

Decision No. 37825

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment )  
of rates, rules, classifications and )  
regulations for the transportation )  
of property, exclusive of property )  
transported in dump trucks, for com- )  
pensation or hire, over the public )  
highways of the City and County of )  
San Francisco. )

ORIGINAL

Case No. 4084

BY THE COMMISSION:

Appearances

- H. S. McCafferty, for The Federal Glass Company, The Bartlett-Collins Company and The Corning Glass Works.
- George S. Beach, for Cannery League of California and Libby, McNeill & Libby.
- P. Steele Labagh and Leonard P. Keith, for California Packing Corporation.
- E. G. Williams, for Wholesale Grocers Association of Northern California.
- James L. Roney, for S. & W. Fine Foods.
- Walter A. Rohde, for San Francisco Chamber of Commerce.
- J. F. Vizzard, for Draymen's Association of San Francisco.

SUPPLEMENTAL OPINION

Minimum rates for San Francisco drayage service, established by prior orders in this proceeding (39 C.R.C. 636, as amended), are incorporated in City Carriers' Tariff No. 4. The tariff contains specific classification ratings for numerous articles and provides that in the absence of a specific rating the less-than-carload ratings of the Western Classification shall apply.

Federal Glass Company, Bartlett-Collins Company and Corning Glass Works, ask that we determine the applicable classification for common glassware not over \$20 per 100 pounds in value, and Cannery League of California asks that we determine the classification for canned fruit and vegetable juices. Should we conclude that the

classification of the glassware is higher than 3rd class or the classification of the juices higher than 4th class, petitioners urge that these lower classifications be established.

Public hearings were had at San Francisco before Examiner Mulgrew.

Ascertainment of the classifications now in effect is a matter of tariff interpretation. In so far as the controversies here are concerned it depends on whether the articles involved are covered by a specific rating in the City Carriers' Tariff.

The commodities shipped by the glass companies, commonly known as glass "tableware" and "barware," include a variety of bowls, dishes, glasses and tumblers. The "Classification of Articles" lists "Glassware, other than cut" and assigns a 1st class rating thereto. The tariff does not list canned fruit or vegetable juices but contains an entry "Beverages, non-alcoholic NOS (not otherwise specified)." A 3rd class rating is assigned to these beverages. Neither the glassware nor the juices is covered by the tariff's "exceptions" in so far as the determinations we are here asked to make are concerned.

Petitioners contend that the glassware and beverage entries in the tariff's classification are not specific descriptions of their commodities and that, therefore, the Western Classification is applicable. The broad glassware and beverage descriptions, they claim, are neither accurate nor adequate. They concede, however, that the articles shipped by the glass companies are glassware and that fruit juices are non-alcoholic beverages.

It seems reasonably clear that the tariff's classification of articles makes provision for all glassware except cut glass and for all non-alcoholic beverages. As these articles are thus

explicitly classified, the provision for determining ratings in the absence of a specific classification is inoperative. We must conclude, therefore, that the glass articles in issue are ratable as glassware other than cut; that fruit and vegetable juices are ratable as non-alcoholic beverages; and, that 1st and 3rd class rates, respectively, are applicable.

We turn now to petitioners' alternative requests. The glass companies propose that the classification of glassware, other than cut, having an actual value not exceeding \$20 per 100 pounds be reduced to 3rd class. Their witness testified that this lower classification is generally provided for such property throughout Western Classification Territory (territory west of the Mississippi River); that it has been prescribed by this Commission for East Bay drayage; that on a number of commodities the San Francisco Drayage tariff classifies property on either the same or a lower basis than that provided in the Western Classification; that the glassware involved has the same transportation characteristics as glass bottles and as jams, jellies, cocoanut, cheese, chemicals, mustard and beverages packed in glass; that those commodities have a higher value than glassware but are nevertheless classified as 3rd class or lower; that glass bottles are made from the same raw materials as the glassware in issue and do not differ from many other items of glassware in character or value; and that the low value of the glassware and the severe market competition which it faces require that its classification be based upon valuation.

A witness for the carrier which handles San Francisco and East Bay drayage for Federal Glass testified that this service consists of the sorting and distribution of freight shipped into the drayage areas in so-called "pool cars"; that his company can handle

pool car shipments in San Francisco faster than in Oakland; that labor costs for drivers and helpers in the two areas are substantially the same; and that the company's pool car distribution business as a whole is profitable.<sup>1</sup> He was unable, however, to explain the character or scope of a study which he had made and which assertedly disclosed that those operations were profitable.

On the matter of uniformity of ratings on glassware in Western Classification territory, no attempt was made to show that transportation conditions and the rate structure in the San Francisco drayage area were similar to those prevailing elsewhere in this territory except in regard to the East Bay drayage area. With respect to the latter area, petitioners appear to rely solely on the testimony of the witness for the drayman handling the pool car distribution of Federal Glass. In the absence of information concerning the nature of this study, his testimony has little probative value. Concerning the asserted inconsistencies of the ratings within the San Francisco drayage area, petitioners furnished detailed information respecting the value and density of the glassware. However, they furnished no like data in regard to any of the compared commodities. Neither did they by any other means demonstrate substantial similarity of transportation characteristics. The sought rating of third class on glassware, other than cut, having an actual value not exceeding \$20 per 100 pounds, has not been justified. The petition will be denied.

There remains to be disposed of the request of the Cannery League for establishment of a fourth class rating on canned fruit and vegetable juices. The League maintains that the classification of

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<sup>1</sup> The glassware was said to constitute "75 or 80 per cent" of the total. The balance was said to consist of "a standard coated product" and occasionally motor oil and cough drops. He did not know what the "standard coated product" was.

canned fruit and vegetable juices at 3rd class is unjust, unreasonable and discriminatory and not in accord with established classification principles. Its rate witness, pointing out that canned fruit and vegetables are classified at 4th class in the drayage tariff; contended that canned fruit and vegetable juices are entitled to the same classification. He testified that the juices are packaged in the same types of inner and outer containers as the fruits and vegetables; that the weight and cubic measurement of the packages are practically the same for juices and fruits and vegetables; and that the values of the juices are generally less than the fruits and vegetables from which they are derived. For example, he pointed out that canned tomatoes, pineapple and grapefruit have an average weight of 37.2 pounds per case and a value per dozen cans of \$2.75, while the corresponding juices have an average weight of 36.8 pounds per case and a value of \$2.13. He maintained that under such circumstances juices should not have a higher rating than the more valuable commodities.

The record is persuasive that canned fruits and vegetables and canned fruit and vegetable juices are substantially similar in their transportation characteristics and that they should be assigned the same classification ratings. The 4th class rating on the fruits and vegetables has been in effect for San Francisco drayage for a period of several years during which time its propriety has not been challenged. Moreover, by Decision No. 30630 of February 14, 1938, in this proceeding, the "steamship transfer" rate applicable to canned pineapple juice was made to conform to that provided for canned pineapple, upon a showing that these commodities were similar in value and density and moved in mixed shipments. We conclude that the sought 4th class rating on juices has been justified. It will be established.

Both petitions were opposed by the Draymen's Association of San Francisco on the ground that any showing made in justification thereof which does not disclose transportation costs must be held inadequate in view of Section 9 of the City Carriers' Act which, assertedly, requires a cost showing in support of any rate revision.<sup>2</sup> The drayage rate structure was prescribed upon a comprehensive record which included cost studies. These studies did not disclose the expense of handling each of the thousands of different articles which are transported in the drayage area. It was neither necessary nor feasible to develop costs in such detail. In previous decisions where it has been made clear that an individual rating or rate was improper we have effected the necessary adjustment without a specific cost showing. The record here shows that there is no material difference in the cost of transporting the juices and the canned fruits and vegetables. We believe the requirements of Section 9 have been given adequate recognition.

O R D E R

A public hearing having been had in the above entitled proceeding and based upon the evidence received at the hearing and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that Exhibit "A" of Decision No. 28632, dated March 16, 1936, as amended, in the above entitled proceeding, be and it is hereby further amended by adding the following entry to the "Classification of Articles":

Juice, fruit or vegetable, canned .....4.

<sup>2</sup> Section 9 of the City Carriers' Act requires the Commission in the establishment of just, reasonable and nondiscriminatory rates to take into account and give due and reasonable consideration to the cost of the service, the value of the commodity, and the value of the facility reasonably necessary to perform the service.

IT IS HEREBY FURTHER ORDERED that except to the extent granted in the preceding ordering paragraph the petition of The Cannors League of California be and it is hereby denied.

IT IS HEREBY FURTHER ORDERED that the petition of The Federal Glass Company be and it is hereby denied.

In all other respects said Decision No. 28632, as amended, shall remain in full force and effect.

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 24<sup>th</sup> day of April, 1945.

A. Harold Paulson  
Justin J. Casper  
Richard H. Halse  
Francis D. ...  
Irving Russell

Commissioners