

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

UNION PACIFIC RAILROAD
COMPANY,

Petitioner,

Seeking Exemption from a Provision of
WAC 480-62-305(1) Relating to Railroad
Community Notice Requirements

DOCKET TR-220665

ORDER 01

GRANTING PERMANENT
EXEMPTION FROM RULES

BACKGROUND

- 1 On August 30, 2022, Union Pacific Railroad Company (Union Pacific or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition (Petition) requesting exemption from a requirement of WAC 480-62-305(1), which requires railroad companies to provide written notice to the governing authority of the community and the Commission at least 10 days prior to any planned action that may have significant community impact, such as disrupting the use of a crossing during railroad track inspection or maintenance.
- 2 In its Petition, Union Pacific requests that the Commission grant an exemption to WAC 480-62-305(1) to allow RoadSafe, Union Pacific's traffic control support services contractor, to provide the required notice rather than the Company. Union Pacific asserts that allowing RoadSafe to provide the required notice is consistent with the intent of WAC 480-62-305(1). If the exemption is approved, Union Pacific will:
 - (a) Authorize RoadSafe to make the required community notices on its behalf, and;
 - (b) Retain responsibility to ensure these notices comply with the requirements in WAC 480-62-305 and include contact information for both Union Pacific and RoadSafe, as well as a statement that the notice is provided by RoadSafe on behalf of Union Pacific.
- 3 Commission staff (Staff) reviewed the request and recommends granting Union Pacific's requested exemption, subject to the following condition(s):

- (a) Union Pacific must retain responsibility to ensure community notices provided by RoadSafe comply with the requirements in WAC 480-62-305.
- (b) Community notices provided by RoadSafe on behalf of Union Pacific must contain the information required in WAC 480-62-305(3), contact information for both RoadSafe and Union Pacific, and a statement that the notice is provided by RoadSafe on behalf of Union Pacific.
- (c) Union Pacific must notify the Commission in writing if it ceases utilizing RoadSafe to provide the community notices required by WAC 480-62-305 on the Company's behalf. If Union Pacific seeks to designate a different company to provide community notices as required by WAC 480-62-305 on its behalf, it must file a new petition with the Commission to seek a new exemption.

DISCUSSION

4 WAC 480-62-305(1) requires railroad companies to provide notice of planned railroad actions that may have significant community impact. These notice requirements apply to Union Pacific and a permanent exemption from this rule is required if Union Pacific seeks to allow RoadSafe to make such notifications on its behalf.

5 The Commission finds that Union Pacific's Petition for an exemption from WAC 480-62-305(1) to allow RoadSafe, Union Pacific's traffic control support services contractor, to provide the required community notice is consistent with the public interest, the purposes of WAC 480-62-305, and applicable statutes. Accordingly, we agree with Staff's recommendation and grant Union Pacific's Petition with the conditions set out in paragraph 3 of this Order.

FINDINGS AND CONCLUSIONS

6 (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.

- 7 (2) Union Pacific is engaged in the business of providing railroad services within the state of Washington as a railroad company and is a public service company subject to Commission jurisdiction.
- 8 (3) Union Pacific is subject to WAC 480-62-305(1), which requires railroad companies to notify, in writing, the governing authority of the community and the Commission at least ten days prior to taking any planned action that may have a significant impact on a community.
- 9 (4) Under WAC 480-62-140(1), 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.
- 10 (5) Staff investigated the Petition and recommends that it be granted subject to the conditions set out in paragraph 3.
- 11 (6) This matter came before the Commission at its regularly scheduled meeting on September 29, 2022.
- 12 (7) After review of the Petition filed by Union Pacific on August 30, 2022, and giving due consideration, the Commission finds that the exemption is consistent with the public interest, the purposes underlying the regulation, and applicable statutes, and should be granted.

ORDER

THE COMMISSION ORDERS:

- 13 (1) After the effective date of this Order, Union Pacific Railroad Company is granted an exemption from WAC 480-62-305(1) relating to community notice requirements to allow RoadSafe, Union Pacific Railroad Company's traffic control support services contractor, to provide the required community notice.
- 14 (2) This exemption is subject to the following conditions:

- (a) Union Pacific Railroad Company retains responsibility for ensuring community notices provided by RoadSafe comply with the WAC 480-62-305.
 - (b) Community notices provided by RoadSafe on behalf of Union Pacific Railroad Company must contain the information required in WAC 480-62-305(3), as well as contact information for both RoadSafe and Union Pacific Railroad Company and a statement that the notice is provided by RoadSafe on behalf of Union Pacific Railroad Company.
 - (c) Union Pacific Railroad Company must notify the Commission in writing if it ceases utilizing RoadSafe to provide the community notices required by WAC 480-62-305 on the Company's behalf. If Union Pacific Railroad Company seeks to designate a different company to provide community notices as required by WAC 480-62-305 on its behalf, it must file a new petition with the Commission to seek a new exemption.
- 15 (3) The Commission retains jurisdiction over the subject matter and Union Pacific Railroad Company 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 September 29, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AMANDA MAXWELL
Executive Director and Secretary