



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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November 15, 2021

NOTICE OF OPPORTUNITY TO RESPOND
TO SMALL BUSINESS ECONOMIC IMPACT STATEMENT (SBEIS)
SUPPLEMENTAL QUESTIONNAIRE
(Due by Wednesday, December 15, 2021)

Re: Rulemaking pertaining to the establishment of minimum crew sizes on certain trains,
Docket TR-200536.

TO ALL INTERESTED PERSONS:

On July 20, 2020, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) for a rulemaking to implement House Bill 1841 (HB 1841), Laws of 2020, Chapter 170, which pertains to the establishment of minimum crew sizes on certain trains.

On May 6, 2021, the Commission requested that companies that would be affected by the minimum crew size draft rules offer information concerning whether those rules create additional costs for their company.¹ The Commission received no responses to its request by the June 7, 2021, deadline. The cost information the Commission requests concerning these draft rules will assist the Commission in preparing a Small Business Economic Impact Statement (SBEIS) and assessing the possible costs of the rules. The Commission, therefore, requests that companies provide information in response to this supplemental questionnaire.

Washington's Regulatory Fairness Act, chapter 19.85 RCW, is intended to focus an agency's attention on the economic impact of proposed rules on affected businesses, involve affected businesses in developing rules, and minimize any disproportionate impact of the rules on small businesses.

¹ Commission staff prepared a set of draft rules related to minimum crew size requirements. The draft rules are posted on the Commission's website under [Docket TR-200536](#).

Before adopting a rule that will impose more than minor costs on an industry, the Commission must analyze the compliance costs for **both large and small** businesses (including lost sales or revenue), involve small businesses in the development of the rule, take feasible steps to reduce the economic impact of the rule on small businesses, and prepare an SBEIS. A “small business” is any profit-making entity that has 50 or fewer employees.

The Commission requests that interested stakeholders, particularly each railroad that would be subject to the draft rules (Railroad), submit to the Commission **no later than 5 pm on Wednesday, December 15, 2021**, their responses to the requests for information below, to help inform the Commission’s analysis of whether the draft rules impose a more than minor cost impact on the company. Please be sure to include your company name, company contact person, contact phone number, company email address, and the number of people your company employs. For each draft rule for which you identify a cost impact, please provide, at a minimum, the following information:

1. Please provide the number of train crew members the Railroad employs.
2. Please provide any active collective bargaining agreements to which the Railroad is a party containing terms governing minimum train crew size in Washington.
3. Please identify any of the Railroad’s local or road routes in Washington to which collective bargaining agreements governing minimum train crew size do not apply.
4. Please provide the Railroad’s average annual number of crew starts in Washington for the years 2018-2020. Please exclude yard operations and include only local and road crew starts. Please break the crew starts down by number of crewmembers, for example, listing the total number of starts involving two-person crews and the total number of starts, if any, involving three-person crews.
5. If the Railroad cannot provide the average number of crews starts requested in Request No. 4 above, please provide:
 - a. The average number of the Railroad’s local jobs that came on duty in Washington for the years 2018 through 2020, broken out by the number of crew members (for example, the total number of locals jobs with two-person crews and the total number of jobs with three-person crews); and,
 - b. The average number of the Railroad’s road crews that came on duty in Washington for the years 2018 through 2020, broken out by the number of crew members (for example, the total number of two-person road crews coming on duty and the total number of three-person crews coming on duty).
6. Please provide the Railroad’s average total labor costs for each crew start in Washington for the years 2018 through 2020. Again, please include only local and road crew starts, and exclude yard operations. Please break the average total labor costs down by the

number of crew members, for example separating the costs for two-person and three-person crews.

7. If the Railroad cannot provide the average total labor costs for each crew start in Washington requested in Request No. 6 above, please provide:
 - a. The Railroad's average total labor costs for local jobs running in Washington for the years 2018 through 2020, broken out by the number of crew members running (for example, separating the average labor costs for local jobs crewed by two people from those crewed by three); and,
 - b. The Railroad's average total labor costs for road crews coming on duty in Washington for the years 2018 through 2020, broken out by the number of crewmembers coming on duty in each crew (for example, separating the labor costs for two-person crews from three-person crews).
8. Please estimate the number of the Railroad's crew starts that would be affected by a two-person minimum train crew rule.
9. If the Railroad cannot estimate the number of crew starts affected as requested in Request No 8 above, please estimate the number of the Railroad's local jobs and road crews that would be affected by a two-person minimum train crew rule.
10. Please state the number of the Railroad's ROAD trains operating in Washington that require a crew change or multiple crews to reach the final destination.
11. Please state the number of the Railroad's ROAD trains operating in Washington that had to be patched or re-crewed due to the original crew not making it to their final destination during the years 2018 through 2020.
12. Please estimate any incremental overhead savings that a two-person minimum train crew rule would prevent the Railroad from realizing.
13. Please describe all positive train control technology the Railroad has installed and the routes on which the Railroad has required the use of that technology.
14. If the Railroad has not installed positive train control technology, please state whether the Railroad anticipates installing such technology within the next five years.
 - a. If so, please identify and describe the positive train control technology that the Railroad anticipates installing and provide a cost estimate.
 - b. Please also provide any estimate the Railroad has for the average annual depreciation expense associated with the installation of positive train control technology.

FILING REQUIREMENTS

Pursuant to WAC 480-07-250, written comments on draft rules and responses to the SBEIS questionnaire must be submitted to the Commission in electronic form. As provided in WAC 480-07-140(5), you must submit those responses via the Commission's web portal at www.utc.wa.gov/e-filing. If you are unable to submit documents via the portal, you may submit them via email to the Commission's Records Center at records@utc.wa.gov or by mailing or delivering an electronic copy to the Commission's Records Center on a flash drive, DVD, or compact disc that includes the filed document(s). Submissions should include:

- The docket numbers of this proceeding (Docket TR-200536).
- The commenting party's name.
- The title and date of the comment or comments.

The Commission will post all written comments and responses to the SBEIS on its website at <http://www.utc.wa.gov/200536>.

If you have questions regarding this rulemaking, you may contact Staff, Betty Young, by email at betty.young@utc.wa.gov.

AMANDA MAXWELL
Executive Director and Secretary