

ORIGINAL

Decision No. 56205

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. 90

A. P. Davis, Jr., for Albers Milling  
Company, petitioner.  
Arlo D. Foe, J. C. Kaspar and James  
Quintrall, for California Trucking  
Associations, Inc., interested party.

O P I N I O N

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 "Feed, animal, containing more than 50 percent of meat, in metal cans."

By petition filed July 26, 1957, as amended August 31, 1957, Albers Milling Company requests that the animal feed description be broadened to include fish as well as meat.

Public hearing was held before Examiner William E. Turpen at Los Angeles on December 10, 1957.

Among other products, petitioner manufactures two types of pet food. The one designed and marketed for dogs has a meat base and satisfies the animal feed description in Item No. 610 series. The other pet food, designated as cat food, however, has a fish base and is not included in the animal feed description. It is petitioner's contention that the cat food should enjoy the same freight rate treatment as the dog food.

A witness for petitioner introduced into evidence an exhibit showing the composition of several brands of pet foods and compared the density and value of his company's cat and dog foods with several other commodities selected from those listed in Item No. 610. The exhibit shows that the cat food and the dog food have densities per cubic foot of 46.3 and 54.3 pounds, respectively, and values per gross pound of 9.7 and 11.2 cents, respectively. The other commodities named in the exhibit have densities per cubic foot ranging from 20.2 to 59 pounds, and values per gross pound ranging from 6.8 cents to \$1.05.

The witness testified that the cat food, except for containing fish instead of meat, is substantially the same as the dog food and that the packaging and transportation characteristics are almost identical. He also said that his company often ships the cat food and the dog food together with canned evaporated milk. He further stated that classification and commodity descriptions of animal feed in tariffs applicable interstate and intrastate in other states include both meat and fish. The witness proposed that, if

the petition should be granted, the description also include a mixture of meat and fish, as he discovered at least one brand of cat food containing both.

Representatives of two other manufacturers of cat foods testified in support of the petition. A representative of the California Trucking Associations, Inc., opposed the granting of the petition. He said that his Association is opposed generally to reductions in the minimum rates as causing a gradual erosion of the minimum rate structure. He said that, although the proposal herein has all the marks of reasonableness, it is only reasonable "because of an error that the Commission made when it put that animal feed item in a proceeding decided some 17 years ago"<sup>1</sup> and that Item No. 610 series should be limited to foods intended for human consumption.

It appears that the animal feed when made with a fish base or a meat and fish base has the same transportation characteristics as when made with a meat base and should enjoy the same rating. In Decision No. 33245, supra, the Commission stated that the canned goods description "is not in any way limited to commodities intended for human consumption, and no justification has been shown for providing such a limitation at this time." The record in this proceeding contains no evidence to cause us to change this viewpoint. The Commission is of the opinion and finds that canned animal feed

---

<sup>1</sup> Decision No. 33245, dated June 25, 1940, in Case No. 4246.

containing more than 50 percent of fish, or meat and fish, should be accorded the same treatment in Minimum Rate Tariff No. 2 as canned animal feed containing more than 50 percent of meat. Item No. 610 series of Minimum Rate Tariff No. 2 will be amended 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.

O R D E R

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

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 March 9, 1958, Fifteenth Revised Page 47, which revised page is attached hereto and by this reference made a part hereof.

2. 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.

3. 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.

4. That 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 4<sup>th</sup> day of February, 1958.

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

Commissioners

-5- Commissioner Rex Hardy, being necessarily absent, did not participate in the disposition of this proceeding.

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-C Cancels 610-X	Beans and Pork, Breads, Brine, Broths, Butter, fruit, Butter, peanut (peanut paste), Buttermilk (not Casein), not powdered or flaked, Chili, ground, Chowders, Cocoanut, 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, #for fish or meat and fish, 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,	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,

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, 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,  
 Vinogar,  
 Welsh Rarebit,  
 Whoy, 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 )  
 # Addition ) Decision No. 56205  
 & Reduction )

EFFECTIVE MARCH 9, 1958

Issued by the Public Utilities Commission of the State of California,  
 San Francisco, California.  
 Correction No. 804