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June 5, 2009

VIA EMAIL [pcclark@utc.wa.gov]
AND FIRST CLASS MAIL

David Danner, Executive Director
Washington Utilities and Transportation Commission
1300 S Evergreen Park Drive SW
PO Box 47250
Olympia, WA 98504-7250

Attn: Patricia Clark, Administrative Law Judge

Re: *Meeker Southern Railroad v. Pierce County Public Works and Utilities*
UTC DOCKET TR-081407

PETITIONER MEEKER SOUTHERN RAILROAD'S REQUEST FOR A TWO-MONTH CONTINUANCE OF THE REMAINING DATES IN THE PROCEDURAL SCHEDULE ATTACHED TO THE APRIL 30, 2009 PREHEARING CONFERENCE ORDER.

Dear Judge Clark:

On behalf of my client Petitioner Meeker Southern Railroad I am writing to request a two-month continuance of the remaining dates set forth in the Procedural Schedule (Appendix B) attached to the April 30, 2009 Prehearing Conference Order concerning the above-referenced case. I have consulted today concerning this proposed continuance with Deputy Pierce County Prosecuting Attorney John Salmon (attorney for Pierce County Public Works) and Jonathan Thompson (attorney for the UTC Staff) and they have both concurred with this request on behalf of the parties that they represent.

Please let me explain the reasons for this request.

Reasons for This Request

Following the prehearing conference, the Petitioner and I have been engaged in ongoing discussions with Pierce County officials seeking to settle the differences between Petitioner and Pierce County. Yesterday, in a meeting with Mr. Salmon and County officials, my client and I presented engineering drawings setting forth an *active* warning system that the Petitioner now proposes for the entirety of the subject 134th Avenue East crossing (i.e., a system that will encompass both the existing main line track and the proposed spur track). (As you will recall,

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the Petitioner's original proposal involved *passive* warning features only.) At the end of the meeting's discussion of the proposed system and considerations concerning timing of installation of the spur track and various system components, the County promised to review the engineering drawings and provide us with feedback within the following two weeks. Once we have received the County's feedback (and regardless of the details of the feedback), the Petitioner intends to file an amended Petition with the UTC that will (1) incorporate an active system (either as generally depicted on the plans submitted to Pierce County or with modifications taking into account the County's feedback and any refinements) as part of the Petitioner's proposal and (2) address increased expected use of the planned spur stemming from now-expected service to more properties than was the case when the original Petition was filed.

In view of the paragraph above, the Petitioner no longer wishes to litigate before the Commission the appropriateness of the originally proposed passive warning system. Thus, in making the subject request for a continuance, the Petitioner implicitly seeks your approval that Petitioner not be required to submit by June 8, 2009 Prefiled Direct Testimony and Exhibits as contemplated by Appendix B (Procedural Schedule) to the April 30, 2009 Prehearing Conference Order for the originally proposed passive warning system. Such a filing would not address issues that hereafter will be relevant to the ultimate disposition of this case.

In the now seemingly unlikely event that complete settlement is not reached with Pierce County, the Petitioner wishes to have the current case schedule modified to provide time for (a) receipt of the County's feedback to the engineering drawings that were tendered to Pierce County yesterday, (b) consideration of the County's feedback and potential follow-up discussion with County officials concerning it and concerning refinement to the proposed system's design, and (c) preparation and filing of an Amended Petition that will be able to take such feedback, follow-up discussion and design refinement all into account. At this point, we believe that the requested continuance of two months will afford the necessary time.

Availability for a Conference Call

I would be happy to have a conference call with you and with all of the other attorneys involved in this case if that would be helpful to your consideration of this request. Thank you for your consideration.

Sincerely,

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cc: John F. Salmon III, Deputy Pierce County Prosecuting Attorney (via email and first class mail)

Jonathan Thompson, Washington Attorney General's Office (via email and first class mail)

Records Center, Washington Utilities and Transportation Commission (via email [records@utc.wa.gov] and first class mail)