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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 SPOKANE COUNTY,)
4) DOCKETS NO. TR-950332
5 Petitioner,) TR-950333
6) TR-950334
7 vs.) TR-961353
8) TR-970009
9 UNION PACIFIC RAILROAD) TR-980936
10) TR-980937
11 COMPANY,) TR-980938
12) Volume 2
13 Respondent.) Pages 6 - 11
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11 A prehearing conference in the above matter
12 was held on October 19, 2000, at 1:33 p.m., at 1300
13 South Evergreen Park Drive Southwest, Olympia,
14 Washington, before Administrative Law Judge C. ROBERT
15 WALLIS.

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16 The parties were present as follows:

17 THE WASHINGTON UTILITIES AND TRANSPORTATION
18 COMMISSION STAFF, by JONATHAN THOMPSON, Assistant
19 Attorney General, 1400 South Evergreen Park Drive
20 Southwest, Post Office Box 40128, Olympia, Washington
21 98504-0128
22 Also Present: MICHAEL ROWSWELL, Rail Carrier
23 Compliance Specialist.

21 UNION PACIFIC RAILROAD, by WILLIAM J.
22 SCHROEDER, Attorney at Law, 717 West Sprague Avenue,
23 Suite 1200, Spokane, Washington 99201 (via bridge.)

23 SPOKANE COUNTY, by ROBERT B. BINGER, Deputy
24 Prosecuting Attorney, West 1115 Broadway Avenue,
25 Spokane, Washington 99260 (via bridge.)

25 Kathryn T. Wilson, CCR
Court Reporter

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1 P R O C E E D I N G S

2 JUDGE WALLIS: The conference will please
3 come to order. This is a prehearing conference in the
4 matter of Docket Nos. TR-950332, et al., involving
5 Spokane County versus Union Pacific Railroad Company
6 having to do with railroad crossings within Spokane
7 County. This matter is being heard in Olympia,
8 Washington, on October 19 of the year 2000, and some of
9 the parties are attending by teleconference.

10 Let's take appearances at this time, and if
11 you would just state your name as a representative and
12 the name of your client, that will be sufficient.
13 Let's begin with the petitioner, Spokane County.

14 MR. BINGER: I'm Robert Binger, deputy
15 prosecuting attorney, representing Spokane County.

16 MR. SCHROEDER: Bill Schroeder representing
17 Union Pacific Railroad.

18 JUDGE WALLIS: Commission staff?

19 MR. THOMPSON: Jonathan Thompson, assistant
20 attorney general, representing Commission staff.

21 JUDGE WALLIS: It's my understanding in this
22 matter that a stipulation has been filed by the parties
23 but that there is one matter that remains for either
24 further clarification or other attention by the parties
25 and the Commission; is that correct?

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1 MR. THOMPSON: That's correct.

2 JUDGE WALLIS: Could we ask the pertinent
3 party to explain what is going on at this point?

4 MR. BINGER: I'd like to do that initially.
5 The stipulation is fairly straightforward. We've had a
6 number of petitions over a number of years with a
7 number of parties, all of which will be concluded with
8 your order based upon the stipulation, with the
9 exception of Kenney Road, which the parties have agreed
10 to if not objected to that signals and gates will be
11 installed.

12 In conjunction with that, the roadway has a
13 hump in it at the Kenney Road crossing, which the
14 county has agreed to remove and then reconstruct the
15 road following its removal, and this was an issue that
16 has been discussed for some time, I think. Even as
17 this deal started to come together, that was one of our
18 items of discussion. It was inadvertently left off the
19 settlement document. However, when Ann Rendahl was
20 involved, we initially were going to resolve that with
21 a letter from Ross Kelly to Mike Rowswell, which letter
22 was sent and was probably, I guess in my judgement,
23 did resolve this. We are certainly willing to do it.
24 We've always been willing to do it and will do it and
25 certainly don't mind, Judge Wallis, talking with you

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1 about it or putting it on the record or putting it in
2 your order, but as far as we are concerned, it's a done
3 deal. We made the commitment. We followed that up
4 with a letter to Staff, and I guess the state wanted us
5 to draw it to your attention in this forum, which is
6 fine.

7 The part we are willing to do or going to do,
8 again, is remove the hump in the roadway at the Kenney
9 Road crossing. We will then reconstruct the roadway to
10 Spokane County road standards, and all of this to be
11 accomplished, if not simultaneous with, in conjunction
12 with the crossing and the gates being put in. If the
13 crossing and the gates don't go in, the roadway will
14 not be repaired. So that's kind of the last piece of
15 the puzzle.

16 JUDGE WALLIS: Mr. Thompson, do you have
17 anything to add or any comments that you would like to
18 make?

19 MR. THOMPSON: I think that fairly states it
20 from our standpoint too, so I don't have anything to
21 add.

22 JUDGE WALLIS: I don't believe the letter is
23 a part of the official file. It is not in the copy of
24 materials that I have. Does the letter clearly state
25 the obligations that the county would be accepting?

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1 MR. BINGER: Yes, it does. The letter from
2 Ross Kelly does clearly state our obligation, which we
3 are going to undertake.

4 JUDGE WALLIS: May we ask that Commission
5 staff provide a copy of that to the Bench?

6 MR. THOMPSON: Yes, I will do that.

7 JUDGE WALLIS: Very well. Is there any
8 aspect of this proceeding that in the parties' view
9 would require some form of hearing in Spokane County
10 for participation by members of the public?

11 MR. BINGER: The county does not believe any
12 hearing is required.

13 JUDGE WALLIS: That's because there is no
14 closure being proposed but only signalization?

15 MR. BINGER: Correct. We are simply
16 withdrawing our petitions. Everyone is simply
17 withdrawing their petitions, and that would not take a
18 hearing, and with Kenney Road, in effect, the relief
19 being requested is being granted.

20 JUDGE WALLIS: Very well. Mr. Thompson, do
21 you wish to be heard?

22 MR. THOMPSON: No. I think we would agree
23 with that too.

24 JUDGE WALLIS: All right. It's my intention
25 to prepare an order for the commissioners, and just for

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1 the sake of a complete record, is there any objection
2 to the waiver of an initial order in this matter? In
3 other words, I would propose to consult with the
4 commissioners and submit the matter to them for their
5 decision without entering an initial order. Is there
6 any objection to that?

7 MR. BINGER: No objection from the county.

8 MR. SCHROEDER: No objection from Union
9 Pacific.

10 JUDGE WALLIS: Is there anything further to
11 be undertaken this afternoon?

12 MR. THOMPSON: Nothing further.

13 JUDGE WALLIS: With that, this conference is
14 concluded. We will proceed a pace to prepare and
15 shepherd that order. I'm going to miss these regular
16 conferences, but perhaps something else will come up so
17 we can keep in touch. Thank you very much.

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19 (Prehearing conference concluded at 1:40 p.m.)

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