

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

UNION PACIFIC RAILROAD
COMPANY,

Respondent.

DOCKET TR-180854

ORDER 01

PREHEARING CONFERENCE
ORDER; NOTICE OF HEARING

**(Set for April 9, 2019,
at 9 a.m.)**

- 1 **NATURE OF PROCEEDING.** On November 19, 2018, the Washington Utilities and Transportation Commission (Commission) entered a complaint alleging that Union Pacific Railroad Company (Union Pacific) committed 11 violations of WAC 480-62-310 by failing to report the release of a hazardous material within 30 minutes after learning of the incident, and instead reporting the incident 11 days after it occurred.
- 2 **CONFERENCE.** The Commission convened a prehearing conference in this docket at Olympia, Washington on January 8, 2019, before Administrative Law Judge Nelli Doroshkin.
- 3 **APPEARANCES.** Joe M. Dallas and Harry Fukano, Assistant Attorneys General, Olympia, Washington, represent Commission staff (Staff).¹ Robert C. Bylsma, Sr. General Counsel, represents Union Pacific. Contact information for these representatives is attached as Appendix A to this Order.

¹ 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.

- 4 **PETITIONS FOR INTERVENTION.** No petitions to intervene were filed with the Commission prior to the date of the prehearing conference.
- 5 The telephone bridge line in the Commission’s hearing room was unavailable during the prehearing conference. Thus, any entity that expected the ability to enter a petition to intervene orally over the bridge line during the prehearing conference would have been unable to do so. Due to these circumstances, the Commission finds good cause to accept the filing of any petitions to intervene until the close of business on January 23, 2019, as well as any response to such a petition until the close of business on January 28, 2019.
- 6 **NOTICE OF EXTENSION FOR PETITIONS TO INTERVENE.** The Commission finds good cause to accept the filing of petitions to intervene in this proceeding through **5 p.m. on January 23, 2019.** Pursuant to WAC 480-07-355, parties may respond to any such petition. Parties’ responses must be filed with the Commission by **5 p.m. on January 28, 2019.**
- 7 **DISCOVERY.** Staff stated at the prehearing conference that it would not be conducting any discovery in this proceeding.
- 8 **PROCEDURAL SCHEDULE.** The Commission adopts the procedural schedule attached to this Order as Appendix B, incorporating the proposed settlement conference and evidentiary hearing dates that Staff and Union Pacific proposed at the prehearing conference.
- 9 **DOCUMENT FILING AND SERVICE REQUIREMENTS.** Parties must file and serve all pleadings, motions, briefs, and other prefiled materials in compliance with all of the following requirements:
- (a) Parties must submit electronic copies of all documents by 5 p.m. on the filing deadline established in the procedural schedule (or other deadline as applicable), unless the Commission orders otherwise.
 - (b) Parties must comply with WAC 480-07-140(6) in formatting, organizing, and identifying electronic files.
 - (c) Documents filed with the Commission must conform to the formatting and other requirements of WAC 480-07-395 and WAC 480-07-460.

- (d) The Commission accepts only electronic versions of documents for formal filing. The Commission requires electronic copies to be in searchable Portable Document Format, or to otherwise comply with WAC 480-07-140(6)(a). Parties must submit documents electronically through the Commission's web portal (www.utc.wa.gov/e-filing). If a party is unable to use the web portal to submit documents for filing, the Commission will accept a submission via email to records@utc.wa.gov provided that the email: (1) explains the reason the documents are not being submitted via the web portal, and (2) complies with the requirements in WAC 480-07-140(5)(b).
- (e) Parties must electronically serve the other parties and provide courtesy electronic copies of filings to the presiding administrative law judge (nelly.doroshkin@utc.wa.gov) by 5 p.m. on the filing deadline unless the Commission orders otherwise. If parties are unable to email copies, they may furnish electronic copies by delivering them on a flash drive.

- 10 **WITNESS LIST AND EXHIBITS.** Each party must file a list of all witnesses that the party intends to offer, as well as any exhibits sponsored by those witnesses. The parties must file and serve their witness list and exhibits by **5 p.m. on March 26, 2019.**
- 11 **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to file with the Commission and serve all proposed cross-examination exhibits by **5 p.m. on April 2, 2019.** The exhibits must be grouped according to the witness the party intends to cross examine with the exhibits.
- 12 **CROSS-EXAMINATION TIME ESTIMATES.** Each party must provide a list of witnesses the party intends to cross-examine at the evidentiary hearing and an estimate of the time that party anticipates the cross-examination of that witness will take. Parties should not file witness lists or cross-examination time estimates but must provide them to the administrative law judge (nelly.doroshkin@utc.wa.gov) and the other parties by **5 p.m., April 2, 2019.**
- 13 **NOTICE OF HEARING.** The Commission will hold an evidentiary hearing in this matter on **April 9, 2019, at 9 a.m.,** in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.

- 14 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission has limited ability to provide dispute resolution services. If you wish to explore those services, please contact Rayne Pearson, Director, Administrative Law Division (rayne.pearson@utc.wa.gov or 360-664-1136).
- 15 **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 January 9, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

NELLI DOROSHKIN
Administrative Law Judge

**APPENDIX A
PARTIES' REPRESENTATIVES
DOCKET TR-180854**

PARTY	REPRESENTATIVE	PHONE	E-MAIL
Commission Staff	Joe M. Dallas Assistant Attorney General Office of the Attorney General Utilities and Transportation Division 1400 S. Evergreen Park Drive S.W. P.O. Box 40128 Olympia, WA 98504	(360) 664-1192	joe.dallas@utc.wa.gov
	Harry Fukano		harry.fukano@utc.wa.gov
	Betsy DeMarco		betsy.demarco@utc.wa.gov
Union Pacific Railroad Company	Robert C. Bylsma Sr. General Counsel Union Pacific Railroad Company Law Department 10031 Foothills Boulevard Roseville, CA 95747-7101	(616) 789-6229	rbylsma@up.com

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKET TR-180854**

EVENT	DATE
Settlement Conference	February 12, 2019
Direct Examination Witness Lists and Exhibits	March 26, 2019
Cross-Examination Exhibits, Witness Lists, and Time Estimates	April 2, 2019
Evidentiary Hearing	April 9, 2019, at 9 a.m.
Simultaneous Post-Hearing Briefs	April 30, 2019