

**ORIGINAL**Decision No. 52152

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 relat- )  
 ing to the transportation of general )  
 commodities (commodities for which )  
 rates are provided in Minimum Rate )  
 Tariff No. 2). )

Case No. 5432  
 (Petition No. 59)

Ralph S. Schmitt and E. C. Marlin,  
 for petitioner.  
Herman C. Kuhnert and Robert Boynton,  
 for California Trucking Associations,  
 Inc., interested party.  
John F. Specht, for the Commission's  
 staff.

O P I N I O N

By Petition for Modification No. 59 in Case No. 5432, Purex Corporation, Ltd., seeks the establishment in Minimum Rate Tariff No. 2 of an exception classification rating on liquid cleaning, scouring, or washing compounds, N.O.I.B.N.<sup>1</sup> Statewide class rates named in that tariff, insofar as they are applicable to shipments of the commodities in question, are governed by the ratings named in the Western Classification. The applicable carload rating provided therein is Class "A", subject to a minimum weight of 36,000 pounds. The exception rating sought herein is fifth class, with no change in the carload minimum weight. Such rating, if established,

<sup>1</sup> The initials "N.O.I.B.N." mean "not otherwise indexed by name, and not more specifically provided for, in Western Classification No. 75, Cal. P.U.C.-W.C. No. 8 of George H. Dumas, Agent."

would remove the application of the Class "A" rating with respect to shipments of liquid cleaning, scouring or washing compounds transported under the class rates in Minimum Rate Tariff No. 2.

Public hearing of the petition was held at Los Angeles on June 22, 1955 before Examiner Carter R. Bishop. Evidence in support of the petition was adduced by a transportation consultant and by petitioner's general traffic manager.

The record discloses that petitioner is engaged in the manufacture of various products, including cleaning, scouring, washing and bleaching compounds, bowl clean and drain pipe solvents; that in some instances the commodities are produced in a dry or granular form, while other products are in the liquid state; and that petitioner's products are designed for both commercial and household use. Petitioner has plants located at Southgate and San Leandro, in the Los Angeles and San Francisco Bay areas, respectively, from which it ships these commodities to all the principal cities of the state.<sup>2</sup>

The transportation consultant testified that petitioner has recently commenced the manufacture and distribution of a product designated as "Trend" Liquid Detergent. This product, he said, is shipped in carload and truckload quantities, both in straight shipments and in mixed shipments with petitioner's other products. The liquid "Trend" is packed in 12-ounce and 22-ounce metal cans, in fibreboard shipping cases which weigh approximately 26 and 23 pounds, respectively. According to the container labels the product is identified for sale purposes as a liquid detergent, to be used in the washing of dishes and of personal laundry.

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According to the record the facilities at San Leandro are devoted exclusively to the production of liquid bleach.

The liquid "Trend" is ratable, the witness said, as washing compound and is presently subject to the above-mentioned carload rating of Class "A", applicable to shipments of "cleaning, scouring and washing compounds, N.O.I.B.N., liquid".<sup>3</sup> He asserted that this rating is unreasonable and unduly high to the extent that it exceeds the sought rating of fifth class.<sup>4</sup> The latter rating, he pointed out, is applicable under the provisions of the Western Classification, to carload and truckload shipments of liquid soap and liquid bleach as well as to shipments of bleaching, cleaning, scouring and washing compounds in the dry state. According to the witness, liquid "Trend", besides competing with other liquid washing compounds, is competitive with some of the above-mentioned fifth class commodities, including washing compounds in the dry state and liquid soap.

The consultant testified that the transportation characteristics of liquid "Trend" are substantially the same as those of the other products manufactured by petitioner, all of which are subject to a carload rating of fifth class. He introduced an exhibit in which the package dimensions, cubic foot displacement and weight per cubic foot of liquid "Trend" were compared with the

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<sup>3</sup> The Class "A" rating is set forth in Item No. 12480-C of Western Classification No. 20, supra.

<sup>4</sup> The Class "A" and fifth class rates as set forth in Minimum Rate Tariff No. 2 are 65 per cent and 60 per cent, respectively, of the corresponding first class rates.

corresponding data for petitioner's other products. The densities (weight per cubic foot) of the various products, as prepared for shipment, are compared in the margin.<sup>5</sup>

The consultant was unable to offer any testimony regarding the comparative values of liquid "Trend" and of the fifth class commodities with which it competes. He stated that such information was somewhat confidential and that he was not authorized to divulge any details concerning the value or prices of petitioner's products.<sup>6</sup>

With respect to loss and damage claim experience the consultant pointed out that applicant had only recently commenced manufacturing liquid "Trend" and that consequently insufficient

5 <u>Product</u>	<u>Pounds per Cubic Foot</u>
"Trend", liquid	
Large	33.5
Giant	38.1
Purex (Sodium Hypochlorite Solution, in bottles)	
Pints	42.5
Quarts	43.3
Half Gallons	41.0
Gallons	39.4
Commercial Bleach (Sodium Hypochlorite Solution)	
4 One Gallon Jugs per Package	40.6
5 Gallon Carboys	57.2
"Trend" (Washing Compound Powder)	
Various sizes and types of package	(13.02 ( to (28.2
"News" (Washing Compound Powder)	
Large	19.0
Giant	18.4
"Old Dutch Cleanser" (Scouring Compound)	32.4
"Beads O'Bleach" (Dry Bleach)	19.0

6 Petitioner's general traffic manager testified that the value of liquid "Trend" is approximately equal to that of "News", a heavy-duty, powdered, washing machine detergent, and is slightly greater than that of "Trend" in the dry form.

time had elapsed for it to evaluate that factor. He asserted, however, that all the claims filed during the past eight years with respect to the movement of all of petitioner's products, both via for-hire carriers and in proprietary operations, amounted to less than one half of one per cent of the aggregate value of those products.

Evidence was also adduced by this witness concerning tariff publications in which liquid cleaning, washing and scouring compounds are now accorded the same rates as are enjoyed by shipments of those commodities in the dry state. In this connection he drew attention to the Commission's Decision No. 48511, dated April 21, 1953, in Case No. 4808, in which a fourth class exception rating was established on less-than-carload and less-than-truckload shipments of the above-mentioned compounds, both in the dry and liquid form. This exception is published in Minimum Rate Tariff No. 2 and is applicable in connection with the statewide class rates set forth therein.<sup>7</sup> Item No. 730 series of that tariff names a truckload commodity rate on "Soap, Lard and Related Articles", applicable between San Francisco Bay points and Sacramento, on the one hand, and points in the Los Angeles area, on the other. The witness pointed out that both dry and liquid bleaching, cleaning, scouring and washing compounds are included in the list of commodities on which the rate in question applies. Additionally, the list specifies soap, dry or liquid; borax; liquid starch; concentrated

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<sup>7</sup> The exception rating in question is contained in Item No. 334 $\frac{1}{2}$  of the tariff in question. Under the Western Classification, which this item supersedes, less-than-carload and less-than-truckload shipments of the liquid compounds are subject to third class while those of the dry products are rated fourth class.

lye; and other related commodities. Most of the articles named in the item are assigned a carload rating of fifth class in the Western Classification.

The consultant asserted that, in all of the rail and truck general commodity rate tariffs applicable from, to or between points west of the Rocky Mountains, liquid, cleaning, scouring and washing compounds, N.O.I.B.N., have been accorded the same rates as apply to shipments of such compounds in the dry state. With one exception, however, the record is devoid of references to specific tariff provisions which would support the assertion. The record does disclose that an equality of commodity rates as between the liquid and dry compounds here under consideration prevails in the rail carload commodity rate tariff applicable generally between points in California.<sup>8</sup> The list of commodities grouped together at the same rates is substantially the same as that contained in Item No. 730 series, supra, of Minimum Rate Tariff No. 2.<sup>9</sup>

A representative of California Trucking Associations, Inc. participated in the development of the record through extensive cross-examination of petitioner's witnesses. He stated that the association opposed the establishment of a fifth class rating on the all-inclusive description of cleaning, scouring and washing compounds, N.O.I.B.N., asserting that no evidence had been offered as to liquid detergents or cleaning or scouring compounds other than petitioner's product. He alleged that the establishment of

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<sup>8</sup> The rates in question are set forth in Items Nos. 6600 to 6695 of Pacific Southcoast Freight Bureau Tariff No. 300, Cal. P.U.C. No. 102 of J. P. Haynes, Agent.

<sup>9</sup> The consultant stated that the above-mentioned rail rates are frequently applied to applicant's shipments under the alternative rate provisions of Minimum Rate Tariff No. 2 when such shipments are transported by highway permit carriers.

the sought rating on such a broad description would have a very far-reaching effect on the revenues of the carriers.

Conclusions

Petitioner has adduced certain evidence which would tend to support the propriety of the relief sought herein. However, such evidence as has been offered, even in the narrow field of petitioner's product here in issue, namely, liquid "Trend", appears to be insufficient to justify the establishment of the fifth class rating. With respect to transportation characteristics, for example, the record fails to show that shipments of liquid "Trend" may be as easily and as efficiently handled as are the compounds in the dry form and other related articles now taking fifth class.<sup>10</sup> Likewise, there is no probative evidence in the record concerning the value of liquid "Trend" as compared with the values of the dry compounds and of the other related commodities taking fifth class rates. Again, the record is silent as to petitioner's claim experience in connection with its shipments of liquid "Trend" since it commenced shipping the product between points in California.<sup>11</sup>

The record, moreover, lacks evidence relative to the transportation characteristics, values and other classification factors of scouring or cleaning compounds, N.O.I.B.N., liquid, which commodities would be subject to the proposed rating. In this

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On the contrary, the record discloses that the packages of liquid "Trend", as prepared for shipment, are much smaller than the packages of most of petitioner's other products, from which it might be inferred that more handling is involved in connection with the former than with the latter.

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In this connection, it is appreciated that, because petitioner had only recently begun to produce liquid "Trend", it was unable to produce figures relative to claim experience. Nevertheless, this factor is an important one in the determination of proper classification ratings.

connection, counsel for petitioner stated at the hearing that petitioner would have no objection to limiting the application of the sought rating to washing compounds, N.O.I.B.N., liquid. The evidence, however, is not sufficiently persuasive to warrant granting the petition even to that extent.

Upon careful consideration of all the evidence of record we are of the opinion and hereby find that the existing carload rating on liquid cleaning, scouring or washing compounds, N.O.I.B.N., 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. 59 in Case No. 5432 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 1<sup>st</sup> day of November, 1955.

John E. Mitchell  
President  
Robert J. Kraemer  
Walter D. ...  
B. Hardy

Commissioners