

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

In the Matter of the Petition of	)	DOCKET TR-090434
	)	
CITY OF FERNDALE,	)	ORDER 01
	)	
Petitioner.	)	ORDER GRANTING PETITION, WITH
	)	CONDITIONS, TO CLOSE A PUBLIC
BNSF RAILWAY CO.,	)	HIGHWAY-RAIL GRADE CROSSING
	)	AT 2ND AVENUE IN FERNDALE
	)	
Respondent.	)	USDOT: 084836B
.....	)	UTC: 2B106.02
	)	

**BACKGROUND**

- 1     On March 25, 2009, the City of Ferndale (City or Petitioner) filed with the Washington Utilities and Transportation Commission (Commission) a petition seeking approval to close a highway-rail grade crossing. The crossing is identified as USDOT 084836B and is located at the intersection of 2nd Avenue and the BNSF Railway Co.'s (BNSF's) tracks in the city of Ferndale.
- 2     The petition included BNSF's consent to entry of an order by the Commission without further notice or hearing.
- 3     In its petition, the City states that the average daily vehicle count is 150 and is infrequently used. The City further states that a nearby roadway is being reconstructed and the crossing is no longer needed. The City considers the crossing dangerous because of the extreme grade and limited sight distances.
- 4     Washington Street is the closest alternate route, which is approximately 300 yards north. The Washington Street crossing is equipped with lights and gates. Bass Street which is located south of the 2<sup>nd</sup> Avenue crossing is also a nearby alternate route. The Bass Street crossing is grade separated with vehicle traffic traveling under the tracks.
- 5     Pursuant to the procedure specified in RCW 81.53.060, Commission Staff posted notice of the proposed crossing closure at the crossing site. Commission Staff also arranged for publication of legal notices in the Bellingham Herald and the Ferndale Record Journal,

newspapers of general circulation in the area. Publication in the Ferndale record occurred on April 22, 2009, and publication in the Bellingham Herald was on March 19, 2009. The notices directed that any person wishing to comment on the petition respond by e-mail or in writing to the Commission. The Commission did not receive comments or objections regarding the proposed crossing closure within the prescribed time frame.

6 Commission Staff investigated the petition and recommended that the petition be granted.

7 The proposed closure is in the interest of improving safety at highway-grade crossings by eliminating a crossing.

### FINDINGS AND CONCLUSIONS

8 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington having jurisdiction over public railroad-highway grade crossings within the state of Washington. *RCW 81.53*.

9 (2) The proposed closure of a crossing involves a public railroad-highway grade crossing, as defined in *RCW 81.53.010*.

10 (3) *RCW 81.53.060* requires that the Commission grant approval prior to closing a public railroad-highway grade crossing within the state of Washington.

11 (4) Commission Staff investigated the petition and recommends that it be granted with the conditions set forth below.

12 (5) After examination of the petition filed by the City on March 25, 2009, and giving consideration to all relevant matters and for good cause shown, the Commission grants the petition.

### ORDER

#### THE COMMISSION ORDERS:

13 The petition of the City of Ferndale to close a railroad-highway grade crossing at 2<sup>nd</sup> Avenue in Ferndale, is granted, as follows:

- (1) The 2<sup>nd</sup> Avenue crossing must be closed no later than December 31, 2009.

- (2) Upon closure of the crossing, BNSF Railway Co. must remove the crossing surface and signals.
- (3) Upon completion of the closure authorized herein, City of Ferndale must notify the Commission.

The Commissioners have delegated authority to the Executive Director and Secretary to enter this Order pursuant to RCW 80.01.030 and WAC 480-07-904(1)(a).

DATED at Olympia, Washington and effective May 28, 2009.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Executive Director and Secretary