

Port Transportation Association



To the Attention of Michael Crawford
Office of the British Columbia Container Trucking Commissioner
1085 Cambie Street
Vancouver, BC V6B 5L7

August 30, 2021

RE: Off-Dock Drayage Recommendation Report and Reform Response

Mr. Crawford,

Please accept this letter as the Port Transportation Association's response to both the Office of the British Columbia Container Commissioner's Off-Dock Drayage in the Lower Mainland Recommendation Report as well as the subsequent Off-Dock Reform CTS Licence and Rate Order Amendments.

In an attempt to clearly lay out our thoughts, we will address the six recommendations within the Report individually, with the exception of recommendations 1 and 2 which are closely tied together and will be addressed in one comment.

Recommendation 1 & 2: (1) Amending the CTS Licence to apply the terms and conditions to any company affiliated with the licensee and moving containers and requiring licensees to make available upon request contracts between licensee and entities carrying out CTS on their behalf to demonstrate truckers performing CTS on behalf of a licensee are paid the required rates. (2) Assigning truck tags to licensees only for the purpose of identifying trucks requiring access.

As noted in our letter dated October 27, 2020, during the initial call for submissions, the PTA maintains the position that the attempt to regulate off-dock work is a massive administrative task for all stakeholders including the Commissioner's Office that will come at the financial cost of CTS Licensees. An action such as the purposed, pushes into regulating the industry in a way it was never meant to be regulated. The OBCCTC seems determined to pander to a select (small / fringe) group, by attempting to control who and who cannot have access to container work, and whether container work is being completed by I/O or company driver.

This is a free market that all stakeholders enjoy, we must ensure it remains as such. Drivers will tend to migrate to companies that treat them fairly and are able to maintain a level of available work that may or may not be local container work.

1

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The Off-Dock section of the drayage industry is complex and as we have attempted to convey in our communications with the OBCCTC over the past few months, in continuous flux as we see container volumes vary immensely resulting in surges of off-dock activity.

The Commissioner's office has failed to engage with companies that either try to maintain a small to medium fleet or companies that have requested additional company tags and were refused.

We all understand that the industry is volatile and there is no accurate way of gaging truck capacity whether the volatility is a derivative of late vessels, planning issues at the Ports, over capacity at the off-docks, or in general, the economy having its ups and downs.

As of this point the OBCCTC's off-dock tagging system will create costs for licenses that will in turn create new loopholes, so while standardizing rates may ease the perceived threats of undercutting or I/Os missing out on off-dock work, there are other variables created by your suggestion to tag licensee's off dock units that negate that.

We want to be clear, there is and has always been a shortage of drivers in B.C., to think that companies are utilizing drivers that will work for a substantial amount less than the posted rates, is simply untrue. The amount would equate to a couple dollars less pr hour at best. Having said that, most companies pay the minimum rate to all drivers as it stands.

The small if any rate reduction would have a minimal impact on "rate cutting" for the simple reason that customers will not switch carriers to save 10 to 15 dollars per container.

As of now, off-dock work can be completed by any company. By tagging a CTS Licensee unit as off-dock accessible, you have now increased CTS License fees, security fees, and add costs of both TLS GPS and an ELD as noted in recommendations 3 through 6. Non CTS Licensee companies can still complete off-dock work as long as if they are paid the OBCCTC set rate if contracted by a CTS Licensed company.

With these new regulations coupled with shipping prices soaring and customer price sensitivity, we predict that off-dock work will fall to larger CTS companies who can offset the new costs, or to non CTS licensed companies who as long as they are paid the correct rate, do not need to comply with the additional measures. Either way, the off-dock work shifts, leaving many drivers and I/Os without the work they need.

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We once again maintain that the off-dock drayage sector has only been a complaint of a select group within the industry, and attempting to regulate a sector that, capacity issues aside, is working with a solution that does not fit, risks the strides the industry has made in the past seven years.

The PTA would like to see the off-dock section of the industry left to operate as is and have the OBCCTC focus on expanding the initiatives to allow for sustainable on-dock growth and improving industry flow and safety.

Recommendation 3: Amendment of Section 25 of the Regulation.

The 2020 Licence Application Approval already altered the security amount, which members noted created difficulties in obtaining as it was. Many of the small and mid-sized companies see owners putting up their own personal assets in order to secure these securities.

We believe that the security amounts are high enough at this time and increasing the security amount should the off-dock changes proceed is unnecessary.

Recommendation 4: OBCCTC Funding.

The PTA would like to support the Flat Fee Per Truck funding model of the OBCCTC as shown in the Off-Dock Reform CTS Licence and Rate Order Amendments moving forward, with or without off-dock regulation. As an advocate for smaller TLS companies, we believe that a per truck rate structure represents a fair disbursement of the estimated budget required to operate the OBCCTC in the coming years.

Funding the OBCCTC in a flat fee per company or the Step Function Fee Structure create an unnecessary financial hardship to the small to mid-sized carriers and put them at risk during periods of economic slowdown.

Recommendation 5: Amending the Rate Order to introduce a minimum hourly rate for employees and Independent Operators.

The PTA is concerned that the OBCCTC believes that dictating whether a company pays hourly rather than a trip rate would be an appropriate endeavor. If a company is paying their employee or I/O at the set rate, the OBCCTC should not have the power to determine which pay method should be used, as each company is responsible for their own financial decisions and should pay according to what works best for their business model and the wishes of those they employ.

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Furthermore, we believe that the OBCCTC will create driver frustration and dissatisfaction by mandating all I/Os be paid under the hourly model, especially those who may not have the seniority to be granted the number of hours necessary to receive a livable wage after expenses. This switch will alter how many companies dispatch, but drivers will be working more hours to earn equal, if not less pay.

As noted in our original letter from October 27, 2020, when the off-dock review was in early stages, many I/Os prefer to work set schedules and set hours. There will be a number of I/Os left blindsided by this change, as doing a few runs a day at a flat rate will now change to full days and less downtime.

Additionally, we believe that instability within the industry will also follow should the OBCCTC follow through with the hourly rate only pay model. The industry as is, has little room for undercutting and each company tends to have set long term customers, with some exceptions. By creating a set rate, companies will move forward dispatching round trips with export in, import out to save on costs, and allowing them to undercut on one of the legs in attempt to draw new customers and ensure no empty chassis are entering or leaving the Ports.

Recommendation 6: Third Party ELD Requirement

The PTA believes that ELDs are useful, however would like to note that currently trucks registered as travelling within 160k of their home terminal are exempt from having to run an ELD system. As this rule would encompass a good number of tagged TLS trucks, both on-dock and potentially off-dock should this move forward and require all companies to work with a Certified provider willing to accommodate the 4-year storage of data — significantly longer than the NSC requirements. As TLS licensees are already required to pay to run the required GPS unit, which is accessible to the OBCCTC, is the OBCCTC willing to compensate or offset these costs at all?

Overall, the PTA believes that the OBCCTC has missed the mark on this proposal. Instead of working to improve the drayage industry in the Lower Mainland, the Commissioner has continued to remove himself from the daily realities faced by carriers, leaving his actions at odds with the actual needs of the majority. There has been an overstep in power in order to protect the I/O segment of the industry that has gone over and above ensuring proper pay rates, and in doing so the Commissioner is at risk of opening the industry to the very turmoil and disruption his position was created to solve. We invite the Commissioner to join us in real communication, and a visit to our day-to-day operations to see firsthand how these proposed policies will impact the industry.

4

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We thank you for the opportunity to express our thoughts, opinions, and concerns regarding these changes, and look forward to continuing the conversation during the Consultation meetings this fall.

Sincerely,

Port Transportation Association