

58734

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)
 carriers 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
 (Petition for Modification
 No. 142)

Clifford F. Campbell, for California Packing Corporation,
 Petitioner.

Carl F. Breidenstein, for Cannerymen's League of California;

R. E. Davis and Richard G. O'Connor, for Stecker-
Traung Lithograph Corporation; Kenneth Scott, for
Muirson Label Co., Inc.; Victor L. Simard, for
H. S. Crocker Co., Inc.; Roy J. Varni, for William
Volker & Co.; J. C. Kaspar, A. D. Poe and J. X. Quintrall,
 for California Trucking Associations, Inc.; Ralph S.
Schmitt, for General Freight Corp.; interested parties.

John R. Laurie, for the Commission staff.

O P I N I O N

Minimum Rate Tariff No. 2 names rates for the transportation of general commodities generally between all points in the State. The class rates provided in the tariff are subject to ratings named in the Western Classification, the Pacific Southcoast Freight Bureau Exception Sheet, or exceptions provided in the tariff. By this petition, California Packing Corporation seeks establishment of a 4th class less-than-carload exception rating for paper labels, NOIBN, cut or not cut, in packages. The labels are now subject to a 2nd class rating as provided in the Western Classification.

Public hearing of the petition was held before Examiner William E. Turpen at San Francisco on May 11, 1959. Evidence was

presented by petitioner and by representatives of several shippers and carriers. A representative of the California Trucking Associations, Inc., and a member of the Commission's staff assisted in developing the record.

The type of labels that petitioner is concerned with in this proceeding consists of a flat paper label, lithographed in several colors, and used to wrap around canned foods. A witness for petitioner introduced into evidence, as an example, a label used on a 46-ounce can of fruit juice drink. This label is flat and approximately 6½" x 14" in size, and, according to the witness, is packed in cartons of 1.334 cubic feet weighing 75 pounds, or 56 pounds per cubic foot. Labels for other size cans have comparable densities. The witness also introduced an exhibit which showed that the size and density of the cartons of labels are comparable to the size and density of canned goods, which take a less-than-truckload rating of 90 percent of 4th class. Another exhibit showed the size and density in shipping form of several other commodities which now enjoy a 4th class exception rating in Minimum Rate Tariff No. 2. These commodities are condensed coffee; cleaning, scouring or washing compounds; and icing powder. The exhibit showed that these commodities in their shipping containers have about half the density of the labels in cartons.

The witness also presented what he called a "wrapper", which is almost identical to the label, but used to place around a cardboard box of dried fruit. He said that the "wrapper" is accepted by carriers at a 4th class less-than-carload rating under Item No. 75810 of the Western Classification.^{1/} The witness said that there are no

^{1/} Item No. 75810 reads as follows:

"Paper: Wrappers, noibn, other than government stamped, printed, edges gummed or not gummed, or made of one piece of flat paper, not printed, edges gummed".

substantial differences between the label and the "wrapper", either in manufacture or in shipping characteristics.

The record shows that petitioner has experienced very little loss or damage in shipping labels.

The proposed exception rating was supported by representatives of several highway carriers and by representatives of several lithographing companies that manufacture labels similar to those made by petitioner.

Petitioner has largely based its showing on a comparison of densities and shipping form of the labels with a few other commodities now enjoying the sought 4th class rating. Such a comparison may tend to show that on consideration of weight and density alone, an identical rating would not be improper, but it does little to establish any impropriety in the present 2nd class rating. Other factors are taken into consideration in determining ratings, and it may well be that circumstances other than density were the principal considerations in establishing lower ratings on the commodities used by petitioner for comparison.

Furthermore, under petitioner's proposal, the sought 4th class less-than-truckload rating would apply to a great variety of products that could be called paper labels. In such a case the propriety of the sought rating should be established by a showing that is representative of the whole group. The showing here relates only to the type of labels used on canned foods. Accordingly, we cannot conclude that the sought rating would be reasonable for other sizes and types of paper labels.

Upon consideration of all of the facts and circumstances of record, the Commission is of the opinion and finds that the proposed exception rating for paper labels has not been shown to be reasonable or justified. The petition will be denied.

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 Petition for Modification No. 142, in Case No. 5432, be and it is hereby denied.

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

Dated at San Francisco, California, this 7th day of July, 1959.

Lowell R. Faye
President
W. L. Faye
W. L. Faye
E. L. Faye
Theodore Faye
Commissioners