

trains. The maximum train speed will be set at 10 miles per hour. No passenger trains will use this crossing.

- 6 The City proposes to establish the new rail line across E 40 Road in two phases. Phase One involves the City constructing the spur line across E 40 Road, installing “Out of Service” signage on both approaches to the crossing, as well as advance warning signage. The new track through the roadway will not be placed into service and an earthen bumper will be installed west of the crossing to prevent any trains from accessing the crossing. Installing “Out of Service” signage at the crossing is appropriate because the crossing will not be in use.
- 7 Phase Two of the project involves the City installing shoulder mounted lights and gates and 90 feet of median barriers on both approaches to the crossing. Installation of the active warning devices and median barriers will be completed within two years from the effective date of this Order or sooner if the railroad tracks on the east side of the crossing are installed. No trains will operate over the crossing until the active warning devices and median barriers are installed and functioning. At the time the track is put into service, the “Out of Service” signage would be removed.
- 8 The City, as State Environmental Policy Act (SEPA) lead agency for the proposal, has issued a Determination of Non-significance thereby completing the SEPA procedures for the opening of a grade crossing.
- 9 RCW 81.53.020 requires that all new highway-railroad grade crossings be grade separated where practicable. Highway-railroad crossings may be authorized at-grade by the Commission but only upon finding that grade separation is impracticable.
- 10 Commission Staff (Staff) investigated the City’s petition to construct the E 40 Road crossing at-grade. Staff recommends that the Commission find grade separation impracticable at this location based on the low train traffic and flat topography with unobstructed sight distance in all quadrants. In addition, the City proposes to signalize the crossing prior to it being put into service. The City also utilized the Federal Highway Administration’s Grade Separation Guidelines and determined that construction of a grade separated crossing at E 40 Road does not meet the minimum threshold.
- 11 On December 17, 2012, BNSF, the operator over the line, consented to entry of an Order by the Commission without further notice or hearing. BNSF will operate on the tracks over the crossing but will have no responsibility for maintaining the crossing or active

warning devices. The City is constructing the rail line and will also be responsible for all maintenance of the tracks and signals.

12 Examination of the petition and consideration of relevant facts support granting the petition subject to the following conditions:

- (a) All construction and engineering for Phase One must substantially conform to the petition and engineering design plans filed in this Docket.
- (b) Within two years from the effective date of this Order or sooner, if the railroad tracks on the east side of the crossing are installed, shoulder mounted lights and gates and median barriers will be installed by the City at the E 40 Road crossing. Active warning devices will be installed prior to the crossing being put into service. Sixty days prior to installation of the active warning devices, the City must provide final engineering plans of the crossing to Commission Staff for final review and approval.
- (c) The City must remove the “Out of Service” signage prior to the crossing being put into service.
- (d) Traffic control devices must comply with all applicable standards specified in the 2009 U.S. Department of Transportation Manual on Uniform Traffic Control Devices (MUTCD).
- (e) The Petitioner must notify the Commission within 30 days after completion of each phase. Acceptance of the changes is subject to inspection by Commission Staff, verifying that the crossing is in full compliance with applicable laws, regulations, and conditions set forth in this order.

FINDINGS AND CONCLUSIONS

13 (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.

- 14 (2) The proposed construction of a crossing involves a public railroad-highway grade crossing, as defined in RCW 81.53.010.
- 15 (3) RCW 81.53.030 and WAC 480-62-150(1)(a) require the Commission grant approval prior to constructing a public railroad-highway grade crossing within the State of Washington.
- 16 (4) RCW 81.53.020 requires all new highway-railroad crossings to be grade separated where practicable. The Commission finds that it is not practicable to grade separate the E 40 Road crossing.
- 17 (5) Commission Staff conducted an investigation and recommended that the petition be granted. Granting the petition is subject to the following conditions:
- (a) All construction and engineering for Phase One must substantially conform to the petition and engineering design plans filed in this Docket.
 - (b) Within two years from the effective date of this order or sooner if the railroad tracks on the east side of the crossing are installed, the City must install shoulder mounted lights and gates and median barriers at the E 40 Road crossing. Active warning devices will be installed prior to the crossing being put into service. Sixty days prior to installation of the active warning devices, the City must provide final engineering plans of the crossing to Commission Staff for final review and approval.
 - (c) The City must remove the “Out of Service” signage prior to the crossing being put into service.
 - (d) Traffic control devices must comply with all applicable standards specified in the 2009 MUTCD.
 - (e) The Petitioner must notify the Commission within 30 days after completion of each phase. Acceptance of the changes is subject to inspection by Commission Staff, verifying that the crossing is in full compliance with applicable laws, regulations, and conditions set forth in this order.

- 18 (6) After examination of the petition filed by the City on September 10, 2012, and the revised petition on November 28, 2012, and giving consideration to all relevant matters, the Commission has determined that construction of a public railroad-highway grade crossing at E 40 Road is reasonable and the petition of the City of Pasco should be granted.

ORDER

THE COMMISSION ORDERS:

- 19 (1) The petition of the City of Pasco to construct a public railroad-highway grade crossing at E 40 Road in Pasco Washington, is granted, subject to the following conditions:
- (a) All construction and engineering for Phase One must substantially conform to the petition and engineering design plans filed in this Docket.
 - (b) Within two years from the effective date of this order or sooner if the railroad tracks on the east side of the crossing are installed, the City of Pasco must install shoulder mounted lights and gates and median barriers at the E 40 Road crossing. Active warning devices will be installed prior to the crossing being put into service. Sixty days prior to installation of the active warning devices, the City of Pasco must provide final engineering plans of the crossing to Commission Staff for final review and approval.
 - (c) The City of Pasco must remove the “Out of Service” signage prior to the crossing being put into service.
 - (d) Traffic control devices must comply with all applicable standards specified in the 2009 MUTCD.
 - (e) The City of Pasco must notify the Commission within 30 days after completion of each phase. Acceptance of the changes is subject to inspection by Commission Staff, verifying that the

crossing is in full compliance with applicable laws, regulations and conditions set forth in this order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

Dated at Olympia, Washington, and effective January 31, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Executive Director and Secretary