

ORIGINAL

Decision No. 80076

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
EUREKA AERO INDUSTRIES, INC. for a
Certificate of Public Convenience
and Necessity to provide passenger
air carrier service to and from
Eureka, Red Bluff, Chico, Marysville,
Sacramento and Oakland Airports.

Application No. 52991
(Filed November 11, 1971)

Application of NOR-CAL AVIATION INC.,
for a Certificate of Public
Convenience and Necessity.

Application No. 53013
(Filed November 19, 1971;
Amended January 14, 1972)

Joe McClaran, Attorney at Law, for Eureka Aero
Industries, Inc., D. Jack Darley, Attorney at
Law, for Nor-Cal Aviation Inc., applicants.
Richard A. Fitzgerald, Attorney at Law, and
Terry R. Ashton, for Hughes Air West, inter-
ested party.
Scott K. Carter, Attorney at Law, for the
Commission staff.

O P I N I O N

Eureka Aero Industries, Inc. (Eureka Aero) and Nor-Cal
Aviation Inc. (Nor-Cal) seek certificates of public convenience and
necessity as passenger air carriers pursuant to Section 2752 of the
Public Utilities Code.

The applications were consolidated for hearing. Public
hearings were held before Examiner O'Leary at San Francisco on
March 1, 1972, at Chico on March 6, 1972, at Redding on March 7,
1972, and at Eureka on March 9, 1972. The matters were submitted on
the latter date.

Eureka Aero seeks authority as a passenger air carrier
between Eureka, Red Bluff, Chico, Marysville, Sacramento, and
Oakland providing however, that no passengers be carried whose trans-
portation is solely between Oakland and Sacramento.

The president and general manager of Eureka Aero testified that in May 1967, Eureka Aero purchased Briggs Aircraft Service which was an aircraft maintenance facility. In addition to operating the maintenance facility Eureka Aero operates a charter flight business, an air ambulance service and has contracts with the U. S. Postal service for the movement of mail by air and with Loomis Carrier Service (Loomis) for the movement of bank drafts by mail.

Under its contract with Loomis Eureka Aero operates 1 northbound and 1 southbound flight 5 days per week (Monday through Friday) between Eureka, Red Bluff, Chico, Marysville, and Oakland. The northbound flight departs each day from Oakland at 8:00 A.M. and arrives in Eureka at 10:25 A.M. The southbound flight departs from Eureka at 5:00 P.M. and arrives in Oakland at 7:15 P.M. with the exception of Friday. On Friday the southbound flight departs from Eureka at 6:30 P.M. and arrives at Oakland at 8:45 P.M. Eureka Aero intends to operate the same schedule for its passenger service if its application is granted.

Eureka Aero presently operates 6 single engine and 5 twin engine aircraft in its operations. Should its certificate be granted it intends to use a twin engine Cessna Aircraft for the service which is capable of transporting a maximum of nine persons; however, because of modifications previously made it is only capable of transporting seven persons. If there are no passengers for a particular scheduled flight it would use a single engine plane.

With respect to ticketing and baggage handling Eureka Aero intends to use its own facility at Eureka. At Oakland and Sacramento ticketing and baggage handling will be performed by personnel of Air California. Arrangements have been made at Chico and Red Bluff to provide ticketing and baggage handling service and arrangements for the service will be made at Marysville.

Eureka Aero has a complete maintenance facility at Eureka. It employs 4 mechanics 2 of whom are aircraft inspector rated by the Federal Aviation Agency. It also has radio and fuel facilities at Eureka.

The proposed one-way fares are as follows (Exhibit 2):

<u>Between</u>	<u>Fare</u>	<u>Tax</u>	<u>Total</u>
Eureka - Oakland	\$23.15	\$1.85	\$25.00
Eureka - Sacramento	22.22	1.78	24.00
Eureka - Marysville	20.37	1.63	22.00
Eureka - Chico	18.52	1.48	20.00
Eureka - Red Bluff	16.67	1.33	18.00
Red Bluff - Oakland	18.52	1.48	20.00
Red Bluff - Sacramento	17.59	1.41	19.00
Red Bluff - Marysville	12.96	1.04	14.00
Red Bluff - Chico	7.41	.59	8.00
Chico - Oakland	16.67	1.33	18.00
Chico - Sacramento	15.74	1.26	17.00
Chico - Marysville	9.26	.74	10.00
Marysville - Oakland	15.74	1.26	17.00
Marysville - Sacramento	9.26	.74	10.00

Exhibit 3 contains copies of Eureka Aero's Balance Sheet as of November 30, 1971 and its statement of income and expenses for the period May 1, 1971 to November 30, 1971. The balance sheet discloses total assets of \$461,713.77 offset by total liabilities of \$391,363.12 and a net worth of \$70,350.65. Its statement of income and expenses discloses a net income after taxes of \$15,762.10.

Exhibit 8 is a report prepared by a Commission staff financial examiner which confirms the figures set forth in Exhibit 3. Applicant's president and general manager anticipates additional expenses of \$500 per month as a result of ticketing, baggage handling, and ground facilities should the certificate be granted.

Nor-Cal seeks similar authority between Redding, Red Bluff, Chico, Oroville, Sacramento and San Francisco.

Nor-Cal was incorporated on January 20, 1970. Prior to its incorporation the business was operated for 10-years as a limited partnership consisting of Merle E. Blevins, (the president and a director of Nor-Cal), and James O. Carleton, (a director of Nor-Cal) doing business as Shasta Flight Service.

The president of Nor-Cal testified that a major portion of its business has been the carrying of passengers for hire as an air

taxi and charter operator. For the past three years Nor-Cal has operated scheduled mail flights between Redding, Sacramento, San Francisco and between Reno, Sacramento, San Francisco. Nor-Cal also operates aircraft maintenance and an instructional facility at Redding.

Nor-Cal presently operates three Piper Navajo (twin engine aircraft), two Piper Commanches and one 182 Cessna (single engine aircraft). It employs five pilots and three mechanics. Two of the mechanics are inspector rated by the Federal Aviation Agency. It also has fuel facilities at Redding.

With respect to ticketing and baggage handling Nor-Cal intends to use its own facility at Redding. At Chico and Oroville ticketing and baggage handling will be performed by personnel of West Martin Aviation. The ticketing and baggage service will be Air California personnel at Sacramento and Swift-Aire personnel at San Francisco.

Nor-Cal's proposed schedule is as follows:

<u>Southbound</u>			<u>Northbound</u>		
Lv	Redding	8:00 A.M.	Lv	San Francisco	10:30 A.M.
Lv	Red Bluff	8:15 A.M.	Ar	Sacramento	11:10 A.M.
Lv	Chico	8:25 A.M.	Lv	"	11:20 A.M.
Lv	Oroville	8:35 A.M.	Lv	Oroville	11:50 A.M.
Ar	Sacramento	9:05 A.M.	Lv	Chico	12:00 N
Lv	"	9:15 A.M.	Lv	Red Bluff	12:10 P.M.
Ar	San Francisco	9:55 A.M.	Ar	Redding	12:25 P.M.

Prior to amending its application, Nor-Cal proposed the following schedule:

<u>Southbound</u>			<u>Northbound</u>		
Lv	Redding	8:00 A.M.	Lv	Sacramento	4:30 P.M.
Lv	Red Bluff	8:15 A.M.	Lv	Oroville	5:00 P.M.
Lv	Chico	8:25 A.M.	Lv	Chico	5:10 P.M.
Lv	Oroville	8:35 A.M.	Lv	Red Bluff	5:20 P.M.
Ar	Sacramento	9:05 A.M.	Ar	Redding	5:35 P.M.

Exhibit 5 is a copy of Nor-Cal's balance sheet as of December 31, 1971. It shows total assets of \$423,178 offset by total liabilities of \$340,186 and a net worth of \$82,992. Exhibit 6 is a copy of Nor-Cal's Income Statement for the year 1971; it discloses a net income after taxes of \$55,501. Exhibit 9 is a report prepared by a Commission staff financial examiner which confirms the figures set forth in Exhibits 5 and 6.

Sixteen witnesses testified in support of Application No. 53013 and eleven witnesses testified in support of Application No. 52991. Most of the witnesses testified that there is a need for service between their communities and Sacramento.

Both applicants requested that they be permitted to overfly airports when there are no passengers to embark or debark. It was stipulated between both applicants and the staff as follows:

Any certificate of public convenience and necessity granted pursuant to either of the above-entitled applications may include a condition providing that the applicant shall give at least one-hour's prior notification to said applicant's ticketing agency at any airport when said applicant intends to overfly said airport. It is further stipulated that such condition, if included in said certificate of public convenience and necessity, shall require the respective applicant to land at each terminal on its route unless such prior notice has been given.

A representative from Hughes Air West testified that his company has no objection to any portion of the application of Eureka-Aero (Application No. 52991). He further testified that Hughes Air West objects to the granting of authority to Nor-Cal to provide service to and from San Francisco. Hughes Air West does not object to the balance of Nor-Cal's application (Application No. 53013). The witness also testified that the service provided by Hughes Air West between San Francisco, Chico and Redding is adequate.

Counsel for the Commission's staff recommended that the applications be granted.

Based on the evidence adduced, the Commission finds that:

1. Eureka Aero possesses the requisite experience in the field of air operations to provide the proposed service.

2. Eureka Aero has the required insurance coverage to commence the proposed operation.

3. Eureka Aero's present financial position is stable and its prospective financial position should be sufficient to render the proposed service.

4. Eureka Aero will use twin engine aircraft capable of transporting seven passengers in providing the proposed service.

5. The record establishes that no other certificated air carrier provides service along the identical route proposed by Eureka Aero.

6. Eureka Aero can economically provide adequate service to the points sought in Application No. 52991 at the fares and schedules proposed.

7. There is sufficient public need to establish that public convenience and necessity require Eureka Aero's proposed service.

8. Nor-Cal possesses the requisite experience in the field of air operations to provide the proposed service.

9. Nor-Cal has the required insurance coverage to commence the proposed operation.

10. Nor-Cal's present financial position is stable and its prospective financial position should be sufficient to render the proposed service.

11. Nor-Cal will use twin engine aircraft capable of transporting seven passengers in providing the proposed service.

12. The record does not establish that there is sufficient need to establish that public convenience and necessity require Nor-Cal's proposed service to and from San Francisco.

13. There is sufficient public need to establish that public convenience and necessity require Nor-Cal's proposed service between Redding, Red Bluff, Chico, Oroville and Sacramento.

14. Nor-Cal can economically provide adequate service to the points set forth in Finding 13 at the fares set forth in its amendment to the application and the schedule proposed in its original application.

15. Applicants have agreed to a restriction in the certificates if granted as follows:

Any certificate of public convenience and necessity granted may include a condition providing that the applicant shall give at least one-hour's prior notification to said applicant's ticketing agency at any airport when said applicant intends to overfly said airport. It is further stipulated that such condition, if included in said certificate of public convenience and necessity, shall require the respective applicant to land at each terminal on its route unless such prior notice has been given.

16. The certificates granted to applicants should be conditioned to provide that applicants shall keep their books in a manner to show a separation of their common carrier operations from the other services they provide and a segregation thereof by routes and shall report periodically to the Commission.

17. The certificates granted to applicants should be further conditioned so that flights in the same direction by each carrier are not scheduled less than three hours apart. Such a condition will assure that the service offered by each will be complimentary to each other rather than competitive with one another.

Based upon the foregoing findings of fact, the Commission concludes that:

1. A certificate of public convenience and necessity should be granted to Eureka Aero authorizing operations as a passenger air carrier between Eureka, Red Bluff, Chico, Marysville, Sacramento and Oakland providing, however, that no passengers be carried whose transportation is solely between Oakland and Sacramento.

2. A certificate of public convenience and necessity should be granted to Nor-Cal authorizing operations as a passenger air carrier between Redding, Red Bluff, Chico, Oroville and Sacramento.

3. In all other respects Application No. 53013 should be denied.

4. The certificates hereinafter granted should contain the restriction set forth in Finding 15 together with a restriction that provides that applicants shall not overfly an airport if a passenger has purchased a ticket and has a confirmed reservation one hour or longer before the scheduled departure time from said airport on the flight on which the passenger holds a confirmed reservation.

Eureka Aero and Nor-Cal are hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Eureka Aero Industries, Inc., authorizing it to operate as a passenger air carrier as defined in Section 2741 of the Public Utilities Code as set forth in Appendix A attached hereto and hereby made a part hereof.
2. A certificate of public convenience and necessity is granted to Nor-Cal Aviation Inc., authorizing it to operate as a passenger air carrier as defined in Section 2741 of the Public Utilities Code as set forth in Appendix B attached hereto and hereby made a part hereof.
3. To the extent not granted by ordering paragraph 2, Application No. 53013 is denied.
4. In providing service pursuant to the certificates herein granted, applicants shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.
 - (a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificates herein granted. By accepting the certificates of public convenience and necessity herein granted, applicants are placed on notice that they will be required, among other things, to file

annual reports of their operations and to comply with and observe the requirements of the Commission's General Orders Nos. 120-Series and 129.

- (b) Within one hundred and twenty days after the effective date hereof, applicants shall establish the service herein authorized and file tariffs and timetables, in triplicate, in the Commission's office.
- (c) The tariff and timetable filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 105-A.

5. The authorities herein granted are conditioned upon applicants maintaining their books of account and records on a basis that will indicate separately its common carrier operations both as to revenue and expense and by route flown.

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

Dated at San Francisco, California, this 18th day of MAY, 1972.

William Lyons, Jr. Chairman
Vernon L. Sturgeon
Commissioners

Eureka Aero Industries, Inc., by this certificate of public convenience and necessity is authorized to operate as a passenger air carrier between the following airports only:

MUR - RBL	RBL - CIC	CIC - SMF
MUR - CIC	RBL - MYV	CIC - OAK
MUR - MYV	RBL - SMF	MYV - SMF
MUR - SMF	RBL - OAK	MYV - OAK
MUR - OAK	CIC - MYV	SMF - OAK

Conditions

1. Each airport shall be served with a minimum of one flight in each direction on each of five days a week. Southbound flights shall not be scheduled to depart Red Bluff within three hours of a scheduled southbound flight of Nor-Cal Aviation, Inc. from Red Bluff. Northbound flights shall not be scheduled to leave Sacramento within three hours of a scheduled northbound flight of Nor-Cal Aviation, Inc. from Sacramento.
2. No passenger shall be carried whose transportation is solely between the respective airports of SMF and OAK.
3. Carrier shall give at least one hour's prior notification to said carrier's ticketing agency at any airport when said carrier intends to overfly said airport. Carrier shall land at each terminal on its route unless such prior notice has been given.
4. Carrier shall not overfly an airport if a passenger is in the possession of a purchased ticket and a confirmed reservation one hour or longer before the scheduled departure time from that airport on the flight on which the passenger holds a confirmed reservation.
5. No aircraft having more than 25 passenger seats shall be operated.
6. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
MUR	Eureka	Murray Field
RBL	Red Bluff	Red Bluff Municipal
CIC	Chico	Chico Municipal
MYV	Marysville	Yuba County
SMF	Sacramento	Sacramento Metropolitan
OAK	Oakland	Oakland International

Issued by California Public Utilities Commission.

Decision No. 80076, Application No. 52991.

Nor-Cal Aviation, Inc., by this certificate of public convenience and necessity is authorized to operate as a passenger air carrier between the following airports only:

RDD - RBL	RBL - ORO
RDD - CIC	RBL - SMF
RDD - ORO	CIC - ORO
RDD - SMF	CIC - SMF
RBL - CIC	ORO - SMF

Conditions

1. Each airport shall be served with a minimum of one flight in each direction on each of five days a week. Southbound flights shall not be scheduled to depart Red Bluff within three hours of a scheduled southbound flight of Eureka Aero Industries from Red Bluff. Northbound flights shall not be scheduled to leave Sacramento within three hours of a scheduled northbound flight of Eureka Aero Industries from Sacramento.
2. Carrier shall give at least one hour's prior notification to said carrier's ticketing agency at any airport when said carrier intends to overfly said airport. Carrier shall land at each terminal on its route unless such prior notice has been given.
3. Carrier shall not overfly an airport if a passenger is in the possession of a purchased ticket and a confirmed reservation one hour or longer before the scheduled departure time from that airport on the flight on which the passenger holds a confirmed reservation.
4. No aircraft having more than 25 passenger seats shall be operated.
5. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
RDD	Redding	Redding Municipal
RBL	Red Bluff	Red Bluff Municipal
CIC	Chico	Chico Municipal
ORO	Oroville	Oroville Municipal
SMF	Sacramento	Sacramento Metropolitan

Issued by California Public Utilities Commission.

Decision No. 80076, Application No. 53013.