

Decision No. 81407

ORIGINAL

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 Diego and Oakland via
San Jose.

Application No. 51059
(Filed May 6, 1969;
amended May 5, 1971)

ORDER DISMISSING APPLICATION

In this application, Pacific Southwest Airlines, Inc. (PSA) originally requested authority to provide one-stop passenger air carrier service between San Diego, San Jose, and Oakland. Air California (Air Cal) filed a protest.

In Apps. Pacific Southwest Airlines, Air California, and Pacific Air Transport (1969) 70 CPUC 122, Air Cal was authorized to conduct daily nonstop air passenger carrier service between San Diego and San Jose and between San Diego and Oakland.^{1/} By Decision No. 77360 dated June 16, 1970, the final date for inauguration of Air Cal's nonstop San Diego service was extended until November 16, 1970. However, on August 27, 1970 Air Cal filed a petition, Application No. 52165, to modify its nonstop authority between these points so that it could operate from San Diego via Santa Ana to San Jose and Oakland. PSA filed a protest. This petition was consolidated with Application No. 51080 (Phase I), which involved a request by PSA to operate over the same route.

^{1/} In addition, Air Cal was authorized by this decision to serve the Long Beach-San Jose market. PSA received authority to operate between Long Beach-San Francisco, Long Beach-San Diego, and Long Beach-Oakland. Pacific Air Transport was denied authority to operate as a passenger air carrier.

The modification consisted of temporarily removing one of the restrictions in Air Cal's certificate of public convenience and necessity. This restriction prohibited any connecting service between the various points Air Cal was authorized to serve. The temporary removal of this restriction was continued by various subsequent decisions, and it was made permanent in Decision No. 80318 dated July 25, 1972 in Applications Nos. 52165 and 51080 (Phase I).

On November 1, 1970 Air Cal commenced one-stop service between SAN-SJC/OAK via OCA. It also instituted two nonstop round trip flights each week between SAN-SJC/OAK. Before this new service was commenced by Air Cal, however, PSA had initiated daily nonstop flights between San Diego and San Jose in September, 1970. After Air Cal filed a complaint against PSA concerning this nonstop service, the Commission held that PSA was operating without any certificate authority, and it ordered PSA to discontinue the nonstop flight. (Air California v Pacific Southwest Airlines, Decision No. 78619 dated April 27, 1971 in Case No. 9160.) After this decision was issued, Air Cal continued its two weekly nonstop flights on the route until September 8, 1971 when it expanded this service to one daily round trip. In July, 1972, however, it ceased this daily nonstop service after the Commission issued Decision No. 80318, supra. It continued weekend nonstop service only. Subsequently, the Commission in Decision No. 80841 dated December 12, 1972 permitted Air Cal to further postpone reestablishing daily nonstop San Diego-San Jose service from December 12, 1972 until April 15, 1973 because it had achieved unprofitable load factors on its earlier daily nonstop service of only 29.1 percent for the first quarter of 1972 and 34.5 percent for the first ten months of 1972; and because it had subleased two aircraft to other airlines until early 1973.

Shortly after the Commission issued Decision No. 78619, supra, PSA amended its application herein to request nonstop authority between San Diego and Oakland with San Jose as either a terminal or intermediate point, i.e., authority for nonstop San Diego-San Jose service.

By Decision No. 81080 dated February 23, 1973 in Application No. 53442, the Commission granted the joint application of PSA and Air Cal for the acquisition of the latter carrier by the former.

In light of Decision No. 81080 and the previous decisions set forth above, the Commission concludes that PSA's application herein should be dismissed without prejudice. If the acquisition of Air Cal by PSA takes effect the application herein is moot. Should the acquisition not be consummated, PSA may file a new application for San Diego-San Jose nonstop authority.

IT IS ORDERED that Application No. 51059 is dismissed without prejudice.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 12th day of MAY, 1973.

Vernon L. Sturgeon
President
William J. Sullivan
Thomas M. Owen
Commissioners


I will file
a dissent
Thomas M Owen

A. 51059
D. 81407

THOMAS MORAN, COMMISSIONER, Dissenting.

This Decision is a disservice to the traveling public. It denies PSA authority to provide non-stop service between San Diego and San Jose despite the fact that no other carrier offers such service. It shows an irrational disregard for the needs and convenience of the traveling public similar to that shown by this Commission a few years ago when it compelled passengers traveling on PSA between San Diego and San Francisco via Burbank to go through a nonsensical routine of disembarking and re-embarking each time a plane made a stop at the Burbank Airport.

San Francisco, California
May 22, 1973


Thomas Moran
Commissioner