

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of	DOCKET TR-180043
BNSF RAILWAY COMPANY,	ORDER 01
Petitioner,	
Seeking Exemption from the Provisions of WAC 480-60-050 Relating to Side Clearance Rules	ORDER GRANTING PERMANENT EXEMPTION FROM RULE

BACKGROUND

- 1 On January 11, 2018, BNSF Railway Company (BNSF or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting an exemption from WAC 480-60-050(1), which requires railroad companies to maintain a side clearance of at least 8 feet 6 inches from the center of the tracks to the nearest structure. The Company filed a revised petition on February 12, 2018.
- 2 BNSF owns high-speed imaging equipment, known as a TreadView system, currently installed adjacent to its main track on the Spokane Subdivision at approximately milepost 60.4 in the vicinity of Spokane. BNSF installed the equipment under a mistaken belief that an exception to the general clearance requirements in WAC 480-60-050 applied. The mistake was discovered by BNSF staff and the Company is now seeking the required exemption for the equipment.
- 3 The purpose of the TreadView system is to provide early detection of defective wheels on railcars passing by it at normal operating speeds. An arrangement of multiple cameras and lasers on both sides of the track record information on a number of features of each wheel as it passes by the TreadView system. This information is analyzed by computer equipment that is programmed to detect defect patterns indicative of a number of common wheel defects. In the event that the TreadView system detects a defective wheel on a train passing by, the system will issue an alert notice to the appropriate BNSF mechanical department location based on the alarm's severity level. The train is inspected upon arrival at its next inspection point.

- 4 WAC 480-60-050(1) prescribes a general minimum side clearance of 8 feet 6 inches from the center line of the track to trackside structures. A number of exceptions exist for specific trackside structures such as platforms, switch machines, signal equipment, and bridges, but none of these exceptions clearly encompasses trackside mechanical detector equipment like the TreadView system. The overall height of the TreadView equipment, including the support structure, is approximately 13.2 inches above the top of the rail. In order to perform its function properly, the TreadView must be installed at a distance of 5 feet 7.5 inches from the center line of the track on both sides of the track. Therefore, the general side clearance requirement of 8 feet 6 inches prescribed in WAC 480-60-050(1) applies and a permanent exemption from that rule is required.
- 5 Commission staff (Staff) reviewed the request and note that an average of 50 trains per day, including two passenger trains, pass by the site of the existing TreadView system location. A variety of freight is transported along this route; however, no switching occurs in the area and it is unlikely for employees to be exposed to the close clearance.
- 6 BNSF indicates that it may relocate the TreadView equipment at some point in the future. If so, the Company will seek an exemption from the side clearance requirements in WAC 480-60-050 for the new location.
- 7 Staff recommends the Commission grant BNSF's request for exemption, subject to the following condition(s):
- (a) "No Clearance" signs must be posted on each end of the close clearance areas.
 - (b) Notice of the close clearance must be posted in BNSF's Timetable.
 - (c) "No Trespassing" signs must be placed in close proximity to the TreadView system equipment.
 - (d) Prior to relocation of the TreadView system equipment, BNSF must petition the Commission for a waiver from the general side clearance requirements in WAC 480-60-050(1) for the new location.

DISCUSSION

8 We agree with Staff's recommendation and grant the Company's request for an exemption from WAC 480-60-050(1) subject to the conditions set out in paragraph 7, above. As Staff observes, it is unlikely that employees will be exposed to the close clearance between the TreadView equipment and the track. As such, granting the exemption to the clearance requirements will not adversely affect the safety of railroad personnel. Moreover, the exemption will benefit public safety by allowing BNSF to continue to use equipment to identify defects before a wheel failure causes a derailment.

FINDINGS AND CONCLUSIONS

- 9 (1) The Commission is an agency of the State of Washington having jurisdiction over public service companies, including railroad companies, within the state of Washington. RCW 80.01.040, RCW 81.01, RCW 81.04, and RCW 81.53.
- 10 (2) BNSF is engaged in the business of providing railroad services within the state of Washington and is a public service company subject to Commission jurisdiction.
- 11 (3) BNSF is subject to WAC 480-60-050(1), which requires railroad companies maintain a side clearance of at least 8 feet 6 inches from the center of the track to the nearest structure.
- 12 (4) Under WAC 480-62-140, the Commission may grant an exemption from the provisions of any rule in WAC 480-62, if consistent with the public interest, the purposes underlying regulation and applicable statutes. See also WAC 480-07-110.
- 13 (5) A close clearance can exist and safety can be maintained if the operating railroad installs "No Clearance" signs on each end of the close clearance areas, issues notice of the close clearance in BNSF's Timetable, and installs "No Trespassing" signs in close proximity to the TreadView system.
- 14 (6) Commission Staff investigated the request and recommends that a permanent exemption be granted.
- 15 (7) This matter came before the Commission at its regularly scheduled meeting on February 28, 2018.

- 16 (8) After reviewing the petition filed by BNSF on January 11, 2018, as on February 12, 2018, and giving due consideration, the Commission finds that the requested exemption is in the public interest, is consistent with the purposes underlying the regulation and applicable statutes, and should be granted subject to the conditions set out in paragraph 7, above.

ORDER

THE COMMISSION ORDERS:

- 17 (1) BNSF Railway Company's petition for an exemption from WAC 480-60-050(1), relate to side clearances, is granted, subject to the following conditions:
- (1) "No Clearance" signs must be posted on each end of the close clearance areas.
 - (2) Notice of the close clearance must be posted in BNSF Railway Company's Timetable.
 - (3) "No Trespassing" signs must be placed in close proximity to the TreadView system equipment.
 - (4) Prior to relocation of the TreadView system equipment, BNSF Railway Company must petition the Commission for a waiver from the general side clearance requirements in WAC 480-60-050(1) for the new location.
- 18 (2) The Commission retains jurisdiction over the subject matter and BNSF Railway Company to effectuate the provisions of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective February 28, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING, Executive Director and Secretary