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TAB.

HEARINGS

IN THE MATTER OF:

THE ALASKA SERVICE INVESTIGATION

DOCKET 20826

POSITION PAPER

ALASKA TRANSPORTATION COMMISSION

I N D E X

	<u>PAGE</u>
POSITION PAPER	1 - 4
INTRODUCTORY NOTE	5
THE ALASKA TRANSPORTATION COMMISSION, REGULATORY ARM OF THE STATE	6
MORE THAN 75 PERCENT OF TOTAL PASSENGER TRAFFIC CARRIED BY CAB CARRIERS BETWEEN ALASKAN POINTS IS INTRASTATE -- THE SUBJECT OF STATE REGULATION	7
ALL INTRA-ALASKA ROUTES REGULATED BY THE CAB REFLECT A MAJOR CAB-ATC JURISDICTIONAL OVERLAP	8
EXCLUSIVE CAB REGULATION OF SPECIFIC INTRASTATE AIR ROUTES AND CARRIERS HAS PROVEN TO BE NON-RESPONSIVE TO THE NEEDS OF LARGE SEGMENTS OF THE STATE	9
THE DOMINANT OBJECTIVE IN THIS PROCEEDING -- REASONABLE ADEQUACY AND PERFORMANCE OF CARRIER SERVICE; THE APPROACH TO ACHIEVING THAT OBJECTIVE -- JOINT INVESTIGATION AND REGULATION	9
HEARING PROCEDURES ADOPTED BY THE CAB IN THIS INVESTIGATION PRECLUDE AN ADEQUATE EVIDENTIARY RECORD ON DOMINANT ISSUES -- ATC PUBLIC HEARINGS MAY PARTIALLY REMEDY THIS PROBLEM	11
THE ALASKA TRANSPORTATION COMMISSION RECOMMENDS THAT THE ALASKA HEARINGS TO BE CONDUCTED BY THE CAB EXAMINER BE BROADENED IN SCOPE TO INCLUDE A PUBLIC EXPRESSION MISSION	12
CARRIER MERGERS AND CONSOLIDATIONS APPEAR TO HAVE LED TO MAJOR DETERIORATION OF INTRASTATE SERVICE THROUGHOUT THE STATE	13
CAB CARRIER SUBCONTRACTS ARE UNLAWFUL AND CONTRARY TO PUBLIC INTEREST	14
IT APPEARS THAT THE AIR TAXI OPERATORS, PARTICU- LARLY IN SOUTHEAST ALASKA, NOW PROVIDE THE ONLY DEPENDABLE BUSH ROUTE SERVICE	16
UNILATERAL DECISION BY THE CAB WOULD BE IMPROPER IN THIS PROCEEDING	17

POSITION PAPER
OF
ALASKA TRANSPORTATION COMMISSION
STATE OF ALASKA

The official position of the Alaska Transportation Commission (ATC) in this proceeding, the ALASKA SERVICE INVESTIGATION, can be summarized as follows:

1. That this investigation of primarily-intra-Alaska service should have been initiated by the Civil Aeronautics Board (CAB) as a joint board proceeding (as provided for in 49 USC 1324) thereby combining the regulatory efforts of both the CAB and this Commission in this matter. However, having failed to initiate it as a joint proceeding, the investigation should, nevertheless, be concluded in that vein with a joint decision.
2. That the Alaska Transportation Commission is a state regulatory agency with responsibilities on the state level similar to the responsibilities of the CAB on the federal level; that the limited role of "party" relegated to the Commission, notwithstanding its major function as a decision making body, is highly inappropriate in this proceeding; that this Commission cannot and should not develop recommendations as to specific route authorities, realignments, competitive service, subsidies, mail service, etc., without first having before it all evidence, briefs, etc., of all parties; that further, this Commission cannot and should not make any such specific recommendations without close coordination of its policies and conclusions with the policies and conclusions of the CAB; and that this review and close coordination can only be accomplished at the decisional level of this proceeding.
3. That the standards of performance and adequacy of service being provided by CAB certificated carriers in Alaska bear directly and forcibly upon the issues in this proceeding; that the importance of these questions pervades the entire spectrum of issues; and that fact-finding, public hearings as provided for

in CAB regulations [302.14 and 399.61(c)], are an essential ingredient of this proceeding if an informed decision on the issues is to evolve.

4. That the CAB is completely out of touch with the real operational conduct of its carriers in this State; that that conduct as measured in terms of service, effort, concern, public interest and operational integrity is deplorable; and that these conditions must weigh heavily in the CAB's determination of its future course of action in the exercise of its jurisdiction.

5. That the recent mergers and purchases of CAB-regulated carriers engaged in Alaska air transportation appear to have led to a substantial deterioration of intrastate service to virtually all communities and areas except those major cities where competition exists in fact.

6. That a formal and thorough investigation into matters of rate levels, rate discrimination, other discriminatory practices, accounting practices relating to separation of scheduled air transportation activities from other activities, efficiency, claims and refund practices and other matters of similar nature of Wien Consolidated Airlines and Alaska Airlines should be initiated by the CAB on its own motion as a logical outgrowth of this Service Investigation.

7. That approximately 95 percent of the scheduled intra-state air service in Alaska is being provided directly or indirectly by carriers certificated by the CAB over routes authorized thereto by the CAB and thus far regulated exclusively by the CAB. This situation has outlived its justification and has become a substantial burden on the public of Alaska.

8. That the exercise of regulatory authority by the State of Alaska should be substantially extended (preferably in cooperation with the CAB) over intrastate routes and over all carriers serving such routes. Over those routes where it remains essential or otherwise desirable for the CAB to exercise primary jurisdiction, the

machinery should be established for joint regulation by the CAB and the ATC, or in the alternative, regulation by the CAB upon consultation with the ATC.

9. That the practice whereby CAB-certificated carriers subcontract the scheduled performance of segments of their routes to local state-regulated carriers is not in the public interest. It is the position of this Commission that such subcontracts are unlawful and constitute a usurpation by the CAB carrier of the regulatory jurisdiction of this Commission.

10. That the contractual arrangements for the intrastate transportation of mail are outdated, inadequate and inappropriate. This matter needs a complete review toward the end of providing better service and adequate compensation to the carrier actually performing that service.

11. That matters relating to subsidy needs of, and payments to, carriers engaged in intrastate air service (including mail service) and the use to which such subsidies are put in competitive practices are of major concern to this Commission as well as to the CAB. A realistic and imaginative review should be made of the basis and need for subsidy and the qualifications for and the formulas under which subsidies should be paid.

12. That all carriers which serve Alaska and are regulated by the CAB, including those providing on-line interstate gateway service, should be required by the CAB to file concurrently with the ATC copies of all applications for routes, exemptions, tariff changes, transfers, and all other such documents which relate to Alaskan air commerce and which are filed with the CAB. It is essential that the State of Alaska be adequately and fully apprised of those matters affecting air commerce to and within the State.

13. That there is a serious need for closer cooperation and consultation between the CAB and the ATC. This Commission recognizes that the actions taken by each agency can, and frequently do, have a significant effect on those carriers regulated

by the counterpart agency. The expertise, long experience and competent staff of the CAB could be of great benefit to this Commission. Similarly, this Commission could materially assist the CAB with its need for local information, surveillance and general local contact.

INTRODUCTORY NOTE

The foregoing summary delineates those matters upon which the Commission takes a position at this time. The body of this Position Paper elaborates on the points raised in the summary. It provides in greater specificity some of the more important reasons for stressing those points, and it develops in greater depth some rather compelling considerations involving jurisdiction and cooperation between the CAB and the ATC.

Submitted also are a number of exhibits in three separate series groups. The "100" series is composed of ATC requested or prepared exhibits presented primarily in an informational context. The "200" series contains published economic studies relating to the economy of individual communities or areas. The "300" series consists of statements, etc., pertaining primarily to sufficiency and standard of service.

So as not to unnecessarily burden this proceeding with repetitious evidence pertaining to sufficiency and standard of service, the Commission determined to present rather extensively the views of a single community as representative of prevailing views throughout the State. This approach presupposes, of course, that a substantial identity of view exists among people throughout the State as to compatibility of evidence. Indeed, after an extensive survey, the Commission found that such an identity or view does exist to a substantial degree.

The rather extensive written expressions received from the Bethel area (Exhibits ATC-300-312) are accordingly submitted as representative of views not only throughout the Wien Consolidated route system, but (to a slightly lesser degree) throughout Alaska Airlines' system as well. 1/

These expressions from Bethel form a major part of the ATC-300 series; the remainder of that series consists of a few typical written expressions from various other communities throughout the State. The Common elements in all these expressions will easily be noted.

1/ Views of the people of Anchorage and Fairbanks and their immediate environs were not surveyed and have not been considered in arriving at these conclusions.

The official position of this Commission is expressed in this Paper and comparison of that position with the community expressions in the ATC-300 series will indicate substantial identity of view. In fact, this Paper will refer hereafter to some of those exhibits as supporting basis for various aspects of the Commission's position. The Commission does not necessarily concur in all of the community and individual views expressed in the ATC-200 and 300 series of exhibits.

THE ALASKA TRANSPORTATION COMMISSION, REGULATORY ARM OF THE STATE

The Alaska Transportation Commission was created as a separate and distinct State regulatory agency in 1966 (Chapter 139 SLA 1966, establishing Chapter AS 42.07). Prior to that time, the Alaska Air Commerce Act of 1960 was administered by the Alaska Public Service Commission. The ATC was substantially reorganized by Chapter 104 SLA 1969 in which a three-man Commission was provided in place of the previous two-man Commission.

The Commission is responsible for the administration and enforcement of the Alaska Air Commerce Act of 1960. As a general proposition, that Act provides for the regulation of air commerce within the State of Alaska in the public interest.

Three general classifications of air carrier are established by the State Air Commerce Act. They are the scheduled carrier, air taxi carrier, and the contract carrier. The Alaska law provides that for a carrier to engage in intrastate air commerce within the State, it must first be certificated by the Alaska Transportation Commission within one of these three general classifications.

In addition to certification, the Commission also regulates in varying degrees (depending upon the classification) the routes, rates, tariffs, safety of operations of aircraft, base of operations, etc., of intrastate air carriers.

The Commission also has the authority to grant exemptions to the certification requirements under specified conditions and for a limited period of time. In all cases, applications for new or revised authority must meet public convenience and necessity tests.

MORE THAN 75 PERCENT OF TOTAL PASSENGER TRAFFIC CARRIED BY CAB CARRIERS BETWEEN ALASKAN POINTS IS INTRASTATE -- THE SUBJECT OF STATE REGULATION

A review of the informational responses of Alaska Airlines and Wien Consolidated Airlines discloses that the vast majority of passengers carried between Alaskan points by CAB carriers is actually moving in intrastate commerce only.

Wien's Exhibit (WC-IR-201) containing O & D information for the month of October, 1969, shows that slightly over 90 percent of all of Wien's passenger load (including on-line and inter-line traffic) was intrastate only. And, if the number of interstate passengers who did not move intrastate beyond the points of entry into Alaska (other than between Juneau and Fairbanks) is subtracted, it can be seen that approximately 96 percent of the passenger movement over Wien's intrastate interior system was in no way involved in interstate commerce.

Similar information is not so easily developed for Alaska Airlines. However, a close examination of the Southeast Alaska network of Alaska Airlines reveals that at least as to that part of its system, the vast majority of the passenger movement between Southeast Alaska communities is strictly intrastate.

With some exceptions, Alaska Airlines did not disclose October, 1969, O & D information for most of its Southeast Alaska bush route system. However, from the information that was provided as well as other information available to this Commission including special O & D information requested by this Commission of Southeast Alaska air taxi subcontractors and other operators, it appears that over 90 percent of the scheduled inter-community passenger movement in Southeast Alaska in October, 1969, was intrastate.

Summer tourist traffic substantially increases the volume of interstate passengers moving between Alaskan points both in the Southeast Alaska system of Alaska Airlines and over the system of Wien Consolidated Airlines. The air tours offered by tour operators and the airlines bring a substantial influx of visitors to the State. The through-intrastate movement of these tourists, however, is generally limited to only the very few points covered in the tours.

It is also true that the summer movement of purely intrastate passengers increases very substantially. It can be seen, for example, in Exhibit ATC-105 that the Third Quarter Air Taxi passenger movement is more than twice that of the Second and Fourth Quarters, and more than three times that of the First Quarter. O & D information submitted by the carriers (to the extent that it can be so broken down) also indicates a much larger intrastate movement in the summer.

Thus the ratio of intrastate to interstate passenger traffic in the summer would probably be not less than 70 percent for the route systems discussed above.

ALL INTRA-ALASKA ROUTES REGULATED BY THE CAB REFLECT A MAJOR CAB-ATC JURISDICTIONAL OVERLAP

In most respects, the responsibilities and objectives of the Alaska Transportation Commission in intrastate air commerce matters are similar to those of the CAB in interstate air commerce matters.

Due to the long-standing and intimate involvement of the CAB in Alaska's air commerce, it would be impossible to draw a fine line between the jurisdiction of the CAB and the jurisdiction of this Commission. This ALASKA SERVICE INVESTIGATION itself epitomizes the jurisdictional overlap in integration of federal and state regulatory practices and policies.

Excluding the Seattle/Portland gateway services, virtually all point to point service and routes being considered in this proceeding are intrastate in nature. With respect to much of this service, interstate commerce is incidental or insignificant compared with intrastate service requirements. It is estimated that carriers regulated primarily by the CAB provide in excess of 95 percent of the scheduled intrastate air service within Alaska. This appears to be a most unusual situation, as well as one of questionable validity, if the CAB jurisdiction is exercised unilaterally.

It follows that in Alaska where air transportation is one of the most important transportation modes and a basic necessity to the entire economy of the State, it is essential that the State exercise major, if not primary, regulatory jurisdiction.

EXCLUSIVE CAB REGULATION OF SPECIFIC INTRASTATE AIR ROUTES AND CARRIERS HAS PROVEN TO BE NON-RESPONSIVE TO THE NEEDS OF LARGE SEGMENTS OF THE STATE

The matter of the exercise of so broad a jurisdiction by the CAB over intrastate routes is not in and of itself the major problem. What is unfortunate, however, is the unresponsiveness of this arrangement to the needs and complaints of the people who are presumably being served. It appears that the remoteness of the CAB from the area of operations of its regulated carriers substantially influences the objectives of the CAB in its regulatory policy as applied to intra-Alaskan services. This remoteness tends to insulate the CAB from operational and service matters (other than those which may be called to its attention by the carriers), the result being that the Board primarily concerns itself about only those problems, such as subsidy payments, which are its direct and exclusive responsibility. It appears that with respect to Alaskan carriers the overriding objective of the CAB is, and has for some time been, the elimination of subsidies with all possible dispatch.

There is little doubt that this primary objective is being achieved. However, it is also quite apparent to anyone familiar with Alaskan air transportation services that this primary objective is being achieved at great sacrifice in public service.

The CAB cannot be totally unaware of the vast deterioration in intra-Alaska air service over the past three or four years. But, it seems certain that the Board does not fully recognize or appreciate the magnitude and implications of these conditions.

THE DOMINANT OBJECTIVE IN THIS PROCEEDING -- REASONABLE ADEQUACY AND PERFORMANCE OF CARRIER SERVICE; THE APPROACH TO ACHIEVING THAT OBJECTIVE -- JOINT INVESTIGATION AND REGULATION

The instigation of the ALASKA SERVICE INVESTIGATION is unquestionably an important and commendable undertaking by the CAB. However, the issues which have been delineated by the Board reflect a continuing and virtually exclusive preoccupation with the subsidy issue and a most unfortunate lack of appreciation for the standards and adequacy of service.

It is the position of this Commission, however, that the adequacy and standards of service dominate as issues and the Board should and must consider them in this proceeding. Assuming the accuracy of this contention, it becomes at once apparent that

there are major deficiencies in the procedures adopted by the CAB in this Service Investigation.

We call the Board's attention to the provisions of the Federal Aviation Act of 1958 (49 USC 1324), titled Cooperation With State Aeronautical Agencies:

"(b) The Board is empowered to confer with or to hold joint hearings with any State aeronautical agency, or other State agency, in connection with any matter arising under this chapter within its jurisdiction, and to avail itself of the cooperation, services, records, and facilities of such State agencies as fully as may be practicable in the administration and the enforcement of this chapter."

We cannot conceive of a more appropriate occasion for the Board to have implemented the above quoted statute than the instant proceeding. The fact that it did not do so strongly suggests that the Board considered this Service Investigation to be little more than a fairly routine route proceeding. And, perhaps having little more to go on than the carriers' side of the story, the Board could justify that conclusion. However, even if it were routine, the fact that so great a proportion of the routes under investigation are primarily intrastate in nature, should have been sufficient for the Board to have proposed a joint board proceeding. It is elementary that the role of this Commission as simply a party in this proceeding effectively precludes participation by the State in the decisions affecting nearly all scheduled service in intrastate air commerce.

The Commission recognizes that the CAB has not specifically made an issue of the bush route services to those communities listed in Appendix C, but not shown in Appendices A and B, of CAB Order 69-3-68. Nor has the CAB determined to take up the issue of the relative jurisdiction of the CAB and this Commission. However, these issues are necessarily an integral part of this proceeding and, as previously stated, the issue of adequacy and standards of service over the bush route segments of the CAB carriers' authority is one of the dominant issues to be considered. It can be seen that these issues are inter-related. The exclusive regulatory jurisdiction heretofore exercised by the CAB over the Alaska routes has not resulted in reasonably satisfactory or adequate service to most of the communities in the State.

Additionally, the broad assumption of regulatory jurisdiction on an exclusive basis by the CAB seriously subverts effective local regulation. It encourages CAB regulated carriers to avoid state regulation and to look only to the CAB for route changes, tariff changes, etc. (See, for example, Exhibit ATC 104). The State seldom receives timely notice of such requests.

HEARING PROCEDURES ADOPTED BY THE CAB IN THIS INVESTIGATION
PRECLUDE AN ADEQUATE EVIDENTIARY RECORD ON DOMINANT ISSUES --
ATC PUBLIC HEARINGS MAY PARTIALLY REMEDY THIS PROBLEM

In a proceeding such as this ALASKA SERVICE INVESTIGATION, where historical carrier performance is a matter of major significance, it is imperative that the consumer public be liberally afforded an opportunity to speak its piece.

Unfortunately, the restriction to a formal hearing process sans less formal public participation effectively thwarts this objective. It is well known that a good cross section of public opinion cannot be obtained in a matter of this sort without holding public, forum-type hearings.

To partially remedy the public participation problem, this Commission belatedly requested and was granted (with concurrence of all other parties) an extension of time in which to conduct open public hearings on its own and outside the CAB record.

During the latter part of February and early March, 1969, the ATC held open, public, forum-type hearings throughout the State and made numerous personal contacts with people throughout the State for the purpose of determining (1) the major concerns and views of the community in regard to air transportation and (2) the manner in which the people of this State may be better served in air commerce.

Hearings were held at the following places: Barrow, Kotzebue, Nome, Unalakleet, Andreafski (St. Mary's), Bethel, Dillingham, King Salmon, Kodiak, Kenai, Cordova, Valdez, Tok, Fort Yukon, Haines, Sitka, Juneau, Petersburg, Wrangell, and Ketchikan. Each of these hearings was conducted by one or more of the three Commissioners. The time, place and nature of these hearings was noticed in advance by public media and individual correspondence although notice was necessarily very short. There were in attendance from a handful to

forty or more people at each hearing. Anyone who desired to speak was permitted to do so. All testimony was recorded and most of these recordings were subsequently reviewed by the Commissioners. Portions thereof were transcribed for further, more detailed review.

People attending these hearings were encouraged to submit their views in writing and a fair representation did so.

Based upon these hearings, letters and numerous other contacts with people throughout the State, the Commission has determined that there are major and inexcusable deficiencies in the service provided by those CAB carriers serving intra-Alaska routes. This is poignantly clear in the so-called bush route areas. Such matters as extreme delays in mail and freight deliveries; inexcusable schedule delays or cancellations; inability to have claims and refunds settled within several months of filing; frequent and unannounced schedule changes; untrained personnel; discriminatory rates and improper charges; commonplace misinformation on flight arrivals and departures; frequent frustration in attempting to make interline connections; substantial failure to meet published departure and arrival times; inability of local people to obtain space on flights to and from tourist centers because all seats booked solid for several days at a time by tour passengers; the frequent unavailability of scheduled flights theoretically being performed by subcontractors, etc., were common complaints throughout the State. Most of these problems are presented in varying forms in Exhibit 300 series statements.

THE ALASKA TRANSPORTATION COMMISSION RECOMMENDS THAT THE ALASKA HEARINGS TO BE CONDUCTED BY THE CAB EXAMINER BE BROADENED IN SCOPE TO INCLUDE A PUBLIC EXPRESSION MISSION

It is the conviction of this Commission that the service conditions previously enumerated do predominate in most areas of the State. However, we do not presume complete agreement by the carriers involved.

Therefore, the ATC strongly urges that the forthcoming hearings to be held by the CAB in Alaska should likewise be of a nature that would allow general public participation and oral testimony.

CARRIER MERGERS AND CONSOLIDATIONS APPEAR TO HAVE LED TO MAJOR
DETERIORATION OF INTRASTATE SERVICE THROUGHOUT THE STATE

Within the last three years there have been several mergers and purchases of CAB certificated carriers serving Alaska. In very brief summary, these mergers and consolidations were:

1. Wien Airlines and Northern Consolidated Airlines to form Wien Consolidated Airlines, Inc., April, 1968.
2. Western Airlines purchased Pacific Northern Airlines, July, 1967.
3. Alaska Airlines with Cordova Airlines, and with Alaska Coastal Ellis Airlines, surviving as Alaska Airlines, Inc., February and March, 1968.

There appears to be a direct correlation between the merger of the larger CAB carriers serving Alaska and the deterioration in air service to outlying communities and areas.

Western Airlines, for example, has been systematically ridding itself of what might be properly termed "local service obligations." It has suspended its service to King Salmon, Cordova, and Yakutat. It seeks to rid itself of its route between Anchorage, Kenai, Homer and Kodiak. In essence, it appears that Western's real objective in absorbing Pacific Northern Airlines was to acquire only the high-traffic-density, Seattle/Portland gateway routes to Alaska, and to succeed to the favored position of PNA in its application for Anchorage-Hawaii authority as consolidated in the Trans-Pacific Route Investigation.

Having accomplished these objectives, Western Airlines now shows no interest in the air service needs of the remainder of those communities previously served by PNA.

Alaska Airlines, in its two mergers, has gained access to the Anchorage-Juneau-Sitka-Seattle-Portland market. Ketchikan has not yet been added to this service route by the CAB, but the result of this omission has been the creation of some abnormal and unsatisfactory scheduling and service conditions in the Ketchikan, Juneau, Sitka feeder service from other Southeastern Alaska communities.

In essence, what the CAB has done in Southeast Alaska over the last five years is to substitute in substantial part Alaska Airlines and Wien Consolidated Airlines for Pan American World Airways in the interstate service to Southeast Alaska. This

substitution has never met the approval of the people of this area.

Alaska Airlines inherited by its merger a multiplicity of intra-Southeast Alaska routes. Many of the services previously provided by Alaska Coastal Ellis Airlines have been discontinued by Alaska Airlines entirely. A large number of the remaining point to point routes which Alaska purportedly continues to serve are in fact served by air taxi operators under subcontract with Alaska Airlines (Exhibit ATC-103).

It was anticipated that the merger of Wien Airlines and Northern Consolidated Airlines would provide a materially strengthened carrier which would result in a better service to the public than either carrier was capable of providing individually.

Unfortunately, the emerged carrier, while providing more sophisticated equipment and service to the large competitive markets, has retracted its service to the outlying communities. In markets where Wien Consolidated is not competing with another carrier, its service and performance have deteriorated markedly.

Between 1957 (the first year Northern Consolidated subcontracted out part of its route) and November 1, 1967, Northern Consolidated and Wien Alaska subcontracted a total of 34 points on their routes. Since May 1, 1969, Wien Consolidated has subcontracted thirty additional points (Exhibit ATC-103).

The inverse relationship between mergers and deteriorating service to outlying communities appears to be a very real one. Apparently when a carrier reaches substantial size, gains access to major markets, and places into operation sophisticated jet equipment, it loses its interest and perhaps capability to provide adequate service over marginal routes.

Unfortunately, the bush-level scheduled carriers, which develop from these circumstances, do not inherit any of the better traffic markets because those markets are already occupied by the large carriers.

CAB CARRIER SUBCONTRACTS ARE UNLAWFUL AND CONTRARY TO PUBLIC INTEREST

Wien and Alaska have submitted into the record copies of their agreements with air taxis under which the latter provide

local scheduled service. Exhibit ATC-103 graphically portrays the networks of such service routes. In each case, the subcontractor is a State-certificated air taxi operator. However, only two of the fifteen subcontractors are certificated by the State as scheduled carriers. And, even in those instances where the subcontractor is certificated to provide scheduled service, many of the points listed in his State route authority are different from those he serves under subcontract.

Further investigation also reveals that the subcontractor generally serves the contract points both as a scheduled carrier and as an air taxi operator. In many instances, the volume of traffic carried as an air taxi to such points substantially exceeds the volume carried as the subcontractor. It may be that in many such cases the traffic which the subcontractor is carrying under the contract is limited to multiple coupon, involving travel over more than one flight leg.

Air taxi operators are required by State law to charge only those rates which they have filed with this Commission. It is immaterial whether the service is being provided on a trip by trip basis or under a long-term contract.

Thus, for such an operator to comply with the laws of the State of Alaska as to the charges which he may make, he cannot charge the rates and the tariffs of the CAB contracting carrier, unless such rates happen to coincide with those of the air taxi operator which are on file.

Under some of the contracts the operator is paid a flat hourly rate by the mainline carrier irrespective of the number of passengers, volume of freight, etc. The mainline carrier then collects its tariff rates from the sub's passengers and shippers.

Other subcontractors apparently collect and keep as their compensation the published CAB tariff rates of the mainline carrier.

The air taxi operator's tariff normally reflects hourly rates. The cost per passenger would depend on the number of passengers travelling between two given points on the same flight. Thus it would appear that there is only one point in the passenger-time relationship at which the air taxi rate per passenger could be the same as the passenger rate of the scheduled CAB carrier.

This subcontract approach is even further clandestine in that the CAB carrier, rather than this Commission, makes the determination as to which, if any, local Alaska certificated carriers will become scheduled carriers and will be allowed to carry mail for compensation. This leads to an unhealthy control by a major airline of the independent operations of locally-certificated carriers. It also leads to a reduction in competition and service through a mutual arrangement not to compete. Although the CAB regulated carrier remains ultimately responsible for the actions and performance of the subcontractor, they in fact exercise no supervision over the sub, do not know what the sub is doing or not doing, and apparently couldn't care less. With many of the subcontractors, the only scheduled service provided occurs on mail flights (if there is room) and mail is delivered sporadically.

One further point should be made before leaving the matter of subcontracts. There is no assurance that a contract will not be terminated on short notice; or that it will be renewed upon expiration; or that it will not be given to a different local operator; or that the CAB carrier itself will not terminate the contract and initiate the service itself. Thus, the State-certificated operator builds his operation and his capability with no assurance that he may continue to provide that service for any length of time.

The CAB carrier is neither qualified nor authorized to designate local carriers upon which it will bestow operating privileges within this State.

There have been numerous complaints to the effect that some subcontractors of CAB carriers are providing poor, sporadic, inadequate and unsatisfactory service to the people they supposedly serve. These conditions add emphasis to the impropriety of the route subcontracts.

IT APPEARS THAT THE AIR TAXI OPERATORS, PARTICULARLY IN SOUTHEAST ALASKA, NOW PROVIDE THE ONLY DEPENDABLE BUSH ROUTE SERVICE

The Commission has requested confidential O & D information of Southeast Alaska air taxi operators for the months of August and October, 1969. The response to this request was sufficient to indicate that the air taxi operators are now carrying a very

substantial percentage of the passenger traffic between communities presumably being served by Alaska Airlines.

The response to the Commission's request represents about one-third of the total volume of passenger movement by air taxi operators. The information submitted shows a weighted average of approximately 60 percent of the passenger load carried by the responding air taxi operators in the Third Quarter of 1969 as passengers moving between points on Alaska Airlines' scheduled route. It is believed that this average may be somewhat high as a reflection of the total Southeast Alaska air taxi movement. However, even if the percentage was reduced to 44 percent (the lowest of the reporting operators) it would mean that in the Third Quarter of 1969 air taxi operators in Southeast Alaska transported approximately 26,000 passengers between points listed on Alaska Airlines' scheduled route. This matter is well highlighted by the fact that Alaska Airlines in its informational response (IR-AS-1) shows the number of O & D coupon passengers carried by it between Juneau and Hoonah in the month of August, 1969, as 184. However, one air taxi operator alone shows a total of 840 passengers transported between Juneau and Hoonah during the same month.

It is the Commission's belief that these circumstances vividly reflect a virtually-complete abandonment by Alaska Airlines of its responsibilities under its CAB certificate to provide a dependable scheduled service to these outlying communities. In essence, the people of Southeast Alaska must look to the air taxi operator if they are going to receive a modicum of dependable service between the communities of Southeast Alaska.

The extent to which the results of the Commission's survey in Southeastern Alaska can be translated to other areas of the State is not known. However, the Commission has received considerable indication that the ratios may be similar in the Northwest, Southwest, and Interior areas as shown in Exhibit ATC 105.

UNILATERAL DECISION BY THE CAB WOULD BE IMPROPER IN THIS PROCEEDING

As procedural matters now stand, the decision in this Service Investigation is to be made unilaterally by the CAB.

This approach places the Alaska Transportation Commission in a rather unique position (since it is the regulatory body on

the State level). As pointed out earlier in the text of this Paper, the regulatory jurisdiction of the State is at least as substantial as that of the CAB.

Therefore, what the Commission is apparently being asked to do is decide for itself the issues in this proceeding without benefit of the evidentiary record and briefs and thereupon make its recommendations to the CAB as would any other party.

Such an approach, even if it were practical, would serve little purpose. It is essential that the jurisdictional questions be squarely faced and the utmost in cooperative effort be pursued by both the CAB and the ATC. This Commission currently has in its files a substantial number of applications for intrastate scheduled authority. The Commission has deferred consideration of all such applications (upon which hearings have not been held in the past six months) pending the outcome of this ALASKA SERVICE INVESTIGATION. Even where hearings had been held previous to this policy decision, the granting of authority where warranted by the public convenience and necessity has been limited to a one-year period.

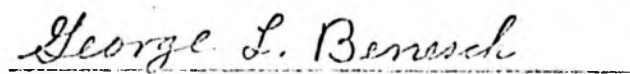
It is intended by the Commission to systematically review the scheduled service requirements of limited geographical areas in a series of State area service investigations and to provide for the certificated service so badly needed in many areas of the State.

It would be a complete frustration of regulatory responsibility if the CAB and the ATC failed to integrate their efforts in these matters which so vitally affect the public interest.

DATED at ANCHORAGE, ALASKA, this 14th day of April 1970.

ALASKA TRANSPORTATION COMMISSION


Dennis L. Marvin, Commissioner


George L. Benesch, Commissioner


James J. Johnson, Commissioner

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF COMMERCE

ALASKA TRANSPORTATION COMMISSION

750 MACKAY BUILDING
338 DENALI STREET - ANCHORAGE 99501

May 5, 1970

*This letter was
sent to applicant
air carriers represent-
ing 13 docketed
applications for intra-
state scheduled carrier
authority.*

SUBJECT: Your Application for Scheduled Carrier Authority --
Docket No. _____.

Dear Mr.

The purpose of this letter is to inform you as to the status of your subject Docketed Application for Scheduled Air Carrier authority.

As you may already know the Commission is a party in the ALASKA SERVICE INVESTIGATION of the Civil Aeronautics Board, Docket No. 20826. Upon a close investigation, we believe that the issues in the CAB proceeding touch upon all existing or proposed scheduled service between all points within the State. We have, therefore, taken the position that neither the CAB nor this Commission should act wholly unilaterally in developing an adequate, efficient, feasible and statewide intrastate network of scheduled service

In keeping with this policy the Commission has for the last several months deferred final consideration of all new applications for scheduled service not previously acted upon unless such deferral would create a serious public hardship in a particular case or the application may otherwise be non-controversial. We intend to continue this policy of deferral over the next few months, at least until the direction the ALASKA SERVICE INVESTIGATION is going to take has been demonstrated.

It is the contention of this Commission that much of the intrastate service such as that for which you have applied is and should be regulated by the State. At the same time, the Commission recognizes that a proliferation of numerous intrastate scheduled carriers could significantly affect the operations of the carriers heretofore regulated exclusively by the CAB. We believe the public interest demands that the regulatory efforts

May 5, 1970

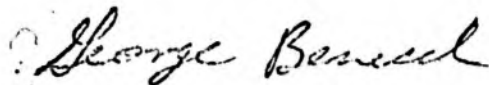
of the Federal and State governments be substantially coordinated to avoid duplication of effort, conflicting decisions and objectives, adverse effects on the carriers and the public, etc.

This Commission has therefore placed itself in a posture whereby such coordination and joint effort can be accomplished. We are assuming, of course, that the CAB is similarly interested in such cooperation and coordination.

At such time as these applications for scheduled service are again considered (hopefully within the next few months) we propose to initiate local area service investigations for the purpose of developing an adequate, viable, feasible network of local carriers. This program will be preceded by a rule-making proceeding for the purpose of adopting guideline regulations and to give the industry and public an opportunity to be heard on the procedure, problems and objectives.

We appreciate your continued patience and understanding in this matter.

Sincerely yours,



George Benesch
Commissioner

An examination by the staff of the Alaska Transportation Commission as of May 4, 1970, shows that the matters set forth below are pending before the Commission.

There follows hereinafter an analysis of these pending matters. The analysis attempts to group the matters so as to reflect the type of issues and problems involved. It further attempts to explain the general nature of each group and seeks to explain the responsibility of the Commission in deciding these matters so that reasonable time factors can be applied to the determination of each group of matters.

1. Contested Matters: This class of cases involves applications for permanent authority to operate air taxi, scheduled carrier, and contract carrier in air commerce; applications for temporary and emergency temporary authority for operation as an air taxi, scheduled carrier, and contract carrier in air commerce; applications for permanent and temporary authority for what are known as common carriers - freight, common carriers - passenger, and contract carrier - freight, in motor carrier commerce. Other classes of cases involve authority to operate air cushion vehicles and water carrier (ferry) vessels. Each of these cases has been protested by one or more individuals or companies and each application will require public hearing estimated to average from 4 to 5 days.

Contested cases requiring hearing

87

2. Uncontested Matters: This class of cases involves matters in which there have been no formal protests but in which either an informal or formal hearing will be required by the Commission in order to determine whether it is in the public interest to authorize either air, surface, air cushion, or water (ferry) carriage. This class of cases also includes those matters in which formal oral argument is required by the Commission on either or both contested cases (which have been heard) or uncontested cases.

Hearings on uncontested cases or cases which require argument and Commission decision

66

3. Other Matters: This class of cases involves matters which require Commission study and perhaps additional hearings (not included above). These cases involve such matters as complaints alleging violations of the transportation law, requests for interpretations of the law, review of policy determinations made by prior Commissions, review of the operation and practices of operating carriers in which the public interest is involved.

Cases involving so-called Other Matters 13

4. Pending Decisions: This class of cases involves matters that have been heard by the Commission and cases which have not required a public hearing but which require the study, examination and exercise of judgment and discretion of the Commission. In all cases formally or informally heard by the Commission under the present law it is necessary for each Commissioner to fully study and analyze the record and all exhibits presented before entering into conference for decision.

Cases Involving Pending Decisions 6

5. Special Matters:

(a) The Commission during the past several months has held over 20 hearings throughout the state in connection with the Civil Aeronautics Board's Alaska Service Investigation (Air Route Investigation). These hearings have averaged from 2 to 4 days per hearing (including travel time). Upcoming are six hearings within Alaska and at least two hearings in Washington, D.C. (Please see explanation of the nature and scope of these hearings, supra). These hearings are policy making in nature and hearing officers would not be able to attend to these matters nor exercise the discretion and judgment required.

Estimated time for CAB hearings 30 days
Estimated time for briefing and argument 30 days

(b) The transportation industry of Alaska has changed dramatically during the last few years. The industry is no longer a 'small-time' matter. Regulations of the Transportation Commission as they now exist were based on a much smaller and less complicated industry. The regulations have proven to be grossly inadequate and incomplete to meet the needs of our modern and growing industry. This fact is widely known throughout the industry particularly among attorneys practicing within this field. The regulations must be completely revised. Revision of regulations of the transportation industry is a vast and major task. There is no provision under the law for this task to be accomplished by other than the Commission itself. The revision necessary of regulations

governing air, motor carrier (freight and passenger), air cushion vehicles and water (ferry) carriers will require extensive research and study and may take as long as one year. This work must be performed by the Commission because these regulations involve many involved issues of policy, practice and procedure. Work on this revision of regulations which is very immediately necessary will require time that is now devoted to the hearing of cases.

Estimated time for revision of regulations 1 year

(c) In addition to revision of the transportation regulations there is an urgent need for a reclassification of carriers within each of the groups, i.e., air, surface, air cushion and water. The Commission now has planned at least three reclassification hearings. These hearings will involve the taking of testimony from all interested members of the industry, and the public.

Estimated time for reclassification hearings 30 days

BEFORE THE
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

ALASKA SERVICE INVESTIGATION

DOCKET 20826

PETITION BY ALASKA TRANSPORTATION COMMISSION
FOR JOINT BOARD PROCEEDING

Communications with respect to this document should be sent to:

G. KENT EDWARDS
ATTORNEY GENERAL
By Shirle A. Debenham
Assistant Attorney General
Attorney for Alaska Transportation
Commission
338 Denali St., 750 Mackay Bldg.
Anchorage, Alaska 99501

Anchorage, Alaska

April 28, 1970

BEFORE THE
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

ALASKA SERVICE INVESTIGATION

DOCKET 20826

PETITION BY ALASKA TRANSPORTATION COMMISSION
FOR JOINT BOARD PROCEEDING

COMES NOW the ALASKA TRANSPORTATION COMMISSION (ATC) and petitions the Civil Aeronautics Board to implement the provisions of the Federal Aviation Act of 1958 (49 USC 1324) which authorize the C.A.B. to hold joint hearings and otherwise perform such acts, to issue such orders and to make such procedure as necessary to carry out the provisions of the Act relating to cooperation with State regulatory agencies; and in keeping with the objectives of such provisions, the ATC petitions the C.A.B. to reconstitute the Alaska Service Investigation as a Joint Board proceeding to be conducted and decided jointly by the C.A.B. and the ATC.

In support of its petition, the ATC respectfully states as follows:

I

The ATC is the duly constituted regulatory agency of the State of Alaska as provided by law (Chapter AS 42.07); and as such, is the agency responsible for the regulation of intrastate air commerce under the Alaska Air Commerce Act, Chapter AS 02.05.

II

The ATC is presently a party intervenor in the Alaska Service Investigation and as such is limited to participation on the evidence-producing level and to making recommendations to the C.A.B. without first having benefit of a complete record.

III

Approximately 95 percent of all scheduled intrastate air service in Alaska is provided by air carriers regulated exclusively by the C.A.B.; and between approximately 75 and 95 percent of all traffic moving between points in Alaska is intrastate rather than interstate movement and subject to regulation by the State.

IV

The ATC has conducted informal public hearings throughout Alaska in connection with the Alaska Service Investigation. It has done this as a

response to numerous requests of the public for such hearings and by virtue of the commendable understanding of the Board's Hearing Examiner in the Alaska Service Investigation who granted an extension of time to the Commission for this purpose. (All parties concurred in an extension of time substantially as requested by this Commission.) As a result of such hearings, and the Commission's additional investigations and familiarity with the intrastate air commerce needs of Alaska, the Commission has submitted, as a direct exhibit, a Position Paper directed primarily to the matters of CAB-ATC jurisdiction, regulatory objectives, and essentiality of substantially closer cooperation between the C.A.B. and this Commission. The summary of this Position Paper is attached to this petition and by reference made a part of this petition in support thereof.

V

It is essential that the jurisdictional questions be squarely faced and the utmost in cooperative effort be pursued by both the C.A.B and the ATC. This Commission currently has in its files a substantial number of applications for intrastate scheduled authority. The Commission has deferred consideration of all such applications (upon which hearings have not been held in the past six months) pending the outcome of this Alaska Service Investigation. Even where hearings had been held previous to this policy decision, the granting of authority where warranted by the public convenience and necessity has been limited to a one-year period.

It is presently intended by the Commission to systematically review the scheduled service requirements of limited geographical areas in a series of State regional service investigations and to provide for certificated service as needed in the many areas of the State.

If the C.A.B. and the ATC failed to integrate their efforts in these matters which so vitally affect the public interest, effective regulation would be very substantially frustrated.

The ATC recognizes that these matters and this petition should have been submitted to the C.A.B. at a much earlier stage in the Alaska Service Investigation proceeding (ideally at its inception or at least prior to the prehearing conference).

Unfortunately, this was not possible. The Commission was completely reorganized by repeal and reenactment of the Alaska Transportation Commission Act in May 1969 (Chapter 104, SLA 1969).

The policy developed herein is that of the new three-man Commission which Commission was not complete until January 1970. (Only one of the present three Commissioners was appointed to office prior to the prehearing conference in September 1969.)

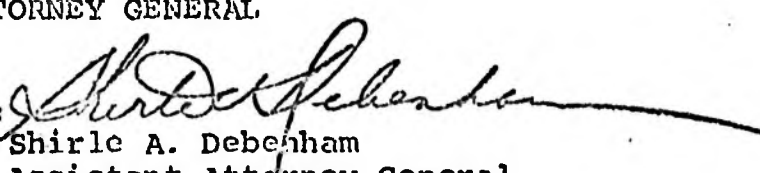
It is the Commission's belief, however, that the Alaska Service Investigation proceeding can still be restructured as a Joint Board proceeding even at this less timely stage particularly since no new issues will be added to delay the present proceeding schedule.

WHEREFORE, the Alaska Transportation Commission respectfully requests the Civil Aeronautics Board to reconsider the unilateral nature of the Alaska Service Investigation and to more appropriately in the overall interest of the public, reconstitute it as a Joint Board proceeding by the C.A.B. and the ATC.

Respectfully submitted,

G. KENT EDWARDS
ATTORNEY GENERAL

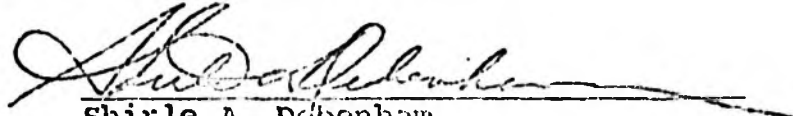
By:


Shirle A. Debenham
Assistant Attorney General
Attorney for Alaska Transportation
Commission

April 28, 1970.

CERTIFICATE OF SERVICE

I hereby certify that I have this 28th day of April 1970 mailed true and correct copies of the PETITION BY ALASKA TRANSPORTATION COMMISSION FOR JOINT BOARD PROCEEDING, properly addressed and postage prepaid to all parties of record in this proceeding.


Shirle A. Debenham
Assistant Attorney General
Attorney for Alaska Transportation
Commission