

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the 30th day of April, 1996

Essential Air Service at:

CENTRAL AND
CIRCLE, ALASKA

under 49 U.S.C. 4173 *let seq.*

Docket 42609

ORDER TENTATIVELY SELECTING CARRIER

SUMMARY

By this order we are tentatively reselecting Warbelow's Air Ventures, Inc., to provide subsidized essential air service at Central and Circle, Alaska, for the two-year period April 1, 1996, through March 31, 1998, at an annual rate of \$20,374.

BACKGROUND

Warbelow's Air Ventures has provided subsidized service at Central and Circle for a number of years. Most recently Order 94-3-61 selected Warbelow's to provide five linear round trips per week routed Fairbanks-Central-Circle-Fairbanks, four with 5-seat Cessna's and one with twin-engine Piper Navajo aircraft. The rate for that service, \$12,948 annually, expired March 31, 1996.

Under our normal procedures when nearing the end of a rate term, we contact the incumbent carrier to determine whether it is interested in continuing service and whether it will continue to require subsidy. If the carrier wishes to continue service with subsidy, we usually negotiate a new subsidy rate with the carrier, issue an order tentatively reselecting the carrier for a new rate term at the agreed rate, and direct other parties to show cause why we should not finalize our tentative decision. Other carriers wishing to submit competing proposals are invited to do so in response to the show-cause order; if any such proposals are filed, we process them as a competitive case. Consistent with this practice, we invited Warbelow's to submit a proposal for continuation of essential air service at Central and Circle.

CARRIER SERVICE PROPOSAL

In response to our inquiry Warbelow's indicated its desire to continue to serve Central and Circle and submitted and negotiated a renewal proposal for a two-year rate term. (See Appendix B to this order for a summary of the subsidy computation for Warbelow's proposal.) The carrier proposes to provide four round trips per week routed Fairbanks-Central-Circle-Fairbanks. All service is to be provided with 5-seat Cessna 206 or 207 aircraft. Based on informal rate discussions held between the carrier and the Department staff an annual subsidy rate of \$20,374 has been agreed upon for each year of the new rate term.

ESSENTIAL AIR SERVICE DETERMINATION

The current essential air service determinations for Central and Circle require at least three weekly round trips to Fairbanks. The service may be operated with small aircraft (fewer than 10 seats) and with up to two intermediate stops. Most recently Warbelow's was selected to provide five round trips per week to Fairbanks. Four of the round trips were to be operated with 5-seat Cessna aircraft and one with 8-seat Piper Navajo aircraft. That level of service exceeded the essential air service determinations but was required to transport historical traffic over the critical outbound leg in view of the linear service pattern and the asymmetrical directionality of mail. Warbelow's now proposes four round trips with a Cessna 206 or 207. This level of service is required to accommodate recent historical traffic over the outbound segment. Mail traffic is down from recent years because Alaska Central Express inaugurated subsidy-free all-cargo service to these communities in June 1995. (We cannot rely on this all-cargo service to meet the passenger demands for Central and Circle but it does allow passengers and the balance of the mail and freight to be transported on fewer subsidized flights.)

TENTATIVE RESELECTION

In view of the above, we will tentatively reselect Warbelow's to provide essential air service at Central and Circle as detailed in Appendix B, for an additional two-year period through March 31, 1998, for an annual subsidy of \$20,374.

OBJECTIONS OR PROPOSALS

As usual, we will allow interested parties 20 days to object to our decision and/or to file competing proposals. If no timely objections or competing proposals are filed this order will automatically become final. We expect persons objecting to our tentative decision to support their objections with relevant and material facts. We will not entertain general, vague, or unsupported objections.

PROCEDURES FOR FILING PROPOSALS

For interested air carriers that are not familiar with our procedures and recommended form for supplying the necessary information, we have prepared two explanatory documents that we will make available upon request. The first describes the process for handling carrier replacement cases under 49 U.S.C. 41734(f) (formerly section 419 of the Federal Aviation Act) and discusses in detail the process of seeking proposals, conducting financial and operational audits of the applicant carriers and selecting a replacement carrier. The second is an evidence request containing an explanatory statement, and a copy of section 14 CFR 204.4 of the Department's regulations which deals with the information required of all applicants for authority to provide basic essential air service, and provides schedules giving our recommended form for submitting data required for determining the financial and operational ability of applicants to provide dependable air service.²

¹ Typically in Alaska, 90% of the total mail and freight transported between bush communities and hubs goes outbound from the hub to the bush point. The asymmetrical nature of mail and cargo traffic requires the Department to provide more service on the outbound leg than would typically be required for transportation of the historical traffic over the inbound, return segment.

² Copies of these documents can be obtained from: EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7th Street, S.W., Washington, DC 20590. Telephone requests for these documents are accepted at (202) 366-1053.

COMMUNITY AND STATE COMMENTS

If we receive competing proposals the community and State are welcome to submit comments on the proposals at any time.³ Early in the proceeding, comments on the perceived strengths and weaknesses of the proposals would be particularly helpful to the Department, although the civic parties may also express a preference for a particular carrier or proposal option at that time, if they choose. In any event, after we conclude rate conferences with all applicants, we will provide a summary of the conference results to the civic parties and ask them to file their final comments.⁴

OTHER CARRIER REQUIREMENTS

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.⁵ Consequently, all carriers receiving Federal subsidy to support essential air service must certify that they are in compliance with Department regulations regarding drug-free workplaces and nondiscrimination, and those carriers whose subsidies exceed \$100,000 over the life of the rate term must also certify that they are in compliance with regulations governing lobbying activities. All carriers that plan to submit proposals involving subsidy should submit the required certifications along with their proposals. Interested carriers requiring more detailed information regarding these requirements as well as copies of the certifications should contact the Office of Aviation Analysis at (202) 366-1053. The Department is prohibited from paying subsidy to carriers that do not submit these documents.

CARRIER FITNESS

49 U.S.C. 41738 requires that we find a carrier fit, willing, and able to provide service before we pay it compensation for essential air service. In that regard, Warbelow's has operated successfully for a number of years. The carrier's fitness was last reviewed in March 1994 in conjunction with its selection to serve Central and Circle. Warbelow's remains subject to the Department's continuing fitness monitoring. Since no information has come to our attention that would lead us to question the fitness of Warbelow's we conclude that the carrier remains fit to conduct the operations proposed here.

This order is issued under authority delegated in 49 CFR 1.56(i).

ACCORDINGLY,

1. The Department tentatively reselects Warbelow's Air Ventures, Inc., to provide essential air service at Central and Circle, Alaska;
2. The Department sets the final rate of compensation for Warbelow's Air Ventures, Inc., for the provision of essential air service at Central and Circle, Alaska, at \$20,374 per year, as described in Appendix C,

³ Civic parties should file an original and five copies of their comments in Docket 42609. This filing should be addressed to: Documentary Services Division, Docket Section, C-55.1, Office of the Secretary, U.S. Department of Transportation, Room PL 401, 400 Seventh Street, S.W., Washington D.C. 20590.

⁴ In cases where a carrier proposes to provide essential air service without subsidy and we determine that service can be reliably provided without such compensation, we do not normally hold rate conferences. Instead, we allow the carrier to institute the service as proposed.

⁵ The regulations applicable to each of these areas are (1) 49 CFR Part 20, New Restrictions on Lobbying, Implementing title 31, United States Code, section 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions"; (2) 49 CFR Part 29, Subpart F, Drug-Free Workplace Requirements (Grants) implementing the Drug-Free Workplace Act of 1988; (3) 49 CFR Part 21, Nondiscrimination in Federally-Assisted Programs for the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964; 49 CFR Part 27, Nondiscrimination on the basis for Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance; and 14 CFR Part 382, Nondiscrimination on the Basis of Handicap in Air Travel.

payable as follows: for each calendar month during which essential air service is provided, the amount of compensation shall be subject to the weekly ceilings and shall be determined by multiplying the subsidy-eligible departures from and arrivals at the hub completed during the month by \$24.49;⁷

3. In the event objections or competing proposals are received, the rate in ordering paragraph (2) above will be effective as a final rate from April 1, 1996, until further Department action;

4. Subsidy payments are subject to the availability of funds. If the Government terminates payments because of insufficient appropriated funds, then, at the end of the period for which the Government does make payments, the carrier may cease to provide the service provided for under this agreement without regard to any requirement for notice of such cessation;

5. We find that Warbelow's Air Ventures, Inc., continues to be fit, willing, and able to operate as a certificated air carrier and is capable of providing reliable air service at Central and Circle, Alaska;

6. We direct Warbelow's Air Ventures, Inc., to retain all books, records, and other source and summary documentation to support claims for payment and to preserve and maintain such documentation in a manner that readily permits the audit and examination by representatives of the Department. Such documentation shall be retained for seven years or until the Department indicates that the records may be destroyed. Copies of flight logs for aircraft sold or disposed of must be retained. The carrier may forfeit its compensation for any claim that is not supported under the terms of this order; and

7. The Department will serve copies of this order on the Governor of Alaska, the Alaska Department of Transportation and Public Facilities, Warbelow's Air Ventures, Inc., and the carriers listed in Appendix E.

By:

Charles A. Hunnicutt
Assistant Secretary for Aviation
and International Affairs

(SEAL)

⁶ Departures flown with a Piper Navajo shall be assigned a factor of two, to reflect the greater cost of operating the Navajo, up to the weekly ceiling.

⁷ See Appendix C for calculation.

**Warbelow's Air Ventures, Inc., Essential Air Service to be Provided to
Central and Circle, Alaska Docket 42609**

Effective Period April 1, 1996, through March 31, 1998

Scheduled Service Fairbanks-Central-Circle-Fairbanks.¹

Aircraft: Cessna 206 or 207, 5-seats.

Rate per Departure/Arrival for each point to/from Fairbank\$24.49²

Weekly Compensation Ceiling, Circle³ \$195.92⁴

Weekly Compensation Ceiling, Central³ \$195.92⁴

Note: the carrier has been placed on notice that it may forfeit its compensation for any flights that it does not operate in conformance with the terms and stipulations of this order, including the service plan outlined above and any other significant elements of the required service, without prior approval. In addition, if for a significant period of time the carrier either does not schedule or operate its flights in full conformance with this order, the carrier may jeopardize its entire subsidy claim for the period in question. If any such changes are contemplated during the applicable period of this rate, the carrier must first notify the Office of Aviation Analysis in writing and receive approval from the Department of Transportation to be assured of full compensation. Carriers must complete all flights that can be safely operated. An aircraft taking-off and landing at its scheduled destination constitutes a completed flight. Only completed flights are considered eligible for subsidy absent an explanation for not completing the flight (such as certain weather cancellations). Flights which overfly subsidized points for lack of traffic will not be compensated.

¹ Warbelow's would be allowed to operate service to intermediate communities.

² \$20,374 annual compensation, divided by 832 annual departures from and arrival at Fairbanks that can be ascribed to each community, calculated as follows:

Central: 8 departures/arrivals per week x 52 weeks = 416

Circle: 8 departures/arrivals per week x 52 weeks = 416

³ Calendar weeks that fall into separate calendar months will be treated as part of the later month for the purpose of calculating both calendar weeks per month and the monthly compensation.

⁴ 8 departures/arrivals between each point per week and Fairbanks x \$24.49.