

Decision No. 72488

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 livestock and related items (commo-)
dities for which rates are provided in)
Minimum Rate Tariff No. 3-A).)

Case No. 5433
(Petition for Modification
No. 24)
(Filed April 4, 1967)

And Related Matters)

) Cases Nos. 5438 and 7857
) (Petitions for Modification
) Nos. 58 and 13, respectively)
) (Filed April 4, 1967)
) and
) Case No. 7024
) (Order Setting Hearing of
) July 19, 1966)

OPINION AND ORDER

Decision No. 72081 dated February 28, 1967, in Case No. 7024 (Order Setting Hearing of July 19, 1966), et al., adopted the mileages, maps, rules and other provisions specified in the opinion thereof as Distance Table 6 to supersede Distance Table No. 5 effective July 1, 1967, and provided that the necessary amendments to those minimum rate tariffs now referring to Distance Table No. 5 would be made by subsequent orders.

By Petitions for Modification Nos. 24, 58 and 13 in Cases Nos. 5433, 5438 and 7857, respectively, California Trucking Association requests that Distance Table 6 be made to govern the distance rates named in Minimum Rate Tariffs Nos. 3-A, 8 and 14-A effective January 1, 1968.¹ Petitioner asks that all common carriers be

¹Minimum Rate Tariffs Nos. 3-A, 8 and 14-A, respectively, set forth minimum rates for the statewide transportation of livestock, fresh fruits and vegetables and grain in bulk.

directed to establish in their respective tariffs such modifications as may be prescribed by the Commission's order in these proceedings, including relief from the long- and short-haul provisions of Section 460 of the Public Utilities Code.

According to petitioner, opinions of shipper and carrier representatives concerning appropriate dates for making applicable any revised distance table were solicited concurrently with investigations of necessary changes from Distance Table No. 5. Petitioner is informed and believes that all such parties agreed that, whenever feasible to do so, basic changes in the governing distance tables should be made effective on January 1st to accommodate accounting and budgeting considerations incidentally, but principally to be compatible with the flow of traffic in the state which generally ebbs at that time. Use of such date was also suggested in order to minimize tariff changes during seasonal movements related to California harvests.

Unfortunately, petitioner states, original schedules predicated on such timing were apparently upset by the volume of the task, and at time of hearing in October, 1966, it appeared necessary to suggest alternative effective dates based upon foreseeable scheduling. Petitioner did indicate that it would make further inquiry among interested parties and determine any necessary further handling. Such inquiry has indicated the need for varying tariff treatment of the proposed distance table change (i.e., Petition No. 26, Case No. 5440, and specifically Exhibit No. 5 therein) and this filing is made pursuant to such need. Inquiry is still being pursued with other tariff user groups and similar filings are being considered to meet other special needs.

Petitioner alleges, on information and belief, that any proposed change in the governing distance table which becomes effective during the principal harvesting seasons is detrimental to the interests of both shippers and carriers of agricultural commodities and that the proposed establishment of Distance Table 6, effective on July 1, 1967, as apparently contemplated for such tariffs by Decision No. 72081, is not reasonable and proper for application to Minimum Rate Tariffs Nos. 3-A, 8 and 14-A.

Copies of the verified petitions were mailed to various chambers of commerce, shipper organizations and carrier representatives on or about April 3, 1967. The petitions were listed on the Commission's Daily Calendar of April 5, 1967. No objection to the granting of the petitions has been received.

In the circumstances it appears, and the Commission finds, that (1) petitioner's proposal is reasonable; (2) the constructive mileages set forth in Distance Table 6, when applied in conjunction with Minimum Rate Tariffs Nos. 3-A, 8 and 14-A will result in just, reasonable and nondiscriminatory minimum rates for transportation governed by said tariffs; (3) the provisions of Distance Table 6 are, and will be, reasonable provisions for the transportation of (a) livestock, (b) fresh fruits and vegetables and related items and (c) hay, fodder and straw, in machine pressed bales, and grain and related commodities, in bulk, in bins or in specified containers, by common carriers as defined in the Public Utilities Act; and (4) rules, regulations and distances which are maintained by the common carriers for the transportation involved herein 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 6. A public hearing is not necessary. The Commission concludes that the petitions should be granted. Minimum Rate Tariff No. 3-A will be amended by the order herein. In order to avoid duplication of tariff distribution, the other tariffs and Distance Table No. 5 will be amended by separate orders.

IT IS ORDERED that:

1. Minimum Rate Tariff No. 3-A (Appendix A of Decision No. 55587, as amended) is further amended by incorporating therein, to become effective July 1, 1967, Fourth Revised Page 3 and Third Revised Page 6 attached hereto and by this reference made a part hereof.

2. The basis for constructively increasing highway mileages prescribed by the Commission in Decision No. 72081 dated February 28, 1967, in Case No. 7024, is hereby adopted, established and approved as the just, reasonable and nondiscriminatory basis for computing distances for use in applying distance rates in Minimum Rate Tariff No. 3-A.

3. The rates and charges set forth in Minimum Rate Tariff No. 3-A determined under the provisions of Distance Table 6 and the rules and regulations governing such rates and charges are hereby established as the minimum reasonable and sufficient rates and charges to be published, assessed, charged, collected and observed by all common carriers as defined in the Public Utilities Act for the transportation of livestock between the points for which rates are provided in the tariff.

4. Common carriers need not file with this Commission a distance table for the transportation of livestock but may instead

publish in their tariffs the following provision to be made applicable only to distance rates for the transportation of said commodities:

"Distances to be used in connection with distance rates named herein shall be determined in accordance with Distance Table 6 issued by the Public Utilities Commission of the State of California."

5. Tariff publications required to be made by common carriers as a result of the order herein shall be made effective January 1, 1968, on not less than ten days' notice to the Commission and to the public; and tariff publications which are authorized but not required to be made by common carriers as a result of the order herein may be made effective not earlier than January 1, 1968, and may be made effective on not less than ten days' notice to the Commission and to the public if filed not later than March 2, 1968.

6. Common carriers are authorized to adopt Distance Table 6 as the 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.

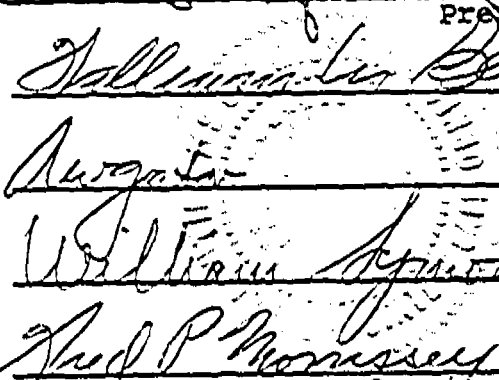
7. Common carriers are hereby authorized to depart from the provisions of Section 460 of the Public Utilities Code to the

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 provisions published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

8. In all other respects Decision No. 55587, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 23rd day of May, 1967.


Eric S. Mitchell
President
William L. Berry
Attorney
William J. ...
Jud P. ...
Commissioners

SECTION NO. 1 - RULES AND REGULATIONS	Item No.
<p data-bbox="536 418 1073 481" style="text-align: center;">DEFINITION OF TECHNICAL TERMS (Items Nos. 10 and 11)</p> <p data-bbox="191 511 1219 582">CALVES means bovine animals weighing 450 pounds or less.</p> <p data-bbox="191 607 1207 677">CATTLE means bovine animals weighing more than 450 pounds.</p> <p data-bbox="191 703 1295 798">CARRIER means a radial highway common carrier or a highway contract carrier as defined in the Highway Carriers' Act.</p> <p data-bbox="191 824 1281 955">CARRIER'S EQUIPMENT means any motor truck or other self-propelled highway vehicle, trailer, semi-trailer, or any combination of such highway vehicles, operated by the carrier.</p> <p data-bbox="191 980 1356 1393">COMMON CARRIER RATE means any intrastate rate or rates of any common carrier or common carriers, as defined in the Public Utilities Act, lawfully on file with the Commission and in effect at time of shipment; any interstate or foreign rate or rates of any common carrier railroad or railroads applying between points in California by an interstate or foreign route, lawfully in effect at time of shipment; also any interstate or foreign rate or rates of any common carrier or common carriers, as defined in the Public Utilities Act, applying between points in California and in effect at time of shipment and covering transportation exempt from rate regulation of the Interstate Commerce Commission under Section 203(b)(6) or Section 203(b)(8) of Part II of the Interstate Commerce Act.</p> <p data-bbox="191 1401 1356 1471">DAIRY CATTLE means cattle which are or have been used or useful in connection with the production of milk by dairies.</p> <p data-bbox="290 1479 1133 1514">*(1) DISTANCE TABLE means Distance Table No. 5.</p> <p data-bbox="290 1514 1062 1549">*(2) DISTANCE TABLE means Distance Table 6.</p> <p data-bbox="191 1557 1273 1746">FEED LOT means a place, establishment or facility consisting of pens or other enclosures and their appurtenances, in which live cattle, calves, sheep, swine or goats are received, held or kept for fattening, for compensation as a business, for the public generally, or owned and operated by packing or slaughter houses.</p> <p data-bbox="191 1771 1314 1935">INDEPENDENT-CONTRACTOR SUBHAULER means any carrier who renders service for a principal carrier, for a specified recompense, for a specified result, under the control of the principal as to the result of the work only and not as to the means by which such result is accomplished.</p> <p data-bbox="191 1960 1314 2056">PACKING HOUSE means a place of business licensed to buy livestock for the purpose of slaughter, at which meat or meat food products are manufactured or prepared.</p> <p data-bbox="191 2081 1298 2245">PASTURE MOVEMENT means a shipment, or component part thereof, originating at or destined to points other than points located at or within a radius of 2 actual miles of a stockyard, public sales yard, feed lot, packing house or slaughter house.</p>	<p data-bbox="1397 1186 1455 1222">10</p>

POINT OF DESTINATION means the precise location at which livestock is tendered for physical delivery into the custody of the consignee or his agent. All points within a feed lot, packing house, public sales yard, slaughter house, stockyard or corral ranch site of one consignee shall be considered as one point of destination and shall include only contiguous property which shall not be deemed separate if intersected only by public street or thoroughfare.

POINT OF ORIGIN means the precise location at which livestock is physically delivered by the consignor or his agent into the custody of the carrier for transportation. All points within a feed lot, packing house, public sales yard, slaughter house, stockyard or corral ranch site of one consignor shall be considered as one point of origin and shall include only contiguous property which shall not be deemed separate if intersected only by public street or thoroughfare.

PUBLIC SALES YARD means a stockyard.

(Continued in Item No. 11)

- (1) Expires with December 31, 1967.
- (2) Effective January 1, 1968.

∅ Change)
* Addition) Decision No. **72488**

EFFECTIVE JULY 1, 1967

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

Correction No. 63

SECTION NO. 1-RULES AND REGULATIONS (Continued)	Item No.
<p style="text-align: center;">REFERENCES TO ITEMS AND OTHER TARIFFS</p> <p>Unless otherwise provided, references herein to item numbers in this or other tariffs include references to such numbers with letter suffix, and references to other tariffs include references to amendments and successive issues of such other tariffs.</p>	50
<p style="text-align: center;">SHIPMENTS TO BE RATED SEPARATELY</p> <p>Each shipment shall be rated separately. Shipments shall not be consolidated or combined by the carrier, except that component parts of split pickup or split delivery shipments, as defined in Item No. 11 may be combined under the provisions of Items Nos. 170 and 180.</p>	60
<p style="text-align: center;">UNITS OF MEASUREMENT TO BE OBSERVED</p> <p>Rates or accessorial charges shall not be quoted or assessed by carriers based upon a unit of measurement different from that in which the minimum rates and charges in this tariff are stated.</p>	70
<p style="text-align: center;">COMPUTATION OF DISTANCES</p> <p>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 Δ the Distance Table.</p>	Δ 80
<p style="text-align: center;">LOSS AND DAMAGE CLAIMS</p> <p>A carrier shall not remit payment on loss or damage claims unless such claims are presented to the carrier in accordance with the terms of the agreement for carriage (See Items Nos. 250 and 251, paragraph 4, 6.)</p> <p>No payment shall be made by any carrier concerning any loss or damage unless such loss or damage was caused by the negligence of the carrier.</p> <p>Records of all loss and damage claims shall be maintained by the carrier for a period of not less than three years.</p>	90
<p style="text-align: center;">LOADING AND UNLOADING</p> <p>Rates include service of the driver only for loading into and unloading from carrier's equipment and the furnishing of bedding material and portable loading and unloading devices incidental to the transportation of livestock.</p>	100
Δ Change, neither increase nor reduction, Decision No. 72488	
EFFECTIVE JULY 1, 1967	
<p style="text-align: center;">Issued by the Public Utilities Commission of the State of California, San Francisco, California. Correction No. 64</p>	