

Posted: 2/15/2002

5:00 p.m.

157045

Order 2002-2-13

Served: February 22, 2002



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

Issued by the Department of Transportation
on the 15th day of February, 2002

Essential Air Service

PROGRAM WIDE

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

Docket OST-1999-5173 et al ¹-13

**ORDER AUTHORIZING EMERGENCY
ESSENTIAL AIR SERVICE PAYMENTS**

Summary

By this order, the Department is authorizing increased emergency subsidy to carriers providing essential air service, effective October 1, 2001.

Discussion

As a result of the terrorist acts of September 11, the airline industry has suffered catastrophic losses due to an initial grounding of all flights, increased expenses, and severely depressed passenger levels. In response, Congress passed and the President signed into law the Air Transportation Safety and System Stabilization Act, P.L. 107-42, on September 22, in order to inject some stability into the airline industry and confidence in the traveling public. Among other things, the bill provided for \$5 billion in direct aid to the airline industry.

In addition, Congress included specific relief for carriers providing subsidized air service to small communities under the Essential Air Service (EAS) program. Congress appropriated \$113 million in FY 2002 for EAS funding.

Program-wide rate relief

While the stabilization payments are an important element in efforts to restore the economic viability of the airline industry after the events of September 11, the

¹ See Appendix D for all of the Docket numbers.

commuter/regional sector of the industry faces certain unique challenges. Like most of the industry, these smaller carriers have been forced to deal with a precipitous rise in costs at the same time that they are confronted with a substantial drop in revenue. But, unlike the major airlines, they do not have the financial resources to help them maintain operations until traffic begins to stabilize. In addition, those carriers that participate in the EAS program do not have the same flexibility as non-EAS airlines to adjust their systems to reflect the shifts in costs, revenue, and traffic. Because they remain under contract with the Department to provide a prescribed level of service at EAS communities, they have very little ability to eliminate service on unprofitable routes, reduce frequencies, downsize aircraft, or contract out flight operations in order to reduce their losses.

The EAS program, and the Department's ability to ensure that small, isolated communities retain connections into the national air transportation system, depends largely on the ability of these small carriers to maintain operations. We do not have the ability to afford these carriers the same degree of operational flexibility as non-EAS airlines without putting small community service at significant risk. In the absence of some immediate reflection of the financial consequences stemming from the events of September 11 into these carriers' EAS contracts, we estimate that some could be forced to cease operations, thereby vitiating the program itself. If this were to occur, scores of small, isolated communities could lose all their air service. Moreover, the loss of service could be permanent for almost all of these communities, as the pool of potential replacement carriers has drastically declined owing to their transition to larger equipment and to service only in larger markets.

For these reasons, we have determined that it is necessary to initiate steps to provide immediate financial relief to the EAS carriers. Since it is not administratively feasible to renegotiate the contracts for all 113 subsidized communities within a reasonable period of time, we have decided to do two things. First, we are adopting an across-the-board method to raise all carriers' rates immediately, effective retroactively to October 1, 2001. This will put much-needed cash into the hands of the carriers quickly on an *interim* basis. At the same time, we will begin the process of renegotiating all of the subsidy contracts as of October 1, 2001, to recognize the effects of the September 11 attacks on airline operations -- specifically higher insurance costs and lower passenger revenues. These renegotiated rates will then supersede the interim rates that we are temporarily setting here through the normal end of the contract period.

In order to estimate how much interim rate relief to grant, we have contacted subsidized EAS carriers, as well as the Regional Airline Association, and asked for information regarding the effects of the September 11 attacks on their operations. Data they have submitted reveal that, although they are experiencing some cost increases, including two, three and four-fold insurance rate hikes, the much larger effect has been a precipitous decline in passengers and passenger yields. While the data vary from market to market, it appears that as a group the EAS carriers are experiencing an approximate revenue reduction of 30 percent on their subsidized routes, even with a

return to full pre-September 11 flight operation levels. There are some signs that passenger levels are beginning to rebound, but how quickly traffic will rebuild and to what levels are not now known.

In order to ensure that essential air service to small communities continues without interruption, we have decided to increase all the subsidy rates across-the-board immediately on an interim basis, subject to retroactive adjustment based on actual traffic and expense data. For the interim relief, we will take a conservative approach. We will increase all of the rates by an amount equal to 30 percent of the passenger revenues forecast in each carrier's subsidy rate. We acknowledge that this *interim* approach does not recognize any increases in costs, and that the carriers might still be temporarily under-compensated until such time as we can renegotiate the contracts and set new *final* rates that will be fully compensatory. Nonetheless, we believe this approach will provide enough relief that the carriers will be able to continue service to all EAS communities without interruption. In that regard, we are aware that because of the financial difficulties faced by the EAS carriers, many of their accounts to vendors, especially aircraft lessors, are overdue. Given the rate relief we are authorizing here, we would encourage the carriers and vendors to continue working together through this crisis.

In addition, we are fully aware that EAS carriers received some relief from the Stabilization Act. Among other things, that Act made \$5 billion available to the airline industry to mitigate some of the losses that the industry suffered as a result of the terrorist attacks of September 11. Of the \$5 billion total, \$4.5 billion was for passenger carriers and \$500 million was for all-cargo operations. To the extent that the EAS carriers have already been compensated for their subsidized EAS service, we will reduce the amount of any EAS rate relief by the amount the carriers have received and will receive from the Stabilization Act that is attributable to the EAS flying. We will therefore require carriers to calculate the amount of funds that they received under the Stabilization Act that are attributable to their subsidized EAS routes. We have attached an example in Appendix C, giving a format for carriers to use. Carriers must complete and submit this information to the Department within 15 days of the service date of this order to be eligible to receive the rate relief granted here.

As a final matter before we discuss in detail the mechanics of the payout, we want to clarify what rates are affected here. Our purpose is to compensate carriers on a "fair and reasonable" basis that reflects the changes in expenses and revenues brought about by the attacks of September 11. Some contracts, by happenstance, expired on September 30, 2001, and we have renegotiated new contracts based on post-September 11 results. For example, Mesa Airlines' contract to serve Massena, Ogdensburg, and Watertown, New York, expired on September 30, 2001. We negotiated a new contract for Mesa's continued service and recently issued Order 2002-2-3 setting a new subsidy rate effective October 1, 2001. Since that rate already reflects post-September 11 results, it will not be affected by this order. Similarly, we recently issued Order 2002-2-9 tentatively reselecting Big Sky Airlines to

serve Harrison, Hot Springs, El Dorado and Jonesboro, Arkansas, Enid and Ponca City, Oklahoma, and Brownwood, Texas. Since those subsidy rates also reflect post-September 11 revenues and expenses, we will not adjust those rates. Rather, we will change the effective date of those rates from December 1, 2001, to October 1, 2001. We will not change the contract termination date of November 30, 2003.

Payout Formula

Subsidy rates for carriers providing subsidized EAS are set forth in a contract between the Department and the carrier. The amounts are determined by subtracting forecast annual revenues from forecast annual expenses and adding a profit element, usually equal to five percent of total operating expenses. This subsidy rate is then divided by the total projected annual departures to arrive at a "per-flight" rate. Carriers submit claims at the end of each month and are compensated for their services in amounts determined by multiplying the subsidy rate per flight by the number of flights actually completed during the month.

The formula for financial relief is as follows: We will take 30 percent of the carriers' forecast annual passenger revenues, as reflected in the carriers' currently effective EAS contract for each community that it serves, and divide it by the number of scheduled annual departures. This will give us an amount representing an average per-flight revenue shortfall. That shortfall will then be added to the carriers' currently effective per-flight subsidy to arrive at the new subsidy rate. An example follows:

Current subsidy per departure	\$500.00
Annual forecast revenues	\$800,000
Assumed % revenue reduction	x .3
Estimated revenue shortfall	\$240,000
Annual scheduled departures	1,800
Per-departure shortfall	\$133.33
Original subsidy per-departure	\$500.00
New per-departure rate	\$633.33

EAS carriers are paid in arrears, i.e., they are not paid until after they provide the service. The carriers submit subsidy claims to the Department at the end of each month based on the number of flights that were actually operated. The increased subsidy rates set by this order will be in effect beginning October 1, 2001, until we renegotiate each contract. Therefore, carriers will receive a lump-sum payment equal to the difference between the rates established in Appendices A and B and the rates at which they were actually paid.

Finally, we require carriers receiving EAS subsidy to provide the data described in Appendix C. We again emphasize that the rate increases that we are authorizing in this order are *interim rates* (subject to retroactive adjustment), and the *final rates* may be higher than, lower than, or the same as the rates we are establishing here. Further, only carriers that submit the required data are eligible to receive rate relief on a final basis;

otherwise, any interim payment made under this order will have to be returned to the Department.

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

ACCORDINGLY

1. The Department authorizes the increases in subsidy rates for all carriers providing subsidized EAS program-wide as shown in Appendices A and B, effective October 1, 2001, as interim rates, subject to retroactive adjustment based on actual renegotiated contracts;
2. The Department authorizes the immediate payment of emergency subsidies to all carriers listed in Appendices A and B. The emergency subsidy rates per departure are set forth in Appendices A and B to this order, column I;
3. We amend the effective date of Order 2002-2-9 tentatively reselecting Big Sky Airlines to provide essential air service at Harrison, Hot Springs, El Dorado and Jonesboro, Arkansas, Enid and Ponca City, Oklahoma, and Brownwood, Texas, from December 1, 2001, to October 1, 2001;
4. We direct all carriers providing subsidized essential air service to provide the data described in Appendix C within 15 days of the service date of this order in order to be eligible for the higher subsidy rates authorized by this order; and
5. We will serve a copy of this order on all carriers providing subsidized essential air service and on all the parties in the Dockets listed in Appendix D.

By:

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

(SEAL)

*An electronic version of this document is available on the World Wide Web at
<http://dms.dot.gov/>*

Calculations of Revised EAS Subsidy Rates

Appendix A

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)
Carrier	Community	Order #	Sub/dept	Forecast Deps	Forecast Pqgr Rev	Est Rev Shortfall @ 30%	Shortfall per Dep	Adjusted Rate/Dep
2 Air Midwest	Dodge City, Garden City, KS	1/						
2	Great Bend, Hays, KS	1/						
1	Topoka, KS	2001-8-13	337.97	1,840	\$265,710	\$79,713	\$43.32	\$381.29
Air Midwest Total:								
1 Big Sky Airlines	Brownwood, TX	99-12-28	485.36	1,794	\$130,703	\$39,211	\$21.98	\$507.34
2	El Dorado/Carden, Jonesboro, AR	99-12-28	555.19	2,974	\$643,013	\$192,904	\$64.86	\$620.05
2	Enid, Ponca City, OK	99-12-28	408.63	4,758	\$443,210	\$132,963	\$27.95	\$436.58
2	Harrison, Hot Springs, AR	2001-9-17	630.94	3,568	\$604,429	\$181,329	\$50.82	\$681.76
1	Moses Lake, WA	2001-6-22	264.15	1,816	\$1,251,000	\$375,300	\$206.66	\$470.81
7	GDV,GGW,HVR,LWT,MLS,SDY,OLF, MT	2000-11-11	555.49	8,915	\$1,668,210	\$500,463	\$56.14	\$611.63
Big Sky Total:								
1	Ponce, PR	2000-10-20	131.77	3,604	\$459,900	\$137,970	\$38.28	\$170.05
4 Colgan Air	AUG,BHB,RKD,ME/RUT,VT 5/	2001-1-22	372.48	6,810	\$4,989,411	\$1,496,823	\$219.80	\$592.28
2	Beckley, Bluefield, WV	2000-8-16	377.35	4,545	\$1,277,136	\$383,141	\$84.30	\$461.65
1	Presque Isle, ME	2001-2-9	564.64	1,917	\$2,352,000	\$705,600	\$368.08	\$932.72
Colgan Air Total:								
1	Saranac Lake, NY	2001-2-10	336.35	1,866	\$808,430	\$242,529	\$129.97	\$468.32
1	Utica, NY	2001-3-31	935.93	1,211	\$440,000	\$132,000	\$109.00	\$1,044.93
CommuniAir Total:								
1	Burlington, IA	2001-6-16	763.42	1,217	\$1,176,755	\$353,027	\$290.08	\$1,053.50
1	Cape Girardeau, MO	2000-5-3	222.59	1,936	\$1,128,883	\$338,665	\$174.93	\$397.52
1	Ft. Leonard Wood, MO	2000-5-3	312.66	1,835	\$942,907	\$282,872	\$154.15	\$466.81
1	Jackson, TN	2001-3-21	946.58	1,217	\$526,071	\$157,821	\$129.68	\$1,076.26
1	Kirksville, MO	2000-10-33	601.78	1,217	\$375,980	\$112,794	\$92.68	\$694.46
1	Marion/Herrin, IL	2000-12-27	602.45	1,318	\$1,502,550	\$450,765	\$342.01	\$944.46
1	Owensboro, KY	2001-3-21	730.37	1,217	\$578,100	\$173,430	\$142.51	\$872.88
Corporate Airlines Total:								
1	Muscle Shoals, AL	3/				\$1,869,374		
Express Airlines I								

Calculations of Revised EAS Subsidy Rates

Appendix A

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	
Carrier	Community	Order #	Subdept	Forecast Depts	Forecast Psgr Rev	Est Rev Shortfall @ 30%	Shortfall per Dep	Adjusted Rate/Dep	
1	Great Lakes Aviation	Alamosa, CO	2000-5-17	\$ 502.20	1,842	\$921,500	\$276,450	\$150.08	\$652.28
2	Alliance, Chadron, NE	2001-7-18	\$ 426.73	3,680	\$699,100	\$209,730	\$56.99	\$483.72	
1	Brookings, SD	2001-9-11	\$ 714.37	1,189	\$277,107	\$83,132	\$69.92	\$784.29	
1	Cortez, CO	2000-12-26	\$ 218.95	1,842	\$1,942,500	\$582,750	\$316.37	\$535.32	
2	Devils Lake, Jamestown, ND	2001-9-11	\$ 444.99	3,568	\$1,489,750	\$446,925	\$125.26	\$570.25	
1	Dickinson, ND	2000-5-24	\$ 480.58	1,228	\$2,169,600	\$650,880	\$530.03	\$1,010.61	
1	Dodge City, Liberal, KS	1/1							
0	Garden City, KS	1/1							
0	Hays, KS	1/1							
1	Huron, SD	2000-12-24	\$ 321.32	1,228	\$382,500	\$114,750	\$93.44	\$414.76	
1	Iron Mountain, MI	1999-12-2	\$ 257.39	1,840	\$2,014,000	\$604,200	\$328.37	\$585.76	
1	Ironwood, MI/Ashland, WI	2000-9-13	\$ 443.22	1,228	\$474,000	\$142,200	\$115.80	\$559.02	
1	Kearney, NE	2000-5-5	\$ 456.24	1,840	\$1,408,000	\$422,400	\$229.57	\$685.81	
1	Laramie, WY	2000-5-14	\$ 161.58	1,842	\$1,428,000	\$428,400	\$232.57	\$394.15	
1	Manistee/Ludington, MI	2001-7-17	\$ 441.86	1,227	\$247,223	\$74,167	\$60.45	\$502.31	
1	McCook, NE	2000-5-12	\$ 719.48	1,842	\$465,000	\$139,500	\$75.73	\$795.21	
1	Moab, UT	2001-3-20	\$ 794.31	1,223	\$460,000	\$138,000	\$112.84	\$907.15	
1	North Platte	2000-1-1	\$ 57.61	1,840	\$2,092,000	\$627,600	\$341.09	\$396.70	
1	Norfolk, NE	2001-7-18	\$ 433.36	1,227	\$456,000	\$136,800	\$111.49	\$544.85	
1	Oshkosh, WI	1999-10-6	\$ 375.22	1,227	\$478,800	\$143,640	\$117.07	\$492.29	
1	Page, AZ	2001-3-20	\$ 682.28	1,835	\$1,396,500	\$418,950	\$228.31	\$910.59	
1	Pueblo, CO	2000-7-16	\$ 286.20	1,842	\$930,000	\$279,000	\$151.47	\$437.67	
1	Rock Springs, WY	2000-5-14	\$ 252.46	1,842	\$1,754,500	\$526,350	\$285.75	\$538.21	
1	Vernal, UT	2001-3-20	\$ 601.07	1,835	\$1,035,000	\$310,500	\$169.21	\$770.28	
1	Worland, WY	2000-5-14	\$ 191.83	1,842	\$627,150	\$188,145	\$102.14	\$293.97	
	Great Lakes Total:					\$6,944,469			
1	Mesa Airlines	Alamogordo, NM	2001-5-18	\$ 502.06	1,840	\$479,006	\$143,702	\$78.10	\$580.16
1	Clovis, NM	2000-5-18	\$ 607.72	1,840	\$552,139	\$165,642	\$90.02	\$697.74	
1	Franklin/Oil City, PA	1999-10-4	\$ 207.93	2,454	\$892,685	\$267,806	\$109.13	\$317.06	
1	Gallup, NM	2000-6-8	\$ 375.59	1,840	\$368,088	\$110,426	\$60.01	\$435.60	
2	Kingman, Prescott, AZ	2001-5-18	\$ 294.29	3,680	\$1,243,794	\$373,138	\$101.40	\$395.69	
3	Massena, Ogdensburg, Watertown, NY	1/1				\$0			
1	Silver City, NM	2001-5-18	\$ 508.51	1,840	\$623,374	\$187,012	\$101.64	\$610.15	
1	Mesa Airlines Total:					\$1,247,726			

Calculations of Revised EAS Subsidy Rates

Appendix B

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)
Carrier	Community	Order #	Sub/dept	Forecast Deps	Forecast Psgr Rev	Est Rev Shortfall @ 30%	Shortfall Per Dep	Adjusted Rate/Dep
5 Alaska Airlines	CDV/GST,PSG,W/RG,YAK,AK	2002-2-3						
1 Ellis Air Taxi	Gulkana, AK	2000-5-3	\$ 447.75	208	\$24,000	\$7,200	\$34.62	\$482.37
2	May Creek, McCarthy, AK	2000-5-3	\$ 142.28	416	\$15,670	\$4,701	\$11.30	\$153.58
	Ellis Air Taxi Total:					\$11,901		
1 ERA Aviation	Illianna, AK	2001-3-19	\$ 257.68	492	\$652,726	\$195,818	\$398.00	\$655.68
1 Evergreen Hell.	Adak, AK							
1 F.S. Air Service	Seward, AK	1999-12-14	\$ 122.60	676	\$123,156	\$36,947	\$54.66	\$177.26
1 40-Mile Air	Healy Lake, AK	2000-5-6	\$ 185.60	208	\$8,925	\$2,678	\$12.87	\$198.47
2 Gulf Air Taxi	Cape Yakataga, Icy Bay, AK	2001-1-15	\$ 474.92	130	\$28,180	\$8,454	\$65.03	\$539.95
1 Harris Air	Port Alexander, AK	2000-2-19	\$ 118.19	208	\$22,500	\$6,750	\$32.45	\$150.64
9 Island Air	Kodiak Bush Points, AK (9 points) 1/	2000-6-10	\$ 69.11	1,332	\$68,764	\$20,635	\$15.49	\$84.60
0 Peninsula Airways	Adak, AK 2/	2001-6-5	\$ 1,549.57	364	\$1,291,556	\$387,467	\$1,064.47	\$2,614.04
1	Aktan, AK	2000-8-4	\$ 253.88	1,352	\$367,542	\$110,263	\$81.56	\$335.44
1	Atka, AK	2000-3-9	\$ 300.58	520	\$171,713	\$51,514	\$99.07	\$399.65
1	Nikolski, AK	2000-3-9	\$ 216.50	208	\$36,117	\$10,835	\$52.09	\$268.59
	Peninsula Airways Total:					\$560,078		
1 Taquan Air	Hydaburg, AK	2000-5-21	\$ 177.70	312	\$71,882	\$21,565	\$69.12	\$246.82
2 Warbelows Air Ventures	Central, Circle, AK	2000-10-5	\$ 34.57	1,040	\$51,440	\$15,432	\$14.84	\$49.41
2 Ward Air	Chatham, Funtler Bay, AK	99-10-10	\$ 73.59	128	\$2,600	\$780	\$6.09	\$79.68
32								
	Total Revenue Shortfall:				\$2,936,791	\$681,037		
1/	Order 2002-2-3 set new rates effective October 1, 2001. Therefore, we will not adjust those rates here.							
2/	18-week peak season expired in September.							
3/	26-week peak and off-peak							

Time Period: August 2001				Example	
Name of carrier:				XYZ Airlines	
1. Total Available Seat Miles (ASMs) claimed by carrier for the appropriate time period:				1/	1,000,000
2. Subsidy eligible ASMs claimed by carrier for the corresponding time period:				2/	300,000
3. Percentage of Subsidy Eligible to Total ASMs:				3/	30.00%
4. Total received for Stabilization Act assuming 100% payout:				4/	\$500,000
5. Stabilization Act funds attributable to subsidy-eligible ASMs.				5/	\$150,000
<p><u>1/</u> This number should correspond to that submitted by the carrier for purposes of receiving terrorist-related compensation.</p> <p><u>2/</u> Item (1) is a system figure, and therefore will include ASMs performed pursuant to subsidy-eligible service.</p> <p><u>3/</u> Item (2) divided by item (3).</p> <p><u>4/</u> Amount to be paid the carrier including amount already received and anticipated payments.</p> <p><u>5/</u> Item (3) multiplied by item (4).</p>					
<p>Overview: Please fill in the appropriate blanks (items 1 through 5) for purposes of calculating retroactive payments under the EAS program.</p>					
<p>I certify that the information contained on this form is true and accurate under penalty of law. Falsification of a claim for compensation/payments under Pub. L. 107-42 or this Order may result in criminal prosecution resulting in fine and/or imprisonment (18 U.S.C.1001).</p>					
Certifying Officer (signature)				Date	
Print Name and Title (CEO, CFO or COO)				Telephone Number	

**LIST of DOCKET
NUMBERS**

1996-1898	1997-2827
1996-1953	1997-2761
1997-2842	2000-6945
1999-5173	2000-7068
1997-2523	1996-1900
1998-4706	1997-2605
2000-8320	2000-7881
1995-363	1997-2784
1997-2401	1997-2515
1997-2402	1999-6592
1997-2935	2000-7138
1999-5175	1995-492
1997-3003	2000-8025
1997-2942	1996-1901
1997-2649	1996-1902
1999-6244	1996-1903
2000-6773	1996-1899
1995-697	2000-7857
1996-1715	2000-7855
1999-6502	2000-7556
1999-6245	2000-8012
1997-2958	2000-8488
1997-2981	1998-3344
1997-2959	2001-8731
1997-2960	1995-361
1997-2833	1997-3134
1998-3546	1996-1352
1997-3005	1998-3521
1996-1167	1996-1711
1996-1559	2000-8556
1999-6589	
1998-3621	
1996-1266	
1997-2696	
1997-2706	