

Decision No. 3S133 NOV 22 1977

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PACIFIC SOUTHWEST AIRLINES for a Certificate of Public Convenience and Necessity in either direction between San Francisco/Stockton/Fresno, and Los Angeles with through and connecting service to San Diego and Sacramento and to overfly Stockton or Fresno.

Application No. 52291
(Filed November 10, 1970;
amended March 15, 1971)

In the Matter of the Application of AIR CALIFORNIA for Removal of Restriction and Correction of Certificate of Public Convenience and Necessity and for In Lieu Certificate.

Application No. 53441
(Filed July 7, 1972)

Brownell Merrell, Jr., Attorney at Law, for Pacific Southwest Airlines; and Graham & James, by Boris H. Lakusta and David J. Marchant, Attorneys at Law, and Frederick R. Davis, for Air California; petitioners and applicants. Michael N. Garrigan, Attorney at Law, for the County of San Joaquin; Perry H. Taft, Attorney at Law, for City of Stockton, County of San Joaquin, and Greater Stockton Chamber of Commerce; John E. Nolan, Attorney at Law, for Port of Oakland; and Wilmer J. Garrett, for City of Fresno; interested parties. Ira R. Alderson, Jr., Attorney at Law, for the Commission staff.

OPINION AFTER REHEARING

These proceedings concern the minimum flight requirements attached to the passenger air carrier certificates held by Pacific

Southwest Airlines (PSA) and Air California (AirCal). In awarding certificates to air carriers, it has been the Commission's practice to include a condition that a minimum number of round-trip flights be operated daily over the route granted. PSA and AirCal contend that minimum flight requirements are unnecessary and are detrimental to the health and efficiency of the airlines. The interested parties and the Commission staff contend that minimum flight requirements are necessary to protect the public.

On October 12, 1973, pursuant to the Economic Stabilization Act of 1970, the Federal Energy Office adopted a mandatory fuel allocation program under which quotas were fixed for the procurement of fuel by airlines. The quantities fixed for PSA and for AirCal did not permit them to maintain all of the flights that they had scheduled at that time. On October 30, 1973 PSA filed a petition in its Application No. 52291 requesting that its certificates be amended so that the minimum flight provisions be temporarily suspended on an emergency basis during the effective period of the mandatory fuel allocation programs. AirCal filed a similar petition in its Application No. 53441.

Because of the crisis at that time regarding the availability of fuel for jet aircraft, the Commission by interim order temporarily suspended, on an emergency basis, the minimum flight requirements pending public hearing. After hearing, the Commission entered its Decision No. 82382 dated January 22, 1974, under which the carriers were ordered to file schedules and:

"Schedule changes shall be issued and filed on not less than ten days' notice to the Commission and to the public and shall become effective unless rejected or suspended by the Commission."

The order also revised the daily minimum flight requirements to lesser weekly minimum flight requirements.

Petitions for rehearing were filed by PSA and AirCal attacking the provisions of the order requiring the filing and approval of schedule changes. By Decision No. 82755 dated April 23, 1975, limited rehearing was granted. The rehearing was held before Examiner Thompson on February 9 and 10, 1976, and before Commissioner Batinovich on April 21, 1976. Briefs were received July 15, 1976.

The mandatory allocations of fuel to airlines were lifted prior to rehearing and the issues that were presented in the original petitions were moot. Petitioners, however, desired to utilize this proceeding to present their views regarding aspects of regulation which they deem prevent them full flexibility in scheduling flights to meet demand. We were interested in receiving presentations on this matter particularly because the matter of minimum flight requirements was at issue in connection with proceedings in PSA's Application No. 55845 then pending, and also because of representations made in passenger fare applications to the effect that minimum flight requirements have an adverse effect upon carrier operating efficiency.

At the rehearing, staff stated that it would not advocate the reissue of the regulation provided in Decision No. 82382 requiring the carriers to file schedules. It contends that although the Commission has jurisdiction and power to issue such requirement, it is not necessary to exercise that power at this time. It urges the restoration of a minimum daily flight requirement modified to reflect the peaks and troughs of traffic demands that regularly occur near weekends and holidays. The carriers advocate elimination of any minimum flight requirement and urge that if any are deemed necessary by the Commission that it prescribe only minimum weekly flight requirements for routes other than those where the carrier encounters competition and other than segments representing entry

mileage for longer routes. Several points of view were expressed by the interested parties, most of whom advocated rules and requirements somewhat more stringent than suggested by the staff. The issues presented are: (1) should minimum flight requirements be included in certificates, and (2) if they should be included, in what form should they be prescribed?

We have considered the evidence, the arguments, and the provisions of the Passenger Air Carriers Act. A study of that Act discloses that the Legislature was specific regarding how California intrastate airlines should be regulated in order that an "orderly, efficient, economical, and healthy intrastate passenger air network may be established to the benefit of the people of this State, its communities, and the State itself." (Section 2739.)^{1/} It is readily apparent that it was intended that California intrastate airlines not be regulated in the same manner as other common carriers subject to the Public Utilities Act (Division 1, Part 1 of the Public Utilities Code) or in a manner similar to federal regulation under the Civil Aeronautics Act.

The Passenger Air Carriers Act does not permit the Commission to require or compel an air carrier to expand or extend its services beyond that which the carrier itself holds itself out to perform (Section 2768). At the same time, however, the statute contemplates that passenger air carriers be required to perform the service under the certificate granted unless such service proves to be unprofitable (Sections 2766 and 2769.5).

^{1/} Unless specifically stated otherwise, sections cited refer to sections of the Public Utilities Code.

An examination of the statutes makes it abundantly clear that a certificate is not merely a license to a carrier to operate between points in any manner it may desire. A certificate is to describe the operation the carrier is authorized to perform.

"No passenger air carrier shall engage in any operation in this State without first having obtained from the Commission a certificate of public convenience and necessity authorizing such operation." (Section 2752, emphasis added.) "In awarding certificates of public convenience and necessity pursuant to Section 2752, the Commission shall take into consideration, among other things, the business experience of the particular passenger air carrier in the field of air operations, the financial stability of the carrier, the insurance coverage of the carrier, the type of aircraft which the carrier would employ, 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, and any other factors which may affect the public interest." (Section 2753, emphasis added.) The determination of whether a proposed passenger air carrier operation is required by public convenience and necessity involves the weighing of the criteria set forth in Section 2753 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 Unreported) D.83962 in A.53266, at page 8.)

The minimum schedules that a carrier holds itself out to perform are an important consideration of whether a proposed service meets a public need, and also in the evaluation of whether it would be economically viable and be adequate for the communities involved. The minimum schedules an applicant proposes are sometimes decisive of whether a certificate should be granted. It would appear to be

awkward regulation for the Commission to grant a certificate based upon the applicant's avowal of the type of service it intends to hold itself out to perform, and on the required findings regarding the factors specified in Section 2753 with respect to that proposal, and later permit that carrier the liberty of unilaterally deciding to provide a lesser service or a totally different service from that found to be required by public convenience and necessity. Had the lesser or different service been proposed by the carrier in its application, the certificate might not have been awarded in the first place. The minimum schedules that a carrier holds out to the public to perform should be incorporated into the certificates.

The next question is the form in which minimum flight requirements should be prescribed. Staff urges the restoration of minimum daily round-trip flights. AirCal and PSA contend that any such minimum requirements are unnecessary; but if the Commission believes that they are, they recommend weekly minimums. Stockton urges that the Commission require the minimum two round trips over the route SFO-SCK-FAT-LAX that it found to be required by public convenience and necessity in its Decision No. 79985 (App. of P.S.A. (1972) 73 CPUC 346). Fresno recommends that PSA be required to provide a minimum of 20 weekly round trips between SFO and FAT in winter and 26 weekly round trip flights during the summer (June-August); and that the same minimum be required between FAT and LAX.

The entire record in Application No. 52291 (PSA) and the record in Application No. 55845 (PSA)^{2/} provides a good background for the evaluation of the manner in which minimum flight requirements should be incorporated into certificates. At proceedings in

^{2/} The record in Application No. 55845 was ordered incorporated into the record in this proceeding. (Notice of Hearing dated December 5, 1975.)

Application No. 52291 PSA proposed to operate two daily round-trip flights from SFO to FAT to LAX, and also to operate two daily round-trip flights from SFO to SCK to FAT to LAX. (Finding 2, 73 CPUC 346, 356, and page 2 of Examiner Foley's Proposed Report.) In its consideration of the traffic that would be attracted to PSA's proposed service as a factor of need for the service, the proposed schedules were decisive. (Pages 30, 36, and 37 of the Proposed Report.) The schedules were the major factor in the evaluation of whether the proposed service could be operated economically. (Pages 31, 38, and 39 of the Proposed Report.) The Commission found that public convenience and necessity required the operation proposed by PSA and granted a certificate authorizing operation over two routes: (22) between SFO and LAX via FAT with the right to conduct direct and/or connecting service to San Diego from LAX and to Sacramento via SFO; and (23) between SFO and LAX via SCK and FAT with the right to conduct direct and/or connecting service to San Diego from LAX, and to Sacramento from SFO. The authorities were conditioned: a minimum of two daily round-trip flights shall be provided on each of the above routes between SFO and LAX. (First Revised page 2 and First Revised page 5 of Appendix A appended to Decision No. 79985.)

PSA inaugurated service pursuant to that certificate on July 10, 1973 with schedules providing two daily round trips on Route 22 and two daily round trips on Route 23. The mandatory fuel allocation program was announced by the Federal Energy Office on October 12, 1973. On October 16, 1973 PSA changed its schedules to provide 1.5 daily round trips on Route 22 and 2.5 daily round trips on Route 23. PSA filed the instant petition on October 30, 1973 and the Commission temporarily suspended the minimum flight requirements on November 7, 1973 by Decision No. 82103. PSA continued its October 16, 1973 schedules in effect on Routes 22 and 23 until

A.52291, 53441 km

November 22, 1973 when operations were suspended because of a strike. Service was resumed on January 25, 1974 with two daily round trips on Route 23; no service was scheduled for Route 22. On June 17, 1974 PSA added a third daily round trip on Route 23, but since November 23, 1973 it has not provided any scheduled nonstop service between SFO and FAT as required by Route 22. (Exhibit RH-3.)

On July 1, 1975 PSA filed Application No. 55845 seeking modification of its certificated authorities on Routes 22 and 23 to eliminate the restrictions of the minimum of two daily round-trip flights on each route, and to permit it to provide turnaround service at the intermediate points of SCK and FAT on its routings between SFO and LAX via those points. Stockton and Fresno protested the elimination of minimum flight requirements but supported the proposal for turnaround authority to the extent that it would enable additional flight service to SCK and FAT. By Decision No. 85867 the Commission, in essence, revoked PSA's authority to Route 22 (SFO-FAT-LAX) and modified Route 23 (SFO-SCK-FAT-LAX) to permit flights between either SFO or LAX and SCK and/or FAT provided that a minimum of fourteen scheduled round trips per week be provided between SFO and LAX serving SCK and FAT as intermediate points. The modified Route 23 was redesignated Route 22. (Third Revised page 2 and Fifth Revised page 5 of Appendix A, appended to Decision No. 85867.)

What PSA's proposal and what it stated that it held itself out to perform was: a basic daily summer schedule of a morning and an evening flight in each direction over the entire routing LAX-FAT-SCK-SFO and two midday flights in each direction via the routing LAX-FAT-SCK; a basic daily winter schedule providing the same morning and evening flights over the entire route but with only one midday round trip between LAX and SCK via FAT; the basic schedules may be modified to provide more frequent service on days of peak traffic (e.g., Fridays or Sundays) and to reduce frequency of service on days

of lesser patronage (e.g., Saturdays), and to provide additional turnaround flights to Fresno and/or Stockton to accommodate increases in patronage resulting from special events or from growth of traffic between any pairs of points on the route. That is the service PSA asserted it holds itself out to perform; it is the service that the Commission considered in making its determination of whether the operation is required by public convenience and necessity; it is the minimum service to which the public is entitled so long as PSA conducts operations pursuant to the certificate which was granted.

Neither the description of daily minimum flights nor of weekly minimum flights (in this instance, 14 round trips per week over the route LAX-FAT-SCK-SFO) correctly describes the minimum schedules PSA held itself out to perform and which were considered by the Commission in awarding the certificate. We take note particularly that the fact that PSA offered a morning and evening flight in each direction over the entire route was an important consideration in the determination by the Commission. (Finding 9 of Decision No. 85867.) Granted that the description set forth above which was taken from portions of Decision No. 85867 does not set forth what was meant by morning, midday, and evening service, there was little doubt in the minds of the parties present at the hearing of what was meant. PSA stated that it intended to continue the service it was providing except to eliminate SFO from the midday schedule. The timetable which was in effect at the time of hearing provided as follows:

<u>NORTHEBOUND</u>	<u>Lv LAX</u>	<u>Lv FAT</u>	<u>Lv SCK</u>	<u>Ar SFO</u>
Except Sat. & Sun.	7:00 a.m.	8:05 a.m.	8:50 a.m.	9:15 a.m.
Saturday	8:00 a.m.	9:05 a.m.	9:50 a.m.	10:15 a.m.
Sunday	9:00 a.m.	10:05 a.m.	10:50 a.m.	11:15 a.m.
Daily	12:30 p.m.	1:35 p.m.	2:20 p.m.	2:45 p.m.
Daily	5:00 p.m.	6:05 p.m.	6:50 p.m.	7:15 p.m.
<u>SOUTHBOUND</u>	<u>Lv SFO</u>	<u>Lv SCK</u>	<u>Lv FAT</u>	<u>Ar LAX</u>
Except Sat. & Sun.	7:05 a.m.	7:50 a.m.	8:35 a.m.	9:20 a.m.
Saturday	8:05 a.m.	8:50 a.m.	9:35 a.m.	10:20 a.m.
Sunday	9:05 a.m.	9:50 a.m.	10:35 a.m.	11:20 a.m.
Daily	12:35 p.m.	1:20 p.m.	2:05 p.m.	2:50 p.m.
Daily	5:05 p.m.	5:50 p.m.	6:35 p.m.	7:20 p.m.

The parties and the Commission could reasonably contemplate morning and evening service to represent schedules close to those times, certainly not morning departures at SFO or LAX at 11:30 a.m. nor evening departures at SFO or LAX at 7:00 p.m. The parties and the Commission could also reasonably infer that there is no intention by PSA to provide service on the LAX-FAT-SCK-SFO route only on Mondays through Thursdays with 14 round trips per week, and on Fridays through Sundays operate only over the route LAX-FAT-SCK with seven round trips during the week. Neither the weekly flight requirements specified in Decision No. 85867 nor the minimum daily flight requirements recommended by the staff reflect the service considered by the Commission in its finding that public convenience and necessity require the operation of PSA as a passenger air carrier on the route LAX-FAT-SCK-SFO. In reviewing a number of awards to PSA and AirCal of certificates, we find a number of similar situations. We consider now what should be done about it.

We are of the opinion that the time has come when the Commission should consider the exercise of its powers conferred under Section 2754.^{3/}

3/ Section 2754 (in part):

"Minimum schedules may be received and revised by the Commission at intervals of not less than one year."

The type of service PSA held itself out to perform at SCK and FAT with respect to transportation to and from SFO and LAX is for morning and evening flights in each direction; and with respect to transportation to and from LAX, two additional flights during the summer and one during the winter at times between the morning and evening flights (midday). It is PSA's practice to commence flight operations not earlier than 6:30 a.m. Morning and evening service for California operations connotes flights which will permit a businessman to fly to his destination, transact his business, and return the same day. That means arrivals at destination before 10:00 a.m. and a departure from that destination for a return flight not earlier than 4:30 p.m. on regular business days. With respect to nonbusiness days, service is flexible, depending on peak hours, holidays, and special events.

Section 2754 provides that if the Commission requires the filing of minimum schedules, they shall be received at intervals of not less than one year. That requires the carrier to assess each route at regular intervals and decide whether its minimum service should be expanded to meet additional needs. The Commission may not revoke a certificate on the grounds that a carrier is not meeting new requirements of public need. (Section 2755.) It may, however, authorize additional service by awarding a certificate to another carrier if the existing carrier in the field does not hold itself out by way of its minimum schedules to meet that need. Minimum schedules can be very valuable in the evaluation of a proposed service which may be competitive with another carrier. The Commission and the communities involved could look to the minimum schedules of the existing carrier at the time the new carrier's application is filed and weigh them against the proposed minimum schedules of the applicant to determine the effect of the proposed new service upon the development and maintenance of an orderly, efficient, economical, and healthy intrastate passenger air network.

The filing of minimum schedules will resolve any question in rate proceedings of the level of service that the carrier is required to provide. That matter was of particular concern to PSA. Minimum schedules which describe the service over a route which the carrier holds itself out to provide to meet the requirements of public convenience and necessity can be helpful in the solution of immediate problems resulting from the continually changing circumstances of the airline business. One such problem resulted in the instant proceeding: namely, the fuel crisis and limited availability of fuel. When the fuel crisis necessitated a reduction in service by the airlines, and PSA and AirCal filed petitions requesting emergency relief from the minimum flight requirements, the Commission was confronted with the question of whether the reductions proposed by the carriers on certain routes and not on others was consistent with the public interest. The emergency precluded the analysis that should have been given to the carriers' intentions of individual service curtailments. Had minimum schedules of the type described herein been in effect, we may have had time for additional consideration of the problem because the carriers could have acted immediately and without any required approval to reduce service to the level of the minimum schedules.

We are of the opinion that the problems voiced by PSA, AirCal, the staff, Fresno, and Stockton with respect to the matter of whether minimum flight requirements should be maintained in the certificates of these carriers can best be resolved through filings of minimum schedules by the carriers reflecting the service on each route that the carrier dedicates itself to perform and is required by public convenience and necessity. We believe it improvident to order the filing of such minimum schedules at this time. Preliminarily, the parties should have opportunity to assess the matter, particularly with respect to procedures that may be required.

The staff should meet and confer with officials of PSA and AirCal to arrive at procedures or programs which will satisfactorily achieve the objectives described in this opinion. We also believe the better approach to the exercise of the power conferred upon the Commission in Section 2754 would be to consider each passenger air carrier individually because each carrier has operating problems and conditions peculiar to it. The staff should initiate the implementation of the program described herein, first in connection with PSA and AirCal, and subsequently take similar action with other passenger air carriers on an individual basis.

We have described the actions which should be taken in the future. We now have to consider what should be done in this proceeding. As stated in the beginning, the issues originally presented are now moot with the passing of the fuel crisis. The principal issue presented in the order granting limited rehearing, namely, the requirements for the filing of actual schedules (not to be confused with minimum schedules we have discussed herein) is also moot. Because these issues are moot, a disposition of this proceeding which would rescind all orders made could be entered, resulting in the restoration of the conditions of the carriers' certificates as they were prior to the filing of their respective petitions. As we see it, the only thing that would accomplish would be to once again issue revised pages to the appendices describing the certificated authorities which have been awarded these carriers. We think it more desirable to maintain the status quo until the minimum schedules are received.

In summary, in an application for a certificate, the minimum schedules describe that service which the applicant holds itself out to perform, and which the Commission finds is an adequate service to the communities involved and is required to meet the needs of the public. The minimum schedules are an important consideration,

and in some instances almost decisive in the determination by the Commission of whether the proposed operation is required by public convenience and necessity. The minimum schedules describe that service which the public should be assured of receiving if the carrier is awarded a certificate authorizing a proposed operation. Accordingly, the minimum schedules to be established should be specified as terms and conditions attached to the exercise of the rights granted by the certificate.

Transportation circumstances are not static; over many routes the need for airline service today is not the same as it was five or ten years ago. It is desirable that passenger air carriers periodically reassess the transportation needs over the routes they serve and to forthrightly state the service that will be provided as a minimum over the route. If a carrier fails in its commitment or reduces its service below the minimum level it has held itself out to perform, the statute confers power upon the Commission to investigate, and the communities involved to make representations to the Commission, regarding any remedial action which may be taken, even to the extent of revoking the certificate involved.

By and large, these carriers ordinarily have provided a greater level of service over the routes they serve than had been promised in the proceedings in which the routes were awarded. There have been exceptions, and we refer particularly to PSA's Burbank-Sacramento nonstop route which was the subject of a number of proceedings in Application No. 51058, AirCal's San Diego-San Jose nonstop route, which situation is described in Decision No. 84769 dated August 12, 1975 in Application No. 54206, and PSA's SFO-FAT-LAX route, which situation has been described herein. We believe that those matters might have been resolved more quickly if the minimum service level considered in the awards of the certificates, and

what the carriers had later revised as being consistent with the minimum level of service then required by public convenience and necessity, had been delineated with more particularity.

We believe that the filing of minimum schedules by the carriers, and the receipt and revision thereof by the Commission, at intervals of not less than one year, provide the best means consistent with the provisions of the Passenger Air Carriers Act of delineating with particularity for each route authorized the minimum level of service by that carrier which will be economical and adequate to meet the needs of the communities involved; and that the filing, receipt, and revision of such minimum schedules is necessary in order that an orderly, efficient, economical, and healthy intrastate passenger air network may be established to the benefit of the people of this State, its communities, and the State itself.

Findings

1. The conditions of limited availability of fuel and the Federal Energy Office's mandatory fuel allocation program which existed in October 1973, which required PSA and AirCal to reduce schedules over their respective certificated routes, is no longer extant.

2. PSA and AirCal revise and publish timetables of flight schedules quarterly each year. With a few exceptions, those timetables provide for schedules between points on certificated routes in excess of the minimum schedules proposed by the carrier and considered by the Commission in its determination of the requirements of public convenience and necessity at the time that the carrier was awarded a certificate authorizing operations over the route involved. PSA and AirCal also supplement the schedules shown on the quarterly timetables during holidays and time of special events.

3. In addition to the printing of quarterly timetables of flight schedules for distribution to the public at ticket counters and by mailing, PSA and AirCal submit their quarterly timetables for publication in the Official Airline Guide, a private publication utilized by travel agents and the airline industry generally.

4. The publishers of the Official Airline Guide provide for a due date before which the airlines must submit their timetables for inclusion in the next publication. It is a practice and custom in the airline industry to reflect changes in forecasts of traffic and operations in schedule revisions up to the due date for submission of timetables to the Official Airline Guide.

5. It is also the practice and custom in the airline industry for carriers to keep information regarding future changes in timetables confidential until the aforesaid due date in order to prevent competing airlines from utilizing that information to their own advantages in the preparation of their own schedules on competitive routes.

6. The quarterly timetables provide for schedules which take into consideration, among other things, seasonal changes in traffic peaks and in demands and aircraft itineraries which will permit economical and efficient flight operations for accommodating the fluctuating demands of traffic. They do not portray, nor attempt to portray, the minimum schedules the carrier holds itself out to the public to perform nor the minimum schedules considered and found by the Commission to be required by public convenience and necessity.

7. The weekly minimum flight requirements now incorporated into the certificates of PSA and AirCal in many instances and in a number of respects, do not reflect the minimum schedules considered by the Commission in its determination of the requirements of public convenience and necessity on the route involved.

8. Neither the daily minimum flight requirements specified in the certificates of these carriers on October 1, 1973, nor the daily minimum flight requirements suggested and recommended by the Commission staff in this proceeding, reflect the minimum schedules the carrier held itself out to perform, or those considered by the Commission in its determination of the requirements of public convenience and necessity in the award of the certificates authorizing operations over every one of the routes of each carrier.

9. Changes in circumstances and conditions are the rule rather than the exception with respect to the criteria determining the minimum level of passenger air service that can be economically provided and which will be adequate to meet the needs of the communities involved.

10. The filing of the proposed minimum schedules by passenger air carriers, and the receipt and revision thereof by the Commission, at intervals not exceeding one year, provide the best means of delineating the minimum level of service the carrier should be required to perform as a condition to the exercise of the authority awarded in a certificate of public convenience and necessity; and the filing, receipt, and revision of such minimum schedules is necessary in order that an orderly, efficient, economical, and healthy intrastate passenger air network may be established to the benefit of the people of this State, its communities, and the State itself.

11. This record does not contain information and data from which reasonable rules and procedures can be determined for the implementation of the filing of proposed minimum schedules by carriers and the receipt and revision thereof by the Commission.

Conclusions

1. The staff should forthwith meet and confer with officials of PSA and AirCal in the development of a proposal to the Commission

of reasonable rules and procedures for the exercise by the Commission of its power under Section 2754 to receive and revise minimum schedules at intervals not exceeding one year, and for prescribing such minimum schedules as terms and conditions required by public convenience and necessity for the exercise of the rights granted by certificates awarded to passenger air carriers.

2. Within a reasonable period after the adoption of such rules and procedures, and as may be specified therein, PSA and AirCal, and each of them, should be required to file minimum schedules for each route awarded in a certificate.

3. Until such time as the minimum schedules are filed by PSA and AirCal and are received, approved, or revised by the Commission, the timetables published and operated by PSA should provide for no fewer schedules than provided in the minimum flight requirements set forth in Appendix A of Decision No. 79085, as amended; and the timetables published and operated by AirCal should provide for no fewer schedules than provided in the minimum flight requirements set forth in Appendix A of Decision No. 80439, as amended.

4. In all other respects the petitions of PSA and AirCal should be denied, and the authorities and requirements ordered in Decisions Nos. 82382 and 82755 should be rescinded.

ORDER AFTER REHEARING

IT IS ORDERED that:

1. Within one year after the effective date of this order, the staff shall submit to the Commission a proposal for reasonable rules and procedures for the Commission to receive and revise minimum schedules of passenger air carriers at intervals of not less than one year as provided for in Section 2754 of the Public Utilities Code; and for prescribing such minimum schedules as terms and conditions required by public convenience and necessity for the exercise of the rights granted by a certificate awarded to a passenger air carrier.

A.52291, 53441 km

2. Until further order of the Commission, Pacific Southwest Airlines shall publish in its timetables and operate no fewer schedules on its routes than provided in the minimum flight requirements specified in Appendix A of Decision No. 79085, as amended.

3. Until further order of the Commission, Air California shall publish in its timetables and operate no fewer schedules on its routes than provided in the minimum flight requirements specified in Appendix A of Decision No. 80439, as amended.

4. In all other respects the petitions of Pacific Southwest Airlines and of Air California for relief from the minimum flight requirements are denied, and the authorities and requirements ordered in Decisions Nos. 82382 and 82755 are rescinded.

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

Dated at San Francisco, California, this 22nd day of NOVEMBER, 1977.

*I dissent, I would
abolish all minimums
for these 2 carriers
Robert Batmanglich*

*I will file a dissent
Clare J. DeLoach*

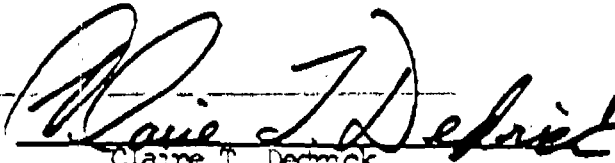
William J. French President
Viggo D. Stenstrom
Richard D. Hooley

Commissioners

A.52291, 53441
Decision No. 88133

COMMISSIONER CLAIRE T. DEDRICK, DISSENTING

Today's decision continues in existence the requirement that airlines within the Commission's jurisdiction maintain minimum flight schedules. The decision, however, fails to consider, in any manner, the regulatory importance or necessity of this requirement, nor does it consider the competitive relationships involved in exclusive routing which is the offshoot of minimum flight schedules. It is time that the Commission cease blindly following formal regulatory practices which run contrary to the stream of Commission policy of allowing competitive relationships to form the basis of this Commission's regulatory pursuits. Why require airlines to maintain minimum flight schedules? Why not allow competing airlines to vie for business along routes which are currently served on an exclusive or limited basis? These questions are in need of an answer.


Claire T. Dedrick
Commissioner

San Francisco, California

November 22, 1977