

Order: 2020-6-14  
Served: June 25, 2020



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

Issued by the Department of Transportation  
on the 25<sup>th</sup> day of June, 2020

Essential Air Service at

**PRESQUE ISLE, MAINE**

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

**DOCKET DOT-OST-2000-8012**

**ORDER APPROVING ALTERNATE SERVICE PATTERN**

**Summary**

By this Order, the United States Department of Transportation (the Department) is approving the request of United Airlines, Inc. (United) to change its Essential Air Service (EAS) pattern at Presque Isle, Maine, for United's new contract which begins July 1, 2020. With this approval, United will provide Presque Isle with service to/from Washington-Dulles International Airport (IAD). There is no change to the annual subsidy, type of aircraft, number of weekly flights, or the end date of United's new contract at Presque Isle.

**Background**

By Order 2018-3-18, issued on March 20, 2018, the Department selected United to provide EAS at Presque Isle with 12 nonstop round trips per week to Newark-Liberty International Airport (EWR) through June 30, 2020. The Department later issued an alternate service pattern order permitting United to provide EAS from Presque Isle to IAD, in lieu of EWR, in light of the effects of the COVID-19 public health emergency.<sup>1</sup>

By Order 2020-5-10, issued on May 29, 2020, the Department selected United to provide EAS at Presque Isle with 12 nonstop round trips per week to EWR using 50-seat regional jet aircraft for a new 23-month contract term from July 1, 2020 through May 31, 2022, for an annual subsidy of \$6,838,045.

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<sup>1</sup> Order 2020-4-3 (April 9, 2020).

### **Airline Proposal**

On June 11, 2020, John Kloosterman, Senior Manager – Regulatory Affairs at United stated to the Department via email that United “seeks the flexibility to provide [Presque Isle] EAS operations via either our [EWR] hub, as detailed in the Order, or via our [IAD] hub for the duration of United’s renewed [Presque Isle] contract. We do not seek any modifications to the contractual payment terms nor to substitute materially-different aircraft.” Mr. Kloosterman explains that United’s reason for requesting this change is due in part to service reductions at its EWR hub driven by the COVID-19 pandemic’s significant impacts to the New York metropolitan region. Mr. Kloosterman also added: “At this time United has no plans to revert [Presque Isle] service to EWR, but due to the many uncertainties surrounding the planning process in light of the ongoing pandemic, we are requesting the flexibility to do so in the future should the need arise.”

### **Community Comments**

The Department requested comments from the community of Presque Isle regarding this change. The Department received an e-mail from Mr. Scott Wardwell, Airport Director for Presque Isle International Airport, stating:

The City of Presque Isle supports service to IAD. Since the switch to IAD, we have gotten significant positive community feedback. Further, we would ask that all parties expedite the full implementation of the modification including updating published schedules so that we may maximize our marketing of this very positive development. We further acknowledge that it is United’s legal right to [revert] to Newark should they decide it to be in their best interest.

### **Decision**

The Department will approve United’s request, which meets the three conditions necessary for approval under authority assigned under 14 CFR Part 385.12(h)(3) of the Department’s Regulations: (1) the alternate service pattern is equal or greater than that determined to be essential; (2) the communities affected do not object to the alternate service pattern; and (3) the alternate service pattern will not increase United’s subsidy. Specifically, by providing service to IAD, the alternate service pattern still provides EAS to a large hub airport with ample connectivity to the national air transportation network; the communities do not object to this change; and the subsidy rate will remain unchanged.

Because the Department is *allowing* the alternate service pattern and not *requiring* it, United may revert to the original service pattern at any time.

This Order is issued under authority delegated to the Director, Office of Aviation Analysis in 14 CFR Part 385.12(h)(3).

**ACCORDINGLY,**

1. The Department hereby approves the alternate service pattern requested by United Airlines, Inc. to provide Essential Air Service at Presque Isle, Maine with service to/from Washington-Dulles International Airport, effective July 1, 2020, through May 31, 2022;
2. This docket will remain open until further order of the Department; and
3. The Department will serve a copy of this Order on the airport director of Presque Isle International Airport, the city manager of Presque Isle, Maine, and United Airlines, Inc.

Persons entitled to petition the Department for review of this Order under the Department's Regulations, 14 CFR Part 385.31(a), must file such petitions within seven (7) days after the date of service of this Order.

This Order will be effective immediately, and the filing of a petition for review shall not preclude its effectiveness.

By:

**TODD M. HOMAN**  
Director  
Office of Aviation Analysis

(SEAL)

**United Airlines, Inc.**  
**Essential Air Service to be Provided at Presque Isle, Maine**  
**DOT-OST-2000-8012**

<u>Effective Period:</u>	July 1, 2020 through May 31, 2022
<u>Hub:</u>	Washington-Dulles International Airport (IAD)
<u>Scheduled Service:</u>	12 nonstop round trips per week
<u>Aircraft:</u>	50-passenger regional jet aircraft (CRJ-200 or ERJ-145)
<u>Annual Subsidy:</u>	\$6,838,045
<u>Rate per Flight:</u> <sup>1</sup>	\$5,591
<u>Weekly Ceiling:</u> <sup>2</sup>	\$134,184

Note: The carrier understands that it may forfeit its compensation for any flights that it does not operate in conformance with the terms and stipulations of the rate Order, including the service plans outlined in the Order and any other significant elements of the required service, without prior approval. The carrier understands that an aircraft take-off and landing at its scheduled destination constitutes a completed flight; absent an explanation supporting subsidy eligibility for a flight that has not been completed, such as certain weather cancellations, only completed flights are considered eligible for subsidy. In addition, if the carrier does not schedule or operate its flights in full conformance with the Order for a significant period, it may jeopardize its entire subsidy claim for the period in question. If the carrier contemplates any such changes beyond the scope of the Order during the applicable period of this rate, it must first notify the Office of Aviation Analysis in writing and receive written approval from the Department to be ensured of full compensation. Should circumstances warrant, the Department may locate and select a replacement carrier to provide service on these routes. The carrier must complete all flights that can be safely operated; flights that overfly points for lack of traffic will not be compensated. In determining whether subsidy payment for a deviating flight should be adjusted or disallowed, the Department will consider the extent to which the goals of the program are met and the extent of access to the national air transportation system provided to the community.

If the Department unilaterally, either partially or completely, terminates or reduces payments for service or changes service requirements at a specific location provided for under this Order, then, at the end of the period for which the department does make payments in the stipulated service levels, the carrier may cease to provide service to that specific location without regards to any requirement for notice of such cessation. Those adjustments in the levels of subsidy and/or service that are mutually agreed to in writing by the Department and carrier do not constitute a total or partial reduction or cessation of payment.

Subsidy contract are subject to, and incorporate by reference, relevant statutes and Department regulations, as they may be amended from time to time. However, any such statutes, regulations, or amendments thereto shall not operate to controvert the foregoing paragraph.

Funds may not be available for performance under this Order beyond September 30, 2020. The Government's obligation for performance under this Order beyond September 30, 2020, is subject to the availability of funds from which payment for services can be made. No legal liability on the part of the Government for any payment may arise for performance under this order beyond September 30, 2020, until funds are made available to the Department for performance. If sufficient funds are not made available for performance beyond September 30, 2020, the Department will provide notice in writing to the carrier.

All claims for payment, including any amended claims, must be submitted within 90 days of the last day of the month for which compensation is being claimed. For example, claims for service provided in July must be filed by October 31; August claims must be submitted by November 30, and so on.

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<sup>1</sup> Annual compensation of \$6,838,045 divided by 1,223 annual flights (24 weekly flights x 52 weeks x 98 percent completion).

<sup>2</sup> 24 flights per week multiplied by \$5,591.