

Decision No. 86146**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application for Marin Aviation, Inc., ) Application No. 54604  
 for a Certificate of Public ) (Motion filed February 27, 1975;  
 Convenience and Necessity. ) motion renewed October 1, 1975)

SECOND INTERIM OPINION

This Second Interim Opinion deals with the renewed request of applicant Marin Aviation, Inc. (Marin) for exemption from the certificate provisions of Sections 2752, 2754, and 2754.1 of the Public Utilities Code as provided in Section 2767 to serve between San Francisco, Palo Alto, San Jose, Livermore, Novato, Santa Rosa, Sacramento, Placerville, Truckee, and South Lake Tahoe.

Marin originally requested authority to operate as a passenger air carrier between Arcata and San Jose and intermediate points, between Sacramento and Bakersfield and intermediate points, and between certain San Francisco Bay Area points and Truckee and South Lake Tahoe and intermediate points (the east-west route). Hearings on the application were concluded July 17, 1974; and on August 1, 1974, before a decision<sup>1/</sup> was rendered on the matter, the east-west route portion of the application was severed and consolidated for decision with three other applications, Applications Nos. 54899, 55009, and 55157, which dealt with service to South Lake Tahoe to permit the Commission to compare the proposed services to South Lake Tahoe. At the time of severance and consolidation the projects involved in the three other applications did not appear as

<sup>1/</sup> In Decision No. 84488 in Application No. 54604 dated June 3, 1975, the Commission granted Marin passenger air carrier authority on an interim basis to serve between Fort Bragg, Ukiah, Clear Lake, Santa Rosa, Novato, San Francisco, Palo Alto, San Jose, and Livermore.

though they would have a significant effect on the environment. Marin filed its original motion for exemption under Section 2767, which was denied. As hearings on the three applications progressed, evidence was adduced which tended to show a need for the three applicants to file environmental data statements looking toward the compilation of an environmental impact report to be considered in connection with the public convenience and necessity phase of the three applications, and on April 25, 1975 the three applicants were ordered to file environmental data statements. This requirement did not apply to Marin. The effect of this requirement was to substantially defer the decision on the three applications as well as that of Marin until the environmental procedures were completed.<sup>2/</sup> Thereafter Marin renewed its motion for exemption under Section 2767 to serve Truckee, Sacramento, Placerville, and South Lake Tahoe claiming that Marin was simply a bystander to a fight in which Marin had no part and that the inordinate delay in obtaining a decision on its east-west route request due to the other carriers having to go through the lengthy procedure respecting the environmental impact of their proposed operations placed an undue burden on Marin. Two of the other three carriers were granted temporary operating authority to serve South Lake Tahoe when the air carrier serving that point ceased operations, even though Marin was the first of the four applicants to file its application. Marin claims that its service will not be competitive with the services of the other three carriers as Marin proposes third level service with 5- and 9-passenger service while the other three carriers propose to fly Electra or Boeing 727 aircraft on a direct service basis. Marin also claims that the requested east-west service is necessary to the financial health of its currently authorized interim service.

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<sup>2/</sup> Hearings have been held on the draft environmental impact report prepared by the staff as the result of the filing of the environmental data statements and briefs were filed on the environmental phase July 9, 1976.

Currently, there is passenger air carrier service, albeit on a temporary basis, to South Lake Tahoe from San Francisco and San Jose and direct permanent service at Sacramento from Santa Rosa, San Francisco, and San Jose, all points between which Marin is requesting exemption authority. However, there is no passenger air carrier service at Truckee or Placerville nor direct service out of Novato to Sacramento and South Lake Tahoe.

After consideration the Commission finds that there is no direct or competitive service between Novato, Sacramento, Placerville, Truckee, and South Lake Tahoe; that the unforeseen delay in reaching a final decision in Application No. 54604 has been caused through no fault of Marin and that such delay places an undue burden on Marin; that, subject to a more detailed analysis to be given in the consolidated decision of the four applications, a need exists for the service set out in Appendix A; that the enforcement of Sections 2752, 2754, or 2754.1 in Marin's case would be contrary to public interest; that Marin should be exempted from the certificate provisions of Sections 2752, 2754, and 2754.1 for a period of 90 days; and that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECOND INTERIM ORDER

IT IS ORDERED that:

1. Marin Aviation, Inc. is exempted from the certificate provisions of Sections 2752, 2754, and 2754.1 of the Public Utilities Code in the performance of passenger air carrier service set forth in Appendix A.


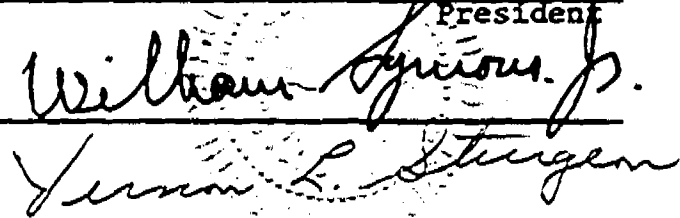
2. In providing service pursuant to the authority granted by this order, Marin Aviation, Inc. shall comply with the following service regulations. Failure so to do may result in a cancellation of the authority.

- (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 San Francisco, California, this 19<sup>th</sup>  
day of JULY, 1976.

  
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President  
  
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Commissioners

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

Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.

Marin Aviation, Inc. is exempted from the certificate provisions of Section 2752, 2754, and 2754.1 of the Public Utilities Code in the performance of the passenger air carrier service between the following airports subject to the following conditions:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
PLV	Placerville	Placerville Airport
SMF	Sacramento	Sacramento Metropolitan Airport
WGN	Novato	Gnoss Field Airport
TTA	Truckee	Truckee-Tahoe Airport
TVL	South Lake Tahoe	Tahoe Valley Airport

Conditions

1. 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.
2. The minimum service to SMF, TTA, and TVL is one scheduled incoming and departing flight daily on at least five days of each week.
3. PLV shall have at least flag-stop service on one scheduled incoming and departing flight daily on at least five days of each week. Carrier shall not overfly a scheduled flag-stop if a passenger is in possession of a purchased ticket and confirmed reservation a half hour or longer before the scheduled departure time from that airport on the flight on which the passenger holds a confirmed reservation.
4. Service may be operated between any of the above exempted points and any other previously authorized points via WGN, except that no passenger shall be transported between SMF and Sonoma County Airport in Santa Rosa.
5. The exemption granted herein shall expire 90 days from the date of the decision noted below, unless sooner canceled, modified, or extended.

Issued by California Public Utilities Commission.

Decision No. 86146, Application No. 54604.