

1942

Federal

Follow this and additional works at: <https://scholar.smu.edu/jalc>

Recommended Citation

Federal, 13 J. AIR L. & COM. 256 (1942)
<https://scholar.smu.edu/jalc/vol13/iss3/5>

This Current Legislation and Decisions is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in Journal of Air Law and Commerce by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

FEDERAL

Orders

Serial Number 1650

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

Adopted by the Civil Aeronautics Board at its
office in Washington, D. C., on the 6th day
of April, 1942.

In the Matter of the Compensation for the transportation of
mail by aircraft, the facilities used and useful therefor, and
the services connected therewith, of } Docket No. 334
AMERICAN AIRLINES, INC. }

In the Matter of the Petition of }
AMERICAN AIRLINES, INC. }
for the determination of fair and reasonable rates of com- } Docket No. 204
pensation for the transportation of mail by aircraft, the }
facilities used and useful therefor, and the services connected }
therewith on route Nos. 4 and 23 under section 406 of the }
Civil Aeronautics Act of 1938, as amended. }

ORDER GRANTING PETITION FOR RECONSIDERATION AND REARGUMENT, DENYING STAY OF EFFECTIVE DATE OF ORDER, AND TAKING REQUEST FOR REHEARING UNDER ADVISEMENT.*

The Board, having in its opinion and order of March 12, 1942, fixed and
determined the fair and reasonable rates of compensation for the transportation

*Editor's Note. The final order in the American Airlines rate case was entered on March 12, 1942, and the full texts of the order and the opinion were printed in 13 Journal of Air Law and Commerce 142, 144. On April 1, 1942, American Airlines filed a petition requesting rehearing, reconsideration and re-argument of this decision. This petition is a lengthy printed document and, while far more comprehensive, its points are in the main set forth in the Petition for Further Hearing filed by Eastern Air Lines, Inc. in Docket No. 335. The American petition was argued orally before the Civil Aeronautics Board on April 10, 1942, and the Board thereafter on May 5, reopened the case for further evidence, as will appear from the Order to which this note is appended. The hearing in the American case began June 17, 1942, and is still going on as we go to press.

of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, by American Airlines, Inc., over route Nos. 4, 7, 18, 21, 22, 23, 25, 30, and 56; and

American Airlines, Inc., having on April 1, 1942, filed a petition requesting rehearing, reconsideration, and reargument in this proceeding; that oral argument in support of the petition be granted; and that pending such argument and the determination thereof, the petition operate as a stay of the effective date of the order of March 12, 1942; and

The Board after due consideration of all the matters set forth in said petition and finding that said petition contains sufficient grounds for such argument and that the Board's action in this matter is in the public interest and consistent with the provisions of the Civil Aeronautics Act of 1938, as amended;

NOW, THEREFORE, IT IS ORDERED That the above-entitled proceeding be and the same is reopened for the purpose of further argument on the issues in said proceeding on April 10, 1942, 10 o'clock a.m. (Eastern Standard Time) in Room 5042 Commerce Building, Washington, D. C.

IT IS FURTHER ORDERED That the request of American Airlines, Inc., that the petition operate as a stay of the effective date of the order of the Board entered as of March 12, 1942, be and the same is denied.

IT IS FURTHER ORDERED That the request of American Airlines, Inc., for rehearing be taken under advisement until after the Board shall have heard the argument ordered herein.

By the Civil Aeronautics Board:

DARWIN CHARLES BROWN,
Secretary.

(SEAL)

**BEFORE THE
CIVIL AERONAUTICS BOARD**

In the Matter of the Compensation of

EASTERN AIR LINES, INC.

for the Transportation of Mail by Aircraft, the Facilities
Used and Useful Therefor, and the Services^o Connected
Therewith.

} Docket No. 335

PETITION FOR FURTHER HEARING*

EASTERN AIR LINES, INC., the respondent in the above entitled proceeding (hereinafter referred to as the "Petitioner"), presents this, its petition to the Civil Aeronautics Board, (hereinafter referred to as the "Board").

*Editor's Note. In the Eastern case an Examiner's Report had been filed providing for "recapture" air mail pay much as in the final rate order for American Airlines. After oral argument before the Civil Aeronautics Board on the Examiner's Report, Eastern filed the petition to which this note is appended. It was promptly granted and the hearing in the Eastern case was held on May 25 and 26, 1942. While the case has been submitted for decision it is possible that counsel for Eastern Air Lines, Inc., will ask for further argument before the Board prior to its decision.

I.

Petitioner respectfully requests a further hearing in this proceeding for the purpose of permitting Petitioner to submit evidence on the following aspects of the question of retroactive rate reduction—if the Board shall consider that any issue on this question has been raised or is pertinent to its decision in this proceeding:

1. Petitioner respectfully requests the opportunity to demonstrate to the Board the disastrous effect of a retroactive rate reduction upon its capital structure, and to show how it would be impaired to such an extent as to prevent Petitioner from carrying out the purposes and policies enumerated in the Civil Aeronautics Act of 1938.

2. Petitioner respectfully requests the opportunity to show the effect of retroactive rate reductions upon its ability to raise capital.

3. Petitioner respectfully requests the opportunity to show the effect of a retroactive rate reduction upon the equities of Petitioner's employees whose diligence and sacrifices have contributed to Petitioner's success to a greater extent than any other factor.

4. Petitioner respectfully requests the opportunity to show the effect of retroactive rate reductions upon employee morale, and to show how such a policy would necessitate immediate increased expenses, wages, and training costs, as well as produce a general slackening of employee efficiency.

5. Petitioner respectfully requests the opportunity to show the effect of retroactive rate reductions upon the equities of Petitioner's stockholders who have never received a dividend and who recently have seen the market value of their stock depressed to a point approximately 50% below that at which many of them acquired their holdings.

6. Petitioner respectfully requests the opportunity to show the effect which an announced policy of retroactive rate reductions would have had upon its operating policies and results since December 1, 1939, if Petitioner had been appraised of the rate-making policy which the Board now, in view of the decision in *American Airlines, Inc., Rate Proceeding*, Docket Nos. 334 and 204, seems to have adopted.

7. Petitioner respectfully requests the opportunity to show what effect a policy of retroactive rate reduction would have upon its future operating policies.

8. Petitioner respectfully requests the opportunity to present such other evidence as it may deem necessary or desirable with respect to retroactive rate reductions.

Petitioner makes this request in the belief that a fair determination of any question of retroactive rate reduction in this case requires that the above information be available to and known to the Board prior to its decision and that the Board cannot decide this question without affording Petitioner a full and fair hearing respecting it.

II.

Petitioner respectfully requests a further hearing to submit evidence to show the effect of the recent involvement of the United States in war and other factors which have occurred since the date of the hearing before the Examiners,

and which are not fully reflected in Petitioner's 2780 Reports, on Petitioner's revenues, expenses, equipment supply, capital structure, and any other aspects of Petitioner's business.

WHEREFORE, Petitioner prays that further hearing be granted in this proceeding for the purpose of permitting Petitioner to submit further evidence as hereinbefore outlined.

Respectfully submitted,

EASTERN AIRLINES, INC.

By J. W. MOORE (signed)

J. W. MOORE
Assistant Secretary and
Assistant Treasurer.

Orders

Serial Number 1714

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

At a session of the Civil Aeronautics Board held at
its office in Washington, D. C., on the
5th day of May, 1942.

In the matter of the compensation for the transportation of
mail by aircraft, the facilities used and useful therefor, and
the services connected therewith, of } Docket No. 335
EASTERN AIR LINES, INC. }

ORDER

Eastern Air Lines, Inc., having on April 2, 1942, filed in the above-entitled proceeding a petition praying that further hearing be granted in said proceeding for the purpose of permitting petitioner to submit further evidence; and

The Board finding that its action in this matter is in the public interest and consistent with the provisions of the Civil Aeronautics Act of 1938, as amended:

NOW, THEREFORE, IT IS ORDERED That the record in the above entitled proceeding be and the same is reopened for the purpose of receiving such further evidence as may be material to the issues in said proceeding.

By the Civil Aeronautics Board:

DARWIN CHARLES BROWN,
Secretary.

(SEAL)