

ORIGINAL

Decision No. 70095

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation) Case No. 7858
for the purpose of considering and) (Petition for Modification
determining revisions in or reissues) No. 9)
of Exception Ratings Tariff No. 1.) (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."¹

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

¹

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.

²

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 Angeles 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

³ This rating in Item No. 480 of ERT No. 1 also applies on chocolate, cocoa butter, candy fondant, 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 19th day of December, 1965.

Fredrick C. Hallock

President

Paul E. Mitchell

George L. Glover

William C. Brown



Commissioners

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

INDEX OF COMMODITIES			
COMMODITIES	Item Number	COMMODITIES	Item Number
Bagging	100	Games and Toys	595
Bags	100	Gelatine	597
Bakery Goods	120	Gypsum	600
Ballasts, Fluorescent Lamp	130		
Baskets, berry and fruit	140	Hops	620
Batteries, dry cell	150	Household Goods	650
Beverage Preparations	160		
Boxes, Bottles or Cans, fibreboard, paper or pulpboard	170	Ice (water)	680
Briquettes, wood	180	Ice Cream	690
Building Materials	840	Insecticides	700
Canned Foodstuffs	220, 221, 240		
Canned Goods	220, 221, 240	Kernels, corn, roasted	480
Carriers, new	260		
Carriers, old (used)	280	Ladders, Step	900
Carriers, used packages	300, 320, 321,	Lime, air slaked	720
	340		
Catalogues	740	Magazines	740
Cellulose film	390	Material, Roofing, Building or Paving	840
Cereal and Cereal Products	360, 361, 380,	Milk, Malted	750
	381		
Circulars	740	Paints	760
Clothing, staple work	400	Paper or Paper Articles	170, 180
*Cocoa or Cocoa Paste	480	Partitions, not corrugated	785
Coffee, extract of	420	Paving Materials	840
Compound, malt, milk and cocoa	750	Periodicals	740
Compound, milk and cocoa	750	Plastics, Synthetic	800
Compounds, buffing or polishing	200	Preserved Foodstuffs	220, 221, 240
Compounds, cleaning, scouring or washing	440	Products, Cereal	360, 361, 380,
Compounds, paint, lacquer or varnish reducing, removing or thinning	760		381
Compounds, tree and weed killing	460	Ranges, iron or steel	920
Confectionery	480	Returned Shipments	820
		Roofing Materials	840
Egg case or carrier fillers or flats	500	Sal-Soda	860
Explosives	520	Salt, common (Sodium Chloride)	880
Fertilizers	540, 560, 580	Shipments, returned	820
Fillers, egg case or carrier	500	Step Ladders	900
Film, cellulose	390	Stoves, iron, or steel	920
Flats, egg case or carrier	500	Sugar	940
Floor Coverings	585, 590	Tea, extract of	420
Flowers, fresh, cut	592	Titanium Dioxide	950
Food, milk, other than liquid, other than malted milk	750	Varnishes	760
Foodstuffs, canned or preserved	220, 221, 240	Wood Briquettes	180
Fungicides	700	Wood, fuel	960

* Addition, Decision No. 70095

EFFECTIVE 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 EXCEPTIONS TO THE GC (Continued)		Item No.
ARTICLES	Rating	
	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.	4	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 Twill Cottonades Poplins NOTE 1.-Includes work jackets with blanket lining made of cotton and not to exceed 50 percent of wool shoddy.	3	400
Coffee, or Tea, extract of (condensed or instant), dry -----	4	420
Compounds, cleaning, scouring or washing, not otherwise indexed by name in the GC -----	4	440
Compounds, Tree and Weed Killing, not otherwise indexed by name in the GC, in packages, minimum truckload weight 30,000 lbs. -----	4	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 *or Cocoa Paste, Cough Candy Drops or Tablets, noibn, in barrels or boxes, Gum, chewing, Nuts, shelled (nut meats), dry, including salted or sweetened nut meats, Powder, icing, Roasted Corn Kernels, whole, not popped, dry, salted or not salted.	4	480

NOTE 1.-Candy may contain not to exceed 10 per-
cent of yeast.

NOTE 2.-Rating also applies on Candy in toys made
wholly of glass or earthenware, except as the
closing device.

NOTE 3.-Rating 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. Minimum weight 24,000 lbs.		5	500
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o Change)
* Addition) Decision No. 70095
o Reduction)

EFFECTIVE JANUARY 22, 1966

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

Correction No. 32