

ORIGINAL

Decision No. 79817

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's )  
own motion into the adoption of a )  
general order prescribing minimum )  
public liability and property )  
damage insurance requirements for )  
commercial air carriers. )

Case No. 7777

OPINION AND ORDER REOPENING PROCEEDING  
AND ADOPTING GENERAL ORDER NO. 120-C

From time to time question has arisen concerning the application of General Order No. 120-B to passenger air carriers as defined in the Public Utilities Code. Question has also arisen relative to suspension or revocation of certificates of public convenience and necessity issued by this Commission when insurance coverage of passenger air carriers lapses.

To clarify these matters the staff on October 20, 1971 prepared proposed revisions to General Order No. 120-B and distributed them to known affected parties. The letter of transmittal advised the parties that "In the absence of substantial objection, but subject to possible modifications suggested by the parties, it is planned to recommend to the Commission that the General Order be adopted by an ex parte procedure." Only one response was received with respect to the staff proposal. This response related to provisions of General Order No. 120-B which are not the subject of the staff proposals. No objection to the specific staff proposals has been received.

The Commission finds that General Order No. 120-B should be revised as proposed by the staff and that Case No. 7777 be reopened for that specific purpose. The changes provide that passenger air carriers are specifically covered by the General Order and that the certificates held by passenger air carriers may be suspended or revoked upon the cancellation or suspension of policy

of insurance or surety bond as outlined in Paragraph 10 of the order. The Commission concludes that public interest requires the adoption of the attached General Order.

IT IS ORDERED that:

1. Case No. 7777 is reopened for the specific purpose of considering revisions of General Order No. 120-B recommended by the staff.

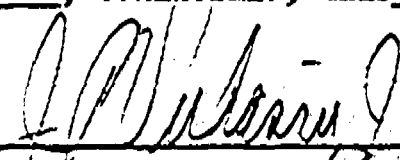
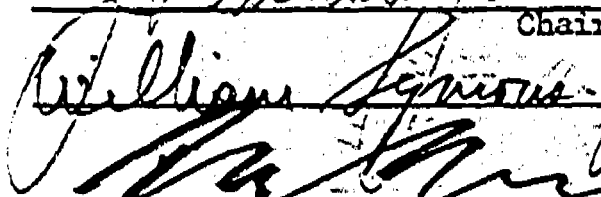

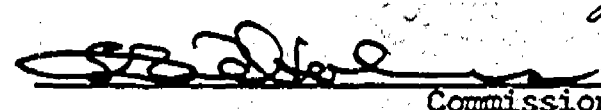
2. The proposed General Order No. 120-C prepared by the Commission staff, copies of which were supplied to interested parties on or about October 20, 1971, is received in evidence as Exhibit No. 11 in this proceeding.

3. General Order No. 120-C attached hereto and by this reference made a part hereof applicable to all commercial air carriers and passenger air carriers is hereby adopted to become effective May 1, 1972 and superseding General Order No. 120-B on that date.

4. The Secretary shall cause a copy of this decision and the attached General Order No. 120-C to be mailed forthwith to each commercial air carrier and passenger air carrier.

The effective date of ordering paragraph 1 is the date hereof; the effective date of ordering paragraphs 2, 3 and 4 shall be twenty days after the date hereof.

Dated at San Francisco, California, this 21st  
day of MARCH, 1972.

  
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Chairman  
  
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Commissioners

GENERAL ORDER NO. 120-C  
(Supersedes General Order No. 120-B)  
(Adopted March 2/ 1972, effective May 1, 1972)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RULES REQUIRING ALL COMMERCIAL AIR OPERATORS AND PASSENGER AIR CARRIERS TO PROVIDE AND THEREAFTER CONTINUE IN EFFECT ADEQUATE PROTECTION AGAINST LIABILITY IMPOSED BY LAW UPON SUCH OPERATORS FOR THE PAYMENT OF DAMAGES FOR PERSONAL BODILY INJURIES (INCLUDING DEATH RESULTING THEREFROM) AND DAMAGE TO OR DESTRUCTION OF PROPERTY.

1. Every commercial air operator and passenger air carrier as defined in the Public Utilities Code shall procure, on or prior to commencing operations, and thereafter continue in effect so long as such operator continues to offer his services for compensation adequate protection against liability imposed by law upon such operator for the payment of damages for personal bodily injuries, including death resulting therefrom, and for damage to or destruction of property as a result of an accident, subject, however, to the following minimum limits:

(A) Aircraft with Passenger Seating Capacity, 1 to 20 persons.

1. Aircraft Passenger Bodily Injury and Death Liability--a minimum for one passenger seat of at least \$100,000 and a minimum for each accident in any one aircraft of at least an amount equal to the total produced by multiplying \$100,000 by the number of passenger seats in the aircraft.
2. Aircraft Bodily Injury and Death Liability (excluding persons aboard aircraft)--a minimum of \$100,000 for one person in one accident, and a minimum of \$300,000 for each accident.
3. Aircraft Property Damage Liability--a minimum of \$100,000 for each accident.

(B) Aircraft with Passenger Seating Capacity, 21 or more persons.

1. Aircraft Passenger Bodily Injury and Death Liability--a minimum for one passenger seat of at least \$100,000 and a minimum for each accident in any one aircraft of at least an amount equal to the total produced by multiplying \$100,000 by the number of passenger seats in the aircraft.

2. Aircraft Bodily Injury and Death Liability (excluding persons aboard aircraft)--a minimum of \$100,000 for one person in one accident, and a minimum of \$600,000 for each accident.
3. Aircraft Property Damage Liability--a minimum of \$500,000 for each accident.

(C) Definitions of the words "passenger" and "seat".

1. "Passenger" means any person, other than an employee of the commercial air operator or passenger air carrier protected by Workmen's Compensation Insurance, aboard the aircraft to whom the commercial air operator or passenger air carrier owes a duty imposed by law.
2. "Seat" means the space provided aboard the aircraft to be reasonably occupied by one passenger.

(D) Aircraft Transporting Freight exclusively having a gross weight of 20,000 pounds or less.

1. Aircraft Bodily Injury and Death Liability (excluding flight crew aboard aircraft)--a minimum of \$100,000 for one person in one accident, and a minimum of \$300,000 for each accident.
2. Aircraft Property Damage Liability (excluding freight aboard aircraft)--a minimum of \$100,000 for each accident.

(E) Aircraft Transporting Freight exclusively having a gross weight of over 20,000 pounds.

1. Aircraft Bodily Injury and Death Liability (excluding flight crew aboard aircraft)--a minimum of \$100,000 for one person in one accident, and a minimum of \$600,000 for each accident.
2. Aircraft Property Damage Liability (excluding freight aboard aircraft)--a minimum of \$500,000 for each accident.

2. The amount of coverage to be provided by each commercial air operator and passenger air carrier shall be determined in one of the following ways:

- (A) When the policy, surety bond or contract covers all of the aircraft operated by the commercial air operator or passenger air carrier, the coverage for all aircraft shall be determined by the coverage applicable to the aircraft having the greatest passenger seating capacity.
- (B) When each aircraft is covered by a separate policy, bond or contract, or by separate schedules each of which is applicable to a single aircraft within a policy, bond or contract covering two or more aircraft, then the minimum required coverage for each aircraft shall be determined by its own individual requirement.

- (C) When the policy, surety bond or contract procured by the commercial air operator or passenger air carrier is of a single limit nature, such policy, surety bond or contract shall be acceptable by the Commission provided that the minimum single limit of the policy, surety bond or contract is at least equal to the total of the minimum limits as determined by paragraph 1 herein for separate limit policies, surety bonds or contracts.
- (D) Coverage herein shall be deemed sufficient as to each aircraft operated commercially when the minimum requirements set forth in paragraph 1 have been met and filed with the Commission and nothing herein shall require two or more persons to separately insure the same aircraft; however, nothing herein shall prevent two or more persons who are commercial air operators or passenger air carriers from being named as insureds on the same policy of insurance, surety bond or contract.
- (E) When the actual limits of insurance, surety bond or contract indemnity exceed the minimum amounts set forth in paragraph 1 herein the commercial air operator or passenger air carrier filing evidence of insurance as hereinafter provided may report only said minimum coverage and need not specify the amounts of insurance, bond or contract indemnity in excess of said minimum requirements.

3. The protection herein required shall be provided in one of the following ways:

- (A) By a policy, or policies, of public liability insurance issued by a company, or companies, licensed to write such insurance in the State of California.
- (B) By a bond or bonds issued by a surety company, or companies, licensed to write surety bonds in the State of California.
- (C) By a plan of self-insurance approved as hereinafter required.
- (D) By a policy, or policies, of public liability insurance and property damage insurance written by nonadmitted insurers, subject, however, to Section 1763 of the Insurance Code of the State of California.
- (E) By any other plan of protection for the public approved as hereinafter required.
- (F) By a combination of two or more of the foregoing methods.

4. When the protection is to be provided by the means set forth in subparagraphs (A), (B), (D), (E) and (F) of paragraph 3 hereof, a deductible clause may be inserted. Where 5 per centum, or less, of the risk is made deductible no special approval will be required. Where more than 5 per centum of the risk is made deductible special approval under paragraph 6

of this general order shall be required.

5. The protection provided hereunder shall not be cancellable on less than thirty days' written notice to the Public Utilities Commission, such notice to commence to run from the date the notice is actually received at the San Francisco or Los Angeles offices of the Commission.

6. When the protection is provided by an approved alternate plan or a plan of self-insurance, or includes such an approved plan or plan of self-insurance with other methods, approval of the Commission is required. Such approval shall be requested by a formal application in accordance with the Commission's Rules of Practice and Procedure setting forth all the facts which shall be required by the Commission with respect thereto.

7. When protection hereunder, as set forth in paragraph 3, is provided by a policy or policies of insurance, or by bonds, evidence thereof shall be filed with the Public Utilities Commission by the commercial air operator or passenger air carrier on or prior to commencing operations, and thereafter evidence of renewal prior to the expiration of policies of insurance or bonds, in one or more of the following manners:

- (A) By a copy of the policy of insurance, or bond, duly certified by the company issuing it to be a true copy of the original policy.
- (B) By a photostatic copy of the original bond or policy.
- (C) By an abstract of the original policy or bond, signed by the company issuing it, in sufficient detail to evidence compliance with Chapter 9 of Division 2 of the Public Utilities Code.
- (D) By a certificate of insurance, in form approved by the Commission, signed by the company issuing the policy, or by the underwriting managers for a group of companies issuing such policy, or, in the case of nonadmitted companies by the broker placing such coverage.

8. The policies, or certificate above referred to, shall evidence that the coverage shall apply to any and all commercial flights operated by the insured, irrespective of whether the aircraft involved in the liability insured are specifically described in the policy (unless the policy or policies are written on a single specific aircraft), and shall not be subject to any exclusion by virtue of violations by said commercial air operator or passenger air carrier of any applicable provisions of the Federal Aviation Act of 1958, as amended, or of any rule, regulation, order or other legally imposed requirement prescribed by the Federal Aviation Agency or Civil Aeronautics Board.

9. On or prior to commencing operations, each commercial air operator and passenger air carrier shall file an affidavit, (signed by an executive officer of a corporation, by a partner if a partnership, or by the owning operator if an individual) with the Commission setting forth the passenger

seating capacity and gross weight carrying capacity of each type of aircraft in commercial operation. At any time that the passenger seating capacity or gross weight carrying capacity of any such aircraft may be increased to a point where the protection then on file as provided in paragraph 1 of this general order is inadequate, and if a new type of aircraft is acquired and operated, a supplementary affidavit of passenger seating capacity and gross weight carrying capacity shall be filed with the Commission. Prior to the operation of added capacity, or new aircraft with capacity in excess of coverage theretofore on file, the commercial air operator or passenger air carrier shall cause to be filed evidence of additional coverage sufficient to comply with the minimum limits heretofore set forth.

10. The cancellation or suspension of a policy of insurance or surety bond or the cancellation, suspension or surrender of a certificate of self-insurance issued by this Commission, or the impairment or destruction of any security, or the cancellation or termination of any agreement of indemnity, or the alteration (without first obtaining Commission authorization) of any agreement of indemnity, shall constitute good cause for suspension or revocation of the operating authority of the affected commercial air operator or passenger air carrier. No operation shall be conducted in the State of California unless a certificate of insurance, certificate of self-insurance coverage, bond, or the other securities or agreements of indemnity hereinabove specified, shall be in effect and on file with the Commission.

PUBLIC UTILITIES COMMISSION OF  
THE STATE OF CALIFORNIA

*William R. Johnson*

By William R. Johnson, Secretary