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

CITY OF SPOKANE VALLEY, a municipal
corporation,

Complainant,

v.

UNION PACIFIC RAILROAD COMPANY
(aka UPRR)

Respondent.

DKT. NO. TR-210814
TR-210809

CITY OF SPOKANE VALLEY'S
RESPONSE TO AND JOINDER IN
COMMISSION STAFF'S MOTION TO
CONSOLIDATE DOCKETS

I. INTRODUCTION

1. Petitioner City of Spokane Valley (the "City") has filed a petition for approval of crossing modifications pursuant to RCW 81.53.261, which has been assigned docket number TR-210809. The City has also filed a complaint pursuant to RCW 81.04.110 for a declaratory ruling that maintenance costs of the modified warning devices must be prospectively borne by respondent Union Pacific Railroad Co. ("UPRR"), which has been assigned docket number TR-210814. Commission Staff have moved to consolidate the dockets pursuant to WAC 480-07-320. The City hereby responds to and joins in the motion to consolidate docket numbers TR-210809 and TR-210814.

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II. RELIEF REQUESTED

2. The UTC should consolidate docket numbers TR-210809 and TR-210814.

III. BACKGROUND

3. On October 25, 2021, the City filed a petition to modify the protective and warning devices at an at-grade public road crossing over Barker Road, USDOT #662526C.¹ The City also filed a complaint pursuant to RCW 81.04.110 for a declaratory ruling that maintenance costs of the modified protective and warning devices that are the subject of the petition must be prospectively borne by UPRR.²

4. On November 22, 2021, UPRR filed a single document in which it responded to the petition and complaint and also moved to dismiss the petition and complaint.³ The City and Commission Staff responded to UPRR's motion to dismiss the petition and complaint on December 2, 2021.⁴

5. On December 2, 2021, Commission Staff filed a motion in both dockets to consolidate the petition and complaint pursuant to WAC 480-07-320.⁵

¹ *City of Spokane Valley v. Union Pacific Railroad Co.*, Docket TR-210809, Petition to Modify Warning Devices at Highway-Railroad Crossing (Oct. 25, 2021).

² *City of Spokane Valley v. Union Pacific Railroad Co.*, Docket TR-210814, Complaint (Oct. 25, 2021).

³ *City of Spokane Valley v. Union Pacific Railroad Co.*, Docket TR-210809 and TR-210814, Union Pacific Railroad Company's Response and Motion to Dismiss City of Spokane Valley's Petition and Complaint (Nov. 22, 2021).

⁴ *City of Spokane Valley v. Union Pacific Railroad Co.*, Docket TR-210809 and TR-210814, City of Spokane Valley's Response to Union Pacific Railroad Co.'s Motion to Dismiss (Dec. 2, 2021); *City of Spokane Valley v. Union Pacific Railroad Co.*, Docket TR-210809 and TR-210814, Commission Staff's Response to Union Pacific Railroad Company's Response and Motion to Dismiss City of Spokane Valley's Petition and Complaint (Dec. 2, 2021).

⁵ *City of Spokane Valley v. Union Pacific Railroad Co.*, Docket TR-210809 and TR-210814, Commission Staff's Motion to Consolidate Dockets (Dec. 2, 2021).

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IV. ARGUMENT

6. The UTC may consolidate two or more proceedings in which the facts or principles of law are related. WAC 480-07-320. Parties to a proceeding may request consolidation, or the UTC may consolidate proceedings at its discretion. *Id.*

7. The City responds to and joins the motion of Commission Staff to consolidate docket numbers TR-210809 and TR-210814. The dockets concern the same public works project, the same warning devices, and the same at-grade highway-railroad crossing. Resolution of issues raised in each docket depends on the other. The UTC should consolidate the dockets to serve the interests of administrative efficiency.

V. CONCLUSION

8. The UTC should consolidate docket numbers TR-210809 and TR-210814.

DATED this 6th day of December, 2021.

MENKE JACKSON BEYER, LLP

/s/ Quinn N. Plant
QUINN N. PLANT, WSBA #31339
KENNETH W. HARPER, WSBA #25578
AZIZA L. FOSTER, WSBA #58434
807 North 39th Avenue
Yakima, WA 98902
kharp@mjbe.com
qplant@mjbe.com
zfoster@mjbe.com
*Attorneys for Complainant/Petitioner
City of Spokane Valley*

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CERTIFICATE OF SERVICE

I certify, under penalty of perjury, under the laws of the State of Washington, that on this day, I caused to be served a true and correct copy of the foregoing document by the method indicated before, and addressed to the following:

<p>Washington Utilities & Transportation Commission</p>	<p><input checked="" type="checkbox"/> efiling.utc.wa.gov/form</p>
<p>Jeff Roberson Assistant Attorney General Office of the Attorney General Utilities and Transportation Division P.O. Box 40128 Olympia, WA 98504-0128 (360) 664-1188</p>	<p><input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> E-Mail: jeff.roberson@utc.wa.gov <input type="checkbox"/> Via Hand Delivery</p>
<p>Ellis Mays 3017 Douglas Boulevard Suite 300 Roseville, CA 95661 (916) 774-7165 <i>(Contact for Union Pacific Railroad)</i></p>	<p><input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> E-Mail: emays@benesch.com <input type="checkbox"/> Via Hand Delivery</p>
<p>Josephine S. Jordan Union Pacific Railroad 1400 Douglas Street, MS 1580 Omaha, NB 68179 (402) 544-4554 <i>(Counsel for Union Pacific Railroad)</i></p>	<p><input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> E-Mail: jjordan1@up.com <input type="checkbox"/> Via Hand Delivery</p>
<p>Rachel Tallon Reynolds Jean Y. Kang 1111 Third Avenue, Suite 2700 Seattle, Washington 98101 (206) 436-2020 <i>(Counsel for Respondent)</i></p>	<p><input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> E-Mail: Rachel.Reynolds@lewisbrisbois.com Jean.Kang@lewisbrisbois.com <input type="checkbox"/> Via Hand Delivery</p>

