

<p>IN THE MATTER OF A CONTROVERSY</p> <p>BETWEEN</p> <p>PACIFIC MARITIME ASSOCIATION</p> <p>AND</p> <p>INTERNATIONAL LONGSHORE AND WAREHOUSE UNION LOCAL 63</p> <p>Re: Non-Marine Clerks updating and maintaining databases for truck information.</p>	<p>SCAA-0034-2006</p> <p>OPINION AND DECISION</p> <p>of</p> <p>David Miller Area Arbitrator</p> <p>July 18, 2006</p> <p>Long Beach, California</p>
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The hearing was held at 12:55 P.M. on Tuesday, July 18, 2006 at 1171 Pier "F" Avenue, Long Beach, California. Each party was afforded full opportunity for examination and presentation of relevant arguments, documents, and testimonies of witnesses. A Certified Shorthand Reporter was in attendance and recorded a transcript of the hearing.

APPEARANCES:

FOR THE EMPLOYERS:

Jacque Ferneau
Pacific Maritime Association

FOR THE UNION:

Joe Gasperov
ILWU Local 13

ALSO PRESENT:

R. Clark, PMA
A. Diaz, Local 63
C. Lueke, LBCT
E. Kuljis, Matson
M. Harding, SSA
R. Marzano, PMA
K. Southerland, ITS
T. Burdine, YTI

ISSUE:

Whether LBCT is in violation of the PCCCD, Section 1 and the Technology Framework by allowing non-bargaining personnel to update and maintain databases for truck drivers.

BACKGROUND:

The record is clear through joint exhibits that the issue in dispute is properly before this Arbitrator pursuant to Section 6 (B)(8) of the Technology Framework.

This hearing was held at the site of the instant dispute. Both parties are in agreement as to the substance at issue.

UNION:

The Union contends that LBCT is in violation of sub-sections "A", "B", and "C" of the framework and applicable sections of the PCCCD.

It is asserted by the Union that the work in question has been awarded to the Union in SCAA-0019-2004 (Un. Ex. No. 1).

The implementation of the above Award was achieved by the Employer instructing the truck companies to fax driver information to the terminal and then have a marine clerk input this information into a database.

It was established by the Union that the above was the procedure from August 2004 until approximately March 2006. This Award was affirmed in C-03-05 and within directed the parties to implement such award pending an additional hearing at the area level. The additional hearing was never requested by either party.

The fundamental claim of the Union is that LBCT has entered into an agreement with an outside vender, Emodal, to update and maintain the database as it pertains to trucker information within Emodal's system. It is claimed that the truck company provides the truck driver's license and name to Emodal who then controls such information to make available to LBCT through the computer system.

Union Exhibit No. 6 contained numerous awards that in their opinion uphold the definition of Section 1 work that relates to receiving and delivery. The Union cites the following sections of the PCCCD to support their claim.

1.12 When an employer desires to have clerks' work performed in the dock area, clerks shall be employed to do it.

1.13 Documentation work performed by clerks as of July 1, 1978 shall continue to be performed by clerks. In the event that new documents are developed which replace existing documents, then clerks shall be assigned to perform work on such new documentation. If computer remote terminals, electronic or mechanical devices are introduced to replace existing or new documentation, then clerks shall be assigned to perform work on such new equipment for that portion of the work which is recognized as being covered by Section 1. In any event, such work shall not be assigned to non-clerks off dock.

1.131 When any work described in Section 1 is performed by computer remote terminals, electronic, or mechanical devices, the necessary operation of such devices shall be performed by clerks for only the portion of the work which is recognized as being covered by Section 1. The intent is to preserve the traditional work of clerks as provided by the Agreement.

1.21 The Employers have the sole right to determine whether or not work covered by this Contract Document and the clerks' Port Supplement and Working Rules should be performed. The mere fact that this Contract Document and the clerks' Port Supplements and Working Rules contain wage classifications, job titles or definitions shall not be construed to require the employment of men in such categories.

1.22 However, when any such work is to be done, employees covered by this Contract Document, clerks' Port Supplements and Working Rules, shall be used.

1.23 Employers will not exercise their option as to whether or not work is to be performed as provided in Section 1.21 as a subterfuge to have workers other than employees covered by this Agreement perform such work. It shall be a subterfuge for an employer to assign to or arrange for others to perform work of clerks as provided by this Agreement. ILWU will not use the understanding that such work to be done as described in Section 1.22 as a subterfuge to require the employer to place unnecessary men on the job.

EMPLOYER:

The position of the Employer is that the introduction of the disputed procedure is not a contractual violation and the Employers are entitled to the free flow of information and that the re-keying of information by marine clerks is eliminated.

Employer Exhibit No. 1 is a web page describing what Emodal offers through their system to container terminals.

The Employer states that the Emodal system allows for RFID information which is required for the new RFID security initiative that will affect terminal operators industry wide.

It is the contention of the Employer that the following five points define their freedom to utilize the Emodal system as it pertains to trucker information.

1. LBCT's adoption of Emodal is the basis and purpose of the technology framework.
2. Clerks have re-keyed information given to them by trucking companies.
3. Section A. (5) of the framework is essential to the principal of the PCCCD.
4. Section "C" of the framework modifies Sections 1.13 and 1.131 of the PCCCD.
5. Marine clerks work has not been assigned to non-bargaining unit personnel, but some functions have been discontinued as a result of the Emodal technology.

The Employers claim that the Union is attempting to interject itself between the trucking company and LBCT to manipulate data transmission.

It is the position of the Employer that to stop the free flow of information from Emodal is to prevent the quintessence of what was achieved in 2002 Negotiations.

OPINION:

This decision shall be rendered as per the instructions of Coast Arbitrator Kagel in C-02-03 and is relevant only to the terminal of the instant dispute.

There is precedent for this issue at the LBCT Terminal within Awards SCAA-0019-2004 and C-03-05. The original dispute was adjudicated in SCAA-0019-2004 and the issue was updating and maintaining databases for truck information. That award was appealed to Coast Arbitrator Kagel and was affirmed in C-03-05 with the stipulation of an additional hearing that did not materialize.

The record and positions of the parties in the instant dispute are similar in that the Union alleges that the truck companies currently submit trucker information and make such information available to LBCT. It is the contention of the Union that such information and the maintaining of the database were awarded to the Union in the mentioned awards. It is with certainty that the maintaining of databases for truck companies as it relates to receiving and delivering cargo has properly been established as that of marine clerks.

Within the record it is unambiguous that the Employer complied with the two awards by directing the truck companies to fax the necessary information to the terminal and then instructing the clerk to enter the information into the database. The record is clear that LBCT then made a decision to enter into an agreement with Emodal to receive the same information that was being sent directly from the truck company to the terminal.

It is this decision by LBCT that this Arbitrator finds fault.

The rationale for a final decision is guided by the frameworks three sections. Those sections titles read: Section "A" Controlling Principles, Section "B" Procedure for Implementation of New Technologies and Section "C" To the extent the provisions of Paragraph (A) and (B) above conflict with existing Contract provisions, Work Rules, practices or Arbitrators' decisions, the provisions of Paragraph (A) and (B) shall control. The Parties agree to modify the existing work assignment provisions of Sections 1.13 and 1.131 of the PCCCD as follows:

Also, Section 1 of the PCCCD, SCAA-0019-2004 and C-03-05 shall be considered in this decision.

Section A-2

All traditional marine clerk work modified by any technology shall be assigned to marine clerks in accordance with section 1 of the PCCCD as modified herein.

This section is applied to the instant issue to infer that truck information must be input into the database by clerks. It is not permissible for the Employer to allow OCU (old method) or Emodal (new method) to maintain such database.

Section A-3

Work assignments may be discontinued to the extent they become unnecessary as a result of technology.

This is not applicable given that the job function in question has not become unnecessary.

Section A-4

In consideration for the modification and elimination of certain marine clerks' work that may occur as a result of technology, any new marine clerk's work created by the introduction of technology shall be assigned to marine clerks at a terminal and, thereafter, such assignment shall be construed as having the same effect as if it were an addition to Section 1

of the PCCCD at that terminal. All work created by technology or modified by technology that is functionally equivalent to the work of the marine clerks within their traditional Union jurisdiction, shall be assigned to marine clerks and remain marine clerks' work.

- a) New technologies shall be implemented in accordance with traditional Union jurisdiction set out in Section 1 of the PCCCD.
- b) All traditional marine clerks' work, including work modified by any technology, shall be assigned to marine clerks in accordance with Section 1 of the PCCCD.
- c) All work created by technology, including the operating of such technology, that is functionally equivalent to traditional marine clerks' work shall be assigned to marine clerks.
- d) Technologies shall not be used to shift traditional Union jurisdiction to non-bargaining unit employees or facilities. Bargaining unit jobs may be eliminated only as a result of labor-saving devices and technologies and not as a means to achieve labor cost saving by using a cheaper work force or subcontractor.
- e) In exchange for the Employers' right to introduce new technologies, the following work and functions shall be assigned to marine clerks at all facilities covered by the PCL&CA.

- i. Yard Planning Operations.

Marine clerks shall be assigned yard planner duties and functions generally identified as directing and executing the flow of cargo, planning and determining the particular place or area on a terminal dock or container yard facility where cargo is to be placed or relocated and involving the preparation, confirmation, distribution and reconciliation of all documents required by the employer for such work, including the input of data or the utilization of computer programs. It is understood that the practice of direction of supervisors by management is recognized and shall not be disturbed.

- ii. Rail Planning Operations.

Marine clerks shall be assigned rail planner duties and functions generally identified as directing and executing the flow of cargo, planning and determining the particular place or area on a rail car where cargo is to be placed or relocated and involving the preparation, confirmation, distribution and reconciliation of all documents required by the employer for such work, including the input of data or the utilization of computer programs. It is understood that the practice of direction of supervisors by management is recognized and shall not be disturbed.

The above section and its intent as written were affirmed in Awards SCAA-0019-2004 and C-03-05 as it pertains to this issue at the LBCT terminal.

Section A-5 is not relevant to this dispute.

Section A-6

All work and functions that are to be performed as part of any port security measures that may be mandated by law or regulation shall be performed by marine clerks to the full extent such work and functions are covered by Section 1 of the PCCCD.

The issue of port security was raised by the Employer on numerous occasions. However, the position that Emodal somehow in the future will assist the terminals in port security and requirement of a government mandated procedure is hereby denied as it was only conjecture at the time of the hearing.

Section A-7 is not relevant to this dispute.

All pertinent "B" Sections in this dispute have been observed by the parties.

Section "C"

To the extent the provisions of Paragraph (A) and (B) above conflict with existing Contract provisions, Work Rules, practices or Arbitrators' decisions, the provisions of Paragraph (A) and (B) shall control. The Parties agree to modify the existing work assignment provisions of Sections 1.13 and 1.131 of the PCCCD as follows:

"This Contract Document, as supplemented by agreements (Port Supplements and Working Rules) for the various port areas covered hereby, shall apply to all employees who are employed by the members of the Association to perform work covered herein. It is the intent of this Contract Document to preserve the existing work of such employees, except as described in Section 13 and Section 1.131.

"1.13 Documentation work performed by clerks as of July 1, 1978 shall continue to be performed by clerks. In the event that new documents are developed which replace existing documents, then clerks shall be assigned to perform work on such new documentation. If computer remote terminals, electronic or mechanical devices are introduced to replace existing or new documentation, then clerks shall be assigned to perform work on such new equipment for that portion of the work which is recognized as being covered by Section 1. In any event, such work shall not be assigned to non-clerks off dock; however, in instances where technology allows for data to be available, it is not required for the data to be re-entered and is not a violation of Section 1 to the extent specified in the Framework For Special Agreement On Application Of Technologies And Preservation Of Marine Clerk Jurisdiction, incorporated herein by reference.

"1.131 When any work described in Section 1 is performed by computer remote terminals, electronic or mechanical devices, the necessary operation of such devices shall be performed by clerks for only the portion of the work which is recognized as being covered by Section

1. The intent is to preserve the traditional work of clerks as provided by the Agreement, except as described in Section 1.13 or if such work is eliminated by technology as specified in the Framework For Special Agreement On Application Of Technologies And Preservation Of Marine Clerk Jurisdiction, incorporated herein by reference."

The above text is interpreted that the Employer may utilize new technology but shall not assign job functions of marine clerks to non-clerks off dock. However, such work is not required to be re-entered (re-keyed). In the instant dispute the Employer has allowed Emodal to now perform the input of information and thereby assigning clerks work to others off dock.

There has been no evidence submitted as to the claim of the Employers that the new procedure eliminates any re-keying by clerks. In fact, contrary to the Employers assertion of re-keying and prior to SC-0019-2004 OCU workers received the trucker information and keyed such information into the database. After SC-0019-2004, the clerks keyed the same trucker information into the database instead of the OCU. Sometime in early 2006 the Employer made the decision to allow Emodal to maintain the trucker information directly from the truck companies.

The actions of LBCT are in violation of the framework and Section 1 of the PCCCD. The Employer shall not allow for non-clerks to perform job functions that have been awarded the Union (SC-19-04, C-3-05). The Employer has based their argument on the fact that clerks are re-keying and that argument has failed based on the simple reality that re-keying by no means is a justifiable issue in this dispute.

In conclusion, it is obvious that LBCT's decision to retain the services of Emodal was based on the fact that Emodal offered a more reliable and accurate product than LBCT. In addition, LBCT admits that the truck company would update the Emodal database online (Employer witness Tr. Pg. 62-68).

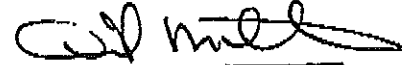
The arguments of the Employer are hereby dismissed for failure to state a claim upon which relief may be granted.

The issue of lost work opportunity will be addressed in the decision.

DECISION:

1. The Employer, LBCT, is found guilty of violating the framework for technology and Section 1 of the PCCCD by allowing non-marine clerks to maintain database for truck companies as it relates to receiving and delivering cargo.
2. The above described work shall be assigned to marine clerks.
3. The issue of lost work opportunity is hereby awarded to the Union with the following instructions.
 - a. The JPLRC shall meet and determine when LBCT began utilizing Emodal as it pertains to this issue.

- b. The JPLRC shall determine what and how many shifts were involved.
 - c. After the above is determined LBCT shall pay 1 clerk at the appropriate rate for each violation.
4. The Area Arbitrator shall retain jurisdiction of this award until final implementation.



David Miller
Area Arbitrator Southern California

Dated: September 29, 2006

<p>IN THE MATTER OF A CONTROVERSY</p> <p>BETWEEN</p> <p>PACIFIC MARITIME ASSOCIATION</p> <p>AND</p> <p>INTERNATIONAL LONGSHORE AND WAREHOUSE UNION LOCAL 63</p> <p>Re: Whether LBCT has fully implemented SCAA-0034-2006</p>	<p>SCAA-0038-2006</p> <p>OPINION AND DECISION</p> <p>of</p> <p>David Miller Area Arbitrator</p> <p>November 8, 2006</p> <p>Long Beach, California</p>
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The hearing was held at 9:04 A.M. on Wednesday, November 8, 2006 at the Pacific Maritime Association, 100 West Broadway, Suite 3000, Long Beach, California. Each party was afforded full opportunity for examination and presentation of relevant arguments, documents, and testimonies of witnesses. A Certified Shorthand Reporter was in attendance and recorded a transcript of the hearing.

APPEARANCES:

FOR THE EMPLOYERS: Jacquie Ferneau
Pacific Maritime Association

FOR THE UNION: Joe Gasperov
ILWU Local 63

ISSUE:

Whether LBCT has implemented SCAA-0034-2006.

DISCUSSION:

Union:

The Union presented Joint Exhibit No. 1 and the decision portions of SCAA-0034-2006 that reads:

DECISION:

- 1. The Employer, LBCT, is found guilty of violating the framework for technology and Section 1 of the PCCCD by allowing non-marine clerks to maintain database for truck companies as it relates to receiving and delivering cargo.***
- 2. The above described work shall be assigned to marine clerks.***
- 3. The issue of lost work opportunity is hereby awarded to the Union with the following instructions.***

- a. *The JPLRC shall meet and determine when LBCT began utilizing Emodal as it pertains to this issue.*
 - b. *The JPLRC shall determine what and how many shifts were involved.*
 - c. *After the above is determined SBCT shall pay 1 clerk at the appropriate rate for each violation.*
4. *The Area Arbitrator shall retain jurisdiction of this award until final implementation.*

It is the position of the Union that the Employer in pursuit of implementation offered a computer screen that contains the driver's name, license, company, and four (4) character codes for the trucking company. The clerk then hits the approve button and all information then disappears from the screen. It is further alleged by the Union that E-Modal, a non-member of the PMA continues to input the information required to maintain the database for truck companies.

Employer:

The Employer states that the marine clerk reviews the data on the screen and then has the ability to approve this information individually or as a whole. The marine clerk can choose to accept or not accept the data.

The Employer presented Anthony Otto, Terminal Manager for LBCT, It was Otto's testimony that the information flows from E-Modal as it had before SCAA-0034-2006 but it is now held in a queue until released by a marine clerk. It is the Employer's position that there is no other method to implement the award without jeopardizing LBCT's bargaining rights.

There were questions asked by this Arbitrator of Otto in an effort to establish facts on the record. Otto testified that the clerk in reality had no decisions to make in regards to the screen (Tr. Pgs 17-18).

During questioning (Tr. Pgs. 21-22) Otto admits to having knowledge that a PMA member company owns E-Modal.

It was requested on the record if the Employers would clarify if in fact SSA owns E-Modal. This request was denied and in attainment of a decision E-Modal shall continue as in the past to be considered a non-member company of PMA.

The Employer stated that it is the Employer's option to order re-keying if they so decide and is supported in the last sentence of Section "A" sub-section five (5) of the framework that reads:

However, there shall be no re-keying of information, except as required by the employer.

OPINION:

The parties are in agreement that Item No. 3 of the decision has been implemented.

This decision shall be guided by past awards that have long established the fundamental principal that a non-member company of the PMA cannot enter into agreements that modify the Master Agreement between the PMA and the ILWU.

The position of the Employers is that to comply with the award they would instruct the clerk to re-key information as written in Section "A"-5 of the framework.

This section cannot be utilized by merely bringing attention to the last sentence of the section. To be afforded the right to re-key the Employer must conform to all obligations that are contained in Section A-5. That entire section reads:

5. *For the free flow of information to and from a terminal, the Employers shall establish a terminal control center(s) at each marine container facility.*

a) Terminal Control Center(s).

A Terminal Control Center is a place(s) within a dock or terminal staffed by marine clerks where all documentation and/or electronic information/data and archived information for cargo and/or cargo equipment shall be accessed, and/or transmitted to and from external sources by marine clerks to perform clerk's work covered by Section 1 of the PCCCD. The monitoring and access of documentation, information and data at a terminal to perform clerks' work shall be through the Center. This information shall include all documentation, whether in the form of paper, electronic methods and any other technologies to perform work within the clerk's jurisdiction. All corrections, additions, deletions, adjustments, manipulations, and operationally necessary confirmations to the information/documentation or data within the clerk's jurisdiction shall be done there. However, there shall be no re-keying of information, except as required by the employer.

b) Terminal Control Operations.

A Marine Clerk Supervisor(s) shall be assigned the following work and functions consistent with Section 1 of the PCCCD; specifically, accessing computer systems related to the terminal operations for the purpose of inputting and/or receiving data into the computer system as well as making any corrections, additions, deletions, adjustments and manipulations to such data per established practice at each terminal for all vessel, train and gate operations at the terminal and throughout all loading and unloading operations starting at a point in time per the established practice at each terminal. Any of the above data that comes from non-bargaining unit personnel must be administered through the Marine Clerk Supervisor.

There is nothing on the record to support that the above Section has been achieved and that the parties are in agreement as to such.

The decision of SC-19-04 and confirmed in C-3-05 established the fact that marine clerks shall input trucker database information into the database at the terminal. Award SC-34-06 was guided by the above awards and does not allow such work to be used as a subterfuge and allow LBCT to obtain the services of an outside vendor (E-Modal) to perform the function of work described in this dispute.

The entire record and positions of both parties have been considered in attainment of the following decision.

DECISION:

1. LBCT is found in violation of not fully implementing SCAA-0034-2006.
2. The JPLRC is hereby ordered to immediately meet and implement the award.
3. If the parties remain in disagreement as to implementation at 5:00pm on November 30, 2006 the parties shall notify the Area Arbitrator.
4. The Area Arbitrator shall retain jurisdiction of this award pending final implementation.

/s/ David Miller
David Miller
Area Arbitrator Southern California

Dated: November 21, 2006

IN THE MATTER OF A CONTROVERSY	SCAA-0002-2007
BETWEEN	OPINION AND DECISION
PACIFIC MARITIME ASSOCIATION	of
AND	David Miller
INTERNATIONAL LONGSHORE AND WAREHOUSE UNION	Area Arbitrator
LOCAL 63	January 9, 2007
Re: Implementation of SCAA-0034-2006 and SCAA-0038-2006.	Long Beach, California

The hearing was held at 10:10 P.M. on Wednesday, January 9, 2007 at the 1171 Pier "F" Avenue, Long Beach, California. Each party was afforded full opportunity for examination and presentation of relevant arguments, documents, and testimonies of witnesses. A Certified Shorthand Reporter was in attendance and recorded a transcript of the hearing.

APPEARANCES:

FOR THE EMPLOYERS: Jacquie Ferneau
Pacific Maritime Association

FOR THE UNION: Joe Gasperov
ILWU Local 63

ALSO PRESENT: A. Otto, LBCT
A. Diaz, Local 63

ISSUE:

Whether LBCT has fully implemented SCAA-0038-2006 and SCAA-0038-2006 as they pertain to clerks work.

BACKGROUND:

The first hearing was held at the site of the dispute on July 18, 2006 and the following decision was rendered on September 29, 2006.

DECISION:

1. *The Employer, LBCT, is found guilty of violating the framework for technology and Section 1 of the PCCCD by allowing non-marine clerks to maintain database for truck companies as it relates to receiving and delivering cargo.*
2. *The above described work shall be assigned to marine clerks.*
3. *The issue of lost work opportunity is hereby awarded to the Union with the following instructions.*
 - a. *The JPLRC shall meet and determine when LBCT began utilizing Emodal as it pertains to this issue.*

- b. The JPLRC shall determine what and how many shifts were involved.*
- c. After the above is determined LBCT shall pay 1 clerk at the appropriate rate for each violation.*
- 4. The Area Arbitrator shall retain jurisdiction of this award until final implementation.*

The second hearing (SCAA-0038-2006) was held at the PMA office in Long Beach on November 8, 2006 and the following decision was rendered on November 21, 2006.

DECISION:

- 1. LBCT is found in violation of not fully implementing SCAA-0034-2006.*
- 2. The JPLRC is hereby ordered to immediately meet and implement the award.*
- 3. If the parties remain in disagreement as to implementation at 5:00pm on November 30, 2006 the parties shall notify the Area Arbitrator.*
- 4. The Area Arbitrator shall retain jurisdiction of this award pending final implementation.*

The instant hearing was held at LBCT and complete demonstrations of the job functions in dispute were afforded this Arbitrator.

CONCLUSION:

This Arbitrator is convinced that the job function(s) in dispute at the first hearing are no longer in dispute and LBCT is now in compliance with the PCCCD as it relates to the disagreement over clerks work.

It is this Arbitrator's opinion that LBCT has achieved its obligation to preserve the existing clerk work that remains after commencement of technology at its LA/LB terminal implicated in this dispute.

There were two outstanding issues pertaining to the dispute that are to be considered resolved by the parties (see attached).

DECISION:

LBCT is in full compliance with SCAA-0034-2006 and SCAA-0038-2006.

/s/ David Miller

David Miller
Area Arbitrator Southern California

Dated: January 17, 2007



Long Beach Container Terminal, Inc.

1171 Pier F Avenue
Tel: (562) 433-8585

Long Beach, California 90802-6252
Fax: (562) 437-1206

January 11, 2007

Mr. Joe Gasperov
ILWU Marine Clerks Association Local 63
350 West 5th Street, Suite 200
San Pedro, California 90731

Re: Follow up to Arbitration Hearing held January 9, 2006 Involving
Implementation of SCAA-38-2006

Joe,

In follow up to the Arbitrators direction at our non implementation arbitration of 1/9/06, below is information concerning the two outstanding issues that remained in question.

Issue #1 questioned the purpose and functionality of a specific type of update which I was unable to explain at the time of the group's observation in the gate tower. After checking I found that this type of update was for the addition of a new trucking company. While 99% of the updates are associated with truck drivers, when a new company is created the update appears with just the trucking company information. This update precedes subsequent updates of the truck drivers who are later added for that trucking company.

Issue #2 was the need for updates associated with the deletion of truck driver information to be included in the data being updated by Marine Clerks.

After closer review of the driver data base, it was brought to my attention that within eModal truck driver deletions do not occur. The equivalent of a driver deletion is the process of deactivation. The driver is not removed from the data base. He is simply deactivated or reactivated for an individual company.

With this in mind and in the spirit of what was agreed, we have now included this additional update activity into the marine clerks work queue. For your review, I have attached prints of the new screens as they relate to the new activate or deactivate work process.



Long Beach Container Terminal, Inc.

1177 Pier F Avenue
Tel: (562) 435-8585

Long Beach, California 90802-6252
Fax: (562) 437-1206

LBCT has put into production the changes described. Should you wish to view the above changes, please notify me at your earliest convenience so that we can make arrangements.

Respectfully;

Anthony Otto
Vice President, Operations

Cc: J. Ferneau, PMA
D. Miller
A. Merrick

www.ilwu63.net

INTERNATIONAL
LONGSHOREMEN'S
& WAREHOUSEMEN'S
UNION



Business Office: 521-5363 • Dispatch Hall: 521-7768 • FAX: 521-6343

**MARINE CLERKS ASSOCIATION
LOCAL 63** LOS ANGELES and LONG BEACH HARBORS

350 WEST 5TH STREET, SUITE 200

SAN PEDRO, CALIFORNIA 90731

JOE W. GASPEROV
PRESIDENT

January 17, 2007

Mr. Anthony Otto
Long Beach Container Terminal, Inc.
1171 Pier F Avenue
Long Beach, CA 90802-6252

Re: Your Letter Dated January 11, 2007

Dear Anthony,

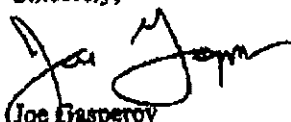
I have received and reviewed your letter to me regarding the two outstanding issues that remained in question at the arbitration hearing on January 9, 2007.

As I understand it, Issue #1 involved truck companies that did not exist in your system and the clerk, when there needs to be a new truck company added, will perform the necessary input. At some later time, a clerk will then add the necessary information for individual drivers.

Issue #2 involved the question regarding how truck drivers that were no longer working for a particular company were removed from your computer system. I understand that there was no function prior to the day of the hearing, but now when you require a truck driver to be removed or deactivated, a clerk will perform this work.

It is my belief that you have fully answered the two issues satisfactorily.

Sincerely,


Joe Gasperov
ILWU Local 63
President

Cc: J.Perneau, Pacific Maritime Association
D.Miller, So. California Area Arbitrator

IN ARBITRATION PROCEEDINGS PURSUANT TO SECTION B.10
OF THE FRAMEWORK FOR SPECIAL AGREEMENT ON APPLICATION
OF TECHNOLOGIES AND PRESERVATION OF MARINE CLERK
JURISDICTION OF THE 2002-2008 ILWU-PMA
PACIFIC COAST CLERKS' CONTRACT DOCUMENT

INTERNATIONAL LONGSHORE AND WAREHOUSE UNION,]	C-11-2007
]	INTERIM DECISION
]	
Union,]	of
and]	
]	JOHN KAGEL
]	Arbitrator
PACIFIC MARITIME ASSOCIATION,]	
]	
Employers.]	November 1, 2007
]	
]	Palo Alto, California
Re: Employer appeal of Award SCAA-34- 2006 re LBCT trucker database maintenance.]]	

APPEARANCES:

For the Union: Joe Radisich, Vice President, San Francisco, CA, Joe Gasperov,
President, ILWU Local 63, San Pedro, Ca

For the Employer: Tom Edwards, Vice President, Contract Administration and
Arbitration, San Francisco, CA

DISCUSSION:

The Union has moved that the record not be considered closed until there has
been a site visit to the vendor which maintains the database involved in this case to

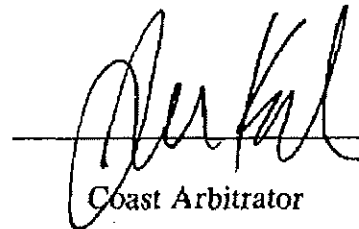
observe whether vendor employees are entering information into it.

That motion is granted in this case on a non-precedential basis given the unique facts of this case. This decision does not mean that vendor site visits will be a normal method of determining issues under the Technology Framework; specific and unique circumstances must be incontestably present and established to consider them relevant to such issues. Accordingly, this decision cannot be seized upon as allowing them in any other case.

Further this decision in no way prejudices any issue involved in this case. The record remains open solely for the purposes of that visit.

INTERIM DECISION:

Without any prejudgment of the issues herein the motion of the Union is granted. On a date to be agreed upon, Messers. Edwards and Gasperov and the Coast Arbitrator will, with the permission of the vendor, tour its facility in Irvine, California for the sole purpose of determining who, if anyone, there enters data into the trucker data base maintained by the vendor.



Coast Arbitrator

IN ARBITRATION PROCEEDINGS PURSUANT TO SECTION B.10
OF THE FRAMEWORK FOR SPECIAL AGREEMENT ON APPLICATION
OF TECHNOLOGIES AND PRESERVATION OF MARINE CLERK
JURISDICTION OF THE 2002-2008 ILWU-PMA
PACIFIC COAST CLERKS' CONTRACT DOCUMENT

INTERNATIONAL LONGSHORE AND	}	C-01-2008
WAREHOUSE UNION,	}	
	}	OPINION AND DECISION
Union,	}	
and	}	of
	}	
	}	JOHN KAGEL
PACIFIC MARITIME ASSOCIATION,	}	
	}	Coast Arbitrator
Employers.	}	
	}	February 5, 2008
	}	
Re: LBCT trucker database maintenance	}	Palo Alto, California
Appeal from SCAA-0034-2006	}	

APPEARANCES:

For the Union: Joseph R. Radisich, International Vice President, Joseph
Gasperov, President, Local 63

For the Employers: Jacquie Ferneau, Director, Contract Administration and
Arbitration, Thomas Edwards, Vice President, Contract Administration and
Arbitration

ISSUE:

Whether LBCT is in violation of the PCCCD, Section 1 and the Technology

Framework, by allowing non-bargaining unit personnel to update and maintain databases for truck drivers. (Tr. 4)

BACKGROUND:

When truck drivers enter the terminal gate they swipe their driver's license into a reader. The Employer's terminal operating system has a mirror image of a database website (Tr. 48) which is updated every few minutes and which is owned by eModal of Irvine, California. The information in that database accesses the truck driver's name and number. The contents of the database are created and maintained by trucking companies which pay eModal to use the website. The Employer does not pay eModal to access the database. (Tr. 72) "eModal is simply a Web portal to which information can flow, be captured by the company and flow directly to the terminals. That's all it is." (Tr. 71) Analogous sites would include *mySpace* or *Facebook* where content uploaded by one person can be viewed by another without intervention on the part of the website provider.

eModal operates out of a three-person one-room office, whose occupants are a salesman, an accountant and the CEO. The database is at a remote location run by AT&T. Neither eModal nor AT&T input any information into the database. Any initial information, or later corrections or additions, are entered into the database by the trucking company.

Before the Employer began to use eModal the Employer maintained its own database using driver identity cards. The name of the truck driver, license number and his or her company were updated into that database by Marine Clerks after, for the most part, receiving faxes from the trucking company and then keying the information from the faxes into the Terminal's database. The Employer believed the trucking companies' database in the eModal system was more accurate and would be useful for other purposes than the one it had maintained in switching to its use. (Jt. Ex. 9, Jt. Ex.

1)

AGREEMENT PROVISIONS:

"SCOPE OF THIS CONTRACT DOCUMENT AND ASSIGNMENT OF WORK TO CLERKS

This Contract Document, as supplemented by agreements (Port Supplements and Working Rules) for the various port areas covered hereby, shall apply to all employees who are employed by the members of the Association to perform work covered herein. It is the intent of this Contract Document to preserve the existing work of such employees. (See Addenda, Framework for Special Agreement on Application of Technologies and Preservation of Marine Clerk Jurisdiction, page 209.)

1.1 Within the states of California, Oregon and Washington, all clerks' work covered by this Contract Document is assigned to clerks with the exceptions and enlargements set forth in this Section 1.

1.11 This Contract Document covers clerks' work with respect to the movement of outbound cargo only from the time it enters a dock and comes under the control of any terminal, stevedore, agent or vessel operator covered by this Contract Document and covers movement of inbound cargo only so long as it is at a dock and under the control of any vessel operator, agent, stevedore or

terminal covered by this Contract Document. In instances where an employer asserts it had no control of the movement of the cargo in question, the responsibility of proving such lack of control shall be upon the employer.

1.12 When an employer desires to have clerks' work performed in the dock area, clerks shall be employed to do it.

1.13 Documentation work performed by clerks as of July 1, 1978 shall continue to be performed by clerks. In the event that new documents are developed which replace existing documents, then clerks shall be assigned to perform work on such new documentation. If computer remote terminals, electronic or mechanical devices are introduced to replace existing or new documentation, then clerks shall be assigned to perform work on such new equipment for that portion of the work which is recognized as being covered by Section 1. In any event, such work shall not be assigned to non-clerks off dock. (See Addenda, Framework for Special Agreement on Application of Technologies and Preservation of Marine Clerk Jurisdiction, page 209.)

1.131 When any work described in Section 1 is performed by computer remote terminals, electronic, or mechanical devices, the necessary operation of such devices shall be performed by clerks for only the portion of the work which is recognized as being covered by Section 1. The intent is to preserve the traditional work of clerks as provided by the Agreement. (See Addenda, Framework for Special Agreement on Application of Technologies and Preservation of Marine Clerk Jurisdiction, page 209.) ...

FRAMEWORK FOR SPECIAL AGREEMENT ON APPLICATION OF TECHNOLOGIES AND PRESERVATION OF MARINE CLERK JURISDICTION

Memorandum of Understanding

The Parties recognize that each has submitted proposals in 2002 negotiations that are dramatic in scope and consequence regarding implementation of technologies and their impact on marine clerks under the PCCCD. The Parties also recognize that technologies and their impacts on marine clerks will likely vary by employer,

work location and occasion based on, among other things, the changing nature of technology and the unique aspects of a particular work site. The Parties, therefore, agree that it is best to set out a contractual framework, rather than detailed provisions, that provides controlling principles for the introduction and application for present and future technologies in accommodation with the preservation of Union jurisdiction, job security and other longstanding contractual provisions in the PCCCD as modified herein.

Following are the provisions and the understandings that outline the framework for the resolution of such matters:

A. Controlling Principles

The Employers shall have the right to implement technologies that may affect marine clerks, subject to the following controlling principles....

2. All traditional marine clerk work modified by any technology shall be assigned to marine clerks in accordance with section 1 of the PCCCD as modified herein.

3. Work assignments may be discontinued to the extent they become unnecessary as a result of technology.

4. In consideration for the modification and elimination of certain marine clerks' work that may occur as a result of technology, any new marine clerks' work created by the introduction of technology shall be assigned to marine clerks at a terminal and, thereafter, such assignment shall be construed as having the same effect as if it were an addition to Section 1 of the PCCCD at that terminal. All work created by technology or modified by technology that is functionally equivalent to the work of the marine clerks within their traditional Union jurisdiction, shall be assigned to marine clerks and remain marine clerks' work.

It is further agreed that:

a) New technologies shall be implemented in accordance with traditional Union jurisdiction set out in Section 1 of the PCCCD.

b) All traditional marine clerk's work, including work modified by any technology, shall be assigned to marine clerks in accordance with Section 1 of the PCCCD.

c) All work created by technology, including the operating of such technology, that is functionally equivalent to traditional marine clerks' work shall be assigned to marine clerks.

d) Technologies shall not be used to shift traditional Union jurisdiction to non-bargaining unit employees or facilities. Bargaining unit jobs may be eliminated only as a result of labor-saving devices and technologies and not as a means to achieve labor cost savings by using a cheaper work force or subcontractor....

5. For the free flow of information to and from a terminal, the Employers shall establish a terminal control center(s) at each marine container facility.

a) Terminal Control Center(s).

A Terminal Control Center is a place(s) within a dock or terminal staffed by marine clerks where all documentation and/or electronic information/data and archived information for cargo and/or cargo equipment shall be accessed, and/or transmitted to and from external sources by marine clerks to perform clerk's work covered by Section 1 of the PCCCD. The monitoring and access of documentation, information and data at a terminal to perform clerks' work shall be through the Center. This information shall include all documentation, whether in the form of paper, electronic methods and any other technologies to perform work within the clerk's jurisdiction. All corrections, additions, deletions, adjustments, manipulations, and operationally necessary confirmations to the information/documentation or data within the clerk's jurisdiction shall be done there. However, there shall be no re-keying of information, except as required by the employer.

b) Terminal Control Operations.

A Marine Clerk Supervisor(s) shall be assigned the following work and functions consistent with Section 1 of the PCCCD; specifically, accessing computer systems related to the terminal operations for the purpose of inputting and/or receiving data into

the computer system as well as making any corrections, additions, deletions, adjustments and manipulations to such data per established practice at each terminal for all vessel, train and gate operations at the terminal and throughout all loading and unloading operations starting at a point in time per the established practice at each terminal. Any of the above data that comes from non-bargaining unit personnel must be administered through the Marine Clerk Supervisor.

6. All work and functions that are to be performed as part of any port security measures that may be mandated by law or regulation shall be performed by marine clerks to the full extent such work and functions are covered by Section 1 of the PCCCD....

C. To the extent the provisions of Paragraph (A) and (B) above conflict with existing Contract provisions, Work Rules, practices or Arbitrators' decisions, the provisions of Paragraph (A) and (B) shall control. The Parties agree to modify the existing work assignment provisions of Sections 1.13 and 1.131 of the PCCCD as follows:

'This Contract Document, as supplemented by agreements (Port Supplements and Working Rules) for the various port areas covered hereby, shall apply to all employees who are employed by the members of the Association to perform work covered herein. It is the intent of this Contract Document to preserve the existing work of such employees, except as described in Section 13 and Section 1.131.

'1.13 Documentation work performed by clerks as of July 1, 1978 shall continue to be performed by clerks. In the event that new documents are developed which replace existing documents, then clerks shall be assigned to perform work on such new documentation. If computer remote terminals, electronic or mechanical devices are introduced to replace existing or new documentation, then clerks shall be assigned to perform work on such new equipment for that portion of the work which is recognized as being covered by Section 1. In any event, such work shall not be assigned to non-clerks off dock; however, in instances where technology allows for data to be available, it is not required for the data to be re-entered and is not a violation of Section 1 to the extent specified in the Framework For Special Agreement On Application Of Technologies And Preservation Of Marine Clerk Jurisdiction, incorporated herein by reference.

'1.131 When any work described in Section 1 is performed by computer remote terminals, electronic or mechanical devices, the necessary operation of such devices shall be performed by clerks for only the portion of the work which is recognized as being covered by Section 1. The intent is to preserve the traditional work of clerks as provided by the Agreement, except as described in Section 1.13 or if such work is eliminated by technology as specified in the Framework For Special Agreement On Application Of Technologies And Preservation Of Marine Clerk Jurisdiction, incorporated herein by reference.'" (Jt. Ex. 1, bold type in original)

POSITION OF THE PARTIES:

Position of the Employers:

That Framework Section A.5 allows for the free flow of data to and from a terminal; that there was no outsourcing of Marine Clerk work to non-bargaining union personnel in violation of the Agreement; that the Employer exercised its Agreement right to allow data to be electronically transmitted into its terminal operating system from the source so that certain tasks performed before utilizing the eModal system were no longer necessary and such work assignments could be discontinued pursuant to A.3 of the Framework; that this case is consistent with the rationale and basis of Award C-10-2006 in that the source of the trucker information has always been the trucking companies; that due to system restrictions or restrictive Contract language such faxed information had to be keyed into the terminal operating system, but any such barriers were eliminated by the 2002 PCCCD; that, contrary to the Union's central issue, eModal does not enter trucker information into its system; that since the trucker

information always originated with the trucking companies the terminal operating system now can communicate directly with the information source; that under the Agreement that data is able to flow following the initial manual input from the source; that under the Framework A.2 the elimination of Marine Clerk tasks and functions is permissible to the extent they are not longer necessary.

Position of the Union:

That the Employer has arranged for non-bargaining unit personnel to update and maintain a database of trucker information by contracting with eModal which has created an offsite database that is updated and maintained by eModal, which work had been done historically by Marine Clerks; that the Agreement gives Marine Clerks the exclusive jurisdiction over the work in dispute in Section 1, "recording of necessary notations and the keeping of such records," and Section 1.25121, performing of clerks' work under the terms of the Agreement in connection with handling of cargo; that Section 1 prohibits the Employers from exercising their option of whether or not to have work performed as a subterfuge to shift work to non-bargaining unit personnel; that in this case the Employer has contracted with eModal to have eModal and truckers perform this work; that the Technology Framework gives Marine Clerks exclusive jurisdiction over the work in question which preserves Union jurisdiction and the longstanding contractual provisions in the PCCCD; that having non-bargaining unit personnel update and maintain an offsite database of truck information necessary for the receipt and delivery of cargo violates the Employers commitment stated in the preamble

of the Framework; that under A.2 any Marine Clerk work modified by any technology shall be assigned to Marine Clerks in accordance with Section 1 of the Agreement; that under A.3 the work assignments have not been discontinued but outsourced to non-Marine Clerks; that A.4 requires that all work created or modified by technology that is functionally equivalent to the work of Marine Clerks is to be done by them; that A.4.a provides that new technologies are to be implemented in accord with traditional Union jurisdiction; that A.4.b is similar as is A.4.c and A.4.d; that the work in question does require human involvement which must be done by Marine Clerks; that this case does not involve the free flow of information under A.5 concerning rekeying but that language is preceded by what is Marine Clerks' work in a terminal control center as mandated by the Agreement and does not allow for the outsourcing of traditional Marine Clerks' work; that even if the free flow of information is involved here the Employers are still bound by A.5.a and A.5.b which require that everything described in these sections must be performed by Marine Clerks as it relates to trucker information; that C. does not require that data be reentered to the extent specified in the Framework which qualifying language requires the observance of the provisions of the Framework as shown above; that what has happened is that in essence the Employers have created an offsite terminal control center in eModal and outsourced Marine Clerks' work; that Marine Clerks have always initiated the trucker information for the Employers so that there never has been a dual system in which another workforce has recorded trucker information as part of the gate transaction at the same time the Marine

Clerks recorded trucker information; that Award C-10-2006 is inapplicable for the information was not required by the terminal for the receipt and delivery of containers but involved corrections that were made as a service to shipping lines while the trucker information involved here is required for the receipt and delivery of containers at the terminal and the information had traditionally been entered in a computer by a worker at the shipping line at the same time the Marine Clerks updated the terminal operating system; that the Employers are seeking something they could not obtain through bargaining, the right to free flow of information without any restrictions and the right to free flow information through offsite control centers which are updated and maintained by non-Marine clerks.

DISCUSSION:

Work:

Work that had been performed by the OCU unit in inputting a driver's name and license number into the terminal operating system was affirmed to the Marine Clerks in Award C-03-05. Information needed from the trucking company was faxed to the Terminal and then keyed in by them. (Ers. Ex. 3) On trucking companies using the eModal database template and the Terminal operating system accessing it this work is now done by the trucking company itself, keying the information into the eModal database. (Jt. Ex. 9, Jt. Ex. 5) eModal has no control over what information the trucking company puts into it nor what LBCT extracts from it. What eModal did was

make the database available to trucking companies to input information and to terminals and others to utilize the information in it. (See It. Ex. 9, Ers. Ex. 1)

While the Union maintains that this amounts to outsourcing of its work or the Employer establishing a remote, non-bargaining unit terminal control center, either being in violation of the Technology Framework, neither appears to have factually occurred. What the record established, as supplemented by the testimony from eModal and a site visit to its office, is that information that the Employer desires to have from the trucking company is now entered into what amounts to a trucking company-rented database for use by those authorized to access it for the trucking company's own benefit, as well as its own use. As currently configured it is as if each trucking company has a stand-alone database linked directly to the Terminal operating system. (See Tr. 147-148) eModal has no human or other input into what information is put into the system by the trucking companies. That information is the same information that the trucking companies furnished to the Employer by other means, such as faxes, before they decided it was to their benefit to put such information into an electronic database. Thus, the Employers maintain, given technology of 1) the trucking company uploading information to the eModal database, 2) the Terminal downloading it, and 3) eModal not doing anything concerning the information, the information does not have to be keyed into the Terminal operating system; it "flows" into it from the trucking company.

Agreement:

The issue of whether electronically flowed information from the originator of the information to a terminal operating system can replace the keying of information into the terminal operating system by Marine Clerks has been decided in past cases. As has been noted in other cases, even though each Framework case must be based on its own facts, if the facts of a given case fit into those of a past decision, the principles of that decision can be applicable to it, and that is the situation with respect to this case and Award C-10-06.

In that decision, which post-dated the Area Arbitrator's decision in this case, information from a shipper-originated database flowing directly into the terminal operating system did not require re-keying under Framework A.5.a. As stated there:

"Framework A.5:

As previously held, each case under the Technology Framework must necessarily be determined on its own facts. In this case the Union is not raising an issue about the communication sent by the Kitchen Clerk's entry into the system notifying the steamship line that there is trouble with the trucker's entry. (Tr. 131) Rather the issue now involves how information is manipulated for a Marine Clerk to clear a trouble ticket to allow a trucker to enter the Terminal.

Whether a trucker enters or not is a matter between the trucking line and the shipping line with respect to insurance and interline agreements. According to the record there is no independent necessity on the part of the Terminal to have these matters resolved to allow the trucker onto the premises. As a service to shipping lines the Terminal, however, will not allow truckers to enter when a trouble ticket is generated unless the shipping lines are satisfied that its own requirements have been met by truckers. (Tr. 95)

In this case information which was formerly entered into the Terminal's computer system by a Marine Clerk no longer is required to be entered since the information that had been entered in the past at the steamship company is now directly available from the line to the Terminal in the M-21 computer system. While the Union maintains this is a violation of Framework A.5 in that Marine Clerks are to make corrections and adjustments that assertion does not take into account that part of Framework A.5.a which reads: 'However, there shall be no re-keying of information, except as required by the employer.' Here, the Union's position and the Area Arbitrator's decision requires re-keying of information already in the computer system when the Employer has not required it be done.

Under Section 1.13 there is no violation of the Marine Clerk's jurisdiction under the facts of this case where technology allows for data to be available and it is not required that data be reentered. Under Framework C past arbitration decisions in conflict with Section 1.13 as amended in 2002 cannot be relied upon as that provision states and as arbitrators are bound to observe. The Coast Arbitrator has no authority to ignore the anti-re-keying provisions of the Framework and Section 1.13: 'Powers of arbitrators shall be limited strictly to the application and interpretation of the Agreement as written.' Section 17.52.

That the Employer ultimately required re-keying in this case was because of the requirement to implement the Area Arbitrator's substantive decision in this case, not because that was the Employer's original intent or the technology's requirements. (Tr. 112, 114-115)

Framework A.4.d:

The Union further maintains that the entry of any additional information by other than a Marine Clerk into the computer system after a trucker is denied access to the terminal is a violation of Framework A.4.d:

'Technologies shall not be used to shift traditional Union jurisdiction to non-bargaining unit employees or facilities. Bargaining unit jobs may be eliminated only as a result of labor-saving devices and technologies and not as a means to achieve labor cost savings by using a cheaper work force or subcontractor.'

What the record showed, as noted above, was that while in the past under M-TAMS the Marine Clerk updated the Terminal's computer system's data from information manually transmitted from shipping lines, the Terminal no longer has an independent computer system that needs to contain trucker data concerning insurance or interline agreements in order to have information needed by Marine Trouble Clerks to let them allow trucks into the Terminal. (Tr. 95-96) In the past when M-TAMS was updated by Marine Clerks at the Terminal the shipping line's computer system was also updated by its own employees or contractors. (Tr. 104) Now, given the linkage between the shipping line's system and the M-21 system, the only computer system that originates data, relayed directly into the M-21 system, is the shipping lines'. The Terminal's former stand-alone system requiring the assignment of the inputting of data by Marine Clerks has been eliminated, and that elimination is allowed by the Parties' agreement to the Framework. Two databases, the shipping line's and the Terminal's have been reduced to one by technology, the former's. The latter required Marine Clerk input, the former did not. (See Jt. Ex. 9, p. 90, Tr. 96)

There was thus a lack of a sufficient showing to establish that there was an illegitimate use of a cheaper work force to eliminate Bargaining Unit jobs as opposed to no requirement for re-keying at the Terminal due to technologies to duplicate entries already in the computer system; there was no 'shifting' to such a work force as opposed to that work force doing the work it had ordinarily been doing all along.

Similarly Framework A.2 and A.4.a-c were not shown to be violated. Section 1 has been modified by the amendment to Agreement Section 1.13 as discussed above. It was not shown that the technology involved in this case created work; rather it eliminated work at the Terminal while continuing the work done at the shipping lines which all along originated the data used to rectify trouble tickets. This rectification was not done by Terminal personnel but was done through the shipping lines. The updating of the shipping lines' trucker insurance or interline agreement data in their own computers was not shown here to be Marine Clerk's work since it had not been performed by them. Accordingly, under the agreed-upon Framework, 'Work

assignments may be discontinued to the extent they become unnecessary as a result of technology.' (Framework A.3)

It is again emphasized that each case requires that its own facts determine the outcome of whether or not the Framework is violated. The decision in this case involving the entry of the information for clearing of trouble tickets is based on its facts alone." (Ers. Ex. 1, *see also* Award C-05-07)

The Union points out that in Award C-10-06 that the Employer was not required to maintain insurance information but did so for the convenience of its customer, the shipping line, while the trucker information involved here is essential to the Employer's own operations. (Tr. 75) That distinction does not affect the application of Framework A.5.a in this case for whether gathering the information was optional or mandatory the Employer is not required to have it re-keyed under either circumstance under the facts of this case. The Union also maintains that unlike C-10-06 the trucking line had not simultaneously updated its database for its own use when corrections had to be made in the past as was the situation in that case. However, the record here does show that that now occurs because the trucking company can seek to keep its database information current when corrections or additions are needed even if that information is not immediately needed at the Terminal. (Jt. Ex. 1, Jt. Ex. 5)

The major factual difference is the fact that eModal provides the database template that the trucking company electronically fills in with its own information. If the trucking company had its own database which flowed into the terminal operating system then this case would even more closely parallel Award C-10-06. That eModal's database template provides a convenience to the trucking company to maintain a

database shows no violation of the Framework where the facts are that eModal did nothing concerning the trucking company's inputting of information. As noted in past cases this was not a situation where the Employer sought to take away information from Marine Clerks for the purpose of doing their work cheaper with non-bargaining unit employees.

Under these circumstances, under Framework A.5.a, Marine Clerks would be re-keying the same information into the Terminal operating system if they continued to do the work of entering drivers' names and license numbers into that system. Since under A.5.a the Employer has not required that that be done, the Framework's anti-re-keying provision does not require the assignment of Marine Clerks any longer to perform that work.

The Union's ultimate interpretation of the Framework was summarized by this statement before the Area Arbitrator:

"Marine Clerks can only be eliminated when technology does 100 percent of the traditional Marine Clerk work. ..." (Jt. Ex. 9, p. 104)

That view would read out of the Framework A.5., A.5.a and C. where there is no suggestion that technology must affect either all or nothing of traditional Marine Clerks' work, as opposed to here, a minimal impact with no reductions in Clerk manning. (Jt. Ex. 9, Jt. Ex. 1, p. 2) While, of course, even a minimal impact could be a violation of the Union's jurisdiction if in violation of the Agreement, no violation was

shown here. As noted in C-10-06 quoted above, arbitrators under the PCCCD have no authority to change the Agreement and that is what the Union's position would require.

A further Union contention, not addressed at earlier steps under Framework B., is that the Employer established a remote, non-bargaining unit terminal control center. No evidence supports that supposition even if it could be considered; there was nothing to show that the trucking company did anything but maintain its own records and make them available on line. If the information involved in this case is in those records and is needed by the Terminal's control center it has access to them. But that does not require it to be re-keyed after the initial keying by the trucking company which originates the information in the first place where, as here, no intermediary later keys in the information.

Again, as in past cases, the decision in this case is limited to its facts. It makes no determination concerning any other matters that may arise concerning use of eModal's database which, again, would have to be based on their facts and the provisions of the PCCCD.

DECISION:

Award SCAA-34-2006 is vacated. No violation of the Agreement is found under the facts of this case.



Coast Arbitrator