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Decision No. 84769

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Southwest Airlines for a certificate of public convenience and necessity to provide scheduled passenger air service between San Diego and San Jose.

Application No. 54206
(Filed July 25, 1973)

Dietsch, Gates, Morris & Merrell, by Brownell Merrell, Jr., Attorney at Law, for Pacific Southwest Airlines, applicant.

Graham & James, by Boris H. Lakusta and David J. Marchant, Attorneys at Law; and McDonald & Pulaski, by Edward J. Pulaski, Jr., Attorney at Law, for Air California, protestant.

Robert T. Baer, Attorney at Law, and Richard Brozosky, for the Commission staff.

O P I N I O N

By this application Pacific Southwest Airlines (PSA) seeks a certificate of public convenience and necessity to conduct nonstop passenger air carrier operations between San Diego International Airport (SAN) and San Jose Municipal Airport (SJC). Public hearings were held and Examiner J. E. Thompson issued his Proposed Report on January 10, 1975. Exceptions to the proposed report were filed by PSA on February 13, 1975 and a reply to exceptions was filed by Air California (ACL) on March 13, 1975.

Examiner Thompson's Proposed Report, which is attached hereto, recommends denial of the application. His proposed findings of fact and conclusion of law support such denial. PSA takes exception to Findings Nos. 9, 10, 11, 13, 14, and 16. ACL in its reply supports those findings and urges their adoption. Our review shows that the findings of evidentiary fact (Nos. 9, 10, 11, 13, and those to which no exception was taken) are fully supported by the evidence of record. In other words, as it was presented to the Commission at the hearings, PSA's proposal would not result in fuel savings, would result in a curtailment of service between San Diego and Burbank and between Burbank and San Jose, and would result in a diversion of traffic from ACL to PSA. PSA's exceptions to Findings Nos. 9, 10, 11, and 13 are overruled.

Finding No. 14 that the proposed service would be disruptive of an orderly, efficient, economical, and healthy intrastate passenger air network and would not be of benefit to the greater portion of the people and Finding No. 16 that public convenience and necessity do not require the establishment of the service proposed by PSA are ultimate findings in the nature of mixed findings of fact and conclusions of law. Those ultimate findings stem naturally from the evidentiary findings if it is true that the public will benefit more from having these two carriers compete indirectly rather than permit them to engage in cutthroat competition. We need not contemplate that question, however, as the Legislature in effect has said that such is the case by requiring that passenger air carriers obtain a certificate of public convenience and necessity and setting forth the criteria the Commission is to consider in the issuance of such certificates. If the Legislature had intended unlimited competition among passenger air carriers it need not have required them to obtain certificates prior to operations. In the

instant case, as the Examiner points out at page 11 of the Proposed Report, the reasons advanced by PSA for the sought authority, if valid, would also be valid reasons under which ACL would be entitled to a nonstop route between SAN and SMF which PSA now enjoys and for each carrier to duplicate the routes of the other.

There is one aspect of this case that does give pause and provides concern of whether the type of regulation by the Commission in the certification of passenger air carriers provides the best possible transportation service to the public. That aspect is merely adverted to in a footnote at page 3 of the Proposed Report. In the application that led to the issuance of Decision No. 76110, cited in that footnote, ACL proposed to provide nonstop service between SAN and SJC with at least two daily round-trip flights. It never did get around to providing that level of service and it was only after the filing of this application by PSA and after the Commission entered its Decision No. 81338 ordering a public hearing to determine whether that authority should be revoked that ACL reinstituted one daily nonstop round-trip six days per week. That round trip consists of a morning schedule southbound and an evening schedule northbound. The certificate was granted on a finding that public convenience and necessity required the service proposed by ACL; and indeed the certificate specified that the minimum service was to have been that proposed, namely, two daily round trips. As pointed out in the footnote ACL was granted extensions of time to provide that service. Following the October 1973 directives issued by the Federal Energy Office regarding quotas of fuel for airlines, ACL filed a petition requesting that its certificated authority be amended by temporarily suspending, on an emergency basis, the minimum number of daily round-trip schedules set forth therein. The Commission granted that request on an interim basis in Decision No. 82138 pending public

hearing. After public hearing was held in a consolidated proceeding involving ACL's petition and a similar request by PSA, the Commission in Decision No. 82382 found that because of the mandatory fuel allocation program adopted by the Federal Government, the minimum flight requirements set forth in the certificates should be suspended on an emergency basis, and reduced weekly minimum flight requirements should be substituted provided, however, that scheduled changes should be issued and filed on not less than ten days' notice to the Commission and to the public and would be allowed to take effect unless rejected or suspended by the Commission. Following a petition for rehearing, the Commission by Decision No. 82755 granted a limited rehearing and modified Decision No. 82755 with respect to the filing of schedules. Rehearing has not yet been held and the proceeding is pending.

In recent proceedings in Applications Nos. 54878 and 55011 ACL stated that at some undetermined time in the future it will inaugurate a second nonstop flight between SAN and SJC but at this time it would be uneconomical for it to do so. Apparently the fuel shortage has nothing to do with its being able to provide additional service, as ACL has applications before the Commission for new routes, including service to Lake Tahoe and to Monterey as well as for authority to initiate nonstop service between Ontario and Sacramento. It would seem that insofar as ACL is concerned the public will have to wait a little longer for the service that was promised by ACL in 1969 and was found by the Commission to be required by public convenience and necessity.

Perhaps if ACL does not now believe the service is economical it should bow out in favor of PSA, which assertedly is ready, willing, and able to provide that service. We take note that in Decision No. 76110, Applications of Air California, et al. (1969) 70 CPUC 122, 128, in which ACL was granted the certificate for nonstop service between SAN and SJC, the Commission stated,

"In concluding that this limited expansion of Air Cal's route system should be approved, we endorse the admonition appearing in the proposed report that it is reasonable to assume that if a particular route proves unprofitable the carrier's management will take corrective action."

Unfortunately, the self-asserted readiness, willingness, and ability of PSA to provide the service to the public lacks credibility in light of the fact that it holds a certificate to operate nonstop flights between SAN and OAK, a much larger market than between SAN and SJC. It provides nonstop service only on weekends. We also take notice of the proceedings involving PSA's nonstop service to Sacramento (SMF). In Application No. 51058 PSA sought, among other routes, authority to provide service to Sacramento. It proposed 1 daily round-trip nonstop flight between SAN and SMF and 2 daily round-trip nonstop flights between Burbank (BUR) and SMF. Prior thereto, ACL had filed its Application No. 51007 seeking authority to provide service to SMF. The two applications were consolidated for hearing and decision. By Decision No. 79085 dated August 24, 1971 PSA was granted the nonstop authority on the BUR-SMF and SAN-SMF routes. PSA does not presently provide nonstop flights on the SAN-SMF route. On December 11, 1974 PSA filed a petition for suspension of nonstop service between SMF and BUR for one year on the grounds that the service is currently uneconomical. By Decision No. 84130 dated February 19, 1975 the Commission deleted the BUR-SMF nonstop authority from PSA's certificate. PSA filed a petition for rehearing. The city of Burbank also petitioned for rehearing asserting that PSA had deliberately scheduled

its sole nonstop flight southbound to leave SMF at 3:30 p.m., and its sole northbound nonstop flight to depart BUR at 10:10 a.m., hours highly inconvenient for businessmen, which could only result in diminution of the use of the service. Rehearing was granted by the Commission by its Decision No. 84257. Rehearing was held and the matter was submitted June 6, 1975.

The track record of PSA is no better than that of ACL. These records would indicate that each carrier is desirous of obtaining certificates for routes in order to keep the other from operating over the routes, and when they obtain such certificates they fail to deliver the services promised to the public.

The circumstances recited above cause us concern. As is described in the Proposed Report, past history has shown the undesirable effects of direct wing-tip competition between these two carriers. Perhaps the public would be better benefited by revising ACL's certificate to authorize only one round-trip nonstop between SAN and SJC to depart SJC in the morning hours and depart SAN in the evening hours, and to authorize PSA to operate one round-trip nonstop to depart SAN in the morning and depart SJC in the evening. That, at least, would provide a service which the Commission found in 1969 is required by public convenience and necessity. The scope of this proceeding does not permit that.

The Commission presently has before it the rehearing ordered by Decision No. 82755 referred to above. That proceeding involves the filing of schedules by these two carriers and the minimum service to be provided over their certificated routes. Perhaps the proceedings therein may indicate a course of action the Commission should follow in the issuance of certificates so as to provide the public with the best possible service consistent with the establishment and maintenance of an orderly, efficient, economical,

and healthy intrastate passenger air network. While we are not completely satisfied with the circumstances that have resulted from the existing format of certification of passenger air carriers, the instant proceeding does not lend itself to a change in that format. Findings Nos. 14 and 16 and the conclusion of law in the Proposed Report are consistent with the existing format and policy with respect to the certification of passenger air carriers. PSA's exceptions should be overruled and the findings, conclusions, and order recommended by the Examiner in the Proposed Report attached hereto should be adopted.

O R D E R


IT IS ORDERED that the findings of fact, conclusions of law, and order recommended in the Proposed Report of Examiner J. E. Thompson, which report is attached hereto and made a part hereof, are the findings of fact, conclusions of law, and order of the Public Utilities Commission in Application No. 54206.

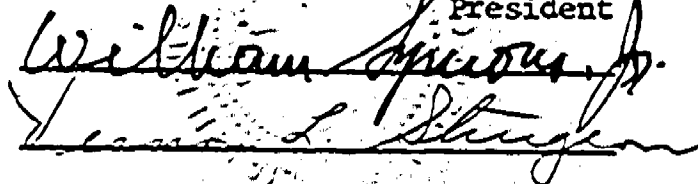
The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 12th day of AUGUST, 1975.

I dissent for
reasons outlined in
my dissent to D. 84544 in A. 55160.
(PSA interim rate increase)
Leonard Ross

I dissent.
Robert Butmanich



President


Commissioners

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC SOUTHWEST
AIRLINES for a certificate of
public convenience and necessity
to provide scheduled passenger
air service between San Diego
and San Jose.

Application No. 54206
(Filed July 25, 1973)

(Appearances are listed in Appendix A.)

PROPOSED REPORT OF EXAMINER J. E. THOMPSON

This application was heard January 14, 15, and 16, 1974 at San Francisco and was taken under submission subject to briefs, or in the alternative, the issuance of a proposed report. The Commission has directed the presiding officer to prepare and file his proposed report.

Pacific Southwest Airlines (PSA) is a passenger air carrier with extensive operations in California. It here seeks a certificate of public convenience and necessity authorizing it to provide nonstop service between San Diego and San Jose on a route described by applicant as between San Diego, on the one hand, and Oakland, on the other hand, with San Jose as either a terminal or intermediate point. Applicant is authorized to operate, and does operate, flights between San Diego and San Jose via Long Beach or via Hollywood-Burbank, and also provides service between San Diego and San Jose via flights connecting at Los Angeles.

Protestant, Air California (Air Cal), is a passenger air carrier also with extensive operations in California. It is authorized to operate, and does operate, nonstop service between San Diego and San Jose.

PSA asserts that the proposed nonstop service between San Diego (SAN) and San Jose (SJC) has a two-fold purpose: (1) to provide the public using PSA with a superior service in that the present service by virtue of not being nonstop is inferior to the service now being provided by Air Cal and is only inferior in that respect, and (2) to provide for fuel conservation and flexibility on PSA's route system. If the application is granted, PSA proposes to substitute a nonstop flight using B-737 aircraft departing SAN about 8:00 a.m. and arriving at SJC at 9:00 a.m. for a flight with B-727 aircraft departing SAN about 8:55 a.m. routed via Burbank (BUR) and arriving at SJC at 10:30 a.m.; and to substitute a nonstop flight with B-737 aircraft departing SJC about 5:30 p.m. and arriving at SAN at 6:30 p.m. for a flight with B-727 aircraft departing SJC at 11:55 a.m. routed via BUR and arriving at SAN at 1:30 p.m.^{1/}

Air Cal contends that the proposed operation by PSA will not provide the fuel economy asserted by PSA, and that if the application is granted it would have such adverse effect upon Air Cal as to probably either force it out of SAN or to substantially reduce operations.

In order to portray the evidence in its proper perspective it is necessary to recite some of the events that transpired since the filing of this application. The application was filed July 25, 1973 at which time Air Cal was not providing

^{1/} The B-737 aircraft is the Boeing 737-200 aircraft with two turbojet engines and having 112 passenger seats. The B-727 aircraft is the Boeing 727-200 aircraft with three turbojet engines and having 158 passenger seats.

daily nonstop service between SAN and SJC.^{2/} Air Cal commenced daily nonstop operations between SAN and SJC on September 5, 1973. In October 1973 directives were issued by the Federal Energy Office regarding quotas of fuel for airlines. On November 1, 1973 PSA curtailed a number of schedules. On November 15, 1973 certain employees of PSA went on strike. In January 1974 the strike was

^{2/} By Decision No. 76110 dated September 3, 1969 (Apps. Pacific Southwest Airlines, Air California, and Pacific Air Transport, 70 CPUC 122), Air Cal was granted authority to conduct daily nonstop service between SAN and SJC. Pursuant to a number of decisions authorizing extensions of time, nonstop service was not inaugurated until November 1, 1970 at which time Air Cal commenced daily one-stop service via Santa Ana and two nonstop round-trip flights per week. Before that service was commenced by Air Cal, however, PSA had initiated daily nonstop flights between SAN and SJC in September 1970. Air Cal filed a complaint (Case No. 9160) and the Commission ordered PSA to cease and desist providing nonstop service between SAN and SJC. Air Cal continued its two weekly nonstop round trips between the points until September 8, 1971 when it expanded the nonstop service to one daily round trip. In July 1972 it reduced the nonstop service to two round trips per week. By Decision No. 80318 dated July 25, 1972 in Application No. 52165 the Commission ordered Air Cal to initiate one daily round-trip nonstop flight between SAN and SJC by December 12, 1972. Air Cal requested, and was granted, a number of extensions of time to comply and then in Decision No. 81338 dated May 8, 1973 in Application No. 52165 the Commission ordered a public hearing to be held to determine whether Air Cal's authority should be revoked or modified. At that time a merger of Air Cal with PSA had been authorized but had not been accomplished. In late June or early July 1973 the parties decided not to exercise the authority to merge. Then followed the filing of this application by PSA.

settled. At the time of hearing PSA's fuel allotment pursuant to directives of the Federal Energy Office was 95 percent of its prior year consumption on a month-to-month basis.

PSA conducted passenger air carrier operations between San Diego, Los Angeles, Burbank, San Francisco, and Oakland long before the Passenger Air Carriers Act was enacted in 1965 and it has very substantial business experience in the field of air operations in California. It is the largest, and probably the more financially stable California intrastate passenger air carrier. As of March 31, 1973 applicant's capital structure consisted of \$42.5 million of long-term debt and \$45.2 million equity, of which \$35.3 million was retained earnings. Applicant has the insurance coverage prescribed by General Order No. 120-C and required by Section 2764 of the Public Utilities Code. Applicant operates L-1011, B-727-200, and B-737-200 aircraft. It proposes initially to conduct the proposed nonstop operation with the 737 aircraft. PSA has eight 737 aircraft, four of which are not in regular use and would be available for the proposed service.

PSA serves the SJC-SAN market either by direct flights via BUR or via connecting flights over Los Angeles (LAX) involving a layover of about forty minutes. The block time on the direct flights is about 1 hour and 35 minutes and on flights connecting at LAX is about 1 hour and 55 minutes. PSA proposes to operate nonstop between SJC and SAN with a scheduled block time of about 1 hour and 5 minutes. Initially, it proposes to substitute a nonstop flight for a direct flight in the manner stated earlier herein. The minimum schedule would be one daily nonstop flight to be conducted along with applicant's one-stop direct and connecting service.

During the 12 months ended November 30, 1973 PSA transported 112,683 O&D passengers between SAN and SJC and Air Cal transported 37,492. During the same period PSA averaged about 70 scheduled departures per week between the points and Air Cal averaged about 66. PSA ordinarily utilizes the B-727 which has 158 passenger seats for its service and Air Cal utilizes the B-737 with 115 passenger seats. There has been no dramatic increase in traffic between the points since 1971. For the 12 months ended November 30, 1972 PSA transported 106,040 O&D passengers between SAN and SJC and Air Cal transported 34,090. The total traffic for the same period ended November 1973 represents about a 7 percent increase over the traffic for the prior year. For the period ended November 1972 PSA had about 76 percent of the traffic and for the same period ended November 1973 it had about 75 percent of the total traffic. While PSA had a strike for 15 days during the latter period, and Air Cal resumed daily nonstop service in September 1973, the shift of the one percent share of traffic from PSA to Air Cal appears to have resulted more from the fact that PSA scheduled fewer weekly departures during the 1973 period than it had in 1972 whereas Air Cal had increased its scheduled departures per week.

PSA asserts that by substituting one nonstop round trip per day between SAN and SJC with a B-737 for one round trip via BUR with a B-727 the fuel savings will amount to 1,970 gallons per day, or 719,087 gallons per year. However, that estimate requires a number of assumptions, all of which are either contradictory or invalid. The estimate requires the assumption that the B-727 will not be operating by reason of the substitution of a B-737 aircraft. Applicant's vice president testified that such would not be the case. The estimate also assumes that the elimination of one round-trip flight, SAN-BUR-SJC, would not have any adverse effect upon the public desiring passage between SAN and BUR

or between BUR and SJC. This was shown to be invalid. When asked why PSA did not merely substitute a B-737 for the B-727 on the SAN-BUR-SJC route, the vice president testified that it would not be feasible because of equipment positioning problems and also because the on-board load factor leaving Burbank indicates that the B-737 does not have sufficient capacity to handle the traffic.

While applicant has the equipment, ground facilities, personnel, and the capital to extend and enlarge its flight operations, it must be kept in mind that it is subject to allocations of fuel. Generally, and there are exceptions, an extension or enlargement of applicant's operations in one area will necessarily result in a curtailment of operations in some other area because of restrictions in the supply of fuel. In this instance the announced proposal would be to afford possibly 228 passengers per day a savings of 30 minutes on a flight between SAN and SJC, whereas the elimination of the flights via BUR could affect 129 passengers desiring transportation between SAN and BUR, and 129 passengers seeking transportation between BUR and SJC.^{3/} PSA is the only airline carrier providing nonstop service between SAN and BUR, and it and Continental Airlines are the only carriers providing nonstop service between BUR and SJC.

Except perhaps as an initial measure, we doubt that PSA would conduct operations in the manner it asserts would result in

3/ Assuming 41% load factor on B-727 aircraft.

fuel savings. In his testimony applicant's vice president virtually admitted that it would be neither economical nor practical for it to do so. The real objectives were set forth by the vice president:

"We had two criteria in seeking this new authority. The first being the increase in the public convenience for the passengers PSA is currently serving between San Diego and San Jose.

"Second reason was that this authority adds efficiency to our ability to schedule our aircraft, and through that efficiency we will eventually have fuel savings for the airline."

With respect to the increased efficiency in scheduling aircraft, there was no concrete evidence of how the sought authority would be utilized to accomplish that purpose. In general, authority to overfly intermediate airports on a route permits greater flexibility in airline operations which, from the airline's point of view, contributes to its efficiency in scheduling and utilization of aircraft. Overflight of intermediate airports, with the anticipated resulting efficiencies in operation, however, is not always in the best interests of the public.

With respect to PSA's desire to accommodate the passengers it is currently serving between SAN and SJC, we note that PSA currently has 75 percent of that market even though it competes directly with Air Cal which provides some nonstop service. PSA is the dominant airline carrier in San Diego. Except between SAN and SJC where Air Cal has acquired a 25 percent share of the market, no other carrier's participation in California intrastate passenger air traffic between SAN and other points served by PSA amounts to over 10 percent of the total market between those points. Perhaps the reason for PSA's identification at San Diego results from its having its base of operations there and from being one of the earliest carriers to provide coach airline service at that point. Whatever

the reason for its market identification, PSA is and has been transporting the preponderance, if not the majority, of California intrastate passenger air traffic between San Diego and the principal California cities. It is not unnatural that applicant manifest a paternal, if not proprietary, interest in that traffic. In his opening statement counsel for applicant summarized its position with respect to this application as follows:

"Simply stated, and in support, PSA is, by this application, simply trying to provide for its passengers what its passengers deserve and that is service equal to the other carriers operating in the market between San Diego and San Jose."

In its regulation of passenger air carriers the Commission can give effect to the preferences of passengers for individual airlines only if by doing so it furthers, rather than hinders, 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. There is no doubt that the granting of this application will result in shortening the time en route of some passengers preferring to travel via PSA between SAN and SJC from 1 hour and 35 minutes to 1 hour and 5 minutes. It is necessary, however, to examine other possible results. Because of PSA's dominance in the market it is highly probable, if not virtually a certainty, that Air Cal would not maintain a 25 percent share in the market. Based upon past experience when PSA competed on equal terms with Air Cal between Burbank and Oakland, it is reasonable to assume that PSA would not be content to schedule, as it suggests, a nonstop flight at a time that would not conflict with Air Cal's current schedule, but would schedule its nonstop flights on top of Air Cal's so as to drive it out of the market. This it has done in the past in connection with operations between Burbank and Oakland and if this application is granted it could so do in connection with operations between SAN and SJC.

The probability that Air Cal would lose traffic to PSA or even be driven out of the SAN-SJC market in and of itself would not be contrary to the purposes of the Passenger Air Carriers Act. It might be asserted that if PSA acquired 100 percent of the SAN-SJC traffic and the public was satisfied with its service between the points the public interest would be adequately protected. The statute, after all, contemplates only the protection of the public interest and not the interest of the stockholders of individual airlines. But, it is not so simple; the statute and the Commission are concerned with the establishment of an orderly, efficient, economical and healthy intrastate passenger air network to the benefit of the people and their communities. It has long been recognized that greater benefits accrue to the public in the form of alternate routings, better services, and lower rates in transportation under a system of limited and regulated competition than occur under a system of regulated monopoly. In its regulation of passenger air carriers, and particularly in connection with operations by PSA and Air Cal, the Commission has given cognizance to that fundamental precept.

The major metropolitan areas in the State include the greater Los Angeles Basin area which is served by Los Angeles International Airport (LAX), Ontario International Airport (ONT), Hollywood/Burbank Airport (BUR), Long Beach Airport (LGB), and Orange County Airport (SNA); the San Francisco Bay area which is served by San Francisco International Airport (SFO), Oakland International Airport (OAK), and San Jose Municipal Airport (SJC); the Sacramento metropolitan area which is served by Sacramento Metropolitan Airport (SMF); and the greater San Diego area which is served by San Diego International Airport (SAN). In most instances airline service between any one airport in one metropolitan area and any one airport in another metropolitan area is offered

by either PSA or Air Cal, together with one or more airlines regulated by the Civil Aeronautics Board so that the public has a choice of two or more airlines for transportation between those airports. The Commission has authorized both PSA and Air Cal to operate between airports in all four of the major metropolitan areas, but, except for three instances, not between the same airports. Even though both carriers have extensive operations within California they compete directly only over three route segments. Both provide passenger service between SAN and SJC, Air Cal operating nonstop and also via SNA and PSA being required to operate via BUR, LGB, or LAX. Both carriers provide passenger service between SAN and SMF, PSA being authorized to operate nonstop or via LAX, BUR, SFO, or OAK, and Air Cal being required to operate via SNA or SJC. Both carriers are authorized to provide nonstop passenger service between SAN and OAK, and that is the only instance where they are permitted to compete between the same airports on an equal footing.

It has been the policy of the Commission to have these carriers compete indirectly between the four metropolitan areas, but to avoid direct confrontation which could result in destructive competitive practices. In Investigation of Pacific Southwest Airlines (1969) 70 CPUC 89 91, the Commission stated:

"Since the advent of Air California into the California intrastate air passenger market there has been extensive competition between Air California and PSA for passengers and routes. From the beginning we have recognized the need to protect Air California from destructive competition, at least until it becomes a viable operation."

Air Cal has become a viable operation, PSA has prospered, and the public has received the benefits of the alternative routes from a program of balancing the competitive advantages and disadvantages of each carrier. To grant this application on the theory advanced by applicant that it should be permitted to provide the passengers

that prefer its service with the faster service provided by its competitor would be disruptive of that program. Under the same argument Air Cal would be entitled to a nonstop route between SAN and SMF which PSA now enjoys and from thereon each carrier would contend it should be awarded the same routes of the other carrier. We do not believe that this would result in an orderly, efficient, economical, or healthy intrastate passenger air network.

With respect to the position of these two carriers in that network, the routes awarded PSA make it dominant at SFO with respect to service to SAN, SMF, and ONT; SFO is its connecting point in northern California for its routes (e.g., ONT-SFO-SMF). The routes awarded Air Cal make it dominant at SJC with respect to service to SAN, SMF, and ONT; SJC is its connecting point in northern California for its routes (e.g., ONT-SJC-SMF). The loss of traffic to PSA on the SAN-SJC route would diminish Air Cal's patronage over that connecting point and thereby lessen its ability to operate efficiently in the network. The communities served by Air Cal as well as the State itself would be adversely affected.

After consideration of all of the facts and circumstances it is our opinion that the adverse effects upon the air network that would result from the granting of the authority sought outweigh the thirty minutes saving in time to those passengers that prefer to use the service of PSA between SAN and SJC rather than utilize the service that is provided by Air Cal.

Findings of Fact

1. PSA is a passenger air carrier with extensive experience in the field of air operations in the transportation of passengers as a common carrier between numerous points in California.

2. As of March 31, 1973 PSA had assets of over \$150 million. Its capital structure consisted of \$42.5 million long-term debt and \$45.2 million equity of which \$35.3 million represented retained earnings. Its financial position is very strong.

3. PSA has the insurance coverage prescribed by General Order No. 120-C and required by Section 2764 of the Public Utilities Code.

4. PSA conducts passenger air carrier operations with L-1011, B-727-200, and B-737-200 aircraft. It has eight B-737 aircraft, four of which are not in regular service and which applicant had contemplated selling.

5. PSA holds certificates of public convenience and necessity authorizing passenger air carrier operations over several routes and between many airports. A portion of its authorized routes include:

- Between SAN and SJC via BUR (Route 14)
- Between SAN and SJC via LAX (Routes 1 and 4 combined)
- Between SAN and SJC via LGB (Routes 10 and 11 combined)

In performing service pursuant to that authority PSA schedules a number of direct flights between SAN and SJC via BUR and a few direct flights via LGB as well as a number of connecting flights via LAX.

6. By this application PSA seeks authority to conduct passenger air carrier operations nonstop between SAN and SJC. It proposes to substitute the nonstop flights for flights operated via BUR. Initially it proposes to substitute a nonstop flight with B-737 aircraft departing SAN about 8:00 a.m. for a flight via BUR with B-727 aircraft that departs SAN at 8:55 a.m. and to substitute a nonstop flight with B-737 aircraft departing SJC about 5:30 p.m. for a flight with B-727 aircraft that departs SJC at 11:55 a.m. The scheduled block time of the nonstop flight is 1 hour and 5 minutes and that of the flight via BUR is 1 hour and 35 minutes.

7. Air Cal is a passenger air carrier that is authorized to conduct, and does conduct, nonstop flight operations between SAN and SJC. It also performs passenger air carrier service between other northern and southern California points over routes with SJC as an intermediate point or connecting point on its routes.

8. Airline carriers, including PSA and Air Cal, are restricted and limited to supplies of aircraft fuel. The Federal Energy Office has allocated their fuel supplies to 95 percent of their usage during the prior calendar year on a month-to-month basis.

9. PSA's proposed operation will not result in a savings of 719,087 gallons of fuel per year as it projected. That estimate is based upon an assumption of a reduction in the flight hours of a B-727 aircraft which was shown is not the intention of applicant and which would result in inefficient and uneconomical utilization of the aircraft.

10. Although PSA has the aircraft, the personnel, the experience, and the financial ability to institute the proposed service, because of limitations and restrictions on the availability of fuel, it could inaugurate the proposed service only through a curtailment of service between some other pairs of points.

11. With respect to applicant's proposal to substitute a nonstop flight for a flight on the routing of SAN-BUR-SJC, the sole benefit to the public would be to afford a maximum of 112 passengers for each flight a savings of 30 minutes time en route between SAN and SJC. It would result, however, in discontinuance of service on one flight between SAN and BUR and between BUR and SJC to the detriment of passengers desiring transportation between those points.

12. The total increase in passenger air traffic between SAN and SJC of 1973 over 1972 was about 7 percent which is about the amount of increase in total passenger air traffic in the State of California generally.

13. The proposed service by PSA would result in a diversion of traffic from Air Cal between the points and thereby lessen the ability of Air Cal to promote and maintain efficiencies in operations through SJC, a principal connecting point on its operations between northern California points and southern California points.

14. The proposed service would be disruptive of an orderly, efficient, economical, and healthy intrastate passenger air network within the State of California and would not be to the benefit of the greater portion of the people of this State, its communities, nor to the State itself.

15. The proposed service would not have any significant effect upon the environment.

16. Public convenience and necessity do not require the establishment of the service proposed by PSA in this application.

Conclusions of Law

1. Where a proposed passenger air carrier operation would result in a benefit to a few passengers by reason of shortening en route time between SAN and SJC by 30 minutes, but would also result in a curtailment of service between other points, and where the proposed service is identical to a service provided by a competing airline and will result in a diversion of traffic from that airline to and from a connecting point on that airline's system of routes in the California intrastate passenger air network, and thereby would be disruptive of an orderly, efficient, economical, and healthy intrastate passenger air network, the proposed operation is not required by public convenience and necessity.

2. The application should be denied.

A. 54206 JR
Prop. Rept.

O R D E R

IT IS ORDERED that Application No. 54206 of Pacific Southwest Airlines is denied.

The foregoing constitutes the proposed report containing my recommended findings, conclusions, and order in this proceeding.

Dated at San Francisco, California, this 10th day of January, 1975.

/s/ JACK E. THOMPSON

Jack E. Thompson
Examiner

APPENDIX A

LIST OF APPEARANCES

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