

ORIGINAL

Decision No. 60318

## 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 commodi- )  
 ties between and within all points and )  
 places in the State of California )  
 (including, but not limited to, trans- )  
 portation for which rates are provided )  
 in Minimum Rate Tariff No. 2).

Case No. 5432  
 (Petition for Modification  
 No. 176)

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 property in Los )  
 Angeles and Orange Counties (trans- )  
 portation for which rates are provided )  
 in Minimum Rate Tariff No. 5).

Case No. 5435  
 (Petition for Modification  
 No. 20)

A. R. Woodman, for The Nestle Company, Inc.,  
 petitioner.

Leonard Diamond, for the Commission's staff.

O P I N I O N

By the petitions herein in Cases Nos. 5432 and 5435, The Nestle Company, Inc., seeks the establishment in Minimum Rate Tariffs Nos. 2 and 5, respectively, of an exception classification rating of fourth class for the transportation of "candy coating, other than chocolate" in less than carload quantities. The presently applicable rating in connection with both tariffs is second class, as provided in Item No. 20120 of Western Classification No. 77. The class rates named in Minimum Rate Tariff No. 2 have general state-wide application while those in Minimum Rate Tariff No. 5 are applicable between points within a portion of Los Angeles County.

Public hearing of the petitions was held on a common record before Examiner Carter R. Bishop in Los Angeles on April 6, 1960.

Evidence in support of the petitions was presented by petitioner's Pacific Operations manager. His testimony discloses that candy coating, other than chocolate, is widely used in the candy manufacturing business; that petitioner has a substantial movement of this commodity in less than carload quantities from its warehouses at San Francisco and Los Angeles to consignees throughout the State; and that this movement is via for-hire highway carriers.<sup>1</sup>

The record shows that candy coating, other than chocolate, is marketed in competition with chocolate coating.<sup>2</sup> The latter commodity, when transported under the class rates in the above-mentioned minimum rate tariffs, is subject to a less than carload rating of fourth class, as set forth in Item No. 473 series of South Pacific Coast Freight Bureau Exception Sheet No. 1-S.

The exhibits and testimony of record indicates that the transportation characteristics of candy coating, other than chocolate, are generally as favorable as those of chocolate coating. Both products are packed five ten-pound blocks per 50-pound corrugated shipping case and the shipping weights of the two classes of coatings are substantially the same. Both products are subject to temperature control. This means that for local movements in California insulated vans are employed. The density, however, of the candy coating here in issue, is somewhat lower than that of chocolate coating. An

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<sup>1</sup> The commodity in question is manufactured at its Fulton, New York, plant and shipped by rail in carloads with other confectionery to the above-mentioned California warehouses. Eventually, the coating will be manufactured at a new plant at Salinas, California.

<sup>2</sup> According to the record, some of the candy coatings, other than chocolate, manufactured by petitioner include in their composition a substantial amount of cocoa. These coatings are particularly competitive with chocolate coating.

exhibit of record discloses the weight per cubic foot of the former, as packed for shipment to be 42.68 pounds per cubic foot, as compared with 59.74 pounds per cubic foot, the figure for petitioner's shipments of chocolate coating.

The value of candy coating, other than chocolate, the record shows, is considerably below that of chocolate coating. These amounts for the respective commodities are 31.5 cents and 41.8 cents per pound.

According to the witness, petitioner's claim experience with candy coating, other than chocolate, has been very favorable.

The record shows that the fourth class rating is now applicable to shipments of the subject commodity moving within the San Francisco drayage area (as provided in City Carriers' Tariff No. 1-A) and those moving in interstate commerce between points in this State and between this State and other western states, as provided in the Exception Sheet item hereinbefore mentioned, and in other tariffs. The record indicates that in many sections of the country candy coating, other than chocolate, and chocolate coating are subject to the same classification rating.

The witness stated that, to the best of his knowledge, only one other manufacturer besides petitioner distributed candy coating, other than chocolate, in California.

A member of the Commission's Rate Branch staff assisted in the development of the record. No one appeared in opposition to the proposed classification change.

Upon consideration, the Commission is of the opinion and hereby finds that the proposed fourth class rating is reasonable. The petitions will be granted. The order herein will provide for the amendment of Minimum Rate Tariff No. 2. In order to avoid duplication of tariff distribution, Minimum Rate Tariff No. 5 will be amended by a separate order.

It has come to the Commission's attention that, in the last amendment of Item No. 11 (Definition of Technical Terms), the term "Railhead" was inadvertently shown as "Railroad." The necessary correction will be made.

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" of Decision No. 31606, as amended) is hereby further amended by incorporating therein to become effective August 19, 1960, Twenty-ninth Revised Page 5, Fourteenth Revised Page 12 and Sixth Revised Page 37-A, which revised pages are attached hereto and by this reference made a part hereof.

2. Tariff publications authorized to be made by common carriers as a result of the order herein may be filed not earlier than the effective date hereof, and 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 minimum rate tariff pages incorporated in this order.

3. Common carriers be and they are authorized to depart from the provisions of Article XII, Section 21, of the Constitution, 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 rating published under

this authority shall make reference to the prior orders authorizing 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.

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

Dated at San Francisco, California, this 28<sup>th</sup> day of June, 1960.

[Signature] President  
[Signature]  
[Signature]  
[Signature]  
Theodore J. Jenner  
Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.

## INDEX OF COMMODITIES (Continued)

COMMODITY	Item Number	COMMODITY	Item Number
Candles (M)	377.5,723-726	Compounds, paint,	
Candy	360	lacquer or varnish	
#Candy coating, other		reducing, removing	
than chocolate	334-3/4	or thinning	377
Canned Goods and Other		Compound, radiator	
Articles as described	320,620,620,	or cleaning (M)	377.5,723-726
in Item No. 610	630	Compound, rust pro-	
Cants, wooden	365	venting or removing	
Caps, Sand Line	365	(M)	377.5,723-726
Carriers (used packages)	330	Compound, type cleaning	
Casing Shoes	365	(M)	377.5,723-726
Castings, Swing Post	365	Compound, water-	
Catchers, Tubing	365	proofing (M)	377.5,723-726
Catsup	(1)	Concentrate, Flavin	652-654 $\frac{1}{2}$
Cement, pipe fitting (M)	377.5,723-726	Confectionery	334-3/4, 360
Cereal and Nuts com-		Containers, Aluminum	
bined	360	Bulk Shipping	330
Cereal Food	360	Containers, Beverage	330
Chaff	652-654 $\frac{1}{2}$	Corn	(1), 652-654 $\frac{1}{2}$
Chap Sticks	395	Corn Cobs	652-654 $\frac{1}{2}$
Charcoal (M)	652-654 $\frac{1}{2}$	Corn, Kaffir	652-654 $\frac{1}{2}$
Cheese (including		Corn Steep Water	652-654 $\frac{1}{2}$
cottage and pot		Countershafts, Oil	
cheese) (M)	315,605	Well	365
Cheese and Macaroni	(1)	Covers, cotton cloth	335
Chili, ground	(1)	Covers, Thief Hole	365
Chloride of Lime Bleach	730	Cow Peas	652-654 $\frac{1}{2}$
Chocolate	360	Cranes, Derrick	365
Chocolate Coating	360	Cross Arms, wooden	690,710
Chops	652-654 $\frac{1}{2}$	Crystals, Citrus Fruit	
Chowders	(1)	Juice	360
Citrus Fruit Juice		Cylinders, Well Pump	365
Powders or Crystals	360		
Clamps	365	Darso	652-654 $\frac{1}{2}$
Clamps Disconnecting,		Derrick Cranes	365
Drilling, Drive or		Derricks	365
Gas Packing	365	Dessert Preparations	360
Clay, Fire (M)	365	Disinfectants	730
Clippings	652-654 $\frac{1}{2}$	Distillers' Grains	652-654 $\frac{1}{2}$
Clothing, staple work	333	Drain Pipe Solvent	730
Clover	652-654 $\frac{1}{2}$	Dressing, Automobile	
#Coating, candy, other		Top (M)	377.5,723-726
than chocolate	334-3/4	Dressing, Belt (M)	377.5,723-726
Coating, Chocolate	360	Dressing, Salad	(1)
Cocoa	360	Drill Bitheads	365
Cocoonut, prepared	(1)	Drink, fruit	(1)
Coffee	360	Drugs	395
Coffee, extract of		Dry Milk Solids	(1)
(condensed coffee),		Durra	652-654 $\frac{1}{2}$
dry	334, 360	Dust, Elevator	652-654 $\frac{1}{2}$
Coffee Substitutes	360		
Colorings, Confectioners'	360	Earths, Infusorial or	
Compounds, anti-freeze (M)	377.5,723-726	Diatomaceous	650
Compounds, buffing or		Egg Yolk	(1)
polishing	334 $\frac{1}{2}$	Eggs, Shelled	360
Compounds, carbon		Egyptian Wheat	652-654 $\frac{1}{2}$
removing (M)	337.5,723-726	Elevator Dust	652-654 $\frac{1}{2}$

Compound, cleaning (M)	377.5, 723-726	Elevators, Pipe or Sucker Rod	365
Compounds, Bleaching, Cleaning, Scouring, Washing	334½, 730	Emmer	652-654½
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 (con- densed coffee), dry	334, 360
Compounds, Oil Well Drilling Mud	365	Farina	652-654½
Compound, paint thinning (M)	377.5, 723-726	Farina and Wheat Germ	652-654½
		Feed, Animal	(1), 652 - 654½
		Feed, Barley Hay	652 - 654½
		Feed, Bean Straw (M)	652 - 654½

# Addition, Decision No. **60318**

(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.

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San Francisco, California.

Correction No. 1043

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
<p>*11-L Cancels 11-K</p>	<p>DEFINITION OF TECHNICAL TERMS (Concluded) (Items Nos. 10 and 11)</p> <p>(h) POWER EQUIPMENT means any gasoline, diesel, electric or gas driven equipment including electric powered cranes and lift-truck equipment.</p> <p>Δ (ha) RAILHEAD means a point at which facilities are maintained for the loading of property into or upon, or the unloading of property from, rail cars or vessels. It also includes truck loading facilities of plants or industries located at such rail or vessel loading or unloading point.</p> <p>(i) RATE includes charge and, also, the ratings, minimum weight, rules and regulations governing, and the accessorial charges applying in connection therewith.</p> <p>(j) SAME TRANSPORTATION means transportation of the same kind and quantity of property between the same points, and subject to the same limitations, conditions and privileges, but not necessarily in an identical type of equipment.</p> <p>(k) SHIPMENT means a quantity of property physically tendered by one consignor at one point of origin at one time for one consignee at one point of destination, for which a single shipping document has been issued. (See also exceptions in rules and definitions for multiple lot, split pickup and split delivery shipments.)</p> <p>(l) SPLIT PICKUP SHIPMENT means a shipment consisting of two or more component parts picked up by a carrier during one calendar day from one consignor at more than one point of origin, the composite shipment weighing (or transportation charges computed upon a weight of) not less than 4,000 pounds, said shipment being consigned and delivered to one consignee at one point of destination. (See Note.)</p> <p>NOTE: In addition to the component parts picked up by the carrier, a split pickup shipment will include other component parts delivered to carrier's established depot by the consignor or the consignor's agent.</p> <p>(m) SPLIT DELIVERY SHIPMENT means a shipment consisting of two or more component parts delivered to (a) one consignee at more than one point of destination, or (b) more than one consignee at one or more points of destination, the composite shipment weighing (or transportation charges computed upon a weight of) not less than 4,000 pounds, said shipment being shipped by one consignor from one point of origin and charges thereon being prepaid when there is more than one consignee.</p>



(n) TAILGATE LOADING means loading of the shipment into or upon carrier's equipment from a point not more than 25 feet distant from said equipment.

(o) TAILGATE UNLOADING means unloading of the shipment from carrier's equipment and placing it at a point not more than 25 feet distant from said equipment.

(p) TEAM TRACK means a point at which property may be loaded into, or upon, or unloaded from rail cars by the public generally. It also includes wharves, docks and landings at which the public generally may receive and tender shipments of property from and to common carriers by vessel.

(q) WESTERN CLASSIFICATION means Western Classification No. 76 of G. H. Dumas, Agent, and supplements thereto or reissues thereof when the provisions of such supplements or reissues have been approved by the Commission.

\* Change )  
Δ Change, neither )  
increase nor reduction )

Decision No. 60318

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Correction No. 1044 San Francisco, California.

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)	
	EXCEPTIONS TO WESTERN CLASSIFICATION AND EXCEPTION SHEET (Continued)	
		Class Rating
334	Coffee, extract of (condensed coffee), dry, less carload ...	4
334½	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
334½	Compounds, cleaning, scouring or washing, not otherwise indexed by name in the Western Classification, less carload.....	4
334½-A Cancels 334½	Confectionery, viz.: Candy coating, other than chocolate, less carload ..... 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
339	Flour, prepared, edible, manufactured from one or more of the articles included in List 1 (Grain), Item No. 652, or Rice Flour, Bean Flour, or Potato Flour, with more than 40% but no more than 80% of other ingredients. Minimum Weight 10,000 Pounds ..... Minimum Weight 40,000 Pounds .....	90% of 4 B
340	Flowers, fresh, cut, less carload .....	1
350-A Cancels 350	Fruit, Dehydrated, Dried or Evaporated, as described under that heading in the Western Classification. (See Item No. 40) Less than carload ..... Carload: Minimum Weight 30,000 pounds ..... Minimum Weight 42,000 pounds .....	90% of 4 5 C
355	Hay, Fodder, bean, cane, corn or pea, Leaves, cactus, dried, Straw, In Machine Pressed Bales Less than carload..... Carload: Minimum Weight 30,000 Pounds ..... Minimum Weight 40,000 Pounds ..... (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.	(1)4 (1)C (1)(2)D
* Change ) # Addition ) Decision No. 60318 o Reduction )		
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