

Decision No. 81560

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
commodities 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. 748
(Filed May 14, 1973)

OPINION AND ORDER

Thomas J. Lipton, Inc., petitioner, is engaged in the business of manufacturing and distributing grocery and foodstuff products, including soup ingredients. This latter product is shipped by petitioner from its plant located in Santa Cruz to various points within California.

The transportation of petitioner's soup products is subject to the Commission's statewide minimum rates and regulations named in Minimum Rate Tariff 2 (MRT 2). The tariff provides distance class rate scales applicable to general commodities for which specific class ratings are named in the governing National Motor Freight Classification A-13 (NMFC A-13). Item 74800 of NMFC A-13 presently names a less-truckload rating of Class 60 and a truckload rating of Class 35, minimum weight 36,000 pounds for:

"Soup Ingredients (Soup Mix), consisting of dry vegetables and other ingredients, mixed, in bags, barrels or boxes..."

In Items 360 - 360.5 of MRT 2, group commodity ratings of Class 55, minimum weight 20,000 pounds, and Class 35, minimum weight 30,000 pounds, for groceries and grocer's supplies, as described in the tariff items, are provided as exceptions

to the otherwise applicable class ratings named in the governing NMFC A-13. Petitioner requests that the exception ratings for groceries and grocer's supplies contained in Items 360 - 360.5 of MRT 2 be now made applicable to soup ingredients as described in Item 74800 of the governing classification.

Petitioner states that it ships soup ingredients in mixed less-truckload and truckload lots with products presently ratable under Items 360 - 360.5 when such mixed shipments are transported in 20,000- or 30,000-pound lots. The soup ingredients presently take the higher NMFC A-13 class ratings.

Petitioner contends that the shipping characteristics of its soup ingredients are similar to or superior to those commodities presently enjoying the sought reduced exception ratings. The petitioner states that soup ingredients have a weighted average density of 32 pounds per cubic foot and a weighted average value of 75 cents per pound. The product is not perishable, requires no temperature control service or other special handling, and has no peculiar characteristics which make it susceptible to damage or theft. The product competes in the same market areas and is subject to similar California intrastate distribution patterns as groceries and grocers' supplies as described in Items 360 - 360.5 of MRT 2.

In Exhibits A and B attached to the petition, commodities are listed which are currently named in Items 360 - 360.5 of the tariff and which are subject to the same or higher truckload class ratings in NMFC A-13 than presently applicable to soup ingredients. A summary of the comparative lists of commodities follows:

Products in Item 360 Series Taking Class 35 TL Rating

<u>NMFC A-13 Item No.</u>	<u>Description of Products</u>	<u>TL Rating</u>
72140	Beverage Preparations, Dry	35
73240	Meat Substitutes	35
72760	Dessert Preparations	35
73730	Macaroni, Noodles, Rice Except Canned	35

Products in Item 360 Series Taking TL Ratings
Higher Than Class 35

<u>NMFC A-13 Item No.</u>	<u>Item 360 Description</u>	<u>TL Ratings</u>
21190	Bakery Goods	55
39970	Candy or Confectionery	40
73200	Food Prepared	45
50026	Colorings, Confectioners	40

Petitioner believes that its rate proposal is responsive to the needs and desires of affected parties and is consistent with recognized Commission policy. In the circumstances it is requested that the sought revision of Items 360 - 360.5 be granted by ex parte order.

Copies of Petition No. 748 were furnished to various shippers, highway carriers, and shipper and trucking associations. The petition was also listed in the Commission's Daily Calendar for May 15, 1973. A Commission Transportation Division staff analysis of the petition indicates that the sought relief may be granted by ex parte order. The California Trucking Association has also informed the Commission that it has no objection to ex parte consideration of this matter. No objection to the granting of the petition has been received.

In the circumstances, the Commission finds that the establishment of the proposed exception ratings for soup ingredients are reasonable and that the resulting rates will be just, reasonable, and nondiscriminatory minimum rates for the transportation involved. A public hearing is not necessary. The Commission concludes that Petition for Modification No. 748 in Case No. 5432 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 August 2, 1973, Forty-third Revised Page 6 and Second Revised Page 37-CCC, 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 fifth day after the effective date of this order, and may be made effective on not less than five 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 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. 5432, Pet. 748 mz

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 3rd
day of JULY, 1973.

James L. Stinson
President
William L. Stinson
James L. Stinson
James L. Stinson
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
Figs, powdered	350	Girders	318
Fire Brick (M)	365	Glucose	360
Fire Clay (M)	365	Grain as described under the heading of "Grain Group" in the Governing Classification	652-654½
Fish (animal feed)	338	Grain Products as described under the heading "Grain Products" in the Governing Classification	652-654½
Fish, cooked, pickled or preserved	320, 345	Grate Bars	365
Fish, fresh, frozen	775	Grit, processed from rock or shell	652-654½
Fish, other than fresh or frozen	360	Groceries and Grocers' Supplies	360
Fish Roe	320	Gum, Chewing	360
Fittings, Pipe, Iron or Steel	365, 378	Hominy	320-1
Flavoring Compounds	360	Honey	320, 360
Flour, Bean	652-654½	Horseradish	360
Flour, cooked	339	Horseradish, prepared	320-1
Flour, edible	360	Hulls, cocoa bean	652-654½
Flour, gelatinized	339	Hulls, cottonseed	652-654½
Flour, Grain	339	Hulls, Nut	652-654½
Flour, Potato	339, 652-654½	Hulls, sunflower	652-654½
Flour, prepared, edible	339, 652-654½	Hulls, whole or ground	652-654½
Flour, Rice	339, 652-654½	Ice	660
Flour, Soybean	339	Ice Cream	335.6
Flour, Tapioca	652-654½	Icings	360
Flues, Boiler	365	*Ingredients, Soup (Soup Mix) dry	360.5
Fondant, Candy	360	Insecticides (M)	377.5, 723-726
Food, Baby	320	Iron, plate or sheet (M)	365
Food, Cereal	360	Jam	320
Food, Milk, other than malted, liquid	320	Jelly	320
Food, prepared	360	Joints, Sucker Rod	365
Food Preparations, Cereal (M)	360	Joists	318
Foodstuffs for human consumption	345, 620, 630	Juice, Apple (M)	335.7
Fruit (not dried, evaporated nor fresh)	320	Juice, citrus fruit (M)	335.7
Fruit, candied, crystallized, glazed or stuffed	360	Juice, Clam	320
Fruit, crushed	320	Juice, Fruit	320, 335.7
Fruits, dried or evaporated	350	Juice, grape (M)	335.7
Fruit Drink	320	Juice, prune (M)	335.7
Fruit Juice Powders or Crystals, Citrus	360	Lard	335.5
Fruit Peel, candied, crystallized, glazed or stuffed	360	Lard Compounds	335.5
Fruit Syrups	360	Lard Substitutes	335.5
Fuel, Wood	729		
Gardening or Landscaping Products	370		
Garlic Chips	320		
Garlic Powder	320		
Gas, petroleum liquefied	377.5, 723-726		
Gears, running, steam boiler (M)	365		
Gelatine	360		
Generators, Electric (M)	365		
Germ, wheat	652-654½		

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

* Addition, Decision No. **81560**

EFFECTIVE

Correction

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

SECTION 1--RULES OF GENERAL APPLICATION (Continued)		ITEM
<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>GROCERIES AND GROCERS' SUPPLIES, viz.: (Items 360 and 360.5)</p> <p>Macaroni, Noodles, Rice, Spaghetti or Vermicelli, except canned (73730 or 73750)</p> <p>Malt Syrup (75180)</p> <p>Meat, other than fresh (134620, 134640, 134660, 134680, 134760, 134800 or 134890)</p> <p>Milk, malted (73860)</p> <p>Mustard (74150 or 74710)</p> <p>Nuts, edible, shelled, plain, salted or sweetened (141660, 141760, 141780 or 141820)</p> <p>Popcorn, not popped (89150)</p> <p>Popped Corn (74380) (subject to Notes 1 and 2)</p> <p>Potatoes, cooked and powdered, other than frozen (74445 or 74450)</p> <p>Potato Chips (74480) (subject to Notes 1 and 2)</p> <p>Powder, Baking (72040)</p> <p>Rice, dry, cooked, with seasoning and dry vegetable or other dry ingredients (74570)</p> <p>Sago or Tapioca (74600)</p> <p>Salads, Fish, Macaroni, Meat or Vegetable (74640)</p> <p>Salad Dressing Preparations, dry (74620)</p> <p>Salt (46260 or 74660) (subject to Note 1)</p> <p>*Soup Ingredients (Soup Mix), consisting of dry vegetables and other ingredients, mixed (74800)</p> <p>Spices (71520, 71560, 71570, 170720, 170740, 170760, 170780, 170800, 170820, 170840, 170860, 170880, 170900, 170920, 170940, 170960, 170980, 171000, 171020, 171040, 171140, 171160, 171180, 172830, 172970, 172990, 173010, 173110, 173170, 173190, 173210, 173230, 173370, 173490, 173510, 173620 or 173780)</p> <p>Tea (75240)</p> <p>Tea, extract of (condensed or instant), dry (73600)</p> <p>Wax, Laundry Compound (196740)</p> <p>Yeast or Yeast Powder (75470, 75480 or 75490)</p> <p>Minimum Weight 20,000 pounds -----</p> <p>Minimum Weight 30,000 pounds -----</p> <p>NOTE 1.--Ratings shown apply only when commodities subject to this note are shipped in mixed shipment with one or more other commodities named in this tariff item.</p> <p>NOTE 2.--Ratings shown apply only when the weight of the commodities subject to this note does not exceed 5 percent of the total weight of the shipment.</p> <p>NOTE 3.--Ratings shown apply only when the weight of the commodity subject to this note does not exceed 10 percent of the total weight of the shipment.</p>		<p>360.5</p> <p>55</p> <p>35</p>
<p> * Change) * Addition) Decision No. ** Eliminated) </p> <p align="center">81560</p>		
EFFECTIVE		
<p>Correction</p> <p align="right">ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p>		