

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

<p>In the Matter of the Petition of</p> <p>TACOMA RAIL,</p> <p style="text-align: center;">Petitioner,</p> <p>Seeking Exemption from the Provisions of WAC 480-60-040 Relating to Overhead Clearances and WAC 480-60-050 Relating to Side Clearances</p>	<p>DOCKET TR-220879</p> <p>ORDER 01</p> <p>GRANTING PERMANENT EXEMPTION FROM RULES</p>
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BACKGROUND

1 On November 29, 2022, the Tacoma Rail (Tacoma Rail or Company), filed with the Washington Utilities and Transportation Commission (Commission) a petition (Petition) requesting exemption from WAC 480-60-040, which requires railroad companies to maintain an overhead clearance of at least 22 feet 6 inches above the rail to the nearest structure, and WAC 480-60-050, which requires railroad companies to maintain a side clearance of at least 8 feet 6 inches from the centerline of the track to the nearest structure.

2 Tacoma Rail operates a maintenance facility at 2601 SR-509 North Frontage Road in Tacoma where it services its own locomotives as well as locomotives owned by BNSF Railway Co. (BNSF) and Union Pacific Railroad. The Company is expanding its existing locomotive servicing facility and proposes to construct a servicing island between East Track One (Bay 3) and ST 2 (Bay 2). According to the Petition, the overhead canopy rain gutter will be less than the minimum required distance of 22 feet 6 inches above the rail. In addition, the lubrication oil hose track and sand supply hose track will be less than the minimum required distance of 8 feet 6 inches from the centerline of the track. Each of these conditions is depicted in the design drawings attached to the Petition and creates a restricted clearance requiring exemption from Commission rules.

3 Tacoma Rail proposes to install a vertical “No Clearance” sign, generally conforming to the BNSF standard as depicted in the Order attachment, on both the east and west ends of the servicing island visible to rail traffic approaching from either direction. The servicing island will be illuminated during operations in hours of darkness and Tacoma Rail will notify its employees of the restricted clearances in its special instructions.

4 Commission Staff (Staff) reviewed the request and recommends granting Tacoma Rail's requests for exemption, subject to the following conditions:

- (a) Tacoma Rail must install vertical "No Clearance" signs, generally conforming to the BNSF standard as depicted in the Order attachment, on both the east and west ends of the locomotive servicing island visible to rail traffic approaching from either direction.
- (b) Tacoma Rail must illuminate the area during operations in hours of darkness.
- (c) Tacoma Rail must notify its employees of the restricted clearances at these locations through its employee special instructions and must provide a copy of these instructions to Staff within 60 days of the date of this Order.

DISCUSSION

5 WAC 480-60-040 prescribes a general minimum overhead clearance of 22 feet 6 inches from the top of the rail to overhead structures. WAC 480-60-050 prescribes a general minimum side clearance of 8 feet 6 inches from the centerline of the track to adjacent structures. These general side clearance requirements apply to the Tacoma Rail facility and permanent exemption from these rules is required for any structures not meeting these requirements.

6 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.

7 Although train crewmembers have no reason to ride a rail car at this location, any clearance exemption should be conditioned upon a prohibition against riding on the side of a rail car and clearly signing the location as having restricted side clearances.

8 The Commission determines that Tacoma Rail's request for clearance exemption for the proposed locomotive servicing island at its Tacoma maintenance facility is consistent with the public interest, the purposes of WAC 480-60-040 and WAC 480-60-050, and applicable statutes. The Commission grants these exemptions subject to Staff's recommended conditions listed in paragraph 4.

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, Chapter 81.01 RCW, Chapter 81.04 RCW, and Chapter 81.53 RCW.
- 10 (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.
- 11 (3) Tacoma Rail is subject to WAC 480-60-040, which requires railroad companies to maintain a minimum overhead clearance of 22 feet 6 inches from the top of the rail to overhead structures, and WAC 480-60-050 which requires railroad companies to maintain a side clearance of at least 8 feet 6 inches from the center of the track to adjacent structures.
- 12 (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.
- 13 (5) Restricted clearances can exist, and safety can be maintained, if Tacoma Rail installs approved warning signs on each end of the proposed locomotive servicing island, provides illumination during operations in hours of darkness, and issues notice of the restricted clearances in its employee special instructions.
- 14 (6) Staff investigated the request and recommends that permanent exemption be granted.
- 15 (7) This matter came before the Commission at its regularly scheduled meeting on January 12, 2023.
- 16 (8) After review of the petition filed by Tacoma Rail on November 29, 2022, 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 should be granted.

ORDER

THE COMMISSION ORDERS:

- 17 (1) After the effective date of this Order, Tacoma Rail is granted an exemption from WAC 480-60-040 relating to overhead clearances and WAC 480-60-050 relating to side clearances.
- 18 (2) This exemption is subject to the following conditions:
- (a) Tacoma Rail must install vertical “No Clearance” signs, generally conforming to the BNSF standard as depicted in the Order attachment, on both the east and west ends of the locomotive servicing island visible to rail traffic approaching from either direction.
 - (b) Tacoma Rail must illuminate the area during operations in hours of darkness.
 - (c) Tacoma Rail must notify its employees of the restricted clearances at these locations through its employee special instructions and must provide a copy of these instructions to Staff within 60 days of the date of this order.
- 19 (3) 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, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective January 12, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AMANDA MAXWELL
Executive Director and Secretary