

Decision No. 83472

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
EUREKA AERO INDUSTRIES, INCORPORATED,
For a Certificate of Public Convenience
and Necessity to provide passenger air
carrier service to and from Eureka to
Sacramento, with a flag stop at
Santa Rosa.

Application No. 54820
(Filed April 22, 1974)

O P I N I O N

Eureka Aero Industries, Incorporated operates as a passenger air carrier between Eureka, Red Bluff, Chico, Marysville, Sacramento, and Oakland, except that no passengers may be transported whose transportation is solely between Oakland and Sacramento, pursuant to a certificate of public convenience and necessity granted in Decision No. 80076 dated May 18, 1972 in Application No. 52991. It here seeks a certificate of public convenience and necessity authorizing it to provide service between Sacramento and Eureka with a flag stop at Santa Rosa. It asks that pending proceedings therein, that it be granted a temporary certificate authorizing the service.

In the application it is asserted that applicant now has authority to add direct flight service between Eureka and Sacramento upon filing a timetable, and that the service applied for herein would consist of one flight from Eureka (with a flag stop at Santa Rosa) commencing at approximately 6:30 a.m., Monday through Friday of each week, and the return flight from Sacramento (with a flag stop at Santa Rosa) commencing at approximately 7:00 p.m., Monday through Thursday, and on Friday at 8:30 p.m. The proposed service would, together with applicant's existing service, provide early morning and evening service in both directions daily, five days per week, between Eureka and Sacramento, and would complement applicant's existing service in that passengers could fly to Sacramento from Eureka in the morning in time to catch the present service from Sacramento

to Marysville, Chico, and Red Bluff and conversely the existing service from Red Bluff, Chico, and Marysville to Sacramento in time to catch the evening service to Eureka via Santa Rosa. Applicant's present authority to operate directly between Eureka and Sacramento is based upon a letter to it from the Secretary of the Commission dated May 17, 1973 (Exhibit B to the application).

No protests have been received regarding this application. Communications in support of the granting of the authority sought have been received from the Board of Supervisors of the county of Humboldt and from the State Department of Transportation, Division of Aeronautics. The Commission's Transportation Division has informed us that applicant's service record has been excellent and that a review of the history of passenger traffic between Eureka and Santa Rosa and between Santa Rosa and Sacramento discloses that there is evidence of a demand for service and that passenger traffic between the points has particularly been a function of the level of passenger air service between the points.

There is no question that applicant has the experience, facilities, and ability, including financial ability, to conduct the service that it proposes to offer. There having been a number of proceedings before the Commission involving passenger air carrier service to Eureka and the fares for air transportation between Eureka and San Francisco, the Commission is cognizant that the question of whether a passenger air carrier can economically provide adequate service between Eureka and San Francisco may in large measure depend upon the ability of that carrier to obtain additional revenues from transportation to and from points either intermediate between Eureka and San Francisco or beyond San Francisco. Santa Rosa is directly intermediate between Eureka and San Francisco and has a greater traffic potential than any other intermediate point.^{1/} On

^{1/} The only other intermediate point on the direct route which might have any significant traffic volume is Ukiah which was formerly served by Golden Pacific Airlines.

August 1, 1974 the Civil Aeronautics Board authorized Hughes Airwest to suspend all service into Santa Rosa for a period of five years. This will leave Santa Rosa without any major airline service and with scheduled air passenger service only to San Francisco on 10-passenger aircraft. Keeping in mind the provisions of Sections 2739 and 2755 of the Public Utilities Code, there is a question of whether the issuance of a permanent certificate to applicant authorizing a flag-stop service at Santa Rosa, to be performed with a seven-passenger aircraft, would be consistent with the establishment of an orderly, efficient, economical, and healthy intrastate passenger air network to the benefit of the people and the communities in the northern coastal counties of California and to the State itself.

There is a need for the early morning - evening proposed service between Eureka and Sacramento. The proposal will also substantially improve the passenger air carrier service between Eureka and other points in the Sacramento Valley. The flag-stop service at Santa Rosa will provide a direct flight service to Eureka and to Sacramento which, with the withdrawal of Hughes Airwest from Santa Rosa, will supplement the two-carrier passenger air service with connection at San Francisco.

As hereinbefore indicated, the only reservation that we have in this matter is that the proposed flag-stop service between Eureka and Santa Rosa may be detrimental to the establishment and development of a better service between the points and to the establishment of better passenger air carrier service to Santa Rosa and between Eureka and San Francisco. The issuance of a temporary certificate, as provided for in Section 2754 of the Public Utilities Code, will permit the establishment of this proposed improved service and at the same time will not prejudice the establishment of an economical and efficient route structure in connection with any proposed airline service between San Francisco and Eureka or to Santa Rosa. It may be that the flag-stop service by applicant will

not interfere with, and may even complement, efficient and economical passenger air carrier service between Eureka and San Francisco. The question can only be resolved, however, in connection with the consideration of individual applications proposing service between those points and with future developments of the intrastate passenger air carrier network in California.

We find that public convenience and necessity require the issuance of a temporary certificate of public convenience and necessity as prayed for authorizing passenger air carrier operations between Eureka and Sacramento with a flag stop at Santa Rosa. We further find with reasonable certainty that the proposed operation will not have a significant effect upon the environment.

Applicant's present certificate restricts passenger air carrier operations to aircraft having 25 seats or less. In Swift Aire Lines, Inc. et al. (1973) Decision No. 81416 in Applications Nos. 53623 and 53640 (unreported), the Commission held that the aircraft limitation in certificates of passenger air carriers that also operate as third level air carriers under regulations of the Civil Aeronautics Board should coincide with the limitation provided in the Code of Federal Regulations. That limitation is aircraft with not more than 30 passengers or a payload of not more than 7,500 pounds.

We conclude that a temporary certificate, to expire December 31, 1975, should be granted; that Appendix A of Decision No. 80076 should be amended to: (1) incorporate the authority granted in the temporary certificate and (2) revise the aircraft limitation to coincide with the federal regulations. A public hearing is not necessary.

Permanent certification will be considered by the Commission only after applicant requests it by filing a petition to modify this decision not earlier than July 1, 1975. Such petition should include current data on all phases of applicant's operations.

Applicant is 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. 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 temporary certificate of public convenience and necessity is granted to Eureka Aero Industries, Incorporated, a corporation, authorizing it to operate as a passenger air carrier between Murray Field at Eureka and Sacramento Metropolitan Airport with flag-stop service at Sonoma County Airport at Santa Rosa, via the route Eureka, Santa Rosa, Sacramento, and return, subject to the limitations and conditions set forth in Appendix A of Decision No. 80076, as amended herein.
2. Appendix A of Decision No. 80076 is amended by incorporating therein First Revised Page 1 in revision of Original Page 1, attached hereto and by this reference made a part hereof.
3. The temporary certificate granted herein shall expire December 31, 1975.
4. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in a cancellation of the authority.
 - (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. By accepting the certificate applicant is placed on notice that it will be required, among other things, to file annual reports of its operations

and to comply with the requirements of the Commission's General Orders Nos. 120-Series and 129-Series.

- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and file tariffs, in triplicate, in the Commission's office.
- (c) The tariff 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 filings shall be concurrent with the establishment of the authorized service.
- (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-Series.

The effective date of this order is the date hereof.

Dated at Los Angeles, California, this 17th
day of SEPTEMBER, 1974.

Vernon L. Stephens
President
William S. Taylor
John W. Brown
John W. Brown
John W. Brown
Comm

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Appendix A
(Dec. 80076)

EUREKA AERO INDUSTRIES,
INCORPORATED

First Revised Page 1
Cancels
Original Page 1

Eureka Aero Industries, Incorporated, 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
#MUR - STS		#SMF - STS

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 30 revenue passenger seats or a payload more than 7,500 pounds 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
#STS	Santa Rosa	Sonoma County

Note: Authority to serve Santa Rosa is temporary and shall expire December 31, 1975.

Issued by California Public Utilities Commission.

*Revised and # Added by Decision No. 8.3472, Application No. 54820.