

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Consider Implementation of Collision-Avoidance Systems on Commuter Rail Lines in California.

R. _____

**ORDER INSTITUTING RULEMAKING TO
CONSIDER IMPLEMENTATION OF COLLISION-AVOIDANCE
SYSTEMS ON COMMUTER RAIL LINES**

1. Summary

With this decision, the Commission opens an Order Instituting Rulemaking (OIR or rulemaking) to determine whether intrastate commuter rail systems operating in the State of California should implement a collision-avoidance safety system and, if so, what the minimum scope of such a safety system should be.

2. Background

On September 12, 2008, a Metrolink commuter rail train carrying 225 passengers collided head on with a Union Pacific Railroad Company ("UP") freight train in Chatsworth, California. Twenty-six people lost their lives in the collision and another 135 suffered injuries. Forty of those injuries are critical and many sustained injuries that may require a lifetime of medical care.

The Metrolink commuter train was operating on a single track that it shared with UP freight trains. UP freight trains also share this same single tracked corridor with the Amtrak's Coast Starlight, which runs between Los Angeles and Seattle and Amtrak's Pacific Surfliner, which runs between San

Diego and San Luis Obispo. In single track operations, trains pass each other at sidings.

Prior to the collision, the engineer on the Metrolink train passed two advance warning signals, flashing yellow and solid yellow, stopped at the Chatsworth Station, and then resumed movement before finally passing a red signal where he should have stopped. Stopping at the red signal would have allowed the oncoming UP train to pass safely into a siding.¹ The dispatcher had cleared the UP freight train to proceed onto the siding track at that point where the Metrolink was supposed to have stopped. The Metrolink train should have stopped to allow the UP train to pull into the siding. The Metrolink train then would have been allowed to continue forward on the now open single main line track while the UP train waited on the siding. In single-track operations, trains must pass each other at sidings. The majority of Metrolink's 388 miles of track is shared with the Class 1 freight carriers. The National Transportation Safety Board Member Kitty Higgins,² and the Administrator of the Federal Railroad Administration ("FRA"), Joseph H. Boardman,³ have stated that a collision-avoidance system would have prevented the September 12th Chatsworth accident.

The Commission intends this rulemaking to respond to questions raised by Senator Feinstein in the comments she delivered when she introduced S.3493

¹ Statement by Kitty Higgins, NTSB Board member, Canoga Hills press conference, September 15, 2008.

² Senators Feinstein and Boxer Introduce Legislation to Require Collision Avoidance Systems on All Major U.S. Rail Lines, Senate Commerce Committee Briefing on Metrolink Accident: <http://boxer.senate.gov/news/media/metrolinkbriefing.cfm>

³ Statement of Joseph H. Boardman, Administrator, Federal Railroad Administration, U.S. Dept. of Transportation, before Senator Barbara Boxer, U.S. Senate, Sept. 23, 2008, at the Senate Commerce Committee Briefing on Metrolink Accident, Administrator stated, that "the PTC system would have stopped the train before there would have been a collision." *Ibid.*

(2008 H.Res. 1492 (49 U.S.C. §20157)). She asked how commuter passenger trains can be allowed to operate on the same track as freight trains with only visible signals to warn engineers of oncoming trains, and no collision-avoidance system in place on the trains to avoid human error.

3. Preliminary Scoping Memo

Although the final cause of the accident will not be conclusively determined until after a thorough investigation and careful analysis, it is undisputed that Metrolink operates on this shared single track without a collision-avoidance system that would have prohibited the engineer or the train from proceeding past the signals that warned of an oncoming train. The purpose of this rulemaking is to determine whether a collision-avoidance system would have prevented this and similar collisions and whether such a safety system should be installed by Metrolink and other commuter rail carriers operating in California.

Consequently, the scope of this rulemaking includes the following issues upon which we seek comments from respondents and interested parties:

- What collision-avoidance system is appropriate for implementation on commuter rail systems operating in California?
- What are the relative benefits of each kind of collision-avoidance system?
- What are the estimated costs of these collision-avoidance systems?
- Can an appropriate collision-avoidance system for commuter rail systems be installed and implemented without significantly affecting Class 1 freight operations on the shared line?
- Can an appropriate collision-avoidance system be installed and implemented without delaying implementation and operation of “Positive Train Control” (“PTC”) by Class 1 freight operators on these shared lines?

- Can a collision-avoidance system be installed on shared commuter/freight rail lines which will be compatible with future PTC system implementation?
- Should the Commission require installation and implementation of such collision-avoidance systems on Metrolink and other commuter rail systems in California in order to prevent future collisions like that occurring in Chatsworth, California, on September 12, 2008?

In order to adequately address these issues, we seek specific expert engineering information from railroad signal contractors who can install such a collision-avoidance system. We will also seek consultation from an independent expert that can examine the different types of collision avoidance systems and provide an opinion as to the merits and compatibility of such systems with possible future PTC system. We also seek input and cooperation from the FRA as well as our own Rail Operations Safety Branch within the Consumer Protection and Safety Division (“CPSD”). Finally, we seek the cooperation and assistance of the two Class 1 freight carriers operating in California, the UP and the BNSF Railway Company (“BNSF”), Metrolink, Caltrain, Veolia Transportation, Inc.,⁴ and the National Railroad Passenger Corporation (“Amtrak”), in considering the need for implementing collision-avoidance safety systems on commuter rail systems in the state.

4. Category of Proceeding

Pursuant to Rule 7.1(d), this rulemaking is preliminarily determined to be quasi-legislative as that term is defined in Rule 1.3(d). Our purpose is to solicit comments and ideas from interested parties regarding the need, benefits,

⁴ Veolia Transportation, Inc. provides contract engineers and employees to commuter rail systems within California.

technology, implementation methods, and costs of collision-avoidance systems on commuter rail carriers in California.

It is contemplated that this proceeding shall be conducted through a written record. An order will issue on the merits-based record established in this docket. However, the Commissioner and ALJ assigned to this OIR may deem evidentiary hearings necessary.

5. Respondents

For purposes of this proceeding, California commuter rail systems⁵, all California railroad corporations as defined in Pub. Util. Code § 230, Veolia Transportation, and Amtrak, are considered respondents. The Rail Passenger Association of California and Nevada (“RailPAC”), the National Association of Railroad Passengers (“NARP”), the United Transportation Union (“UTU”), and the Brotherhood of Locomotive Engineers and Trainmen (“BLET”) are invited to participate.

6. Service List

The Executive Director shall serve copies of this rulemaking on respondents to this proceeding and on the RailPAC, the NARP, the UTU, the BLET, and CPSD staff. We invite broad participation in this proceeding. All additional persons or entities seeking party status or that wish to monitor this proceeding may do so by informing the Commission’s Process Office. Such requests should be sent to the Commission’s Process Office via email (Process_Office@cpuc.ca.gov) or by postal mail (Process Office, California Public

⁵ (1) *Metrolink* operated by Southern California Regional Rail Authority, (2) *Caltrain* operated by the Peninsula Corridor Joint Powers Board, (3) the *Altamont Commuter Express*, operated by the San Joaquin Regional Rail Commission, (4) the *Capitol Corridor* trains operated by the California Department of Transportation (Caltrans), (5) the *San Joaquin Corridor* operated by Caltrans, (6) the *Pacific Surfliner* operated by Caltrans & Amtrak, and (7) the *Coaster* operated by the North County Transit District.

Utilities Commission, 505 Van Ness Avenue, San Francisco, California 94102).

To be included on the service list for this proceeding, parties should so inform the Process Office no later than 20 days after the mailing date of this rulemaking and include pertinent information such as:

- Name and party represented, if any
- Address
- Telephone number
- Email address
- Assignment to the party, state service or information only category

While all respondents identified in the OIR will be bound by the outcome of this proceeding, only those who notify us they wish to be on the service list will be accorded service by others until final rules are proposed and/or a final decision issued.

The initial service list will be posted on the Commission's website at www.cpuc.ca.gov. Parties should ensure they are using the most up-to-date service list by checking the Commission's website prior to each service/filing date.

We encourage electronic filing in this proceeding. Electronic filings should be made according to Rule 1.10 and Resolution ALJ-188. Consistent with those rules, a hard copy of all pleadings shall be concurrently served on the assigned ALJ.

7. Schedule

Following is the preliminary schedule for this rulemaking:

CPSD Request for Information from Signal System Contractors	90 days after OIR issued (mailed date)
The Class 1 railroads and the commuter rail carriers operating in California Opening Comments	120 days after OIR issued (mailed date)
CPSD staff report on potential collision-avoidance systems to be used on commuter rail systems	210 days after OIR issued (mailed date)
Parties Closing Comments on CPSD staff report	30 days after CPSD staff report issued (mailed date)
Reply Comments	15 days after Closing Comments

As previously stated, we do not anticipate the need for evidentiary hearings, but any party who believes hearings are necessary may make that request in their opening comments. The request must identify the specific disputed evidence necessitating evidentiary hearings. The assigned Commissioner or assigned ALJ will determine the need for a prehearing conference or hearings and may alter the schedule or adopt further procedural processes as necessary.

Any objection to the preliminary categorization of this rulemaking as quasi-legislative must be filed no later than 10 days after the issuance of this rulemaking. This proceeding should be completed within the 18-month statutory deadline.

8. Public Advisor

Any person or entity interested in participating in this rulemaking as a party who is unfamiliar with the Commission's procedures should contact the

Commission's Public Advisor's Office in San Francisco at (415) 703-2074 or (866)849-8390 or email public.advisor@cpuc.ca.gov.

9. Ex Parte Communications

Pursuant to Rules 8.4(b) and 8.2(a), ex parte communications are allowed in this proceeding without any restrictions or reporting requirements.

Therefore, **IT IS ORDERED** that:

1. A rulemaking is instituted for the purpose of determining whether commuter rail systems operating in the State of California should implement a collision-avoidance safety system and, if so, what the minimum scope of such a safety system should be.
2. All railroad corporations and commuter rail systems under the Commission's jurisdiction are made respondents to this proceeding.
3. The Executive Director shall serve a copy of this rulemaking by U.S. Mail to all respondents to this proceeding, as well as the RailPAC, the NARP, the UTU, the BLET, and CPSD staff.
4. This rulemaking is preliminarily determined to be a "quasi-legislative" proceeding as that term is defined in Rule 1.3(d).
5. No later than 20 days after the mailing date of this rulemaking, persons or entities seeking to be included on the service list for this proceeding may do so by informing the Commission's Process Office. Requests to be added to the service list should be sent via email (Process_Office@cpuc.ca.gov) or by postal mail (Process Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, California 94102). The request should include the following information: (1) the full name, address and telephone number of the person or entity upon whom service should be made (if the participant is an entity, the full name of the entity's representative for service of process); (2) email

address if available; and (3) assignment to party, state service or information only category.

6. Responses to the Order Instituting Rulemaking and Comments shall conform to Rule 6.2 and shall be filed with the Commission's Docket Office and served in conformance with the schedule contained in Section 7 of this document.

This order is effective today.

Dated _____, 2008, at San Francisco, California.

APPENDIX A

(Service List)

Southern California Regional Rail
Authority
700 S Flower Street, 26th Floor
Los Angeles, California 90017-4101

Peninsula Corridor Joint Powers Board
P.O. Box 3006
San Carlos, CA 94070-1306

San Joaquin Regional Rail Commission
949 E. Channel Street
Stockton, CA 95202

National Railroad Passenger Corporation
60 Massachusetts Ave, NE
Fourth Floor
Washington, DC 20002

North County Transit District
810 Mission Avenue
Oceanside, CA 92054

BNSF Railway
Doug Werner, Legal Dept.
2650 Lou Menk Dr. 2nd Floor
Fort Worth, TX 76131-2830

Union Pacific Railroad Co.
David Pickett, Law Dept
10031 Foothills Blvd #200
Roseville, CA 95747

Joseph H. Boardman, Administrator
Federal Railroad Administration
1200 New Jersey Avenue, SE
Mail Stop 25
Washington, DC 20590

Rail Passenger Association of California
and Nevada
1017 L Street, PMB-217
Sacramento, CA 95814-3805.
E-mail info@railpac.org

National Association of Railroad
Passengers
900 Second Street, NE, Suite 308
Washington, DC 20002-3557

United Transportation Union
J.P. Jones, State Legislative Director
1005 12th Street, Suite 4
Sacramento, CA 85814-2051

Brotherhood of Locomotive Engineers and
Trainmen
Timothy L. Smith, Chairman, Legislative
Board
610 Auburn Ravine Road, Suite C
Auburn, CA 95603

George L. Elsmore, ROSB Program
Manager
Consumer Protection & Safety Division
505 Van Ness Avenue
San Francisco, CA 94102

Paul W. King, Deputy Director
Consumer Protection & Safety Division
505 Van Ness Avenue
San Francisco, CA 94102

Veolia Transportation, Inc.
2015 Spring Road, #750
Oak Brook, IL 60523

END OF APPENDIX A