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Decision No. __84848__

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Petition of SWIFT AIRE LINES, INC.,)
for Investigation and Suspension of)
HUGHES AIRWEST Tariff No. PF-1, Cal)   (I&S) Case No. 9850
PUC No. 2, Revision Transmittal)   (Filed December 27, 1974)
No. 25.)
_____)

ORDER SETTING ASIDE SUBMISSION

At the hearings in this proceeding the Commission staff urged the Commission to consider possible anti-competitive issues that may be involved in this case. Likewise, Swift Aire Lines asserted that Airwest's proposed reduced fares are "loss leader" non-compensatory rates designed for the purpose of destroying competition by Swift. Airwest denied that charge.

In Northern California Power Agency v Public Utilities Commission, (1971) 5 Cal 3d 370, the Supreme Court held that the Commission may and should consider sua sponte every element of public interest affected by facilities which it is called upon to approve. It held that antitrust issues affect the public interest and that the Commission cannot ignore them. This record indicates that anti-competitive issues may be involved in the publication of the proposed fares. It does not provide evidence from which those issues may be resolved to protect the public.

We are concerned with the anti-competitive issue raised by the parties, and we feel that more evidence is needed. Therefore, the submission of this proceeding should be set aside for the purpose of receiving evidence regarding the possible anti-competitive effects of Airwest's proposed lower fares. The parties and the Commission staff are directed to present evidence at further hearings in that regard.

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IT IS ORDERED that submission of this investigation is set aside and that further hearings be scheduled at such time and place, and before such Commissioner or Examiner, as may be determined by the Commission.

The effective date of this order is the date hereof.

Dated at _____San Francisco_____, California, this _26th_ day of _____AUGUST_____, 1975.

I abstain:

_____, Commissioner

_____ President
William _____ Jr.
_____
_____
_____ Commissioners