

Order 2003-4-21
Served: May 1, 2003



**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 April, 2003**

Essential Air Service at

Athens, Georgia

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

Docket OST-2002-11348

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

Summary

By this order, the Department is (a) prohibiting Air Midwest, a wholly-owned subsidiary of Mesa Air Group, Inc. (Air Midwest) from terminating its unsubsidized services at Athens, Georgia; (b) requiring the carrier to maintain service between the community and Charlotte, North Carolina, for an initial 30-day period following the end of the notice period; and (c) requesting proposals from carriers interested in providing replacement service at the community. (See Appendix A for an area map.)

Background

Athens is guaranteed to receive at least a minimum level of air service under the Essential Air Service (EAS) program by virtue of the fact that it received service from a certificated carrier on October 24, 1978, the date the Airline Deregulation Act of 1978 was signed into law. (See 49 U.S.C. 41731-41744 for the EAS program's governing statutes.) On March 14, 2003, Air Midwest filed a 90-day notice of its intent to suspend its unsubsidized scheduled air service at Athens, effective on June 13, 2003. Under similar circumstances, the carrier filed a 90-day notice on January 17, 2002, also seeking to suspend service at Athens. In response to that notice, the Department issued Order 2002-2-14,

February 15, 2002, requesting proposals to provide replacement service. Subsequently, Air Midwest, then operating as CCAir, withdrew its 90-day notice on May 13, 2002, and, by Order 2002-5-29, May 29, 2002, the Department dismissed the request-for-proposals proceeding.

Air Midwest is the only carrier serving the Athens community. The carrier's current service consists of three nonstop round trips on weekdays, one on Saturday, and two on Sunday to the US Airways' hub at Charlotte, North Carolina, using 19-seat, Beech 1900D turboprop aircraft.¹

The community's essential air service (EAS) determination, last reviewed by the Department in 1988 (Order 88-2-31), requires a minimum of two weekday round trips and two round trips each weekend period to Atlanta (nonstop) or Charlotte (nonstop or one stop). While the number of passengers using the Ben Epps Airport has been declining since 1997, during the five-year period from 1996 through 2000, an average of almost 25,000 (24,990) passengers used Air Midwest's service each year.

The Ben Epps Airport itself lies two miles east of downtown Athens. Atlanta-William B. Hartsfield International Airport, located approximately 78 highway miles to the southwest, is the closest large hub airport.

In response to Air Midwest's suspension notice, we received a letter signed by the Airport Manager of the Ben Epps Airport on behalf of the Athens Airport Authority and the Unified Government of Athens-Clarke County.² The letter expressed the community's concern over the loss of Air Midwest's service and requested subsidy support to allow an air carrier to continue to serve the community.

Request for Proposals

We request that any carriers interested in providing essential air service at Athens, with or without subsidy, file their proposals within 20 days of the service date of this order. We ask that carriers submit proposals for two or three round trips per day to either of its designated hubs of Atlanta or Charlotte with 15-seat or larger, pressurized aircraft. We will also entertain proposals to serve other hubs that provide access to the national air transportation system in order to give the Department and the 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 B.

¹ US Airways' online scheduled flight information – March 23, 2003.

² A copy of that letter has been filed in the Correspondence Section of Docket OST-2002-11348.

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.³

Community and State Comments

The Athens community and the State of Georgia are welcome to submit comments on the proposal or proposals at any time.⁴ 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. 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.⁵

Other Carrier Requirements

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.⁶ Consequently, all carriers receiving Federal subsidy to support essential air service must certify that they are

³ 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.

⁴ Civic parties should file an original and five copies of their comments in Docket OST-2002-11348. 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.

⁵ 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.

⁶ The regulations applicable to these areas are: (1) 49 CFR Part 20 – New restrictions on lobbying; (2) 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 disability in programs and activities receiving or benefiting from Federal financial assistance; and 14 CFR Part 382 - Nondiscrimination on the basis of disability in air travel; and (3) 49 CFR Part 29 – Government-wide debarment and suspension (non-procurement) and government-wide requirements for drug-free workplace (grants).

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

Air Midwest is the only carrier providing scheduled air service at Athens, Georgia. The community is guaranteed to receive service under the EAS program, and 49 U.S.C. 41734 requires that we prohibit Air Midwest from terminating service for an initial 30-day period beyond the end of its 90-day notice period, through July 12, 2003.⁷ We will require Air Midwest to provide three nonstop or one-stop round trips on weekdays and in total over the weekend in the Athens-Charlotte market while we process the carrier replacement case.

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 Athens, Georgia, 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 the title: "Proposal to Provide Essential Air Service at Athens, Georgia, Docket OST-2002-11348;"⁸
2. The Department prohibits Mesa Air Group, Inc., d/b/a Air Midwest, from terminating service at Athens, Georgia, at the end of its 90-day notice period, and requires it to maintain at least three nonstop or one-stop round trips each weekday and weekend to Charlotte, North Carolina, through July 14, 2003, or until a carrier capable of providing reliable essential air service actually begins service, whichever comes first;
3. The Department directs Mesa Air Group, Inc., d/b/a Air Midwest, to retain all books, records, and other source and summary documents to support subsidy claims for payment,

⁷ In accordance with 49 U.S.C. 41734(c), we will extend Air Midwest's service obligation for successive 30-day periods as necessary until replacement service actually begins.

⁸ After serving a copy of its proposal on the civic officials of Athens 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.

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 order of the Department; and
5. We will serve copies of this order on the Mayor and airport managers of Athens, the Governor of Georgia, the Office of Intermodal Programs-Aviation of the Georgia Department of Transportation, Mesa Air Group, Inc., d/b/a Air Midwest, and the carriers listed in Appendix C.

By:

READ C. VAN DE WATER
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>

AREA MAP



Air Passenger Traffic At Athens, Georgia

Year	Origination & Destination Passengers ¹	Average Annual Enplanements ²	Average Enplanements per Service Day ³
1985	8,926	4,463	14.3
1986	12,136	6,068	19.4
1987	12,422	6,211	19.8
1988	21,926	10,963	34.9
1989	19,924	9,962	31.8
1990	18,896	9,448	30.2
1991	16,908	8,454	27.0
1992	15,365	7,683	24.5
1993	14,778	7,389	23.6
1994	15,507	7,754	24.8
1995	26,609	13,305	42.5
1996	26,523	13,262	42.2
1997	33,167	16,584	53.0
1998	26,282	13,141	42.0
1999	20,900	10,450	33.4
2000	18,081	9,041	28.8
2001	15,898	7,949	25.4
YE 9/30/2002	14,805	7,403	23.4

¹ Source: U.S. Department of Transportation, Bureau of Transportation Statistics, Form 298-C, Schedule T-1, as reported for the period indicated.

² Origin & Destination passengers divided by two.

³ Average annual enplanements divided by 313 effective service days (314 service days in leap years).

SERVICE LIST FOR THE STATE OF GEORGIA

Air Inc.
Air Sunshine Inc.
Atlantic Southeast Airlines, Inc.
Chalk's International Airlines
Chautauqua Airlines, Inc.
Corporate Airlines, Inc.
Exec Express II, Inc.
Express Airlines I, Inc.
Express Airlines II, Inc.
Flagship Airlines Inc.
Florida Air, Inc.
Flying Boat, Inc.
Gulf Flite Center, Inc.
Gulfstream International Airlines, Inc.
Hemisphere International Airlines, Inc.
Piedmont Airlines, Inc.
Island Express
PSA Airlines, Inc.
Midway Airlines, Inc.
Midwest Express Airlines, Inc.
Panama Aviation, Inc.
Southeast Airlines
Westward Airways, Inc.

Chester Anderson
Ken Bannon
Rick Bauer
Richard Thomas Clarke
Sabrina Cranor
Doug Franklin
E.B. Freeman
A. Edward Jenner
Lee Mason
John McFarlane
Reece Paterson
Bob Phillips
Wayne Trawick
Edward Wenz
Gary L. White
Rick White