

Order 2004-4-7
Served: April 7, 2004



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

Issued by the Department of Transportation
on the **6th day of April, 2004**

Essential Air Service at

JOPLIN, MISSOURI

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

Docket OST-2004-17441

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

Summary

By this order the Department is (a) prohibiting Trans States Airlines, Inc., d/b/a American Connection (Trans States), from terminating its unsubsidized service at Joplin, Missouri; (b) requiring the carrier to maintain service between the community and St. Louis, Missouri, 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 Joplin. (See Appendix A for an area map.)

Background

Joplin is guaranteed to receive at least a minimum level of air service under the EAS program. (See 49 U.S.C. 41731-41744 for the EAS program's governing statutes.) On March 29, 2004, Trans States filed a 90-day notice of its intent to suspend its unsubsidized scheduled air service at Joplin, effective on June 28, 2004. Trans States is the only carrier serving Joplin, providing three nonstop round trips each weekday and four nonstop round trips each weekend to St. Louis International Airport with 30-seat, Jetstream J-41 turboprop aircraft.

The community's EAS determination, last reviewed by the Department in 1986 (Order 86-5-39), calls for a minimum of two daily round trips and 67 seats each way, either nonstop in the Kansas City market or one-stop in the St. Louis market.¹

Historical Traffic

The number of annual passengers had been relatively stable at the Joplin Regional Airport for the years from 1995 through 2002, averaging about 60,000 per year, or about 90 to 100 enplanements per day. During 2003 however, the number of annual passengers fell to 29,452, or to 47 enplanements per day. In order to assist prospective carriers in making traffic and revenue forecasts, historical passenger data has been included in Appendix B.

Request for Proposals

We request that any carriers interested in providing essential air service at Joplin, with or without subsidy, file their proposals within 30 days of the service date of this order. We ask that carriers submit proposals for two or three round trips per day to St. Louis 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. We will give full consideration to all proposals that are timely filed.² At the end of the 30-day period, our staff will docket any proposals that we receive, thereby making them public, and also direct each carrier to serve a copy of its proposal(s) on the Mayor and airport manager of Joplin and on any other applicants.

New Procedures

The preceding paragraph reflects streamlined carrier-selection procedures that we first introduced in Order 2003-8-10 for the EAS program generally and are continuing here. In the past, we have accepted *initial* carrier proposals, reviewed them, and then negotiated *final* proposals with each applicant before formally presenting them to the community and asking it to submit any final comments. We found that a two-step process was generally necessary because, in most cases, the incumbent carrier was the only one interested. As a result, we had been unable to rely on competition to discipline carrier subsidy requests, and communities had to wait on a protracted selection process. More recently however, most orders requesting essential air service proposals have drawn interest from at least two carriers and sometimes more. Under these circumstances, we expect that competition

¹ Order 86-5-39 required capacity sufficient to accommodate 40 inbound and outbound passengers. Under the 60 percent load-factor standard subsequently established by the Airport and Airway Safety and Capacity Expansion Act of 1987, P.L. 100-223, the number of guaranteed seats became 67: $40/0.60 = 66.7$.

² 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 proceed with the carrier-selection case. Instead, we simply rely on that carrier's subsidy-free service as proposed.

among multiple carriers will ensure reasonable subsidy requests, obviate the need for rate negotiations, and allow us to streamline the carrier selection process.

Consequently, interested carriers should prepare their proposals with every expectation that their initial proposals will also be their *final* and *only* proposals.³ We retain the discretion to further negotiate proposals when we deem it desirable; in such cases, of course, we will give all applicants the same opportunity. Further, we anticipate that we will continue to negotiate rates in cases where there is only a single interested carrier, as is typically the situation in Alaska. We also retain the discretion to reject outright all unreasonable or unrealistic proposals, and to resolicit a new round of proposals when necessary. However, we anticipate that negotiation or rejection will remain only occasional exceptions to the rule.

We are here providing interested carriers with some basic information to help guide the preparation of their proposals, but we will not prescribe a precise format for them to follow. We expect proposals to adequately describe the service being proposed and the annual amount of subsidy being requested. Applicants can make their own judgments as to the level of detail they wish to present; however, they might want to include proposed schedules as well as supporting data for their subsidy requests, such as projected block hours, revenues, and expenses. We strongly encourage clear, well-documented proposals that will facilitate their review and evaluation by Joplin officials and the Department. We do not anticipate any change in our selection criteria, nor in the general provisions governing subsidy payments for essential air service.⁴

With respect to the specific Joplin market, we expect proposals consisting of service, at a minimum, with two-pilot, twin-engine aircraft with at least 15 passenger seats, and offering two or three one-stop or nonstop round trips each weekday and each weekend period to St. Louis or any other suitable hub such as Memphis or Dallas/Ft. Worth. Carriers are also welcome to propose more than one service option, if they choose; they need not limit themselves to those basic requirements if they envision other, potentially

³ For this reason, we will allow carriers 30 days to submit their proposals, rather than just 20 as in the past. Because the new procedures anticipate that a carrier's first proposal will also be its final proposal, we expect to enforce our filing deadlines more stringently than in the past. Carriers should not expect the Department to accept late filings. The additional 10 days will comfortably accommodate the additional time carriers may find necessary to prepare their proposals.

⁴ In selecting a carrier, 49 U.S.C. 41733 directs us to consider four factors: (1) the demonstrated reliability of the applicant in providing scheduled air service; (2) the contractual and marketing arrangements the applicant has made with a larger carrier to ensure service beyond the hub airport ; (3) the interline arrangements that the applicant has made with a larger carrier to allow passengers and cargo of the applicant at the hub airport to be transported by the larger carrier through one reservation, ticket, and baggage check-in; and (4) the preferences of the actual and potential users of air transportation at the eligible place, giving substantial weight to the views of the elected officials representing the users.

more attractive service possibilities – different hubs, for example – with subsidy requirements that remain competitive.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 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.⁷

Community and State Comments

The community and state are welcome to submit comments on the proposals at any time. As noted earlier, however, we will provide a summary of the proposals to the civic parties and ask them to submit their final comments shortly after the end of the 30-day period for carrier proposals.⁸

Requirement to Maintain Service

Trans States is the only carrier providing scheduled air service at Joplin. The community is guaranteed to receive service under the EAS program, and 49 U.S.C. 41734 requires that we prohibit Trans States from terminating service for an initial 30-day period beyond the

⁵ We note that Joplin received a grant award under the Small Community Air Service Development Pilot Program, among other things, to increase local passenger demand, and promote new and existing 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).

⁷ The certifications are available on the web at <http://ostpxweb.dot.gov/aviation/index.html>.

⁸ Civic parties should file an original and two copies of their comments in Docket OST-2004-17441. This filing should be addressed to: EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7th Street, S.W., Washington, DC 20590.

end of its 90-day notice period, through July 27, 2004.⁹ We will require Trans States to provide two nonstop or one-stop round trips on weekdays and over the weekend in the Joplin-St. Louis 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 Joplin, Missouri, submit their proposals, with or without requests for subsidy, within 30 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 Joplin, Missouri, Docket OST-2004-17441";¹⁰
2. The Department prohibits Trans States Airlines, Inc., d/b/a American Connection, from terminating service at Joplin, Missouri, at the end of its 90-day notice period, and requires it to maintain at least two nonstop or one-stop round trips each weekday and weekend to St. Louis, Missouri, through July 27, 2004, or until a carrier capable of providing reliable essential air service actually begins service, whichever comes first;
3. The Department directs Trans States Airlines, Inc., d/b/a American Connection, 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, whichever comes first. 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 manager of Joplin, the Governor of Missouri, the Aviation Section of the Missouri Department of Transportation, Trans States Airlines, Inc., and the carriers listed in Appendix C.

⁹ In accordance with 49 U.S.C. 41734(c), we will extend Trans States' service obligation for successive 30-day periods as necessary until replacement service actually begins.

¹⁰ Carriers should also provide copies of their proposals to the Mayor and Airport Manager of Joplin, Missouri, and to the Aviation Section of the Missouri Department of Transportation. Questions regarding filings in response to this order may be directed to Mike Waters at (202) 366-6494.

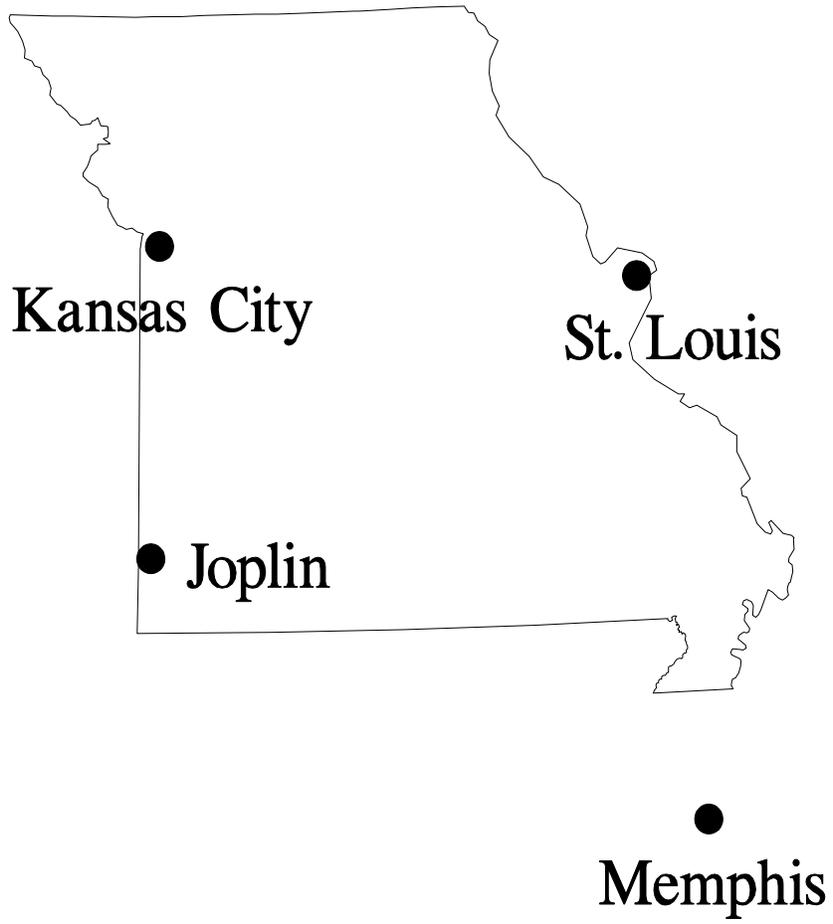
By:

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>

AREA MAP



Historical Passenger Traffic At Joplin, Missouri¹

| Year | Total Annual Passengers | Average Annual Enplanements | Average Annual Enplanements per Service Day² |
|-------------|------------------------------------|--|--|
| 1992 | 81,727 | 40,864 | 130.1 |
| 1993 | 76,147 | 38,074 | 118.5 |
| 1994 | 75,371 | 37,686 | 120.4 |
| 1995 | 59,928 | 29,964 | 95.7 |
| 1996 | 60,802 | 30,401 | 96.8 |
| 1997 | 63,140 | 31,570 | 100.8 |
| 1998 | 59,601 | 29,801 | 95.2 |
| 1999 | 56,402 | 28,201 | 90.1 |
| 2000 | 63,463 | 31,732 | 101.1 |
| 2001 | 60,821 | 30,411 | 97.2 |
| 2002 | 56,664 | 28,332 | 90.5 |
| 2003 | 29,452 | 14,726 | 47.0 |

¹ Source: Joplin Regional Airport records

² Annual Enplanements divided by 313 days, 314 for 1992, 1996, and 2000.

SERVICE LIST FOR THE STATE OF MISSOURI

Air Midwest, Inc.
Amerijet International, Inc.
Chicago Air Taxi, Inc.
Chicago Express Airlines, Inc.
Corporate Airlines, Inc.
Crauch Aviation
Delta Connection
Direct Air, Inc.
Exec Express II, Inc.
Flagship Airlines Inc.
Gorda Aero Service, Inc.
Great Lakes Aviation, Ltd.
Heartland Aviation, Inc.
Mesaba Aviation, Inc.
Midwest Express Airlines, Inc.
Multi Aero, Inc.
Ohio Valley Aviation, Inc.
Planemaster Services Inc.
Redwing Airways, Inc.
Simmons Airlines, Inc.
Trans States Airlines, Inc.
Westward Airways, Inc.

Louis Andrews
Ken Bannon
Rick Bauer
Richard Thomas Clarke
Doug Franklin
E.B. Freeman
Douglas Gumula
A. Edward Jenner
Lee Mason
Gary L. White
Gerald Wigmore
Robert Wigmore