

Decision No. 83476

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
PACIFIC SOUTHWEST AIRLINES, for a)
Certificate of Public Convenience)
and Necessity in either direction)
between San Jose Municipal and)
Oakland International Airports.)

Application No. 53289
(Filed April 25, 1972)

Application of AIR CALIFORNIA)
for a certificate of public)
convenience and necessity in)
either direction between SAN JOSE)
MUNICIPAL AND OAKLAND INTERNATIONAL)
AIRPORTS.)

Application No. 54511
(Filed December 17, 1973)

O P I N I O N

These applications seek authority to transport local passengers between Oakland International Airport (OAK) and San Jose Municipal Airport (SJC). In April 1972, Pacific Southwest Airlines (PSA) filed its application requesting a certificate authorizing it to operate as a passenger air carrier between the aforementioned airports. Protests were filed by Air California (AirCal) and by Valley Airlines, Inc. (Valley). A prehearing conference was scheduled before Examiner Thompson at San Francisco on September 27, 1973. By correspondence immediately prior to the prehearing conference, and at the prehearing conference, PSA made clear that it seeks only authority to transport passengers between the airports on flights operated by PSA between OAK and SJC on routes presently authorized by certificates held by PSA, and that it would accept restrictions which would prohibit it from combining or utilizing the authority to operate between OAK and SJC to establish through routes and fares between points on any route served by it with points on another route

served by it.^{1/} Following such declarations the protests were withdrawn. AirCal filed its application on December 17, 1973 seeking similar authority and there are no protests to its application.

Hearing in these matters had been scheduled for January 29 and 30, 1974. On January 17, 1974, the Commission staff notified all parties that it was recommending that PSA and AirCal be granted the authorities sought without hearing. There were no objections and the scheduled hearings were canceled. There were meetings and communications among the staff and applicants for the purpose of preparing recommendations for amendments of applicants' certificates which would accomplish the following:

1. Authorize applicants to transport passengers between OAK and SJC on flights operated by them on routes authorized under existing certificates of public convenience and necessity.
2. Prevent the use of such authority as a means of combining or tacking existing routes to provide a service between points not presently authorized under certificates of public convenience and necessity, or its use to eliminate or circumvent any restrictions or limitations of certificates other than the restriction against the transportation of local passengers with origin and destination at OAK and SJC.

The staff has presented recommendations concerning the modifications of the certificates intended to accomplish those purposes and which, we are informed, are acceptable to applicants.

Applicants now conduct flight operations between the points on a closed door basis on routes authorized by certificates of public convenience and necessity, and they already have the facilities at each airport necessary to accomodate ~~any passenger~~ ^{desiring trans-}

^{1/} The combining of certificated routes over common points by a single passenger air carrier to establish through routes and fares is commonly called "tacking". Unless prohibited by the terms and conditions of any certificate that may be involved, tacking is authorized under Section 2762 of the Public Utilities Code.

portation between the points. The fare from even one passenger would improve applicants' revenues without increasing its costs so that there is no doubt whatever that applicants can economically provide service between the points.

OAK and SJC, together with San Francisco International Airport, are the major air terminals in the San Francisco Bay area. The airports are served in connection with passenger air carrier operations conducted by applicants between the San Francisco Bay area and points in southern California. They are considered to be co-terminals by the major interstate airlines operating between the Bay Area and points outside of the State. The airports are only a short distance apart and are connected by freeways and major highways making the airports not more than one hour apart by motor transportation. With respect to air transportation between the airports, applicants' scheduled block time between the airports is one-half hour. Air transportation between the airports is not attractive to persons living in the East Bay or in the vicinity of San Jose desiring to transact business in downtown San Jose or Oakland, respectively.

Passenger traffic between the airports consists of persons who have had prior, or who will have subsequent, air transportation from or to more distant points. Illustrative of that type of traffic is the passenger living in the San Jose area participating in a group air charter plan for air transportation overseas via World Airways or Trans International Airlines that operates out of OAK; and the person living in the East Bay that leaves on a trip by air out of OAK and finds on his trip that a flight via Continental Air Lines from Seattle to San Jose is required for reasons of accommodations or convenience in schedules. An air service between the airports is needed by those passengers.

In Swift Aire Lines (1973) Decision No. 82036 in Application No. 53861, after reciting the provisions of Section 2739 of the Public Utilities Code, the Commission stated:

"Unless compelling reasons are set forth showing why it would not be in the interests of the people, the communities, or the state, the public should be entitled to be transported between any points on any route operated by an airline."

OAK and SJC are points on routes operated by each applicant. The usual compelling reason for prescribing a "closed door" restriction on operations by an airline over a route is that there is a probability from the facts in the particular case that additional competitive airline service between the points would be detrimental to the people, the communities involved, or other communities, by reason of curtailment of services or increases in the cost of obtaining transportation. The airlines that offer passenger service between OAK and SJC are Valley Airlines, Western Airlines, and Hughes Airwest. None of those airlines have protested the granting of these applications. Valley operates between the points over routes between Oakland, on the one hand, and Fresno, Bakersfield, Monterey, and Santa Barbara, on the other hand. OAK and SJC are co-terminals for Western and Airwest in connection with operations to and from distant points. The traffic that they enjoy between OAK and SJC is of the type hereinbefore mentioned. The traffic potential is directly related to the amount of service available; that is to say, that normally a passenger would consider using ground transportation if the time for a connecting flight at either airport exceeds much more than one hour. It would appear to be doubtful that the airlines presently providing service between the points would lose traffic to applicants, but if traffic were to be diverted it would not significantly affect the ability of those carriers to continue to provide service between those points or to or from other points at existing fare levels. In the circumstances we find that the additional competitive airline service that will result from authorizing applicants to transport

passengers between the points will not be detrimental to the people, the communities involved, or other communities, by reason of curtailment of existing services or increases in the cost of transportation. The additional services will contribute to the establishment of an orderly, efficient, economical, and healthy intrastate passenger air network to the benefit of the people of this State, its communities, and the State itself.

Inasmuch as the projects in these applications involve only the ticketing of passengers on flights between OAK and SJC already authorized by certificates of public convenience and necessity, we find with reasonable certainty that said projects will not have a significant effect on the environment.

We find that public convenience and necessity require the operations by applicants as passenger air carriers in the transportation of passengers between OAK and SJC on flights operated by them over routes between those points authorized by existing certificates of public convenience and necessity.

We conclude that the applications should be granted as provided in the ensuing order and that a public hearing is not necessary.

Applicants are 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 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 Oakland International Airport and San Jose Municipal Airport on flights operated on its certificated routes listed below:

Route 7.	Oakland/San Jose/Hollywood-Burbank
Route 11.	Oakland/San Jose/Long Beach

2. Appendix A of Decision No. 79085, as amended, is further amended by incorporating therein Second Revised Page 1, attached hereto and made a part hereof.

3. A certificate of public convenience and necessity is granted to Air California, a corporation, authorizing it to operate as a passenger air carrier, as defined in Section 2741 of the Public Utilities Code, between Oakland International Airport and San Jose Municipal Airport on flights operated on its certificated routes listed below:

Route 1.	Santa Ana/San Jose/Oakland/San Francisco
Route 2.	Santa Ana/Ontario/San Jose/Oakland
Route 4.	San Diego/Santa Ana/San Jose/Oakland
Route 5.	Palm Springs/San Jose/Oakland/San Francisco

4. Appendix A of Decision No. 80439, as amended, is further amended by incorporating therein Fourth Revised Page 5, attached hereto and made a part hereof.

5. The certificates of public convenience and necessity granted herein are subject to the condition that any combining of the authority therein granted with any other certificate or operating authority issued to or possessed by applicants for the purpose of establishing through routes and rates, charges, and classifications as provided for in Section 2762 of the Public Utilities Code is prohibited.

7. In providing service pursuant to the authorities granted by this order, applicants shall comply with the following service regulations. Failure so to do may result in a cancellation of the authorities.

- (a) Within thirty days after the effective date of this order, applicants shall file written acceptances of the certificates granted. By accepting the certificates applicants are placed on notice that they will be required, among other things, to file annual reports of their 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, applicants 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 ten days after the date hereof.

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

Vernon L. Sturgeon
President
William J. Sturgeon, Jr.
John J. Sturgeon
Robert J. Sturgeon
Commissioners

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Appendix A
(Dec. 79085)

PACIFIC SOUTHWEST AIRLINES
(a corporation)

Second Revised Page 1
Cancels
First 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, Oakland International Airport, and Hollywood-Burbank Airport.
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, San Jose Municipal Airport, and Oakland International 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. 83476, Applications Nos. 53289 and 54511.

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Appendix A
(Dec. 80439)

AIR CALIFORNIA
(a corporation)

Fourth Revised Page 5
Cancels
Third Revised Page 5

RESTRICTIONS

No passengers shall be accepted for transportation solely between the following pairs of points:

- a. San Francisco International Airport - San Jose Municipal Airport.
- b. San Francisco International Airport - Oakland International Airport.
- #c. San Francisco International Airport/Oakland International Airport - Sacramento Municipal Airport.
- d. San Francisco International Airport - Ontario International Airport.
- e. San Diego International Airport and other airports already served by Air California, except as authorized by Routes 3, 4, 10, 14, and 15. No passengers traveling between San Diego International Airport and San Francisco International Airport shall be carried on flights operated on Routes 3, 4, 10, 14, and 15.

Issued by California Public Utilities Commission.

#Revised by Decision No. 83476, Applications Nos. 53289 and 54511.