

Decision No. 48742

ORIGINAL

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)	Case No. 4806
of all common carriers, highway)	
carriers and city carriers relating)	
to the transportation of property.)	

Appearances

Frank Loughran and William Larimore, for
petitioner.

Robert D. Boynton and Joseph C. Kaspar, for
Truck Owners Association of California and
The Motor Truck Owners Association of
Southern California, interested parties.

SUPPLEMENTAL OPINION

Perkins Products Company is engaged in the manufacture and distribution of a preparation known as "Kool-Aid" and labeled as a base for soft drinks and desserts. By petition the company seeks the establishment of reduced less-carload and less-truckload ratings and minimum rates for transportation of this commodity.

A public hearing was held at San Francisco on February 2, 1953, before Examiner Mulgrew.

Transportation of the commodity here under consideration is subject to the state-wide minimum class rates named in Highway Carriers' Tariff No. 2 (Appendix "D" to Decision No. 31606, 41 CRC 671 (1938), as amended). The tariff is governed by the ratings specified in the Western Classification and by certain exceptions thereto.

Petitioner's product is not specifically named in the classification but is ratable under the description of "Beverage preparations, not otherwise indexed by name, dry, in boxes." The classification provides a rating of 3rd class for less-carload or less-truckload

lots up to 30,000 pounds. Tariff No. 2 provides, as an exception to this, a rating of 4th class for lots of 20,000 pounds and over.

Petitioner proposes that the 4th class exception rating be extended to include less-carload and less-truckload quantities of any weight.

The ingredients used in petitioner's product are 85 percent corn sugar and 15 percent citric acid, artificial flavor and artificial color. It is packaged in dry crystalline form in envelopes of one ounce each, 48 envelopes to a package and 12 packages to a shipping carton weighing 53½ pounds gross. It is made into a beverage by the addition of water and sugar. The product is also used as a base for sherbets, gelatin desserts, and frozen desserts. As a beverage preparation the commodity competes with flavored, phosphated and other beverages, and as a dessert preparation it competes with other similar dessert preparations all now possessing fourth class ratings.

A witness for the petitioner submitted a tabulation (Exhibit No. 1117) comparing the shipping characteristics of its product with those of other beverage and dessert preparations as follows:

COMPARISON OF SHIPPING CHARACTERISTICS

<u>Commodity</u>	<u>Weight in pounds per cubic foot</u>	<u>Value in cents per pound</u>
<u>Petitioner's Product</u>	<u>26.76</u>	<u>35.2</u>
Malted Milk	28.1	28.5
Malt, Milk and Cocoa Compound	17.9	50.6
Coffee Extract, dry	36.7	65.7
Chocolate (instant)	26.5	41.4
Chocolate Malted Milk	28.1	27.3
Cocoa	33.1	29.8
Other Dessert Preparations:		
Product "A"	37.0	27.4
Product "B"	42.4	47.5
Product "C"	25.0	39.1
Product "D"	47.4	35.8
Product "E"	17.0	34.9

The witness stated that, in addition to comparing favorably in density and value, the other transportation characteristics of petitioner's product are no less favorable than those of the competing products with which equality of rate treatment is sought. It moves in volume and regularly; does not require special handling and is not subject to deterioration. He stated that damage claims during the past five years have been practically nil. The witness showed that three of the four ingredients of petitioner's product were also contained in the five competing dessert preparations. The fourth ingredient, citric acid, is used in two of the competing products. He also pointed out that sugar, the principal ingredient of all the dessert preparations, is rated 90 percent of 4th class. All of the compared products, excluding dry coffee extract but including petitioner's product, are rated equal in the Uniform Classification which is used nationally except in the Western Territory. In that territory petitioner's product was shown to enjoy generally the fourth class rating sought except in California.

Inherent in the petition is a request for relief from the long and short haul provisions of Article XII, Section 21 of the Constitution of the State of California and Section 460 of the Public Utilities Code in order to permit the application of the sought ratings to rates which are nonintermediate in application. For the reasons departures from the above statutory provisions were authorized in the rate, like authority is justified for application of the exception ratings. Such authority will be granted.

It has been shown by the transportation characteristics of petitioner's product that it should be grouped with the beverage and dessert preparations it competes with for rate-making purposes and accorded the same ratings and rates. The petition will be granted.

Upon consideration of all of the facts and circumstances of record, we are of the opinion and hereby find that the proposed reduced rating has 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 August 1, 1953, the revised pages attached hereto and by this reference made a part hereof, which pages are numbered as follows:

Tenth Revised Page 4 Cancels Ninth Revised Page 4

Twelfth Revised Page 37 Cancels Eleventh Revised Page 37.

IT IS HEREBY FURTHER ORDERED that tariff publications of common carrier respondents filed pursuant to this order may be made effective not earlier than August 1, 1953, and on not less than five 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 adjust long and short haul departures now maintained under outstanding authorizations.

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

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

Dated at San Francisco, California, this 23rd day of June, 1953.

Q. J. Indarany
President
Justin J. Calmes
Francis J. Pottel
John E. McNeill

Commissioners

Commissioner Harold P. Eulis being necessarily absent, did not participate in the disposition of this proceeding.

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	Brackots, Cornico	660,690
Air Compressors (M)	365	Brackots, Insulator	660,690
Ale	310,360,600	Bran	652,652 $\frac{1}{2}$,654
Ale, Ginger	600	Bran, cottonseed (M)	652 $\frac{1}{2}$,654
Alfalfa	652 $\frac{1}{2}$,654	Bran, Rice	652 $\frac{1}{2}$,654
Anvils (M)	365	Breads	(1)
Aprons, Window	660,690	Breakfast Nook Sets	660,690
Arms, wooden	365	Brewers' Flakes	652,652 $\frac{1}{2}$,654
Asphalt	723-726	Brewers' Grains	652,652 $\frac{1}{2}$,654
Astragals	660,690	Brick, Fire	365
Atmospheric Water Cooling Towers	(M) 365,660,690	Brine	(1)
Bakery Goods	360	Brushes, tooth	395
Balusters	660,690	Bronzing Liquids	377
Balustrade Work	660,690	Broths	(1)
Barley	660,690	Buckwheat	652,652 $\frac{1}{2}$,654
Barrels, Pump Working	652,652 $\frac{1}{2}$,654	Buffets	660,690
Bars, Grate	365	Built-in Fixtures	660,690
Base Boards	660,690	Butter, Dairy	(M) 315,605
Bath Salts or Crystals	395	Butter, Fruit	(1)
Batteries, dry cell	305	Buttermilk	(1)
Bay Rum	395	Buttermilk, dried	652 $\frac{1}{2}$,654
Beads, Angle, Corner, Cornice	660,690	Buttermilk, Powdered or flaked	(1)
Beans, Mesquite	652 $\frac{1}{2}$,654	Butter, Peanut	(1)
Beans and Pork	(1)	Cabinets, Kitchen	660,690
Bee Hives		Cabinets, Medicine	660,690
Beer	310,360,600	Cabinets, Telephone	660,690
Beer Tonic	310,360,600	Cake, Babassu Nut	652 $\frac{1}{2}$,653,654
Boot Pulp	652 $\frac{1}{2}$,654	Cake, Coconut	652 $\frac{1}{2}$,653,654
Belts (M)	365	Cake, Copra	652 $\frac{1}{2}$,653,654
Beverage Containers	600	Cake, Corn Germ	652 $\frac{1}{2}$,653,654
Beverage Preparations	*311,360,375	Cake, Corn Oil (M)	652 $\frac{1}{2}$,654
Beverages	310,360,600	Cake, Cottonseed	652 $\frac{1}{2}$,653,654
Bits, Drilling	365	Cake, Flaxseed	653,654
Blacksmith's Rotary Blowers (M)	365	Cake, (Grain)	652,652 $\frac{1}{2}$,654
Blinds (Shutter)	660,690	Cake, Hemp Seed	652 $\frac{1}{2}$,653,654
Blocks (Base, Center, Corner, Head)	660,690	Cake, Kapok Seed	652 $\frac{1}{2}$,653,654
Blocks, Casing, Crown or Underreamer Dressing	365	Cake, Linseed	652 $\frac{1}{2}$,653,654
Blocks, Wooden Paving	660,690	Cake, Mosquito (M)	652 $\frac{1}{2}$,654
Blowers, Blacksmith's Rotary (M)	365	Cake, Palm	652 $\frac{1}{2}$,653,654
Boards, Base	660,690	Cake, Palm Kernel	652 $\frac{1}{2}$,653,654
Boards, Ironing	660,690	Cake, Peanut	652 $\frac{1}{2}$,653,654
		Cake, Perilla	653,654
		Cake, Perilla Seed	652 $\frac{1}{2}$,653,654
		Cake, Rape Seed	652 $\frac{1}{2}$,653,654

Boiler Flues	365	Cake, Safflower Seed	653, 654
Boiler Fronts (M)	365	Cake, Sesame Seed	652 ⁷ , 653, 654
Boiler Parts (M)	365	Cake, Soya Bean	652 ⁷ , 653, 654
Boilers (M)	365	Cake, Sunflower Seed	652 ⁷ , 653, 654
Boiler Tubes	365	Cake, Tucum Nut	652 ⁷ , 653, 654
Bolts, wooden	660, 690	Cake, Velvet Bean	652 ⁷ , 653, 654
Bone, ground	652 ⁷ , 654		
Book Cases	660, 690		

Change, Decision No. 48742

(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 AUGUST 1, 1953

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

Correction No. 555

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)	
EXCEPTIONS TO WESTERN CLASSIFICATION AND EXCEPTION SHEET (Continued)		
PACKING REQUIREMENTS		
<p>Except as otherwise provided, articles will not be subject to the packing requirements of the Western Classification or Exception Sheet, but may be accepted for transportation in any container or any shipping form, providing such container or form of shipment will render the transportation of the freight reasonably safe and practicable.</p> <p>If two or more ratings which are subject to different packing requirements are provided for an article in the form in which it is shipped, the lowest of such ratings will apply.</p>		
300-B Cancel 300-A	<p>The term "form in which it is shipped" means the form of the article itself as prepared for shipment or for the trade (exclusive of packing requirements), such as set up, knocked down, nested, not nested, compressed, not compressed, folded flat, not folded flat, in metal can inner containers, in glass bottle inner containers, in carton inner containers, in bulk (not in inner containers), dry, liquid, paste, solid, powdered, granulated. The term "packing requirements" means (1) the outer shipping containers such as boxes, barrels, crates, bags, and (2) the shipping forms such as bundles, bales, rolls, loose, on skids (other than lift truck or platform), which are provided in the Western Classification or Exception Sheet.</p>	
305	Batteries, dry cell, electric, less carload -----	Class Rating 4
310	Beverages, malt, viz.: Ale, Beer, Beer Tonic, Porter, Stout, less carload-----	4
#311	Beverage Preparations, not otherwise indexed by name in the Western Classification, dry, less carload -----	4
315	<p>Butter, dairy Cheese (including cottage cheese and pot cheese) Margarine</p> <p>(1) Applies only in connection with rates for mixed shipments determined under the provisions of Item No. 90 series.</p>	(1) 4
320-B Cancel 320-A	Canned Goods and Other Articles as described in and subject to the provisions of Item No. 610 series, less carload-----	90% of 4
330-D Cancel 330-C	<p>Carriers (used packages), second-hand, empty, as described in and subject to the provisions of Item No. 300 series of the Exception Sheet: Less than carload-----</p> <p>(2) Subject to minimum rate of 23 cents per 100 pounds or actual 4th class rate, whichever is lower.</p> <p>Carload: Minimum weight 12,000 pounds----- Minimum weight 20,000 pounds----- (3) Not to exceed less-than-carload rate.</p>	<p>(2) ½ of 4</p> <p>(3) B (3) E</p>

333	<p>Clothing, staple work, viz.: Dungarees, coveralls, overalls, breeches, pants, shirts or jackets (See Note 1) made of any one or any combination of the following fabrics made wholly of cotton:</p> <p>Denim Drills Flannels Corduroys Moleskins Jeans Chambrays Coverts Duck Whipcords Twill Cottonades Poplins</p> <p>NOTE 1. Includes work jackets with blanket lining made of cotton and not to exceed 50% of wool shoddy.</p>	3
334	Coffee, extract of (condensed coffee), dry, less carload-----	4
334 $\frac{1}{2}$	Compounds, cleaning, scouring or washing, not otherwise indexed by name in the Western Classification, less carload-----	4
335	Covers, hood, radiator, seat, spring, steering wheel, tire or top, cotton cloth, not fitted or formed, less carload--	3
340	Flowers, fresh, cut, less carload-----	1
350	Fruit, dried, including Raisins, Prunes (dried), Figs (dried), and Fig Pulp or Fig Paste, less carload-----	90% of 4
<p># Addition) o Reduction } Decision No. 48742 EFFECTIVE AUGUST 1, 1953</p>		
<p>Issued by the Public Utilities Commission of the State of California, San Francisco, California.</p> <p>Correction No. 556</p>		