

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

In the Matter of the Petition of)	DOCKET TR-111322
)	
KEYERA CORPORATION,)	ORDER 01
)	
Petitioner,)	
)	
Seeking Exemption from the)	ORDER GRANTING
Provisions of WAC 480-60-040)	PERMANENT
Relating to overhead clearance rules.)	EXEMPTION FROM RULE
.....)	

BACKGROUND

- 1 On July 25, 2011, Keyera Corporation (Keyera) filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting exemption from WAC 480-60-040, which requires railroad companies to maintain an overhead clearance of at least 22 feet 6 inches from the top of the rail to the nearest structure.
- 2 Keyera stated that their six rail car loading racks used for loading propane were deemed unsafe by OSHA because of a lack of fall protection safety cages at their Vancouver facility. BNSF Railway Co. (BNSF) provides rail service to this facility. Current loading procedures require employees to wear special harnesses to keep from falling from the tops of rail tank cars. The harnesses are very cumbersome and do not allow for comfortable movement. The addition of fall protection safety cages to the loading racks will greatly improve the safety of loading operations by reducing injuries related to falls and eliminating the need for a restrictive safety harness.
- 3 A fall protection safety cage will be attached to the loading rack gangway, which employees will use to move between the rack and the rail tank car. The design of the safety cage will allow the gangway to remain as level as possible. This will minimize the possibility of employees slipping or tripping due to a slope created by the loading rack being lower or higher than the rail car.
- 4 The exact height of the safety cage, in its retracted and upright position, is 20 feet one and one-sixteenth inches above the center point of the rail and requires a permanent exemption from the vertical clearance rule.

- 5 BNSF is in support of the waiver and is requiring Keyera to implement additional safety precautions including “blue-flagging” the track that the rail car is parked on. Blue-flagging insures that no person will enter the track or move the rail car until the blue flag is removed by the person who placed it. In addition, a derail system with double lock-out will be installed. One lock is for the BNSF switch crew and the second lock is for Keyera employees. The double lock-out ensures that both parties are ready for the removal and placement of tank cars. Commission Staff supports BNSF’s additional safety requirements.
- 6 In addition, Keyera must post and maintain a sign stating “No auto racks, high cubes or other tall cars due to close vertical clearance” and a sign stating “No riding top of cars”. Keyera will also be required to add a section to their loading procedures outlining the requirements for raising the gangway and safety cage when the loading has been completed.
- 7 Commission Staff reviewed the request and recommended granting Keyera’s request for exemption, subject to the following condition(s):
- (a) Keyera must “blue-flag” the track the rail car is parked on to ensure no person will enter the track or move the rail car until the blue flag is removed by the person who placed it.
 - (b) A derail system with double lock-out will be installed to ensure both parties are ready for the removal and placement of tank cars.
 - (c) Keyera will post and maintain a sign stating “No auto racks, high cubes or other tall cars due to close vertical clearance”.
 - (d) Keyera will post and maintain a sign stating “No riding top of cars”.
 - (e) Keyera will add a section to their loading procedures outlining the requirements for raising the gangway and safety cage when the loading has been completed. This will prevent a collision between rail equipment and a lowered gangway.

- (f) BNSF Railway Co. will issue bulletins to all train crews operating at the facility prohibiting the practice of riding on the top of any on-track equipment when approaching or leaving the loading rack.

FINDINGS AND CONCLUSIONS

- 8 The Washington Utilities and Transportation Commission is an agency of the State of Washington having jurisdiction over railroad clearance requirements. *RCW 80.28.010, and WAC 480-60.*
- 9 (1) BNSF Railway Co. is engaged in the business of providing railroad services within the state of Washington and is a public service company subject to Commission jurisdiction.
- 10 (2) BNSF Railway is subject to WAC 480-60-040, which requires railroad companies to maintain an overhead clearance of at least 22 feet 6 inches from the top of the rail to the nearest structure.
- 11 (3) 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.*
- 12 (4) Commission Staff investigated the request and recommended that it be granted. The permanent exemption will support a safer loading environment, which will improve safety for Keyera employees. The addition of the fall protection safety cage, blue-flagging, double lock-out derail system, train crew bulletins, warning signs, and loading procedure requirements all contribute to increased overall safety during loading operations.
- 13 (5) This matter came before the Commission at its regularly scheduled meeting on August 11, 2011.
- 14 (6) After review of the petition filed in Docket TR-111322 by Keyera on July 25, 2011, and giving due consideration, the Commission finds that the exemption is in the public interest and is consistent with the purposes underlying the regulation and applicable statutes and should be granted.

ORDER

THE COMMISSION ORDERS:

- 15 (1) After the effective date of this Order, Keyera Corporation is granted an exemption from WAC 480-60-040, relating to overhead clearances.
- 16 (2) This exemption is subject to the following condition(s):
- (a) Keyera must “blue-flag” the track the rail car is parked on to ensure no person will enter the track or move the rail car until the blue flag is removed by the person who placed it.
 - (b) A derail system with double lock-out will be installed to ensure both parties are ready for the removal and placement of tank cars.
 - (c) Keyera will post and maintain a sign stating “No auto racks, high cubes or other tall cars due to close vertical clearance”.
 - (d) Keyera will post and maintain a sign stating “No riding top of cars”.
 - (e) Keyera will add a section to their loading procedures outlining the requirements for raising the gangway and safety cage when the loading has been completed. This will prevent a collision between rail equipment and a lowered gangway.
 - (f) BNSF Railway will issue bulletins to all train crews operating at the facility prohibiting the practice of riding on the top of any on-track equipment when approaching or leaving the loading rack.
- 17 (3) The Commission retains jurisdiction over the subject matter and BNSF Railway 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 August 11, 2011.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Executive Director and Secretary