

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

CITY OF WOODINVILLE,	)	DOCKET TR-143902
	)	( <i>Consolidated</i> )
Petitioner,	)	
	)	ORDER 01
v.	)	
	)	
EASTSIDE COMMUNITY RAIL,	)	
BALLARD TERMINAL RAIL, PORT	)	
OF SEATTLE, AND WASHINGTON	)	
STATE DEPARTMENT OF	)	
TRANSPORTATION,	)	
	)	
Respondents.	)	
.....	)	
	)	
CITY OF WOODINVILLE,	)	Docket TR-143903
	)	( <i>Consolidated</i> )
Petitioner,	)	
	)	ORDER 01
v.	)	
	)	
EASTSIDE COMMUNITY RAIL,	)	
KING COUNTY, BALLARD	)	
TERMINAL RAIL, AND	)	PREHEARING CONFERENCE
WASHINGTON STATE	)	ORDER AND ORDER OF
DEPARTMENT OF	)	CONSOLIDATION; NOTICE OF
TRANSPORTATION,	)	HEARING
	)	( <b>Set for July 14-15, 2015, at 9:30 a.m.</b> )
Respondents.	)	
.....	)	

*1* **NATURE OF PROCEEDING:** This proceeding arises out of petitions filed by the City of Woodinville seeking approval to reconstruct a highway-rail grade crossing and install an inter-tie between a highway signal and a railroad crossing signal system at State Route

202 in the City of Woodinville, USDOT Crossing No. 091797E and USDOT Crossing No. 092050F.<sup>1</sup>

2 On December 8, 2015, the Commission sent a letter to Eastside Community Rail, Ballard Terminal Railroad, Washington State Department of Transportation (WSDOT), King County, and the Port of Seattle (Port) notifying them of the petitions and requesting they respond within twenty days indicating their support or opposition to the City’s petitions.

3 On December 26, 2014, King County filed with the Commission a signed “Waiver of Hearing by Respondent” form.

4 On December 29, 2014, the Commission received a letter on behalf of Eastside Community Rail and Ballard Terminal Railroad Company opposing the petitions.

5 On December 30, 2014, the WSDOT filed with the Commission a signed “Waiver of Hearing by Respondent” form.

6 On January 9, 2015, the Port filed with the Commission a letter waiving its right to a hearing and stating that it does not object to the Commission resolving the issues without conducting a hearing.

7 **CONFERENCE/PRESIDING OFFICER.** The Commission convened a prehearing conference in both proceedings at the Commission’s headquarters in Olympia, Washington on March 19, 2015, before Administrative Law Judge Rayne Pearson.

8 **PARTY REPRESENTATIVES:** Greg A. Rubstello, Ogden Murphy Wallace P.L.L.C., Seattle, represents Petitioner City of Woodinville. Doug Engle, Managing Director, Snohomish, represents Respondent Eastside Community Rail. Byron Cole, CEO, Seattle, represents Ballard Terminal Railroad. Ahmer Nizam, Manager – Utilities and Railroad, Olympia, represents the Washington State Department of Transportation. Isabel Safora, Deputy General Counsel, Seattle, represents the Port of Seattle. Andrew Marcuse, Senior Deputy Prosecuting Attorney, Seattle, represents King County. Julian Beattie, Assistant

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<sup>1</sup> The petition to reconstruct a highway-rail grade crossing, and install an inter-tie between a highway signal and a railroad crossing signal system at State Route 202 in the City of Woodinville, USDOT Crossing No. 091797E was assigned to Docket TR-143902. The petition to reconstruct a highway-rail grade crossing, and install an inter-tie between a highway signal and a railroad crossing signal system at State Route 202 in the City of Woodinville, USDOT Crossing No. 091797E was assigned to Docket TR-143903.

Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Staff).<sup>2</sup> Contact information for the parties' representatives is attached as Appendix A to this order.

9 **PETITION FOR INTERVENTION.** No party appeared at the conference seeking to intervene.

10 **CONSOLIDATION.** Because they share common issues of law and fact, the Commission will consolidate Dockets TR-143902 and TR-143903. Consolidation will increase administrative efficiency and preserve both the Commission's and the parties' resources. No party objected to consolidation.

11 **CONSENT TO ELECTRONIC SERVICE.** All parties have consented to service electronically. The Commission, therefore, may serve only electronic copies of notices and orders in this docket to the party and representative email addresses on file with the Commission.

12 **DISCOVERY.** Discovery will be conducted under the Commission's discovery rules, WAC 480-07-400 – 425.

13 **PROCEDURAL SCHEDULE.** The Commission adopts the following procedural schedule:

Tuesday, April 7, 2015	Mediated Settlement Conference
Tuesday, May 5, 2015	Pre-Filed Testimony and Exhibits – Petitioner
Tuesday, May 19, 2015	Responsive Testimony and Exhibits – Staff and Respondents
Tuesday, June 2, 2015	Rebuttal & Cross-Answer Testimony – All
Tuesday, June 16, 2015	Settlement Conference

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<sup>2</sup> In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

Tuesday, July 7, 2015	Cross-Examination Exhibits Due
Tuesday, July 14, 2015 and Wednesday, July 15, 2015	Evidentiary Hearing (beginning at 9:30 a.m.) (if necessary)
Tuesday, August 4, 2015	Simultaneous Post-Hearing Briefs

The procedural schedule is included in this Order as Appendix B.

- 14 **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to electronically submit to the Commission all proposed cross-examination exhibits **by 3:00 p.m. on Tuesday, July 7, 2015**, and file hard copies of the same **by noon on Wednesday, July 8, 2015**. Except as otherwise agreed between parties, proposed cross-examination exhibits must be served on all parties at the time they are filed with the Commission. Two copies must be furnished to the party sponsoring the witness the party intends to cross examine with the exhibits. Parties may waive the right to service of cross examination exhibits in whole or in part. This may be appropriate, for example, when a proposed exhibit has been previously furnished during the discovery process. Cross-examination exhibits must be accompanied by an exhibit list and must be organized according to the witness the party intends to cross examine with the exhibits. Cross-examination exhibits not conforming to these requirements may be rejected. Each party's cross-examination exhibit list must also be filed with the Commission and served on all parties by noon on July 8, 2015.
- 15 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file an **original plus 3 copies** of all pleadings, motions, briefs, and other pre-filed materials. These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.
- 16 All filings must be mailed or delivered to the Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.

- 17 An electronic copy of all filings must be provided through the Commission's Web Portal ([www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing)) or by e-mail delivery to <records@utc.wa.gov >. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette, a flash drive, or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.
- 18 **ELECTRONIC SUBMISSION OF DOCUMENTS.** The Commission grants a one-day extension of the paper-filing requirement under WAC 480-07-145(6), allowing electronic submission of documents with the Commission on the deadlines established by the procedural schedule. Parties must submit documents through the Commission's Web Portal ([www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing)) or by e-mail to ([records@utc.wa.gov](mailto:records@utc.wa.gov)), and file an original, plus **three (3)** paper copies, of the documents with the Commission by the following business day. Parties must provide courtesy copies of their electronic submissions to Judge Pearson and to the parties to the proceeding. Parties may agree to waive the requirement to serve paper copies of all documents on each other and may serve such copies electronically if they memorialize such agreement by letter and provide a courtesy copy of the letter to the Commission.
- 19 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. The Parties have agreed to engage in a facilitated mediation session at the Commission's headquarters on Tuesday, April 7, 2015. The Commission also has limited ability to provide other dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1355.
- 20 **THE COMMISSION GIVES NOTICE That it will hold an evidentiary hearing in these matters at 9:30 a.m. on Tuesday, July 14, 2015, and continuing as required on Wednesday, July 15, 2015, tentatively scheduled to be held in Room 206, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** If the parties agree and propose to the Commission an alternate location in Woodinville by June 1, 2015, a separate notice will issue setting forth the specific location of the evidentiary hearing, and confirming the date and time.

21 **NOTICE TO PARTIES:** A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.

Dated at Olympia, Washington, and effective March 23, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON  
Administrative Law Judge

APPENDIX A

PARTIES' REPRESENTATIVES  
DOCKETS TR-143902 and TR-143903 (Consolidated)

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
City of Woodinville	Thomas E. Hansen, P.E. Assistant Public Works Director 17301 133 <sup>rd</sup> Avenue NE Woodinville, WA 98072	425-877-2294		<a href="mailto:thomash@ci.woodinville.wa.us">thomash@ci.woodinville.wa.us</a>
	Greg A. Rubstello Ogden Murphy Wallace P.L.L.C. 901 Fifth Ave., Suite 3500 Seattle, WA 98164-2008	206-447-7206	206-447-2291	<a href="mailto:grubstello@omwlaw.com">grubstello@omwlaw.com</a>
Eastside Community Rail	Doug Engle Managing Director 1011 Maple Ave. Snohomish, WA 98290	425-891-4223		<a href="mailto:doug.engle@escrail.org">doug.engle@escrail.org</a>
Ballard Terminal Railroad	Byron Cole 4725 Ballard Ave. NW Seattle, WA 98107-4810	206-782-1447 206-947-2120	206-782-7724	<a href="mailto:byroncole@comcast.net">byroncole@comcast.net</a>
Washington State Department of Transportation	Ahmer Nizam Manager – Utilities and Railroad 310 Maple Park Ave. SE P.O. Box 47329 Olympia, WA 98504-7329	360-705-7271	360-705-6815	<a href="mailto:nizama@wsdot.wa.gov">nizama@wsdot.wa.gov</a>
King County	Kevin Workman 201 S. Jackson Street Suite 700 Seattle, WA 98104	206-477-4561		<a href="mailto:Kevin.workman@kingcounty.gov">Kevin.workman@kingcounty.gov</a>
	Andrew Marcuse Senior Deputy Prosecuting Attorney, Civil Division E554 King County Courthouse 516 Third Ave. Seattle, WA 98104	206-447-1120	206-296-0191	<a href="mailto:Andrew.marcuse@kingcounty.gov">Andrew.marcuse@kingcounty.gov</a>
Port of Seattle	Isabel Safora Deputy General Counsel P.O. Box 1209 Seattle, WA 98111-1209	206-707-3216	206-787-3205	<a href="mailto:Safora.i@portseattle.org">Safora.i@portseattle.org</a>
	Sean Sullivan			<a href="mailto:Sullivan.s@portseattle.org">Sullivan.s@portseattle.org</a>
Commission Staff	Julian Beattie Assistant Attorney General 1400 S. Evergreen Pk Dr. SW P.O. Box 40128 Olympia, WA 98504-0128	360-664-1225	360-586-5522	<a href="mailto:jbeattie@utc.wa.gov">jbeattie@utc.wa.gov</a>

**APPENDIX B**

**PROCEDURAL SCHEDULE  
DOCKETS TR-143902 and TR-143903 (Consolidated)**

<b>EVENT</b>	<b>DATE</b>
Mediated Settlement Conference	April 7, 2015
Pre-Filed Testimony and Exhibits – Petitioner	May 5, 2015
Responsive Testimony and Exhibits – Staff and Respondents	May 19, 2015
Rebuttal & Cross-Answer Testimony – All	June 2, 2015
Settlement Conference	June 16, 2015
Cross-Examination Exhibits Due	July 7, 2015
Evidentiary Hearing	July 14-15, 2015
Simultaneous Briefs	August 4, 2015