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ORIGINAL

Decision No. 82409

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC SOUTHWEST AIRLINES for a certificate of public convenience and necessity, in either direction between San Diego, Long Beach, Long Beach, San Jose/San Francisco/Oakland and San Diego to Sacramento via Long Beach and San Francisco.	Application No. 50261 (Filed May 22, 1968)
In the Matter of the Application of AIR CALIFORNIA for a certificate of public convenience and necessity to provide passenger air service between Long Beach, on the one hand, and San Jose and Oakland, on the other hand.	Application No. 50381 (Filed July 8, 1968)

Freidman, Heffner, Kahan and Dysart, by C. Hugh Freidman and Edward J. Pulaski, Jr., Attorneys at Law; and Graham and James, by Boris H. Lakusta, Attorney at Law, for Air California; applicant.

McInnis, Fitzgerald and Wilkey, by John W. McInnis, Attorney at Law; and Gates, Morris, Merrell and Stephens, by Brownell Merrell, Jr., Attorney at Law, for Pacific Southwest Airlines; applicant.

Darling, Hall, Rae and Gute, by Donald K. Hall, and Ernest T. Kaufmann, Attorneys at Law, for Western Airlines, protestant.

J. Kerwin Rooney, Port Attorney, by John E. Nolan, Assistant Port Attorney, for the Port of Oakland; Leslie E. Still, Deputy City Attorney, and Louis Possner, for the City of Long Beach; and Joseph M. McLaughlin, Attorney at Law, for Long Beach Jet Control Association; interested parties.

Scott K. Carter and B. A. Peeters, Attorneys at Law, Charles Astrue, Richard Brozosky, and A. L. Gieleghem, for the Commission staff.

O P I N I O N

Application No. 50261 filed May 22, 1968 by Pacific Southwest Airlines (PSA) sought a certificate to operate between Long Beach and San Francisco, Oakland, and San Jose. On July 8, 1968 Air California (Air Cal) filed Application No. 50381 by which it sought similar authority between Long Beach and only San Jose/Oakland. Pacific Air Transport, Inc., a new passenger air carrier applicant, filed Application No. 50438 on July 29, 1968 by which it sought the same authority as PSA. Western Airlines, Inc. (Western) intervened in opposition to all three applications.

By Decision No. 76110 dated September 3, 1969, after an extensive consolidated hearing, the issuance of a Proposed Report by the hearing examiner, and the consideration of briefs on exceptions and oral argument before the Commission, the Commission concluded that PSA should be granted a certificate of public convenience and necessity to operate between Long Beach and San Francisco, Oakland, and San Diego, and between Long Beach and Sacramento via San Francisco; and that Air Cal should be granted a certificate of public convenience and necessity to operate between Long Beach and San Jose.[1/] Pacific Air Transport's application was denied in its entirety. The effective date of the certificates issued to PSA and Air Cal was temporarily postponed by Decision No. 76110 until on or before July 1, 1970,[2/] because the city of Long Beach had changed its position and was opposed to any new air passenger service at the Long Beach Municipal Airport Terminal (LGB). The city of Long Beach indicated that it would not lease counter and gate space to any new air carrier.

1/ Air Cal also received authority to provide non-stop service between San Diego and San Jose, and between San Diego and Oakland.

2/ By Decision No. 77447 dated June 30, 1970 this date was extended to January 1, 1971 at the request of PSA and Air Cal.

Decision No. 76110 provided that this proceeding would remain open for the receipt of additional evidence in order that PSA and Air Cal could proceed to negotiate with the city of Long Beach for adequate terminal facilities. The decision further provided that upon receipt of notice that terminal leases had been granted, or denied, the Commission would give further consideration to the matter and would issue an appropriate final order.

On October 27, 1970 the Commission issued Decision No. 77874 after notification from the parties that leases, which included restrictions on the daily number of operations that each carrier would be permitted to conduct in its use of the airport terminal,[3/] had been offered to both Air Cal and PSA. Decision No. 77874 granted operating authority to PSA and Air Cal as described above.

PSA commenced service between Long Beach and San Francisco and between Long Beach and San Diego on December 23, 1970. It did not, and has not, commenced service to Oakland. On May 5, 1971 it filed a petition for an extension of time in which to commence such operations.

Air Cal did not commence service between Long Beach and San Jose apparently because the city of Long Beach withdrew its offer of a lease for terminal facilities after Air Cal first refused to execute the lease without an upward revision in the number of daily authorized flight operations. Subsequently, Air Cal reversed its position and accepted the lease as originally offered, but then the city refused to act on Air Cal's acceptance.

3/ The leases defined an operation to include one landing and one takeoff.

Commencing in December 1970 the parties filed a series of pleadings with the Commission. Air Cal requested that the Commission reopen the proceeding, revoke or cancel the authority of PSA to serve Oakland, and grant Air Cal this authority so that it could combine service to San Jose and Oakland, with the former serving as either a terminal or intermediate point. This relief was sought by means of an ex parte order. PSA also requested that the Commission reopen the proceeding and grant it a certificate to serve San Jose from Long Beach on the ground that Air Cal could not institute such service because it lacked a terminal lease from the city of Long Beach. PSA further asserted that Air Cal had abandoned any operating rights it held to serve San Jose by its failure to request an extension of time in which to commence that service. PSA requested that this relief be granted by means of an ex parte order. The Commission staff opposed any ex parte relief and urged that a further hearing be held.

By Decision No. 78848 dated June 22, 1971 the Commission reopened the proceeding to determine whether the authority to operate between Long Beach and San Jose/Oakland should be consolidated with only one of the two carriers. In addition, the Commission directed that PSA not commence service between Long Beach and Oakland, and it also ordered Air Cal not to commence service between Long Beach and San Jose. After a prehearing conference was held, public hearing was held in the reopened proceedings before Examiner Foley on January 24, 25, 26, 27, and 28, and on March 1, 1972. Opening briefs were to be filed on May 15, 1972, but by agreement of the parties, they were not submitted until May 22, 1972.

In July 1972 before the date for filing concurrent closing briefs, Air Cal and PSA signed an agreement under which the latter carrier would acquire the former by means of a stock purchase from Air Cal's parent, Westgate-California Corporation. The two carriers filed an application for approval of the acquisition by the Commission, Application No. 53442 dated July 1972, and also requested that priority be given to hearing the matter because of its complexity and its obvious effect on pending matters between the two. Shortly thereafter the two carriers requested that the closing briefs in the reopened Long Beach proceeding be postponed pending the resolution of Application No. 53442. This joint request was granted.

After a public hearing the Commission determined that the acquisition was in the public interest and did not violate Section 2758 of the Public Utilities Code, and it approved the transaction. (Decision No. 81080 dated February 23, 1973.) Subsequently, this merger agreement was terminated by the parties in July 1973 after the commencement of proceedings in federal court by the Antitrust Division of the U. S. Department of Justice to determine if it violated the federal antitrust laws.

Upon termination of the acquisition agreement, closing briefs in this matter were filed. Air Cal filed two separate petitions to reopen the proceeding on the grounds of changed circumstances. These petitions were denied by Decision No. 81749 dated August 14, 1973 and Decision No. 81959 dated October 2, 1973.

At the close of the reopened hearing on March 1, 1972 Air Cal filed a petition for a Proposed Report in accordance with Rule 78 of the Commission's Rules of Practice and Procedure. PSA filed a response in opposition. The Commission concludes that a Proposed Report is not in the public interest in this particular proceeding because it will result in additional delay in the issuance of a final decision, after the delay which has already occurred as the consequence of the abortive acquisition agreement.

THE APPLICANTS

PSA is a wholly owned subsidiary of PSA Inc., a Delaware corporation, incorporated on March 8, 1972. (See Decision No. 80684 dated October 31, 1972 in Application No. 53633.) It is the major intrastate passenger air carrier in California. It serves San Diego, Los Angeles, Ontario, Hollywood-Burbank, Long Beach, San Jose, San Francisco, Oakland, Fresno, Stockton, and Sacramento. It commenced operations in 1949, during which it carried 15,000 passengers. Its greatest growth dates from 1959 when it introduced Lockheed Electra aircraft on its Los Angeles-San Francisco route at a reduced fare of $12.99. At that time over the same route, Western and United Airlines (UAL) were charging from $18.10 to $30.31 depending upon service and type of aircraft. By mid-1962 PSA was carrying over 50 percent of the passengers in this market. At this point Western and UAL began to compete--reducing fares and offering service comparable to PSA's. In 1965 PSA instituted operations with pure jet aircraft. It has expanded service to various satellite airports after Air Cal commenced operations to Orange County.

According to PSA's 1972 annual shareholders' report on file with the Commission, PSA owns 14 Boeing 727-200 aircraft, one Boeing 727-100 aircraft, and 9 Boeing 737-200 aircraft.[4/] It also leases one of each of the above three aircraft types. The Boeing 737-200 is leased from Air Cal. This lease is scheduled to terminate in April 1974.

PSA has ordered three new Boeing 727-200 aircraft, two of which were scheduled for delivery in the spring of 1973. It has also contracted with the Lockheed Aircraft Corporation for the purchase of up to five Lockheed L-1011 wide-bodied trijet aircraft. Two of these are scheduled for delivery in 1974, one in 1975, and two in 1976.

4/ Official notice is taken of the 1972 annual shareholders' reports of PSA and Air Cal, which are filed with the Commission.

PSA's consolidated total assets have grown from $14.8 million in 1962 to over $207 million at the end of 1972. The growth in systemwide passengers and operating revenues is shown by the following figures:

Year	Passengers	Operating Revenue (000)
1960	621,000	$ 8,130
1965	1,863,000	24,015
1966	2,713,000	38,139
1967	3,346,000	48,825
1968	3,998,000	51,139
1969	4,488,000	59,840
1970	5,162,000	72,950
1971	5,623,000	81,981
1972	6,043,244	87,955

According to its 1972 shareholders' report PSA's consolidated net income increased from $5.43 million in 1971 to $6.94 million during 1972. As of December 31, 1972 PSA's stockholders' equity was $83.5 million; its long-term debt was $76.9 million; it had cash, including certificates of deposit, of $30.75 million, and working capital of $28.95 million.

In addition to passenger air carrier operations, PSA also conducts aircraft leasing, aircraft maintenance, and pilot training operations. Since 1969, it has expanded into non-airline activities, including the hotel business and the broadcasting field.

Air Cal was incorporated in 1966, and it commenced operations between Orange County Airport at Santa Ana and San Francisco International Airport (SFO) in 1967 with two Lockheed Electra aircraft. It presently serves the following cities: San Francisco, Oakland, San Jose, Ontario, San Diego, Palm Springs, Sacramento, and Santa Ana. It has authority to serve, but is not now serving, Long Beach.

Air Cal has an operating fleet of eight Boeing 737 jet aircraft, all of which are leased. It has one of these aircraft subleased to PSA. This sublease is scheduled to terminate in April 1974. Air Cal also leases one Lockheed Electra aircraft which it utilizes in charter operations.

According to its 1972 shareholders' report, Air Cal had total assets of $6.92 million as of December 31, 1972. The carrier's systemwide passengers and operating revenue for the full five calendar years it has operated are as follows:

Year	Passengers	Operating Revenue (000)
1968	600,758	$ 8,686
1969	835,702	13,449
1970	801,783	16,034
1971	896,130	19,024
1972	1,083,493	21,948

Since commencement of operations in 1967 Air Cal has sustained net losses in every year except 1972, as shown below:

Year	Net Loss (Loss Figures)
1967	($1,120,000)
1968	(1,760,000)
1969	(2,444,000)
1970	(376,000)
1971	(923,000)
1972	728,000

According to its amended application for a fare increase, Air Cal has achieved net income of $857,000 during the first six months of 1973. (See Decision No. 81923 dated September 25, 1973 in Application No. 53308.) As a result of the profit achieved in 1972, Air Cal's deficit in retained earnings has been reduced from $6.70 million to $5.97 million as of December 31, 1972, and its negative stockholders' equity has been reduced from $1.57 million to $551,000. As of the same date, it had cash, including deposits, of $853,000. (Air California 1972 Annual Report.)

OTHER PARTIES

1. Western Airlines

Western is a trunkline air carrier certificated by the Civil Aeronautics Board (CAB). It operates over an extensive number of routes in the western United States, including Alaska, as well as to Canada and Mexico. Within California it serves Los Angeles, San Francisco, Oakland, Sacramento, Ontario, Long Beach, Palm Springs, and San Diego.

Western participated in the original hearings held in this proceeding in 1968 as a protestant to all three applicants. It opposes both PSA's and Air Cal's requests in the presently reopened proceeding on the ground that the proposed service is not needed and will not be profitable regardless of which carrier is authorized to serve the markets.

The route structure of Western includes authority to operate between Long Beach and various points, including San Francisco, San Diego, and Oakland. It commenced nonstop San Francisco-Long Beach service in 1962 with two daily flights southbound and one northbound. This service was upgraded to two daily round trips in 1964, and this level of service has been maintained up to the present time. However, by an application dated August 10, 1973 Western has requested permission from the CAB to suspend all its operations at Long Beach for a period of three years effective October 28, 1973. This request includes not only service to San Francisco, but also to San Diego, and Las Vegas, Nevada.[5/] On September 18, 1973 the CAB granted Western's request.[6/] (CAB Order No. 73-9-72.)

5/ Western discontinued its one daily round trip flight between Long Beach-San Diego in September 1971.

6/ Official notice is taken of Western's application, the appendices attached thereto, and Order No. 73-9-72 dated September 18, 1973.

In its application to suspend, Western states that its overall Long Beach operations produced a pretax loss of just over $1 million in 1972. It further states that after PSA commenced its four daily round trips between Long Beach-San Francisco in December 1970 the load factor for its two daily round trips decreased to 50.4 percent, 56.2 percent, and 60.1 percent for the peak months of June, July, and August 1971, respectively, as compared to 66.9 percent, 71.9 percent, and 76 percent for the same three months in 1970 when it was the sole carrier in the market. In 1972 the load factors for the same three months decreased further to 43.1 percent, 45 percent, and 45.9 percent, respectively.

Western also holds authority to serve the Long Beach-Oakland market and did so for a short period during 1969. It commenced non-stop Oakland service in December 1968 with one daily round trip. This service was upgraded to two daily round trips in February, March, and April 1969 and then reduced to one round trip in May 1969. On June 30, 1969 Western discontinued Long Beach-Oakland service completely. According to its exhibits in this proceeding, Western achieved an overall load factor of 18.7 percent on its Oakland service during this six-month period, which resulted in a net pretax loss of $251,305. (Exh. No. 74, WA-134, 136.)

In the light of the CAB's approval of Western's application to suspend Long Beach operations, Western will not be adversely affected by our decision herein.

2. City of Long Beach

As related above, the city of Long Beach changed its position in the original hearings held in 1968 on the question of introducing additional passenger air carrier service at LGB. This change occurred as the result of citizen opposition to the possible increased noise which might result from additional flights. After the issuance of Decision No. 76110, supra, Long Beach and PSA executed a lease for terminal facilities which restricted PSA's total service to no more than six operations per weekday (Monday through Thursday), and no more than eight on weekend days (Friday through Sunday). The lease also prohibits any landings or takeoffs between the hours of 11:00 p.m. and 7:00 a.m., except in the case of emergencies. It permits the use of Boeing 737 or 727 aircraft, and also Douglas DC-9 aircraft.

The city's offer of a lease to Air Cal so it could serve San Jose contained similar conditions, except that the number of daily operations was limited to three on weekdays and four on weekends. As related above, this offer was terminated.

After the petitions to reopen this proceeding were filed, Long Beach was requested to respond to written interrogatories prepared by the hearing examiner regarding its position on additional operations at LGB. The City Council responded by letter dated October 12, 1971 (Exh. No. 62) from the City Attorney that the city would not execute a terminal facilities lease to Air Cal in the event that the Commission granted that carrier's application. If PSA was granted the operating authority, Long Beach stated that it would not grant any increase in the carrier's flight operations allowance because it understood that all the Bay Area markets, as well as San Diego, could be served by PSA under the present allowance.

Long Beach also responded that if the Commission let the operating authority remain as originally determined in Decision No. 76110, supra, which is the recommendation of the Commission staff, the city would not lease terminal space to Air Cal for Long Beach-San Jose service.

More recently, on July 30, 1973 Long Beach filed a reply to Air Cal's first petition to reopen this matter, which was filed in July 1973. In this reply it reaffirmed the position taken in 1971 that it will not increase PSA's number of flight operations or grant any terminal rights to Air Cal.

3. The Commission Staff

The Commission staff recommends that nonstop route authority between Long Beach and Oakland be granted to PSA and similar authority be granted to Air Cal between Long Beach and San Jose. The staff maintains that nonstop service will be more convenient to the public, that it will permit one-stop through service by Air Cal between Long Beach-Sacramento via San Jose, and that it will permit Air Cal to recoup some of San Francisco-Orange County passengers diverted to PSA's Long Beach-San Francisco flights during 1971. The staff further recommends that the authority be subject to the condition that it be commenced within ninety days, and that failure to comply should result in revocation of the award.

4. Port of Oakland

The Director of Air Traffic Development for the Port of Oakland, which operates Oakland International Airport (OAK), testified in support of commencement of air carrier service between Oakland and Long Beach. The Port does not express any preference as to which carrier should receive the authority. It supports either one-stop or nonstop service to Oakland.

5. Long Beach Jet Control Association

The Long Beach Jet Control Association, a citizens organization of residents who live near LGB, participated in the original hearings in this proceeding. By letter dated August 9, 1971 its attorney stated that it wished to be continued on the list of appearances as an interested party in the reopened proceeding. It did not actively participate in the reopened hearings.

DISCUSSION

Section 2739 of the Public Utilities Code describes the objective of the Passenger Air Carrier Act as "an orderly, efficient, economical and healthy intrastate passenger air network". Specifically, Section 2753 of the Public Utilities Code states that the Commission shall take into consideration, among other things, in resolving route proceedings:

> "...the business experience of the particular air carrier in the field of air operations, the financial stability of the carrier, the insurance coverage of the carrier, the type of aircraft which the carrier would employ, proposed routes and minimum schedules to be established, whether the carrier could economically give adequate service to the communities involved, the need for the service, and any other factors which may affect the public interest."

The factors listed in Section 2753 are not exclusive nor is any one factor controlling. All factors must be considered and weighed along with any other factors that affect the public interest. In addition, Section 2754 of the Public Utilities Code provides in part that the Commission may attach such terms and conditions to operating rights as it determines to be required by the public convenience and necessity.7/

7/ Section 2754 provides as follows:

> "Each application for a certificate of public convenience and necessity made under the provisions of this part shall be accompanied by a fee of one hundred fifty dollars ($150).
>
> "The commission shall, with or without hearing, issue a temporary or permanent certificate, except that a certificate may not be issued without a hearing over the formal objection of a person or party possessing standing to object. The commission may deny the application for a temporary or permanent certificate in whole or in part, with or without hearing, except that such denial may not be ordered without a hearing over the formal objection of the applicant. The commission may attach to the exercise of the rights granted by the certificate such terms and conditions as, in its judgment, the public convenience and necessity require. Minimum schedules may be received and revised by the commission at intervals of not less than one year."

There is no doubt that both Air Cal and PSA have the necessary experience in air carrier operations, insurance, and equipment to provide Long Beach-San Jose/Oakland service.8/ (See Decision No. 81080, supra.)

Financial Ability

The financial condition of the two carriers has been discussed in detail in our recent decision on the acquisition agreement. (Decision No. 81080, supra pp. 4-7, and 9-12.) Since the issuance of that decision, PSA has received a 4.9 percent fare increase (Decision No. 81793 dated August 21, 1973 in Application No. 53525), and Air Cal has received an interim fare increase on certain routes (Decision No. 81923 dated September 25, 1973 in Application No. 53308) pending a hearing on the remainder of its request. According to its 1972 Annual Report, PSA had net income of $6.9 million, total current assets of $52.2 million, and total current liabilities of $23.2 million as of December 31, 1972. In its present request for a fare increase to offset increased jet fuel costs, PSA's application states that its net income for the first six months of 1973 was $1.2 million, and that its current assets total $26.9 million, as compared to $16.6 million in current liabilities. (Application No. 54387 dated October 16, 1973, Exh. B.) Even though PSA's net income and current ratio have declined, it is readily apparent that it remains in sound financial condition, particularly in view of the fact that it has recently received fare relief.

8/ Air Cal attempted to show that PSA lacked the necessary Boeing 737 aircraft to serve the route. However, PSA has acquired additional aircraft since the hearing (PSA 1972 Annual Report). PSA has the further capability to substitute the larger Boeing 727 aircraft when traffic demand requires it. PSA has already done this on one of its Long Beach-San Francisco flights. (PSA Schedule dated October 1, 1973.) Similarly, Air Cal has increased its fleet from six to seven Boeing 737's by reacquiring one of its two aircraft subleased during 1972-73. Therefore, both carriers appear to have sufficient equipment.

As set forth in Decision No. 81080, supra, the Commission has concluded that Air Cal's financial condition has been generally weak because it had been unable to achieve a net profit for any full year of operations and it had accumulated a large stockholders' deficit. For instance, the record in this proceeding shows that the carrier sustained a $1 million operating loss during 1971 and had a total shareholders' deficit of $6.7 million. (Exh. No. 65.) According to Air Cal's financial witness, this loss resulted because the carrier had excess aircraft and was also absorbing losses in development of its newly authorized markets in San Diego and Sacramento. (Tr. 2029-2044.) It was also explained that neither the Ontario or Palm Springs routes had become profitable after over two years of operations in each. (Tr. 2059.) Air Cal forecast an overall profit in 1972 of about $500,000, and if one Boeing 737 was subleased, a profit of about $1 million was expected. (Tr. 2059.)

However, during 1972 Air Cal achieved net income of $728,000, including an extraordinary item of $225,000 resulting from the utilization of an operating loss carry-forward. (Air Cal 1972 Annual Report.) Air Cal's total 1972 revenues include $650,000 from the sublease of two of its eight Boeing 737 aircraft, and its operating income was the somewhat smaller sum of $591,000. This indicates that but for the sublease of excess equipment Air Cal would not have achieved an operating profit for the year. On the other hand, the carrier did substantially improve its daily utilization of aircraft to over seven hours per day, its system load factor from 52 percent for 1971 to 61 percent in 1972, and its passengers per employee from 1,533 in 1971 to 1,941 in 1972. It had total current assets of $3.6 million and total current liabilities of $2.1 million at the end of 1972.

During the first six months of 1973 Air Cal states in its amended fare-increase application that it achieved operating income of $1.11 million and net income of $857,000, consisting of $421,000 from air carrier operations, and extraordinary income of $436,000. (Decision No. 81923 dated September 25, 1973 in Application No. 53308.)

The Commission concludes that Air Cal has definitely improved its financial condition, although to a considerable degree these recently improved results of operations are due to its successful subleasing of excess aircraft. On a comparative basis, its financial condition remains weaker than PSA's, but it does appear to have turned the corner and is gaining strength.[9/]

Need for the Service

Turning to the question of public convenience and necessity, Air Cal argues in its opening brief that existing services at Los Angeles International Airport (LAX) and Orange County Airport at Santa Ana (SNA), combined with the flight restrictions imposed by the city of Long Beach which fail to make possible frequent commuter service, require us to conclude that there is no need for the proposed service. The Commission does not agree.

9/ The management of Air Cal's parent company, Westgate-California Corporation, is undergoing replacement and reconstitution pursuant to the settlement of litigation instituted in federal court by the Securities and Exchange Commission. (Wall Street Journal, October 25, 1973, p. 3.) It is not known what effect this will have on Air Cal, which is an unconsolidated subsidiary of Westgate.

The Proposed Report adopted by the Commission in Decision No. 76110, supra, discusses in some detail the benefits to the air traveling public of establishing service between the Bay Area and LGB. These benefits include the partial relief of air and ground congestion at LAX, the fact that the service area of LGB has a population of about 1.2 million people, the fact that LGB is a modern, fully equipped, and operational airport with adequate parking facilities to accommodate significantly more air carrier passengers than were using it at that time or at present. Added to these facts are the more recent developments that Western no longer provides any Long Beach service, whereas it was providing Long Beach-San Francisco, Long Beach-San Diego, and some Long Beach-Oakland flights in 1968-69; and that Air Cal is operating at the maximum allowable number of daily operations at SNA which are permitted by Orange County under Air Cal's terminal lease. Assuming that Orange County will not permit any additional flight operations for Air Cal, it will have to acquire larger capacity aircraft to accommodate any substantial increase in traffic demand at SNA.

Although Air Cal correctly points out that contrary to the hopes expressed in Decision No. 76110, PSA's service between Long Beach and San Francisco did not result in any reduction of flights at LAX, some of these Long Beach passengers undoubtedly would have utilized flights operated from LAX or SNA. By so doing they would have placed an increased burden on the other airports in the area, particularly LAX and SNA. At the same time, the traffic results of PSA's flights as compared to Western's lead to the conclusion that there exists a considerable greater public demand for Long Beach service than Western's two daily flights could accommodate.

The traffic data, as submitted to the Commission and compiled by the staff, show a dramatic increase in total on board passengers[10] after PSA commenced service in December 1970:

Long Beach-San Francisco On Board Traffic

	PSA	Western	Total
1970	3,196	87,086	90,282
1971	151,729	63,266	214,995
1972	180,025	54,884	234,909
1973*	41,875	12,350	54,225

*First Quarter only.

(Source: PUC Staff Reports, Form 1504.)

Likewise, the Long Beach-San Francisco origin and destination (O&D) traffic figures through 1971 demonstrate this point:

Long Beach-San Francisco O&D Traffic

	PSA	Western	Total
1966	-	51,871	51,871
1967	-	54,983	54,983
1968	-	61,892	61,892
1969	-	78,052	78,052
1970	3,137	74,212	77,349
1971	138,740	44,445	183,185

(Source: Exh. No. 59, AC-103.)

10/ On board traffic figures include all passengers in the aircraft on the flights between LGB-SFO. They include not only those passengers whose trip originated in LGB and terminated at SFO, or vice versa (i.e., the true O&D traffic), but also through passengers who boarded elsewhere and who are traveling between LGB-SFO as a segment of a longer trip. For PSA these figures include passengers traveling between San Diego-San Francisco via Long Beach, and passengers traveling between Long Beach-Sacramento via San Francisco. For Western, these figures include any passengers who are destined for a point or originated from a point beyond San Francisco or Long Beach.

These traffic figures readily indicate that PSA's introduction of LGB-SFO service, either through stimulation of new traffic, diversion of traffic from other carriers such as Western at LGB or Air Cal at SNA, self diversion from PSA's flights at LAX, or a combination of all three, resulted in significant increases in total traffic compared to Western's experience. To some extent they indicate that a latent public demand existed for the service as provided by PSA, similar to the substantial increases in total traffic which occurred after PSA entered the LAX-San Jose and LAX-Sacramento markets.

Finally, the Commission agrees with PSA that there is a potentially strong community of interest between Long Beach and Oakland because both are the sites of major military installations and leaders in marine commerce. (Exh. No. 63.) Long Beach is also attempting to develop tourism with its Queen Mary project. In light of these facts the Commission concludes that there continues to be adequate public need for the proposed service as we found in Decision No. 76110.

Economical Operation

The Long Beach-Oakland and Long Beach-San Jose markets are presently not receiving any air carrier service. Western discontinued its Oakland flights in June 1969 after averaging only twelve passengers per flight for six months. (Exh. No. 59, p. 2.) Continental Airlines holds authority to operate between Long Beach and San Jose Airport (SJC) as a segment of flights which serve Portland, Oregon, and Seattle, Washington. It has never instituted service at Long Beach.

Air Cal proposes to operate three daily round trip flights between LGB-SJC/OAK with a one-way fare of $17.59, excluding tax and security charge. Air Cal utilized this fare level, which is higher than its authorized fare between Orange County and the Bay Area, even though it represents an increased fare that has not yet been approved by the Commission in Application No. 53308, supra.

The carrier's traffic forecast was based upon an economic study of the entire Los Angeles area, as well as the LGB service area, including an analysis of population, employment, retail sales, and income level, including per capita buying income. It also considered airline service and traffic patterns in the California corridor. (Exh. No. 59.) Its assistant vice president for schedules and planning concluded that the LGB-SJC/OAK market would be the smallest of the satellite airport markets in the California corridor, and that it would probably produce results parallel to the Ontario (ONT)-San Jose/Oakland market. After estimating the total corridor passengers for 1972, 1973, and 1974, he determined the Long Beach-Bay Area traffic. (Exh. No. 59, p. 10.) From this result he estimated that LGB-SJC/OAK would produce about 133,500 passengers in 1972, 145,000 in 1973, and 157,000 in 1974. (Exh. No. 59, p. 12.)

He further concluded that from an economic perspective the route is marginal. This view is based on the fact that the satellite routes, such as Ontario-San Jose/Oakland, as well as Palm Springs and even San Diego-San Jose/Oakland have been slow in developing into profitable operations. In particular, he pointed to Air Cal's Ontario route as one which has been served for over three years and had not yet produced a profit. (Tr. 2234.) He forecasted that Air Cal would sustain an operating loss during 1972, assuming that service was provided for all that year, and again in 1973. An operating profit could not be expected until after the third full year of operations, or 1974. (Tr. 2048, Exh. No. 59, p. 15, AC-201.)

Finally, Air Cal's witnesses explained that its application for LGB authority is defensive in character because it would face traffic diversion from its Orange County-San Jose/Oakland flights if PSA's application was approved. (Tr. 2169, 2240.) The carrier contends that it has the most to lose if the route is awarded to PSA, and that the way to protect it is to grant the authority to it.

The vice president for finance and an independent traffic consultant presented PSA's forecast of operating results for the route. PSA proposes to operate two daily round trips between LGB-OAK via SJC on weekdays at a one-way fare of $16.67, excluding tax and security charge.[11/] Since the city of Long Beach states that it will not allow PSA to conduct more than six weekday operations at LGB, PSA plans to reduce its LGB-SFO service to three daily round trips on weekdays and continue its Long Beach-San Diego service at one daily round trip.

PSA's traffic forecast is based upon an analysis of experienced traffic data between the Bay Area and the three satellite airports at Burbank, Ontario, and Orange County in the Los Angeles area; and on an analysis of the Long Beach-San Francisco traffic carried by PSA and Western. (Exh. No. 63.) From this data, PSA's witness determined that in the year 1969 the San Jose and Oakland markets accounted for about 22 and 28 percent of all the traffic between the three satellite airports in southern California: Burbank, Ontario, and Orange County. The remaining 50 percent of the traffic from these three points traveled to San Francisco. (Exh. No. 63, p. 12.) He then applied these percentages to the constructed LGB-SFO traffic for the year 1971 which he used as the 1972 traffic level because some of the present passengers on the LGB-SFO route are expected to divert to the flights serving San Jose and Oakland. Then two downward adjustments were made to account for the fact that PSA would be operating only two daily flights in the market, and to allow for the first year of route development in a new market. (Exh. No. 63, pp. 14-15; Tr. 2256-2258.) Using this methodology, PSA's witness

11/ This fare level has not been adjusted to reflect PSA's fare increase approved in Decision No. 81793, supra. For purposes of our decision herein, we will utilize the fare and cost data presented in this proceeding.

concluded that for the year 1972 the LGB-SJC traffic would equal 64,419 passengers and the LGB-OAK market would produce 50,903 passengers, for a total traffic forecast of 115,322. Under this forecast he further concluded, as did Air Cal, that the market justified only one carrier.

With this forecast PSA's financial witness estimated that it would achieve operating income of about $136,000, before interest and taxes, for the year 1972. (Exh. No. 66.) This estimate utilized costs developed as of September 1971 and then adjusted upward to reflect expected cost increases in 1972.

In evaluating the likely operating results for LGB-SJC/OAK service, it is informative to review the expectations presented in the 1968 hearing in this proceeding. In Decision No. 76110 in this proceeding, the Commission adopted the conclusions set forth in the hearing examiner's Proposed Report that the 1969-1970 traffic between Long Beach-San Francisco would approximate 330,000 passengers, and that the Long Beach-San Diego traffic could be expected to total 251,000 passengers. The LGB-OAK total market was projected to be 250,000 passengers and the LGB-SJC market to be 180,000, or a total of 430,000 passengers.

In 1972, however, PSA and Western carried a total of about 235,000 LGB-SFO on board passengers. Moreover, on the San Diego route, PSA and Western carried about 27,000 on board passengers during 1971, and after becoming the sole carrier in the market in late 1971, PSA carried only 21,216 in 1972. (PUC Traffic Reports, Form 1504.) Even though PSA has not been able to offer the level of service it originally proposed in the San Diego market because of flight restrictions at LGB, it is apparent that the original traffic forecasts for the San Diego and San Francisco routes were substantially over optimistic. The San Diego route is clearly unprofitable and serves as an "entry segment" for the purpose of increasing load factors between LGB-SFO.

With respect to the LGB-SFO route, the staff's compilation of traffic, as reported by the carriers, shows that PSA carried 151,729 on board passengers during 1971 which resulted in an overall load factor of 43 percent for the year. This load factor is well below PSA's break-even load factor. (Decision No. 81080, supra, p. 11.) During 1972 PSA carried a little over 180,000 on board passengers between LGB-SFO, and the overall load factor for the year increased to 51 percent. (PUC Traffic Report, Form 1504.) This result indicates that PSA may have reached the break-even point in 1972, or some two years after commencement of service.[12/] Consequently, since both carriers state that the LGB-SJC/OAK market is probably the smallest of the satellite markets (Exh. No. 63, p. 18; Tr. 2276-2278 and 2578), it seems more reasonable to expect that the new service will be fortunate to equal the operating results achieved in the LGB-SFO market.

12/ PSA stated that with 11,000 passengers per month the LGB-SFO route would be profitable. (Tr. 2632.) According to the O&D traffic results for the year ending November 1972, as set forth in Decision No. 81793, supra, p. 8, PSA carried 149,661 O&D passengers on this route, or about 12,450 per month. This view is consistent with Western's cost analysis (Exh. No. 74, WA-105). Western assumed that PSA's total on board 1972 traffic was 191,000 passengers, and that 80 percent of these were the O&D traffic, or 152,800 (12,733 per month). Using this O&D traffic and fully allocated costs, the exhibit reflects a 1972 profit of $22,000 for PSA.

On the other hand, if the higher flight crew, fuel, oil, and hull insurance unit cost ($289 per hour), which PSA used in its fare increase case, is utilized in place of the $230 per hour figure PSA used herein (Exh. No. 83), then PSA's costs for 1972 were at least $157,000 greater than displayed in Western's study. (Exh. No. 74, WA-105, p. 1.) With this higher cost of flight operations, and if 85 percent of the 1972 actual on board traffic of 180,025 was O&D traffic, then PSA sustained a loss on the route.

Air Cal's 1972 forecast of 134,000 passengers is about 18,000 passengers greater than PSA's. Both forecasts, however, result in a large number of passengers per flight: 69 passengers per flight or a 61 percent load factor for PSA, and 67 passengers per flight or a 58 percent load factor for Air Cal. (Tr. 2358, 2183-4.) These expected load factors are very high when PSA's experience for the first two years on the LGB-SFO route is considered. It seems more realistic, given the low level of service which PSA or Air Cal will be able to provide because of the flight restrictions imposed at LGB, and given the high level of service already available to SJC/OAK from LAX and SNA, to conclude that the new service will at best only equal the results achieved on the San Francisco route.

If in fact the new service resulted in only a 43 percent load factor as PSA actually experienced on its San Francisco route during 1971, and utilizing on board traffic figures, its total LGB-SJC/OAK traffic would be about 80,000 passengers if it provided two daily round trips five days each week and three on Friday and Sunday. (224 seats per round trip x 2 x 365 + 224 x 104 = 186,816 x 43%.) On the other hand, if Air Cal operated three daily round trips and achieved the same load factor for the first year, it would carry about 108,000 LGB-SJC/OAK passengers. (230 seats per round trip x 3 x 365 = 251,850 x 43%.)

Comparing these traffic results using PSA's load factor experience on the LGB-SFO route with the substantially higher forecasts of 115,000 and 133,000 passengers submitted by PSA and Air Cal, respectively, it seems that under the most optimistic assumptions, PSA would carry about 100,000 LGB-SJC/OAK O&D passengers with its two daily round trips on weekdays, and Air Cal might carry about 120,000 such passengers with its three daily round trips.

At this level of traffic the route would not be profitable for either carrier during the first year. PSA and Air Cal would each achieve an average load factor of about 53 percent per flight. For PSA this would approach a break-even operation, but it would not for Air Cal. Assuming that the market grew at a rate of 5 percent, PSA would probably achieve a break-even operation after two years; but Air Cal would not until after three years, since it plans to offer 302 more flights per year than PSA and since it has a higher break-even load factor than PSA. We conclude that at best the route is economically marginal.

Another means for evaluating the possible results at Long Beach is to consider the Ontario market. By several bases of comparison, including level of income, population of airport service area, airport facilities, fare, and frequency of service, the Long Beach market appears to be most similar to the Ontario-San Jose/Oakland market. (Tr. 2578, 2581, Exh. No. 79, p. 1.) In particular, it appears that the proposed level of service at LGB, given the city's operating restrictions, will have the same proportional relationship as at Ontario. Since Air Cal's operations in the ONT-SJC/OAK market have not been profitable during the first three years of operations, it seems reasonable to expect the same result in the Long Beach-San Jose/Oakland market.

Selection of Carrier

If the primary consideration in selecting which applicant should be awarded this route was the equitable division of available new routes between them, Air Cal's position would have greater merit. For by all criteria of measurement, PSA is the dominant carrier in the corridor. However, there are involved here, as there were in the matter of PSA's proposal to serve Orange County, Apps. to serve San Diego, Orange County, etc., Decision No. 80318 dated July 25, 1972 in Applications Nos. 52165 and 51080 (Phase I), overriding considerations which lead us to conclude that PSA should operate on the route, provided that certain protective conditions are attached to the authority.

In denying PSA's proposal to serve Orange County in Decision No. 80318, supra, the Commission recognized that as a practical matter PSA could not acquire airport operating rights from Orange County. The same situation is present at Long Beach in that certification of Air Cal would be an idle act. The proposed service will be convenient for Long Beach-East Bay travelers who now must either utilize PSA or Air Cal flights at LAX or SNA, or who must fly to SFO. The service may also provide some relief for Air Cal's situation at SNA where it is operating the maximum number of flights permitted by Orange County. It is also noted that Air Cal has operated with a load factor of 69 percent in 1971 and 75 percent in 1972 on its Orange County-San Jose flights, which means that Air Cal is undoubtedly turning away passengers at peak times. (PUC Traffic Report, Form 1504, Tr. 2261.)

In addition, it seems reasonably clear that the route will not be profitable for at least two or three years. PSA continues to be the financially stronger carrier, and, as such, it is better able to absorb the initial operating losses that appear almost certain. Indeed, Air Cal concedes that its application has been advanced for self protective reasons rather than solely for the reason to expand its route structure in a logical direction. It seems unwise to burden Air Cal with additional route authority on which it will have to attract passengers from LAX, and which will undoubtedly produce losses during the first few years of operation.

Other considerations which favor PSA are, of course, that it has established operations at LGB with its flights to SFO, and with the ability to substitute larger capacity Boeing 727 aircraft on the reduced number of SFO flights that will occur as the result of the flight restrictions, it will be able to alleviate the reduction of total seats in the SFO market to some degree without increasing the total number of flights. This should result in maintaining SFO service at a good, albeit reduced, level while at the same time initiating service to SJC/OAK. Finally LGB is an existing, usable airport. It is logical to certificate the carrier which is in the best position to initiate service promptly, since the establishment of new or expanded airport facilities in the southern part of the Los Angeles area seems quite remote at this time.

Diversion

Air Cal, PSA, Western, and the Commission agree that institution of this service will divert passengers from Air Cal's SNA-SJC/OAK flights, as well as from flights between LAX-SJC/OAK and whatever LGB-SJC/OAK traffic is presently traveling on LGB-SFO flights.

Air Cal estimates that it will suffer 10 percent diversion of traffic from its SNA-SJC/OAK routes. (Exh. No. 59, p. 13.) This estimate is derived from the diversion of 10.9 percent it experienced in LGB-SFO traffic after PSA initiated flights in this market. Based on 1971 SNA-SJC/OAK traffic figures, this amounts to 31,600 passengers and a loss of $588,000 in gross revenues.

PSA also estimates diversion from Air Cal's SNA flights at 10 percent, or 35,000 passengers. It expects to sustain considerable self-diversion from its LAX-SJC/OAK and a small amount from its LGB-SFO flights. But overall it expects that 50 percent of the LGB-SJC/OAK traffic will result from normal growth or stimulation of new traffic from the introduction of regular daily service. (Exh. No. 63, p. 16.)

Western concludes that 76 percent of the LGB-SJC/OAK traffic will be diverted from PSA, Air Cal, and Western. (Exh. No. 74, WA-102.) This includes 35,000 passengers from Air Cal, 5,000 from Western, and 47,500 from PSA's other flights, leaving the remaining 27,500 passengers in PSA's forecast as newly generated. Western also expects PSA to carry fewer LGB-SFO passengers because it will have to reduce its service in this market. Some of these lost passengers will undoubtedly utilize Air Cal's flights at SNA. Others will go to LAX. Air Cal may also secure some of Western's former traffic now that it has suspended operations at LGB.

The Commission staff considers that almost all of PSA's traffic at LGB will be diverted from other carriers or PSA's own flights. (Exh. No. 56; Tr. 2403-2412.) The staff study estimates that Air Cal lost 21,000 SNA-SFO passengers to PSA's LGB-SFO flights in 1971. (Tr. 2408.) If PSA operated the LGB-SJC/OAK route during 1971, the staff concluded that Air Cal would have lost an additional 25,000 passengers, for a total estimated diversion of 46,000 passengers in that year. (Tr. 2407.)

At the outset it should be recognized that it is very difficult to estimate diversion in this case. It seems obvious that most of the LGB-SJC/OAK traffic will be diverted from SNA and LAX. Undoubtedly a sizeable portion will be self-diverted from PSA's flights at these nearby airports, if the level of service at LGB is comparable. Nevertheless, we do not agree with the staff that little new traffic will be generated. Based on the history of PSA's entry in the Sacramento-Los Angeles and San Jose-Los Angeles markets, in which new traffic was stimulated to a substantial degree, it seems reasonable to conclude that some of the Long Beach traffic will be new, even though PSA's level of service will be only two daily flights.

On the one hand, Air Cal will sustain diversion from its SNA-SJC/OAK flights as a consequence of its higher fare in this market and the nearby location of LGB. On the other hand, PSA will be scheduling minimum service on the weekdays. These flights will probably be at times when freeways will be crowded. It may be that many business travelers will not use LGB because they do not want to be limited to only one return flight at the end of the day. They may well continue to use SNA and LAX where there are more frequencies.

Using traffic figures for the first six months of 1971, Air Cal estimated that it lost 36,440 SNA-SFO passengers for the full year to PSA's LGB-SFO flights, or 13.3 percent diversion. (Exh. No. 79, AC-R-6.) This equals about $525,000 in revenues, after allowing for dilution. (Tr. 2167.) The net revenues lost would be less. The staff's traffic data, however, shows that Air Cal carried 274,617 O&D passengers between SNA-SFO in 1970. (Exh. No. 57, Table 2, Sheet 2.) After allowing 5 percent growth for 1971, Air Cal's traffic would have been 288,348 passengers if PSA had not commenced operations at LGB, but it actually carried 258,983, resulting in a decrease of about 29,000 passengers.13/ (Exh. No. 57, Table 2, Sheet 1; Exh. No. 58, Table 2.) This represents about 10 percent diversion from Air Cal, assuming that all these passengers were lost due to the LGB services of PSA or Western.

13/ More recent on board passenger figures show that Air Cal carried 289,480 passengers between SNA-SFO in 1972. Although these are not O&D figures, there is probably not a great difference because Air Cal operates all its daily flights nonstop except one. (PUC Traffic Report, Form 1504.) This on board figure indicates that Air Cal's traffic in the SNA-SFO market is growing despite PSA's operations at LGB.

For its SNA-SJC/OAK market Air Cal utilized its experience with the San Francisco route, and forecast diversion at 10 percent, or 31,600 passengers, using the first six months traffic in 1971. (Exh. No. 59, p. 13, Tr. 2164, 2167.) This translates into revenue diversion of $588,000 after allowing for dilution. (Tr. 2166.) However, according to staff data introduced in this proceeding, Air Cal's 1971 O&D traffic in the SNA-SJC/OAK market was 337,847 passengers. (Exh. No. 57, Table 2, Sheet 1; Exh. No. 58, Table 2.) Applying 10 percent as the expected level of diversion results in 33,785 passengers, which in turn represents gross revenue diversion of about $616,000 after allowing for dilution of 7 percent. Net revenue lost would be at least $100,000 less than this figure because certain costs would be saved by not carrying these passengers. (Exh. No. 59, AC-204, 205.) Diversion in this amount is less than the annual payments Air Cal receives for the sublease of one of its aircraft, and it would not cause Air Cal to sustain an overall net loss, according to its systemwide financial results for the first half of 1973.

Although this level of diversion is serious for Air Cal, there are mitigating factors involved which indicate that it falls within acceptable limits. First, Air Cal's traffic results on the SNA-SFO route indicate that its traffic is continuing to grow in that market even though it reduced some service on it in 1971. (Tr. 2266.) Second, Air Cal should be the beneficiary of some SFO passengers who traveled on Western's flights at LGB, and also some of PSA's passengers who discontinue using LGB as the result of PSA's reduction of its five daily SFO round trips to three. Third, Air Cal's load factors for its SNA-SJC flights have been at 70 percent or over. Since it apparently cannot operate more daily flights out of SNA, it is obviously operating some flights to San Jose at 100 percent load factor. (Tr. 2261-62; Caribbean - Atlantic Certificate Renewal Case, 16 CAB 708, 718; Great Lakes - Southeast Service Case, 27 CAB 829, 854.) This means some passengers are undoubtedly being refused transportation for lack of seats on given flights. (Tr. 2260-2262.) Those who are turned away and who opt to travel on PSA from LGB would not be true diverted passengers. This high load factor also suggests that with normal growth in the SNA-SJC market Air Cal will have to turn away more passengers since it cannot institute more flights at SNA without reducing other flights or securing a revision of its flight restrictions from Orange County. Fourth, as set forth above in this decision, Air Cal has achieved considerable operating success in 1972-1973. It appears less in need of any protection, and more able to sustain indirect competition at LGB. Therefore, it seems doubtful that Air Cal will be threatened by PSA's limited operations in the LGB-SJC/OAK market.

Moreover, Air Cal is still developing its San Diego-San Jose route, and it is providing nonstop service six days per week. It has never instituted nonstop service between San Diego-Oakland, although it holds this authority. Since the immediate economic outlook of the LGB route is marginal at best, it might unduly delay commencing operations if it is granted LGB-SJC/OAK authority, assuming that it could acquire a terminal lease from Long Beach. Therefore, an additional reason why the route should not be awarded to Air Cal is to allow it to proceed to develop the route authority it presently holds but is not serving.

Protective Conditions

Nevertheless, the Commission is concerned that once PSA is certificated to serve SJC/OAK the city of Long Beach might again change its position and expand the number of permissible daily flight operations for PSA. We are aware that for some reason the terminal lease once offered to Air Cal was not executed, and that despite the suspension of operations by Western there has not been any change of position. If such an expansion of PSA's allowable flight operations occurred after our decision herein, Air Cal might be faced with an unreasonable, unjustified, and uneconomic increase in the degree of competition presented by PSA's flights at LGB.

Such a situation, if it occurred, would produce economic waste and would not be in the public interest. When this situation has occurred in the past it has resulted in contentious litigation before this agency. (See Air Calif. v P.S.A. (1969) 70 CPUC 89; and Air Calif. v P.S.A. (1971) 72 CPUC 159.) Moreover, the effect could be serious disruption of the intrastate passenger air network. Because PSA's operations at LGB will increase the level of indirect competition with Air Cal, the Commission concludes that it is necessary to establish maximum flight restrictions on PSA's service at LGB in order to assure that the competition between it and Air Cal will proceed at a reasonably controlled pace, as is indicated by PSA's proposal herein and the position of Long Beach. In this manner, both the public interest, which includes the establishment and maintenance of an orderly, efficient, and healthy intrastate air network, and Air Cal's immediate economic interest, will be protected. By limiting PSA to the operation of no more flights between Long Beach and the Bay Area than it proposes in this proceeding, service between LGB-SJC/OAK can proceed on a developmental and experimental basis.

If the city of Long Beach decides to expand the number of permissible operations contained in its terminal lease, PSA can petition to the Commission for revision of this limitation in its certificate. At that time the Commission can determine, after a hearing, if necessary, whether such an expansion of operations would be unduly harmful to Air Cal and whether it is consistent with the establishment of an orderly, efficient, and healthy intrastate passenger air network, which has been expressly made our responsibility by the State Legislature. (Sec. 2751, Public Utilities Code.)[14/]

Position of the Commission Staff

The Commission staff recommends that the operating authority of each carrier remain unchanged, i.e., that PSA remain authorized to serve LGB-OAK and Air Cal remain authorized to serve LGB-SJC. Under the staff's recommendation each carrier would be allowed to extend its flights to Sacramento. The staff believes that such authorization will minimize the problem of diversion. However, this position is not supported by any of the parties.

14/ Section 2751 provides as follows:

"The commission may:

(a) Supervise and regulate every passenger air carrier in those matters affecting ticketing, flight reservations, passenger baggage, advertising, and passenger convenience and comfort.

(b) Fix the rates, fares, charges, classifications, and rules of each such carrier.

(c) Regulate the accounts of each such carrier, and require the filing of annual and other reports and of other data by such carriers.

(d) By general order or otherwise, prescribe rules applicable to any and all passenger air carriers. The commission, in the exercise of the jurisdiction conferred upon it by the Constitution of this State and by this part, may make orders and prescribe rules affecting passenger air carriers, notwithstanding the provisions of any ordinance or permit of any district, city, city and county, and in case of conflict between any such order or rule and any such ordinance or permit, the order or rule of the commission shall prevail."

The testimony and exhibits introduced by all three airline parties shows that this recommendation would produce uneconomic results. (Exh. No. 81, Tr. 2188, 2190-99, 2257, 2260, and 2473; Exh. No. 74, WA-106.) For example, according to Western's exhibits, the result would be a 31.1 percent load factor for PSA and a 40 percent load factor for Air Cal on its route. It would not be beneficial to either the public interest or the carriers to deliberately establish uneconomic route authorities, particularly in the light of the experience in the Ontario and Orange County markets, where SJC/OAK service must be combined most of the time to achieve satisfactory operating results.

In view of the fact that by our decision herein we are combining presently existing certificated authority into one route, and that in fact there will not be any increase in the number of flights operated at LGB, the Commission finds with reasonable certainty that there will not be a significant effect on the environment.

No other issues require discussion. The Commission makes the following findings of fact and conclusions of law.

Findings of Fact

1. PSA and Air Cal are passenger air carriers as defined in the Passenger Air Carrier Act (Sections 2739 et seq. of the Public Utilities Code).

2. PSA has been awarded nonstop operating authority between LGB-OAK. It has not commenced this service. Air Cal has been awarded nonstop operating authority between LGB-SJC. It does not have a terminal lease at LGB, and has not commenced this service. By Decision No. 78848 dated June 22, 1971, PSA and Air Cal were directed not to commence service on these routes, pending the resolution of this reopened proceeding.

3. Both PSA and Air Cal have the necessary experience in passenger air carrier operations, equipment, and insurance to conduct service between Long Beach-San Jose/Oakland.

4. PSA has historically been a successful and financially strong air passenger carrier. As of December 31, 1972 PSA had current assets of $52.2 million, total current liabilities of $23.2 million. It produced net income of $6.9 million in 1972, and $1.2 million for the first six months of 1973. Its current assets were $26.9 million as of June 30, 1973, and its current liabilities were $16.6 million. It has recently received a 4.9 percent fare increase. Despite the drop in its earnings during 1973, PSA remains a financially strong carrier.

5. Air Cal has had a history of poor financial results of operations until 1972. During 1971 it sustained an operating loss of $1 million, and it had a total shareholders' deficit of $6.7 million at the end of that year. In 1972 Air Cal achieved overall net income of $728,000, and of $857,000 during the first six months of 1973. As of the end of 1972 it had total current assets of $3.6 million and total current liabilities of $2.1 million. These improved operating results are in part due to the fact that it has subleased excess aircraft to other airlines, including PSA. In addition to the presence of excess equipment, the basic reason for Air Cal's overall operating losses has been poor operating results on some of its routes, including the Ontario, Palm Springs, and San Diego routes. Air Cal's corporate parent, Westgate-California Corporation, is undergoing reconstitution of its board of directors, and its financial condition is uncertain. For these reasons, and primarily because PSA has more cash, a longer record of profitable operations and successful development of new operating authority, it is reasonable to conclude that on a comparative basis PSA is in a stronger financial position than Air Cal. Because PSA has greater current assets than Air Cal, it is better able to absorb the initial operating losses which can be expected while developing a new route which is economically marginal.

6. LGB is a municipal airport owned by the city of Long Beach. It is a modern, fully equipped, operational airport with facilities adequate to accommodate the service proposed herein. Its location is about equidistant between LAX and SNA. Western Airlines has recently received permission to suspend all service at LGB for three years. The city of Long Beach has granted a terminal lease to PSA for its operations between LGB-SAN, LGB-SFO, and LGB-OAK. In the interest of noise control, it has expressly limited PSA's daily operations to six on weekdays and eight on weekends. The city has not granted a terminal lease to Air Cal. The official position of the city in this reopened proceeding is that it will not grant a lease to Air Cal if its authority is revised to include SJC/OAK, and that it will not permit additional flight operations to PSA if its authority is revised to include SJC/OAK, but that it understands PSA can serve SJC/OAK under its present number of flight operations.

7. It is well known that both air carrier operations and ground traffic conditions at LAX are frequently congested. Air Cal is operating at the maximum number of daily departures and arrivals permitted under its airport terminal lease from Orange County. The institution of daily service between LGB-SJC/OAK could help relieve congestion at LAX, and such service would be more convenient for passengers who live in the immediate LGB service area than to travel to either LAX or SNA. To the extent that such service at LGB is utilized, congestion at LAX and SNA is relieved in terms of less demand for available flights at those airports, as well as for parking space and airport terminal services. To the extent these results occur, they are beneficial to the public and serve public convenience and necessity.

8. There are significant similarities between the Ontario-Bay Area and Long Beach-Bay Area markets, including population, level of income, quality of airport facilities, and level of air carrier service. Air Cal's operations in the ONT-SJC/OAK market for the first three years have not been profitable. Because the Ontario and Long Beach markets appear to be similar, it is reasonable to expect that the LGB-SJC/OAK market will not immediately prove to be profitable. This expectation is supported by PSA's experience in the Long Beach-San Francisco market.

9. PSA forecasts total LGB-SJC/OAK traffic to be about 115,000 passengers during the first year of service. Air Cal forecasts about 134,000 such passengers. Both forecasts result in substantially higher load factors for the first year of operations than PSA achieved on its LGB-SFO flights in 1971, during which it carried a total of 151,729 on board passengers resulting in a 43 percent load factor. During 1972 PSA's load factor for LGB-SFO increased to 51 percent, and it probably reached the break-even point. Based on the assumption that PSA and Air Cal would achieve only the same load factor in the LGB-SJC/OAK market that PSA achieved in the LGB-SFO market during its first year of operations, PSA would carry total traffic of about 80,000 passengers if it is certificated, or Air Cal would carry about 108,000 total passengers if it is certificated. Considering PSA's actual results in the LGB-SFO market during 1971 combined with Air Cal's poor operating results in the Ontario-San Jose/Oakland market, it is reasonable to conclude that at best total LGB-SJC/OAK traffic will be about 100,000 O&D passengers under PSA's proposed schedule, or about 120,000 such passengers under Air Cal's proposed schedule. This estimate is optimistic since it would produce about a 53 percent average load factor per flight for each carrier, which is substantially greater than PSA's first year actual load factor on the LGB-SFO route.

10. Under the traffic estimates and load factor results set forth in Finding No. 9, PSA would approach the break-even point during the second year of operations. Air Cal would suffer an operating loss on the route for at least two years. It is reasonable, therefore, to consider the LGB-SJC/OAK route to be economically marginal for both carriers.

11. PSA continues to be a financially stronger carrier than Air Cal. As such it is better able to absorb the initial operating losses which are likely to occur on the LGB-SJC/OAK route. PSA also has the ability to substitute a larger capacity Boeing 727 on its fewer LGB-SFO flights which will result if it operates two daily round trips between LGB-SJC/OAK. PSA has an airport terminal lease from the city of Long Beach. On the other hand, Air Cal does not have such a lease, and Long Beach has stated that it will not agree to one with Air Cal. Therefore, certification of Air Cal would not permit introduction of LGB-SJC/OAK service for the foreseeable future. Air Cal is still absorbing operating losses on its nonstop flights between San Diego-San Jose. If it was authorized to operate from LGB and if it was able to secure an airport terminal lease, it would have to absorb the burden of operating losses at LGB in addition to those it is presently absorbing on its San Diego-San Jose nonstop service. This could further postpone upgrading San Diego service to a daily nonstop level. Finally, Air Cal has been operating the maximum number of flights at SNA which are permitted by Orange County with high load factors on the SNA-SJC route segment for both 1971 and 1972. Institution of limited LGB-SJC/OAK service, as proposed by PSA, may provide some relief to the traffic pressure which exists on Air Cal's schedules at SNA. The above factors justify the certification of PSA to operate between LGB-SJC/OAK rather than Air Cal.

12. A substantial amount of the LGB-SJC/OAK traffic carried by PSA will be diverted from flights at LAX operated by PSA and Western, and from flights at SNA operated by Air Cal. During 1971 Air Cal experienced a decrease in SNA-SFO traffic of about 10 percent, after PSA commenced its LGB-SFO flights. Both PSA and Air Cal estimated that Air Cal could expect to sustain the same level of diversion if PSA instituted LGB-SJC/OAK service. Applying 10 percent to Air Cal's 1971 O&D traffic for 1971 results in an estimate of about 33,785 passengers now using Air Cal's flights at SNA who can be expected to use PSA's new service at LGB. This level of diversion would result in the loss of about $616,000 in gross revenues after dilution. Net revenue diversion would be at least $100,000 less, or approximately $500,000.

13. This revenue diversion falls within acceptable limits for Air Cal because based on its systemwide operating results for the first half of 1973, Air Cal can sustain the indirect competition presented by PSA's flights and such diversion without being placed in a deficit operating position, because its SNA-SFO traffic has resumed growing after the initial decline after the introduction of LGB-SFO operations by PSA, and because its very high load factors on its SNA-SJC flights indicate that it is turning passengers away at peak travel times.

14. Upon instituting service in the LGB-SJC/OAK market, PSA will provide service during the morning and evening peak hours, and one additional round trip flight on Friday and Sunday. PSA will be introducing a new service not now available from LGB. PSA has the necessary rights under its terminal lease with the city of Long Beach to commence this new service immediately. PSA's flights will be at a lower fare than Air Cal's flights from SNA. This service improvement will benefit the public.

15. Although the level of diversion which Air Cal may incur from its SNA-SJC/OAK flights is acceptable, unlimited service by PSA on its route from LGB could prove disruptive to the development of an orderly intrastate passenger air network by causing Air Cal greater loss of passengers and revenues than appears to be reasonably expected in light of the experience in the SNA-SFO market after PSA entered the LGB-SFO market with commuter service. PSA has proposed two daily round trip flights between LGB-SJC/OAK on the weekdays, with a third trip on the weekends. The city of Long Beach has officially stated that it will not increase the number of flight operations permitted to PSA in its airport terminal lease. In order to assure that the introduction of service in the new market and the development of the market proceed on a measured, controlled basis so that unnecessary, destructive competition in the form of sudden substantial increases in the number of flight operations does not occur; and in order to protect Air Cal, the public interest in a sound intrastate passenger air carrier network requires that maximum flight restrictions be imposed in PSA's certificate of operating authority for this route. These restrictions should provide that PSA operate no more than two daily round trip flights between LGB-SJC/OAK seven days each week, provided that it may operate a total of three daily round trips on Friday, Saturday, and Sunday.

16. We further find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

Conclusions of Law

1. PSA should be granted a certificate of public convenience and necessity in which Route 11 (Long Beach-Oakland) should be revised to include service between Long Beach and Oakland via San Jose with the restrictions set forth in the order attached hereto.

2. Route 6 (service between Long Beach-San Jose) in Air Cal's certificate of public convenience and necessity, and restrictions related thereto, should be deleted.

Pacific Southwest Airlines is 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. 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's certificate of public convenience and necessity is amended by incorporating First Revised Page 2 in revision of Original Page 2 of Appendix A of Decision No. 80439, attached hereto and made a part hereof.

2. A certificate of public convenience and necessity is granted to Pacific Southwest Airlines, a corporation, 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 set forth in Appendix B, attached hereto and made a part hereof.

3. 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 twenty days after the date hereof.

Dated at San Francisco, California, this 29th day of JANUARY, 1974.

Vernon L. Sturgeon
President

William Symons Jr.

Commissioners

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

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Appendix A
(Dec. 80439)

AIR CALIFORNIA
(a corporation)

First Revised Page 2
Cancels
Original Page 2

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

(No Route 6.)

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.

#Deleted by Decision No. 82409, Applications Nos. 50261 and 50381.

A. 50261, A. 50381 ek

APPENDIX B OF DECISION NO. 82409,

APPLICATIONS NOS. 50261 AND 50381

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Appendix A
(Dec. 79085)

PACIFIC SOUTHWEST AIRLINES
(a corporation)

First Revised Page 1
Cancels
Original Page 1

Pacific Southwest Airlines, by this certificate of public convenience and necessity is authorized to operate as a passenger air carrier over the routes listed below:

Routes

1. Between San Diego and Los Angeles, Burbank, San Francisco and Oakland.
2. Between Los Angeles and San Francisco and Oakland.
3. Between Burbank and San Francisco.
4. Between Los Angeles and San Jose.
5. Between Los Angeles and Sacramento.
6. Between Ontario International Airport and San Francisco International Airport.
7. Between San Jose Municipal Airport and Oakland International Airport, on the one hand, and Hollywood-Burbank Airport, on the other hand.
8. Between San Diego and Ontario.
9. Between San Francisco International Airport and Sacramento Metropolitan Airport.
10. Nonstop between Long Beach Airport and San Diego International Airport.

#11. Between Long Beach Airport and Oakland International Airport via intermediate point of San Jose Municipal Airport; nonstop between Long Beach Airport and San Jose Municipal Airport; and nonstop between Long Beach Airport and Oakland International Airport.

12. Nonstop between Long Beach Airport and San Francisco International Airport.
13. Between Long Beach Airport and Sacramento Metropolitan Airport via intermediate point of San Francisco International Airport.
14. Between San Jose Municipal Airport and San Diego International Airport via intermediate point of Hollywood-Burbank Airport.

Issued by California Public Utilities Commission.

#Revised by Decision No. 82409, Applications Nos. 50261 and 50381.

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Appendix A
(Dec. 79085)

PACIFIC SOUTHWEST AIRLINES
(a corporation)

Fourth Revised Page 3
Cancels
Third Revised Page 3

Restrictions

Route 1

No service of any type shall be operated between any of these five points and any other points authorized in other routes by the Commission, except through service between San Diego and San Jose via Los Angeles, through service between San Diego and Sacramento via Los Angeles, and the through service authorized in Route 19.

Routes 2 and 3

These route authorizations are limited to the specific segments of each route, except for the tacking of Route 3 and Route 9 to provide direct service between Burbank and Sacramento via San Francisco as provided in the Restriction on Route 9.

Route 4

This route authorization is limited to the specific segment of Route 4, except for through service from San Jose to San Diego via Los Angeles.

Route 5

This route authorization is limited to the specific segment of Route 5, except for through service from Sacramento to San Diego via Los Angeles.

Route 6

1. Passengers shall be transported in either direction in nonstop service at a minimum of twenty scheduled round trips per week.
2. No nonstop service may be operated between Ontario International Airport (ONT) and any other points served by Pacific Southwest Airlines under other authorization with the exception of San Diego.

#Route 7

1. Passengers shall be transported in either direction at a minimum of twenty scheduled round trips per week.
2. This route authorization is limited to the specific segments of Route 7.

#Route 8

Passengers shall be transported in either direction in nonstop service at a minimum of five scheduled round trips per week.

#Route 9

Passengers shall be transported in either direction in nonstop service at a minimum of 20 scheduled round trips per week. All service to Sacramento Metropolitan Airport from any other points already served by Pacific Southwest Airlines must be provided via San Francisco International Airport, except for the nonstop service authorized between Los Angeles International Airport and Sacramento.

Issued by California Public Utilities Commission.

#Transferred from page 4 to page 3 by Decision No. 82409, Applications Nos. 50261 and 50381.

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Appendix A
(Dec. 79085)

PACIFIC SOUTHWEST AIRLINES
(a corporation)

Fourth Revised Page 4
Cancels
Third Revised Page 4

#Routes 10, 11, 12, and 13

1. Service between the points authorized on these routes shall not be connected, combined, or operated in combination with points or routes previously authorized, or with each other except as herein provided. Route 10 may be connected with Routes 11, 12, or 13 at Long Beach to provide through service to passengers as follows:

   San Diego - Long Beach - Oakland
   San Diego - Long Beach - San Francisco
   San Diego - Long Beach - San Francisco (intermediate point per Route 13) - Sacramento
   San Diego - Long Beach - Oakland - Sacramento
   San Diego - Long Beach - San Jose - Oakland - Sacramento

   The points herein authorized must be operated as specified; no over flights of points authorized shall be permitted.

2. Route 10

   Passengers shall be transported in either direction at a maximum of one scheduled departure from Long Beach Airport and one scheduled arrival at Long Beach Airport on Monday through Sunday each week.

3. Route 11

   Passengers shall be transported in either direction at a maximum of two scheduled departures from Long Beach Airport and two scheduled arrivals at Long Beach Airport on Monday through Sunday each week. One additional scheduled departure from Long Beach Airport and one additional scheduled arrival at Long Beach Airport may be operated on Friday, Saturday, Sunday, and holidays.

4. Routes 12 and 13

   Passengers shall be transported in either direction at a maximum of three scheduled departures from Long Beach Airport and three scheduled arrivals at Long Beach Airport on Monday through Sunday each week for both routes combined. One additional scheduled departure from Long Beach Airport and one additional scheduled arrival at Long Beach Airport may be operated on Friday, Saturday, Sunday, and holidays for both routes combined.

Route 14

Service between the points authorized on this route shall not be connected, combined, or operated in combination with points or routes previously authorized. The points herein authorized must be operated as specified; no over flights of points authorized shall be permitted.

Issued by California Public Utilities Commission.

#Revised by Decision No. 82409, Applications Nos. 50261 and 50381.