

ORIGINAL

Decision No. 73119

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of CABLE FLYING SERVICE, INC., a)
Corporation doing business as)
CABLE COMMUTER AIRLINES, for a)
Certificate of Public Convenience)
and Necessity to establish,)
maintain, and operate a passenger)
and freight airline service.)

Application No. 49481
(Filed June 16, 1967)

- Roderick L. Dungan, for applicant.
- Stephen J. Slade, for Los Angeles Airway, Inc., protestant.
- R. E. Costello, for Pacific Air Lines, Inc.;
- Robert R. Denison, for El Monte Airport and Los Angeles County Aviation Division;
- Clyde P. Barnett, for Department of Public Works, Division of Aeronautics, interested parties.
- Robert W. Hannam and Ed Crawford, for the Commission staff.

O P I N I O N

By this application Cable Flying Service, Inc., seeks a certificate of public convenience and necessity as a passenger air carrier over two routes. The first is between San Bernardino and Los Angeles International Airport, with a stop at Ontario International Airport and flag stop privilege at Cable Airport (Upland) and El Monte Airport. The second is between Los Angeles International Airport and Inyokern Airport, with a flag stop privilege at either Fox Field (Lancaster) or Palmdale Air Force Plant No. 42 (Palmdale).

Public hearing was held before Examiner Gravelle at Pomona on July 18, 19 and 20, 1967.

Applicant is presently engaged in air operations in a variety of fields including flight school, chartered air taxi work,

aircraft rental and scheduled airline operation on a contract basis with the Department of Defense. This latter service is provided between Los Angeles International Airport and Inyokern, one of the routes that applicant seeks here.

Applicant commenced business in 1961 under the proprietorship of Roger B. Cable and became incorporated in 1963. Mr. Cable is its president and at present its sole shareholder. William E. Myers, president of Myers Research Corporation, was at the time of hearing awaiting authorization from the Corporation Commission to purchase stock in applicant. It is contemplated that when said authorization is granted Mr. Cable and Mr. Myers would each own 50 percent of applicant's stock. Both Mr. Cable and Mr. Myers testified at the hearings, the testimony of Mr. Cable being directed toward applicant's operation and history, while that of Mr. Myers was directed toward the potential and projected markets and the financing of the common carrier operations.

Some twenty-one witnesses testified in support of the application and as to the need for the type of service contemplated by applicant. They included public officials and representatives of business and industry in the areas of proposed service. In addition, a number of resolutions from various cities and chambers of commerce favoring the proposed service were appended to the application.

While applicant is a corporate entity, it is closely involved with certain individuals comprising the Cable family. Testimony was adduced from Dewey Cable, the father of Roger B. Cable, and from Walter David Cable, Roger Cable's brother. Dewey Cable became involved in the aviation industry in 1938 and has continued in that field to the present. He is Chairman of the

Board of Directors of applicant. Walter Cable is President of Foothill Aircraft Sales and Service, Inc., the firm with which applicant has contracted to provide maintenance work on its aircraft and from which some of its aircraft have been purchased. Applicant's home base is located at Cable Airport, which is owned jointly by the children of Dewey Cable and managed by a third son, Paul Cable. The Cable family unit is firmly ensconced in the San Gabriel Valley and the testimony of several witnesses indicates that it enjoys a good business reputation among those who have dealt with its members.

Applicant presently has available for the proposed service two twin Beechcraft D-18 aircraft capable of carrying nine passengers with a two-man crew. Additionally, it has available a Beechcraft Twin Bonanza C-50 aircraft capable of carrying five passengers and a two-man crew; a Piper Aztec PA23, four-passenger and two-man crew; an aerocommander AC-500 five-passenger and two-man crew; and a Cessna 337 four-passenger and two-man crew for backup service as required. It owns or leases other aircraft, all single engine, which it could also utilize in the proposed service. All of the aircraft owned or leased by applicant are under 12,500 pounds gross weight and it does not now contemplate providing service in any equipment above that gross weight.

Exhibits Nos. 2 through 8 are copies of various documents issued by the Federal Aviation Agency authorizing operation by applicant.

Applicant presently has on file with the Commission a certificate of insurance in compliance with General Order No. 120-A. The contemplated operation is to be conducted in aircraft having both a pilot and co-pilot and no additional equipment or personnel is required by applicant to institute said service.

The proposed flights between Los Angeles International Airport (LAX) and Inyokern are to be on a two a day basis Monday through Friday, and one a day on Sunday. The contemplated one-way fares are \$19.50 plus tax per passenger between Inyokern and LAX, and \$10.00 plus tax per passenger between either Lancaster, Palmdale and LAX or Inyokern. Flights between San Bernardino and LAX are to be on a two a day basis, Monday and Friday, with two flights a day between Ontario and LAX Monday through Friday and one flight on Sunday. The contemplated one-way fares are \$15.00 plus tax between San Bernardino and LAX, \$10.00 plus tax between Ontario and LAX, between Cable Airport and LAX, El Monte and LAX or El Monte and San Bernardino. Between Ontario and El Monte, Cable Airport and El Monte, San Bernardino and Ontario or San Bernardino and Cable Airport the fare will be \$5.00.

The projections of passenger traffic and financial operations were prepared by Mr. Myers. His testimony indicated that these projections were prepared on a most conservative basis in order to ensure that applicant would be able to continue providing the service once it was initiated. For instance, applicant is now carrying 250 monthly passengers between Inyokern and LAX pursuant to its contractual obligation. The first year projection for that route shows a total of 375 passengers per month including the existing 250 passengers. On a systemwide basis the first year projection shows a 20 percent load factor the first month of operation, growing to a 40 percent load factor in the twelfth month, each figure including the passengers carried pursuant to contract.

The areas of operation proposed by applicant are encompassed in a fast growing general locality. The Pomona Valley, San Bernardino and Palmdale areas have all experienced, since 1960,

substantial residential and industrial growth. This growth has been projected by reliable sources into the coming decades at an even greater rate. Such growth, when coupled with the need for a commuter type of service between outlying areas and larger airport complexes, such as the LAX system, and the continuing penetration of airline operation into the total transportation scheme should ensure the success of an operation such as that proposed by applicant provided good service, in proper equipment and at a reasonable price, is offered to the public. Exhibit No. 16 is a letter addressed to the Commission signed by Roger B. Cable and William E. Myers. It constitutes a guarantee by said individuals, as shareholders of applicant, to provide the proposed service for a one year period and was expressly characterized by Mr. Myers as a waiver of the provision of Section 2763 of the Public Utilities Code which permits discontinuance of unprofitable operation on 30 days' notice to the Commission. Roger B. Cable and William E. Myers have undertaken to provide additional capital to applicant in the form of some \$59,000 of capital stock and \$60,000 of debt financing by way of guarantees to the corporation. A financial examiner employed by the Commission checked applicant's books and submitted Exhibits Nos. 22, 23 and 24 based upon data taken from said books. Exhibit No. 22 is a comparative balance sheet which modified applicant's balance sheet by eliminating a \$50,000 item for goodwill and stating aircraft owned at book cost rather than market value. It shows a deficit net worth at June 30, 1967 of \$41,589. Exhibit No. 23 is an operating statement for the fiscal year ending June 30, 1967 for applicant and reflects a net operating loss of \$2,948. This witness and the staff representative from the Commission's Finance and Accounts Division made several recommendations. Among them were

that the Commission issue a temporary certificate of public convenience and necessity to applicant, renewable on an annual basis until such time as applicant's passenger air carrier operation became profitable, that monthly operating statements be submitted to the Commission, together with quarterly financial statements, and that applicant's statements should appropriately separate its common carrier operations from its other services and reflect costs by type of aircraft and by route. Applicant expressed no objection to any of the staff recommendations. The staff representative pointed out that while the Public Utilities Code does not expressly authorize the granting of such a temporary and renewable certificate neither does it preclude such action by the Commission; furthermore, Section 2754 does provide that: "The commission may attach to the exercise of the rights granted by the certificate such terms and conditions as, in its judgment, the public convenience and necessity require." See also Section 2755.

The reason expressed for the staff recommendations was that the Commission's experience to date had shown other commuter operations to be uneconomical and here applicant's financial ability to undertake and carry on its proposed operation should be carefully scrutinized.

Section 2759 of the Public Utilities Code provides in part: "For any other good cause, the commission may at any time upon notice to the holder of any certificate and opportunity to be heard, suspend, revoke, alter, or amend any such certificate." The foregoing provision gives us adequate authority over a certificate holder without expressly making such a certificate effective temporarily or annually renewable, provided we are adequately apprised of the certificate holder's condition, operations

and status. This is not to say that the Commission is without authority to issue a temporary or renewable certificate; however, here, by adopting certain of the staff recommendations with respect to applicant's reporting its condition to the Commission coupled with the authority of Section 2759, we can properly protect the public interest.

Protestant Los Angeles Airway, Inc., which is now providing helicopter service from San Bernardino, Riverside and Pomona to LAX, urged denial of any certificate to applicant and requested that if a certificate is issued that it be limited to temporary authority. There is little doubt that applicant's proposed service will compete with Los Angeles Airway, Inc. (LAA), to some extent; however, it is also true that they are presently in competition. Applicant in the fiscal year 1966-1967 flew some 600 passengers on 400 charter flights between Pomona Valley and LAX. Several witnesses testified that some potential aircraft passengers, for reasons of their own, will simply not fly aboard other than fixed wing aircraft. LAA, as well as other air carriers, suffers from peak load problems in which it is at certain periods of the day, week or year unable to accommodate all the persons who desire its service. Certification of applicant, while it will present some competition to LAA, may, because of the nature of the area and the type of service offered, prove beneficial rather than detrimental to LAA.

Findings

1. Cable Flying Service, Inc., possesses the business experience in the field of air operations and the requisite insurance coverage to receive a certificate of public convenience and necessity.

2. The present and prospective financial stability of Cable Flying Service, Inc., does not preclude the granting to it of a certificate of public convenience and necessity.

3. Cable Flying Service, Inc., can economically give adequate service to the points of San Bernardino, Ontario, Inyokern and Los Angeles International Airport as a passenger air carrier, flying multi-engine aircraft having a gross weight under 12,500 pounds, at the fares set forth in Exhibit "G", attached to the application and in ordering paragraph No. 2 herein, with a minimum schedule of one flight daily in each direction over each of the proposed routes.

4. There presently exists a public need for the passenger air carrier service proposed by Cable Flying Service, Inc.

5. Los Angeles Airway, Inc., is an interstate air carrier under the economic regulation of the Civil Aeronautics Board. Its area of service encompasses certain of the points here sought by Cable Flying Service, Inc.

6. The services provided by Los Angeles Airway, Inc., and proposed by Cable Flying Service, Inc., while competitive as to specific points, are distinguishable as to the type of aircraft each utilizes.

7. The certificate granted to Cable Flying Service, Inc., should be conditioned to provide that Cable Flying Service, Inc., will report periodically to the Commission on the conduct of its common carrier operations and that its books shall be kept in a manner to separate its common carrier operations by type of aircraft and by route from the other services it provides.

Based upon the foregoing findings of fact the Commission concludes that a certificate of public convenience and necessity should be granted to Cable Flying Service, Inc.

Cable Flying Service, Inc., 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 Cable Flying Service, Inc., 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. Cable Flying Service, Inc., is hereby authorized to establish one-way fares per person, plus tax as follows:

<u>Between</u>	<u>Fare</u>
Ontario - Los Angeles	\$ 10.00
Ontario - El Monte	5.00
Cable - Los Angeles	10.00
Cable - El Monte	5.00
San Bernardino - Los Angeles	15.00
San Bernardino - Ontario	5.00
San Bernardino - Cable	5.00
El Monte - Los Angeles	10.00
El Monte - San Bernardino	10.00
Inyokern - Los Angeles	19.50
Lancaster/Palmdale - Los Angeles	10.00
Inyokern - Lancaster/Palmdale	10.00

3. 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 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.
- (b) Within one hundred and twenty days after the effective date hereof, applicant shall establish the service herein authorized 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 service herein authorized.
- (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-A.

4. The authority hereby granted is conditioned upon:

- (a) Cable Flying Service, Inc., maintaining its books of account and records on a basis that will indicate separately its common carrier operations both as to revenue and cost, by type of aircraft utilized and route flown.

- (b) Cable Flying Service, Inc., setting up on its books of account a reserve for doubtful accounts.
- (c) Cable Flying Service, Inc., submitting monthly to the Commission, an operating statement reflecting its common carrier operations to be submitted on or before the fifteenth day of each month for the preceding month and submitting quarterly a balance sheet and profit and loss statement for the preceding quarter to be submitted on or before the fifteenth day of the month following the end of said quarter.

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

Dated at San Francisco, California, this 26th day of SEPTEMBER, 1967.

[Signature]
President

[Signature]

[Signature]
[Signature]
Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

Cable Flying Service, Inc., 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 multi-engine aircraft employing both a pilot and co-pilot and having a minimum passenger seating capacity of five passengers, having a gross weight under 12,500 pounds, flying a minimum of one flight in each direction daily except Saturday:

1. Between San Bernardino (including either Norton Air Force Base Airport or Rialto Municipal Airport as an alternate if available), Ontario International Airport, on the one hand, and Los Angeles International Airport, on the other hand, with flag stop privileges at Cable Airport and El Monte Airport.
2. Between Los Angeles International Airport, on the one hand, and Inyokern Airport, on the other hand, with flag stop privileges at either Fox Field or Palmdale Air Force Plant No. 42.

Issued by California Public Utilities Commission.

Decision No. 73119, Application No. 49481.