

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

In the Matter of the Petition of)	DOCKET TR-081463
)	
WASHINGTON STATE)	ORDER 02
DEPARTMENT OF)	
TRANSPORTATION,)	
)	
Petitioner,)	
)	
Seeking Exemption from the Provisions)	ORDER AMENDING ORDER
of WAC 480-60-050 relating to side)	GRANTING TEMPORARY
clearance rules)	EXEMPTION FROM RULE
.....)	

BACKGROUND

- 1 On August 1, 2008, the Washington State Department of Transportation (WSDOT) filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting a temporary exemption from WAC 480-60-050, which requires railroad companies to maintain a side clearance of at least eight feet, six inches from the center of the tracks to the nearest structure.

- 2 The WSDOT is preparing to reconstruct the SR-16 Nalley Valley Interchange in Tacoma. Actual construction is planned for the summer of 2009. The interchange will cross over Sound Transit's tracks and two adjacent spur tracks that are used by Tacoma Rail. Atlas Foundry is the only customer served on this spur and receives two trains per week. One of the new bridge pillars will have a side clearance of eight feet, seven inches from the center of the nearest spur track when completed. However, during construction, the edge of the formwork around this pillar will be six feet, seven inches from the center of the track. The WSDOT estimates that the formwork will extend closer towards the track than allowed under WAC 480-60-050 for a period of six months. Sound Transit and Tacoma Rail have advised the WSDOT that a close clearance will be acceptable, provided that no portion of the temporary structure is placed closer than four feet from the outside top of rail. The distance of six feet, seven inches from formwork to track centerline meets the condition required by the railroads.

- 3 Commission Staff reviewed the request and recommended granting the WSDOT's request for a temporary exemption, subject to the following condition(s):

- (a) A minimum of two “No Clearance” signs must be placed at appropriate approach locations to warn train crews of the close clearance.
- (b) The railroads must prohibit the use of over-dimensional rail cars to minimize the risk to train crews and construction workers.
- (c) The railroads must not allow train crews to ride on the exterior of rail cars on the Atlas Foundry spur track.

At its September 11, 2008, open meeting, the Commission granted the temporary exemption until December 15, 2008. Subsequent to that open meeting, in a letter dated September 18, 2008, the WSDOT informed the Commission that although it is unlikely that work near the tracks will span an entire year, granting the exemption until December 31, 2009, would afford the parties flexibility that will serve both the contractor’s schedule and project cost. At this time, it is uncertain when the contractor will construct the specific element at issue. The Commission grants the requested extension until December 31, 2009, which is consistent with the ending date of the formal agreement between the WSDOT and Tacoma Rail.

FINDINGS AND CONCLUSIONS

- 4 (1) The Washington Utilities and Transportation 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](#).
- 5 (2) Tacoma Rail is engaged in the business of providing railroad services within the state of Washington and is a public service company subject to Commission jurisdiction.
- 6 (3) Tacoma Rail is subject to WAC 480-60-050 which requires railroad companies to maintain a side clearance of at least eight feet, six inches from the center of the track to the nearest structure.

- 7 (4) Under WAC 480-60-020(3), the Commission may grant an exemption from the provisions of any rule in WAC 480-60, if consistent with the public interest, the purposes underlying regulation and applicable statutes. *See also WAC 480-07-110.*
- 8 (5) Commission Staff investigated the request and recommended that it be granted on a temporary basis, beginning at start of construction and ending December 31, 2009.
- 9 (6) A close clearance can exist and safety can be maintained if the operating railroad issues a safety bulletin to its train crews prohibiting the practice of riding on the side of any on-track equipment and the parties install cautionary signs on each railroad approach to the close clearance. The use of over-dimensional rail cars must also be prohibited.
- 10 (7) This matter came before the Commission at its regularly scheduled meeting on September 25, 2008.
- 11 (8) After reviewing the WSDOT's petition filed in Docket TR-081463 on August 1, 2008, and giving due consideration, the Commission finds that the temporary exemption is reasonable and should be granted.

ORDER

THE COMMISSION ORDERS:

- 12 (1) After the effective date of this Order, the Washington State Department of Transportation is granted a temporary exemption from WAC 480-60-050, relating to side clearances.
- 13 (2) This exemption is subject to the following conditions:
- (1) A minimum of two "No Clearance" signs must be placed at appropriate approach locations to warn train crews of the close clearance.
- (2) The WSDOT must notify Commission Staff upon installation of the signs required by the first condition. Acceptance of the installation is subject to inspection by Commission Staff for compliance with the requirements contained in this Order.

(3) The railroads must prohibit the use of over-dimensional rail cars to minimize the risk to train crews and construction workers.

(4) The railroads must not allow train crews to ride on the exterior of rail cars on the Atlas Foundry spur track.

14 (3) This temporary exemption will expire on December 31, 2009.

15 (4) The Commission retains jurisdiction over the subject matter and Tacoma Rail to effectuate the provisions of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, the purposes underlying regulation and applicable statutes, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective September 25, 2008.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Executive Director and Secretary