

Decision No. 85486

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 BORREGO SPRINGS AIRLINE, a California
 corporation, for a Certificate of
 Public Convenience and Necessity to
 operate between Palm Springs/Burbank
 and between Burbank/Santa Barbara.

Application No. 55964
 (Filed September 29, 1975;
 amended January 23, 1976)

O P I N I O N

Borrego Springs Airline (Borrego), a corporation, operates as a passenger air carrier between Borrego Springs and San Diego, between Borrego Springs and Palm Springs, and between San Diego and Palm Springs pursuant to a certificate granted in Decision No. 80484 in Application No. 53470. In this application, as amended, Borrego seeks a temporary certificate authorizing it to provide service between Palm Springs and Burbank, pending determination of its request for a permanent certificate between Palm Springs and Burbank and Burbank and Santa Barbara.

The application alleges as follows: Borrego operates pursuant to a current valid operating certificate issued by the Federal Aviation Administration (FAA) permitting it to engage in the carriage of passengers and cargo in for-hire air commerce with a Swearingen Metroliner (Model SA-226TC) which is currently used in scheduled passenger service. That aircraft has a valid airworthiness certificate and its flight personnel have current FAA licenses. The aircraft is maintained on a progressive maintenance basis at facilities located in San Diego. Borrego maintains insurance against bodily injury and property damage as required by General Order No. 120-C.

Borrego alleges that it has the financial ability to render the proposed service. Financial data appended to the application show that Borrego had a negative net equity of \$130,000 as of June 30, 1975 and had a net operating loss of \$165,264 for the year ended June 30, 1975. Borrego is a subsidiary of the Di Giorgio Corporation, which has sufficient financial resources to enable Borrego to adequately perform the services currently provided and those proposed herein.

The application states that there is no present scheduled airline service between Palm Springs and Burbank. Borrego proposes to assess a one-way fare of \$23.15 (excluding tax).

The application shows that it was served in accordance with Commission rules. Notice of the filing of the application and amendment appeared on the Commission's Daily Calendar. There are no protests. The Commission's Transportation Division staff recommends that a temporary certificate be granted pending hearing and final determination of the application. The staff advises that service formerly was provided over the route between Palm Springs and Burbank by Golden West Airlines, and that GWA was authorized to discontinue that service because of lack of demand. The staff believes that granting the interim certificate will permit the Commission to determine whether demand for air service over that route has increased and to ascertain whether Borrego has sufficient equipment and resources to promote the new service. The staff also recommends that any grant of temporary operating authority be limited to one year. The staff points out that traffic between Palm Springs and Burbank is seasonal and that the current season has already begun; therefore, Borrego should be authorized to commence service as soon as possible over that route.

We find that Borrego has sufficient operating personnel and equipment and financial resources to initiate passenger air service over an additional route between Palm Springs and Burbank, that no passenger air carrier now provides service over that route, that a prior passenger air carrier was authorized to abandon service over that route because of lack of patronage, and that Borrego should be granted temporary authority to provide service over that route to determine whether adequate demand for air transportation over that route exists which would warrant the establishment of permanent service. We conclude that a temporary certificate should be granted which will expire after the next winter season (May 1, 1977). A public hearing is not necessary.

Permanent certification will be considered by the Commission only after Borrego requests it by filing a petition to modify this decision not earlier than July 1, 1976. Such petition should include current data on all phases of Borrego's operations.

Borrego Springs Airline 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 Borrego Springs Airline, a corporation, authorizing it to operate as a passenger air carrier between Burbank and Palm Springs subject to the limitations and conditions set forth in Appendix A, attached hereto and made a part hereof.

2. The temporary certificate granted herein shall expire May 1, 1977.

3. In providing service pursuant to the authority granted by this order, Borrego Springs Airline 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

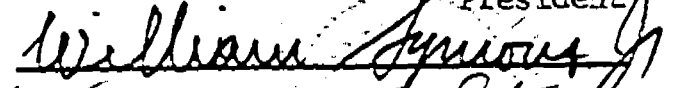



to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the authorized service.

- (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 is the date hereof.

Dated at San Francisco, California, this 18th
day of FEBRUARY, 1976.



President




Commissioners

Borrego Springs Airline, by this temporary certificate of public convenience and necessity, is authorized to operate as a passenger air carrier between the following airports:

BUR - PSP

Conditions

1. No aircraft having more than 30 revenue passenger seats or a payload of more than 7,500 pounds shall be operated.
2. Authority granted herein is temporary and shall expire May 1, 1977.
3. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
BUR	Burbank	Hollywood-Burbank Airport
PSP	Palm Springs	Palm Springs Municipal Airport

Issued by California Public Utilities Commission.

Decision No. 85486, Application No. 55964.