

Decision No. 79545

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of HOLIDAY AIRLINES, INC., a
California corporation, for
authority to add Orange County
Airport and San Diego International
Airport, Lindbergh Field, to its
existing authority to Tahoe Valley
Airport.

Application No. 52186
(Filed September 4, 1970)

Norris M. Webb, Attorney at Law, for Holiday
Airlines, Inc., applicant.
Darling, Hall, Rae and Gute, by Donald K. Hall,
Attorney at Law, for Western Air Lines, Inc.,
and Graham and James, by Boris H. Lakusta,
Attorney at Law, for Air California; protestants.
Dennis O'Neil, Assistant City Attorney, for the
City of Newport Beach; and Charles L. Smith, for
the City of South Lake Tahoe; intervenors.
Bernard J. Peeters, Attorney at Law, L. F. Avery, and
Milton DeBarr, for the Commission staff.

O P I N I O N

Holiday Airlines, Inc. (Holiday), a passenger air carrier as defined in the Passenger Air Carriers' Act (Secs. 2739 et seq., of the Public Utilities Code), has authority to transport passengers by air in either direction between Los Angeles International Airport (LAX), Hollywood-Burbank Airport (BUR), Long Beach Municipal Airport, Oakland International Airport, San Jose Municipal Airport, on the one hand, and Tahoe Valley Airport (TVL), on the other hand. By this application Holiday seeks a certificate of public convenience and necessity authorizing it to add Orange County Airport (OCA) and San Diego International Airport, Lindbergh Field (SAN), to its existing authority.

In its original application Holiday proposed to operate a daily one-stop round trip flight between SAN-TVL via OCA, with an additional nonstop round trip flight between SAN-TVL on Friday and Sunday. Holiday's proposed one way fare between SAN-TVL is \$41.00 on Friday through Sunday, and \$33.50 on Monday through Thursday. Its proposed one way fare between OCA-TVL is \$33.50 on Friday through Sunday and \$28.50 on Monday through Thursday. Finally, Holiday proposes to carry only passengers whose origin or destination is Lake Tahoe.

Protests to Holiday's application were filed by Air California (Air Cal) and by Western Air Lines, Inc. (Western). Public hearings were held before Examiner Foley on December 14, 15, and 16, 1970 in San Francisco. After completion of the hearing the matter was taken under submission subject to briefs.

By letter dated January 11, 1971 Holiday officially notified the Commission that it was withdrawing that portion of the application which requested authority to operate between TVL and OCA.^{1/} Consequently, the application presently before the Commission for decision requests only authority to operate between SAN-TVL via any of its existing points. At the hearing, however, Holiday's testimony and exhibits dealt with service between SAN-TVL by only one specific point, LAX. For purposes of this decision, therefore, we will consider Holiday's application to be limited to this particular route.

^{1/} This withdrawal may have resulted from the position taken by the Director of Aviation for Orange County in a letter dated November 30, 1970, addressed to the hearing examiner, and read into the record which states that in no event would Holiday or any other carrier be authorized to do business at the Orange County Airport because there is no terminal space available there for any additional airlines. (See Tr. 74-5.)

This letter also stated that Holiday was decreasing its entire service to Lake Tahoe from a daily basis to a weekend only basis as a result of continuing decreases in demand for service to Lake Tahoe. By letter dated April 27, 1971 Holiday has informed the Commission that on May 28, 1971 it was reestablishing its daily service between LAX-BUR-TVL and Oakland/San Jose-TVL.

Two public witnesses testified in support of the application. They were the city manager of the City of South Lake Tahoe and the manager of the Visitors Bureau of the local Chamber of Commerce. These witnesses stated that their respective bodies support the application of Holiday because the South Lake Tahoe community needs additional air service in order to bring added business to the area and to help ease the problem of seasonality. By seasonality the witnesses explained that they meant the fact that the South Lake Tahoe area does not have as much business during the winter months as it does during the summer. They also emphasized that the area is dependent upon tourism for its economic livelihood, and that there is presently no direct single plane air passenger carrier service between TVL-OCA or TVL-SAN. Both witnesses rejected the contention made by Western that its service into Reno from San Diego and Los Angeles provided air passenger service to Lake Tahoe. The witnesses complained that in their opinion the one to two hours required for the bus trip from Reno to South Lake Tahoe effectively eliminated Western's service to Reno as being adequate air transportation for their area.

Holiday presented three witnesses in support of its proposal. They were its president and chief executive officer, its vice president of customer and marketing services, and an independent transportation consultant. Air California presented in support of its protestant's case its director of market services and planning. Western did not present any witnesses, but relied upon cross-examination. The Commission staff also did not present any witnesses; it presented a summary of the arguments both for and against approval of the application.

Holiday currently operates with two Lockheed L-188 Electra turbo-prop aircraft.^{2/} The first electra aircraft was placed into service in November, 1968. The second electra was placed in service in March, 1969. Holiday's initial service was between San Jose and Oakland to TVL. This service was commenced in November, 1967 with small aircraft and was replaced by Electra service in November, 1968. It was granted authority to operate between Hollywood-Burbank and TVL. (Decision No. 74860 dated October 22, 1968, in Application No. 50516.) This service was commenced in November, 1968. Subsequently, Holiday received authority to serve between Los Angeles International Airport and TVL. (Decision No. 77155 dated April 28, 1970, in Application No. 51159.) This service was commenced in June, 1970. Although Holiday has authority to serve Long Beach, service to this community has never been instituted.

Holiday's president, witness Boyd, who left the company in January, 1971, advanced several reasons for its expansion into the San Diego area. First, he stated that the Los Angeles area had proved to be a good traffic generating point for Holiday; second, the service expansion to San Diego would require only a small amount of additional cost in that all the carrier's fixed costs would remain the same; and third, that there was no direct single-plane service now operating between SAN-TVL. Before the Commission awards a certificate of public convenience and necessity, however, it is required to consider the various factors set out in Section 2753 of the Public

^{2/} A contract under which Holiday had access to a third Electra aircraft for use in its operations was terminated as of December 5, 1970.

Utilities Code.^{3/} After giving consideration to Holiday's financial stability, to the public need for the service, and to whether it can economically provide the service, we conclude that the application should be granted at this time for the following reasons:

1. At the present time, Holiday Airlines provides the only direct, one-plane service to Tahoe from the Southern California area. The proposed extension of service to San Diego would represent an additional mileage of only about 100 miles, and the additional costs to Holiday Airlines would be merely for the additional 100 miles. On the other hand, any additional traffic that it would obtain would be through traffic all the way to Lake Tahoe, so the company would not have to pick up more than a few extra passengers to pay for the extension.
2. With present operations, Holiday Airlines does not fully utilize its present two Electra fleet, and the proposed San Diego extension would improve overall conditions.
3. It is evident that Holiday Airlines with its present aircraft has the ability and the immediate capacity to add service. The Commission does not want to frustrate the carrier's effort to improve its condition.

3/ Section 2753 provides as follows:

"An applicant shall submit his written verified application to the commission. The application shall be in such form and contain such information and be accompanied by proof of service upon all passenger air carriers with which the proposed service is likely to compete and such other interested parties as the commission requires.

"In awarding certificates of public convenience and necessity pursuant to Section 2752, the commission shall take into consideration, among other things, the business experience of the particular passenger air carrier in the field of air operations, the financial stability of the carrier, the insurance coverage of the carrier, the type of aircraft which the carrier would employ, proposed routes and minimum schedules to be established, whether the carrier could economically give adequate service to the communities involved, the need for the service, and any other factors which may affect the public interest."

4. The entire operation of Holiday Airlines is that of a luxury-type service; mainly, for skiers and other persons on a holiday, and the company should be given wide latitude in experimenting with methods of bringing in more revenue. Granting the application will not divert traffic of existing air carriers since the proposed direct service is new to the public. Furthermore, Holiday Airlines is capable of quickly determining the benefits of the new extension, if granted; and if traffic does not materialize, it can curtail service to San Diego or completely discontinue it before any major harm is done.

Findings of Fact

1. Holiday is a passenger air carrier currently holding authority to operate between South Lake Tahoe, on the one hand, and various points in the Bay Area and Southern California, on the other hand.

2. Holiday's 1971 traffic forecast for its proposed SAN-LAX-TVL route is primarily based upon Holiday's experience between LAX/BUR-TVL during only one month, July, 1970 compared to July, 1969. This forecast incorporates a growth rate of 48 percent until June, 1971 and then a 15 percent growth rate compounded monthly for the remainder of the year. This forecast is reasonable.

3. Holiday provides a luxury-type service; it should be given wide latitude in experimenting with methods of bringing in more revenue. Granting the application will not divert traffic of existing air carriers. Public convenience and necessity will be served by Holiday's introduction of this service.

4. In providing the service authorized herein, Holiday Airlines proposes to charge the following fares, excluding tax:

Between San Diego International Airport and Tahoe Valley Airport via Los Angeles International Airport:

- a. Monday through Thursday \$33.50
- b. Friday through Sunday \$41.00

Based upon the foregoing findings of fact, the Commission concludes that a permanent certificate of public convenience and necessity should be granted to Holiday authorizing it to operate between San Diego and between Lake Tahoe via Los Angeles.

Holiday Airlines, Inc., 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 granted to Holiday Airlines, Inc., authorizing it to operate as a passenger air carrier as defined in Section 2741 of the Public Utilities Code, between the points and over the route more particularly set forth in Appendix A, attached hereto and hereby made a part hereof.

2. Appendix A of Decision No. 77228, as heretofore amended, is further amended by incorporating therein Second Revised Page 1, attached hereto, in revision of First Revised Page 1.

3. 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 insurance requirements of the Commission's General Order No. 120-A.

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- b. Within one hundred and 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 ten days after the date hereof.

Dated at San Francisco, California, this 4th day of JANUARY, 1972.

[Signature]
Chairman

[Signature]

[Signature]

Commissioners

I will file
a dissent.
Thom Moran

Present but not signing:
[Signature]

Holiday Airlines, Inc. is authorized to operate in either direction as a passenger air carrier between the following airports only:

OAK-TVL	OAK-SJC	LAX-OAK
SJC-TVL	BUR-LGB	LGB-OAK
BUR-TVL	BUR-LAX	LGB-SJC
LAX-TVL	LAX-LGB	BUR-OAK
LGB-TVL	LAX-SJC	BUR-SJC
#SAN-TVL	#LAX-SAN	

Conditions

1. No passenger shall be carried whose transportation does not originate or terminate at TVL.
2. Passengers between SAN and TVL may be transported nonstop or via LAX only.
3. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
BUR	Burbank	Hollywood/Burbank Airport
LAX	Los Angeles	Los Angeles International Airport
LGB	Long Beach	Long Beach Municipal Airport
OAK	Oakland	Oakland International Airport
SJC	San Jose	San Jose Municipal Airport
TVL	South Lake Tahoe	Tahoe Valley Airport
#SAN	San Diego	San Diego International Airport

NOTE: Authority to operate to Truckee (Truckee Tahoe Airport) expired October 1, 1971 pursuant to Decision No. 77792, dated October 6, 1970.

Issued by California Public Utilities Commission.

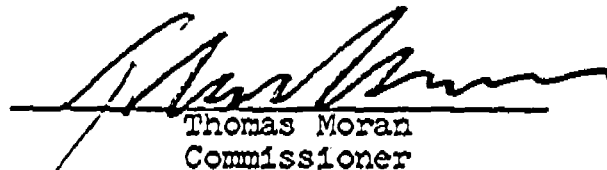
#Added by Decision No. 79545, Application No. 52186.

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THOMAS MORAN, Commissioner, Dissenting.

I dissent.

I dissent for the same reason that Examiner Foley, who heard this case, disapproves of this decision - to wit, the fact that the applicant failed to show that the additional service between San Diego and Lake Tahoe would be economically viable - i.e. do other than increase the applicant's overall losses. The time when this Commission could properly grant any applicant a "hunting license" to engage in air transportation in California without some substantial evidence that the proposed service would be economically viable is over. I would therefore deny this application.


Thomas Moran
Commissioner

January 4, 1972

San Francisco, California