

ORIGINAL

Decision No. 67559

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. 331
 (Filed March 24, 1964)

Frank Loughran and Wm. M. Larimore, for
 Avoset Company, petitioner.
C. D. Gilbert, H. F. Kollmyer and A. D.
Poe, for California Trucking Associa-
 tion; and E. R. Chapman, for Foremost
 Dairies, Inc., interested parties.
Arthur F. Burns, for the Commission staff.

O P I N I O N

This matter was heard and submitted May 25, 1964, before Examiner Thompson at San Francisco. Copies of the petition and the notice of hearing were served in accordance with the Commission's procedural rules. There are no protests.

Avoset Company is engaged in the business of manufactur-
 ing a dessert topping sold under the trade name "Qwip." The product
 is made from sterilized table cream to which a small amount of sugar
 and vanilla has been added. It is sold in hermetically sealed cans
 charged with an inert gas held under pressure. There is a nozzle
 on the top of the can from which the product is extruded in whipped
 form. A valve located in the nozzle causes the can to self-seal
 itself after each usage. Consumers use the product as they would
 use whipped cream.

Petitioner has its plant at Gustine and distributes its product from the plant to points and places in California as well as elsewhere. Shipments to California points are usually in less-than-carload or less-than-truckload lots. The shipments move under rates provided for second class. Petitioner requests modification of Item No. 345 of Minimum Rate Tariff No. 2 to include Qwip which would then be subject to the rating of 90 percent of fourth class prescribed in that item.

Qwip competes on the grocery shelves with milk or cream substitutes processed from vegetable, soybean or grain products and other ingredients. Some of those substitutes include products marketed under the trade names, "Lucky Whip", "Rich's Whip", "Readi Whip" and "Rod's Whip-o-Topping". Those products are shipped in California at rates governed by the ratings in Item No. 345.

The commodity description in Item No. 345 is:

"Milk or Cream Substitutes, processed from vegetable, soybean or grain products, with or without other ingredients, in hermetically sealed glass or metal containers in boxes."

Petitioner proposes that the commodity description be amended to:

"Milk or Cream, Sterilized, or Milk or Cream Substitutes, processed from vegetable, soybean or grain products; with or without other ingredients, in hermetically sealed glass or metal containers in boxes."

Evidence was presented of the transportation characteristics of Qwip and the cream substitutes named above. A can of Qwip and a can of Lucky Whip were shown at the hearing. The containers and the nozzles for discharging the contents under pressure of inert gas were identical. Lucky Whip and the other substitutes with which Qwip competes are dessert toppings used by consumers as a substitute for whipped cream; they are marketed in pressurized cans as is Qwip;

they have virtually the same weight densities and values as does Qwip; and they are subject to the same requirements for handling and temperature control as Qwip. From a transportation standpoint, the only apparent difference between Qwip and the competing products is that Qwip, having been sterilized, is less susceptible to spoilage from warm temperatures. This difference, however, is not a factor because all of the products, including Qwip, are required to be kept at temperatures below 55 degrees F. because of regulations governing the use of pressurized cans.

We find that:

1. Qwip has the same transportation characteristics as articles described as Milk or Cream Substitutes, processed from vegetable, soybean or grain products in hermetically sealed cans in boxes.
2. Qwip competes with products described above marketed as cream substitutes.
3. Rates for the transportation of Qwip the same as those established for cream substitutes described in Item No. 345 are just, reasonable and nondiscriminatory.
4. The class ratings set forth in Item No. 345 are the just, reasonable and nondiscriminatory minimum ratings to be observed by highway permit carriers and common carriers to the extent they are subject to the minimum rates prescribed in Minimum Rate Tariff No. 2 for the transportation of milk or cream, sterilized, with or without other ingredients, in hermetically sealed glass or metal containers or boxes.

We conclude that the sought exception rating should be established in Minimum Rate Tariff No. 2 and that common carriers should be authorized to establish the said ratings in their tariffs to become effective not earlier than the tenth day after the

effective date of this order on not less than ten days' notice to the Commission and to the public if filed not later than sixty days after the effective date of the change in the minimum rates prescribed herein. We also conclude that common carriers should be authorized to continue long- and short-haul departures now maintained under outstanding authorizations to the extent necessary to exercise the authority to establish the ratings prescribed herein.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff No. 2 (Appendix D of Decision No. 31606, as amended) is further amended by incorporating therein, to become effective August 29, 1964, the revised pages attached hereto, and by this reference made a part hereof, which pages are numbered as follows:

Forty-first Revised Page 5
Thirty-sixth Revised Page 7
Tenth Revised Page 37-D

2. Tariff publications authorized to be made by common carriers as a result of the order herein may be made effective not earlier than the tenth day after the effective date of this order, and may be made effective on not less than ten days' notice to the Commission and to the public if filed not later than sixty days after the effective date of the minimum rate tariff pages incorporated in this order.

3. Common carriers, in establishing and maintaining the rates authorized hereinabove, are hereby authorized to depart from the provisions of Section 460 of the Public Utilities Code to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations

are hereby modified only to the extent necessary to comply with this order; and schedules containing the rates published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

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

Dated at San Francisco, California, this 21st day of JULY, 1964.

Fredrick B. Holbrook
President

John L. Attwood

Everett W. Long

George T. Hoover

William M. Bennett
Commissioners

INDEX OF COMMODITIES (Continued)

COMMODITY	Item Number	COMMODITY	Item Number
Candles (M)	377.5,723-726	Compounds, carbon, green or sludge removing (M)	377.5,723-726
Candy	360	Compounds, Flavoring	360
Candy coating, other than chocolate	360	Compounds, floor hardening (M)	377.5,723-726
Canned Goods	320,620,630	Compounds, Food Curing, Preserving or Seasoning	360
Cants, wooden	365	Compounds, Lard	360
Caps, Sand Line	365	Compounds, Oil Well Drilling Mud	365
Carriers (used packages)	330	Concentrate Flavin	652-654½
Carts, Freight	330	Confectionery	360
Casing Shoes	365	Containers, Aluminum Bulk Shipping	330
Castings, Swing Post	365	Containers, Beverage	330
Catchers, Tubing	365	Corn	320,652-654½
Catsup	320	Corn Cobs	652-654½
Cement, pipe fitting (M)	377.5,723-726	Corn, Kaffir	652-654½
Cereal and Nuts combined	360	Corn Steep Water	652-654½
Cereal Food	360	Corundum	302
Chaff	652-654½	Countershafts, Oil Well	365
Chap Sticks	395	Covers, cotton cloth	335
Charcoal (M)	652-654½	Covers, Thief Hole	365
Cheese	335.5,606	Cow Peas	652-654½
Cheese and Macaroni	360	Cranes, Derrick	365
Chili, ground	320	*Cream, sterilized	345
Chloride of Lime Bleach	730	Cream Substitutes	345
Chocolate	360	Cross Arms, wooden	690,710
Chocolate Coating	360	Crystals, Citrus Fruit Juice	360
Chops	652-654½	Cylinders, Well Pump	365
Chowders	320		
Citrus Fruit Juice Powders or Crystals	360	Darso	652-654½
Clamps	365	Derrick Cranes	365
Clamps, Disconnecting, Drilling, Drive or Gas Packing	365	Derricks	365
Clay, Fire (M)	365	Dessert Preparations	360
Clippings	652-654½	Diglycerides of Fat-forming Acids	360,730
Cloth, abrasive	302	Disinfectants	730
Clover	652-654½	Distillers' Grains	652-654½
Coating, candy, other than chocolate	360	Dough, prepared	336
Coating, Chocolate	360	Drain Pipe Solvent	730
Cocoa	360	Dressing, Automobile Top (M)	377.5,723-726
Coconut, prepared	333.5	Dressing, rubber (M)	377.5,723-726
Coffee	360	Dressing, Salad	320
Coffee, extract of (condensed coffee), dry	360	Dressing, shoe (M)	377.5,723-726
Coffee Substitutes	360	Drill Bitheads	365
		Drink, fruit	320

Coloring, Confectioners'	360	Drugs	395
Compound, cleaning(M)	377.5,723-726	Dry Milk Solids	320
Compound, electrical insulating (M)	377.5,723-726	Durra	652-654 $\frac{1}{2}$
Compound, malt, milk and cocoa	360,375	Dust, Elevator	652-654 $\frac{1}{2}$
Compound, metal cutting, drawing or drilling (M)	377.5,723-726	Earths, Infusorial or Diatomaceous	650
Compound, paint thinning (M)	377.5,723-726	Egg Yolk	320
Compound, pneumatic tire mounting (M)	723-726	Eggs, Shelled	360
Compound, radiator cleaning (M)	377.5,723-726	Egyptian Wheat	652-654 $\frac{1}{2}$
Compound, rust preventing or removing (M)	377.5,723-726	Elevator Dust	652-654 $\frac{1}{2}$
Compound, type cleaning (M)	377.5,723-726	Elevators, Pipe or Sucker Rod	365
Compound, water-proofing (M)	377.5,723-726	Emery	302
Compounds, anti-freeze (M)	377.5,723-726	Emmer	652-654 $\frac{1}{2}$
Compounds, Bleaching, Cleaning, Scouring, Washing	730	Engines (M)	365
		Ether (M)	377.5,723-726
		Exterminators, vermin(M)	377.5,723-726
		Extracts	360
		Extracts, coffee (condensed coffee), dry	360
		Farina	652-654 $\frac{1}{2}$
		Farina and Wheat Germ	652-654 $\frac{1}{2}$
		Feed, Animal	338,620-630, 652-654 $\frac{1}{2}$
		Feed, Barley Hay	652-654 $\frac{1}{2}$
		Feed, Bean Straw (M)	652-654 $\frac{1}{2}$

(M) Denotes articles on which application of rates is limited to mixed shipments.

* Addition, Decision No. **67559**

EFFECTIVE AUGUST 29, 1964.

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.

Correction No. 1518

INDEX OF COMMODITIES (Continued)

COMMODITY	Item Number	COMMODITY	Item Number
Lime, Chlorinated	730	Meat, other than fresh	360
Liners	365	Meat Substitutes	360
Liners, Polished Rod	365	Meats, cooked, cured	
Lines, Measuring	365	or preserved	320, 345
Links	365	Meats, fresh	376
Lipsticks, medicated		Mechanics' Tools (M)	365
(chap sticks)	395	Medicines	395
Liquid, cigar or		Meters, water	376.5
cigarette lighter(M)	377.5, 723-726	Middlings	652-654½
Liquors, Malt	360	Military toilet kits	395
Liquors, Vinous	360	Milk (condensed, evaporat-	
Lubricant, Grease Binder	377.5, 723-726	ed or sterilized), liquid	320
Lubricant, metal cutting,		Milk and coca compound	375
drawing or drilling(M)	377.5, 723-726	Milk, dried	345, 652-654½
Lumber	690, 700, 710	Milk Food, other than	
Lye, Concentrated	730	malted, liquid	320
		Milk Food, other than	
Macaroni (M)	652-654½	liquid, other than	
Macaroni, except canned	360	malted milk	375
Macaroni (prepared)	320, 360	Milk, Malted	360, 375
Macaroni and other		Milk Solids, dry	345
ingredients	345, 360	Milk, sour skim	652-654½
Machines, Oil Well Pulling	365	*Milk, Sterilized	320, 345
Machines, Rotary Drilling	365	Milk Substitutes	345
Maize	652-654½	Milo Maize	652-654½
Malt	652-654½	Mince Meat	320
Malt, milk and cocoa		Mix, Pizza Pie	345
compound	360, 375	Mixtures, Mineral	652-654½
Malt Sprouts	652-654½	Molasses	320, 652-654½
Malted milk	360, 375	Molasses, Blackstrap	652-654½
Margarine	335.5, 606	Molasses, Beet Sugar Final	652-654½
Mash	652-654½	Molasses, Corn Sugar	
Meal, Alfalfa	652-654½	Final (Hydrol)	652-654½
Meal, Babassu Nut	652-654½	Monoglycerides of Fat-	
Meal, Bean Straw	652-654½	forming Acids	360, 730
Meal, Bone	652-654½	Mud Mixer Parts	365
Meal, Blood	652-654½	Mustard	360
Meal, Clover	652-654½	Mustard (prepared)	320
Meal, Clover, ground	652-654½		
Meal, Coconut	652-654½	Noodles, except canned	360
Meal, Copra	652-654½	Noodles (M)	652-654½
Meal, Corn Germ	652-654½	Noodles (prepared)	320, 360
Meal, Corn Oil (M)	652-654½	Noodles and other	
Meal, dried Fruit Seed	652-654½	ingredients	345, 360
Meal, Feather	652-654½	Nuts, edible, shelled	360
Meal, Fish	652-654½		
Meal, Flaxseed	652-654½	Oats	652-654½
Meal, Fruit pomace	652-654½	Oats, rolled	652-654½
Meal, Gluten	652-654½	Offal	652-654½
Meal (Grain)	652-654½	Offal, Wheat Cereal	652-654½
Meal, Grass, dehydrated	652-654½		

Meal, Hemp Seed	652-654 $\frac{1}{2}$	Oil, Cooking	320,730
Meal, Hull or Shell, Nut	652-654 $\frac{1}{2}$	Oil, Fish (M)	652-654 $\frac{1}{2}$
Meal, Kapok Seed	652-654 $\frac{1}{2}$	Oil, Olive	320
Meal, Linseed	652-654 $\frac{1}{2}$	Oil (other than medicinal) (M)	377.5, 723-726
Meal, Meat	652-654 $\frac{1}{2}$	Oil, petroleum medicinal (M)	377.5, 723-726
Meal, Mesquite (M)	652-654 $\frac{1}{2}$	Oil, Salad	320, 730
Meal, Molasses	652-654 $\frac{1}{2}$	Olives	320
Meal, Oil Cake	652-654 $\frac{1}{2}$	Onion Chips	320
Meal, Palm	652-654 $\frac{1}{2}$	Onion, Powdered	320
Meal, Palm Kernel	652-654 $\frac{1}{2}$	Outfits, insect destroying (M)	377.5, 723-726
Meal, Peanut	652-654 $\frac{1}{2}$	Outfits, Oil, Water or Gas Well	365
Meal, Perilla	652-654 $\frac{1}{2}$	Outfits, Wire Line Pumping	365
Meal, Perilla Seed	652-654 $\frac{1}{2}$		
Meal, Rape Seed	652-654 $\frac{1}{2}$	Packers	365
Meal, Rice	652-654 $\frac{1}{2}$	Paint, asphaltic (M)	377.5, 723-726
Meal, Safflower Seed	652-654 $\frac{1}{2}$	Paint, liquid (M)	377.5, 723-726
Meal, Sesame Seed	652-654 $\frac{1}{2}$	Paper, abrasive	302
Meal, Soya Bean	652-654 $\frac{1}{2}$	Paper, emery	302
Meal, Sunflower Seed	652-654 $\frac{1}{2}$	Parts, Boiler (M)	365
Meal, Tomato Pomace	652-654 $\frac{1}{2}$	Parts, Mud Mixer	360
Meal, Tucum Nut	652-654 $\frac{1}{2}$	Paste, Alimentary	360
Meal, Vegetable	652-654 $\frac{1}{2}$	Paste, Confectioners'	360
Meal, Velvet Bean	652-654 $\frac{1}{2}$	Paste, Tomato	320
		Peanut Butter	320
		Peanut Spread	320

(M) Denotes articles on which application of rates is limited to mixed shipments.

*Addition, Decision No. 67559

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Correction No. 1519

Cancel

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)	
	EXCEPTIONS TO GOVERNING CLASSIFICATION AND EXCEPTION RATINGS TARIFF (Continued)	Class Rating
	<p>FOODSTUFFS FOR HUMAN CONSUMPTION, viz.:</p> <p>Fish, cooked, pickled or preserved, with or without fruit or vegetable ingredients, in bulk in boxes,</p> <p>Macaroni, noodles, rice, spaghetti or vermicelli, dry, not cooked, with cheese, fish, meat or poultry, vegetables or other ingredients, in combined packages in boxes (not less than 55 percent of the gross weight of the combined packages shall be that of the ingredients named, in metal cans),</p> <p>Meats, cooked, cured or preserved, with or without cereal or vegetable ingredients, in bulk in crates or boxes, or in inner containers or packages, other than those specified in Item No. 320, in crates or boxes,</p> <p>Milk (not malted), Buttermilk (not casein), Dry Milk Solids, powdered or flaked, or Whey, condensed or powdered, in inner containers of earthenware, glass, metal cans or packages, in outer containers of boxes; or in bulk in barrels, fibre cans, boxes, double bags or multiple-wall paper bags,</p> <p>§(2) Milk or Cream, Sterilized, or Milk or Cream Substitutes, processed from vegetable, soybean or grain products; with or without other ingredients, in hermetically sealed glass or metal containers in boxes,</p> <p>§345 Pizza Pie Mix, consisting of flour, yeast and sauce with or without cheese, in combined packages in boxes (not less than 50 percent of the gross weight of the combined packages shall be that of the ingredients named, in metal cans),</p> <p>Sandwich Spreads, including cheese spreads, in paper cartons in boxes,</p> <p>Spaghetti and Cheese or Noodles and Cheese, with sauce, in combined packages in boxes (not less than 55 percent of the gross weight of the combined packages shall be that of the ingredients named, in metal cans),</p> <p>Less truckload</p> <p>Truckload:</p> <p>Minimum Weight 30,000 Pounds</p> <p>Minimum Weight 36,000 Pounds</p> <p>Minimum Weight 42,000 Pounds</p> <p>Minimum Weight 45,000 Pounds</p> <p>(1) Not applicable to shipments which are subject to charges for temperature control service.</p> <p>(2) Subject only to the less truckload rating shown in this item.</p> <p>Not subject to Item No. 300, see Note 1.</p> <p>NOTE 1.-(a) Rates or ratings applicable on shipments in boxes will apply also to such shipments in fibreboard boxes in metal strapped bundles or crates.</p> <p>(b) Rates or ratings applicable to shipments in barrels will apply also to such shipments in hogsheads, pipes, puncheons, tierces, casks, drums, half-barrels; quarter-barrels, sixth-barrels, eighth-barrels or kegs.</p>	<p>20% of 4</p> <p>S E C (1)D</p>

350

Fruit, Dehydrated, Dried or Evaporated, as described under the heading "Fruits or Vegetables Group, Dried" in the Governing Classification. (See Item No. 40).

Less truckload

90% of 4

Truckload:

Minimum Weight 30,000 Pounds

Minimum Weight 42,000 Pounds

5
c

Change }
Reduction } Decision No. 67559

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