

**ORIGINAL**Decision No. 70474

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Western Motor Tariff Bureau, )  
 Inc. under the Shortened Procedure Tariff )  
 Docket to publish for and on behalf of )  
 certain of its participating carriers )  
 tariff provisions resulting in increases )  
 because of proposed publication of a )  
 standard rule for the furnishing of power )  
 equipment for loading and/or unloading. )

Application No. 47845  
 (Filed August 26, 1965)

Arlo D. Poe and W. J. Knoell, for Western Motor Tariff Bureau, applicant.  
Eugene A. Read and John T. Reed, for California Manufacturers Association; C. H. Costello, for Continental Can Co., Inc., protestants.  
J. C. Kaspar, for California Trucking Association;  
Gordon Larsen, for American Can Company, interested parties.  
R. J. Carberry and J. C. Matson, for the Commission staff.

O P I N I O N

By this application Western Motor Tariff Bureau, Inc., seeks authority to publish a uniform tariff rule governing charges for the use of power equipment for loading or unloading shipments. The authority is sought on behalf of all carriers participating in three of applicant's tariffs.<sup>1/</sup> The proposed rule would cancel and supersede present provisions in Items Nos. 150, 410 and 423 and Paragraph B of Item No. 405 in Tariff No. 111. The proposed rule would make it clear that the rates named in the tariffs do not include loading and/or unloading by use of power equipment. The rule further

<sup>1/</sup> The tariffs are Western Motor Tariff Bureau, Inc., Agent, Local, Joint and Proportional Freight and Express Tariff No. 111, Cal. P.U.C. No. 15 (hereinafter referred to as Tariff No. 111); Local Freight Tariff No. 106, Cal. P.U.C. No. 11 (hereinafter referred to as Tariff No. 106); and Local and Proportional and Express Tariff No. 104-A, Cal. P.U.C. No. 23 (hereinafter referred to as Tariff No. 104-A).

provides that if power equipment is required by the shipper or consignee, the carrier will, upon request, arrange for such equipment to be furnished and the cost therefor will be shown on the transportation bill as charges advanced.

Public hearing on the application was held before Examiner Turpen on December 9, 1965, at San Francisco. Testimony in support of the proposal was presented by an employee of applicant. Representatives of Continental Can Co. and of California Manufacturers Association testified in protest.

Applicant's witness testified that the present rules, proposed to be canceled, are applicable to only a few of the approximately 400 carriers parties to the tariffs, and for some carriers provide that power equipment will not be used, for others provide a set hourly charge, and in other cases provide provisions similar to the proposed uniform rule. He said that absence of any provision in the tariff on the use of power equipment for most of the carriers might imply that such service will be performed by such carriers at no additional charge. The witness further said that most of the time when furnishing of power equipment by the carrier is necessary or requested, it must be leased or hired in the vicinity and that rental costs will vary widely from place to place and may change without notice. For this reason, he said, it is impossible to determine in advance the costs that will be incurred. According to the witness, the proposed rule will provide a just and reasonable basis for assessing charges for the use of power equipment.

Representatives of the California Manufacturers Association and of Continental Can Co. opposed the application. They contended that the proposed rule could result in discrimination and would violate the requirement in the Public Utilities Code that common carriers publish specific charges.

It is clear that the rates in the tariffs here involved do not include the furnishing of power equipment by the carrier. The proposed rule in effect says that it is the responsibility of the shipper or consignee to furnish such power equipment if needed or desired, but that the carrier is willing to act as an agent and lease or supply the equipment and pass on the cost as an advance made on behalf of the shipper. It is thus evident that the proposed rule would not result in discrimination between shippers on the part of the carrier, and that failure to assess the additional cost incurred by the carrier in furnishing power equipment would amount to a rebate to the shipper.

In regard to the requirement that common carriers publish specific charges, Sections 486 and 487 of the Public Utilities Code require carriers to file schedules showing rates between all points served and "state separately all terminal charges, storage charges, icing charges, and all other charges which the commission may require to be stated...." It thus appears that, without a direction from the Commission to publish specific charges for furnishing power equipment, the form of publication proposed herein is not contrary to the provisions of the Code.

The Commission finds that publication of the rule relating to the use of power equipment, as proposed in Appendix "A" of the application herein is justified and will result in reasonable and nondiscriminatory charges for the services involved. We further find that any resultant increases are justified. The Commission concludes that the application should be granted.

O R D E R

IT IS ORDERED that:

1. Western Motor Tariff Bureau, Inc., Agent, is hereby authorized to publish on behalf of carriers participating in its Western Motor Tariff Bureau, Inc., Agent, Local, Joint and Proportional Freight and Express Tariff No. 111, Cal. P.U.C. No. 15; Local Freight Tariff No. 106, Cal. P.U.C. No. 11; and Local and Proportional and Express Tariff No. 104-A, Cal. P.U.C. No. 23, the tariff changes as specifically proposed in this application.

2. Tariff publications authorized to be made as a result of the order herein may be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and to the public.

3. Common carriers, in establishing and maintaining the rates authorized hereinabove, are hereby authorized to depart from the provisions of Section 460 of the Public Utilities Code to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are hereby modified only to the extent necessary to comply with this order; and schedules containing the rates published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

4. The authority herein granted shall expire unless exercised within ninety days after the effective date of this order.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 22nd day of MARCH, 1966.

Fredrick B. Halstoff  
President  
J. E. Hatchell  
George T. Trover  
Augusta  
William G. Bennett  
Commissioners