



Order 2004-3-19

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

Issued by the Department of Transportation
on the 18th day of March, 2004

Ninety-day notice of intent of

**SHUTTLE AMERICA CORPORATION
d/b/a US Airways Express**

to terminate service at Hagerstown, Maryland,
under 49 U.S.C. 41731 *et seq.*

Served: March 23, 2004

DOCKET OST-2004-17010

ORDER ALLOWING SUSPENSION OF SERVICE

Summary

By this order, the Department is allowing Shuttle America Corporation, d/b/a US Airways Express (Shuttle America), to suspend its scheduled service at Hagerstown, Maryland, effective May 1, 2004, because it is less than 70 driving miles from Dulles International Airport.

Background

On January 30, 2004, Shuttle America filed a 90-day notice of its intent to suspend service at Hagerstown effective May 1, 2004. The carrier, the only one providing service at Hagerstown, currently operates four daily nonstop round trips between Hagerstown and Pittsburgh using 34-seat SAAB 340 aircraft.

The Civil Aeronautics Board, by Order 83-6-70, issued June 17, 1983, defines Hagerstown's essential air service determination as at least two nonstop round trips a day to either Baltimore or Washington.

Objection filed by Hagerstown Regional Airport

On February 23, 2004,¹ the Hagerstown Regional Airport filed an Objection to Shuttle America's notice. The airport states that, "according to Mapquest.com, the airport is located 73.97 driving

¹ Although the Objection was dated February 19th, we did not receive it until February 23rd.

miles from Dulles International Airport.” The Airport also states that it “...brings \$50 million of economic impact to its geographical region annually. When compared with non-commercial airports of equal operations, it is evident that the difference in economic impact is tens of millions of dollars less than Hagerstown annually.” The Airport further states that local, State and Federal agencies have spent millions of dollars and countless hours in air service to Hagerstown, and, should Shuttle America be permitted to terminate service without benefit of a replacement carrier to Pittsburgh or a US Airways-type hub, the community’s investment and economic impact return would be lost, or, at the least, sorely diminished.

Finally, the Airport states that the loss of scheduled air service would jeopardize its eligibility for funding for its Aircraft Rescue Fire Fighting crews and equipment and put pilots, crews and passengers at risk.

Shuttle America’s Answer to the Objection filed by Hagerstown Regional Airport

Shuttle America takes issue with Hagerstown Airport’s claims that the airport is 73.97 miles from Dulles. While sympathizing with the community’s desire to maintain scheduled air service, the carrier notes that the Department previously conducted its own analysis and determined that Hagerstown is substantially less than 70 miles from Dulles. “Using a 1996 Rand McNally software program, we have measured the distance from the center of Hagerstown to the entrance of Dulles International Airport as 57 miles.” (Order 2002-3-22, at p. 2.) Shuttle America states that, based on this information, the Department concluded that Hagerstown “is within 70 driving miles of [Dulles], a large hub airport, and, thus, prohibited from paying subsidy for air service at Hagerstown under the Essential Air Service program and is also precluded from requiring the carrier to continue service at the community after the end of the 90-day notice period.”

Finally, Shuttle America states that no party, including Hagerstown, disputed (or could have disputed) the Department’s findings in Order 2002-3-22, and neither the law nor the surface roads have changed in any way that could possibly yield a different result.

Decision

To ensure that EAS funds are spent prudently, Congress has established certain eligibility criteria. Under Public Law 106-69, the Department of Transportation and Related Agencies Appropriations Act of 2000, the Department is precluded from compensating a carrier for serving any community within 70 driving miles of a medium or large hub airport.² In response to a notice filed by Chautauqua Airlines in January 2002 to suspend service, the Department issued Order 2002-3-22 finding that Hagerstown is 57 highway miles from Dulles International Airport, a large hub and, thus, not eligible for subsidized air service.³ We affirm that finding here. Because we are unable to pay subsidy for Shuttle America’s service, we cannot require it to continue service beyond the end of the 90-day notice period and will allow the carrier to terminate service May 1, 2004.

² Congress first imposed that eligibility standard in fiscal year 1992 appropriations language and repeated it every year through fiscal year 1999. Then, by P.L. 106-69, the Department of Transportation and Related Agencies Appropriations Act, 2000, Congress made it a permanent eligibility standard.

³ The Appendix shows the 57-mile route that we used in our decision in Order 2002-3-22.

Although we have no authority to require Shuttle America to continue to serve Hagerstown after May 1, we note that the community generated a total of 34,844 O&D passengers for the year ended September 30, 2003. With traffic levels close to 100 passengers a day, we would encourage other carriers to examine the feasibility of providing service to the community.

As a final matter, before suspending service, we expect Shuttle America to contact all passengers holding reservations for flights affected, to inform them of the suspension, and to secure alternate air transportation for such passengers or to provide a refund of the ticket price, without penalty, if requested.

This order is issued under authority delegated in 49 CFR 1.56a(f).

ACCORDINGLY,

1. We will take no action to prohibit Shuttle America Corporation, d/b/a US Airways Express, from suspending its scheduled service at Hagerstown, Maryland, on May 1, 2004; and
2. We will serve a copy of this order on the parties listed in the Certificate of Service of Docket OST-2004-17010.

By:

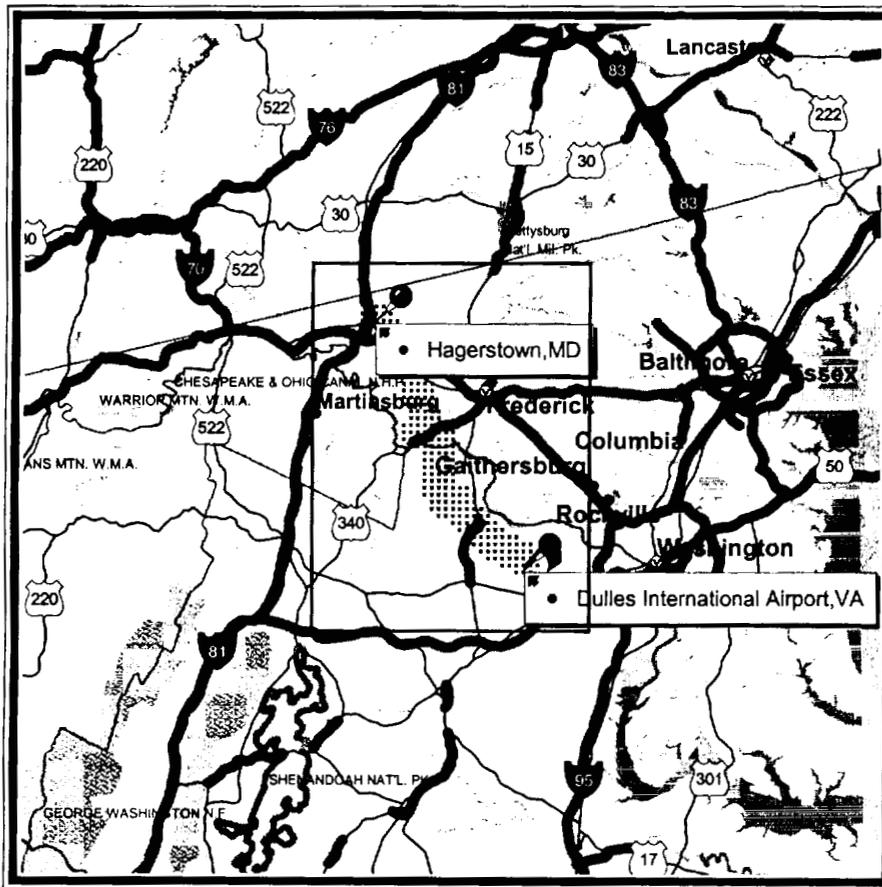


KARAN K. BHATIA
Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at
<http://dms.dot.gov>*

Hagerstown, MD to Dulles International Airport, VA



Itinerary for highlighted section

Road	Dir	Miles	Time	Distance	Key
Mar 1					
Start in Hagerstown, MD					
A40	E	11	9:15 am	11	p.42-43,B-9
ST67	S	11	9:34 am	22	p.42-43,C-9
US340	E	2	9:37 am	24	p.42-43,C-9
ST180 to Knoxville, MD	SW	<1	9:38 am	24	p.42-43,C-9
ST478 to Brunswick, MD	SE	2	9:41 am	26	p.42-43,C-9
ST287 to Wheatland, VA	SW	9	9:57 am	35	
ST9 to Clarkes Gap, VA	E	5	10:06 am	40	
ST7	E	4	10:10 am	44	p.100-101,D-13
DULLES TOLL RD	SE	12	10:31 am	56	
DULLES APT RD to Dulles International Airport, VA	SW	1	10:32 am	57	

Hagerstown, MD to Dulles International Airport, VA Overview Map

