

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

LONZA WOOD PROTECTION,

Petitioner,

Seeking Exemption from the Provisions of
WAC 480-60-040 Relating to Overhead
Clearances, and WAC 480-60-050 Relating
to Side Clearances

DOCKET TR-190486

ORDER 01

ORDER GRANTING PERMANENT
EXEMPTION FROM RULE

BACKGROUND

- 1 On June 10, 2019, Lonza Wood Protection (Lonza or Company), filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting exemption from: WAC 480-60-040(1), 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; and, WAC 480-60-050(1), 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 Lonza operates a facility at 532 Hendrickson Drive, Kalama, Washington, which receives tank cars for unloading. An overhead gangway and a safety cage are only 18 feet 8 inches above the top of the rail and are intended to protect workers from falling while unloading tank cars. In addition, a large concrete platform formerly used as a base for a pulley system that moved railcars is only 6 feet from the center of the track. Each of these conditions requires an exemption from the Commission's clearance rules. BNSF Railway Co. (BNSF) provides rail service to the facility and is in support of the Company's petition for exemption.

DISCUSSION

- 3 WAC 480-60-040(1) prescribes a general minimum overhead clearance of 22 feet 6 inches from the top of the rail to overhead structures. WAC 480-60-050(1) prescribes a general minimum side clearance of 8 feet 6 inches from the center line of the track to trackside structures. These general overhead and side clearance requirements apply to the

Lonza facility and permanent exemptions from these rules are required for any structures not meeting these requirements.

4 Although train crewmembers have no reason to ride a rail car, any clearance exemption should be conditional upon a prohibition against riding on the side or top of a rail car and clearly marking and signing the unloading facility as having lower vertical and side clearances.

5 Commission staff (Staff) reviewed the request and recommends granting Lonza's request for exemption, subject to the following condition(s):

- (a) A sign indicating "No Clearance" must be posted on the northeast corner of the concrete platform facing approaching rail traffic.
- (b) A sign indicating "No Vertical Clearance" must be posted on the left side of the railcar entrance door facing approaching rail traffic.
- (c) Notice of the close clearances must be posted in the BNSF general order and included in the next timetable revision. BNSF must provide a copy of the updated general order to Staff within 60 days of the date of this Order.

6 The Commission determines that Lonza's request for clearance exemptions for its Kalama unloading facility is consistent with the public interest, the purposes of WAC 480-60-040, WAC 480-60-050, and applicable statutes.

FINDINGS AND CONCLUSIONS

7 (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.

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 480-60-040(1), 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, and WAC 480-60-050(1), 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.

- 10 (4) Under WAC 480-60-020(3), the Commission may grant an exemption from the provisions of any rule in Chapter 480-60 WAC, if doing so is consistent with the public interest, the purposes underlying regulation and applicable statutes. *See also* WAC 480-07-110.
- 11 (5) A close clearance can exist and safety can be maintained if Lonza installs signs on the northeast corner of the concrete platform facing approaching rail traffic and on the left side of the railcar entrance door, and if BNSF issues notice of the close clearances in its general order and timetable.
- 12 (6) Staff investigated the request and recommended that the permanent exemptions be granted.
- 13 (7) This matter came before the Commission at its regularly scheduled open meeting on August 8, 2019.
- 14 (8) After review of the petition filed by Lonza on June 10, 2019, and giving due consideration, the Commission finds that the exemptions are in the public interest, consistent with the purposes underlying the regulation and applicable statutes, and should be granted.

ORDER

THE COMMISSION ORDERS:

- 15 (1) After the effective date of this Order, Lonza Wood Protection is granted exemptions from WAC 480-60-040(1), relating to overhead clearances, and WAC 480-60-050(1), relating to side clearances.
- 16 (2) The exemptions are subject to the following conditions:
- (a) A sign indicating “No Clearance” must be posted on the northeast corner of the concrete platform facing approaching rail traffic.

- (b) A sign indicating “No Vertical Clearance” must be posted on the left side of the railcar entrance door facing approaching rail traffic.
- (c) Notice of the close clearances must be posted in BNSF Railway Co. general order and included in the next timetable revision. BNSF Railway Co. must provide a copy of the updated general order to Commission staff within 60 days of the date of this order.

- 17 (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 Lacey, Washington, and effective August 8, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON, Executive Director and Secretary