

Decision No. 55952**ORIGINAL**

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 Minimum Rate)
 Tariff No. 2).

Case No. 5432
 Petition for
 Modification No. 94

OPINION AND ORDER

Item No. 610 series of Minimum Rate Tariff No. 2 is a description of articles included in the term "canned goods and other articles" for which exception ratings and commodity rates are established in other items in the said tariff. One of the articles included therein is "Milk (not malted), Buttermilk (not casein) or Dry Milk Solids, powdered or flaked," when shipped in specified packaging.

By petition filed September 12, 1957, as amended October 28, 1957, Carnation Company requests amendment of the above-mentioned description by elimination of the words "in bulk" from the packaging description now reading "in bulk in boxes."

According to the petition, the Carnation Company ships powdered milk throughout the country packed in inner containers in boxes for ultimate sale in grocery stores, and the powdered milk is competitive with condensed or evaporated milk. The petition states that the present packaging description for powdered milk contained in Item No. 610 series does not permit shipping in inner containers in boxes at the canned goods rates, but would permit shipping the same quantity of powdered milk loose in the same outside box. Petitioner contends, therefore, that the present description actually penalizes the more careful method of packing, and is discriminatory

against the milk powder as compared with the competitive condensed or evaporated milk. Petitioner alleges that the powdered milk packed in inner containers in boxes is comparable as to density, safe packaging and value as other commodities named in Item No. 610 series.

Interested parties, including the California Trucking Associations, Inc., have been notified of the filing of the petition and amendment. No one protests its being granted. A public hearing is not necessary.

It appears that the powdered milk when packed as described by petitioner competes with other commodities included in Item No. 610 series and has similar transportation characteristics as other items included therein. The Commission is of the opinion and finds that the ratings and commodity rates on "canned goods and other articles" are reasonable for the transportation of powdered milk packed in inner containers in boxes.

The change in description as suggested by petitioner could possibly result in some confusion and indefiniteness. A packaging description stating only "in boxes" leaves it open to question whether or not inner containers are contemplated. The result sought in this petition can be accomplished better by leaving the description "in bulk in boxes" intact, and adding a new description "in packages in boxes." Item No. 610 series will be modified accordingly.

Inherent in the petition is relief from the long-and-short-haul provisions of Article XII, Section 21, of the Constitution of the State of California, and Section 460 of the Public Utilities Code, in order to permit the application of the approved commodity descriptions in connection with rates which are nonintermediate in application. For the reasons that departures from the above statutory provisions were authorized for the rates, like authority is

justified for application of the commodity descriptions. Such authority will be granted.

Therefore, good cause appearing,

IT IS ORDERED:

1. That Minimum Rate Tariff No. 2 (Appendix "D" to Decision No. 31606, as amended) is further amended by incorporating therein, to become effective January 15, 1958, Fourteenth Revised Page 47 cancels Thirteenth Revised Page 47, which revised page is attached hereto and by this reference made a part hereof.

IT IS FURTHER ORDERED:

1. That common carriers, in establishing and maintaining the commodity descriptions authorized hereinabove, be and they are authorized to depart from the provisions of Article XII, Section 21, of the Constitution of the State of California, and Section 460 of the Public Utilities Code, to the extent necessary to adjust long-and-short-haul departures now maintained under outstanding authorizations; that such outstanding authorizations be and they are hereby modified only to the extent necessary to comply with this order; and that schedules containing the commodity descriptions published under this authority shall make reference to the prior orders authorizing long-and-short-haul departures and to this order.

2. That tariff publications authorized to be made by common carriers as a result of the order herein may be made effective on not less than five days' notice to the Commission and to the public if filed not later than sixty days after the effective date of the tariff changes herein involved.

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

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 16th day of December, 1957.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners

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, viz.:	
*610-N Cancels 610-N	<p>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, Fish Roe, cooked, pickled or preserved, Food, baby, canned or preserved, other than frozen, consisting only of strained and chopped foods, in hermetically sealed containers, Fruit (not fresh), crushed, Fruit (not dried, evaporated or fresh) in liquid other than alcoholic liquor, Fruit Drink, consisting of concentrated fruit juice, water and fruit derivatives, not carbonated, in metal cans, 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, Hominy, Honey, in bulk in metal cans, Jam,</p>	<p>Molasses or Syrups, as described under the heading "Foodstuffs, Beverages or Beverage Preparations, Not Named In Other More Specific Groups" in the current classification, Oil, cooking, 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 Weed, Kraut, Mangoes, Onions and Tomato), Pie Preparations (fruit in syrup or in paste form compounded with flour or sugar and flavored), Pimentos (canned peppers), Pizza Pie Mix, consisting of flour, yeast and sauce, with or without cheese, in combined packages, in boxes, Puddings, Pulp, fruit or vegetable, Puree, tomato, Ravioli (prepared), with or without cheese, meat or vegetable ingredients, Rice-and-milk cooked, Sandwich Spreads, including cheese spreads, in packages named or in paper cartons in boxes, Sausage, Sausage Casings, pickled or salted, in bulk in barrels, Soups, Spaghetti (prepared), with or without cheese, meat or vegetable ingredients, Spaghetti and Cheese, with sauce, in combined packages in boxes,</p>

Jelly,
 Juice, clam,
 Juice (not syrup) fruit, unfermented,
 Juice, tomato,
 Juice, vegetable,
 Macaroni (prepared), with or without
 cheese, meat or vegetable ingredients,
 Macaroni and Cheese, in combined
 packages, in boxes,
 Meats, cooked, cured or preserved, with
 or without cereal or vegetable in-
 gredients, 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, #6 or
 in packages in boxes, or in double bags,
 or in multiple-wall paper bags,
 Mince Meat,

Table Sauces, including Cat-
 sup, Prepared Horseradish,
 Prepared Mustard, Pepper
 Sauce or Salad Dressing,
 Vegetables (not dehydrated,
 dried, evaporated nor
 fresh),
 Vermicelli (prepared), with
 or without cheese, meat
 or vegetable ingredients,
 Vinegar,
 Welsh Rarebit,
 Whey, condensed or powdered,
 in packages named, or in
 fibre cans, or in bulk
 in boxes, or in double
 bags, or in multiple-wall
 paper bags.

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

* Change	}	Decision No.	55952
# Addition			
& Reduction			

EFFECTIVE JANUARY 15, 1958

Issued by the Public Utilities Commission of the State of California,
 San Francisco, California.
 Correction No. 793