

ORIGINAL

Decision No. 56510

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
 (Order Setting Hearing
 dated January 29, 1957)

Meyer L. Kapler, Norman R. Moon, Stanley L. Parker, Vaughan, Paul & Lyons by John G. Lyons, and Milton A. Walker, for various shippers, interested parties.
J. C. Kaspar, Arlo D. Poe, J. X. Quintrall, and John MacDonald Smith, for various carriers and carrier associations, interested parties.
Arthur M. Mooney, for the Commission's staff.

O P I N I O N

This phase of Case No. 5432 involves the question of the classification rating applicable to shipments of so-called "Pres-to-Logs" transported between points in this State under class rates provided in the Commission's Minimum Rate Tariff No. 2 or in tariffs of common carriers. Formal consideration of the matter was initiated by the Commission's Order Setting Hearing dated January 29, 1957.

Following completion of a study by the Commission's Rate Branch staff a public hearing of the matter was held before Examiner Carter R. Bishop at San Francisco on January 7, 1958. Evidence was

introduced through an associate transportation rate expert of the Commission's staff and by witnesses for a manufacturer of Pres-to-Logs, for the producer of a similar product called "BurnRite Logs",¹ and for certain railroads.

Briefly, the question to be resolved is whether carload shipments of Pres-to-Logs are properly ratable at Class "D", as "wood briquettes", or at Class "E", as "wood, fuel". The former rating is provided in Item No. 180 of Pacific Southcoast Freight Bureau Exception Sheet No. 1-S, issued by J. P. Haynes, Agent. The latter rating is set forth in Item No. 57890 of Western Classification No. 76, issued by J. P. Hackler, Alternate Agent.² The minimum carload weights applicable in connection with the two ratings are 40,000 and 36,000 pounds, respectively. By the terms of the Exception Sheet, where ratings are provided in that publication they take precedence over those provided in the classification for the same transportation.

The results of the staff study, which were incorporated in a report introduced by the rate expert, prompted the conclusion of the staff that Pres-to-Logs are in fact wood briquettes and as such are subject to the aforementioned carload rating of Class D. This position was supported by the railroads and by California Trucking

¹
The Pres-to-Logs manufacturer is located at West Sacramento; the BurnRite Logs plant is at Los Angeles.

²
There is no controversy regarding the applicable ratings on less than carload shipments of Pres-to-Logs, since a less than carload rating of fourth class is published in connection with both of the above-mentioned commodity descriptions.

Associations, Inc. The Pres-to-Logs witness, however, was of the opinion that the product is nothing more than fuel wood and is subject, as such, to the Class E rating. The witness for the manufacturer of BurnRite Logs held a like view concerning that commodity. He further characterized the product as compressed wood logs.

The evidence discloses the following facts: Pres-to-Logs are manufactured from a mixture of dry sawdust and wood shavings, the latter having been previously ground to uniform sizes.³ This mixture is compressed, under very great pressure, into Pres-to-Logs, which are cylindrical objects 4-1/8 inches in diameter and 12½ inches in length. The Pres-to-Logs weigh approximately eight pounds each and reflect a density which is more than three times that of ordinary fuel wood. In the manufacturing process no foreign matter is added as a binder, since the volatile matter in the shavings and sawdust is sufficient for that purpose.

BurnRite Logs are made from shavings and mill ends (reduced to particles) and from sawdust. These materials are compressed into cylindrical objects of approximately the same size and density as Pres-to-Logs.

Pres-to-Logs and BurnRite Logs are sold as fuel. They compete with other types of fuel, including ordinary firewood, coal and carbon briquettes.

Carload commodity rates on briquettes are published in the rail lines' tariffs to various points of destination from West

3.

The record indicates that the Pres-to-Logs produced by one manufacturer are made exclusively of sawdust.

Sacramento and Scotia, the two points in California at which Pres-to-Logs are produced.⁴ The tariff commodity descriptions employed are "Briquettes, wood sawdust and wood shaving" and "Briquettes, wood shavings", respectively. Pres-to-Logs are shipped from these two points under the commodity rates in question, as well as under those maintained by highway common carriers.⁵ Shipments of Pres-to-Logs and BurnRite Logs moving under class rates, either those provided in the Commission's Minimum Rate Tariff No. 2 or those in tariffs of common carriers, have been assessed Class D in some instances, and Class E in others.⁶

The Class D exception rating on wood briquettes was initially established in 1915. The record contains no information regarding the particular product for which the publication was made. Pres-to-Logs were first produced in the early 1930's when the machinery for their manufacture was developed by a company identified as Wood Briquettes, Inc.⁷

4

The record discloses that Pres-to-Logs are also manufactured at Sacramento, but all of the output at that point is currently purchased and marketed by the West Sacramento producer.

5

The manufacture of BurnRite Logs is a new development, and no commodity rates have as yet been established from Los Angeles to accommodate that product.

6

The staff witness testified that where it has come to the staff's attention that the Class E rating has been assessed, the carriers involved have been told to revise charges to the basis of the Class D rating on wood briquettes.

7

According to the record, Wood Briquettes, Inc., owns and leases to manufacturers throughout the country the machinery with which Pres-to-Logs are produced.

Dictionary definitions of the term "briquette" were brought into the record by the parties, in support of their respective positions regarding the applicable carload rating on Pres-to-Logs. Two definitions were offered by the staff witness. They are:

I

"A mass of fine material, often brick-shaped, mixed with a binder and pressed into shape. Briquettes are made of coal dust mixed with pitch for fuel, or ore dust mixed with lime for smelting, etc."⁸

II

"A mass of coal or ore dust pressed into a brick-shaped block."⁹

The witness for the West Sacramento producer introduced the following definition:

"A block of compressed coal dust used as a fuel; also a slab or block of artificial stone."¹⁰

A fourth definition, of which we take official notice, reads:

"A moulded block of compacted coal dust for fuel."¹¹

The staff included in its report an excerpt from the Encyclopedia Americana (1957 edition), which, under the subject of "sawmill shavings", reads as follows:

8

Webster's New International Dictionary, Second Edition, Unabridged, (1948 printing)..

9

Webster's New Collegiate Dictionary (1953)..

10

Funk & Wagnalls New Standard Dictionary (date of publication not in record).

11

The American College Dictionary (Random House - 1948).

"In 1930, a large company began to make briquettes from sawmill shavings and dry sawmill refuse. Now a large volume, estimated to be several hundred thousand tons, of compressed shavings, known as briquettes, are widely used and sold on a competitive price basis with other forms of fuel such as wood, coal, fuel oil and gas. These briquettes are about 4 inches in diameter and 12-3/4 inches long. Each briquette weighs about 8 pounds, which represents three times the normal weight of the wood from which the briquette is made. Briquettes are commercially known as 'Presto Logs'."

The president of the West Sacramento company pointed out that by the terms of the dictionary definition which he introduced a briquette would contain a binder and would be block-shaped. Presto-Logs contain no binder, and are cylindrical, or log-shaped. Hence, he stated, they are not briquettes. BurnRite Logs, the sales manager of the Los Angeles producer asserted, are too large to be called briquettes. His idea of the latter would be an object measuring in the neighborhood of one inch in width by two inches in length.

An assistant freight traffic manager of Southern Pacific Company, testifying on behalf of several major railroads, adduced evidence regarding a request which the West Sacramento producer had made on the railroads in 1952 for a reduction in classification ratings on Presto-Logs. The written request stated that on California intrastate traffic the Class D rating on wood briquettes, named in Item No. 180 of the Exception Sheet, was applicable. A rating of Class E was sought. The request was denied.

Conclusions

A comparison of the various dictionary definitions of the word "briquette", as cited by the parties, discloses certain differences as well as points of agreement. None of the dictionaries cited contains a definition of the term "wood briquette". Only that definition of "briquette" contained in Webster's New International Dictionary is sufficiently broad to include briquettes made from wood and objects which are other than brick-shaped or block-shaped. That definition contemplates the use of a binding material, while the other definitions of record are silent in that respect. None of the definitions cited places a size limitation on briquettes. Disregarding the question of binding material, the New International definition of "briquette" may reasonably be considered as embracing the product known as Pres-to-Logs.

Other evidence of record strongly supports the conclusion that, regardless of their size and shape, Pres-to-Logs have been and are considered to be wood briquettes for trade and transportation purposes. Important items in this evidence are: (1) the company which manufactures the machinery designed specifically for the production of Pres-to-Logs bears the name "Wood Briquettes, Inc."; (2) the product here in issue has long been considered by the railroads and other carriers to be wood briquettes, as evidenced by the fact that the commodity rates which have been established for the movement of Pres-to-Logs from points of production have been associated with the tariff commodity description of "briquettes, wood sawdust and wood shaving," or "briquettes, wood shavings"; and (3) the description of the product designated as a wood briquette

in the above-quoted excerpt from the Encyclopedia Americana, matches that of Pres-to-Logs; moreover, it is stated categorically in the excerpt that briquettes are commercially known as "presto-logs".

Based upon the foregoing considerations, we hereby find as a fact and conclude that the product manufactured and sold as Pres-to-Logs is properly described for transportation purposes as wood briquettes, and, that said product, when transported under the carload class rates in Minimum Rate Tariff No. 2, is subject to the rating of Class D provided therefor in Item No. 180 of Pacific Southcoast Freight Bureau Exception Sheet No. 1-S of J. P. Haynes, Agent. We further find that carload shipments of Pres-to-Logs moving in California intrastate commerce under class rates of common carriers, insofar as said rates are governed by said exception sheet, are subject to said Class D rating.

While the aforesaid Order Setting Hearing dated January 27, 1957, refers only to Pres-to-Logs, the record herein shows that the product manufactured and sold as "BurnRite Logs" is substantially the same as Pres-to-Logs. We, therefore, find as a fact and conclude that BurnRite Logs are properly described for transportation purposes as "wood briquettes" and as such are subject to the aforesaid classification rating of Class D to the same extent as is found with respect to Pres-to-Logs in the paragraph immediately preceding.

Pres-to-Logs are marketed in three styles of packaging. One of these, designated "Instant Fire Pak", consists of a carton containing, in addition to Pres-to-Logs, one ignitor. At the hearing, the representative of California Trucking Associations moved

that the Commission determine the applicable classification rating for shipments of the "Instant Fire Pak", as well as of Pres-to-Logs without the ignitor. The record does not disclose with certainty the composition of the ignitor. Its weight, however, is practically negligible, being only two thirds of an ounce. The ignitor, when shipped in the same package with the Pres-to-Logs, appears to be a premium. Under the provisions of paragraph (b), Rule 45, of the Western Classification, premiums may be shipped in the same containers with other articles at the rates applicable to such articles. We conclude that the ignitor may be shipped at the same rates as those applicable to the Pres-to-Logs.

The record contains much evidence relating to the question of the reasonableness of a rating of Class D or of Class E for carload shipments of Pres-to-Logs or of BurnRite Logs. Since the question of reasonableness is not involved in this phase of Case No. 5432, that evidence need not be here considered. Should any of the parties believe the Class D rating, herein found applicable, to be unreasonable or otherwise unlawful, the matter may be brought to the Commission's attention in an appropriate proceeding.

In the order which follows all carriers respondents in Case No. 5432 will be directed to make such additional collections, or to make such refunds, of transportation charges assessed on carload shipments of Pres-to-Logs or of BurnRite Logs which have moved under class rates within the statutory periods, as shall be necessary to bring said transportation charges into conformity with the aforesaid findings and conclusions.

O R D E R

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

IT IS ORDERED that all carriers which are respondents in Case No. 5432 are hereby directed to make such additional collections, or such refunds, of transportation charges assessed on carload shipments of Pres-to-Logs or of BurnRite Logs transported under class rates by any of said carriers during the statutory periods; as shall be necessary to bring said transportation charges into conformity with said findings and said conclusions.

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

Dated at San Francisco, California, this 15th day of April, 1958.

[Signature]
President

[Signature]

[Signature]

[Signature]

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Commissioners