

Decision No. 85992

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC SOUTHWEST AIRLINES for a certificate of public convenience and necessity, in either direction between San Diego, Long Beach, Long Beach, San Jose/San Francisco/Oakland and San Diego to Sacramento via Long Beach and San Francisco.

Application No. 50261
(Filed May 22, 1968)

In the Matter of the Application of AIR CALIFORNIA for a certificate of public convenience and necessity to provide passenger air service between Long Beach, on the one hand, and San Jose and Oakland, on the other hand.

Application No. 50381
(Filed July 8, 1968)

Dietsch, Gates, Morris & Merrell,
by Brownell Merrell, Jr., Attorney at
Law, for Pacific Southwest Airlines,
petitioner.
Graham and James, by David S. Marchant and
Boris H. Lakusta, Attorneys at Law, and
Frederick R. Davis, for Air California,
protestant.
Leslie E. Still, Jr., Attorney at Law, and
Louis Possner, for the City of Long Beach,
interested party.
William J. Jennings, Attorney at Law, and
Richard M. Brozosky, for the Commission
staff.

ORDER MODIFYING DECISION

The certificate of public convenience and necessity
(certificate) granted Pacific Southwest Airlines (PSA), a

corporation, by Decision No. 82409 dated January 29, 1974 authorized it to provide passenger service between Long Beach, on the one hand, and San Diego, San Francisco, San Jose, Oakland, and Sacramento (via San Francisco), on the other hand. Under the terms and conditions of a lease with the city of Long Beach, operator of the Long Beach Municipal Airport, PSA is permitted to provide a maximum of six operations per day (eight operations on weekends and holidays) at the Long Beach Airport. Under the terms of the lease an operation is defined as a takeoff and landing. The lease contains no restriction as to the destination-origin of any of the six operations, with PSA retaining flexibility for scheduling within the maximum limitation.

By letter dated June 3, 1976, PSA requested that the Commission, by resolution, order the elimination of frequency restrictions in connection with service at Long Beach as set forth in Decision No. 82409. This request was considered by the Commission at its regular conference in San Francisco on June 8, 1976. The Commission concluded that the relief proposed by PSA would require an alteration or modification of the order in Decision No. 82409. Accordingly, pursuant to Section 1708 of the Public Utilities Code, the Commission determined that PSA's request be set down for hearing and set the hearing in Los Angeles at 1:00 p.m. on June 10, 1976. A hearing was held at that time and place before Examiner James D. Tante and the matter was submitted on that date.

The Commission determined that public necessity required that the hearing be held at an early date which prevented the serving of notice of not less than 10 days as set forth in Section 1704 of the Public Utilities Code and Rule 52 of the Commission's Rules of Practice and Procedure. Proper notice was given by telephone on June 8, 1976 and by letter mailed on that same date to PSA,

Air California, Western Airlines, the Long Beach City Attorney, and the Commission staff. On June 9, 1976 notice was given by telephone to Mr. Ron Johnson of the San Diego City Attorney's office.

James R. Patterson, vice-president of operations and chairman of the scheduling committee of PSA, and Lawrence A. Guske, controller and member of its scheduling committee, testified for PSA; Frederick R. Davis, vice-president in charge of marketing, testified for Air California; and Richard H. Brozosky, senior transportation engineer, testified for the Commission staff. Commissioner Robert Batinovich was present during most of the hearing.

PSA is a passenger air carrier with extensive operations in California. Pursuant to its certificate it is authorized to provide passenger air service over several routes, including:

Route 10. Nonstop between Long Beach Airport and San Diego International Airport.

Route 11. Between Long Beach Airport and Oakland International Airport via intermediate point of San Jose Municipal Airport; nonstop between Long Beach Airport and San Jose Municipal Airport and nonstop between Long Beach Airport and Oakland International Airport.

Route 12. Nonstop between Long Beach Airport and San Francisco International Airport.

Route 13. Between Long Beach Airport and Sacramento Metropolitan Airport via intermediate point of San Francisco International Airport.

PSA was authorized to operate as a passenger air carrier over the aforesaid routes by Decision No. 82409 pursuant to Ordering Paragraph 2 of said decision which provides inter alia as follows:

"2. A certificate of public convenience and necessity is granted to PSA, a corporation, authorizing it to operate as a passenger air carrier...between the points and over the routes set forth in Appendix B attached hereto and made a part hereof."

Appendix B referred to in Ordering Paragraph 2 sets forth certain restrictions relating to the route authority as follows:

Restrictions

"2. Route 10

Passengers shall be transported in either direction at a maximum of one scheduled departure from Long Beach Airport and one scheduled arrival at Long Beach Airport on Monday through Sunday each week.

"3. Route 11

Passengers shall be transported in either direction at a maximum of two scheduled departures from Long Beach Airport and one scheduled arrival at Long Beach Airport on Monday through Sunday each week. One additional scheduled departure from Long Beach Airport and one additional scheduled arrival at Long Beach Airport may be operated on Friday, Saturday, Sunday, and holidays.

"4. Routes 12 and 13.

Passengers shall be transported in either direction at a maximum of three scheduled departures from Long Beach Airport and three scheduled arrivals at Long Beach Airport on Monday through Sunday each week for both routes combined. One additional scheduled departure from Long Beach Airport and one additional scheduled arrival at Long Beach Airport may be operated on Friday, Saturday, Sunday, and holidays for both routes combined." (Emphasis added.)

PSA is presently operating the maximum number of weekday arrivals and departures at Long Beach Airport permitted under the foregoing restrictions, i.e., a total of six operations per day (an operation being defined as an arrival and a departure).

Specifically, the urgency of PSA's proposal arises from scheduling changes reflected in PSA's regular published timetable, dated June 1, 1976. Prior to June 1, 1976, PSA offered direct (one-stop-single plane) service to Sacramento from Long Beach via San Francisco with a total of three flights (1-1/2 operations per day), such operations being counted against the total maximum frequency restrictions on Routes 12 and 13. However, there is no direct Long Beach-Sacramento service provided for in the June 1, 1976 schedule under which PSA is currently operating. In lieu of direct service PSA now provides connecting (one stop-change of plane) service to Sacramento at San Francisco International Airport, such connections often requiring passenger delays between connecting flights. Mr. James R. Patterson, PSA's vice-president/operations, testified that almost immediately upon the institution of the June 1, 1976 schedule PSA received a number of complaints from its passengers concerning the lack of direct service from Sacramento to Long Beach. These complaints prompted PSA's requests herein.

The city of Long Beach did not oppose PSA's request for modification. Air California and the Commission staff did not oppose a modification that would permit PSA to have the option of retaining its operation between Long Beach and San Diego or replacing that operation with an additional operation between Long Beach and San Francisco in order that PSA would be able to reinstate its operation between Long Beach-San Francisco-Sacramento and return without the necessity of passengers being compelled to change airplanes at San Francisco. Both contended that PSA's total number of operations from Long Beach should not be increased and that PSA's request for modification to provide further flexibility should be denied. Air California further contended that in granting such

a modification the Commission should require PSA to discontinue some other flight to Sacramento.

The evidence indicates that the exclusion of Long Beach-Sacramento direct service from PSA's timetable was a result of a combination of low load factors experienced between San Francisco and Sacramento and the constraints against market development at Long Beach caused by the maximum frequency restrictions.

Mr. Lawrence Guske, controller of PSA, presented evidence indicating that PSA's onboard load factor in 1975 between San Francisco and Sacramento was 35.8 percent and for the four months ended April 30, 1976 - 34 percent - with O & D load factors for comparable periods being 20.2 percent and 18.7 percent, respectively. Based on these operating results, PSA's scheduling committee, which includes both Mr. Guske and Mr. Patterson, determined that at least one round trip a day between the San Francisco and Sacramento points should be eliminated from the June 1, 1976 schedule. Since Long Beach frequency limitations precluded the development of onboard Long Beach-San Francisco traffic to support direct Sacramento service, the committee concluded that the least economically wasteful schedule modification would be the phasing out of Long Beach-Sacramento direct service in favor of similar service at Ontario where no maximum flight frequency restrictions are in effect. The committee also took into consideration the increased efficiency resulting from utilization of one aircraft for Long Beach-San Francisco service rather than two as previously required.

In support of the request, Mr. Guske testified that additional Long Beach-Bay Area service, and in particular Long Beach-San Francisco service, would enable PSA to develop a more commuter-oriented schedule at Long Beach. The only method by which such a result could be achieved, according to Mr. Guske, would be to permit

PSA to operate through Long Beach to any terminal point permitted under its certificate. By way of example, Mr. Guske testified that if PSA's request were granted, approximately six weeks after the modification it could substitute a Long Beach-San Francisco-Sacramento operation for a Long Beach-San Diego operation and still remain within the total maximum of six operations on weekdays. PSA has experienced O & D load factors of around eight percent and onboard load factors in the range of 25 percent on its San Diego-Long Beach route, an entry mileage segment.

Mr. Davis, vice-president of marketing for Air California, testified that PSA is using aircraft formerly used between Long Beach and Sacramento to compete with Air California's Ontario to Sacramento operation. He stated that the restrictions should not be removed as requested by PSA but that if relief is granted it should be limited to substituting a flight to San Francisco-Sacramento for the present San Diego flight, and that PSA should be required to operate the flight not only to San Francisco but also to Sacramento. He stated that unless PSA launched an extensive advertising campaign in Orange County such a modification would probably not create a dilution of Air California's business in Orange County.

Mr. Richard Brozosky, senior transportation engineer for the Commission staff, testified and recommended that the maximum number of flights for Routes 12 and 13 combined be increased from three to four with the total maximum number of flights at Long Beach remaining at six arrivals and six departures each day, Monday through Thursday, and eight arrivals and eight departures, Friday, Saturday, Sunday, and holidays and that Fifth Revised Page 4 (see Exhibit 11) replace Fourth Revised Page 4 of PSA's certificate in order to accomplish this result.

PSA agreed that the staff's recommendation would solve its present problem but contended that all the restrictions should be removed in order that PSA could remedy any future similar problem without the necessity of a further modification of Decision No. 82409.

The witnesses for the Commission staff and Air California objected to the removal of all restrictions as requested by PSA.

The staff recommendations are reasonable and are adopted. The removal of other restrictions is not necessary at this time.

Findings

1. PSA is a passenger air carrier with extensive experience in the field of air operations in the transportation of passengers between numerous points in California. It maintains terminal facilities at Long Beach, San Diego, San Jose, Oakland, San Francisco, and Sacramento, as well as other places.

2. By certificates of public convenience and necessity, PSA is authorized to operate over a number of routes between points in California, among which are Route 10, Long Beach-San Diego; Route 11, Long Beach-San Jose-Oakland; Route 12, Long Beach-San Francisco; and Route 13, Long Beach-Sacramento via San Francisco. A restriction of the aforesaid authority is that PSA is to provide no more than one arrival and one departure on weekdays on Route 10, two arrivals and two departures on Route 11, and three arrivals and three departures on Route 12, with one additional departure on weekends and holidays on Route 11 and Routes 12 and 13.

3. PSA requests that the restriction of a maximum number of flights by route segment through Long Beach be eliminated and that it be authorized to provide a total of six operations on weekdays and eight operations on weekends and holidays through Long Beach Airport to points certificated to PSA from Long Beach.

4. By schedule change dated June 1, 1976, PSA eliminated direct service between Long Beach and Sacramento, causing passenger inconveniences and complaints. Because of low load factors between San Francisco and Sacramento, direct service to Sacramento from Long Beach via San Francisco is dependent on the development of onboard traffic between Long Beach and San Francisco.

5. Within the total maximum frequency restrictions set forth in PSA's certificate and in its lease with the city of Long Beach, development of San Francisco and Sacramento service is most economically achieved through the reduction of uneconomical San Diego-Long Beach service.

6. Public convenience and necessity require that PSA be authorized to discontinue the uneconomical Long Beach-San Diego operation and be authorized to add a flight from Long Beach to San Francisco-Sacramento.

7. The substitution of Fifth Revised Page 4 for Fourth Revised Page 4, as set forth in Exhibit 11, will permit PSA to provide service to Sacramento and is reasonable and in the best interest of the public.

8. The removal of further restrictions pertaining to its Long Beach operations as requested by PSA is not necessary at this time and should not be authorized.

9. Public convenience requires prompt commencement of the proposed service as requested by PSA and the provisions of Section 1705 of the Public Utilities Code and Rule 83 of the Commission's Rules of Practice and Procedure providing for an order being effective twenty days after the date thereof should not be adhered to but the order should be effective as of the date signed.

10. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

The Commission concludes that PSA's request for modification of Decision No. 82409 should be granted to the extent and as set forth in the ensuing order.

IT IS ORDERED that:

1. Pacific Southwest Airlines' certificate of public convenience and necessity is amended by incorporating Fifth Revised Page 4 in revision of Fourth Revised Page 4 of Appendix B of Decision No. 82409, attached hereto as Appendix A and made a part hereof.

2. 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.


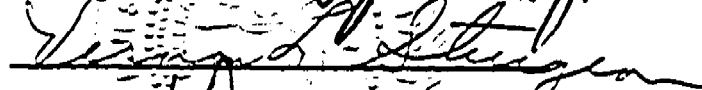
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 105-Series.


In all other respects Decision No. 82409 shall remain in full force and effect.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 22nd
day of JUNE, 1976.



President



Commissioners


Routes 10, 11, 12, and 13

1. Service between the points authorized on these routes shall not be connected, combined, or operated in combination with points or routes previously authorized, or with each other except as herein provided. Route 10 may be connected with Routes 11, 12, or 13 at Long Beach to provide through service to passengers as follows:

San Diego - Long Beach - Oakland
San Diego - Long Beach - San Francisco
San Diego - Long Beach - San Francisco (intermediate point per
Route 13) - Sacramento
San Diego - Long Beach - Oakland - Sacramento
San Diego - Long Beach - San Jose - Oakland - Sacramento

The points herein authorized must be operated as specified; no over flights of points authorized shall be permitted.

2. Route 10

Passengers shall be transported in either direction at a maximum of one scheduled departure from Long Beach Airport and one scheduled arrival at Long Beach Airport on Monday through Sunday each week.

3. Route 11

Passengers shall be transported in either direction at a maximum of two scheduled departures from Long Beach Airport and two scheduled arrivals at Long Beach Airport on Monday through Sunday each week. One additional scheduled departure from Long Beach Airport and one additional scheduled arrival at Long Beach Airport may be operated on Friday, Saturday, Sunday, and holidays.

4. Routes 12 and 13

Passengers shall be transported in either direction at a maximum of four[#] scheduled departures from Long Beach Airport and four[#] scheduled arrivals at Long Beach Airport on Monday through Sunday each week for both routes combined. One additional scheduled departure from Long Beach Airport and one additional scheduled arrival at Long Beach Airport may be operated on Friday, Saturday, Sunday, and holidays for both routes combined.

- #5. Total number of scheduled departures from Long Beach Airport shall not exceed six, and scheduled arrivals at Long Beach Airport shall not exceed six, Monday through Thursday and eight arrivals and eight departures, Friday, Saturday, Sunday and holidays.

Route 14

Service between the points authorized on this route shall not be connected, combined, or operated in combination with points or routes previously authorized. The points herein authorized must be operated as specified; no over flights of points authorized shall be permitted.

Issued by California Public Utilities Commission.

#Revised by Decision No. 85992, Application No. 50261.