

ORIGINAL

Decision No. 69335

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 relat-)
ing to the transportation of any)
and all commodities between and)
within all points and places in)
the State of California (includ-)
ing, but not limited to, trans-)
portation for which rates are)
provided in Minimum Rate Tariff)
No. 2).)

Case No. 5432
Petition for Modification No. 379
(Filed May 4, 1965)

OPINION AND ORDER

By this petition, The Borden Company, Western Division, seeks amendment of Item No. 345 of Minimum Rate Tariff No. 2 by including therein "Milk or Cream, Pasteurized, in hermetically sealed glass or metal containers in boxes," so as to accord that commodity the same less truckload exception rating of 90 percent of fourth class that is currently prescribed for other related commodities.¹

According to the petition, the commodity in question is manufactured at petitioner's plant at Gustine, distributed therefrom to various points throughout the State of California and sold under the trade name "Golden Whip." This product is made from pasteurized cream to which is added a small amount of non-fat milk solids, sugar and flavor. It is packaged in hermetically sealed cans with an inert gas held under pressure. There is a nozzle at the top of the can from which the contents are extruded in whipped form.

¹

Item No. 345 now provides the above exception rating on "Milk or Cream, Sterilized, or Milk or Cream Substitutes, processed from vegetable, soybean or grain products, with or without other ingredients" in the same types of containers.

Petitioner states that its product competes with sterilized cream as well as synthetic creams made from soybean and other vegetable oils to which sugar and other flavorings are added. It is further stated that the sterilized and synthetic creams are also sold in hermetically sealed cans which are charged with inert gas under pressure and extrude their contents in whipped form. Petitioner avers that, though the Governing Classification sets forth the same less truckload rating of 2nd class for all of the commodities herein involved,² Item No. 345 of Minimum Rate Tariff No. 2 provides, as an exception to that classification rating, a lower less truckload rating for sterilized and synthetic creams thereby placing "Golden Whip" or pasteurized cream at a distinct rate disadvantage.

Attached to the petition as Exhibit "A" is a study prepared by petitioner showing the relationship in size, weight, value, density and cubic foot displacement between "Golden Whip" and various products with which it competes.³ The study indicates that petitioner's product is comparable in value to the sterilized and synthetic cream products involved and that the transportation characteristics of "Golden Whip" are the same as, or more favorable than, those of such competing products.

Petitioner alleges that it is experiencing difficulty in marketing "Golden Whip" in competition with the aforementioned creams because the difference in rating and the resultant rate advantage afford the other creams a lower transportation cost.

2

Item 74000, Sub 3, of National Motor Freight Classification A-8 (CAL) as governed by National Motor Freight Classification A-8.

3

The competing products shown in the study are "Qwip", a sterilized cream, and "Lucky Whip", "Rich's Whip" and "Rod's Whip-O-Topping", all of which are so-called synthetic creams.

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Petitioner points out that the Commission previously has found that sterilized milk or cream should be accorded the same less truckload⁴ exception rating as applied to milk or cream substitutes, and asserts that its product is so closely identified with sterilized cream that it is only just and reasonable that the same rating should apply to both products.

The certificate of service shows that a copy of the petition was served by mail upon California Trucking Association on May 3, 1965. No objection to the granting of the petition has been received.

In the circumstances, it appears, and the Commission finds, that the petitioner's proposal is reasonable and that the resulting minimum rates will be just, reasonable and nondiscriminatory minimum rates for the transportation involved. A public hearing is not necessary. The petition should be granted.

IT IS ORDERED that:

1. Minimum Rate Tariff No. 2 (Appendix D of Decision No. 31606, as amended) is hereby further amended by incorporating therein, to become effective August 7, 1965, Forty-fourth Revised Page 5, Thirty-ninth Revised Page 7 and Eleventh Revised Page 37-D attached hereto and by this reference made a part hereof.

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,

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See Decision No. 67559 dated July 21, 1964, in Case No. 5432 (Petition for Modification No. 331).

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 rating 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 rating published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

4. In all other respects Decision No. 31606, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 29th day of June, 1965.

Frederick B. Holbrook
President
George L. Hoover
Attorney
William W. Burch
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	335-5
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	3355	Cow Peas	652-654½
Cheese Foods	3355	Cranes, Derrick	365
Cheese and Macaroni	360	*Cream, Pasteurized	345
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		
Clamps	365		
Clamps, Disconnecting, Drilling, Drive or Gas Packing	365	Darso	652-654½
Clay, Fire (M)	365	Derrick Cranes	365
Clippings	652-654½	Derricks	365
Cloth, abrasive	302	Dessert Preparations	360
Clover	652-654½	Diglycerides of Fat-forming Acids	335-5
Coating, candy, other than chocolate	360	Disinfectants	730
Coating, Chocolate	360	Distillers' Grains	652-654½
Cocoa	360	Dough, prepared	336
Coconut, prepared	333-5	Drain Pipe Solvent	730
Coffee	360	Dressing, Automobile Top (M)	377-5,723-726
Coffee, extract of (condensed or instant), dry	360	Dressing, rubber (M)	377-5,723-726
Coffee Substitutes	360	Dressing, Salad	320
		Dressing, shoe (M)	377-5,723-726
		Drill Bitheads	365
		Drink, fruit	320

Coloring, Con- fectioners'	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 $\frac{1}{2}$
		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)	377.5,723-726	Eggs, Shelled	360
Compound, radiator cleaning (M)	377.5,723-726	Egyptian Wheat	652-654 $\frac{1}{2}$
Compound, rust pre- venting or re- moving (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 or tea (condensed or instant), 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. 69335

EFFECTIVE AUGUST 7, 1965

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

Correction No. 1645

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

Meal, Hemp Seed	652-654 $\frac{1}{2}$	Oil, Cooking	320,335-5
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	320,335-5
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 $\frac{1}{2}$	Packers	365
Meal, Rape Seed	652-654 $\frac{1}{2}$	Paint, asphaltic (M)	377.5,723-726
Meal, Rice	652-654 $\frac{1}{2}$	Paint, liquid (M)	377.5,723-726
Meal, Safflower Seed	652-654 $\frac{1}{2}$	Paper, abrasive	302
Meal, Sesame Seed	652-654 $\frac{1}{2}$	Paper, emery	302
Meal, Soya Bean	652-654 $\frac{1}{2}$	Parts, Boiler (M)	365
Meal, Sunflower Seed	652-654 $\frac{1}{2}$	Parts, Mud Mixer	360
Meal, Tomato Pomace	652-654 $\frac{1}{2}$	Paste, Alimentary	360
Meal, Tucum Nut	652-654 $\frac{1}{2}$	Paste, Confectioners'	360
Meal, Vegetable	652-654 $\frac{1}{2}$	Paste, Tomato	320
Meal, Velvet Bean	652-654 $\frac{1}{2}$	Peanut Butter	320
		Peanut Spread	320

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

*Addition, Decision No. 69335

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Correction No. 1646

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)	
	EXCEPTIONS TO GOVERNING CLASSIFICATION AND EXCEPTION RATING 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>6(2) Milk or Cream, Sterilized *b or Pasteurized, 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>1/345 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>90% of 4</p> <p>5</p> <p>B</p> <p>C</p> <p>(1)D</p>

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

350

Less truckload -----

90% of L

Truckload:

Minimum Weight 30,000 Pounds -----

S

Minimum Weight 42,000 Pounds -----

C

∅ Change)
* Addition) Decision No. 69335
o Reduction)

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