

Exhibit No. __ (PC-4)
Docket TR-150189
Witness: Paul Curl

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

BNSF RAILWAY COMPANY

Petitioner

v.

WHATCOM COUNTY

Respondent.

DOCKET TR-150189

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SEP 22 2015
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EXHIBIT TO
TESTIMONY OF

PAUL CURL

STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

*RCW 81.53.020 – Grade Separation Required Where Practicable, RCW 81.53.060 – Petition
for alteration of crossing – Closure of grade crossing without hearing*

September 21, 2015

RCW 81.53.020

Grade separation required where practicable.

All railroads and extensions of railroads hereafter constructed shall cross existing railroads and highways by passing either over or under the same, when practicable, and shall in no instance cross any railroad or highway at grade without authority first being obtained from the commission to do so. All highways and extensions of highways hereafter laid out and constructed shall cross existing railroads by passing either over or under the same, when practicable, and shall in no instance cross any railroad at grade without authority first being obtained from the commission to do so: PROVIDED, That this section shall not be construed to prohibit a railroad company from constructing tracks at grade across other tracks owned or operated by it within established yard limits. In determining whether a separation of grades is practicable, the commission shall take into consideration the amount and character of travel on the railroad and on the highway; the grade and alignment of the railroad and the highway; the cost of separating grades; the topography of the country, and all other circumstances and conditions naturally involved in such an inquiry.

[1961 c 14 § 81.53.020. Prior: 1913 c 30 § 2; RRS § 10512. Formerly RCW 81.52.090.]

RCW 81.53.060

Petition for alteration of crossing — Closure of grade crossing without hearing.

The mayor and city council, or other governing body of any city or town, or the legislative authority of any county within which there exists any under-crossing, over-crossing, or grade crossing, or where any street or highway is proposed to be located or established across any railroad, or any railroad company whose road is crossed by any highway, may file with the commission their or its petition in writing, alleging that the public safety requires the establishment of an under-crossing or over-crossing, or an alteration in the method and manner of an existing crossing and its approaches, or in the style and nature of construction of an existing over-crossing, under-crossing, or grade crossing, or a change in the location of an existing highway or crossing, the closing or discontinuance of an existing highway crossing, and the diversion of travel thereon to another highway or crossing, or if not practicable, to change the crossing from grade or to close and discontinue the crossing, the opening of an additional crossing for the partial diversion of travel, and praying that this relief may be ordered. If the existing or proposed crossing is on a state road, highway, or parkway, the petition may be filed by the secretary of transportation or the state parks and recreation commission. If the existing crossing is adjacent to a project funded in part or in full by the state of Washington and managed by the department of transportation, and closure of the crossing is part of the project, the petition may be filed by the secretary of transportation or the secretary's designee, or if the petition is filed by another entity, the secretary of transportation or the secretary's designee shall intervene as a party in any hearing at which the closure of the crossing is contested. If the department of transportation is not a lead agency under chapter 43.21C RCW, a lead agency shall also intervene as a party in any hearing at which the closure of the crossing is contested. Upon the petition being filed, the commission shall fix a time and place for hearing the petition and shall

give not less than twenty days' notice to the petitioner, the railroad company, and the municipality or county in which the crossing is situated. If the highway involved is a state highway or parkway, or if the crossing is adjacent to a project funded in part or in full by the state of Washington and managed by the department of transportation and closure of the crossing is part of the project, like notice shall be given to the secretary of transportation or the state parks and recreation commission. If the change petitioned for requires that private lands, property, or property rights be taken, damaged, or injuriously affected to open up a new route for the highway, or requires that any portion of any existing highway be vacated and abandoned, twenty days' notice of the hearing shall be given to the owner or owners of the private lands, property, and property rights which it is necessary to take, damage, or injuriously affect, and to the owner or owners of the private lands, property, or property rights that will be affected by the proposed vacation and abandonment of the existing highway. The commission shall also cause notice of the hearing to be published once in a newspaper of general circulation in the community where the crossing is situated, which publication shall appear at least two days before the date of hearing. At the time and place fixed in the notice, all persons and parties interested are entitled to be heard and introduce evidence. In the case of a petition for closure of a grade crossing the commission may order the grade crossing closed without hearing where: (1) Notice of the filing of the petition is posted at, or as near as practical to, the crossing; (2) notice of the filing of the petition is published once in a newspaper of general circulation in the community or area where the crossing is situated, which publication shall appear within the same week that the notice referred to in subsection (1) of this section is posted; and (3) no objections are received by the commission within twenty days from the date of the publication of the notice.

[2010 c 82 § 1; 1984 c 7 § 374; 1969 ex.s. c 210 § 8; 1961 c 14 § 81.53.060. Prior: 1937 c 22 § 2, part; 1921 c 138 § 1, part; 1913 c 30 § 4, part; RRS § 10514, part. Formerly RCW 81.52.130.]

Notes:

Severability -- 1984 c 7: See note following RCW 47.01.141.