

Decision No. 83991**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Applica-)
tion:)For approval under Section 496)
of the Public Utilities Code of)
an Agreement:)1. Between Motor Common)
Carriers and between)
said Carriers and)
WESTERN MOTOR TARIFF)
BUREAU, INC.,)2. Between Warehousemen)
and between said)
Warehousemen and)
WESTERN MOTOR TARIFF)
BUREAU, INC.,)and the procedures of WESTERN)
MOTOR TARIFF BUREAU, INC.)Application No. 55358
(Filed December 4, 1974)OPINION AND ORDER

By this application, Western Motor Tariff Bureau, Inc. (WMTB), on behalf of various highway carriers and warehousemen, seeks approval under Section 496 of the Public Utilities Code of an agreement between and among: (1) certain highway carriers; (2) said carriers and WMTB; (3) certain warehousemen; and (4) said warehousemen and WMTB, relating to procedures for the joint consideration, or initiation of rates, ratings, rules and practices governing intrastate transportation in California by highway carriers and storage and services by public utility warehousemen.¹

¹Section 496 was added to the Public Utilities Code effective January 1, 1974. It exempts warehousemen, highway carriers, rate bureaus and shippers from antitrust statutes when their rate making processes are operated under agreements approved by the Commission. The agreement would cover approximately 460 highway carriers and 48 warehousemen as well as any future highway carrier or warehouseman that may become a party thereto.

Applicant states that its functions are to provide the organization and facilities necessary to enable its members singly and jointly to consider, determine and have published for their account the rates and rules governing their transportation and warehousing services; to compile, issue, file and distribute the tariffs containing such rates and rules; and to do such other things as may be reasonably necessary for the accomplishment of such functions.

Applicant alleges that every common carrier by motor vehicle and every warehouseman holding appropriate authority is eligible to become a member of WMTB and thereby participate in various proposals for changes in tariff rates and rules in accordance with its Rules of Procedure.² Applicant avers that there is reserved to each carrier or warehouseman participating in its tariffs the free and unrestrained right to take independent action at any time and such action may be contrary to any determination arrived at under its procedures.

Applicant declares that long experience in transportation and warehousing services has shown carriers and warehousemen that the only practical and equitable way to maintain adequate rate structures, which are free from discrimination, undue preference and prejudice, has been through the "Tariff Bureau" method of collective rate making and publishing. Applicant asserts that its procedures provide the opportunity for shippers and receivers of freight and parties requiring warehousing services to be informed and to be heard concerning rate proposals in which they have an interest. Applicant contends that such procedures enable the public to deal with carriers and warehousemen collectively to avoid the time and expense of separate negotiations concerning the establishment of new or revised rates.

²The Bylaws and Rules of Procedure are set forth in detail in Exhibit 3 attached to the application.

The application was listed on the Commission's Daily Calendar of December 5, 1974. No objection to the granting of the application has been received.

In the circumstances, 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. Said agreement does not pertain to pooling or division of traffic, service or earnings.

3. Said agreement provides an opportunity for shippers to be informed and to be heard concerning rate proposals in which they may have an interest.

4. Said 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. The approval of said agreement will not in any way adversely affect the public interest.

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

7. A public hearing is not necessary.

The Commission concludes that the application should be granted.

IT IS ORDERED that the agreement set forth as Exhibit 1 of Application No. 55358 is hereby approved.

This order shall become effective February 1, 1975.

Dated at San Francisco, California, this 14th day of
January, 1975.

Vernon L. Sturgeon
President
William Lynow Jr.
Sturgeon

Commissioners