

ORIGINAL

Decision No. 76427

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of AIR CALIFORNIA for a certificate of public convenience and necessity to provide passenger air service between Orange County Airport/Ontario International Airport/Hollywood Burbank Airport, on the one hand, and Sacramento on the other.

Application No. 51007

In the Matter of the Application of PACIFIC SOUTHWEST AIRLINES for a certificate of public convenience and necessity in either direction between San Diego/Ontario/Hollywood Burbank/San Jose/Oakland and Sacramento.

Application No. 51058

In the Matter of the Application of PACIFIC SOUTHWEST AIRLINES for a certificate of public convenience and necessity in either direction between San Diego and Oakland via San Jose.

Application No. 51059

In the Matter of the Application of PACIFIC SOUTHWEST AIRLINES for a certificate of public convenience and necessity in either direction between San Diego and Sacramento, non-stop; San Diego and Sacramento via San Francisco/San Jose or Oakland; San Diego/Santa Ana/San Francisco/San Jose/Oakland; San Diego/Santa Ana/San Francisco or San Jose or Oakland and Sacramento; Santa Ana and Oakland via San Jose; Santa Ana and Sacramento via San Francisco/San Jose or Oakland; Santa Ana and Sacramento, non-stop.

Application No. 51080

In the Matter of the Application of AIR CALIFORNIA for a certificate of public convenience and necessity to provide passenger air service between Los Angeles and San Francisco/San Jose/Oakland/Sacramento, non-stop; San Diego and San Francisco via Los Angeles/Santa Ana/Burbank/Ontario; San Diego and San Francisco/Sacramento, non-stop; Sacramento and San Francisco/San Jose/Oakland.

Application No. 51311

ORDER REGARDING PROCEDURAL MATTERS

In Application No. 51007, dated April 14, 1969, Air California (Air Cal) requested a Certificate of Public Convenience and Necessity to transport passengers in either direction between the following points:

Hollywood/Burbank and Sacramento non-stop

Ontario and Sacramento non-stop

Orange County and Sacramento non-stop

Hollywood/Burbank and Sacramento via San Jose/  
Oakland

Ontario and Sacramento via San Jose/Oakland

Orange County and Sacramento via San Francisco/  
San Jose/Oakland

On May 6, 1969, Pacific Southwest Airlines (PSA) filed with the Commission its Protest to Application No. 51007 and its Application No. 51058, which seeks authority to operate in either direction between the following points:

Hollywood/Burbank and Sacramento non-stop

Ontario and Sacramento non-stop

Hollywood/Burbank and Sacramento via San Jose/  
Oakland

Ontario and Sacramento via San Jose/Oakland

San Diego and Sacramento non-stop

On the same day PSA also filed Application No. 51059 requesting a Certificate of Public Convenience and Necessity to operate between:

San Diego and Oakland via San Jose

On May 16, 1969, PSA filed Application No. 51080. It requests authority to provide air passenger service between the following points:

San Diego and Orange County

San Diego/Orange County/San Francisco or San  
Jose or Oakland and Sacramento

San Diego and Sacramento via San Francisco/  
San Jose or Oakland

San Diego and Sacramento non-stop

Orange County and Sacramento non-stop

Orange County and Sacramento via San Francisco/  
San Jose or Oakland

Orange County/San Francisco/San Jose/Oakland

Orange County/and Oakland via San Jose

On August 11, 1969, Air Cal filed Application No. 51311.

It seeks authority to operate between the following points:

Between San Diego and San Francisco/San Jose/  
Oakland via Los Angeles/Santa Ana/Ontario/Bur-  
bank

Between Los Angeles and Sacramento

Between Los Angeles and San Francisco/San  
Jose/Oakland

Between Los Angeles and Oakland via San Jose

Between San Francisco and Ontario/Burbank

Between San Diego and Los Angeles/Santa Ana/  
Ontario/Burbank

Between San Diego and Sacramento

Between Sacramento and San Francisco/San Jose/  
Oakland

To each of PSA's applications Air Cal filed a protest; and a motion to consolidate all five applications and for the Commission to order an investigation into air passenger service between the cities involved as well as into the rates charged for such transportation. In addition, in Application No. 51059, Air Cal has filed a motion to dismiss.

PSA filed a protest to each of Air Cal's applications, and it opposes consolidation of all the proceedings and the issuance of an order instituting investigation.

Western Airlines has petitioned to intervene in the various applications. The City of Newport Beach and Sacramento County have petitioned to intervene in the applications relating to possible

additional air passenger service at Orange County Airport and the Sacramento Airport.

A prehearing conference was held before Examiner Foley on September 19 and October 16, 1969, in San Francisco in order to hear the positions of the parties, including the Commission staff; and to consider the various issues and problems raised by the applications and motions.

I. Consolidation of All the Proceedings and Initiation of An Investigation by the Commission.

Air Cal seeks consolidation of all these route applications on the ground that it will avoid duplication in the preparation of evidence and save time and expense in the hearings. Air Cal requests a Commission investigation so that a rational division of the routes may be achieved between PSA and Air Cal. In this manner, Air Cal maintains that the prospect of destructive competition and the frequent and competitive application filings for authority to operate between the same points will be brought to an end.

While we agree with the goal sought by Air Cal, the Commission concludes that consolidation of all five applications into one proceeding is not practical or desirable. The result would be extended hearings over a considerable length of time and a complicated, bulky record. A prompt decision would be impossible. We are convinced that the most expeditious approach is to consolidate and proceed first with those applications which would result in service on new routes, and to defer hearings on those applications which request authority to duplicate completely service already provided by either PSA or Air Cal.

Only two of the applications relate to service not presently offered by either Air Cal or PSA. These are Applications

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Nos. 51007 and 51058. The remainder involve the request by one of the carriers to impose direct competition on the other. These are Applications Nos. 51059, 51080 and 51311. Each raises the issue whether the market is sufficient to permit service by an additional carrier. Furthermore, Air Cal has filed a motion to dismiss Application No. 51059 to which PSA has not yet filed an answer. From statements at the prehearing conferences it is possible that motions to dismiss the other two applications may also be filed. While these three applications are not unrelated the Commission concludes that separate hearings offer the best opportunity for their prompt resolution.

The Commission further concludes that a statewide investigation of air passenger service, routes, and rates is unnecessary. During the prehearing conferences, the Commission staff stated that it lacks the trained experts and time to present any in-depth study or analysis of the air passenger markets and carrier operations. Therefore, a Commission investigation would not provide the Commission with any evidence different from what the carriers can be expected to present in the application proceedings. Under these circumstances a Commission investigation is not appropriate at this time.

II. Consolidation of Applications Nos. 51007 and 51058 and Separation of the Non-stop and One-stop Portions of these Applications.

These two applications involve service to Sacramento from the various satellite airports in the Los Angeles area. Both carriers seek authority for non-stop service as well as one-stop service via San Jose or Oakland. PSA also seeks authority to operate non-stop flights between Sacramento and San Diego. During the

prehearing conference Air Cal and PSA agreed that the two applications should be consolidated. Agreement was also achieved on dates for the hearings and for serving prepared testimony and exhibits. Two full weeks have been set in January, 1970, for hearings. Since the routes may well permit the profitable operation of only one carrier, consolidation is appropriate and the Commission's order herein will so require.

On October 23, 1969, Air Cal filed another motion; it seeks dismissal of all those portions of the two applications which seek one-stop authority from Southern California to Sacramento via San Jose or Oakland. Air Cal argues that the inclusion of the question relating to one-stop authority will result in increasing the complexity of the hearings because the Commission will have to consider the competitive effects of such one-stop service on Air Cal's present service to Oakland and San Jose. Air Cal also maintains that PSA's recently authorized flights between Sacramento and San Francisco makes an early hearing on such one-stop service via San Jose and Oakland unnecessary because PSA can now offer one-stop service from its southern points to Sacramento via San Francisco.

PSA opposes Air Cal's motion. It contends that both types of service should be considered because non-stop service may not be economically feasible.

On the one hand, it is more efficient to hear the testimony and cross-examination covering both types of service at one time. On the other hand, some one-stop service to Sacramento from points in Southern California is presently available via San Francisco; and hearing the one-stop proposals does raise issues regarding direct competition between the carriers on certain routes not

presently served by both of them. Therefore, immediate resolution of the one-stop proposals is not absolutely necessary. The Commission concludes that while the hearing should include evidence on both types of service, it is in the public interest to resolve the non-stop service applications by a separate decision. The one-stop portions of the applications, the outcome of which depends partly on the determination of the non-stop proposals, will be decided in a decision issued subsequently to the earlier issued decision dealing with non-stop service. In this manner delay in resolving the non-stop portions of the applications can be avoided.

Therefore, IT IS ORDERED that:

1. Air California's motions to consolidate Applications Nos. 51007, 51058, 51059, 51080 and 51311 into one proceeding are denied.
2. Air California's motions requesting that the Commission issue an order instituting investigation into air passenger carrier routes and rates are denied.
3. Applications Nos. 51007 and 51058 are consolidated and will be heard together.
4. Air California's motion to dismiss the one-stop portions of the authority sought in Applications Nos. 51007 and 51058, and to limit the issues therein is denied except that the Commission will issue a separate decision concerning the non-stop portions of these applications prior to determining the one-stop proposals.
5. The petitions of Western Airlines to intervene in Applications Nos. 51007, 51058, 51059, 51080 and 51311 are granted.

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6. The petition of the City of Newport Beach to intervene is granted with respect to Applications Nos. 51007, 51058, 51080 and 51311.

7. The petition of the County of Sacramento to intervene is granted with respect to Applications Nos. 51007, 51058, 51080 and 51311.

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

Dated at San Francisco, California, this 12th  
day of NOVEMBER, 1969.

William Seperson Jr.  
President

[Signature]

[Signature]  
Commissioners

Commissioner A. W. GATOV

Present but not participating.