

<p style="text-align: center;">IN THE MATTER OF A CONTROVERSY</p> <p style="text-align: center;">BETWEEN</p> <p style="text-align: center;">PACIFIC MARITIME ASSOCIATION</p> <p style="text-align: center;">AND</p> <p style="text-align: center;">INTERNATIONAL LONGSHORE AND WAREHOUSE UNION LOCAL 63</p> <p style="text-align: center;">Re: Whether TraPac Terminals is in violation of the Technology Framework by allowing non-bargaining unit personnel the job function of inputting information for RFID tags into a database.</p>	<p style="text-align: center;">SCAA-0018-2008</p> <p style="text-align: center;">Opinion and Decision</p> <p style="text-align: center;">of</p> <p style="text-align: center;">David Miller Area Arbitrator</p> <p style="text-align: center;">March 5, 2008</p> <p style="text-align: center;">Long Beach, California</p>
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The hearing was held at 1:10 PM on Wednesday, March 5, 2008 at 920 West Harry Bridges, Wilmington, 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: Jacqueline Ferneau
Pacific Maritime Association

FOR THE UNION: Joe Gasperov, ILWU Local 63

ALSO PRESENT: Various Others

BACKGROUND:

During the hearing of March 5, 2008, Union Exhibit No. 19 was submitted before this Arbitrator. This hearing, presided by Coast Arbitrator John Kagel, was held on March 24, 2004. Within the transcript of this hearing all parties reached an understanding that the issue of RFID tags on outside trucks as of the March 24 hearing had not become a reality. On the record of March 24, the parties agreed that when and if the RFID tags became a reality the parties would return to the Coast level for adjudication. This agreement between the parties was mentioned by this Arbitrator at the March 5, 2008 area arbitration and the parties were ordered to request guidance from their representatives at the Coast level.

A complete hearing on the instant issue was conducted on March 5, 2008 and all parties as the record supports were satisfied with their presentation and made no claims of being hindered as it pertains to their presentation.

On November 5, 2008, this Arbitrator received a signed letter from the JCLRC ordering that a decision be issued relative to the PCCCD and CLRC dispute that was conducted on March 5, 2008.

ISSUE:

Whether TraPac is in violation of Section 1 and the Technology Framework of the PCCCD as claimed by the Union that pertains to RFID tags and the information contained.

DISCUSSION:

The parties are in agreement that all guidelines pursuant to Section 6 (B)(8) of the Technology Framework and as it pertains to Section 1 of the PCCCD have been followed and the parties are in agreement as to the substance of issue.

The Union asserts that as of the date of this hearing, TraPac is utilizing the RFID tags for port security. Union exhibits Nos. 1 and 2 describe which terminal operators are members of the Marine Terminal Operator's group, hereafter MTO, and as stated by the Union and of which I agree is not within the authority of this Arbitrator.

Within Union Exhibit's No's 20 and 24 (scaa-13-04 and scaa-13-05) are the decisions that the Union was awarded job functions that pertain to the inputting of information to wherenet tags that included the updating of a computer database. However the aforementioned awards must be acknowledged to only relate to cargo handling equipment. Thereby these awards must be considered irrelevant to this issue.

The Employer's contention is that the RFID tags function is to allow outside trucks the ability to be properly identified and expedite entrance to the terminal.

It is stated by the Employer that readers for the RFID tags are located only at the two entry gates and no readers are located anywhere else within the terminal. These readers as alleged by the Employer are only used for security purposes.

Employer Exhibit No. 3 (C-1-08) was submitted and the Employer is reliant upon the wording of this decision and the significance it provides in support of their position in the instant dispute.

The Employer's stated position is that the RFID trucker information causes no violation of the PCCCD.

In addition, the Employer's position is that trucking companies maintain their own records and keep such database information as argued in this hearing current, without being in violation of marine clerks' jurisdiction.

OPINION:

The Union has failed to submit any persuasive argument that the information input to the RFID is by some means clerk work described in Section 1 of the PCCCD and/or the Framework.

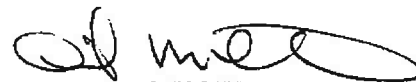
It is recognized by the Union within the record that the RFID tags utilized at the TraPac facility are only for security purposes at the time of this hearing.

This Arbitrator was given a full demonstration at the TraPac Terminal of the RFID tags with all parties in attendance.

In conclusion, when considering the complete record and the viewing of the functions in dispute the Union has failed to meet its obligation of proof to sustain their claim that the input of information as it pertains to RFID tags in the instant dispute is the work of marine clerks.

DECISION:

The Union's claim that TraPac is in violation of the PCCCD and/or the Technology Framework is denied.



David Miller
Area Arbitrator
Southern California

Dated: November 13, 2008