

ORIGINAL

Decision No. 87881 SEP 20 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SFO AIRPORTER, INC., a corporation,)
 for Authority to Acquire a Certificate)
 of Public Convenience and Necessity)
 and Assets, and of LEASECO, a partner-) Application No. 57482
 ship, for authority to Acquire Assets,) (Filed July 29, 1977)
 and of AIRPORTTRANSIT OF CALIFORNIA,)
 a corporation, doing business as)
 AIRPORTER, to transfer a Certificate)
 and to Transfer Assets Pursuant to)
 Sections 1031 and 851-854 of the)
 Public Utilities Code, respectively.)

O P I N I O N

By this application, Airporttransit of California, a corporation, doing business as Airporter (hereinafter known as transferor) seeks authority to transfer its Certificate of Public Convenience and Necessity to operate as a passenger stage corporation and certain intangible assets to SFO Airporter, Inc., a California corporation, (hereinafter known as transferee), and certain tangible assets to LEASECO, a general partnership.

By Decision 77121 dated April 21, 1970, in Application 51730, transferor was granted authority to operate as a passenger stage corporation transporting passengers, baggage and express between San Francisco International Airport, on the one hand, and San Jose Municipal Airport, the Cities of San Francisco, Oakland and Berkeley, on the other hand, between San Francisco International Airport, San Jose Municipal Airport, on the one hand, and the Cities of Burlingame, San Mateo, Belmont, San Carlos, Redwood City, Menlo Park, Palo Alto, Mountain View, Sunnyvale, Santa Clara and San Jose, on the other hand. On February 20, 1970, transferor was issued a Class "A" Certificate to operate as a charter-party carrier of passengers.

Transferor is presently in bankruptcy, under the receivership of Robert N. Mateer, in a proceeding pending before the U.S. District Court, Southern District of California, under Chapter XI, Case No. 76-3058, In Re Airporttransit of California.

Transferor on June 29, 1977, entered into a purchase agreement with the transferee and LEASECO in which the transferor agreed to transfer and sell: (1) To transferee the Certificate to operate as a common carrier and Class "A" Charter-party Certificate granted by this Commission, and (2) To LEASECO the buses and certain assets named in the Purchase Agreement noted as Exhibit "C" to this application; for a total price of \$625,000. The purchase price for the passenger stage certificate is \$15,000 and the Class "A" Charter-party Certificate is \$5,000.

The total cash payment is reduced by the previous down payment of \$153,883.77 placed in escrow by the transferee and LEASECO, and the setoff amount of \$391,988 that represents an assumption of the liabilities of the transferor by the transferee and LEASECO.

The balance of the total purchase price will be paid in cash, certified check or cashier's check on the closing date as defined in Paragraph 11 of the Purchase Agreement.

The transferee and LEASECO have entered into an agreement in which LEASECO will lease its buses and equipment to transferee.

A separate application should be filed for authority to transfer the Class "A" Charter-party Certificate. The application was listed on the Commission's Daily Calendar on August 1, 1977. The Commission's Transportation Division staff has reviewed the application and recommends that, in the absence of protest or request for public hearing, it be granted by ex parte order. No protest or request for hearing has been received.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. A public

hearing is not necessary and the application should be granted. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Airporttransit of California, doing business as Airporter, and the issuance of a certificate in appendix form to SFO Airporter, Inc.

Transferee is 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 holders 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. On or before February 20, 1978, Airporttransit of California, doing business as Airporter, may transfer the operative rights and intangible assets referred to in the application to SFO Airporter, Inc., and sell the tangible assets referred to in the application to LEASECO, a general partnership.

2. Within thirty days after the transfer the transferee shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer. By acceptance of the certificate, transferee agrees to the condition that the Commission may in the future consider both the operations and assets of transferee and LEASECO on a combined basis for rate making purposes.

3. Transferee shall amend or reissue the tariffs and timetables on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, the rates and rules. The tariff and timetable filings shall be made effective not earlier than ten days

after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the transfer. The tariff and timetable filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders 79-Series and 98-Series. Failure to comply with the provisions of General Orders 79-Series and 98-Series may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the transfer, the transferee shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the transferor for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfer authorized in Paragraph 1 is completed, effective concurrently with the effective date of the tariff filing required by Paragraph 3, a Certificate of Public Convenience and Necessity is granted to SFO Airporter, Inc., authorizing it to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes set forth in Appendix "A", attached hereto and made a part hereof.

6. The Certificate of Public Convenience and Necessity granted by Decision 77121 is revoked effective concurrently with the effective date of the tariff filings required in Paragraph 3.

7. Transferee shall comply with the safety rules administered by the California Highway Patrol, the rules and regulations of the Commission's General Order 98-Series, and insurance requirements of the Commission's General Order 101-Series.

8. Transferee shall maintain its accounting records on a calendar-year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 20th day of SEPTEMBER, 1977.

Robert Bateman
President
William S. Quinn, Jr.
Verdon L. Sturgeon
Richard D. Givale
Walter T. DeLoach
Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION

PSC-37

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

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.

87881
Issued under authority of Decision No. _____,
dated 9/20/77, of the Public Utilities
Commission of the State of California, in Application No. 57482.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS AND SPECIFICATIONS

The authority granted herein supersedes the previously granted certificate to Airporttransit of California, doing business as Airporter, in Decision No. 77121.

SFO Airporter, Inc., by the Certificate of Public Convenience and Necessity granted in the decision noted in the margin, is authorized to operate as a passenger stage corporation and transport passengers, baggage and express over the routes and between the points as listed hereinafter:

Conditions and Restrictions

- (1) No passengers shall be transported except those who have prior or subsequent transportation by air to or from the San Francisco International Airport or San Jose Municipal Airport and any person accompanying such passengers.
- (2) Express service shall be restricted to packages not exceeding one hundred pounds which either originate at or are destined to the San Francisco International Airport or the San Jose Municipal Airport.
- (3) Service to Berkeley shall be "on-call" for twenty or more passengers upon twenty-four hours' notice to the carrier except that regularly scheduled service shall be provided during the holiday periods of Easter, Thanksgiving and Christmas and during semester or quarter breaks at the University of California.
- (4) Service to Sunnyvale and Santa Clara shall be "on-call" upon two hours' notice to the carrier.

Issued by California Public Utilities Commission.

Decision No. 87881, Application No. 57482.

SECTION 2. ROUTE DESCRIPTIONS

ROUTE 1.

Between San Francisco International Airport and the City of San Francisco, via U.S. Highway 101.

ROUTE 2.

Between San Francisco International Airport, on the one hand, and the Cities of Oakland and Berkeley on the other hand, via U.S. Highway 101 and San Francisco-Oakland Bay Bridge and Interstate 80.

ROUTE 3.

Between San Francisco International Airport and San Jose Municipal Airport, on the one hand, and the Cities of Burlingame, San Mateo, Belmont, San Carlos, Redwood City, Menlo Park, Palo Alto, Mountain View, Sunnyvale, Santa Clara and San Jose, on the other hand, via U.S. Highway 101 and State Highway 82.

ROUTE 4.

Between San Francisco International Airport, on the one hand, and San Jose Municipal Airport, on the other hand, via U.S. Highway 101.