



January 12, 2021

Mr. Joel Szabat
Acting Under Secretary for Transportation Policy
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: Docket DOT-OST-2020-0037 Continuation of Certain Air Service

Dear Assistant Secretary Szabat:

The Regional Airline Association (“RAA”) and its members¹ appreciate the opportunity to submit these comments in response to the U.S. Department of Transportation’s (“Department” or “DOT”) January 8, 2021, Order 2020-0037 Continuation of Certain Air Service. This order proposes that air carriers accepting financial assistance under Pub. L. No. 116-260 maintain minimum levels of air service on a nationwide basis, with some exceptions. Specifically, the Department proposes parameters to reimplement the authority originally granted to the Secretary of Transportation (the Secretary) under Sections 4005 and 4114(b) of the Coronavirus Aid, Recovery, and Economic Security Act (the CARES Act).

On April 7, 2020, the Department issued Order 2020-4-2 and established parameters for implementation of the authority granted to the Secretary under the CARES Act. Order 2020-4-2 required that carriers accepting financial assistance under the CARES Act must continue to provide certain minimum levels of service to points that they had previously served. Minimum service levels depended on the carrier’s size and prior level of service at those points.

As with the first interpretation, RAA finds that the Department has sought to carefully balance small community air service needs with the financial realities of airlines grappling with the ongoing effects of the global COVID-19 pandemic. RAA generally finds the Department’s interpretation to be thoughtful and well-reasoned, and offers the following feedback:

RESPONSIBILITY FOR COMPLIANCE

As with the previous order, the Department “tentatively” determines to interpret any Service Obligation to apply to the marketing carrier. Only in cases where a regional covered carrier holds out services under its own airline designator code, will it be considered the marketing carrier responsible for maintaining service at the above service levels. If a regional Covered Carrier receives assistance under Pub. L. No. 116-260, its Service Obligation will be considered met if it is operating all flights designated by its mainline affiliate, consistent with the mainline carrier’s Service Obligation. RAA stresses unequivocally that the Department must hold firm to its “tentative” determination that any Service Obligation applies to the marketing carrier alone. RAA concurs that the proposal should not alter any flexibility that mainline carriers have in their contracts to allocate capacity within their networks. The Department’s interpretation that responsibility for compliance lies with the ticketing/marketing carrier

¹ RAA Members are: Air Wisconsin Airlines, Champlain Enterprises CommutAir, Empire Airlines, Inc., Endeavor Air, Envoy Air, Inc., ExpressJet Airlines (non-operating), GoJet Airlines, Grand Canyon Airlines, Horizon Air, Hyannis Air Service, Mesa Airlines, New England Airlines, Piedmont Airlines, PSA Airlines, Ravn Alaska, Republic Airways Holdings, Inc., SkyWest Airlines

is imperative because regional airlines are distinct operating entities with the sole responsibility and expense of maintaining their respective workforce and because this workforce has been hired to service all planned routes with full utilization of aircraft operated by the regional carrier. For these reasons, it is both appropriate and imperative that regional airlines retain direct access to worker relief programs and other assistance mechanisms provided through P.L. 116-260. However, regional carriers operate under code-share partnerships and capacity purchase agreements with mainline carriers and do not have control over the service decisions of their partners. It is therefore appropriate for the carrier with control over scheduling to bear sole accountability for compliance with minimum service levels. RAA therefore requests the DOT confirm its “tentative” determination that the Service Obligation resides with the Marketing carrier.

REPORTING

RAA concurs that the reporting requirements should remain as described in Order 2020-4-2. Therefore, the reporting requirement should likewise apply only to those services falling under the carrier’s Service Obligation. As described in Section VI of this Order, the Service Obligation pertains to the marketing carrier. A covered regional carrier would only be responsible for certifying its compliance with any Service Obligation resulting from service that it operates under its own brand. This is appropriate.

COVERED POINTS

The Department has tentatively determined to use the Service Obligation lists as published in Appendices B and C of Order 2020-4-2 as the basis for this round of obligations, modified as follows. As the proposed term of this Order falls squarely in the winter season, the Department will require carriers to serve the winter-seasonal markets contained in revised and updated Appendix C of Order 2020-4-2. The Department will also exempt from each Covered Carrier’s Service Obligation those points that had a Departmental exemption in place as of September 30, 2020. RAA understands the Department’s reasoning in applying the standards above but asks if the Department will provide guidance for its planned handling of cases where a carrier may have already made changes to their schedules and sold tickets or published schedules for February and March 2021 that may now be in conflict with this order.

The Department will also exempt from each Covered Carrier’s Service Obligation any points at which a Covered Carrier has ceased service since September 30, 2020, in reliance upon the expiration of the previous Service Obligation, unless the Covered Carrier was the only carrier providing service at the point at the time service was stopped, and there is currently no carrier serving the point. In cases where the airport follows the objection procedures outlined by Section VII of this show cause order and the Department adjudicates toward reinstatement of the air service, RAA wishes to understand the Department’s envisioned process guiding carriers’ reinstatement of air service.

Typically, schedules of most regional airlines are determined by their mainline affiliates on a monthly basis in advance. Where major carriers determine the flight schedules for smaller communities and assign the flying to regional airlines under a codeshare agreement, regional airlines cannot simply determine, on their own, whether to continue service to smaller communities. While the tentative proposal recommends that the points served by covered carriers are subject to the Service Obligation set out in Appendix A of this order, there is no guarantee that the regional airlines will either be scheduled to the stipulated points, or more importantly, that any specific airport or community will continue to receive air service. While RAA does not advocate the Department issue hold-in requirements, the Association would like to reflect its commitment to small community air service and share the observation that the economic vitality of a given community is closely connected to the

availability of convenient air service. Additionally, RAA also wishes to emphasize the role regional airlines play in keeping the supply chain connected for just-in-time goods.

SERVICE LEVELS

In this order, DOT appropriately identifies four airports that have lost service altogether. RAA wishes also to convey that the reduction in markets overall, even where the community has not endured a complete loss of air service, is also harmful. As the Department notes in section VI, while recovery is occurring, the system is still operating at just 40% of 2019 capacity. "Traffic has recovered from being down 96 percent in April 2020 year-over-year to being down 60 percent year-over-year in October 2020." A comparison of airline schedules from November 2019 to November 2020 shows additional extensive air service loss through reduced destinations and frequency. One in five routes being operated in November 2019 was not being operated by November 2020. This scale back in air service left small communities disproportionately and adversely impacted.

As with its prior implementation of minimum air service orders, DOT's renewed requirements on minimum service levels for each point is reasonable given the ongoing decline in demand driven by the pandemic. Specifically, the Department proposes to continue implementing the Service Obligation by requiring only minimum service levels for each point. While RAA believes this is appropriate, the Association urges the Department to encourage, through policies supportive of airlines and small community air service, a return to pre-reduction levels as soon as practicable. RAA suggests that the Department's long-term view of success in upholding small community air service should not be measured by enplanements alone or the maintenance of minimal frequencies and further notes that diminished frequency and reduced destination options are harmful to smaller communities.

RAA additionally recommends that DOT require marketing carriers to make exemption proposals only with due consultation with the operating carrier. Additionally, while the service obligation changes are minimal enough not to cause significant disruption to published schedules, RAA believes understanding that impact will be important for both mainline and regional carriers. In particular, this is important to workforce planning so that carriers can ensure the staff on hand—particularly pilots and Flight Attendants—are in the appropriate hubs.

Lastly, sections 4005 and 4114(b) of the CARES Act provide the Secretary with discretion to determine whether the Service Obligation is reasonable or practicable. It is of utmost interest to RAA that small communities continue to receive strong air service, with adequate destinations and frequency to enable them to take part in our nation's recovery. Therefore, RAA urges that the Secretary consider the fact that regional routes can be more marginal and make every effort to ensure smaller community routes are not disproportionately drawn down or disadvantaged.

ESSENTIAL AIR SERVICE

As with the prior order, RAA appreciates that the obligations of carriers operating under an Essential Air Service (EAS) contract or the rights of communities eligible for EAS will not be affected by this order. In cases where EAS providers are operating under an affiliate marketing carrier, the Department should continue to appreciate that covered points upline to EAS communities may need to be maintained in order for carriers to uphold their EAS obligation(s).

CONCLUSION

As our economy recovers from this crisis, the Department should additionally encourage mainline carriers to work with their regional partners to restore service to rural airports and other communities that rely exclusively on regional airlines for their air service. While not expressly the subject matter of this Show Cause order, RAA encourages the Department to collaborate with Congress and other stakeholders to shore up programs that help to support small community air service, including the EAS and the Small Community Air Service Development Program (SCASDP). The Association stands ready to provide insight and recommendations on these programs.

Thank you for your consideration of our comments. If we may be of additional service or provide clarifying information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Faye Malarkey Black".

Faye Malarkey Black
President & CEO