

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

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| In the Matter of the Petition of |) | DOCKET NO. TR-990654 |
| |) | |
| THE BURLINGTON NORTHERN |) | |
| SANTA FE RAILWAY COMPANY |) | |
| |) | ORDER AMENDING ORIGINAL |
| For Modification of the Order |) | ORDER AND AUTHORIZING |
| Regulating the Speed of Passenger |) | INCREASE OF TRAIN SPEED LIMITS |
| and Freight Trains in Sumner, |) | TO THOSE SET BY THE FEDERAL |
| Washington |) | RAILROAD ADMINISTRATION |
| |) | |

BACKGROUND

- 1 On June 16, 2000, The Commission entered an order approving a request by the Burlington Northern Santa Fe Railway Company (BNSF) to modify train speed limits through the city of Sumner to the maximum speeds allowed by the Federal Railroad Administration, subject to certain safety improvements.

- 2 The safety improvements set forth in the Order included installing median barriers at the Main Street and Williams Avenue Grade crossings, and on the west side of the Zehnder Street grade crossing; ensuring that the train detection circuitry at all of Sumner's grade crossings is compatible with the higher speeds; installing a highway traffic signal at the Zehnder Street/Wood Avenue roadway intersection and interconnecting the signal to the railroad warning devices at the Zehnder Street grade crossing; and installing a pre-signal on the west side of the Zehnder Street grade crossing.

- 3 On August 14, 2002, the Commission amended the Order to waive the requirement to install median separators on the west side of Zehnder Street due to geometric constraints making installation of the barriers impractical.

DISCUSSION

- 4 After the 2002 amendment was entered, two developments occurred within Sumner that affect the remaining conditions of the Order. In June of 2003, the Williams Avenue grade crossing was closed by BNSF (in Docket TR-001750), thereby eliminating the requirement for installation of median barriers at that location. The second development relates to the condition in the Order requiring the installation of a highway traffic signal and pre-signal at the Zehnder Street grade crossing. Staff's recommendation to include these conditions in the original Order was largely based on the fact that the Zehnder Street grade crossing was located along the City's primary truck route, and that the available vehicle storage space between the tracks and the stop line at the Zehnder Street/Wood Avenue intersection is only 45 feet. Heavy trucks and other tandem vehicles that traveled east on Zehnder would frequently extend onto the BNSF main track when they made the required stop at the Zehnder Street/Wood Avenue roadway intersection. The intent of the condition was to require a mechanism to clear any vehicles that may be stopped on or too close to the tracks when trains approach the crossing.
- 5 In June of 2003, the construction of a new roadway at Puyallup Street re-routed Sumners' truck route away from the Zehnder Street grade crossing. Although Zehnder Street is still used by some trucks for local access, the volume of heavy truck traffic has decreased considerably, thereby reducing the exposure of semi-trucks and other tandem vehicles to trains at the crossing. Because the then-active truck route designation was Staff's primary argument for categorizing safety concerns at the crossing as significant enough to require the previously mentioned prerequisites for train speed increases, the change in truck route gives reason for the Commission to reassess the related requirements.
- 6 On August 4, 2003, the Burlington Northern Santa Fe Railway Company sent a letter to Sumner, stating that all of the conditions of the original Order, except the installation of the highway traffic signal and pre-signal at the Zehnder Street

grade crossing, have been completed. The letter also stated BNSF's intent to increase freight train speeds through the Zehnder Street grade crossing by ten miles per hour (i.e. from 40 mph to 50 mph) on September 2, 2003, citing the change in truck route as support for doing so without completing the remaining conditions. The Zehnder Street crossing is the only section on the BNSF main line through Sumner where trains are required to slow from 50 mph to 40 mph. The Company plans to implement this incremental increase in its freight train speeds to improve the efficiency of operations on the Company's 1E line. The letter further states that BNSF will not increase trains speeds beyond the initial ten-mile per hour freight train speed increase until the traffic signal and pre-signal are installed at the Zehnder Street crossing, but "no later than spring 2004."

- 7 A copy of the August 4, 2003, BNSF letter was filed by Commission Staff on August 11, 2003, as a BNSF request to remove condition three in TR-990654.
- 8 Staff recommended that, although safety concerns at the Zehnder Street grade crossing related to short vehicle storage between the BNSF tracks and Wood Avenue still need to be addressed in the interest of public safety, the problems previously associated with long wheelbase vehicles using the crossing are not sufficiently severe and unique to require that the specified improvements be completed before train speeds increase. Staff will reassess safety at the Zehnder Street grade crossing and work with the city of Sumner and BNSF to implement the appropriate improvements, however, further review and improvements to the crossing should be the subject of a separate proceeding.

FINDINGS OF FACT

- 9 (1) This matter was brought before the Commission at its regularly scheduled open meeting on August 27, 2003.

- 10 (2) Commission Staff verified that condition one of the original Order in TR-990654 has been met through the successful installation of median barriers at the Main Street grade crossing; Commission waiver of the requirement to install median barriers on the west side of the Zehnder Street grade crossing; and the closure and abandonment of the Williams Avenue grade crossing.
- 11 (3) Commission Staff verified that condition two of the original Order in TR-990654 has been met through the installation of constant warning train detection circuitry at all of the railroad-highway grade crossings listed in the Order.
- 12 (4) Commission Staff verified that condition three of the original Order in TR-990654 has been partially met through the installation of additional warning lights at the Zehnder Street grade crossing and directed at Pease Road.
- 13 (5) Changes to the operational characteristics of highway traffic over the Zehnder Street grade crossing give reason to amend the original Order to remove the remainder of condition three, relating to the installation of a highway traffic signal and pre-signal at the Zehnder Street grade crossing, as a prerequisite to increasing train speeds through Sumner to the limits set by the Federal Railroad Administration.

CONCLUSIONS OF LAW

- 14 (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. *Chapter 81.53 RCW.*
- 15 (2) Section 205 of the Federal Railroad Safety Act, 49 U.S.C., Section 20106 and WAC 480-62-155 limit the Commission's authority to regulate train speeds

only where it is necessary to eliminate or reduce an essentially local safety hazard.

- 16 (3) There is good cause to amend the original Order to remove the portion of condition three relating to the installation of a highway traffic signal and pre-signal at the Zehnder Street grade crossing.

ORDER

THE COMMISSION ORDERS:

- 17 (1) Order TR-990654 is amended to remove the requirements of condition three, relating to the installation of a highway traffic signal and pre-signal at the Zehnder Street grade crossing, as a prerequisite to increasing train speeds through Sumner to the limits set by the Federal Railroad Administration.
- 18 (2) Having satisfied all conditions in the Order, as amended, the Burlington Northern Santa Fe Railway Company is authorized to increase train speed limits within the city of Sumner to those set by the Federal Railroad Administration.

DATED at Olympia, Washington, and effective this 27th day of August, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner