

Decision No. 79221

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of GOLDEN WEST AIRLINES, }  
 INC. to increase certain of its }  
 intrastate passenger fares. }

Application No. 52297  
 (Filed November 13, 1970,  
 Amended December 17, 1970)

Gerry Levenberg and Robert M. Oster, Attorneys  
at Law, for Golden West Airlines, Inc.,  
applicant.

Mark T. Gates, Jr., Attorney at Law, for Pacific  
Southwest Airlines; Ernest T. Kaufman,  
Attorney at Law, for Western Air Lines, Inc.,  
interested parties.

B. A. Peeters, Attorney at Law, A. L. Gielegghem,  
and Richard Brozosky, for the Commission staff.

ORDER GRANTING MOTION TO  
QUASH SUBPOENA DUCES TECUM

Golden West Airlines, Inc., (GWA) a passenger air carrier, seeks authority to increase its fares. Hollis B. Roberts is the principal stockholder in GWA. At the request of the Commission staff, Hollis Roberts appeared and testified at the public hearing in this proceeding held in Bakersfield on September 24, 1971 before Commissioner Sturgeon and Examiner Mallory.

On September 7, 1971, a subpoena duces tecum was issued and served upon Hollis Roberts, directing the production of the latest financial reports or statements of Hollis Roberts, an individual, and of Roberts Farms, Inc., a family corporation wholly owned by Mr. & Mrs. Hollis Roberts.

The affidavit filed by the staff in support of its request for the subpoena duces tecum alleges that the material sought to be produced is relevant and material to the issues in this proceeding, in that Hollis Roberts has controlling interest in the airline; GWA has a negative stockholders' equity of more than \$6,000,000; and projections of revenue and expenses under the increased fares indicated that GWA will operate at a loss under such fares. The staff asserts that the financial position of GWA is critical and that it is essential for the Commission to determine the nature and extent of Hollis Roberts' financial resources to back up present and future capital needs of GWA.

This issue before the Commission in this proceeding is whether to make permanent the interim fare increase granted to GWA. The affidavit (paragraph 3) discloses that projections of operations for the year ending August 31, 1972 show an operating loss of \$1,651,800, including the fare increase sought to be made permanent, without taking into account a net loss of \$27,000 for the first four months of 1971 from non-utility operations (Exhibit 6 herein).

An affidavit for the production of material sought by subpoena duces tecum must set forth the materiality and relevance thereof to the issues involved (Sec. 1985 CCP; Commission's Rules of Procedure 59).

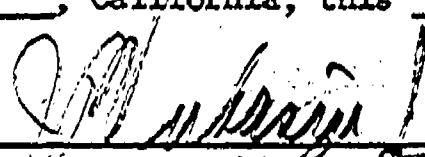
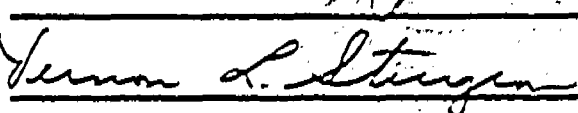

We find that the materiality and relevance of the production of Hollis Roberts' detailed personal financial data to the need for a permanent fare increase to alleviate an operating loss has not been shown.

The Commission concludes that the motion to quash should be granted.

Therefore, IT IS ORDERED that the subpoena duces tecum served upon Hollis B. Roberts on September 7, 1971 directing the production of financial statements of Hollis B. Roberts, an individual, and of Roberts Farms, Inc. is hereby quashed.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 5<sup>th</sup> day of OCTOBER, 1971.

  
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Chairman  
  
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Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.