

ORIGINAL

Decision No. 47575

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
into the rates, rules, regulations,)
charges, allowances and practices)
of all common carriers, highway)
carriers and city carriers relating)
to the transportation of property.)

Case No. 4808

Appearances

Matthew Clarke, for The Borden Company,
petitioner.

C. S. Connolly, for Carnation Company,
and R. L. Whitehead, for Kraft Foods
Company, interested parties supporting
petitioner.

Russell Bevans, for Draymen's Association
of San Francisco, Inc., and C. A. Millen,
for Valley Express Company and Valley
Motor Lines, Inc., interested parties. •

SUPPLEMENTAL OPINION

By petition, The Borden Company seeks the establishment of reduced less-carload and less-truckload minimum rates for the transportation of milk and cocoa compound, malt, milk and cocoa compound, malted milk, and citrus fruit juice powders.

A public hearing was held at San Francisco on June 27, 1952, before Examiner Mulgrew.

Transportation of the commodities here under consideration is subject to the state-wide minimum class rates set forth in Highway Carriers' Tariff No. 2 (Appendix "D" to Decision No. 31606, 41 CRC 671 (1939), as amended). The tariff is governed by the ratings specified in the Western Classification and by certain exceptions thereto. The classification provides second class less-carload and

less-truckload ratings for the beverage preparations covered by the petition. Petitioner proposes that fourth class exception ratings be established for these commodities. The proposal is supported by Carnation Company and Kraft Foods Company. It is not opposed.

Milk and cocoa compound, malt, milk and cocoa compound, and malted milk are used to prepare beverage and food drinks. The principal sale outlets for the beverage preparations are retail grocery stores. The use of the preparations is similar to that of cocoa and chocolate. These commodities are sold in competition with one another. All of them are listed in the classification under the generic heading "Foodstuffs, Beverages or Beverage Preparations." Their classification ratings are second class except for cocoa which is third class. Fourth class exception ratings are provided for both cocoa and chocolate, but not for the other articles.

Milk and cocoa compound contains cocoa, sugar and nonfat dry milk solids as its principal ingredients. Each of these ingredients has a lower rating than the product. Malt, milk and cocoa compound contains the same ingredients but with malt added. Malted milk is composed of milk and grain solids plus some salt and sugar. In the case of chocolate flavored malted milk, chocolate is added.

The interested shippers contend that the transportation characteristics of all of the foregoing beverage preparations are substantially similar. The densities and values of these commodities are shown below:

<u>Commodity</u>	<u>Weight in pounds per cubic foot</u>	<u>Value in cents per pound</u>
Milk and Cocoa Compound	32.0	42.6
Malt, Milk and Cocoa Compound	38.2	52.0
Malted Milk	32.0-34.5	35.0-39.0
Cocoa	32.0	44.6
Chocolate	32.0	44.5

All of the above-listed beverage preparations, the shippers pointed out, are nonperishable and do not require special equipment or handling. In these respects, they claimed, the products involved possess more favorable transportation characteristics than candy which because it is perishable must in warm weather be given special attention. They stated that, nevertheless, candy along with cocoa and chocolate, is accorded fourth class exception ratings.

In view of the foregoing it is clear that milk and cocoa compound, malt, milk and cocoa compound, and malted milk should be grouped with cocoa and chocolate for rate-making purposes and accorded the same ratings and rates.

The proposal relating to citrus fruit juice powders remains to be discussed and disposed of. As in the case of the other beverage preparations, second class ratings and rates are in effect and fourth class ratings are proposed. The principal ingredients of the citrus powders are corn syrup and citrus juices. These ingredients are both rated 90 percent of fourth class.

In addition to their use as beverage preparations the powders are employed as flavoring agents. Both the orange and the lemon powder weigh 35.1 pounds per cubic foot. The values are 55 and 60 cents per pound for orange and lemon powders, respectively.

The citrus powders are not shown to be marketed in competition with other beverage preparations. Moreover, their values are higher. The record does not establish that fourth class ratings and rates are warranted.

By another order issued today in this proceeding Page 5 of the index of commodities in Tariff No. 2 is being revised. The index changes on that page for the compounds will be incorporated in that order to avoid unnecessary tariff duplication.

Upon consideration of all the facts and circumstances of record, we are of the opinion and hereby find that the proposed reduced ratings and rates for the beverage preparations other than the citrus juice powders have been justified and that petitioner's proposals with respect to the citrus powders have not been justified.

O R D E R

Based on the evidence of record and on the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that Highway Carriers' Tariff No. 2 (Appendix "D" to Decision No. 31606 as amended) be and it is hereby further amended by incorporating therein, to become effective September 10, 1952, the revised pages attached hereto and by this reference made a part hereof, which pages are numbered as follows:

Eighth Revised Page 4 cancels Seventh Revised Page 4
Ninth Revised Page 7 cancels Eighth Revised Page 7
Sixth Revised Page 39 cancels Fifth Revised Page 39

IT IS HEREBY FURTHER ORDERED that tariff publications of common carrier respondents filed pursuant to this order may be made effective not earlier than September 10, 1952, and on not less than five (5) days' notice to the Commission and to the public; and that said respondents be and they are hereby authorized to depart from the provisions of Article XII, Section 21, of the Constitution of the State of California and from the provisions of Section 460 of the Public Utilities Code to the extent necessary to exercise the authority granted herein.

IT IS HEREBY FURTHER ORDERED that, except to the extent provided for in the preceding ordering paragraphs hereof, the

petition of The Borden Company, filed May 24, 1952, in this proceeding, be and it is hereby denied.

In all other respects said Decision No. 31606, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 11th day of August, 1952.

A. J. [Signature]
President
Franklin J. [Signature]
Harold [Signature]
Lucretia [Signature]
Edw. E. [Signature]
Commissioners

INDEX OF COMMODITIES

Only those articles which are named in commodity items or in Exceptions to the Western Classification and Exception Sheet are shown in the following list.

COMMODITY	Item Number	COMMODITY	Item Number
Acid, Boracic	730	Borax	730
Adapters, Casing	365	Boxes, Well Derrick or Stuffing	365
Adjusters and Boards	365	Brackets, Cornice	660,690
Air Compressors (M)	365	Brackets, Insulator	660,690
Ale	310,360,600	Bran	652,652½,654
Ale, Ginger	600	Bran, cottonseed (M)	652½,654
Alfalfa	652½,654	Bran, Rice	652½,654
Anvils (M)	365	Broads	(1)
Aprons, Window	660,690	Breakfast Nook Sets	660,690
Arms, wooden	365	Brewers' Flakes	652,652½,654
Asphalt	723-726	Brewers' Grains	652,652½,654
Astragals	660,690	Brick, Fire	365
Atmospheric Water Cooling Towers	(M) 365,660,690	Brine	(1)
Bakery Goods	360	Bronzing Liquids	377
Balusters	660,690	Broths	(1)
Balustrade Work	660,690	Buckwheat	652,652½,654
Bark	660,690	Buffets	660,690
Barloy	652,652½,654	Built-in Fixtures	660,690
Barrels, Pump Working	365	Butter, Dairy	(M) 315,605
Bars, Grate	365	Butter, Fruit	(1)
Base Boards	660,690	Buttermilk	(1)
Batteries, dry cell	305	Buttermilk, dried	652½,654
Beads, Angle, Corner, Cornice	660,690	Buttermilk, powdered or flaked	(1)
Beans, Mesquite	652½,654	Butter, Peanut	(1)
Beans and Pork	(1)	Cabinets, Kitchen	660,690
Bee Hives	660,690	Cabinets, Medicine	660,690
Beer	310,360,600	Cabinets, Telephone	660,690
Beer Tonic	310,360,600	Cake, Babassu Nut	652½,653,654
Beet Pulp	652½,654	Cake, Coconut	652½,653,654
Bolts (M)	365	Cake, Copra	652½,653,654
Beverage Containers	600	Cake, Corn Germ	652½,653,654
Beverage Preparations	*360,375	Cake, Corn Oil (M)	652½,654
Beverages	310,360,600	Cake, Cottonseed	652½,653,654
Bits, Drilling	365	Cake, Flaxseed	653,654
Blacksmith's Rotary Blowers (M)	365	Cake, (Grain)	652,652½,654
Blinds (Shutter)	660,690	Cake, Hemp Seed	652½,653,654
Blocks (Base, Center, Corner, Head)	660,690	Cake, Kapok Seed	652½,653,654
Blocks, Casing, Crown or Underreamer Dressing	365	Cake, Linseed	652½,653,654
Blocks, Wooden Paving	660,690	Cake, Mesquite (M)	652½,654
Blowers, Blacksmith's Rotary (M)	365	Cake, Palm	652½,653,654
Boards, Base	660,690	Cake, Palm Kernel	652½,653,654
Boards, Ironing	660,690	Cake, Peanut	652½,653,654
		Cake, Perilla	653,654
		Cake, Perilla Seed	652½,653,654
		Cake, Rape Seed	652½,653,654

Boiler Flues	365	Cake, Safflower Seed	653, 654
Boiler Fronts (M)	365	Cake, Sesame Seed	652, 653, 654
Boiler Parts (M)	365	Cake, Soya Bean	652, 653, 654
Boilers (M)	365	Cake, Sunflower Seed	652, 653, 654
Boiler Tubes	365	Cake, Tucum Nut	652, 653, 654
Bolts, wooden	660, 690	Cake, Velvet Bean	652, 653, 654
Bone, ground	652, 654		
Book Cases	660, 690		

* Change, Decision No. 47575

(1) See "Canned Goods and Other Articles as described in Item No. 610 series."

(M) Denotes articles on which application of rates is limited to mixed shipments.

EFFECTIVE SEPTEMBER 10, 1952

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.

Correction No. 471

INDEX OF COMMODITIES (Continued)			
COMMODITY	Item Number	COMMODITY	Item Number
Lime, Chlorinated	730	Meal, Velvet Bean	652 ¹ / ₂ , 653, 654
Liners	365	Meats, cooked, cured or preserved	(1)
Liners, Polished Rod	365	Meat other than fresh	360
Lines, Measuring	365	Meat Substitutes	360
Links	365	Mechanics' Tools (M)	365
Liquid, cigar or cigar- ette lighter (M)	723-726	Medicine Cabinets	660; 690
Liquors, Malt	360; 600	Middlings	652, 652 ¹ / ₂ , 654
Liquors, Vinous	360, 600, 660	Milk (condensed or evaporated) liquid	(1)
Logs	700	Milk and cocoa compound	375
Lubricant, Grease Binder	723-726	Milk, dried	652 ¹ / ₂ , 654
Lumber	660, 690, 700	Milk, Malted	*360, 375
Lye, Concentrated	730	Milk, sour skim	652 ¹ / ₂ , 654
Macaroni (M)	653, 654	Milk, sterilized	(1)
Macaroni, except canned	360	Milo Maize	652, 652 ¹ / ₂ , 654
Macaroni (prepared)	(1)	Mince Meat	(1)
Machines, Oil Well Pulling	365	Molasses	(1), 652 ¹ / ₂ , 654
Machines, Rotary Drilling	365	Molding, Carpenters'	660, 690
Maize	652, 652 ¹ / ₂ , 654	Molding, Casing	660, 690
Malt	652, 652 ¹ / ₂ , 654	Mud Mixer Parts	365
#Malt, milk and cocoa compound	360, 375	Mustard	360
Malt Sprouts	652, 652 ¹ / ₂ , 654	Mustard (prepared)	(1)
*Malted milk	360, 375	Noodles	360
Mantel Shelves	660, 690	Noodles (M)	653, 654
Margarine	(M) 315, 605	Nuts, edible, shelled	360
Mash	652, 652 ¹ / ₂ , 654	Oats	652, 652 ¹ / ₂ , 654
Meal, Alfalfa	652 ¹ / ₂ , 653, 654	Oats, rolled	652, 652 ¹ / ₂ , 654
Meal, Babassu Nut	652 ¹ / ₂ , 653, 654	Offal	652, 652 ¹ / ₂ , 654
Meal, Bean Straw	652 ¹ / ₂ , 653, 654	Oil, cooking	730
Meal, Clover	652 ¹ / ₂ , 653, 654	Oil, Fish (M)	652 ¹ / ₂ , 654
Meal, Coconut	652 ¹ / ₂ , 653, 654	Oil, Olive	(1)
Meal, Copra	652 ¹ / ₂ , 653, 654	Oil, (other than medicinal) (M)	723-726
Meal, Corn Germ	652 ¹ / ₂ , 653, 654	Oil, petroleum medicinal (M)	723-726
Meal, Corn Oil (M)	652 ¹ / ₂ , 654	Oil, Salad	(1), 730
Meal, Cottonseed	652 ¹ / ₂ , 653, 654	Olives	(1)
Meal, Fish	652 ¹ / ₂ , 653, 654	Onion Chips	(1)
Meal, Flaxseed	653, 654	Onion Powder	(1)
Meal, Gluten	652, 652 ¹ / ₂ , 654	Ornaments, Gable	660, 690
Meal, (Grain)	652, 652 ¹ / ₂ , 654	Outfits, insect destroying (M)	723-726
Meal, Hemp Seed	652 ¹ / ₂ , 653, 654	Outfits, Oil, Water or Gas Well	365
Meal, Kapok Seed	652 ¹ / ₂ , 653, 654	Outfits, Wire Line Pumping	365
Meal, Linseed	652 ¹ / ₂ , 653, 654	Packers	365
Meal, Meat	652 ¹ / ₂ , 654	Paint, asphaltic (M)	723-726
Meal, Mesquite (M)	652 ¹ / ₂ , 654	Paint, liquid (M)	723-726
Meal, Palm	652 ¹ / ₂ , 653, 654	Paint, liquid or paste	377
Meal, Palm Kernel	652 ¹ / ₂ , 653, 654	Pancling	660, 690
Meal, Peanut	652 ¹ / ₂ , 653, 654		
Meal, Perilla	653, 654		
Meal, Perilla Seed	652 ¹ / ₂ , 653, 654		
Meal, Rape Seed	652 ¹ / ₂ , 653, 654		
Meal, Rice	652 ¹ / ₂ , 654		

Meal, Safflower Seed	653, 654	Parts, Boiler (M)	365
Meal, Sesame Seed	652, 653, 654	Parts, Mud Mixer	365
Meal, Soya Bean	652, 653, 654	Paste, Alimentary	360
Meal, Sunflower Seed	652, 653, 654	Paste, Confectioners'	360
Meal, Tucum Nut	652, 653, 654	Paste, Tomato	(1)
		Peanut Butter	(1)

Addition) Decision No. 47575
 * Change)

(1) See "Canned Goods and Other Articles as described in Item No. 610 series."

(M) Denotes articles on which application of rates is limited to mixed shipments.

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Correction No. 472

Item No.	SECTION NO. 1-RULES AND REGULATIONS OF GENERAL APPLICATION (Concluded)	Class Rating
EXCEPTIONS TO WESTERN CLASSIFICATION AND EXCEPTION SHEET (Concluded)		
370	Ice cream, less carload	2
#375	Malt, milk and cocoa compound) Milk and cocoa compound) less carload Milk, malted)	6 4
377-A Cancels 377	Paints or Varnishes, not otherwise indexed by name in the Western Classification, Bronzing Liquids, Lacquers or Shellacs, liquid or paste, less carload .. Paint, Lacquer or Varnish Reducing, Removing or Thinning Compounds, not otherwise indexed by name in the Western Classification, less carload	4
378	Pipe, cast iron pressure, not less than 12 feet and not more than 18½ feet in length, in straight shipments or in mixed shipments with cast iron pressure pipe fittings. Minimum Weight 36,000 Pounds	5
380	Salt, common, less carload	90% of 4
390-A Cancels 390	Sugar (Applies only in connection with rates which are subject to a minimum weight of less than 10,000 pounds)	90% of 4
400-A Cancels 400	Vermouth or Wine, domestic, having a declared value of not more than \$2.00 per gallon, less carload	4
# Addition) Decision No. . 47575 6 Reduction)		
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Correction No. 473		