

Decision No. 52177

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of McBain Aviation, Inc., dba)
Catalina Airlines for an Increase)
in Passenger Fares.)

Application No. 37071

O P I N I O N

Applicant is a California corporation operating a common carrier airline service for the transportation of persons and property between the Los Angeles, Burbank and Long Beach airports on the one hand, and the airport on Santa Catalina Island on the other hand. It also provides transportation between these and other California points on a so-called charter basis. By this application, as amended, it seeks authority to make various changes in its fares and service.

Applicant's fares are contained in its Local Passenger Tariff Cal. P.U.C. No. 1, which became effective on April 30, 1955. Applicant alleges that its tariff was filed without sufficient consideration of the provisions that should be included therein. It states that it did not become apprised of the Commission's tariff filing requirements until shortly before the time that its operations were scheduled to begin on May 1, 1955, and that in its haste to comply with said requirements before its operations were inaugurated, it published tariff provisions which subsequent investigation has shown to be not suited to its services. Applicant's evident purpose in this proceeding is to modify its tariff in order to establish what it deems to be more appropriate rates, rules and regulations for its operations.

Applicant is herein seeking authority to increase its commutation fares and to revise the rules applicable thereto; to limit its liability for death, injury or delay of its passengers and for loss or damage to baggage or other property; to establish provisions governing the filing of claims; to modify its regulations governing the refunding of unused tickets; and to make certain other changes in its tariff. It also seeks authority to serve Burbank and Long Beach on an on-call rather than on a scheduled basis; to extend on-call service to Torrance; and to establish a new service by means of an amphibian airplane to and from Avalon Bay with fares corresponding to the total charges passengers now pay when traveling to the City of Avalon by applicant's facilities to the Santa Catalina Island airport and by bus from the airport into Avalon.

For commutation service between Santa Catalina Island and Los Angeles, Long Beach and Burbank applicant's present fare is \$30 for 10 one-way rides. The charge per ride is equivalent to 55 per cent of the one-way fare between Los Angeles or Long Beach and the island and about 47 per cent of the one-way fare between Burbank and the island.¹ Applicant proposes to increase its commutation fares to 80 per cent of its one-way fares. It would thereby establish a 10-ride fare of \$43.60 between Los Angeles or Long Beach and Catalina and a similar fare of \$50.88 between Burbank and Catalina. Concurrently with the establishment of these increased fares it would cancel present restrictions making the commutation service subject to a space available basis only. With elimination of this restriction the commutation service would be placed on a parity with service provided at regular fares.

¹ The present adult one-way fares are as follows:

Between Santa Catalina Island	
and	
Los Angeles	\$5.45
Long Beach	5.45
Burbank	6.36

In specific justification of the proposed increases in commutation fares, applicant states that since the establishment of its service, it has determined that a large proportion of its passenger volume during other than the summer months will be commuter traffic. It asserts that continuance of the commutation fares at their present level will be unreasonable and ruinous.

Copies of the application in this matter were served upon the cities of Avalon, Los Angeles and Burbank and upon the chambers of commerce of said cities. Representatives of the cities and chambers of commerce named have informed the Commission that they do not wish to take a position with respect to the proposals involved. Notices of the proposed fare increases have been posted in applicant's terminals and in its aircraft. No one has filed with the Commission any protests against granting of the application.

In the light of the circumstances under which applicant's tariff was established, it appears that with certain exceptions applicant should be permitted to place into effect the sought amendments.

The present commutation fares are unduly low in relation to the company's revenue needs. Applicant reports that its operations for the month of May, 1955, resulted in a loss of \$6,898, and that for the period May through August, 1955, it sustained a loss of \$21,164. It appears that during this period there was no travel at the commutation fares. In view of the operating results attained under full fares, it is clear that during the coming off-season months, when commuter travel is expected to constitute a substantial portion of applicant's transportation, the maintenance of commutation fares as low as those now in effect would be a severe burden upon the operations.

In the matter of claims and carrier liability, applicant's tariff at present does not specify any governing regulations. Applicant proposes to establish various provisions by which it would, among other things, (a) restrict its liability for death, injury, or delay of passengers to the amount of its insurance coverage, and (b) restrict its liability with respect to baggage and other personal property to the declared value thereof, which amount should not exceed \$100. The proposed restriction pertaining to passenger liability, related as it is to the insurance of the carrier, is of questionable validity and will not be authorized. Also the proposed rule with respect to baggage and other personal property is unduly restrictive and may not be authorized on the general justification set forth in the application. Nevertheless, it appears that applicant should be permitted to establish limits upon its liability for property which generally conform to limits maintained by other California airlines. Such limitations will be authorized by the order which follows. Applicant's proposals relating to the filing of claims in other respects are similar to corresponding rules of various other airlines in this state and will be authorized.

The change which applicant proposes in its rules governing the refunding of unused or partly used tickets apparently is inadvertently more restrictive than intended inasmuch as it cancels provisions for refunds when flights are not made because of governmental regulations or because of reasons beyond the carrier's control. The proposed rule will be authorized subject to inclusion therein of appropriate provisions (as specified in the following order) for refunds in the circumstances indicated herein.

With one exception discussion of other of the tariff modifications which applicant proposes is not necessary. Some of the modifications involve reduction of present charges and others are mainly for purposes of clarification or information and would not result in substantial changes. They will be authorized. The adjustment in service to and from Burbank and Long Beach to an on-call basis apparently is intended to enable applicant to make its operations conform to the needs of its patrons without incurring the costs of flights to these points when no traffic is available. This service adjustment will be authorized. No specific authorization is required for establishment of service to Torrance and to Avalon Bay, nor for the fares which are proposed for said services, inasmuch as the operations involved are additional services and do not involve fare changes for which approval of the Commission is required.

A further tariff change which applicant proposes to make and which has not been mentioned heretofore relates to charges for charter service. Applicant proposes to eliminate these charges from its tariff. Such charges need not be retained in the tariff provided, of course, applicant does not offer such service to the public generally as a common carrier.

Upon careful consideration of the matters involved in this proceeding, the Commission is of the opinion and finds that the increased fares and other changes in applicant's rates, rules and regulations which are authorized by the following order have been shown to be justified and are just and reasonable. To this extent the application will be granted. In other respects it will be denied. Public hearing of the application is not necessary.

O R D E R

Based upon the conclusions and findings contained in the preceding opinion,

IT IS HEREBY ORDERED that:

(1) Except as otherwise provided herein, McBain Aviation, Inc., doing business as Catalina Airlines, be and it hereby is authorized to amend its Local Passenger Tariff Cal. P.U.C. Tariff No. 1, on not less than five days' notice to the Commission and to the public, to establish the revised fares, rates, rules and regulations which are set forth in Exhibit C of the amended application filed August 8, 1955, in the above-numbered proceeding.

(2) The authority herein granted be and it hereby is subject to the following conditions and exceptions:

- (a) Where applicant's proposals in this matter (as set forth in Exhibit "C" of its amended application) relate to fares and service from Los Angeles, Long Beach, Torrance and Burbank to Catalina Airport, the fares and service to be established pursuant to this order shall apply between Los Angeles, Long Beach, Torrance and Burbank, on the one hand, and the Catalina Airport, on the other hand.
- (b) The authority herein granted does not apply to those portions of applicant's proposals in this matter which are set forth in sub-paragraphs (c) and (d) of Rule No. 4, Exhibit "C" of the amended application and which relate to limitation of applicant's liability.
- (c) Applicant may, pursuant to and in conformity with the authority granted by this order, establish the following rule in connection with its liability for loss, damage or delay of baggage or other personal property:

The total liability, if any, of Carrier for the loss of, or any damage to, or any delay of baggage or other personal property shall be limited to an amount equal to the actual value of such property, which value shall be conclusively presumed to be not in excess of \$100 per single piece of baggage, or per

lot in the case of personal property other than baggage, unless when said baggage or personal property has been checked with Carrier for transportation a higher value has been declared and an additional charge has been paid to the Carrier at the rate of ten cents for each \$100, or fraction thereof, by which such higher value exceeds \$100, in which event the actual value of such property shall be conclusively presumed not to exceed such higher value. Carrier will not accept for transportation personal property, including baggage, the declared value of which exceeds \$5,000 per lot.

- (d) In conjunction with the establishment of the rule governing reservations and refunds, said rule being that designated as Rule No. 6 in Exhibit "C" of the amended application in this proceeding, applicant shall also establish a rule substantially as set forth below to govern refunds made pursuant to the conditions set forth in Exhibit "C" in Rule No. 7 "Maintenance of Schedules:"

Upon surrender of the unused portion of the passenger's ticket, the amount of the refund which Carrier will make will be

- (1) if no portion of the ticket has been used, an amount equal to the fare and charges applicable to the ticket issued to the passenger, or
- (2) if a portion of the ticket has been used, an amount equal to the one-way fare and the charges applicable to the transportation covered by the unused portion of the ticket, less the same rate of discount that was applied in computing the original cost of the ticket.

(3) In addition to the required filing of tariffs, McBain Aviation, Inc., shall give notice to the public by posting in its airplanes and in its terminals the statement of the fare changes and other changes to be established pursuant to the provisions of

this order. Said notice shall be posted not less than five days before the effective date of said changes and shall remain posted until not less than ten days after said effective date.

(4) The authority herein granted shall expire unless exercised within ninety days after the effective date of this order.

(5) Except as otherwise provided by this order, the application, as amended in the above-numbered proceeding, shall be and it hereby is denied.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 1st day of November, 1955.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners