



Industry Advisory Committee (IAC) Meeting Minutes

Tuesday, January 16, 2024

North Delta Rec Centre (Multi-purpose Meeting Room)

11415 84th Avenue, Delta BC

9:30am to 11:30 am

In Attendance:

Paul Nagra	Unifor
Sharn Gill	Port Transportation Association
Sapinder Samra	United Container Drivers Association
Gagan Singh	UTA Truckers Society of BC (arrived at 9:35am)
Andy Sekhon	Vancouver Fraser Port Authority
Gary Brar	BC Trucking Association
Glen MacInnes	OBCCTC, Chair
Karm Jauhal	OBCCTC, Vice Chair
Anupam Sandhu	OBCCTC
Tarandeep Deol	OBCCTC
Don Nguyen	OBCCTC
James Papadopoulos	Ministry of Transportation & Infrastructure (arrived at 10am)

Regrets:

Bill McKinstry	Shipping Federation of Canada
Bonnie Gee	Chamber of Shipping
Amrik Dhillon	Teamsters Local 31
Mike Hennessy	Teamsters Local 31

The meeting was called to order at 9:33 am.

1. ROUNDTABLE INTRODUCTIONS

- Attendees introduced themselves.

2. COMMISSIONER'S UPDATE

A. Court Cases

- The Commissioner advised that the OBCCTC is considering introducing a webpage on the OBCCTC website where the progress and outcomes of the Judicial Reviews are posted.
- The Commissioner provided an update on the Judicial Reviews.
 - Simard – hearing to take place, anticipating dates in February 2024.
 - Other outstanding judicial reviews that have been shared with the IAC via email and the OBCCTC will continue to keep the IAC updated with all Judicial Reviews.

B. Enforcement/ Penalties

- The Commissioner issued a total of 16 Decisions in 2023, about one-third of those decisions were administrative penalties for the Off-dock untagged work. The Commissioner provided updates about the Off-Dock untagged work and said that the auditors are working hard to speed up the process, to ensure the time to issue the decisions is reduced. Decisions may be embedded with orders. OBCCTC needs to ensure that the licensee complies with the order. At this point, OBCCTC is observing that some licensees don't understand that besides paying the fines/ penalties, there is a need to be compliant as well.

C. Audit/ Decisions

- The Commissioner mentioned that the OBCCTC is trying to speed up the audit process. Currently, when an audit report is sent to the licensee, OBCCTC provides them with 30 days to respond. It is a long time and the licensees tend to take full 30- days period and do not come up with any new information or information worth re-consideration when they respond. Meanwhile, the drivers don't get paid during this timeline and thus, we are moving towards lowering the response days, so that the decision comes out sooner. At the same time, OBCCTC must be fair to the licensees as well, and is trying to find a balance.

D. Rate Review – Addendum II - OT and I/Os

- The Commissioner explained that OBCCTC has been working on the overtime calculation formulae for I/Os. OBCCTC received feedback which questions if I/Os are independent contractors or not as well. But ultimately drivers are not getting paid. Thus, OBCCTC released an Addendum II to the 2023 Rate Review Consultation Report suggesting formulae for overtime calculation for I/Os and is currently accepting submissions until February 23, 2024.

E. Truck Tag Management

- The Commissioner advised that the Truck Tag Management Policy was last updated in the year 2020,. OBCCTC has been trying to match drivers with work by using the Provisional Tags to assist a licensee with temporary work. . OBCCTC monitors the performance of the licensees' tags and takes back underutilized tags. When the additional tag requests are opened, OBCCTC redistributes these tags. A discussion took place as follows:
- Another issue is that if OBCCTC issues a tag and the licensee wants to nominate an IO from another division, according to Section 24 of the Container Trucking Act, they can do that.

OBCCTC monitors the Commissioner's I/O List and tries to maintain a balance. During a discussion, members of the IAC, expressed that Section 24 of the CTS Truck Tag Management policy:

- be overhauled or completely removed
 - Once an I/O is nominated and on the i/o list, after a time limit, they should then be treated like every other I/O on the list
 - If the nominee is laid off or moves after a time limit, there should be a system in place for them to maintain their spot on the I/O List.
 - A member expressed this could lead to shenanigans if companies can add from their other division, they will not have a reason to pick from the I/O List. While another member expressed that it was beneficial if they could retain drivers from their other divisions as they have a working relationship with the I/O and it may be a union seniority issue as they may be the next in line to be added to the I/O List vs someone who is brand new to the industry/ organization etc. and company drivers dream of the opportunity to become I/O's.
 - A member made the committee aware that there are many companies that exploit LMIA recipients by forcing them to work at lower rates.
 - The Commissioner and Deputy Commissioner advised the committee that the IO List and the Truck Tag Management policy has been in place for some time but should always be adjusted to address pressing concerns. The ability to nominate I/Os from other divisions is part of the policy but the OBCCTC hears the concerns of drivers that either they cannot move to another licensee if they are nominated and other drivers are concerned this is a back door on the IO List. The concerns of licensees are also valid and any changes to the tag management policy would require further dialogue.
- An IAC member raised further issues of safety in the industry, following the recent media coverage regarding overpass accidents and some suspensions. A brief discussion regarding whether these accidents are happening due to lack of training or experience or is it other factors. After a brief discussion, it was concluded that industry does not want these accidents or incidents to occur and perhaps this matter can be referred to other agencies that can assist with training/ safety and education.
 - The Commissioner provided an update of the last OBCCTC additional tag applications and gave feedback to the licensees who were not granted additional tags. The OBCCTC will continue to grant conditional tags to match I/Os with the licensees that have work. For the past year, the OBCCTC has been using it as a tool to tie the I/Os with work. The OBCCTC is happy to receive feedback from the stakeholders and make improvements as needed. OBCCTC won't grant tags to licensees who don't have enough work or will impact the existing work.

The meeting was adjourned for a break at 10:27 am.

The meeting was called back to order at 10:35 am.

F. 2024 CTS Licence Application Changes

- The Commissioner reminded the IAC members that the OBCCTC was reviewing the CTS licensing package for 2024. The current licence expires on November 30, 2024. Therefore, the new license term will commence on December 01, 2024. Last time, the OBCCTC tried to consult on three areas: - incorporate potential license changes, truck tag management changes, and application changes. This time, the OBCCTC is first going to consult on the proposed licence changes and then post the criteria for license selection and then review the truck tag management policy. The Commissioner believes that it is important to go through the licence changes so that the OBCCTC could get some feedback. The OBCCTC will schedule separate sessions and stakeholders will get an opportunity to provide their feedback.
- The Commissioner added that the revisions include some housekeeping things, eliminating some of its redundant language etc. and reminded stakeholders to read through the proposed revisions and familiarize themselves with the revisions. The OBCCTC has been improving the off-dock enforcement mechanism and has been looking at the I/O Sponsorship Agreement, because we've come across some situations that could be cleared in the I/O Sponsorship Agreement. Moreover, some terms of reference regarding conditions of work for company drivers etc. are hidden in the Rate Order, and OBCCTC would want to bring those into the licence itself so that people understand what those conditions are.
- **Off-Dock Enforcement**
 - The Commissioner stated that since the beginning of his term, the last quarter of 2022, a key focus has been off-dock enforcement. To ensure that off-dock enforcement is effective, one of the provisions that has been added in the 2024 Licence is that there will be a prohibition from co-operating in any manner with any non-licensee performing off-dock drayage work within the Lower Mainland. Some of the things that OBCCTC has come across is equipment being swapped and dispatches being shared, which seemed to be problematic when conducting investigations. The IAC members are encouraged to review the language to see if what the OBCCTC had tried to capture.
 - The second part of the requirement is to declare all the related persons and directing mind of licensees performing container trucking services.
 - There are a lot of off-dock facilities that have approached the OBCCTC over the year and a half, asking how they could assist with the off-dock enforcement issue, but we don't regulate off-dock facilities as that's not in our mandate. However, we do regulate the licensees who go to those off-dock facilities. The OBCCTC is looking into a possibility of approving off-dock facilities for licensees to go to.
 - The OBCCTC is currently installing the OBCCTC Tags on every approved TLS truck, which will be a requirement for every approved truck performing container trucking services in the Lower Mainland and will be incorporated in the CTS Licence.

- **Sponsorship agreement**

- The Commissioner clarified the criteria regarding the termination of sponsorship agreements. The current practice is when the sponsorship agreement is terminated, one party gives notice to the other. However, what happens from the licensee side is that they don't want to cancel the sponsorship agreement because they might lose a tag or the clock starting on that vacant tag (ie the 90 days). On the other hand, the I/O feels duty bound to continue to work with this licensee, even though they don't have any work.
- The OBCCTC's intent wasn't to tie that I/O with the licensee if they don't have work and it wasn't for the licensee to hold on to a Sponsorship Agreement due to the fear of losing the tag. The OBCCTC has tried to set out a clear criteria.
- The *Container Trucking Act* says that the IEO is the employee of the I/O. Therefore, having a licensee put a driver (IEO) in for an I/O is not how it is supposed to be, and it confuses the OBCCTC's auditing process. The purpose of the new language was to clarify and bring it in compliance with the *Act*, so that the *Act* is compliant with the Sponsorship Agreement. But ultimately, if the I/O does not pay the IEO, the licensee indemnifies the IEO.
- The IAC member asked if the model still exists.
 - The Deputy Commissioner responded that I/O's are allowed to have IEO's however, they do not replace the I/O for an extended period of time.
 - The commissioner added that in the past decision, it has been outlined who an IEO is and how they should be administered.

- **Terms and Conditions**

- **Overtime** - Currently under the *Container Trucking Act*, there is a minimum-call out rate for drivers which can be found in the Rate Order. It should not be in the Rate Order as it is not a rate, it is a condition. The Minimum call out outlines the terms and conditions under Section 18 and serves as the new appendix. The rate orders are not the best place to look for terms and conditions.

- **Housekeeping**

- One of the challenges is when you have a definition that is defined in the *Act* or the *Regulation*, and then duplicate it in a licence; if the definition changes in the *Act*, it triggers a change in the licence also. The Commissioner prefers to have the definition set out in the *Regulation*. In the licence it would just say check the legislation for the definition. Thus, we don't have to modify both. The OBCCTC has taken out the duplicates, so it does not cause confusion.
- OBCCTC is starting to get is the request for change of bonds/Bond providers. OBCCTC has a new bond template, which has been updated and included in the Licence, so people can see it. This template should be referenced for the language that we would expect from the insurance provider or credit union. If you or your insurance provider/ bank have any questions, it is best they reach out to our office before any

change is initiated.

- **Privacy** – Privacy has always been a big issue. Because the legislation changes constantly, OBCCTC tried to update some of the privacy, consent and disclosure information to be consistent with the latest regulations. There is a lot of information that licensees need to provide to the OBCCTC, and thus it is important to be mindful of what information is accessible to whom. It is advised that each licensee reviews their own organization's privacy policies to make sure they are complying.
- **Payroll records**- Another housekeeping change is that OBCCTC updated the Statutory Declaration to be consistent with the *Act* and *Regulation*, clarifying the payroll records to be kept for all truckers. It is a requirement in the Licence package that the licensee must hold comply with. . These obligations are no different than any other employer in British Columbia, but they're now incorporated into the Licence.
- The Commissioner advised he will be reaching out to the stakeholders for their thoughts and feedback on the 2024 CTS Licence Reform – proposed changes. The Revised License package will be published in the Spring 2024 after the consultation period is over and the OBCCTC has received all submissions from the industry, so that the licensees are aware of the terms and conditions for the licence before submitting their licence applications.
- The Commissioner advised that the major concern he has had was the number of orders he had to make for not having electronic payroll records systems. The previous Commissioner had gone through all this during consultations. Everybody knew there was a requirement to have electronic records and GPS in the last license term and the industry still is not compliant as a whole. Therefore, companies that are not compliant with an electronic record-keeping system will not be awarded a 2024 CTS Licence.
- **Compliance** – Compliance history will play a major role in the next round of licensing. There should be no surprises here, most of the conditions have been in existence for a long time, like recordkeeping, Off-dock , and audit requirements etc. OBCCTC will be ensuring that licenses are compliant. As, the OBCCTC has met with many external stakeholders who would like to apply for a CTS licence and there is a process under the *Container Trucking Act* for them to apply just like everybody else OBCCTC is balancing that and will continue to have future discussions about it. Approximately in March or April, the Consultation Report on licensing will be released to the industry.

3. ROUNDTABLE

- The IAC member said that if a licensee is not compliant, , they should not be in the industry.
 - The Commissioner responded that compliance history will be measured in assessing

applications. OBCCTC will publish in advance, the criteria which every applicant will be measured by. However, the licensees should understand, there is no automatic pass for the existing licensees in 2024.

- The IAC member asked if a licensee has 2 or more licences, do they have to consolidate?
 - The Commissioner said that he doesn't understand the need for two licences if both the companies are owned by the same person. Something that the OBCCTC is looking at is that the owner might have to create an umbrella group and put both the companies under it. The 2020 CTS Licence was also an opportunity for licensees to consolidate their multiple licences into one and again the option is there in 2024, the OBCCTC will publish the criteria well in advance.
- Another IAC member said that one licensee is not paying regulated rates and are following their collective agreement and not the OBCCTC's minimum rates.
 - The OBCCTC has published the regulated rates and licensees cannot undercut the *Act*. The collective agreements cannot supersede the *Act*. He further added that every licensee must follow the *Act*. If there are any complaints, please encourage drivers and I/Os to call the OBCCTC ConfidenceLine and submit a complaint and the OBCCTC will investigate the matter.
- The IAC member said that before the OBCCTC audits the company, the Collective Agreement in place should honour the OBCCTC's regulated rates.
 - The Commissioner follows the *Act* and Regulated rates. A collective agreement does not trump the *Act*.

4. NEXT MEETING

- The next meeting to take place in April 2024.

The meeting was adjourned at 12:04 pm.