

Decision No. 89533 OCT 17 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Stol Air, Inc., for a certificate of public convenience and necessity or for issuance of a temporary certificate of public convenience and necessity (or in the alternative, to be exempted from the certification process) so that Stol Air can operate as a passenger air carrier between San Francisco International Airport and Oakland International Airport on a scheduled basis.

Application No. 56757
(Filed September 16, 1976)

SUPPLEMENTAL OPINION

Decision No. 87672, dated August 2, 1977 in the captioned proceeding, granted a temporary certificate of public convenience and necessity to Stol Air, Inc. (a corporation) to operate as a passenger air carrier between San Francisco International Airport (SFO) and Oakland International Airport (OAK). That temporary authority expires October 31, 1978.

By letter to the Commission dated August 18, 1978, Westair Commuter Airlines, Inc., successor to Stol Air, Inc., requests that the temporary authority granted to Stol Air, Inc. between SFO and OAK be made permanent.

Decision No. 87672 indicated that the certificate was made temporary for one year because the carrier may not be able to acquire counter space and terminal space at SFO or OAK to conduct the operations authorized. Our Transportation Division staff informs us that applicant does not have counter space at OAK, but it is carrying significant numbers of air passengers between SFO and OAK. The staff recommends that the temporary certificate be made permanent. In the circumstances, applicant's request should be granted.

We find that public convenience and necessity require that the temporary certificate granted to Stol Air, Inc. by Decision No. 87672 and acquired by Westair Commuter Airlines, Inc. should be

made permanent; that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; and that this order should be made effective on date of issuance because the temporary authority will soon expire.

Westair Commuter Airlines, Inc. 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. ✓

SUPPLEMENTAL ORDER

IT IS ORDERED that:

1. Westair Commuter Airlines, Inc., a corporation, (successor to Stol Air, Inc., a corporation) is granted a certificate of public convenience and necessity authorizing it to operate as a passenger air carrier between San Francisco and Oakland. Appendix A of Decision No. 83262, is amended by incorporating Third Revised Page 1, attached hereto, in revision of Second Revised Page 1.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure to do so 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 is the date hereof.

Dated at San Francisco, California, this 17th
day of OCTOBER, 1978.

William F. Quinn President
Vernon J. Sturgeon
Robert D. Kucala
Clare J. DeLoach Commissioners

Commissioner Robert Batimovich, being necessarily absent, did not participate in the disposition of this proceeding.

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

| | | | |
|---------|---------|---------|----------|
| SFO-STS | SFO-UKI | APC-STS | #SFO-OAK |
| SFO-APC | SFO-CKE | OAK-CCR | CCR-APC |
| SFO-CCR | STS-UKI | OAK-STS | CCR-STS |
| SFO-NOT | STS-CKE | OAK-APC | |
| STS-NOT | UKI-CKE | OAK-NOT | |

Conditions:

1. No aircraft having more than 30 revenue passenger seats or a payload of more than 7,500 pounds shall be operated.
2. Each airport pair shall be served with a minimum of one flight in each direction on each of five days a week.
3. No passenger shall be carried whose transportation is solely between the respective airports of CCR and APC or CCR and STS.
4. The following airports shall be used:

| <u>Symbol</u> | <u>Location</u> | <u>Name</u> |
|---------------|-----------------|-------------------------------|
| SFO | San Francisco | San Francisco International |
| STS | Santa Rosa | Sonoma County Airport |
| CCR | Concord | Buchanan Field |
| NOT | Novato | Gross Field |
| APC | Napa | Napa County Airport |
| UKI | Ukiah | Ukiah Municipal Airport |
| CKE | Clear Lake | Lampson Field |
| OAK | Oakland | Oakland International Airport |

Issued by California Public Utilities Commission.

#Added by Decision No. 89533, Application No. 56757.