

ORIGINAL

Decision No. 76718

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

In the Matter of the Application of )  
 the Western Motor Tariff Bureau, Inc. )  
 on behalf of its member carriers and )  
 of the application of certain common )  
 carriers for authority to increase )  
 certain minimum charges and certain )  
 small shipment service charges; and )  
 related matters. )

Application No. S1433  
 (Filed October 20, 1969;  
 Amended November 5 and  
 12, 1969)

Richard W. Smith and M. J. Nicolaus, for Western Motor Tariff Bureau et al., applicant.  
Armand Karp, Gordon S. Raney, Charles J. Lawlor, W. G. Walkup, Jr., George E. Sloat, F. S. Kohles, T. W. Dwyer, J. McSweeney, E. Laney McConnell, Lee Pfister, Eric K. Anderson, Joseph E. MacDonald, R. C. Ellis, Ralph M. Shallenberger, Cliff M. Norager, John Odoxta, Marvin D. Gilardy, Louis A. Dore, Jr., M. L. Frost, Jr., Peter Vinick; E. E. Eyring, John A. Pifer, Joseph W. Louisa, R. H. Dodson, W. C. Johnston, T. W. Curley, for various interested carrier applicants.  
John T. Reed, Lester T. Fitzsimmons, J. C. Kaspar, A. D. Poe, H. F. Kollmyer, for various shipper and carrier interested parties.  
John W. Henderson and Robert W. Stich, for the Commission staff.

O P I N I O N

The Western Motor Tariff Bureau, Inc., on behalf of its member common carriers and other common carriers specified in the application, as amended,<sup>1/</sup> requests authority, under Section 454 of the Public Utilities Code, to publish in their respective tariffs a 10 percent increase in minimum and small shipment service charges for shipments transported in excess of 300 constructive miles.

<sup>1/</sup> Hereinafter sometimes collectively referred to as applicants.

Public hearing was held before Examiner Gagnon, at San Francisco on November 18, 1969. The matter was submitted subject to the receipt of late-filed Exhibit No. 3 (Amended) which was received on November 24, 1969.

Applicants' established tariff charges per shipment, for (1) small shipment service and (2) minimum charges per shipment, reflect the current level of charges contained in the Commission's Minimum Rate Tariff No. 2. Under the Commission's outstanding minimum rate orders applicant highway common carriers are required to publish and observe tariff charges no lower in volume or effect than those named in MRT 2. While highway common carriers may, in the first instance, publish their tariff rates and charges at a level higher than the established minimum rates and charges without specific authority from this Commission, subsequent increases in said carriers' lawfully published and filed tariff rates and charges must first be found to be justified under the provisions of Section 454 of the Public Utilities Code. Applications for Section 454 authority to increase rates may be processed under the Commission's Shortened Procedure Tariff Docket when it can be shown that the proposed increases "(a) Do not require public hearing...." and "(b) Would not increase applicant's California intrastate gross revenue by as much as one percent."<sup>2/</sup> A summary comparison of applicants' present and proposed charges is as follows:

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<sup>2/</sup> Rule 25 of the Commission's Rules of Practice and Procedure.

Table 1

Small Shipment Service Charges

Weight of Shipment (In Pounds)		Charges (In Cents)				
Over	But Not Over	Present		Proposed		
		(1)	(2)	(1)	(3)	(4)
0	25	255	425	255	425	468
25	50	315	425	315	425	468
50	75	370	425	370	425	468
75	100	395	425	395	425	468
100	150	485	595	485	595	655
150	200	575	720	575	720	792
200	250	655	845	655	845	930
250	300	750	965	750	965	1062
300	400	900	1175	900	1175	1293
400	500	1040	1340	1040	1340	1474

- (1) Not exceeding 150 constructive miles.  
 (2) Over 150, but not more than 400 constructive miles.  
 (3) Over 150, but not more than 300 constructive miles.  
 (4) Over 300, but not more than 400 constructive miles.

Table 2

Minimum Charges

Weight of Shipment (In Pounds)		Charges (In Cents)				
Over	But Not Over	Present		Proposed		
		(1)	(2)	(3)	(4)	(5)
0	100	525	600	525	578	660
100	150	705	860	705	776	946
150	200	825	1020	825	908	1122
200	250	965	1190	965	1062	1309
250	300	1080	1370	1080	1188	1507
300	400	1290	1635	1290	1419	1799
400	500	1455	1900	1455	1601	2090
500	-	1610	2160	1610	1771	2376

- (1) Over 150, but not more than 500 constructive miles.  
 (2) Over 500 constructive miles.  
 (3) Over 150, but not more than 300 constructive miles.  
 (4) Over 300, but not more than 500 constructive miles.  
 (5) Over 500 constructive miles.

In Table 1, above, applicants' proposed small shipment service charges for movements exceeding 300 constructive miles are based upon a 10 percent differential over the existing charges for small shipment service over 150 but not over 400 miles. In Table 2 applicants' proposed charges for shipments over 300 and 500 miles are predicated on the current charges for movements of over 150 and 500 miles, respectively. No increase in charges for movements under 300 constructive miles is proposed by applicants.

The Director of Transportation Economics for California Trucking Association (CTA) and consultant to the Western Motor Tariff Bureau, Inc., was retained by applicants to present evidence in support of the relief sought herein. Applicants' witness explained that the common carriers involved herein are the subject of regular statistical studies compiled by the CTA. He stated that applicants' California operations reflect revenues earned under the Commission's minimum rate structure as reflected in the carriers' published tariffs. It is applicants' contention that their earning position has been deteriorating and generally unsatisfactory in recent years. According to the witness, applicants' unsatisfactory operating experience, in the midst of the existing economic inflationary cycle, was brought about largely by the maintenance of applicants' California common carrier rate structure at the level of the Commission's established minimum rates.

The witness explained that the periodic updating of the minimum rates under the so-called cost offset procedure, while reflecting changes in major cost elements, does not include all of the cost elements which are affecting applicant carriers. It is for this reason the carriers seek permissive increases in their

rates above the corresponding minimum rates but within the so-called "zone of reasonableness". The floor of such zone, the witness contends, is represented by the level of the established minimum rates. It is applicants' intent to request authority for a rate increase which would alleviate the most depressed areas of their rate structure and cause the least diversion of revenues from the common carrier industry. The carrier applicants determined that the sought 10 percent increase in their minimum charges and small shipment service charges met the desired objectives. The matter was docketed for public consideration by Western Motor Tariff Bureau, Inc., and only minor objections were assertedly raised to the carriers' proposal.

In justification for applicants' rate proposal, their witness introduced (Exhibit No. 1) a summary of the 1968 operating revenues, expenses and the individual operating ratios for each of the 262 carrier applicants. The sum total of the operating revenues of the carriers listed in Exhibit No. 1 is almost 3 billion dollars. The participation of the carrier applicants in the intrastate traffic involved ranges from negligible to substantial. From a traffic flow study conducted by the CTA it was found that, of the 262 carrier applicants, less than 50 would be involved in the actual handling of the particular type of traffic in question. Of the 50 applicants involved, the traffic flow study further indicated that 33 carriers had revenues that would be affected by the sought increase. The CTA studies also disclosed that only 12 of the carrier applicants would experience an increase in their gross operating revenues by as much as one percent if the sought increase was authorized. It was for this reason that applicants assertedly

abandoned their initial desire to request authority for the proposed rate increase as a noncontroversial matter under the Commission's Shortened Procedure Tariff Docket previously referred to herein.

For the 262 carrier applicants, their witness testified that the effect of the sought increase on approximately 3 billion dollars of operating revenues would be about .05 percent. For the 33 applicants more directly involved in the small shipment traffic the amount of increase in operating revenues under the rate proposal would be .29 percent. For the 12 applicant carriers principally involved herein the CTA representative presented a statement (Exhibit No. 2) showing the effects of the proposed increase upon said carriers' revenues. A summary of the applicants' Exhibit No. 2 is as follows:

Table 3

<u>Carrier Code No.</u>	<u>Increase in Revenue</u>	<u>Operating Ratios</u>	
		<u>1968</u>	<u>Projected</u>
38	1.54%	102.7%	101.1%
66	1.00	97.9	96.9
73	1.11	99.0	97.9
116	1.96	103.2	101.2
122	1.09	98.1	97.0
145	1.59	107.3	106.1
163	1.39	97.4	96.0
166	1.02	107.9	106.8
178	1.36	95.6	94.3
214	1.48	99.6	98.2
229	1.74	94.5	92.8
259	1.53	96.5	95.0

Applicants' witness stated that the 12 carriers principally involved in the small shipment traffic would experience an overall increase in operating revenues of approximately 1.25 percent under applicants' rate proposal; and that said carriers would improve their 1968 operating ratios, as a group, from 98.6 percent to 97.4 percent. From the 1969 financial reports now

available, the applicants' consultant stated that the 33 carrier applicants, whose revenues would be affected in varying degrees by the sought increase, report an overall operating ratio of 97.8 percent, a somewhat poorer showing than that reported for a like period in 1968.

In further support of the sought increase in rates the CTA consultant made the following observations: (1) The established level of minimum and small shipment service charges, contained in Minimum Rate Tariff No. 2 and reflected in the established tariffs of applicant carriers, are at the break-even point. This conclusion is premised upon the fact that said charges in MRT 2 were adopted by the Commission as proposed by the California Trucking Association in Decision No. 66453 of December 10, 1963 (62 Cal.P.U.C. 14). (2) The minimum and small shipment service charges, as established by the Commission and observed by the carrier applicants, provide for only two-terminal handling of small shipments moving under 500 miles; whereas there is assertedly a substantial amount of said traffic accorded third-terminal processing. (3) Investigation discloses that the labor productivity for long-haul carriers of small shipment traffic is less than for the short-haul transportation of such traffic. The consultant for applicants stated that this decline in labor productivity was due to union jurisdictional problems involved in the use of several classes of employees required to transport and handle long-haul traffic. (4) In California the long-haul carriers have a poorer operating ratio experience than the short-line carriers. (5) The selection of 300 miles as the point at which applicants would assess minimum and small shipment charges higher than the minimum level established

by the Commission will avoid any important diversion of traffic to proprietary operations.

Discussion

Section 451 of the Public Utilities Code provides that "All charges demanded or received by any public utility, or by any two or more public utilities, for any...service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge...is unlawful." It is well established that what, in fact, constitutes a reasonable rate or charge in any given situation may be determined within a so-called "zone of reasonableness". In Reduced Rates on Bulk Cement, 50 Cal.P.U.C. 622 (1951), the Commission defined the maximum and minimum limits of the so-called zone of reasonableness as follows:

"...The upper limits of that zone are represented by the level at which the rates would be above the value of the service, or be excessive. The lower limits are fixed, generally, by the point at which the rates would fail to contribute revenue above the out-of-pocket cost of performing the service, would cast an undue burden on other traffic, or would be harmful to the public interest. Rates at the upper limits of the zone may be termed maximum reasonable rates; those at the lower limits of the zone may be termed minimum reasonable rates."

While we do not agree with the consultant's contention that the level of the minimum rates established by the Commission necessarily delineates the lower limits of the so-called zone of reasonableness, we do agree that applicants' proposed increased charges will not exceed a maximum reasonable level of charges. The sought increase is not deemed to be excessive or otherwise adverse to the public interest. In this connection it should be noted that none of the interested shippers of record appeared in opposition to applicants' sought relief.



We find that:

1. Applicants' lawfully published and filed minimum charges and small shipment service charges are at the general level of charges contained in the Commission's Minimum Rate Tariff No. 2.

2. Applicants' sought 10 percent increase in their minimum and small shipment service charges will not cause said common carrier charges to exceed a maximum reasonable level of charges.

3. Applicants' proposed increased charges fall within the so-called zone of reasonableness and have been shown to be justified by transportation conditions.

We conclude that Application No. 51433, as amended, 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 increased charges, such authority should be granted.

O R D E R

IT IS ORDERED that:

1. Western Motor Tariff Bureau, Inc., on behalf of its member common carriers and those individual common carriers specified in Application No. 51433, as amended, are hereby authorized to publish and file, in their respective tariffs, the sought increase of 10 percent in their established minimum charges and small shipment service charges for shipments transported in excess of 300 constructive miles. The specific charges authorized to be increased herein are as set forth in applicants' Exhibit No. 3 of record.

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.

3. In publishing the increases authorized herein applicants shall dispose of fractions as follows:

Fractions less than one-half cent will be dropped and fractions one-half cent or greater will be raised to the next whole cent.

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

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

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

Dated at San Francisco, California, this  
27<sup>th</sup> day of JANUARY, 1970.

William Sproull  
President

[Signature]

[Signature]

[Signature]

Verma L. Sturgeon  
Commissioners