

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

UNIVAR USA, INC.,

Petitioner,

Seeking Exemption from the Provisions
of WAC 480-62-040 Relating to
Overhead Clearances

DOCKET TR-160923

ORDER 01

ORDER GRANTING
PERMANENT EXEMPTION
FROM RULE

BACKGROUND

- 1 On July 18, 2016, Univar USA, Inc. (Univar or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting exemption from WAC 480-62-040, 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.
- 2 Univar's petition relates to the installation of railcar unloading racks which will provide additional safety and fall protection for personnel while unloading rail cars. BNSF Railway Co. (BNSF) is the primary rail operator within the Univar facility.
- 3 The overhead clearance directly below the horizontally-stored rack with safety cage, in its stored position, will be 18 feet 2 inches and 20 feet 8 inches above the top of the rail for the length of 8 feet. This requires a permanent exemption from the vertical clearance rules.
- 4 With the proposed clearance of the stored rack and safety cage, BNSF trains will be able to clear the structure; however the close clearance would present a risk to individuals riding on the top of the rail car. Although train crewmembers have no reason to ride on the top of a rail car, any clearance exemption should be conditional upon a prohibition against riding on the top of a rail car approaching or underneath the unloading rack, and clearly marking and signing the unloading facility as having lower vertical clearance.
- 5 BNSF is in support of the proposed unload facility having a lower vertical clearance of 18 feet 2 inches and 20 feet 8 inches, and will issue instructions to its train crews advising of the maximum height of rail cars allowable to this facility.

- 6 Commission Staff reviewed the request and recommended granting Univar's request for exemption, subject to the following condition(s):
- (a) Univar will post and maintain a sign stating, "No auto racks, high cubes or other tall cars due to close vertical clearance."
 - (b) Univar will post and maintain a sign stating, "No riding top of rail cars."
 - (c) Univar will add a section to the unloading procedures outlining the requirements for raising and lowering the rack when unloading is complete. This will prevent a collision between rail equipment and a lowered rack.
 - (d) BNSF will issue bulletins to all train crews operating at the facility prohibiting the practice of riding on the top of any on-track equipment when approaching or leaving the facility.
 - (e) Upon completion of the facility improvement and installation of the signage, Univar must notify Commission Staff within 60 days. Acceptance is subject to inspection by Commission Staff, verifying that signage, procedures, bulletins, and the timetable are in full compliance with applicable laws, regulations and the conditions specified herein.

FINDINGS AND CONCLUSIONS

- 7 (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.
- 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 480-62-040, 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) Commission Staff investigated the request and recommended that it be granted. The permanent exemption will support a safer unloading environment, which will improve safety for Univar employees. The addition of the new unloading rack and safety cage, train crew timetable bulletin, and warning signs all contribute to increased overall safety during unloading operations.
- 12 (6) This matter came before the Commission at its regularly scheduled meeting on August 18, 2016.
- 13 (7) After review of the petition filed in Docket TR-160923 by Univar on July 18, 2016, 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.

ORDER

THE COMMISSION ORDERS:

- 14 (1) After the effective date of this Order, Univar USA, Inc., is granted an exemption from WAC 480-62-040, relating to overhead clearances.
- 15 (2) This exemption is subject to the following conditions:
- (a) Univar USA, Inc., will post and maintain a sign stating, “No auto racks, high cubes or other tall cars due to close vertical clearance.”
 - (b) Univar USA, Inc., will post and maintain a sign stating, “No riding top of rail cars.”
 - (c) Univar USA, Inc., will add a section to the unloading procedures outlining the requirements for raising and lowering the rack when unloading is

complete. This will prevent a collision between rail equipment and a lowered rack.

- (d) BNSF Railway Co., will issue bulletins to all train crews operating at the facility prohibiting the practice of riding on the top of any on-track equipment when approaching or leaving the facility.
- (e) Upon completion of the facility improvement and installation of the signage, Univar must notify Commission Staff within 60 days. Acceptance is subject to inspection by Commission Staff, verifying that signage, procedures, bulletins, and the timetable are in full compliance with applicable laws, regulations and the conditions specified herein.

- 16 (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 Olympia, Washington, and effective August 18, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING, Executive Director and Secretary