

LTC

Decision No. 82563

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application:)

For Approval under Section 496 of)
the Public Utilities Code of an)
Agreement between Motor Common)
Carriers and between said Carriers)
and WESTERN MOTOR TARIFF BUREAU,)
INC. and the Procedures of)
WESTERN MOTOR TARIFF BUREAU, INC.)

Application No. 54539
(Filed December 27, 1973)

OPINION

By this application filed under the provision of Section 496 of the Public Utilities Code, Western Motor Tariff Bureau, Inc. (WMTB), on behalf of the 464 highway carriers listed in Exhibit 6 attached to the application, seeks approval of an agreement (Exhibit 1 attached to the application) between and among themselves, relating to procedures for the joint consideration, or initiation of interrelated rates, exceptions ratings, divisions, allowances, charges and rules and regulations pertaining thereto on intrastate traffic between points within California.¹

The application states that the functions of WMTB are to provide the organization and facilities necessary to enable the carriers on whose behalf this application is filed to singularly and jointly, consider, determine and have published for their account the rates, rules and regulations governing their transportation services; to compile, issue, file and distribute the tariffs containing such rates, rules and regulations; and to do such other things as may be reasonable for the accomplishment

¹Section 496 was added to the Public Utilities Code effective January 1, 1974. It exempts warehousemen, highway carriers, rate bureaus and shippers from anti-trust statutes when their rate making processes are operated under agreements approved by the Commission.

of such functions. Applicant states that the agreement, of which approval is sought herein, pertains to these functions and procedures of WMTB.

In support of the application, applicant recites that common carriers engaged in the transportation of intrastate traffic in California are required to establish, file and observe just, reasonable and nondiscriminatory rates and charges. The applicant contends that the Tariff Bureau procedures and methods of tariff collective rate making and publication are the only practical and equitable ways to maintain a rate structure free from discrimination, undue preferences and prejudices. It also contends that the Tariff Bureau has become an accepted institution in the transportation field and that shippers, carriers and regulatory bodies recognize it as useful and indispensable in the development and maintenance of an adequate transportation system.

Applicant alleges that the approval of the tariff and rate agreement would allow highway carrier parties thereto to consider interrelated rate matters by discussion or communication, and that the agreement specifically provides that any recommendation resulting from such discussion would be processed through the rules of procedure outlined in Exhibit 3 of the application.

The application states that as a member any highway carrier which holds appropriate operating authority from this Commission is eligible to participate in the tariffs and procedures of WMTB. The application provides that each carrier participating in WMTB tariffs reserves free and unrestrained right to take independent action at any time, which may be contrary to any determination arrived at under the WMTB procedures.

The application alleges that approval of the proposed agreement and procedures affords the opportunity for shippers of freight to be informed, and to be heard, concerning rate proposals in which they may have an interest and that in negotiating for the

establishment of new rates, or for changes in existing rates, WMTB procedures enable the shipping public to deal with carriers collectively and avoid the time and expense of separate negotiations. The application also alleges that the inclusion of rates in joint tariff publications affords the shippers an economical and readily available means of ascertaining and checking their freight charges and determining their own competitive position insofar as it is affected by the freight services available to their competitors. The application denotes that there is nothing in the rate and tariff agreement, nor in the WMTB rules of procedures to which it pertains, which will in any way adversely affect the public interest.

The application was listed on the Commission's Daily Calendar of December 28, 1973. No objection to the approval of the application has been received.

After consideration the Commission finds that:

1. The proposed rate and tariff agreement is consistent with the statutory provisions and within the scope of Section 496 of the Public Utilities Code.
2. The proposed rate and tariff agreement does not pertain to pooling or division of traffic, service or earnings.
3. The agreement provides an opportunity for shippers to be informed and to be heard concerning rate proposals in which they may have an interest.
4. The rate and tariff agreement provides the free and unrestrained right of individual carriers to take independent action, either before, during or after, and contrary to, any determination arrived at under any procedure provided therein.
5. An identical rate and tariff agreement has been approved by the Interstate Commerce Commission for interstate commerce.
6. The approval of the proposed rate and tariff agreement will not in any way adversely affect the public interest.

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7. The agreement and the rules, regulations and procedures provided for the operation thereof are fair and reasonable and not contrary to public policy.

ORDER

IT IS ORDERED that the agreement set forth as Exhibit 1 of Application No. 54539 is hereby approved.

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

Dated at San Francisco, California, this 12th day of March, 1974.

Vernon L. Sturgeon
President
William J. Symons, Jr.
J. H. Miller
Thomas Moran
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.