

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.

COMMENTS OF
AIRPORTS COUNCIL INTERNATIONAL – NORTH AMERICA
AND
AMERICAN ASSOCIATION OF AIRPORT EXECUTIVES

IN RESPONSE TO
PASSENGER FACILITY CHARGE PROGRAM,
NON-HUB PILOT PROGRAM AND RELATED CHANGES

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The Airports Council International – North America (ACI-NA) is a membership organization representing approximately 180 state, regional and local governing bodies that own and operate the principal airports served by scheduled air carriers in the United States and Canada. ACI-NA member airports handle approximately 98 percent of the domestic, and virtually all of the international air passenger and cargo traffic in North America.

The American Association of Airport Executives (AAAE) is a not-for-profit professional individual association of the airport management industry. Founded in 1928, AAAE is the largest professional organization for airport executives in the world. Representing thousands of airport management personnel at over 800 U.S. airports, the Association includes executives of large and medium-size airports, as well as hundreds of managers from smaller airports.

Background

ACI-NA and AAAE are pleased to support the Federal Aviation Administration (FAA) in its efforts to implement the congressional direction contained in Vision-100 (Century of Aviation Reauthorization Act) and its efforts to propose measures to simplify the Passenger Facility Charge (PFC) program. The PFC program, created by the Congress in 1990, has been a tremendously successful program helping airports fund billions of dollars for needed safety and capacity projects, while enabling airports and airlines to meet historic levels of passenger and shipper demand. These federally authorized, locally imposed charges are today a critical component of most commercial airport capital development programs. In today's aviation industry where airports themselves fund the overwhelming amount of capital projects, PFCs are a critical financing tool for airports.

While most of these changes are directed to non-hub airports, they represent a new and innovative approach to simplify the economic regulatory burden imposed on airports. These follow similar efforts made by both the Congress and the FAA to streamline the project approval process as it relates to environmental requirements. Taken together, these measures offer the potential for reducing airport and airline costs, expediting critical safety and capacity projects undertaken by airports, and making progress toward unleashing innovative management practices by airport professionals and airport authorities.

ACI-NA and AAAE believe that the best and most efficient step for the PFC program is to eliminate federal approval entirely, making the program similar to how airports and airlines interact on airline rates and charges. Such a strategy would be part of a greater effort toward regulatory simplification and economic deregulation of airports that would redound to the benefit of the entire aviation industry. In numerous forums, ACI-NA and AAAE have recommended a series of statutory and regulatory streamlining proposals to the Congress, the Department of Transportation (DOT), Office of Management and Budget, and the FAA. These include measures to reduce the onerous burden of competition plans, simplify the multitude and long-reach of Airport Improvement Program (AIP) grant assurances, and provide airport leadership with more management flexibility that comports with today's aviation industry, not the one of the pre-aviation deregulation era of over 25 years ago.¹ ACI-NA and AAAE appreciate the recent willingness by the FAA and DOT to explore ways to reduce the regulatory burden faced by our member airports.

Airport leadership has demonstrated that when it has the flexibility to help the aviation industry it does so, even during a period as tumultuous as has existed since 2001. To help the industry recover, a recent DOT report applauded airports for taking “decisive action to reduce operating and capital costs, including staff reductions, hiring freezes, work-rule changes, reductions in employee benefits, the closure of unnecessary facilities, and the deferral, and in some cases the suspension, of capital projects.” And to help airlines,

“...many airports assisted their airline tenants directly, by suspending or reducing airport rates and charges for a period of time, contributing discretionary funds to help reduce airport fees, or providing air carriers with additional time to pay their assessed rates and charges.”² Airports taking these steps do so voluntarily, in order to produce the best possible financial climate for carriers serving the airport, and therefore for passengers using the airport.

Non-Hub Pilot Program

Vision-100 created a three-year pilot program to streamline the PFC approval process for non-hub airports, requiring implementation within 180 days of enactment, and added several changes to the general PFC program. The FAA had supported a pilot program during consideration of reauthorization based on its internal review of the PFC program. We discussed this review with FAA officials and appreciated their approach to the issue. Streamlining the requirement for PFC approval helps not only airports by reducing their costs and time spent on the application process, but it also enables the FAA to better prioritize its limited staff resources and devote them to reviewing the most important regulatory issues.

The FAA notes that non-hub airports represent 70% of all commercial service airports and, over the last five years, approximately 60% of PFC applications they have processed. Collectively, however, they account for only 2% of total annual PFC revenue. Given these figures, it is a common-sense and efficient approach to allow the non-hub airport to impose a PFC once the FAA acknowledges receipt of their intent, unless the FAA states an objection within 30 days. This change alone could save as many as 90 days in the project approval process.

As other airports point out in the docket for this rulemaking, consultation between airports and airlines already takes place during the development of the project review process. Therefore, further eliminating duplicative reviews from the PFC approval process makes sense. The FAA concurs with this logic as it has proposed to reduce the information requirements for their review of non-hub PFC applications containing projects previously reviewed in the AIP process. For those not currently included, the additional information required is enumerated.

ACI-NA and AAAE hope that the FAA will use this three-year pilot program as part of its continuing efforts to streamline their PFC process for all commercial-service airports. Evaluating this program during and after the pilot period will provide experience and data that could help shape future FAA regulatory requirements and recommendations to the Congress for the next aviation reauthorization bill.

General PFC Program Changes

Several airports in separate filings have made additional recommendations to streamline the PFC application and amendment review process. In most cases, these are designed to consolidate project and financial information for multiple airport capital projects. As those engaged at building and expanding airports know, development programs necessarily involve a series of discrete projects. Allowing maximum flexibility in the ways projects and their costs are characterized offer further potential for streamlining. This is especially the case with how financing costs are incorporated since they vary widely and are not as fixed or “hard” as construction costs, for example. The unfortunate result is that as financing costs change, in response to market conditions, airports may be obligated to file numerous amendments to their applications. Even with the more simplified amendment process described below, such a procedural thicket lacks added value.

We appreciate the recommended change that would eliminate the requirement for the FAA to publish a public notice in the *Federal Register* for each PFC application. This measure alone will potentially save

airports considerable amounts of time in the application process. In return, the FAA is requiring airports to provide notice to their local communities about the airport's intent to impose a PFC. We urge the FAA to administer this requirement flexibly so that if a project has been previously subject to public comment, this requirement could be waived (of course, if the project has changed significantly since the point of last notice, the requirement would be reasonable). We also appreciate that the FAA has provided concrete examples of the type of information airports should communicate to meet the public notice requirement.

The FAA retains the option to publish a notice but "expects that it will publish a notice in the *Federal Register* only for those applications with significant issues or public controversy." These categories, according to the FAA, include intermodal ground transportation access projects (because they might connect to off-airport transit systems and be expensive), projects involving competition or leasing (under the justification that they might favor one carrier over another), and projects that generate a lot of interest in the air carrier consultation and public comment processes.

ACI-NA and AAAE urge the FAA to implement these changes carefully to insure the process is used for germane and significant comments and not as a self-fulfilling hurdle to further delay important safety and capacity projects by the submission of spurious or duplicative comments.

Reducing the air carrier consultation requirement to those with "a significant business interest" at airports (defined in the notice as no less than 1% of passenger boardings in the prior year, or 25,000 passenger boardings in the prior year, or provides scheduled service at the airport) for both the application and amendment process is a modest step in the right direction. The practical impact of this modification is to eliminate consultation with some charter or other on-demand operators.

ACI-NA and AAAE also support the FAA's efforts to clarify and improve the PFC amendment process and commit to specific timelines for agency review. For many amendments requested there is little or no controversy and no carrier disagreement. In these cases FAA commits to a decision within 30 days. For amendments where one or more carriers disagrees with the proposed amendments, the FAA retains the option to publish a *Federal Register* notice to seek public comment on the actions. In these cases the agency commits to issue a decision within 120 days of receiving the application.

ACI-NA and AAAE sincerely appreciate the spirit under which these statutorily mandated and FAA-inspired regulatory changes are proposed. We remain committed to working with the FAA, airlines, and airport service providers to further enhance our collective responsibilities to serve our passengers, shippers and greater communities.

(Footnotes)

¹ See, for example,

Comments of the ACI-NA and AAAE, in the matter of Agency Collection Activity Under OMB Review: Federal Aviation Administration (OMB Control No. 2120-0661), September 2, 2003, and *Statement of Bonnie Allin (President and CEO of Tucson Airport Authority), James E. Bennett (President and CEO (Metropolitan Washington Airports Authority) and Charles M. Barclay (President, the American Association of Airport Executives) on behalf of ACI-NA and AAAE*, Before the Subcommittee on Aviation, Committee of Transportation and Infrastructure, U.S. House of Representatives, April 1, 2004.

² See, DOT, *Impact of Air Carriers Emerging from Bankruptcy on Hub Airports, Airport Systems and U.S. Capital Markets*, December 2003, p. 9.