

Decision No. 77323

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of GOLDEN WEST AIRLINES, }
 INC., for a certificate of public }
 convenience and necessity. }

Application No. 51216
 (Filed July 1, 1969)

O P I N I O N

Golden West Airlines, Inc.'s first application for a "grandfather" passenger air carrier certificate (Sections 2741 and 2754.1, Public Utilities Code) was filed on July 1, 1969. Said application has subsequently been amended five times, most recently on March 24, 1970. San Francisco & Oakland Helicopter Airlines, Inc. (SFO) protested applicant's original claim for operating rights between San Jose, Oakland and San Francisco; the protest was withdrawn, on condition that this Commission not authorize transportation of passengers between the three airport pairs. Swift Aire Lines, Inc. and the County of Sacramento both opposed applicant's claim for a suspended grandfather certificate for certain airport pairs between which applicant has "temporarily suspended" service.

The staff has analyzed applicant's operations and supporting evidence and prepared a proposed certificate covering the routes and service which it considered to qualify under the grandfather provisions of the Public Utilities Code. This proposal was circulated to applicant, airline protestants and various other parties who have indicated an interest in the outcome of this proceeding. The staff proposed certificate is hereby incorporated into the record as Exhibit No. 1. Applicant, by filing of May 7, 1970, indicates that the staff proposed certificate is acceptable to it,

subject to the reservation of certain issues. No protests to the staff proposal have been received.

Applicant seeks: first, a provision parallel to that in Decision No. 76824, in Application No. 51215 (App. of Catalina Seaplanes); that decision provided in essence that Seaplanes did not waive its right to subsequently contest this Commission's jurisdiction over flights between Catalina and points on the California mainland by accepting its certificate. Golden West's request appears justified and will be adopted.

Applicant also requests that it be afforded a later opportunity to challenge the necessity for intermediate stops on the routes set up in the staff proposed certificate. A similar reservation was afforded in Decision No. 76688, Application No. 51212 (App. of Golden Pacific Airlines). This request also seems reasonable and will be adopted.

Applicant further requests a delay in deciding whether suspended authority should be issued for operations which applicant has ceased to perform. This question can be resolved as a question of law and thus no reason appears why such resolution should be deferred.

We interpret the word "continuously" in Section 2754.1, Public Utilities Code, to mean continuously until the issuance of the certificate. Consequently, we conclude that we have no authority to issue applicant a certificate for those operations which have been terminated, except upon the showing required by Sections 2752 and 2753.

The certificate granted herein appears to accommodate the protests expressed by protestants. Consequently, no public hearing appears necessary.

The Commission finds that:

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

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

The Commission concludes that the certificate should be issued as set forth in Appendix A, and that the portion of the application seeking certification of terminated operations should be denied.

Applicant 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 to be effective on the date of the certificate acceptance filing 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.

- (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. 120-B and 129.
- (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 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.

3. Acceptance of the certificate granted herein shall not constitute a waiver of applicant's right to seek relief from the requirements of intermediate stops required in Appendix A, nor to challenge the jurisdiction of the State of California over air operations between points on mainland California and Santa Catalina Island.

4. Applicant is hereby denied a certificate for the operations described in Exhibit B to the Fourth Amendment to Application filed herein on March 9, 1970.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 9th day of JUNE 1, 1970.

William S. Sweeney
President
August
J. P. Williams
Sam Brown
James L. Stinson
Commissioners

Golden West 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 routes and between the points listed below, pursuant to Section 2754.1 of the Public Utilities Code of the State of California:

Route 1. San Francisco - Santa Rosa (Coddington Field)

SFO - 306

Route 2. San Francisco - Monterey Intermediate Point: San Jose

SFO - SJC
SJC - MRY
SFO - MRY

Route 3. Los Angeles - Palm Springs
Intermediate Points: El Monte, Ontario, Riverside & Colton/San Bernardino

LAX - EMT	LAX - RAL
EMT - RTO	*LAX - PSP (Via ONT)
LAX - ONT	ONT - PSP
ONT - RAL	*LAX - RTO (Via EMT)

Route 4. Los Angeles - Santa Ana
Intermediate Point - Fullerton

LAX - SNA
LAX - FUL
FUL - SNA

Route 5. Los Angeles - Santa Barbara Intermediate Point: Oxnard

LAX - OXR
OXR - SBA
*LAX - SBA (Via OXR)

Issued by California Public Utilities Commission.

Decision No. 77323, Application No. 51216.

Route 6. Los Angeles - Catalina Island
Intermediate Point - Long Beach

LAX - LGB LGB - AVX
LGB - SXC LGB - TWH
*LAX - SXC (Via LGB)
LAX - SXC (Seasonal - June 1 through Sept. 15)

Route 7. Orange County/Santa Ana - Catalina Island

SNA - SXC (Seasonal - June 1 through Sept. 15
each year)

Conditions

1. Authority granted herein is limited to passenger air carrier operations over the specific routes and between the airport pairs listed thereunder as described above.
2. Operation between an airport on one route and an airport on any other route shall not be provided except through an airport that is common to the two routes.
3. Airport pairs marked with (*) shall be served only via intermediate point or points shown.
4. On each route each airport shall be served with a minimum of one flight in each direction on each of five days a week.
5. No passenger shall be carried whose transportation is solely between the following airport pairs:

SFO - SJC
ONT - RAL
FUL - SNA
OXR - SBA

6. No aircraft having more than 25 revenue passenger seats shall be operated.

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Decision No. 77323, Application No. 51216.

Conditions--Contd.

7. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
306	Santa Rosa	Coddington Field
SFO	San Francisco	San Francisco Inter. Airport
SJC	San Jose	San Jose Municipal Airport
MRY	Monterey	Monterey Peninsula Airport
SBA	Santa Barbara	Santa Barbara Municipal Airport
OKR	Oxnard	Oxnard/Ventura Airport
LAX	Los Angeles	Los Angeles Inter. Airport
EMT	El Monte	El Monte/Pasadena Airport
ONT	Ontario	Ontario International
PSP	Palm Springs	Palm Springs Municipal
RAL	Riverside	Riverside Municipal Airport
LGB	Long Beach	Long Beach Inter. Airport
FUL	Fullerton	Fullerton Municipal Airport
SNA	Santa Ana	Orange County Airport
SXC	Catalina Island	Airport-In-The-Sky, Hilltop
TWH	Catalina Island	Two Harbors (Seaplane Operations)
AVX	Catalina Island	Avalon Bay (Seaplane Operations)
RTO	Colton/San Bernardino	Meadows Field

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