

Decision No. 39598

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 J. P. Williams, Agent, San Francisco
 Bay Carloading Conference, for an
 order authorizing increases in the
 rates and charges for the services
 of loading and unloading cars at
 marine terminals situated on San
 Francisco Bay and its tributaries.

Application No. 27630

Appearances

Joseph J. Geary, for applicants.
 M. D. Alexander, C. O. Burgin, and John B. Harman,
 for the Office of Price Administration.
 Ralph H. Fortune, John S. Griffin, and Robert F.
 McCarthy, for the United States Department
 of Agriculture.
 R. F. Ahern, Russell Bevans, J. E. Collins, J. B.
 Costello, C. E. Donaldson, William J.
 Gleason, C. E. Jacobsen, Elinor Kahn, James
 A. Keller, T. E. Keller, H. A. Lincoln,
 N. R. Moon, W. H. Morley, Earl J. Shaw, and
 W. G. Stone, for various shippers, shipper
 organizations and other interested parties.

O P I N I O N

San Francisco Bay Carloading Conference represents 30
 carloaders providing service at marine terminals situated on San
 Francisco Bay and tributary waters. J. P. Williams, its secretary-
 manager, is also the tariff publishing agent for these carloaders.
 This application, as amended, seeks authority to increase the car-
 loading and car unloading rates named in his Tariff C.R.C. No. 4.

Most of the applicants are also respondents in the
 United States Maritime Commission's Docket No. 639, Status of
 Carloaders and Unloaders, in which rates promulgated in Williams'
 Tariff M. C. No. 1 were found justified by that Commission on an
 interim basis. Those rates are generally 33-1/3 per cent higher

than the rates contained in Tariff C.R.C. No. 4. By petition in Docket No. 639, the carloaders now ask for Maritime Commission approval of further increases of approximately 35 per cent on all cargo except cement and petroleum and petroleum products and 10 per cent on those commodities. Adjustment of the rates named in Tariff C.R.C. No. 4 to the level of those sought in Docket No. 639 is proposed by this application.

Public hearing was had at San Francisco on August 7 and 8, 1946, before Examiner Mulgrew. A further hearing in Docket No. 639 was concurrently had before the Maritime Commission's Examiner Furness.

There has been no adjustment of the Tariff C.R.C. No. 4 rate level since that tariff became effective on November 1, 1941. At that time the basic wage rate was 90 cents per hour. As a result of several wage adjustments culminating with that made effective on June 15, 1946, the basic hourly wage is now \$1.37. There have been corresponding increases in wages of supervisory personnel known as "gang and walking bosses." During the war, carloading service was provided by the War Shipping Administration and the impact of wage increases did not fall on the applicants. For intercoastal vessel traffic handled by War Shipping Administration under temporary operative authority from the Interstate Commerce Commission, it has filed carloading and car unloading rates with that Commission on the same level as the rates in Tariff M.C. No. 1.

Under the wage agreement between the carloaders and the union representing their employees, the work-day is 6 hours and the work-week 30 hours. Applicants' witnesses testified, however, that it is necessary to provide work on an 8-hour-day,

40-hour-week basis in order to obtain the services of qualified men. This requires the payment of time and one-half wages for two of the eight hours regularly worked. In effect it raises the basic hourly remuneration from \$1.37 to \$1.54. Provision for insurance and payroll taxes amounts, on an hourly basis, to 12.3 cents. The expense of annual paid vacations reduced to an hourly basis is 7.5 cents. These cost factors increase total labor expense to \$1.738 per hour.

Applicants submitted the results of their study of cargo handled during the period June 15 to July 15, 1946. This period was characterized by their witnesses as representative of conditions now prevailing. The study discloses that, on a tonnage basis, approximately one-third of the cargo consisted of cement and petroleum and its products. No other commodity moved in comparable volume. Tonnages and labor costs, as well as revenues under existing and proposed rate levels, are depicted by the following tabulation:

Commodity	Tons Handled	Labor Costs	REVENUES		
			CRC No.4 Rates	MC No.1 Rates	Proposed Rates
Cement	7,367.55	\$5,248.16	\$3,904.80	\$5,230.75	\$5,746.69
Petroleum	3,790.14	2,508.73	2,008.77	2,691.00	2,956.31
Other Cargo	19,434.72	22,890.05	11,463.96	17,195.94	23,087.54
TOTALS	30,592.41	\$30,646.94	\$17,377.53	\$25,117.69	\$31,790.54

The proposed rates were said to have been designed to provide revenues necessary to meet increased out-of-pocket labor costs resulting chiefly from the wage increases hereinbefore discussed. Applicants contend that unless they are permitted to establish the sought higher rate level they will suffer serious financial losses and that such losses would impair their ability to provide vital and necessary service.

Counsel for applicants stated that comprehensive studies of the operations involved have been undertaken and will be submitted upon completion. At that time, he said, such further rate adjustments as the studies may warrant will be recommended. Applicants have agreed to seek authority to pay reparation in all instances where further investigation indicates the propriety of such action. They ask permission, in view of competition with public port bodies and privately operated marine terminals also engaged in providing carloading service in the San Francisco Bay area, to establish the proposed rates to the extent that competition may permit them to do so.

Pacific Coast Cement Institute opposes any increase in cement rates. The present tariff rates are 53 cents per ton in C.R.C. No. 4 and 71 cents in M.C. No. 1. The proposed rate is 78 cents. The institute's representative testified at length concerning competition in marketing cement in world markets and concerning transshipment charges at Pacific Coast, Gulf and Atlantic ports. He questioned the propriety of using applicants' labor cost figures on cement for rate-making purposes because they indicate that substantially more man-hours per car are required than those indicated by experience in similar loading and unloading operations at mills, warehouses and other facilities. Based on a performance figure said to have been furnished by the Grace Line, the witness developed 61.35 cents per ton as the cost of unloading carloads of cement at San Francisco piers. This figure includes 10 cents per ton for supervision, overhead and other expenses not allocated to labor cost.

A witness for one of the cement mills testified that an employee of that mill had checked on the unloading of its cars of

cement at San Francisco piers over a considerable period of time. On the basis of the information on carloading performance thus acquired, labor expense under the new wage rate was calculated as 46.18 cents per ton. This calculation does not include the cost of insurance, payroll taxes, vacation allowances, management expenses or other overhead costs.

On the other hand, a witness for applicants testified that 8 carloads of cement had been unloaded at the Grace Line's San Francisco pier in the June 15 to July 15, 1946, period and that the man-hours involved in the unloading of these cars in all cases exceeded, and in connection with certain cars substantially exceeded, those used as the basis of the Cement Institute's cost estimate for unloading at that location. Another witness for applicants said that during a recent six-month period his concern had unloaded more than 2,000 tons of cement for the mill submitting the 46-cent labor cost figure and that on the basis of this experience the indicated cost at present wage rates is 83 cents.

The Office of Price Administration, the Department of Agriculture, the Dried Fruit Association and the Cannery League urge that any rate increases be limited to those necessary to reflect the higher labor costs. They contend that the one-month period used by applicants for their cost determinations is too short for that purpose; that volume movements, seasonal or sporadic in character, such as various agricultural products, are not given adequate recognition by the one-month study; and that any adjustments reflecting changed conditions other than the increased wage rates should be predicated upon a more substantial showing than that here made by applicants.

A witness for Office of Price Administration submitted calculations showing that on a mathematical basis increases of 49.95 per cent in the Tariff C.R.C. No. 4 rates and 11.94 per cent in the Tariff M.C. No. 1 rates would offset the higher labor costs experienced since the promulgation of those rates.

The Department of Agriculture also called attention to the possibility of the loss of business by diversion of traffic from rail to truck movement in order to avoid the higher trans-shipment costs which would attend increases in carloading and unloading rates.

Applicants concede, and protestants apparently agree, that the existing carloading and unloading rates chiefly reflect the stress and strain of competitive influences rather than any studied effort to develop a rate structure based on adequate information concerning all customary rate-making considerations. The study now being made will disclose the necessary information.

It is abundantly clear that the rates in Tariff C.R.C. No. 4 will not produce revenues sufficient to meet even out-of-pocket labor costs under wage rates and other conditions now prevailing. The principal question thus presented is the extent of the increases which should be authorized. Applicants seek emergency relief pending completion of further studies of their cost and revenue problems. Any rate adjustments now authorized are to be reviewed in the near future in the light of the additional information which will then be available.

In regard to the cement and petroleum rates, it appears that revenues from rates on the Tariff M.C. No. 1 level (33-1/3 per cent higher than the C.R.C. No. 4 rates) would closely

approximate costs, exclusive of management and overhead expenses. Applicants' showing is confined to labor costs. The record furnishes no support for the proposed imposition of rates on cement and petroleum some 10 per cent above the indicated labor costs for those commodities while establishing rates on the over-all labor cost level for all other commodities.

The record is persuasive that the increased carloading and car unloading rates proposed should be authorized except on cement and on petroleum and its products and that on those commodities an increase from the Tariff C.R.C. No. 4 to the Tariff M.C. No. 1 basis is warranted. Applicants should be permitted to establish lesser increases should competition with other carloaders and car unloaders not parties to this proceeding prevent them from establishing rates as high as those authorized.

Applicants have also recommended revised rules and regulations for Tariff C.R.C. No. 4 patterned after the rules and regulations of other carloading tariffs and designed to achieve substantial uniformity in their provisions. Some of the proposed provisions appear to lack that definiteness and certainty that is necessary in tariff publication. Others would result in increased charges which have not been shown to be justified as required by Section 63 of the Public Utilities Act. Applicants will not be authorized to establish changes resulting in increased charges and will be expected to publish rules and regulations free from reasonable doubt as to their applicability.

Upon consideration of all the facts of record we are of the opinion and find that the proposed increases are justified except on cement and on petroleum and petroleum products; that an

increase from 53 to 71 cents per ton is justified on those commodities; and that increased charges which would result from adoption of the proposed rules and regulations are not shown to be justified.

O. R. D. E. R.

Based on the evidence of record and on the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that applicants be and they are hereby authorized to establish, on not less than five (5) days' notice to the Commission and to the public, increased carloading and car unloading rates, which shall not exceed those set forth in Exhibit "A" attached to this application, and on "Cement N.O.S." and "Oil and Oil Products, petroleum, in cases, drums or barrels," as described in Items Nos. 290 and 720, respectively, of said Exhibit "A", shall not exceed 71 cents per ton; to establish on like notice revised rules and regulations governing the application of the aforesaid rates to the extent that such revisions do not result in increasing charges; and to depart from Rule 2(d) of Tariff Circular No. 2 in publishing the increased rates and revised rules and regulations herein authorized.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall be void unless exercised within ninety (90) days from the effective date of this order:

IT IS HEREBY FURTHER ORDERED that, except to the extent provided for in the preceding ordering paragraphs, this application

be and it is hereby denied.

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 4th day of November, 1946.

Harold P. Kula

Justice F. A. Quinn

Harold P. Kula

A. E. [Signature]

Commissioners