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ORDER 2002-4-25



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

Issued by the Department of Transportation  
on the 29<sup>th</sup> day of April, 2002

Essential air service at

BECKLEY, WEST VIRGINIA  
BLUEFIELD/PRINCETON, WEST VIRGINIA

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

SERVED: May 2, 2002

Docket OST-1997-2761 - 13

ORDER TENTATIVELY RESELECTING CARRIER  
AND ESTABLISHING SUBSIDY RATE

**Summary**

By this order, the Department is tentatively reselecting Colgan Air, Inc., d/b/a US Airways Express, to provide essential air services at Beckley and Bluefield/Princeton, West Virginia, for the two-year period beginning August 1, 2002, at an annual subsidy rate of \$2,067,693, and providing for objections or competing proposals from other interested carriers.

**Background**

By Order 2000-8-16, August 15, 2000, the Department authorized Colgan to provide subsidized services at Beckley and Bluefield/Princeton by operating four round trips a day from the two communities to Washington's Dulles International Airport with 19-seat Beech 1900 aircraft at an annual subsidy rate of \$1,715,060 for the two-year period through July 31, 2002.<sup>1</sup> Subsequently, and with both communities' assent, the Department allowed Colgan to operate the communities' services to either Dulles, Pittsburgh, or a combination of the two, and Colgan is now operating one round trip a day to Dulles and three to Pittsburgh. More recently, the Department established a revised subsidy rate of \$2,490,314 on an annualized basis for the period from October 1, 2001, through the rest of the current rate term in view of the lower revenues and higher expenses experienced in the wake of the September 11 terrorist attacks.<sup>2</sup>

Under normal procedures when nearing the end of a subsidy rate term, we contact the incumbent carrier to determine whether it is interested in continuing service and whether it will continue to require subsidy. We usually negotiate a new subsidy rate with the carrier, issue an order

<sup>1</sup> See Appendix A for a map. Under the terms of previous rate orders, Colgan has been able to operate one round trip each weekday to Charlotte rather than Dulles at its own discretion to accommodate military traffic that travels to and from the area through Charlotte. The carrier last exercised that option in March 1998.

<sup>2</sup> See Orders 2001-10-1, October 10, 2001, and 2002-3-27, March 28, 2002.

tentatively reselecting it 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 Colgan to submit a proposal for the continuation of its essential air services at Beckley and Bluefield/Princeton beginning August 1, 2002.

### **Carrier Proposal**

Colgan submitted a proposal in response to our request and, as a result of discussions with Department staff, has agreed to either of two options regarding a continuation of its services at the communities for the two-year period beginning August 1, 2002. Under Option A, Colgan would continue its current service pattern of one round trip a day to Dulles and three to Pittsburgh at an annual subsidy rate of \$2,281,177. Under Option B, Colgan would operate three round trips a day to Pittsburgh only at an annual subsidy rate of \$2,067,693.<sup>3</sup>

### **Decision**

After a thorough review of Colgan's proposal and its recent service history, we have tentatively decided to select Colgan's Option B for its service at Beckley and Bluefield/Princeton for the two-year period beginning August 1, 2002.<sup>4</sup> The rate appears reasonable for the service to be provided, and Colgan's performance continues to be satisfactory.

When we last selected Colgan to serve Beckley and Bluefield/Princeton for the two-year period beginning August 1, 2000, we expressed concern that traffic at the communities no longer justified four round trips a day. As we noted at the time, the communities' traffic has declined substantially since the early 1990s, when each of them generated more than 30 enplanements a day. Traffic has shown little improvement since we last reviewed the communities' requirements. During the 12-month period ended September 30, 2001, Beckley averaged just 7.2 enplanements a day and Bluefield/Princeton 9.0 enplanements a day -- a total of just 16 passengers for 76 seats.<sup>5</sup> Under the circumstances, we have concluded that three round trips a day will more efficiently meet the communities' current needs.

The reduced service will continue to meet the communities' essential air service determinations, as last established by Order 94-5-7, May 6, 1994. Beckley's determination requires at least two round trips each weekday and weekend providing a minimum of 46 seats in each direction, and Bluefield/Princeton's determination requires at least two round trips each weekday and weekend providing a minimum of 42 seats in each direction. With three round trips, the communities will be provided with a total of 57 seats.

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<sup>3</sup> Under either option, Colgan would retain the flexibility to operate its service to either Dulles, Pittsburgh, or some combination of the two, as well as the Charlotte option.

<sup>4</sup> Appendix B contains details of Colgan's compensation requirement.

<sup>5</sup> See Appendix C for recent traffic data. Enplanements represent one-half of total origin-and-destination passengers, and averages are based on 313 weekdays and weekends a year.

### **Carrier Fitness**

49 U.S.C. 41737(b) and 41738 require that we find an air carrier fit, willing and able to provide reliable service before we compensate it for providing essential air service. We last found Colgan fit by Order 2001-2-9, February 9, 2001, in connection with its essential air service at Presque Isle, Maine. Since then, 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 Colgan continues to have available adequate financial and managerial resources to provide quality service at the communities at issue here, 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 14 CFR Part 121, and knows of no reason why we should not find that Colgan remains fit.

### **Responses to Tentative Decision**

As usual, we will allow interested parties 20 days from the date of this order to object to our decision 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. As a general matter, we request proposals that would provide the communities with service consisting of at least three round trips a day with twin-engine, two-pilot, pressurized aircraft offering at least 15 passenger seats to the communities' designated hub, Charlotte, or some alternative hub such as Washington or Pittsburgh that would provide suitable access to the national air transportation system in order to give the Department and the communities as broad an array of proposals as possible from which to choose. As always, we will solicit the communities' views on any service options we receive before selecting a carrier.

### **Service History and Traffic Data**

Colgan replaced CCAir, Inc., d/b/a US Airways Express, at both Beckley and Bluefield/Princeton in July 1994, initially operating the communities' services to Charlotte, the community's designated hub, as CCAir generally had.<sup>6</sup> In 1997, Colgan became a Continental Connection carrier and switched the communities' services to Dulles. In December 1999, however, Colgan began operating as US Airways Express. As noted above, Beckley averaged 7.2 enplanements a day and Bluefield/Princeton 9.0 enplanements a day during the 12 months ended September 30, 2001, and Colgan switched most of the communities' services to Pittsburgh,

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<sup>6</sup> See Order 94-5-7.

a major US Airways hub, following the terrorist attacks of last September 11. Traffic during the last quarter of 2001 was, of course, affected by the attacks: compared to the last quarter of the previous year, Beckley's traffic declined by 38.3 percent and Bluefield/Princeton's by 21.7 percent. As a result, calendar year 2001 results showed Beckley at 6.5 enplanements a day and Bluefield/Princeton at 8.5 enplanements a day.

### **Procedures for Filing Competitive 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.<sup>7</sup> Consequently, all carriers receiving Federal subsidy for 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.

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<sup>7</sup> The regulations applicable to these areas are: (1) 49 CFR Part 20 -- New restrictions on lobbying; (2) 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 disability in programs and activities receiving or benefiting from Federal financial assistance; and 14 CFR Part 382 - Nondiscrimination on the basis of disability in air travel; and (3) 49 CFR Part 29 -- Government-wide debarment and suspension (non-procurement) and government-wide requirements for drug-free workplace (grants).

### **Community and State Comments**

If we receive competing proposals, the communities 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.<sup>8</sup>

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

### **ACCORDINGLY,**

1. We tentatively reselect Colgan Air, Inc., d/b/a US Airways Express, to provide essential air service at Beckley and Bluefield/Princeton, West Virginia, as described in Appendix D, for the period from August 1, 2002, through July 31, 2004;
2. We tentatively set the final rate of compensation for Colgan Air, Inc., d/b/a US Airways Express, for the provision of essential air service at Beckley and Bluefield/Princeton, West Virginia, as described in Appendix D, for the period from August 1, 2002, through July 31, 2004, payable as follows: for each month during which essential air service is provided, the amount of compensation shall be subject to the weekly ceiling set forth in Appendix D, and shall be determined by multiplying the subsidy-eligible arrivals and departures completed during the month by \$569.30;<sup>9</sup>
3. We direct Colgan Air, Inc., d/b/a US Airways 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 Colgan Air, Inc., d/b/a US Airways Express, continues to be fit, willing and able to operate as a commuter air carrier and capable of providing reliable essential air service at Beckley and Bluefield/Princeton, West Virginia;
5. We direct any interested persons having objections to the selection of Colgan to provide essential air service as described in ordering paragraph 1 above, at the rate set forth in ordering

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<sup>8</sup> In cases where a carrier proposes to provide 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 as proposed.

<sup>9</sup> See Appendix D for the calculation of this rate, which assumes the use of the aircraft designated. If the carrier reports a significant number of aircraft substitutions, revision of this rate may be required.

paragraph 2 above, to file such objections or competing service proposals no later than 20 days from the date of service of this order;<sup>10</sup>

6. If we receive objections or competing proposals within the 20-day period, Colgan 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.<sup>11</sup> 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

9. We will serve copies of this order on the Mayors and airport managers of Beckley and Bluefield/Princeton, West Virginia, Colgan Air, Inc., d/b/a US Airways Express, and the persons listed in Appendix E.

By:

**READ C. VAN DE WATER**  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

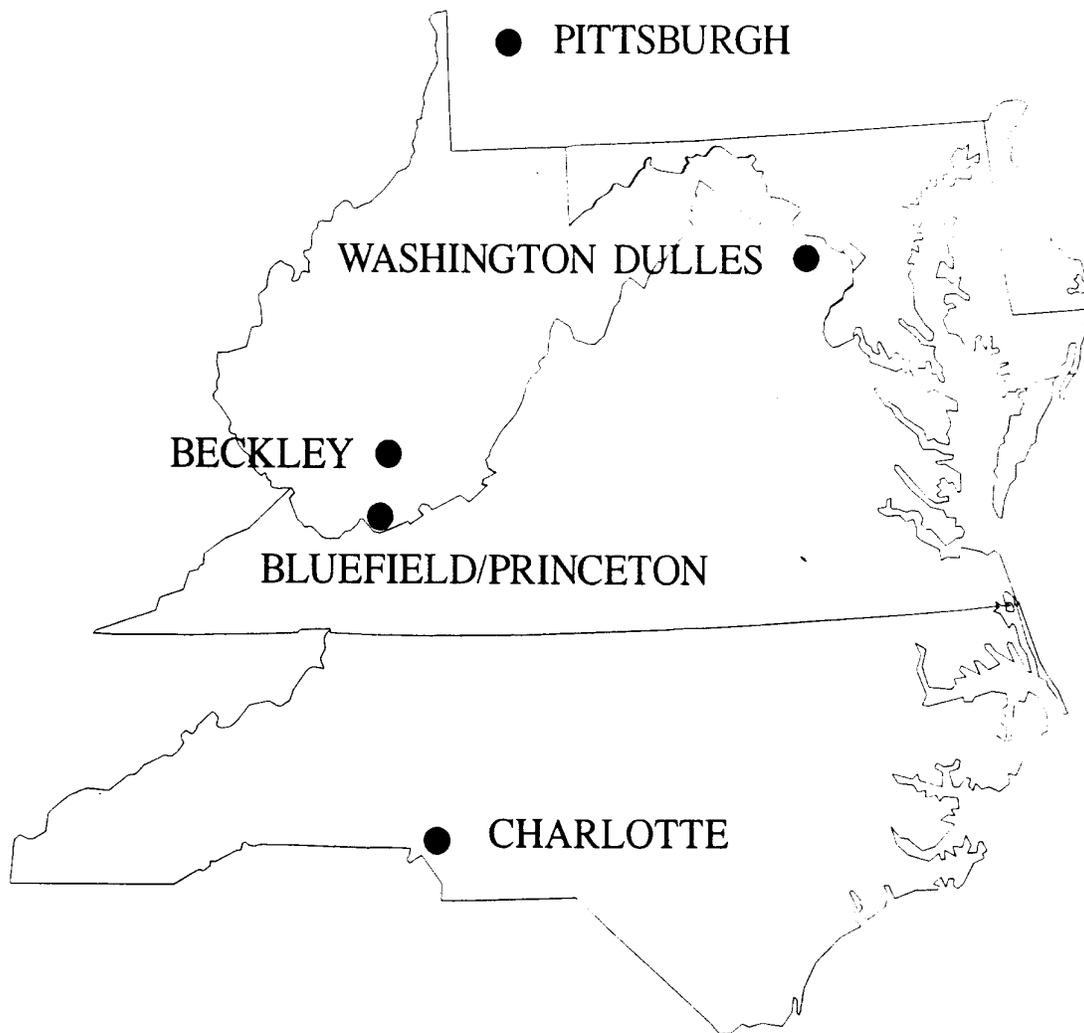
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on the World Wide Web at <http://dms.dot.gov>*

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<sup>10</sup> Objections should be filed the Documentary Services and Media Management Division, SVC-124, Room PL-401, 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 6417I, Department of Transportation, at the same address. Questions regarding filings in response to this order may be directed to Dennis J. DeVany at (202) 366-1061.

<sup>11</sup> Since we are providing for the filing of objections to this order, we will not entertain petitions for reconsideration.

# BECKLEY AND BLUEFIELD/PRINCETON, WEST VIRGINIA



APPENDIX B

COLGAN AIR, INC., d/b/a US AIRWAYS EXPRESS  
 ANNUAL COMPENSATION REQUIREMENT FOR ESSENTIAL AIR SERVICE AT  
 BECKLEY AND BLUEFIELD/PRINCETON, WEST VIRGINIA  
 (97 percent completion factor)

Flight Hours		2,221*
Operating Revenues:		
Passenger: 5,733 BKW psgrs		
4,534 BLF psgrs		
10,267 total psgrs at \$93.687		\$ 961,885
Operating Expenses:		
Direct: Flying Operations (\$137.98/flt hr)	306,454	
Fuel (\$154.98/flt hr)	344,211	
Maintenance (\$343.94/flt hr)	763,891	
Lease (\$28,375/mo)	340,500	
Insurance (\$23,200/mo)	278,400	
Total Direct Expenses		2,033,456
Indirect: Station Salaries & Security	198,162	
Ground handling at PIT (\$4.30/psgr)	44,148	
Landing Fees: at PIT	22,132	
at BKW/BLF	6,637	
Rent at BKW/BLF	19,508	
US Airways psgr fees (\$12.12/psgr)	124,436	
US Airways revenue-related fees (6.3% of rev)	60,599	
Marketing & Promotion	30,000	
Crew Training	37,093	
G&A (12% of all other expenses)	309,141	
Total Indirect Expenses		851,856
Total Operating Expenses		\$2,885,312
Operating Loss		\$1,923,427
Profit Element at 5.0% of Total Operating Expenses		\$ 144,266
Annual Compensation Requirement		\$2,067,693

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* BKW-BLF-PIT:	
(14.1 + 57.2 min)/60 x 7/wk x 52 wks x .97 =	420 hrs
PIT-BLF-BKW-PIT:	
(57.2 + 14.1 + 52.7 min)/60 x 12/wk x 52 wks x .97 =	1,251 hrs
PIT-BLF-BKW:	
(57.2 + 14.1 min)/60 x 7/wk x 52 wks x .97 =	420 hrs
BKW-MNZ ferry:	
150.0 min/60 x 52 wks =	130 hrs
TOTAL	2,091 hrs

## APPENDIX C

HISTORICAL ENPLANEMENTS  
AT BECKLEY AND BLUEFIELD/PRINCETON, WEST VIRGINIA

	<u>BECKLEY</u>		<u>BLUEFIELD/ PRINCETON</u>	
	<u>TOTAL</u>	<u>PER DAY</u>	<u>TOTAL</u>	<u>PER DAY</u>
2000 4th Qtr	613		691	
2001 1st Qtr	445		657	
2nd Qtr	656		773	
3rd Qtr	546		698	
4th Qtr	378		541	
Year ended 9/30/01	2,260	7.2	2,819	9.0
Year ended 12/31/01	2,025	6.5	2,669	8.5

SOURCE: Carrier reports Enplanements represent one-half of total origin-and-destination passengers, and averages are based on 313 weekdays and weekends each year.

COLGAN AIR, INC., d/b/a US AIRWAYS EXPRESS  
ESSENTIAL AIR SERVICE AT  
BECKLEY AND BLUEFIELD/PRINCETON, WEST VIRGINIA

EFFECTIVE PERIOD	August 1, 2002, through July 31, 2004
SERVICE	18 nonstop or one-stop round trips a week from the two communities to either Pittsburgh or Dulles International Airport. However, the carrier may substitute up to one round trip to Charlotte each weekday at its own discretion.
AIRCRAFT TYPE	Beech 1900 (19 seats)
TIMING OF FLIGHTS	Flights must be well-timed and well-spaced to ensure full compensation
SUBSIDY RATE PER ARRIVAL/DEPARTURE	\$569.30 <u>1/</u>
COMPENSATION CEILING EACH WEEK	\$40,989.60 <u>2/</u>

1/ Annual compensation of \$2,067,693 divided by 3,632 annual arrivals and departures at a 95 percent completion factor, calculated as follows: 72 dpts x 52 weeks x .97 = 3,632.

2/ Subsidy rate per arrival/departure of \$569.30 multiplied by 72 subsidy-eligible arrivals and departures each week.

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 the 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 this order 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 FOR THE STATE OF WEST VIRGINIA

Air Alpha, Inc.  
Amerijet International, Inc.  
Chautauqua Airlines, Inc.  
Colgan Air  
Comair, Inc.  
Corporate Airlines, Inc.  
Delta Connection  
Enterprise Airlines, Inc.  
Jetstream International Airlines, Inc.  
Metroflight, Inc.  
Midway Airlines, Inc.  
Midwest Express Airlines, Inc.  
Northcoast Executive Airlines, Inc.  
Northwest AirlinK  
Ohio Valley Aviation, Inc.  
Pennsylvania Aviation, Inc.  
Rader Aviation, Inc.  
Southern Air Transport, Inc.  
Westward Airways, Inc.

Chester Anderson  
Ken Bannon  
Sabrina Cranor  
Doug Franklin  
E.B. Freeman  
A. Edward Jenner  
Lee Mason  
John McFarlane  
Eric Nordling  
Mark Prange