

2 By Order 02, Prehearing Conference Order, entered July 19, 2011, the Commission established a procedural schedule in this matter. The Commission scheduled evidentiary and public hearings to convene on January 10 and 11, 2012, to address the issues raised in these petitions.

3 **MOTION TO WITHDRAW PETITIONS.** On December 2, 2011, the Railroad filed a motion to withdraw its five petitions (Motion). The Railroad states that it “does not wish to pursue its petitions at this time in light of the fact that parties have agreed to work together collaboratively to pursue a broader system-wide plan along the rail corridor in Grays Harbor and the City of Elma and the parties’ time and effort can be better spent working to resolve the issues around this plan.” The County and Commission staff (Staff)¹ support the Motion. The City has not taken a position on the Motion itself, but attached to the Motion is a letter from the City’s Mayor asking that the Railroad withdraw its petitions and engage in a more cooperative effort with the City to resolve the safety and mobility issues raised in the Railroad’s petitions.

4 **DISCUSSION.** A party may withdraw a petition it has filed with the Commission initiating an adjudicative proceeding only upon permission by the Commission once a matter has been set for hearing. The Commission will grant a motion to withdraw such a petition if the withdrawal is in the public interest.

5 The Commission finds that it is in the public interest to grant the Motion. The Commission encourages parties to resolve disputes informally, and the parties here have agreed to work together outside of litigation before the Commission to find a more comprehensive solution to the safety issues along the entire rail corridor in the County. Accordingly, the Motion is granted, without prejudice, and the evidentiary and public comment hearings in this matter are cancelled.

¹ In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See RCW 34.05.455.

ORDER

THE COMMISSION ORDERS:

- 6 (1) The motion to withdraw the petitions filed by Puget Sound & Pacific Railroad
is granted, without prejudice.
- 7 (2) The evidentiary and public hearings scheduled to convene on January 10,
2011, are cancelled.

Dated at Olympia, Washington, and effective December 6, 2011.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARTIN LOVINGER
Administrative Law Judge

NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and five (5) copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
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