

ORIGINAL

Decision No. 42639

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of H. C. CANTELOW, Agent, MARINE
TERMINAL ASSOCIATION OF CENTRAL
CALIFORNIA, to increase service
charges, wharfage rates, wharf
demurrage, monthly storage, re-
ceiving and delivering rates, and
rates for loading and unloading
cars and trucks, minimum charges
at marine terminals of ENCINAL
TERMINALS, HOWARD TERMINAL and
PARR-RICHMOND TERMINAL CORPORATION.)

Application No. 28843

(List of appearances is contained
in Appendix "A" hereof.)

OPINION ON REHEARING

The antecedents of this proceeding are contained in Decision No. 41430 rendered April 16, 1948. In that decision the Commission denied applicants' request to increase their rates. By its order dated May 19, 1948, the Commission granted a request for rehearing.

The rehearing was had before Examiner Edwin Lake at San Francisco. Briefs have been filed. The matter is ready for decision.

Applicants seek to establish increases in virtually all of their rates. The rates sought on rehearing vary somewhat from the rates sought at the prior hearing.

In denying applicants' original request the Commission found that, although additional revenues were perhaps necessary, no

The proposed wharfage, car loading and unloading and man-hour rates are somewhat lower than those sought to be established in the original application.

satisfactory basis had been shown for measuring the revenue requirements nor for determining the extent to which such requirements were attributable to revenue deficiencies from the various services.

The evidence submitted by applicants on rehearing was in augmentation of that introduced on original hearing to supply information found lacking by the Commission in the original hearing.

Throughout their showing the applicants, in determining full costs and in the allocation of these costs to the various services, stated that they had adhered in almost every instance to recognized cost-finding methods.²

Costs

The revenue and cost studies introduced at the original hearing and elaborated upon at the rehearing show the revenues obtained by the terminals as a group for each of the tariff services performed during the year 1946. The revenues were adjusted to reflect rate changes which occurred in 1946 and 1947. Costs experienced during the same period were readjusted and allocated to the various services in accordance with the cost-finding formulas hereinbefore referred to. They were further adjusted to include cost levels of June, 1947, and subsequent wage increases. Revenue deficiencies for the terminals were determined by comparing the adjusted

² The methods referred to are the Edwards and Freas formulas. The Edwards' formula - A Formula for the Determination of Port and Marine Terminal Costs for Rate-Making Purposes - was prepared in 1935. It was employed in Case No. 4090, Investigation into the Rates, Rules, Regulations of Encinal Terminals, et al. (40 C.R.C. 107) 1936 and in Application No. 27577, Decision No. 39722 of December 16, 1946. In re Application of H. C. Cantelow to Increase Wharfage Rates of Encinal Terminals, et al. (unreported). The Freas formula is entitled "A Study of Terminal Operations Including a Formula for Cost Finding." It was prepared for the United States Maritime Commission in Docket No. 640, Terminal Rate Structure - California Ports.

revenues with full costs. For the group the revenues, costs and revenue deficiencies are \$2,311,830.18, \$3,134,842.85 and \$823,012.67, respectively. The revenue deficiencies as calculated from the studies for each of the various services and the percentages thereof to the adjusted revenues for each service are set forth in the following statement:

<u>Service</u>	<u>Revenue Deficiency</u>	<u>Per Cent of Revenue Deficiency to Adjusted Revenue</u>
Dockage and Service Charges	\$ 110,591.92	(1) 16.93
Handling Lines	3,202.45	20.13
Wharfage		
General Cargo	359,177.73	83.51
Sugar	11,035.07	(2) 61.31
Wharf Demurrage	36,320.66	18.78
Car loading and Unloading	245,749.62	32.05
Accessorial Services	56,935.22	28.86

(1) Represents per cent of revenue deficiency for the combined services to the service charge revenue.

(2) Adjusted to correct clerical error.

The operating results for Parr-Richmond were not included in determining revenue deficiencies for dockage, service charge or handling lines. They were excluded according to applicants because of "unusual problems of operation and traffic considerations."

³ Charges for dockage, service charges and handling lines are assessed against the vessel. Charges for wharfage, demurrage and other services are assessed against the cargo.

⁴ The studies show that had the results of Parr-Richmond been included the per cent of revenue deficiency would have been greater. For example, dockage and service charge operations would account for 25.37 per cent.

Likewise, costs of Howard Terminal were excluded in determining revenue deficiencies for wharfage on bulk and pipeline cargo because no rate adjustment for this traffic is sought. The above percentages of revenue deficiencies do not exactly reflect the amount of increases sought for all services.

For car loading and unloading services applicants also developed specific costs for commodities which moved in lots of 500 tons or more during the period January - August 1947.⁵ These costs include labor and related pay roll expenses, overhead, equipment costs, return on investment and income taxes. For services not accorded specific rates, costs per man-hour were determined for services performed during straight time, overtime and penalty overtime periods. As in the case of car loading and unloading they include direct costs, overhead, return on investment and provisions for income taxes.

6 Applicants' Rate Proposals

Dockage and Service Charges

Applicants seek to adjust the claimed revenue deficiencies in dockage and service charge operations by increasing the service charge rates approximately 16.93 per cent. This increase represents the per cent of revenue deficiency developed for the combined services

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It was alleged that the traffic studied comprised 79 per cent of that moved during the period involved.

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Applicants on rehearing substantially modified the proposed rates and charges in car loading and unloading and wharfage. Under the new proposals the revenue from car loading and unloading will be approximately 33 per cent less than originally requested. On wharfage the yearly revenue will be reduced about \$174,000.

to the service charge revenue. No change is proposed on traffic destined to Persian Gulf ports nor on bulk liquid caustic soda or molasses when moving through pipe lines.

Wharfage

Wharfage rates on off-shore cargo are sought to be increased by 42.86 per cent. No increase is proposed in the inland waterway or coastwise wharfage charges. The full amount of the revenue deficiencies will not result from the proposed increases. It was pointed out that these services are highly competitive with those performed by municipal terminals situated on San Francisco Bay and with those conducted by terminals located at other ports.⁷ For these reasons they claim rates of the same volume either now maintained or which will be established by the competing operators are as much as⁸ could now be established.

Wharf Demurrage, Monthly Storage and Receiving and Delivering

Rates for wharf demurrage, monthly storage and receiving and delivering services are sought to be increased by approximately 18.78 per cent. This increase equals the claimed revenue deficiency.

Car Loading and Unloading

Applicants alleged that no precise formula was used in the establishment of the present car loading and unloading rates. These rates were said to have been established based upon the judgment of

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The terminals involved are Board of State Harbor Commissioners at San Francisco and the Port of Oakland at Oakland. Other competing terminals are located at Long Beach, Los Angeles, Portland, Oregon and Seattle and Tacoma, Washington.

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Representatives of the Port of Oakland and Board of State Harbor Commissioners claimed that their organizations intended to establish rates of the same level as here sought.

the operators and upon the basis of what the traffic would bear. As a result of this condition, they pointed out, the present rate structure contains many inequalities. They seek to establish, on commodities moving in lots of 500 tons or more during the period studied, rates which will return the full costs of record. For other commodities they seek to increase the present rates by approximately 32.05 per cent which is the per cent of revenue deficiency claimed for all commodities. The adjustment will produce reductions as well as increases. The average increase will amount to approximately 25.20 per cent.

Man-hour Rates

The present rates for services for which no specific rates are provided are cost plus 20 per cent. Authority is sought to establish man-hour rates for service performed during straight time, overtime and so-called penalty overtime periods in lieu of the present rates. The proposed rates are designed to return full costs as developed by applicants' studies.

Miscellaneous

Certain other changes in rates, minimum charges and wording in the present tariff are sought. They are of minor importance and are principally for the purpose of clarification or uniformity. No change is sought in rates for handling lines.

* * * * *

Applicants contended that the rates here sought would fall far short of meeting their essential revenue requirements. They pointed out that consideration had been given to the effect of competition, to the value of service and to the ability of the shipper to

pay, as well as to the likelihood of traffic being diverted to other ports.

Certain shippers and shipper and carrier organizations introduced testimony concerning the proposed increases. At the rehearing and on brief the steamship carrier associations reiterated their position that the proposed increases would affect the over-all costs of water transportation with the resulting possibility that traffic would be diverted from the water carriers or from Pacific Coast ports through other gateways. No evidence was introduced, however, in support of their contention.

Shippers of dried fruits and dried milk contended that historically both dried fruits and dried milk had been accorded, for certain services, equal rates by the terminals as well as by most transportation agencies. Continuance of this parity was urged. They claimed dried milk was competitive (from a sales standpoint) with evaporated milk which is to enjoy the proposed canned goods rates; that dried fruit and canned fruit likewise competed with each other; and that unless rates of equal volume were continued competitive disadvantages would result.⁹

In addition, it was pointed out that foreign shipments of dried fruit had diminished because of unstable economic conditions in foreign countries. As a result it had been necessary for the federal government, in order to sustain the dried fruit industry, to purchase large quantities of these products. It was asserted that efforts are being made to re-establish the foreign market. For these reasons, it was also urged that no increase in wharfage charges be

⁹ Like canned milk, canned fruit is included in the proposed canned goods rates. Rates sought for both dried milk and dried fruit are somewhat higher than those proposed for canned goods.

granted unless the need therefor was clearly demonstrated.

Other shippers objected to the proposed rates, alleging among other things: (1) that, if they are authorized, a precedent would be established which would be used by other ports as a basis for rate increases; (2) that the proposed rates and the costs and cost allocations from which they were determined were improper; (3) that consideration had not been given to a sufficient volume of traffic in determining car loading and unloading costs on cement; and (4) that the proposed rates would cause shippers to suffer a loss of business to their competitors. Protestants offered no evidence with respect to costs except in the case of cement. On that commodity a witness presented evidence purportedly to show the cost of unloading cement at Encinal Terminals. However, the information on which this study was based was developed from a cursory examination of the operations of the terminal. It was not shown to be representative of the handling of cement by any or all of the terminals.

Conclusions

The evidence of record clearly shows that applicants' existing rates, in the face of higher operating costs and other changed conditions, are insufficient to meet their revenue requirements. Applicants are not seeking the full amount of revenue needed to cover the entire costs as developed by the cost formulas heretofore referred to. The operating ratio under applicants' amended proposals is approximately 94 after provision for income taxes. Under these circumstances the sought increases appear to be reasonable and necessary if the operators are to continue to provide efficient and adequate service. In view of the convincing cost showing the record is not persuasive.

that applicants should be required to maintain identical rates on canned goods and the commodities with which they assertedly compete. Nor do the other objections to the proposed increases warrant withholding authority to increase these rates in the light of applicants' urgent financial needs.

Competitive influences have in the past limited the amount of increases which may be taken when both public and private bodies do not act in concert. For this reason applicants have requested that they be given authority to establish the proposed increases, to the extent that competition will permit.

We are of the opinion and find that the increases sought have been justified and they will, therefore, be granted. Should competition prevent applicants establishing the full increases authorized they will be authorized to establish such lesser increases as the competitive situation may require subject, of course, to the statutory prohibition against undue discrimination.

O R D E R

Public hearings having been had in the above entitled proceeding and based upon the evidence received at the hearings and upon the conclusions and findings set forth in the preceding opinions.

IT IS HEREBY ORDERED that Encinal Terminals, Howard Terminal and Parr-Richmond Terminal Corporation be and they are hereby authorized to establish, on not less than five (5) days' notice to the Commission and to the public, increased service charges and wharfage rates which shall not exceed those set forth in the application as amended, and to depart from Rule 2(d) of Tariff Circular No. 2 in publishing said increased rates.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall be void unless exercised within one hundred eighty (180) days from the effective date of the order herein.

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

Dated at San Francisco, California, this 14th day of September, 1948.

R. Z. Anderson
Justice F. Casner
Isaac H. Lueck
Harold P. Hale
Kenneth Lott
Commissioners

APPENDIX "A"

List of Appearances

McCutchen, Thomas, Matthew, Griffiths & Greene, by Allan P. Matthew and Gerald H. Trautman; and Lillick, Geary, Olson, Adams & Charles, by Joseph J. Geary, for applicants.

Brobeck, Phleger & Harrison, by Allen B. Aldwell, for American Steamship Association.

Zac T. George, for Intercoastal Steamship Association.

C. R. Nickerson, for Pacific Coastwise Conference.

Walter A. Rohde, for San Francisco Chamber of Commerce.

Eugene A. Read, for Oakland Chamber of Commerce.

James A. Keller, for Pacific Coast Cement Institute.

J. G. Vollmar, for Crown-Zellerbach Corporation.

Fred N. Howser, Attorney General, Harold B. Haas, Deputy Attorney General and Robert K. Hunter, for Board of State Harbor Commissioners, for San Francisco Harbor.

C. W. Phelps, for Stockton Port District.

Earl J. Shaw, for Chilean Nitrate Sales Corporation.

Richard F. McCarthy and Ralph Fortune, for Secretary of Agriculture, U. S. Department of Agriculture.

Walter H. Bernard and William L. Anderson, for U. S. Department of Agriculture.

A. D. Carleton and H. L. Gunnison, for Standard Oil Company of California.

G. Stephen, for Arabian-American Oil Company and Trans-Arabian Pipeline Company.

R. F. Ahern, for Dried Fruit Association of California.

L. H. Wolters, for Golden State Company, Ltd.

W. H. Adams, for Shell Oil Company, Incorporated.

Robert Hutcherson, for Tide Water Associated Oil Company,

S. A. Moore, for Permanente Cement Company.

Rudolph Illing, for Columbia Steel Company.

N. D. McCarl and W. Reginald Jones, for Port of Oakland.

Howard Leatart, for American Potash and Chemical Corporation.

T. R. Stetson, for Pacific Coast Borax Company.

Robert C. Neill, for California Fruit Growers Exchange.