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

Order 96-5-2

Served May 7, 1996

Issued by the Department of Transportation
on the 1st day of May, 1996

Essential air service at

ANNISTON, ALABAMA

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

Docket OST-95-889 - 8

**ORDER TO SHOW CAUSE
TENTATIVELY TERMINATING SUBSIDY
AND ALLOWING SUSPENSION OF SERVICE**

Summary

By this order, the Department is requesting interested persons to show cause why we should not terminate subsidy for essential air service at **Anniston**, Alabama, and allow Gulfstream International Airlines, Inc., to suspend service there as of June 1, 1996. Objections to the Department's tentative decision are due by May 10, 1996.

Background

By **Order** 95-11-28, November 17, 1995, the Department implemented program-wide reductions in essential air service subsidy payments and allowed for reductions in service levels, effective November 27, 1995, in response to a reduced program appropriation enacted by Congress for fiscal year 1996. The new appropriation of \$22.6 million represented a \$10.8 million reduction from the \$33.4 million that had been appropriated for the program in fiscal year 1995. Moreover, Congress indicated that all communities participating in the program in **fiscal** year 1995 should continue to be eligible for participation in fiscal year 1996.¹ Consequently, the Department authorized service reductions generally consisting of (a) the **termination** of subsidy for second-hub service, and (b) the termination of subsidy for more than two round trips five days a week -- *i.e.*, ten round trips a week.

¹ The new appropriation, however, did reiterate the eligibility criteria contained in previous years' appropriations. Communities whose subsidies exceed \$200 per passenger are not eligible for subsidy unless they are located more than 210 highway miles from the nearest large or medium hub as designated by the Federal Highway **Administration**, and communities located less than 70 highway miles from the nearest FAA-designated large or medium hub are not eligible for subsidy.

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In doing so, we noted that a service level consisting of two round trips a day, five days a week, represents “a minimum level of viable service.”² In our view, any service level below this threshold -- e.g., one round trip a day -- is of only marginal utility that does not warrant subsidy support. Indeed, the authorizing statute, 49 U.S.C. 41732(b), appears to acknowledge that tenet in defining essential air service as a minimum of two round trips a day. Reducing support for service to a level below the threshold would thus clearly constitute an inefficient use of program funding, and we have already concluded that further across-the-board reductions, which would result in communities’ service levels falling below the threshold, would represent “an action that we wish to avoid, if at all possible.”³

In authorizing the subsidy and service reductions, we remained concerned that upward cost pressures during the fiscal year might override our ability to confine spending within the constraints of the substantially reduced program budget, absent other action. Thus, we noted in Order 95-11-28 that we would be closely monitoring our subsidy obligations and outlays throughout the year, and that it could become necessary to make further reductions later on.⁴

Gulfstream’s Notice

Shortly after the issuance of Order 95-11-28, Gulfstream **filed** a 90day notice to suspend its subsidized service at Anniston, Alabama, as of February 27, 1996.⁵ The Department had selected Gulfstream to provide subsidized service at Anniston for a two-year period by Order 94-10-17, October 14, 1994. Under that order, Gulfstream was operating three nonstop round trips to Atlanta each weekday and four each weekend with **15-seat** Beech C-99 aircraft at an annual subsidy of \$796,737. However, in conjunction with the aforementioned program-wide subsidy and service reductions imposed by Order 95-11-28, the Department amended the terms of Gulfstream’s subsidy-eligible service to ten round trips a week and reduced the **annual** subsidy to \$494,816. Gulfstream implemented the lower service level on December 5, 1995.

By Order 96-1-7, January 11, 1996, we prohibited Gulfstream from suspending service for 30 days beyond the end of its **90-day** notice period, through March 28, 1996, and requested proposals from carriers interested in providing replacement service. We have subsequently extended Gulfstream’s service obligation for successive **30-day** periods, but have been unable to **find** any carriers interested in providing replacement **service**.⁶

Gulfstream’s Subsidy Proposal

In the meantime, Gulfstream has requested that the Department increase its subsidy rate. 49 U.S.C. 41734(d) stipulates that a carrier already receiving subsidy for essential air service, and required to maintain service after **filing** a **90-day** notice to terminate such service, shall remain on the same subsidy rate either until replacement service begins or 90 days beyond the

² See Order 95-11-28, at 3.

³ *Ibid.*, at 4.

⁴ *Ibid.*, fn. 6.

⁵ See the Appendix for a map.

⁶ **CCA**ir, Inc., d/b/a **USA**ir Express, initially filed a replacement proposal for service to Charlotte, North Carolina, but later withdrew it.

end of the 90day notice period -- *i.e.*, 180 days after it filed notice. Gulfstream's **180-day** period ends on May **22, 1996**, before we will have secured replacement service.

Consequently, Gulfstream is eligible for a revised subsidy rate as of May 23, 1996, and the carrier has requested a new subsidy rate of about \$947,000 annually. **In** support of its request, Gulfstream cites an actual passenger yield well below that projected in its current rate; a sharp decline in **traffic** since the Department implemented service and subsidy reductions last November; and a recent switch from Beech C-99 to more expensive **19-seat** Beech 1900 aircraft that was prompted by the Department's new commuter safety rule.

Decision

After giving careful consideration to the facts in this case, we have tentatively decided to terminate subsidy for Gulfstream's service at **Anniston** as of June 1, 1996, and to allow the carrier to suspend service there as of the same date. Specifying a June 1 effective date allows Gulfstream and the community about 30 days to prepare for the suspension of service.

We have tentatively decided on this action for several reasons. First, it is clear that, in order **to** continue its current level of service at **Anniston**, Gulfstream would require a substantial increase in its subsidy rate. Because of the significant reduction in the program's appropriation, however, we are not in a position to meet the added financial burden that would be involved without jeopardizing our commitments at other participating communities. An alternative, authorizing a further reduction in the level of service at a subsidy rate approximating the rate currently in effect, is prohibitively cost-ineffective. As discussed above, a service level below ten round trips a week would be of virtually no utility, and the cost of such service would remain far out of proportion to the benefits.

We also note that the Administration's proposed essential air service program budget for fiscal year 1997 (beginning October **1**, 1996) contemplates eliminating subsidy for service at communities located within 70 highway miles of FAA-classified small **hubs**.⁷ At 61 highway miles from a small hub airport at Birmingham, Alabama, **Anniston** would thus lose its subsidy eligibility in another four months. Given our severe budgetary constraints, we are reluctant to substantially increase subsidy for service at a community whose loss of eligibility appears imminent in any case.

Furthermore, the program's current appropriation prohibits us from subsidizing service at communities where such subsidy amounts to more than \$200 per passenger unless they are more than 210 highway miles from a large or medium hub. During the first quarter of calendar year 1996, origin-anddestination traffic at **Anniston** totaled 418 passengers, or 1,672

⁷ As noted earlier, **the 70-mile** standard already applies to communities located near large and medium hubs. Extension of the standard to communities located near small hubs was **first** proposed in Vice President Gore's *Creating A Government That Works Better & Costs Less: Report of the National Performance Review* (Washington: **GPO**, 1993). As published in the FAA's annual report, *Airport Activity Statistics of Certified Route Carriers*, hub classifications are based on each hub's **enplanements** as a percentage of all U.S. **enplanements**. A large hub accounts for at least 1 .00 percent, a medium hub accounts for at least 0.25 but less than 1.00 percent, and a small hub accounts for at least 0.05 but less than 0.25 percent.

passengers on an annual basis. Even at Gulfstream's current subsidy rate of \$494,816 a year, this amounts to a subsidy per passenger of \$295.14 -- well above the statutory ceiling. At a new, higher rate, of course, the subsidy per passenger would exceed the ceiling even more dramatically. In the past, we have always calculated subsidy-per-passenger **figures** on the basis of traffic data for a full 12 months. In this case, however, we conclude that we should rely on traffic levels registered after Gulfstream implemented the service reductions to properly evaluate the status of **Anniston's** subsidy eligibility. Reliance on pi-e-reduction traffic data, which would include traffic levels achieved at the prior three-round-trip-a-day **service conditions**. This consideration, taken together with the others discussed above, suggests that a departure from past practice is warranted.

Viewing all of these considerations in the aggregate, there is no viable option for retaining scheduled air service at Anniston that is within the Department's budgetary means or is **fiscally** responsible.

We will give interested persons until **5:00 PM Eastern time on May 10, 1996**, to submit objections. Objections should be fully documented and contain complete information on the data used by the person objecting. If our tentative findings become **final**, we expect Gulfstream to notify all passengers holding reservations on any flights that will be canceled, to advise them of those cancellations, and to assist them in arranging alternate transportation.

This order is issued under authority delegated in 49 **CFR** 1.56(i).

ACCORDINGLY,

1. We tentatively terminate the subsidy rate authorized for the provision of essential air service at Anniston, Alabama as of June 1, 1996;
2. We tentatively allow Gulfstream International Airlines, Inc., to suspend service at **Anniston**, Alabama, as of June 1, 1996;
3. We direct all interested persons to show cause by 5:00 PM Eastern time on May 10, 1996, why should not make final the tentative findings and conclusions set forth above. Objections should be filed with the Documentary Services Division, C-55, Room **PL-401**, **400 7th Street, S.W., Washington, DC 20590;**⁸
4. In the event that no objections are filed, all further procedural steps will be deemed waived and this order shall become final for such community on May 13, 1996; and

⁸ In addition, copies of objections may be faxed to the Chief, EAS & Domestic Analysis Division, at (202) 366-7638. All objections should nonetheless be filed with the **Documentary Services** Division at the above address regardless of whether copies are also faxed.

5. We **will** serve a copy of this order on the Mayor and airport manager of **Anniston**, Alabama, the Governor of Alabama, the Alabama, Department of Transportation, and Gulfstream International Airlines, Inc.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

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