

ORIGINAL

Decision No. 92432 NOV 18 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the definition, criteria and procedure for determining prevailing wages for use in the establishment of carrier-filed rates.

OII No. 53  
(Petition for Modification filed September 25, 1980)

In the Matter of the Investigation for the purpose of considering 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 Nos. 884, 951, 966  
Order Setting Hearing 957

Case No. 5439  
Petition for Modification Nos. 270, 307, 312  
Order Setting Hearing 310

And Related Matters.

Case No. 5441  
Petition for Modification Nos. 356, 388, 394  
Order Setting Hearing 392

Case No. 5603  
Order Setting Hearing 208

Case No. 7783  
Order Setting Hearing 156

ORDER DENYING PETITION FOR MODIFICATION

California Trucking Association (CTA), by this petition filed September 25, 1980, requests that the California Public Utilities Commission (Commission) modify Decisions 90663 and 91265 to authorize all motor common carriers to increase general commodity tariff rates by 4 percent. CTA further requests that the Commission reopen Case 5432, Petition 884, et al., for the purpose of (1) considering such other

expedient procedures as may be necessary to provide for future common carrier increases in rates during the transition period, and (2) developing a timetable for gradual phasing out and cancellation of transition tariffs.

In Decision 90663, the Commission abolished minimum rate regulation of general commodity transportation and substituted a more competitive regulatory system of carrier-filed rates. The transition to the new competitive program began with the cancellation of Commission-set general commodity and tank truck minimum rate tariffs on April 30, 1980. Under the new regulatory program, the primary responsibility for rate setting has been shifted from the Commission to the industry. Although the Commission will no longer mandate uniform industry-wide rates or rate changes, carriers may increase or decrease their rates on their own initiative, subject to Commission oversight under new revised regulatory procedures.

On July 25, 1980, CTA filed an application for Western Motor Tariff Bureau (WMTB), under these procedures, to increase rates collectively on behalf of its common carrier members. The application sought authority from the Commission to increase WMTB general commodity tariff freight rates by 4 percent to reflect increased labor costs payable October 1, 1980, under cost of living adjustment clauses in Teamster Union contracts. The WMTB application was reviewed and granted by the Commission on September 16, 1980, in Decision 92256.

In its present petition, CTA now alleges that the data furnished in support of the WMTB application would traditionally have been sufficient to justify an increase in minimum rates applicable to all carriers and, therefore, is a sufficient basis to justify increasing the rates of all common carriers who have not joined WMTB. CTA acknowledges that this petition is inconsistent with the trucking reform program adopted in Decision 90663, but alleges that the industry's lack of familiarity with the new procedures necessitates the extraordinary relief they seek.

Discussion

We find CTA's arguments unpersuasive, CTA represents none of the carriers on whose behalf the petition is purportedly filed and is without authority to file applications under Decision 90663 for carriers who have not authorized CTA to represent them in this capacity. The petition should, accordingly, be dismissed on procedural grounds. There are more important reasons, however, for denying CTA's petition. Carriers whose costs of operation justify an increase in rates are free to file an application for such authority. California Public Utilities Code Section 454 requires common carriers to apply to the Commission for authorization to increase rates, but the application process is not particularly complex and is not expected to be time consuming. Common carriers may apply by individual application, filed on their own or with the assistance of a tariff agent, or may file collectively with other carriers through an approved rate bureau. Applications for general rate increases, filed through either procedure, must be filed in accordance with Rules 1-8, 15, 16 and 23 of the Commission's Rules of Practice and Procedure. If the proposed increase would not increase the applicant's gross intrastate revenue by as much as one percent, the application may be filed through an abbreviated procedure under the Shortened Procedure Tariff Docket governed by Rules 25 through 32. Any change in regulation, however simple or complex, inevitably engenders some confusion. In anticipation of this, the Commission's reform program was designed to introduce price competition into the trucking industry gently, through a gradual transition period. During this transition period, every effort was to be made to educate both shippers and carriers to the details of the new program. Although we have encountered a number of administrative problems during the first six months the program has been in effect, the transition period appears to be serving well its intended purpose.

Authorizing common carriers to increase rates without justification and without compliance with the new rules will only serve to continue the industry's dependence upon the Commission for price setting and will only postpone the transition from Commission-set rates to true carrier-set rates. There is no better time for carriers to acquaint themselves with the new rules procedures than the present. Accordingly, CTA's petition should be denied.

Findings of Fact

1. CTA seeks, on behalf of unspecified common carriers, permissive authority to raise their published tariff rates by 4 percent, the same amount granted in Decision No. 92256 to highway common carriers participating in WMTB tariffs.

2. The common carriers for whom the relief is sought do not participate in the affected WMTB tariffs, are not represented by CTA (which is neither a tariff agent nor a rate bureau), and are not joined as petitioners in CTA's pleading.

3. The carriers on behalf of whom rate increases are sought in CTA's petition have not requested rate relief.

Conclusions of Law

1. Section 454 of the Public Utilities Code provides that no common carrier (public utility) shall raise any rate except upon a showing before the Commission and a finding by the Commission that such increase is justified.

2. None of the carriers for whom rate relief is sought have applied for such relief, and no showing has been made on their behalf.

3. In the absence of a request by the affected common carriers and a showing as required by the Code, the relief sought in CTA's petition should be denied.

IT IS ORDERED that the petition for modification of Decisions Nos. 90663 and 91265 filed September 25, 1980 in the captioned proceeding by California Trucking Association is hereby denied.

The effective date of this order shall be thirty days after the date hereof.

Dated NOV 18 1980, at San Francisco, California.

John E. Byrne  
President  
Thomas L. Sturgeon  
Richard W. Howell  
Clair T. ...  
Donald ...  
Commissioners