

ORIGINAL

Decision No. 78185

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of AIR CALIFORNIA for a Certificate of Public Convenience and Necessity to provide air service between Palm Springs, on the one hand, and San Jose/Oakland/San Francisco on the other hand.

Application No. 51194  
(Petition for Modification of Decision No. 76397; Filed May 1, 1970)

Brownell Merrell, Jr., Attorney at Law, for Air California, applicant.  
Donald Keith Hall, Attorney at Law, for Western Air Lines, protestant.  
Edward L. Colby, for City of Palm Springs, intervenor.  
Milton J. DeBarr and Edward C. Cole, for the Commission staff.

O P I N I O N

On November 4, 1969 the Commission granted a certificate of public convenience and necessity to Air California authorizing it to operate as a passenger air carrier:

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

In addition, the Commission restricted the certificate inter alia as follows:

"No passenger shall be accepted for transportation solely between nor shall operations be conducted by way of the following pairs of points:...

"j. Palm Springs Municipal Airport and Orange County Airport."

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By Decision No. 77098 the Commission temporarily removed the foregoing restriction to allow Air California to operate between Palm Springs and San Francisco/San Jose and Oakland via either Ontario International or Orange County Airport provided that no passengers would be transported solely between Palm Springs Municipal and Ontario or Orange County. This temporary authority expired by its terms on May 29, 1970. On or about May 1, 1970, Air California filed a petition requesting that the temporary modification contained in Decision No. 77098 be made permanent. On May 29, 1970, the Commission, by Decision No. 77278 temporarily extended the modification of Decision No. 76397 until public hearings could be held on the matter. On or about October 6, 1970 Air California filed an Amendment to Petition for Modification, requesting that the temporary removal of the operating restriction be made permanent and that the Commission issue its order authorizing Air California to transport passengers between Palm Springs Municipal Airport and Orange County Airport. The Amendment to Petition does not request to differentiate between on-season or off-season periods, but requests that the modification be made without qualification.

Public hearing was held before Examiner Porter at San Francisco on October 26-27, 1970.

Mr. Frederick R. Davis, Director of Market Services and Planning for Air California, testified as to Air California's experience in the Palm Springs market since its entrance into that market in December of 1969. Mr. Davis testified that the intent of the request was to allow Air California flexible scheduling so as to provide the best possible service to Palm Springs during both the peak and off-season periods at a cost savings to the Company.

The necessity for flexibility in scheduling is shown by the varying traffic patterns in the Palm Springs market. After commencing operations in Palm Springs it was found that the on-season traffic made up 69 percent of the total in the market with the off-season amounting to only 31 percent. Without the temporary authority under which Air California was operating in the summer of 1970, Air California would have experienced a 9.9 percent load factor on the Palm Springs segments during the test month of August 1970. (Exhibit 30, Appendix C, Tr. 662.) This compares unfavorably with the 32.5 percent load factor experienced by Air California in the test month of February 1970. (Exhibit 30, Appendix C, Tr. 696.) With the flexibility allowed by routing aircraft through Orange County, the load factor between Palm Springs and the Bay Area during the off-season would be substantially increased by the addition of Orange County origin or destination passengers. (Tr. 664.)

Air California has also found that there are not only unexpected fluctuations in traffic by month, but also by day of the week. For example, the days of Friday and Sunday during the on-season amount to 44.3 percent of the total monthly traffic. (Exhibit 39, Appendix B, p.2 of 2, Tr. 663.) The pattern was also varied by direction. On Fridays the traffic was primarily southbound to Palm Springs and on Sundays traffic increased northbound to the Bay Area. (Tr. 663.) This increase in traffic corresponds with the system wide increase experienced by Air California on Fridays and Sundays with a result that, without the requested modification, service to the public could be impaired and become uneconomical to the Company. (Tr. 663 & 665.) Further, with route flexibility, Air California could also add extra sections on Fridays and Sundays to accommodate overflow traffic between the Bay Area and Palm Springs. (Tr. 664, 671 & 786.)

There is no presently scheduled air service between Orange County and Palm Springs. (Exhibit 40, Appendix A.)

Mr. Edward L. Colby, Airport Director of Palm Springs Airport, appeared for the City of Palm Springs as Intervenor in these proceedings. Mr. Colby introduced Exhibits 44 and 45, showing the outstanding growth rate experienced by Palm Springs with respect to air passenger boardings.

Western Air Lines, Inc. protestant herein, while offering no affirmative evidence did by extensive and adroit cross-examination explore the economic feasibility of the proposed service.

As pointed out in Decision No. 76397 managerial discretion must be exercised to assure that sound economic factors should be considered in providing additional service in order that financial stability may be obtained so as to assure that service to the traveling public will not be jeopardized.

Findings:

There presently exists a public need for the passenger air carrier service proposed by Air California.

Based upon the foregoing findings of fact the Commission concludes that the application, as amended, should be granted.

O R D E R

IT IS ORDERED that:

1. The temporary authority granted by Decision No. 77098 is made permanent.
2. The applicant is granted a certificate of public convenience and necessity as a passenger air carrier as defined in Section 2741 of the Public Utilities Code of the State of California

between the points and over the routes particularly set forth in Second Revised Page 1, Second Revised Page 2 and Original Page 3 of Appendix B, attached hereto and made a part hereof.

3. In providing service pursuant to the certificate herein granted, 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, 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 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, 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 on the date hereof.

Dated at San Francisco, California, this 15<sup>th</sup> day of JANUARY, 1971.

[Signature]  
Chairman  
William J. Lyons, Jr.  
[Signature]  
Vernon L. Sturgeon

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

Between Palm Springs Municipal 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. Either Orange County Airport or Ontario International Airport may be an intermediate point for this route.

Route 6

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

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\*Revised by Decision No. 78185, Application No. 51194.

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Appendix B  
(Dec. 76110)

AIR CALIFORNIA  
(a corporation)

Second Revised Page 2  
Cancels  
First Revised Page 2  
and Original Page 1-A  
(Appendix A)

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
- g. Between Palm Springs Municipal Airport, on the one hand and San Jose Municipal Airport, Oakland International Airport and/or San Francisco International Airport, on the other hand ..... 1
- #h. Between Palm Springs Municipal Airport and Orange County Airport ..... 1

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#Added by Decision No. 78185, Application No. 51194.

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Appendix B  
(Dec. 76110)

AIR CALIFORNIA  
(a corporation)

Original Page 3

RESTRICTIONS

(1) 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.
- j. Palm Springs Municipal Airport - Ontario International Airport.
- k. Palm Springs Municipal Airport - Hollywood-Burbank Airport.
- l. Long Beach International Airport and any other airports served by Air California except as authorized by Route 6.

(2) No operations shall be conducted between the following pair of points:

Palm Springs Municipal Airport - Hollywood-Burbank Airport.

Issued by California Public Utilities Commission.

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