

ORIGINALDecision No. 83453

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of BIRDIE AIRLINES, INC.,
 a Delaware corporation, doing
 business as LOS ANGELES HELICOPTER
 SERVICE, for a certificate of Public
 Convenience and Necessity to provide
 scheduled passenger air service
 between Los Angeles International
 Airport, Hollywood-Burbank Airport
 downtown Los Angeles and the City of
 Commerce.

Application No. 54554
 (Filed January 3, 1974)

Brownell Merrell, Jr., Attorney at Law, for Birdie
 Airlines, Inc., applicant.

Robert W. Russell and Jack Reynolds, for City of
 Los Angeles; and Henry R. Voss, for Golden West
 Airlines; interested parties.

Elmer Sjostrom, for the Commission staff.

O P I N I O N

This application was heard and submitted May 7, 1974 before Examiner Thompson at Los Angeles. Copies of the application and notice of hearing were served in accordance with the Commission's procedural rules. There are no protests.

Birdie Airlines, Inc., doing business as Los Angeles Helicopter Service, requests a certificate of public convenience and necessity authorizing passenger air carrier transportation service via helicopter between Los Angeles International Airport (LAX), Hollywood-Burbank Airport (BUR), Downtown Los Angeles (City National Bank Building Heliport), and Montebello/Commerce (Holiday Inn Heliport).

Evidence was presented by applicant and the Commission staff. There is no need to relate that evidence; it is uncontested and shows generally the experience of applicant in conducting helicopter operations, the financial stability of applicant, its insurance coverage,

the aircraft applicant presently has available and has on order for the proposed service, its proposed routes and minimum schedules, the need for the service, and the effect of the proposed service on the environment. It also shows that the only presently existing passenger air carrier service between any of the points is one daily schedule in each direction between LAX and BUR by Holiday Airlines, Inc., on flights operated in connection with service to and from Lake Tahoe.

The Commission staff recommended that applicant be granted a temporary certificate authorizing the proposed service for a period of one year and that the Commission then give consideration as to whether the certificate be made permanent. The reasons for this recommendation lie in the experience of Los Angeles Airways which provided helicopter service under authority of the Civil Aeronautics Board (CAB) in the Los Angeles area for a number of years. In 1970 Los Angeles Airways went bankrupt and all of its tangible assets were sold. The CAB approved its request to temporarily suspend service on December 28, 1970. On July 6, 1973, Los Angeles Airways was ordered by the CAB to reinstitute service within 90 days. That was not done. ✓ On March 26, 1974, Los Angeles Airways was ordered by the CAB to show ✓ cause why its certificate of public convenience and necessity should not be revoked. It responded to this order and requested an extension to July 15, 1974 in which to file a pleading. As of the date of this ✓ decision we have not been informed of the resolution of this ✓ certificate controversy.

The reasons for the granting of a temporary certificate at this time instead of a permanent one are: (1) Although Los Angeles Airways has not operated a service since 1970, and the expectation of it reinstituting service would appear to be somewhat less than certain, the certificate issued by the CAB has not been revoked; (2) Los Angeles Airways transported substantially more passengers than projected by applicant yet went bankrupt; this casts ✓ doubt on the economic feasibility of the proposed service; ✓

(3) Although the projected expenses for the operation appear to be reasonable, and the projections of traffic are lower than the passengers actually transported by Los Angeles Airways, the level of fares proposed by applicant necessary for profitable operations may be too high to attract the number of passengers projected.

The evidence shows conclusively that there is a need for the proposed service, that it will not have any significant effect upon the environment, and that applicant is ready, willing, and able to conduct the proposed operation. Although applicant's projections for a profitable operation appear to be reasonable, because of the experience of Los Angeles Airways, the economic feasibility of applicant's proposed service is not completely assured. The staff's suggestion has merit.

We find that public convenience and necessity require the issuance of a temporary certificate authorizing applicant to conduct the passenger air carrier operations proposed in its application. We conclude that a temporary certificate, in appendix form, should be issued as provided in the ensuing order.

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 temporary certificate of public convenience and necessity is granted to Birdie Airlines, Inc., a corporation doing business as

Los Angeles Helicopter Service, 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. The authority granted in Paragraph 1 hereof shall expire September 1, 1975 unless sooner canceled or extended by order of the Commission.

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 Los Angeles, California, this 17th day of SEPTEMBER, 1974.

Vernon L. Stenger
President
William J. Brown
John H. Brown
John H. Brown
John H. Brown
Commissioners

Birdie Airlines, Inc., dba Los Angeles Helicopter Service by this temporary Certificate of Public Convenience and Necessity, is authorized to operate as a passenger air carrier between the following points only:

LAX - BUR
LAX - WBY
LAX - WBH

BUR - WBH
BUR - WBY
WBY - WBH

CONDITIONS

1. No fixed wing aircraft shall be operated.
2. All points shall be served with a minimum of one flight on each of five days a week.
3. Authority granted herein is temporary and shall expire September 1, 1975.
4. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
LAX	Los Angeles	Los Angeles International Airport
BUR	Burbank	Hollywood-Burbank Airport
WBY	Downtown Los Angeles	City National Bank Heliport
WBH	Montebello	Holiday Inn Heliport

Issued by California Public Utilities Commission.

Decision No. 83453, Application No. 54554.