

Decision No. 88249 DEC 13 1977

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Marin Aviation,  
Inc., for a Certificate of Public  
Convenience and Necessity.

Application No. 54604  
(Filed January 29, 1974;  
amended May 29, 1974)

Application of Pacific Southwest  
Airlines for authority to provide  
passenger air service between San  
Francisco/San Jose/Oakland and  
Sacramento on the one hand and  
Lake Tahoe on the other hand,  
with connecting and direct service  
to Los Angeles, Hollywood-Burbank,  
Long Beach, San Diego and Ontario.

Application No. 54899  
(Filed May 17, 1974;  
amended May 30, 1974,  
February 13, 1975, and  
July 17, 1975)

Application of AIR CALIFORNIA for  
a Certificate of Public Convenience  
and Necessity to provide passenger  
air service between Lake Tahoe, on  
the one hand, and Sacramento, San  
Francisco, San Jose, Orange County,  
Ontario, Palm Springs and San  
Diego, on the other hand, with the  
points other than Lake Tahoe being  
either terminal or intermediate  
points.

Application No. 55009  
(Filed July 2, 1974)

In the Matter of the Application  
of AIR NEVADA for a Certificate  
of Public Convenience and  
Necessity to provide passenger air  
service between Los Angeles, San  
Diego, Long Beach, Burbank, San  
Francisco, Oakland and San Jose,  
on the one hand, and Truckee and  
South Lake Tahoe, on the other  
hand.

Application No. 55157  
(Filed September 10, 1974)

100-100000-100000

(List of appearances set out in Appendix C)

Additional Appearance

William J. Jennings, Attorney at Law, for the  
Commission staff.

O P I N I O N

These applications request passenger-air carrier authority to and from the Tahoe Valley Airport (TVL) and were subject to an Administrative Law Judge's Proposed Report (Appendix C) to which exceptions were filed by applicants, Pacific Southwest Airlines (PSA), Air California (Air Cal), and by the Commission staff. Subsequently, the Commission en banc heard oral argument on the following question:

Assuming PSA and Air Cal are granted rights into South Lake Tahoe, what should their route structure be, particularly in reference to flights into and out of San Francisco International Airport and Oakland International Airport?

The proposed report recommends denial of the application of Air Nevada, Application No. 55157, the deferral of action on the application of Marin Aviation, Inc. (Marin), Application No. 54604, and the grant in part of the applications of PSA, Application No. 54899, and Air Cal, Application No. 55009. The proposed partial grants, restricted to the operation of Lockheed L-188 Electra aircraft, were as follows:

Air Cal

Between TVL and  
San Jose  
San Francisco  
Sacramento  
Orange County \*

PSA

Between TVL and  
Oakland  
Los Angeles \*\*  
Hollywood/Burbank \*\*  
San Diego  
Sacramento

\* PSA did not apply to serve between this point and TVL.

\*\* Air Cal did not apply to serve between these points and TVL.

TVL is operationally feasible, that the majority of airline passengers prefer pure jet aircraft to turboprop aircraft such as the L-188 Electra, and that PSA's Lockheed L-188 aircraft are less economical to operate than the more modern 727 pure jet aircraft. PSA argues that San Francisco is PSA's most important northern California station, that it has established a prime maintenance facility at that point, and that it could provide interline service at San Francisco with other interstate carriers. PSA terms the recommended grants an arbitrary allocation of territories and the policy behind them regressive, protectionist, and unrealistic. PSA states that it is willing to compete for Tahoe traffic out of northern California and will profit from the service. It points out that the actual traffic has far exceeded the traffic projections originally anticipated and that once nonstop service is authorized between San Francisco and TVL, as contrasted to the one-stop service now authorized under temporary authority, San Francisco will be far and away the greatest traffic generator in the Bay Area.

#### Air Cal's Exceptions

Air Cal, while concurring with the general propositions set forth in the proposed report that none of the northern California markets produce enough passengers to justify direct competition between Air Cal and PSA in nonstop markets on a turnaround basis and that the splitting of the TVL markets should be determined by achieving a balance between both carriers in these markets, nevertheless objects to the proposed grant of service to PSA at Oakland on the ground that such a grant gives PSA a heavy competitive advantage over Air Cal and destroys the desired balance of traffic and would be unlikely to benefit the public. Air Cal contends that Air Cal and not PSA should be granted the Oakland authority. In support of its contention that the split of points in effect under temporary authority gives a reasonable

balance and the proposed split does not, Air Cal, using O&D data of the two carriers for the 12-month period ending August 31, 1976 when they were operating under temporary authority, presents the following computations:

Split Now in Effect Under Temporary Authority (Air Cal Submits That This Split Gives Reasonable Balance and Should be Continued)

Split Proposed in Adm. Law Judge's Proposed Report, Giving Oakland to PSA

	<u>PSA</u>	<u>Air Cal</u>	<u>PSA</u>	<u>Air Cal</u>
Passenger Revenues	56.5%	43.5%	64.5%	35.5%
Revenue				
Passenger Miles	63.7	36.3	69.4	30.6
Number of Passengers	47.4	52.6	58.2	41.8

The Commission Staff's Exceptions

The staff suggests that, based upon the recitation in the last paragraph on page 26 and continuing on page 27 of the proposed report, the following finding be made:

"The available traffic shown by the operations of Air California and PSA under their temporary authorities is not sufficient to support competitive operations by first-level carriers between any single city-pair."

The staff also states that while a finding was made that Marin's application be held in abeyance until Case No. 10287 is finally decided that the ordering paragraphs did not so specify and the staff suggests the additional ordering paragraph:

"The final determination of Application No. 54604 by Marin shall be held in abeyance until a decision in Case No. 10287 has been issued."

The staff points out that the market shares of intrastate air passenger traffic for the year 1974 for Air Cal and PSA are incorrectly stated on pages 9 and 10, respectively, of the proposed report and suggest that the correct percentages of 13 percent in place of 18 percent for

Air Cal and 59 percent in place of 81 percent for PSA should be inserted. The staff also points out that Findings 14 and 15 on page 30 of the proposed report are duplicative of Findings 13 and 14 on page 29 and suggest that Findings 14 and 15 on page 30 be stricken. Other than the above exceptions the staff urges the adoption of the proposed report because it achieves an equal split of the traffic between Air Cal and PSA, and gives each of the carriers routes in markets where each has an identity, which together, in this case, was the basic goal of the staff. The split of authority with no competitive wingtip-to-wingtip service is also required to serve the purposes of conservation and environmental considerations.

Comments by the Port of Oakland

The representative from the Port of Oakland stated that current passenger air service between Oakland and TVL being rendered under temporary authority was very satisfactory and that it would be counter-productive regulation if the final grant of authority in this case resulted in a deterioration of that service. Oakland asks that any award of Oakland authority not be inferior to that awarded San Francisco. Oakland favors the proposed report because it balances TVL service between the three Bay Area airports though it would not be against a grant of competitive service if San Francisco and Oakland were treated equally.

Comments by the Chamber of Commerce of South Lake Tahoe

The representative acknowledged the feeling in his community of the fine and excellent service the community has received from Air Cal and PSA under their temporary authority and urged the Commission to grant permanent air passenger carrier service as soon as possible.

Discussion

We agree with the proposed report that the qualifications of PSA and Air Cal each to perform the requested service between TVL and the points they intend to serve have been shown to be equal and that

the San Francisco Bay Area O&D traffic (Table I of the proposed report) does not initially appear heavy enough to support open air carrier competition at each of the points in that area. Therefore, we cannot apply the "comparative service" test, or any of the usual yardsticks, to determine which of the two carriers alone should serve a commonly applied for point. Nor do we care to authorize wingtip-to-wingtip service merely, without more, to inject air carrier competition into TVL service because of the special concern that the legislature would have all persons exercise in dealing with projects involving the Lake Tahoe Basin due to the Basin's fragile environment. Therefore, allocating, for the present, southern California points to PSA and northern California points to Air Cal with an alternative service in each of those areas is fair and not adverse to the interest of the traveling public. But the recommendation in the proposed report which would authorize PSA to serve Oakland to the exclusion of Air Cal as a means for satisfying the alternative service requirement unnecessarily tips the balance of traffic too much in favor of PSA. To correct this imbalance and, while the grant of temporary authority should not be presumed to assure that a grant of permanent authority will ensue, to avoid a waste of the money expended by Air Cal in developing its Oakland service since September 1975, we will authorize Air Cal to serve Oakland, in addition to San Francisco and San Jose. Since one of the three San Francisco Bay Area points must then receive the alternative service we select San Francisco, rather than Oakland, as a service point for PSA. The number of San Francisco O&D passengers was running ahead of the number of Oakland O&D passengers (Table I of the proposed report) even though the temporary authority service of Air Cal required a one-stop service between San Francisco and TVL compared to a nonstop service between

Oakland and TVL. The additional O&D passengers at San Francisco as compared to Oakland should be better able to sustain wingtip-to-wingtip direct service. By giving both carriers the chance to offer joint line arrangements with interstate air carriers under the two carriers' CAB exemption authority, we expect the carriers' services to be compensatory if each arranges its flight scheduling so that the overall load factors will be the highest achievable. We will require PSA and Air Cal to report to the Commission each month the prior month's daily load factors between TVL and San Francisco for our review and will expect the carriers to arrange their flight schedules so that the overall load factors between TVL and San Francisco will remain compensatory for each carrier. We will not require the carriers to operate a minimum number of San Francisco schedules, but we will require Air Cal to operate a minimum number of Oakland schedules.

O R D E R

IT IS ORDERED that:

1. The proposed report, subject to the changes indicated by the following ordering paragraphs, is adopted.
2. The market shares of intrastate air passenger traffic for the year 1974 for Air California and Pacific Southwest Airlines (PSA) as set out on pages 9 and 10 of the proposed report are changed to read 13 percent and 59 percent, respectively.
3. In lieu of Finding 14 in the proposed report we find as follows:
  14. The available O&D traffic shown by the operations of Air California and PSA under their temporary authorities is not sufficient to support uncontrolled competitive operations by first-level carriers between any single city-pair.

4. In lieu of Finding 15 in the proposed report we find as follows:

15. To satisfy the requirement set out in Finding 20 as to northern California, PSA should be authorized to serve between San Francisco and TVL.

5. Finding 21 in the proposed report is changed to exclude Oakland as a service point and to include San Francisco as a service point.

6. Finding 22 in the proposed report is changed to include Oakland as a service point.

7. Conclusion 3 in the proposed report is changed to read as follows:

3. The application of Air California should be granted to authorize it to perform passenger air carrier service between TVL, on the one hand, and San Francisco, San Jose, Oakland, Sacramento, and Santa Ana, on the other hand. Air California should be restricted from flying nonstop between San Francisco and Sacramento.

8. Conclusion 4 in the proposed report is changed to read as follows:

4. The application of PSA should be granted to authorize it to perform passenger air carrier service between TVL, on the one hand, and Los Angeles, Hollywood/Burbank, San Diego, Sacramento,<sup>4</sup> and San Francisco, on the other hand. PSA should be restricted from carrying TVL passengers originating at or destined to San Jose or Oakland.

9. Appendices B and C to the proposed report are changed to read as set out respectively in Appendices A and B hereto.

10. Ordering Paragraph 6 is added as follows:



6. Decision No. 88134 in Case No. 10287 was issued with an effective date of twenty days from November 22, 1977. A final decision in Application No. 54604 in regard to Marin Aviation, Inc. will be issued after the effective date of Decision No. 88134.

11. Ordering Paragraph 7 is added as follows:

7. PSA and Air California are to report to the Commission each month the prior month's load factors on a day-to-day basis between TVL and San Francisco. The Commission will expect that flight schedules will be arranged so that the overall load factors between San Francisco and TVL will remain compensatory for each carrier.

In order to allow additional service for the traveling public during the peak holiday period, the effective date of this order is the date hereof.

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

*I concur:*

*My purpose in this decision would be to require PSA to serve Oakland with the same minimum requirement demanded of Air Cal, and to see that Air Cal was allowed to compete with PSA from one of the major Los Angeles airport points.*

*Richard D. Howell*

*William J. Grooms, Jr.*  
*Vernon L. Strickland*  
*Richard D. Howell*

Commissioners

*I dissent - PSA should have been granted Oakland, Traffic at Oakland should be encouraged for numerous reasons.*

*I dissent for the same consideration. Oakland service should be encouraged.*  
*Robert Batistovich, Chair*

kd/bl

APPENDIX A  
Page 1 of 2

Appendix A  
(Dec. 80439)

AIR CALIFORNIA  
(a corporation)

Second Revised Page 3  
Cancels  
First Revised Page 3

Route 13

Between Ontario International Airport and Sacramento Metropolitan Airport via the intermediate point of Orange County Airport.

Route 14

Between San Diego International Airport and Orange County Airport.

Route 15

Nonstop service between San Diego International Airport and Oakland International Airport.

Route 16

Between Tahoe Valley Airport, on the one hand, and Sacramento Metropolitan Airport, San Francisco International Airport, Oakland International Airport, San Jose Municipal Airport, and Orange County Airport, on the other hand, with each of the last four named airports being either a terminal or intermediate point for this route with the exception that no nonstop flights shall be operated between Sacramento Metropolitan Airport and San Francisco International Airport. Operations at Tahoe Valley Airport shall be conducted with Lockheed L-188 Electra aircraft only.

Issued by California Public Utilities Commission.

#Added by Decision No. 88249, Application No. 55009.

APPENDIX A  
Page 2 of 2

Appendix A  
(Dec. 80439)

AIR CALIFORNIA  
(a corporation)

Fifth Revised Page 4  
Cancels  
Fourth Revised Page 4

CONDITIONS

Minimum number of round-trip schedules per week between points

shown shall be:

- |  |    |
|--|----|
| a. Orange County Airport and San Francisco International Airport . . . . .   | 25 |
| b. Orange County Airport and San Jose Municipal Airport . . . . .  | 15 |
| c. Orange County Airport and Oakland International Airport . . . . .   | 15 |
| d. Between Ontario International Airport, on the one hand, and San Jose Municipal Airport and Oakland International Airport, on the other hand. . . . .  | 10 |
| e. Between San Diego International Airport and San Jose Municipal Airport. . . . .   | 0  |
| f. Between San Diego International Airport, on the one hand, and San Jose Municipal Airport and Oakland International Airport, on the other hand, via the intermediate point of Orange County Airport, with San Jose Municipal Airport and Oakland International Airport being either a terminal or intermediate point for this route. . . . . | 10 |
| g. Between Palm Springs Municipal Airport, on the one hand, and San Jose Municipal Airport, Oakland International Airport and/or San Francisco International Airport, on the other hand. . . . .   | 5  |
| h. Between San Diego International Airport and Oakland International Airport. . . . .  | 0  |
| i. Between Tahoe Valley Airport, on the one hand, and Oakland International Airport, and San Jose Municipal Airport and Orange County Airport, on the other hand. . . . .  | 1  |
- Round  
trip per  
day

Issued by California Public Utilities Commission.

Added by Decision No. 88249, Application No. 55009.

Appendix A  
(Dec. 79085)PACIFIC SOUTHWEST AIRLINES  
(a corporation)Fifth Revised Page 2  
Cancels  
Fourth Revised Page 2

## Routes (Continued)

15. Nonstop between Hollywood-Burbank Airport and Sacramento Metropolitan Airport.
16. Nonstop between San Diego International Airport and Sacramento Metropolitan Airport.
17. Between Hollywood-Burbank Airport and Sacramento Metropolitan Airport via intermediate point of Oakland Metropolitan International Airport.
18. Nonstop between Oakland Metropolitan International Airport and Sacramento Metropolitan Airport.
19. Between San Diego International Airport and Sacramento Metropolitan Airport via intermediate point of Oakland Metropolitan International Airport.
20. Between San Diego International Airport and Sacramento Metropolitan Airport via intermediate point of Hollywood-Burbank Airport.
21. Between San Diego International Airport and Sacramento Metropolitan Airport via intermediate points of Hollywood-Burbank Airport and Oakland Metropolitan International Airport.
22. Between San Francisco International Airport and Los Angeles International Airport via Stockton Metropolitan Airport and Fresno Air Terminal, with San Francisco International Airport and/or Los Angeles International Airport being a terminal point on the route and with Stockton Metropolitan Airport and/or Fresno Air Terminal being served as intermediate points or as a terminal point on the route; and with the right to conduct direct and/or connecting service to San Diego International Airport from the Los Angeles International Airport, and to Sacramento Metropolitan Airport from the San Francisco International Airport.
23. Between San Francisco International Airport and San Diego International Airport via Stockton Metropolitan Airport and Fresno Air Terminal, with San Francisco International Airport and/or San Diego International Airport being a terminal point on the route and with Stockton Metropolitan Airport and/or Fresno Air Terminal being served as intermediate points or as a terminal point on the route.
- #24. Between Tahoe Valley Airport, on the one hand, and Sacramento Metropolitan Airport, San Francisco International Airport, Hollywood-Burbank Airport, Los Angeles International Airport and San Diego International Airport, on the other hand, with each of the last five named airports being either a terminal or intermediate point for this route.

Issued by California Public Utilities Commission.

#Added by Decision No. 88249, Application No. 54899.

APPENDIX B  
Page 2 of 2

Appendix A  
(Dec. 79085)

PACIFIC SOUTHWEST AIRLINES  
(a corporation)

Original Page 6

#Route 24

1. A minimum of one scheduled round trip per day shall be provided between Tahoe Valley Airport, on the one hand, and Los Angeles International Airport, and Hollywood/Burbank Airport, on the other hand.
2. No passenger shall be accepted for transportation solely between Tahoe Valley Airport and Oakland International Airport/San Jose Municipal Airport.
3. Operations at Tahoe Valley Airport shall be conducted with Lockheed L-188 Electra aircraft only.

Issued by California Public Utilities Commission.

#Added by Decision No. 88249, Application No. 54899.

ddb  
Prop. Rept.

APPENDIX C

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Marin Aviation,  
Inc., for a Certificate of Public  
Convenience and Necessity.

Application No. 54604  
(Filed January 29, 1974;  
amended May 29, 1974)

Application of Pacific Southwest  
Airlines for authority to provide  
passenger air service between San  
Francisco/San Jose/Oakland and  
Sacramento on the one hand and  
Lake Tahoe on the other hand,  
with connecting and direct service  
to Los Angeles, Hollywood-Burbank,  
Long Beach, San Diego and Ontario.

Application No. 54899  
(Filed May 17, 1974;  
amended May 30, 1974,  
February 13, 1975, and  
July 17, 1975)

Application of AIR CALIFORNIA for  
a Certificate of Public Convenience  
and Necessity to provide passenger  
air service between Lake Tahoe, on  
the one hand, and Sacramento, San  
Francisco, San Jose, Orange County,  
Ontario, Palm Springs and San  
Diego, on the other hand, with the  
points other than Lake Tahoe being  
either terminal or intermediate  
points.

Application No. 55009  
(Filed July 2, 1974)

In the Matter of the Application  
of AIR NEVADA for a Certificate  
of Public Convenience and  
Necessity to provide passenger air  
service between Los Angeles, San  
Diego, Long Beach, Burbank, San  
Francisco, Oakland and San Jose,  
on the one hand, and Truckee and  
South Lake Tahoe, on the other  
hand.

Application No. 55157  
(Filed September 10, 1974)

(Appearances are listed in Appendix A.)

(See D.84488 for appearances on A.54604.)

PROPOSED REPORT OF ADMINISTRATIVE LAW JUDGE PILLING

This consolidated proceeding involves the application of four passenger air carriers to provide air passenger service to and from Tahoe Valley Airport (TVL).<sup>1/</sup>

The application of Marin Aviation, Inc. (Marin) requests, among other things, authority to offer passenger air carrier service in aircraft seating no more than 30 passengers between a variety of points including TVL and the Truckee/Tahoe Airport. The phase of its application dealing with service at TVL and Truckee/Tahoe Airport was severed from Marin's application in chief and consolidated with the other proceedings herein for decision.

Air California seeks the following authority in the alternative:

1. Assuming that service is being provided by Holiday Airlines, or a successor in interest, Air California seeks to operate Lockheed Electra equipment between South Lake Tahoe, on the one hand, and Sacramento, San Francisco, Orange County, Ontario, and Palm Springs, on the other hand, with each of the latter points, except Palm Springs, being either a terminal or intermediate point for

---

<sup>1/</sup> Initially there were six applicants involved in the consolidated proceeding. The application of Ram Airlines, Application No. 54852, was dismissed because of Ram's lack of prosecution of its application. The application of Holiday Airlines, Application No. 54953, to provide service between San Francisco and South Lake Tahoe was withdrawn by Holiday on January 6, 1975.

## APPENDIX C

this route. Air California's request contemplates that the service between South Lake Tahoe and the points in question be either nonstop, direct, or connecting. No new service other than service to and from South Lake Tahoe is contemplated in this request.

2. Assuming that neither Holiday Airlines nor a successor in interest is providing service to and from South Lake Tahoe, Air California seeks, in the alternative, authority to provide service in Lockheed Electra equipment between South Lake Tahoe, on the one hand, and Sacramento, San Francisco, Oakland, San Jose, Orange County, Ontario, and Palm Springs, on the other hand, with each of the latter points, except Palm Springs, being either a terminal or intermediate point for this route. Air California contemplates that the service between South Lake Tahoe and the points in question be either nonstop, direct, or connecting. No new service other than the service to or from South Lake Tahoe is contemplated in this alternative request. (Exhibit 31.)

The application of Pacific Southwest Airlines (PSA), Application No. 54899, seeks authority to provide air passenger service in Boeing 727-100 aircraft (with Boeing 727-200 equipment as backup) between San Francisco, San Jose, Oakland, and Sacramento, on the one hand, and South Lake Tahoe, on the other hand, with connecting and direct service to Los Angeles, Hollywood/Burbank, Long Beach, Ontario, and San Diego.

The application of Air Nevada, Application No. 55157, seeks authority to provide air passenger service with Lockheed Electra equipment between Los Angeles, San Diego, Long Beach, Hollywood/Burbank, San Francisco, Oakland, and San Jose, on the one hand, and Truckee and South Lake Tahoe, on the other hand.



## APPENDIX C

Thirty-three days of hearing, including three days of hearing on the environmental impact which will be caused by the proposed operations of Air California, PSA, and Air Nevada on the area in and around Lake Tahoe, were held commencing on September 19, 1974 and ending on March 31, 1976. The applications of Air California, PSA, and Air Nevada were protested on the basis of the lack of public convenience and necessity by Western Air Lines, Inc. (Western). Air California protested the application of PSA and at least to the extent that the applications may be mutually exclusive each applicant protests the other applications. Objections based on environmental grounds, particularly to the use of Boeing 727-100 jets by PSA are more particularly set out in the Final Environmental Impact Report issued as a result of these proceedings.

On February 6, 1975, subsequent to the filing of each of the applications, Holiday Airlines, which flew Lockheed Electra aircraft exclusively, discontinued air passenger service to and from TVL and was later declared bankrupt. Hughes Airwest which offered passenger air carrier service on an interstate and intrastate basis between San Francisco and TVL also ceased service. Due to the cessation of service at TVL, Air California, and PSA each requested an exemption from the certificate provisions of Section 2767 of the Public Utilities Code (the Code) to serve TVL. On February 19, 1975 the Commission, in Decision No. 84138, granted Air California and PSA exemption authority, allowing Air California to operate between Oakland and San Jose, on the one hand, and South Lake Tahoe, on the other hand, with authority to tack said routes with all of its existing routes via either Oakland and/or San Jose. PSA was granted similar authority to operate between Hollywood/Burbank and Los Angeles, on the one hand, and South Lake Tahoe, on the other hand, with authority to tack those routes with its existing routes via either Los Angeles or Hollywood/Burbank. The

## APPENDIX C

aforementioned authorities contained a condition that the authorized service had to be provided with Lockheed Electra equipment. Air California commenced its service pursuant to its exemption authority on March 20, 1975 and presently provides nonstop daily service between South Lake Tahoe, on the one hand, and Oakland and San Jose, on the other hand. PSA commenced its service under its exemption authority between Los Angeles and South Lake Tahoe on April 4, 1975 and between Hollywood/Burbank and South Lake Tahoe on June 16, 1975. Both Air California and PSA sought and obtained two ninety-day extensions of the exemption authority referred to above. Upon the expiration of the third ninety-day period, each carrier applied for a further extension of said authority or, in the alternative, the issuance of a temporary certificate. On August 19, 1975 the Commission, in Decision No. 84814, granted Air California and PSA each a temporary certificate, effective until March 1, 1976. The temporary certificates granted the same service to each carrier as had been authorized in the respective exemption authorities. The basis given by the Commission for granting both the exemption authorities and the temporary certificates was to provide a replacement service for the service which Holiday had discontinued. Because of Holiday's discontinuance brought about in part by Holiday's dire financial condition, the Commission, in Decision No. 84478 issued May 28, 1975, suspended Holiday's certificate until further order of the Commission. On September 22, 1975 Air California and Curtis B. Danning, Trustee in Bankruptcy of Holiday Airlines Corporation, jointly filed an application for an order authorizing the transfer of Holiday's certificate from the Trustee to Air California and for an order removing suspension of the certificate. If the Commission approves the transfer and removes the suspension of Holiday's certificate, Air California proposes to operate under the certificate between South Lake Tahoe, on the one hand,

## APPENDIX C

and Oakland, San Jose, Los Angeles, Burbank, and San Diego, on the other hand. Simultaneously with the filing of the aforementioned joint application, Air California requested that the consolidated applications under consideration here be placed in abeyance and that further action by the Commission be deferred until action on the Air California-Holiday application. Instead, the Commission ordered that the Air California-Holiday application be placed in abeyance until after the herein cases were finally decided. By Decision No. 86426 dated September 21, 1976 the Commission extended the temporary certificates of Air California and PSA to expire upon final determination of the herein cases. By Decision No. 86351 dated September 1, 1976 the Commission granted a temporary certificate to Marin to provide passenger air service between Livermore, Palo Alto, Placerville, San Francisco, San Jose, Sacramento, Novato, Truckee, and South Lake Tahoe in equipment which will carry no more than 30 passengers in connection with its previous interim service authorized by Decision No. 84488 dated June 3, 1975 to operate between Fort Bragg, Clear Lake, Livermore, Palo Alto, San Francisco, San Jose, Santa Rosa, Ukiah, and Novato. The only passenger air carrier service into and out of TVL and Truckee at present is that which has been authorized on an interim basis in the proceedings recited above.

Following is a table showing the points proposed to be served to and from TVL by each of the three applicants who intend to operate large aircraft in that service:

## APPENDIX C

	<u>Air California</u>	<u>PSA</u>	<u>Air Nevada</u>
Sacramento	X	X	
San Francisco	X	X	X
Oakland*	X**	X	X
San Jose*	X**	X	X
Santa Ana	X		
Ontario	X	X	
Palm Springs	X		
Los Angeles*		X***	X
Hollywood/Burbank*		X***	X
Long Beach		X	X
San Diego*		X	X

\* Points previously served by Holiday Airlines.

\*\* Nonstop service in Lockheed Electra aircraft being offered between these points and TVL under interim authority by Air California.

\*\*\* Nonstop service in Lockheed Electra aircraft being offered between these points and TVL under interim authority by PSA.

TVL is owned and operated by the county of El Dorado.

The director of airports for El Dorado County testified that during the early years of the operation of TVL 65-70 percent of the air traffic occurred during the July--September quarter. Now, however, as a result of the continued development of the Tahoe Basin, the airport is experiencing a leveling trend in the pattern of air service during the entire year. He stated that while the minimums for the Instrument Flight Rules (IFR), namely, a 2,500 foot ceiling and visibility of more than three miles, are extremely high, IFR weather, namely, heavy snow storms which close the airport, averages less than 300 hours a year, which is less than many other California airports. He stated that over the past six years approximately \$6 million has been expended in the development of TVL with the runway being lengthened to 8,500

## APPENDIX C

feet to accommodate 727-100 aircraft and the installation of a parking apron capable of handling five commercial jet-type aircraft at one time. Currently a new \$860,000 terminal building and parking lot is being constructed capable of handling approximately 500,000 passengers per year. Landings from and takeoffs to the north account for 80 percent of the movement of aircraft into and out of the airport. The north end of the north-south single runway at TVL is located generally south of the corporate limits of the city of South Lake Tahoe and  $3/5$  of a mile south from the end of Lake Tahoe. The runway parallels U.S. Highway 50 located a stone's throw to the west of the runway. An appendage of the city extends south on the west side of U.S. Highway 50 to a point opposite the vehicular traffic entrance and exit for TVL. By U.S. Highway 50, the most heavily traveled thoroughfare through the city, the distance from TVL to the California-Nevada state line is approximately  $6-3/5$  miles. Located immediately across the border astride U.S. Highway 50 in Nevada is Stateline, an unincorporated area with a population of 900,<sup>2/</sup> well known for its gambling and entertainment facilities.

The city of South Lake Tahoe offers more than 11,000 hotel and motel rooms for visitors, while at Stateline an additional 1,500 hotel rooms are offered. In 1967 a planning study showed that 47 percent of the property within the city was owned by absentee citizens. Chamber of Commerce figures reveal that within the Lake Tahoe basin there are 21 boating facility marinas, 20 beaches, 24 campgrounds,

---

<sup>2/</sup> Rand McNally Road Atlas, 52nd Annual Edition.

9 golf courses, and 22 ski and snow play areas. Heavenly Valley, one ski resort located immediately south of the city, has eight ski lifts on the California side of the state line, one lift bracketing the California-Nevada state line and one lift in Nevada. Lake Tahoe is 21.6 miles long and 12.2 miles wide at its widest point and has an average depth of 989 feet. Approximately 2/3 of the lake's surface is in California. The largest city by area on the lake is Carson City, Nevada, which incorporated with Ormsby County to extend Carson City's boundary to take in part of the eastern shore of the lake. The city of South Lake Tahoe, population approximately 19,000 and at an elevation of 6,260 feet, extends west from the California-Nevada state line taking the east 50 percent or 5-1/2 miles of the south shore of the lake.

Air California is a growing intrastate airline which now transports more than 1.5 million passengers per year. It is a financially strong carrier with adequate cash reserves and no long-term debt financing. Notwithstanding the current recessionary period, its traffic has continued to grow, and it is operating at a profit. It is well experienced in serving vacation and pleasure destinations, as well as the traditional commuter markets. Among the major intrastate air carriers, Air California's market share of the intrastate air passenger traffic was approximately 18 percent for 1974 (1.4 million passengers). Air California possesses two Lockheed Electra aircraft with which it is presently conducting service to and from TVL. Excluding its service to and from TVL it operates between 20 city-pairs, including San Francisco, San Jose, Oakland, Sacramento, Palm Springs, Santa Ana, Ontario, and San Diego. It leases and operates seven Boeing 737 jets. It proposes fares between TVL and points requested as follows:

## APPENDIX C

Market	Total Fare With Tax
Lake Tahoe and	
San Francisco	\$18.00
Oakland	18.00
San Jose	18.00
Sacramento	14.00
Santa Ana	30.00
San Diego	33.00
Ontario	30.00
Palm Springs	35.00

Air California's route to and from TVL will be confined entirely within the geographical boundaries of California and no interline service will be offered.

PSA is a well-established intrastate air carrier which, among the major California intrastate air carriers, transported more than 81 percent of the intrastate traffic in 1974. PSA's 1974 gross revenues exceeded \$100 million. It has had a long history of financial success. However, recently between August 1974 and January 1975, its working capital decreased from \$15 million to a little under \$6 million. Aside from its service to and from TVL, PSA has authority to operate between 34 city-pairs, 30 of them in nonstop service, which include Los Angeles, San Francisco, Oakland, San Jose, Sacramento, Stockton, Fresno, Hollywood/Burbank, Ontario, Long Beach, and San Diego. It serves a market common with Air California as follows:

## APPENDIX C

<u>Market</u>	<u>Type of Authority</u>	
	<u>PSA</u>	<u>Air California</u>
San Diego-Sacramento	Nonstop	Via Santa Ana & San Jose
Ontario-Sacramento	Via San Francisco	Via San Jose or Santa Ana
San Diego-Oakland	Nonstop	Nonstop
San Diego-San Jose	Via Hol/Bur or LAX	Nonstop
Oakland-San Jose	Nonstop	Nonstop

PSA wants to institute service to and from TVL with a Boeing 727-100 pure jet. It now possesses two Lockheed Electra aircraft, popularly called "turbo props" because the aircraft is a propeller-driven plane powered by jet engines. It proposes to charge \$32 per passenger to TVL from San Diego, \$27 from Los Angeles and Hollywood/Burbank, and \$17 from San Francisco, Oakland, and San Jose. PSA's routes to and from TVL will be entirely within the geographical boundaries of the State of California. No interline service will be offered.

Air Nevada holds exemption authority issued by the Civil Aeronautics Board (CAB) to transport passengers in Lockheed L-188 aircraft between "San Jose, Oakland, San Francisco, Hollywood-Burbank, Long Beach, Los Angeles, and San Diego, California, on the one hand, and Lake Tahoe and Truckee-Tahoe Airports, on the other hand, directly and via Hawthorne, Nevada". Air Nevada has not operated any passenger service since 1969, which was prior to assumption of control by the present owners. It has no aircraft nor operating employees, its only significant asset being the CAB exemption authority. As stated in its application and reiterated by its witnesses and counsel during hearing, its position is that said CAB exemption authority is the only governmental route authorization required for the service requested and that the nature of the air traffic into Lake Tahoe is interstate and, therefore, is subject exclusively to regulation by the CAB. Expressly reserving this position, Air Nevada requests that this Commission acknowledge CAB jurisdiction over the proposed flight operations within California or grant it a certificate of public convenience and



## APPENDIX C

necessity pursuant to the Passenger Air Carrier Act. Air Nevada proposes to serve South Lake Tahoe, Truckee, and Hawthorne, Nevada, utilizing three Electra aircraft. Air Nevada, however, currently has no aircraft, no contracts to acquire aircraft, no maintenance capability, no contracts to obtain maintenance, and no counterspace or spare parts and no commitment to obtain such facilities and equipment. Air Nevada indicated it is willing to install instrument landing systems, although at present it does not have sufficient funds to do so. Air Nevada has chosen ten flight crews for its proposed service. Few, if any, of the pilots or engineers chosen have ever been involved in scheduled air passenger operations. No particular plan for training was presented in Air Nevada's testimony.

Air Nevada's proposed service would be between Hawthorne, Truckee, and South Lake Tahoe, on the one hand, and Los Angeles, Burbank, Long Beach, San Diego, Oakland, San Jose, and San Francisco, on the other hand. While number of flights, capacity, and load factors were given for the full first year, only a winter season schedule was presented by Air Nevada. It indicates that initial operations would be heavily weighted toward a multi-stop mode of scheduling. For example, in at least one instance a flight would make stops at San Jose, San Francisco, Oakland, Hawthorne, South Lake Tahoe, and Truckee. Air Nevada intends to charge (including tax) in its TVL service \$21.62 to and from San Francisco, San Jose, and Oakland; \$36.06 to and from Los Angeles, Hollywood/Burbank, and Long Beach; and \$43.76 to and from San Diego. In its Truckee service it will charge \$21.62 to and from San Francisco, San Jose, and Oakland; \$39.26 to and from Los Angeles, Hollywood/Burbank, and Long Beach; and \$46.05 to and from San Diego. It estimates that had it been in operation during 1975 it would have carried approximately 275,000 passengers for a profit of \$1,432,000 on a gross revenue of \$9,538,000 based on an average load factor of 48.2 percent. Air Nevada contends that it is able to

## APPENDIX C

acquire financing for its proposed operation. In support of its contention that air service between TVL and other California points is interstate air service Air Nevada introduced the results of a survey it conducted among departing passengers from TVL flying with Holiday Airlines during the period of November 25, 1974 through December 8, 1974, which showed that of the 771 persons interviewed, 43.5 percent of them stated that they crossed the California-Nevada state line as a direct part of their journey involving their flight to or from TVL. Figures purportedly obtained from the taxi company serving TVL for 34 consecutive days in 1974 showed that 72.6 percent of deplaning passengers at TVL who used the taxi company were destined to Stateline, Nevada. Air Nevada argues that since more than a de minimis number of air passengers are carried directly to or from Nevada the air transportation must be considered interstate air transportation over which the Commission has no jurisdiction.

The application of Marin, Application No. 54604, has been the subject of three previous decisions, the first of which, Decision No. 84488, details in full the background of Marin and its general operating proposal and will not be reiterated here except to say that Marin proposes to conduct operations principally with five-place piston driven propeller planes and one nine-place piston driven propeller plane, both of which are comparable to many types of privately owned and operated general aviation aircraft. While the evidence on the need for applicant's service on the Truckee/Tahoe portion of its application is, at best, meager, its proposed third-level carrier operation will not be competitive with any first-level carrier operations or other passenger air carrier serving TVL, and the availability of Marin's passenger air carrier service at Truckee and Placerville may uncover a need, though latent at present, for such service. Allowing operations at TVL will assist it in sustaining such operations.

## APPENDIX C

The position of the Port of Oakland is that, regardless of the carrier selected, any award of authority to serve between Oakland and TVL should not be inferior to any award of San Francisco-TVL service and that public convenience and necessity have been shown to require Oakland-TVL service on a daily nonstop basis.

The city of South Lake Tahoe (City) supports the applications of PSA, Air California, and Marin. The City recommends that PSA be awarded authority between TVL, on the one hand, and on the other, Oakland, Sacramento, Los Angeles, Burbank, and San Diego, and that Air California be awarded authority between TVL, on the one hand, and on the other, Sacramento, San Francisco, San Jose, Orange County, and Palm Springs. The City further recommended that any certificate awarded contain the restriction that noise levels of an aircraft operated at TVL not exceed those levels now experienced by the Electra aircraft.

Newport Beach, through its mayor, appeared in opposition to Air California's application insofar as it would authorize service from Orange County Airport to Lake Tahoe. Its opposition is based on concerns relating to increased flights by pure jet aircraft. If the Commission does authorize service to Orange County Airport, Newport Beach asks that such service be restricted to Lockheed L-188 aircraft.

Western participated as a protestant in PSA's and Air California's applications and as an interested party in Marin's. Western provides service from the Los Angeles and San Francisco Bay area to Reno, Nevada, under certificate authority from the CAB. Its position is that the service proposed by Air California and by PSA would result in substantial diversion of its Reno traffic and consequently have an adverse financial effect on its ability to continue to operate such service, thus depriving Californians of a needed service to and from Reno. It claims that it is rendering adequate service to Lake Tahoe passengers through Reno.

APPENDIX C

Various members of the traveling public, the city of South Lake Tahoe, and the South Lake Tahoe Chamber of Commerce appeared in support of the applications.

The Commission staff recommended that Air Nevada's application be denied; that Marin's application be granted, but its service limited to the use of aircraft with less than 30 seats; and that PSA and Air California be awarded authority which would give each carrier approximately one-half of the TVL market. The staff recommended that PSA be granted authority to provide nonstop service between TVL and Sacramento, Oakland, Los Angeles, and Hollywood/Burbank, with the right to connect with existing service, but that PSA be restricted from carrying passengers between TVL and San Francisco or San Jose; and that Air California be granted authority to provide nonstop service between TVL and Sacramento, San Francisco, San Jose, and Orange County with the right to connect with existing service, but that Air California be restricted from carrying passengers between TVL and Oakland. The staff further recommended that PSA and Air California be restricted to operation of Lockheed Electra aircraft at TVL.

By letter dated September 29, 1976 the principal parties were informed that the Commission was going to take official notice of, and use in its decision, the figures contained in PUC Forms 1503 and 1525 filed individually each month by Air California and PSA with the Commission as required by Section 2751(c) of the Code pertaining to their services to and from TVL for the year ending August 31, 1976. No objection to the use of such figures was received by the Commission within the time allotted, namely, to and including October 20, 1976. Information taken from such forms reveals the following data:

TABLE I

Origin-Destination Passengers  
For Lake Tahoe Air Service

Month And Year	Air California						Pacific Southwest Airlines				Grand Total
	OAK	SJC	SFO	SNA	SAN	Total	LAX	BUR	SAN	Total	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(6) + (10)
Sept. 75	2,543	3,214	3,113	2,335	-	11,205	8,796	1,219	1,783	11,798	23,003
Oct.	1,950	3,306	2,792	2,165	-	10,213	6,598	1,021	1,540	9,159	19,372
Nov.	1,854	3,256	2,266	1,491	-	8,867	5,989	1,084	1,227	8,300	17,167
Dec.	2,262	3,564	2,610	2,176	-	10,612	7,712	1,994	1,657	11,363	21,975
Jan. 76	2,172	3,610	2,377	1,767	-	9,926	7,059	1,152	1,418	9,629	19,555
Feb.	2,336	3,964	2,232	1,785	-	10,317	6,755	742	1,367	8,864	19,181
Mar.	2,379	4,096	2,426	1,835	71	10,807	7,708	1,005	1,291	10,004	20,811
Apr.	2,611	4,827	2,431	2,032	-	11,901	7,753	1,192	1,657	10,602	22,503
May	2,534	5,407	3,015	2,218	-	13,174	8,106	1,046	1,571	10,723	23,897
June	3,024	6,139	3,644	2,066	-	14,873	8,719	2,773	1,994	13,486	28,359
July	3,918	8,825	4,612	3,040	93	20,488	10,967	3,756	2,187	16,910	37,398
Aug.	4,333	10,648	5,196	4,198	222	24,597	13,441	4,885	2,434	20,760	45,357
Total 12 Mo. Ended Aug. 31, 1976	31,916	60,856	36,714	27,108	386	156,980	99,603	21,869	20,126	141,598	298,578

Source: Air California and Pacific Southwest Airlines' 1525 Reports.

TABLE II  
Load Factors  
For Lake Tahoe  
Nonstop Segments  
(Includes Through Passengers)

Month And Year	Air California						Pacific Southwest Airlines					
	OAK-TVL			SJC-TVL			LAX-TVL			BUR-TVL		
	Pgrs.	Seats	L.F.	Pgrs.	Seats	L.F.	Pgrs.	Seats	L.F.	Pgrs.	Seats	L.F.
Sept. 75	6,035	8,638	70%	5,192	6,621	78%	9,048	12,242	74%	2,750	3,746	73%
Oct.	5,393	8,084	67	4,986	7,332	68	6,906	12,610	55	2,253	4,074	55
Nov.	4,064	7,238	56	4,787	7,332	65	6,110	12,707	48	2,190	4,947	44
Dec.	5,641	10,340	55	4,980	7,614	65	8,017	14,496	55	3,346	6,336	53
Jan. 76	4,669	8,178	57	5,218	6,768	77	7,195	14,496	50	2,434	4,608	53
Feb.	5,059	8,460	60	5,243	6,298	83	6,951	12,288	57	1,913	3,648	52
Mar.	4,938	7,802	63	5,874	6,862	86	7,849	13,248	59	2,548	4,224	60
Apr.	5,330	8,460	63	6,528	8,648	75	7,982	13,248	60	2,627	4,128	64
May	5,690	8,836	64	7,481	11,562	65	8,111	13,344	61	2,612	4,224	62
June	6,930	8,836	78	7,966	10,058	79	10,713	17,280	62	2,773	5,568	50
July	7,132	8,836	81	13,370	14,758	91	12,797	17,184	74	3,632	5,760	63
Aug.	7,518	9,494	79	17,018	18,424	92	15,875	18,624	85	4,885	5,952	82
Total 12 Mo. Ended Aug. 31, 1976	68,399	103,203	66%	88,643	112,280	79%	107,554	171,767	63%	33,963	57,215	59%

Source: Air California and Pacific Southwest Airlines' 1503 Reports.

## APPENDIX C

PSA filed exceptions to the Final EIR and replies to the exceptions were filed by Air California and the Commission staff. Those exceptions and the replies thereto were as follows:

Exception No. 1 and Replies

PSA takes exception to the finding in Chapter 4, page 18 establishing a 65(db) CNEL value. This finding is supported in the record by the Exhibit 39, page 20 of the Draft EIR which refers to the criteria of California Airport Noise Standards. It is further supported by the testimony of the Chief of the Office of Noise Control, State Department of Health (Tr. pp. 2782, 2783) to the effect that such a standard might be too high for the Lake Tahoe Basin because of its lower ambient noise as compared to a metropolitan airport environment.

In Exception No. 1, as in Exceptions Nos. 2, 10, and 11, PSA offers to comply with Federal Aviation Regulation (FAR) Part 36 noise standards for the Boeing 727-100 jet even though this would require retrofitting the aircraft. The reply to this new position of PSA's is contained hereinafter under Exceptions Nos. 10 and 11 below but is equally applicable here.

Exception No. 2 and Replies

PSA takes exception to the finding that 4.5 jet flights per day would likely comply with 70 db standards if TVL were designated a noise problem airport and injects a new proposal to mix its service as between 727-100 jets and Electra aircraft. See Exceptions Nos. 10 and 11 below.

Exception No. 3 and Replies

In its Exception No. 3 PSA suggests that the .1 square mile encompassed within the 65 CNEL contour for Mix 2 compares favorably with .04 square mile encompassed within that contour for Mix 1.

## APPENDIX C

The replies do not agree that this is a "favorable" comparison. One-tenth of a square mile is  $2\frac{1}{2}$  times .04 square mile. The difference, either on the basis of area or percentage, is substantial.

Exception No. 6 and Replies

PSA takes exception to the discussion of the "long-term" potential of significantly adverse impact from scheduled jet operations. Such a discussion is specifically required by Section 15143(a) of the State Resource Agency Guidelines, as amended, and is therefore completely appropriate.

PSA also states that the maximum number of operations which could be authorized under the three proposals is 15. PSA appears to acknowledge here that the Commission in granting authority can limit maximum flights. This is flatly contradictory to its position in Exception No. 7 that the Commission has no such authority.

Exception No. 7 and Replies

In its Exception No. 7, page 9 et seq., PSA suggest that the listing of (1) restrictions on the maximum daily number of scheduled flights and (2) timetable control of scheduled aircraft operations, as measures which are available to the Commission to mitigate the noise impact, is inappropriate because the Commission lacks jurisdiction over these areas of passenger air carrier operations. Air California agrees with PSA regarding timetable control. The staff contends that in discussing the sections of the Public Utilities Code which PSA contends do not grant the Commission such authority, PSA has failed to note the section which assuredly does, specifically Section 2754 which provides, in appropriate part, that "...the commission may attach to the exercise of the rights granted by the certificate [of public convenience and necessity] such terms and conditions as, in its judgment, the public convenience and necessity require."



## APPENDIX C

This is broad authority, limited only by the Commission's judgment as to what is required by public convenience and necessity and by the usual demands of due process. As all parties are aware, the Commission has exercised this power on many occasions in the past by conditioning certificates as to size of aircraft, "closed-door" route segments, and many other aspects of air passenger carrier operations including limiting daily flights. Therefore, it was not an error for the Final EIR to list limiting maximum flights and timetable scheduling as possible mitigating measures available to the Commission.

Exception No. 8 and Replies

PSA takes exception to the finding that authorizing wingtip-to-wingtip service could substantially reduce load factors and result in an unnecessary waste of fuel energy.

The statement is completely logical and is based upon the fact that PSA and Air California have requested authority to fly from the same points in the Bay Area, as well as from San Diego to TVL. The environmental effects of the lessening of load factors which could be expected from a grant of duplicative authority are a proper consideration in deciding what permanent authority should be granted in these proceedings.

Exceptions Nos. 10 and 11 and Replies

In its exceptions to Conclusions 1 and 2 of Chapter 14 of the Final EIR PSA objects on the basis that those conclusions assume PSA would, if permitted to do so, serve South Lake Tahoe only by means of Boeing 727-100 jet aircraft. PSA suggests that nothing would prevent it from using both the 727-100 jet and the Electra aircraft as a way of reducing the noise impact.

APPENDIX C

In addition PSA proposes, and states it would be willing to comply with, a two-part noise standard, namely, a 65 CNEL limit and the FAR Part 36 Federal noise standards even though the latter would require a retrofit of the aircraft.

PSA has no reason to complain. The conclusions in the Final EIR are based on the proposals as they were made to the Commission. Nowhere in PSA's application nor in any of its voluminous exhibits and testimony did it ever propose either to provide Electra service together with 727-100 jet service or to retrofit the 727-100 to comply with FAR Part 36 noise standards. To the contrary, PSA's consistent position has been that only the 727-100 jet is able to provide efficient and acceptable service and, further, that a retrofit to FAR Part 36 standards was economically unfeasible. In now proposing that the Commission utilize the FAR Part 36 noise standards at TVL, PSA should at least acknowledge that the FAA, in setting such noise levels for aircraft, expressly refrained from finding that such levels were "acceptable" as follows:

"Compliance with Part 36 is not to be construed as a federal determination that the aircraft is 'acceptable', from a noise standpoint, in particular airport environments." (FAR Part 36 I, 34 F.R. 18355, November 18, 1969.)

Unless PSA intends to modify its position on these substantial aspects of its proposal by petitioning to set aside submission and filing an amendment to its application, its comments and "agreements" to comply with noise standards, previously objected to, can only be regarded as extraneous material. They are not supported by the record but rather are inconsistent with it. At the very least they are no good reasons for taking exception to the conclusions addressed.

Discussion Exclusive of their service to and from TVL, Air California serves between 20 city-pairs within California and PSA between 34 city-pairs in what is unquestionably intrastate commerce. They each desire to add another California point, namely, TVL, to their service. TVL is located 5½ miles inside the California border almost touching the city of South Lake Tahoe which has a population of 19,000 persons and 11,000 motel and hotel rooms. The proposed air operation will take place entirely within the boundaries of the State of California. Neither carrier will offer through fares nor provide any form of ground transportation beyond TVL. There is no showing that either carrier has any control over which or how many for-hire ground transportation companies, if any, will or may come upon El Dorado County's TVL airport property to pick up or deliver passengers. These manifest indicia overwhelmingly support the finding that the proposed operations of PSA and Air California will be performed in intrastate commerce. But Air Nevada contends that the pattern of dispersal and congregation of persons using ground transportation from and to TVL prior or subsequent to using air service is the controlling factor as to whether the air carriers will be operating in intrastate or interstate commerce and if such pattern shows that more than a de minimis number of such passengers proceed directly to or from Stateline, Nevada, then the proposed operation is in interstate commerce and hence is subject to federal jurisdiction and not the

Commission's jurisdiction.<sup>2/</sup> We do not agree. The Commission's posture in this situation is analogous to that of the United States Supreme Court in United States v Yellow Cab Co. (1946) 332 US 218, 231, 91 L ed 2010, 2020, where it said:

"But interstate commerce is an intensely practical concept drawn from the normal and accepted course of business. Swift & Co. v United States, 196 U.S. 375, 398; North American Co. v S.E.C., 327 U.S. 686, 705. And interstate journeys are to be measured by 'the commonly accepted sense of the transportation concept.' United States v Capital Transit Co., 325 U.S. 357, 363. Moreover, what may fairly be said to be the limits of an interstate shipment of goods and chattels may not necessarily be the commonly accepted limits of an individual's interstate journey. We must accordingly mark the beginning and end of a particular kind of interstate commerce by its own practical considerations.

"Here we believe that the common understanding is that a traveler intending to make an interstate rail journey begins his interstate movement when he boards the train at the station and that his journey ends when he disembarks at the station in

---

3/ Section 2743 of the Public Utilities Code reads as follows:

"2743. The provisions of this chapter [pertaining to the regulation of passenger air carriers] do not apply to those operations of common carriers of passengers by aircraft within this State which are furnished pursuant to a current certificate of public convenience and necessity issued by the federal government."

To the Commission's knowledge no passenger air carrier is presently serving TVL under a federal certificate. Air Nevada possesses federal certificate exemption authority to serve TVL from California points. Thus Section 2743 is not effective to exempt Air Nevada's proposed operation from this Commission's jurisdiction.

APPENDIX C

the city of destination. What happens prior or subsequent to that rail journey, at least in the absence of some special arrangement, is not a constituent part of the interstate movement. The traveler has complete freedom to arrive at or leave the station by taxicab, trolley, bus, subway, elevated train, private automobile, his own two legs, or various other means of conveyance."

The same view was expressed by the U.S. 9th Circuit Court of Appeals in Mateo v Auto Rental (1957) 240 F.2d 831:

"When a person arrives at International Airport, steps into the Honolulu sunshine, touches his feet to terra firma, receives a friendly aloha greeting, wires news of the safe arrival back to anxious relatives and friends, and is free to select from a multitude of choices of means of transportation to his local destination, he has, in the commonly accepted sense of the transportation concept [citing United States v. Capital Transit Co., 325 U.S. 357, 363 (1944)] arrived in Hawaii. Those who thereafter furnish his transportation are engaged in activity of a purely local nature. Id. Accord, Cederblade v. Parmelee Transportation Co., 94 F.Supp. 965 (N.D. Ill., 1947)."

While the Yellow Cab case involved possible violation of the federal antitrust laws and the Mateo case involved a possible violation of the federal Fair Labor Standards Act, the above quoted precepts offer the most rational guide for disposing of the issue of interstate versus intrastate commerce insofar as the proposed operations are concerned. On a flight from San Francisco to TVL, for instance, persons at first congregate at the San Francisco International Airport from all over the San Francisco Bay area by private and public conveyance. An aircraft takes them to TVL where, upon repossessing their baggage, if any, they disperse to a limited area, some taking taxis to nearby casinos across the state line, 5-1/2 miles away. To paraphrase the Yellow Cab case, *supra*, what happens prior or subsequent to the air

## APPENDIX C

journey is not a constituent part of the air journey. In other words, passengers while traveling in the air service will be traveling in intrastate commerce.

Little doubt exists that public convenience and necessity require passenger air carrier service at TVL or that such service will be profitable. For the year ended August 31, 1976 PSA and Air California carried between them a total of 298,578 passengers into and out of TVL at load factors ranging as high as 92 percent.

Both Air California and PSA, at the time each of them filed their applications, had extensive passenger air carrier operations within the State. They will use their current facilities and personnel, wherever possible, to service the proposed operations. They presently have counter space, ticketing employees, ground equipment, knowledgeable and trained employees, and communication equipment at each of the airports they intend to use in the proposed operation. Each is currently financially able to support the proposed operations. Air Nevada, on the other hand, has no equipment of any sort, little manpower, and no financing with which to conduct the proposed operation. It would be starting the operation from scratch. Since losses can always be expected during the first year or so in any newly formed transportation venture, adequate financing is required to tide over the new operation until the operation can get in the air. Testimony on how Air Nevada proposes to finance its operation did not contain sufficient substance to engender a belief that it will be financially able to stay aloft during the critical initial stages of the proposed operations. Service at TVL also poses a peculiar problem. While some of the major airports in the State are occasionally "socked in" by fog, TVL is closed down some 300 hours during the six winter months due to heavy snow falling. While some of the heavy snowfall no doubt occurs during nonoperational hours, the closing of TVL

during operational hours will almost completely shut down Air Nevada's operation since its operations will be built primarily around service at TVL. No operations means no revenue. Air California and PSA will be able to rely on revenue derived from operations other than to and from TVL to defray ongoing expenses created by its TVL service when TVL is closed down, but Air Nevada will not be able to do so, thus sapping its reserve strength.

With regard to Marin, in Decision No. 86351 Marin was granted a temporary certificate of public convenience and necessity to provide service between TVL, Truckee, Placerville, and San Francisco Bay area points. Subsequent to that decision Marin was granted additional temporary authority in Decision No. 86504 to serve San Jose-Monterey, pursuant to its Application No. 56095 for authority to provide service between Fresno, San Jose, and Monterey. On March 15, 1977 in Case No. 10287 the Commission issued its Order Instituting Investigation for the purpose of determining whether or not Marin has failed to conform to the law and to the rules and regulations of the Commission concerning Marin's operations under temporary authority and other activities. Therefore, the issuance of permanent authority to Marin should be subject to further consideration.

We will grant the applications of PSA and Air California to the extent set forth in the order below, allow Marin to continue operating under its temporary authority, and deny the application of Air Nevada.

The forecasts of the applicants and the staff in these proceedings and the actual passenger volumes experienced by Air California and PSA (Table 1, page 16 of this decision) indicate that public convenience and necessity require passenger air carrier service at TVL to and from San Francisco, Oakland, San Jose, Los Angeles, Hollywood/Burbank, Orange County, and San Diego; but that

APPENDIX C

the available traffic shown by the operations of Air California and PSA under their temporary authorities is not sufficient to support competitive operations by first-level carriers between any single city-pair.

We will grant PSA's request to serve TVL from Los Angeles, Hollywood/Burbank and San Diego and Air California's request to serve TVL from Orange County. As shown on page 7 of this decision, PSA and Air California have both requested authority between TVL and San Francisco, San Jose, and Oakland. We will grant Air California the two larger markets in the San Francisco Bay area, i.e., San Francisco and San Jose, in order to balance the TVL passenger market between the two carriers. We will grant TVL-Oakland authority to PSA.

The combined grants, with two minor exceptions, will allow the continuation of service previously rendered by Holiday and Hughes Airwest. Air California's service, as stated above, will generally be limited to service out of the San Francisco Bay area and that of PSA to service out of southern California. However, each will have a service point in the other's territory so that in case one carrier cancels a schedule out of TVL for mechanical trouble, passengers can switch to the other airline for air passage to a community close to their intended destination and will not have to be bussed all the way from TVL. While the expected generation of passengers at Sacramento is small, both carriers will be permitted to serve Sacramento for operating flexibility.



Service between TVL and the remaining points of Long Beach, Ontario, and Palm Springs may be provided as authorized by Section 2762 of the Public Utilities Code. We will restrict the service to the operation of Electra aircraft. Turbojet service at TVL is not necessary for the maintenance of adequate, efficient, and compensatory service there and, as found in the Final EIR, the excessive noise emitted by the Boeing 727-100 jet will have an adverse effect on the noise quality in parts of the Lake Tahoe Basin.

#### Findings

1. Each applicant has applied for a certificate of public convenience and necessity authorizing it to operate as a passenger air carrier between TVL, on the one hand, and, on the other hand, certain other points within California.
2. The proposed air operations will take place entirely within the boundaries of the State of California.
3. Under the proposed certificate authority no applicant will offer through joint fares with any air or ground carrier. Applicants' fares will cover only air-terminal to air-terminal service.
4. No applicant will furnish or provide any form of ground transportation beyond TVL.
5. No showing was made that any of the applicants will have any control over or choice of ground transportation service operating into or out of TVL.
6. Passengers arriving at TVL in applicants' proposed service will pick up their baggage at TVL, and, through their own independent action, will disperse themselves primarily throughout the Lake Tahoe Basin via ground transportation of their own choosing.

7. Many arriving passengers at TVL will leave TVL in ground transportation directly for Stateline, Nevada, and many passengers who congregate at TVL subsequent to flying out of TVL will have come directly from Stateline, Nevada, by ground transportation.

8. The city of South Lake Tahoe, adjacent to TVL, has a population of approximately 19,000 persons and offers 11,000 motel and hotel rooms to visitors while Stateline, Nevada, has a population of 900 and offers approximately 1,500 motel and hotel rooms with more being added.

9. Traveling by local ground transportation to and from TVL, even if a passenger starts or ends his journey at Stateline, Nevada, is not a constituent part of the proposed air journeys, and hence the proposed air service will be operated in intrastate commerce.

10. For the year ended August 31, 1976 PSA and Air California transported between them a total of 298,578 passengers into and out of TVL under their interim authorities at load factors ranging as high as 92 percent.

11. Public convenience and necessity require passenger air carrier service at TVL to and from San Francisco, Oakland, San Jose, Sacramento, Los Angeles, Hollywood/Burbank, Orange County, and San Diego.

12. Air California and PSA both had extensive passenger air carrier operations within the State at the time of the filing of their applications, and they intend to use their present counter spaces, ticketing employees, equipment, knowledgeable and trained employees, and communication equipment in the proposed operations.

13. Both PSA and Air California are currently financially able to support their proposed operations.

14. PSA and Air California are equally qualified to perform their respective proposed service.

APPENDIX C

14. Both PSA and Air California are currently financially able to support their proposed operations.

15. PSA and Air California are equally qualified to perform their respective proposed service.

16. Air Nevada has no equipment, little manpower, and no facilities to perform its proposed operations. It has no financial stability nor insurance coverage.

17. The financial ability of Air Nevada to support its proposed operations has not been substantiated.

18. Air Nevada is not qualified to render its proposed service.

19. Based on qualification to perform service, authority to perform first-level carrier service should be split between PSA and Air California.

20. Each carrier should serve a point in the other's territory to provide alternative service in the event one carrier cancels a scheduled service due to mechanical trouble.

21. Public convenience and necessity require that PSA be certificated to provide passenger air carrier service between TVL, on the one hand, and, on the other hand, Oakland, Los Angeles, Hollywood/Burbank, San Diego, and Sacramento.

22. Public convenience and necessity require that Air California be certificated to provide passenger air carrier service between TVL, on the one hand, and, on the other hand, San Francisco, San Jose, Orange County, and Sacramento.

23. The determination of whether to issue permanent authority to Marin should be held in abeyance until Case No. 10287 is finally decided.

Environmental Findings

24. Authorizing all the combined projects as requested would create a surplus of large aircraft serving TVL and reduce load factors of those aircraft to a point where the operations would result in a waste of energy.

25. The load factors experienced by both Air California and PSA in their noncompetitive operations into and out of TVL under temporary authority make those operations more economical than those of automobile travel from the point of view of fuel consumption.

26. The operation of Boeing 727-100 jets in passenger air carrier service within the Lake Tahoe Basin will have a significant adverse effect on the noise quality of the Basin.

27. Except as to particulate emissions, the pollutant emissions from Boeing 727-100 jet engines are significantly higher than from Electra turboprop engines.

28. The operation of Electra aircraft, as authorized by this decision, will not have an adverse effect on the noise, air, or water quality in the Lake Tahoe Basin.

29. The community value of having jet passenger air carrier service at TVL as opposed to Electra service is negated by the former's adverse impact on noise quality and higher pollutant emissions.

30. The services authorized herein, with minor exceptions, merely provide for a continuation of the service being performed by the combined operations of Hughes Airwest and Holiday Airlines at the time the applications were filed.

31. The operations authorized herein will not involve any irreversible environmental changes since practically all the facilities were in place at the time of the filing of the applications.

32. If passenger air carrier service into TVL has any significant growth inducing impact, such impact should have already occurred due to Holiday Airlines' and Hughes Airwest's prior service, and the continuation of that service by Air California and PSA will have only an insignificant effect on the growth of the area.

33. Passenger air carrier service at TVL by Air California and PSA should be restricted to the operation of Electra aircraft.

34. Adequate and satisfactory passenger air carrier service can be given at TVL with Electra aircraft.

35. The exceptions filed by PSA to the Final EIR lack merit for the reasons set out in the replies to the exceptions recited above in the body of the opinion.

36. It can be seen with certainty that there is no possibility that the activity of Marin will have a significant effect on the environment.

#### Conclusions

1. First-level passenger air carrier service is required by public convenience and necessity between TVL, on the one hand, and, on the other hand, San Francisco, Oakland, San Jose, Sacramento, Los Angeles, Hollywood/Burbank, Santa Ana, and San Diego.

2. The final determination of Application No. 54604 should be held in abeyance until Case No. 10287 has been finally decided and the evidence adduced in the latter case should be used in the former case for the purpose of arriving at such final determination.

3. The application of Air California should be granted to authorize it to perform passenger air carrier service between TVL, on the one hand, and San Francisco, San Jose, Sacramento, and Santa Ana, on the other hand. Air California should be restricted from flying nonstop between San Francisco and Sacramento and from carrying passengers between TVL and Oakland.

4. The application of PSA should be granted to authorize it to perform passenger air carrier service between TVL, on the one hand, and Los Angeles, Hollywood/Burbank, San Diego, Sacramento, and Oakland, on the other hand. PSA should be restricted from carrying TVL passengers originating at or destined to San Francisco or San Jose.

5. The service authorized PSA and Air California to and from TVL should be restricted to the operation of Electra aircraft.

6. Any service authorized Marin should be restricted to the operation of aircraft which can be flown by a single pilot which shall have a capacity not exceeding 30 revenue passenger seats or 7,500 pounds of payload.

7. The application of Air Nevada should be denied.

8. The service authorized in the order below is in intrastate commerce.

PSA and Air California are 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.

The Notice of Determination for the projects is attached as Appendix D to this decision, and the Commission certifies that the Final EIR has been completed in compliance with CEQA and the Guidelines, and that it has reviewed and considered the information contained in the EIR.

#### ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Air California, a corporation, authorizing it to operate as a passenger air carrier, as defined in Section 2741 of the Public Utilities Code, by extending its air passenger service to Tahoe

Valley Airport. Appendix A of Decision No. 80439, as amended, is further amended by incorporating Second Revised Page 3, Fifth Revised Page 4, and Sixth Revised Page 5, attached hereto in Appendix B, in revision of First Revised Page 3, Fourth Revised Page 4, and Fifth Revised Page 5, respectively.

2. A certificate of public convenience and necessity is granted to Pacific Southwest Airlines, a corporation, authorizing it to operate as a passenger air carrier, as defined in Section 2741 of the Public Utilities Code, by extending its air passenger service to Tahoe Valley Airport. Appendix A of Decision No. 79085, as amended, is further amended by incorporating Fourth Revised Page 2, in revision of Third Revised Page 2, and Original Page 6, attached hereto in Appendix C. [\*]

3. In providing service pursuant to the authority granted by this order, applicants 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, each applicant shall file a written acceptance of the certificate granted to it. By accepting the certificate each 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, each applicant shall establish its authorized service and file tariffs, in triplicate, in the Commission's office.

---

[\*] Omitted for sake of brevity.

- (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 to 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.

5. The application of Air Nevada is denied.

The Executive Director of the Commission is directed to file a Notice of Determination for the project, with contents as set forth in Appendix D to this decision, with the Secretary for Resources.

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

Dated at San Francisco, California, this 30th day of June, 1977.

Respectfully submitted,

/s/ WILLIAM S. PILLING

---

William S. Pilling  
Administrative Law Judge



APPENDIX C  
LIST OF APPEARANCES

Applicant in A-54604: Richard T. Duste, President, for Marin Aviation Inc.

Applicant in A-54899: Brownell Merrell, Jr., Attorney at Law, and Lawrence A. Guske, for Pacific Southwest Airlines.

Applicant in A-55099: Graham & James, by Boris Lakusta and David Marchant, Attorneys at Law, and Frederick R. Davis, for Air California, and protestant in all others.

Applicant in A-55157: Donald F. Malcolm, President, Robert B. White, Vice President, and Keith F. Pritchard, Attorney at Law, for Air Nevada.

Protestant and Interested Party: Donald Keith Hall, Attorney at Law, for Western Airlines.

Protestants: James W. Bruner, Jr., Executive Director, for League to Save Lake Tahoe; Wilbur E. Twining, for The Sierra Club; and Parlen L. McKenna, Attorney at Law, for Hughes Airwest.

Interested Parties: John E. Nolan, Attorney at Law, for Oakland Airport; Robert L. Pleines, Attorney at Law, for County of Sacramento; Hugh R. Coffin, and Dennis O'Neil, Attorneys at Law, for City of Newport Beach; Leslie E. Still, Jr., Attorney at Law, for the City of Long Beach; Spyridon N. Sideris, for California Department of Transportation Division of Aeronautics; Nat Sinclair, President, for himself and Heavenly Valley Hotel Corporation; Kenneth H. Lounsbury, City Attorney, for City of South Lake Tahoe; Terry Trupp, for Counsel for Logic; R. W. Russell, by K. D. Walbert, for City of Los Angeles; Richard M. Heikka, Executive Officer, for Tahoe Regional Planning Agency; and Jim Morris, Attorney at Law, Betty W. Klein, Mrs. Mary Lou Mosbacher, and Wayne A. Levin, for themselves.

Commission Staff: Walter H. Kessenick, Attorney at Law, A. L. Gielegheem, and Richard Brozosky.