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Order 2002-3-19

Served: March 25, 2002



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

Issued by the Department of Transportation
on the 20th day of March, 2002

Essential Air Service at

STAUNTON, VIRGINIA

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

DOCKET OST-2002-11378 - 3

**ORDER PROHIBITING SUSPENSION OF SERVICE
AND REQUESTING PROPOSALS**

Summary

By this order, the Department is prohibiting Air Midwest, d/b/a US Airways Express (Air Midwest), from suspending its unsubsidized service at Staunton, Virginia, and requesting proposals from carriers interested in providing replacement service at the community. (See Appendix A for map.)

Background

On January 23, 2002, Air Midwest filed a 90-day notice of its intent to suspend service at Staunton, effective April 23, 2002.¹ Air Midwest is the only carrier serving Staunton.² Air Midwest had been providing four nonstop round trips each weekday and six each weekend to Pittsburgh with 19-seat Beech 1900 aircraft. Following the September 11 attacks, however, Air Midwest reduced its schedule to three round trips each weekday and five each weekend.³

Essential Air Service at Staunton

Staunton's essential air service guarantee, as defined by Order 94-5-7, May 6, 1994, requires at least two nonstop round trips each weekday and weekend to Washington providing at least 66 seats in each direction. Although Pittsburgh is not Staunton's designated hub, the Department allowed Atlantic Coast Airlines (ACA) to suspend its service as of December 12, 2001, concluding that Air Midwest's service to Pittsburgh would sufficiently meet Staunton's continuing need for a link to the national air transportation system. Moreover, the Department noted that as a code-share partner of US Airways, Inc., the major carrier at

¹ While Air Midwest's notice was dated January 7th, we did not receive it until January 23rd.

² By Order 2001-12-6, December 5, 2001, the Department allowed Atlantic Coast Airlines to suspend its unsubsidized service at Staunton, leaving only Air Midwest's service remaining.

³ Staunton's Shenendoah Valley Regional Airport also serves the nearby communities of Harrisonburg and Waynesboro, Virginia.

Pittsburgh, Air Midwest is able to offer Staunton travelers on-line connecting service throughout US Airways' system. In fact, the Department previously relied on service to Pittsburgh to meet Staunton's essential air service requirements for nearly four years, until ACA began service to Dulles in April 2000.⁴

In calendar year 2000, Staunton generated a total of 40,684 O&D passengers, an average of 65.0 enplanements per day. This represents a significant increase over 1999, when there were 31,734 O&D passengers, or an average of 50.7 enplanements per day.

Request for Proposals

We request that any carriers interested in providing essential air service at Staunton file proposals within 20 days of the date of service date of this order. We ask that carriers submit proposals for three nonstop round trips a day, six days a week, to Washington or Pittsburgh, with 15-seat or larger, pressurized aircraft. We will also entertain proposals to serve other hubs that provide 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. Of course, as always, we will formally solicit the community's views on any service options we receive before making a long-term carrier selection decision. In order to assist carriers in making their traffic and revenue forecasts, we have included historical traffic data in Appendix B.

Procedures for Filing 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.⁵ Consequently, all carriers receiving

⁴ See Orders 96-6-8, June 10, 1996, and 2000-2-28, February 25, 2000. For examples of our policy on relying on service to other than EAS-designated hubs, see Orders 91-9-63, September 30, 1991, regarding Hancock/Haughton, Michigan; 98-3-17, March 18, 1998, regarding 11 western communities; and Order 2000-12-22, December 28, 2000, regarding Rhinelander, Wisconsin.

⁵ 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

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 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 Comments

On January 31, 2002, the Shenandoah Valley Regional Airport Commission filed an objection to Air Midwest's notice. The Commission notes that in Order 2001-12-6, which allowed Atlantic Coast Airlines to suspend service to Staunton, the Department emphasized that Air Midwest would continue to provide service between Staunton and Pittsburgh and would satisfy Staunton's essential air service needs. Noting Air Midwest's service reductions following September 11 (from four round trips a day to three round trips each weekday and two each weekend), the Commission submits that this level of service is the bare minimum required for Staunton. Finally, the Commission states that without the air service to Pittsburgh, Staunton would have no essential air service and suffer drastic economic consequences as a result thereof.

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.⁶

Decision

Since Air Midwest is the only carrier providing scheduled air service at Staunton, its proposed termination would eliminate all air service to the community. Thus, in accordance with 49 U.S.C. 41734, we must prohibit Air Midwest from suspending service at Staunton for an initial 30-day period beyond the end of the 90-day notice period, through May 23, 2002, or until suitable replacement service has been inaugurated at the community, whichever occurs first.⁷

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

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).

⁶ 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.

⁷ In accordance with 49 U.S.C. 41734(c), we will extend Air Midwest's service obligation for successive 30-day periods as necessary until replacement service actually begins.

ACCORDINGLY,

1. The Department requests that carriers interested in providing essential air service at Staunton, submit their proposals, with subsidy if necessary, within 20 days after the date of service of this order. Proposals should include all the data required by section 204.4 of the Department's Regulations (14 CFR 204.4). An original and five copies of the proposal should be sent to: EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, with the title "Proposal to Provide Essential Air Service at Staunton, Virginia, Docket OST-2002-11378";
2. The Department prohibits Air Midwest, Inc., d/b/a US Airways Express, from suspending service at Staunton, Virginia, at the end of its 90-day notice period and requires it to maintain at least three nonstop round trips a day between Staunton and Greater Pittsburgh International Airport, through May 23, 2002, or until a carrier capable of providing reliable essential air service actually begins service, whichever occurs first;
3. The Department directs Air Midwest to retain all books, records, and other source and summary documents to support subsidy 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. Docket OST-2002-11378 will remain open until further order of the Department; and
5. The Department will serve a copy of this order on the Mayor and Airport Manager of Staunton, Virginia, Air Midwest, Inc., d/b/a US Airways Express, the State of Virginia and the parties listed in Appendix C.

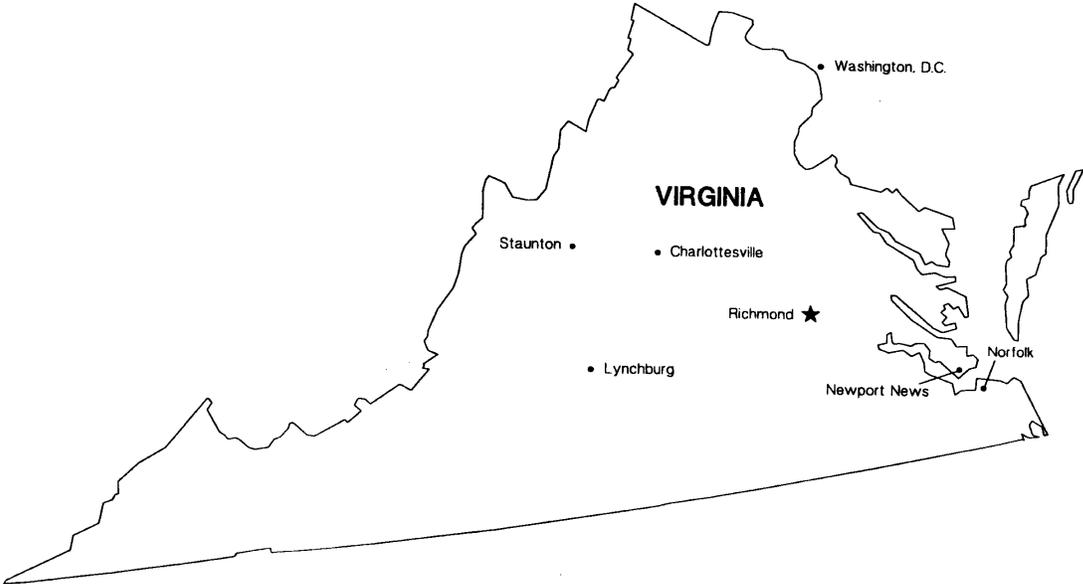
By:

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>*

**STAUNTON, VIRGINIA
AND SURROUNDING COMMUNITIES**



Historical Origin-Destination Traffic and Average Daily Enplanements at Staunton, Virginia¹

<u>Year</u>	<u>O&D Traffic</u>	<u>Enplanements</u>	<u>Daily Average Enplanements</u> ²
<u>1999</u>			
1st Qtr.	7,109	3,555	11.4
2nd Qtr.	8,145	4,073	13.0
3rd Qtr.	8,326	4,163	13.3
4th Qtr.	<u>8,154</u>	<u>4,077</u>	<u>13.0</u>
Total:	31,734	15,867	50.7
<u>2000</u>			
1st Qtr.	6,569	3,285	10.5
2nd Qtr.	10,361	5,181	16.6
3rd Qtr.	10,744	5,372	17.2
4th Qtr.	<u>13,010</u>	<u>6,505</u>	<u>20.8</u>
Total:	40,684	20,342	65.0
<u>2001</u>			
1st Qtr.	10,648	5,324	17.0
2nd Qtr.	<u>11,701</u>	<u>5,851</u>	<u>18.7</u>
Total:	22,349	11,175	35.7

¹ Source: Airport Activity Statistics; Form 298-C, Schedule T-1; and Form 41, Schedule T-100.

² Daily averages are based on 313 annual service days.

SERVICE LIST FOR THE STATE OF VIRGINIA

Air Wisconsin, Inc.
Amerijet International, Inc.
CCAir, Inc.
Chautauqua Airlines, Inc.
Colgan Air
Corporate Airlines, Inc.
CSA Air, Inc.
Delta Connection
Flagship Airlines Inc.
Long Island Airlines
Metroflight, Inc.
Midway Airlines, Inc.
Midwest Express Airlines, Inc.
Northwest AirlinK
Rader Aviation, Inc.
Southeast Airlines
Southern Jersey Airways, Inc.
Westward Airways, Inc.
WRA, Inc.

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