



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

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Issued by the Department of Transportation
on the 21st day of January, 1998

Application of

**GREAT LAKES AVIATION, LTD.,
D/B/A UNITED EXPRESS**

for an exemption from 14 CFR Part 93, Subparts
K and S, pursuant to 49 U.S.C. 41714(a)(2) to
serve Essential Air Service points from Chicago
O'Hare

Docket OST-97-3153

**ORDER DENYING APPLICATION FOR
SLOT EXEMPTIONS AT CHICAGO O'HARE AIRPORT**

SUMMARY

By this order the Department is denying the application filed by Great Lakes Aviation, Ltd., d/b/a United Express, for exemptions from 14 CFR Part 93, Subparts K and S, to enable 20 additional flight operations at Chicago's O'Hare Airport to provide essential air service (EAS) at Ironwood and Manistee, Michigan; Mattoon, Mount Vernon, and Sterling/Rock Falls, Illinois; and Ottumwa, Iowa.

APPLICATION OF GREAT LAKES

On November 24, 1997, Great Lakes submitted a request for 20 slot exemptions to enable it to increase service from two to three round trips a day, six days a week, between each of the six essential air service communities referenced above and Chicago O'Hare International Airport.

In support of its application, Great Lakes states that the Federal Aviation Administration Authorization Act of 1994, enacted on August 23, 1994, among other things, authorized the Department to grant exemptions from the High Density Rule for the provision of basic essential air service at eligible communities. Great Lakes maintains that under the Act, the Department must insure that an air carrier has sufficient operational authority at a high density airport to provide the required service; and the operational authority shall allow flights at reasonable times taking into account the needs of passengers with connecting flights.

Great Lakes further states that the Senate Report that accompanied the Department's Appropriations Act for fiscal year 1997 expressed the Senate's desire that the Department enable increased access to O'Hare for small and medium-sized communities, and directed the Department to make the fullest possible use of existing exemption powers to maintain and improve EAS without significantly increasing funding requirements.

Finally, Great Lakes states that its current subsidy rates for serving the subject communities allow for only 12 round trips per week between each community and O'Hare and that those reduced levels of service, resulting from Congressional reductions in funding for the EAS program for fiscal year 1996 (implemented by Order 95-11-28, November 17, 1995), have had a significant negative impact on passenger traffic and revenue. The carrier argues that it continues to incur significant losses in serving these communities with these reduced service levels and that only the implementation of three-round-trip-a-day schedules will enable traffic and revenues to increase over time to levels that will reduce subsidy need. For the immediate future Great Lakes states that the added service will require an overall subsidy increase of \$1.4 million in the first year.

ANSWERS TO GREAT LAKES' APPLICATION

The City of Decatur, Illinois, filed a motion for leave to file a late answer in support of Great Lakes' exemption application.¹ Decatur makes four basic points. First, it states that even though it is not one of the six named communities in the carrier's application, it would nonetheless be a beneficiary by receiving nonstop service to O'Hare in conjunction with either Mt. Vernon or Mattoon, and that the service would be subsidy free as it had been for several years before Great Lakes terminated that service last June. The City further asserts that Great Lakes' proposal would significantly reduce the total subsidy cost of serving the six cities for which Great Lakes has requested exemptions.

Second, Decatur argues that the Department's granting of slot exemptions for the provision of EAS is mandatory, unlike the Department's discretionary authority regarding exemptions for the provision of foreign air transportation or service by new entrants.

Third, the City asserts that at least three round trips a day should be provided between Decatur and Chicago, consistent with the Department's EAS program-wide policy of supporting subsidized service levels of three round trips a day.

¹ We will grant Decatur's motion.

Fourth, Decatur states that Great Lakes' code-share arrangement with United Air Lines is a positive factor in that it enhances the service and results in increased passenger usage.

The Airport Authorities for Mattoon, Ironwood, and Sterling/Rock Falls also support Great Lakes' request. Mattoon argues that its service to O'Hare has been reduced in the past several years and has become inadequate.

American Airlines, Inc. and American Eagle² (American) filed an answer in opposition to the application. They assert that Great Lakes does not qualify for EAS slots under 49 U.S.C. 41732(b), the section of the statute cited in its application, because Great Lakes is already operating the basic level of EAS to the communities in question.³ American argues that there is no statutory basis for awarding additional O'Hare slots to enable Great Lakes to provide EAS service above the basic two round trip-a-day level required by statute, and that therefore Great Lakes' application should be treated as one seeking slots to serve nonhub communities, not under the EAS provision. American states that five of the six communities for which Great Lakes seeks EAS slots would be served on a one-stop basis⁴; and that Great Lakes would use 18 of the 20 slots it has requested to provide nonstop service between O'Hare and Decatur, Iron Mountain, Muskegon, Springfield and Burlington. American further contends that the six named EAS communities already receive their full EAS, and the five communities that would receive nonstop service likewise receive their full EAS levels, several of them by multiple carriers. Thus, American concludes that none of the points that Great Lakes proposes to serve with slot exemptions qualify for EAS slots under 49 U.S.C. 41714. American further argues that United and United Express already hold more O'Hare slots than any other carrier group. Finally, American asserts that Great Lakes has not backed up its claim that adding a third round trip between each of the six points and O'Hare would, over time, lead to reductions in subsidy need. Rather, American contends that it is more likely Great Lakes would incur still greater losses.

² American Eagle is the trade name used by Executive Airlines, Inc., Flagship Airlines, Inc., Simmons Airlines, Inc., and Wings West Airlines, Inc. These carriers, along with American Airlines, Inc., are operating subsidiaries of AMR Corporation.

³ 49 U.S.C. 41732(b)(1)(A) specifies that eligible communities are to receive at least two round trips a day, six days a week.

⁴ Sterling/Rock Falls would receive nonstop service.

DECISION

The Department has decided to deny Great Lakes' application. The basis of Great Lakes' request is that a threshold level of service greater than the relevant communities' current levels is necessary to meet normal essential air service guarantees and to stimulate traffic growth.

Great Lakes and the civic parties are correct in noting that EAS program policy has been to require three or more round trips a day for most communities. However, the statutory minimum is only two round trips a day, and the higher norm is clearly not warranted or observed in all cases. As is displayed in the appendix to this order, traffic enplanements at the six cities in Great Lakes' proposal have been very low, ranging from averages of one a day at Sterling to eight a day at Ironwood in 1996. Since 1982 only Ironwood has ever reached double-digit enplanement figures in any year. We do not contest Great Lakes' expectation that traffic would increase over time in response to the addition of a third round trip. It is far from clear, however, that it would do so in sufficient volume to ultimately reduce the carrier's overall subsidy need. The affected communities' traffic histories do not indicate a need for increased service, and Great Lakes' traffic projections under the proposed higher service level do not reflect significant traffic stimulation. The highest number of passengers the carrier projected at the six EAS communities is 6,200 a year at Ironwood, or less than 3.4 passengers a flight. Thus, requiring more than the statutory guarantee of two round trips a day is difficult to justify, even without the prospect of an added subsidy burden or designation of scarce slots at O'Hare.

We are mindful of the congressional language that encourages the Department to use its exemption powers on behalf of both EAS and other non-hub-community air service. We do not agree, however, that that expression is a mandate to approve all EAS-related requests, particularly when the communities are already receiving their statutorily specified level of EAS. Rather, in view of the extraordinary demand for scarce slots at O'Hare, we must view Great Lakes' request in a framework of an overall policy on slot exemption applications based largely on comparative potential public benefits. There are now pending 135 slot exemption requests at O'Hare. As we stated in Order 97-10-16, page 4, "... the number of available slot exemptions is very limited, and we may have to apply our guidelines on an increasingly more restrictive basis or even deny applications that otherwise meet the standards set forth in this order." The EAS communities whose service Great Lakes would increase through its exemption request are receiving their statutorily guaranteed EAS level, and, as noted above, their historical traffic levels do not suggest that their service is inadequate. Moreover, Great Lakes' request not only contemplates additional slot exemptions but a substantial subsidy increase as well, over \$1.4 million a year. That consideration does not comport with the congressional expectation that our grant of slot exemptions for EAS purposes should be based on improving EAS "without significantly increasing funding requirements." (Senate Report to the Department's fiscal year 1997 Appropriations.)

In the case of Decatur, which has pleaded strongly in support of Great Lakes' application, we recognize that the Department had previously established a two-hub EAS definition,

requiring service to both Chicago and St. Louis. Notwithstanding that such a determination exceeds the statutory threshold, Decatur's traffic history supported it and for a number of years the marketplace responded to provide the specified service without a subsidy burden. Following Great Lakes' temporary cessation of service in mid-1997 Decatur lost its O'Hare service⁵, and Great Lakes' current proposal to restore it would entail a significant subsidy need. While the City argued that Great Lakes' proposal would significantly reduce the total subsidy cost of serving the subject communities, we note that Great Lakes requested a subsidy increase of \$1.4 million a year in addition to its request for 20 exemptions. We do not find that incurring added subsidy cost and allocating heavily-contested O'Hare slot exemptions for Decatur is justified at this time. For now, therefore, we will rely on Trans World Express's Decatur-St. Louis service, six nonstop round trips a day, to satisfy Decatur's EAS needs.

Based on the above, we deny Great Lakes' application.

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

ACCORDINGLY,

1. The Department denies the application of Great Lakes Aviation, Ltd., d/b/a United Express for exemption authority to enable it to operate 20 additional slots per day for additional service between Chicago O'Hare and Ironwood and Manistee, Michigan; Mattoon, Mount Vernon, and Sterling/Rock Falls, Illinois; and Ottumwa, Iowa; and
2. We will serve this order on all persons on the service list in Docket OST-97-3153.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

⁵ We also note that the Department granted Great Lakes a total of 24 slot exemptions in October 1994 to serve a number of communities in Indiana and Illinois to O'Hare. (See Order 94-10-47.) Great Lakes proposed at that time to use four of the exemptions to serve Mattoon over a Mattoon-Decatur-Chicago routing. After the carrier's brief cessation of service last summer, it elected not to reinstate the Mattoon-Decatur-Chicago itinerary but rather to serve Mattoon--O'Hare via Springfield.