

Mailed
MAR 31 1992

Decision 92-03-069 March 31, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of R. S. Greitz,
President, Western Traffic Services,
Inc. on behalf of Con-Way Western
Express, Inc., requesting authori-
zation of departure from General
Order Nos. 139, 148 and 155 to
permit the electronic transmission
of Bills of Lading and other
electronic media of records and
records retention.

ORIGINAL

Application 91-12-019
(Filed December 12, 1991)

INTERIM OPINION

Summary of Decision

This decision authorizes Con-Way Western Express, Inc. (Con-Way) to depart from certain provisions of General Orders (GO) 139, 148, and 155-A. Specifically, Con-Way is authorized to implement a system for electronic transmission of Bills of Lading, freight bills, and funds and for optically storing images of documents.

Background

GO 155-A, which provides rules to govern issuance of shipping and related documents and collection of charges, requires highway carriers to transmit "hard copies" of documents related to shipping of and billing for the transportation of freight. GO 139, which provides rules for handling claims for loss or damage of property, and GO 148, which provides rules governing processing of claims for overcharge, also require carriers to maintain "hard copies" of documents related to shipping of and billing for the transportation of freight.

By this application, Con-Way requests authority to establish a system for electronic transmission of Bills of Lading,

freight bills, and funds for payment of bills as well as a system to optically store images of the documents.

In support of its request, Con-Way has provided a description of its electronic data interchange (EDI) capabilities in Exhibit A attached to the application. EDI is generally interpreted as computer-to-computer interchange of business documents/data between two entities. Con-Way has the ability to conduct the following EDI transactions with its shippers:

1. Bills of Lading
2. Shipment Status
3. Remittance Advices (shipping bills)
4. Invoices
5. Shipment Notices/Manifests
6. Functional Acknowledgment

In addition, Con-Way has image processing capabilities which allow it to store documents on an Optical Platter, in a digital format, and the associated ability to retrieve these documents, in the exact image of the original document, for either review on a computer screen, printing a "hard copy", or facsimile transmission.

Con-Way's parent corporation, Consolidated Freightways Inc., currently uses its EDI capabilities for interstate shipments since the Interstate Commerce Commission has approved the use of EDI procedures.

To illustrate the benefits of the EDI system, Con-Way provides the following comparison between the current procedure and the EDI procedure:

Current Procedure

1. The paper invoices are printed at the carrier's computer center.
2. The invoices are decollated.
3. The invoices are physically moved to an area for insertion in envelopes.
4. Personnel or machinery physically inserts the invoices in envelopes.
5. The envelopes are forwarded to a mail room where correct postage is attached.
6. The invoices are picked up by, or delivered to, the post office or commercial letter carrier who ultimately delivers to the customer.
7. The customer receives, sorts, and internally processes the invoices.
8. The invoices are PROBABLY captured onto a computer recognizable medium such as mag tape or disk, via a clerical data function, for interface with the customer's computerized systems.
9. The information is finally read into the computer system which processes invoices.

EDI Procedure

EDI procedure performs the nine-step activities in the following two steps:

1. The invoice is electronically transmitted from the carrier computer to the customer computer.
2. The information is read into the computer system which process invoices.

Con-Way contends that its image processing capabilities also provide savings of time and money. Con-Way provides the following illustrative comparison of retrieval of proof of delivery (POD) document for a shipper under the current procedure and the new EDI procedure:

Current Procedure

1. Carrier receives POD request.
2. Carrier searches filing cabinets for document and extracts.
3. Carrier makes a PHOTO copy of the POD.
4. Carrier refiles the document in filing cabinets.
5. Carrier mails the photo copy to customer

EDI Procedure

1. Carrier receives POD request.
2. Carrier requests a POD copy from computer system indicating FAX number of customer.
3. Computer system extracts the POD image and automatically sends it to the customer's FAX machine.

Con-Way contends that the comparisons clearly demonstrate the considerable savings of time and costs provided by the EDI procedure for both the carrier and the shipper.

For those shippers who do not have EDI capabilities, Con-Way proposes to continue the use of its existing procedure.

In addition, Con-Way cites the recently granted authority to Viking Freight System (Viking) in Decision (D.) 89-04-049. In that decision, the Commission granted Viking temporary authority for one year to use the EDI system for its shipping transactions. The authority granted Viking was subject to certain rules and conditions included in Appendices A and B to D.89-04-049. The Commission ordered the Transportation Division staff (Staff) to monitor Viking's EDI activities and report the progress to the Commission. The authority granted Viking in D.89-04-049 has been extended by D.90-03-056 for one year until April 2, 1991 and by D.91-07-004 until July 2, 1992. D.91-07-004 also ordered Viking to furnish the Transportation Division with quarterly reports on EDI transactions.

Transportation Division's Recommendation

After reviewing the application, Staff recommends ex parte approval. Staff also recommends that approval of Con-Way's request be subject to the same rules and conditions which are applicable to the authority granted Viking in D.89-04-049 et al.

Discussion

It appears that the EDI procedure will provide considerable savings of cost and time for Con-Way and its shippers. However, we are concerned about the retrievability of records necessary to verify the circumstances surrounding the transportation of a shipment. According to Exhibit A, Con-Way's EDI procedure is capable of immediately providing hard copies of all documents pertaining to shipments. If Con-Way abides by the rules and conditions included in Appendices A and B¹ to this order, staff will be able to monitor and audit the performance of Con-Way's EDI procedure. In addition, monitoring of Con-Way's EDI procedure would be facilitated if it was also required to file quarterly reports on its EDI transactions similar to the reports Viking is required to file in compliance with D.91-07-004.

Since we do not have staff's progress report on the performance of Viking's EDI system, it would be prudent to grant Con-Way authority to use the EDI system for an initial period of one year.

Findings of Fact

1. GOs 139 and 148 require the production of written documents in connection with the filing of loss and damage claims, and overcharge/duplicate payment claims. GO 155-A requires the

1 The rules and conditions in Appendices A and B are the same as the rules and conditions applicable to the authority granted Viking in D.89-04-049 et al.

issuance and retention of written shipping documents for each shipment transported.

2. Con-Way requests authority to implement its EDI procedure, involving the electronic billing of shipments, on a permissive basis, in connection with the transportation of intrastate shipments governed by GOs 139, 148, and 155-A. This authority contemplates the regular elimination of paper, or "hard copy" bills of lading, freight bills, etc.

3. Con-Way's EDI procedure will be capable of immediately retrieving "hard copies" of electronic billings of shipments and of providing adequate opportunity for monitoring by Staff.

4. Rules and conditions included in Appendices A and B will enable staff to monitor and audit the performance of Con-Way's EDI procedure.

5. Monitoring of Con-Way's EDI procedure would be facilitated if it was required to file quarterly reports on its EDI transactions.

6. Staff recommends ex parte approval of the application provided Con-Way is subject to the rules and regulations included in Appendices A and B.

7. No protest to the application has been filed.

Conclusions of Law

1. The application should be granted for a period of one year unless sooner modified, terminated, or extended.

2. Con-Way should be required to furnish staff quarterly reports on its EDI transactions.

3. Staff should be directed to monitor the activity granted by this decision, and to report to the Commission not less than 60 days prior to expiration of this authority on whether it believes the authority should be modified, terminated, or extended.

4. Since there appears to be an immediate opportunity for Con-Way and shippers to achieve efficiencies and savings related to the EDI procedure, and the application has not been protested, this decision should be made effective today.

INTERIM ORDER

IT IS ORDERED that:

1. Con-Way Western Express, Inc. (Con-Way) is authorized to publish, on 5 days' notice, the rules set forth in Appendix A to this decision.

2. The authority granted by this decision shall expire one year after today, unless sooner terminated, modified, or extended by the Commission.

3. Con-Way shall furnish the Commission's Transportation Division with an original and two copies of quarterly reports commencing April 1, 1992, containing the names of the shippers who have been engaged by the carrier or who plan to take part in its EDI services, and the number of transactions performed. The reports shall be submitted with transmittal letters referring to this proceeding and the decision granting this authority.

4. The Commission's Transportation Division shall monitor the activity authorized by this decision, and shall report to the Commission the results of its monitoring with a recommendation on whether the authority should be modified, terminated, or extended. This report shall be presented to the Commission not less than 60 days prior to the expiration of the authority granted herein.

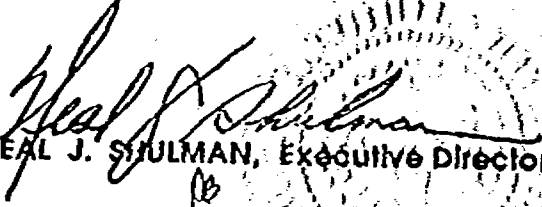
5. The authority granted herein is subject to compliance by Con-Way with the conditions set forth in Appendix B.

This order is effective today.

Dated March 31, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


NEAL J. STULMAN, Executive Director

APPENDIX A
Page 1

Rules Governing the Electronic Transmission of
Bills of Lading, Freight Bills, and Freight Bill Payment

Where a shipper's Electronic Data Interchange (EDI) capabilities are compatible with that of the carrier's EDI services, and both shipper and carrier agree to the electronic transmission of bills of lading and/or freight bills and/or freight bill payment, the following rules will apply:

Rule 1 - Disposition of Loss or Damage Freight Claims

In the disposition of freight claims for loss or damage of property filed with the carrier, the shipper shall furnish a copy of the Bill of Lading Manifest referencing the exception taken at the time of pickup.

Rule 2 - Disposition of Overcharge or Duplicate Payment Claims

In the disposition of claims for overcharge or duplicate payment of freight charges with the carrier, the shipper shall furnish a computer-generated copy of the original electronically communicated freight bill.

Rule 3 - Bill of Lading Manifest Description and Process

The shipper shall electronically transmit a Bill of Lading for each shipment to the carrier prior to pickup, or the shipper shall generate a Bill of Lading Manifest. The carrier computer will take receipt of the Bill of Lading Manifest electronically transmitted by the shipper or, if bills of lading were transmitted by the shipper, the carrier computer generates the Bill of Lading Manifest. The Bill of Lading Manifest will include the following information prior to pickup:

- a. Carrier Pro Number or Shipper Identification Number.
- b. Number of shipping units and total weight of each shipment.
- c. Abbreviated summary of consignee name, city, state, and zip code.
- d. Prepaid or Collect billing status of each shipment.

APPENDIX A
Page 2

- e. Identification of those shipments subject to C.O.D. provisions.
- f. Identification of those shipments containing hazardous materials.
- g. The date of shipment.
- h. Provisions enabling a shipper to exercise Section 7 of the Bill of Lading contract.
- i. Provisions enabling a shipper to exercise agreed or declared value provisions.
- j. Reference to the governing classification and carrier tariffs in effect on the date of the issue of the subject Bill of Lading Manifest including, but not limited to, the terms and conditions of the Bill of Lading contract.
- k. An area for exceptions will be furnished for each shipment.

The Bill of Lading Manifest shall be furnished by the carrier's pickup driver in lieu of the Bill of Lading document described in rule 4, Paragraph 4.1 of General Order 155.

Rule 4 - Accessorial Services

Accessorial services may be billed electronically provided the information required in Rule 5.2 of General Order 155 is included.

Rule 5 - Extension of Credit

The carrier may extend credit to the debtor for a period of seven days, excluding Sunday and legal holidays. The credit period will begin from the first 12:00 o'clock midnight following pickup of the freight.

Rule 6 - Issuance of Freight Bills

Freight bills will be tendered electronically provided the information required in Rule 5.1 of General Order 155 is included.

APPENDIX A
Page 3

Rule 7 - Retention and Retrieval of Records

Retention of records as provided in Rule 7.1 of General Order 155 shall be accomplished by storing all required documentation at on-line or off-line computer storage facilities for the required retention period of three years, except Bill of Lading Manifest which will be retained in hard copy form for the three-year period. Documents retained in computer storage shall be retrieved upon request from authorized parties.

Rule 8 - Rating, Billing, and Delivery Receipt Process

Exceptions noted on the Bill of Lading Manifest at the time of pickup shall be entered into the carrier's computer system by carrier personnel to update Bill of Lading information prior to the physical delivery of each shipment by the carrier. The updated Bill of Lading information shall be used to electronically rate and bill each shipment and electronically transmit a delivery receipt to the terminal responsible for performing the delivery.

Rule 9 - Freight Bill Payment Process

The shipper may electronically submit payment to the carrier for all prepaid shipping services immediately upon receipt of the electronic transmission by the carrier identifying the shipments subject to remittance or the debtor may self-invoice freight charges and remit freight bill payment electronically to the carrier.

(END OF APPENDIX A)

APPENDIX B
Page 1

The authority granted by this decision is subject to carrier's complying with the following conditions:

1. Staff will have access to the involved shippers' records pertaining to EDI shipments, including hard copies. As a condition of using EDI, shipper waives any proprietary rights or other claim of privilege against release of information to the staff or Commission. As used here, "shipper" includes any of the following which participates in EDI: (a) party arranging transportation, (b) consignor, (c) consignee, and (d) debtor.
2. Staff will have access to bank records of carrier and shippers for purpose of auditing EDI transactions. "Shipper" is as defined in "1." above.
3. Records of internal audits of carrier and shippers involving EDI will be made available to staff.
4. Records of outside audits of carrier and shippers involving EDI will be made available to staff.
5. Carrier will make a computer terminal available to staff investigator with or without advance notice and assist staff in its examination of EDI records.
6. Upon request, carrier will assist staff investigator in entering EDI system and reviewing data using Commission-owned portable computer terminal.
7. In connection with the transportation of hazardous materials and hazardous wastes, the provisions of Paragraphs 1 through 6 above shall apply for the California Highway Patrol and the Department of Health Services.
8. Carrier will establish a procedure acceptable to staff to ensure that shipper-generated requests or orders for split pickup service or split delivery service conform to procedures

APPENDIX B
Page 2

set forth in Items 162 and 172, former Transition Tariff 2.

9. Initially, limited-term authority would be granted. Carrier would be required to file progress reports with the Commission in format to be devised by staff.
10. Provide and update the name and telephone number of an individual designated as liaison with the staff for purposes pertaining to EDI.
11. Establish a carrier-controlled shipment numbering system that cannot be modified by shippers.

(END OF APPENDIX B)