

[Service Date November 9, 2007]

November 9, 2007

**NOTICE OF HEARING SCHEDULE; NOTICE OF PREHEARING
CONFERENCE**

(Set for December 20, 2007, at 10:00 a.m.);

NOTICE OF PUBLIC COMMENT HEARINGS

**(Set for Monday, January 7, 2008, at 1:30 p.m., and
Tuesday, January 8, 2008, at 5:30 p.m.)**

RE: *BNSF Railway Company v. City of Mt. Vernon*, Docket TR-070696

TO ALL PARTIES:

On August 2, 2007, the Washington Utilities and Transportation Commission (Commission) entered *Order 02—Second Prehearing Conference Order*, scheduling the hearing on the merits as well as the public comment hearing in this case for the week of January 7-11, 2008. The Order did not specify the hearing location nor did it set out the day-to-day hearing schedule. This notice addresses those matters and sets dates for the other remaining procedural events in this case; an updated schedule is attached.

Counsel for each party must now identify the individual witnesses they wish to cross-examine and submit estimates of cross-examination times. In order to streamline the presentation of the respective cases, it is suggested that the party proponents of the grade crossing closure (BNSF and WSDOT) appoint a lead attorney for purposes of consolidating all parties' cross-examination estimates and jointly crafting a proposed schedule for presentation of all witnesses at hearing next January. A consolidated list of all parties witnesses, cross-examination time estimates for these witnesses must be filed with the Commission by **Wednesday, December 19, 2007, at Noon**, with a courtesy electronic copy to the presiding officer. By that deadline, parties must also distribute to all other parties and the Commission, copies of anticipated cross-examination exhibits. Parties must file an original and one (1) copy of these exhibits with the Commission. A final prehearing conference in this matter is required to finalize witness scheduling, formally mark exhibits, and handle any other pertinent procedural details.

NOTICE OF PREHEARING CONFERENCE: The Commission schedules a final prehearing conference in this matter, to commence on **Thursday, December 20, 2007, at 10:00 a.m., in Room 108 of the Commission's headquarters, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

It appears from a preliminary review of the pre-filed testimony that the evidentiary hearing can be completed by January 10, 2008. The hearing will begin promptly at 9:00 a.m. each day and continue until 5:00 p.m. with a one hour break for lunch.

NOTICE OF HEARING SCHEDULE: The Commission schedules the hearing in this matter, to commence on **Monday, January 7, 2008, at 9:00 a.m., at the Mount Vernon Police & Court Campus, Multi-purpose Room, 1805 Continental Place, Mount Vernon, Washington. The hearing shall continue each day thereafter, as necessary, through Thursday, January 10, 2008.**

Given the large volume of written petitions and public comments already received in this matter, it is appropriate to hold two public comment hearing sessions. The initial public comment hearing session will be held on the afternoon of the first day of hearing and the second public comment hearing session will be held the following evening. This will provide local citizens with greater convenience and a choice of times to present their oral comments to the Commission.

NOTICE OF TWO PUBLIC COMMENT HEARINGS: The Commission schedules a public comment hearing to commence on **Monday, January 7, 2008, at 1:30 p.m.**¹ The Commission schedules a second public comment hearing session to commence on **Tuesday, January 8, 2008, from 5:30 p.m. to 9:00 p.m.** Both public comment hearing sessions will be held at **the Mount Vernon Police & Court Campus, Multi-purpose Room, 1805 Continental Place, Mount Vernon, WA.**

Thank you for your attention to these matters.

Sincerely,

ADAM E. TOREM
Administrative Law Judge

¹ Public comments will be accepted until the last speaker has delivered his or her views on the matter, at which point the evidentiary hearing may be resumed.

**FINAL UPDATED PROCEDURAL SCHEDULE
DOCKET TR-070696**

EVENT	DATE	INTERVAL
All Parties' Prefiled Rebuttal Testimony	Fri, November 30, 2007	25 Days
Settlement Discussions	Week of Dec 10th, and Week of Dec 17th, 2007	10-20 Days
Consolidated witness lists, cross- examination estimates, and cross-examination exhibits filed and distributed	December 19, 2007, at Noon	2 Days
Final Prehearing Conference	December 20, 2007	1 Day
Evidentiary Hearing	January 7-10, 2008	28 Days
Public Comment Hearings	January 7, 2008 @ 1:30 pm January 8, 2008 @ 5:30 pm	28 Days
Closing Arguments / Briefs	To be Determined	—