

ORIGINAL

Decision No. 85594

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 passenger air service between Ontario on the one hand and San Jose/Oakland on the other hand.

Application No. 54944
(Filed June 5, 1974)

In the Matter of the Application of AIR CALIFORNIA, a California corporation, for a Certificate of Public Convenience and Necessity to Operate a Nonstop Service between Ontario and Sacramento.

Application No. 54955
(Filed June 10, 1974)

Application of AIR CALIFORNIA for a Certificate of Public Convenience and Necessity to provide passenger air service between Monterey Peninsula Airport, on the one hand, and Orange County/Ontario, Palm Springs, San Diego, Sacramento, and San Francisco on the other hand, with the points other than Monterey being either terminal and/or intermediate points.

Application No. 55011
(Filed July 3, 1974)
(Ontario-San Diego only)

Dietsch, Gates, Morris & Merrell, by Brownell Merrell, Jr., and Charles L. Firestein, Attorneys at Law, for Pacific Southwest Airlines, applicant and protestant.
Graham & James, by Boris H. Lakusta and David J. Marchant, Attorneys at Law, for Air California, applicant and protestant.
Darling, Hall, Rae & Gute, by Donald K. Hall, Attorney at Law, and Carl M. Anderson, for Western Air Lines, Inc., protestant.
Peter S. Reis, Attorney at Law, and Henry B. Myers, for Hughes Airwest; and J. Kerwin Rooney and John E. Nolan, Attorneys at Law, for Port of Oakland; interested parties.
James F. Quinn, Attorney at Law, and Richard Brozosky, for the Commission staff.

O P I N I O N

These are three of eight applications for certificates of public convenience and necessity filed by Pacific Southwest Airlines and by Air California during the months of May, June, and July 1974. On December 16, 1974 all of the applications were consolidated for procedural purposes and prehearing conference. At prehearing conference held January 3, 1975 the issues in the consolidated applications were separated into four proceedings. This is the second of those proceedings and covers those portions of the consolidated applications requesting authority to provide service to or through Ontario on an "open-door" basis.^{1/}

The matters were heard on May 12, 13, and 14, 1975 and June 9, 1975 before Examiner Thompson and were submitted on briefs received September 2, 1975.

In Application No. 54944, Pacific Southwest Airlines (PSA) requests authority to provide passenger air carrier service between Ontario, on the one hand, and San Jose and Oakland, on the other hand. For reasons stated hereinafter we determine that the application should be denied. In Application No. 54955, Air California (Air Cal) requests authority to provide nonstop passenger air carrier service between Ontario and Sacramento; we determine that this application should be denied. In Application No. 55011, as it pertains to this proceeding,^{2/} Air Cal requests authority to provide passenger air carrier service between Ontario and San Diego.

^{1/} Proceeding 1 concerned Application No. 54878 of Air California for authority to operate between San Diego and San Jose via Ontario with "closed-door" between San Diego and Ontario. Decision No. 84703 dated July 29, 1975 denied the closed-door authority.

^{2/} Application No. 55011 as it pertains to proposed service to Monterey is included in Proceeding 3.

We conclude that this request should be granted in part so as to authorize Air Cal to provide that service on not to exceed two round-trip flights per day over the route of San Diego, Ontario, and/or San Jose and Oakland.

Findings

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. It maintains terminal facilities at Ontario, Oakland, and San Jose, among other places. It presently serves Ontario on routes with nonstop service to San Diego and San Francisco with direct or connecting service to points beyond, including Sacramento.

2. By its application PSA seeks authority to provide nonstop and direct service between San Jose and Oakland, on the one hand, and Ontario, on the other hand, with the right to continue flights and carry passengers on to San Diego from and through Ontario and Sacramento from and through Oakland.

3. PSA proposes to initiate service with B-737 aircraft as follows:

<u>Routing</u>	<u>Frequency</u>
ONT-SJC-OAK	2 round trips daily
ONT-SJC	1 round trip daily
ONT-OAK	1 round trip Friday & Sunday during summer

4. PSA operates three B-737 aircraft. It also operates B-727 aircraft and it has two L-1011 aircraft which currently are not used in PSA's passenger air carrier operations.

5. A comprehensive analysis of PSA's financial position is set forth in Decision No. 85339 dated January 13, 1976 and Decision No. 84544 dated June 17, 1975 in Application No. 55160, of which decisions we take official notice. PSA is financially able to initiate and maintain the proposed service. It maintains insurance coverage required by General Order No. 120-C. ✓

6. Air Cal 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. It maintains terminal facilities in San Diego, Ontario, San Jose, Oakland, and Sacramento, among other places. It presently serves Ontario on routes with nonstop service to Palm Springs, Santa Ana, San Jose, and Oakland with direct or connecting service to points beyond, including Sacramento. It provides service between San Diego and San Jose nonstop and via Orange County Airport with service beyond to Oakland and to Sacramento.

7. Air Cal is and has been providing five round-trip flights daily between Ontario and San Jose, all of the flights except two flights via Orange County on Saturdays being nonstop. It is and has been providing four round-trip flights daily between Ontario and Oakland, all of which are via San Jose. It is and has been providing one-stop service between Ontario and Sacramento via either San Jose or via Orange County. The number of passengers it transported between those points are as follows:

<u>Between</u>	<u>And</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>
Ontario	San Jose	84,844	97,933	102,500
Ontario	Oakland	64,378	79,024	84,687
Ontario	Sacramento	11,280	23,775	39,925

8. Air Cal's historical on-board load factors for the nonstop route segment Ontario-San Jose have been:

<u>Year</u>	<u>Passengers</u>	<u>Seats</u>	<u>Load Factor</u>
1972	145,114	242,349	59.9%
1973	180,077	280,578	64.1%
1974	189,575	273,029	69.4%

9. Continental Airlines is a trunk line common carrier of passengers by air operating pursuant to authority from the CAB. It provides service between San Jose and Ontario via Burbank on a route to Portland and Seattle. The number of passengers transported by Continental between Ontario and San Jose are: 7,589 during 1972, 5,989 during 1973, and 10,152 during 1974. The number of flights or passenger seats offered by Continental between those points is not of record.

10. On April 1, 1972 Air Cal entered into a five-year lease with the county of Orange for use of certain facilities at Orange County Airport (SNA). There are a number of operational conditions and requirements to the lease, including: (A) the average number of scheduled passenger flight operations as computed on an annual basis beginning January 1, 1972 shall not exceed 24.6 takeoffs per day; and (B) aircraft shall not depart from the airport between the hours of 10:00 p.m. and 7:00 a.m., except in the case of emergency and mercy flights upon prior approval of the Director of Aviation if time reasonably permits.

11. By its Application No. 54955 Air Cal seeks authority to provide nonstop service between Ontario and Sacramento with the right to continue flights and carry passengers to SNA and to Palm Springs through Ontario. It proposes to schedule a triangle pattern with aircraft originating in Sacramento and flying to SNA and then to Ontario and then to Sacramento. The one daily triangle pattern will compliment two daily round-trip flights via San Jose.

12. Air Cal changes its schedules four times a year. Its basic schedules for service between Ontario and Sacramento in each direction are: Monday through Thursday, two direct flights via Orange County and one direct flight via Orange County and San Jose; Friday, two direct flights via Orange County, one direct via Orange County and San Jose, and one with a connecting flight via San Jose;

Saturday, one direct flight via Orange County and San Jose; Sunday, one direct flight via Orange County and one connecting flight via San Jose. Depending upon the time of year Air Cal operates one or two round-trip flights between Ontario and Orange County. Its proposed triangle pattern round trip would consist of an existing flight from Sacramento to Orange County, an existing flight from Orange County to Ontario, and a new flight from Orange County to Sacramento in substitution for an existing flight from Orange County to Sacramento. The number of schedules between the points involved would not be changed; however, one departure from Orange County would be eliminated.

13. By its Application No. 55011 Air Cal seeks authority to provide service between San Diego and Ontario with the right to operate that route in conjunction with other routes serving Ontario, including its Route 2 (ONT-SJC/OAK) and Route 11 (ONT-SJC-SMF). It proposes to operate two daily round trips between Ontario and San Diego.

14. Air Cal's basic schedule provides four daily round-trip flights between Orange County and San Diego, all of which flights have origin or destination at San Jose/Oakland. The proposed two daily round trips between Ontario and San Diego would have origin or destination at San Jose/Oakland and would be in substitution for two of the present SAN-SNA-SJC/OAK daily round-trip flights. Applicant proposes to maintain the scheduled service between Orange County and San Jose; however, the proposed operation would eliminate two departures from Orange County to San Diego.

15. Air Cal proposes to provide the service with B-737 aircraft. It presently operates seven B-737 aircraft and one Lockheed Electra aircraft. During 1976 one additional B-737 aircraft will be returned to Air Cal from a sub-lease and it will acquire one additional Lockheed Electra.

16. As of December 31, 1974 Air Cal had assets of \$13,619,000, liabilities of \$8,603,000, and stockholders' equity of \$5,016,000. During 1974 it had net earnings of \$2,525,582. Air Cal is financially able to initiate and maintain the proposed services. It maintains insurance coverage required by General Order No. 120-C.

17. Air Cal's on-board load factors for the first quarter of 1975 on segments of flights with origin or destination at Orange County were:

<u>Between Orange County and:</u>	<u>Load Factor</u>
San Jose	78.1%
San Francisco	75.0%
Sacramento	74.5%
Oakland	65.7%
San Diego	25.6%

On-board load factors of Air Cal vary each quarter because of variations in traffic and differences in scheduling; however, the load factors shown are typical for Air Cal's operations.

18. Air Cal provides passenger air service between Ontario and Sacramento on direct flights via San Jose and via Orange County and San Jose. Its basic schedule calls for three daily round trips. During 1974 it transported 39,925 passengers between Ontario and Sacramento.

19. PSA provides passenger air service between Ontario and Sacramento on direct and connecting flights via San Francisco. Its basic schedule calls for two round trips daily with additional flights on Fridays and Sundays. During 1974 it transported 21,047 passengers between Ontario and Sacramento.

20. Western Airlines is a trunk line common carrier of passengers operating pursuant to authority from the CAB. During the months of July and August it provides two daily nonstop round trips with B-737 aircraft between Ontario and Sacramento; the other months it provides one daily nonstop round trip. It also provides one daily round trip via Los Angeles. During 1974 Western's on-line O&D passengers transported between Ontario and Sacramento amounted to 60,562.

21. Western Airlines provides one daily round trip between San Diego and Ontario on flights that have an itinerary of San Diego, Ontario, Salt Lake City, Caspar, Rapid City, Sioux Falls, and Minneapolis. During 1974 it transported 8,848 passengers between San Diego and Ontario.

22. PSA provides one daily round trip between San Diego and Ontario on flights that have an itinerary of San Diego, Ontario, San Francisco, and Sacramento. During 1974 it transported 3,276 passengers between San Diego and Ontario. In 1973 PSA had scheduled two daily round trips between the points.

Discussion

Section 2753 of the Public Utilities Code sets forth certain specific factors the Commission is to consider in awarding certificates of public convenience and necessity for passenger air carrier operations. The factors specified are not exclusive, nor is any one factor controlling. (Application of Air California et al. (1972) 73 CPUC 671 at 679.) We have made findings regarding the business experience of applicants in the field of air operations, their financial stability, insurance coverage, types of aircraft employed, together with their proposed routes and minimum schedules. We have also set forth the facts concerning the competition over the proposed routes. We have not yet set forth findings regarding whether applicants could economically provide the proposed services, the need for such proposed services, and the effect of those proposed services upon fuel resources and the environment. In Application of Marin Aviation (1975) Decision No. 84488 in Application No. 54604, at page 8, we pointed out that there is such a correlation among all of the elements specified in Section 2753 that they must be considered and weighed together rather than considered apart from one another. This is particularly true regarding the need and the economic feasibility of the proposed service. All of the elements must be considered from the viewpoint of the effect of the proposed passenger

air carrier service upon the establishment and development of an orderly, efficient, economical, and healthy intrastate passenger air network in California. (Marin Aviation, supra.) The determination of whether a proposed passenger air carrier operation is required by public convenience and necessity involves the weighing of those factors in the light of the establishment to the benefit of the people of this State, its communities, and the State itself of an orderly, efficient, economical, and healthy intrastate passenger air network. (Application of Holiday Airlines, Inc. (1975) Decision No. 83962 in Application No. 53266.)

In the implementation of the establishment of an orderly, efficient, economical, and healthy intrastate passenger air network, it has been the policy of the Commission to provide the public with the airline service of PSA or Air Cal, together with one or more of the trunkline carriers regulated by the CAB, between the major metropolitan areas of this State (San Francisco Bay Region, Sacramento Region, Greater Los Angeles Basin Region, and San Diego Region). It has been the policy of the Commission to have PSA and Air Cal compete indirectly between the four major metropolitan areas, but to avoid direct confrontation which could result in destructive competitive practices. (Application of Pacific Southwest Airlines (1975) Decision No. 84769 in Application No. 54206, at p. 10 of Adopted Proposed Report.)

Except between points a short distance apart such as between Oakland and San Jose (commonly called entry mileage for a longer route), in the two instances where the Commission authorized PSA and Air Cal to fly wingtip-to-wingtip over the same route the public has not benefited. In the case of service between Burbank and Oakland both carriers attempted to capture the market. PSA was able to schedule more flights than Air Cal, and at almost the same times, so that Air Cal withdrew its service to Burbank entirely. PSA now operates only three daily nonstop round trips Monday through Thursday and an average of two nonstop round trips Friday through Sunday.

In the case of the authorities held by PSA and Air Cal to provide nonstop service between San Diego and Oakland, Air Cal does not exercise that authority and PSA provides service only on weekends.

With the foregoing in mind, we first consider PSA's request to operate the Ontario-San Jose segment. PSA estimated that it could achieve revenues in excess of out-of-pocket costs for its proposed operation with 172,000 annual passengers. On a fully allocated cost basis it estimates that such operation would be at a loss. It estimated a potential market between Ontario and San Jose/Oakland of 372,827 annual passengers and that entry of PSA into the market would provide a 15 percent stimulation by reason of lower fares and added service. It assumed that Air Cal's share of that market would be 206,850 passengers and that the remaining unsatisfied demand would be available for PSA. It did not consider Continental Airlines except perhaps for the difference between Air Cal's allocation and PSA's allocation of 172,000 passengers from the total potential market.

PSA's estimate of the Ontario-San Jose/Oakland market appears to be extraordinarily high. The estimate was made by taking the 1972 Ontario-San Francisco traffic statistics of 243,957 passengers and expanding it 5 percent per year to arrive at an estimate of 282,411 passengers. On the basis of the spread of traffic of Air Cal between Orange County, on the one hand, and San Francisco, San Jose, and Oakland, on the other hand, which was determined to be at ratios of 42 percent, 34 percent, and 24 percent, respectively, PSA made its estimates of the markets. There are a number of inconsistencies with that method, the first being that the actual traffic between Ontario and San Francisco, for both 1973 and 1974, was below the level of 1972 traffic which had been used as a base.

Another inconsistency is the use of Air Cal's Orange County-Bay Region traffic as a basis for assuming the spread of Ontario traffic. Air Cal's Orange County traffic is restricted by the number of departures from that airport which, in turn, limits the number of flights between Orange County and the Bay Region airports. That is reflected in Air Cal's load factors. It was pointed out that the spread of PSA's traffic between Burbank and Bay Region airports is 50 percent for San Francisco, 30 percent for San Jose, and 20 percent for Oakland. If we use PSA's method of estimating but start with the experienced 1974 Ontario-San Francisco traffic, assume a 5 percent increase in that traffic (which the trends indicate would be high), and apply the ratios of PSA's Burbank-Bay Region traffic, the result is an estimate of 254,000 Ontario-San Francisco passengers, and 254,000 Ontario-San Jose/Oakland passengers. If we apportion 206,850 of those passengers to Air Cal, and 10,650 passengers to Continental, there would remain 36,500 passengers for PSA's flights. With that amount of passengers PSA's proposed operation would be an economic disaster. We do not believe PSA's estimate of traffic potential.

Even so, if we stretch our imagination and consider that there is a possibility that the Ontario-San Jose traffic will approach the magnitude of the Ontario-San Francisco market, PSA's proposed operation contemplates that the former market will be served by five Air Cal daily round trips, Continental's flights (the number of which are not of record but may safely be assumed to be not less than one daily round trip), and three PSA daily round-trip flights. PSA contends that the Ontario-San Francisco market is adequately served by three PSA daily round trips and two Western round trips. If that is the case it would appear that nine daily round trips for the Ontario-San Jose market would be more than the traffic would warrant. That, in turn, would result in an unnecessary expenditure of fuel.

The result of granting PSA's proposal would be (1) inability of PSA to capture sufficient traffic to make its proposed operation economically feasible; (2) the capture by PSA of traffic now transported by Air Cal and Continental which might make its proposed operation economically feasible but which would impair the operations of Air Cal and/or Continental; the strengthening of PSA's route structure in the San Diego-San Jose/Oakland market where it is now the dominant carrier to lessen the effectiveness of competition in that market from Air Cal; inefficient air operations by PSA, Air Cal, and Continental in providing service in the Ontario-San Jose market. Any of those results would not be to the benefit of the people of this State, its communities, or the State itself.

Air Cal's arguments for the proposed Ontario-Sacramento nonstop service are: (1) it will eliminate one departure from Orange County which will enable Air Cal to substitute a flight from that airport to San Francisco or San Jose/Oakland, (2) it will upgrade service between Ontario and Sacramento, (3) the danger of wing tip-to-wingtip competition with Western's nonstop service is not present, and (4) the proposed triangular route will reduce flight hours and will conserve fuel. We need not test those arguments against the evidence of record because even if we accept them they are outweighed by the disadvantages that would accrue to the public from the proposed service. As was pointed out by the staff in its brief, the proposed triangular route would downgrade Air Cal's service between Orange County and Sacramento, a much larger market than between Ontario and Sacramento and in which Air Cal has virtually exclusive rights. Its nonstop operation between Orange County and Sacramento is now, and has been, conducted at a 74 percent load factor. Such high load factor is indicative that flights operated at prime time are booked to capacity so that passengers must be turned away. Air Cal's proposed

service would affect the prime time flight from Orange County to Sacramento. It is also a fact that Air Cal's Orange County-Sacramento load factor is higher than Western's for its Ontario-Sacramento service. For direct common carrier airline service between Orange County and Sacramento the public must rely only upon the service provided by Air Cal. The Ontario-Sacramento passenger has a choice of Western, PSA, or Air Cal for direct airline service.

Furthermore, Air Cal's proposed service would not be responsive to any substantial need by the public for additional nonstop service between Ontario and Sacramento. It would provide one nonstop flight in only one direction. We are not persuaded that that type of service provides a better passenger air network.

The core of Air Cal's request for authority to operate between San Diego and Ontario is its operations between San Diego and San Jose. While there was presented a large volume of evidence and much argument by Air Cal, PSA, Western, and the staff regarding the Ontario-San Diego "market" (and we use the quotation marks intentionally), and whether the "market" could be served economically by Air Cal, it is a fact that there are not sufficient passengers to independently support any major airline operation with jet aircraft between the points. The "market" only can be economically served by large aircraft as entry mileage to or from some other nearby point on a long route. That is the way that both Western and PSA operate between San Diego and Ontario. It does not necessarily follow that because there are, and will be, insufficient passengers to support turn-around airline service by one airline, let alone three major air carriers, that public convenience and necessity do not require that service. The statute requires the Commission to weigh all factors with the view towards the establishment of a passenger air carrier network to the benefit of the public.

Air Cal's situation with respect to providing service between San Diego and San Jose is set forth in Decision No. 84703 dated July 29, 1975 in Application No. 54878 of which we take official notice. In brief, Air Cal has authority to operate between San Diego and San Jose on a nonstop route and via the route San Diego-Orange County-San Jose. The flights on the latter route are virtually booked to capacity by Orange County-San Jose passengers, leaving very few seats for San Diego-San Jose passengers. That in turn has an adverse effect upon load factors for nonstop flights by Air Cal because of the difficulty by passengers of obtaining passage on flights during the day which are not nonstop. Brushing aside all of the facade, Air Cal wants to be able to compete more effectively in the San Diego-San Jose market, and PSA, who is Air Cal's only competitor in that market, does not want that to happen. While Air Cal makes much of its limitations of operations at Orange County, we must point out that Air Cal acceded and agreed to those limitations in a lease entered into by it and the airport authorities at Orange County. We look to the fundamental matter here and that is Air Cal's San Diego-San Jose service, which is the entire purport of Air Cal's application. Furthermore, we are going to consider any route authority to be granted in the context proposed by Air Cal itself: a shift of a portion of its present San Diego-San Jose service via Orange County to a routing via Ontario.^{3/}

3/ Testimony by Air Cal at RT 282:

"That allows Air California to continue to carry a substantial number of passengers on a one-stop service that currently goes through Orange County, but by way of Ontario. And by that action, frees up seats from Orange County to San Jose and Oakland. ...and they are able to retain their position in the San Diego-San Jose market at the same time. We are only talking about shifting service from one airport to another. We are not talking about adding services as such."

The Commission has already found that public convenience and necessity require one-stop service by Air Cal between San Diego and San Jose via Orange County. It made that finding after considering the effect of Air Cal's operation upon the San Diego-San Jose service provided by PSA. The Commission also found that public convenience and necessity required nonstop airline service between San Diego and San Jose and concluded that the establishment of an orderly, efficient, economical, and healthy intrastate passenger air network would be better served by awarding that right to Air Cal rather than to PSA. That conclusion was reaffirmed by the Commission in its Decision No. 84769 in Application No. 54206, although admittedly with reservations because of Air Cal's failure to provide the service that it had proposed. It is a fact that the increasing demand by Orange County passengers for transportation on Air Cal's limited number of flights on the route San Diego-Orange County-San Jose has lessened the number of seats available for San Diego-San Jose passengers. That nonavailability of seats in effect diminishes the flight frequency for service by Air Cal between San Diego and San Jose insofar as prospective passengers are concerned and thereby makes Air Cal's service less attractive to prospective passengers. It was not the intention of the Commission, nor is it consistent with the aims of the Passenger Air Carriers Act, that Air Cal be an ineffective competitor in the San Diego-San Jose market. At the same time, however, no good cause has been shown for increasing Air Cal's competitive position beyond that contemplated by the Commission in the proceedings leading to the awards of certificates to Air Cal. The shift proposed by Air Cal of two round-trip flights via Orange County to two round-trip flights via Ontario is consistent with the aforementioned objectives.

The Commission has been and is concerned that two daily non-stop round trips between San Diego and San Jose have not been furnished by Air Cal. Substitution by Air Cal of service via Ontario for flights via Orange County may be consistent with the objectives but their substitution for nonstop flights is not warranted and should not be countenanced.

Although applicant has requested a certificate to operate between Ontario and San Diego with the right to combine that route with other of its certificated routes, its proposed operation and its showing in this application covers a modification of Route 4 to its existing certificate as follows:

Route 4: Between San Diego International Airport, on the one hand, and San Jose Municipal Airport and Oakland International Airport, on the other hand, via the intermediate point of Orange County Airport or Ontario International Airport, with San Jose Municipal Airport and Oakland International Airport being either a terminal or intermediate point for this route; and provided that the number of flights via Ontario International Airport in each direction shall not exceed two in any one day.

The modification comports with the aforementioned objectives. Operations pursuant to that modification will not be less efficient or uneconomical as was suggested by PSA.

Operations pursuant to that modification will not impair the ability of Western and PSA to provide service over their routes. From the standpoint of the air network it will provide additional service between Ontario and San Diego with large aircraft, which type of service can be operated economically only in an operation such as this. Service between San Diego and San Jose will be provided over the following routes:

- Nonstop by Air. Cal
- Via Ontario by Air Cal
- Via Orange County by Air Cal
- Via Los Angeles by PSA
- Via Burbank by PSA
- Via Long Beach by PSA

We further find:

23. PSA's proposed passenger air carrier service between Ontario and San Jose/Oakland would not be economical and is not needed for adequate service between the communities involved.

24. Public convenience and necessity do not require the operation by PSA as a passenger air carrier between Ontario and San Jose/Oakland.

25. Air Cal's proposed service between Ontario and Sacramento would not be responsive to any substantial need by the public for additional nonstop passenger air carrier service between those points and would be detrimental to passengers desiring, and now provided, Air Cal's nonstop passenger air carrier service between Orange County and Sacramento.

26. Public convenience and necessity do not require the operation by Air Cal as a passenger air carrier between Ontario and Sacramento proposed in this application.

27. The operation by Air Cal as a passenger air carrier between San Diego and San Jose/Oakland via Ontario with flights in each direction not to exceed two in any one day as an alternative to its operation between San Diego and San Jose/Oakland via Orange County will permit Air Cal to operate efficiently and effectively in providing service between San Diego and San Jose/Oakland; it will not permit Air Cal to increase frequency of schedules for one-stop service between San Diego and San Jose/Oakland in any significant degree such that may result in destructive competition with PSA; it will provide not to exceed two additional flights with jet aircraft in each direction between San Diego and Ontario, which type of service could not be economically provided otherwise.

28. The passenger air traffic between San Diego and Ontario is insufficient to independently support economical operations with jet aircraft between the points. Economical operations with jet aircraft between those points can only be conducted as entry mileage on a longer route such as provided by PSA on its San Diego-San Francisco route, by Western on its San Diego-Salt Lake City and points beyond route, and by Air Cal on its San Diego-San Jose/Oakland route.

29. The operation by Air Cal as a passenger air carrier on the route San Diego-Ontario would be uneconomical, and public convenience and necessity do not require such operation by Air Cal.

30. Air Cal has not made any presentation with respect to any operation between San Diego and any other point that it serves via Ontario other than in connection with its Route 4 between San Diego and San Jose/Oakland.

31. Public convenience and necessity require the operation by Air Cal as a passenger air carrier between San Diego and San Jose/Oakland with flights not to exceed two in any one day in each direction via Ontario as an alternative to flights via Orange County and as more particularly set forth in the modification of Route 4 prescribed in the ensuing order.

32. Operations by Air Cal pursuant to the above described modification of Route 4 will not have any significant effect upon the environment and is consistent with the national and state policies regarding the conservation of fuel.

We conclude that:

1. Application No. 54944 by PSA should be denied.
2. Application No. 54955 by Air Cal should be denied.
3. Authority to Air Cal to conduct passenger air carrier operations over the route San Diego-Ontario should be denied.

4. Route 4 in Air Cal's present certificate of public convenience and necessity should be modified as follows:

Route 4 - Between San Diego International Airport, on the one hand, and San Jose Municipal Airport and Oakland International Airport, on the other hand, via the intermediate point of Orange County Airport or Ontario International Airport, with San Jose Municipal Airport and Oakland International Airport being either a terminal or intermediate point for this route; and provided that the number of flights via Ontario International Airport in each direction shall not exceed two in any one day.

5. Application No. 55011 should remain open for further proceedings regarding Air Cal's proposal to establish service to and from Monterey.

6. Because Air Cal's Orange County traffic reaches its peak during the summer, in order to provide Air Cal opportunity to revise and publish its schedules reflecting the authority granted herein before the summer peak begins, the order herein should be made effective on this date.

O R D E R

IT IS ORDERED that:

1. Application No. 54944 is denied.
2. Application No. 54955 is denied.
3. A certificate of public convenience and necessity is granted to Air California, a corporation, authorizing it to operate as a passenger air carrier between San Diego and San Jose/Oakland via Ontario on its Route 4 as set forth in Second Revised Page 1 to Appendix A attached hereto.
4. The request in Application No. 55011 for authority to conduct passenger air carrier operations on the San Diego-Ontario route is denied except as provided in Ordering Paragraph 3 above.

5. Appendix A of Decision No. 80439, as amended, is further amended by incorporating therein Second Revised Page 1 in revision of First Revised Page 1, which revised page is attached hereto and made a part hereof.

6. 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.

7. Application No. 55011 is open for further proceedings with respect to proposed passenger air carrier service to and from Monterey.

The effective date of this order is the date hereof.

Dated at Los Angeles, California, this 23rd day of MARCH, 1976.

William J. Gorman
President
Yunon L. Sturgeon

Commissioners

*I will file a
written dissent
Leonard Ross Commissioner*

*I abstain
Robert C. Fanning Commissioner*

Appendix A
(Dec. 80439)

AIR CALIFORNIA
(a corporation)

Second Revised Page 1
Cancels
First Revised Page 1

The authority stated herein to Air California supersedes all previously granted certificates of public convenience and necessity.

Air California is authorized to operate over the routes described as follows:

- Route 1 - Between Orange County Airport, on the one hand, and San Jose Municipal Airport, Oakland International Airport and San Francisco International Airport, on the other hand, with each of the last three named airports being either a terminal or intermediate point for this route.
- Route 2 - Between Orange County Airport and Ontario International Airport, on the one hand, and San Jose Municipal Airport and Oakland International Airport, on the other hand, with each of the first two named airports and each of the last two airports, respectively, being either a terminal or intermediate point for this route.
- Route 3 - Nonstop service between San Diego International Airport and San Jose Municipal Airport.
- *Route 4 - Between San Diego International Airport, on the one hand, and San Jose Municipal Airport and Oakland International Airport, on the other hand, via the intermediate point of Orange County Airport or Ontario International Airport, with San Jose Municipal Airport and Oakland International Airport being either a terminal or intermediate point for this route; and provided that the number of flights via Ontario International Airport in each direction shall not exceed two in any one day.

Issued by California Public Utilities Commission.

*Amended by Decision No. 85594, Application No. 55011