

SEP 16 1992

Decision 92-09-073 September 16, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application for
 the further extension of temporary
 authority granted in CPUC Decision
 Numbers 89-04-049, 90-03-056,
 91-07-004 to depart from those
 provisions of General Order 155,
 148, and 139 that would otherwise
 prohibit the electronic transmission
 of Bills of Lading, freight bills,
 and the electronic transmission
 of freight bill payment.

ORIGINAL

Application 89-02-006
(Filed February 3, 1989)

INTERIM OPINION

Viking Freight System, Inc. (Viking) requests permanent authority to depart from the provisions of General Orders (GO) 139; 148; and 155 (currently 155-A) that would otherwise prohibit the electronic transmission of bills of lading and freight bills, and the electronic receipt of freight bill payments.

Background

By Decision (D.) 89-04-049 we granted Viking temporary authority to depart from the above GO provisions to the extent necessary to allow it to perform the requested Electronic Data Interchange (EDI) services described in Application (A.) 89-02-006. The carrier has been granted two one-year extensions of its temporary authority to provide these EDI services in D.90-03-056 and 91-07-004. We granted these extensions subject to the condition that the carrier furnish the Commission's Transportation Division with quarterly reports containing the names of shippers engaged by Viking who have taken part or who plan to take part in its EDI services, the number of services performed, etc.

Viking asserts that during the past year it has made significant progress in developing and implementing the electronic

transmission of bills of lading and freight bills, as well as the electronic receipt of freight bill payments, and believes the time has come for the Commission to permanently authorize these procedures.

The Commission's Transportation Division staff is reluctant to recommend granting the sought authority on a permanent basis, stating that the Commission should decide to what degree EDI services should be permanently authorized on an industry-wide basis through a Rulemaking proceeding. The staff will recommend that the Commission initiate such a proceeding in the near future. While Viking would prefer to have this authority granted permanently, it is agreeable to having it granted on an interim basis pending completion of the Rulemaking.

Viking further requests that "Image Processing" as described in A.91-12-019 of Con-Way Western Express (Con-Way) and granted by D.92-03-069 be granted to Viking as a permanent part of its EDI service offerings. It requests that all transportation documents, including bills of lading and delivery receipts be retained in imaged form only. "Imaging" is simply the term used to describe the electronic duplicating and storing of shipping documents.

Viking is in the process of employing an image processing system similar to Con-Way's. The staff supports the replacement of original paper (hard copy) documents with electronically imaged copies to meet the three-year retention of records requirements as defined in Rule 7.1 of GO 155-A. Viking contends that the alternative to retrieving, within two minutes, an "imaged" bill of lading is thumbing through more than 50,000 bills of lading. Thus, the carrier argues, using the imaging process becomes more a necessity than a convenience. Imaged documents, the carrier maintains, are exact likenesses of originals, and thereby remove the need to retain the original paper documents.

Notice of the application appeared in the Commission's Daily Transportation Calendar. No protest to the application has been received. We will continue to authorize Viking's EDI services on a temporary basis, and will include in this authority permission to "image" shipping documents as described herein. We concur with staff that since it is contemplating a Rulemaking proceeding to address these electronic procedures, it would be premature to authorize individual carriers permanent authority to depart from the otherwise applicable GO provisions. However, knowing how intentions are often delayed before implementation takes place, we will grant this interim authority for a period of two years.

Findings of Fact

1. Viking requests permanent authority to depart from the provisions of GO's 139, 148, and 155-A to the extent necessary to permit the electronic transmission of bills of lading and freight bills, and the electronic receipt of freight bill payments.

2. Viking also requests permanent authority to electronically retain shipping documents, in accordance with the "imaging" procedure granted Con-Way by D.92-03-069.

3. As an alternative to the permanent granting of these authorities, Viking requests continued interim permission to provide the services described herein.

4. The Commission's Transportation Division is in the process of preparing a Report seeking Commission initiation of a Rulemaking proceeding which will address the electronic transmission and retention of shipping documents on an industry-wide basis.

5. Granting the sought authorities for an interim period of two years will afford the staff opportunity to take the steps necessary to address these procedures on an industry-wide basis.

Conclusions of Law

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

2. Viking should be required to furnish the 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 Viking and shippers to achieve efficiencies and savings related to the EDI procedure, and the application has not been protested, this decision should be effective today.

INTERIM ORDER

IT IS ORDERED that:

1. Viking Freight System, Inc. (Viking) 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 two years after today, unless sooner terminated, modified, or extended by the Commission.

3. Viking shall furnish the Commission's Transportation Division with an original and two copies of quarterly reports commencing December 1, 1992, containing the names of the shippers who have been engaged by the carrier to take part in, 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. 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 Viking with the conditions set forth in Appendix B.

This order is effective today.

Dated September 16, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President

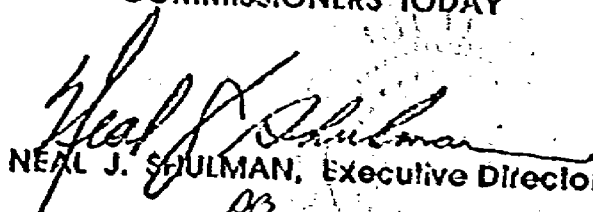
JOHN B. OHANIAN

PATRICIA M. ECKERT

NORMAN D. SHUMWAY

Commissioners

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


NEAL J. SHULMAN, 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-A.

Rule 4 - Accessorial Services

Accessorial services may be billed electronically provided the information required in Rule 5.2 of General Order 155-A 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-A 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-A 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

CONDITIONS OF AUTHORITY

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.

APPENDIX B
Page 2

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 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)