

ORIGINAL

Decision No. & 8447

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the Matter of the Application of)
F. W. Gomph, Agent, Pacific Freight)
Tariff Bureau, for permission to in-)
crease the less than carload rates) APPLICATION NO. 6214
and the classification of preserved)
fruits when packed in glass, earthen-)
ware, metal cans or wooden containers.)

R. C. Fyfe and F.W. Gomph, for the applicant.
Seth Mann, for the San Francisco Chamber of Commerce,
The Canners' League of California and the Northern
California Wholesale Grocers' Association.
Preston Mc Kinney, for the Canners' League of
California.
G. J. Bradley, for Merchants' & Manufacturers'
Traffic Association of Sacramento.
F. M. Hill for Fresno Traffic Association.
W. D. Wall, for Traffic Bureau of San Jose Chamber
of Commerce.

LOVELAND, Commissioner -

O P I N I O N

Under date October 16, 1920, F. W. Gomph, Agent, in the name of and on behalf of all carriers parties to Pacific Freight Tariff Bureau Exception Sheet No.1-G, C.R.C. No.221, filed an application for permission to change the classification of preserved fruits. Item No.326, covered by the application, became effective August 15, 1920, in Supplement No.2 to the Exception Sheet.

The proposed changes in the classification apply only to less than carload shipments and were published in Supplement No.7 to Consolidated Freight Classification No.1, C.R.C. No.217, on Page 30, as Items 3 and 4, to become effective on August 15, 1920. Before

the effective date of the Supplement protests were filed by California Fruit packers and this Commission instructed the Pacific Freight Tariff Bureau to restore the classifications as they appeared originally on Page 175, under Items 12 and 13 in Consolidated Classification No.1.

The present and proposed ratings are set forth below:

COMMODITY	PRESENT	PROPOSED
Applies on Intrastate Traffic within California only.		
Fruit, other than Dried, Evaporated or Fresh:		
Canned or preserved, in juice or syrup, or in liquid other than brine or alcoholic liquor, Fruit Butter, Crushed Fruit, Fruit Jam, Fruit Jelly or Fruit Pulp:		
In glass or earthenware, packed in crates	3	1
In glass or earthenware, packed in barrels or boxes	4	2
In kits	2	2
In kits, in crates	4	3
In pails or tubs	2	2
In pails or tubs, in crates	4	3
In metal cans, in crates	3	3
In bulk, in barrels	4	3
In metal cans, in barrels or boxes	4	3

The principal witness for applicant, Mr. R. C. Fyfe of Chicago, Agent for carriers in the Western Classification territory, testified that the classification prevailing for preserved fruits was unreasonably low and that there was a desire and a necessity for uniformity as between the three classification groupings - Eastern, Southern and Western. Attention was directed to the present rating of 4th Class for fruits in metal or glass containers and the claim made that such rating was improper, inasmuch as fruit, being an article of high value, should not classify the same as salt, stone, sand, lime, cement, lumber and other commodities having much lower values.

It was further contended that the fruit in glass being more susceptible to damages should be classified higher than fruit in cans and by reason of the greater risk to the fruit in glass second class would be proper as against 3rd Class for fruit in cans.

The reclassification here proposed is claimed to follow the suggested classification laid down by the Examiner in I.C.C. Docket No.10204 Consolidated Classification Case decided July 3, 1919, but which report was not adopted by the Interstate Commerce Commission. Referring to Appendix No.6 of the Decision at Page 271, it is to be noted that the Special Classification Committee proposed 4th Class for fruit in glass, earthenware, or in metal cans when packed in barrels or boxes, while the Examiner suggested 2nd Class in glass or earthenware and 3rd Class in metal cans. The Examiner's suggestion was observed in its entirety by Supplement No.7 to Consolidated Freight Classification No.1 as far as the Western ratings were concerned, but deviated to some extent in the ratings made for Official and Southern territory. The failure to comply entirely with the suggested classifications was not set forth in the testimony presented at the hearing in the present proceeding.

This application is opposed by shippers, not because they are unfavorably disposed to a uniform classification, but mainly upon the ground that the charges for the transportation of preserved fruits in less than carload lots have greatly advanced during the past few years. Objection was also made to the proposed separation in the classification by applying 3rd Class to fruit in metal and 2nd Class when packed in glass or earthenware. This latter rating, it is alleged, would create discrimination against the glass container, which has recently become popular and by reason of the manner of packing is claimed to be as safe for transportation purposes as the metal cans.

It is not necessary to make an extensive analysis of protestants' exhibits showing the increases in charges because of

rate changes since June 24, 1918, when the first advances were made by General Order No.28, issued by the Director General of Railroads. The following are the typical illustrations of the changes:

Preserved fruit in glass, Los Angeles to San Bernardino advanced from 21 cents on June 24, 1918, to 33 cents on August 26, 1920. It is proposed by this application to classify the fruit in glass 2nd Class, which would make a rate of $45\frac{1}{2}$ cents per 100 pounds as against the 21 cents in effect June 24, 1918. On fruit in metal cans between the same points the rate was 21 cents; proposed 3rd Class would make a rate of $40\frac{1}{2}$ cents. From Fresno to Bakersfield the rate in glass or earthenware, boxed, June 24, 1918, was 23 cents; the present rate is $36\frac{1}{2}$ cents, while under the proposed rating of 2nd Class the rate would become 49 cents. Prior to June 24, 1918, the rate between the same points on preserved fruit in metal cans was 23 cents, is now $36\frac{1}{2}$ cents and if the proposed 3rd Class rating is permitted to go into effect, would be $40\frac{1}{2}$ cents. From San Francisco to Bakersfield, preserved fruit, in metal cans, boxed, was 46 cents on June 24, 1918; the present rate is 72 cents, while the proposed 3rd Class rating would be 80 cents. The rates to all other points would be proportionately increased.

There was testimony to the effect that the loss and damage claims are few in number in connection with the transportation of preserved fruits, whether packed in glass, earthenware or metal cans; also that the convenient size of the package makes it easy to handle as compared with many commodities having the same rates.

The record does not definitely establish when the 4th Class rating was first put into effect in the Western Classification territory, but it was admitted by witnesses for applicant, and concurred in by those representing protestants that the present classification of the preserved fruits has been in use for more than twenty years.

California produces an extremely large tonnage of fruit;

there are canneries and packing houses throughout the State and the movement of preserved fruits is heavy, going to the jobbing centers in carloads and being distributed throughout the State in less than carload quantities. No effort was made by applicant to show the tonnage moved in less than carload lots, nor the increased revenue expected to accrue because of the changes in classifications. The desire for uniformity appears to be the controlling factor in the minds of the carriers, regardless of the effect the higher classification of the commodities would have upon the revenues.

Consolidated Freight Classification No.1, effective December 30, 1919, was published while the railroads were under federal control and contains standard rules and regulations for the Official, Southern and Western territories, but provides separate and distinct ratings for the commodities in the three groupings. Some slight effort was, no doubt, made in formulating this classification to bring about uniform ratings, but owing to the different conditions existing, the reclassification of commodities was not seriously attempted at the time.

Uniform classification is desirable and would, no doubt, remove alleged discriminations now existing, but in view of the fact that rates have been increased in many different ways during the past few years until, it is claimed by the shippers that they have reached a level where the movement by railroad has been curtailed. I am of the opinion that further increases would not be to the advantage of the carriers, especially in the transportation of short haul traffic.

Effective August 26, 1920, the carriers within the State of California were authorized to increase freight rates by 25%. The decision of this Commission in Application No.5728 followed the action taken by the Interstate Commerce Commission in its Proceeding Ex Parte 74, which action was in compliance with the Esch-Cummins

Law, known as the Transportation Act 1920. In that proceeding in addition to a 25% increase in freight rates there was a 20% increase in passenger fares and a 50% increase in Pullman fares. The action taken by the Interstate Commerce Commission and this Commission, gave consideration to the testimony, the exhibits, and to the statements submitted by the carriers upon which their financial needs were based and included the revenue secured from the transportation of preserved fruits, and was intended to give to the carriers approximately 6% upon the value of their property.

It appears that the granting of this application authorizing the reclassification of these fruits, would produce large increases in revenue, giving the carriers something more than was anticipated in the increases already authorized under the provisions of the Transportation Act.

Without at this time passing upon the reasonableness of these proposed classification changes, I am of the opinion that under the traffic conditions now existing and the further fact that the effect of the rate increases heretofore granted have not been thoroughly demonstrated that the application should be denied.

I submit the following form of order:

O R D E R

A public hearing having been held in the above entitled proceeding, testimony having been presented, and the case having been submitted for decision and the Railroad Commission basing its conclusions on the statements of fact which appear in the opinion preceding this order,

IT IS HEREBY ORDERED, that the application be denied, without prejudice.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission

of the State of California.

Dated at San Francisco, California, this 20th day of
December 1920.

Edwin J. Edgerton
H. D. Leonard

H. B. Randall
Wm. J. Masten
COMMISSIONERS.