

Decision No. 89609 ; OCT 31 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of AIR CALIFORNIA)
for a certificate of public)
convenience and necessity to)
provide one-stop passenger air)
service between San Diego and)
Sacramento via Ontario and to)
provide nonstop passenger air)
service between Ontario and)
Sacramento.)

Application No. 56609
(Filed July 9, 1976)

In the matter of the application)
of PACIFIC SOUTHWEST AIRLINES, a)
California corporation, for a)
certificate of public convenience)
and necessity to operate nonstop)
passenger air service between)
Ontario and Sacramento.)

Application No. 57366
(Filed June 3, 1977)

Graham & James, by Boris H. Lakusta
and David J. Marchant, Attorneys
at Law, for Air California, applicant.
Brownell Merrell, Jr., Attorney at Law,
for Pacific Southwest Airlines,
applicant.
Thomas F. Grant, Attorney at Law, for
the Commission staff.

O P I N I O N

In Application No. 56609 filed July 9, 1976, Air California seeks authority to provide one-stop passenger air service between San Diego and Sacramento via Ontario as well as authority to provide nonstop service between Ontario and Sacramento. On June 3, 1977 Pacific Southwest Airlines (PSA) filed Application No. 57366 seeking authority to provide nonstop service

between Ontario and Sacramento. Western Airlines, Inc., presently provides nonstop service between Ontario and Sacramento.

The two applications were consolidated and public hearings were held before Administrative Law Judge Main on June 28 and 29, 1977 at Los Angeles and concurrent briefs were filed August 26, 1977. During the hearings Air California supplemented its proposal by requesting that its certificate of public convenience and necessity be altered to show a separate route between San Diego and Ontario. The Proposed Report of Administrative Law Judge Archibald E. Main was filed in these matters on June 9, 1978. A copy of the findings and conclusion of the Proposed Report is attached to this decision as Appendix A.

The Commission is of the opinion and finds that the material issues, facts, and chronology set forth in the Proposed Report are correct and need not be repeated. The Proposed Report found, among other things, that the nonstop service proposed by Air California and PSA is needed; that maintaining equal operating authority between Ontario and Sacramento for Air California and PSA is beneficial; that the Ontario-Sacramento market is undergoing rapid growth but may not yet be large enough to assure both applicants' profitable nonstop operations; that each applicant should be restricted to an initial maximum of two nonstop round trips per day; and that any threat to each applicant's overall financial condition, which could result from their joining Western Airlines in providing nonstop service in the Ontario-Sacramento market, would be slight. Only Air California filed exceptions to the Proposed Report.

In its exceptions, which were filed June 29, 1978, Air California urges, as it has throughout this proceeding, that it alone should be authorized to meet the need for additional nonstop service in the Ontario-Sacramento market. If that is not

done, Air California then urges the Commission to limit the additional service by each applicant to no more than two daily flights on a nonstop basis in the market, with Air California providing northbound morning and evening nonstop service and PSA providing southbound morning and evening service. Air California contends, as it did in its petition filed May 30, 1978 to Set Aside Submission in Application No. 57064 in which PSA sought authority to provide nonstop service between San Diego and San Jose, that both it and PSA have exposure to substantial adverse financial effects from their head-to-head competition in the San Diego-San Jose and San Francisco-South Lake Tahoe markets. By Decision No. 89073 issued July 11, 1978 the Commission denied Air California's petition.

In light of that denial it is appropriate in this proceeding to confine our consideration of competition to that in the Ontario-Sacramento market only. Accordingly, the following finding in the Proposed Report, which is based on such consideration, is correct:

"5.b. Any threat to the applicants' overall financial condition that could result from their joining Western Airlines in providing nonstop service in the Ontario-Sacramento market would be slight and thus is not significant when compared to the benefit to the public of improved service."

Air California's fall back position under which it would provide the nonstop northbound flights and PSA the southbound ones is unacceptable. Such split authority would prove inconvenient to customers and could result in a lesser use of nonstop return trips on this route.

To curb potential predatory practices and to promote profitable service and an orderly addition of flights, the Proposed Report adopted a staff proposed partial restriction on the Ontario-Sacramento nonstop authority of both carriers. Under its terms,

Air California and PSA are restricted "to a maximum of two daily round trip nonstop flights each between Ontario and Sacramento, with the provision that the airlines would be able to increase the number of daily round trips in increments of one each if (a) the load factor for the nonstop Ontario-Sacramento service is 60 percent or higher for the previous three-month period and (b) the airline notifies the Commission in writing of the proposed additional nonstop service 30 days prior to its effective date."

In its exceptions Air California indicated that, with reference to expansions of the nonstop service as the load factor criteria under the partial restriction are met, the Proposed Report was unclear on the environmental issues. That is incorrect. The following Finding 6 of the Proposed Report is not limited to the initial nonstop service. It applies equally to any foreseeable increase in nonstop flight frequency:

"6. It can be seen with certainty that there is no possibility that the service proposed by Air California and PSA may have a significant effect on the environment."

No other points require discussion. However, it is not amiss to note an additional year of market growth over that envisioned at the June 1977 hearings on these matters has taken place (i.e., if nonstop service by Air California and PSA in the Ontario-Sacramento market is not initiated until late 1978, which is presumably the present outlook).

The Commission adopts as its own all of the findings and the conclusion made by the Administrative Law Judge in the Proposed Report, attached hereto as Appendix A. The order which follows is in substance the order proposed by the Administrative Law Judge modified to update revised certificate pages and to add a load factor reporting requirement.

O R D E R

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 modifying its air passenger service to include nonstop service between Ontario and Sacramento and one-stop service between San Diego and Sacramento via Ontario. Appendix A of Decision No. 80439, as amended, is further amended by incorporating Third Revised Page 2, Eighth Revised Page 3, and Fourth Revised Page 6, attached as Appendix B hereto, in revision of Second Revised Page 2, Seventh Revised Page 3, and Third Revised Page 6, 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 realigning its air passenger service between Ontario and Sacramento. Appendix A of Decision No. 79085, as amended, is further amended by incorporating Tenth Revised Page 2 and Second Revised Page 6, attached as Appendix C hereto, in revision of Ninth Revised Page 2 and First Revised Page 6, respectively.

3. In providing service pursuant to the authority granted by this order, applicants 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, 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 comply with the requirements of the Commission's General Orders Nos. 120-Series, 129-Series, and 134-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.
- (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.

A.56609, 57366 es

4. Each applicant shall report to the Commission each month its daily load factors between Ontario and Sacramento for the prior month.

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

Dated at San Francisco, California, this 31st
day of OCTOBER, 1978.

Robert Bateman
President
William Lyons Jr
Thomas L. Sturgeon
Robert D. Coville
Clair T. DeWitt
Commissioners

Findings

1. Air California has one-stop authority between Ontario and Sacramento via San Jose and/or Orange County; PSA has equal operating authority via San Francisco.
2. The only airline presently having nonstop authority between Ontario and Sacramento is Western Airlines. Its market participation has significantly decreased because of lack of frequency of service.
3. Air California and PSA propose nonstop air passenger service between Ontario and Sacramento. They each have the requisite business experience, financial stability, insurance coverage and suitable aircraft to provide the proposed service.
4. Ontario-Sacramento is a growing market in which the passengers show a preference for nonstop service and in which only approximately 14 percent of the flights are nonstop and with no nonstop morning flights.

5.a. The Ontario-Sacramento market has grown at an average annual rate of 16 percent per year and at a rate of 37 percent for the year ended March 1977. It may not yet be large enough, however, to assure both Air California and PSA profitable non-stop operations.

b. Any threat to the applicants' overall financial condition that could result from their joining Western Airlines in providing nonstop service in the Ontario-Sacramento market would be slight and thus is not significant when compared to the benefit to the public of improved service.

c. Maintaining equal operating authority between Ontario and Sacramento for Air California and PSA is in the interests of obtaining maximum public benefits.

6. It can be seen with certainty that there is no possibility that the service proposed by Air California and PSA may have a significant effect on the environment.

7. The nonstop service proposed by Air California and PSA is required by the public convenience and necessity.

8. Each applicant should be restricted to an initial maximum of two nonstop round trips per day. This limitation, which is directed toward a 60 percent, or higher, load factor, should assure an orderly addition of flights resulting in relatively more efficient use of fuel resources.

9. The following route addition should be made to the certificate of public convenience and necessity of Air California and to the certificate of public convenience and necessity of PSA:

"Route No. __: Nonstop service between Ontario International Airport and Sacramento Metropolitan Airport. Initially, a maximum of two daily round trip nonstop flights may be provided between Ontario International Airport, on the one hand, and Sacramento Metropolitan Airport, on the other hand.

The number of daily round trips may be increased in increments of one daily round trip if (a) the load factor for this nonstop Ontario-Sacramento service is 60% or higher for the previous three-month period and (b) the carrier notifies the Public Utilities Commission in writing of the proposed additional nonstop service 30 days prior to its effective date."

10.a. Air California's ability to operate one-stop service between San Diego and Sacramento through Orange County is restricted by the number of takeoffs permitted at the Orange County Airport.

b. One-stop service between San Diego and Sacramento via Ontario will provide Air California with greater operational flexibility and enable it to compete more effectively with PSA in the San Diego-Sacramento market.

c. The traveling public will benefit from this increased service flexibility.

d. Public convenience and necessity require service by Air California between San Diego and Sacramento via Ontario.

e. Air California's certificate of public convenience and necessity should be modified as follows:

"Route No. 10: Between San Diego International Airport and Sacramento Metropolitan Airport via one or more of the intermediate points of Orange County Airport, San Jose Municipal Airport, and Ontario International Airport."

11. Air California has not established a need for a separate San Diego-Ontario route.

Based on the foregoing findings it is concluded that the applications should be granted to the extent set forth in the order which follows.

Appendix A
(Dec. 80439)

AIR CALIFORNIA
(a corporation)

Third Revised Page 2
Cancels
Second Revised Page 2

- Route 9 - Between Orange County Airport and Sacramento Metropolitan Airport via the intermediate point of San Jose Municipal Airport.
- #Route 10 - Between San Diego International Airport and Sacramento Metropolitan Airport via the intermediate points of Orange County Airport, San Jose Municipal Airport and Ontario International Airport.
- Route 11 - Between Ontario International Airport and Sacramento Metropolitan Airport via the intermediate point of San Jose Municipal Airport.
- Route 12 - Between Palm Springs Airport and Sacramento Metropolitan Airport via the intermediate point of San Jose Municipal Airport.
- 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 Lake Tahoe 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 five 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 Lake Tahoe Airport shall be conducted with Lockheed L-188 Electra aircraft only.
- Route 17 - Between San Francisco International Airport and Oakland International Airport.
- Route 18 - Between Monterey Peninsula Airport, on the one hand, and San Francisco International Airport, Sacramento Municipal Airport, Orange County Airport, Ontario International Airport and San Diego International Airport, with each of the last five 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.

Issued by California Public Utilities Commission.

#Revised by Decision No. 89609, Application No. 56609.

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Appendix B

Appendix A
(Dec. 80439)

AIR CALIFORNIA
(a corporation)

Eighth Revised Page 3
Cancels
Seventh Revised Page 3

Route 19 - Between Ontario International Airport, Fresno Air Terminal,
San Jose Municipal Airport and Oakland International Airport.

Route 20 - Between Orange County Airport, Fresno Air Terminal and
Oakland International Airport.

Route 21 - Between Lake Tahoe Airport, Fresno Air Terminal and Orange
County Airport.

Route 22 - Between San Jose Municipal Airport and Oakland International
Airport.

#Route 23 - Nonstop service between Ontario International Airport and
Sacramento Metropolitan Airport.

Issued by California Public Utilities Commission.

#Added by Decision No. 89609; Application No. 56609.

Restrictions

- I. No Passenger shall be accepted for transportation solely between the following pairs of points:
- a. San Francisco International Airport/Oakland International Airport - Sacramento Municipal Airport.
 - b. San Francisco International Airport - Ontario International Airport.
 - c. San Diego International Airport - San Francisco International Airport.

II. The following restrictions relate to the routes indicated:

Route 17 - Operations between San Francisco International Airport and Oakland International Airport shall be conducted with multi-engine aircraft of the same type as operated on Air California's Routes 1 through 16, as described in Appendix A to Decision No. 80439, as amended.

Route 21 - All operations on this route into Lake Tahoe Airport shall be conducted with L-188 (Electra) aircraft.

#Routes 10 and 23 - Nonstop service between Ontario International Airport and Sacramento Metropolitan Airport shall be provided as follows:

Initially, a maximum of two daily round-trip nonstop flights may be provided between Ontario International Airport and Sacramento Metropolitan Airport.

The number of daily round trips may be increased in increments of one daily round trip if (a) the load factor for this nonstop Ontario-Sacramento service is 60% or higher for the previous three-month period and (b) the carrier notifies the Public Utilities Commission in writing of the proposed additional nonstop service 30 days prior to its effective date.

Issued by California Public Utilities Commission.

#Added by Decision No. 89609, Application No. 56609.

Appendix A
(Dec. 79085)

PACIFIC SOUTHWEST AIRLINES
(a corporation)

Tenth Revised Page 2
Cancels
Ninth Revised Page 2

Routes (Continued)

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 Lake Tahoe 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.
25. Between San Francisco International Airport and Los Angeles International Airport via Monterey Peninsula Airport, with San Francisco International Airport and/or Los Angeles International Airport being a terminal point on the route and with Monterey Peninsula Airport being served as an intermediate point or as a terminal point on the route.
26. Nonstop between San Diego International Airport and San Jose Municipal Airport.
27. Between San Jose Municipal Airport and Oakland Metropolitan International Airport.
- #28. Nonstop between Ontario International Airport and Sacramento Metropolitan Airport.

Issued by California Public Utilities Commission.

#Added by Decision No. 89609, Application No. 57366.

Appendix C

Appendix A
(Dec. 79085)

PACIFIC SOUTHWEST AIRLINES
(a corporation)

Second Revised Page 6
Cancels
First Revised Page 6

RESTRICTIONS (Continued)

Route 24

1. A minimum of one scheduled round trip per day shall be provided between Lake Tahoe 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 Lake Tahoe Airport and Oakland International Airport/San Jose Municipal Airport.
3. Operations at Lake Tahoe Airport shall be conducted with Lockheed L-188 Electra aircraft only.

#Route 28 - Nonstop service between Ontario International Airport and Sacramento Metropolitan Airport.

Initially, a maximum of two daily round trip nonstop flights may be provided between Ontario International Airport, and Sacramento Metropolitan Airport.

The number of daily round trips may be increased in increments of one daily round trip if (a) the load factor for this nonstop Ontario-Sacramento service is 60% or higher for the previous three-month period and (b) the carrier notifies the Public Utilities Commission in writing of the proposed additional nonstop service 30 days prior to its effective date.

Issued by California Public Utilities Commission.

Added by Decision No. 89609, Application No. 57366.