



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

Issued by the Department of Transportation
on the 5th day of May, 2020

Essential Air Service at

LEBANON, NEW HAMPSHIRE

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

DOT-OST-2003-14822

ORDER APPROVING ALTERNATE SERVICE PATTERN

Summary

By this Order, the U.S. Department of Transportation (the Department) is approving the request of Hyannis Air Service, Inc. d/b/a Cape Air (Cape Air) to change its Essential Air Service (EAS) pattern at Lebanon, New Hampshire, effective March 28, 2020 and for the duration of Cape Air's current EAS contract. With this approval, Cape Air is approved to provide EAS at Lebanon to/from Boston Logan International Airport (BOS) in lieu of Westchester County Airport (HPN). There is no change to the annual subsidy, type of aircraft, number of weekly flights, or the contract end date of Cape Air's term at Lebanon.

Background

By Order 2018-9-14, issued on September 14, 2018, the Department selected Cape Air to provide EAS at Lebanon to BOS and HPN in White Plains, New York, using 9-passenger Cessna 402 aircraft *or* 9-passenger Tecnam P2012 Traveller (Tecnam) aircraft for the four-year contract term from December 1, 2018, through November 30, 2022. The annual subsidy rates are as follows:¹

¹ Such subsidy is calculated and distributed on a fiscal year basis, subject to the availability of funds.

<u>Year</u>	<u>LEB-BOS Annual Subsidy</u>	<u>LEB-HPN Annual Subsidy</u>	<u>Total Annual Subsidy</u>
1	\$2,126,633	\$1,476,034	\$3,602,667
2	\$2,190,432	\$1,520,316	\$3,710,748
3	\$2,256,145	\$1,565,925	\$3,822,070
4	\$2,323,829	\$1,612,903	\$3,936,732

Airline Proposal

On March 27, 2020, Andrew Bonney, Vice President of Planning at Cape Air, stated to the Department via telephone that Cape Air intended to make a schedule adjustment at Lebanon—substituting BOS for HPN—due to the public health emergency impacting the New York metropolitan region. Because Cape Air previously provided EAS from Lebanon to both BOS (4 daily roundtrips) and HPN (2 daily roundtrips), it consolidated all its EAS service at BOS. Cape Air has not sought any change to its annual subsidy, and the level of EAS service for Lebanon that Cape Air proposed to/from BOS remains the same as that provided to/from BOS and HPN.

Community Comments

The Department requested comments from the community of Lebanon regarding this change. The Department received an e-mail from Mr. Carl Gross, Airport Manager for Lebanon Airport, stating:

Because of the current virus outbreak, [Lebanon] requests an alternate service pattern for our Essential Air Service (Docket DOT-OST-2003-14822). Currently, Cape Air flies four daily trips to BOS and two to HPN. The airport, with airline concurrence, requests that the amended service pattern run all six flights to BOS through and including May 13. Given the proximity of White Plains to New York City (NYC) and the COVID-19 situation in NYC, there is concern with inadvertently spreading the virus.

Decision

The Department will approve Cape Air'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 Cape Air's subsidy.

Because the Department is *allowing* the alternate service pattern and not *requiring* it, Cape Air 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 Hyannis Air Service, Inc. to provide all Essential Air Service at Lebanon, New Hampshire to Boston Logan International Airport, effective March 28, 2020;

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 manager of Lebanon Airport, the civic officials of Lebanon, New Hampshire, and Hyannis Air Service, Inc. d/b/a Cape Air.

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)

Hyannis Air Service, Inc. d/b/a Cape Air
Essential Air Service to be Provided at Lebanon, New Hampshire
DOT-OST-2003-14822

Effective Period: March 28, 2020, through November 30, 2022
Hub: Boston-Logan International Airport (BOS)
Scheduled Service: 42 round trips per week
Aircraft: 9-passenger Cessna 402 or Tecnam P2012 Traveller

Annual Subsidy:

<u>Effective Period</u>	<u>BOS</u>	<u>Previously HPN (now add'l BOS)</u>	<u>Total Annual Subsidy</u>
December 1, 2019 – November 30, 2020	\$2,190,432	\$1,520,316	\$3,710,748
December 1, 2020 – November 30, 2021	\$2,256,145	\$1,565,925	\$3,822,070
December 1, 2021 – November 30, 2022	\$2,323,829	\$1,612,903	\$3,936,732

Rate per Flight

<u>Effective Period</u>	<u>BOS¹</u>
December 1, 2019 – November 30, 2020	\$775
December 1, 2020 – November 30, 2021	\$779
December 1, 2021 – November 30, 2022	\$823

Weekly Ceiling

<u>Effective Period</u>	<u>BOS²</u>
December 1, 2019 – November 30, 2020	\$65,100
December 1, 2020 – November 30, 2021	\$65,436
December 1, 2021 – November 30, 2022	\$69,132

¹ Because the actual subsidy paid by the Department will be based on the rate per flight for BOS established in Order 2018-9-14, the rate per flight listed here reflects the figures in that Order.

² 84 weekly departures multiplied by rate per flight.

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.