

**ORIGINAL**

Decision 84 06 156

JUN 20 1984

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

AIRPORT SERVICE, INCORPORATED, )  
 a corporation, )  
   Complainant, )  
   ) )  
   vs. ) )  
   ) )  
 FUNBUS SYSTEMS, INC., a corporation, )  
 and doing business as AIR LINK, )  
   ) )  
   Defendant. )

Case 84-04-068  
(Filed April 17, 1984)

INTERIM OPINION

On April 17, 1984 Airport Service, Incorporated filed the instant complaint alleging that Funbus Systems, Inc., doing business as Air Link, was operating a passenger stage service between Los Angeles International Airport and Anaheim and Buena Park without first obtaining a certificate of public convenience and necessity from this Commission authorizing such operation. The complaint requested an immediate cease and desist order, and that the matter be set for hearing as soon as possible.

On April 18, 1984 we issued Decision (D.) 84-04-101 wherein we entered the following order:

"IT IS ORDERED that FunBus Systems, Inc., doing business as Air Link and its agents, servants, employees, attorneys, and all persons acting in concert with it and them are ordered to cease and desist from all transportation of passengers and/or their baggage by stage, auto stage or other motor vehicle between Los Angeles International Airport and Anaheim or Buena Park until further order of the Commission.

"IT IS FURTHER ORDERED that this matter will be heard before Administrative Law Judge Frank O'Leary in the Commission Courtroom 107 South Broadway, Los Angeles, California on Monday, April 30, 1984 at 11 a.m.

"IT IS FURTHER ORDERED that defendant FunBus shall file its answer on or before April 26, 1984 and shall arrange to have copies of its answer in the hands of Administrative Law Judge O'Leary and Airport Service, Inc. on that date."

During the course of the public hearing before Administrative Law Judge (ALJ) O'Leary on April 30, 1984, defendant presented copies of the following filings in the United States District Court for the Central District of California:

1. PETITION FOR REMOVAL OF CIVIL PROCEEDING TO FEDERAL COURT. (Filed 4-30-84, 10:55 a.m.)
2. NOTICE TO ADVERSE PARTY OF FILING OF PETITION AND BOND FOR REMOVAL. (Filed 4-30-84, 10:59 a.m.)

As a result we were precluded from taking further action.

On June 4, 1984 the Federal District Court remanded the matter to the Commission.

Public hearing was held before ALJ O'Leary at Los Angeles on June 13 and 14, 1984. The matter will be submitted on June 21, 1984 with the filing of concurrent briefs.

At our meeting of May 2, 1984 we had intended to carefully review our action in D.84-04-101 and take appropriate action, which we were unable to do because of the removal of the matter to Federal District Court.

We have reviewed our action in D.84-04-101 and what has occurred since its issuance. Based on that review we hereby direct the Commission's General Counsel to seek an opinion from the Interstate Commerce Commission (ICC) as to the extent of the operations authorized by defendant's ICC certificate of public convenience and necessity MC-145992 Sub 6.

Until an opinion is received from the ICC we do not believe it appropriate to continue the cease and desist order in effect and will order it suspended until further order of the Commission effective today.

In taking this action today, in no way do we concede that we do not have jurisdiction in this matter. A decision on the merits of Case 84-04-068 will be rendered after receipt of an opinion from the ICC.

INTERIM ORDER

IT IS ORDERED that the first ordering paragraph of D.84-04-101 which paragraph contains the cease and desist order is suspended until further order of the Commission.

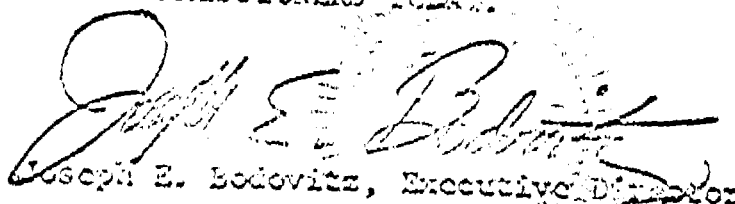
This order is effective today.

Dated JUN 20 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President

VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL  
WILLIAM T. BAGLEY  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Joseph E. Bodovitz, Executive Director