

ORIGINALDecision No. 75188

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC SOUTHWEST AIRLINES for a certificate of public convenience and necessity, in either direction, between San Diego, Long Beach, Long Beach, San Jose/San Francisco/Oakland and San Diego to Sacramento via Long Beach and San Francisco.

Application No. 50261

In the Matter of the Application of AIR CALIFORNIA for a certificate of public convenience and necessity to provide passenger air service between Long Beach, on the one hand, and San Jose and Oakland, on the other hand.

Application No. 50381

In the Matter of the Application of PACIFIC AIR TRANSPORT, INC., for a certificate of public convenience and necessity to provide passenger air service between Long Beach, San Jose, Oakland and San Francisco.

Application No. 50438

ORDER DENYING PETITION TO CONTINUE
TEMPORARY CERTIFICATE UNTIL DECISION,
OR, TO SUCH A DATE AS SET BY THE
COMMISSION

In Application No. 50261 Pacific Southwest Airlines (PSA) seeks authority to conduct air passenger service between San Diego and Long Beach, on the one hand; and San Francisco, Oakland, San Jose and Sacramento, on the other hand. PSA also seeks authority to operate between San Francisco and Sacramento on a turn-around basis.

In Application No. 50381 Air California seeks authority to operate from San Diego and Long Beach to Oakland and San Jose, and between San Diego and Oakland-San Jose on a non-stop basis.

In Application No. 50438 Pacific Air Transport (PAT) seeks authority to operate from Long Beach to San Francisco, Oakland and San Jose.

The three applications were consolidated because they involved the same primary route and because each applicant protested the applications of the other two parties. Western Airlines (Western) filed a protest to each application. In addition Air West filed a protest to PSA's request to operate between the Bay Area and Sacramento. Thirteen days of hearing were conducted before Examiner Foley between September 30 and October 22, 1968. The matter is now under submission subject to filing briefs on or before January 15, 1969.

At the close of the hearing PSA petitioned for a temporary certificate to commence operations within 30 days on all the route segments requested in its application. Answers opposing this petition were filed by Air California and Western. By letter dated October 30, 1968 PAT also objected to PSA's petition. The City of Long Beach filed an answer in support of PSA's request.

The Commission, in Decision No. 75015, dated November 26, 1968, denied PSA's request for an indefinite temporary certificate pending final resolution of the proceeding, but it granted to each applicant a temporary certificate to operate between San Diego and Long Beach to the Bay Area for 25 days, from December 15, 1968 through January 10, 1969, in order to alleviate airport congestion during the holiday rush period. PSA accepted this temporary certificate and commenced air passenger service between the above points on December 16, 1968, operating five flights a day between Long Beach and San Francisco.

PSA now requests that this temporary certificate for the holiday period be extended until a final decision is issued

in these proceedings or until such a date that the Commission may decide is equitable to PSA.

In support of its petition PSA states that 1,134 of 1,167 passengers surveyed by it on December 20, 21, 22, 23, 27, 28, 29 and 30, 1968 responded that the service from Long Beach was more convenient than using Los Angeles International Airport (LAX) because of the congestion problem. In addition PSA states that there have been no noise complaints to the airport authorities at Long Beach since service was commenced there. PSA requests that the Commission consider the expenditures made by it to establish facilities and hire personnel at Long Beach, and that the Commission take note that the temporary holiday authority ceases on a Friday evening, January 10, 1969, and that this will strand passengers in the Bay Area and prevent them from returning to the Long Beach Airport on Sunday in order to regain their automobiles or other transportation that brought them to the Long Beach Airport on Friday or earlier.

On January 6, 1969 Air California filed a protest to PSA's petition alleging that the petition failed to state the load factors or passenger totals carried by PSA during the holiday period. Air California asserts that these load factors are so low that they demonstrate an indefinite temporary authority by one applicant is not required before the Commission makes a final determination. Air California further asserts that the petition fails to show that any PSA flights from LAX have been canceled by reason of the Long Beach holiday service and that Air California is suffering some diversion from its Orange County operations by reason of PSA's operations from Long Beach. By telegram Western Airlines has also filed a protest to the petition.

The Commission concludes that in a comparative application proceeding, such as the one involved herein, PSA's petition must be

denied. It would be unfair to the other applicants for the Commission to permit one of the applicants, perhaps for as long as several months, the great advantage of demonstrated past performance over the route segments as against the promised future performance of the competing applicants. We take note of the fact that both Air California and PSA maintain that the Long Beach to San Francisco/Oakland/San Jose routes justifies only one carrier being certificated. To permit early penetration of a new market or new route segments by one applicant, particularly by the applicant with the strongest financial position and firmest public recognition, might have the result that if the Commission determined that two or more carriers should be certificated the likelihood of any serious competition would be impaired. This consideration is particularly relevant to the Long Beach-San Francisco route, where the competing applicant, Pacific Air Transport, is seeking its first certificate from the Commission and is completely unknown to the public. And in the event that the Commission concluded PSA should not be permanently certificated over the routes, the public interest would be harmed by the inevitable disruption in service which would be caused by the change in carriers.

Moreover, PSA's reasons supporting its petition are not persuasive. While the Commission recognizes that PSA has made expenditures in the public interest by establishing temporary service for the holiday period all applicants were on notice that this authority was limited and valid only until January 10, 1969. The Commission takes note that PSA's petition relates that of the 1,167 passengers surveyed on its Long Beach flights the number of pleasure

passengers (882) was far greater than the number of business passengers (334).¹ Presumably many of these pleasure passengers were traveling as part of the Christmas holiday rush, which by January 10 can reasonably be said to be over. Therefore, any inconvenience or dislocation caused by the expiration of the temporary holiday certificate should not be of major significance.

Finally, the evidence in the record supports the conclusion that except during weekends and holiday periods traffic congestion at LAX is not so serious that indefinite temporary service at Long Beach is required by one of the applicants while the Commission has the matter under submission. This conclusion is supported by the fact that the Federal Aviation Administration has not limited flight operations into and out of LAX as it has done at several airports in the East. Since a situation of extreme urgency does not exist at the present time continuation of PSA's temporary authority is not justified.

After consideration the Commission finds that:

1. The facts relating to airport congestion and the need for indefinite temporary air passenger service over the routes applied for in Application No. 50261 do not require that the temporary certificate granted in Decision No. 75015, dated November 26, 1968, be continued beyond the date provided for in said decision.

2. The public convenience and necessity do not require that the temporary certificate granted to PSA in Decision No. 75015 be continued beyond the holiday period provided for in said decision.

¹ The discrepancy between the total of 1,216 business and pleasure passengers (334 and 882) and the total of 1,167 passengers surveyed by PSA is not explained in the petition.

O R D E R

IT IS ORDERED that:

1. The petition of Pacific Southwest Airlines to continue the temporary certificate granted in Decision No. 75015 is denied.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 9th day of JANUARY, 1969.

William Lyons, Jr.
President

Augustine

Paul P. Morasse

Commissioners