

ORIGINAL

Decision No. 49233

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 provided in Highway Carriers' Tariff No. 2).

Case No. 5432
(Petition No. 12)

Appearances

Spurgeon Avakian, of Phillips, Avakian, & Johnston, for Petitioner,
C. J. Riedy, for California Packing Corporation, protestant,
Robert D. Boynton, Joseph C. Kaspar and Arlo D. Poe, for Truck Owners Association of California and The Motor Truck Owners Association of Southern California, interested parties.

SUPPLEMENTAL OPINION

American Home Foods, Inc., seeks inclusion of "spaghetti and cheese, with sauce, in combined boxes," in the commodity description provided for "Canned Goods and Other Articles" set forth in Item No. 610 series of Highway Carriers' Tariff No. 2.

Public hearing was held before Examiner Lake at San Francisco on October 8, 1953.

The commodity here under consideration consists of an eight-ounce cardboard package of unprepared spaghetti, a 3/4-ounce can of cheese and a 10-ounce can of sauce. All of the items are packed in a single cardboard package.¹ For shipping purposes twelve complete packages are encased in a box. The shipping weight is 19 pounds.

This commodity is subject to the minimum class rates set forth in Highway Carriers' Tariff No. 2. The class rates are governed

¹ The commodity in issue is marketed under the trade name of Chef Boy-Ar-Dee Dinners. It will herein sometimes be referred to as "spaghetti dinners."

by the ratings specified in the Western Classification and certain exceptions thereto. For spaghetti and cheese with sauce the classification provides a fourth class rating in less carload quantities and a fifth class rating in quantities of 36,000 pounds or more. Under petitioner's proposal the spaghetti dinners would be subject to ratings of 90 percent of fourth class for less carload quantities and fifth class minimum weight 30,000 pounds for carload shipments. In addition the commodity would be subject to commodity rates applying between San Francisco and Los Angeles and between other specified points. The effect of the proposal is a reduction.

The sought classification ratings and commodity rates are those presently applicable to prepared spaghetti, macaroni or vermicelli with or without cheese, meat or vegetable ingredients and other foods which are now included in Item No. 610 series of the tariff.

Petitioner contends that because of the present rate differential which prevails between spaghetti dinners and other competitive food products an undue and unreasonable hardship prevails with respect to its shipments.

A traffic consultant retained by petitioner introduced an exhibit showing the weight per cubic foot and value per pound of the spaghetti dinners in comparison with various foods now included in Item No. 610.² According to this exhibit the density and value of the product here under consideration are 34.2 pounds per cubic foot and 21.7 cents per pound respectively. The density of the commodities with which the comparison was made range from 18 to 48 pounds per

² The commodities with which the comparison was made are brown bread, ground chili, cocoanut, caviar, garlic chips, garlic powder, pimentos, welsh rarebit, prepared macaroni, egg yolk, beef stew, meat balls and spaghetti.

cubic foot with an average weight per cubic foot of 38.11 pounds. The value in cents per pound of the compared products ranges from 10.4 to 116.4 cents with an average value of 42.88 cents.

Exhibits were also introduced by the traffic consultant listing several motor carrier and rail line tariffs throughout the United States which include spaghetti dinners in canned or preserved foodstuffs list. In addition there was submitted a tabulation of less carload ratings, specified in various classifications having application throughout the United States for both rail and highway transportation of the petitioner's product and various other food products which are now included in Item No. 610 series. This exhibit shows that the classification ratings accorded the product here under consideration is subject to the same ratings or lower ratings than the other commodities.

Representatives of two highway carriers testified that petitioner's shipments of spaghetti dinners possess transportation characteristics as favorable as, or more favorable than, many of the canned goods which are subject to the ratings and rates here sought. They also stated that the density of the spaghetti dinners permits capacity loading of equipment and that the risk of handling was slight. The claim expense according to these witnesses was practically nil.

The assistant to the traffic manager of a large major shipper of canned goods testified that, while his company had no objection to the reduced ratings or rates here sought, it was opposed to the inclusion of the product in the canned goods' item. He stated that the addition of spaghetti dinners in Item No. 610 series of the tariff would only tend to furnish grounds to include other items. It is to be noted however that the item in question includes a variety of articles other than canned goods.

Counsel for the Truck Owners Association stated that unnecessary and unwarranted making of exception ratings and establishment of commodity rates for articles now subject to class rates would tend to destroy the class rate structure and make necessary increased rates.

It has been shown that the transportation characteristics of petitioner's product are such that it should be grouped with canned goods and other articles for rate making purposes and that it should be accorded the same ratings and rates. The petition will be granted.

ORDER

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 December 15, 1953, the revised pages attached hereto and by this reference made a part hereof, which pages are numbered as follows:

Tenth Revised Page 9 Cancels Ninth Revised Page 9.
Tenth Revised Page 47 Cancels Ninth Revised Page 47.

IT IS HEREBY FURTHER ORDERED that tariff publications to be made by common carrier respondents filed pursuant to this order may be made effective not earlier than December 15, 1953 and on not less than five days' notice to the Commission and to the public.

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

The effective date of this order shall be twenty days after the date hereof.

Dated at Los Angeles, California, this 27th day of October, 1953.

R. F. [Signature]
President
[Signature]
[Signature]
[Signature]
[Signature]
Commissioner

INDEX OF COMMODITIES (Concluded)

COMMODITY	Item Number	COMMODITY	Item Number
Shoes, Casing	365	Tank Stool (M)	365
Shook, box or crato	660,690	Tapioca	360
Shortening	360	Tapioca (M)	653,654
Shorts	652,652 $\frac{1}{2}$,654	Tea	360
Shrock Kaffir	652,652 $\frac{1}{2}$,654	Telephone Cabinets	660,690
Sideboards	660,690	Tempor Screws	365
Silo Material, wooden	660,690	Templates, Box and Pin	365
Sinkboards	660,690	Thief Hole Covers	365
Sink Sots	660,690	Ties, railroad	660,690
Skimmings	652,652 $\frac{1}{2}$,654	Timbers, mining	660,690
Slips	365	Timbers, rough	660,690
Smokostacks (M)	365	Toilet Preparations	395
Soap	730	Tongs, pipe	365
Soap, liquid	723-726,730	Tonics	600
Soap Powder	730	Tools, Drilling or Fishing	365
Soda (Beverage)	600	Tools, Mechanics (M)	365
Soda, Washing	730	Tooth Brushes	395
Solvent (M)	723-726	Towers, Atmospheric Water Cooling	(M) 365,660
Solvent, Drain pipe	730	Traveling toilet kits	395
Soups	(1)	Trucks, Steam Boiler (M)	365
Spaghetti (M)	653,654	Tubes, Boiler	365
Spaghetti, except canned	360	Tubing, iron or steel, Plate or Sheet, Cast or Wrought	365
Spaghetti (prepared)	(1)	Tubs, Cooling	365
Spaghetti and Cheese Sport	652,652 $\frac{1}{2}$,654	Underreamers	365
Spices	360	Valves (M)	365
Spiders	365	Valves, Pump Working Barrel	365
Spindles	660,690	Varnish	377
Sprouts, Malt	652,652 $\frac{1}{2}$,654	Vegetable Oil Shortening	730
Spudding Shoes and Rings	365	Vegetables (not dehydrated, dried, evaporated nor fresh)	(1)
Stain, wood (M)	723-726	Veneering	660,690
Stair Work	660,690	Vermicelli (M)	653,654
Stakes	660,690	Vermicelli, except canned	360
Starch, liquid	730	Vermicelli (prepared)	(1)
Staves	660,690	Vinogar	(1)
Steam Boiler Trucks (M)	365	Wagons, Casing or Bit	365
Steel, plate or sheet (M)	365	Wainscoting	660,690
Stops, pole, wooden	660,690	Washing Powders	730
Stirrups, Disconnecting	365	Washing soda	730
Stock, battery separator	660,690	Water as described	600
Stools, Window	660,690	Wax, automobile, boat, floor or furniture (M)	723-726
Stout	310,360,600	Wedges	365,660,690
Straw	657,658	Wedges, mine	660,690
Sugar	360,390,740	Welsh Rarebit	(1)
	750	Wheat	652,652 $\frac{1}{2}$,654
Swabs	365	Wheat, Egyptian	652,652 $\frac{1}{2}$,654
Swivols, Hydraulic Rotary	365	Wheels, Band, Bull or Calf	365
Syrup	(1)	Witch hazel extract	395
Syrup, Fruit	360	Window Seats	660,690
Syrup, grape juice	600	Wine	400
Syrup, Malt	360,600	Wire Rope (M)	365
Tank Material, wooden	660,690	Wobblers	365
Tanks, Iron or Steel (M)	365	Wrenches	365
Tanks, oil and gas separating (M)	365	Yeast	360

Addition, Decision No. **49253**

- (L) 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 DECEMBER 15, 1953

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

Correction No. **604**

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, Chili, ground, Chowders, Coconut, 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, 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,	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, Paste, tomato, Pectin, fruit or vegetable, Pickles (Cauliflower, Cucumber, Dill Wood, 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, Ravioli (prepared), with or without cheese, meat or vegetable ingredients, Rice-and-milk cooked,
*610-J Cancels 610-I	Fish Roe, cooked, pickled or preserved, Fruit (not fresh), crushed, Fruit (not dried, evaporated or fresh) in liquid other than alcoholic liquor,	Sandwich Spread, Sausage, Sausage Casings, pickled or salted, in bulk in barrels, Soups, Spaghetti (prepared, with or without cheese, meat or vegetable ingredients, #6 Spaghetti and Cheese, with sauce, in combined packages in boxes, Syrups, Table Sauces, including Catsup, Prepared Horseradish, Prepared Mustard, Popper Sauce or Salad Dressing,
	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,	Vermicelli (prepared), with or without cheese, meat or vegetable ingredients,
	Hominy, Honey, in bulk in metal cans, Jam, Jelly, Juice, clam, Juice (not syrup) fruit, unfermented, Juice, tomato, Juice, vegetable,	

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,
Minco Meat,
Molasses or Syrup (except coloring, flavoring, fruit, malt, or medicated),

Vinogar,
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 hogsheds, pipes, puncheons, tierces, casks, drums, half-barrels, quarter-barrels, sixth-barrels, eighth-barrels or kegs.

* Change)
Addition) Decision No. 49263
o Reduction)

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Correction No. 603