Núm. 3362
Fecha: 21 de octubre de 1986 10:00 A.M.
Aprobado: Héctor Luis Acevedo
Secretario de Estado
Por: Secretario Auxiliar de Estado

DEPARTAMENTO DE TRANSPORTACION Y OBRAS PUBLICAS

OFICINA DEL SECRETARIO

RESOLUCION PARA LA AUTORIDAD DE LOS PUERTOS DE PUERTO RICO

RESOLUCION NUM. 86-41

Resolución para aprobar las recomendaciones del 22 de agosto de 1986 del Oficial Examinador en el Asunto de Tarifas, Derechos, Cánones de Arrendamiento y Otros Cargos Aplicables al Uso de las facilidades públicas para aviones y ejercicio de privilegios en el Aeroperto Internacional Luis Muñoz Marín y el Aeropuerto de Ponce durante el periodo comenzando el 1ro. de octubre de 1985 y finalizando el 30 de septiembre de 1988.

POR CUANTO, el 22 de agosto de 1986 el Oficial Examinador, Dr. David M. Helfeld, después de haberse efectuado vistas y reuniones entre las partes sometió un informe al Secretario de Transportación y Obras Públicas de Puerto Rico recomendando la aprobación de una estipulación firmada por los porteadores aéreos y la Autoridad de los Puertos de Puerto Rico con relación a la aplicación de la Resolución Número 85-19 del 1ro. de agosto de 1985.

POR CUANTO, luego del correspondiente estudio y consideración el Secretario de Transportación y Obras Públicas de Puerto Rico decidió adoptar las recomendaciones del Oficial Examinador.

POR TANTO, RESUELVESE

I. ADOPCION DE RECOMENDACIONES

Las recomendaciones del Oficial Examinador y su informe al Secretario de Transportación y Obras Públicas de Puerto Rico del 22 de agosto de 1986 que se anexan se adoptan mediante esta Resolución.

II. EFECTIVIDAD

Las disposiciones de esta Resolución entrarán en vigor a su fecha de aprobación por el Secretario de Transportación y Obras Públicas de Puerto Rico de acuerdo con la Sección 6 (1) de la Ley de la Autoridad de los Puertos de Puerto Rico de 1942, según enmendada (23 L.P.R.A. 311-354)

San Juan, Puerto Rico, este 15 día de octubre 1986.

SOMETIDO POR:

GUILLERMO F. VALLS MUÑOZ
DIRECTOR EJECUTIVO
AUTORIDAD DE LOS PUERTOS
DE PUERTO RICO

APROBADO POR:

DARIO M. HERNANDEZ TORRES
SECRETARIO DE TRANSPORTACION
Y OBRAS PUBLICAS

CERTIFICADO POR:

SYLVIA CALERO CEREZO
SECRETARIO
AUTORIDAD DE LOS PUERTOS
DE PUERTO RICO

CERTIFICACION

Yo, Sylvia I. Calero Cerezo Secretario de la Autoridad de los Puertos de P.R., CERTIFICO que los datos procedentes son copia fiel y exacta de la Resolución Número 86-41 aprobada por el Secretario de Transportación y Obras Públicas el 15 de octubre de 1986.

En testimonio de lo cual, firmo y estampo el Sello Corporativo de la Autoridad de los Puertos de P.R., hoy 15 de octubre de 1986.

Secretario

In the matter of rates, fees, rentals and other charges applicable to the use of public aircraft facilities and the exercise of privileges at Luis Muñoz Marín International Airport and Ponce Airport during the period beginning October 1, 1985 and ending September 30, 1988	Hearings under Article 6(1) of the Puerto Rico Ports Authority Act, as amended

Report and Recommendation to the Hon. Secretary of Transportation and Public Works

1. On August 1, 1985 Resolution 85-19 was approved, establishing the rate structure for Luis Muñoz Marín and Ponce Airports for the period October 1, 1985 through September 30, 1988.

2. Complying with the requirements of Article 6(1) of the Puerto Rico Ports Authority Act, notice of a public hearing on Resolution 85-19 was published in the principal newspapers of Puerto Rico. In addition, letters of notice were sent to the users of the airports' facilities.

3. On December 10, 1985 the Secretary of Transportation and Public Works appointed me to serve as Hearing Officer.

4. Hearings were held on December 19, 1985 and February 14, 1986. All parties have filed with the Hearing

Officer their respective statements of position. In addition, legal briefs and memoranda have been submitted in support of a number of claims and counterclaims concerning the legality of the criteria utilized in developing the rate structure in Resolution 85-19. The airport users participating in the hearing are listed in Appendix A. All will receive copies of this Report and Recommendation.

5. Following the instructions in the letter of appointment, I encouraged the parties to explore the possibilities for the settlement or simplification of the issues in the case. The parties were able to reach agreement on a stipulation which is included in Appendix "B". The process of obtaining the signatures took considerable time, and it was not until June 25, 1986 that the stipulation was submitted, duly signed by all parties in interest.

6. Under the terms of the stipulation Resolution 85-19 is accepted by the Air Carriers on the following conditions:

> a) The rates for landing fees will be the same as those adopted by previous Resolution 83-01, based on the information provided by the Air Carriers. See Attachment "A".
>
> b) This Stipulation will cover the period from October 1, 1985 until February 28, 1987 on which date, the Authority will complete the review of Resolution 85-19.
>
> c) During the period of this Stipulation, the Authority will analyze and study the impact that

> the Air Carriers' operations may have on the rates, fees, rentals and other charges adopted by Resolution 85-19. After the study has been completed rates will be adjusted taking into consideration any increase or decrease of airport costs.
>
> The stipulation then provides:
>
> The aforementioned actual and projected costs will be reviewed by the Air Carriers and the Authority and compared to the projected costs contained in the Rate Study dated March 1985 (Pink Book), as amended by this Stipulation. The comparison of actual costs to cost during the stipulation period will result in an adjustment, either upward or downward, in the projections for the rate period covered by Resolution 85-19. It is expressly agreed by the Air Carriers and the Authority that for the purposes of said adjustments, actual costs will be considered on the basis of available traffic and movement, the latter meaning MAGTOW, Passenger and Cargo. It is the specific intent of the appearing parties in again adopting this approach, to once more ascertain accurate data to be translated into projections for future rate making purposes.

Allowing the parties a reasonable opportunity to review all relevant traffic and cost data as of February 28, 1987, it should be possible to schedule a rate hearing for May or June of 1987.

7. Given the express conditions of the stipulation, neither the Ports Authority nor the Air Carriers will be prejudiced by the delay in reaching final rate determinations for the three year period ending September 30, 1988.

8. The stipulation expressly reserves the claim of the Air Carriers that they are not obligated to pay the costs of any airport other than those incurred by Luis Muñoz Marín International Airport. In addition, the Air Carriers have posed innumerable issues questioning the rate-making criteria utiilized in preparing Resolution 85-19. In the light of the complexity of the legal issues which have been raised, they will be dealt with in a separate report.

9. The stipulation of the parties in no way conflicts with Article 6(1) of the Puerto Rico Ports Authority Act. I therefor recommend that it be approved by the Secretary of Transportation and Public Works.

Respectfully submitted by:

David M. Helfeld

David M. Helfeld
Hearing Officer

August 22, 1986

APPENDIX "A"

Copies of the Hearing Officer's Report and Recommendation will be sent to:

1. Guillemro F. Valls Muñoz
   Executive Director, P.R. Ports Authority

2. Julio Purcell
   Airport Aviation Services, Inc.

3. Tony Santana
   Airport Aviation Services, Inc.

4. Federico Bauzó
   Airport Aviation Services, Inc.

5. Max Fenson
   American Airlines

6. R. Rampolla
   American Airlines

7. Joseph López, Chairman San Juan Airport Affairs Committee
   Eastern Airlines, Inc.

8. George Schroeder
   Lufthansa

9. Johny Morales, Puerto Rico Ports Authority

10. José Ysern de la Cruz
    Puerto Rico Ports Authority

11. Miguel A. Maldonado
    Puerto Rico Ports Authority

12. Earl Cumberland
    T W A

13. Francisco L. Acevedo
    Trías, Doval, Muñoz, Acevedo & Otero

14. John A. Rivera
    Delta Airlines

Appendix "A" (Cont.)

15. William Walling
Delta Airlines, Inc.

16. Jac 'Odelle Grier
Flying Tigers

17. Jesús C. San Millan
Iberia Lineas Aéreas de España

18. Mercy Aguelles
Arrow Air

19. Stephen Fenosik
Virgin Islands Sea Plane Shuttle

20. Laurence E. Duffy
San Juan Airport Affairs Committee

Appendix "B"

In the matter of rates, fees, rentals and other charges applicable to the use of public aircraft facilities and the exercise of privileges at Luis Muñoz Marín International Airport and Ponce Airport during the period beginning on October 1, 1985 and ending on September 30, 1988.	*	Hearings under Article 6 (1) of the Puerto Rico Ports Authority Act, as amended

TO THE HONORABLE HEARING OFFICER:

STIPULATION

This Stipulation by and between the Puerto Rico Ports Authority, hereinafter referred to as "the Authority" and Eastern Air Lines, Inc., American Airlines, Inc., Delta Air Lines, Inc., Iberia, Airport Aviation Services, Inc., Trans World Airlines and San Juan Airlines Airport Affairs Committee, hereinafter collectively referred to as the "Air Carriers" through the undersigned respective representatives provides:

1. The Authority has reviewed the general structure of rates, fees, rentals and other charges ("rates") for the use of public aircraft facilities and the exercise of privileges at Luis Muñoz Marín International Airport ("LMM") and Ponce Airport respectively and the Department of Transportation and Public Works has adopted Resolution No. 85-19, establishing such rates for the period beginning on October 1, 1985 and ending September 30, 1988 for the use of said facilities and services at the LMM and Ponce Airports.

2. Subject to the conditions hereinafter stated, the Air Carriers accept the rates established by said Resolution No. 85-19 approved by the Secretary of Transportation and Public Works on August 1, 1985.

3. The Air Carriers and the Authority have agreed, without prejudice of Article 6 (1) of the Puerto Rico Ports Authority Act to accept Resolution Number 85-19 upon the following terms and conditions:

a) The rates for landing fees will be the same as those adopted by previous Resolution 83-01, based on the information provided by the Air Carriers. See Attachment "A".

b) This Stipulation will cover the period from October 1, 1985 until February 28, 1987 on which date, the Authority will complete the review of Resolution 85-19.

c) During the period of this Stipulation, the Authority will analyze and study the impact that the Air Carriers' operations may have on the rates, fees, rentals and other charges adopted by Resolution 85-19. After the study has been completed rates will be adjusted taking into consideration any increase or decrease of airport costs.

4. The aforementioned actual and projected costs will be reviewed by the Air Carriers and the Authority and compared to the projected costs contained in the Rate Study dated March 1985 (Pink Book), as amended by this Stipulation. The comparison of actual costs to cost during the stipulation period will result in an adjustment, either upward or downward, in the projections for the rate period covered by Resolution 85-19. It is expressly agreed by the Air Carriers and the Authority that for the purposes of said adjustments, actual

costs will be considered on the basis of available traffic and movement, the latter meaning MAGTOW, Passenger and Cargo. It is the specific intent of the appearing parties in again adopting this approach, to once more ascertain accurate data to be translated into projections for future rate making purposes.

5. Neither this Stipulation nor its performance by the Air Carriers should be interpreted as an admission by the Air Carriers of its obligation to pay or of any right of the Authority to collect rates for LMM based upon costs or expenses incurred at any airport other than LMM. The Air Carriers reserve their right to litigate or otherwise assert before the Authority, the Hearing Officer and the Courts, their contention that they are not obligated in any way to pay such rates. Furthermore each of the Air Carriers reserves and does not waive any rights it has or may have under any existing contract between it and the Authority. Likewise, nothing mentioned herein is to be interpreted as a waiver or relinquishment on the part of the Authority to establish and implement an Airport Systems Plan which includes Ponce Airport or any other airport within the territorial limits of Puerto Rico or the right of the Authority to collect rate at LMM based upon costs or expenses incurred at any other airport included by the Authority within its Airport Systems Plan.

6. This Stipulation will be submitted to the Hearing Officer appointed by the Secretary of Transportation and Public Works pursuant to Article 6 (1) of the Puerto Rico Ports Authority Act and the same is subject to the final approval of the Secretary of Transportation and Public Works.

GIVEN at San Juan, Puerto Rico, on this 14th day of February, 1985.

AMERICAN AIRLINES, INC.

By: _____

Title: _____

EASTERN AIR LINES, INC.

By: John E. Hurst, Jr.

Title: John E. Hurst, Jr., Senior Vice President Technical Support Services

DELTA AIR LINES, INC.

By: _____

Title: _____

IBERIA

By: _____

Title: _____

AIRPORT AVIATION SERVICES, INC.

By: _____

Title: _____

TRANS WORLD AIRLINES

By: _____

Title: _____

PUERTO RICO PORTS AUTHORITY

By: [signature]

Title: _____

SAN JUAN AIRLINES AIRPORT AFFAIRS COMMITTEE

By: [signature]

Title: [signature]

6. This Stipulation will be submitted to the Hearing Officer appointed by the Secretary of Transportation and Public Works pursuant to Article 6 (1) of the Puerto Rico Ports Authority Act and the same is subject to the final approval of the Secretary of Transportation and Public Works.

GIVEN at San Juan, Puerto Rico, on this day of February, 1985.

AMERICAN AIRLINES, INC.

By: _____

Title: V.P. CORPORATE REAL ESTATE

EASTERN AIR LINES, INC.

By: _____

Title: _____

DELTA AIR LINES, INC.

By: _____

Title: _____

IBERIA

By: _____

Title: _____

AIRPORT AVIATION SERVICES, INC.

By: _____

Title: _____

TRANS WORLD AIRLINES

By: _____

Title: _____

PUERTO RICO PORTS AUTHORITY

By: _____

Title: _____

SAN JUAN AIRLINES AIRPORT AFFAIRS COMMITTEE

By: _____

Title: _____

6. This Stipulation will be submitted to the Hearing Officer appointed by the Secretary of Transportation and Public Works pursuant to Article 6 (1) of the Puerto Rico Ports Authority Act and the same is subject to the final approval of the Secretary of Transportation and Public Works.

GIVEN at San Juan, Puerto Rico, on this day of February, 1985.

AMERICAN AIRLINES, INC.

By: _____

Title: _____

EASTERN AIR LINES, INC.

By: _____

Title: _____

RETURN THIS COPY TO PROPERTIES DEPT. DELTA AIR LINES, INC. ATLANTA, GEORGIA
DEPT. HEAD
PROP.
LEGAL
OTHERS 6/11/85

DELTA AIR LINES, INC.

By: Hollis L. Harris

Title: Hollis L. Harris Senior Vice President Operations

IBERIA

By: _____

Title: _____

AIRPORT AVIATION SERVICES, INC.

By: _____

Title: _____

TRANS WORLD AIRLINES

By: _____

Title: _____

PUERTO RICO PORTS AUTHORITY

INITIAL

By: _____

Title: _____

~~SAN JUAN AIRLINES AIRPORT AFFAIRS COMMITTEE~~

By: _____

Title: _____

DELTA COPY

6. This Stipulation will be submitted to the Hearing Officer appointed by the Secretary of Transportation and Public Works pursuant to Article 6 (1) of the Puerto Rico Ports Authority Act and the same is subject to the final approval of the Secretary of Transportation and Public Works.

GIVEN at San Juan, Puerto Rico, on this day of February, 1985.

AMERICAN AIRLINES, INC.

By: _____

Title: _____

EASTERN AIR LINES, INC.

By: _____

Title: _____

DELTA AIR LINES, INC.

By: _____

Title: _____

IBERIA

By: ADOLFO TURRION BARBADO

Title: GERENTE GENERAL

AIRPORT AVIATION SERVICES,INC.

By: _____

Title: _____

TRANS WORLD AIRLINES

By: _____

Title: _____

PUERTO RICO PORTS AUTHORITY

By: _____

Title: _____

SAN JUAN AIRLINES AIRPORT AFFAIRS COMMITTEE

By: _____

Title: _____

6. This Stipulation will be submitted to the Hearing Officer appointed by the Secretary of Transportation and Public Works pursuant to Article 6 (1) of the Puerto Rico Ports Authority Act and the same is subject to the final approval of the Secretary of Transportation and Public Works.

GIVEN at San Juan, Puerto Rico, on this day of February, 1985.

AMERICAN AIRLINES, INC.

By: _____

Title: _____

EASTERN AIR LINES, INC.

By: _____

Title: _____

DELTA AIR LINES, INC.

By: _____

Title: _____

IBERIA

By: _____

Title: _____

AIRPORT AVIATION SERVICES, INC.

By: _____

JOSE A. SANTANA

Title: CHAIRMAN OF THE BOARD

TRANS WORLD AIRLINES

By: _____

Title: _____

PUERTO RICO PORTS AUTHORITY

By: _____

Title: _____

SAN JUAN AIRLINES AIRPORT AFFAIRS COMMITTEE

By: _____

Title: _____

6. This Stipulation will be submitted to the Hearing Officer appointed by the Secretary of Transportation and Public Works pursuant to Article 6 (1) of the Puerto Rico Ports Authority Act and the same is subject to the final approval of the Secretary of Transportation and Public Works.

GIVEN at San Juan, Puerto Rico, on this day of February, 1985.

AMERICAN AIRLINES, INC.

By: _____

Title: _____

EASTERN AIR LINES, INC.

By: _____

Title: _____

DELTA AIR LINES, INC.

By: _____

Title: _____

IBERIA

By: _____

Title: _____

AIRPORT AVIATION SERVICES,INC.

By: _____

Title: _____

TRANS WORLD AIRLINES

By: Ben J. Ford

Title: Reg. Dir. - Airport Operations
Financial Planning & Controls

PUERTO RICO PORTS AUTHORITY

By: _____

Title: _____

SAN JUAN AIRLINES AIRPORT AFFAIRS COMMITTEE

By: _____

Title: _____

ATTACHMENT "A"

DATA SUPPLIED BY AIR CARRIERS REGARDING PROJECTED ADDITIONAL NEW MAGTOW AND THEIR OPERATIONS AND ESTIMATED LANDING FEES AS AGREED

1985	ACTUAL	-	1,093,137 (000)
1986	PROJECTION	-	1,577,441
1987	PROJECTION	-	2,528,112
1988	PROJECTION	-	2,528,112

CALCULATION OF LANDING FEES

MAGTOW AS PER STUDY	6,401,601
PLUS AIR CARRIERS PROJECTION	1,577,441
TOTAL	7,980,042
AGREED PROJECTED MAGTOW	7,570,622

AGREED FIGURE AFTER CONSIDERATION OF ADJUSTMENT FOR UTILIZATION FACTOR (88%)

(a) $9,021,084 X 88.0 = $7,938,554

(b) $7,938,554 ÷ 7,570,622 = $1.0486