

ORIGINAL

Decision No. 76562

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. 56
(Filed May 26, 1969; Amended
November 21, 1969)

And Related Matters.

Cases Nos. 5432,
5435, 5439 and 5441
Petitions for Modification
Nos. 544, 125, 94 and 167,
respectively
(Filed May 26, 1969; Amended
November 21, 1969)

OPINION AND ORDER

Personal Products Company seeks the establishment, in Case No. 7858 (Petition for Modification No. 56) et al., of revised exception ratings on sanitary pads, as described in Item 148960, Sub. 1 of National Motor Freight Classification A-10, for application to California intrastate shipments of said products moving under the Commission's various minimum class rates.^{1/}

The Commission adopted National Motor Freight Classification A-10 (NMFC A-10), in lieu of NMFC A-10 (Cal), effective July 15, 1968, as the governing classification for its various

^{1/} Kimberly-Clark Corp. seeks like relief in Case No. 7858 (Petition for Modification No. 54) et al.

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minimum rate tariffs.^{2/} Under the established program for the gradual changeover to NMFC A-10 proper, certain ratings contained in NMFC A-10 (Cal) were redesignated as exception ratings in the Commission's Exception Ratings Tariff No. 1 (ERT 1), including those named in Item 1600 of the said tariff, pending completion of the classification transition program. In establishing the interim exception ratings, the Commission made the following Finding 13 in Decision No. 74310:

"13. The...exception ratings authorized herein, pursuant to shipper and carrier requests therefor, shall not be continued in effect beyond December 31, 1969, unless such continuance is fully justified...."

Petition 56 and related matters are assertedly responsive to the above Finding 13. A comparison of the class ratings published in Item 148960, Sub. 1 of NMFC A-10 for sanitary pads, with the present and proposed exception ratings thereto are as follows:

^{2/} Decision No. 74310, dated June 25, 1968, Case No. 5432 (Order Setting Hearing of August 31, 1965) et al.; also Decision No. 74449, dated July 23, 1968, Case No. 7858 (Petition No. 40) et al.

TABLE 1

PADS, Sanitary as described in the governing NMFC A-10

Description of Articles <u>NMFC A-10</u>	<u>Ratings</u>		<u>Minimum Weight (In Pounds)</u>
	<u>Less-Truckload</u>	<u>Truckload</u>	
<u>1. NMFC A-10 Class Ratings</u>			
Item 148960			
Sub 1	200	100	10000
Sub 3	100	85	20000
Sub 4	85	55	24000
<u>2. Present Exception Ratings</u>			
A. <u>ERT 1 - Item 1600</u> <u>(Expires 12/31/69)</u>			
Item 148960			
Sub 1	100	85	10000
Sub 3	100	85	10000
Sub 4	100	85	10000
B. <u>Minimum Rate Tariff 5 - Item 260</u> <u>(Expires 1/3/70)</u>			
Item 148960	125	-	-
<u>3. Proposed Exception Ratings</u>			
Item 148960			
Sub 1	150	-	-
	125	-	5000
		92 1/2 (1)(2)	15000

- (1) Minimum weight applies to each unit of carrier's equipment used in the transportation of a single shipment. A unit of equipment includes any motor truck or other self-propelled highway vehicle, trailer, semitrailer, or any combination of such highway vehicles operated as a single unit.
- (2) Truckload rating not proposed for traffic subject to Minimum Rate Tariff No. 5.

From the above tabulation it will be noted that, with the expiration of the existing exception ratings, petitioner seeks the establishment of new and higher exception ratings in connection with only the article described in Item 148960, Sub. 1 of NMFC A-10. It will also be observed that the proposed truckload exception rating of 92 1/2 percent is restricted to a per-truckload lot of not less than 15000 pounds.

Personal Products Company is engaged in the manufacture and distribution of sanitary pads with facilities located at Milltown, New Jersey; Wilmington, Illinois; and Sunnyvale, California. The Sunnyvale operation has been continuous since the spring of 1954. From this plant site petitioner ships external type sanitary pads throughout California via motor common carrier on a prepaid freight basis to the warehouses of large grocery chains, discount stores, drug and grocery wholesalers, and also to independent and cooperative grocery outlets. Its smallest unit of sale is 15 cases. In 1967 petitioner's average less-truckload shipments from Sunnyvale weighed 764 pounds with truckloads averaging 9376 pounds. The combined 1967 shipments assertedly weighed in excess of 13 million pounds, almost two-thirds of which represents shipments within California.

Personal Products Company contends that if the NMFC A-10 ratings are permitted to govern its California shipments of external type sanitary pads, the transportation costs for this traffic will be increased approximately 67 percent. Petitioner maintains that such increase in freight charges is unreasonable; and that the provisions of NMFC A-10 have been substantially voided nationally through the publication of exception ratings in

those areas, other than California, where there is a substantial movement of external type sanitary pads.

The proposed exception ratings are predicated upon studies conducted by Personal Products Company, together with other shippers of the same articles. It is understood that such studies include discussions with representatives of the highway carriers involved. The results of the aforesaid studies are attached to the petition in the form of supporting exhibits.

The proposed changes in the various minimum rate tariffs covering exception ratings on sanitary pads are set forth in Exhibit A of the petition. In Exhibits B and C a comparison is made of the rates and charges applicable to movements of external type sanitary pads from petitioner's Wilmington, Illinois and Milltown, New Jersey plants to representative markets in eastern areas of the United States, on the one hand, with minimum rates and charges applicable, under the exception ratings proposed herein, to like California intrastate shipments, on the other hand. For shipments weighing less than 2000 pounds the exhibits indicate that higher minimum rates would still apply under the proposed California reduced ratings than applicable elsewhere in the United States; whereas the rates to petitioner's markets in eastern United States would generally be higher than the comparable rates proposed for California traffic when moving in lots weighing over 2000 pounds.

Petitioner also submitted (Exhibit D) a rather extensive list of motor common carrier tariffs applicable in various areas of the United States which assertedly contain commodity and/or

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exception ratings on sanitary pads, external type, lower than otherwise applicable under the provisions of NMFC A-10. Petitioner's Exhibit E is a study of NMFC A-10 ratings for commodities assertedly having density and other transportation characteristics similar to those of external type sanitary pads and presently enjoying NMFC A-10 less-truckload ratings of Class 125, 100 and 85.

Personal Products Company submits that its studies demonstrate that the current NMFC A-10 ratings for external type sanitary pads are not appropriate for use in connection with the California minimum class rates. It further contends its studies have demonstrated that the exception ratings proposed, in lieu of the otherwise governing NMFC A-10 ratings, have been shown to be just and reasonable ratings for the movement involved within California. Petitioner states that it knows of no opposition to the proposed ratings and prays that the sought relief be granted by ex parte order.

The subject pleading was originally scheduled for public hearing on October 8, 1969. Upon request of petitioner, the matter was taken off calendar and known interested parties were so notified as of September 26, 1969, with the advice that they would be promptly informed when the subject proceeding is again set for hearing. On November 20, 1969, Personal Products Company substantially amended its original proposal with a request that the sought amended relief be now granted ex parte. The certificate of service shows that a copy of the amended petition was served on various shippers and carriers, including the California Trucking Association. The amended petition was also listed on the Commission's Daily Calendar of November 24, 1969. No objections to the

granting of the sought ex parte relief, as amended, have been received.

In the circumstances, the Commission finds that:

1. The established exception ratings for Pads, Sanitary, as described in Item 148960 of the otherwise governing National Motor Freight Classification A-10, named in Item 1600 of Exception Ratings Tariff 1 and Item 260 of Minimum Rate Tariff 5 are scheduled to expire with December 31, 1969 and January 3, 1970, respectively. Thereafter, the ratings contained in the aforesaid classification would govern the various minimum class rate scales applicable to California intrastate shipments of sanitary pads by highway carriers.

2. Petitioner requests the establishment, on other than a temporary basis, of exception ratings on external type sanitary pads (Item 148960, Sub. 1 of NMFC A-10) for application in connection with the various Commission minimum class rate scales. The proposed exception ratings, while higher than the present temporary exception ratings, are lower than otherwise applicable under the governing classification.

3. In various areas of the United States, other than California, motor carrier tariffs provide commodity rates and/or exception ratings for shipments of external type sanitary pads which, in effect, produce lower charges than those otherwise applicable under the provisions of the governing classification.

4. Petitioner's shipments of external type sanitary pads from its Wilmington, Illinois and Milltown, New Jersey plant facilities to various markets in eastern areas of the United States currently enjoy rates lower than would otherwise be applicable

under the ratings contained in National Motor Freight Classification A-10.

5. For shipments of external type sanitary pads in lots of 2000 pounds or less, the minimum rates resulting under the proposed exception ratings are higher than the rates applicable to like shipments from petitioner's plant sites in eastern United States for comparable distances. For shipments weighing over 2000 pounds, however, the proposed ratings generally produce lower minimum rates for movements within California than currently available from petitioner's eastern plant facilities for comparable distances.

6. The National Motor Freight Classification A-10 currently provides class ratings, comparable to the exception ratings proposed herein, on several commodities having density and other transportation characteristics similar to those for external type sanitary pads.

7. The classification ratings for external type sanitary pads named in Item 148960, Sub. 1 of the National Motor Freight Classification are not generally the governing factor in the determination of rates for the transportation involved herein.

8. The establishment of the proposed exception ratings for California intrastate shipments of external type sanitary pads by highway carriers has been demonstrated to be fully justified.

9. The minimum rates resulting from the application of the exception ratings recommended herein are, and for the future will be, the just, reasonable and nondiscriminatory minimum rates for the transportation of external type sanitary pads by highway carriers subject to the provisions of Minimum Rate Tariffs Nos. 1-B, 2, 5, 9-B, 19 and Exception Ratings Tariff No. 1, respectively.

10. Common carriers, subject to the provisions of Minimum Rate Tariffs Nos. 1-B, 2, 5, 9-B and 19, respectively, should be authorized to adopt the exception ratings established herein, in lieu of the existing temporary exception ratings.

We conclude that the exception ratings proposed by Personal Products Company, as further clarified herein, should be established in Section 2 of Exception Ratings Tariff No. 1 and Minimum Rate Tariffs 1-B, 5, 9-B, and 19. The minimum rates resulting under the aforesaid establishment of exceptions to the otherwise governing National Motor Freight Classification A-10 will be just, reasonable and nondiscriminatory minimum rates. A public hearing is not necessary.

In order to avoid duplication of tariff distribution, Exception Ratings Tariff No. 1 will be amended by the order herein and Minimum Rate Tariffs Nos. 1-B, 5, 9-B and 19, respectively, will be amended by separate orders.

IT IS ORDERED that:

1. Exception Ratings Tariff No. 1 (Appendix A to Decision No. 66195, as amended) is further amended by incorporating therein, to become effective January 4, 1970, the revised pages attached hereto and made a part hereof by this reference, said pages being specifically identified as:

Twentieth Revised Page 3
Seventh Revised Page 22.

2. Tariff publications authorized to be made by common carriers as a result of the order herein shall be filed not earlier than the effective date of this order and may be made effective not earlier than the fifth day after the effective date of this order,

and may be made effective on not less than five 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 ratings 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 ratings 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 said Decision No. 66195, as amended, shall remain in full force and effect.

The effective date of this order shall be December 23, 1969.

Dated at San Francisco, California, this
16th day of DECEMBER, 1969.

William Spencer J.
President
Auguston
J. B. ...
...
...
Commissioners

INDEX OF COMMODITIES			
COMMODITIES	ITEM	COMMODITIES	ITEM
Acids	1200	Kernels, corn, roasted	480
Articles as described in the Governing Classification	1030-1050	Ladders, Step	900
Briquettes, wood	180	*Pads, sanitary	755
Cans, ash, garbage, oiled waste, refuse	1680	Paper or Paper Articles	180,1640
Carriers, old (used)	280	Returned Shipments	820
Carriers, used packages	300,320, 321,340	Rubber Articles	1660
Cartons, Egg	1280	Salt, common (Sodium Chloride)	880
Chemicals	1320	Shipments, returned	820
Cocoa or Cocoa Paste	480	Stepladders	900
Compounds, tree and weed killing	460	Sugar	940
Confectionery	480	Titanium Dioxide	950
Fertilizers	540,560, 580	Wood Briquettes	180
Flowers, fresh, cut	592	Wood, fuel	960
Furniture	1020		
Furniture and related articles	1000		
* Addition, Decision No. 76562			
EFFECTIVE			
Correction 203		ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.	

EXCEPTION RATINGS TARIFF 1

SECTION 2--RATINGS WHICH ARE EXCEPTIONS TO THE GC (Continued)			ITEM
ARTICLES	Ratings		
	LTL	TL	
Fertilizers, viz.: Ammonia, sulphate of, in packages or in bulk, Ammonium Sulphate Nitrate (Leunasalpeter), in bags or in bulk, Calcium Nitrate Urea (Calurea), Calcium Carbonate Ammonium Nitrate (Calnitro), Cyanamid, Lime (Calcium), nitrate of, in packages or in bulk, Phosphate of Ammonia, Pomace, olive, in packages or in bulk, Potash, muriate of, in packages or in bulk, Potash, nitrate of, Potash, sulphate of, in packages or in bulk, Pulp, olive, in packages or in bulk, Sodium (Soda), nitrate of, or Chile Saltpetre in packages, or in bulk, Soda Potash, nitrate of, in packages or in bulk, Urea.			580
Flowers, fresh, cut.	100		592
Pads, sanitary (148960, Sub 1). Any Quantity----- Minimum Weight 5,000 pounds----- Minimum Weight 15,000 pounds, subject to Note----- NOTE.--Minimum weight applies to each unit of carrier's equipment used in the transportation of a single shipment. A unit of equipment includes any motor truck or other self-propelled highway vehicle, trailer, semi-trailer, or any combination of such highway vehicles operated as a single unit.	150 125	92½	76 755
Returned Shipments, viz.: Articles refused by consignee may be returned to original shipper and to original point of shipment at one-half of the outbound rate (applicable to quantity returned) current at time of return movement, subject to established minimum rate and charge, only upon the following conditions: (a) When actual delivery to consignee has been accomplished, articles for return movement properly identified must be presented to carrier within ten (10) days from date of delivery of the original shipments. (See Note.) (b) All charges must be prepaid or guaranteed. Shipping order must show reference to original outbound shipment. (c) Goods must be returned over the same route and line as the original outbound movement. (d) Explosives and Blasting Caps returned to original shipping point under provisions of paragraphs (a), (b) and (c), tendered for return movement under provisions of paragraph (a), but which cannot be accepted until after expiration of 10 days' limit on account of carriers having certain specified days for handling Explosives; such shipments will also be received, and rating protected, on the day assigned for receipt of Explosives next following expiration of the 10 days' time provided in paragraph (a). NOTE.--This paragraph has no application on shipments which do not leave possession of carrier at original billed destination.			(E) 820
(E) Expires with December 31, 1970. * Addition) o Reduction) Decision No. 76562			
EFFECTIVE			
Correction 204	ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.		