

OCT - 3 1994

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of)
the WASHINGTON STATE DEPARTMENT)
OF TRANSPORTATION, BURLINGTON)
NORTHERN RAILROAD COMPANY, and)
THE NATIONAL RAILROAD PASSENGER)
CORPORATION for Modification of)
Order Regulating the Speed of)
Passenger Trains in Ferndale,)
Washington.)

DOCKET NO. TR-940308

BURLINGTON NORTHERN RAILROAD)
COMPANY,)

DOCKET NO. TR-940330

Petitioner,)

ORDER OF CONSOLIDATION)
FOR HEARING)

v.)

FERNDAL, WASHINGTON,)

Respondent.)

.)

On September 26, 1994, Commission Staff petitioned for consolidation of these two proceedings involving the Burlington Northern Railroad Company (BN). Docket No. TR-940308 involves the modification of train speeds in Ferndale, Washington. Docket No. TR-940330 involves the closure of the Thornton Road grade crossing in Ferndale, Washington. Commission Staff contend that much of the evidence presented in each case will be pertinent to the other, and asks consolidation to prevent unneeded repetition of evidence. On September 30, 1994, BN filed a response to Staff's motion for consolidation in support of Commission consolidation of these proceedings.

The Commission grants the petition, with qualification. In effect, Commission Staff seems to be requesting that the cases be heard on a joint record. The Commission authorizes the presiding administrative law judge to hold the proceedings entirely on a single record, or to hear portions of it on a single record, with those portions included in each transcript, as she may determine is reasonable, efficient and cost-effective for the Commission and the parties.

The Commission does not in this Order authorize the entry of a consolidated order, inasmuch as the issues and the required findings may differ between the proceedings -- albeit perhaps based on similar or identical evidence. The Commission authorizes the administrative law judge to hear and decide further motions regarding consolidation, however, until entry of the initial order or orders.

DATED at Olympia, Washington, and effective this 30th day of September 1994.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Sharon L. Nelson

SHARON L. NELSON, Chairman

Richard Hemstad

RICHARD HEMSTAD, Commissioner