

Decision No. 59328

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own)
motion relative to the establishment of)
regulations governing the rates of and)
the filing of tariff schedules by air)
transportation companies.)

Case No. 5693

SUPPLEMENTAL OPINION AND ORDER

Decision No. 54411, dated January 22, 1957, in this proceeding, established General Order No. 105, entitled "Rules Governing the Form and Filing of Tariffs Issued by Air Transportation Companies." Rule No. 7 of this general order provides that 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.

Rule No. 7 is more restrictive than are the provisions of the Public Utilities Code which relate to free or reduced rate transportation by common carriers other than air transportation companies. Requests were received recently from various religious organizations and clergymen that the air lines in California be permitted to offer reduced rate transportation to members of the clergy. In light of the fact that the Legislature of California has authorized common carriers subject to the Public Utilities Act to grant free or reduced rate transportation to a number of classes of persons, the Commission staff distributed for consideration and

comment by air transportation companies and other interested parties a proposed revision of General Order No. 105 which, if adopted, would place air transportation companies on a parity with other common carriers in this respect.

Comments were received from the principal air transportation companies and from numerous religious organizations. In general, the air lines assert that the provisions in General Order No. 105 with respect to free or reduced rate transportation should be no broader than those contained in the Federal Aviation Act of 1958.¹ The language of the federal statute is substantially the same as that now contained in Rule 7 of General Order No. 105, except that the federal statute provides that the governing agency may permit air lines under certain conditions to grant reduced rate transportation to additional classes of persons not specified in the act. The air lines allege that provisions more liberal than those applying nationally are unnecessary, and would substantially reduce their revenues without any corresponding benefits to the public. They allege further that there is no compelling reason why air carriers should be placed on a parity with other common carriers with regard to free or reduced rate transportation, inasmuch as there is little similarity between air and ground operations. The air lines did not specifically oppose the granting of reduced rate transportation to bona-fide members of the clergy. The various religious organizations, in their comments, urged only that the air lines be permitted to offer reduced rate transportation to the clergy.

¹ United States Code Annotated - Title 49 - Transportation - Chapter 9, Civil Aeronautics, Sub-Chapter 4 - Air Carrier Regulation, Section 483(b).

Consideration has been given to the proposed revisions of the Commission's General Order No. 105, and to all of the comments offered thereon by air transportation companies and other interested parties. The proposed revisions and all of the written comments will be, and they hereby are, received in evidence in this proceeding.

Upon consideration of all of the allegations and representations of record in this proceeding, the Commission finds and concludes that air transportation companies should be authorized to provide, if they so desire, reduced rate transportation to bona-fide ministers of religion, other male or female members of the clergy and traveling secretaries of religious organizations. No other change in the provisions of General Order No. 105 appears necessary at this time. General Order No. 105 will be reissued as provided by the order which follows. A public hearing is not necessary.

Therefore, good cause appearing,

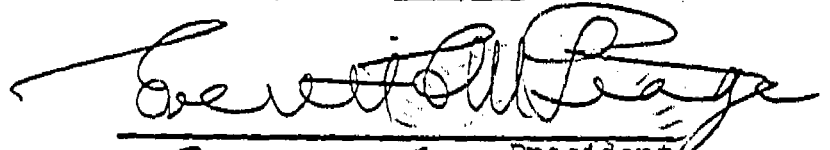
IT IS ORDERED as follows:


(1) General Order 105-A, entitled "Rules Governing the Form and Filing of Tariffs Issued by Air Transportation Companies," attached hereto, is hereby adopted.

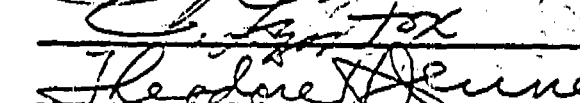
(2) The Secretary is directed to serve copies of this decision and general order attached hereto upon all air transportation companies, upon all parties who were served with copies of the order of investigation herein, and upon all appearances of record.


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

Dated at San Francisco, California, this 1st day of December, 1959.



President






Commissioners

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

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GENERAL ORDER NO. 105-A

Cancels

GENERAL ORDER NO. 105

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

Adopted Dec. 1, 1959

Effective Dec. 21, 1959

Adopted by Decision No. 59328 in Case No. 5693.

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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-A."

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
of 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 au-
thority of Rule 4.2 of General Order
No. 105-A, 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. Air transportation companies may issue reduced rate transportation to bona fide ministers of religion, other male or female members of the clergy and traveling secretaries of religious organizations.

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.

Issued by order made at San Francisco, California,
this 1st day of December, 1959.

PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA

By
R. J. Pajalich, Secretary