

ORIGINALDecision No. 75239

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of AIR ASTRO TRANSPORTATION,)
 INC., doing business as "ASTRO AIR", a)
 registered corporation incorporated)
 under the laws of the State of Califor-)
 nia, to operate as a common air carrier)
 of passengers and property, under a)
 certificate of public convenience and)
 necessity between the terminal points)
 of Los Angeles International Airport)
 and Lompoc Airport (as Route #1), and)
 between the terminal Lompoc Airport and)
 coterminals San Jose Airport and San)
 Francisco International Airport (as)
 Routes #2A and #2B).

Application No. 50478
 Filed August 9, 1968

Zoltan M. Mihaly, and Steven U. Hazy, for
 applicant.
Michael Bauer, for Director of Planning,
 City of Lompoc; Harry J. Crompe, for
 County Transient Occupancy Tax Com-
 mittee; Roy Fosterling, for himself;
Bill Goforth, for Lompoc Jaycees;
Martha C. Gorman, for Assemblyman
Winfield A. Shoemaker; Robert D.
MacClure, City of Lompoc, for City
 of Lompoc; Ralph Patey, for Lompoc
 Valley Chamber of Commerce; and Paul E.
Price, for Santa Barbara County Public
 Works Department, interested parties.
S. M. Boikan, Counsel, and R. W. Hannam,
 for the Commission staff.

O P I N I O N

Applicant requests a certificate of public convenience and necessity to operate as an air carrier to transport passengers from Lompoc Airport to Los Angeles International Airport direct, and from Lompoc Airport to San Francisco International Airport direct and via San Jose Airport. All passengers to be transported are to originate or terminate at Lompoc. No passengers are to be transported between the other points to be served. Applicant was incorporated to provide the service described. It holds no other operating authority.

Public hearing was held before Examiner Edward G. Fraser in Lompoc on October 15, 1968. The matter was submitted subject to a late-filed exhibit, which has been received. Copies of the application were mailed to Western Greyhound Lines, the Southern Pacific Company and to nine air lines. A protest was filed by a Lompoc resident but he failed to appear at the hearing. A petition to intervene was filed by American Airlines, Inc. of New York after the matter was submitted. It will be dealt with separately since it included a subsequent motion and memorandum opposing the application.

Applicant proposes to provide transportation of passengers, property and mail over the following designated routes:

Route 1 - Lompoc Airport - Los Angeles
International Airport.

Route 2A - Lompoc Airport - San Jose
Airport (direct).

Route 2B - Lompoc Airport - San Francisco
Airport (direct and via San Jose).

Applicant will have three round trips on Route No. 1 each weekday and two round trips on Saturdays, Sundays and legal holidays. The No. 2 routes will be combined at first to serve Lompoc - San Jose and San Francisco on every flight in both directions. Separate flights will be provided in and out of San Jose when the volume of business requires it. The proposed frequency over Route No. 2 will be two round trips each weekday and a minimum of one round trip on every Saturday, Sunday and legal holiday. The fares to be charged are listed below according to category:

1. One-Way Passenger Fares:

LOS ANGELES - LOMPOC	\$ 12.38	Plus Federal Tax
LOMPOC - SAN JOSE	\$ 18.09	Plus Federal Tax
LOMPOC - SAN FRANCISCO	\$ 20.00	Plus Federal Tax

2. Round-Trip Fares: Twice the applicable One-Way Fare

3. Round-Trip Excursion Discount Fares:

Covers Ten Round Trips (Book of Twenty Ticket Coupons)*

LOS ANGELES - LOMPOC	\$199.90	Plus Federal Tax
LOMPOC - SAN JOSE	\$293.00	Plus Federal Tax
LOMPOC - SAN FRANCISCO	\$310.00	Plus Federal Tax

4. General Commodity Air Freight Rates:

LOS ANGELES - LOMPOC	5 cents per pound (\$2.00 minimum)
LOMPOC - SAN JOSE	6 cents per pound (\$2.00 minimum)
LOMPOC - SAN FRANCISCO	6 cents per pound (\$2.00 minimum)

* Effective for one year following date of issue.

The aircraft selected by applicant is the Carstedt Jet Liner 600. It carries a crew of two and 18 passengers at a cruising speed of 285-300 miles an hour, powered by two turbo-prop engines; weighs 9,150 pounds fully loaded and has an operating range of from 500 to 2,700 miles depending on the load carried. It is estimated that two aircraft will be sufficient for an indefinite period, along with a standby aircraft to be used as needed.

The standby aircraft will be a twin engine, Piper Navajo "Commuter" designed for 8 passengers and a crew of one. Its cruising speed is 250 miles an hour and it can continue to fly or land on a single engine. The gross weight of the Navajo is approximately 6,500 pounds. The other characteristics of the Navajo approximate those of the primary aircraft selected by the applicant.

Applicant will establish its main office and storage facilities at the Lompoc airport; heavy maintenance of engines and air-frames will be performed at Los Angeles. The blueprints for the Lompoc terminal have already been approved and construction will start after applicant receives its authority to operate. Applicant has been promised gate and counter space at each of the other airports it will serve, although no contracts have been signed as yet. The Assistant Public Works Director of Santa Barbara County testified that Lompoc airport will provide an adequate and safe operating base for the aircraft the applicant proposes to operate. He testified the airport has a car rental service and adequate parking for 50 or more cars; it has two approved beacons and a medium density runway and taxiway system; it does not have navigational or instrument approach aids, but this equipment can be installed if traffic warrants it. He further testified that Santa Maria airport is 35 miles from the Lompoc airport and is available as an alternate

landing point if Lompoc is foggy or unavailable for some other reason. The witness estimated that about 20 days out of the year are foggy at Lompoc, but the fog does not last long; usually it is worse about 9:00 in the morning or 5:30 to 6:00 in the evening.

One of applicant's directors, a professor in the graduate school of the University of California at Los Angeles, conducted a market survey of passenger air traffic potential in and out of the Lompoc Airport. He testified the minimum potential is 40,000 passengers annually, based on the population of 115,000 living within 35 miles of Lompoc; and Vandenburg Air Base, 10 miles away, which requires daily transportation of incoming and outgoing military personnel and scientists. He and another witness for applicant testified as follows regarding the projected expenditures and income anticipated during the first year of operation.

1. OPERATING REVENUES

PASSENGER REVENUES LOM-LAX (ROUTE #1)	\$ 540,345.00
PASSENGER REVENUES LOM-SJC (ROUTE #2A)	148,800.00
PASSENGER REVENUES LOM-SFO (ROUTE #2B)	207,570.00
TOTAL PASSENGER REVENUES	<u>\$ 895,715.00</u>

2. OPERATING EXPENDITURES

(a) GENERAL GROUND ADMINISTRATIVE	\$ 62,500.00
(b) TRAFFIC & AIRCRAFT HANDLING	183,000.00
(c) FUEL, LUBRICANTS & LOCAL TAXES	63,900.00
(d) MAINTENANCE & OVERHAUL OF AIRCRAFT	126,500.00
(e) OVERHAUL RESERVES ON AIRCRAFT	11,500.00
(f) FLIGHT CREW SALARIES & EXPENSES	114,100.00
(g) FLIGHT & GROUND CREW TRAINING	17,600.00
(h) INSURANCE	31,250.00
(i) PROMOTION, ADVERTISING & SALES	52,000.00
(j) DEPRECIATION & LEASE COSTS OF AIRCRAFT	134,000.00
(k) MAINTENANCE & AMORTIZATION OF GROUND EQUIPMENT	7,800.00
(l) AIRCRAFT LANDING CHARGES, FACILITY RENTALS	27,300.00
(m) PREOPERATING AND DEVELOPMENT COSTS	57,000.00
(n) INTEREST & FINANCE CHARGES	21,000.00
TOTAL OPERATING EXPENDITURES	<u>\$ 919,350.00</u>
NET OPERATING LOSS (1969)	<u>\$ (23,635.00)</u>

(Red Figure)

An officer of the applicant corporation testified that the initial financing will consist of \$420,000 obtained through its directors and initial shareholders paying cash for stock purchased. The witness identified those who are committed to purchase stock. The group consists of the directors of the applicant and several members of their families. The witness further testified that two of the Carstedt aircraft will be required when the applicant starts its operation. He stated they will be leased for seven years at the rate of \$5,500 a month; applicant may lease five additional aircraft if business develops as expected, but only two aircraft are contemplated at present. The leases provide for rental only of the aircraft during the seven-year period. The aircraft will not be purchased by the applicant. The witness stated that the aircraft are being leased since it is the least expensive method of obtaining them. He testified that the standby aircraft will be acquired with the first two Carstedt aircraft, but it is not certain whether the standby will be purchased or leased.

A number of persons testified in support of the application. Included in this group were the president of the Lompoc Valley Chamber of Commerce, the mayor of Lompoc, two local businessmen and a representative from the office of the local State Assemblyman. It was agreed that the population of Lompoc Valley is increasing so rapidly that air passenger service is essential to the area. It was further agreed that the air service provided out of the Santa Maria and Santa Barbara airports is too erratic, has too few flights and is too far away to adequately serve Lompoc Valley.

A petition to intervene was filed on October 16, 1968 by American Airlines, hereinafter called American. A later pleading filed on November 7, 1968 alleges that public interest requires the application be denied by the Commission under Section 2753 of the

Public Utilities Code, on the basis that the public may be deceived by applicant's use of the word "Astro" in its corporate and business name. American's pleading alleges it has the sole and exclusive right (granted by the United States Patent Office) to use the following marks or terms which include the word "Astro"; "Astrojet" since June 1962; "Astrovision" since July 1964; "Astrojet Holidays" since April 1965; "Astrocruiser Holidays" since May 1965; and "Astro-Color" since March 1967. It is suggested that applicant be required to change its name before any operating authority is granted.

The Commission lacks jurisdiction to settle alleged violations of trademarks. There is no evidence in the present record to justify the denial of the application.

The Commission finds that:

1. Air Astro Transportation, Inc., doing business as "Astro Air", 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. Air Astro Transportation, Inc., can economically serve Lompoc to Los Angeles and Lompoc to San Jose and San Francisco as a passenger air carrier.

3. Public convenience and necessity require the granting of a certificate of public convenience and necessity as a passenger air carrier serving Lompoc to Los Angeles, and Lompoc to San Jose and San Francisco.

Based upon the foregoing findings of fact the Commission concludes that:

1. The application of Air Astro Transportation, Inc., for a certificate of public convenience and necessity to operate as a passenger air carrier should be granted.

2. The request of American Airlines, Inc., that the applicant change its name before the application is granted should be denied.

Air Astro Transportation, 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 Air Astro Transportation, 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. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do 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. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required to comply with and observe the insurance requirements of the Commission's General Order No. 120 series.

- b. Within one hundred 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 to 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 Orders Nos. 105-A and 129.

3. The petition and request of American Airlines, Inc., is denied.

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

Dated at San Francisco, California, this 21st day of JANUARY, 1969.

William J. Smyth
President
Arthur
William J. Smyth
William J. Smyth
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

Appendix A AIR ASTRO TRANSPORTATION, INC. Original Page 1

Air Astro Transportation, 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 Carstedt Jet Liner 600, Piper Navajo, or similar aircraft:

1. Between Lompoc and Los Angeles.
2. Between Lompoc and San Jose and San Francisco.

RESTRICTION:

All passengers transported must originate at or be destined to Lompoc.

Issued by California Public Utilities Commission.

Decision No. 75239, Application No. 50478.