

Decision No. 75392

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of AIR CALIFORNIA for a certifi-  
cate 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  
(Filed July 8, 1968)

ORDER DENYING MOTION  
TO SEVER PORTION OF APPLICATION

In Application No. 50381 Air California (Air Cal) 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.

The application was consolidated with Pacific Southwest Airlines (PSA), Application No. 50261, which seeks authority to operate between San Diego, Long Beach and the Bay Area, and with Pacific Air Transport's (PAT) Application No. 50438, which seeks authority to operate between Long Beach and the Bay Area, because all three applications 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. Thirteen days of hearing were conducted before Examiner Foley between September 30 and October 22, 1968. Briefs were filed on January 15, 1969 and the consolidated proceeding is now under submission pending the issuance of a proposed report.

On January 28, 1969 Air Cal filed a motion to sever the portion of its application requesting authority to commence nonstop

service between San Diego (SAN) and Oakland (OAK), and between SAN and San Jose (SJC). This motion is based on the fear that continued activities by the homeowners organization (Long Beach Jet Control Association) in Long Beach, which has protested any increase in airline service there, will delay a final decision by the Commission. Air Cal cites the motions by the City of Long Beach for extensions of time in which to file briefs (these were denied by the Commission) and the recent action by the city to have the Civil Aeronautics Board remove Long Beach Airport (LGB) from hyphenated terminal status with Los Angeles International Airport and Ontario Airport. Since the application to serve SAN-OAK/SJC on a nonstop basis has nothing to do with the issues raised by the Long Beach homeowners, Air Cal seeks severance of this portion of its application so that resolution of it will not be delayed. In this way it hopes for a prompt decision unencumbered by the issues raised in the Long Beach portions of the proceeding.

Both PSA and PAT filed answers in opposition to Air Cal's motion. PSA is a protestant to Air Cal's request to serve SAN-OAK/SJC; PAT is not. They reject the possibility of any undue delay now that the proceeding is submitted. They argue that a uniform record is desirable for purposes of possible appeal and that the evidence on the SAN-OAK/SJC nonstop portion is inextricably mixed with that involving Long Beach. They also point to the fact that PSA's motion to sever the SAN portion of Air Cal's application was resisted by Air Cal and denied by the Examiner at the commencement of the hearing.

After consideration the Commission believes that Air Cal's motion must be denied. The entire proceeding is now submitted and a proposed report is expected momentarily. More important, the record

A. 50381 Mjo

is virtually inseparable in that exhibits cover both portions of the proceeding, Long Beach and San Diego, and each witness testified regarding both at the same time. There is also some relationship between PSA's and Air Cal's request to serve SAN-OAK/SJC with one stop service at LGB and Air Cal's request to provide nonstop service between SAN-OAK/SJC with regard to the question of public need.

Wherefore, IT IS ORDERED that Air California's motion to sever the portion of Application No. 50381 relating to nonstop service between San Diego and Oakland/San Jose is denied.

Dated at San Francisco, California, this 4<sup>th</sup>  
day of MARCH, 1969.

William J. Lyons, Jr.  
President

Thomas J. McGowan  
Donald P. Morrissey  
(M. J. McGowan)

James H. McGowan  
Commissioners