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Decision No. 76383

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

San Francisco & Oakland Helicopter
Airline, Inc., a California
corporation,

Complainant,

vs.

Skymark Airlines, Inc.

Defendant.

Case No. 8780
(Filed April 5, 1968)

Air West, Inc. (formerly Pacific
Air Lines, Inc.),

Complainant,

vs.

Skymark Airlines, Inc., a California
corporation,

Defendant.

Case No. 8781
(Filed April 5, 1968
Amended May 21, 1968)

Kenneth C. Nagel, for San Francisco & Oakland
Helicopter Airlines, Inc., complainant in
Case No. 8780; R. Barry Churton and Raymond E.
Costello of Cooper, White and Cooper, for
Air West, Inc., complainant in Case No. 8781.
Robert S. Rutledge and Marshall G. Berol of
Berol, Loughran & Geernaert, for Holiday
Airlines, Inc., intervenor in Cases No. 8780
and No. 8781.
J. F. Thatcher, for Skymark Airlines, Inc.,
defendant in Cases No. 8780 and No. 8781.
Richard D. Gravelle and David R. Larrouy,
Counsel, and Robert W. Hannum, for the
Commission staff.

O P I N I O N

Hearings were held on Cases Nos. 8780 and 8781 herein on
May 6 and August 1, 1968, for the purpose of determining whether
defendant Skymark Airlines, Inc., should be ordered to cease and
desist from any and all passenger air carrier operations not

authorized by its then held certificate of public convenience and necessity. These matters were taken under submission on September 24, 1968, the date of the filing of the last brief.

By Decision No. 75174 issued herein on January 7, 1969, this Commission ordered that submission of Cases Nos. 8780 and 8781 be set aside and these proceedings be reopened for the purpose of receiving evidence pertaining to the interstate air carrier operations of defendant Skymark Airlines, Inc., and for the purpose of giving complainants San Francisco and Oakland Helicopter Air Lines, Inc., and Air West, Inc., and intervenor Holiday Airlines, Inc., the opportunity to show cause why the complaints herein should not be dismissed. Pursuant to this order further hearing on the complaints herein was held before Examiner Cline on March 24, 1969. The matters were taken under submission upon the filing of late filed Exhibit 15 on April 4, 1969.

At the hearing the parties stipulated that Skymark Airlines presently is flying from a point within California, namely North Shore Lake Tahoe, to a point outside of California, namely Reno, Nevada. Exhibit No. 15 is a schedule showing such service by Skymark.

By Decision No. 74770, issued October 1, 1968, in Case No. 8812, Golden West Airlines, Inc. vs. Cable Flying Service, Inc., the Commission found that pursuant to Section 2741^{1/} of the Public

^{1/} "2741. As used in this chapter, 'passenger air carrier' means a person or corporation owning, controlling, operating, or managing aircraft as a common carrier of passengers for compensation wholly within this state, between terminal points including intermediate points if any."

Effective June 4, 1969, this section was amended to read as follows: "2741. As used in this chapter, 'passenger air carrier' means a person or corporation owning, controlling, operating, or managing aircraft as a common carrier of passengers for compensation between points within this state."

Utilities Code the operations of a passenger air carrier are not subject to the provisions of the Passenger Air Carriers' Act (Public Utilities Code Sections 2740-2769.5) so long as the passenger air carrier maintains scheduled out-of-state service.

The Commission will take official notice of the "Adoption and Withdrawal Notice" issued March 27, 1969, effective March 28, 1969, for Skymark Airlines, Inc. Tariff, Cal. P.U.C. No. 1. By this notice Catalina Airlines, Inc. adopted the former tariff of Skymark Airlines, Inc. and Skymark Airlines, Inc., withdrew from offering service to the public. In view of this notice to the Commission of Skymark Airlines' discontinuance of passenger service between points within California, by Decision No. 75903 issued July 8, 1969 in Application No. 49643 (Order to Show Cause) the Commission revoked the certificate of public convenience and necessity issued to Skymark Airlines, Inc., by Decision No. 73472. The Commission also takes official notice of said Decision No. 75903.

Based upon the record herein the Commission finds as follows:

1. Skymark Airlines, Inc., has notified the Commission of its discontinuance of passenger air service between points within California by filing a notice on March 27, 1969 of withdrawing its Tariff, Cal. P.U.C. No. 1, effective March 28, 1969.

2. Based upon such notice this Commission by Decision No. 75903 has revoked the certificate of public convenience and necessity issued to Skymark Airlines, Inc., by Decision No. 73472.

3. The issues raised by the complaints herein are moot.

The Commission concludes that the complaints herein Cases No. 8780 and No. 8781, should be dismissed without prejudice.

C. 8780, 8781 hjh

O R D E R

IT IS ORDERED that the complaints in Case No. 8780 and Case No. 8781 are dismissed without prejudice.

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

Dated at San Francisco, California, this 4th day of NOVEMBER, 1969.

William Lyons, Jr.
President

Supervisor

Robert J. [illegible]

[illegible]

Vernon L. Stinson
Commissioners