



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

Issued by the Department of Transportation  
on the 22th day of November, 2011

Essential Air Service at

**BAR HARBOR, MAINE  
PRESQUE ISLE/HOULTON, MAINE  
PLATTSBURGH, NEW YORK**

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

**DOCKET DOT-OST-2011-0185  
DOCKET DOT-OST-2000-8012  
DOCKET DOT-OST-2003-14783**

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

**Summary**

By this order, the Department is (a) prohibiting Colgan Air, Inc., operating as US Airways Express (Colgan), from terminating its subsidized service at Bar Harbor and Presque Isle/Houlton, Maine (Presque Isle), and Plattsburgh, New York, and (b) requesting proposals from airlines interested in providing replacement essential air service (EAS) at any or all of the communities, with or without subsidy. Proposals are due by December 20, 2011. (See Appendix A for a map.)

**Background**

Colgan has served Presque Isle for several years and was re-selected in 2010 to provide EAS for another two-year contract. Colgan replaced Cape Air in 2010 at Bar Harbor and Plattsburgh as the communities' EAS carrier. On September 9, 2011, Colgan filed notice of its intent to terminate its subsidized service at all three communities, as summarized below:

	<u>Community</u>	<u>Annual Subsidy</u>	<u>Order</u>	<u>Thru</u>	<u>Hub</u>	<u>Weekly Round Trips</u>	<u>Stops</u>	<u>Aircraft</u>
1.	Bar Harbor	\$2,298,533	2010-9-28	10/31/12	BOS	14	0	Saab 340
2.	Plattsburgh	\$2,117,101	2010-3-27	06/30/12	BOS	12	0	Saab 340
3	Presque Isle	\$2,812,853	2010-6-5	05/31/12	BOS	19	0	Saab 340

### **Hold-In**

Colgan's proposed termination of service at these communities would leave them with no scheduled air service. Thus, the Department must prohibit Colgan from terminating such service for 30 days beyond the end of their 90-day notice period, through January 7, 2012, and will require them to maintain the current level of service at all three communities, for successive 30-day periods until we have completed processing the carrier-replacement case and the selected carrier(s) begins full EAS.

### **Request for Proposals**

Carriers should file their proposals no later than December 20, 2011. After that date, our staff will docket proposals, thereby making them public, and shortly afterwards will provide a summary of the proposals to the community and ask them for their final comments. We will give full consideration to all proposals filed in a timely manner.

Interested carriers should prepare their proposals with every expectation that their initial proposals will also be their *final* and *only* proposals. We retain the discretion to negotiate proposals with carriers when we deem it desirable. We also retain the discretion to reject outright all unreasonable or unrealistic proposals and solicit a new round of proposals.

Carrier proposals should be submitted to the Department with all materials merged into a single document. In addition, because the document will be published on Regulations.gov, each page should be formatted to be viewed online.

We are here providing interested carriers with some basic information to serve as guidance when they prepare their proposals, but we will not prescribe a precise format. We expect proposals to adequately describe the service being proposed and the annual amount of subsidy being requested. The 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 evaluation by the affected community and the Department.<sup>1</sup>

Carriers are also welcome to propose more than one option, if they choose; they need not limit themselves to those requirements if they envision other, potentially more attractive service possibilities -- different hubs, frequency or equipment, for example -- with subsidy requirements that remain competitive. The community and air carriers are encouraged to work together *in advance* of the due date for proposals to craft a service pattern that is desirable to the community and meets the operational needs of the airlines.

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<sup>1</sup> In selecting a carrier to provide subsidized essential air service, 49 U.S.C. 41733(c)(1) directs us to consider four factors: (1) service reliability; (2) contractual and marketing arrangements with a larger carrier at the hub; (3) interline arrangements with a larger carrier at the hub; and (4) community views. In addition, the Consolidated Appropriations Act, 2008, Public Law 110-161, provides that when selecting a carrier to provide EAS, the Department may consider the relative subsidy requirements, thus codifying a factor that we have considered since the inception of the program. Interested carriers should also be aware that our general provisions governing EAS will be included in the selection order as part of our authorization of subsidy for the selected service. Appendix C of this order contains those general provisions.

Proposals should provide sufficient capacity to accommodate historical levels of traffic. We expect service levels that are comparable with what the communities currently receive, with nonstop service to Boston or any large or medium hub that offers access to the national air transportation system. In order to assist carriers in developing traffic and revenue projections for their proposals, we have provided a summary of historical passengers in Appendix B. For the year ended June 30, 2011, Bar Harbor, Plattsburgh, and Presque Isle averaged 37, 42, and 47 enplanements a day, respectively.

At Bar Harbor, we note the seasonality of enplanements with the third quarter seeing a significant increase in passengers. During the July 1 – September 30, 2010, quarter, Bar Harbor generated more passengers than in the other nine months of the year combined, averaging 78 enplanements a day. For proposals with 30-34-seat aircraft, the Department expects two round trips each weekday and weekend (12 a week) year round. For proposals using 19-seat aircraft, we would expect proposals for two round trips each weekday and weekend (12 a week) in the off-peak season, and three or four round trips each weekday and weekend (18 or 24 a week) during the summer peak season.

With respect to Plattsburgh, we expect proposals for two round trips each weekday and weekend (12 a week) using 30-34-seat aircraft, or three round trips each weekday and weekend (18 a week) using 19-seat aircraft.

With respect to Presque Isle, under EAS statutes the community is guaranteed 67 seats per day in each direction, which would work out to be two round trips each day. However, due to the very long stage length to Boston and the resultant need to carry a full load of fuel, under IFR conditions Colgan's Saab aircraft are limited to 28-31 seats (depending on direction). We therefore will accept proposals for 19 weekly round trips using 30-34-seat aircraft or 24 weekly round trips using 19-seat aircraft.

As always, we will formally solicit the community's views on any service options we receive before making a long-term carrier selection decision.

### **Other Carrier Requirements**

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces and nondiscrimination.<sup>2</sup> 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 the 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

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<sup>2</sup> 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).

Analysis at (202) 366-5903. The Department is prohibited from paying subsidy to carriers that do not submit these documents.<sup>3</sup>

### **Community and State Comments**

Civic officials are welcome to submit comments on the proposals at any time. As noted earlier, we will provide a summary of the proposals to the civic parties and ask them to submit their final comments shortly after December 20, the due date for carrier proposals.

This order is issued under authority delegated in 49 CFR 1.56a(f).

### **ACCORDINGLY,**

1. We prohibit Colgan Air, Inc., operating as US Airways Express, from suspending service at Bar Harbor and Presque Isle/Houlton, Maine, and Plattsburgh, New York, at the end of the 90-day notice period, and require it to maintain service at the communities, as set forth in Appendix D, for an initial 30-day period through January 7, 2012, or until a carrier capable of providing reliable EAS actually begins service, whichever is first<sup>4</sup>;

2. We request that carriers interested in providing essential air service at Bar Harbor and Presque Isle, Maine, and Plattsburgh, New York, submit their proposals, with or without subsidy requests, no later than December 20, 2011. The proposals should be emailed to: [EAS@dot.gov](mailto:EAS@dot.gov) with the title "Proposal to Provide Essential Air Service at Bar Harbor and Presque Isle, Maine, and Plattsburgh, New York";<sup>5</sup>

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<sup>3</sup> The certifications are also available on the web at <http://ostpxweb.dot.gov/aviation/index.html>.

<sup>4</sup> In accordance with 49 U.S.C. 41734(c), we will extend Colgan Air's service obligation for successive 30-day periods as necessary until replacement service actually begins.

<sup>5</sup> Questions regarding filings in response to this order should be directed to Michael Martin at 202-366-6494, or via email at [michael.f.martin@dot.gov](mailto:michael.f.martin@dot.gov).

3. These dockets will remain open until further order of the Department; and
4. The Department will serve a copy of this order on the mayors and airport manager of Bar Harbor, Plattsburgh, Presque Isle, Colgan Air, Inc., and the service list for this Docket.

By:

**SUSAN L. KURLAND**  
Assistant Secretary for  
Aviation and International Affairs

(SEAL)

*An electronic version of this document is available online at*  
[www.regulations.gov](http://www.regulations.gov)

## Area Map



**Historical Origin-Destination Plane Traffic<sup>1</sup>**

**Bar Harbor, Maine**

<u>Quarter</u>	<u>Year</u>	<u>Deplanements</u>	<u>Enplanements</u>	<u>Total Traffic</u>	<u>Enplanements per Day</u>
3	2008	4,979	5,270	10,249	65
4	2008	1,492	1,572	3,064	19
1	2009	686	715	1,401	9
2	2009	<u>2,163</u>	<u>1,689</u>	<u>3,852</u>	<u>25</u>
<b>Annual Totals</b>		<b>9,320</b>	<b>9,246</b>	<b>18,566</b>	<b>30</b>
3	2009	5,427	5,420	10,847	69
4	2009	1,692	1,793	3,485	22
1	2010	837	902	1,739	11
2	2010	<u>2,664</u>	<u>2,294</u>	<u>4,958</u>	<u>32</u>
<b>Annual Totals</b>		<b>10,620</b>	<b>10,409</b>	<b>21,029</b>	<b>34</b>
3	2010	6,166	6,172	12,338	78
4	2010	1,576	1,676	3,252	21
1	2011	1,041	1,095	2,136	14
2	2011	<u>2,937</u>	<u>2,492</u>	<u>5,429</u>	<u>35</u>
<b>Annual Totals</b>		<b>11,720</b>	<b>11,435</b>	<b>23,155</b>	<b>37</b>

<sup>1</sup> Source: USDOT Bureau of Transportation Statistics, TransStats Intermodal Database, Schedule T-100.

**Historical Origin-Destination Plane Traffic<sup>1</sup>**

**Presque Isle/Houlton, Maine**

<b><u>Quarter</u></b>	<b><u>Year</u></b>	<b><u>Deplanements</u></b>	<b><u>Enplanements</u></b>	<b><u>Total Traffic</u></b>	<b><u>Enplanements per Day</u></b>
3	2008	3,656	3,721	7,377	47
4	2008	3,120	3,238	6,358	40
1	2009	2,786	2,829	5,615	36
2	2009	<u>3,581</u>	<u>3,236</u>	<u>6,817</u>	<u>44</u>
<b>Annual Totals</b>		<b>13,143</b>	<b>13,024</b>	<b>26,167</b>	<b>42</b>
3	2009	3,942	3,944	7,886	50
4	2009	3,169	3,291	6,460	41
1	2010	3,161	3,233	6,394	42
2	2010	<u>3,721</u>	<u>3,567</u>	<u>7,288</u>	<u>47</u>
<b>Annual Totals</b>		<b>13,993</b>	<b>14,035</b>	<b>28,028</b>	<b>45</b>
3	2010	4,302	4,354	8,656	55
4	2010	3,716	3,803	7,519	48
1	2011	3,097	3,304	6,401	42
2	2011	<u>3,659</u>	<u>3,276</u>	<u>6,935</u>	<u>44</u>
<b>Annual Totals</b>		<b>14,774</b>	<b>14,737</b>	<b>29,511</b>	<b>47</b>

<sup>1</sup> Source: USDOT Bureau of Transportation Statistics, TransStats Intermodal Database, Schedule T-100.

Historical Origin-Destination Plane Traffic<sup>1</sup>

**Plattsburgh, New York**

<u>Quarter</u>	<u>Year</u>	<u>Deplanements</u>	<u>Enplanements</u>	<u>Total Traffic</u>	<u>Enplanements per Day</u>
3	2008	1,542	1,505	3,047	19
4	2008	1,133	1,117	2,250	14
1	2009	953	969	1,922	12
2	2009	<u>1,319</u>	<u>1,321</u>	<u>2,640</u>	<u>17</u>
<b>Annual Totals</b>		<b>4,947</b>	<b>4,912</b>	<b>9,859</b>	<b>16</b>
3	2009	1,611	1,564	3,175	20
4	2009	1,392	1,487	2,879	18
1	2010	1,287	1,340	2,627	17
2	2010	<u>1,498</u>	<u>1,607</u>	<u>3,105</u>	<u>20</u>
<b>Annual Totals</b>		<b>5,788</b>	<b>5,998</b>	<b>11,786</b>	<b>19</b>
3	2010	4,146	4,334	8,480	54
4	2010	3,572	3,617	7,189	46
1	2011	2,758	2,819	5,577	36
2	2011	<u>2,574</u>	<u>2,561</u>	<u>5,135</u>	<u>33</u>
<b>Annual Totals</b>		<b>13,050</b>	<b>13,331</b>	<b>26,381</b>	<b>42</b>

<sup>1</sup> Source: USDOT Bureau of Transportation Statistics, TransStats Intermodal Database, Schedule T-100 for Cape Air and Colgan.

**Example of General Terms and Conditions for Essential Air Service**

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 these rates, 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 amounts or at the stipulated service levels, the carrier may cease to provide service to that specific location without regard 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 contracts 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 are not currently available for performance under this solicitation beyond [DATE]. The Department's obligation for performance under this solicitation beyond [DATE], is contingent upon the availability of appropriated 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 [DATE], until funds are made available to the Department for performance. If funds are not made available for performance beyond [DATE], the carrier will receive notice in writing by the Department.

All claims for payment must be submitted within 60 days of the last day of service provided under this order.

**Essential Air Service to be Maintained at Bar Harbor, Maine**

Effective Period: December 8, 2011, until further Department action

Scheduled Service: 14 weekly nonstop round trips between Bar Harbor and Boston

Aircraft: 34-seat Saab 340

**Essential Air Service to be Maintained at Presque Isle/Houlton, Maine**

Effective Period: December 8, 2011, until further Department action

Scheduled Service: 19 weekly nonstop round trips between Presque Isle/Houlton and Boston

Aircraft: Saab 340

**Essential Air Service to be Maintained at Plattsburgh, New York**

Effective Period: December 8, 2011, until further Department action

Scheduled Service: 12 weekly nonstop round trips between Plattsburgh and Boston

Aircraft: 34-seat Saab 340