

Decision No. 82718

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion to determine the ability of Sierra Pacific Airlines to provide passenger air carrier service on its present and proposed routes.

Case No. 9527
(Filed March 27, 1973)

In the Matter of the Application of TRANS SIERRA AIRLINES for a Certificate of Public Convenience and Necessity to Provide Passenger Air Service between Hollywood/Burbank, on the one hand and Bishop/Mammoth on the other hand.

Application No. 53132
(Filed February 9, 1972)

In the Matter of the Application of TRANS SIERRA AIRLINES for a Certificate of Public Convenience and Necessity to Provide Passenger Air Service between San Jose Municipal Airport on the one hand and Tahoe (North Shore) on the other hand.

Application No. 53199
(Filed March 10, 1972)

In the Matter of the Application of TRANS SIERRA AIRLINES, a corporation, for a Certificate of Public Convenience and Necessity to Provide Air Service between Hollywood/Burbank on the one hand and Fresno/Mammoth on the other hand.

Application No. 53439
(Filed July 7, 1972)

In the Matter of the Application of TRANS SIERRA AIRLINES, for ex parte order or expedited authority to reduce the schedule of its intra-state flights between San Jose on the one hand and Mammoth/Bishop on the other hand.

Application No. 53507
(Filed August 7, 1972)

Slavitt, Edelman and Weiser, by David W. Slavitt and Herbert M. Weiser, Attorneys at Law, for Sierra Pacific Airlines, applicant.
Brownell Merrell, Jr., Attorney at Law, for Pacific Southwest Airlines, protestant.
McKiernan, Blatt & May, by Alan M. May, Attorney at Law, for Bonanza Airways; and Robert L. Thatcher, Attorney at Law, for himself; interested parties.
Elmer J. Sjoström, Attorney at Law, Fred K. Hendricks, and William H. Well, for the Commission staff.

O P I N I O N

On September 22, 1972 applicant's name was officially changed from Trans Sierra Airlines to Sierra Pacific Airlines, and during September 1973 the corporate stock was acquired by the Mammoth Mountain Ski Area, a California corporation. New directors were thereupon appointed and applicant was provided with new management. Under its prior ownership applicant was the subject of a Commission investigation and filed all of the present applications. There were several days of hearing in 1972 and during the first seven months of 1973. This record will be disregarded since applicant's current ability and intentions are different than they were at any time during the prior hearings. The last hearing was held in Los Angeles on November 27, 1973 before Examiner Fraser. Pacific Southwest Airlines withdrew its protest during this hearing and applicant's new management presented new evidence.

Applicant possesses three Convair 340-type aircraft, two of which are certified by the FAA. At the time of the November 1973 hearing the applicant possessed an additional Convair 340-type aircraft. This aircraft was destroyed in a March 13, 1974 crash while being used in charter service.

Applicant is providing two schedules daily in each direction.

<u>To Mammoth</u>	<u>Flight No.</u>	<u>Leave</u>	<u>Arrive</u>
From Los Angeles (All flights daily)	33	7:15 a.m.	9:30 a.m.
From Burbank (All flights daily)	33	8:00 a.m.	9:30 a.m.
	55	2:30 p.m.	4:00 p.m.
<u>To Los Angeles</u>			
(West Imperial Terminal)			
From Mammoth (All flights daily)	66	4:30 p.m.	6:00 p.m.
<u>To Hollywood/Burbank</u>			
From Mammoth (All flights daily)	44	10:00 a.m.	11:30 a.m.
	66	4:20 p.m.	6:40 p.m.

The one-way adult fare will be \$25.00 plus \$2.00 tax, for a total of \$27.00. Those who are 12 years of age or under will pay \$13.50 (\$12.50 plus \$1.00 tax).

Applicant is requesting that Bishop be deleted from its operating authority and that Fresno be included. Pacific Southwest Airlines withdrew as a protestant after the parties agreed that applicant would not provide "turn-around" service between Burbank and Fresno. A "turn-around" flight between Burbank and Fresno would serve only these two points, with a short delay and turn-around at the end of each leg. PSA has no objection to passengers being transported between Fresno and Burbank as long as each flight originates or terminates at Mammoth or Bishop. Sierra Pacific did not request

authority to transport passengers between Los Angeles International Airport and Fresno. Applicant provided testimony that Fresno is within 20 miles of the Los Angeles-Burbank to Mammoth airline route and that each flight has sufficient seats available to transport all passengers from or to Fresno. It was noted that the Bishop and Mammoth Airports are located in the same area. Applicant has withdrawn Application No. 53199, which requests authority to institute service between San Jose and North Tahoe. Application No. 53507 was amended on November 27, 1973 to request that Bishop and San Jose be deleted from applicant's present operating authority.

The Bishop Airport has been used on charter flights and as an alternate to Mammoth Airport during bad weather. It serves approximately 10,000 residents, has three runways with hangar space, and is being improved to qualify under all FAA requirements. The Mammoth Airport is smaller, has only one runway, and is in an area of severe winter storms. The latter is also isolated and without public transportation. Bishop is several thousand feet lower in elevation than Mammoth and is more accessible to most local residents.

The record shows that applicant started operating between Burbank and Mammoth under new management on September 22, 1973. Service between Los Angeles and Mammoth was resumed on November 25, 1973. Applicant presented a certified public accountant who testified that between August 31, 1973 and September 30, 1973 current liabilities were reduced from \$411,000 to \$181,955. Further reductions were made in October and November due to an advance of \$415,000 from the current owner of the stock. The Commission staff recommended that Case No. 9527 be dismissed or discontinued, that San Jose and Bishop be deleted from applicant's operating authority, and that applicant should provide a minimum of one round-trip flight per day, on six days of the

week, between Los Angeles, Burbank, and Mammoth. The staff further recommended that the Fresno application be held in abeyance until applicant's present service has been provided for at least several additional months and until a market study of Fresno can be completed, along with an examination of an environmental data statement. The staff recommended that Rule 17.1 be applied to the Fresno application.

Discussion

Application No. 53199 should be dismissed and Case No. 9527 should be discontinued. Fresno is close to applicant's present route and can be served as an additional stop in each direction. It will provide another source of income without the need for significant amounts of extra fuel. Applicant will be authorized to provide service between Burbank-Fresno and Fresno-Mammoth in addition to points presently served. No service will be authorized between Los Angeles and Fresno. The Burbank-Fresno extension may provide considerable business and balance the Fresno-Mammoth leg, which will take time to develop.

The Commission staff argued that only a one-year temporary authority should be granted and that applicant should provide a complete environmental report within the one-year period. We do not agree with the staff position. This decision only adds Fresno to applicant's present authority. Fresno is a busy airport handling large commercial jets and all types of military aircraft. There are no restrictions on landings and takeoffs. PSA, for example, can increase its flights of 727 jets into Fresno without restriction, as can all other users of the airport. Our granting of authority to applicant will not have a significant effect on the environment.

Applicant should reinstitute service to Bishop. It is much closer to most of the people living in the area, has milder weather, and is larger and better equipped than the Mammoth Airport. Local residents also expressed a need for service during a June 21, 1973 hearing in Bishop. When this testimony was taken, applicant's prior management had discontinued the service provided with an 8-passenger Cessna. The aircraft was inadequate and seats were not available on most flights. This factor and the fact that scheduled flights were periodically canceled without explanation or notice eliminated the expected public support. Applicant is currently flying 44-passenger aircraft which have sufficient capacity to guarantee seats at all stops on almost all flights. Bishop should be served in each direction, and applicant should submit a plan with routes and schedules within 90 days to illustrate the service to be provided.

Findings

1. During September of 1972 Trans Sierra Airlines changed its name to Sierra Pacific Airlines.
2. The four applications considered in this proceeding were filed under applicant's original business name and reflected its intention to serve Los Angeles, Burbank, Fresno, Bishop, and Mammoth on one route; San Jose to Mammoth on a second route; and San Jose to Truckee-Tahoe as a third route.
3. The Commission instituted an investigation on March 27, 1973 to determine whether the airline had sufficient financial stability to continue its authorized service.
4. During September of 1973 applicant's stock was acquired by a new owner after all service had been discontinued.
5. The new management reinstituted service between Burbank and Mammoth on September 22, 1973 and between Los Angeles and Mammoth on November 25, 1973.

6. Applicant should be authorized to provide service between Burbank and Fresno and Mammoth/Bishop, since Fresno is located on its present Los Angeles to Mammoth route and can be included without affecting current schedules.

7. San Jose and North Tahoe should be eliminated from the proposed operating authority of applicant.

8. Applicant should submit a plan with routes and schedules within 90 days of the effective date of this order to illustrate the service to be provided to Bishop.

9. The investigation in Case No. 9527 will be discontinued and Applications Nos. 53199 and 53507 will be dismissed.

10. Applicant's operating authority should be reissued as an in-lieu certificate with all prior certificates rescinded. Service is to be provided between Los Angeles and Burbank, on the one hand, and Fresno, Mammoth, and Bishop, on the other hand, with no service authorized between Los Angeles International Airport and Fresno.

11. Applicant should provide a minimum of one round trip a day on at least six days of the week between Los Angeles and Burbank, on the one hand, and Mammoth or Bishop, via Fresno, on the other hand.

12. Applicant has recently paid off more than \$300,000 in debts. Its financial needs are provided by the Mammoth Mountain Ski Area, which has adequate reserves to provide the necessary money for applicant to operate.

13. There is a public need for air passenger service over the routes authorized.

14. Sierra Pacific Airlines possesses the business experience in the field of air operations, the financial stability, and the requisite insurance coverage to receive a certificate of public convenience and necessity.

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

16. Public convenience and necessity require that applicant shall provide the service authorized by this decision.

The Commission concludes that applicant's request to serve Fresno and to discontinue service to San Jose should be granted.

Applicant 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. A certificate of public convenience and necessity is granted to Sierra Pacific 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 A, attached hereto and made a part hereof.

2. Within ninety days of the effective date of this order, applicant shall submit a plan with routes and schedules which provides for service between the Los Angeles area and Bishop.

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.

4. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede all existing certificates of public convenience and necessity heretofore granted or acquired by Trans Sierra Airlines or Sierra Pacific Airlines and presently possessed by it, which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3(b) hereof.

5. The investigation in Case No. 9527 is discontinued.

6. Applications Nos. 53199 and 53507 are dismissed.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 9th
day of APRIL, 1974.

Vermon L. Sturgeon
President
William J. Lyons
[Signature]
[Signature]
Commissioners

I abstain
J. W. [Signature], Commissioner

Sierra Pacific Airlines by this certificate of public convenience and necessity is authorized to operate as a passenger air carrier between the following airports only:

LAX-MMH
*LAX-BUR
*LAX-FAT
LAX-BIH

BUR-MMH
**BUR-FAT
BUR-BIH

FAT-MMH
FAT-BIH
BIH-MMH

Conditions:

1. Service between the airport pairs of LAX-MMH, BUR-MMH, and BUR-FAT shall be performed a minimum of six days a week in each direction.
- *2. No passenger shall be carried whose transportation is solely between LAX and BUR or between LAX and FAT.
- **3. All flights originating at BUR shall terminate at MMH or at BIH.
4. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
LAX	Los Angeles	Los Angeles International Airport
MMH	Mammoth Lakes	Mammoth Lakes Airport
BUR	Burbank	Hollywood/Burbank
FAT	Fresno	Fresno Air Terminal
BIH	Bishop	Bishop Airport

Issued by California Public Utilities Commission.

Decision No. 82718, Case No. 9527, Applications Nos. 53132, 53199, 53439, and 53507.