

ORIGINALDecision No. 73472

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of SKYMARK AIRLINES, INC., a
California corporation, for a
certificate of public convenience
and necessity to establish, main-
tain and operate passenger and
cargo airline service.

Application No. 49643
(Filed August 29, 1967)

James F. Thatcher, for applicant.
R. E. Costello, for Pacific Air Lines, Inc.,
protestant.
Perry H. Taft, for the City of Fresno,
California; Clyde P. Barnett, for California
Aeronautics Board; B. C. Rhyme, for Western
Greyhound Lines, Inc.; interested parties.
Richard D. Gravelle, Counsel, Kenji Tomita,
Charles Astrue and R. W. Hannam, for the
Commission staff.

O P I N I O N

By this application Skymark Airlines, Inc. seeks a certificate of public convenience and necessity as a passenger air carrier between (a) Sacramento-Fresno-Bakersfield, (b) Sacramento-San Jose-Monterey, (c) Sacramento-Oakland, (d) Sacramento-Lake Tahoe, and (e) Bakersfield-Fresno-Lake Tahoe.

Public hearing was held before Examiner Porter at San Francisco on October 19 and 20, 1967.

Applicant has options to purchase and proposes to fly on said routes three deHavilland DHC6 Twin Otter propjet aircraft, each seating 19 passengers with pilot and copilot.

Applicant will provide ample insurance coverage pursuant to General Order No. 120-A adopted October 22, 1964, effective January 1, 1965.

Applicant presented resolutions, letters and testimony from chambers of commerce; boards of supervisors; and State assemblymen as to the need for the service and in support of the proposed application.

Evidence was presented as to the need for air transportation by cities and areas relatively close in distance. The type of aircraft proposed to be used by applicant is described as STOL (short take-off and landing). This characteristic allows these aircraft to utilize airports of smaller size than those necessary for conventional aircraft.

The evidence shows that the members of the Board of Directors and key officers of Skymark Airlines, Inc. are qualified in the field of air operations.

It is proposed to finance applicant by a stock issue in the aggregate initial sum of \$100,000 to provide funds necessary for a portion of the preoperating costs and expenses; the issue at present is to be sold to the Board of Directors and key officials. The company further plans to sell sufficient additional shares to raise approximately \$500,000 prior to the initiation of scheduled operations. Proceeds of this issue will be used to provide working capital and to insure meeting rental obligations on leased aircraft.

A financial expert testified that even with a load factor of 30 percent to 35 percent Skymark Airlines, Inc. could operate for two years with the proposed capital structure.

The proposed number of flights and fares are set forth below.

	Number of Round Trip Flights Monday through Friday (per day)	Number of Round Trip Flights Saturday and Sunday	Proposed Fares
Sacramento-Fresno	3	-	\$16.77
Sacramento-San Jose	3	2	8.76
Sacramento-Oakland	4	2	7.07
Sacramento-Lake Tahoe	1	2	9.07
Sacramento-Bakersfield	3	-	27.54
Sacramento-Monterey	3	2	14.35
Lake Tahoe-Fresno	-	1	15.51
Lake Tahoe-Bakersfield	-	1	26.27
San Jose-Monterey	3	2	5.59
Fresno-Bakersfield	3	1	10.76

Note (1) Fares shown are lowest regular one way and exclude taxes.

Note (2) Applicant proposed a commuter book at a 10 percent reduction.

Pacific Air Lines, Inc. protested the application, alleging that Skymark Airlines, Inc. would have a diversionary effect upon the traffic that otherwise would be available to Pacific, but offered no affirmative evidence.

Findings

1. Skymark Airlines, Inc. possesses the requisite experience in the field of air operations and the financial resources to render the proposed service.

2. Skymark Airlines, Inc. can economically give adequate service to the points sought in the application, as a passenger air carrier flying multi-engine aircraft having a gross weight under 12,500 pounds at the fares and schedule set forth in the application and this opinion.

3. There presently exists a public need for and the public convenience and necessity require the proposed service.

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

Skymark Airlines, 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 Skymark Airlines, 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. Skymark Airlines, Inc. is hereby authorized to establish one-way fares per person plus tax, as follows:

Sacramento-Fresno	\$ 16.77
Sacramento-San Jose	8.76
Sacramento-Oakland	7.07
Sacramento-Lake Tahoe	9.07
Sacramento-Bakersfield	27.54
Sacramento-Monterey	14.35
Lake Tahoe-Fresno	15.51
Lake Tahoe-Bakersfield	26.27
San Jose-Monterey	5.59
Fresno-Bakersfield	10.76

3. Skymark Airlines, Inc. is authorized to establish a commute fare ten percent lower than the one-way fare per person plus tax.

4. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure to do so may result in a cancellation of the operating authority granted by this decision.

- (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.
- (b) Within one hundred and twenty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs and timetables, in triplicate, in the Commission's office.
- (c) The tariff and timetable 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 and timetable 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.

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

Dated at San Francisco, California, this 12th day of DECEMBER, 1967.

John E. Apple
President

William C. Bennett

Augustus

William J. Sproule

Paul P. Morrison
Commissioners

Skymark Airlines, 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 copilot and having a minimum passenger seating capacity of 19 passengers, having a gross weight under 12,500 pounds, flying a minimum of flights as set forth in this opinion, between the following points:

1. Sacramento-Fresno-Bakersfield.
2. Sacramento-San Jose-Monterey.
3. Sacramento-Oakland.
4. Sacramento-Lake Tahoe.
5. Bakersfield-Fresno-Lake Tahoe.

Issued by California Public Utilities Commission.

Decision No. 73472, Application No. 49643.