

Decision No. 81390**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of UNITED AIR
LINES, INC., for authority
to add a Security Charge to
intrastate passenger fares.

Application No. 53967
(Filed April 16, 1973)

Application of PACIFIC SOUTHWEST
AIRLINES for an Ex Parte Order
or expediated authority to
establish a surcharge.

Application No. 53984
(Filed April 23, 1973)

Application of WESTERN AIR
LINES, INC., for authority
to add a security charge to
its intra-California pass-
enger fares.

Application No. 53985
(Filed April 20, 1973)

Application of AIR CALIFORNIA
for an Ex Parte Order to add a
Security Charge to passenger
fares.

Application No. 53987
(Filed April 23, 1973)

Application of Hughes Air Corp.,
d/b/a HUGHES AIRWEST for authority
to add a security charge to its
intrastate passenger fares.

Application No. 53997
(Filed April 30, 1973)

I N T E R I M O P I N I O N

United Air Lines, Inc. (United), Western Air Lines, Inc. (Western) and Hughes Air Corp. (Airwest) seek authority to effect a security charge of \$.34 per intrastate flight coupon per passenger. Air California, Inc. (Air Cal) also requests authority to effect a security charge of \$.34 per flight coupon per passenger. Pacific Southwest Airlines (PSA) requests a \$.34 surcharge per passenger to partially offset the added costs of security measures. Each applicant requests that the \$.34 surcharge be an addition to all other fares and not subject to any discounts.

Applicants' Operations

United, Western and Airwest are common carriers by air of passengers and property, operating between points located in various states of the United States, including California, and Canada and, for Western and Airwest, Mexico. In the State of California, United, Western and Airwest operate in intrastate as well as interstate commerce providing local services between various California cities, as well as service between these cities and points in other states, and operate passenger ticket offices and passenger facilities within the State.

Air Cal and PSA are common carriers by air of passengers and property, operating between points located wholly within California, and operate passenger ticket offices and passenger terminal facilities within the State.

Passenger Screening Required by Federal Government

Because of the increased frequency of, and the obvious dangers associated with, hijackings, extortion, sabotage and terrorism against U. S. aircraft operated in air transportation, the Federal Aviation Administration (FAA) promulgated Section 121.538 of the Federal Aviation Regulations (14 CFR 121.538). This regulation required that each certificated air carrier adopt and put into use a passenger screening system, acceptable to the Administrator, that is designed to prevent or deter the carriage aboard its aircraft of any explosive or incendiary device or weapon in carry-on baggage or on or about the persons of passengers. By the process of emergency amendment to the aircraft security programs of each carrier, the Administrator of the FAA advised all carriers that their programs would be amended in the following respects:

"Because of the continuing menace of air piracy and other crimes aboard aircraft and because of the serious nature of this threat to the safety of persons and property, I find that an emergency exists requiring immediate

action with respect to safety in air transportation and air commerce. Therefore, in accordance with Section 121.538, the security program approved under 121.538 of the Federal Aviation Regulations, is hereby amended effective 5 January 1973 without stay, to include the following minimum acceptable procedures:

- '1. The certificate holder shall not permit any passenger to board its aircraft unless:
 - 'A. The carry-on baggage items are inspected to detect weapons, explosives, or other dangerous objects, and
 - 'B. Each passenger is cleared by a detection device without indication of unaccounted for metal on his/her person (hand-held detection units may be used until walk-through units are available), or
 - 'C. In the absence of a detector, each passenger has submitted to a consent search prior to boarding.
- '2. Amended security programs must be submitted to the principal security agent assigned to the certificated holder no later than 5 January 1973.
- '3. Any provisions of the security program in conflict with the foregoing are canceled effective 5 January 1973."

\$.34 Security Charge Imposed on Interstate Passengers

In recognition of the significant costs being incurred by all Federally certificated air carriers in carrying out the required security measures, the Civil Aeronautics Board (CAB) in Order 73-3-46, adopted March 14, 1973, permitted for interstate passengers the imposition of a \$.34 security charge assessed on a flight-coupon basis beginning April 1, 1973. The CAB recognized that the number of coupons issued a passenger may exceed the number of required security checks but stated that the more realistic assumption was that for the majority of travel, each change of plane would involve a screening procedure.

The order set the allowed security charge at the industry average cost per enplanement as derived by the CAB. The charge was to cover the cost of screening and inspection procedures and did not include the cost of providing armed guards. The CAB was of the opinion that the staffing requirement for armed guards is currently being modified at some airports, and it also noted the legislation pending in Congress which would provide Federal funds for this aspect of the security program.

Applicants' Security Costs

1. United

During the first three months of 1973, a total of 1,130,322 interstate and intrastate passengers were enplaned by United at the five California terminals at which it boards the greatest number of passengers: San Francisco, Los Angeles, San Diego, Sacramento and Fresno. The estimated total cost of the security program at these five stations for the same period of time was \$408,772 or 36.2¢ per passenger enplaned. Hence, the proposed security charge is not expected to cover all of United's incremental costs associated with the security program.

2. Western

In its application to the CAB, Western proposed a security charge of 23¢ per passenger flight coupon. Western has analyzed its security costs for its intra-California operation and has found these costs to be identical to its system costs of 23¢ per passenger flight coupon. This fact notwithstanding, Western seeks herein a security charge of 34¢ per passenger flight coupon. Western believes that a uniform approach applicable to all carriers must be adopted in order to avoid confusion. The implementation of two different security charges -- one for interstate and one for intrastate flights -- would be hard to justify and explain to passengers.

3. Airwest

To fully comply with the regulations of the security program, Airwest has installed expensive equipment and facilities and hired and trained additional personnel. Some magnetometers and other equipment were installed in mid-1972, and in accordance with amendments to the Federal Air Regulations, all equipment and related procedures were fully operational on January 5, 1973.

4. Air Cal

In Appendix A to its application, Air Cal indicated an increase in operating costs for security reasons due to:

- (a) The requirement for additional station personnel.
- (b) The retainment of contract security services.
- (c) The purchase of metal detection equipment.
- (d) Increased crew cost due to numerous flight delays.

The costs totaled \$369,700 which, when matched against 1,083,493 passengers for 1972, produced a cost of \$.34 per passenger.

5. PSA

In order to comply with its Federally required security programs, PSA has incurred costs attributable principally to the following areas:

- (a) Employment and training of additional personnel to conduct the security program.
- (b) Modifications and additions to existing station facilities including partitions and controlled access gates.
- (c) Purchase of detection equipment including x-ray machinery.
- (d) Purchase of uniforms, badges and other identification devices.

In addition, PSA stated that to the extent Federal funds are not provided for armed guards, relief of such costs which are in excess of \$.34 per passenger will be subject of another application.

CAB Investigation to be Instituted

In its order allowing the \$.34 security charge the CAB stated that "... at this stage an accurate determination of the actual costs to be incurred in implementing the security program is not possible. Security procedures are continuing to be refined as the carriers gain experience, and there is some controversy as to the most equitable and efficient method of assessing a charge to cover the cost. For these reasons, we have decided to institute an investigation of the security-charge filings."

In addition, so that the CAB would have the necessary data before it to aid in future determinations regarding the security program, it issued accounting instructions dealing with the reporting of security charge receipts and costs from January 5, 1973, forward (CAB Order 73-3-46, Appendix C).

Discussion

It is evident that the FAA's security measures requiring the screening of all passengers has necessitated the purchase of equipment and facilities and the hiring and training of additional personnel by the applicants. United and Western have been granted interim relief by the CAB for interstate passengers but are presently absorbing the costs of the search and screening of California intrastate passengers. Air California and PSA are presently absorbing all their costs relating to the security measures. We are of the opinion that the required security precautions are of benefit to the intrastate air travelling passengers and the public in general, and that the applicants should be granted interim relief for the costs of such programs.

We concur with the CAB that it is not possible at this time to accurately determine the actual costs for implementing the security program. The industry average cost per enplanement of \$.34 determined by the CAB may or may not be sufficient or may be in excess of that necessary to cover the security expenses of intra-state air passengers in California. However, it is our opinion that the charge should be temporarily levied for intra-California travel.

We are not of the opinion that the coupon basis is the appropriate method for assessing this charge on intrastate air travel. We believe that a \$.34 surcharge per fare, as requested by PSA, will provide adequate interim relief to all applicants for the security costs of passengers traveling by air within California.

In view of the investigation of security costs to be instituted by the CAB and the uncertain costs of armed guards, the proposed security surcharge shall be effective pending a hearing by the Commission. In order to assist the Commission in its further consideration, the applicants shall keep a record of the passengers enplaned and an accounting of the security charge revenue collected and related incremental expenses for each airport served in California and make such data available to the Commission on request.

The Commission finds as follows:

1. The FAA has amended the Federal Aviation Regulations, effective January 5, 1973, and now requires applicants to screen and search all passengers and baggage.
2. Such screening and search procedures necessitate additional expense to the applicants including purchase of equipment and facilities and the hiring and training of personnel.
3. United, Western and Airwest have been granted a \$.34 security charge per flight coupon per passenger for interstate air travel by CAB Order 73-3-46 effective April 1, 1973, and seek the same security charge for intra-California air travel.
4. In allowing the \$.34 security charge the CAB recognized that accurate determination of actual security costs is not possible

at this time and has instituted an investigation into such costs.

5. The \$.34 security charge derived by the CAB was to cover the cost of screening and inspection procedures and did not include the cost of providing armed guards.

6. Air Cal requests a security charge of \$.34 per flight coupon per passenger and PSA requests a \$.34 surcharge per passenger to offset its added costs for security measures.

7. The required security precautions are of benefit to California intrastate air passengers and applicants should be granted interim relief for the cost of such programs.

8. The number of flight coupons issued a passenger may exceed the number of required security checks and is not an appropriate basis for assessing a security charge for intrastate air travel

9. A \$.34 surcharge per passenger, not subject to any discounts, will provide adequate interim relief for security costs of intra-California air travel.

10. Because of the uncertain extent of security costs, including armed guards, the \$.34 surcharge shall be effective pending further consideration by the Commission.

11. In order to assist the Commission in its further consideration the applicants shall keep a record of the passengers enplaned and an accounting of the surcharge revenue collected and related incremental costs for each airport served in California and make such data available to the Commission on request.

12. By supplemental order the Commission shall prescribe, and the applicants shall maintain, specific accounts relating to the security charges authorized in this order.

13. The requested increase is not subject to Procedure Rule 23.1 as the surcharge is intended to pass-through increased costs from mandatory Federal emergency regulations.

The Commission concludes that a temporary \$.34 surcharge to cover security costs should be granted to applicants. A public hearing regarding the final appropriate level of the surcharge will be scheduled at a later date.

Protest by County of Humboldt to Airwest Application

On May 8, 1973, the County Counsel of the County of Humboldt, filed notice of appearance of the County of Humboldt in the Airwest proceeding and opposed Application 53997 on file herein by making the following requests:

1. The Commission deny the request of Airwest for an ex parte order authorizing an increase of \$.34 in intrastate passenger fares.

2. The presiding officer order that public hearings be held on this matter since the financial impact should be given full and fair consideration.

3. The Commission institute an investigation to determine the effect of the Federal order that airport operators furnish security forces and to require a portion of the requested rate increase be paid to counties for reimbursement of said security forces.

4. The Commission institute an investigation to determine whether CAB Order 73-4-46 fully reimburses air carriers for costs of implementing airport security.

5. The Commission consolidate Application 53997 with Application SPT 53766 for public hearings to be held in Eureka and San Francisco.

We are of the opinion the temporary \$.34 surcharge should be granted ex parte as further delay would oblige Airwest, and the other applicants to continue to absorb expenses for security measures placed into effect January 5, 1973. We concur with the County of Humboldt that the financial impact should be given full and fair consideration and, as mentioned previously herein, a public hearing will be scheduled to consider the final appropriate level of the surcharge. Any necessity that a portion of a security surcharge be paid to airport operators for reimbursement of security forces is a matter that may be brought to the Commission's attention

at the hearing.

The request that Airwest's application in this proceeding be consolidated with its Application 53766 is denied. Airwest filed Application 53766 December 27, 1972 for an increase in intra-state fares. Airwest made this filing because of substantial alleged losses in 1971 and in the first seven months of 1972. A hearing on this application has been set for June 7 in Eureka and June 8 in San Francisco. Consideration of the merits of Application 53766 should not be consolidated with the determination of the final appropriate level for a surcharge for security measures.

O R D E R

IT IS ORDERED that:

1. United Air Lines, Inc., Western Air Lines, Inc., Hughes Air Corp., Air California and Pacific Southwest Airlines are authorized to increase the amount collected from each passenger it transports within California by \$.34.

2. The tariff filings as a result of the order herein shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public.

3. The authority granted herein shall expire unless exercised within sixty days after the effective date of this order.

4. Each of the above mentioned carriers shall keep a record of the passengers enplaned and an accounting of the surcharge

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revenue collected and related incremental costs for each of the airports served in California and shall make such information available to the Commission on request.

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

Dated at San Francisco, California, this 15th day of MAY, 1973.

James L. Steyer
President
William Symons, Jr.
William Symons, Jr.
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.