Alt.-JET-dz *

ORIGINAL

Decision No. 87438   June 7, 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of AIR CALIFORNIA, a California corporation for a Certificate of Public Convenience and Necessity to Operate Between San Diego and Palm Springs and to tack such authority with Route No. 5.	Application No. 54954 (Filed June 10, 1974)

Graham & James, by Boris H. Lakusta and David J. Marchant, Attorneys at Law, for applicant.
Brownell Merrell, Jr., Attorney at Law, for Pacific Southwest Airlines; Brobeck, Phleger & Harrison, by Robert N. Lowry, Attorney at Law; and Kathleen L. Nemeth, Attorney at Law, for Borrego Springs Airline, dba Sun Aire Lines; protestants.
Edward L. Colby, for City of Palm Springs, interested party.
Elmer Sjostrom, Attorney at Law, for the Commission staff.

OPINION

Duly noticed public hearings were held in this application December 15, 16, and 17, 1975 before Examiner Thompson at San Diego. The matter was submitted on briefs received February 4, 1976.

In this application Air California (AirCal) requests a certificate of public convenience and necessity authorizing it to operate as a passenger air carrier between San Diego International Airport (SAN) and Palm Springs Municipal Airport (PSP) with authority to combine that route with its presently certificated Route 5 to establish through routes and through fares via PSP between SAN, on the one hand, and San Francisco International Airport (SFO), Oakland

International Airport (OAK), and San Jose Municipal Airport (SJC), on the other hand. The application is protested by Pacific Southwest Airlines (PSA) and Borrego Springs Airline (SunAire).

Findings

1. AirCal 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 has conducted those operations with B-737 and L-188 aircraft.

2. Among other routes, it is authorized to provide service between SFO and PSP and between SFO and Orange County Airport (SNA). It is authorized to provide service between PSP and SNA and between SNA and SAN and under the terms of its certificate may operate between PSP and SAN via SNA. It is prohibited by the terms of its certificate from combining the SFO-SNA route with the SNA-SAN route to provide passenger service between SFO and SAN.

3. AirCal proposes to operate between PSP and SAN only as a segment of a longer route, more particularly over the route SAN-PSP-SFO. It intends to provide service with a minimum of one daily round trip over the route for nine months of the year, September to June, unless sufficient traffic develops to warrant service during the summer months. Its proposed schedule northbound is to depart SAN at 1:40 p.m., arrive PSP at 2:05 p.m., depart PSP at 2:20 p.m., arrive SFO at 3:30 p.m. Its proposed southbound schedule is depart SFO at 12:00 noon, arrive PSP at 1:10 p.m., depart PSP at 1:25 p.m., arrive SAN at 1:50 p.m. It will operate the flights with B-737 aircraft.

4. Although AirCal has authority to operate between PSP and SJC/OAK, it does not contemplate serving between PSP and SAN over the route SAN-PSP-SJC/OAK. It intends to continue providing service between SAN and SJC/OAK nonstop and on routings via SNA and via Ontario International Airport (ONT).

5. Its route proposal contemplates serving the following markets which AirCal presently is not authorized to serve: SAN-SFO, and SAN-PSP.

6. AirCal has assets exceeding $10 million. During 1974 and 1975 it had net earnings from operations. It is financially able to initiate and maintain the proposed service. It maintains insurance coverage required by General Order No. 120-C.

7. On April 1, 1972 AirCal entered into a five-year lease with the county of Orange for use of certain facilities at SNA. There are a number of operational conditions and requirements to the lease, including: (a) the average number of scheduled passenger flight operations 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. AirCal has been operating to the maximum number of takeoffs specified in that lease agreement.

8. AirCal presently provides year-round service between PSP and SFO. Its basic schedules during the period September to June provide two round trips daily via SNA. Nonstop flights are operated on peak days, generally on weekends during the winter. It also schedules service between PSP and SAN via SNA. Under its proposal the one round trip over the route SAN-PSP-SFO will be substituted for one of the scheduled PSP-SNA-SFO round trips thereby reducing the number of takeoffs at SNA in connection with AirCal's PSP-SFO service.

9. Western Air Lines, Inc. (Western) is a trunk line common carrier of passengers operating pursuant to authority from the Civil Aeronautics Board (CAB). During the fall of 1975 Western scheduled 28 weekly flights between SAN and SFO of which 21 were nonstop. For several years prior to 1972 it provided service between SAN and PSP

averaging about 6,000 passengers per year; it discontinued that service during 1971. Western serves PSP generally along the following routes: PSP-ONT-Sacramento; PSP-SFO-Seattle; PSP-Las Vegas-Minneapolis; PSP-ONT-SFO-Portland-Seattle. It offers connecting service on routes to many other points on its system, including Acapulco, Honolulu, and Vancouver B.C. It provides service to PSP with B-727 and B-737 aircraft.

10. PSA is a passenger air carrier with extensive operations within the State of California. Among other routes that it operates, it provides over 100 weekly flights between SAN and SFO, of which approximately 80 percent are nonstop. It provides that service with B-727 and B-737 aircraft. It does not provide passenger air carrier service at PSP.

11. SunAire is a passenger air carrier with operations between SAN, PSP, and Borrego Springs. It was authorized by the Commission to provide nonstop service between SAN and PSP in 1972 following the discontinuance of that service by Western and by Hughes Airwest. SunAire is a third level air carrier and is exempt from the economic regulations of the CAB. In the fall of 1975 SunAire scheduled 84 flights per week between SAN and PSP, 56 of which were nonstop and 28 via the route,SAN-Borrego Springs-PSP. It performs the service with one 19-passenger pressurized Swearingen Metroliner aircraft.

12. Palm Springs and its environs, including the Coachella Valley, is an agricultural area and winter recreational area. The area has almost two million tourists and convention participants during the season extending generally from the latter part of September to the first part of June. There are few tourists during the summer months because of climatic conditions. PSP, which is adjacent to the civic center in Palm Springs, is served by AirCal, SunAire, Western, Airwest, American Airlines, and Scenic Airlines. In 1970 total O & D passengers at PSP amounted to 265,329 and in 1974, 334,619, for an increase of 26 percent.

13. With the exception of passengers transported by AirCal the O & D passenger traffic between PSP and SAN for the years 1969 through 1974 was:

Airline	1969	1970	1971	1972	1973	1974
Western	6,130	6,230	6,070	250*	390*	190*
Airwest	2,570	910	580	1,150	-	-
SunAire#	-	-	442	1,952	4,654	6,427
Others*	-	10	-	-	40	10
Total	8,700	7,150	7,092	3,352	5,084	6,627

*Via interline or combination of fares via LAX.
#Until late 1972 SunAire served PSP only via Borrego Springs.

14. Because of ticketing procedures, AirCal's historical traffic between PSP and SAN via SNA cannot be ascertained from records. During a special survey conducted during the period November 14, 1975 to December 12, 1975 AirCal transported 33 passengers from PSP to SAN via connecting flights over SNA.

15. At present only PSA and Western offer nonstop or direct service between SAN and SFO. Other CAB carriers offer connecting service or interline service between the points. O & D passengers between the points for the years 1969 through 1974 were:

Year	PSA	CAB Carriers	Total
1969	279,600	91,500	371,100
1970	295,000	65,000	360,000
1971	310,000	38,900	348,900
1972	327,700	51,000	378,700
1973	349,600	71,900	421,500
1974	386,000	58,400	444,400

16. The departure and arrival times of AirCal's proposed operation and the nearest schedules of competing carriers are compared below:

Northbound	AirCal	SunAire	PSA	Western
Lv. SAN	1:40 p.m.	11:50 a.m.	1:30 p.m.	1:30 p.m.
Ar. PSP	2:05 p.m.	12:20 p.m.		
Lv. PSP	2:20 p.m.			
Ar. SFO	3:30 p.m.		2:40 p.m.	2:45 p.m.
Southbound				
Lv. SFO	12:00 noon		1:15 p.m.	11:25 a.m.*
Ar. PSP	1:10 p.m.			
Lv. PSP	1:25 p.m.	1:30 p.m.		
Ar. SAN	1:50 p.m.	2:00 p.m.	2:20 p.m.	2:03 p.m.

* Interline via LAX.

17. Fare comparisons have been difficult in recent years because fuel cost changes have resulted in frequent fare revisions and the effective dates of the revisions have not been the same for all airlines. AirCal's basic adult fare between PSP and SFO is approximately the same as Western's. Its proposed fare between SAN and SFO will be the same as its PSP-SFO fare because of similar but slightly lower SAN-SFO fares maintained by PSA and Western and the provisions of Section 461.5 of the Public Utilities Code prohibiting transportation companies from charging a greater fare for a shorter distance than for a longer distance over the same line or route. AirCal proposes to charge the same fare between PSP and SAN as it charges between SNA and SAN, which at the time of hearing was $12.78. That proposed fare is lower than any interline fare or fares for connecting flights between those points and is lower than the $20 fare maintained by SunAire between those points.

18. AirCal maintains some special fares and promotional fares which it will extend to its proposed operation; such as a standby fare at 75 percent, a military fare at 50 percent, and a group fare at about 82.3 percent. It also proposes to establish a stop-over charge of $5 for passengers ticketed between SFO and SAN desiring to lay over at PSP.

19. PSA and Western maintain some special fares and promotional fares between SAN and SFO at levels generally about 75 percent of the adult fare. PSA does not maintain discounted military fares and its group fares are not applicable on weekends. SunAire does not maintain promotional fares.

Discussion

The authority sought in the application is much broader than the operation which AirCal proposes. Its proposal is only to operate between SAN and SFO via PSP and the showing made by it on this record was confined to that route. In fact AirCal asserted that it is not its intention to provide turnaround service between SAN and PSP nor to operate between SAN and SJC/OAK via PSP. The proposal is within the scope of the authority sought in the application and we will consider it.

Several points of view are reflected in the record in this application. AirCal's proposal is favored by the city of Palm Springs and its Chamber of Commerce because: (1) Tourism is Palm Springs' principal industry; 77 percent of the people who visit the area originate from points and places in California, and a portion of them from the San Francisco Bay Area; SFO is the largest of the airports in the Bay Area and is considered by Palm Springs as the normal gateway for visitors rather than OAK or SJC; AirCal's proposal contemplates daily nonstop jet aircraft service between PSP and SFO during the tourist season which would promote and encourage more visitors to Palm Springs. (2) San Diego also offers convention and visitor attractions; daily nonstop jet aircraft service between PSP and SAN would encourage post-convention visits to Palm Springs by participants at conventions at San Diego, and will also permit Palm Springs to include in its promotion for attracting conventions the attractions at San Diego for post-convention activities, both of which would indicate more tourist and convention dollars at Palm Springs. (3) Noon is the usual check-out time at hotels in Palm Springs and AirCal's proposed schedule would be convenient to the visitor.

The persons and organizations in San Diego involved with tourism and conventions believe that they will benefit from AirCal's proposed service in the following respects: (1) San Diego Convention and Tourist Bureau will be able to engage more extensively in comarketing activities with Palm Springs; (2) The proposed discount fares, such as family fares, may induce conventioners from the San Francisco Bay Area to bring members of their family and to stay longer, thereby increasing hotel and restaurant revenues; and (3) Because of AirCal's proposed fare entitling layovers at Palm Springs, tour companies can package tours which would cover points of interest and activities at San Diego, Palm Springs, and San Francisco.

From AirCal's viewpoint its proposal will eliminate one aircraft takeoff per day at SNA, where it currently has a problem of limitations of takeoffs, it will provide a more favorable on-board load factor on its service between PSP and SFO, and will advance its competitive position at SAN and at SFO by permitting it to provide service between those points.

From SunAire's point of view, AirCal's proposed service will divert a substantial portion of traffic from its midday schedules, which are the heavier traveled. Few passengers will utilize SunAire's service at its $20 fare if AirCal's proposed jet aircraft service is available at a fare of $12.78 or less.

From the viewpoint of PSA this application is nothing more than a jimmy to open the back door to the SAN-SFO market. It calls attention to the fact that although the application speaks to providing a service over the route SAN-PSP-SJC-OAK, AirCal does not intend to provide service over that route, only over the route SAN-PSP-SFO.

All of the above described points of view have truth and are supported by the facts. Our task is to consider those anticipated results in determining whether the proposed service is required by public convenience and necessity.

In evaluating an application for authority to conduct passenger air carrier operations we can weigh the facts, both favorable and unfavorable, for an award of a certificate only with respect to the service that the applicant holds itself out to perform. AirCal proposes to inaugurate one daily midday round trip over the route SAN-PSP-SFO during the period September to May. Should the off-season (June through August) market increase, AirCal will provide service off-season. There is not any doubt from the facts of record that almost 90 percent of the PSP airline traffic moves during the period mid-September to mid-June. AirCal estimates it will have 13,120 SAN-PSP passengers for nine-month operations during the on-season. That amounts to an average of 24 passengers per flight. The estimated traffic is about double the annual 1974 traffic between the points; however, there has been no large plane direct service between the points since 1971. The estimate of 13,120 passengers assumes that AirCal will have a 2/3 share, and SunAire a 1/3 share of 19,700 annual SAN-PSP passengers. The 19,700-passenger traffic was estimated by applying the historical growth of total passengers enplaned at PSP from 1969 to 1974 (40.6 percent) to the 1969 O & D traffic (8,700 passengers) of Western and Airwest between SAN and PSP, and the result was increased by seven percent (assumed one-year growth rate) for the two years to arrive at 19,700. A mathematical error was made, however, in the development. Using AirCal's method the correct mathematical figure for 2/3 of the annual traffic is 9,336 passengers instead of 13,120 passengers. AirCal asserts that its estimate of 13,120 passengers is reasonable even though there was a mathematical error in its development because that figure comports with applicant's experience on its PSP-SNA segment. We believe that AirCal's proposed service would provide something more than 10,000 annual SAN-PSP passengers. AirCal estimates that 15,000 PSP-SFO passengers would utilize flights over the proposed SAN-PSP-SFO route. That estimate assumes that it will obtain a 50 percent share of all estimated PSP-SFO traffic. We find that somewhat difficult to accept in that historically Western has dominated that market and there is no evidence that it intends curtailing flights in that market. AirCal does not intend to add additional flights between PSP and SFO, only to change the routing.

But even if we accept AirCal's estimates of anticipated SAN-PSP and PSP-SFO traffic, its own calculations show that its ability to conduct economically viable operations over the proposed route depends upon its being able to attract at least 24,000 SAN-SFO passengers. That is more than double the number of SAN-PSP passengers applicant can reasonably anticipate and represents five percent of the estimated total annual SAN-SFO traffic. Keeping in mind that AirCal's estimated share of that market would be transported over a period of nine months rather than a full year, that PSA and Western provide 101 nonstop weekly flights and 21 one-stop weekly flights most of which are with aircraft having over 30 percent more seats than AirCal's, that there are also routings involving connecting and interline flights between SAN and SFO, and that AirCal's proposed operation between the points would not be at the peak traffic times, or during the peak summer season, it is apparent that the estimate of 24,000 passengers is overly optimistic. Indeed, it is difficult to perceive that AirCal would attract one-tenth of the passengers it anticipates. It proposes only a nine-month service. That would not permit AirCal to obtain an identity for the route sufficient to attract many passengers. Very few business or casual travelers between SAN and SFO would be attracted to its proposed round-trip flight in that the fare would be higher, there would be only one round trip available and that during the midday as compared to many flights throughout the day offered by PSA and Western, and the enroute time would be one hour and 50 minutes as compared to one hour and ten minutes. About the only travelers that would reasonably be attracted to the proposed service would include those desiring to travel at group fares on weekends (PSA group fares are not applicable Friday through Sunday), or the traveler desiring a layover at Palm Springs. How many of those types of passengers there would be has not been estimated, but it would appear that the total would be closer to 2,400 than to 24,000. AirCal could not achieve the traffic level for one round trip per day between SAN and SFO via PSP that it estimates unless it establishes an identification in that market by offering at least three round trips daily throughout the year. PSA's contention that this application represents only a foot in the door to the SAN-SFO market to be followed by future applications for additional routings between SAN and SFO has support in that regard.

Be that as it may, we are considering only the proposal before us now. While AirCal's operation over the proposed route may not be economical in and of itself, there may be other circumstances wherein the operation over that route may contribute to improvement of its earnings. Some of these circumstances include: (1) AirCal's peak utilization of aircraft is during the summer months so that the nine-month operation will provide more utilization of existing aircraft in revenue producing service, (2) it will permit daily nonstop service between PSP and SFO in place of one-stop service via SNA thereby enabling AirCal to attract more PSP-SFO passengers,

(3) it will permit AirCal to operate an additional flight out of SNA to SFO, SJC/OAK, or SMF which provide substantially higher revenue yields than the flight between PSP and SNA, and (4) it will provide for better positioning of aircraft in that AirCal operates out of SAN to SJC/OAK via a number of routes.

There is no evidence from which we can measure the dollars involved in those circumstances nor can we determine that they would offset any direct losses that would result from AirCal operating the proposed SAN-PSP-SFO route. A reasonable argument could be presented that if management of AirCal believes the direct losses of operating the route would be more than offset by the gains resulting from those other circumstances, and inasmuch as the proposed operation will have little or no effect upon PSA and Western, why not award it a certificate for the proposed operation with the admonition that any attempt by AirCal to utilize the SAN-PSP-SFO route to boot-strap additional SAN-SFO routes will not be well received. It is here that we have to consider SunAire's operation.

SunAire operates 34 flights between SAN and PSP. Over the years it has continually operated at a loss. For the twelve months ended June 30, 1975 it sustained an operating loss of $165,264. Tax benefits accruing to SunAire's parent, DiGiorgio Corporation, have mitigated those losses. SunAire's participation in the SAN-PSP market really began when it obtained authority in 1972 to provide nonstop service between the points. SunAire's inability to capture the traffic previously transported by Western and Airwest was due to a number of factors, including the fact that it flew small, unpressurized aircraft and that it did not promote its service. A change in elevation of 11,000 feet provides substantial changes in air pressure and temperature, and when the change is made in a short period of time it can provide considerable discomfort to the passenger. In October 1974 SunAire obtained joint use with Imperial Airlines of a modern 19-passenger aircraft that is pressurized and airconditioned. In June

1975 it acquired sole operational use of that aircraft. Late in 1975 it budgeted $30,000 for advertising. It advertises on four radio stations in Palm Springs and one in San Diego as well as several Palm Springs magazines. At the time of hearing the sole operational use of the new aircraft and the promotional campaign were too recent to measure the extent of their success in attracting passengers, but we note that SunAire had 252 more SAN-PSP passengers in November 1975 than it did in November 1974, an increase of almost 40 percent. Whether that increase was due to those two circumstances or to some other wholly unrelated circumstances has not been shown; however, the comparison is indicative that SunAire is improving its condition whatever the actual causes may be. The record shows that under present conditions SunAire will be able to continue to provide 84 schedules per week between SAN and PSP with its 19-passenger pressurized and airconditioned aircraft.

We now look to the probable results to SunAire's service if AirCal provides its proposed service. The offering of jet aircraft service, as well as the difference in fares would be sufficient to attract passengers whose convenient departure time would be within two hours either side of AirCal's departures. At best SunAire could only hope to attract the business-oriented passenger who considers his time worth more than the difference in fare and the passenger whose needs or convenience calls for morning or evening departures. It would possibly retain interstate traffic ticketed by travel agents for through movement by CAB carriers. Whether the total amount of traffic would amount to 5,000 passengers is conjectural. AirCal contends that its entry will stimulate traffic between SAN and PSP. In theory we agree. Whenever an additional flight or flights are provided in a market the total traffic increases and very often, because the additional flights offer a spread of departure times permitting greater opportunity for the traveler to be assured of a convenient arrival and return, the benefit of the stimulus is shared by the competitors in that market. However, we do not anticipate that SunAire would participate in the stimulation because of the large differential in the fares and also because AirCal's proposed schedules in either direction would be of little use to the traveler desiring to depart and return the same day by using AirCal's service in one direction and SunAire's service in the other. We are of the opinion that the entry of AirCal into the market would substantially inhibit any growth by SunAire therein, and possibly reduce its present participation in passenger traffic between SAN and PSP.

SunAire's president testified that its parent is willing to continue to support the airline operation provided there is the possibility that it will someday be profitable, and so long as it does not impair the earnings of the parent's stockholders. The entry of AirCal would effectively block any hope of SunAire's operation between SAN and PSP being profitable.

Standing alone, the proposition that SunAire would retire from providing air service between SAN and PSP, and between those points and Borrego Springs as well, would not deter us from awarding a certificate to AirCal to conduct its proposed service where it has been shown, as the case here, that its proposed one daily round trip will increase the passenger traffic and will accommodate two-thirds of the total passenger traffic between those points. A certificate of public convenience and necessity does not award a monopoly in perpetuity to the holder nor does it insure that the airline's operations under that certificate will be profitable. Third level carriers can expect major airline competition in any market that they serve when that market becomes sufficient to support major airline service either in and of itself or as a part of an economically feasible route.

What we are confronted with here is that the SAN-PSP market is not sufficient to support major airline service in and of itself, and the operation of the route SAN-PSP-SFO by AirCal is not an economically feasible one in and of itself. The only significant overall gain AirCal could anticipate from the operation of this route would result from the elimination of a takeoff at SNA in serving PSP which would enable it to add an additional round trip between SNA and SFO or SJC/OAK which, in turn, would provide it with significant additional revenues because of the high yield and high load factors on its operations between those points. Whether those anticipated added net earnings would be sufficient to offset the losses from operation of the proposed SAN-PSP-SFO route has not been shown. We also take note that the lease between AirCal and Orange County which contains the limitation now preventing AirCal from increasing flights on its SNA-SFO route was scheduled to expire April 2, 1977, although it was anticipated that it would be extended until an environmental impact study and report regarding air carrier operations at SNA was completed. If a new agreement between AirCal and Orange County eliminates or ameliorates the takeoff restrictions at SNA any possible gain to AirCal of operating the proposed SAN-PSP-SFO route will be eliminated. The losses to AirCal resulting from the operation of the SAN-PSP-SFO route might then prove to be intolerable to the stockholders; particularly so if the operation of that route did not prove to be a foothold on obtaining certificated authority for other routes between SAN and SFO.

Section 2769.5 of the Public Utilities Code provides that a passenger air carrier may discontinue operations between terminals on 60 days' notice when it can be shown that such operation is unprofitable. There is not any doubt that at any time in the foreseeable future AirCal could demonstrate unprofitable operations on the proposed route. Under such circumstances the continuance and maintenance of service by AirCal between SAN and PSP is not reasonably assured. To that extent the continued operation by SunAire is important to the maintenance of the intrastate passenger air network to the benefit of the people of this State, its communities, and the State itself.

Additional Findings

20. Potential intrastate passenger traffic between SAN and PSP will not support turnaround service with large jet aircraft. Economical operations with large jet aircraft between SAN and PSP can only be maintained by the inclusion of that segment on an economically viable route.

21. The proposed operation by AirCal over its proposed route SAN-PSP-SFO would not be economically viable.

22. Need for additional intrastate passenger air carrier service between SAN and SFO by AirCal has not been shown.

23. The operation by AirCal of its proposed service between SAN and PSP would seriously endanger the ability of SunAire to continue to maintain its passenger air service between those points.

24. It is reasonably certain that the operation by AirCal of passenger air carrier service over its proposed route SAN-PSP-SFO would not have a significant effect upon the environment.

25. Public convenience and necessity do not require the operation by AirCal as a passenger air carrier between SAN and PSP or between SAN and SFO as proposed in this application.

We conclude that the application should be denied.

A.54954 Alt.-JET-dz

O R D E R

IT IS ORDERED that Application No. 54954 of Air California is denied.

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

Dated at San Francisco, California, this 7th day of JUNE, 1977.

Robert Batinovich
President

I abstain
William Symons Jr.
Commissioner

Vernon L. Sturgeon
Richard D. Gravelle
Commissioners