



UNITED STATES OF AMERICA Order 98-
12-7
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Served December 9, 1998

Issued by the Department of Transportation
on the 7th day of December 7, 1998

Essential Air Service at

CAPE YAKATAGA, ALASKA
ICY BAY, ALASKA

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

Docket OST 1996-2009

**ORDER TENTATIVELY RESELECTING CARRIER
AND SETTING SUBSIDY RATE**

Summary

By this order we are tentatively reselecting Gulf Air Taxi, Inc. to provide subsidized essential air service at Cape Yakataga and Icy Bay, Alaska, for the two-year period beginning November 1, 1998, through October 31, 2000, at an annual subsidy rate of \$48,265. (See Appendix A for a map.)

Background

Gulf Air Taxi was most recently selected to provide essential air service at Cape Yakataga and Icy Bay by Order 96-12-6. The subsidy rate of \$38,852 established by that order expired on October 31, 1998.

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. Consistent with that practice, when we contacted Gulf Air Taxi we were advised that the carrier was interested in continuing to provide Cape Yakataga and Icy Bay service for a new rate term and would submit a service proposal.

Carrier Service Proposal

Gulf Air Taxi has proposed to continue operating the historical Yakutat service pattern of three round trips per week to Cape Yakataga and Icy Bay during the peak period and two round trips per week to Icy Bay and one round trip per week to Cape Yakataga during the off peak period. All service would be provided with either Cessna 185 or 206 aircraft. Based on informal rate discussions held between the carrier and the Department staff, an annual subsidy rate of \$48,265 has been agreed upon for each year of the new rate term.

Essential Air Service Determination

The essential air service determination for each community, as established by Order 90-5-20, requires that service be provided to either Cordova or Yakutat with a maximum of two intermediate stops. Icy Bay is to receive four round trips per week during the peak season and three round trips per week during the off-peak season. Cape Yakataga's service may be provided on a flagstop basis at a level of four round trips per week during the peak season and two round trips per week during the off-peak season. The level of service proposed by Gulf Air Taxi is slightly less than the defined level at both points; however, Fishing and Flying provides one subsidy-free round trip a week between both communities and Cordova. Continuation of Gulf Air's current service is in keeping with the historical service at the communities and appears adequate to accommodate recent demand based on recent traffic levels.

Tentative Reselection

Based on our review of Gulf Air's proposal and its service at Cape Yakataga and Icy Bay we have tentatively decided to reselect the carrier for an additional two-year period as detailed in Appendix C, for an annual subsidy rate of \$48,265. We find both the service and the subsidy aspects of the Gulf Air Taxi proposal to be reasonable. The service, in conjunction with Fishing and Flying's service to Cordova, meets the communities' essential air levels, Gulf Air's performance continues to be reliable, and the communities have historically been supportive of the service offered by the carrier.

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.

Carriers interested in filing competing proposals, with or without subsidy requests, should file them within the 20-day period set for objections. At the end of that period, our staff will docket any competing proposals, thereby making them public, and direct each carrier to serve a copy of its proposal on the civic parties and other applicants. Each applicant, including the incumbent, will then have an opportunity to finalize its proposal in rate discussions with Department staff before we seek final community comments. We will give full consideration to all proposals that are timely filed.

Procedures for Filing 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.

Community and State Comments

If we receive competing proposals, the communities and State are welcome to submit comments on the proposals at any time.¹ 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.²

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.

¹ Civic parties should file an original and five copies of their comments in Docket OST 1996-2009. This filing should be addressed to: Documentary Services Division, Docket Section, SVC-124.10, Office of the Secretary, U.S. Department of Transportation, Room PL-401, 7th Street, S.W., Washington D.C. 20590.

² In cases where a carrier proposes to provide full 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 rely on the carrier's subsidy free-service.

³ The regulations applicable to each of these three areas are (1) 49 CFR Part 20, New Restrictions of 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; 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.

Carrier Fitness

49 U.S.C. 41737(b) and 41738 require that we find a carrier fit, willing, and able to provide reliable service before we may compensate it for essential air service. We last found Gulf Air Taxi, Inc. fit to provide limited scheduled passenger service as an air taxi by Order 96-12-6, December 9, 1996. The Department has routinely monitored the carrier's continuing fitness, and no information has come to our attention that would lead us to question its ability to operate in a reliable manner. Based on our review of its most recent submissions, we find that Gulf Air Taxi, Inc. continues to have available adequate financial and managerial resources to maintain reliable service at Cape Yakataga and Icy Bay, and that it continues to possess a favorable compliance disposition. The Federal Aviation Administration has advised us that the carrier is conducting its operations in accordance with its regulations, and knows of no reason why we should not find that Gulf Air Taxi, Inc. remains fit.⁴

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

ACCORDINGLY,

1. The Department tentatively reselects Gulf Air Taxi, Inc. to provide essential air service at Cape Yakataga and Icy Bay, Alaska, as described in Appendix C, for the period beginning November 1, 1998, through October 31, 2000;

2. The Department sets the final rate of compensation for Gulf Air Taxi, Inc. for the provision of essential air service at, Cape Yakataga and Icy Bay, Alaska, at \$48,2655 per year, as described in Appendix C, payable as follows: for each calendar month during which essential air service is provided, the amount of compensation shall be subject to the ceiling per week during the peak period of \$1,166.14 and during the off-peak period of \$690.22 and shall be determined by multiplying the number of subsidy eligible available seat miles operated during the month by \$0.36950;⁵

⁴ The fitness finding affirmed in this order authorized Gulf Air Taxi to provide subsidized essential air service at Cape Yakataga and Icy Bay, but does not authorize the carrier to conduct operations as a commuter air carrier. If, at some time in the future, Gulf Air desires to operate as a commuter air carrier (carry passengers on five or more round trips per week in at least one market according to a published flight schedule), it will be necessary for Gulf Air to seek specific commuter authorization in accordance with Parts 204 and 298 of our rules.

⁵ See Appendix C for calculations.

3. The Department finds Gulf Air Taxi, Inc fit, willing, and able to provide limited scheduled service, and capable of providing reliable essential air service at Cape Yakataga and Icy Bay, Alaska;

4. The Department requests that interested parties show cause within 20 days of the date of service of this order why we should not make final the tentative findings and conclusions set forth above. Objections should be filed with the Documentary Services Division, SVC-124.10, 400 7th Street, S.W., Washington, D.C. 20590. Carriers interested in filing competing proposals to serve Cape Yakataga and Icy Bay, Alaska, should submit their proposals, with subsidy requests if necessary, within 20 days of the date of service of this order. Proposals should include all the data required by section 204.4 of our Regulations (14 CFR 204.4). An original and five copies of the proposal should be sent to the 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 Cape Yakataga and Icy Bay, Alaska Docket-1996-2009";

5. In the event timely objections or competing proposals are filed, the rate tentatively established in ordering paragraph (2) above, shall be effective as a final rate until further Department action;

6. If no objections or competing proposals are filed, all further procedural steps will be deemed to have been waived, and the carrier reselection tentatively made by this order shall become effective on the twenty-first day after the date of service of this order;

7. The Department directs Gulf Air Taxi, Inc to retain all books, records, and other source and summary documentation to support subsidy claims for payment and to preserve and maintain such documentation in a manner that readily permits its 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;

8. This docket will remain open until further order of the Department; and

9. The Department will serve a copy of this order on the communities of Cape Yakataga and Icy Bay, the Governor of Alaska, the Alaska Department of Transportation and Public Facilities, Gulf Air Taxi Inc., and the carriers 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

EAS Map Will Be Supplied
On Request (202) 366-1055

Annual Compensation Projection
For Essential Air Service At
Cape Yakataga and Icy Bay, Alaska

Block Hours: 1/ 258.0

<u>Revenue Estimate</u>	<u>Psgrs.</u>	<u>Fare</u> (\$)	<u>Totals</u> (\$)
Cape Yakatga	20	92.59	1,852
Icy Bay	211	74.42	15,703
Cargo (pounds)	33,388	.25	8,347
Lumber camp			<u>3,300</u>
Total Revenue			29,202

	<u>Block Hours</u>	<u>Rate per Block Hr.</u> (\$)	<u>Totals</u> (\$)
<u>Direct Expense</u>			
Pilot & Copilot	258	44.68	11,527
Fuel & Oil	258	43.14	11,130
Insurance	258	30.00	7,740
Maintenance	258	70.00	18,060
Depreciation	258	25.00	<u>6,450</u>
Subtotal			54,907

<u>Indirect Expense</u>			
Dispatch and Flight Following	325	17.10	5,558
Overhead	258	38.50	<u>9,933</u>
Subtotal			15,491

Total Operating Expense			70,398
Interest Expense			3,549
Return (at 5% of TOC)			<u>3,520</u>
Total Economic Cost			77,467

Annual subsidy need			
At 100% completion			48,265

1/ Annual block hours at 2.1 block hours per YAK-ICY-CYT-YAK trip and 1.5 block hours per YAK-ICY-YAK trip.

Peak period:	2.1hrs. x 3rts per week x 26weeks =	164.0 hrs
Off-peak period:	2.1hrs. x 1rt per week x 26weeks =	55.0 hrs
	1.5hrs. x 1rt per week x 26weeks =	<u>39.0 hrs</u>
Total		258.0 hrs

**ESSENTIAL AIR SERVICE
TO BE PROVIDED AT CAPE YAKATAGA AND ICY BAY**

EFFECTIVE PERIOD: For a two-year period from November 1, 1998
Through October 31, 2000

SERVICE:¹ Peak: (3rt per week) Yakutat-Icy Bay-Cape
Yakataga-Yakutat
Off-peak: (1rt per week) Yakutat-Icy Bay-Cape
Yakataga-Yakutat
Off-peak: (1rt per week) Yakutat-Icy Bay-Yakutat

AIRCRAFT TYPE: Cessna 185 or Cessna 206 (4 passenger seats)

RATE PER ASM:² \$0.36950

WEEKLY COMPENSATION

CEILING:³ Peak:⁴ \$1,166.14
Off-peak⁵ \$ 690.22

Appendix C
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NOTE

The carrier understands that it may forfeit its compensation for any flights that it does not operate in conformance with the terms and stipulations of the rate order, including the service plan outlined in the order and any other significant elements of the required service, without prior approval.

¹ Gulf Air Taxi would be allowed to operate service via intermediate points provided such service does not result in more than two stops in Cape Yakataga-Yakutat or Icy Bay-Yakutat markets.

² Annual subsidy \$48,265 divided by 130,624 annual available seat miles calculated as follows:

Peak period: ((263mi x 3rts/wk) x 4 seats) = 3,156 x 26 = 82,056asm
Off-peak period: ((263mi x 1rt/wk) x 4 seats) = 1,052 x 26 = 27,352asm
Off-peak period: ((204mi x 1rt/wk) x 4 seats) = 816 x 26 = 21,216asm
130,624asm

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 Peak period:

(263mi x 3rts/wk) x 4 seats = 3,156 x \$.36950 = \$1,166.14

⁵ Off-peak period:

(263mi x 1rt/wk) x 4 seats = 1,052 x \$.36950 = \$388.71

(204mi x 1rt/wk) x 4 seats = 816 x \$.36950 = \$301.51
\$690.22

The carrier understands that an aircraft take-off and landing at its scheduled destination constitutes a completed flight; absent an explanation supporting subsidy eligibility for a flight that has not been completed, such as certain weather cancellations, only completed flights are considered eligible for subsidy. In addition, if the carrier does not schedule or operate its flights in full conformance with this order for a significant period, it may jeopardize its entire subsidy claim for the period in question. If the carrier contemplates any such changes beyond the scope of the order during the applicable period of this rate, it must first notify the Office of Aviation Analysis in writing and receive written approval from the Department to be assured of full compensation. Should circumstances warrant, the Department may locate and select a replacement carrier to provide service on these routes. The carrier must complete all flights that can be safely operated; flights that overfly points for lack of traffic will not be compensated. In determining whether subsidy payment for a deviating flight should be adjusted or disallowed, the Department will consider the extent to which the goals of the program are met and the extent of access to the national air transportation system provided to the community.

If the Department unilaterally, either partially or completely, terminates or reduces payments for service or changes service requirements at a specific location provided for under this agreement, then, at the end of the period for which the Department does make payments in the agreed amounts or at the agreed service levels, the carrier may cease to provide service to that specific location without regard to any requirement for notice of such cessation. Those adjustments in the levels of subsidy and/or service that are mutually agreed to in writing by the parties to the agreement do not constitute a total or partial reduction or cessation of payment.

Subsidy contracts are subject to, and incorporate by reference, relevant statutes and Department regulations, as they may be amended from time to time. However, any such statutes, regulations, or amendments thereto shall not operate to controvert the foregoing paragraph.

Service List To This Order
Will Be Supplied On Request (202) 366-1055