

Decision No. 75558**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of H. L. VAN SICKLE,)
 who proposes to do business under)
 the firm name and style of "BORREGO)
 SPRINGS AIRLINES", for a certificate)
 of public convenience and necessity)
 to operate as a "Passenger Air Car-)
 rier".)

Application No. 49781
 (Filed November 8, 1967;
 Amended June 14, 1968)

Berol, Loughran & Geernaert, by Marshall G.
Berol, for applicant.
Vincent MacKenzie, Counsel, for the Commission
 staff.

O P I N I O N

By this amended application Borrego Springs Airline seeks a certificate of public convenience and necessity as a passenger air carrier between San Diego County Airport, Borrego Springs, on the one hand, and Lindbergh Field, Santa Ana Airport, Los Angeles International Airport, and Palm Springs Airport, on the other hand.

Public hearing was held before Examiner Porter at San Francisco on June 25, 1968.

There was no protest to the application.

At the hearing applicant moved to amend the application so as only to request authority between San Diego County Airport at Borrego Springs and Lindbergh Field in San Diego.

By Decision No. 74589 signed August 20, 1968, temporary authority was granted to applicant to carry passengers using Cessna 402 aircraft between the San Diego County Airport at Borrego Springs and Lindbergh Field in San Diego. Service was instituted in December 1968.

Applicant requests permission to substitute Borrego Springs Airline, a California corporation, as applicant herein.

Borrego Springs Airline is a newly formed corporation. H. L. Van Sickle, one of the incorporators and first directors of applicant, is authorized by the Federal Aviation Agency to operate as an air taxi/commercial operator. Associated with H. L. Van Sickle are several experienced businessmen.

The majority of the financial backers of applicant have financial interests in Borrego Springs, California. Borrego Springs has no common carrier passenger service either by rail, bus or air.

Applicant agrees to provide the insurance and has a certificate of insurance on file as required by this Commission's General Order No. 120-B.

A pro forma balance sheet, dated June 10, 1968, shows total assets in the amount of \$92,000.

Witnesses testified in support of the application and as to the need for the type of service contemplated by applicant. The file in this proceeding also includes correspondence from public officials and representatives of business and industry in the area of proposed service in support of the application.

The applicant also requested that to the extent that this Commission has jurisdiction over the issuance of stock in Borrego Springs Airline an exemption be granted to applicant from such jurisdiction over any issue of stock or other securities.

Findings

1. Borrego Springs Airline, a California corporation, should be substituted for H. L. Van Sickle as applicant in this application.

2. To the extent that this Commission has jurisdiction over the issuance of stock in Borrego Springs Airline, an exemption should be granted to applicant from such jurisdiction over any issue of stock or other securities. (Air California, Application No. 50231, Decision No. 74111.)

3. Borrego Springs Airline possesses the business experience in the field of air operations and the financial stability and will maintain the requisite insurance coverage to receive a certificate of public convenience and necessity.

4. There presently exists a public need for the passenger air carrier service proposed by Borrego Springs Airline.

5. Borrego Springs Airline presently can economically give adequate service to the communities involved while flying the minimum schedules proposed.

Based upon the foregoing findings of fact the Commission concludes that the application should be granted.

Borrego Springs Airline 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 Borrego Springs Airline, 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 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 requirements of the Commission's General Orders Nos. 120-B and 129.
- (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.

3. To the extent this Commission may now have jurisdiction over the issuance of stock or other securities of Borrego Springs Airline, such issuance of stock or other securities is hereby exempt from the provisions of Article 5, Chapter 4, Part 1, Division 1 of the California Public Utilities Code.

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

Dated at San Francisco, California, this 15th day of APRIL, 1969.

William Synovus Jr.
President

Augustus

Richard P. Monsey

(P. H. H. H. H.)

Commissioners

Borrego Springs Airline, 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 between the San Diego County Airport at Borrego Springs and Lindbergh Field in San Diego.

Issued by California Public Utilities Commission.

Decision No. ~~75558~~, Application No. 49781.