

ORIGINAL

Decision No. 84488

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Marin Aviation, Inc.,
for a Certificate of Public
Convenience and Necessity.

Application No. 54604
(Filed January 29, 1974;
amended May 29, 1974 and
March 12, 1975)

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Charles G. Wiswell and Stephen C. Larson, for
Swift Aire Lines, Inc.; Parlen L. McKenna,
Attorney at Law, for Hughes Airwest; W. J. Connolly, Neil Grosman, and Harold Flosne, for
Stol Air Commuter, Inc.; James J. Cherry,
Attorney at Law, and Phillip D. Roberts, for
Holiday Airlines; Joe McClaren, Attorney at Law,
and John J. Flynn, for Eureka Aero Industries;
and Charles L. Firestein, Attorney at Law, for
Pacific Southwest Airlines; protestants.
Marvin Scott, for Contra Costa County; Merle E. Blevins, for Nor-Cal Aviation, Inc.;
Spyridon N. Sideris, for CALTRANS, Division of
Aeronautics; Robert L. Fleines, Attorney at
Law, for County of Sacramento; and William J. Losh, Jr., Attorney at Law, and Dave Zebo, for
County of Humboldt; interested parties.
Elmer Siostrom, Attorney at Law, and A. L. Gielegthem,
for the Commission staff.

INTERIM OPINION

Eight days of hearing, commencing July 2, 1974 through July 17, 1974, were held in this application before Examiner Thompson at San Francisco. On the latter date the matter was taken under deferred submission pending ruling by the Commission on motions by protestants to consolidate this application with proceedings in other applications for authority to provide passenger air carrier service to Lake Tahoe. The Commission consolidated the proposed Lake Tahoe route portion of this application with Applications Nos. 54852, 54899, 54953, and 55009. On August 1, 1974 the issues

in this application other than the issue of the proposed service on the Lake Tahoe route were taken under submission subject to briefs due August 23, 1974.

Marin Aviation, Inc. (Marin Aviation) is a fixed base operator at Gness Field, Novato; that is to say it is engaged in the business of air taxi charter, rental of aircraft, maintenance of aircraft, and air pilot training at that location. It here seeks a certificate of public convenience and necessity authorizing passenger air carrier operations between points and over routes along the Pacific coast from Eureka to San Jose, along the central valley from Sacramento to Bakersfield, and across the central part of the State from San Francisco Bay area points to Lake Tahoe. The application is protested by a number of passenger air carriers. A number of communities appeared in support of the application. The Commission staff recommended that the application be granted in part and denied in part.

Applicant's president founded Marin Aviation in 1968 and entered into fixed base operations at Gness Field. From 1943 to 1965 he was employed by Pan American Airways, the last 15 years of which were in operational planning and as station and airport manager for the company. During 1973 in the conduct of its air taxi operation Marin Aviation had 605 flights with a total of 866 passengers between Gness Field and San Francisco International Airport; it operated 91 charter flights with 221 passengers from Gness Field to other points, mainly within the State of California; it operated 8 charter flights with 20 passengers between San Jose Municipal Airport and other California points; and during a period when Stol Air Commuter, Inc. (Stol Air) had an aircraft out of service it flew 1,195.5 hours for Stol Air in which 4,188 passengers were carried.

Applicant has experienced a steady growth since 1968. As of December 31, 1973 it had total assets of over \$300,000, stockholder equity amounted to \$55,510, and its current assets exceeded

its current liabilities. The company has been able to meet its long-term debt maturities and payments without difficulty. Applicant owned nine aircraft as of December 31, 1973. It has established credit with two banks and with Piper Finance Corporation and has an agreement with Novato Associates, a partnership in which applicant's president has a 15 percent interest, for the leasing of aircraft to applicant. Applicant presently leases one Piper Navajo Chieftain airplane from Novato Associates.

Applicant maintains insurance, including liability coverage, in connection with its operations as a fixed base operator. Prior to the conduct of any passenger air carrier operations applicant would be required to present evidence of insurance in the amounts not less than those prescribed as minimum in General Order No. 120-C.

Applicant proposes to conduct passenger air carrier operations with Piper Seneca aircraft with 5-passenger seat configuration and with Piper Navajo Chieftain aircraft with 9-passenger seats. It has made take-offs and landings with those aircraft at maximum gross weight at the airports it proposes to serve. The aircraft are powered with two piston engines and are comparable to many types of privately owned and operated airplanes utilizing those airports. The aircraft are certificated to operate with only one pilot pursuant to regulations of the Federal Aviation Administration. (FAA).

Applicant's president characterized the proposed service as an integrated operation over three general routes: the proposed service extending generally from Eureka to San Jose is the northern route, the service extending generally from Sacramento to Bakersfield is the southern route, and the service connecting those routes and extending to Lake Tahoe is the central route. The aircraft itineraries would not necessarily be over a complete route. The Seneca aircraft ordinarily would be operated within the San Francisco Bay region

because of its suitability for low level operations and the Chieftain aircraft ordinarily would be used on segments that require high level flying operations. For example, passengers desiring transportation between Eureka and San Francisco would be required to change planes at either Gness Field or Santa Rosa. On the other hand, in certain instances because of the proposed aircraft flight patterns a passenger could travel between Eureka and Bakersfield without a change in planes. In the latter case the elapsed time would be 4 hours and 45 minutes and it is doubtful that many, if any, passengers would be attracted to that service. It would be faster and less expensive for a passenger to utilize services of other airlines making connections at San Francisco or at Sacramento. Applicant's contemplated service is not designed to offer acceptable long-haul transportation over any or all of the three general routes described by the president. In general the proposed operation is intended to offer morning and evening service between the smaller airports on the route and the nearer major airports at times when connections can be made with the larger airlines operating at the major airports. In some instances the schedules are such that a smaller airport has entry into the passenger air carrier network only via one major air terminal; such is the case wherein applicant proposes only to serve Livermore via San Francisco. In other instances the service is designed to provide the smaller airports with entry to two air terminals, and in a few cases, such as Modesto, entry into three airports served by larger carriers. While the substantial portion of applicant's proposed service is intended to attract the passenger in the smaller communities desiring entry into the passenger air network, in a number of instances the proposed service and schedules contemplate attracting passenger desiring air transportation between the cities served by the airports. Examples of that kind of service are between Ukiah and San Francisco and between Fort Bragg and San Francisco.

With respect to need for the service, it might be reasonably anticipated that at some time during a year some person may desire air transportation between any one civil airport in California with any other civil airport in California. It might reasonably be conjectured, for example, that a cattleman near Alturas may wish air transportation to El Centro once or twice a year to arrange for winter pasture for his cattle. While in a sense that may be indicative of a need for passenger air service between those points, obviously it does not constitute a need for service, as that term is used in Section 2753 of the Public Utilities Code, that would warrant the granting of a certificate of public convenience and necessity for nonstop passenger air carrier service between Alturas and El Centro. The applicant, protestants, and the Commission staff presented statistics and other evidence, as well as arguments, concerning measures of need for passenger air carrier service. Some of the statistics include population, income, airport traffic data, C&D traffic of airlines, and data compiled by the California Division of Highways. The staff utilized the computer model developed by the California Division of Aeronautics which considers numerous factors such as population, income and employment of the area served by an airport, ground access to and from the airport, and air traffic at the airport. The staff also developed equations utilizing some of the aforementioned data to stratify traffic potential according to type of equipment and extent of service. All of the methods have use in estimating traffic potential; however, all of them also have certain limitations which necessitate the exercise of caution and judgment in their use. For example, San Francisco and San Jose are among the largest cities in California but the only air passenger traffic between the two airports consists of persons having airline travel beyond these airports. The reason for this is that the airports are only about 30 miles apart.

In the case of the proposed service hereunder consideration, which would involve short hops over a very large territory of the State, historical data of O&D airline traffic can be misleading unless one is cognizant of the type of flights and the schedules under which that passenger traffic was transported. For example, Exhibit 37, sponsored by the staff, shows that for a 12-month period during the peak of its operations Golden Pacific Airlines (Golden Pacific) transported 13 passengers between Arcata and Fresno at a time when it operated 5 flights per week between those points. The exhibit also shows that 940 annual passengers were transported by Civil Aeronautics Board (CAB) carriers between those points although no CAB carrier scheduled flights between the points. The reported traffic obviously represents an extrapolation of a sample of tickets sold by Hughes Airwest (Airwest) and United Air Lines, Inc. (United) where the passengers were transported by Airwest between Arcata and San Francisco and then either transported by Airwest on another flight or interlined on a United flight to Fresno. It must also be recognized that if a passenger desiring transportation between Arcata and Fresno went via Airwest between Arcata and San Francisco and via Pacific Southwest Airlines (PSA) between San Francisco and Fresno, in the reported data it would be reflected as one passenger traveling between Arcata and San Francisco and another passenger traveling between San Francisco and Fresno. The anomaly of there being so few passengers reported for scheduled flight service in comparison to the number of passengers traveling by air via other means between the points is explained by the fact that the time required for the multi-stop flights by Golden Pacific in its smaller aircraft by far exceeded the time involved in the one-stop service, including time for changing planes or airlines at San Francisco, provided by Airwest alone or in combination with flights of United or PSA with their jet aircraft. In the case of applicant's proposed service, which would resemble somewhat the service that had been offered by Golden Pacific,

it is obvious that regardless of the number of potential passengers that may desire air transportation between Arcata and Fresno, few would fly on applicant's small aircraft for 3 hours and 45 minutes when they can fly by jet aircraft between the points via San Francisco in considerably less time.

Statistics of motor vehicle traffic on the highways are not necessarily a barometer of potential passenger air traffic, particularly in connection with short distances. Whether to travel by one's private automobile or to utilize public air transportation is each person's individual subjective decision which may be based upon many factors, including a like or dislike of airplanes or a desire to see the country enroute. If the decision made is based upon more objective considerations the person will weigh such factors as comparison of costs, comparison of time from initial origin (home) to ultimate destination, and comparison of convenience with respect to baggage and availability of dining facilities and hotels near the ultimate destination. Providing the flight schedules outbound and return are adequate, a person living in Novato would reasonably consider air transportation between Gness Field and Sacramento if the purpose of the trip involved a few hours business at an office in the Capitol Mall complex in Sacramento; however, the person would be more likely to use a private automobile if the object of the trip involved visiting the rice dryers in the Sacramento area over a period of two days. We do not mean to imply that statistics regarding air travel, highway travel, population, and income have no value; they do indicate whether there are a number of persons who have the means to travel by airlines and do travel between points. Whether few or many of those persons will utilize a proposed passenger air carrier service is another matter.

In prior decisions involving applications for certificates of public convenience and necessity the Commission has indicated that the element of need for service is not to be measured merely from the number of potential passengers that may require air transportation service between a particular pair of points but is to be considered from the viewpoint of the effect of the proposed passenger air carrier service upon the establishment and development of an orderly, efficient, economical, and healthy intrastate passenger air network in California. In the instant proceeding, more than in any other, it has been made obvious that there is such a correlation among all of the elements specified in Section 2753 of the Public Utilities Code to be considered by the Commission in awarding certificates, that they must be considered and weighed together rather than considered apart from one another. To illustrate this we will consider the situation with respect to Ukiah. It is the county seat as well as the financial, commercial, and medical center for Mendocino County. There are several large industrial plants at Ukiah. In order for a person at Ukiah to go anywhere other than the immediate environs thereof, it involves a long and somewhat arduous trip over the public highways. The nearest airport at which there is scheduled passenger air carrier service is Santa Rosa where small plane operations are conducted to San Francisco, Sacramento, and Eureka. San Francisco International Airport is the nearest gateway for international air transportation, entry into the national air network, or entry into the major carrier intrastate air network. By reason of Airwest's operations from Arcata to Oregon and Washington, Arcata is a gateway to points in those states. From Ukiah the highway distance to Santa Rosa is about 60 miles, to San Francisco International Airport about 130 miles, and to Arcata about 170 miles.

The governmental, commercial, and industrial activity indicate a need for transportation facilities that would connect Ukiah with the major cities for reasons of business. Persons traveling for business reasons ordinarily desire the faster transportation provided by airline service and ordinarily are prepared to pay the fares for that service. In Exhibit 37 an engineer of the Commission staff took the O&D statistics filed with the Commission by Golden Pacific for September 1970 and expanded it by 12.7 percent to obtain an estimate of traffic for 1970. The exhibit estimates Golden Pacific's passenger traffic between Ukiah and other points to have been: Arcata 826, San Francisco 3,353, San Jose 25.^{1/} The engineer estimated that with two round-trip flights per day applicant should have 12 passengers per day between Ukiah and San Francisco and that there is potential for greater traffic.

It is readily apparent that Ukiah does not have, and unless a development occurs in a magnitude unprecedented in this State, it will not have sufficient traffic to support major airline service. Even if Ukiah were to have airport facilities which would accomodate jet aircraft it would be uneconomical for a major airline to serve Ukiah as an intermediate point between San Francisco and some other terminal such as Portland. Because of its geographical location it is doubtful whether there is any route structure on which Ukiah could adequately and economically be served with intermediate size aircraft. Under existing regulations which permit commercial aviation

^{1/} In Exhibit 33 applicant shows the Ukiah 1970 traffic as Arcata 585, San Francisco 15,870, and Bakersfield 9. That data was assertedly received by applicant from the California Division of Aeronautics. In 1970 the only passenger air carrier serving Ukiah was Golden Pacific. Those figures would appear to be inordinately high for Golden Pacific considering that during 1970 it operated 22 flights per week at Ukiah with aircraft having a maximum seating capacity of 15 passengers, and also considering the fact that Golden Pacific discontinued operations because of unprofitable operations shortly thereafter.

operations without a co-pilot only on aircraft not exceeding 12,500 pounds gross weight, it would appear that if Ukiah is to have any passenger air carrier service it will have to be with the smaller size aircraft as a part of route structure which will permit a financially feasible operation. We take note here that at one time Airwest's predecessor operated DC-3 aircraft between San Francisco and Arcata serving Ukiah as an intermediate point but then discontinued service to Ukiah even though it received federal subsidy. We again take note that Golden Pacific discontinued service at Ukiah because of unprofitable operations.

Because the aircraft applicant proposes to operate is well suited from the standpoint of size and efficiency to the conditions of operations between San Francisco and Ukiah, and because of applicant's operations as a fixed base operator at Gness Field, intermediate between San Francisco and Ukiah, which permits efficiencies and economies in operations and maintenance that otherwise would not occur, applicant appears to be in the best position among operators of aircraft to provide adequate and economical service between Ukiah and San Francisco. The Commission staff recommended that applicant be granted a certificate for a route, the northern portion of which consists of operations over San Francisco, Ukiah, and Arcata only. It was shown, however, that over that route applicant would have to achieve a 79 percent load factor in order for the revenues at the proposed rates to meet the costs of operations. Such expectation is highly unrealistic, particularly as applicant can expect very little through traffic between Arcata and San Francisco because of Airwest's faster and more comfortable nonstop jet service between the points.

In order for the operation of small aircraft to be economically justifiable in scheduled passenger service ordinarily the route should involve short hops in order to provide a greater number of passengers per mile. Applicant presented evidence to show that if

it were authorized to conduct operations as proposed, the operation would be economically viable if it averaged about two persons per stop. Applicant's president testified his investigations made to determine the possibility of successful operations of airline services between the smaller communities and the large metropolitan airports have shown that an economically viable operation depends upon a route structure that would permit the airline to exploit the traffic potential of a number of smaller communities with frequent scheduled service over routes that would permit the efficient utilization of aircraft and personnel and provide for the orderly regular maintenance of aircraft. He referred to such a route structure as a "critical mass" of not being too large nor too small. The evidence supports his opinion. As indicated above, Ukiah needs a connection with the airline network; however, direct service between Ukiah and San Francisco or even intermediate service between San Francisco and Arcata would not be economically feasible. The same would apply to Fort Bragg and many of the other communities applicant proposes to serve; however, the evidence also shows that if a number of those communities are included in a route structure they can be provided adequate and economical service with the proper aircraft suitable for such service.

Protestants point out that the "critical mass" theory applied to applicant's proposal would involve service between points that they serve. Some stated that the certification of applicant over such a wide area of the State would prevent future natural expansion of protestants' services to points that may not now have sufficient traffic to justify their service but with normal development in the State would justify it in the future. It was also pointed out that under the present statutes and present Commission policy with respect to the granting of routes in certificates of public convenience and necessity it is perfectly possible for an applicant to propose and be certificated for certain operations that may not be competitive

with existing service and subsequently legally change those operations to become directly competitive with existing service. Swift Air Lines, Inc. (Swift) provides direct nonstop service between Fresno and Sacramento with 17-passenger aircraft. Applicant's proposed southern route contemplates service between Fresno and Sacramento via Merced, Modesto, and Stockton with 9-passenger aircraft. If the Commission were to issue applicant a certificate in the form ordinarily provided for the proposed operation, it would authorize service between all of the points with aircraft not exceeding 30-passenger capacity without specifically requiring it to operate between Fresno and Sacramento only via Merced, Modesto, and Stockton.^{2/} Under such form of certificate applicant could operate one daily round trip over the proposed indicated route and 6 nonstop flights between Fresno and Sacramento on the same schedules maintained by Swift and with any type of aircraft provided its seating capacity did not exceed 30 passengers. Furthermore, after it had conducted operations over the indicated route and found that operations at Merced, Modesto, and Stockton were unprofitable it could, under the provisions of Section 2769.5 of the Public Utilities Code, discontinue operations as to those points upon 60 days' notice to the Commission and conduct only nonstop operations between Sacramento and Fresno. Under the existing statute after the Commission had issued such a certificate it would be powerless to forestall or prevent such nonstop operations even though the finding of public convenience and necessity that led to the issuance thereof was based wholly upon the proposed operations via the intermediate points.

^{2/} For an example of the form of certificate issued to passenger air carriers operating small aircraft over a large geographical area with service to numerous intermediate points see Decision No. 83472 dated September 17, 1974 in Application No. 54820 (Eureka Aero Industries).

PSA in its argument and in its brief dealt with the need for service between points that it serves on applicant's proposed routes. Those pairs of points include San Francisco/Sacramento, San Francisco/Stockton, and San Francisco/Fresno. Between those pairs of points it and United provide nonstop service with jet aircraft capable of transporting 100 passengers or more; moreover, except occasionally during peak periods they have empty seats on flights between the points. It should also be noted that applicant's proposed fares are substantially higher than the fares of PSA and United between the points. By the very nature of scheduled airline operations there will always be empty seats on some scheduled flights between points. In essence, PSA's argument questions whether there can ever be shown a need for service by small aircraft operated between points served by the carriers using large aircraft. During the course of the proceeding the parties presented views concerning the place of the passenger air carrier operating small aircraft in the California intrastate network. One of the parties recommended that the Commission suspend proceedings in this application and all other applications for passenger air carrier certificates until the Commission can define the California intrastate passenger air network and the positions of each type of carrier within that network.

The Passenger Air Carriers Act does not contemplate that the Commission should define and delineate a specific network and parcel segments of that network among carriers. (Application of Holiday Airlines, Inc. (1975) unreported, Decision No. 83962 in Application No. 53266 (mimeo. pg. 8).) The Act provides for only the single classification "passenger air carrier" and the provisions of the statute and the Commission's regulations (except as to minimum insurance coverage) apply equally regardless of the nature of the operations of the carrier or the size of the aircraft utilized.

Because of federal regulations, however, the carriers operating within the California intrastate air network operate one of three sizes of aircraft. CAB regulations (part 228) provide that subject to certain requirements air carriers operating aircraft with capacities not exceeding 30 passenger seating capacity or 7,500 pounds payload are exempt from the certificate requirements of the Civil Aeronautics Act. FAA regulations (parts 121 and 135) require a co-pilot on commercial aircraft except on aircraft that has been specifically certified for operation with one pilot. That certification can not be given to aircraft with maximum take-off load in excess of 12,500 pounds. With few exceptions the aircraft with over 30 passenger seating capacity operating within California are jet aircraft with over 100 passenger seats.^{3/}

In the main the carriers operating jet aircraft in California serve only airports in the high density markets of the Los Angeles Basin area, San Francisco Bay area, Sacramento, and San Diego. PSA and United also serve some of the larger cities in the corridor as intermediate points between San Francisco and Los Angeles. Airwest serves numerous points within and without the corridor with jet aircraft that have routings or itineraries that go beyond the borders of the State. Airwest's position, however, is singular within California in that as a local service carrier certificated by the CAB it receives federal subsidy in connection with service to the smaller cities.

The operators of aircraft with less than 30-passenger seats generally serve three functions within the air network:

(1) provide local commuter service to a major air terminal from

^{3/} Lockheed Electra aircraft (93 passengers) and Convair 340 aircraft (46 passengers) are utilized by carriers serving Lake Tahoe and Mammoth Lakes, resort areas in the Sierra Nevadas. F-127 aircraft is used by Airwest on a few of its routes.

smaller airports in the surrounding area, (2) provide supplemental air service to points that are served by major airlines as intermediate points on routings between major terminal areas, and (3) provide service to the more distant points not served by the major airlines. In some instances a passenger air carrier has portions of its operations in each of the three categories. Stol Air is an example of a carrier performing only local commuter service. It provides direct service to San Francisco International Airport from Santa Rosa, Napa, Concord, and Gness Field. Its president testified that virtually 100 percent of its passengers have prior or subsequent transportation by another airline. Swift provides an example of a supplemental carrier. It serves San Luis Obispo and Paso Robles which are distant from major air terminals and are not served by jet aircraft; however, the other points it serves are served by major airlines and its operation duplicates routes operated by Airwest and United in the corridor.^{4/}

Stol's operation may be compared with an airport limousine service. Its success depends upon it being able to provide very frequent, fast, and reliable scheduled service to and from the major air terminal. The prospective passenger is not interested in waiting several hours at the air terminal. More traffic will be attracted and a more financially successful operation will result from hourly service with a 10-passenger aircraft than from intermittent scheduling of larger aircraft several hours apart. Swift's operating considerations are entirely different. Normal public preference is to fly via the faster jet aircraft with the cabin service that goes with travel on the major airlines. Successful operation by Swift depends upon its being able to schedule flights around the flights of the major carriers and to provide some of the in-flight service provided by the major

^{4/} We note that in other proceedings before the Commission it has been shown that with respect to operations between certain points as much as 60 percent of Swift's traffic is interline traffic.

airlines so that the potential passenger would not be motivated to take an earlier or later flight of the major airline. At one time Swift operated Navajo aircraft. It did not become a financially viable operation, however, until it scheduled all of its flights with 17-passenger aircraft and included stewardesses in its flight crews and beverages in cabin service.

The foregoing shows that the type of operation being conducted dictates the type of aircraft that must be used if adequate and economical service is to be provided. It has been found that the use of more than one type of aircraft is not economical for airline operations.^{5/} The reason for this is the necessity to rotate aircraft over routes and in and out of service for purposes of maintenance. Additionally, crews are required to receive periodic check-outs on the types of aircraft they operate. The need for a proposed service, therefore, involves considerations more than just the number of persons that may have reason to travel to or from some place; it relates to the very nature of the service to be provided, and the nature of the service depends upon the operation as a whole.

The necessity to consider the operation as a whole is demonstrated in the operations of Swift. It conducts operations in the coastal corridor between Los Angeles and San Francisco and in the central valley corridor between Los Angeles and Sacramento. The need for its services consists of transportation between San Luis Obispo, Paso Robles, and Santa Maria, on the one hand, and San Francisco and Los Angeles, on the other hand; and between Visalia and Bakersfield and Los Angeles, and between Bakersfield, Visalia, Fresno, and Sacramento. Few, if any, passengers would utilize Swift for transportation between San Francisco and Los Angeles, between Los Angeles and Sacramento, or between Los Angeles and Fresno, because

^{5/} Airwest uses DC-9 (jet) aircraft and F-127 (turbo-prop) aircraft between California points. It is gradually altering its route structure so as to be able to eliminate the use of nonjet aircraft.

of the faster service, frequent schedules, and lower fares available from the major carriers serving those points. It could be said, therefore, that there is no need for service by Swift between those points; however, the need for adequate and economical service between the other points necessitates aircraft routings between Los Angeles and San Francisco, and between Los Angeles and Sacramento via Fresno. There is no other way the necessary type of service Swift provides could be accomplished economically. If it were held that because there is no need for Swift's type of service between San Francisco and Los Angeles, Los Angeles and Sacramento, and Los Angeles and Fresno, it should not be authorized to operate between those points, it could not serve the other points and therefore an important portion of the intrastate air network would be lost.

The fact is that the type of operation conducted by Swift does not adversely affect the jet operations conducted by the major carriers between those major air terminals, but rather it enhances major airline operations by providing better transportation between the intermediate airports and the major terminals for passengers to take the major airlines to more distant points (see Footnote 4, supra).

The larger carriers, however, have good cause to be concerned that a certificate issued because of the type of operation required by public convenience and necessity is not used in the future to conduct another type of operation which had not been considered. In other words, if Swift desires to operate nonstop between Los Angeles and San Francisco it should be required to make a showing that public convenience and necessity require that service.

In summary, whether there is a need for the proposed service, whether the service would be adequate for the communities involved, and whether the service can be provided economically depend in large measure upon the type of service to be performed; and in the matter

before us can be weighed only by considering the proposed service over the routes and the effect thereof towards the establishment of an orderly, efficient, economical, and healthy intrastate passenger air network to the benefit of the people of this State, its communities, and the State itself.

Applicant has described its proposed service as consisting of three general routes. For convenience we will consider applicant's proposal in that manner.

The Proposed Northern Route

The following communities and their respective airports were proposed to be served on applicant's northern route: Arcata (ACV), Eureka (EUR), Garberville (GAR), Fort Bragg (FTB), Ukiah (UKI), Clear Lake (LAM), Santa Rosa (STS), Novato (WGN), Concord (CCR), San Francisco (SFO), Palo Alto (PAL), San Jose (SJC), and Livermore (LIV). Following submission of this proceeding applicant has informed the Commission that it desires to delete Arcata, Eureka, and Garberville from its proposed service.

Fort Bragg is a city in Mendocino County adjacent to the Pacific Ocean. It and the neighborhood communities have a population of about 12,000. It does not have any passenger air carrier service. The nearest airport at which Fort Bragg can enter into the national and major carrier intrastate passenger air network is San Francisco (SFO). The places with which the Fort Bragg area would have the greatest community of interest include Ukiah (the county seat), Santa Rosa, which is the nearest commercial city, the San Francisco Bay area, and Sacramento (the State Capitol). Other than over county roads and the coast highway (State Highway 1), the only means of access to or egress from the Fort Bragg area is by a railroad called the "Skunk" on the lines of the California Western Railroad to Willits or by motor vehicle on State Highway 126 to U.S. Highway 101 near Cloverdale, a distance of about 75 miles over mountains. The highway distance to Ukiah is about 85 miles and to

Santa Rosa about 110 miles. Fort Bragg does not have an airport licensed for commercial aviation. The city is negotiating with Georgia-Pacific Corporation under which it would pay for the lighting and insurance at the present private airport to provide the facilities required for commercial aviation. The city also has a site selected for a municipal airport with a 6,000-foot runway. There are other airports in the area including one 14 miles away at Little River. Whether or not applicant could physically conduct passenger air carrier operations to any present or proposed airport in the Fort Bragg area is within the purview of the California Division of Aeronautics. The evidence shows that if commercial airport facilities are made available which would permit applicant's service to Fort Bragg, there would be some daily traffic to San Francisco International Airport for entry into the passenger air network because the time, cost, and convenience of that service would outweigh the time, cost, and inconvenience of traveling on the highways, parking, and handling baggage at the airport. For the same reasons there would be occasional traffic to Ukiah and a lesser amount to Santa Rosa and Sacramento. There would also be some freight traffic from San Francisco, San Jose, and Santa Rosa, particularly medicines for the hospital at Fort Bragg.

We have heretofore discussed the circumstances regarding Ukiah. If applicant provides its proposed service it would attract traffic between Ukiah and San Francisco International Airport on the order of more than six passengers per day. Because of the industrial and commercial activity at Ukiah there would be occasional passengers to San Jose and Palo Alto. Governmental activities would provide occasional passengers to Sacramento. Some freight traffic of an express character could be reasonably anticipated.

The airport applicant proposes to use at Clear Lake is Lampson Field which will accomodate only small aircraft. The area is mainly summer resort oriented. The only significant traffic

applicant could reasonably anticipate would be to or from San Francisco and San Jose Airports and that traffic mainly would be interline in character. Applicant anticipates significant traffic between Clear Lake and Sacramento; we disagree. It asserts that California Division of Aeronautics' statistics disclosed 1,906 passengers enplaned and deplaned in Sacramento who were originating and terminating in Clear Lake in 1970. The nature of that traffic was not made clear. If the data considers passengers enplaning or deplaning from common carrier airlines at Sacramento it follows that the passengers had origin and destination at points beyond Sacramento and that they used airline transportation to or from Sacramento Airport because it is the closest major airport for transportation by private automobile (or rental car) to and from Clear Lake. If applicant's proposed service were to be instituted any interline traffic would more likely be via San Francisco rather than by Sacramento. Because Lakeport is the county seat of Lake County there might be very occasional traffic to Sacramento. The resort population at Clear Lake is spread more or less around the perimeter of the lake. The time involved on the ground of getting to and from Lampson Field and getting to and from Sacramento Airport combined with the flight time between those airports would not make applicant's service more attractive than using the public highway from origin to destination. During 1973 applicant had 10 charters to Lampson Field from Novato with 17 passengers and one charter from San Jose with two passengers.

Santa Rosa is the county seat of Sonoma County. It is a trading and distribution center for much of Sonoma and Mendocino Counties as well as the northern portion of Marin County. It supports some light industry. Its primary air transportation need is entry into the major airline network. This is provided by Stol Air which operates frequent schedules to San Francisco International Airport. Air transportation service between Santa Rosa and Sacramento is provided by Eureka Aero Industries. Applicant's proposed service

to Palo Alto and San Jose would attract some passenger and freight traffic. Its proposed operation between Santa Rosa and Stockton and other points on the southern route could not compete with interline service via San Francisco.

Novato is a convenient airport for about a fifth of the population of Marin County. The primary transportation need here is entry into the air network. Stol Air provides five daily round trips between Gnoss Field and San Francisco International Airport. During 1973 applicant had 506 air-taxi flights with a total of 625 passengers between those airports. The substantial portion of the population in the area about Novato are high income business and professional people who frequently utilize air transportation and have knowledge of routings in the air transportation network. Because of the value such persons place upon their time their propensity is to utilize transportation facilities and routings that will result in the greatest savings in time. There is potential local traffic between Novato and any other points proposed to be served by applicant; however, applicant's service would be utilized only to those points where its schedules would provide the passenger with the greater time savings. That would be the case in connection with all of the points on applicant's proposed northern route and possibly in the case of Sacramento. It would not be the case in connection with Stockton and points on the southern route south thereof.

San Francisco International Airport is the major terminal in the air transportation network on applicant's proposed route. It generates traffic to and from all points in the State. As in the case of Novato, applicant would obtain traffic only if its service is quicker and more convenient than would be provided by alternative routings. It is doubtful that applicant would obtain any traffic between San Francisco and any points that are served by the major airlines. Those points include San Jose, Sacramento, Stockton, and the other points on the proposed southern route.

San Jose Municipal Airport is provided service by major intrastate and interstate airlines. Palo Alto Airport, which is midway between San Francisco International Airport and San Jose Municipal Airport, can only accommodate small aircraft. The area about those airports is a single metropolitan area of tremendous growth and contains major industrial, commercial, and financial institutions. It generates substantial passenger and freight air traffic. Except as to Sacramento, San Francisco, and Lake Tahoe, there is no major airline service between San Jose Municipal Airport and any of the points applicant proposes to serve; however, there is airport limousine service between the Palo Alto-San Jose area and San Francisco International Airport and in other than peak hours that airport is only about 25 minutes away from Palo Alto and 40 minutes away from San Jose by private automobile. In addition, a number of the major airlines and Swift provide passenger air service between San Jose and San Francisco airports on flights to and from other points. Applicant's proposed service at San Jose and Palo Alto would have to compete with major airline service out of San Francisco from the standpoint of cost, time, and convenience. Applicant's proposed service might attract some traffic between Sacramento and Stockton and San Jose but it is doubtful that it would generate much traffic to points south of Stockton.

The city of Livermore has a population of about 50,000 and the population of the area is approaching 100,000. The Lawrence Radiation Laboratory and Sandia Corporation employ large numbers of scientists and engineers that travel frequently in connection with their work. Applicant's proposed commuter-type operation between Livermore and San Francisco International Airport would attract a significant amount of traffic in that it would furnish Livermore with its only entry into the air network.

Concord is presently connected with the air network at San Francisco International Airport by seven round-trip direct commuter flights by Stol Air. In its proposed operation applicant proposes Concord as a connecting point between its northern, central, and southern routes. For example, passengers from Ukiah, Santa Rosa, or San Francisco desiring passage to Lake Tahoe would be routed via Concord and Sacramento. The Concord area is heavily populated with persons who travel and generates a substantial amount of traffic for the air network. With respect to the points that applicant proposes to serve from Concord, virtually all of that traffic would be for San Francisco International Airport, which route already has adequate service. It is very doubtful that there would be any but sporadic traffic to any other points on applicant's northern route.^{6/} Sacramento is not more than one hour's drive from Concord. It is doubtful that persons having business in downtown Sacramento would avail themselves of air transportation. Interline service via Sacramento to places such as Chico and Redding might be more attractive than driving to Oakland or Sacramento Airports for direct flight service, but such traffic would not support applicant's proposed operation. Any viable operation between Concord and Sacramento by applicant would have to be supported by Lake Tahoe traffic, which we are not considering here. With respect to traffic between Concord and points on the southern route, it would appear that the frequent schedules of Stol Air to San Francisco with connections with the major carriers provides service which is almost as convenient as applicant's proposed service.

^{6/} We take official notice of Decision No. 83262 dated August 6, 1974 in Application No. 53489 which points out that during the period that Stol Air conducted operations on a route between Santa Rosa and San Francisco via Concord and Napa that except for the occasional use of its service by one public employee, there was no passenger using its service between points except when San Francisco was either origin or destination.

The principal benefit to the public to be derived from applicant's proposed service between points on the northern route is the inclusion of Fort Bragg and Ukiah into the passenger air network. Those areas are presently far removed from any convenient entry into the major air network and applicant's proposed service would attract that traffic as well as local passengers and freight between those communities and the San Francisco-Palo Alto-San Jose area. The next primary benefit is affording Livermore a more convenient entry into the air network and applicant could reasonably anticipate significant traffic. Other benefits, although less significant, result from a convenient service between Santa Rosa on the one hand, and Fort Bragg and the Palo Alto-San Jose area, on the other hand, and from providing an availability of air passenger service to Clear Lake.

The only adverse effects that might arise from applicant's successful operation on the northern route are upon the ability of Stol Air to continue to maintain frequent commuter service between San Francisco and Concord, Santa Rosa, and Gness Field. Concord would generate no passenger traffic to points on the northern route save interline traffic at San Francisco International Airport. Applicant's service to Concord would merely duplicate the service provided by Stol Air and interfere with the ability of the latter to provide its frequent commuter service between those points. At the time of hearing Stol Air provided 66 round-trip flights per week between Santa Rosa and San Francisco and its president testified that it was inaugurating hourly service between the points.^{7/} The Santa Rosa-San Francisco segment is Stol Air's primary market. It offers 4,544 seats per month between those points, 3,104 seats between Concord and SFO, 2,480 seats between Napa and SFO, and 2,144 seats between Gness Field and

^{7/} We take notice that Stol Air has in fact filed revised schedules providing hourly service between the points.

SFO. To permit applicant to provide nonstop flights between Santa Rosa and SFO on an equal competitive footing would merely result in an erosion of Stol Air's ability to continue operations. With respect to Gness Field the situation is somewhat different. Stol Air serves that point as an intermediate point on some flights it operates between Santa Rosa and SFO. A number of witnesses were not aware of Stol Air's service between Gness Field and SFO. The evidence indicates that Stol Air may not have attempted to exploit the potential traffic at Gness Field as it has at Santa Rosa and Concord. A possible reason for this is the heavy demand at Santa Rosa for Stol Air's morning southbound flights and evening northbound flights. Applicant's operation between Gness Field and San Francisco undoubtedly would have some effect upon Stol Air being able to supplement traffic on its lesser patronized flights between Santa Rosa and SFO with Gness Field-SFO passengers. That, however, would not have as adverse effect as would applicant's capture of Stol Air's Santa Rosa and Concord traffic, and is outweighed by the facts: (1) that if applicant is to be able to provide any passenger service at all it must be able to operate directly between its base of operations at Gness Field and SFO, and (2) Stol Air has not fully exploited the Gness Field-SFO traffic and efficient operations and service between Santa Rosa and SFO during periods of peak traffic may prevent it from doing so.

The adverse effects on Stol Air of applicant's proposed operations on the northern route will be substantially diminished, if not eliminated, by preventing any operation by it between Concord and SFO, and by requiring that any flight operations between Santa Rosa and SFO must be via Gness Field and must have origin or destination at Ukiah or Fort Bragg.

The foregoing analysis shows that the primary benefits, or need for service, relate to service to Fort Bragg, Ukiah, and Livermore. If any passenger traffic is to be generated to or from

those points the service will have to be adequate to accommodate passengers who desire to utilize major airlines to or from San Francisco; in our judgment that means no fewer than 12 round-trip flights per week. The evidence and analysis also shows that applicant can provide adequate and economical service to those communities only with the small aircraft that does not require a co-pilot, and only if the primary traffic is supplemented with other traffic on the northern route. On the other hand, applicant's operation on the northern route would not provide any substantial benefit to the air network or to the public without adequate service to Fort Bragg, Ukiah, or Livermore. In other words, if applicant were to be authorized to conduct operations on the northern route and subsequently discontinued operations to Ukiah and Fort Bragg, and only served between Livermore and San Francisco, the operations by applicant on its northern route other than between Livermore and San Francisco would be of no significant benefit and, in fact, would merely be a deterrent to any other airline service to Fort Bragg and Ukiah.

Because of the nature of the traffic to and from Palo Alto and Lampson Field, flag-stop service to those points will be adequate.

The Proposed Southern Route

The following cities and their respective airports are proposed to be served on applicant's southern route: Sacramento (SMF), Stockton (SCK), Modesto (MOD), Merced (MCE), Fresno (FAT), Visalia (VIS), and Bakersfield (BFL). Each one of those airports is served by major carriers with jet aircraft connecting them with San Francisco and Los Angeles International Airports. United provides intermediate service on a routing of SFO-SCK-MOD-MCE-VIS-LAX. It also provides service along the routing of SFO-FAT-EFL-LAX as well as operating nonstop flights between the points. PSA provides service on a routing of SFO-SCK-FAT-LAX as well as providing service to FAT. Airwest provides direct service between SMF and FAT.

It provides service from San Francisco and Los Angeles to Sacramento, Stockton, Fresno, and Bakersfield. Swift flies 17-passenger aircraft on the route LAX-BFL-VIS-FAT-SMF. It has four round-trip daily schedules between FAT and SMF. Valley Airlines (Valley) operates nine-passenger aircraft on the San Jose (SJC)-Oakland (OAK)-FAT-BFL route. By Decision No. 81416 dated May 22, 1973 in Application No. 53640 Valley was granted a temporary certificate to expire December 31, 1974 authorizing it to operate between Sacramento and Fresno. It initiated commuter service between those points but discontinued it and allowed the temporary certificate to expire.

An analysis of the present airline service on the proposed southern route shows that all of the points have adequate entry into the air network at SFO and LAX and indicates that the only traffic that may be attracted to the nine-passenger aircraft service would be on the segment SMF-SCK-MOD-MCE which would consist of persons having business of a governmental nature. That segment would involve one-way operations time of slightly in excess of one hour.

Not only would applicant's proposed service fail to generate any significant traffic on the proposed southern route, but its operations could be detrimental to existing and future airline service to points on that route. Each point is served by major airlines and the present and potential passengers at those points are accustomed to major airline service. If there is to be any supplementation or substitution of the major airline service, the type of service should be more similar to service provided by the large airlines rather than the type of service that can be provided with nine-passenger aircraft. We note that in the past few years there has been an inclination by some of the larger carriers to discontinue service to a number of the smaller cities and communities. United had applied to the CAB to discontinue service to Visalia but subsequently withdrew that request. This Commission does not have

jurisdiction or power over the intrastate routes of airline carriers subject to the jurisdiction of the CAB. If United were to curtail or discontinue service to Modesto, for example, the proposed small plane service by applicant would not be adequate to meet the needs of that community but could well be a deterrent to any other carrier from providing the type of service to which the community is accustomed and would want.

We have already pointed out that Valley discontinued its nine-passenger aircraft service on its Sacramento-Fresno-Bakersfield route even though it had opportunity to augment its load factor on that route from traffic on its San Jose-Oakland-Fresno route. We take official notice of the Commission's order entered January 7, 1975 in Case No. 9852 instituting an investigation of whether any or all of Valley's certificated authority to conduct passenger air carrier operations should be suspended or revoked because of inability to perform all or part of the certificated services or to conform to the law and to the rules and regulations of the Commission. The circumstances indicate that routes that consist of service by very small aircraft are not economically feasible wholly to and from points that are served and connected to the air network by major carriers operating large aircraft. In the case of applicant's operation on the southern route it could anticipate very little traffic between points on the southern route south of Stockton and points on its northern route which might implement load factors on the southern route. Applicant could not provide adequate service economically on its proposed southern route, nor would its proposed service contribute to the establishment of an orderly, efficient, economical, and healthy intrastate passenger air network to the benefit of the people, its communities, or the State itself.

The Proposed Central Route

This route proposes service to Truckee, Placerville, and South Lake Tahoe which is being considered in the consolidated proceeding. The remaining portion of the central route involves connecting the northern and southern routes on the following route segments: Ukiah-Santa Rosa-Sacramento; Gness Field-Concord-Sacramento; San Francisco-Palo Alto-San Jose-Stockton; San Francisco-Concord-Sacramento. We will consider those routings without reference to service on the Tahoe route. The connection between applicant's base of operations at Gness Field with the service to Lake Tahoe should be considered in the consolidated proceeding.

The Ukiah-Santa Rosa-Sacramento segment would not produce very much traffic. Two disadvantages of that routing are that it would compete with Eureka Aero Industries' operation between Santa Rosa and Sacramento, and it would require the heavier traffic between San Francisco International Airport and Ukiah, Fort Bragg, and Lampson Field to change planes at Santa Rosa.

The San Francisco-Concord-Sacramento routing would not produce any SFO-SMF traffic because of the existence of faster, more frequent, more comfortable, and less expensive service provided by the major airlines. The Concord-Sacramento leg would not be productive because no interline traffic would be involved and it is quicker and less costly, as well as more convenient, for local traffic to utilize private automobile. Stol Air presently provides frequent service between Concord and San Francisco.

On the San Francisco-Palo Alto-San Jose-Stockton segment applicant could expect very little traffic between Stockton and points north of San Jose because of the better service through SFO. The same applies to points on the southern route south of Stockton.

The Gness Field-Concord-Sacramento route would provide some traffic between Marin County and Sacramento; however, that amount of traffic would not be sufficient to permit economical operations unless it were supplemented with traffic to points east of Sacramento.

We here make no evaluation or findings with respect to the need, adequacy, or economic feasibility of applicant's operations over any of the four aforementioned routes, or any other routes, in connection with its proposed service to Lake Tahoe.

Environmental Effects

The small piston-engined aircraft applicant proposes to use, and must use, are similar to privately owned aircraft used in general aviation at the airports it proposes to serve. The aircraft are the types used in applicant's charter operations. Except in the case of Fort Bragg the airports are licensed by the California Division of Aeronautics as civil airports for public use. Applicant will not be able to operate into Fort Bragg until there is an airport approved by State and Federal authorities for passenger air carrier use. The chairman of the Aviation Airport Committee for the city of Fort Bragg testified on July 9, 1974 that the city was then actively preparing for construction of airport facilities which would permit operations by applicant.

The environmental effects of general noise level and the release of particulate emissions into the atmosphere as a result of take-offs and landings at airports is within the purview of the local airport authorities and the California Division of Aeronautics. The general noise level and the release of particulate emissions at airports will not be increased significantly by reason of operations by applicant. The testimony of applicant, airport authorities, and of the Commission staff in this proceeding disclose no existing problems with noise or particulate emissions at any of the airports on the northern route.

The operation by applicant on the northern route will provide public transportation facilities between points where at present travel is by private automobile on the public highways. It will provide opportunity for the conservation of fuel without any significant effect upon the environment.

Summary

Provided no direct nonstop service is provided between Santa Rosa (STS) and San Francisco (SFO), the operation by applicant of aircraft requiring only one pilot as a passenger air carrier to Fort Bragg (FTB), Ukiah (UKI), Clear Lake (LAM), Santa Rosa (STS), Novato (WGN), SFO, Palo Alto (PAL), San Jose (SJC), and Livermore (LIV) will contribute to the establishment of an orderly, efficient, economical, and healthy intrastate passenger air network to the benefit of the communities, its people, and the State itself; and the operation to all of those points is necessary to provide to FTB, UKI, and LIV a needed, adequate, and economical passenger air carrier service that they otherwise could not receive.

The operation by applicant as a passenger air carrier to Modesto (MOD), Merced (MCE), Fresno (FAT), Visalia (VIS), and Bakersfield (BFL) would not contribute to the establishment of an orderly, efficient, economical, and healthy intrastate passenger air network. Applicant's proposed service to those points would be neither adequate nor economical, and is not needed.

Whether any passenger air carrier operations by applicant to Concord (CCR), Sacramento (SMF), and Stockton (SCK) would contribute to the establishment of an orderly, efficient, economical, and healthy intrastate passenger air network depends upon whether service to those points by applicant is necessary to provide any needed adequate and economical passenger air carrier operation to Truckee (TTA), Tahoe Valley (TVL), and Placerville (PLV), which issue is pending in the consolidated proceedings.

Except as may be shown in proceedings now pending concerning service to TIA, TVL, and PLV, the need for service by applicant to LAM, STS, WGN, SFO, PAL, and SJC is predicated upon its ability to provide a needed adequate and economical service to FTB, UKI, and LIV; and the minimum adequate service to those latter points is 12 round trips per week to SFO.

In order to afford applicant the opportunity to adjust its schedules and aircraft routes to obtain the maximum passenger traffic with the most efficient utilization of aircraft, no restrictions upon routes should be imposed other than to require that any passenger air carrier operations conducted by applicant between SFO and STS must be routed via WGN as an intermediate point and either FTB or UKI as an originating or terminating point on the flight, which restriction is necessary to assure the continuation of Stal Air's frequent commuter service between SFO and STS.

At the time of hearing on July 9, 1974, it could not be determined when airport facilities at Fort Bragg would be available for use by applicant as a passenger air carrier although it was testified that such facilities would be constructed and completed in the very near future. Applicant should be authorized to conduct passenger air carrier operations to any one civil airport at or within 20 highway miles of Fort Bragg approved by the California Division of Aeronautics pending availability of facilities at Fort Bragg.

Following an initial period of operations, the passenger air carrier operations by applicant as indicated above to FTB, UKI, LAM, STS, WGN, SFO, PAL, SJC, and LIV should provide applicant a reasonable opportunity to earn a return on its investment. It is estimated that for an initial period of 15 months or less applicant may have a negative cash flow as a result of its operations. Applicant has the financial resources and ability to withstand such initial expenditures of capital.

We find that:

1. Marin Aviation seeks a certificate of public convenience and necessity authorizing it to conduct passenger air carrier operations at 23 airports in northern California.

2. There is a primary need for passenger air carrier service at FTB, UKI, and LIV which presently have no convenient entry into the passenger air network.

3. Adequate and economical passenger air carrier service to FTB, UKI, and LIV can only be provided with aircraft not requiring the use of a co-pilot and on a route structure that would include passenger air carrier service to FTB, UKI, LAM, STS, WGN, SFO, PAL, SJC, and LIV.

4. Direct nonstop flight operations by applicant between SFO and STS is not needed and would adversely effect the ability of Stol Air to maintain frequent commuter airline service between those points; and would have an untoward result upon the establishment and maintenance of an orderly, efficient, economical, and healthy intrastate passenger air network.

5. The operation by applicant as a passenger air carrier to FTB, UKI, LAM, STS, WGN, SFO, PAL, SJC, and LIV, except as to direct nonstop service between STS and SFO, is a needed service which can be performed adequately and economically by applicant with the use of aircraft requiring only one pilot.

6. Applicant has the business experience in the field of air operations, the financial ability including the ability to acquire and maintain insurance required by General Order No. 120-C, and the aircraft necessary to conduct the aforesaid operation.

7. With reasonable certainty the operation by applicant as described above will not have any significant effect upon the environment, but will provide opportunity for the conservation of fuel resources.

8. Minimum adequate passenger air carrier service at FTB, UKI, and LIV consists of at least 12 round trips per week to SFO. Minimum adequate service to LAM and PAL consists of flag-stop service at least once per day on flights operated to or from FTB or UKI and SJC, respectively. Minimum adequate service to the other airports consists of at least one flight each day on five days per week.

9. Public convenience and necessity require the operation by applicant as a passenger air carrier to FTB, UKI, LAM, STS, WGN, SFO, PAL, SJC, and LIV subject to the following conditions:

- a. Service between SFO on the one hand, and FTB, UKI, and LIV, on the other hand, shall be not less than 12 round trips per week.
- b. Any operations between SFO and STS shall be via the intermediate stop WGN and shall have origin or termination at FTB or UKI.
- c. All aircraft operated shall be licensed by the Federal Aviation Agency for operation by a single pilot.
- d. Aircraft operated shall have a capacity not to exceed 30 passengers or 7,500 pounds payload.

10. The operation by applicant as a passenger air carrier to MOD, MCE, FAT, VIS, and BFL could not be conducted economically and is not an adequate or needed service. It would adversely affect the establishment and maintenance of an orderly, efficient, economical, and healthy intrastate passenger air network and is not required by public convenience and necessity.

11. Except as may be determined in connection with applicant's proposed service to TTA, TVL, and PVL, which issues are presently pending in consolidated proceedings not yet under submission, the operation by applicant as a passenger air carrier to CCR, SMF, and SCK would be uneconomical, is not a needed service, and is not required by public convenience and necessity.

12. Applicant's service will not have any significant adverse effect upon the ability of any other passenger air carrier to maintain adequate service.

13. At the time of hearing public airport facilities satisfactory for passenger air carrier operations conducted by applicant had not been constructed at Fort Bragg, although assurances were provided that completion of such facilities was imminent and that there are possible alternative airfields within 15 miles of Fort Bragg at which applicant could operate.

We conclude that:

1. Pending final order in this application in the consolidated proceedings, a temporary certificate of public convenience and necessity should be granted to applicant authorizing it to conduct the passenger air carrier operations described in Finding 9.

2. In the event that municipal airport facilities are not available to applicant at Fort Bragg, it should be authorized, until they are made available, to substitute any airfield within 20 highway miles of Fort Bragg which is approved by the California Division of Aeronautics for commercial operations with aircraft operated by applicant as a passenger air carrier.

Marin Aviation, Inc. 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.

INTERIM ORDER

IT IS ORDERED that:

1. A temporary certificate of public convenience and necessity is granted to Marin Aviation, Inc., a corporation, authorizing it to operate as a passenger air carrier, as defined in Section 2741 of the Public Utilities Code, between the points and over the routes set forth in Appendix A of this decision pending final order in this application. ✓

2. In the event that municipal airport facilities are not made available to applicant at Fort Bragg, applicant is authorized to substitute any airfield within 20 highway miles of Fort Bragg which is approved by the Division of Aeronautics of the State of California for commercial operations with aircraft operated by applicant as a passenger air carrier. ✓

. 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 shall be twenty days after the date hereof.

Dated at San Francisco, California, this 3rd day of JUNE, 1975.

I abstain:

[Signature], Commissioner

[Signature]
President
[Signature]
[Signature]
Commissioners

Marin Aviation, Inc., by this temporary certificate of public convenience and necessity, is authorized to operate as a passenger air carrier between the following airports subject to the following conditions:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
FTB	Fort Bragg	(See note)
LAM	Clear Lake	Lampson Field Airport
LIV	Livermore	Livermore Airport
PAL	Palo Alto	Palo Alto Airport
SFO	San Francisco	San Francisco International Airport
SJC	San Jose	San Jose Municipal Airport
STS	Santa Rosa	Sonoma County Airport
UKI	Ukiah	Ukiah Airport
WGN	Novato	Gross Field Airport

CONDITIONS

1. Service between STS and SFO shall only be on flights via the intermediate point WGN that originate or terminate at FTB or UKI.
2. All aircraft operated shall be certified by the Federal Aviation Administration for operation by a single pilot and shall have capacities not exceeding 30 revenue passenger seats or 7,500 pounds payload.
3. The minimum service to each airport is:
 - a. FTB, UKI, SFO, and LIV shall have at least 12 scheduled incoming flights and 12 scheduled departing flights each week.
 - b. STS, WGN, and SJC shall have at least five scheduled incoming flights and five scheduled departing flights each week.

Issued by California Public Utilities Commission.

Decision No. 84488, Application No. 54604.

- c. LAM and PAL shall have at least flag-stop service on five scheduled incoming flights and five scheduled departing flights each week. Carrier shall not overfly a scheduled flag-stop if a passenger is in possession of a purchased ticket and confirmed reservation half hour or longer before the scheduled departure time from that airport on the flight on which the passenger holds a confirmed reservation.

NOTE: In the event that municipal airport facilities are not made available to carrier at Fort Bragg, carrier is authorized until they are made available to use an airfield within 20 highway miles of Fort Bragg which is approved by the California Division of Aeronautics for aircraft operated by carrier as a passenger air carrier.

Issued by California Public Utilities Commission.

Decision No. 84488, Application No. 54604.