

ORIGINAL

Decision No. 71490

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of D. W. MERCER,
doing business as MERCER ENTER-
PRISES, for a certificate of
public convenience and
necessity as an air carrier.

Application No. 48157
(Filed December 28, 1965)

Charles H. Older, for applicant.
R. W. Russell, by K. D. Walpert, for City of
Los Angeles, interested party.
E. C. Crawford and George L. Hunt, for the
Commission staff.

O P I N I O N

By this application, as amended, D. W. Mercer seeks a certificate of public convenience and necessity as a passenger air carrier between Burbank, Long Beach and Brown Field (County of San Diego).

Public hearing was held before Examiner Gravelle at Los Angeles on August 9, 1966.

Applicant commenced providing the service for which he here seeks a certificate in April 1964, with scheduled flights between Burbank-Los Angeles International Airport and Brown Field. Such service was provided until March of 1966 when the terminal building he was utilizing at Los Angeles International Airport was razed. He then shifted from Los Angeles International to Long Beach and amended his application accordingly.

Applicant's service is scheduled and is offered on Saturday and Sunday only in Douglas DC-3 aircraft of which he owns five. He also owns two Douglas DC-4 aircraft and one Douglas DC-2.

In addition to the operations which are the subject of this application, D. W. Mercer is engaged in charter work on both an intrastate and interstate basis. His commercial aircraft operation commenced some twenty-one years ago and he has been a licensed pilot for forty-three years. Applicant's present fare is \$7.50 per passenger one way, including tax. He proposes to charge the same fare if granted the authorization he here seeks.

Applicant testified that between January 1, 1966, and June, 1966, the scheduled service had transported approximately 2,600 passengers and that this figure was the same general volume carried in like periods in 1965 and 1964. He estimated his load factor at 75 percent and his direct cost of operation at \$250 per round trip.

A balance sheet presented by the Commission staff indicated applicant's over-all net worth to be \$105,159 as of June 30, 1966. He presently carries insurance conforming to the requirements of General Order No. 120-A, but was in the process of increasing the limits of his insurance beyond the minimum set forth in the General Order.

Applicant's DC-3 aircraft have various seating configurations. The three used principally on the route under consideration can carry, respectively, 28, 32 or 38 passengers. Applicant therefore has the ability to select an aircraft on any given flight that will lend itself best to the particular traffic requirements of said flight. He testified that the fare of \$7.50 with his historical traffic and his cost per flight hour allowed a reasonable profit on his scheduled service.

Applicant has established a five-step maintenance program for his aircraft based upon the number of hours flown. Major

maintenance is performed by Potter Aircraft at Burbank and applicant employs eight persons to perform minor maintenance as required under the direction of a licensed mechanic. He has established stringent pilot training requirements. He makes a policy of hiring captains with no less than 5,000 hours' experience and copilots with no less than 1,000 hours' experience.

A Commission staff witness testified at the hearing and made certain recommendations relative to applicant's accounting procedures. They are as follows:

(a) Record passengers carried by type of service;

(b) Record expenses by type of service, namely:

1. Certificated
2. Contract
3. Charter
4. Other;

(c) Record aircraft by type of service. The basis for the above recommendation was to enable applicant and the Commission to accurately determine the cost per mile of the certificated service. Neither applicant nor his counsel expressed any objection to the staff request which appears to be reasonable.

The Commission finds that:

1. D. W. Mercer possesses the business experience in the field of air operations, the financial stability and the requisite insurance coverage to receive a certificate of public convenience and necessity as a passenger air carrier.

2. D. W. Mercer can economically serve the points of Burbank, Long Beach and Brown Field as a passenger air carrier—flying Douglas DC-3 aircraft.

3. Public convenience and necessity require the passenger air carrier service that is being provided by D. W. Mercer.

The Commission concludes that the application of D. W. Mercer for a certificate of public convenience and necessity as a passenger air carrier should be granted.

D. W. Mercer is hereby 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 over a particular route. 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. A certificate of public convenience and necessity is granted to D. W. Mercer, authorizing him to operate as a passenger air carrier as defined in Section 2741 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix A, attached hereto and hereby made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice he will be

required, among other things, to file annual reports of his operations and to comply with and observe the insurance requirements of the Commission's General Order No. 120-A. Failure to file such reports in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 120-A, may result in a cancellation of the operating authority granted by this decision.

- (b) Applicant shall amend or reissue the tariff on file with the Commission, naming rates and rules governing the common carrier operations herein to show carriers shift from Los Angeles International to Long Beach. The tariff 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.
- (c) The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 105-A.

3. D. W. Mercer shall maintain his accounting records in such a fashion that this Commission is able to determine the number of passengers, the expenses and the aircraft utilized in his certificated service, his contract service, his charter service and any or all other air service, respectively.

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

Dated at San Francisco, California, this 1st day of NOVEMBER, 1966.

John E. Mitchell President
George E. Crowe
Frederick B. Holcomb
Augustine
William M. Beard Commissioners

APPENDIX A

D. W. MERCER
(An individual, doing business
as Mercer Enterprises)

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D. W. Mercer, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport passengers by air in either direction in Douglas DC-3 aircraft, flying a minimum schedule of one flight in each direction on Saturdays and Sundays only:

Between Burbank, Long Beach and Brown
Field (San Diego County).

Issued by California Public Utilities Commission.

Decision No. 71490, Application No. 48157.