

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

CITY OF KENNEWICK,)	
)	DOCKET NO. TR-040664
Petitioner,)	
)	ORDER NO. 03
v.)	
)	ORDER GRANTING
UNION PACIFIC RAILROAD,)	CONTINUANCE; NOTICE OF
)	PREHEARING CONFERENCE
Respondent.)	(Set for June 2, 2005, 1:30 p.m.)
)	
.....)	

1 **Proceeding.** Docket No. TR-040664 is a petition by the City of Kennewick for approval of a proposed silent, at-grade crossing of Center Parkway with the Union Pacific Railroad's dead end spur west of Richland Junction (MP 18.8).

2 **Background.** The Commission convened a prehearing conference in this docket at Olympia, Washington on October 19, 2004, before Administrative Law Judge C. Robert Wallis. At that conference the parties agreed to a schedule that required evidentiary hearings on May 9, 2005.

3 On November 22, 2004, the City of Kennewick filed a Stipulation, agreed upon by Union Pacific Railroad and Commission Staff, regarding the hearing schedule. On November 23, 2004, the Commission issued a notice modifying the procedural schedule that required evidentiary hearings on June 6, 2005.

4 On February 22, 2005, the City of Kennewick (City) and Union Pacific Railroad (UPRR) filed a joint Stipulation and Order Continuing Scheduling Order. On February 24, 2005, the Commission entered Order No. 02—Order Granting Continuance; Suspending Procedural Schedule requiring the parties

report back to the Commission by April 22, 2005, with either an agreed upon joint settlement agreement or if necessary, a new proposed hearing schedule.

5 On April 25, 2005, the City of Kennewick and Union Pacific Railroad informed the Commission, by filing a joint Motion for Continuance that the Union Pacific Railroad Company and the City of Kennewick have both agreed to the terms for moving Union Pacific's interchange operation with the Tri-City & Olympia Railway from Kennewick to Wallula Junction. However, Union Pacific needs BNSF Railway's permission to allow the Tri-City & Olympia Railway to operate over joint UPRR/BNSF to reach Wallula and does not yet have that permission. Both, the City and UPRR request a 30-day extension, until May 23, 2005, to either inform the Commission that the necessary third party consents have been received, or to propose a new schedule for the administrative hearing.

6 **Appearances.** John Ziobro, city attorney, represented the City of Kennewick. Carolyn Larson, attorney, Portland, OR, represented respondent Union Pacific railroad. Jonathan Thompson, Assistant Attorney General, Olympia, represents the Commission Staff.

7 **Objections:** Commission staff reports that it does not have an objection to a further continuance.

8 **Ruling on the motion:** The motion is granted, in part. The deadline for reporting in writing with an agreed settlement or recommendations for further process is hereby extended to June 1, 2005. A prehearing conference is established in this order, to be held on June 2, 2005, to discuss the procedural status of the docket.

9 **Prehearing Conference:** The Commission will convene a prehearing conference for purposes of determining the status of the proceeding at that time. The conference shall consider whether settlement has then been achieved in fact or in principle; whether settlement is then sufficiently likely that the matter should be further continued; whether the matter should be set for hearing (and a schedule for that purpose determined) or whether the matter should be dismissed; or whether any other procedural option for obtaining closure in the docket should be considered or adopted.

10 **NOTICE IS GIVEN That a prehearing conference will be held at 1:30 p.m., on Thursday, June 2, 2005, in Room 206, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

ORDER

THE COMMISSION ORDERS That:

- 11 (1) The joint request of the City of Kennewick and Union Pacific Railroad for a continuance of the procedural schedule is granted, in part.
- 12 (2) The deadline for submission of a proposed settlement agreement or recommendations for further process is extended until June 1, 2005.
- 13 (3) The Commission will convene a prehearing conference on June 2, 2005, to discuss the issues identified in paragraph 8, above, and any other procedural matter that the parties or the Commission shall raise.

DOCKET NO. TR-040664
ORDER NO. 03

PAGE 4

DATED at Olympia, Washington, and effective this 26th day of April, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

C. ROBERT WALLIS
Administrative Law Judge