05-014

**DECISION GRANTING PETITION FOR MODIFICATION  
OF THE CITY OF SANTA ROSA****Summary**

This decision grants the petition for modification of Decision 16-09-002, as modified by Decisions 19-10-002 and 21-10-003, filed by the City of Santa Rosa and extends the Commission's authorization for four years and ten months.

This proceeding is closed.

**1. Procedural and Factual Background**

In Application (A.) 15-05-014, the City of Santa Rosa (City or Petitioner) requested Commission approval for an at-grade pedestrian and bicycle crossing over the Sonoma-Marín Area Rail Transit (SMART) tracks at Jennings Avenue in Santa Rosa. On September 2016, in Decision (D.) 16-09-002 (2016 Decision), the Commission approved the City's Application for a three-year period. The

decision provided that “authorization shall expire if not exercised within three years of the issuance of this decision unless time is extended or if the above conditions are not satisfied.”<sup>1</sup>

On April 19, 2019, the City filed a petition for modification of the 2016 Decision (2019 Petition) to extend the period for constructing the Jennings Crossing. The Commission’s Safety and Enforcement Division (SED) and SMART opposed the 2019 Petition. SED argued that the petition made significant changes to the approvals in the 2016 Decision that had not been adequately reviewed for their potential safety impact.<sup>2</sup> SMART argued that conditions had changed after the Commission’s approval of the 2016 Decision, including the construction of a multi-use path parallel to the right-of-way connecting the College Avenue and Guerneville Road crossings and the reconstruction of the pedestrian and bicycle at-grade crossing at Guerneville Road.<sup>3</sup>

Rejecting the arguments of SED and SMART, D.19-10-002 (2019 Decision) granted the City’s request and extended authorization for the Jennings Crossing to September 20, 2021.<sup>4</sup> The Commission reiterated that it made a robust inquiry into the comparative safety hazards and risks of an at-grade and a grade-separated crossing at Jennings Avenue and thoroughly considered the parties’ positions before the issuance of the 2016 Decision.<sup>5</sup>

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<sup>1</sup> D.16-09-002 at 42, Ordering Paragraph 7.

<sup>2</sup> SED Response to 2019 Petition (May 10, 2019) at 1-2.

<sup>3</sup> SMART Response to 2019 Petition (May 17, 2019) at 4-6.

<sup>4</sup> D.19-10-002 at 9, 10-11 (Ordering Paragraph 1 & 2).

<sup>5</sup> *Id.* at 7-8.

On July 16, 2021, the City filed a second petition for modification to extend the authorization expiration date for Jennings Crossing to September 20, 2023. The City asserted that it required additional time to work with SMART to finalize the necessary details for constructing the Jennings Crossing.<sup>6</sup>

The Public Utilities Commission's Rail Safety Division (RSD) and SMART opposed the requested extension. RSD argued that accidents on SMART's right of way since SMART began operations in 2017 demonstrated that the Jennings Crossing was not safe.<sup>7</sup> SMART asserted that the extension was not warranted because SMART and the City were unable to reach an agreement on important terms for the Jennings Crossing, despite good faith efforts.<sup>8</sup> In D.21-10-003 (2021 Decision), the Commission granted the City's request and extended the authorization period for constructing the Jennings Crossing to September 20, 2023.<sup>9</sup>

On January 24, 2022, RSD filed a petition for modification. RSD claimed that new facts warranted modification, including: (1) SMART's operation of a passenger rail line beginning in 2017, with 26 trains per day; and (2) nine incidents between 2017 and 2020 on SMART's right of way involving pedestrians or bicyclists.<sup>10</sup> RSD argued that the Jennings Crossing presents an unreasonable

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<sup>6</sup> See 2021 Petition (July 16, 2021) at 3, 7.

<sup>7</sup> RSD Response to 2021 Petition (Aug. 16, 2021) at 4-7, 8.

<sup>8</sup> See *generally* SMART Response to 2021 Petition (Aug. 16, 2021).

<sup>9</sup> D.21-10-003 at 10, 16 (Ordering Paragraphs 1 & 2).

<sup>10</sup> RSD Petition for Modification (Jan. 24, 2022) at 4-8.

risk of harm to the public and should not be opened.<sup>11</sup> On March 10, 2022, the parties filed responses to the Petition. The Joint Parties<sup>12</sup>, the City, and Mr. Duncan opposed the Petition while SMART supported it. SMART also made the same arguments that it did in its response to the 2019 Petition: the Jennings Crossing should not be constructed due to the new multi-use pathway and the reconstructed Guerneville Road crossing.<sup>13</sup> On March 21, 2022, the Joint Parties, RSD, James L. Duncan, and the City filed replies to the responses.

On November 17, 2022, the Commission issued D.22-11-025 (2022 Decision) denying the Petition on the grounds that RSD failed to assert new or changed facts that specifically relate to the Jennings Crossing and failed to conduct an analysis of the seven-factor test of impracticability for a separated grade crossing.

On December 22, 2022, RSD and SMART both filed Applications for Rehearing of the 2022 Decision. On March 16, 2023, the Commission issued D.23-03-045 Modifying the 2022 Decision and Denying Rehearing. The Commission modified the 2022 Decision to specify that RSD was not required to analyze the seven-factor test under the circumstances.<sup>14</sup>

On August 9, 2023, the City filed a Petition for Modification of D.16-09-002, as Modified by the 2019 Decision and the 2021 Decision to extend the

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<sup>11</sup> *Id.* at 3, 8-9.

<sup>12</sup> The Joint Parties refer to Sonoma County Transportation and Land-Use Coalition, the Sierra Club, the Friends of SMART, and Stephen C. Birdlebough.

<sup>13</sup> *Id.* at 4-5.

<sup>14</sup> D.23-03-045 at 11.

Commission's authorization to construct from September 20, 2023, to September 20, 2025 (2023 Petition). On September 7, 2023, the Joint Parties filed a response to the 2023 Petition urging the Commission to approve the 2023 Petition for Modification.<sup>15</sup> On September 8, 2025, James L. Duncan also filed a response in support of the 2023 Petition.

On August 13, 2025, the assigned Administrative Law Judge (ALJ) issued a ruling setting an in-person status conference for October 9, 2025. The City, SMART, RSD and James L. Duncan appeared at the October 9, 2025 status conference wherein the City and SMART reported on their efforts to finalize the necessary details for constructing the Jennings Crossing. The discussion primarily focused on the license agreement, which is the first step towards construction of the Jennings Crossing. A court reporter transcribed the status conference. The assigned ALJ and the assigned Assistant Chief ALJ presided.

The parties filed Joint Status Conference Statements on November 3, 2025, and November 24, 2025, updating the Commission on the status of their negotiations to complete a license agreement and a construction agreement, both of which are prerequisites to constructing the rail crossing. In both statements, the parties reported significant progress.

The assigned ALJ held an in-person status conference on December 8, 2025, at which time the City reported that the City Council approved both the license agreement and construction agreement on December 2, 2025. SMART reported that its Board would consider the agreements on December 17, 2025.

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<sup>15</sup> Joint Parties' Response to Petition for Modification, (September 7, 2023), at 11.

On December 9, 2025, the City filed an amended petition to modify the 2023 Petition to extend the time on its approvals to July 1, 2028 (Modified 2023 Petition).

On December 19, 2025, SMART filed a status report confirming that its Board adopted the license agreement and the construction agreement. No party filed an objection or response to the Modified 2023 Petition.

## **2. Standard of Review**

The Commission may "rescind, alter, or amend any order or decision made by it."<sup>16</sup> Modifying an existing decision is an extraordinary remedy that must be carefully applied to keep with the principles of res judicata because "Section 1708 represents a departure from the standard that settled expectations should be allowed to stand undisturbed."<sup>17</sup>

The Commission has consistently held that a petition for modification is not a substitute for legal issues that may be raised in an Application for Rehearing.<sup>18</sup> The Commission "will not consider issues which are simply re-litigation of issues that were decided in [the original decision],"<sup>19</sup> unless there are new or changed facts, which may be raised in a petition for modification supported by the appropriate declaration or affidavit.<sup>20</sup>

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<sup>16</sup> Public Utilities (Pub. Util.) Code § 1708

<sup>17</sup> 1980 Cal. PUC LEXIS 785, 24; see also 2015 Cal. PUC LEXIS 278, 7.

<sup>18</sup> See 2011 Cal. PUC LEXIS 483, 4.

<sup>19</sup> *Id.*

<sup>20</sup> Rule 16.4 of the Commission's Rules of Practice and Procedure (Rules).

A petition for modification must be filed within one year of the effective date of the decision proposed to be modified, and if past one year, the petition “must also explain why the petition could not have been presented within one year of the effective date of the decision.”<sup>21</sup> If the Commission determines that a late submission is not justified, it may deny the petition on timeliness grounds.<sup>22</sup>

### **3. Discussion**

The City’s Modified 2023 Petition is timely because on August 9, 2023, the City filed the 2023 Petition requesting an extension of the Commission’s authorization to construct an at-grade pedestrian and bicycle crossing at Jennings Avenue. The City submitted the 2023 Petition six weeks prior to termination of the authorization to construct. The 2023 Petition requested an extension from September 20, 2023, to September 20, 2025.

The Commission did not immediately rule on the 2023 Petition because of a pending petition for modification made by the RSD, as well as a related complaint filed by James L. Duncan. The City’s December 9, 2025 Petition simply modified the 2023 Petition and thus remains timely.

None of the parties objected to the City’s Modified 2023 Petition. In fact, at the status conference on December 8, 2025, SMART and the City discussed the proposed timeline to construct following the SMART Board’s anticipated approval of the license and construction agreements. The parties agreed upon the final date for authority to construct the at-grade crossing at Jennings Avenue based on the need to update plans to address changes in national railroad

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<sup>21</sup> Rule 16.4(d).

<sup>22</sup> *Id.*

requirements, to allow RDS to review any changes, to solicit bids for construction, and to prepare for constructing the crossing. At the December 8, 2025, status conference, the parties agreed upon the final date of July 1, 2028, to complete construction. It is reasonable to approve the extension because the parties agree on the completion date and the Commission desires to see this pedestrian crossing constructed. Accordingly, the Commission grants the City's petition to modify D.16-09-002 to extend the expiration of the authorization to July 1, 2028.

#### **4. Summary of Public Comment**

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding.

The commission received two comments, both supporting the decision.

#### **5. Procedural Matters**

This decision affirms all rulings made by the assigned ALJ and the assigned Commissioner in this proceeding. All motions not ruled on are deemed denied.

#### **6. Assignment of Proceeding**

Matthew Baker is the assigned Commissioner and Leah Goldberg is the assigned Administrative Law Judge in this proceeding.

#### **Findings of Fact**

1. On May 14, 2015, the City filed an application for approval of an at-grade crossing of the SMART track at Jennings Avenue in Santa Rosa, California.



2. On September 20, 2016, the Commission issued D.16-09-002, approving the City's application to construct an at-grade pedestrian and bicycle crossing at Jennings Avenue. The decision provided that "authorization shall expire if not exercised within three years of the issuance of this decision unless time is extended or if the above conditions are not satisfied."

3. On April 19, 2019, the City filed a petition for modification of D.16-09-002 requesting a modification of Ordering Paragraph 7 to extend the Commission's authorization from September 20, 2019, to September 20, 2021.

4. In D.19-10-002, the Commission granted the petition for modification and extended the Commission's authorization to September 20, 2021.

5. On July 16, 2021, the City filed a second petition for modification of D.16-19-002 requesting to further extend the Commission's authorization from September 20, 2021, to September 20, 2023.

6. In D.21-10-003, the Commission granted the petition for modification and extended the Commission's authorization to September 20, 2023.

7. Petitioner is fully committed to construction of the Jennings Avenue crossing. The City seeks a five-year extension to construct the pedestrian rail crossing at Jennings Avenue.

### **Conclusions of Law**

1. The City's Petition to Modify D.16-09-002, as modified by D.19-10-002 and D.21-10-003 is timely.

2. The City's request for extension of the Commission's authorization to construct an at-grade crossing at Jennings Avenue, as requested in its second petition in this instant proceeding, is reasonable and is in the public interest.

3. The City has demonstrated good cause to modify D.16-09-002.
4. Motions made in this proceeding that are not expressly ruled upon are moot and should be deemed denied.
5. The Petition for Modification of D.16-02-002 should be granted.
6. This proceeding should be closed.

**O R D E R**

**IT IS ORDERED** that:

1. The City of Santa Rosa's Petition for Modification of Decision 16-09-002 is granted.
2. Ordering Paragraph 7 of Decision 16-09-002 is modified as follows:  
  
This authorization shall expire if not exercised within twelve years of the issuance of this decision, or by July 1, 2028, whichever is sooner, unless time is extended or if the above conditions are not satisfied. Authorization may be revoked or modified if public convenience, necessity or safety so require.
3. All outstanding motions that are not expressly ruled upon are deemed denied.
4. Application 15-05-014 is closed.

This order is effective today.

Dated February \_\_\_, 2026, at Sacramento, California