BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

|  |  |  |
| --- | --- | --- |
| CITY OF FIFE,Petitioner,v.UNION PACIFIC RAILROAD,Respondent. | ))))))))) | Docket No. TR-100098SUPPLEMENTAL TESTIMONY OF TERREL A. ANDERSON |

**Q. PLEASE STATE YOUR NAME, TITLE AND PLACE OF BUSINESS.**

My name is Terrel A. Anderson. I am Manager – Industry & Public Projects for Union Pacific Railroad Company (UP) in Roseville, California.

**Q. HAVE YOU READ THE TESTIMONY IN THIS MATTER THAT WAS SUBMITTED BY KATHY HUNTER, DATED SEPTEMBER 3, 2010?**

Yes.

**Q. DO YOU AGREE WITH HER STATEMENT ON PAGE 7 THAT 54th AVENUE EAST IS AN OPEN PUBLIC CROSSING?**

No.

**Q. WHY NOT?**

 This crossing is not open to and available for use by the general public. There are planters in 54th Avenue East blocking access by the public and there are locked gates at the crossing itself that prohibit entry. There are “Road Closed” signs on the approaches to the crossing. It is clear that for the last 7-8 years, the public has been denied access to this crossing. I agree with Kathy Hunter that the conditions for closing the crossing set forth in the May 1, 1997, Commission Decision and Order in Docket No. TR-961394 were not met. I would characterize this as an unauthorized closure, but nonetheless a closure. The crossing is not open.

**Q.** **DO YOU AGREE WITH KATHY HUNTER’S STATEMENT ON PAGE 12 THAT THE CITY’S PETITION SHOULD BE TREATED AS A FILING FOR THE MODIFICATION OF AN EXISTING CROSSING RATHER THAN AS A FILING FOR A NEW CROSSING?**

No.

**Q. WHY NOT?**

First, the city’s petition itself states that it is a petition to “approve construction of an at grade pedestrian railroad crossing,” rather than to modify the existing crossing.

Second, the petition envisions a separate signal system for this pedestrian path, rather than using the one in place at the existing roadway.

Third, according to the “National Highway-Rail Crossing Inventory Instructions and Procedures Manual” published by the Federal Railroad Administration, dated December 1996, an excerpt of which was attached to Kathy Hunter’s testimony as Exhibit No. \_\_\_ (KH-14), pedestrian crossings are considered to be part of the public roadway crossing and not a separate crossing if they are “contiguous with, or separate but adjacent to, [the] public road crossings, and in the public road right-of-way.” The pedestrian crossing proposed by

the city is outside the public road right of way. I base this conclusion on two documents. One is UP’s valuation map for this area, a copy of which is attached as Exhibit No. \_\_\_ (TA-1). This map indicates the extent of UP’s historical land ownership. In the 54th Avenue East location, it shows a 39-foot distance between the “cattle guards,” an indication of the crossing’s width. Nothing is shown on the map to indicate any wider rights that the city might have across the railroad’s property. The other document I am relying on is the print submitted by the city on March 1, 2011 to supplement its petition, copy attached as Exhibit No. \_\_\_ (TA-2). This print shows the width of the public right of way north and south of the railroad’s right of way. In addition, it shows the location of the existing road within the limits of the public right of way: The road hugs the eastern edge of the public right of way. Even if lines were drawn across the railroad right of way connecting the public right of way north of the tracks to the public right of way south of the tracks, the proposed pedestrian crossing would lie east of—outside of—the public road right of way. Thus, this proposed crossing does not satisfy the conditions for being considered part of the existing roadway under the FRA’s crossing inventory definitions.

**Q. IS THE CHARACTERIZATION OF THIS MATTER AS THE OPENING OF A NEW CROSSING, AS OPPOSED TO THE MODIFICATION OF AN EXISTING CROSSING, SIGNIFICANT?**

Yes. If the petition is characterized as a filing to open a new crossing at grade, RCW 81.53.030 would require that the petitioner set forth the reasons why the crossing cannot be made either above or below grade. If the petition is characterized as a filing to modify an existing at-grade crossing, the option of a grade separation does not need to be considered.

There has never been an open, public route for schoolchildren between the housing development south of the tracks and the junior high school north of the tracks. The 54th

Avenue East crossing was gated and locked shut before the junior high school was opened. The schoolchildren who would be using the crossing are entitled to the analysis mandated by Washington law for situations where a new crossing is opened for their use, rather than the shortened analysis used when an existing use is being modified. An at-grade pedestrian crossing should not be permitted when a grade-separated crossing is feasible, as is the case here.

**DECLARATION**

I, Terrel A. Anderson, declare under penalty of perjury under the laws of the State of Washington that the foregoing SUPPLEMENTAL TESTIMONY OF TERREL A. ANDERSON is true and correct to the best of my knowledge and belief.

DATED this 18th day of January, 2011.

*/s/ Terrel A. Anderson*

Terrel A. Anderson