AIR TRANSPORT ASSOCIATION

August 9, 2004

Mr. Dennis E. Roberts APP-1
Director, Office of Airport
Planning and Programming
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Dear Mr. Roberts:

The Air Transport Association of America is pleased to submit the following comments on the Notice of Proposed Rule Making published in the Federal Register on June 9, 2004 on behalf of our member airlines.[1]

As the collectors of Passenger Facility Charges (PFC) on behalf of the airport operators, the airlines have a vested interest in the PFC program – they need to know in a timely fashion where and when to "turn on" or "turn off" a PFC. The airlines are also keenly interested in the consultation and approval process, as the imposition of a PFC has a direct effect on the rates and charges imposed by the airport. This impact comes in two forms: 1) PFC revenues affect the capital financing for projects, often in a positive manner (that is, PFCs may reduce the direct contribution from airlines); and 2) PFC-financed projects must be operated and maintained over the long-term, and those expenses generally fall directly on the airline tenants of the airport. Thus, it is crucial that airlines have a voice in the application and approval process for these fees, especially in difficult economic times such as those we have seen since the early part of 2001, further exacerbated by the attacks of September 11, 2001.

At the same time, we recognize that the PFC process has matured since its inception in the early 1990s, to the point where the PFC consultation, application and approval process has become less contentious and more routine. As FAA has established the precedents that govern many of the projects for which approvals are sought, airports have

[1] The member airlines of the Air Transport Association of America, Inc. are: ABX Air, Inc., Alaska Airlines, Aloha Airlines, America West Airlines, American Airlines, ASTAR Air Cargo, ATA Airlines, Atlas Air, Continental Airlines, Delta Air Lines, Evergreen International Airlines, FedEx Corp., Hawaiian Airlines, JetBlue Airways, Menlo Worldwide Forwarding, Midwest Airlines, Northwest Airlines, Polar Air Cargo, Southwest Airlines, United Airlines, UPS Airlines, and US Airways. Associate members include: Aeromexico, Air Canada, Air Jamaica and Mexicana.

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become more adept in anticipating the kinds of issues that will prevent approvals (and thus are not requesting "outlandish" projects as frequently). As a result, carriers have become more comfortable with the process and have been able to focus their attention and resources on a subset of PFC applications that involve unique or controversial proposals. In addition, the Notice acknowledges, that many of the smaller airports are only requesting PFC financing to supplement or provide matching funds for their Airport Improvement Program funds under that program's well-established eligibility criteria. (We note that the original intent of Congress in authorizing the PFC program was to supplement AIP funding, not to create an independent revenue stream for airports, and thus we believe that *all* PFC applications should conform to these criteria with the very limited exceptions allowed by law.)

The Air Transport Association agrees, with some caveats, that streamlining the PFC process as outlined in Vision 100 could provide benefits in the form of reduced administrative costs. We offer the following observations and recommendations to ensure that streamlining is implemented in a way that does not compromise the previously-established standards for projects or sacrifice accountability to the airlines and their passengers.

Specifically:

1. We concur with the inclusion of a definition for "non-hub airports." However, we question FAA's decision not to include the definition of the lone remaining category (small hub airports) at the same time.

2. We have no issue with the proposed definition for "significant business interest."

3. We support the proposal to limit the consultation notice requirements to those airlines with a significant business interest at the airport in question, and note that this will reduce the administrative burden for many airlines as well as airports.

4. We support the revisions that will eliminate many of the Federal Register notices for PFC applications. However, we caution the FAA that although some applications may include obvious "significant issues" or may be obviously "publicly controversial," there will be times when even an AIP-eligible project may fall into the "significant" or "controversial" categories. Thus every application must be closely scrutinized to ensure that potential controversy or significance is not overlooked.

5. We support the non-hub pilot program provided that FAA is diligent in requiring those participating airports to follow the pilot program rules closely and not allow any further shortcuts in the process.

6. We also urge the FAA to remind those airports participating in the pilot program that although the approval process may be streamlined; there are still notice requirements in place for the actual start and stop of PFC collections. Those requirements exist because of the necessity for all airlines (domestic and foreign flag, around the world) to properly program and account for ticket sales and PFC collections; this communication process and system programming takes time and effort that cannot be cut short.

7. Finally, while we appreciate the FAA's efforts to clarify the PFC amendment process, we take issue with one particular element of the proposal. The proposal would allow airports to unilaterally amend a PFC program so long as the amendment does not change the cost of the project by more than 25 percent. A 25 percent increase in any capital program is quite significant – but so too is a 15 percent increase in a particularly large capital program (as allowed under the current regulation). We believe that airlines should be given the courtesy of consultation on any proposed amendment equaling 15 percent or more of any element of a PFC program. It is not overly burdensome to provide airlines an opportunity to comment on such changes considering that the long-term financial impact of such changes is quite significant and should not be downplayed.

   Moreover, these material amendments must be justified – full explanations as to why such large increases are necessary – so as to provide FAA, the airlines and the taxpayers (that is, the passengers being asked to pay for these projects) with justification for the additional monies.

In an unrelated matter, we would like to commend FAA for its ongoing effort to develop a comprehensive database of PFC applications, approvals, and amendments, and encourage the agency to complete that effort as quickly as possible and to make it accessible to airports and airlines in as expeditious a manner as possible. As the PFC program has grown and airports have obtained multiple approvals and amendments, the reporting process has become extremely confusing and is difficult to track sometimes. While FAA's staff does a commendable job of keeping these approvals and amendments straight, this database can only serve to make the staff's job easier and to make the airline notification process smoother.

In conclusion, we find that the streamlining proposals are generally acceptable and within reasonable limits of protecting the interests of all parties. We ask that FAA be especially diligent in tracking the effects of these changes once implemented so as to ensure that the process is working as intended.

Respectfully submitted,

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TJB/btb