

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON STATE	)	DOCKET TR-100131
DEPARTMENT OF)	
TRANSPORTATION,)	
	)	ORDER 01
Petitioner,)	
	)	ORDER OF CONSOLIDATION
v.	)	WITH DOCKETS TR-100127,
	)	TR-100128 AND TR-100129
CENTRAL PUGET SOUND)	
REGIONAL TRANSPORTATION	)	CANCELLATION OF PREHEARING
AUTHORITY AND THE CITY OF	)	CONFERENCE AND ADOPTION OF
DUPONT,	)	ESTABLISHED PROCEDURAL
	)	SCHEDULE
Respondents.)	
	)	NOTICE OF HEARING
	)	(Set for June 7-8, 2010, at 9:00 a.m.)
.....)	

- 1 **NATURE OF PROCEEDINGS.** On January 19, 2010, the Washington State Department of Transportation (WSDOT) filed with the Washington Utilities and Transportation Commission (Commission) a petition to modify an existing highway-rail grade crossing at Barksdale Avenue, City of DuPont, USDOT Crossing Number 085836E. That same day, WSDOT filed additional petitions to modify other existing highway-rail grade crossings in the City of Lakewood.

- 2 On February 2, 2010, the Commission sent a letter to Sound Transit, City of DuPont, City of Lakewood, and Tacoma Rail notifying them of the petitions and requesting that they respond within twenty days indicating whether they support, oppose or have no position concerning the petitions.

- 3 On February 24, 2010, the City of DuPont requested additional time to file a response.

- 4 On February 16, 2010, Tacoma Rail filed with the Commission a Waiver of Hearing in this docket and the dockets involving the City of Lakewood.

- 5 On February 19, 2010, Sound Transit also filed with the Commission a Waiver of Hearing in this docket and the dockets involving the City of Lakewood.
- 6 The City of Lakewood verbally notified the Commission of its opposition and intent to challenge the proposed modifications to the crossings in the City of Lakewood. On March 2, 2010, the Commission issued an Order of Consolidation combining the three petitions opposed by the City of Lakewood into a single proceeding and scheduled a prehearing conference on those matters for March 16, 2010.
- 7 On March 10, 2010, the City of DuPont filed with the Commission a resolution by the City Council opposing the proposed modifications to the Barksdale Avenue crossing.¹ On March 15, 2010, the Commission issued a Notice of Prehearing Conference in this docket and scheduled a prehearing conference for April 1, 2010.
- 8 On March 16, 2010, the Commission conducted the previously noticed prehearing conference in the Lakewood consolidated dockets (TR-100127, TR-100128, and TR-100129). The City of DuPont attended that conference as an observer and participated in the creation of a procedural schedule that would also serve the City of DuPont's needs in the event it requested intervention in the Lakewood matters, or consolidation of the cases.
- 9 On March 30, 2010, the City of DuPont requested that this docket be consolidated with the Lakewood proceeding and agreed to adhere to the procedural schedule already established for that matter.
- 10 Inasmuch as the foregoing City of Lakewood and City of DuPont matters involve related principles of law and fact, it is appropriate that all four cases be consolidated for hearing and determination pursuant to WAC 480-07-320.

ORDER OF CONSOLIDATION

- 11 THE COMMISSION ORDERS That these matters are consolidated for purposes of hearing and determination. The Commission reserves the right to hold separate hearings and to enter separate orders in the individual dockets as it deems appropriate.

¹ The DuPont City Council adopted Resolution No. 10-388, on March 9, 2010, setting forth the City's objection to the at-grade rail crossing modifications.

CANCELLATION OF PREHEARING CONFERENCE

- 12 **THE COMMISSION GIVES NOTICE That it CANCELS the prehearing conference previously scheduled in this matter for 9:30 a.m., on April 1, 2010, in Olympia, Washington as no longer necessary.**
- 13 **REPRESENTATIVES.** Contact information for the parties' representatives is attached as Appendix A to this Order.
- 14 **INTERVENTION:** Persons seeking to intervene in the City of DuPont proceeding would normally have been required to file written petitions to intervene at least three business days before the date of the prehearing conference. *See WAC 480-07-355(a).* To date, the Commission has not received any such petitions. If any person wishes to intervene in the City of DuPont matter as now consolidated with the City of Lakewood dockets, they must file a written petition **no later than April 6, 2010.**
- 15 **ISSUES FOR HEARING & PROCEDURAL SCHEDULE.** As noted above, the City of DuPont has agreed to adhere to the procedural schedules adopted in Order 02 of the Lakewood dockets. Therefore, as part of this Order of Consolidation, the parties are instructed to review Order 02 in Dockets TR-100127, TR-100128, and TR-100129 (*consolidated*) and ensure compliance with all paragraphs of that Order, including those regarding document preparation and filing requirements.
- 16 The Commission confirms and adopts the procedural schedule established in Order 02 in Dockets TR-100127, TR-100128, and TR-100129 (*consolidated*). A copy of that schedule, as modified to indicate the consolidation of Docket TR-100131, is attached to this Order as Appendix B and incorporated by this reference
- 17 **NOTICE OF HEARING.** The Commission will hold evidentiary hearings in this matter beginning **Monday, June 7, 2010, at 9:00 a.m.,** in the City of Lakewood's Council Chambers, 6000 Main Street SW, Lakewood, Washington. If necessary, the evidentiary hearings will continue the following day, Tuesday, June 8, 2010.
- 18 **PUBLIC COMMENT HEARING.** The Commission will hold a public comment hearing in Docket TR-100131 and may choose to combine that proceeding with the public comment hearing in Dockets TR-100127, TR-100128, and TR-100129 (*consolidated*) which is already scheduled for **Monday, June 7, 2010, at 6:30 p.m.,** in Lakewood, Washington. A separate notice regarding the public comment hearing

in Docket TR-100131 will be issued when a determination is made regarding the propriety of its combination with the Lakewood public comment hearing.

- 19 **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective March 31, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

APPENDIX A

PARTIES' REPRESENTATIVES

DOCKETS TR-100127 / TR-100128 / TR-100129 / TR-100131

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
WSDOT	L. SCOTT LOCKWOOD Asst. Attorney General 7141 Cleanwater Dr SW P.O. Box 40113 Olympia, WA 98504-0113	360-753-1620	360-586-6847	scottL@atg.wa.gov
CITY OF LAKEWOOD	HEIDI WACHTER City Attorney Lakewood City Hall 6000 Main Street SW, 3 rd Floor Lakewood, WA 98499-5027	253-589-2489	253-589-3774	hwachter@cityoflakewood.us
COMMISSION STAFF	FRONDA WOODS Asst. Attorney General 1400 S Evergreen Park Dr SW P.O. Box 40128 Olympia, WA 98504-0128	360-664-1225	360-586-5522	fwoods@utc.wa.gov
CITY OF DUPONT	STEVE VICTOR Kenyon Disend, PLLC The Municipal Law Firm 11 Front Street South Issaquah, WA 98027-3820	425-392-7090 (Ext. 154)	425-3927071	steve@kenyondisend.com
Admin. Law Judge	ADAM E. TOREM 1300 S Evergreen Park Dr SW P.O. Box 47250 Olympia, WA 98504-7250	360-664-1138	360-664-2654 <i>[ALD fax only –not for filing]</i>	atorem@utc.wa.gov

APPENDIX B

PROCEDURAL SCHEDULE

DOCKETS TR-100127 / TR-100128 / TR-100129 / TR-100131

EVENT	DATE	INTERVAL
Prehearing Conference (Lakewood)	Tuesday, March 16, 2010	—
Prehearing Conference (DuPont)	Thursday, April 1, 2010 Cancelled	—
WSDOT – Prefiled Testimony and Exhibits	Friday, April 16, 2010	31 days
City of Lakewood, City of DuPont & Comm’n Staff – Prefiled Testimony and Exhibits	Friday, May 7, 2010	21 days
All Parties –Cross-Answering and Rebuttal Testimony	Monday, May 24, 2010	17 days
Evidentiary Hearing	Monday, June 7, 2010 and Tuesday, June 8, 2010	14 days
Public Comment Hearing	Monday, June 7, 2010	—
Post-Hearing Briefs	Friday, June 25, 2010	17 days
Commission’s Initial Order	Friday, July 23, 2010	28 days