

Decision No. 80484**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of BORREGO SPRINGS AIRLINE, a)
 California corporation, for)
 authority to remove condition on)
 service between San Diego and)
 Palm Springs, California.)

Application No. 53470
 (Filed July 20, 1972)

ORDER GRANTING APPLICATION TO MODIFY OPERATING AUTHORITY

Borrego Springs Airline (BSA), a California corporation, requests that the Commission issue an ex parte order modifying its certificate of public convenience and necessity to operate as a passenger air carrier. Under its present certificate BSA is authorized to conduct operations between Borrego Springs (San Diego County Airport), San Diego International Airport (Lindbergh Field), and Palm Springs Municipal Airport. This authority is conditioned against carrying passengers in non-stop operations between San Diego and Palm Springs. By this application BSA requests the removal of this condition in order that it may conduct direct service between these two points.

BSA's proposed initial schedule would be a minimum of three non-stop round trips per week between San Diego and Palm Springs, except during the months of June, July, August and September. The proposed fare for this non-stop service would be \$20 one way, including tax. The proposed round trip fare, including tax, is \$30.

BSA's application relates that it has the required insurance on file with the Commission. It also states that BSA has been operating a Cessna 402 in its scheduled passenger operations, and that it is in the process of procuring a slightly larger aircraft. This new aircraft will be within the less than twenty-five revenue passenger seats category. BSA intends to continue operating schedules between San Diego and Borrego Springs, and between Borrego Springs and Palm Springs as it has been doing during the last eighteen months.

BSA's application further states that the granting of this authority will be in the public interest because there is presently no service being provided between Palm Springs and San Diego by either Western Airlines or Hughes Air West, which are the interstate carriers certificated by the Civil Aeronautics Board to operate between these points. BSA states that with this authority it will be able to meet the needs of the public more adequately by offering non-stop service. It will also enable BSA to obtain better utilization of its equipment and, it is contemplated, to increase its revenues.

According to the balance sheet attached to BSA's application, it has operated unprofitably in the past. However, the application states that BSA's stockholders are willing and capable of providing sufficient funds as are necessary to provide the service proposed herein. These stockholders, or some of them, have financial interests in Borrego Springs. Therefore, they have an interest in maintaining financial support for the only common carrier passenger service serving the Borrego Springs-San Diego market. There is presently no common carrier passenger service available on this route by a rail, bus or air carrier other than BSA's service.

Notice of BSA's application was published in the Commission's Daily Calendar on Friday, July 21, 1972. No protests have been received.

After consideration the Commission finds that:

1. BSA possesses the necessary equipment, experience, insurance coverage, and financial ability to provide non-stop passenger air carrier service between Palm Springs and San Diego.
2. Public convenience and necessity require the granting of the authority sought.
3. A public hearing is not necessary.

Based upon the foregoing findings of fact the Commission concludes that the application of Borrego Springs Airline should be granted. For convenience all operating authority which has been

granted to BSA by this Commission heretofore will be restated in Appendix A attached hereto.

Borrego Springs Airline 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 Borrego Springs Airline, 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 more particularly set forth in Appendix A, attached hereto and hereby 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 insurance requirements of the Commission's General Order No. 120-A.

- (b) Within one hundred 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.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of public convenience and necessity set forth in Appendix A to Decision No. 78000, dated December 1, 1970, which certificate shall be revoked effective concurrently with the effective date of the tariff and timetable filings required by ordering paragraph 2 hereof.

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

Dated at San Francisco, California, this 12th
day of SEPTEMBER, 1972.

William L. Sykes
President
William Sykes Jr.
John M. ...
...
Commissioners

The authority granted herein to Borrego Springs Airline supersedes all previous certificates of public convenience and necessity granted to this carrier.

Borrego Springs Airline, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a passenger air carrier between the points listed below:

Routes

- (1) San Diego International Airport (Lindbergh Field) - Borrego Springs (San Diego County Airport).
- (2) Borrego Springs (San Diego County Airport) - Palm Springs Municipal Airport.
- (3) San Diego International Airport (Lindbergh Field) - Palm Springs Municipal Airport.

Conditions

1. Minimum service on each of Routes (2) and (3) shall be not less than three round trips per week, excluding the months of June, July, August and September.
2. No aircraft having more than 25 revenue passenger seats shall be operated.

Issued by California Public Utilities Commission.

Decision No. 80484, Application No. 53470.