

ORIGINAL

Decision No. 65639

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. 274)

Levine, La Vine & Shain, by Robert L. La Vine,
 for E. I. du Pont de Nemours and Company,
 petitioner.
R. D. Toll, J. X. Quintrall and A. D. Poe, for
 California Trucking Association, interested
 party.
Henry E. Frank, for the Commission staff.

O P I N I O N

By this petition, filed October 9, 1962, E. I. du Pont de Nemours and Company seeks establishment, in Minimum Rate Tariff No. 2, of an exception rating of third class on less-than-carload shipments of Combs, other than silver-trimmed, Brushes with plastic bristle, Brush and Comb combination, Plastic Soap Containers, and Plastic Toothbrush Containers. These articles are now subject to a first class rating.

Public hearing was held before Examiner Turpen on February 11, 1963, at San Francisco. Evidence in support of the petition was offered by petitioner's warehouse shipping superintendent and by the general traffic manager of a highway common carrier. Representatives of the California Trucking Association and of the Commission's staff assisted in developing the record.

In support of its proposal, petitioner relies mainly on the fact that Item No. 395 of Minimum Rate Tariff No. 2 provides a third class exception rating on "Toilet Preparations, Drugs, Medicines and Other Articles", which includes among the articles listed "Military or traveling toilet kits". The kits, according to petitioner, include some or all of the articles for which the exception rating is sought. Petitioner stated that this results in a situation that, whereas a third class rating is applicable when the articles are shipped in kits, a first class rating is applicable when they are shipped individually. The witness said that shipments range in weight from 50 to 500 pounds. The petition shows that the commodities here involved have an average value of \$1.91 per pound and an average density of 13.8 pounds per cubic foot. The witness stated that it was petitioner's intention to propose that the articles here involved be included in Item No. 395.

The exception rating on Toilet Preparations, named in Item No. 395 of Minimum Rate Tariff No. 2, was established by Decision No. 48402, dated March 24, 1953, in Case No. 4808. That decision stated that the articles for which the third class exception rating was sought had densities ranging from 20 to 38.5 pounds per cubic foot and values ranging from 17 cents to \$3.00 per pound. The articles which petitioner here seeks to have included in that item have a much lower density. The fact that a comb or soap container takes a lower rating when shipped in a kit with other items does not in itself justify the comb or soap container enjoying the same lower rating when shipped separately.

We have stated many times that to establish an exception rating it must be shown that the transportation characteristics or conditions in California intrastate traffic of the item in question are different than elsewhere, or that the characteristics are similar to many other articles presently enjoying the sought rating. Neither of these conditions have been established on this record. The Commission therefore finds that petitioner has not justified the establishment of a third class exception rating applicable to shipments of combs, other than silver-trimmed, brushes with plastic bristle, brush and comb combination, plastic soap containers, and plastic toothbrush containers. The petition will be denied.

O R D E R

IT IS ORDERED that Petition for Modification No. 274, in Case No. 5432, filed by E. I. du Pont de Nemours and Company, is hereby denied.

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

Dated at San Francisco, California, this 2nd day of July, 1963.

George G. Trover
President
Edward W. [unclear]
Edward W. [unclear]
Fredrick B. Hoffhoff
William W. [unclear]
Commissioners