

ORIGINAL

Decision No. 39615

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Margaret M. Bridges, Agent, Southern)
 California Carloading Tariff Bureau,)
 for an order authorizing increases in)
 the rates and charges for the services) Application No. 27728
 of loading and unloading cars at marine)
 terminals situated in Southern Cali-)
 fornia at ports including San Luis Obispo)
 and south thereof.)

Appearances

John C. McHose, for applicant.
John S. Griffin and Ralph H. Fortune, for United
 States Department of Agriculture, protestant.
John B. Harman, Myron D. Alexander, and Clarence O.
Burgin, for Office of Price Administration,
 protestant.
James A. Keller, Robert C. Neill, and H. A. Leatant,
 for various shippers and shipper organizations,
 as protestants.
C. E. Jacobson, R. T. Hunt, W. O. Narry, Earl J. Shaw,
J. D. Rearden, W. E. Paul, S. A. Moore, and R. T.
Potts, for various shippers and organizations, as
 interested parties.

O P I N I O N

By this application, public utilities engaged in the services of loading and unloading railroad cars at marine terminals in the southern California ports of Los Angeles, Long Beach, San Diego and Hueneme, seek authority to increase their tariff rates and charges.

The matter was submitted at Los Angeles on September 13, 1946, following a public hearing conducted by Examiner C. Ray Bryant.

There are nine carloaders named in this application. Eight of them have identical rates, through participation in an agency tariff hereinafter referred to as Bridges Tariff No. 1. The other company, Outer Harbor Dock & Wharf Company, names substantially the

same rates in a tariff of its own issue. Both tariffs were filed in 1941, and have been unchanged to the present time.¹

The record shows, however, that these tariffs have had little practical meaning so far as the applicant carloaders are concerned. From the beginning of the war period until September 1, 1945, the carloaders collected from shippers at the rates provided in Bridges Tariff No. 1, turned the sums thus collected over to the War Shipping Administration, and were compensated by the latter agency under a cost-plus arrangement which produced revenues considerably greater than those resulting from the tariff. The difference between the sums collected from the shippers and the amounts paid to the carloaders was absorbed by the War Shipping Administration. The cost-plus arrangement has continued to the present time in connection with intercoastal cargoes, but terminated on September 1, 1945, in so far as foreign and "offshore" cargoes are concerned.² On intercoastal traffic the charges paid by the shipping public were increased on November 15, 1945; on foreign and offshore traffic the charges were increased effective July 8, 1946. The intercoastal increase was to a level specified in a War Shipping Administration tariff, not filed with this Commission and not of record in this proceeding. The increase on foreign and offshore traffic, stated to be similar

1

The term carloaders as used herein embraces both loaders and unloaders; the term carloading embraces the services of loading and unloading rail cars. The Bridges tariff referred to above is Southern California Carloading Tariff Bureau Terminal Tariff No. 1, C.R.C. No. 1, of Margaret H. Bridges, Agent. A minor exception to the statement that the tariffs have been unchanged since 1941 may be noted in that Outer Harbor Dock & Wharf Company in April, 1946, reduced its unloading charges on coal and potash in bulk from open cars.

2

Another class of commerce, coastwise, is not involved in this application, since neither the present nor the proposed tariffs cover coastwise traffic. It was explained that in handling coastwise cargoes the carloaders work directly for the steamship companies.

to that made on intercoastal traffic, was approved by the United States Maritime Commission. The latter rates are of record as an exhibit in this proceeding, set forth in a tariff which will be referred to in this opinion, as a matter of convenience, as "the Maritime Commission tariff."

Summarizing, it will be seen from the foregoing that the applicant carloaders have not been compensated upon the basis of their rates filed with this Commission since the beginning of the war period, except with respect to foreign and offshore cargoes handled between September 1, 1945 and July 8, 1946. So far as the shipping public is concerned, however, the rates filed with this Commission were applied continuously until November 15, 1945, on intercoastal traffic, and until July 8, 1946, on foreign and offshore traffic.

Applicants now seek, in the instant application, authority to establish a new basis of rates which is about 34 per cent higher than now being charged, and which ranges from 34 to 78 per cent higher than specified in the current tariffs filed with this Commission. The proposed new basis has been submitted also to the United States Maritime Commission,³ and it was stated that the War Shipping Administration had filed similar rates for its own account.

³ U.S.M.C. Docket No. 651, submitted on a common record with the instant application. The concurrent hearing was conducted for the Maritime Commission by Examiner Robert C. Furness.

In justification of the proposed increased rates, applicants allege that rates named in Bridges Tariff No. 1 have been in the past, are now, and will be for the future, unless increased, unduly depressed and non-compensatory; that they were predicated upon hourly wages considerably below those now in effect, and now fail to return out-of-pocket costs by a very substantial margin; that the rates are substantially below (1) the rates provided for identical services in the War Shipping Administration tariff, (2) the rates maintained by carloaders at San Francisco Bay terminals, and (3) the rates which the United States Maritime Commission found to be reasonable and necessary as made effective on July 8, 1946. Applicants allege also that by reason of the great disparity between the rates in Bridges Tariff No. 1 and the cost of performing the service under current wages, the carloaders are confronted with an emergency condition as to which a solution must be found at the earliest possible moment.

Applicants' principal factual evidence was introduced by a consultant who had been engaged to make a study of the carloading operations. For purposes of the study the carloaders supplied the consultant with car work reports designed to furnish detailed information covering the type of car, tonnage, type of package, types of labor, amount of hours, and all pertinent details as to the cost.

He processed the reports as they were received, checked the commodity descriptions for proper tariff application, and developed costs per ton for each car on the basis of "bare labor cost." Labor costs were computed by use of an average rate per hour which included wages for straight time, overtime, vacations, workmen's compensation, federal old-age tax, unemployment tax, property damage insurance, public liability insurance, and employers' association payroll service. The study included 16,397 short tons loaded or unloaded during the three months from June 1 to September 1, 1946.

From figures thus developed, the witness prepared a table showing, for each commodity handled, the total labor cost of loading or unloading, the total tariff revenue which would have accrued under the Maritime Commission tariff, the labor cost per ton, and the tariff rate per ton. Summarizing the figures, he concluded that the total labor cost was \$19,848, the total revenue under the Maritime Commission tariff would have been \$12,521, and the total revenue under the rates now proposed would have been \$16,756. Excluding a heavy movement of cotton, which he deemed to be not representative, the labor cost was \$16,512, the total revenue under the Maritime Commission tariff would have been \$10,840, and the total revenue under the rates now proposed would have been \$14,503. In other words, according to figures submitted by the consultant, even the higher rates now proposed would have failed by a considerable margin to meet the expanded payroll costs of handling some 16,397 tons of cargo loaded or unloaded by the applicants during June, July, and August, 1946.

The consultant's study is subject to some infirmities. He did not know what percentage of the total tonnage handled during the period was reported to him by the carloaders. Another witness testified that, because of practical difficulties, none of the figures sup-

plied to the consultant covered cargoes loaded or unloaded in "continuous" movements, that is, movements where the cargoes were handled across the warehouse floor in continuous movement between car and ship. Rates for loading and unloading tonnage in such movements are involved in the present and proposed tariffs. On the other hand, the study included coastwise cargoes, which are not involved in the tariffs. Moreover, the consultant conceded that a severe "slow-down" strike was in effect for about half of the period of his study. He stated, however, that later car work reports showed costs to be running, on the majority of commodities, even higher than they did during the study period.

Three other witnesses, officers of carloading companies, testified in support of the application. According to the testimony, bare labor costs of carloading increased approximately 130 per cent between 1941 and September, 1946, besides which there was a pronounced reduction in efficiency of labor. Two of the witnesses introduced statements to show that certain tonnage loaded and unloaded by their respective companies in 1946 would have been handled at a deficit, before overhead, maintenance or profit, had present wages been paid throughout and had charges been assessed on basis of the Maritime Commission tariff.

Protestants to the granting of this application were the United States Department of Agriculture, the Office of Price Administration, the Pacific Coast Cement Institute, California Fruit Growers Exchange, and American Potash and Chemical Corporation. The Department of Agriculture opposed any interim relief which would cover overhead and profit, but did not object to increases necessary to meet out-of-pocket labor costs pending completion of more detailed cost studies. The Office of Price Administration, based upon a formula by

which its witness modified applicants' cost figures, took the position that it would not object to an increase of 60.13 per cent in the rates now on file with this Commission. The Los Angeles Chamber of Commerce urged that no permanent rate increase be granted unless founded upon a detailed analysis of local conditions extending over a period of time sufficient to allow for seasonal variations of efficiency and cargo changes.

A representative of the Department of Agriculture introduced an exhibit showing shipments unloaded on piers in southern California for his agency during the first seven months of 1946, setting forth commodities, tons, charges paid, and charges which would have accrued at the proposed rates. The traffic manager for California Fruit Growers Exchange, representing about 15,000 citrus growers in California and Arizona, testified that the Exchange shipped large quantities of citrus fruits through Los Angeles Harbor. It was his position that some rate increase might be necessary to meet increased labor costs; that the need was probably less than sought by applicants; that any percentage increase in rates was objectionable and would create a discriminatory situation; that any revenue needed should be raised by increasing the charge on all cargo by the same amount in cents per ton; and that before any permanent increase is granted a complete cost study should be carried through for a full calendar year. The secretary and manager of the Pacific Coast Cement Institute explained in some detail the history of and prospects for cement exports through various United States ports, including those in southern California. He declared that certain Gulf and Atlantic harbors have more favorable terminal charges, and asserted that export and import tonnage through California ports will be retarded or

stimulated according to the terminal charges, as well as the steamship freight charges, accorded in competition with competitive ports.

The development of the proposed rates was indicated to have been as follows: The Maritime Commission tariff, which names rates higher, but not uniformly higher, than those filed with this Commission, was made effective on July 8, 1946. The facts and findings upon which the Maritime Commission approved the tariff are not of record in the instant proceeding. Between the date of approval and the date of hearing in this application, labor wage rates assertedly increased about 34 per cent. Also, it was explained that certain carloaders in the San Francisco Bay area have sought authority to increase their rates by 34 per cent. For these reasons, the proposed rates were developed by asking a uniform increase of 34 per cent in all of the rates and charges as named in the Maritime Commission tariff.

It is not contended that the proposed rates bear any consistent relationship to the cost of performing the service. Applicants' position is that, while the rates are not necessarily related to the cost of performing the various services, they would serve to afford some measure of revenue relief; that both the present and the proposed tariffs were developed without adequate cost information; that this application is merely an attempt to make the best of a bad situation; that they intend to correct the situation as rapidly as feasible by continuing with a cost study already started; that as the study develops they intend to make such adjustments as may be found to be necessary; and that if it later appears that any of the individual rates have been made unreasonably high, they are willing to pay reparation to a reasonable basis.

Applicants are seeking authority to make a general readjustment of their rates, increasing the charges by amounts ranging from 34 to 78 per cent, upon a showing that the average resulting rate would be below the average labor cost. Apparently the intended justification for the individual rates is that they would be uniform with those proposed to the Maritime Commission, and similar to those expected to be established by the War Shipping Administration. There is lacking in this record any explanation of the widely varying increases in the rates proposed, or any showing that the resulting rates would be reasonable. Where applicants propose widely varying increases in their rates, and do not explain the variations, the Commission may not properly find that the increases are justified in the absence of evidence that the rates would be reasonable.

Nevertheless, the record is convincing that applicants' rates as now filed with this Commission are, on the whole, unduly low under current conditions. A uniform increase, if such were sought, might well be granted on the evidence of record. It is well established that where the applicants in an application proceeding seek a blanket increase upon a showing of emergency revenue needs, the Commission may find in proper cases that the increase is justified although there may not be evidence that each of the resulting rates would be reasonable.

The problem presented here is both practical and serious. Applicants have submitted evidence which shows quite clearly a need for an increase in their rates, but have not justified the form of adjustment which they seek. Under these circumstances the Commission may authorize a uniform percentage increase in order to give the

carloaders some immediate rate relief, but applicants may not properly be authorized to increase any rate above that proposed for the same service in their application and in the notices to shippers and other interested parties.

The maximum increase which could be allowed within the restriction thus fixed is 34 per cent, that being the minimum amount by which any of the rates would have been advanced under applicants' proposal.

A uniform increase of 34 per cent in all of applicants' rates and charges is fully justified on this record. On the basis of the available evidence, it appears that the resulting rates would, on the average, be considerably below the expanded labor cost, and would provide nothing for any of the overhead expenses or for profit. Higher rates on some commodities and services may well be reasonable or even necessary, but cannot be authorized on this record for the reasons hereinbefore stated. Should applicants deem further rate adjustments to be necessary, they should be prepared to furnish the Commission with satisfactory evidence to show that any increases proposed are justified as required by Section 63(a) of the Public Utilities Act.

Upon careful consideration of all of the facts and circumstances of record, the Commission is of the opinion and finds as a fact that an increase of 34 per cent in all of the rates and charges as set forth in Bridges Tariff No. 1, to be made applicable to all of the carloaders named in this application, is fully justified; and that in other respects the proposed rates have not been shown to be justified.

O R D E R

A public hearing having been had in the above entitled application, and based upon the evidence received at the hearing and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that the carloaders named in the above entitled application be and they are, and each of them is, hereby authorized to establish, on not less than five (5) days' notice to the Commission and to the public, rates and charges not to exceed thirty-four (34) per cent higher than those now set forth in Southern California Carloading Tariff Bureau Terminal Tariff No. 1, C.R.C. No. 1 of Margaret M. Bridges, Agent.

IT IS HEREBY FURTHER ORDERED that in all other respects the application be and it is hereby denied.

IT IS HEREBY FURTHER ORDERED that in computing the increased rates and charges herein authorized the following will govern in the disposition of fractions:

Where present rates or charges are 10 cents or less:

Fractions of less than $\frac{1}{4}$ or .25 of a cent omit.
Fractions of $\frac{1}{4}$ or .25 of a cent or greater but less than $\frac{3}{4}$ or .75 of a cent will be stated at $\frac{1}{2}$ or .50 of a cent.
Fractions of $\frac{3}{4}$ or .75 of a cent or greater, increase to the next whole figure.

Where present rates or charges are over 10 cents:

Fractions of less than $\frac{1}{2}$ or .50 of a cent omit.
Fractions of $\frac{1}{2}$ or .50 of a cent or greater, increase to next whole figure.

IT IS HEREBY FURTHER ORDERED that in applying the increase hereinabove authorized, the rates specifically set forth in the tariffs involved in this application shall be increased before computing rates which are based on multiples or percentages of rates or ratings.

IT IS HEREBY FURTHER ORDERED that the carloaders named in this application be and they are, and each of them is, hereby authorized to depart from the provisions of Tariff Circular No. 2, to the extent necessary to carry out the effect of the order herein.

The authority herein granted shall be void except to the extent exercised within ninety (90) days from the effective date hereof.

This order shall become effective ten (10) days from the date hereof.

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

Harold P. Kule
Justin F. Cooney
Franklin D. Stone
Irving H. Powell
A. E. Dunning
Commissioners