

ORIGINAL

Decision No. 80553

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
into the rates, rules, regulations,)
charges, allowances and practices of)
all common carriers, highway carriers)
and city carriers relating to the)
transportation of any and all com-)
modities 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. 708)
(Filed July 11, 1972)

OPINION AND ORDER

Minimum Rate Tariff 2 (MRT 2) names minimum rates and rules for the statewide transportation of general commodities by highway carriers. By this petition, Avon Products, Inc., (Avon) seeks to have MRT 2 amended by establishing therein exception ratings on mixed shipments of toilet preparations and certain other related articles.¹

Petitioner states that it is engaged in the distribution of toilet preparations and other products from its Monrovia Distribution Center to various major cities within California. It also states that the assembly and distribution operations of these products are geared to fill purchase orders within four to seven days from the date such orders are mailed.

Avon alleges that during the past year it has been considering the introduction of many new products which are of non-cosmetic nature to be distributed with its regular articles. It further alleges that it ships in excess of 3,530 packages daily and that as a result of the addition of the new products, future packages will

¹A complete description of the articles is set forth in Exhibit A attached to the application.

consist of mixtures of one or more of the commodities herein involved. Avon contends that due to the nature of the assembly operation and the fact that the consignee must receive all of its order at one time, it would be prohibited from placing articles in separate packages for weighing and rating purposes.

Petitioner's proposal would establish the exception ratings by grouping all of the commodities into three lists with various percentage mixture restrictions. Petitioner declares that the percentage mixture restrictions were determined from an analysis of projected sales. It avers that such study and analysis reflects that 96.09% of the total annual weight it ships will consist of articles which are rated at Class 70 or lower and that articles rated over Class 70 account for only 3.91% of such total annual weight.

Petitioner asserts that it is not its intent to seek lower ratings on less-truckload traffic through this proposal but that if each product were individually weighed and rated according to the applicable classification the average rating would be 70.63%. In connection with the truckload ratings, Avon contends that it merely seeks to establish a broader description on existing ratings applicable on toilet preparations. Finally petitioner explains that similar proposals as sought herein have been filed and approved for use in other parts of the United States.

The rules which currently apply to ratings of mixed shipments are contained in Items 90 and 91 of MRT 2. Among other things, they provide that when two or more commodities, for which different rates are provided, are shipped as a mixed shipment without actual weights being furnished or obtained for the portion shipped under the separate rates, charges for the entire shipment will be computed at the class or commodity rate applicable to the highest rated commodity contained in such mixed shipment. Avon alleges that the present rules for mixed shipments offer some relief for the transportation of such shipments but do not solve its own unique problem.

Copies of the petition were mailed to California Trucking Association, California Manufacturers Association and Traffic Managers Conference of California on July 10, 1972. The petition was listed on the Commission's Daily Calendar of July 13, 1972. No objection to the granting of the petition has been received.

Commission staff analysis indicates that (1) the proposal would result in both increases and reductions, (2) the packaging of many small articles into one package would benefit both the shipper and the carrier, (3) the unique assembly and distribution by petitioner of the commodities herein involved afford efficiency to both carriers and the shipping public and ultimately lower prices and (4) the few increases that will occur appear justified for the unique type of operation of petitioner. The staff recommends that the application be granted by ex parte order.

In the circumstances, it appears, and the Commission finds, that petitioner's proposal is justified and the resulting rates and charges will be just, reasonable and nondiscriminatory minimum rates and charges for the transportation involved. The Commission further finds, pursuant to the provisions of Rule 23.1 of the Commission's Rules of Procedure, that the increased minimum rates and charges are minor; the total amount of said increases is unknown and is impossible to determine; the total amount of increases should not increase any carrier's gross revenue by as much as one percent; the increases which will result under the proposal involve a comparatively small amount of traffic and will have little, if any, effect upon any carrier's operating ratio and/or rate of return and will not reflect future inflationary expectations; and there is no evidence that any carrier is willing and capable of providing the service at the existing rates.

The Commission therefore concludes that the petition should be granted by ex parte order.

IT IS ORDERED that:

1. Minimum Rate Tariff 2 (Appendix D to Decision No. 31606, as amended) is further amended by incorporating therein, to become effective November 11, 1972, Ninth Revised Page 9-A, Seventeenth Revised Page 39-A, Original Page 39-B and Original Page 39-C 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 to Decision No. 31606, as amended, and currently maintain in their tariffs the provisions involved herein, are hereby directed to establish in said tariffs the amendments necessary to conform with the further adjustments ordered herein.

3. 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 November 11, 1972 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 November 11, 1972; as to amendments which are authorized but not required, the authority herein granted shall expire unless exercised within sixty days after the effective date of this order.

4. Common carriers, in establishing and maintaining the amendments 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 amendments published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

5. In all other respects Decision No. 31606, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 3rd day of October, 1972.

Vernon L. Sturgeon
President
William J. Lyons
W. Martin
John R. ...
Commissioners

INDEX OF COMMODITIES (Continued)

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

COMMODITY	ITEM	COMMODITY	ITEM
Tea	360	Vegetable Oil Shortening	335.5
Tea, extract of (condensed or instant), dry	360	Vegetables (not dehydrated, dried, evaporated nor fresh)	320-1
Ties, railroad	690,710	Veneering	690,700,710
Tile	318	Vermicelli, except canned	360
Timbers	690,700,710	Vermicelli (prepared)	320
Tire Tubes (M)	377.5,723-726	Vermicelli, dry, and other ingredients	345,360
Tires, Pneumatic (M)	377.5,723-726	Vermouth	400
*Toilet Preparations and other Articles (M)	395-397	Vinegar	320-1
Tools, Mechanics* (M)	365	Washing Powders	730-732
Towers, Water Cooling, Atmospheric (M)	365	Washing Soda	730-732
Triglycerides of Fat-forming Acids	335.5	Wax, automobile, boat, floor or furniture (M)	377.5,723-726
Trisodium Phosphate	730-732	Wax, boat, floor, furniture or vehicle	730-732
Trucks, Steam Boiler (M)	365	Wax, Laundry Compound	360
Tubes, Boiler	365	Welsh Rarebit	320-1
Tubing, iron or steel, cast or wrought, plate or sheet	365	Wheat Germ	652-654
Tubing, iron or steel, well casing or drilling	365	Whey	345
Tubs, Woodenware	758	Wine	400
Urea	652-654	Wine, cooking	320-1
Valves, iron or brass (M)	365	Wood Preservatives (M)	377.5,723-726
Valves, Pump Working Barrel	365	Wool, Steel	410
Vaults, Grave	334.8		
Vaults, Utility	334.8	Yeast or Yeast Powder	360

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

* Addition, Decision No.

80553

EFFECTIVE

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

Correction

SECTION 1--RULES OF GENERAL APPLICATION (Continued)		ITEM (A)
<p align="center">EXCEPTIONS TO GOVERNING CLASSIFICATION AND EXCEPTION RATINGS TARIFF (Continued)</p> <p>(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>		Class Rating
<p>Sugar, in packages, viz.:</p> <p>Sugar, beet or cane, raw or other than raw (74900 or 74910)</p> <p>Sugar, corn, sorghum grain or wheat, whether or not granulated or powdered (74960 or 74970)</p> <p>Less truckload -----</p> <p>Truckload:</p> <p>Minimum Weight 30,000 pounds -----</p> <p>Minimum Weight 40,000 pounds -----</p>		<p>50.1</p> <p>35.1</p> <p>35.2</p>
<p align="center">(Items 395, 396 and 397)</p> <p>Toilet Preparations and other articles as described in Lists 1, 2 and 3 below, subject to Notes 1 through 10:</p> <p>Less Truckload, minimum weight 5,000 pounds -----</p> <p>Truckload:</p> <p>Minimum weight 24,000 pounds -----</p> <p>Minimum weight 45,000 pounds -----</p> <p>List 1 -</p> <p>Bags, paper (20930, 20950 or 21080), subject to Note 12, Item 397</p> <p>Bath Salts or Crystals, Bubble Bath or Water Softening Compounds (58540)</p> <p>Books, NOI (261560)</p> <p>Bowls, Cups, Dishes or Plates, plastic or rubber (256655, Sub 1)</p> <p>Brushes, plastic bristle (33100, Sub. 2)</p> <p>Candles (39810 or 39830)</p> <p>Catalogs; or Catalog Parts or Sections (4850)</p> <p>Cleaning, Scouring or Washing Compounds, NOI; or Soap, NOI: Liquid or other than liquid; or Soap Powder (48580, Subs 3, 4, 5 and 6 or 48581), subject to Note 11, Item 397</p> <p>Deodorants or Disinfectants, NOI (57100, Sub 2)</p> <p>Dyestuffs, NOI (60280)</p> <p>Envelopes, NOI or Seed Envelopes or Packets (253040)</p> <p>Forms, Cards, Checks, Tickets; or Forms, NOI (253250)</p> <p>Games or Toys, NOI (84260, Sub 7), subject to Note 14, Item 397</p> <p>Lead Pencils (279050)</p> <p>Pads, Tablets or Blank Books (253760)</p> <p>Paper, impregnated with soap or cleansing agent (253920)</p> <p>Perfumery (59320)</p> <p>Plastic or Rubber Articles, NOI (256600, Sub 7)</p> <p>Powder, sachet or toilet (59090), subject to Note 11, Item 397</p> <p>Shampoo (59320)</p> <p>Shaving Cream or Shaving Soap (59360)</p> <p>Toilet Preparations, NOI (59420), subject to Note 11, Item 397</p> <p>Treys, plastic (287320, Sub 4)</p> <p align="center">(Continued in Item 396)</p>		<p>70</p> <p>50</p> <p>35.2</p>
<p>(2) Item 400 transferred to Original Page 39-C</p> <p>* Addition)</p> <p>◊ Increase) Decision No. 80553</p> <p>◊ Reduction)</p>		<p>• 0 0 395</p>
<p align="right">EFFECTIVE</p>		
<p>Correction</p>		
<p align="center">ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA</p>		

SECTION 1--RULES OF GENERAL APPLICATION (Continued)	ITEM:
EXCEPTIONS TO GOVERNING CLASSIFICATION AND EXCEPTION RATINGS TARIFF (Continued)	Class Rating
<p>(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> <p>(Items 395, 396 and 397)</p> <p>LIST 2 -</p> <p>Adhesives, NOI, Adhesive Cements, NOI, Adhesive Glues, NOI, or Adhesive Pastes, NOI (4620), subject to Note 11, Item 397 Advertising Matter, paper or paperboard (4680) Bowls, Cups, Dishes or Plates (156655, Sub 2) Brushes, NOI (33100, Sub 4) Cards, NOI, paper (152360, Sub 5) Cards, Tags or Seals, gift (152440) Cases, lipstick (41630) Circulars, Books, Booklets, Leaflets, Pamphlets, Sheets or Price Lists (4860) Combs (50040, Subs 1 or 3) Compacts, brass, empty (NC) Displays, advertising (4900, Sub 1) Games or Toys, NOI (84260, Subs 5 or 6), subject to Note 14, Item 397 Glassware, NOI (88150, Subs 1, 2 or 3) Jewelry, costume or novelty (107830), actual value not exceeding \$5.00 per pound Kits, embroidery, tapestry or ornamental needlework (NC), subject to Note 13, Item 397 Notions, NOI (141120) Pads, memorandum (179070) Plastic or Rubber Articles, NOI (156600, Subs 5 or 6) Rolls or Holders, silverware or toilet article (169790) Toilet Cases (183440) Wrapping Paper and Gift Cards, Tags or Seals (154500)</p> <p>LIST 3 -</p> <p>Games or Toys, NOI (84260, Subs 3 or 4) Glassware, NOI (88150, Subs 4 or 5) Hair Goods (92280) Holders, disinfectant or deodorant, NOI (99600) Plastic or Rubber Articles, NOI (156600, Subs 3 or 4) Traveling Bags, Bowling Ball or Bowling Shoe Bags, Carrying Cases or Bags, NOI, Gun Carrying Cases, Handbags, Hat Boxes, Sample Cases, or Suit Cases (187680)</p> <p>NOTE 1.--Commodities named in List 1 of Item 395 must be mixed in the same box with commodities named in Lists 2 and 3 of this item. Rates apply only when the commodities named in List 1 of Item 395 are included only in mixed shipments with other commodities named in Lists 2 and 3 of this item.</p> <p>NOTE 2.--Commodities named in List 2 of this item must be mixed in the same box with commodities named in Lists 1 of Item 395 and 3 of this item. The total weight of articles named in List 2 may not exceed 10 percent (10%) of the total weight of the shipment.</p> <p>NOTE 3.--Commodities named in List 3 of this item must be mixed in the same box with commodities named in Lists 1 of Item 395 and 2 of this item. The total weight of the articles named in List 3 of this item may not exceed 5 percent (5%) of the total weight of the shipment.</p> <p>NOTE 4.--Premiums may be shipped with other articles named in this item provided premiums do not exceed one for each inner package of commodity and provided premiums consist of a container for the commodity.</p> <p>(Continued in Item 397)</p>	<p>*00 396</p> <p>See Item 395</p>
* Addition) o Increase } Decision No. 80553 o Reduction }	
EFFECTIVE	
Correction	ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.

SECTION 1--RULES OF GENERAL APPLICATION (Concluded)		ITEM
EXCEPTIONS TO GOVERNING CLASSIFICATION AND EXCEPTION RATINGS TARIFF (Concluded)	Class Rating	
<p>(Items 395, 396 and 397)</p> <p>NOTE 5.--Applies only in connection with prepaid shipments released to a value of 50¢ per pound, per article. Shipper must enter the following statement on the bill of lading or shipping document as follows:</p> <p>"The agreed or declared value of the property is hereby stated by the shipper to be 50¢ per pound, per article."</p> <p>If the shipper fails or declines to declare such value in writing, the provisions of this item will not apply.</p> <p>NOTE 6.--Not more than five component parts shall be permitted in connection with shipments moving in split delivery service. Provisions of Item 160-163 (Split Pickup Service) are not applicable.</p> <p>NOTE 7.--Provisions of this item apply only in connection with shipments transported in a single unit of carrier's equipment at one time.</p> <p>NOTE 8.--An allowance of 2 hours free time for loading shall be made for each unit of equipment used. Excess loading time shall be computed at the rates named in Item 145 hereof. Time shall be computed from time of arrival of carrier's equipment at place of loading until loading is completed and equipment is released.</p> <p>NOTE 9.--Rates resulting from application of the provisions of this item may not be used in combination with any other rates.</p> <p>NOTE 10.--The provisions of this item will not apply in connection with shipments subject to the provisions of Item 85 herein, nor to shipments subject to Temperature Control Service, Collect on Delivery Service or shipments moving under government bills of lading.</p> <p>NOTE 11.--Will also apply when one Flat Applicator, Brush Applicator, Hand Applicator or Cosmetic Pad is included in the same shipping container for each inner container.</p> <p>NOTE 12.--Will only apply on bags other than traveling or carrying bags or cases, briefcases, portfolios or envelope type carrying pouches.</p> <p>NOTE 13.--Applies on kits or sets consisting of pictures, cartoons, or designs stamped on liner of fabric, with or without yarn instruction sheets, fringes, needles and other accessory materials for completion of finished article.</p> <p>NOTE 14.--Commodities making reference to this note may be included only when incidental to, or a part of, the inner packaging of commodities contained therein.</p>	See Item 395-	*00 397-
<p>Vermouth (111490), or Wine, NOX (111510).</p> <p>Less truckload-----</p> <p>(1) Applies only on domestic Vermouth or Wine having a declared value of not more than \$2.00 per gallon.</p>	(1) 55	(2) 400
<p>(2) Item 400 transferred from Sixteenth Revised Page 39-A.</p> <p>* Addition) ◊ Increase) Decision No. 80553 ◊ Reduction)</p>		
EFFECTIVE		
<p>ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA</p> <p>Correction</p>		