

36.201

11/24/70

Memorandum 70-120

Subject: Study 36.201 - Condemnation for Utility Purposes (Terminal Facilities for Certain Common Carriers)

The Commission already has approved adding Section 622 to the Public Utilities Code to codify subdivision 22 of Section 1238 of the Code of Civil Procedure. Subdivision 22 is set out on attached Exhibit I and declares that a taking for terminal facilities for common carriers on public highways or waterways is a taking for a public use.

Section 622 of the Public Utilities Code, as previously approved by the Commission, is limited to certain motor carriers. However, legislation enacted upon Commission recommendation extended subdivision 22 of Section 1238 to include certain water carriers. Accordingly, proposed Section 622 should be revised to conform to the change made in subdivision 22. See Exhibit II attached for Section 622 as so revised.

Respectfully submitted,

John H. DeMouly
Executive Secretary

Memorandum 70-120

EXHIBIT I

CODE OF CIVIL PROCEDURE § 1238

Staff recommendation December 1970

Subdivision 22

~~22.--Terminal facilities, lands, or structures for the receipt, transfer or delivery of passengers or property by any common carrier operating upon any public highway or waterway in this state between fixed termini or over a regular route, or for other terminal facilities of any such carrier.~~

Comment. Subdivision 22 is superseded by Section 622 of the Public Utilities Code.

EXHIBIT II

PUBLIC UTILITIES CODE § 622

Tentatively approved March 1970

Staff recommended revision December 1970

§ 622. Motor carriers

622. (a) As used in this section, "motor carrier" means:

- (1) A highway common carrier as defined in Section 213.
- (2) A passenger stage corporation as defined in Section 226.

(b) As used in this section, "water carrier" means a common carrier operating upon any waterway in this state between fixed termini or over a regular route.

(c) A motor carrier or water carrier may condemn any property necessary for the construction and maintenance of terminal facilities for the receipt, transfer, or delivery of the passengers or property it carries.

Comment. Section 622 grants certain motor carriers and water carriers the right of eminent domain to acquire property necessary for terminal facilities. Sections 621 and 622 supersede subdivision 22 of Section 1238 of the Code of Civil Procedure which granted condemnation authority for "terminal facilities, lands or structures for the receipt, transfer or delivery of passengers or property by any common carrier operating upon any public highway or waterway in this state between fixed termini or over a regular route, or for other terminal facilities of any such carrier."