

DISCUSSION

4 WAC 480-60-040(1) prescribes a general minimum overhead clearance of 22 feet 6
inches from the top of the rail to overhead structures. These general overhead clearance
requirements apply to the Lonza facility and permanent exemption from this rule is
required.

5 Commission Staff (Staff) reviewed the request and recommended granting Lonza's
revised request for exemption, subject to the following condition(s):

- (a) A sign indicating "No Vertical Clearance" must be posted on the left side of
the railcar entrance door facing approaching rail traffic.
- (b) Notice of the close clearance must be posted in BNSF general order and
included 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.

6 The Commission finds that Lonza's request to revise its exemption to the overhead
clearance rule based on actual, rather than projected, clearance requirements for its
Kalama unloading facility is consistent with the public interest, the purposes of WAC
480-60-040, and the applicable statutes.

FINDINGS AND CONCLUSIONS

- 7 (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, RCW 81.01, RCW 81.04, and RCW 81.53.
- 8 (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.
- 9 (3) BNSF is subject to 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.

- 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 Lonza installs a sign on the left side of the railcar entrance door, facing approaching rail traffic, and BNSF issues notice of the close clearance in its general order and timetable.
- 12 (6) Staff investigated the request and recommends that a revised permanent exemption be granted.
- 13 (7) This matter came before the Commission at its regularly scheduled meeting on March 12, 2020.
- 14 (8) After review of the amended petition filed by Lonza on January 24, 2020, and giving due consideration, the Commission finds that the revised 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:

- 15 (1) Lonza Wood Protection's petition for a revised exemption from WAC 480-60-040(1), relating to overhead clearances is granted subject to the following conditions:
- (a) A sign indicating "No Vertical Clearance" must be posted on the left side of the railcar entrance door facing approaching rail traffic.
 - (b) Notice of the close clearance must be posted in BNSF general order and included 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.
- 16 (2) The Commission retains jurisdiction over the subject matter and BNSF to effectuate the provisions 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 March 12, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
Executive Director and Secretary