

ORIGINAL

Decision No. 41554

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Application No. 28833

Appearances

Joseph J. Geary and C. R. Nickerson, for applicant.

W. H. Adams, R. F. Ahern, A. D. Carleton, E. R. Chapman,
Lincoln Fairley, Ralph Fortune, H. L. Gunnison,
Harold B. Haas, D. L. Hiatt, Fred N. Howser, Adam
Hunter, Robert K. Hunter, Calhoun E. Jacobson,
James A. Keller, William F. Krause, Richard F.
McCarthy, S. A. Moore, Walter A. Rohde, T. R.
Stetson and Earle J. Shaw, for various shippers,
shipper organizations and other interested parties.

O P I N I O N

Members of the San Francisco Bay Carloading Conference are engaged in the business of loading and unloading railroad freight cars at marine terminals situated on San Francisco Bay and its tributaries. By this application, they seek authority to establish increases involved in a proposed general revision of rates for these operations. An identical proposal is before the United States Maritime Commission in its Docket No. 639, Status of Carloaders and Unloaders.

Public hearings were had at San Francisco before Examiner Mulgrew. Further hearings were concurrently had in Docket 639 before the Maritime Commission's Examiner Furness. Briefs have been filed.

Applicants' existing rates include substantial increases established pursuant to Decision No. 39598 of November 4, 1946

(46 C.R.C.799). The rates then authorized were sought as emergency relief pending further studies by applicants of their cost and revenue problems. They were designed to provide, through a percentage increase, the revenues necessary to meet higher out-of-pocket labor costs resulting from wage adjustments. Applicants conceded, and protestants apparently agreed, that the rate structure chiefly reflected the stress and strain of competitive influences and that it was not based on adequate information concerning all customary rate-making considerations. The further studies were said to be designed to disclose the information necessary for readjustment of rates to proper levels.

The rates now proposed are based almost entirely on a study of operations during the period from January 1 to June 30, 1947. The consultant who made this study said that the period was free from strikes and that it was representative of normal operations. All of the cargo handled by the 17 operators actively engaged in general carloading and unloading at San Francisco, and amounting to 273,732 tons, was studied. The consultant determined that the handling of this cargo had required 142,194 man hours of labor and 13,906 man hours of direct supervision. To calculate labor expense, he used 112½ per cent of the basic wage rate of \$1.57 per hour for labor and of the \$1.80½ average wage rate for supervision. This, he explained, was done to give effect to the prevailing 8-hour work day under an agreement calling for overtime payments for work in excess of 6 hours. It resulted in a figure of \$279,405.75 for direct labor and supervision. Other costs related to pay roll expense were estimated by the consultant as amounting to \$43,002.05. They include workmen's compensation insurance, pay roll taxes, public liability and property damage insurance, vacation pay and pay roll agency fees. The consultant contrasted the total costs so developed, \$322,407.80, with the \$286,426.21 revenue figure he

determined by applying the existing rates to the cargo involved.

The consultant also developed applicants' tons-per-man-hour experience in handling various commodities in both loading and unloading operations. Applying the average cost of \$2.27 per-car-man-hour resulting from the over-all tonnage and cost figures (\$322,407.80 ÷ 142,194 hours), he calculated so-called "direct labor costs" per ton for the goods handled. He then expanded these costs by 42.86 per cent to provide for overhead expenses. The expansion, the consultant said, was based on the "Edwards-Differding Report" in Case No. 4090, Investigation into the Rates, Rules, Regulations, etc. of Incinal Terminals, et al., 40 C.R.C. 107 (1936). In the aggregate, loading costs as so developed are 42 per cent greater than unloading costs. Where the study disclosed both loading and unloading experience for a particular commodity, the cost figures were submitted as proposed rates. In those instances where only one service was rendered, the experience was used as the basis of the rate therefor and the 42 per cent difference given effect in the rate for the other service. Specific rates for commodities neither loaded nor unloaded since July 1, 1946 were proposed to be canceled. Substantial increases and reductions are involved. The increases predominate. By way of illustration, the following table shows the rate changes proposed for several commodities:

	CARLOADING		CAR UNLOADING			
	TONS	Rates (Per Ton)	TONS	Rates (Per Ton)		
		(1)	(2)	(1)	(2)	
Bags or Bagging	1169	105	90	#	143	63
Canned Goods	4300	100	186	13185	95	157
Cartons, fibreboard	*	134	321	5537	86	224
Coffee, green	3950	95	127	#	143	90
Copra	731	95	208	1260	95	140
Rice	*	95	163	5548	86	115

Columns (1) - Present rates.

Columns (2) - Proposed rates.

* - No carloading experience, rates 42 per cent higher than car unloading rates proposed.

- No car unloading experience, rates 42 per cent less than carloading rates proposed.

The proposed rates are generally to be applied only at facilities situated along the San Francisco waterfront. Comparable services are performed by public and private terminals located at other points in the Bay Area. To a large extent traffic through the various facilities is competitive. Applicants realize that this competition may preclude them from establishing rates as high as those sought.

For so-called "direct" service (service between cars and vessels as distinguished from service between cars and places of rest on docks), applicants maintain rates for operations at San Francisco and other specified Bay Area ports as well. No general readjustment in the "direct" service rates is sought at this time because of the competitive situation.

On cross-examination, the consultant stated that he "didn't go into the operators' books" and that he didn't know the extent of any profits or losses they may have experienced. He said that he had made no study of overhead costs and had not compared current costs with those which prevailed at the time the "Edwards-Differding Report" was submitted.

Shipper interests objected to the establishment of rates based on costs as determined by the consultant. They pointed out that on numerous commodities applicants' experience was meager during the test period. They claimed that in the handling of relatively small quantities proper cost figures could not be determined by the consultant's methods and that rates reflecting costs so developed would distort the rate structure. The shippers also pointed out that loading and unloading charges are not incurred in connection with truck movements from and to the docks. Increased carloading and unloading rates, they claimed, would divert traffic

from rail to truck with a consequent loss of business for applicants.

The increases sought by applicants have not been shown to be justified.

First, the so-called "direct labor costs" reflect wages for an eight hour day consisting of six hours straight time and two hours overtime. This was characterized as the "normal working day." The record shows, however, that under the contract between applicants and their employees the working day is six hours. It also shows, in regard to the eight hour day, that it "is agreed to by the operators themselves that this be the policy along the whole waterfront" (Tr. 2342). East Bay carloading and unloading operations are conducted on an eight hour straight time basis. Labor costs as great as those developed in the study have not been shown to be actually and necessarily incurred by applicants.

Second, the "Edwards-Differding Report" method of expanding labor costs to determine overhead expenses was based on carloading and unloading by marine terminal operators in 1935. The report developed, among other things, the percentage relationship between "direct dock labor" and overhead expenses. The record here does not show the extent to which this relationship may have changed in the more than ten years which have elapsed since the report was made; nor does it show that these applicants, who are not marine terminal operators, incur comparable expenses. Furthermore, the report pointed out that an increase or decrease in the tonnage handled would affect the relationship; that an increase would cause labor costs to rise while the other items, being largely non-variable would be spread over more tons and the total cost per ton would fall; and that the reverse would be true should tonnage decrease. There is nothing in this record from which the effect of the current

volume of tonnage on the estimated cost relationship may be ascertained. The propriety of applicants' overhead cost estimates has not been established.

Third, costs are here proposed to be virtually the sole measure of the reasonableness of the proposed increased rates. At the hearing had prior to the issuance of Decision No. 39598, supra, it was represented that applicants' further study would develop information on all customary rate-making considerations. Applicants, however, have chosen to limit this study to costs. They suggest that competition with East Bay carloaders may prevent them from exercising the full authority here sought. Apparently, other considerations which may require deviations from the sought full-cost rate scales have been disregarded. Their importance is evidenced by the fact that competitive influences admittedly have, for many years, determined the bases for carloading and unloading rates. If such considerations are now to be completely discarded, it should be demonstrated by a clear and convincing showing that the recommended action is warranted.

Other representations made by applicants lack substantiation on this record because of their dependency upon the cost showing. In view of the weaknesses of that showing, the related evidence is of little probative value.

Upon consideration of all the facts and circumstances of record we are of the opinion and hereby find that the proposed increased rates have not been justified. The application will be denied.

ORDER

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

IT IS HEREBY ORDERED that the above entitled application be and it is hereby denied.

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

Dated at Los Angeles, California, this 4th day of May, 1948.

P. J. [Signature]
Justice J. [Signature]
August [Signature]
Harold [Signature]
Herbert [Signature]
Commissioners