

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

MEEKER SOUTHERN RAILROAD,)	DOCKET TR-081407
)	
Petitioner,)	ORDER 03
)	
v.)	
)	ORDER GRANTING
PIERCE COUNTY PUBLIC WORKS)	CONTINUANCE AND
AND UTILITIES,)	MODIFYING PROCEDURAL
)	SCHEDULE
Respondent.)	(Evidentiary Hearing set for
)	January 5 and 6, 2010)
.....)	

1 **NATURE OF PROCEEDING.** On July 29, 2008, Meeker Southern Railroad (Meeker or Railroad) filed with the Washington Utilities and Transportation Commission (Commission) a petition to modify an existing highway-rail grade crossing at 134th Avenue East, Pierce County, United States Department of Transportation (USDOT) Crossing Number 085536R.¹ On August 12, 2008, the Commission sent a letter to Pierce County Public Works and Utilities (Pierce County) notifying them of the petition and requesting they respond within 20 days indicating support of or opposition to the petition. On August 27, 2008, Pierce County filed its opposition to the petition. By Notice entered April 3, 2009, the Commission scheduled a prehearing conference and appointed Administrative Law Judge Patricia Clark to hear this matter. By Order 01, entered April 30, 2009, the Commission, among other things, established a procedural schedule and scheduled a hearing for September 1 and 2, 2009.

2 **MOTION FOR CONTINUANCE.** On July 31 2009, Meeker filed a motion for a 45 day continuance of the procedural schedule. In support of its request for continuance, Meeker stated that it had been engaging in settlement discussions with Pierce County officials intended to resolve all differences between these two parties. In addition, Meeker had a traffic study prepared and that study is currently being

¹ During the prehearing conference, the Commission determined that Meeker intended to construct a new spur line rather than modify an existing rail crossing.

reviewed by the other parties to this proceeding. Finally, Meeker intends to file an amended petition that will incorporate an active warning system and address the expected increased use of the proposed spur line. Meeker stated that it had contacted both Pierce County and the Commission's regulatory staff (Commission Staff or Staff) and they do not oppose a 45-day continuance of the current procedural schedule.

3 According to WAC 480-07-385(2), the Commission will grant a continuance if the requesting party states good cause and the continuance will not prejudice any party or the Commission. Meeker stated good cause to support the request for continuance. Meeker intends to use the additional time to allow the other parties to review its traffic study, modify its current petition, and to pursue settlement of disputed issues with other parties to this proceeding. Moreover, the request for continuance will not prejudice the Commission or the other parties to this proceeding who concur with the request. Accordingly, the request for continuance is granted.

4 The Commission notes, however, that this is the second continuance Meeker has sought in order to, among other things, prepare a modified petition. According to Meeker's representations in its requests for continuance, the modified petition will be substantially different from its current petition. Therefore, the Commission wishes to advise Meeker that there is an alternative procedural option available. Meeker may elect to file a motion to withdraw its current petition and file, at any time, a new petition to construct a railway crossing.

5 **PROCEDURAL SCHEDULE.** Having granted the request for continuance, it is necessary to modify the current procedural schedule in this case to extend each procedural deadline and the hearing date for an additional 45 days. The modified procedural schedule is set forth in Appendix A to this Order.

- 6 **NOTICE OF HEARING.** The Commission will hold evidentiary hearings in this matter beginning, **January 5, 2010, at 9:30 a.m. and continuing thereafter, as necessary, on January 6, 2010, at 9:30 a.m. in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive, S.W., Olympia, Washington.**

Dated at Olympia, Washington, and effective August 3, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

PATRICIA CLARK
Administrative Law Judge

**APPENDIX A
MODIFIED PROCEDURAL SCHEDULE
DOCKET TR-081407**

<u>EVENT</u>	<u>ORIGINAL DATE</u>	<u>MODIFIED DATE</u>
Meeker Southern Railroad Supplement to Petition	May 11, 2009	
Meeker Southern Railroad Prefiled Direct Testimony and Exhibits	August 7, 2009	September 21, 2009
Pierce County and Commission Staff Prefiled Responsive Testimony and Exhibits	September 17, 2009	November 2, 2009
Meeker Southern Railroad Prefiled Rebuttal Testimony and Exhibits	October 9, 2009	November 23, 2009
Evidentiary Hearing	November 3, 2009, and continuing thereafter on November 4, 2009	January 5, 2010, and continuing thereafter on January 6, 2010 ²

² Due to other scheduling conflicts and commitments on the calendar, the Commission is unable to set an evidentiary hearing for exactly 45 days after the current hearing date.