



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

Served: September 23, 1998

Issued by the Department of Transportation
on the 16th day of September, 1998

Emergency Request for Proposals at

**EL DORADO/CAMDEN, ARKANSAS
JONESBORO, ARKANSAS
HARRISON, ARKANSAS
HOT SPRINGS, ARKANSAS
ENID, OKLAHOMA
PONCA CITY, OKLAHOMA
BROWNWOOD, TEXAS**

Dockets: OST-1997-2935

OST-1997-2401

OST-1997-2402

under 49 U.S.C. 41731 *et seq.*

**EMERGENCY ORDER REQUESTING PROPOSALS
FOR REPLACEMENT SERVICE**

Summary

By this order, the Department places Exec Express II, d/b/a Aspen Mountain Air (AMA, formerly Lone Star Airlines) on notice that it may not suspend essential air service (EAS) at the communities captioned above until it has first fully complied with the 90-day notice provision of 49 U.S.C. 41734, and then only when a replacement carrier actually begins service. We also request proposals to provide emergency replacement service at the seven communities. (See Appendix A for a map.)

Discussion

AMA, the only carrier providing service at these seven communities, declared Chapter 11 bankruptcy on August 7, 1998. The carrier receives a combined annual subsidy rate of \$6,328,429 for its EAS services under Order 97-4-29 for the Oklahoma and Texas communities and Order 97-9-31 for the Arkansas points, due to expire at the end of February 1999 and November 1999, respectively, for the service levels spelled out below.

On September 11, 1998, AMA informally notified Department staff that it intends to suspend all EAS service at the seven communities effective October 6. The carrier states that as a result of AMA's bankruptcy and its severe financial situation, the carrier will have to return all Metro aircraft to the lender on October 6, and has stated that it will be necessary to terminate all Metro service, including its subsidized essential air service, at that time. That would leave the seven communities without any scheduled air service. We have reminded the carrier informally, and we reiterate here, that any intent to suspend EAS operations is subject to the Department's formal 90-day notice requirements under 49 U.S.C. 41734.¹ However, in response to AMA's statement, the Department is hereby inviting proposals on an emergency basis for replacement service. In addition, we direct AMA to continue to maintain its EAS operations at the seven communities until replacement service is secured. Because of the urgent nature of this case and our desire to prevent a service hiatus, we will consider: 1) proposals from carriers to provide emergency replacement service that would duplicate the existing contract with AMA, *i.e.*, assume the existing service levels, with comparable aircraft types, and subsidy rates as defined in the current rate orders; and 2) proposals from carriers interested in providing replacement service, with or without subsidy, on a long-term basis.

Solicitation for Service Proposals

The current essential air service determinations for these communities are detailed in Appendix C. Below are the service levels for which we are currently subsidizing AMA, as established by the relevant DOT orders. AMA has provided this service with 19-seat Metro aircraft.

<u>Community</u>	<u>Hub</u>	<u>Round Trips Each Weekday and Weekend</u>	<u>Annual Subsidy Rate</u>
<u>Order 97-9-31</u>			
El Dorado	Dallas	Three	El Dorado and
Jonesboro	Dallas (via El Dorado)	Two	Jonesboro--
Harrison	St. Louis (via Mountain Home) & Dallas (via Hot Springs)	Two Two	\$1,886,693
Hot Springs	St. Louis (via Mountain Home & Harrison) and Dallas	Two Three	Harrison and Hot Springs-- \$2,099,224
<u>Order 97-4-29</u>			
Enid	Dallas (via Ponca City)	Four	Enid and Ponca
Ponca City	Dallas (via Enid)	Four	City--\$1,534,795
Brownwood	Dallas	Three	Brownwood-- \$807,717

¹ AMA has a statutory obligation (49 U.S.C. 41734) to continue to provide essential air service at the seven points at issue here until a replacement carrier has been selected and actually begins the required service. If AMA leaves the markets at issue here before replacement service begins, we will refer this case to the Department's Enforcement Office.

The Department's responsibility, under 49 U.S.C. 41731 *et seq.*, is to ensure that essential air service is provided at all eligible communities. In an effort to avoid a service hiatus, we will use expedited procedures to secure emergency replacement service and will shorten the normal deadline for proposals to be submitted--from 30 days to ten (10) after the issue date of this order. We have been in contact with carriers operating in the three-state area and encouraged them to consider providing emergency replacement service. Should we receive proposals from more than one carrier, the staff will contact the civic parties and States to request their comments on the selection of a replacement carrier.

For carriers interested in submitting proposals for long-term replacement service, we request proposals for service comparable to that currently being provided, as outlined above, or to any other suitable hub, with 15-seat or larger aircraft.

In order to assist applicants in the development of reasonable traffic and revenue projections, Appendix B shows historical traffic data for the seven communities.

Community and State Comments

Because we are handling this case on an expedited basis, we encourage the communities to submit their comments by telephone followed by faxed responses.²

Procedures for Filing Replacement Proposals

For interested carriers unfamiliar 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), and discusses in detail the process of requesting proposals, conducting reviews of applicants, and selecting a replacement carrier. The second is an evidence request containing an explanatory statement, a copy of Part 204 of our regulations (14 CFR 204), and schedules setting forth our recommended form for submitting data required for calculating compensation and determining the financial and operational ability of applicants to provide reliable essential air service. (Section 204.4 describes the fitness information required of all applicants for authority to provide essential air service.) Applicant carriers that have already submitted this information in another case need only resubmit it if a substantial change has occurred. However, if there are more recent data or if there have been any changes to the information on file, carriers should provide updates of those information elements. Interested carriers that need to obtain copies of these documents may contact the Office of Aviation Analysis at (202) 366-1053.

² Please address phone calls to Linda Prete, EAS and Domestic Analysis Division, at 202-366-1051 and faxes to 202-366-7638.

Other Carrier Requirements

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.³ 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 the 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.

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

ACCORDINGLY,

1. The Department directs Exec Express, II, d/b/a Aspen Mountain Air to maintain service at the service levels and subsidy rates set forth in Orders 97-4-29 and 97-9-31 at El Dorado/Camden, Jonesboro, Harrison, and Hot Springs, Arkansas; Enid and Ponca City, Oklahoma; and Brownwood, Texas, until a carrier capable of providing reliable essential air service actually begins service;
2. The Department requests carriers interested in providing essential air service at El Dorado/Camden, Jonesboro, Harrison, and Hot Springs, Arkansas; Enid and Ponca City, Oklahoma; and Brownwood, Texas, as discussed in this order, to file proposals within ten (10) days of the issue date of this order. Proposals must include all data required by section 204.4 of our Regulations (14 CFR 204.4). An original and five copies of the proposals should be sent to EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, with the title "Proposal to Provide Essential Air Service at El Dorado/Camden, Jonesboro, Harrison, Hot Springs, Enid, Ponca City, and/or Brownwood";⁴

³ The regulations applicable to each of these three areas are (1) 49 CFR Part 20, New Restrictions on Lobbying, implementing 31 U.S.C. 1352, entitled "Limitation of 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; and (3) 49 CFR Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964; 49 CFR Part 27, Nondiscrimination on the Basis of 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.

⁴ Please include relevant Docket numbers listed on the first page of this order. After the proposals have been docketed, Department staff will contact each applicant and direct it to serve a copy of its proposal on the civic officials of the communities, the States of Arkansas, Oklahoma, and Texas, and other applicants.

3. The Department requests that the communities and States submit their initial comments on the carrier proposals within five (5) days after they receive the proposals. Fax transmissions and telephone calls are encouraged followed by hard-copy;
4. These dockets will remain open until further order of the Department; and
5. We will serve a copy of this order on the Mayors and airport managers of El Dorado/Camden, Jonesboro, Harrison, and Hot Springs, Arkansas, Enid and Ponca City, Oklahoma, and Brownwood, Texas, the Governors of Arkansas, Oklahoma, and Texas, the States' Departments of Transportation, Exec Express II, d/b/a Aspen Mountain Air, and the parties listed in Appendix D.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at
<http://dms.dot.gov>
The electronic version may not include all of the appendices*

All applicants must then file a certificate of service with the Department's Documentary Services Division.

HISTORICAL TRAFFIC AND ENPLANEMENTS
AT HARRISON, ARKANSAS

<u>Year</u>	<u>To Dallas/Ft. Worth</u>		<u>To St. Louis</u>		<u>Total 1/</u>	
	<u>O&D</u>	<u>Daily Enpl.</u>	<u>O&D</u>	<u>Daily Enpl.</u>	<u>O&D</u>	<u>Daily Enpl.</u>
1991	1,737	5.5 <u>2/</u>	2,944	4.7	5,156	8.2
1992	4,517	7.2	2,363	3.8	7,144	11.4
1993	4,174	6.7	2,280	3.6	6,771	10.8
1994	3,729	6.0	2,185	3.5	6,312	10.1
<u>1995</u>						
1st Qtr	655		371		1,164	
2nd Qtr	827		598		1,587	
3rd Qtr	850		492		1,450	
4th Qtr	<u>650</u>		<u>392</u>		<u>1,105</u>	
YE	2,982	4.8	1,853	3.0	5,306	8.5
<u>1996</u>						
1st Qtr	427		159		700	
2nd Qtr	612		188		912	
3rd Qtr	430		145		663	
4th Qtr	<u>293</u>		<u>122</u>		<u>501</u>	
YE	1,762	2.8	614	1.0	2,776	4.4
<u>1997</u>						
1st Qtr	172		92		478	
2nd Qtr	473		157		719	
3rd Qtr	556		172		772	
4th Qtr	<u>742</u>		<u>229</u>		<u>1,032</u>	
YE	1,943	3.1	650	1.0	3,001	4.8
<u>1998</u>						
1st Qtr	<u>431</u>		<u>181</u>		<u>788</u>	
YE 3/31/97	2,202	3.5	739	1.2	3,311	5.2

SOURCE: RSPA Form 298-C, Schedule T-1. Enplanements are based on 313 service days per year.

1/ Total includes all destinations on Aspen Mountain Air's system.

2/ Based on 152 service days because the carrier began Dallas/Ft. Worth service in mid-1991.

HISTORICAL TRAFFIC AND ENPLANEMENTS
AT HOT SPRINGS, ARKANSAS

Year	To Dallas/Ft. Worth		To St. Louis		Total ¹	
	O&D	Daily Enpl.	O&D	Daily Enpl.	O&D	Daily Enpl.
1991	5,732	9.2	413	0.7	6,368	10.2
1992	6,201	9.9	1,110	1.8 ²	7,868	12.6
1993	6,312	10.1	1,454	2.3	8,262	13.2
1994	7,177	11.5	1,501	2.4	9,307	14.9
<u>1995</u>						
1st Qtr	1,331		175		1,684	
2nd Qtr	1,551		306		2,076	
3rd Qtr	1,572		241		1,831	
4th Qtr	<u>1,394</u>		<u>167</u>		<u>1,647</u>	
YE	5,848	9.3	889	1.4	7,220	11.5
<u>1996</u>						
1st Qtr	1,104		85		1,335	
2nd Qtr	1,541		67		1,770	
3rd Qtr	1,64	3	107		1,866	
4th Qtr	<u>1,189</u>		<u>84</u>		<u>1,404</u>	
YE	5,477	8.7	343	0.5	6,375	10.2
<u>1997</u>						
1st Qtr	882		29		1,150	
2nd Qtr	1,591		66		1,798	
3rd Qtr	1,774		67		1,942	
4th Qtr	<u>1,995</u>		<u>65</u>		<u>2,215</u>	
YE	6,242	10.0	227	0.4	7,105	11.3
<u>1998</u>						
1st Qtr	<u>1,557</u>		<u>29</u>		<u>1,846</u>	
YE	6,917	11.0	227	0.4	7,801	12.5

SOURCE: RSPA Form 298-C, Schedule T-1. Enplanements are based on 313 service days per year.

¹ Total includes all destinations on Aspen Mountain Air's system.

² Based on 152 service days because the carrier began service from Hot Springs to St. Louis in mid-1991.

HISTORICAL TRAFFIC AND ENPLANEMENTS
AT EL DORADO/CAMDEN AND JONESBORO, ARKANSAS

Year	<u>El Dorado/Camden</u>		<u>Jonesboro</u>	
	<u>O&D</u>	Daily <u>Enpl.</u>	<u>O&D</u>	Daily <u>Enpl.</u>
1991	4,590	7.3	546	0.9
1992	7,979 ¹	12.7	909 ²	1.5
1993	6,504	10.4	7,682	12.3
1994	7,087	11.3	7,144	11.4
<u>1995</u>				
1st Qtr	1,304		1,143	
2nd Qtr	1,686		1,138	
3rd Qtr	1,670		1,168	
4th Qtr	<u>1,468</u>		<u>1,355</u>	
YE	6,128	9.8	4,804	7.7
<u>1996</u>				
1st Qtr	943		967	
2nd Qtr	908		1,063	
3rd Qtr	1,054		1,050	
4th Qtr	<u>766</u>		<u>929</u>	
YE	3,671	5.9	4,009	6.4
<u>1997</u>				
1st Qtr	472		500	
2nd Qtr	608		878	
3rd Qtr	805		1,192	
4th Qtr	<u>1,171</u>		<u>1,778</u>	
YE	3,056	4.9	4,348	6.9
<u>1998</u>				
1st Qtr	<u>989</u>		<u>1,456</u>	
YE	3,573	5.7	5,304	8.5

SOURCE: RSPA Form 298-C, Schedule T-1. Enplanements are based on 313 service days per year.

¹ Lone Star operated service from El Dorado/Camden to both Dallas/Ft. Worth and Memphis until December 20, 1992, when service to Memphis was discontinued.

² Lone Star began Jonesboro to Dallas/Ft. Worth service in lieu of Memphis service on December 20, 1992.

HISTORICAL ENPLANEMENTS
AT ENID AND PONCA CITY, OKLAHOMA,
AND BROWNWOOD, TEXAS

Year	<u>Enid</u>		<u>Ponca City</u>		<u>Brownwood</u>	
	<u>Enpl</u>	<u>Daily Enpl.</u>	<u>Enpl</u>	<u>Daily Enpl.</u>	<u>Enpl</u>	<u>Daily Enpl.</u>
1991	1,754	5.6	2,605	8.3	1,323	4.2
1992	2,191	7.0	3,371	10.8	1,395	4.5
1993	2,276	7.3	3,863	12.3	1,536	4.9
1994	3,878	12.4	4,175	13.3	1,959	6.3
<u>1995</u>						
1st Quarter	656		959		488	
2nd Quarter	707		1,118		526	
3rd Quarter	729		1,056		518	
4th Quarter	<u>685</u>		<u>931</u>		<u>435</u>	
YE	2,777	8.9	4,064	13.0	1,967	6.3
<u>1996</u>						
1st Quarter	418		636		299	
2nd Quarter	428		662		321	
3rd Quarter	400		536		276	
4th Quarter	<u>329</u>		<u>430</u>		<u>206</u>	
YE	1,575	5.0	2,264	7.2	1,102	3.5
<u>1997</u>						
1st Quarter	218		302		101	
2nd Quarter	373		475		171	
3rd Quarter	437		539		313	
4th Quarter	<u>675</u>		<u>860</u>		<u>315</u>	
YE	1,703	5.4	2,176	7.0	900	2.9
<u>1998</u>						
1st Quarter	<u>563</u>		<u>652</u>		<u>367</u>	
YE	2,048	6.5	2,526	8.1	1,166	3.7

SOURCE: RSPA Form 298-C, Schedule T-1. Enplanements per day, based on 313 service days each year.

ESSENTIAL AIR SERVICE DETERMINATIONS

<u>Community</u>	<u>Hub (stops allowed)</u>	<u>Frequency</u>	<u>Inbound and Outbound Seats</u>	
			<u>14-seat or less</u>	<u>15-seat or more</u>
<u>Arkansas</u>				
El Dorado/Camden	DFW (1)	2wd/2we	--	17
Harrison	STL (1) + DFW (1)	2wd/2we	--	18
Hot Springs	DFW (1)	2wd/2we	--	22
Jonesboro	DFW (1) or MEM (0)	2wd/2we	--	No specific seat requirement
<u>Oklahoma</u>				
Enid	DFW (1), OKC (1) or TUL (1)	2wd/2we	--	11
Ponca City	DFW (1), OKC (1) or TUL (1)	2wd/2we	20	17
<u>Texas</u>				
Brownwood	DFW (0)	2wd/2we	--	9

SERVICE LIST FOR THE STATE OF ARKANSAS

ACT International Airlines, Inc.	Chester Anderson
Aero Freight, Inc.	Louis Andrews
Amerijet International, Inc.	Ken Bannon
Aspen Airways, Inc.	Moise Berger
Conquest Airlines Corporation	Richard Cass
Corporate Aviation Services, Inc.	Richard Thomas Clarke
Cotton Belt Aviation, Inc.	E.B. Freeman
Delta Connection	A. Edward Jenner
Express Airlines I, Inc.	Keith Kahle
Express Airlines II, Inc.	Helen McCoy
GPEXpress Airlines, Inc.	John McFarlane
Grand Airways, Inc.	Richard A. Raymer
Gunnell Aviation, Inc.	D.E. Rowan
L'Express, Inc.	Andrew Spinks
Laredo Air, Inc.	Kevin Thomas
Las Vegas Airlines, Inc.	Larry Tiffin
Metro Express II, Inc.	Robert Wigmore
Metroflight, Inc.	
Midway Airlines, Inc.	
Midwest Express Airlines, Inc.	
Multi Aero, Inc.	
Northwest Airlink	
Patterson Aviation Company	
Redwing Airways, Inc.	
Rocky Mountain Helicopters, Inc.	
Ross Aviation, Inc.	
Scenic Airlines, Inc.	
Sun Pacific Airlines, Inc.	
Texas National Airlines, Inc.	
Trans States Airlines, Inc.	

SERVICE LIST FOR THE STATE OF TEXAS

ACT International Airlines, Inc.	Francis Armstrong
Aero Freight, Inc.	Ken Bannon
Air L.A., Inc.	E.B. Freeman
Air Midwest, Inc.	Ben Harrison
Air Transport, Inc.	A. Edward Jenner
Amerijet International, Inc.	Keith Kahle
Aspen Airways, Inc.	Wes Marden
Blue Ridge Airlines	Helen McCoy
Delta Connection	John McFarlane
Exec Express II, Inc.	Andy Pike
Indianapolis Heliport Corporation	D.E. Rowan
L'Express, Inc.	William C. Seigler
Laredo Air, Inc.	Andrew Spinks
Lone Star Airlines, Inc.	Kevin Thomas
Mesa Airlines, Inc.	Wayne Trawick
Metroflight, Inc.	Robert Wigmore
Midway Airlines, Inc.	
Midwest Express Airlines, Inc.	
Multi Aero, Inc.	
Northwest AirlinK	
Premier Aviation Services, Inc.	
Ross Aviation, Inc.	
Texas National Airlines, Inc.	

SERVICE LIST FOR THE STATE OF OKLAHOMA

ACT International Airlines, Inc.	Francis Armstrong
Aero Freight, Inc.	Ken Bannon
Air Midwest, Inc.	E.B. Freeman
Amerijet International, Inc.	A. Edward Jenner
Conquest Airlines Corporation	Keith Kahle
Corporate Aviation Services, Inc.	Wes Marden
Delta Connection	John McFarlane
Exec Express II, Inc.	Andrew Spinks
Lone Star Airlines, Inc.	Kevin Thomas
Metroflight, Inc.	Wayne Trawick
Midway Airlines, Inc.	Robert Wigmore
Midwest Express Airlines, Inc.	
Multi Aero, Inc.	
Northwest Airlink	
Redwing Airways, Inc.	
Renown Aviation, Inc.	
Texas National Airlines, Inc.	
Trans States Airlines, Inc.	