

Decision No. 33245

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment)
of maximum or minimum, or maximum)
and minimum rates, rules and regu-)
lations of all common carriers as)
defined in the Public Utilities)
Act of the State of California, as)
amended, and all highway carriers)
as defined in Chapter 223, Statutes)
of 1935, as amended, for the trans-)
portation, for compensation or)
hire, of any and all commodities.)

ORIGINAL

Case No. 4246

BY THE COMMISSION:

Additional appearances entered in this proceeding
since the issuance of Decision No. 32964 dated
April 2, 1940, except as contained in Deci-
sion No. 33002 dated April 16, 1940.

- C. G. Anthony, for Tank Truck Operators' Association.
- M. A. Barr, for Blue Bird Potato Chips, Inc.
- Harold Blaine, for United Van & Storage Association,
Beupre Transfer Company, Hazlewood Transfer Company,
Bonazzola Transfer Company, Riggs Van & Storage Com-
pany, Harvey J. Flowers and Taylor Moving Service.
- M. E. Boyd, for Western Pacific, Sacramento Northern Rail-
way and Tidewater Northern Railroad.
- F. K. Clifford, for Valley Express Co.
- Frederick E. Duffey, for Bekins Van and Storage, Inc.
- H. L. Gunnison, for Standard Oil Company of California.
- Randolph Karr, for Southern Pacific Co. and Pacific Motor
Trucking Co.
- J. R. Lathin, Jr., for Lyon Van and Storage Company.
- T. A. L. Loretz, for Pacific Wire Rope Co., E. H. Edwards
Co., Hillman-Kelley Inc., Pacific Coast Steel Fabri-
cated Association, and John H. Roebling's Sons Co.
- Don H. Moore, for Asbury Transportation Co.
- Arlo D. Poe, for Compartment Delivery Inc.
- Reginald L. Vaughan, for Loomis & Hulsman, doing business
as Loomis-Hulsman Truck Line.
- Ware & Berol by Wallace L. Ware, for Tank Truck Operators'
Association.

SUPPLEMENTAL OPINION AND ORDER

The above entitled proceeding embraces rates, rules and
regulations for the transportation of property throughout the state

by common, radial highway common and highway contract carriers. This opinion deals with certain proposed modifications of Highway Carriers' Tariff No. 2 (Appendix "D" of Decision No. 31606, as amended) concerning which evidence was received at adjourned hearings held in Los Angeles and San Francisco before Examiner Bryant.

Description of Prepared Coconut

General Foods Corporation urged that the term "Coconut, not desiccated," now appearing in Item 610-A of Highway Carriers' Tariff No. 2 among the list of commodities taking rates applicable to canned goods and related articles, be changed to read "Coconut, prepared." Petitioner's district traffic manager testified that the Western Classification formerly carried two descriptions of coconut, namely, "desiccated" and "other than desiccated," but that these two items had been eliminated and in lieu thereof all classification committees had adopted the one description of "Coconut, prepared." He cited numerous intrastate and interstate tariffs in which the latter term was used exclusively. He pointed out, moreover, that Highway Carriers' Tariff No. 2 originally made reference to Item 210 series of Pacific Freight Tariff Bureau Exception Sheet No. 1-P for the description of canned goods, which item included the term "Coconut, prepared;" but that as a result of a recent revision in the tariff it now made reference to the item here involved, in which the description is "Coconut, not desiccated."¹ The witness stated that, in his opinion, it was apparent that the resulting rate increases on prepared coconut had not been intended. No objection was offered to the proposed modification.

The prior record in this proceeding and the opinion expressed in Decision No. 31995, indicate that the decision did not specific-

¹ The tariff revision was authorized by Decision No. 31995 of May 9, 1939.

ally consider the cocoanut description, nor particularly contemplate a restriction therein. It appears, therefore, that the term "Cocoanut, prepared" should be restored. The petition will be granted.

Reduction in Rating on Canned Dog Food

Item No. 320-A of Highway Carriers' Tariff No. 2 provides a rating of 90 per cent of fourth class for less-carload shipments of canned goods as described in Item No. 610-B of the tariff. The latter item includes the description "Meats, cooked, cured or preserved, with or without cereal or vegetable ingredients." Oakland Chamber of Commerce asked that this description be broadened to permit the inclusion of small quantities of other ingredients, in order that it could be applied on canned dog food.

A witness for the Oakland Chamber of Commerce stated that the membership of that organization includes manufacturers of canned dog food, some of whom add ingredients such as cod liver oil, fish, charcoal and various minerals to the meat base of their products. He testified that the addition of small quantities of such ingredients did not alter the transportation characteristics of the commodity and contended that the maintenance of a lower rating on dog food not containing the additional ingredients was prejudicial. Two decisions of the Interstate Commerce Commission (Classification Ratings on Feed, Animal or Poultry, 174 I.C.C. 450 and Chappel Bros. Inc. vs. A.T. & S. F. Ry., 210 I.C.C. 239) were cited as authority for the contention that the transportation characteristics of prepared dog food with a meat base and with ingredients in addition to vegetables and cereals added are not materially different from dog food consisting only of meat with cereal and vegetables added.

Southern Pacific Company opposed the granting of this petition. An expert rate witness for this carrier expressed the opinion that canned dog food should not be accorded the rating of 90 per cent

of fourth class, regardless of whether or not it contained commodities other than those permitted in the present description. He stated that canned goods for human consumption were entitled to the lower rating primarily because of their substantial volume, but that canned dog food moved in a much smaller volume. The witness said that in his opinion the present description of "meats, cooked, cured or preserved, with or without cereal or vegetable ingredients" was not originally intended to be applied to canned dog food, and should not now be so applied. He recommended that the discrimination complained of by Oakland Chamber of Commerce be removed by providing the higher rating for all classes of canned dog food.

The present canned goods description contained in Highway Carriers' Tariff No. 2 is not in any way limited to commodities intended for human consumption, and no justification has been shown for providing such a limitation at this time. Neither does any reason appear why the addition of a small quantity of vegetable, mineral or other ingredients should subject the products of manufacturers adding such ingredients to higher transportation rates, since the record indicates that the addition of such ingredients makes no change in any of the transportation characteristics of the commodity. The petition of Oakland Chamber of Commerce will be granted.

Classification Rating on Potato Chips

BlueBird Potato Chips, Inc. asked that the less-carload rating on potato chips be reduced from first class to third class. A witness for the petitioner testified that potato chips, as packed and shipped by his company, have transportation characteristics comparable to those of shredded wheat and corn flakes, both of which commodities are subject to a third class rating. He stated that, when so packed, potato chips have a cubical displacement of from three to four pounds per cubic foot and are not readily susceptible

to damage. He pointed out that Highway Carriers' Tariff No. 2 provides for the application of fourth class on potato chips in mixed shipments with other groceries and grocery supplies, minimum weight 20,000 pounds, or fifth class, minimum weight 30,000 pounds, and contended that these ratings gave an advantage to shippers of mixed lots of groceries not enjoyed by the manufacturer of potato chips.

The proposal of Blue Bird Potato Chips, Inc. was opposed by Pacific Freight Lines and by Certificated Highway Carriers, Inc. The vice president of both of these organizations, testifying as a cost and rate expert, stated that, because of their low density, potato chips would not produce for highway carriers a load factor in excess of twenty per cent, even if it were possible to load the vehicles to capacity in both directions. He said that, in his opinion, the transportation of a commodity as light and bulky as potato chips would not be profitable under present minimum rates, even at the first class rating now provided.

The evidence adduced by the petitioner is not convincing that potato chips in less-carload and less-truckload shipments should be accorded a lower rating than that now provided in the Western Classification. According to the figures submitted by the witness for Blue Bird Potato Chips, Inc., potato chips have a considerably lower density than either of the other two commodities used for comparison. Under these circumstances, the reduced rating cannot be said to be justified from the standpoint of relationship with other commodities. So far as concerns the fact that potato chips in mixed shipments with other groceries are subject to lower ratings in shipments of 20,000 pounds or more, there is no evidence, aside from the mere declaration, that this provision actually places petitioner at a competitive disadvantage. The petition will be denied.

Therefore, good cause appearing,

IT IS HEREBY ORDERED that Highway Carriers' Tariff No. 2 (Appendix "D" of Decision No. 31606, as amended,) be and it is hereby amended by substituting therein Third Revised Page 47 (cancels Second Revised Page 47), which revised page is attached hereto and by this reference made a part hereof, the changes thereby made to become effective as shown on said page.

IT IS HEREBY FURTHER ORDERED that tariff filings herein authorized to be made by common carriers may be made on not less than three (3) days' notice to the Commission and to the public.

IT IS HEREBY FURTHER ORDERED that the petition of Blue Bird Potato Chips, Inc. be and it is hereby denied.

IT IS HEREBY FURTHER ORDERED that in all other respects said Decision No. 31606, as amended, shall remain in full force and effect.

This order shall become effective on the date hereof.

Dated at San Francisco, California, this 25th day of June, 1940.

Kay & Roney
Frank D. Wilson
Ralph W. Humphrey
H. B. Hall

Commissioners.

Item No.	SECTION NO. 3	COMMODITY RATES (Continued)
	(Applies in connection with rates making specific reference hereto.)	
	CANNED GOODS AND OTHER ARTICLES, viz.:	
	Beans and Pork, Breads, Brine, Broths, Butter, fruit, Butter, peanut (peanut paste), Buttermilk (not Casein),	Molasses or Syrup (except coloring, flavoring, fruit, malt, or medicated), Mustard (prepared),
	Catsup, Chili, ground, Chowders, ‡ Coconut, prepared, Corn,	Oil, olive or salad, Olives, Onion Chips, Onion Powder,
610-C Cancels 610-B	Dressing, salad, ‡ Feed, animal, in metal cans, containing more than 50 per cent of meat, Fish, cooked, pickled or preserved, with or without fruit or vegetable ingredients, Fish Roe, cooked, pickled or preserved, Fruit (not fresh), crushed, Fruit (not dried, evaporated or fresh) in liquid other than alcoholic liquor,	Paste, tomato, Pectin, fruit or vegetable, Pickles (Cauliflower, Cucumber, Dill Weed, Kraut, Mangoes, Onions and Tomato), Pie Preparations (fruit in syrup or in paste form compounded with flour or sugar and flavored), Pimentos (canned peppers), Puddings, Pulp, fruit or vegetable, Puree, tomato,
	Garlic Chips, Garlic Powder,	Ravioli (prepared), with or without cheese, meat or vegetable ingredients, Rice-and-milk, cooked,
	Hominy Honey, in bulk in metal cans,	Sandwich Spread, Sauces, Condiments or Relishes, prepared, Sausage, Sausage Casings, pickled or salted, in bulk in barrels,
	Jam, Jelly, Juice, clam, Juice (not syrup) fruit, unfermented, Juice, tomato, Juice, vegetable,	Soups, Spaghetti (prepared), with or without cheese, meat or vegetable ingredients, Syrups,
	Macaroni (prepared), with or without cheese, meat or vegetable ingredients, Meats, cooked, cured or preserved, with or without cereal or vegetable ingredients,	Vegetables (not dehydrated, dried, evaporated nor fresh), Vefmicelli (prepared), with or without cheese, meat or vegetable ingredients,

	Milk (condensed or evaporated), liquid, Milk (not malted), Buttermilk (not Casein) or Dry Milk Solids, powdered or flaked, Wince Meat,	Vinegar, Welsh Rarebit.
↓Reduction, Decision No.		
EFFECTIVE JULY 15, 1940		
Correction No. 121	Issued by The Railroad Commission of the State of California, San Francisco, California.	