

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

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|-------------------------|---|----------------------------------|
| CITY OF SPOKANE VALLEY, |) | DOCKET TR-111033 |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | |
| |) | NOTICE OF PREHEARING |
| UNION PACIFIC RAILROAD, |) | CONFERENCE |
| |) | (Set for August 30, 2011, |
| Respondent. |) | at 1:30 p.m.) |
| |) | |
| |) | |

1 On June 6, 2011, the City of Spokane Valley (Spokane Valley) filed with the Washington Utilities and Transportation Commission (Commission) a petition to modify warning devices and install sidewalks at a highway-rail grade crossing at Pines Rd (SR-27), Spokane County, USDOT Crossing Number 662519S.¹

2 On June 21, 2011, the Commission sent a letter to Union Pacific Railroad (Union Pacific) notifying them of the petition and requesting they respond within twenty days whether they support the petition or not.

3 On July 13, 2011, Union Pacific notified the Commission that while it does not have any objection to the petition, it does have concerns about cost allocations since the petition does not contain any proposal for allocating installation costs and Union Pacific has not privately reached agreement with the city on the issue.

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.

¹ Spokane Valley filed a revised page 5 to its original petition on June 30, 2011.

- 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 ultimate issue involved is whether the public safety requires an order be entered authorizing the modification of a grade crossing surface of the above-described crossing, and if so, how the expense of such a change should be apportioned between the railroad and the county.
- 7 **THE COMMISSION GIVES NOTICE That it will hold a prehearing conference in this matter at 1:30 p.m., on August 30, 2011, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** The Commission prefers that Parties appear in person. However, if this imposes a hardship, Parties may attend the prehearing conference via the Commission's teleconference bridge line at **(360) 664-3846**. Please appear on the teleconference bridge no more than five minutes before the conference is scheduled to begin.
- 8 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.
- 9 **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.
- 10 **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.**

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

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|-------------------|--|
| Petitioner: | City of Spokane Valley Ken Knutson 11707 E. Sprague Avenue, Suite 106 Spokane Valley, WA 99206 (509) 720-5010 kknutson@spokanevalley.org |
| Representative: | Unknown |
| Respondent: | Union Pacific Railroad Company Terrel A. Anderson Manager of Industry and Public Projects 9451 Atkinson Street Roseville, CA 95747 (916) 789-5134 taanders@up.com |
| Representative: | Carolyn Larson Dunn Carney Allen Higgins & Tongue LLP 851 SW Sixth Avenue, Suite 1500 Portland, OR 97204 (503) 417-5462 cll@dunn-carney.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 A. Fassio
Assistant Attorney General
1400 S. Evergreen Park Drive SW
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1192
mfassio@utc.wa.gov

- 12 Administrative Law Judge Marguerite E. Friedlander, from the Commission's Administrative Law Division, will preside during this proceeding.
- 13 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 29, 2011.

WASHINGTON STATE 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.: (____) _____