

ORIGINAL

Decision No. 87857 SEP 13 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
GOLDEN WEST AIRLINES, INC. for a)	
Certificate of Public Convenience)	
and Necessity to provide Commuter)	Application No. 56835
Air Carrier Service to/from and)	(Petition for Modification
between the Palomar and San Diego)	filed July 6, 1977)
Airports and to/from Santa Barbara/)	
Oxnard and Santa Ana/Orange County)	
Airports.)	

O P I N I O N

Golden West Airlines, Inc. (GWA) is a passenger air carrier between numerous points in Southern California. By this application, it seeks a certificate of public convenience and necessity authorizing scheduled passenger air carrier service between Santa Barbara and Oxnard, on the one hand, and San Diego, Palomar, and Santa Ana, on the other hand, and between Santa Ana, on the one hand, and Palomar and San Diego, on the other hand.

On May 24, 1977, by Decision No. 87380, the Commission granted GWA a temporary certificate to serve those named cities and to conduct operations over any and all of its proposed routes provided that it performs the service set forth in its initial schedules as a minimum; and with the further provision that on or before July 1, 1978, GWA, by the filing of a minimum schedule, set forth the routes it proposes to operate and the minimum service it will perform after which the Commission would consider the issuance of a permanent certificate.

On July 6, 1977, GWA filed a Petition for Ex Parte Review and Modification of Decision No. 87380 requesting the Commission to delete the minimum service requirements set forth in that decision and to make the certificate a permanent one. By letter received July 7, 1977, GWA has requested an extension of time in which to accept the temporary certificate granted in Decision No. 87380 until such time as the Commission has acted upon the petition.

In its petition, GWA states that it cannot accept the certificate restrictions for the following reasons: 1) It is a small carrier whose operating economics and schedule connection requirements with other air carriers demand unhindered scheduling flexibility and 2) there is no precedent for regulating departure and arrival times of commuter air carriers.

GWA asserts that at San Diego, its terminal and passenger handling functions will be handled by Western Airlines. Since GWA has no separate facility, its flight schedules will have to conform to the availability of Western's gate space and will be subject to change in accordance with changes in Western's schedules. GWA states that flexibility is necessary to meet interlining requirements of passengers, baggage and air freight to and from other air carriers at San Diego, since interlining is the basis of all its successful routes and will be required at San Diego to make the routes applied for successful.

GWA points out that it has demonstrated its ability to perform successful passenger air carrier operations over its many routes for a period of several years and should be granted permanent rather than temporary authority in this instance.

The Commission on reconsideration finds GWA's arguments reasonable: That the imposition of restrictions on departure and arrival times will place an undue burden on the carrier; that the carrier has a proven record of success in the field of

passenger air carrier operations and should be awarded permanent authority in this application.

We will grant GWA's request by rescinding the ordering paragraphs of Decision No. 87380, including the temporary certificate granted, and awarding permanent authority by amending its permanent certificate without reference to departure and arrival times.

Application No. 57197 concerned a proposed financial reorganization of GWA. One of the features of that reorganization was the creation of a new California corporation intended to receive all of GWA's assets, including its certificate, and to operate under the name of Golden West Airlines. In Decision No. 87408 issued on June 1, 1977 in that application, the Commission canceled the permanent certificate held by GWA and reissued it to the new corporation, Nuevo Oriente Dorado, Inc.

In a tariff transmittal letter dated June 17, 1977, the company informed the Commission that its legal name had been changed from Nuevo Oriente Dorado, Inc., d.b.a. Golden West Airlines, Inc. to Golden West Airlines. The tariff now on file shows the new corporate name.

We will revoke the existing certificate of public convenience and necessity under the name Nuevo Oriente Dorado, Inc., d.b.a. Golden West Airlines, Inc., and reissue a new certificate to Golden West Airlines, incorporating therein the new authority to be awarded herein on a permanent basis.

Golden West Airlines 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 Golden West Airlines, authorizing it to operate as a passenger air carrier as defined in Section 2741 of the Public Utilities Code between the points and over the routes set forth in Appendix A of this decision.
2. The ordering paragraphs of Decision No. 87380, including the temporary certificate of public convenience and necessity granted therein, in Application No. 56835 are rescinded.
3. The certificate of public convenience and necessity granted by Decision No. 87408, in Application No. 57197, to Nuevo Oriente Dorado, Inc., d.b.a. Golden West Airlines, Inc., is revoked effective concurrently with the effective date of the tariff filings required by Paragraph 4.
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) Tariff filings for the authorized service shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public and the effective date of the tariff filings shall be within thirty days of the effective date of this order.

(c) 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 and shall not violate the long- and short-haul requirements of Section 461.5 of the Public Utilities Code.

5. Within ten days after the effective date of this order, Golden West Airlines shall file with the Commission evidence as specified in General Order No. 120-C that it has in effect liability insurance that complies with the general order in connection with operations as a passenger air carrier.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this SEPTEMBER 13th day of SEPTEMBER, 1977.

I dissent:
Robert J. Gault

I dissent:
Clair J. Smith

Robert B. ...

President
William ...

James L. Sturgeon

Commissioners

Golden West Airlines, 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. Los Angeles - Riverside

Intermediate Points: Fullerton, Ontario,
and Colton/San Bernardino

LAX - ONT	LAX - SBT
ONT - RAL	ONT - SBT
LAX - ONT (Via FUL)	RPL - SBT
LAX - RAL	

Route 2. Los Angeles - Santa Ana

Intermediate Point: Fullerton

LAX - SNA
LAX - FUL
FUL - SNA

Route 3. Los Angeles - Santa Barbara

Intermediate Point: Oxnard

LAX - OXR
OXR - SBA
LAX - SBA

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Route 4. Los Angeles - Catalina IslandIntermediate Point: Long Beach

LAX - LGB
 LGB - SXC
 *LAX - SXC (via LGB)
 LAX - SXC (seasonal, June 1 through
 September 15)
 LGB - AVX
 LGB - TWH

Route 5. Orange County/Santa Ana - Catalina Island

SNA - SXC (seasonal, June 1 through
 September 15 each year)

Route 6. Los Angeles - InyokernIntermediate Points: Palmdale, Mojave, Trona

LAX - INY	PMD - MHV (Closed Door Only)
LAX - MHV (f)	
INY - MHV (f)	LAX - TRO (f)
LAX - PMD	INY - TRO (f)
PMD - INY	PMD - TRO (f)
	MHV - TRO (f)

Route 7. Santa Barbara - San DiegoIntermediate Points: Oxnard, Orange County,
Carlsbad

SBA - SAN	SNA - CRQ
OXR - SNA	CRQ - SAN
OXR - SAN	

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 through an airport that is common to the two routes.
3. Airport pairs marked with "*" shall be served only via intermediate point or points shown.

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Conditions: (continued)

4. On each route each airport shall be served with a minimum of one flight in each direction on each of the five days a week except LAX-PMD which will be served with a minimum of two flights in each direction on each of the five days a week.
5. Points designated (f) receive flag stop service only.
6. Carrier shall not overfly an airport designated as a flag stop (f) if a passenger is in possession of a purchased ticket and confirmed reservation one hour or longer before the scheduled departure time from that airport on the flight on which the passenger holds a confirmed reservation.
7. No aircraft having more than 30 revenue passenger seats or a payload of more than 7,500 pounds shall be operated.
8. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
SBA	Santa Barbara	Santa Barbara Municipal Airport
OXR	Oxnard	Oxnard/Ventura Airport
LAX	Los Angeles	Los Angeles International Airport
ONT	Ontario	Ontario International
RAL	Riverside	Riverside Municipal Airport
LGB	Long Beach	Long Beach International Airport
FUL	Fullerton	Fullerton Municipal Airport
SNA	Santa Ana	Orange County Airport
SXC	Catalina Island	Airport-In-The-Sky, Hilltop
TWH	Catalina Island	Two Harbors (Seaplane Operations)
AVX	Catalina Island	Avalon Bay (Seaplane Operations)
SBT	Colton/San Bernardino	(Airport to be determined)
MEV	Mojave	Mojave Airport
INY	Inyokern	Kern County Airport No. 8
PMD	Palmdale	U.S. Air Force Plant No. 42
TRO	Trona	Trona Airport
CRQ	Carlsbad	Palomar Airport
SAN	San Diego	San Diego International Airport

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COMMISSIONER RICHARD D. GRAVELLE, DISSENTING.

COMMISSIONER CLAIRE T. DEDRICK, DISSENTING.

We dissent.

This decision, by refusing to consider the request of the applicant in light of the applicant's own showing, and the needs of the public as reflected in that showing, constitutes an abdication of the Commission's responsibility to "take into consideration, among other things . . . proposed routes and minimum schedules to be established, whether the carrier could economically give adequate service to the communities involved, the need for the service" (P.U. Code §2753). The foregoing are all certification requirements imposed on us by the Passenger Air Carriers Act. In awarding route authority we do not meet our statutory duties by requiring "a minimum of one flight in each direction on each of five days a week." Such a grant is not regulation, it is a blank check.

The authority we grant should comport with the showing made by the applicant when it seeks permission to operate. That is not to say we should specify a precise schedule. However, within the framework of the ability to meet the public's needs and provide sufficient revenue to make the service economical, we should do our job. When the applicant tells us two peak hour flights in each direction between each pair of points sought will provide it with adequate operating income then that is what we should authorize.

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Our passenger airline regulation has been lax, devoid of policy, and half-hearted in the past. Today's decision is a continuation of that action. It will inevitably lead to Federal preemption, higher fares and a further deterioration of service.

San Francisco, California
September 13, 1977


Richard D. Gravelle, Commissioner


Claire T. Dedrick, Commissioner