

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

VANDERYACHT PROPANE, INC.,

Petitioner,

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

DOCKET TR-200892

ORDER 01

GRANTING PERMANENT
EXEMPTION FROM RULES

BACKGROUND

- 1 On October 30, 2020, VanderYacht Propane, Inc., (VanderYacht or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition (Petition) requesting an exemption from WAC 480-60-040(1), which requires railroad companies to maintain an overhead clearance of at least 22 feet 6 inches from the top of the rail to the nearest structure, and 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, VanderYacht submits that it is opening a new propane tank car unloading facility at 14660 Ovenell Road in Mount Vernon, Washington. Gas piping and other utilities are attached to vertical metal struts mounted to a concrete platform running parallel to the track. The Company notes that the distance from the centerline of the track to the platform and struts is 8 feet 0 inches and requires an exemption from Commission rules.
- 3 On November 24, 2020, the Company emailed Commission staff (Staff) indicating its intent to amend its Petition (Amended Petition).
- 4 On November 20, 2025, BNSF Railway Co. (BNSF) emailed Staff, indicating that BNSF provides rail service to the facility, that it supports the Company's petition for exemption, and that it does not object to Staff's terms, which included notifying BNSF employees of the close clearance by general bulletin and by including special instructions in the employees' timetable at the next revision.

5 Staff reviewed the Amended Petition and notes that the overhead clearance issue has been resolved. Staff therefore recommended granting VanderYacht's Amended Petition, subject to the following conditions:

- (a) VanderYacht Propane must post a sign meeting the specifications of BNSF Standard Plan No. 44A, as depicted in the order attachment, on the south end of the platform, facing south and clearly visible to approaching rail traffic.
- (b) BNSF must notify its employees of the close clearance by general order and must include notice of same in the next timetable revision. BNSF must provide a copy of the updated general order to Staff within 60 days of the date of this Order.

DISCUSSION

6 We grant VanderYacht's request for an exemption, as requested in the Company's Amended 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 the VanderYacht facility and permanent exemption from this rule is required for any structures not meeting these requirements.

7 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 unloading facility as having reduced side clearances. Accordingly, Staff's proposed conditions provide appropriate safety measures.

8 We find that VanderYacht's request for clearance exemption for its Mount Vernon unloading facility is consistent with the public interest, the purposes of WAC 480-60-050, and the applicable statutes.

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).

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.
- 10 (2) BNSF 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) BNSF 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.
- 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 consistent with the public interest, the purposes underlying regulation, and applicable statutes. See also WAC 480-07-110.
- 13 (5) A close clearance can exist and safety can be maintained if VanderYacht installs an approved warning sign on the south end of the platform facing approaching rail traffic and if BNSF issues notice of the close clearance in its general order and timetable.
- 14 (6) Staff investigated the request and recommends that a permanent exemption be granted.
- 15 (7) This matter came before the Commission at its regularly scheduled meeting on December 10, 2020.
- 16 (8) After review of the Amended Petition filed by VanderYacht on November 24, 2020, 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:

- 17 (1) As of the effective date of this Order, VanderYacht Propane, Inc., is granted exemption from WAC 480-60-050(1) relating to side clearances.
- 18 (2) This exemption is subject to the following conditions:
- (a) VanderYacht Propane, Inc., must post a sign meeting the specifications of BNSF Railway Co. Standard Plan No. 44A, as depicted in the order attachment, on the south end of the platform, facing south and clearly visible to approaching rail traffic.
 - (b) BNSF Railway Co. must notify its employees of the close clearance by general order and must include notice of same in the next timetable revision. BNSF Railway Co. must provide a copy of the updated general order to Staff within 60 days of the date of this Order.
- 19 (3) The Commission retains jurisdiction over the subject matter and BNSF Railway Co. 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 December 10, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
Executive Director and Secretary