

Agenda Date: November 26, 2003
Item No.: B1

Docket No.: TR-031384

Subject: Commission consideration of an order, issuing an Interpretive and Policy Statement to formalize a system for disbursements from the Grade Crossing Protective Fund.

Staff: Ahmer Nizam, Regulatory Analyst
Ann Rendahl, Administrative Law Judge
Mike Rowswell, Rail Safety Manager
Jon Thompson, Assistant Attorney General
Sally Turnbull, Rail Safety Analyst

Recommendation:

Enter an order issuing an Interpretive and Policy Statement in TR-031384, interpreting RCW 81.53.271 and RCW 81.53.281, as amended, and stating the Commission's policy for implementing the law in disbursing grants from the Commission's Grade Crossing Protective Fund.

Background:

Since 1969, the Commission has administered grants from the Grade Crossing Protective Fund (GCPF) created in RCW 81.53.281. The original purpose of the fund was to provide funding assistance for safety upgrades at public railroad crossings. Under the original program, use of GCPF monies was limited to upgrading and improving railroad warning devices. In addition, costs associated with GCPF projects were apportioned as follows: sixty percent to the GCPF, thirty percent to the road authority, and ten percent to the railroad.

In July of 2003, legislative changes to RCW 81.53.271 and RCW 81.53.281 amended the Commission's Grade Crossing Protective Fund in three major areas:

- The purpose of the fund was broadened.
- Monetary contribution requirements for projects under \$20,000 were eliminated.

- Monies from the public service revolving fund were made available, if needed, to cover legislative appropriations for GCPF grants.

The changes necessitated a reevaluation of the GCPF program, particularly with regard to the manner by which funds are to be allocated between different types projects.

Discussion:

Options for issuing a formal document that provides policy and administrative guidance for the amended GCPF program include developing rules or an interpretive and policy statement. After discussing the available options, Staff believes that an interpretive and policy statement is an appropriate and preferable adoption mechanism at this time, due to the flexibility that it provides with respect to the distribution of Grade Crossing Protective Fund monies under the new statutory scheme.

Staff has drafted an interpretive and policy statement to interpret RCW 81.53.271 and RCW 81.53.281, as amended, and to state the Commission's policy for implementing the law in disbursing grants from the Commission's Grade Crossing Protective Fund. The interpretive and policy statement is largely a result of a workshop held by Staff on September 30, 2003, and attended by representatives from the public and private sectors with expertise in railroad safety analysis and grant administration. The workshop provided Staff with guidance on how to interpret the changes and apply them to a revised GCPF program consistent with the intent of the statutory amendments.

Major areas covered in the interpretive and policy statement are: types of non-grade crossing projects that are eligible for funding; funding considerations for private crossing improvements; application review and prioritization guidelines; the Commission's process for awarding grants; and post-grant follow-up.

On October 27, 2003, the Commission served a notice of opportunity to file written comments on the draft interpretive and policy statement in Docket TR-031384 to all interested parties on file, as well as all railroad companies operating in Washington State. The notice directed that any comments on the draft were to be filed with the Commission by November 10, 2003. No comments were received.

Conclusion:

Staff recommends that the Commission enter an order issuing the attached interpretive and policy statement in Docket TR-031384.

Attachment