

**Exhibit No. \_\_\_ (KH-12)**  
**Docket TR-100098**  
**Witness: Kathy Hunter**

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**CITY OF FIFE,**

**Petitioner,**

**v.**

**UNION PACIFIC RAILROAD,**

**Respondent.**

**DOCKET TR-100098**

**EXHIBIT TO TESTIMONY OF**

**Kathy Hunter**

**STAFF OF  
WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

*RCW 81.53.261*

**September 3, 2010**

RCW 81.53.261

Crossing signals, warning devices — Petition — Hearing — Order — Costs apportionment — Records not evidence for actions — Appeal.

Whenever the secretary of transportation or the governing body of any city, town, or county, or any railroad company whose road is crossed by any highway, shall deem that the public safety requires signals or other warning devices, other than sawbuck signs, at any crossing of a railroad at common grade by any state, city, town, or county highway, road, street, alley, avenue, boulevard, parkway, or other public place actually open and in use or to be opened and used for travel by the public, he or it shall file with the utilities and transportation commission a petition in writing, alleging that the public safety requires the installation of specified signals or other warning devices at such crossing or specified changes in the method and manner of existing crossing warning devices. Upon receiving such petition, the commission shall promptly set the matter for hearing, giving at least twenty days notice to the railroad company or companies and the county or municipality affected thereby, or the secretary of transportation in the case of a state highway, of the time and place of such hearing. At the time and place fixed in the notice, all persons and parties interested shall be entitled to be heard and introduce evidence, which shall be reduced to writing and filed by the commission. If the commission shall determine from the evidence that public safety does not require the installation of the signal, other warning device or change in the existing warning device specified in the petition, it shall make determinations to that effect and enter an order denying said petition in toto. If the commission shall determine from the evidence that public safety requires the installation of such signals or other warning devices at such crossing or such change in the existing warning devices at said crossing, it shall make determinations to that effect and enter an order directing the installation of such signals or other warning devices or directing that such changes shall be made in existing warning devices. The commission shall also at said hearing apportion the entire cost of installation and maintenance of such signals or other warning devices, other than sawbuck signs, as provided in RCW 81.53.271: PROVIDED, That upon agreement by all parties to waive hearing, the commission shall forthwith enter its order.

No railroad shall be required to install any such signal or other warning device until the public body involved has either paid or executed its promise to pay to the railroad its portion of the estimated cost thereof.

Nothing in this section shall be deemed to foreclose the right of the interested parties to enter into an agreement, franchise, or permit arrangement providing for the installation of signals or other warning devices at any such crossing or for the apportionment of the cost of installation and maintenance thereof, or compliance with an existing agreement, franchise, or permit arrangement providing for the same.

The hearing and determinations authorized by this section may be instituted by the commission on its own motion, and the proceedings, hearing, and consequences thereof shall be the same as for the hearing and determination of any petition authorized by this section.

No part of the record, or a copy thereof, of the hearing and determination provided for in this section and no finding, conclusion, or order made pursuant thereto shall be used as evidence in any trial, civil or criminal, arising out of an accident at or in the vicinity of any crossing prior to installation of signals or other warning devices pursuant to an order of the commission as a result of any such investigation.

Any order entered by the utilities and transportation commission under this section shall be subject to review, supersedeas and appeal as provided in chapter 34.05 RCW.

Nothing in this section shall be deemed to relieve any railroad from liability on account of failure to provide adequate protective devices at any such crossing.

[2007 c 234 § 99; 1982 c 94 § 1; 1969 c 134 § 1.]

Notes:

**Application -- 1982 c 94:** "The provisions of this act shall not apply to those petitions acted upon by the commission prior to July 10, 1982." [1982 c 94 § 5.]