

§ 399.35

14 CFR Ch. II (1-1-10 Edition)

- <sup>5</sup>Via Anchorage (\$15.28).
- <sup>6</sup>Via Anchorage (\$48.94).
- <sup>7</sup>Via Fairbanks (\$59.74).
- <sup>8</sup>Local WA Fare.
- <sup>9</sup>Via Kodiak (\$24.40).
- <sup>10</sup>July 1977 fare increased by cumulative adjustment factor of 1.5558% per Order 80-4-211.

APPENDIX C TO § 399.34—ADJUSTMENT OF THE INTRA-HAWAIIAN FARE LEVEL JULY 1, 1977, TO REFLECT COST AT 12.35 PERCENT RETURN

|                                    | Regulatory actual Y.E. March 1977 |          |           | Cost inflation adjusted to July 1, 1977 |           |                        | July 1, 1977, at 12.35 pct R.O.I. |
|------------------------------------|-----------------------------------|----------|-----------|---|-----------|------------------------|-----------------------------------|
|                                    | Aloha                             | Hawaiian | Total     | Aloha                                   | Hawaiian  | Total                  |                                   |
| RPM's (000) .....                  | 321,578                           | 404,793  | 726,371   | 321,578                                 | 404,793   | 726,371                | 726,371                           |
| ASM's (000) .....                  | 489,128                           | 638,050  | 1,127,178 | 489,128                                 | 638,050   | 1,127,178              | 1,127,178                         |
| Load Factor (percent) .....        | 65.75                             | 63.44    | 64.44     | 65.75                                   | 63.44     | 64.44                  | 64.4                              |
| Yield (dollars) <sup>2</sup> ..... | \$0.1427                          | \$0.1453 | \$0.1441  | \$0.1427                                | \$0.1453  | \$0.1441               | \$0.1589                          |
| Operating Revenue—Total .....      | \$47,648                          | \$71,599 | \$119,247 | .....                                   | .....     | .....                  | .....                             |
| Passenger Related Revenue ....     | \$46,301                          | \$59,942 | \$106,243 | \$46,301                                | \$59,942  | \$106,243              | \$116,966                         |
| Operating Expense—Total .....      | \$45,195                          | \$68,836 | \$114,031 | .....                                   | .....     | .....                  | .....                             |
| Passenger Related Expenses ..      | \$43,858                          | \$57,501 | \$101,359 | <sup>1</sup> \$45,937                   | \$59,013  | <sup>1</sup> \$104,950 | \$104,950                         |
| Operating Profit—Passenger ....    | \$2,443                           | \$2,441  | \$4,884   | \$364                                   | \$929     | \$1,293                | \$12,016                          |
| Interest Expense .....             | \$741                             | \$2,583  | \$3,324   | \$741                                   | \$2,583   | \$3,324                | \$3,324                           |
| Earnings Before Tax .....          | \$1,702                           | \$(142)  | \$1,560   | \$(377)                                 | \$(1,654) | \$(2,031)              | \$8,692                           |
| Tax at 48 Percent .....            | \$817                             | \$68     | \$749     | \$181                                   | \$794     | \$975                  | \$4,172                           |
| Net Income .....                   | \$885                             | \$(74)   | \$811     | \$(196)                                 | \$(860)   | \$(1,056)              | \$4,520                           |
| Return Element .....               | \$1,626                           | \$2,509  | \$4,135   | \$545                                   | \$1,723   | \$2,268                | \$7,844                           |
| Investment .....                   | \$16,192                          | \$47,326 | \$63,518  | \$16,192                                | \$47,326  | \$63,518               | \$63,518                          |
| Return on Investment (percent)     | 10.04                             | 5.30     | 6.51      | 3.37                                    | 3.64      | 3.57                   | 12.35                             |
| Increase Factor <sup>3</sup> ..... | .....                             | .....    | .....     | .....                                   | .....     | .....                  | 10.27                             |

<sup>1</sup> Cost inflation to July 1, 1977; 1.047 percent for Aloha, 1.026 for Hawaiian. The differing rates for the two carriers, having equivalent aircraft and duplicate route structures, is due primarily to a shift by Hawaiian to larger DC-9-50 aircraft starting in the fourth quarter of 1976.

<sup>2</sup> Passenger revenue divided by RPM's.

<sup>3</sup> Passenger yield at 12.35 percent return divided by actual passenger yield for the year ended March 1977.

[PS-96, 45 FR 48604, July 21, 1980]

§ 399.35 Special tariff permission.

(a) *Definition.* As used in this section, to grant STP means to approve a carrier's application for Special Tariff Permission to file a tariff on less than the statutory notice set forth in § 221.160(a) of this chapter.

(b) *Lower fares, rates, and charges.* It is the policy of the Board to grant STP for tariffs that state lower fares, rates, or charges and any rules affecting only those lower fares, rates, or charges, except that:

(1) The Board will not grant STP to match a tariff filed on statutory notice; and

(2) The Board will not grant STP if the proposed fares, rates, charges, or rules raise significant questions of lawfulness, that is, could reasonably be expected to be found unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or predatory, under current statutory or Board guidelines. In these situations, if the carrier files the tariff on statutory

notice and at the same time applies for STP to advance the tariff's effective date, the Board will use its best efforts to act within 15 days to grant or deny STP.

(c) *Higher fares or rates.* For tariffs that state higher fares or rates, and any rules affecting only those fares or rates, the Board's policy on STP is, except in unusual or emergency circumstances:

(1) To grant STP if the resulting fares or rates are within a statutory or Board-established zone of fare or rate flexibility; and

(2) Otherwise, to deny STP.

[PS-94, 45 FR 40974, June 17, 1980, as amended by PS-109, 48 FR 4279, Jan. 31, 1983]

§ 399.36 Unreasonable discrimination.

(a) As used in this section:

(1) *Unreasonable discrimination* means unjust discrimination or unreasonable preference or prejudice; and

(2) *Rate* means rate, fare, or charge.

(b) Except in unusual circumstances or as provided in paragraph (c) of this section, the Board will find a rate for domestic air transportation to constitute unreasonable discrimination only if:

(1) There is a reasonable probability that the rate will result in significant long-run economic injury to passengers or shippers;

(2) The rate is in fact discriminatory according to a reasonable cost allocation or other rational basis;

(3) The rate does not provide transportation or other statutorily recognized benefits that justify the discrimination; and

(4) Actual and potential competitive forces cannot reliably be expected to eliminate the undesirable effects of the discrimination within a reasonable period.

(c) A rate that discriminates on the basis of the status of the traffic carried will not be presumed to be unreasonably discriminatory, unless the use of the status categories in question is contrary to established national anti-discrimination policy.

[PS-93, 45 FR 36062, May 29, 1980]

#### § 399.37 Joint fares.

There should be joint fares in all markets over all routings within the contiguous 48 states and the District of Columbia as follows:

(a) *Level.* The level shall not exceed the sum of the maximum local fares permitted by this subpart minus one tax-rounded coach ceiling terminal charge for each interline connection, and in any event shall not exceed the sum of the actual local fares.

(b) *Division.* Joint fares shall be divided according to the relative costs of the mileage flown by each carrier participating in the interline movement. However, where a joint fare is equal to the sum of the actual local fares, each carrier shall get the local fare as its share.

[PS-92, 45 FR 24119, Apr. 9, 1980, as amended by PS-95, 45 FR 42255, June 24, 1980]

#### § 399.39 Equipment purchase deposits.

Equipment purchase deposits are advance payments made by air carriers to manufacturers for the purchase of

equipment to be delivered in the future, or funds segregated by air carriers for this purpose. It is the policy of the Board not to recognize equipment purchase deposits in an air carrier's investment base for ratemaking purposes. When equipment is acquired by an air carrier and placed in air-transport service, the Board will recognize in the air carrier's investment base interest on purchase deposits on such equipment capitalized and amortized in accordance with the Uniform System of Accounts and Reports for Certificated Air Carriers (part 241 of this chapter).

[PS-32, 32 FR 5370, Mar. 30, 1967]

#### § 399.40 Tariffs for domestic air transportation on or after January 1, 1983.

The Board will not approve or accept any tariff filings for interstate or overseas air transportation to be performed on or after January 1, 1983. Any tariffs for such transportation that do not specify an earlier expiration date shall expire at midnight on December 31, 1982.

[PS-107, 47 FR 14893, Apr. 7, 1982]

#### § 399.41 Zones of limited suspension for international cargo rates.

(a) *Applicability.* This section states the Board's policy for suspending rate changes for the transportation of property in foreign air transportation. It does not affect the Board's authority to suspend any rate as unjustly discriminatory, unduly preferential, or unduly prejudicial. This section applies to rate changes by all direct air carriers and direct foreign air carriers.

(b) *Standard foreign rate levels.* For each market in foreign air transportation, the standard foreign rate level for the carriage of property shall be the bulk general commodity rates in effect in that market on April 1, 1982, as adjusted in accordance with paragraph (f) of this section. However, the general commodity rate for shipments larger than 500 kg. shall be deemed to be the same as the 500 kg. rate for the purposes of this paragraph, regardless of any different rate in effect in the market.