

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

In the Matter of the Application of)	DOCKET NO. TR-040080
)	
THE PEND OREILLE VALLEY)	ORDER NO. 01
RAILROAD COMPANY)	
)	
Petitioner,)	
)	ORDER GRANTING REQUEST FOR
Requesting Disbursement from the)	DISBURSEMENT FROM THE GRADE
Grade Crossing Protective Fund)	CROSSING PROTECTIVE FUND
.....)	

BACKGROUND

- 1 On December 12, 2003, the Washington Utilities and Transportation Commission (Commission) sent a “Notice of Opportunity to Apply for Grant Monies from the Grade Crossing Protective Fund” to various interested parties from the public and private sectors that were either directly eligible to apply for Grade Crossing Protective Fund (GCPF) grants, or represented local agencies that were eligible. The notice directed interested parties to submit applications for funding consideration to the Commission by February 17, 2004.
- 2 On January 20, 2004, the Pend Oreille Valley Railroad Company (POVA) filed an application with the Commission, requesting disbursement from the Grade Crossing Protective Fund to pay for a project related to trespass prevention.
- 3 POVA seeks to install a six-foot high chain link fence at two locations within the City of Newport, Washington, where frequent trespassing along the POVA rail line has been observed. The application identifies the two areas as “area one” and “area two.” The two areas are adjacent to each other along the same rail line, and are separated by a roadway (Union Avenue) crossing the POVA tracks at-grade.
- 4 Area one begins immediately west of Union Avenue, and extends 2,500 further west. The tracks in area one run between a residential area and three of the city’s

schools. The location is the site of continuous switching activity and trains are typically stopped at one of the multiple tracks along area one. School children routinely cut across the tracks – often through stopped trains – to get to and from school. Commission Staff observed three prominent trespasser trails within area one.

- 5 Area two begins immediately east of Union Avenue, and extends 500 feet further east. The tracks in area two run between a residential area and the city's main commercial area. Trespass activity in area two is primarily associated with adults traveling on a dirt trail that crosses the tracks. Although the legal grade crossing at Union Avenue is in the immediate vicinity, the prominent trail in area two appears to have become an established route to and from the commercial center for residents living southeast of the Union Avenue grade crossing.
- 6 POVA proposes installing a fence between Union Avenue and a point approximately 2,500 feet to the west (area one), and a separate fence between Union Avenue and a point approximately 500 feet to the east (area two). The fences would block access across the tracks in both areas and channel pedestrians to the nearest legal crossing at Union Avenue.
- 7 Representatives from POVA and the City of Newport both agreed that area one represents a greater hazard than area two. Area one experiences frequent shove movements (*i.e.* trains move in reverse) where crews cannot see individuals on the tracks behind them, while train operations in area two are primarily slow-moving thru movements. Area two is immediately adjacent to the Union Avenue grade crossing where trains sound their horns when approaching the crossing and warning signals at the crossing are activated, thus clearly alerting pedestrians of any approaching trains. Trains are typically stopped within the limits of area one, requiring individuals seeking to cross the tracks to crawl through or under rail equipment (which may resume movement without warning). Sight distance of approaching trains in area two is unobstructed,

while the stopped trains in area one tend to obstruct operations on adjacent tracks. And finally, trespassers in area one represent a more vulnerable and risk inclined demographic group (young children traveling to and from school) than area two.

- 8 Applicant seeks \$22,000 to install a fence in area one, and an additional \$4,500 to install a fence in area two. Commission Staff recommended limiting GCPF disbursements for a single application to \$15,000 in order to fund the greatest number of projects, while still contributing a significant amount to those projects where the costs exceeded \$15,000. Commission Staff further recommended that \$15,000 be disbursed from the GCPF to pay for installation of a fence in area one only. There are currently funds available for this disbursement. Remaining costs for this project will be paid by the Pend Oreille Valley Railroad Company.

FINDINGS AND CONCLUSIONS

- 9 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington having authority to approve and administer disbursements from the Grade Crossing Protective Fund. *Chapter 81.53.271 RCW and 81.53.281 RCW.*
- 10 (2) The project for which disbursement from the Grade Crossing Protective Fund is sought is eligible for funding consideration under the Grade Crossing Protective Fund Policy and Interpretive Statement in Docket No. TR-031384, and complies with the requirements of RCW 81.53.271 and RCW 81.53.281.
- 11 (3) Commission Staff investigated the request based on the review criteria specified in the Grade Crossing Protective Fund Policy and Interpretive Statement in Docket No. TR-031384, and recommended that it be granted, subject to specified conditions.

- 12 (4) This matter was brought before the Commission at its regularly scheduled meeting on June 9, 2004.
- 13 (5) After examination of the application filed by the Pend Oreille Valley Railroad Company, on January 20, 2004, and giving consideration to all relevant matters and for good cause shown, the Commission grants the request for disbursement of funds.

O R D E R

THE COMMISSION ORDERS:

- 14 The request of the Pend Oreille Valley Railroad Company, seeking disbursement from the Grade Crossing Protective Fund for the installation of a six-foot high chain link fence at a high trespass location in Newport, Washington is granted, subject to the following conditions:
- (1) Expenditure from the Grade Crossing Protective Fund must not exceed \$15,000.
 - (2) The funds must be used to install a fence along the area in Newport, Washington identified in the application as "area one."
 - (3) The work for which the Grade Crossing Protective Fund disbursement was approved must conform to the project description specified in the application.
 - (4) Payment will be made upon presentation of claim for reimbursement for materials and labor, and verification by Commission Staff that the work has been satisfactorily completed.

- (5) The project must be completed, and the associated request for reimbursement from the Grade Crossing Protective Fund must be on file with the Commission no later than May 31, 2005.

The Commissioners, having determined this Order to be consistent with the public interest, direct the Secretary to enter this Order.

DATED at Olympia, Washington, and effective this 9th day of June, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary