

Decision No. 84332

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation
into the constructive mileage and
related rules and provisions of all
highway 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
Order Setting Hearing 31
(Filed June 12, 1972)

(Appearances are shown in Decision No. 81862
and in attached Examiner's Proposed Report)

FINAL OPINION

Appendix A of this decision is the Proposed Report of Examiner J. W. Mallory, served November 20, 1974. The proposed report sets forth the background of the proceeding, the evidence adduced, the position of the several parties, and recommended findings of fact and conclusions of law.

Exceptions to the proposed report and replies thereto were filed on January 21 and February 6, 1975, respectively. The matter was submitted on the latter date.

EXCEPTIONS

Exceptions to the examiner's recommended findings of fact and conclusions of law were filed by California Trucking Association (CTA), California Manufacturers Association (CMA), Port of San Francisco (Port), and the Commission staff. The exceptions filed by these parties and their proposed substitute findings and conclusions are set forth below.

CTA Exceptions

CTA excepts to:

1. The first paragraph under the heading "Preliminary Discussion" (page 14), and particularly the implications which flow from the first sentence thereof which states:

"The Commission's policy with respect to the present revision of its distance table is set out in some detail in Decision 81862."

2. The first paragraph under the heading "Discussion" (page 16), and particularly the last sentence thereof which states:

"It is apparent that by adopting the staff's proposal and not CTA's proposal, the Commission decided that issue for the purposes of the instant proceeding."

3. The second paragraph under the heading "Discussion" (page 17), and particularly the first sentence which reads:

"Thus it would appear that CTA, by introducing Exhibit 31-27, has endeavored to relitigate a matter already decided by the Commission."

4. All "Recommended Findings" and "Recommended Conclusions" to the extent that they adopt by reference or implication the conclusions set forth in the above-referenced "discussion" paragraphs, including Finding 17.

5. The failure of the examiner to discuss, and to make recommended findings and conclusions concerning related Orders Setting Hearing (OSH 806, Case No. 5432 et al.).

CTA states that with respect to its Exceptions 1, 2, and 3, the examiner apparently proceeds, and makes recommended findings and conclusions, on the improper assumption that the fundamental issues herein were decided by the Commission in Decision No. 81862. That decision merely decided what its staff should do. CTA argues that neither it nor any other party had previously presented its evidence on the fundamental issues; the Commission decision properly made interim findings only concerning the proposals and evidence of its

staff; and that it is inconceivable that the Commission would have permitted the many additional days of hearing, the long and complicated cross-examination of the staff on the fundamental issues, or would have permitted evidence by other parties on such issues, if in fact Decision No. 81862 had finally decided Commission policy on the fundamental issues.

With respect to its Exception 4, CTA recommends the following substitute findings and conclusions:

(a) Recommended Finding 3 should read:

"3. Interim Decision No. 81862 dated September 12, 1973 in OSH 31 ordered that the Commission staff shall continue its studies looking to a revision of the distance table with a view to conclusion of said studies and presentation thereof at a public hearing within sufficient time to permit the revised distance table to become effective January 1, 1975. The scope of the studies to-be undertaken by the staff shall-be that were set forth in Finding 5 of the Opinion." (Changes noted.)

(b) Recommended Finding 12 should be changed to read:

"12. Although the Commission adopted its staff suggestions in Decision 81862, the further evidence presented requires that the staff-proposed distance table should be modified as proposed in Exhibit 31-27." (Change noted.)

(c) Recommended Finding 16 should be revised to read:

"16. The Commission staff witness estimated that an additional period of seven months would be required to revise Exhibits 31-9 and 31-10 to include the metropolitan zoning proposed in Exhibit 31-26. That time estimate is based, in part, on the necessity to develop approximately 65 new red points as entry points to the new zones or as new mileage basing points, and on the fact that all distance table mileages must be recomputed using a revised computer run containing the new red points. Such additional time estimates (see also Finding 11) were based upon 'routine' handling by the staff." (Changes noted.)

(d) Recommended Finding 17 should be revised to read:

"17. The adoption of CTA's proposal in its Exhibit 31-26 concerning additional metropolitan zoning for the extended areas of Bakersfield, Fresno, Stockton, Sacramento, and North Sacramento ~~would-unduly-delay-the-issuance-of-DT-8-and~~ should not be adopted at this time." (Changes noted.)

(e) Recommended Finding 18 should be revised to read:

"18. Exhibits 31-9, 31-10, 31-11, and 31-28 modified as required by Exhibits 26 and 27 should constitute the current revision of the distance table (DT 8) and the constructive mileages, rules, and related provisions set forth in DT 8 are reasonable and justified. Such distance table should become effective at the earliest possible date." (Changes noted.)

With respect to its Exception 5, CTA states that the failure of the examiner to discuss the related matters (OSH 806, et al.) is undoubtedly inadvertent, but the omission should be corrected.^{1/} After several days of consolidated hearings, a motion

^{1/} OSH 806 in Case No. 5432 (and related proceedings) reads as follows:

"The Commission's Transportation Division staff has conducted studies concerning revision to the Distance Table, the results of which are planned to be offered in evidence on June 17, 1974 in Case No. 7024, Order Setting Hearing 31.

"Various minimum rate tariffs published by the Commission are governed by the provisions of the distance table. Therefore, hearings should be held concurrently in the appropriate minimum rate investigation cases for the purposes of determining to what extent the minimum rate tariffs should be modified."

The presiding examiner granted the motion of California Farm Bureau Federation, as modified by CTA, to separate the OSH 31 and OSH 806 proceedings, and to consider the changes in the tariffs governed by the distance table required as a result of the OSH 31 proceeding following the adoption of the distance table changes resulting from that proceeding. Further hearing in OSH 806 will be scheduled following the culmination of this proceeding.

was made and adopted to separate Case No. 7024 (OSH 31), Case No. 5432 (OSH 806), and related proceedings, and to continue the latter proceeding. CTA states that any final decision in this proceeding should note the above, and provide that the new distance table will not become effective for any minimum rate tariff until decisions are issued in the related matters.

CMA Exceptions

CMA excepts to Finding 22 of the Examiner's Proposed Report which recommends that the Commission direct its staff to accomplish a complete revision and publish a new distance table "with reasonable dispatch". CMA is concerned with the term "reasonable dispatch". Although CMA has no objections to the Commission's publishing a complete new distance table, it believes that the current Minimum Rate Tariff 2 (MRT 2) cost and rate study and the publication of a revised MRT 2 should take precedence and priority over future revisions of the distance table. CMA argues that the Commission's staff does not have the capability to work on both a complete cost and rate study looking to updating its minimum rate tariffs governing the transportation of general commodities and performing a complete new distance table study at the same time. CMA states that the MRT 2 cost and rate study has been underway since 1971, is vitally needed by both carriers and the shipping public, and it is CMA's belief that no other major endeavor on the part of the Commission staff should stand in its way.

CMA's exceptions state that the staff published the proposed Distance Table No. 8 (DT 8) (Exhibit 31-9) in bound form, although the printing on individual pages would suggest that the ultimate publication would be in loose-leaf form. The examiner in his Proposed Report makes no mention of the form of publication of the new distance table. CMA has discussed the form of publication with various shippers and tariff publishing agents in California. CMA avers that some agents may incur significant expenses by being required to publish and file a loose-leaf tariff with the Interstate Commerce

Commission (ICC) inasmuch as a distance table in bound form requires filing only the title page with the ICC under special permission obtained from that commission. CMA recommends that the staff be directed to investigate the form of the new distance table prior to its publication.

Port of San Francisco Exceptions

The Port excepts to Recommended Findings 18 and 19.

The Port's exceptions state that because of forced rounding on some highway segments, such as between San Francisco (Metropolitan Zone 111) and the San Jose area (El Camino and State Route 17), certain mileages in proposed DT 8 are not just or reasonable and they would cause discrimination in application with rate structures. The Port urges that correction should be made on the final print-out of DT 8.^{2/}

^{2/} The Port cites the testimony of witness Bouchet in Transcript Volume 10, pp. 665-666, as follows:

	<u>Witness CM</u>	<u>Cumulative CM</u>	<u>Witness CM Used</u>	<u>Cumulative CM</u>
MZ 111 to SR 17	1.52	-	2	-
Broadway to Davis	8.53	10.05	9	11
Broadway to Hesperian	3.35	13.40	3	14
Broadway to "A" Street	2.38	15.78	2	16
Broadway to Jackson	1.73	17.51	2	18
Broadway to Alquire	3.24	20.75	3	21
Broadway to Alverado	1.20	21.95	1	22
Broadway to Jarvis	2.25	24.20	2	24
Broadway to SR 84	1.77	25.97	2	26
Broadway to Mowery	1.38	27.35	1	27
Broadway to Warren	5.11	32.46	5	32
Broadway to SR 237	4.11	36.57	4	36
Broadway to U.S. 101	4.36	40.93	4	40
Broadway to SR 82	2.26	43.19	2	42

CM = Constructive Mileage

The Port's exceptions point out that from the record it appears that the staff has not assessed the proper mileage from MZ 111 to U.S. 101 via SR 17 and thus has created in proposed DT 8 the potential for rate reductions which are prejudicial to the interests of San Francisco. The Port states that the compilation errors pointed out in its exceptions can be corrected in the final order herein.

Staff Exceptions

The staff excepts to the statement in the Preliminary Discussion on page 14, paragraph 3, line 7 within the parenthesis:

"...standard vehicle (tractor and 40 foot trailer) used in the staff study."

The staff recommends this should read as follows:

"...standard vehicle (five axle-vehicle, consisting of a tractor and two trailers with converter gear) used in the staff study."

The staff states that the standard vehicle used for development of costs in the constructive mileage formula for Distance Table No. 5 (DT 5) and subsequent distance tables including proposed DT 8 is the five-axle vehicle with tractor plus two trailers described in the testimony of the staff witness on April 25, 1961 on page 386 paragraph 3 of Volume 4, Case No. 7024, DT 5 transcript.

The staff recommends the deletion of paragraph 2 and 3 on page 17. The staff urges that it should be in a position to provide for a quick revision of the distance table in case of legislative changes, such as in legal speed limit for trucks, or possible major highway revisions. An example of legal speed limit change was Section 22406, Vehicle Code, effective November 8, 1967 raising the truck speed limit to 55 miles per hour from 50, which resulted in the revision of Distance Table No. 6 (DT 7).

The staff urges that Finding 23 be deleted.^{3/} In support thereof, the staff argues the Commission should not be burdened by the issuance of a formal order to the staff in the direction of its activities inasmuch as the assumption of such activities by the Commission would require a major portion of its time.

The staff also states that the portion of the discussion preventing any staff field work prior to formal order by the Commission appears to the staff to be too restrictive; the field surveys for collection of data on various road segments for future updating of distance tables is often conducted by the staff in connection with field work on other studies for economy and efficiency, and such field surveys may be started well in advance of the other work on a distance table revision.

The staff also requests that the Commission adopt the following paragraph (d) in Finding 24:

- "(d) Determine whether any major change in distance table rules, metropolitan zoning, or other provisions of the distance table may be required, and advise all known interested parties of the nature of the changes if any, necessary to modernize the provisions of the distance table, including the items in (b) above."

The staff exceptions state that inasmuch as revision of metropolitan zones in Item (b) would constitute a major change in the makeup of the distance table the staff believes the additional clause should be added to Item (d) to insure that the proposed additional metropolitan zones may be studied with the other zones for the DT 8 revision.

^{3/} Since the staff recommends the deletion of Finding 23 as stated above, the staff recommends the deletion of Recommended Conclusion 4 listed on page 24.

The staff requests the addition of an additional recommended conclusion to read as follows:

"Upon completion of Distance Table No. 8 the staff should be directed to proceed with the development of an optional 'all points-to-all-points table' as set forth in Finding No. 5 (b) of Decision No. 81862."

The staff urges that the "all points-to-all-points table" should be made available to all parties requesting it at a charge to be determined. The studies ordered in Decision No. 81862 (Recommended Finding 3) included preparation of the "all points-to-all-points" table but no specific recommended conclusion with respect thereto is made by the examiner. The staff feels that a conclusion specifically directing the staff to proceed with development of the "all points-to-all-points table" after completion of DT 8 should be included in the proposed decision.

REPLIES TO EXCEPTIONS

Replies to the exceptions of CTA were filed by Traffic Managers Conference (Conference), CMA, and the Commission staff. The staff also replied to the exceptions filed by the Port.

Replies to CTA Exceptions

The replies filed by Conference and CMA support the examiner's recommended findings and conclusions and strongly oppose CTA's proposed substituted findings and conclusions. Conference and CMA seek the immediate adjustment of the distance table to reflect the recent interstate freeway construction between major metropolitan areas and object to CTA's proposal for the reasons that substantial delay assertedly would occur in the reissuance of the distance table if CTA's proposals are adopted and because Conference and CMA object to revision of the constructive mileage formula to reflect current highway carrier operating costs on the basis that such costs are inflationary.

The staff replied to the CTA exception to Finding 18 and the related proposed finding as follows:

"Distance Table 8 should be issued in accordance with Recommended Finding 18, i.e., 'Exhibits 31-10, 31-11 and 31-28 modified as required by Exhibits 26 and 27 should constitute the current revision of the distance table (DT 8)...'"

The staff reply states that in order to comply with the provisions of Exhibit 26, it would be necessary to revise Maps 2, 3, 2-U, 2-V, 2-W, 3-X, and 3-Y and then rerun the entire Section 3, the mileage table in the proposed DT 8, to include the addition of approximately 62 new red points and 17 new metropolitan zones in the North Sacramento, Sacramento, Stockton, Fresno, and Bakersfield extended areas.

The staff reply indicates that compliance with Exhibit 27 would require undertaking a new study of present truck performance on grades, along with a new cost study of vehicle investment and runnings costs, to determine if new figures would be needed in the formula and a new grade-speed table prepared for the computer program; new field sheet computations would be required and the information summarized for each road in the 36,000 mile network; a new set of 11 network base maps would have to be prepared with all of the node numbers and revised link mileages entered on the maps; new input would have to be provided and information for each node and link keypunched; the entire Section 3, the mileage table in the proposed DT 8, would have to be rerun by the computer; new plates would be required for approximately 500 pages of DT 8; and Maps 1, 2, 3, 4, 5, 6, 7, 2-U, 2-V, 2-W, 3-X, and 3-Y would also have to be revised, with new plates prepared by the printer for printing the revised maps.

The staff states that the matter of revision of cost factors in the constructive mileage formula was decided by Commission Decision No. 81862 and the staff proceeded on that basis. To rework

all of the calculations and to revise the metropolitan zones would require nearly two years after the date of the decision of the Commission.

In conclusion, the staff states that the proposed DT 8 properly reflects the addition to DT 7 of many new roads and bridges including the San Diego-Coronado Bridge and the major addition to Interstate 5 south of Los Banos, and that recognition of these changes in the distance table is long overdue and should not be delayed by reconsideration of items previously covered in Decision No. 81862; the Commission staff, therefore, urges that the exceptions of the CTA to the Proposed Report not be adopted.

Staff Reply to Port's Exceptions

The staff reply disagrees with Port's assumption that it erred in compiling the constructive mileages from MZ 111 to the San Jose area; that the constructive mileages subtotal at El Camino and SR 17 is 43.19, but DT 8 total used only 42; and the constructive total to U.S. 101 figures to be 40.93 and the staff witness used only 40; and that the run from MZ 101 and MZ 125 results in a constructive mileage of 48.85, and the mileage used is 50.

The staff reply states that the constructive mileage used on SR 17 between Oakland basing point, MZ 111, and Santa Cruz computed to a total of 77.08 which was properly rounded to 77. No forced rounding was necessary over the entire segment; the constructive mileage calculation by individual links between the San Francisco basing point, MZ 101, and the San Jose basing point, MZ 125, is actually a total of 50.85; and that any attempt to change individual links by forced rounding in the cases cited by the Port would result in changes for other segments to compensate. The staff states that adoption of the changes recommended by the Port would require a complete rerun of Section 3, the mileage table in the proposed DT 8. The Commission staff, therefore, urges that the exceptions of the Port not be adopted.

DISCUSSION

We have carefully reviewed the Examiner's Proposed Report, the exceptions, and replies thereto.

We adopt the statements in the Examiner's Proposed Report with respect to the nature of the proceeding and the discussion under the topic headings: "Background", "Background of Staff Studies", "Interim Decision", "Hearings in Current Phase of OSH 31", "Evidence Adduced at Further Hearings", "Evidence Adduced by CTA", "Staff Rebuttal Testimony", and "Position of CMA and Conference".

The statements in the Examiner's Proposed Report under the topic heading "Preliminary Discussion" should be corrected to properly reflect the standard vehicle used in the staff study, which is a five-axle vehicle consisting of a tractor and two trailers with converter gear. With that correction the statements in the Examiner's Proposed Report under the topic heading "Preliminary Discussion" are adopted.

The statement of "Issues" are set forth here for clarity. The issues to be resolved are:

1. Whether either of CTA's two proposed changes in the staff's proposed DT 8 would unduly delay the issuance of the revised distance table, and
2. Whether the development of revised constructive mileages based on current cost data, as proposed by CTA, would have an improper result.

In light of the exceptions and replies to the Examiner's Proposed Report, the statements in the Examiner's Proposed Report under the heading "Discussion" should be deleted. The following is substituted therefor.

Decision No. 81862 set forth the following reasons for adopting the staff's proposed methods of developing the data underlying DT 8, as set forth in the staff's Exhibit 31-7:

"We concur in the recommendations in Exhibit 31-7 as to the scope and extent of the staff studies to be

undertaken herein. The reasons for this concurrence are the following:

- "1. Although substantial increases in hourly wage costs occurred in the period between the establishment of DT5 and the revisions accomplished in DT6 and DT7, the constructive mileage formula was not brought up-to-date in connection with the revisions in DT6 and DT7.
- "2. The increase in constructive mileages which will result solely from the increases in the cost factors in the constructive mileage formula average 2.6 percent. Constructive mileages would be raised solely on the basis of cost factors unrelated to any changes in elements of highway design (grades and alignments) or highway traffic (congestion and controls).
- "3. If the original staff proposal were adopted, the highway mileages resulting from application of the updated constructive-mileage formula would be reduced by the so-called 'F' factor to bring the mileages so developed back in line with the mileages now incorporated in DT7. It would be an idle act to develop increased constructive mileages based on an updating of the constructive mileage formula and then revise those mileages downward to eliminate the effect of the revised formula."

The methods of developing the staff exhibits for DT 8 adopted in Decision No. 81862 were not binding upon other parties. CTA presented alternative methods of developing constructive mileages in DT 8 to those used in the staff studies. The examiner's recommended findings and conclusions adopted the staff methods rather than CTA's. In its exceptions CTA urges the adoption of its methods, which methods are opposed in the replies filed by CMA, Conferences, and the staff.

The reasons for and against the adoption of either method are the same as those considered by the Commission in Decision No. 81862. The further evidence and argument adduced by CTA with respect to changes in the components of the constructive mileage formula in connection with development of the mileages in DT 8 is

not persuasive for the reasons stated in Decision No. 81862. The examiner's recommended findings would defer consideration of changes in the constructive mileage formula to a subsequent proceeding. The examiner's recommended findings in that regard will be adopted.

The examiner's recommended findings would also defer the adoption of CTA's proposed revisions with respect to the zoning of the extended areas of Sacramento, North Sacramento, Stockton, Fresno, and Bakersfield because of the extensive reworking of the distance table input data necessary to accomplish such changes, and the resulting delay which would occur. The examiner's recommendations in this regard will also be adopted.

The staff opposes the examiner's Recommended Finding 23 that no new revision of the distance table be undertaken without determination of the methods to be followed in the development of studies prior to the time such studies are begun. While it is generally true, as stated in the staff exception, that the Commission should not be burdened by the issuance of a formal order directing staff activities, it is apparent that the present studies were undertaken by the staff without the intention of making a complete revision of the distance table nor determining the nature and extent of the revisions desired by the users of the table. Because the staff has been unwilling to change the scope of its distance table studies after any substantial amount of work has been done, and because the volume of field work and complexity of the studies do not permit other parties to prepare viable alternates to the staff presentation, it appears necessary for the Commission to determine the nature and extent of the distance table studies to be conducted by its staff before such studies are commenced. Therefore, the staff's request that proposed Finding 23 be deleted will not be adopted. ✓

The exception of the Port to the manner in which mileages are accumulated between local San Francisco Bay area points and San Francisco is not well taken. The staff method is reasonable. Any disadvantage which may result to the Port from the establishment

of the proposed constructive mileages to and from San Francisco should be considered in Case No. 5432 (OSH 806) and related proceedings. As requested by CTA, the conclusions herein will be amended to refer to the latter proceeding and the matters which will be considered therein.

Based on consideration of the Examiner's Proposed Report and the exceptions and replies thereto, it will be reasonable to: (1) adopt the staff proposals in Exhibits 31-9, 31-10, 31-11, and 31-28 as DT 8, (2) consider the CTA's proposals herein as factors to be used by the staff in the development of the next revision of the distance table, and (3) determine beforehand the manner in which distance table revision studies should be accomplished in the future.

FINDINGS

1. OSH 31 in Case No. 7024 was issued by the Commission to receive evidence from all interested parties with respect to the nature and extent of, and the appropriate methods of accomplishing, future changes in the constructive mileages, rules, and governing provisions of DT 7.

2. Public hearings have been held in OSH 31 in which all interested parties have had an opportunity to be heard. The Proposed Report of Examiner Mallory (Appendix A hereto) was issued November 20, 1974; exceptions thereto were filed on or about January 21, 1975 and replies to said exceptions were filed on or about February 6, 1975. The matter is ready for decision.

3. Interim Decision No. 81862 dated September 12, 1973 in OSH 31 ordered that the Commission staff shall continue its studies looking to a revision of the distance table with a view to conclusion of said studies and presentation thereof at a public hearing within sufficient time to permit the revised distance table to become effective January 1, 1975. The scope of the studies to be undertaken by the staff were set forth in Finding 5 of the opinion.

4. Pursuant to the Commission order in Decision No. 81862, the staff presented Exhibits 31-9, 31-10, 31-11, and 31-28 which collectively comprise the staff's proposed DT 8.

5. The target date for the adoption of DT 8 set forth in Ordering Paragraph 1 of Decision No. 81862 cannot be met because the hearing and subsequent decisional processes were carried forward beyond a date which would permit the Commission to issue a final decision prior to the end of 1974.

6. Although DT 8 may not be adopted to become effective on the target date of January 1, 1975 set forth in Decision No. 81862, DT 8 should become effective at the earliest possible date in keeping with the intent of that decision. Following the adoption of DT 8, further hearing will be held in Case No. 5432 (OSH 806) and related proceedings for receipt of evidence concerning the changes required in tariffs governed by the distance table as a result of the adoption of DT 8.

7. Pursuant to Finding 4 and Finding 5 (subparagraph (i)) of Decision No. 81862, the staff's proposed DT 8 was developed by using the constructive mileage formula and values therein adopted for use in determining the constructive mileages in DT 7. The cost components used in the constructive mileage formula are the same for DT 5, DT 6, and DT 7. The change in the values in the formula between DT 5 and DT 8 is a change in the standard speed from 50 mph (DT 5 and DT 6) to 55 mph (DT 7 and DT 8).

8. The Commission staff did not propose to zone the communities encompassed within the extended areas of Bakersfield, Fresno, Stockton, Sacramento, and North Sacramento as part of the staff studies undertaken herein and Decision No. 81862 did not require the zoning of those communities.

9. CIA, in its Exhibit 31-27, proposed that current values for running costs and current hourly costs be substituted in the constructive mileage formula in place of the values adopted in connection with DT 5 [Decision No. 64802 (1963) 60 CPUC 453].

10. The Commission considered the substitution of current cost values in the constructive mileage formula in connection with the plan for the development of the staff studies adopted in Decision No. 81862 and found in that decision that staff studies should be based on the constructive mileage formula and values therein used in connection with DT 7.

11. An additional 13 months would be required to revise the constructive mileages in Exhibits 31-9 and 31-10 to reflect the proposal in CTA's Exhibit 31-27.

12. The adoption of the proposal in Exhibit 31-27 would unduly delay the issuance of DT 8 for approximately one year. The proposal in Exhibit 31-27 should be rejected in connection with DT 8.

13. The CTA in its Exhibit 31-26 proposed that metropolitan zones should be established within areas embraced by the present extended areas of Bakersfield, Fresno, Stockton, Sacramento, and North Sacramento.

14. The establishment of metropolitan zones within the present extended areas, as proposed in CTA's Exhibit 31-26, would reduce the geographical area subject to a single mileage basing point; would provide more equitable constructive mileage relationships within the communities embraced by the present extended areas, and between those communities and other points; and would conform to the criteria for development of metropolitan zones which underlie the development of the existing metropolitan zone systems. An additional period of seven months would be required to revise Exhibits 31-9 and 31-10 to include the metropolitan zoning proposed in Exhibit 31-26 in order to develop approximately 65 new red points as entry points to the new zones or as new mileage basing points, and to recompute all distance table mileages using a revised computer run containing the new red points.

15. The adoption of CTA's proposal in its Exhibit 31-26 concerning additional metropolitan zoning for the extended areas of Bakersfield, Fresno, Stockton, Sacramento, and North Sacramento would unduly delay the issuance of DT 8 and should not be adopted at this time.

16. Exhibits 31-9, 31-10, 31-11, and 31-28 should constitute the current revision of the distance table (DT 8) and the constructive mileages, rules, and related provisions set forth in DT 8 are reasonable and justified.

17. DT 8, when applied in conjunction with minimum rate tariffs subject thereto, will result in just, reasonable, and nondiscriminatory minimum rates for transportation governed by said tariffs.

18. To the extent that the provisions of DT 7 heretofore have been found to constitute reasonable rules and distances for common carriers as defined in the Public Utilities Code, the provisions of DT 8 adopted by the Commission in its order herein are, and will be, reasonable provisions for those carriers.

19. To this same extent, existing rules 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 DT 8.

20. Upon publication of DT 8, the staff should be directed to complete an optional "all points-to-all-points table", as set forth in Finding 5(b) of Decision No. 81862.

21. DT 8 should be published as a bound tariff rather than in loose-leaf form to accommodate tariff agents who are required to file a distance table with this and other commissions on behalf of common carriers.

22. DT 8 is a partial revision of DT 7 for the purpose of including certain major new interstate highway segments and new bridges; it is not intended to be a complete new distance table.

The Commission staff should accomplish a complete revision of the distance table with reasonable dispatch.

23. In order to (a) eliminate unnecessary delays, (b) remove areas of possible conflict which cannot be resolved after studies are begun, and (c) accommodate the views of all parties, the Commission should specify by formal order the scope of the staff studies in connection with the revision of DT 8 before field work in connection therewith is begun. Before hearing is held, the Commission staff should determine whether any major change in distance table rules, metropolitan zoning, or other provisions of the distance table may be required, and advise all known interested parties of the nature of the changes, if any, necessary to modernize the provisions of the distance table.

24. The next major revision of the distance table should include the following:

- (a) A resurvey of all ferries, highway segments which are subject to governmental or other restrictions which prevent or inhibit movement of tractor and semitrailer equipment, and other roads now included in the constructive mileage network.
- (b) The establishment of metropolitan zones within the present extended areas of Bakersfield, Fresno, Stockton, Sacramento, and North Sacramento, similar to the proposal in Exhibit 31-26.
- (c) Consideration of constructive mileages based on the use of cost data as components of the constructive mileage formula which are current at the time.
- (d) A determination whether any major change in distance table rules, metropolitan zoning, or other provisions may be required.

CONCLUSIONS

1. Distance Table 8, as described in Finding 16 (above), should be issued effective July 1, 1975.

2. Further hearing should be held in Case No. 5432 (OSH 806) and related proceedings to determine the amendments required in the tariffs governed by the distance table as a result of the changes in Distance Table 8, and Distance Table 8 shall supersede Distance Table 7 as the governing distance table to the extent and in the manner determined in those proceedings.

3. The distribution of Distance Table 8 shall be accomplished by separate order.

4. A new Order Setting Hearing in Case No. 7024 should be issued and hearing therein held for the purposes described in Findings 23 and 24 (above).

5. The Petition to Reopen Case No. 7024 (OSH 31) for Purpose of Receiving Additional Limited Evidence filed by Pacific Coast Tariff Bureau and Distribution-Publication, Inc. on March 10, 1975 and The Petition to Reopen Case No. 7024 (OSH 31) for Purpose of Receiving Additional Limited Evidence filed by Stewart and Nuss, Inc. on April 7, 1975 should be denied.

O R D E R

IT IS ORDERED that:

1. The mileages, maps, rules, and other provisions specified in Finding 16 of this decision are hereby adopted as Distance Table 8.

2. By subsequent orders Distance Table 8 will be served upon respondents and parties of record.

3. The Petitions to Reopen Case No. 7024 (OSH 31) filed on March 10, 1975 by Pacific Coast Tariff Bureau and Distribution-Publication, Inc. and by Stewart and Nuss, Inc. on April 7, 1975 are denied. ✓

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 15th day of APRIL, 1975.

Vernon L. Sturgeon
President
William Lyman J.
Donald
Leonard Ron
Robert K. Turner
Commissioners

APPENDIX A

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
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transportation of any and all
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(Appearances are shown in Decision No. 81862)

Additional Appearances

John Odoxta, for Shippers Imperial, Inc., respondent.
Douglas J. Reynolds, for Kaiser Cement & Gypsum Corp.;
Robert Seifert, for Kaiser Steel Corporation;
John T. Reed, for Pacific Coast Tariff Bureau;
M. J. Nicolaus, for Western Motor Tariff Bureau,
Inc.; Karl Mallard, for C & H Sugar; R. C. Fels,
for Furniture Manufacturers Associates of
California; Delmer D. Watkins, for Shell Oil
Company; Ralph J. Staunton, for County of Los
Angeles; C. H. Caterino, for the Flintkote
Company, Pioneer Division; C. Fred Imhof, for
Industrial Asphalt; R. A. Redmond, for California
Household Goods Carriers Bureau; and Cornelius F.
Phelan, for General Electric Company; interested
parties.
E. O. Carmody, for the Commission staff.

PROPOSED REPORT OF EXAMINER J. W. MALLORY

The Distance Table issued by this Commission contains constructive mileages to be used in determining distance rates for transportation of property between points in California by highway permit carriers to the extent provided in the minimum rate tariffs governed thereby. The current Distance Table 7 (DT 7) was established by Decision No. 74532 in Case No. 7024 (unreported) and became effective January 1, 1969. DT 7 reflects legal speed limits, freeways and highways, and other conditions as of July 1, 1968.

Order Setting Hearing 31 (OSH 31) dated June 12, 1972 was issued to permit the receipt of evidence from interested parties concerning appropriate procedures for the amendment of DT 7. OSH 31 directed that hearings be held with respect to the nature and extent of, and the appropriate methods of accomplishing, future changes in the constructive mileages, rules, and governing provisions of DT 7.

Background

The minimum rate tariffs issued by this Commission which contain mileage rates have been governed by successively numbered distance tables since minimum distance rates for highway permit carriers were first established pursuant to the mandates in the Highway Carriers' Act [Statutes 1935, Chapter 223, now Division 2 (Section 1 of the Public Utilities Code)].

The distance table was completely revised by Decision No. 64802 dated January 15, 1963 in Case No. 7024 (60 CPUC 453). DT 5 resulting from that proceeding contained several changes from prior distance tables. The most prominent of these were (a) the establishment of zones in the three major metropolitan areas in the State (Los Angeles, San Francisco Bay Area, and San Diego); (b) the establishment of a rule providing that the constructive mileage from or to a mileage basing point (other than a metropolitan zone) is applicable to or from any point within three actual miles of such mileage basing point; (c) the establishment of extended areas encompassing the metropolitan areas of Bakersfield, Fresno, Stockton, Sacramento, and North Sacramento; and (d) the establishment of a rule providing that when the distance table does not contain a constructive mileage for a particular highway segment, the constructive mileage for such segment shall be based on 1.3 times the actual mileage for that segment.

The constructive mileages in DT 5 were based on a formula set forth in staff Exhibit 3 in Case No. 7024, OSH 12/20/60 (Re Distance Table 5 (1963) 60 CPUC 453). That formula and the specific factors used in connection with DT 5 and DT 6 are as follows:

$$CM = \frac{\frac{c_t}{v} + c_d}{\frac{c_t}{v'} + c_d}$$

c_t = time unit cost = \$4.498/hour

c_d = distance unit cost = \$0.155/mile

v' = standard speed = 50 miles per hour

v = actual speed

DT 7 revisions reflected the increase in the maximum legal speed for motor trucks to 55 miles per hour (previously 50 miles per hour). There were no other factors changed in the constructive mileage formula used in connection with the revision of DT 5 and DT 6.

Prior orders in Case No. 7024 indicated that the Commission planned periodic revisions of the distance table when major changes have occurred in factors affecting constructive mileage.

Background of Staff Studies

The Commission staff on January 19, 1971 addressed a letter to interested parties indicating that major changes had occurred since the last revision of constructive mileages (in DT 7), and that the staff would appreciate comments as to whether studies looking to the revision of DT 7 should be undertaken and whether a target date of January 1, 1973 should be adopted. Several responses were received to the letter of January 19, 1971. All contained suggestions concerning the manner in which DT 7 should be revised. Fibreboard Corporation and California Trucking Association (CTA) suggested that the target date for revision of DT 7 be advanced to January 1, 1975. This recommendation was later concurred in by Traffic Managers Conference of California (Conference) and California Manufacturers Association (CMA).

On April 30, 1971 a letter was directed by the staff to interested parties stating that "after review of the comments and further consideration of the matter, it appears there is no need for issuance of a revised distance table prior to January 1, 1975. Therefore, the staff does not plan to start work on a revision at this time. We plan to review this matter again around July 1972." Upon receipt of the foregoing letter, Petition 30 was filed by CTA.

OSH 31 and Petition 30 were consolidated for hearing. Public hearings in the consolidated proceedings were held on June 16 and September 27, 1972; and on January 23, February 15 and 16, and May 23 and 24, 1973. On the latter date the consolidated proceedings were submitted for a ruling by the Commission with respect to the nature and extent of the studies that would be conducted by the Commission staff looking to the revision of DT 7.

In Petition 30, CTA developed evidence to show that the time unit costs and mileage unit costs used in the constructive formula which underlies DT 5, DT 6, and DT 7 are substantially below current costs. CTA requested that any revision of the distance table be based on the use of current time and mileage unit costs in the constructive mileage formula.

The Commission staff presented a proposed schedule for completion and issuance of DT 8, which contemplated that staff studies would be completed by April 1, 1974 and that DT 8 would be issued November 1, 1974 and would become effective January 1, 1975. The detailed recommendations of the staff are contained in Exhibit 31-1 and modified in Exhibit 31-7. Insofar as pertinent to the issues to be resolved in the current phase of OSH 31, staff Exhibit 31-7 stated as follows:

"There have been numerous and substantial changes in the roads and highways since the issuance of DT7 on January 1, 1969. DT7 covered new highways scheduled for completions up to July 1, 1969. Between that time and the present new bridges have been constructed and hundreds of miles of new freeways completed including the new Interstate 5 route between Los Angeles and State Route 152 near Los Banos which was opened in March 1972. By January 1975 hundreds of additional miles of new freeways and improved highways will have been completed. To properly meet the transportation needs of the economy of California the distance table must be based on current highway conditions. It is imperative that Distance Table 8 be issued no later than January 1, 1975.

"In consideration of the above conditions it is necessary to modify the staff proposal for Distance Table 8 as outlined in Exhibit 31-1 to exclude any changes resulting from:

1. Revision of constructive mileage formula.
2. Modification or addition of zones."

CTA vigorously opposed the above staff proposal dealing with "revision of constructive mileage formula". CTA filed a motion requesting the Commission to direct the Commission staff to cease processing distance table material (except for sample and testing purposes) which assured Commission approval of old constructive mileage formula components and to direct that the staff studies be based on current facts and circumstances.

The proceedings were taken under submission for rulings by the Commission on the methods and time schedules which should be adopted for revision of DT 7.

Interim Decision

Interim Decision No. 81862 dated September 12, 1973 in the consolidated proceeding ordered as follows:

"1. The Commission staff shall continue its studies looking to a revision of the distance table with a view to conclusion of said studies and presentation at a public hearing within sufficient time to permit the revised distance table to become effective January 1, 1975. The scope of the studies shall be that set forth in Finding 5 of the preceding opinion.

"2. The motion of California Trucking Association filed June 14, 1973 is denied.

"3. To the extent not granted by Ordering Paragraph 1 hereof, Petition for Modification No. 30 in Case No. 7024 is denied.

"4. The proceeding in Order Setting Hearing 31 in Case No. 7024 shall remain open for the receipt of further evidence."

Decision No. 81862 stated as follows:

"It is apparent from the evidence and argument presented by the staff that it concluded that to wait the necessary time for the Commission to decide the issues raised by it in OSH 31 would preclude it from completing its studies in time to permit revision of the distance table on January 1, 1975.

"We concur in the recommendations in Exhibit 31-7 as to the scope and extent of the staff studies to be undertaken herein. The reasons for this concurrence are the following:

1. Although substantial increases in hourly wage costs occurred in the period between the establishment of DT5 and the revisions accomplished in DT6 and DT7, the constructive mileage formula was not brought up-to-date in connection with the revisions in DT6 and DT7.
2. The increase in constructive mileages which will result solely from the increases in the cost factors in the constructive mileage formula average 2.6 percent. Constructive mileages would be raised solely on the basis of cost factors unrelated to any changes in elements of highway design (grades and alignment) or highway traffic (congestion and controls)."

The findings of Decision No. 81362 pertinent to this phase of OSH 31 are set forth below.

1. Prior orders indicate that it is the intent of the Commission that the distance table be revised when there has been a major change in any factor affecting constructive mileage compilations.

2. There have been sufficient changes in the factors affecting constructive mileages to require that the distance table be amended to reflect such changes. The principal change is the opening of a new interstate freeway route on the west side of the San Joaquin Valley (Interstate 5) which substantially changed the highway mileages between the two major metropolitan areas of the State.

3. The last revision of the distance table was pursuant to Decision No. 74532 and became effective January 1, 1969. It will be reasonable to revise the distance table to reflect current conditions, and such revisions should be accomplished as soon as possible. The earliest date which such revision can be made effective is January 1, 1975.

4. For the reasons expressed in the preceding opinion it will be reasonable to develop constructive mileages in the current revision of the distance table based on the factors in the constructive mileage formula adopted for the DT 7 revisions (Decision No. 74532).

5. The scope of the study to be conducted by the Commission staff shall be the following:

- (a) Proposed Distance Table 8 will be prepared in essentially the same format as Distance Table 7, consisting of Part I - Rules and Tables of Distances, and Part II - Book of Maps.
- (b) An optional Part III consisting of an "all points-to-all points" table will be prepared, but will not be incorporated in DT 8.

- (c) New points will be added in accordance with the criteria set forth in Exhibit 31-7. Those points listed in Appendices B and C to Exhibit 31-6 will be included as Black or Red Points. Tuolumne will be changed from a Red to Black Point. The points listed in Appendix B to Exhibit 31-7 will be cross-referenced in the index.

- (d) The following points will be changed from Black Points to Red Points.

Armona	Fields Landing	Plaster City
Bells Station	Fort Ord (Main Gate)	Poway
Berenda	Graton	Rio Linda
Betteravia	Greeley	San Lucas
Biola	Grimes	San Martin
Boulder Creek	Jamestown	San Miguel
Carr	Junction No. 2406	San Ramon
Castaic	Loomis	Standard
Chualar	Madison	Thornton
Courtland	Mira Loma	Victor
Cutler	Moss Landing	Westend
Famosa	Nitroshell	Windsor
	Norman	Yolo

Indian Hill (Amador County) and Thorn (San Bernardino County) will be established as Red Points.

- (e) The Mileage Basing Point for Metropolitan Zone 101 be relocated from the intersection of Third Street and Fourth Street, San Francisco to the intersection of Third Street and Army Street, San Francisco.
- (f) New roads constructed since the last revision of the distance table and roads which have increased traffic or otherwise are more important will be added.
- (g) The San Diego-Coronado Bridge and the Ord-Bend Bridge will be included.

- (h) Additional constructive mileage to compensate for restricted operations due to ferries, load limits on bridges, or other reasons will be developed for those road segments described in Part 2 of Exhibit 31-8, using the methods described herein.
- (i) The constructive mileage formula for DT 8 will be that used in connection with DT 7.
- (j) The grade-speed relationship will be that set forth in Exhibit 31-2, page A-3.
- (k) The four additional zones in the San Diego Area directed to be included in the distance table pursuant to Decision No. 71610 dated November 29, 1966 in Case No. 5439 (OSH 1/4/66) will be added.
- (l) Supplementary maps will be replaced with the current local maps available to the staff.
- (m) Rule changes required to implement the above will be made as required.

6. A schedule for completion of studies that will permit the revised distance table to become effective on January 1, 1975 will be reasonable and is required.

Hearings in Current Phase of OSH 31

Further hearings in the current phase of OSH 31 were held at San Francisco on June 17 and 20, July 2, and September 23 and 24, and October 29 and 30, 1974; and in Los Angeles on June 24, 25, and 26, and September 16 and 17, 1974. The matters were submitted on October 30, 1974.

On October 29, 1974 CTA filed a motion seeking the issuance of an Examiner's Proposed Report, which was granted by the Commission. CTA also sought the opportunity to file briefs prior to the issuance of such report. That request is denied.

Evidence Adduced at Further Hearings

The Commission staff presented Exhibit 31-9 entitled "Proposed Distance Table 8" and Exhibit 31-10 entitled "Proposed Distance Table 8 Book of Maps". Exhibit 31-11 is an errata sheet, which corrects errors in Exhibit 31-9. Together these exhibits constitute the efforts of the staff to comply with the order and directive of the Commission in Decision No. 81862, particularly with respect to Findings 4 and 5 of that decision.

Exhibit 31-9 was sponsored by a transportation engineer and a transportation rate expert from the Commission's Transportation Division - Freight Economics Branch. The engineer testified that the majority of all U.S. highways and state sign routes that make up the highway system in California were resurveyed by staff personnel for the current revision of the distance table. The witness stated that, in addition, a large portion of the primary county roads were resurveyed; part of the remaining roads, such as other county roads and fire service roads were also covered. The staff engineer estimated that 75 percent of the roads in the proposed distance table network were surveyed for DT 8; the witness estimated that DT 8 contains about 36,000 miles of roads and, therefore, 27,000 miles were resurveyed preparatory to the preparation of proposed DT 8.

The staff engineer and rate expert testified that they had jointly prepared proposed DT 8 in accordance with the Findings 4 and 5 of Decision No. 81862 and that the additions, deletions, and changes directed in those findings are accomplished in proposed DT 8.

A staff engineer also presented Exhibit 31-28, which contains a proposed amendment of DT 7 adopted by ex parte order in Decision No. 83564 dated October 8, 1974 in Case No. 7024, Petition 32. The revisions of DT 7 accomplished in that order are also recommended for inclusion in DT 8.

Extensive cross-examination of the staff engineer sponsoring Exhibits 31-9 and 31-10 (DT 8) was conducted by CTA to determine the manner in which the staff studies underlying the preparation of those exhibits were conducted and to determine whether the proposed distance table properly reflects that data disclosed in the staff studies. In response to CTA's request, work papers and other underlying data used in preparation of Exhibits 31-9 and 31-10 were furnished to CTA for review. Some of the additional information furnished at CTA's request was made part of the record as Exhibit 31-14, Exhibits 31-16 through 31-20, and Exhibits 31-22 and 31-23.

Evidence Adduced by CTA

CTA presented evidence through two witnesses as to that organization's proposals with respect to DT 8.

In its Exhibit 31-24, CTA extracted the testimony of the Commission staff witness presented in Case No. 7024 (OSH 12/20/60) with respect to the criteria used by the staff in the development of the metropolitan zones proposed by the staff in DT 5. (Transcript Volume 2, April 12, 1961.) The purpose of that presentation was to show the bases for the metropolitan zones now included in the distance table, inasmuch as no discussion of that subject appears in Decision No. 66573. The testimony of the staff witness extracted in Exhibit 31-24, in addition to stating the criteria for the present metropolitan zones in the Los Angeles, San Francisco Bay, and San Diego metropolitan areas, also explained that the staff contemplated that in the future the staff would recommend that metropolitan zones be established for the extended areas of Bakersfield, Fresno, Stockton, Sacramento, and North Sacramento.

CTA presented Exhibit 31-25, which contains statistical and geopolitical data for the communities of Bakersfield, Fresno, Stockton, and Sacramento. The data supplied therein show that each community is a center for manufacturing, agriculture, wholesale and retail trade, and government activities; and that such activities are conducted in an area which extends beyond the corporate boundaries of the central city. The witness testified that the present extended areas for the communities of Bakersfield, Fresno, Stockton, Sacramento, and North Sacramento encompass the areas of such economic activity; and that such extended areas have external boundaries which are greater in diameter than other communities which do not have extended areas. The witness stated that, based on the criteria heretofore used for zoning of existing metropolitan areas, zones should be established within the extended areas of the communities in question. Zone descriptions and proposed rules to accomplish the zoning of the extended areas surrounding Bakersfield, Fresno, Stockton, Sacramento, and North Sacramento are set forth in CTA's Exhibit 31-26.

CTA again presented evidence designed to show that the time unit costs and distance unit costs used in the constructive mileage formula underlying DT 8 are outmoded for the reason that current costs developed by the CTA witness substantially exceed the unit costs which were developed for DT 5 and which are carried forward into the constructive mileage formula used in the development of DT 8. In Table 2 of Exhibit 31-27, the CTA witness compared such unit costs as follows:

	<u>Distance Table 5</u> (1960)	<u>Distance Table 8</u> (1975)
c_t = time unit cost	= \$4.498/hour	\$12.3806
c_d = distance unit cost	= \$0.155/mile	\$ 0.0219

CTA renewed its request that the revisions of constructive mileages to be accomplished in DT 8 be determined using current time and mileage unit costs in the constructive mileage formula.

Staff Rebuttal Testimony

CTA's proposal was opposed by the staff on the basis that such proposals would unduly delay the issuance of a new distance table. The Commission staff estimated that if no changes are required in its proposed DT 8 as set forth in Exhibits 31-9, 31-10, 31-11, and 31-28, a new distance table could be printed and published within 5 months after a decision was issued herein; that if the CTA's zoning proposal in Exhibit 31-26 is adopted, an additional 7 months would be required to complete and publish a new distance table; and that if the constructive mileage formula is revised to reflect current hourly and mileage unit costs and constructive mileages are revised on such formula, an additional 13 months would be required. If both proposals in Exhibits 31-26 and 31-27 are adopted, the necessary work to complete DT 8 would require about 18 months.

The staff in Exhibit 31-29 also presented data to show that the sole effect of using current cost elements in the constructive mileage formula would be to increase constructive mileages. The exhibit shows that such increases would fall the heaviest on highway segments subject to the lowest speeds, and would have the least effect on highway segments rated at or near the maximum speed of 55 mph.

Position of CMA and Traffic Managers Conference

CMA and Conference argue that DT 8, as proposed by the staff, is primarily a revision of DT 7 designed to incorporate in the distance table the changes in mileage resulting from the new

freeways constructed since the advent of DT 7.^{1/} CMA and Conference recommend that the Commission pursue its stated course of action as set forth in Decision No. 81862 and, without further delay, issue its amended distance table as set forth in Exhibits 31-9 and 31-10 herein.

Preliminary Discussion

The Commission's policy with respect to the present revision of its distance table is set out in some detail in Decision No. 81862. It is the apparent concern of the Commission, in arriving at the order therein, that the revised distance table should be issued promptly with a target effective date of January 1, 1975. Issuance of a revised distance table by that date is no longer possible. However, the revised table to result from this proceeding should be issued without unwarranted delay.

CTA extensively cross-examined the staff witnesses concerning areas where no up-to-date studies assertedly were made for the purposes of this proceeding. The record shows that only three-quarters of the road system incorporated in the distance table were currently studied by the staff and that the unstudied areas include many road segments subject to operating restrictions for the standard vehicle (tractor and 40-foot trailer) used in the staff study. CTA abandoned its request for more data in those areas and concentrated its requested changes in two major proposals; that is, the internal zoning of the existing extended areas described in DT 7, and the development of constructive mileages based on the use of current cost factors in the constructive mileage formula. The major objection to the adoption of the two CTA proposals is that such proposals would cause unwarranted delays in the issuance of a revised distance table.

1/ In Petition 825 in Case No. 5432, CMA seeks an immediate increase in the San Francisco Bay Area-Los Angeles Area point-to-point rates in Minimum Rate Tariff 2 to reflect the reduction of approximately 33 constructive miles between the Los Angeles and San Francisco areas resulting from use of the Interstate 5 freeway constructed since DT 7 was issued.

The Commission staff, CMA, and Conference also object to the use of current costs in the constructive mileage formula for the reason that increases in constructive mileages would occur which would result solely from the increases in carrier operating costs. Assertedly, full effect is given to operating costs of carriers in the setting of rates in minimum rate proceedings. The staff originally proposed in the initial phase of this proceeding that current cost elements be used in the constructive mileage formula and that the mileages resulting from the use of the updated formula be adjusted by the use of a so-called "F" factor (see Decision No. 81862). The purpose of the "F" factor adjustment was to reduce the constructive mileage for the revised DT 8 system as a whole to the total constructive mileages contained in DT 7. The staff assertedly abandoned its "F" factor proposal for the reason of expediency; the staff never alleged that improper results would stem therefrom.

Issues

The issues to be resolved in this phase of OSH 31 are two:

1. Whether either of CTA's two proposed changes in the staff's proposed DT 8 would unduly delay the issuance of the revised distance table, and
2. Whether the development of revised constructive mileages based on current cost data, as proposed by CTA, would have an improper result.

Discussion

Decision No. 81862 herein set forth the Commission's reasons for adopting the staff's proposed methods of developing the data underlying DT 8, as set forth in the staff's Exhibit 31-7.^{2/} The changes in components of the constructive mileage formula urged by CTA in the final phase of OSH 31 are the same as those considered in the initial phase and rejected by Decision No. 81862. CTA raised that issue in its petition for rehearing of Decision No. 81862 which was denied by Decision No. 82236 dated December 7, 1973. It is apparent that by adopting the staff's proposal and not CTA's proposal, the Commission decided that issue for the purposes of the instant proceeding.

2/ Decision No. 81862, at mimeo pages 13 and 14, states as follows:

"We concur in the recommendations in Exhibit 31-7 as to the scope and extent of the staff studies to be undertaken herein. The reasons for this concurrence are the following:

1. Although substantial increases in hourly wage costs occurred in the period between the establishment of DT5 and the revisions accomplished in DT6 and DT7, the constructive mileage formula was not brought up-to-date in connection with the revisions in DT6 and DT7.
2. The increase in constructive mileages which will result solely from the increases in the cost factors in the constructive mileage formula average 2.6 percent. Constructive mileages would be raised solely on the basis of cost factors unrelated to any changes in elements of highway design (grades and alignment) or highway traffic (congestion and controls).
3. If the original staff proposal were adopted, the highway mileages resulting from application of the updated constructive-mileage formula would be reduced by the so-called 'F' factor to bring the mileages so developed back in line with the mileages now incorporated in DT7. It would be an idle act to develop increased constructive mileages based on an updating of the constructive mileage formula and then revise those mileages downward to eliminate the effect of the revised formula."

Thus it would appear that CTA, by introducing Exhibit 31-27, has endeavored to relitigate a matter already decided by the Commission. The determinations in Decision No. 81362 were made solely for the purposes of developing the current revision of the distance table and are not binding in connection with future revisions of the table. Throughout the hearings in OSH 31 CTA has expressed the fact that it has urged a complete revision of the table in past proceedings, as well as in the current proceeding. The Commission should consider the CTA's requests in Exhibits 31-26 and 31-27 to be part of the CTA's continuing policy in that respect and that such proposals also apply to any succeeding revision of the distance table.

It is apparent that the Commission approval of the staff's undertaking in connection with subsequent revisions of the distance table should be made in advance of the onset of the staff field work in order to avoid the situation which has arisen herein. Once the staff had embarked on a specific course of action and many man-hours had been committed thereto, the reluctance of the staff to change any part of that course of action became manifestly apparent.

To avoid in the future the delays encountered herein and to ensure that the staff methods of gathering, analyzing, and compiling the data for any forthcoming revision of the distance table will be satisfactory to all affected parties, no staff field work or compilation of data should be begun without formal approval by the Commission of the methods to be used. Inasmuch as the revision of the distance table appears to be a continuing project for the staff, the decision of the Commission adopting DT 8 should also set out the approved methods and scope of any further revision of that table. The date of the next revision should also be determined in that decision to avoid the timing problems adverted to by the staff in OSH 31.

It is apparent that the revision of the data contained in Exhibits 31-9 and 31-10 to reflect the substitution of current cost data in the constructive mileage formula would advance the date of the adoption of DT 8 for a period of not less than one year. The original date of hearing in this proceeding was June 19, 1972. As pointed out by the staff and other parties, this proceeding should be culminated as rapidly as possible so that the major changes in freeway alignment accomplished since DT 7 became effective should be reflected in the constructive mileages in DT 8.

Based on the foregoing, it will be reasonable to:

(1) adopt the staff proposals in Exhibits 31-9, 31-10, 31-11, and 31-28 as DT 8, (2) consider the CTA's proposals herein as factors to be used by the staff in the development of the next revision of the distance table, and (3) set the period in which the distance table revision studies should be accomplished.

As heretofore stated, CTA cross-examined on several points which were not raised in its proposals herein, such as the fact that no current studies were made of mileages over certain ferries in the Sacramento Delta Region. CTA showed that limited studies were made to determine whether governmental or other restrictions exist which prevent or inhibit the use of certain segments of highways by for-hire vehicles, and whether any of such highways should be subject to increased constructive mileage or completely eliminated from the distance table highway system. The Commission staff should be directed by the Commission, in connection with the next revision of this distance table, to make such studies as are necessary to obtain current data for all roads and highways in the distance table.

Recommended Findings

1. OSH 31 in Case No. 7024 was issued by the Commission to receive evidence from all interested parties with respect to the nature and extent of, and the appropriate methods of accomplishing, future changes in the constructive mileages, rules, and governing provisions of DT 7.

2. Public hearings have been held in OSH 31 in which all interested parties have had an opportunity to be heard.

3. Interim Decision No. 81862 dated September 12, 1973 in OSH 31 ordered that the Commission staff shall continue its studies looking to a revision of the distance table with a view to conclusion of said studies and presentation thereof at a public hearing within sufficient time to permit the revised distance table to become effective January 1, 1975. The scope of the studies to be undertaken by the staff shall be that set forth in Finding 5 of the opinion.

4. Pursuant to the Commission order in Decision No. 81862, the staff presented Exhibits 31-9, 31-10, 31-11, and 31-28, which collectively comprise the staff's proposed DT 8.

5. The target date for the adoption of DT 8 set forth in Ordering Paragraph 1 of Decision No. 81862 cannot be met because the hearing and subsequent decisional processes were carried forward beyond a date which would permit the Commission to issue a final decision prior to the end of 1974.

6. Although DT 8 may not be adopted to become effective on the target date of January 1, 1975 set forth in Decision No. 81862, DT 8 should become effective at the earliest possible date in keeping with the intent of that decision.

7. Pursuant to Finding 4 and Finding 5 (subparagraph (i)) of Decision No. 81862, the staff's proposed DT 8 was developed by using the constructive mileage formula and values therein adopted for use in determining the constructive mileages in DT 7. The cost components used in the constructive mileage formula are the same for DT 5, DT 6, and DT 7. The change in the values in the formula between DT 5 and DT 8 is a change in the standard speed from 50 mph (DT 5 and DT 6) to 55 mph (DT 7 and DT 8).

8. The Commission staff did not propose to zone the communities encompassed within the extended areas of Bakersfield, Fresno, Stockton, Sacramento, and North Sacramento as part of the staff studies undertaken herein and Decision No. 81862 did not require the zoning of those communities.

9. CTA, in its Exhibit 31-27, proposed that current values for running costs and current hourly costs be substituted in the constructive mileage formula in place of the values adopted in connection with DT 5 [Decision No. 64802 (1963) 60 CPUC 453].

10. The Commission considered the substitution of current cost values in the constructive mileage formula in connection with the plan for the development of the staff studies adopted in Decision No. 81862 and found in that decision that DT 8 should be based on the constructive mileage formula and values therein used in connection with DT 7. (See Recommended Finding 7 above.)

11. A witness from the Commission staff testified that an additional 13 months would be required to revise the constructive mileages in Exhibits 31-9 and 31-10 to reflect the proposal in CTA's Exhibit 31-27.

12. Inasmuch as the Commission has considered and rejected in the initial phase of OSH 31 culminating in Decision No. 81862 a proposal of CTA substantially the same as that set forth in its Exhibit 31-27, and as the adoption of the proposal in Exhibit 31-27 would unduly delay the issuance of DT 8 for approximately one year, the proposal in said Exhibit 31-27 should be rejected in connection with DT 8.

13. The CTA in its Exhibit 31-26 proposed that metropolitan zones should be established within areas embraced by the present extended areas of Bakersfield, Fresno, Stockton, Sacramento, and North Sacramento.

14. The establishment of metropolitan zones within the present extended areas, as proposed in CTA's Exhibit 31-26, would reduce the geographical area subject to a single mileage basing point; would provide more equitable constructive mileage relationships within the communities embraced by the present extended areas, and between those communities and other points; and would conform to the criteria for development of metropolitan zones which underlie the development of the existing metropolitan zone systems.

15. The constructive mileages and mileage relationships which would result from the adoption of CTA's proposals in Exhibit 31-26 would result in just, reasonable, and nondiscriminatory provisions.

16. The Commission staff witness estimated that an additional period of seven months would be required to revise Exhibits 31-9 and 31-10 to include the metropolitan zoning proposed in Exhibit 31-26. That time estimate is based, in part, on the necessity to develop approximately 65 new red points as entry points to the new zones or as new mileage basing points, and on the fact that all distance table mileages must be recomputed using a revised computer run containing the new red points.

17. The adoption of CTA's proposal in its Exhibit 31-26 concerning additional metropolitan zoning for the extended areas of Bakersfield, Fresno, Stockton, Sacramento, and North Sacramento would unduly delay the issuance of DT 8 and should not be adopted at this time.

18. Exhibits 31-9, 31-10, 31-11, and 31-28 should constitute the current revision of the distance table (DT 8) and the constructive mileages, rules, and related provisions set forth in DT 8 are reasonable and justified. Such distance table should become effective at the earliest possible date.

19. DT 8, when applied in conjunction with minimum rate tariffs subject thereto, will result in just, reasonable, and nondiscriminatory minimum rates for transportation governed by said tariffs.

20. To the extent that the provisions of DT 7 heretofore have been found to constitute reasonable rules and distances for common carriers as defined in the Public Utilities Code, the provisions of DT 8 adopted by the Commission in its order herein are, and will be, reasonable provisions for said carriers.

21. To this same extent, existing rules 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 DT 8.

22. As indicated in Decision No. 81862 and the preceding recommended findings, DT 8 is a partial revision of DT 7 for the purpose of including certain major new interstate highway segments and new bridges; it is not intended to be a complete new distance table. The Commission staff should be directed to accomplish a complete revision of the distance table with reasonable dispatch.

23. In order to (a) eliminate unnecessary delays, (b) remove areas of possible conflict which cannot be resolved after studies are begun, and (c) accommodate the views of all parties, the Commission should specify by formal order the scope of the staff studies in connection with the revision of DT 8 before field work in connection therewith is begun.

24. The Commission staff should be directed by the order in OSH 31 to:

- (a) Resurvey all ferries, highway segments which are subject to governmental or other restrictions which prevent or inhibit movement of tractor and semitrailer equipment, and other roads now included in the constructive mileage network.
- (b) Include in the revision of DT 8 the metropolitan zones and related provisions found reasonable for future inclusion in the distance table in Recommended Finding 14 above.
- (c) Develop constructive mileages based on the use of cost data as components of the constructive mileage formula which are current at the time of the staff study. The staff may, as an alternative proposal, also develop constructive mileages on a basis different than the foregoing.
- (d) Determine whether any major change in distance table rules, metropolitan zoning, or other provisions of the distance table may be required, and advise all known interested parties of the nature of the changes, if any, necessary to modernize the provisions of the distance table.

Recommended Conclusions

1. Distance Table 8 should be issued in accordance with Recommended Finding 18.
2. Revision of that distance table should be initiated promptly in accordance with Recommended Finding 12.
3. The Commission's order in OSH 31 should specify the manner in which the staff studies required by Conclusion 2 should be conducted and presented in accordance with Recommended Findings 22 and 24.
4. A new OSH should be issued and hearing in Case No. 7024 should be held in mid-1975 for the purposes described in Recommended Finding 23.

Dated at San Francisco, California, this 20th day of November, 1974.

/s/ J. W. MALLORY

J. W. Mallory
Examiner II