

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION )**  
**OF BNSF RAILWAY COMPANY FOR A ) CASE NO. BNR-R-17-01**  
**CLEARANCE WAIVER )**  
**) ORDER NO. 33875**  
**)**

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On June 30, 2017, BNSF Railway Company (“BNSF”) filed with the Commission a request for a waiver of the clearance requirements in the Commission’s Railroad Clearance Rules (“Application”). *See* IDAPA 31.71.01. *et seq.* Exemptions to the Railroad Clearance Rules may be considered by the Commission case-by-case upon proper application. *See* IDAPA 31.71.01.008 (Rule 8).

On August 3, 2017, the Commission issued a Notice of Application and Modified Procedure. *See* Order No. 33832. Commission Staff submitted the only comments.

**THE APPLICATION**

BNSF stated that it needs a clearance waiver from IDAPA 31.71.01.301 (Rule 301) because it must install a “Track and Time Point Sign” with an outside edge that will be 6 feet 6 inches from the center lines of the two underlying mains. Rule 301 requires at least 8 feet 6 inches for all side clearances. IDAPA 31.71.01.301. A diagram of the sign BNSF proposed to use was attached to BNSF’s Application. *See* Application at 2. BNSF stated it needs a clearance waiver to show BNSF is authorized to work on the track and install the non-conforming sign. *See* Application at 1.

**STAFF COMMENTS**

On August 15, 2017, Commission Staff met with BNSF representatives at the sign’s proposed location in the East Hauser Main located east of Hauser, Idaho, and reviewed construction diagrams and drawings prepared by BNSF.

Staff stated that the side clearance rules protect the safety of railroad workers who may have to ride on the outside edge of a rail car. *See* Staff Comments at 1. If signage impinges on the tracks, a worker may be injured, or material being transported on the rail car that may extend out from the edge of the car may be damaged. *Id.*

Staff next indicated that BNSF needs the requested Track and Time Point Sign to control equipment movement on specific sections of track, and limit that movement to

authorized-personnel and equipment. By doing this, BNSF intends to improve the safety of workers and equipment that may be near the controlled track section. *Id.* at 2. Staff determined that reconfiguring the two new main lines required the sign be placed equally between the center lines of the two tracks. *Id.* However, as the Company stated, equally spacing the sign between the mains would require a 6 feet 6 inch clearance distance, the maximum allowed by the track infrastructure. *Id.*

Staff determined that BNSF's existing and proposed conditions pose no danger of signs impinging on workers or material overhanging the rail car. First, there are no physical barriers or sight obstructions near the proposed sign that would necessitate side clearance beyond the requested 6 feet 6 inch clearance distance. Second, the track speed limit is 40 miles per hour and, therefore, the proposed sign would be obvious to approaching equipment. *Id.* Staff therefore recommended that the Commission grant BNSF's side clearance waiver, and authorize BNSF to place the sign at a point equidistant from the two main lines at 6 feet 6 inches.

#### **FINDINGS AND DISCUSSION**

We have reviewed the record, including the Application and Staff's comments. Based on our review, we find it reasonable to approve BNSF's requested waiver of the 8 feet 6 inch side clearance specified in Rule 301. We note that no one opposed the Application. Further, based on Staff's observations and analysis, there is no danger that would necessitate more than the 6 feet 6 inch clearance proposed by the Company. Accordingly, we find it reasonable to grant BNSF's Application.

We also find it reasonable to direct BNSF to promptly notify the Commission's Railroad Safety Division Staff when the sign has been installed so Staff may inspect the sign to confirm it has been constructed and placed in conformance with this Order.

#### **ORDER**

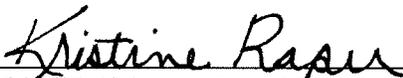
IT IS THEREFORE ORDERED that BNSF's Application for a waiver from Railroad Clearance Rule 301 is granted. The Company shall erect its proposed sign at a point equidistant from the center of the two main lines, at 6 feet 6 inches.

IT IS FURTHER ORDERED that BNSF promptly notify the Commission's Railroad Safety Division Staff once the proposed sign is installed, and that Commission Staff then visit the facility to confirm the sign is constructed and placed in accordance with this Order.

THIS IS A FINAL ORDER. Any person interested in this order (or in issues finally decided by this Order) may petition for reconsideration within twenty-one (21) days of the service date of this order with regard to any matter decided in this order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code § 61-626.*

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 14<sup>th</sup> day of September 2017.

  
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PAUL KJELLANDER, PRESIDENT

  
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KRISTINE RAPER, COMMISSIONER

  
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ERIC ANDERSON, COMMISSIONER

ATTEST:

  
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Diane M. Hanian  
Commission Secretary

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