

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Basin Electric Power Cooperative
Rail Clearance Variance – DGC UREA Loading Facility
Application**

Case No. RR-15-676

ORDER GRANTING CLEARANCE VARIANCE

September 30, 2015

On August 31, 2015, the Public Service Commission received an application from Basin Electric Power Cooperative (Basin) for a variance from the rail clearance standards prescribed by Section 49-10.1-13 of the North Dakota Century Code. Basin is seeking authorization to build a loading gangway (see attachment A).

On September 18, 2015 the Commission notified Burlington Northern Santa Fe Corporation (BNSF) and The United Transportation Union (UTU) about the clearance variance application and requested comments.

On September 18, 2015 UTU responded stating no objection to the application.

On September 28, 2015 the Commission received an e-mail from BNSF agreeing to the request conditioned upon Basin posting specific safety signs and reflective tape.

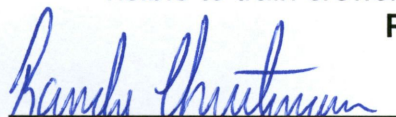
We find that granting the application is in the public interest.

The governing statute allows the Commission to grant variances from the prescribed clearance standards. We conclude that we have jurisdiction over this matter.

Order

The Commission Orders:

1. Basin Electric Power Cooperative's application is granted, subject to the conditions noted in #2 and #3.
2. Basin shall post signs that say "do not ride rail cars".
3. Basin shall put reflective tape on anything in the clearance envelop to make it visible to train crews.



Randy Christmann
Commissioner

PUBLIC SERVICE COMMISSION



Julie Fedorchak
Chairman



Brian P. Kalk
Commissioner

Hamre, John G.

From: Nitschke, Darrell D.
Sent: Friday, September 18, 2015 2:28 PM
To: Hamre, John G.
Subject: FW: Dakota Gasification UREA Loading Facility Rail Clearance Issue
Attachments: DGC w Urea Plant.pdf; Loadout Clearance.pdf

From: Dale Niezwaag [<mailto:dalen@bepc.com>]
Sent: Monday, August 31, 2015 10:37 AM
To: Nitschke, Darrell D. <dnitschk@nd.gov>
Cc: Jeffcoat-Sacco, Ilona <ijs@nd.gov>; Jean Schafer <JeanS@bepc.com>; Dale Niezwaag <dalen@bepc.com>; Mike Eggf <MEggf@bepc.com>; Tara Vesey <TVesey@bepc.com>
Subject: Dakota Gasification UREA Loading Facility Rail Clearance Issue

Darrell: Attached to this email you will find a map of the DGC facility and a detailed engineering drawing of the specific area we are discussing. Below you will find a map with an arrow indicating the exact location of the loadout facility at the plant. As you will remember from previous emails DGC is trying to complete the engineering stages of an expansion of the plant to produce UREA. To do this DGC needs BNSF approval of the track drawings for the Urea Plant. As part of this process of approval from BNSF, they have indicated that the clearance for the gangway over the Urea Loading area does not meet clearance code for ND.

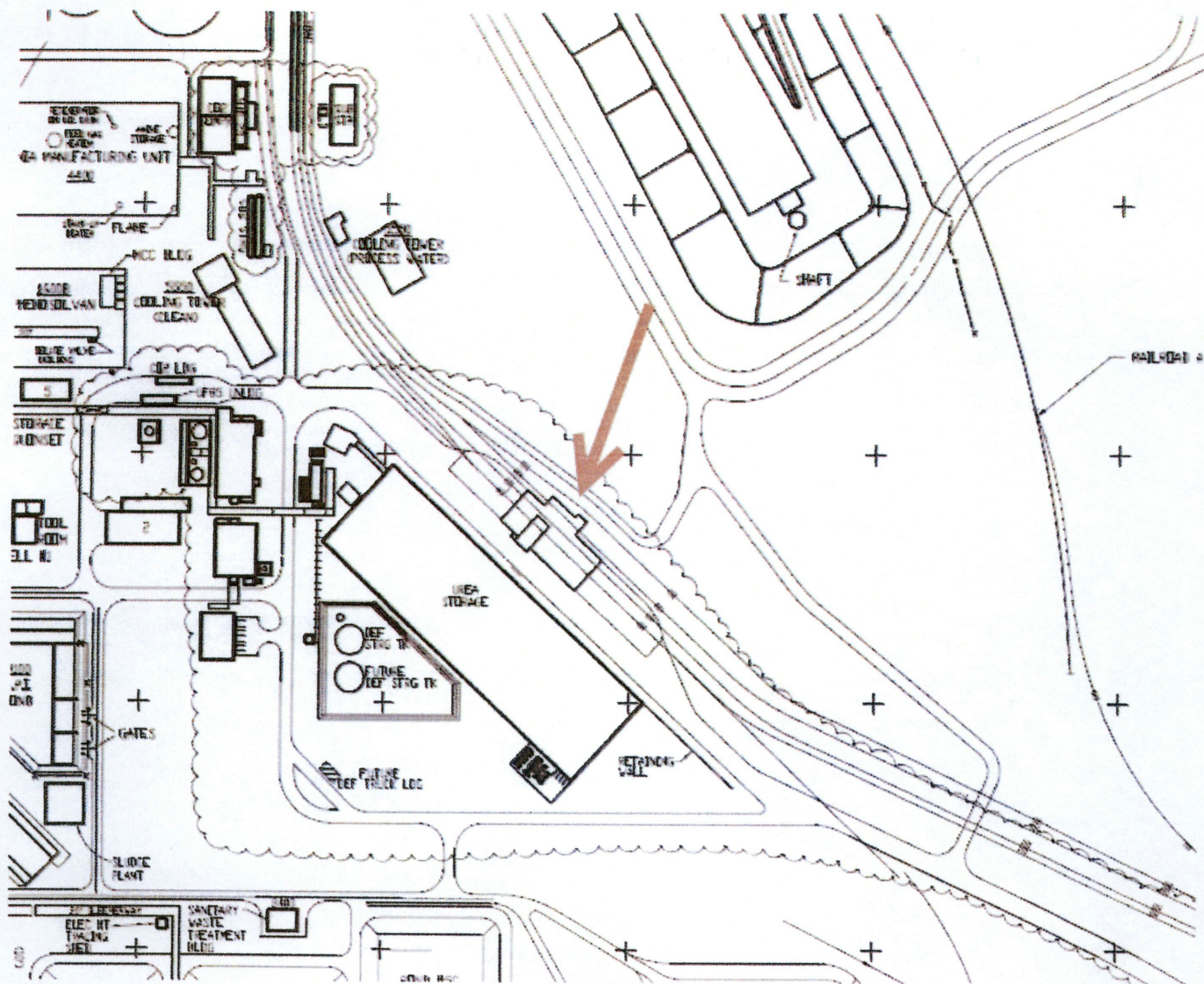
Per the PSC, Century Code 49-10.1-13 (bottom of page 2), DGC would need to have 21' above and 8' from center of rail free. The statute indicates that there can be exceptions. The statute is listed:

<http://www.legis.nd.gov/cencode/t49c10-1.pdf?20150713135440>

Also in section 2 of 49-10.1-13. Clearance required for tracks, the code refers to Station Freight House allowance of 4' and we believe that this portion of the statute would apply for the loading gangway inside the facility. As we discussed the term "Station Freight House" doesn't seem to have a specific definition in code but it appears to be widely understood that it would also refer to an area with a loading dock or loading area which is the application at DGC.

The loading gangway at the DGC loading facility is 14'6" high and 8'8" off center. Thus we are just off on the height portion.

Attached is a drawing of what the plant will look like after the Urea Plant is finished. The area that we are looking for the Station Freight House exception is defined below (obviously straddling the rail as it is a loadout building):

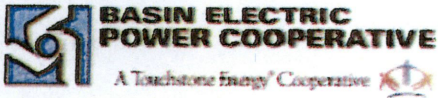


What we are looking for would be a letter from the PSC indicating that the area in question would qualify for the Station Freight House clearance provisions. Please let us know if you need any additional information or if you would like sit down and clarify the issue.

Thanks for your time and consideration of this issue.

Dale Niezwaag

Dale Niezwaag
 Sr. Legislative Representative
 Basin Electric Power Cooperative
 1717 E Interstate Ave
 Bismarck, ND 58503
 e-mail: dalen@bepc.com
 phone: 701.557.5795
 web: basinelectric.com



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