

ORIGINALDecision No. 54411

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion relative to the estab-)
 lishment of regulations governing)
 the rates of and the filing of)
 tariff schedules by air transpor-)
 tation companies:)

Case No. 5693

Thomas H. Daly and Lynn G. Brenne for United
 Air Lines, Inc.; A. E. Deshell for American
 Airlines, Inc.; M. E. Sullivan for Western
 Air Lines, Inc.; C. W. Russell for Bonanza
 Airlines, Inc., respondents.
A. L. Demek and L. W. Ross for Railway Express
 Agency, interested party.
Cyril M. Saroyan and Robert A. Lane for the
 Commission staff.

O P I N I O N

On November 7, 1955, the Commission issued its order instituting investigation herein relative to the establishment of regulations governing the rates of and the filing of tariff schedules by air transportation companies.

Public hearings on this matter were held before Commissioner Matthew J. Dooley and Examiner Wilson E. Cline in San Francisco on January 25 and May 9, 1956. The matter was taken under submission on May 9, 1956.

At the hearings proposed general orders governing the construction and filing of air transportation company tariffs, together with amendments thereto, were submitted for Commission consideration by a Commission staff witness and by the representatives of United Air Lines. The Commission staff representatives and witness and the representatives of the various air transportation companies participating in the hearings carefully reviewed

both proposals, as amended. Many of the rules were the same in both proposals. Other rules as submitted in the proposal of United Air Lines were acceptable to all parties participating.

The opinion portion of this decision will concern itself with an explanation of modifications which have been made by the Commission to a few of the rules which were acceptable to the parties at the hearing and with resolving those rules on which the Commission staff representatives and the air transportation company representatives were unable to reach an agreement prior to the final day of hearing.

For the convenience of the air transportation companies the general form of the proposed general order submitted by United Air Lines has been followed in the preparation of the General Order which has been adopted herein. However, for reference purposes rule numbers have also been given to the definitions.

The phrase "or other common carriers regulated under the Public Utilities Code" has been deleted from the definition of air transportation companies because air transportation companies themselves are common carriers subject to regulation under the Public Utilities Code, the extent to which not having yet been fully and finally determined.

The definition of the term "baggage" proposed by United Air Lines has been incorporated among the definitions. The witness for United Air Lines stated that the definition of "baggage" used is one which is commonly accepted by air carriers in interstate and also intrastate commerce, and that it already has been incorporated in United's tariffs on file with the Civil Aeronautics Board and with this Commission.

Although both the staff and the air carriers have indicated agreement on proposed Rule 1.1 of United Air Lines, we have determined it to be advisable also to incorporate proposed Rule 1 (a) of the Commission staff in the adopted Rule 2.1.

The Commission staff objected to proposed Rule 1.2 of United Air Lines, as revised, which provides that copies of tariffs shall be served upon competing air carriers. The staff was of the opinion that the burden of checking tariffs which are filed with this Commission should be placed upon the competing air carriers themselves. The air carriers argue that they are not equipped continuously to check all tariff filings and for that reason have requested that the filing air carriers be required to serve copies as provided in their proposed rule. The request of the air carriers appears to be reasonable. The substance of this request has been adopted in Rules 2.2 and 4.3(b) and (c) of the General Order adopted herein.

Subdivisions 4 and 5 of proposed Rule 1.6a of United Air Lines have been omitted from Rule 2.6a which has been adopted. As explained at the hearing by the Commission staff witness, a rate increase occurs at the expiration of temporary reduced excursion fares. It is desirable, he stated, to require air carriers to obtain special authority to cover the increase prior to the filing of the excursion fares. The proposed provision respecting the correction of clerical errors has been omitted because of the practical difficulties in administering such a provision. The Commission staff witness explained the procedure followed by other types of common carriers in correcting such errors. This procedure is not as involved as the representatives of the air carriers participating at the hearing had originally thought. Air transportation companies will be required to use

Signature of

the same procedure with respect to excursion fares and the correction of clerical errors as for other rate adjustments.

Proposed Rule 2.3e of United Air Lines has been revised in adopted Rule 3.3e to remove reference to excursion and experimental rates and to include reference to the Commission decision authorizing the expiration date specified in the tariff.

Adopted Rule 10 relating to reparations has been placed in the General Order at the instance of the Commission itself.

Proposed Rule 9 of United Air Lines has been revised in adopted Rule 11 to make clear that the suspension rule does not apply to tariffs which are filed pursuant to specific authority from this Commission. The applicability or nonapplicability of Section 455 of the Public Utilities Code to tariffs filed by air transportation companies has not been determined. Such being the case it is desirable that Rule 11 conform to the provisions of said Section 455. Even though the Commission may have discretion with respect to the period of suspension, a uniform rule is desirable. Therefore the staff's suggestion that the suspension periods should be 120 days with an additional six months' period rather than United's proposal of 90 days and 90 days has been incorporated in the adopted Rule 11.

O R D E R

Good cause appearing, IT IS ORDERED as follows:

1. General Order No. 105, entitled "Rules Governing the Form and Filing of Tariffs Issued by Air Transportation Companies", attached hereto, is hereby adopted.
2. The Secretary is directed to serve copies of this Decision and General Order attached hereto upon all parties who were served with

copies of the order of investigation herein
and upon all appearances of record.

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

Dated at San Francisco, California, this 27th day
of January, 1957.

President

Ray B. Listerman

Wm. D. ...

R. Hardy

Commissioners

Peter E. Mitchell
Commissioner S. C. Lyn Fox, being
necessarily absent, did not participate
in the disposition of this proceeding.

Original

Page 1

G.O. 105

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GENERAL ORDER NO. 105

Rules Governing the Form and Filing
of Tariffs Issued by Air
Transportation Companies.

Adopted January 22, 1957

Effective February 11, 1957

Adopted by Decision No. 54411 on Case No. 5693.

TABLE OF CONTENTS

	Rule No.	Page No.
Section 1 - Definitions		4
Definitions	1	4
Air Transportation Company	1.1	4
Baggage	1.2	4
Persons	1.3	4
Property	1.4	4
Rate(s)	1.5	4
Tariff	1.6	4
Section 2 - Filing and Form of Tariffs		
Filing and Posting	2	5
Filing	2.1	5
Copies for Air Carriers	2.2	5
Posting	2.3	5
Normal Filing	2.4	6
Filing of Changes Resulting in No Increase	2.5	6
Automatic Short Notice Filing	2.6	6
Tariff Form and Content	3	7
Form	3.1	7
Tariff Number	3.2	7
Title Page	3.3	7
Contents of Tariff	3.4	8
Reissues	3.5	8
Amendments	3.6	9
Special Application Requirements	4	9
Increases	4.1	9
Authority for Short Notice	4.2	9
Application Required	4.3	10

*
Original

Page 3

G.O. 105

TABLE OF CONTENTS (Cont'd)

	Rule No.	Page No.
Suspension or Vacation Supplements	5	11
Suspension	5.1	11
Vacation	5.2	11
Authority	5.3	11
Section 3 - Legal Provisions		
Application of Tariffs	6	11
Free or Reduced Rates	7	12
Reasonableness	8	12
Discrimination	9	12
Reparations	10	14
Suspension of Rates or Rules	11	15

AIR TRANSPORTATION COMPANY TARIFFS

SECTION 1 - DEFINITIONS

Rule

1 DEFINITIONS

1.1 Air Transportation Company

"Air Transportation Company" includes every individual, firm, copartnership, corporation, company, association or joint stock association, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, engaged in the transportation by air of persons or property as a common carrier for compensation between termini within the State. The term "air transportation company" does not include express companies or freight forwarders.

1.2 Baggage

"Baggage" means such personal property as is necessary or appropriate for the wear, ease, comfort or convenience of the passenger for the purposes of his trip.

1.3 Person(s)

"Person(s)" means passengers and their baggage.

1.4 Property

"Property" means freight.

1.5 Rate(s)

"Rate(s)" includes rates, fares, charges, rules, and classifications applicable to the transportation of persons or property.

1.6 Tariff

"Tariff" means an original publication, supplements, amendments or revised pages thereto, or reissues thereof.

SECTION 2 - FILING AND FORM OF TARIFFS

Rule

2 FILING AND POSTING

2.1 Filing

Every air transportation company shall issue and file with the Commission tariffs showing the rates for the transportation of persons and property as a common carrier for compensation between termini within the State. In filing such tariffs air transportation companies and their agents shall transmit three copies of each such tariff, supplement, amendment or revised page to the Commission in one package and under one letter of transmittal. If a receipt is desired, the letter of transmittal must be sent in duplicate, one copy of which will be stamped and returned as a receipt.

2.2 Copies for Air Carriers

The letter of transmittal of each tariff submitted for filing without specific authority from this Commission shall list the names and addresses of the head office of each air transportation company operating a scheduled service between points to which the tariff applies and shall contain a certification that a copy of such tariff has been served upon or mailed to each such air transportation company named at the address shown or a certification that no other air transportation company operates a scheduled service between the points to which the tariff applies. Failure to list such names and addresses or omission of such certification may result in suspension of the tariff pursuant to Rule 10 of this General Order.

Rule

2.3 Posting

A copy of each tariff shall be kept for public inspection at each office of an air transportation company where transportation covered by the tariff is offered for sale.

2.4 Usual Filing

All tariffs must be issued and filed with the Commission at least 30 days prior to the effective date thereof, except as provided in Rule 2.6, or unless otherwise specifically authorized by the Commission.

2.5 Filing of Changes Resulting in No Increase

Changes in a rate not resulting in an increase may be made by an air transportation company on not less than 30 days' notice to the Commission and to the public by filing with the Commission an appropriate tariff. Unless rejected or suspended by the Commission, such rate shall become effective upon the effective date shown in the tariff.

2.6 Automatic Short Notice Filings

- a. Tariffs may be issued and filed on not less than 5 days' notice to the Commission and to the public prior to the effective date thereof for any of the following purposes:
 1. To publish tariffs of newly established air transportation companies.
 2. To publish rates governing a new type of service not involving an increase.
 3. To publish rates for service to new points.
- b. The letter transmitting tariffs filed under this rule shall clearly explain the purpose of the filing.
- c. Tariffs filed on not less than 5 days' notice under authority of this Rule 2.6 shall bear the following statement at the bottom of the title page of each

Rule

complete tariff or supplement or on each revised page filed separately:

"Issued under authority of Rule 2.6 of General Order No. 105."

3 TARIFF FORM AND CONTENT

3.1 Form

Tariffs may be printed, mimeographed, typewritten, or otherwise processed, provided, however, that all copies shall be clear and legible.

3.2 Tariff Number

Each air transportation company shall file tariffs under its own consecutive numbers beginning with Cal. P.U.C. No. 1. An agent shall file under his own series of Cal. P.U.C. numbers beginning with Cal. P.U.C. No. 1.

3.3 Title Page

The title page of each tariff shall show:

- a. The Cal. P.U.C. number of the tariff in the upper left-hand corner, and immediately thereunder the Cal. P.U.C. number of any tariffs canceled thereby.
- b. The name of the issuing air transportation company or agent.
- c. A statement indicating the kind of tariff; whether the tariff contains local or joint rates, or is a tariff of rules and regulations, or a combination thereof.
- d. A brief but reasonably complete statement of the territory within which, or the points from and to or between which, the rates or rules apply.

Rule

- e. The date, if any, with which the tariff expires, together with a reference to the Commission decision containing the order authorizing such expiration date if an increase in rates will result therefrom and a notation that the tariff is issued under authority of and in compliance with such decision.
- f. The date on which the rates and rules will become effective, on the lower right-hand corner; and the date on which the publication is issued, on the lower left-hand corner.
- g. The name, title, and address of the person issuing the tariff, near the bottom of the page.

3.4 Contents of Tariff

Every tariff shall contain:

- a. The name of participating carriers.
- b. Such explanatory statements as may be necessary to remove all doubts as to the proper application of rates and rules contained in the tariff.
- c. Rules which govern the application of rates, or proper reference to the tariff(s) containing such rules.
- d. If the same tariff contains rates applicable to the transportation of both property (other than passengers' baggage) and persons such rates shall be stated in separate passenger and property sections of the tariff.

Rule

- e. Rates shall be stated in cents or dollars of the United States together with the correct name of the places from and to which they apply, except that rates may be expressed as a fraction or percentage of other rates so stated provided the application of such fraction or percentage is clearly stated.

3.5 Reissues

- a. When a tariff is reissued the new tariff shall bear the next Cal. P.U.C. number in the series and shall specify on its title page the Cal. P.U.C. number of the tariff being canceled.
- b. The Commission may direct the reissue of a tariff.

3.6 Amendments

- a. A book or pamphlet tariff may be amended by filing a supplement constructed generally in the same manner and arranged in the same order as the tariff being amended, and referring to the page, item or index of the tariff or previous supplement which it amends.
- b. A loose-leaf tariff may be amended by reproducing the entire page on which the change is being made, and by filing the new page as a consecutively numbered revision of the previous page, e.g., First Revised Page 10. A loose-leaf tariff may be amended by supplementing for the purpose of canceling, suspending, or vacating suspension of the tariff as set forth in Rule 5.

Rule

4 SPECIAL APPLICATION REQUIREMENTS

4.1 Increases

Rates may not be increased or so altered as to result in an increase except upon specific authority granted by the Commission prior to the taking effect of the increase.

4.2 Authority for Short Notice

- a. Except as authorized by Rule 2.6 above, tariffs may be filed on less than 30 days' notice only upon specific authority granted by the Commission.
- b. Tariffs filed on less than 30 days' notice under authority of Rule 4.2 shall bear the following statement at the bottom of the title page of each complete tariff or supplement or on each revised page filed separately:

"Issued under authority of Cal. P.U.C.
Decision No. _____", or "Issued by auth-
ority of Rule 4.2 of General Order
No. 105 Permission No. _____".

4.3 Application Required

- a. Specific authority, referred to in Rules 4.1 and 4.2, may be requested by submitting an application to the Commission with supporting information.
- b. When filing rate increase applications, the applicant air transportation company shall comply with Rule 23 of the Commission's Rules of Procedure relating to rate increase applications. When filing applications requesting specific authority referred to in Rules 4.1 and 4.2 the applicant air

Rule

transportation company shall name in the application and mail a copy thereof to each air transportation company operating a scheduled service between points to which the tariff applies, to the State, when the State is a customer the rates charged to which would be affected by any proposed increase in rates, and to the counties, or the municipal corporations whose citizens would be affected by any proposed increase in rates, and shall name any other parties to whom copies of the application will be mailed, and applicant shall promptly notify the Commission of such mailing. The applicant shall also mail copies to such additional parties and within such times as may be designated by the Commission.

- c. In lieu of mailing to the State, the counties, or the municipal corporations hereinabove indicated, an applicant, within ten days after filing the application, may publish once a notice, in general terms, of any proposed increase in rates, in a newspaper of general circulation in the county or city in which the rate increases are proposed to become effective. Such notice shall advise the State, the counties, and the municipal corporations which may be interested in the application that a copy thereof may be obtained from the applicant upon request. Proof of such publication shall be filed with the Commission at or prior to the opening of such hearing as may be had upon the application.

Rule

5 SUSPENSION OR VACATION SUPPLEMENTS

5.1 Suspension

Upon receipt of the Commission's order of suspension the air transportation company or agent shall immediately file a supplement stating that the rate is under suspension and may not be used until further notice.

5.2 Vacation

Upon receipt of the Commission's order of vacation of a suspension order the air transportation company or agent shall immediately file a supplement stating the date on which suspended rates become effective.

5.3 Authority

Suspension and vacation supplements shall bear the following statement at the bottom of the title page:

"Issued under authority of Cal. P.U.C. Decision No. ".

SECTION 3 - LEGAL PROVISIONS

6 Application of Tariffs

No air transportation company shall charge, demand, collect, or receive a different compensation for the transportation of persons or property, or for any service in connection therewith, than the applicable rates specified in its tariff filed and in effect at the time, nor shall any such air transportation company refund or remit in any manner or by any device any portion of the rates so specified, except upon order of the Commission, nor extend to any corporation or person any privilege or facility in the transportation of passengers or property except such as are regularly and uniformly extended to all corporations and persons.

Rule

7 Free or Reduced Rates

Air transportation companies may issue or interchange tickets or passes for free or reduced rate transportation to their directors, officers and employees and their immediate families; witnesses and attorneys attending any legal investigation in which any such air transportation company is interested; persons injured in air accidents and physicians and nurses attending such persons; and any person or for any property with the object of providing relief in the case of general epidemic, pestilence or other calamitous visitation.

8 Reasonableness

All rates demanded or received by any air transportation company, or by any two or more air transportation companies, for any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge demanded or received for such service is unlawful.

9 Discrimination

No undue or unreasonable discrimination in charges or facilities for transportation shall be made by any air transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this State. It shall be unlawful for any air transportation company to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property for a shorter than for a longer distance over the same line or routes in the same direction, the shorter being included within the longer distance, or charge any greater compensation as a through rate than the aggregate of the intermediate rates.

Rule

Provided, however, that upon application to the Commission an air transportation company may, in special cases, after investigation, be authorized by the Commission to charge less for longer than for shorter distances for the transportation of persons or property and the Commission may from time to time prescribe the extent to which such air transportation company may be relieved from the prohibition to charge less for the longer than for the shorter haul. The Commission shall have the power to authorize the issuance of excursion and commutation tickets at special rates.

10 Reparations

When complaint has been made to the Commission concerning any rate of an air transportation company, and the Commission has found, after investigation, that the air transportation company has charged an unreasonable, excessive, or discriminatory amount therefor, the Commission may order that the air transportation company make due reparation to the complainant therefor, with interest from the date of collection if no discrimination will result from such reparation. No order for the payment of reparation upon the ground of unreasonableness shall be made by the Commission in any instance wherein the rate in question has, by formal finding, been declared by the Commission to be reasonable, and no assignment of a reparation claim shall be recognized by the Commission except assignments by operation of law as in cases of death, insanity, bankruptcy, receivership, or order of court.

Rule

11 Suspension of Rates or Rules

Whenever any tariff, or tariff amendment, stating a rate is filed with the Commission pursuant to Rule 2.5 or Rule 2.6 of this General Order rather than pursuant to specific authority from this Commission, the Commission may, either upon complaint or upon its own initiative, at once and if it so orders without answer or other formal pleadings by the interested air transportation company or companies, but upon reasonable notice, enter upon a hearing concerning the propriety of such rate. Pending the hearing and the decision thereon such rate shall not go into effect. The period of suspension of such rate shall not extend more than 120 days beyond the time when it would otherwise go into effect, unless the Commission extends the period of suspension for a further period not exceeding six months. On such hearing the Commission shall establish rates which it finds to be just and reasonable.