

bjh

ORIGINAL

Decision No. 77874

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC SOUTHWEST AIRLINES for a certificate of public convenience and necessity, in either direction between San Diego, Long Beach, Long Beach, San Jose/San Francisco/Oakland and San Diego to Sacramento via Long Beach and San Francisco.

Application No. 50261

In the Matter of the Application of AIR CALIFORNIA for a certificate of public convenience and necessity to provide passenger air service between Long Beach, on the one hand, and San Jose and Oakland, on the other hand.

Application No. 50381

In the Matter of the Application of PACIFIC AIR TRANSPORT, INC., for a certificate of public convenience and necessity to provide passenger air service between Long Beach, San Jose, Oakland and San Francisco.

Application No. 50438

McInnis, Fitzgerald & Wilkey, by John W. Mc Innis,  
for Pacific Southwest Airlines, applicant.  
Gates, Talbot, Morris & Merrell, by J. Thomas Talbot,  
for Air California, applicant.  
Ginsburg and Kohn, by Roland E. Ginsburg, for  
Pacific Air Transport, applicant.  
Richard T. Powers, for Western Airlines; and  
R. E. Costello, for Air West, protestants.  
Leslie Still, for the City of Long Beach;  
H. G. Hanawalt, for the Long Beach Chamber of  
Commerce; and Joseph M. McLaughlin, for Long Beach  
Jet Control Association, interested parties.  
William C. Bricca, Counsel, for the Commission staff.

ORDER GRANTING CERTIFICATES OF  
PUBLIC CONVENIENCE AND NECESSITY

This proceeding involves consolidated applications by Pacific Southwest Airlines (PSA), Air California (Air Cal), and Pacific Air Transport for authority to operate passenger air carrier service between Long Beach Airport (LGB) and San Francisco International Airport (SFO); between LGB and Oakland Metropolitan International Airport (OAK); and between LGB and San Jose Airport (SJC). PSA also requested authority to operate between LGB and San Diego International Airport (SAN), and between LGB and Sacramento Metropolitan Airport (SMF) via SFO.

In Decision No. 76110, dated September 3, 1969, the Commission concluded that PSA should be granted a certificate of public convenience and necessity to operate on the LGB-SFO, LGB-OAK, LGB-SAN, and LGB-SMF via SFO routes, and that Air Cal should be granted a certificate of public convenience and necessity to operate on the LGB-SJC route. These certificates were temporarily denied by Decision No. 76110 until on or before July 1, 1970<sup>1/</sup>, because the City of Long Beach had changed its position from support for to opposition against any new air passenger service at LGB. The City of Long Beach indicated that it would not make counter and gate space in the LGB terminal available to any new air carrier.

Decision No. 76110 provided that this proceeding would remain open for the receipt of additional evidence in order that PSA and Air Cal could proceed to acquire access rights for adequate terminal facilities. The decision further provided that upon receipt

---

<sup>1/</sup> By Decision No. 77447, dated June 30, 1970, this date was extended to January 1, 1971, at the request of PSA and Air Cal.

of notice that such access rights were granted, or denied, the Commission would give further consideration to the matter and would issue an appropriate final order.

By letter dated July 9, 1970, the City Attorney of Long Beach notified the Commission that the City Council of the City of Long Beach (Long Beach), had changed its position and had authorized its city manager to commence negotiations with PSA regarding a lease for terminal facilities. By letter dated July 22, 1970, Long Beach notified the Commission that it had taken similar action respecting Air Cal.

Subsequently, by letter dated September 16, 1970, Long Beach notified the Commission that on September 1, 1970 the city council authorized execution of leases for air terminal space with both carriers. The notice states that PSA has executed its lease, but that Air Cal has presently declined to do so.

The leases tendered to the two carriers are essentially identical. PSA has rented one room for reservation and ticketing purposes and 224 square feet of space in the terminal's basement. Air Cal's lease is for several rooms and 648 square feet in the basement. Air Cal has been authorized to furnish some of its space to Golden West Airlines. The term set forth in each lease is five years; and the amounts of insurance and bonds required by Long Beach are the same for each carrier.

Long Beach has included restrictions in each lease regarding the hours of flight, the number of flights per day and the type of aircraft to be operated. Each carrier is restricted from operating flights between 11 p.m. and 7 a.m.; each carrier is permitted to utilize Boeing 727, Boeing 737 and Douglas DC-9 aircraft. PSA has been authorized to conduct no more than six operations (i.e., a

A. 50261, et al. hjh \*

landing and a subsequent take-off) per weekday, and eight such operations per weekend day (Friday, Saturday, Sunday, or on holidays). Air Cal is limited to no more than three such operations per weekday and four per weekend day.

Decision No. 76110 requires that terminal access rights be received by both carriers.<sup>2/</sup>

Neither PSA nor Air Cal has filed any objections to the terms set forth in the lease agreements. Since access rights to adequate terminal facilities have been made available to both carriers, the factors which resulted in our temporarily denying certificates of public convenience and necessity to them no longer exist. The Commission concludes, therefore, that in accordance with Decision No. 76110, PSA's application for a certificate of public convenience and necessity to operate as a passenger air carrier between LGB-SFO, LGB-OAK, LGB-SAN and LGB-SMF via SFO should be granted; and the application of Air Cal for a certificate of public convenience and necessity to operate as a passenger air carrier

---

<sup>2/</sup> The Commission is not faced with and expresses no opinion on the question whether, under Public Utilities Code Sections 2739-2769.5, it has paramount jurisdiction over passenger air carriers, including the power to regulate the daily number of flights between intrastate points, the departure times for such flights, and all other matters necessary and convenient to the traveling public.

between LGB-SJC should be granted so that it can commence such service if it has an agreement with the City of Long Beach and subsequently wishes to accept the certificate granted herein.

Pacific Southwest Airlines and Air California are 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.

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Pacific Southwest Airlines, authorizing it to operate as a passenger air carrier as defined in Section 2741 of the Public Utilities Code, between the points and over the routes particularly set forth in First Revised Page 1 and First Revised Page 2 of Appendix A, attached hereto and made a part hereof.

2. A certificate of public convenience and necessity is granted to Air California, authorizing it to operate as a passenger air carrier as defined in Section 2741 of the Public Utilities Code, between the points and over the routes particularly set forth in First Revised Page 1 and First Revised Page 2 of Appendix B, attached hereto and made a part hereof.

3. In providing service pursuant to the certificates herein granted, each applicant certificated herein shall comply with and observe the following service regulations. Failure to do so may result in a cancellation of the operating authority granted by this decision.

- a. Within thirty days after the effective date hereof, each applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, each 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 insurance requirements of the Commission's General Orders Nos. 120-B and 129. Failure to file such reports in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 120-B, may result in a cancellation of the operating authority granted by this decision.
- b. Within one hundred and eighty days after the effective date hereof, each applicant shall establish the service herein authorized and file its tariff and timetables to reflect the authority herein granted. Such filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public and shall comply with the regulations governing the construction and filing of tariffs in the Commission's General Order No. 105-A.

This order shall become effective ten days after the date hereof.

Dated at San Francisco, California, this 27<sup>th</sup> day of OCTOBER, 1970.

[Signature]  
Chairman

[Signature]

[Signature]  
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Pacific Southwest Airlines, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport passengers by air over numbered routes in either direction.

ROUTES

1. Between San Diego and Los Angeles, Burbank, San Francisco and Oakland.
2. Between Los Angeles and San Francisco and Oakland.
3. Between Burbank and San Francisco.
4. Between Los Angeles and San Jose.
5. Between Los Angeles and Sacramento.
6. Between Ontario International Airport and San Francisco International Airport.
7. Between San Jose Municipal Airport and Oakland International Airport, on the one hand, and Hollywood-Burbank Airport, on the other hand.
8. Between San Diego and Ontario.
9. Between San Francisco International Airport and Sacramento Metropolitan Airport.
- \*10. Nonstop between Long Beach Airport and San Diego International Airport.
- \*11. Nonstop between Long Beach Airport and Oakland International Airport.
- \*12. Nonstop between Long Beach Airport and San Francisco International Airport.
- \*13. Between Long Beach Airport and Sacramento Metropolitan Airport via intermediate point of San Francisco International Airport.

RESTRICTIONSRoutes 1 through 5, inclusive

Passengers shall be transported by air in either direction in Lockheed Electra, Boeing 727, Boeing 737, or Douglas DC-9 Aircraft.

Route 6

1. Passengers shall be transported by air in either direction in nonstop service at a minimum of four scheduled round trip flights daily.

Issued by California Public Utilities Commission.

\*Added by Decision No. 77874, Application No. 50261.

RESTRICTIONS--Contd.Route 6--Contd.

2. No nonstop service may be operated between Ontario International Airport (ONT) and any other points served by Pacific Southwest Airlines under other authorization with the exception of San Diego.

Route 7

1. Passengers shall be transported in either direction in Lockheed L-188 (Electra) Aircraft, Douglas DC-9, Boeing 727-100, Boeing 727-200 and Boeing 737 Aircraft with a minimum of four round trips daily.
2. This route authorization is limited to the specific segments of Route 7.

Route 8

Passengers shall be transported in either direction in nonstop service at a minimum of two scheduled round trips daily.

Route 9

Passengers shall be transported in either direction in nonstop service at a minimum of four scheduled round trips daily. All service to Sacramento Metropolitan Airport from any other points already served by Pacific Southwest Airlines must be provided via San Francisco International Airport, except for the nonstop service authorized between Los Angeles International Airport and Sacramento Metropolitan Airport.

\*Routes 10, 11, 12 and 13

Service between the points authorized on these routes shall not be connected, combined or operated in combination with points or routes previously authorized, or with each other except as herein provided. Route 10 may be connected with Routes 11, 12 or 13 at Long Beach to provide through service to passengers as follows:

San Diego - Long Beach - Oakland  
 San Diego - Long Beach - San Francisco  
 San Diego - Long Beach - San Francisco (intermediate point per Route 13) - Sacramento

Service between the points herein authorized must be operated as specified; no over-flights of points authorized shall be permitted.

Issued by California Public Utilities Commission.

\*Added by Decision No. 77874, Application No. 50261.



nb

Appendix B  
(Dec. 76110)

AIR CALIFORNIA  
(a corporation)

First Revised Page 1  
Cancels  
Original Page 1

The authority stated herein to Air California supersedes all previously granted certificates of public convenience and necessity granted in Decisions Nos. 71310, 73172 and 74248, as modified by Decisions Nos. 73916, 74672, 75473 and 75997.

Air California, by the certificate of public convenience and necessity granted in the decision noted in the margin is authorized to operate with Douglas DC-9 aircraft or Boeing 737 aircraft over the routes described as follows:

Route 1

Between Orange County Airport, on the one hand, and San Jose Municipal Airport, Oakland International Airport and San Francisco International Airport, on the other hand, with each of the last three named airports being either a terminal or intermediate point for this route.

Route 2

Between Orange County Airport, Hollywood-Burbank Airport and Ontario International Airport, on the one hand, and San Jose Municipal Airport and Oakland International Airport, on the other hand, with each of the first three named airports and each of the last two airports, respectively, being either a terminal or intermediate point for this route.

Route 3

Nonstop service between San Diego International Airport and San Jose Municipal Airport.

Route 4

Nonstop service between San Diego International Airport and Oakland International Airport.

Route 5

See Original Page 1-A, issued by Decision No. 76397.

\*Route 6

Nonstop service between Long Beach Airport and San Jose International Airport.

Issued by California Public Utilities Commission.

\*Added by Decision No. 77874, Application No. 50381.

CONDITIONS

Minimum number of round trip schedules daily between points shown shall be:

- a. Orange County Airport and San Francisco International Airport 5
- b. Orange County Airport and San Jose Municipal Airport ..... 3
- c. Orange County Airport and Oakland International Airport .... 4
- d. Between Hollywood-Burbank Airport and Ontario International Airport, on the one hand, and San Jose Municipal Airport and Oakland International Airport, on the other hand ..... 2
- e. Between San Diego International Airport and San Jose Municipal Airport ..... 2
- f. Between San Diego International Airport and Oakland International Airport ..... 2

RESTRICTIONS

No passengers shall be accepted for transportation solely between the following pairs of points:

- a. Orange County Airport - Ontario International Airport.
- b. Orange County Airport - Hollywood-Burbank Airport.
- c. Hollywood-Burbank Airport - Ontario International Airport.
- d. San Francisco International Airport - San Jose Municipal Airport.
- e. San Francisco International Airport - Oakland International Airport.
- f. Oakland International Airport - San Jose Municipal Airport.
- g. San Francisco International Airport - Ontario International Airport.
- h. San Francisco International Airport - Hollywood-Burbank Airport.
- i. San Diego International Airport and other airports already served by Air California except as authorized by Routes 3 and 4.
- \*m. Long Beach International Airport and any other airports served by Air California except as authorized by Route 6.

Issued by California Public Utilities Commission.

Added by Decision 7787A, Application No. 50381.