M e m o r a n d u m

To: CHAIR AND COMMISSIONERS

CTC Meeting: October 24, 2012

Reference No.: 4.3
Action

From: BIMLA G. RHINEHART
Executive Director

Subject: **PROPOSED FY 2013-14 ALLOCATION SET-ASIDE FOR THE PUBLIC UTILITIES COMMISSION RAILROAD GRADE CROSSING PROTECTION MAINTENANCE PROGRAM RESOLUTION G-12-13**

ISSUE

Should the Commission support the Public Utilities Commission's (PUC) request (Attachment A) to increase to $3.85 million the allocation set-aside for the Railroad Grade Crossing Maintenance Program in next year's FY 2013-14 State Budget?

RECOMMENDATION

Staff recommends that the Commission adopt Resolution G-12-13 (Attachment B) supporting only $2 million for the Railroad Grade Crossing Maintenance Program in the FY 2013-14 Budget.

Public Utilities Code Section 1231.1 permits the Commission to increase the set-aside amount for the Railroad Grade Crossing Maintenance Program. While the Commission has increased the set-aside for the last five years, to $2 million from the statutorily required $1 million minimum, it has noted that State Highway Account revenues directed to the Railroad Grade Crossing Maintenance Program means less for State Highway Operation and Protection Program (SHOPP) projects.

Although it is important to maintain grade crossing protection devices at the interface of road/rail transportation systems, the Commission must consider all of the programs under its purview.

BACKGROUND

The Automatic Grade Crossing Protection Maintenance Fund was established in 1965 by the State Legislature to pay the locals' share of the cost for maintaining automatic grade crossing protection devices installed by the railroad corporations after October 1, 1965. The cities' and counties' share for maintaining automatic grade crossings typically represents only 50% of the total project cost; the remaining 50% is borne by the railroad corporations. This 50-50-payment split presumes that rail and highway users equally share the crossing and should therefore equally share the cost of maintaining the crossing devices, unless prescribed otherwise by the PUC.

Initially, the $1 million annually appropriated for maintenance of warning devices was sufficient to cover all claims filed by the railroad and street railroad corporations. In 1973, changes to the federal grade crossing protection funding program resulted in the increased installation and upgrading of automatic grade crossing protection devices. Consequently claims began exceeding the funds available from Calendar Year 1977 onward. The projected maintenance fund claims for FY 2013-14 are expected to be about $3.85 million for approximately 2,700 crossings, which is consistent with the claims made over the last five years.

The reimbursement of claims in FY 2013-14 would be limited to the amount recommended for allocation by the Commission.

Attachments

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division
Rail Transit and Crossings Branch
Rail Crossings Engineering Section

Resolution SX-104
September 13, 2012

RESOLUTION

RECOMMENDATION TO THE CALIFORNIA TRANSPORTATION COMMISSION FOR INCREASED FUNDING TO BE SET ASIDE FOR MAINTAINING AUTOMATIC GRADE CROSSING PROTECTION DEVICES UNDER PUBLIC UTILITES CODE SECTION 1231.1

SUMMARY

This resolution recommends that, for the 2013-2014 fiscal year, the California Transportation Commission allocate the sum of $3,850,000 for the purpose of paying the local government's share of the cost of maintaining automatic grade crossing warning devices.

BACKGROUND

The Grade Crossing Protection Maintenance Fund was established by the Legislature in 1965 to pay railroad corporations the local government's share of the cost of maintaining automatic railroad crossing warning devices installed or upgraded after October 1, 1965. Public Utilities Code Section 1231.1 requires the Department of Transportation (Caltrans) to set aside a minimum of $1,000,000 for the payment of those costs.

In 1988, an amendment to Public Utilities Code Section 1231.1[1] was enacted which specifies that the Public Utilities Commission (PUC) may recommend a sum greater than $1,000,000 be set aside if it finds that the $1,000,000 is not sufficient due to an increase in the number of grade crossing warning devices or

[1] AB 3065, (Polanco) September 29, 1988.

an increase in the cost of maintenance of those devices. The specific amount of the total allocation shall be determined by the California Transportation Commission (CTC.)

DISCUSSION

When the automatic grade crossing protection maintenance fund was first established in 1965, the maximum annual allocation of $1,000,000 was sufficient to cover all claims filed by railroad and street railroad corporations. However, the increase in the number of crossing warning devices and the increase in the cost for maintaining these devices caused claims to exceed the funds available for calendar year 1977 and thereafter.

The railroads perform the required maintenance during a given calendar year, and then file a claim with the PUC for reimbursement of the local government's share of the maintenance costs. The PUC verifies the claims and forwards valid claims to Caltrans for payment. These claims are paid from the allocation made by the CTC in the Caltrans budget. Claims and payments for the past five years were as follows:

CY *	FY*	No. of crossings	Total Claims ($)	Total Paid ($)
2007	07-08	2,754	3,848,955	2,000,000
2008	08-09	2,702	3,807,599	2,000,000
2009	09-10	2,710	3,829,679	2,000,000
2010	10-11	2,690	3,804,459	2,000,000
2011	11-12	2,667	3,778,156	2,000,000

*CY-Calendar Year
*FY-Fiscal Year

The maintenance fund costs and respective claims for calendar year 2013 (FY 2013-2014) are expected to be significantly higher than the $2,000,000 the CTC allocated for FY 2012-2013. Based on the previously submitted maintenance claims and the numbers and types of warning devices eligible, an allocation of

$3,850,000 will be needed for the 2013-2014 FY and would constitute the minimum amount necessary for that maintenance.

NOTICE

On August 10, 2012 this Resolution was published in the Commission's Daily Calendar.

COMMENTS

The draft resolution of the Consumer Protection and Safety Division in this matter was mailed in accordance with Section 311 of the Public Utilities Code and Rule 14.2(c) of the Commission's Rules of Practice and Procedure. No comments were submitted.

FINDINGS

The Commission staff has reviewed the amount needed to be allocated pursuant to Public Utilities Code Section 1231.1 and finds that an amount of $1,000,000 will be insufficient and finds, instead, that an allocation of $3,850,000 is the minimum amount necessary for allocation to the Grade Crossing Protection Maintenance Fund for FY 2013-2014.

Therefore, in accordance with Public Utilities Code Section 1231.1, the Commission staff finds that the PUC should recommend to the CTC that a sum of $3,850,000 be allocated for the 2013-2014 FY for the purpose of paying to railroad or street railroad corporations the share of the costs to cities and counties of maintaining automatic grade crossing protection/warning devices.

The Commission staff recommends that this Resolution be adopted.

THEREFORE, IT IS ORDERED THAT:

The Public Utilities Commission recommends to the California Transportation Commission that a sum of $3,850,000 be allocated for the 2013-2014 fiscal year for the purpose of paying to railroad corporations the share of the costs of cities and counties for maintaining automatic grade crossing protection/warning devices pursuant to Public Utilities Code Section 1231.1.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted by the Commission at its regularly scheduled meeting on September 13, 2012. The following Commissioners voted favorably thereon:

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE K. SANDOVAL
MARK J. FERRON
Commissioners

ATTACHMENT B

CALIFORNIA TRANSPORTATION COMMISSION
California Public Utilities Commission
Railroad Grade Crossing Protection Maintenance Program
Allocation Set-Aside for $2 Million in FY 2013-14

Resolution #G-12-13

1.1 WHEREAS, the Automatic Grade Crossing Protection Maintenance Fund was established by the Legislature in 1965 (Public Utilities Code Section 1231.1) to pay the cities' and counties' share of the cost of maintaining automatic grade crossing protection devices installed by railroad corporations after October 1, 1965; and

1.2 WHEREAS, since 1967 a minimum of $1 million per year has been appropriated by the State Legislature and allocated by the California Transportation Commission to the California Public Utilities Commission (CPUC) for its Railroad Grade Crossing Protection Maintenance Program; and

1.3 WHEREAS, in 1973 the federal law changed, which resulted in the increased installation and upgrading of automatic grade crossing protection devices; and

1.4 WHEREAS, the total claims submitted by the railroad corporations have substantially exceeded the $1 million cap since 1977; and

1.5 WHEREAS, the anticipated claims to be submitted to the PUC for FY 2013-14 are estimated to be about $3.85 million, which exceeds the annual $1 million required allocation set-aside by $2.85 million; and

1.6 WHEREAS, the Commission considered the revenues in the State Highway Account, as well as programs funded through the State Highway Account.

2.1 NOW THEREFORE BE IT RESOLVED, that the California Transportation Commission only supports a $2.0 million allocation set-aside in the upcoming FY 2013-14 Budget for use in the PUC grade crossing protection maintenance program, rather than the PUC-recommended allocation set-aside of $3.85 million.