A-29248 sj

ORIGINAL

Decision No. 42191

BEFORE THE PUBLIC UTILITIES 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 of loading and unloading cars at marine terminals situated in Southern California at ports including San Luis Obispo and south thereof.	Application No. 29248

Appearances

John C. McHose, for applicant. P. J. Arturo, Lester A. Bey, B. F. Bolling, Joss J. Bradley, R. A. Helferich, R. J. Jones, James A. Keller, W. S. Lawrence, H. A. Leatart, Edwin A. McDonald, F. F. Miller, F. F. Morgan, Robert C. Neil, W. G. O'Earr, L. E. Osborne, M. C. Ryan, A. F. Schumacher, Earl J. Shaw, T. R. Stetson, and K. L. Vore for various shippers, organizations, and other interested parties.

O P I N I O N

The Southern California Carloading Tariff Bureau is a voluntary association whose members are engaged in public utility operations of loading and unloading railroad freight cars at various California ports south of and including San Luis Obispo. By the association's application in this proceeding, the members seek authority to establish increased rates and charges and to effect a general revision of their tariff. The proposed changes are the same as those before the United States Maritime Commission in its Docket No. 651, In the Matter of Carloading and Car Unloading Charges at Southern California Ports.

Public hearings were had at Los Angeles before Examiner Abernathy.[1] Briefs have been filed. The matter is ready for decision.

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[1] Hearings of the matter were had concurrently with further hearings in Docket No. 651 before Examiner Furness of the Maritime Commission.

Generally speaking, the carloading and unloading services involved in this proceeding are some of a number of services performed by the members of applicant association in loading and unloading ships. Cargo destined to move in water-borne commerce is received in railroad cars or in trucks at the docks of the various ports. That which is received in rail cars is either loaded by applicant companies directly into ocean going vessels or is unloaded onto the docks and subsequently loaded into ships. Inbound shipments are handled in the same way but in the reverse direction. Carloading and unloading services (sometimes referred to herein as car servicing) are performed only in connection with shipments which move by rail car and include handling of shipments "between pile on dock and railroad car, or vice versa, or as specified, but do not include handling direct between ships' tackle and railroad car."[2] Carloading and unloading assertedly comprise about 15 per cent of the total operations of the applicant companies.

Applicants allege that their tariff rates for car servicing are not compensatory. The general manager of the Outer Harbor Dock and Wharf Company, one of the applicants, asserted that the rates, as originally established in 1941, were not founded on costs but largely were a result of negotiations with shippers and other interested parties. He said that operating costs, particularly those incurred for labor, have increased substantially since 1941. When the rates were first established, the prevailing wage scale for car workers was 90 cents per hour for an eight-hour day; the current scale provides for a wage of $1.67 per hour for a six-hour day. Overtime wage rates have increased from $1.35 per hour in 1941 to $2.50½ per hour at the present time. Overtime expense, the witness asserted, has increased not only because of the higher wage rates, but because the companies find it necessary to employ workers on an

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[2] Southern California Tariff Bureau Terminal Tariff No. 1, C.R.C. No. 1, Margaret Bridges, Agent. Rule 10.

eight-hour basis and to pay overtime in order to obtain labor. He said that the tariff rates had been increased since they were established, but that they still do not reflect costs.[3] He declared that all of the applicant members of the association were currently incurring substantial losses from their carloading and unloading operations.[4]

The manager of the Outer Harbor Dock and Wharf Company stated that applicants in this proceeding proposed revision of their tariff rates, rules and regulations to a basis commensurate with the costs of providing the car services. He said that to this end they had caused a study to be made of the carloading and unloading operations which they had performed during the fifteen-month period ending with March, 1948.[5] This period was selected because it was relatively free from work interruptions and because it was deemed representative of normal conditions. On the basis of the study which was made, the rates herein proposed were developed.

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[3] In December, 1946, applicants increased their rates 34 per cent under authority of Decision No. 39615 (40 C.R.C. 831).

[4] According to financial statements submitted by three of the companies, their 1947 carloading and unloading operations resulted in out-of-pocket losses, before any allowance for overhead or profit, as indicated by operating ratios of 107.4, 120.3, and 120.5 per cent.

[5] The study did not cover all of applicants' carloading and unloading services but only those involving shipments handled "between railroad car and pile on dock." Excluded from the study were data pertaining to shipments which had been unloaded from rail cars and loaded on ships, or vice versa, without first being brought to a place of rest on the docks. Applicants designate the latter operations as "continuous" or "direct" depending on whether the shipments are transported over the dock between the cars and ships or whether the shipments are handled by the ships' tackle directly from or to the cars. Applicants assert that in the "continuous" and "direct" operations the expenses of car servicing are commingled with those of stevedoring and that they know of no sound basis for segregating the expenses applicable to each service.

A rate consultant, a cost analyst, and a public accountant, who had all been employed by applicants to make studies of the costs of carloading and car unloading, introduced and explained exhibits setting forth the results of their studies. The rate witness testified that except for shipments handled in "continuous" or in "direct" movements, data had been furnished him covering every car handled by the applicant companies in their carloading and unloading operations during the 15 months through March, 1948. Upon the basis of these data he developed the man-hours expended per ton in loading or unloading the various commodities which were covered by the study. Using labor cost figures which included, in addition to the hourly wage rates, allowances for items such as vacation pay, compensation insurance, unemployment insurance, and the overtime allowances which the companies assertedly must pay in order to obtain labor, the witness calculated the direct labor costs per ton for loading or unloading each of the separate commodities. The direct costs were then expanded by 42.86 per cent in accordance with the "Edwards-Differding Report" (Case No. 4090, Investigation into the Rates, Rules, Regulations, etc. of Encinal Terminals, et al., 40 C.R.C. 107) in order to allow for overhead expense and to produce full costs before any provision for profit. The rate witness submitted as an exhibit a tariff containing rates designed to return the costs as developed in his study. The tariff, in addition to containing the rates sought by applicants in this proceeding, includes other proposed changes.[6]

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[6] Some of the more important changes are: Redefinition of the services classified as carloading and car unloading; establishment of hourly rates in lieu of some rates now stated in cents per ton; and cancellation of a number of rates for commodities for which applicant assertedly had not been called upon to provide carloading or unloading service during the 15 months covered by the study. Regarding the last named change, applicants stipulated that they would reestablish rates for any of the commodities involved should need therefore arise within twelve months from the date of the rate cancellations.

The cost analyst, by his exhibits and testimony, undertook to show the basis of the wage costs used by the rate witness in developing man-hour costs for loading and unloading cars. He also submitted evidence to show the justification for expanding direct costs by 42.86 per cent in accordance with the formula in the "Edwards-Differding Report" to arrive at total costs. He said that the formula was developed after a study of cost factors involved in terminal operations; that a study of carloading and car unloading costs in 1939 and 1940, which was made on behalf of the United States Maritime Commission, developed a similar relationship between direct costs and overhead; and that from his own observations of the conditions governing carloading and unloading operations in the Los Angeles and San Francisco harbor areas, he was of the opinion that the formula provides a sound basis for cost determinations in the present proceeding. He declared that the same relationship currently prevails between direct costs and overhead expense as it did in 1936 and in 1939 and 1940. The witness said, however, that he had not made a detailed check of the cost relationships at the present time. The accountant-witness also submitted data which he had developed relative to present wage costs and to overhead expense. The wage costs of the accountant were almost the same as those of the cost analyst. With respect to overhead expense, however, the accountant stated that a study of 1946 costs of five of the applicant companies indicated that overhead costs for that year were 14.1 per cent of direct costs.[7]

Other witnesses who testified for applicants were representatives of the separate companies. The testimony of these

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[7] It was stated on behalf of applicants that although it was believed that the "Edwards-Differding Report" provided a better basis for establishing overhead costs, the relationship developed by the accountant would be acceptable for the purposes of this proceeding.

witnesses was directed principally to describing the handling of shipments in their car servicing operations particularly with respect to specific commodities.

Representatives of shippers and of various shipper organizations appeared in opposition to granting of the application. In general, they did not oppose rate increases reasonably necessary to compensate applicant companies for higher operating costs. Their view, however, was that the sought rate increases were excessive and unreasonable. They contended that the cost study upon which applicants based their proposal was not a true reflection of applicants' carloading and unloading experience because of the exclusion of data pertaining to shipments loaded or unloaded in "continuous" operations. They asserted that applicants assessed the same carloading and unloading charges for handling these shipments as they did for handling shipments "between pile on dock and railroad car," and that the handling costs of such shipments should also be considered in this proceeding.[8] Referring to the cost figures specifically, the shipper witnesses contended that the figures should not include allowance for overhead expense, since car servicing is a small part of applicants' general operations of loading and unloading ships. One witness argued that in establishing rates for car servicing, consideration should be given not only to costs but to other rate factors such as the value of the commodities, the volume of movement, and what the traffic can bear. He said that a number of the commodities shipped by water and handled by applicants in the services involved herein were

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[8] Applicants' witnesses declared that had cost figures for the carloading and unloading operations involved in "continuous" movements been included in the study, the resultant figures would have been higher than those shown. They said that in "continuous" movements the loading or unloading of cars must be geared to the unloading of or loading of the ships and are subject to the delays experienced in the latter operation.

of low value and move in large quantities. A number of the shippers testified that they are in active competition in the world's markets with other producers and manufacturers and that small increases in their costs which must be reflected in the selling prices of their products exercise considerable effect upon the volume of their sales. They urged that such rate increases as may be authorized be no higher than are necessary to maintain applicants' carloading and unloading operations.

A representative of the Los Angeles Chamber of Commerce participated in cross-examination of the witnesses for the purpose of assisting in the development of the record. He stated that the Chamber of Commerce had no objection to reasonable rate increases which were shown to be justified. He questioned, however, whether the various factors used by the applicants in their study provided a sound and sufficient basis for establishing the proposed rates, or whether applicants had justified other of their sought tariff changes.

The cost study and related data which applicant companies offered in evidence in this proceeding do not justify the sought rate increases and tariff revisions. In certain respects the data are meager or deficient. The volume of the tonnage reported by the companies with respect to a number of commodities is not sufficient to provide a representative basis for establishing rates. Tonnage figures were reported for 146 commodities or commodity classifications. The tonnage which was reported for more than 55 per cent of the commodities was less than 500 tons and that reported for 24 per cent of the commodities was less than 100 tons. The evidence indicated a considerable diversity amongst the applicant companies in the physical aspects of their operations, the operations of some being more mechanized than of others. Since the data related primarily to carload shipments, it appears that where the tonnage involved is relatively small the cost figures would be a reflection more of the

operations of one or a few of the companies instead of a representative group. The exclusion from applicants' study of data relating to the car services performed in connection with shipments handled in "continuous" movements between ships and railroad cars also impairs the value of applicants' cost figures. Witnesses for some of the applicant companies testified that of the total volume of the tonnage handled less than 10 per cent was loaded or unloaded in "continuous" movements. The record is clear, however, that for certain commodities the tonnage which was involved was substantial. Although applicants contended that the inclusion in their study of data pertaining to the car servicing performed in "continuous" movements would have resulted in higher total costs, the validity of applicants' contentions in this respect is not so apparent that their conclusions can be accepted without supporting figures to show the costs of car servicing as developed either by direct cost studies or as a result of fairly segregating stevedoring costs from the total costs incurred in "continuous" movements.

As heretofore indicated, the labor costs used in the cost study reflect a working day of eight hours including overtime of two hours. Applicants assertedly must employ workers for a minimum of eight hours daily in order to obtain labor. It appears, however, that the labor contract is based upon a six-hour day. Applicants may be obligated by expediency in certain respects to employ workers for eight hours and to pay overtime allowances. Nevertheless, without a clear showing of justification, the contractual provisions cannot be wholly disregarded with the result that the total amount of the overtime payments be included in a basis for rate increases.

The formula used by the cost analyst for expanding direct costs to allow for overhead expense was predicated upon conditions in 1936 or before; the overhead allowance developed by the accountant was based upon incomplete figures for the year 1946, admittedly not

a representative year. Neither the cost analyst nor the accountant had made any specific studies of current overhead costs, including those applicable to the carloading and unloading tonnage handled by applicants in the "continuous" movements. The amounts claimed for overhead expense have not been justified.

In other respects the evidence does not substantiate the alleged need for the sought rates and other tariff changes. The financial statements which were submitted by three of applicant companies do not reflect the rates which are involved herein, for applicants admittedly have not been assessing the rates and charges they have on file with this Commission.[9] It appears that the rates which were assessed are higher in a number of instances than those set forth in applicants' Terminal Tariff No. 1, C.R.C. No. 1. However, none of the three companies specifically undertook to show what their operating experience would have been under the rates which they are herein seeking to increase. Another infirmity of the financial statements stems from the exclusion of data pertaining to shipments handled in "continuous" movements. Inasmuch as applicants did not segregate their revenues and expenses as between the car servicing and stevedoring operations involved in the "continuous" movements, there is no basis for estimating the financial results from the total carloading and car unloading services which applicants perform.

Applicants' evidence was related almost wholly to costs. Costs are an important factor in establishing reasonable rates, but they are not normally the sole factor, particularly when the sought

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9 The rates and charges which applicants have been assessing are those which they have on file with the United States Maritime Commission. Applicants apparently believe that the rates on file with this Commission apply only to coastwise traffic between California ports. Their Terminal Tariff No. 1, C.R.C. No. 1, however, specifies that the rates, charges, rules, and regulations therein "apply on all water-borne commerce, except coastwise." The tariff which applicants have on file with the United States Maritime Commission specifies that it applies to "Interstate Water-Borne, Foreign or Offshore Commerce."

rate adjustments are general and substantial. Applicants did not undertake to show the reasonableness of wholly disregarding, in this proceeding, rate-making considerations other than costs. Virtually no evidence was offered to show the reasonableness and propriety of the rule changes and other tariff revisions which were proposed.

Although the sought rate increases and other changes have not been shown to be justified on this record, the evidence clearly shows that since applicants' rates were last considered in 1946, labor costs have advanced substantially. Consideration being given to this fact, and to the fact that applicants' operations have been shown to be unprofitable, the Commission may find a uniform percentage increase in the rates is justified. Increases, however, may not be authorized over those rates which applicants have proposed in their application and in notices to shippers and to other interested parties. Neither may increases be authorized in this instance in the car servicing rates other than those applicable to shipments handled "between pile on dock and railroad car, or vice versa." With these exceptions the rate increases which could be allowed would be 20 per cent. It appears that such amount would enable applicants to meet increases in wage rates of the past two years and would provide a small amount for additional overhead expense. Applicants should consider rate increases which are herein authorized as being of the nature of emergency rate relief pending further adjustments in their rates. They should continue their cost studies and rate analyses with the view of making a supplementary showing to the end that necessary rate adjustments can be made and just and reasonable rates can be maintained.

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 20 per cent in applicants' rates and charges,

except as provided in the Order which follows, is justified. To this extent the application will be granted. In all other respects it will be denied.

O R D E R

A public hearing having been had in the above-entitled application, and based upon the evidence received at the hearings 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 twenty (20) 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, subject to the following exceptions:

1. The increased rates and charges herein authorized shall not apply to carloading and car unloading services other than those performed in connection with shipments handled between pile on dock and railroad car;
2. The authority herein granted shall not be used to establish rates and charges in excess of those proposed for the same services in applicants' proposed tariff which was submitted as Exhibit No. 47 at the public hearings in this proceeding.

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

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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 ¼ or .25 of a cent omit.

Fractions of ¼ or .25 of a cent or greater, but less than 3/4 or .75 of a cent will be stated at ½ or .50 of a cent.

Fractions of 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 ½ or .50 of a cent omit.

Fractions of ½ or .50 of a cent or greater, increase to the next whole figure.

IT IS HEREBY FURTHER ORDERED that in applying the increases 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 authority herein granted shall expire ninety (90) days from the effective date of this order.

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

Dated at San Francisco, California, this 3rd day of November, 1948.

R. L. Mitchell
Justus F. Craemer
Jack H. Powell
Harold P. Huls
Kenneth Potter
Commissioners