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Order 2001-4-11

Served: April 13, 2001



**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 April, 2001

Essential Air Service at

PRESQUE ISLE/ HOULTON, MAINE

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

Docket OST-2000-8012 - 18

**ORDER DENYING PETITION
FOR RECONSIDERATION**

Summary

By this order, the Department is denying the Petition for Reconsideration filed by Champaign Enterprises, Inc., d/b/a CommutAir and Continental Connection, filed in response to our order selecting Colgan Air to provide essential air service at Presque Isle/Houlton, Maine.

Background

By Order 2001-2-9, February 9, 2001, the Department selected Colgan Air, Inc., d/b/a US Airways Express, to provide subsidized essential air service at Presque Isle/Houlton, Maine, for a two-year period. Colgan Air was selected at the conclusion of a routine carrier selection case that was initiated when CommutAir filed on September 19, 2000, a 90-day notice of its intent to leave the community.¹

CommutAir and Colgan Air were the only two applicants in the case, and the selection of Colgan Air's proposal had the full support of the community.

¹ At the time of CommutAir's filing, it operated as US Airways Express. As of December 2, 2000, the carrier has operated as Continental Connection.

Petition for Reconsideration

On February 21, 2001, CommutAir filed a Petition for Reconsideration of Order 2001-2-9. Among other things, the carrier states that there are statements of facts and conclusions in that order that are erroneous and not supported by evidence, and that there is new evidence not considered by the Department in making its determination. The carrier questions the Department's statements concerning the strength of Colgan Air's code-share relationship with US Airways versus that of CommutAir's code-share relationship with Continental, and finds errors in some of the passenger data cited by the Department in support of its decision. The carrier also alleges that the Department has chosen a subsidy for Colgan Air that is not based on the cost of the service to be provided and thus has not set a true final rate.

CommutAir alleges that its code-share arrangement with Continental offers connecting service at Boston to Cleveland and Houston and to the New York area (Newark Airport) that provides the same benefits to passengers as US Airways' flights to La Guardia. CommutAir states that the three daily round trips offered by Colgan Air amount to over 700 fewer trips per year in and out of Presque Isle/Houlton than its own four-round-trip-a-day schedule that would provide real benefit to the community that has been overlooked by the Department.

CommutAir further states that the 2,458 passengers cited by the Department for CommutAir's December 1999 service were, in fact, total enplanements for that month for both Business Express and US Airways Express, not just US Airways Express as stated by the Department. US Airways Express's boardings for that month were 875 passengers. The carrier states that this incorrect information was used by the Department to illustrate the inadequacies of CommutAir's connections as a Continental Connection.²

CommutAir also questions the Department's decision to select Colgan Air's less expensive Beech 1900 rate, with the understanding that the carrier would initially provide service with the larger capacity Saab 340 aircraft. CommutAir alleges that creates an apples and oranges situation, *i.e.*, that we were comparing CommutAir's proposal to Colgan's more expensive *service* option, but with the less expensive *subsidy*.

CommutAir believes that it should have been selected as the carrier to provide essential air service at Presque Isle/Houlton. However, notwithstanding that fact, CommutAir states that it now intends to continue to serve the Presque Isle/Houlton market regardless of our action on its petition.

² CommutAir is correct on the passenger figures. In its reply to CommutAir's petition, the community confirms that the figure of 2,458 passengers, represents the total number of enplanements at Presque Isle/Houlton for all carriers for the month of December, 1999. Nevertheless, traffic fell by 60 percent for December 2000 compared to December 1999.

Community Response to Petition

The community continues to support the selection of Colgan Air to provide essential air service at Presque Isle/Houlton. In its response to CommutAir's petition, on March 14, 2001, the community submitted comments reiterating its earlier comments made in a letter submitted in January. The community maintains that the recent decline in passenger traffic demonstrates the inability of Continental Express service to meet market need; that the traveling public has indicated their preference for access to the US Airways system rather than the Continental system; and that the availability of cabin class equipment is important to rebuilding the market to a self-sustaining level. The community urges the Department not to alter its decision selecting Colgan Air to provide essential air service at Presque Isle/Houlton.

Final Decision

After careful consideration of this matter, including the comments filed by the community, we have decided to deny CommutAir's Petition for Reconsideration of Order 2001-2-9, and to affirm our selection of Colgan Air to provide essential air service at Presque Isle/Houlton..

The major arguments presented by the petitioner and summarized above do not fundamentally challenge the fact that our decision was based mainly on the strong community support for the selection of Colgan Air, which continues unabated today, and for the superior connecting opportunities at Boston's Logan Airport for US Airways Express passengers.

In selecting a carrier to provide essential air service at a community, the program's governing statutes (49 U.S.C. 41733(c)) require the Department to consider, among other things: (A) the demonstrated reliability of the applicant in providing air service; (B) the contractual and marketing arrangements the applicant has made with a larger carrier to ensure service beyond the hub airport; (C) the interline agreements the applicant has in place at the hub to enable through ticketing and baggage handling; and (D) the preferences of the actual and potential users of the air service at the EAS community, giving substantial weight to the views of the elected officials representing the users.

We will discuss each criterion separately. Regarding the first, both CommutAir and Colgan Air have substantial histories of providing scheduled air service on a reliable basis. Regarding the second criterion, both CommutAir and Colgan Air have contractual and marketing arrangements with a larger carrier at Boston--CommutAir with Continental Airlines, and Colgan Air with US Airways. We take note of the statutory language "...to ensure service beyond the hub." As we stated in our original order, and in fact repeated by CommutAir in its Petition for Reconsideration, Continental serves only three cities out of Boston, its hubs of Cleveland, Houston and Newark. On the other hand, US Airways serves Pittsburgh, Philadelphia, New York-La Guardia, Washington-Reagan National,

Baltimore, Charlotte, and Tampa, plus it also provides weekend service to Miami. Thus, under this statutorily mandated criterion, Colgan Air has a decided advantage.

Under the third criterion, clearly both carriers have sufficient interline arrangements in place to allow for single ticketing and baggage check-in for service beyond the hub.

As to the community-support criterion, in our original order, the selection of Colgan Air to provide essential air at Presque Isle/Houlton had the full support of the community. Among the various elements of the community supporting the selection of Colgan Air were the City of Presque Isle, the Northern Maine Regional Airport, the Northern Maine Development Commission, Maine Public Service, Surprise Advertising, and Loring Commerce Center. In response to CommutAir's Petition for Reconsideration, the community reiterated its support for Colgan Air. We have received no comments, either during the original carrier-selection proceeding, or in response to the Petition for reconsideration, in support of CommutAir. Thus, based on all of the above, we will deny CommutAir's Petition for Reconsideration and affirm our decision to select Colgan Air.

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

ACCORDINGLY,

1. We deny CommutAir's Petition for Reconsideration of Order 2001-2-9, and affirm our selection of Colgan Air; and
2. We will serve a copy of this order on the mayors of Presque Isle and Houlton, Maine; the manager of the Northern Maine Regional Airport; the Governor of Maine; the Maine Department of Transportation; CommutAir and Colgan Air.

By:

SUSAN MCDERMOTT

Deputy Assistant Secretary for Aviation
and International Affairs

(SEAL)

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