

CIVIL AERONAUTICS JOURNAL



ISSUED TWICE MONTHLY BY THE CIVIL AERONAUTICS AUTHORITY

VOL. 1

WASHINGTON, JULY 1, 1940

NO. 13

Pan American Airways Issued Certificate For New Zealand Operation

The Civil Aeronautics Authority on June 12 issued a certificate of public convenience and necessity to Pan American Airways Co. of Nevada to engage in the air transportation of persons, property and mail between San Francisco and Auckland, New Zealand, via Los Angeles, Honolulu, Canton Island, and Noumea in New Caledonia, provided that no local traffic is to be carried between points in the continental United States.

Findings in the opinion which accompanied the Authority's order stressed the important effect which the establishment of such an aerial trade route would have on commercial relations between the United States and the region known as Australasia, comprising not only New Zealand but Australia as well. At present steamer connections between North America and this region take 17 days in transit and are limited to one round trip per month. The proposed air service will shorten the time of transit to 4½ days and will be inaugurated on the basis of one round trip each fortnight.

Background of Projected Air Line

As set forth in the opinion, Pan American Airways first developed plans for a New Zealand service in 1934, and in 1935 conducted a survey of possible routes. At that time the route via Kingman Reef and Pago Pago in Samoa was decided as the most feasible between Honolulu and Auckland. In November 1935 Pan American concluded an agreement with the New Zealand government under which it was granted landing rights and privileges at Auckland for an air service between that point and San Francisco. Under this agreement operations were to commence not later than December 31, 1936, but it was later amended extending this date to December 31, 1937.

In March and April 1937 the Samoan Clipper," one of Pan American's four-engine Sikorsky flying boats, made a round trip survey flight over the route. In December 1937 Pan American Airways was given temporary authorization by the Department of Commerce for the transportation of property over this route, but was expressly prohibited from transporting passengers. Between December 23, 1937, and January 3, 1938, a round trip flight was carried out between Honolulu and Auckland, New Zealand, mail and complimentary express being carried on the return jour-

(See *NEW ZEALAND OPERATION*, page 258)

U. S.—Alaska Air Service Authorized

The Civil Aeronautics Authority on June 6 issued to Pacific Alaska Airways, Inc., a wholly owned subsidiary of Pan American Airways Corporation, a certificate of public convenience and necessity for the route between Seattle, Washington, and Juneau, Alaska, providing the first air service to afford a direct connection between the Territory and the United States. The issuance of the certificate and the terms, conditions, and limitations contained therein had been approved by the President on June 4, 1940.

It is understood that the company is prepared to begin service almost immediately, having already made some 20 trial flights over the route. The Authority's opinion recites that service will be conducted at the outset with a Sikorsky S-42-B flying boat. Ultimately the company proposes to use Boeing 307 four-engine landplanes not only over this route but from Seattle through to Fairbanks. Evidence in the case discloses that the Boeing 307 equipment will be available by autumn 1941 and that suitable landing fields for the Boeing planes will be available about the same time.

(See *ALASKAN SERVICE*, page 258)

IN THIS ISSUE

Pan American Airways issued certificate for New Zealand operation . . . United States-Alaska air service authorized . . . Pleasure flying increases.

PRIVATE FLYING

(Page 258)

Private flying accident and operations statistics for 1939 . . . continued safety gains reflected in accident statistics for last year . . . miles flown in private flying operations in 1939 increases 39 percent over previous year . . . New type approvals . . . Designation of medical examiners.

AIRWAYS AND AIRPORTS

(Page 262)

Temporary airports of entry redesignated . . . New edition of regional aeronautical chart issued . . . Airport projects approved.

MANUFACTURING

(Page 262)

Aircraft radio equipment approved for scheduled air-carrier use . . . authorized modifications issued during May.

OFFICIAL ACTIONS

(Page 263)

Opinions and abstracts of orders and regulations issued by the Authority during the period June 1-15, 1940.



Published with the approval of the Director of the Bureau of the Budget by the

CIVIL AERONAUTICS AUTHORITY:

- ROBERT H. HINCKLEY, *Chairman*
- HARLEE BRANCH, *Vice Chairman*
- OSWALD RYAN, *Member*
- G. GRANT MASON, Jr., *Member*
- EDWARD WARNER, *Member*
- CLINTON M. HESTER, *Administrator*
- PAUL J. FRIZZELL, *Secretary*

Issued on the 1st and 15th of each month. Subscription \$1 (foreign \$1.50) per year. Single copies 5 cents. Sold by the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C.

New Zealand Operation

Continued from preceding page)

ney. On January 9, 1938, the Samoan Clipper again left Honolulu carrying express, but was lost on January 11 on the flight between Pago Pago and Auckland. No further flights were made between Honolulu and Auckland until August 1939, when a round trip survey flight via Canton Island and Noumea was made with a Boeing B-314 flying boat.

Actions Before the Authority

Pan American Airways Co. filed its original application for a certificate of public convenience and necessity for a route to New Zealand on October 20, 1938. In this petition it asked for a certificate to cover the route from San Francisco to Honolulu, thence via Kingman Reef and Pago Pago, or some other practical route between Honolulu and Auckland. On July 31, 1939, it amended its petition to include Los Angeles as an intermediate stop between San Francisco and Honolulu, and asked specifically for the Canton Island-Noumea route. On September 12, 1939, the Acting Postmaster General certified to the Authority the needs of the Postal Service between San Francisco, Honolulu, Canton, Noumea and Auckland.

A public hearing on the application as amended was completed before Francis W. Brown, examiner of the Authority, who submitted his report on February 6, 1940. In that report the examiner recommended that Pan American Airways be granted a certificate for a route between Honolulu and Auckland, and that Los Angeles should not be included as an intermediate stop. He also found that since Pan American already held a certificate between San Francisco and Honolulu no additional certificate was necessary in order to permit through

service from San Francisco to Auckland. Exceptions to the examiner's report were filed by counsel for the applicant on February 16, 1940, on February 20 by counsel for the Authority, and on February 26 by the City of Los Angeles. Oral argument by these parties was held before the Authority on March 14.

The Projected Service

In finding the applicant fit, willing, and able to perform the proposed service, the Authority attached great weight to Pan American's experience in successfully operating service across the Caribbean, the Pacific, and the Atlantic. At the present time Pan American Airways is operating its trans-Pacific service with Boeing B-314 flying boats especially built for trans-oceanic service. It has four boats of a similar type operating in its trans-Atlantic service. To inaugurate the New Zealand service it proposes to transfer one of these Atlantic boats to the Pacific. It has also six new Boeing B-314-A flying boats on order which are scheduled for delivery sometime in 1941. When these new planes become available the Boeing B-314's now used in the Atlantic operation are to be transferred to the Pacific service for use on both the Hong Kong and New Zealand routes. The Authority further found that base facilities of the applicant were adequate for the servicing of aircraft to be employed in this proposed new service, and that needs for additional capital could be adequately provided for by the Pan American Airways system.

(For full text of opinion and order, see docket No. 6-401 (E)-2, p. 273).

Alaskan Service

(Continued from preceding page)

The opinion of the Authority finds that service throughout the year is required for Alaska but, in view of the doubtful safety of operating seaplanes during the winter, it points out that it may be necessary to suspend the seaplane service this winter. (For full text of opinion and order, see Docket No. 14-401(B)-1, p. 263.)

Grandfather Certificate Granted for Juneau-Whitehorse-Fairbanks Operations

The Authority at the same time granted a certificate of public convenience and necessity under the so-called "grandfather" clause for the Pacific Alaska services which have been operating since the spring of 1935 between Fairbanks, Alaska, and Juneau via Whitehorse, Yukon Territory. The Authority at this time withheld certificates for the company's routes from Fairbanks to Nome and from Fairbanks to Bethel pointing out that the status of that service under the grandfather clause and the so-called star route mail contracts had, in common with numerous similar situations in Alaska, not yet been legally clarified.

In its opinion granting the certificate for the new route from Seattle to Juneau,

the Authority points out the importance of this service not only commercially but as a matter of national defense.

While the population of Alaska is only about 60,000, according to the 1930 census, and only about one-half of that number white, the airlines within Alaska carried 29,000 passengers during the year ending June 30, 1939, or a number equal to almost the entire white population of the Territory.

The opinion points out the close industrial and financial connection between Alaska and the Pacific Northwest, and says:

"Alaska is the only territory of the United States not presently linked to the continental United States by a scheduled air service."

The opinion points out that despite the importance of this connection, steamer service has been inadequate and, due to the withdrawal of steamers under the Canadian flag due to war conditions, is becoming more so. About 25,000 passengers a year travel each way between Alaska and the continental United States by steamship.

The opinion points out that the costs of the service exclusive of return on investment and amortization of development expenses are estimated by the company to exceed nonmail revenue by \$169,821 for 5 months' summer service by Sikorsky flying boats, and by \$330,316 per annum by the four-engine Boeings. It points out, however, that the Post Office estimates a mail load of from 500 to 600 pounds for each trip and that "this indicates that substantial postal revenues should be realized, a large portion of which may properly be considered as offsetting the payments to be made to the carrier for the performance of mail service on this route."

The order of the Authority denies the company a certificate for local service between Ketchikan and Juneau. The opinion holds that local operations by Pacific Alaska would have "a substantial adverse effect upon the business of existing local air carriers operating between these points."

(For full text of opinion and order see Docket No. 10-401 (E)-1, p. 269.)

Pleasure Flying on Increase as Private Flying Operations Set New Records in 1939

The number of miles flown in certificated and uncertificated aircraft in private flying operations during 1939 was 39 percent above the figure for 1938, and approximately double the total miles flown in the same classification just a few years ago (table D).

The total for 1939 was 177,868,157, as compared with 129,359,095 in 1938. The number of passengers carried in private flying operations during 1939, totaling 1,594,086, was not appreciably greater than the total of 1,575,151 for 1938. However, the number of passengers carried in the "pleasure" category rose from 337,018 in 1938 to 432,794 in 1939, an increase of 25 percent.

PRIVATE FLYING

Private Flying Accident and Operations Statistics for 1939

Continued substantial gains in all safety classifications in private flying operations during 1939 were recorded with the completion of an analysis of accidents by the Civil Aeronautics Authority (tables A and B).

Although the total number of fatalities in private flying operations was greater than the previous year, the increase was only 14 percent, as compared with an increase of 39 percent in the total number of miles flown (table

C). The record of 916,846 miles flown per fatal accident was far better than any previous figure for a similar period. Miles flown per pilot fatality in 1939 totaled 1,104,771, as compared with 917,440 in 1938; miles flown per passenger fatality in 1939 totaled 1,279,627.

Continued on page 261

TABLE A.—Analysis of causes of accidents in private flying operations for the year 1939

[Causes of accidents indicated in percentages. For comparison with previous years see Civil Aeronautics Bulletin No. 3, Sept. 1, 1938, and Air Commerce bulletins, vol. 10, Nos. 5 and 12, Nov. 15, 1938, and June 15, 1939]

	Certificated aircraft and pilots ¹					Experimental and restricted ² certificated aircraft flown by certificated pilots				Uncertificated aircraft and certificated aircraft flown by uncertificated pilots					Grand total
	In- struc- tional	Ex- peri- mental	Com- mer- cial	Pleas- ure	Total	Ex- peri- mental	Com- mer- cial	Pleas- ure	Total	In- struc- tional	Ex- peri- mental	Com- mer- cial	Pleas- ure	Total	
Number of accidents involved.....	607	10	311	1,033	1,961	18	43	9	70	30	9	14	91	144	2,175
Causes															
Personnel:															
Pilots:															
Error of judgment.....	8.57	16.00	9.55	14.25	11.75	2.78	5.11	16.67	6.00	7.33	0	10.00	9.56	8.54	11.35
Poor technique.....	48.52	13.00	22.06	36.66	37.89	25.56	36.16	38.89	33.78	58.67	11.11	23.22	43.13	42.43	38.06
Disobedience of orders or regulations.....	.97	0	.16	.48	.58	0	0	0	0	1.67	0	0	2.75	2.09	.66
Carelessness or negligence.....	12.79	10.00	10.80	11.09	11.56	22.22	16.28	4.44	16.29	12.67	11.11	3.57	4.89	6.77	11.40
Miscellaneous.....	1.48	0	.64	.22	.68	0	2.33	0	1.43	0	0	0	0	0	.66
Total pilot errors.....	72.33	39.00	43.21	62.70	62.46	50.56	59.88	60.00	57.50	80.34	22.22	36.79	60.33	59.83	62.13
Other personnel:															
Supervisory.....	.16	0	0	.11	.11	0	0	0	0	0	0	0	0	0	.10
Miscellaneous.....	.16	10.00	.32	.10	.20	0	0	0	0	0	0	0	0	0	.18
Total personnel errors.....	72.65	49.00	43.53	62.91	62.77	50.56	59.88	60.00	57.50	80.34	22.22	36.79	60.33	59.83	62.41
Airplane:															
Power plant:															
Fuel system.....	2.57	0	4.18	4.35	3.75	0	4.19	0	2.57	0	11.11	7.14	4.12	3.99	3.73
Cooling system.....	.31	0	0	.36	.29	0	0	0	0	0	0	0	0	0	.26
Ignition system.....	1.88	0	.58	1.43	1.43	0	0	0	0	3.33	11.11	0	1.92	2.61	1.46
Lubrication system.....	0	0	1.29	.53	.48	0	0	0	0	0	0	0	0	0	.43
Engine structure.....	1.70	0	3.79	2.44	2.41	5.56	4.65	11.11	5.71	4.67	0	0	2.20	2.36	2.51
Propeller assembly.....	.17	0	.64	.29	.31	5.55	2.33	0	2.86	0	0	0	0	0	.37
Engine-control system.....	.33	0	.64	.19	.30	0	0	0	0	0	0	0	0	0	.28
Miscellaneous.....	.51	1.00	1.22	.47	.61	0	0	0	0	0	0	7.14	0	.69	.59
Undetermined.....	2.67	0	6.05	4.58	4.20	10.56	6.74	0	6.86	3.33	22.23	27.50	5.22	8.06	4.54
Total power plant failures.....	10.14	1.00	18.39	14.64	13.78	21.67	17.91	11.11	18.00	11.33	44.45	41.78	13.46	17.71	14.17
Structural:															
Flight-control system.....	.66	0	.32	.58	.56	5.55	0	0	1.43	0	0	0	1.10	.69	.60
Movable surfaces.....	.33	0	0	.10	.15	0	0	0	0	0	0	0	0	0	.14
Stabilizing surfaces.....	0	0	.32	0	.05	0	0	0	0	0	0	0	1.10	.69	.09
Wings, struts, and bracings.....	.58	0	.96	.58	.64	5.56	2.09	0	2.71	3.33	11.11	0	4.40	4.17	.94
Undercarriage.....	1.98	10.00	5.98	3.10	3.25	5.55	2.33	11.11	4.29	3.33	11.11	0	3.30	3.48	3.29
Retractable landing gear mechanism.....	0	0	1.61	.29	.41	0	2.33	0	1.43	0	0	0	0	0	.41
Wheels, tires, and brakes.....	.33	0	2.25	1.71	1.36	5.56	0	0	1.43	0	0	7.14	0	.69	1.32
Pontoons and hulls.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Fuselage, engine mounts and fittings.....	.16	0	.68	.10	.21	0	0	0	0	0	0	0	0	0	.19
Tail wheel or tail skid assembly.....	0	10.00	1.29	0	.25	0	0	0	0	0	0	0	0	0	.23
Miscellaneous.....	.16	0	.64	.19	.26	0	0	0	0	0	0	0	0	0	.23
Undetermined.....	.16	0	.32	.10	.15	0	0	0	0	0	0	0	0	0	.14
Total structural failures.....	4.36	20.00	14.37	6.75	7.29	22.22	6.75	11.11	11.29	6.66	22.22	7.14	9.90	9.72	7.58
Handling qualities.....	.17	10.00	.32	.32	.32	0	0	0	0	0	11.11	0	.60	1.08	.36
Instruments.....	.33	0	0	0	.10	0	0	0	0	0	0	0	0	0	.09
Total airplane failures.....	15.00	31.00	33.08	21.71	21.49	43.89	24.66	22.22	29.29	17.99	77.78	48.92	23.96	28.51	22.20
Miscellaneous:															
Weather.....	5.96	20.00	6.53	5.76	6.02	0	0	0	0	1.67	0	0	3.19	2.36	5.58
Darkness.....	.08	0	1.34	.58	.54	0	0	0	0	0	0	0	0	0	.49
Airport—water or terrain.....	4.12	0	11.08	6.64	6.53	5.55	3.95	6.67	4.71	0	0	14.29	3.73	3.75	6.29
Other.....	1.37	0	3.15	2.01	1.99	0	11.28	11.11	8.36	0	0	0	3.30	2.08	2.20
Total miscellaneous causes.....	11.53	20.00	22.10	14.99	15.08	5.55	15.23	17.78	13.07	1.67	0	14.29	10.22	8.19	14.56
Undetermined and doubtful.....	.82	0	1.29	.39	.66	0	.23	0	.14	0	0	0	5.49	3.47	.83
Total percentages.....	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00

¹ This involves accidents to aircraft and pilots certificated in accordance with Civil Air Regulations.

² This involves accidents to aircraft certificated only for restricted and special purposes in accordance with the Civil Air Regulations.

TABLE B.—Vital statistics and results of accidents in private flying operations for the year 1939

[For comparison with previous years see Civil Aeronautics Bulletin No. 3, Sept. 1, 1938, and Air Commerce bulletins, vol. 10, Nos. 5 and 12, Nov. 15, 1938, and June 15, 1939]

	Class	Certificated aircraft and pilots ¹					Experimental and restricted ² certificated aircraft flown by certificated pilots				Uncertificated aircraft and certificated aircraft flown by uncertificated pilots					Grand total
		In- struc- tional	Exper- imen- tal	Com- mer- cial	Pleas- ure	Total	Exper- imen- tal	Com- mer- cial	Pleas- ure	Total	In- struc- tional	Exper- imen- tal	Com- mer- cial	Pleas- ure	Total	
Number of accidents involving:																
Fatal injuries		52	2	24	77	155	4	4	2	10	5	0	2	22	29	194
Severe injuries		30	0	14	46	90	1	1	0	2	1	1	2	12	16	108
Minor injuries		50	1	33	99	183	5	9	1	15	7	2	1	8	18	216
No injuries		475	7	240	811	1,533	8	29	6	43	17	6	9	49	81	1,657
Total accidents		607	10	311	1,033	1,961	18	43	9	70	30	9	14	91	144	2,175
I. Injuries to personnel:																
Pilots:																
Certificated		632	10	322	1,060	2,024	18	44	9	71	17	5	10	18	50	2,145
Uncertificated		0	0	0	0	0	0	0	0	0	15	4	4	73	96	96
Fatal injury	A	44	2	22	61	129	4	4	2	10	5	0	1	16	22	161
Severe injury	B	32	0	11	51	94	1	1	0	2	1	1	3	15	20	116
Minor injury	C	53	1	31	88	173	4	9	1	14	7	2	1	9	19	206
Uninjured	D	503	7	258	860	1,628	9	30	6	45	19	6	9	51	85	1,758
Copilots or students:																
Fatal injury	A	2	0	2	2	6	1	0	0	1	0	0	0	0	0	7
Severe injury	B	7	0	1	5	13	0	0	0	0	0	0	0	0	0	13
Minor injury	C	9	0	1	0	10	1	0	0	1	0	0	0	0	0	11
Uninjured	D	120	1	12	22	155	0	0	0	0	1	0	0	0	1	156
Passengers:																
Fatal injury	A	19	0	28	66	113	6	1	0	7	2	0	2	15	19	139
Severe injury	B	8	0	18	24	50	0	0	0	0	4	0	0	12	16	66
Minor injury	C	6	0	36	58	100	0	0	1	1	0	0	0	3	3	104
Uninjured	D	24	0	365	531	920	14	2	0	16	4	0	10	15	29	965
Aircraft crew:																
Fatal injury	A	0	0	1	1	2	2	0	0	2	0	0	0	0	0	4
Severe injury	B	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Minor injury	C	0	0	0	0	0	0	1	0	1	0	0	0	0	1	
Uninjured	D	0	1	13	0	14	5	1	0	6	0	0	0	0	0	20
Third parties:³																
Fatal injury	A	2	0	0	0	2	0	0	0	0	0	0	0	1	1	3
Severe injury	B	1	0	0	0	1	0	0	0	0	0	0	0	0	0	1
Minor injury	C	1	0	0	0	1	0	0	1	1	0	0	0	0	0	2
Total injuries and noninjuries:																
Fatal injury	A	67	2	53	130	252	13	5	2	20	7	0	3	32	42	314
Severe injury	B	48	0	30	80	158	1	1	0	2	5	1	3	27	36	196
Minor injury	C	69	1	68	146	284	5	10	3	18	7	2	1	12	22	324
Uninjured	D	647	9	648	1,413	2,717	28	33	6	67	24	6	19	66	115	2,899
Total		831	12	799	1,769	3,411	47	49	11	107	43	9	26	137	215	3,733
II. Damage to material:																
Aircraft:																
Certificated		659	10	329	1,080	2,078	18	44	9	71	14	0	2	56	72	2,221
Uncertificated		1	0	0	0	1	0	0	0	0	18	9	12	38	77	78
Completely demolished	A	92	1	61	149	303	4	8	2	14	11	5	4	40	60	377
Complete overhaul	B	199	4	98	354	655	7	20	4	31	10	1	4	22	37	723
Major assembly repairs	C	311	5	130	487	933	6	16	3	25	8	2	6	27	43	1,001
Minor repairs (see definition)	D	53	0	37	87	177	1	0	0	1	3	1	0	4	8	186
Not damaged (see definition)	E	5	0	3	3	11	0	0	0	0	0	0	0	1	1	12
III. Nature of accident:																
Collision (see definition)	A	4	0	2	4	10	0	0	0	0	0	0	0	0	0	10
Collision (see definition)	B	42	0	21	85	148	1	4	2	7	1	0	1	7	9	164
Spins or stalls (engine failure)	C	5	0	2	8	15	0	0	0	0	3	1	1	5	10	25
Spins or stalls (not engine failure)	D	68	1	16	76	161	2	7	0	9	5	2	1	16	24	194
Forced landings	E	70	1	55	167	293	4	9	1	14	3	4	5	9	21	328
Landing accidents	F	222	3	119	385	729	6	14	4	24	13	0	0	22	35	788
Take-off accidents	G	80	2	41	159	282	3	2	0	5	1	0	4	13	18	305
Taxying accidents	H	98	2	41	113	254	0	1	1	2	3	1	1	9	14	270
Fires in the air	I	1	1	0	1	3	0	3	0	3	0	0	1	0	1	7
Structural failures	N	13	0	9	16	38	2	2	0	4	1	1	0	6	8	50
Miscellaneous	X	3	0	4	15	22	0	1	1	2	0	0	0	1	1	25
Indeterminate and doubtful	Y	1	0	1	4	6	0	0	0	0	0	0	0	3	3	9
Miscellaneous information:																
Fires after accident		6	0	7	13	26	0	0	0	0	0	0	0	1	1	4 ²¹
Propeller accidents to persons		2	1	2	16	21	0	0	0	0	0	0	0	1	1	4 ²¹
Glider accidents to persons		2	0	0	5	7	0	0	0	0	0	0	0	0	0	6 ⁷
Parachute jumps (voluntary)		0	0	1	0	1	0	0	0	0	0	0	0	0	0	1 ¹
Parachute jumps (involuntary)		0	0	2	0	2	0	0	0	0	0	0	0	0	0	2 ²

¹ This involves accidents to aircraft and pilots certificated in accordance with the Civil Air Regulations.

² This involves accidents to aircraft certificated only for restricted and special purposes in accordance with the Civil Air Regulations.

³ "Third parties" include spectators and any other persons who were not occupants of, or in any way connected with, the operations of the aircraft.

⁴ This figure covers the number of fires occurring after accident. Results are included in the above regular aircraft accident statistics under groups I, II, and III.

⁵ Passengers, 1 fatal injury, 1 severe injury, and 1 minor injury occurring in accidents directly connected with flight operations. The results are included under groups I, II, and III. Also pilots, 4 severe injuries, 1 minor injury; aircraft crew, 2 severe injuries; ground personnel, 4 severe injuries; third parties, 3 fatal injuries and 4 severe injuries. The results of these accidents are not included under groups I, II, and III as they did not occur in connection with flights.

⁶ Glider pilots, 1 fatal injury, 3 severe injuries, 2 minor injuries and 1 uninjured. Results are not included under groups I, II, and III.

⁷ Voluntary parachute jumper, 1 fatal injury. Result is not included under groups I, II, and III.

⁸ Pilots, 2 uninjured. The results are included under groups I, II, and III.

TABLE C.—Mileage flown per accident and fatality in private flying operations

	1932	1933	1934	1935	1936	1937	1938	1939
Miles flown.....	78, 178, 700	71, 222, 845	75, 602, 152	84, 755, 630	93, 320, 375	102, 996, 355	129, 359, 095	177, 868, 157
Number of accidents.....	1, 951	1, 603	1, 504	1, 517	1, 698	1, 917	1, 882	2, 175
Miles flown per accident.....	40, 071	44, 431	50, 267	55, 871	54, 959	53, 728	68, 735	81, 778
Number of fatal accidents.....	208	182	186	164	139	185	172	194
Miles flown per fatal accident.....	375, 859	391, 334	406, 463	516, 803	586, 921	556, 737	752, 088	916, 846
Pilot fatalities.....	167	154	148	134	130	152	141	161
Copilot and student fatalities.....	16	19	18	19	15	16	15	7
Passenger fatalities.....	133	129	151	100	119	112	115	139
Aircraft crew fatalities (other than pilot, copilot, or student).....	1	5	4	4	6	2	1	4
Ground crew and third party fatalities.....	4	3	4	5	2	1	3	3
Total fatalities.....	321	310	325	262	272	283	275	314
Miles flown per pilot fatality.....	468, 136	462, 486	510, 825	632, 505	717, 849	667, 608	917, 440	1, 104, 771
Miles flown per passenger fatality.....	587, 810	552, 115	500, 677	847, 556	784, 205	1, 009, 768	1, 124, 862	1, 279, 627
Miles flown per fatality.....	243, 547	229, 751	232, 622	323, 495	343, 090	363, 945	470, 397	566, 459

TABLE D.—Private flying operations for the July-December periods and the calendar years 1931 through 1939

	1931	1932	1933	1934	1935	1936	1937	1938	1939
Miles flown:									
Certificated aircraft.....	81, 872, 340	69, 898, 680	66, 150, 955	71, 173, 439	80, 918, 520	89, 826, 705	100, 225, 605	127, 044, 885	175, 858, 757
Uncertificated aircraft.....	12, 470, 775	8, 280, 020	4, 711, 890	4, 428, 713	3, 837, 110	3, 493, 670	2, 970, 750	2, 314, 210	2, 009, 400
Total.....	94, 343, 115	78, 178, 700	71, 222, 845	75, 602, 152	84, 755, 630	93, 320, 375	103, 196, 355	129, 359, 095	177, 868, 157
Passengers carried:									
For hire ¹	1, 430, 052	879, 225	906, 970	1, 044, 079	1, 014, 957	1, 215, 405	1, 295, 904	1, 238, 133	1, 161, 292
For pleasure.....	437, 465	376, 584	339, 164	353, 209	272, 418	250, 653	284, 508	337, 018	432, 794
Total.....	1, 867, 517	1, 255, 809	1, 246, 134	1, 397, 288	1, 287, 375	1, 466, 058	1, 580, 412	1, 575, 151	1, 594, 086
	July-December 1931	July-December 1932	July-December 1933	July-December 1934	July-December 1935	July-December 1936	July-December 1937	July-December 1938	July-December 1939
Miles flown:									
Certificated aircraft.....	44, 734, 565	39, 957, 900	35, 723, 930	36, 482, 965	42, 516, 550	49, 642, 675	56, 233, 430	71, 574, 255	104, 055, 152
Uncertificated aircraft.....	6, 325, 955	4, 498, 115	2, 750, 430	2, 339, 030	2, 004, 895	2, 180, 615	1, 702, 975	1, 285, 795	1, 150, 560
Total.....	51, 060, 520	44, 456, 015	38, 474, 360	38, 821, 995	44, 521, 445	51, 803, 290	57, 936, 405	72, 860, 050	105, 205, 712
Passengers carried:									
For hire ¹	819, 713	535, 767	612, 171	645, 353	589, 117	788, 125	786, 650	671, 695	686, 882
For pleasure.....	236, 214	219, 489	199, 377	180, 242	141, 926	146, 138	159, 511	193, 342	255, 990
Total.....	1, 055, 927	755, 256	811, 548	825, 595	731, 043	934, 263	946, 161	865, 037	942, 872

¹ Students (dual) were counted as passengers prior to 1939.

Continued Safety Gains Reflected in Accident Figures for Last Year

Continued from page 259

as compared with 1,124,862 in 1938; and miles flown per fatality totaled 566,459 in 1939, as compared with 470,397 the previous year.

Considered of utmost significance was the fact that although more student pilot training probably was conducted last year than ever before, there were only 7 copilot and student fatalities, as compared with an average of nearly 18 annually during the 7 previous years.

Chairman Robert H. Hinckley in a statement last month pointed out that under the Authority's Civilian Pilot Training Program 9,810 new pilots will have been turned out by the end of June with only one student fatality. The flying training given under this program was well under way before the end of 1939, so the new safety standards

established under the course are reflected in the statistics contained in the following tables. The improved safety of flying operations conducted in connection with the program will, however, show up to a far greater extent in statistics for 1940.

Designation of Medical Examiners

During the month of May 1940 the following physicians were officially authorized to act as medical examiners for the Civil Aeronautics Authority in the cities named.

Texas.—Dr. John B. Woodall, Medical and Professional Building, Kerrville.
Wisconsin.—Dr. Harold J. Belson, 902 South Eighth Street, Manitowoc.

The following-named physicians are no longer conducting physical examinations for the Authority:

Dr. Jesse S. Parker, Glens Falls, N. Y.
Dr. Francis W. Davison, Danville, Pa.

New Type Approvals

(Approval numbers and dates of assignment in parentheses)

Type Certificates

AIRCRAFT

Aeronca, 50-TC, 65-TC, 50-TL, 65-TL, 60-TF, 2-place closed land monoplane. Engine: Model 50-TC—Continental A-50-7, A-50-8, A-50-9; model 65-TC—Continental A-65-7, A-65-8, A-65-9; model 50-TL—Lycoming O-145-A1, O-145-A2, O-145-A3; model 65-TL—Lycoming O-145-B1, O-145-B2, O-145-B3; model 60-TF—Franklin 4AC-150, series A (728, June 15, 1940).

APPLIANCES

Culver, low pressure wheels, model 304, 5.00-4, aluminum alloy cast. Approved static load per wheel 700 lb. (136, June 12, 1940).

AIRWAYS AND AIRPORTS

Temporary Airports of Entry

Certain airports and seaplane bases are designated as airports of entry through which aircraft arriving in the United States from foreign countries may clear customs and immigration.

A complete list of such airports of entry appeared in the CIVIL AERONAUTICS JOURNAL, Vol. 1, No. 11, dated June 1, 1940. The following temporary airports of entry have been redesignated for another period of one year following the date given:

Airport	Date
John G. Hinde Airport, Sandusky, Ohio.	June 1, 1940
Great Falls Municipal Airport, Great Falls, Mont.	June 2, 1940
Havre Municipal Airport, Havre, Mont.	June 2, 1940
Spokane Municipal Airport (Felts Field), Spokane, Wash.	June 2, 1940
Watertown Municipal Airport, Watertown, N. Y.	June 2, 1940

Aeronautical Charts

New Edition Issued

During May the following new edition of a regional aeronautical chart was issued by the United States Coast and Geodetic Survey. Pilots are warned that previous editions of the same chart are canceled and now obsolete.

8-M.—May 1940. Scale, 1:1,000,000. Size, 26 by 43 inches, located in latitude 38°-44° North and longitude 90°-102° West, covering an area of about 250,000 square miles.

Gives an accumulation of changes since the last edition.

Copies of this chart may be obtained from the Coast and Geodetic Survey, Washington, D. C., and from recognized dealers at major cities and airports. Regional charts sell for 75 cents each. On orders grossing \$10 or more a 33½ percent discount is allowed.

Airport Projects Approved

In accordance with the provisions of section 303 of the Civil Aeronautics Act, the Administrator of the Authority has issued certificates of air navigation facility necessity authorizing the expenditure of Federal funds in the operation of the following projects:

Avon Park, Fla.—\$21,812 for W. P. A. project for erection of a hangar; cutting, clearing, and grubbing to clear approaches to runways; extension of runways; construction of an asphaltic apron; and sprigging landing area off the runways at municipal airport.

Billings, Mont.—\$7,534 for W. P. A. project for construction of a wood-frame and stucco hangar at municipal airport.

Fairbury, Nebr.—\$1,080 for N. Y. A. project for construction of an administration building at Fairbury Airport.

Grand Rapids, Mich.—\$142,458 for W. P. A. project for demolition and moving of structures on newly purchased land, extension and widening of N/S runway, construction of new NE/SW runway, erection of 16 T-type individual hangars, installation of additional field lighting, placement of concrete turnarounds and apron, and landscaping, together with necessary grading, drainage, and appurtenant and incidental work at Kent County Airport. This supersedes previous approval dated January 23, 1940.

Memphis, Tenn.—\$45,048 for W. P. A. project for construction of a steel and concrete hangar at municipal airport.

Parkersburg, W. Va.—\$263,720 for W. P. A. project for construction of No. 3 runway, the work to include grading, clearing and paving complete, drainage complete within the graded area, and work incidental and appurtenant thereto, including the production of stone for use on this project, grading the entrance to the airport from the Williamstown Pike, and the necessary clearing and draining on No. 2 runway in order that waste excavation from No. 3 runway may be advantageously placed there for future use at Wood County Airport. This supersedes previous approval dated January 5, 1940.

Portland, Ore.—\$31,900 for W. P. A. project for construction of apron, construction of taxi-way, extension of NE/SW runway, seal coating of three runways and a taxi-way, and installation of 4 additional contact lights, 44 boundary lights, and 22 obstruction lights, together with incidental and

appurtenant work at Portland-Columbia Airport.

Stillwater, Okla.—\$46,365 for W. P. A. project for erection of steel frame hangar with concrete apron and affiliated items; the moving of approximately 350,000 cubic yards of earth to produce four landing strips; sodding of landing area; construction and placing of boundary markers; and installation of complete field lighting system at municipal airport.

Wilmington, N. C.—\$136,436 for continuation of W. P. A. project consisting of relocating the existing hangar, quarrying stone for paving the E/W and NE/SW runways, installing boundary lighting, and completing drainage facilities at New Hanover County Airport.

Youngstown, Ohio.—\$1,071,356 for W. P. A. project for construction of a hangar and leanto, construction of a two-story administration building, grading, paving, drainage, lighting, and appurtenant work at municipal airport. This supersedes previous approval dated March 22, 1939, which will be discontinued after expenditure of \$800,000.

MANUFACTURING

Aircraft Radio Equipment Approved for Scheduled Air Carrier Use

During the month of May the following units of aircraft radio equipment were approved by the Civil Aeronautics Authority for scheduled air carrier use and issued type certificates.

Certificate No.	Manufacturer	Unit	Date
84	Bendix Radio Corporation	MN-28C remote control unit	May 11
91	do	MN-32A loop	
387	do	MN-13A direction finder	May 9
461	do	MN-6E loop amplifier	
256	Western Electric Co.	27-R receiver	May 24
271	Pan American Manufacturing & Supply Corporation	75AX-2 transmitter	May 21
243*	Lear Avia Inc.	835-A loop rotator	Apr. 26

*Previously assigned No. 350.

The following authorized modifications to type certificates approving aircraft radio equipment for scheduled air carrier use were issued during the month of May.

BENDIX RADIO CORPORATION

Type certificate	Data sheet	Unit and modification	Modification authorized
97	230-A	MR-12G Azimuth control. Clean up mechanical design to improve operation and appearance.	May 25
113	175-A	RA-12A instrument landing receiver. Replace wax-impregnated condensers C-26 and C-27 with equivalent oil-filled type to increase operating efficiency.	May 11

RCA MANUFACTURING COMPANY

232	216-C	MK-1 automatic direction finder receiver. Miscellaneous minor circuit and wiring changes to increase reliability and operating efficiency.	May 2
232	216-D	MK-1 automatic direction finder receiver. Remove auxiliary power switches and install separate fuse for A. C. vibrator to improve reliability.	May 9

WESTERN ELECTRIC COMPANY

240	138-B	7A radio receiver mounting. Remove black lacquer finish and provide shakeproof terminal for bonding strap to improve bonding.	May 25
-----	-------	---	--------

CIVIL AERONAUTICS AUTHORITY

OFFICIAL



ACTIONS

OPINIONS, ORDERS AND REGULATIONS

FOR THE PERIOD JUNE 1-15, 1940

C. A. A. OPINIONS

C. A. A. Opinions—Vol. I— ^{Temporary} _{Page No. CLXXVI}

DOCKET No. 14-401 (B)-1

PACIFIC ALASKA AIRWAYS, INC.—CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Seattle—Juneau Operation)

In the matter of the application of Pacific Alaska Airways, Inc., for a certificate of public convenience and necessity to be issued under section 401(d)(1) of the Civil Aeronautics Act of 1938.

Decided May 29, 1940

Applicant found entitled, under section 401(d)(1) of the Civil Aeronautics Act of 1938, to a certificate of public convenience and necessity authorizing it to engage in air transportation with respect to persons, property and mail between the terminal point Seattle, Wash., the terminal point Juneau, Alaska, and the intermediate point Ketchikan, Alaska. Applicant not permitted to engage in local transportation by aircraft of persons, property or mail between Ketchikan and Juneau.

APPEARANCES:

Henry J. Friendly and *John H. Slate* for the applicant.

Samuel E. Gates and *William J. Madden* for the Civil Aeronautics Authority.

John S. Wynne for Marine Airways, Inc., and Alaska Air Transport, Inc., under Rule 4(a) of the Rules of Practice.

OPINION

BY THE AUTHORITY:

Pacific Alaska Airways, Inc., by application filed September 28, 1938, and amendments thereto filed October 15, 1938, and February 17,

NOTE ON THE ARRANGEMENT OF THESE PAGES

This part of the JOURNAL in each issue presents a current record of the official actions taken by the Civil Aeronautics Authority. Digests of all orders and regulations are carried in outer columns under the title "Abstracts." Persons having specific interest in any of these orders may obtain complete verbatim copies by writing to the Director of Statistics and Information, Civil Aeronautics Authority, Washington, D. C.

The large inner columns, set in different type, carry verbatim all opinions accompanying Authority actions. The type and format used will be utilized in the preparation of bound volumes of opinions of the Authority which will be issued at appropriate intervals. After the first volume is completed, the temporary page numbers now used will be replaced by the actual volume and page number which the text will carry in the bound volumes.

ABSTRACTS

ORDERS

Order No. 534: Northwest Airlines exempted from provisions of section 238.3 of the Economic Regulations.

The Authority on May 31 exempted Northwest Airlines, Inc., from the provisions of section 238.3 of the Economic Regulations insofar as necessary to permit, temporarily, operations between St. Paul—Minneapolis, Minn., and Duluth, Minn.—Superior, Wis., by the use of the Williamson-Johnson Airport at Duluth. (This order was not received in time for inclusion in the last issue of the JOURNAL.)

ABSTRACTS

(Continued)

Order No. 535: Offers accepted in compromise of civil penalties for violations.

The Authority on June 4 accepted the following offers in compromise of civil penalties incurred for violations of the Civil Aeronautics Act and the Civil Air Regulations:

Paul J. McKusick, Sacramento, Calif.—For piloting an aircraft on a civil airway before sunrise although the aircraft was not equipped with proper navigation lights—\$25; and

Jack Denison, Stephenson, Ala.—For piloting an aircraft on a civil airway although he was not possessed of a valid pilot certificate, and other violations—\$50.

Order No. 536: Offers accepted in compromise of civil penalties for violations.

The Authority on June 4 accepted the following offers in compromise of civil penalties incurred for violations of the Civil Aeronautics Act and the Civil Air Regulations:

Gene C. Garrett, Mexico, Mo.—For authorizing the flight of an aircraft not possessed of a valid registration certificate—\$25;

Herbert G. Hager, Tacoma, Wash.—For piloting an aircraft on a civil airway carrying a person other than a certificated instructor actually giving instruction in violation of the terms of his solo pilot certificate—\$50; and

Robert Jeff Thomas, Puyallup, Wash.—For piloting an aircraft on a civil airway carrying a person who occupied a control seat of said aircraft when the dual controls thereof had not been made inoperative and when neither he nor the passenger carried held a pilot certificate valid for the operation involved—\$75.

Order No. 537: Temporary interlocking relationships of Frank J. Gavin and Railway Express Agency authorized.

The Authority on June 4 authorized temporary holding of interlocking relationships of Frank J. Gavin and Railway Express Agency, Inc., and various transportation companies.

Order No. 538: Concurred in examiner report and discharged show cause order in Chris M. Lample case.

The Authority on June 4 concurred in the report of the examiner in the matter of Chris M. Lample, holder of commercial pilot certificate No. 169, and discharged the order to show cause (order No. 395). The text of the report is made a part of the order.

1940, seeks a permanent certificate of public convenience and necessity, to be issued under section 401(d)(1) of the Civil Aeronautics Act of 1938, authorizing it to engage in scheduled air transportation of persons, property and mail

“On a route between Seattle, Washington, U. S. A., and Juneau, Alaska, U. S. A., with a provisional intermediate stop at Ketchikan, Alaska, U. S. A., * * *”

C. A. A. Opinions—Vol. I—Temporary Page No. CLXXVII

The applicant also asks “for such modification, if any, in the certificate to be issued to the applicant in Docket No. 10-401 (E)-1¹ with respect to scheduled operations in the transportation of passengers, property and mail between Juneau, Alaska, and Fairbanks, Alaska, as may be necessary to enable the applicant, as soon as practicable, to conduct such operation by a route proceeding wholly over American territory and omitting the intermediate stop at Whitehorse, Canada.”

The application herein is governed by section 401(d)(1) of the Civil Aeronautics Act of 1938, which provides that “the Authority shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly, and to conform to the provisions of this act and the rules, regulations, and requirements of the Authority hereunder, and that such transportation is required by the public convenience and necessity; * * *”

After due notice to the public and all interested parties, a public hearing upon the application was held before an Examiner of the Authority whose report was duly filed and served. Exceptions and briefs in support thereof were filed by counsel for applicant and counsel for the Authority. Pursuant to the provisions of section 801 of the Act, a copy of the application and of all amendments thereto was transmitted to the President of the United States prior to the hearing.

At the hearing, an appearance was entered on behalf of Marine Airways, Inc., and Alaska Air Transport, Inc., under rule 4(a) of the Rules of Practice. Both of these companies conduct, among other operations, non-scheduled air services for the transportation of persons and property between Juneau and Ketchikan, and their counsel interposed objections to the award of a certificate to applicant herein which would authorize it to transport local traffic between those points.

At the hearing, the Examiner granted, without prejudice, a motion to dismiss that part of the application in which request is made for a modification of any certificate to be issued to this applicant in the “grandfather” proceeding, docket No. 10-401(E)-1. We find that the Examiner was correct in ruling that said portion of the application had no proper part in this proceeding, and it is therefore dismissed without prejudice to its renewal in a separate application.

In the opinion handed down concurrently herewith² we have found that applicant was a citizen of the United States at the time of the

¹ In that proceeding, applicant asks for a permanent certificate of public convenience and necessity to be issued under sec. 401 (e) (1) of the act, the so-called “grandfather” clause, authorizing it to engage in scheduled air transportation of persons, property and mail between Juneau and Fairbanks, Alaska, via Whitehorse, Canada, and over certain other routes.

² Pacific Alaska Airways, Inc., docket No. 10-401(E)-1, “grandfather” application.

hearing in that proceeding, within the meaning of section 1 (13) of the Act. Applicant introduced evidence to show that it was still a citizen of the United States at the time of the hearing in this proceeding. Accordingly, we find that applicant is a citizen of the United States within the meaning of section 1(13) of the Act.

The population of Alaska, according to the 1930 Census, was 59,278 persons, about one-half of whom were white. Juneau, the northern terminal of the proposed route, is the largest city in the Territory. Its population in 1930 was 4,043. Ketchikan had a population of 3,796 the same year. According to the preliminary 1940 Census, their present populations are 5,748 and 4,601, respectively. Although the Territory has a relatively small population, the actual volume of business now done with Alaska is of vital importance to the Territory and of considerable importance to the United States. In addition, the potential volume of business far exceeds the present volume.

The industrial and financial life of Alaska is closely allied with that of the Pacific Northwest. As an indication of this close connection, the record shows that in the year 1939 there was a total of 301,639 telegraph messages sent both ways between Seattle and all points in Alaska. The annual value of the fishing products of the Territory is about \$40,000,000, while the gold and silver shipments to the United States exceeded \$20,000,000 in 1939. The total annual value of the trade between the continental United States and Alaska is in excess of \$100,000,000, of which amount three-fifths is represented by exports from Alaska to the Continental United States. The total business transacted by the United States with Alaska is greater in dollar value than the volume of trade between the United States and China.

Alaska is the only territory of the United States not presently linked to the continental United States by a scheduled air service. As applicant proposes to fly the route, the distance between Seattle and Ketchikan is 711 miles and between Ketchikan and Juneau 231 miles. The evidence indicates that present means of travel between the United States and Alaska are inadequate. The only form of transportation directly connecting the United States and Alaska is by boat; the capacity of the present steamers is insufficient to accommodate the traffic, and additional vessels to meet the demand for service are not available. This situation will be aggravated by the facts that, due to the European war, some Canadian ships have been withdrawn from service to Alaska and that all indications point to an increased tourist travel this summer. The record strongly indicates that a rapid means of communication between Alaska and the continental United States would be of great aid in the development of the Territory and thereby in the establishment of a larger and much needed permanent population.

The following tabulation sets forth the number of passengers traveling between Alaska and the continental United States, on United States steamships only, during the years 1937, 1938, and 1939:

ABSTRACTS

(Continued)

Order No. 539: Pacific Alaska Airways issued certificate for Seattle-Alaska route.

The Authority on May 29 authorized issuance of a certificate of public convenience and necessity to Pacific Alaska Airways, Inc., to engage in air transportation with respect to person, property, and mail between Seattle, Wash., and Juneau, Alaska, via Ketchikan, Alaska. (For full text of opinion and order see Docket No. 14-410 (B)-1, p. 263.) (This order was not received in time for inclusion in the last issue of the JOURNAL.)

Order No. 540: Pacific Alaska Airways issued certificate for Alaska-Canada route.

The Authority on May 29 authorized issuance of certificates of public convenience and necessity to Pacific Alaska Airways, Inc., to engage in air transportation with respect to persons, property, and mail between Fairbanks, Alaska, and Whitehorse, Yukon Territory, Canada, and between Juneau, Alaska, and Whitehorse, Yukon Territory, Canada. (For full text of opinion and order see docket No. 10-401 (E)-1, p. 269.) (This order was not received in time for inclusion in the last issue of the JOURNAL.)

Order No. 541: Student pilot certificate of Noel C. Benner revoked.

The Authority on June 7 revoked student pilot certificate No. 78324, held by Noel C. Benner, Forest Grove, Oreg., for piloting an aircraft carrying a person other than a certificated instructor actually giving instruction in violation of the Civil Air Regulations.

Order No. 542: Student pilot certificate of Conrad Hatland revoked.

The Authority on June 7 revoked student pilot certificate No. 75744, held by Conrad Hatland, Turner, Mont., for piloting an aircraft although his competence to make a solo flight had not been certified to by his instructor on his student pilot certificate, and other violations of the Civil Air Regulations.

Order No. 543: Private pilot certificate of William F. Krenwinkel revoked.

The Authority on June 7 revoked private pilot certificate No. 48340, held by William F. Krenwinkel, Los Angeles, Calif., for piloting an aircraft acrobatically over a congested area without being equipped with a parachute, and other violations of the Civil Air Regulations.

ABSTRACTS

(Continued)

Order No. 544: Offer accepted in compromise of civil penalties for violations.

The Authority on June 7 accepted the following offer in compromise of civil penalties incurred for violations of the Civil Aeronautics Act and the Civil Air Regulations:

Cornelius J. J. Horgan, Hillsgrove, R. I.—For piloting an aircraft on a civil airway carrying a passenger who occupied a control seat of said aircraft when the dual controls had not been made inoperative and when neither he nor the passenger carried held a pilot certificate valid for the operation involved—\$25.

Order No. 545: Authority vacates order in case of S. Edward Thomas.

The Authority on June 7 vacated its order, serial No. 409, dated March 1, 1940, authorizing the transmittal of the case of S. Edward Thomas, Phoenix, Ariz., to the Attorney General for judicial action.

Order No. 546: Offer accepted in compromise of civil penalties for violations.

The Authority on June 7 accepted the following offer in compromise of civil penalties incurred for violations of the Civil Aeronautics Act and the Civil Air Regulations:

S. Edward Thomas, Phoenix, Ariz.—For piloting an aircraft on and across various civil airways when said aircraft was not possessed of a valid airworthiness certificate—\$50.

Order No. 547: Proceeding dismissed for consideration of Northwest Airlines application.

The Authority on May 31 dismissed proceeding for consideration of the application of Northwest Airlines, Inc., for a loan from the Reconstruction Finance Corporation.

Order No. 548: Bureau of Safety Regulation Director authorized to issue temporary pilot certificate.

The Authority on June 7 authorized the Director, Bureau of Safety Regulation, to issue a temporary pilot certificate authorizing the operation of experimental aircraft to any pilot who shows special qualifications for such operation and to prescribe the duration of such certificates and the points to and from which such operation may be conducted.

	1937		1938		1939	
	First class	Total	First class	Total	First class	Total
Northbound.....	16,441	20,859	19,275	25,703	18,664	25,357
Southbound.....	15,263	19,310	17,789	22,756	17,557	23,249

An indication of the volume of air traffic which may be developed over the proposed route is the large amount of present air travel between points within the Territory. The number of planes operating commercially in Alaska has increased from 24 in the fiscal year ending June 30, 1930, to 175 in the fiscal year ending June 30, 1939. In the last-named fiscal year, 29,814 passengers, 517,504 pounds of mail, and 4,010,730 pounds of freight and express were carried. During the same year, a total of 1,246 revenue passengers was transported by applicant from Juneau to Fairbanks and from Fairbanks to Juneau. Of these, 339 were booked to or from Seattle. Notwithstanding the small population of the Territory, the air traffic in Alaska is substantial as is shown by the fact that the total number of commercial passengers carried in aircraft during the year 1939 exceeded one-half the population of the Territory.

A witness from the Post Office Department testified that an air mail service between Seattle, Ketchikan and Juneau is necessary throughout the year, and that such service should be operated with perhaps even greater frequency in the winter than in the summer because of the fact that mail service by boat is less frequent in the winter than in the summer. The evidence also indicates clearly the need for a year-around service to accommodate passengers and property as well as mail.

The ultimate goal of applicant, as disclosed by the record, is the operation of four-engined Boeing 307 land planes from Seattle all the way to Fairbanks with intermediate stops at Juneau and possibly other points. It proposes to operate these aircraft on a schedule of four round trips per week in the summer and two round trips per week in the winter. This operation is contingent upon proper landing fields being available. The evidence discloses that these in all probability will be in readiness by the Fall of 1941 and that the applicant has the Boeing 307 equipment on order for delivery prior to that time. In the meantime, applicant proposes to operate two round trips per week during the summer of 1940 with a Sikorsky S-42-B flying boat and to suspend service about October 15, 1940, until the following spring. Whereas applicant claims that it cannot operate the proposed

C. A. A. Opinions—Vol. I— ^{Temporary} _{Page No.} *CLXXX*

route in the winter while using seaplanes, the Authority finds that service throughout the year is presently required. If it should develop that, by reason of safety considerations, the route cannot be operated with seaplanes during the winter months, operations will, of course, be suspended until such time as it is safe to resume the service.

The costs of the service, exclusive of items of return on investment and amortization of development expense, are estimated by the applicant to exceed nonmail revenues by \$169,821 for each 5 months' period, in the summers of 1940 and 1941, respectively, during which applicant intends to operate the service with a Sikorsky S-42-B flying boat. Applicant estimates that for year-around operation with four-

engined Boeing 307 equipment, such expenses would exceed nonmail revenues by \$330,316 per annum. The witness for the Post Office Department estimated that, upon the basis of twice weekly schedules, 500 to 600 pounds of air mail per trip would be carried each way over the proposed route. This indicates that substantial postal revenues should be realized, a large portion of which may properly be considered as offsetting the payments to be made to the carrier for the performance of mail service on this route.

By reason of the great advantages to the commerce of the United States and Alaska and to the postal service to be derived from the establishment of the proposed service, and the value thereof to the national defense as revealed in the record, we find that the public convenience and necessity requires the transportation by air of persons, property and mail between the continental United States and Alaska by regular service between Seattle and Ketchikan and Seattle and Juneau.

We do not, however, believe that the public convenience and necessity requires that applicant be authorized to conduct local service between Ketchikan and Juneau. From the evidence it appears that Alaska Air Transport, Inc., carried 66 passengers between Ketchikan and Juneau in the year 1938 and 92 in the year 1939. Marine Airways, Inc., made four trips in 1939 between those points. During the period January 1, 1938, to August 1, 1939, Ellis Air Transport made a total of 28 round trips between Juneau and Ketchikan carrying a total of 92 passengers. All of these services were on a nonscheduled basis.

Alaska Air Transport, Inc., has a "grandfather" application pending before the Authority (Docket No. 357) for authority to carry persons, property and mail between Juneau and Ketchikan. It also has an application pending to merge with Marine Airways, Inc. (Docket No. 358). Ellis Air Transport likewise has a "grandfather" application pending (Docket No. 356) for authority to transport persons, property, and mail between these points. We believe that the inauguration by applicant of scheduled local service between

C. A. A. Opinions—Vol. I— Temporary
Page No. CLXXXI

Juneau and Ketchikan would have a substantial adverse effect upon the business of existing local air carriers operating between these points.

Applicant characterized the stop which it requests at Ketchikan as a "provisional" intermediate point, indicating that it wished to be free to omit that point when and if operating conditions required such omission. The primary purpose of the proposed service is to link Alaska with the continental United States. The evidence discloses that applicant will not be able to serve Ketchikan with four-engined land equipment, as there is no suitable airport, nor is there any indication that an adequate landing area will be available within the immediate future. However, applicant indicated a desire to serve Ketchikan with such equipment should a suitable airport be provided. Applicant does not desire to maintain a flying-boat service in addition to its proposed service with four-engined landplanes merely to accommodate Ketchikan.

In view of these considerations, we do not find that the public convenience and necessity requires that applicant be authorized to trans-

ABSTRACTS

(Continued)

Order No. 549: Offers accepted in compromise of civil penalties for violations.

The Authority on June 11 accepted the following offers in compromise of civil penalties incurred for violations of the Civil Aeronautics Act and the Civil Air Regulations:

Robert G. Love, New Castle, Pa.—For piloting an aircraft on a civil airway carrying a person other than a certificated instructor actually giving instruction in violation of the terms of his solo pilot certificate—\$50; and

Eugene Stevens, Jackson, Miss.—For piloting an aircraft on a civil airway outside an area within a 25-mile radius of his point of take-off in violation of the terms of his student pilot certificate, and other violations—\$50.

Order No. 550: Violations referred to the Attorney General for judicial action.

The Authority on June 11 referred to the Attorney General for judicial action the following case involving violations of the Civil Aeronautics Act and the Civil Air Regulations:

Cornell Taylor, Canoga Park, Calif.—For piloting an aircraft on a civil airway without being possessed of a valid pilot certificate, and other violations.

Order No. 551: Denied petition of Trans-Southern Airlines for further hearing on Amarillo-Atlanta operations.

The Authority on June 11 denied petition of Trans-Southern Airlines, Inc., for further hearing before decision in the matter of the applications of Trans-Southern Airlines, Inc., and Braniff Airways, Inc., for certificates of public convenience and necessity authorizing air transportation between Amarillo, Tex., and Atlanta, Ga.

Order No. 552: Pan American Airways issued certificate on San Francisco-New Zealand route.

The Authority on June 7 authorized issuance of a certificate of public convenience and necessity to Pan American Airways Co. (Nevada) to engage in air transportation with respect to persons, property, and mail between San Francisco, Calif., and Auckland, New Zealand. (For full text of opinion and order, see Docket No. 6-401 (E)-2 p. 273.)

ABSTRACTS

(Continued)

Order No. 553: John Alvin Iseli denied renewal of private pilot certificate.

The Authority on June 14 denied petition of John Alvin Iseli for reconsideration of his application for renewal of his private pilot certificate. (For full text of opinion and order, see Docket No. SR-40, p. 289.)

Order No. 554: Violations referred to the Attorney General for judicial action.

The Authority on June 14 referred to the Attorney General for judicial action the following case involving violations of the Civil Aeronautics Act and the Civil Air Regulations: *Jack R. Thornton, Glendale, Calif.*—For piloting an aircraft on a civil airway carrying a person other than a certificated instructor actually giving instruction in violation of the terms of his student pilot certificate, and other violations.

Order No. 555: Erie Isles Airways Co. granted permission to withdraw application.

The Authority on June 14 granted request of Erie Isles Airways Co., Inc., for permission to withdraw its application for a certificate of public convenience and necessity authorizing air transportation between Isle St. George, Ohio, and Port Clinton, Ohio.

Order No. 556: United Air Lines authorized to amend certificate for Route No. 1.

The Authority on June 14 granted application of United Air Lines Transport Corporation to amend its certificate of public convenience and necessity covering route No. 1 by including Philadelphia, Pa., as an intermediate point in lieu of Camden, N. J. (For full text of opinion and order, see Docket No. 419, p. 292.)

REGULATIONS

Regulation No. 86: Adopted Amendment No. 57 of the Civil Air Regulations.

The Authority on June 7 adopted Amendment No. 57 of the Civil Air Regulations redesignating radio fixes, control zones of intersection, and airway traffic control areas.

Regulation No. 87: Adopted Amendment No. 58 of the Civil Air Regulations.

The Authority on June 14 adopted Amendment No. 58 of the Civil Air Regulations providing for a new method of certification and rating of air-traffic control-tower operators (part 26), effective August 15, 1940.

port persons, property or mail locally between Ketchikan and Juneau.

The applicant is a wholly owned subsidiary of Pan American Airways Corporation. It has operated a regular scheduled service between Juneau and Fairbanks, Alaska, via Whitehorse, Canada, since 1935. Services have also been maintained between Fairbanks and Nome, Alaska, via intermediate points and between Fairbanks and Bethel, Alaska, via intermediate points. The record discloses that during the period commencing in August 1938 and ending January 13, 1939, 20 proving flights were made by applicant between Seattle and Juneau with a Sikorsky S-43 amphibian. Of these proving flights, 14 were made prior to October 5, 1938. Operations are proposed at the outset with the S-42-B flying boat previously mentioned and presently owned by applicant. The four-engined Boeing 307 equipment is on order and delivery thereof is expected prior to the time landing fields will be available therefor.

There are presently available landing facilities for operation of the proposed route with the S-42-B flying boat. There are presently existing, also, air navigational aids at both Ketchikan and Juneau, with additional facilities expected to be placed in operation this summer at Petersburg, Alaska. Applicant proposes to install additional radio facilities at Seattle and Ketchikan. Weather reporting service along the proposed route is to be obtained from the United States Weather Bureau stations at Seattle and Juneau.

The construction of air navigational facilities will be valuable to the national defense and to the general development of the Territory of Alaska. The record also discloses that the operation of a scheduled air service connecting the continental United States with Alaska will

C. A. A. Opinions—Vol. I—Temporary Page No. CLXXXII

be valuable to both the Army and the Navy in furnishing aerological data, weather reporting and the training of pilots and other personnel familiar with the route.

We find that applicant is fit, willing and able properly to perform the transportation of persons, property and mail by aircraft over the proposed route.

Accordingly, applicant is entitled to a certificate of public convenience and necessity authorizing it to engage in air transportation of persons, property and mail between the terminal point Seattle, Wash., and the terminal point Juneau, Alaska, via the intermediate point Ketchikan, Alaska, but without the privilege of engaging in local transportation of that character between the intermediate point Ketchikan and the terminal point Juneau.

An appropriate order will be entered.

Hinckley, Branch, Ryan, Mason, Warner, Members of the Authority concurred in the above opinion.

ORDER

Pacific Alaska Airways, Inc., having filed application for a certificate of public convenience and necessity under section 401 (d) (1) of the Civil Aeronautics Act of 1938; a full hearing thereon having been held; and the Authority, upon consideration of the record of such proceedings, having issued an opinion containing its findings, conclusions, and decisions, which is attached hereto and made a part hereof, and finding that its action in this matter is necessary pursuant to said opinion:

IT IS ORDERED, That there be issued to Pacific Alaska Airways, Inc., a certificate of public convenience and necessity authorizing it, subject to the provisions of such certificate, to engage in air transportation with respect to persons, property, and mail between the terminal point Seattle, Washington, the intermediate point Ketchikan, Alaska, and the terminal point Juneau, Alaska.

IT IS FURTHER ORDERED, That the exercise of the privileges granted by the certificate ordered to be issued in the preceding paragraph shall be subject to the condition that Pacific Alaska Airways, Inc., shall not engage in air transportation between Ketchikan, Alaska, and Juneau, Alaska, with respect to local mail, persons, and property originating at Ketchikan and destined to Juneau, or originating at Juneau and destined to Ketchikan.

IT IS FURTHER ORDERED, That the exercise of the privileges granted by the certificate to be issued shall be subject to the terms, conditions, and limitations prescribed by sections 238.3, 238.4, and 238.5 of the Authority's Economic Regulations, all amendments thereto, and such other terms, conditions, and limitations as may from time to time be prescribed by the Authority.

IT IS FURTHER ORDERED, That said certificate shall be issued in the form attached hereto, and shall be signed on behalf of the Authority by the Chairman of the Authority, and shall have affixed thereto the seal of the Authority, attested by the Secretary. Said certificate shall be effective from the date of its approval by the President of the United States.

The White House, June 4, 1940—Approved:

(S.) FRANKLIN D. ROOSEVELT.

C. A. A. Opinions—Vol. I—^{Temporary}_{Page No. CLXXXIII}

DOCKET No. 10-401 (E)-1

PACIFIC ALASKA AIRWAYS, INC.—CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

In the matter of the application of Pacific Alaska Airways, Inc., for a certificate of public convenience and necessity to be issued under section 401(e)(1) of the Civil Aeronautics Act of 1938.

Decided May 29, 1940

Applicant found entitled, under section 401(e)(1) of the Civil Aeronautics Act of 1938, to a certificate of public convenience and necessity authorizing it to engage in air transportation with respect to persons, property and mail between (1) the terminal point Juneau, Alaska, and the terminal point Whitehorse, Yukon Territory, Alaska, and (2) between the terminal point Fairbanks, Alaska, and the terminal point Whitehorse, Yukon Territory, Canada.

Decision on other portions of applicant's application deferred.

APPEARANCES:

Henry J. Friendly for the Applicant.

Samuel E. Gates for the Civil Aeronautics Authority.

William C. O'Brien on behalf of the Postmaster General of the United States.

OPINION

BY THE AUTHORITY:

Pacific Alaska Airways, Inc., by application filed September 28, 1938, and amendment thereto filed October 15, 1938, seeks a certificate of public convenience and necessity under section 401(e)(1) of the Civil Aeronautics Act of 1938 authorizing it to engage in scheduled air transportation carrying persons, property and mail on routes between:

“(a) Fairbanks, Alaska, and Juneau, Alaska, with regular intermediate stop at Whitehorse, Y. T., and with flag stops at Tanana Crossing, Alaska, and Burwash Landing, Y. T.;

“(b) Fairbanks, Alaska, and Nome, Alaska, with flag stops at Ruby, Tanana, Nulato, and Golovin, Alaska;

“(c) Fairbanks, Alaska, and Bethel, Alaska, with flag stops at McGrath, Flat, Lake Minchumina, Medfra, Tacotna, Ophir, Stony River, Sleitmute, Crooked Creek, Napaimut, Aniak, Kalskag, and Akiak, Alaska.”

The application herein is governed by the so-called “grandfather” clause, section 401(e)(1), of the Civil Aeronautics Act of 1938, which

C. A. A. Opinions—Vol. I—^{Temporary}
Page No. CLXXXIV

requires that a certificate of public convenience and necessity shall be issued to an applicant upon proof only that during the so-called “grandfather” period¹ it was an air carrier continuously operating as such (except as to interruptions of service over which it had no control), unless the service it rendered for such period was inadequate and inefficient.

The application was filed within the statutory period, and due notice thereof was given to the public and those air carriers designated by the Authority to receive such notice. A public hearing upon the application was held before an Examiner of the Authority and his report was duly filed and served. Exceptions and briefs in support thereof were filed by counsel for the applicant and counsel for the Authority.

Proof that applicant was an air carrier involves, under the Act, proof that during the “grandfather” period it was a citizen of the United States within the meaning of section 1 (13) of the Act. Applicant was incorporated April 29, 1931, under the laws of Delaware under the name of Aviation Corporation of the Americas; by appropriate amendment to its charter, its name was subsequently changed to Pacific Alaska Airways, Inc. All of its capital stock is owned by Pan American Airways Corporation, which corporation we have previously found to be a citizen of the United States within the meaning of section 1(13) of the act.² Evidence was introduced to show that during the “grandfather” period and at the time of the hearing more than 75 per centum of the voting interest of Pan American Airways Corporation was owned or controlled by citizens of the United States. The record further establishes that during the “grandfather” period and at the time of the hearing all of the members of the respective boards of directors and other managing officers of both applicant and Pan American Airways Corporation were citizens of the United States. The Authority accordingly finds that during the period May 14, 1938 to August 22, 1938 the applicant was a citizen of the United States within the meaning of section 1(13) of the Act.

On the issue of its status as an air carrier and of its continuous operation as such over the route between Juneau and Fairbanks, Alaska, during the period from May 14 to August 22, 1938, applicant introduced evidence to show that throughout that period, and without interruption since the spring of 1935, it operated a scheduled air transportation service between those points with a regular stop at Whitehorse, Yukon Territory, Canada. In addition to the regular weekly round trip service over this route required by the foreign air

¹ From May 14, 1938 to August 22, 1938, the effective date of sec. 401 (e) (1).

² Pan American Airways Co. (of Delaware), docket No. 37-401 (E)-1; and Pan American Airways Company (of Nevada), docket No. 6-401 (E)-1.

mail contracts hereinafter mentioned, applicant maintained a second weekly round trip service during most of the "grandfather" period. Evidence was adduced showing that during the "grandfather" period the aircraft and personnel employed by applicant on this route were suitable for the type of operation involved and that the service was satisfactory and efficient. Accordingly, the Authority finds that applicant was an air carrier continuously operating as such (except as to interruptions of service over which the applicant had no control) during the period from May 14 to August 22, 1938. The Authority further finds that the service rendered by applicant over this route for said period was not inadequate and inefficient.

Pursuant to clause (B) of section 401(e)(1) of the Act, any certificate to be issued herein shall authorize the transportation by air of mail and all other classes of traffic for which authorization is sought, between the terminal and intermediate points between which the applicant or its predecessor was authorized by the Postmaster General prior to the effective date of this section (August 22, 1938) to engage in the transportation of mail. Applicant introduced evidence showing that under date of March 28, 1938 it entered into two contracts with the Postmaster General of the United States whereby, for a period of 3 years, it was authorized and required to carry mails from Juneau, Alaska, to Whitehorse, Canada, and return (route No. 15) and from Fairbanks, Alaska, to Whitehorse, Canada, and return (route No. 16). The record further shows that applicant rendered mail service on a basis of one round trip weekly, as required by these contracts, throughout the "grandfather" period.

Burwash Landing, Canada, and Tanana Crossing, Alaska, are two points between Fairbanks and Whitehorse at which, the record discloses, applicant maintained emergency landing fields and refueling stations. Applicant also maintained radio stations at both points, the one at Burwash Landing being operated by the Canadian Government with applicant's equipment. During the "grandfather" period only one stop was made by applicant at Burwash Landing, the purpose of which is not disclosed by the record. Eighteen stops were made at Tanana Crossing out of a total of 56 trips scheduled between Whitehorse and Fairbanks during the same period, but only 1 passenger was transported to or from Tanana Crossing. Since neither of these points was named as an intermediate point in the foreign air mail contract for FAM Route No. 15, applicant's right to have these points named as intermediate points in the certificate to be issued herein must be based upon the provisions of clause (A) of section 401 (e)(1) of the Act. This clause requires that applicant have rendered continuous service, as an air carrier, to those points between May 18 and August 22, 1938. It clearly appears that no such service was operated and, therefore, we find that applicant is not entitled to have either of those points named as an intermediate point in its certificate.

The claim is made by applicant in this proceeding that, under section 401(e)(1) of the Act, it is entitled to a certificate of public convenience and necessity authorizing it to transport mail, as well as persons and property, between Fairbanks and Nome, Alaska, via

intermediate points, and between Fairbanks and Bethel, Alaska, via intermediate points, by virtue of certain Star route mail contracts held, and certain emergency mail service rendered, by it. The same claim is made by a number of other air carriers operating in Alaska who have filed applications under the so-called "grandfather" clause. These claims of applicant and others raise the question of the legal effect of the so-called Star route mail contracts and of the emergency mail service rendered pursuant to the Act of February 21, 1925 (43 Stat. 960; 39 U. S. C. 448), as amended. The Authority now has this general question under consideration and it is deemed advisable that final action in the instant case, to the extent that this general question is involved, should be held in abeyance until the Authority has reached a determination in respect of the legal effect of all so-called Star route mail contracts and such emergency service. Accordingly, the opinion and order to be issued herein are confined to that part of the application in this proceeding in which request is made for a certificate authorizing the carriage of persons, property and mail between Juneau and Fairbanks, Alaska, via intermediate points.

Certificates of public convenience and necessity will issue to the applicant authorizing it to engage in scheduled air transportation carrying passengers, property and mail between (1) the terminal point Juneau, Alaska, and the terminal point Whitehorse, Yukon Territory, Canada, and (2) the terminal point Fairbanks, Alaska and the terminal point, Whitehorse, Yukon Territory, Canada.

An appropriate order will be entered.

Hinckley, Branch, Ryan, Mason, Warner, Members of the Authority, concurred in the above opinion.

ORDER

Pacific Alaska Airways, Inc., having filed application for a certificate of public convenience and necessity under section 401(e)(1) of the Civil Aeronautics Act of 1938; a full public hearing thereon having been held, and the Authority, upon consideration of the record of such proceedings, having issued its opinion containing its findings of fact, conclusions, and decision, which is attached hereto and made a part hereof; and finding that its action in this matter is necessary pursuant to said opinion:

IT IS ORDERED, That there be issued to Pacific Alaska Airways, Inc., a certificate of public convenience and necessity authorizing it, subject to the provisions of such certificate, to engage in air transportation with respect to persons, property, and mail between the terminal point Juneau, Alaska, and the terminal point Whitehorse, Yukon Territory, Canada.

IT IS FURTHER ORDERED, That there be issued to Pacific Alaska Airways, Inc., a certificate of public convenience and necessity authorizing it, subject to the provisions of such certificate, to engage in air transportation with respect to persons, property, and mail between the terminal point Fairbanks, Alaska, and the terminal point Whitehorse, Yukon Territory, Canada.

IT IS FURTHER ORDERED, That the exercise of the privileges granted by the certificates to be issued shall be subject to the terms, conditions and limitations

C. A. A. Opinions—Vol. I—^{Temporary}Page No. CLXXXVII

prescribed by sections 238.3, 238.4, and 238.5 of the Authority's Economic Regulations, all amendments thereto, and such other terms, conditions and limitations as may from time to time be prescribed by the Authority.

IT IS FURTHER ORDERED, That said certificates shall be issued in the form attached hereto, and shall be signed on behalf of the Authority by the Chairman of the Authority, and shall have affixed thereto the seal of the Authority, attested by the Secretary. Said certificates shall be made effective from the 22nd day of August 1938.

DOCKET No. 6-401 (E)-2¹

PAN AMERICAN AIRWAYS COMPANY (OF NEVADA)—
CERTIFICATE OF PUBLIC CONVENIENCE AND NECES-
SITY

(*New Zealand Operations*)

In the Matter of the applications of Pan American Airways Co. (of Nevada) for a certificate of public convenience and necessity under section 401 of the Civil Aeronautics Act of 1938.

In the Matter of the certification by the Postmaster General pursuant to section 401 (n) of the act with respect to the transportation of mail by aircraft between San Francisco, Calif., and Auckland, New Zealand, by way of Honolulu, Hawaii; Canton Island; and Noumea, New Caledonia.

Decided June 7, 1940

Application of Pan American Airways Co. (of Nevada) for certificate of public convenience and necessity under section 401 (e) (1) for air transportation of persons and property between San Francisco, Calif., and Auckland, New Zealand, denied.

Application of Pan American Airways Co. (of Nevada) for certificate of public convenience and necessity under section 401 (d) (1) granted with respect to air transportation of persons, property, and mail between San Francisco, Calif., and Auckland, New Zealand, via Los Angeles, California; Honolulu, Hawaii; Canton Island; and Noumea, New Caledonia.

APPEARANCES:

Henry J. Friendly and *Harold B. Kline*, for Pan American Airways Co.

Vincent M. Miles and *William C. O'Brien*, for Post Office Department.

Edward M. Weld and *Robert W. Oliver*, for Civil Aeronautics Authority.

OPINION

BY THE AUTHORITY:

Pan American Airways Co. (of Nevada) filed an application on October 20, 1938, for a certificate of public convenience and necessity under section 401 (e) (1) of the Civil Aeronautics Act of 1938 authorizing it to engage in scheduled air transportation of passengers and

¹ This report also embraces Docket No. 305, certification by the Postmaster General.

property between the terminal points San Francisco, Calif., and Auckland, New Zealand, with intermediate stops at Honolulu, Hawaii; Kingman Reef; and Pago Pago, Samoa; or, in the alternative, between such terminal points via intermediate points on some other practical route between Honolulu and Auckland. By amendment No. 1 to its application, filed July 31, 1939, the applicant requested a permanent certificate under section 401 (d) (1) of the Act for scheduled air transportation of persons, property and mail between San Francisco and Auckland, with regular intermediate stops at Los Angeles, Calif.; Honolulu, Hawaii; Canton Island; and Noumea, New Caledonia. In

that amendment the petitioner expressly denied seeking any authorization for the transportation of local traffic between San Francisco and Los Angeles.

On September 12, 1939, the Acting Postmaster General pursuant to the provisions of section 401 (n) of the Act certified to the Authority that the needs of the Postal Service require the transportation of mail by aircraft over a route between the terminal point San Francisco, Calif.; the intermediate points Honolulu, Hawaii; Canton Island; Noumea, New Caledonia; and the terminal point Auckland, New Zealand.

By order dated September 21, 1939, the Authority denied a motion of the applicant for consolidation of the instant proceeding with Docket No. 300, which was the applicant's petition for the fixing of a fair and reasonable rate of compensation for the transportation of United States mail between San Francisco, Calif., and Auckland, New Zealand.

On September 29, 1939, a copy of the said application together with the two amendments thereto was transmitted to the President of the United States by the Authority pursuant to section 801 of the act.

After due notice a public hearing was held before Francis W. Brown, Examiner of the Authority, and on February 6, 1940, the examiner's report was duly filed and served, recommending that the Authority find that the applicant did not continuously operate between San Francisco and Auckland from May 18, 1938, to August 22, 1938, and is therefore not entitled to a "grandfather" certificate covering such route under section 401(e)(1) of the Act. The report further recommended that the Authority find that the public convenience and necessity require the air transportation of persons, property and mail between San Francisco and Auckland, and that the applicant is fit, willing and able properly to perform such transportation and to conform to the provisions of the Act, and to the rules, regulations, and requirements of the Authority thereunder. It was further recommended that since the applicant presently holds a certificate authorizing operations between San Francisco and Hong Kong via Honolulu, the certificate as issued should be for the route between the terminal

C. A. A. Opinions—Vol. I—^{Temporary} Page No. CXC

points Honolulu, Hawaii, and Auckland, New Zealand, thereby recommending, in effect, that no provision be made for a stop at Los Angeles as an intermediate point.²

On February 16, 1940, counsel for the applicant filed its exceptions to the proposed findings and report of the examiner. These exceptions were both general and specific. The principal exceptions taken were to the omission of a recommendation of Los Angeles as an intermediate stop and to the recommendation for the designation of Honolulu instead of San Francisco as a terminal point. The first of these exceptions was based upon the contention that the facts of record were sufficient to justify the designation of Los Angeles as an intermediate point, while the second exception was that the issuance of such a certificate designating Honolulu instead of San Francisco as a terminal point was contrary not only to the evidence of record but also to the provisions of sections 401(d) and 401(f) of the Act. Seven other exceptions were taken to matters of detail included in the findings of fact in the examiner's report.

On February 20, 1940, counsel for the Authority filed its exception to the proposed examiner's report, excepting to the recommendation that the Authority find that the public convenience and necessity require air transportation of persons, property, and mail between San Francisco and Auckland. On February 26, 1940, the city of Los Angeles filed its exceptions, confining its objection to the examiner's failure to recommend the inclusion of Los Angeles as an intermediate stop. Briefs on behalf of the applicant and on behalf of the City of Los Angeles in support of their respective exceptions were filed on February 26, 1940, and oral argument was held before the Authority on March 14, 1940.

The applicant, Pan American Airways Co. (of Nevada), on June 27, 1939, was issued a certificate pursuant to section 401 (e) (1) of the Act to engage in air transportation with respect to persons, property and mail between the terminal point San Francisco, Calif.; the intermediate points Honolulu, Hawaii; Midway Island; Wake Island; the Island of Guam; Manila, Philippine Islands; the Portuguese Colony of Macau; and the terminal point the British Crown Colony of Hong Kong. In addition, the applicant, as a part of the Pan American Airways System, forms an integral part of a system of air carriers operating between the United States and Europe, and between the United States and South America.

² On December 8, 1939, the City of Los Angeles and the Los Angeles Chamber of Commerce, both of which had appeared in the hearing under rule 4 (a) of the Rules of Practice, submitted a memorandum of facts and a memorandum of argument in support of the applicant's amended application for the inclusion of Los Angeles as a regular intermediate stop on the proposed New Zealand route. Subsequent to the filing of the examiner's report, the City of Los Angeles, on February 16, 1940, petitioned the Authority for leave to intervene in the proceedings under rule 4 (b) of the Rules of Practice. By order dated the same day, the Authority granted the petition of the city of Los Angeles to intervene. Also on February 16, 1940, the Los Angeles Chamber of Commerce petitioned for leave to intervene in this proceeding, which petition was denied by order of the Authority dated the same day.

C. A. A. Opinions—Vol. I—^{Temporary}Page No. CXC1

The applicant was incorporated under the laws of the State of Nevada in 1932 as the Pacific American Airways Co., but subsequently its name was changed to Pan American Airways Co. All of the outstanding capital stock of the applicant is owned by Pan American Airways, Inc., a New York corporation, all of the outstanding stock of which is, in turn, owned by Pan American Airways Corporation, a Delaware corporation. In its decision in Docket No. 6-401(E)-1, decided June 27, 1939, wherein the applicant was granted a certificate to engage in air transportation of persons, property and mail between San Francisco and Hong Kong, the Authority found that the applicant was a citizen of the United States within the meaning of section 1(13) of the Act.

Testimony at the hearing shows that each of the three companies has with but few exceptions the same officers and directors and that all of the officers and directors are citizens of the United States. There was further testimony to the effect that there had been no substantial change in ownership of the stock of the parent company, and that a recent check showed that the total of stock owned by persons with foreign addresses and stock held in street names, which there was reason to know was foreign owned, did not aggregate more than 34,227 shares, out of a total of 1,410,784 shares outstanding. Therefore, we find that the applicant is a citizen of the United States within the meaning of section 1(13) of the Act in that its president and all of its directors and officers are citizens of the United States and

that more than 75 percent of its voting stock is owned or controlled by persons who are citizens of the United States.

The hearing, exceptions, briefs and oral argument in this case resolve the essential questions to the following:

(1) Is the applicant entitled to a certificate authorizing air transportation of persons and property between San Francisco, Calif., and Auckland, New Zealand, under the so-called "grandfather" clause, section 401(e)(1) of the Act?

(2) If the applicant is not so entitled to a "grandfather" certificate, do the public convenience and necessity require air transportation of persons, property and mail between San Francisco, Calif., and Auckland, New Zealand, with intermediate stops at Los Angeles, Calif.; Honolulu, Hawaii; Canton Island; and Noumea, New Caledonia, or any part of the transportation covered by the application?

(3) If it be found that the public convenience and necessity do require air transportation as in (2) above, is the applicant fit, willing, and able to perform such transportation properly?

APPLICATION FOR "GRANDFATHER" CERTIFICATE

The original application in this case was filed with the Authority within the period of 120 days after the date of the enactment of the

C. A. A. Opinions—Vol. I—^{Temporary}Page No. CXCH

Act pursuant to section 401(e)(1) of the Act. By its application the applicant seeks to have issued to it pursuant to the terms of this section a certificate authorizing it to engage in air transportation of persons and property between San Francisco, Calif., and Auckland, New Zealand, via the intermediate points Honolulu, Hawaii; Kingman Reef; and Pago Pago, Samoa, or by other practical route between Honolulu and Auckland. As a part of the same application the applicant further indicated its intention to seek action by the Authority and the Postmaster General under section 401(n) of the Act in order to permit the transportation of mail, for the reason that at no time prior to the passage of the Act had the applicant held any authorization from the Postmaster General to engage in the transportation of mail between San Francisco, Calif., and Auckland, New Zealand.

By amendment No. 1 to its application, the applicant seeks authorization to operate the route between Honolulu and Auckland via Canton Island and Noumea, New Caledonia, in lieu of the route originally sought. The applicant concedes that it has no right under section 401(e)(1) of the Act to a certificate which would designate Canton Island and Noumea as intermediate points, but contends that such a route may be authorized under section 401(f) of the Act which reads in part as follows:

"* * * a certificate issued under this section to engage in foreign air transportation shall, insofar as the operation is to take place without the United States, designate the terminal and intermediate points only insofar as the Authority shall deem practicable, and otherwise shall designate only the general route or routes to be followed."

It is the contention of the applicant that this section enables the Authority in issuing a "grandfather" certificate to designate the general route to be followed if it regards a designation of particular intermediate points as impracticable.

We have pointed out in other previous cases arising under section 401(e)(1) of the Act, more particularly as concerns this applicant in Pan American Airways Co. (of Nevada), Certificate of Public Convenience and Necessity (Transpacific Operations), Docket No. 6-401 (E)-1, the principal issues before the Authority in any case under the "grandfather" clause are the citizenship of the applicant, the scope and continuity of its operation (or in the alternative, the scope of its authorization from the Postmaster General to transport mail), and the question of the adequacy and efficiency of the applicant's service during the so-called "grandfather" period.

Upon these issues the evidence adduced at the hearing reveals the following facts. Development of plans for a New Zealand service began in 1934; and in 1935, a survey of possible routes was conducted by applicant. At that time the route via Kingman Reef and Pago Pago was decided to be the most feasible. In November, 1935, Pan

C. A. A. Opinions—Vol. I—^{Temporary}Page No. CXCIH

American Airways, Inc., acting through its agent in New Zealand concluded with the New Zealand Government an agreement under which it was granted landing rights and privileges at Auckland for an air service between that point and San Francisco. The agreement further provided for a route via Kingman Reef and Pago Pago and required that operations commence not later than December 31, 1936. The date for beginning operations was subsequently extended to December 31, 1937, by the New Zealand Government. In March 1937, the *Samoan Clipper*, a standard type S-42B, four-motored Sikorsky seaplane, made the first survey flight to New Zealand, leaving San Francisco and flying via Honolulu, Kingman Reef and Pago Pago to Auckland. The return flight to Honolulu was made early in April 1937, after which the plane was put into service on the Manila-Hong Kong sector of the transpacific route. In the fall of 1937, the schooner, *Trade Wind*, was acquired for use as a station ship at Kingman Reef.

On December 2, 1937, the applicant pursuant to the provisions of the Air Commerce Act of 1926 applied to the Department of Commerce for authority to conduct operations over the proposed route from Honolulu, Hawaii, via Kingman Reef and Pago Pago, to Auckland, New Zealand. By letter dated December 22, 1937, temporary authorization for the transportation of property between these points was given by the Assistant Secretary of Commerce. The transportation of passengers for hire was expressly prohibited.

Pursuant to the above-mentioned authorization a flight left Honolulu on December 23, 1937, and arrived in New Zealand on December 25, 1937. On this flight no passengers, mail or express were carried. The return flight from New Zealand to Honolulu was made between January 1 and January 3, 1938, carrying regular mail from New Zealand and complimentary express. At Honolulu the mail and express were transferred to one of the applicant's aircraft on the Hong Kong-San Francisco route for delivery in the United States.

On January 9, 1938, the *Samoan Clipper* again left Honolulu, this time carrying 75 pieces of express, 63 pieces of which had originated in the United States, and 12 pieces of which had originated in Honolulu. On January 11, 1938, on the flight between Pago Pago and Auckland, the *Samoan Clipper* was lost.

It is the applicant's contention that beginning in January, 1938, it had scheduled a fortnightly service between Honolulu and Auckland to be operated by the *Samoan Clipper*. The applicant's schedule and timetable did not contain an announcement of this service but the record shows that the applicant's San Francisco office mailed out 1,700 aerograms (a form of direct mail advertising) announcing the inauguration of a fortnightly express service to New Zealand to begin January 5, 1938. At no time was it contemplated that the *Samoan*

C. A. A. Opinions—Vol. I—^{Temporary}Page No. CXCV

Clipper would be used to transport passengers, because of limitations on its pay load. The inauguration of passenger operations was contemplated with the delivery of Boeing B-314 planes in the spring or summer of 1938.

Witnesses for applicant testified that after the loss of the *Samoan Clipper* on January 11, 1938, it had no other aircraft available for this route at the time, and accordingly no further flights were conducted until August 1939, when a survey flight via Canton Island and Noumea was made with a Boeing B-314 flying boat. Therefore, the facts of record show that no operations were conducted during the "grandfather" period from May 18, 1938, to August 22, 1938, between San Francisco and New Zealand or between Honolulu and New Zealand. Hence, the contention of the applicant amounts to the proposition that regular flights having been scheduled prior to the "grandfather" period, the cessation of operations with the loss of the *Samoan Clipper* constituted merely an interruption of service over which the applicant had no control.

Section 401(e)(1) provides that if an applicant shall show that from May 14, 1938, to August 22, 1938, it was an air carrier continuously operating as such (except as to interruptions of service over which it had no control), the Authority, upon proof of such fact only, shall issue a certificate authorizing such applicant to engage in air transportation "with respect to all classes of traffic for which authorization is sought, except mail, between the terminal and intermediate points between which it, or its predecessor, so continuously operated between May 18, 1938, and the effective date of this Act." We have previously held that the applicant from May 14 to August 22 was an air carrier continuously operating as such between the terminal points San Francisco and Hong Kong via Honolulu and other intermediate points;³ but under the statutory language, such operation does not entitle it to a certificate authorizing it to engage in air transportation between the terminal points San Francisco and Auckland, unless the applicant can show that between May 18 and August 22, 1938, it continuously operated as an "air carrier" between such terminal points, except as to interruptions of service over which it had no control.

It would not be sufficient that applicant should have enjoyed the status of an air carrier with respect to the points in question, under the definition of the term "air carrier" set forth in section 1 (2) of the Act;⁴ and we do not attempt to explore separately into the ques-

³ Pan American Airways Co. (of Nevada), certificate of public convenience and necessity (transpacific operations), docket No. 6-401(E)-1.

⁴ "Sec. 1 (2). 'Air carrier' means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in air transportation: * * *"

tion of whether or not that status in fact existed. The criterion established by section 401(e)(1) of the act with respect to "grandfather" certificates is applicant's continuous operation as an air carrier (except as to interruptions of service over which it had no control) between certain points during the "grandfather" period, and that is the condition with respect to which examination must be made. Obviously, continuous operation as an air carrier includes all elements of undertaking to engage in air transportation; therefore, since nothing less than continuous operation will satisfy the requirement of section 401(e)(1), it is idle to speculate upon applicant's status as an air carrier with respect to this, that, or the other terminal or intermediate point.

In the instant case, not only is there an absence, during the "grandfather" period, of continuous operation between San Francisco and Auckland, but there is also an absence, during such period, of any operation at all between Honolulu and Auckland. Under these circumstances, the only showing upon which applicant might conceivably be entitled to a certificate of public convenience and necessity under section 401(e)(1) would be a showing that it had at one time or another conducted a continuous operation between the terminal and intermediate points involved, and that such operation was suspended throughout the "grandfather" period by interruptions of service over which applicant had no control. This the applicant has failed to do. The only round trip having any commercial characteristics which applicant completed between Honolulu and Auckland was carried out between December 23, 1937, and January 3, 1938.⁵ On the second flight, commencing January 9, 1938, the aircraft with which it was being conducted was lost, and no further flights were attempted. Without passing upon the question of whether applicant ever undertook to engage as a common carrier in the carriage by aircraft of persons or property for compensation or hire between San Francisco and Auckland, we find, that, after the loss of the *Somoan Clipper*, there was a complete cessation, as distinct from an interruption of service.

Therefore, upon the issue of the continuity of the applicant's operation within the meaning of section 401(e)(1)(A) of the act we find that at no time during the "grandfather" period was the applicant an "air carrier" continuously operating as such, except as to the interruptions of service over which it had no control, in the transportation of persons or property between San Francisco and Auckland. Having failed to prove facts made by the statute conditions precedent to the issuance of a "grandfather" certificate, so much of the application herein as is directed to the issuance of a certificate under section 401(e)(1) of the Act must accordingly be denied.

⁵ This trip proceeded via Kingman Reef and Pago Pago, points which lie respectively 257 and 822 miles off the route via Canton Island and Noumea for which application is herein made.

APPLICATION UNDER SECTION 401(d)(1) OF THE ACT

In amendment No. 1 to its application, the applicant in effect requested that if it be found not to be entitled to a "grandfather" certifi-

cate that it be granted a certificate of public convenience and necessity under section 401(d)(1) of the Act authorizing it to engage in air transportation with respect to persons, property and mail between the terminal points San Francisco and Auckland, via Los Angeles, Honolulu, Canton Island and Noumea. Section 401(d)(1) of the Act provides in part as follows:

"The Authority shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly, and to conform to the provisions of this Act and the rules, regulations and requirements of the Authority hereunder, and that such transportation is required by the public convenience and necessity; otherwise such application shall be denied."

Thus, it will be seen that this section sets up as tests in a "new route" case two factors: (1) the public convenience and necessity, and (2) the fitness, willingness, and ability of the applicant properly to perform the service.

(1) PUBLIC CONVENIENCE AND NECESSITY

The concept of public convenience and necessity defies any categorical definition. As we have pointed out in previous cases the phrase is not susceptible of reduction to a fixed and rigid definition, but its meaning must be determined in light of the context and objectives of the statute wherein it is used.⁶ As used in the Civil Aeronautics Act public convenience and necessity are not restricted to the interests of a particular community but are national in scope.⁷ It is clear that where foreign air transportation is concerned convenience and necessity is national in character to an even greater extent than in the case of many domestic routes.

The Declaration of Policy in the Act⁸ sets out the broad standards

⁶ Northwest Airlines, Inc., certificate of public convenience and necessity (Duluth-Twin Cities operation), Docket No. 131.

⁷ American Airlines, Inc., et al., certificate of public convenience and necessity (North Beach operation), Docket No. 278.

⁸ "Sec. 2. In the exercise and performance of its powers and duties under this Act, the Authority shall consider the following, among other things, as being in the public convenience and necessity—

"(a) The encouragement and development of an air-transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

"(b) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in, such transportation, and to improve the relations between, and coordinate transportation by, air carriers;

"(c) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices;

"(d) Competition to the extent necessary to assure the sound development of an air-transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

"(e) The regulation of air commerce in such manner as to best promote its development and safety; and

"(f) The encouragement and development of civil aeronautics."

C. A. A. Opinions—Vol. I—^{Temporary}Page No. CXCVII

which the Authority is to apply to the facts of any given case to determine whether the public convenience and necessity require the issuance of a certificate authorizing an air carrier to engage in air transportation over a new route. It is clear that section 2 contemplates the expansion of the air transportation facilities of the United States in accordance with a sound and constructive policy. The interest of the public in the granting of a new route certificate authorizing transportation of mail by aircraft is further evidenced by the fact that the issuance of such a certificate customarily involves as a

consequence a certain cost to the Government in the form of mail compensation which must be fixed in light of the rate-making elements set forth in section 406 (b) of the Act. The commercial revenue to be derived from a proposed operation, and its relation to the cost to the Government entailed in the inauguration and maintenance of the service, should be weighed against the needs of the foreign and domestic commerce of the United States, the Postal Service, and the national defense. Thus, in one case substantial governmental expenditures for the operation of a new route might be justified, while in another case expenditures of a much smaller amount would not be warranted.

To particularize as to the instant case, we must consider the proposed 4½-day service between San Francisco and Auckland in the light of the needs of the foreign commerce of the United States, the Postal Service, and the national defense. Material in considering the needs of the foreign commerce are the volume of trade existing, or immediately in prospect, between these two sections of the world, the amount of traffic which it could reasonably be expected that the applicant would transport upon the inauguration of such a service, and the possible effect in the way of stimulation of foreign trade which would result therefrom. The needs of the Postal Service for the proposed route must be considered in the light of the present facilities available for communication by both mail and cable between the United States and Australasia, which region includes Australia, New Zealand, Tasmania, New Guinea, and smaller island groups. The needs of the national defense and the relation of the proposed service to those needs must also be considered. If the needs of the United States in these three respects are sufficient to counterbalance the expenditures in the form of Government support which would be involved in the operation of the proposed service, we are justified in finding that air transportation between the United States and New Zealand is required by the public convenience and necessity.

To prove the public convenience and necessity in relation to the foreign commerce of the United States, extensive evidence was adduced at the hearing as to this country's commercial contacts with Australasia, which embraces an area approximately the size of con-

C. A. A. Opinions—Vol. I—^{Temporary}_{Page No. CXCVIII}

tinental United States and Alaska. It is clear from the record herein that the proposed route is not simply a line of communication between San Francisco and Auckland but is a means of commercial contact between the North American continent and the entire Australasian section of the world.

The record shows that the Antipodes have a population of over eight million persons. During the period 1929-37 the per capita incomes of the United States, the Dominion of Canada, Australia, and New Zealand were among the highest in the world.

In 1937 New Zealand had the highest per capita foreign trade of any country in the world. Trade figures for the years 1930-37 indicate that the total average exports from New Zealand were in the vicinity of 200 million dollars per year, of which steadily increasing amounts were sent to the United States. Import figures for the same period averaged slightly less, but approximately 13 percent of the total imports came from the United States. These figures, even though

establishing the United States as second among the nations of the world in exporting to and importing from New Zealand during the years 1935-37, indicate the opportunity for continued increase in commercial relationships between these two sections.

With Australia, as with New Zealand, opportunity for increased commercial relations appears to exist. Australian trade figures for the years 1930-38 show its average annual exports had a value of over 400 million dollars. During this period slightly over 3½ percent of the total exports was sent to the United States. Import figures for these years were substantially the same, except that imports from the United States equalled 17 percent of total imports for the period. During 1936 the United States ranked fifth in imports and second in exports among the nations of the world exporting to and importing from Australia. In the years 1937 and 1938, the United States position was second as to both exports and imports.

Australia and New Zealand export to the United States mainly raw materials of various kinds, and import from this country principally manufactured goods and machinery. Thus, an important aspect of the trade between the United States and Australasia is the fact that it is complementary in character. American "direct investments" (as distinguished from ownership by Americans of foreign securities) in Australasia are substantial, being about one-half of those in the whole region of China, Japan and the Philippines.

The determination of the public convenience and necessity requires consideration of the present transportation and communication facilities between the North American continent and Australasia. The fact that there has been such an extensive commercial contact between the two sections of the world with the infrequent schedules furnished by the present system of transportation is indicative of

C. A. A. Opinions—Vol. I—^{Temporary}_{Page No. CXCIX}

the inherent importance of the route. Before the current European war, there were two steamship lines operating between the North American continent and Australasia. One was the Matson Oceanic Line which operated between San Francisco and Los Angeles and Melbourne, Australia, while the other was the Canadian Australasian Line which operated between Vancouver and Victoria, British Columbia, and Melbourne, Australia. Each of these services operated one round trip every 4 weeks. However, following the outbreak of the war, the Canadian Australasian Line suspended service so that at the present time passenger service is limited to one round trip per month by the Matson Line between California ports and Australasia. The regular scheduled ships of the Matson Line take 17 days to Auckland, and 24 days to Melbourne, and the same time on the return trip. There is no direct cable service between the United States and Australasia, the only service being that provided by a British cable from Vancouver, B. C. In addition to the fact that rates for United States messages sent over this cable are nearly double the rates for those sent from Canada, increased cost has resulted from the prohibition on code messages since the beginning of the war.

Figures as to passenger traffic between North America and Australasia during the years 1936-38 show that about 60 percent of the total passenger traffic between these two sections of the world originated at or was destined to points within the United States. During

this period an aggregate of 10,636 persons travelled between North America and Australasia in 1937, 11,528 persons in 1937, and 14,191 persons in 1938. In considering the traffic potential of the proposed route, it should be kept in mind that this extensive passenger traffic between the North American continent and Australasia was carried on a transportation system offering fortnightly sailings and 17-day service between New Zealand and this continent.

Expert testimony was given at the hearing as to the effect of the establishment of the proposed passenger, express and mail service in stimulating foreign trade. The trade possibilities of the South Pacific area at the present time were particularly emphasized, and the inadequacy of existing transportation and communication facilities was given as an explanation for the failure of American business to realize the full trade potential of this area.

As affecting the public convenience and necessity from the point of view of the Postal Service, the certification of the Postmaster General should be given proper consideration. In support of this certification, witnesses on behalf of the Post Office Department gave extensive testimony and introduced exhibits tending to show that the public convenience and necessity would be served by the inauguration of an air-mail route to Australasia. Their evidence was partly concerned with the commercial aspects of the question of public convenience and

C. A. A. Opinions—Vol. I—^{Temporary}_{Page No. CC}

necessity, and to that extent has been previously considered. With respect to mail service, and in particular, the need therefor, the testimony establishes that at the present time the fastest mail service between San Francisco and Auckland is 17 days and between San Francisco and Sydney 20 days, as compared with 11-day air service between London and Sydney. In contrast to this, the applicant's proposed schedules would require only 4½ days from the United States to New Zealand.

On the basis of fortnightly service the Post Office Department prepared an estimate of mail poundage to be carried on an air-mail route between San Francisco and Auckland, via Honolulu, Canton Island, and Noumea, which estimates were based on postage rates in line with those charged for similar foreign air-mail service. Using the experience of the South American service it was estimated that 8 percent of the regular first-class mail between the United States and New Zealand would go by air. To the figure so derived was added an additional 8 percent thereof as an allowance for transit mail having its origin in some other country. The total annual poundage out-bound for all points as estimated by the Post Office Department was 14,268, and the estimated annual poundage in-bound was 13,203. Of these amounts 3,535 pounds per annum was estimated to be the through mail to Australasia and 3,537 pounds as in-bound from Australasia. In addition, a new service substantially expediting the carriage of mail to distant sections of the world may reasonably be expected to stimulate commercial contacts with a resultant increase in mail volume.

The Post Office Department regards the establishment of an air mail route between San Francisco and Auckland as opening up a service to all of Australasia whether or not air mail service is inaugurated across the Tasman Sea between Auckland and Sydney. It is

the opinion of the Postal authorities that the present situation warrants the establishment of an air mail service between the United States and New Zealand.

In addition, after a consideration of the needs of the national defense, which are emphasized of record in this case, we find that the operation of a trans-Pacific air service to New Zealand, and the maintenance of facilities used in connection therewith, are important in the interests of the national defense.

On the basis of the additional costs which would be incurred over and above those incident to the operation of applicant's San Francisco-Hong Kong service, applicant estimates that the operating costs of the proposed service will approximate \$1,459,500 during the first year, and \$1,492,836 during the second year of operation. The additional expenses so estimated include direct expenses, consisting of aircraft operating, general office, traffic, operations, maintenance,

C. A. A. Opinions—Vol. I— Temporary
Page No. CCI

communications, and meteorological; and indirect expenses, consisting of depreciation on flying and other equipment, and taxes. The indirect expenses also include an item of \$98,928 per year as amortization of claimed development charges, and an item of \$60,000 per year, being the proportion of the expenses incident to the maintenance of the general offices of the Pan American Airways system in New York and traffic offices in principal cities of the United States which would be allocated to the proposed New Zealand service.

On the basis of there also being allocated to the New Zealand service a proportionate part of the cost of operating the existing San Francisco-Hong Kong service due to the joint use of facilities and personnel by the two services, applicant estimates the cost of the New Zealand service at \$1,773,167 for the first year of operation. This would involve a transfer from the San Francisco-Hong Kong service of an allocated sum of \$313,667 out of the costs now borne entirely by that service.

Revenues derived exclusively from the operation of the service between San Francisco and Auckland are estimated by applicant at \$442,836 during the first year of operation and \$512,580 during the second year of operation, exclusive of United States mail pay. The estimated revenues consist principally of income from the transportation of passengers and foreign mail. For the first year passenger revenue and foreign mail revenue are estimated at \$264,816 and \$116,484, respectively. For the second year they are estimated at \$291,864 and \$142,224, respectively. Passenger estimates were derived from an analysis of passenger traffic on applicant's Hong Kong service. During the year 1938, the applicant carried 260 passengers on its route between San Francisco and the Orient, which was 6.4 percent of the estimated first-class passenger steamship traffic between the United States and the Orient for that year. Because of the fact that service on the proposed New Zealand route is to be on a fortnightly basis as compared with a weekly basis for the Hong Kong service, the applicant estimates that 5 percent of the first-class steamship passengers between North America and Australasia would be an appropriate figure to use in calculating the passenger traffic over the proposed route. Using this basis, it was estimated that on each one-way trip there would be six San Francisco-Auckland

passengers and three Honolulu-Auckland passengers, in addition to three local San Francisco-Honolulu passengers and two local Auckland-Noumea passengers. Assuming 23.4 round trips per year at 90 percent schedule performance, there would be approximately 280 through passengers per year between San Francisco and Auckland, 140 local passengers between San Francisco and Honolulu, 140 local passengers between Honolulu and Auckland, and 97 local passengers between Noumea and Auckland.

C. A. A. Opinions—Vol. I—^{Temporary}Page No. CCH

Treating all anticipated revenues from the proposed New Zealand service and the existing Hong Kong service derived from local United States-Honolulu traffic as being revenues common to both services, and allocating them between the two services on the basis of the comparative pay load available for commercial traffic on the aircraft to be utilized on the respective services, applicant estimates the anticipated revenue on the New Zealand operation, exclusive of United States mail pay, at \$413,925 for the first year of operation.

All of the foregoing estimates of revenues and expenses assume that the service will be routed via Los Angeles and that 90 percent performance of schedules will be attained.

In the amendment to its original application, the applicant requested the inclusion of Los Angeles as an intermediate point on the proposed route between San Francisco and Auckland. However, the application stated that no stops could be made at Los Angeles on east-bound flights, at least for the time being because of prevailing wind conditions and limitations of aircraft range, until the Boeing B-314's were used exclusively in operation on the Pacific and certain improvements designed to increase pay load and reduce fuel consumption had been made therein.

Testimony was also given to show that the proposed flight time between San Francisco and Los Angeles would be about 2½ hours, and that the distance from Los Angeles to Honolulu is 157 miles greater than the mileage from San Francisco to Honolulu. However, it was stated that wind conditions prevalent on the route from Los Angeles to Honolulu would enable applicant to operate west-bound between those points at the same cost and in the same time as operations could be conducted from San Francisco to Honolulu.

It is the contention of the applicant that the present transportation facilities between Los Angeles and San Francisco are not of such nature as to realize the full traffic potential of Los Angeles so far as the transpacific service is concerned. A great deal of testimony was adduced as to the industrial and financial standing of the city and county of Los Angeles and the possible traffic to be derived therefrom. It was stated that Los Angeles is the largest city in the western United States, that it is fifth in population among the cities of the country, and that its use of the domestic air-mail service is second among all cities.

During the past 20 years Los Angeles city and county have had a tremendous growth in both population and industrial development until today this section outranks the San Francisco area in both of these aspects with the trend in the direction of still greater increases. At the present time the Los Angeles area represents the largest metropolitan population in California, the greatest volume of industrial

activity in California, and the area with the highest personal incomes, as shown by returns made to both the Federal and State governments.

The evidence further shows that not only does Los Angeles outrank all other western cities in the use of the domestic air mail, but that it is the destination for about twice as many trans-continental air passengers as is San Francisco. Figures on air express shipments indicate that Los Angeles and San Francisco are about equal in their use of this service. A survey of trans-continental Pullman traffic in 1933 showed that substantially two and one half times as many Pullman cars were operated in the trans-continental service in and out of Los Angeles as were operated in and out of San Francisco.

To show the possible traffic that might be derived from Los Angeles, if it were included as an intermediate stop on the proposed route, there were introduced figures relative to traffic over the Matson Line, which operates from San Francisco to New Zealand and Australia via Los Angeles and Hawaii, which indicated that approximately the same number of first-class passengers embarked at Los Angeles as at San Francisco. Testimony was also given at the hearing relative to the extent of commercial contacts between the 10 southern counties of California and Australasia. It was stated that the three principal industries of southern California, aircraft production, petroleum refining and motion-pictures, all had important markets in that section. This commercial contact would lead not only to an extensive use of air mail but air express would be used by the aircraft industry for the shipment of replacement parts and by the motion-picture industry for the transportation of films. Furthermore, the extensive vacation travel between Los Angeles and the Hawaiian Islands was emphasized as a possible source of traffic for the proposed route.

The evidence of record indicates that the expenditure necessary to maintain a base in Los Angeles and the cost involved in the increased mileage of 411 miles from San Francisco to Los Angeles would result in additional cost of approximately \$51,000 per year for the service via Los Angeles on west-bound flights only. At the end of about a year, when the applicant estimates that service will be inaugurated on east-bound flights also, the additional annual expenditures are estimated at \$65,000. In order to meet this additional cost from commercial revenues, it would be necessary to obtain one additional through passenger, and one additional Honolulu passenger for each round trip if the stop is made only on west-bound flights. If the stop is made on flights both ways, the revenue from two additional through passengers and one additional Honolulu passenger, or from one additional through passenger and three additional Honolulu passengers, would be necessary to meet the additional costs involved.

Despite the additional cost resulting from the inclusion of Los Angeles as a stop, we find that the significance of the proposed service to the national interest, and especially to the national defense, justifies

the designation of Los Angeles as an intermediate point.

Therefore, we find that the public convenience and necessity require the air transportation of persons, property and mail between the terminal points San Francisco, Calif., and Auckland, New Zealand;

via the intermediate points Los Angeles, Calif. (except as to local air transportation between San Francisco and Los Angeles); Honolulu, Hawaii; Canton Island; and Noumea, New Caledonia. Nothing herein shall be construed as a finding that the public convenience and necessity require air transportation by the applicant of persons, property or mail originating at one point in continental United States and destined for another point in continental United States.

(2) FITNESS, WILLINGNESS AND ABILITY

The fitness, willingness, and ability of the applicant to perform the proposed service involve the question of its competency to operate the proposed route, and, as pointed out in Pan American Airways Co. (of Delaware) certificate of public convenience and necessity (Transatlantic Operations),⁹ the question of its financial capacity to do so.

Since October 1936, the applicant has been engaged in air transportation of persons, property, and mail on the route from San Francisco, Calif., to Hong Kong via Honolulu, Manila, and other intermediate stops. From this operation, and from the services of its affiliates across the Caribbean and on the transatlantic route, the applicant has had the benefit of much experience in the operation of transoceanic services, with the result that it has developed the technique necessary to the successful performance of such service and a trained personnel experienced in such operations.

At the hearing much testimony was adduced as to the weather conditions between Honolulu and Auckland. The only special difficulty expected to be experienced on the proposed route is between Noumea and Auckland. However, this weather, although cold and stormy in the winter months, presents no unusual operating problems. The testimony shows that weather maps will be made at San Francisco, Honolulu and Auckland from data supplied by the applicant's own meteorological services and from data obtained from the United States Weather Bureau and from the proper agencies of the New Zealand and Australian Governments.

The equipment which the applicant expects to use in the proposed operation is the Boeing B-314 flying boat which was built specially for transoceanic service. This type of plane has been engaged in the Hong Kong operation since March 1939 and has been in the transatlantic service since May 1939. In August 1939, one of these flying boats successfully completed a survey flight over the proposed route.

⁹ Docket No. 163.

C. A. A. Opinions—Vol. I—^{Temporary}
Page No. CCV

At the present time the Pan American Airways system has on order six new Boeing B-314A flying boats and, upon delivery some time in 1941, expects to operate its entire Atlantic service with these aircraft. When the six new flying boats are available, the Boeing B-314's then used in the Atlantic operation are proposed to be transferred to the Pacific service for use on both the Hong Kong and New Zealand routes. Until that time operations on the New Zealand route will be conducted entirely with the two Boeings now in use on the Pacific and one which is proposed to be transferred from the Atlantic service. On the basis of experience, it appears that the performance of the Boeing B-314 is adequate for the maintenance of transoceanic service,

and the record indicates that the base facilities of the applicant are adequate for the servicing of these aircraft.

The applicant herein is an integral part of the Pan American Airways organization and, as such, forms a part of an extensive system of international air transportation. The record indicates that additional capital expenditures in the amount of \$1,272,949, of which \$672,200 represents flight equipment, would be required in order to establish the proposed service and that the applicant has readily available to it through its parent corporations sufficient capital to meet the necessary expenditures.

On the basis of the above findings of fact with respect to the competency of the applicant to operate the proposed route and its financial capacity, and considering the substantial period of time during which it has successfully engaged in transpacific air transportation, we find that the applicant is fit, willing and able properly to perform the air transportation service for which authorization is sought, and to conform to the provisions of the Act and the rules, regulations and requirements of the Authority thereunder.

On the basis of the entire record and the findings hereinbefore entered, we find that a certificate of public convenience and necessity should be issued to the applicant authorizing it to engage in air transportation of persons, property and mail between the terminal points San Francisco, Calif., and Auckland, New Zealand; via the intermediate points Los Angeles, Calif.; Honolulu, Hawaii; Canton Island; and Noumea, New Caledonia; *Provided, however,* That the holder of said certificate is not authorized to engage in local transportation of persons, property, or mail between points in continental United States.

An appropriate order will be entered.

Hinckley, Branch, Ryan, Mason, Warner, Members of the Authority, concurred in the above opinion.

C. A. A. Opinions—Vol. I—^{Temporary}_{Page No. CCVI}

ORDER

Pan American Airways Co. (of Nevada), having filed an application for a certificate of public convenience and necessity to be issued under section 401 (e) (1) of the Civil Aeronautics Act of 1938, and having filed amendments thereto constituting an application for a certificate of public convenience and necessity to be issued under section 401(d)(1) of the Act, which the applicant requested in the alternative in case the Authority found that the application could not be granted under section 401(e)(1) of the Act; the Acting Postmaster General having certified to the Authority, pursuant to section 401(n) of the Act, that the needs of the Postal Service require the transportation of mail by aircraft over a route between certain of the points covered by the application; the applications and certification having been consolidated into one proceeding; a public hearing thereon having been held; and the Authority upon consideration of the record in said proceeding having issued its opinion containing its findings of fact, conclusions and decision, which opinion is attached hereto and made a part hereof, and finding that its action in this matter is necessary pursuant to said opinion:

It is ORDERED, That there be issued to Pan American Airways Co. (of Nevada) a certificate of public convenience and necessity authorizing it, subject to the provisions of said certificate, to engage in air transportation with respect to persons, property, and mail between the terminal point San Francisco, Calif.; the intermediate points Los Angeles, Calif.; Honolulu, Hawaii; Canton Island; and Noumea, New Caledonia, and the terminal point Auckland, New Zealand: *Provided, however,* That the holder of said certificate is not authorized to engage in local transportation of persons, property, or mail between points in the continental United States.

IT IS FURTHER ORDERED, That the exercise of the privileges granted by said certificate shall be subject to the terms, conditions, and limitations prescribed by section 238.4 of the Economic Regulations of the Civil Aeronautics Authority (formerly Regulation 401-F-2) issued by the Authority on May 17, 1939, all amendments thereto, and such other terms, conditions, and limitations as may from time to time be prescribed by the Authority.

IT IS FURTHER PROVIDED, That said certificate shall be issued in the form attached hereto and shall be signed on behalf of the Authority by the Chairman of the Authority and shall have affixed thereto the seal of the Authority attested by the Secretary. Said certificate shall be effective from the date of its approval by the President of the United States.

IT IS FURTHER ORDERED, That the application herein of Pan American Airways Co. (of Nevada) for a certificate of public convenience and necessity to be issued under section 401(e)(1) of the Act be and the same is denied.

The White House, June 10, 1940—Approved:

(S.) FRANKLIN D. ROOSEVELT.

C. A. A. Opinions—Vol. I—^{Temporary}Page No. CCVII

DOCKET No. SR-40

ISELI—AIRMAN CERTIFICATE

In the matter of the petition of John Alvin Iseli for reconsideration of his application for renewal of private pilot certificate No. 46661.

Decided June 14, 1940

APPEARANCES:

John Alvin Iseli, petitioner, in his own behalf.

Houston A. Snidow, counsel for petitioner.

Glen D. Woodmansee, counsel for the Authority.

OPINION

BY THE AUTHORITY:

We denied, on December 7, 1939, the application of John Alvin Iseli for renewal of his private pilot certificate No. 46661 because certain facts which had come to our attention indicated that Mr. Iseli was afflicted with epilepsy and therefore not physically able to perform the duties of a private pilot.¹ Mr. Iseli subsequently petitioned for reconsideration of our action denying his application.

A hearing was held before an examiner of the Authority on April 11, 1940, in Los Angeles, Calif. Petitioner was present in person and represented by counsel.

The examiner filed his report on April 19, 1940, in which he found that the petitioner was afflicted with epilepsy and concluded that by reason of such affliction petitioner was not physically qualified to hold a pilot certificate. Pursuant to such finding and conclusion, the examiner recommended that the action of the Authority in denying petitioner's application for renewal of his certificate be affirmed. A copy of this report was served on petitioner and he was given an opportunity to file exceptions or objections thereto. None have been filed.

¹ Sec. 602 (b) of the Civil Aeronautics Act: "Any person may file with the Authority an application for an airman certificate. If the Authority finds, after investigation, that such person possesses proper qualifications for, and is physically able to perform the duties pertaining to, the position for which the airman certificate is sought, it shall issue such certificate. * * * Any person whose application for the issuance or renewal of an airman certificate is denied may file with the Authority a petition for reconsideration."

The question presented for our consideration is whether the petitioner is physically able to perform the duties required of the holder of a private pilot certificate.

Dr. Frank L. Long, a physician associated with the United States Veterans' Administration Facility of Los Angeles, Calif., was called as a witness in the proceeding and testified that he has had many years of professional experience in the examination and treatment of persons afflicted with epilepsy. He stated that the records of the facility (to which he continually referred during his testimony) revealed that the petitioner, a World War veteran, made application for compensation from the United States Government in 1924. In support of this application he claimed to be suffering from epilepsy and recited a number of past seizures. Subsequent to the filing of his application he was placed under observation and the record shows that during such observation he suffered an epileptic convulsion. On the basis of this evidence the petitioner's claim for compensation was granted. In 1925 petitioner submitted nine affidavits in support of his claim for continued compensation, all of which recite that the affiants had at various times observed petitioner suffer attacks, as a result of which he became unconscious. Two of the affiants, sisters of the petitioner, stated that following an attack petitioner would remain unconscious for hours.

Petitioner was examined by Dr. Long at the Veterans' Administration Facility on April 6, 1937, at which time he made and signed a statement which reads, in part, as follows:

"I am about the same as always, maybe a little more nervous and irritable. I had a seizure about a week ago. They come on irregularly about once a month or 6 weeks, maybe 2 or 3 a day. I have no warning, fall and hurt myself, and bite my tongue. I sometimes have them in my sleep."

As a result of this examination, Dr. Long made a diagnosis of epilepsy, grand mal.

Petitioner was again examined by Dr. Long at the facility on November 3, 1939, at which time petitioner stated that he had had no hospitalization or medical treatment since his last examination at the facility approximately 30 months before. He signed a statement, part of which reads as follows:

"I feel pretty good, but don't seem to have much pep. To my knowledge I have not had a seizure since I was last examined, but have awakened in the morning with my muscles all sore and about once a week I have a sudden flash, but do not lose consciousness."

Following this examination, Dr. Long made a diagnosis of continued epilepsy.

Dr. Long further testified that "there is no sure cure for epilepsy" and that while one afflicted with epilepsy sometimes has an intermission without attacks or seizures, his experience has been that

seizures will occur sooner or later. He further stated that based upon the petitioner's case history he would consider him a chronic epileptic.

At the hearing the examiner permitted the use of the Veterans' Administration records over the objection of petitioner. The first ground on which he rested his objection was that under the statute establishing the Veterans' Administration such records were con-

fidential communications. This objection does not appear to be well taken. With respect to the records of the Veterans' Administration, Executive Order No. 6099 (Veterans Regulation No. 11) issued pursuant to section 7, title 1, of the act approved March 20, 1933 (48 Stat. 9), provides in part as follows:

"All files, records, reports, and other papers pertaining to any claim, whether pending or adjudicated, shall be deemed confidential and privileged and no disclosure thereof shall be made except * * * (c) when required by a department or other agency of the United States Government * * *."

Since the records of the Veterans' Administration used in this proceeding were required by the Civil Aeronautics Authority, an agency of the United States Government, they fall within the exception included in the above-quoted portion of the Executive order. Therefore, for the purpose of this case, they are not confidential or privileged and their use was proper.

The second ground upon which the petitioner rested his objection to the use of these records was that such records constituted confidential communications between a physician and his patient and their use would violate the well-established rule of evidence which holds such communications to be privileged.

We find no merit in this objection since it is well settled that the physician-patient privilege applies only to disclosures made by a patient to his physician for the purpose of securing curative treatment. This conclusion is sustained by the decision of the court in the case of *City of Cherokee v. Aetna Life Insurance Company*, 247 N. W. 495, in which the court held that the physician-patient relationship did not arise between a Veterans' Administration physician and an applicant for a pension from the Federal Government during an examination given by the physician for the purpose of determining whether the applicant was eligible for a pension, and that, therefore, information coming to the attention of the physician during the course of such an examination was not confidential or privileged. In the proceeding now before us not only the Veterans' Administration file but the petitioner's own admissions clearly show that any disclosures he made to Dr. Long were for the purpose of securing veterans' compensation and not for the purpose of receiving medical treatment.

We therefore find that the examiner acted properly in allowing the use of the facility's records.

C. A. A. Opinions—Vol. I— ^{Temporary} _{Page No. CCX}

Petitioner's evidence consisted solely of his own unsupported testimony that he had always considered his defect to be stomach trouble. However, this contention is conclusively refuted not only by the evidence above discussed but by petitioner's application for compensation and vocational training dated July 10, 1924, in petitioner's own handwriting, in which he described the nature of the disability for which he claimed compensation as epilepsy.

There can be no doubt but that any person who is subject to epileptic seizures is not physically qualified to pilot aircraft. It appears that petitioner's affliction is characterized by seizures or convulsions which may occur suddenly and without warning. Obviously, if he suffered such an attack while he was at the controls of an aircraft in flight, a definite hazard to life or property would be created. We are required by section 602 (b) of the Civil Aeronautics Act of 1938 to

issue an airman certificate to an applicant when, after investigation, we find that he is properly qualified and physically able to perform the duties pertaining to the position for which the airman certificate is sought. Conversely, unless we so find, we have no authority to issue such a certificate.

After consideration of all the evidence we find that the petitioner is afflicted with epilepsy and is, therefore, not physically able to perform the duties of a private pilot. Therefore, our denial of petitioner's application for renewal of his private pilot certificate must be affirmed.

ORDER

Based upon the foregoing findings and pursuant to sections 205 (a) and 602 of the Civil Aeronautics Act of 1938, the Civil Aeronautics Authority orders that the application of John Alvin Iseli, of South Pasadena, Calif., for renewal of his private pilot certificate No. 46661 be, and the same is, denied.

Branch, Ryan, Warner, Members of the Authority, concurred in the above opinion and order. Hinckley, Chairman, and Mason, Member, did not take part in the decision.

C. A. A. Opinions—Vol. I—^{Temporary}_{Page No. CCXI}

DOCKET No. 419

UNITED AIR LINES TRANSPORT CORPORATION—CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Philadelphia—Camden Amendment)

In the matter of the application of United Air Lines Transport Corporation for an amendment of a certificate of public convenience and necessity under section 401 (h) of the Civil Aeronautics Act of 1938.

Decided June 14, 1940

Applicant found entitled to amendment of certificate of public convenience and necessity for route No. 1 to include the point Philadelphia, Pa., as an intermediate point in lieu of Camden, N. J.

APPEARANCES:

Paul M. Godehn for United Air Lines Transport Corporation.

John H. Wanner for the Civil Aeronautics Authority.

OPINION

BY THE AUTHORITY:

United Air Lines Transport Corporation by application filed May 18, 1940, pursuant to section 401 (h) of the Civil Aeronautics Act of 1938, seeks an amendment of its certificate of public convenience and necessity for route No. 1 so as to designate Philadelphia, Pa., as an intermediate point in lieu of Camden, N. J.

After due notice to the public and interested parties, a public hearing was held on June 3, 1940, before Examiner J. Francis Reilly. At the conclusion of the hearing the examiner, with the consent of counsel, announced that he would recommend to the Authority the granting of the application, and that no examiner's report would be issued. Such procedure is in accordance with rule 5 (b) of the Rules of Practice. The recommendation that the application be granted was subsequently made to the Authority on June 4, 1940.

The certificate of public convenience and necessity which is sought to be amended in this proceeding authorizes the applicant to engage in air transportation between the coterminal points New York, N. Y., and Newark, N. J., the intermediate points Camden, N. J. (except with respect to mail) Allentown, Pa.; Akron, Ohio; Cleveland, Ohio; Toledo, Ohio; Chicago, Ill.; Moline, Ill. Iowa City, Iowa; Des Moines,

C. A. A. Opinions—Vol. I—^{Temporary}_{Page No. CCXII}

Iowa; Omaha, Nebr.; Lincoln, Nebr.; Grand Island, Nebr.; North Platte, Nebr.; Denver, Colo.; Cheyenne, Wyo.; Rock Springs, Wyo.; Salt Lake City, Utah; Elko, Nev.; Reno, Nev.; Sacramento, Calif.; and San Francisco, Calif.; and the terminal point Oakland, Calif.

Camden, N. J., is the only point on the route at which the applicant is not authorized to receive or discharge mail.

The application in this proceeding is governed by the provisions of section 401 of the Civil Aeronautics Act of 1938, subsection (h) of which provides in part that the Authority, upon petition or complaint or upon its own initiative, after notice and hearing, may alter, amend, modify, or suspend any such certificate, in whole or in part, if the public convenience and necessity so require.

Although the phrase "public convenience and necessity" is not capable of precise definition, section 2 of the act prescribes certain of the elements which must be considered by the Authority in deciding what is in the public interest and in accordance with the public convenience and necessity.

Philadelphia and Camden are situated on opposite sides of the Delaware River, and the present proceeding involves the question of service to these two cities and the surrounding area. Philadelphia has a considerably greater population than Camden, and outranks it in industrial and commercial importance. In 1930 Philadelphia had a population of 1,950,961, and was exceeded in size among cities in the United States only by New York City and Chicago. The population of Camden in 1930 was 118,700. The value of Philadelphia's manufactured products totaled \$1,248,590,000 in 1935, in comparison with Camden's \$131,790,000. In 1935 the value of the sales by Philadelphia's wholesale establishments totaled \$1,325,150,000, and by its retail stores \$656,740,000. The comparable figures for Camden are \$19,530,000 and \$38,710,000 respectively.

The applicant has been and now is engaged in transporting persons and property to and from the Philadelphia-Camden area through the Camden Central Airport. That airport is also being used for scheduled operations by American Airlines, Inc., Eastern Air Lines, Inc., and Transcontinental & Western Air, Inc. The certificates of public convenience and necessity of these three airlines designate Philadelphia and not Camden as an intermediate point, and they propose to transfer their operations to Philadelphia on or about June 15, 1940. It is anticipated that at that time the Philadelphia Municipal Airport, which is being constructed by the city of Philadelphia, will be ready for use by the air carriers. The purpose of the present application is to permit the applicant to make a like transfer from the Camden Central Airport to the new Philadelphia Municipal Airport. The transfer will enable the applicant to maintain coordination of its services with the services of American, Eastern, and TWA at Phila-

delphia, which would not be possible if it continued to operate at Camden while the other carriers operated at Philadelphia. The two airports are approximately 9 miles apart, and are on opposite sides of the Delaware River.

The effect of the requested amendment will not be to increase or decrease the number of carriers serving the Philadelphia-Camden area. Its principal effects will be (a) the better coordination of the four airlines serving the Philadelphia-Camden area, and (b) service by the applicant to the Philadelphia-Camden area thru the intermediate point Philadelphia, which is the larger and more important of the two cities involved and one of the largest and most important cities in the United States. It is our opinion that such a result is consistent with the declaration of policy in Section 2 of the act and is required by the public convenience and necessity, and we so find.

Evidence in the record concerning the financial condition of the applicant, the nature and volume of its operations, and the type and amount of its equipment establishes that it is fit, willing and able properly to perform the air transportation for which authorization is sought and to conform with the provisions of the act and the rules, regulations and requirements of the Authority thereunder.

At the hearing evidence was introduced tending to show that the new Philadelphia Municipal Airport will be superior to the Camden Central Airport, and that the applicant will be able to use larger and more efficient equipment than it has been using, or could use (except under certain weight restrictions), in operations at Camden Airport. However, we need not and do not decide in this case that one airport is superior to the other, or that it is more convenient to the business area or to a larger population than the other. We are deciding that the public convenience and necessity require that the intermediate point Philadelphia shall be named in the certificate of convenience and necessity in lieu of the intermediate point Camden. The question of the airport to be used to serve that point, and the procedure for the transfer of operations from one airport to another airport serving the same point, is controlled by section 238.3 of the Economic Regulations of the Authority.

On the basis of the foregoing findings of fact and the facts appearing in the record, we find that the designation of Philadelphia, Pa., as an intermediate point in lieu of Camden, N. J., on the route described in the certificate involved in this proceeding, and the authorization to engage in air transportation to and from such point on the route described in such certificate and with respect to persons and property, subject to the provisions of such certificate, are required by the public convenience and necessity.

An appropriate order will be entered.

*C. A. A. Opinions—Vol. I—Temporary
Page No. CCXIV*

Branch, Ryan, Warner, Members of the Authority, concurred in the above opinion.

Hinckley, Chairman, and Mason, Member, did not take part in the decision.

ORDER

United Air Lines Transport Corporation having filed an application for an amendment of its certificate of public convenience and necessity for route No. 1,

under section 401 of the Civil Aeronautics Act of 1938, relative to Philadelphia, Pa., and Camden, N. J.; a full hearing thereon having been held; and the Authority, upon consideration of the record of such proceeding, having issued its opinion containing its findings, conclusions, and decision, which is attached hereto and made a part hereof, and finding that its action in this matter is necessary pursuant to said opinion:

IT IS ORDERED, That the certificate of public convenience and necessity authorizing United Air Lines Transport Corporation, subject to the provisions of said certificate, to engage in air transportation with respect to persons, property, and mail between the coterminal points New York, N. Y., and Newark, N. J., the intermediate points Camden, N. J. (except with respect to mail), Allentown, Pa.; Akron, Ohio; Cleveland, Ohio; Toledo, Ohio; Chicago, Ill.; Moline, Ill.; Iowa City, Iowa; Des Moines, Iowa; Omaha, Nebr.; Lincoln, Nebr.; Grand Island, Nebr.; North Platte, Nebr.; Denver Colo.; Cheyenne, Wyo.; Rock Springs, Wyo.; Salt Lake City, Utah; Elko, Nev.; Reno, Nev.; Sacramento, Calif.; and San Francisco, Calif.; and the terminal point Oakland, Calif., be amended so as to authorize United Air Lines Transport Corporation, subject to the provisions of said certificate, to engage in air transportation with respect to persons, property, and mail between the coterminal points New York, N. Y., and Newark, N. J., the intermediate points Philadelphia, Pa. (except with respect to mail), Allentown, Pa.; Akron, Ohio; Cleveland, Ohio; Toledo, Ohio; Chicago, Ill.; Moline, Ill.; Iowa City, Iowa; Des Moines, Iowa; Omaha, Nebr.; Lincoln, Nebr.; Grand Island, Nebr.; North Platte, Nebr.; Denver, Colo.; Cheyenne, Wyo.; Rock Springs, Wyo.; Salt Lake City, Utah; Elko, Nev.; Reno, Nev.; Sacramento, Calif.; and San Francisco, Calif.; and the terminal point Oakland, Calif.

IT IS FURTHER ORDERED, That the exercise of the privileges granted by said certificate shall be subject to the terms, conditions, and limitations prescribed by section 238.3 of the Economic Regulations of the Authority, all amendments thereto, and such other terms, conditions, and limitations as may from time to time be prescribed by the Authority.

IT IS FURTHER ORDERED, That the said certificate, as amended, shall be issued in the form attached hereto, and shall be signed on behalf of the Authority by the Chairman of the Authority, and shall have affixed thereto the seal of the Authority attested by the Secretary. Said certificate, as amended, shall be effective from the 15th day of June 1940.

