

Decision No. 87157

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SWIFT AIRE LINES, INC., a California corporation, for a Certificate of Public Convenience & Necessity to operate as a passenger air carrier between Modesto on the one hand and Fresno and San Jose on the other hand with tacking authority to serve existing points on routes common to Fresno.

Application No. 56813
(Filed October 14, 1976)

O P I N I O N

Swift Aire Lines, Inc. (Swift) is a passenger air carrier with operations in both directions over the following routes:

- Route 1. Between San Francisco and Santa Maria via San Jose, Paso Robles, and San Luis Obispo.
- Route 2. Between Paso Robles and Los Angeles via San Luis Obispo and Santa Maria.
- Route 3. Between Sacramento and Santa Maria via Fresno and San Luis Obispo.
- Route 4. Between Sacramento and Fresno.
- Route 5. Between Fresno and Bakersfield via Visalia.
- Route 6. Between Visalia and Los Angeles via Bakersfield.

There is currently under submission awaiting briefs Application No. 54327 of Swift for authority to operate a route between Fresno and San Jose with the privilege of tacking that route to others, such as to provide service between San Francisco/San Jose, on the one hand, and Fresno/Visalia/Bakersfield, on the other hand.

Swift here seeks a certificate authorizing operations over the route San Francisco - Modesto - Fresno. The proposed service will be provided in transport category equipment by 15-passenger

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DH-114 aircraft and 29-passenger Nord-262 aircraft, each operated by two pilots and one flight attendant. Applicant proposes to fly a minimum of two round trips per day on weekdays. It will provide additional service on weekdays and on weekends as the traffic will support. It proposes to operate this route in conjunction with operations on Routes 4 and 5.

United Air Lines (United) is a major trunk airline serving Modesto. It maintains scheduled service at Modesto with the following service pattern:

<u>From</u>	<u>Arrive</u>	<u>Depart</u>	<u>To</u>
Portland/SFO	5:36 a.m.	6:00 a.m.	Stockton/SFO
LAX/Bakersfield	10:05 a.m.	10:25 a.m.	SFO
Portland/SFO	3:02 p.m.	3:25 p.m.	Bakersfield/LAX
SFO/Stockton	11:04 p.m.	11:25 p.m.	SFO

Applicant asserts that its scheduling would be designed around the schedules which would be maintained by United so as to provide flights at times of day when service is not provided by that airline with due consideration to departures and arrivals suitable to the business commuter traveler and to the schedules of trunk lines and international air carriers for interlining purposes.

Since March 1969 applicant continuously has operated a scheduled air service as a passenger air carrier within California. It maintains insurance coverage as required by General Order No. 120. Exhibits attached to the application show that it has sufficient financial stability to initiate and maintain the proposed service.

Applicant operates propeller-powered aircraft which are well within the noise standards prescribed by the federal government. It presently operates at the airports involved at San Francisco and at Fresno. Those airports, together with Modesto Municipal Airport,

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are currently being served by trunk carriers with jet aircraft. It can be seen with certainty that there is no possibility that the activity in question will have a significant effect on the environment.

A copy of this application was served upon the airlines operating between the points involved and upon the city of Modesto. Notice of the filing of the application appeared in the Commission's Daily Calendar. Letters from the city of Modesto and from the Modesto Chamber of Commerce have been received supporting the application. There have been no protests.

We find that public convenience and necessity require the operation by applicant as a passenger air carrier a minimum of two round trips each weekday over the route San Francisco - Modesto - Fresno as proposed in this application.

We conclude that the application should be granted as provided in the ensuing order and that a public hearing is not necessary. Appendix A of Decision No. 77794, as amended, should be further amended to incorporate the authority granted herein.

Swift Aire Lines, Inc. 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 certificate of public convenience and necessity is granted to Swift Aire Lines, Inc., a corporation, authorizing it to

operate as a passenger air carrier, as defined in Section 2741 of the Public Utilities Code, in both directions over the route: San Francisco - Modesto - Fresno.

2. In conducting operations over the route authorized in Ordering Paragraph 1 applicant shall schedule and operate no fewer than two flights in each direction each day, excepting Saturdays, Sundays, and holidays.

3. Appendix A of Decision No. 77794, as heretofore amended, is further amended by incorporating Sixth Revised Page 1 and Seventh Revised Page 2, attached hereto, in revision of Fifth Revised Page 1 and Sixth Revised Page 2.

4. 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.

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

Dated at San Francisco, California, this 29th day of MARCH, 1977.

Robert B. Baker
President
William J. ...
...
...
Richard D. ...
Commissioners

The authority granted herein to Swift Aire Lines, Inc. supersedes all previously granted certificates of public convenience and necessity granted to this carrier.

Swift Aire Lines, Inc., by this certificate of public convenience and necessity, is authorized to operate as a passenger air carrier over the routes and between the points listed below:

Route 1 - SAN FRANCISCO - SANTA MARIAIntermediate Points: San Jose, Paso Robles, and San Luis Obispo

SFO - SJC	SFO - PRB
SJC - PRB	SFO - SBP
PRB - SBP	SJC - SBP
SBP - SMX	SJC - SMX
SFO - SMX	PRB - SMX

Route 2 - PASO ROBLES - LOS ANGELESIntermediate Points: San Luis Obispo and Santa Maria

PRB - SBP	PRB - SMX
SBP - SMX	LAX - PRB
SMX - LAX	LAX - SBP

Route 3 - SACRAMENTO - SANTA MARIAIntermediate Points: Fresno and San Luis Obispo

SMF - FAT	SBP - SMX
FAT - SBP	FAT - SMX

Route 4 - SACRAMENTO - FRESNO

SMF - FAT

Route 5 - FRESNO - VISALIA - BAKERSFIELD

FAT - VIS
FAT - BFL
VIS - BFL

Route 6 - VISALIA - BAKERSFIELD - LOS ANGELES

VIS - BFL
BFL - LAX
VIS - LAX

#Route 7 - SAN FRANCISCO - MODESTO - FRESNO

SFO - MOD	MOD - FAT
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Issued by California Public Utilities Commission.

#Added by Decision No. 87157, Application No. 56813.

Conditions

1. Authority granted herein is limited to passenger air carrier operations over the specific routes and between the airport pairs listed thereunder as described above.
2. Operation between an airport on one route and an airport on any other route shall not be provided except via authorized routes through airports that are common to the connecting routes.
3. Each airport shall be served with a minimum of one flight in each direction on each of seven days a week, except that on Route 2 PRB shall be served with a minimum of one flight in each direction on each of five days a week, and except that airports on Route 3, Route 4, Route 5 and Route 6 shall be served with a minimum of one flight in each direction on each of five days a week. ⁴Route 7 shall be served with a minimum of two flights in each direction each day except Saturday, Sunday and holidays.
4. Providing operations comply with Condition 3, carrier may serve the following airports on a "flag stop" basis:

Route 1 - SJC, PRB. Route 2 - SBP.
5. Passengers shall be carried whose transportation is solely between the respective airports of SFO and SJC. No turnaround service will be provided between SFO and SJC.
6. No aircraft having more than 30 revenue passenger seats or a payload more than 7,500 pounds shall be operated.
7. Passengers shall not be carried who have both origin and destination between the following pairs of points:

SBP - SMX, SBP - PRB, SMX - PRB, LAX - SMF.
8. The following airports shall be used:

<u>Symbol</u>	<u>Locations</u>	<u>Name</u>
SFO	San Francisco	San Francisco International Airport
SJC	San Jose	San Jose Municipal Airport
PRB	Paso Robles	Paso Robles Airport
SBP	San Luis Obispo	San Luis Obispo County Airport
LAX	Los Angeles	Los Angeles International Airport
SMX	Santa Maria	Santa Maria Airport
SMF	Sacramento	Sacramento Municipal Airport
FAT	Fresno	Fresno Municipal Airport
BFL	Bakersfield	Bakersfield (Meadows Field)
VIS	Visalia	Visalia Municipal Airport
#MOD	Modesto	Harry Sham Field

Issued by California Public Utilities Commission.

#Added by Decision No. 87157, Application No. 56813.