

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

<p>In the Matter of the Petition of</p> <p>WESTROCK KRAFT PAPER, LLC,</p> <p style="text-align: center;">Petitioner,</p> <p>Seeking Exemption from the Provisions of WAC 480-60-040 Relating to Overhead Clearances and WAC 480-60-050 Relating to Side Clearances</p>	<p>DOCKET TR-230780</p> <p>ORDER 01</p> <p>GRANTING PERMANENT EXEMPTION FROM RULES, SUBJECT TO CONDITIONS</p>
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BACKGROUND

- 1 On September 25, 2023, Westrock Kraft Paper, LLC (Westrock or Company), filed with the Washington Utilities and Transportation Commission (Commission) a petition (Petition) requesting exemption from WAC 480-60-040, which requires railroad companies to maintain an overhead clearance of at least 22 feet 6 inches and WAC 480-60-050, which requires railroad companies to maintain a side clearance of at least 8 feet 6 inches measured from the centerline of the track.
- 2 Westrock operates a facility at 2001 Longfibre Road, Yakima, where it is served by the Central Washington Railroad Company (Central Washington Railroad). Two parallel industry spur tracks diverge from Central Washington Railroad’s First Subdivision at milepost 95.05 and run from east to west, entering the southeast corner of the Westrock facility. The south door is 18 feet wide and provides adequate side clearance. The north door is 16 feet wide and provides approximately 8 feet of side clearance, less than the minimum required. This creates a restricted clearance requiring an exemption from Commission rule. WAC 480-60-040(2) requires a minimum of 18 feet of overhead clearance for tracks terminating within a building. Therefore, no exemption for overhead clearance is required for the Westrock facility.
- 3 Two 10 inch by 24 inch signs reading “NO CLEARANCE” in 2 ½ inch by 3 inch black letters on a white reflective background are mounted together on a metal post between tracks 1 and 2 approximately 30 feet from the building. If these signs require replacement for any reason, WestRock will replace them with one standard Union Pacific "DANGER - NOT SUFFICIENT CLEARANCE" sign, conforming to UP item 390-1264, located in approximately the same location between tracks 1 and 2. The existing signs and Union

Pacific standard sign are depicted in the petition attachment. Illumination is in place for operations occurring during hours of darkness. Central Washington Railroad will notify its employees in writing of the restricted clearances through its employee timetable or special instructions.

4 Commission Staff (Staff) reviewed the request and recommends granting Westrock's request for exemption, subject to the following conditions:

- (a) Westrock must maintain the existing "NO CLEARANCE" signs facing approaching rail traffic between its tracks approximately 30 feet from the building. Westrock may replace the existing signs with one standard Union Pacific "DANGER - NOT SUFFICIENT CLEARANCE" sign, conforming to UP item 390-1264. The existing signs and Union Pacific standard sign are depicted in the petition attachment.
- (b) Westrock must maintain the existing overhead illumination during operations occurring during hours of darkness.
- (c) Central Washington Railroad must provide written notification of the restricted clearance to its employees, and must provide a copy of this notification to Staff within 60 days of the 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 adjacent structures. These general side clearance requirements apply to the Westrock facility and permanent exemption from these rules 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 having reduced clearances.

8 The Commission determines that Westrock's request for clearance exemption for its Yakima facility 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 four.

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) Central Washington Railroad 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) Central Washington Railroad 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.
- 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 Westrock maintains approved warning signs facing approaching rail traffic between its tracks and provides illumination during operation occurring during hours of darkness, and if Central Washington Railroad 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 October 12, 2023.
- 16 (8) After review of the petition filed by Westrock on September 25, 2023, 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, subject to the conditions described in paragraph four.

ORDER

THE COMMISSION ORDERS:

- 17 (1) After the effective date of this Order, Westrock Kraft Paper, LLC is granted exemption from WAC 480-60-050 relating to side clearances.
- 18 (2) This exemption is subject to the following conditions:
- (a) Westrock Kraft Paper, LLC must maintain the existing “NO CLEARANCE” signs facing approaching rail traffic between its tracks approximately 30 feet from the building Westrock Kraft Paper, LLC may replace the existing signs with one standard Union Pacific "DANGER - NOT SUFFICIENT CLEARANCE" sign, conforming to UP item 390-1264. The existing signs and Union Pacific standard sign are depicted in the petition attachment.
 - (b) Westrock Kraft Paper, LLC must maintain the existing overhead illumination during operations occurring during hours of darkness.
 - (c) Central Washington Railroad Company must provide written notification of the restricted clearance to its employees, and must provide a copy of this notification to Staff within 60 days of the date of this order.
- 19 (3) The Commission retains jurisdiction over the subject matter and Central Washington Railroad Company 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 October 12, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KATHY HUNTER
Acting Executive Director and Secretary