

ORIGINAL

Decision No. 87434 June 7, 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investiga- )  
tion for the purpose of consid- )  
ering and determining minimum )  
rates for transportation of any )  
and all commodities statewide )  
including, but not limited to, )  
those rates which are provided )  
in Minimum Rate Tariff 2 and the )  
revisions or reissues thereof. )

Case No. 5432  
Petition for Modification  
No. 940  
(Filed January 6, 1977)

OPINION AND ORDER

By this petition, Warren Trucking Co., Inc. (Warren), seeks authority to publish rates which are less than the Commission's established minimum rates for the transportation of newsprint paper and printing paper from Los Angeles Harbor, Long Beach and other points in the Los Angeles Harbor Commercial Zone to various points in southern California, limited to shipments having had a prior movement in interstate or foreign commerce and being reshipped to final destination after temporary storage from a warehouse location in Los Angeles County.<sup>1</sup>

Warren currently operates between the points in question on California intrastate traffic as a highway permit carrier and as a common carrier in interstate or foreign commerce pursuant to a Certificate of Public Convenience and Necessity No. MC-119389 (Sub-No. 2), issued by the Interstate Commerce Commission. By Decision 86377 dated September 14, 1976, as amended by Decision 86860 dated January 11, 1977, in Application 56483, Warren was granted a certificate to operate as a highway common carrier for the transportation on California intrastate traffic of newsprint paper and printing paper from Los Angeles and Long Beach and points and places

---

<sup>1</sup> Petitioner's rates are set forth in Warren Trucking Co., Inc., Local and Proportional Freight Tariff No. 2-A, MF-I.C.C. No. 15.

within five statute miles thereof to points in Santa Barbara, Ventura, Los Angeles, Orange, San Bernardino, Riverside, Imperial, San Diego, Tulare, Kern, Kings and San Luis Obispo Counties. These decisions provided that the service be established by June 1, 1977.

Warren states it sought permission, as a highway permit carrier, to deviate from the provisions of Minimum Rate Tariff 2 on the aforementioned commodities to equalize the rates charged on intrastate shipments with those charged on shipments moving in interstate or foreign commerce. Warren avers that said sought rates were found to be reasonable and granted by Decision 85805, as amended by Decision 86167. Warren asserts that it is merely seeking to publish, as a highway common carrier, the same less-than-minimum rates that it is currently assessing as a highway permit carrier under the aforementioned decisions.

The petition was listed on the Commission's Daily Calendar of January 10, 1977. California Trucking Association (CTA) objected to the ex parte handling of this matter stating:

"Petitioner has not provided any information which would enable the requisite findings of Section 452 of the Public Utilities Code. Furthermore, Section 726 of the Public Utilities Code requires that the Commission give consideration to all types of classes of carriers, and data to enable such consideration has not been provided by Petitioner."

Murchison & Davis, attorneys for petitioner, replied in part to CTA's allegations as follows:

"The letter alleges that sufficient information is lacking to enable the requisite findings under Section 452 and 726 of the Public Utilities Code. Section 452 states quite to the contrary. The first sentence reads:

'Nothing in this part shall be construed to prohibit any common carrier from establishing and charging a lower than a maximum reasonable rate for the transportation of property when the needs of commerce or public interest require it.'

The balance of the Section deals with reductions solely for the purpose of meeting competition. Such is not involved and the public interest requires that Petitioner not be required to charge a higher rate as a highway common carrier than he could charge as a highway contract carrier.

"The protest further makes reference to the second paragraph of Section 726 as justifying a public hearing. We failed to find in that paragraph anything which would conflict with Petitioner's proposal. It reads:

'In any rate proceeding where more than one type or class of carrier, as defined in this part or in the Highway Carriers Act, is involved, the Commission shall consider all such types or classes of carriers, and, pursuant to the provisions of this part or the Highway Carriers Act, fix as minimum rates applicable to such types or classes of carriers the lowest of the lawful rates so determined for any such type or class of carrier.'

"Decision No. 85805, as modified by Decision No. 86167, considered these facts. The rates which were proposed certainly are not lower than the lowest rates which could be determined as lawful minimum rates for a highway contract carrier. The reasonableness of such rates which Mr. Kaspar is again questioning had already been established and found to be reasonable by your Honorable Commission. The Financial Reports filed with Application No. 56313 showed that the rates proposed and approved were more than adequate and the subsequent Annual Reports of Petition (sic) bear this out."

\* \* \*

"Certainly, granting of the Petition is more of a ministerial function in view of the findings in both the Decision on the earlier rate deviation and the subsequent Application for a highway common carrier certificate converting the permitted operations to those of a highway common carrier."

In the circumstances, the Commission finds that:

1. Warren is currently transporting newsprint paper and printing paper as a highway permit carrier on California intrastate traffic from Los Angeles Harbor, Long Beach and other points in the Los Angeles Harbor Commercial Zone to various points in southern California at rates which are less than the Commission's established minimum rates for such transportation pursuant to Decision 85805 as amended by Decision 86167.

2. Decision 85805, as amended by Decision 86167, found the rates referred to in Finding 1 hereof to be reasonable.

3. Warren is currently transporting in interstate or foreign commerce as a common carrier pursuant to a Certificate of Public Convenience and Necessity No. MC-119389 (Sub-No. 2) the commodities referred to in Finding 1 hereof from and to the points described in said finding at rates in its Local and Proportional Freight Tariff No. 2-A, MF-I.C.C. No. 15.

4. The rates assessed by Warren for its transportation services described in Finding 1 hereof are identical to the rates it publishes and assesses for its services in interstate or foreign commerce described in Finding 3 hereof.

5. Decision 86377 dated September 14, 1976, as amended by Decision 86860 dated January 11, 1977, authorizes Warren to operate as a highway common carrier in connection with the transportation of newsprint paper and printing paper on California intrastate traffic from Los Angeles, Long Beach and San Diego and points and places within five statute miles thereof to various points in southern California including the destination points referred to in Finding 1 hereof.

6. Decision 86377, as amended by Decision 86860, requires that the highway common carrier service be established by June 1, 1977.

C. 5432 (Pet. 940) - HAH/HK\*

7. Should Warren not be granted the authority granted herein, it would be required to publish and assess higher rates for its California intrastate highway common carrier service than for its service in interstate or foreign commerce on the commodities described in Finding 1 hereof from and to the points described in said finding.

8. The needs of commerce and the public interest require that the proposed rates be established.

9. The proposed rates are reasonable and justified by transportation conditions.

10. Increases which may result in the event the proposed rates should expire with June 1, 1978, are justified.

The Commission concludes that the petition should be granted to the extent indicated in the ensuing order and the effective date of this order should be the date hereof because there is an immediate need for this rate relief. A public hearing is not necessary.

IT IS ORDERED that:

1. Warren Trucking Co., Inc., is authorized to publish and file to expire with June 1, 1978, rates for the transportation of newsprint paper and printing paper as set forth, and subject to the conditions specified, in Appendix A attached hereto and by this reference made a part hereof.

TH-4

C. 5432 (Pet. 940) - HAH/HK \*

2. Tariff publications authorized to be made as a result of the order herein may be made effective on one day's notice to the Commission and to the public.

3. Warren Trucking Co., Inc., is authorized to depart from the provisions of Section 461.5 of the Public Utilities Code in establishing and maintaining the rates authorized herein. Schedules containing the rates published under this authority shall make reference to this order.

4. The time within which Warren Trucking Co., Inc., shall comply with the provisions of Ordering Paragraph 2(b) of Decision 86377, as amended by Decision 86860, is further extended to September 1, 1977.

5. In all other respects, Decision 86377 shall remain in full force and effect.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 7<sup>th</sup> day of JUNE, 1977.

*I dissent*  
*William L. Ryan, Jr.*  
Commissioner

*Robert B. ...*  
President

*Vernon L. Sturgeon*  
*Charles D. ...*

Commissioners

APPENDIX A

CARRIER: WARREN TRUCKING CO., INC.

COMMODITIES: Newsprint paper and printing paper used in the publication of newspapers and other printed matter, in flat stock and in rolls.

FROM: Los Angeles Harbor, Long Beach and other points in the Los Angeles Harbor Commercial Zone.

TO: Various points in southern California.

RATES: As set forth in Warren Trucking Co., Inc., Local and Proportional Freight Tariff No. 2-A, MF-I.C.C. No. 15, Cal.P.U.C. No. 1.

This authority is limited to shipments having had a prior movement in interstate or foreign commerce and being reshipped to final destination after temporary storage from a warehouse location in Los Angeles County.

(END OF APPENDIX A)