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Order 2000-11-16



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

Issued by the Department of Transportation
on the 15th day November, 2000

Essential Air Service at

**MARION/
HERRIN, ILLINOIS**

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

Served: November 20, 2000

Docket OST-2000-7881 - 2

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

Summary

By this order, the Department is (a) prohibiting Corporate Airlines, Inc., d/b/a Trans World Express (Corporate Airlines), from terminating its unsubsidized scheduled air service at Marion/Herrin, Illinois, (b) requiring the carrier to maintain service at the community for an initial 30-day period following the end of the notice period, and (c) requesting proposals from carriers interested in providing replacement service.

Background

On August 31, 2000, Corporate Airlines filed a 90-day notice of its intent to terminate all scheduled air service at Marion/Herrin, Illinois, effective November 29, 2000. Corporate Airlines, the only air carrier providing scheduled service at Marion/Herrin, currently serves the community with four, nonstop round trips a day to St. Louis with 19-seat Jetstream 31 aircraft.



Essential Air Service at Marion/Herrin

The essential air service determination for Marion/Herrin, Illinois, requires at least two nonstop round trips each day to St. Louis, with sufficient capacity to accommodate 40

passengers in each direction each day.¹ In accordance with our essential air service guidelines, service must be provided with 15-seat or larger aircraft.

During the first 6 months of 2000, Marion/Herrin generated a total of 3,148 enplanements or approximately 20.2 per day, based on 6-day-a-week service. In calendar year 1999, the community generated a total of 9,581 enplanements, or 30.6 enplanements per day based on a 313-day service year. In calendar years 1997 and 1998, the community generated 10,725 (34.4 a day) and 10,025 (32.1 a day) enplanements, respectively.

Request for Proposals

We request that any carriers interested in providing essential air service at Marion/Herrin file their proposals within 20 days of the service date of this order. We ask that carriers submit proposals for two or three nonstop round trips per day to St. Louis with 15-seat, or larger, pressurized aircraft. 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. In order to assist carriers in making their traffic and revenue forecasts, we have included historical traffic data in Appendix A.

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.²

Community and State Comments

The community and the State are welcome to submit comments on the proposals at any time.³ 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.

¹ Civil Aeronautics Board Order 80-2-124, issued February 25, 1980.

² 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.

³ Civic parties should file an original and five copies of their comments in Docket OST-2000-7881. 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.

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.⁴

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 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. 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.

Requirement to Maintain Service

Corporate Airlines is the only carrier providing scheduled air service at Marion/Herrin, and is the community's only link to the nation's air transportation system. In accordance with 49 U.S.C. 41734, we must prohibit Corporate Airlines from terminating service for a 30-day period beyond the end of its 90-day notice period, through December 29, 2000.⁶ We will require the carrier to continue to provide a minimum of three round trips a day.

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 Marion/Herrin, Illinois, submit their proposals, with or without requests for subsidy, within 20 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

⁴ 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.

⁵ 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 Civil 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.

⁶ In accordance with 49 U.S.C. 41734(c), we will extend Corporate Airline's service obligation for successive 30-day periods as necessary until replacement service actually begins.

the title: "Proposal to Provide Essential Air Service at Marion/Herrin, Illinois," Docket OST-2000-7881;⁷

2. The Department prohibits Corporate Airlines, Inc., d/b/a Trans World Express, from terminating service at Marion/Herrin, Illinois, at the end of its 90-day notice period, and requires it to maintain at least three nonstop round trips a day between Marion/Herrin and St. Louis, through December 29, 2000, or until a carrier capable of providing reliable essential air service actually begins service, whichever comes first;

3. The Department directs Corporate Airlines, Inc., d/b/a Trans World Express, 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. This docket will remain open until further Department order; and

5. We will serve a copy of this order on the mayors of Marion and Herrin, the Airport Manager of Williamson County Airport, the Governor of Illinois, the Division of Aeronautics of the Illinois Department of Transportation, Corporate Airlines, Inc., and the carriers listed in Appendix B.

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>*

⁷ After serving a copy of its proposal on the civic officials of Marion and Herrin, the State of Illinois, 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 Mike Waters at (202) 366-6494.

Appendix A

Calendar Year Thru	Enplanements	Enplanements per Day
June 30, 2000	3,148	19.4
December 31, 1999	9,671	31.0
December 31, 1998	10,559	33.8
December 31, 1997	11,535	37.0
December 31, 1996	10,066	32.3
December 31, 1995	12,650	40.5
December 31, 1994	14,402	46.2
December 31, 1993	12,813	41.1

SERVICE LIST FOR THE STATE OF ILLINOIS

Aero Taxi Rockford, Inc.
Air Casino, Inc.
Air Wisconsin, Inc.
Allied Airlines, Inc.
American Trans Air, Inc.
Amerijet International, Inc.
Bemidji Airlines
Chicago Air Taxi, Inc.
Chicago Express Airlines, Inc.
Corporate Airlines, Inc.
Delta Connection
Direct Air, Inc.
Dwyer Aircraft Sales, Inc.
Executive Airlines, Inc.
Florida Air, Inc.
Gorda Aero Service, Inc.
Great Lakes Aviation, Ltd.
Heartland Aviation, Inc.
Jet Services, Inc.
Logansport Flying Service, Inc.
Metroflight, Inc.
Michigan Airways, Inc.
Midway Airlines, Inc.
Midwest Express Airlines, Inc.
Multi Aero, Inc.
Northwest AirlinK
Ohio Valley Aviation, Inc.
Pennsylvania Commuter Airlines, Inc.
Planemaster Services Inc.
Redwing Airways, Inc.
Scott Aviation, Inc.
Shawano Flying Service, Inc.
Simmons Airlines, Inc.
Thunderbird Aviation, Inc.
Trans North Aviation Ltd.
Trans States Airlines, Inc.
Welch Aviation, Inc.
Wise Aviation Company

Chester Anderson
Ken Bannon
Jeff Bell
Richard Thomas Clarke
Sabrina Cranor
E.B. Freeman
Douglas Gumula
A. Edward Jenner
Dan Katzka
John McFarlane
Tracy Schoenrock
Edward Wenz
Gary L. White
Robert Wigmore