

ORIGINAL

Decision No. 83262

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of STOL AIR, INC., for
a certificate of public convenience
and necessity and for issuance of
a temporary certificate of public
convenience and necessity to operate
as a passenger air carrier between
San Francisco and Santa Rosa and
between San Francisco and Monterey
with San Jose as an intermediate
point.

Application No. 53489
(Filed August 1, 1972;
amended August 22, 1972 and
March 15, 1974)

ADDITIONAL APPEARANCES

W. J. Connolly and Harold Fiosne, for
Stol Air, Inc., applicant.
Elmer Sjostrom, for the Commission staff.

OPINION AFTER FURTHER HEARING

By Decision No. 80894, as modified by Decisions Nos. 81551 and 82567 in this proceeding, Stol Air, Inc. was granted a permanent certificate of public convenience and necessity authorizing it to operate as a passenger air carrier nonstop between San Francisco and Santa Rosa and a temporary certificate authorizing operations between San Francisco and Santa Rosa over specified routes via San Rafael,^{1/} Napa, and Concord. It here requests that the temporary certificate be made permanent with modifications of the routes serving the aforesaid points. Further hearing in this proceeding with respect to this request was held March 15, 1974 before Examiner Thompson at San Francisco.

At the time of the hearings that led to the issuance of Decision No. 80894 applicant had only one Britten-Norman Islander aircraft, and Golden Pacific Airlines, Inc. had then ceased operations

^{1/} Decision No. 81551 authorized Stol Air, Inc. to use Gness Field (Novato) until Smith Ranch Airport (San Rafael) has been licensed by the Division of Aeronautics.

over the routes because of unprofitable operations. The ability of Stol Air, Inc. to conduct operations over the routes it proposed was not completely assured.^{2/}

At the further hearing applicant stated that it had found it virtually impossible to provide the scheduled service to Napa and Concord that the public desires with service to those points being provided solely on aircraft routings between San Francisco and Santa Rosa. Traffic to and from Santa Rosa, Napa, Concord, and Novato has been developing substantially; however, virtually all of that traffic is to or from San Francisco. There appears to be no demand for air transportation between any of the other points. Occasionally, a single public employee has utilized service between Napa and Concord. During certain periods of the day there is sufficient traffic to warrant direct service between San Francisco and each of the other points; at other times the traffic is such that operations via one intermediate point will provide the more economical service consistent with the demands for service. It was found that only in the late evening is service from San Francisco to Santa Rosa via Concord and Napa consistent with economical flight operations and the public requirements for service, and on that flight all passengers have originated at San Francisco.

^{2/} Finding 21 in Decision No. 80894: "The operation proposed by Stol in providing flag-stop service to Napa, Concord, and San Rafael on schedules between San Francisco and Santa Rosa appears to be economically feasible. Whether or not flag-stop service to Napa, Concord, and San Rafael will detract from, or interfere with, the providing of reasonable and adequate passenger air carrier service between San Francisco and Santa Rosa, and whether or not such flag-stop service will enhance or dissipate Stol's resources and ability to provide service between San Francisco and Santa Rosa will depend in large measure upon the ability of Stol to schedule flights with its aircraft so as to have an economically sound operation and at the same time obtain optimum load factors by providing service at the times of day when the public desires air transportation."

Applicant asks that its certificate be modified to authorize service between San Francisco, on the one hand, and the aforementioned points, on the other hand, either direct or via intermediate points; and that the provisions of the certificate requiring passenger air carrier service that does not have San Francisco as origin or destination be canceled. It asserts that such modification is necessary so as to adjust schedules to conduct efficient and economical flight operations in meeting the public requirements for service. It further asserts that, except for the occasional use of its service by one public employee, there has been no passenger using its service between points except when San Francisco has been either origin or destination, and therefore the cancellation of service between the other points will not inconvenience the public.

Applicant now has four airplanes in operation instead of the one aircraft. We are satisfied that applicant has established itself as a going concern in conducting operations as a passenger air carrier between the points involved. Its proposal not to hold itself out to provide service between the points except to or from San Francisco will not cause significant inconvenience to the public and appears necessary to permit scheduling of aircraft so as to have an economically sound operation and at the same time provide service at the times of day when the public desires air transportation.

At the hearing the Commission staff presented a report of a study it had made regarding the operations of applicant. It recommends that the permanent certificate requested by applicant be granted. There are no protests.

We find that the project contemplated by the granting of a permanent certificate of public convenience and necessity with the proposed route modifications in substitution for the temporary

certificate granted by Decision No. 80894, as amended by Decisions Nos. 81551 and 82567, will not have a significant effect upon the environment; and that public convenience and necessity require the granting of the certificate provided in the ensuing order.

Appendix A of Decision No. 80894, as amended, describes the San Francisco-Santa Rosa nonstop route awarded in the permanent certificate issued in Decision No. 80894, the routes between Santa Rosa and San Francisco via intermediate points awarded in the temporary certificate issued in Decision No. 80894, as amended, and a route between San Francisco and Sacramento, on the one hand, and Truckee-Tahoe Airport, on the other hand, awarded in a temporary certificate issued in Decision No. 81449 dated May 30, 1973 in Application No. 53533 which temporary certificate expired by its terms on May 31, 1974.

We conclude that applicant should be granted a permanent certificate authorizing it to operate as a passenger air carrier as proposed in lieu of the temporary certificate issued in Decision No. 80894, as amended; that the rights conferred in such permanent certificate, together with its existing certificated rights, should be restated in a new certificate in appendix form; and that concurrently with the acceptance by applicant of this certificate the certificates issued in Decision No. 80894 should be revoked and Appendix A of said decision should be canceled.

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 Stol Air, Inc., 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. 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.

3. Concurrently with the filing of written acceptance prescribed above, the certificates of public convenience and necessity granted in Decision-No. 80894, as amended by Decisions Nos. 81551 and 82567, are revoked, and Appendix A of Decision No. 80894, as amended, is canceled.

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

Dated at San Francisco, California, this 6th
day of AUGUST, 1974.

James L. Spence
President
William J. Spence
William J. Spence
James L. Spence
Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

Stol Air, Inc., by this certificate of public convenience and necessity, is authorized to operate as a passenger air carrier between the following airports only:

SFO - STS	SFO - NOV	NOV - STS (1)
SFO - APC	CCR - APC (1)	APC - STS (1)
SFO - CCR	CCR - STS (1)	

(1) Designates "closed door" service. See Condition 3.

Conditions:

1. No aircraft having more than 30 revenue passenger seats or a payload of more than 7,500 pounds shall be operated.
2. Service between SFO and STS, SFO and APC, SFO and CCR, and SFO and NOV shall be a minimum of one flight in each direction on each of five days a week.
3. No passenger shall be carried whose transportation is solely between the respective airports of NOV and STS, CCR and APC, CCR and STS, and APC and STS.
4. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
SFO	San Francisco	San Francisco International
STS	Santa Rosa	Sonoma County Airport
CCR	Concord	Buchanan Field
NOV	Novato	Gross Field
APC	Napa	Napa County Airport

Issued by California Public Utilities Commission.

Decision No. 83262 Application No. 53489.