



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

Issued by the Department of Transportation
on the **28th day of December, 2000**

Essential Air Service at

CORTEZ, COLORADO

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

Served: January 3, 2001

Docket OST-1998-3508 - 4

ORDER TO SHOW CAUSE

Summary

By this order, the Department tentatively reselects Great Lakes Aviation, Ltd., d/b/a United Express (Great Lakes), to provide subsidized essential air service at Cortez, Colorado, for a new two-year rate term at an annual subsidy rate of \$403,311, effective October 1, 2000. (See Appendix A for map.)

Background

Prior to Great Lakes' service, Cortez was served by Mesa Airlines, Inc., d/b/a United Express. On February 17, 1998, Mesa filed a 90-day notice of its intent to suspend service at Cortez, as of May 18, 1998. By Order 98-3-32, March 30, 1998, the Department approved the transfer of service responsibilities and the accompanying subsidy rate for Cortez from Mesa to Great Lakes. Great Lakes inaugurated its service on June 1, 1998, for the remainder of Mesa's rate term, through September 30, 1998. All service would continue to be operated with 19-seat Beech 1900 aircraft. By Order 98-11-20, November 24, 1998, the Department reselected Great Lakes to continue serving at Cortez through September 30, 2000, by providing 18 nonstop round trips a week to Denver at an annual rate of \$408,227.

Under our 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 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 Great Lakes to submit a proposal for the continuation of its service at Cortez beginning October 1, 2000.

Carrier Proposal

Great Lakes submitted a proposal in response to our request. As a result of discussions with Department staff, the carrier has agreed to a new rate term for the two-year period from October 1, 2000, through September 30, 2002. Specifically, Great Lakes proposes to continue operating 18 nonstop Cortez-Denver round trips a week with 19-seat Beech 1900s at an annual subsidy rate of \$403,311.¹

Decision

After a thorough review of the proposal and Great Lakes' service history, we have tentatively decided to reselect Great Lakes to continue to provide service at Cortez. The proposed rate appears reasonable for the service at issue and the carrier's performance continues to be satisfactory.

Responses to Tentative Decision

As usual, we will allow interested parties 20 days from the date of service of this order to file objections or competing proposals in this case. 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 filed in a timely manner. As a general matter, we request proposals that would provide service at levels commensurate with those tentatively selected here with twin-engine aircraft operated by two pilots. We will also entertain proposals to other hubs that provide access to the national air transportation system in order to give the Department and community 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.

¹ See Appendix B for details of Great Lakes' subsidy calculation.

Traffic and Service History

Great Lakes has been operating scheduled service at Cortez since April 1998, when it replaced Mesa. In calendar year 1999, the most recent 12-month period for which data are available, Cortez generated a total of 8,776 O&D passengers, an average of 14 enplanements per day. This represented a slight decrease from 1998, when there were 10,193 O&D passengers, or an average of 16 enplanements per day.² In order to assist interested carriers in developing traffic and revenue projections for their service proposals, we have summarized historical traffic data in Appendix D.

Carrier Fitness

According to 49 U.S.C. 41737(b) and 41738, the Department must find an air carrier fit, willing and able to provide reliable service before we compensate it for providing essential air service. We last reviewed Great Lakes' fitness by Order 2000-8-13, August 16, 2000, in connection with its subsidized air service at Ironwood, Michigan. 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 Great Lakes continues to have available adequate financial and managerial resources to maintain reliable service at Cortez, 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 Great Lakes remains fit.

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 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.

² See Appendix D for historical traffic data since 1990. Enplanements represent one-half of total origin-and-destination traffic, and averages are based on 313 weekdays and weekends each year.

Other Carrier Requirements

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.³ 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.

Community and State Comments

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.⁴

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

ACCORDINGLY,

1. The Department tentatively reselects Great Lakes Aviation, Ltd., d/b/a United Express, to provide essential air service at Cortez, Colorado, as described in Appendix C, for the period from October 1, 2000, through September 30, 2002;
2. The Department tentatively sets the final rate of compensation for Great Lakes Aviation, Ltd., d/b/a United Express, for the provision of essential air service at Cortez, Colorado, as described in Appendix C, for the period from October 1, 2000, through September 30, 2002,

³ The regulations applicable to each of these three 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; and (3) 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 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.

⁴ In cases where a carrier proposes to provide 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.

payable as follows: for each calendar month during which essential air service is provided, the amount of compensation shall be subject to the weekly ceiling set forth in Appendix C, and shall be determined by multiplying the subsidy-eligible arrivals and departures flown during the month by \$218.95;⁵

3. The Department finds that Great Lakes Aviation, Ltd., d/b/a United Express, continues to be fit, willing and able to operate as a commuter air carrier and capable of providing reliable essential air service at Cortez, Colorado;

4. We direct Great Lakes 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;

5. We direct any interested persons having objections to the selection of Great Lakes to provide service described in and at the rate set forth in Appendix C, to file such objections or competing service proposals no later than 20 days from the date of service of this order;⁶

6. If we receive objections or competing proposals within the 20-day period, Great Lakes 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.⁷ 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

⁵ See Appendix C for the calculation of this rate, which assumes the use of the aircraft designated. If the carrier reports a significant number of aircraft substitutions, a revision of this rate may be required.

⁶ Objections should be filed with Dockets Operations and Media Management, SVC-124, Room PL-401, Department of Transportation, 400 7th Street S.W., Washington, D.C. 20590. Proposals to provide air service should be filed with the Chief, EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, at the same address. Questions regarding filings in response to this order may be directed to Luther Dietrich at 202-366-1046 or Renée Williams at 202-366-1058.

⁷ Since we are providing for the filing of objections to this order, we will not entertain petitions for reconsideration.

9. The Department will serve a copy of this order on the Mayor and Airport Manager of Cortez, the Governor of Colorado, Great Lakes Aviation, Ltd., d/b/a United Express, and the parties listed in Appendix E.

By:

FRANCISCO J. SANCHEZ
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>*