

[Service Date September 6, 2012]

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**NOTICE DECLINING TO ASSIGN MEDIATOR**

Re: *City of Auburn v. Gates, Gates, Gates LLC; Mohawk Northern Plastics, LLC d/b/a AMPAC; and BNSF Railway Company*, Docket TR-120828

TO ALL PARTIES:

On August 22, 2012, the Washington Utilities and Transportation Commission (Commission) conducted a prehearing conference in the above-referenced docket during which the parties requested mediation of the disputed issues raised in the City of Auburn's petition to open a public highway rail-grade crossing at A Street Northwest. The Commission declines that request at this time.

No party has filed witness testimony or exhibits, and Commission Staff may not yet have had the opportunity to fully evaluate public safety issues presented by the proposed grade crossing. The parties have agreed to conduct a settlement conference on Tuesday, September 25, 2012. Accordingly, mediation at this point in the proceeding would be premature. The Commission encourages the parties to develop and negotiate resolution of the issues. If the parties are unable to resolve the disputed issues through negotiation and reasonably believe that mediation would assist the parties in resolving their disputes, they may renew their request that the Commission appoint a mediator to facilitate settlement discussions.

GREGORY J. KOPTA  
Director, Administrative Law Division