

ORIGINAL

Decision No. 78708

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
GOLDEN PACIFIC AIRLINES, INC. for a)	Application No. 52516
certificate of public convenience)	(Filed March 23, 1971)
and necessity.)	

O P I N I O N

Applicant operates a commuter air service as a passenger air carrier between various Northern California airports under a certificate of public convenience and necessity (Decisions Nos. 76668 and 78412, Application No. 51212).

Applicant seeks an extension of its present authority to conduct scheduled service between Travis Air Force Base, on the one hand, and Sacramento, San Francisco, Oakland, San Jose and Monterey, on the other hand.

The service is intended not only for military and civilian personnel destined to and from Travis but also for the civilian population in the Fairfield-Suisun-Vacaville area.

It is alleged that most of the travel needs of military and service-connected personnel is now provided by ground transportation. Applicant's estimates are based on a prediction that 5 to 7 percent of the ground travel will be diverted to its service. There is no evidence of notice to carriers now operating the ground transportation in question. However, since the Passenger Air Carrier's Act does not make intermodal competition a matter of administrative concern, our rules do not require such notice.

Applicant admits that it has suffered severe operating losses in the past two years.¹ It contends that this route will yield substantial profits to subsidize the routes on which traffic revenues have not met expectations.

Applicant's balance sheet shows the following:

Common Stock	\$ 625,000
Paid-in Surplus	1,625,753
Retained Earnings	(1,926,447)
Current Loss	(1,209,895)
Total Shareholders Equity	(885,589)

The directors and associates have also contributed an additional \$1,179,192 in short-term debt. It appears that accumulated operation losses are \$3,135,000 to date. Its operations for the one-month period ending December 31, 1971, showed a net loss of almost \$53,000 on gross revenues of \$145,500.

Under the proposed fares applicant expects the new operation to produce revenues of approximately \$392,000 on an annual basis with expenses at slightly over \$200,000, after a nine-month start-up period.²

We recognize that the revenues are at best projections and that actual results may not approach the predicted 50 percent revenue/expense ratio.

We also point out that applicant's financial condition, while not automatically a bar, nevertheless raises serious questions which cannot be settled simply on the facts alleged.

Since we feel it necessary that service be instituted expeditiously, we have granted a temporary certificate. We expect

1 As of December 31, 1970, the company's retained earnings were a \$1,926,447 offset by loans from directors and associates in the sum of \$1,179,192 in addition to common stock at \$625,000 and paid-in surplus of \$1,625,753.

2 During start-up, first quarter revenues are projected at \$52,755 and at \$88,365 in both second and third quarters. Projected quarterly expenses remain level at slightly over \$50,000.

that actual experience during the temporary service will provide a basis for more reliable predictions. The period of temporary service will also allow time for further consideration of the financial problems.

On May 3, 1971, Golden West Airlines filed a protest, alleging that protestant is authorized to, and actually does, operate between San Jose and Monterey. The protest indicates a concern that applicant may, by this application, acquire operating authority between those points. From an examination of the application, we conclude that no such intent is indicated. In order to eliminate this issue, we will require closed-door operations between those points.

Golden West, by telegram received May 6, 1971, expanded its protest to include the whole service proposed by applicant. Hearing was held on May 19, 1971 in San Francisco, before Commissioner Sturgeon and Examiner Gilman. Protestant asserted that it, at one time, had sought to render service at Travis, but that the Department of the Air Force and the County of Solano had, in effect, rejected its proposal in favor of applicant. While it regards the action of these other governmental bodies as fait accompli and now seeks no authority, it nevertheless seeks the Commission's opinion as to whether the choice between two potentially competing carriers is not by law a matter solely within this Commission's jurisdiction.

We recognize that if a temporary certificate were granted, protestant would be free to pursue this argument without denying the public the right to service while the issue is being determined. We are, therefore, of the opinion that a temporary certificate should be issued with an express caveat to applicant that the possession of

neither a temporary certificate nor exclusive landing rights affords grounds for a presumption that the possessor is best fitted to serve a particular public need. Since this certificate is temporary in nature it is granted on the express condition that applicant shall not, prior to the expiration of the six-month period, discontinue service on any grounds without prior Commission authorization.

After consideration, the Commission finds that:

1. Golden Pacific possesses the necessary equipment, experience and insurance coverage to operate the proposed service.
2. A minimum schedule of one flight per day in each direction to each point served Monday through Friday of each week of the year would satisfy the public interest.
3. Golden Pacific is sufficiently financially stable to offer the proposed service for 180 days from date hereof.
4. Public convenience and necessity require immediate institution of the proposed service.

The Commission concludes that a temporary certificate excluding operations between San Jose and Monterey (180 days) should be issued to applicant.

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. A certificate of public convenience and necessity is issued to Golden Pacific Airlines, Inc., authorizing it to operate as set forth in the revision to Appendix A, attached hereto, as a passenger air carrier as defined in Section 2741 of the Public Utilities Code, said certificate to expire one hundred eighty days from the effective date of this order or at such earlier time as the Commission may, by further order, provide.

2. In providing service pursuant to the certificate herein granted, applicant 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 requirements of the Commission's General Orders Nos. 120-B and 129.
- b. Within one hundred 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 and timetable 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 the effective date of the tariff and timetable filings shall be concurrent with the establishment of the service herein authorized.
- d. 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.

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

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

Chairman

William J. ...

Frank ...

Vernon L. Sturgeon

...

Commissioners

Commissioner J. P. Vukasin, Jr., being
necessarily absent, did not participate
in the disposition of this proceeding.

Route 6 SAN FRANCISCO-MERCED Intermediate Point: Modesto

MOD - SFO MCE - MOD
MCE - SFO

~~#~~Route 7 SAN FRANCISCO-TRAVIS AIR FORCE BASE

SFO-SUU

Route 8 SACRAMENTO-VISALIA Intermediate Points: Modesto, Merced and Fresno

VIS - FAT MCE - MOD *SMF - VIS (Via MOD and FAT)
FAT - SMF MOD - SMF *VIS - MOD (Via FAT)
FAT - MOD

Route 9 SACRAMENTO-MONTEREY Intermediate Point: Oakland, ~~#~~Travis Air Force Base, ~~#~~San Jose

SMF - OAK ~~#~~SUU - SMF ~~#~~*SUU - SJC (Via OAK)
OAK - MRY ~~#~~SUU - OAK ~~#~~*SUU - MRY (Via OAK & SJC)
SMF - MRY

Conditions

1. Authority granted herein is limited to service over the specific routes described above. Direct service between a point on one route and a point on any other route shall not be provided except through junction points of two or more routes.
2. Airport pairs marked with (*) shall be served via intermediate point or points shown.
3. On each route each airport shall be served with a minimum of one flight in each direction on each of five days a week.
4. Passengers shall be carried whose transportation is solely between the respective airports of SFO and SJC, per temporary authority (D.77611).
5. Passengers shall be carried whose transportation is solely between the respective airports of SFO and PAO, PAO and SJC, per temporary authority.
- ~~#~~6. No passengers shall be carried whose transportation is solely between the airports of SJC and OAK and between SJC and MRY, respectively.
7. No aircraft having more than 25 revenue passenger seats shall be operated.

~~#~~This authority expires with November 16, 1971.

Issued by California Public Utilities Commission.

~~#~~Added by Decision No. 78703, Application No. 52516.

3. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
ACV	Eureka/Arcata	Eureka-Arcata Airport
CCR	Concord	Buchanan Field
FAT	Fresno	Fresno Air Terminal
MCE	Merced	Merced Municipal Airport
MOD	Modesto	Modesto Municipal Airport
APC	Napa/Vallejo	Napa County Airport
SCK	Stockton	Stockton Metropolitan Airport
SFO	San Francisco	San Francisco International Airport
SJC	San Jose	San Jose Municipal Airport
SMF	Sacramento	Sacramento Metropolitan Airport
SNS	Salinas	Salinas Municipal Airport
STS	Santa Rosa	Sonoma County Airport
TVL	South Lake Tahoe	Tahoe Valley Airport
UKI	Ukiah	Ukiah Municipal Airport
VIS	Visalia	Visalia Municipal Airport
PAO	Palo Alto	Palo Alto Municipal Airport
OAK	Oakland	Oakland International Airport
MRY	Monterey	Monterey Peninsula Airport
#SUU	Solano County	Travis Air Force Base Airport

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