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ORIGINAL

Decision No. 77098

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 air service between Palm
Springs, on the one hand, and San
Jose/Oakland/San Francisco, on the
other hand.

Application No. 51194

ORDER TEMPORARILY MODIFYING
OPERATING AUTHORITY

By Decision No. 76397 dated November 4, 1969, applicant Air California (AC) was authorized to provide service as a passenger air carrier between Palm Springs Municipal Airport, on the one hand, and San Jose Municipal Airport, Oakland International Airport and San Francisco International Airport, on the other hand.

Petition for Rehearing was filed by protestant Western Air Lines, Inc. (WAL) on November 14, 1969. Said petition was denied by Decision No. 76651 dated January 6, 1970. Service was commenced by AC to and from Palm Springs on December 10, 1969.

On March 23, 1970, the Commission docketed a Petition for Modification of Decision filed by AC by which it seeks temporary authority for a six week period to provide its Palm Springs service to the Bay Area points by way of any of the Southern California points it now serves (Ontario International Airport and Orange County Airport). Decision No. 76397 presently prohibits operations from being conducted in such a manner.

The reason assigned by AC in its petition is a
" ... thrust reverser modification program in its six Boeing 737 jets." This program will remove from service one of the jet aircraft operated by AC for a one week period for each aircraft

from April 20, 1970, through May 28, 1970. To enable AC to continue providing substantially the number of schedules it is presently operating, it seeks the instant temporary modification of its operating authority.

WAL in a four page document filed as a Protest by the Commission on March 23, 1970, objects to the grant of the temporary modification requested by AC. WAL assigns as reasons for its protest that AC knew of the necessity for the engineering program at the time of its original application but did not inform the Commission or the parties; that AC has requested and been authorized to raise its fares for Palm Springs service subsequent to the original application while relying on low fares as a reason for entry into the market; that AC has not indicated what its scheduling will be; and that AC is actually attempting to conduct operation beyond the scheduling capability of its aircraft fleet.

On March 31, 1970, AC filed a "Reply of Applicant to Protest of Western Airlines to Petition for Modification of Decision", it is clear from the Reply of AC that the service contemplated in its Petition for Modification will meet the numerical minimum established by the Commission in Decision No. 76397, only the route will be affected, i.e., one more step will be added for a six week period. AC in its March 31, 1969 reply also responds adequately to the other objections of WAL.

We do not view the Petition of AC as one requesting new operating authority or as requiring hearing. The temporary nature of the request and the reasons assigned therefor make the authorization thereof reasonable and in the public interest. It is clear that without such temporary authority AC would reduce service at Palm Springs or other of its service points below that required in the public interest but within the minimum limitation of its operating authority.

Findings

1. AC is undertaking engineering modification of its six jet aircraft commencing April 20, 1970 and terminating May 28, 1970.
2. The engineering modification of its aircraft requires that AC remove from service one of such aircraft per week for the period April 20, 1970 through May 28, 1970.
3. AC can operate its present routes with five jet aircraft substantially maintaining its present schedules by providing Palm Springs-Bay Area service through either Ontario International Airport or Orange County Airport.
4. Substantial maintenance of its present schedules by AC is in the public interest.
5. No harm will be caused WAL by allowing AC to operate in the manner it herein requests on a temporary basis.
6. Public hearing is not required in this proceeding. Applicant and protestant have each made their view clear to the Commission.
7. The public interest requires that the authority granted herein be made effective immediately.

Conclusion

AC should be granted the temporary modification of operating authority it requests in its Petition of March 23, 1970.

IT IS ORDERED that:

1. The restrictions set forth in Appendix A, Original Page 1-A, of Decision No. 76397 in Application No. 51194 are temporarily modified to provide that Air California may, for the period April 20, 1970 through May 28, 1970 operate its service between Palm Springs Municipal Airport, on the one hand, and San Jose Municipal Airport, Oakland International Airport and San Francisco International Airport, on the

other hand, by way of either Ontario International Airport or Orange County Airport provided, however, that no passengers may be transported solely between Palm Springs Municipal Airport, on the one hand, and either Ontario International Airport or Orange County Airport, on the other hand.

2. The authority granted in paragraph 1 of this order will expire effective May 29, 1970 at which time the restriction set forth in Appendix A, Original Page 1-A, of Decision No. 76397 will immediately again become effective and will remain in full force and effect.

3. In all other respects Decision No. 76397 remains in full force and effect.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 16th day of APRIL, 1970.

William J. Vukasin, Jr.
President

Richard L. Sturgeon

James L. Sturgeon
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.