

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

PUGET SOUND AND PACIFIC)	DOCKET TR-110158
RAILROAD,)	
)	
Petitioner,)	ORDER 01
)	
v.)	
)	INITIAL ORDER GRANTING
LEWIS COUNTY AND PORT OF)	MOTION TO WITHDRAW PETITION
CENTRALIA,)	AND CLOSING DOCKET
)	
Respondents.)	
.....)	

- 1 On January 19, 2011, Puget Sound and Pacific Railroad (PSPR) filed with the Washington Utilities and Transportation Commission (Commission) a Petition for the closure of the Foron Road highway-rail grade crossing in the City of Centralia. On February 10, 2011, PSPR revised its petition to correct the location of the crossing and associated road authority from the City of Centralia to Lewis County.

- 2 On February 14, 2011, the Port of Centralia filed with the Commission a letter in support of the closure. On February 15, 2011, Lewis County filed with the Commission a letter generally supporting the petition, but Lewis County declined to waive its right to a hearing due to concerns about alternate access routes. PSPR then requested additional time to attempt to negotiate a settlement prior to the Commission initiating an adjudicative proceeding.

- 3 On March 30, 2011, the Commission notified the parties by letter that it would allow a period of 60 days for PSPR to engage in settlement negotiations with, Lewis County, Commission Staff, and, as necessary, the Port of Centralia. The parties were not able to reach an accord during this time period.

- 4 On June 10, 2011, the Commission issued a Notice of Prehearing Conference. The parties, along with any potential intervenors, were to appear in Olympia at 9:30 a.m.

on July 8, 2011, to identify all relevant issues in the proceeding and adopt a procedural schedule.

5 On June 14, 2011, PSPR filed a Motion to Withdraw Petition, explaining that “the case is not ready for adjudication and the parties’ time and effort can be better spent working to resolve the issues around the alternative access route.” According to PSPR’s petition, no other party opposed the motion. On June 20, 2011, Commission Staff filed a Response confirming it did not oppose withdrawal of the petition. No other parties filed responses to PSPR’s petition.

6 ***Legal Standard for Withdrawal.*** Once the Commission initiates an adjudicative proceeding, Washington Administrative Code (WAC) 480-07-380(3) requires parties seeking to withdraw to obtain permission from the Commission and demonstrate that such withdrawal is in the public interest.

7 In this matter, the public interest is not served by the Commission prematurely taking up a dispute over a proposal to close a highway-rail grade crossing. If the governmental parties are able to resolve alternate access routing concerns outside the hearing process, it will reduce the number of issues presented at hearing if and when PSPR re-files its petition to close the Foron Road crossing.

8 PSPR’s motion should be granted, without prejudice to the railroad to re-file its petition in the future when it is actually ready to proceed to adjudication.

ORDER

9 (1) Puget Sound and Pacific Railroad’s motion to withdraw its petition is granted, without prejudice.

10 (2) Docket TR-110158 is closed.

DATED at Olympia, Washington, and effective June 23, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An original and **seven (7)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
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