

ORIGINAL

Decision No. 82284

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, service and practices of GOLDEN PACIFIC AIRLINES, INC., a California corporation.

Case No. 9529
(Filed April 3, 1973)

In the Matter of the Application of GOLDEN PACIFIC AIRLINES, INC., a California corporation, for a Certificate of Public Convenience and Necessity to establish, maintain and operate passenger and cargo airline service.

Application No. 50279
(Filed May 31, 1968)

Glenn A. Howard, Attorney at Law, for Golden Pacific Airlines, Inc., applicant in A.52079 and respondent in C.9529.

Don Richards Stephens, Attorney at Law, for Stol Air, Inc.; Don Klein, for Valley Airlines; Boris H. Lakusta and David J. Marchant, Attorneys at Law, for Swift Aire Lines, Inc.; and Stephen H. Slabach, Attorney at Law, for Stewart, Smith Aviation, Inc.; interested parties.

Lionel B. Wilson, Attorney at Law, and Richard Brozosky, for the Commission staff.

O P I N I O N

Duly noticed public hearing was held in these proceedings on June 4, 1973 before Examiner Thompson at San Francisco and the matters were submitted June 13, 1973 on the filing of late-filed Exhibit 4.

By Decision No. 80418 dated August 29, 1972 in Application No. 50279 the Commission, without hearing, ordered the certificate of public convenience and necessity held by Golden Pacific Airlines, Inc. (Golden Pacific), authorizing passenger air carrier operations between Concord and San Francisco, Sacramento and Tahoe Valley

Airport, and San Francisco and Tahoe Valley Airport revoked. The order of revocation provided that it would be stayed if, within 30 days thereof, Golden Pacific filed a written response thereto requesting public hearing. On September 28, 1972 Golden Pacific filed written response to Decision No. 80418 requesting public hearing.

On April 3, 1973 the Commission issued its order instituting an investigation into the operations, service, and practices of Golden Pacific for the purpose of determining, among other things, whether the respondent should have all or part of its certificated authority suspended or revoked pursuant to the provisions of Section 2755 of the Public Utilities Code. The Order of Investigation provided for the consolidation of the investigation with Application No. 50279 and Case No. 9513 (a complaint by Stol Air, Inc. to revoke certain route authority of Golden Pacific). At the public hearing Case No. 9513 was continued to a date to be set.

We find that:

1. Golden Pacific is the holder of certificates of public convenience and necessity issued pursuant to Sections 2754 and 2754.1 of the Public Utilities Code, authorizing passenger air carrier operations between certain points and over certain routes within the State of California. Those certificates require passenger air carrier service between the points and over the routes at least once in either direction daily, five days per week.
2. The routes and operating authorities described in those certificates are delineated in Appendix A of Decision No. 76668 in Application No. 51212, as amended by Decisions Nos. 80185, 80417, and 80419.
3. In June 1971 respondent discontinued service to Monterey Peninsula Airport, a point on Route 9 of its certificate, and has not provided service to or from that airport since.

4. In November 1971 respondent discontinued service to Oakland International Airport, a point on Route 9 of its certificate, and Tahoe Valley Airport, a point on Route 3 of its certificate, and has not provided service to or from those airports since.

5. In April 1972 respondent discontinued service to Buchanan Field, a point on Route 2 of its certificate, and has not provided service to or from that airport since.

6. In June 1972 respondent discontinued service to Merced Municipal Airport, a point on Routes 6 and 8 of its certificate, and has not provided service to or from that airport since.

7. In August 1972 respondent discontinued service to Stockton Metropolitan Airport, a point on Route 4 of its certificate, and San Francisco International Airport, a point on Routes 1, 2, 3, 4, 5, and 6 of its certificate, and has not provided service to or from those airports since.

8. On September 27, 1972 respondent, by letter, notified the Commission that it had suspended all passenger air carrier operations because of a strike of mechanics; and during September 1972 it did discontinue operations to all airports it had been serving up until that time, including Sacramento Metropolitan Airport, Sonoma County Airport, Fresno Air Terminal, Modesto Municipal Airport, Eureka-Arcata Airport, and San Jose Municipal Airport, which airports are on routes described in its certificate, and it has not provided service to or from those airports since.

9. In May 1972 respondent had on its payroll 6 maintenance personnel, 20 flight personnel, and approximately 20 reservation personnel. At that time a number of claims were filed with the State Labor Commissioner, the first three of which were from two mechanics. There was no collective bargaining agreement between respondent and its mechanics. In September 1972 no mechanics were employed by respondent. The State Labor Commissioner intervened on behalf of employees that had wages unpaid and determined, pursuant

to the requirements of Section 229 of the Labor Code, that there was no strike of employees. On January 31, 1973 the employment by respondent of all operating personnel was terminated. On May 2, 1973 respondent executed a confession of judgment statement in favor of the Division of Labor Law Enforcement, Department of Industrial Relations, for the sum of \$131,944.10 upon an indebtedness arising for labor performed by employees.

10. On May 1, 1973 the Franchise Tax Board caused the corporate rights, powers, and privileges of respondent to be suspended or forfeited. As of June 4, 1973 the corporation had not been revived.

11. On March 30, 1973 respondent surrendered its Air Taxi/Commercial Operator operating certificate to the Federal Aviation Administration for cancellation.

12. Respondent does not own, lease, or control any aircraft which have a current certificate of airworthiness issued by the Federal Aviation Administration.

13. On May 18, 1973 a representative of the Commission attempted an audit of respondent's books of accounts and records and was informed by respondent's Chairman of the Board of Directors that the books of account and records of respondent were in a Bekins Warehouse with storage charges outstanding and that there were no funds available to pay the charges to recover the books and records.

14. On June 4, 1973 respondent owed the Commission the sum of \$1,124.86 for transcript fees. Respondent has a number of other debts outstanding for landing fees, terminal rents, taxes, insurance, and other items.

15. Respondent does not have on file with the Commission evidence of protection against liability imposed by law for the payment of damages for personal bodily injuries and damage to or destruction of property as required by General Order No. 120-Series.

16. Respondent moved the Commission not to issue its final decision in this matter until ninety days after the date of hearing in order to permit completion of negotiations under which respondent could be acquired by Sierra Pacific Airlines.

17. Respondent is no longer able to perform all or any part of the services for which it holds a certificate of public convenience and necessity authorizing passenger air carrier operations.

18. Respondent is no longer able to conform to the law and to the rules and regulations of the Commission.

19. Respondent has abandoned the rights conferred by the certificates of public convenience and necessity granted by the Commission.

We conclude that:

1. Where it is shown that a passenger air carrier has no Air Taxi/Commercial Operator Certificate from the Federal Aviation Administration, has no operational aircraft certified as airworthy by the Federal Aviation Administration, has no pilots in its employ, has no power to conduct its own corporate affairs, has no assets nor any funds and is unable to obtain access to its books of accounts and records, that carrier is no longer able to perform all or any part of the passenger air carrier service authorized under certificates of public convenience and necessity granted by the Commission pursuant to Sections 2754, 2754.1, or 2757 of the Public Utilities Code.

2. Where it has been shown that a passenger air carrier certificated pursuant to Section 2754, 2754.1, or 2757 has discontinued operations and service required by that certificate, is unable to lawfully conduct commercial aviation operations, does not have insurance required by General Order No. 120-Series, does not possess any aircraft that may lawfully be operated in passenger air carrier service, nor does it have the funds nor the assets to obtain or finance the same, that carrier is no longer able to conform to the law and to the rules and regulations of the Commission in the conduct of passenger air carrier operations.

3. Where a corporation has been granted a certificate of public convenience and necessity to conduct passenger air carrier

operations between certain points and over certain routes subject to the condition that it provide service between those points and over those routes at least once in either direction daily, five days per week, and it has been shown that the corporation discontinued all service, had not reinstated any service for a period of over eight months, and was and is unable to perform all or any part of the certificated services or to conform to the law and to the rules and regulations of the Commission in the performance of any passenger air carrier operations, that passenger air carrier intended to cease all passenger air carrier operations conducted pursuant to certificates of public convenience and necessity issued by the Commission.

4. Where a passenger air carrier discontinues operations and intends only to hold the rights to sell if it can find a purchaser, the holder thereof has abandoned such rights.

5. More than 90 days after hearing having been expired, the motion of respondent for delay in decision for that period is now moot.

6. The certificates of public convenience and necessity granted to Golden Pacific Airlines, Inc. should be revoked and Appendix A of Decision No. 76668, as amended, should be canceled.

7. All tariffs of Golden Pacific Airlines, Inc. on file with the Commission should be canceled.

8. All of the issues and matters in Application No. 50279 having been disposed of, an order reaffirming Decision No. 80418 is unnecessary.

ORDER

IT IS ORDERED that:

1. All certificates of public convenience and necessity issued by the Commission to Golden Pacific Airlines, Inc., a corporation, are revoked.
2. Appendix A of Decision No. 76668, as amended, is canceled.
3. All tariffs of Golden Pacific Airlines, Inc. on file with the Commission are canceled.

The Secretary shall cause a certified copy of this order to be served upon Golden Pacific Airlines, Inc. by certified mail, and the effective date of this order shall be twenty days after such service. ✓

Dated at San Francisco, California, this 3rd day of JANUARY, 1974.

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

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