

Decision No. 61823**ORIGINAL**

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 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. 200

George Blair, for Columbia Record Sales Corporation,
 petitioner.
Walter D. James, for Southern California Freight Lines
 and Oregon-Nevada-California Fast Freight, Inc.,
 respondents.
C. H. Costello, for Continental Can Company, Inc.;
Bill M. Thornton, for Lily Tulip Cup Corporation;
Arlo D. Poe, J. C. Kaspar and James Quintrall,
 for California Trucking Associations, Inc.;
 interested parties.
Ralph Staunton, for the Commission staff.

O P I N I O N

By this petition Columbia Record Sales Corporation seeks the establishment, in Minimum Rate Tariff No. 2, of a classification exception rating of third class on "talking machine records, plastic, nonbreakable, disc type."^{1/} The presently applicable ratings are second class, less than carloads, and fourth class, minimum weight 24,000 pounds, in carload quantities.^{2/} These ratings are set forth in Western Classification No. 77. The sought rating would be statewide in application. It would be restricted to apply on shipments released to a value of 50 cents per pound.

^{1/} "Talking machine records" is the classification description for what are now generally known as phonograph records.

^{2/} Although the petition does not so state, it developed at the hearing of the petition that the sought rating is intended to apply in connection with less carload shipments only.

Public hearing of the petition was held before Examiner Carter R. Bishop in Los Angeles on January 10, 1961.

Petitioner alleges that the lower classification rating in effect on interstate traffic and elsewhere in the country results in discrimination against California intrastate shipments of the commodity at issue. It further alleges that the existence of said lower rating justified the rating herein sought as reasonable.

Evidence on behalf of petitioner was introduced through its director of west coast accounting. Officials of two trucking companies testified in support of the proposal. These companies transport phonograph records for petitioner between California points. A representative of California Trucking Associations, Inc. and a transportation rate expert from the Commission's staff assisted in the development of the record.

The evidence discloses the following facts: Petitioner manufactures and sells phonograph records, of the plastic, "non-breakable", disc type. These records are pressed at its Los Angeles branch plant. From that plant petitioner ships the records by highway carriers in less than carload quantities to its LP Record Club warehouse at Santa Barbara and to its distributor in San Francisco. These two movements comprise almost the total of California intrastate transportation of phonograph records, by for-hire carriers, in which petitioner is involved.^{3/} Shipments to San Francisco are made daily and to Santa Barbara every other day. However, the amount of records shipped fluctuates widely from day to day. The total annual movement from Los Angeles to Santa Barbara is 2,600,000 pounds and to

^{3/} Formerly petitioner engaged a for-hire carrier for the transportation of phonograph records from the Los Angeles plant to its Los Angeles distributor. That traffic is now handled by petitioner in its own vehicles.

San Francisco is from 740,000 to 780,000 pounds.

The evidence further shows that the records, as produced and shipped by petitioner, reflect favorable transportation characteristics. Since they are made of light weight plastic material, they have practically no susceptibility to damage. As prepared for shipment they are packed in inner containers in cartons. They are easy to handle. The density of the packages is 45 pounds per cubic foot.

The values of the records are stated at \$1.30 per pound for the monaural type and \$1.50 per pound for the stereophonic records. Total claim payments for 1959 on shipments from the Los Angeles plant amounted to \$96.

Petitioner's witness compared the present and sought rating on non-breakable phonograph records with those applicable on interstate traffic and for movements outside the State of California. The present less carload rating on interstate rail and truck shipments, including those originating or terminating in California, is 77½ percent of first class. This rating also applies generally on shipments moving within other states. The rating of third class sought herein for California intrastate traffic, the witness pointed out, is equivalent to 80 percent of first class.

The evidence shows that other record manufacturing companies produce and distribute plastic, non-breakable disc type phonograph records in California. None of these concerns was represented at, or participated in, the hearing in this matter. Petitioner's witness had no knowledge as to what proportion of the total California intrastate movement of the records here in issue is enjoyed by Columbia.

Petitioner's witness further testified that his company was giving consideration to diverting the Santa Barbara traffic to proprietary operation, if the petition were denied.

One of the carrier witnesses, whose company transports petitioner's Santa Barbara shipments, testified that the present classification description and ratings for phonograph records are obsolete and do not give proper recognition to changes in the manufacturing process which have resulted in substantial improvements in the transportation characteristics of that commodity, insofar as the new plastic, unbreakable type record is concerned. He also stated that his company was fearful of the possible loss of the Santa Barbara traffic through diversion to proprietary hauling, in the event of denial of the petition. Both carrier witnesses testified to the favorable transportation characteristics of plastic, non-breakable phonograph records.

As hereinbefore stated, the evidence indicates that there is a movement in California intrastate commerce of phonograph records of the type embraced by this petition for account of manufacturers other than petitioner. In view of the large number of brands of records sold in California we have reason to believe that that movement is substantial. The evidence, however, gives no indication of the volume of such traffic nor what proportion of the total intrastate movement is attributable to petitioner's shipments. The rating sought herein, if established, would apply not only to the plastic type records shipped by petitioner, but also to the intrastate movement of all other such records, including certain types not manufactured by petitioner. The transportation characteristics, values, densities and other elements of classification reflected by the products of

other manufacturers may well differ from those of petitioner. The evidence herein relative to the phonograph records shipped by the latter is insufficient to justify alone the establishment of the proposed third class exception rating.

In other respects, also, the record herein is deficient. With respect to the comparison made with the classification rating presently applicable elsewhere no showing was made that the circumstances accompanying the transportation of the phonograph records in issue within California are similar to those which prompted the establishment of said compared rating. Additionally, the record contains no evidence for comparison purposes, of the densities, values and transportation characteristics of phonograph records, other than those of the plastic, non-breakable disc type. Nor is there included such evidence relative to other articles, now subject to a less than carload rating of third class, which are fairly comparable to, or competitive with the phonograph records involved herein.

Upon consideration, we are of the opinion, and hereby find, that the sought rating has not been justified. The petition will be denied.

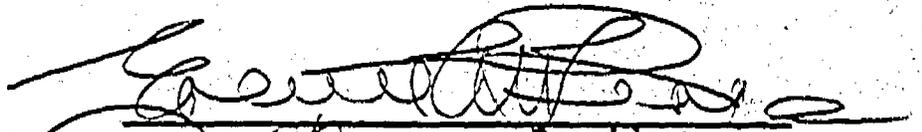
O R D E R

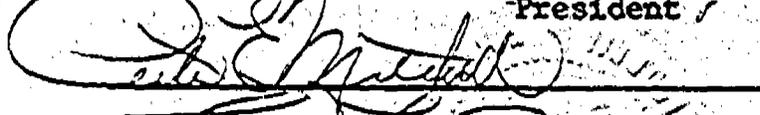
Based upon the evidence of record and upon the findings and conclusions contained in the preceding opinion,

IT IS ORDERED that Petition for Modification No. 200 in Case No. 5432 is hereby denied.

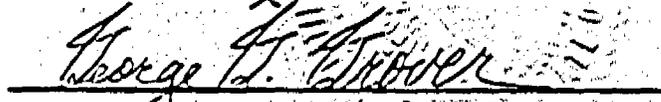
The effective date of this order shall be twenty days after the date hereof.

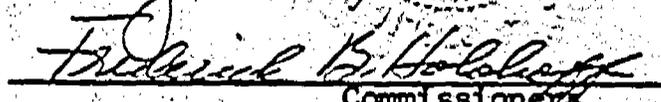
Dated at San Francisco, California, this 11th day of APRIL, 1961.



President








Commissioners