

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

TACOMA RAIL,

 Petitioner,

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

DOCKET TR-240166

ORDER 01

GRANTING PERMANENT
EXEMPTION FROM RULES

BACKGROUND

- 1 On March 12, 2024, Tacoma Rail (Tacoma Rail or Company), filed with the Washington Utilities and Transportation Commission (Commission) a petition (Petition) requesting exemption from WAC 480-60-050, which requires railroad companies to maintain a side clearance of at least 8 feet 6 inches from the centerline of the track to the nearest structure, and on curved track, requires an additional 1.5 inches of side clearance for each degree of curvature.

- 2 Tacoma Rail is overseeing construction of an industry spur track to serve a new customer at 1901 Taylor Way in Tacoma. The proposed new industry track will diverge from an existing switching lead toward the southeast and curve to the northeast. According to the Petition, the centerline of the track will pass 10 feet from a large utility pole at a point where the track will have 19.2 degrees of curvature. Because of this curvature, an additional 2.4 feet of side clearance is required, for a total of 10.9 feet. This creates a restricted clearance requiring exemption from Commission rules.

- 3 Tacoma Rail proposes to install a vertical reflective “No Clearance” sign, consistent with its standard design, on the utility pole at the point of restricted clearance facing toward rail traffic approaching from the northwest as depicted in the Petition attachment. Tacoma Rail will also issue a Special Instruction to notify its employees of the restricted clearance and will provide a copy of such notification to Commission staff (Staff) within 60 days of the effective date of this Order.

- 4 Staff reviewed the request and recommended granting Tacoma Rail's request for exemption, subject to the following conditions:
- (a) Tacoma Rail must install a vertical reflective "No Clearance" sign, consistent with its standard design, on the utility pole at the point of restricted clearance facing toward rail traffic approaching from the northwest as depicted in the Petition attachment.
 - (b) Tacoma Rail must notify its employees in writing of the restricted clearance by issuing a Special Instruction.
 - (c) Tacoma Rail must provide a copy of its Special Instruction to Staff within 60 days of the effective date of this Order.

DISCUSSION

- 5 WAC 480-60-050 prescribes a general minimum side clearance of 8 feet 6 inches from the centerline of the track to an adjacent structure. On curved track, an additional 1.5 inch of clearance is required for each degree of curvature. These general clearance requirements apply to Tacoma Rail's proposed new industry track on Taylor Way and permanent exemption from this rule is required for any structures not meeting these requirements.
- 6 Under WAC 480-60-020(3), the Commission may grant an exemption from the provisions of any rule in WAC 480-60 if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.
- 7 Although train crewmembers have no reason to ride a rail car at this location, any clearance exemption should be conditioned upon a prohibition against riding on the side of a rail car and clearly signing the location as a having reduced side clearance.
- 8 The Commission determines that Tacoma Rail's request for clearance exemption for its proposed new industry track on Taylor Way is consistent with the public interest, the purposes of WAC 480-60-050, and the applicable statutes. The Commission grants the exemption subject to Staff's recommended conditions listed in paragraph 4.

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. RCW 80.01.040, Chapter 81.01 RCW, Chapter 81.04 RCW, and Chapter 81.53 RCW.
- 10 (2) Tacoma Rail 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) Tacoma Rail is subject to 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 adjacent structures, and on curved track, an additional 1.5 inch of clearance for each degree of curvature.
- 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 restricted clearance can exist, and safety can be maintained, if Tacoma Rail installs and maintains an approved warning sign at the point of restricted clearance and if Tacoma Rail provides written notification of the restricted clearances to its employees.
- 14 (6) Staff investigated the request and recommend that permanent exemption be granted.
- 15 (7) This matter came before the Commission at its regularly scheduled meeting on March 28, 2024.
- 16 (8) After review of the petition filed by Tacoma Rail on March 12, 2024, 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 should be granted.

ORDER

THE COMMISSION ORDERS:

- 17 (1) After the effective date of this Order, Tacoma Rail is granted exemption from
WAC 480-60-050 relating to side clearances.
- 18 (2) This exemption is subject to the following conditions:
- (a) Tacoma Rail must install a vertical reflective "No Clearance" sign, consistent with its standard design, on the utility pole at the point of restricted clearance facing toward rail traffic approaching from the northwest, as depicted in the Petition attachment.
 - (b) Tacoma Rail must notify its employees in writing of the restricted clearance by issuing a Special Instruction.
 - (c) Tacoma Rail must provide a copy of its Special Instruction to Staff within 60 days of the effective date of this Order.
- 19 (3) The Commission retains jurisdiction over the subject matter and Tacoma Rail 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 March 28, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFF KILLIP
Executive Director and Secretary