

**ORIGINAL**Decision No. 50501

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 ) Case No. 5432  
 and city carriers relating to the ) Petition No. 38  
 transportation of general commodities )  
 (commodities for which rates are )  
 provided in Highway Carriers' Tariff No. 2.)

AppearancesJack Clodfelter, for A. Schilling and Company, petitioner.

Arlo D. Poe and J. C. Kaspar, for Motor Truck Association  
 of California, Robert Boynton, for Truck Owners' Associ-  
 ation of California, Russell Bevans, for Draymen's  
 Association of San Francisco, John E. Myers, for Durkees'  
 Famous Foods, and W. F. McCann, for Johnson & Johnson,  
 interested parties.

O P I N I O N

By Petition for Modification No. 38 filed on June 17, 1954,

A. Schilling and Company requests that there be incorporated in  
 Highway Carriers' Tariff No. 2 a classification exception rating of  
 4th class, less-carload, applicable to the following commodities:

Extracts, flavoring compounds, or imitation flavors, n.o.i.b.n.;  
 Spices, including allspice, capsicum, cinnamon, cloves,  
 ginger roots, mustard, nutmeg, paprika and  
 pepper;  
 Salt, celery, garlic or onion flavored;  
 Sugar, cinnamon flavored;  
 Tea, or tea dust.

The sought changes would result in reductions of present ratings.

With the exception of tea and tea dust, the items named are subject

to classification ratings of 3rd class, less-carload. Tea and tea dust are subject to a classification rating of 2nd class, less-carload.<sup>1</sup>

Public hearing of the matter was held before Examiner C. S. Abernathy at San Francisco, on August 5, 1954.

Petitioner is engaged in the manufacture and distribution of roasted coffee, spices, extracts, and other food products. Its operations are conducted generally in the territory eastward to the Mississippi River. Its manufacturing plant is located at San Francisco, and that of an affiliate is at Los Angeles. From these plants it supplies 9 warehouses which it maintains in various cities in the territory it serves. Distribution of its products is made to grocery stores, restaurants, bakeries, confectioners, and similar concerns. Petitioner stated that during 1953 its shipments of spices and extracts were in excess of 10,000,000 pounds. Assertedly a large portion of this amount was delivered to destinations in California, petitioner's principal marketing area.

In seeking the establishment of a lower rating for its extracts, spices, and related commodities, petitioner alleges that the present classification ratings are unreasonably high. California, it asserts, is one of the three or four areas in the territory it serves where these articles are subject to a 3rd class rating; elsewhere they are subject to a 4th class exception rating

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<sup>1</sup> The classification ratings referred to in this opinion are those provided in Western Classification No. 75, Cal. P.U.C.-W.C. No. 8, of George H. Dumas, Agent, and in supplements thereto or reissues thereof.

or its equivalent. According to petitioner's traffic manager, the transportation characteristics of the commodities involved herein are not less favorable than those of commodities now accorded 4th class rating: No special type of handling is required; the commodities are relatively non-perishable; they are not readily susceptible to damage. The traffic manager compared the shipping weights, densities, and values of the commodities in question with those of chocolate, cocoa, milk compounds, and instant coffee which are subject to 4th class ratings. Some of the shipping weights, densities and values set forth in this comparison are as follows:

<u>Commodity</u>	<u>Shipping Weight (Pounds)</u>	<u>Weight per Cubic Foot (Pounds)</u>	<u>Value per Pound</u>
Ground pepper	34	32	\$ 1.71
Ground mustard	16	32	.56
Vanilla extract	14	41	2.14
Garlic salt	13½	47	.57
Cinnamon sugar	15	42	.40
Tea	15	21	1.10
Ground chocolate	16	32	.45
Malt and cocoa compound	16	33	.52
Malted milk	16	32	.39
Instant coffee	12	26	4.67

From this comparison the traffic manager concluded that the densities and values of his company's products are substantially similar to commodities subject to the 4th class rating. With respect to the 2nd class rating which currently applies to tea, the traffic manager declared that it is unduly discriminatory. He said that in usage tea competes with coffee, chocolate, cocoa and milk compounds and that it should be accorded the same ratings as those items.

The Motor Truck Association and the Draymen's Association of San Francisco participated in the examination of petitioner's

witness. A representative of Durkees' Famous Foods, who said that his company distributes some of the same items as does petitioner, urged the granting of the petition for reasons similar to those advanced by petitioner's traffic manager. No one else offered evidence or participated in the proceeding.

The record in this proceeding does not justify the establishment of the rating which petitioner seeks.

As the foregoing review of the evidence shows, the circumstances upon which petitioner primarily relies to justify its proposal are (a) that lesser ratings are accorded its products elsewhere and (b) that the shipping characteristics and values of its products are similar in various respects to those of certain articles which are subject to a 4th class rating. To have probative value the tabulation which petitioner submitted to show that a 4th class rating applies to its products in certain other parts of the country should have been supported by (1) a showing of the propriety from a classification standpoint of the 4th class rating in the circumstances in which the rating was established and (2) a showing of similarity of circumstances in this State. Such showings were not made. The comparisons of shipping characteristics and values are so limited that they do not show that the present applicable ratings are unreasonable. In submitting the comparisons petitioner neither established that the weights, densities and values of its products are representative of the weights, densities and values of all of the extracts, flavorings, spices and tea which

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move within California nor that the shipping characteristics of its products are representative of those articles generally which are rated as 4th class. A mere showing of similarity of certain transportation characteristics of selected articles which are subject to different classification ratings does not establish as a matter of course that the over-all ratings assigned to the compared articles should be the same.

Petitioner's allegations of unreasonable discrimination with respect to the 2nd class less-carload rating for tea as compared with the lower 4th class rating for chocolate, cocoa and milk compounds and coffee likewise are not supported by the evidence. Petitioner's witness submitted no data which show that the present rating is unduly burdensome to movements of tea. He stressed the desirability of the 4th class rating to improve the competitive position of tea in relation to that of the other beverages and beverage preparations named. His testimony indicates, however, that the reduced rating would not be reflected in the sale price of tea to consumers and that the demand factor for that article would not thereby be affected directly. Generally speaking, it appears that insofar as actual movements of tea are concerned, such benefits as would result from establishment of the lower rating would be only incidental.

In this matter the burden to establish the propriety of the sought rating was upon petitioner. The showings to accomplish this purpose were not made. The petition will be denied.

ORDER

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. 38 filed in this proceeding on June 17, 1954 by A. Schilling and Company be, and it hereby is, denied.

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

Dated at San Francisco, California, this 31st day of August, 1954.

[Signature]  
President

[Signature]

[Signature]

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Commissioners

JUSTUS F. CRAEMER

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