

Decision No. _____

61325

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation
into the rates, rules and regula-
tions, 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. 192)

Case No. 5330
(Petition for Modification No. 15)

Case No. 5433
(Petition for Modification No. 12)

Case No. 5436
(Petition for Modification No. 34)

Case No. 5438
(Petition for Modification No. 25)

Case No. 5440
(Petition for Modification No. 10)

Case No. 5603
(Petition for Modification No. 10)

Case No. 5604
(Petition for Modification No. 7)

And related matters.

Arlo D. Poe, J. C. Kaspar and James Quintrall, for California
Trucking Associations, Inc., petitioner.

B. F. Bolling, Royston E. Campbell, E. R. Chapman, Dale
Finley by H. M. Long, Carl H. Fritze, David K. Graham,
Richard F. Hanley, Ralph Hubbard, N. E. Keller, W. F.
McCann, A. E. Patton by W. Y. Bell, Eugene A. Read,
Andrew D. E. Robertson, Frank A. Spencer, Milton A.
Walker; for various shippers and shipper interests,
interested parties.

W. G. Stone, for Sacramento-Yolo Port District, interested
party.

Russell Bevans, for Draymen's Association of San Francisco,
interested party.

Leonard Diamond, C. L. Griggs and Eric Mohr, for the
Commission staff.

O P I N I O N

The distance rates set forth in Minimum Rate Tariffs Nos. 2, 3-A, 4-A, 6, 8, 10, 11-A and 12 are governed by Distance Table No. 4.^{1/} Said distance table contains constructive mileages between many points in California and rules for the determination of such mileages between all points in the State. By Petition for Modification No. 192 in Case No. 5432, and by identical petitions in the seven other minimum rate cases named in the title above, California Trucking Associations, Inc., requests amendment of Distance Table No. 4 by the addition of a new rule.

Public hearing of the petitions was held before Examiner Carter R. Bishop at San Francisco and Los Angeles on October 3 and 4, 1960, respectively. Evidence in support of the proposal was offered through petitioner's director of research. Various interested parties and members of the Commission's staff participated in the development of the record through examination of the witness.

Petitioner proposes that Item No. 20 of Distance Table No. 4 be amended by the addition of a proposed Rule 6, which shall read as follows:

"(A) This rule shall apply only if the appropriate constructive mileage cannot be determined under the provisions of Rules 1 through 5, above.

(B) Constructive mileage shall be the shortest actual highway mileage via any public highway route over which the shipment lawfully may be transported."

Petitions were filed in all minimum rate cases relating to those minimum rate tariffs which are governed by the distance table. Of that group, however, only those tariffs which provide intracity rates, namely Minimum Rate Tariffs Nos. 4-A, 6, 8, 10 and 12, would

^{1/} Distance Table No. 4 is contained in Appendix "A" of Decision No. 46022, as amended.

be affected by the proposal.^{2/} Petitioner does not intend by the proposal herein to establish intracity rates in minimum rate tariffs which do not presently include such rates.

The purpose of the proposed amendment, the director of research testified, is to provide a rule of general application for the determination of mileages in connection with intracity movements. The proposal, he said, is an attempt to clarify what the Association considers to be an ambiguity in the determination of rate-making mileages, if not an outright lack of a basis for such determination, in certain of the minimum rate tariffs.

The witness pointed out that, effective January 29, 1960, pursuant to Decision No. 59339, Distance Table No. 4 was amended specifically to take care of the problem here in issue insofar as movements within the San Diego Zones was concerned.^{3/} He stated that the establishment of said San Diego rule had prompted the inference on the part of some carriers that no basis for determining intracity mileages elsewhere in the State is provided in the distance table. Some carriers, accordingly, believe that they are free to use any mileages they choose in ascertaining minimum intracity distance rates, other than within the San Diego Zones, under intracity tariffs which are governed by the distance table. As a consequence of such reasoning, the witness stated, situations of undue preference and prejudice in the assessment of transportation charges have resulted.

The witness further pointed out that the method of ascertaining intracity mileages substantially as proposed herein has been

^{2/}

The following minimum rate tariffs also contain intracity rates, but are not subject to the provisions of Distance Table No. 4, namely, City Carriers' Tariff No. 1-A, City Carriers' Tariff No. 2-A - Highway Carriers' Tariff No. 1-A, and Minimum Rate Tariffs Nos. 5, 7 and 9.

^{3/}

The rule in question is set forth in Rule 5(D) of the distance table. The San Diego Zones referred to above are those defined in Item 50 of the distance table. The rule which petitioner proposes for general application is substantially the same as that adopted by the Commission for the San Diego Zones.

incorporated, for many years past, in some commodity rate items of certain minimum rate tariffs which are not governed by the distance table. Reference to these items were incorporated in the record herein.^{4/}

The witness referred to the fact that the Commission's staff is currently engaged in a proposed revision of Distance Table No. 4, including the rules contained therein. To the best of his knowledge a long period of time would elapse before any such revision, if adopted by the Commission following public hearing, would be made effective. The need for early publication of a specific rule for determination of intracity mileages was such, the witness indicated, that its establishment should not be required to wait upon a general revision of the distance table. It was for this reason, he said, that the Association took the initiative of filing a petition seeking establishment of the rule herein proposed.

It has been brought out on this record that there is no specific provision of general application in Distance Table No. 4 stating the method by which intracity mileages are to be determined. The record is persuasive that, in this respect, the distance table is in need of clarification. Furthermore, it appears that such clarification should not be deferred until the contemplated reissuance of the distance table is effected. We are of the opinion and hereby find that, as a matter of clarification, and without prejudice to other conclusions which may be reached later in connection with the reissuance of Distance Table No. 4, the rule proposed in the petition has been justified. The petition will be granted.

^{4/}

The witness also pointed out that the rule herein proposed for general application was incorporated, effective January 1, 1959, in Minimum Rate Tariff No. 4-A (household goods tariff) and effective August 1, 1954, in Minimum Rate Tariff No. 12 (Motor Vehicles - Secondary Truckaway Movements), for almost all intracity movements. As hereinabove stated, Tariffs Nos. 4-A and 12 are subject to the distance table.

In response to questions by the staff representatives, attention was drawn to a possible ambiguity in Rule 4(E) of the distance table, as said rule affects the determination of intracity mileages within certain defined Los Angeles Zones. The witness indicated that the problem there presented was not acute, but suggested that clarification of Rule 4(B) might be accomplished concurrently with the tariff change sought herein. We conclude that any question of ambiguity in Rule 4(B) may well be resolved in the reissue of the distance table.

Other testimony of the witness, prompted by questions from the staff, indicated that establishment of the proposed Rule 6 might in some instances result in departures from the long- and short-haul provisions of the Constitution of the State of California and of the Public Utilities Code. He suggested, therefore, that relief from those provisions be authorized for common carriers, in connection with the establishment of the mileage computation rule. The following order will so provide.

O R D E R

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

IT IS ORDERED that:

1. Distance Table No. 4 (Appendix "A" of Decision No.46022, as amended) is hereby further amended by incorporating therein, to become effective February 25, 1961, Second Revised Page 29 and Second Revised Page 30, which revised pages are attached hereto and by this reference made a part hereof.

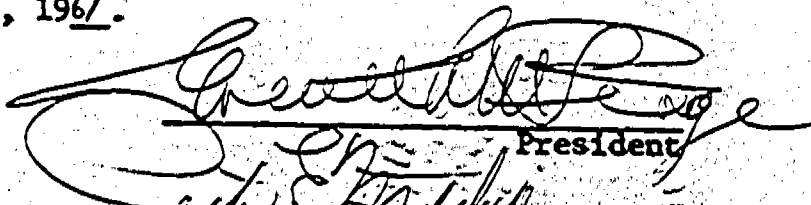
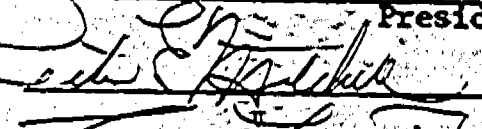
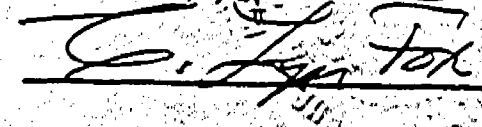
2. Tariff publications authorized to be made by common carriers as a result of the order herein may be filed not earlier than the effective date hereof, and may be made effective on not less than five days' notice to the Commission and to the public if filed

not later than sixty days after the effective date of the distance table pages incorporated in this order.

3. Common carriers are hereby authorized to depart from the provisions of Article XII, Section 21, of the Constitution of the State of California, and of Section 460 of the Public Utilities Code, to the extent necessary to carry out the effect of the order herein.

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

Dated at San Francisco, California, this 4th day of January, 1961.


President



Commissioners

Item No.	SECTION 1
10	<p data-bbox="698 372 905 405" style="text-align: center;"><u>DEFINITIONS</u></p> <p data-bbox="370 435 1397 531">CONSTRUCTIVE MILEAGE is that mileage used for rate-making purposes in the transportation of property, and is determined in accordance with the rules herein.</p> <p data-bbox="373 592 1400 657">A POINT means the precise location to or from which constructive mileage distance is to be determined.</p> <p data-bbox="373 687 1361 813">MILEAGE BASING POINT means the precise location designated to represent a named community or unnamed highway junction point shown on the maps in Section 4, as follows:</p> <ul data-bbox="475 844 1405 1229" style="list-style-type: none"><li data-bbox="475 844 1405 1010">⊙ Indicates mileage basing points for communities named in red on the maps in Section 4 (See Rule 3). Constructive mileage distances between these mileage basing points appear in Sections 2 or 3.<li data-bbox="475 1035 1405 1136">○ Indicates mileage basing points for communities named in black on the maps in Section 4 (See Rule 3).<li data-bbox="475 1161 1405 1229">● Indicates unnamed highway junction points shown on the maps in Section 4. <p data-bbox="376 1260 1387 1355">ACTUAL HIGHWAY MILEAGE between two points, as used herein, means the lowest actual highway distance along the shortest usable route connecting the points.</p> <p data-bbox="376 1386 1351 1481">A SEGMENT of highway means that portion of a highway between two consecutive mileage basing points as shown on the maps in Section 4.</p>
*20	<p data-bbox="781 1575 877 1607" style="text-align: center;"><u>RULES</u></p> <p data-bbox="381 1638 492 1670">RULE 1</p> <p data-bbox="381 1701 1450 1960">Constructive mileage distances between mileage basing points for communities named in red on the maps in Section 4 (See Item No. 30) shall be the distances set forth in Section 2 or 3 which shall take precedence over any constructive mileage distances otherwise developed between such mileage basing points. If any constructive mileage distance shown in Section 2 differs from the corresponding distance in Section 3, the Section 3 distance shall apply.</p> <p data-bbox="381 1985 497 2018">RULE 2</p> <p data-bbox="381 2048 1450 2300">Constructive mileage distance between any two mileage basing points shall be the total of the mileages shown on the maps in Section 4 along the continuous route which results in the least constructive mileage distance between said points. Distances determined in accordance with the provisions of Rule 1 shall be employed between mileage basing points for communities named in red on said maps which are located along the continuous route.</p>

RULE 3

Mileage basing points for the communities named in red on the maps in Section 4 shall be those shown in Item 30. For all communities named in black on the maps in Section 4 the mileage basing point shall be an established railroad depot, or if there be no such depot it shall be the Post Office, or if there be no such Post Office it shall be the center of the community.

RULE 4

(A) When a point falls within the limits of an incorporated city, or within a mile radius of the mileage basing point for that city (community), the mileage basing point shall be used as a terminal point in constructive mileage determination, with the exception of points falling within the boundary of any Los Angeles Zone described in Item 40, and points falling within the boundary of any San Diego Zone described in Item 50.

** (B) When a point falls within the boundary of a Los Angeles Zone, as described in Item 40, or a San Diego Zone, as described in Item 50, the mileage basing point for that zone shall be used as a terminal point in constructive mileage determination. The Los Angeles and San Diego Zones embrace all points within their respective boundaries and include both sides of streets, boulevards, roads, avenues or highways named. Where railway lines, rights of way, water courses or freeways are used to define boundaries of the San Diego Zones, the center line of such railway lines, rights of way and water courses will constitute the boundary line except as otherwise specifically designated. Where the term "shoreline," "ocean" or "bay" is employed as a boundary line, such boundary line shall be construed to embrace any pier, wharf or other structure extending into the adjacent body of water. The mileage basing points shown below shall be used as mileage basing points for the zones indicated:

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.

*Change
**Transferred from First } Decision No. 61325
Revised Page 30 }

Correction No. 36

EFFECTIVE FEBRUARY 25, 1961

Item No.

SECTION NO. 1

RULES (Cont.)

RULE 4 (Cont.)

Los Angeles Zones

Zone 1 - Los Angeles
" 2 - Canoga Park
" 3 - San Fernando
" 4 - Sunland
" 5 - Van Nuys
" 6 - Sun Valley
" 7 - North Hollywood
" 8 - Santa Monica
" 9 - West Los Angeles
" 10 - Hollywood

Zone 11 - Glendale
" 12 - Highland Park
" 13 - Venice
" 14 - Culver City
" 15 - El Segundo
" 16 - Inglewood
" 17 - Lynwood
" 18 - Gardena
" 19 - Torrance
" 20 - Wilmington

San Diego Zones

Zone 21 - San Diego
" 22 - El Cajon
" 23 - Chula Vista
" 24 - Coronado
" 25 - Point Loma

Zone 26 - Clairemont
" 27 - La Jolla
" 28 - Del Mar
" 29 - Miramar Station
" 30 - Imperial Beach
" 31 - San Ysidro

(C) When a point falls within a mile radius of the mileage basing point of a named community appearing on the maps in Section 4, with the exception of points within incorporated cities, Los Angeles Zones or San Diego Zones, the mileage basing point shall be used as a terminal point in constructive mileage determination. The nearest mileage basing point shall be used if the point falls within an overlap of mile radius areas.

*20
(Cont.)

(D) When a point falls within a mile radius of an unnamed highway junction point appearing on the maps in Section 4, with the exception of points within incorporated cities, Los Angeles Zones, San Diego Zones, or within a mile radius of any named community appearing on the maps in Section 4, the junction point shall be used as a terminal point in constructive mileage determination. The nearest unnamed junction point shall be used if the point falls within an overlap of such mile radius areas.

RULE 5

(A) This rule shall apply only when the location of a point is other than that described in Rule 4.

(B) Constructive mileage developed by the following methods shall be used in the same manner as highway segment constructive mileages in the application of Rule 2:

(1) The constructive mileage for any portion less than the total length of a segment of highways as shown on the maps in Section 4 shall be the actual highway mileage.

(2) The constructive mileage along any highway not shown on the maps in Section 4 shall be the actual highway mileage along said highway.

(3) The constructive mileage along a railroad which contacts non-highway point or points shall be the rail mileage between non-highway point and first highway contact, or shall be the rail mileage between non-highway points if no highway contact is made between the points.

(C) No portion of the continuous route between points used under this rule shall have a constructive mileage distance less than that developed between the same points under the provisions of Rules 2, 3, and 4, or under the combination of the provisions of Paragraph (B) Part (1) of this rule with Rules 2, 3, and 4.

(D) Constructive mileage between points within any of the San Diego Zones described in Item 50 shall be the shortest actual mileage via any public highway route over which the shipment lawfully may be transported.

RULE 6

(A) This rule shall apply only if the appropriate constructive mileage cannot be determined under the provisions of Rules 1 through 5.

(B) Constructive mileage shall be the shortest actual highway mileage via any public highway route over which the shipment lawfully may be transported.

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.

* Change)
Addition) Decision No. 61325

EFFECTIVE FEBRUARY 25, 1961

Correction No. 37