

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

In the Matter of the Petition of

CLARK COUNTY,

To Install Median Barriers at NW 122<sup>nd</sup>  
Street Crossing (USDOT: 092421N)

DOCKET TR-240364

ORDER 02

GRANTING MOTION TO  
WITHDRAW PETITION AND  
CLOSING DOCKET

**BACKGROUND**

- 1 On May 15, 2024, Clark County Public Works (Clark County) filed with the Washington Utilities and Transportation Commission (Commission) a petition to modify a highway-rail grade crossing, listing Burlington Northern Santa Fe Railroad (BNSF) as the responding party.
- 2 On July 16, 2024, the Commission convened a virtual prehearing conference before Administrative Law Judge M. Hayley Callahan.
- 3 On September 24, 2024, the Commission issued order 01 Prehearing Conference Order and Notice of Hybrid Evidentiary Hearing, which among other things, established a procedural schedule. The procedural schedule set a hybrid evidentiary hearing for September 8, 2025, at 9:00 a.m. and a virtual public comment hearing was set for September 8, 2025, at 6:00 p.m.
- 4 On February 25, 2025, the Commission issued a Notice of Substitution of Presiding Officer, reassigning this matter to Administrative Law Judge Jessica Kruszewski to act as the presiding officer.
- 5 On April 10, 2025, Clark County filed testimony of John Manix with exhibits attached.
- 6 On June 3, 2025, BNSF filed testimony of Richard D. Scott with an exhibit list. On June 3, 2025, Commission staff (Staff) filed a letter informing the Commission that Staff did not intend to file testimony but reserved the right to file cross-answering testimony.
- 7 On July 29, 2025, Clark County filed a Motion for Dismissal Without Prejudice (Motion to Dismiss).

8 On August 1, 2025, Staff filed a letter stating that Clark County's Motion to Dismiss is fashioned as a motion to withdraw under Washington Administrative Code (WAC) 480-07-380(3). Staff further did not object to Clark County's request to dismiss the proceeding or withdraw its petition.<sup>1</sup>

9 **MOTION TO WITHDRAW.** Pursuant to WAC 480-07-380:

Once the commission has issued a hearing notice or otherwise commenced an adjudicative proceeding pursuant to chapter 34.05 RCW, a party may withdraw from that proceeding, or may withdraw the party's tariff, complaint, petition, or application on which a proceeding is based, only upon permission granted by the commission in response to a written motion. The motion must include any settlement or other agreement pursuant to which the party is seeking withdrawal.<sup>2</sup>

10 Although Clark County filed a motion to dismiss this matter, the motion is considered by the Commission to be a motion to withdraw petition under WAC 480-07-380(3). Because Clark County is the petitioning party and because the Commission has yet to hold an evidentiary hearing in this matter, we believe that Clark County has satisfied the requirements of Commission rule with its Motion to Dismiss.

11 The Commission finds it in the public interest to permit the withdrawal of this petition and close the docket.

### ORDER

12 THE COMMISSION ORDERS Clark County Public Works' motion to dismiss its petition (read by the Commission as a motion to withdraw petition) in Docket TR-240364 is granted without prejudice and closes the docket.

DATED at Lacey, Washington, August 5, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Jessica Kruszewski

JESSICA KRUSZEWSKI

Administrative Law Judge

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<sup>1</sup> Letter on Behalf of Staff from Lisa Gafken (August 1, 2025).

<sup>2</sup> WAC 480-07-380(3).