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Decision 91-11-006 November 6, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 WMB Transportation for authority to )  
 establish a less-than-maximum )  
 reasonable rate for the )  
 transportation of cement pursuant to )  
 provisions of Sections 452 and 452.1 )  
 of the Public Utilities Code, and )  
 General Order 150-A. )

**ORIGINAL**

Application 91-07-021  
(Filed July 15, 1988)

OPINION

WMB Transportation (WMB) operates as a cement carrier between points in various counties pursuant to a certificate of public convenience and necessity granted by this Commission.

WMB seeks authority to publish in its tariff a cement carrier rate less than maximum reasonable rate pursuant to the provisions of Public Utilities (PU) Code §§ 452 and 452.1 and General Order (GO) 150-A.

The rate WMB seeks to publish would apply to bulk cement moving from Creal to Metropolitan Zone 244 (MZ 244). Table 1 sets forth a comparison of the existing rate and WMB's proposed rate.

TABLE 1

<u>Description</u>	<u>Present</u>	<u>Proposed</u>
Rate per ton	\$12.80	\$10.69
Minimum Weight	26 tons	26 tons

In all other respects the provisions of Western Motor Tariff Bureau, Inc. Local Freight Tariff No. 17-A will apply.

The application alleges that for many years applicant has been an active carrier of cement between Creal and MZ 244. It is thoroughly familiar with this movement, transporting approximately 10 loads per day at rates currently named in its common carrier tariff. With the cooperation of the shipper, applicant has been able to operate very efficiently in this service, making approximately 3 to 4 round trip movements each day by each truck utilized.

Loading of the equipment is from an overhead chute into hopper-type units. The loading time is very efficient, and the facilities are usually available to the carrier 24 hours per day. Applicant's average load factor substantially exceeds that on which rates in its tariff were initially constructed, and this improved performance contributes to its ability to establish this reduced rate.

In the past, much of this tonnage has moved by rail, at rates which foreclosed participation by truck. Several years ago, however, changes in railroad rate structures enabled increased truck participation in this haul. In order to remain competitive, it is necessary that rates be kept at the lowest reasonable levels consistent with performance of service and this deviation addresses that need.

It is further alleged that there is an immediate need for the requested relief to meet rail competition.

WMB has performed a study of the costs associated with performing the transportation. The results of the study are attached to the application as Schedules A, B, C, and D. The study discloses that the transportation at the proposed rate will provide WMB with net revenue of \$37.81 and an operating ratio of 87.14%.

In Decision (D.) 89-04-083 in Application 87-12-052, we concluded that:

- "1. The cost of stem miles is included in the calculation of a 'fully compensatory [rate] based solely upon the cost of transportation

from origin to destination and return and the projected revenue to be derived from the requested rate' as that phrase is used in Section 452.1." (Conclusion of Law 1.)

WMB advises that the carrier's equipment is domiciled on the premises at the destination location, and therefore the application did not address the issue of stem miles because there are no stem miles to be added to the round-trip mileage between origin and destination set forth in the application. In view of this, our treatment of stem miles in this application is consistent with our position enunciated in Conclusion of Law 1 in D.89-04-083.

By D.89-05-026, WMB was authorized to perform the transportation at the rate sought herein. That authority expired on May 10, 1990.

Notice of the filing of the application appeared in the Commission's Daily Transportation Calendar of July 22, 1991. No protest to the granting of the application has been received.

The Transportation Division staff has reviewed the application and has advised that it believes that it is one which, in the absence of protest, may be granted by ex-parte order.

Findings of Fact

1. WMB holds authority as a cement carrier.
2. WMB seeks authority to publish in its tariff a less-than-maximum reasonable rate pursuant to the provisions of PU Code § 452, 452.1, and GO 150-A.
3. The rate WMB seeks to establish is fully compensatory based solely upon the cost of transportation from origin to destination and return.
4. The needs of commerce or the public interest require the establishment of the proposed rate.

Conclusions of Law

1. The application should be granted as set forth in the ensuing order.

2. This order should be effective on the date signed because there is an immediate need for rate relief.

ORDER

IT IS ORDERED that:

1. WMB Transportation is authorized to publish the rate proposed in the application.

2. Tariff publications authorized to be made as a result of this order shall be filed not earlier than the effective date of this order and made effective on not less than 5 days after the effective date hereof on not less than 5 days' notice to the Commission and to the public.

3. The authority herein granted shall expire after one year. This order is effective today.

Dated November 6, 1991, at San Francisco, California.

PATRICIA M. ECKERT  
President  
JOHN B. OHANIAN  
DANIEL Wm. FESSLER  
NORMAN D. SHUMWAY  
Commissioners

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

  
NEAL J. SULMAN, Executive Director  
PB