

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

COLUMBIA GRAIN  
INTERNATIONAL,

Petitioner,

Seeking Exemption from the Provisions  
of WAC 480-60-050 relating to side  
clearance rules and WAC 480-60-040  
relating to overhead clearance rules.

DOCKET TR-210307

ORDER 01

GRANTING PERMANENT  
EXEMPTION FROM RULE

**BACKGROUND**

- 1 On May 5, 2021, Columbia Grain International (Columbia Grain or Petitioner) filed with the Washington Utilities and Transportation Commission (Commission) a petition (Petition) requesting an exemption from 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. The Petition further requests an 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.
- 2 Commission staff (Staff) inspected the Lind and Schrag facilities on March 2, 2021. Union Elevator and Warehouse Company, Inc., (Union Elevator) previously operated these facilities and had been issued four clearance waivers under Commission Orders RC-81, RC-88, RC-109 and RC-125. Several conditions had changed from the original Orders and Columbia Grain was advised of new requirements. Before filing its Petition, Columbia Grain installed new warning signs at the Lind and Schrag facilities. These signs are clearly visible to approaching train crews and provide adequate warning of clearance impairments.
- 3 In its Petition, Columbia Grain requests a waiver for the following conditions:
  - (a) The grain loading spout at the Lind elevator is less than the required 22 feet 6 inches above top of rail when connected and requires a waiver of the overhead clearance rules in WAC 480-60-040.

- (b) The steel ladder near the loading platform at the Lind elevator is 7 feet 7 inches from centerline of track. WAC 480-60-050 requires a side clearance of 8 feet 6 inches.
- (c) The grain loading spouts at the Schrag elevator are less than the required 22 feet 6 inches above top of rail when connected and require a waiver of the overhead clearance rules in WAC 480-60-040.
- (d) The staircase next to the tracks at the Schrag elevator is 6 feet 8 inches from centerline of track. WAC 480-60-050 requires a side clearance of 8 feet 6 inches.

4 BNSF Railway (BNSF) provides service to the Lind facility and Columbia Basin Railroad provides service to the Schrag facility. Both railroads have been contacted and have no objections to the waiver request. They will follow-up with support statements regarding the petition from Columbia Grain.

5 Staff reviewed the Petition from Columbia Grain, and recommended granting the request for exemption, subject to the following condition(s):

- (a) Columbia Grain must maintain a “Caution Watch for Grain Spout” sign on the approach to the overhead clearance impairment at the Lind facility.
- (b) Columbia Grain must maintain a standard “No Clearance” sign on the approach to the steel ladder side clearance impairment at the Lind facility.
- (c) Columbia Grain must maintain a “Caution Watch for Grain Spout” sign on the approach to the overhead clearance impairments at the Schrag facility.
- (d) Columbia Grain must maintain standard “No Clearance” signs at both approaches to the staircase at the Schrag facility.
- (e) Columbia Grain must paint the steel staircase “safety yellow” at the Schrag facility to contrast with the building and clearly identify the point of clearance impairment.
- (f) Columbia Grain must maintain overhead lighting at Lind and Schrag for operations conducted during hours of darkness.
- (g) BNSF Railway and Columbia Basin Railroad must issue safety notices in their local operating instructions and post the notice in timetables when reissued.

## DISCUSSION

- 6 We grant Columbia Grain's request for exemption, 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 prescribes a general minimum side clearance of 8 feet 6 inches from the centerline of the track to trackside structures. WAC 480-60-040 prescribes a minimum overhead clearance of 22 feet 6 inches from top of rail to overhead structure. These general side clearance and overhead clearance requirements apply to the Columbia Grain facilities and permanent exemption from these rules are required for any structures not meeting these requirements.
- 7 Although train crewmembers have no reason to ride a rail car at these locations, any clearance exemption should be conditional upon a prohibition against riding a rail car and clearly signing the facilities as having impaired clearances. Accordingly, Staff's proposed conditions provide appropriate safety measures.

We find that the Petition from Columbia Grain for clearance exemptions at its Lind and Schrag facilities are consistent with the public interest, the purposes of WAC 480-60-050, WAC 480-60-040, and the applicable statutes.

## FINDINGS AND CONCLUSIONS

- 8 (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
- 9 (2) BNSF Railway and Columbia Basin Railroad are engaged in the business of providing railroad services within the state of Washington and are public service companies subject to Commission jurisdiction.
- 10 (3) BNSF Railway and Columbia Basin Railroad are subject to 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, and WAC 480-60-

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<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).

040 which requires railroad companies to maintain an overhead clearance of 22 feet 6 inches above top of rail.

- 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 Columbia Grain maintains the approved warning signs, applies safety-yellow paint to the staircase at Schrag, and if BNSF Railway and Columbia Basin Railroad notify their employees of the close clearances by posting notices in their local operating instructions and provide a copy to Staff within 60 days of the effective date of this Order.
- 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 June 3, 2021.
- 15 (8) After reviewing the Petition filed by Columbia Grain on May 5, 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) Columbia Grain International's Petition for exemption from WAC 480-60-050 relating to side clearances and WAC 480-60-040 relating to overhead clearances at their Lind and Schrag facilities is granted.
- 17 (2) This exemption is granted subject to the following conditions:
- (a) Columbia Grain International must maintain a "Caution Watch for Grain Spout" sign on the approach to the overhead clearance impairment at the Lind facility.

- (b) Columbia Grain International must maintain a standard “No Clearance” sign on the approach to the steel ladder side clearance impairment at the Lind facility.
- (c) Columbia Grain International must maintain a “Caution Watch for Grain Spout” sign on the approach to the overhead clearance impairments at the Schrag facility.
- (d) Columbia Grain International must maintain standard “No Clearance” signs at both approaches to the staircase at the Schrag facility.
- (e) Columbia Grain International must paint the steel staircase “safety yellow” at the Schrag facility to contrast with the building and clearly identify the point of clearance impairment.
- (f) Columbia Grain International must maintain overhead lighting at Lind and Schrag for operations conducted during hours of darkness.
- (g) BNSF Railway and Columbia Basin Railroad must issue safety notices in their local operating instructions and post the notice in timetables when reissued.

18 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 June 3, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON  
Executive Director and Secretary