



Order 99-11-7

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

Issued by the Department of Transportation
on the 10th day of November, 1999

Served: November 15, 1999

Essential Air Service at
CRESCENT CITY, CALIFORNIA
under 49 U.S.C. 41731 *et seq.*

Docket OST-97-2649

**ORDER TENTATIVELY SELECTING CARRIER
AND SETTING FINAL RATES**

Summary

By this order, the Department is tentatively reselecting SkyWest Airlines, Inc., d/b/a United Express, to continue providing subsidized essential air service at Crescent City, California, for a new two-year period, from January 1, 2000, through December 31, 2001, at an annual subsidy rate of \$314,865.

Background

By Order 97-6-29, issued June 25, 1997, the Department selected WestAir Commuter Airlines, Inc., a subsidiary of Mesa Airlines, Inc. (now Mesa Air Group), to provide subsidized essential air service between Crescent City and Sacramento, consisting of 18 one-stop (at Eureka/Arcata) round trips a week with 19-seat Jetstream aircraft. Subsidy for that service was set at \$189,043 per year for the two-year period ending December 31, 1999.

By Order 98-3-32, issued March 30, 1998, the Department approved the transfer of essential air service responsibility for Crescent City from Mesa Air Group to SkyWest



Airlines.¹ SkyWest agreed to provide service with larger aircraft than Mesa's at the annual subsidy rate established for Mesa in Order 97-6-29. Specifically, SkyWest agreed to provide 18 Crescent City-Eureka/Arcata-Sacramento round trips each week with 30-seat Embraer Brasilia aircraft at an annual subsidy rate of \$189,043. SkyWest's service at Crescent City began on June 1, 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. 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 to submit a proposal for continuation of essential air service at Crescent City.

SkyWest's Proposal

In response to our inquiry, SkyWest indicated its desire to continue serving Crescent City. The Department and SkyWest negotiated a new two-year service agreement which would provide the Crescent City community with three nonstop or one-stop round trips each weekday and over each weekend to Sacramento with 30-seat Embraer Brasilia aircraft. Annual subsidy for this level of service would be \$314,865. Under the terms of the agreement, the carrier may substitute nonstop service to San Francisco for service to Sacramento on a one-for-one basis. (See Appendix A to this order for a summary of the service to be provided by SkyWest and a computation of the carrier's subsidy rate which is costed on nonstop Crescent City-San Francisco service.)²

Community Comments

The manager of the Crescent City Airport states that the community is pleased that SkyWest is offering some direct service to San Francisco in addition to service to Sacramento. He states that both destinations are important to Crescent City. San Francisco is important because it is an international gateway and offers excellent access to the nation's transportation system. Sacramento is a desired destination because it is the state capital.

Selection Decision

We will tentatively reselect SkyWest to provide essential air service at Crescent City, as detailed in Appendix A, for an additional two-year period, from January 1, 2000, through December 31, 2001, for an annual subsidy of \$314,865. SkyWest has provided reliable

¹ SkyWest Airlines replaced Mesa at Crescent City and at other points in California, Colorado and Kansas, as part of a comprehensive transfer of service obligations and subsidy rates among various United Express carriers.

² Based on historical traffic and service patterns, service to San Francisco requires slightly less subsidy than service to Sacramento.

essential air service at Crescent City since June 1998, and at other communities in California and Utah. The rate appears to be reasonable for the level of service to be provided and provides the carrier the flexibility to offer the community service to Sacramento and/or San Francisco in a mix that it deems most responsive to the community's transportation needs. The community supports SkyWest's decision to offer some service to San Francisco as an alternative to service to Sacramento. SkyWest has experimented with Crescent City's service by providing one of the three round trips a day nonstop to San Francisco and that service has generated more passengers on a per-flight basis than the Sacramento service, and is projected to require slightly less subsidy support than service to Sacramento. While we have costed SkyWest's proposal on the basis of providing nonstop San Francisco service, we will allow the carrier to offer service to either San Francisco or Sacramento.

Carrier Fitness

In accordance with 49 U.S.C. 41737(b) and 41738, the Department is required to find an air carrier fit, willing and able to provide reliable service before it may compensate such carrier for essential air service. SkyWest holds a certificate from the Department authorizing it to provide scheduled air transportation. 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 continue to operate in a reliable manner. The Federal Aviation Administration has advised us that the carrier continues to possess a favorable compliance disposition, and that it was recently certified to conduct all of its operations in accordance with the more stringent rules in 14 CFR Part 121.³ The FAA knows of no reason why we should not find that SkyWest remains fit.

Responses to Tentative Decision

We will give interested persons 20 days from the date of service of this order to show cause why we should not make final our tentative decision to reselect SkyWest to provide essential air service at Crescent City, at the subsidy rate discussed above. 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.

The current essential air service determination for Crescent City requires a minimum of two round trips each weekday and two each weekend period to San Francisco with at least 8 available passenger seats. For a number of years, service had been provided by WestAir to both San Francisco and Sacramento. Service to Sacramento was provided on a one-stop basis over Eureka and service to San Francisco via connections at Eureka. Accordingly, subsidy was calculated on the basis of service to Eureka because passengers were able to transfer at Eureka to other flights to San Francisco.

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 applicant to

³ Since March 20, 1997, SkyWest has conducted all of its operations under Part 121.

serve a copy of its proposal on the civic parties and other applicants. We will give full consideration to all proposals that are timely filed. Any proposals submitted should contemplate service consisting of three or four round trips per service day to Sacramento and/or San Francisco, or some other appropriate hub destination.

Service History and Traffic Data

SkyWest has provided subsidized essential air service at Crescent City since June 1998. When it inaugurated service at the community, it upgraded service from WestAir's 19-seat Jetstream aircraft to 30-seat Brasilia aircraft. For the 12-month period ended July 31, 1999, the carrier enplaned a total of 9,995 passengers at Crescent City. In order to assist carriers in making passenger and revenue projections, we have included historical passenger information in Appendix B.

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.

Other Carrier Requirements

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.⁴ 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

⁴ 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.

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.

Community and State Comments

If we receive competing proposals, the community and state are welcome to submit comments on the proposals at any time. Early in the proceeding, comments on the proposals' strengths and weaknesses would be particularly helpful, and the civic parties may also express a preference for a particular carrier, if they choose. In any event, after conducting 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.⁵

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

ACCORDINGLY:

1. We tentatively reselect SkyWest Airlines, Inc., d/b/a United Express, to provide essential air service at Crescent City, California, as described in Appendix A, for the period beginning January 1, 2000, through December 31, 2001;
2. We tentatively set the final rate of compensation for SkyWest Airlines, Inc., d/b/a United Express, for the provision of essential air service at Crescent City, California, as described in Appendix A, for the period from January 1, 2000, through December 31, 2001, payable as follows: for each month during which essential air service is provided, the amount of compensation shall be subject to the weekly ceilings set forth in Appendix A, and shall be determined by multiplying the subsidy-eligible arrivals and departures completed during the month by \$177.09;⁶

⁵ In cases where a carrier proposes to provide essential air service without subsidy and we determine that service can be provided reliably without such compensation, we do not normally hold rate conferences. Instead, we rely on the carrier's subsidy-free service as proposed.

⁶ SkyWest's annual rate of \$314,865 for Crescent City divided by 1,778 departures.

3. We direct SkyWest Airlines, Inc., d/b/a United Express, 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 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;

4. We find that SkyWest Airlines, Inc., d/b/a United Express, continues to be fit, willing and able to operate as an air carrier and capable of providing reliable essential air service at Crescent City, California;

5. We direct SkyWest Airlines, Inc., d/b/a United Express, and any other interested persons having objections to the selection of SkyWest to provide essential air service as described in ordering paragraph 1 above, at the rate set forth in ordering paragraph 2 above, to file such objections or competing service proposals no later than 20 days from the date of service of this order;⁷

6. If we receive objections or competing proposals within the 20-day period, SkyWest Airlines, Inc., d/b/a United Express, will be compensated at the subsidy rate set forth in ordering paragraph 2 above as a final rate until all objections are resolved;

7. We will afford full consideration to the matters and issues raised in any timely and properly filed objections and service proposals before we take further action.⁸ If no objections or competing service proposals are filed, all further procedural steps will be deemed waived and this order shall become effective on the twenty-first day after its service date;

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

⁷ Objections should be filed with the Documentary Services Division, SVC-121.30, Room PL401, Department of Transportation, 400 7th Street, S.W., Washington, DC 20590. Proposals to provide essential air service should be filed with the Chief, EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, at the same address. Questions regarding filings in response to this order may be directed to John McCamant at (202) 366-1060.

⁸ Since we are providing for the filing of objections to this order, we will not entertain petitions for reconsideration.

9. We will serve copies of this order on the Mayor and airport manager of Crescent City, California; the California Department of Transportation; the Governor of California; SkyWest Airlines, and the parties listed in Appendix C.

By:

A. BRADLEY MIMS
Deputy Assistant Secretary

(SEAL)

*An electric 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.*

**SKYWEST AIRLINES
ESSENTIAL AIR SERVICE
AT CRESCENT CITY, CALIFORNIA**

Passengers	30,000
Average fare	\$75.83
Passenger Revenue	\$2,274,900
<u>Freight Revenue @ .6%</u>	<u>13,649</u>
<u>Total Revenue</u>	<u>\$2,288,549</u>
Stage Length	304 miles
Block Time	85 minutes
Block Hours	2,519
RPM's	9,120,000
Departures	1,778
ASM's	16,219,008
Fuel @ \$101.94 ^{1/}	\$ 256,787
<u>Non-fuel @ \$492.27/Hr.</u>	<u>1,240,028</u>
<u>Total Directs</u>	<u>\$1,496,815</u>
Flight Attendants @ \$24.51/Hr.	\$ 61,741
Traffic Related @ \$.03 per RPM	273,600
Weighted Departure @ \$172.49 ^{2/}	306,687
<u>Capacity Related @ \$.021/ ASM</u>	<u>340,599</u>
Total Indirects	\$982,627
Total Operating	\$2,479,442
<u>Profit @ 5%</u>	<u>123,972</u>
Total Economic Cost	\$2,603,414
Annual Subsidy	\$314,865

^{1/} Fuel expense is estimated for the quarter ended September 30, 1999. All other expenses are based on Schedule F-2, YE 6/30/99.

^{2/} Brasilia's weighted at 25,900 lbs. landing weight, CRJ's weighted at 51,000 lbs.

**SKYWEST AIRLINES
ESSENTIAL AIR SERVICE
AT CRESCENT CITY, CALIFORNIA**

EFFECTIVE PERIOD	January 1, 2000, through December 31, 2001
SERVICE	18 nonstop or one-stop round trips each week between Crescent City and Sacramento. Carrier may substitute nonstop service to San Francisco for service to Sacramento on a one-for-one basis.
AIRCRAFT TYPE	Embraer Brasilia, 30 seats
TIMING OF FLIGHTS	Flights must be well-timed and well-spaced to ensure full compensation
ANNUAL SUBSIDY	\$314,865
SUBSIDY RATE PER ARRIVAL/DEPARTURE	\$ 177.09 ^{1/}
COMPENSATION CEILING EACH WEEK	\$6,375.24 ^{2/}

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.

FOOTNOTES

^{1/} Annual compensation of \$314,865 divided by the estimated annual completed departures and arrivals at a 95 percent completion factor: 36 flights/week x 52 weeks x .95 = 1,778.

^{2/} Subsidy rate per arrival/departure of \$177.09 multiplied by 36 subsidy-eligible arrivals and departures each week.

**HISTORICAL ENPLANEMENTS AT
CRESCENT CITY, CALIFORNIA**

		<u>Enplanements</u>	<u>Avg. per day</u>
1994	1Q	1,410	
	2Q	1,689	
	3Q	1,531	
	4Q	<u>1,554</u>	
		6,184	19.8
1995	1Q	1,349	
	2Q	1,675	
	3Q	2,129	
	4Q	<u>1,731</u>	
		6,884	22.0
1996	1Q	1,611	
	2Q	1,837	
	3Q	1,756	
	4Q	<u>1,655</u>	
		6,859	21.8
1997	1Q	1,655	
	2Q	1,830	
	3Q	1,986	
	4Q	<u>2,375</u>	
		7,846	27.9
1998	1Q	1,466	
	2Q	1,229	
	3Q	2,456	
	4Q	<u>2,410</u>	
		7,561	24.2
1999	1Q	2,252	
	2Q	2,877	

Source : WestAir and SkyWest
Forms 298-C

SERVICE LIST FOR THE STATE OF CALIFORNIA

Air LA, Inc.
Air Nevada Airlines, Inc.
Air Vegas, Inc.
Alpha Air
American Eagle
Amerijet International, Inc.
Arizona Airways, Inc.
Arizona Pacific Airlines, Inc.
Aviation Services West, Inc.
Balter Worldwide Corporation
Barken International, Inc.
Continental Express, Inc.
Delta Connection
Executive Airlines, Inc.
Grand Airways, Inc.
Gunnell Aviation, Inc.
Harbor Airlines, Inc.
Hillside Aviation
Kenmore Air Harbor, Inc.
Las Vegas Airlines, Inc.
Martin Aviation, Inc.
Medix Ambulance Service, Inc.
Mesa Air Group
Metroflight, Inc.
Midway Airlines, Inc.
Midwest Express Airlines, Inc.
Northern Tier Airlines, Inc.
Northwest Airlink
Pacific Air West, Inc.
Papillon Airways, Inc.
Patterson Aviation Company

Renown Aviation, Inc.
Sierra Airlines, Inc.
Sierra Nevada Airways, Inc.
Skyrunners Corporation
Stateswest Airlines, Inc.
Sun Pacific Airlines, Inc.
Trans World Express, Inc.
United Express
USAir, Inc.
West Air Charter
Wings West Airlines, Inc.
World Airways, Inc.

Ken Bannon
Lisa Cosenza
E.B. Freeman
Edward Jenner
John McFarlane
Richard E. Perez
Kevin Thomas
Mike Woodward