

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

JSH PROPERTIES, INC.,

Petitioner,

Seeking Exemption from the Provisions  
of WAC 480-60-050 relating to side  
clearance rules

DOCKET TR-210242

ORDER 01

GRANTING PERMANENT  
EXEMPTION FROM RULE

**BACKGROUND**

- 1 On April 12, 2021, JSH Properties, Inc., (JSH Properties or Petitioner) 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 centerline of the track to the nearest structure.
- 2 In its Petition, JSH Properties submits that it manages the Seattle Distribution Center facility located at 6701 East Marginal Way South in Seattle, Washington. Within the facility, cantilevered dock platforms are 6 feet 6 inches from the center of track and the downspout at the south end of the facility is 7 feet 8 inches from the centerline of track. Each of these conditions requires an exemption from Commission rules. Commission staff (Staff) visited the site and verified that the close clearances exist as described.
- 3 Union Pacific Railroad (Union Pacific or Railroad) provides rail service to the Seattle Distribution Center facility in Seattle. 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 JSH Properties' request for exemption, subject to the following condition(s):
  - (a) JSH Properties must place a "No Clearance" sign on the approach to the building next to the parking lot, clearly visible to approaching rail traffic.

- (b) JSH Properties must apply safety-yellow paint to the sides of the cantilevered dock platforms.
- (c) JSH Properties must place a “No Clearance” sign at the downspout at the south end of the building, clearly visible to approaching rail traffic.
- (d) Each “No Clearance” sign required by this Order must meet the specifications of Union Pacific standard drawing 0507 item number 393-8012, as depicted in the Order Attachment.
- (e) JSH Properties must illuminate each area of impairment during operations conducted in the hours of darkness.
- (f) Union Pacific must notify its employees of the close clearance by posting a notice in its local operating instructions (Superintendents Bulletin) and provide a copy to Staff within 60 days of the effective date of this Order.

### DISCUSSION

- 5 We grant JSH Properties’ 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 480-06.<sup>1</sup> As relevant here, WAC 480-60-050(1) prescribes a general minimum side clearance of 8 feet 6 inches from the centerline of the track to trackside structures. These general side clearance requirements apply to JSH Properties’ 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.

---

<sup>1</sup> 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).

We find that JSH Properties' Petition for clearance exemption for its Seattle Distribution Center facility is consistent with the public interest, the purposes of WAC 480-60-050, and the applicable statutes.

### FINDINGS AND CONCLUSIONS

- 7 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rules, regulations, and practices of 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
- 8 (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.
- 9 (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 centerline of the track to the nearest structure.
- 10 (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.
- 11 (5) A close clearance can exist, and safety can be maintained if JSH Properties installs the approved warning signs, applies safety-yellow paint to the sides of the cantilevered dock platforms, and if Union Pacific notifies its employees of the close clearance by posting a notice in its local operating instructions and provides a copy to Staff within 60 days of the effective date of this Order.
- 12 (6) Staff investigated the request and recommends that a permanent exemption be granted.
- 13 (7) This matter came before the Commission at its regularly scheduled meeting on May 6, 2021.
- 14 (8) After review of the petition filed by JSH Properties 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:**

- 15 (1) As of the effective date of this Order, JSH Properties, Inc., is granted exemption from WAC 480-60-050(1) relating to side clearances at its Seattle Distribution Center facility.
- 16 (2) This exemption is subject to the following condition(s):
- (a) JSH Properties must place a “No Clearance” sign on the approach to the building next to the parking lot, clearly visible to approaching rail traffic.
  - (b) JSH Properties must apply safety-yellow paint to the sides of the cantilevered dock platforms.
  - (c) JSH Properties must place a “No Clearance” sign at the downspout at the south end of the building, clearly visible to approaching rail traffic.
  - (d) Each “No Clearance” sign required by this Order must meet the specifications of Union Pacific standard drawing 0507 item number 393-8012, as depicted in the Order Attachment.
  - (e) JSH Properties must illuminate each area of impairment during operations conducted in the hours of darkness.
  - (f) Union Pacific must notify its employees of the close clearance by posting a notice in its local operating instructions and providing a copy to Staff within 60 days of the effective date of this Order.
- 17 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