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ORIGINAL

Decision 83 11 109 NOV 30 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Eastbay Airporter,)
Inc., PSC 1234, for additional)
authority to service the following)
areas, service from Oakland,)
Emeryville, Berkeley, Concord, and)
Walnut Creek to San Francisco)
International Airport, also add)
additional service from Livermore)
Valley to San Francisco)
International Airport and Oakland)
International Airport.)

Application 82-11-12
(Petition for Modification
of Decision 83-04-075
filed May 18, 1983)

EASTBAY AIRPORTER, INC.,
a corporation,

Complainant,

v.

Case 83-06-03
(Filed June 7, 1983)

SFO AIRPORTER, INC., a
corporation,

Respondent.

Jesse L. Saunders, for Eastbay Airporter,
Inc., petitioner in A.82-11-12 and
complainant in C.83-06-03.
Ray Greene, Attorney at Law, for SFO Airporter,
Inc., protestant in A.82-11-12 and defendant
in C.83-06-03.
R. E. Douglas, for the Commission staff.

O P I N I O N

Eastbay Airporter, Inc. (Eastbay) was granted a certificate of public convenience and necessity to provide airport access passenger stage corporation service by Decision (D.) 82-09-045 dated September 8, 1982 in Application (A.) 82-02-20, as amended by D.83-04-075 dated April 20, 1983 in A.82-11-12. The certificate authorizes the transportation of passengers and their incidental

baggage, and express shipments between points along the following six routes and the Oakland International Airport (OAK) or the San Francisco International Airport (SFO) as noted:

<u>Route</u>	<u>Between</u>
1	Richmond and OAK
2	Concord and OAK
3	Livermore Valley-Dublin and OAK
4	Livermore Valley-Dublin and SFO
5	Concord and SFO
6	Oakland and SFO

D.83-04-075 revised Routes 3 and 4 and added new Routes 5 and 6 to Eastbay's certificate. The decision included a restriction in the certificate that Eastbay shall not provide passenger service between a defined downtown Oakland area and either OAK or SFO.

By Petition for Modification of D.83-04-075 filed May 19, 1983, Eastbay requests that the restriction in its certificate prohibiting the pickup and discharge of passengers in the Oakland restricted area be removed. The petition was protested by SFO Airporter, Inc. (Airporter) which provides airport passenger bus service between the Hyatt Regency Hotel in downtown Oakland, the Oakland Army Base, and Treasure Island, on the one hand, and the two airports, on the other hand. Airporter also provides service between SFO and San Jose Municipal Airport, on the one hand, and downtown San Francisco and various San Francisco Peninsula points, which is not at issue here. There were no other protests. Letters supporting the petition were received from the mayor of Oakland and the Oakland Chamber of Commerce.

By the complaint in C.83-06-03 filed June 7, 1983, Eastbay alleges that Airporter's service between its downtown Oakland terminal and the two airports is not in conformity with Routes 2, 5, and 6 as described in its certificate. These three routes specify

the highways and streets Airporter is authorized to travel in providing passenger airport service between SFO and Oakland-Berkeley and between OAK and various points, including downtown Oakland and San Francisco. The complaint requests that Airporter be directed to cease and desist operating the unauthorized route and that Routes 2, 5, and 6 be canceled from its certificate because of nonuse. For these reasons, Eastbay asserts that Airporter has no standing to protest the requested authority between downtown Oakland and the two airports.

In its answer to the complaint filed June 21, 1983, Airporter alleges that its operations are in conformity with its certificate and requests that the complaint be dismissed.

Because of the interrelation of the issues in the two matters, they were consolidated for hearing which was held before Administrative Law Judge Arthur M. Mooney in San Francisco on August 18 and 19, 1982. The consolidated matters were submitted on the filing of written closing statements due September 2, 1983.

Evidence was presented by Eastbay and Airporter. Both filed written closing statements. The Commission staff assisted in the development of the record.

By cover letter dated September 22, 1983, Airporter filed revisions to its Passenger Timetable 1 which cancels its service between OAK and downtown San Francisco and between OAK and SFO, on the one hand, and downtown Oakland, the Oakland Army Base, and Treasure Island, on the other hand, effective October 3, 1983. The letter states that there is insufficient patronage to support or require this service. In this connection it points out that during the week of August 15, 1983, it operated 182 schedules in this service with 53-passenger buses and that the total passengers transported was 758 or 4.6 per trip. The letter asserts that continuance of this service would jeopardize Airporter's ability to continue the other services it provides and which receive greater public patronage.

With the filing of the timetable revisions, the issues raised in the complaint and Airporter's protest to the petition have become moot. C.83-06-03 will be dismissed and Airporter's protest to the petition will not be further considered. The propriety of the timetable filing and any necessary revisions to Airporter's certificate will be handled by a separate Commission resolution and not by this decision.

The only issue remaining for our determination is whether public convenience and necessity require the removal of the downtown Oakland restriction from Eastbay's certificate. Based on a review of the evidence presented by Eastbay, our answer is in the affirmative. Following is a brief summary of this evidence:

1. Eastbay commenced passenger stage operations in September 1982. Its office and terminal are located in Oakland. It operates seven vans in its airport service and also has 10 school buses which are used under contract with the Oakland school district to transport school athletic teams and are available for airport service for large groups. It has two mechanics and all of its drivers are full-time employees.
2. Eastbay is operating all of its authorized routes. While its airport operations have not been profitable as yet because of start-up costs, it is expected that with projected increases in patronage and authority to serve the downtown Oakland area, it will be profitable.
3. If its petition is granted, Eastbay will serve three or four locations in the downtown Oakland area, including the new Oakland Convention Center, which is adjacent to the Hyatt Regency Hotel, and the Lake Merritt Hotel.
4. Eastbay has had numerous requests for service between downtown Oakland and both airports from businesses, travel agents, the Oakland Convention Center, and the general public.
5. Eastbay is now operating an on-call service, but it is its intent to establish regularly scheduled service.

Because there is an immediate need for the requested authority, the following order will be made effective on the date it is issued.

Findings of Fact

1. By its Petition for Modification of D.82-04-075, Eastbay requests that the restriction in its certificate prohibiting airport access service from and to the described area of downtown Oakland be removed.

2. Except for service by Airporter from and to the Hyatt Regency Hotel in downtown Oakland, which it intends to abandon, the service Eastbay proposes to provide is not now being offered to the public.

3. Public convenience and necessity require the proposed service.

4. Since it is Airporter's intent to cease its downtown Oakland and other operations on this side of San Francisco Bay when authorized to do so by the Commission, the issues raised in C.83-06-03 are moot.

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

Conclusions of Law

1. Petition for Modification of D.83-04-075 should be granted as set forth in the following order.

2. C.82-06-03 should be dismissed.

3. This order should be effective on the date signed because there is an immediate public need for the proposed service.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Eastbay Airporter, Inc., a corporation, authorizing it to expand its operations as a passenger stage corporation, as defined in PU Code § 226, to transport persons, baggage, and/or express. Appendix A of D.82-09-045, as amended by D.83-04-075 is further amended by replacing First Revised Pages 1, 2, and 6 with Second Revised Pages 1, 2, and 6 attached.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. State in its tariffs and timetables when service will start; allow at least 10 days' notice to the Commission; and make timetables and tariffs effective 10 or more days after this order is effective.
- d. Comply with General Orders Series 79, 98, 101, and 104, and the California Highway Patrol safety rules.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.

3. This certificate does not authorize the holder to conduct any operations on the property of or into any airport unless such operation is authorized by both this Commission and the airport authority involved.

4. C.83-06-03 is dismissed.

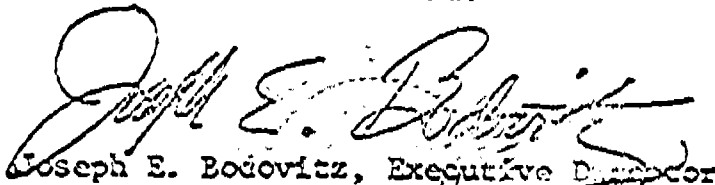
This order is effective today.

Dated NOV 30 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. GREW
WILLIAM T. BAGLEY
Commissioners

Commissioner Donald Vigil, being necessarily absent, did not participate.

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


Joseph E. Bodovitz, Executive Director

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Issued by California Public Utilities Commission.

*Deleted by Decision 83 11 109, Application 82-11-12.

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

Eastbay Airporter, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers and their incidental baggage between points described in Section 2 of this certificate and certain intermediate and adjacent territories, and over and along the routes described, subject, however, to the authority of this Commission to change or modify these routes at any time and subject to the following provisions:

- a. 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.
- b. When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.
- c. No passengers shall be transported on Routes 1, 2, or 3 except those having point of origin or destination at Oakland International Airport.
- d. No passengers shall be transported on Route 4, 5, or 6 except those having point of origin or destination at San Francisco International Airport.
- *e. Deleted.

Issued by California Public Utilities Commission.

* Deleted by Decision 83 11 109, Application 82-11-12.

Appendix PSC-1234
(D.82-09-045)

EASTBAY AIRPORTER, INC.

Second Revised Page 6
Cancels
First Revised Page 6

SECTION 2. ROUTE DESCRIPTIONS.

Route 6 Oakland to San Francisco International Airport

Beginning in the City of Oakland then via the appropriate streets or highways to Interstate Highway 80 then via Interstate Highway 80, U.S. Highway 101 (Bayshore Freeway) and Airport Access Road to the passenger terminal of the San Francisco International Airport.

SECTION 3. SERVICE AREA DESCRIPTIONS.

1. Livermore Valley Service Area

The Livermore Valley Service Area consists of the City of Livermore plus the area bounded by Interstate 580, Greenville Road, Tesla Road, Livermore Avenue and the city limits of the City of Livermore.

*2. Deleted.

Issued by California Public Utilities Commission.

*Deleted by Decision ~~83 11 100~~, Application 82-11-12.