



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

Issued by the Department of Transportation
on the 22nd day of December, 2000

Essential air service at

LAFAYETTE, INDIANA
BURLINGTON, IOWA
RHINELANDER, WISCONSIN

Docket OST-2000-8328 - 3
Docket OST-2000-8325 - 3
Docket OST-2000-8327 - 4

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

ORDER ALLOWING SUSPENSION OF SERVICE
AND GRANTING EXEMPTION REQUEST

Summary

By this order, the Department is allowing Great Lakes Aviation, Ltd., d/b/a United Express, to suspend its scheduled services at Lafayette, Indiana, and Burlington, Iowa, as of February 15, 2001, and at Rhineland, Wisconsin, as of January 8, 2001.

Background

On November 15, 2000, Great Lakes filed 90-day notices of intent to suspend its scheduled services between the three communities listed above and Chicago O'Hare International Airport as of February 15, 2001.¹ In addition, Great Lakes' notice for Rhineland was accompanied by a request for an exemption to allow it to suspend service on less than 90 days' notice, as of January 8, 2001.

At Lafayette, Great Lakes operates three nonstop round trips each weekday and six each weekend to Chicago with 19-seat Beech 1900 aircraft. Lafayette also receives scheduled service by Mesaba Aviation, Inc., d/b/a Northwest Airlin, which operates two nonstop round trips each weekday and three each weekend to Detroit with 34-seat Saab SF 340 aircraft. Lafayette's essential air service determination, as last established by Order 83-6-3, June 1, 1983, requires at least two daily nonstop round trips to Chicago providing 62 inbound and outbound seats.

At Burlington, Great Lakes operates three nonstop round trips each weekday and five each weekend to Chicago with Beech 1900s. Burlington also receives service by Corporate Airlines, Inc., d/b/a Trans World Express, which operates three nonstop round trips each weekday and five each weekend to St. Louis with 19-seat Jetstream 31 aircraft. Burlington's

¹ See the Appendix for a map.

essential air service determination, as last established by Order 92-3-61, March 30, 1992, requires at least two daily nonstop or one-stop round trips to both Chicago and St. Louis providing a total of 67 inbound and outbound seats.

At Rhinelander, Great Lakes operates three nonstop round trips each weekday and six each weekend to Chicago with Beech 1900s. Rhinelander also receives scheduled service by Mesaba, which operates four round trips each weekday and eight each weekend to Minneapolis/St. Paul with Saab SF 340 aircraft, of which two each weekday and five each weekend are nonstop and the others are operated via Eau Claire, Wisconsin. In addition, Mesaba offers one round trip each weekday and weekend to Detroit with Saab SF 340 aircraft, operated via Appleton, Wisconsin. Rhinelander's essential air service determination, as last established by Order 84-7-77, July 26, 1984, requires at least two daily round trips to Chicago with no more than two intermediate stops, providing 62 inbound and outbound seats.

Community Responses

The Purdue University Airport, representing the Lafayette community, has filed an objection to Great Lakes' notice of intent to suspend its service at Lafayette. The community contends that the reason given by Great Lakes for its notice -- that the route is losing money -- is without foundation. The community also states that its remaining service to Detroit, operated by Mesaba, does not constitute essential air service because Chicago, not Detroit, is Lafayette's designated hub, and that access to Chicago O'Hare must be maintained. Finally, the community reports that Mesaba has informed it that the future of its service to Detroit is uncertain as well.

The Southeast Iowa Regional Airport has also filed an objection to Great Lakes' notice, on behalf of the Burlington community. The community states that it has several projects planned under the auspices of the Federal Aviation Administration's Airport Improvement Program, and although 90 percent of the funding will be provided by the FAA, the community's 10-percent share will be more difficult to raise with the loss of Great Lakes' service. In addition, the community states that service to Chicago is an important factor in its efforts to attract new businesses to the area.

The Rhinelander/Oneida County Airport has submitted a letter stating that the community has no objection to Great Lakes' suspension of service at Rhinelander on less than 90 days' notice. The community believes that the financial burden that would be imposed on Great Lakes if the carrier were held in for the full 90-day period would not be in the traveling public's best interest, since it could ultimately affect other small markets served by Great Lakes. The community also states that it is comfortable with the prospect of relying on Mesaba's service to meet its future needs.

Decision

After careful consideration, we have decided to allow Great Lakes to suspend its services between the three communities and Chicago, and to grant Great Lakes' exemption request so that it may suspend service at Rhinelander on less than 90 days' notice, as of January 8, 2001. The case of each community is discussed separately below. In general, however, we would note that each community will retain scheduled service to a large hub and thus a link to the national air transportation network: Lafayette via Mesaba's service to Detroit, Burlington via Corporate

Airlines' service to St. Louis, and Rhinelander via Mesaba's service to both Minneapolis/St. Paul and Detroit.

Before Great Lakes suspends service at the communities, however, we expect it to contact all passengers who hold reservations for flights that will be suspended, to inform them of the suspension and the availability of other service at each community, and to assist them in arranging alternate transportation.

Lafayette

By Order 99-6-21, June 25, 1999, we previously allowed Great Lakes to suspend service at Lafayette after the carrier had filed a 90-day notice to leave the community, although Great Lakes ultimately chose to continue service at that time.² As we stated then, we cannot require Great Lakes to maintain service at Lafayette beyond the notice period. The Department's appropriation prohibits us from paying subsidy to support essential air service at communities that fail to meet certain eligibility criteria, including communities located within 70 highway miles of a large or medium hub. Lafayette is 61 highway miles from Indianapolis International Airport, a medium hub.³ Because we are prohibited from paying subsidy for Great Lakes' service, we simply have no statutory authority to require it to continue service beyond the end of the 90-day notice period. The fact that Chicago is Lafayette's designated hub is beside the point.⁴

The community takes issue with the reason given by Great Lakes for filing its notice, but nothing in the program's governing statutes nor the Department's regulations requires a carrier to demonstrate that the service at issue is unprofitable; in fact, the carrier need not provide any reason whatsoever.

² The earlier case also involved issues relating to slot exemptions at O'Hare, but those issues are no longer relevant. On April 5, 2000, the President signed into law the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, P.L. 106-181, which among many other things immediately loosened slot restrictions for commuter aircraft at O'Hare. The remaining restrictions will be altogether eliminated effective July 1, 2002.

³ As published in the FAA's annual report, *Airport Activity Statistics of Certificated Route Carriers*, hub classifications are based on each hub's enplanements as a percentage of all U.S. enplanements. A large hub accounts for at least 1.00 percent, a medium hub for at least 0.25 but less than 1.00 percent, and a small hub for at least 0.05 but less than 0.25 percent. During calendar year 1999, the most recent year for which data are available, Indianapolis accounted for 0.58 percent of all U.S. enplanements.

⁴ The community has previously recognized our inability to require Great Lakes to maintain its service to O'Hare; see Order 99-6-21, at 2. Even if we had the authority to subsidize Lafayette-Chicago service and could therefore require Great Lakes to continue to operate the route, the fact that Chicago is the community's designated hub would not necessarily guarantee such an outcome. Rather, our decision would also take into account the community's service to Detroit, and that the loss of service to Chicago would not leave the community without any service at all. See the discussion of our decision regarding Rhinelander, below.

We appreciate Lafayette's difficult position, and its concern that its service to Detroit might be in jeopardy as well. For the time being, Mesaba's service to Detroit will continue to provide Lafayette with access to the national air transportation network. As noted earlier, Mesaba offers two nonstop, turnaround round trips each weekday and three each weekend with 34-seat Saabs -- a total of 68 inbound and outbound seats each weekday and 102 each weekend. We hope that, with the loss of service to Chicago, demand for service to Detroit might improve to the point that the continuation of that service is more secure, and that Mesaba might even increase that service. In addition, the community is within easy driving distance via Interstate 65 of Indianapolis International Airport, which offers nonstop jet service to a multitude of destinations -- the very reason, of course, that we are prohibited from subsidizing local service. We support the Lafayette community in its efforts to secure new service to Chicago, and are prepared to assist in any way possible. However, we are unable to offer potential carriers any financial support for such service.

Burlington

Our last review of Burlington's essential air service determination, in 1992, specified service to both Chicago and St. Louis. Until very recently, dual-hub designations were a matter of Department discretion, since 49 U.S.C. 41733(a)(1) of the program's governing statutes simply provided for service to "a hub airport." As amended by P.L. 106-181, however, 49 U.S.C. 41733(e) now prohibits the Department from revising a community's essential air service determination to a level below that in effect on December 29, 1988. In Burlington's case, the determination in effect on that date was established by Order 84-5-74, May 21, 1984. The 1984 determination was virtually the same as that later established in 1992; in particular, the earlier determination also guaranteed service to both Chicago and St. Louis.⁵

However, we are not in a position to authorize any subsidy for Great Lakes' Burlington-Chicago service, and therefore cannot require the carrier to continue providing that service beyond the 90-day notice period. The essential air service program has an annual budget of \$50 million, but we are currently spending program funds at an annual rate of \$56 million, using funds saved from prior fiscal years. As a result, we are unable to subsidize Great Lakes' service out of current funding.

In passing P.L. 106-181, Congress recognized that, for a variety of reasons, current program funding was in danger of being inadequate to meet the program's current commitments, and that

⁵ The only difference between Burlington's 1984 and 1992 determinations was an increase in the community's seat guarantee from 62 to 67 seats to reflect the change in the load-factor standard from 65 to 60 percent stipulated by the Airport and Airway Safety and Capacity Expansion Act of 1987, P.L. 100-223. In both 1984 and 1992, Burlington qualified for the essential air service program's maximum seating guarantee, based on at least 40 enplanements a day: in 1984, $40/.65 = 62$ seats; in 1992, $40/.60 = 67$ seats. Lafayette's and Rhinelander's 62-seat guarantees were also based on 40 enplanements a day and, for all practical purposes, similarly became 67 seats as a result of P.L. 100-223, although the Department has not formally updated their determinations. In addition, P.L. 100-223 stipulated that non-Alaska communities were entitled to service with no more than one intermediate stop, so the reference to two-stop service in Rhinelander's determination no longer applies.

the new legislation, by expanding the statutory guarantees of some communities (such as Burlington) would increase those commitments. Consequently, as part of the new law, Congress also authorized an additional \$15 million in annual program funding to ensure that those increased responsibilities would be met. Unfortunately, the additional funds that were authorized by P.L. 106-181 have not been appropriated.⁶

Under the circumstances, we must allow Great Lakes to suspend service at the end of the 90-day notice period, at which time we will rely on Corporate Airlines' Burlington-St. Louis service to provide the community's access to the national air transportation system. Corporate Airlines offers three nonstop, turnaround round trips each weekday and five each weekend with 19-seat Beech 1900s -- a total of 57 inbound and outbound seats each weekday and 95 each weekend. We recognize that Corporate Airlines' current level of service falls somewhat short of the community's seat guarantee; we would hope that, if demand for air service at Burlington is sufficient, Corporate Airlines will increase its service there as a matter of self-interest, or another carrier might decide to inaugurate service.

Rhineland

In Rhineland's case, the community does not oppose Great Lakes' departure before the end of the 90-day notice period. In our own review, we have taken into account the scheduled service that the community will continue to receive despite Great Lakes' discontinuation of service.

We recognize that Mesaba's continuing service is not operated to Chicago, which is designated as Rhineland's hub by its essential air service determination. However, such determinations are based on the needs of a community in the event that the community is faced with a *complete* withdrawal of service, and assume that, absent a determination, service would not be offered from the community to any points other than the designated hub or hubs. If other service is in fact available when a carrier files notice to suspend its service, we consider whether the other service can meet the community's needs.⁷

We therefore agree with the community that Mesaba's continuing service to Minneapolis/St. Paul and Detroit will meet Rhineland's air service needs. Mesaba offers four round trips each weekday and eight each weekend to Minneapolis/St. Paul, as well as one round trip each weekday and weekend to Detroit with 34-seat Saabs -- a total of 136 inbound and outbound seats each weekday and 272 each weekend to Minneapolis/St. Paul, plus another 34 inbound and outbound seats each weekday and weekend to Detroit. Although most of Mesaba's flights serve Rhineland in conjunction with some other community, the overall service available at

⁶ See, for example, Order 2000-9-22, September 21, 2000, where we were unable to subsidize service between Quincy, Illinois/Hannibal, Missouri, and Chicago, as proposed by Air Wisconsin Airlines Corp., d/b/a United Express, after P.L. 106-181 similarly guaranteed by law Quincy/Hannibal's dual-hub designation of Chicago and St. Louis.

⁷ Our policy in such situations is of long standing, and is unrelated to subsidy-eligibility criteria, as in Lafayette's case, or the lack of program funding necessary to compensate a carrier for maintaining service, as in Burlington's case. For example, see Orders 91-9-63, September 30, 1991, regarding Hancock/Houghton, Michigan, and 98-3-17, March 18, 1998, regarding 11 Western communities.

Rhinelanders will nonetheless remain well above the levels that the essential air program is designed to maintain.

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

ACCORDINGLY,

1. We take no action to prohibit Great Lakes Aviation, Ltd., d/b/a United Express, from suspending its scheduled air services at Lafayette, Indiana, and Burlington, Iowa, as of February 15, 2001;
2. We grant the request of Great Lakes Aviation, Ltd., d/b/a United Express, for an exemption from the 90-day notice period required by 49 U.S.C. 41734(a) to the extent necessary to allow it to suspend service at Rhinelanders, Wisconsin, as of January 8, 2001;
3. We will rely on the scheduled air services of Mesaba Aviation, Inc., d/b/a Northwest Airlink, to meet the essential air service requirements of Lafayette, Indiana, and Rhinelanders, Wisconsin, and of Corporate Airlines, Inc., d/b/a Trans World Express, to meet the essential air service requirements of Burlington, Iowa, as of the date that Great Lakes Aviation, Ltd., d/b/a United Express, suspends service at each community;
4. These dockets will remain open until further Department order; and
5. We will serve copies of this order on the mayors and airport managers of Lafayette, Indiana, Burlington, Iowa, and Rhinelanders, Wisconsin; Great Lakes Aviation, Ltd., d/b/a United Express; Mesaba Aviation, Inc., d/b/a Northwest Airlink; and Corporate Airlines, Inc., d/b/a Trans World Express.

By:

FRANCISCO J. SANCHEZ
Assistant Secretary for Aviation
and International Affairs

(SEAL)

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