

Decision No. 89415 SEP 19 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
for the purpose of considering and)
determining minimum rates for)
transportation of any and all)
commodities statewide including,)
but not limited to those rates which)
are provided in Minimum Rate Tariff)
2 and the revisions or reissues)
thereof.)

Case No. 5432
Petition for Modification
No. 1006
(Filed December 30, 1977)

Knapp, Stevens, Grossman & Marsh by David P. Christianson, Attorney at Law, for Huffy Corporation, petitioner.
William R. Haerle, Attorney at Law, for California Trucking Association, protestant.
John F. Specht, for the Commission staff.

O P I N I O N

Minimum Rate Tariff 2 (MRT 2) names minimum rates and rules for the transportation of general commodities by highway carriers. By this petition Huffy Corporation (Huffy) seeks establishment of an exception rating as follows:

"Bicycles, children, KD, front wheel detached, and/or over 6 #/cubic foot density, class 85 LTL.

"Bicycles, NOI, KD, front wheel detached, and/or over 6 #/cubic foot in density, class 85 LTL.

"Note 1 - Consignor will mechanically load carrier's equipment.

"Note 2 - Will apply on shipments of 500# or more,

"Note 3 - Will not apply when split pickup or split delivery provisions are utilized."

The National Motor Freight Classification provides LTL ratings as follows:

Item 188590 Bicycles, Childrens KD Class 100
Item 188610 Bicycles, NOI Class 125.

Public hearing was held before Administrative Law Judge O'Leary at Los Angeles on June 20, 1978. The matter was submitted with the filing of written closing statements by petitioner and protestant on June 30, 1978. The Commission staff has chosen not to file a closing statement.

Huffy is a manufacturer of virtually all types of children's bicycles and adults' bicycles. The majority of its products are sold to national and regional mass merchandisers, department stores, and major retailers. Huffy has developed a new bicycle packaging method which it calls short pack to reduce costs of freight handling, warehousing, and to increase the efficiency of carrier operations. The short pack requires that the front wheel be detached from the frame and set beside the bicycle, additional protective inserts and retainers are placed inside the carton to secure the front wheel and the bicycle frame steady in the carton. The short pack concept has reduced the size of bicycle cartons by approximately one-third and has increased the density of the package by approximately 50 percent.

Representatives of three retail outlets who sell bicycles manufactured by Huffy testified in support of the petition. Representatives of two motor carriers who perform transportation for Huffy testified that the short pack has resulted in increased revenue per cubic foot and a reduction in expense.

Fourteen motor carriers have established the Class 85 rating for shipments moving in interstate commerce through independent action.

The California Trucking Association (CTA) presented evidence that the National Classification Board has filed a proposal to be effective not earlier than September 16, 1978 in the National Motor Freight Classification which will provide a LTL class rating of 100 for bicycles having a density of six pounds per cubic foot, but less than 12 pounds per cubic foot. CTA also presented evidence that the Class 85 rating was rejected by rate bureaus and it was necessary for motor carriers to take independent action to establish the Class 85 rating for shipments moving in interstate commerce.

CTA argues that by Decision No. 67610 dated July 28, 1964 (63 Cal PUC 170), the Commission set down guidelines for the establishment of future exception ratings as follows:

"In connection with future classification changes, it would be appropriate for shippers and carriers to refer their requests initially to the National Classification Board."

* * *

"Initial referral of requests for classification changes to the National Classification Board will tend to keep the classification uniform, up-to-date and responsive to the needs of all shippers and carriers and will tend to prevent discrimination from maintenance of different ratings in different areas."

CTA alleges Huffy has failed to follow the dictates of Decision No. 67610 and has filed its initial request for an exception rating with this Commission. The record herein discloses that the proposal of Huffy has been referred to the National Classification Board and has been rejected by it. The record does not disclose who referred the matter to the National Classification Board; however, that is not important. The important consideration is that the proposal has been referred to the National Classification Board prior to coming to this Commission. CTA further argues that this Commission has repeatedly required that it must be shown that transportation circumstances in California intrastate traffic justify the requested rating or exception and cites the following in support of said argument:

"Lower less-carload ratings established elsewhere does not show California ratings are unreasonable. The fact that less-carload ratings lower than those applicable in California had been established voluntarily by motor carriers elsewhere did not constitute a showing that the California rating was unreasonable or improper." In re Rating on Certain Paint Material (1954) 53 Cal PUC 211.

"We have stated many times that to establish an exception rating it must be shown that the transportation characteristics or conditions in California intrastate traffic of the item in question are different than elsewhere, or that the characteristics are similar to many other articles presently enjoying the sought rating." Cal PUC Decision No. 65639, July 2, 1963.

In the instant proceeding, Huffy has demonstrated that not only has the lower LTL rating been established elsewhere, but the short pack is a more efficient package in that it is a smaller package with increased density which results in increased revenue per cubic foot and a reduction in expense for motor carriers. New packaging concepts such as the one developed by Huffy should be encouraged and when developed should reflect lower classification ratings which result in lower freight rates per individual package shipped. It is hoped that the savings realized by the shipper in such lower freight rates will be passed along to the ultimate consumer so that the inflationary spiral will be curbed to some degree.

CTA points out that restricting the sought rating to a minimum of 500 pounds or more is irrelevant since shipments weighing less than 500 pounds would be subject to the minimum charge provisions in MRT 2. We agree that such a restriction is irrelevant.

Findings

1. The National Motor Freight Classification provides LTL ratings as follows:

Item 188590 Bicycles, Childrens KD Class 100
Item 188610 Bicycles NOI Class 125

2. Huffy is a manufacturer of virtually all types of children's and adults' bicycles.

3. Huffy has developed a new bicycle packaging method which it calls short pack.

4. The short pack has reduced the size of bicycle cartons by approximately one-third and has increased the density of the package by approximately 50 percent.

5. The short pack results in increased revenue per cubic foot of space utilized and a reduction in expense for motor carriers.

6. Fourteen motor carriers have established the Class 85 rating in interstate commerce through independent action.

7. The restriction that the rating apply only to shipments weighing 500 pounds or more is irrelevant since such shipments will be subject to the minimum charge provisions in MRT 2.

8. The proposal of Huffy should be amended to delete the word "or" so that the rating will apply only when the front wheel is detached and the bicycle is over six pounds per cubic foot in density.

9. Huffy's proposal, as amended, pursuant to Findings 7 and 8 is reasonable and the resulting rates will be just, reasonable, and nondiscriminatory minimum rates and charges for the transportation involved.

The Commission concludes that the petition should be granted.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 2 (Appendix D to Decision 31606, as amended) is further amended by incorporating therein, to become effective thirty-nine days after the date hereof, Fiftieth Revised Page 4 and Ninth Revised Page 30-A, attached hereto and by this reference made a part hereof.

2. Common carriers subject to the Public Utilities Act, to the extent 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 ninth day after the effective date of this order, and may be made effective on not less than five days' notice to the Commission and 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 by this order, are authorized to depart from the provisions of Section 461.5 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 thirty days after the date hereof.

Dated at San Francisco, California, this 19th day of SEPTEMBER, 1978.

William J. Synovis, Jr. President
Thomas L. Stinson
Robert W. Howell
Clare L. Dickrid Commissioners

Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.

MINIMUM RATE TARIFF 2

INDEX OF COMMODITIES

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
Acid, Acetic (M)	325, 820	Bars, truss (iron or steel)	760,764,765
Acid, Boracic	730-732	Bases, post (iron or steel)	760,764,765
Acrylate, isobutyl (M)	325, 320	Bath, bubble (M)	340, 840
Adhesive Cements (M)	395-397,880	Batteries, electric storage (M)	377.5,723-726
Adhesive Glues (M)	395-397, 380	Beams, reinforced concrete	813
Adhesive Pastes (M)	395-397, 880	Beams, iron or steel	760, 764, 765
Adhesives (M)	325,340,820,840	Bean Dip (M)	335.7
Adhesives, NOI	801	Beans, Castor	652-6544
Advertising Matter (M)	395-397,880	Beans and Pork	320-1
Air Compressors (M)	365	Beers	310,360,810
Alcohols (M)	325, 820	Belts (M)	365
Als	310,360,810	Beverage Containers	330
Alfalfa, chopped and pressed, dried	652-6544	Beverage Preparations	335.7,360
Ammonia, cleaning	730-732	Beverages	316,360
Amyl Acetate (M)	325, 820	Beverages, flavored (M)	335.7
Animal Feed	338,620,630	Beverages, Malt or Cereal	310,810
Angles, iron or steel	760,764,765	Billets, iron or steel	760,764,765
Anvils (M)	365	Bibb Cocks	365
Apples, dried	350	*Bicycles	316.5
Arms, Cross, wooden	695	Bits, Drilling	365
Articles, concrete or tile	318	Bleach, Laundry	730-732
Articles, iron or steel	760,764,765	Blocks, building	334.3, 823
Articles, paper	770	Bluing, Laundry (M)	360
Articles, plastic (M)	395-397,880	Boards, Sawdust or ground wood	685,690,691,710, 715
Articles, rubber (M)	395-397,880	Boards, wall (Plaster boards)	762, 767
Articles, zinc (M)	395-397,880	Boiler Flues; Boiler Parts (M); Boilers (M); Boiler Tubes	365
Asbestos, Lumber	761,767	Bolts	760,764,765
Asbestos, Millboard	761,767	Booklets (M)	395-397, 880
Asbestos, Ridge Roll	761,767	Books (M)	395-397, 880
Asbestos, Roofing or Sheathing	761,767	Books, School Textbooks	317
Asphalt (Asphaltum) (M)	762,767	Bowls (M)	395-397, 880
Asphalt or Asphalt Base Paving Joints	761,767	Boxes, Planter	758
Asphalt Shingles, coated or not coated	761,767	Boxes, Fibreboard, paper, paperboard or pulpboard	770
Asphalt Flooring Compound, solid	761,767	Boxes or Crates	685,690,691,710, 715
Asphalt, Liquid	377.5,723-726	Braces, Cross, wooden	695
Asphaltic Sewer Pipe Joints	761,767	Braces, iron or steel	760,764,765
Asphalt, Solid	303	Brake fluid (M)	325, 820
Atmospheric Water Cooling Towers	365	Brandy	360
Bags, traveling (M)	395-397,880	Breads	320
Bags, bowling ball or bowling shoe (M)	395-397,880	Brine	320
Bakery Goods	335.7,360	Broths	320
Bananas, powdered	350	Brushes (M)	395-397, 880
Bands, iron or steel	760,764,765	Buffing or Polishing Compounds (M)	325, 820
Bark	370, 360	Bushes, Rose	843
Barrels, Pump Working	365	Butter	335.5
Bars, Grate (iron or steel)	365	Butter, Fruit	320
Bars, plain, corrugated, twisted or bent (iron or steel)	760,764,765	Butter, Peanut	320-1
		Buttermilk	320,345
		Butts, steel	362

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

* Addition, Decision No. **89415**

EFFECTIVE

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

Correction

SECTION 1--RULES OF GENERAL APPLICATION (Continued)		ITEM
<p style="text-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>ASPHALT (Asphaltum), natural, by-product or petroleum, solid (15240), in containers not exceeding 55 gallon capacity.</p> <p>Minimum Weight 20,000 pounds----- Minimum Weight 30,000 pounds----- Minimum Weight 36,000 pounds----- Minimum Weight 40,000 pounds-----</p>	59.1 35 35.1 35.3	303
<p>BEVERAGES, malt, viz.: Ale, Beers, Porter, Stout or nonintoxicating cereal beverage (111470)</p> <p>Less truckload----- Truckload: Minimum Weight 40,000 pounds-----</p>	55 35.3	310
<p>BEVERAGES, flavored or phosphated, NOX, not including extracts, syrups, alcoholic liquors and dealcoholized or nonalcoholic cordials and liqueurs; in metal cans in boxes (72160), subject to Notes 1, 2 and 3:</p> <p>Truckload: Minimum Weight 45,000 pounds-----</p> <p>NOTE 1.--The provisions of this item will not apply to shipments which are subject to charges for Temperature Control Service.</p> <p>NOTE 2.--If more than one vehicle or combination of vehicles constituting a single unit of carrier's equipment is used for the transportation of a single shipment, each such vehicle or combination of vehicles shall be subject to the highest minimum weight applicable to any rate used in computing charges.</p> <p>NOTE 3.--The provisions of this item apply only in connection with shipments loaded by consignor and unloaded by consignee with power equipment, furnished and used without expense to the carrier. Physical assistance of the carrier employee is restricted to work within or on carrier's equipment and does not include stacking, unstacking, removal or placement of merchandise on pallets.</p>	35.3	316
<p>BICYCLES, viz.:</p> <p>Children's, KD, with front wheel detached from frame, NOX, KD, with front wheel detached from frame,</p> <p>Less truckload, subject to Notes 1 through 3-----</p> <p>NOTE 1.--In boxes weighing over 6 pounds per cubic foot in density.</p> <p>NOTE 2.--Consignor will mechanically load carrier's equipment.</p> <p>NOTE 3.--Will not apply when split pickup or split delivery provisions are utilized.</p>	85	*6 316.5
<p>BOOKS, viz.: School textbooks, prepaid, shipped by, or for the account of, the State of California (161560)</p> <p>Truckload: Minimum Weight 45,000 pounds-----</p>	35.2	317
<p>* Addition) O Reduction) Decision No. 89415</p>		
EFFECTIVE		
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.		
<p>Correction</p>		