

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

CHELAN COUNTY,)	
)	DOCKET TR-061442
)	
Petitioner,)	ORDER 01
)	
v.)	PREHEARING CONFERENCE
)	ORDER;
)	
THE BURLINGTON NORTHERN)	
SANTA FE RAILWAY COMPANY,)	NOTICE OF HEARING
)	(Oral argument set for June 22,
Respondent.)	2007 at 9:30 a.m.;
)	Evidentiary hearing set for
)	September 28, 2007 at 9:30 a.m.)
.....)	

1 **NATURE OF PROCEEDING.** Docket TR-061442 involves Chelan’s County’s petition to allow the alternation and relocation of a highway-rail under-crossing on Chumstick Highway in Chelan County, Washington.

2 **CONFERENCE.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington on January 29, 2007, before Administrative Law Judge Theodora M. Mace.

3 **APPEARANCES.** Louis Chernak, Deputy Prosecuting Attorney, Wenatchee, represents petitioner Chelan County (Chelan). Bradley Scarp, attorney, Seattle, represents Burlington Northern Santa Fe Railway Company (BNSF). Jonathan Thompson, Assistant Attorney General, Olympia, represents the Commission’s regulatory staff (Commission Staff or Staff).¹ Contact information provided at the conference for the parties’ representatives is attached as Appendix A to this order.

¹ In formal proceedings, such as this case, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an “*ex parte* wall” separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners’ policy and accounting advisors from all parties, including Staff. RCW 34.05.455.

4 **PETITIONS FOR INTERVENTION.** No party appeared at the conference seeking to intervene.

5 **PROTECTIVE ORDER.** The parties reserve their request for a protective order until they determine such an order is necessary.

6 **DISCOVERY.** The parties asked that the discovery rules be invoked in this docket, under WAC 480-07-400. The matter is one that qualifies for discovery, and the discovery rules, WAC 480-07-400 – 425, are invoked.

7 **PROCEDURAL SCHEDULE.** The parties agreed on a procedural schedule during the conference. The Commission adopts this procedural schedule, which is attached to this Order in Appendix B, and is set forth below:

April 6, 2007	Settlement conference, location arranged by the parties
May 4, 2007	BNSF brief on jurisdictional issues
June 1, 2007	Chelan response brief on jurisdictional issues
June 15, 2007	BNSF reply brief on jurisdictional issues
June 22, 2007	Oral argument on jurisdiction
June 29, 2007	Order on jurisdiction
July 13, 2007	Chelan files direct testimony
August 10, 2007	BNSF files response testimony
August 24, 2007	Chelan files rebuttal testimony
September 28, 2007	Evidentiary hearing – Leavenworth City Hall, to be arranged by Chelan

- 8 **NOTICE OF HEARINGS.** Oral argument on the question of jurisdiction is set for **June 22, 2007, 9:30 a.m., Room 206, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** The parties may appear by conference bridge, but must notify the Commission three days in advance of their intention to do so. Evidentiary hearing, if necessary, is set for **September 28, 2007, 9:30 a.m. at Leavenworth City Hall, Leavenworth, Washington,** to be arranged by Chelan. Chelan will provide further information about the location of the hearing after oral argument.
- 9 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file an original plus **5** copies of all pleadings, motions, briefs, and other prefiled materials. These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.
- 10 All filings must be mailed or delivered to the Executive Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 11 An electronic copy of all filings must be provided through the Commission's Web Portal (www.wutc.wa.gov/e-filing) or by e-mail delivery to records@wutc.wa.gov. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.
- 12 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Pursuant to WAC 480-07-145(6), the presiding officer may grant parties a one-day extension of the paper-filing requirement, allowing electronic submission of documents with the Commission on the filing deadline. Parties may only submit documents electronically with the Commission in this proceeding with the permission of the presiding officer. If, at any

time during this proceeding, parties are authorized to submit documents with the Commission electronically under WAC 480-07-145(6), parties must submit the document through the Commission's Web Portal (www.wutc.wa.gov/e-filing) or by e-mail to records@wutc.wa.gov, and file an original, plus 5 copies, of the document with the Commission by the following business day.

- 13 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective January 30, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE
Administrative Law Judge

APPENDIX A

PARTIES' REPRESENTATIVES
DOCKET TR-061442

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Chelan County	Louis Chernak Deputy Prosecuting Attorney Chelan County Prosecuting Attorney's Office 401 Washington Street 5 th Floor P.O. Box 2596 Wenatchee, WA 98807	509-667-6643	509-667-6490	Lou.chernak@co.chelan.wa.us
BNSF	Bradley P. Scarp Montgomery Scarp MacDougall, PLLC 1218 Third Avenue Suite 2700 Seattle, WA 98101	206-625-1801	206-625-1807	brad@montgomeryscarp.com
Staff	Jonathan Thompson Assistant Attorney General 1400 S. Evergreen Park Drive S.W. P.O. Box 40128 Olympia, WA 98504	360-664-1225	360-586-5522	jthompson@wutc.wa.gov

APPENDIX B
PROCEDURAL SCHEDULE
DOCKET TR -061442

EVENT	DATE	INTERVAL
Prehearing conference	January 29, 2007	
Settlement conference	April 6, 2007	66 days
BNSF Brief on jurisdiction	May 4, 2007	28 days
Chelan response brief	June 1, 2007	28 days
BNSF reply brief	June 15, 2007	14 days
Oral argument on jurisdiction	June 22, 2007	7 days
Order on jurisdiction	June 29, 2007	7 days
Chelan files direct testimony	July 13, 2007	14 days
BNSF files response testimony	August 10, 2007	28 days
Chelan files rebuttal testimony	August 24, 2007	13 days
Evidentiary hearing	September 28, 2007	35 days
Post hearing briefs	October 28, 2007	29 days