

Decision 89 08 045 AUG 3 1989**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the scheduling,
routing and operations of Marin
Airporter, Inc. and Santa Rosa
Airporter, Inc. with respect to
common carrier service between
SFO on the one hand, and points in
Marin County on the other hand.

I.88-06-020
(Filed June 17, 1988)

Handler, Baker, Greene & Taylor, by
Raymond Greene, Jr., Attorney at Law,
for Santa Rosa Airporter, Inc.; and
Edward J. Hegarty, Attorney at Law, for
Marin Airporter; respondents.

Robert M. Epifanio, for City and County
of San Francisco Airport Commission;
Robert S. Maerz, Deputy City Attorney,
for San Francisco International Airport
and Richard Michael Skaff, for himself
and Marin County Paratransit
Coordinating Council; interested
parties.

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Attorneys at Law; Jim Panella, and
Elliot Bershodsky, for the
Transportation Division.

INTERIM OPINION

I. Summary

In this Interim Opinion, we conclude that the
certificates of both respondents require revision to place both
carriers on equal footing in providing airport transportation
service in Marin County. Scheduling restrictions are removed from
Santa Rosa Airporter, Inc.'s (Santa Rosa) certificate, and Santa
Rosa is allowed to run buses from Novato to the San Francisco
International Airport (SFO). However, a revised Santa Rosa

schedule avoiding conflicts at SFO must be filed within 30 days. Both carriers' certificates are revised to allow flexibility in stop locations. Respondents are ordered to negotiate two stop locations in Novato.

The Commission Transportation Division (TD) is ordered to assess the economic impact on respondents and their passengers of ordering service accessible to passengers in wheelchairs under Public Utilities Code § 460.5 which prohibits such passengers' rates from being more than rates for passengers who are not disabled or handicapped.

For a period of one year, we require respondents to report monthly ridership figures for each stop served and in each direction. We hold this investigation open to assure compliance with this decision in view of past disputes and to receive the information we require to resolve the issue of the impact of providing service accessible to passengers in wheelchairs.

We grant Marin's Motion To Extend The Time For Comments To The Proposed Decision. We deny Marin's request in its comments to set aside the Proposed Decision. However, we have revised the order to clarify the rationale upon which our conclusions are based and to resolve the dispute over two stop locations in Novato.

In a separate decision, we intend to dismiss as moot TD's Petition for Modification of Decision (D.) 86-05-045, as modified by D.86-07-058. The scheduling issues raised in TD's petition have been addressed in this proceeding.

II. Procedural Background

We instituted this investigation into the schedules, routes, and operations of Marin Airporter, Inc. (Marin) and Santa Rosa, not as an enforcement action, but to resolve the carriers' past disputes over routes and schedules. Furthermore, pursuant to our powers under the Public Utilities Code, including Section 762,

(see Greyhound Lines, Inc. v. PUC, 68 Cal 2d 406, 410-13 (1968)) we also instituted this investigation to assess "whether current conditions are such that public convenience and necessity would be best served by ordering changes in the scheduling, routing and/or operations of either or both carriers." (D.88-09-070 at 2, modifying I.88-06-020.) We modified our initial order to allow parties to compare respondents' current operations with their respective certificates as requested by Marin. (D.88-09-070.) All parties in Santa Rosa's Application (A.) 84-12-037, were notified of this investigation and of our modification.

Prior to hearings, representatives of passengers in wheelchairs requested, and were granted, the opportunity to show a need for service in Marin County. (Administrative Law Judge (ALJ) Ruling, August 2, 1988.) Also, prior to hearings, the assigned ALJ ruled that Santa Rosa's monthly passenger count information was not confidential, and required Santa Rosa to provide this information to Marin. (ALJ Ruling, November 9, 1988.)

A Prehearing Conference was held on July 25, 1988. Parties discussed TD's Petition to Modify Ordering Paragraph 3 of D.86-05-045. This ordering paragraph requires Santa Rosa to file a timetable which schedules service within 10 minutes of the midpoint of Marin's hourly timetable at the closest comparable stops. TD asked that language be added to specify which Marin hourly schedule should be used and to define "closest comparable stop" as Santa Rosa stops within a mile radius of Marin stops. Parties agreed that the issues raised on TD's Petition to Modify D.86-05-045 were relevant issues in this proceeding. TD agreed to present evidence on these issues in this proceeding rather than consolidate this investigation with the petition which was filed in A.84-12-037.

Hearings were held on October 4, 1988 and January 17 and 18, 1989 in which respondents, TD, witnesses representing passengers in wheelchairs, and the San Francisco Airport Commission

(SFAC) participated. The case was submitted upon the receipt of transcripts.

The Proposed Decision in this matter was mailed on June 15, 1989. On July 5, 1989, one party, Marin, tendered Comments on the Proposed Decision for filing. This filing was rejected by our Docket Office because it did not comply with the Commission's Rules of Practice and Procedure, Rule 77.3, Scope of Comments. Rule 77.3 states that comments to a Proposed Decision must contain a subject index and table of authorities. An appendix containing proposed findings of fact and conclusions of law is discretionary.

On July 7, 1989, pursuant to Rule 77.5, Late-Filed Comments and Replies to Comments, Marin filed a Motion for Extension Of The Comment Period. Attached to the motion was the original and 12 copies of a combined subject index and table of authorities. Marin indicated there was no separate appendix listing proposed findings of fact and conclusions of law. Marin bases its motion on the ambiguity of Rule 77.3. Marin asserts it is not clear from the rule that a subject index is mandatory. Marin asserts that the rule merely states a 15-page limit and refers to "other documents." Marin requests that its comments be accepted for filing. In its comments, Marin requests that the proposed decision be set aside based upon its discussion of numerous findings of fact, conclusions of law and the underlying rationale of the proposed decision.

On July 11, 1989, Santa Rosa filed an untimely reply to Marin's motion for an extension urging that the motion be denied and the comments rejected. Santa Rosa asserts that the basis of Marin's motion is without merit. Santa Rosa contends Marin's comments are: 1) untimely; 2) incomplete without the subject index and table of authorities; and, 3) in violation of Rule 77.3 by rearguing its position and failing to make specific references to the record.

Since Marin's comments and deficiencies were tendered in a timely manner, we grant Marin's Motion for Extension Of The Comment Period and accept its comments for filing. However, we caution Marin that future comments on a proposed decision must contain a subject index and table of authorities at the time of filing. We deny Marin's request in its comments to set aside the proposed decision. We support the conclusions reached and make revisions to the proposed decision to clarify its underlying rationale and to resolve the dispute between respondents over the two stop locations in Novato.

III. Past Disputes

Marin has provided service between Marin County and SFO since 1976. On the hour from 5:00 a.m. to 10:00 p.m. daily, Marin begins its SFO run at Novato, stopping for passengers at Novato, San Rafael, Larkspur, Mill Valley, and Sausalito. Passengers transfer at Marin's Larkspur terminal to buses or vans bound for SFO. Passengers may check luggage with certain airline carriers at the Larkspur terminal. The total trip from Novato to SFO takes one hour fifty minutes. The return trip departs SFO on the hour from 6 a.m. to midnight travelling the same route to Novato, stopping at the same locations or across Highway 101 at adjacent locations. All stop locations are specified in Marin's certificate, meaning Commission approval is required to change stop locations.

Santa Rosa operates transportation service from Ukiah Airport to SFO (Route 1) and from Santa Rosa to SFO (Route 2). In 1984, Santa Rosa requested authority to add six new stops in Marin on its Santa Rosa-SFO run, indicating no additional vehicles would be required to operate this service. (A.84-12-037.) Santa Rosa presented 13 witnesses who agreed that airport transportation on the half hour, as opposed to hourly Marin service, would be a material improvement in airport transportation and increase

ridership of both carriers. It presented evidence of unused capacity on its route from Santa Rosa to SFO. The record showed that half hour service by Marin would not be satisfactory since it would require double the number of Marin vehicles on the highway. In response to a subpoena, SFO¹ testified that the airport had no current scheduling problems involving Santa Rosa, but had incurred problems in the past. SFO management coordinates the airport departure and arrival of Commission certificated carriers. Based on this record, we authorized Santa Rosa to stop in Marin County en route to SFO. We ordered Santa Rosa's schedule in Marin to be "within 10 minutes of the midpoint of Marin Airporter's hourly schedule at its closest comparable stop." (D.86-07-058, modifying D.86-05-045, Ordering Paragraph 3.) D.86-07-058 was issued July 16, 1986, effective the same day. It also denied Marin's application for rehearing.

Earlier, on January 14, 1986, Marin revised its hourly schedule, effective March 1, 1986, to add 13 runs on the half hour from Larkspur to SFO from 5:30 a.m. to 10:30 a.m. and 3:30 p.m. to 9:30 p.m. with corresponding return trips every half hour. On July 28, 1986, Marin added four additional half hour runs from Larkspur to SFO and return, filling the gap in the schedule, meaning the half hour runs would occur every half hour between the hours of 5:30 a.m. and 11:20 p.m. and return. Marin added three 47-passenger buses the year this service was instituted.²

On August 6, 1986, Santa Rosa filed its timetable for Marin County stops. (Exh. 10, Attachment E.) This timetable was

1 The San Francisco City Attorney's Office represented the San Francisco International Airport and the SFAC.

2 In its Application for Rehearing of D.86-04-045, filed on May 28, 1986, Marin indicated this service had been instituted after the close of evidentiary hearings.

to become effective August 16, 1986. General Order (GO) 98-A requires five days notice of timetable revisions which do not reduce service.

On September 8, 1986, in a letter to Santa Rosa, TD indicated that the August filing was rejected because it did not specify each stop location in Marin County, failed to list Manzanita/Marin City service, violated the requirement for times to be at the midpoint of Marin's hourly schedule and did not reference Marin's service to Novato and San Rafael. TD requested a revised timetable by September 19, 1986. On September 17, 1986, Santa Rosa filed its revisions as TD requested.³

By that time, however, the service had been halted due to an independent series of events. On June 26, 1986, SFO informed Santa Rosa it would not allow the carrier to serve Marin County. Santa Rosa filed a lawsuit requesting a preliminary injunction to prevent SFO's interference with its Marin service. On September 2, 1986, the Superior Court for the County of San Mateo issued a preliminary injunction. Santa Rosa thereafter operated its service for about 10 days until SFO requested, and was granted, a stay of the preliminary injunction pending appeal. (Superior Court No. 310398, San Mateo County.) In late August 1987, the Court of Appeal affirmed the lower court's order against SFO and ordered that it take effect immediately. (Exh. 13, pp. 3-4.)

On November 8, 1987, Santa Rosa filed a timetable to reinstitute its Marin service. On November 16, 1987, TD notified Santa Rosa that Route 3 (Novato-SFO) was in violation of its certificate and its stop location at the Novato Travelodge was unauthorized. TD requested that service on this route be

³ Marin disagrees that this September 1986 revised timetable cured all deficiencies listed by the staff. However, Marin agrees this issue is moot since the service under this timetable was halted and a new timetable filed a year later.

terminated immediately and a revised timetable filed. (Exh. 10, Attachment J.) TD later met with Santa Rosa. Santa Rosa's letter confirming this meeting reiterates Santa Rosa's position and tends to show that TD no longer requested that the service be terminated immediately. (Exh. 14, Attachment C, pp. 3-4.)

Marin alleges the revised 1987 Santa Rosa timetable unlawfully splits the Santa Rosa-SFO Route 1 into Routes 1 and 3, with Route 3 providing SFO service starting at Novato.

We agree with Marin and TD that Santa Rosa's Route 3 is not authorized by its certificate. Santa Rosa legitimately disputes, yet misinterprets, the following language in its certificate to allow the Novato route:

"(d) Motor vehicles may be turned at termini and intermediate points, in either direction, at intersections of streets or by operating around a block contiguous to such intersections, in accordance with local traffic regulations."

TD explains that the "turned" language, quoted above, has never been interpreted by TD or a carrier, except Santa Rosa, to allow a carrier to turn a vehicle around between termini and return it to the origin of a route without completing its run to the route's destination terminal. An intermediate point is a point that is not at the end of a route. TD recommends that the language be eliminated or revised to prevent Santa Rosa from beginning SFO service in Novato.

The "turned" language above when read independent of the route descriptions in the certificate might result in an interpretation such as Santa Rosa's. However, when read in context with the route description it is clear where service is authorized to begin. In Santa Rosa's certificate, Route 1 is described as:

"Beginning with a service point at the El Rancho Motel in Santa Rosa (2200 Santa Rosa Avenue), then via the most appropriate streets and highways to service points at the following locations: Rohnert Park - Petaluma - Novato -

Marinwood - Terra Linda - San Rafael - Corte
Madera - Mill Valley - Marin City - SFO."
(Exh. 10, Attachment C.)

We find no ambiguity in Santa Rosa's certificate when read in its entirety. Santa Rosa was not authorized to begin service to SFO in Novato. Section 1(d) is included in a large number of carrier's certificate to allow the carrier to deviate from an authorized route to comply with local traffic rules, such as one-way streets, temporary construction zones or city routes for buses. The section does not authorize route deviation for congested roadways as alleged by Santa Rosa. However, we do agree that the language is archaic and difficult to understand. In order to avoid future misinterpretation of this language, we shall reword Section 1(d) of Marin and Santa Rosa's certificates to read:

"(d) For purposes of complying with local traffic regulations, motor vehicles may be turned at termini and intermediate points in either direction at intersections of streets, or may operate around a block contiguous to such intersections."

We instituted this investigation to resolve the continuing dispute between two competitors in Marin County in the public interest, not to punish either respondent. We consider Santa Rosa's dispute over Section 1(d) to be a legitimate one without the implication of sanctions for its certificate interpretation. However, we caution Santa Rosa that future acts which show probable cause of non-compliance with Commission orders may result in a modification of this proceeding or institution of a separate proceeding to pursue Commission sanctions.

Even though we find Santa Rosa's certificate does not authorize Novato-SFO service, Santa Rosa indicates it is impossible to operate service in a timely manner and according to its filed timetables from the city of Santa Rosa to SFO and asks to retain its present Novato route. Should Santa Rosa be allowed to continue

this route? If so, under what conditions? An assessment of current ridership conditions is needed to resolve this question.

IV. Current Conditions

In 1984, we envisioned Santa Rosa supplementing SFO service every half hour by stopping in Marin County to pick up passengers. However, before our decision was final, Marin instituted half hour service creating a conflict in the half hour schedules of Santa Rosa. Presently, both carriers are running service from Marin County to SFO, Marin on the hour and half hour and Santa Rosa close to the half hour.

In 1984, we considered Marin's objections to competition in airport service in Marin County. Marin's arguments included assertions of the potential effect competition would have on its operations: revenue losses, deterioration of the quality of airport service in Marin and Sonoma Counties, deterioration of the quality of Marin's service, loss of 15-20% of total passengers and 50-75% of Sonoma passengers. Marin alleged that its 18% market penetration was virtually the maximum ridership to be achieved in Marin's static market. We rejected Marin's arguments in D.86-05-045 and D.86-07-058 and indicated that competitive service would be allowed in Marin County.

Upon instituting this investigation, we made clear that our decision to allow competition in airport service in Marin County was final and not to be reconsidered. Our objective in this proceeding was not to place either carrier in a second class position of competitiveness in the Marin-SFO market.

The ridership picture in Marin County in 1988 has drastically changed. TD presented an analysis of ridership data of respondents for the period 1984 to 1988. Marin operated from 1984 to 1988; Santa Rosa operated from October 1987 to July 1988. TD presented total ridership counts which included both respondents'

operations during their respective periods of operation in 1984-1988. Marin and Santa Rosa passenger counts show the following annual ridership: 1984 - 173,159; 1985 - 199,284; 1986 - 262,770; 1987 - 298,099; 1988 (January-July) - 189,296. These combined ridership statistics show that passenger ridership from Marin county to SFO has nearly doubled in this four year period. This ridership data shows increases during the period of Marin's operation in the following percentages: 1984-1985, 15.1%; 1985-1986, 31.9%; 1986-1987, 13.4%. The increase from 1987 to 1988 of 17.2% includes the ridership counts of both respondents, with no TD estimate of the respective respondents' percentage of this total increase.

TD presented a graph of the ridership statistics from 1984 to 1988. The graph shows a trend of increased ridership occurring steadily before and after Santa Rosa began operations in Marin County in October 1987. From this graph and the combined ridership counts, TD concludes that Santa Rosa's market stimulation has been insignificant.

TD presented an analysis of individual respondent ridership counts for the period October 1987 to July 1988. These statistics show that Marin's market share has declined from 97.5% to 92% from October 1987 to July 1988, while Santa Rosa's share increased from 2.5% to 8% during the same period.

Marin argues that it's marketing efforts and new terminal in Larkspur are responsible for the increase in passenger ridership during the period 1984-1988. However, no party presented an analysis of the numbers of Marin air passengers using SFO during this period or whether there was an increase in that number. Therefore, it is speculative to assert that Marin alone is responsible for the increase in Marin County passengers to SFO. The record only shows a continuing increase in Marin-SFO passengers from 1984 to 1988.

Even though TD considers Santa Rosa's market stimulation insignificant, Santa Rosa has increased its market share of Marin-SFO passengers from October 1987 to July 1988. Santa Rosa's ridership statistics show public support for its service. We consider the question of market stimulation by Santa Rosa in this Marin county market to be irrelevant under circumstances where respondents' combined passenger ridership shows a continuous, increasing trend from 1984 to 1988.

Marin has not carried its burden of proving its assertion that the passengers which now support Santa Rosa's service are previous Marin Airporter riders, as discussed below. And even if they are, Santa Rosa's Novato route offers to many passengers non-transfer service to SFO, a viable alternative to Marin's operations which require that many passengers, based upon their points of origin in the county, transfer at Larkspur to travel to SFO.

Operating revenues, excluding charter service and other revenues, for respondents for 1984, 1985, 1986 and 1987, respectively, are as follows: Santa Rosa - \$183,336, \$1,121,081, \$1,251,291, and \$1,257,098; Marin - \$1,357,963, \$1,548,331, \$2,233,090 and \$2,539,987. Profits of the two carriers for 1984, 1985, 1986 and 1987, before taxes, were: Santa Rosa, \$13,378, \$39,296, loss of (\$50,002), loss of (\$118,585); Marin, \$280,195, \$48,429, \$195,133 and \$1 million earned surplus.⁴ Although Santa Rosa serves passengers at certain stop locations, overall Marin still has the majority of Marin-SFO passenger business by a wide margin. These statistics do not show an erosion of Marin's earnings as predicted in 1983. Marin's revenues show a significant increase from 1984 to 1988 rather than a decrease in spite of the 2% to 8% loss in market share.

⁴ As of April 28, 1989, neither respondent has filed its 1988 Annual Report.

Thus, in 1988 Marin-SFO passenger ridership has nearly doubled, Santa Rosa has a Marin County clientele supporting its direct service to SFO; Marin has retained the vast majority of the market and increased its earnings. We cannot conclude that Santa Rosa's entry into the Marin County market has caused a deterioration in the quality of service or adversely affected Marin's revenues. Our policy of encouraging competition in airport transportation service to the public results in a sharing of a market rather than monopoly service.

Santa Rosa's Route

Santa Rosa indicates that it is impossible to operate the service proposed in 1984 from the city of Santa Rosa to SFO stopping at points in Marin and arriving at SFO on schedule. It operated this service for ten days in 1986 prior to the Superior Court's order and found that traffic congestion prevented runs north from Novato to Santa Rosa and back in time to meet the established SFO schedule. Based upon this experience, Santa Rosa decided to run two schedules, one from the city of Santa Rosa and one from Novato. Santa Rosa added two vans to institute the Novato service.

Santa Rosa wishes to retain the Novato route. It argues that this direct service from Novato to the airport without transfers is desired by the public and is in response to public need. (Exh. 14, p. 4.) We agree that increasing passenger ridership from zero in 1986 to 2,500 passengers in July 1988 shows public demand. We also agree that non-transfer service is an option which should be offered to passengers in Marin. ✓

In 1986, when we authorized Santa Rosa service to stop in Marin, one of our concerns was adding to the traffic congestion in the county. Santa Rosa's proposed service was attractive because it created no additional vehicles on the highway. Now both carriers have increased the number of vehicles used in Marin-SFO service. However, the numbers of passengers travelling to SFO from ✓

Marin County has significantly increased since 1984. Based upon the ridership statistics to and from SFO in Marin, and sworn testimony of Mr. Salas (Exh. 13, p. 4; Tr. 214-217), we find the Novato route reasonable because of increased traffic congestion from Novato to Santa Rosa since 1984. We believe the need for additional bus or van operations by both carriers under the significant ridership increase is also justified.

Marin argues that the average Santa Rosa passenger count for October 1988 was 1.56 passengers per day and that Santa Rosa is losing money operating in Marin. Santa Rosa counters that one time start-up costs for Marin operations and unexpected discount offerings to compete in Sonoma caused the 1986 and 1987 deficits. We agree that it is not unusual in the first years of a business to show low ridership factors and little or no profit. Santa Rosa's current discounts in Sonoma County are an effort to turn the present losses into a more profitable operation. (Exh. 14, p. 12 and Tr. 236-237.) The problems of low ridership and low profits are ones to be resolved by Santa Rosa's management. We will not dictate solutions or unduly restrict this service to hamper successful, profitable operations. We do not agree that low ridership and low profits justify terminating this service.

We find that it is in the public interest for Santa Rosa to continue its Novato-SFO route since it offers transportation options in Marin County where ridership has nearly doubled in four years and where the public has shown support of its service by its ridership.

We believe it is in the interest of public convenience and necessity to continue Santa Rosa's Marin County service, rather than disrupt the existing service supported by the public. The record in this proceeding shows that Santa Rosa possesses the ability, experience, and financial resources to perform the service from Novato to SFO. The service is technically feasible. The

service offers a non-transfer transportation option to SFO for many passengers.

Both Santa Rosa and Marin already have authority to serve the Marin-SFO territory and they are both in fact providing such service. Thus, it is obvious that Marin no longer provides nor has the right to provide monopoly scheduled service between Marin and SFO. By granting Santa Rosa authority to continue its Novato-SFO route, we do not increase Santa Rosa's territory, but merely change the method by which Santa Rosa is authorized to serve that territory.

Moreover, as we said in American Buslines, 3 CPUC 2d 241, 255-57 (1980) monopoly service is generally not satisfactory service. It may be satisfactory where, for example, a traffic market is so obviously saturated with carriers that more competition could clearly not lead to better service. Here, however, there is evidence that Santa Rosa's service is better because it does not require a transfer in Larkspur. Similarly, monopoly service might be satisfactory where the addition of competition would cause the existing carrier to fail. Here, however, there is no evidence that Santa Rosa's entry into this market will cause Marin to fail. Thus, we see no reason to change our prior decision that there ought to be competition in the provision of airport transportation service from Marin. Rather, we confirm the course we embarked upon when we instituted this investigation: that it is desirable to continue our longstanding policy of allowing a reasonable number of competitive carriers as a means of ensuring the public is afforded innovative and efficient service.

Santa Rosa's Schedule

Marin's half hour schedule now conflicts with that of Santa Rosa. At the time we ordered Santa Rosa to coordinate a half hour schedule with Marin, we did not restrict Marin to hourly service. It is not feasible to tie Santa Rosa's schedule to that

of Marin, which may continue to change. However, scheduling at SFO requires coordination of respondents to avoid airport congestion.

SFO explains that congestion in passenger loading zones occurs when both carriers either depart or arrive at SFO at the same time. In order to separate these carriers, SFO asks this Commission to set Santa Rosa departures from SFO at quarter past or quarter to the hour, with Marin to depart on the hour and half hour. SFO reported that this solution has resolved problems in the past when a Santa Rosa driver was involved in a fight with the driver of Sonoma County Airport Express over parking space. (Sonoma County Airport Express competes with Santa Rosa in that county.) SFO separated and froze the schedules of these two carriers to avoid future fights. SFO believes the present Marin/Santa Rosa schedule conflicts at SFO could cause similar driver fights between competing carriers and requests the same solution.

While we will not set carrier schedules for SFO, we will order that Santa Rosa's airport schedule meet SFO scheduling requirements, which are conditions of its permit to enter airport property.

In addition, Santa Rosa has been requested by SFO to abide by loading regulations to avoid long waiting periods in these zones and frequent circling. We remind Santa Rosa that abiding by airport permit conditions is required to operate on airport property and must be taken seriously under congested conditions at the airport. Continued violation of SFO permit restrictions may result in SFO's revocation of Santa Rosa's permit, preventing its service at SFO.

Marin's Schedule

Marin seeks confirmation of its replacement of "on-call" service north of Larkspur with permanent hourly service. On June 3, 1985, Marin's service to two locations in Novato and to San Rafael was hourly until December 2, 1985 unless sooner cancelled.

changed or extended and thereafter, on-call with 24 hours advance notice required. On October 17, 1985 in a letter to TD, Marin cancelled the on-call service for the two Novato locations and San Rafael, indicating service would continue on a regularly scheduled basis. A timetable indicating these changes was attached to the letter. In subsequent discussions, TD indicated this timetable revision was not on file with the Commission. However, Marin introduced a copy of the cover letter and revision at the hearing. Marin's witness, Ms. Hughes, testified that the revision must have been lost in the Commission move in 1986. TD did not challenge this testimony. We accept Marin's representation that this filing was properly made at the time requested. We confirm the revised timetable of October 17, 1985 which shows regularly scheduled service at these stops. However, future Marin filings should remove notes C and E and the on-call language in the existing timetable on file showing only the permanent scheduled times. This will clarify this revision.

We find that the issue of Santa Rosa's compliance with the scheduling requirement in D.86-05-045, as modified by D.86-05-078, is now moot given Marin's institution of half hour service.

Stop Locations

Marin and Santa Rosa have stop locations which are in identical sites or in close proximity. Marin alleges that Santa Rosa is eroding its revenues at these locations by soliciting Marin passengers.

At Denny's in Novato Santa Rosa's market share increased from 42% to 72% (to SFO) and from 26.5% to 36.4% (from SFO) from October 1987 to July 1988. TD believes Santa Rosa's increase in ridership is because passengers prefer its through service to SFO.

At the Travelodge in Novato, in 1988 Santa Rosa has nearly 100% of the market, a reversal of Marin's 100% ridership in October 1987. TD's investigation shows that the management at the

Travelodge now recommends Santa Rosa's service, which, in TD's opinion, is why Marin revenues have decreased at this location.

Based upon TD's investigation, we cannot agree that Marin's decline in riders is solely due to Santa Rosa's direct solicitation of Marin's passengers. Many Marin passengers prefer non-transfer service to SFO.

If separation of respondents operations is desired, TD recommends it be accomplished by stop location, rather than schedule. TD would allow both respondents the flexibility in the future of changing named stop locations within a half mile radius without Commission approval. Marin observes that at stops where carriers are not visible to each other, there are no disturbances or solicitation of passengers.

In order to allow flexibility of future operations, we will authorize the following additions to respondents certificates:

"Upon ten days notice to the Commission and the public, a carrier may move a stop location a maximum of one-half (1/2) mile as measured in a straight line on a map in any direction from its location specified in this certificate. The new stop location must be more than one-half mile from a competitor's Commission-authorized stop location."

TD's recommendations do not resolve the current disputes over respondents' stop locations at Denny's and the Travelodge in Novato. We believe that stop locations are best selected according to the business judgment of respondents. In order to resolve this current dispute, we will require respondents to negotiate these stop locations. We will require that respondent reach and submit to the Commission an agreement within 90 days from the effective date of this order. Should respondents fail to reach an agreement, our alternative is to select stop locations in the best interest of the public.

Service To Passengers In Wheelchairs

Five witnesses testified in support of scheduled service for passengers in wheelchairs. These witnesses established that there is no such scheduled airport service in Marin County. They pointed out that passengers in wheelchairs have unique problems with baggage handling and individual safety. Presently, the witnesses either hire an attendant to accompany them to the airport, have a friend drive them to and from the airport or take their private van. The need for service is to travel themselves, both for business and pleasure, and to be accessible to friends in wheelchairs who desire to visit. Witnesses testified they now travel to the airport from once a month to several times a year, but could travel more often if there were scheduled service.

Witnesses desired a reasonable level of airport service, at least once or twice a day on a scheduled basis. They would not approve of a service which segregated them from the public because they do not want to be perceived or treated differently than other passengers.

Mr. Richard Skaff, member of the Marin Paratransit Coordinating Council, testified that at the present there are no public funds in Marin to subsidize wheelchair accessible transportation. He estimated the cost to retrofit a van for wheelchair accessibility to be \$6,199. He summarized witnesses' request as one for immediate, reasonably-scheduled, non-peak airport transportation (retrofitting existing vehicles if necessary) at reasonable rates, and a requirement that new vehicles be wheelchair accessible. Mr. Skaff estimated that a new bus purchase price would be increased \$10,000 to \$15,000 for wheelchair accessibility and would not affect the 47-passenger seating. However, Mr. Skaff indicated a willingness to accept van-wheelchair accessibility as an interim measure.

Marin witness, Ms. Grace Hughes, responded that the existing Marin buses are incapable of being retrofitted to

accommodate wheelchairs--they are too narrow. Ms. Hughes estimated the price of a wheelchair accessible bus to be \$225,000. Marin replaces buses every ten years and purchased a new bus in 1988. Marin provides service from Larkspur to SFO in 21- or 47-passenger buses, not vans. In her opinion, Marin service operations would need to be completely revised, extra vehicles used or existing capacity decreased to accommodate wheelchair passengers.

In closing argument on this issue, Santa Rosa indicated its sympathy to the problem but that the costs to accommodate the request were unreasonable. A representative for wheelchair passengers argues that since 1976, public policy has changed to favor facilities and services for the handicapped, naming restaurants and airports. The representative indicated passengers in wheelchairs would accept van service as an interim measure and requested that all new buses be equipped to accommodate wheelchairs.

Discussion

At present there is no scheduled airport service from Marin accessible for passengers in wheelchairs. We believe the request for some minimal level of service at reasonable rates is a reasonable one. Concessions of retrofitted vans have been made until new equipment accommodating wheelchairs is scheduled to be purchased. However, in view of the passage of AB 3498 adding Section 460.5 to the Public Utilities Code, we must assess the impact of such an order on passenger rates. Section 460.5 prohibits a passenger carrier from imposing a fare for physically disabled or handicapped passengers which is more than the fare for the same transportation for a passenger who is not disabled or handicapped. We direct TD in conjunction with respondents and interested parties to assess any added cost to provide scheduled service to passengers in wheelchairs to and from SFO in vans or in buses, under either a retrofit of 21- or 47-passenger buses or vans, or the purchase of such vehicles, and to submit a report in

this proceeding. The purchase of vehicles need only include sufficient number of vehicles to make the minimum number of daily runs required to and from SFO based upon passenger need. Respondents shall cooperate in this study by supplying TD with peak hour information for the years 1984-1988 and any other information requested by TD for this study.

Findings of Fact

1. Santa Rosa is providing service on Route 3 from Novato to SFO.
2. Santa Rosa disputes TD's interpretation of Section 1(d) in its certificate. Santa Rosa asserts that this language authorizes operation of service originating in Novato to SFO and return.
3. TD interprets Section 1(d) to preclude Santa Rosa's operation of service originating in Novato to SFO and return.
4. The Section 1(d) language is archaic and difficult to understand. When read in the context of Santa Rosa's entire certificate, this language does not authorize a carrier to alter its point of origin and/or destination because of traffic congestion. Santa Rosa's certificate authorizes Route 1 SFO service to begin in Santa Rosa, not in Novato.
5. Santa Rosa is operating Route 3 from Novato to SFO and return. TD has not required that Santa Rosa cease its operation of this route. Santa Rosa requests authority to retain the operation of this route. Santa Rosa cannot operate timely SFO service from the city of Santa Rosa because of traffic congestion from Novato to Santa Rosa.
6. Total passenger ridership from Marin to SFO has nearly doubled from 1984 to 1988. Marin operated Marin county service during this entire period. Santa Rosa operated its Novato route from October 1987 to July 1988. No analysis of SFO passenger travel to Marin County was presented. It is speculative to

conclude Marin alone is responsible for ridership increases during the period 1984 to 1988.

7. TD concludes that Santa Rosa has had an insignificant impact on Marin County market stimulation. Santa Rosa's market stimulation is irrelevant in a market that is continuously increasing.

8. Marin's operating revenues have continued to increase from 1984 to 1987, however, Santa Rosa shows net losses in 1986 and 1987.

9. Santa Rosa transports 8% of Marin passengers using scheduled service to SFO. Marin transports 92% of Marin County passengers using scheduled service to SFO as of July 1988.

10. On October 17, 1985 Marin cancelled its on-call service for its two Novato and San Rafael locations. This service is now regularly scheduled.

11. Marin must request Commission approval to change stop locations.

12. The selection of stop locations is within the business judgment of Santa Rosa and Marin. The current dispute at two Novato stop locations is best resolved by negotiations between respondents. However, should respondents reach no agreement on the two locations, it is in the best interest of the public for the Commission to select stop locations to resolve this dispute.

13. Respondents' existing schedules at SFO conflict creating congestion and the possibility of driver disturbances.

14. Santa Rosa has dedicated facilities to operate the route from Novato to SFO. Current ridership on this route shows public need for this service. It is in the best interest of the public who is served by Santa Rosa's Novato route to continue this operation rather than to disrupt the service.

15. Santa Rosa's Novato route provides a convenient non-transfer option for many passengers travelling from Marin to SFO. Passengers at Denny's in Novato prefer the through service of Santa

Rosa. The management at the Travelodge in Novato recommends Santa Rosa's service.

16. Santa Rosa's current operations show that Santa Rosa possesses the required qualifications, skill, ability, experience, equipment, facilities, and financial ability to operate the Novato route. This route is feasible and the demand for it is supported by regular passenger ridership.

17. It can be seen with certainty that there is no adverse environmental impact as a result of Santa Rosa continuing to operate its Novato route.

18. There is no scheduled service from Marin to SFO which is accessible to passengers in wheelchairs.

19. There is no evidence to show the impact on rates or financial operations of requiring respondents to provide equipment which is accessible to passengers in wheelchairs.

Conclusions of Law

1. Section 1(d) is archaic and difficult to understand and should be reworded to prevent future misinterpretation.

2. Respondents' certificates should contain an equal amount of flexibility in scheduling and stop locations.

3. Changes reasonably ought to be made to Santa Rosa's operating authority to permit it to lawfully operate its Novato route.

4. Public convenience and necessity require that Santa Rosa's Novato route be certificated.

5. This proceeding should remain open to assure respondents' compliance with this order, to receive respondents' negotiated agreement regarding the two disputed stop locations at Denny's and the Travelodge in Novato, to receive further information of the impact on respondents and its passengers of ordering service which is accessible to the handicapped and to address any reoccurring problems within the scope of this investigation.

6. Due to the conflicting schedules of respondents at SFO causing traffic congestion, this order should be effective on the date signed.

INTERIM ORDER

IT IS ORDERED that:

1. The certificates of Marin Airporter, Inc. (Marin) and Santa Rosa Airporter, Inc. (Santa Rosa), attached to this order as Appendix PSC-990 and Appendix PSC-1367, are amended to include the following condition:

"Upon ten days notice to the Commission and the public, a carrier may move a stop location a maximum of one-half (1/2) mile as measured in a straight line on a map in any direction from its location specified in this certificate. The new stop location must be more than one-half mile from a competitor's Commission-authorized stop location."

2. The certificates of Marin and Santa Rosa, Section 1(d) are amended to read:

"For purposes of complying with local traffic regulations, motor vehicles may be turned at termini and intermediate points in either direction at intersections of streets, or may be operated around a block contiguous to such intersections."

3. Section 1(e) in the certificate of Santa Rosa is deleted.

4. Within 30 days from the effective date of this order, Santa Rosa shall file timetable in accordance with GO 98-A, Part 11, providing SFO arrivals and departures which meet the approval of SFO. The cover letter with the revised timetable shall provide the manner in which SFO approval was obtained and the name of the official granting the approval. These documents shall be sent to the Transportation Economics and Analysis Branch of the Commission's Transportation Division.

5. Within 90 days of the effective date of this order respondents shall engage in negotiations and reach an agreement regarding disputed stop locations at Denny's and the Travelodge in Novato. A copy of this agreement shall be submitted to the assigned ALJ and all parties in this proceeding. A copy of this agreement shall be mailed to the Transportation Economics and Analysis Branch of the Transportation Division. Should respondents fail to reach an agreement within 90 days from the effective date of this order both respondents shall send written notification that an agreement has not been reached to the assigned ALJ and all parties in the proceeding within the same time period.

6. This proceeding shall remain open for one year within which respondents shall adjust respective operations to comply with this decision. During this period, the Commission Transportation Division shall monitor any changes in respondents operations. Respondents shall submit a copy of any revised tariffs and/or timetables to the Transportation Economics and Analysis Branch of the Transportation Division. Should either respondent fail to comply with this order, we direct the Transportation Division to promptly notify the assigned ALJ in writing and request that the Commission pursue sanctions in this proceeding or a separate enforcement proceeding, whichever may be appropriate based upon the allegations.

7. In order to monitor the effects of this decision, for 12 months following the effective date of this order respondents shall provide monthly data showing ridership counts from each stop served to SFO and from SFO. This data shall be sent directly to the Transportation Economics and Analysis Branch of the Commission's Transportation Division.

8. Respondents shall provide to the Transportation Division, within 30 days of its request, all information and data it needs in connection with its study to assess the demand for wheelchair

accessible service on the Marin-SFO routes, when and how it should be provided, and its cost.

10. Within 120 days of the effective date of this Interim Decision, the Transportation Division shall submit a report in this proceeding which addresses the impact on the rates and financial operations of Marin and Santa Rosa of providing service to SFO which is accessible to passengers in wheelchairs. This report shall be prepared under the limitations in Public Utilities Code § 460.5. An original and 12 copies of the report in this proceeding shall be filed in the Docket Office, and copies shall be mailed to the assigned ALJ and all parties. Upon receipt of this report, the assigned ALJ shall determine whether comments from the parties and/or further proceedings are needed.

This order is effective today.

Dated August 3, 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

Commissioner Stanley W. Hulett,
being necessarily absent, did
not participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Victor Weiss
Victor Weissar, Executive Director

Appendix PSC-990*

MARIN AIRPORTER
(a California corporation)

First Revised Title Page
Cancels
Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-990

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges.

All changes and amendments as authorized by the
Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

Supersedes Authority Granted by
Decision 85545 in Application 56239,

PE 391 in RRD 391
PE 393 in RRD 393
PE 2332 in RRD 202

Issued under authority of Decision 89 08 045, dated
AUG 3 1989, of the Public Utilities Commission of
the State of California in I.88-06-020.

Appendix PSC-990*

MARIN AIRPORTER
(a California corporation)

First Revised Page 1
Cancels
Original Page 1

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SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS.....	2
SECTION 2. ROUTE DESCRIPTIONS	3

Issued by California Public Utilities Commission.

*Amended by Decision 89 08 045, in I.88-06-020.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS.

Marin Airporter, a California corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized as a passenger stage corporation to transport passengers and their baggage between points described in Section 2 subject, however, to the authority of this Commission to change or modify these routes at any time and subject to the following provisions:

- (a) When route descriptions are given in one direction, they apply to operation in either unless otherwise indicated.
- (b) All transportation of passengers shall originate at or destined to the San Francisco International Airport.
- (c) Upon ten days notice to the Commission and the public, Marin Airporter may move a stop location a maximum of one-half (1/2) mile, as measured in a straight line on a map, in any direction from its location specified in this certificate. The new stop location must be more than one-half mile from the nearest Santa Rosa Airporter's Commission-authorized stop location.
- (d) For purposes of complying with local traffic regulations, motor vehicles may be turned at termini and intermediate points in either direction at intersections of streets, or may be operated around a block contiguous to such intersections.

Issued by California Public Utilities Commission.

*Amended by Decision 89 08 045, in I.88-06-020.

*SECTION 2. ROUTE DESCRIPTIONS.

Route 1: Novato - Larkspur

Beginning with a service point at Denny's Restaurant (a terminal) in Novato (7330 Redwood Highway), then via the most appropriate streets and highways to service points at the following locations:

- Rush Creek Travelodge, 7600 Redwood Highway, Novato
- Alvarado Inn, 225 Entrada Drive, Ignacio
- Clarion Hotel, 1010 Northgate Drive, San Rafael
- Marin Terminal, 300 Larkspur Landing, Larkspur

Route 2. Larkspur - SFO

Beginning with a service point at Marin Terminal in Larkspur (300 Larkspur Landing), then via the most appropriate streets and highways to service points at the following locations:

- Golden Gate Bridge Transit stop, Interstate 101 and Seminary Drive off-ramp, Mill Valley
- Golden Gate Bridge Transit stop, Manzanita Park and Ride Lot, Mill Valley
- Golden Gate Transit stop, Interstate 101 and Spencer Avenue, Sausalito
- San Francisco International Airport (SFO)

Issued by California Public Utilities Commission.

*Amended by Decision 89 08 045, in I.88-06-020.

*SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS.

Santa Rosa Airporter, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized as a passenger stage corporation to transport passengers and their baggage between points described in Section 2 subject, however, to the authority of this Commission to change or modify these routes at any time and subject to the following provisions:

- (a) When route descriptions are given in one direction, they apply to operation in either direction, unless otherwise indicated.
- (b) Deleted.
- (c) All transportation of passengers shall originate at or destined to San Francisco International Airport.
- (d) For purposes of complying with local traffic regulations, motor vehicles may be turned at termini and intermediate points in either direction at intersections of streets, or may be operated around a block contiguous to such intersections.
- (e) Deleted.
- (f) Upon ten days notice to the Commission and the public, Santa Rosa Airporter may move a stop location a maximum of one-half (1/2) mile, as measured in a straight line on a map, in any direction from its location specified in this certificate. The new stop location must be more than one-half mile from Marin Airporter's nearest Commission-authorized stop location.

Issued by California Public Utilities Commission.

*Amended by Decision 89 08 045, in I.88-06-020.

SECTION 2. ROUTE DESCRIPTIONS.

*Route 1: - Santa Rosa - Rohnert Park - Petaluma - SFO

*Beginning with a service point at the El Rancho Motel in Santa Rosa (2200 Santa Rosa Avenue), then via the most appropriate streets and highways to service points at the following locations:

- Red Lion Inn, 1 Red Lion Drive, Rohnert Park
- Lyons Restaurant, 6255 Commerce Blvd., Rohnert Park
- Winchell's Donut Shop, 225 S. McDowell Blvd., Petaluma
- San Francisco International Airport (SFO)

*Route 2: Ukiah - Hopland - Healdsburg - Santa Rosa - SFO

*Beginning with a service point at Raley's Travel Center, 1325 N. State Street in Ukiah, then via the most appropriate streets and highways to service points at the following locations:

- Ukiah Airport, Ukiah
- Hopland
- Owl Cafe, 485 South Cloverdale Boulevard, Cloverdale
- Dry Creek Inn, Dry Creek Road and Interstate 101, Healdsburg
- El Rancho Motel, 2200 Santa Rosa Avenue, Santa Rosa
- San Francisco International Airport (SFO)

Issued by California Public Utilities Commission.

*Amended by Decision 89 08 045, in I.88-06-020.

SECTION 2. ROUTE DESCRIPTIONS. (Continued)

*Route 3: Marinwood - Terra Linda - San Rafael
Corte Madera - Mill Valley - SFO

*Beginning with a service point at the Rush Creek Travelodge in Novato (7600 Redwood Highway), then via the most appropriate streets and highways to service points at the following locations:

- Golden Gate Bridge Transit stop, Redwood Highway and De Long Avenue, Novato
- Golden Gate Bridge Transit stop, Interstate 101 and Marinwood off-ramp, Marinwood
- Golden Gate Bridge Transit stop, Interstate 101 and Terra Linda off-ramp, Terra Linda
- Greyhound Depot, 3rd Street and Tamalpais Avenue, San Rafael
- Corte Madera Inn, 1815 Redwood Highway, Corte Madera
- Howard Johnson's Motel, 160 Shoreline Highway, Mill Valley
- San Francisco International Airport (SFO)

Issued by California Public Utilities Commission.

*Amended by Decision 89 08 045, in I.88-06-020.

Decision PROPOSED DECISION OF ALJ BENNETT (Mailed 6/15/89)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
own motion into the scheduling,)
routing and operations of Marin)
Airporter, Inc. and Santa Rosa)
Airporter, Inc. with respect to)
common carrier service between)
SFO on the one hand, and points in)
Marin County on the other hand.)

I.88-06-020
(Filed June 17, 1988)

Handler, Baker, Greene & Taylor, by
Raymond Greene, Jr., Attorney at Law,
for Santa Rosa Airporter, Inc.; and
Edward J. Hegarty, Attorney at Law, for
Marin Airporter; respondents.

Robert M. Epifanio, for City and County
of San Francisco Airport Commission;
Robert S. Maerz, Deputy City Attorney,
for San Francisco International Airport
and Richard Michael Skaff, for himself
and Marin County Paratransit
Coordinating Council; interested
parties.

Lawrence O. Garcia and Ira Kalinsky,
Attorneys at Law; Jim Panella, and
Elliot Bershodsky, for the
Transportation Division.

INTERIM OPINION

I. Summary

In this Interim Opinion, we conclude that the certificates of both respondents require revision to place both carriers on equal footing in providing airport transportation service in Marin County. Scheduling restrictions are removed from Santa Rosa Airporter, Inc.'s (Santa Rosa) certificate, and Santa Rosa is allowed to run buses from Novato to the San Francisco International Airport (SFO). However, a revised Santa Rosa

Decision _____

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Santa Rosa Airporter, Inc.'s (Santa Rosa) certificate, and Santa
Rosa is allowed to run buses from Novato to the San Francisco
International Airport (SFO). However, a revised Santa Rosa

schedule avoiding conflicts at SFO must be filed within 30 days. Both carriers' certificates are revised to allow flexibility in stop locations.

The Commission Transportation Division (TD) is ordered to assess the economic impact on respondents and their passengers of ordering service accessible to passengers in wheelchairs under Public Utilities Code § 460.5 which prohibits such passengers' rates from being more than rates for passengers who are not disabled or handicapped.

For a period of one year, we require respondents to report monthly ridership figures for each stop served and in each direction. We hold this investigation open to assure compliance with this decision in view of past disputes and to receive the information we require to resolve the issue of the impact of providing service accessible to passengers in wheelchairs.

In a companion decision, we dismiss as moot TD's Petition for Modification of Decision (D-) 86-05-045, as modified by D.86-07-058. The scheduling issues raised in TD's petition have been addressed in this proceeding.

II. Procedural Background

We instituted this investigation into the schedules, routes, and operations of Marin Airporter, Inc. (Marin) and Santa Rosa, not as an enforcement action, but to resolve the carriers' past disputes over routes and schedules and to assess current operating conditions in Marin County to ascertain whether the certificates or schedules of either or both carriers require revision. We modified our initial order to allow parties to compare respondents' current operations with their respective certificates. (D.88-09-070.)

Prior to hearings, representatives of passengers in wheelchairs requested, and were granted, the opportunity to show a

schedule avoiding conflicts at SFO must be filed within 30 days. Both carriers' certificates are revised to allow flexibility in stop locations. Respondents are ordered to negotiate two stop locations in Novato.

The Commission Transportation Division (TD) is ordered to assess the economic impact on respondents and their passengers of ordering service accessible to passengers in wheelchairs under Public Utilities Code § 460.5 which prohibits such passengers' rates from being more than rates for passengers who are not disabled or handicapped.

For a period of one year, we require respondents to report monthly ridership figures for each stop served and in each direction. We hold this investigation open to assure compliance with this decision in view of past disputes and to receive the information we require to resolve the issue of the impact of providing service accessible to passengers in wheelchairs.

We grant Marin's Motion To Extend The Time For Comments To The Proposed Decision. We deny Marin's request in its comments to set aside the Proposed Decision. However, we have revised the order to clarify the rationale upon which our conclusions are based and to resolve the dispute over two stop locations in Novato.

In a separate decision, we intend to dismiss as moot TD's Petition for Modification of Decision (D.) 86-05-045, as modified by D.86-07-058. The scheduling issues raised in TD's petition have been addressed in this proceeding. ✓

II. Procedural Background

We instituted this investigation into the schedules, routes, and operations of Marin Airporter, Inc. (Marin) and Santa Rosa, not as an enforcement action, but to resolve the carriers' past disputes over routes and schedules and to assess current operating conditions in Marin County to ascertain whether the

need for service in Marin County. (Administrative Law Judge (ALJ) Ruling, August 2, 1988.) Also, prior to hearings, the assigned ALJ ruled that Santa Rosa's monthly passenger count information was not confidential, and required Santa Rosa to provide this information to Marin. (ALJ Ruling, November 9, 1988.)

A Prehearing Conference was held on July 25, 1988. Parties discussed TD's Petition to Modify Ordering Paragraph 3 of D.86-05-045. This ordering paragraph requires Santa Rosa to file a timetable which schedules service within 10 minutes of the midpoint of Marin's hourly timetable at the closest comparable stops. TD requested adding which Marin hourly schedule should be used and defining "closest comparable stop" as Santa Rosa stops within a mile radius of Marin stops. Parties agreed that the issues raised on TD's Petition to Modify D.86-05-045 were relevant issues in this proceeding. TD agreed to present evidence on these issues in this proceeding rather than consolidate this investigation with the petition which was filed in A.84-12-037.

Hearings were held on October 4, 1988 and January 17 and 18, 1989 in which respondents, TD, witnesses representing passengers in wheelchairs, and the San Francisco Airport Commission (SFAC) participated. The case was submitted upon the receipt of transcripts.

III. Past Disputes

Marin has provided service between Marin County and SFO since 1976. On the hour from 5:00 a.m. to 10:00 p.m. daily, Marin begins its SFO run at Novato, stopping for passengers at Novato, San Rafael, Larkspur, Mill Valley, and Sausalito. Passengers transfer at Marin's Larkspur terminal to buses or vans bound for SFO. Passengers may check luggage with certain airline carriers at the Larkspur terminal. The total trip from Novato to SFO takes one hour fifty minutes. The return trip departs SFO on the hour from 6

certificates or schedules of either or both carriers require revision. We modified our initial order to allow parties to compare respondents' current operations with their respective certificates as requested by Marin. (D.88-09-070.) All parties in Santa Rosa's Application (A.) 84-12-037, were notified of this investigation and of our modification.

Prior to hearings, representatives of passengers in wheelchairs requested, and were granted, the opportunity to show a need for service in Marin County. (Administrative Law Judge (ALJ) Ruling, August 2, 1988.) Also, prior to hearings, the assigned ALJ ruled that Santa Rosa's monthly passenger count information was not confidential, and required Santa Rosa to provide this information to Marin. (ALJ Ruling, November 9, 1988.)

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Hearings were held on October 4, 1988 and January 17 and 18, 1989 in which respondents, TD, witnesses representing passengers in wheelchairs, and the San Francisco Airport Commission (SFAC) participated. The case was submitted upon the receipt of transcripts.

The Proposed Decision in this matter was mailed on June 15, 1989. On July 5, 1989, one party, Marin, tendered Comments on the Proposed Decision for filing. This filing was

a.m. to midnight travelling the same route to Novato, stopping at the same locations or across Highway 101 at adjacent locations. All stop locations are specified in Marin's certificate, meaning Commission approval is required to change stop locations.

Santa Rosa operates transportation service from Ukiah Airport to SFO (Route 1) and from Santa Rosa to SFO (Route 2). In 1984, Santa Rosa requested authority to add six new stops in Marin on its Santa Rosa-SFO run, indicating no additional vehicles would be required to operate this service. (A.84-12-037.) Santa Rosa presented 13 witnesses who agreed that airport transportation on the half hour, as opposed to hourly Marin service, would be a material improvement in airport transportation and increase ridership of both carriers. It presented evidence of unused capacity on its route from Santa Rosa to SFO. The record showed that half hour service by Marin would not be satisfactory since it would require double the number of Marin vehicles on the highway. SFO¹ testified in support of Santa Rosa's application. Based on this record, we authorized Santa Rosa to stop in Marin County en route to SFO. We ordered Santa Rosa's schedule in Marin to be "within 10 minutes of the midpoint of Marin Airporter's hourly schedule at its closest comparable stop." (D.86-07-058, modifying D.86-05-045, Ordering Paragraph 3.) D.86-07-058 was issued July 16, 1986, effective the same day. It also denied Marin's application for rehearing.

Earlier, on January 14, 1986, Marin revised its hourly schedule, effective March 1, 1986, to add 13 runs on the half hour from Larkspur to SFO from 5:30 a.m. to 10:30 a.m. and 3:30 p.m. to 9:30 p.m. with corresponding return trips every half hour. On

1 The San Francisco City Attorney's Office represented the San Francisco International Airport and the SFAC.

rejected by our Docket Office because it did not comply with the Commission's Rules of Practice and Procedure, Rule 77.3, Scope of Comments. Rule 77.3 states that comments to a Proposed Decision must contain a subject index and table of authorities. An appendix containing proposed findings of fact and conclusions of law is discretionary.

On July 7, 1989, pursuant to Rule 77.5, Late-Filed Comments and Replies to Comments, Marin filed a Motion for Extension Of The Comment Period. Attached to the motion was the original and 12 copies of a combined subject index and table of authorities. Marin indicated there was no separate appendix listing proposed findings of fact and conclusions of law. Marin bases its motion on the ambiguity of Rule 77.3. Marin asserts it is not clear from the rule that a subject index is mandatory. Marin asserts that the rule merely states a 15-page limit and refers to "other documents." Marin requests that its comments be accepted for filing. In its comments, Marin requests that the proposed decision be set aside based upon its discussion of numerous findings of fact, conclusions of law and the underlying rationale of the proposed decision.

On July 11, 1989, Santa Rosa filed an untimely reply to Marin's motion for an extension urging that the motion be denied and the comments rejected. Santa Rosa asserts that the basis of Marin's motion is without merit. Santa Rosa contends Marin's comments are: 1) untimely; 2) incomplete without the subject index and table of authorities; and, 3) in violation of Rule 77.3 by rearguing its position and failing to make specific references to the record.

Since Marin's comments and deficiencies were tendered in a timely manner, we grant Marin's Motion for Extension Of The Comment Period and accept its comments for filing. However, we caution Marin that future comments on a proposed decision must contain a subject index and table of authorities at the time of

July 28, 1986, Marin added four additional half hour runs from Larkspur to SFO and return, filling the gap in the schedule, meaning the half hour runs would occur every half hour between the hours of 5:30 a.m. and 11:20 p.m. and return. Marin added eight 47-passenger buses the year this service was instituted.²

On August 6, 1986, Santa Rosa filed its timetable for Marin County stops. (Exh. 10, Attachment E.) This timetable was to become effective August 16, 1986. General Order (GO) 98-A requires five days notice of timetable revisions which do not reduce service.

On September 8, 1986, in a letter to Santa Rosa, TD indicated that the August filing was rejected because it did not specify each stop location in Marin County, failed to list Manzanita/Marin City service, violated the requirement for times to be at the midpoint of Marin's hourly schedule and did not reference Marin's service to Novato and San Rafael. TD requested a revised timetable by September 19, 1986. On September 17, 1986, Santa Rosa filed its revisions as TD requested.³

By that time, however, the service had been halted due to an independent series of events. On June 26, 1986, SFO informed Santa Rosa it would not allow the carrier to serve Marin County. Santa Rosa filed a lawsuit requesting a preliminary injunction to prevent SFO's interference with its Marin service. On September 2, 1986, the Superior Court for the County of San Mateo issued a preliminary injunction. Santa Rosa thereafter operated its service

2 In its Application for Rehearing of D.86-04-045, filed on May 28, 1986, Marin indicated this service had been instituted after the close of evidentiary hearings.

3 Marin disagrees that this September 1986 revised timetable cured all deficiencies listed by the staff. However, Marin agrees this issue is moot since the service under this timetable was halted and a new timetable filed a year later.

filing. We deny Marin's request in its comments to set aside the proposed decision. We support the conclusions reached and make revisions to the proposed decision to clarify its underlying rationale and to resolve the dispute between respondents over the two stop locations in Novato.

III. Past Disputes

Marin has provided service between Marin County and SFO since 1976. On the hour from 5:00 a.m. to 10:00 p.m. daily, Marin begins its SFO run at Novato, stopping for passengers at Novato, San Rafael, Larkspur, Mill Valley, and Sausalito. Passengers transfer at Marin's Larkspur terminal to buses or vans bound for SFO. Passengers may check luggage with certain airline carriers at the Larkspur terminal. The total trip from Novato to SFO takes one hour fifty minutes. The return trip departs SFO on the hour from 6 a.m. to midnight travelling the same route to Novato, stopping at the same locations or across Highway 101 at adjacent locations. All stop locations are specified in Marin's certificate, meaning Commission approval is required to change stop locations.

Santa Rosa operates transportation service from Ukiah Airport to SFO (Route 1) and from Santa Rosa to SFO (Route 2). In 1984, Santa Rosa requested authority to add six new stops in Marin on its Santa Rosa-SFO run, indicating no additional vehicles would be required to operate this service. (A.84-12-037.) Santa Rosa presented 13 witnesses who agreed that airport transportation on the half hour, as opposed to hourly Marin service, would be a material improvement in airport transportation and increase ridership of both carriers. It presented evidence of unused capacity on its route from Santa Rosa to SFO. The record showed that half hour service by Marin would not be satisfactory since it would require double the number of Marin vehicles on the highway.

for about 10 days until SFO requested, and was granted, a stay of the preliminary injunction pending appeal. (Superior Court No. 310398, San Mateo County.) In late August 1987, the Court of Appeal affirmed the lower court's order against SFO and ordered that it take effect immediately. (Exh. 13, pp. 3-4.)

On November 8, 1987, Santa Rosa filed a timetable to reinstitute its Marin service. On November 16, 1987, TD notified Santa Rosa that Route 3 (Novato-SFO) was in violation of its certificate and its stop location at the Novato Travelodge was unauthorized. TD requested that service on this route be terminated immediately and a revised timetable filed. (Exh. 10, Attachment J.) TD later met with Santa Rosa. Santa Rosa's letter confirming this meeting reiterates Santa Rosa's position and tends to show that TD no longer requested that the service be terminated immediately. (Exh. 14, Attachment C, pp. 3-4.)

Marin alleges the revised 1987 Santa Rosa timetable unlawfully splits the Santa Rosa-SFO Route 1 into Routes 1 and 3, with Route 3 providing SFO service starting at Novato.

We agree with Marin and TD that Santa Rosa's Route 3 is not authorized by its certificate. Santa Rosa misinterprets the following language in its certificate to justify the Novato route:

"(d) Motor vehicles may be turned at termini and intermediate points, in either direction, at intersections of streets or by operating around a block contiguous to such intersections, in accordance with local traffic regulations."

TD explains that the "turned" language, quoted above, has never been interpreted by TD or a carrier, except Santa Rosa, to allow a carrier to turn a vehicle around between termini and return it to the origin of a route without completing its run to the route's destination terminal. An intermediate point is a point that is not at the end of a route. TD recommends that the language

In response to a subpoena, SFO¹ testified that the airport had no current scheduling problems involving Santa Rosa, but had incurred problems in the past. SFO management coordinates the airport departure and arrival of Commission certificated carriers. Based on this record, we authorized Santa Rosa to stop in Marin County en route to SFO. We ordered Santa Rosa's schedule in Marin to be "within 10 minutes of the midpoint of Marin Airporter's hourly schedule at its closest comparable stop." (D.86-07-058, modifying D.86-05-045, Ordering Paragraph 3.) D.86-07-058 was issued July 16, 1986, effective the same day. It also denied Marin's application for rehearing.

Earlier, on January 14, 1986, Marin revised its hourly schedule, effective March 1, 1986, to add 13 runs on the half hour from Larkspur to SFO from 5:30 a.m. to 10:30 a.m. and 3:30 p.m. to 9:30 p.m. with corresponding return trips every half hour. On July 28, 1986, Marin added four additional half hour runs from Larkspur to SFO and return, filling the gap in the schedule, meaning the half hour runs would occur every half hour between the hours of 5:30 a.m. and 11:20 p.m. and return. Marin added three 47-passenger buses the year this service was instituted.²

On August 6, 1986, Santa Rosa filed its timetable for Marin County stops. (Exh. 10, Attachment E.) This timetable was to become effective August 16, 1986. General Order (GO) 98-A requires five days notice of timetable revisions which do not reduce service.

1 The San Francisco City Attorney's Office represented the San Francisco International Airport and the SFAC.

2 In its Application for Rehearing of D.86-04-045, filed on May 28, 1986, Marin indicated this service had been instituted after the close of evidentiary hearings.

be eliminated or revised to prevent Santa Rosa from beginning SFO service in Novato.

The "turned" language above when read independent of the route descriptions in the certificate might result in an interpretation such as Santa Rosa's. However, when read in context with the route description it is clear where service is authorized to begin. In Santa Rosa's certificate, Route 1 is described as:

"Beginning with a service point at the El Rancho Motel in Santa Rosa (2200 Santa Rosa Avenue), then via the most appropriate streets and highways to service points at the following locations: Rohnert Park - Petaluma - Novato - Marinwood - Terra Linda - San Rafael - Corte Madera - Mill Valley - Marin City - SFO."
(Exh. 10, Attachment C.)

We find no ambiguity in Santa Rosa's certificate when read in its entirety. Santa Rosa is not authorized to begin service to SFO in Novato. This conclusion is consistent with the Commission's intent that Santa Rosa fill empty seats by picking up passengers in Marin County. Section 1(d) is included in a carrier's certificate to allow the carrier to deviate from an authorized route to comply with local traffic rules, such as one-way streets, temporary construction zones or city routes for buses. The section does not authorize route deviation for congested roadways as alleged by Santa Rosa. In order to avoid future misinterpretation of this language, we shall revise Section 1(d) of Marin and Santa Rosa's certificates:

"(d) For purposes of complying with local traffic regulations, motor vehicles may be turned at termini and intermediate points in either direction at intersections of streets, or may operate around a block contiguous to such intersections."

Even though we find Santa Rosa's certificate does not authorize Novato-SFO service, Santa Rosa indicates it is impossible to operate service from the city of Santa Rosa to SFO and asks to

On September 8, 1986, in a letter to Santa Rosa, TD indicated that the August filing was rejected because it did not specify each stop location in Marin County, failed to list Manzanita/Marin City service, violated the requirement for times to be at the midpoint of Marin's hourly schedule and did not reference Marin's service to Novato and San Rafael. TD requested a revised timetable by September 19, 1986. On September 17, 1986, Santa Rosa filed its revisions as TD requested.³

By that time, however, the service had been halted due to an independent series of events. On June 26, 1986, SFO informed Santa Rosa it would not allow the carrier to serve Marin County. Santa Rosa filed a lawsuit requesting a preliminary injunction to prevent SFO's interference with its Marin service. On September 2, 1986, the Superior Court for the County of San Mateo issued a preliminary injunction. Santa Rosa thereafter operated its service for about 10 days until SFO requested, and was granted, a stay of the preliminary injunction pending appeal. (Superior Court No. 310398, San Mateo County.) In late August 1987, the Court of Appeal affirmed the lower court's order against SFO and ordered that it take effect immediately. (Exh. 13, pp. 3-4.)

On November 8, 1987, Santa Rosa filed a timetable to reinstitute its Marin service. On November 16, 1987, TD notified Santa Rosa that Route 3 (Novato-SFO) was in violation of its certificate and its stop location at the Novato Travelodge was unauthorized. TD requested that service on this route be terminated immediately and a revised timetable filed. (Exh. 10, Attachment J.) TD later met with Santa Rosa. Santa Rosa's letter confirming this meeting reiterates Santa Rosa's position and tends

3 Marin disagrees that this September 1986 revised timetable cured all deficiencies listed by the staff. However, Marin agrees this issue is moot since the service under this timetable was halted and a new timetable filed a year later.

retain its present Novato route. Should Santa Rosa be allowed to continue this route? If so, under what conditions? An assessment of current ridership conditions is needed to resolve this question.

IV. Current Conditions

In 1984, we envisioned Santa Rosa supplementing SFO service every half hour by stopping in Marin County to pick up passengers. However, before our decision was final, Marin instituted half hour service creating a conflict in the half hour schedules of Santa Rosa. Presently, both carriers are running service from Marin County to SFO, Marin on the hour and half hour and Santa Rosa close to the half hour.

We indicated, over Marin's continuing objections, that competitive service would be allowed in Marin County. Upon instituting this investigation, we made clear that our decision to allow competition in airport service in Marin County was final and not to be reconsidered. Our objective in this proceeding was not to place either carrier in a second class position of competitiveness in the Marin-SFO market.

In 1984, Marin's objections to competition were based upon 1983 Marin ridership factors and its 18% market penetration. The ridership picture in Marin County in 1988 has drastically changed. Passenger ridership from Marin County to SFO has nearly doubled from 1984 to 1988. Marin and Santa Rosa passenger counts show the following annual ridership: 1984 - 173,159; 1985 - 199,284; 1986 - 262,770; 1987 - 298,099; 1988 (January-July) - 189,296. We have no indication in this record if this increase in ridership equates to an increase in Marin's 1984 18% market penetration.

TD's investigation does not conclude that Santa Rosa's entry into the market caused the increased passenger ridership. The trend of increased ridership occurred steadily before and after

to show that TD no longer requested that the service be terminated immediately. (Exh. 14, Attachment C, pp. 3-4.)

Marin alleges the revised 1987 Santa Rosa timetable unlawfully splits the Santa Rosa-SFO Route 1 into Routes 1 and 3, with Route 3 providing SFO service starting at Novato.

We agree with Marin and TD that Santa Rosa's Route 3 is not authorized by its certificate. Santa Rosa legitimately disputes, yet misinterprets, the following language in its certificate to allow the Novato route:

"(d) Motor vehicles may be turned at termini and intermediate points, in either direction, at intersections of streets or by operating around a block contiguous to such intersections, in accordance with local traffic regulations."

TD explains that the "turned" language, quoted above, has never been interpreted by TD or a carrier, except Santa Rosa, to allow a carrier to turn a vehicle around between termini and return it to the origin of a route without completing its run to the route's destination terminal. An intermediate point is a point that is not at the end of a route. TD recommends that the language be eliminated or revised to prevent Santa Rosa from beginning SFO service in Novato.

The "turned" language above when read independent of the route descriptions in the certificate might result in an interpretation such as Santa Rosa's. However, when read in context with the route description it is clear where service is authorized to begin. In Santa Rosa's certificate, Route 1 is described as:

"Beginning with a service point at the El Rancho Motel in Santa Rosa (2200 Santa Rosa Avenue), then via the most appropriate streets and highways to service points at the following locations: Rohnert Park - Petaluma - Novato - Marinwood - Terra Linda - San Rafael - Corte Madera - Mill Valley - Marin City - SFO."
(Exh. 10, Attachment C.)

Santa Rosa began operations in Marin County in October 1987. Since that time Marin's market share has declined from 97.5% to 92% from October 1987 to July 1988; Santa Rosa's share increased from 2.5% to 8% during the same period.

Operating revenues, excluding charter service and other revenues, for respondents for 1984, 1985, 1986 and 1987, respectively, are as follows: Santa Rosa - \$183,336, \$1,121,081, \$1,251,291, and \$1,257,098; Marin - \$1,357,963, \$1,548,331, \$2,233,090 and \$2,539,987. Profits of the two carriers for 1984, 1985, 1986 and 1987, before taxes, were: Santa Rosa, \$13,378, \$39,296, loss of (\$50,002), loss of (\$118,585); Marin, \$280,195, \$48,429, \$195,133 and \$1 million earned surplus.⁴

TD does not conclude that Santa Rosa's operations have harmed Marin. Although Santa Rosa has captured passengers at certain stop locations, overall Marin still has the majority of SFO passenger business by a wide margin. Marin's revenues show a significant increase rather than the decrease predicted in spite of the 8% loss in market share.

Thus, in 1988 passenger ridership has nearly doubled, Santa Rosa has carved out a Marin clientele supporting its direct service to SFO; Marin has retained the vast majority of the market and increased its earnings.

Santa Rosa's Route

Santa Rosa indicates that it is impossible to operate the service proposed in 1984 from the city of Santa Rosa to SFO stopping at points in Marin and arriving at SFO on schedule. It operated this service for ten days in 1986 prior to the Superior Court's order and found that traffic congestion prevented runs north from Novato to Santa Rosa and back in time to meet the established SFO schedule. Based upon this experience, Santa Rosa

⁴ As of April 28, 1989, neither respondent has filed its 1988 Annual Report.

We find no ambiguity in Santa Rosa's certificate when read in its entirety. Santa Rosa was not authorized to begin service to SFO in Novato. Section 1(d) is included in a large number of carrier's certificate to allow the carrier to deviate from an authorized route to comply with local traffic rules, such as one-way streets, temporary construction zones or city routes for buses. The section does not authorize route deviation for congested roadways as alleged by Santa Rosa. However, we do agree that the language is archaic and difficult to understand. In order to avoid future misinterpretation of this language, we shall reword Section 1(d) of Marin and Santa Rosa's certificates to read:

"(d) For purposes of complying with local traffic regulations, motor vehicles may be turned at termini and intermediate points in either direction at intersections of streets, or may operate around a block contiguous to such intersections."

We instituted this investigation to resolve the continuing dispute between two competitors in Marin County in the public interest, not to punish either respondent. We consider Santa Rosa's dispute over Section 1(d) to be a legitimate one without the implication of sanctions for its certificate interpretation. However, we caution Santa Rosa that future acts which show probable cause of non-compliance with Commission orders may result in a modification of this proceeding or institution of a separate proceeding to pursue Commission sanctions.

Even though we find Santa Rosa's certificate does not authorize Novato-SFO service, Santa Rosa indicates it is impossible to operate service in a timely manner and according to its filed timetables from the city of Santa Rosa to SFO and asks to retain its present Novato route. Should Santa Rosa be allowed to continue this route? If so, under what conditions? An assessment of current ridership conditions is needed to resolve this question.

decided to run two schedules, one from the city of Santa Rosa and one from Novato. Santa Rosa added two vans to institute the Novato service.

Santa Rosa wishes to retain the Novato route. It argues that this direct service from Novato to the airport without transfers is desired by the public and is in response to public need. (Exh. 14, p. 4.) We agree that increasing passenger ridership from zero in 1986 to 2,500 passengers a month at SFO shows public demand. We also agree that non-transfer service is an option which should be offered to passengers in Marin.

In 1986, when we authorized Santa Rosa service to stop in Marin, one of our concerns was adding to the traffic congestion in the county. Santa Rosa's proposed service was attractive because it created no additional vehicles on the highway. Now both carriers have increased the number of vehicles used in Marin-SFO service. Based upon the ridership statistics to and from SFO in Marin, we have no reason to doubt that traffic congestion has increased since 1984 and justifies Santa Rosa operation of its Novato route. We believe the need for additional bus or van operations by both carriers under this significant ridership increase is also justified.

Marin argues that the average Santa Rosa passenger count for October 1988 was 1.56 passengers per day and that Santa Rosa is losing money operating in Marin. Santa Rosa counters that one time start-up costs for Marin operations and unexpected discount offerings to compete in Sonoma caused the 1986 and 1987 deficits. We agree that it is not unusual in the first years of a business to show low ridership factors and little or no profit. The problems of low ridership and low profits are ones to be resolved by Santa Rosa's management. We shall not dictate solutions or unduly restrict the service to hamper successful, profitable operations. We do not agree that low ridership and low profits justify terminating this service.

IV. Current Conditions

In 1984, we envisioned Santa Rosa supplementing SFO service every half hour by stopping in Marin County to pick up passengers. However, before our decision was final, Marin instituted half hour service creating a conflict in the half hour schedules of Santa Rosa. Presently, both carriers are running service from Marin County to SFO, Marin on the hour and half hour and Santa Rosa close to the half hour.

In 1984, we considered Marin's objections to competition in airport service in Marin County. Marin's arguments included assertions of the potential effect competition would have on its operations: revenue losses, deterioration of the quality of airport service in Marin and Sonoma Counties, deterioration of the quality of Marin's service, loss of 15-20% of total passengers and 50-75% of Sonoma passengers. Marin alleged that its 18% market penetration was virtually the maximum ridership to be achieved in Marin's static market. We rejected Marin's arguments in D.86-05-045 and D.86-07-058 and indicated that competitive service would be allowed in Marin County.

Upon instituting this investigation, we made clear that our decision to allow competition in airport service in Marin County was final and not to be reconsidered. Our objective in this proceeding was not to place either carrier in a second class position of competitiveness in the Marin-SFO market.

The ridership picture in Marin County in 1988 has drastically changed. TD presented an analysis of ridership data of respondents for the period 1984 to 1988. Marin operated from 1984 to 1988; Santa Rosa operated from October 1987 to July 1988. TD presented total ridership counts which included both respondents' operations during their respective periods of operation in 1984-1988. Marin and Santa Rosa passenger counts show the following annual ridership: 1984 - 173,159; 1985 - 199,284; 1986 - 262,770;

We find that it is in the public interest for Santa Rosa to continue its Novato-SFO route since it offers transportation options in Marin County where ridership has nearly doubled in four years and where the public has shown support of its service by its ridership.

Santa Rosa's Schedule

Marin's half hour schedule now conflicts with that of Santa Rosa. At the time we ordered Santa Rosa to coordinate a half hour schedule with Marin, we did not restrict Marin to hourly service. It is not feasible to tie Santa Rosa's schedule to that of Marin, which may continue to change. However, scheduling at SFO requires coordination of respondents to avoid airport congestion.

SFO explains that congestion in passenger loading zones occurs when both carriers either depart or arrive at SFO at the same time. In order to separate these carriers, SFO asks this Commission to set Santa Rosa departures from SFO at quarter past and quarter to the hour, with Marin to depart on the hour and half hour. SFO reported that this solution has resolved problems in the past when a Santa Rosa driver was involved in a fight with the driver of Sonoma County Airport Express over parking space. (Sonoma County Airport Express competes with Santa Rosa in that county.) SFO separated and froze the schedules of these two carriers to avoid future fights. SFO believes the present Marin/Santa Rosa schedule conflicts at SFO could cause similar driver fights between competing carriers and requests the same solution.

While we will not set carrier schedules for SFO, we will order that Santa Rosa's airport schedule meet SFO scheduling requirements, which are conditions of its permit to enter airport property.

In addition, Santa Rosa has been requested by SFO to abide by loading regulations to avoid long waiting periods in these zones and frequent circling. We remind Santa Rosa that abiding by

1987 - 298,099; 1988 (January-July) - 189,296. These combined ridership statistics show that passenger ridership from Marin county to SFO has nearly doubled in this four year period. This ridership data shows increases during the period of Marin's operation in the following percentages: 1984-1985, 15.1%; 1985-1986, 31.9%; 1986-1987, 13.4%. The increase from 1987 to 1988 of 17.2% includes the ridership counts of both respondents, with no TD estimate of the respective respondents' percentage of this total increase.

TD presented a graph of the ridership statistics from 1984 to 1988. The graph shows a trend of increased ridership occurring steadily before and after Santa Rosa began operations in Marin County in October 1987. From this graph and the combined ridership counts, TD concludes that Santa Rosa's market stimulation has been insignificant.

TD presented an analysis of individual respondent ridership counts for the period October 1987 to July 1988. These statistics show that Marin's market share has declined from 97.5% to 92% from October 1987 to July 1988, while Santa Rosa's share increased from 2.5% to 8% during the same period. It is obvious that Marin no longer provides monopoly scheduled service in Marin County.

Marin argues that it's marketing efforts and new terminal in Larkspur are responsible for the increase in passenger ridership during the period 1984-1988. However, no party presented an analysis of the increase in Marin-bound air passengers to and from SFO during this period. Therefore, it is speculative to assert that Marin alone is responsible for the increase in Marin County passengers to SFO. The record only shows a continuing increase in Marin-SFO passengers from 1984 to 1988.

Even though TD considers Santa Rosa's market stimulation insignificant, Santa Rosa has increased its market share of Marin-SFO passengers from October 1987 to July 1988. Santa Rosa's

airport permit conditions is a condition in this Commission's certificate which must be taken seriously under congested conditions at the airport. Continued violation of SFO permit restrictions may result in SFO's revocation of Santa Rosa's permit, which would also violate a condition in our certificate. Violation of Commission's certificate conditions can lead to the institution of Commission enforcement proceedings.

Marin's Schedule

Marin seeks confirmation of its replacement of "on-call" service north of Larkspur with permanent hourly service. On June 3, 1985, Marin's service to two locations in Novato and to San Rafael was hourly until December 2, 1985 unless sooner cancelled, changed or extended and thereafter, on-call with 24 hours advance notice required. On October 17, 1985 in a letter to TD, Marin cancelled the on-call service for the two Novato locations and San Rafael, indicating service would continue on a regularly scheduled basis. A timetable indicating these changes was attached to the letter. In subsequent discussions, TD indicated this timetable revision was not on file with the Commission. However, Marin introduced a copy of the cover letter and revision at the hearing. Marin's witness, Ms. Hughes, testified that the revision must have been lost in the Commission move in 1986. TD did not challenge this testimony. We shall accept Marin's representation that this filing was properly made at the time requested. We shall confirm the revised timetable of October 17, 1985 which shows regularly scheduled service at these stops. However, future Marin filings should remove notes C and E and the on-call language in the existing timetable on file showing only the permanent scheduled times. This will clarify this revision.

We find that the issue of Santa Rosa's compliance with the scheduling requirement in D.86-05-045, as modified by D.86-05-078, is now moot given Marin's institution of half hour service.

ridership statistics show public support for its service. We consider the question of market stimulation by Santa Rosa in this Marin county market to be irrelevant under circumstances where respondents' combined passenger ridership shows a continuous, increasing trend from 1984 to 1988.

Marin has not carried its burden of proving its assertion that the passengers which now support Santa Rosa's service are previous Marin Airporter riders, as discussed below. And even if they are, Santa Rosa's Novato route offers to many passengers non-transfer service to SFO, a viable alternative to Marin's operations which require that many passengers, based upon their points of origin in the county, transfer at Larkspur to travel to SFO.

Operating revenues, excluding charter service and other revenues, for respondents for 1984, 1985, 1986 and 1987, respectively, are as follows: Santa Rosa - \$183,336, \$1,121,081, \$1,251,291, and \$1,257,098; Marin - \$1,357,963, \$1,548,331, \$2,233,090 and \$2,539,987. Profits of the two carriers for 1984, 1985, 1986 and 1987, before taxes, were: Santa Rosa, \$13,378, \$39,296, loss of (\$50,002), loss of (\$118,585); Marin, \$280,195, \$48,429, \$195,133 and \$1 million earned surplus.⁴ Although Santa Rosa serves passengers at certain stop locations, overall Marin still has the majority of Marin-SFO passenger business by a wide margin. These statistics do not show an erosion of Marin's earnings as predicted in 1983. Marin's revenues show a significant increase from 1984 to 1988 rather than a decrease in spite of the 2% to 8% loss in market share.

Thus, in 1988 Marin-SFO passenger ridership has nearly doubled, Santa Rosa has a Marin County clientele supporting its direct service to SFO; Marin has retained the vast majority of the

⁴ As of April 28, 1989, neither respondent has filed its 1988 Annual Report.

Stop Locations

Marin and Santa Rosa have five stop locations which are in identical locations or in close proximity. Marin alleges that Santa Rosa is eroding its revenues at these locations by soliciting Marin passengers.

At Denny's in Novato Santa Rosa's market share increased from 42% to 72% (to SFO) and from 26.5% to 36.4% (from SFO) from October, 1987 to July, 1988. TD believes Santa Rosa's increase in ridership is because passengers prefer its through service to SFO.

At the Travelodge in Novato, in 1988 Santa Rosa has nearly 100% of the market, a reversal of Marin's 100% ridership in October, 1987. TD's investigation shows that the management at the Travelodge now recommends Santa Rosa's service, which, in TD's opinion, is why Marin revenues have decreased at this location.

Based upon TD's investigation, we cannot agree that Marin's decline in riders is solely due to Santa Rosa's direct solicitation of Marin's passengers.

If separation of respondents operations is desired, TD recommends it be accomplished by stop location, rather than schedule. TD would allow both respondents the flexibility of changing named stop locations within a half mile radius without Commission approval. Marin observes that at stops where carriers are not visible to each other, there are no disturbances or solicitation of passengers.

In order to allow flexibility of operations, we will authorize the following additions to respondents certificates:

"Upon ten days notice to the Commission and the public, a carrier may move a stop location a maximum of one-half (1/2) mile as measured in a straight line on a map in any direction from its location specified in this certificate. The new stop location must be more than one-half mile from a competitor's Commission-authorized stop location."

market and increased its earnings. We cannot conclude that Santa Rosa's entry into the Marin County market has caused a deterioration in the quality of service or adversely affected Marin's revenues. Our policy of encouraging competition in airport transportation service to the public results in a sharing of a market rather than monopoly service.

Santa Rosa's Route

Santa Rosa indicates that it is impossible to operate the service proposed in 1984 from the city of Santa Rosa to SFO stopping at points in Marin and arriving at SFO on schedule. It operated this service for ten days in 1986 prior to the Superior Court's order and found that traffic congestion prevented runs north from Novato to Santa Rosa and back in time to meet the established SFO schedule. Based upon this experience, Santa Rosa decided to run two schedules, one from the city of Santa Rosa and one from Novato. Santa Rosa added two vans to institute the Novato service.

Santa Rosa wishes to retain the Novato route. It argues that this direct service from Novato to the airport without transfers is desired by the public and is in response to public need. (Exh. 14, p. 4.) We agree that increasing passenger ridership from zero in 1986 to 2,500 passengers in July 1988 shows public demand. We also agree that non-transfer service is an option which should be offered to passengers in Marin. ✓

In 1986, when we authorized Santa Rosa service to stop in Marin, one of our concerns was adding to the traffic congestion in the county. Santa Rosa's proposed service was attractive because it created no additional vehicles on the highway. Now both carriers have increased the number of vehicles used in Marin-SFO service. Based upon the ridership statistics to and from SFO in Marin, and sworn testimony of Mr. Salas (Exh. 13, p. 4; Tr. 214-217), we find the Novato route reasonable because of increased traffic congestion since 1984. We believe the need for additional

Service To Passengers In Wheelchairs

Five witnesses testified in support of scheduled service for passengers in wheelchairs. These witnesses established that there is no such scheduled airport service in Marin County. They pointed out that passengers in wheelchairs have unique problems with baggage handling and individual safety. Presently, the witnesses either hire an attendant to accompany them to the airport, have a friend drive them to and from the airport or take their private van. The need for service is to travel themselves, both for business and pleasure, and to be accessible to friends in wheelchairs who desire to visit. Witnesses testified they now travel to the airport from once a month to several times a year, but could travel more often if there were scheduled service.

Witnesses desired a reasonable level of airport service, at least once or twice a day on a scheduled basis. They would not approve of a service which segregated them from the public because they do not want to be perceived or treated differently than other passengers.

Mr. Richard Skaff, member of the Marin Paratransit Coordinating Council, testified that at the present there are no public funds in Marin to subsidize wheelchair accessible transportation. He estimated the cost to retrofit a van for wheelchair accessibility to be \$6,199. He summarized witnesses' request as one for immediate, reasonably-scheduled, non-peak airport transportation (retrofitting existing vehicles if necessary) at reasonable rates, and a requirement that new vehicles be wheelchair accessible. Mr. Skaff estimated that a new bus purchase price would be increased \$10,000 to \$15,000 for wheelchair accessibility and would not affect the 47-passenger seating. However, Mr. Skaff indicated a willingness to accept van-wheelchair accessibility as an interim measure.

Marin witness, Ms. Grace Hughes, responded that the existing Marin busses are incapable of being retrofitted to

bus or van operations by both carriers under the significant ridership increase is also justified. ✓

Marin argues that the average Santa Rosa passenger count for October 1988 was 1.56 passengers per day and that Santa Rosa is losing money operating in Marin. Santa Rosa counters that one time start-up costs for Marin operations and unexpected discount offerings to compete in Sonoma caused the 1986 and 1987 deficits. We agree that it is not unusual in the first years of a business to show low ridership factors and little or no profit. The problems of low ridership and low profits are ones to be resolved by Santa Rosa's management. We will not dictate solutions or unduly restrict this service to hamper successful, profitable operations. We do not agree that low ridership and low profits justify terminating this service.

We find that it is in the public interest for Santa Rosa to continue its Novato-SFO route since it offers transportation options in Marin County where ridership has nearly doubled in four years and where the public has shown support of its service by its ridership.

We believe it is in the interest of public convenience and necessity to continue Santa Rosa's Marin County service, rather than disrupt the existing service supported by the public. The record in this proceeding shows that Santa Rosa possesses the ability, experience, and financial resources to perform the service from Novato to SFO. The service is technically feasible. The service offers a non-transfer transportation option to SFO for many passengers. ✓

Santa Rosa's Schedule

Marin's half hour schedule now conflicts with that of Santa Rosa. At the time we ordered Santa Rosa to coordinate a half hour schedule with Marin, we did not restrict Marin to hourly service. It is not feasible to tie Santa Rosa's schedule to that

accommodate wheelchairs--they are too narrow. Ms. Hughes estimated the price of a wheelchair accessible bus to be \$225,000. Marin replaces buses every ten years and purchased a new bus in 1988. Marin provides service from Larkspur to SFO in 21- or 47-passenger buses, not vans. In her opinion, Marin service operations would need to be completely revised, extra vehicles used or existing capacity decreased to accommodate wheelchair passengers.

In closing argument on this issue, Santa Rosa indicated its sympathy to the problem but that the costs to accommodate the request were unreasonable. A representative for wheelchair passengers argues that since 1976, public policy has changed to favor facilities and services for the handicapped, naming restaurants and airports. The representative indicated passengers in wheelchairs would accept van service as an interim measure and requested that all new buses be equipped to accommodate wheelchairs.

Discussion

At present there is no scheduled airport service from Marin accessible for passengers in wheelchairs. We believe the request for some minimal level of service at reasonable rates is a reasonable one. Concessions of retrofitted vans have been made until new equipment accommodating wheelchairs is scheduled to be purchased. However, in view of the passage of AB 3498 adding Section 460.5 to the Public Utilities Code, we must assess the impact of such an order on passenger rates. Section 460.5 prohibits a passenger carrier from imposing a fare for physically disabled or handicapped passengers which is more than the fare for the same transportation for a passenger who is not disabled or handicapped. We direct TD in conjunction with respondents and interested parties to assess any added cost to provide service to passengers in wheelchairs to and from SFO in vans or in buses, under either a retrofit of 21- or 47-passenger buses or vans, or the purchase of such vehicles, and to submit a report in this

of Marin, which may continue to change. However, scheduling at SFO requires coordination of respondents to avoid airport congestion.

SFO explains that congestion in passenger loading zones occurs when both carriers either depart or arrive at SFO at the same time. In order to separate these carriers, SFO asks this Commission to set Santa Rosa departures from SFO at quarter past or quarter to the hour, with Marin to depart on the hour and half hour. SFO reported that this solution has resolved problems in the past when a Santa Rosa driver was involved in a fight with the driver of Sonoma County Airport Express over parking space. (Sonoma County Airport Express competes with Santa Rosa in that county.) SFO separated and froze the schedules of these two carriers to avoid future fights. SFO believes the present Marin/Santa Rosa schedule conflicts at SFO could cause similar driver fights between competing carriers and requests the same solution.

While we will not set carrier schedules for SFO, we will order that Santa Rosa's airport schedule meet SFO scheduling requirements, which are conditions of its permit to enter airport property.

In addition, Santa Rosa has been requested by SFO to abide by loading regulations to avoid long waiting periods in these zones and frequent circling. We remind Santa Rosa that abiding by airport permit conditions is a condition in this Commission's certificate which must be taken seriously under congested conditions at the airport. Continued violation of SFO permit restrictions may result in SFO's revocation of Santa Rosa's permit, which would also violate a condition in our certificate. Violation of Commission's certificate conditions can lead to the institution of Commission enforcement proceedings.

Marin's Schedule

Marin seeks confirmation of its replacement of "on-call" service north of Larkspur with permanent hourly service. On

proceeding. The purchase of vehicles need only include sufficient number of vehicles to make the minimum number of daily runs required based upon passenger need to and from SFO. Respondents shall cooperate in this study by supplying TD with peak hour information for the years 1984-1988 and any other information requested by TD for this study.

Findings of Fact

1. Santa Rosa is providing service from Novato to SFO.
2. Santa Rosa's tariff authorizes Route 1 SFO service to begin in Santa Rosa.
3. Although not authorized to operate SFO service starting in Novato, Santa Rosa desires to retain this service. Due to traffic congestion, Santa Rosa cannot operate SFO service from the city of Santa Rosa.
4. The number of SFO passengers in Marin increased from 173,159 in 1984 to 298,099 in 1987, with 189,296 for the first six months of 1988. Passenger ridership in Marin has nearly doubled in the past four years.
5. Operating revenues of respondents have continued to increase from 1984 to 1987, however, Santa Rosa shows net losses in 1986 and 1987.
6. Santa Rosa transports 8% of Marin passengers using scheduled service to SFO. Marin transports 92% of Marin County passengers using scheduled service to SFO as of July 1988.
7. On October 17, 1985 Marin cancelled its on-call service for its two Novato and San Rafael locations. This service is now regularly scheduled.
8. Passengers at Denny's in Novato appear to prefer the through service of Santa Rosa.
9. The management at the Travelodge in Novato recommends Santa Rosa's service.
10. Marin must request Commission approval to change stop locations.

June 3, 1985, Marin's service to two locations in Novato and to San Rafael was hourly until December 2, 1985 unless sooner cancelled, changed or extended and thereafter, on-call with 24 hours advance notice required. On October 17, 1985 in a letter to TD, Marin cancelled the on-call service for the two Novato locations and San Rafael, indicating service would continue on a regularly scheduled basis. A timetable indicating these changes was attached to the letter. In subsequent discussions, TD indicated this timetable revision was not on file with the Commission. However, Marin introduced a copy of the cover letter and revision at the hearing. Marin's witness, Ms. Hughes, testified that the revision must have been lost in the Commission move in 1986. TD did not challenge this testimony. We accept Marin's representation that this filing was properly made at the time requested. We confirm the revised timetable of October 17, 1985 which shows regularly scheduled service at these stops. However, future Marin filings should remove notes C and E and the on-call language in the existing timetable on file showing only the permanent scheduled times. This will clarify this revision. ✓

We find that the issue of Santa Rosa's compliance with the scheduling requirement in D.86-05-045, as modified by D.86-05-078, is now moot given Marin's institution of half hour service.

Stop Locations

Marin and Santa Rosa have stop locations which are in identical sites or in close proximity. Marin alleges that Santa Rosa is eroding its revenues at these locations by soliciting Marin passengers. ✓

At Denny's in Novato Santa Rosa's market share increased from 42% to 72% (to SFO) and from 26.5% to 36.4% (from SFO) from October 1987 to July 1988. TD believes Santa Rosa's increase in ridership is because passengers prefer its through service to SFO. ✓

11. Respondents' existing schedules at SFO conflict creating congestion and the possibility of driver disturbances.

12. There is no scheduled service to SFO in Marin accessible to passengers in wheelchairs.

13. There is no evidence to show the impact on rates or financial operations of requiring respondents to provide equipment which is accessible for passengers in wheelchairs.

Conclusions of Law

1. D.86-05-045, modified by D.86-07-058, did not authorize Santa Rosa to begin SFO service in Novato.

2. The language in Santa Rosa's certificate is not ambiguous when read in its entirety.

3. Section 1(d) of respondents' certificates needs rewording to prevent future misinterpretation.

4. Respondents' certificates should contain an equal amount of flexibility in scheduling and stop locations.

5. There is a need for service which is accessible to passengers in wheelchairs.

6. We cannot conclude that Marin's revenues have suffered since 1984.

7. It is in the public interest for Santa Rosa to continue its service from Novato to SFO since passenger ridership has nearly doubled in four years and the service offers a non-transfer option of airport transportation already in use by the public.

8. This proceeding should remain open to assure respondents' compliance with this order and to receive further information of the impact on respondents and its passengers of ordering service which is accessible to the handicapped.

9. Due to the conflicting schedules at SFO causing traffic congestion, this order should be effective on the date signed.

At the Travelodge in Novato, in 1988 Santa Rosa has nearly 100% of the market, a reversal of Marin's 100% ridership in October 1987. TD's investigation shows that the management at the Travelodge now recommends Santa Rosa's service, which, in TD's opinion, is why Marin revenues have decreased at this location.

Based upon TD's investigation, we cannot agree that Marin's decline in riders is solely due to Santa Rosa's direct solicitation of Marin's passengers. Many Marin passengers prefer non-transfer service to SFO.

If separation of respondents operations is desired, TD recommends it be accomplished by stop location, rather than schedule. TD would allow both respondents the flexibility in the future of changing named stop locations within a half mile radius without Commission approval. Marin observes that at stops where carriers are not visible to each other, there are no disturbances or solicitation of passengers.

In order to allow flexibility of future operations, we will authorize the following additions to respondents certificates:

"Upon ten days notice to the Commission and the public, a carrier may move a stop location a maximum of one-half (1/2) mile as measured in a straight line on a map in any direction from its location specified in this certificate. The new stop location must be more than one-half mile from a competitor's Commission-authorized stop location."

TD's recommendations do not resolve the current disputes over respondents' stop locations at Denny's and the Travelodge in Novato. We believe that stop locations are best selected according to the business judgment of respondents. In order to resolve this current dispute, we will require respondents to negotiate these stop locations. We will require that respondent reach and submit to the Commission an agreement within 90 days from the effective date of this order. Should respondents fail to reach an agreement,

INTERIM ORDER

IT IS ORDERED that:

1. The certificates of Marin Airporter, Inc. (Marin) and Santa Rosa Airporter, Inc. (Santa Rosa), attached to this order as Appendix PSC-990 and Appendix PSC-1367, are amended to include the following condition:

"Upon ten days notice to the Commission and the public, a carrier may move a stop location a maximum of one-half (1/2) mile as measured in a straight line on a map in any direction from its location specified in this certificate. The new stop location must be more than one-half mile from a competitor's Commission-authorized stop location."

2. The certificates of Marin and Santa Rosa, Section 1(d) are amended to read:

"For purposes of complying with local traffic regulations, motor vehicles may be turned at termini and intermediate points in either direction at intersections of streets, or may be operated around a block contiguous to such intersections."

3. Section 1(e) in the certificate of Santa Rosa is deleted.

4. Within 30 days from the effective date of this order, Santa Rosa shall file timetable in accordance with GO 98-A, Part 11, providing SFO arrivals and departures which meet the approval of SFO. The cover letter with the revised timetable shall provide the manner in which SFO approval was obtained and the name of the official granting the approval. These documents shall be sent to the Transportation Economics and Analysis Branch of the Commission's Transportation Division.

5. This proceeding shall remain open for one year within which respondents shall adjust respective operations to comply with this decision. During this period, the Commission Transportation Division shall monitor any changes in respondents operations.

our alternative is to select stop locations in the best interest of the public.

Service To Passengers In Wheelchairs

Five witnesses testified in support of scheduled service for passengers in wheelchairs. These witnesses established that there is no such scheduled airport service in Marin County. They pointed out that passengers in wheelchairs have unique problems with baggage handling and individual safety. Presently, the witnesses either hire an attendant to accompany them to the airport, have a friend drive them to and from the airport or take their private van. The need for service is to travel themselves, both for business and pleasure, and to be accessible to friends in wheelchairs who desire to visit. Witnesses testified they now travel to the airport from once a month to several times a year, but could travel more often if there were scheduled service.

Witnesses desired a reasonable level of airport service, at least once or twice a day on a scheduled basis. They would not approve of a service which segregated them from the public because they do not want to be perceived or treated differently than other passengers.

Mr. Richard Skaff, member of the Marin Paratransit Coordinating Council, testified that at the present there are no public funds in Marin to subsidize wheelchair accessible transportation. He estimated the cost to retrofit a van for wheelchair accessibility to be \$6,199. He summarized witnesses' request as one for immediate, reasonably-scheduled, non-peak airport transportation (retrofitting existing vehicles if necessary) at reasonable rates, and a requirement that new vehicles be wheelchair accessible. Mr. Skaff estimated that a new bus purchase price would be increased \$10,000 to \$15,000 for wheelchair accessibility and would not affect the 47-passenger seating. However, Mr. Skaff indicated a willingness to accept van-wheelchair accessibility as an interim measure.

Respondents shall submit a copy of any revised tariffs and/or timetables to the Transportation Economics and Analysis Branch of the Transportation Division.

6. In order to monitor the effects of this decision, for 12 months following the effective date of this order respondents shall provide monthly data showing ridership counts from each stop served to SFO and from SFO. This data shall be sent directly to the Transportation Economics and Analysis Branch of the Commission's Transportation Division.

7. Respondents shall provide to the Transportation Division, within 30 days of its requests, all information and data it needs in connection with its study to assess the demand for wheelchair-accessible service on the Marin - SFO routes, when and how it should be provided, and its cost.

Marin witness, Ms. Grace Hughes, responded that the existing Marin buses are incapable of being retrofitted to accommodate wheelchairs--they are too narrow. Ms. Hughes estimated the price of a wheelchair accessible bus to be \$225,000. Marin replaces buses every ten years and purchased a new bus in 1988. Marin provides service from Larkspur to SFO in 21- or 47-passenger buses, not vans. In her opinion, Marin service operations would need to be completely revised, extra vehicles used or existing capacity decreased to accommodate wheelchair passengers.

In closing argument on this issue, Santa Rosa indicated its sympathy to the problem but that the costs to accommodate the request were unreasonable. A representative for wheelchair passengers argues that since 1976, public policy has changed to favor facilities and services for the handicapped, naming restaurants and airports. The representative indicated passengers in wheelchairs would accept van service as an interim measure and requested that all new buses be equipped to accommodate wheelchairs.

Discussion

At present there is no scheduled airport service from Marin accessible for passengers in wheelchairs. We believe the request for some minimal level of service at reasonable rates is a reasonable one. Concessions of retrofitted vans have been made until new equipment accommodating wheelchairs is scheduled to be purchased. However, in view of the passage of AB 3498 adding Section 460.5 to the Public Utilities Code, we must assess the impact of such an order on passenger rates. Section 460.5 prohibits a passenger carrier from imposing a fare for physically disabled or handicapped passengers which is more than the fare for the same transportation for a passenger who is not disabled or handicapped. We direct TD in conjunction with respondents and interested parties to assess any added cost to provide scheduled service to passengers in wheelchairs to and from SFO in vans or in

8. Within 120 days of the effective date of this Interim Decision, the Transportation Division shall submit a report in this proceeding which addresses the impact on the rates and financial operations of Marin and Santa Rosa of providing service to SFO which is accessible to passengers in wheelchairs. This report shall be prepared under the limitations in Public Utilities Code § 460.5. The report shall be filed in the Docket Office in this proceeding, an original and twelve copies, with copies to the assigned ALJ and all parties. Upon receipt of this report, the assigned ALJ shall determine whether comments from the parties and/or further proceedings are needed.

This order is effective today.

Dated _____, at San Francisco, California.

buses, under either a retrofit of 21- or 47-passenger buses or vans, or the purchase of such vehicles, and to submit a report in this proceeding. The purchase of vehicles need only include sufficient number of vehicles to make the minimum number of daily runs required to and from SFO based upon passenger need. Respondents shall cooperate in this study by supplying TD with peak hour information for the years 1984-1988 and any other information requested by TD for this study.

Findings of Fact

1. Santa Rosa is providing service on Route 3 from Novato to SFO.
2. Santa Rosa disputes TD's interpretation of Section 1(d) in its certificate. Santa Rosa asserts that this language authorizes operation of service originating in Novato to SFO and return.
3. TD interprets Section 1(d) to preclude Santa Rosa's operation of service originating in Novato to SFO and return.
4. The Section 1(d) language is archaic and difficult to understand. When read in the context of Santa Rosa's entire certificate, this language does not authorize a carrier to alter its point of origin and/or destination because of traffic congestion. Santa Rosa's certificate authorizes Route 1 SFO service to begin in Santa Rosa, not in Novato.
5. Santa Rosa is operating Route 3 from Novato to SFO and return. TD has not required that Santa Rosa cease its operation of this route. Santa Rosa requests authority to retain the operation of this route. Santa Rosa cannot operate timely SFO service from the city of Santa Rosa because of traffic congestion from Novato to Santa Rosa.
6. Total passenger ridership from Marin to SFO has nearly doubled from 1984 to 1988. Marin operated Marin county service during this entire period. Santa Rosa operated its Novato route from October 1987 to July 1988. No analysis of SFO passenger

travel to Marin County was presented. It is speculative to conclude Marin alone is responsible for ridership increases during the period 1984 to 1988.

7. TD concludes that Santa Rosa has had an insignificant impact on Marin County market stimulation. Santa Rosa's market stimulation is irrelevant in a market that is continuously increasing.

8. Marin's operating revenues have continued to increase from 1984 to 1987, however, Santa Rosa shows net losses in 1986 and 1987.

9. Santa Rosa transports 8% of Marin passengers using scheduled service to SFO. Marin transports 92% of Marin County passengers using scheduled service to SFO as of July 1988.

10. On October 17, 1985 Marin cancelled its on-call service for its two Novato and San Rafael locations. This service is now regularly scheduled.

11. Passengers at Denny's in Novato prefer the through service of Santa Rosa.

12. The management at the Travelodge in Novato recommends Santa Rosa's service.

13. Marin must request Commission approval to change stop locations.

14. The selection of stop locations is within the business judgment of Santa Rosa and Marin. The current dispute at two Novato stop locations is best resolved by negotiations between respondents. However, should respondents reach no agreement on the two locations, it is in the best interest of the public for the Commission to select stop locations to resolve this dispute.

15. Respondents' existing schedules at SFO conflict creating congestion and the possibility of driver disturbances.

16. Santa Rosa has dedicated facilities to operate the route from Novato to SFO. It is in the best interest of the public who is served by Santa Rosa's Novato route to continue this operation.

rather than to disrupt the service. Santa Rosa's Novato route provides a non-transfer option for many passengers travelling from Marin to SFO. Santa Rosa possesses the required qualifications, skill, experience, and financial ability to operate the Novato route. This route is feasible and is supported by regular passenger ridership.

17. It can be seen with certainty that there is no adverse environmental impact as a result of Santa Rosa continuing to operate its Novato route.

18. There is no scheduled service from Marin to SFO which is accessible to passengers in wheelchairs.

19. There is no evidence to show the impact on rates or financial operations of requiring respondents to provide equipment which is accessible to passengers in wheelchairs.

Conclusions of Law

1. Section 1(d) is archaic and difficult to understand and should be reworded to prevent future misinterpretation.

2. Respondents' certificates should contain an equal amount of flexibility in scheduling and stop locations.

3. Santa Rosa should be authorized to continue its operations from Novato to SFO.

4. This proceeding should remain open to assure respondents' compliance with this order, to receive respondents' negotiated agreement regarding the two disputed stop locations at Denny's and the Travelodge in Novato and to receive further information of the impact on respondents and its passengers of ordering service which is accessible to the handicapped.

5. Due to the conflicting schedules of respondents at SFO causing traffic congestion, this order should be effective on the date signed.

INTERIM ORDER

IT IS ORDERED that:

1. The certificates of Marin Airporter, Inc. (Marin) and Santa Rosa Airporter, Inc. (Santa Rosa), attached to this order as Appendix PSC-990 and Appendix PSC-1367, are amended to include the following condition:

"Upon ten days notice to the Commission and the public, a carrier may move a stop location a maximum of one-half (1/2) mile as measured in a straight line on a map in any direction from its location specified in this certificate. The new stop location must be more than one-half mile from a competitor's Commission-authorized stop location."

2. The certificates of Marin and Santa Rosa, Section 1(d) are amended to read:

"For purposes of complying with local traffic regulations, motor vehicles may be turned at termini and intermediate points in either direction at intersections of streets, or may be operated around a block contiguous to such intersections."

3. Section 1(e) in the certificate of Santa Rosa is deleted.

4. Within 30 days from the effective date of this order, Santa Rosa shall file timetable in accordance with GO 98-A, Part 11, providing SFO arrivals and departures which meet the approval of SFO. The cover letter with the revised timetable shall provide the manner in which SFO approval was obtained and the name of the official granting the approval. These documents shall be sent to the Transportation Economics and Analysis Branch of the Commission's Transportation Division.

5. Within 90 days of the effective date of this order respondents shall engage in negotiations and reach an agreement regarding disputed stop locations at Denny's and the Travelodge in Novato. A copy of this agreement shall be submitted to the

assigned ALJ and all parties in this proceeding. A copy of this agreement shall be mailed to the Transportation Economics and Analysis Branch of the Transportation Division. Should respondents fail to reach an agreement within 90 days from the effective date of this order both respondents shall send written notification that an agreement has not been reached to the assigned ALJ and all parties in the proceeding within the same time period.

6. This proceeding shall remain open for one year within which respondents shall adjust respective operations to comply with this decision. During this period, the Commission Transportation Division shall monitor any changes in respondents operations. Respondents shall submit a copy of any revised tariffs and/or timetables to the Transportation Economics and Analysis Branch of the Transportation Division. Should either respondent fail to comply with this order, we direct the Transportation Division to promptly notify the assigned ALJ in writing and request that the Commission pursue sanctions in this proceeding or a separate enforcement proceeding, whichever may be appropriate based upon the allegations.

7. In order to monitor the effects of this decision, for 12 months following the effective date of this order respondents shall provide monthly data showing ridership counts from each stop served to SFO and from SFO. This data shall be sent directly to the Transportation Economics and Analysis Branch of the Commission's Transportation Division.

8. Respondents shall provide to the Transportation Division, within 30 days of its request, all information and data it needs in connection with its study to assess the demand for wheelchair accessible service on the Marin-SFO routes, when and how it should be provided, and its cost.

10. Within 120 days of the effective date of this Interim Decision, the Transportation Division shall submit a report in this proceeding which addresses the impact on the rates and financial

operations of Marin and Santa Rosa of providing service to SFO which is accessible to passengers in wheelchairs. This report shall be prepared under the limitations in Public Utilities Code § 460.5. The report shall be filed in the Docket Office in this proceeding, an original and twelve copies, with copies to the assigned ALJ and all parties. Upon receipt of this report, the assigned ALJ shall determine whether comments from the parties and/or further proceedings are needed.

This order is effective today.

Dated _____, at San Francisco, California.

accessible service on the Marin-SFO routes, when and how it should be provided, and its cost.

10. Within 120 days of the effective date of this Interim Decision, the Transportation Division shall submit a report in this proceeding which addresses the impact on the rates and financial operations of Marin and Santa Rosa of providing service to SFO which is accessible to passengers in wheelchairs. This report shall be prepared under the limitations in Public Utilities Code § 460.5. The report shall be filed in the Docket Office in this proceeding, an original and twelve copies, with copies to the assigned ALJ and all parties. Upon receipt of this report, the assigned ALJ shall determine whether comments from the parties and/or further proceedings are needed.

This order is effective today.

Dated AUG 3 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

Commissioner Stanley W. Hulett,
being necessarily absent, did not
participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.



Victor Weiss, Executive Director

Appendix PSC-990*

MARIN AIRPORTER
(a California corporation)

First Revised Title Page
Cancels
Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-990

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges.

All changes and amendments as authorized by the
Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

Supersedes Authority Granted by
Decision 85545 in Application 56239,

PE 391 in RRD 391
PE 393 in RRD 393
PE 2332 in RRD 202

Issued under authority of Decision _____, dated

_____, of the Public Utilities Commission of
the State of California in I.88-06-020.

Appendix PSC-990*

MARIN AIRPORTER
(a California corporation)

First Revised Page 1
Cancels
Original Page 1

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Issued by California Public Utilities Commission.

*Amended by Decision _____, in I-88-06-020.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS.

Marin Airporter, a California corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized as a passenger stage corporation to transport passengers and their baggage between points described in Section 2 subject, however, to the authority of this Commission to change or modify these routes at any time and subject to the following provisions:

- (a) When route descriptions are given in one direction, they apply to operation in either unless otherwise indicated.
- (b) All transportation of passengers shall originate at or destined to the San Francisco International Airport.
- (c) Upon ten days notice to the Commission and the public, Marin Airporter may move a stop location a maximum of one-half (1/2) mile, as measured in a straight line on a map, in any direction from its location specified in this certificate. The new stop location must be more than one-half mile from the nearest Santa Rosa Airporter's Commission-authorized stop location.
- (d) For purposes of complying with local traffic regulations, motor vehicles may be turned at termini and intermediate points in either direction at intersections of streets, or may be operated around a block contiguous to such intersections.

Issued by California Public Utilities Commission.

*Amended by Decision _____, in I.88-06-020.

*SECTION 2. ROUTE DESCRIPTIONS.

Route 1: Novato - Larkspur

Beginning with a service point at Denny's Restaurant (a terminal) in Novato (7330 Redwood Highway), then via the most appropriate streets and highways to service points at the following locations:

- Rush Creek Travelodge, 7600 Redwood Highway, Novato
- Alvarado Inn, 225 Entrada Drive, Ignacio
- Clarion Hotel, 1010 Northgate Drive, San Rafael
- Marin Terminal, 300 Larkspur Landing, Larkspur

Route 2. Larkspur - SFO

Beginning with a service point at Marin Terminal in Larkspur (300 Larkspur Landing), then via the most appropriate streets and highways to service points at the following locations:

- Golden Gate Bridge Transit stop, Interstate 101 and Seminary Drive off-ramp, Mill Valley
- Golden Gate Bridge Transit stop, Manzanita Park and Ride Lot, Mill Valley
- Golden Gate Transit stop, Interstate 101 and Spencer Avenue, Sausalito
- San Francisco International Airport (SFO)

Issued by California Public Utilities Commission.

*Amended by Decision _____, in I.88-06-020.

*SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS.

Santa Rosa Airporter, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized as a passenger stage corporation to transport passengers and their baggage between points described in Section 2 subject, however, to the authority of this Commission to change or modify these routes at any time and subject to the following provisions:

- (a) When route descriptions are given in one direction, they apply to operation in either direction, unless otherwise indicated.
- (b) Deleted.
- (c) All transportation of passengers shall originate at or destined to San Francisco International Airport.
- (d) For purposes of complying with local traffic regulations, motor vehicles may be turned at termini and intermediate points in either direction at intersections of streets, or may be operated around a block contiguous to such intersections.
- (e) Deleted.
- (f) Upon ten days notice to the Commission and the public, Santa Rosa Airporter may move a stop location a maximum of one-half (1/2) mile, as measured in a straight line on a map, in any direction from its location specified in this certificate. The new stop location must be more than one-half mile from Marin Airporter's nearest Commission-authorized stop location.

Issued by California Public Utilities Commission.

*Amended by Decision _____, in I.88-06-020.

SECTION 2. ROUTE DESCRIPTIONS.

*Route 1: - Santa Rosa - Rohnert Park - Petaluma - SFO

*Beginning with a service point at the El Rancho Motel in Santa Rosa (2200 Santa Rosa Avenue), then via the most appropriate streets and highways to service points at the following locations:

- Red Lion Inn, 1 Red Lion Drive, Rohnert Park
- Lyons Restaurant, 6255 Commerce Blvd., Rohnert Park
- Winchell's Donut Shop, 225 S. McDowell Blvd., Petaluma
- San Francisco International Airport (SFO)

*Route 2: Ukiah - Hopland - Healdsburg - Santa Rosa - SFO

*Beginning with a service point at Raley's Travel Center, 1325 N. State Street in Ukiah, then via the most appropriate streets and highways to service points at the following locations:

- Ukiah Airport, Ukiah
- Hopland
- Owl Cafe, 485 South Cloverdale Boulevard, Cloverdale
- Dry Creek Inn, Dry Creek Road and Interstate 101, Healdsburg
- El Rancho Motel, 2200 Santa Rosa Avenue, Santa Rosa
- San Francisco International Airport (SFO)

Issued by California Public Utilities Commission.

*Amended by Decision _____, in I.88-06-020.

SECTION 2. ROUTE DESCRIPTIONS. (Continued)

*Route 3: Marinwood - Terra Linda - San Rafael
Corte Madera - Mill Valley - SFO

*Beginning with a service point at the Rush Creek Travelodge in Novato (7600 Redwood Highway), then via the most appropriate streets and highways to service points at the following locations:

- Golden Gate Bridge Transit stop, Redwood Highway and De Long Avenue, Novato
- Golden Gate Bridge Transit stop, Interstate 101 and Marinwood off-ramp, Marinwood
- Golden Gate Bridge Transit stop, Interstate 101 and Terra Linda off-ramp, Terra Linda
- Greyhound Depot, 3rd Street and Tamalpais Avenue, San Rafael
- Corte Madera Inn, 1815 Redwood Highway, Corte Madera
- Howard Johnson's Motel, 160 Shoreline Highway, Mill Valley
- San Francisco International Airport (SFO)

Issued by California Public Utilities Commission.

*Amended by Decision _____, in I.88-06-020.