BEFORE THE

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

REVISIONS TO PASSENGER FACILITY CHARGE RULE FOR COMPENSATION TO AIR CARRIERS	FAA-2002-13918

COMMENTS OF AMERICAN AIRLINES, INC.

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American Airlines, Inc. hereby comments on the FAA's Notice of Proposed Rulemaking, 67 Fed. Reg. 70878, November 27, 2002. American supports the FAA's proposal to establish a handling fee that reimburses carriers for reasonable and necessary expenses of collecting and processing passenger facility charges. However, the current proposal still falls short of complete reimbursement to carriers.

American has reviewed and endorses the comments being submitted by the Air Transport Association. In addition, we wish to highlight the following:

- The final rule should address retroactive reimbursement to carriers for the known shortfall quantified since 1999.
- The final rule should reflect the 2003 "average" reasonable and necessary expenses of collecting and handling PFCs.
- The final rule should establish a process to periodically review air carrier reimbursement.
- The final rule should not state that the existing unit of reimbursement is PFCs "remitted."

Compensation Shortfall

Congress did not intend for carriers to be adversely affected by the PFC program. In the Conference Report (H. Rep. 106-513) to the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Public Law 106-181, Congress directed the FAA to make a final decision on adjustments to the PFC handling fee within 189 days from the date carriers presented the evidence necessary for evaluation (p. 168). The carriers provided the necessary data at the end of January 2001. This NPRM was not issued until November 27, 2002, almost two years later.

The proposed revisions to the PFC carrier compensation rule do not attempt to make the carriers whole for the known compensation deficiency. The FAA's analysis in its Table 4 indicates that actual 1999 costs per PFC remitted and collected were $0.0995 and $0.0896, respectively. Whichever cost measure is used, the airlines have lost millions of dollars serving involuntarily as the airports' fee collectors. Using the lower cost measure with the data supplied in the NPRM, the industry has incurred a minimum of $29 million in uncompensated costs.

American fully endorses the ATA's view that the FAA is obligated to establish a plan for air carriers to recover uncompensated expenses. The FAA, by its indecision, exacerbated an already complicated administrative issue. American urges the FAA to establish a plan for the carriers to recover the under-reimbursed amounts that is simple to execute and administer. Any added complexity serves only to increase the costs to the carriers and potentially the airports.

Calculation of PFC Handling Fee Rate

The FAA correctly states that "selecting the right compensation level clearly depends on the assumption made about what mix of $4.50 and $3 PFCs carriers will collect" (67 Fed. Reg. 70885). The phased compensation rates suggested by the FAA omits the fact that carriers began collecting $4.50 PFCs in April 2001. This fact adds to the industry's known under-compensated amounts discussed above. American's experience shows that by the end of 2001, the ratio of $3 and $4.50 PFCs was already approaching the 50% mark, the ratio assumed in the FAA's Table 5 for all of 2002. The $4.50 PFCs collected by American during 2002 represented 55% of the total volume of PFCs collected that year. By the end of 2002, 65% of the PFCs collected by American were $4.50 PFCs. The table shown below, "Adjusted Table 5 – Actual Costs and Fees," incorporates more accurate estimates of the PFC mix for the years 2001 through 2004 and their impact on average cost per PFC collected.

Adjusted Table 5 - Actual Costs and Proposed Fees

	2001[1]	2002[2]	2003[3]	2004[4]
Compensation Based on PFCs Collected				
1999 Cost Per PFC Collected at $3 (Actual)	0.0896	0.0896	0.0896	N/A
1999 Cost Per PFC Collected at $4.50 (Pro-Forma)	0.1065	0.1065	0.1065	0.1065
Weighted Cost Per PFC Collected	0.0964	0.0989	0.1040	0.1065
Actual/Proposed Fee Per PFC Collected	0.0800	0.0800	0.1100	0.1100
Over/(Under) Collection Per PFC	(0.0164)	(0.0189)	0.0060	0.0035

[1](Assumes 60% at $3 and 40% at $4.50)
[2](Assumes 45% at $3 and 55% at $4.50)
[3](Assumes 15% at $3 and 85% at $4.50)
[4](Assumes 0% at $3 and 100% at $4.50)

Clearly, the FAA's proposed 2003 handling fee of $0.10 is understated when the correct mix of PFCs is used. Further, as the ATA discusses in its comments, the FAA has understated certain carrier disclosure costs. When these are taken into account, the rate due to carriers for complete reimbursement in 2003 is closer to $0.12. American urges the FAA to set the handling fee at $0.12 in 2003.

Periodic Review of Carrier Costs

The FAA's discussion of the treatment of inflation invites airlines to provide documentation supporting the claim that PFC handling costs rise as a result of inflation. We agree that a direct link to inflation may be difficult to determine. However, we also agree with the ATA's comments that the FAA has a continuing obligation to ensure that carriers' costs are fully reimbursed. We believe a review of carrier compensation levels should occur every two years.[1]

A brief examination of credit card transaction fees demonstrates why a frequent review is necessary. Credit card fees are affected by customer behavior and the discount rate charged by credit card companies. In 1999, American's credit card fees accounted for $0.0500 of the $0.0998 actual cost per PFC collected. Since 1999, the individual rates charged by the credit card companies have increased.

	Credit Card Cost Per PFC	Total Cost Per PFC
1999	0.0500	0.0998
2000	0.0509	0.1007
2001	0.0504	0.1002
2002	0.0504	0.1002

The data above is just one example of fluctuations in carrier costs. To minimize the risk of under or over compensation, American strongly urges the FAA to formally establish bi-annual reviews of carrier costs. A two-year interval should adequately protect all stakeholders from relying on data that may have become stale.

Handling Fee Basis of Compensation

American fully supports the FAA's proposal to use PFCs "collected" as the unit of reimbursement. See proposed §158.53. The carriers' costs to handle and collect PFCs are closely tied to the number of PFCs collected. In fact, refunds of PFCs result in even more handling costs for the airline. Therefore, American strongly agrees that the handling fee should be assessed based on collected PFCs, not remitted PFCs.

[1] See, for example, 14 CFR 254.6 ("the Department [of Transportation] will review the minimum limit of liability prescribed in this part [for lost or damaged baggage] every two years."

However, American objects to the FAA's statement in its conclusion that the existing unit of reimbursement is PFCs "remitted" (67 Fed. Reg. 70888). Since the inception of the PFC program, a dispute has existed concerning the unit used for calculating handling fees. While there has been correspondence from the FAA discussing this topic, there has yet to be an official binding advisory clarifying the basis for compensation.

The FAA's conclusion also states that no changes will be made retroactively. However, attempts to clarify the existing basis of compensation issue effectively serves as a retroactive change to remittance versus collection. The FAA should explicitly recognize that a legitimate dispute over the old basis for calculation exists and it should further state that the proposal does not attempt to clarify the old basis of compensation.

Respectfully submitted,

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