

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of
NORTHWEST BUILDING, LLC,

Petitioner,

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

DOCKET TR-210240

ORDER 01

GRANTING PERMANENT
EXEMPTION FROM RULES

BACKGROUND

- 1 On April 12, 2021, Northwest Building, LLC, (Northwest Building 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, Northwest Building submits that it manages a large industrial complex located at 4927 95th Street SW, in Lakewood, Washington. Within the complex, buildings 1, 12, and 13 are currently receiving rail service and each requires an exemption from Commission rules, as follows:
 - (a) Building 1 – Dock ladders attached to the side of the building are located 7 feet 11 inches from center of track.
 - (b) Building 12 – Loading dock is located 6 feet 6 inches from center of track.
 - (c) Building 13 – Loading dock is located 6 feet 11 inches from center of track.

Commission staff (Staff) visited the site and verified that the close clearances exist as described.

- 3 On April 26, 2021, Tacoma Rail (Tacoma Rail or Railroad) emailed Staff, indicating that the Railroad provides rail service to the facilities, that it supports the Company's petition, and that it does not object to Staff's terms, which include notifying its employees of the close clearances 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.

- 4 Staff reviewed the Petition and recommended granting Northwest Building’s Petition, subject to the following condition(s):
- (a) Northwest Building must place a “No Clearance” sign on Building 1 approximately 25 feet on the approach to the dock ladder in clear view of approaching train crews and must paint the dock ladder safety yellow.
 - (b) Northwest Building must place a “No Clearance” sign at the left gate post on the approach to the loading dock of Building 12 in clear view of approaching train crews.
 - (c) Northwest Building must place a “No Clearance” sign on each end of Building 13 in clear view of approaching train crews.
 - (d) Each “No Clearance” sign required by this Order must meet the specifications of standard drawing 0507 item number 393-8012, as depicted in the Order Attachment.
 - (e) Northwest Building must illuminate each area of impairment during operations conducted in the hours of darkness.
 - (f) Tacoma Rail must notify its employees of the close clearances by posting a notice in its local operating instructions and must provide Staff a copy within 60 days of the effective date of this Order.

DISCUSSION

- 5 We grant Northwest Building’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 480-06.¹ 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 Northwest Building’s facilities and permanent exemption from this rule is required for any structures not meeting these requirements.

¹ 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).

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 Northwest Building's Petition for clearance exemptions for its Lakewood facility is consistent with the public interest, the purposes of WAC 480-60-050, and the 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) 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.

10 (3) Tacoma Rail 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 Northwest Building installs approved warning signs on Buildings 1, 12, and 13, paints the dock ladder on Building 1 safety yellow, and provides illumination during operations in the hours of darkness, and if Tacoma Rail issues notice of the close clearance in its local operating instructions.

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 Northwest Building 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, Northwest Building, LLC, 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) Northwest Building must place a “No Clearance” sign on Building 1 approximately 25 feet on the approach to the dock ladder in clear view of approaching train crews and must paint the dock ladder safety yellow.
 - (b) Northwest Building must place a “No Clearance” sign at the left gate post on the approach to the loading dock of Building 12 in clear view of approaching train crews.
 - (c) Northwest Building must place a “No Clearance” sign on each end of Building 13 in clear view of approaching train crews.
 - (d) Each “No Clearance” sign required by this Order must meet the specifications of standard drawing 0507 item number 393-8012, as depicted in the Order Attachment.
 - (e) Northwest Building must illuminate each area of impairment during operations conducted in the hours of darkness.
 - (f) Tacoma Rail must notify its employees of the close clearances by posting notice in its local operating instructions and must provide Staff a copy within 60 days of the date of this Order.
- 18 (3) The Commission retains jurisdiction over the subject matter and Tacoma Rail 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