



October 26, 2020

BC Container Trucking Commissioner
1085 Cambie Street
Vancouver, BC
V6B 5L7

Attention: Mr. M. Crawford – Container Trucking Commissioner

Subject: Off Dock Drayage Insights

Dear Sir,

In a letter to Industry dated September 23, 2020 your office requested insight and comment from stakeholders regarding the findings and recommendations presented in a report prepared by Cascadia Partners. The following are our views and comments to your specific questions:

1. What container movements should be regulated?

Clearly there is presently a serious anomaly between the CTA Legislation and its Regulations concerning the scope of container drayage activities covered by the Act. This has resulted in many licensed TLS Operators using non TLS trucks and an extensive field of Non-TLS operators choosing to perform non-port container drayage activities, believing or choosing to take the position, that such activities are not governed by the statutes set forth in the CTA and therefore are not enforceable by the OBCCTC.

Some TLS carriers, are regularly and blatantly utilizing non-TLS trucks to perform port drayage legs by limiting the use of licensed TLS trucks to pick-up or deliver a container in/out of a marine terminal (On Dock) and then switching the load to a non-TLS truck at a location in close proximity to the marine terminal to complete the leg to/from the customer's premises and to return the empty marine container to a specified Off Dock.

The increased use of non-TLS trucks performing non-port container drayage legs is partly due to the unintended adverse impact of the introduction of the \$25 PMR (Positioning Movement Rate) that went into effect on July 1, 2019. The introduction of the PMR has actually priced TLS Licensee's out of a lot of business that they previously were able to assign to their O/O fleet. The consequence of the \$25 PMR has resulted in customers demanding their TLS drayage provider use only Company trucks as a condition to continue to secure their business. The alternative is for customers to opt to use a non-TLS carrier and therefore not to be subject to the additional \$25 PMR. Over a period of time, it is patently obvious that some TLS carriers have taken the practice to a whole new level by using non-TLS trucks to perform non-port work and to only use TLS licensed trucks to perform direct On Dock activities.

We believe the above practice is a direct violation of the TLS License Agreement, which many TLS carriers have been forced to adopt in order to retain their customer base without regard for possible penalties being imposed by the OBCCTC. The deployment of non-TLS trucks to perform non-port container moves is further exacerbated by the fact that both TLS and non TLS carriers are having little difficulty attracting O/O's with non-TLS trucks (most trucks being non TLS compliant) at a much lower compensation level (either hourly

or trip based) compared to a TLS Licensed truck driver to perform the same work at the regulated hourly or trip rate levels set forth in the CTA and Regulations.

Further exacerbating the situation of TLS O/O's missing drayage opportunities is the cost-based business decisions by many TLS licensees to use only TLS Company trucks to perform the drayage of containers involving short distances of less than 10 km. This business decision is due to the high cost of the zone rates that must be paid to an O/O, regardless of travel distance, coupled with the additional \$25 PMR. The rate differential between using a company truck vs. an O/O on short trips is impractical due to the higher cost matrix related to the deployment of O/O trucks. A practical solution would be for the OBCCTC to establish a short trip rate for travel distances of less than 10km. This would immediately reduce the present huge financial differential to enable Companies to use both O/O and TLS Company trucks to perform short leg moves because the cost to use a Company truck or O/O would be similar.

The formation of a short haul trip rate would improve overall dispatch efficiency to allow dispatch decisions to be made based on the first available truck no matter if it is an O/O or a Company truck as overall costs would be comparable.

The creation of a short haul rate, however, does not resolve the impact of the additional \$25 PMR cost applicable to trip rated moves made by an O/O. Accordingly, we recommend that in addition to introducing a short haul trip rate of less than 10 KM, the PMR be either eliminated or the fee be incorporated as a component of cost included into future trip rates. This will take away the overall rate imbalance that has been created, which has encouraged cheating. The rate imbalance which has been created is the issue which has resulted in carriers finding their own innovative solutions.

Clarification of the scope of the Act and its Regulations is urgently needed. Assuming the law confirms that the carriage of all marine containers within the Lower Mainland is governed by the Act and its Regulations, it will establish a clear interpretation to validate that all container movements of marine containers originating and terminating within the Lower Mainland must be handled only by accredited TLS carriers and be performed by approved TLS trucks as intended by the Legislation and accompanying Regulation.

It is our position that the Act was established to govern all marine container drayage movements to/from points starting and ending within the Lower Mainland. Anything less will result in establishing a two-tiered industry, whereupon most container moves, except the movement of containers in/out of Port Facilities, will be handled by non-TLS carriers at varying lower pay levels being paid to drivers than specified by the Act and the OBCCTC.

For the Act to be effective in achieving its mandate to eradicate business malpractice and to establish a level playing field of fair compensation to be paid to all container truck drivers (O/O and Company truck drivers), we strongly believe the Act and its Regulations must clearly delineate that all marine containers transported by truck to points within the Lower Mainland are governed by the Act and its Regulations. Anything less makes a mockery for the need to continue to have a Regulated Industry governing the transport of mariner containers within the Lower Mainland and it will completely invalidate the need to continue with the TLS licensing system, which we believe has helped stabilize the industry.

Malpractice must be stopped, or acceptance must be granted that the continuance of permitting both TLS and Non-TLS carriers to engage in the drayage of containers with in the Lower Mainland using Non-TLS trucks will inevitably result in job action and further dislocations arising within the industry which must be and can be avoided.

On the matter of the Act, a concern we have is the lack of clarity regarding the role and scope of the OBCCTC. We fully support the role of the Commissioner's office to verify compliance by Drayage carriers of the Act and its Regulations. However, we do not believe the Commissioner should be the authority to decide the number and mix of TLS Tags an accredited TLS carrier may have. The dynamics of the marketplace and the nuances and demands of a TLS carriers business model are the determining factor as to how many trucks any one TLS carrier requires. The governing factor must be to ensure that all trucks deployed by an accredited TLS carrier are compliant with the standards set by the VFPA and O/O and Company Drivers are compensated in accordance with the regulated rates defined by the CTA and its Regulations. The number of trucks needed to achieve business requirements however, should be the Companies individual management right to decide in order to manage and grow their business.

The practice of the OBCCTC imposing an arbitrary limit on the quantity of TLS truck tags each TLS Licensee is entitled to have has proven to be extremely damaging and counter-productive to the Drayage Industry and the aims of the CTA and its Regulations. This is clearly substantiated by the proliferation of non-TLS trucks now being deployed to transport containers. The focus of the OBCCTC must be on rate compliance not on truck count. Given the high cost of each TLS Truck Tag we do not believe any TLS Licensee would request or purchase more tags than is needed to operate their business efficiently.

2. What rates should apply to Container Movements?

We believe the zone rates that have been established provide reasonable and fair compensation to both O/O and Company drivers. We also believe they provide fair market value to ensure that this Gateway is able to provide competitive services at fair rates to the benefit of Canadian Trade, and to ensure the Vancouver Gateway maintains a competitive edge within the North American marketplace. However, we repeat our concern and advocacy for the need to establish a short trip rate, i.e. establish a trip rate for travel distances of less than 10km. By doing so will allow these short haul trips to be undertaken by both O/O's or Company trucks on a competitive basis.

We advocate for accredited TLS carriers to decide the quantity and mix of trucks and TLS Tags best needed to effectively manage their business. Fleet size is determined by the customer requirements of each TLS carrier. An arbitrary limit of truck tags imposed by the OBCCTC on a TLS Licensee has proven to be extremely damaging and counter-productive, as is evidenced by the proliferation of non-TLS trucks now being deployed. The focus of the OBCCTC must be on rate compliance not on truck count.

The very high cost of each TLS Truck Tag ensures that TLS Licensee's will not request or purchase more tags than is needed to operate their business efficiently.

3. Options for Enforcement.

The simplest and easiest method of enforcement is to establish a truck tag system that incorporates RFID technology to enable the checking of all truck movements at the key transfer points, i.e. Port Facilities, Off Dock Terminals and Rail terminals. This would be done using RFID responders at the entry point of each container facility. The responder would alert the receiver and the Commissioner to the use of non-TLS trucks and could be used to immediately alert the receiver to deny access by the non-compliant truck to the facility.


Actions have consequences and enforcement of the Regulations needs to be taken seriously. Some TLS Licensees are using non-TLS trucks in spite of the fact that their TLS License clearly states that all trucks used by a Licensee for On Dock and Off Dock work must have a TLS tag and be performed by an accredited TLS truck. The rules are clear and it is equally clear that the rules are being ignored with no fear of consequence.

Enforcement of the CTA and its Regulations and the TLS Licensing system is essential. The Licensing rules are very clear. Either enforce adherence of the Act and Regulations or revise the Act, Regulations and OBCCTC policy. To continue to tolerate blatant disregard by TLS and Non-TLS carriers is not acceptable. It contributes to create a dangerous environment of labour volatility, extremely damaging to the stability and good reputation of the Vancouver Gateway.

If there are any questions, we would be pleased to discuss this submission further.

Yours truly,

HARBOUR LINK CONTAINER SERVICES INC.



David Payne
President

Cc J. Bourbonniere
file