

58687

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation into
 the rates, rules and regulations, charges,
 allowances and practices of all common
 carriers, highway carriers and city car-
 riers relating to the transportation of
 any and all commodities between and
 within all points and places in the State
 of California (including, but not limited
 to, transportation for which rates are
 provided in Minimum Rate Tariff No. 2).

Case No. 5432
 (Petitions for Modification
 Nos. 135 and 138)

Robert L. Henderson, for Simoniz Company, petitioner in
 Petition for Modification No. 135 and interested party
 in Petition for Modification No. 138.

Herbert J. Bowman, for S. C. Johnson & Son, Inc., peti-
 tioner in Petition for Modification No. 138 and inter-
 ested party in Petition for Modification No. 135.

L. R. Chancellor, for Boyle-Midway, Inc.; Philip V.
Clarke, for Sterling Transit Co., Inc.; and John Pinney,
 for Southern California Freight Lines, Oregon-Nevada-
 California Fast Freight and Coast Line Express;
 interested parties in support of petitioners.

C. F. Sullivan, Arlo D. Poe and J. C. Kaspar, for
 California Trucking Associations, Inc., interested
 party.

O P I N I O N

By Petitions for Modification Nos. 135 and 138 in Case No.
 5432, Simoniz Company and S. C. Johnson & Son, Inc., respectively,
 seek the establishment in Minimum Rate Tariff No. 2 of a less-than-
 carload exception rating of fourth class, to apply on buffing and
 polishing compounds.

Public hearing of the petitions on a common record was held
 before Examiner Carter R. Bishop at Los Angeles on April 15, 1959.
 With the filing of Exhibits Nos. 135-7 and 138-7 on May 12, 1959, the
 matters were taken under submission.

Evidence in support of the proposed adjustment was intro-
 duced through traffic officers of petitioners and of Boyle-Midway,
 Inc., a manufacturer of the subject commodities. This firm appeared

as an interested party favoring the granting of the petitions.^{1/}

The record discloses that Simoniz, Johnson and Boyle are manufacturers and distributors of buffing and polishing compounds, including floor, furniture and vehicle waxes and polishes. Simoniz and Johnson manufacture their products at eastern points, ship to California warehouse facilities and make distribution from the latter to receivers in this State. Boyle manufactures its products at several eastern points also, but the bulk of its shipments destined to California consumers move directly from a manufacturing plant which it operates at Los Angeles. All three concerns pay the transportation costs on California intrastate movements from plant or warehouse to consignee.

The classification ratings presently applicable on the subject commodities, in connection with the class rates in Minimum Rate Tariff No. 2, are: third class, less-than-carload, and fifth class, minimum weight 36,000 pounds carload. These ratings are provided in Item No. 15850 of Western Classification No. 22 in connection with the following description:

"Buffing or polishing compounds, n.o.i.b.n.^{2/} including boat, floor, furniture or vehicle polish or wax, in barrels, boxes or pails." ^{3/}

1/ According to the record, petitioners and Boyle-Midway as a group accounted for more than 90 per cent of the waxes and polishes sold in California during a recent test period.

2/ "N.o.i.b.n." means "not otherwise indexed by name".

3/ The same item also names a rating of first class, less-than-carload, on the above-described commodities when shipped in metal cans, completely jacketed. However, Minimum Rate Tariff No. 2 provides that if two or more ratings which are subject to different packing requirements are provided for an article in the form in which it is shipped, the lowest of such ratings shall apply. Moreover, under the provisions of the minimum rate tariff, the above-described articles, when moving under the class rates therein, are not subject to the packing requirements of the Western Classification or exception sheet, but may be accepted in any container or shipping form provided that such will render the transportation reasonably safe and practicable.

The record shows that the commodities for which a less-than-carload rating of fourth class is herein sought are in competition, to some extent, with paints, lacquers and varnishes. Furniture and floors, for example, may be varnished or they may be treated with waxes or polishes. Similarly, automobiles may be repainted for renewal of surfaces or their bodies may be maintained by use of polishes or waxes. The record also shows that paints, lacquers and varnishes are subject to a less-than-carload rating of fourth class, the same as sought herein for polishes and waxes. The carload rating for both groups of commodities is fifth class, minimum 36,000 pounds.

The record discloses that the commodities here in issue are comprised of a large variety of waxes and polishes in liquid or paste form, marketed mostly in inner containers in cases. The individual bottles, cans or other inner containers range in capacity from a few ounces up to a gallon or more. In one instance, a floor wax is sold in 55-gallon drums.

The densities of record range from 29 pounds to 57 pounds per cubic foot, with weighted averages of 40 pounds and 48 pounds per cubic foot for the products of Johnson and Boyle, respectively.^{4/} The values range from a low of 9 cents per cubic foot to a high of \$1.14 per cubic foot. The preponderance of values, however, is below 30 cents per cubic foot.

The foregoing figures, the record indicates, compare favorably with the densities and values of paints, lacquers and varnishes.

The transportation characteristics of buffing and polishing compounds, according to the record, are highly favorable in other respects also. The products are, for the most part, shipped in cartons, of uniform sizes; they lend themselves readily to palletized handling, and although in some instances the inner containers are of

^{4/} Simoniz and Boyle presented individual densities and values for 61 different packs, in the aggregate, of their products. Johnson did not offer data for individual packs.

glass, claim payments, the witnesses stated, are practically negligible. The transportation characteristics of polishing and buffing compounds, it appears, are, in general, as favorable as those of the paint group.

The record shows that the fourth class rating sought herein is now generally applicable to movements of the subject commodities, by rail or truck, between California and other states west of the Rocky Mountains, as well as within and between other states in that territory. Where the Western Classification is applicable, as a classification, the third class rating provided therein on buffing and polishing compounds has been generally superseded by the publication of fourth class in exception sheets or in carrier tariffs. The record indicates that the Western Classification has been largely superseded by the Uniform Classification, which provides a less-than-carload rating on the commodities here in issue of Class 55. This rating is generally equivalent to a rating of fourth class. The Uniform Classification is generally applicable throughout the United States. Equivalent ratings are published in the motor carrier classifications.

The request of petitioners was also supported by witnesses of two highway common carriers, which transport substantial quantities of waxes and polishes for one or more of the interested manufacturers. One of the carriers, however, hauls the products in question in truckload lots only, subject to the fifth class truckload rating.

No one opposed the granting of the petitions. A representative of the California Trucking Associations assisted in the development of the record.

The evidence is persuasive that a rating of fourth class for the transportation of less-than-carload shipments of polishing and buffing compounds in California intrastate commerce would be reasonable. Upon careful consideration of the evidence of record, the Commission is of the opinion and hereby finds that the petitions should be granted.

Inherent in the petitions 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 sought rating to rates which are non-intermediate 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 exception rating. 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 that:

1. Minimum Rate Tariff No. 2 (Appendix "D" to Decision No. 31606 as amended) be and it is hereby further amended by incorporating therein, to become effective July 20, 1959, the revised pages attached hereto and by this reference made a part hereof, which pages are numbered as follows:

Twenty-Fifth Revised Page 5;
Third Revised Page 37-A.

2. 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. Common carriers, in establishing and maintaining the exception rating 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 exception rating published under this authority shall make reference to the prior orders authorizing the long- and short-haul departures and to this order.

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

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

Dated at San Francisco, California, this
29th day of June, 1959.

E. Leo Fox
President

William J. ...

Theodore ...

Everett ...
Commissioners

Cancels

INDEX OF COMMODITIES (Continued)

COMMODITY	Item Number	COMMODITY	Item Number
Candles (M)	377.5, 723-726	Compounds, paint, lacquer or varnish reducing, removing or thinning	377
Candy	360	Compound, radiator or cleaning (M)	377.5, 723-726
Canned Goods and Other Articles as described in Item No. 610	320, 610, 620, 630	Compound, rust preventing or removing (M)	377.5, 723-726
Cants, Wheel, wooden	660, 690	Compound, type cleaning (M)	377.5, 723-726
Cants, wooden	365	Compound, waterproofing (M)	377.5, 723-726
Caps, column	660, 690	Confectionery	334 $\frac{1}{2}$, 360
Caps, Sand Line	365	Containers, Aluminum Bulk Shipping	330
Carriers (used packages)	330	Containers, Beverage	330
Cases (Built-in Fixtures)	660, 690	Cooler Closets	660, 690
Casing, Door and Window Panel	660, 690	Corn	(1), 652, 652 $\frac{1}{2}$, 654
Casing Shoes	365	Corn Cobs	652, 652 $\frac{1}{2}$, 654
Castings, Swing Post	365	Cornice Brackets	660, 690
Catchers, Tubing	365	Corn, Kaffir	652, 652 $\frac{1}{2}$, 654
Catsup	(1)	Corn Steep Water	652, 652 $\frac{1}{2}$, 654
Cement, pipe fitting (M)	377.5, 723-726	Countershafts, Oil Well	365
Cereal and Nuts combined	360	Covers, cotton cloth	335
Cereal Food	360	Covers, Guy Wire	660, 690
Cereal Food Preparations	655, 656	Covers, Thief Hole	365
Cereals, cooked	655, 656	Cow Peas	652 $\frac{1}{2}$, 654
Chaff	652, 652 $\frac{1}{2}$, 654	Cranes, Derrick	365
Chap Sticks	395	Cross Arms, wooden	660, 690
Charcoal (M)	652 $\frac{1}{2}$, 654	Crystals, Citrus Fruit Juice	360
Cheese (including cottage and pot cheese) (M)	315, 605	Cupboards	660, 690
Cheese and Macaroni	(1)	Cylinders, Well Pump	365
Chests of Drawers	660, 690	Darso	652, 652 $\frac{1}{2}$, 654
Chili, ground	(1)	Derrick Cranes	365
China Closets	660, 690	Derrick	365
Chloride of Lime Bleach	730	Dessert Preparations	360
Chocolate	360	Disinfectants	730
Chocolate Coating	360	Distillers' Grains	652, 652 $\frac{1}{2}$, 654
Chops	652, 652 $\frac{1}{2}$, 654	Doors	660, 690
Chowders	(1)	Drain Pipe Solvent	730
Citrus Fruit Juice		Dressing, Automobile Top (M)	377.5, 723-726
Powders or Crystals	360	Dressing, Belt (M)	377.5, 723-726
Clamps	365	Dressing, Salad	(1)
Clamps, Disconnecting, Drilling, Drive or Gas Packing	365	Drill Bitheads	365
Clay, Fire (M)	365	Drink, fruit	(1)
Clippings	652, 652 $\frac{1}{2}$, 654	Drugs	395
Clothing, staple work	333	Dry Milk Solids	(1)
Coating, Chocolate	360	Durra	652, 652 $\frac{1}{2}$, 654
Cocoa	360	Dust, Elevator	652, 652 $\frac{1}{2}$, 654
Cocconut, prepared	(1)	Earths, Infusorial or Diatomaceous	650
Coffee	360	Egg Yolk	(1)
Coffee, extract of (condensed coffee), dry	334, 360	Eggs, Shelled	360
Coffee Substitutes	360	Egyptian Wheat	652, 652 $\frac{1}{2}$, 654
Colorings, Confectioners	360	Elevator Dust	652, 652 $\frac{1}{2}$, 654
Columns	660, 690		
Compound, anti-freeze (M)	377.5, 723-726		
Compounds, buffing or polishing	334 $\frac{1}{2}$		
Compound, carbon removing (M)	377.5, 723-726		

Compound, cleaning (M)	377.5, 723-726	Elevators, Pipe or Sucker Rod	365
Compounds, Bleaching, Cleaning, Scouring, Washing	334½, 730	Emmer	652, 652½, 654
Compound, electrical insulating (M)	377.5, 723-726	Engines (M)	365
Compounds, Flavoring	360	Ether (M)	377.5, 723-726
Compounds, Food Curing, Preserving or Seasoning	360	Explosives	337
Compounds, Lard	360	Exterminators, vermin (M)	377.5, 723-726
Compound, malt, milk and cocoa	360, 375	Extracts	360
Compound, milk and cocoa	375	Extracts, coffee (condensed coffee), dry	334, 360
Compounds, Oil Well		Farina	652, 652½, 654
Drilling Mud	365	Feed, Animal	(1), 652, 652½, 654
Compound, paint thinning (M)	377.5, 723-726	Feed, Barley Hay	652½, 654
		Feed, Bean Straw (M)	652½, 654

Addition, Decision No. 58687

(1) See "Canned Goods and Other Articles as described in Item No. 610."

(M) Denotes articles on which application of rates is limited to mixed shipments.

EFFECTIVE JULY 20, 1959

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San Francisco, California.

Correction No. 924

Third Revised Page 37-A
 Cancels
 Second Revised Page 37-A

MINIMUM RATE TARIFF NO. 2

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)	Class Rating
EXCEPTIONS TO WESTERN CLASSIFICATION AND EXCEPTION SHEET (Continued)		
334	Coffee, extract of (condensed coffee), dry, less carload ...	4
#334 $\frac{1}{2}$	Compounds, buffing or polishing, not otherwise indexed by name in the Western Classification, including boat, floor, furniture or vehicle polish or wax, less carload	4
334 $\frac{1}{2}$	Compounds, cleaning, scouring or washing, not otherwise indexed by name in the Western Classification, less carload	4
334 $\frac{2}{4}$	Confectionery, viz.: Powder, Icing, less carload	4
335	Covers, hood, radiator, seat, spring, steering wheel, tire or top, cotton cloth, not fitted or formed, less carload ..	3
337	Explosives, as described in and subject to the provisions of Item No. 520 of the Exception Sheet. Minimum weight 20,000 pounds	3
340	Flowers, fresh, cut, less carload	1
350	Fruit, dried, including Raisins, Prunes (dried), Figs (dried), and Fig Pulp or Fig Paste, less carload	90% of 4
355	Hay, Podder, bean, cane, corn or pea, Leaves, cactus, dried, Straw, In Machine Pressed Bales Less than carload	(1)4
	Carload: Minimum Weight 30,000 Pounds	(1)C
	Minimum Weight 40,000 Pounds	(2)(2)D
	(1) Subject to Note 1 of Item No. 658. (2) Not applicable to the transportation of hay between points for which rates are provided in Item No. 658.	

Addition) Decision No. 58687
 & Reduction)

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 Correction No. 925