



Order 96-9-21

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

SERVED SEPT 23, 1996

Issued by the Department of Transportation  
on the 18th day of September, 1996

Small Community Air Service at

**FERGUS FALLS, MINNESOTA**

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

Docket 47458

**ORDER REQUESTING PROPOSALS**

**SUMMARY**

This order requests proposals from all carriers interested in providing small community air service at Fergus Falls, Minnesota.

**BACKGROUND**

Under 49 U.S.C. 41736 [formerly section 419(d)(1)(B)], a State or local government may make a proposal to the Secretary for compensated air transportation to a point that is not an eligible point. Section 41736 provides that the Secretary shall approve a proposal for compensated air transportation to a point in the 48 contiguous States and designate such point as eligible for compensation if: (1) at any time before October 23, 1978, the point was served by an air carrier that held a certificate issued under section 401; (2) the point is more than 50 miles from the nearest small hub airport or eligible point; (3) the point is more than 150 miles from the nearest medium or large hub airport; and (4) the State or local government submitting the proposal is willing and able to pay 25 percent of the cost of providing the proposed compensated air transportation. Under this 75-25 percent cost-sharing provision in the statute, the air carrier may terminate its service at the point by giving the affected parties at least 30-days' notice.

The City of Fergus Falls and the Minnesota Department of Transportation filed a joint application in 1991 that met these criteria, and by Order 91-10-45, issued October 25, 1991, the Department designated Fergus Falls as a point eligible to receive compensation for small community air service. Order 91-10-45 also solicited carrier proposals for service at Fergus Falls and, by Order 92-5-32, the Department selected Great Lakes Aviation to provide service to Minneapolis for a two-year period. Upon expiration of its rate term, Great Lakes was tentatively reselected to provide service for a second two-year period. However, Mesaba Aviation submitted a competing proposal and, by Order 94-8-25, the Department selected Mesaba to replace Great Lakes.

Mesaba's service was to consist of three round trips each weekday and three round trips each weekend to Minneapolis. At least one round trip each weekday and each weekend was to be nonstop while the other two could be one-stop. Subsidy for this service was set at \$303,120 per year, for a two-year period. Mesaba's rate term expires October 31, 1996.

By Order 95-11-28, effective November 27, 1995, the Department implemented program-wide subsidy reductions in essential air service subsidy rates and service levels in response to a reduced EAS program appropriation enacted by Congress for fiscal year 1996. The fiscal year 1996 appropriation of \$22.6 million represents a one-third reduction from last year's appropriation of \$33.4 million and called for across-the-board subsidy cuts. To achieve the subsidy reductions, the Department stated that it would no longer subsidize any service to a second hub and that it could no longer subsidize more than ten round trips a week, *i.e.* the equivalent of two round trips, five days per week. Under those guidelines, the Department now subsidizes a maximum of ten round trips a week at all non-Alaska essential air service communities. At Fergus Falls, although annual subsidy was reduced by Order 95-11-28 from \$303,120 to \$195,344, Mesaba maintained its service at the three-round-trip-a-day level.

On August 29, 1996, Mesaba filed notice with the Department and community officials that it will suspend service to Fergus Falls, effective with the last flight of the day on September 30, 1996.

### **REQUEST FOR PROPOSALS FOR REPLACEMENT SERVICE**

The City of Fergus Falls has requested that the Department seek proposals for replacement service. The community has stated that it is willing to consider any and all proposals for service to Minneapolis or any other appropriate hub city. Community officials also encourage carriers to consider using Fergus Falls as an add-on to existing service *e.g.*, in conjunction with existing service to Chicago O'Hare.

The city points out that Mesaba is terminating service at the request of its code-share partner, Northwest Airlines, rather than because of disappointing passenger loads. In fact, traffic at the point is strong and has met or exceeded the level forecast in Mesaba's current agreement: Mesaba predicted 9,000 yearly passengers and, for the most recent 12-month period, actually carried 10,228 passengers. See Appendix A for historical traffic information for Fergus Falls.

As noted above, the non-Federal share of the required compensation, twenty-five percent of the total subsidy amount, will be provided by either the City of Fergus Falls or the State of Minnesota. We are limited to subsidizing ten round trips per week with 15-seat or larger aircraft. The City prefers a carrier with a code-sharing arrangement with a major airline but is willing to consider all reasonable proposals.



Carriers interested in filing proposals for replacement service at Fergus Falls, should file them within 30 days of the service date of this order. At the end of the 30-day period, the staff will file all of the proposals in the docket and direct each applicant to serve a copy of its proposal on the civic parties and the other applicants. We will give full consideration to all proposals that are timely filed.

For interested 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 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 seeking a replacement carrier. The second is an evidence request and includes an

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<sup>1</sup> Consistent with the statute, Order 94-8-25 also allows the City of Fergus Falls and/or the Minnesota Department of Transportation to terminate the agreement to provide its share of the compensation to Mesaba by providing at least 30-days' notice to the Department and to the carrier

explanatory statement, a copy of 14 CFR 204.4 of the Department's regulations which deals with the information required of all applicants for authority to provide essential air service, and schedules giving our recommended form for submitting data required for determining the financial and operational ability of applicants to provide dependable service.<sup>2</sup>

Applicant carriers that have submitted the financial and operational data to the Department within the past six months may include this material by reference, citing the relevant docket and order numbers. Those carriers need only resubmit this information in the event that 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 elements.

### **COMMUNITY AND STATE COMMENTS**

The community and State are welcome to submit comments on the carrier selection decision 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 concluding 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.

### **OTHER CARRIER REQUIREMENTS**

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.<sup>4</sup> 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 the regulations governing lobbying activities. All carriers that 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 certification forms 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.

This order is issued under authority assigned in 14 CFR Part 385.

### **ACCORDINGLY,**

1. The Department requests carriers interested in providing air service at Fergus Falls, Minnesota, as discussed in the text of this order, to file proposals within 30 days after the service date of this order. Proposals must include the data required by 14 CFR 204.4 of the Department's Regulations. An original and five copies of the proposal should be sent to: Office of Aviation Analysis, EAS & Domestic Analysis Division, X-53, Room 6401,

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<sup>2</sup> Copies of these documents can be obtained from: 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, (202) 366-1053.

<sup>3</sup> Civic parties should file an original and five copies of their comments in Docket 47458. Civic comments should be addressed to: Documentary Services Division, Docket Section, C-55.1, Office of the Secretary, U. S. Department of Transportation, Room PL 401, 400 7th Street, S.W., Washington, D.C. 20590.

<sup>4</sup> The regulations applicable to each of these three areas are (1) 49 CFR Part 20, New Restrictions of Lobbying, implementing 31 U.S.C. 1352, entitled "Limitation of 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 Assistance; and 14 CFR Part 382, Nondiscrimination on the Basis of Handicap in Air Travel.

Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, with the title "Proposal to Provide Small Community Air Service at Fergus Falls, Minnesota (Docket 47458)";

2. The Department requests the civic officials of Fergus Falls, Minnesota, and the Minnesota Department of Transportation, to submit comments on the carrier proposals within 10 days after they receive copies of the proposals; and

3. The Department will serve copies of this order on the Mayor and airport manager of Fergus Falls, Minnesota, the Minnesota Department of Transportation, the Governor of Minnesota, Mesaba Aviation, and the parties listed in Appendix B.

Persons entitled to petition the Department of Transportation for review of this order under the Department's Regulations, 14 CFR 385.50, must file their petitions within 30 days after the service date of this order.

This order will be effective immediately, and the filing of a petition for review will not preclude such effectiveness.

By:

**JOHN V. COLEMAN**  
Director  
Office of Aviation Analysis

(SEAL)

*An electronic version of this document is available on the World Wide Web at*