

hjh/nb

Decision No. 78586

ORIGINAL

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. 93  
(Filed February 2, 1971)

AND RELATED MATTERS.

)  
Cases Nos.  
5432, 5439 and 5441  
Petitions for Modification Nos.  
626, 140 and 221  
(Filed February 2, 1971)

OPINION AND ORDER

The Diamond National Corporation, Keyes Fibre Company and Packaging Corporation of America seek the establishment of an exception rating for egg case or egg carrier filler flats when transported in truckload lots under the governing provisions of the Commission's Minimum Rate Tariffs 1-B, 2, 9-B, 19 and Exception Ratings Tariff 1.

The minimum class rates applicable to the transportation of filler flats within California are subject to the classification ratings provided in the governing National Motor Freight Classification A-11 (NMFC A-11). Prior to October 15, 1970, Item 60360 of the Classification provided a less-truckload rating of Class 100 and a Class 55, minimum weight 14,000 pounds, truckload rating for egg case or egg carrier filler flats. In Item 60360-A of the Classification, the ratings for filler flats were substantially increased to Class 125, less-truckload, and Class 85 for truckload, minimum weight 14,000 pounds. Petitioners now seek the establishment

of a truckload exception rating for the California intrastate movement of filler flats that is lower than the otherwise applicable truckload rating named in NMFC A-11. The sought exception rating is set forth below:

<u>Description</u>	<u>Class Rating</u>
Egg Case or Egg Carrier Filler Flats (Filler And Flats Combined), Molded Woodpulp, nested, in packages (1) Minimum Truckload Weight 24,000 pounds (1) Minimum weight applies per unit of carrier's equipment furnished.	60

The proposed exception rating for filler flats is the same as previously authorized for the like movement of molded pulp egg cartons by Decision No. 76830, dated April 4, 1970, in Case No. 7858 (Petition for Modification No. 62) et al.

Petitioners explain that appearances were made before the National Motor Freight Classification Board when the increased ratings for filler flats, currently published in Item 60360-A of NMFC A-11, were under consideration by the NMFC Board. Petitioners state they requested the NMFC Board to establish an additional volume truckload rating for filler flats, as an alternative to those ultimately published in Item 60360-A of the Classification, in order to make available to shippers and carriers rates reflecting the economic benefits of heavier loading. It is explained that petitioners' proposal to the NMFC Board was premised on the desire to have lower volume rates available in California where the preponderance of trailer equipment furnished by the carriers are sets ("doubles") of 23-27-foot trailers, in lieu of a single trailer of less overall cubic capacity. When such equipment is supplied, petitioners are able to load to approximately 24,000 pounds of filler flats per shipment. The NMFC Board's declination of petitioners' alternative classification proposal was allegedly

predicated upon the understanding that two trailers ("doubles") are not generally operated throughout the United States as a single unit of carrier's equipment. Consequently, the more conventional 40-foot trailer is used as a basis for evaluating classification problems.

Petitioners note that filler flats and molded pulp cartons, for which the same exception rating as sought herein was previously authorized by Decision No. 76830, are produced from the same raw materials and, except as to final form or shape, are essentially identical. The density factor for each article is in the 6 to 8 pounds per cubic foot range. They have the same transportation characteristics. A very large portion of the truckload shipments from each of petitioners' plants consists of mixed truckloads of filler flats and pulp egg cartons. The latter product is frequently imprinted with a producer or brand name; whereas filler flats are not imprinted. The average value of filler flats is 18 cents per pound and egg cartons' average value per pound is 22-1/2 cents.

Petitioners also presented a comparison of NMFC A-11 truckload ratings applicable to various articles having a similar density ratio as egg case or egg carrier filler flats. The comparison shows that articles having like density ratios presently enjoy volume truckload ratings and minimum weight factors as low as, or in many instances lower than, the Class 60, minimum 24,000 pounds, truckload rating proposed for filler flats. Some of the articles compared, petitioners explain, have a greater value than the products under consideration herein.

Petitioners state they know of no opposition to the proposed reduced truckload rating and request that the relief sought be granted by ex parte order.

The Commission's Transportation Division staff has reviewed petitioners' proposal and advises that, in the absence of protest, the relief sought herein may be granted by ex parte order. The California Trucking Association also supports the ex parte consideration requested. The matter was listed on the Commission's Daily Calendar of February 8, 1971. No objections to the granting of the sought ex parte relief have been received.

In the circumstances, the Commission finds that:

1. The highway transportation characteristics within California for "Egg Case or Egg Carrier Filler Flats" and "Molded Pulp Egg Cartons," as more fully described in the governing National Motor Freight Classification A-11, have been shown to be substantially the same.
2. The establishment of the proposed truckload exception rating has been demonstrated to be justified.
3. The minimum rates resulting from the application of the exception rating recommended herein are, and for the future will be, the just, reasonable and nondiscriminatory minimum rates for the transportation of egg case or egg carrier filler flats by highway carriers subject to the provisions of Minimum Rate Tariffs 1-B, 2, 9-B, 19 and Exception Ratings Tariff 1, respectively.

We conclude that the exception rating proposed by petitioners, as further clarified herein, should be established in Section 2 of Exception Ratings Tariff 1 and Minimum Rate Tariffs 1-B, 9-B and 19. A public hearing is not necessary.

In order to avoid duplication of tariff distribution, Exception Ratings Tariff 1 will be amended by the order herein and Minimum Rate Tariffs 1-B, 9-B and 19, respectively, will be amended by separate orders.

IT IS ORDERED that:

1. Exception Ratings Tariff 1 (Appendix A to Decision No. 66195, as amended) is further amended by incorporating therein, to become effective May 29, 1971, Tenth Revised Page 20 attached hereto and made a part hereof by this reference.

2. Tariff publications required 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 tenth day after the effective date of this order on not less than ten days' notice to the Commission and to the public and such tariff publications which are authorized but not required 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 order; and schedules containing the rates published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

C. 7858, Pet. 93 et al. hjh

4. In all other respects, Decision No. 66195, as amended, shall remain in full force and effect.

The effective date of this order shall be twenty-four days after the date hereof.

Dated at San Francisco, California, this 20<sup>th</sup> day of APRIL, 1971.

William S. Gurnea, Jr. Chairman  
[Signature]  
Vernon L. Sturgeon  
[Signature] Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

EXCEPTION RATINGS TARIFF 1

SECTION 2--RATINGS WHICH ARE EXCEPTIONS TO THE GC (Continued)			ITEM
(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.)			
ARTICLES	Rating		
	LTL	TL	
Egg Case or Egg Carrier Filler Flats (fillers and flats combined) molded woodpulp, nested, in packages (60360)  Minimum Weight 24,000 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.		60	*450
Compounds, Tree and Weed Killing, not otherwise indexed by name in the GC, in packages, minimum truckload weight 30,000 lbs.	55	35.4	(E) 460
Confectionery, viz.: (See Note 1) Candy fondant (candy filler), confectionery paste or powder, NOI, or icing paste, (39940) (39942) Candy or confectionery, NOI, or chocolate candy or confectionery, including milk chocolate candy or confectionery, (see Note 2) (39970) (39974) Chocolate (39990) Chocolate coating (40000) Coating, candy, other than chocolate (40010) Cocoa or cocoa paste (72520) (72522) Cocoa butter (72540) Cough drops or tablets, NOI (58730) Gum, chewing (40040) Ice cream coating, NOI (40050) Icing powder (40060) (40062) Licorice compound, penny pieces (40080) Nuts, edible, shelled, plain, salted or sweetened (141660) (141760) (141780) (141820) Roasted Corn Kernels, whole, not popped, dry, salted or not salted.  NOTE 1.--The rating set forth in this item is subject to a released value of 75 cents or less per pound for each article.  NOTE 2.--Not subject to the notes set forth under Items 39976 and 39978 of the Classification.	55		480
(E) Expires with June 30, 1971.  * Addition, Decision No. <b>78586</b>			
EFFECTIVE			
Correction	ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.		