

ORIGINAL

Decision No. 88200 DEC 6 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of APOLLO AIRWAYS INC. for a Certificate of Public Convenience and Necessity to provide Commuter Air Service between Santa Barbara and Sacramento.

Application No. 57398
(Filed June 23, 1977)

Terrance E. Cedar and Quentin F. Cedar, for Apollo Airways Inc., applicant.
Stephen C. Larson, for Swift Aire Lines, Inc. protestant.
Thomas F. Grant, Attorney at Law, for the Commission staff.

O P I N I O N

Apollo Airways Inc. (Apollo) requests a certificate to operate as a passenger air carrier between Santa Barbara Municipal Airport and Sacramento Metropolitan Airport. The application was protested by Swift Aire Lines, Inc. (Swift), on the basis that Swift has an application pending on which no hearing has as yet been held which requests the same route. The application was heard before Administrative Law Judge Pilling at Santa Barbara on September 27, 1977.

The evidence shows that Apollo is presently operating as a passenger air carrier between the Santa Barbara Municipal Airport and the San Jose Municipal Airport pursuant to Commission Decision No. 84627 dated July 8, 1975. In the first twenty months of that operation it flew over 2,000 trips and carried 18,823 passengers.

Only nine of its trips were canceled due to weather or mechanical problems, giving Apollo a 99.6 percent completion factor. Apollo operates a Handly Page H.P.137 Jetstream, a 15- to 17-passenger aircraft, in its passenger air carrier operation, and expects to put a second Jetstream into operation by October 1, 1977 and a third Jetstream into operation by January 1, 1978. It has air service contracts with the United States Postal Service, the military, and the Forest Service and conducts a large on-demand charter service. It also is a fixed base operator and operates a flight school. It owns eight light twin-engine aircraft. For the first five months of 1977 it had a net income of \$51,198 on a gross income of \$1,059,000 from all its operations and on May 31, 1977 had a net worth of \$222,261. Apollo has a certificate of insurance on file with the Commission as required by General Order No. 120-C.

Apollo proposes to initiate direct nonstop service according to the following schedule:

<u>Santa Barbara - Sacramento</u>		<u>Sacramento - Santa Barbara</u>	
<u>Monday-Friday</u>		<u>Monday-Friday</u>	
<u>Lv</u>	<u>Ar</u>	<u>Lv</u>	<u>Ar</u>
6:50 a.m.	8:20 a.m.	8:35 a.m.	10:05 a.m.
4:00 p.m.	5:30 p.m.	5:45 p.m.	7:15 p.m.
<u>Saturday</u>		<u>Saturday</u>	
8:00 a.m.	9:30 a.m.	9:45 a.m.	11:15 a.m.
<u>Sunday</u>		<u>Sunday</u>	
4:00 p.m.	5:30 p.m.	5:45 p.m.	7:15 p.m.

The one-way fare will be \$44 including excise tax. Apollo maintains a toll free reservation wide area telephone service for customers' use throughout the State of California and staffs and maintains counterspace at the Santa Barbara Terminal which will accommodate the proposed service, ticketing, baggage, and freight handling. In talks with Sacramento airport officials Apollo learned that counterspace is

not presently available but will most probably be available November 1, 1977. Preliminary talks have been held with air carriers who have counterspace at Sacramento looking to one of those carriers representing Apollo in Sacramento. Jetstream aircraft will be used in the proposed operation.

Apollo estimates that the population of the market area of Santa Barbara, which includes a part of Ventura County, is approximately 510,000 persons and that of Sacramento is 906,000 persons. Surface transportation between Sacramento and Santa Barbara requires a full day of travel. Passenger air service between those points now requires a connection at either San Francisco, San Jose, or Los Angeles which is time-consuming and an overnight stay at Sacramento or Santa Barbara is not uncommon in order to accomplish a day's business under present transportation conditions. On the other hand, Apollo's proposed schedule will allow persons to conduct their business in either city without this overnight stay. Apollo believes the convenience of its proposed schedules will undoubtedly encourage business people and tourists to commute between the two communities. Projections are that Apollo will gross for the first year's operation \$394,000 carrying 10,462 passengers, equating to a 52 percent load factor, and in the second year will gross \$441,000 and carry 11,717 passengers, equating to a 58 percent load factor. Annual costs of operation will be in the neighborhood of \$435,375.

The county of Santa Barbara as well as the city of Santa Barbara supports the application as does State Senator Omer Rains and Assemblyman Gary Hart. Testimony and/or written statements in support of the application are of record in the matter from 11 travel agencies, 6 industrial concerns, 4 attorneys, and 19 persons employed in offices of local government agencies. These persons detailed a need for a passenger air carrier service such as will be offered by Apollo which will get them into Sacramento early enough in the

morning at the start of the business day and leave Sacramento in late afternoon after the close of the business day so that they will have used only one day to complete a business trip to Sacramento which presently requires at least an overnight trip to complete. Some persons who work primarily in Sacramento expressed a need for the proposed service because it would allow them to complete a full day's work in Sacramento, fly down to Santa Barbara for an evening meeting, and then fly back to Sacramento in time for the opening of business the next day.

Protestant Swift did not present any testimony but elicited from the witness for Apollo that Apollo did not consider that the Santa Barbara-Sacramento service proposed by Swift would be competitive with that to be offered by Apollo since Swift would be catering to a different type of passenger, would be offering only midday service, and did not propose nonstop flights.

After consideration the Commission finds that Apollo is experienced in conducting the type of air operations it proposed to conduct, that Apollo is a financially stable carrier, that Apollo has adequate insurance coverage, that the type of aircraft Apollo intends to use in the proposed operation is suitable for that operation, that the proposed routes and minimum schedules to be established will render adequate service between the involved points, that public convenience and necessity require the issuance of a certificate as requested by the application, and that Swift's proposed operation will not be competitive with Apollo's proposed operation. The Commission further finds that there is no possibility that the activity in question may have a significant effect on the environment.

Apollo 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 Apollo Airways Inc., a corporation, authorizing it to operate as a passenger air carrier, as defined in Section 2741 of the Public Utilities Code, between Santa Barbara and Sacramento. Appendix A of Decision No. 84627 is amended by incorporating First Revised Page 1, attached hereto, in revision of Original Page 1.

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.

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

Dated at San Francisco, California, this 6th day of DECEMBER, 1977.

I abstain
William Lyons, Jr.

Robert Bateman
President

Yveson L. Sturgeon
Charles D. Clark
Clair J. Lewis
Commissioners

Apollo Airways, Inc., by this certificate of public convenience and necessity, is authorized to operate as a passenger air carrier between the following airports only:

SJC - SBA
#SBA - SMF

Conditions:

1. No aircraft having more than 30 revenue passenger seats or a payload of more than 7,500 pounds shall be operated.

#2. Service between SJC and SBA and between SBA and SMF shall be provided with a minimum of one flight in each direction on each of five days a week.

3. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
SJC	San Jose	San Jose Municipal Airport
SBA	Santa Barbara	Santa Barbara Municipal Airport
#SMF	Sacramento	Sacramento Metropolitan Airport

Issued by California Public Utilities Commission.

#Revised by Decision No. 88200, Application No. 57398.