

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

CITY OF PASCO,

Petitioner,

To Construct a Public Railroad-
Highway Grade Crossing

DOCKET TR-121467

ORDER 03

RESCINDING APPROVAL TO
CONSTRUCT A PUBLIC
RAILROAD-HIGHWAY GRADE
CROSSING AT ROAD 40 EAST

USDOT: 923015P

BACKGROUND

- 1 On September 10, 2012, the City of Pasco (City) filed a petition with the Washington Utilities and Transportation Commission (Commission) seeking approval to construct a public railroad-highway grade crossing at Road 40 East in Pasco. The City filed a revised petition on November 28, 2012. The crossing was identified as USDOT 923015P and was proposed to be located off of BNSF Railway Company's (BNSF) line at Road 40 East in Pasco. The City planned to expand the Heritage Industrial Park by installing a new rail spur line resulting in creating a new crossing to attract additional tenants.
- 2 On January 31, 2013, the Commission entered Order 01 granting the petition to construct the crossing in two phases. Phase One involved the City constructing the spur line across Road 40 East, and installing "Out of Service" signage on both approaches to the crossing, as well as advance warning signage. The new track through the roadway would not be placed into service and an earthen bumper would be installed west of the of the crossing to prevent any trains from accessing the crossing. The City would maintain this crossing configuration while the crossing was not in use. Phase Two of the project involved the City installing shoulder-mounted lights and gates and 90 feet of median barriers on both approaches to the crossing. Order 01 required the City to install the active warning devices and median barriers within two years of the effective date of the Order 01, i.e., by January 31, 2015.
- 3 On August 14, 2015, the City submitted a request for an extension of time until January 30, 2017, to complete both phases of the project. The original food processing industry that was to be served by the new spur did not construct a facility at the Heritage Industrial Park as anticipated. On September 16, 2015, the Commission entered Order 02 extending the project completion date until January 30, 2017, to provide the City additional time to secure a new tenant at this location.

- 4 Commission staff (Staff) represents that it communicated with City staff throughout 2017 regarding the status of the crossing. As of February 23, 2018, the City has neither commenced construction of the crossing nor asked the Commission for an additional extension of time to construct the crossing.
- 5 Staff recommends that the Commission rescind the approval for the crossing because the City has not complied with the conditions in Order 01.

DISCUSSION

- 6 We agree with Staff's recommendation. The Commission conditioned its grant of authority to construct the crossing on the City completing construction by January 30, 2017. The City has not done so, nor has it requested additional time to comply with this condition. Accordingly, we rescind the authority we granted to the City in Order 01 without prejudice to the City's ability to file another petition in the future if it wishes to construct this crossing.

ORDER

THE COMMISSION ORDERS:

- 7 (1) The Commission rescinds the approval in Order 01 for the City of Pasco to construct a public railroad-highway grade crossing at Road 40 East in Pasco Washington.
- 8 (2) If the City of Pasco wishes to construct this crossing in the future, it must submit a new petition for Commission approval.

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 March 15, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING, Executive Director and Secretary