

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

LAMB WESTON,

Petitioner,

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

DOCKET TR-210318

ORDER 01

GRANTING PERMANENT
EXEMPTION FROM RULES

BACKGROUND

- 1 On April 20, 2021, Lamb Weston (Lamb Weston or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition (Petition) requesting an exemption from WAC 480-60-050, 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, the Lamb Weston facility in Connell submits that its oil receiving station is 6 feet 10 inches from the centerline of the track and requests a waiver of the side clearance rules in WAC 480-60-050.
- 3 Commission staff (Staff) visited the Lamb Weston facility in Connell prior to the date the Petition was filed to inspect close clearances at the temperature seals on three refrigerated loading doors. Commission Order RC-100 was issued in 1971 for those close clearances. Staff's inspection revealed that the refrigerated loading doors no longer exist. The Lamb Weston facility in Connell no longer ships product by rail. The inspection did find that the Connell facility occasionally receives a tank car of cooking oil. The cooking oil receiving station currently creates a close side clearance of 6 feet 10 inches from centerline of track.
- 4 BNSF Railway (BNSF) provides service to the Connell facility. BNSF has been contacted and has no objection to the clearance waiver. BNSF will follow-up with a statement supporting the petition from Lamb Weston.
- 5 Staff reviewed the Petition and recommended granting Lamb Weston's request for exemption, subject to the following conditions:

- (a) Lamb Weston must post a standard “No Clearance” sign meeting the specifications of BNSF standard drawing 3044 item number 44 or 44A, as depicted in the order attachment, at the approach to the cooking oil receiving station and clearly visible to approaching rail traffic.
- (b) Lamb Weston must maintain illumination at the area of impairment during operations conducted in hours of darkness.
- (c) BNSF must issue a safety notice in its local operating instructions and post the notice of clearance impairment in their timetable when reissued.

DISCUSSION

- 6 We grant Lamb Weston’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 480-60.¹ As relevant here, WAC 480-60-050 prescribes a general minimum side clearance of 8 feet 6 inches from the centerline of the track to trackside structures. This general side clearance requirement applies to Lamb Weston’s facilities 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 facilities as having reduced side clearances. Accordingly, Staff’s proposed conditions provide appropriate safety measures.
- 8 We find that Lamb Weston’s request for clearance exemption at its Connell 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, 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 Lamb Weston installs an approved warning sign at the approach to the cooking oil receiving station and provides illumination during operations in hours of darkness, and if BNSF issues notice of the close clearance in its local operating instructions 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 June 3, 2021.
- 16 (8) After review of the Petition filed by Lamb Weston on April 20, 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:

- 17 (1) As of the effective date of this Order, the Lamb Weston facility in Connell is granted an exemption from WAC 480-60-050 relating to side clearances.
- 18 (2) This exemption is subject to the following conditions:
- (a) Lamb Weston must post a sign meeting the specifications of BNSF Railway standard drawing 3044, item numbers 44 or 44A, as depicted in the order attachment, at the approach to the cooking oil receiving station and clearly visible to approaching rail traffic.
 - (b) Lamb Weston must illuminate the area of impairment during operations conducted in the hours of darkness.
 - (c) BNSF Railway must notify its employees of the close clearance by posting a notice in their local operating instructions and updating the timetable when reissued. BNSF Railway must provide a copy of the safety notice to Staff within 60 days of this Order.
- 19 (3) The Commission retains jurisdiction over the subject matter and BNSF Railway to effectuate the provisions of this Order.
- 20 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 June 3, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
Executive Director and Secretary