

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

CITY OF SPOKANE VALLEY,

Petitioner,

v.

UNION PACIFIC RAILROAD,

Respondent.

DOCKET TR-111033

PETITIONER CITY OF SPOKANE
VALLEY'S MOTION TO
WITHDRAW PETITION

Petitioner City of Spokane Valley moves pursuant to WAC 480-07-380(3) for an order to withdraw its petition in these proceedings without prejudice.

1. On June 6, 2011, the City of Spokane Valley (the "City") filed with the Washington Utilities and Transportation Commission (the "Commission") a petition to modify warning devices and install sidewalks at a highway-rail grade crossing at Pines Road, Spokane County, Spokane Valley, Washington.

2. On July 13, 2011, Respondent Union Pacific Railroad (the "Railroad") responded to the City's petition by stating that it did not have any objection to the petition but did have concerns about how the cost of the modifications would be allocated between the Railroad and the City.

3. On September 1, 2011, the Commission entered Order 01, which includes a procedural schedule for this matter and scheduled an evidentiary hearing for March 28, 2012. Due to ongoing settlement discussions between the City and the Railroad, on November 3, 2011, December 21, 2011 and February 7, 2012, the Commission granted unopposed motions to continue the hearing date and modify the procedural schedule.

**PETITIONER'S MOTION TO WITHDRAW
PETITION – 1**

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4. On March 27, 2012, the Commission suspended the procedural schedule in response to notice from the City dated March 23, 2012 that the City had reached an agreement (the "Agreement") with the Railroad, subject only to approval by the City Council, that resolves issues concerning cost allocation for the installations.

5. At the City Council meeting on March 27, 2012, the Agreement between the City and the Railroad was approved.

6. If this Motion to Withdraw is granted, the City will file a new petition in accordance with the Agreement, in response to which the Railroad has agreed to waive its right to a hearing.

7. WAC 480-07-380(3) provides as follows:

(3) *Motion to withdraw.* A party may withdraw from a proceeding only upon permission granted by the commission in response to a written motion if:

(a) In the case of a matter initiated by a tariff filing, the commission has entered a complaint and order suspending the filing; or

(b) In all other cases, the commission has issued a hearing notice or otherwise commenced an adjudicative proceeding pursuant to chapter 34.05 RCW.

The commission will grant a party's motion to withdraw from a proceeding when the party's withdrawal is in the public interest.

8. Withdrawal of the City's petition without prejudice is in the public interest as all matters in dispute have been resolved by the Agreement and a hearing is unnecessary. Counsel for the Railroad and WUTC staff counsel have advised counsel for the City that the Railroad and WUTC staff support this motion.

DATED this 2nd day of April, 2012.

HEDEEN & CADITZ, PLLC

By



Bryan H. Caditz WSBA#15243

Attorneys for Petitioner

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**PETITIONER'S MOTION TO WITHDRAW
PETITION - 2**

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Petitioner's Motion to Withdraw Petition was served on the following parties and their known representatives, via E-mail and via first class mail, postage prepaid, at the addresses listed below:

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Honorable Marguerite E. Friedlander
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DATED this 2nd day of April, 2012, at Seattle, Washington.



SUSAN K. MATHEWS