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

CITY OF SPOKANE VALLEY, a municipal corporation,

Complainant,

vs.

UNION PACIFIC RAILROAD COMPANY (aka UPRR),

Respondent.

No. TR-210814; 210809

DECLARATION OF RACHEL TALLON REYNOLDS IN SUPPORT OF UNION PACIFIC RAILROAD COMPANY'S POST-HEARING BRIEFING

USDOT: 66256C

COMES NOW Rachel Tallon Reynolds, and being above the age of 18 provide the following testimony:

1. I am one of the attorneys representing Union Pacific Railroad Company, in the above captioned action.

2. Attached as **Exhibit A** is a true and correct copy of excerpts from the Evidentiary Hearing, Volume II, dated May 10, 2022.

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed this 31st day of May, 2022 at Issaquah, WA.

By: /s/ Rachel Tallon Reynolds
 Rachel Tallon Reynolds, WSBA #38750

1 **DECLARATION OF SERVICE**

2 I hereby declare under penalty of perjury under the laws of the State of Washington that I
3 caused a true and correct copy of the foregoing to be served via the methods below on this 31st day
4 of May, 2022 on the following counsel/party of record:

5 Kenneth W. Harper 6 MENKE JACKSON BEYER, LLP 7 807 N. 39 th Avenue 8 Yakima, WA 98902 9 Phone: (509) 575-0313 10 Email: kharper@mjbe.com zfoster@mjbe.com qplant@mjbe.com Julie@mjbe.com <i>Attorneys for City of Spokane Valley</i>	<input type="checkbox"/> via U.S. Mail, first class, postage prepaid <input type="checkbox"/> via Legal Messenger Hand Delivery <input type="checkbox"/> via Facsimile <input checked="" type="checkbox"/> via E-mail:
11 Washington Utilities & Transportation 12 Commission	<input checked="" type="checkbox"/> efiling.utc.wa.gov/form
13 Jeff Roberson 14 Assistant Attorney General 15 Office of the Attorney General 16 Utilities and Transportation Division 17 P.O. Box 40128 18 Olympia, WA 98504-0128 19 Phone: (360) 664-1188 20 E-mail: jeff.roberson@utc.wa.gov betsy.demarco@utc.wa.gov	<input type="checkbox"/> via U.S. Mail, first class, postage prepaid <input type="checkbox"/> via Legal Messenger Hand Delivery <input type="checkbox"/> via Facsimile <input checked="" type="checkbox"/> via E-mail:

21 /s/ Elizabeth Pina
22 Elizabeth Pina, Legal Assistant
Elizabeth.Pina@lewisbrisbois.com

EXHIBIT A

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of) DOCKETS TR-210809
CITY OF SPOKANE VALLEY) and TR-210814
) (Consolidated)
)
To Modify Warning Devices at)
Highway-Railroad Grade Crossing)
of Union Pacific Railroad Company)

CITY OF SPOKANE VALLEY,)
)
Complainant,)
)
v.)
)
UNION PACIFIC RAILROAD COMPANY,)
)
Respondent.)

EVIDENTIARY HEARING, VOLUME II

Pages 13-151

ADMINISTRATIVE LAW JUDGE MICHAEL HOWARD

May 10, 2022

9:30 a.m.

Washington Utilities and Transportation Commission
621 Woodland Square Loop Southeast
Lacey, Washington 98503

REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358

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1 A. Yes, it is.

2 Q. Thank you.

3 MS. FOSTER: That is all the City has at
4 this point.

5 JUDGE HOWARD: All right. Union Pacific may
6 cross the witness.

7

8 C R O S S - E X A M I N A T I O N

9 BY MS. REYNOLDS:

10 Q. Good morning, Mr. Lochmiller.

11 A. Morning.

12 Q. Do you have the cross-examination exhibits that
13 were filed and served by Union Pacific available to you?

14 A. Yes.

15 Q. All right. I'd like to direct your attention to
16 your prefiled testimony, specifically where you
17 reference the Manual on Uniform Traffic Control Devices
18 at page 2, lines 16 and 17.

19 A. Okay.

20 Q. Do you recall offering prefiled testimony about
21 the MUTCD?

22 A. Right.

23 Q. And so you agree that the MUTCD is applicable in
24 these circumstances?

25 A. Yeah, the MUTCD has a national standard that

1 involves traffic devices, so it relates to the signing
2 and pavement markings that are part of this project.

3 Q. And, sir, it may be helpful for our court
4 reporter if you can put your camera so that we can see
5 your mouth.

6 A. Oh, sorry.

7 Q. Thank you. That's helpful.

8 Are you aware that Washington State adopted
9 the 2009 version of the MUTCD?

10 A. Yeah, I believe that's the current version.

11 Q. And the adoption of the MUTCD includes Section
12 1A.07; do you agree with that?

13 A. I'm not familiar with that. I don't know every
14 page of the MUTCD.

15 MS. REYNOLDS: Okay. With Your Honor's
16 permission, I would like to share my screen to display
17 what has been marked as RL-5X.

18 MS. FOSTER: Aziza Foster for the City.
19 Judge Howard, the City is going to object to the
20 introduction of this cross-examination exhibit. As
21 Ms. Reynold's just stated herself, the 2009 version of
22 the MUTCD is the most current version. What UP has
23 entered into the record is the 2003 version, and
24 therefore, it is no longer relevant to this case.

25 JUDGE HOWARD: What does the -- what is the

1 JUDGE HOWARD: It is admitted. Thank you.

2 (Exhibit RL-4X admitted.)

3 MS. REYNOLDS: Thank you.

4 BY MS. REYNOLDS:

5 Q. Sir, can you take a look at RL-4X, your petition
6 in this case, and tell me whether the petition
7 references public safety.

8 A. It does not state that.

9 Q. In fact, the petition doesn't include the word
10 "safety," does it?

11 A. I don't think so.

12 Q. And the petition does not allege that the public
13 safety requires the installation of the proposed
14 modification, correct?

15 A. Correct.

16 Q. And you can put that aside, sir.

17 Do you agree that there are no fundamental
18 changes between the current warning devices and the
19 proposed modifications?

20 A. In regards to the actual signal crossing?

21 Q. That's correct, sir.

22 A. Well, all of it's being replaced with a new
23 system so that's...

24 Q. It's all being replaced with a new system
25 because the City's widening the roadway, correct?

1 A. Correct.

2 Q. But the system itself isn't changing
3 fundamentally, correct?

4 A. Correct. I mean, there's a couple additional
5 things, I believe, that changed. But for the majority,
6 it's the standard signal crossing, at-grade crossing.

7 Q. The traffic control devices themselves aren't
8 changing in any way except to cover the additional
9 length to account for the roadway configuration changes,
10 correct?

11 A. I think it was modified for the additional width
12 of the roadway, and I believe there's additional warning
13 flashing signs that were also added for a couple
14 different directions and were not previous on the
15 existing system.

16 Q. And were those additional warning devices
17 included because the road is wider now or will be wider?

18 A. No, those flashes were added for additional
19 public access on that side street.

20 Q. Where is that detailed in your petition, sir,
21 the additional warning systems?

22 A. I think it's based on the additional -- the
23 flashings, the flashers that was in my testimony, the
24 number of them.

25 Q. Okay. There's new equipment that's being

1 your petition, is there an improvement in the design of
2 the device?

3 A. I guess I'm confused what you're trying to ask.

4 Q. Let me ask you differently.

5 Is the proposed modification that is the subject
6 of your petition marked as RL-4X, is there an
7 improvement in the functionality of that proposed
8 device?

9 A. Like I said, I believe there's some improvements
10 on direction of flashers for certain traffic movements,
11 yes. But for the majority, it's basically the same, I
12 think.

13 Q. Great.

14 Do you agree that currently there are two gate
15 mechanisms at the Barker Road UP crossing?

16 A. Yes, one on each side.

17 Q. And at the conclusion of this project, there
18 will be two gate mechanisms?

19 A. Correct.

20 Q. And there are currently two cantilevers at the
21 Barker Road crossing?

22 A. Correct.

23 Q. And at the end of this project, there will be
24 two cantilevers?

25 A. Yes.

1 Q. And at the end of -- or as currently exist at
2 Barker Road, there are nine flashers at the crossing,
3 correct?

4 A. I believe so.

5 Q. And at the end of this project, there will be
6 ten flashers?

7 A. Okay.

8 Q. Do you agree with that?

9 A. I believe that's the case, yeah.

10 Q. All right. So there's no differences in the
11 type of traffic control devices that are being
12 installed?

13 A. Other than the additional flasher, yeah.

14 Q. There's no upgrades in the device technology
15 that is being proposed?

16 A. I have no idea on the technology of the UPR's
17 signal crossing.

18 Q. And the currently existing system has operated
19 safely for many years; do you agree with that?

20 A. I have no idea. I do not know the stats of --
21 the stats of how well it functions.

22 Q. Right.

23 Your prefiled testimony included a reference to
24 blocked crossings, unsafe motorists, and one vehicle on
25 the tracks.

1 R E D I R E C T E X A M I N A T I O N

2 BY MS. FOSTER:

3 Q. Mr. Lochmiller, do you have the authority to
4 enter into agreements on behalf of the City?

5 A. I do not.

6 Q. Okay. And then can I please direct you to the
7 Exhibit RL-X4, the petition?

8 A. Okay.

9 Q. Specifically, can you look at page 3 of the
10 petition, section 4 entitled Vehicle Traffic. And then
11 I would like to direct you to question ten or statement
12 ten, which states, Describe any changes to the
13 information in 1 through 7 above expected within ten
14 years.

15 Can you please read for me the response that you
16 wrote?

17 A. Traffic volumes will increase as the vacant land
18 to the north is developed.

19 Q. And will increased traffic volumes impact the
20 public safety?

21 MS. REYNOLDS: Objection. Speculation.
22 Foundation.

23 MS. FOSTER: Your Honor, Ms. Reynolds was
24 asking about whether or not the public safety was
25 impacted or addressed in the petition. This goes

1 directly to her questions.

2 JUDGE HOWARD: I am going to deny the
3 objection and allow the question.

4 BY MS. FOSTER:

5 Q. I will reask it just so you have it, Rob.

6 Will increased traffic volumes impact the public
7 safety?

8 A. Yes.

9 Q. Okay. Then last question.

10 Specifically, as we relate to what the City is
11 going to be doing at the crossing, are the warning
12 devices the only improvements that the City is going to
13 be putting at this crossing?

14 A. No.

15 Q. What else will the City be doing at this
16 crossing?

17 A. As far as roadway improvements, so there's
18 actually -- we're going to install new median curb
19 between northbound and southbound directions that will
20 help eliminate people going through the tracks when the
21 gate arms are down. That curb's also been extended
22 further south to eliminate a left turn movement of a
23 private road just south of the tracks. That was a
24 concern.

25 We're also widening on the north side of the

1 Q. Can you read those words into the record,
2 please?

3 A. Petition to modify warning devices at
4 highway-railroad grade crossing.

5 Q. It is not a petition to install a new device, is
6 it?

7 A. It does not say "new."

8 Q. Okay. And you can put that aside. Thank you
9 very much.

10 Do you agree that the Barker Road project is
11 driven by anticipated future growth and economic
12 development in Spokane Valley?

13 A. No, it -- actually, no. It's actually to help
14 with current traffic and also anticipated growth. So
15 it's not just for future growth.

16 Q. It's both current and future?

17 A. Oh, yeah.

18 Q. All right. And the Barker Road project would
19 widen the roadway, correct?

20 A. Yes.

21 Q. In addition to widening the roadway, the project
22 also has components for installation or modification of
23 the sewage system in the city?

24 A. Yes, in Spokane County.

25 Q. And the project also includes the creation of a

1 multiuse path for bicycles and pedestrians, correct?

2 A. Yes, whenever we improve the road, we're
3 required to provide an extra facility for bikers and
4 pedestrians.

5 Q. Is that a City requirement?

6 A. No, Washington requires us to do that.

7 Q. All right. Do you agree that there are no
8 fundamental changes between the currently existing
9 crossing traffic control devices and the proposed
10 modifications?

11 A. I'm not familiar with how the devices operate,
12 but...

13 Q. I will move on, then.

14 Let me just ask you this: Did you have any part
15 in designing the proposed modifications that are
16 detailed in the petition that we just talked about?

17 A. I did not.

18 Q. Okay. Your prefiled testimony states that the
19 City first documented concerns along the Barker corridor
20 in its SEPA analysis for the 2016 Comprehensive Plan
21 Update, correct?

22 A. Yes, there's concerns about the corridor and the
23 growth that was in there.

24 Q. And as part of that analysis, the City undertook
25 something called the Northeast Industrial Area Planned

1 both Barker Road and Flora Road.

2 Q. And then can you read what I have now marked in
3 blue into the record, please?

4 A. (As read) Historic crash data indicates that the
5 grade crossings on Barker Road and Flora Road for both
6 rail lines have operated safely over the last 25 years.

7 Q. And do you agree that the next sentence reads,
8 Figure 12 shows that despite high train volumes, it has
9 been over 25 years since a crash occurred at any of the
10 four at-grade rail crossings in the study area?

11 A. That's what it says.

12 Q. So the City deemed the UP Barker Road crossing
13 to be safe, correct?

14 A. That's what that statement says.

15 Q. Okay. If we go on to -- my apologies if this is
16 hurting your eyes, ma'am. It's an imperfect science.

17 If we go to page 65 of 138 in GM-7, there is a
18 section that is titled "Traffic Impacts of At-Grade Rail
19 Crossings," do you see that?

20 A. I do.

21 Q. And this references Figure 13, which is Vehicle
22 Queue Lengths at Barker Road At-Grade Rail Crossings
23 When Gates are Down During the Peak Hour. And there's
24 some data in Figure 13; do you see that?

25 A. Yes, I see the queueing lengths for the UP and

1 Q. The City of Spokane Valley reached out to UPRR
2 as part of the Barker Road project, correct?

3 A. We have to.

4 Q. The Railroad didn't come to the City of Spokane
5 Valley and propose the modifications that we're here
6 discussing today, did they?

7 A. No.

8 MS. REYNOLDS: Ma'am, thank you very much
9 for your time. Those are all the questions I have.

10 JUDGE HOWARD: Do we have any redirect from
11 the City?

12 MS. FOSTER: Yes, Judge. We do have a few
13 redirect questions.

14

15 R E D I R E C T E X A M I N A T I O N

16 BY MS. FOSTER:

17 Q. Ms. Mantz, are crashes the only safety concerns
18 at an at-grade crossing?

19 A. No, they're not. I mean, the safety of
20 pedestrians and vehicles and bikers as well too.

21 Q. Okay. Can crashes ever be completely eliminated
22 by traffic safety improvement projects?

23 A. I don't believe so.

24 Q. Okay. Will the improvements to this crossing,
25 will it at least reduce queueing at the crossing

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STATE OF WASHINGTON
COUNTY OF THURSTON

I, Tayler Garlinghouse, a Certified Shorthand Reporter in and for the State of Washington, do hereby certify that the foregoing transcript is true and accurate to the best of my knowledge, skill and ability.



Tayler Garlinghouse
Tayler Garlinghouse, CCR 3358