

Decision No. 46434

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) Case No. 4808
 carriers and city carriers relating)
 to the transportation of property.)

ORIGINAL

Appearances

Eugene A. Read, for petitioner, Oakland Chamber of Commerce.
 Jack Clodfelter, P. N. Kujachich, S. A. Moore, John A. O'Connell, Allen K. Pentilla, Walter A. Rohde, James L. Roney and A. F. Schumacher, for various shippers and shipper organizations.
 Jefferson H. Myers, for State Board of Harbor Commissioners for Port of San Francisco.
 Daniel W. Baker, Edward M. Berol, Russell Bevans, Frank M. Chandler, George T. Hurst, William Meinhold, C. R. Nickerson and F. G. Pfrommer, for various carriers and carrier organizations.

SUPPLEMENTAL OPINION

Decision No. 46022 of July 31, 1951, in this proceeding, establishes Distance Table No. 4. The new distance table is to become effective January 1, 1952. It revises, on a state-wide basis, the constructive mileages used in determining minimum rates under various highway carrier tariffs issued by the Commission. Highway Carriers' Tariff No. 2 (general commodities) and Highway Carriers' Tariff No. 8 (fresh fruits and vegetables) provide that the average of the constructive miles from or to San Francisco and Oakland supersedes the specific mileages from or to those cities. As the tariffs now stand, the averaging provisions are limited to points more than

70 miles distant from both San Francisco and Oakland. Decision No. 46022 found that this limitation should be reduced to 40 miles effective January 1, 1952. The adjustments in Tariffs Nos. 2 and 8 were made by Decisions Nos. 46028 and 46024, respectively.

By petition filed September 4, 1951, Oakland Chamber of Commerce seeks reconsideration of Decision No. 46022 and modification of that decision. Petitioner urges that the 70-mile equalization limitation be retained and that the present Oakland-San Jose rates be continued in effect until further studies develop current highway and traffic conditions between San Francisco and Oakland on the one hand and San Jose on the other.

Public hearing on the petition was held at San Francisco on October 29, 1951, before Examiner Mulgrew.

The mileage and rate adjustments assailed by petitioner stem from certain exceptions to the examiner's proposed report filed in this proceeding prior to the issuance of Decision No. 46022. These exceptions were submitted by the San Francisco Chamber of Commerce and other shipper interests affected by the San Francisco mileages and rates. They claimed that adoption by the Commission of the increased mileages and rates between San Francisco and San Jose as recommended by the examiner, without corresponding adjustments in Oakland-San Jose mileages and rates and in Santa Clara mileages and rates, would disrupt long-standing rate equality and cause unwarranted diversion of traffic away from San Francisco. In Decision No. 46022 the Commission said that the need for continuing this rate equality had not been disputed and that this might be achieved by reducing the 70-mile average limitation to 40 miles. It also said that by such action rate equality would be maintained or achieved from and to other similarly located points. It reduced the average distance provisions accordingly.

At the hearing held on the Oakland Chamber's petition for modification of Decision No. 46022, that Chamber and the San Francisco Chamber, as well as the shippers which had filed the exceptions to the examiner's proposed report and other interested parties, submitted additional evidence. Shipper witnesses from both sides of the bay agreed that reduction of the 70-mile limitation would disrupt the use of long-established traffic channels and disturb delicately balanced competitive situations. The Draymen's Association of Alameda County supported the position of the Oakland Chamber. Otherwise, carrier respondents took no position in the matter. They participated in the hearing only to the extent of cross-examining the witnesses. None of the parties asked that the 40-mile provision be allowed to become effective. In the light of the additional evidence thus incorporated in the record and in view of the unanimity of opinion on this point, the 70-mile limitation should be retained as urged by petitioner.

The issues are thus narrowed to the question of the mileages and rates between San Francisco and Oakland on the one hand and San Jose and Santa Clara on the other. The adjustments in mileages by Distance Table No. 4 are as follows:

San Francisco-San Jose	Increased from 49.5 to 51.0 miles
Oakland-San Jose	Reduced from 45.0 to 44.5 miles
San Francisco-Santa Clara	Increased from 46.5 to 48.0 miles
Oakland-Santa Clara	Reduced from 44.0 to 43.5 miles.

The Highway Carriers' Tariff No. 2 class rates on general commodities between these points which particularly concern the shippers are accordingly those in the mileage brackets "over 40 but not over 45 miles," "over 45 but not over 50 miles," and "over 50 but not over 60 miles." The Distance Table No. 4 adjustments would change the applicable mileage bracket and in turn revise rates only in the case of the San Francisco-San Jose traffic. For that traffic

the rates would be raised from the 45-to-50 to the 50-to-60 mile basis.

The San Francisco Chamber supported by the Cannery League, the Dried Fruit Association and other shipper interests, strenuously opposed increasing the San Francisco-San Jose rates. According to their witnesses, rail rates between San Jose and San Francisco and Oakland were on a parity for many years. This parity still generally prevailed, they said, in the case of carload rail rates. It has been departed from in less-than-carload and less-than-truckload class rates and in truckload rates as a result of the establishment of minimum rates on a mileage basis by the Commission.

The San Francisco witnesses claimed that the differences in the mileage rates established to become effective January 1, 1952, were not justified by highway and traffic conditions; that constructive mileage and cost determinations necessarily involved the exercise of judgment by those making the studies upon which these determinations were based; and that it was highly questionable that higher rates from San Francisco than from Oakland were warranted on a mileage and cost basis. They challenged the propriety of the revised mileages and particularly the relationships between San Francisco and Oakland distances. They cited various instances of recent highway improvements between San Francisco and San Jose. In short, they in effect joined the Oakland Chamber in urging that further studies be made to develop current highway and traffic conditions between these points.

Additionally, the San Francisco shippers asserted that strict adherence to distances and to distance rates was not advisable where such action would interfere with shippers' free choice of available port facilities and their long-established marketing procedures. They urged, therefore, that rate parity be established between San Francisco and Oakland on the one hand and San Jose and

Santa Clara on the other. They suggested that this might be accomplished by the establishment of point-to-point rates as an exception to the mileage rate schedules. They said further that widening of the differences between San Francisco and Oakland rates would create further and unwarranted handicaps for the San Francisco shippers and unduly discriminate against them.

Representatives of the Cannery League and of the Dried Fruit Association pointed out that canned goods and dried fruit are subject to 5th class truckload rates and that by increasing the San Francisco-San Jose mileage to 51 miles the 5th class rate applicable between those points would be raised from 13 to 15 cents per 100 pounds. They also pointed out that 13-cent 5th class rates now apply between Oakland and San Jose and between both San Francisco and Oakland and Santa Clara and that these rates would not be affected by the revised mileages.

The canners and dried fruit shippers insisted that rate equality for their San Francisco and Oakland traffic originating in the San Jose-Santa Clara area be maintained. The canners urged that this equality extend to all rates for canned goods, truckload and less-than-truckload. The dried fruit shippers indicated that, while they were not opposed to such parity and in fact considered it desirable, they would be satisfied with continuance of the present rates for truckload dried fruit movements. It was brought out that the heavy movement of canned goods and dried fruit to San Francisco terminates along or near the San Francisco waterfront and that from San Jose these locations are more accessible and less distant than the 10th and Market San Francisco location on which the Commission's constructive mileages from and to San Francisco are based. They urged that commodity rates on a point-to-point basis be established for their traffic.

The Oakland Chamber and the Oakland shippers, on the other hand, objected to rates on different bases than those resulting from application of the new distance table provisions. They argued that point-to-point rates not reflecting constructive distances would provide an artificial rate adjustment and that such an adjustment would be unwarranted and improper. They said that, while between other points the new distance table would result in more reductions for the San Francisco than for the Oakland shippers, they nevertheless believed that the mileage basis should be adhered to.

Further examination of the staff witness who recommended the adoption of the new distances shows that the San Jose and Santa Clara mileages in question were developed by the department's engineers in the same manner as the mileages between other points. It may well be that changed highway and traffic conditions experienced subsequent to the department's studies would indicate that some revisions in the constructive mileages should be made. However, the distances are interrelated and may not effectively be restudied and further adjusted on a piecemeal basis. State-wide mileage studies, because of their scope and the attending expense, may be undertaken only at reasonably spaced intervals. To keep the mileages abreast of all developments in highway and traffic conditions is not feasible. The parties recognize that competitive influences require attention in making rate determinations. Here it is clear that competitive influences are unusually strong.

As noted at the outset of this supplemental opinion, the provisions authorizing the averaging of the constructive mileages from or to San Francisco and Oakland are confined to the general commodity and the fruit and vegetable minimum rate tariffs (Highway Carriers' Tariffs Nos. 2 and 8, respectively). These tariffs cover

the traffic where the severity of the competition has justified rates deviating from strict adherence to the distance basis.

For transportation under commodity rates provided by other tariffs issued by the Commission, no need has been established for equalizing San Francisco and Oakland mileages and rates. Moreover, on this record it has not been shown that the commodity rates in Highway Carriers' Tariffs Nos. 2 and 8 for distances of less than 70 miles cover traffic where the conditions and circumstances, and particularly the competitive situation, are similar to those surrounding the class-rate traffic moving between San Francisco and Oakland on the one hand and San Jose and Santa Clara on the other. The record fails to establish that any adjustment of commodity rates is justified.

Higher rates between San Francisco and San Jose than between Oakland and San Jose on most class-rate traffic have been in effect over a period of many years. Similarly the equality of 5th class rates under which the substantial movement of canned goods and dried fruit is handled has been in effect for a long time. The differentials in rates between San Francisco and Oakland and the equality of 5th class rates have apparently provided reasonable rate relationships in the face of the competitive influences surrounding the traffic. These arrangements should not now be disturbed on the strength of the record as supplemented herein. The present class rate levels should be continued in effect until such time as changes therein are shown to be necessary and advisable by clear and convincing evidence supporting proposed revisions. When any interested party is prepared to submit recommended rate adjustments and to present evidence in support thereof, an appropriate petition may be filed. In view of the highly competitive nature of the traffic

involved and as a convenience to the tariff users the rates in question will be established as point-to-point class rates.

By another order issued today in this proceeding the routing provisions in connection with point-to-point rates in Tariff No. 2 are being modified and clarified. The routing for the newly established San Jose and Santa Clara rates will be incorporated in that decision so as to avoid unnecessary tariff duplication.

Likewise, the 70-mile averaging provisions in Highway Carriers' Tariff No. 8, involving fruits and vegetables, will be continued in effect by a separate order to avoid duplication of tariff distribution.

The Oakland Chamber of Commerce on October 15, 1951, filed a request for oral argument before the Commission in bank upon the completion of the hearing on its petition of September 4, 1951. None of the other parties desired oral argument. In view of our conclusions herein, there appears to be no need for oral argument. The request will be denied.

Upon consideration of all of the facts and circumstances of record, we are of the opinion and hereby find that the provisions of Highway Carriers' Tariff No. 2 should be revised to the extent hereinbefore indicated and as provided in the order which follows; and that, in all other respects, proposals and recommendations considered herein are not justified.

ORDER

Based on the evidence of record and on the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that the first ordering paragraph of Decision No. 46028 of July 31, 1951, in this proceeding, be and it

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
*100-E Cancels 100-D and 100-C	<p style="text-align: center;">COMPUTATION OF DISTANCES</p> <p>(a) Distances to be used in connection with distance rates named herein shall be the shortest resulting mileage via any public highway route, computed in accordance with the method provided in the Distance Table, subject to the following exceptions:</p> <p>1. Distances from or to points located within zones described in Item No. 260 series shall be computed from or to the mileage basing points designated in connection with such descriptions.</p> <p>2. From points of origin or to points of destination more than *70 miles distant from both the San Francisco and the Oakland pickup and delivery zones (computed in accordance with the method hereinabove provided), distances from points of origin or to points of destination located within the San Francisco pickup and delivery zone or located within the Oakland pickup and delivery zone shall be the average of the distances from or to the San Francisco pickup and delivery zone and the Oakland pickup and delivery zone (computed in accordance with the method hereinabove provided). In the event such average distance is less than the distance computed from or to an intermediate point via the shortest constructive route, such lesser mileage shall apply from or to such intermediate point. (See Note.)</p> <p>(1)3. For transportation under rates in Items Nos. 654, 654½ and 728 series, between points lying within the Imperial Valley Irrigation District on the one hand and points lying without such district on the other hand, distances shall be those computed in accordance with the Distance Table from or to the City of Imperial..</p> <p>NOTE.-In computing distances under the provisions of Item No. 160 series in connection with split pickup shipments, or under the provisions of Item No. 170 series in connection with split delivery shipments, the average of the distance from or to (or from and to) the San Francisco Pickup and Delivery Zone and the distance from or to (or from and to) the Oakland Pickup and Delivery Zone shall be used only when the distance computed under the provisions of those items from or to (or from and to) both zones is more than *70 constructive miles.</p>
	<p style="text-align: center;">APPLICATION OF RATES - DEDUCTIONS</p> <p>(a) Rates provided in this tariff are for the transportation of shipments, as defined in Item No. 10(k), (l) and (m) series from point of origin to point of destination, subject to Items Nos. 120, 130 and 140 series.</p>

(b) Subject to Notes 1, 2, 3 and 4 hereof, when point of origin or point of destination is carrier's established depot, rates shall be 5 cents per 100 pounds (or 5 cents per shipment when shipment weighs less than 100 pounds) less than those specifically named herein. When both point of origin and point of destination are carrier's established depots, rates shall be 10 cents per 100 pounds (or 10 cents per shipment when shipment weighs less than 100 pounds) less than those named herein. In no case shall the net transportation rate be less than 14 cents per 100 pounds when applying the provisions of this paragraph.

110-F
Cancels
110-E

NOTE 1.-No deduction from rates specifically named herein shall be made under this rule from rates based upon a minimum weight of 10,000 pounds or more, nor from minimum charges provided by Item No. 150 series.

NOTE 2.-No deduction from rates specifically named herein shall be made under this rule on shipments transported for persons, companies or corporations upon whose premises depots from or to which the transportation is performed are located.

NOTE 3.-When the commodity upon which charges are to be computed is rated at a percentage or multiple of classes 1, 2, 3 or 4, deductions under this rule shall be made from the resulting rate.

NOTE 4.-Deductions under this rule on split pickup or split delivery shipments shall be made only on the weight of the component parts having point of origin or point of destination, or both (as the case may be), at the carrier's established depots.

* Change, provision in Item
No. 100-D continued in
effect,
(1) Effective September 4, 1951)

Decision No. 45434

EFFECTIVE JANUARY 1, 1952
(Except as Noted)

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.
Correction No. 460

Item No.	SECTION NO. 2				CLASS RATES (CONTINUED) In Cents per 100 Pounds											
	BETWEEN	AND	Any Quantity				Minimum Weight 2,000 Pounds				Minimum Weight 4,000 Pounds					
			1	2	3	4	1	2	3	4	1	2	3	4		
Class Rates shown below are intermediate in application subject to Note 1.																
	SAN FRANCISCO	OAKLAND	121	109	97	85	88	79	70	62	68	61	54	48		
			120	108	96	84	86	77	69	60	66	59	53	46		
	SAN JOSE		Minimum Weight 10,000 Pounds except as provided in Note 2.				Minimum Weight 20,000 Pounds except as provided in Note 3.				Minimum Weight as provided in Western Classification, Ex- ception Sheet or this tariff, subject to Item No. 290 series.					
	SANTA CLARA		1	2	3	4	1	2	3	4	5	A	B	C	D	E
4/509	SAN FRANCISCO	OAKLAND	44	40	35	31	29	26	23	20	13	15	13	11	10½	9
			42	38	34	29	27	24	22	19	13	13	11	10½	9½	8½
<p>NOTE 1.—If charges accruing under the Class Rates in this item, applied on shipments from, to or between points intermediate between origin and destination points via Routes 8, 9 and 10 shown in Item No. 900 series, are lower than charges accruing under the Distance Class Rates in Items Nos. 500 and 505 series, on the same shipment via the same route such lower charges will apply.</p> <p>NOTE 2.—When applied in connection with carload ratings, minimum weight will be as provided in the Western Classification, Exception Sheet or in this tariff, subject to Item No. 290 series.</p> <p>NOTE 3.—When applied in connection with carload ratings, minimum weight will be as provided in the Western Classification, Exception Sheet or in this tariff (subject to Item No. 290 series) but in no event less than 20,000 pounds.</p>																
<p># Addition } Decision No. 46434</p> <p>△ No Increase nor Reduction }</p>																
EFFECTIVE JANUARY 1, 1952																
<p>Issued by the Public Utilities Commission of the State of California, Correction No. 461 San Francisco, California.</p>																

is hereby amended by adding thereto the following revised pages attached hereto and by this reference made a part hereof:

Ninth Revised Page 18 cancels Eighth Revised Page 18 and Seventh Revised Page 18
Third Revised Page 43-A cancels Second Revised Page 43-A

IT IS HEREBY FURTHER ORDERED that, in all other respects, said Decision No. 46028, as so amended, shall remain in full force and effect.

IT IS HEREBY FURTHER ORDERED that, except to the extent provided for in the preceding ordering paragraphs hereof, the petition of Oakland Chamber of Commerce, filed September 4, 1951, be and it is hereby denied; and that its petition, filed October 15, 1951, seeking oral argument before the Commission in bank, be and it is hereby denied.

This order shall become effective twenty (20) days after the date hereof.

Dated at San Francisco, California, this 20th day of November, 1951.

[Signature]
President
[Signature]
[Signature]
[Signature]
[Signature]
Commissioners