

WASHINGTON



UTILITIES AND TRANSPORTATION
COMMISSION

TO: Kathy Hunter, Deputy Director, Transportation Safety

FROM: VE Vicki Elliott, Special Projects

DATE: October 26, 2010

SUBJECT: Docket TR-990653

This docket originated in September 1999, when BNSF Railway Company (BNSF) petitioned the commission for a train speed increase through the city of Kent (City). On June 27, 2000, the commission issued a final order granting the increase. The final order closed the docket. The commission reopened the docket in July 2004 when BNSF alleged that the City did not intertie its traffic signals with the train detection equipment at several crossings – a condition of the order that would allow the train speed increase. However, commission staff found that BNSF had not submitted the proper agreements to the City to allow it to complete the interties. The docket remained open and staff agreed to review this issue after BNSF submitted the agreements to the city.

Subsequently, the commission's final order was invalidated by the Legislature in 2006, when it passed a bill that restricted the commission's processes regarding train speeds and voided any order issued by the commission prior to June 7, 2006. Specifically, RCW 81.48.040(2) states, "Any speed limit that the commission fixed by order prior to June 7, 2006, but without making a finding permitted under P.L. 91-458, Sec. 205 (49 U.S.C. Sec. 20106), has no force or effect." Staff should have closed this docket after the legislation passed, but it was simply overlooked.

I recommend the Records Center close this docket with no further action.