

ORIGINAL

Decision No. 78648

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 passenger air service between
 Los Angeles and San Francisco/San Jose/
 Oakland/Sacramento, non-stop; San Diego
 and San Francisco via Los Angeles/
 Santa Ana/Burbank/Ontario; San Diego
 and San Francisco/Sacramento, non-stop;
 Sacramento and San Francisco/San Jose/
 Oakland.

Application No. 51311

ORDER DENYING MOTIONS TO STRIKE AMENDMENT TO APPLICATION;
 GRANTING PETITION OF AIR WEST FOR
ADDITIONAL PREHEARING CONFERENCE; AND RESCHEDULING HEARING

By Application No. 51311, filed on August 11, 1969 Air
 California (Air Cal) sought a certificate of public convenience
 and necessity to operate as a passenger air carrier over the follow-
 ing routes:

1. Between San Diego and San Francisco/San Jose/
 Oakland via Los Angeles/Santa Ana/Ontario/
 Burbank
2. Between Los Angeles and Sacramento
3. Between Los Angeles and San Francisco/
 San Jose/Oakland
4. Between Los Angeles and Oakland via San Jose
5. Between San Francisco and Ontario/Burbank
6. Between San Diego and Los Angeles/Santa Ana/
 Ontario/Burbank
7. Between San Diego and Sacramento
8. Between Sacramento and San Francisco/San
 Jose/Oakland

Protests were filed by Pacific Southwest Airlines (PSA)
 and Western Airlines, Inc. (Western). Public hearing was postponed
 in light of the joint application by PSA and Air Cal for approval

of the acquisition of Air Cal by PSA (Application No. 51736, dated February 25, 1970). This application was dismissed by Decision No. 77341, dated June 9, 1970.

After Air Cal was acquired by Westgate-California Corporation, Air Cal amended the application herein on November 25, 1970. This amendment reduced its request for new authority to include only the following service:

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

A prehearing conference was held on January 5, 1971 before Examiner Foley in San Francisco. Mailing dates were set for the exchange of information requests and responses thereto, and for exchanging exhibits. Hearing was scheduled for June 21-30, 1971.

On March 19, 1971 Air Cal filed a second amendment to the application. This amendment adds most of the routes requested originally and in addition requests for the first time authority to serve Monterey. The amendment seeks additional authority as follows:

Between Los Angeles International Airport, on the one hand, and San Diego International Airport, San Francisco International Airport, San Jose Municipal Airport, Oakland International Airport, on the other hand, with the Bay Area airports being either terminal or intermediate points for this route,

and

Between San Diego International Airport, on the one hand, and San Francisco International Airport, on the other hand, with Los Angeles International Airport and Monterey-Peninsula Airport being served as intermediate points for this route.

On March 29, 1971 and April 5, 1971 Western and PSA, respectively, filed motions to strike this amendment. Air West filed on April 12, 1971 its protest to Air Cal's request to serve Monterey, including a petition to be made a party to the proceeding and for a prehearing conference concerning service to Monterey. By letter dated April 15, 1971 United Air Lines has also requested a prehearing conference. Air Cal filed an answer to these pleadings on April 16, 1971.

Western and PSA argued that Air Cal's addition of the points San Francisco, Monterey and San Diego after the completion of the prehearing conference is untimely and results in an insufficient amount of time to prepare testimony and exhibits for these new routes. Western also complains that Air Cal has failed to serve its amendment on all the various carriers which operate between these points.

Air Cal responds to these arguments by stating that the amendment was filed well before the hearing, that it has now served all possible interested parties, and that pursuant to Rule 8 of the Revised Rules of Practice and Procedure of the Commission it may amend its application, as a matter of right, at any time prior to five days before commencement of the hearing. It further asserts that since the passenger traffic statistics involving San Francisco, Los Angeles and San Diego are being included in the record there will not be any undue burden placed upon the protestants.

Under the Commission's rules it is correct that an applicant may amend its application at any time before five days prior to the hearing. However, the addition of the Los Angeles-Monterey-San Francisco route to the application has resulted in

a new protest by a carrier that did not participate at the January prehearing conference. Furthermore, there is no arrangement for inclusion of traffic data regarding air carrier service at Monterey in this record.

Since the application, as now amended, raises the question whether additional air passenger carrier service is needed between the major airports in Los Angeles and San Francisco it is logical to consider the application in one proceeding. However, procedural fairness to Air West and protestants PSA and Western, as well as to any of the several carriers who operate between San Diego and Los Angeles, requires that the presently scheduled hearing be postponed and a new prehearing conference be held. In order to avoid any further delay, we will order that for purposes of this proceeding no amendments adding additional routes to the application will be accepted for filing as part of this proceeding.

Therefore, IT IS ORDERED that:

1. The Motions to Strike Air California's Second Amendment to Application No. 51311 are denied.

2. The Petition of Air West requesting a prehearing conference regarding Application No. 51311 is granted. This prehearing conference will be held on Tuesday, June 22, 1971, in San Francisco at 10 a.m. A separate notice of this conference will be issued subsequently.

3. The hearing presently scheduled to commence June 21, 1971 is postponed until further notice.

4. Any amendment to the application herein which seeks to add additional routes to this proceeding will not be accepted for filing as part of the application herein.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 20
day of MAY, 1971.

[Signature]
Chairman
[Signature]
[Signature]
Vernon L. Sturgeon
[Signature]
Commissioners