

kd

Decision No. 86821

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of W. L. MURPHY and
H. C. MURPHY, doing business under
the firm name of YOSEMITE AIRLINES,
for a Certificate of Public
Convenience and Necessity to
operate a "Passenger Air Carrier".

Application No. 56173
(Petition for Modification
of Decision No. 85877
filed October 21, 1976)

(Appearances are shown in Appendix B.)

O P I N I O N

By Decision No. 85877 dated May 25, 1976, W. L. Murphy and H. C. Murphy, doing business as Yosemite Airlines, were granted a temporary certificate to operate as a passenger air carrier between Pine Mountain Lake Airport (PMN), on the one hand, and Oakland International Airport (OAK) and Columbia Airport (COL), on the other hand. The temporary authority granted by Decision No. 85877 is scheduled to expire May 1, 1977.

In the captioned petition Yosemite Airlines seeks amendment of its temporary certificate to include San Francisco International Airport (SFO) as a destination or an intermediate stop on flights to the San Francisco Bay area from PMN or COL. No local service will be offered between SFO and OAK. Yosemite proposed to serve SFO by use of ground facilities operated by Butler Aviation, which are located away from the main commercial facilities designated as the Central and Southern Air Terminals.

Yosemite's request to serve SFO with closed door service between SFO and OAK was consolidated for hearing on November 23 and 24, 1976 at San Francisco with applications of other passenger air carriers seeking authority to provide service between SFO and

OAK to replace the service of SFO Helicopter Airlines, Inc. That carrier was granted temporary authority to discontinue service and to sell its helicopters.^{1/}

Protests were made to all of the applications except that of Yosemite Airlines. The city of San Francisco, as operator of SFO, pointed out at the hearing that there are no facilities available for additional commuter airline operations at the main terminal building until new facilities are completed in mid-1978; until such time SFO intends that all new commuter operations be conducted out of Butler Aviation facilities located away from the main terminal. Yosemite Airlines will comply with that requirement. The parties to the consolidated proceedings, including the Commission staff, agreed that an amended temporary certificate should be issued to Yosemite Airlines for operations to and from SFO, with closed door service between SFO and OAK.^{2/}

1/ The following applications were consolidated for hearing:

- A.55777 - Air California
- A.56744 - Marin Aviation, Inc.
- A.56757 - STOL Air, Inc.
- A.56773 - Eureka Aero Industries, Inc.
- A.56814 - L.A. Helicopter Airlines, Inc.
(subsequently changed to Pacific Seaboard Airlines, Inc.)
- A.56767 - W. L. Murphy and H. C. Murphy, dba Yosemite Airlines

2/ A.56767 of Yosemite Airlines requested an exemption from certificate requirements. At the hearing, Yosemite Airlines requested that A.56767 be dismissed and that its temporary certificate be amended to include SFO. A.56767 will be dismissed by separate order.

The application of Yosemite Airlines indicates that some of the airline passengers utilizing its services between COL or PMN and OAK desire service to SFO to connect with flights arriving and departing from that airport. Some such airline passengers have indicated to Yosemite Airlines that there is no convenient way to travel between PMN or COL and SFO since SFO Helicopter ceased operations, and such passengers have requested that Yosemite Airlines institute scheduled service between SFO and PMN and COL.

Yosemite Airlines will provide service between SFO and PMN and COL with the same equipment and personnel utilized in providing its existing air passenger service. The application alleges that such equipment and personnel are adequate to provide the proposed additional service.

The Commission finds:

1. SFO Helicopter Airlines, Inc. has been authorized by the Civil Aeronautics Board to temporarily cease operations and to sell all of its helicopter aircraft. (Order 76-11-52 served November 10, 1976, in Docket 29936, et al.)
2. Applicants have been granted a temporary certificate to operate as a passenger air carrier between PMN, COL, and OAK. The temporary authority is scheduled to expire May 1, 1977.
3. Applicants have requested amendment of the temporary authority to provide scheduled air passenger operations between SFO, on the one hand, and PMN and COL, on the other hand, with the provision that no local passengers will be transported between SFO and OAK.
4. Applicants have the financial ability, equipment, and experience to provide the proposed service.
5. Public convenience and necessity require the service proposed by applicants on a temporary basis until May 1, 1978.

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

The Commission concludes that temporary authority should be granted as indicated above. We also conclude that the effective date of this order should be the date on which it is signed because public convenience and necessity require prompt commencement of the proposed service.

W. L. Murphy and H. C. Murphy are placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. W. L. Murphy and H. C. Murphy, doing business as Yosemite Airlines, are granted a temporary certificate of public convenience and necessity authorizing them to operate as a passenger air carrier between San Francisco and Pine Mountain Lake and Columbia, subject to the limitations and conditions set forth in Appendix A attached hereto and made a part hereof.

2. The temporary certificate granted herein and the temporary certificate previously issued shall expire May 1, 1978.

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

- (a) Within thirty days after the effective date of this order, applicants shall file a written acceptance of the certificate granted. By accepting the certificate applicants are placed on notice that they will be required, among other things, to file annual reports of their operations and to comply with the requirements of the Commission's General Orders Nos. 120-Series and 129-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicants shall establish the authorized service and file tariffs, in triplicate, in the Commission's office.
- (c) The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the authorized service.

(d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 105-Series.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 5th day of JANUARY, 1977.

Robert Babine
President
William A. Gannon
Verion A. Stulgen
Leon Kor

Commissioners

TEMPORARY CERTIFICATE

Appendix A

W. L. MURPHY AND H. C. MURPHY
dba YOSEMITE AIRLINESFirst Revised Page 1
Cancels
Original Page 1

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

PMN - OAK	* PMN - SFO
PMN - COL	* COL - SFO
	* OAK - SFO

Conditions

1. Propeller-driven aircraft having no more than 30 revenue passenger seats or a payload of no more than 7,500 pounds shall be operated.
2. Authority granted herein is temporary and shall expire May 1, 1978.
3. Service between PMN and OAK shall be provided with a minimum of two nonstop round trips a week.
- * 4. No local service shall be provided between SFO and OAK.
5. The following airports shall be used:

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

Issued by California Public Utilities Commission.

* Added by Decision No. 86821, Application No. 56173.

APPENDIX B

LIST OF APPEARANCES

Applicants in A.56173 and A.56767: Helen C. Murphy, for W. L. Murphy and H. C. Murphy, doing business as Yosemite Airlines.

Applicant in A.55777: Boris H. Lakusta and David J. Marchant, Attorneys at Law, and Frederick R. Davis, for Air California.

Applicant in A.56757: William Connolly and Neil A. Grossman, for STOL Air, Inc.

Applicant in A.56773: Joe M. Mc Claran, Attorney at Law, and John J. Flynn, for Eureka Aero Industries, Incorporated.

Applicant in A.56744: Jack Robertson, Attorney at Law, and Richard T. Duste, for Marin Aviation Inc., doing business as California Air Commuter Service.

Applicant in A.56814: Wallace S. Fingerett, Attorney at Law, Stephen Ellis, and William R. Chamberlain, for Pacific Seaboard Airlines, Inc. (substituted as applicant in place of Los Angeles Helicopter Airlines, Inc.).

Protestants in A.56814: Joseph R. Parker, Attorney at Law, and William Rothman, for themselves.

Protestant in A.56744, A.56757, A.56773, and A.56814, and interested party in A.55777 and A.56767: J. Kernin Rooney, Port Attorney, by John E. Nolan, Assistant Port Attorney, for Port of Oakland.

Interested Parties: James B. Brasil and David Kroopnick, Deputy City Attorneys, for City and County of San Francisco; Richard C. Lovorn, for SFO Helicopter Airlines, Inc.; Kenneth C. Nagel, Attorney at Law, and R. L. Kuhn, for Cal-Tex Helicopter Airlines, Inc.; Kenneth D. Taylor, for DeHavilland Aircraft of Canada; and Vincent J. Mellone and Brian E. Hauf, for Federal Aviation Administration, Bay Air Traffic Terminal Radar Control Facility.

Commission Staff: Thomas F. Grant, Attorney at Law.