

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Cargill Incorporated
Rail Clearance Variance – Wahpeton, ND
Application

Case No. RR-11-81

ORDER GRANTING CLEARANCE VARIANCE

April 6, 2011

On March 10, 2011, the Public Service Commission received an application from Cargill Incorporated (Cargill) for a variance from the rail clearance standards prescribed by N.D.C.C § 49-10.1-13(2). The governing statute allows the Commission to grant variances from the prescribed clearance standards. The application included a letter, dated March 9, 2011, from Red River Valley & Western Railroad (RRVW) stating that it was not opposed to the proposed installation.

Cargill is seeking authorization to modify its overhead doors at its Wahpeton, North Dakota facility. The new overhead doors would have an overhead clearance of twenty feet from the top of the rail, less than the twenty-one feet prescribed by state law. Side clearances are not at issue, as they will not change, thereby continuing to meet the requirements of the Century Code.

On March 18, 2011 the Commission sent a letter to the State Director for the United Transportation Union, soliciting rail labor's input on the requested variance. The letter requested a reply by April 1, 2011 and further stated that if no reply was received, it would be assumed that rail labor did not oppose the requested variance.

In a letter, dated March 24, 2011, the United Transportation Union stated that they are in support of the proposed modification, as it should not create a safety hazard to their membership.

We find that granting the application is in the public interest.

We conclude that we have jurisdiction over this matter.

The Commission orders:

1. That the application of Cargill Incorporated for a variance from the rail clearance standards prescribed by N.D.C.C § 49-10.1-13(2) is hereby GRANTED.
2. That all entrances to the track area shall be marked on both sides of the track with reflectorized reduced clearance signs.

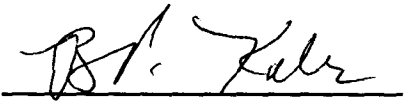
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