

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

CITY OF TUMWATER,)	DOCKET TR-091937
)	
Petitioner,)	ORDER 03
)	
)	ORDER RE-AUTHORIZING THE
)	“EXEMPT” STATUS OF A
TACOMA RAIL,)	HIGHWAY-RAIL GRADE CROSSING
)	AT 66 th AVENUE SOUTHWEST
Respondent.)	
)	
)	USDOT: 085277G
.....)	

BACKGROUND

- 1 On December 17, 2009, the City of Tumwater (City) filed a petition with the Utilities and Transportation Commission (Commission) seeking approval to install R15-3 exempt crossing signs at a railroad-highway grade crossing. The crossing is located at the intersection of 66th Avenue Southwest and Tacoma Rail’s tracks in the City of Tumwater in Thurston County, Washington. The USDOT number assigned to the crossing is 085277G.
- 2 Tacoma Rail (Respondent) consented to entry of an Order by the Commission without further notice or hearing.
- 3 On January 10, 2010, the Commission issued an Order approving the request for installation of exempt signs at the 66th Avenue Southwest crossing.
- 4 On March 18, 2011, the City submitted a request to modify Order 01 and temporarily remove the exempt signs at this crossing for 90 days. Tacoma Rail submitted a statement in support of the City’s request.
- 5 Tacoma Rail was considering putting the siding and track located south of the 66th Avenue Southwest crossing back in service. If Tacoma Rail decided to use the siding and track, then trains would regularly travel over the 66th Avenue Southwest crossing. The Commission previously approved the City’s request for installation of exempt signs at the 66th Avenue Southwest crossing because there was no train traffic over the crossing. There are industrial businesses located 0.37 miles north of the 66th Avenue Southwest

crossing. These businesses utilize rail service provided by Tacoma Rail and are the last customers on this line before the crossing. Currently, there is no train service beyond this point.

- 6 A recent derailment at the 66th Avenue Southwest crossing has caused concern for the City, Tacoma Rail and Commission staff. As a precautionary measure, the stakeholders agreed that temporarily suspending the exempt status is reasonable given the recent derailment and the potential of Tacoma Rail operations over the crossing.
- 7 On March 23, 2011, the Commission issued an Order approving the request for temporarily suspending the “exempt” status of the highway-rail grade crossing at 66th Avenue Southwest for 90 days.
- 8 On June 8, 2011, Tacoma Rail notified the Commission that it would not be putting the siding track located south of the 66th Avenue Southwest crossing back in service. In addition, Tacoma Rail completed its investigation of the derailment and has taken appropriate action to investigate, educate and reduce the possibility of a similar incident at this crossing. Tacoma Rail has discontinued the practice of gravity switch movements at this location; moved the flop-over style derail 150 feet north of the crossing from its original location of 65 feet; provided pre-shift safety briefings to all Tacoma Rail staff on the incident; and placed a caboose on the railroad line segment which will provide a platform for trainmen who can protect the point of the train and control the air brakes during south-bound shoving movements.
- 9 The City of Tumwater’s comments filed on March 18, 2011, stated that if Tacoma Rail determines that it will not use the siding located to the south of the 66th Avenue Southwest crossing, the City requests that the exempt status of the crossing be restored, and, in addition, that the location of the derail device be maintained at 150 feet north of the crossing.
- 10 Commission staff reviewed Tacoma Rail’s June 8, 2011, update on the status of operations near the 66th Avenue Southwest crossing and its decision to not re-activate the siding and recommends that the exempt status of the crossing be restored by July 15, 2011.

FINDINGS AND CONCLUSIONS

- 11 (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.*
- 12 (2) The 66th Avenue Southwest highway-rail grade crossing is a public crossing within the state of Washington.
- 13 (4) RCW 81.53.060 requires that the Commission grant approval prior to the modification of warning devices at public railroad-highway grade crossings within the state of Washington.
- 14 (5) Commission staff investigated the request from the City of Tumwater to restore the exempt status of the 66th Avenue Southwest crossing and recommended that it be granted.
- 15 (6) After reviewing the information provided by Tacoma Rail on June 8, 2011, and the City of Tumwater's comments filed on March 18, 2011, and giving due consideration, the Commission grants the request to restore the exempt status of the 66th Avenue Southwest crossing.

ORDER

THE COMMISSION ORDERS:

- 16 The request from the City of Tumwater to restore the exempt status of a railroad-highway grade crossing at 66th Avenue Southwest and Tacoma Rail's tracks in the City of Tumwater, is granted, as follows:
- (1) The exempt signs must be installed by July 15, 2011. The installation of the exempt signs must comply with all applicable standards specified in the U.S. Department of Transportation, *2009 Manual on Uniform Traffic Control Devices.*
 - (2) Upon completion of the installation of the exempt signs authorized herein, Petitioner must notify the Commission.

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 June 17, 2011.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Executive Director and Secretary

NOTICE: This is an order delegated to the Secretary for decision. In addition to serving you a copy of the decision, the Commission will post on its Internet Web site for at least fourteen (14) days a listing of all matters delegated to the Secretary for decision. You may seek Commission review of this decision. You must file a request for Commission review of this order no later than fourteen (14) days after the date the decision is posted on the Commission's Web site. The Commission will schedule your request for review for consideration at a regularly scheduled open meeting. The Commission will notify you of the time and place of the open meeting at which the Commission will review the order.

The Commission will grant a late-filed request for review only on a showing of good cause, including a satisfactory explanation of why the person did not timely file the request. A form for late-filed requests is available on the Commission's Web site.

This notice and review process is pursuant to the provisions of RCW 80.01.030 and WAC 480-07-904(2) and (3).