

Decision No. 71773

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation into the rates, rules and 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. 421
(Filed May 12, 1966)

Joseph V. Laurie, for Pepsi-Cola Co., petitioner.
Robert C. Ellis, for California Motor Transport Co., and California Motor Express, Ltd., respondents.
David B. Porter, for California Packing Corp.;
Richard W. Smith, H. F. Kollmyer and Arlo D. Poe, for California Trucking Association; interested parties.
E. H. Burgess, for the Commission staff.

O P I N I O N

This petition was heard and submitted October 28, 1966, before Examiner Thompson at San Francisco. Copies of the petition and notice of hearing were served in accordance with the Commission's procedural rules. There are no protests.

Pepsi-Cola Company, petitioner herein, is a division of PepsiCo, Inc. It requests the Commission to amend Items Nos. 320 and 320-1 of Minimum Rate Tariff No. 2 to include "Beverages, flavored or phosphated, as described in Item No. 72160 of the governing classification, in metal cans only".

Item No. 320 lists articles under the generic heading "Canned goods" and provides exception ratings of:

<u>Minimum Weight</u>	<u>Class</u>
Less truckload	90% of 4
30,000 pounds	5
36,000 pounds	B
42,000 pounds	C
45,000 pounds	D

The present ratings on the commodity are 4th class, less truckload; 5th class, minimum weight 30,000 pounds.

The assistant traffic manager of petitioner testified that Pepsi-Cola Company manufactures flavoring syrups which it sells to franchised soft drink bottling companies which, in turn, utilize the syrups to manufacture soft drinks. The soft drinks are marketed and distributed by the franchised bottling companies. Some time ago, there began a demand by consumers for soft drinks in metal cans. The bottling companies found, however, that the demand was not sufficient to warrant investment in canning equipment. Petitioner, therefore, contracted for canning operations throughout the United States. In California New Century Beverage Co., Emeryville, and Pepsi-Cola Bottling Co., Baldwin Park, manufacture the soft drinks and place them in metal cans. Petitioner sells the production to its franchised bottling companies who market the product. Some fourteen franchised bottling companies receive the production from the Emeryville plant and nine companies from the Baldwin plant.

The assistant traffic manager stated that to his knowledge the only movement of soft drinks by for-hire carriage is from the canning plants to the bottling companies. The latter market and distribute the products by proprietary carriage. He also stated that it is his information and belief that petitioner's competitors market soft drinks in the same manner. The witness displayed several cans of soft drinks he had purchased that morning at a

retail store. Included were petitioner's brands and some other brands. The cans were apparently of uniform size and weight. He said that the standard package consists of twenty-four 12-ounce metal cans in a fibreboard box with a gross weight of 24 pounds. The average density is in excess of 40 pounds per cubic foot and the average value is between 7 and 8 cents per pound.

California Motor Express, Ltd. supports the petition. The Commission staff recommends granting of the petition and suggests that flavored beverages in bottles also be included. California Trucking Association does not oppose the granting of the petition but does oppose the staff's recommendation that beverages in bottles also be included.

We find that the proposed ratings are reasonable for flavored or phosphated beverages in metal cans in boxes. We have some reservations, however, about including "soda pop" among the articles listed as canned goods. Historically, items listed as canned goods have been processed foodstuffs put into cans or jars for preservation. Beverages ordinarily have been considered separately for rate purposes. When the Commission established Minimum Rate Tariff No. 2 (then Highway Carriers' Tariff No. 2) by Decision No. 31606 it prescribed in separate items in that tariff, commodity rates on beverages and commodity rates on canned foodstuffs.

The record herein shows that beverages from the canning companies to the franchised bottling companies, who act as distributors, do not move in mixed shipments with other articles subject to the canned goods ratings.

We conclude that the ratings sought by petitioner should be established in a separate item in Minimum Rate Tariff No. 2.

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 February 11, 1967, the following revised pages, which pages are attached hereto and by this reference made a part hereof:

Thirty-second Revised Page 4
Original Page 36-A
Thirty-first Revised Page 37

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

INDEX OF COMMODITIES

Only those articles which are named in commodity items or in Exceptions to the Governing Classification and Exception Ratings Tariff are shown in the following list.

COMMODITY	Item Number	COMMODITY	Item Number
Abrasive	302	Boxes, Planter	758
Acid, Boracic	730-732	Bran	652-654½
Air Compressors (M)	365	Bran, Cottonseed	652-654½
Ale	310, 360	Bran, Flaked	652-654½
Alfalfa	652-654½	Bran, Rice	652-654½
Alfalfa, ground or pressed	652-654½	Brandy	360
Alundum	302	Breads	320
Ammonia, cleaning	730-732	Brewers' Flakes	652-654½
Animal Feed	338, 620, 630, 652-654½	Brewers' Grains	652-654½
Anvils (M)	365	Brick, Fire (M)	365
Apples, dried	350	Brine	320
Arms, Cross, wooden	690, 710	Broths	320
Asphalt, Liquid	377.5, 723-726	Buckwheat	652-654½
Asphalt, Solid	303	Butter	335.5
Atmospheric Water		Butter, Fruit	320
Cooling Towers (M)	365	Butter, Peanut	320-1
		Buttermilk	320, 345
		Buttermilk, condensed, dried or in paste form	652-654½
Bags, paper	304		
Bakery Goods	360	Cake, Babassu Nut	652-654½
Bananas, powdered	350	Cake, Coconut	652-654½
Barley	652-654½	Cake, Copra	652-654½
Barley, Pearled	652-654½	Cake, Corn Germ	652-654½
Barrels, Pump Working	365	Cake, Corn Oil (M)	652-654½
Bars, Grate	365	Cake, Cottonseed	652-654½
Batteries, electric (M)	377.5, 723-726	Cake, dried fruit seed	652-654½
Beans, Castor	652-654½	Cake, Flaxseed	652-654½
Beans, Mesquite	652-654½	Cake, (Grain)	652-654½
Beans and Pork	320-1	Cake, Hemp Seed	652-654½
Beers	310, 360	Cake, Kapok Seed	652-654½
Beet Pulp	652-654½	Cake, Linseed	652-654½
Belts (M)	365	Cake, Mesquite (M)	652-654½
Beverage Containers	330	Cake, Oil	652-654½
Beverage Preparations	360	Cake, Palm	652-654½
Beverages	316, 360	Cake, Palm Kernel	652-654½
Beverages, Malt or Cereal	310	Cake, Peanut	652-654½
Bits, Drilling	365	Cake, Perilla	652-654½
Bleach, Laundry	730-732	Cake, Perilla Seed	652-654½
Bluing, Laundry (M)	360	Cake, Rape Seed	652-654½
Boards	690, 710	Cake, Safflower Seed	652-654½
Boiler Flues	365	Cake, Sesame Seed	652-654½
Boiler Parts (M)	365	Cake, Soya Bean	652-654½
Boilers (M)	365	Cake, Sunflower Seed	652-654½
Boiler Tubes	365	Cake, Tucum Nut	652-654½
Bone, ground and molasses mixed	652-654½	Cake, Velvet Bean	652-654½
Borax	730-732		

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

* Addition, Decision No. 71773

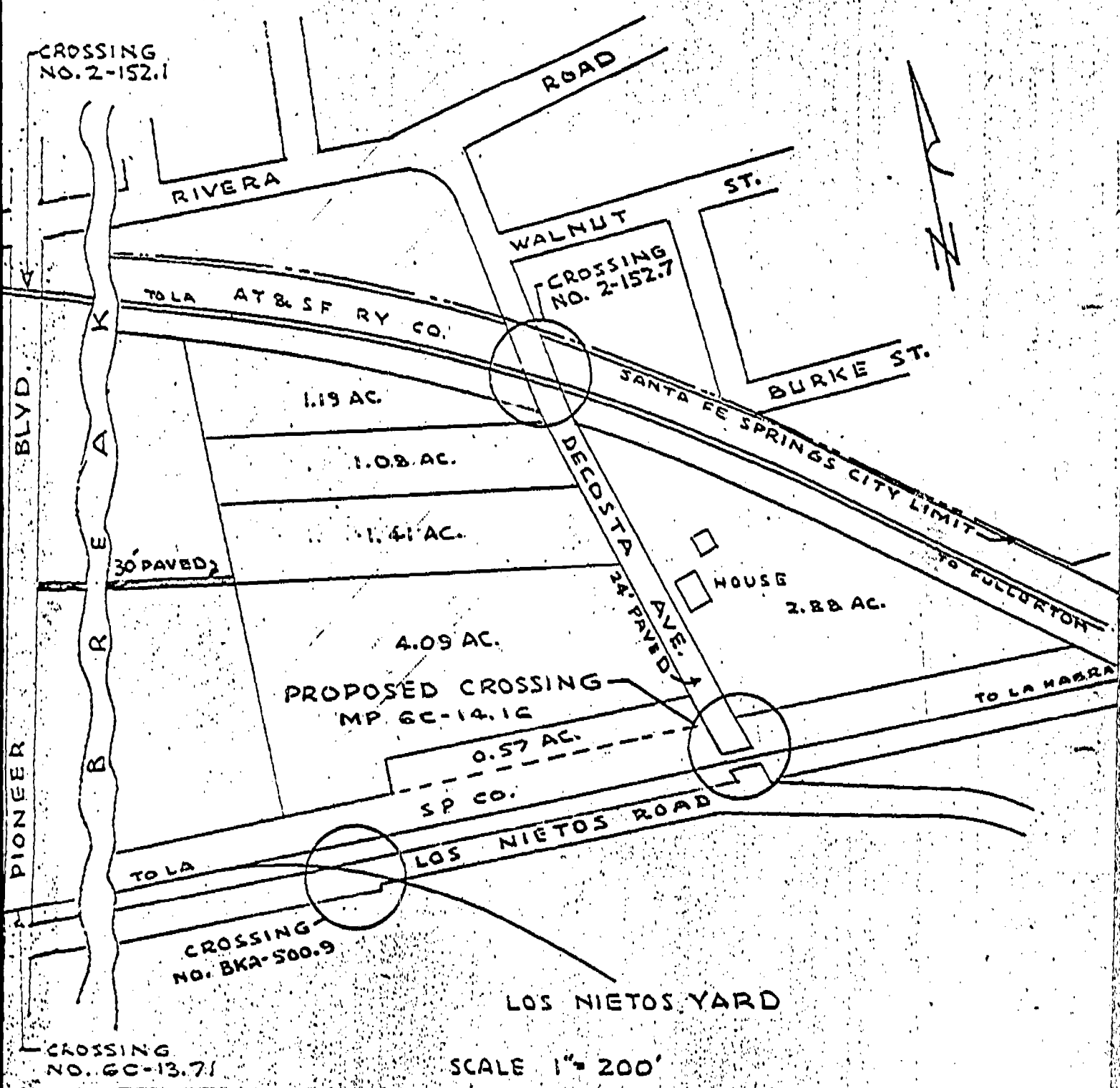
EFFECTIVE FEBRUARY 11, 1967

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.
Correction No. 1819

Item (2)No.	SECTION NO. 1--RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)	
	<p style="text-align: center;">EXCEPTIONS TO GOVERNING CLASSIFICATION AND EXCEPTION RATINGS TARIFF (Continued)</p> <p style="text-align: center;">(Numbers within parentheses immediately following commodities shown below refer to such commodities as they are described in the corresponding item numbers of the Governing Classification.)</p>	
300	<p style="text-align: center;">PACKING REQUIREMENTS</p> <p>Except on articles described in the Governing Classification under the heading "Furniture Group" and except as otherwise provided, articles will not be subject to packing requirements of the Governing Classification or Exception Ratings Tariff, but may be accepted for transportation in any container or any shipping form, provided such container or form of shipment will render the transportation of the freight reasonably safe and practicable.</p> <p>Except on articles described in the Governing Classification under the heading "Furniture Group", if two or more ratings which are subject to different packing requirements are provided for an article in the form in which it is shipped, the lowest of such ratings will apply.</p> <p>The term "Form in which it is shipped" means the form of the article itself as prepared for shipment or for the trade (exclusive of packing requirements), such as set up, knocked down, nested, not nested, compressed, not compressed, folded flat, not folded flat, in metal can inner containers, in glass bottle inner containers, in carton inner containers, in bulk (not in inner containers), dry, liquid, paste, solid, powdered, granulated, in carboys. The term "packing requirements" means (a) the outer shipping containers such as boxes, barrels, crates, bags, and (b) the shipping forms such as bundles, bales, rolls, loose, on skids (other than lift truck or platform), which are provided in the Governing Classification or Exception Ratings Tariff.</p>	
302	<p>Abrasive Cloth or Paper, including Emery or Sandpaper (1030) Alundum, Corundum, Emery or other natural or synthetic abrasive material consisting chiefly of Aluminum Oxide or Silicon Carbide, viz.: Wheels, other than pulp grinding (1050 or 2050) Wheels, pulp grinding (1050 or 2030) Less truckload -----</p>	<p style="text-align: center;">Class Rating</p> <p style="text-align: center;">4</p>

303	Asphalt (Asphaltum), natural, by-product or petroleum, solid (15240), in containers not exceeding 55 gallon capacity. Minimum Weight 20,000 pounds ----- Minimum Weight 30,000 pounds ----- Minimum Weight 36,000 pounds ----- Minimum Weight 40,000 pounds -----	90% of 4 5 D
304	Bags, Paper, NOI (20500 or 20950) Less truckload: Any Quantity ----- Minimum Weight 4,000 pounds ----- Truckload: Minimum Weight 30,000 pounds ----- (1) Rating applies only on straight shipments. Paper bags in mixed shipments with other articles are subject to other ratings set forth in this item.	3 (1)4 5
(2) Items on this page transferred) from Thirtieth Revised Page 37) Decision No. 71773		
EFFECTIVE FEBRUARY 11, 1967		
Issued by the Public Utilities Commission of the State of California, San Francisco, California. Correction No. 1820		

(2) Item No.	SECTION NO. 1--RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)	
	EXCEPTIONS TO GOVERNING CLASSIFICATION AND EXCEPTION RATINGS TARIFF (Continued) (Numbers within parentheses immediately following commodities shown below refer to such commodities as they are described in the corresponding item numbers of the Governing Classification.)	Class Rating
310	Beverages, malt, viz.: Ale, Beers, Porter, Stout or nonintoxicating cereal beverage (111470) Less truckload ----- Truckload: Minimum weight 40,000 pounds -----	4 D
*316	Beverages, flavored or phosphated, NOI, not including extracts, syrups, alcoholic liquors and de-alcoholized or nonalcoholic cordials and liqueurs; in metal cans in outer shipping containers (72160) (See Note) Less truckload ----- Truckload: Minimum weight 30,000 pounds ----- Minimum weight 36,000 pounds ----- Minimum weight 42,000 pounds ----- Minimum weight 45,000 pounds ----- (1) Not applicable to shipments which are subject to charges for temperature control service. (E) NOTE.--When palletized shipments are transported at truckload rates under the provisions of this item, and are subject to minimum weights of not less than 20,000 pounds, the empty pallets may be transported from point of destination of shipment to its point of origin without charge, subject to the terms and conditions in Item No. 45 of this tariff.	890% of 4 5 6B 6C 6(1)D
<p>(E) This note expires with December 31, 1967.</p> <p>(2) Items Nos. 300, 302, 303 and 304 transferred to Original Page 36-A.</p> <p>* Addition) o Reduction) Decision No. 71773</p>		
EFFECTIVE FEBRUARY 11, 1967		
<p>Issued by the Public Utilities Commission of the State of California, San Francisco, California.</p> <p>Correction No. 1821</p>		



APPENDIX "A"