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Decision No. 82396

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Hughes Air Corp., dba HUGHES AIRWEST, to increase its intrastate passenger fares.	Application No. 53766 (Filed December 27, 1972)

Richard A. Fitzgerald, Attorney at Law, for Hughes Air Corp., dba Hughes Airwest, applicant.
Raymond W. Schneider, Attorney at Law, for County of Humboldt, and Perry H. Taft, Attorney at Law, for City of Fresno, protestants.
Elmer Sjostrom, Attorney at Law, for the Commission staff.

OPINION

Duly noticed public hearing was held in this application June 7, 1973 at Eureka and June 8 and July 9, 1973 at San Francisco before Examiner Thompson and the matter was submitted. Applicant is a common carrier by air of passengers and property between points in the western United States, Canada, and Mexico. Within California it operates in intrastate and interstate commerce providing local service between various California cities. By this application it seeks authority to increase passenger fares for California intrastate transportation to the same level prescribed by the Civil Aeronautics Board (CAB) in its Order 72-8-50, adopted August 10, 1972, for interstate transportation and placed into effect by applicant in September of 1972 for all passenger service other than California intrastate transportation. The proposal involves the insertion of a 2.7 percent increase in the CAB formula for the computation of standard fares. Because of the nature of that formula there would be no increase in certain fares for the shorter distances. Applicant estimated that the proposal will provide additional California intrastate revenues of around $287,000. The average increase in fare is around 72 cents.

County of Humboldt and the Commission staff oppose increases in fares for passage between Eureka and San Francisco and recommend that applicant be required to establish a reduced special fare between those points. City of Fresno opposes increases in fares to and from Fresno.

Applicant publishes a multitude of fares for transportation between California points many of which may not be utilized because applicant does not provide service between the points involved. They are merely paper rates set forth in the tariff so that applicant will have a fare published if and when it determines to revise its schedules so as to provide service. Staff recommends that applicant be directed to cancel all of the paper rates.

Applicant presented exhibits showing the results of system operations for various periods and forecasts of system operations and California intrastate operations. The results are summarized below.

TABLE I

System Revenues and Expenses
Actual and Forecast for Periods Shown

	1971 Actual	1972 Actual	1973 Forecast
Operating Revenues			
Passenger	$77,310,983	$77,021,741	-
Cargo	3,739,566	3,164,625	-
Charter & Incidental	4,640,030	8,184,936	-
Commercial Revenues	$85,690,579	$88,371,302	$113,535,000
Operating Expenses	$98,001,345	$94,176,034	$116,455,000
Income before Subsidy	$(12,310,586)	$(5,804,732)	$ (2,920,000)
Federal Subsidy	10,540,391	8,330,014	10,208,000
Operating Income	$(1,770,375)	$ 2,525,282	$ 7,288,000

(Red Figure)

TABLE II

Forecast of California Intrastate Operations for 1973

	% of System	Results
Commercial Revenues	18.21	$20,238,000
Operating Expenses		
Direct	22.06	12,332,000
Indirect	23.43	14,187,000
Total Operating Expenses	22.77	$26,519,000
Income Before Subsidy		$(6,281,000)
Federal Subsidy	32.88	3,356,000
Operating Income		$(2,925,000)
Projected Gain from Proposed Fare Increase for Full Year		301,000(1)
Net Operating Income Under Proposed Fares		$(2,624,000)

(Red Figure)

(1) This amount was calculated based upon forecasts of traffic for year ending December 31, 1973. The amount of $287,000 of additional gross revenue referred to earlier herein was the estimate of applicant predicated upon traffic for the year ended June 30, 1973.

The exhibits show that without federal subsidy the system operations have been and will be conducted at a loss, and that even with federal subsidy the California intrastate operations of applicant will be conducted at a loss.

Protestants and staff contend that if applicant improved its schedules and reduced its fares between certain California points greater gross revenues would be generated. There is some evidence that increasing scheduling between Eureka and San Francisco would generate additional gross revenues; however, there is considerable doubt that such additional revenues would offset additional costs of providing the service. There is also evidence that in attempting to provide additional service between Eureka and San Francisco applicant would have to eliminate or lessen service between other points that it serves. While the reduction of fares between Eureka and San Francisco would probably generate additional traffic, it is extremely doubtful that it would contribute to additional net revenues.

In support of its proposal that applicant establish a special reduced fare between Eureka and San Francisco, the staff purported to show that by reason of the heavy traffic on that segment applicant's earnings are greater for operations between those points than elsewhere in California. It was made apparent that the results shown by the staff's analysis were based upon the number of passengers on board the aircraft between Eureka and San Francisco and therefore was greatly influenced by traffic to and from points beyond Eureka on that route because that segment is the peak segment on the route.1/ Applicant contends that the true cost of producing the revenue flow over the Eureka-San Francisco segment includes the cost of operations over the segments north of Eureka which are an essential element in producing the through traffic over the Eureka-San Francisco segment. It presented evidence showing that when considered in accordance with that contention the operation is conducted at a loss.

The difficulty of assigning any reasonable cost estimates with respect to applicant's service between Eureka and San Francisco becomes apparent from the manner in which applicant conducts its operations. It maintains its aircraft at Phoenix, Arizona. Its crews are domiciled at Seattle, San Francisco, Las Vegas, and Phoenix. Operations control personnel are also stationed at those points. The aircraft itineraries are determined from the following considerations: (1) Provide maximum revenue producing time (flight-time) of aircraft each day, (2) provide service to points and on routes required by its

1/ A peak segment is one that originates or terminates at a major terminal on the route. San Francisco is the major terminal.

certificate, (3) achieve optimum utilization of flight crews consistent with federal laws and union requirements, (4) assure the flow of regular and periodic maintenance of aircraft, (5) provide for flexibility of use and substitution of aircraft and crews, and (6) marketing considerations including the scheduling of flights that will provide the most revenues over the system.

In order to assure regularity and continuity of maintenance of aircraft, applicant rotates each plane around the system so that it will be at Phoenix after a certain number of flight hours. It is possible to trace the routings of one DC-9 aircraft during one week that will operate each of the four DC-9 daily schedules maintained by applicant during the weekdays between Eureka and San Francisco. On Monday this particular aircraft is operated on the system and ends up at Pasco, Washington; on Tuesday the plane is operated in the states of Washington, Idaho, Utah, and Nevada and to Los Angeles, then as Flight 736 to Medford, Oregon (operating the San Francisco-Eureka segment), then back south to Los Angeles (operating the Eureka-San Francisco segment as Flight 739), and thence to Las Vegas for overnight; on Wednesday the plane operates in Nevada, thence to Los Angeles and then serving California and Oregon points to Portland (operating the San Francisco-Eureka segment as Flight 812), thence south again, bypassing San Francisco, to Los Angeles, thence to Las Vegas and Salt Lake City for overnight; on Thursday the plane goes to Los Angeles via Phoenix and Santa Ana, thence nonstop to Eureka, then to Oregon, Washington, and Montana points to overnight at Great Falls, Montana; on Friday the plane flies back through Washington points to Seattle, then as Flight 723 it operates via Yakima, Pasco, Portland, Eugene, Eureka, San Francisco, Monterey, and Los Angeles to Tucson, and then flies from Tucson to Phoenix and Santa Ana. The four F-27 flights operate in a similar manner except that the San Francisco-Eureka segment ordinarily is a part of a flight between San Francisco and Portland via Eureka, Crescent City, and North Bend, Oregon. With respect to the utilization of flight crews, the Friday operation of the DC-9 aircraft is typical. The previous evening the aircraft took on a new crew at Seattle and they overnighted with the plane at Great Falls. Friday morning they operated as Flight 721 from Great Falls to Seattle via Kalispell and Spokane. At Seattle, that crew was relieved by a crew that had flown another plane from San Francisco. The new crew then operated Flight 723 from Seattle to San Francisco via Yakima, Pasco, Portland, Eugene, and Eureka. At San Francisco that crew was relieved by another crew that is based in Phoenix. The new crew continues as Flight 723 to Tucson via Monterey and Los Angeles and then operates as Flight 989 to Phoenix where another crew takes over for the remainder of the flight to Santa Ana. As may be noted from the above a designated flight number has nothing to do with crews of aircraft, or the operation of the airplane. A flight connotes a route operated generally in a particular direction where the passenger generally can stay aboard the aircraft without layover. A flight is determined from marketing considerations more than from operating considerations.

The timetables applicant provides the public indicate the traffic patterns of the flights offered by applicant. It's timetable offers transportation leaving Seattle at 9:50 a.m. on Flight 723 and arrival at Sacramento at 3:52 p.m. with change of planes at San Francisco to Flight 542. Other beyond points shown as served by Flight 723 from Seattle include Paso Robles, Santa Maria, and Stockton. The timetable offers transportation from Seattle, Yakima, Portland, Eugene, and Eureka on Flight 723 direct to Monterey. A passenger in Spokane seeking transportation to Monterey would find only one entry in applicant's timetable for passage between those points which is Flight 721 to Seattle and then Flight 723 to Monterey. In its approach to determining the profitability of the San Francisco-Eureka segment, the staff considered that all passengers on board the aircraft on that segment provided applicant with revenue equivalent to the fare between

Eureka and San Francisco for that segment alone. The unreasonableness of that approach can be seen from the formula used to determine the fares, which in general provides for a fixed amount for terminal expense ($9.00 plus increases) plus 6.2 cents per mile up to 500 miles and lesser rates per mile for distances over 500 miles. It is also noted that the staff assigned $54,900 federal subsidy to the San Francisco-Eureka segment in determining the profitability of operations over that segment. At this time we are unable to prescribe a method of separations and allocations of revenues and expenses which would reasonably estimate the results of operation by applicant over the San Francisco-Eureka segment. We are satisfied, however, that the method used by the staff is not reasonable.

It is a fact that more tickets are sold by applicant for passage between Eureka and San Francisco than between any other pair of California points. In light of applicant's almost uniform fare structure, if it is making a profit on any of its intrastate operations between California points, the service between San Francisco and Eureka should provide the greatest. In proceedings in Application No. 52294 in which Air California sought a certificate of public convenience and necessity authorizing passenger air carrier operations between San Francisco and Eureka, Hughes Airwest as a protestant therein estimated that it had achieved an operating profit during 1970 on its operations between those points. Protestants and the staff contend that because of the traffic between Eureka and San Francisco, and hence assertedly a greater return in comparison with operations between other California points, an increase in that fare proportionally the same as increases in other fares is unreasonable. This is tantamount to saying that fares for passenger transportation between points throughout a system must be fixed based upon volume of traffic as well as distance. We know of no law or custom which would support that contention. Indeed, a schedule of fares predicated upon traffic counts could readily produce through fares greater than the aggregate of intermediate fares and lesser fares for longer distances than for included shorter distances, which types of fares are prohibited by law. If applicant were to be required to publish a $19.00 fare between Eureka and San Francisco as suggested by protestants, it would then have to reduce its fare from San Francisco to Crescent City, its fare from Eureka to San Jose, and probably a number of other fares in order to avoid violations of law.

The staff suggests that based upon applicant's fares for transportation between Monterey and Los Angeles, and between San Francisco and Santa Barbara, applicant should be required to publish a fare of $20.40 between San Francisco and Eureka. Applicant publishes and maintains a few fares designated as commuter fares which do not follow the formula for standard class fares, including Los Angeles-Monterey, $22.00; San Francisco-Santa Barbara, $22.00; and San Francisco-Los Angeles, $16.67.[2/] Applicant asserts that the Los Angeles-Monterey and San Francisco-Santa Barbara fares were established by United Air Lines, Inc. with whom applicant competes over those segments. It is within the Commission's knowledge that applicant's predecessor, Pacific Airlines, at one time had operating agreements with United Air Lines, Inc. regarding service between those points under which each airline's tickets were honored by the other and under which service by one airline could be substituted for the other. In any event, the fares of Airwest between those points are maintained to meet actual competition.

2/ Airwest reduced this fare to $16.20 effective October 28, 1973.

A rate which is higher per mile than another rate is not unreasonable nor unduly discriminatory by reason of comparison where the lower rate was established to meet actual competition that does not exist in connection with the higher rate. The $16.67 fare, also designated a commuter fare, has been maintained to meet special fares published by United Air Lines, Inc., Western Air Lines, Inc., and other trunk line carriers, which in turn were published to compete with fares maintained by Pacific Southwest Airlines.

We are unable to find that applicant's proposed fare between Eureka and San Francisco is excessive and unreasonable by comparison with other fares, or is in any way otherwise unlawful. We therefore can find no just cause to distinguish the application of the proposed general increase to that fare from the application of the increase to applicant's other fares.

Applicant publishes fares in its tariff for transportation that it does not perform or offer to the public. A carrier's tariff represents its holding out to the public of the services it offers and provides as a common carrier. One of the earliest legal tenets is that a common carrier must provide to any person a service that it holds itself out to the public to perform. Rule 2.1 of General Order No. 105-A provides that 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. Rule 1.5 of the general order provides:

> "'Rate(s)' includes rates, fares, charges, rules, and classifications <u>applicable</u> to the transportation of persons or property." (Emphasis added.)

Applicant should be required to eliminate rates in its tariff that are not applicable.

We find that:

1. Applicant is a common carrier of persons by air and is an air transportation company as defined in Rule 1.1 of General Order No. 105-A. It holds certificates of public convenience and necessity issued by the Civil Aeronautics Board authorizing air common carrier operations over routes within California and between points in the western United States, Canada, and Mexico.

2. With very few exceptions applicant maintains fares for interstate and intrastate passenger service between points over its system at levels prescribed by the Civil Aeronautics Board for standard class service.

3. On August 10, 1972 the Civil Aeronautics Board authorized an increase of 2.7 percent in fares for standard class service. Applicant has exercised that authority with respect to all fares other than California intrastate fares. By this application, it seeks the authority required by Article XII, Section 20, of the Constitution of the State of California to make that same increase effective on California intrastate fares.

4. Applicant receives federal subsidy for air common carrier operations over routes and between points within as well as without California.

5. Without taking into consideration its federal subsidy, applicant has conducted system operations as well as California intrastate air transportation operations at a loss during 1971 and 1972, and will continue to incur operating losses from system operations as well as California intrastate operations under the proposed increased fares.

6. The proposed increased fare for transportation between Eureka and San Francisco has not been shown to be excessive, unreasonable, or discriminatory.

7. The proposed fare increases have been shown to be justified.

8. Applicant presently maintains in its tariff fares for intrastate transportation between points in California which are not applicable to any service rendered or offered by it.

9. The fares styled by applicant as "commuter fares" are merely reduced fares for a single passage which have been maintained by applicant to meet competitive fares of other air transportation companies.

We conclude that:

1. Applicant should be directed and required to eliminate from its tariff all rates, fares, charges, and rules which are not applicable to transportation in intrastate commerce that it holds itself out to the public to perform.

2. Applicant should be authorized to establish the increases in fares, provided, however, that the fares so established shall not be greater for a shorter distance than for a longer distance over the same route in the same direction, the shorter being included within the longer distance, nor shall it be greater than the aggregate of the intermediate fares.

O R D E R

IT IS ORDERED that:

1. Hughes Air Corp., a corporation, doing business as Hughes Airwest, is authorized to establish the increased passenger fares proposed in Application No. 53766, provided, however, that no such increased fare shall be greater for a shorter haul than the fare for a longer haul over the same route in the same direction, the shorter haul being included within the longer, and that no such increased fare shall be greater than the aggregate of intermediate fares.

2. Hughes Air Corp. shall eliminate from its tariffs governing transportation in California intrastate commerce all rates, fares, charges, and rules that are not applicable to transportation and

accessorial services it regularly and uniformly holds itself out as a common carrier to perform.

3. Tariff publications required or authorized to be made as a result of this order shall be filed not earlier than the effective date of this order and may be made effective not earlier than the tenth day after the effective date of this order, on not less than ten days' notice to the Commission and to the public; such tariff publications as are required shall be made effective not later than ninety days after the effective date of this order; and as to tariff publications which are authorized but not required, the authority shall expire unless exercised within ninety days after the effective date of this order.

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

Dated at San Francisco, California, this 29th day of JANUARY, 1974.

Vernon L. Sturgeon
President

William Symons Jr.

Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.