

Decision No. 63032

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
SIERRA DISTRIBUTING LTD., a corporation,  
for authorization to transport used  
empty bulk commodity containers at rate  
below Minimum Rate Tariff Number 2.

Application No. 43862  
(Filed October 23, 1961)

Harold Culy, for Sierra Distributing Ltd., applicant.  
R. D. Toll, A. D. Poe and J. X. Quintrall, for  
California Trucking Associations, Inc.,  
interested party.  
A. R. Day and Henry E. Frank, for the Commission  
staff.

O P I N I O N

This application was heard November 20, 1961, before Examiner J. E. Thompson at San Francisco on which date it was submitted. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. There were no protests.

Applicant is a California corporation engaged in the transportation of property as a highway permit carrier. Among other things, it transports salt, sugar and chemicals in bulk commodity containers with trade names of "Nest-A-Bins", "Tote-Bins" and "Sani-Bins" from Newark, Richmond, Crockett, Tracy and Clarksburg to Sacramento for Procter and Gamble Company and Campbell Soup Company. It seeks authority here to charge rates based upon a rating of one half of 4th class for the return movement of the empty containers.

Nest-A-Bins are aluminum shipping containers of a shape similar to a barrel with a capacity of 70 cubic feet. Each will

contain approximately 4,000 pounds of salt. When empty they may be separated into two parts and one part may be nested within the other. Item 330 of Minimum Rate Tariff No. 2 provides an exception rating of one half of 4th class on aluminum bulk commodity shipping containers, nested, secondhand, empty, returning or when shipped for a return paying load. The rating is subject to a minimum rate of 29 cents per 100 pounds or actual 4th class rate whichever is lower.<sup>1/</sup>

The Tote-Bin is a large box-shaped aluminum shipping container with a capacity of 74 cubic feet. It also will hold 4,000 pounds of salt. It cannot be taken down and nested. Aluminum bulk commodity shipping containers, set up, are rated double-first-class, less carload, and 2nd class, carload, minimum weight 10,000 pounds.

The Sani-Bin is a large box-shaped container made of reinforced plastic. There are two sizes; one has a capacity of 60 cubic feet and the other a capacity of 80 cubic feet. They cannot be taken down and nested. The Western Classification does not specifically name plastic bulk commodity shipping containers. Applicant contends that under the analogous article rule these articles are subject to the rating of one half of 4th class prescribed for other secondhand empty containers, returning, prescribed in Item 300 of Pacific Southcoast Freight Bureau Exception Sheet No. 1-S.<sup>2/</sup>

---

<sup>1/</sup> The 29-cent rate is effective December 16, 1961, pursuant to Decision No. 62782 dated November 7, 1961, in Case No. 5432, Petitions Nos. 233 and 235.

<sup>2/</sup> We make no finding regarding this contention as it is not essential to the determination of the issues involved.

By Decision No. 59129 in Application No. 41411 applicant was granted authority to transport used aluminum containers, set up, from Sacramento to Richmond, at rates based on one half of 4th class rating when the containers are for a return paying load for the account of Procter and Gamble and/or A. R. Maas Chemical Co. That authority expired October 7, 1960. By Decision No. 60154 in Application No. 41990 applicant was authorized to transport used empty aluminum containers, set up, from Sacramento to Crockett, Tracy and Newark at rates based upon one half of 4th class rating when said containers are for a return paying load for the account of Campbell Soup Company. That authority expired June 6, 1961.

During the twelve months ended September 30, 1961, applicant transported commodities in said containers from the points involved as follows:

Chemicals	4,500 tons
Salt	4,538 tons
Sugar	2,271 tons

Applicant entered into a contract with Procter and Gamble Company to transport all of the latter's manufactured products from Sacramento to the San Francisco Bay Area. Applicant also transports a large volume of the finished products of the Campbell Soup Company from Sacramento to the Bay Area. During a recent twelve-month period the traffic from Sacramento to the Bay Area exceeded 125,000 tons.

Other than during the peak of the canning season, it is applicant's practice at Sacramento to load one semitrailer with finished products and a second with empty containers and haul the two with one tractor as a set of doubles. The trailer with the containers is dropped off at Newark, or one of the other points here involved, and the other with the shipments of finished products proceeds to the Bay Area. Upon completion of delivery of the

finished products, the unit proceeds to Newark, or such other point here involved, where both trailers, in the case of Newark, are loaded with containers of salt. The vehicles then proceed to Sacramento. The loading and unloading of the containers are performed by the consignor and consignee by fork lift truck. During the peak of the canning season vehicles are dispatched around the clock to haul salt and sugar and to return the containers directly.

The record shows that the conditions under which applicant transports the commodities involved are unusual and enable it to realize substantial economies in operations. Applicant has also shown through financial statements and a cost estimate that the operation is profitable to it. Applicant's vice president testified that, although no other carrier has participated in this transportation for many years, he is fearful that the shippers might hold shipments of containers until a sufficient quantity were collected to make a carload shipment. This would permit the shippers to obtain economies resulting from carload rates but would interfere with the regularity and efficiency of the present operation to the detriment of applicant.

Applicant suggested that the exception rating be subject to the same limitations and conditions as prescribed in Item 330 of Minimum Rate Tariff No. 2. We find that the proposed exception is reasonable for the transportation here involved.

There were no protests, and because of the circumstances the order herein will be made effective this date.

ORDER

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

IT IS ORDERED that:

1. Sierra Distributing Ltd., a corporation, is authorized to transport used empty containers, bulk commodity shipping, aluminum or plastic, set up, loose or in packages, for the account of Procter and Gamble Company or Campbell Soup Company, from Sacramento, on the one hand, to Richmond, Newark, Crockett, Tracy and Clarksburg, on the other hand, when said containers are for a return paying load, at less than the established minimum rates, but not less than rates based on one half of the applicable 4th class rate subject to a minimum rate of 29 cents per hundred pounds or the actual 4th class rate whichever is the lower.

2. The authority herein granted shall expire with December 31, 1962, unless otherwise canceled, modified or extended.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 9<sup>th</sup> day of JANUARY, 1962.

Lowell Page  
President

[Signature]

[Signature]

George G. Grover

Fredrick B. Hobbie  
Commissioners