

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

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|-------------------------|---|---------------------------------------|
| CITY OF FIFE, |) | DOCKET TR-100098 |
| |) | |
| Petitioner, |) | ORDER 04 |
| |) | |
| v. |) | ORDER GRANTING JOINT |
| |) | REQUEST FOR CONTINUANCE |
| UNION PACIFIC RAILROAD, |) | AND VACATING PROCEDURAL |
| |) | SCHEDULE |
| Respondent. |) | (Deadline to File Alternate |
| |) | Procedural Schedule October 7, |
| |) | 2010) |
| |) | |

- 1 **NATURE OF PROCEEDING:** On January 13, 2010, the City of Fife (City or Fife) filed with the Washington Utilities and Transportation Commission (Commission) a Petition to open a pedestrian-only at-grade crossing at 54th Avenue East in Fife. Union Pacific Railroad (UPRR or Railroad) opposed the proposal.

- 2 By Order 02, Prehearing Conference Order, entered May 20, 2010, the Commission, among other things, established a procedural schedule in this matter. By Order 03, entered September 20, 2010, the Commission modified the procedural schedule upon joint request of the parties.

- 3 On September 28, 2010, all parties filed a joint motion for continuance of the evidentiary hearing and modification of the procedural schedule. Specifically, the parties requested that the Commission extend the deadline of September 30, 2010, for filing rebuttal and cross-answering testimony to November 12, 2010. The parties further requested that the evidentiary hearing scheduled for October 26, 2010, and the public comment hearing scheduled for October 27, 2010, be rescheduled for December 16 – 17, 2010. The parties asserted that the extension was necessary because UPRR needs additional time to respond to Commission Staff’s interrogatories, the Commission Staff will need a reasonable amount of time after receipt of the responses to prepare testimony, and the parties have made good progress with settlement negotiations.

- 4 According to WAC 480-07-385, the Commission will grant a continuance if the requesting party demonstrates good cause and the continuance will not prejudice any party or the Commission. The Commission finds that continuing the procedural schedule, including the evidentiary and public comment hearings, to afford the parties the opportunity to conduct discovery and pursue settlement options constitutes good cause. In addition, neither the Commission nor any party should be prejudiced by granting the continuance. Accordingly, the current procedural schedule is vacated.
- 5 Given other regulatory business, the presiding officer cannot grant the request for an evidentiary hearing and public comment hearing on December 16 – 17, 2010. It appears that the earliest this matter could proceed to hearing would be in January 2011. The presiding officer is cognizant that if this matter cannot be heard until January 2011, that the parties may well wish to propose an alternate, and perhaps later date, for filing rebuttal and cross-answering testimony. Therefore, the Commission establishes October 7, 2010, as the deadline for the parties to submit an alternate procedural schedule. If the parties are unable to agree on a procedural schedule, the presiding officer will establish an alternate schedule.

ORDER

6 THE COMMISSION ORDERS:

- 7 (1) The joint motion for a continuance is granted.
- 8 (2) The current procedural schedule is vacated, including the deadline of September 30, 2010, for filing rebuttal and cross-answering testimony, the evidentiary hearing date of October 26, 2010, and the public comment hearing date of October 27, 2010.

- 9 (3) The deadline to file an alternate procedural schedule is **October 7, 2010**.

Dated at Olympia, Washington, and effective September 30, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

PATRICIA CLARK
Administrative Law Judge