

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

CITY OF AUBURN,)	DOCKET TR-120828
)	
Petitioner,)	
)	
v.)	
)	NOTICE OF PREHEARING
GATES, GATES, GATES LLC;)	CONFERENCE
MOHAWK NORTHERN PLASTICS,)	(Set for August 22, 2012,
LLC d/b/a AMPAC; AND BNSF)	at 9:30 a.m.)
RAILWAY COMPANY,)	
)	
Respondents.)	
)	
.....)	

- 1 On June 5, 2012, the City of Auburn (City) filed with the Washington Utilities and Transportation Commission (Commission) a petition to construct a highway-rail grade crossing at A Street Northwest, City of Auburn, USDOT Crossing Number 945561A.
- 2 On June 6, 2012, the Commission sent a letter to BNSF Railway Company (BNSF) notifying them of the petition and requesting BNSF to respond within twenty days indicating their support or opposition to the City’s petition.
- 3 On June 26, 2012, BNSF notified the Commission that it had some objections to the petition that might be resolved if the City was willing to revise their petition and agreeable to installing active warning devices with all construction and future maintenance-related costs allocated to the City. The City and BNSF have not come to agreement on these issues.
- 4 **STATUTORY AUTHORITY:** The Commission has jurisdiction over this matter under RCW Title 81, and has legal authority to regulate alterations in the style or nature of construction of existing grade crossing, and to apportion the expense of such a change between the railroad and the municipality or county affected pursuant to RCW 81.53, including without limitations, RCW 81.53.060 and RCW 81.53.110. Statutes involved, in addition to those previously cited, include those within RCW 80.01, RCW 81.04, RCW 81.44, and RCW 81.53, including but not limited to RCW 80.01.040 and RCW 81.04.020.

5 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW 34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, RCW 34.05.452, RCW 81.04.110, RCW 811.44.010, and RCW 81.53.060. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.

6 **THE COMMISSION GIVES NOTICE That it will hold a prehearing conference in this matter at 9:30 a.m., on August 22, 2012, in Room 206, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

7 The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling matters including establishing dates for distributing evidence and workpapers, to identify the issues in the proceeding and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430.

8 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene in writing at least three business days before the date of the prehearing conference. *See* WAC 480-07-355(a). The Commission will consider oral petitions to intervene during the conference, but strongly prefers written petitions to intervene. Party representatives must file a notice of appearance with the Commission no later than the business day before the conference. *See* WAC 480-07-345(2). Any party or witness in need of an interpreter or other assistance should fill out the form attached to this notice and return it to the Commission. The Commission will set the time and place for any evidentiary hearings at the prehearing conference, on the record of a later conference or hearing session, or by later written notice.

9 **THE COMMISSION GIVES NOTICE that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.**

10 The names and mailing addresses of all known parties and their known representatives are as follows:

Petitioner:	City of Auburn
	25 West Main
	Auburn, WA 98001

Representative:

Steven L. Gross
Assistant City Attorney
City of Auburn
25 West Main Street
Auburn, WA 98001
(253) 804-5027
sgross@auburnwa.gov

Respondents:

Gates, Gates, Gates LLC (Owner)
William A. Gates
24708 142nd Ave SE
Kent, WA 98042
(253) 631-7771
Williamgates4@me.com

Mohawk Northern Plastics, LLC (Lessee)
d/b/a Ampac
Richard Shaw, General Manager
701 A Street NE
Auburn, WA 98002
(253) 939-8206
rshaw@ampaonline.com

BNSF Railway (Operator)
Megan McIntyre
2454 Occidental Ave S, #2-D
Seattle, WA 98134
(206) 625-6413
Megan.mcintyre@bnsf.com

Representative: Tom Montgomery
Kelsey Endres
Montgomery Scarp, PLLC
1218 Third Avenue, Suite 2700
Seattle, WA 98101
(206) 625-1801
tom@montgomeryscarp.com
Kelsey@montgomeryscarp.com

Commission Staff: Washington Utilities and Transportation
Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Michael Fassio
Assistant Attorney General
1400 S. Evergreen Park Drive SW
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(360) 664-1192
mfassio@utc.wa.gov

- 11 Administrative Law Judge Adam E. Torem, from the Commission's Administrative Law Division, will preside during this proceeding.
- 12 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Olympia, Washington, and effective July 16, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER
Executive Director and Secretary

Inquiries may be addressed to:

Executive Director and Secretary
Washington State Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out this form and return it to Washington State Utilities and Transportation Commission, Attention: David W. Danner, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket : _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____) _____