

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of	)	DOCKET TR-091578
	)	
BNSF RAILWAY,	)	ORDER 01
	)	
Petitioner,	)	
	)	
Seeking Exemption from the	)	ORDER GRANTING
Provisions of WAC 480-60-050	)	PERMANENT
Relating to side clearance rules	)	EXEMPTION FROM RULE
.....	)	

**BACKGROUND**

- 1 On October 2, 2009, BNSF Railway (BNSF) filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting permanent exemption from WAC 480-60-050(15), which requires railroad companies to maintain a side clearance of at least eight feet from the center of the tracks to the nearest structure.
  
- 2 BNSF proposes to install a second Trackside Acoustic Detection System (TADS) in Washington to assist in the early detection of potentially dangerous defects in cars operated on BNSF mainline track. TADS are installed trackside and the primary objective is to provide early indication of internal defects on railcar roller bearings. The current thermal detection technology effectively discovers defective bearings in the final stages of burn-off, but in some cases this progression occurs so rapidly that failure can occur within a few miles of the last thermal scanner, resulting in derailments. Because wheel bearing failures tend to occur at high speeds, such derailments often occur on main lines and can cause extensive damage. TADS is designed to identify roller bearings that are at greater statistical risk than the norm so they can be monitored and/or removed from service before they cause a derailment.
  
- 3 System equipment such as TADS is subject to the side clearance rule because it is considered signal equipment under WAC 480-60-050(15). The rule requires the nearest equipment to be at least eight feet from the centerline of the tracks. The overall height of the system equipment is 21.2 inches and is six feet, one inch from the centerline of tracks on both sides.

- 4 BNSF plans to install the second TADS system along its mainline track near Home Valley, Washington at milepost 59.7 on their Fall Bridge Subdivision. No switching occurs in the area and it is unlikely for employees to be exposed to the close clearance.
- 5 The first TADS detector was installed on the BNSF Pend Oreille Subdivision at milepost 60.3 in 2003. BNSF was granted a permanent side clearance waiver for this installation by the Commission on November 15, 2002.
- 6 BNSF proposes to install “No Clearance” signs on each end of the close clearance areas in order to mitigate potential hazards when employees or other workers are present. BNSF will also maintain lighting at the site to further reduce dangers in darkness and post notice of the close clearance in its Timetable.
- 7 Commission Staff reviewed the request and recommended granting BNSF’s request for exemption, subject to the following condition(s):
- (a) “No Clearance” signs must be posted on each end of the close clearance areas.
  - (b) Lighting must be installed and maintained at the TADS detector site.
  - (c) Notice of the close clearance must be posted in BNSF’s Timetable.
  - (d) “No Trespassing” signs must be placed in close proximity to the TADS detector.

### **FINDINGS AND CONCLUSIONS**

- 8 (1) The Washington Utilities and Transportation 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.*
- 9 (2) BNSF Railway 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) BNSF Railway is subject to WAC 480-60-050(15), which requires railroad companies to maintain a side clearance of at least eight feet from the center of the track to the nearest structure.
- 11 (4) Under [WAC 480-62-140](#), the Commission may grant an exemption from the provisions of any rule in [WAC 480-62](#), if 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 the operating railroad installs “No Clearance” signs on each end of the close clearance areas, installs and maintains lighting at the site, issues notice of the close clearance in BNSF’s Timetable, and installs “No Trespassing” signs in close proximity to the detector.
- 13 (6) Commission Staff investigated the request and recommended that a permanent exemption be granted.
- 14 (7) This matter came before the Commission at its regularly scheduled meeting on October 29, 2009.
- 15 (8) After review of the petition filed in Docket TR-091578 by BNSF Railway on October 2, 2009, and giving due consideration, the Commission finds that the exemption is in the public interest and is consistent with the purposes underlying the regulation and applicable statutes and should be granted.

## **O R D E R**

### **THE COMMISSION ORDERS:**

- 16 (1) After the effective date of this Order, BNSF Railway is granted an exemption from WAC 480-60-050(15), relating to side clearances.
- 17 (2) This exemption is subject to the following conditions:
- (1) “No Clearance” signs must be posted on each end of the close clearance areas.
  - (2) Lighting must be installed and maintained at the TADS detector site.

(3) Notice of the close clearance must be posted in the Timetable.

(4) “No Trespassing” signs must be placed in close proximity to the TADS detector.

- 18 (3) The Commission retains jurisdiction over the subject matter and BNSF Railway 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 Olympia, Washington, and effective October 29, 2009.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Executive Director and Secretary