

3 **APPEARANCES.** Laura T.Z. Montgomery, Gleaves Swearington Potter & Scott
LLP, Eugene, OR, represents petitioner Puget Sound and Pacific Railroad. Daniel O.
Glenn, Glenn & Associates, P.S., Olympia, WA, represents respondent City of Elma.
James G. Baker, Senior Deputy Prosecuting Attorney, Montesano, WA, represents
respondent Grays Harbor County. Fronda Woods and Michael Fassio, Assistant
Attorneys General, Olympia, WA, represent the Commission's regulatory staff
(Commission Staff or Staff).¹ Contact information for the parties' representatives is
attached as Appendix A to this order.

4 **INTERVENTION.** No person petitioned to intervene in this proceeding.

5 **DISCOVERY.** Staff requested that the Commission make discovery available under
WAC 480-07-400 – 425, and no party objected to that request. Pursuant to WAC
480-07-400(2)(b)(iv), the Commission finds that the needs of the case may require
discovery and makes the discovery rules available to all parties.

6 **SEPA REVIEW.** The City of Elma represented at the prehearing conference that it
has concluded the State Environmental Policy Act (SEPA) review for the crossings
over which the City has jurisdiction, and it will provide the Commission with relevant
documentation of the results of that review. Grays Harbor County stated that it has
yet to initiate SEPA review for the crossings within its jurisdiction but intends to do
so promptly and expects to complete that review without requiring an adjustment to
the procedural schedule established in this Order. The County will provide the
Commission with all relevant documentation of that review.

7 **PROCEDURAL SCHEDULE.** The parties agreed on, and the Commission adopts,
the following procedural schedule:

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.

September 16, 2011 – Petitioner files direct testimony
November 10, 2011 – Respondents and Staff file response testimony
December 9, 2011 — All parties file rebuttal/cross-answer testimony
January 10-11, 2012 – Evidentiary Hearings (beginning at 10:00 a.m.)
January 10, 2012 – Public Hearing (beginning at 5:30 p.m.)

The procedural schedule is included in this Order as Appendix B.

- 8 **PUBLIC COMMENT HEARING.** The Commission will conduct a public comment hearing to afford members of the public an opportunity to present oral comments on the issues in this case. A separate notice of public comment hearing will be issued setting forth the date, time, and location of the public comment hearing.
- 9 **NOTICE OF HEARING.** The Commission will hold evidentiary hearings in this matter beginning **January 10, 2012**, at 10:00 a.m., and continuing thereafter, as necessary, on **January 11, 2012**, in the Commission’s Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.
- 10 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file an **original plus 7 copies** of all pleadings, motions, briefs, and other prefiled materials. These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.
- 11 All filings must be mailed or delivered to the Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.

- 12 An electronic copy of all filings must be provided through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to <records@utc.wa.gov >. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.
- 13 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Parties may submit documents electronically to the Commission on the filing deadline to expedite the filing process, but must file an original, plus 7 paper copies, of the documents with the Commission by 12:00 noon on the first business day following the filing deadline established in the procedural schedule. WAC 480-07-145(6). Parties may submit documents electronically through the Commission's Web Portal (www.utc.wa.gov/efiling) or by e-mail to records@utc.wa.gov. Finally, to perfect filing, parties must simultaneously provide e-mail courtesy copies of filings to the presiding administrative law judge as well as to the parties to the proceeding.
- 14 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Petitioner and Respondents requested mediation of the disputed issues raised in the petitions, and Staff supports that request. Accordingly, pursuant to WAC 480-07-710(3), the Commission appoints Administrative Law Judge Adam Torem as a mediator in this proceeding. Judge Torem will coordinate directly with the parties to establish the process and procedures of the mediation pursuant to WAC 480-07-710(4).

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

Dated at Olympia, Washington, and effective July 19, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA
Administrative Law Judge

APPENDIX A

**PARTIES' REPRESENTATIVES
 DOCKETS TR-110157, et al**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Puget Sound and Pacific Railroad	Laura T.Z. Montgomery Gleaves Swearington Potter & Scott LLP 975 Oak Street, Suite 800 Eugene, OR 97401	541-686-8833	541-345-2034	Montgomery@gleaveslaw.com
City of Elma	Daniel O. Glenn Glenn & Associates, P.S. 2424 Evergreen Park Drive S.W. P.O. Box 49 Olympia, WA 98507	360-943-7700	360-943-7721	glennsatsop@msn.com
Grays Harbor County	James G. Baker Senior Deputy Prosecuting Attorney 102 West Broadway, Room 102 Montesano, WA 98563	360-249-3951	360-249-6064	jbaker@co.grays-harbor.wa.us
Commission Staff	Frona Woods Michael Fassio Assistant Attorney General 1400 S. Evergreen Park Drive S.W. P.O. Box 40128 Olympia, WA 98504-0128	360-664-1225 360-664-1192	360-586-5522	fwoods@utc.wa.gov mfassio@utc.wa.gov

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKETS TR-110157, et al**

<u>EVENT</u>	<u>DATE</u>
Petitioner - Direct Testimony	September 16, 2011
Respondent and Staff - Response Testimony	November 10, 2011
All parties – Rebuttal/Cross Answer Testimony	December 9, 2011
Evidentiary Hearing	January 10-11, 2012
Public Hearing	January 10, 2012