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Order 2001-5-15

Served: May 18, 2001



**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 May, 2001

Essential Air Service at:

MERCED, CALIFORNIA

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

Docket OST 00-3521 - 8

**ORDER REQUESTING PROPOSALS AND SETTING FINAL RATE
UNTIL FURTHER DEPARTMENT ACTION**

Summary

By this order, the Department is requesting proposals from carriers interested in providing replacement service at Merced, California, and setting a final rate until further Department action for SkyWest, d/b/a United Express, while we seek a replacement carrier.

Background

By Order 99-4-8 we reselected SkyWest to provide three round trips a day to Los Angeles (two nonstop and one one-stop over Visalia). The service is provided with 30-seat Brasilia aircraft for an annual rate of \$951,271 annually through April 30, 2001. SkyWest has provided essential air service (EAS) to Merced since June 1998, when it replaced Mesa Airlines. In Order 99-4-8, SkyWest projected that it would carry 14,227 passengers at Merced.

Essential Air Service

Merced's current EAS determination was established by Orders 87-6-53 and 91-4-16 and requires two round trips a day to San Francisco (nonstop) or Los Angeles (one-stop) with enough capacity to accommodate 22 passengers a day or 37 seats each day. Consistent with EAS guidelines, service must be provided with 15-seat aircraft or larger.

Proposed Service and Subsidy

SkyWest has submitted two proposals, each with 30-seat Brasilia aircraft. Under its first option, consistent with the service pattern selected by Order 99-4-8, SkyWest would provide three round trips a day to Los Angeles, one of which would operate on a

one-stop basis over Visalia for an annual subsidy of \$1,370,562.¹ In view of the increased amount of subsidy required to provide the service and the decrease in traffic from what was projected in the current contract, we requested that SkyWest submit a reduced service option. For two nonstop round trips per day to Los Angeles SkyWest would require \$1,022,712 annual subsidy. We find the projected subsidy levels reasonable for either level of service proposed. Calculation of these rates is shown in Appendix B, and the service requirements and payout provisions are shown in Appendix C.

Selection of Reduced Service

In view of the significantly lower number of passengers than was earlier projected and the increase in subsidy, we have decided to select SkyWest's second option, two nonstop round trips per day to Los Angeles. Even at the reduced frequency level, the two round trips a day with 30-seat Brasilia would easily accommodate Merced's historical traffic with a load factor of 22%.

In addition, for the reasons discussed below we will not select SkyWest for the customary two-year period. Rather, we will request proposals and explore alternative ways of meeting Merced's need for service. The projected subsidy level per passenger for SkyWest's proposed service is \$136.36 per passenger, which has more than doubled from that previously projected. If this figure were to continue to increase, Merced's subsidy per passenger level would exceed the statutory \$200 ceiling² and Merced would no longer be eligible for subsidy support. Although SkyWest has provided very reliable service to Merced and has the benefit of the United Code Share flying into United's hub of Los Angeles, the smallest aircraft in its fleet is the 30-passenger Brasilia. This size of equipment may not be appropriate for service to Merced in light of the ease of driving to Fresno. Merced might be better served with smaller and less expensive aircraft in the hope that with greater frequency more people would use the airport at Merced instead of driving to Fresno.

Request for Proposals

We request that any carriers interested in providing essential air service at Merced file their proposals within 30 days of the service date of this order. Carriers should generally submit proposals for two or three round trips a day to either San Francisco or Los Angeles with 15-seat or larger aircraft. However, if carriers wish to propose service with smaller equipment that provides more frequency, or to different hubs we will entertain such proposals. We note that Merced is only 114 road miles from San Jose and Sacramento, both medium hubs served by Southwest Airlines, and 55 miles from Fresno, currently a non-hub with nonstop jet service to Dallas, Denver, Los Angeles, Phoenix, Seattle, and Salt Lake City, as well as a great deal of cabin-class turboprop service to other

¹ SkyWest projects that 9,340 passengers would use this service, while 14,227 Merced passengers were projected in Order 99-4-8.

² Communities that are not isolated (more than 210 road miles from the nearest medium or large hub) whose realized subsidy exceeds \$200 per passenger are not eligible for subsidy support. Merced is and 114 miles from San Jose, the nearest medium or large hub.

communities.³ Under these circumstances we are looking for more cost-effective service to preserve Merced's continued eligibility for EAS subsidy. We will entertain all proposals that make sense for the community, including those that may not strictly conform to the statutory requirements that Merced is guaranteed of two round trips a day with aircraft having a pilot and co-pilot and exceeding 15 passenger seats. 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 D.

Procedures For Filing Proposals

For interested air carriers that are not familiar 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 seeking proposals, conducting financial and operational audits of the applicant carriers and selecting a replacement carrier. The second is an evidence request containing an explanatory statement, and a copy of section 14 CFR 204.4 of the Department's regulations which deals with the information required of all applicants for authority to provide basic essential air service, and provides schedules giving our recommended form for submitting data required for determining the financial and operational ability of applicants to provide dependable air service.⁴

Community and State Comments

The community and the State are welcome to submit comments on the proposals at any time.⁵ Early in the proceeding, comments on the perceived strengths and weaknesses of the proposals would be particularly helpful to the Department. The civic parties may also express a preference for a particular carrier or proposal option at that time, if they choose. In any event, after we conclude 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

³ Fresno's service has burgeoned from the last carrier selection, when Fresno had jet service of only one round trip a day to Dallas and regional jets to Salt Lake City.

⁴ Copies of these documents can be obtained from: EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7th Street, S.W., Washington, DC 20590. Telephone requests for these documents are accepted at (202) 366-1053.

⁵ Civic parties should file an original and five copies of their comments in Docket OST-00-3521. This filing should be addressed to: Docket Operations and Media Management Division, SVC-124, Office of the Secretary, U.S. Department of Transportation, Room PL 401, 400 Seventh Street, S.W., Washington D.C. 20590.

⁶ 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.

Other Carrier Requirements

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.⁷ Consequently, all carriers receiving 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 regulations governing lobbying activities. All carriers that plan to submit proposals involving subsidy should submit the required certifications along with their proposals.⁸ Carriers should contact the Office of Aviation Analysis at (202) 366-1053 if they require more detailed information as well as copies of the certifications. The Department is prohibited from paying subsidy to carriers that do not submit these documents.

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

ACCORDINGLY,

1. We request that carriers interested in providing essential air service at Merced, California, submit their proposals, with or without requests for subsidy, within 30 days of the service date of this order. An original and five copies of the proposal should be sent to the EAS and 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 Merced, California, Docket OST-00-3521";⁹

⁷ The regulations applicable to each of these areas are (1) 49 CFR Part 20, New Restrictions on Lobbying, Implementing title 31, United States Code, section 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions"; (2) 49 CFR Part 29, Subpart F, Drug-Free Workplace Requirements (Grants) implementing the Drug-Free Workplace Act of 1988; (3) 49 CFR Part 21, Nondiscrimination in Federally-Assisted Programs for the Department of Transportation--Effectuation of Title VI of the Civic Rights Act of 1964; 49 CFR Part 27, Nondiscrimination on the basis for Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance; and 14 CFR Part 382, Nondiscrimination on the Basis of Handicap in Air Travel.

⁸ Blank certification forms can be found on the Office of Aviation Analysis official website at <http://ostpxweb.dot.gov/aviation/rural/ruralair.htm>.

⁹ After serving a copy of its proposal on the civic officials of Merced, the State of California, and each of the other applicants, each applicant must then file a certification of service with the Department's Docket Operations and Media Management Division, SVC-124. Questions regarding filings in response to this order may be directed to Kevin Adams at (202) 366-1060.

2. The Department sets the final rate of compensation for SkyWest, Inc., for the provision of essential air service at Merced, California, as described in Appendix C-1, 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 C-1, and shall be determined by multiplying the subsidy-eligible arrivals and departures completed during the month by \$770.84;¹⁰
3. The Department sets the final rate of compensation for SkyWest, Inc., for the provision of essential air service at Merced, California, as described in Appendix C-2, 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 B, and shall be determined by multiplying the subsidy-eligible arrivals and departures completed during the month by \$862.32;⁸
4. The Department directs SkyWest, Inc., 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;
5. This docket will remain open until further Department order; and
6. We will serve a copy of this order on the Mayor and Airport Manager of Merced, the Governor of California, the California Department of Transportation, SkyWest, and the carriers listed in Appendix D.

By:

Susan McDermott
Deputy 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>*

¹⁰ See Appendix B 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.



Appendix B

Essential Air Service to be Provided at Merced, California, Docket 3521

	<u>Current Service</u>	<u>Two Nonstops/Day</u>
MCE-LAX @ \$80	\$560,400	\$600,000
MCE-VIS @ \$28	\$65,380	\$0
Passenger/Revenue	\$625,780	\$600,000
<u>Other Revenue @ 1%</u>	<u>\$6,258</u>	<u>\$6,000</u>
Total Revenue	\$632,038	\$606,000
Block Hours 1/	1,837	1,541
Weighted Departures 2/	46,061	30,707
ASMs 3/	10,830,456	9,212,112
Pilot Expenses @ \$136.34/hr.	\$250,457	\$210,100
Fuel Expenses @ \$136.29/hr.	\$250,365	\$210,023
Other @ \$58.79/hr.	\$107,997	\$90,595
Maintenance @ \$164.21/hr.	\$301,654	\$253,048
<u>Aircraft Rent & Depr. @ \$157.33/hr.</u>	<u>\$289,015</u>	<u>\$242,446</u>
Direct Expenses	\$1,199,488	\$1,006,212
Flt. Attendant @ \$36.76/ hr.	\$67,528	\$56,647
Tff. Related @ \$5.18/pax. 4/	\$40,519	\$38,850
Departure Related @ \$7.08/wtd. dep. 5/	\$326,112	\$217,406
<u>Capacity Related @ \$.0236</u>	<u>\$255,599</u>	<u>\$217,406</u>
Indirect Expenses	\$689,758	\$530,309
Operating Expense	\$1,889,246	\$1,536,521
Return @ 5%	\$94,462	\$76,826
<u>Interest @ 1%</u>	<u>\$18,892</u>	<u>\$15,365</u>
Total Economic Cost	\$2,002,600	\$1,628,712
Annual Subsidy @ 95% Completion	\$1,370,562	\$1,022,712

1/ MCE-LAX: 24 flts./week x 52 weeks x 78 minutes x .95/60 = 1,541

MCE-VIS: 12 flts./week x 52 weeks x 30 minutes x .95/60 = 296

2/ 36 flts./week x 52 weeks x 25.9 weight x .95 = 46,061

3/ MCE-LAX: 24 flts./week x 52 weeks x 259 miles x 30 seats x .95 = 9,212,112

MCE-VIS: 12 flts./week x 52 weeks x 91 miles x 30 seats x .95 = 1,618,344

4/ Traffic related expenses on the MCE-VIS segment are decreased by a 28/80 ratio.

5/ System costs, Jets weighted @ 51 and Brasilias @ 25.9.

**ESSENTIAL AIR SERVICE PROVIDED BY SKYWEST
AT MERCED, CALIFORNIA, DOCKET 3521**

Effective Period: May 1, 2001, until SkyWest inaugurates the service in Appendix C-2, which we expect to be within 60 days

Service: Two nonstop and one one-stop round trips each weekday and over each weekend period to Los Angeles International Airport

Aircraft: Beech Embraer Brasilia (30 passenger seats).

Timing of Flights: Flights must be well timed and well spaced to ensure full compensation.

Subsidy Rate per Flight: \$770.84 ¹¹

Weekly Compensation Ceiling: \$27,750.24 ¹²

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 this 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 the agreement 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.

¹¹ \$1,370,562 annual compensation divided by 1,816 arrivals and departures estimated to be performed, computed as follows: 36 flights per week x 52 weeks x .95 completion = 1,778.

¹² The subsidy rate per arrival/departure of \$770.84 multiplied by 36 subsidy-eligible flights each week.

**ESSENTIAL AIR SERVICE PROVIDED BY SKYWEST
AT MERCED, CALIFORNIA, DOCKET 3521**

Effective Period: Start of two-round-trip-per-week service until further Department action

Service: Two nonstop round trips each weekday and over each weekend period to Los Angeles International

Aircraft: Embraer Brasilia (30 passenger seats)

Timing of Flights: Flights must be well timed and well spaced to ensure full compensation.

Subsidy Rate per Flight: \$862.32 ¹³

Weekly Compensation Ceiling: \$20,695.68 ¹⁴

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 this 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.

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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.

¹³ \$1,022,712 annual compensation divided by 1,816 arrivals and departures estimated to be performed, computed as follows: 24 flights per week x 52 weeks x .95 completion = 1,186.

¹⁴ The subsidy rate per arrival/departure of \$862.32 multiplied by 24 subsidy-eligible flights each week.

Appendix D

Quarterly Traffic at Merced, California, per SkyWest Airlines Schedule T-1, Form 298-C

	Merced to <u>Los Angeles</u>	Merced to <u>San Francisco</u>	Total <u>Enplaned</u>
QE 3/31/97	0	271	271
QE 6/30/97	0	535	535
QE 9/30/97	0	1,106	1,106
<u>QE 12/31/97</u>	<u>0</u>	<u>914</u>	<u>914</u>
Total	0	2,826	2,826
QE 3/31/98	0	675	675
QE 6/30/98	0	665	665
QE 9/30/98	0	1,322	1,322
<u>QE 12/31/98</u>	<u>0</u>	<u>1,215</u>	<u>1,215</u>
Total	0	3,877	3,877
QE 3/31/99	0	692	692
QE 6/30/99	891	42	933
QE 9/30/99	883	0	883
<u>QE 12/31/99</u>	<u>997</u>	<u>0</u>	<u>997</u>
Total	2,771	734	3,505
QE 3/31/00	713	0	713
QE 6/30/00	1,003	0	1,003
<u>QE 9/30/00</u>	<u>1,034</u>	<u>0</u>	<u>1,034</u>
Total	2,750	0	2,750

SERVICE LIST FOR THE STATE OF CALIFORNIA

Air L.A., Inc.
Air Nevada Airlines, Inc.
Air Vegas, Inc.
Alpha Air
American Eagle
Amerijet International, Inc.
Arizona Airways, Inc.
Arizona Pacific Airlines, Inc.
Aviation Services West, Inc.
Balter Worldwide Corporation
Barken International, Inc.
Continental Express, Inc.
Delta Connection
Direct Air, Inc.
Executive Airlines, Inc.
Grand Airways, Inc.
Gunnell Aviation, Inc.
Harbor Airlines, Inc.
Hillside Aviation
Kenmore Air Harbor, Inc.
Las Vegas Airlines, Inc.
Martin Aviation, Inc.
Medix Ambulance Service, Inc.
Mesa Airlines, Inc.
Metroflight, Inc.
Midway Airlines, Inc.
Midwest Express Airlines, Inc.
Northern Tier Airlines, Inc.
Northwest AirlinK
Pacific Air West, Inc.
Papillon Airways, Inc.
Patterson Aviation Company
Renown Aviation, Inc.
Scenic Airlines, Inc.
Sierra Nevada Airways, Inc.
Skyrunners Corporation.
Skywest Airlines, Inc.
StatesWest Airlines, Inc.
Sun Pacific Airlines, Inc.
Trans Executive Airlines of Hawaii, Inc.
Trans World Express, Inc.
United Express
USAir, Inc.
West Air Charter
WestAir Commuter Airlines, Inc.
Westward Airways, Inc.
Wings West Airlines, Inc.
World Airways, Inc.

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