

Decision No. 79112**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 re- )  
 issues of Exception Ratings Tariff )  
 No. 1. )

Case No. 7858  
 Petition for Modification  
 No. 84  
 (Filed October 15, 1970)

Richard W. Smith and A. D. Poe, Attorneys at  
 Law, and H. F. Kollmyer, for California  
 Trucking Association, petitioner.

William Q. Keenan, Attorney at Law, for Single  
 Service Institute, protestant.

Robert G. Steele, for Sweetheart Cup Corp.;

R. M. Zaller, for Continental Can Co., Inc. ;  
 and Gordon Larson, for American Can Co.,  
 interested parties.

John Lemke, for the Commission staff.

### O P I N I O N

Class rates in the various minimum rate tariffs are generally governed by the ratings named in the National Motor Freight Classification (NMFC), with exceptions thereto named in the Commission's Exception Ratings Tariff 1 (ERT). Up until several years ago, the California class rates were governed by the ratings named in the Western Classification, originally designed for rail carriers. Upon changing over to the NMFC, a number of the old ratings were retained in the ERT pending a determination of how they should be treated. These ratings, some higher and some lower than those in the NMFC, were retained on a temporary basis to give shippers and carriers an opportunity to justify maintenance of the exception ratings. These exception ratings were first published to expire on December 31, 1969. Many were extended for an additional year.

The ratings involved in this petition cover various paper items, such as drinking cups, plates, etc. These ratings, higher than

those in the classification, were scheduled to expire December 31, 1970. Although this petition was filed prior to the expiration of the ratings, procedural processes delayed hearing of the petition until after the exception ratings had expired, so in effect, the petition became a request to establish new exception ratings.

Public hearing was held March 1 and 2, 1971, at San Francisco before Examiner Turpen. Evidence in favor of the petition was presented by a witness from the California Trucking Association (CTA). Evidence in opposition was presented primarily by the Single Service Institute (SSI) a trade association of manufacturers of paper plates, cups, etc. Other manufacturers of paper products and a representative of the Commission staff assisted in developing the record.

At the conclusion of the hearings, the SSI moved for permission to file briefs. This was denied by the examiner. The SSI also filed a petition for a proposed report. Both of these matters will be discussed later.

Both parties presented evidence to show the relative density of the commodities involved as they pertain to accepted standards for determining class ratings. But the main issue is the standards set down many times by this Commission that to establish an exception rating different from that rating set forth in the NMFC, it must be shown that transportation conditions in California are different from those experienced nationally.

Petitioner's witness testified that the items in consideration herein have been before the National Freight Classification Board, and he said that the exception ratings should be continued pending the outcome of those proceedings. However the record shows that consideration of these proposals by the National Board have been indefinitely postponed and are being considered along with other related items. It is not clear when these proposals will be considered by the National Board. In the meantime, it has not been

shown that different ratings within California are justified in connection with the commodities involved in this proceeding, prior to a determination by the National Classification Board.

The Commission finds that the continuation of the sought exception ratings for the subject paper products has not been justified as transportation conditions have not been shown to be different in California from those existing nationally. We conclude that the petition should be denied.

The issues presented here are not such that briefs would be of any assistance to determining the outcome of the proceeding. Accordingly, we confirm the ruling of the examiner against the filing of briefs. For the same reason the issuance of a proposed report would not assist in the final determination of the matter, and accordingly, the petition for a proposed report will be denied.

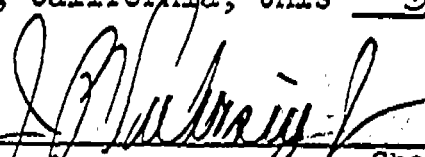
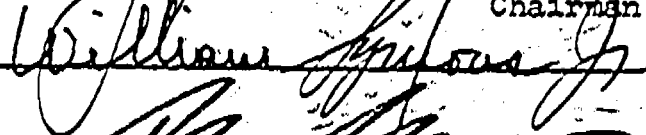
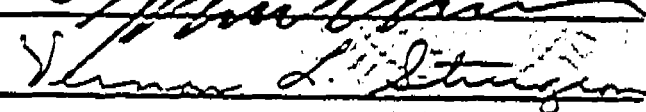
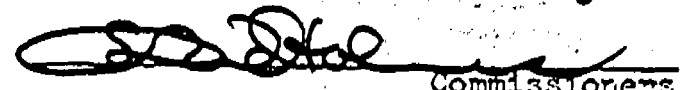
O R D E R

IT IS ORDERED that:

1. The petition of the Single Service Institute for a proposed report in this proceeding is denied.
2. Petition No. 84 in Case No. 7858 is denied.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 31<sup>st</sup> day of AUGUST, 1971.

  
 \_\_\_\_\_ Chairman  
  
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 \_\_\_\_\_ Commissioners