

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution TL-18864  
Rail Safety and Carriers Division  
Route Revision Docket-502  
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RESOLUTION

**RESOLUTION GRANTING MARIN AIRPORTER ROUTE REVISION DOCKET  
REQUEST FOR AN ADDITIONAL SERVICE POINT AT THE EMBASSY SUITES  
HOTEL IN SAN RAFAEL**

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SUMMARY

Marin Airporter seeks the Commission's approval to add to its scheduled bus service a passenger stop at the Embassy Suites Hotel in San Rafael. This resolution grants the request.

BACKGROUND

Marin Airporter (Applicant) is a passenger stage corporation (PSC 990) authorized to transport passengers and their baggage in scheduled service between points in Marin County and San Francisco International Airport. It seeks approval under the Commission's Route Revision Docket (RRD) procedure to add a stop at the Embassy Suites Hotel, 101 McInnis Parkway, San Rafael. Applicant advises that it filed an RRD request for this stop with the Commission's Transportation Division in 1993, and not receiving any subsequent communication regarding the matter, assumed that the filing had been accepted and approved. Applicant has been serving this point on a Northbound basis since that time. Applicant now wishes to provide both Northbound and Southbound service, but just recently learned that its previous request had never been approved. Included with the current request is a copy of the RRD filing that Applicant avers was made in 1993. The Rail Safety and Carriers Division (staff), successor to the Transportation Division, advises that it cannot find a record of receipt of this document.

Notice of the RRD appeared on the Commission's Daily Calendar on July 3, 1998. One protest was received during the 30-day protest period, from Santa Rosa

Airporter/Airporter Inc. (Santa Rosa). In a letter dated July 8, 1998, Phoebe Nicolette, president of Santa Rosa, gave the following grounds for the protest:

- "Marin Airporter's blatant demonstration to usurp (sic) a previous decision made by Mr. Michael George, General Manager at The Embassy Suites."
- "Marin Airporter elected to provide service at The Embassy Suites in Marin County only after it was apparent that Santa Rosa Airporter/Airporter INC expressed a willingness to provide an hourly shuttle to our scheduled departure at the San Rafael Transportation Center in San Rafael. This decision was made only after several meetings between Mr. Chuck Willis, Vice President of Santa Rosa Airporter/Airporter INC and Mr. Michael George, General Manager at The Embassy Suites. See enclosed letters from Mr. Michael George."
- "It is apparent to Santa Rosa Airporter/Airporter INC that this is a deliberate attempt by Marin Airporter to convince the regulatory entities that it is in the public's best interest for the continuation of Marin Airporter's regulatory monopoly in Marin County."
- "It appears that history is its greatest predictor. See file of previous owners attempt to provide service in Marin County."

Santa Rosa holds a PSC certificate (PSC 9023) authorizing it to transport passengers and their baggage between Ukiah and Hopland (Mendocino County), and points in Sonoma and Marin Counties, on the one hand, and San Francisco and Oakland International Airports, on the other hand. Its certificate authorizes service to the Embassy Suites on a "Reservation Only" (nonscheduled) basis. By letter dated May 22, 1998, Rudy Ortiz, General Manager of the Embassy Suites, informed staff that as of July 1, 1998, Santa Rosa would no longer be permitted access to hotel property. In a separate communication, Mr. Ortiz further informed staff that he wished to have Applicant serve the hotel. The reason given was Applicant's ability to provide more frequent service than Santa Rosa. Mr. Ortiz also advised that use of this stop is not limited to hotel guests, as a substantial number of the passengers boarding or departing the bus at this location are people who live or work in the surrounding community.

Staff advises that it receives few requests under the RRD procedure because most PSC certificates are sufficiently broad in scope to allow carriers to make minor stop or route changes simply by giving the public and the Commission notice. In cases where a protest to an RRD is received, staff's usual practice is to inform the applicant that in view of the protest, a formal application will have to be filed, with the possibility existing that the

Commission will hold a formal hearing on the matter. However, in this case, staff recommends that Applicant's request be approved by resolution, notwithstanding the protest by Santa Rosa. The stop at issue is on private property. Both Applicant and Santa Rosa desire to serve this location, but the manager of the property has determined that only Applicant will be allowed access to pick up and drop off passengers. Staff offers that Santa Rosa's protest focuses on the process by which the Embassy Suites selected the carrier it will allow to operate on its property. Staff does not believe that this is an issue relevant to whether Applicant should be authorized to serve this location and, therefore, a hearing to further examine this issue is not necessary.

#### DISCUSSION

Applicant and Santa Rosa are longtime competitors for passenger traffic between Marin County and SFO. Disputes about stops have arisen before. As an example of our past efforts to minimize such conflicts, in 1989 we conditioned the certificate of each carrier to provide that it could on ten days' notice to the Commission and the public, move a stop location a maximum of one-half mile from a location specified in its certificate, as long as the new stop was more than one-half mile from the nearest Commission-authorized stop of the other carrier. (Decision 89-08-045, dated August, 3, 1989) All other stop changes in Marin County by these carriers require Commission approval.

We agree with staff that in this case the public interest would not be served by requiring Applicant to pursue its request through a formal application. The filing of a protest to an application does not insure that an evidentiary hearing will be held. Under Rule 44.4 of the Commission's Rules of Practice and Procedure, the decision whether or not to hold an evidentiary hearing will be based on the content of the protest. We have considered Santa Rosa's protest to the RRD and do not believe it presents good reason for us to deny Marin's request. We need not consider these same concerns again in the context of a formal application by Marin. To not grant Applicant's request at this time would needlessly delay use of this stop by guests of the Embassy Suites as well as residents and workers from the surrounding community.

The Commission finds that Applicant's request is justified.

THEREFORE, IT IS ORDERED that:

1. Marin Airporter's request to add to its passenger stage corporation certificate a stop at the Embassy Suites Hotel in San Rafael is granted.

2. Applicant shall file amendments to its tariff and timetable reflecting the route revision authorized by this resolution; allow at least ten days' notice to the Commission and to the public; and establish service on the same day that tariffs and timetables become effective.

The route revision granted by this resolution is set forth in the following certificate appendix page attached:

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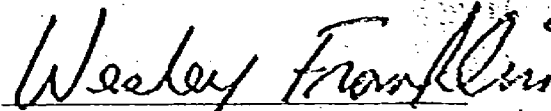
The Executive Director shall mail a copy of this resolution to:

Grace A. Hughes, President  
Marin Airporter  
300 Larkspur Landing Circle  
Larkspur, CA 94939

Phoebe Nicolette, President  
Santa Rosa Airporter/Airporter, Inc.  
P.O. Box 6237  
Santa Rosa, CA 95406

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted by the Commission at its regularly scheduled meeting on September 17, 1998. The following Commissioners voted favorably thereon:



Wesley M. Franklin  
Executive Director

RICHARD A. BILAS  
President  
P. GREGORY CONLON  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
Commissioners

**\*SECTION 2. ROUTE DESCRIPTIONS.**

**Route 1: Novato - Larkspur**

Beginning with a service point at Denny's Restaurant (a terminal) in Novato (7330 Redwood Highway), then via the most appropriate streets and highways to service points at the following locations:

- Alvarado Inn, 225 Entrada Drive, Ignacio
- \*- Embassy Suites Hotel, 101 McInnis Parkway, San Rafael
- Clarion Hotel, 1010 Northgate Drive, San Rafael
- San Rafael Transportation Center, San Rafael
- Marin Terminal, 300 Larkspur Landing, Larkspur

**Route 2. Larkspur - SFO**

Beginning with a service point at Marin Terminal in Larkspur (300 Larkspur Landing), then via the most appropriate streets and highways to service points at the following locations:

- Golden Gate Transit stop, Highway 101 and Seminary Drive off-ramp, Mill Valley
- Golden Gate Transit stop, Manzanita Park and Ride Lot, Mill Valley
- Golden Gate Transit stop, Highway 101 and Spencer Avenue, Sausalito
- San Francisco International Airport (SFO)

Issued by California Public Utilities Commission

\*Amended by Resolution TL-18864, Application RRD 502