

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON STATE DEPARTMENT
OF TRANSPORTATION,

Petitioner,

v.

CENTRAL PUGET SOUND REGIONAL
TRANSPORTATION AUTHORITY AND
THE CITIES OF LAKEWOOD AND
DUPONT,

Respondents.

DOCKETS TR-100127, TR-100128,
TR-100129, TR-100131
(*consolidated*)

COMMISSION STAFF RESPONSE
TO WSDOT'S MOTION FOR
LEAVE TO FILE
SUPPLEMENTAL WRITTEN
DIRECT TESTIMONY

1 The Washington Utilities and Transportation Commission Staff does not oppose
Petitioner WSDOT's Motion for Leave to File Supplemental Written Direct Testimony of
Kevin M. Jeffers, P.E.

2 As described in WSDOT's motion, the supplemental testimony that WSDOT seeks
to file describes new developments regarding the relationship between the Point Defiance
Bypass Project and the National Environmental Policy Act. These new developments need
not alter the schedule that was established in this proceeding in the Prehearing Conference
Order dated March 19, 2010.

3 Though actions of the Utilities and Transportation Commission (UTC) authorizing
the opening or closing of a highway/railroad grade crossing are not exempt from the
procedural requirements of the State Environmental Policy Act, most other actions of the

UTC are categorically exempt under WAC 197-11-865, which provides:

All actions of the utilities and transportation commission under statutes administered as of December 12, 1975, are exempted, except the following:

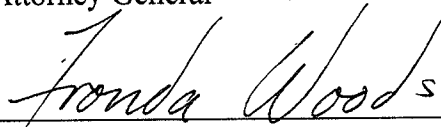
- (1) Issuance of common carrier motor freight authority under chapter 81.80 RCW that would authorize a new service, or extend an existing transportation service in the fields of petroleum and petroleum products in bulk in tank type vehicles, radioactive substances, explosives, or corrosives;
- (2) Authorization of the openings or closing of any highway/railroad grade crossing, or the direction of physical connection of the line of one railroad with that of another;
- (3) Regulation of oil and gas pipelines under chapter 81.88 RCW; and
- (4) The approval of utility and transportation rates where the funds realized as a result of such approved rates will or are intended to finance construction of a project, approval of which would not be otherwise exempt under WAC 197-11-800, and where at the time of such rate approval no responsible official of any state or federal agency has conducted the environmental analysis prescribed by this chapter or the appropriate provisions of NEPA, whichever is applicable.

In the petitions that initiated this proceeding, WSDOT seeks approval to modify four highway-rail grade crossings under RCW 81.53.261. That statute, having first been enacted in 1969,¹ is a statute that the UTC “administered as of December 12, 1975.” An action of the UTC approving or denying a petition to modify a highway/railroad grade crossing under RCW 81.53.261 falls within the scope of WAC 197-11-865.

DATED this 7th day of May 2010.

Respectfully submitted,

ROBERT M. MCKENNA
Attorney General


FRONDA C. WOODS
Assistant Attorney General
Counsel for Washington Utilities and
Transportation Commission Staff

¹ 1969 Wash. Laws ch. 134, § 1.