

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

YAKIMA COUNTY,

Petitioner,

BNSF RAILWAY COMPANY,  
CENTRAL WASHINGTON  
RAILROAD

Respondents.

DOCKET TR-200072

ORDER 02

AMENDING ORDER 01

**BACKGROUND**

- 1 On February 3, 2020, Yakima County (County or Petitioner) filed with the Washington Utilities and Transportation Commission (Commission) a petition (Petition) seeking approval to relocate a highway-rail grade crossing located at Butterfield Road in Yakima County, identified as USDOT 098468E. The Petition indicated that the relocated crossing would be constructed on the new roadway, Mill Parkway, and would be identified as USDOT 971846E. Respondents BNSF Railway Company (BNSF) and Central Washington Railroad (CWA) consented to an Order by the Commission without further notice or hearing. On February 7, 2020, the Commission issued Order 01 approving the petition.
- 2 In November 2021, the County sent an email advising Commission Staff (Staff) that the name of the roadway at the new crossing would not be changed to Mill Parkway but would remain Butterfield Road. The County also advised Staff that construction of the new Butterfield Road crossing (USDOT 971846E) was complete.
- 3 Staff inspected the crossing and found that the modifications at the crossing did not conform to those listed in the Petition and approved in Order 01. When Staff inquired about this, the County notified Staff that the parties agreed to certain modifications of the project design approved in Order 01. Specifically, the parties agreed to relocate the pedestrian sidewalks behind the roadway signal gate masts and eliminate the pedestrian sidewalk gates. Staff emailed the County and BNSF summarizing this agreement on June 28, 2023, in an email subsequently posted to this Docket. At Staff's request, on July 8,

2022, the County submitted revised design drawings to the Commission, identified as “Railroad plan revised 6-21-21” (Amended Project Description). The changes are consistent with BNSF standard practice and public safety needs. On August 28, 2023, Staff received email correspondence indicating that BNSF and CWA concurred with the design changes.

- 4 Staff has investigated the Amended Project Description and recommends that the crossing modification be approved subject to the following conditions: (1) the project must conform to the Amended Project Description provided by the County, and (2) all other conditions of Order 01 remain in effect.

### **DISCUSSION**

- 5 We have considered the informal agreement between Staff, BNSF, and the County, and we find it appropriate to amend Order 01 to reflect the parties’ agreement. Pursuant to WAC 480-07-875(1), the Commission may propose to amend an earlier order on its own motion.

- 6 In amending Order 01, we find it appropriate to grant an exemption to our rules. Although WAC 480-07-875(1) normally requires further process before an earlier order is amended, pursuant to WAC 480-07-110 the Commission may grant exemptions from its rules when consistent with the public interest. Here, Staff has provided documentation of the informal agreement between Staff, BNSF, and the County, showing the parties agreed to crossing modifications following the entry of Order 01. Under these circumstances, providing for further process would only serve to delay the proceeding and require the parties to incur further costs.

- 7 The Commission therefore finds it reasonable and appropriate to amend Order 01 to reflect the parties’ subsequent agreement. Specifically, paragraph 13 of Order 01 is amended to read as follows:

- 8 Yakima County’s Petition to relocate a railroad-highway grade crossing located at Butterfield Road is granted subject to the following conditions:

(1) The modifications must conform to the Amended Project Description submitted by Yakima County.

(2) Traffic control devices must comply with all applicable standards specified in the U.S. Department of Transportation Manual on Uniform Traffic Control Devices.

(3) Yakima County must notify the Commission within 60 days upon completion of the modifications authorized herein. Acceptance of the changes is subject to inspection by Staff, who will verify that the crossing is in full compliance with applicable laws, regulations, and the conditions specified herein.

9 The Commission agrees with Staff that all other conditions set forth in Order 01 should remain in effect.

### **FINDINGS AND CONCLUSIONS**

10 (1) The Commission is an agency of the State of Washington having jurisdiction over public highway-rail grade crossings within the state of Washington.

11 (2) The Butterfield Road crossing, identified as USDOT 098468E, is a public highway-rail grade crossing within the state of Washington.

12 (3) RCW 81.53.060 requires that the Commission grant approval prior to relocating a public highway-rail grade crossing within the state of Washington. See also WAC 480-62-150.

13 (4) Staff investigated the Amended Project Description and recommends that the crossing modification be approved subject to the conditions set out in paragraph 4, above.

14 (5) After examination of the Amended Project Description filed by the County on July 8, 2022, and giving consideration to all relevant matters and for good cause shown, the Commission amends Order 01 as set forth in paragraph 8 of this Order.

### **O R D E R**

**THE COMMISSION ORDERS That Order 01 is amended as set forth in paragraph 8 of this Order:**

(1)

The Secretary of the Commission has delegated authority over this matter pursuant to Order 01 in Docket A-180762. The Secretary finds this Order to be consistent with the public interest.

DATED at Lacey, Washington, and effective September 22, 2023.

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**KATHY HUNTER,**  
Acting 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.**