

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

CITY OF BINGEN

To Construct or Reconstruct a Railroad-  
Highway Grade Separation  
(Overcrossing or Undercrossing)

DOCKET TR-230483

NOTICE OF PREHEARING  
CONFERENCE

**(Set for August 2, 2023,  
at 1:30 p.m.)**

- 1 On June 15, 2023, the City of Bingen filed with the Washington Utilities and Transportation Commission (Commission) a petition to construct a railroad-highway grade separation at Elm Street in the City of Bingen, Washington (Petition) over railroad tracks belonging to BNSF Railway (BNSF).
- 2 Pursuant to Revised Code of Washington (RCW) 81.53.060, the Commission now establishes a time and place for hearing the Petition.
- 3 **STATUTORY AUTHORITY:** The Commission has jurisdiction over this matter under Title 80 RCW and Title 81 RCW and has legal authority to regulate railroads. The statutes that apply to this matter include RCW 80.01, RCW 80.04, and RCW 81.53, including but not limited to RCW 80.01.040, RCW 80.04.020, and RCW 81.53.06. The rules that apply to this matter include those within Washington Administrative Code (WAC) 480-62, relating to railroads.
- 4 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of Chapter 34.05 RCW relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW 34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.
- 5 **THE COMMISSION GIVES NOTICE That it will hold a virtual prehearing conference in this matter at 1:30 p.m., on August 2, 2023. To attend via Zoom,**

please [click here to join meeting](#).<sup>1</sup> To attend by phone, please call (253) 215-8782 and enter the Meeting ID: 880 0342 1446# and Passcode: 990225#.

6 The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling matters including establishing dates for distributing evidence, to identify the issues in the proceeding, and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430.

7 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene in writing at least three business days before the date of the prehearing conference. *See* WAC 480-07-355(a). The Commission will consider oral petitions to intervene during the conference, but strongly prefers written petitions to intervene. Party representatives must file a notice of appearance with the Commission no later than the business day before the conference. *See* WAC 480-07-345(2). Any party or witness in need of an interpreter or other assistance should fill out the form attached to this Notice and return it to the Commission. The Commission will set the time and place for any evidentiary hearings at the prehearing conference, on the record of a later conference or hearing session, or by later written notice.

8 **THE COMMISSION GIVES NOTICE That any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.**

9 The names and mailing addresses of all known parties and their known representatives are as follows:

Petitioner	City of Bingen
	Mayor Catherin Kiewit
	PO Box 607
	Bingen, WA 98605
	(509) 637-5593
	<a href="mailto:mayor@bingenwashington.org">mayor@bingenwashington.org</a>

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<sup>1</sup> <https://utc-wa-gov.zoom.us/j/88003421446?pwd=aldDK0VkJK2ovSkNhZDhKa1FmN1RVQT09>

Respondent: BNSF Railway Company  
Alex Funderburg  
2454 Occidental Ave S BLDG 2D  
Seattle, WA 98134-1439  
[alex.funderburgjr@bnsf.com](mailto:alex.funderburgjr@bnsf.com)

Commission: Washington Utilities and Transportation  
Commission  
P.O. Box 47250  
Olympia, WA 98504

Representative: Jeff Roberson  
Assistant Attorney General  
P.O. Box 47250  
Olympia, WA 98504  
(360) 664-1188  
[jeff.roberson@atg.wa.gov](mailto:jeff.roberson@atg.wa.gov)

- 10 Administrative Law Judge James Brown II, from the Commission's Administrative Law  
Division, will preside during this proceeding.<sup>2</sup>
- 11 The Commission will give parties notice of any other procedural phase of the proceeding  
in writing or on the record, as appropriate during this proceeding.

DATED at Lacey, Washington, and effective July 10, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Rayne Pearson for*  
AMANDA MAXWELL  
Executive Director and Secretary

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<sup>2</sup> Judge Brown can be reached by email at [james.brown@utc.wa.gov](mailto:james.brown@utc.wa.gov) or by phone at (360) 664-1163.

Inquiries may be addressed to:

Executive Director and Secretary  
Washington State Utilities and  
Transportation Commission  
P.O. Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160

**NOTICE**

Hearings are accessible to persons with disabilities and persons who do not speak English as a first language. If limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please provide the information requested below via email to Paige Doyle, paralegal, at [paige.doyle@utc.wa.gov](mailto:paige.doyle@utc.wa.gov):

(PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: \_\_\_\_\_

Case Name: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Hearing Location: \_\_\_\_\_

Primary Language: \_\_\_\_\_

Hearing Impaired: (Yes) \_\_\_\_\_ (No) \_\_\_\_\_

Do you need a certified sign language interpreter:

Visual \_\_\_\_\_ Tactile \_\_\_\_\_

Other type of assistance needed: \_\_\_\_\_