

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

TOPPENISH SIMCOE AND	)	DOCKET NO. TR-021698
WESTERN RAILROAD,	)	
	)	
Petitioner,	)	
	)	ORDER AMENDING ORIGINAL
v.	)	ORDER TO INCLUDE
	)	DISBURSEMENT FROM THE GRADE
THE WASHINGTON STATE	)	CROSSING PROTECTIVE FUND
DEPARTMENT OF	)	
TRANSPORTATION,	)	
	)	USDOT: 099199T
Respondent.	)	WUTC: 39A 1.40
.....	)	

**BACKGROUND**

- 1 On July 9, 2003, the Commission entered an order approving a petition filed by the Toppenish Simcoe and Western Railroad (TSWRR), seeking approval to upgrade train detection circuitry at a railroad-highway grade crossing located at SR-97 and petitioner's tracks in Yakima County, Washington. On February 10, 2004, Yakima County, as owner of the TSWRR, filed a written request to amend the Order to include a disbursement from the Commission's Grade Crossing Protective Fund to pay for 60% of the project cost. The petition, order, and amendment request are all filed under Docket TR-021698.
  
- 2 Yakima County's request to amend the Order states that the petition in TR-021698 neglected to reflect the petitioner's intent at the time of filing to request that 60% of the cost of the train detection circuitry upgrade be paid for by the Grade Crossing Protective Fund.
  
- 3 Grade Crossing Protection Fund money is available to pay for the crossing upgrades. The total approximate cost of the project is \$10,800. Yakima County requests that \$6,480 be paid for by the Grade Crossing Protective Fund.

**FINDINGS AND CONCLUSIONS**

- 4 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington having jurisdiction over public railroad-highway grade crossings within the state of Washington. *Chapter 81.53 RCW.*
- 5 (2) The SR-97 grade crossing, identified as USDOT 099199T, is a public railroad-highway grade crossing within the state of Washington.
- 6 (3) The original Order in TR-021698, dated July 9, 2003, was entered prior to the latest amendments to RCW 81.53.271. Any disbursements from the Grade Crossing Protective Fund towards the work approved in the original Order should be consistent with the statutory requirements effective at the time the Order was entered.
- 7 (4) The version of RCW 81.53.271 effective at the time that the original Order in TR-021698 was entered allows for a disbursement from the Grade Crossing Protective Fund to pay 60% of the cost of a project related to improving warning devices at public railroad-highway grade crossings. The remaining costs will be paid per an agreement between Yakima County and the Washington State Department of Transportation.
- 8 (5) Commission Staff investigated Yakima County's request to amend the Order in TR-021698 and recommended that it be granted, subject to specified conditions.
- 9 (6) This matter was brought before the Commission at its regularly scheduled meeting on February 25, 2004.
- 10 (7) After examination of the request filed by Yakima County on February 10, 2004, and giving consideration to all relevant matters and for good cause shown, the Commission grants the request.

**ORDER**

## THE COMMISSION ORDERS:

11 The Order filed in TR-021698 on July 9, 2003, approving the petition of the Toppenish Simcoe and Western Railroad to upgrade train detection circuitry at the SR-97 railroad-highway grade crossing, in Yakima County, Washington, is hereby amended to include a disbursement from the Grade Crossing Protective Fund to pay for 60% of the upgrade approved in the original order. Approval of the request is subject to the following conditions:

- (1) Expenditure from the Grade Crossing Protective Fund must not exceed \$6,500.
- (2) Payment shall be made upon presentation of claim for reimbursement for materials and labor, and verification by Commission Staff that the work has been satisfactorily completed.
- (3) All requirements and conditions from the original Order in TR-021698 remain applicable.

The Commissioners, having determined that this filing complies with the requirements of RCW 81.53.030, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective this 25<sup>th</sup> day of February, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary