

ORIGINALDecision No. 63340

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 J. P. Hackler, Tariff Publishing)
 Officer, for approval of changes in)
 classification provisions.)

Application No. 43600
 (Filed July 13, 1961)
 (Amended November 28, 1961
 and December 4, 1961)

In the Matter of the Application of)
 J. P. Hackler, Tariff Publishing)
 Officer, for approval of changes in)
 classification provisions.)

Application No. 43753
 (Filed September 13, 1961)

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).)

Cases Nos. 5432, 5435,
 5441 and 5603
 (Orders Setting Hearing
 dated August 1, 1961
 and October 3, 1961)

And related matters.

Chas. W. Burkett, Jr., and Frederick E. Fuhrman,
 for applicant.
C. G. Rickenbaugh, for Radio Corporation of America;
 and W. Paul Tarter, for William Volker & Co.;
 protestants.
Clifford J. VanDuker, for United Shippers Association;
Pete J. Antonino, for Rheem Mfg. Co.; Jack Wilson,
 for Tarter, Webster and Johnson; Meyer L. Kapler,
 for American Box Corporation; A. D. Poe, R. D. Toll,
J. X. Quintrall and W. A. Dillon, for California
 Trucking Associations, Inc.; interested parties.
John R. Laurie, for the Commission staff.

O P I N I O N

Public hearings were held at San Francisco before
 Examiner J. E. Thompson on November 28 and 29, 1961, on which

latter date the matters were taken under submission. Protestants are Radio Corporation of America and William Volker & Co.

Applicant seeks authority to change some of the ratings, rules and regulations in the Western Classification. The proposed changes, involving over 170 items of the classification, would result in increases in rates in some instances and in reductions in others. On August 1, 1961, and on October 3, 1961, the Commission ordered that hearings in several of the minimum rate proceedings be consolidated with hearings in the applications for the purpose of receiving evidence which would permit a determination whether any or all of the proposed changes in classification ratings should be adopted by the Commission to govern rates in Minimum Rate Tariff No. 2 (State-wide Class Rates), Minimum Rate Tariff No. 5 (Los Angeles Drayage Tariff), City Carriers' Tariff No. 1-A (San Francisco Drayage Tariff), City Carriers' Tariff No. 2-A - Highway Carriers' Tariff No. 1-A (East Bay Drayage Tariff), and Minimum Rate Tariff No. 11-A (Uncrated New Furniture). Substantially fewer than the 170 proposed changes would affect the minimum rates because of exception ratings presently applicable.^{1/}

The composition of the Western Classification Committee and the procedure it follows in classifying articles for rate purposes are well known to carriers and to shippers. From time to time the Commission in its decisions concerning classification has

^{1/} For example: Applicant proposes to change ratings on certain articles of furniture and on certain machinery items. City Carriers' Tariff No. 1-A has exception ratings on furniture and machinery, therefore the proposal herein regarding those articles do not affect the present minimum rates and charges for transporting those articles within San Francisco. Each of the minimum rate tariffs provide certain exception ratings which supercede the present ratings in the Western Classification and which also supercede any of the proposed ratings that may be approved.

set forth the procedures and standards followed by the Western Classification Committee. In order to fully understand the reasons given by applicant for many of the proposed changes, it is necessary to have some knowledge of the development of transportation within recent years and the forces both causing and resulting from that development.

In the early 1930's the railroads were dominant in the field of transportation in California although the trucking industry was rapidly developing. The major railroads operating west of the Mississippi had already joined in publishing classification ratings, rules and regulations through their agent, the Western Classification Committee. In those instances where the railroads desired to maintain different ratings, rules and regulations for California traffic, they published them as exception ratings through another agent, Pacific Freight Tariff Bureau (now Pacific Southcoast Freight Bureau). Other than for exception ratings, the Western Classification governed the class rates of the railroads for practically all transportation west of the Mississippi River, both as to interstate commerce and intrastate commerce. The truckers, in states which required them to publish tariffs, usually maintained individual tariffs. In 1935 Congress enacted the Motor Carrier Act and the California Legislature enacted the Highway Carriers Act, each of which provided for regulation of trucking. The federal act required motor carriers to publish tariffs and thereby accelerated the need for those motor carriers engaged in transporting interstate commerce to join in the publication of classification ratings. In California, common carriers by motor vehicle were already required to publish tariffs; however, the enactment contemplated that the Commission

establish minimum rates for all carriers, including highway carriers. In response to the legislation the Commission proceeded to establish minimum rates on certain commodities between certain points.^{2/}

Following extensive proceedings in Case No. 4246, the Commission on December 27, 1938, issued Decision No. 31606 (41 C.R.C. 671) in which it undertook to establish minimum rates for the transportation of general commodities in California. The basic system of rates was class rates, although the rate structure prescribed was different from the class rate structures of the railroads. The minimum rates so established were made applicable to all highway carriers and to the transportation of less than carload freight by railroads. In determining the question of the classification ratings which would govern the minimum rates the Commission stated:

"While the Western Classification and Exception Sheet ratings were designed principally for rail transportation, they appear to give reasonable recognition to characteristics affecting truck transportation and to provide the most suitable and comprehensive means of classification presently available."

The Commission adopted and approved the Western Classification and Pacific Freight Tariff Bureau Exception Sheet to govern the minimum rates. The common carriers by motor vehicle in California, for the most part, have adopted as their rates the minimum rates and have appointed the Western Classification Committee their agent to issue and publish classification ratings governing their tariffs.

In recent years the Uniform Classification has supplanted the Western Classification governing the rates of railroads in most of the territory west of the Mississippi River, particularly with respect to interstate commerce. Carriers by motor vehicle in

^{2/} Cases Nos. 4071, 4076, 4079, 4086 and 4088.

interstate commerce have generally adopted the National Motor Freight Classification. The latter maintains somewhat higher ratings on articles of low density and of high value than, until recently, were prescribed in the Uniform Classification and in the Western Classification.

Since the early 1930's the dominance of the railroads in the transportation of less than carload shipments has diminished. Mr. Hackler testified that the railroads found that they were receiving the large share of low density freight because of the higher ratings maintained by the truckers. The eastern railroads determined to increase their ratings on all such articles to the level maintained in the National Motor Freight Classification. The western lines, through the Western Classification Committee, decided to re-evaluate the ratings on all of the articles involved and to prescribe ratings which would be comparable to higher rated articles of similar density and value in the rail classification. This re-evaluation resulted in the decision to increase a substantial number of ratings, although not as many as those increased by the eastern railroads in most instances. In most instances, the increased ratings have been placed in effect in the Uniform Classification and, except as to California, have been made effective in the Western Classification. As to those changes not already in effect, applicant stated that publications were being prepared to make them effective in the Uniform Classification and in the Western Classification. Mr. Hackler stated that the present Western Classification No. 77 has so many large supplements that it is becoming unwieldy so that he intends to reissue the ratings, rules and regulations in the near future in Western Classification No. 78. In the present

publication the ratings here involved are flagged: "Not applicable on California intrastate traffic--Provisions of preceding issues of this classification apply". In this connection to determine the applicable ratings in California on a number of articles, it is necessary to refer to Western Classification No. 76 and to Western Classification No. 75.^{3/} Western Classification No. 75 was issued August 25, 1951 and made effective October 15, 1951; Western Classification No. 76 was issued August 1, 1956 and made effective October 1, 1956; and Western Classification No. 77 was issued January 15, 1959 and made effective March 14, 1959.

Mr. Hackler stated that in the publication of Western Classification No. 78 he desired to keep the number of flagged items as small as possible.

The proposed changes and the reasons given by Mr. Hackler for the changes are set forth in the application. The exhibits attached thereto, and received in evidence as Exhibits Nos. 1 to 6, inclusive, set forth data concerning some of the important characteristics of the articles involved. No good purpose would be served by reciting herein the facts concerning each of the proposed changes; only a few items were the subject of questions from protestants, interested parties and the staff; those matters will be more fully discussed herein.

Radio Corporation of America protested any increase in rating on radio receiving sets, television sets, electronic components commonly called hi-fi's and said radios, phonographs and/or television sets combined as described in Item 35070-B. It

^{3/} For example: Ratings in Western Classification No. 75 apply on rubberized cloth air mattresses and on metal Christmas trees.

is proposed to establish an LCL rating of $1\frac{1}{2}$ (125% of First Class). The present rating is Class 110 (110% of First Class). The proposed increase in rating would result in an increase in rates of 13.6 percent. The rating of Class 110 was made effective May 15, 1961; prior thereto the applicable rating was First Class. This is one of the items on which applicant proposes to maintain ratings at the same level as those prescribed in the National Motor Freight Classification. Applicant has shown that in 1950 the average value of television sets, radio receiving sets and combination sets was \$1.75 per pound. Since that time, tape recorders have been added to the item and they have values upwards of \$3.00 per pound. In 1950 radio receiving sets, including automobile radios, averaged 9.99 pounds per cubic foot, television sets averaged 9.55 pounds per cubic foot and combination sets 7.81 pounds per cubic foot. Since then a separate item at a lower rating was established for automobile radios which range in density from 23 to 27 pounds per cubic foot, thus lowering the average density of the remaining radio receiving sets covered by Item 35070.

Protestant distributes its products from southern California. Exhibit No. 7 shows the weight, cube, weight per cubic foot and value per pound of 21 models of television sets, 8 models of stereo and hi-fi units and 10 models of radios, and the number of pounds shipped from protestant's Los Angeles warehouse during the first 10 months of 1961. The exhibit also shows the simple averages of the densities and values of all of the products, which are 9.5 pounds per cubic foot and \$3.79 per pound. There is a wide range of densities and values, from 5.3 pounds per cubic foot and \$1.70 per pound, both for models of stereo and hi-fi units to 24 pounds

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per cubic foot and \$15.76 per pound for transistor radios. Generally speaking, the console models of television and hi-fi have a high value, weight and bulk per unit with relatively low weight density and low value per pound as compared with table models and portable models. While one color television console model has a weight density of 7.8 pounds per cubic foot and a value of \$2.55 per pound, it weighs 335 pounds and has a unit value of over \$980. On the other hand, one table radio model which has a weight density of 11.3 pounds per cubic foot and a value per pound of \$4.43 weighs only 4½ pounds and has a unit value of \$20. In terms of weight shipped, the distribution by protestant for the first 10 months of 1961 was as follows: Portable Television (Black and White) 20.4%, Other than Portable (Black and White) 32.5%, Color Television 30.8%, Radios 2.4% and Stereo and Hi-fi 13.9%.

Applicant proposes to increase the ratings on golf bags from first class to 1½ times first class. The average weight density of golf bags is 4.67 pounds per cubic foot. The values averaged \$1.76 per pound in 1959. In recent years manufacturers have made golf bags which are more rigid and more expensive. Applicant in the past has not attempted to differentiate between golf bags that can be collapsed and those which cannot. Mr. Hackler was questioned by United Shippers Association as to whether collapsed golf bags should have a lower rating than those not collapsed. He stated that the ratings cover all golf bags and that he considered the transportation characteristics of the articles as a group rather than as collapsed and not collapsed.

William Volker & Co. protested a change in Item 32900 covering ratings on carpet. At the hearing applicant amended its application to withdraw its proposal concerning this item.

California Trucking Associations, Inc., supported the applications and introduced Exhibit No. 3 which shows the densities and values per pound of 35 of the commodities involved therein. The exhibit supports the facts shown by applicant regarding those items.

Conclusions

The ultimate issues to be determined herein are (1) whether the proposed changes in classification are reasonable for the application of rates by railroads and motor carriers participating in the Classification and where the proposed changes would result in increases in rates whether those increases are justified; and, (2) whether the proposed changes are reasonable and suitable to govern the minimum rates established by the Commission. Both issues are complicated by the fact that most, if not all, of the common carriers participating in the Classification maintain exception ratings in their tariffs which are higher, lower and different from some of the present and proposed ratings and, the minimum rate tariffs, as well as the Pacific Southcoast Freight Bureau Exception Sheet which governs some of the minimum rate tariffs, also provide for exception ratings which are higher, lower and different from some of the ratings proposed by applicant.

We now consider the merits of the applications. The argument that the ratings used by the railroads should be brought up to the ratings of motor carriers who are parties to the National Motor Freight Classification has little merit here because the motor carriers as well as the railroads are parties to the Western Classification in their transportation of California intrastate commerce. Because the work of classification is the comparison of transportation characteristics of one article with others and therefore involves

what might be called an evaluation of relationships, comparisons of the proposed ratings with those in the Uniform Classification and in the National Motor Freight Classification can at best show that throughout the nation generally the transportation characteristics of the article involved can support ratings as high as or no higher than other articles in a particular class. The showing made by applicant, however, does not rest upon that argument.

Density and value probably are the most important considerations in the classification of freight generally because the number of articles where those characteristics are outweighed by other considerations is limited. There are some articles, such as hay presses and windrow pickups combined as described in Item 3710 of Application No. 43600, where transportation characteristics other than density and value are controlling. In that instance, although the average density of the article is 6.6 pounds per cubic foot, it is so large as to preclude efficient loading of other freight with it in a standard boxcar and therefore warrants a rating of double first class. In some instances value is the controlling factor. This is particularly true in connection with articles having very wide ranges in value. There are two such instances involved in Application No. 43600 where the ratings are based upon value. Item 46500 covers glassware, noibn, which articles are of medium to light density and the proposed ratings based upon actual value per pound are:

<u>Value per pound</u>	<u>LCL Rating</u>
not exceeding 35 cents	3
35 cents but not over 75 cents	2
75 cents but not over \$1.50	1
\$1.50 but not over \$3.00	1½
\$3.00 but not over \$4.50	D1

Item 68455 covers metals, noibn, which are of heavy density. The proposed ratings based upon released value per pound are:

<u>Value per pound</u>	<u>LCL Rating</u>
not exceeding 40 cents	3
over 40 cents but not over \$1.00	1
over \$1.00 but not over \$5.00	D1

In the case of X-ray tubes as described in Item 32620, and periscope lenses as described in Item 33120, both articles are of medium density, averaging slightly over 20 pounds per cubic foot; however, the value of X-ray tubes is \$28.00 per pound warranting a rating of four times first class, and the value of the lenses is \$8.00 per pound which makes double first class not greater than a maximum reasonable rating.

There are also instances in which, because of wide ranges in density of the same article, ratings based upon pounds per cubic foot are necessary. Typical of one of these instances is Item 37010 covering feathers or quills, other than feathers for trimmings or millinery goods. There is a variation in the densities of the bales and bags of these articles. Chicken feathers and turkey feathers are not high valued commodities and the proposed ratings based upon pounds per cubic foot are as follows:

<u>Pounds per cubic foot</u>	<u>LCL Rating</u>
less than 4	3t1
4 but less than 7	D1
7 but less than 12	1
12 or over	2

There are a number of articles having classifications based almost entirely upon weight density. In general on those articles there is a pattern of the relationships of densities to ratings. Articles taking ratings over double first class are those

with densities not greater than three pounds. Articles taking double first class center about $4\frac{1}{2}$ pounds per cubic foot, those taking ratings of $1\frac{1}{2}$ times first class are around 6 pounds per cubic foot, those taking $1\frac{1}{2}$ times first class are around 7 pounds per cubic foot, and those taking first class are around 10 pounds per cubic foot.

In most instances, however, no one transportation characteristic can be said to be controlling. For example, applicant proposes a rating of first class on vermiculite as described in Item 94830. This is an expanded mineral which is used principally as fill insulation and as an aggregate for light weight building blocks. It has a density of from 4 to $8\frac{1}{2}$ pounds per cubic foot which, if considered alone, would warrant a higher rating than first class. The value per pound in 1949 was $1\frac{1}{2}$ cents. Only the container can be damaged, not the commodity itself. If only the value and susceptibility to damage were to be considered, the rating would be nearer to fourth class than that proposed. All things considered, however, a first class rating on vermiculite is reasonable in that it appears that under such rating the commodity could move and still not cast too great a burden upon other articles. As we have said in the past, there is no precise mathematical formula for determining the proper rating to be assigned any given article. Essentially classification is done through the exercise of informed judgment after evaluation of all of the facts and comparing the transportation characteristics of the article with those generally of articles assigned various ratings in the classification as a whole.

We do not deem it necessary to set forth separate findings regarding each one of the proposed changes. One half of the 170 or more proposals concern clarification of description of

articles and reduction in ratings for which, other than the requirements covering minimum rates, the establishment by common carriers does not require authority from the Commission. Except to the extent hereinafter set forth, the evidence shows that the transportation characteristics of the articles covered by the proposed ratings are similar generally to the transportation characteristics of other articles taking similar ratings, and that the proposed ratings are reasonable. The remaining half of the proposals would result in increases in rates. Except to the extent hereinafter set forth, the evidence shows that the articles involved have transportation characteristics similar to those of other articles taking the ratings proposed. We find that, except as hereinafter otherwise provided, the proposed ratings are reasonable and that the increases which would result from the establishment thereof are justified.

Because issues were specifically raised concerning the proposed ratings on television sets, etc. and golf club bags, we consider it desirable to set forth additional findings and conclusions concerning those items.

The data herein concerning the densities and values of radios, televisions and other articles described in Item 35070 may appear to be conflicting in that the data furnished by applicant, by protestant and by California Trucking Associations are not precisely the same. The data furnished by applicant represent average densities and values in 1950; and he stated that, because separate ratings on automobile radios were established subsequent thereto, the densities of radios covered by the item are now lower and because tape recorders, which have values upwards of \$3.00 per

pound were added to the item subsequent to 1950, the average value of articles covered by the item are now somewhat higher. Protestant's data represent simple averages rather than weighted averages. California Trucking Associations, Inc., showed televisions and radios have an average density of 9.2 pounds per cubic foot and an average value of \$1.88 per pound and that amplifiers and tuners which are also covered by the item have an average density of 26.4 pounds per cubic foot and an average value of \$5.54 cents per pound. It is obvious that the development of the data differed both as to time and as to method. From the evidence as a whole, however, it would appear that if lumped together, the average density of the articles involved moving in intrastate commerce would average approximately 9 pounds per cubic foot and upwards of \$2.00 per pound. A rating of 1½ times first class does not appear excessive when compared to valuation ratings assigned to other articles.

Of the thirty-nine articles shown in Exhibit No. 7 as shipped by protestant there were only two which had densities of 9 pounds or more which have values less than \$2.00 per pound. Those were black and white television sets. In general, those with values on the order of \$2.00 per pound or less had densities centering about 7½ pounds per cubic foot. The proposed rating is not unreasonable for articles of said density and value.

We find that the proposed rating is reasonable and that the increase resulting therefrom is justified.

At present the classification does not prescribe separate ratings for golf bags, collapsed, and golf bags, not collapsed. The record does not show whether there is a separate movement of golf bags, collapsed, as compared to the other kind and whether there are manufacturers and distributors of one type that do not manufacture

and distribute the other. On this record we are unable to find that the present ratings or the proposed ratings result in any party shipping golf bags assuming a disproportionate share of the transportation burden. The transportation characteristics of golf bags as a whole are similar to other articles taking the proposed rating, and we find that the proposed rating is reasonable and that the increase resulting therefrom is justified.

Applicant proposes to modify Item 40840 so as to provide that paper shipping bags for sugar must bear the appropriate package number. The proposal provides that bags manufactured prior to January 1, 1962, would be accepted for transportation without package number until July 1, 1962. It has been directed to our attention that since the filing of Application No. 43600 applicant concluded to extend the date that unnumbered bags could be used until October 1, 1962. By letter dated December 4, 1961, applicant requested that the application be amended accordingly. The amendment is to the advantage of the shippers of sugar in that it will provide greater time to utilize bags which already have been acquired but not used. The amendment is accepted, and after consideration we find that the proposal, as amended, is reasonable.

We have found that the proposed ratings do not exceed maximum reasonable ratings and the next issue is whether any or all of them are suitable to govern minimum reasonable rates. The determination of this issue must necessarily give consideration to the basis upon which the minimum rates were established. As hereinbefore stated, the Commission adopted a classification which, in a general sense, contained ratings designed to produce maximum reasonable rates for railroads operating west of the

Mississippi River. The Commission established a rate structure which, taking into consideration the relationships of the transportation characteristics of articles assigned to each class, produced minimum reasonable rates for those articles assigned ratings in the Western Classification. Where transportation circumstances and conditions in California necessitated the establishment of minimum rates different from those which would result from using the rating in the Classification, exception ratings were established or commodity rates were promulgated. The basic consideration, therefore, is whether the transportation characteristics of an article are such that they compare with the transportation characteristics of other articles taking the same rating. This is also the basic consideration in determining whether applicant should be authorized to establish the proposed ratings. It follows that unless there are circumstances and conditions in California which necessitate the establishment of different rates or ratings the proposed ratings which have been found to be reasonable are also suitable to govern the minimum rates. As previously stated, there are exception ratings in the minimum rate tariffs and in Pacific Southcoast Freight Bureau Exception Sheet that reflect unusual circumstances and conditions. There is nothing in this record that would indicate any change in those conditions. Neither is there anything in this record which would indicate any unusual conditions or circumstances pertaining to any of the other articles involved. We find that, except to the extent that the Commission has established and adopted exception ratings in its minimum rate tariffs, the ratings found to be reasonable hereinabove are suitable and proper ratings to govern the minimum rates established by the

Commission and that the increases which will result from the establishment of the proposed ratings as minimum are justified.

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:

1. J. P. Hackler, Tariff Publishing Officer for carriers participating in the Western Classification, is authorized to establish the ratings, rules and regulations proposed in his application as amended at the hearing of November 23, 1961, and by his letter to the Commission dated December 4, 1961.

2. The changes in the classification ratings, rules and regulations hereinabove authorized are approved and adopted to govern minimum rates, rules and regulations promulgated by the Commission in City Carriers' Tariff No. 1-A, City Carriers' Tariff No. 2-A - Highway Carriers' Tariff No. 1-A, Minimum Rate Tariff No. 2, Minimum Rate Tariff No. 5 and Minimum Rate Tariff No. 11-A.

3. Common carriers in establishing and maintaining the ratings prescribed hereinabove are authorized to depart from the provisions of Article XII, Section 21 of the Constitution of the State of California, and Section 460 of the Public Utilities Code, to the extent necessary to adjust the long- and short-haul departures now maintained under outstanding authorizations and that such outstanding authorizations are modified only to the extent necessary to comply with this order.

4. The tariff publications authorized to be made 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 ten days' notice to the Commission and to the public.

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

Dated at San Francisco, California, this 25th day of FEBRUARY, 1962.

George G. Grover
 President

W. E. Mitchell

F. Lynton

Fredrick B. Helshoff

Commissioners

Commissioner George G. Grover, being necessarily absent, did not participate in the disposition of this proceeding.