

Decision No. 77289

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
practices and insurance of CAL
AERO AIRWAYS, a California
corporation.

Case No. 9006

Robert C. Stewart, for Cal Aero
Airways, respondent.

B. A. Peeters, Counsel, for the
Commission staff.

O P I N I O N

By its order dated December 30, 1969 the Commission instituted an investigation into the operations, practices and insurance coverage of Cal Aero Airways. The purpose of the investigation was to determine whether respondent was or is operating as a passenger air carrier without a certificate of public convenience and necessity as required by Section 2750 of the Public Utilities Code and whether respondent has the requisite insurance on file with the Public Utilities Commission as required by Sections 2764 and 5503 of the Public Utilities Code and General Order No. 120-B of the Commission.

By Decision No. 76640 dated December 30, 1969, a temporary restraining order was issued that Cal Aero Airways refrain from conducting passenger air carrier operations with any aircraft for which it does not have a certificate of insurance on file with this Commission.

Public hearing was held before Examiner Porter on April 7, 1970 at Los Angeles.

The staff presented evidence that Cal Aero filed a certificate of insurance for a Douglas DC-3 (N41447) on June 13, 1969, with Policy No. ML1351, effective from June 14, 1969, to June 14, 1970. On December 10, 1969, another certificate was filed for aircrafts Nos. N99032 and N74Q under Policy No. ML1351 effective from June 14, 1969 to December 15, 1969. On December 29, 1969 an additional certificate was filed for Aircrafts Nos. N99032 and N74Q under Policy No. ML1351 effective from June 14, 1969 to June 14, 1970.

The Douglas DC-3 was never flown in scheduled service because it did not meet Federal Aviation Administration's (FAA) standards.

During the month of January 1970 Cal Aero was scheduling two round-trip flights daily serving the airports of Van Nuys, Bishop and Mammoth Lakes.

The Cal Aero records examined covered the months of November and December 1969 and January 1970. The passenger tally sheets indicate passengers were transported every day between December 1, 1969 and December 13, 1969 and between December 20, 1969 and December 31, 1969. Also passengers were transported 16 days out of the first 19 days of January 1970; on January 21, 1970 a staff member flew to Bishop from Van Nuys and returned on Cal Aero Airways as a revenue passenger.

Robert C. Stewart, President of Cal Aero Airways, testified that the insurance discrepancy was the result of his insurance broker's failure to file appropriate documents with this Commission.

As of the date of the hearing Cal Aero Airways is not in operation. Its two aircraft used in its operations have been returned to Spectrum Leasing.

The Commission finds that:

1. Respondent did not have a certificate of insurance on file with the Commission between December 15, 1969 and December 29, 1969, although it did have insurance coverage.

2. Respondent operated as a passenger air carrier in this State without first having obtained from the Commission a certificate of public convenience and necessity authorizing such operations.

The Commission concludes that the respondent violated Sections 2764 and 5503 of the Public Utilities Code and General Order No. 120-B of the Commission by its failure to have on file with the Commission a certificate of insurance and that respondent violated Section 2752 of the Public Utilities Code by failing to obtain from this Commission a certificate of public convenience and necessity authorizing passenger air carrier operations.

O R D E R

IT IS ORDERED that:

1. The temporary restraining order is vacated.
2. While Cal Aero Airways is not now in operation it shall not commence operations as a passenger air carrier within this State without first having obtained from this Commission, a certificate of public convenience and necessity authorizing it so to do.

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The Secretary of the Commission is directed to cause personal service of a certified copy of this order to be made upon respondent. The effective date of this order shall be twenty days after completion of such service.

Dated at San Francisco, California, this 3rd day of JUNE, 1970.

William Sproule, Jr.
President
Argon
[Signature]
Verma L. Stinson
Commissioners

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