

ORIGINAL

Decision No. 82036

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SWIFT AIRE LINES, INC., a California corporation for authorization to operate as a passenger air carrier between Sacramento, on the one hand, and Visalia and Bakersfield, on the other hand, using the latter two points as either terminal or intermediate points, via Fresno; Fresno and Bakersfield; Los Angeles, on the one hand, and Fresno, Visalia and Bakersfield, on the other hand, using the latter three points as either terminal or intermediate points; San Luis Obispo and Santa Maria, on the one hand, using both points as either terminal or intermediate points, and Bakersfield, Visalia and Fresno, on the other hand, using the latter three points as terminal or intermediate points, via Los Angeles.

Application No. 53861  
(Filed February 23, 1973;  
amended August 9, 1973)

Graham & James, by Boris H. Lakusta, Attorney at Law,  
for Swift Aire Lines, Inc., applicant.

Leander L. James, Attorney at Law, Don Klein, and  
William Ewin, for Valley Airlines, Inc.,  
protestant.

Ernest T. Kaufmann, Attorney at Law, for Western Air  
Lines; and Melvin R. Dykman, Attorney at Law, for  
Department of Transportation, State of California;  
interested parties.

Walter Kessenick, Attorney at Law, and Edward C.  
Crawford, for the Commission staff.

O P I N I O N

Duly noticed public hearing was held in this application on August 29 and 30, 1973 before Examiner Thompson in San Francisco and was submitted on September 12, 1973 upon receipt of late-filed Exhibit 7.

Swift Aire Lines, Inc. (Swift) operates a scheduled air service as a passenger air carrier within the State of California. Appendix A of Decision No. 77794, as modified by Decision No. 81416, sets forth the operating authority of applicant. It provides for four routes: (1) between San Francisco and Santa Maria with service to the intermediate points San Jose, Paso Robles, and San Luis Obispo; (2) between Paso Robles and Los Angeles with service to the intermediate points San Luis Obispo and Santa Maria; (3) between Sacramento and Santa Maria with service to the intermediate points Fresno and San Luis Obispo; and (4) between Sacramento and Fresno. The authority to serve Routes 3 and 4 is temporary and scheduled to expire December 31, 1974. Passenger air carrier operations are restricted to aircraft having no more than 30 revenue passenger seats or a payload of not more than 7,500 pounds. The authority permits operation between an airport on one route and an airport on another route only through an airport that is common to the two routes.

By this application applicant seeks authority to conduct passenger air carrier operations between Sacramento and Bakersfield via Fresno, between Fresno and Bakersfield, between Los Angeles and Fresno via Visalia and Bakersfield, and between San Luis Obispo and Santa Maria, on the one hand, and Bakersfield, Visalia, and Fresno, on the other hand, via Los Angeles. Applicant also requests that its certificate authorizing operations on Routes 3 and 4 be made permanent. The fares applicant proposes follow Hughes Airwest's fare structure and generally conform to those provided under the formula of the Civil Aeronautics Board for standard fares for distances not exceeding 500 miles.

Western Air Lines, Inc. (Western) protested the granting of authority to transport passengers and freight between Los Angeles, on the one hand, and Sacramento, on the other hand. Applicant stated that it was not seeking that authority and stipulated that any certificate to be issued by the Commission in this proceeding should continue the existing limitation on aircraft type to be operated by applicant, and that applicant shall not operate through-plane service between Los Angeles and Sacramento or deplane persons or property at Sacramento and Los Angeles, respectively, that enplaned at Los Angeles or Sacramento. Western thereupon removed its protest.

Valley Airlines, Inc. (Valley) protests the granting of authority to operate between Bakersfield and Fresno and between Bakersfield and Sacramento. It holds certificates authorizing passenger air carrier operations between those points. Its authority to operate between Sacramento and Bakersfield is in a temporary certificate. It does not oppose applicant's request that Swift's temporary authority to serve Routes 3 and 4 be made permanent. Applicant stipulated that it would not oppose a request by Valley that its temporary authority to operate between Sacramento and Bakersfield and between Sacramento and Fresno be made permanent.

The Commission staff recommends that applicant be granted a certificate authorizing operations in either direction over the route of Los Angeles, Bakersfield, Visalia, and Fresno; that it be permitted to hook up operations on that route with operations over other routes at common points subject to the restrictions that it only operate between Los Angeles and Fresno via Bakersfield or Visalia; and that passengers shall not be carried who have both origin and destination between the pairs of points of Bakersfield and Fresno, Bakersfield and Sacramento, and Los Angeles and Sacramento.

On September 14, 1973 counsel for the Commission staff directed a letter to the Commission with copies to the parties requesting that the Commission take official notice of the Emergency Order of Revocation issued on September 5, 1973 by the administrator of the Federal Aviation Administration in Case No. WE-73-OG-645. Official notice is taken of said order. The order revokes the air taxi/commercial operator operating certificate held by Valley.<sup>1/</sup> We also take official notice that Valley was issued a new certificate (No. 7WE-256) by the F.A.A. on October 2, 1973.

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1/ "TO: VALLEY AIRLINES, INC.

"Based on the foregoing circumstances, the Administrator is of the opinion that an emergency requiring immediate action exists in respect of safety in air commerce, and he has determined that safety in air commerce and the public interest require the immediate revocation of your Air Taxi-Commercial operating certificate on an emergency basis.

"NOW, THEREFORE IT IS ORDERED, pursuant to the authority vested in the Administrator by Sections 609 and 1005 of the Federal Aviation Act of 1958, as amended, that:

- "(1) Effective immediately, the Air Taxi/Commercial Operator operating certificate No. 18WE-10 now held by you is hereby revoked on an emergency basis;
- "(2) Said certificate be surrendered immediately by mail or delivery to the Regional Counsel of the Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; and
- "(3) No application for a new air taxi/commercial operator operating certificate shall be accepted from you, nor shall any air taxi/commercial operator operating certificate be issued to you, without prior written authorization for such action being given on behalf of the Administrator."

In general, applicant's proposal mainly involves providing service to and from Bakersfield and Visalia. It plans to integrate the proposed route with its existing Routes 3 and 4 as well as a portion of its Route 2. It proposes to fly these routes five days per week Monday through Friday. The integrated operation on the proposed routing will require the use of two airplanes. Two airplanes are required to maintain applicant's schedules on Routes 1 and 2. Applicant presently has four DH-114 four-engined DeHavilland Heron aircraft. It has an option to purchase a fifth. The entire operation will require the daily operation of four aircraft with a fifth aircraft in reserve. The DH-114 aircraft has 17 passenger seats. Flight crews consist of a pilot, a copilot, and a stewardess. Applicant's base of operations is at San Luis Obispo.

The aircraft routings for the planes serving the proposed integrated routes would be as follows: One aircraft would originate at San Luis Obispo at 6:35 a.m. and would fly to Fresno, then Sacramento, then down the central route serving the valley points to Los Angeles, then to Santa Maria and San Luis Obispo, then back down to Los Angeles, then up the central route to Fresno and then across to San Luis Obispo at 9:30 p.m. where it would be hangared; the other plane would start in the morning at Visalia, fly to Los Angeles, then back up the central route serving all valley points to Fresno, then across to San Luis Obispo, then a return to Fresno and on up to Sacramento, then south on the central route serving all valley points to Los Angeles, then back up to Bakersfield and Visalia where the plane and crew would stay overnight. With respect to this second plane routing, it is planned that the plane will be ferried from San Luis Obispo on Monday morning to Visalia, and ferried from Visalia to

San Luis Obispo on Friday night. At present, in conducting operations over Route 4 (Sacramento - Fresno), applicant ferries planes between San Luis Obispo and Fresno on Monday mornings and Friday nights, and the crews and planes stay overnight at Fresno Tuesdays through Thursdays, so that from that aspect the only difference between the proposed operation and the present mode of operation is to change the morning and evening terminal point from Fresno to Visalia. The proposed operation will permit daily rotation of planes and crews at applicant's base in San Luis Obispo.

The only scheduled airline serving Visalia is United Air Lines, Inc. (United). It operates over a route of Los Angeles, Visalia, Merced, Modesto, Stockton, and San Francisco once each day in both directions. United is seeking authority from the Civil Aeronautics Board to discontinue service to Visalia. (CAB Docket No. 24752.) If applicant is granted the authority it seeks, it would compete with the aforementioned route of United only over the segment of Visalia - Los Angeles, and the schedules and fares between those points would be as follows:

Schedules of United and Proposed  
Schedules of Swift Between  
Visalia and Los Angeles

<u>Code</u>	<u>Leave Visalia</u>	<u>Arrive Los Angeles</u>	<u>Leave Los Angeles</u>	<u>Arrive Visalia</u>
S-601 (X)	7:00 a.m.	8:10 a.m.		
U-948 (D)			7:40 a.m.	8:40 a.m.
S-602 (X)			8:30 a.m.	9:55 a.m.
S-302 (X)	10:25 a.m.	12:00 noon		
U-829 (D)	4:40 p.m.	5:18 p.m.		
S-305 (X)			4:00 p.m.	5:40 p.m.
S-604 (X)	6:20 p.m.	7:50 p.m.		
S-306 (X)			8:10 p.m.	9:35 p.m.

Code: S = Swift, U = United, 3 Digits = Flight Number,  
(X) = Except Sat. & Sun., (D) = Daily.

Fares (including tax): United = \$16.00  
Swift = \$26.00

From the above tabulation it is readily apparent that Swift's proposed operations would not be competitive with United's. It would provide service where there is none now available.

Bakersfield is the county seat of Kern County. According to the 1970 census the city had a population of 69,515. The population of Kern County was 330,234. Meadows Field is the airport serving Bakersfield and all of Kern County except that portion beyond the Tehachapi Mountains. The airlines operating into Meadows Field include United, Hughes Airwest, and Valley.

United serves Meadows Field on flights to and from San Francisco and Los Angeles; on one pair of those flights it operates between Meadows Field and Fresno. Hughes Airwest serves Bakersfield with DC-9 aircraft on a pair of flights operating between San Francisco and Las Vegas, and operates one pair of flights to and from Los Angeles with F-27 aircraft. Valley serves Bakersfield with 9-passenger Beechcraft Tradewinds aircraft as a terminus for flights operating generally over the route Oakland, San Jose, Fresno, and Bakersfield. Along that route it operates three flights in either direction on weekdays. It also operates one flight from Bakersfield to Sacramento via Fresno Tuesdays through Fridays. A vice president of Valley testified that the airline has acquired an additional Beechcraft and intends inaugurating a weekday evening flight from Sacramento to Bakersfield via Fresno.

If applicant is granted the authority it seeks, and assuming that Valley's proposed evening flight from Sacramento to Bakersfield is established, the service between those two points would be as follows:



Sacramento - Bakersfield Schedule

<u>Code</u>	<u>Leave Bakersfield</u>	<u>Arrive Sacramento</u>	<u>Leave Sacramento</u>	<u>Arrive Bakersfield</u>
V-? (XM)	6:15 a.m.	8:00 a.m.		
S-302 (X)			8:45 a.m.	10:55 a.m.
A-260/148 (D)*	11:05 a.m.	1:39 p.m.		
A-143/261 (D)*			11:55 a.m.	2:30 p.m.
S-604 (X)			4:30 p.m.	6:50 p.m.
S-305 (X)	5:10 p.m.	7:15 p.m.		
V-75 (X)#			5:30 p.m.	7:15 p.m.

Code: S = Swift, V = Valley, A = Hughes Airwest,  
 Digits = Flight Number, (D) = Daily, (X) =  
 Except Sat. & Sun., (XM) = Except Sat., Sun.,  
 & Mon.

\* Hughes Airwest flights involve change of planes  
 at San Francisco.

# Valley's proposed flight - not yet in service.

Fares (including tax): Swift = \$38.00  
 Valley = \$34.00  
 Hughes = \$38.00\*

\* By Application No. 53766 Hughes Airwest seeks  
 authority to increase its fare to \$39.00

Swift's plan of operation will provide schedules between  
 Bakersfield and Sacramento which will not be competitive with any  
 existing schedules of other airlines. Its proposed evening Flight  
 No. 604 will leave Sacramento at 4:30 p.m., one hour ahead of Valley's  
 proposed flight.

If the authority sought by applicant is granted, the air  
 service available to the public between Bakersfield and Los Angeles  
 would be as follows:

Schedules of United and Hughes Airwest  
And Proposed Schedules of Swift  
Between Bakersfield and Los Angeles

<u>Code</u>	<u>Leave Los Angeles</u>	<u>Arrive Bakersfield</u>	<u>Leave Bakersfield</u>	<u>Arrive Los Angeles</u>
U-827 (D)			7:00 a.m.	7:30 a.m.
S-602 (X)	8:30 a.m.	9:20 a.m.		
U-893 (D)			10:25 a.m.	10:55 a.m.
S-302 (X)			11:10 a.m.	12:00 noon
U-984 (D)	12:50 p.m.	2:05 p.m.		
U-984 (D)			2:30 p.m.	3:00 p.m.
A-530 (X)	3:00 p.m.	3:40 p.m.		
A-535 (X)			4:00 p.m.	4:39 p.m.
S-305 (X)	4:00 p.m.	4:50 p.m.		
U-814 (D)	4:30 p.m.	5:02 p.m.		
S-604 (X)			7:00 p.m.	7:50 p.m.

Code: U = United, S = Swift, A = Hughes Airwest,  
3 Digits = Flight Number, (D) = Daily, (X) =  
Except Sat. & Sun.

Fares (including tax): United = \$12.96  
Swift = \$20.00  
Hughes Airwest = \$19.00\*

\* By Application No. 53766 Hughes Airwest seeks  
authority to increase its fare to \$20.00.

Swift will provide a morning service from Los Angeles to Bakersfield and an evening service from Bakersfield to Los Angeles that are not provided by United or Hughes Airwest. Except for Swift's proposed Flight No. 305, its proposed schedule does not involve any direct competition with flights of the other carriers. The difference in flight time and the difference in fare make it apparent that Swift will obtain very few passengers from Los Angeles to Bakersfield on its Flight No. 305; however, the flight must be operated in order for the plane to get to Bakersfield so as to leave that point at 5:10 p.m. to make the evening run to Fresno and Sacramento, which flight will be heavily patronized.

With respect to travel between Fresno and Bakersfield, from a practical standpoint airline traffic is restricted to persons going to the airport to transact business there or to take another airline to some other point. The distance between Fresno and Bakersfield is only 100 miles and the cities are connected by a freeway. Travel by automobile between downtown Bakersfield and downtown Fresno would probably be more expeditious, and certainly less costly, than using the services of an airline. Keeping in mind the schedules of Valley and the proposed schedules of Swift, it is difficult to perceive how the operation by Swift over this segment would have any effect whatever upon Valley's operations with respect to present and potential traffic between those points. The additional schedules that would be provided by Swift's operation may induce persons at Bakersfield to travel to beyond points via the Fresno Air Terminal rather than via Los Angeles International Airport, but that is about all the effect Swift's proposed operation would have upon O & D traffic between Fresno and Bakersfield.

This proceeding, as well as a number of prior proceedings of similar type held before the Commission, show that the airlines are of the opinion that any kind of competition among airlines between common points will be injurious to the existing airlines and will be disruptive of an orderly growth of an efficient, economical, and healthy intrastate passenger air network. The indicated attitude of the airlines is that a certificate of public convenience and necessity to operate a route grants the holder thereof the opportunity to develop the market over that route as it sees fit and in conformance with its own capabilities. In Decision No. 81416 dated May 22, 1973 the Commission granted certificates to both Valley and Swift to conduct passenger air carrier operations between Fresno and Sacramento. At the hearings therein Valley, Swift, and Golden

Pacific Airlines asserted that the potential traffic between those points would support only one airline. They predicted dire results if both Valley and Swift were authorized the route. Swift asserted that it was uncertain whether it would accept a certificate if it had to compete in the same market as Valley. The Commission staff recommended that if certificates were granted both airlines that they be restricted as to the number of schedules they should operate. We did not share in those opinions. In Decision No. 81416 the Commission stated, "We are of the opinion that the option to passengers of services that would result from the proposed schedules of both carriers would generate substantially more actual traffic to each of them than would accrue if only one applicant were to operate the segment". The accuracy of that statement was proved by the evidence in the instant proceeding. Both carriers commenced operations during the middle of June. During the month of July Valley transported 139 passengers between Fresno and Sacramento and Swift transported 499. For the initial month of operation each carrier had a load factor of 36 percent over this segment and the traffic was increasing. The president of Swift testified that in August its early morning flight from Fresno to Sacramento was loading to capacity two to three times per week. This is the flight that leaves Fresno only one-half hour later than Valley's flight. At the time of hearings leading to Decision No. 81416 there was no direct airline service between Fresno and Sacramento. Subsequent to that time, and just prior to the issuance of the decision, Hughes Airwest inaugurated direct service with DC-9 aircraft between the points pursuant to authority conferred by the Civil Aeronautics Board. Thus, even with the additional competition from jet aircraft service between the points, both Swift and Valley obtained greater traffic over that route than either of them projected for themselves if they were granted sole authority to serve the route.

The Commission's experience in the regulation of intrastate airline service is that, except as to a few segments, the bulk of the passenger traffic moving between California points consists of persons traveling between those points for business reasons and persons moving between California points as a result of prior or subsequent travel by aircraft to or from points outside of California. The businessman in particular is a sophisticated traveler who will utilize air service between points in California only when the air service, including time to and from airports, provides less time than automobile travel, provides arrival times that are convenient for his business appointments, and provides sufficient departures on return to permit him reasonable flexibility of his business stay and provide assurance of a return flight home. For distances under 400 miles the automobile and the high-speed freeways constitute serious competition to airline services. The passenger will not utilize airline services merely because an airline serves the points between which he desires to travel; he will utilize the service only if the airline schedules and available ground transportation to and from airports provide a more convenient and expeditious mode of travel than the private automobile. Except in a few instances involving singular circumstances, it is economically unfeasible for a single airline to provide a number of flights for early morning and early evening departures over all segments on a route. In most instances the requirements of the businessman include early morning and evening flights. Where two airlines can provide early morning and evening flights with reasonable scheduling between a pair of densely populated points, as in the case of the Fresno - Sacramento segment, more traffic for all flights operated over that segment will be generated. ✓

The airlines fear that the grant of any new authority to operate between termini served by them will wreak havoc with their interests. Here Western protested a grant of authority to Swift to transport passengers between Los Angeles and Sacramento. Western and PSA fly directly between those points with jet aircraft with flying time of about one hour. Their fares are \$16.67 and \$17.59 without tax, respectively. If Swift were to transport passengers between Sacramento and Los Angeles, it would have to be a fare in excess of \$35.19 (the proposed Sacramento - Bakersfield fare). The flight time under its proposed schedule would not be less than 3 hours and 15 minutes. Just how much traffic Swift could take away from Western with flights taking three times as long and at fares more than twice as much is not immediately apparent. It may be that there is a person who does not care to fly jet aircraft and would prefer to pay double the fare for the privilege of taking a leisurely 3-1/2-hour flight on a piston-engined aircraft. It is doubtful that such person would ever be a passenger on Western or PSA. That person, however, is a member of the public and is entitled to consideration. Were it not that Western was excused from the hearing following the acceptance of the stipulation referred to hereinabove, we would compel Swift to publish fares between Los Angeles and Sacramento to accommodate any person desiring to utilize its lesser service at the higher fare. In our opinion the imposition of a closed-door limitation on a route to be operated by an airline merely to satisfy the interests of the affected airlines may not necessarily coincide with the interests of the public. Regulation of passenger air carriers is not for the protection of the interests of the airlines. Section 2739 of the Public Utilities Code states:

"The purpose of this chapter [Passenger Air Carriers Act] is to provide regulation of the transportation of passengers by air in common carriage within the State of California in order that an orderly, efficient, economical, and healthy intrastate passenger air network may be established to the benefit of the people of this State, its communities, and the State itself." (Emphasis added.)

Unless compelling reasons are set forth showing why it would not be in the interests of the people, the communities, or the State, the public should be entitled to be transported between any points on any route operated by an airline.

A somewhat similar situation to the Sacramento - Los Angeles matter occurs with respect to Swift's proposed operation between Los Angeles and Fresno. PSA now operates four round trips daily between those points with a one-way flight time of 40 minutes. Swift's operation would require a flight time of over two hours and its proposed fare would be almost double that of PSA. Applicant's president stated that it would be unrealistic to believe that applicant would capture any traffic from PSA. We agree, but can find no compelling reason to preclude any person who desires to pay twice the fare, for a flight requiring twice the amount of time, from utilizing Swift for transportation between the points. The staff is apparently fearful that some time in the future applicant may suffer a mental lapse and inaugurate direct airline service between Fresno and Los Angeles in direct competition with PSA. We doubt that applicant would ever be

so foolish; however, inasmuch as applicant agreed to a restriction that those pairs of points be served via Bakersfield or Visalia, the order herein will split the route into two segments so that applicant may operate between the points only over a point common to both routes.<sup>2/</sup>

A temporary certificate, to expire December 31, 1974, was issued applicant in Decision No. 81416 authorizing operations over its Route 3 and Route 4. Applicant requests that the certificate be made permanent. Finding 14 of Decision No. 81416 states:

"14. The issuance of temporary certificates, to expire after 18 months, to applicants will permit review by the Commission of the operations and actions of applicants in the development of the market and in meeting the needs of the public, and to take appropriate action thereon when considering whether the authorities to conduct those passenger operations should be made permanent. The issuance of temporary certificates to applicants for their proposed operations will not impair their abilities to acquire the necessary capital."

The record herein shows that the Sacramento - Fresno market has been developed by Swift and Valley much sooner than anyone had anticipated. It also demonstrates that the carriers have no intention, and have avoided, duplicating service and engaging in destructive wing-tip competition. The difference in fares may have been a motivating force in connection with Swift. In providing the service authorized herein it will be necessary for Swift to exercise its option to acquire a

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<sup>2/</sup> Routes 1 and 2 split the San Francisco - Los Angeles route so that applicant can serve those points only via a point common to both routes.



fifth airplane. Temporary certificates are not helpful in acquiring capital and financing for the purchase of an airplane. In providing service between Visalia and Bakersfield, on the one hand, and Sacramento, on the other hand, it will be necessary for Swift to operate over Route 4 (the Sacramento - Fresno segment). The temporary authority should be made permanent.

As a result of the cessation of operations by Valley pursuant to the order of the administrator of the Federal Aviation Administration, the Commission by interim order in Application No. 54327 exempted Swift for a period of 90 days from the certificate provisions of the Public Utilities Code, pursuant to Section 2767 thereof, with respect to passenger air carrier operations conducted over the route San Jose - Fresno. In order for it to conduct efficient and economical operations between those points, it was necessary to authorize Swift to combine operations over that route with operations over its Route 1 and Route 4. The manner in which applicant proposed to operate its planes over the present and proposed routes did not take into consideration operations between San Jose and Fresno. During the time that the exemption remains in effect it is necessary that applicant be authorized to operate the San Jose - Fresno route in conjunction with operations conducted under the certificate that will be granted herein.

We find that:

1. Swift is a corporation engaged in passenger air carrier operations within California on and over routes described in this opinion. It seeks authority to extend passenger air carrier operations over routes so as to provide airline service to airports at Bakersfield and Visalia.

2. The proposed operations would provide schedules for passenger air carrier transportation between Bakersfield and Visalia, on the one hand, and Sacramento, Los Angeles, and other points served by applicant, on the other hand, that are not now available to the public and which will fulfill a public need.

3. The proposed operations will not adversely affect the operations of other airline transportation companies providing service between the points involved and will contribute to the establishment of an orderly, efficient, and healthy intrastate passenger air network to the benefit of the people of this State, its communities, and the State itself.

4. The corporation has been engaged in passenger air carrier operations since April 10, 1971 and its predecessor partnership conducted the operations for several years prior to the incorporation. Applicant has sufficient experience in the field of air operations, the financial ability, the insurance coverage, and the type of aircraft necessary to provide the service it proposes to establish.

5. Under its proposal to integrate operations over the proposed routes with operations over presently authorized routes applicant can economically give adequate service to the communities involved.

6. We find with reasonable certainty that the proposed operations by applicant will not have a significant effect upon the environment.

7. Public convenience and necessity require the operation by Swift of its proposed passenger air carrier service, subject to the limitations and conditions of operations prescribed in Appendix A of Decision No. 77794, as amended, and as further amended by the ensuing order.

8. By Decision No. 81416 in Application No. 53623 applicant was granted a temporary certificate of public convenience and necessity, to expire December 31, 1974, authorizing operations over its Routes 3 and 4. For the reasons set forth in this opinion the necessity for the temporary nature of the authority granted therein no longer obtains, and public convenience and necessity require that the authorities granted to applicant therein be made permanent.

9. By interim order in Decision No. 81968 dated October 2, 1973 in Application No. 54327, and by reason of suspension of operations by Valley and in order to maintain air transportation service, applicant was exempted from the certificate provisions of the Public Utilities Code in conducting passenger air carrier operations between Fresno and San Jose and in providing transportation between points on routes it is authorized to serve via its authorized routes and the route San Jose - Fresno.

10. In order for applicant to provide efficient and economical service between San Jose and Fresno during the effectiveness of the exemption, it will be necessary for it to integrate that operation with the operations proposed and authorized herein.

We conclude that applicant should be granted a certificate of public convenience and necessity as provided in the order that follows; that the authority granted to applicant in a temporary certificate of public convenience and necessity in Decision No. 81416 should be made permanent; and that pending the duration of the exemption granted applicant in Decision No. 81968, applicant should be authorized to integrate operations conducted under that exemption with operations over the routes authorized in Appendix A of Decision No. 77794, as amended, and as further amended herein, and subject to the same limitations and conditions as are prescribed in that appendix.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Swift Aire Lines, Inc., a corporation, authorizing it to operate as a passenger air carrier, as defined in Section 2741 of the Public Utilities Code, between Bakersfield and Visalia, and between said points, on the one hand, and points it is authorized to serve, on the other hand, via the routes described in the revised pages of Appendix A attached hereto and subject to the limitations and conditions set forth in that appendix.
2. The temporary certificate of public convenience and necessity granted to Swift Aire Lines, Inc. in Decision No. 81416 in Application No. 53623 is made permanent.
3. Appendix A of Decision No. 77794, as heretofore amended, is further amended by incorporating therein Fifth Revised Page 1 and Sixth Revised Page 2, attached hereto, in revision of Fourth Revised Page 1 and Fifth Revised Page 2.
4. During the pendency of the exemption granted Swift Aire Lines, Inc. in Decision No. 81968 dated October 2, 1973 in Application No. 54327, it is authorized to operate between an airport on one route described in Appendix A, as hereinabove amended, and an airport on any other route so described via the route San Jose - Fresno, provided, however, any such operation shall be conducted to or from San Jose and Fresno via authorized routes through airports that are common to the connecting routes.

5. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in a cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. By accepting the certificate applicant is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with the requirements of the Commission's General Orders Nos. 120-Series and 129-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and file tariffs, in triplicate, in the Commission's office.
- (c) The tariff 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 filings shall be concurrent with the establishment of the authorized service.

- (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-Series.

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

Dated at San Francisco, California, this 24th day of MAY, 1973.

Vernon L. Stinson  
President  
William J. Simon

[Signature]  
Commissioners

I abstain

J. B. [Signature], Commissioner

Not participating:

[Signature], Commissioner

Appendix A  
(Dec. 77794)

SWIFT AIRE LINES, INC.

Fifth Revised Page 1  
Cancels  
Fourth Revised Page 1

The authority granted herein to Swift Aire Lines, Inc. supersedes all previously granted certificates of public convenience and necessity granted to this carrier.

Swift Aire Lines, Inc., by this certificate of public convenience and necessity, is authorized to operate as a passenger air carrier over the routes and between the points listed below:

Route 1 - SAN FRANCISCO - SANTA MARIA

Intermediate Points: San Jose, Paso Robles, and San Luis Obispo

SFO - SJC	SFO - PRB
SJC - PRB	SFO - SEP
PRB - SEP	SJC - SEP
SEP - SMX	SJC - SMX
SFO - SMX	PRB - SMX

Route 2 - PASO ROBLES - LOS ANGELES

Intermediate Points: San Luis Obispo and Santa Maria

PRB - SEP	PRB - SMX
SEP - SMX	LAX - PRB
SMX - LAX	LAX - SEP

Route 3 - SACRAMENTO - SANTA MARIA

Intermediate Points: Fresno and San Luis Obispo

SMF - FAT	SEP - SMX
FAT - SEP	FAT - SMX

Route 4 - SACRAMENTO - FRESNO

SMF - FAT

\* Route 5 - FRESNO - VISALIA - BAKERSFIELD

FAT - VIS  
FAT - BFL  
VIS - BFL

\* Route 6 - VISALIA - BAKERSFIELD - LOS ANGELES

VIS - BFL  
BFL - LAX  
VIS - LAX

Issued by California Public Utilities Commission.

\*Added by Decision No. 82036, Application No. 53861.

Conditions

1. Authority granted herein is limited to passenger air carrier operations over the specific routes and between the airport pairs listed thereunder as described above.
- # 2. Operation between an airport on one route and an airport on any other route shall not be provided except via authorized routes through airports that are common to the connecting routes.
- # 3. Each airport shall be served with a minimum of one flight in each direction on each of seven days a week, except that on Route 2 PRB shall be served with a minimum of one flight in each direction on each of five days a week, and except that airports on Route 3, Route 4, Route 5 and Route 6 shall be served with a minimum of one flight in each direction on each of five days a week.
4. Providing operations comply with Condition 3, carrier may serve the following airports on a "flag stop" basis:  

Route 1 - SJC, PRB.                      Route 2 - SBP.
5. Passengers shall be carried whose transportation is solely between the respective airports of SFO and SJC. No turnaround service will be provided between SFO and SJC.
6. No aircraft having more than 30 revenue passenger seats or a payload more than 7,500 pounds shall be operated.
- # 7. Passengers shall not be carried who have both origin and destination between the following pairs of points:  

SBP - SMX, SBP - PRB, SMX - PRB, LAX - SMF.
8. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
SFO	San Francisco	San Francisco International Airport
SJC	San Jose	San Jose Municipal Airport
PRB	Paso Robles	Paso Robles Airport
SBP	San Luis Obispo	San Luis Obispo County Airport
LAX	Los Angeles	Los Angeles International Airport
SMX	Santa Maria	Santa Maria Airport
SMF	Sacramento	Sacramento Municipal Airport
FAT	Fresno	Fresno Municipal Airport
* BFL	Bakersfield	Bakersfield (Meadows Field)
* VIS	Visalia	Visalia Municipal Airport

Issued by California Public Utilities Commission.

\*Added by )  
#Revised by) Decision No. 82036, Application No. 53861.

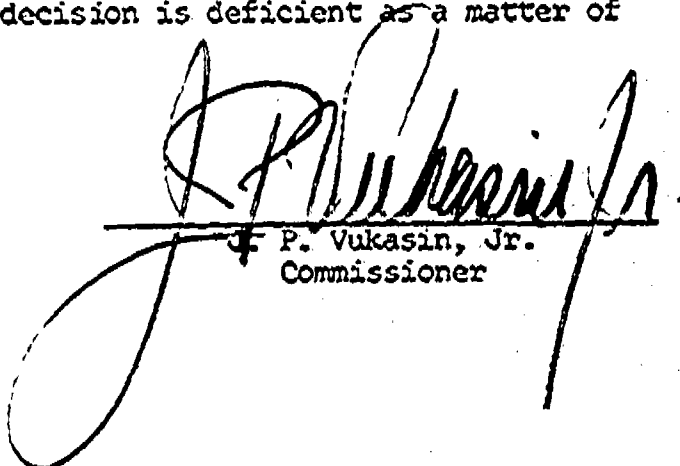


A. 53861 D. 82036 KB

COMMISSIONER J. P. VUKASIN, JR., Statement of Abstention:

The law is well settled that the Commission shall make separately stated findings of fact and conclusions of law on all issues material to a decision. Sec. 1705, Public Utilities Code. See also Southern Pacific Co. v Public Utilities Commission (1968) 65 Cal Rptr 737; Greyhound Lines Inc. v Public Utilities Commission (1967) 56 Cal Rptr 484.

Sec. 2753 of the Public Utilities Code designates specific factors which the Commission shall consider in awarding a certificate of public convenience and necessity to a passenger air carrier. One of these factors which the Commission must consider is "the need for the service". The decision fails to discuss any evidence or include any finding on the need for such passenger air service as requested by the applicant. Absent such evidence and finding, the decision is deficient as a matter of law.



J. P. Vukasin, Jr.  
Commissioner

San Francisco, California

October 24, 1973