

Decision No. 63315

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of UNITED AIR LINES, INC.,)
for authority to make certain changes)
in its intrastate passenger fares,)
resulting in increase.)

Application No. 44104

Application of WESTERN AIR LINES, Inc.,)
for an increase in intrastate fares.)

Application No. 44113

OPINION AND ORDER

United Air Lines, Inc., and Western Air Lines, Inc., seek authority to increase all intrastate fares by three percent.

On December 28, 1961, the Civil Aeronautics Board issued its Order No. E-17885 in Docket 13313 (United Air Lines Fares) suspending certain increased fares published by United, and stated that it would permit the domestic airlines to effect a general fare increase of not more than three percent, such increased fares to expire within six months of their effective date. Pursuant to such order, United and other trunklines established three percent increases on their interstate fares effective February 1, 1962.

Included among the findings of the Board are: that the earnings of the eleven trunklines for the twelve-month period ended September 30, 1961 were inadequate by any standard, and that the airlines have been experiencing declining earnings. The Board stated:

"...the Board is convinced that while limited fare changes may improve revenues moderately, no fare program alone can restore earnings to reasonable levels. On the contrary, the industry's economic problems must be attacked on a broad front of which load factor improvement is the cornerstone."

The Board authorized the three percent increase as an interim measure for a six-month period during which "a series of steps will be undertaken in a program to resolve the underlying economic problems".

A comparison of the San Francisco-Los Angeles fares is illustrative of the proposals herein.

	<u>Present Fares and Proposed Fares San Francisco-Los Angeles</u>			
	<u>Jet Aircraft (1)</u>		<u>Other than Jet Aircraft</u>	
	<u>1st Class</u>	<u>Coach</u>	<u>1st Class</u>	<u>Coach</u>
Present Fare	\$27.55	\$18.45	\$25.55	\$16.45
Proposed Fare	<u>28.45</u>	<u>\$19.05</u>	<u>26.35</u>	<u>16.95</u>
Increase	\$ 0.90	\$ 0.60	\$ 0.80	\$ 0.50

(1) Includes present surcharge of \$2.00 and proposed surcharge of \$2.10.

In its application, Western has shown a comparison of its domestic earnings for each month, July through November, inclusive, for the years 1959, 1960 and 1961.^{1/} Comparisons of the third quarters for those years show a decrease in earnings of 50.9 percent in 1960 as compared to 1959 and a decrease of 40.6 percent in 1961 as compared to 1960. For the months of October and November, the 1960 earnings had decreased 77.3 percent from 1959 and the 1961 earnings had a decrease of 147.3 percent as compared to 1960. Excluding capital gains, Western's earnings for those five months in 1959 were \$2,418,259; in 1960, \$996,478; and in 1961, \$423,511. The income statement for Western's system operations for the twelve

^{1/} Western had a work stoppage in the Spring of 1961.

months ended September 30, 1961, shows a net operating revenue of \$1,490,692; however, interest expense and other non-operating expenses for that same period were \$1,522,140 so that, excluding capital gains on the disposition of property, Western had a net loss before income taxes of \$31,448.

In its application, United also showed that it has had declining earnings in its domestic operations. It estimated that the proposed increase in fares for a period of one year would provide additional gross revenue of \$651,734 which, in turn, would still result in United conducting California intrastate operations at a loss. Based upon results for the twelve months ended May 31, 1961, United estimated that the loss on California intrastate operations for a twelve-month period under proposed fares would be \$1,293,666.

We are cognizant of the financial problems and the load factor problems confronting the airline industry. There is no doubt that the revenues of applicants have been declining continually and that measures must be taken if they are to remain financially sound. Upon consideration of all of the facts and circumstances, we find that the increases proposed herein are justified to the extent that the said increased fares do not exceed the fares maintained by applicants in their interstate tariffs for transportation between the same points. In order to permit applicants to establish the intrastate fares at the levels of their interstate counterparts at the earliest date, they will be authorized to establish them on five days' notice. In the circumstances a public hearing is not necessary; therefore,

IT IS ORDERED that:

1. United Air Lines, Inc., and Western Air Lines, Inc., and each of them, are authorized to establish the increased local and joint passenger fares proposed in their respective applications.

2. The increased passenger fares authorized herein shall not exceed the applicable fares concurrently maintained by applicants for the interstate transportation of passengers between the same points.

3. The tariff publications authorized as a result of this order may be filed not earlier than the effective date hereof and may be made effective on not less than five days' notice to the Commission and to the public.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 23rd day of FEBRUARY, 1962.

[Signature]
President

[Signature]

[Signature]

Commissioners

Commissioner. George G. Grover, being necessarily absent, did not participate in the disposition of this proceeding.

Application No. 44104 GH*
Application No. 44118

I dissent. It may very well be that the two applicants, United Air Lines, Inc., and Western Air Lines, Inc., are entitled to a greater or a lesser increase than the three percent authorized, but it is my conviction and belief that it is the obligation of the California Public Utilities Commission to make this determination and not the Civil Aeronautics Board. (See People vs Western Air Lines, Inc., 42 Cal (2d) 621) I do not believe it was the intent of the Civil Aeronautics Board in Order E-17855, dated December 28, 1961, to prescribe a three percent rate increase for intrastate fares of airlines operating in California. Yet a reading of the first four paragraphs of the California Public Utilities Commission's decision would indicate that because the Civil Aeronautics Board granted the domestic airlines a general fare increase on their interstate fares, the California Public Utilities Commission should do likewise on intrastate fares.

I do not believe that the interstate interests of the Civil Aeronautics Board are necessarily coincident with the intrastate interests of the California Public Utilities Commission. To grant intrastate increases to an airline, accepting a formula adopted for interstate traffic, may bring financial hardship to airlines or may cause unwarranted fare increases to the people of the State of California.

The airlines are now the predominant common carriers of passengers in California. Their responsibility to justify and to make a reasonable showing supporting the alleged need for an increase in fares is not dissimilar to that of other public utilities. When applying for fare increases, the burden of proof is their obligation. The California Public Utilities Commission should not be invited to participate nor should it become engaged in a game of "follow the leader".

It should be noted that this ex parte order does not indicate there are earlier rate applications filed by the same applicants which are now pending before the California Public Utilities Commission. On August 14, 1961, Western Air Lines, Inc., filed Application No. 43675 with this Commission to establish jet coach fares at a level of seventy-five percent of the corresponding first class fares. United Air Lines, Inc., filed a similar application - Application No. 43763 - on September 18, 1961; Trans World Airlines filed Application No. 43802 on October 3, 1961, and American Airlines filed Application No. 43822 on October 9, 1961. Three days of hearing were held in December, 1961, on these applications in which the staff of the California Public Utilities Commission participated. These rate applications were submitted for decision on January 2, 1962.

Subsequently, the two applications in the instant proceeding, which rely on the action of the Civil Aeronautics Board, were filed. Application No. 44104 was filed by United Air Lines, Inc., on January 15, 1962, and Application No. 44118 was filed by Western Air Lines, Inc., on January 19, 1962.


Without a showing of emergency, the Commission, by this decision, which is interim in effect because of its limitation of duration on the fares approved, is issuing an ex parte rate increase to these two applicants while the previous rate applications by the same applicants, which were litigated, are still under consideration.

While it is true we ordinarily think of a three percent increase as a minimal amount, as a result of the instant decision, United Air Lines, Inc., estimates the proposed increase in fares for

a period of one year ^{1/} would provide additional gross revenue of \$651,734, which, indeed, is not a minimal amount. Western Air Lines, Inc., in their application, did not submit any estimate of increased gross revenues.

Such ex parte treatment will also encourage other intrastate air lines to file immediately for a three percent fare increase and certainly, they would expect to receive the same ex parte treatment.

I would recommend that the instant decision be set aside and that Application No. 44104, of United Air Lines, Inc., and Application No. 44118, of Western Air Lines, Inc., be set down for hearing. This Commission will then be able to determine what a just and reasonable return to the applicants should be and what a just and reasonable fare to the people who use the intrastate facilities of these air lines should be.


Peter E. Mitchell, Commissioner

San Francisco, California

February 23, 1962

^{1/} United Air Lines, Inc., in its application, believes the three percent increase in interstate passenger fares will be extended beyond its present expiration date of July 31, 1962.