

ORIGINAL

Decision No. 80439

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of AIR CALIFORNIA for removal of
restriction and correction of
certificate of public convenience
and necessity, and for In Lieu
Certificate.

Application No. 53441
(Filed July 7, 1972)

O P I N I O N

Air California operates as a passenger air carrier between several points in California pursuant to a certificate of public convenience and necessity granted to it by this Commission.

In this application Air California seeks an ex parte order amending the certificate set forth in Appendix B of Decision No. 79085, dated August 24, 1971, in Application No. 51007.^{1/} The specific changes requested are as follows:

- (a) Authority to operate local service between Orange County Airport and Ontario International Airport in conjunction with Air California authorized service between Ontario/Orange County, on the one hand, and San Jose/Oakland/Sacramento, on the other hand.
- (b) Revision of the restrictions contained in paragraph (1) so as to permit transportation of local passengers between San Diego International Airport and other points on its Route 10 (Orange County Airport, San Jose Municipal Airport and Sacramento Metropolitan Airport).

^{1/} Subsequent to the filing of the instant application the Commission issued Decision No. 80318, dated July 25, 1972, in Application No. 52165, which modified the certificate contained in Appendix B to Decision No. 79085. Therefore, the changes requested in the instant decision will be made to the revised certificate contained in Appendix A of Decision No. 80318.

- (c) Revision of the certificate to permit the operation of Lockheed Electra aircraft, in addition to Douglas DC-9 and Boeing 737 aircraft.
- (d) To restate the certificate to reinstate the authority to operate between Palm Springs and San Francisco/San Jose/Oakland via the intermediate point Orange County Airport, with authority to carry passengers over all segments.

In justification for the request to operate local service between Ontario and Orange County Airports, the application alleges as follows: No air carrier either offers or provides service solely between Orange County and Ontario Airports; Air California presently operates between said points in conjunction with service to Sacramento and San Jose; no other air carrier would suffer traffic diversion or incur financial harm by the granting of such authority. The application further states that market studies indicate a potential need for this service by companies located adjacent to both airports, by pleasure travelers and by civic and fraternal groups. Air California plans to offer service between Ontario and Orange County Airports in conjunction with its present service which amounts to four daily flights. Inasmuch as the present on-board load factor between Ontario and Orange County averages 20 percent or less, and is composed of through passengers to or from San Jose or Sacramento, there are sufficient empty seats currently available to handle all potential local passengers. The application alleges that Air California can only benefit financially from the granting of the requested authority in that the only additional costs to be incurred by it would be the minor expenses of passenger ticketing and handling which would be more than offset by the added revenue from the proposed local fare of \$5.00.

Concerning its second request (paragraph (b) above), Air California alleges as follows: Air California's latest certificate which was issued pursuant to Decision No. 79085 contains the following language under "Restrictions":

"No passengers shall be accepted for transportation solely between the following pairs of points...

- i. San Diego International Airport and other airports already served by Air California except as authorized by Routes 3 and 4."

Route 10 of Air California's certificate authorized Air California to provide service between San Diego and two other airports not included in Routes 3 and 4. Restriction i should therefore include Routes 3, 4 and 10.

Air California requests that its certificate reflect its right to use the Lockheed Electra referred to in Decision No. 78399 of March 2, 1971. Decision No. 80318, issued July 25, 1972, removes all equipment restrictions and the matter of authorizing Lockheed Electra equipment requires no modification of the certificate authorized by Decision No. 80318.

Finally, Air California requests an in lieu certificate to correct the omission noted in the following:

Air California was granted authority in Decision No. 78185, dated January 15, 1971, in Application No. 51194 authorizing it to operate between Palm Springs and San Francisco/San Jose/Oakland via the intermediate point, Orange County, with authority to carry passengers over all segments. On August 24, 1971, by Decision No. 79085

Air California was granted authority to serve Sacramento. In restating Air California's authority, the certificate attached to such decision inadvertently omitted the authority granted by Decision No. 78125. The application avers that Air California is presently operating under the authority granted in two separate certificates of public convenience and necessity. It therefore requests that the Commission consolidate this authority into one certificate.

Copies of the application were served on competing airlines and other interested parties pursuant to Commission rules. There are no protests or requests for public hearing.

The Commission finds that public convenience and necessity require the operation of local service by Air California between Ontario and Orange County Airports, and that reissuance of Air California's certificate in the manner outlined in the application herein will not be adverse to the public interest. A public hearing is not necessary. The application should be granted.

Air California 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. Air California is hereby authorized to operate as a passenger air carrier, as defined in Section 2741 of the Public Utilities Code, between the points and over the routes set forth in Appendix A, attached hereto and made a part hereof.

2. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede all existing certificates of public convenience and necessity as a passenger air carrier heretofore granted to or acquired by Air California and presently possessed by it, which certificates are revoked effective concurrently with the acceptance of the certificate granted in paragraph 1 hereof.

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 requirements of the Commission's General Orders Nos. 120-Series 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.

A. 53441 ek

4. The authority granted herein shall expire unless exercised within ninety days after the effective date of this order.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 31st
day of AUGUST, 1972.

Vernon L. Lutz
President
William J. Lutz
[Signature]
[Signature]
Commissioners

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

The authority stated herein to Air California supersedes all previously granted certificates of public convenience and necessity granted in prior decisions.

Air California is authorized to operate over the routes described as follows:

Route 1

Between Orange County Airport, on the one hand, and San Jose Municipal Airport, Oakland International Airport and San Francisco International Airport, on the other hand, with each of the last three named airports being either a terminal or intermediate point for this route.

Route 2

Between Orange County Airport, Hollywood-Burbank Airport and Ontario International Airport, on the one hand, and San Jose Municipal Airport and Oakland International Airport, on the other hand, with each of the first three named airports and each of the last two airports, respectively, being either a terminal or intermediate point for this route.

Route 3

Nonstop service between San Diego International Airport and San Jose Municipal Airport.

Route 4

Between San Diego International Airport, on the one hand, and San Jose Municipal Airport and Oakland International Airport, on the other hand, via the intermediate point of Orange County Airport, with San Jose Municipal Airport and Oakland International Airport being either a terminal or intermediate point for this route.

Issued by California Public Utilities Commission.

Decision No. 80439, Application No. 53441.

Route 5

Between Palm Springs Municipal Airport, on the one hand, and San Jose Municipal Airport, Oakland International Airport and San Francisco International Airport, on the other hand, with each of the last three named airports being either a terminal or intermediate point for this route. Either Orange County Airport or Ontario International Airport may be an intermediate point for this route.

Route 6

Nonstop service between Long Beach Airport and San Jose Municipal Airport.

Route 7

Between San Jose Municipal Airport and Sacramento Metropolitan Airport.

Route 8

Between Orange County Airport and Sacramento Metropolitan Airport.

Route 9

Between Orange County Airport and Sacramento Metropolitan Airport via the intermediate point of San Jose Municipal Airport.

Route 10

Between San Diego International Airport and Sacramento Metropolitan Airport via the intermediate points of Orange County Airport and San Jose Municipal Airport.

Route 11

Between Ontario International Airport and Sacramento Metropolitan Airport via the intermediate point of San Jose Municipal Airport.

Route 12

Between Palm Springs Airport and Sacramento Metropolitan Airport via the intermediate point of San Jose Municipal Airport.

Issued by California Public Utilities Commission.

Decision No. 80439, Application No. 53441.

ek

Appendix A

AIR CALIFORNIA
(a corporation)

Original Page 3

Route 13

Between Ontario International Airport and
Sacramento Metropolitan Airport via the
intermediate point of Orange County Airport.

Route 14

Between San Diego International Airport and
Orange County Airport.

Issued by California Public Utilities Commission.

Decision No. 80439, Application No. 53441.

ek/JR

Appendix A

AIR CALIFORNIA
(a corporation)

Original Page 4

CONDITIONS

Minimum number of round trip schedules daily between points shown shall be:

- a. Orange County Airport and San Francisco International Airport 5
- b. Orange County Airport and San Jose Municipal Airport 3
- c. Orange County Airport and Oakland International Airport 4
- d. Between Hollywood-Burbank Airport and Ontario International Airport, on the one hand, and San Jose Municipal Airport and Oakland International Airport, on the other hand 2
- e. Between San Diego International Airport and San Jose Municipal Airport 1
- f. Between San Diego International Airport, on the one hand, and San Jose Municipal Airport and Oakland International Airport, on the other hand, via the intermediate point of Orange County Airport, with San Jose Municipal Airport and Oakland International Airport being either a terminal or intermediate point for this route 2
- g. Between Palm Springs Municipal Airport, on the one hand, and San Jose Municipal Airport, Oakland International Airport and/or San Francisco International Airport, on the other hand 1

Issued by California Public Utilities Commission.

Decision No. 80439, Application No. 53441.

RESTRICTIONS

No passengers shall be accepted for transportation solely between the following pairs of points:

- a. Orange County Airport - Hollywood-Burbank Airport.
- b. Hollywood-Burbank Airport - Ontario International Airport.
- c. San Francisco International Airport - San Jose Municipal Airport.
- d. San Francisco International Airport - Oakland International Airport.
- e. Oakland International Airport - San Jose Municipal Airport.
- f. San Francisco International Airport - Ontario International Airport.
- g. San Francisco International Airport - Hollywood-Burbank Airport.
- h. San Diego International Airport and other airports already served by Air California except as authorized by Routes 3, 4, 10, and 14. No passengers traveling between San Diego International Airport and San Francisco International Airport shall be carried on flights operated on Routes 3, 4, 10, and 14. No nonstop service shall be operated between San Diego International Airport and Oakland International Airport.
- i. Palm Springs Municipal Airport - Ontario International Airport.
- j. Palm Springs Municipal Airport - Hollywood-Burbank Airport.

Issued by California Public Utilities Commission.

Decision No. 80439, Application No. 53441.

ek

Appendix A

AIR CALIFORNIA
(a corporation)

Original Page 6

The following restriction relates to Route 6:

1. Long Beach International Airport and any other airports served by Air California, except as authorized by Route 6.

Issued by California Public Utilities Commission.

Decision No. 80439, Application No. 53441.