

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

In the Matter of the Application of)	DOCKET TR-060037
)	
MOUNT VERNON TERMINAL)	ORDER 01
RAILROAD,)	
)	
Petitioner,)	
)	ORDER DENYING REQUEST FOR
Requesting Disbursement from the)	DISBURSEMENT FROM THE GRADE
Grade Crossing Protective Fund)	CROSSING PROTECTIVE FUND
.....)	

BACKGROUND

- 1 On November 14, 2005, Washington Utilities and Transportation Commission (Commission) sent a “Notice of Opportunity to Apply for Grant Monies from the Grade Crossing Protective Fund” in Docket TR-051633 to various interested parties from the public and private sectors that were eligible to apply for Grade Crossing Protective Fund (GCPF) grants. On January 19, 2006, the Commission issued a notice extending the due date for grant applications to February 17, 2006.
- 2 On January 9, 2006, Mount Vernon Terminal Railroad (railroad) filed an application with the Commission, requesting disbursement from the GCPF to pay for installation of 1,685 feet of fence and gates at a railroad car storage site at Mount Vernon, Washington.
- 3 The railroad owns two spur tracks at Mount Vernon that feed off the main-line track, cross a road, and dead-end at the storage site. One set of tracks runs 675 feet beyond the crossing; the second set runs 375 feet beyond the crossing. Both set of tracks run under Interstate 5. According to Commission rules, the railroad cannot store cars within 100 feet of the crossing. This leaves 575 feet of storage on one track and 275 feet on the other.
- 4 The railroad contracts with a fertilizer company for use of its spur tracks. In addition, the railroad approached Shell Oil Company refinery to store its cars on the spur tracks as a means of generating additional revenue. The refinery cars are filled with butane, a hazardous material under the Federal Railroad Administration (FRA) regulations.
- 5 In September 2005, the Mount Vernon Fire Department inspected the site with Commission and FRA Staff. The fire department expressed its concerns in storing high-pressure tank cars with no security.

- 6 The railroad, in its application for disbursement of funds from GCPF, proposes to build a gated fence topped with barbed wire for security measures. This would allow the railroad to store the high-pressure butane cars on its tracks. The railroad states in its application that the benefits would be, “revenue to a short-line railroad would be greatly enhanced ... costs of re-painting graffiti by vandals would disappear ... long-time economic value to Shell for the near-by staging.”
- 7 Staff recommends the Commission deny the application for funding from GCPF for the project. In Washington Administration Code (WAC) 480-62-400, states, “Grade crossing protective fund grants are to fund projects that: (a) Reduce accident frequency and severity at either public and private railroad crossings; or (b) Reduce pedestrian, trespassing, and motorist injuries and deaths on railroad rights of way at places other than crossings.” Staff argues that a project designed to increase revenue and decrease costs to a railroad and provide economic value to an outside business does not qualify under the WAC for a GCPF grant.

FINDINGS AND CONCLUSIONS

- 8 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington having authority to approve and administer disbursements from the Grade Crossing Protective Fund. *Chapter 81.53.271 RCW and 81.53.281 RCW.*
- 9 (2) The project for which disbursement from the Grade Crossing Protective Fund is sought is not eligible for funding consideration under WAC 480-62-400.
- 10 (3) Commission Staff investigated the request based on the review criteria specified in Commission rules and recommended that it be denied.
- 11 (4) This matter was brought before the Commission at its regularly scheduled meeting on June 28, 2006.
- 12 (5) After examination of the application filed by the Mount Vernon Terminal Railroad on January 9, 2006, and giving consideration to all relevant matters and for good cause shown, the Commission denies the request for disbursement of funds.

ORDER

THE COMMISSION ORDERS:

- 13 (1) The request of the Mount Vernon Terminal Railroad, seeking disbursement from the Grade Crossing Protective Fund for installation of 1,685 feet of fence and gates at a railroad car storage site at Mount Vernon, Washington is denied.

DATED at Olympia, Washington, and effective June 28, 2006.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner