

ORIGINALDecision No. 49967

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
 (Pet. No. 25)

Appearances

Donald H. Urry for American Cyanamid
 Company, petitioner.
Arlo D. Poe and Herman H. Kuhnert for
 Motor Truck Association of Southern
 California, interested party.
Leonard Diamond of the Commission staff.

O P I N I O N

By Petition for Modification No. 25 filed in this proceeding on February 15, 1954 the American Cyanamid Company asks that there be incorporated in Highway Carriers' Tariff No. 2 a classification exception to establish a fourth class less-carload rating on the following:

"Paint Material, viz.--Resin Compounds,
 Surface Coating, Solid or in Solution,
 not otherwise indexed by name in the
 Western Classification."

A public hearing was held before Examiner Bryant at Los Angeles on April 13, 1954. The matter is ready for decision.

Evidence in support of the petition was offered through the testimony of an employee of the American Cyanamid Company. He testified that he was in charge of shipping the company's products throughout California and other western states from

its manufacturing plant located in Azusa and a warehouse which the company maintains in Los Angeles.

The testimony shows that the material herein in question is now classified within the broader description of "Gums or resins, synthetic, NOIBN, without filler", subject to a less-carload rating of third class. This rating was established in the applicable classification on December 10, 1953, having been reduced on that date from first class.¹ The particular resin compounds upon which the fourth class rating is sought are basic raw materials in the manufacture of varnish, lacquer and resin base paints. Petitioner's witness offered statements of weights and values per cubic foot for the resin compounds manufactured by his company, together with comparable figures for paints and varnishes. He pointed out that Highway Carriers' Tariff No. 2 already provides a fourth class exception rating on paints or varnishes which are not otherwise indexed by name in the Western Classification. The witness testified also that a fourth class rating on the resin compounds has been established in a national motor freight classification which assertedly governs much of the motor transportation in western states other than California. He stated further that the resin compounds have been grouped with other paint materials in certain rail carload commodity rate items.

No other witness testified. The Motor Truck Association of California participated in the proceeding through examination of petitioner's witness. No one specifically opposed the sought reduced rating.

¹ Western Classification No. 75, Cal. P.U.C.-W.C. No. 8, Supplement No. 28, George H. Dumas, Agent.

Petitioner's showing is rested essentially upon (1) a comparison of the densities and values of the particular resin compounds with the densities and values of paints as a group and varnishes as a group, (2) the existence of a fourth class rating on the paints and varnishes, and (3) the fact that a fourth class rating on the resin compounds has been established in a national motor freight classification applicable in other jurisdictions.

The comparison of densities and values of the resin compounds herein involved with the densities and values of paints and varnishes as a group shows only that the resin compounds have neither the lowest nor the highest densities or values of the various compared commodities. Such a comparison may tend to show that on consideration of weight and density alone an identical rating would not be improper, but it does little to establish any impropriety in the present rating on the resin compounds. The fact that ratings lower than those applicable in California have been established voluntarily by motor carriers elsewhere does not constitute a showing that the current rating on California traffic is unreasonable or improper. Petitioner offered no showing of any similarity in the classification practices, in the rates, or in the transportation circumstances and conditions in California on the one hand and in any of the other areas on the other hand.

The recent reduction in rating from first class to third class on synthetic gums or resins without filler was established in the classification upon approval of and under the authority of this Commission.² The present rating is entitled to a presumption of reasonableness. In the consideration of proposed classification

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S.A. No. 518 of September 15, 1953 and authority Nos. 454-914 and 450-368 of September 15, 1953.

changes the burden of proof rests upon the petitioner.

Upon careful consideration of all of the evidence of record we are of the opinion and hereby find that the existing third class rating applicable upon the resin compounds herein involved has not been shown to be unreasonable and that the proposed reduced exception rating sought in lieu thereof has not been shown to be reasonable. The petition will be denied.

O R D E R

Based upon the evidence of record and upon the conclusions and findings contained in the preceding opinion,

IT IS HEREBY ORDERED that Petition for Modification No. 25 filed in this proceeding on February 15, 1954 by the American Cyanamid Company be, and it is, hereby denied.

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

Dated at San Francisco, California, this 27th day of April, 1954.

R. T. Johnson
President
Justin F. Caswell
Russell Pottel
W. L. Bell
James Deagan
Commissioners