

ORIGINAL

Decision No. 71871

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Southwest
Airlines for a Certificate of
Public Convenience and Necessity. }

Application No. 48989
(Filed December 1, 1966)

John W. McInnis, for applicant.
D. P. Renda, John W. Simpson, Gordon
Pearce, for Western Air Lines, Inc.,
protestant.
Raymond E. Costello, for Pacific Air
Lines, Inc.; William L. McCracken,
for Western Greyhound Lines; Joseph
E. Coomes, Jr., for City of Sacramento;
John T. Reed, for California Manufacturers
Association; Clyde P. Barnett and
Keiffer G. Parker, for State of California,
California Division of Aeronautics,
interested parties.
Vincent V. MacKenzie, Eric Mohr, Eugene
O. Carmody and Kenji Tomita, for the
Commission staff.

O P I N I O N

By this application Pacific Southwest Airlines seeks a certificate of public convenience and necessity as a passenger air carrier to transport passengers in either direction between Los Angeles and Sacramento.

Public hearings were held before Commissioner Peter E. Mitchell and Examiner Richard D. Gravelle in Sacramento on January 5 and 6, 1967. The matter was submitted on the latter date.

Applicant presently operates pursuant to a certificate of public convenience and necessity granted by Decision No. 71393 issued October 11, 1966 which authorizes passenger air carrier service to the points of San Diego, Los Angeles, Burbank, San Jose, Oakland and San Francisco.

Service is now provided in either Lockheed L-188C Turbo-Prop Electra Aircraft or Boeing 727-14 Jet Aircraft. Applicant is in the process of acquiring Boeing 727-100 Aircraft, Douglass DC-9-30 Aircraft, Boeing 727-200 Aircraft and Boeing 737-200 Aircraft, all of which will be utilized in its operations as the older aircraft are retired from service.

Applicant maintains on file with the Commission liability insurance as required by General Order No. 120-A.

Exhibit No. 9 is a balance sheet of applicant dated September 30, 1966 and comparative figures for September 30, 1965. It indicates a total stockholders' equity of \$20,647,649 and total assets of \$52,531,678.

Exhibits Nos. 5 and 6 were offered by applicant to show that it could economically provide the service it proposed. Based upon a survey made by its own personnel applicant determined that 8% of its total San Francisco - Oakland traffic originated or was destined for the area in and around Sacramento and that said traffic amounting to some 13,000 persons per month would be sufficient to support all operating expenses and allow a profit flying four round trips daily in Electra equipment at a fare of \$13.33 one-way. That amount of traffic would not cover all operating costs of mixed pure jet and Electra service of up to six daily round trips at a fare of \$15.24 one-way for pure jet service but the sponsoring witness indicated that the exhibit did not provide for normal growth of the traffic which for applicant has been about 15% to 20% annually.

The Director of Airports for Sacramento County testified that the population surrounding the Sacramento service area was about 850,000 and he anticipated air traffic growth in excess of 30% in

the first year of operation. Applicant's experience at both Oakland and San Jose which have recently been added to its system, showed rapid growth in patronage after the institution of service; the same result is anticipated at Sacramento.

Sacramento - Los Angeles service is currently provided by Western Air Lines, Inc. and by United Air Lines. Each of said carriers has, after the filing of the instant application, filed with this Commission tariffs which lower the fares for their service between Sacramento and Los Angeles to the level proposed by applicant. These reduced fares will become effective on February 4, 1967. Current service consists of eight round trips daily. Applicant would add four more daily round trips and add frequency of service as traffic demands. It anticipates, after three months of operation, an increase in its schedules to five daily round trips Monday through Thursday, six round trips on Friday and Sunday and retention of the four trips on Saturday. Specific schedules were not offered but applicant's president testified they would be spaced conveniently throughout the day.

A number of persons testified in support of the application. Several were legislators from Southern California who have in the past experienced great difficulty in securing satisfactory air transportation between Sacramento and Los Angeles and who have been required to travel between Sacramento and Oakland or San Francisco in order to secure such service. The application was supported by direct testimony, resolutions or letters by such entities as the City of Sacramento, County of Sacramento, County of San Diego, City of San Diego, West Sacramento District Chamber of Commerce, City of Burbank, California State Employees Association, Sacramento Convention Bureau, Sacramento City-County Chamber of Commerce,

City of Buena Park, The Public Health League of California, Assembly Committee on Transportation and Commerce and the California Medical Association. Additionally many business organizations and private citizens took the time and made the effort to express in writing to the Commission their support of the application.

The only protest which was made was that of Western Air Lines, Inc. Said protestant cross-examined applicant's operating witness but offered no affirmative evidence and made no statement in support of its protest.

Applicant's attorney requested that applicant be granted one certificate of public convenience and necessity which would incorporate therein all its operating authority, that it be authorized to utilize its soon to be acquired aircraft throughout its system and that it either receive its permanent certificate expeditiously or be granted a certificate on a temporary basis in order that it could commence service by February 4, 1967, the date on which the lowered fares of Western Air Lines, Inc. and United Air Lines become effective. Applicant is concerned with its competitive position in the market and fears it might lose some of its historical passengers upon whom it is counting for support. The order herein should allow applicant to commence service without suffering from any competitive disadvantage.

The Commission finds that:

1. Pacific Southwest Airlines 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 as a passenger air carrier.

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2. Pacific Southwest Airlines can economically serve the Sacramento - Los Angeles route as a passenger air carrier operating a minimum of four round trips daily with Lockheed Electra aircraft at a fare of \$13.33 plus tax, one-way, or Boeing 727, Boeing 737 or Douglass DC-9 aircraft at a fare of \$15.24 plus tax, one way.

3. There presently exists a need for the passenger air carrier service proposed by Pacific Southwest Airlines between Sacramento and Los Angeles.

4. Public convenience and necessity require the granting of a certificate of public convenience and necessity as a passenger air carrier serving the Sacramento - Los Angeles route to Pacific Southwest Airlines.

Based upon the foregoing findings of fact the Commission concludes that the application of Pacific Southwest Airlines for a certificate of public convenience and necessity between Sacramento and Los Angeles should be granted.

Pacific Southwest Airlines 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 Pacific Southwest Airlines, authorizing it to operate as a passenger air carrier as defined in Section 2741 of the Public Utilities Code, as 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 regulation:

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 that it will be required, among other things, to file annual reports of its 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.

3. Within one hundred and twenty days after the effective date hereof, applicant shall amend its tariff and timetables to reflect the authority herein granted. Such 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 shall comply with the regulations governing the construction and filing of tariffs in the Commission's General Order No. 105-A.

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4. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 71393, which certificate shall be revoked effective concurrently with the effective date of the tariff filings required by ordering paragraph 2 hereof.

The effective date of this decision shall be ten days after the date hereof.

Dated at San Francisco, California, this 17th
day of JANUARY 1967.

Robert E. Mitchell
President

Lawyer

William B. Bernard

Commissioners

HJH

Appendix A

PACIFIC SOUTHWEST AIRLINES
(a corporation)

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Pacific Southwest Airlines, 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 Lockheed Electra, Boeing 727, Boeing 737 or Douglass DC-9 aircraft:

1. Between San Diego and Los Angeles, Burbank, San Francisco and Oakland.
2. Between Los Angeles and San Francisco and Oakland.
3. Between Burbank and San Francisco.
4. Between Los Angeles and San Jose.
5. Between Los Angeles and Sacramento.

Issued by California Public Utilities Commission.

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