

ORIGINAL

Decision No. 79985

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 PACIFIC SOUTHWEST AIRLINES for a  
 certificate of public convenience  
 and necessity in either direction  
 between San Francisco/Stockton/  
 Fresno and Los Angeles with through  
 and connecting service to San Diego  
 and Sacramento and to overfly  
 Stockton or Fresno.

Application No. 52291  
 (Filed November 10, 1970;  
 Amended March 15, 1971)

McInnis, Fitzgerald and Wilkey, by John W. McInnis,  
 Attorney at Law, for Pacific Southwest Airlines,  
 applicant.

Koteen N. Burt, by John W. Simpson; Davis and Cox,  
 by Maxwell E. Cox, Attorney at Law, for Hughes  
 Airwest; and Caditz, Howard, and Garcia, by  
Glen A. Howard, Attorney at Law, for Golden  
 Pacific Airlines; protestants.

Brobeck, Phleger, and Harrison, by Robert N. Lowry,  
 Attorney at Law, for United Air Lines, Inc.;  
James B. Brasil, Attorney at Law, for the City  
 and County of San Francisco; Richard Vander Wall,  
 Attorney at Law, for Stanislaus County;  
James E. Longe, for San Joaquin County;  
Wilmer J. Garrett, for the City of Fresno;  
Perry H. Taft, Attorney at Law, for the City of  
 Fresno; James M. Park, for the Cities of Lodi,  
 Tracy, Manteca, Escalon, Ripon and San Joaquin  
 County Economic Development Association;  
Richard H. Elkington, for the Stockton Chamber  
 of Commerce; Richard C. Smith, for the City of  
 Modesto; Friedman, Heffner, Kaheen and Dysart,  
 by Edward J. Pulaski, Jr., Attorney at Law, and  
Frederick R. Davis, for Air California;  
 interested parties.

Scott K. Carter, Attorney at Law, M. J. DeBarr,  
 and Richard Brozosky, for the Commission staff.

O P I N I O N

This proceeding involves the application of Pacific  
 Southwest Airlines (PSA) to provide passenger air carrier service

to Fresno and/or Stockton from San Francisco and Los Angeles. Protests were filed by Hughes Air West (Air West) and Golden Pacific Airlines (GPA); and United Air Lines (United) participated as an interested party in opposition to PSA's proposal. In addition, the communities of Stockton and Fresno actively participated in support of the application.

Pursuant to the Commission's Rules of Practice and Procedure, Sections 69-72, the Proposed Report of Examiner William N. Foley was filed on November 5, 1971. Exceptions to the proposed report were filed on November 24, 1971 by Air West, United, and by the Legal Division of the Commission staff. Joint reply briefs were filed on December 10, 1971 by the City of Fresno, County of Fresno, Fresno County and City Chamber of Commerce; by the City of Stockton, County of San Joaquin and the Greater Stockton Chamber of Commerce; and by the Transportation Division of the Commission. PSA filed a reply brief to the exceptions on January 12, 1972, after receiving an extension of time for this purpose.

The proposed report concluded that PSA should be granted authority to operate a minimum of two daily round trip flights between Fresno-San Francisco and Fresno-Los Angeles. The examiner also recommended that PSA be authorized to serve Stockton by operating the same minimum number of daily flights on the route San Francisco-Stockton-Fresno-Los Angeles.

In its brief on exceptions United complains that the examiner failed to make a necessary finding that there is a public need for PSA's proposed service. It maintains that such a specific finding is required by Section 2753 of the Public Utilities Code. In particular, United claims that the failure to mention the public support in favor of PSA's application indicates that there is no inadequacy of service at Stockton or Fresno. Secondly, United argues that the examiner's statements that Fresno has considerable passenger air carrier service, or "a good level of service",

demonstrate that the present service being provided by United and Air West is adequate. Since their service is adequate, United contends there is no public need for PSA's operations. Insofar as Stockton is concerned, United states that the proposed report's description of Stockton's current service as "barely adequate" fails to justify awarding PSA the requested authority when consideration is given to Stockton's proximity to San Francisco, on the one hand, and to the availability of commuter airline service provided by GPA, on the other hand.

The Commission does not agree. Section 2753 commands us only to consider various factors relating to an application to commence passenger air carrier service; one of these factors is the public need for the proposed operations. A review of the record demonstrates that such a need does exist in this case.

Although the examiner did not describe in detail the public support for PSA, there is considerable evidence in the record which demonstrates that the proposal has substantial public support at both points. Nine witnesses appeared at the first day of the hearing and testified in support of PSA's proposed service. These included both local government officials and representatives of the local chambers of commerce of both communities. (Exh. No. 3.) There was testimony by one witness which related that billboard space was provided in Stockton by a local firm at its own expense urging the public to support PSA's application. (Tr. 11-2; Exhs. Nos. 4 and 6.)

Likewise, we do not agree with United's contention that there is no basis in the proposed report for a finding that PSA's service is needed merely because United's level of service at Fresno is described as "good". The proposed report relates that the incumbent carriers' service has been deteriorating. United and Air West have recently reduced service at both points, while at the same time the fares to San Francisco and Los Angeles have been increased. In its reply brief to exceptions, Fresno relates that

more flights were eliminated in late 1971. This brief states that as of October 31, 1971 United and Air West are operating a total of only five daily round trip flights between Fresno and Los Angeles; and only four and a half such flights between Fresno and San Francisco, consisting of four daily flights northbound and five southbound. Moreover, the last northbound flight to San Francisco scheduled by either carrier is at 5:05 p.m.

In particular, Air West has reduced its service to the bare minimum. According to its most recent published schedule, it is providing two daily round trips between Fresno-San Francisco, but only one daily southbound flight between Fresno-Los Angeles, and no northbound flights. (See Air West Flight Schedule dated March 13, 1972.)<sup>1/</sup> And this same schedule does not list any service by Air West between Stockton and San Francisco or Los Angeles. This leaves Stockton with only United's one daily round trip to each major city, bearing in mind that its service to Los Angeles makes three intermediate stops.

Therefore, there is a public need for PSA's service at Stockton because it will provide vastly improved schedules over the poor service now provided. PSA will offer one-stop flights to Los Angeles and new nonstop service to Fresno, and two daily round trips to San Francisco. It will also give Stockton some improvement in aircraft equipment over Air West's past service, since PSA will operate with Boeing 737 jet aircraft and Air West operated with Fairchild F-27 prop-jet aircraft. All of these considerations demonstrate that there is a public need for PSA's proposed operations irrespective of the fact that PSA offers lower fares.

The Commission concludes that the combination of PSA's service with United's flights and Air West's very small amount of

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<sup>1/</sup> Official notice is taken of Air West's schedule dated March 13, 1972, and United's schedule effective February 1, 1972 through April 30, 1972.

service will provide superior service between Fresno and Los Angeles or San Francisco. When the record indicates that the necessary traffic potential may be present, and after considering the demonstrated traffic generating capability of PSA, the public is entitled to such superior service. Moreover, the public need is served because undoubtedly some of PSA's flights will be scheduled at some times of the day when there are no flights under the present schedules. In other words, in our judgment PSA's proposal meets the public convenience and necessity. Finally, PSA's operations at Fresno provide the possibility of increased service at Stockton, which is receiving almost no service at the present time.

Both United and Air West challenge the conclusion in the proposed report that PSA can economically provide service at Fresno. Both carriers renew their arguments that PSA will sustain losses if it is certificated.

Air West disputes the examiner's adoption of a 50 percent stimulation factor after PSA's entry into the Fresno market. It argues that this level of stimulation for lower fares is unreasonable, citing the conclusions and the elasticity of demand criteria found by the Civil Aeronautics Board (CAB) in its recent investigation of domestic airline fares. Air West also advances various criticisms of the use of the Sacramento-Los Angeles market for comparison purposes. The Commission accepts the examiner's conclusion in this regard. The adoption of a particular stimulation factor for the entry of a new carrier into a market is largely a matter of judgment. As can be expected in these proceedings, applicants predict ultimate, if not instant, success and protestants forecast dire results. In the proposed report, the examiner rejected PSA's extremely optimistic traffic study, and substantially reduced the stimulation factor from that which actually occurred in the Sacramento-Los Angeles market. The conclusions of the proposed report are within the zone of reasonableness, given the differences in the various traffic forecasts presented in the proceeding.

In addition, Air West urges that the Commission consider CAS origin and destination (O&D) traffic data for the year 1970, which became available since the issuance of the proposed report. Relying on this data, Air West states that the growth rates it applied in the forecast figure for 1970 total traffic were too optimistic. By its calculation, the 1972 forecast is overstated by 6.6 percent, with the result that PSA's estimated 1972 monthly traffic would be reduced by 2,052 passengers. This would in turn result in a reduction of a little over \$26,000 per month in gross revenues.

This new traffic data was not available during the hearings in this proceeding, and consequently not subjected to cross-examination or rebuttal. We conclude, therefore, that it is not entitled to any weight, partly because there may be other post-hearing data now available which would minimize its importance. More important, the post-hearing schedules of service at Fresno show that Air West has further reduced its flights to San Francisco and Los Angeles. These cutbacks have been made after both Air West and United made substantial reductions in service to the same points in October, 1970. (Exh. No. 13, p. 5.) Reductions in service undoubtedly result in the loss of traffic. The combination of Air West's 20 percent fare increase in early 1971 with further service reductions in November, 1971 indicates that its 1971 traffic at Fresno has probably suffered a further decline. (See Decision No. 79499, dated December 21, 1971, in Application No. 52754 (App. by Air West to increase fares).) PSA's systemwide traffic, on the other hand, has increased from 5,162,000 passengers in 1970 to 5,623,000 in 1971.

At most Air West's new traffic data only show that PSA's operations may be marginal for two or three years, and that commencement of commuter service in the Central Valley must be considered as experimental. This situation is recognized by the proposed report. We expect that if PSA's service proves uneconomical it will take corrective action under Section 2769.5 of the Public Utilities Code.

Air West disputes the estimate that PSA will carry 45 percent of the traffic between Fresno and Los Angeles/San Francisco. Based upon the schedules in effect at the time of the hearing, it estimates PSA's share to be about 34 percent of the total traffic. Under the present schedules PSA's proposed four flights between Fresno and Los Angeles would constitute 44 percent of the available scheduled flights, and its four proposed flights between Fresno and San Francisco would equal 40 percent of the available scheduled flights in that market.<sup>2/</sup> With this degree of service being supplied by PSA, combined with its emphasis on the intrastate market, the conclusion in the proposed report on this question is reasonable.

Air West disagrees with the assignment of traffic between the San Francisco-Fresno-Los Angeles route (Fresno route) and the San Francisco-Stockton-Fresno-Los Angeles route (Stockton route). (Air West Brief on Exceptions, pp. 3-5.) It objects to the assignment of 75 percent of the forecast traffic at Fresno to the Fresno route and 25 percent to the Stockton route. It prefers to divide the Fresno-San Francisco and Los Angeles traffic almost equally, and then assign 75 percent of the San Francisco traffic to the two nonstop flights between those points, and the remaining 25 percent to the two one-stop flights via Stockton. It divides the Fresno-Los Angeles and the Fresno-San Diego traffic equally between the two routes. Finally, it distributes 75 percent of the Fresno-Sacramento traffic to the Fresno route, and 25 percent to the Stockton route.

The result of this different assignment of the total traffic is that the monthly traffic on the Fresno route is decreased from 12,144 passengers per month, as set forth in the proposed report, to 9,762. This in turn results in a reduction of the projected monthly profit before interest and income taxes on this route from \$31,495 to \$1,265.

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<sup>2/</sup> Since two of these four flights are via Stockton PSA's four flights are weighted as three nonstop flights.

Admittedly PSA's assignment of the Fresno traffic, which is utilized in the proposed report, is somewhat arbitrary. But so is Air West's. For instance, we doubt that 25 percent of PSA's projected Fresno-Sacramento passengers will travel via the two-stop Stockton route. Of course, it is not possible to foresee how the traffic will be distributed among PSA's flights. More significant, however, is the fact that although under Air West's method the projected Fresno-route traffic is decreased, the projected Stockton-route traffic is increased from 9,409 passengers per month to 11,812 such passengers. This degree of increase on this route would convert operations from a \$2,829<sup>3/</sup> loss per month to a \$17,332 operating profit per month. Therefore, the conclusion that PSA's service to both points will produce an overall profit is not affected.

The Commission is not persuaded that Air West's method of assignment is substantially more accurate than that utilized in the proposed report. As we have stated above, we recognize that all traffic forecasts, stimulation factors, and passenger assignment methods are at best "educated guesses" and subject to criticism. The proposed report emphasizes that PSA's service in these two markets is unlikely to be an instant success, such as occurred when it commenced operations at Sacramento or San Jose, or when Air California initiated service at Orange County Airport. We accept the view expressed in the proposed report that the Stockton-Fresno service should be considered as experimental, and we agree that its conclusion regarding PSA's operating results is reasonable.

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3/ United correctly points out that through a transposition of numbers, PSA's estimated monthly loss at Stockton should be \$2,829, and not \$2,289. (United Brief on Exceptions, p. 15.) This reduces PSA's estimated annual operating profit at both valley points from \$110,472 to \$103,992, after applying United's block time adjustments to PSA. If PSA is correct on block times, its annual operating profit is estimated to be almost \$124,000.



Like Air West, United contends that PSA cannot operate profitably at Fresno. United objects to the acceptance of PSA's system average operating costs in evaluating the profitability of the proposal. It argues that the costs per unit for the proposed service will be higher than systemwide average costs because a smaller number of units (traffic volume) is involved at Fresno and Stockton than on PSA's entire system.

The Commission rejects this position. PSA did increase its cost estimates for known or expected 1972 increases in operating costs. Adjustments suggested by United for longer block times in conducting the service were also considered, although the benefit of the doubt was given to PSA in this regard. It may prove correct that certain operating expenses for the Fresno and Stockton flights will be greater than average system expenses. However, PSA may carry more traffic than estimated in the proposed report, or it may receive a fare increase. We cannot conclude with any certainty what the precise result will be until the service is actually provided for some time. Although PSA's expectations may be optimistic, there is nothing in the record which supports the conclusion that its management is improvident regarding the proposed service, i.e., that it is deliberately seeking to enter a market in which it knows, or should know, it will lose money. The conclusion in the proposed report that the overall service will prove profitable is in the zone of reasonableness, when consideration is given to PSA's financial position, its actual performance record, and the significant reduction in its traffic forecast made by the examiner.

After institution of Stockton-Fresno service under the conclusions of the proposed report, United estimates that PSA's operating ratio will be 96.86 percent. In view of the fact that PSA has filed an application for a systemwide fare increase (Application No. 52970, filed November 3, 1971) in which it apparently seeks an operating ratio of 85 percent, United asserts that the proposed service will provide little or no net profit.

The initial level of profitability is not so small that denial of the application is required, given PSA's overall financial strength. Furthermore, profitability on PSA's various routes undoubtedly varies greatly.

United's position overlooks the fact that even if PSA's fares for the proposed service are increased by no more than \$1, the level of profitability will presumably be significantly improved, and PSA's fare structure will still provide the public with a significant reduction from the present fare levels.

Both Air West and United repeat their arguments regarding the adverse effect PSA's entry into Stockton and Fresno will have on all their operations in the Central Valley. They predict not only increased losses for themselves as the result of diverted traffic, and the possibility of the discontinuance of service at other Valley points, but also fare increases by PSA as the result of poor operating results with its new service. In addition, United vigorously contends that certification of PSA constitutes authorization of a program of economic attrition for itself and Air West, and that the Commission should reject an "empirical approach to regulation" which permits unrestricted entry into their markets and ignores any consideration for the effect on their operations.

Air West advances the same arguments, urging that the examiner failed to resolve the problem of possible loss of service to small cities in California which PSA will not serve. It renews its contention that its service to many small communities which enplane very few passengers may be jeopardized, and that this service is valuable to the public interest. It warns that the Commission must face the question whether it is going to permit intrastate carriers to skim the cream off of Air West's better routes. To permit them to do so will not result in the achievement of an orderly, efficient, economical and healthy intrastate air network. Rather, certification of PSA will only add a superfluous and uneconomic service

which will result in minimal advantages for the public, and at the same time cause severe economic losses to the incumbent carriers.

These dire assertions are not convincing. They are typical arguments advanced by incumbent operators against the admission of a competitor. The Commission must, in each route proceeding, balance the interests of the public against the private interests of the incumbent carriers and the applicant. We recognize the possibility that service to some of the smaller communities may be endangered if PSA is certificated, as well as the adverse impact competition will have on the incumbent carriers. On the other hand, however, the Commission agrees with the examiner that the following factors outweigh those advanced by the incumbent carriers:

1. Service at Fresno and Stockton has deteriorated by reductions in frequency and by increases in fares. Indeed, Air West has virtually reduced its service at Fresno to the irreducible minimum. It did not oppose PSA's proposal to serve Stockton, and it has virtually abandoned that point. United's service at Fresno is good, but only the barest minimum at Stockton. Granting the application will substantially improve service at Stockton, and provide Fresno with superior service. In this sense, PSA's willingness to serve Stockton, where operations may well prove unprofitable, and which is not a high density route, indicates an acceptance of public utility responsibilities.
2. Both incumbent carriers are larger than PSA, with many routes outside California. By its own admission 60 percent of Air West's passengers originate outside of California. For United this percentage must be even greater. Fresno and Stockton represent a very small part of their total route systems, the loss of which would not appear to be disastrous. Both incumbents are supported by strong management teams with adequate financial resources, and their economic positions improved in 1971.

3. United has commenced vigorous competition against PSA in the main California corridor route between San Francisco International Airport (SFO) and Los Angeles International Airport (LAX) by scheduling hourly flights at the same time as PSA's. Consequently, it seems reasonable to permit PSA to compete with United at Fresno and Stockton.
4. This is the first attempt by an intrastate carrier to operate in a low density market in California outside the main corridor between SFO and LAX, and their satellite airports. PSA has the financial strength to undertake such an attempt, and the results are only conjectural until such an attempt is made.

The intrastate air network has flourished as a result of the low fare and high frequency flights provided by carriers such as PSA. These carriers have introduced frequent flights at points which the interstate carriers were either unable or unwilling to serve. We wish to encourage such service as long as it is shown that the applicant is in sound financial condition and its proposal appears economically viable.

Air West vehemently disagrees with the conclusion in the proposed report that the estimated diversion of revenues Air West may suffer as a consequence of PSA's certification would not be "extremely serious" (PR, p. 33, note 5). It calculates the total loss of gross revenues to be almost \$900,000 a year, and states that this would be "a staggering sum of money to Air West" (Air West Brief on Exceptions, p. 22). It also asserts that there is no evidence to support the examiner's conclusion that Air West's poor operating results are only temporary. It states that Air West lost over \$3,000,000 during the first nine months of 1971, and that Air West must be protected from such diversion.

Air West's calculation of revenue diversion is unadjusted for its reduction in service at Fresno. It was estimated in the proposed report that Air West would carry 30 percent of the Fresno

traffic remaining for itself and United. However, as of October 31, 1971, Air West has reduced its scheduled flights by 50 percent between Fresno-Los Angeles, and by 75 percent between Fresno-San Francisco. This curtailment of service would result in a substantial decrease in the traffic carried by Air West. Its share of traffic under the present service pattern would probably not be greater than 36,000 passengers. This reduces Air West's diversion of gross revenues which results from meeting PSA's fares from \$566,000 to approximately \$295,000. Therefore, the estimated total revenue loss to Air West would be reduced from about \$900,000 to about \$600,000 (\$295,000 plus \$285,000 and \$16,000).

The Commission does not dispute that such revenue diversion is serious. However, the fact remains that both Air West and United, as pointed out in the proposed report, are substantial entities capable of surviving competition with PSA. Air West has reduced its net loss from \$20 million in 1969 to about \$10 million in 1970, and according to a press report it cut this loss in 1971 to \$2.9 million. Its revenues increased from \$85.3 million in 1970 to \$96.4 million in 1971. (L.A. Times, February 1, 1972.) Obviously, the magnitude of revenue diversion is serious and, for a local service carrier, should not be permitted on all Air West's routes in California at the same time. Nevertheless, we are not convinced that such revenue diversion on this one route, where Air West has virtually removed itself from the market with its high fares and schedule reductions, will cause it irreparable financial harm. As for United, it can sustain whatever revenue diversion is involved, since it is the largest carrier in the country.

In its brief on exceptions, Air West repeats the argument that certification of PSA creates an undue burden on interstate commerce, and therefore violates the commerce clause of the U. S. Constitution. The undue burden, Air West claims, is the revenue diversion that it is likely to sustain and the resulting increased

need for federal subsidy. In this manner, certification of PSA disrupts the national air transportation system, Air West argues, because it would interfere with the CAB's regulatory plan for local carriers. This plan is to protect these carriers from competition and thereby limit their need for federal subsidy.

Whether the certification of PSA creates an undue burden on interstate commerce is a question for this agency, and ultimately the state and federal appellate courts, to determine. (CAB Order 71-9-23, Order on Reconsideration, Texas International Airlines, Inc. and Braniff Airways, Inc. v. Air Southwest Co., dated September 3, 1971 in Dockets Nos. 23047 and 23122.) As the regulatory agency involved in this proceeding, we are not convinced that the burden is so great as to be undue. Intrastate airlines have been permitted to operate extensively in competition with CAB carriers. Certification of such airlines has increased, despite the opposition of CAB carriers. (See, e.g., Braniff Airways, Inc. et al. v. The Texas Aeronautics Comm. et al., 454 SW 2d 199 (1970), cert. den. 400 U.S. 943 (1971).)

We have authorized competition by an intrastate air carrier. Apparently Air West's position is that the interstate commerce clause provides it with an umbrella against local competition. Specifically, it asserts that intrastate competition which might expose it to diversion of revenues in the magnitude it forecasts herein results in the undue burden. But Air West has not shown that it will require an increase in federal subsidy equal to whatever sum of revenues is diverted from it. Moreover, Air West can, in our judgment, sustain without great difficulty whatever revenue diversion may result from PSA's competition. For instance, if we assume that the diverted gross revenue amounts to \$700,000, this represents a diversion of only .7 of one percent of its 1971 revenues of \$96.4 million. And only about 2 percent of Air West's total, systemwide departures are involved. This magnitude of burden is not undue.

Nor do we see any serious disruption to the CAB's regulatory scheme. Its policy of protection for local service carriers, such as Air West, has not been upset. The CAB has apparently viewed Fresno as a two-carrier market, since it has authorized both United and Air West to operate there. Nor has Air West formally complained to the CAB that Fresno is a one-carrier market and should be served by only itself or United. But Air West has virtually reduced Fresno to a one-carrier market by introducing significantly higher fares and by curtailing flight frequencies. All these actions have been taken before PSA has commenced operations there. Therefore, any disruption or burden placed on interstate passengers by Air West's cutbacks in service is not attributable to the certification of PSA by this Commission.

In support of its argument Air West relies on several cases which involved the attempt by states to directly restrict interstate transportation. This reliance is misplaced. Unlike Arizona's action in Southern Pacific Co. v. Arizona, 325 U.S. 761 (1945), which directly affected the length of interstate trains, or Illinois' attempted regulation of truck mudguards in Bibbs v. Navajo Freight Lines, 359 U.S. 520 (1959), 325 U.S. 761 (1945), we have not attempted to regulate or restrict Air West's aircraft or service at Fresno and Stockton.

#### Findings of Fact

Based upon the evidence of record in these proceedings, the proposed report, the exceptions and replies thereto, the Commission adopts the findings of fact set forth in the proposed report. Based upon the additional evidence considered by official notice, the arguments set forth in the briefs and exceptions, and the replies thereto, the Commission makes the additional findings of fact, as follows:

1. Nine public witnesses from the communities of Stockton and Fresno, including the surrounding areas, testified in support of PSA's proposed service. In addition to the reductions of service at Fresno

by both United and Air West in October, 1970, the most recent flight schedules of Air West show that it has made further reductions in its service at Fresno, as related in the opinion above. It has also discontinued entirely its service between Stockton and San Francisco or Los Angeles. This leaves Stockton with one daily round trip flight to San Francisco provided by United and one daily three-stop round trip to Los Angeles.

2. PSA's proposed service at Stockton will provide it with two daily one-stop round trip flights to Los Angeles, including new non-stop service to Fresno, and two daily round trip flights to San Francisco. These service improvements will benefit the public traveling to and from Stockton. It will also restore to Fresno four daily departures to both San Francisco and Los Angeles previously eliminated by United and Air West. These considerations, combined with those set out in the proposed report, including PSA's proposed lower fares, demonstrate that its proposal fully meets the public convenience and necessity.

Based upon the foregoing findings of fact, including those set forth in the proposed report, the Commission concludes that the application of PSA for a certificate of public convenience and necessity to operate as a passenger air carrier between San Francisco International Airport, Stockton Metropolitan Airport, Fresno Air Terminal, and Los Angeles International Airport should be granted as provided in the order herein.

Pacific Southwest Airlines 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 Pacific Southwest Airlines, 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 routes particularly set forth in Appendix A, First Revised Page 2 and First Revised Page 5, attached hereto and made a part hereof.

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. 120-3 and 129.
- (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 twenty days after the date hereof.

Dated at San Francisco, California, this 25<sup>th</sup> day of APRIL, 1972.

William L. Simon Chairman  
James L. Sturgeon  
Commissioners

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

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APPENDIX A  
(Dec. 79085)

PACIFIC SOUTHWEST AIRLINES  
(a corporation)

First Revised Page 2  
Cancels  
Original Page 2

Routes (Continued)

15. Nonstop between Hollywood-Burbank Airport and Sacramento Metropolitan Airport.
16. Nonstop between San Diego International Airport and Sacramento Metropolitan Airport.
17. Between Hollywood-Burbank Airport and Sacramento Metropolitan Airport via intermediate point of Oakland Metropolitan International Airport.
18. Nonstop between Oakland Metropolitan International Airport and Sacramento Metropolitan Airport.
19. Between San Diego International Airport and Sacramento Metropolitan Airport via intermediate point of Oakland Metropolitan International Airport.
20. Between San Diego International Airport and Sacramento Metropolitan Airport via intermediate point of Hollywood-Burbank Airport.
21. Between San Diego International Airport and Sacramento Metropolitan Airport via intermediate points of Hollywood-Burbank Airport and Oakland Metropolitan International Airport.
- #22. Between San Francisco International Airport and Los Angeles International Airport via Fresno Air Terminal with the right to conduct direct and/or connecting service to San Diego International Airport from the Los Angeles International Airport, and to Sacramento Metropolitan Field from the San Francisco International Airport.
- #23. Between San Francisco International Airport and Los Angeles International Airport via Stockton Metropolitan Airport and Fresno Air Terminal with the right to conduct direct and/or connecting service to San Diego International Airport from the Los Angeles International Airport, and to Sacramento Metropolitan Field from the San Francisco International Airport.

Issued by California Public Utilities Commission.

#Added by Decision No. 79985, Application No. 52291.

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APPENDIX A  
(Dec. 79085)

PACIFIC SOUTHWEST AIRLINES  
(a corporation)

First Revised Page 5  
Cancels  
Original Page 5

Route 15

1. Service between the points authorized on this route shall not be connected, combined or operated in combination with any other authorized points or routes.
2. Passengers shall be transported in either direction in nonstop service at a minimum of two scheduled round trips daily.

Route 16

Service between the points authorized on this route shall not be connected, combined or operated in combination with any other authorized points or routes.

Route 17

Service between the points authorized on this route shall not be connected, combined or operated in combination with any other authorized points or routes.

Route 18

Service between the points authorized on this route shall not be connected, combined or operated in combination with any other authorized points or routes.

Route 19

Service between the points authorized on this route shall not be connected, combined or operated in combination with any other authorized points or routes.

Route 20

Service between the points authorized on this route shall not be connected, combined or operated in combination with any other authorized points or routes.

Route 21

Service between the points authorized on this route shall not be connected, combined or operated in combination with any other authorized points or routes.

#Routes 22 and 23

A minimum of two daily round trip flights shall be provided on Routes 22 and 23 between San Francisco and Los Angeles.

Issued by California Public Utilities Commission.

#Added by Decision No. 79985, Application No. 52291.