

PWL

ORIGINAL

Decision No. 90040 ' FEB 27 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of Eagle Aviation, Inc., doing)
business as Eagle Airlines, for)
a Certificate of Public Conven-)
ience and Necessity to provide)
passenger air service between)
Paso Robles Municipal Airport, on)
the one hand, and San Francisco)
International Airport and)
San Jose Municipal Airport, on the)
other hand, and application for)
exemption pursuant to Section 2767)
of the California Public Utilities)
Code)

Application No. 58596
(Filed January 11, 1979)

I N T E R I M O P I N I O N

Eagle Aviation, Inc. (d.b.a Eagle Airlines) is a passenger air carrier which operates nonstop between Paso Robles (PRB) and Los Angeles International Airports (LAX) with a permanent certificate granted October 31, 1978, in Decision 89611.

In this application, the airline requests authority to fly between PRB on the one hand, and San Jose Municipal Airport (SJC) and San Francisco International Airport (SFO), on the other hand, with either SJC or SFO being an intermediate or terminal point on the route. The applicant claims that the cessation of service at PRB by Swift Aire Lines on March 9, 1979 will cause "an undue burden" and "a substantial hardship" on the Paso Robles community by denying access by air to the San Francisco Bay Area community. Therefore, the applicant requests that the procedure allowed by Section 2767 of the Public Utilities Code; i.e. that the airline be given an exemption of 90 days from the certificate requirements of §2752, 2754 and 2754.1 be followed; and a permanent certificate be granted ex-parte within the 90-day period.

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Eagle Aviation's fleet consists of two Cessna 400 series airplanes, which are twin-engine, nine-passenger aircraft capable of cruising at 240 mph. They are not pressurized; however, only valleys and low mountains lie along the proposed route; high-altitude flying is not necessary. Eagle Aviation proposes initially to provide one round-trip daily: PRB-SJC-SFO with the departure from PRB at 9:15A and the departure on the return flight from SFO at 12:00 Noon. The fares, including tax, will be \$39.96 PRB-SJC, \$21.60 SJC-SFO, and \$43.20 PRB-SFO. The applicant is able to arrange interline ticket arrangements with willing interstate and foreign carriers.

Eagle Aviation, Inc. has on file with the Commission evidence of liability insurance covering bodily injury and property damage in conformance with General Order 120-C.

It can be seen with certainty that the proposed operations will not have a significant effect on the environment. Eagle Aviation's aircraft are small, quiet and clean relative to the jet aircraft now serving SJC and SFO; they are of the same size as the general aviation aircraft now providing many operations at PRB. The gross weight of the Cessna is about 6,300 pounds compared to 23,370 pounds for Swift's Nord and 13,500 pounds for Swift's DeHavilland Heron.

In Application No. 58593 Paso Robles Flying Service, Inc., doing business as Golden Carriage Aire is also requesting authority to carry passengers in scheduled service between Paso Robles and San Francisco. Eagle and Paso Robles Flying Service have been notified of each other's application. Together Eagle and Paso Robles Flying Service will offer more flights than presently offered by Swift. During 1978 Swift carried 664 origin and destination passengers between PRB and SJC and 2,220 between PRB and SFO.

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In a letter received February 23, 1979, Eagle Airlines protested the granting of Paso Robles Flying Service's application, and requested that comparative hearings be held. Eagle Airlines alleges that the demand for service between Paso Robles and the Bay Area is insufficient to support competitive scheduled air operations and that if two carriers are to operate the resultant operating losses will cause a total cessation of air service between Paso Robles and the Bay Area.

Because of the protest and Eagle's allegations the Commission will grant both carriers a ninety-day exemption from the certificate provisions of Sections 2752, 2754 and 2754.1 pursuant to Section 2767 of the Public Utilities Code to perform passenger air carrier service as set forth in the ensuing order.

A hearing will be held at a time and place to be announced.

Because of the emergency created by the cessation of service at Paso Robles by Swift this order will be issued without the notice requirements of Section 11125 of the Government Code and the effective date of this order will be the date of signing.

Eagle Aviation, Inc. 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.

I N T E R I M O R D E R

IT IS ORDERED that:

1. Eagle Aviation Inc., is exempted from the certificate provisions of Sections 2752, 2754 and 2754.1 of the Public Utilities Code in the performance of passenger air carrier service set forth in Appendix A.

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

- (a) Within ten days after the effective date of this order, the applicant shall file a written acceptance of the certificate granted. By accepting the certificate the applicant is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with the requirements of the Commission's General Orders 120, 129, 137 and 144.
- (b) Within sixty days after the effective date of this order, the applicant 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.
- (e) Due to the emergency created by the cessation of service at Paso Robles by Swift the effective date of this order is the date hereof.

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The effective date of this order is the date hereof.

Dated at San Francisco, California, this 27th
day of FEBRUARY, 1979.

John E. Conroy
President

George L. Sturgeon

Richard W. Harbo

Clair J. Dudgeon

Samuel M. Jones
Commissioners

Exemption
EAGLE AVIATION, INC.
d.b.a.
EAGLE AIRLINES

Eagle Aviation is exempted from the certificate provisions of Sections 2752, 2754, and 2754.1 of the Public Utilities Code in the performance of passenger air carrier service between the following airports:

PRB - SJC
SJC - SFO
PRB - SFO

Conditions

1. No aircraft having more than 30 revenue passenger seats or a payload of more than 7,500 pounds shall be operated.
2. Eagle Aviation may establish via PRB through routes and rates, charges and classifications between SJC and SFO and the certificate of public convenience and necessity which it now possesses between Los Angeles International Airport and Paso Robles.
3. Each airport shall be served with a minimum of one flight in each direction on each of five days a week.
4. The exemption granted herein shall expire in ninety days from the date of the decision noted below unless sooner canceled, modified or extended.
5. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
PRB	Paso Robles	Paso Robles Municipal Airport
SJC	San Jose	San Jose Municipal Airport
SFO	San Francisco	San Francisco International Airport

Issued by the California Public Utilities Commission.

Decision 90040 ; Application 58596.