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ORIGINAL

Decision No. 78847

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 and Oakland via San Jose.

Application No. 51059

ORDER DENYING EX PARTE OR TEMPORARY CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY

By this application filed May 6, 1969 Pacific Southwest Airlines (PSA) seeks a certificate of public convenience and necessity to conduct passenger air carrier operations between San Diego and San Jose/Oakland with San Jose serving as an intermediate point in either direction. Air California (Air Cal) filed a protest on June 4, 1969 and a motion to hear the application as part of a state-wide air passenger carrier investigation on July 15, 1969. The latter motion was denied by Decision No. 76427, dated November 12, 1969.

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.

In September, 1970 PSA commenced non-stop service between San Diego and San Jose. Air Cal subsequently filed a complaint, Case No. 9160, on December 10, 1970 in which it alleged that PSA's certificate did not include authority to conduct such non-stop service. By Decision No. 78619, dated April 27, 1971 we ordered that PSA cease and desist from providing such service.

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On May 5, 1971 PSA filed an amendment in this proceeding. It requests that the amended application be granted immediately by an ex parte order. PSA proposes to offer a minimum of one round-trip per day between San Diego and San Jose/Oakland with a one-way fare of \$24.50 including tax in lieu of the fare of \$22.00 proposed in the original application. On May 6, 1971 Air Cal filed a protest to this latest request by PSA.

PSA contends that immediate need for such operating authority is justified by its experience while operating its unlawful non-stop service. PSA fails to provide any passenger data in support of this assertion, however. Furthermore, PSA overlooks the fact that Air Cal is authorized to provide non-stop service between San Diego and San Jose, as well as between San Diego and Oakland.

Since there is service available to the public and presently operating we do not agree with PSA that there is any compelling need to authorize, without a hearing, direct competitive service over this route. The appropriate procedure is to require the applicant who asserts that the route should have competitive service to demonstrate this situation at a public hearing. A prehearing conference will be scheduled in the near future for this purpose.

Therefore, IT IS ORDERED that:

1. The request by Pacific Southwest Airlines (PSA) for an immediate ex parte certificate is denied.

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2. The request by PSA for a temporary certificate, pending completion of a public hearing, is denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 22nd
day of JUNE, 1971.

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