

ORIGINAL

Decision No. 77424

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

In the matter of the application of )  
 VALLEY AIRLINES, INC., a California )  
 Corporation for a Certificate of )  
 Public Convenience and Necessity. )

Application No. 51211  
 (Filed July 1, 1969;  
 Amended October 28, 1969 and  
 January 26, 1970)

Leander L. James and James H. Stanhope, for  
Valley Airlines, Inc., applicant.  
David M. Atcheson, for San Francisco-Oakland  
Helicopter Airlines, Inc., protestant.  
Glenn A. Howard, for Golden Pacific Airlines;  
and Marshall G. Bezol, for Holiday Airlines,  
Inc., interested parties.  
B. A. Peeters, Counsel, Robert Hannam, and  
A. L. Gielegthem, for the Commission staff.

INTERIM OPINION

The application of Valley Airlines, Inc. seeks a prescriptive certificate as a passenger air carrier pursuant to Section 2754.1 of the Public Utilities Code.<sup>1/</sup>

The application herein was amended on October 28, 1969, to eliminate certain routes which were no longer being served. Prehearing conference was held on November 24 and 28, 1969, before Examiner Gilman and the Examiner's Prehearing Rulings were filed and served on December 9, 1969. The application was again amended on January 26, 1970, to eliminate other routes which were no longer served. Applicant stipulated with protestant SFO Helicopter Airlines, Inc. to operate "closed door" between San Jose and San Francisco.

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<sup>1/</sup> Applicant previously obtained a certificate to operate on the following routes by Decision No. 74512 in Application No. 50107: San Jose - Livermore - Oakland - Stockton and San Jose - Salinas - Fresno. It was restricted from transporting passengers between San Jose and Oakland.

Pursuant to the Examiner's Rulings the staff of the Commission examined the applicant's records and circulated a proposed draft certificate asserted to be supported by the documents available. The only objection to the staff proposal came from Golden Pacific Airlines, which challenged applicant's claim of continuity of operation at San Francisco Airport. Applicant has by letter of May 13, 1970, indicated that it would accept the staff proposed certificate.

Because of Golden Pacific's protest we will neither grant nor deny applicant a prescriptive certificate for San Francisco operations pending a hearing.

The remainder of the staff proposal will be adopted and a certificate in accordance therewith will be issued. It appears that no public hearing is required except upon the issue of continuity of operation to and from San Francisco.

The Commission finds that:

1. This application was filed on or before July 1, 1969.
2. Valley Airlines, Inc. was actually operating in good faith and doing business as a passenger air carrier as of April 1, 1969 and continuously thereafter to date between the following airports:

- a. San Jose Municipal Airport and Fresno Air Terminal
- b. Tahoe Valley Airport and Fresno Air Terminal
- c. Tahoe Valley Airport and San Jose Municipal Airport

The Commission concludes that:

1. A certificate of public convenience and necessity should be issued as set forth in Appendix A hereto.

2. Pursuant to Section 2754.1 of the Public Utilities Code, applicant may continue its present operations, if any, between San Francisco, San Jose and Fresno until further order herein.

Valley 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.

INTERIM ORDER

IT IS ORDERED that:

1. Applicant is hereby granted the certificate set forth in Appendix A, attached hereto, to be effective on the date of acceptance thereof 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 thirty days after the effective date of this decision, applicant shall 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. The issue of whether applicant has operated continuously and in good faith to and from San Francisco shall be considered at a future hearing at a date and place to be established.

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

Dated at San Francisco, California, this 30th  
day of JUNE, 1970.

William S. Lyons, Jr.  
President  
Augusta  
W. J. [illegible]  
For [illegible]  
Vernon L. Stinson  
Commissioners

The authority granted herein to Valley Airlines, Inc., supersedes the previously granted certificate of public convenience and necessity granted in Decision No. 74512.

Valley 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:

Route 1 SAN JOSE - FRESNO

SJC - FAT

Route 2 SOUTH LAKE TAHOE - FRESNO

TVL - FAT

Route 3 SOUTH LAKE TAHOE - SAN JOSE

TVL - SJC

Issued by California Public Utilities Commission.

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Appendix A

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Conditions

1. Each route shall be served with a minimum of one flight in each direction on each of five days a week.
2. No aircraft having more than 25 revenue passenger seats shall be operated.
3. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
FAT	Fresno	Fresno Air Terminal
SJC	San Jose	San Jose Municipal Airport
TVL	South Lake Tahoe	Tahoe Valley Airport

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