

ORIGINALDecision No. 62135

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 Modifica-
 tion No. 213)

John E. Myers, for Durkee Famous Foods (Division of
 The Glidden Company), petitioner.
J. C. Kaspar, A. D. Poe and J. X. Quintrall, for
 California Trucking Associations, Inc., interested
 party.
John R. Laurie, for the Commission staff.

O P I N I O N

By petition filed March 7, 1961, Durkee Famous Foods,
 Division of The Glidden Company, seeks the establishment of minimum
 ratings and rates on coconut, prepared, at the level of those pre-
 scribed for canned goods in Item 320 of Minimum Rate Tariff No. 2 and
 for foodstuffs for human consumption in Item 345 of said minimum
 rate tariff.

Public hearing was held April 21, 1961 before Examiner J. E.
 Thompson at San Francisco. Evidence consisted of the testimony of
 petitioner's divisional traffic manager. California Trucking Associ-
 ations, Inc., and the Commission's staff participated in the pro-
 ceeding but did not offer direct evidence.

Following proceedings in Case No. 5432, Petition No. 148,
 and Order Setting Hearing dated June 4, 1958 (in which there were
 eleven days of hearing, an examiner's proposed report, and exceptions
 and replies thereto), the Commission issued its Decision No. 61256

dated December 28, 1960 in which, among other things, the Commission removed coconut, prepared, from the list of articles subject to ratings prescribed for canned goods and established a new item in Minimum Rate Tariff No. 2 (Item No. 333.5) for coconut, prepared, naming ratings of 4th Class, less-than-carload, and 5th Class, carload, subject to a minimum weight of 30,000 pounds.

The ratings established for canned goods are as follows:

Less-than-carload	90% of 4
Carload	
Minimum Wt. 30,000 lbs.	5
Minimum Wt. 36,000 lbs.	B
Minimum Wt. 42,000 lbs.	C
Minimum Wt. 45,000 lbs.	D

Similar ratings are provided in Item 345 for cooked fish and meats, milk and milk products, pizza pie mix, sandwich spreads, and spaghetti and cheese, with sauce.

Petitioner alleges that the Commission's findings and order in Decision No. 61256 which resulted in increases in the rates and ~~RATINGS ON COCONUT, PREPARED, WERE~~ without adequate showing or evidence, in contravention of Section 454 of the Public Utilities Code. Decision No. 61256 has become final, and this direct attack upon it comes too late.

Petitioner alleges that the transportation characteristics of coconut, prepared, compare favorably with other items in the canned goods list. The principal comparison offered by petitioner was in the form of Exhibit No. 2, which had been introduced as Exhibit No. V-20 by the Commission's staff in proceedings culminating in Decision No. 61256. This exhibit and the testimony concerning it were fully considered in the aforesaid proceedings. They fail to establish that the transportation characteristics of coconut are similar to those of canned goods. Petitioner also presented evidence of the value per pound of the various types of prepared coconut it ships;

its witness stated that the density of coconut in 100 pound bags is 34 pounds per cubic foot and that the densities of the full line of coconut it ships is in the area of 18 pounds to 23.9 pounds per cubic foot. Such evidence falls short of a showing that the transportation characteristics of coconut, prepared, compare favorably with those of other articles taking the canned goods ratings.

Petitioner alleges that coconut had been included in the canned goods list for about 20 years. We do not consider such longevity to militate against the findings made by the Commission in Decision No. 61256 following lengthy proceedings.

Petitioner alleges that prepared coconut is included in lists of articles covered by canned goods ratings in all of the Western interstate tariffs. The evidence indicates, however, that coconut, prepared, in cellophane bags in packages and in foil in packages is not included in the list of articles included as canned goods in most, if not all, of the tariffs listed in Exhibit No. 4 presented by petitioner.

Petitioner alleges that coconut competes with other articles now included in the list of canned goods. Petitioner offered no evidence which would support this allegation. The market for petitioner's coconut appears to be grocery distributors, bakeries, and confectioners. We do not find any article listed in Item 320 which might compete with coconut. Chocolate, candy coating, cocoa, flavoring compounds, confectioners paste or icing, fondant, spices, and nuts are not included in the canned goods list but take the volume ratings of 4th Class, subject to a minimum weight of 20,000 pounds, and 5th Class, subject to a minimum weight of 30,000 pounds, as provided in Item 360.

Petitioner alleges that, for both truckload and less-than-truckload shipments from its plant, coconut moves with canned goods items and that this circumstance permits loading of vehicles to full

legal carrying capacity. Petitioner's witness testified that a truckload of prepared coconut in a straight shipment would not weigh much more than 30,000 pounds and that the only time a greater weight is obtained is when coconut moves in a mixed shipment with other articles. We direct attention to Item 360 which provides truckload ratings for straight or mixed shipments of the above-named competitive articles; said ratings are no lower than those provided for straight or mixed shipments of prepared coconut.

We have considered all of the evidence and find that petitioner has not shown that the ratings prescribed in Item 320 or Item 345 of Minimum Rate Tariff No. 2 are the minimum reasonable ratings for the transportation of coconut, prepared. The petition will be denied.

O R D E R

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

IT IS ORDERED that Petition No. 213 herein, filed March 7, 1961 by Durkee Famous Foods, Division of The Glidden Company, is hereby denied.

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

Dated at San Francisco, California, this 15th day of JUNE, 1961.

[Signature]
President
[Signature]
[Signature]
George L. Hoover
[Signature]
Commissioners