

ORIGINALDecision No. 48786

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 general commodities
 (commodities for which rates are pro-
 vided in Highway Carriers' Tariff
 No.2).

Case No. 5432
 (Petition No. 4)

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 in the
 City and County of San Francisco and
 the Counties of Alameda, Contra Costa,
 Marin, Monterey, Napa, Santa Clara,
 Santa Cruz, San Benito, San Mateo,
 Solano and Sonoma.

Case No. 5441
 (Petition No. 2)

Jack P. Sanders and Dr. Luis de Alcuaz,
 for petitioner.
C. J. Riedy, for California Packing Corpor-
 ation, protestant.
Russell Bevans, for Draymen's Association
 of San Francisco, R. D. Boynton, for
 Truck Owners Association of California,
 and K. R. Stoney, for Western Pacific
 Railroad Co., interested parties.

SUPPLEMENTAL OPINION

Gerber Products Company seeks the establishment of reduced less-carload and carload class ratings and minimum rates for the transportation of canned egg yolk.

A public hearing of the proposal was held at San Francisco on May 15, 1953, before Examiner Jacopi.

Line-haul transportation of the commodity in question is subject to the state-wide minimum rates named in Highway Carriers' Tariff No. 2. For movements within the East Bay drayage area,

the minimum rates set forth in City Carriers' Tariff No. 2-A - Highway Carriers' Tariff No. 1-A are applicable. The class rates in the two tariffs are governed by the ratings set forth in the Western Classification and by certain exceptions thereto. There being no exception covering the canned egg yolk involved in the Gerber petition, the commodity is subject to a less-carload rating of second class and a carload rating of third class, minimum weight 30,000 pounds, named in the classification. Petitioner seeks the establishment of a rating of 90 per cent of fourth class and fifth class minimum weight 30,000 pounds, for less-carload and carload movements, respectively, under class rates named in Highway Carriers' Tariff No. 2 and a rating of fourth class which would apply to less-carload or carload movements subject to the minimum class rates applicable within the East Bay drayage area.

According to the testimony of petitioner's traffic manager and the manager of its research laboratory, the company "is now manufacturing a new canned food product called egg yolk" which is "the first sterile egg yolk ever packed." After adding a small amount of salt and only enough water to produce a semi-solid consistency, the egg yolk is cooked and packed in hermetically sealed cans. Each can contains the equivalent of 3 and 1/4 egg yolks and has a gross weight of about 3 ounces.

The record shows that petitioner's product is used primarily as a baby food and that distribution to the public is made generally through retail grocery outlets. The product is shipped in corrugated fibre cases, the usual packaging for canned goods. Each case contains 24 cans of egg yolk. The gross weight is 7 pounds per case. The density of this product is 44.3 pounds per cubic foot and the value is \$31.29 per cubic foot.

The traffic manager testified that the ratings sought for canned egg yolk were the same as those which long have been accorded in Highway Carriers' Tariff No. 2 and the East Bay drayage tariff to extensive lists of canned goods and other designated food products. Assertedly, his company produces and distributes different kinds of canned meats, fruits and vegetables which are included in the aforesaid canned goods tariff items. He introduced evidence showing that various types of canned meats packed in the same size cans and containers used for the egg yolk have a density of 45.7 pounds per cubic foot and a value of \$32.12 per cubic foot. Similar densities and values, he said, prevailed for canned olives, sandwich spread, fish, pimientos and tomato paste which also are included in the canned goods items. Other evidence introduced by the traffic manager showed that canned vegetables in the sizes of containers used for egg yolk weighed 45.71 pounds per cubic foot and that various fruits and vegetables packed in larger containers possessed densities ranging from 46.97 pounds to 51.19 pounds per cubic foot.

According to the traffic manager, canned egg yolk and the other canned food products sold by petitioner which now are accorded the proposed rating are produced in and shipped from the same plant. These products, he said, usually are purchased together by retailers and move in mixed shipments. Assertedly, no special equipment, handling or service is necessary in the movement of these products and the damage risk is slight.

Objection to the inclusion of egg yolk in the canned goods items in question was voiced by a representative of California Packing Corporation. He urged that the sought ratings, if authorized, should be provided for in separate items in the tariffs. It was his view that the articles included in the

canned goods tariff items in question should be confined to fruits and vegetables in accordance with the asserted original concept of the entries. Petitioner offered other evidence, however, showing that the items in question included a variety of canned food products other than fruits and vegetables.

The evidence of record shows that canned egg yolk possesses transportation characteristics which justify its being grouped for rate-making purposes with the articles listed in the canned goods items in the minimum rate tariffs involved herein and accorded the same class ratings and rates. The petitions will be granted. Inherent in the petitions is 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 for the rates, like authority is justified for application of the exception ratings. Such authority will be granted.

Upon consideration of all of the facts and circumstances of record, the Commission is of the opinion and hereby finds the proposed ratings and rates for canned egg yolk have been justified. So that the distribution of Highway Carriers' Tariff No. 2 and the East Bay drayage tariff involved herein will be limited to those parties interested in each of these publications, a separate order covering the drayage tariff will be issued.

O R D E R

Based on the evidence of record and upon 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:

Sixteenth Revised Page 5 cancels Fifteenth Revised Page 5

Ninth Revised Page 47 cancels Eighth Revised Page 47

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 the aforesaid 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 7th day of July, 1953.

[Signature]
President

[Signature]
[Signature]

Justus E. Craemer
Commissioner Kenneth Potter, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioners

INDEX OF COMMODITIES (Continued)

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Candy	360	Compound, radiator or cleaning (M)	723-726
Canned Goods and Other Articles as described in Item No. 610 series	320, 360, 610 620, 630	Compound, rust preventing or removing (M)	723-726
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Cants, wooden	365	Compound, waterproofing (M)	723-726
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Caps, Sand Line	365	Containers, Beverage	600
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Casing, Door and Window Panel	660, 690	Corn Cobs	652, 652 $\frac{1}{2}$, 654
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Compound, carbon removing (M)	723-726		

Compound, cleaning (M)	723-726	Emmer	652, 652 ¹ / ₂ , 654
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		Feed, Bean Straw (M)	652 ¹ / ₂ , 654

Addition, Decision No. **48786**

- (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. 557

Item No.	SECTION NO. 3	COMMODITY RATES (Continued)
	(Applies in connection with rates or ratings making specific reference hereto.)	
	CANNED GOODS AND OTHER ARTICLES, in earthenware, glass or metal cans in boxes, or in bulk in barrels, except as otherwise provided (See Note 1), not subject to Item No. 300 series, viz.:	
	Beans and Pork Breads, Brine, Broths, Butter, fruit, Butter, peanut (peanut paste), Buttermilk (not Casein), not powdered or flaked,	Oil, olive or salad, Olives, Onion Chips, in packages named, or in bulk in boxes, or in double bags, or in multiple-wall paper bags, Onion Powder, in packages named, or in bulk in boxes, or in double bags, or in multiple-wall paper bags,
	Chili, ground, Chowders, Cocoanut, prepared, in packages named, or in paper cartons in boxes, or in bulk in boxes, or in double bags, or in multiple-wall paper bags, Corn,	Paste, tomato, Pectin, fruit or vegetable, Pickles (Cauliflower, Cucumber, Dill Weed, Kraut, Mangoes, Onions and Tomato),
	# Egg Yolk, in cans in boxes, Food, animal, containing more than 50 percent of meat, in metal cans, Fish, cooked, pickled or preserved, with or without fruit or vegetable ingredients, in packages named, or in bulk in boxes,	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,
*610-I Cancels 610-F	Fish Roe, cooked, pickled or preserved, Fruit (not fresh), crushed, Fruit (not dried, evaporated or fresh) in liquid other than alcoholic liquor,	Ravioli (prepared), with or without cheese, meat or vegetable ingredients, Rice-and-milk cooked,
	Garlic Chips, in packages named, or in bulk in boxes, or in double bags, or in multiple-wall paper bags, Garlic Powder, in packages named, or in bulk in boxes, or in double bags, or in multiple-wall paper bags,	Sandwich Spread, Sausage, Sausage Casings, pickled or salted, in bulk in barrels, Soups, Spaghetti (prepared, with or without cheese, meat or vegetable ingredients), Syrups,
	Hominy, Honey, in bulk in metal cans,	Table Sauces, including Catsup, Prepared Horseradish, Prepared Mustard, Pepper Sauce or Salad Dressing,
	Jam, Jelly, Juice, clam, Juice (not syrup) fruit, unfermented, Juice, tomato, Juice, vegetable,	Vegetables (not dehydrated, dried, evaporated nor fresh), Vermicelli (prepared), with or without cheese, meat or vegetable ingredients,

Macaroni (prepared), with or without cheese, meat or vegetable ingredients,
Meats, cooked, cured or preserved, with or without cereal or vegetable ingredients, in packages named, or in bulk in crates or boxes,
Milk (condensed or evaporated), liquid,
Milk, sterilized, liquid, flavored or not flavored,
Milk (not malted), Buttermilk (not Casein) or Dry Milk Solids, powdered or flaked, in packages named, or in fibre cans, or in bulk in boxes, or in double bags, or in multiple-wall paper bags,
Mince Meat,
Molasses or Syrup (except coloring, flavoring, fruit, malt, or medicated),

Vinegar,
Welsh Rarebit.

Note 1.-Rates or ratings applicable to shipments in boxes will apply also to such shipments in fibreboard boxes in metal strapped bundles or crates.

Rates or ratings applicable to shipments in barrels will apply also to such shipments in hogsheads, pipes, puncheons, tierces, casks, drums, half-barrels, quarter-barrels, sixth-barrels, eighth-barrels or kegs.

* Change)
Addition) Decision No. **48786**
o Reduction)

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