

JRP/FS

Decision No. 90025 : FEB 27 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of BORREGO SPRINGS AIRLINE, A)
California corporation, for a)
Certificate of Public Convenience)
and Necessity to operate between)
El Centro (IPL) and Los Angeles)
International (LAX))

Application No. 58595
(Filed January 11, 1979)

O P I N I O N

Borrego Springs Airline is a passenger air carrier which operates between San Diego (SAN) and Borrego Springs (OBR), between OBR and Palm Springs (PSP), between SAN and PSP, between PSP and LAX, and between Las Vegas (LAS) and PSP and Long Beach (LGB). In addition, it has a temporary certificate expiring May 1, 1979 authorizing regular passenger service between PSP and Hollywood-Burbank (BUR) and between BUR and LAX; and a temporary certificate expiring December 31, 1979 authorizing service between SAN and LGB.

In this application, the airline requests temporary authority to operate between IPL and LAX. Hughes Airwest and Cochise Airlines are the only airlines offering passenger service between LAX and IPL; however Hughes has notified the Civil Aeronautics Board that it intends to suspend LAX-IPL service. The only other California-certificated airline to operate at IPL is Imperial Commuter Airlines, Inc., which carries passengers between IPL and SAN. Borrego Springs Airline has sent a copy of this application to Imperial Commuter Airlines, to Hughes Airwest and to Cochise Airlines. No protests have been received.

Borrego Springs Airline proposes to provide five round-trips per week at a fare of \$45.00, tax included, using a Swearingen Metroliner, which carries 19 passengers and cruises at 295 mph. The airline asks not to be restricted by having to provide a minimum number of flights.

It can be seen with certainty that granting this application will not significantly affect the environment; the Metroliner is a twin-engine turboprop plane which does not create a significant amount of smoke pollution or noise.

Borrego Springs Airline maintains liability insurance covering bodily injury and property damage in conformance with General Order 120-C.

The applicant states that there is a public need for the service because Hughes Airwest intends to suspend service, and it requests ex parte handling of this application. Borrego Springs Airline claims that it needs the added segment soon because it is suffering losses and underutilized equipment and personnel due to reduced patronage on its SAN-PSP segment, now flown also by Western Airlines and Air California.*

We conclude that Borrego Springs Airline should be granted temporary authority for one year to operate as a passenger air carrier between IPL and LAX. Because of the impending drop of service to be caused by Hughes Airwest's suspension, and the threat to Borrego Springs Airline's financial health caused by the loss of revenue on its SAN-PSP segment, the effective date of the order granting authority should be the date it is signed.

* Air California was denied authority to fly PSP-SAN by the California Public Utilities Commission in D. 87436 partly because of the effect its service would have on Borrego Springs Airline. The Civil Aeronautics Board gave its permission to Air California to fly that segment.

Borrego Springs Airline is placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. A temporary Certificate of Public Convenience and Necessity be granted to Borrego Springs Airline authorizing it to operate as a passenger air carrier nonstop between Imperial County Airport (El Centro) and Los Angeles International Airport subject to the conditions in attached Appendix A. The temporary certificate will expire on March 31, 1980.

2. In providing service pursuant to the authority granted by this order, Borrego Springs Airline shall comply with the following service regulations. Failure so to do may result in a cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. By accepting the certificate applicant is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with the requirements of the Commission's General Orders Nos. 120, 129, 137 and 144.

- (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 27th day
of FEBRUARY, 1979.

John E. Bong
PRESIDENT
William L. L. L.
Charles W. Howell
Charles T. L. L.
Arnold L. L.
COMMISSIONERS

T E M P O R A R Y C E R T I F I C A T E

Appendix A

BORREGO SPRINGS AIRLINE
(a corporation)

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Borrego Springs Airline, by this temporary certificate of public convenience and necessity, is authorized to operate as a passenger air carrier between the following airports:

IPL - LAX

Conditions

1. No aircraft having more than 30 revenue passenger seats or a payload of more than 7,500 pounds shall be operated.
2. Authority granted herein is temporary and shall expire March 31, 1980.
3. The following airports shall be used:

<u>Symbol</u>	<u>Location</u>	<u>Name</u>
IPL	El Centro	Imperial County Airport
LAX	Los Angeles	Los Angeles International Airport

Issued by California Public Utilities Commission.

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