

ORIGINAL

Decision No. 61585

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's )  
 own motion into the method of )  
 measuring distances delineating )  
 operative rights of highway com- )  
 mon carriers, passenger stage )  
 corporations, express corpora- )  
 tions, and freight forwarders. )

Case No. 6482

Myer L. Kapler, for American Forest Products;  
E. J. Muzio, for Miles Motor Transport;  
William L. Knecht and Ralph O. Hubbard, for  
 California Farm Federation; J. C. Kaspar,  
A. D. Poe and J. X. Quintrall, for  
 California Trucking Associations, Inc.;  
Milton A. Walker, for Fibreboard Paper Products  
 Corporation; G. C. Sears, for F. N. Rumbley  
 Company; and Roger L. Ramsey, for United Parcel  
 Service, interested parties.  
William L. Cole and Robert Lane, for the  
 Commission staff.

## O P I N I O N

On May 24, 1960, this Commission issued its order insti-  
 tuting investigation herein for the purposes of determining:

1. The proper method of measuring distances referred to in certificates of public convenience and necessity granted to highway common carriers, petroleum irregular route carriers, passenger stage corporations, express corporations and freight forwarders, which distances delineate the operative rights of such carriers;
2. Any other question involving, or resulting from the proper method of measuring distances hereinabove referred to in paragraph 1.

Public hearings in this matter were held before Examiner Wilson E. Cline at San Francisco on October 18 and November 1, 1960 and at Los Angeles on November 3, 1960. The matter was taken under submission upon the filing of the memorandum of the Commission staff on December 2, 1960.

Evidence Submitted by  
the Commission Staff

The testimony of the Commission staff witness and Exhibit No. 1 clearly set forth the position taken by the Commission staff in this investigation.

This evidence points out that this Commission, over the years, has granted many certificates of public convenience and necessity which include lateral or radius territories, or both, which authorize the carriers to serve within a specified number of miles laterally of a given highway, or within a radius of a specified number of miles from a given community. The principal question with which we are concerned in this proceeding is whether the distances should be measured along the shortest, most direct traversable road, i. e., by route miles, or whether the distances should be measured along a straight line without regard to terrain features, i. e., by airline miles.

Consistently carriers have used airline miles in applying lateral or radius certificate grants and the Commission staff, in its tariff examination and compliance duties, has construed the term mileage as used in the lateral and radius type of territorial descriptions to mean airline miles. The Interstate Commerce Commission has long taken a similar position.

The adoption of the airline mile definition can result in the inclusion of points which are accessible only by circuitous routes through territories beyond the lateral or radial area. If the route mileage is adopted, the area to be served will fluctuate constantly as roads are opened, closed or realigned. Complete maps of lateral routes along main highways or roads are not readily available, and those maps which are available are not identical nor dependable for determinations of lateral or radial areas in terms of

route miles. Because of the general acceptance of the definition of airline miles in connection with lateral operating authority designation, the adoption of the route-mile definition would seriously reduce the authorized service of many common carriers and, conversely, deprive many shippers and receivers of transportation service they now enjoy.

Lateral and radial territories defined in terms of airline miles will be relatively regular in shape. They will be relatively stable and generally will not fluctuate with changes in highways or the construction of new routes. Lateral and radial territories in terms of airline miles can be readily shown graphically on available maps. The use of the airline-mile definition will automatically provide for coverage of new locations as they are developed within the lateral or radial area and will conform to the definition presently applied by carriers and shippers in connection with current operating authorities.

The Commission staff witness recommended that the Commission find that wherever operative rights have been granted in terms of specified lateral or radius distances, such distances refer to statute miles of 5,280 feet each, measured in a straight line without regard to terrain features or differences in elevation.

#### Evidence Submitted by Others

The evidence introduced at the hearing in Los Angeles by the two carriers introducing evidence was to the effect that serious difficulties would result to the carriers if the route-mile method of measurement were adopted by the Commission. No one opposed the adoption of the airline-mile method of measurement.

#### Findings and Conclusion

The Commission having considered the evidence herein, hereby finds and concludes as follows:

Lateral distances from named highways and radial distances from named points referred to in certificates of public convenience and necessity granted to highway common carriers, petroleum irregular route carriers, passenger stage corporations, express corporations and freight forwarders and delineating the operative rights of such carriers shall be measured in a straight line without regard to terrain features. The term "miles" as used in such certificates means statute miles of 5,280 feet each.

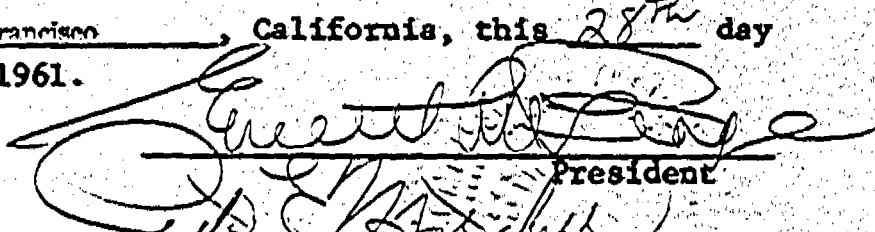
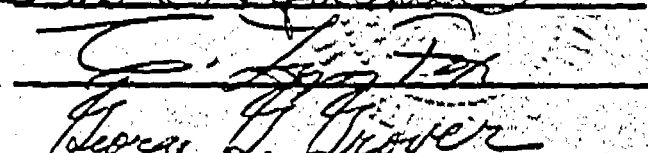
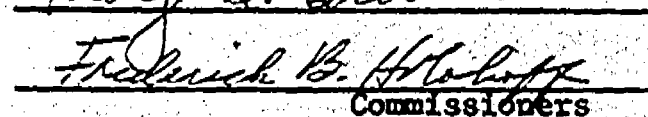
### O R D E R

A public hearing having been held in the above-entitled matter and the Commission being informed therein; now, therefore,

IT IS ORDERED that (1) lateral distances from named highways and radial distances from named points referred to in certificates of public convenience and necessity granted to highway common carriers, petroleum irregular route carriers, passenger stage corporations, express corporations and freight forwarders and delineating the operative rights of such carriers shall be measured in a straight line without regard to terrain features; and (2) the term "miles" as used in such certificates shall mean statute miles of 5,280 feet each.

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

Dated at San Francisco, California, this 28<sup>th</sup> day of FEBRUARY, 1961.

  
President  
  
George L. Grover  
  
Frederick B. Holmoff  
Commissioners