

Decision No. 82568**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 Hughes Air Corp., d/b/a/
HUGHES AIR WEST for Authority to Add
a Security Charge to its Intrastate
Passenger Fares.

Application No. 53997
(Filed April 30, 1973)

Application of UNITED AIR LINES, INC.,
for Authority to Increase the Security
Charge for Intrastate Passenger Fares.

Application No. 54046
(Filed May 22, 1973)

Application of Hughes Air Corp., d/b/a/
HUGHES AIR WEST for Authority to Add
a Security Charge to Defray the Cost
of Providing Armed Guards at Terminal
Areas.

Application No. 54061
(Filed May 25, 1973)

OPINION AND ORDER DENYING REHEARING

United Air Lines, Inc. (United) and Hughes Air West (Airwest) have both filed petitions for rehearing of Decisions Nos. 82190 and 82191. Decision No. 82190 issued December 4, 1973 authorized passenger air carriers conducting intrastate operations in California to collect a surcharge from each passenger to offset costs incurred by the carriers for armed guards in terminal areas. For an interim period, United was authorized to charge 12 cents and Airwest was authorized to charge 25 cents per passenger to defray these costs. This decision, in Ordering Paragraphs 5 and 6,

required the carriers to maintain a record of passengers enplaned and a separate accounting of surcharge revenues and associated costs. The Commission, in Decision No. 82191, prescribed the same accounting procedure for surcharges collected to offset costs for security screening of passengers.^{1/} In both decisions we specified that any difference between surcharge revenues and related costs should not be placed in an income account but should be deferred for later consideration and disposition by the Commission.

Petitioners have challenged the prescribed accounting procedures in both decisions and we will therefore discuss the petitions for rehearing of each of these decisions as though consolidated.

Petitioners contend that the Commission has required them to maintain their books of account in a manner inconsistent with the orders of the Civil Aeronautics Board (CAB) issued pursuant to Section 407(d) of the Federal Aviation Act of 1958. (49 U.S.C. Section 1377(d)). They further contend that the decisions in question violate Section 793 of the Public Utilities Code. That section provides that the system of accounts prescribed by this Commission for corporations subject to the regulatory authority of the United States, "shall not be inconsistent" with the systems of account established for such corporations by federal agencies. Neither of these statutes is violated by our action in Decisions Nos. 82190 and 82191.

CAB Order No. 73-5-12 in Docket No. 25315, issued May 3, 1973, authorized a surcharge to cover the cost of airport security guards for interstate air carriers. The CAB order sets forth certain

^{1/} Decision No. 81390, issued May 15, 1973 authorized petitioners to collect on an interim basis 34 cents per passenger to cover costs associated with security screening of passengers.

accounting requirements for the handling of security revenues and costs but does not require that any difference between revenues and costs be held out of income accounts, i.e., not be reduced to net profit or loss. It is this fact that petitioners point to as creating the inconsistency between our accounting requirements and those of the CAB.

It is clear that the CAB has not been given jurisdiction over the economic regulation of intrastate air carriers or the intrastate rates of interstate air carriers.^{2/} Interstate air carriers which conduct intrastate operations in California must have their intrastate rates and charges approved by this Commission and in so doing they must separate costs and revenues associated with their intrastate operation. The CAB system of accounts can be and is used by carriers to segregate revenues and costs related to intrastate operations from those related to interstate operations. The accounting ordered by this Commission for security surcharge revenues and expenses applies only to such transactions which result from intrastate operations, and in no way is intended to govern or otherwise affect the appropriate accounting on interstate operations concerning security. For the same reason that allows the segregation of revenues and expenses with respect to intrastate operations, the CAB system of accounts should not be construed to prohibit the accommodation of intrastate security charges. The CAB system provides for deferred accounts and our orders in these proceedings can easily be complied with through the use of such deferred accounts.

^{2/} People v. Western Air Lines, Inc., 42 Cal. 2d 621 (1954); American Airlines, Inc. 63 CPUC 70 (1964); see also Sections 101(3), (10), (20) and (21) of the Federal Aviation Act of 1958 (49 U.S.C.A. Section 1301 (3), (10), (20) and (21)).

The CAB could have determined in its Order No. 73-5-12, supra, that cost differences between surcharge revenues and costs must be kept in a deferred account pending further consideration. Such an action would have been proper under the CAB system of accounts. Thus, the fact that the CAB did not place such a requirement on interstate carriers with regard to security costs and surcharges must be construed as a ratemaking policy decision.

This Commission is free to differ from the CAB in its handling of ratemaking matters so long as we act within our jurisdiction. The real thrust of petitioners' attack on our orders herein seems to be aimed at the fact that we have not followed the same course as the CAB with regard to the status of these cost differences for ratemaking purposes. Such a contention is simply without merit given the Commission's authority to determine the just and reasonable rates to be charged by passenger air carriers conducting intrastate operations within California.

In establishing the challenged accounting requirements, we attempted to accomplish two goals. First, we meant to provide the means for passenger air carriers conducting intrastate operations in California to recover the costs, but only the costs, associated with the new security requirements imposed by the CAB. Second, we meant to ensure that both passengers and carriers were protected from miscalculation due to the uncertainty of cost evidence regarding security costs. This we have attempted to accomplish by requiring that any differences between surcharge revenues and costs not flow to and affect the income account, thereby producing net profit or loss; but rather, such differences are to be held in a deferred account until the Commission, after further consideration, releases them.

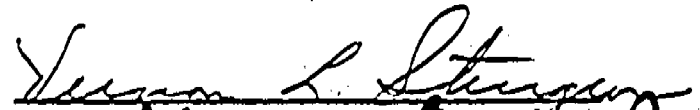
Petitioners also contend that there is no evidence before the Commission to justify these procedures. The evidence which justifies this requirement consists of the showing or lack thereof by the parties with regard to costs for security purposes. The evidence consisted in part of the estimates of airport personnel and in part of invoices. It is the fact that costs are not certain which justifies the accounting procedures we have prescribed.


For the foregoing reasons, the Commission is of the opinion that good cause for rehearing on modification of Decisions Nos. 82190 and 82191 has not been shown.


IT IS ORDERED that rehearing or modification of Decisions Nos. 82190 and 82191 are hereby denied.

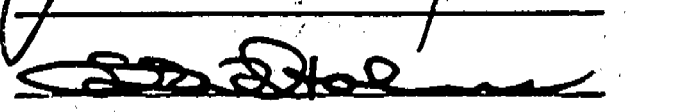
The effective date of this order is the date hereof.

Dated at San Francisco, California, this 12th day of March, 1974.



President






Commissioners

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