

Decision No. 79231**ORIGINAL**

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 Orange County Airport/Ontario International Airport/Hollywood Burbank Airport, on the one hand and Sacramento on the other.

Application No. 51007  
(Filed April 14, 1969)

In the Matter of the Application of PACIFIC SOUTHWEST AIRLINES for a certificate of public convenience and necessity in either direction between San Diego/Ontario/Hollywood Burbank/San Jose/Oakland and Sacramento.

Application No. 51058  
(Filed May 6, 1969)

Order Denying Motion to Dismiss

These consolidated proceedings, involving applications by Air California (Air Cal) and Pacific Southwest Airlines (PSA) to serve Sacramento from various points in Southern California, were resolved by Decision No. 79085 dated August 24, 1971.

On the same date, PSA filed a motion to dismiss Air Cal's application for lack of prosecution. PSA argues that Air Cal's application should be dismissed because it has failed to file the 1970 annual report of its parent company, California-Westgate Corp. (Westgate) as a late-filed exhibit (Exh. No. 34) as required at the hearing.

Air Cal was supposed to file Westgate's 1970 printed annual report to shareholders on or before July 16, 1971, and all parties were to file any responses or comments about it on or before July 23, 1971. Air Cal filed Westgate's unaudited 1971 first quarter consolidated financial statements on July 9, 1971 instead of the annual

report because the report would not be printed and available for distribution until September 1971. No responses or comments on this unaudited quarterly report were filed. The Commission commented on the results shown by Exhibit No. 34 in its decision. (See Decision No. 79805, p. 33.)

In its motion PSA states that Westgate's fiscal year-end report, dated December 31, 1970, required by the Securities Exchange Commission, was available. PSA has attached this report to its motion to dismiss and presents several arguments based upon it which purport to show that Westgate's financial condition has deteriorated to the point that Air Cal's application should be dismissed.

The Commission accepted the filing of the 1971 quarterly report as Exhibit No. 34 upon the representation that the printed shareholders' annual report would not be available. No objection to the filing of the quarterly report of Westgate was made. The 1970 annual shareholders' report of Air Cal was available. The Commission considered Air Cal's financial condition in its decision, and found it satisfactory on that record. We also considered Westgate's position as represented by its 1971 quarterly report. Therefore, the motion to dismiss will be denied.

IT IS ORDERED that Pacific Southwest Airline's motion to dismiss Application No. 51007 is denied.

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

Dated at San Francisco, California, this 13<sup>th</sup> day of OCTOBER, 1971.

[Signature]  
Chairman  
William J. Stewart, Jr.  
Juan L. Sturgeon  
[Signature]  
Commissioners

-2- Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.