

ORIGINAL

Decision No. 77198

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

Investigation on the Commission's  
own motion into the operations and  
practices of IMPERIAL COMMUTER  
AIRLINES, INC.

Case No. 8744

Application of IMPERIAL COMMUTER  
AIRLINES, INC. doing business as  
Imperial Airlines, a registered  
corporation incorporated under the  
laws of the State of California, to  
operate as a common air carrier of  
passengers and property, under a  
Certificate of Public Convenience  
and Necessity between the terminal  
points of El Centro (Imperial County  
Airport) San Diego (Lindberg Field)  
and Calexico City Airport.

Application No. 51183  
(Filed June 19, 1969)

Ewing, McKee and Kirk, by Russell J. Kirk,  
for respondent.  
Mathews, Lewis, Bergen & Henderson, by  
E. J. Minnette, for Mrs. Lois Brittain,  
interested party.  
S. M. Boiken and Richard D. Gravelle, Counsel,  
for the Commission staff.

O P I N I O N

By its order dated January 9, 1968, the Commission instituted an investigation into the operations and practices of Imperial Commuter Airlines, Inc. to determine whether it has operated or may be operating as a passenger air carrier between El Centro and Riverside with immediate stops at Calexico and San Diego, between El Centro and Riverside with intermediate stops at Indio and Blythe and between San Diego and El Centro without first having obtained a certificate of public convenience and necessity from the Commission authorizing such operation.

By Decision No. 74292 dated June 25, 1968, the Commission ordered Imperial Commuter Airlines, Inc. to cease and desist operating as a passenger air carrier as defined in Section 2741 of the Public Utilities Code, between points wholly within California unless and until it secures from this Commission a certificate of public convenience and necessity as required by Section 2752 of the Public Utilities Code.

By Decision No. 74772 dated October 8, 1968, the Commission granted a rehearing of Decision No. 74292. Public hearing was held January 23, 1969 at El Centro.

By Application No. 51183, dated June 19, 1969, Imperial Commuter Airlines, Inc. requested a certificate of public convenience and necessity between:

Route No. 1 - Imperial County Airport to Lindberg Field;

Route No. 2 - Imperial County Airport to Lindberg Field  
to Calexico Airport to Imperial County  
Airport.

The basis for this application was Section 2754.1 of the Public Utilities Code.

The staff of the Commission had proved in Case No. 8744 and the respondent's President admitted that the airlines had been flying these routes prior to April 1, 1969.

The staff also by investigation determined that Route No. 2 is not being flown at this time. By letter dated January 9, 1970, the applicant was apprised of this finding and asked to comment; as of this date there has been no reply.

The Commission finds that:

1. Decision No. 74292 dated June 25, 1968, should remain in full force and effect.

2. The above-entitled application was filed on or before July 1, 1969.

3. Applicant was actually operating in good faith as of April 1, 1969 and continuously thereafter between those pairs of points included in Appendix A attached hereto.

The Commission concludes that a certificate should be issued as set forth in Appendix A in accord with the provisions of Section 2754.1, that there is no need for any further determination in Case No. 8744 and that Case No. 8744 should be dismissed.

Imperial Commuter Airlines, Inc. 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. Applicant is hereby granted the certificate as set forth in Appendix A, pursuant to Section 2754.1, to be effective on the date of filing an acceptance by applicant as provided in paragraph 2(a) below.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do 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. 105-A, 120-B and 129.
- (b) Within one hundred and twenty days after the effective date hereof, applicant shall file timetables, in triplicate, in the Commission's office.

3. Case No. 8744 is dismissed.

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

Dated at San Francisco, California, this 12th  
day of MAY, 1970.

William L. Stinson  
President

[Signature]

[Signature]

[Signature]

[Signature]

William L. Stinson  
Commissioners

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Appendix A

IMPERIAL COMMUTER AIRLINES, INC. Original Page 1

Imperial Commuter Airlines, Inc., by the Certificate of Public Convenience and Necessity granted in the decision noted in the margin, is authorized to operate as a passenger air carrier over the route and between the points listed below:

Route 1 - San Diego-Imperial

SAN IPL

Conditions

1. Authority granted herein is limited to service over the specific route described above.
2. Route 1 shall be served a minimum of one round trip per day five days per week.
3. No aircraft seating more than twenty-five passengers shall be operated.
4. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
SAN	San Diego	San Diego International Airport
IPL	Imperial	Imperial County Airport

Issued by California Public Utilities Commission.

Decision No. 77198, Application No. 51183.