



August 12, 2025

Vicinity Transportation Ltd.  
13426 Cedar Way  
Maple Ridge, BC V4R 2T4

**Commissioner's Decision**  
**Vicinity Transportation Ltd. (CTC Decision No. 22/2025)**

**Introduction**

1. Vicinity Transportation Ltd. ("Vicinity") is a licensee within the meaning of the *Container Trucking Act* (the "Act").
2. Under sections 22 and 23 of the *Act*, minimum rates that licensees must pay to truckers who provide container trucking services ("CTS") were first established in the *Container Trucking Regulation* ("*Regulation*") by the Lieutenant Governor in Council and, subsequently, by the Commissioner ("Rate Order"). Licensees must comply with the established rates. In particular, section 23(2) of the *Act* states:
3. A licensee who employs or retains a trucker to provide container trucking services must pay the trucker a rate and a fuel surcharge that is not less than the rate and fuel surcharge established under section 22 for those container trucking services.
4. Section 1(i) of Appendix A – *Prohibited Practices* of the 2024 CTS licence prohibits a licensee from compensating drivers using a hybrid method that combines per-trip and hourly pay. In the 2020 and 2022 licences the same provision existed in section 1(g) of Appendix A.
5. Section 6.7<sup>1</sup> of the 2022 licence introduced a new requirement: that all trucks engaged in CTS for the licensee are equipped with an electronic device or technology that records the number of hours of CTS and/or CTS trips performed.
6. Under section 31 of the *Act*, the Commissioner may initiate an audit or investigation to ensure compliance with the *Act*, *Regulation* and the CTS license whether or not a complaint has been received by the Commissioner.
7. On July 15, 2024, the Office of the BC Container Trucking Commissioner ("OBCCTC") initiated a random audit of Vicinity to determine compliance with the *Act*, *Regulation*, and CTS license between June 1, 2020 and May 31, 2024 ("Audit Scope").
8. Vicinity has been the subject of two previous audits in 2016 and 2019 and both determined Vicinity was compliant.

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<sup>1</sup>In the 2024 CTS License, section 6.7 was renumbered to section 6.6.

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**Audit**

9. On July 15, 2024, the OBCCTC requested payroll records for the periods of August and September 2020, March and August 2021, April and July 2022, January and June 2023, and February 2024 (“Audit Period”).
10. Vicinity provided the required information by the deadline, with the exception of electronic records of the number of hours or trips performed by its truckers in January and June 2023 and February 2024.

*Independent Operators*

11. The auditor randomly selected fifteen Independent Operators (“IOs”) in each month of the Audit Period and identified that some of the IOs who were normally paid the trip rate were also paid the hourly IO rate at times.
12. Furthermore, prior to April 2022, all the IOs paid the hourly rate were paid the lower hourly IO rate for drivers who have performed less than 2,340 hours of container trucking services for any licensee (“Lower Hourly Rate”) despite working for Vicinity for more than a year.
13. Vicinity explained that it normally pays its IOs the trip rate but pays an hourly rate when it moves containers for one major customer because the customer insists on compensating Vicinity on an hourly basis (“Hourly Work”). The auditor explains that this issue has arisen with respect to the same customer in audits of other licensees.
14. The auditor compared the payment each sampled IO received for the Hourly Work against the amounts they would have earned if that same work had been compensated on a per trip basis. She determined that in the most recent pay periods — specifically July 2022, January and June 2023, and February 2024 — the hourly payment method resulted in higher compensation for the IOs compared to the trip-based method. In all other reviewed pay periods, however, the IOs would have received greater compensation had they been paid per trip.
15. Vicinity told the auditor that its payment of the Lower Hourly Rate was an administrative error and that it would calculate the amounts owing to all IOs based on the minimum regulated hourly rate for IOs who have worked 2,340 hours or more (“Higher Hourly Rate”).
16. Given Vicinity’s view that it improperly paid the Lower Hourly Rate to some IOs, its payment of a hybrid rate, and the fact that only a sample of drivers were reviewed in each period, the auditor did not undertake a full calculation of the outstanding amount pending further direction from the Commissioner.

*Company Drivers*

17. The auditor reviewed the payroll records of the Company Drivers and determined that Vicinity was compliant with the exception of payment of daily overtime.
18. In June 2023 and February 2024 – the only two months of the Audit Period the overtime rate was in force – Vicinity paid the minimum regulated overtime rate when a driver worked more than forty-five

(45) hours in a week but did not pay overtime rates when a driver worked more than nine (9) hours in a day. Vicinity stated that it had misinterpreted the Rate Order and agreed that it owed a total of \$1,389.98 to three drivers across June 2023 and February 2024 for daily overtime.

19. That auditor noted that Vicinity's explanation most likely meant it had not paid daily overtime since the Rate Order was amended to include overtime rates on May 1, 2023.

#### *Payroll Records*

20. Vicinity failed to provide electronic records of hours worked and/or trips performed by each driver and explained that it did not have an electronic device or technology in its trucks to generate such records as required under section 6.7 of its CTS license until November 2024.
21. The auditor contacted five drivers who each confirmed Vicinity installed an electronic tracking system in November 2024.

#### *Audit Report*

22. On April 22, 2025, the auditor prepared an audit report ("Audit Report") that concluded the following:
- Vicinity normally pays its IOs by the trip but anytime a driver moves a container for a particular customer Vicinity pays them an hourly rate.
  - IOs who are paid the hourly rate are sometimes paid more than if they were paid the trip rate and sometimes paid less than if they were paid the trip rate.
  - 15 sampled IOs were incorrectly paid the Lower Hourly Rate for work performed prior to April 2022 and 8 sampled IOs were incorrectly paid the Lower Hourly for work performed in July 2022, January 2023, June 2023 and February 2024.
  - Three Company Drivers were not paid the daily overtime rate in June 2023 and February 2024 and are owed \$1,389.98 as a result.
  - Vicinity did not equip its vehicle with electronic devices or technology CTS license prior to November 2024.
23. A copy of the Audit Report was provided to Vicinity on May 2, 2025 with a deadline to provide a submission no later than June 2, 2025. Vicinity provided a submission by the deadline.

#### *Licensee's Response*

24. Vicinity did not dispute the findings of the Audit Report and accepts responsibility for not complying with the Act and offers an apology.

### **Decision**

#### *Independent Operators*

25. I accept the undisputed findings of the Audit Report and find that Vicinity was in breach of section 1(i) (formerly section 1(g)) of Appendix A of the CTS license when it paid an hourly rate to IOs who normally

receive a trip rate (“hybrid rate”) during the Audit Period.

26. My understanding from the Audit Report is that Vicinity normally paid all its IOs trip rates with the exception of when they moved containers for one particular customer. Vicinity was prohibited by Appendix A of its licence from paying its trip rate IOs by the hour and this resulted in a breach of section 23 of the Act in the Audit Period when the IOs were paid less than the regulated trip rate they were entitled to receive.
27. Section 1(i) of Appendix A of the CTS license is generally intended to ensure that licensees do not adjust their compensation methods based on “specific circumstances” of the trip in a such a manner that is beneficial to the licensee and detrimental to the driver.
28. In Olympia Transportation Ltd. (CTC Decision No. 10/2021) (“Olympia”) and GRL Freightways Ltd. (CTC Decision No. 01/2022) (“GRL Freightways”) the licensees normally paid their IOs by the trip but paid an hourly rate based on the expectations of their customers. In both cases the former Commissioner noted that the licensees ought to have known such practices were in breach of the CTS license, issued an administrative fine and required the licensee to pay their IOs the appropriate trip rates.
29. I adopt the analysis set out in Olympia and GFL Freightways.
30. The prohibition against a hybrid method of payment was included in the CTS licence on the recommendation of Vince Ready and Corinn Bell, who, in their October 2015 report stated that:
 

...an important aspect of the Joint Action Plan, and one that we support, is that trucking companies be prohibited from moving drivers from an hourly model to a trip rate model, depending on the day and/or circumstances. We feel that it is important that drivers know whether they are employed with a company on a trip rate basis or an hourly rate basis and that such is clearly defined by the company at the outset of the relationship. We recommend that a prohibition respecting employing hybrid hourly/trip rate drivers remain an important feature of the sector going forward.
31. In this case, Vicinity similarly adopted the hybrid method of payment at the request of its customer. Although, during certain months of the Audit Period the IOs received more money than they would have received had they been paid by the trip, at other times they received less. While there is no evidence Vicinity was motivated by an improper purpose, the fact remains that it paid a hybrid rate that resulted in drivers, at times, earning less they would have if they were paid by the trip.
32. The appropriate remedy in this case is to require Vicinity to pay the difference between the trip rate and the hourly rate (if any) for all of the Hourly Work. Vicinity has acknowledged that it has paid its trip rate IOs the Lower Hourly Rate in circumstances where the IOs have more than the threshold number of hours. However, I do not accept that the appropriate remedy is for the licensee to pay the IOs with more than 2,340 hours licensee experience the Higher Hourly Rate for the Hourly Work because that does not ensure that they will receive what they should have been paid by the trip. In light of the fact that these IOs are normally compensated by the trip, I do not need to address the “administrative error” that resulted in Vicinity’s paying the Lower Hourly Rate to the IOs who performed the Hourly Work. The issue of whether drivers were entitled to the Lower or the Higher Hourly Rate did not arise

outside of the IOs where were paid hourly for the Hourly Work.

#### *Company Drivers*

33. Vicinity breached section 23 of the *Act* when it failed to pay the daily overtime rate to its company drivers in June 2023 and February 2024.

#### *Payroll Records*

34. Vicinity was in breach of section 6.7 of its CTS license when it failed to have equipment in its trucks to track the number of hours worked and trips performed between December 1, 2022 and November 2024.
35. The seriousness of the available penalties indicates the potential gravity of non-compliance with the *Act*. The *Act* is beneficial legislation intended to ensure that licensees pay their employees and IOs in compliance with the established rates. Licensees must comply with the legislation, as well as the terms and conditions of their licences, and the Commissioner is tasked under the *Act* with investigating and enforcing compliance.
36. In keeping with the above-described purpose of the legislation the factors which will be considered when assessing the appropriate administrative penalty include the following as set out in Smart Choice Transportation Ltd. (OBCCTC Decision No. 21/2016):
- The seriousness of the respondent's conduct;
  - The harm suffered by drivers as a result of the respondent's conduct;
  - The damage done to the integrity of Container Trucking Industry;
  - The extent to which the licensee was enriched;
  - Factors that mitigate the respondent's conduct;
  - The respondent's past conduct;
  - The need to demonstrate the consequences of inappropriate conduct to those who enjoy the benefits of having a CTS licence;
  - The need to deter licensees from engaging in inappropriate conduct, and
  - Orders made by the Commission in similar circumstances in the past.
37. In assessing an appropriate penalty, I am mindful that Vicinity has been the subject of two previous audits which determined its was compliant with the *Act* and Vicinity has accepted responsibility for each of the breaches identified in the Audit Report.
38. However, each breach in this case is a serious offense and has often generated an administrative penalty. In Olympia and GRL Freightways, the licensees were issued administrative fines of \$8,000 and \$5,000 respectively for, *inter alia*, using a hybrid compensation model. In Royal City Roadline Transport Inc. (CTC Decision No. 08/2024) and Team Transport Services Ltd. (CTC Decision No. 16/2024), the licensees were issued administrative fines of \$2,000 and \$6,000 respectively for, *inter alia*, not paying the regulated rates for overtime. In Canada West Warehousing Ltd. (CTC Decision No. 17/2024) and Triangle Transportation Ltd. (CTC Decision No. 14/2024), the licensees were issued administrative fines of \$6,000 and \$8,000 respectively for, *inter alia*, not being compliant with section 6.7 for a lengthy

period of time.

39. The auditor did not quantify the amount Vicinity owed to each driver during the Audit Period as a result of the hybrid method of compensation but, given the relatively similarities between the hourly rates and the trip rates paid to IOs, I anticipate that the total amount owing will not be significant given the similarities between the two rates. I also note that the sum of \$1,389.98 owing to the Company Drivers for daily overtime in June 2023 and February 2024 is not a significant amount, but the total amount is likely to be more considering that Vicinity does not appear to dispute that it has failed to pay daily overtime since the amended Rate Order was introduced on May 1, 2023.
40. While Vicinity has now equipped its trucks with electronic tracking equipment for tracking hours and trips, I find nearly two years to be a significant period to be in breach of its CTS license.
41. I have decided that an administrative fine of \$7,000.00 is appropriate. In assessing an appropriate penalty, I am mindful that Vicinity has been the subject of two previous audits which determined its was compliant with the Act and Vicinity has accepted responsibility for each of the breaches identified in the Audit Report.
42. In the result, and in accordance with sections 9 and 34(2) of the Act, I hereby give notice that:
  - a) I propose to impose an administrative fine against Vicinity in the amount of \$7,000.00;
  - b) I order Vicinity to pay the three company drivers identified in the Audit Report a total sum of \$1,389.98 for daily overtime earned in June 2023 and February 2024;
  - c) I order Vicinity to review its payroll records between May 1, 2023 (the date the overtime rates became effective) to the date of this decision (except for the pay periods in June 2023 and February 2024) to ensure that it is complaint with the overtime rates set out in the Rate Order and to make the appropriate payments to its drivers to bring itself into compliance;
  - d) I order Vicinity to review its payroll records as they relate to the Hourly Work and pay the difference between the compensation paid to the IO in each pay period and the amount that should have been paid (inclusive of trip rate, PMR and fuel surcharge) for each trip performed.
43. The orders set out in paragraph 42 (b) - (d) must be completed no later than 30 days after the date of this decision and Vicinity must provide calculations and proof of payment to the Registrar no later than 45 days after the date of this decision.
44. Should it wish to do so, Vicinity has 7 days from receipt of this notice to provide the Commissioner with a written response setting out why the proposed penalty should not be imposed.
45. If Vicinity provides a written response in accordance with the above, I will consider its response and I will provide notice to Vicinity of my decision to either:
  - a) Refrain from imposing any or all of the proposed penalties; or
  - b) Impose any or all of the proposed penalties.

46. This decision will be delivered to Vicinity and will be published on the OBCCTC's website ([www.obcctc.ca](http://www.obcctc.ca)) after Vicinity's response period has closed.

Dated at Vancouver, B.C., this 12<sup>th</sup> day of August 2025.

A handwritten signature in blue ink, reading "Glen MacInnes". The signature is fluid and cursive, with the first name "Glen" and last name "MacInnes" clearly distinguishable.

Glen MacInnes  
Commissioner