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ORIGINAL

Decision No. 92499 DEC 5 - 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of WESTERN MOTOR TARIFF BUREAU,)
INC., AGENT, for authority to)
increase rates in Western Motor)
Tariff Bureau Tariff No. 17 con-)
taining rates of common carriers)
for the transportation of cement)
in bulk or in packages and other)
commodities, and the performance)
of specified services related)
thereto.)

Application No. 59893
(Filed August 20, 1980)

O P I N I O N

By this application Western Motor Tariff Bureau, Inc., Agent (WMTB) seeks on behalf of the common carriers participating in WMTB Tariff No. 17 increases in the rates and charges for the transportation of cement and related services. The application was filed on August 20, 1980 and appeared on the Commission's Daily Calendar on August 22, 1980. No protests from either the Commission staff or interested parties were filed within 30 days as provided in Article 2.5 of the Commission's Rules of Practice and Procedure. The application will be granted.

The application specifically requests increases of 3-1/2 percent on Northern Territory cement rates for distances up to 130 miles. The application alleges that 80 percent of the shipments in

the Northern Territory move distances less than 130 miles. Also the application states that a representative group of three carriers with prominent Northern Territory operations have experienced a composite operating ratio of 104 percent for the first six months of 1980. A slightly larger group of carriers with heavy but less substantial operations in the Northern Territory experienced an operating ratio of 101.2 percent for the first six months of 1980. The increased costs responsible for these poor results of operations are primarily labor-related. In order to relieve this situation, the applicant states that a 3-1/2 percent increase is required in the rates for traffic moving in the Northern Territory less than 130 miles, which will produce an increase in revenue of about \$450,000.

Comprehension of our present action requires an understanding of (1) the relationship of the minimum rate system to the system of ratesetting for common carriers; (2) the typical method for increasing rates; and (3) our recent actions concerning Minimum Rate Tariff 10.

Section 726 of the Public Utilities Code governs the relationship between the common carrier ratesetting system and the minimum rate tariff system. Absent Section 726, the Commission's minimum rates would apply only to highway permit carriers. However, if the Commission establishes minimum rates, Section 726 requires that

the minimum rates also apply to common carriers. This means that if the Commission sets minimum rates, common carriers are precluded from charging less than the minimum rates. Highway permit carriers can freely charge rates at any level above the minimum rates but common carriers must either seek authority or be directed to raise their rates.

A result of this relationship between the different carrier classes has been that common carrier rates have not differed significantly from the minimum rates. Historically, the typical method for increasing rates of both permitted carriers and common carriers has been for an association of motor carriers to apply for an increase to the minimum rates. The effect of this method is that not only highway permit carriers but also common carriers have been directed to increase their rates by the same amount. This has kept the rates equal for all carriers and has prevented any price competition between carriers or carrier classes.

Another effect is that the method of establishing minimum rate has become the method of establishing common carrier rates. This has resulted even though the basic purposes of the two systems of ratesetting are entirely different.

The original purpose of minimum rates was to prevent destructive price competition (rate cutting) by placing a floor below which rates could not go except with close Commission scrutiny. The

basis of minimum rates was to be the costs of the most efficient carrier performing a service. All other carriers would then need to price their services somewhat higher depending on individual circumstances and the competitive environment. This system evolved into an average cost ratemaking structure whose infirmities have been sufficiently chronicled in Decisions Nos. 90663 and 91861. Competition was to be the mechanism for preventing rates from becoming unreasonably high. There were no statutory remedies in the Public Utilities Code for unreasonably high rates charged by highway permit carriers.

Prevention of destructive competition was not the primary reason for common carrier rate regulation. The primary purposes were to prevent economic discrimination and unreasonably high rates. Thus, for a common carrier to increase rates, the Public Utilities Code requires a showing that the increase be justified.

In the recent past we have sought to allow some price competition between carriers. When an application has been submitted to increase the minimum rates, we have considered the application in terms of the minimum rate methodology. If the increase is warranted, we have authorized common carriers to increase their rates but have not increased the minimum rates.

We have instituted this practice because permitted carriers can increase their rates at will but common carriers cannot, and because we have seen no evidence of destructive price competition. This current proceeding has evolved from this practice.

Case No. 5440, Petition for Modification No. 113, was an application by the California Trucking Association to increase minimum rates, among other things. We considered the application in terms of minimum rate proceeding and authorized common carriers certain increases, but did not increase the minimum rate tariff.

The members of WMTB, with heavy Northern Territory operations, evidently felt that the minimum rate tariff methodology did not truly reflect their needs, and filed this application for further rate relief. Because this is not a minimum rate proceeding, we have been able to consider the application in different terms, i.e., revenue need versus average costs, and have decided that the rate relief is justified.

Findings of Fact

1. Western Motor Tariff Bureau, Inc., Agent, seeks to publish increases in its Western Motor Tariff Bureau Tariff No. 17.

2. The increases are for rates in the Northern Territory for distances up to 130 miles.

3. The increases will produce additional revenue of \$450,000.

4. The increases requested are based on the revenue needs of carriers with substantial Northern Territory operations.

5. The composite operating ratio of three carriers with substantial Northern Territory operations for the first six months of 1980 was 104 percent.

6. The rate increase is justified.

7. Notice of the filing of the application appeared on the Commission's Daily Calendar of August 22, 1980. No objection to the granting of the application has been received. There is no need for a public hearing.

8. Because of the financial conditions of the carriers, the order which follows should be made effective the date of signature. The tariff pages should be made effective no sooner than fifteen days after the date of this order.

Conclusion of Law

The application should be granted to the extent set forth in the ensuing order.

O R D E R

IT IS ORDERED that:

1. Western Motor Tariff Bureau, Inc., Agent, is authorized to publish a 3-1/2 percent surcharge on behalf of the individual carriers participating in Item 3000 of Western Motor Tariff Bureau Tariff No. 17.

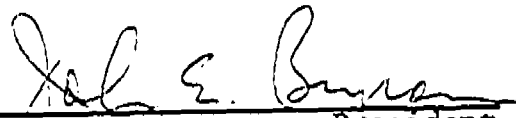
2. Tariff publications authorized to be made as a result of the order herein shall be filed not earlier than the effective date of this order and may be made effective not earlier than fifteen days after the effective date of this order on not less than ten days' notice to the Commission and to the public.

3. Western Motor Tariff Bureau, Inc., Agent, in establishing and maintaining the rates authorized by this order, is authorized to depart from the provisions of Section 461.5 of the Public Utilities Code to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are hereby modified only to the extent necessary to comply with this order; and schedules containing the rates published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

4. The authority granted herein shall expire unless exercised within ninety days after the effective date of this order.

The effective date of this order is the date hereof.

Dated DEC 5 - 1980, at San Francisco, California.



President







Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.