

ORIGINAL

Decision No. 79339

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. 101  
(Filed June 23, 1971)

(Appearances are set forth in Appendix A)

O P I N I O N

In this proceeding California Trucking Association (CTA), petitioner, seeks to cancel Items 1820 and 1840 of Exception Ratings Tariff 1.<sup>1/</sup> If said exception ratings are cancelled, higher ratings set forth in National Motor Freight Classification A-11 (Governing Classification) will apply in connection with the class rates set forth in Minimum Rate Tariffs 1-B, 2, 9-B and 19.

Public hearing was held before Examiner Mallory on July 27 and 28, 1971 in San Francisco, and the matter was submitted on the latter date. Cancellation of Item 1820 (fibreboard boxes) was opposed by Fibreboard Corporation and Container Corporation of America. No one appeared in opposition to the cancellation of the exception ratings in Item 1840 (blueprint and reproduction paper).

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1/ Item 1820 contains a less truckload exception rating of Class 65 on Boxes, fibreboard, paper, paperboard or pulpboard, without wooden frames, knocked down flat or folded flat, as described in Item 29275 of the National Motor Freight Classification (Governing Classification).

Item 1840 contains exception ratings of Class 60, less truckload, and Class 35, truckload, minimum weight 36,000 pounds, on Paper, blueprint or reproduction, sensitized, actual value not exceeding 60 cents per pound (Item 150690 of the Governing Classification).

Evidence in support of the cancellation of the exception items and approval of the related provisions of the Governing Classification was presented by a representative of CTA and by the Chairman of the National Classification Board (Board). The latter witness explained that the Board's function is to formulate and keep current the provisions of the National Motor Freight Classification. The Board docket proposals for changes in the Classification and initially approves or disapproves of the proposed changes. If shippers or carriers disagree with the recommendation of the Board, they may appeal to the National Classification Committee (Committee). Appeals of the decisions of the Committee are made to the Interstate Commerce Commission with respect to interstate traffic, and to state regulatory commissions as to intrastate traffic.

The CTA witness explained that the exception ratings in Items 1820 and 1840 are the results of requests to this Commission that classification provisions applicable to interstate commerce not be made applicable to California intrastate commerce without further review by this Commission.<sup>2/</sup> The proceeding herein constitutes such further review.

The Chairman of the Classification Board presented in evidence the facts and circumstances relied upon by the Board in the establishment of the current ratings in the Governing Classification on the articles in question, and explained the reasons why such ratings are reasonable in the opinion of the Board. The

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<sup>2/</sup> Decision No. 75544, dated April 8, 1969, in Applications Nos. 50942 and 50957 and in Case No. 5432, Petitions Nos. 536 and 539 and related proceedings; and Decision No. 74142, dated May 21, 1968, in Application No. 50188 and in Case No. 5432, Petition No. 497 and related proceedings.

data relied on by the Board were presented to it by shippers and carriers engaged in the transportation of the involved commodities. The data covers the density, value, susceptibility to loss and damage, and other transportation characteristics of the commodities under consideration.

The witness testified that the current classification ratings on blueprint and reproduction paper in Item 150690 are the result of the findings of the Interstate Commerce Commission in its Docket 34703. As heretofore indicated, no one appeared in opposition to the establishment of such ratings to govern the application of intrastate class rates in California.

The classification witness testified as follows with respect to the less truckload ratings on fibreboard boxes, KD in Item 29275 of Governing Classification: The commodity was assigned a less truckload (LTL) rating of Class 65 upon the establishment of National Motor Freight Classification A-1 (NMFC A-1) in 1952. The increase to LTL Class 77-1/2, as currently applicable in NMFC A-11, was made as a result of a proposal to the Board by motor carriers to increase the LTL rating to Class 100. The Board recommended that Class 77-1/2 be established following public hearing. This recommendation was appealed to the full Classification Committee by the Fibre Box Association, and the recommendation was upheld by the Committee. The LTL rating initially was published to become effective May 14, 1969 in Supplement 18 to NMFC A-10.

The witness testified that the following transportation characteristics were shown to be applicable to corrugated fibreboard boxes, K.D.:

1. The density range is from 4.74 to 16.8 pounds per cubic foot, and averages 10 pounds per cubic foot.
2. The average value is 12.4 cents per pound (\$12.40 per 100 pounds).

3. The commodity presents no significant loss or damage problems.
4. The commodity is easily stowed in motor carriers equipment, as it is usually bundled or palletized for shipment.

The witness testified that the foregoing classification characteristics were each given appropriate weight; the important characteristic of density, standing alone, assertedly would require that an LTL Class 100 rating be established under criteria generally used by the Board. The witness stated that, in many instances, commodities having an average density of 10 pounds per cubic foot have been assigned an LTL rating of Class 100 by the Interstate Commerce Commission. The witness indicated that the average value of 12.4 cents per pound and other transportation characteristics of fibreboard boxes warrant the lower LTL rating of Class 77-1/2.

Representatives of Fibreboard Corporation and Container Corporation of America presented evidence in opposition to the cancellation of the LTL exception rating of Class 65 on corrugated fibreboard boxes. The representative of Fibreboard presented data concerning the density, value, and loading characteristics of fibreboard boxes, which are substantially the same as that relied upon by the Board. The witness also presented information to show that in other western states fibreboard boxes generally move at LTL commodity rates which are below the level of both the related Class 65 and Class 77-1/2 rates applicable between the same points. The witness contended that, inasmuch as all LTL traffic moves at class rates in California, such traffic should bear classification ratings lower than generally applicable in areas where LTL commodity rates move the bulk of the traffic.

The representative of Container Corporation of America presented evidence designed to show that in interstate tariffs

applicable to truck transportation in the West, Class 65 rates generally are 65 percent of Class 100 rates, and Class 77-1/2 rates are generally 77 percent of Class 100 rates; whereas in the Commission's minimum rate tariffs Class 77-1/2 rates are 85 percent and Class 65 rates are 77 percent of Class 100 rates, respectively.

Discussion:

The criteria for the establishment and maintenance of exception ratings on California traffic are set forth in Decision No. 74310 (68 Cal. P.U.C. 445) and cases cited therein. That decision states that exception ratings are founded on the premise the transportation characteristics or conditions in California intrastate traffic for the various articles involved differ materially from those experienced elsewhere and observed as the norm in the governing classification; or, alternatively, are substantially similar to the transportation characteristics or conditions of other articles currently enjoying such ratings, (68 Cal. P.U.C. 445, at 457.)

The evidence shows that the transportation characteristics of corrugated fibreboard boxes are substantially the same whether the commodity is produced and transported within California or elsewhere. No showing was made with respect to similarity of fibreboard boxes to other commodities bearing exception ratings. The fact that fibreboard boxes move at LTL commodity rates outside California and at LTL Class rates within California presents no different situation than occurs in connection with many other commodities which bear the same classification rating nationally and in California. Standing alone, this fact does not support a different LTL rating in California than elsewhere.

The percentagewise relationship between classes was fully considered in Decision No. 74310 (68 Cal. P.U.C. 445 at

pages 453 through 455) and have no material bearing on the level of LTL ratings accorded individual commodities.

In the circumstances, application of the criteria heretofore established by the Commission indicates that the cancellation of the existing exception ratings on fibreboard boxes, K.D., and blueprint and reproduction paper, thus allowing the ratings in the Governing Classification to apply to such commodities, will produce reasonable results and will be consistent with past actions of the Commission with respect to classification ratings.

Findings and Conclusions:

1. The cancellation of Items Nos. 1820 and 1840 of Exception Ratings Tariff 1 is justified.
2. The classification ratings set forth in Items 29275 and 150690 of the Governing Classification, which will be applicable on the cancellation of Items 1820 and 1840 of Exception Ratings Tariff 1, are reasonable and the increases resulting from the establishment of said ratings are justified.
3. The provisions of Items 29275 and 150690 of the Governing Classification are suitable to govern the minimum rates established by this Commission.
4. The rates and charges resulting from the application of the aforesaid ratings and rules are, and for the future will be, the just, reasonable and nondiscriminatory minimum rates for the transportation of property by highway carriers subject to the applicable minimum rate tariffs.

The rates authorized herein are consistent with the purposes of the Federal Government's economic program in that the objective is to make intrastate classifications conform to the National Motor Freight Classification and whatever increases in rates may result are relatively minor and incidental.

The Commission concludes that the petition should be granted and that Exception Ratings Tariff 1 should be amended as provided in the order which follows.

O R D E R

IT IS ORDERED that:

1. Exception Ratings Tariff 1 (Appendix A to Decision No. 66195, as amended) is hereby further amended by incorporating therein, to become effective December 28, 1971, Twenty-ninth Revised Page 3, and Fourth Revised Page 27 WWW, attached hereto and by this reference made a part hereof.

2. Common carriers subject to the Public Utilities Act, to the extent that they are subject also to Decision No. 66195, as amended, are hereby directed to establish in their tariffs the increases necessary to conform with the further adjustments ordered herein.

3. Common carriers maintaining rates on the same level as Exception Ratings Tariff 1 rates for the transportation of commodities and/or for transportation not subject to Exception Ratings Tariff 1 are authorized to increase said rates by the same amounts authorized for Exception Ratings Tariff 1 rates herein.

4. Common carriers maintaining rates at levels other than the minimum rates for the transportation of commodities and/or for transportation not subject to Exception Ratings Tariff 1 are authorized to increase said rates by the same amounts authorized for Exception Ratings Tariff 1 rates herein.

5. Tariff publications required or 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 tenth day after the effective date of this order, on not less than ten days' notice to the Commission and to the public; such tariff publications as are required shall be made effective not later than December 28, 1971; and as to tariff publications which are authorized but not required, the authority herein granted shall expire unless exercised within sixty days after the effective date hereof.

6. 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.

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

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

Dated at San Francisco, California, this 22nd day of NOVEMBER, 1971.

[Signature]  
Chairman  
[Signature]  
[Signature]  
[Signature]  
Commissioners



APPENDIX A

List of Appearances

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

Protestants: Jess J. Butcher, for California Manufacturers Association; Ronald M. Zaller, for Continental Can Company; Howard W. Haage, for Can Manufacturers Institute; Kenneth C. O'Brien, for Container Corporation of America; William D. Mayer, for Canners League of California and Del Monte Corporation.

Respondents: Elliott Eyring and W. N. Greenham, for Pacific Motor Trucking; Lee Pfister, for Willig Freight Lines, and M. J. McSweeney, for Delta Lines.

Interested Parties: E. R. Chapman, for Foremost Foods Company; Gordon Larsen, for American Can Company; Raymond Mosser, for J. C. Penney Company; Eustace O. Pate, and Robert F. Schafer, for M. J. B. and Western Can Company; Don Shields, for Highway Carrier Association; Wayne R. Tinker, for Diamond Shamrock Corporation; Raymond D. Vinick, for Hunt Wesson Foods, Inc.; Herbert Wolff, for Fibreboard Corporation; Earl W. Gerloff, for Humble Oil & Refining Company; K. L. Mallard, for C & H Sugar Refining Company; Ben Roth, for Crown Zellerbach Corporation; and Gary Ferulli, for Simco-Pacific.

Commission staff: Robert E. Walker, Transportation Division.

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
Blankets **	1800	Logs, compressed sawdust	600
Briquettes, wood	180	Machines, viz.: Accounting Card Copying, Duplicating or Reproducing	1850
Cans, ash, garbage, oiled waste, refuse	1680	pads, sanitary	755
Carriers, old (used)	280	Paper or Paper Articles	1640**
Carriers, used packages	300,320, 321,340	Returned Shipments	820
Cartons, egg, pulp	270	Rubber Articles	1660
Chemicals	1320	Salt, common (Sodium Chloride)	880
Cocoa or Cocoa Paste	480	Shipments, returned	820
Compounds, tree and weed killing	460	Stepladders	900
Confectionery	480	Sugar	940
Containers, Sheet steel	1855-1857	Wood Briquettes	180
Fertilizers	540,560,580	Wood, fuel	600
Flowers, fresh, cut	592	Wood, kindling	600
Furniture	1020		
Furniture and related articles	990-1--1000		

\*\* Eliminated, Decision No.

79339

EFFECTIVE

Correction

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,  
 SAN FRANCISCO, CALIFORNIA.

SECTION 2-D--RATINGS WHICH ARE EXCEPTIONS TO THE CC		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		
BLANKETS, NOIBN (49040) Synthetic fibre or synthetic and natural fibre combined, in bales or boxes Any Quantity----- Natural fibre, in bales or boxes (See Note) Any Quantity----- NOTE.--Natural fibre blankets may have bindings of any material.	Rating 200 150	1800
Item canceled.		◊ 1820
Item canceled.		◊ 1840
◊ Increase, Decision No. <b>79339</b>		
EFFECTIVE		
Correction	ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.	