

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

TYSON FRESH MEATS,

Petitioner,

Seeking Exemption from the Provisions
of WAC 480-60-050 Relating to Side
Clearance Rules

DOCKET TR-210239

ORDER 01

GRANTING PERMANENT
EXEMPTION FROM RULES

BACKGROUND

- 1 On April 12, 2021, Tyson Fresh Meats (Tyson or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition (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 track to the nearest structure.
- 2 In its Petition, Tyson submits that it operates a meat processing facility at 13983 Dodd Road in Burbank, Washington. This facility was previously operated by Iowa Beef Processors, Inc., and the Commission granted an exemption from WAC 480-60-050 for a valve at the tank car loading rack that created an impaired side clearance.¹ A recent inspection at the facility identified that this clearance impairment no longer exists; however, Commission staff (Staff) found two hose racks in the tank car loading area located 7 feet 10 inches from the centerlines of tracks one and two that require an exemption from Commission rules.
- 3 Union Pacific Railroad (Union Pacific or Railroad) provides rail service to Tyson's facility in Wallula. On April 26, 2021, Staff contacted Union Pacific. The Railroad stated that it supports the Company's Petition, and that it does not object to Staff's terms. Union Pacific represented that it will follow-up with a written statement of support.
- 4 Staff reviewed the Petition and recommends granting Tyson's request for exemption, subject to the following condition(s):
 - (a) Tyson must post a sign meeting the specifications of Union Pacific standard drawing 0507 item number 393-8012, as depicted in the order attachment,

¹ Granted under Cause Number TR-1641 on September 1, 1982.

between tracks one and two at the approach to the tank car loading rack and clearly visible to approaching rail traffic.

- (b) Tyson must illuminate the area of impairment during operations conducted in the hours of darkness.
- (c) Union Pacific must notify its employees of the close clearance by posting a notice in their local operating instructions (Superintendents Bulletin). Union Pacific must provide a copy of the updated general order to Staff within 60 days of this Order.

DISCUSSION

- 5 We grant Tyson's request for an exemption as requested in the Company's Petition, subject to the conditions that Staff recommends. Pursuant to WAC 480-60-020(3), the Commission may grant an exemption from required clearances for railroad companies as set forth in WAC chapter 480-60.² As relevant here, 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. These general side clearance requirements apply to Tyson's facilities and permanent exemption from this rule is required for any structures not meeting these requirements.
- 6 As Staff notes, although train crewmembers have no reason to ride a rail car at this location, any clearance exemption should be conditional upon a prohibition against riding on the side of a rail car and clearly signing the facilities as having reduced side clearances. Accordingly, Staff's proposed conditions provide appropriate safety measures.
- 7 We find that Tyson's request for clearance exemption for its Burbank facility is consistent with the public interest, the purposes of WAC 480-60-050, and the applicable statutes.

² See also WAC 480-07-110(1) (stating that the Commission may grant an exemption from any of its rules when it is consistent with the public interest, the purposes underlying regulation, and applicable statutes).

FINDINGS AND CONCLUSIONS

- 8 (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.
- 9 (2) Union Pacific 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 (3) Union Pacific 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.
- 11 (4) Under WAC 480-60-020(3), the Commission may grant an exemption from the provisions of any rule in WAC 480-60 if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. See also WAC 480-07-110.
- 12 (5) A close clearance can exist, and safety can be maintained, if Tyson installs an approved warning sign between tracks one and two at the approach to the tank car loading area and provides illumination during operations in hours of darkness, and if Union Pacific issues notice of the close clearance in its general order and timetable.
- 13 (6) Staff investigated the request and recommends that a permanent exemption be granted.
- 14 (7) This matter came before the Commission at its regularly scheduled meeting on May 6, 2021.
- 15 (8) After review of the Petition filed by Tyson on April 12, 2021, and giving due consideration, the Commission finds that the exemption is in the public interest, is consistent with the purposes underlying the regulation and applicable statutes, and that it should be granted.

ORDER

THE COMMISSION ORDERS:

- 16 (1) As of the effective date of this Order, Tyson Fresh Meats is granted an exemption from WAC 480-60-050(1) relating to side clearances.
- 17 (2) This exemption is subject to the following condition(s):
- (a) Tyson Fresh Meats must post a sign meeting the specifications of Union Pacific standard drawing 0507, item number 393-8012, as depicted in the order attachment, between tracks one and two at the approach to the tank car loading rack and clearly visible to approaching rail traffic.
 - (b) Tyson Fresh Meats must illuminate the area of impairment during operations conducted in the hours of darkness.
 - (c) Union Pacific Railroad Company must notify its employees of the close clearance by posting a notice in their local operating instructions (Superintendents Bulletin). Union Pacific must provide a copy of the updated general order to Staff within 60 days of this Order.
- 18 (3) The Commission retains jurisdiction over the subject matter and Union Pacific Railroad to effectuate the provisions of this Order.
- 19 The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective May 6, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
Executive Director and Secretary