

ORIGINAL

Decision No. 85504 JAN 24 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of SFO AIRPORTER, INC., for)
authority to acquire a certificate)
of public convenience and necessity)
to operate as a passenger stage)
corporation from ROBERT N. MATEER,)
Receiver for AIRPORTTRANSIT, INC.,)
Bankrupt.)

Application No. 58233
(Filed July 14, 1978)

Raymond A. Greene, Jr., and Daniel W. Baker,
Attorneys at Law, for SFO Airporter, Inc.,
applicant.

James S. Clapp, Attorney at Law, for Lorrie's
Travel & Tours, Inc.; and John E. Nolan,
Attorney at Law, for Port of Oakland;
interested parties.

Marc E. Gottlieb, P.E., for the Commission
staff.

INTERIM OPINION

Applicant is a passenger stage corporation with authority to transport passengers, baggage, and express between the San Francisco International Airport, San Jose Municipal Airport, and the cities of San Francisco, Oakland, Berkeley, and intermediate points. It also operates as a Class A Charter-party Carrier of Passengers under a certificate issued to it by the Commission in File No. TCP-104-A.

Applicant is requesting authority to acquire from the Trustee in Bankruptcy the northern portion of the authority issued to Airporttransit, Inc., Bankrupt, which would authorize operations as a passenger stage corporation between the Oakland International Airport and points in downtown San Francisco, as well as between the Oakland International Airport and points in Oakland, Berkeley, Alameda, and the Oakland Army Base.

It is alleged that this temporary grant of authority will help to relieve the congestion and frustration caused by the shutdown of the BART transbay tube service, which provided the only public transportation from central San Francisco to the Oakland International Airport.

The Commission's Transportation Division staff has reviewed the application and has recommended that the authority be granted for the period of the BART emergency.

A hearing was held on this application on January 8, 1979, after a protest was filed by Lorrie's Travel & Tours, Inc., and the issue of a possible abandonment of the certificate to be transferred is still in issue. The proceeding was submitted on the filing of briefs, which are due on or before January 31, 1979. This decision will authorize a day-to-day service while transportation through the BART transbay tube is suspended. The authority may be canceled on request as soon as the BART emergency is over.

Because of the unforeseen emergency occasioned by the BART accident, and immediate public need, this order will issue without the notice requirements of Section 11125 of the Government Code.

Findings

1. Public convenience and necessity require the proposed service on an interim basis until such time as the BART transbay tube has reopened and the BART transbay commuter service resumes operation.
2. Applicant has the ability, equipment, and financial resources to perform the proposed service.
3. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Applicant 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 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.

INTERIM ORDER

IT IS ORDERED that:

1. Applicant is hereby authorized to operate under the northern portion of the passenger stage certificate held by Airportransit, Inc., as delineated in Appendix B to Decision No. 78126 dated December 22, 1970 in Application No. 52195, for a period of thirty days from the date of this decision, or until further order of this Commission.
2. Applicant may initiate service on one day's notice concurrent with the filing of tariffs and timetables.

Due to the EART emergency the effective date of this order is the date hereof.

Dated at San Francisco, California, this 24th day of JANUARY, 1979.

Richard D. Howell
 President
Clair T. DePaul

 Commissioners