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utilities and transportation commission  
state of washington

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| THE CITY OF WOODINVILLE, a political subdivision of the State of Washington,  Petitioner,  v.  EASTSIDE COMMUNITY RAIL; and BALLARD TERMINAL RAIL,  Respondents, | )))))))))))) | DOCKETS: TR-143902 and TR-143903  3rd Declaration of Thomas e. Hansen in reply to statements made in respondents brief in response to petitioner’s brief |

THOMAS E. HANSEN, declares as follows:

1. I am the Director of Public Works for the City of Woodinville, Washington.

2. I restate and incorporate by this reference the factual statements made in my previously filed declarations.

3. The two grade crossings at issue in this proceeding are within a roadway corridor in which windy conditions are not a particular issue. However, due to the concerns of ECR and Ballard Terminal Railroad Company I sought to purchase cross arms manufactured to withstand windy conditions. The 38’ long cross arms are being purchased from a Savannah, Georgia manufacturer and of a design that is used in rail corridors in Florida where windy conditions are a commonly experienced. A copy of the intended gate arm profile and specifications from the manufacturers catalog is attached as an exhibit. Respondents on the other hand provide no information as to the specifications and manufacturer of the crossing arms they allege in their briefing “become unwieldy in windy conditions and break apart.” Respondent’s Attachment A identifies the length of the crossing arms they have experienced wind issues with as 50’, 12’ longer than the 38’ cross arms that will be used in the City’s project.

4. The rail crossing agreements attached to Respondent’s brief as Attachments B, C and D are agreements mutually and voluntarily entered into between the parties and have no relevance to the issue before the Commission in this proceeding. The City has been unable to reach a mutually acceptable agreement with the Respondents on maintenance of the crossing arms after installation by the City. Since the installation is partially federally funded in absence of an agreement between the parties regarding maintenance, the railroad is responsible for the maintenance costs for the reasons stated in the City’s briefing. To my knowledge, these projects referenced in Respondents Attachments B,C and D were not federally funded and federal funding for those projects is not alleged by Respondents.

5. Respondents state, without any factual basis, that “ to the best of our knowledge, this project is not approved or funded by the City, state or federal sources. To the contrary, the project is fully funded and is included as funded in the City’s adopted 2015-2016 Budget. The federal funding is included in the budget for the project and the project could not go forward without the federal funding.

6. With the October 7, 2015 Federal Surface Transportation Board Decision (Attachment A hereto), the City will complete its purchase of the rail corridor within the next 30 days and can proceed with its Sammamish River Bridge project.

7 The profitability of the rail operations on the City’s rail corridor is not a factor to be considered by the Commission. No citation to authority is given by the Respondents. Respondent, however, is not “Spending thousands of dollars to replace or repair the new cross arms at issue. The City is paying the cost of installation the necessary improvements.

8. As stated in my previous declaration, this declaration is made in support of the City’s position set forth in the Brief of the City of Woodinville. Due to the FHWA partial funding of the project, the railroad (ECR/BTRC) is 100% responsible for ongoing maintenance of the crossing arms along with the other devices located in the railroad right of way. The City’s position is supported by the FHWA policy and state statutes cited by Woodinville legal counsel in the City’s Brief. Additionally, the crossing arms are of primary benefit to the railroad, allowing its trains to safely cross the highway without interference by motorized vehicles on the highway.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED THIS 16th day of October 2015, in \_\_\_\_\_\_\_\_\_\_\_\_\_\_, Washington.

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THOMAS E. HANSEN, P.E.

DATED this \_\_\_ day of August, 2015.

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|  | Ogden Murphy Wallace, P.L.L.C. | |
|  | By |  |
|  |  | Greg A. Rubstello, WSBA #6271  Attorneys for Appellant Woodinville |