

Decision No. 83773**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of WESTERN ASPHALT SERVICE for)
 authority to depart from its)
 published tariff for the trans-)
 portation of residual fuel oil)
 for the City of Los Angeles,)
 Department of Water and Power)
 pursuant to the provisions of)
 Section 530 of the Public Util-)
 ities Code and this Commission's)
 General Order No. 132.)

Application No. 55290
 (Filed November 6, 1974)

INTERIM OPINION AND ORDER

Western Asphalt Service, a corporation, operates as a petroleum irregular route carrier. By this application, it seeks authority, under Rule 4 of General Order No. 132¹, to issue a rate quotation statement containing rates for certain transportation of residual fuel oils for the City of Los Angeles, Department of Water and Power, which are departures from the rates and charges contained in applicant's tariff on file with the Commission, and those set forth in the Commission's Minimum Rate Tariff 6-B (MRT 6-B).

The application states that under these tariffs, there are two methods of determining charges when freight is tendered to applicant by the shipper involved. One method is on a cents per 100 pounds basis while the other is the vehicle unit volume tender basis. Of the two methods, the volume tender basis results in the lower total charges.

¹General Order No. 132 contains the rules which govern the filing of rate quotation statements for transportation by common carriers for the state, county or municipal governments pursuant to Section 530 of the Public Utilities Code. Rule 4 thereof sets forth provisions which apply if a carrier desires to issue a statement naming rates below the level of rates otherwise applicable.

Attached to the application in Appendix "A" for each of the points of origin and destination involved are comparisons of the applicable rates under the two methods described above, converted to a per barrel basis, applicant's expected cost per barrel and the proposed rates per barrel. In Appendix "B" attached to the application are computation of charges for each of the points of origin and destination under the vehicle unit volume tender rates. Applicant has converted those charges to a per barrel basis based on the transportation of a minimum of 20,000 barrels, the minimum allowed under the provision of this application.

The application sets forth the following conditions which shall apply to the transportation involved herein:

- (a) The carrier shall be notified prior to the first day of any month whether or not services shall be required, and if services are required, what the requirements shall be.
- (b) The minimum order in any one month shall be for the transportation of 20,000 barrels.
- (c) The carrier shall have access to the loading rack at points of origin twenty-four hours per day, seven days per week, subject to minimal limitations.
- (d) The carrier shall have access to the unloading facilities twenty-four hours per day, seven days per week.
- (e) These rates are subject to adjustment dependent upon any change in applicable MRT 6-B rates.
- (f) The effective date of these rates shall be December 1, 1974.
- (g) These rates shall expire November 30, 1976.

Applicant shows that the proposed rates are higher than the volume tender rates but lower than the cents per 100 pound rates. It points out that under the rules proposed herein, it will have the freedom to substitute equipment at will, to interrupt the movement, to combine the movement of this freight with freight

tendered by other shippers on a back-haul basis, and to fill out short work days with this freight. It is alleged that applicant can transport this freight whenever it wishes within a calendar month, and that this freedom will become critical when and if natural gas becomes unavailable to those who purchase it on an interruptible basis. If, as is predicted, this should occur, the highest and best use of applicant's equipment will be in transporting to these customers the fuel oil upon which they will suddenly become dependent. Under Applicant's tariff and MRT 6-B, the rules applicable to the volume tender rates do not allow equipment to be switched from one shipper to another and back again as needs dictate.

Applicant avers that it is the desire of both itself and the City of Los Angeles Department of Water and Power to have the transportation involved performed under the rules and rates proposed herein. A copy of the application was served on California Trucking Association and on Asbury Tank Lines. The application was listed on the Commission's Daily Calendar of November 7, 1974. Under the provisions of Rule 5.5(f) of General Order No. 132, any protest of this type of application must be forwarded so as to reach the Commission not later than the tenth day following the listing of the application on the Daily Calendar. A letter has been received from the California Trucking Association stating that it is opposed to the ex parte consideration requested by applicant. This objection does not meet the requirements of Rule 5.5(b) and (d) of General Order No. 132 and will not be considered in the disposition of this matter.

The Transportation Division staff has reviewed the application and recommends that, in view of the emergency nature of the matter, it be granted by ex parte order for a period of six months.

Subject to further review upon consideration of evidence which may be adduced at a public hearing, the Commission finds that the proposed rates are reasonable. The Commission concludes that applicant should be granted authority for a period of six months. A future hearing will be scheduled at the earliest possible time in this proceeding.

IT IS ORDERED that:

1. Western Asphalt Service is authorized to issue and file to become effective December 1, 1974, on not less than one day's notice to the Commission and the public a rate quotation statement as described in General Order No. 132, for certain transportation of residual fuel oils for the City of Los Angeles, Department of Water and Power, as more specifically set forth in Appendix A attached hereto and by this reference made a part hereof.

2. The authority herein granted shall expire six months after the effective date of this order unless sooner canceled, modified or extended by order of the Commission.

3. A public hearing shall be scheduled in this proceeding at the earliest possible time for the receipt of evidence on this application and full disposition thereof.

The effective date of this order is December 1, 1974.

Dated at San Francisco, California, this 26th day of November, 1974.

Vernon L. Sturgeon
President
William L. Brown, Jr.
[Signature]
[Signature]
Robert E. Mesland
Commissioners

APPENDIX A

CARRIER: WESTERN ASPHALT SERVICE

SHIPPER: CITY OF LOS ANGELES, DEPARTMENT OF WATER AND POWER

COMMODITY: Residual Fuel Oils

RATES (IN CENT PER BARREL)

<u>ORIGIN</u>	<u>DESTINATION</u>	<u>RATE</u>
ARCO REFINERY WATSON	) SUN VALLEY PLANT	
	) SUN VALLEY	38.5
	) SCATTER GOOD PLANT	
	) PLAYA DEL REY	29.5
POWERINE REFINERY SANTA FE SPRINGS	) HAYNES PLANT	
	) LONG BEACH	24.5
	) OLYMPIC TANK FARM	
	) WILMINGTON	25.5
	) SUN VALLEY PLANT	
	) SUN VALLEY	37.5
	) SCATTER GOOD PLANT	
	) PLAYA DEL REY	31.5

APPLICATION OF RATES

1. Western Asphalt Service shall be notified prior to the first day of any month whether or not services shall be required, and if services are required, what the requirements shall be.
2. The minimum order in any one month shall be for the transportation of 20,000 barrels.
3. Western Asphalt Service shall have access to the loading rack at points of origin twenty-four hours per day, seven days per week, subject to minimal limitations.
4. Western Asphalt Service shall have access to the unloading facilities twenty-four hours per day, seven days per week.
5. These rates are subject to adjustment dependent upon any change in the vehicle unit volume tender rates in Minimum Rate Tariff 6-B.

(END OF APPENDIX A)