

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

CITY OF SPOKANE VALLEY,)	DOCKET TR-111033
)	
Petitioner,)	ORDER 01
)	
v.)	PREHEARING CONFERENCE
)	ORDER ESTABLISHING
UNION PACIFIC RAILROAD,)	PROCEDURAL SCHEDULE AND
)	SCHEDULING HEARING
Respondent.)	(Evidentiary Hearing set for
)	March 28, 2012)
.....)	

1 **NATURE OF PROCEEDING:** On June 6, 2011, the City of Spokane Valley (the City) filed with the Washington Utilities and Transportation Commission (Commission) a petition to modify warning devices and install sidewalks at a highway-rail grade crossing at Pines Rd, Spokane County, Spokane Valley, Washington.¹ On June 21, 2011, the Commission sent a letter to Union Pacific Railroad Company (Union Pacific or the Railroad) notifying the Railroad of the petition and requesting that it respond within twenty days with its position on the petition. On July 13, 2011, Union Pacific notified the Commission that, while it does not have any objection to the petition, it does have concerns about cost allocations for the installations.

2 By Notice entered July 29, 2011, the Commission scheduled a prehearing conference and appointed Administrative Law Judge Marguerite Friedlander to hear this matter.

3 **CONFERENCE.** The prehearing conference convened, as scheduled, in this proceeding at Olympia, Washington on August 30, 2011, before Judge Friedlander.

4 **PARTY REPRESENTATIVES:** Bryan D. Caditz, Hedeem & Caditz, PLLC, Seattle, Washington, represents the City. Carolyn Larson, Dunn Carney Allen Higgins and Tongue, LLP, Portland, Oregon, represents Union Pacific. Michael A. Fassio,

¹ The City filed a revised page 5 to its original petition on June 30, 2011.

Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff).² A complete list of party representatives and their contact information is attached to this Order as Appendix A.

5 **APPLICABLE STATUTES.** The Commission evaluates highway-rail crossings according to the applicable statutes in RCW Title 81. According to RCW 81.53.060 and RCW 81.53.110, the Commission has the legal authority to regulate alterations in the style or nature of construction of existing grade crossings, and to apportion the expense of such a change between the railroad and the municipality or county affected by the modification.

6 **PROCEDURAL SCHEDULE/PROCEDURAL RULES.** During the prehearing conference, the parties advised the Commission that they have agreed on a proposed procedural schedule. The Commission adopts the procedural schedule proposed by the parties. The procedural schedule is set forth in Appendix B to this Order.

7 The Commission's procedural rules at WAC 480-07-100, *et. seq.*, apply to all procedural matters in this case. The parties should familiarize themselves with these rules.

8 **NOTICE OF HEARING.** The Commission will hold an evidentiary hearing in this matter at **10:00 a.m., March 28, 2012, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Dr. SW, Olympia, Washington.**

9 **DISCOVERY.** Discovery will be conducted pursuant to the Commission's discovery rules, WAC 480-07-400 – 425. The Commission urges the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution.

² In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without first giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

- 10 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file the original plus **seven (7) copies** of the unredacted versions of all pleadings, motions, briefs, and other prefiled materials. Parties must also file the original and 1 copy of any redacted version(s). 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.
- 11 All filings must be mailed or delivered to the Executive Director and 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.
- 12 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Electronic versions of all documents must be filed in accordance with WAC 480-07-140(6). Specifically, all documents must be filed in .pdf (Adobe Acrobat) format, supplemented by a separate file in .doc (MS Word), .wpd (WordPerfect), .xls (Excel), or .ppt (Power Point) format.
- 13 A copy of all filings must be provided through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to records@utc.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.
- 14 According to WAC 480-07-145(6), the parties may electronically submit documents to the Commission provided the electronic submission is received by 3:00 pm on the filing deadline and the Commission receives the original and required number of copies by 12:00 pm on the following business day. Parties must submit documents through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail to records@utc.wa.gov, and file an original, plus **seven (7) paper copies**, of the documents with the Commission by the following business day. Parties must provide

courtesy copies of their electronic submissions to the presiding administrative law judge at mfriedla@utc.wa.gov and to the parties to the proceeding.

- 15 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services, if you wish to explore these services, please call the Director, Administrative Law Division, at 360-664-1355.
- 16 **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 September 1, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER
Administrative Law Judge

APPENDIX A

Docket TR-111033

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
City of Spokane Valley	Bryan D. Caditz Hedeem & Caditz, PLLC 600 University Street Suite 2100 Seattle, WA 98101-4161	206-903-9953	206-903-9956	bryan@hedeencaditz.com
Union Pacific	Carolyn Larson Dunn Carney Allen Higgins and Tongue LLP 851 SW Sixth Avenue Suite 1500 Portland, OR 97204	503-417-5462	503-224-7324	clarson@dunncarney.com
Commission Staff	Michael A. Fassio Assistant Attorney General 1400 S. Evergreen Park Dr. SW P.O. Box 40128 Olympia, WA 98504-0128	360-664-1192	360-586-5522	mfassio@utc.wa.gov

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKET TR-111033**

<u>EVENT</u>	<u>DATE</u>
City of Spokane Valley Prefiled Direct Testimony and Exhibits	November 18, 2011
Union Pacific Railroad and Commission Staff Prefiled Responsive Testimony and Exhibits	January 20, 2012
City of Spokane Valley Prefiled Rebuttal Testimony and Exhibits and Union Pacific Railroad and Commission Staff Prefiled Cross-answering Testimony and Exhibits	February 24, 2012
Evidentiary Hearing	March 28, 2012