

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

CITY OF OLYMPIA,

Complainant,

v.

UNION PACIFIC RAILROAD
COMPANY,

Respondent.

DOCKET TR-240783 and TR-240793
(Consolidated)

ORDER 02

PREHEARING CONFERENCE
ORDER; NOTICE OF HEARING
(Evidentiary hearing set for
Wednesday, June 11, 2025, at 9:30
a.m.)

- 1 **NATURE OF PROCEEDING.** On October 21, 2024, the City of Olympia filed with the Washington Utilities and Transportation Commission (Commission) a petition to modify a highway-rail grade crossing, USDOT Crossing Number 807857V. The matter was filed under Docket TR-240783. On October 23, 2024, the City of Olympia filed with the Commission a petition to modify a highway-rail grade crossing, USDOT Crossing Number 807853T. The matter was filed under Docket TR-240793. On November 12, 2024, Union Pacific Railroad Company (UPRR) filed with the Commission two letters opposing the petitions filed in Dockets TR-240783 and TR-240793.
- 2 **CONFERENCE.** The Commission convened a virtual prehearing conference on February 25, 2025, before Administrative Law Judge Harry Fukano.
- 3 **APPEARANCES.** Michael M. Young, Senior Deputy City Attorney, represents the City of Olympia. Ty K. Wyman, Dunn Carney LLP, represents UPRR. Josephine Strauss, Assistant Attorney General, represents Commission staff (Staff).¹ Contact information for the parties' representatives is attached as Appendix A to this Order.

¹ In formal proceedings such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See RCW 34.05.455.

4 **PETITIONS FOR INTERVENTION.** As of the writing of this Order, the Commission
has not received any petitions to intervene.

5 **DISCOVERY.** The parties agreed that formal discovery is not necessary in this case.

6 **PROCEDURAL SCHEDULE.** The parties presented an agreed procedural schedule at
the prehearing conference. The Commission adopts this procedural schedule, which is
attached to this Order as Appendix B. The parties may reschedule the settlement
conference without seeking to modify the schedule if the parties agree, but the parties
must provide notice to the presiding officer of the rescheduled date.²

7 **DOCUMENT FILING AND SERVICE REQUIREMENTS.** Parties must file and
serve all pleadings, motions, briefs, and other pre-filed materials in compliance with all
of the following requirements:

- (a) Parties must submit electronic copies of all documents by 5 p.m. on the filing
deadline established in the procedural schedule (or other deadline as
applicable) unless the Commission orders otherwise. Parties must comply
with WAC 480-07-140(6) in formatting, organizing, and identifying electronic
files.
- (b) The Commission accepts only electronic versions of documents for formal
filing. Parties must submit documents electronically through the
Commission's web portal (www.utc.wa.gov/e-filing). If a party is unable to
use the web portal to submit documents for filing, the Commission will accept
a submission via email to records@utc.wa.gov provided that the email:
(1) explains the reason the documents are not being submitted via the web
portal, and (2) complies with the requirements in WAC 480-07-140(5)(b).
- (c) Parties must electronically serve the other parties and provide courtesy
electronic copies of filings to the presiding administrative law judge
(harry.o.fukano@utc.wa.gov) by 5 p.m. on the filing deadline unless the
Commission orders otherwise. If parties are unable to email copies, they may
furnish electronic copies by delivering them on a flash drive only.

8 **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to file with the
Commission and serve all proposed cross-examination exhibits by **5 p.m., Wednesday,
June 4, 2025**. The Commission requires electronic copies in searchable PDF (Adobe

² WAC 480-07-700(5)(a).

Acrobat or comparable software). If any of the exhibits contain information designated as confidential, parties must file an electronic copy of the redacted version in searchable PDF (Adobe Acrobat or comparable software) of each such exhibit. The exhibits must be grouped according to the witness the party intends to cross-examine with the exhibits.

- 9 **EXHIBIT LISTS.** With each submission of pre-filed testimony and exhibits, the party making the submission must include a preliminary exhibit list that identifies each submitted exhibit in the format the Commission uses for exhibit lists it prepares for evidentiary hearings. Waste Management will prepare its preliminary exhibit list and circulate it to the parties. Each party must file and serve a final list of all exhibits the party intends to introduce into the evidentiary record, including all pre-filed testimony and exhibits, as well as cross-examination exhibits by **5 p.m., Wednesday, June 4, 2025.**
- 10 **CROSS-EXAMINATION TIME ESTIMATES.** Each party must provide a list of witnesses the party intends to cross-examine at the evidentiary hearing and an estimate of the time that party anticipates the cross-examination of that witness will take. Parties should not file witness lists or cross-examination time estimates but must provide them to the administrative law judge (harry.o.fukano@utc.wa.gov) and the other parties via email by **5 p.m., Wednesday, June 4, 2025.**
- 11 **PUBLIC COMMENT HEARING.** No party requested a public comment hearing, and the Commission does not find such a hearing is necessary in this case.
- 12 **NOTICE OF EVIDENTIARY HEARING.** The Commission will hold an evidentiary hearing in this docket on **Wednesday, June 11, 2025, at 9:30 a.m. The hearing will be conducted virtually via Zoom.** To attend the hearing via Zoom, [click here to join meeting](#)³, or call (253) 215-8782 and enter the Conference ID: 884 8703 8966# and use the Passcode: 239106#.
- 13 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission has limited ability to provide dispute resolution services. If you wish to explore those services, please contact Connor Thompson, Interim Director, Administrative Law Division (360-664-1346).
- 14 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order,**

³ <https://utc-wa-gov.zoom.us/j/88487038966?pwd=6DSlw5iSDXobu2aPYpOBEjboa6j85K.1>

pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of this Order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this docket, subject to Commission review.

DATED at Lacey, Washington, and effective March 17, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Harry Fukano

HARRY FUKANO

Administrative Law Judge

APPENDIX A
PARTIES' REPRESENTATIVES
DOCKETS TR-240783 and TR 240793 (Consolidated)

PARTY	REPRESENTATIVE	PHONE	E-MAIL
City of Olympia	Michael M. Young Senior Deputy City Attorney P.O. Box 1967 601 – 4th Ave. E. Olympia, WA 98507	(360) 753-8338	myoung@ci.olympia.wa.us
Union Pacific Railroad Company	Ty K. Wyman Dunn Carney LLP 851 SW Sixth Ave. Suite #1500 Portland, OR 97204	(503) 417-5478	twyman@dunncarney.com
Commission Staff	Josephine Strauss Assistant Attorney General Office of the Attorney General P.O. Box 40128 Olympia, WA 98504	(360) 586-7777	Josephine.strauss@atg.wa.gov

APPENDIX B
PROCEDURAL SCHEDULE
DOCKETS TR-240783 and TR 240793 (*Consolidated*)

EVENT	DATE
Prehearing Conference	February 25, 2025
Initial Testimony	April 4, 2025
Response Testimony	April 25, 2025
Cross-Answering/Rebuttal Testimony	May 16, 2025
Settlement Conference (Parties only)	May 29, 2025
Cross Exhibits, Cross-Examination Time Estimates, Exhibit Lists, and Errata	June 4, 2025
Evidentiary Hearing	June 11, 2025
Simultaneous Post-hearing Briefs	July 3, 2025