

ORIGINAL

Decision No. 76604

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 WESTERN MILK TRANSPORT, INC., a)
 corporation, to increase certain)
 rates and charges by modification)
 and limitation of the rule pertaining)
 to split delivery shipments of)
 commodities accorded temperature)
 control (or mixed shipments of such)
 commodities with other commodities).)

Application No. 51454
 (Filed October 31, 1969)

Marvin Handler, Handler, Baker & Greene, and
T. W. Curley, for Western Milk Transport,
 Inc., applicant.
G. C. Willis, for Kraft Foods Division of Kraftco
 Corp., and John T. Reed of the California
 Manufacturers Association; Carl E. Nall, for
 Pacific Dairy and Poultry Association; E. R.
 Chapman, for Foremost Foods Co.; C. D. Gilbert,
 for Hershey Foods Corp.; Norman Olkein, for
 CPC International, Inc.; D. R. Ranche, for
 Standard Brands, Inc.; Norman D. Sullivan, for
 Shedd Bartush Foods, Inc.; John W. Cuje, H. F.
 Kollmyer and A. D. Poe, for California
 Trucking Association, interested parties.
B. I. Shoda, for the Commission staff.

O P I N I O N

Western Milk Transport, Inc. (WMT), operating as a highway
 common carrier, seeks authority to publish a revised split delivery
 tariff rule which would restrict WMT's existing split delivery
 service in connection with shipments accorded temperature control
 service.^{1/}

1/ Split Delivery Shipment means a shipment consisting of two or
 more component parts delivered to more than one destination, the
 composite shipment weighing (or transportation charges computed
 upon a weight of) not less than 5,000 pounds, said shipment being
 shipped by one consignor from one point of origin. The charges
 for a split delivery shipment are computed at the rate applicable
 to the total weight of the shipment, plus additional charges for
 each component part delivered.

Temperature Control Service means the protection from heat by the
 use of ice (either water or solidified carbon dioxide), by
 mechanical refrigeration, or by the release of liquefied gases.

Public hearing was held before Commissioner Sturgeon and Examiner Gagnon at San Francisco on November 20, 1969. The matter was submitted subject to a possible request, on or before December 5, 1969, for further hearing. On December 3, 1969, the Commission was advised that as a result of WMT's amendment to its original sought relief, no further hearing is desired. Application No. 51454 now stands submitted for decision.

Applicant's tariff provisions governing split delivery service are contained in Item 650 of Western Motor Tariff Bureau, Inc., Agent, (WMTB) Local, Joint and Proportional Freight and Express Tariff No. 111, Cal. P.U.C. No. 15. Said tariff provisions reflect the general split delivery regulations contained in the Commission's Minimum Rate Tariff No. 2. There are also published in WMTB Tariff No. 111 split delivery rules which are more restrictive than those currently published on behalf of applicant. For example, Paragraph (G) of Item 650 of the tariff provides for the following limited split delivery service in connection with commodities furnished temperature control service:

"Split delivery shipments of commodities accorded temperature control service (or mixed shipments of said commodities with other commodities) shall consist of not more than 5 component parts, the composite shipment shall weigh (or transportation charges must be computed on) not less than 10,000 pounds and the points of delivery of all component parts shall be within 50 constructive miles of the initial point of delivery."

The above tariff provision presently applies only via the lines of Illinois-California Express, Inc. (ICX) and was authorized by Decision No. 75291, dated February 4, 1969, in Application No. 50552. Applicant requests like authority to make the aforementioned tariff rule, as further amended at the hearing in this proceeding, applicable to split delivery shipments transported by WMT under temperature control service.

Western Milk Transport, Inc., states that since the issuance of Decision No. 75291 it has been tendered numerous split delivery shipments previously transported by ICX. A substantial part of WMT's traffic now assertedly consists of former ICX split delivery traffic and, because of the performance of the required service with respect thereto, applicant is sustaining unbearable financial losses. In this connection it should be noted that applicant has testified to the purchase of certain motor vehicle equipment from ICX in order to handle the additional split delivery traffic formerly transported by ICX.

In justification for the sought relief WMT submitted various financial and statistical information. An income statement was presented for the eight-month period ended August 31, 1969. Said statement indicates applicant sustained a net overall loss from all operations of \$179,610. It has been demonstrated that said operating loss is due to the transportation of refrigerated commodities, a substantial portion of which was accorded split delivery service, by applicant's highway common carrier (Refrigeration Division) operations. Applicant also conducted a study of its split delivery traffic accorded temperature control service under the general split delivery tariff provisions of Item 650 of WMTB Tariff No. 111 for the month of July, 1969. The results of such study are as follows:

TABLE 1

TEMPERATURE CONTROL SPLIT DELIVERY SHIPMENTS
 TRANSPORTED BY WESTERN MILK TRANSPORT
INTRASTATE WITHIN CALIFORNIA DURING JULY, 1969
 (Derived from an analysis of the split delivery
 shipments of eleven of the applicant's most
 substantial split delivery shippers)

	<u>As Billed</u>	<u>Rerated as Straight Shipments</u>
Number of shipments	158	2,189
Weight (In pounds)	3,534,907	3,534,907
Revenue	\$ 47,216.79	\$ 67,986.26
Total packages	160,399	160,399
Average weight per package (In pounds)	22	22
Average revenue per package	\$.29	\$.42
Number of freight bills	158	2,189
Average revenue per delivery	\$ 21.57	\$ 31.06
Average number of packages per shipment	1,015	73
Minimum number of split delivery per shipment	2	-
Maximum number of split delivery per shipment	49	-
Average number of split delivery per shipment	14	-
Average revenue per original master bill	\$ 298.84	\$ 430.29
Average revenue increase per original master bill		\$ 131.45
Average revenue increase per original master bill		44.0%
Average weight per shipment (In pounds)	22,373	1,615

From Table 1, above, it will be noted that if the component parts of the various split delivery shipments handled by WMT under temperature control service were rerated as separate shipments, applicant's revenues therefrom would be increased from \$47,216.79 to \$67,986.26. Such increase in revenue of \$20,769.47 would not, of course, be fully realized under WMT's rate proposal since applicant would still perform limited split delivery service in connection with commodities moving in temperature control service. From the data contained in WMT's split delivery study, the conclusion may be drawn that the shippers involved would have to add approximately 18 packages or 396 pounds of freight to each of the five allowable components per split delivery shipment in order to meet the proposed 10,000 minimum weight provision.

To demonstrate the financial losses sustained by WMT in the performance of temperature control service, an income statement was presented for the three months ended August 31, 1969. The statement indicates WMT's operating revenues and expenses for combined operations and separately as between applicant's highway common carrier Refrigeration Division and its so-called Permitted Division. A summary of the income statement is hereinafter set forth:

TABLE 2

WESTERN MILK TRANSPORT, INC.
STATEMENT OF INCOME
FOR 3-MONTH PERIOD ENDING AUGUST 31, 1969

<u>Account</u>	<u>Total</u>	<u>Refrigeration Division</u>	<u>Permitted Division</u>
Operating Revenue	\$2,100,816	\$ 654,263	\$1,446,553
Operating Expense	<u>2,214,324</u>	<u>916,018</u>	<u>1,298,306</u>
Net Operating Income (Loss)	(113,508)	(261,755)	148,247
Net Operating Ratio	105.4%	140.0%	89.8%

Applicant explains that its permitted division reflects transportation substantially all of which involves shipments of milk and milk products not subject to minimum rates. It will be noted that while WMT's permitted operations are shown to be highly profitable, its refrigerated division, for which the relief herein is sought, experienced a rather substantial net operating loss of \$261,755 for the three-month period studied.

Applicant's rate proposal constitutes an effort to reduce operating losses primarily through the reduction of operating costs rather than cover such losses by seeking authority for substantial increases in rates. It is applicant's contention that such cost savings will be brought about by the proposed curtailment of excessive temperature control service in connection with split delivery shipments. At the hearing in this matter several of WMT's volume split delivery shippers of commodities requiring temperature control service expressed considerable concern over WMT's proposed curtailment of service as a means of reducing its operating losses. Since it is WMT's contention that excessive refrigeration service is experienced primarily in the relatively small lot split delivery shipments, applicant endeavored to ameliorate the shippers' concern by amending the proposed tariff rule so as not to apply to split delivery shipments subject to minimum weights of 20,000 pounds or more. Upon further review of applicant's proposal, as amended, the expressed concern of interested shippers was largely relieved.

Findings and Conclusions

The Commission finds that:

1. Western Milk Transport, Inc., has experienced a total net operating loss for the eight-month period ended August 31, 1969.

A. 51454 hjh

2. Applicant's operating losses result from its transportation, as a highway common carrier, of commodities under temperature control service. A substantial portion of said transportation consists of split delivery shipments.

3. Applicant's permitted operations, which involve primarily the transportation of milk and milk products that are exempt from minimum rates, have been profitable.

4. When component parts of split delivery shipments transported by applicant under temperature control service are rerated as separate shipments, the resulting freight charges are over 40 percent higher than the actual freight charges collected.

5. The increase in revenues anticipated under applicant's proposed restricted split delivery service for commodities accorded temperature control service will not totally eliminate WMT's existing operating losses. The cost savings resulting under applicant's proposed restricted split delivery service will, however, further reduce existing deficit operations.

6. Applicant's proposed amended tariff rule for split delivery shipments moving under temperature control service is substantially the same as (but less restrictive than) the tariff rule previously authorized by Decision No. 75291, dated February 4, 1969, in Application No. 50552.

7. Applicant has demonstrated that its existing tariff rates and charges do not adequately cover the cost of service entailed in the transportation of split delivery shipments of commodities requiring temperature control service.

8. The increases in rates and charges resulting under applicant's proposed restricted split delivery tariff rule have been shown to be justified.

A. 51454 hjh

We conclude that the sought relief, as amended, in Application No. 51454 should be granted; and to the extent it is necessary to depart from the long- and short-haul provisions of Section 460 of the Public Utilities Code to publish the proposed tariff rule, such authority should also be granted.

O R D E R

IT IS ORDERED that:

1. Western Milk Transport, Inc., is hereby authorized to have published on its behalf, in Western Motor Tariff Bureau, Inc., Agent, Local, Joint, and Proportional Freight and Express Tariff No. 111, Cal. P.U.C. No. 15, the following amendment to its split delivery tariff rule:

"Split delivery shipments of commodities accorded temperature control service (or mixed shipments of said commodities with other commodities) shall consist of not more than 5 component parts, the composite shipment shall weigh (or transportation charges must be computed on) not less than 10,000 pounds, and the points of delivery of all component parts shall be within 50 constructive miles of the initial point of delivery (See Exception).

"EXCEPTION: The requirements of this paragraph shall not apply to split delivery shipments which weigh (or transportation charges computed upon a weight of) not less than 20,000 pounds."

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

A. 51454 hjh

3. In establishing and maintaining the tariff rule authorized herein, applicant is authorized to depart from the long- and short-haul provisions of Section 460 of the Public Utilities Code. Schedules containing the tariff rule published under this authority shall make reference to this order.

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

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 27th
day of DECEMBER, 1919.

William J. Quinn
President

August

J. H. Quinn

Tom Quinn

Vernon L. Stinson
Commissioner