

Decision No. 90860

SEP 25 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of BAY CITIES TRANSPORTATION COMPANY, a corporation, and COASTAL TOWING AND LIGHTERAGE CORPORATION, a corporation, for an order authorizing increases in rates and charges for the transportation of petroleum and petroleum products in bulk.

Application No. 58335  
(Filed August 31, 1978;  
amended March 23, 1979)

Edward J. Hegarty, Attorney at Law, for applicants.  
Robert A. Kormel, for Pacific Gas and Electric Company, interested party.  
P. N. Kujachich, for the Commission staff.

O P I N I O N

In the application originally filed in this matter, Bay Cities Transportation Company (Bay Cities) applied to increase its rates and charges for the transportation of petroleum and petroleum products in bulk. A "first amendment" to the application was filed on March 23, 1979 requesting that Coastal Towing and Lighterage Corporation (Coastal) be joined as an applicant. Bay Cities and Coastal are both subsidiaries of Crowley Maritime Corporation (Crowley).

The amendment recited that for various reasons, including the lack of an effective collective bargaining agreement, Coastal has been performing Bay Cities' petroleum and petroleum products transportation movements in San Francisco Bay since March 7, 1979.

Bay Cities, not Coastal, holds a certificate of public convenience and necessity as a common carrier by vessel, but the movement of petroleum and petroleum products in bulk is specifically exempt from certification requirements (Public Utilities Code Section 212(a)). Therefore, Coastal's movement of such products requires no certificate, and the purpose of the amendment was simply to include Coastal as an applicant for rate relief. Even

considering these facts, however, Coastal's procedure was irregular. While there is no certification requirement, rates are still regulated (Public Utilities Code Sections 726 et seq. ). Coastal has been without any of its own tariffed rates for bulk petroleum and petroleum products. The fact that Bay Cities and Coastal are both subsidiaries of Crowley does not mean that movements which are exempt from certification requirements, but not from rate regulation, may be transferred from one subsidiary to another without proper tariff filings. Crowley, Coastal, and Bay Cities are admonished to follow regular and lawful procedure regarding their tariff filings in the future.

The above state of affairs caused a confusing record which led us to authorize, mistakenly, a transfer of Bay Cities' certificated rights to Coastal in our interim decision in this matter (Decision No. 90185 dated April 10, 1979). The decision also granted partial rate relief. A hearing, principally on the rate increase issues, was held before Administrative Law Judge Donald C. Meaney in San Francisco on July 16, 1979. At the hearing, counsel for Bay Cities and Coastal represented that no transfer of rights was desired (Coastal has filed no acceptance of a certificate) and requested that we modify our interim decision to cancel the authorization of the transfer.

Since there was neither a request for a transfer nor any showing on this record that a transfer to Coastal is in the public interest, there is no basis for our finding, conclusion, and order on the subject, and this decision will modify Decision No. 90185 accordingly.

#### Rate Relief Evidence

The original application requested total rate relief of 32 percent (not 52 percent as was stated in Decision No. 90185). At first the applicants proposed a completely new tariff; however, at the hearing a simpler proposal was made which is essentially a

surcharge. Our interim decision granted a 20 percent surcharge pending the hearing. This surcharge is presently in effect.

Regarding this partial relief, we said (Decision No. 90185, p.2):

"Applicant asserts that its proposed tariff is similar to BCTC Tariff No. 7-A, Cal. P.U.C. No. 21, under which BCTC operated, except that the rates have been increased to reflect increased costs in crew wages and related expenses, fuel, repair costs, payroll costs, vessel expense and other operating and administrative expenses. The last general rate increase published in Tariff No. 7-A was authorized by the Commission in Decision No. 84836 dated August 25, 1975, in Application No. 54957. In the three and one-half years since that Decision, the only rate increases in Tariff 7-A aggregate six and one-half percent to offset labor and labor related costs. These increases have only partially offset increased labor costs and no provision has been made to offset the major increases in other costs which have occurred during the three and one-half year period since August 25, 1975. Should CTL be required to continue operations at its current costs and without a rate increase, it would project an operating ratio of approximately 126% during 1979. Applicant has submitted a copy of a letter sent to the Council of Wage and Price Stability indicating that it intends to fully comply with the President's wage-price guidelines. The partial increase granted by this order would not place applicant in a profitable position and is therefore within the guidelines."

Bruce Dollinger, in charge of regulatory accounting for Crowley, testified that since Coastal is a new corporation, he based cost and revenue estimates for 1979 on the bulk petroleum operations of Bay Cities (or, more specifically, on Bay Cities' United River Lines Division, which performed this type of transportation). His twelve-month forecast based on the full rate relief requested indicates a net operating loss of \$77,194.

He checked his estimates against four months of 1979 recorded results for Coastal and found the loss for that period about 5 percent understated.

Crew wages, fuel costs, and repair costs comprise approximately 90 percent of the operating expenses. Wages have increased 22.5 percent for tankermen and 4.0 percent for tug crew members. Fuel costs for California operations have increased 28.2 percent, based on a study by the Crowley purchasing department. Actual 1978 repair costs were increased 5.5 percent for the 1979 estimate. (Although the wage increase for tankermen was retroactive, the retroactive portion was not considered in the 1979 results).

Mr. Dollinger stated that bulk petroleum revenues could be based on the same level of movement as for 1978 since the movement is stable and nonseasonal.

William F. Roush, a vice president of Crowley in charge of maritime operations, introduced Exhibit 3, essentially a supplement to Bay Cities Tariff No. 7-A, surcharging the tariff by 32 percent and canceling the 20 percent surcharge effective April 18, 1979 as a result of Decision No. 90185.

Mr. Kormel, the representative of Pacific Gas and Electric Company, pointed out that the tariff requires overtime payment for Saturdays and Sundays whereas the new labor agreement requires overtime only for "maritime holidays." Mr. Roush stated that since there would be an overall loss even with the surcharge as proposed, an entire study would have to be done to remove the overtime except for maritime holidays and spread the rates differently (without resulting in any overall rate increase); that simply to strike the overtime provisions would increase the net estimated loss. Mr. Kormel indicated that the filing of a petition to modify the surcharge at a later date would be satisfactory, in order not to delay rate relief.

In view of the present operating loss experienced for this operation, the rates proposed in Exhibit 3 should be authorized. Our calculations based on the test year estimates show that if the rates authorized by this decision were in effect for all of 1979, the operating ratio would be 98.27; however, they will only be in effect for about four months and therefore the actual operating ratio will be slightly higher.

We will authorize Coastal to file an application which will spread the 32 percent increase to allow for overtime charges on maritime holidays only.

Because of the present operating loss, the effective date of this decision should be the date it is signed.

#### Findings of Fact

1. Decision No. 90185 in this proceeding authorized a transfer of Bay Cities' certificate of public convenience and necessity inadvertently and without any showing of public need for the transfer. Such transfer has not been consummated by acceptance on the part of Coastal.
2. Coastal is currently performing the petroleum and petroleum products transportation movements formerly performed by Bay Cities, under Bay Cities' tariffs.
3. Coastal is experiencing an operating loss for the transportation of bulk petroleum and petroleum products with the rates that are currently in effect, and will experience a reduced operating loss for 1979 even with the proposed rates.
4. Coastal now pays overtime wages for maritime holidays only. ✓
5. A surcharge of 32 percent over rates existing at the time this application was filed will enable Coastal to realize an operating ratio of 98.27 (assuming the surcharge is in effect for the full test year), resulting in an annual net revenue increase of \$617,775.

6. The authorized rate increase is consistent with the President's Wage and Price Guidelines.

Conclusions of Law

1. Decision No. 90185 should be modified to delete language in the discussion concerning transfer of Bay Cities' certificate to Coastal, and to delete conclusions and vacate ordering paragraphs on this subject.

2. Coastal should be ordered to file a tariff in its own name only, which will be based upon Bay Cities Tariff No. 7-A, surcharged 32 percent as fully set forth in Exhibit 3 in this proceeding.

3. Bay Cities Tariff No. 7-A should be canceled as of the effective date of the tariff filing for Coastal discussed in Conclusion 2.

4. Coastal should be authorized to file a supplementary tariff (with a separate formal application) which will spread the 32 percent surcharge to take into account the fact that overtime wages are now paid for maritime holidays only.

5. This decision should be made effective the date it is signed because Coastal is experiencing, and will continue for 1979 to experience, operating losses for the transportation of petroleum and petroleum products.

O R D E R

IT IS ORDERED that:

1. Decision No. 90185 is modified by deleting the discussion paragraphs on page 3, and also by deleting Conclusion 2 and vacating Ordering Paragraphs 3 through 11.

2. Bay Cities Transportation Company (Bay Cities) shall cancel its Local Freight Tariff No. 7-A, Cal. P.U.C. No. 21, not less than ten nor more than thirty days from the date of this order.

3. Coastal Towing and Lighterage Corporation (Coastal) shall publish its own tariff for the transportation of petroleum and petroleum products in bulk to be effective concurrently with the cancellation of the Bay Cities' tariff for such movement. Coastal's tariff shall be based on Bay Cities Tariff No. 7-A, Cal. P.U.C. 21, as surcharged by the rates, schedules, and tariffs set forth in Exhibit 3 in this proceeding.

4. Coastal is authorized to file an application to request adoption of a modified tariff which will spread the 32 percent surcharge to recognize the fact that overtime wages are now paid only for maritime holidays.

The effective date of this order is the date hereof.

Dated SEP 25 1979, at San Francisco, California.

John E. Byron  
President

Richard L. Johnson

Richard D. Howell

Charles T. DeLoach

Francis W. Jensen  
Commissioners