

Order 99-4-8
Served: April 15, 1999



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

Issued by the Department of Transportation
on the 12th day of April, 1999

Essential Air Service at:

MERCED, CALIFORNIA

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

Docket OST 98-3521

ORDER TENTATIVELY RESELECTING CARRIER

SUMMARY

By this order we are tentatively reselecting SkyWest Airlines, Inc., to provide subsidized essential air service at Merced, California, for the two-year period May 1, 1999, through April 30, 2001, at an annual rate of \$951,271.

BACKGROUND

SkyWest Airlines replaced Mesa Airlines' service to Merced in June 1998 as part of a comprehensive transfer of service obligations and subsidy rates between various United Express carriers. (See Order 98-3-32, which confirmed the transfers.) Under that transfer of obligations, SkyWest accepted the subsidy rate of \$750,890 that was previously established for Mesa and was scheduled to be effective through April 30, 1999. At the time of the route and subsidy transfer on June 1, 1998, Mesa was providing four nonstop round trips a day to San Francisco with 19-seat Jetstream 31 aircraft, and SkyWest has since provided three nonstop round trips a day to San Francisco with 30-seat Embraer Brasilia aircraft.

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 SkyWest Airlines to submit a proposal for continuation of essential air service at Merced.

CARRIER SERVICE PROPOSAL

In response to our inquiry SkyWest indicated its desire to continue to serve Merced but requested that the Department authorize it to serve Los Angeles instead of San Francisco. Community officials of Merced support the change in hub to Los Angeles, and our analysis of the several options that SkyWest submitted shows that service to Los Angeles would generate more traffic and revenue and require less subsidy support than the continuation of service to San Francisco. As a result, the Department and SkyWest negotiated a renewal proposal for an additional two-year rate term for Merced-Los Angeles service. (See Appendix B to this order for a summary of the subsidy computation for SkyWest Airlines.) Merced would receive two nonstop round trips per day and one one-stop round trip per day. Based on informal rate discussions held between the carrier and the Department staff, an annual subsidy rate of \$951,271 has been agreed upon for each year of the new rate term.

TENTATIVE RESELECTION

We will tentatively reselect SkyWest to provide essential air service at Merced, as detailed in Appendix C, for an additional two-year period, from May 1, 1999, through April 30, 2001, for an annual subsidy of \$951,271. SkyWest has provided reliable service at the community, and the rate appears reasonable for the level of service to be provided. The proposed rate continues to reflect the same frequency of service and aircraft as currently provided by SkyWest--three round trips a day with 30-seat Brasilias. However, the hub will change from San Francisco to Los Angeles, and one of the round trips will now be offered on a one-stop basis over Visalia.

The new rate is a significant increase from the current subsidy level of \$750,890 which SkyWest had agreed in June 1998 to adopt from Mesa, and which had been based on Mesa's service with significantly smaller and less expensive 19-seat Jetstream 31 aircraft.¹ SkyWest's subsidy need is higher because of the more expensive 30-seat equipment, not because of the change in hub. In fact, for a three-round-trip-a-day service pattern, service to Los Angeles showed significantly lower subsidy need than to San Francisco because projected passenger revenue to Los Angeles was more than double that to San Francisco, outweighing the increased expense of operating to the more distant Los Angeles.

OBJECTIONS OR PROPOSALS

As is our usual program practice, 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.

¹ Order 98-3-32 transferred the service obligations and subsidy rates at a number of subsidized essential air service communities from one United Express carrier to other United Express carriers at the same terms and conditions. See that order for a full discussion.

Essential air service for Merced as determined by Order 87-6-53 requires service to either San Francisco or Los Angeles with a minimum of two round trips a day and nonstop service required to San Francisco and one-stop service to Los Angeles.

As a general matter, we request proposals that would meet Merced's essential air service requirements. We will entertain proposals contemplating alternative service, especially if they would reduce required levels of subsidy and have community support. Competing proposals should provide service to Los Angeles, San Francisco, or any other suitable hub city. All service should consist of at least three round trips a day, six days a week to the hub, and be provided with 15-seat or larger aircraft.

SERVICE HISTORY AND TRAFFIC DATA

SkyWest Airlines has served this community since it replaced Mesa on June 1, 1998. For the six months ended December 31, 1998, SkyWest transported 4,944 O & D passengers between Merced and San Francisco. In order to help carriers in their passenger and revenue forecasts, we have included historical traffic data in Appendix D.

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) 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

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 would 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. 41737(b) and 41738 require that we find a carrier fit, willing, and able to provide reliable service before we pay it compensation for essential air service. In that regard, SkyWest Airlines has operated successfully for many years as a certificated carrier. SkyWest remains subject to the Department's continuing fitness monitoring, and no information has come to our attention that would lead us to question the carrier's fitness. 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 SkyWest Airlines remains fit. Therefore, we conclude that the carrier remains fit to conduct the operations proposed here.

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

ACCORDINGLY,

³ Civic parties should file an original and five copies of their comments in Docket OST-98-3521. Comments should be addressed to: Documentary Services Division, Docket Section, SVC 124.1, 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 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.

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 Civic 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.

1. The Department tentatively reselects SkyWest Airlines, Inc., to provide essential air service at Merced, California, for the two-year period from May 1, 1999, through April 30, 2001;
2. The Department tentatively sets the final rate of compensation for SkyWest Airlines, Inc., for the provision of essential air service at Merced, California, for the two-year period from May 1, 1999, through April 30, 2001, at \$951,271 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 weekly ceilings and shall be determined by multiplying the subsidy-eligible departures from and arrivals at the hub completed during the month by \$546.42.76;⁶
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 May 1, 1999, until further Department action;
4. This rate is in lieu of, and not in addition to that set by Order 98-3-32;
5. We find that SkyWest Airlines, Inc., continues to be fit, willing, and able to operate as a certificated air carrier and is capable of providing reliable air service at Merced, California;
6. We direct SkyWest Airlines, 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;
7. This docket will remain open until further order of the Department; and

⁶ See Appendix C for calculation.

8. We will serve a copy of this order on the Mayor and airport manager of Merced, California, the California Department of Transportation, SkyWest Airlines, Inc., and the carriers listed in Appendix E.

By:

A. Bradley Mims
Acting Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web
http://dms.dot.gov/reports/reports_aviation.asp*

Essential Air Service to be Provided at Merced, California
Docket 98-3521

MCE-LAX @ \$80	10,670	\$853,600
MCE-VIS @ \$28	3,557	\$99,596
Passenger/Revenue	14,227	\$953,196
Other Revenue @ 1%		\$9,532
Total Revenue		\$962,728
Block Hours 1/		1,838
Weighted Departures 2/		46,061
ASMs 3/		10,830,456
Pilot Expenses @ \$132.99/hr.		\$244,436
Fuel Expenses @ \$93.31/hr.		\$171,504
Other @ \$38.77/hr.		\$71,259
Maintenance @ \$227.23/hr. 4/		\$417,649
Aircraft Rent & Depr. @ \$162.13/hr.		\$297,995
Direct Expenses		\$1,202,843
Flt. Attendant @ \$24.21/ hr.		\$44,498
Tff. Related @ \$6.18/pax. 5/		\$73,634
Departure Related @ \$6.69/wtd. dep.6/		\$308,148
Capacity Related @ \$.0163 7/		\$176,536
Indirect Expenses		\$602,816
Operating Expense		\$1,805,659
Return @ 5%		\$90,283
Interest @ 1%		\$18,057
Total Economic Cost		\$1,913,999
Annual Subsidy @ 95% Completion		\$951,271

1/ MCE-LAX: 24 flts./week x 52 weeks x 78 minutes x .95/60 = 1,541

 MCE-VIS: 12 flts./week x 52 weeks x 30 minutes x .95/60 = 296

1,837

2/ 36 flts./week x 52 weeks x 25.9 weight x .95 = 46,061

3/ MCE-LAX: 24 flts./week x 52 weeks x 259 miles x 30 seats x .95 = 9,212,112

 MCE-VIS: 12 flts./week x 52 weeks x 91 miles x 30 seats x .95 = 1,618,344

10,830,456

4/ Includes \$70.02/hr. projected overhaul expense.

5/ Traffic related expenses on the MCE-VIS segment are decreased by a 28/80 ratio.

6/ System costs, Jets weighted @ 51 and Brasilias @ 25.9.

7/ \$1,712,768 of Overhauls in the base period were deleted from this cost pool, so that projected overhaul expense could be used instead in maintenance expense.

SkyWest Airlines, Inc., Essential Air Service to be Provided to Merced, California Docket OST-98-3521

Effective Period: May 1, 1999, through April 30, 2001

Scheduled Service: Merced-Los Angeles, 12 nonstop and 6 one-stop round trips each week to Los Angeles

Aircraft: Embraer Brasilias

Rate per Los Angeles Departure/Arrival¹ \$546.42

Weekly Ceiling: \$19,671.12²

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. 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 these rates, 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 order, 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.

¹ Annual compensation of \$971,527 divided by the estimated annual completed departures and arrivals at a 95 percent completion factor:

36 departures/arrivals x 52 weeks x .95 = 1,778 total.

² Subsidy rate per arrival/departure at Los Angeles of \$546.42 multiplied by 36 subsidy-eligible arrivals and departures each week.

Historical Traffic Carried by WestAir at Merced, California

<u>Quarter Ended</u>	<u>Merced to San Francisco</u>	<u>San Francisco to Merced</u>
March 31, 1998	675	679
December 31, 1997	914	955
September 30, 1997	1,106	1,046
June 30, 1997	535	855
March 31, 1997	271	737
December 31, 1996	298	496
September 30, 1996	566	624
June 30, 1996	637	607

Source: Form 298C, Schedule T-1