

Service Date: July 30, 2021

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

SPOKANE COUNTY, a political  
subdivision of the state of Washington,

Complainant,

v.

UNION PACIFIC RAILROAD  
COMPANY,

Respondent.

DOCKET TR-210257

ORDER 01

DISMISSING FIRST AMENDED  
COMPLAINT

**BACKGROUND**

- 1 On April 14, 2021, Spokane County, a political subdivision of the state of Washington, filed with the Washington Utilities and Transportation Commission (Commission) a First Amended Complaint (Complaint) against Union Pacific Railroad Company (UPRR). The Complaint alleges that UPRR refused to participate in a railroad crossing upgrade previously approved by the Commission unless Spokane County agreed to assume the costs of the upgrade, which Spokane County argues is contrary to applicable statutes.
- 2 On May 10, 2021, UPRR filed a Stipulated Motion for Continuance of Deadline to Formally Respond to the Complaint. In the motion, UPRR stated the parties were attempting to negotiate an agreed outcome. Counsel for Spokane County stipulated to the continuance.
- 3 Again on May 20, 2021, and May 28, 2021, the parties requested additional continuances, both of which were granted.
- 4 On July 12, 2021, UPRR and Spokane County filed with the Commission a Joint Stipulation and Order for Dismissal (Stipulation) requesting to dismiss the Complaint and close this docket. That same day, the Commission issued a Notice of Opportunity to Respond to Proposed Stipulated Order of Dismissal (Notice). The Notice gave Commission staff (Staff) until July 16, 2021, to file any written response to the Stipulation.
- 5 On July 13, 2021, Staff filed a response to the Stipulation. In its response, Staff explains its view that the parties' resolution of the Complaint complies with all substantive legal requirements, namely the assignment of the duty to pay the maintenance costs at issue in

the Complaint. Staff understands that UPRR has agreed to pay those costs, which Staff believes is fully consistent with RCW 81.53.295.

### DISCUSSION

- 6 As a threshold matter, the Commission construes the parties' Stipulation as a joint motion to withdraw the Complaint.<sup>1</sup> WAC 480-07-380(3) provides that a party may withdraw its complaint only upon permission granted by the Commission in response to a written motion. The motion must include any settlement or other agreement pursuant to which the party is seeking withdrawal. Here, the parties propose jointly to withdraw Spokane County's Complaint based on their agreement, which Staff has reviewed and found to be consistent with applicable statutes. We agree with Staff's assessment.
- 7 We also agree with Staff that the parties' resolution is consistent with the public interest. As Staff notes in its response, the parties' agreement allows them to devote their resources to making the crossing upgrades previously approved by the Commission rather than to disputing the allocation of maintenance costs. Such ongoing disputes would have delayed the completion of the project and risked its federal funding, which, in turn, would have delayed safety improvements at the crossing.
- 8 Finally, Spokane County's withdrawal of its Complaint eliminates the underlying dispute in this docket. Accordingly, the Commission finds good cause to grant the parties' joint motion. The Complaint is dismissed, and Docket TR-210357 is now closed.

### ORDER

#### THE COMMISSION ORDERS:

- 9 (1) Spokane County's Complaint is dismissed.
- 10 (2) Docket TR-210257 is closed.

DATED at Lacey, Washington, and effective July 30, 2021.

#### WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Samantha Doyle*  
SAMANTHA DOYLE  
Administrative Law Judge

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<sup>1</sup> WAC 480-07-395(4) provides that the Commission will liberally construe pleadings and motions with a view to effect justice among the parties. The commission will consider pleadings and motions based primarily on the relief they request and will not rely solely on the name of the document.