

ORIGINAL

Decision No. 53005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Western Classification Com-)
mittee for approval of changes)
in classification provisions.)

Application No. 36745
and
Application No. 36745
First Supplemental

Charles W. Burkett, Jr., and William Meinhold, for
George H. Dumas, Agent, applicant.
Arlo D. Poe and J. C. Kaspar, for California Trucking
Associations, Inc.; Leo V. Cox, for Barclay Traffic
Service and Herman C. Kuhnert, for Western Motor
Tariff Bureau, interested parties.
Robert A. Lane, for the Commission staff.

O P I N I O N

George H. Dumas, as chairman of the Western Classification Committee, is agent for railroads and other common carriers in the publication and filing of classification ratings, rules and regulations governing rates published by said carriers. Class rates in Minimum Rate Tariff No. 2 and in the various drayage tariffs containing minimum rates established by the Commission are subject to ratings named in the Western Classification No. 75, Cal. P.U.C. - W.C. No. 8, of George H. Dumas, Agent. By application, filed February 14, 1955, George H. Dumas, Agent, sought to make applicable within California a number of classification changes resulting variously in increases, reductions and technical adjustments. In its interim opinion and order in Decision No. 51248, dated March 29, 1955, the Commission granted the application except as to Rule 12, Section 3 (Mixed Shipment Rule) and Items Nos. 7272 (wooden partitions), 13965-A (water coolers), 40492-A (vapor barrier sheeting) and 43887-A (bicycle stabilizers). The Commission ordered that the application be held for further consideration upon receipt of further evidence

respecting the matters specified above. On May 28, 1955 the applicant filed First Supplemental Application seeking precisely the same authority respecting said Rule 12, Section 3, and Items Nos. 13965-A, 40492-A and 43887-A as was held open for further consideration by the Commission in said Decision No. 51248. Item No. 7272 was not included in the First Supplemental Application.

Public hearing was held in the instant proceeding, together with other applications^{1/} of George H. Dumas, Agent, on October 13 and 14, 1955 before Examiner J. E. Thompson in San Francisco. The matter was submitted on November 3, 1955 following the filing of memoranda of points and authorities by the applicant and by the California Trucking Associations, Inc.

At the hearing and in the memoranda of points and authorities filed by the parties, issues were raised regarding the elements and factors to be shown by the applicant and considered by the Commission in a matter involving a change in the Western Classification. The Commission's conclusions respecting these issues are discussed in Decision No. 52870 in Application No. 36857 and need not be repeated herein. The Commission in determining the matters herein will follow its conclusions set forth in said decision.

At the hearing the applicant requested that Item No. 7272 not be considered in this application in that the item is also a matter at issue in Application No. 37238. The other items will be discussed individually.

Rule 12, Section 3

Rule 12, Section 3 is a rule for determining the charge for a package containing articles classed or rated differently. It is

^{1/} Applications Nos. 36857, 36619, 36999, 37075 and 37238

proposed to clarify the rule so as to specifically provide for articles on skids, platforms or pallets as well as in packages.

The present rule is different from the mixed shipment rule in Minimum Rate Tariff No. 2. In connection with the transportation of intrastate traffic in California all common carriers are subject to the established minimum rates, rules and regulations set forth in said minimum rate tariff except however that certain common carriers have specific exemptions and that carload traffic of railroads is not subject to the minimum rates. The proposal herein does not contemplate a change in the established minimum rates, rules and regulations and constitutes merely a technical adjustment which will clarify the present rule which governs rates for transportation not subject to the provisions of the established minimum rates.

Item 13965-A

It is proposed to cancel this item which provides ratings of 1, L.C.L. and 4, C.L., minimum weight 15,000 pounds, Rule 34, on wooden water coolers. The article is merely a wooden barrel which will hold water and does not in fact have properties for cooling water. The article is within the description of wooden barrels for which ratings are provided in Item 3960 of 1, L.C.L. and 4, C.L., minimum weight 12,000 pounds, Rule 34. The proposal merely contemplates the cancellation of a duplication. The effect of the cancellation is to lower the minimum weight from 15,000 pounds to 12,000 pounds.

Item 40492-A

The present item effective in California provides for "Sheeting, waterproofing, asphalt and rubber combined with filler, in boxes." The ratings are 2, L.C.L. and A, C.L. minimum weight 36,000 pounds. It is proposed to include within this item vapor barrier sheeting of asphalt and rubber combined with filler, in

boxes or in wrapped rolls and to reduce the L.C.L. rating from 2nd class to 3rd class.

The only evidence offered in support of the proposal shows that the vapor barrier sheeting is composed of the same material as waterproofing sheeting, it has a higher value than building or sheathing paper, the value per pound being between 26 cents and 36 cents, and that it has a density of 35 pounds per cubic foot. No evidence was offered in support of the reduction in rating on waterproofing sheeting other than the statement of the applicant that in the judgment of the Classification Committee the proposed rating is justified. Under the circumstances the applicant has not shown that the proposal is reasonable.

Item 43887-A

It is proposed to reduce the ratings on bicycle stabilizers or trainers from 2, L.C.L., 3, C.L. minimum weight 16,000 pounds to 3, L.C.L., 4, C.L., minimum weight 24,000 pounds. Bicycle stabilizers are used to prevent a bicycle from tipping on its side while a novice is learning to ride. They consist of two small wheels and a steel framework which can be attached to the rear wheel of a standard bicycle. Except for the hard rubber tires, the articles are made from steel. The articles have a density of 21½ pounds per cubic foot and a value of 40 cents per pound. In that respect the stabilizers are similar to articles covered by the third class rating applicable to iron or steel hardware. The transportation characteristics of stabilizers are similar to carts, wheelbarrows and buggies, all of which have a third class rating.

Upon consideration of all of the facts and circumstances of record, the Commission is of the opinion and finds that the proposed Rule 12, Section 3 is justified and that the proposed Items Nos. 13965-A and 43887-A are justified and provide reasonable, just

and nondiscriminatory minimum rates for the transportation within this state by common carriers, highway carriers and city carriers.

FINAL ORDER

Based on the evidence of record and on the findings and conclusions set forth in the preceding opinion,

IT IS ORDERED:

(1) That the authorities requested as to Rule 12, Section 3 and as to Items Nos. 13965-A and 43887-A as set forth in the application filed February 14, 1955 and in the first supplemental application filed May 28, 1955 by George H. Dumas, Agent, be and they are hereby granted.

(2) That the authority requested as to Item No. 7272 as set forth in said application filed February 14, 1955 be and it is hereby denied without prejudice to a determination in Application No. 37238.

(3) That the authority requested as to Item No. 40492-A as set forth in said application filed February 14, 1955 and in said first supplemental application filed May 28, 1955 be and it is hereby denied without prejudice.

(4) That the ratings as set forth in said Items Nos. 13965-A and 43887-A be and they are hereby approved to govern minimum rates established by the Commission in Decisions Nos. 31606, 41362, 41363, 32504 and 35055, as amended.

(5) That George H. Dumas, Agent, be and he is 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 with respect to the ratings, rules and regulations authorized in paragraph 1 of this order insofar as said ratings, rules and regulations govern nonintermediate rates.

(6) That supplements containing the changes authorized in paragraph 1 of this order shall bear a notation that they are issued under the authority of this decision.

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

Dated at San Francisco, California, this 1st
day of May, 1956.

John E. Mitchell President
Justin J. Caswell
Paul L. Lutz
Manuel D. Deady
Commissioners

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