

0002

1 PROCEEDINGS

2 JUDGE CLARK: Good afternoon. It's
3 approximately three p.m. on May 19th, 2010, in the
4 Commission's hearing room in Olympia, Washington. This
5 is the time and place set for a prehearing conference
6 in the matter of the City of Fife, petitioner, versus
7 Union Pacific Railroad, respondent, given Docket No.
8 TR-100098, Patricia Clark, administrative law judge for
9 the Commission presiding.

10 This matter came before the Commission on
11 January 13th, 2010, when the City of Fife filed with
12 the Commission a petition to open a pedestrian only
13 at-grade crossing at 54th Avenue East in the City of
14 Fife. The City of Fife asserts that there is a need to
15 construct a new crossing to accommodate increased
16 pedestrian traffic due to increased development in the
17 area.

18 On January 25th, 2010, the Commission issued
19 a letter to Union Pacific Railroad notifying them of
20 the petition and requesting that they respond within 20
21 days with their position regarding the petition. On
22 February 12th, 2010, Union Pacific Railroad filed its
23 opposition to the position.

24 At this time, I'm going to take appearances
25 on behalf of the parties, and when we have attorneys

0003

1 appear for the first time, I request what we call a
2 full appearance; that is, I'm requesting your name,
3 your address, your phone number, your fax number, and
4 your e-mail address, and as the petitioner in the
5 proceeding, I'm going to commence first with the City
6 of Fife.

7 MR. COMBS: This is Loren Combs, L-o-r-e-n,
8 C-o-m-b-s, appearing on behalf of City of Fife. My
9 business address is 3600 Port Of Tacoma Road, Suite
10 311, Tacoma, Washington, 98424. My telephone office is
11 (253) 922-5464. My fax number is (253) 922-5848, and
12 my e-mail address is ldc@vsilawgroup.com.

13 JUDGE CLARK: Thank you, Mr. Combs.
14 Appearing on behalf of Union Pacific Railroad?

15 MS. LARSON: It's Carolyn Larson,
16 C-a-r-o-l-y-n, L-a-r-s-o-n for the law firm of Dunn,
17 Carney, Allen, Higgins and Tongue. The address is 851
18 Southwest Sixth Avenue, Suite 1500, Portland, Oregon,
19 97204. My phone number is (503) 417-5462. The fax is
20 (503) 224-7324, and my e-mail address is
21 clarson@dunncarney.com.

22 JUDGE CLARK: Can I ask you to repeat your
23 phone number for me, please?

24 MS. LARSON: (503) 417-5462.

25 JUDGE CLARK: Thank you, very much.

0004

1 Appearing on behalf of the Commission regulatory staff?

2 MS. WOODS: Good afternoon, Your Honor. I'm
3 Frona Woods, assistant attorney general. My address
4 is Washington Attorney General's Office, Utilities and
5 Transportation Division, PO Box 40128. The street
6 address is 1400 South Evergreen Park Drive Southwest,
7 and for both, it's Olympia, Washington, 98504-0218. My
8 telephone number is area code (360) 664-1225. My fax
9 number is area code (360) 586-5522, and my e-mail is
10 fwoods@utc.wa.gov.

11 JUDGE CLARK: Thank you, Ms. Woods. The
12 prehearing conference in this matter was initially
13 scheduled to convene on May 3rd. On April 30th, the
14 parties all filed a joint request for continuance of a
15 prehearing conference indicating they were engaging in
16 settlement negotiations, and they believed they could
17 resolve their differences regarding this matter, so the
18 prehearing conference was rescheduled to this time and
19 date, and so the first matter that I would like to
20 address that may certainly tie into how we deal with
21 other issues this afternoon is what is the status of
22 the parties' settlement negotiations, and then, of
23 course, linked to that is how the parties want to
24 proceed with the evidentiary matters that are at issue
25 in this case.

0005

1 MR. COMBS: If I may lead off on this one, I
2 believe the settlement negotiations are ongoing, will
3 bear fruit eventually, but they are not complete, and I
4 believe the attorneys for all parties agree that the
5 Court should go ahead and set a schedule, including
6 hearing times, but give us a few more weeks to try to
7 present an agreed order to you for your consideration,
8 and I believe Assistant Attorney General Woods has in
9 her possession a recommended schedule laid out that
10 will give us sufficient time to try to finish the
11 negotiations, and I think I speak for all three parties
12 that we believe a negotiated settlement is in the best
13 interest of justice and the health and safety of the
14 people involved, and what we are exploring, Your Honor,
15 is not a temporary solution but a permanent solution,
16 and that takes a little more time than we anticipated
17 because it may involve elements that require the
18 Railroad to get some approval from their home office
19 back east, and it requires some elements that my city
20 manager can't approve but it has to be approved by the
21 council, which only meets a couple of times a month, so
22 I respectfully request a little more time, and I'm
23 going to ask the other parties to weigh in on whether
24 or not what I said is accurate and Ms. Woods to present
25 the suggested time schedule.

0006

1 JUDGE CLARK: Thank you, Mr. Combs, and I
2 always check with all parties before we decide how to
3 proceed, so you needn't be concerned about that.

4 MR. COMBS: Thank you, Your Honor.

5 JUDGE CLARK: Ms. Larson?

6 MS. LARSON: Yes, Your Honor, I agree with
7 what Loren Combs has stated as to the state of our
8 negotiations and confirm that I have also reviewed the
9 schedule that Fronda Woods has proposed and on behalf
10 of Union Pacific agree to that proposed schedule.

11 JUDGE CLARK: Ms. Woods?

12 MS. WOODS: Thank you, Your Honor. I agree
13 with what both counsel have stated, and I will present
14 the schedule that we e-mailed about.

15 The first date would be a deadline for filing
16 some kind of document that would resolve the case if
17 resolution is possible, and that would be Friday, July
18 9th. We may need to discuss a little bit more what
19 kind of document that would be, but assuming there is
20 an agreement, we would file something by July 9th.

21 If agreement is not possible, then we would
22 proceed with dates leading to a hearing. We discussed
23 the possibility of filing prefiled testimony, so the
24 schedule that I'm going to describe has dates for those
25 filings. Monday, August 19th, would be the date for

0007

1 the petitioner, the City of Fife, to file prefiled
2 written direct testimony and associated exhibits.

3 JUDGE CLARK: Can you repeat that date for
4 me, please?

5 MS. WOODS: August 19th.

6 JUDGE CLARK: Thank you.

7 MS. WOODS: Following that, September 3rd
8 would be the date for the respondent's prefiled written
9 direct testimony on behalf of Union Pacific and on
10 behalf of UTC staff. Following that, September 24th,
11 the date for rebuttal testimony and exhibits, if any,
12 to be filed, and I should clarify, rebuttal testimony
13 and rebuttal exhibits. Following that, if it suits
14 Your Honor, would be the week of October 11th for a
15 hearing, and I believe that we wouldn't anticipate a
16 hearing to last more than one day.

17 JUDGE CLARK: Does that conclude...?

18 MS. WOODS: We also put in our schedule a
19 date for posthearing briefs. We weren't sure whether
20 the briefing schedule would include a prehearing brief
21 or just posthearing briefs. This is still new to me,
22 so I'm not entirely sure what the preference would be.

23 JUDGE CLARK: Well, the Commission generally
24 does not have prehearing briefs unless we entertain an
25 exceptionally novel legal issue and the tribunal

0008

1 requests prehearing briefs, so ordinarily what we have
2 is just posthearing briefs. I can also let the parties
3 know we don't have to have posthearing briefs in every
4 single case. Parties, however, seem to prefer that
5 method to making closing argument immediately at the
6 conclusion of their case.

7 So we usually do set a deadline for
8 posthearing briefs, and then as the case proceeds,
9 depending on the factual circumstances, we may decide
10 to vacate that at some future date, but it's not a bad
11 idea to have the date reserved.

12 MS. WOODS: Thank you, Your Honor. The date
13 that we had for that would have been the week of
14 October 25th.

15 JUDGE CLARK: Do you have any other elements
16 of the procedural schedule?

17 MS. LARSON: Excuse me, Your Honor, if I may,
18 and I apologize for not noticing this earlier, but
19 October 11th, I will not be in the country, so it would
20 have to be someone else from our firm representing
21 Union Pacific if we do need to go to hearing on that
22 date.

23 JUDGE CLARK: Actually, no one will be at the
24 Commission at that date either. Although it has not
25 yet been enacted, the legislature proposed and the

0009

1 governor assigned a bill enacting legislation to reduce
2 budgetary expenses in the State of Washington and
3 designated ten days, including October 11th, as furlow
4 days in which the agency is required to be closed. So
5 in defense of the schedule that's presented by the
6 parties, I will let you know that does not take place
7 until after July 1, so it is probably not noted on many
8 calendars yet, but this is a date that the agency will
9 be closed, but I am aware of that for the purpose of
10 the Commission's hearing calendar.

11 We could move the hearing to another date.
12 It wouldn't work for Union Pacific anyway so it's sort
13 of moot, but when would you be available? Are you
14 available later in that week or not at all in that
15 week?

16 MS. LARSON: Not at all in that week.

17 JUDGE CLARK: What I'm going to suggest that
18 we do then is I'm going to take just a few minutes off
19 record and I am going to leave the hearing room, and
20 I'm going to allow the parties to discuss an alternate
21 hearing date, and generally speaking, if the parties
22 can agree on the procedural schedule, I'm fine with
23 that and I generally adopt them. I'm here. It doesn't
24 make any difference if I'm sitting in hearing or doing
25 something else. It doesn't matter to me what the dates

0010

1 are. I would like the parties to work those out if you
2 can, and I'll vacate the hearing room and let you take
3 a few moments off record to come up with an alternate
4 date.

5 MS. LARSON: Thank you, Your Honor.

6 MR. COMBS: Thank you, Your Honor.

7 JUDGE CLARK: Are there any questions before
8 we go to recess?

9 (Recess.)

10 JUDGE CLARK: Have the parties had an
11 adequate opportunity to confer and have been able to
12 agree on an evidentiary hearing date in this matter?
13 I'm going to turn to you, Ms. Woods.

14 MS. WOODS: Your Honor, first I would like to
15 clarify that one of the dates that I stated I stated
16 incorrectly, and that was the date where Petitioner
17 Fife's testimony would be due. I meant to say August
18 16th, not the 19th.

19 We conferred about a possible hearing date,
20 and we would like to propose the week of October 25th
21 but not the 25th itself. Any other day that week.

22 JUDGE CLARK: All right.

23 MS. WOODS: Posthearing briefs to be due two
24 weeks later.

25 JUDGE CLARK: So that would make posthearing

0011

1 briefs due on November 9th. Would that work for the
2 parties?

3 MS. LARSON: Yes, Your Honor.

4 MR. COMBS: Yes, Your Honor.

5 MS. WOODS: Yes, it does.

6 JUDGE CLARK: Let me make sure I have all of
7 these dates correct. What I have is the first document
8 is a document wherein, and we can discuss this further,
9 but if the parties believe they are able to resolve
10 their issues without hearing, they would file documents
11 with the Commission on July 9th.

12 If the parties are unable to reach agreement,
13 the City of Fife would file prefiled testimony and
14 exhibits. On August 16th, 2010, the UTC staff and the
15 Union Pacific Railroad would file prefiled responsive
16 testimony and exhibits on September 3, 2010. Prefiled
17 rebuttal testimony and exhibits would be filed by the
18 City of Fife on September 24th, 2010, and the hearing,
19 if the parties are amenable to this -- we don't like to
20 start hearing on Mondays anyway, so it's probably a
21 good thing that October 25th doesn't work for the
22 parties, and I would suggest that we schedule the
23 hearing for October 26th, 2010, and then posthearing
24 briefs would be due two weeks thereafter on November
25 9th, 2010. Have I accurately reflected the parties'

0012

1 agreement regarding the procedural schedule?

2 MR. COMBS: Yes, Your Honor, for the City
3 petitioner.

4 JUDGE CLARK: Ms. Larson?

5 MS. LARSON: Yes, with one question. I was
6 noting in restating the schedule you said rebuttal
7 testimony by the City, but I was wondering if in case
8 Union Pacific and the UTC staff were not in agreement
9 on their stance whether they would have the opportunity
10 to rebut the other's testimony.

11 JUDGE CLARK: Yes. I will give you that
12 opportunity if you wish, and I will make the
13 appropriate modification to the date, and you would
14 like that opportunity to be on the same date as
15 rebuttal?

16 MS. LARSON: Yes. With that modification, I
17 agree with everything that's been proposed.

18 JUDGE CLARK: Ms. Woods, does that
19 memorialize the agreement?

20 MS. WOODS: Yes, it does, Your Honor.

21 JUDGE CLARK: Then I have just a couple of
22 questions for the parties. There are occasions where
23 the commissioners schedule a public comment hearing and
24 the Commission travels to generally the location of the
25 proposed petition or application, and in this case, it

0013

1 would most likely a hearing would be held in Fife if
2 the Commission were to take public comments in this
3 particular proceeding.

4 If we proceed to the hearing phase of this
5 case, do the parties find a need for a public comment
6 hearing in this matter? I'll hear from you first,
7 Mr. Combs, please.

8 MR. COMBS: Your Honor, I think a public
9 meeting aspect of this would be a good idea simply
10 because it involves the heart of the residential area,
11 the city, and the people I'm certain would like to feel
12 that their viewpoint has been heard. I think it goes
13 to the integrity of the process as well, the appearance
14 of fairness and citizens input. Although you may not
15 get anything you wouldn't otherwise hear from the
16 parties, I think the appearance of justice is just as
17 important as justice itself. So I think it would be
18 helpful.

19 JUDGE CLARK: We usually hear lots and lots
20 of things at public comment hearings that we don't hear
21 from the parties.

22 MR. COMBS: I can only imagine.

23 JUDGE CLARK: Ms. Larson?

24 MS. LARSON: Union Pacific Railroad doesn't
25 have any objection to a public comment hearing.

0014

1 JUDGE CLARK: Ms. Woods?

2 MS. WOODS: I'm getting agreement from UTC
3 staff that a public comment hearing would be a good
4 thing.

5 JUDGE CLARK: What we will do then is have to
6 leave it somewhat flexible in terms of a hearing date
7 because what we will have to do is find an appropriate
8 location for a public comment hearing. Our public
9 comment hearings are typically held in the evening
10 after the working hours to give people an opportunity
11 to come after work if they do work a day schedule, so
12 we will have to come up with a location and date and
13 time in the City of Fife.

14 If the parties can give me a few alternate
15 dates in terms of evenings that you would be available,
16 that would be very helpful to help us find a physical
17 location. If I look at a hearing date of October 26th,
18 I would suggest that we conduct our public comment
19 hearing somewhat close to that date, and we have to
20 remember, of course, that we have Ms. Larson out of the
21 country so we can't get too close to that.

22 MR. COMBS: Your Honor, I dropped out of the
23 call for a moment. My phone decided it was tired of
24 working and shut down for a couple of minutes. The
25 last I heard was that you were looking for a night

0015

1 meeting time, and then when I came back on, you were
2 indicating it needed to be close to the hearing.

3 JUDGE CLARK: So let me fill you in a little
4 bit. We do schedule our public comment hearings in the
5 evening so that people who work a day shift are able to
6 come and present comment in the evening, and we have to
7 find an appropriate location for that hearing in the
8 City of Fife. It does take a little bit of time to
9 make those logistical details, so if I could get a few
10 alternate dates that the parties are available for an
11 evening hearing somewhere in the nexus of the
12 evidentiary hearing, that would be helpful. We do try
13 to hold them relatively close to the evidentiary
14 hearing, and we do have to be cognizant that Ms. Larson
15 is going to be out of the country at least sometime
16 before that is my recollection, so we have to be
17 sensitive to that particular issue, and I do also need
18 to correct you, Mr. Combs. It's not a meeting. It's
19 an actual public hearing and we take testimony. We
20 swear the witnesses in, and so it's a little more
21 formal than the meetings that are conducted by the
22 Commission. It's probably not a distinction that you
23 draw, but trust me, it's one that's very close to our
24 hearts.

25 MR. COMBS: That's fine. I appreciate you

0016

1 clarifying that for me.

2 JUDGE CLARK: No problem. Do the parties
3 have any evenings that they would like to suggest?
4 Would you like to take a few moments off record to
5 confer?

6 MR. COMBS: Your Honor, just a thought. I
7 don't know if anyone would have an objection to having
8 the public hearing on city property, but on Wednesday
9 of that week, the city counsel chambers is available,
10 which is set up so there is a dias for the Commission,
11 and it's set up so you can have this kind of proceeding
12 relatively easily because it's where public hearings
13 are normally held in the city, and that can be made
14 available, but it's not available on Tuesday the 26th,
15 but if we could shift the hearing to later in that
16 week, we could have the public hearing for the citizens
17 on the Wednesday and maybe the hearing on Thursday and
18 Friday is just a suggestion, but I know do know that
19 room is available, and it's set up nicely for this.

20 JUDGE CLARK: Does anyone have an objection
21 to holding a public comment hearing in city counsel
22 chambers; Ms. Larson?

23 MS. LARSON: Your Honor, I have no objection.

24 JUDGE CLARK: Ms. Woods?

25 MS. WOODS: No objection.

0017

1 JUDGE CLARK: That would be fantastic.
2 Actually, those facilities usually work extremely well.
3 They are adequately lit. There is adequate parking,
4 and they meet our needs in terms of configuration and
5 it's certainly less work on our part, and while it's
6 preferable that we do it the day before the hearing,
7 it's not necessary, and I don't think doing it the
8 following evening would be any problem at all
9 whatsoever.

10 So what I would like to do, Mr. Combs, is put
11 the ball in your court and ask you to make the
12 necessary arrangements to reserve the city counsel
13 chambers for us on October 27th, and then if you can
14 e-mail me the details, we will insure that all the
15 details, our address, etcetera, are included in our
16 notice of the public comment hearing, and I greatly
17 appreciate your offer.

18 MR. COMBS: You are welcome. The room does
19 work well, Your Honor, so I'm glad it works for
20 everyone else.

21 JUDGE CLARK: I think that's an excellent
22 suggestion. Unless the parties have something else on
23 the procedural schedule, I'm going to adopt the
24 procedural schedule proposed by the parties.

25 There are a couple of other procedural

0018

1 deadlines that we frequently include in our schedule,
2 and I don't believe they are necessary in a proceeding
3 of this complexity, so I'm not going to include them
4 and overly complicate things that aren't, and I would
5 like to return now to the documents that would be
6 necessary for the parties to file on July 9th if you
7 are able to reach agreement.

8 The Commission does have rules governing
9 settlements, and that's what we would file. We would
10 like the parties to file, Mr. Combs, rather than a
11 proposed order resolving the issues, and the
12 Commission's rules, if my memory serves me correctly,
13 and it may not, are at WAC 480-07, I believe 740, maybe
14 730 to 750, those three rules, and according to the
15 Commission's settlement rules, you need to file a
16 settlement itself and a narrative in support of that
17 demonstrating how the settlement resolves the issues
18 that the parties have resolved, so we ordinarily see
19 when parties have reached a settlement.

20 MR. COMBS: We will follow the administrative
21 code in that regard, Your Honor. That's not a problem.

22 JUDGE CLARK: Ms. Woods?

23 MS. WOODS: Your Honor, among ourselves, we
24 had also discussed another possibility. The petition
25 in this case was filed to open a new at-grade

0019

1 pedestrian crossing. As I understand it, it's possible
2 that there could be an agreed resolution that would not
3 involve opening a new crossing, so another possibility
4 that we discussed would be for the City to file an
5 unopposed motion to withdraw the current petition and
6 then file a new petition describing whatever the agreed
7 resolution would be.

8 JUDGE CLARK: Well, that is certainly a
9 simpler resolution if the parties are able to reach
10 that agreement. That is a process we recently followed
11 in a case involving Meeker Southern Railroad, and if
12 the petitioner no longer wishes the Commission to open
13 a new at-grade crossing and are able to reach
14 resolution on different terms and conditions, perhaps
15 modifying some existing crossing or some other
16 alternative where the crossing is no longer at grade,
17 then they certainly can do that. You can file a motion
18 to withdraw the current petition and you can refile the
19 petition under the other terms and conditions. In that
20 case, it is unlikely to ever reach the administrative
21 law division unless there is opposition to that
22 petition, so while I don't favor either alternative, I
23 can certainly tell you that the alternative Ms. Woods
24 proposed is simpler and it's probably faster.

25 MR. COMBS: Your Honor, with that being said,

0020

1 perhaps you could give clarity on another issue. The
2 existing at-grade motor vehicle crossing was handled
3 under WUTC Docket No. TR-961394, and if we were to
4 reach an alternative solution, it would be within the
5 scope of that approval that was granted by the UTC.

6 So would that then trigger the need to go
7 under that old file, or would an alternative suggestion
8 suggested by the attorney general's office be the
9 appropriate approach?

10 JUDGE CLARK: Procedurally, I believe you
11 could do either. If, however, you chose to go under
12 the '96 docket, I think it would be more complicated.
13 You would have to file a motion to reopen the closed
14 docket and then wait until the Commission granted your
15 motion to reopen that closed docket and then file
16 whatever you wanted to file in the old docket, and you
17 may have noticed that the first two numbers in these
18 dockets are the number of the year in which the
19 petition or application or other documents is filed, so
20 you really would be asking the Commission to resolve in
21 a 1996 case matters that arose in the year 2010. So I
22 think it would probably be faster and simpler if you
23 followed the latter approach and filed a new petition
24 in 2010.

25 MR. COMBS: Except the issues of the '96

0021

1 order are still open and they involve an Indian tribe.

2 JUDGE CLARK: The docket is not closed?

3 MR. COMBS: No. The issues involved spell
4 out how the at-grade crossing would end up eventually
5 being closed, and those conditions preceding to the
6 closure haven't been met, but in our proposed
7 settlement, they would be.

8 In a perfect world that this settlement went
9 through the way we think it might, it would eventually
10 result in the closure of the at-grade crossing. So
11 that's one of my concerns is under the old docket, the
12 Puyallup Indian Tribe was involved, and they were in
13 favor of the permanent closure upon occurrences of
14 these conditions that would occur sometime in the
15 future.

16 Well, those conditions would still have to
17 happen as part of this settlement also for that road to
18 be closed, so if we opened up a new file number that
19 resulted in essence new conditions to the closure, the
20 permanent closure of the at-grade crossing, it seems
21 like we have two cases that are dealing with a very
22 similar issue, so that's why I ask the question,
23 because they are, and correct me if I'm wrong, Carolyn,
24 in this analysis, but I think they are linked in that
25 regard.

0022

1 But I'm open. This is an area that I
2 appreciate the wisdom of everyone involved having done
3 this much more than I, from the UTC and the
4 administrative law judge's wisdom. I'm not sure which
5 procedure to follow given the nature of the '96 docket
6 number involving a lot of the same facts.

7 JUDGE CLARK: There is one other factor that
8 kind of troubles me a little bit about this factual
9 scenario, Mr. Combs, and that is you've indicated there
10 was a party in the prior proceeding who doesn't have
11 any notice whatsoever regarding the outcome of this
12 particular proceeding, and so now we've sort of
13 elevated this to some constitutional issues of due
14 process and notice and the opportunity to be heard in
15 this matter.

16 I'm thinking maybe this is not a topic that
17 we can appropriately address sort of shooting from the
18 hip in a prehearing conference, and perhaps it would be
19 helpful for the parties to have some further
20 discussions on this topic benefited by some further
21 research, but I am troubled if there is an outcome in
22 this case that would affect the rights and obligations
23 of parties who are not even present in our current
24 proceeding.

25 MR. COMBS: Your Honor, just so you know, the

0023

1 Indian tribe is aware of this process that's going on
2 for the new application and have been advised and have
3 been advised again, even as late as yesterday, of
4 today's conference, and they have chosen not to
5 intervene because they have no objection to it. The
6 settlement involved in the old case, which they also
7 supported, only the UP objected in the '96 case.

8 As between the tribe and the UP, the tribe
9 was not objecting to the WUTC order, but they are aware
10 of the current pedestrian crossing application, have no
11 objection. Both the UTC staff and I on separate
12 occasions have contacted the tribe on this, and they
13 have not requested intervention status. Otherwise, we
14 would have delayed the prehearing conference to make
15 sure they had plenty of time to be involved, but it
16 does complicate matters, at least at first glance, if
17 we need to deal with the '96 case, I think your
18 concerns are very well founded that we now have someone
19 that has direct interest in the outcome of that case
20 and were impacting the end result of that case by any
21 settlement reached that involved the closure of the
22 at-grade crossing.

23 So further research may be necessary, and
24 the three parties will need to think this through and
25 may need to seek further guidance from Your Honor on

0024

1 this, but I wanted to assure you that all of the
2 parties have made sure that the tribe has been kept in
3 the loop on this both formally and informally.

4 JUDGE CLARK: All right. Well, it sounds to
5 me it would probably be a good idea for the parties to
6 further discuss this issue and decide an appropriate
7 route and an appropriate docket in which you want to
8 file any resolution you are able to reach, so I'm just
9 going to defer that, and we'll cross that bridge when
10 we get there. July 9th seems a long way to me right
11 now, but I will offer myself if you have procedural
12 questions, not substantive questions, I'm certainly
13 available and willing to try to assist with that if I
14 can.

15 MR. COMBS: Thank you, Your Honor.

16 JUDGE CLARK: Are there other procedural
17 matters the parties would like us to address this
18 afternoon? Mr. Combs?

19 MR. COMBS: Not from the City of Fife, Your
20 Honor.

21 JUDGE CLARK: Ms. Larson?

22 MS. LARSON: No, Your Honor.

23 JUDGE CLARK: Ms. Woods?

24 MS. WOODS: No, Your Honor.

25 JUDGE CLARK: I just have a procedural

0025

1 matter. Any documents that you file in this
2 proceeding, it is necessary for you to file an original
3 and five copies. Do the parties see any need for
4 discovery in this proceeding?

5 MS. LARSON: Yes, Your Honor. If we did not
6 reach agreement, I would need some discovery from the
7 City.

8 JUDGE CLARK: Mr. Combs, do you have any
9 objection to the Commission invoking its discovery
10 rules?

11 MR. COMBS: No, Your Honor. I think it's
12 appropriate if needed.

13 JUDGE CLARK: Ms. Woods?

14 MS. WOODS: No, Your Honor, no objection.

15 JUDGE CLARK: Is there anything further to be
16 heard on the record this afternoon?

17 MR. COMBS: Not from the City's perspective,
18 Your Honor.

19 MS. LARSON: Not from Union Pacific's
20 perspective either, Your Honor.

21 JUDGE CLARK: Ms. Woods?

22 MS. WOODS: Not from UTC Staff's perspective,
23 Your Honor.

24 JUDGE CLARK: Thank you. We are adjourned.

25