

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

TACOMA RAIL,	)	DOCKET NO. TR-040359
)	
Petitioner,	)	ORDER NO. 02
)	
v.	)	ORDER GRANTING IN PART AND
	)	DENYING IN PART A PETITION TO
THE WASHINGTON STATE	)	AMEND ORDER TEMPORARILY
DEPARTMENT OF	)	CHANGING THE METHOD OF
TRANSPORTATION,	)	TRAFFIC CONTROL AT A
	)	RAILROAD-HIGHWAY GRADE
Respondent.	)	CROSSING
)	
	)	USDOT: 397209T
	)	WUTC: 20G 64.20
.....)	

BACKGROUND

- 1 On May 31, 1983, the Commission entered its order authorizing installation of an “exempt” sign at a highway-railroad grade crossing in Docket No. TR-1797. The crossing is located at the intersection of the Petitioner’s tracks and State Route 7. The crossing is located in Morton, Lewis County, Washington, in the NE ¼ of the NW ¼ of Section 2, Township 12 N., Range 4 E., W.M. The Order imposed conditions for protecting the traveling public at the crossing and required the railroad to bring the matter back before the Commission when regular service resumed.
- 2 Sporadic service has resumed in the area of the crossing, and Petitioner expects the amount of business to increase. On February 2, 2004, Petitioner filed its petition seeking an amendment to the conditions of that order. Specifically, Petitioner seeks approval for train movements at night, for the use of one flagger to flag traffic, and for employees to flag from vehicles. Commission Staff

requests that reporting and job briefing requirements be imposed as a result of information learned from an accident investigation at another crossing.

3 Respondent has consented to entry of an Order by the Commission without further notice or hearing.

4 The order entered on May 31, 1983 allows trains to use the crossing if train crews stop and protect it using two flaggers. This procedure protects the traveling public and accommodates the occasional need of Tacoma Rail to use the crossing. However, the procedure outlined in the Order is unduly cumbersome and expensive. An amendment is sought to conform flagging procedures to current standards. Also, Commission Staff investigated procedures for flagging crossings at night, and found that safety is not compromised if fuses are used to alert drivers to the presence of a flagger.

5 On June 2, 2003, a car hit a train that was moving through a crossing maintained by Petitioner. A Staff investigation revealed that safety could be improved by standardizing traffic control procedures wherever "stop and protect" procedures were used. Recommendations were agreed upon by Commission Staff and Tacoma Rail except for using vehicles as flagging platforms. Tacoma Rail's request for its employees to flag from vehicles should be denied.

6 The procedures specified in this order are temporary pending installation of signals and gates. The Washington State Department of Transportation approved a request by Commission Staff and the Petitioner to fund the necessary improvements at the State Route 7 crossing as part of a larger proposal to rehabilitate all of the crossings on the same rail line that are in need of signals or signal improvements. Funds for the improvements will be made available through the Federal highway-grade crossing improvement program (section 130 program). The signals and gates for this crossing should be installed by the summer of 2005. Before the new equipment is put into service the authorization for the crossing to be "Exempt" should be reevaluated.

FINDINGS AND CONCLUSIONS

- 7 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington having jurisdiction over public railroad-highway grade crossings within the state of Washington. *Chapter 81.53 RCW.*
- 8 (2) The State Route 7 grade crossing, identified as USDOT 397209T, is a public railroad-highway grade crossing within the state of Washington.
- 9 (3) RCW 81.53.261 requires that the Commission grant approval prior to making changes in the method and manner of traffic control at public railroad-highway grade crossings within the state of Washington.
- 10 (4) Commission Staff investigated the petition and recommended that it be granted in part, subject to specified conditions.
- 11 (5) This matter was brought before the Commission at its regularly scheduled meeting on March 12, 2004.
- 12 (6) After examination of the petition filed by Tacoma Rail and giving consideration to all relevant matters and for good cause shown, the Commission grants the petition on the conditions recommended by Staff except to deny the request to allow flagging from vehicles.

ORDER

THE COMMISSION ORDERS:

- 13 The petition of Tacoma Rail to amend the Order entered in this matter in May 1983, is granted as follows:

- (1) Train moves through the crossing may be made at any time.
- (2) Each train must stop before entering the crossing and permit a railroad employee to flag highway traffic to a stop. The train

may proceed through the crossing only when the flagger determines that it is safe to do so.

- (3) Flaggers shall communicate with the train crew by radio or cell phone.
- (4) Flaggers shall wear a hard hat and reflective vests or other reflective outer wear.
- (5) Flaggers shall use STOP/STOP paddles to flag traffic. Fuseses shall be placed on both sides of the crossing at night or conditions of poor visibility.
- (6) If a uniformed police officer flags the crossing, trains need not stop; however, train crews must confirm that prior arrangements have been made with a police officer to flag the crossing and that he or she is present at the crossing.
- (7) Petitioner must issue instructions or orders to all train crews using the crossing, stating that "stop and protect" order is in effect.
- (8) Petitioner shall develop a report that details the procedures for the crossing. The report shall be maintained in each locomotive that operates over the crossing.
- (9) Job briefings shall include the proper flagging procedure for the crossing if the train will cross it. An operations supervisor will also review the applicable bulletin and general order with the crew during the briefing and document the review.
- (10) Tacoma Rail shall notify Commission Staff each day whether trains operated by any railroad will run across the crossing. The requirement may be fulfilled by Tacoma Rail informing Staff of all areas trains will operate on the Mountain Division during a

particular day. Notification shall include whether a train move will occur during nighttime hours.

- (11) Petitioner's General Orders and Bulletins affected by this order are not approved except to the extent that they comply with the order. Nothing in this order eliminates the requirements of 49 CFR 234 regarding known rusty rail problems.
- (12) All trains using the crossing must be operated by a certified locomotive engineer that is qualified to operate over the track involved for the subject train moves, pursuant to CFR 240, "Qualification and Certification of Locomotive Engineers."
- (13) Tacoma Rail is responsible for ensuring that all railroads that use the crossing comply with the requirements of this order.

The following provisions of the Order entered on May 31, 1983 shall remain in effect:

- (14) The railroad shall install signs on each crossbuck that are 24" wide by 12" high stating the word "exempt" in 3" high black letters on white reflectorized background.
- (15) The railroad shall install signs on each advance warning signpost 24" wide by 12" high stating the word "exempt" in 3" high black letters on yellow reflectorized background.
- (16) The railroad shall install signs on its right of way that read "STOP and Flag Crossing Before Proceeding" in black lettering, 2" in height, against a white reflectorized background. The signs shall be at least 30" by 20" and shall be installed in the SW quadrant and the NE quadrant at least 100 feet in advance of the crossing, facing the direction of rail movement. No part of a sign shall be within 8'6" of the centerline of the track.

Before signals and gates are placed in service at the crossing, Commission Staff shall reevaluate whether the crossing should remain "Exempt."

DATED at Olympia, Washington, and effective this 12th day of March, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK OSHIE, Commissioner