

**ORIGINAL**Decision No. 68689

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation into the constructive mileages, and related rules and provisions of all common carriers, highway carriers and city carriers relating to the transportation of any and all commodities between all points in California (including, but not limited to, constructive mileages provided in the Distance Table).

Case No. 7024  
(Petition for Modification  
No. 15;  
Filed November 25, 1964)

A. D. Poe, J. C. Kaspar and H. F. Kollmyer, for petitioner.  
Ralph Hubbard, for California Farm Bureau Federation;  
David B. Porter, for Cannery League of California;  
Eugene A. Read, for California Manufacturers Association, interested parties.  
Theodore H. Peceimer and R. A. Lubich, for the Commission staff.

O P I N I O N

Distance Table No. 5 contains the basis for determining constructive highway mileages applicable between all points within California in connection with various minimum rate tariffs issued by the Commission.<sup>1/</sup> The California Trucking Association (CTA) seeks an amendment to Rule No. 4 of the Distance Table.

A public hearing was held before Examiner Gagnon on December 30, 1964, at San Francisco, on which date the matter was taken under submission. The Commission's Transportation Division staff supports the adoption of petitioner's alternate proposal to amend Rule No. 4 to the Distance Table (Exhibit No. 1). The California Farm Bureau Federation and the California Manufacturers Association support petitioner's original proposal to amend the Distance Table.<sup>2/</sup>

1/ Distance Table No. 5, also referred to herein as "the Distance Table".

2/ Paragraph VI of Petition for Modification No. 15.

The Distance Table No. 5 rules directly involved in the subject petition provide, in part, as follows:

Constructive Mileage between Mileage Basing Points Shall Be Determined as Follows.<sup>3/</sup>

Rule 3(b): Between two mileage basing points other than two Red Points... (Mileage Basing points shown in red on the Constructive Mileage Maps of the Distance Table) the constructive mileage shall be the total of the mileage shown on the Constructive Mileage Map along the continuous route resulting in the least constructive mileage between said points....

Determination of Constructive Mileage between Points Other Than Two Mileage Basing Points

Rule 4(a) Constructive mileage between two points other than two Mileage Basing Points shall be 1.3 times the actual highway mileage along the shortest continuous route....

Rule 4(b) If the shortest continuous route passes through two or more Mileage Basing Points, constructive mileage between such points shall be determined in accordance with Rule No. 3.

The petitioner (CTA) avers that strict application of the aforementioned rules of the Distance Table creates unnecessary complications and reveals a conflict between present rules. This alleged inconsistency, according to the testimony of the CTA, is a major problem for all users of Distance Table No. 5. In support of this alleged inconsistency petitioner makes reference to the Commission's Transportation Division Informal Ruling No. 142, dated November 19, 1964.<sup>4/</sup>

Informal Ruling No. 142 concerns the determination of constructive mileage between two points other than two mileage

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<sup>3/</sup> Rule 1(h) of Distance Table No. 5 defines Mileage Basing Point as "the precise location designated to represent a Metropolitan Zone, incorporated city, unincorporated community, Numbered Junction or Extended Area thereof."

<sup>4/</sup> Informal Rulings of the Commission's Transportation Division are made in response to questions propounded by the public, indicating what is deemed by the Division to be the correct application and interpretation of the particular tariffs involved. The rulings are tentative and provisional and are made in the absence of formal decisions upon the subject by the Commission.

basing points under the provisions of Rules Nos. 3 and 4 of Distance Table No. 5. Application of these rules is explained by the staff through the medium of two hypothetical situations.

The first situation refers to two points, other than two mileage basing points, which are eight actual highway miles apart. The shortest continuous route between these two points intersects two mileage basing points, shown on the network of constructive mileage routes in the Distance Table, located two actual highway miles beyond the respective assumed off-route points of origin and destination. The constructive mileage between the two intersected mileage basing points is indicated to be 27 constructive miles. Under the provisions of Rules Nos. 3 and 4 of the Distance Table, the staff computes the total constructive mileage to be 32.2 miles. (27 constructive miles between the mileage basing points plus 1.3 times the 4 actual off-route highway miles involved.)

In the second hypothetical situation set forth in Informal Ruling No. 142, the circumstances are identical to the first example, except the shortest continuous route between the assumed off-route points of origin and destination does not pass through any constructive mileage basing points. Such route does, however, intersect two segments of highways which are included in the network of routes for which constructive mileage is specifically provided.<sup>5/</sup> In this second situation the staff computes the total constructive mileage to be only 10.4 miles (1.3 times the 8 actual miles between the assumed off-route points of origin and destination) under the provisions of Rule 4(a) of the Distance Table.

From the above resume of Informal Ruling No. 142 it will be noted that, under the application of Rules Nos. 3 and 4 of Distance

<sup>5/</sup> Distance Table No. 5 defines "Segment of Highway" as that portion of a highway between two constructive Mileage Basing Points.

Table No. 5, a constructive mileage differential of 21.8 miles is applicable between the two situations presented therein. This rather substantial variation in the constructive mileage computation is not necessarily due to any change in the geographical location of the points of origin and destination assumed in each of the situations referred to in the informal ruling. The constructive mileage differential is, in the first instance, brought about by the mere presence or absence in the Distance Table of two mileage basing points on the particular shortest continuous available route.

Distance Table No. 5 network of constructive mileage routes does not completely encompass all of the highways in California. It is also not possible to provide specific constructive mileages in the Distance Table for all points in the State from and/or to which highway movements of freight might occur. The highway routes that should be included in the Distance Table network and the required number and selection of mileage basing points are largely a matter of judgment as to the overall varying needs of commerce within the State. Under the circumstances, certain rules were established in the Distance Table in order to bridge the gap between specifically named routes and mileage basing points and the myriad of unnamed potential points of origin or destination of freight in California. It is, however, the difference in the methodology used in constructive mileage determination for the selected routes and points named in the Distance Table, on the one hand, and the procedure for computing constructive mileages from and/or to all other unnamed points, on the other hand, which creates the alleged inconsistency between the provisions of Rules Nos. 3 and 4 of the Distance Table.

In order to alleviate the complications and inconsistencies, which the CTA alleges to exist, between the provisions of

Rules 3 and 4 of Distance Table No. 5, petitioner proposes that the current provisions of Rule 4 be amended by the addition of either one of the following paragraphs:

Original CTA Proposal

Rule 4(bb) - If the shortest continuous route crosses two or more highways shown on the Distance Table Maps, constructive mileage between points of intersection shall be determined in accordance with Rule 3.

Alternate CTA Proposal - Exhibit No. 1

If the shortest continuous route:

- (1) intersects a segment of highway at two or more locations; or
- (2) intersects two or more segments of highway shown on the constructive mileage maps;

the constructive mileage between points of intersection shall be determined via the segment or segments of highway or portions thereof shown on the constructive mileage maps which results in the least constructive mileage between said points of intersection, as provided by Rule 3.

Constructive mileage shall be determined in accordance with paragraph 4(a):

- (1) for a portion of a segment of a highway; or
- (2) between point of origin and first point of intersection; or
- (3) between last point of intersection and point of destination.

With respect to the original proposed amendment, petitioner's witness testified that, upon review by rate experts, it was subsequently determined that an alternative amendment (Exhibit No. 1) should also be presented in evidence for the Commission's consideration. The petitioner indicated no preference, as between the two suggested amendments to the Distance Table, so long as it attained its primary objective of reducing the application of actual highway miles for computing constructive mileages by users of the Distance Table in conjunction with the determination of minimum distance rates.

An analysis of the proposed amendments to Rule 4 of the Distance Table, as set forth in Exhibit No. 1, clearly indicates that this latter proposal is in reality a correction of petitioner's original proposal, rather than a comparable alternative thereto. Petitioner's original sought amendment of the Distance Table obviously fails to encompass the CTA's objective and would only add to the inconsistency and complications alleged to exist in the current provisions of Distance Table No. 5. No further consideration need be given, therefore, to petitioner's original proposal.

Adoption of petitioner's alternate proposal (Exhibit No.1) would effectuate a substantial reduction in the utilization of actual highway miles under the provisions of Rule 4(a) of the Distance Table. This would have the effect of narrowing the void (and, hence, the alleged inconsistencies) between the use of constructive mileages as specifically set forth in the Commission's Constructive Mileage Tables and Maps, on the one hand, and the computation by the users of the Distance Table of constructive mileages under the general provisions of Rule 4(a), on the other hand. The minimum rates determined under petitioner's alternate proposal would also reflect an increased usage of specifically established constructive mileage factors. This, of course, is the underlying fundamental objective of petitioner's proposal and has considerable merit.

Cross-examination of petitioner's witness developed that, while it was theoretically possible to develop constructive mileages which would appear to be inconsistent under petitioner's proposal, extensive research by petitioner did not disclose a single incident of such inconsistency in connection with a known shipment of property. However, should such an occasion actually occur in the future, the petitioner asserted that, if notified of such a situation, it

would immediately initiate a formal request with the Commission seeking the establishment of a realistic constructive mileage factor between the points involved.

In the circumstances, it appears, and the Commission finds that:

1. The Distance Table No. 5 Rule set forth in the supplement attached hereto is reasonable and justified.

2. The proposed revision of Distance Table No. 5, when applied in conjunction with the minimum rate tariffs subject thereto, will result in just, reasonable and nondiscriminatory minimum rates for transportation governed by said tariffs.

3. To the extent the provisions of Distance Table No. 5 heretofore have been found to constitute reasonable rules, regulations and distances for common carriers as defined in the Public Utilities Code, the provisions of said distance table as hereinafter modified are, and will be, reasonable provisions for said carriers.

4. To this same extent, existing rules, regulations and distances which are maintained by said common carriers for transportation within California are and, for the future, will be unreasonable, insufficient and not justified by the actual competitive rates of competing carriers or by the cost of other means of transportation insofar as they are lower in volume or effect than those set forth in Distance Table No. 5, as hereinafter modified.

The Commission concludes that Petition No. 15 should be granted to the extent authorized by the order which follows.

O R D E R

IT IS ORDERED that:

1. Distance Table No. 5 (Decision No. 66578, as amended) is further amended by incorporating therein, to become effective April 10, 1965, Supplement No. 7, attached hereto and by this reference made a part hereof.

2. Tariff publications resulting in increases required or authorized to be made by common carriers as a result of the order herein may be made effective not earlier than the tenth day after the effective date of this order, on not less than ten days' notice to the Commission and to the public; such tariff publications as are required shall be made effective not later than April 10, 1965; as to increases which are authorized but not required, the authority herein granted shall expire unless exercised within sixty days after the effective date of this order; and tariff publications resulting in reductions 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.

3. Common carriers are authorized to adopt Supplement No. 7 to Distance Table No. 5 as a basis for computing distances for use in applying distance rates in their common carrier tariffs for the transportation of:

- (a) commodities for which minimum rates have not been established, or
- (b) commodities which are subject to higher rates than, or more restrictive provisions than, the minimum rates or provisions otherwise applicable.

4. Common carriers, in establishing and maintaining the rules 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.

5. In all other respects said Decision No. 66578, as amended, shall remain in full force and effect.

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

Dated at Los Angeles, California, this 2<sup>nd</sup> day of MARCH, 1965.

Frederick B. Holshoff  
President  
Arthur J. Mitchell  
George T. Grover  
Augustus  
William B. Bennett  
Commissioners

SUPPLEMENT NO. 7

(Supplements Nos. 3, 4, 5, 6 and 7 Contain All Changes)

TO

DISTANCE TABLE NO. 5

Part 1

of 2 Parts

(Part 2 Consists of Maps)

Amend Distance Table No. 5 as indicated on the following page:

Page No.	Rule No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION
159	§4	<p>Determination of Constructive Mileage between Points other than Two Mileage Basing Points:</p> <p>§(a) Constructive Mileage between two points other than two Mileage Basing Points shall be 1.3 times the Actual Highway Mileage along the shortest continuous route, subject to paragraphs (b), #(bb), (c) and (d).</p> <p>#(bb) If the shortest continuous route:</p> <ol style="list-style-type: none"> <li>(1) intersects a segment of highway shown on the constructive mileage maps at two or more locations; or</li> <li>(2) intersects two or more segments of highway shown on the constructive mileage maps;</li> </ol> <p>the constructive mileage between points of intersection shall be determined via the segment or segments of highway or portions thereof shown on the constructive mileage maps which results in the least constructive mileage between said points of intersection, as provided by paragraphs (a), (b), (c) and (d).</p> <p>Constructive mileage shall be determined:</p> <ol style="list-style-type: none"> <li>(1) between point of origin and first point of intersection; or</li> <li>(2) between last point of intersection and point of destination</li> </ol> <p>in accordance with paragraph (a).</p> <p>§(c) Constructive Mileage determined in accordance with paragraph (a) or #(bb) for a portion or portions of a segment of highway shall not exceed the Constructive Mileage for that segment of highway.</p>

§ Change )  
# Addition ) Decision No. 68689

EFFECTIVE APRIL 10, 1965

Issued by the  
PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
State Building, Civic Center  
San Francisco, California