



AIR LINE PILOTS ASSOCIATION, INTERNATIONAL

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April 26, 2023

The Honorable Pete Buttigieg
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Re: SkyWest Charter, Docket DOT-OST-2022-0071

Dear Mr. Secretary:

I am writing to express our pilots' serious concern regarding an application before the Department of Transportation ("DOT"). As you know, SkyWest, Inc., is applying to DOT for economic authority to enable it to withdraw from government-subsidized scheduled flights to small communities, operated at the highest level of safety, and substitute itself with a new alter-ego "charter" subsidiary to operate what will be tantamount to a scheduled operation, but at a lesser level of safety. In short, SkyWest seeks to roll back the clock and skirt the aviation safety rules that have led to a 99.8% reduction in airline passenger fatalities in the United States. ALPA strongly believes that DOT should not approve a reduction in the margin of safety of our air transportation system by degrading the effectiveness of the nation's current first officer qualifications nor weaken Congress's insistence on scheduled air service to small communities. This Department has promised to uphold those qualifications, and I know it is committed, as is ALPA, to maintaining safe, reliable scheduled service to small communities and must follow through on those commitments here.

The alter-ego company is SkyWest Charter, LLC. SkyWest wants to shift its Essential Air Service ("EAS") flying, done now with high performance CRJ-200 jets, under Part 121's safety regulations, to its surrogate. The surrogate will operate the same aircraft from SkyWest's fleet, but under public charter rules and Part 135's safety regulations, with fewer seats and lesser experienced, lesser-qualified first officers on the flight deck. Under Part 135, those first officers would not have to meet the safety-critical First Officer Qualification ("FOQ") rules as Congress authorized in the Airline Safety and FAA Extension Act of 2010, which regional airlines are continuing to try to weaken (*see, e.g.,* Petition of Republic Airways Inc. for Exemption, Docket No. FAA-2022-0535 (Apr.

14, 2022)).¹ Yet this regional airline proposes to be a commuter air carrier that will do “on-demand” charters, but in reality, the airline will offer scheduled service, not charters, as the applicant itself admits.

The justification for this swap – an alleged first officer supply problem – is contradicted by SkyWest’s statements to investor analysts and its shareholders.² Moreover, it flies in the face of the FAA’s own ATP production data, which shows that since the FOQ rules went into effect in 2013, the United States has produced 64,000 pilots, while airlines hired approximately 40,000 over the same period.³

While other carriers have used a similar loophole to operate imitation private-jet luxury services that are scheduled in all but name, those carriers present crucial differences. First, unlike SkyWest, they do not rely on federal subsidies and the captive audience of rural and small-town customers to connect to the national airline network.⁴ Second, SkyWest’s operation is vastly bigger: it is the dominant and most successful regional airline in the United States, it flies most of the EAS flights in the Continental U.S., and if this charter proposal is successful, there is no reason why it could not convert the rest of its regional services to purported charter flights. This would weaken flight safety immeasurably.

Weakening would occur by allowing the applicant to operate scheduled flights in all but name while shirking the responsibilities of being a scheduled operator. Chief

¹ Act, Pub. L. 111-216. The Pilot Certification and Qualification Requirements for Air Carrier Operations, 78 Fed. Reg. 42324 (July 15, 2013), established the First Officer Qualification rules (“FOQ Rules”).

² SkyWest’s statements on its earnings calls include:

- Its EAS routes are “profitable” (Q1 2022 Earnings Call);
- Its cuts to EAS flying are because “higher yield business travel [in EAS markets] has been slower to return” (Q3 2021 Earnings Call);
- Its “pilot classes [were] filled well into 2022” (Q3 2021 Earnings Call);
- It is suffering “captain attrition” as larger airlines hire their captains away (Q1 2022 Earnings Call);
- But after signing a pilot collective bargaining agreement, it “expect[s] the agreement to help manage attrition” (Q3 2022 Earnings Call).

SkyWest is not suffering a first officer shortage, and higher pay rates it introduced will keep its captains on the property. DOT action is not necessary to fix any purported first officer shortage.

³ ALPA’s summary of FAA, DOT Form 41, and SEC-filed data is available at <https://www.alpa.org/news-and-events/news-room/2023-04-19-us-pilot-production-remains-strong-according-to-FAA-data>.

⁴ Nor does SkyWest Charter intend to rely on the Alternate EAS statute as Contour Airlines’ charter operations do today.

among those responsibilities is the mandate to comply with Part 121's safety rules – the highest level of safety that the FAA prescribes. Yet under Part 135:

- The anti-fatigue safety rules of FAR Part 117 do not apply;
- The mandatory retirement age for pilots does not apply;
- The requirements of a Safety Management System do not apply;
- The First Officer Qualification rules do not apply.

Our pleadings in the docket describe the issue in greater detail.

Part 121 operations, like those SkyWest flies today, are demonstrably safer than the Part 135 operations like those that SkyWest Charter wants to fly. Since February 2009, Part 121 operations have had two passenger fatalities while carrying almost 12 billion passengers. By contrast, since 2010, Part 135 operations have experienced 79 fatal accidents resulting in 208 fatalities.⁵ That stark difference is why the FAA's "one level of safety" in the 1990s required regionals operating the jets that predominate today to end their Part 135 scheduled operations and conform to the same rules as the major scheduled airlines.

Mr. Secretary, you have repeatedly promised that the First Officer Qualifications will not be weakened under this Administration's watch. But the applicant's proposal will do just that by gutting the rule under which regional pilots – already among the most junior, least experienced commercial aviators – gain entry to the national airline system.

The Department should reject the invitation to weaken regional airline safety. It should not permit the reservation of the highest level of safety for only richer markets where profits are prevalent, while deeming sufficient a lesser safety standard for rural America. It should not permit the evisceration of the EAS program by allowing wholesale substitution of pretend charters for truly scheduled flights. It should not signal to SkyWest Charter, or any carrier, that the Department will use its discretion to give life to a business model so conceived. The clock should not be turned back on our country's effort to achieve one level of safety across commercial air transportation.

ALPA would urge the DOT to undertake systemic reform to meet the air-service needs of small and rural communities. Our union stands ready to work with you and all aviation stakeholders to ensure all Americans—including those living or doing business in small and rural communities—can count on safe, reliable air service. To achieve this shared goal, ALPA respectfully asks that the DOT:

⁵ NTSB data.

The Honorable Pete Buttigieg

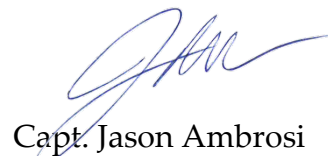
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- Propose a substantial increase to EAS funding and EAS reforms to ensure adequate service for all eligible communities.
- Support the elimination of the “public charter loophole” that allows airlines to create two standards of safety for U.S. airline passengers by operating scheduled flights under FAR Part 135 that should be operated under FAR Part 121.

Our union fully supports these and other measures to ensure our nation’s rural and small communities have safe and reliable air transportation service. However, ALPA will not abide any effort by SkyWest or any other airline to degrade the safety of flight for travelers and shippers in this country or compromise our industry’s remarkable but unfinished work to achieve one level of safety throughout the U.S. air transportation system.

Thank you for the opportunity to address these important matters.

Sincerely,



Capt. Jason Ambrosi

President

AIR LINE PILOTS ASSOCIATION,

INTERNATIONAL

cc: Docket and counsel of record

CERTIFICATE OF SERVICE

I hereby certify that I have this 26th day of April, 2023, served the foregoing document by email on the following persons:

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