

Decision No. 74197

ORIGINAL

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 pro-)
 visions resulting in increase)
 because of the amendment of an item)
 regarding charges for the exclusive)
 use of equipment.)

(S.P.T.) Application No. 49859

Richard W. Smith and W. J. Knoell, for applicant.
Kenneth E. Hagemann, for Campbell Soup Company, and
 Transportation and Distribution Committee,
 California Manufacturers Association, protestants.
B. I. Shoda, for the Commission staff.

O P I N I O N

By this application, Western Motor Tariff Bureau, Inc. seeks authority on behalf of all carriers participating in Western Motor Tariff Bureau, Inc., Agent, Local Joint and Proportional Freight and Express Tariff No. 111, Cal. P.U.C. No. 15, to amend Item No. 289 of said tariff.

A public hearing was held before Examiner O'Leary at San Francisco on March 26, 1968, at which time the matter was submitted.

Item 289 of the tariff provides for the exclusive use of equipment subject to certain conditions, one of which is that the request must be in writing and referred to in the bill of lading or other shipping document.

Paragraph 1 of the item provides "Exclusive use of a unit of equipment is offered to meet the needs of shippers who request

segregation of their freight from the freight of other shippers for protection against damage, scrutiny, pilferage, or for any other reason." Applicant proposes to add the following to paragraph 1: "between point of pickup at origin and point of final delivery at destination". Applicant also proposes to add the following as Note 3 in connection with paragraph 2 of the item "In the event a shipper or shipper's agent attaches a seal or seals to the carrier's equipment, such action shall be construed to institute request of exclusive use of carrier's equipment."

The applicant's general manager testified that on some occasions exclusive use of equipment is used for carriers' convenience from point of origin to the carrier's terminal before moving to final destination. The revision of paragraph 1 would protect the shipper from exclusive use charges except when the shipment moves from origin to point of final delivery at destination under exclusive use. The witness further testified that on occasion shippers place seals on carriers' equipment without requesting exclusive use of the equipment and that it was his opinion as well as the opinion of some carriers that seals placed on the equipment by shippers could not be removed by carriers even though exclusive use of equipment had not been requested and that such placement of seals constituted a request for exclusive use of equipment. He also testified that the addition of proposed Note 3 would require shippers who do not request exclusive use in writing but obtain such service by the placement of seals on equipment to pay for exclusive use.

The Sacramento plant rate analyst for Campbell Soup Company testified that it is the policy of his company to seal trailers whether truckload or less than truckload when loading at the

Sacramento plant. The seal is applied when loading is completed and reviewed by the gate guard at the time of the truck's departure from the plant. The seal can be broken by the carrier once the truck has left the plant. He further testified that several Rocky Mountain Motor Bureau tariffs and Pacific Inland Tariff Bureau tariffs contain provisions that state that carriers, at their option, may remove seals or locks from their vehicles which have been applied by shippers. The exclusive use items in said tariffs provide that the shipper may at his option apply locks or seals to the vehicle with instructions that the vehicle remain locked or sealed and be so delivered at destination. The witness also testified that the company had no objection to the revision of paragraph 1 as proposed by applicant.

Paragraph 2(B) of Item 289 provides "The unit of equipment will be devoted exclusively to the transportation of the shipment, without transfer of landing (sic) and without the breaking of seals, if any have been applied, except in cases of emergency, in which case the shipment will be given the exclusive use of the unit of equipment to which it is transferred."

Based on the evidence adduced the Commission finds that:

1. Exclusive use of equipment is a special service that presently must be requested by shippers, in writing.
2. The mere placement of seals on carriers' equipment by shippers does not constitute a request for exclusive use of equipment.
3. Seals placed on equipment by shippers may be removed by carriers when exclusive use of equipment has not been requested in writing by the shipper.

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4. The addition of proposed Note 3 could result in shippers receiving exclusive use service when it is not desired.

5. Shippers should pay for exclusive use only after having specifically requested such service in writing.

6. The proposed revision of paragraph 1 is unnecessary in view of finding 5.

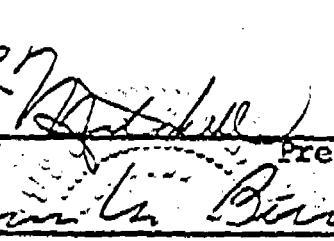
Based on the above findings, the Commission concludes that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 49859 is denied.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 5th day of JUNE, 1968.


[Signature] President
[Signature]
[Signature]
William Francis Jr.
Commissioners

Commissioner Fred P. Morrissey, being necessarily absent, did not participate in the disposition of this proceeding.