

Decision No. 85877

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of W. L. MURPHY and)	
H. C. MURPHY doing business under)	
the firm name of YOSEMITE AIRLINES,)	Application No. 56173
for a Certificate of Public Convenience)	(Filed January 6, 1976)
and Necessity to operate a)	
"Passenger Air Carrier")	

O P I N I O N

W. L. Murphy and H. C. Murphy, a husband and wife partnership, operate under the name of Yosemite Airlines as a passenger air carrier between Columbia Airport and Oakland Airport pursuant to a certificate granted June 10, 1975 in Decision 84532 in Application 55548.

In this application, W. L. Murphy and H. C. Murphy request a Certificate of Public Convenience and Necessity as a passenger air carrier between Pine Mountain Lake Airport and Oakland Airport and between Pine Mountain Lake Airport and Columbia Airport. Applicants propose a minimum of two round trips per week at one-way fares (including tax) of \$23 for Pine Mountain Lake-Oakland and \$7.50 for Pine Mountain Lake-Columbia. In addition, a round-trip same day excursion fare of \$10 (including tax) is proposed for Pine Mountain Lake-Columbia.

The applicant is certified by the Federal Aviation Administration to conduct air taxi and commercial air operations, utilizing aircraft of 12,500 pounds or less maximum certified take off weight, in accordance with the applicable provisions of the Federal Air Regulation, Part 135.

The applicant alleges it will conduct operations under the exempt authority provisions of Part 298, Title IV of the Federal Aviation Act of 1958 pursuant to authority by the Civil Aeronautics Board for the carrying of passengers and property for compensation or hire.

The applicant has aircraft maintenance facilities and an avionics shop. It engages in aircraft sales, contract, charter and tour services and maintains a flight school. Applicant has at its disposal several aircraft, the largest of which is a five-passenger twin engine Baron. The applicant holds Operations Specifications for single- and multi-engine aircraft, IFR and VFR, both day and night, for passengers and cargo.

The application states that there is no existing service into or out of Pine Mountain Lake Airport to any other airport. The application cites that the proposed service will fill several needs. These include visitors to Yosemite National Park, business travel associated with Yosemite National Park and the State of California Fish Hatchery in Moccasin and weekend visitors and second home owner trips to the Pine Mountain Lake area. In support, the application states that the airport is 23 miles from the Big Oak Flat gate of the Park and 10 miles from the fish hatchery, that over 2.5 million people visit Yosemite National Park each year and that there are about 4,000 homesites in the Pine Mountain Lake development with about 500 homes and new ones being constructed at the rate of 40 per year.

W. L. and H. C. Murphy allege that they have the financial ability to render the proposed service. Financial data appended to the application show that applicant had a net worth of \$31,147 as of September 30, 1975, and had a net operating profit of \$8,600 for the nine months ended September 30, 1975.

The application alleges that the proposed service will have no significant impact on the environment and that the provisions of Rule 17.1(a) (2) should apply to this application. Under those provisions the requirements of the California Environmental Quality Act (CEQA), the Guidelines for Implementation of CEQA and Commission Rule 17.1 do not apply to the project.

The applicants state that the aircraft planned for use in the proposed service is well under the maximum horsepower and gross weight of aircraft presently using Pine Mountain Lake Airport, Columbia Airport and Oakland Airport and that the number of additional movements

anticipated is insignificant compared with the current level of operations at each of those airports.

The applicants have evidence of insurance on file with the Commission in accordance with General Order 120-C.

The application shows that it was served in accordance with Commission rules. Notice of the filing of the application appeared on the Commission's Daily Calendar. Numerous letters of support were received by the Commission. There are no protests.

The Commission's Transportation Division staff recommends that a temporary certificate be granted with the condition of a minimum of two nonstop round trips per week between Oakland and Pine Mountain Lake Airports. The staff believes that granting the interim certificate will permit the Commission to determine whether demand for air service to the Yosemite Park and Pine Mountain Lake area exists, if service to Pine Mountain Lake Airport constitutes a separate market from service to Columbia Airport, and if adequate ground access to Pine Mountain Lake Airport can be established.

The staff also recommends that service be authorized to begin by June 1976 because the summer is the peak season for visitors to Yosemite National Park.

The staff believes that scheduled operations to Pine Mountain Lake can potentially serve a separate market from that of the Columbia service since Columbia Airport is approximately 60 miles from the Big Oak Flat entrance station of Yosemite Park and Pine Mountain Lake Airport is approximately 20 miles. The staff also believes that the increased service resulting from flights to two airports may be beneficial to the overall growth of traffic to both markets.

The staff, however, is concerned that travel costs and travel times for the air mode with respect to surface travel from the San Francisco Bay Area to the Columbia, Pine Mountain Lake and Yosemite National Park areas are such that traffic demand warranting scheduled service will not develop in the near future. This is

evidenced by the staff examination of Yosemite Airlines historical traffic and flight records for Oakland-Columbia. These indicate an average of $1\frac{1}{2}$ passengers per flight on approximately four flights per week (round trip) performed in accordance with the carrier's public schedule. Since the carrier has generally used equipment with three passenger seats, load factors have been around 35%.

Further, the staff concludes that the economic feasibility of present plus proposed operations will have to be supported by the applicants' charter and tour operations. These are presently growing.

The Transportation Division staff also advises that ground transportation services between Pine Mountain Lake Airport and Yosemite National Park do not presently exist. The staff believes that public convenience will not be achieved without such services. The applicants have informed the staff that they plan to provide surface transportation with a leased eight-passenger van between the airport and Smith's Park (junction of Highways 120 and J-20), about five miles from the airport, or between the airport and the Big Oak Flat Gate of the Park. Such operations would require a charter-party permit from this Commission. The planned operations would connect with the bus service of Yosemite Park and Curry Company between Modesto and Yosemite National Park recently granted in Decision 85743 in Application 56287. Yosemite Park and Curry Company has authority to operate between several points, including the junction of Highways 120 and J-20 and Yosemite Village (43 miles) and between the Big Oak Flat Gate entrance and Yosemite Village (25 miles). The proposed one-way fares are \$4.15 and \$2.40, respectively. Based on staff review of the proposed schedule of Yosemite Park and Curry Company, the connecting travel time between the Village in Yosemite National Park and Pine Mountain Lake Airport would be approximately one and one-half hours. Yosemite Park and Curry Company can initiate its authorized service not sooner than May 22, 1976.

An alternative to the planned connecting service is the provision of rental cars at the Pine Mountain Lake Airport, according

to the applicants. Both the applicants and staff regard this alternative as a non-optimum solution to the airport ground access problem.

At the request of the Transportation Division staff, the Division of Aeronautics of the California Department of Transportation examined the suitability of Pine Mountain Lake Airport for scheduled operations with the proposed equipment. It was found that the airport is adequate to support the proposed operations under day and night visual flight conditions.

The Transportation Division staff concludes that it can be expected, with certainty, that the proposed project will not have a significantly adverse effect on the noise, air and water quality elements of the Pine Mountain Lake, Columbia and Oakland environments. The staff's determination is based on the aircraft type proposed for the operations. Thus, the staff recommends that the temporary certificate include provisions limiting the air carrier to propeller-driven aircraft having no more than 30 revenue passenger seats or a payload of no more than 7,500 pounds.

The staff of the Commission's Finance and Accounts Division recommends that a temporary certificate be issued to the applicants to provide the proposed service. The staff also recommends that the applicants adopt for their operations accounts similar to those prescribed by the Civil Aeronautics Board for Class III Air Carriers.

We find that W. L. Murphy and H. C. Murphy have sufficient operating personnel, equipment and financial resources to initiate passenger air service over an additional route between Pine Mountain Lake-Oakland. It has not been determined at this time whether adequate demand for air transportation over that route exists which would warrant the establishment of permanent service. We conclude that a temporary certificate should be granted which will allow the applicants to initiate service by this summer season (June 1, 1976) and which will expire after the next winter season (May 1, 1977). A public hearing is not necessary.

Permanent certification will be considered by the Commission only after W. L. Murphy and H. C. Murphy request it by filing a petition to modify this decision in February 1977. Such petition should include current traffic, flight, and economic data on applicants' schedule, tour and charter operations. It should also include information and data regarding ground transportation between Pine Mountain Lake Airport and Yosemite National Park.

It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Applicants are 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 W. L. Murphy and H. C. Murphy authorizing them to operate as a passenger air carrier between Pine Mountain Lake and Oakland and between Pine Mountain Lake and Columbia, subject to the limitations and conditions set forth in Appendix A, attached hereto and made a part hereof.
2. The temporary certificate granted herein shall expire May 1, 1977.
3. In providing service pursuant to the authority granted by this order, applicants 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, applicants shall file a written acceptance of the certificate granted. By accepting the certificate applicants are placed on notice that they will be required among other things, to file annual reports of their operations and to comply with the requirements of the Commission's General Order 120-Series and 129-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicants 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 105-Series.

In order to allow the applicants to initiate service at the beginning of the peak travel season to Yosemite National Park, the effective date of this order is the date hereof.

Dated at San Francisco, California, this 25th
day of MAY, 1976.

William L. Sturgeon President
Thomas L. Sturgeon

Robert Bateman
Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

- 7 - Commissioner Leonard Ross, being necessarily absent, did not participate in the disposition of this proceeding.

TEMPORARY CERTIFICATE

Appendix A

W. L. MURPHY AND H. C. MURPHY
dba YOSEMITE AIRLINES

Original Page 1

W. L. Murphy and H. C. Murphy, dba Yosemite Airlines, by this temporary certificate of public convenience and necessity, are authorized to operate as a passenger air carrier between the following airports only:

PMN - OAK

PMN - COL

Conditions

1. Propeller-driven aircraft having no more than 30 revenue passenger seats or a payload of no more than 7,500 pounds shall be operated.
2. Authority granted herein is temporary and shall expire May 1, 1977.
3. Service between PMN and OAK shall be provided with a minimum of two nonstop round trips a week.
4. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
COL	Columbia	Columbia Airport
OAK	Oakland	Oakland International Airport
PMN	Pine Mountain Lake	Pine Mountain Lake Airport

Issued by California Public Utilities Commission.

Decision No. 85877, Application No. 56173.