

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

YAK RAIL LLC,

Petitioner,

Seeking Approval to Modify Active
Warning Devices at a Public Highway-
Rail Grade Crossing and Requesting
Disbursement from the Grade Crossing
Protective Fund

DOCKET TR-230847

ORDER 01

GRANTING PETITION TO MODIFY
ACTIVE WARNING DEVICES AT A
PUBLIC HIGHWAY-RAIL GRADE
CROSSING AT SR-97 AND
AUTHORIZING EXPENDITURE
FROM THE GRADE CROSSING
PROTECTIVE FUND

USDOT: 099199T

BACKGROUND

- 1 On October 12, 2023, Yak Rail LLC, (Yak Rail or Petitioner), filed with the Washington Utilities and Transportation Commission (Commission) a petition (Petition) seeking approval to modify active warning devices at a highway-rail grade crossing identified as USDOT 099199T. The crossing is located at the intersection of State Route 97 (SR-97) and the Petitioner's tracks near Toppenish, Yakima County. The track at this location is owned by Yakima County and operated under contract by Yak Rail. The Petitioner further requests the Commission authorize an expenditure of \$8,459.07 from the Grade Crossing Protective Fund (GCPF) to replace the crossing signal batteries and battery chargers.
- 2 Respondents Yakima County and the Washington State Department of Transportation consented to entry of an Order by the Commission without further notice or hearing.
- 3 SR-97 is a five-lane state highway with a speed limit of 50 miles per hour. Estimated average annual daily vehicle traffic through the crossing is 12,000 vehicles. SR-97 is part of an established truck route with eight percent commercial traffic and is not part of a school bus route. Up to three freight trains operate over this crossing daily at up to 10 miles per hour. No passenger trains operate over the crossing.
- 4 Railroad warning devices at the SR-97 crossing consist of advance warning signs, pavement markings, crossbucks, ENS signs, two warning bells, and mast and cantilever-mounted flashing LED warning lights. The Petitioner proposes to install new crossing signal batteries and battery chargers. These upgrades will improve reliability and

serviceability of the signals, thereby increasing safety for roadway users of the crossing. The total cost of the materials is \$8,459.07. GCPF funds are available for this project.

- 5 Commission staff (Staff) has investigated the Petition and recommends that it be granted subject to the following conditions: (1) expenditure from the GCPF must not exceed \$8,459.07, (2) payment will be made upon presentation of claim for reimbursement for materials and verification by Staff that the work has been satisfactorily completed, (3) the Petitioner must sign and return the attached project agreement, (4) the project must be completed by December 31, 2024, (5) traffic control devices must comply with all applicable standards specified in the U.S. Department of Transportation *Manual on Uniform Traffic Control Devices*, and, (6) the Petitioner must notify the Commission immediately upon completion of the modifications authorized herein. Acceptance of the changes is subject to inspection by Staff, who will verify that the crossing is in full compliance with applicable laws, regulations, and the conditions specified herein.

DISCUSSION

- 6 RCW 81.53.261 requires that the Commission grant approval prior to modifying a public railroad-highway grade crossing within the state of Washington. RCW 81.53.271 authorizes the Commission to disburse funds from the GCPF to pay for improvements to highway-rail grade crossings. We find that the proposed modifications will improve overall safety for roadway users. Accordingly, the Commission grants the Petition subject to the conditions Staff recommends.

FINDINGS AND CONCLUSIONS

- 7 (1) The Commission is an agency of the state of Washington having jurisdiction over public highway-rail grade crossings within the state of Washington, and authority to approve and administer disbursements from the GCPF.
- 8 (2) The grade crossing at SR-97, identified as USDOT 099199T, is a public highway-rail grade crossing within the state of Washington.
- 9 (3) RCW 81.53.261 requires the Commission to grant approval prior to any changes to public highway-rail grade crossings within the state of Washington.¹
- 10 (4) RCW 81.53.271 allows the Commission to disburse funds from the Grade Crossing Protective Fund to pay for the installation of a grade crossing protective device without requiring the Petitioner to share the cost.

¹ See also WAC 480-62-150.

- 11 (5) Commission Staff investigated the Petition and recommends that it be granted subject to the conditions set out in paragraph 5, above.
- 12 (6) After reviewing the Petition filed by Yak Rail on October 12, 2023, and giving due consideration to all relevant matters and for good cause shown, the Commission should grant the Petition and request for disbursement of funds, subject to the conditions set out in paragraph 5 of this Order.

ORDER

THE COMMISSION ORDERS:

- 13 Yak Rail LLC's Petition to upgrade warning devices at the highway-rail grade crossing located at SR-97 is granted subject to the conditions specified below. The cost of the materials for this upgrade shall be paid from the Grade Crossing Protective Fund. Approval of the Petition is subject to the following conditions:

- (1) Expenditure from the Grade Crossing Protective Fund must not exceed \$8,459.07.
- (2) Payment will be made upon presentation of claim for reimbursement for materials and verification by Commission Staff that the work has been satisfactorily completed.
- (3) Yak Rail LLC must sign and return the attached project agreement.
- (4) The project must be completed no later than December 31, 2024.
- (5) Traffic control devices must comply with all applicable standards specified in the U.S. Department of Transportation *Manual on Uniform Traffic Control Devices*; and,
- (6) Yak Rail LLC must notify the Commission immediately of the completion of the upgrades authorized in this Order. Acceptance of the upgrades is subject to inspection by Commission Staff, and verification that the crossing is in full compliance with applicable laws, regulations, and the conditions specified in this Order.

The Secretary of the Commission has delegated authority over this matter pursuant to Order 01 in Docket A-180762. The Secretary finds this Order to be consistent with the public interest.

DATED at Lacey, Washington, and effective December 12, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KATHY HUNTER,
Acting Executive Director and Secretary

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904, you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.