

Decision No. 81247**ORIGINAL**

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. 737
(Filed January 23, 1973)

OPINION AND ORDER

Decision No. 80381 in Case No. 5432, Petition for Modification No. 704, dated August 15, 1972 added Item 318-1 to Minimum Rate Tariff 2 (MRT 2) which sets forth truckload exception ratings of Classes 35.1, 35.2, and 35.3, minimum weights 36,000, 42,000, and 45,000 pounds, respectively, on certain candy and confectionery items.

Petitioner Hershey Foods Corporation is engaged in the manufacture and distribution of candy, confectionery, and related items. Petitioner seeks to amend the provision of the above-mentioned truckload exception ratings to include Cocoa (72520), Chocolate confectionery (39970), Milk & cocoa or chocolate compounds (73790), Flavoring syrup (75170), and Cocoa butter (72540).^{1/}

Petitioner asserts that the favorable transportation characteristics described in Decision No. 80381 are also applicable to the commodities which it here seeks to add to Item 318-1 of MRT 2.

Petitioner alleges that the ratings set forth in Item 318-1 of MRT 2 allow competitors in the confectionery industry to ship mixed truckloads of the items they manufacture and, in turn,

^{1/} The numbers in parentheses refer to the item numbers of the governing classification describing the commodities.

to restrict mixtures of all of the products that petitioner manufactures. Petitioner's shipments are forwarded to customers that purchase a full line of products rather than those limited commodities now published in Item 318-1, MRT 2.

The verified petition shows that copies thereof were mailed to interested parties on January 19, 1973. The petition was listed on the Commission's Daily Calendar of January 24, 1973. No objection to the granting of the petition has been received.

In the circumstances, it appears, and the Commission finds, that the proposed truckload exception ratings are reasonable and that the resulting minimum rates will be just, reasonable, and non-discriminatory minimum rates for the transportation involved. A public hearing is not necessary. The Commission concludes that the petition should be granted.

IT IS ORDERED that:

1. Minimum Rate Tariff 2 (Appendix D to Decision No. 31606, as amended) is hereby further amended by incorporating therein to become effective May 19, 1973, Sixtieth Revised Page 5, Twelfth Revised Page 5-A, Forty-ninth Revised Page 9, and First Revised Page 30-BB 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, are hereby authorized to establish in their tariffs the amendments necessary to conform with the further adjustments ordered herein.

3. 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 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.

4. 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.

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

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

Dated at San Francisco, California, this 10th day of APRIL, 1973.

Vernon L. Stinson
President
William J. Simon
[Signature]
[Signature]
Commissioners

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

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
Candles (M)	377.5, 723-726	*Cocoa Butter	318-1
Candy	318-1, 360	Cocanut, prepared	333.5
Candy coating, other than chocolate	360	Coffee	360
Canned Goods	320-328-1, 620-630	Coffee, extract of (condensed or instant), dry	360
Cans	772	Coffee Substitutes	360
Carriers (used packages), malt or cereal beverage	331	Coloring, Confectioners'	360
Carriers (used packages)	330.6, 331	Columns	318
Carts, Freight	331	Compound, cleaning (M)	377.5, 723-726
Catsup	320-1	Compound, electrical insulating (M)	377.5, 723-726
Cement, pipe fitting (M)	377.5, 723-726	Compound, metal cutting, drawing or drilling (M)	377.5, 723-726
Cereal and Nuts combined	360	Compound, paint thinning (M)	377.5, 723-726
Cereal Food Preparations (M)	360	Compound, pneumatic tire mounting (M)	377.5, 723-726
Channels	318	Compound, radiator cleaning (M)	377.5, 723-726
Cheese	335.5, 335.6, 335.7	Compound, rust preventing or removing (M)	377.5, 723-726
Cheese Foods	335.5	Compound, type cleaning (M)	377.5, 723-726
Chili, ground	320	Compound, waterproofing (M)	377.5, 723-726
Chips, Wood	635-636	Compounds, ammonia	730-732
Chloride of Lime Bleach	730-732	Compounds, antifreeze (M)	377.5, 723-726
Chocolate	318-1, 360	Compounds, burring or polishing	730-732
Chocolate Coating	318-1, 360	Compounds, carbon, gum or sludge removing (M)	377.5, 723-726
Chowders	320	Compounds, Cleaning, Scouring or Washing	730-732
Cider (M)	335.7		
Citrus Fruit Juice Powders or Crystals	360		
Clay, Fire (M)	365		
Coating, candy, other than chocolate	360		
Coating, Chocolate	318-1, 360		
*Cocoa	*318-1, 360		

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

6 Change)
* Addition) Decision No. **81247**

EFFECTIVE

Correction

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

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
Compounds, Flavoring	360	Dairy Products and Related Articles	335.6
Compounds, floor hardening (M)	377.5, 723-726	Deodorants	730-732
Compounds, Food Curing, Preserving or Seasoning	347, 360	Dessert Preparations	360
Compounds, Lard	335.5	Dessert Toppings (M)	335.7
Compounds, Lubricating and cleaning	730-732	Diglycerides of Fat-forming Fatty Acids	335.5
Compounds, Malt or Milk and Chocolate or Cocoa (M)	*318-1, 335.7	Disinfectants	730-732
Compounds, Milk, Cream or Vegetable Oil (M)	335.7	Dough, prepared	336
Compounds, Mud Treating	365	Drain Pipe Solvent	730-732
Compounds or Mud, well drilling	365	Dressing, Automobile Top (M)	377.5, 723-726
Compounds, water softening or purifying	730-732	Dressing, rubber (M)	377.5, 723-726
Concrete products and related articles	334.8	Dressing, Salad	320-1
Conduits, drainage or sewer	330	Dressing, shoe (M)	377.5, 723-726
Confectionery	318.1, 360	Drink, fruit	320
Containers (used packages)	330.6-331	Dry Milk Solids	345
Containers (used packages), malt or cereal beverage	331	Eggs	335.6
Corn	320-1	Egg Yolk	320
Cream, NOX	335.6	Eggs, Shelled	360
Cream, Pasteurized	345	Engines (M)	365
Cream, Sterilized	335.7, 345	Ether (M)	377.5, 723-726
Cream Substitutes	335.7, 345	Exterminators, vermin (M)	377.5, 723-726
Cribbing	334.8	Extracts	360
Cross Arms, wooden	690, 710	Extracts, coffee or tea (condensed or instant), dry	360
Crystals, Citrus Fruit Juice	360	Farina	652-654
Cylinders, Well Pump	365	Feed as described under the heading of "Feed Group" in the Governing Classification, not frozen	652-654
		Feed, Animal	338, 620, 630
		Feed, Animal or Poultry	652-654

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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
Salad Dressing Preparations, dry	360	Solvent (M)	377.5, 723-726
Salads (M)	335.7	Solvent, Drain pipe	730-732
Salads, Fish, Macaroni, Meat or Vegetable	320-1, 360	Soups	320
Salt, common	380	Sour, laundry	730-732
Salt (M)	360	Soybean Milk Compound	320-1
Sandwich Spreads	320-1, 335.7, 345	Spaghetti and Cheese	345
Sauce, pepper	320-1	Spaghetti, except canned	360
Sauces, table	320-1	Spaghetti (prepared)	320
Sausage	320-1	Spaghetti, dry, and other ingredients	345, 360
Sausage casings	320-1	Spices	360
Sawdust, Wood	729	Spreads, sandwich	320-1, 345
Sawmill Refuse	729	Stain, wood (M)	377.5, 723-726
Seeds as described under that heading in the Governing Classification	383, 652-654, 690, 710	Starch	730-732
Shakes	729	Steam Boiler Trucks (M)	365
Shavings, Wood	690, 710	Steel, plate or sheet (M)	365
Sheets, sawdust or ground wood, compressed	690, 710	Steel Wool and Soap, combined (M)	360
Shells, cocoa bean	652-654, 690, 710	Stout	310, 360
Shells, Nut	652-654, 690, 710	Sugar	390-740, 745, 755
Shingles	690, 710	Sugar, beet or cane	390
Shook, box or crate	690, 710	Sugar, corn, sorghum grain or wheat	390
Shortening	335.5	Supplies, Oil, Water or Gas Well	365
Slab, building or roofing	318	Syrup	*318-1, 320-1
Smokestacks (M)	365	Syrup, Malt	360
Soap	730-732	Syrups, flavoring or fruit	*318-1, 335.7
Soap, liquid (M)	377.5, 723-726	Syrups, Fruit	360
Soap, liquid	730-732	Table Sauces	320-1
Soap, powder	730-732	Tankage	759
Sodium Hypochlorite Solution	730-732	Tanks, steel (M)	365
Softeners, textile	730-732	Tapioca	360
Solids, Milk, Cream, Butter-milk or Dry Milk (M)	335.7		

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SECTION 1--RULES OF GENERAL APPLICATION (Continued)		ITEM
EXCEPTIONS TO GOVERNING CLASSIFICATION AND EXCEPTION RATINGS TARIFF (Continued)		
(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.)		Class Rating
<p>CANDY OR CONFECTIONERY, other than hollow molded, and RELATED PRODUCTS, viz.:</p> <p>(1) Candy or Confectionery, NOI (39970);</p> <p>(2) Chocolate Candy or Confectionery, NOI (39970):</p> <p>Chocolate (39990);</p> <p>Coating, chocolate (40015);</p> <p>*Cocoa (72520);</p> <p>*Cocoa Butter (72540);</p> <p>*Milk and Chocolate or Cocoa Compounds (73790);</p> <p>(1) Milk Chocolate Candy or Confectionery, NOI (39970):</p> <p>*Syrup, flavoring (75170).</p> <p>(2) Subject to Note 1.</p> <p>Truckload (Subject to Notes 2 through 10):</p> <p>Minimum Weight 36,000 pounds-----</p> <p>Minimum Weight 42,000 pounds-----</p> <p>Minimum Weight 45,000 pounds-----</p> <p>NOTE 1.--The notes in Items 39976 and 39978 of the Governing Classification do not apply in connection with shipments transported under provisions of this item.</p> <p>NOTE 2.--Applies only when all provisions of the following notes are met. Otherwise provisions of this tariff or the Governing Classification shall apply.</p> <p>NOTE 3.--Applies only in connection with a straight or mixed shipments of commodities named in this item.</p> <p>NOTE 4.--Applies only in connection with shipments having a density of 20 pounds or greater per cubic foot. (NOTE--Cubic displacement will be determined by multiplying the lineal feet utilized in carrier's equipment by height by width thereof. This result will be divided into the total weight loaded to determine density per cubic foot.)</p> <p>NOTE 5.--Will not apply when temperature control service is provided.</p> <p>NOTE 6.--Rates resulting from application of the provisions of this item may not be used in combination with any other rates.</p> <p>NOTE 7.--An allowance of 5 minutes per ton (based on the weight on which transportation charges are computed) will be provided for loading. Time shall be computed from the time of arrival of carrier's equipment at place of loading until loading is completed and equipment is released. Excess loading time shall be charged for at the rates provided in Item 145 herein.</p> <p>NOTE 8.--When the entire shipment cannot be loaded on a single unit of carrier's equipment, the initial lot transported on one unit of equipment at one time is subject to a minimum weight of 45,000 pounds and the actual weight of the remaining or following lot or lots shall be charged for at the 35.1 rate applicable herein.</p> <p>NOTE 9.--Applies only in connection with prepaid shipments released to a value of 50 cents per pound, per article. Shipper must enter the following statement on the bill of lading:</p> <p style="padding-left: 40px;">"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 declines or fails to declare such value in writing, the provisions of this item will not apply.</p> <p>NOTE 10.--The provisions of this item will not apply in connection with split pickup shipments.</p>		<p>35.1</p> <p>35.2</p> <p>35.3</p> <p>#00</p> <p>318-1</p>
Change * Addition ♦ Increase ◊ Reduction))))	Decision No. 81247
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