

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

CITY OF GRANDVIEW,

Petitioner,

CENTRAL WASHINGTON
RAILROAD COMPANY,
BNSF RAILWAY CO.,

Respondents.

DOCKET TR-230370

ORDER 02

GRANTING PETITION TO MODIFY
A RAILROAD-HIGHWAY GRADE
CROSSING AND DENYING
REQUEST FOR DISBURSEMENT OF
FUNDS FROM THE GRADE
CROSSING PROTECTIVE FUND

USDOT: 098614H

BACKGROUND

- 1 On May 17, 2023, the City of Grandview (City or Petitioner) filed with the Washington Utilities and Transportation Commission (Commission) a petition (Petition) seeking approval to modify a public railroad-highway grade crossing at the intersection of Division Street and the Central Washington Railroad Company (Central Washington Railroad) tracks in Grandview, identified as USDOT 098614H. These tracks are operated by Central Washington Railroad but owned by BNSF Railway Co. (BNSF). In its Petition, the City proposed to reduce the width of Division Street to 37 feet and install new curbs, gutters, and sidewalks on both sides of the roadway.
- 2 On June 15, 2023, the Commission issued Order 01 in this docket approving the Petition.
- 3 On June 28, 2024, Commission staff (Staff) learned that in addition to roadway lane realignment and sidewalk construction approved in Order 01, the City intended to relocate the Division Street crossing warning lights and gates. The City also inquired about the availability of a Grade Crossing Protective Fund (GCPF) grant to pay for the signal relocation work. Staff provided general technical assistance to the City with respect to the Commission petition process for signal modifications and the GCPF grant program.
- 4 On July 16, 2024, the City notified Staff that the relocation of the active warning devices on Division Street was complete and requested Staff review its draft supplemental petition requesting approval to relocate the signals and requesting disbursement from the

GCPF. The City informed Staff that signal relocation was necessary for the City's project to comply with the Code of Federal Regulations (CFR).

5 Staff informed the City that Commission approval was required prior to the relocation of the signals, and that the Commission must authorize disbursement of project funds from the GCPF prior to the construction of a project.

6 On September 25, 2024, the City submitted a supplemental petition (Supplemental Petition) requesting to relocate the active warning devices at the Division Street crossing in Grandview, USDOT 098614H, and seeking funding from the GCPF for the project. In its Supplemental Petition, the City describes the project as relocating the west signal cantilever and crossing gate seven feet to the east so that the overhead warning lights correspond with the newly realigned traffic lanes and to comply with Title 49 C.F.R. Part 236. The Supplemental Petition states that the work was completed on June 29-30, 2024, and contains "before" and "after" photos of the work. The Supplemental Petition requests funding from the GCPF in the amount of \$25,409.

7 Staff has investigated the Supplemental Petition and recommends that it be granted in part and denied in part. As concerns the partial grant of the petition, Staff recommends approving the City's request to modify the highway-rail grade crossing at issue. Although the public service laws require the Commission's approval prior to a petitioner making any such modification,¹ Staff recommends belated authorization of the City's efforts to recognize its efforts to comply with federal law and keep the public highways safe for traveling.

8 As concerns the partial denial, Staff recommends denying GCPF funds for this project because the City applied for funding after the work was already completed. The Legislature enacted the GCPF to fund work performed under chapter 81.53 Revised Code of Washington (RCW). Staff notes that an entity wishing to perform such work must petition the Commission for authorization to modify the crossing or its protective devices before doing so.² In conformity with that law, the Commission's rules contemplate that any such entity will file an application for GCPF reimbursement prior to beginning work at a crossing.³ This, in part, ensures that the Commission has the opportunity to suggest improvements to a project before the applicant begins construction.⁴ Staff notes that the City did not seek approval from the Commission before engaging in the work involved with its supplemental petition. By failing to comply with chapter 81.53 RCW and the

¹ RCW 81.53.060, .261.

² E.g., RCW 81.53.060, .261.

³ See, e.g., WAC 480-62-405(4).

⁴ WAC 480-62-415(1).

rules governing GCPF awards, Staff contends that the City has forfeited or waived its right to an award from the GCPF.

DISCUSSION

- 9 RCW 81.53.261 requires that the Commission grant approval prior to modification of a public railroad-highway grade crossing within the state of Washington. Although the City did not seek approval before modifying this crossing, we find that the proposed modifications are necessary for compliance with federal regulations. Accordingly, the Commission grants the Petition in part.
- 10 The Commission denies the City's request for disbursement from the GCPF. As Staff notes, the Commission's rules for GCPF awards envision an applicant seeking GCPF funds before commencing with alterations at a crossing. That incepts compliance with chapter 81.53 RCW and also allows the Commission the opportunity to suggest improvements to a project. The City did not do so here. Given that failure, we decline to award funds from the GCPF to incent compliance with the public service laws.

FINDINGS AND CONCLUSIONS

- 11 (1) The Commission is an agency of the state of Washington having jurisdiction over public railroad-highway grade crossings within the state of Washington.
- 12 (2) The Division Street crossing, identified as USDOT 098614H, is a public railroad-highway grade crossing within the state of Washington.
- 13 (3) RCW 81.53.261 requires that the Commission grant approval prior to modifying a public railroad-highway grade crossing within the state of Washington. See also Washington Administrative Code (WAC) 480-62-150.
- 14 (4) RCW 81.53.281 creates the Grade Crossing Protective Fund for rail safety improvement projects. See also WAC 480-62-400.
- 15 (5) After examination of the supplemental Petition filed by the City on September 25, 2024, and giving consideration to all relevant matters and for good cause shown, the Commission grants the Petition in part and denies it in part as described in paragraphs 9 and 10 of this order.

ORDER

THE COMMISSION ORDERS:

- 16 The City of Grandview's supplemental Petition to modify warning devices at a public railroad-highway grade crossing, located at the intersection of Division Street and Central Washington Railway Company's tracks, is granted in part and denied in part, as described in paragraphs 9 and 10 of this order.
- 17 The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective November 21, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

A handwritten signature in black ink, appearing to read 'JEFF KILLIP', with a long horizontal flourish extending to the right.

JEFF KILLIP
Executive Director and Secretary

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904(3), you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.