

ORIGINAL

Decision No. 76816

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC SOUTHWEST)
 AIRLINES for a certificate of)
 public convenience and necessity)
 in either direction between San)
 Diego, on the one hand, and San)
 Jose, on the other hand, with)
 Hollywood-Burbank Airport as an)
 intermediate point.)

Application No. 51329

ORDER GRANTING TEMPORARY CERTIFICATE

Applicant, Pacific Southwest Airlines (PSA), a corporation, requests a certificate of public convenience and necessity, pursuant to Sections 2742 through 2765 of the Public Utilities Code, to transport passengers by air in either direction between San Diego and San Jose, California, via Hollywood-Burbank.

PSA has engaged in the business of operating an intrastate airline in California since 1949. Applicant presently operates under a certificate of public convenience and necessity granted by the Commission and set forth in the appendix to Decision No. 75297 dated February 4, 1969, in Application No. 50730. This certificate authorizes PSA to transport passengers on the following routes:

1. Between San Diego and Los Angeles, Burbank, San Francisco and Oakland;
2. Between Los Angeles and San Francisco and Oakland;
3. Between Burbank and San Francisco;
4. Between Los Angeles and San Jose;
5. Between Los Angeles and Sacramento;
6. Between Ontario and San Francisco;

7. Between San Jose and Oakland, on the one hand, and Hollywood-Burbank, on the other hand; and
8. Between San Diego and Ontario.

Until our determination in Air California vs. Pacific Southwest Airlines, Decision No. 76104 in Case No. 8937, dated August 26, 1969, PSA was providing one-stop through service between San Diego and San Jose via Hollywood-Burbank. In that decision the Commission held that PSA could not tack its authority to operate between San Diego and Hollywood-Burbank and between Hollywood-Burbank and San Jose in order to provide one-stop through service between San Diego and San Jose.

As a result of Decision No. 76104 PSA filed the application herein. Air California (Air Cal) protested. A prehearing conference was held on November 26, 1969 in San Francisco. Hearing dates were set for February 1970. This hearing schedule was canceled, however, on the request of both parties after it was announced that PSA and Air Cal had agreed to merge their operations. The two parties requested that any hearing on the application herein be postponed until final completion of the merger agreement. Subsequently, the Commission granted by Decision No. 76780 in Application No. 57610, dated February 10, 1970, Air Cal's request to suspend its operations between Hollywood-Burbank and San Jose and Oakland effective on February 10, 1970, and to permanently discontinue that service effective on March 10, 1970, because these operations were unprofitable. Therefore, as a result of Decision No. 76780, PSA is the sole intrastate carrier operating from Hollywood-Burbank to San Diego and to San Jose, but it cannot operate through service between San Diego and San Jose via Hollywood-Burbank.

Under these circumstances the Commission concludes that public convenience and necessity will be served by granting PSA

temporary authority to provide the requested one-stop through service. No competitive harm will result to Air Cal because it has abandoned its operations from Hollywood-Burbank. The public convenience and necessity will be served by the fact that passengers will not be required to deplane at Hollywood-Burbank and to board another PSA flight to San Jose.

PSA's proposed one-way passenger fare between San Diego and San Jose via Hollywood-Burbank will be \$20.95 (plus tax).

PSA states that it has a valid operating certificate from the Federal Aviation Administration to conduct intrastate common carrier operations on a scheduled basis. The application relates that PSA maintains insurance protection as required by Section 5503 of the Public Utilities Code and General Orders Nos. 120 and 120-A. The application shows that as of December 31, 1968 PSA had total assets of over \$141,000,000, including 21 jet aircraft.

After consideration the Commission finds that:

1. PSA possesses the necessary equipment, experience, insurance coverage, and financial ability to provide passenger air carrier service between San Diego and San Jose via Hollywood-Burbank on a temporary basis until a final decision is issued in the application herein.

2. Public convenience and necessity require the granting of this temporary authority.

3. A public hearing on the temporary certificate is not necessary.

Based upon the foregoing findings of fact, the Commission concludes that a temporary certificate of public convenience and necessity should be granted to PSA authorizing it to operate between San Diego and San Jose via Hollywood-Burbank.

Pacific Southwest Airlines 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 temporary certificate of public convenience and necessity is granted to Pacific Southwest Airlines, authorizing it to operate as a passenger air carrier as defined in Section 2741 of the Public Utilities Code, between the points and over the route more particularly set forth in Appendix A, attached hereto and hereby made a part hereof.
2. In proving 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 insurance requirements of the Commission's General Order No. 120-A.

- 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.

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

Dated at San Francisco, California, this 17th day
of FEBRUARY, 1970.

William Spruill, Jr.
President
[Signature]
[Signature]
[Signature]
Vernon L. Sturgeon
Commissioners

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Appendix A
(Dec. 76110)

PACIFIC SOUTHWEST AIRLINES
(a corporation)

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Pacific Southwest Airlines, by the temporary 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 San Diego and San Jose via Hollywood-Burbank. The authorized one-way passenger fare is \$20.95 (plus tax).

Issued by California Public Utilities Commission.

Decision No. 76816, Application No. 51329.

Amending Appendix A to Decision No. 76110.