ORIGINAL

Decision No. 70095

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation) for the purpose of considering and) determining revisions in or reissues) of Exception Ratings Tariff No. 1.)

Case No. 7858
(Petition for Modification No. 9)
(Filed September 13, 1965)
(Amended November 5, 1965)

OPINION AND ORDER

By this petition, as amended, The Nestle Company, Inc., seeks to have Exception Ratings Tariff No. 1 (ERT No. 1) amended by including therein "Cocoa Paste" so as to accord that commodity the same less-truckload exception rating of fourth class that is currently prescribed for various related commodities specified therein under the heading of "Confectionery."

Petitioner states that it is engaged in the manufacture and sale of a complete line of chocolate products, including cocoa and cocoa paste, 2 as well as other foodstuffs. These chocolate

This exception rating is set forth in Item No. 480 of the Commission's Exception Ratings Tariff No. 1. This tariff contains classification ratings and rules which are exceptions to the provisions of the Governing Classification otherwise applicable within California in connection with transportation performed under Minimum Rate Tariff No. 2 (General Commodities - Statewide) and Minimum Rate Tariff No. 5 (Los Angeles Drayage Area). The term "Governing Classification" when used herein means National Motor Freight Classification A-8 (CAL) as governed by National Motor Freight Classification A-8.

The petition indicates that cocoa and cocoa paste are sold by petitioner under the trade names "Chocolate Quik" and "Choco-Bake", respectively.

products are manufactured for sale and distribution in the area west of the Rocky Mountains, principally from petitioner's plant at Salinas, and distributed therefrom to various points throughout the State of California. The amended petition recites that, during the calendar year 1964, approximately 21,000,000 pounds of chocolate products, including cocoa paste, were warehoused and distributed by petitioner from its warehouses at los Angelos and Watsonville and from its plant at Salinas to destination points within California.

Petitioner alleges that cocoa paste was introduced into the market in July of 1963 and that it consists of 61 percent unsweetened cocoa and 39 percent assorted vegetable fats and other ingredients. It is averred that, as a result of action on the part of petitioner, cocoa paste is accorded the same classification ratings, exception ratings and commodity rates as those which apply on cocoa throughout other traffic jurisdictions in the United States in the Uniform Classification, National Motor Freight Classification, other exception rating tariffs and specific commodity tariffs.

Cocoa and cocoa paste are both subject to the same classification ratings on California intrastate traffic of third class, less truckload, and fifth class, truckload, minimum weight 36,000 pounds, as set forth in Item 72520 of the Governing Classification. However, ERT No. 1 provides, as an exception to the Governing Classification, a lower less-truckload rating of fourth class on various confectionery items including cocoa but not cocoa paste thereby subjecting the latter commodity to higher less-truckload rates than those applicable on cocoa. 3

This rating in Item No. 480 of ERT No. 1 also applies on chocolate, cocoa butter, candy fundant, confectionery paste or powder, candy, chocolate or ice cream coating, and icing powder.

Exhibits Nos. 2 and 3 attached to the amended petition contain comparative data, which show the relationship between cocoa paste, cocoa and other chocolate products on the basis of pack, gross weight, size, density and value per pound. The data indicate that the transportation characteristics of all these commodities are generally similar.

Copies of the verified petition and amendment were mailed to California Trucking Association and to various highway common carriers on or about September 10 and November 4, 1965, respectively. The petition and amendment were listed on the Commission's Daily Calendar of September 15 and November 9, 1965, respectively. No objection to the granting of the petition, as amended, has been received.

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

IT IS ORDERED that:

- 1. Exception Ratings Tariff No. 1 (Appendix A of Decision No. 66195, as amended) is hereby further amended by incorporating therein, to become effective January 22, 1966, Ninth Revised Page 3 and Fourth Revised Page 20 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, 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 exception 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 exception rating published under this authority shall make reference to the prior orders authorizing the long- and short-haul departures and to this order.

4. In all other respects, Decision No. 66195, 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 1965.

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Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

Minth Revised Page

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- {	Bagging	100	Games and Toys	595	
- 1	Bags	100	Gelatine	597	
	Bakery Goods	120	Gypsum	600	
	Ballasts, Fluorescent Lamp	130	•		
	Baskets, berry and fruit	140			
	Batteries, dry ceil	150	Hops	620	
	Beverage Preparations	160	Household Goods		
	Barra Battle an Con	100.	monsemora, doods	650	
į	Boxes, Bottles or Cans,	٠			
	Moreboard, paper or			(00)	
	pulphoard	170	Ice (water)	680	
į	Briquettes, wood	180	Ice Cream	690	
.	Building Materials	840	Insecticides	700	
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	Canned Foodstuffs	220,221,240.	W.		
	Canned Goods	220,221,240	Kernels, corn, reasted	1480	
	Carriers, new	260			
	Carriers, old (used)	280			
	Carriers, used packages	300,320,321,	Ladders, Step	900	
	ason paurages			720	
	Cotolomo	340	lime, air slaked	120	,
	Catalogues	740			
	Cellulose film	390			
	Cereal and Cereal	360,361,380,		740	
	Products	381	Material, Roofing,	1	
	Circulars	740	Building or Paving	840	
	Clothing, staple work	400	Milk, Malted	750	
	*Cocoa or Cocoa Paste	180		100 00	
	Coffee, extract of	120		}	,
	Compound, malt, milk and	420	Paints	760	
		376			•
	cocoa	750	Paper or Paper Articles	170,180	
	Compound, milk and cocoa	750.	Partitions, not corrugated	785	. 1
	Compounds, buffing or		Paving Materials	8110	
	polishing	200	Periodicals	740	
	Compounds, cleaning,		Plastics, Synthetic	800	
*	scouring or washing	7770	Preserved Foodstuffs	220,221,240	ġ
	Compounds, paint, lacquer		Products, Cereal	360,361,380,	١,
	or varnish reducing,		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	381	
	removing or thinning	760		٠٠	Ć
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	Wood In 172	1	Ranges, iron or steel	920	
	Weed killing	1460	Returned Shipments	820	
	Confectionery	480	Roofing Materials	840	
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	For once]			
i	Egg case or carrier		Sal-Soda	860	•
1	fillers or flats	500	Salt, common (Sodium		
	molocives	520	Chloride)	880	
1		* .			
į			Shipments, returned	820	
ļ	Fortilizers	540,560,580	Step Ladders	900	
	Fillers, egg case or		Stoves, iron or steel	920	
	carrier	500	Sugar	940	
	Film, cellulose	390		/	
ļ	Flats, egg case or		Tea, extract of	420	
	carrier	500	Titanium Dioxide		
- }	Floor Coverings		THE CONTROL DISCUSSION	950	
-	Flowers, fresh, cut	585,590			
ł	Food, milk, other than	592			
ı	Transis a subsection				•
-	liquid, other than		Varnishes	760	
-	malted milk	750		1	
	Foodstuffs, canned or			1	
1	preserved	220,221,240	Wood Briquettes	180	
Ì	Fungicides	700	Wood, fuel	960	٠
ł		;	•	1	

* Addition, Decision No. 70095

REFECTIVE JANUARY 22, 1966

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.
Correction No. 31

SECTION NO. 2 - RATINGS WHICH ARE EXCEPTO THE GC (Continued)	TIONS		Item No.
ARTICLES	Rat:	ing	
ARTICLES	LTL	TL	
Cellulose film, not printed (transparent sheets of not nitrated cellulose film such as commonly used for wrapping purposes) or cellulose film combined or coated with plastic other than cellulose, in rolls exceeding 8½ inches in diameter, or in sheets not further processed than cut to size, in boxes or crates, or in wrapped bundles or rolls.	1 +		390
Clothing, staple work, viz.: Dungarees, coveralls, overalls, breeches, pants, shirts or jackets (see Note 1) made of any one or any combination of the following fabrics made wholly of cotton: Denim Drills Flannels Corduroys Moleskins Jeans Chambrays Coverts Duck Whipcords	3		400
Twills Cottonades Poplins NOTE 1Includes work jackets with blanket lining made of cotton and not to exceed 50 percent of wool shoddy.			
Coffee, or Tea, extract of (condensed or instant)	14		420
Compounds, cleaning, scouring or washing, not otherwise indexed by name in the GC	<u>}</u>		1+1+0
Compounds, Tree and Weed Killing, not otherwise indexed by name in the GC, in packages, minimum truckload weight 30,000 lbs	14	E	460
Confectionery, viz.: Butter, cocoa, Candy or Confectionery, noibn (see Notes 1 and 2) Candy Fondant (Candy Filler), Confectionery Paste or Powder, noibn, or Icing Paste (see Note 3), Chocolate,	,		
Chocolate Candy and Confectionery, including Milk Chocolate, Coating, candy other than chocolate, Coating, chocolate,			
Coating, ice cream, Cocoa *cor Cocoa Paste, Cough Candy Drops or Tablets, noibn, in barrels or boxes, Gum, chewing,	1+		Ø+80
Nuts, shelled (nut meats), dry, including salted or sweetened nut meats.			

			i
NOTE 1Candy may contain not to exceed 10 per- cent of yeast.			·
NOTE 2Rating also applies on Candy in toys made wholly of glass or earthenware, except as the closing device.			
NOTE 3Rating applies on Candy Fondant (Candy Filler), Confectionery Paste or Powder, such as Glucose Paste or Powder or Marshmallow Cream or Paste or Powder Preparations and		,	
Icing Paste, but do not include Marshmallow Candy or other finished Candy or Confectionery, or Dessert Preparations.			
Egg Case or Egg Carrier Fillers or Flats: Fibreboard, paper, pulpboard or strawboard, flat, folded flat, knocked down, or nested, in boxes, bundles, or in egg cases completely filled, in straight or mixed truckloads. Winimum weight 24,000 lbs.		5	500
	1 to 10	- !	
<pre>ø Change) * Addition) Decision No. 70095 6 Reduction)</pre>			
EFFECTIVE JAMUARY 2	2. 1966		