

Decision 02-08-072 August 22, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the San Francisco Airport's refusal to comply with California Public Utilities Code section 99152 and 164-B and order to show cause why the Airport should not be ordered to complete a system safety program plan prior to commencement of the Airport's operations of its AirTrain transportation system.

Investigation 02-07-014
(Filed July 17, 2002)

INTERIM OPINION

1. Summary

This Order confirms that San Francisco International Airport (SFO) has agreed to an interim System Safety Program Plan (SSPP) that will be implemented under auspices of the Commission for SFO's AirTrain people-mover system. AirTrain operations will commence in compliance with a stipulation between the parties. A show-cause order issued to SFO on July 17, 2002, is rescinded. This Investigation will remain open pending resolution of jurisdictional arguments raised by the airport.

2. Background

The Commission on July 17, 2002, instituted this investigation and order to show cause into why the airport should not be ordered to complete a system safety program under Commission auspices prior to the start of operations of the AirTrain system. The AirTrain is an above-ground, automated system

comprised of unmanned rubber-tired trolleys that will operate within a concrete guideway to serve terminals, parking areas and other points within the airport. It will replace a shuttle bus system that now carries passengers within the airport premises.

The show-cause order required SFO to present evidence and argument on July 29, 2002, in support of the airport's contention that the Commission lacks jurisdiction to conduct safety inspection and approval of the AirTrain system. Commission staff asserts jurisdiction pursuant to Pub. Util. Code § 99152.

The parties on July 24, 2002, requested a stay of hearing pending settlement discussions. Hearing was stayed until August 7, 2002. At hearing, the parties presented a stipulation by which SFO agreed to be bound by an SSPP to be supervised by the Commission's rail transit safety staff. This would permit the start of AirTrain service once the system has met applicable SSPP safety requirements.

The stipulation is without prejudice to the airport's jurisdictional argument. The parties recommend that this Investigation remain open pending resolution of the jurisdictional question. Briefs on the jurisdictional question are to be filed beginning September 18, 2002.

3. Discussion

We commend the parties for reaching agreement on a plan that permits the start of this innovative people-mover system at SFO with full safety review by the Commission's rail engineering staff. The airport's jurisdictional argument is important, but no party wanted to see the start of AirTrain service delayed while the jurisdictional question was briefed and decided.

The stipulation reached by the parties permits the Commission to work with the airport in ensuring that the new people-mover system complies with industry safety standards. The airport will benefit from the considerable

experience of our transit engineers, and the parties will have time to thoroughly brief the jurisdictional question.

Accordingly, we approve the stipulation of the parties and we find that the SSPP meets the requirements of General Order 164-B. This Order Instituting Investigation remains open to consider jurisdictional arguments raised by the airport.

Pursuant to Pub. Util. Code § 311(g), the parties have agreed to waive the 30-day period for comments on this decision.

Findings of Fact

1. This Investigation and order to show cause were issued by the Commission on July 17, 2002.
2. The parties on July 24, 2002, requested a stay of hearing pending settlement discussions.
3. At hearing on August 7, 2002, the parties presented a stipulation and SSPP for Commission approval.
4. Pursuant to the stipulation, SFO will notify the rail transit safety staff that requirements of the stipulation have been met before implementing SFO's AirTrain operation.
5. This investigation will remain open to deal with SFO's argument that the Commission lacks jurisdiction to oversee safety aspects of the AirTrain operation.

Conclusions of Law

1. The stipulation and SSPP proffered by the parties should be approved.
2. In view of the stipulation and SSPP, the order to show cause should be rescinded.
3. This Investigation should remain open to resolve the jurisdictional argument raised by SFO.

INTERIM ORDER

IT IS ORDERED that:

1. The stipulation by the parties and the System Safety Program Plan (SSPP) offered by the parties are approved.

2. Prior to commencement of the AirTrain people-mover system at San Francisco International Airport (SFO), SFO shall have complied with the stipulation.

3. Prior to passenger operations of the AirTrain, SFO agrees that safety rules will be in place for all safety-sensitive personnel and that each such safety-sensitive employee shall be provided with a rule book and receive training with respect to the contents of the rule book.

4. The order to show cause dated July 17, 2002, is rescinded.

5. Briefs on the jurisdictional question will be filed beginning September 18, 2002.

6. This Order Instituting Investigation shall remain open pending resolution of jurisdictional issues raised by SFO.

This order is effective today.

Dated August 22, 2002, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners

I abstain.

/s/ MICHAEL R. PEEVEY
Commissioner