

ALJ/jc/md

Decision 84 07 033

JUL 5 1984

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

In the Matter of the Application of  
 WESTERN MOTOR TARIFF BUREAU, INC.,  
 for and on behalf of all carriers  
 party to its Tariffs ES 1-B, 123,  
 170, 20-4 Series, 271, 273 and 570-A,  
 (including reissues thereof)  
 provisions resulting in increases  
 because of publication of a temporary  
 surcharge.

ORIGINAL

Application 84-04-093  
 (Filed April 18, 1984)

Parker, Milliken, Clark, O'Hara, and  
 Samuelian, by Richard L. Franck,  
 Attorney at Law, and M. J. Nicolaus,  
 for applicant.

John Gregory Ash, for Western Traffic  
 Conference, and Donald R. Carnahan,  
 for Traffic Managers Conference of  
 California, protestants.

John W. Shaw, for Thomas Industries, and  
Robert K. Geiger, for Los Angeles  
 Area Chamber of Commerce, interested  
 parties.

Joseph Braman, for the Commission  
 staff.

O P I N I O N

Western Motor Tariff Bureau, Inc. (WMTB) seeks authority to  
 publish a temporary surcharge to its following tariffs:

Exception Sheet 1-B, CA PUC 34  
 Tariff 123, CA PUC 32  
 Tariff 170, CA PUC 51  
 Tariff 20-4 Series (Various CA PUC Numbers)  
 Tariff 271, CA PUC 46  
 Tariff 273, CA PUC 53  
 Tariff 570-A, CA PUC 85

Such tariffs name rates and related rules and conditions  
 applicable to the transportation of general commodities moving in  
 truckload and less-than-truckload quantities between points in  
 California.

Public hearing was held before Administrative Law Judge O'Leary on May 21 and 22, 1984. The matter was submitted with the filing of written closing statements on May 29, 1984.

The proposed surcharge which would become effective July 13, 1984 and expire August 27, 1984 is described as follows:

- a. Except as shown in Paragraph (c), on shipments moving under rates based upon a minimum weight of less than 10,000 pounds:
  1. 12% on shipments picked up at or delivered to a point within MZ 201 through 262.
  2. 24% on shipments picked up at and delivered to points within MZ 201 through 262.
- b. For shipments weighing 10,000 pounds or greater.
  1. 6% on shipments picked up at or delivered to a point within MZ 201 through 262.
  2. 12% on shipments picked up at and delivered to points within MZ 201 through 262.
- c. Shipments subject to split pick up and/or split delivery surcharges provided in (a) above apply only to the split pick up/delivery charges on the components picked up at and/or delivered to points within MZ 201 through 262.

WMTB acts as tariff publishing agent for approximately 500 highway common carriers who are parties to the tariffs which are the subject of this proceeding. The application was initiated by one of the member common carriers, namely Viking Freight System (Viking), which sent a letter to WMTB requesting the increase in the tariffs. The request was approved by WMTB's "California Intrastate Dry Freight Standing Rate Committee" (Rate Committee) on March 20, 1984. By letter dated March 21, 1984, all of the parties to the tariffs were notified of the rate committee's action. As a result of the March 21, 1984 letter, 12 carriers notified WMTB that they did not wish to participate in the application. The 12 carriers are the following:

1. Brake Delivery Service-Meir Transfer Service
2. California Distribution Services, Inc.
3. Cook Trucking Service, Inc.
4. Facchino Freight Lines
5. Glendale Transfer & Storage Co.
6. Hardy Trucking Co.
7. H S E Trucking
8. J.A.S. Truck Lines, Inc.
9. M & B Transportation, Inc.
10. Merchants Delivery Systems
11. Pro-Express
12. Ted Nap Express

Two carriers, Boulevard Freight Lines, Inc. and Knoll Transportation, have advised WMTB that they would implement the surcharge on shipments of less than 5,000 pounds and not on shipments weighing 5,000 pounds or over.

The 23rd Olympiad begins on July 28, 1984 and closes on August 12, 1984 in Los Angeles. Events are scheduled for the Los Angeles Coliseum and 22 other sites in the Los Angeles vicinity. Exhibit 4 is a map of the area in which the proposed surcharge would apply which shows the sites where the various events will be held. Review of the map discloses that 18 of the sites are within the area.

Exhibit 1 contains information disseminated by Caltrans concerning roadway closures during the Olympic Games period.

Mr. James Dellamaggiore, vice president of traffic for Viking, testified on behalf of applicant. His testimony which is set forth in Exhibit 3 included the following statement:

According to a recent study conducted by the City of Los Angeles and Caltrans, commercial vehicle travel will be affected by the following:

1. Two Olympiad villages located at the University of Southern California and the University of California at Los Angeles will house 17,500 athletes, officials, and staff creating traffic congestion and road closures.
2. Olympic game sites, seating over 171,000 people, will have simultaneous events in progress creating traffic congestions and parking shortages.
3. Over 7 million tickets have been sold for 350 separate events.
4. Estimates indicate the population of the Los Angeles/Orange County area will be increased by 778,000 people per day, generating 2,768,000 additional road trips per day. This is a 7% increase in vehicle trips per day within the area.
5. The City of Los Angeles has asked local businesses to receive freight at night between the hours of 12:01 a.m. and 6:00 a.m. to relieve traffic congestion. Night deliveries would force the motor carriers to duplicate delivery routes reducing density while increasing labor costs.
6. Numerous streets, freeways, and off-ramps will be closed to accommodate Olympic activities.

WMTB retained California Trucking Association (CTA) as a consultant for purposes of gathering, assembling, and presenting data and information to the Commission relative to motor carrier operations which are the subject of this application. The data and information is set forth in Exhibit 5 which was presented by Mr. L. R. Sherwood. The exhibit states in part:

The onset of the Olympics and related civic and cultural activities will bring an unprecedented influx of people to the Los Angeles basin during the summer of 1984. All public officials concerned with vehicular traffic in this area agree, as do private sector observers, that the Los Angeles-Orange vicinity will have its worst traffic congestion problems ever. This will

affect life in this particular city to perhaps a greater degree than anywhere else, because of the area's already-crowded freeways and its utter dependence on motor vehicles for transportation.

Motor carriers faced with picking up and delivering freight shipments during this time must deal with this increased traffic while attempting to maintain their standards of timely performance of service. At the behest of government officials, many establishments will ship and/or receive freight only between midnight and 6 a.m., while other firms, due to the nature of the freight or of the business involved, will not have that option, and will be subject to the vagaries of daytime traffic. In each case, the motor carrier must maintain service.

Maintaining service to those customers who alter their schedules will necessitate adding shifts of drivers and dock workers who would otherwise not be in service. Labor contracts call for differential rates of pay for changes in working schedules, meaning that even if an employee works no more than 40 hours in a week, he will nonetheless be paid at the premium rate for coming in at other than a normally scheduled time.

Tables 1 and 2 of Exhibit 5 set forth the percentage cost increases for shipments of less than 10,000 pounds (Table 1) and 10,000 pounds or more (Table 2) assuming various amounts of lost productivity on both types of shipments. The cost increase is directly related to the percentage of lost productivity.

Exhibit 6 sets forth the position of protestant, Western Traffic California, Inc. The exhibit sets forth 16 reasons why it is opposed to the application as follows:

1. The proposed period of fifteen days prior to, during, and fifteen days after the Olympics does not accurately reflect the impact period for this event. According to Caltrans, CEP, Los Angeles Department of Transportation AD HOC Committee, the actual impact period will be from Saturday, July 21st through Sunday, August 19th.

2. Since there will be approximately 25 countries not attending the Olympic events, there should be a smaller number of participants and spectators in the Los Angeles area.
3. According to the Los Angeles Olympic Organizing Committee, one-half of the ticket holders are Southern California residents and not likely to be touring Southern California before or after the games. The balance of ticket holders, participants/delegations, Olympic organizers and media will be domiciled adjacent to venue sites and utilize chartered transportation for economic and security reasons which will minimize the traffic congestion problems in Southern California.
4. Review of the scheduled events indicates that 26.9% of all events are on weekends and 24.1% of all weekday events start after 6 p.m.
5. The Olympic events are not totally located within the Los Angeles/Orange County areas as fourteen of twenty venues are distributed throughout Los Angeles, Orange, and Ventura Counties.
6. There are only two sports activities located in Orange County which will have a minimal impact on traffic congestion in this area.
7. Multiple event sites do not have concurrently scheduled activities which will reduce the traffic congestion impact in these areas.
8. Most colleges have canceled or changed their summer sessions to reduce the daily student/user traffic in these areas.
9. The scheduled fourteen of twenty venues will not exceed 10,000 participants or spectators for any one single event.
10. The larger sites will comprise the following spectator attendance: Los Angeles Coliseum area - 120,000; Rose Bowl - 104,000; Dodger Stadium - 56,000; Santa Anita - 35,000; Forum - 17,500; and Long Beach Sports Arena - 11,300.
11. The Coliseum events (93,000) will be scheduled for five of the ten Olympic weekdays. These Coliseum events will begin at 9:30 a.m. and

will represent "All Day" ticket packages which will minimize mid-day arrival and departure of spectators.

12. The net impact on Coliseum days are equal to the attendance at major football events with up to 60,000 spectators where approximately 64.5% of all ticket holders arrive via bus.
13. The Southern California Rapid Transit District has added 500 exclusive Olympic buses to park and ride Southern California spectators to events. The Los Angeles Olympic Organizing Committee has chartered 1000 buses for athletes and other designated delegates. This will dramatically reduce the so-called major traffic congestion problems which is said to impact these areas.
14. There will be restrictive parking in the areas adjacent to major venue sites which will encourage spectators to utilize the efficient Olympic bus transportation system. (For Los Angeles Coliseum area only.)
15. Analysis indicates that the majority of intrastate and interstate carriers are located outside the major venue site locations and should not be dramatically impacted by these activities.
16. The following venue site locations are located in non-industrial areas and are predominantly situated in residential areas: Rose Bowl, Dodger Stadium, Santa Anita Race Track, and Long Beach Sports Arena.

The Commission staff's (staff) analysis of the evidence introduced is succinctly set forth in its closing statement as follows:

"Evidence introduced at the hearing indicated general agreement by various private and government entities that some additional traffic congestion will occur. The crux of the question is - to what degree will traffic be impacted. On the one hand, we have the view expressed by L. R. Sherwood, Senior Cost Analyst for the C. T. A. (the organization engaged by applicant as a consultant) in which he states, 'that the Los Angeles-Orange vicinity will have its worst

traffic congestion problems ever' (see page 1, para. 1 of Exhibit 5). On the other hand, we have the view held by Commuter Computer (a private consultant group engaged by Caltrans, a state agency) in which they state as follows:

'In general, when the Coliseum is in operation on a workday, commuters will find congestion similar to the current rush-hour conditions but lasting longer' (see page 4, R. H. Col., para. 2 of Exhibit 8).

"The two forecasts quoted are at the opposite ends of the scale with the strong probability that the reality will be somewhere in between."

Based on its analysis, the staff believes that the loss of productivity will not be as great as that anticipated by applicant.

#### Discussion

The request for increased rates is based on conjecture. We realize that there may be additional traffic. There definitely will be road closures which have been mandated by Caltrans.

We also realize that the trucking industry deals with the normal commute traffic in the Los Angeles area every working day and that it has taken steps to minimize the effects of such traffic on its day-to-day operations.

There are many other carriers who are not members of WMTB conducting operations within the affected area who have not requested authority to increase rates during the Olympic Games. Similar applications were filed by two other tariff bureaus only to be withdrawn rather than proceed to hearing.

#### Findings of Fact

1. The Commission finds that the requested increase is based on conjecture.

2. Any increase in costs because of traffic congestion and road closures cannot be quantified.



Conclusion of Law

The Commission concludes that the application should be denied effective today, since it is proposed the relief requested become effective July 13, 1984.

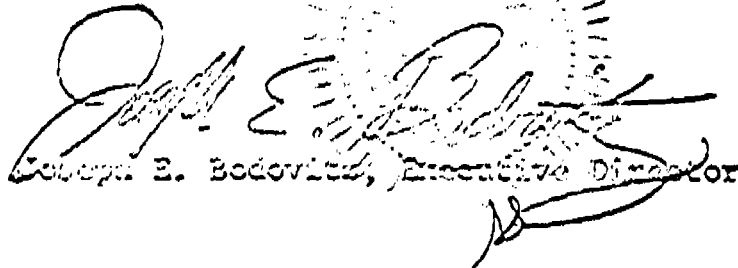
O R D E R

IT IS ORDERED that Application 84-04-093 is denied.  
This order is effective today.

Dated July 5, 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President  
VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL  
WILLIAM T. BAGLEY  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Joseph E. Bodovitz, Executive Director

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Based on its analysis, the staff believes that the loss of productivity will not be as great as that anticipated by applicant.

#### Discussion

The request for increased rates is based on conjecture. We realize that there may be additional traffic. There definitely will be road closures which have been mandated by Caltrans.

We also realize that the trucking industry deals with the normal commute traffic in the Los Angeles area every working day and that it has taken steps to minimize the effects of such traffic on its day-to-day operations.

There are many other carriers who are not members of WMTB conducting operations within the affected area who have not requested authority to increase rates during the Olympic Games. Similar applications were filed by two other tariff bureaus only to be withdrawn rather than proceed to hearing.

If we were to authorize increases in an application such as this, the increased rates would of necessity be subject to a refund provision so that if the anticipated increased costs did not materialize the increases or a portion thereof could be refunded to the parties that bore them. Had this application contained such a provision, we may have treated it differently. Such a provision would insure that any windfall profit would have to be refunded to the parties paying the increased charges.

Findings of Fact

1. The Commission finds that the requested increase is based on conjecture.
2. Any increase in costs because of traffic congestion and road closures cannot be quantified.
3. The application contains no provision for refund in the event the additional costs do not materialize.

Conclusion of Law

The Commission concludes that the application should be denied effective today, since it is proposed the relief requested become effective July 13, 1984.

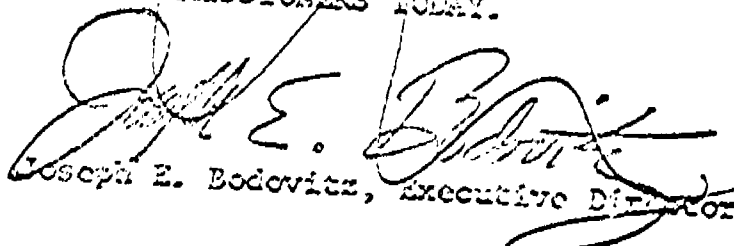
O R D E R

IT IS ORDERED that Application 84-04-093 is denied.  
This order is effective today.

Dated JUL 5 1984, at San Francisco, California.

LEONARD M. CRIMES, JR.  
President  
VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL  
WILLIAM T. BAGLEY  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Joseph E. Bodovitz, Executive Director