

ORIGINAL

Decision No. 57640

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. 322)  
 (Filed February 5, 1964)

Robert G. Steele, for Technibilt Corporation,  
 petitioner.  
Arlo D. Poe, J. C. Kaspar and H. Kohlmyer, for  
 California Trucking Association, protestant.  
R. L. Hart, by W. S. Lair, for Shippers Express,  
 respondent.  
Fred D. Preston, for Safeway Stores, Inc.;  
Floyd C. Ellis, for Northrup Architectural  
 System; and Eugene A. Read, for California  
 Manufacturers Association; interested parties.  
Carl Blaubach, for the Commission staff.

## O P I N I O N

By this petition, Technibilt Corporation, a manufacturer of market basket carts, seeks the establishment in Exception Rating Tariff No. 1 of a truckload exception rating of Class A on the following described articles:

"VEHICLES, OTHER THAN SELF-PROPELLED:  
 Carts, basket, four-wheeled,  
 self-service store, steel or wire,  
 S.U., nested or three or more  
 telescoped, in packages, truckload  
 minimum weight 24,000 pounds."

A duly noticed public hearing in this proceeding was held before Examiner Mallory at Los Angeles on March 24, 1964, and the matter was submitted on that date. Evidence was presented by petitioner, by the California Manufacturers Association (CMA), and by the California Trucking Association (CTA). CMA supported the petition. CTA opposed the relief sought.

The Commission, by Decision No. 66268, dated November 5, 1963 (61 Cal. P.U.C. 655), adopted the National Motor Freight Classification<sup>1/</sup> in lieu of the Western Classification to govern its minimum rate tariffs containing class rates, including Minimum Rate Tariff No. 2. This decision stated as follows:

"Petitioner [CTA] proposes an interim California supplement that will have the effect of substantially retaining the presently applicable class ratings on practically all traffic. The witness explained that there will be some technical reductions and increases involved due to variations in wording and descriptions in the two classifications. It is petitioner's intention to take steps to correct the situation if changes that were overlooked are brought to its attention.

"...One shipper witness testified that the sought changes would increase the ratings applicable to a large part of his shipments. In answer, petitioner's research director testified that this situation, along with similar situations of several other shippers, have been brought to his attention and steps are being taken to correct the problem."

\* \* \*

"The record is clear that changes in transportation conditions since adoption of the Western Classification as the governing classification for minimum rates has now resulted in the National Motor Freight Classification being more reflective of current conditions. It also is clear that shippers and carriers have jointly worked out a system of transition from one classification to the other so as to cause a minimum effect on shipping practices."

<sup>1/</sup> The National Motor Freight Classification A-7, and the National Motor Freight Classification A-7 (Cal.) are collectively referred to herein as the National Motor Freight Classification.

By Decision No. 66195, dated October 22, 1963 (61 Cal. P.U.C. 537), the Commission issued Exception Rating Tariff No. 1, to replace Pacific Southcoast Freight Bureau Exception Sheet No. 1-S, as the governing exceptions tariff for Minimum Rate Tariffs Nos. 2 and 5.

The witness for petitioner (Technibilt Corporation) showed that the former Western Classification contained separate commodity descriptions and ratings for four-wheeled and two-wheeled market basket carts. The item pertaining to four-wheeled carts provided a Class A carload rating, minimum weight 24,000 pounds, for such carts shipped set up, nested or three or more telescoped (Item 92750). The item pertaining to two-wheeled carts contained a carload rating of third class, minimum weight 15,000 pounds for such carts when shipped with baskets nested, collapsed or folded flat (Item 92810). The National Motor Freight Classification contains a single item (Item 188920) for both four-wheeled and two-wheeled carts. The applicable truckload rating and minimum weight for California traffic assigned to both types of carts when shipped set up, three or more telescoped, is third class, minimum weight 15,000 pounds. Thus, the higher of two truckload ratings formerly contained in the Western Classification was assigned to both types of carts in the National Motor Freight Classification for California traffic.

Petitioner alleges that there was no specific justification presented in the proceeding leading to Decision No. 66268 for the increase in the carload rating on four-wheeled carts; that the California Trucking Association, petitioner in the classification proceeding, recognized that increases or reductions in ratings would

occur in the transfer from one classification to the other which could cause hardship to the affected shippers or carriers; and that the CTA witness in the classification proceeding indicated that steps would be taken to correct such situations brought to his attention. Petitioner requests that the truckload rating and minimum weight formerly applicable to four-wheeled carts in the Western Classification be restored by the publication of such rating and minimum weight in Exception Rating Tariff No. 1. Petitioner presented evidence to show that it manufactures four-wheeled market basket carts and ships such carts in truckload lots from its plant in Glendale to points in California. A traffic consultant employed by petitioner testified that petitioner was not aware of the classification change until after it became effective, as the traffic consultant had not reviewed the ratings on four-wheeled carts proposed by CTA in the classification proceeding. No evidence was offered by petitioner concerning the density, value or other transportation characteristics of the article it manufactures, nor any evidence concerning the transportation characteristics or movement of similar articles shipped in California by competing manufacturers.

CMA supports the relief sought in the petition. The CMA witness testified that his association supported the CTA proposal in the classification proceeding because it recognized the need for a more modern, up-to-date classification, but with the understanding that situations such as described in the instant petition would be corrected by the restoration of the former rating upon a showing such as made by petitioner herein.

CTA opposed the authority sought. CTA's witness explained that the statement attributed to it in Decision No. 66268 with respect to its intention to "correct the situation if changes that were overlooked were brought to its attention" did not refer to all ratings, commodity descriptions or provisions that are different in the Western Classification, and that those that were called to its attention in the development of its studies relating to the changeover and upon which agreement between shippers and carriers could be reached were subsequently considered and disposed of in Decision No. 66451, dated December 10, 1963, in Case No. 5432, Petition No. 314 (unreported). With respect to basket carts, CTA believes the ratings and provisions of the National Motor Freight Classification are reasonable. It presented evidence concerning the densities and value of four-wheeled market basket carts shipped set up, three or more telescoped. According to the witness, the densities range from 6.6 to 7.9 pounds per cubic foot and the average value of such carts is 54 cents per pound.

The CTA witness explained in some detail the background of its study presented in the proceeding culminating in Decision No. 66268. Involved in the changeover were more than 10,000 separate items in the two classifications. Of these, approximately 6,000 were substantially identical in both the National Motor Freight Classification and the Western Classification. On the other hand, there were some 4,000 items in the Western Classification for which there were no direct counterparts in the National Motor Freight Classification. On these items the CTA witness stated that he exercised informed judgment, based upon information available to him and upon his knowledge of transportation matters,

in assigning ratings to such articles in the National Motor Freight Classification. He testified that wide distribution of the CTA proposals was made to shippers and carriers before the hearing in that proceeding; that every effort was made to resolve differences called to CTA's attention by shippers and carriers prior to that hearing; that a few matters could not be resolved prior to that hearing because of pending formal requests to make changes in the Western Classification, or because of the pendency of the proceeding in which the Commission canceled the Pacific Southcoast Freight Bureau Exception Sheet as the governing exceptions tariff and established in its stead Exception Rating Tariff No. 1; that the matters not resolved in Decision No. 66268 were acted upon in Decision No. 66451; and that no unresolved matters remained which CTA felt came within the language set forth in Decision No. 66268 (quoted in the preceding paragraph).

CTA also objected to the establishment of any exception rating on California traffic, without the proponent thereof first seeking to change the commodity description, truckload rating and minimum weight in the governing classification for transportation other than within California. It contends that the establishment of the requested exception ratings provisions would destroy the uniformity of classification provisions now existing on California intrastate traffic and interstate traffic. CTA believes that when a change in the classification provisions is necessary and reasonable, the proper method to effectuate such change is in the classification itself rather than by the publication of exception provisions applying only in a limited area. The witness stated that it is the policy of the carrier members of his association

to process, initially, all proposed changes in classification provisions by the filing of requests with the National Classification Board for establishment of the proposed change in the National Motor Freight Classification. The advantage of this procedure, the witness stated, is to maintain stability and uniformity of classification provisions in all jurisdictions in which the National Motor Freight Classification applies.

Discussion

Decision No. 66268, in which the Commission substituted the National Motor Freight Classification for the Western Classification as the classification governing the minimum class rates, did not contain a detailed discussion of all of the evidence in that proceeding, inasmuch as such detailed discussion was not necessary to the disposition of that proceeding. However, all of the evidence was considered. In order that a full understanding of that evidence and the conclusions reached thereon by the Commission as they relate to this proceeding may be had, certain portions of that record will be discussed herein.

As far back as 1960, it was recognized that the Western Classification, published by the rail lines, had ceased to be satisfactory to govern the minimum rates in California. Pursuant to the mandate of the Interstate Commerce Commission, a new classification (Uniform Freight Classification) was developed and placed into effect by the nation's railroads.<sup>2</sup> This classification eliminated regional differences in ratings and provisions and established percentage ratings in lieu of the numbered and lettered ratings in the Western Classification. The Uniform Freight Classification initially was put into effect in the territory east

of the Mississippi River and subsequently was made effective, with appropriate scales of rates, on interstate traffic west of the Mississippi. The Western Classification was maintained by the railroads, but the rail traffic subject to that classification became so inconsequential to the railroads that there remained little incentive to keep the Western Classification up to date. In the period beginning 1960, several changes were made in the ratings, commodity descriptions, packaging, and other provisions of the Uniform Freight Classification that were not made in the Western Classification. Shippers, carriers and this Commission staff recognized that the Western Classification had become obsolete and efforts were made to find a suitable replacement.

After months of study, discussion and negotiation, the California Trucking Association, with the cooperation and assistance of the California Shipper-Carrier Conference, developed proposals to use the National Motor Freight Classification in lieu of the Western Classification to govern the minimum rates in California. Through the California Shipper-Carrier Conference, shippers and carriers were instrumental in developing and cementing these proposals. The persons involved in the development of the proposals recognized that various rate changes were involved in this substitution, but efforts were made to reduce the number and magnitude of the changes to the extent feasible.

In selecting a new classification, the practical choices were limited to the National Motor Freight Classification and the rail Uniform Freight Classification. The National Motor Freight Classification was selected by the California Shipper-Carrier Conference and CTA because it appeared to be better suited to

conditions in California. Most of the class-rated traffic in California is handled by motor carriers. The motor classification is designed to reflect, to a greater degree than the Uniform Freight Classification, classification considerations involved in motor carrier operations.

CTA made a detailed analysis of each item and rule of the Western Classification and of the National Motor Freight Classification. Where the items were identical or substantially identical, no problems were involved. However, as to each of the 4,000 items where the provisions were not identical, a choice had to be made. To aid in these situations, CTA reviewed the records it had compiled over the past several years relative to the weight-density of articles moving in freight transportation, which records had been obtained by weighing and measuring shipments moving over the freight docks of its members. CTA also endeavored to determine whether and to what extent the various articles were moving in commerce within this State. Based upon these data, and exercising judgment, CTA developed its proposals. The proposals were designed to accord to each commodity, where judgment was exercised, a reasonable rating. Some of the changes from the Western Classification resulted in reductions, some in increases. These proposals were furnished to the membership of the California Shipper-Carrier Conference and many other shippers and carriers throughout this State.<sup>2/</sup> Wherever the parties disputed the ratings or provisions assigned in the CTA study, the interested shippers or carriers reached agreement with CTA (except as to matters later covered by Decision No. 66451) prior to the hearing before this Commission.

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<sup>2/</sup> Although wide distribution of the proposals was made, admittedly all shippers and carriers within the State were not served.

The record in Decision No. 66268 contains a general explanation of the methods used in developing the ratings and other provisions applicable in the National Motor Freight Classification which, because of differences between that classification and the Western Classification, had to be resolved. Because of the more than 4,000 items involved, it would have been unreasonable to require CTA to produce, or the Commission to evaluate, detailed evidence as to each and every change. In fact, such detailed consideration would have defeated the entire purpose of the change-over. The evidence submitted by CTA and confirmed by shipper interests was sufficient to indicate that the methods employed were reasonable. Based on these considerations, the Commission made the following general finding:

- "3. The proposed ratings, rules and regulations are suitable to govern the minimum rates established by the Commission; that the rates and charges resulting from the application of said ratings, rules and regulations are, and for the future will be, the just, reasonable and nondiscriminatory minimum rates for the transportation of property by city carriers and highway carriers subject to the applicable minimum rate tariffs; and to the extent that the establishment of said proposed ratings, rules and regulations will result in increases, said increases are justified."

Petitioner (Technibilt Corporation) showed that in the transition from the Western Classification to the National Motor Freight Classification the carload rating on the article it manufactures and ships (four-wheeled market basket carts, set up, telescoped) was increased. It alleged that the general finding in Decision No. 66268 that the proposed increases were justified was not substantiated; that CTA (petitioner in the prior proceeding) should have justified, and the Commission should have made a

specific finding on, the increase involved for this particular article; and that, having failed to do so, the Commission, in consideration of the statement in Decision No. 66268 that it was CTA's intention to take steps to correct the situation if changes that were overlooked were brought to its attention, should now reverse its general finding insofar as it pertains to four-wheeled basket carts and should restore the former carload rating on this article.

CTA took the position that the present rating reflects current conditions and that, in light of the evidence concerning densities and values, the current rating is reasonable. It also took the position that uniformity of ratings on California traffic and motor carrier traffic in other jurisdictions should be maintained unless it is shown that transportation conditions in California are different from those prevailing elsewhere.

In this and other classification proceedings, it is the objective of the Commission to establish reasonable classification provisions. We find that the fact that the rating on four-wheeled market basket carts was changed in the general transition from the former to the present classification does not, per se, require that the former rating be re-established.

In addition, the evidence shows that densities of four-wheeled market basket carts range from 6.6 to 7.9 pounds per cubic foot. Articles having this range of densities have generally been assigned carload ratings of third class in the classification. Articles having the sought carload rating of Class A generally have densities greater than those of four-wheeled basket carts. The value of 54 cents per pound is not inappropriate for a third

class carload rating. We find that it has not been shown that the present carload rating of third class, minimum weight 15,000 pounds, is unreasonable for four-wheeled market basket carts shipped set up, three or more telescoped, nor has it been shown that the proposed rating of Class A, minimum weight 24,000 pounds, would be reasonable for such carts.

Petition No. 322 in Case No. 5432 will be denied.

In connection with future classification changes, it would be appropriate for shippers and carriers to refer their requests initially to the National Classification Board.<sup>3/</sup> The Commission has stated in Decision No. 66268 and in prior proceedings that uniformity of classification provisions applicable in California with those applicable elsewhere is desirable.<sup>4/</sup> When, through such classification docket procedures, changes in classification ratings and provisions are made applicable on a

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<sup>3/</sup> National Motor Freight Traffic Association, Inc., a nonprofit corporation consisting of common carriers of property, is the agent and publisher of the National Motor Freight Classification. Under the corporation bylaws, the Association appoints a National Classification Committee to consider and prescribe the ratings and rules, and to publish the provisions of the classification. The National Classification Board, consisting of a fixed number of employees of the Association, is the body within the Association established to consider proposals for changes in the provisions of the classification. Rules of Procedure of the Board of changes in the classification call for the filing of proposals by shippers or carriers and hearings thereon in locations throughout the United States. Appeals to the full Classification Committee may be taken from the disposition taken by the Board. Further details of the organization and procedures outlined are set forth in exhibits and testimony in Application No. 45582 (Decision No. 66268, supra).

<sup>4/</sup> A chronology of the adoption of the Western Classification and its use as the classification governing the minimum rates in California, and a discussion of the results of maintaining in the Western Classification different ratings for California intrastate traffic than elsewhere are set forth in J. P. Hackler, Western Classification Ratings, 59 Cal. P.U.C. 394.

national basis, and when it is made to appear that conditions surrounding the affected transportation in California are not different from those generally prevailing elsewhere, this Commission has in the past approved such classification changes to govern the minimum rates.

The work of developing classification descriptions, classification ratings, truckload or volume minimum weights, packaging and other classification provisions is highly complex. Classification is not an exact science and, in addition to density and value, many important considerations must be evaluated, including relationships of ratings between competing commodities. The National Classification Board is expert in this field and has extensive information in its files. Initial referral of requests for classification changes to the National Classification Board will tend to keep the classification uniform, up-to-date and responsive to the needs of all shippers and carriers, and will tend to prevent discrimination from maintenance of different ratings in different areas.

This method of handling classification changes will not result in a delegation of the Commission's powers and duties concerning the establishment and revision of minimum rates. Any changes in the classification provisions governing the minimum rates must first be approved by this Commission before they may be made effective in California; moreover, if proponents of classification changes are not satisfied with the action taken by the National Classification Board, their proposals may be presented to this Commission. In either event, prior consideration by the National Classification Board will be a valuable preliminary step.

O R D E R

IT IS ORDERED that Petition for Modification No. 322, in Case No. 5432, filed by Technibilt Corporation, is hereby denied.

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

Dated at San Francisco, California, this 25<sup>th</sup> day of JULY, 1964.

Frederick P. Holcroft  
President  
John E. Smith  
Wesley W. King  
George H. Hoover  
William W. Bennett  
Commissioners