IMPACT OF INTERLINING ON COMMUTER AIRLINES

(95-51)

HEARING

BEFORE THE

SUBCOMMITTEE ON AVIATION

OF THE

COMMITTEE ON

PUBLIC WORKS AND TRANSPORTATION

HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

SECOND SESSION

MARCH 18, 1978; AT MIAMI, FLA.

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IMPACT OF INTERLINING ON COMMUTER AIRLINES

SATURDAY, MARCH 18, 1978

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AVIATION,
OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Miami, Fla.

The subcommittee met at 9:07 a.m., in the commission chambers, Room 250, Dade County Courthouse, Hon. Glenn M. Anderson (chairman of the subcommittee) presiding.

Present: Representatives Hammerschmidt, Shuster, and Fascell.

Also present: Mr. David Heymsfeld, assistant counsel, Mr. Darrell Stearns, professional staff member, and Mr. John Stratton, minority professional staff member.

Mr. ANDERSON. The meeting of the Aviation Subcommittee will come to order.

At today's hearings of the Aviation Subcommittee of the Public Works Committee we are concerned with the commuter airlines in Florida and how these airlines are being affected by the authority which Congress granted to Air Florida last fall.

On November 9, 1977, the President signed into law H.R. 6010.

One of the provisions of this law allows intrastate airlines in Florida to enter into through-service and joint-fare agreements with interstate air carriers.

We needed legislation to allow this, because, under prior law, intrastate carriers were not allowed to offer through-ticketing and baggage services for passengers connecting with interstate carriers.

For example, if a passenger wished to travel on Air Florida between Miami and Tampa, and then to connect with Delta Airlines, to fly to Atlanta, the passenger would have to purchase separate tickets from the two airlines, and then he would have to transfer his own baggage at Tampa.

The law we passed allows Air Florida and an interstate carrier, such as Delta, to enter into an agreement which would permit a Miami-Atlanta passenger to purchase a single ticket at a joint fare.

The agreement would also allow the two airlines to provide baggage transfer services.

When we passed this law, Congressman Fascell, and other Florida Congressman expressed concern at allowing Air Florida to enter into these joint-fare agreements, because this might give Air Florida an unfair competitive advantage over commuter airlines in Florida.

In the debates on H.R. 6010, I promised that the Aviation Subcommittee would monitor the situation carefully and hold hearings on the problem in the early months of 1978.

This is the background of today's hearings, where we will receive testimony on competitive situations between Air Florida and the commuter airlines.

I am very happy to have with us today here other members of the subcommittee, John Paul Hammerschmidt from Arkansas; and Bud Shuster from Pennsylvania.

We are particularly pleased to have the great Congressman from this area, who is one of our great leaders in the House—Dante Fascell.

Dante, would you like to welcome us?

Mr. FASCELL. I would.

Mr. ANDERSON. Say whatever you would like.

Mr. FASCELL. I am delighted to have you here.

I also want to thank you and the members of the committee for taking the time to come here to hear these folks.

It is a very important issue, and we are extremely grateful to you.

Mr. ANDERSON. Thank you, Dante.

John Paul, would you like to say something?

Mr. HAMMERSCHMIDT. Only that I am delighted to be in Dante Fascell's territory.

We know the keen interest that he and other members have in this interline matter.

It is a pleasure to be here to listen to what the witnesses have to say.

Mr. ANDERSON. Congressman Bud Shuster, of Pennsylvania—in addition to being a member of the subcommittee—is also the Chairman of our National Transportation Policy Study Commission, whose job is—in about a year from now—to give us a full national transportation policy study, along with recommendations.

We will expect a good report from him at that time.

Mr. SHUSTER. Mr. Chairman, thank you, and it is great to be here in Dante Fascell's congressional district.

You certainly do have an outstanding leader in the Congress, representing you.

You are right, Mr. Chairman; I am here wearing two hats—the second one being as the Chairman of the National Transportation Commission that you referred to, so I am very much interested in listening to this testimony today.

Thank you very much.

Mr. ANDERSON. We have a statement on behalf of Paula Hawkins, chairman of the Florida Public Service Commission, which will be given by Don Weidner, assistant to the director of the Florida Public Service Commission.

Mr. Weidner.

STATEMENT OF DONALD W. WEIDNER, EXECUTIVE ASSISTANT TO CHAIRMAN PAULA HAWKINS, FLORIDA PUBLIC SERVICE COMMISSION

Mr. WEIDNER. Thank you, Mr. Chairman.

Good morning, my name in Donald W. Weidner and I am executive assistant to Paula Hawkins, chairman of the Florida Public Service

Commission. Chairman Hawkins regrets that she is unable to be here this morning but she is out of the country on a brief vacation.

Mrs. Hawkins asked that I appear here this morning to express her support for the provisions of H.R. 6010, which allows interlining by Florida's intrastate air carriers.

The chairman supports that provision because of the tremendous benefits it provides for Florida's citizens and those who come to visit Florida.

Essentially there are three benefits resulting from this section of H.R. 6010 which are of importance.

First, under the interlining provisions, airline passengers in Florida may now obtain through ticketing even though a part of their trip will be on an intrastate airline. Prior to the advent of this bill we had received numerous complaints regarding the inconveniences encountered when a passenger had to purchase separate tickets for portions of a trip. Even more common, were complaints about the inability to turn in unused tickets—particularly when the passenger was now in a city not served by the intrastate carrier.

The second advantage is a companion to the first—the availability under H.R. 6010 to check baggage through to the final destination even though part of a trip is on an intrastate carrier. Prior to H.R. 6010 we had also received numerous complaints about the problems encountered when, for example, a passenger landed at Tampa International had to go into the main terminal all the way down to the baggage claim area, find his baggage, then back up to the ticket area, check the baggage, and then go all the way back out to a gate right next to one he had arrived at originally—and all in a limited period of time. Not only is this an inconvenience to the passenger, but it is also wasteful and, therefore, expensive for the airlines since more employees must spend more time with such customers.

The last advantage which I wish to discuss deals with the size of aircraft utilized by the intrastate carrier. Prior to H.R. 6010, in order for an intrastate carrier to have the benefits of interlining, the carrier also had to be certificated or exempted by the CAB. Along with exemption, however, were various restrictions on aircraft size. Generally, the intrastate carrier was limited to flying small (less than 31 seat) aircraft. Under H.R. 6010 our intrastate carriers need not obtain the CAB certification in order to interline, therefore the CAB restrictions on aircraft size need no longer be applicable. I believe this will eventually work to the benefit of intrastate airline passengers since, hopefully, the airlines will begin upgrading to jet aircraft. There are many potential passengers in markets served only by an intrastate state airlines who have confied to me that they are simply afraid to fly on a small prop-driven airplane.

Finally, a word should be said about objections to 6010. Since the bill was first proposed, I have tried hard to find out what, if any, objections exist to it. In all honesty, I have not learned of one single objection which applies directly to this provision of 6010. The only objections I have heard relate to what might happen if deregulation occurs—or what might happen if one airline applies to the Florida PSC for extension of route authority and after a full review of the evidence presented, the FPSC votes to grant the application. With all

due respect to those raising such arguments, I find them totally invalid; 6010 is a great benefit to those traveling by air to and within Florida. It should be judged solely on its merits.

The battle over deregulation should be fought over the bills which provide for deregulation just as route authority requests filed with the Florida Public Service Commission will be judged solely on the evidence presented in hearings on the request.

On behalf of Chairman Hawkins, I sincerely appreciate the opportunity to appear before you and we appreciate your coming to the Sunshine State for these hearings.

Mr. ANDERSON. Thank you, Mr. Weidner.

As I understand it, some commuters are concerned that the PSC might award Air Florida authority to serve markets that are now being served by commuters.

If this occurred, the commuters believe that Air Florida's large aircraft authority and its interlining authority from H.R. 6010 would give it a great competitive advantage over commuters.

Suppose that Air Florida applied to the PSC for authority to serve a commuter market.

In reaching its decision, would the PSC consider the impact on a commuter of an award to Air Florida?

Mr. WEIDNER. I believe it would.

The law mandates that we look into the necessity of the service that is going to be provided: Is there going to be a necessity for that service?

Of course, we would have to look at whether the present carrier were serving the market well, and whether there would be a need for additional service to that market.

Mr. ANDERSON. In other words, you do consider the economic impact upon the commuters?

Mr. WEIDNER. Yes, sir.

Mr. ANDERSON. Do the certificates which the PSC gives commuters limit the size of aircraft that they may use?

In other words, could a commuter use the same aircraft as Air Florida?

Mr. WEIDNER. I believe so.

There may be—I am not certain whether they have to get permission to upgrade, but, generally, that is just a perfunctory thing; as a matter of fact, we have a couple of applications coming up now, where carriers requested to go up to larger aircraft, and the staff recommended them favorably in record time.

The commission has not acted upon them yet.

Mr. ANDERSON. If Air Florida made application, about how long would it take the PSC to reach a decision?

Mr. WEIDNER. That depends on a lot of different factors.

The first factor is: Are there any protests to the route authority request?

If Air Florida requested temporary authority, and there were no objections to the request, they could get that authority in a very short period of time—perhaps a month.

If there were protests to the authority, then it would be up to the commission to decide whether to grant it on a temporary basis or

whether to deny it on a temporary basis, pending the outcome of full hearings, and the full hearings could take several months.

Mr. ANDERSON. Does the PSC regulate commuters operating under CAB exemptions?

Mr. WEIDNER. We regulate any intrastate commuter.

Mr. ANDERSON. Do you consider commuters in Florida intrastate?

Mr. WEIDNER. If I understand your question: Yes.

Mr. ANDERSON. To follow up on the previous question—Does the PSC regulate commuters operating under CAB exemptions? Are the PSC's regulations compatible with the CAB's regulations?

Mr. WEIDNER. In what particular area, Congressman?

Mr. ANDERSON. Are there any conflicts between your rulings and ours, or do they work together?

Mr. WEIDNER. I am unware of any specific conflicts between them, and, if there are any, I am unaware of them.

Mr. ANDERSON. We do not regulate the commuters at all.

We do not regulate the fares or——

Mr. WEIDNER. That is right.

Mr. ANDERSON. You step in there and do it; is that correct?

Mr. WEIDNER. That is correct.

Mr. ANDERSON. Mr. Hammerschmidt?

Mr. HAMMERSCHMIDT. Thank you, Mr. Chairman. I do not have any questions.

I think that, from your questioning, Mr. Weidner has made their position on this matter and their activities very clear.

I regret that Paula Hawkins is not here—not that you did not do a fine job—but because she is a personal friend.

I hope that you will extend to her my best.

Mr. WEIDNER. I surely will.

Mr. HAMMERSCHMIDT. Thank you very much.

Mr. ANDERSON. Mr. Shuster?

Mr. SHUSTER. Thank you, Mr. Chairman.

If my understanding is correct, a commuter here is defined as: less than 30 seats—30 or fewer seats.

Mr. WEIDNER. Well——

Mr. SHUSTER. If that is not correct, how do you define a commuter airline?

Mr. WEIDNER. I do not know that we define a commuter airline, per se.

The intrastate airlines are the ones which we regulate, and those are just the ones that fly solely within Florida.

We regulate all intrastate airlines.

Mr. SHUSTER. In other words, you do not differentiate between a commuter and——

Mr. WEIDNER. I do not think that, specifically, we do; no.

Mr. SHUSTER. Thank you.

Mr. ANDERSON. Mr. Fascell?

Mr. FASCELL. Mr. Chairman, you asked the $64 questions; thank you.

Mr. ANDERSON. Thank you, Mr. Fascell, and thank you, Mr. Weidner, for your testimony.

Mr. WEIDNER. Thank you.

Mr. ANDERSON. The next witness will be Mr. Eli Timoner, president of Air Florida; accompanied by Mr. C. Edward Acker, chairman; Mr. Richard T. Scully, senior vice president for operations, and Mr. C. R. Bergner, senior vice president for marketing.

Mr. Timoner, we do have your prepared statement, and it will be made a part of the record at this point.

[Statement referred to follows:]

STATEMENT OF ELI TIMONER, PRESIDENT, AIR FLORIDA

Congressman Anderson, Members of the Committee: We are grateful for the opportunity to give testimony today and put to rest concerns that some may have had that legislation enabling Air Florida to interline passengers and baggage with CAB certificated air carriers represents a threat to the Commuters. Gentlemen, let me tell you that this is a paper tiger. Air Florida's routes have been awarded either as a result of grandfathering under the Florida Air Carrier Act of 1972 or by the hearing process in which public convenience and necessity were demonstrated before the Public Service Commission (PSC) of the State of Florida. It is not possible, therefore, for us to fly any new routes without Due Process. Consequently, Air Florida cannot "fly over" the routes of any Commuter just because it chooses to.

It is a matter of fact that subsequent to the passage of H.R. 6010, Air Florida withdrew the two route applications it had which could have put it in conflict with Commuter carriers, and instead has filed for and been awarded temporary authority to start service between Daytona Beach and West Palm Beach to all points on our system.

Air Florida has brought service to two communities which were so poorly served previously that it was impossible for people in Palm Beach or Daytona Beach to do business at the State's capital and return in the same day. These are not large markets, they are not served by any Commuters and very poorly served by CAB certificated carriers. Air Florida's new service starting March 1 provides five services a day at Daytona Beach and three at West Palm Beach. To this date it has not been profitable. We are working on the marketing, and building programs with carriers such as Braniff, Continental and others to develop and sell connections on Air Florida connecting to CAB carriers through Tampa and Miami to interline passengers who travel to the north and west. With access to the WHOLE market potential, we believe that we can make these routes economically feasible and, together with the stimulation and development of our low-cost intrastate service, increase the number of flights to these communities. We have to this date signed interline agreements with 13 domestic and international carriers. We have worked out a series of charts which graphically demonstrate the number of connections available utilizing Air Florida's intrastate service with several of the carriers bring people to and from this State. As you can see, there are a myriad of fine connections, all of which are designed to save residents and visitors of the State time and money.

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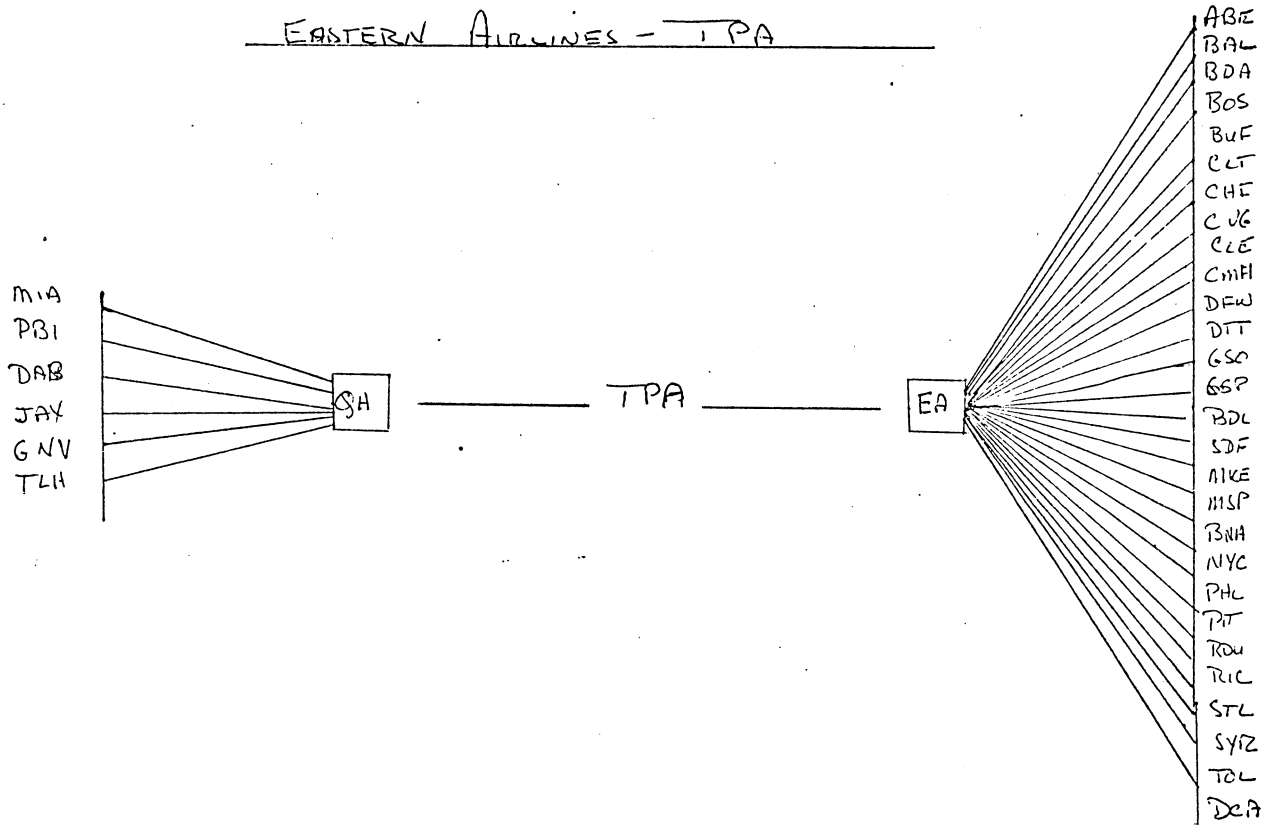

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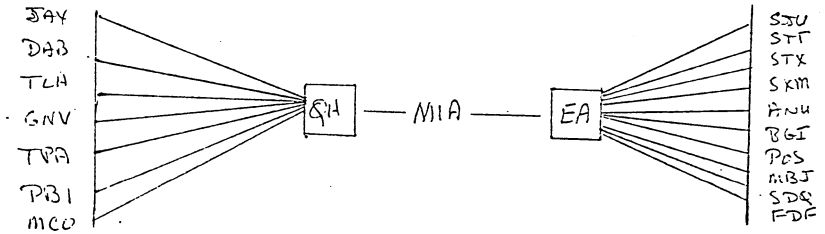

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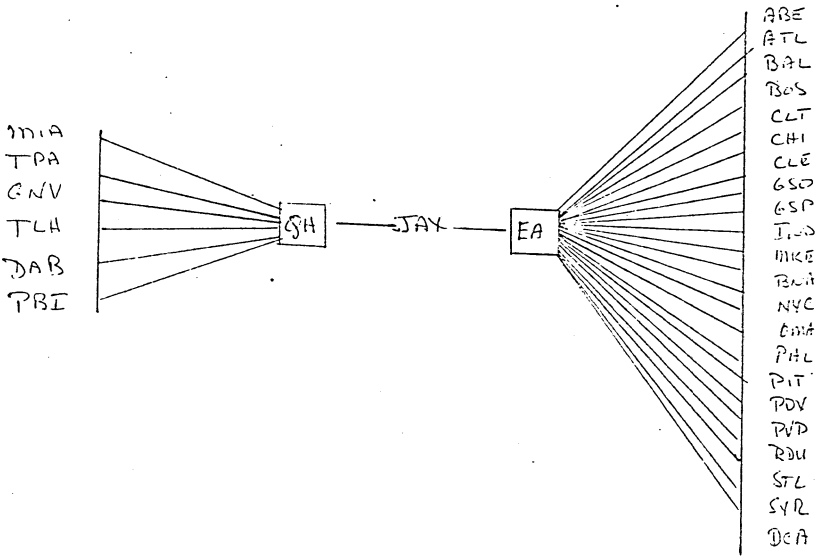

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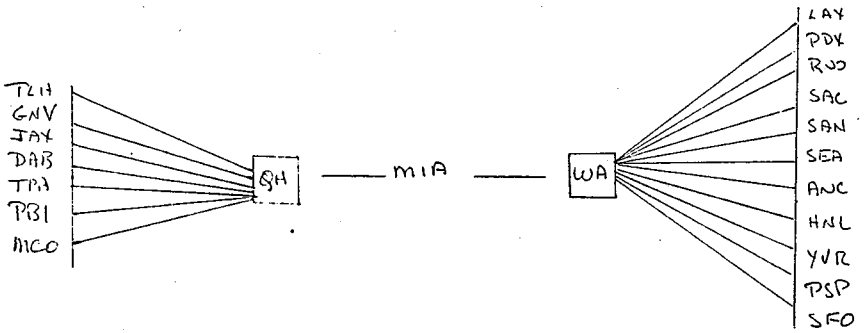

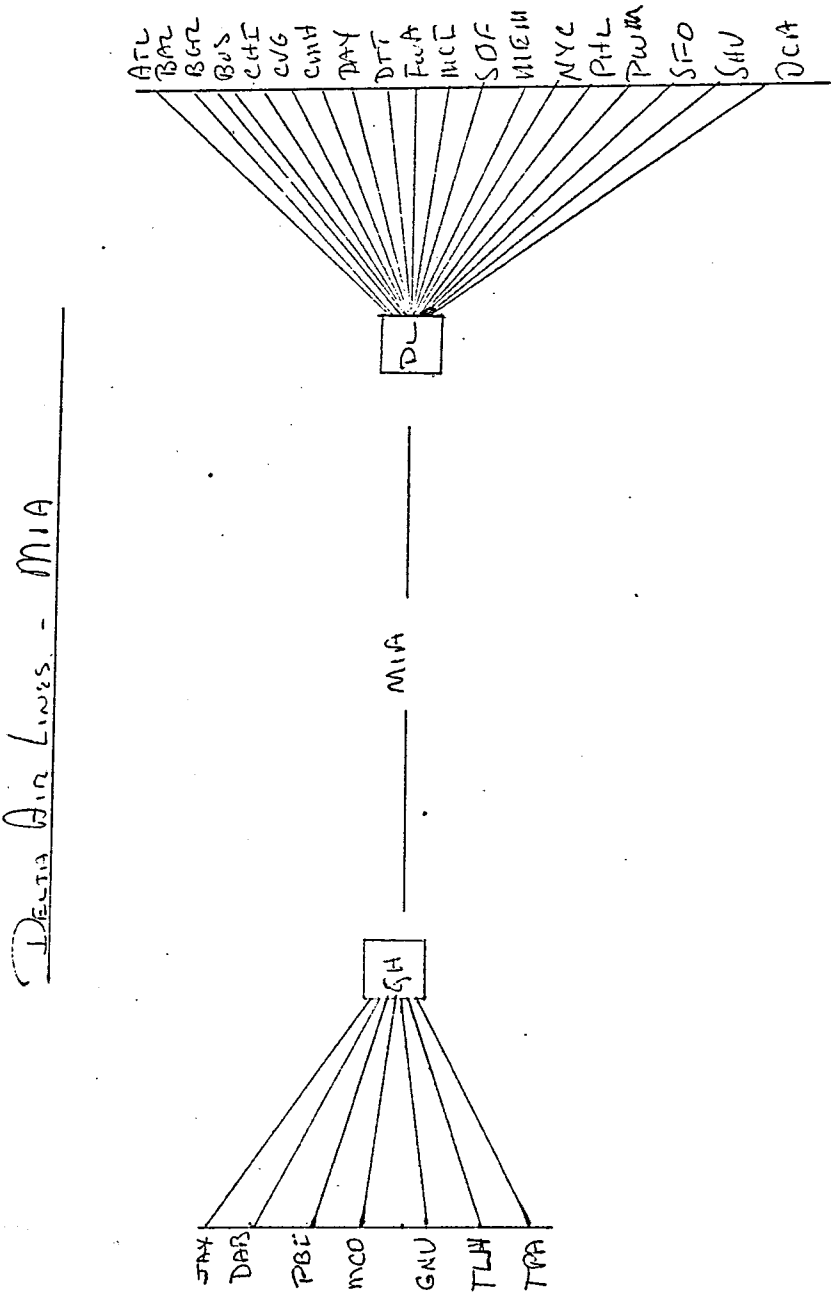
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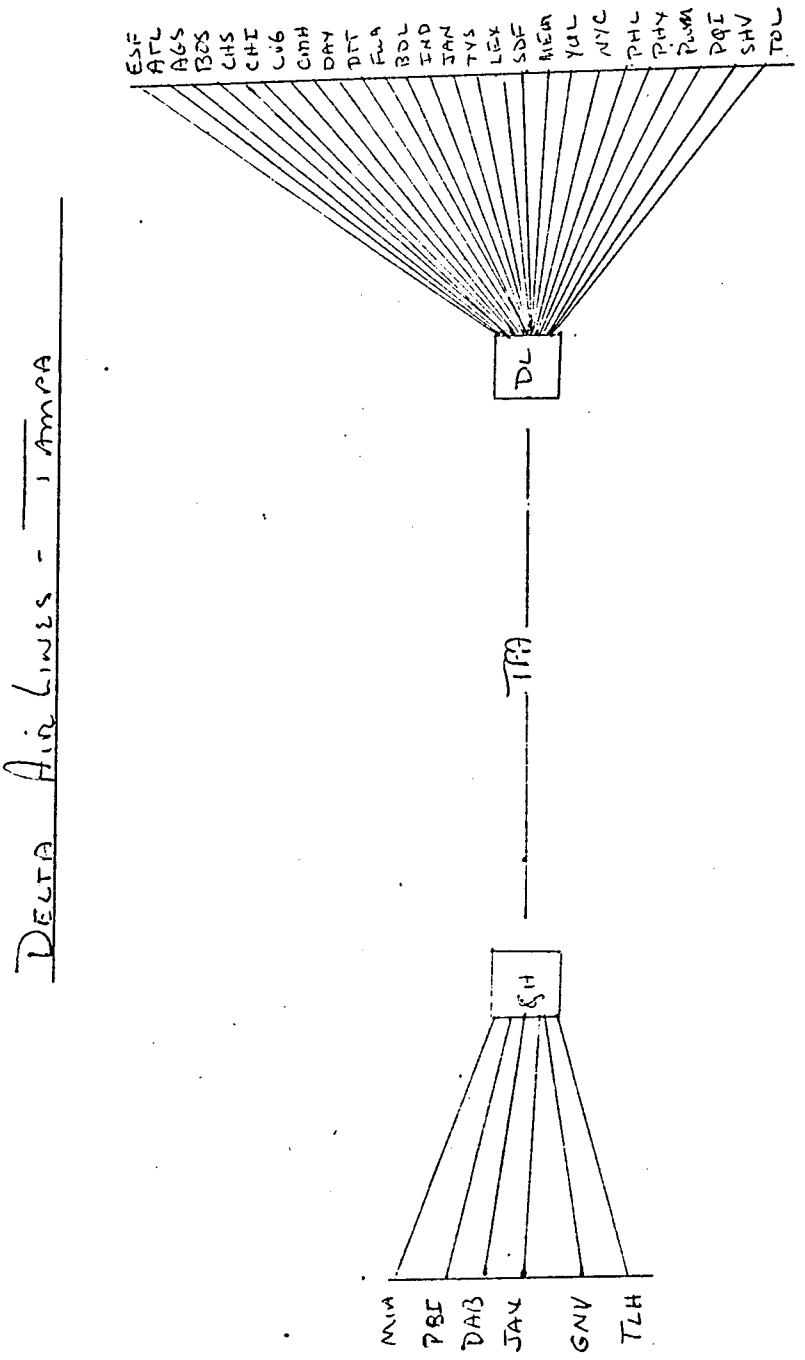
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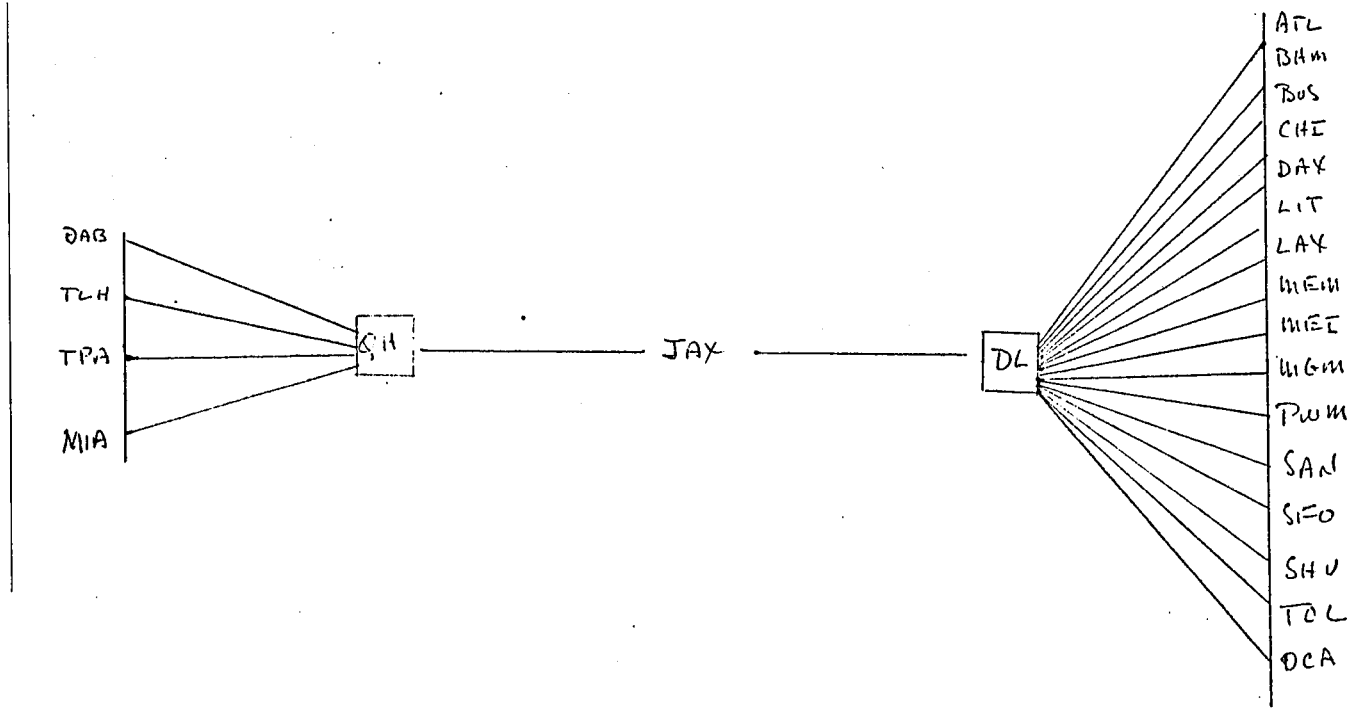

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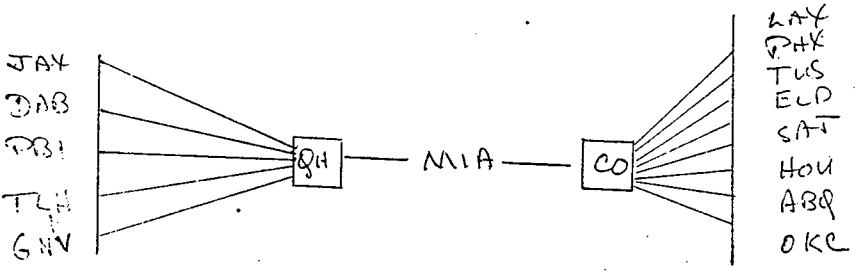

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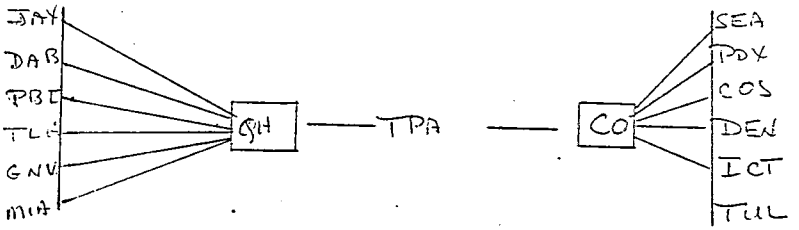

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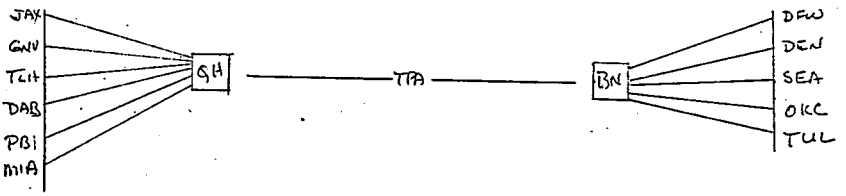

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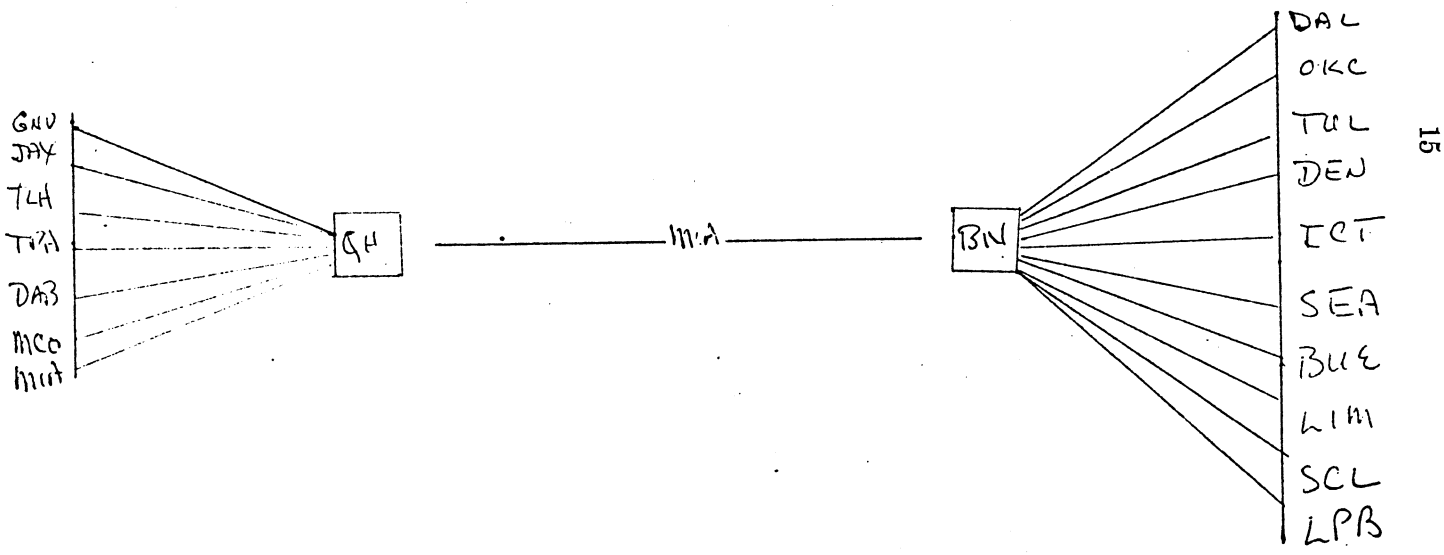
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On February 10, 1978, we invited Florida Airlines, Naples Airlines, Marco Island Airways and Air Sunshine, Florida's principal Commuter airlines, to join Air Florida in interline ticketing and baggage agreements. As of this date no communication has been received accepting or rejecting this offer and it is unfortunate because the Florida traveling public and particularly residents of the State will be better served once these connections are made available.

At a recent hearing before the Transportation Committee of the Senate of the State of Florida, discussing a bill to deregulate the intrastate system in Florida, we pointed out some important statistics which might be useful today. Air Florida is currently carrying at the rate of 500,000 passengers annually and we project passenger traffic at a rate of 1 million passengers per annum by the end of this calendar year. Our average yield is approximately $29.00. As best as we can determine, the yield at CAB rates is approximately $10.00 higher on a composite fare basis throughout the State. That means we are going to be saving our passengers, whether they be residents of this State or connecting passengers on interline, about $7 million this year. It also means we have some 700,000 passengers who work in and visit this State, who think our service and savings are pretty terrific.

We were also able to illustrate to the Committee the results of market stimulation by both price and increased service in an analysis of the Miami-Gainesville market. In September 1977, we were awarded a route between Miami and Gainesville. By December 1977, airport statistics at Gainesville reveal that we were able to carry 4,066 passengers for the month of December in and out of that community. During that month, Eastern Air Lines, the historic air carrier between Miami and Gainesville also reported about 4,000 passengers, the same as they did in December 1976, the prior year. Therefore Air Florida's December business in this market represents all new business and is clearly growth in the market by diversion from cars and other means of transportation and represents people who made a travel decision because of the improved service and low fares.

We think it is important to address these subjects with consistency. A major effect of HR 6010 on the intrastate carriers in the State of Florida means that the Commuters in this State, which are also certificated by the Florida PSC, can continue to interline without seeking exemptions from the CAB in order to increase the size of equipment etc. Currently, Air Sunshine, which has historically operated DC–3's has filed for authority with the Florida PSC to change their service between Miami and Orlando, served at Kissimmee Airport, and Miami and Tampa to Convair 440's. Under the Florida Law, this is a Class II aircraft, 50 to 100 seats, versus a Class III aircraft, 1 to 49 seats, which they are certificated to use on this route. There is no question that with improved aircraft and with greater frequencies, Air Sunshine will divert traffic from Air Florida and we grandfathered these routes. We could object and delay the use of this superior equipment by this airline but we feel that it would not be in the interest of the traveling public for us to contest this change of equipment and force a costly and lengthy public hearing process. Again it is important that all parties say and do the same things in Tallahassee that they say and do in Washington. This then is the major single effect on a Commuter as a result of HR 6010. It has freed the Florida Commuters from dual regulation and will undoubtedly afford them greater opportunities for growth.

There may be some concerns on the part of the other intrastate carriers in Florida that so-called automatic entry provisions being considered in the Regulatory Reform Act of 1978 could be used by Air Florida to obtain intrastate authority without the requirement of the hearing process before the Florida PSC. Let me assure all of you that Air Florida would be happy to accept an intrastate exclusion should automatic entry become part of a new law which gave large scheduled intrastates the opportunity to expand their route system.

It has been stated by some that the passage of HR 6010 allowed Air Florida to avoid the costly process of start up under Federal regulation. We operate, as you know, under F.A.R. Part 121. Until the quarter ended January 31, 1978, when we made our first profit after 5½ years, we had lost over $6 million in operations, we have at this point $15 million in jet equipment dedicated to our business. Certainly no one can claim that we have avoided the high cost of start-up, we have in fact put up the necessary risk capital to build this airline. There are two other items that we think bear special attention in this discussion. From the point in time when HR 6020 became law until February 28, there have

been 69 incidents in which scheduled CAB carriers have delayed or cancelled flights between points that we serve at times relatively close to our departures, due to weather and mechanical problems. During that period of time it is our estimate that more than 2,000 passengers were afforded the convenience of travel on Air Florida using their existing tickets. We were able to accept their baggage from another carrier to be checked through on to Air Florida and to turn over their baggage for an on-going destination, thereby eliminating all the inconveniences suffered by these passengers except for the cancellation of their original flight. Before this law went into effect, these passengers would have had to personally claim their baggage, carry it to our counter, purchase a ticket and return to the carrier that they had been ticketed on in order to obtain a credit or refund. The personnel at our ticket counter had to patiently explain to each of them that Federal law prevented us from accepting their ticket or arranging for the baggage transfer and the cancelled carrier had to do the same thing. The consumer, already late and angry, would have been further frustrated because Federal law prevented us from dealing with the airline at the very next counter.

If you want to know the effect of interlining legislation on the commuter and the commuter is written with a small "c" meaning commuter or consumer, then the effect has been beneficial and long overdue and so persuasively in the public's interest as to be the most compelling argument in favor of this law.

That concludes our presentation, and we would like to take this opportunity of extending an invitation to our Florida Congressman, the Committee, staff and guests here today to attend the premiere showing of Air Florida's new Multi Media Three Screen Presentation, "We're on our Way". It will be shown today for the first time to our staff at 3:00 P.M. at the Ramada Airport Inn, 3941 N.W. 22nd Street, and we will welcome all those present today who join us at that time.

Mr. ANDERSON. Please proceed, Mr. Timoner.

TESTIMONY OF ELI TIMONER, PRESIDENT OF AIR FLORIDA; ACCOMPANIED BY RICHARD T. SCULLY, SENIOR VICE PRESIDENT FOR OPERATIONS, AND C. R. BERGNER, SENIOR VICE PRESIDENT FOR MARKETING

Mr. TIMONER. Thank you, Congressman, and thank you, members of the committee and staff, and Congressman Fascell.

We appreciate the opportunity to express our views on this issue.

If I may, for a moment, I think I could be helpful on the last question that was asked.

In 1972, when the Air Carrier Act was passed, all carriers—or all airlines—operating within the State came under the jurisdiction of the Public Service Commission.

If an airline had been a commuter before that date, then they had the advantage of interlining.

If they happened to be operating large aircraft, they did not have the advantage of interlining.

If the PSC does not have jurisdiction over the commuters in this State, they sure are wasting a lot of time in Tallahassee, so they do on everything that they do, and I do not think it is a conflict with the CAB; I think it is the contrary—that they probably have more latitude as a result of the changes of sizes of equipment.

I think the concern that the passage of 6010 represents a threat to the commuters in the State of Florida is a paper tiger.

Our routes were either grandfathered or awarded by the hearing process, when we demonstrated public convenience and necessity be-

fore the PSC, so it is not possible for us to fly over the routes of any commuter just because we choose to; as a matter of fact, subsequent to the passage of H.R. 6010, we withdrew two route applications which we had, and which would have put us in conflict with commuter carriers, and, instead, we filed for—and were awarded—temporary authority to start service between Daytona Beach and West Palm Beach to all points on our system.

We brought service to two communities that were previously so poorly serviced that it was impossible for people in Palm Beach or Daytona Beach to do business in Tallahassee and to return on the same day.

These markets were not large markets.

They were not served by any commuters, and they were very poorly served by the CAB certificated carriers.

On March 1, our new service started with five flights a day in and out of Daytona Beach and three flights a day in and out of West Palm Beach.

To this date, these routes are not profitable.

We have been working on the marketing of our product in the area, and we have been building programs with carriers such as Braniff, Continental, and others to develop and sell connections on Air Florida to CAB carriers in Tampa and Miami, interlining passengers who travel to the north and to the west.

With access to this whole market potential, we believe that we can make these routes economically feasible, and, together with the stimulation of our low fare intrastate service, we can increase the number of flights into these communities.

Without access to the interline market, there is little likelihood that we could continue to sustain service to these communities.

We have, to this date, signed interline agreements with 13 domestic and international carriers.

In my presentation, I have included a number of charts which demonstrate the number of connections available, utilizing Air Florida's intrastate service with several of the carriers that bring people to and from this State.

There are a great number of connections available, and the connections that we have described in the next number of pages are actually viable and useable connections, and they will soon be featured in the official airline guide and be available through the computer reservation system on these various carriers.

What is particularly important to realize is: Most of these connections afford possibilities for people to travel to and from Florida without passing through Atlanta and some of the other very high density, difficult points to make connections.

The connections demonstrated on the next number of pages are all with carriers with whom we have signed interline agreements.

We want to point out that, on February 10 of this year, we invited Florida Airlines, Naples Airlines, Marco Island Airways, and Air Sunshine—Florida's principal commuter airlines—to join Air Force in interline ticketing and baggage arrangements.

No communication has been received accepting or rejecting this offer.

We believe that this is very unfortunate, because the Florida traveling public—and particularly the residents of this State—would be better served once these connections were made available.

Recently, we were in Tallahassee to discuss deregulation at the State level, before the Transportation Committee of the Senate of the State of Florida, and we were, at that point and at that time, able to point out some things that we thought might be interesting today.

In Florida, the composite or average fare or yield works out to about $29 a ticket.

As best we can determine, a composite fare on a similar route structure on CAB carriers would cost about $10 more, so, at the current rate at which we are carrying passengers, we are saving the citizens of this State some $5 million a year, since we are carrying passengers at the rate of slightly over 500,000 a year.

At the end of this year, we expect to be carrying passengers at about the rate of 1 million a year.

We estimate an annual saving to the people using our services of some $7 million in calendar 1978.

It also means that 700,000 people who have used this service have enjoyed the benefits of the savings and the frequency of the carrier.

We would also like to illustrate to the committee what market stimulation of price and frequency has done, and we think that a model that might be used not only in this State, but elsewhere, might be a service between Miami and Gainesville.

We were awarded the route in September 1977.

By December, we carried 4,066 passengers in and out of Gainesville—between Miami and Gainesville.

Airport statistics reveal that Eastern Airlines, which has historically served the market between Miami and Gainesville, also carried 4,000 people in December, as they did in December 1976.

It is clear that, in 3 months' time, we were able to generate an additional 4,000 passengers in and out of that market by bringing in low cost and frequent service, which diverted people from the highways, buses, cars, or whatever means of transportation they used, or we created travel opportunities in the first place, which had not existed before, because of price and infrequency of service, and we feel that it is very important that the parties interested in today's discussion address these matters with consistency.

There are great benefits to the ability of intrastate carriers, within the State, to be covered under H.R. 6010—particularly in the upgrading of equipment.

Air Sunshine, whose primary route is between Miami and Key West, has filed with the Public Service Commission to use their Convair aircraft between Miami and Orlando and Tampa, and they serve Orlando at the Kissimmee Airport.

This is a route that is competitive with Air Florida.

While we do fly DC–9 equipment, and the Convair is not quite as attractive to the consumer, frequency and good marketing will take passengers away from us, but we do not—we believe that we have every right to get into the hearing process and cause a delay of whatever that may be.

That is not our purpose, and we have no objection to—nor will we voice any objection to—their upgrading of their equipment; as a matter of fact, we encourage it, because we believe that is the way a fine intrastate system in this State will be developed—as a result of the advantages that H.R. 6010 made available—so we think it is very important that people say the same things in Tallahassee that they say in Washington.

All legislation is a double-edged sword, with benefits and disadvantages, but, by and large, the ability for Florida intrastate carriers to interline tickets and baggage gives such great benefits to the developing intrastate system here that it seems difficult for us to understand what objections could be raised.

There have been some concerns that—should an automatic entry provision be provided in the regulatory format that is being considered, which provides for certain large intrastate carriers to enter new markets—Air Florida might use this tool as a method to obtain additional intrastate routes without the hearing process.

We would like to publicly state that—should automatic entry in some form be made available to large intrastate carriers—we would be happy to accept an intrastate exclusion to automatic entry, if, in fact, we should qualify in the first place.

Our interest in obtaining an expanded route structure through automatic entry would be to bring our innovative fare structuring and marketing program to an interstate market.

We would not use it in an intrastate circumstance, and we would be happy to be precluded from using it in that way, if that would put the fears of some of the other intrastates to rest.

We recently heard an argument that Air Florida had avoided the costly start-up, which is required under Federal regulations, so I would like to just describe to you what has been involved in the 5½ years of the development of Air Florida, to this date.

We have succeeded in losing $6½ million in operating losses as a result of the price that one pays to get known in the marketplace.

We have got $15 million worth of equipment dedicated to this business, and it is all private-risk capital, and we certainly think that qualifies us as having paid the price to start a business, which I am happy to tell you—effective with the quarter ended January 31—turned into its first profit after 5½ years of plugging away.

There is one other thing that I think graphically would describe what the benefits to the consumer are of interlining.

From the period of the passage of H.R. 6010 to February 28, we have counted and can document 69 incidents in which CAB carriers have had delayed or canceled flights between points which we serve at times relatively close to our departures, due to weather and mechanical problems.

During that period of time, it is our estimate that just over 2,000 passengers were afforded the convenience of traveling on Air Florida, using their existing tickets.

We were able to accept their baggage from another carrier, to be checked through on Air Florida, and to turn over their baggage at an ongoing destination.

We eliminated all of the inconveniences suffered by these passengers, except for the cancellation of their original flight.

Before this law went into effect, these passengers had to personally claim their baggage and carry it to our counter, and then they had to purchase a ticket, and then they had to return to the carrier that they had been ticketed on in the first place to obtain a refund or a credit.

The personnel at our counter had to patiently explain to very frustrated people that Federal law prevented us from accepting their ticket or arranging for the baggage transfer, and the canceled carrier had to do about the same thing.

The consumer, already late and angry, was further frustrated because the law prevented us from dealing with the airline which was very often at the very next counter.

We think that—if this discussion is concerned with the effect of interlining legislation on the commuter, and one thinks of the commuter as being the commuter or the consumer—the effect has been beneficial and long overdue and so persuasively in the public interest as to be a most compelling argument in favor of this law.

That concludes my remarks.

I did want to take a moment to invite all present today to—it is a coincidence, but we happen to be having a presentation this afternoon, for the first time of a multimedia production of Air Florida, which is going to be shown to our staff, and we respectfully invite everyone here, if you have the time this afternoon.

We think it is a very exciting production, and we would be delighted to have you as our guests.

I would be happy to answer any questions, of course.

Mr. ANDERSON. Thank you, Mr. Timoner.

I want to get our semantics straightened out here.

A moment ago, Mr. Weidner indicated that, in Florida, you do not distinguish between an intrastate carrier and the commuters; that in Tallahassee, they are all treated the same.

Mr. TIMONER. Yes, sir.

Mr. ANDERSON. In California, it is a little bit different.

We have the intrastate carriers, such as Air California and PSA, that are in one category, and then we have the commuters, such as Golden West.

Golden West is considered interstate because, for the most part, everybody they bring to the airports gets on another line that is going out of California.

Golden West and the other commuters in California are pretty well recognized as interstate carriers, whereas PSA and Air California are the only two intrastate carriers.

Can you help me distinguish between how you do this here and how we do it in Californina?

Mr. TIMONER. Well, we have never operated as a commuter.

We started the airline with large aircraft and only qualified as an intrastate——

Mr. ANDERSON. It is very similar to PSA?

Mr. TIMONER. PSA or Air California, but it is my belief that, when the law went into effect, the State took jurisdiction on any carrier flying on their intrastate routes.

In other words, if they fly between Naples and Tampa, that is an intrastate route, and the public service commission took jurisdiction over it, and, of course, at the same time, while they impose a certain

amount of regulation, they also put the protective process in, as well, because another commuter cannot decide to fly competitively between Naples and Tampa without demonstrating to the public service commission that there is a need for that service, so the intrastate system—the development of the intrastate system was taken under the jurisdiction of the public service commission, with the view of building a low-cost high-density intrastate airline system.

Mr. ANDERSON. Do I assume, then, that most commuters in Florida carry people just from two places within the State, and that the passengers do not then get on an interstate carrier?

Mr. TIMONER. I believe that a large portion of them get onto an interstate carrier, but I believe that they have maintained a dual authority.

They have been regulated by the public service commission as to the rates and routes within the State, and they have had the advantages of the ability to interline passengers and baggage—to receive and deliver passengers and baggage from the scheduled interstate carriers.

Mr. ANDERSON. Since H.R. 6010 was enacted, have you entered into any joint-fare arrangements with any interstate carriers?

If so, are the fares determined by the CAB formula?

Is the division of revenues between the carriers determined by the CAB formula?

Mr. TIMONER. As I have stated, we have entered into 13 arrangements to this date, with foreign and domestic carriers, and we have a number of additional ones pending, and I would like to ask Mr. Bergner to—he is our vice president for marketing.

I would like to ask him to discuss the fare basis.

Mr. ANDERSON. Mr. Bergner.

Mr. BERGNER. No; we have not signed any agreements with the carriers, as they relate to our fare structure.

We are an add-on fare, which I believe is how the bill was written.

There is nothing less than our existing intrastate fares.

Mr. ANDERSON. The fares, then, are not determined by the CAB formula?

Mr. BERGNER. No; not at this point.

We are not a member of Squires' Tariff, nor are we in any of the passenger rules at this point in time.

It is a part of the negotiation that we have got to conduct.

Mr. ANDERSON. The division of revenue between the carriers is not determined by the CAB formula; is it?

Mr. TIMONER. No; it is not on a pro rate basis, based upon the mileage or—it is strictly an add-on fare.

Mr. ANDERSON. I know that you have partially answered the next question.

I gather, from your testimony, that you are familiar with the reform legislation Congress is now considering.

If this legislation is enacted, is Air Florida likely to try to obtain a CAB certificate or to participate in CAB automatic entry programs?

Would you be deterred from taking a CAB certificate if this meant State regulation would be preempted and Air Florida would be regulated exclusively by the CAB?

You are aware of the bill and how it is moving; are you not?

Mr. TIMONER. Yes; I am.

The first part had to do with: If there were automtic entry, would we be interested in participating?

Yes; we would be, and we would accept jurisdiction of the CAB, you know, if it were imposed as a result of the fact that we had automatic entry in the first place.

It was my understanding for some time that the determination was based upon where your business were derived from, and, if more were as a result of interstate activity—more than 50 percent—that would be where you would fall under CAB jurisdiction.

I have understood lately that it is as much as 1 percent.

Mr. ANDERSON. Our original bill that was introduced was 50 percent.

If the revenues went to as much as 50 percent interstate, then you were totally regulated by the CAB.

That was then changed, and a sort of a concensus bill was put together for markup, and we changed that to 25 percent.

We went into markup the other day, and they struck out the percentage entirely, and the provision that appears in the bill right now, that we are still in the process of marking up—if you decide to go interstate at all, or if you cross the state line, you then become a total interstate carrier, and all of your intrastate lines would be interstate.

Mr. TIMONER. It is our feeling that we would accept the jurisdiction of CAB coverage if we moved into interstate commerce.

Our main concern would be the protection of the low-fare marketing package that we have, which we feel was very beneficial to the people in this State, and, as long as the other provisions in the act provide the amount of latitude in pricing down, which I gather would also be included so that we would continue with the present fare structure and the rest of our marketing program, we would be happy to be covered under the CAB once we entered into interstate routes.

Mr. ANDERSON. Does Air Florida now have any routes where it competes with commuters?

Mr. TIMONER. No.

Mr. ANDERSON. Does Air Florida plan to file any applications with the PSC for routes now served by commuters?

Mr. TIMONER. At the present time, we do not plan any filing, but I must tell you that we are a growing company, with a growing demand for our services, and we regularly conduct market surveys on our aircraft and ask our customers what they like and what they do not like about what we are doing, and where they would like us to go next.

We went to Daytona Beach and Palm Beach in the first place because those communities came to us and asked us to start service.

Their chambers of commerce and their aviation committees and State legislators and State senators and representatives—there presently are two communities that asked us to start service, and they discussed with us ways that they might help us financially, if we would be willing to put service into the communities.

Now, sooner or later, there are going to be communities—communities that are served by commuters—that are going to ask us to do that.

If our determination is that there is a market that is not being properly served, and we think it is in the public interest to file for the

route, we will try to demonstrate that we can bring in improved service and better transportation to the area.

Mr. ANDERSON. Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. Thank you, Mr. Chairman.

In the major Federal involvement in your airline just the aircraft operating certificate that you get from the FAA?

Mr. TIMONER. Yes; we are under part 129; that is correct.

Mr. HAMMERSCHMIDT. Your carrier's certificate is by the public service commission?

Mr. TIMONER. That is correct.

Mr. HAMMERSCHMIDT. Where would the projected expansion that you mentioned in your testimony—500,000 passengers to 1 million passengers—come from?

What market would those passengers come from?

Mr. TIMONER. The eight cities that we serve right now.

Mr. HAMMERSCHMIDT. You are presently serving those cities?

Mr. TIMONER. Yes.

Mr. HAMMERSCHMIDT. That would be without extending into other markets?

Mr. TIMONER. Not interstate markets.

We have five DC–9 jets now, and we expect that, by the end of the year, we will have eight.

The only service that we provide now, which we consider somewhat similar to the level that Congressman Anderson is familiar with in California is our Miami-Tampa and Miami-Jacksonville service, in which case we have seven services a day in each direction.

We have a route to Orlando, which we serve twice a day, and to other communities that we serve less than that, so we would expect to build with more product in the markets we have and to perhaps file for other markets which require service.

Mr. HAMMERSCHMIDT. You do not fly outside of the State of Florida?

Mr. TIMONER. No; we have no scheduled service outside of the State of Florida.

Mr. HAMMERSCHMIDT. Do you do charter activity——

Mr. TIMONER. Yes.

Mr. HAMMERSCHMIDT [continuing]. Outside of the State of Florida?

Mr. TIMONER. We do charter activity for the casino interests in Freeport, in which the passengers do not pay for any part of the transportation, but they are the guests of the casino.

We do a certain amount of that, and we do a certain amount of intrastate charters for various groups, teams and so forth and so on, within the State.

Mr. ANDERSON. Mr. Shuster.

Mr. SHUSTER. Thank you, Mr. Chairman.

I have before me a map of Florida, showing various air routes of Air Florida and the various commuters, and one line shows Miami-Orlando for Air Florida.

I think you mentioned just a minute ago that you serve Orlando to Miami.

There is another line—a blue line—which shows Air Sunshine flying from Orlando to Miami.

Perhaps I misunderstood you 5 minutes ago, or so, when you said that you were not competing with any commuters.

Would this not be competition between Air Florida and Air Sunshine?

Mr. TIMONER. Yes, Congressman Shuster; I was incorrect.

Air Florida was grandfathered on that route between Miami and Orlando, and Air Sunshine filed to serve Orlando at the Kissimmee Airport, and the public service commission granted them the route, so they fly over us.

Mr. SHUSTER. If I am a passenger who is coming from Pennsylvania and flying across the State line into Florida to Orlando, and I want to get from Orlando to Miami, I have at least two choices, if not more.

I see at least two.

I can go Air Florida, or I can go Air Sunshine.

Air Florida has an interlining capability.

Does Air Sunshine?

Mr. TIMONER. Air Sunshine always had interlining capability.

Before the passage of 6010, they were a commuter, and they always had that.

Mr. SHUSTER. What would the difference be to me, as a passenger who is flying into the State of Florida, to Orlando, in having to make a judgment to go on to Miami?

Do I go Air Florida, or do I go Air Sunshine?

Do I have to pick up my bags?

You are telling me: No.

In either case, would I have to?

Mr. TIMONER. In that particular case, Congressman Shuster, the problem would be that Air Sunshine services into the Kissimmee Airport, and, if you came in from an out-of-State location, you would have landed at McCoy, where most of the other carriers are, and you would have to take ground transportation to get to the other airport.

That probably is not a fair question.

At McCoy, you would have the choice of the Delta, National, Eastern, Southern, or Air Florida flights down to Miami.

Mr. SHUSTER. What I am trying to get to and to understand is: Is there some unfair advantage that you have by your being able to interline?

As I understand it, commuters can interline——

Mr. TIMONER. That is correct.

Mr. SHUSTER [continuing]. And previously you could not.

Mr. TIMONER. That is correct.

Mr. SHUSTER. So, one could, in fact, turn the coin around and say that, until 6010, you were discriminated against.

You did not have the ability to interline; is that correct?

Mr. TIMONER. That is correct.

Mr. SHUSTER. The commuters, however, did have the ability to interline, so, giving you that ability simply gave you the same thing that commuters already had; is that correct?

Mr. TIMONER. That is correct.

Mr. SHUSTER. Educate me on this 30-seat differentiation.

What happens if a commuter goes to 30 or more seats?

Something happens here; does it not?

Mr. TIMONER. In the State of Florida, under the dual certification or dual regulation, they file to change from class 3 to class 2 aircraft, and they have over 50 seats, and, as the gentleman from the Public Service Commission said: "If the staff recommends it, it is pretty much an automatic process," so they could become a jet airline.

Mr. SHUSTER. The implications are simply that they can fly it, and——

Mr. TIMONER. They can fly it, and they can continue to interline, because, once 6010 passed, and they had the ability to interline because they were a Florida interstate carrier, certificated by the public service commission of the State of Florida, they could move to better equipment without going through the CAB process, which would require them pretty much to demonstrate that they need a CAB certificate, and that they are a certificated airline, which is a difficult process.

Mr. SHUSTER. Are there capacity limits on Air Florida?

Must you fly a certain sized plane?

Mr. TIMONER. If we wish to change it, we have to go to the public service commission.

We have to do that by the same process, and we have to ask for larger or smaller——

Mr. SHUSTER. You could go below a 30-seat plane, if you wanted to get approval to do that.

Mr. TIMONER. We have no interest in it. We have never had any interest in it. I presume that we could.

Mr. SHUSTER. You have all DC–9's; do you not?

Mr. TIMONER. Yes, sir.

Mr. SHUSTER. Thank you very much.

Mr. ANDERSON. Mr. Fascell.

Mr. FASCELL. Thank you very much, Mr. Chairman.

Eli, Air Florida certainly has impressive management.

I congratulate you on that.

You made a forthright statement on your willingness for exclusion on automatic intrastate service in the event that it is granted at the congressional level, but that then leaves the State to provide for automatic entry on intrastate routes.

That is another political problem; is it not?

Mr. TIMONER. The State bill?

Mr. FASCELL. Could the State not then followup, let us say, with automatic entry intrastate?

It could, as I understand it.

Mr. TIMONER. Well, the hearings that we referred to awhile ago——

Mr. FASCELL. The Federal hearings?

Mr. TIMONER. No; the hearings at Tallahassee, before the senate committee, at which I think Air Sunshine testified, and we did.

Mr. FASCELL. The State senate?

Mr. TIMONER. Yes.

Mr. FASCELL. That is what I was trying to get clear.

Mr. TIMONER. It was before Senator Kenneth Myers' committee.

I think they decided to pass the bill.

I do not think it is a viable prospect—that the State is considering deregulating internally.

Mr. FASCELL. Fine; that is what I was interested in.

Mr. TIMONER. The primary interest there was one or two—it was getting improved service to certain communities, and they wondered whether—if they deregulated—it would, in fact, improve the service, and I think they have pretty well determined that it would eliminate the service—the service they had.

Mr. FASCELL. I was interested, also, in the manner in which you see automatic entry as a challenge.

Most people see it the other way around.

It certainly is an interesting counterargument to all of the other arguments that I have heard from the certificated carriers, which is that the big ones will gobble up the little ones.

Here you are, a growing and aggressive airline, and all you want is an opportunity to get in and take a chance.

That is the way that I understand what you are talking about, interstate.

Mr. TIMONER. We think we might bring some interesting fares and programs to the eastern half of the United States and let PSA and the others worry with the western half, if the opportunity develops.

Mr. FASCELL. I have one other question, Mr. Chairman.

The way I understand it—correct me if I am wrong—the advantage that you had before interlining came into effect under H.R. 6010 was the fact that you could get larger equipment.

Mr. TIMONER. Pardon?

Mr. FASCELL. The advantage that you had before H.R. 6010 and interlining—as against other commuter airlines—was that you were not classed as a commuter airline.

You could go to bigger equipment.

Mr. TIMONER. Congressman Fascell, the truth of the matter is that, if there had not been a law in 1972, in this State, we could not have started the airline, because, without a law, there was no way that we could get an FAA certificate to operate a 121 airplane without a certificate from the State saying that we had a route structure.

Mr. FASCELL. What you are now saying is: Commuters may upgrade their equipment and improve their carrying capacity and such a request is almost automatically granted, so you really, in effect, have no hearing, so it now puts everybody on the same basis; is that not correct?

Mr. SHUSTER. Would the gentleman yield?

Mr. ANDERSON. Certainly.

Mr. SHUSTER. I think I understand the point that he made, but let me just say it for the record, to be sure that I do understand.

Any commuter airline may, indeed, upgrade its equipment so that there is virtually no difference between your firm and the commuter airline.

You both have interlining, and you both have larger aircraft, and there is no difference.

Mr. TIMONER. That certainly is possible; yes.

It is possible for them to buy bigger equipment and to get it approved in the State easily.

Mr. SHUSTER. When we think in terms of an intrastate line—as Air Florida—we think of a commuter as being something different.

That difference really does not necessarily exist.

Mr. TIMONER. We still cannot, as an intrastate, fly outside of the State with the size equipment that is approved, and they can, but we understand that.

Mr. FASCELL. I have just one final question, Mr. Chairman.

If I understood Eli's testimony about going interstate, it is this: If the pattern follows with intrastate airlines, which has followed with respect to other matters, the decision will be made, I predict, that whatever is done is interstate. Because with interlining, and moving people and baggage, it is all interstate, thus everyone comes under CAB jurisdiction.

That has been the normal trend.

I assume you are willing to accept certification under that basis?

Mr. TIMONER. Yes.

Mr. FASCELL. That is what I thought.

Mr. ANDERSON. Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. I have a question for the record.

How many routes and passenger miles does Air Florida fly per year?

Mr. TIMONER. Available seat miles?

Mr. HAMMERSCHMIDT. Yes.

Mr. TIMONER. The available seat miles at the current—in the last month, we made available a little over 15 million, which would—at the current rate, we are operating, let us say, about 150 million available seat miles.

Mr. HAMMERSCHMIDT. Per year?

Mr. TIMONER. Yes.

For the year ended December 31, I think we were over 100 million, but our—we are getting more equipment all the time, and, so, we are adding available seat miles.

Mr. HAMMERSCHMIDT. You would pick up most of those extra passengers in added flights, or more seats?

Mr. TIMONER. Density.

Mr. HAMMERSCHMIDT. Density?

Mr. TIMONER. Yes.

I think both are happening in our company.

Our load factors are moving up, and we are adding flights, and, without deterioration in our load factor, which means that we are generating additional business through both means—primarily, I think that the largest input is in another unit.

With only five units in operation, if we add another one, it is a 20-percent increase in the potential product.

Mr. HAMMERSCHMIDT. I believe that is all the questions I have.

Mr. ANDERSON. A moment ago, Mr. Timoner, you mentioned that commuters could go out of the State, but, on this map that we have in front of us here—which we appreciate Mr. Stratton's drawing up—it does not show any of the commuters going out of the State.

Do they all stay within the State?

Mr. TIMONER. I am afraid that I am not qualified to answer that.

It seems to me that—well, I know that Florida Airlines has a sister company, which is in Georgia—Air South—and, whether they actually fly back and forth over the State line or not, I do not know, but it is my understanding that a commuter can operate across State lines, historically, and, if they do have routes, I guess they would not be shown in an intrastate system, anyway.

Mr. SHUSTER. Would the gentleman yield on that point?

Suppose the commuter upgrades to a larger aircraft.

Can it still go across State lines?

Mr. TIMONER. It would seem to me that it would clearly become a CAB matter, because they might upgrade based upon State law, but that would only be allowed on a specific intrastate route.

Mr. SHUSTER. Would counsel care to comment on that?

Mr. HEYMSFELD. Under existing law and CAB regulations, a commuter cannot operate aircraft of over 30-seat capacity without a special exemption.

Under the regulatory reform legislation being marked up, it would be 56 seats, but, beyond that, they cannot cross State lines.

Mr. SHUSTER. Thank you.

Mr. ANDERSON. Mr. Timoner, is it difficult for airlines, such as commuters and yourself, to get permission in Florida?

Mr. TIMONER. No; I do not think so.

I think that the public service commission has been very responsive in developing an intrastate system here, and, really, has encouraged development.

Mr. ANDERSON. It looks like it on the map that we have here.

How about the airports?

I know that one of the problems that we have in California is not so much getting the permission to operate as it is getting the permission to land.

You cannot get landing rights at most of the airports that you would want to land in out in California.

Is that same situation true here?

Mr. TIMONER. It depends upon the area.

Our greatest problem has been finding equal facilities within the terminal, and gate space, and, you know, it is sort of that the club has basically remained closed—the historic carriers.

It has been a battle.

The best example, I think, might be Tallahassee.

Here we are, carrying certainly our fair share of people in and out of Tallahassee, and—I do not know comparatively, but, within the State, probably more than anyone, and we still ticket our people with our backs against the plate glass window, which is the front of the airport, in a little key house there, and you drop your baggage on the curb, outside, and we have a hand truck and take it around to the airplane.

You know, if we had a horse and buggy to take you to Miami, it would be perfectly appropriate to match it with the way that we take your baggage on the outside, but we are now going to be able to share part of a facility with National, but it has only been after a number of years of trying, and finally we have broken through, and I think H.R. 6010, was instrumental because, in fact, we started doing business with these carriers, and the airlines are their own best customers, and, in the end result, you know, it was more reasonable and more realistic to sign a document and sublease some space and make it possible for us to take care of our people equally to the CAB carriers.

Mr. ANDERSON. One of my concerns—particularly with the bill that we are now working on, which is the regulatory reform bill—is that it would allow a concern like yours to go interstate, and to have your

entire operation go interstate, and we are afraid—particularly in California—that this is going to cost the traveler a whole lot more money.

Now, the PUC—that is the California Public Service Commission, which is similar to your PSC—is very much opposed to what we are doing.

They are saying that, if PSA goes interstate, and the whole system goes interstate automatically, there will be a low of $68 million and a high of 200 million dollars' worth of additional cost to travelers in California as a result of the higher CAB rate structure.

Now, there are arguments against that, but the PUC says that: "If we do that, we are going to cost the travelers in California $68 to $200 million each year more travel."

My question was: if PSA goes interstate and raises their rates, then could some other concern not come in and give the competition of low prices that PSA now gives and be solely intrastate?

They say: "That is great, except that they cannot land at the airport," because you cannot get even a little corner like you say that you have in Tallahassee.

You cannot get in at LAX and some of the other airports.

Long Beach will not let you in.

Burbank will not let you in.

At most of them, you cannot get in at all.

This is a concern that we have to face in California.

How do you relate to that same situation here in Florida?

Mr. TIMONER. I think you have a range of different circumstances in California, Texas, and Florida.

In California, it is my understanding that the PUC has set the rates for intrastate route fares for all carriers, no matter what their jurisdiction is.

Mr. ANDERSON. Some of the interstates had to come down to them.

Mr. TIMONER. In this State, the legislature provides for—legislation provided for a high-density, low-cost air transportation.

I am not aware of any other carrier that has attempted to deliver low-cost transportation but Air Florida, and we have experimented with a discount on our daytime fare, and a very heavy discount on our nighttime and evening fares—our pleasure fares—and we have had to move these fares about and try to explain to the Public Service Commission that we were seeking a realistic point of traffic—RPM's versus ASM's—and break even, so we have established a fare, and, in the daytime, it is a discount from the CAB carriers, and, in the evening, it is a very much deeper discount.

Recently, there are some new fares that are being introduced—souped up supersavers, or whatever the new names are—and it was in the ad yesterday.

Those fares, in one case, would be even lower than our fares.

Our concern is the opposite of what the PUC's in California seems to be.

Our concern is that, if we did get into automatic entry, and if we did go under the CAB, would we be able to maintain our marketing strategy, which is to provide really low-cost transportation in evening and weekend times, and a price benefit during the day?

You know, would the CAB come in and mandate and say: "Wipe out all of these fares, and everybody is going to charge the same thing"?

If they did, it would be a disservice to the people of this State, and we would not go into any automatic entry, if we were precluded from keeping this low-cost transportation system going.

Mr. ANDERSON. Are there any questions?

Mr. FASCELL. Mr. Chairman, I just could not help but remark on that.

If price structure went along with automatic entry, why would the certified carrier not keep you gentlemen from skimming the cream just by dropping their prices below yours until you ran out of capital?

They are going to fight until the last breath, as I see it, and not allow somebody to come into their paying routes and undercut them forever, while they are stuck with one rate structure.

You are going to have to meet the same rate structure.

I do not see how you can get both ends of the stick.

Mr. TIMONER. I am not saying that we would offer these lower fares in Florida.

Mr. FASCELL. I am just expressing my concern, as I see it.

There are the certificated carriers, in the first place, and I am just trying to relate it to you gentlemen who want a chance to expand.

Mr. TIMONER. I would like to say this, Congressman Fascell—Dante, if I may.

Mr. FASCELL. Absolutely.

Mr. TIMONER. The expression: "Skimming the cream" really gets me hot. I have heard that a lot. That is an interesting expression that one hears.

The only American trunk carrier that does not fly between Tampa and Miami is American Airlines.

Everyone else with a U.S. certificate—called a trunk—flies between those cities, and, if Air Florida, with its big five airplanes—and finally turning the corner last month—is skimming the cream against that kind of DC–10 and 747 competition, I would like to know what it is.

We are providing service every other hour on the hour, free drinks, a smile, real concern, and a fight for the business.

Mr. FASCELL. I think one thing that you say that is valid is: You are providing service to those who otherwise would not be on the airplane, and I just wonder what the picture is—Mr. Chairman, you have been very gracious in permitting me to inquire, and I appreciate that.

Take Tallahassee, as an example.

How do you compare with the certificated carriers from Miami to Tallahassee with buses, railroads, and all of that?

As a layman who just has an outside look on it, it looks to me as if Air Florida is really providing a service there that did not exist before.

Mr. TIMONER. We think so.

Our fare is about 12 percent less than the CAB carriers' fares during the day, and it is 49 percent less in the evening and on the weekends, and how it compares with the bus transportation—I think it is about $5 more than the bus, but the bus is an 11-hour ride.

Mr. FASCELL. There is no train service?

Mr. TIMONER. There is no train service, so a large part of the market that we have developed is really new business that was frustrated and did not travel.

Let us take our new route from Palm Beach to Tallahassee and back, or from Daytona Beach.

There was no way to make the connection and go back and forth in the same day on any of the other airlines or combinations of airlines before this service came in.

Mr. FASCELL. Thank you.

Mr. ANDERSON. Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. Mr. Chairman, I would like to ask one more question.

These commuter airlines in Florida also fly interstate.

Most of them have interstate routes; do they not?

Mr. TIMONER. I am not certain that they do.

Mr. HAMMERSCHMIDT. If they do, that is what would keep them from becoming an intrastate airline, I assume, because they have to register with the CAB under part 298 to be commuter airlines.

Mr. TIMONER. I believe they are commuters, and, to the extent that they have intrastate routes, they are intrastate carriers, as far as the State of Florida and the public service commission are concerned, and they are regulated in that manner and protected in that manner, too.

Mr. HAMMERSCHMIDT. If they tried to compete with your airline in interlining, they would have to become an intrastate airline, per se?

Mr. TIMONER. They have historically been able to interline, and they have always been able to interline, and they do it now.

They do it by both methods—by the fact that they are a commuter and by the fact that 6010 allows them to do it as an intrastate carrier, so, no matter what designation they call themselves by, they can interline.

Mr. ANDERSON. Are there any other questions?

[No response.]

Mr. ANDERSON. Thank you, Mr. Timoner.

Our next speaker is Mr. Doyle E. Hardin, general manager of Marco Island Airways.

Apparently he is not here.

We have his prepared statement, anyway, and we will hold it until later.

If he comes in, we will hear from him; if not, we will make the prepared statement a part of the record.

Mr. Ray Morgan, president of Panhandle Airlines.

Mr. Morgan, we understand that you have a statement, but that it has not been prepared.

TESTIMONY OF RAY MORGAN, PRESIDENT, PANHANDLE AIRLINES

Mr. MORGAN. Mr. Chairman, members of the subcommittee, ladies and gentlemen, thank you for letting me appear before this hearing.

I have no prepared statement, but I have taken several notes during Mr. Timoner's testimony.

There are a few things that I would like to bring to the attention of the committee.

No. 1, Mr. Timoner mentioned that they have no interlining agreements at this time, in effect. Well, I have an interline agreement in effect with Air Florida.

Back in July, a year ago, Air Florida and myself entered into an interline agreement, and we went to the public service commission, and we had joint fares and everything approved at that time.

We began our interline agreements, and the FAA, at that point, came along and said that we were illegal to interline, and my contention was: Why should we be illegal, as long as a passenger boards an aircraft within the State of Florida, and he connects with another aircraft within the State of Florida, and his final destination is within the State of Florida?

There is no violation of interline, so, at this point, I personally made a trip to Washington.

I visited the CAB, and I brought this information forth.

At that time, they requested that I submit, in writing, this information, which I did, and it was submitted, and it came back that no violations were being committed for the fact that none of us crossed a State line.

Now, their contention was that Panhandle Airlines is an interstate carrier, and not an intrastate carrier, because we have the CAB exemption.

Well, as I said: As long as it was done within the State, what was the violation?

It was approved, so Air Florida and myself could have continued on the interline agreements within the state, with baggage agreements as to where my bags could be checked—a passenger's bag on my carrier could be checked through Tallahassee to Miami, without the passenger having to pick his bags up, so, as far as intrastate interlining is concerned, there is no problem.

Now, the only problem that we have, as far as interlining within the State of Florida, is Florida's Airlines' schedules.

They seem to change quite frequently. Without anyone's knowledge, they are changed.

I, as having an interlining agreement with them, never received any communique as to changes in schedules.

Their ticket agents, most of whom were not even aware that we could interline—their fares were not published with their ticket agents, so, consequently. there was quite a bit of chaos.

At this point, again, I am forced to open a new route between Pensacola and Tampa, because I cannot make any connections whatsoever for the traveling businessman, which leaves Pensacola for Miami, Jacksonville, Tampa, Orlando or whatever to make a connection with Air Florida, so, consequently, I have to apply for a route to Tampa so that I can make connecting flights with other commuters in the State, which is a costly, needless route for me to have to go into, whereas, if Air Florida wanted to participate and wanted to do the community service bit—if their schedules would get in line with early morning businessmen out of Tallahassee to Jacksonville, or wherever, we could make this a terminal area.

This would cut back my cost of having to buy additional aircraft, additional booth space and additional insurance—which is considerable—just to get into Tampa.

One of the other things that was brought up is the equipment. They say that the jet is more eye appealing and better for the traveling public; they are more willing to get on the jet. This is not a fact. The fact is that I ran the same route that National Airlines flew—between Pensacola and Tallahassee—for over 1½ years, using the same fare structure, and I have 56 percent of the traffic.

No. 1, it is frequencies of time.

I get the people who have to be at hearings, and so forth, to Tallahassee in the early morning, and I get them back in the early afternoon, which is a convenience, and it is not because of equipment.

National is running 727's between the two.

The way I look at a commuter air service, that is exactly what we are. We commute a businessman to and from an area in the morning. I am not worried about the traffic that is going from here to Los Angeles, or from here to New York. My whole operation is set for the traveling businessman.

Now, again, it was brought up that passengers are afraid of flying little aircraft. If this were true, Southern would not have just purchased a great number of small aircraft to put in the commuter service, because they have found that these aircraft of the jet type—the DC–9 type—cannot serve the smaller communities and show a profit, so they are bringing in smaller commuter aircraft and running more frequent flights, and they are giving the public what they want.

Having one jet flight into Pensacola and out in a day—as opposed to three round trips of a small commuter—is more convenient to any industry.

Now, for the vacationer, they can take National, Eastern, United, Delta or whatever.

One of the other things that I would like to mention is that Air Florida mentioned that they were not worried about overlapping any of our routes.

Mr. Timoner did mention— and I will bring it up—that he is initiating, or was an instrument to initiating, the abolition of the Public Service Commission regulating intrastate regulations. Well, by having this abolished, they can go anywhere that they want to go, so, consequently, again, they can come in and they can run over our routes, which we have patiently, over the years—as Air Sunshine, Marco Island, Florida Airlines, and a few others—worked to build.

We have worked to build these routes.

They had applied for the same routes that I had—from Tallahassee to Pensacola and from Tampa to Pensacola and Panama City—and they withdrew on the basis of 6010.

In this way, they are not trying to overlap any of my routes, but, for years, they have been in operation—5 years—and, again, no one, at this point, attempted to take on the Pensacola-Panama City market.

I am building a market, and now, all of a sudden, other carriers are interested in my market again.

Now, if the deregulation comes along, I am sure that it will put me out of business, but I have tried to develop this market for the community that I live in and for the needs of the community of which I am a resident.

With this type of a situation, where they would be instrumental in deregulating, you are going to find that numerous of the commuters are going to be as they were some years back, when there was no regulation.

One commuter would go in and build it up, and someone else, with a little more capital, would come in and knock it down.

There are several cases on file where this has happened.

I believe that Shawnee had built up a nice run, and then Eastern decided to move in and pick up their routes that they had approved from years before, so these are examples of the things that we, as commuters, have to look forward to.

As far as my statement, that is about—that about concludes my viewpoints on the commuter operation and the H.R. 6010.

Mr. ANDERSON. Thank you, Mr. Morgan, for your statement.

A couple of times I had the feeling that, when you were saying: "Florida Airlines," you meant to say: Air Florida; is that correct?

Mr. MORGAN. Right; Air Florida.

Mr. ANDERSON. I think you said that Florida Airlines was changing schedules, and you meant Air Florida; is that correct?

Mr. MORGAN. Air Florida; yes, sir.

Mr. ANDERSON. Under existing law, aren't CAB commuters free to enter your market if they carry only interstate traffic?

Mr. MORGAN. Would you repeat that, sir?

Mr. ANDERSON. Under existing law, are CAB commuters not free to enter your market if they carry only interstate traffic?

Mr. MORGAN. If they carry only interstate traffic; yes, sir.

For instance, if a commuter comes in from Birmingham, or if one comes in from New Orleans, they, at this point, can come in, but this would not affect my market, but, if a commuter comes in and stops within two points within the State, he must have approval from the public service commission.

In other words, if a commuter wanted to come in from New Orleans, to Pensacola and Tallahassee, he would have to get the route from Pensacola to Tallahassee approved by the public service commission.

Mr. ANDERSON. Why, then, are you concerned about deregulation?

Mr. MORGAN. Deregulation of intrastate carriers.

If the public service commission is abolished at this point, anyone can run over anyone's routes.

For instance, if the public service commission is abolished, tomorrow I can start a Pensacola-Panama City, Tampa-Miami run, or I can start a Pensacola-Panama City, Jacksonville-Maimi run, but, with the public service commission regulating the intrastate carriers, then they have to have approval from the public service commission.

Mr. ANDERSON. Do you think it is likely that Air Florida will try to enter markets served by Panhandle Airlines?

Mr. MORGAN. I would take this as an indication that, if they want to help to get the State authority deregulated, they would; yes.

I think that is a very good indication that this is what is facing us.

Mr. ANDERSON. Are we talking about two different deregulations?

Mr. MORGAN. Two different deregulations; yes, sir.

Mr. ANDERSON. When you are talking about deregulation, you are not talking about——

Mr. MORGAN. Not Federal deregulation; no, sir.

I am talking about the State.

Mr. ANDERSON. You are talking about a similar state deregulation?

Mr. MORGAN. Right.

Mr. ANDERSON. Does Panhandle Airlines have any joint fares with any interstate carriers?

Mr. MORGAN. Yes, sir; I have joint fares with National, Eastern and Southern.

Mr. ANDERSON. Are those joint fares set by the CAB formula?

Mr. MORGAN. Yes, sir.

Mr. ANDERSON. Is the division of revenues also set by the CAB formula, or do you have to negotiate each one?

Mr. MORGAN. We negotiate that; yes, sir.

We try to stay within what has already been set, and then it is just how we are going to break it down as to what percentage who gets.

Mr. ANDERSON. Does the Florida PSC regulate your rates, and, if so, please describe how your rates are regulated.

Mr. MORGAN. Yes, sir; they are regulated by the State.

Any intrastate fare is regulated by the State.

You submit your initial fare—of which most of us are within reason—and this is approved by the Public Service Commission, and then, if we intend to raise the fare, we have to show a good reason and cause as to why our fare is going to increase, with documentation.

Mr. ANDERSON. Are your interstate passenger and your intrastate passengers on the same route charged the same fare?

Mr. MORGAN. It would depend upon the area that the interstate passenger were coming from.

If he were coming from Atlanta—let us say to Tallahassee, through Pensacola—the fare would be taken from Eastern's DOAG, for instance.

That would be the fare from Atlanta to Tallahassee.

The connections are better coming through Pensacola.

I would take a portion of that, but that would be less than my normal fare—from Pensacola to Tallahassee—because we have the one set fare, and it is up to the carriers to negotiate that price.

Mr. ANDERSON. Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. Let me pursue that in a little different way.

Did you say that you have one route that coincides with that of National Airlines?

Mr. MORGAN. Yes, sir.

Mr. HAMMERSCHMIDT. What route is that?

Mr. MORGAN. The Pensacola-Tallahassee route, which National is going to be applying to drop.

Mr. HAMMERSCHMIDT. How many flights a day do they run?

Mr. MORGAN. They were running one flight a day, sir.

Mr. HAMMERSCHMIDT. How many do you run?

Mr. MORGAN. Two.

Mr. HAMMERSCHMIDT. Are your fares the same on that route?

Mr. MORGAN. Mine is $2 lower now, because they raised theirs.

Mr. HAMMERSCHMIDT. What is the fare?

Mr. MORGAN. $31, sir.

Mr. HAMMERSCHMIDT. That is yours?

Mr. MORGAN. Yes, sir, and that includes tax.

Mr. HAMMERSCHMIDT. I have no further questions.

Mr. ANDERSON. If someone gets off another airline and gets on yours, is he governed by their ticket price—the $2 higher?

In other words, are there different levels on the same plane?

Mr. MORGAN. If an individual—say, for instance, that he flew to Tallahassee on National, and that he had a return trip.

Mr. ANDERSON. Suppose that he is going to Tallahassee, from Atlanta, but that he wants to get off at Pensacola.

We will assume that he bought a through ticket, but that he is using the second part of the ticket on your plane.

Would he be paying $2 more than the person who is sitting next to him, and who got on at Pensacola and is going to Tallahassee?

Mr. MORGAN. No, sir, that would be reimbursed to him at the counter.

Mr. ANDERSON. Mr. Shuster.

Mr. SHUSTER. If I understood you correctly, Panhandle has 56 percent of the Pensacola-Tallahassee market.

Mr. MORGAN. Yes, sir.

Mr. SHUSTER. Does that mean that National has the balance—44 percent?

Mr. MORGAN. Yes, sir.

Mr. SHUSTER. If National has 44 percent, and if National has one flight a day, and you have 56 percent, and you have two fights, a day, all else being equal, you should really have 66⅔ percent.

Might one not, therefore, infer that the argument that people prefer the bigger planes is, perhaps, true?

Mr. MORGAN. No, sir, you will find, again, that it is convenience.

Let me say, for instance, that you had a 2 or 3 o'clock hearing.

Our flight leaves at 6:30.

Mr. SHUSTER. You have less than the share of the market that you should have, based upon the number of flights that you have flying.

You have two flights a day, and National has one flight a day, so there is a total of three flights.

If the market were distributed evenly, across those three flights, each flight would have 33 percent of the market.

That being the case, you should have 66⅔ percent of the market.

Mr. MORGAN. That would be right if everybody were going at the same time, but let me ask you this:

If you had a hearing at 1 o'clock in the afternoon, would you get on the 6:30 flight, or would you take National's 10 o'clock flight?

Mr. SHUSTER. My point is that, actually, your two flights have less than the share of the market that one would expect them to have, even though——

Mr. MORGAN. If we were running at the same time, I would, yes, sir.

If I were running at the exact same time, I would have less; yes, sir.

Again, as I say, we do not run at the same time.

We are a complimentary to the major carrier, to get these people there and back, and——

Mr. SHUSTER. I have to say that I do understand that the distribution of the market is not a straight line over 24 hours.

Mr. MORGAN. Also, you have to realize that, when we say: "56 percent," or: "44 percent," we have to figure that a 727 carriers quite a few seats, as opposed to mine.

Now, I am probably, in reality, running a much higher percentage, because they might take on four passengers.

Mr. SHUSTER. Are you flying a DC–3?

Mr. MORGAN. I have one DC–3 and two smaller aircraft; yes, sir.

Mr. SHUSTER. Which do you use?

Mr. MORGAN. I am using the 10-passenger aircraft to Tallahassee, because that is the approximate number of people that travel—approximately 25 to 30 people—to and from Tallahassee in a day.

Mr. SHUSTER. Does National use the 727?

Mr. MORGAN. Yes, sir.

Mr. SHUSTER. Thank you very much.

Mr. ANDERSON. Mr. Fascell.

Mr. FASCELL. I have one question.

You heard Mr. Timoner say that, on the Federal bill, they would support an exclusion for intrastate carriers.

What, if anything, does that mean to you?

Mr. MORGAN. I have not really gotten into this, sir.

I am sure that one of the other commuters, that has been operating a little longer than I have, can probably explain that in a little more detail.

Mr. FASCELL. Thank you.

Mr. ANDERSON. Are there any further questions?

[No response.]

Mr. ANDERSON. If there are not, again, we thank you, Mr. Morgan.

Our next witness is Mr. Frank V. Bervaldi, president and chief executive officer of Air Sunshine.

TESTIMONY OF FRANK V. BERVALDI, PRESIDENT AND CHIEF EXECUTIVE OFFICER OF AAT AIRLINES, INC. d/b/a AIR SUNSHINE; ACCOMPANIED BY ADRIAN NARANJO, EXECUTIVE VICE PRESIDENT AND GENERAL MANAGER; THOMAS A. STEVENS, ASSISTANT VICE PRESIDENT OF PUBLIC RELATIONS; ROBERT J. PATERNO, COUNSEL FOR THE AIRLINE, AND EMILIO DIRUBE, VICE PRESIDENT OF TRAFFIC AND SALES

Mr. BERVALDI. Chairman Anderson, I would like to read the entire statement.

I do not think that we need to go into any of the exhibits; they are for the record.

We have studied this very extensively, and I think that all of the material which we have here is very important.

With me today are Adrian Naranjo, our executive vice president and general manager; Thomas A. Stevens, our vice president of public affairs; Robert J. Paterno, our counsel; and Emilio Dirube, who is our vice president in traffic and sales.

We are a scheduled commuter airline, servicing Key West, Marathon, Miami, Kissimmee, and Tampa, Fla.

We are a 135.2 taxi operator, servicing the Miami-Key West market as a CAB-approved substitute carrier for National Airlines.

We also operate our Florida routes pursuant to a certificate of public convenience and necessity issued by the Florida Public Service Commission, which regulates our intrastate operations.

Air Sunshine's intrastate air operations have certain characteristics which are typical of all Florida State-certificated commuter carriers.

First, our traffic is highly seasonal, peaking in the winter months and falling off very, very dramatically in the summer months.

Bear in mind that all of Florida is a Sun destination.

Second, the majority of Air Sunshine's traffic is interline passenger traffic.

The vast majority of this interline traffic is interstate.

It is this second peculiarity which has created grave concern about the interlining provision of House bill 6010, as it affects our airline, and, of course, all of the other part 298 commuter air carriers who engage in intrastate air transportation pursuant to Florida certificates of public convenience and necessity issued by the Florida Public Service Commission pursuant to the laws of the State of Florida.

Significantly, with the exception of Air Florida, all State-certificated commuter carriers are part 298 carriers.

Historically, to the present date, these carriers have been limited to the utilization of aircraft having 30 seats or less, unless they obtain a special waiver for larger aircraft from the CAB, which is a very timely, very difficult, and, most importantly, a very costly process.

Air Sunshine has an exemption to operate aircraft with up to 55 seats.

Air Florida operates exclusively under its State certificate of public convenience and necessity, and it is authorized to operate aircraft in excess of 99 seats.

House bill 6010 allowed intrastate carriers in Florida and in California to interline with both certificated and noncertificated carriers.

The effect on Air Sunshine is that in excess of one-half of Air Sunshine's traffic base is exposed to serious diversion in any market that would be subjected to this very unfair and devastating competition.

An excellent example of this recently occurred.

No sooner had House bill 6010 commenced moving through the congressional process than Air Florida filed an application with the Florida Public Service Commission to provide DC–9 jet service between Fort Lauderdale and Key West, Fla.

The Miami-Fort Lauderdale airports are coterminals; that is to say, they serve the very same market.

The application was filed on August 13, 1977, but it was withdrawn by Air Florida in December of 1977, thereby enabling them to refile this application at any subsequent date.

Since that time, Air Florida has, on numerous occasions, indicated its intent to continue to seek authority to provide service over Air Sunshine's primary Miami-Key West market.

We have exhibits in the package that really point this thing out.

Quoting Air Florida's president, Eli Timoner, in a February 17, 1978, Miami Herald news article: "I am going to project that we are going to be servicing the Key West market by the end of the year." [See attachment 1, p. 59.]

The advent of House bill 6010 now makes it possible for Air Florida to attempt to reach into our primary market, including the interline portion of that market, which constitutes in excess of 50 percent of all of our traffic.

Keep in mind, gentlemen, that Air Sunshine provides DC–3 and Convair 440 service on a very high frequency basis.

We would be faced with competing against DC–9 jet aircraft operating on a two-trip-a-day basis during the peak periods of daily traffic.

The effect would be to divert enough revenues so that Air Sunshine would have to cut its frequency of service on this market and very possibly even have to leave the market entirely.

It is particularly important that, under the present draft preemption sections of House bill 11145 and Senate bill 2493, the Florida Public Service Commission would have no jurisdiction to regulate any carrier—for example, Air Florida, Air Sunshine, or any other taxi operator in the State, of which there are approximately 3,000 in the United States of America, and of which over 250 operate on a scheduled basis—except where the existing State-certificated carrier has less than 50 percent of its revenues derived from interstate passengers.

In this regard, it should be noted that Air Florida—as well as Air Sunshine—either presently have or within the next 12 months will have, in excess of 50 percent of their revenues classified as coming from an interstate source.

In Air Sunshine's principal market—Miami-Key West—interstate traffic accounted for about 50 percent of the passenger volume and 55 percent of the passenger revenue during the year ending March 31, 1978.

During the peak season, the proration of interstate passengers was even higher.

In December of 1977 and in January of 1978, interstate traffic was, respectively, 58 percent and 55 percent of the total.

Similarly, in the second summer peak—August, for example—over 53 percent of the traffic total moved to and from out-of-State points; however, even if the offpeak months, interstate traffic does not drop below about 48 percent of the total traffic.

Air Sunshine, throughout the year, is, therefore, heavily dependent upon interstate traffic that is subject to diversion to an intrastate carrier that is given authority to operate on Air Sunshine's routes.

All of Air Sunshine's markets are heavily dependent upon interstate traffic.

In the year ended January 31, 1978, about 52 percent of the total Air Sunshine traffic was comprised of interstate passengers, who contributed 53 percent of Air Sunshine's revenues.

Miami-Key West traffic contributes about three-fourths of Air Sunshine's total passenger count, which means that heavy diversion in this market would have very serious consequences for Air Sunshine.

If another carrier, such as Air Florida, became eligible to participate in the interstate traffic carried by Air Sunshine and ended up sharing in 50 percent of the Miami-Key West market, the result would be a devastating 40 percent decrease in Air Sunshine's total traffic and a 41-percent decline in passenger revenue. [See attachment 2, p. 63.]

In effect, House bill 6010 has placed the proverbial big stick in the hands of a highly aggressive and exclusively State-certificated air carrier—to wit: Air Florida—which can be utilized by them to attempt to reach into and raid every part 298 State-certificated Florida commuter carrier, particularly to the extent that such carrier's markets consist primarily, or substantially, of interstate traffic.

That description, frankly, fits every part 298 certificated commuter carrier in the State of Florida, such as, for example: Naples, Marco Island, Florida Airlines, and, of course, Air Sunshine.

By their actions over the past several months, since the advent of House bill 6010, Air Florida has made known its intention to become the only intrastate airline in the State of Florida.

Another example is the one that Mr. Morgan just gave about their applying for his route.

It is respectfully suggested to this committee that the immediate short-term history of the effect of House bill 6010—and more specifically the inclusion of Florida within its provisions—has had, and will continue to have, a potential for injury, abuse and, very possibly, a monopoly in the Florida intrastate air transportation system.

Whatever may have been the unique or special circumstances which may have justified the inclusion of California, those circumstances are not necessarily manifest or appropriate in the State of Florida.

We would strongly urge and suggest that Florida be withdrawn from the provisions of House bill 6010 at the very, very earliest practical date.

The impact of House bill 6010 is not isolated.

Its impact upon Air Sunshine and every other part 298 State-certificated commuter carrier in the State of Florida is ever broadening and expanding, as demonstrated by an analysis and evaluation of the proposed airline deregulation package contained in the drafts of House bill 11145 and Senate bill 2493.

House bill 6010 is intrinsically related to and magnifies the scope and impact of the proposed airline deregulation package before the Congress.

The House and Senate dereglulation package seeks to amend the FAA Act of 1958 in certain specific areas which have critical impact upon Air Sunshine and every other State-certificated commuter carrier servicing the State of Florida, as well as the entire course and development of the future or nonfuture of the Florida intrastate air transportation system.

There are several positive provisions.

First, in increasing the size of aircraft, air taxi operators may utilize from the current level of 30 seats to either 36 or 55.

Second, there are the provisions which prescribe a uniform method of joint fare and the division thereof between air carriers holding certificates and commuter air carriers.

Such parity is long overdue and will eliminate fundamental unfairness to the commuters and their passengers, who now must depend upon voluntary hit-or-miss joint fares and division agreements determined at the will of the major carriers.

Third, there is the inclusion of commuters in the government guarantee of equipment loans.

Fourth, there is the eligibility of commuter airlines for direct subsidy, when necessary to provide and maintain service to small and isolated communities.

On the other hand, there are provisions in the deregulation package which, if not modified, could jeopardize the future growth and development of the commuter airline system in the State of Florida, as well as in the other States which have developed, through the years, a stable intrastate air transportation system through sound State regulation.

The primary areas of concern which I would like to address my remarks to are the Federal preemption provisions of the deregulation package.

The thrust of the House deregulation package is aimed at eliminating all State regulation of intrastate air transportation, except in Alaska, and except that any State which has authorized an air carrier to provide intrastate air transportation in that State may continue to regulate such intrastate operations for as long as not less than 50 percent of the revenues of such carrier are derived from such intrastate operations.

The Senate deregulation package effectively eliminates State regulation of intrastate air transportation, except in Alaska, and except that any State which has authorized an air carrier to provide intrastate air transportation in that State may continue to regulate such intrastate operations for as long as not less than 50 percent of the revenues of such carrier are derived from such intrastate operations.

The Senate methodology is different.

First, it creates a new class of certificated carrier under section 420.

Under this section, every current air taxi operator in the United States would qualify and could secure a local air transportation certificate authorizing the use of aircraft having up to a 36-seat passenger capacity anywhere in the United States, except in Alaska.

In the State of Alaska, that carrier must also obtain the authority from the State of Alaska.

As pointed out, the Senate and House bills would ostensibly authorize continued State regulation of existing State-certificated intrastate commuters in Florida, Texas, and California as long as the carrier's revenue from the interline traffic did not exceed 50 percent of their operating revenue.

I should mention that Air Sunshine—as does practically every other major commuter in the State of Florida—now derives more than 50 percent of their operating revenues from interstate interline sources.

Incidentally, because of House bill 6010, Air Florida will surely fall outside of the sphere of State regulations, and, because of its route structure and use of large aircraft, it will fall within the automatic entry provisions of the deregulation package.

The saving language of section 423(a)(1) or 105(a)(1) is simply not realistically substantive.

The Federal preemption language in the deregulation package is obviously aimed at eliminating the possible interference by a State regulatory body with the operations of 401 certificated carriers to the extent that part of their operations fall within a single State.

We certainly do agree with this principle.

The Federal preemption language is also aimed at eliminating the possible interference by a State regulatory body with the operations of

an air taxi operator, engaging in truly interstate operations, where the points of origination and destination are in two separate States.

We agree with this principle.

We do not, however, agree that, in order to accomplish those two principles, the proper and important role of States to regulate intrastate commuter airline operations should be eliminated or effectively gutted.

Unfortunately, without careful modification, the deregulation package will do precisely and exactly this very undesirable thing.

Air Sunshine, along with the Florida Public Service Commission, feels very strongly that Florida should be treated like Alaska was treated, as it related to the Alaska exemption on authority over commuters that would be certificated by the CAB as a result of the new 420 language in Senate bill 2493, as it related to exempting Alaska from the preemption provisions of House bill 11145, section 105(a)(3). [See attachments 3 and 4, pps. 68 and 72.]

The National Association of Regulatory Utility Commissions also supports State regulation of intrastate air transportation. [See attachments 5 and 6, pps. 81 and 87.]

Furthermore, knowing the State of California to have such a fine public service commission that has provided such good direction as far as the intrastate air transportation system in the State of California is concerned, I would imagine that the State would want to retain certification over newly certificated commuters that would compete against California commuters.

Air Sunshine feels the same way.

The Florida PSC feels the same way.

Florida should be treated the same as Alaska.

We respectfully suggest, Mr. Chairman, that the State of Florida—and perhaps California or even Texas—should be included in the exemption provision contained in House bill 11145, section 105(a)(3), or alternatively, that these States should be included in the exemption provision contained in Senate bill 2493, section 420(g).

Why should Florida be exempted?

As the president and chief executive officer of a commuter airline that has had to fight for its very survival since its inception, I cannot conceive of how the deregulation of intrastate airlines by the public service commission would create a better intrastate system of air transportation in Florida.

Florida is unique geographically; it is a long peninsular, with its most populace areas being located hundreds of miles from the nearest bordering State.

There are no scheduled air taxi operations providing interstate air transportation to or from Florida, and I think that this question has come up several times here.

There are none going outside of the State's boundaries at this time.

Mr. ANDERSON. None of these airlines that you have mentioned—like Florida Airlines, Air Sunshine, Marco Island, Naples and Panhandle—go outside of the State?

Mr. BERVALDI. That is correct; they are all on intrastate routes.

The reason is that they are not practical or necessary?

Indeed, to our knowledge, there has never been an air taxi operator providing scheduled interstate air transportation between a city in Florida and some other city in another State.

Furthermore, the State of Florida is literally surrounded by water.

Most of the air routes between cities in the State of Florida require, by necessity or practice, flight over international water.

In order to insure State regulation of such flights, which are truly intrastate in nature, Air Sunshine is most pleased with the proposed language that is set forth in Senate bill 2493, section 423(5), which clarifies that such flights are intrastate in character.

This language should be incorporated in any deregulation package.

Air Sunshine, the Florida Public Service Commission, and the other commuter carriers in the State of Florida strongly support that provision.

The Florida intrastate markets are not only isolated, but are also limited in size.

The markets generally connect small communities with other small communities or with major gateways such as Tampa and Miami.

Traffic between such route segments usually is well under 200,000 passengers a year.

Additionally, all of the Florida markets, without exception, are seasonal in nature; that is to say that, during the 7-month winter period, there is a high traffic demand, which falls off dramatically during the 5-summer month season.

The history of Florida's intrastate air transportation system—before and after State regulation—is a landmark example of the critical importance of maintaining State regulation of intrastate air transportation in the State of Florida.

The Florida Department of Transportation has released a study—the study was completed in April of 1976—which shows that airline competition in Florida's intrastate markets invariably results in heavy financial losses for both competing airlines.

This is the most extensive study of intrastate air service to be undertaken by any State.

The study was prepared for the Florida Department of Transportation's Division of Planning and Programing by the Systems Analysis and Research Corp. of Washington, D.C., which is generally considered one of the Nation's most prestigious think tanks.

The study is unequivocal in its findings that competition on Florida's intrastate air routes, far from resulting in more efficient service, results wholly—and in every case that they studied—in financial disaster for both competing airlines.

The SARC study states:

> Proof is available in the long history of airline failures in Florida. Without exception, every intrastate carrier who has ever operated in Florida has either failed, been sold to refinance, or is currently in tenuous financial condition. Also, without exception, they have attempted to compete with the interstate carriers or other intrastate carriers, often as strong as themselves. The theory that the stronger will survive in an economic struggle does not produce lasting air service. It more easily results in the death of both competitors. Should one survive, he does not necessarily reap the rewards of the victor to recover from the drain of battle, for he may be immediately confronted with a fresh entrepreneur who has not yet lost his backing.

Summarizing its findings, the study group states:

Competition, as observed in Florida, has not produced stable, adequate intrastate service and has caused well-intentioned Floridians to lose large sums of money in efforts to provide intrastate air service. In contrast, given all the local traffic, and a share of the connecting traffic, a single carrier who provides minimum standard service will earn a profit. Dividing that traffic with any competition assures that both operators will incur losses, reduce service and, in all probability, fail.

In the 1960's, two major air taxi operators—Shawnee and Executive Airlines—operated on numerous parallel Florida routes without regulation by the CAB or the State of Florida.

The result was catastrophic.

Within a brief period of time, the two airlines lost literally millions of dollars, and both airlines went out of business.

The result was that the Florida routes previously being served then had no services whatsoever.

Again, in the Miami-Key West market, multiple airlines servicing the Miami-Key West market either went out of business or withdrew entirely from the market. [See attachment 7, p. 97.]

The frequency and dependability of service in this market suffered as a result of this unstable atmosphere.

After State regulation—and with one carrier servicing this limited, isolated market during the past 2 years—Air Sunshine has been experiencing modest profits, and it has been providing the best frequency of service—almost hourly service at this point in time.

This is the best quality of service that this route has ever experienced in its entire history.

Furthermore, prior to State regulation in Florida, it was not unusual for fly-by-night air taxi operators to provide service during the specific peak 3, 4, or 5-month periods of the year, while opting to withdraw from the market, or, alternatively, to provide no real service to the market during the off-peak seasons of the year.

Since the early 1970's, with the advent of State regulation of intrastate air transportation in Florida, there has been a rapid growth and expansion of intrastate commuter air transportation.

Route protection has been an essential ingredient in this growth, development, and expansion of the intrastate air transportation system in Florida, and it bears out and supports the conclusions of the SARC study relating to the State of Florida and its unique characteristics.

It is, in our judgment, unnecessary, harmful, and inappropriate to destroy or substantially gut, by limitation, the scope of State regulation of intrastate air transportation, particularly in Florida, as well as perhaps California and Texas.

Significantly, we believe that House bill 11145 and Senate bill 2493—in their present format, without appropriate modification—will do precisely that.

For example, Senate bill 2493 provides that existing State-certificated carriers would continue to be regulated by the State until 50 percent or more of that carrier's revenue is interline, but it allows air tax operators, which are under section 420 of the local air transportation certificates, to fly anywhere and at any time in the State of Florida without economic or route regulation from either the CAB or the State of Florida's Public Service Commission.

Indeed, it would provide a situation where existing State-certificated carriers in Florida would be regulated by the State commission for a limited period of time, where their rates and continuity of service are regulated to meet State transportation needs, while, at the very same time, it would allow any of the thousands of air taxi operators to operate at any time and anywhere in the State of Florida without any regulation whatsoever from the CAB or the State regulatory body.

It would literally gut and destroy any market protection now available on the isolated and limited Florida intrastate markets.

We would be reverting back to the pre-State regulatory period of the sixties, and to the chaotic conditions in Florida which led to the dissipation and elimination of intrastate air transportation capable of meeting the public needs for such Florida intrastate air transportation.

We strongly urge that the State of Florida be exempted from the Federal preemption language contained in both House bill 11145, section 105(a)(1), and the provisions of Senate bill 2493, section 423(a)(1), and section 420—the latter by including Florida in section 420(g).

One final observation: The automatic entry provisions of the deregulation package could have devastating potential effect on State-certificated intrastate commuter airlines.

Air Florida's operations—because it uses large DC–9 aircraft, with 85-seat configuration—will surely meet the requirements of flying in excess of 125 million available seat miles.

No other Florida commuter could—or would—reasonably expect to meet such a requirement.

Couple this aspect of the deregulation package with the prohibition of State regulation over existing State-certificated carriers having more than 50 percent of their operating revenues derived from interstate interline operations.

Stir it together, and Air Florida will be the only intrastate commuter in Florida who will be available to automatically enter any Florida market presently served by another State-certificated Florida commuter.

Air Florida could simply reach into and literally destroy Air Sunshine, or Marco Island Airlines, or Naples Airlines, or any other Florida airline, and the State regulatory body would be powerless to stop it, irrespective of what damage such automatic entry might have upon the Florida intrastate air transportation system.

This big stick could be—and should be—eliminated from the deregulation package by, No. 1, exempting Florida from the preemption provisions of the deregulation package, or, No. 2, by exempting Florida from the provisions of section 420 of Senate bill 2493 by including Florida in section 420—there is a mistake there, and that should be 420(g), rather than (a)—and either, No. 3, modifying the automatic entry provisions to interstate markets originating or terminating between two or more States, or, No. 4, by modifying the automatic entry provisions to markets having a demonstrated annual passenger traffic count in excess of 1 million passengers per year, or even perhaps 5 hundred thousand passengers per year.

Mr. Chairman, and members of the committee, I would like to take this opportunity to express our appreciation for the committee's in-

terest and concern in affording Florida commuter airlines an opportunity to express our views and concerns relative to House bill 6010 and the pending airline deregulation package.

I have a couple of questions that I would like to ask, if that is appropriate.

There are some things that, up to this point in time, we have had some questions about, and we are still not sure about them.

Mr. ANDERSON. You may ask the questions, but we may or may not be able to answer them.

Mr. BERVALDI. One is on the dormant market theory or question.

Air Sunshine is presently serving the Miami-Key West market as a CAB-approved substitute carrier for National Airlines.

Under such circumstances, would the Miami-Key West market fall within the dormant market classification, or would it not be included in it?

Mr. ANDERSON. It might be wise to discuss that after the meeting.

Mr. BERVALDI. That will be all right.

Mr. ANDERSON. We have had markup, and Congressman Ertel, of Pennsylvania, put in an amendment that changed the whole structure around, and we are in the middle of marking it up, and it is changing a little bit.

Mr. BERVALDI. We would appreciate that very much.

Mr. ANDERSON. What are your other questions?

Mr. BERVALDI. Another question is: We need an interpretation of interstate revenue—whether this revenue is from having to fly across the State line, or whether this revenue can be classified as interstate revenue even if it is derived from an intrastate route on interlining.

Mr. ANDERSON. That is something that I was going to mention to you.

You mentioned that you were concerned with:

> Except that any state which has authorized an air carrier to provide intrastate transportation in that state may continue to regulate such intrastate operations for as long as not less than fifty percent of the revenues of such carrier are derived from such intrastate operations.

Mr. BERVALDI. Yes, sir.

Mr. ANDERSON. That is no longer going to be in there.

Originally, I had the 50-percent provision in my initial bill, and then we compromised on that, and, as a result, we changed that to 25 percent.

In the markup the other day, it was stricken out entirely so that any airline that is no intrastate and goes outside of the State—even across the line—would become interstate in its entirety.

Mr. BERVALDI. Is this right?

My understanding of your answer was that, as long as we would fiy strictly between two points within the same state, any revenue derived would be considered intrastate.

Mr. ANDERSON. No, no, then there are the people who are bound for someplace outside of your State?

Mr. BERVALDI. Yes, sir.

Mr. ANDERSON. In other words, if they go between two cities and then transfer to another airline, outside of your State, that is considered interstate revenue.

Mr. FASCELL. Yes, sir.

Mr. BERVALDI. So, then, almost at this point in time, there is no carrier within the State of Florida that would be regulated by the Public Service Commission.

Mr. ANDERSON. Your percentages are different, I think, than those of most other States that we have had reference to.

Mr. SHUSTER. If the gentleman will yield, did the amendment not say that it is not a question as far as CAB regulation—as to how many passengers get off and get onto another airplane, and go out of the State, but, as long as his airline flies only within the State, it is not subject to CAB?

Mr. HEYMSFELD. Under the revised bill, a commuter operates under the CAB commuter exemption, which a commuter has to do to carry interstate passengers between points in the same State.

If there is preemption of the State's regulation over that commuter's operation, regardless of the percentage of its operation that is interstate, as long as there is operation under Federal authority, such as commuter exemption——

Mr. ANDERSON. Is that not also true under the present law?

Mr. HEYMSFELD. The present law permits dual regulation.

The CAB regulates the interstate passengers that they carry, such as connecting passengers whom they are carrying between points in the State, but the State can regulate purely intrastate passengers.

Under the bill, there would be preemption if the commuter were operating under the CAB exemption.

Mr. BERVALDI. By the Federal regulation?

Mr. HEYMSFELD. Yes.

Mr. BERVALDI. In other words, it would be the public service commission, and the State of Florida would then not have authority over the present intrastates or commuter part 298 carriers; is that correct?

Mr. HEYMSFELD. Yes; that is correct.

Mr. BERVALDI. There would be—actually, they would be totally wiped out.

Mr. HEYMSFELD. The State regulation would be totally wiped out.

Mr. HAMMERSCHMIDT. Your apprehensions—as you have given them to us in your statement—are valid.

Mr. BERVALDI. Yes; that is what I was afraid of.

The other item that I had—just to bring these points up, and we can discuss them afterwards, which I would like very much—is: What, exactly, is an exempt carrier?

A part 298 carrier, like we are now, is an exempt carrier; is that correct?

Mr. HEYMSFELD. Are you looking at a particular section of the bill?

That is generally correct.

If you are looking at a particular section of the bill, I would not want to——

Mr. BERVALDI. It is section 423 of the Senate bill.

If I could just read this first part to you—section 423(a)(1)—that I have referred to many times:

No State shall enact any law or establish any standard determining routes, schedules, rates or fares, or changes in tariffs, or otherwise promulgate economic regulations for any air carrier certificated or exempted by the board under the provisions of this title, except that any State which on or before January 1, 1979, had authorized that carrier to do this.

But then it gets down further into the 50 percent of the revenues, so, whichever way you turn, the State will not have any more authority, and I think we will be in a mess, and I think the only saving grace is the situation such as Alaska is going into, and I think that, because of the uniqueness of our State, it may be very applicable here, where these carriers would be regulated by the CAB, but they would have to have certificates issued by the State of Alaska or the State of Florida.

This is one of the points that we were bringing up.

Mr. ANDERSON. We tried to get California exempted, but we could not do it, and we have several members on the committee.

Mr. BERVALDI. I would think that we would try to stir the interest of the Florida delegation in this and try to do whatever we can with it.

The history of this market is very evident.

It has been a history of fresh starts, and direct competition for the few isolated markets, and it is entirely different from the California situation, because everybody gets wiped out, and then they go back to no service again, and it has only been since we have had State regulation that we have had a good intrastate network of air transportation in the State.

The public service commission is fighting to retain this.

I think all of the part 298 commuter carriers in this State are going to fight to retain this.

We think it is very important.

Without this, we could have one carrier servicing the whole State.

There would be one or two frequencies a day.

Without a great frequency of service, which we have found is the important thing in the Florida market—both the purely intrastate traffic need frequency of service and the interstate traffic.

They need the hourly type of service on these markets.

They demand that, and you cannot do it with large jet aircraft.

The proposals of Air Florida, when they applied for the Key West route, were two frequencies a day.

Do you know what this does?

We are flying eight round trips a day between Miami and Key West, and, if the demand is there, there are extra sections on those flights.

We do not leave anybody behind.

If a carrier comes in twice a day with large aircraft, to meet the peak demands of the connecting interline flights, this gets into that very nasty situation where the cream is skimmed off the top, and it leaves the present carrier, who is trying to provide the numerous frequencies, in the hole again.

Pretty soon, this carrier is driven out of the market, and the public is left with inadequate service.

This is our concern, Mr. Chairman.

Mr. ANDERSON. Thank you, Mr. Bervaldi.

In your testimony, you state the situation of your company, and I am not exactly sure of what you consider your company.

I cannot tell whether you consider it interstate or intrastate.

For example, you say: "Second, a majority of Air Sunshine's traffic is interline passenger traffic. The vast majority of this interline traffic is interstate."

Mr. BERVALDI. We——

Mr. ANDERSON. You continue: "It is this second peculiarity which has created grave concern about the interlining provision of House bill 6010, as it affects our airline, and, of course, all of the other part 298 commuter carriers who engage in intrastate air transportation pursuant to Florida certificates of public convenience and necessity," and so on.

In the same breath, you are basically identifying yourself as interstate and intrastate.

It appears that you are doing both at the same time.

How do you really define yourself?

Mr. BERVALDI. We feel that we are truly an intrastate commuter carrier, being exempted from the Federal regulation under part 298.

The Public Service Commission of the State of Florida feels this way.

They have regulated us totally as to fare structure, route structure, and everything else, and, until we got deep into the discussion of the deregulation package, we never thought of ourselves in any other way, and we still do not.

We just thought that we had the ability to interline through this exemption, which required us to fly an airplane of a certain size, and we still do, right now, consider ourselves strictly intrastate.

Mr. ANDERSON. Even though the greatest majority of your business is interstate, in that it goes on beyond the State boundary——

Mr. BERVALDI. That is due to the fact that Florida has become more and more popular, and we have more and more of a tourist flow into the area, and now over 50 percent of our traffic is from this interline source.

We feel that it is intrastate traffic, because we are carrying it between two points within the same State, as far as operational——

Mr. ANDERSON. Are you familiar with Golden West, of my area?

Mr. BERVALDI. Not totally; no, sir.

Mr. ANDERSON. They are, I think, one of the larger commuters.

They consider themselves totally interstate, and they never talk about themselves as being intrastate.

Their commuters bring most of them to the airports, and then they get on other planes.

How would you distinguish between your company and their company?

Mr. BERVALDI. Is Golden West a part 298 commuter?

Mr. ANDERSON. Yes, sir.

Mr. BERVALDI. Just like us?

Mr. ANDERSON. It is only that they are operating in California—basically in the southern part of the State: the Orange County-Los Angeles area.

Mr. BERVALDI. Have they been totally regulated by the California Public Utilities Commission, like we have been?

Mr. ANDERSON. I think they have some regulation; yes.

They identify themselves as interstate, really.

When you talk to them, they interline, and everything, and they consider themselves interstate.

Mr. HAMMERSCHMIDT. Does Golden West fly out of the State of California?

Mr. ANDERSON. No.

Mr. BERVALDI. Several years ago—before this period of time—the majority of our traffic was intrastate, and we have continued to be totally regulated by the State.

We think the State has been fair in this regulation.

There has been enough route protection, it seems to me, and enough approval of new routes, and this has developed quite a nice network in this State.

We would, very frankly, like to continue to be regulated by the State.

I guess the differences in the characteristics of the route system in your State and ours is such that we are happy with State regulation and Golden West is not.

Mr. ANDERSON. I would not say that they are not happy.

They have had some complaints.

Under your Florida certificate, could Air Sunshine operate the same aircraft as Air Florida?

Mr. BERVALDI. No, sir; not at this point in time.

Mr. ANDERSON. Do you feel that House bill 6010 favors Air Florida over carriers such as Air Sunshine?

Is Air Sunshine subject to dual regulation by the CAB for interstate passengers and by the Florida Public Service Commission for intrastate passengers?

Mr. BERVALDI. We do not feel that we are, and we have not been, as long as we have continued to fly less than 30-seat aircraft and do not cross the State line.

Mr. ANDERSON. Does Air Sunshine have joint fares with interstate carriers?

Mr. BERVALDI. We have joint fares with almost all of the major carriers in the United States, and we have had them for a number of years; yes, sir.

Mr. ANDERSON. Is the CAB formula used in such fares?

Mr. BERVALDI. I think the fares are set by a negotiation between the commuter carrier and the CAB certificated carrier.

It is not on a specific formula.

It is CAB approved, but they are negotiated.

Mr. ANDERSON. Does the division of revenues go the same way, or does the CAB——

Mr. BERVALDI. It is the division of revenues that is negotiated.

Mr. ANDERSON. It is negotiated?

Mr. BERVALDI. Yes, sir.

Mr. ANDERSON. Is that also approved by the CAB?

Mr. BERVALDI. No, no.

Mr. ANDERSON. If Air Florida applied for a Miami-Key West route, do you think that the public service commission would consider the impact of the Air Florida's service on Air Sunshine?

Mr. BERVALDI. If the public service commission of this State were allowed to continue to regulate the air routes and the fares charged in this State, I think that they would consider that, and this is the one thing that we are very, very concerned about here—that the deregulation package is going to completely cut their effectiveness, and they will not have any control over it, no matter what they want to do.

Mr. ANDERSON. Mr. Hammerschmidt?

Mr. HAMMERSCHMIDT. Thank you, Mr. Chairman.

On this discussion about interstate and intrastate revenues, I think that what determines an interstate airline is whether they go outside of the State or not with their service.

If you have revenues from interlining, I think that has nothing to do with making you an interstate airline.

You would still be an intrastate commuter.

Mr. BERVALDI. I would hope very much that this is completely accurate.

Mr. HAMMERSCHMIDT. Could counsel comment on that?

Mr. HEYMSFELD. As I understand the law, Mr. Hammerschmidt, carrying interstate passengers—even though you only operate between points in a single State—puts you under the jurisdiction of the CAB, and you need CAB authority to do that.

If you are a commuter, you may not realize that you need CAB authority, because, if the CAB exempts you, all you have to do is file your schedule, but this jurisdiction of the CAB is what kept Air Florida and PSA from interlining.

The CAB would not let them do it, and that is why we needed legislation to let them do it.

Mr. HAMMERSCHMIDT. I am sure that counsel's interpretation is correct.

I wanted to get it into the record.

Mr. BERVALDI. Yes, sir; I am glad that it has been clarified, too.

This is the exact thing that we brought up in this presentation—the thing that we were very concerned about.

This is what we feel will destroy the network of the intrastate air transportation system within the State of Florida.

We feel, as I have said here, that we have a unique situation that is different from that of any of the other States that have other States at every border.

We have hundreds and hundreds of miles of our borders that do not contact or connect with another State.

Almost all of the routes are strictly connecting small communities or small communities with larger communities within the State, and there is no need to have an entire State market where we fly outside of the State.

We feel, for that reason, that we should be exempt within the State of Florida, like Alaska has been exempt.

We feel that this would solve our problems.

Mr. HAMMERSCHMIDT. Mr. Chairman, I know that it is elementary to point this out, but you know that the bottom line of our reason for being here and our activity—and I am sure that it is also true of the Public Service Commission of the State of Florida—is to insure what is in the best interest of the traveling public, and not necessarily to protect airline capital.

As I said, we all know that without me saying it, but, Mr. Bervaldi, you are suggesting to us that, if you were deregulated, the best interest of the consumer—the traveling public—would not be served.

Mr. BERVALDI. The traveling public definitely would not be protected in this case.

Mr. HAMMERSCHMIDT. Thank you, Mr. Chairman.

Mr. ANDERSON. Mr. Shuster.

Mr. SHUSTER. If I understood you correctly, you said that you could not go above 30 seats in a plane; is that correct?

Mr. BERVALDI. Not without a special waiver from the CAB.

Mr. SHUSTER. I would ask this of counsel: Would this waiver be pretty much automatic?

Mr. HEYMSFELD. It would not be automatic from the CAB—not for the carrier of interstate traffic.

There would also be the question of whether—for the intrastate traffic, it would be automatic, or virtually automatic, from the Florida Public Service Commission.

Mr. SHUSTER. When you say "interstate traffic," even though he is flying the plane only intrastate, since a large percentage of the passengers are coming from other States, it is, indeed, interstate; is it not?

Mr. HEYMSFELD. Yes, sir.

Mr. SHUSTER. Therefore, you are saying that it is not a simple automatic matter for the commuters to go above 30 seats; is that correct?

Mr. HEYMSFELD. It gets complicated, because I think that, under 6010, if they could get authority from the State to go above 30 seats for intrastate traffice, 6010 would, I believe, give them authority to interline.

Mr. SHUSTER. But most of them are really in interstate.

Mr. HEYMSFELD. Yes, but 6010 says that, if you have State authority to operate aircraft of over 30 seats, you may interline.

Mr. SHUSTER. For interstate passengers, as well?

Mr. HEYMSFELD. Yes, sir.

Mr. SHUSTER. As a practical matter, commuters can go above 30 seats; is that not correct?

Mr. HEYMSFELD. In Florida and California.

Mr. SHUSTER. In Florida and California; yes.

Mr. HEYMSFELD. I cannot comment upon what the State of Florida's PSC law is on this.

We heard testimony earlier that it is fairly easy to get that kind of waiver or authority from the Florida PSC.

Mr. SHUSTER. Do you agree with that?

Mr. BERVALDI. Let me say this: We have currently pending before the CAB an application to fly larger than 30-seat aircraft on a couple of our other routes, and, of course, we are required to do exhaustive and very costly environmental impact studies and a lot of legal drafts, and then there is the very long time wait before this is authorized, and it is—we feel that 6010 may have clarified this, but I am still not totally sure of it.

Mr. SHUSTER. Thank you.

Mr. ANDERSON. Mr. Fascell.

Mr. FASCELL. Thank you, Mr. Chairman.

The point is that, under the proposed law which is pending, you would make every carrier—and certainly your carrier—interstate and subject to deregulation for automatic entry purposes because you generate a single dollar of revenue from interstate passengers; is that not correct?

Mr. BERVALDI. That is correct, sir.

Mr. FASCELL. Therefore, that would leave the PSC the job of regulating solely intrastate carriers, who had not one single dollar generated from interstate passengers, and——

Mr. BERVALDI. There are none of those.

Mr. FASCELL. I understand that, but that is all they would have left to regulate, so the definition under the law is one think that raises a question, since it is going to change the entire concept of what is an interstate carrier.

Now, anybody who generates a single dollar under that proposed law would be classified as an "interstate carrier."

That is basically what it boils down to, subject to the CAB, or, rather, subject to the deregulation package, which means automatic entry, so you are right back to square 1.

That is what you are talking about; is that not correct?

Mr. BERVALDI. Yes, sir.

Mr. ANDERSON. Counsel, would you comment on that, please, sir?

Mr. HEYMSFELD. I think that the conclusions that you reach, Congressman, are generally correct.

I think that the definition of "interstate" has not been changed by the pending regulatory reform bills, but, when a carrier is interstate, the State can no longer regulate it.

Mr. ANDERSON. It is the same difference?

Mr. HEYMSFELD. You end up in the same place.

There is now no autmatic entry in the pending deregulation bill.

That was stricken out in markup.

Mr. ANDERSON. If they go outside of the State of California, and if they go to Las Vegas, for instance, they become interstate—the implication being that, if they did not take the route outside of the State, they would still be intrastate.

Do you want to give me a different story on that?

Can PSA retain its intrastate character if it decides not to go outside of the State of California?

Mr. HEYMSFELD. This will depend upon how the bill that comes out of markup is finally drafted.

Mr. ANDERSON. As it is right now——

Mr. HEYMSFELD. As it is right now, there is a question about that.

The way that it was originally drafted, you only became interstate for purposes of preemption if you had a CAB certificate or were operating as a commuter.

Congressman Millford's bill says that, if you have any authority from the CAB—the interlining is not, at this point, authority from the CAB, but PSA does have some over-the-water exemptions.

That needs clarification.

Mr. ANDERSON. Let us go back to Texas.

The problem is Southwest, which is solely within the State of Texas.

It does not cross water or anything, but, obviously, some of the passengers must be interstate.

At least some of the passengers must be interstate.

Are you telling me that Southwest will not still be an intrastate carrier?

Mr. HEYMSFELD. I think that would be all right, because the preemption amendment says that you have got to have authority under the Federal Aviation Act.

Mr. ANDERSON. For what—to go outside of the State?

Mr. HEYMSFELD. Any authority is sufficient.

Mr. FASCELL. Mr. Chairman, I have not read it yet, but I am guessing that what is happening is: By changing the definition of interstate, by indirection, if you consider simply crossing a State line, and operating in two States, that is a classic definition of interstate, but, when you add to it the generation of revenue as a classification for interstate, you have added another dimension to it, and this is the same thing that happens with electricity and gas, and it happens with everything else in interstate commerce, and that is what is being considered under the new bill.

If you generate a single dollar of revenue, notwithstanding the fact that you do not cross a State line—if a single dollar of your revenue is from a passenger whose origination is outside of the State of your operation—you are then subject to the Federal law.

Mr. HAMMERSCHMIDT. We have 40 or 50 amendments, and some of them have been adopted, and some of them are pending, and that leads to all of this ambiguity.

Mr. FASCELL. I understand that.

As an outsider, I get this impression of what is going on, and I do not know whether it is true or not, and that is the reason that I prefaced my remarks by saying that I had not read the amendments, and, therefore, that I am not confident about what I am saying.

That is the way that it appears that we are heading; therefore, I think that the objections or concerns expressed by Mr. Bervaldi are very real, and I wanted to get to the other point.

As I understand Air Florida's statement, they support a Florida exemption.

Did I understand you correctly, Mr. Timoner?

In the Federal bill that is now pending, Air Florida would support an exemption, or did I misunderstand you?

Mr. TIMONER. Specifically to the automatic entry provision?

Mr. FASCELL. Yes.

Mr. SHUSTER. Preemption is what you are talking about; is it not?

Mr. FASCELL. We are talking about two different things, as I understand it, and I was not clear, myself.

Mr. TIMONER. In my remarks, I said that, if by some provision of the new act, we were allowed automatic entry, we would accept an intrastate exclusion so that we could not use that entry as a means of getting another intrastate route.

Mr. BERVALDI. I think that maybe what you are——

Mr. FASCELL. I just want to know——

Mr. BERVALDI. Excuse me.

Mr. FASCELL. I just want to know whether you are or are not together, or whether there is a difference of opinion.

That is the main reason why I asked the question.

Mr. BERVALDI. If I may try to answer that: We are not considering going interstate at all.

Mr. FASCELL. When you say that you do not want to consider going interstate, do you mean that in the sense that you do not want to cross the State boundaries?

Mr. BERVALDI. Crossing the State boundaries; yes.

Whether we get automatic entry or not, we are not concerned about that.

We want to continue to service the Florida routes that we have to the best of our ability.

Mr. FASCELL. I know that, but does the position that Mr. Timoner just expressed coincide with your position?

That is what I am trying to find out so that, if some amendment or consideration is given by the committee to changing the proposal law——

Mr. ANDERSON. Let us suppose that the law were changed so that it were just the going out of the State that made you interstate.

That could be done; could it not?

Mr. HEYMSFELD. For preemption purposes?

Mr. ANDERSON. For preemption purposes; yes.

Mr. HEYMSFELD. Yes, sir.

Mr. ANDERSON. How would that affect you?

Mr. BERVALDI. That would be very, very important to us.

That way, the carriers in this State would be regulated by the State, and that is what the carriers in this State want.

Mr. ANDERSON. Their revenue would still be under the CAB, but, for purposes of preemption——

Mr. FASCELL. As far as Air Florida is concerned, I understand that they would welcome deregulation on an interstate basis with the definition of crossing a State line.

They want to expand and get into that market, but they are not particularly concerned about automatic entry intrastate.

Am I correct, Mr. Timoner?

Mr. TIMONER. That is correct, and part of the question was also: Do we think that the regulatory process in the State has helped to develop the system as far as it is?

I tried to make that clear.

We do, and we have no difference of opinion with Air Sunshine.

There was no atmosphere here for the creation of an intrastate system until State regulation put order into the development of an air transportation system.

I do not know what the effect would be if it were totally removed.

Mr. FASCELL. Let me add my comment to that, as a layman who has lived in this State for a long time.

Everything that these gentlemen have said about intrastate service before order was brought into the market by the Public Service Commission is absolutely true.

It was a disaster.

Mr. HEYMSFELD. I would like to ask a question for clarification.

Under the existing law, as I interpret it and as the CAB interprets it, when a commuter-carrier operating between two cities in a single State and carries connecting passengers, such service is under Federal CAB regulations, and the State cannot regulate it. The way that the CAB regulates it is: There is free entry and freedom to charge whatever fares you want in carrying that interstate traffic.

My question is: Is it your position that the existing law should be changed, and that there should be a cutback in the CAB's jurisdiction under the existing law, and that this type of service should also be under State regulation?

Mr. BERVALDI. It has been my understanding that this, practically speaking, is not the way that it has been handled, and it never has been handled that way.

It would be handled this way if aircraft under the 30-seat configuration flew in from a point in another State to a point within the State of Florida; then it would come under CAB regulation.

Practically speaking, it has never been handled this way.

If that is the intent, it has not been followed.

It was never followed.

Mr. CURASI. I would have to disagree about what the existing law is.

Mr. Chairman, I——

The REPORTER. Excuse me, but please give me your name.

Mr. CURASI. I am Jim Curasi.

Mr. ANDERSON. Excuse me 1 minute, please, Mr. Curasi.

Please continue, Mr. Bervaldi.

Mr. BERVALDI. I was saying that, although this might have been the intent of the law, to my knowledge, it has never been applied in the past.

Mr. HEYMSFELD. Are you aware of a recent CAB order applying to California, saying that a carrier needed no special State authorization to start up an operation within the State of California under the CAB's commuter exemption?

Mr. BERVALDI. No, sir; I am not.

Mr. CURASI. Mr. Chairman, if I may——

Mr. ANDERSON. Please identify yourself for the record.

Mr. CURASI. Yes, sir; I am Jim Curasi, C-u-r-a-s-i, and I am counsel for Air Florida.

With respect to your counsel's question as to the regulatory scheme in the State of Florida, the definition of air carrier for purposes of Florida law, as contained in section 330.4(8), states that:

> Any carrier who operates between two points in the State, and not possessing a certificate pursuant to section 401 of the Federal act, is an air carrier for the purposes of Florida law, and, therefore, must obtain a certificate from the Florida commission.

Now, because of the definition contained in section 330.4(8), you have two types of carriers in Florida.

You have your part 298 exempt carriers and the commission has taken the position that they still have to get a certificate from the commission.

You have carriers such as Air Florida, who has no part 298 exemption.

Now, your point about that order that just came out from the CAB raises a very interesting question about the validity of the Florida statute defining it, so I think that kind of clarifies it.

That has not been interpreted, but, in light of the order that you are referring to, it does bring into question the validity of the Florida law.

Mr. HEYMSFELD. Would you agree with my interpretation of what the CAB thinks of the existing laws?

Mr. CURASI. As of right now, I would; yes, sir.

Mr. PATERNO. I might just——

Mr. ANDERSON. Identify yourself, please, sir.

Mr. PATERNO. Robert Paterno, counsel for Air Sunshine.

I might point out that the practical effect of the interpretation which is being suggested—and which may well be the CAB's interpretation in a specific case—as a practical matter has not been enforced on an ongoing basis by the CAB, and they have taken a kind of a: "I am not going to look" attitude, and they are not going to do anything, unless somebody forces them to make that kind of a decision.

That, in effect, would be that 330.4(8)—the Florida statute would, literally, be invalid forthwith.

Air Florida, is not a part 298, or a 401 certificated carrier.

It, literally, would have absolutely no authority whatsoever to fly anywhere with any kind of equipment.

The only way that they are flying today is under a valid Florida statute.

If that statute is knocked out, they are gone.

I suggest that we have got a horribly confused situation, and, frankly, I think that this committee could benefit everybody by addressing this problem and maybe looking at the existing law, as it is interpreted by the CAB, and seeing whether some appropriate modification or clarification would not help States like Florida and Alaska that need State regulation by the PSC of intrastate routes.

Mr. ANDERSON. Mr. Hammerschmidt?

Mr. HAMMERSCHMIDT. No; I have no further questions.

Mr. ANDERSON. Mr. Shuster?

Mr. SHUSTER. I have no more questions.

Mr. ANDERSON. Mr. Fascell?

Mr. FASCELL. No, thank you, Mr. Chairman.

Mr. ANDERSON. Thank you very much, Mr. Bervaldi, for an excellent presentation.

Mr. BERVALDI. Thank you, sir.

[Attachments 1–7 previously referred to in Mr. Bervaldi's testimony follow:]

The Miami Herald
Keys Area News
SECTION C
Friday, February 17, 1978

Airline Determined To Serve Key West

By BRAD SWANSON
Herald Staff Writer

Air Florida doesn't give up easily.

The Miami-based airline wants to fly its 85-passenger DC9 jets into Key West, claiming that service would double its air travel market.

Despite setbacks — beginning in October — that have delayed the airline's attempts to service Key West, Air Florida President Eli Timoner said Thursday the airline has no intention of giving up.

"I'M GOING TO project that we're going to be serving Key West by the end of the year," said Timoner.

The latest check to the airline's plans came Monday when U.S. Sen. Lawton Chiles (D., Fla.) received a letter from the Navy vetoing opening the Boca Chica Air Station near Key West to commercial use.

The letter from Rear Admiral W.P. Lawrence, assistant deputy chief of naval operations, arrived two weeks after the deadline the Navy had set for replying to Chiles' request for information concerning the airfield.

"Accommodation of civil aircraft at the Naval Air Station in Key West on a regularly scheduled basis would degrade the facilities' primary mission as a defense installation," the letter stated.

AIR FLORIDA had tried negotiating with the Navy to open the air field, but Navy regulations prohibit joint-use agreements between the military and a commercial firm, according to Navy sources in Washington.

The airline then tried indirect negotiations with the Navy through a Key West resident who had written Chiles about the possibility of opening the Navy air field.

The question of using Navy facilities arose when the runway at Key West International was repaved and narrowed from 150 to 100 feet last October.

Narrowing the runway — because of an "excess of width" — would not hinder using jets at the airport, according to Federal Aviation Administration (FAA) officials in Miami. But the 4,800-foot length of the runway would "severely constrain" the passenger capacity of a DC9, said Manuel Rodriguez, FAA planning engineer.

AIR FLORIDA withdrew its application before the Public Service Commission for a Fort Lauderdale-Key West route in December, citing the runway repaving.

Air Florida Board Chairman Ed Acker called Key West International a "marginal" airport with a runway "too short and too narrow."

Timoner said that Air Florida will continue trying both to open the Navy air field and influence Monroe County to lengthen Key West International's runway.

"It's incumbent upon us to go see Sens. Chiles and (Richard) Stone (D., Fla.) and talk with them about" the Navy air station, said Timoner. "I don't know that the Navy can't be persuaded. We'll have to see."

IF THE Navy remains reluctant, Timoner said, "We'll certainly need community support" to have the runway lengthened.

And even if the runway remains at its present length, "We will need (only) a 50 per cent load factor to break even," because "if we implement service, we'll go in on a big schedule," said the airline president.

Aviation sources have said that a DC9 with about half its 85-passenger maximum load can probably land and take off safely on a regular basis on the present runway.

Timoner said he has experienced "lots of hostility" in the Keys "concerning protection of local businesses ... We wouldn't try to force out another airline," he said.

Tourist-oriented businesses in Key West "are doing a superb job attracting more people," said Timoner, adding much support for Air Florida's plans comes from those businesses. "They want the bucks," said Timoner, estimating jet service would double the number of people flying to Key West.

Composite Attachment 1

The Miami Herald
Keys Area News
SECTION D
Sunday, February 12, 1978
CLASSIFIED — 12D

2 Weeks Past Deadline

Navy Study On Airfield Use Delayed

By BRAD SWANSON
Herald Staff Writer

Two weeks have passed since a deadline set by the Navy for disclosing a study about opening the Boca Chica Naval Air Station for commercial use — and the promised answer to U.S. Sen. Lawton Chiles (D-Fla.) is still nowhere in sight.

One Navy spokesman indicated that regulations make it unlikely that commercial airlines ever will be allowed to use the air station near Key West.

Miami-based Air Florida has said it wants to land its jets, which may be too large for Key West International Airport's runways, at the Navy airfield. Only Key West-based Air Sunshine, using propeller-powered airplanes, now flies regularly into Key West.

A NAVY ADMIRAL told Chiles in a memo last December that allowing commercial airlines to use the Boca Chica airfield "is being thoroughly investigated."

The memo — from Rear Admiral D. C. McCormick in the Washington Office of Chief of Naval Operations — informed Chiles: "You may expect a reply from this office by Jan. 27, 1978."

Chiles aide Jack Pridgen said he hasn't been successful in finding out why the Navy has not answered Chiles yet. "Have you ever dealt with the military?" he asked, adding he wasn't surprised at the delay.

But Bob Putman, a civilian with the Naval Facilities Engineering Command in Washington, said Navy regulations are specific concerning joint military-commercial use of Navy air stations.

A NAVY airfield will be opened to a commercial airline only when "there is no other reasonable alternative, such as an existing or planned civil airport in the area," according to Putman.

"There has been no case where joint use has been instituted to augment service" only, he said.

Putman added that only "an authorized state or local government" can contract with the Navy for use of an air station.

"The city of Key West or Monroe County would have to come to us with the application and be prepared to build a civil terminal and any connecting taxiways," he said. "And then, of course, this is all dependent on our evaluation."

JOINT USE "has been talked about numerous times in the past," said Monroe County Commissioner Jerry Hernandez. "And in most instances there's some sort of answer back that they're not compatible.

"The danger of any joint use at this time would be the military might feel they're not wanted. I think the military is more important than joint use," he said.

"When the military moves out, then I think we can talk about it," he said. When asked when that might be, he replied, "I hope never."

News makers

By Fitz McAden
and Brad Swanson

Airline Officials Aren't On Same Wavelengths

A story about the question of opening the Boca Chica Naval Air Station to commercial use appears above today. It's a complex issue and Air Florida — an airline that wants to use the Navy airfield to land its 85-passenger jets — hasn't made it any easier to understand. You might call it a problem in internal communications. When queried about Air Florida's plans for Key West — the airline once applied to fly into Key West International Airport but then withdrew its request — a public relations aide didn't mention the Navy airstrip, but said the company was looking into reapplying to use the international airport. Air Florida would make the decision by August, she said, and then referred us to the company's attorney in Tallahassee. He said the airline would make a decision whether or not to reapply within a week. Back in Miami, the airline board chairman called Key West airport "marginal," said the company had no plans to fly there, but declared Air Florida was negotiating with the Navy to use the Boca Chica airfield. After the Navy denied talking with the airline, the president of Air Florida called to say they weren't exactly "negotiating," but they had been in contact with a Key West resident who had been in contact with a Florida senator who had been in contact with the Navy ... The Navy has yet to answer the senator, who for that reason hasn't answered the resident, who hasn't sent the answer to Air Florida ... If it makes any sense to you, you're probably better off than the majority of people we talked to.

The Miami Herald
Keys Area News
SECTION C
Friday, February 3, 1978

Open Airport Considered

Navy Denies Negotiating With Airline

By BRAD SWANSON
Herald Staff Writer

Navy officials denied Thursday negotiating with Air Florida about opening up the Boca Chica Naval Air Station to commercial use.

But a Navy admiral, in a memo last December to U.S. Sen. Lawton Chiles (D., Fla.), said that allowing commercial airlines use the naval airport "is being thoroughly investigated."

The memo — from Rear Admiral D. C. McCormick in the Washington Office of Chief of Naval Operations — informed Chiles: "You may expect a reply from this office by Jan. 27, 1978."

CHILES, WHO could not be reached for comment, sent a copy of the memo to Lawrence Gomez, a Key West man who had written the senator about the air station.

At the Boca Chica station, Ensign Deborah Harlowe, a public affairs officer, said Thursday, "The only thing we know and can truthfully say (about the airport) is to quote from a letter by the commanding officer from April 1976. 'There is no change in current status at the present time.' "

Bob Putman, a civilian with the Naval Facilities Engineering Command in Washington, said Thursday, "I have spoken to no one with Air Florida."

Air Florida Board Chairman C. Edward Acker said Tuesday his company has had "some preliminary talks with" the Navy about the airport, "but it's not far enough along to determine whether the Navy will say yes or no."

ACKER CHANGED that Thursday, saying, "We have made inquiries through one of our Florida senators' offices and asked them to help us develop a dialogue with the Navy."

"All I know is we started the ball rolling," said Acker Tuesday.

But it was apparently Lawrence Gomez who "started the ball rolling."

The Key West man said, "We need a new market down here and the best way to get it is to use that big Navy base lying fallow. We can get a couple hundred-thousand more people down here if they fly from Fort Lauderdale."

Key West-based Air Sunshine, the only airline currently using Key West International Airport, does not fly to Fort Lauderdale. But Miami-based Air Florida , whose jets may be too big for the Key West airport, did apply for a route between Fort Lauderdale-Hollywood International Airport and Key West last year.

THEY WITHDREW that application after the runway at Key West had been repaved and narrowed from 150 to 100 feet.

Gomez wrote Chiles last December, and then passed along Chiles' response, including the admiral's memo, to Air Florida.

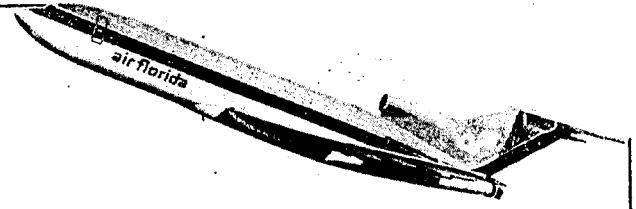
"Mr. Gomez called me and sent us copies of the letter. I did not have direct communication with the senator's office," Air Florida President Eli Timoner said Thursday.

"Under the circumstances, I thought it best to wait until the Navy made its decision known," Timoner said.

The Miami Herald
Keys Area News
SECTION C
Wednesday, February 1, 1978

Key West Airport Called 'Marginal'

Air Florida Is Seeking To Use Navy Airfield



By BRAD SWANSON
Herald Staff Writer

Six weeks after withdrawing its application to fly into Key West International Airport, Air Florida is negotiating with the Navy to open the Naval Airport for commercial use.

"I don't believe in starting an operation into what we believe is a marginal airport," Air Florida board chairman C. Edward Acker said Tuesday of Key West International.

"We concluded that the runway is too short and too narrow. So we've concentrated on efforts to determine whether the Navy airport will be available for commercial flights. We've had some preliminary talks, but it's not far enough along to determine whether the Navy will say yes or no."

NAVY OFFICIALS would not confirm Tuesday whether negotiations were in progress with Air Florida about the future of the Navy airport.

Air Florida had sought to get permission to fly the route between Fort Lauderdale-Hollywood International Airport and Key West, but withdrew after the runway at Key West was repaved and narrowed from 150 feet to 100 feet.

The Miami-based airline said at that time the runway might be too narrow for its 85-passenger DC9 jets, the only planes Air Florida flies.

But "decrease of runway width has not decreased the usage of the airport," Manuel Rodriguez, planning engineer with the Federal Aviation Administration, said Tuesday.

He said Key West airport had "an excess of runway width" before the modifications and that the runway had been narrowed to save maintenance and repaving costs.

"LENGTH OF a runway is the controlling factor, not width," Rodriguez said. The 4800-feet length of the Key West runway, he said, would enable a DC9 to take off or land only if it were "very constrained with regard to weight — and that reflects upon passenger capacity."

But a DC9 did land once at Key West airport last summer, said airport manager George Hoagland. "It was sort of like Air Florida's inaugural flight here," he said. "It had 44 people on board." The flight was not repeated.

Hoagland said the airport could allow DC9s to land, but added the airlines may have more stringent restrictions. One aviation source who did not want his name mentioned estimated that DC9s could safely use a runway as short as Key West's on a regular basis with half-capacity loads.

The Air FLorida jet had no difficulty landing or taking off, said Hoagland, but, "we will never have a real jetport here," he said.

"REALLY, WE'RE locked in here. If we try to extend the runway to the west, we'll have to lower the approach zone, which means the airplanes will be flying a lot lower over the high school.

"And if we try to extend to the east," he continued, "they'll have to take the power lines down off Roosevelt Boulevard and deepen the roadway or tunnel it or something — it would cost millions.

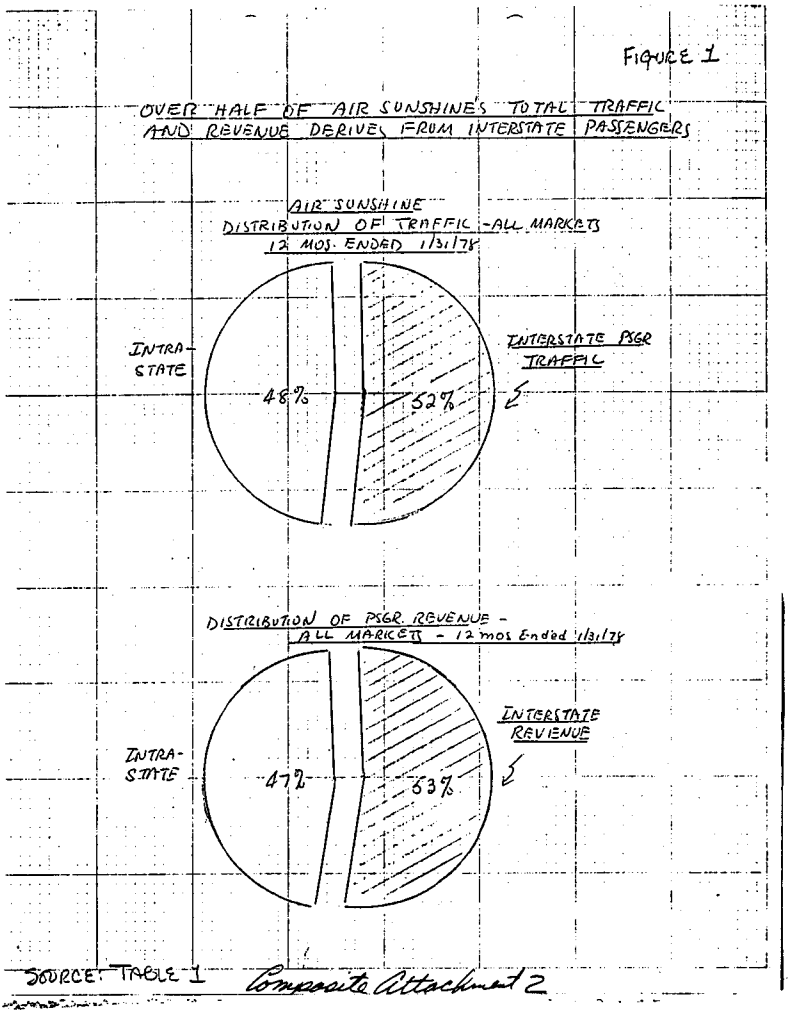
"Plus, we've got environmental problems you wouldn't believe. All the permits we'd have to get when we started filling in those ponds . . ."

But Acker says there were plans to lengthen the runway in 1976, before Hoagland became manager.

"It would take some sort of enlightened citizenry" to have the runway lengthened now, he said. "I don't see too much push for it. It would seem they're not really interested in improving their airport."

FIGURE 1

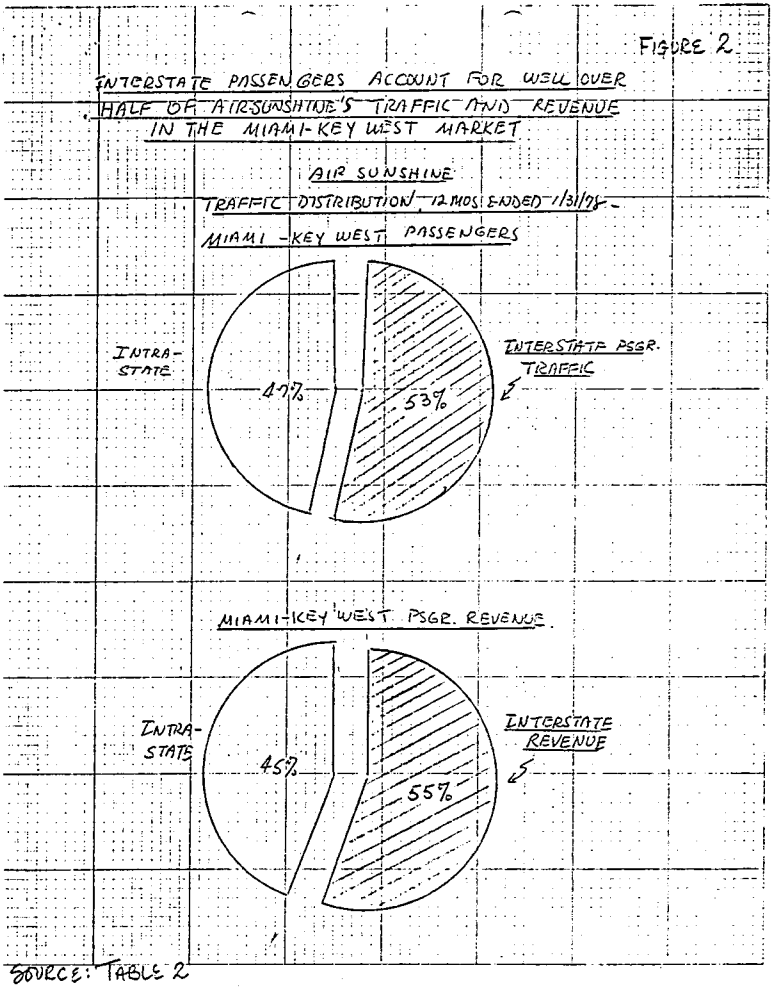
OVER HALF OF AIR SUNSHINE'S TOTAL TRAFFIC AND REVENUE DERIVES FROM INTERSTATE PASSENGERS



SOURCE: TABLE 1 Composite Attachment 2

FIGURE 2

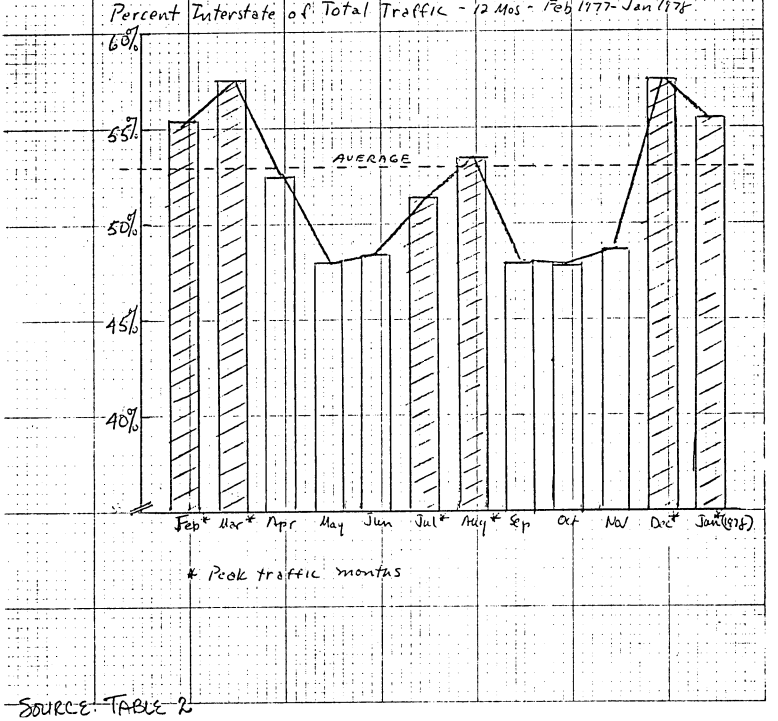
INTERSTATE PASSENGERS ACCOUNT FOR WELL OVER HALF OF AIRSUNSHINE'S TRAFFIC AND REVENUE IN THE MIAMI-KEY WEST MARKET



SOURCE: TABLE 2

FIGURE 3

AIR SUNSHINE'S INTERSTATE TRAFFIC IS ESPECIALLY IMPORTANT IN THE PEAK TRAFFIC MONTHS



SOURCE: TABLE 2

	Initials	Date
Prepared By		
Approved By		

TABLE 1

NATIONAL 43-805 EYE-EASE

AIR SUNSHINE INTERSTATE AND INTRASTATE TRAFFIC
ALL MARKETS

		1 Interstate	2 Intrastate	3 Total	4 % Interstate of Total	5
Passengers						
1977	Feb	7245 ↓	5833 ↓	13078	55.6 ↓	
	Mar	8327 ↓	6703 ↓	15030	55.4 ↓	
	Apr	7061	5555	12616	55.9	
	May	4781	4970	9751	49.0	
	Jun	4493	4812	9305	48.3	
	Jul	4627	4758	9385	49.3	
	Aug	4734	4892	9626	49.2	
	Sep	3691	4479	8170	45.2	
	Oct	4049	4729	8778	46.1	
	Nov	5308	5785	11093	47.9	
	Dec	8115	6606	14721	55.1	
1978	Jan	9010	7261	16271	55.4	
12 mos TOTAL (est)		71441	66583	138024	51.8	
10 mos TOTAL (Apr-Jan)		55864	54052	109916	50.8	
Passenger Revenue ($)						
1977	Feb	177706 ↓	135724 ↓	313450	56.7 ↓	
	Mar	211647 ↓	161628 ↓	373275	56.7 ↓	
	Apr	176588	136747	313315	56.6	
	May	120969	117341	238310	50.8	
	Jun	110461	114409	224870	49.6	
	Jul	115465	115340	230805	50.0	
	Aug	116537	120403	238940	48.6	
	Sep	95382	109587	204723	46.6	
	Oct	105947	115788	221735	47.8	
	Nov	136753	146697	283450	48.7	
	Dec	210403	161683	372086	56.5	
1978	Jan	237846	177262	415108	57.3	
12 mos TOTAL (est)		1823748	1611859	3435607	53.1	
10 mos TOTAL (Apr-Jan)		1434385	1314507	2748892	52.2	

	Initials	Date
Prepared By		
Approved By		

TABLE 2

AIR SUNSHINE INTERSTATE AND INTRASTATE TRAFFIC IN THE MIAMI-KEY WEST MARKET * 12 MONTHS ENDING JAN 31, 1978

		1 Interstate	2 Intrastate	3 Total	4 % Interstate of Total	5
Passengers						
1977	Feb	5496 ↓	4416 ↓	9912	55.4 ↓	
	Mar	6457 ↓	4796 ↓	11253	57.5 ↓	
	Apr	5181	4695	9876	52.5	
	May	3817	4128	7945	48.0	
	Jun	3680	3940	7620	48.3	
	Jul	3674	3673	7347	51.3	
	Aug	3941	3445	7386	53.4	
	Sep	3075	3339	6414	47.9	
	Oct	3292	3601	6893	47.8	
	Nov	4155	4393	8548	48.6	
	Dec	6302	4660	10962	57.5	
1978	Jan	4614	5390	10004	55.4	
12 mos. total		55744	50458	106402	52.6	
PASSENGER REVENUE ($)						
1977	Feb	135696 ↓	101614 ↓	240310	50.7 ↓	
	Mar	162728 ↓	109848 ↓	272776	57.7 ↓	
	Apr	130585	107998	238583	54.7	
	May	95736	94190	189926	50.4	
	Jun	91520	90440	181960	50.3	
	Jul	96038	84347	180385	53.2	
	Aug	98660	79120	177780	55.3	
	Sep	79985	76646	156631	50.2	
	Oct	85158	83343	168499	50.5	
	Nov	107259	102897	210156	51.0	
	Dec	160689	109290	269979	59.6	
1978	Jan	173959	125527	299486	58.1	
12 mos. total		1411621	1164242	2575863	54.8	

FLORIDA PUBLIC SERVICE COMMISSION

PROPOSED AMENDMENT TO SECTION 17

OF S. 2493, PAGE 39

MARCH 8, 1978

FEDERAL PREEMPTION

Sec. 17. Title IV of the Federal Aviation Act of 1958, as amended by this act, is further amended by adding at the end thereof the following new section:

"FEDERAL PREEMPTION

"Sec. 423. (a)(1) No State shall enact any law, establish any standard determining routes, schedules, or rates, fares, or charges in tariffs of, or otherwise promulgate economic regulations for, any air carrier certificated ~~or exempted~~, by the Board under the provisions of this title, except that any State which~~, on or before January 1, 1979, had authorized~~ authorizes an air carrier to provide intrastate air transportation in that State, may continue to regulate such intrastate operations of such air carrier notwithstanding the fact that such air carrier~~, after January 1, 1979, is issued, for the first time,~~ holds a certificate under this title, for so long as not less than 50 percent of the revenues of such air carrier is derived, during the most recent period for which data is available, from such intrastate operations. For the next year following such a period during which such air carrier derived more than 50 percent of its passenger revenues directly from ~~interstate~~ operations conducted with its aircraft in scheduled interstate air transportation~~, and for each year thereafter,~~ the entire air transportation operations of such air carrier shall be subject to

Composite Attachment 3

subject to regulation by the Board under this title; provided, however, that should such air carrier's passenger revenues derived from scheduled interstate operations fall below 50% and remain so for any period of six consecutive months, the Board and the State regulatory authority shall consult and determine jointly whether regulation of the air carrier shall continue by the Board or revert to the State. 4/ The Board shall provide just and reasonable 5/ regulations for allocating revenues of air carriers specified in the first and second sentences of this paragraph between intrastate and interstate air transportation operations, after consultation with the State regulatory authority. 5/

"(2) When any air carrier which is specified in the first sentence of paragrapn (1) becomes totally regulated by the Board, any authority received from the State to provide air transportation shall be considered to be part of its authority to provide air transportation received from the Board under this title, until modified, suspended, revoked, amended, or terminated as provided under this title.

"(3) Except with respect to air transportation authorized by the Board under a certificate issued under section 401 or, air transportation for which compensation may be paid under section 419, the provisions of paragraph (1) shall not apply to the air transportation of persons, property, or mail conducted wholly within the State of Alaska.

"(4) Any air carrier certificated by the Board under this title, and who enters into an agreement with an intrastate air carrier for the through handling of baggage or passengers, shall not, by reason

of that agreement, be subject to regulation by any State. Neither shall such intrastate air carrier become subject to regulation by the Board by reason of entering into such an agreement. Nothing in this paragraph shall be construed, however, as affecting in any manner the Board's authority, otherwise conferred, over air transportation transactions covered by an agreement between air carriers, including agreements between interstate and intrastate air carriers for the through handling of baggage or passengers.

"(5) Any aircraft being used in flights (except flights between points in the State of Hawaii) in air transportation between points in the same State which, in the course of such flights, crosses a boundary between two States, or between the United States and any other country, or between a State and the beginning of the territorial waters of the United States shall not, by reason of crossing such boundary, be considered to be operating in interstate or overseas air transportation. A State may exercise economic regulatory authority over transportation by aircraft between places in the same State, or across the boundaries defined in the preceding sentence, when such transportation includes: (a) the carriage of mail; or (b) the carriage of passengers or property who moved by air or ground transportation in interstate commerce either before or after the flight.

"DEFINITION

"(b) For the purposes of this section, the term 'State' includes the several States of the United States, the Commonwealth of Puerto

Rico, the Virgin Islands, Guam, the District of Columbia, the territories and possessions of the United States, any political subdivision of any State, and any agency or entity of two or more States.".

FLORIDA PUBLIC SERVICE COMMISSION

700 SOUTH ADAMS STREET
TALLAHASSEE 32304

THE NEED FOR STATE REGULATION OF INTRASTATE AIR TRANSPORTATION IN FLORIDA

Composite Attachment 4

The goal of state regulation by this Commission, in its exercise of authority under Sections 330.45-330.53, Florida Statutes, is to provide for the air transportation needs of small and large communities, statewide, by insuring:

1. Dependable Service - certain knowledge that published schedules are in fact timely and representative of services truly available. Reasonable assurance that flights will operate on time so that passengers can make business appointments, connecting flights, etc.

2. Frequency of Service - a reasonable number of flights that will allow the development of a market to its fullest potential, which will generate the number of passengers to make service economical and profitable.

3. Adequate Aircraft - aircraft designed with the passenger and his safety as prime considerations. Roomier aircraft with passenger comforts and conveniences heretofore unavailable in "third level air carrier" fleets will in turn attract additional passenger revenue.

In most Florida markets, traffic volumes are insufficient for competitive forces to work, therefore, State regulation is required to foster the intra-Florida air carrier network. If orderly, efficient, economical and healthy service to the public is to prevail, the State must have jurisdictional control, through economic regulation, over carriers contributing to that service. Sections 330.45 through 330.53, FS provide that control.

Without state regulation the following factors will prevail:

1. No Rate Control, either passengers or property.
2. No Liability for Property (baggage or freight).
3. No Effective Control for Insurance Requirements.
4. No Financial Responsibility Control.
5. No Control over Cut-Throat Competition.
6. No Entry - Exit Control in Any Markets.
7. No Control over Minimum Levels of Service in any Markets. Go - no go strictly at the whim of the carrier.
8. No Denied Boarding Rights for Passenger, the customer is at the mercy (?) of the carrier.
9. No Interface with Federal Officials, wherein the state provides effective field surveillance and investigation of operators, and more effective enforcement due to limitations in FAA manning (i.e.: their non-scheduled operations workload, involving licensing and airworthiness, etc.)
10. No Control over Aeronautical and Business Experience of Operators.
11. No Control over Aircraft Type and Ownership or financial status for same.
12. No Requirements for Identity of officers, directors, share holders, so that responsibility may be fixed.
13. No Basis for a Healthy Competitive Structure of the industry, nor for regulated monopoly - where appropriate.
14. No Protection for Investors Against Unscrupulous Promoters.

In the scramble for intrastate business, commuter airlines appear and disappear all too frequently - the victims of under funding, over expansion and seasonal traffic. Without route protection, without schedule requirements and with unregulated fares, the small airlines cut each others' throats and crash financially in the process.

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COMPETITION AND ADEQUATE SERVICE

A review of alternatives for obtaining service must consider competitive authority as a possibility. One theory of regulation holds that the problems of inadequate service and excessive fares can be solved by authorizing an additional carrier in the market. Another current theory holds that abolition of all, or at least most, regulation to permit "freedom of entry and exit" and "freedom of fare experimantation" will promptly achieve abundant service and low fares.

Like many sophisticated theories of economics, either of these theories might be eminently sound in a specific market at a specific time, but as a generality they brush aside or ignore some very important facts. In Florida, the presence of competitive authority has not assured adequate air service. On the seventeen routes being considered by the State, there are 75 city pairs where service is inadequate. Seven have two carriers authorized and the remaining 30 city pairs are authorized to three or more (up to seven in one case) C.A.B. certificated carriers with full uninhibited permission to compete. Still the service is inadequate.

The operators of intrastate air service in Florida are undoubtedly reasonably intelligent and clever and have a desire and need to prosper. Their reluctance to join in competitive struggle in these markets is precisely because the markets are not large enough to support two or more competitors. The profit estimates of route sections show that revenue to be earned from these routes cannot be divided between two or more operators and either of them remain viable.

Even the most profitable routes must be viewed realistically--if a competitor enters these markets, his revenue comes first from the incumbent carrier's profits and then is reflected in both of their losses. A few of the routes may later be found capable of supporting competition but initially it will be fatal to both carriers.

Proof of the above reasoning is available in the long history of airline failures in Florida. The theory that the stronger will survive in an economic struggle does not produce lasting air service; it more easily results in the death of both competitors. Should one survive, he does not necessarily reap the reward of the victor to recover from the drain of battle, for he may be immediately confronted with a fresh entrepreneur who has not yet lost his backing.

A classic demonstration of this type of competition occurred in Florida in recent years. Two well-financed carriers, Shawnee and Executive, entered the State with extensive route systems, using identical aircraft. Their route systems were unregulated and overlapped in critical areas. Each had its own management philosophy but both were agressive and built a considerable following with the public. Over about a four-year period, it is reported that one lost $3.5 million and the other about $5.0 million. At about the mid-point of this period, it was apparent that so much had been lost that the survivor on the routes, if left alone, could not recoup his losses through profits. The final result was the demise of both carriers with the public losing all the service and the backers a significant sum, along with

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their desire to perform a worthwhile public service. It is a simple fact that competition--or the multiple designation of carriers between points--has failed to produce service. Further, there is no reason to expect that it will produce in the future.

The Official Airline Guide shows that the eight trunklines and one local service carrier in Florida offer only ten entirely intrastate schedules providing four markets with nonstop roundtrip service, five markets with one stop roundtrip service, two markets with two stop roundtrip, and eight markets with one-way nonstop service. It follows that in order for Florida to be able to assure adequate air service within the State, smaller types of aircraft must be introduced. Since it is probably unreasonable to expect the long-haul carrier to purchase aircraft to be used only in Florida intrastate service, the State will have to look to the intrastate operators to provide the bulk of the intrastate service.

BENEFITS OF STATE REGULATORY CONTROL

The major advantage of regulation by the State of its air transportation system is the element of control which the State is able to exercise. Theoretically, the power could be absolute--over the entry and exit of air carriers, fares, rates and schedules. The State can establish, and then enforce, standards and thus insure that appropriate service, responsive to the State's needs, will be provided. Should a carrier's economic life depend entirely upon intrastate traffic, the advantage of State regulation would be greatest because the power which could be exerted over the carrier would indeed be real.

The experience in California and Texas seems to reflect additional advantages--to the traveling public--in the form of improved service and lower fares, compared with that which was available when service was provided exclusively by C.A.B.-certificated airlines. Active state participation in regulating air transportation between its cities will encourage purely intrastate services in Florida which will be beneficial to Florida air passengers.

In summary, competition, as observed in Florida, has not produced stable, adequate intrastate service and has caused well-intentioned Floridians to lose large sums of money in efforts to provide intrastate air service.

March 1, 1978

To Each Member of the House
Subcommittee on Aviation

Re: H.R. 11145, a bill proposing the Air Service Improvement Act of 1978

Dear Congressman:

The National Association of Regulatory Utility Commissioners (NARUC) respectfully urges the Subcommittee on Aviation to adopt the enclosed NARUC proposed amendments to Section 4(a) of the above bill. In essence, these proposed amendments reflect the form of Section 17 of S. 2493, a bill proposing the Air Transportation Regulatory Reform Act of 1978, with NARUC amendments engrafted thereon as indicated.

The purpose of these amendments is to confirm and clarify the role of the States in the economic regulation of intrastate air transportation without interfering with national regulatory reforms.

The Federal Aviation Act of 1958, as amended, leaves such local regulation to the States. The usefulness and importance of State regulation is perhaps best exemplified by the existence of, and services provided by, Air California and Pacific Southwest Airlines in California and Southwest Airlines in Texas.

We believe that the success stories of those airlines are a great credit to a policy of federalism which has allowed the States to encourage and experiment with the development of intrastate air service that is both economical and responsive to local needs.

State regulation has proven to be highly beneficial not only to the citizens of such States as California and Texas, but also to the Nation for serving as yardsticks against which Federally-authorized rates and services could be compared. As you know, some of the impetus and rationale for the reforms contained in the pending legislation stem from comparisons which have been made between State-regulated and CAB-regulated carriage

Composite attachment 5

Accordingly, the NARUC respectfully urges that Section 4(a) be amended as indicated to permit State regulation of the intrastate operations of a CAB certificated carrier engaged primarily in intrastate air transportation. Under the liberalized entry provisions of the legislation, it is anticipated that virtually all carriers of any significance will receive CAB certification. Therefore, we do not believe that it is in the public interest for carriers engaged primarily in intrastate air transportation to escape State regulation of such transportation by obtaining CAB certification.

In addition, we respectfully urge the addition of the new sentence at the end of Section 4(a) as indicated in the enclosure to provide that State regulation of intrastate air transportation will not be thwarted by the carriage of mail or by the carriage of passengers or property who moved by ground transportation in interstate commerce either before or after the intrastate flight.

We congratulate you and your colleagues for your energy and imagination in seeking to fashion a better air transportation system for America. The comparisons drawn from State regulation have strengthened your desire to reform Federal air regulation. We only hope that, when the Congress works its will on this legislation, the role of the States will be clarified and confirmed so that future Congresses will also have the ability to compare.

Accordingly, your support of these amendments will be deeply appreciated.

With warm personal regards and best wishes, I am

Sincerely yours,

Paul Rodgers
Administrative Director

PR/mr
Enclosure

cc: Mr. David Mahan, Counsel
Mr. David Heymsfeld, Counsel
Mr. Henry Pflanz, Counsel
Subcommittee on Aviation

NARUC Proposed Amendment to Sec. 4(a) of
H.R. 11145, page 4, lines 15-23, page 5, lines 1-21

FEDERAL PREEMPTION

SEC. ~~17.~~ 4(a) ~~Title IV~~ I of the Federal Aviation Act of 1958, as amended by this Act, is further amended by adding at the end thereof the following new section:

"Federal Preemption

"SEC. ~~423.~~ 105 (a) (1) No State shall enact any law, establish any standard determining routes, schedules, or rates, fares, or charges in tariffs of, or otherwise promulgate economic regulations for, any air carrier certificated or exempted by the Board under the provisions of this title, except that any State which, ~~on or before January 1, 1979, had~~ authorized s an air carrier to provide intrastate air transportation in that State, may continue to regulate such intrastate operations of such air carrier notwithstanding the fact that such air carrier, ~~after January 1, 1979, is issued, for the first time, a~~ holds certificate under this title, for so long as not less than 50 percent of the revenues of such air carrier is derived, during the most recent period for which data is available, from such intrastate operations. For the next year following such a period during which such an air carrier derived more than 50 percent of its revenues from interstate operations, ~~and for each year thereafter,~~ the entire air transportation operations of such air carrier shall be subject to regulation by the Board

just and reasonable
under this title. The Board shall provide/regulations for allocating revenues of air carriers specified in the first sentence of this paragraph between intrastate and interstate air transportation operations, after consultation with the State regulatory authority.

"(2) When any air carrier which is specified in the first sentence of paragraph (1) becomes totally regulated by the Board, any authority received from the State to provide air transportation shall be considered to be part of its authority to provide air transportation received from the Board under this title, until modified, suspended, revoked, amended, or terminated as provided under this title.

"(3) Except with respect to air transportation authorized by the Board under a certificate issued under section 401 or, air transportation for which compensation may be paid under section 419, the provisions of paragraph (1) shall not apply to the air transportation of persons, property, or mail conducted wholly within the State of Alaska.

"(4) Any air carrier certificated by the Board under this title, and who enters into an agreement with an intrastate air carrier for the through handling of baggage or passengers, shall not, by reason of that agreement, be subject to regulation by any State. Neither shall such intrastate air carrier become subject to regulation by the Board by reason of entering into such an agreement. Nothing in this paragraph shall be construed, however, as affecting in any

manner the Board's authority, otherwise conferred, over air transportation transactions covered by an agreement between air carriers, including agreements between interstate and intrastate air carriers for the through handling of baggage or passengers.

"(5) Any aircraft being used in flights (except flights between points in the State of Hawaii) in air transportation between points in the same State which, in the course of such flights, crosses a boundary between two States, or between the United States and any other country, or between a State and the beginning of the territorial waters of the United States shall not, by reason of crossing such boundary, be considered to be operating in interstate or overseas air transportation. A State may exercise economic regulatory authority over transportation by aircraft between places in the same State, or across the boundaries defined in the proceeding sentence, when such transportation includes: (a) the carriage of mail; or (b) the carriage of passengers or property who moved by ground transportation in interstate commerce either before or after the flight.

February 3, 1978

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
NINETY-FIFTH CONGRESS

Democrats	Republicans
Harold Johnson, (Calif.) Chairman	William Harsha, (Ohio)
Ray Roberts, (Texas)	James Cleveland, (N.H.)
James J. Howard, (N.J.)	Don Clausen, (Calif.)
Glenn M. Anderson, (Calif.) 1/	Gene Snyder, (Ky.) 1/
Robert Roe, (N.J.)	John P. Hammerschmidt, (Ark.) 1/
Teno Roncalio, (Wyo.) 1/	Bud Shuster, (Pa.) 1/
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John Breaux, (La.)	Thad Cochran, (Miss.) 1/
Bo Ginn, (Ga.)	James Abdnor, (S.D.) 1/
Dale Milford, (Texas) 1/	Gene Taylor, (Mo.) 1/
Norman Mineta, (Calif.) 1/	Barry Goldwater, Jr., (Calif.) 1/
Elliott Levitas, (Ga.) 1/	Tom Hagedorn, (Minn.)
James Oberstar, (Minn.)	Gary Myers, (Pa.)
Jerome Ambro, (N.Y.) 1/	Arlan Stangeland, (Minn.)
Henry Nowak, (N.Y.)	Robert L. Livingston, (La.)
Robert Edgar, (Pa.) 1/	
Marilyn Lloyd, (Tenn.)	Suggested Address:
John Fary, (Ill.) 1/	Honorable _____, M.C.
Ted Risenhoover, (Okla.)	U.S. House of Representatives
W. G. Hefner, (N.C.) 1/	Washington, D.C. 20515
David Cornwell, (Ind.)	
Robert Young, (Mo.) 1/	Capitol Switchboard Telephone
David Bonior, (Mich.)	Number: (202) 224-3121
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Billy Lee Evans, (Ga.) 1/	
Ronnie Flippo, (Ala.) 1/	
Nick Joe Rahall, II, (W.Va.) 1/	
Bob Stump, (Ariz.) 1/	
Douglas Applegate, (Ohio)	

1/ Member, Subcommittee on Aviation (Anderson, Chairman).

western union **Telefax**

CALL LETTERS FCJ CAT 001388 CHARGE TO Florida Public Service Commission

March 7, 1978

Honorable Glenn M. Anderson
United States Representative
Washington, D. C. 20515

The Florida Public Service Commission urges you to support State position on air transportation regulatory reform legislation as stated by NARUC letter to you of March 1, 1978. It is imperative to preserve the States' abilities to respond to and support local air travellers needs.

David L. Swafford
Executive Director
FLORIDA PUBLIC SERVICE COMMISSION

SENDING BLANK

Send the above message, subject to terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER-DO NOT FOLD

WU 1269 (R9/69)

western union **Telefax**

CALL LETTERS FCJ CAT 001888 CHARGE TO Florida Public Service Commission

March 7, 1978

Honorable Don Fuqua
United States Representative
Washington, D. C. 20515

The Florida Public Service Commission urges you to support State position on air transportation regulatory reform legislation as stated by NARUC letter to you of March 1, 1978. It is imperative to preserve the States' abilities to respond to and support local air travellers needs.

David L. Swafford
Executive Director
FLORIDA PUBLIC SERVICE COMMISSION

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WU 1269 (R9/69)

western union **Telefax**

CALL LETTERS FCJ CAT 001888 CHARGE TO Florida Public Service Commission

March 7, 1978

Honorable Gene Snyder
United States Representative
Washington, D. C. 20515

The Florida Public Service Commission urges you to support State position on air transportation regulatory reform legislation as stated by NARUC letter to you of March 1, 1978. It is imperative to preserve the States' abilities to respond to and support local air travellers needs.

David L. Swafford
Executive Director
FLORIDA PUBLIC SERVICE COMMISSION

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PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER-DO NOT FOLD

WU 1269 (R9/69)

Composite Attachment 6

western union

Telefax

CALL LETTERS FCJ CAT 001888 CHARGE TO Florida Public Service Commission

Honorable Lawton M. Chiles
United States Senator
Washington, D. C. 20510

March 7, 1978

The Florida Public Service Commission urges you to support State position on air transportation regulatory reform legislation as stated by NARUC letter to you of March 1, 1978. It is imperative to preserve the States' abilities to respond to and support local air travellers needs.

David L. Swafford
Executive Director
FLORIDA PUBLIC SERVICE COMMISSION

SENDING BLANK

Send the above message, subject to terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER-DO NOT FOLD

WU 1269 (R9/69)

western union

Telefax

CALL LETTERS FCJ CAT 001888 CHARGE TO Florida Public Service Commission

Honorable Richard (Dick) Stone
United States Senator
Washington, D. C. 20510

March 7, 1978

The Florida Public Service Commission urges you to support State position on air transportation regulatory reform legislation as stated by NARUC letter to you of March 1, 1978. It is imperative to preserve the States' abilities to respond to and support local air travellers needs.

David L. Swafford
Executive Director
FLORIDA PUBLIC SERVICE COMMISSION

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Send the above message, subject to terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER-DO NOT FOLD

WU 1269 (R9/69)

National Association of Regulatory Utility Commissioners

1102 Interstate Commerce Commission Building
P.O. Box 684, Washington, D.C. 20044
Telephone 202-628-7325

March 1, 1978

Request for Action by
Tuesday, March 7, 1978

To Each State Commissioner
Engaged in Carrier Regulation

Re: H.R. 11145, a bill proposing the
Air Service Improvement Act of 1978

Dear Commissioner:

The Subcommittee on Aviation of the House Committee on Public Works and Transportation will begin the mark-up on the above bill at 10:00 a.m. on Wednesday, March 8, 1978, in Room 2167 of the Rayburn House Office Building. A copy of this bill is enclosed with the copy of this letter to the Chairman of your Commission.

The State interest is adversely affected by Section 4(a) of H.R. 11145 which would add a new Section 105(a) to the Federal Aviation Act to hereafter prohibit the State regulation of the intrastate operations of any CAB certificated or exempted air carrier, except any carrier which was State regulated on August 1, 1977, but only for as long as not "more than 25 per centum of its revenues for the preceding calendar year are derived from interstate air transportation." A copy of Section 4(a) is enclosed.

In the Senate, S. 2493, a bill proposing the Air Transportation Regulatory Reform Act of 1978, was favorably reported on February 6, 1978, by the Senate Committee on Commerce, Science, and Transportation (S. Rept. No. 95-631). It is anticipated that S. 2493 will receive Senate floor consideration upon the conclusion of the debate on the Panama Canal Treaty.

The comparable State provision in S. 2493 is Section 17, pages 77-79 (copy enclosed), which would add a new Section 423 to the Federal Aviation Act to:

> (a) Prohibit the State regulation of the intrastate operations of any CAB certificated or exempted air carrier, except any carrier which was State regulated on January 1, 1979, but only "for so long as not less than 50 percent of the revenues of such air carrier is derived...from such intrastate operations";

(b) Permit interlining of passengers and baggage between CAB certificated carriers and intrastate air carriers; and

(c) Declare that any aircraft operating between points in the same State shall not be deemed in interstate transportation if it crosses State or international boundaries (except flights between points in the State of Hawaii).

Obviously, the Senate provision is more favorable to State regulation than the House provision. Accordingly, the NARUC is urging the House Subcommittee on Aviation to revise Section 4(a) of H.R. 11145 by substituting the Senate provisions as amended to remove the State regulatory "freeze" date of January 1, 1979, to provide that interstate ground transportation shall not be connected to intrastate flights to turn them into interstate flights, and to provide that the carriage of mail on intrastate flights will not defeat State jurisdiction. Enclosed is a copy of the NARUC letter of today to the members of the Subcommittee on Aviation.*

It is quite likely that air transportation regulatory reform legislation will be enacted in some form by this Congress. Therefore, it is necessary that the States exert every effort to see that the State role over local air regulation is clarified and confirmed.

I recognize that many State commissions are not engaged in the regulation of air carriers. However, as local air transportation continues to grow, your State may subsequently develop an interest in entering this field of regulation. For this reason, it behooves all of us to see that the State role is not foreclosed.

Accordingly, it is very important for your Commission to promptly support the NARUC effort to amend the legislation to protect the State regulatory role. Therefore, I respectfully urge you and your colleagues to telephone or send telegrams by Tuesday, March 7, 1978, or as soon thereafter as practicable, supporting our position to each of your members on the Subcommittee. A draft of a proposed telegram is respectfully submitted as follows:

_____ Commission urges you to support State position on air transportation regulatory reform legislation as stated by NARUC letter to you of March 1, 1978. It is imperative that Congress not impair the ability of the States to protect the interest of local air travellers. Please let me know how you voted.

Enclosed is a copy of the membership list of the Subcommittee.

The Capitol switchboard telephone number is (202) 224-3121.

*The text of the NARUC testimony on air regulatory reform legislation in the Senate is reported in NARUC Bulletin No. 18-1977, pp. 19-26, 3-5. Similar testimony was presented in the House on October 5, 1977, by Commissioner Richard D. Gravelle of the California Public Utilities Commission. The earlier NARUC action request letters on this subject are dated June 28 and August 26, 1977.

Also, whether or not you have representation on the Subcommittee, please send similar telegrams supporting our position to the following Representatives:

Glenn M. Anderson, California, Chairman
Gene Snyder, Kentucky, Ranking Minority Member

Such telegrams are especially effective since they provide an important indication of national concern. In order to prevent the receipt of identical telegrams by these members of Congress from many States, please vary the text of your telegram to reflect local needs.

Please furnish me with a copy of your communication.

Your active support at this time is crucial to our success.

With warm personal regards and best wishes, I am

Sincerely yours,

Paul Rodgers
General Counsel

PR/mr
Enclosures

Section 4 of H.R. 11145, a Bill Proposing the Air Service Improvement Act of 1978

Page 4

FEDERAL PREEMPTION

SEC. 4. (a) Title I of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new section:

"FEDERAL PREEMPTION

"PREEMPTION

"SEC. 105. (a) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation,

Page 5

standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier—

"(1) holding a valid certificate issued by the Board under section 401 of this Act;

"(2) granted an exemption to provide interstate air transportation or overseas air transportation under section 416 (b) (3) of this Act; or

"(3) holding a valid certificate issued by the Board under section 418 of this Act.

Any air carrier which on August 1, 1977, was operating primarily in intrastate air transportation and which after such date and before the date of enactment of this section was issued, or which on or after the date of enactment of this section is issued, a certificate under section 401, granted an

exemption under section 416(b)(3), or issued a certificate under section 418, shall, notwithstanding this section, continue to be subject to regulation as to its intrastate rates, routes, and services by the State in which it is operating until more than 25 per centum of its revenues for the preceding calendar year are derived from interstate air transportation.

"PROPRIETARY POWERS AND RIGHTS

"(b) Nothing in subsection (a) of this section shall be construed to limit the authority of any State as the owner or

operator of an airport served by any air carrier certificated by the Board to exercise its proprietary powers and rights.

"DEFINITION

"(c) For purposes of this section, the term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and any territory or possession of the United States.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE I—GENERAL PROVISIONS

is amended by adding at the end thereof

"Sec. 105. Federal preemption.
"(a) Preemption.
"(b) Proprietary powers and rights.
"(c) Definition.".

Section 17 of S. 2495, a Bill Proposing
the Air Transportation Regulatory Reform Act of 1978

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FEDERAL PREEMPTION

SEC. 17. Title IV of the Federal Aviation Act of 1958, as amended by this Act, is further amended by adding at the end thereof the following new section:

"Federal Preemption

"SEC. 423. (a) (1) No State shall enact any law, establish any standard determining routes, schedules, or rates, fares, or charges in tariffs of, or otherwise promulgate economic regulations for, any air carrier certificated or exempted by the Board under the provisions of this title, except that any State which, on or before January 1, 1979, had authorized an air carrier to provide intrastate air transportation in that State, may continue to regulate such intrastate operations of such air carrier notwithstanding the fact that such air carrier, after January 1, 1979, is issued, for the first time, a certificate under this title, for so long as not less than 50 percent of the revenues of such air carrier is derived, during the most recent period for which data is available, from such intrastate operations. For the next year following such a period during which such an air carrier derived more than 50 percent of its revenues from interstate operations, and for each year thereafter, the entire air transportation operations of such air carrier shall be subject to regulation by the Board

under this title. The Board shall provide regulations for allocating revenues of air carriers specified in the first sentence of this paragraph between intrastate and interstate air transportation operations.

"(2) When any air carrier which is specified in the first sentence of paragraph (1) becomes totally regulated by the Board, any authority received from the State to provide air transportation shall be considered to be part of its authority to provide air transportation received from the Board under this title, until modified, suspended, revoked, amended, or terminated as provided under this title.

"(3) Except with respect to air transportation authorized by the Board under a certificate issued under section 401 or, air transportation for which compensation may be paid under section 419, the provisions of paragraph (1) shall not apply to the air transportation of persons, property, or mail conducted wholly within the State of Alaska.

"(4) Any air carrier certificated by the Board under this title, and who enters into an agreement with an intrastate air carrier for the through handling of baggage or passengers, shall not, by reason of that agreement, be subject to regulation by any State. Neither shall such intrastate air carrier become subject to regulation by the Board by reason of entering into such an agreement. Nothing in this paragraph shall be construed, however, as affecting in any

manner the Board's authority, otherwise conferred, over air transportation transactions covered by an agreement between air carriers, including agreements between interstate and intrastate air carriers for the through handling of baggage or passengers.

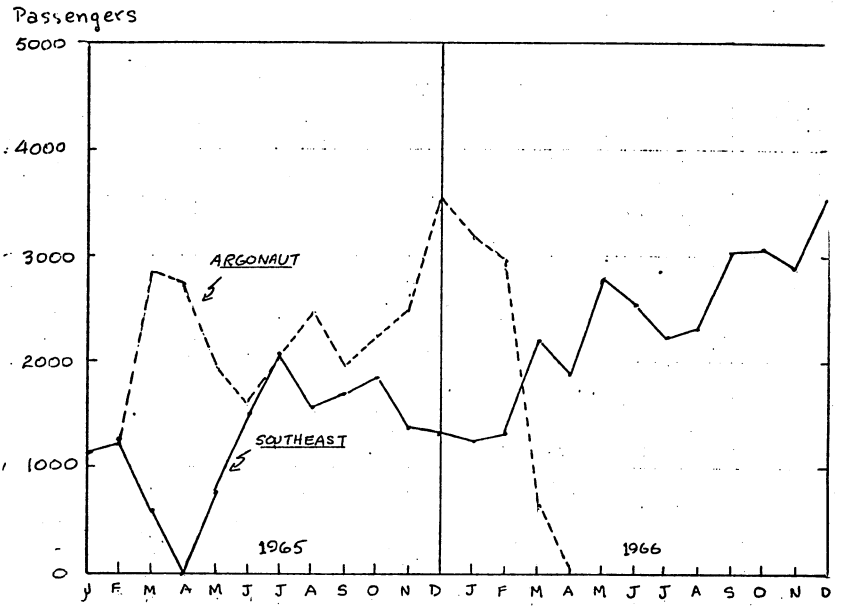
"(5) Any aircraft being used in flights (except flights between points in the State of Hawaii) in air transportation between points in the same State which, in the course of such flights, crosses a boundary between two States, or between the United States and any other country, or between a State and the beginning of the territorial waters of the United States shall not, by reason of crossing such boundary, be considered to be operating in interstate or overseas air transportation.

"Definition

"(b) For the purposes of this section, the term 'State' includes the several States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories and possessions of the United States, any political subdivision of any State, and any agency or entity of two or more States.".

CHART NO. 12

SOUTHEAST AND ARGONAUT
MIAMI - MARATHON / KEY WEST TRAFFIC, 1965 AND 1966

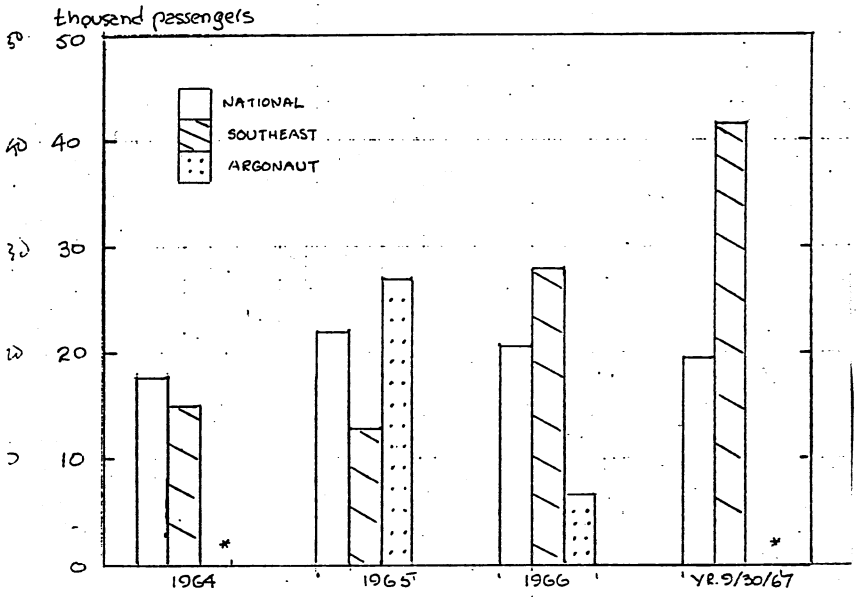


Source: Table No.

Composite Attachment 7

CHART NO. 13

MIAMI - KEY WEST TRAFFIC, BY CARRIER, 1964 - 1967

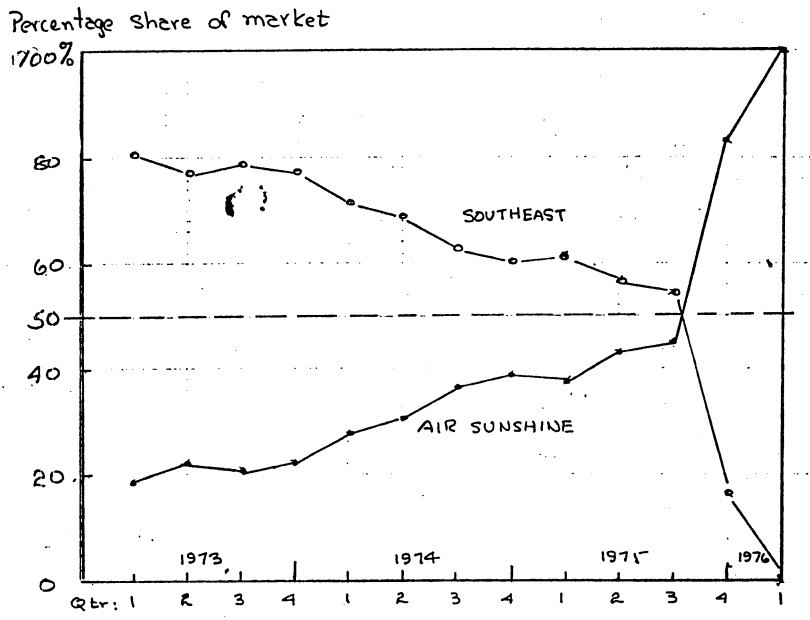


* no traffic recorded for Argonaut

Source: Exhibit SL-138, Docket 18610

CHART NO. 14

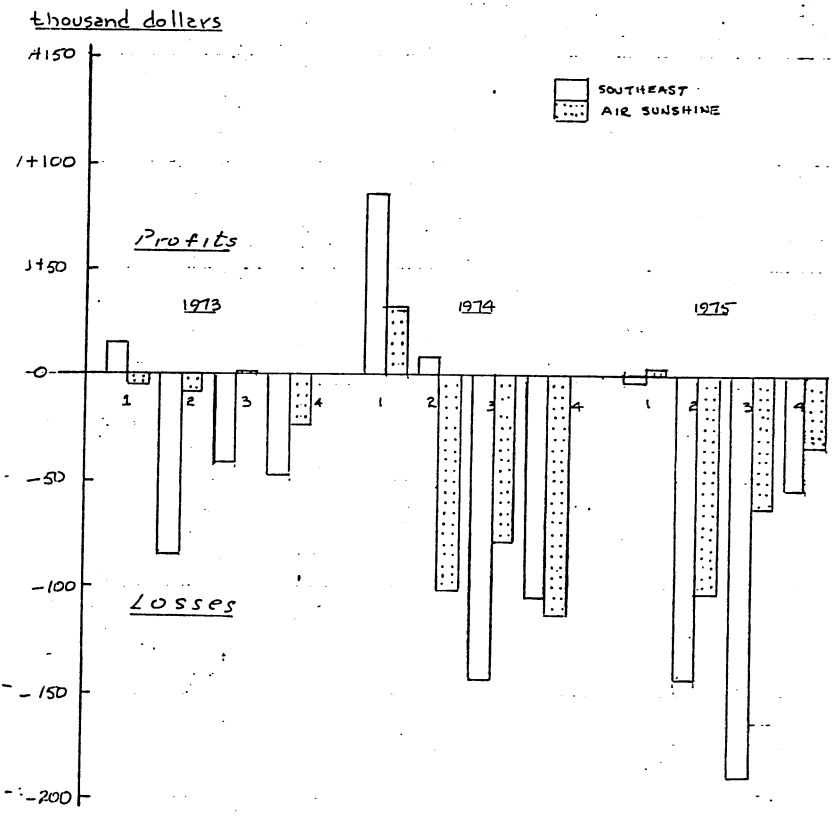
SOUTHEAST AND AIR SUNSHINE PERCENTAGE SHARES OF MIAMI - KEY WEST / MARATHON TRAFFIC, BY QUARTER, 1973- 1975



Source: Exhibit No.

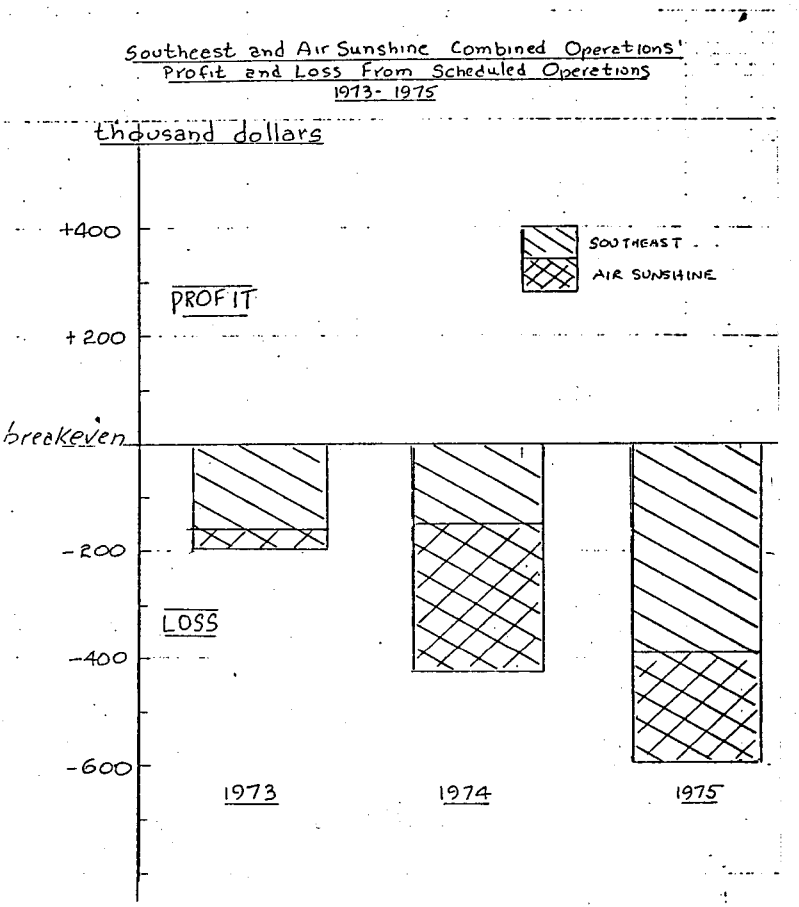
CHART NO. 10

SOUTHEAST AND AIR SUNSHINE PROFITS AND LOSSES
FROM SCHEDULED OPERATIONS, BY QUARTER, 1973-1975



Source: Exhibit No. 14

CHART NO. 11



Source: Exhibit No. 14

Mr. ANDERSON. Our next witness is Mr. Larry Marthaler.

Mr. Marthaler is the director of sales of Florida Airlines, and he is accompanied by Mr. Jim McMaster, the southern regional manager.

TESTIMONY OF LARRY MARTHALER, DIRECTOR OF SALES, FLORIDA AIRLINES; ACCOMPANIED BY JIM McMASTER, SOUTHERN REGIONAL MANAGER, FLORIDA AIRLINES

Mr. MARTHALER. Mr. Chairman, members of the subcommittee, ladies and gentlemen:

Thank you for the opportunity to come before you today.

I am here on behalf of Florida Airlines, a commuter airline, which serves the citizens of Florida and those persons who travel to Florida each year to take advantage of our usual good weather.

Florida Airlines has provided reliable air service since 1962, and it hopes to continue far into the future.

House bill 6010, however, poses a serious threat to those hopes.

When we operated our first flight on April 29, 1962, very few commuter airlines existed anywhere in the country.

There were no so-called intrastate airlines in Florida.

The concept of the commuter airline—as an integral part of the national transportation system—has become accepted during these intervening years.

Our role, as a commuter airline, is to provide efficient and convenient air transportation from small communities to hub cities, where connections are available to points throughout the United States and the world.

In order to fulfill this role, we have worked closely with the certificated airlines in such areas as schedules, joint fares, advertising, and—from the computer standpoint—expensive computerized reservations systems.

The key ingredient to making this program a success has been our ability to provide the public with the convenience of complete travel planning, interline ticketing from point of origin to destination, and, similarly, the through interlining of baggage.

This program has succeeded, and it is common today for a person to call a commuter airline for complete travel plans, to purchase a ticket, and to check their luggage through to final destination anywhere in the world—all in one transaction.

Commuter airlines were allowed to offer this type of full service by registering with the Civil Aeronautics Board in Washington, D.C., under part 298 of the Board's economic regulations, and by accepting the limitations contained therein.

Specifically, this meant a prohibition on the operation of large aircraft in scheduled service.

In realistic terms, this equated to small, usually non-air-conditioned and nonpressurized equipment.

In an age of all jet fleets in the certificated airlines industry, the limitation on the size of the aircraft that commuter airlines could operate served to preclude the imposition of a commuter airline on top of a certificated carrier.

The logic of this was obvious.

The place of the commuter airline in the overall transportation system was assured, without threatening the place of the certificated carrier in the same system.

The public convenience and necessity is well served.

In the development of this type of national transportation system, commuter airlines have made tremendous investments in equipment, hired many employees and have served millions of passengers—all without the benefit of either State or Federal financial aid.

Commuter airlines are the only portion of the national air transportation system which has been developed solely from private capital.

Totally unrelated to the foregoing is the intrastate airline.

I say "the intrastate airline," because there is only one—Air Florida.

Inasmuch as it has already been demonstrated, I will not go into any further details as to the confusion that the name causes.

Air Florida came into existence during 1972, with the publicly stated purpose of serving those persons requiring air travel between two large metropolitan areas within the State of Florida, mainly Miami and St. Petersburg.

Over the past few years, they have expanded to various other metropolitan areas, and they seem to be providing a needed service.

At no time, however, was there any public indication that they wished to be part of a nationwide transportation system.

Because they had as their objective service only within the State, they did not deem it necessary to become a computer airline with the inherent privileges of interlining.

Also, because they were not engaging in interstate commerce, the Civil Aeronautics Board claimed no jurisdiction over their routes, rates or the size of the aircraft that they operated.

This enabled them to compete on the intrastate routes with the certificated air carriers.

For whatever reason, someone decided that Air Florida might like to try to become a part of the national air transportation system.

Perhaps Air Florida made a mistake when they originally elected to become an intrastate airline instead of a commuter airline.

Perhaps they were unsuccessful in trying to serve only the local passengers.

Only they know the answers to these questions.

The rules of the game did not allow them to become a part of the national air transportation system unless they registered with the CAB under part 298, gave up their rights to operate large aircraft and became a commuter airline.

They evidently did not wish to do these things.

Changing the rules would be more advantageous to their self-interest.

Enter H.R. 6010.

Because of H.R. 6010, Air Florida now has the best of both worlds.

They are free to operate any type of aircraft that they desire, and they are free to cater to that portion of the air travel market that is traveling to points outside of the State of Florida.

We, at Florida Airlines, feel that this situation is unjust to those of us who made our plans and invested our money in commuter airlines based upon the rules of the game as they were originally written.

More important than this, however, is the threat that this type of loophole creates to the national air transportation system.

We do not wish to indicate that we have all of the answers to the current debate on deregulation of the air transportation system, but we do feel, however, that the type of piecemeal deregulation that is contained in H.R. 6010 may result in the destruction of a coordinated system within the area with which we are most familiar.

It has been suggested by some that we—Florida Airlines—react to the passage of H.R. 6010 by withdrawing our registration with the CAB, under part 298, and becoming an intrastate carrier.

Unfortunately, this is not possible, since we do have operations outside of the State of Florida, in addition to our intrastate routes.

Another commuter airline—which operates within the State of Florida—had a similar situation, and it could not avail itself of such a remedy.

We believe that the enactment of the interlining provisions of H.R. 6010 will enable Air Florida to become predatory on established commuter airlines within Florida.

While the Florida Public Service Commission—which regulates intrastate operations in the State of Florida—has acted judiciously to date, to avoid this eventuality, future decisions by the commission could be affected by circumstances made possible by H.R. 6010.

Consider, if you will, a specific case.

Florida Airlines serves the Fort Myers-Tampa market with four flights a day in each direction during peak winter months.

Our customers are visitors to Florida from northern cities and Canada.

We are able to offer our customers the same convenience as National and Eastern for we have interline ticketing and baggage agreements and joint fares with most certificated carriers serving Tampa.

To date, Air Florida has not made a serious effort to enter this market because of their inability to interline.

Under the provisions of H.R. 6010, this is no longer true.

If Air Florida were to apply for this route, offering DC–9 equipment, the commission would experience considerable pressure from certain parties in the Fort Myers area to approve jet service.

Reaction to such pressure would cause the demise of Florida Airlines.

In conclusion, we cannot emphasize enough the adverse effects that H.R. 6010 will have on the commuter carriers within the State of Florida, particularly Florida Airlines.

The provisions of H.R. 6010, relative to interlining, should be rescinded, and Air Florida should be left to serve the needs of the major cities within the State, while the commuter airlines serve Florida and the Nation.

Thank you very much.

Mr. ANDERSON. Thank you, Mr. Marthaler.

I have just a little clarification.

A moment ago, we were told that none of the Florida airlines on this map have connections outside of the State of Florida.

Apparently you do.

You did say: "We have operations outside of the State of Florida," did you not?

Mr. MARTHALER. Yes, sir; we have a sister company that is called Air South.

It is operated by Florida Airlines.

Air South presently flies from Atlanta to—I think someone is there this weekend—Saint Simons Island.

We will also be commencing service from Atlanta to Hilton Head, S.C., under the name of Air South.

Mr. ANDERSON. None of your airplanes—Florida Airlines' airplanes—cross the State line?

Mr. MARTHALER. Not at the present time.

Up until about a year ago, we did offer service from Sarasota and Tampa to Jacksonville and Saint Simons Island.

This was more or less of a necessity to interchange aircraft from our main maintenance base in Sarastota to the route up in Georgia.

Mr. ANDERSON. When you say another commuter airline in Florida has had a similar situation, is that one that has an association with a subsidiary airline, or something like yours, or do they actually cross the State line?

Mr. MARTHALER. No; this is the Naples-Provincetown Airlines, which operates in Massachusetts and Florida.

Mr. ANDERSON. Do you think it likely that Air Florida will try to enter markets served by Florida Airlines?

Mr. MARTHALER. I think there are certain markets that we serve that Air Florida would be interested in; yes.

Mr. ANDERSON. If they do file with the public service commission an application to enter your markets, do you think that the public service commission will take account of your concerns—the economic effects and so forth on your company—before they approve the application?

Mr. MARTHALER. I think they would give very serious consideration to our situation; however, going by past experience and some other issues that have gone before the commission—local community pressure can get extremely heavy on the commission, particularly when you are considering a DC–9 versus a DC–3, and a non-air-conditioned and nonpressurized aircraft—unfortunately, down here in the summer, they get a little bit warm.

Mr. ANDERSON. Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. Thank you, Mr. Chairman.

Mr. Marthaler, you know that one of the projected end results of the House deregulation bill that we now have before us—that we are marking up—would be to create a relatively large third-level carrier system, with the assumption being that the currently operating commuter lines would make the most significant contribution to that concept.

I realize, from what was said here earlier—and which we already know—that the State of Florida is somewhat unique because of its boundaries and lack of connections with interstate lines.

It appears—from what I have heard from the commuters here—that this might not occur at all, and, in fact, that we might be doing great damage to commuter airlines with the deregulation bill.

Not only while it is the subject of these hearings, but while we have the commuter operators here, I think this is a pertinent question, because H.R. 6010 went somewhat in that direction.

Would you comment on my original question about the deregulation bill?

Mr. MARTHALER. Congressman, if I may, I would like to ask my associate, Mr. McMaster, to come up and comment on some of these things.

My affiliation in the commuter field has been relatively limited.

Mr. McMaster has considerably more experience than I do.

Mr. ANDERSON. For the record, Mr. Jim McMaster is the southern regional manager of Florida Airlines.

Mr. MARTHALER. Yes.

Mr. MCMASTER. The situation on deregulation that you brought up just now—we are kind of caught in the middle of the situation here.

The problem that brings the whole thing into focus—why we are here today, really—you had a situation in Florida where you had a commuter airline system.

You had several commuter airlines operating, and the State came up with regulation, which was needed, back in 1972.

Everybody was putting everybody else out of business.

This enabled a company named Air Florida to come into existence, operating like a PSA.

Our problem is—with 6010, specifically, and, also, it carries forward to what you are talking about there—that Air Florida is really getting in the back door, and we are not against it just because they are getting something that we are not.

They are getting something that we have.

We made sacrifices, and we made a decision back in 1972 that we did not want to operate big airplanes.

We did not want to carry people from Tampa to Miami.

We wanted to carry people from Fort Myers to New York by working with other airlines.

We were tied up, and we could not fly any airplanes.

At that time, we could not fly any airplanes that weighed over 12,500 pounds, as a matter of fact, which typically meant that we could carry about 10 or 15 passengers.

Now, Air Florida gets into business, alleging that they are going to carry people between Tampa and Miami, and between Orlando and Tallahassee, and so forth and so on, and they carve out a niche in the market, and they do—to hear them talk—a credible job.

They say they make money, so they must be doing the right thing, but then they want to come in and take what is our market—what we are allowed to do—away from us.

They do not want to go through the expensive certification before the CAB, as it is called for under the current Aviation Act.

They do not want to spend the money to become a carrier under part 401.

They do not want to make the sacrifice of flying small airplanes.

They want to fly bigger planes, and they want to be a big airline, and they want to make connections, and they want to have nobody regulating them, whatsoever, except maybe the State, which you are now telling me will be wiped out, or, from what I have heard today, it will be wiped out, potentially.

Mr. HAMMERSCHMIDT. I thank you for your response.

Mr. ANDERSON. Before you sit down, Mr. McMaster, we have a problem, too, in that the commuter association—whatever it is, and it is kind of fragmented, but it is pretty vocal—has endorsed our bill, and many things in our bill were presented to us by the commuter association, including the 56 seats, the possible subsidy in place of some of the local joint fares and loan guarantees.

These were all put in at the request of your association.

Could you enlarge a little bit upon that?

Mr. MCMASTER. If all you had was the bill that you are talking about there, we would certainly be 100 percent behind it.

It is just like Air Sunshine said today.

Those are things that we support.

We agree with those, but you crank into that the effects of 6010, and it really has a deleterious effect upon us, ultimately.

Now, we are potentially—the things that we have to give up in order to get that bill—we have to give up State regulation.

In order to get that bill, we lose State regulation.

Mr. ANDERSON. Which bill is this?

Mr. MCMASTER. You are talking about the Federal loan guarantees, and everything else, and I believe that is the same bill, or it is in the same discussion of this that precludes State regulation, if you have interstate travel.

Am I not correct that it is basically the same bill?

Mr. ANDERSON. The regulatory reform bill; yes.

Mr. MCMASTER. We lose that State route protection, which we do not mind if we are competing with other airlines on the same basis.

In other words, they are restricted to 56 seats, but we do not have that.

We have Air Florida, who can interline and who can fly on our routes, but they can fly a 150 or 200 seats, if they want to, because of 6010.

The tie-in is what we are afraid of.

Mr. HAMMERSCHMIDT. Let me ask you this: Do you agree with the previous witness?

Do you have the same apprehensions that he does: That if the Federal Government preempted the State of California's regulations, would this——

Mr. MCMASTER. The State of Florida's regulations.

Mr. HAMMERSCHMIDT. Yes; if it eliminated them.

Mr. MCMASTER. It is awfully hard to say on something like that. Yes; I would say that it would create a problem under the present circumstances, with 6010 in effect.

Mr. ANDERSON. Should the States, such as the State of Florida, be allowed to regulate service which operates mainly to carry passengers at the beginning or end of an interstate trip? Is the regulation of this service not a matter of legitimate Federal concern?

Mr. MCMASTER. Well, we at Florida Airlines have always considered that it was.

It is our contention that we are an interstate air carrier.

We have always felt that we were, and even to the point that it has always been our opinion that, if we wanted to excluded carrying intrastate passengers, we really would not even need the public service commission's permission.

28-911 O - 78 - 8

We have never decided to challenge that, because we liked carrying the local passengers, also.

Mr. ANDERSON. Why are you opposed to the preemption?

Mr. MCMASTER. Because you have now let them—well, I am not expressing myself very well, but you have let Air Florida out without regulation.

The CAB is not going to regulate Air Florida.

The public service commission is not going to regulate Air Florida.

Air Florida has no restrictions on them.

We have restrictions on us: 56 seats.

That is our restriction.

We have restrictions, but they do not.

They can fly where we can fly.

We can fly where they can fly, but they can use a bigger airplane.

Mr. ANDERSON. Air Florida would have the same restrictions that you would have.

Mr. MCMASTER. Do you mean the 56 seats?

Mr. ANDERSON. Under the preemption—the one that we are talking about, as it is written now—apparently any airline that crosses a line, and even this further interpretation that any airline that carries any passenger who is going to eventually be an interstate passenger——

Mr. HEYMSFELD. That is inadvertent.

Mr. ANDERSON. You think that is inadvertent?

Mr. HEYMSFELD. Yes.

Mr. ANDERSON. All right.

If they get a CAB certificate and go outside of the State, they are going to be interstate.

Mr. MCMASTER. Are you telling me that Air Florida will not be able to fly DC–9's?

Is that correct?

If that is correct, we have no objection.

If they are going to be limited to 56 seats——

Mr. ANDERSON. They would have to get a CAB certificate to use DC–9's.

Is that not right?

Mr. HEYMSFELD. I think the intent of the preemption provision that is now pending is that, if Air Florida continues doing what it is doing today, there is no preemption.

If Air Florida gets its certificate for an out-of-State route from the CAB, then there is preemption, and, once they get that certificate for the out-of-State route, all of their State routes get added to their CAB certificate, and then they will be regulated by the CAB.

Mr. MCMASTER. If they carry interline passengers—interstate passengers, but on an intrastate route, only—are they not still preempted by State—

Mr. HEYMSFELD. No; I do not think that was the intent of the provision that is now pending.

Mr. FASCELL. Excuse me, but may I inquire at this point?

Mr. ANDERSON. Mr. Fascell.

Mr. FASCELL. Do I understand you to say that what the proposed legislation intends is that the 298 exemption will still apply?

Mr. HEYMSFELD. The treatment of the commuters is different.

For a commuter, there is immediate preemption, if they are carrying interstate traffic.

They are already operating under the CAB commuter exemption.

Mr. FASCELL. A 298 exemption that generates $1 of revenue from an interstate passenger would not be an exempt carrier.

He would be deregulated.

Mr. HEYMSFELD. They are deregulated under part 298.

Part 298 would govern all of their services.

There would be preemption of further State regulation.

Under 298, the CAB treats commuters as basically unregulated carriers.

They may charge what rates they want.

The preemption section says that the commuters who are taking advantage of that, and carrying interstate passengers—the States could not adopt an inconsistent regulatory scheme, but, for an airline operating large aircraft, such as Air Florida, which does not qualify under the CAB commuter exemption, there would be no preemption until they got a CAB certificate for an out-of-State routing.

Mr. FASCELL. What would be the regulatory requirement, if any, with respect to operations intrastate?

That is the point that I want to get to.

What would be the regulatory requirement of that same airline?

Mr. HEYMSFELD. Once there was preemption in their State routes, under the preemption section, that would be put into the CAB certificate, and they would be federally regulated by the CAB.

Mr. FASCELL. You would have federally regulated airlines against the 298's, which are unregulated.

Is that not correct?

Mr. HEYMSFELD. By Federal policy.

Mr. FASCELL. By Federal policy?

Mr. HEYMSFELD. Yes.

Mr. FASCELL. Under the law, the 298's would come in under regulation because they generated a dollar of interstate traffic, and, therefore, you know, you have open entry.

That is the whole point.

You would have open entry for all airlines, whether they are 298 exempt or not.

Mr. HEYMSFELD. Well, I think that the——

Mr. FASCELL. The limitations on the 298's would still exist.

That is the way I understand it, but I'm not sure I am right.

Mr. HEYMSFELD. I would like to take one more crack at it.

If Air Florida got a Federal certificate, and it were preempted, I think the situation would be that Air Florida would be regulated as a large aircraft operator.

That is how it would be regulated by the CAB for all of its routes, and how much regulation or deregulation there were would depend upon the rest of the regulatory reform bill.

Mr. FASCELL. Let us assume for the moment that there is no deregulation providing automatic entry.

In this case, we will just use Air Florida because it happens to be handy.

Let us say that they are certificated; all right?

Mr. HEYMSFELD. Yes, sir.

Mr. FASCELL. You have now the situation of an unregulated carrier that is exempted under 298, and then you have the case of a regulated carrier who is going to the CAB, and that regulated carrier wants to expand its intrastate routes.

The exempt carrier is then forced to go to the CAB to compete.

Mr. HEYMSFELD. I think that the exempt carrier would have authority under part 298 to operate in the markets where he wants to.

Mr. FASCELL. Except that he is operating with smaller aircraft, because of the limitations, and, whether that is an advantage or a disadvantage would be anybody's guess.

I have seen people with the bigger airplanes who have had to get out of the market because they could not serve the market.

The only point that I am making is: You are saying that they are both federally regulated carriers, and, therefore, their fight has to be at the CAB level.

That is the only point that I am making. I am not saying that it is good or that it is bad. I am just saying that this is where it would go.

Mr. ANDERSON. That is under the present law, as it exists right now. Is that not correct?

Mr. HEYMSFELD. For interstate carriers. The commuters have free entry, and the certificated carriers do not. On the other hand, the commuters are limited to the smaller aircraft.

Mr. ANDERSON. Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. I have no more questions.

Mr. ANDERSON. Mr. Fascell.

Mr. FASCELL. Thank you, Mr. Chairman. I have nothing further.

Mr. ANDERSON. Our final witness is Mr. John C. Van Arsdale, president of Naples Airlines.

TESTIMONY OF JOHN C. VAN ARSDALE, PRESIDENT, NAPLES AIRLINES

Mr. VAN ARSDALE. I would like to read my statement, sir, because I have covered some points that have been raised as questions here today.

First, I would like to thank you for holding this hearing, as you promised on the floors of Congress to Representative Sikes and to the Congressman from my home area, which is Massachusetts, Gerry Studds. I certainly appreciate the consideration that you are giving to this matter.

I am John C. Van Arsdale, president of Provincetown-Boston, Airline, Inc.

It is a Massachusetts corporation that is doing business as Provincetown-Boston Airline, Inc., in Massachusetts, and as Naples Airlines in Florida.

I personally started the business on November 30, 1949, in Massachusetts, and PBA is the oldest commuter airline in the United States.

On January 1, 1960, we started Naples Airlines in Naples, Fla., as an operating division, to compliment the highly seasonal operations in Massachusetts.

We hold Florida Public Service Commission Certificate of Public Convenience and Necessity No. 1, granting us scheduled aircraft au-

thority, with aircraft of 49 seats or less, between Naples and Miami, Naples and Tampa, Naples and Punta Gorda-Port Charlotte, and Punta Gorda-Port Charlotte and Tampa, and, finally, Punta Gorda-Port Charlotte and Miami.

We carried 170,000 passengers in Florida in 1970, of which over 90 percent were interline connections with the large certificated carriers at Tampa or Miami.

We have joint fare agreements with Braniff, Continental, Delta, Eastern, National, Northwest, TWA, United, and Western.

The original Civil Aeronautics Act of 1938—later amended by the Federal Aviation Act of 1958 and subsequent changes—among other things, defines interstate commerce as the transportation of passengers originating in one State and terminating in another.

It further establishes the Civil Aeronautics Board as the economic regulatory agent for the enforcement of the act.

In 1951, while licensed by the Massachusetts Aeronautics Commission to fly between Provincetown and Boston, PBA—my company—was issued a cease and desist order by the Civil Aeronautics Board for engaging in interstate commerce, in violation of the act.

I was forced to apply for—and later obtained—a CAB exemption order to operate this service.

In Florida, we were first issued a CAB order granting an exemption to operate 32-passenger DC–3 aircraft in 1968, for a period of 2 years.

We have regularly—and at a great legal expense—applied for renewal orders, requiring proof of economic need and public benefit of the requested exemption.

Later, this exemption was increased to 50 seats, to permit Martin 404 operation, and this authority is currently in effect under CAB jurisdiction.

We are restricted to propeller-driven aircraft of 50 seats or less.

Outside of Federal jurisdiction, and under States rights authority, it has always been possible for any air carrier to commence operations wholly within a State, as an intrastate commercial operator. The carrier is issued only an aircraft operating certificate by the Federal Aviation Administration.

Some States establish economic regulation of intrastate carriers; some do not. These intrastate carriers are not recognized by the Civil Aeronautics Board, as they could not engage in federally legislated interstate commerce. I guess we have the same type of situation in the trucking industry.

In 1972, after a chaotic period of economic failures by Florida carriers, the Florida legislature passed a law regulating carriers within the State of Florida and assigned supervision to the Florida Public Service Commission.

This body has certificated Air Florida among others; however, Air Florida—a relatively newcomer to the Florida scene, and with a very poor economic track record—is the only carrier operating under the Florida Public Service Commission's economic control, while, at the same time, it is not recognized or regulated by the Civil Aeronautics Board.

Air Florida operates pure jet DC–9 aircraft—an operational authority that has consistently been denied by CAB exemption orders.

When Congress passed House Bill 6010 last fall, after inserting the words: "And the State of Florida," it effectively bypassed for one carrier alone—Air Florida—long established CAB regulatory policies and procedures.

Air Florida ceased being an intrastate carrier, as respects interline privileges, and through congressional action, acquired a backdoor CAB exemption to operate DC–9 aircraft in interstate commerce.

The track record of Congress, in writing specific technical regulations, such as the inserting of emergency locator transmitters into the Federal aviation regulations, following the loss of a fellow Congressman in Alaska, has been less than successful.

We feel that the same is true in the interline provisions of House Bill 6010.

In a few words, Congress writes a whole new set of rules for an established industry.

It would be like Congress passing a law that baseball rules will, henceforth, require four strikes before you are out.

Long established commuter air carriers within the State of Florida—who have pioneered and developed routes, such as Naples Airlines—are sitting ducks for predatory and destructive competition from a large, pure jet air carrier.

Before the interline provisions of House bill 6010, these commuters had some feeling of security, as they well recognized that Florida is primarily an interline market.

Our only salvation now lies with the regulatory wisdom of the Florida Public Service Commission, but this body is more susceptible to the whims and pressures of local State politics.

The future is even more clouded by the current introduction in the Florida legislature of Senate Bill 187, by Senator Tom Gallant of Sarasota, to abolish the State law regulating carriers within the State of Florida.

If this bill is passed, we question the effectiveness of House Bill 6010, which refers to authority within the State of Florida, granted by the Florida Public Service Commission of such State.

Naples Airlines believes that House Bill 6010 is special-interest legislation, solely for Air Florida, and that it is extremely unfair, as it authorizes the big guy to come in on top of the little guy who has pioneered and developed commuter airline service.

The end result may well be no service at all, and small airline history in the State of Florida clearly bears this out.

The Florida interline provisions should be repealed from House Bill 6010.

Thank you.

Mr. ANDERSON. Thank you very much, Mr. Van Arsdale.

What has your experience been in arranging joint fares with CAB-certificated airlines?

Mr. VAN ARSDALE. We have found them to be very willing to do so in competitive situations, and this has been our case in Naples and also in Punta Gorda.

Mr. ANDERSON. Do you think it likely that Air Florida will try to enter the Florida markets which Naples serves?

Mr. VAN ARSDALE. I do not know the internal workings of Air Florida.

I certainly think it is a possibility, and I think that the forum for this would be the Florida Public Service Commission.

The thing that I feel is unfair about this is: If they enter this market, they are basically becoming an interstate carrier with authority that would normally be granted by a Federal regulatory board, but, instead, Congress is passing this authority back to the Florida Public Service Commission, and that—to answer your question, I do not know whether they would come into our market or not.

I certainly think that it would merely be a question of an application to the Florida Public Service Commission and a question of whether they granted it or not.

I do not want to go back to these chaotic days of the middle 1960's, which Congressman Fascell has so clearly indicated were very poor and not in the public interest.

Destructive competition in airline history in Florida has not proven to be in the long-range best public interest.

Mr. ANDERSON. Do you favor the CAB system of free entry and no regulation of commuters, or do you favor the Florida system of restricted entry and route protection of Florida commuters?

Mr. VAN ARSDALE. I prefer the Florida system.

I think—I just feel that you can encourage destructive competition, as we have seen it.

We saw the case of Executive Airlines and Shawnee in the State of Florida, where they rode all over each other, and then Executive disappeared in the middle of the night and Shawnee went down the tube a little while later.

You have to—you do not allow two telephone companies, and you do not allow two electric light companies.

You try to—they should be more regulated in the form of utility, and not in the form of a wide open—an airplane is something that you cannot run a half of.

When you start getting destructive competition, you wind up with no service at all.

I have some serious concern over this.

Mr. ANDERSON. Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. I do not believe that I have any questions, Mr. Chairman.

I do know, Mr. Van Arsdale, that Garry Studds has given us your position quite clearly on the House floor, and, in fact, has inserted a letter from you to him into the record, so we knew, before we got here, what your position was.

I appreciate your testimony.

Mr. VAN ARSDALE. I appreciate your taking the time to listen to it.

Mr. HAMMERSCHMIDT. Thank you.

Mr. ANDERSON. Mr. Fascell.

Mr. FASCELL. I have no questions, Mr. Chairman.

Mr. ANDERSON. Mr. Van Arsdale, thank you very much for a very fine presentation.

Mr. VAN ARSDALE. Thank you, sir.

Mr. ANDERSON. I still have the statement that was given to us earlier by Mr. Doyle E. Hardin, general manager of Marco Island Airways.

He has not come in.

If there is no objection, his statement will be made a matter of the record.

[No response.]

Mr. ANDERSON. There being no objection, it is so ordered.

[Statement referred to follows:]

STATEMENT OF DOYLE E. HARDIN, GENERAL MANAGER, MARCO ISLAND AIRWAYS, INC.

EFFECTS OF INTERLINING BETWEEN COMMUTER AND MAJOR AIR CARRIERS

Passenger convenience

Marco Island Airways, Inc. derives approximately 75 percent of its total passenger volume from interline exchange with the major air carriers.

Without interline agreements which permit through ticketing and baggage, passengers would be required to check themselves through only to the connecting points we serve and would then be required to purchase continuing tickets and re-check their luggage. Needless to say, the inconvenience to the passenger would be very great and would cause the commuter industry many problems with not only their operations but place a tremendous obstacle before their marketing efforts.

Passenger revenues

Marco Island Airways, Inc. has joint fare agreements with 10 major airlines in the United States. These joint fares allows passengers traveling between 73 U.S. cities and Marco Island to enjoy a sizeable fare reduction compared to point to point fares between their origin or destination and Marco Island, Florida.

Marco Island Airways, Inc. derives about 60 percent of its passenger revenues from its overall passenger yield from these joint fares. The offering of these joint fares is without doubt, the best marketing feature we have to maintain our present market and continue a reasonable rate of increase.

Interline exchange of passengers between commuters and major carriers is not only absolutely necessary but economically vital to preserve the National Air Transportation System.

Mr. ANDERSON. Is there anyone else who wishes to be heard before we close this meeting?

Is there anyone who would like to say something?

Mr. FASCELL. Mr. Chairman, let me just express my appreciation to you, the members of the subcommittee, and the staff for taking the time to listen to the people here in Florida.

This is a matter that is obviously of great concern to all of them.

We wish you well in your deliberations, and we urge your very prayerful consideration of this important matter.

Mr. HAMMERSCHMIDT. Mr. Chairman, I do not think that I said it earlier, or, if I did, I did not elaborate upon it, but I want all of these gentlemen to know what a great job Dante Fascell does in Washington.

As you all know, he is very highly respected, and we listen to him.

I am delighted to have been here.

Mr. BERVALDI. Mr. Chairman, may I say something now?

Mr. ANDERSON. Yes, sir.

Mr. BERVALDI. I would like to ask you to put this SARC study into the record.

Mr. ANDERSON. Is there any objection?

[No response.]

Mr. ANDERSON. There being no objection, that study will be made a part of the record. [See p. 116.]

Mr. BERVALDI. The other thing that I would like to say is that the Commuter Association of America has endorsed this open entry pro-

vision, and they have done so because, in many States of the country, that may be required.

I hope that our point that the State of Florida has unique characteristics and needs the regulation of the State authoriy—its markets are different and its boundaries are different, and it is not surrounded by other States.

I hope that we have made this point, and I hope that the State of Florida will be given special consideration.

Mr. ANDERSON. Thank you very much.

Mr. VAN ARSDALE. Mr. Chairman, if I may make one further statement and answer a question which you addressed to some of the other speakers, but not to me, with respect to prorates under the joint-fare agreements that we have: We settle with seven carriers in three different manners, and none of them are by the CAB formula.

Mr. ANDERSON. They are all negotiated?

Mr. VAN ARSDALE. They are either negotiated or imposed.

Mr. ANDERSON. Do they have to have CAB approval?

Mr. VAN ARSDALE. No, sir; there is no approval on the prorate.

The prorate is strictly between the two carriers.

The most notorious rival that I have is United.

With Eastern, Delta, Northwest, and National we have an agreed prorate that is what we consider reasonable.

It is less than our local, but it is more than the straight-rate prorate.

We have an average prorate with Braniff.

We have a straight-rate prorate with United, and it does not consider the costs that are involved to the short-haul carrier.

Mr. ANDERSON. Are your joint fares also negotiated, or those CAB approved?

Mr. VAN ARSDALE. They are all competitive, sir.

We have a common rate with Naples, Fort Myers, and Punta Gorda.

The passengers have the choice of going to any one of those three cities.

The fare from Fort Myers to New York equals the fare from Naples to New York, and it equals the fare from Punta Gorda to New York, but the prorates are the problem.

Mr. HAMMERSCHMIDT. Mr. van Arsdale, I might remark that I recognized your astuteness before I heard you speak, and that is for another reason.

Mr. VAN ARSDALE. What is that?

Mr. HAMMERSCHMIDT. Anyone who could figure out how to be in Martha's Vineyard on business in the summer and in Naples on business in the winter is a very astute businessman.

Mr. VAN ARSDALE. It took a bit of doing, and I am pleased to say that we contribute substantially to the Internal Revenue Service, March 15 of each year.

Mr. ANDERSON. If there is nothing further, on that note, the meeting is adjourned.

[Whereupon, at 12:25 p.m. the committee adjourned.]

SYSTEMS ANALYSIS AND RESEARCH CORPORATION

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April 15, 1976

Mr. Tom Webb
Secretary
Department of Transportation
State of Florida
Hayden Burns Building
605 Suwannee Street
Tallahassee, Florida 32304

Dear Mr. Webb:

We are pleased to submit our Technical Report of the Florida Intrastate Aviation Study. This is a study of needs for scheduled air service within the State of Florida and a plan for how those needs may be met.

This is the most extensive study of intrastate air service to be undertaken by any state. Florida's need for good intrastate air service is in many ways almost obvious but the means of obtaining adequate service can be very illusive. Both the regulatory and economic problems as identified and described in the study are complex and not amenable to simple solutions.

This study has been very challenging and we have enjoyed the cooperation and assistance of many people in the Department of Transportation, the Public Service Commission and in the many cities of the State. A special word of appreciation is extended to each person for the time and effort contributed.

Sincerely yours,

Henry L. Sweezy

Henry L. Sweezy
Vice President

HLS/mk

Enclosure

FLORIDA INTRASTATE AVIATION STUDY

Job Number 99000-1560

Prepared For The

Florida Department Of Transportation
Division Of Planning And Programming

By

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April, 1976

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BACKGROUND - THE NEED FOR INTRASTATE AIR TRANSPORTATION IN FLORIDA

Geographic dimensions, location and other features make the State of Florida unique in its needs for intrastate air service. It is a long, narrow peninsula at one extremity of the United States; it exchanges large numbers of passengers with many communities throughout the United States; its major traffic centers are located linearly along the length of the peninsula. As a result of these characteristics the great proportion of its air transportation service (and needs) is interstate in nature, with the result that schedules, predominantly, are so arranged that they operate along the peninsula and service the large traffic centers. However, there are many other communities which are far enough apart that driving or other surface transportation is time-consuming or tedious. These communities are substantial in size and commercial activity and have significant interrelated interests to justify serious attention to their intercity air transport needs.

Carriers certificated by the Civil Aeronautics Board provide much air service to cities in Florida, including numerous flights which permit intrastate transportation. Unfortunately this service is not sufficient to meet Florida's total intrastate needs.

In recent years gaps in air transportation service within the State have made it increasingly apparent that Florida's needs are not being satisfied under existing regulatory arrangements. This situation has developed because a substantial part of Florida's intrastate air transport service is authorized and served, or authorized but not adequately served, by airlines whose basic interest is in interstate, rather than intrastate, traffic.

The concern of the State has led it to embark upon a program which gives it a more positive role in assuring that Florida citizens have dependable and convenient air service between points in the State. The program agrees with the goal, as stated by the Department of Transportation, to "optimize movement of people and goods within the State of Florida."

To assist in formulating and implementing its plans for air transportation, the Department of Transportation authorized a "Florida Intrastate Air Transportation Study." This project has as its broad objectives:

1. The determination of Florida's needs for intrastate air transportation.

2. The development of an economically feasible air route system to meet these needs.

3. The most logical regulatory arrangement for implementing the system plan.

The results of the study are presented in this report.

The report is comprehensive, and in some respects unique. It includes the usual economic analysis of intrastate needs and service in Florida. However, in addition it provides guidelines for establishing and enforcing service standards, a detailed review of regulatory background and alternatives, a broad evaluation of aircraft types -- including their costs and operating characteristics, a model intrastate route system and a discussion of fares. In short, the report provides the State with a plan and supporting reference for its decisions in almost any area of regulatory jurisdiction.

In conducting the study the first effort was to determine the need for intrastate air service.

Florida's intrastate traffic is comprised of three separate categories: local origin and destination, interstate connecting and international connecting. The local O&D passengers are those who began and terminated their journeys within Florida. Interstate connecting passengers fly between two Florida cities for the purpose of taking a connecting flight to a destination in some other state. International connecting passengers, after a flight between two points in Florida, proceed to an international destination.

Phase I - Forecasts

The report on Phase I of this project, that of estimating the traffic potential of those city-pairs which warrant consideration for air service, has been transmitted to the Department of Transportation. That document deals with alternative methods of estimating traffic, selection of the markets, and a discussion of forecast elements.

The work of developing the estimates of city-pair traffic, for 1975 with projections to 1980 and 1985, was extensive. It required detailed analyses of city-pair traffic behavior, the accumulation and examination of much data on city and city-pair characteristics which might have a bearing on air traffic generation, comparative evaluation, method testing, and adjusting for level of service if service was inadequate.

The essential objective of the study, to determine those combinations of cities between which intrastate air service might be economically successful and to devise a plan so that such service might be assured by the State, has not been changed or affected by those events associated with the passage of time. For these reasons the substance of the study remains valid, while we acknowledge that in a particular detail change may have occurred.

The study should be used as a guide for the State and for intrastate operators. It provides a great amount of valuable background data, analytical methods and policy guidance. The final decision as to service needed in the public interest at a particular time rests with the State. In a free enterprise system the final decision as to the expected viability of an operation ultimately rests with the operator who must invest his assets.

Public Service And The Status Quo

The conclusions of the study will be controversial and, since full implementation of them will require legislative action, they can be easily brushed aside as impractical or unacceptable. The controversial conclusions relate to the proposed restraints on CAB-certificated air carriers *as a last resort* in efforts to obtain needed service between Florida cities. Even as a last resort the finding is not made lightly or without concern that it has inherent objectionable qualities. The research and findings support no other conclusions if the objectives of public service are to be achieved. The first and overriding criteria or standard throughout the study was service. A brief summary statement of explanation is appropriate in this introduction.

Air service between over 70 pairs of cities in the state is inadequate. The Federal Government (CAB) does not have power to authorize or require that any airline provide adequate service; only the State can exercise that authority. Under Florida's current statute the Public Service Commission lacks the power to require a CAB-certificated carrier to provide *any* service.

The long history of intrastate service by the CAB carrier shows conclusively that those carriers, with only very minor exceptions, schedule for interstate opportunities with little regard to intra-Florida needs. The study finds that the operation of their inadequate services in many markets is such that an intrastate carrier cannot establish itself and survive as a head-to-head competitor or by trying to "fill out" an adequate service pattern in these markets. It also finds that Florida markets are not large enough to permit an intrastate carrier to establish itself as a competitor by the "high frequency-low fare" technique used in Texas and California.

As a result of the analytical work described above a total of ninety-three markets merit consideration for air service. These markets serve as the basis for determining, among other things, the route patterns to be developed, the types of aircraft to be considered, the types of carriers to perform the service, and regulatory actions required to implement the route system.

Estimates developed in the Phase I report may be summarized as follows:

	Florida Intrastate Passengers		
	1975	1980	1985
Intrastate Origin and Destination	1,519,780	2,715,080	4,321,730
Interstate Connecting	981,960	1,614,270	2,422,730
International Connecting	258,310	370,890	532,500
Total	2,760,050	4,700,240	7,276,960

The figures show clearly the importance of interstate and international traffic, which makes up more than 40% of the total intrastate passengers. The projections reflect an expectation that the number of intrastate air passengers will increase, provided adequate flights are available. Increases on a statewide basis are expected to be about 11% annually until 1980 and 9% annually until 1985. By city and city-pair the rates of growth of local traffic are related to forecast growth of personal income for the cities. These rates of growth for local passengers vary from 7% to 14% per year through 1985. Traffic estimates for the individual city-pairs as reported in Phase I are given in Appendix C.

Standards Of Service

It was recognized that unless standards were established and adhered to, service offered in effect could be nonresponsive to the need. Standards for service to the communities and standards of service by the airline were therefore developed.

With the markets and levels of traffic determined, a survey was made of aircraft types which could logically be used to provide the necessary service. Because of the wide variance in levels of passenger traffic, numerous types -- ranging from four-engined jet to single reciprocating engine types -- were considered. Operating characteristics were studied, along with the cost of operating the various types in Florida markets, and representative, usable aircraft selected.

A review of fare levels and fare structures was then made with suggestions of the probable best approach for Florida, recognizing traffic demand and aircraft characteristics.

From the foregoing analyses a route structure for Florida intrastate air traffic has been delineated, and a determination made of whether the routes can be operated on an economically feasible basis. The route structure is described and evaluated in this report. Finally, a program for implementing the route structure was developed, the regulatory options available to the State are reviewed, and realistic actions are recommended.

The research developed during the course of the project, as presented in this report, outlines intrastate air transportation requirements for Florida. It also provides a reasonable blueprint for the State to follow in its efforts to achieve air service commensurate with its requirements.

Effect Of Time Lag

This study has been prepared over a period of two years. Numerous changes have occurred subsequent to preparation of the various parts of the report. Wherever the reader encounters reference to facts which he knows have subsequently changed the question naturally arises as to the validity of the conclusions relying upon those facts.

Airline schedules and fares have been in an almost constant state of flux and it is in this area where the most significant changes might occur. However, change in schedules and fares has always been frequent in Florida and data compiled at any point in time could be "out of date" a month later. Such changes do not effect the findings of need for service or available total traffic.

For example, a major change in CAB-certificated carrier operation occurred recently when Southern Airways began operating between Tallahassee-Orlando and Ft. Lauderdale. This study finds a need for service between Ft. Lauderdale and Tallahassee as part of the recommended Route 5. Service between Ft. Lauderdale and Orlando was found to be adequate in 1975 and Southern's service is also adequate. The fact that these services are now provided by an interstate rather than an intrastate carrier does not affect the findings of this study.

The forecasts and estimates are all made on a *total market* rather than a *share of market* basis so that change in a particular service pattern does not have an effect upon the forecast. There is one exception to this which should be noted. Eastern Air Lines has been granted an *interstate* route between Ft. Myers and Atlanta, Georgia which will now handle a large volume of the traffic which previously was required to change planes at either Tampa or Miami. This traffic thus disappears from the intrastate Florida traffic volume to and from Ft. Myers and reduces the frequency of flights previously required between Ft. Myers and Tampa and to a lesser degree between Ft. Myers and Miami. It does not however remove the need for a route between Tampa and Miami via Ft. Myers.

The study concludes that adequate service can be obtained in all of the 76 identified markets through a combination of CAB-certificated carriers and intrastate carriers without subsidy. The plan requires several action steps controlled by the State Government.

1. Improved coordination with CAB on route awards affecting Florida.

2. Legislative authority to certificate and control the intra-Florida operation of interstate carriers.

3. Adopt minimum standards of service.

4. Issue certificates to existing airlines in *all* markets they now serve, *provided* they agree to provide at least the minimum standard of service. These carriers are given a clear "right of first refusal", but in markets *they choose not to serve* they will not be required to serve or permitted to carry intrastate passengers. 1/

5. Award all other markets to intrastate carriers.

There are other recommendations about ticketing and baggage authority and Federal/State jurisdictional issues to be resolved, but these have little use if the above route authority recommendations are not implemented.

The mechanisms to implement the recommendations were not a part of this study. It is clear however that legislative authority is needed to take even the first steps involving the interstate carriers. It can be expected that opposition will arise to any restraint on any operating carrier. The opposition will be from the carriers and from some of the public: the carriers -- because they will be forced to provide adequate service or give up the privilege to do so; the public -- because there may be an intrastate flight operating between two points in Florida on which an intrastate traveller would be refused.

The premise of the study is that adequate service is *desired by the public* and that a carrier willing to provide *adequate* service will be allowed to do so at a profit. Carriers unwilling or unable to provide *adequate* service will not be allowed, by erratic scheduling, to make the service of the willing carrier unprofitable. Under the plan the major markets of the State (Miami-Tampa, Miami-Orlando, Miami-Tallahassee and Orlando-Tallahassee) are to be authorized to *any* carrier meeting minimum standards of service.

1/ They would carry connecting and stopover passengers who have an out-of-state origin or destination on their ticket.

The other, and much lesser, markets will be restricted initially to a single carrier required to meet the standards.

The content of the study is persuasive in justifying its position that the status quo will not produce adequate service and viable intrastate carriers, and that the plan presented can achieve this objective.

The Standards of Service are found in Chapter 1 and the Plan for Intrastate Air Service is given in Chapter 7.

FINDINGS AND CONCLUSIONS

Chapter 1 - Standards of Service

The establishment of standards is essential as a means to assure fairness and equity in providing for access to air transportation. Communities will know what services they should have, and carriers will know what, as a minimum, is expected of them. In practice, the administration of standards is more art than science, but, without the basic points of reference, any semblance of objectivity is lost.

Findings and Conclusions

1. Service standards for intrastate air transportation are necessary, to make certain that the service will be adequate, and to fix the responsibility for maintenance of adequate service.

2. Standards for service to a community should be related to the density of traffic and availability of alternative air transportation at proximate locations.

3. Standards of service should provide for minimum frequencies, proper departure times and minimum intermediate stops.

4. Service standards have not been established by the Civil Aeronautics Board or any of the States although the Board has recognized on numerous occasions that service in certain markets was inadequate.

5. The route analyses demonstrate that the routes can be operated profitably under the recommended service standards.

FINDINGS AND CONCLUSIONS (Continued)

Chapter 2 - Regulatory Alternatives For Obtaining Service

Primary markets in Florida are served by airlines certificated by the CAB. These carriers are not responsive to specific intrastate requirements, because of transcending opportunities in interstate transportation. Yet these same intrastate services are beyond the reach of the CAB (which regulates interstate transportation only) and, in Florida are exempt from PSC regulation. Thus the Florida regulators are frustrated in any attempt to have these carriers furnish service which meets the State's standards of adequacy. On the other hand, if supplementary service is authorized by state regulation to insure service adequacy, the CAB-certificated carriers are a competitive fact of life with the end result that the supplemental service can expect to be uneconomic because of competitive pressures.

Findings and Conclusions

1. A plan which utilizes the positive features of Federally-regulated services, with supplemental service authorized by the State, presents the most useful regulatory alternative available to the State for insuring adequate intrastate service.

2. The Civil Aeronautics Board appears to lack authority to regulate service between cities within a single state.

3. Florida's statutes appear to exempt carriers holding CAB certificates from State regulation to the extent that those carriers cannot be required to provide adequate service.

4. In many intrastate markets an intrastate carrier will need a share of interstate connecting traffic to financially support adequate operations.

5. Several route segments between Florida cities lie over the high seas and appear to be interstate routes under the definitions of the Federal Aviation Act. A change in the Federal law may be needed to put these routes under State regulation.

6. Because of the unique geography of Florida the intrastate regulatory experience of California and Texas is not transferable.

Findings and Conclusions (Continued)

7. Unrestrained competition has resulted in failure of carriers and poor service in the past and will not assure adequate service in the foreseeable future.

8. Intrastate carriers may use any aircraft; those using aircraft with 30 or less seats have dual identity as interstate carriers and are permitted to carry interstate traffic.

9. Special exemption authority from the CAB is needed for an intrastate carrier to use an aircraft with more than 30 seats *and* carry interstate traffic.

10. Interstate carriers are not dependent on local intrastate traffic for their economic life, thus they are unlikely to be responsive to intrastate traffic needs.

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FINDINGS AND CONCLUSIONS (CONTINUED)

Chapter 3 - Aircraft Selection

Florida's intrastate markets are currently being served by a wide variety of aircraft ranging from single reciprocating engine types to four-engine jet wide bodies. The vast majority of the jet service within the State is provided as a result of intermediate stops on interstate service. The type of aircraft in these markets is dictated by the density of the long-haul market and the equipment operated by the interstate carrier rather than by any consideration of the intrastate traffic demand or route characteristics. These operators primarily require aircraft of a type which cannot be economically operated at the stage lengths and frequencies required to provide adequate intrastate service.

Findings and Conclusions

1. Aircraft to serve Florida's intrastate needs are limited to four general categories of size, depending upon the route requirements of traffic and distance, as follows:

Type 1	80 seats
2	48 seats
3	28 seats
4	16 seats

2. In growth markets in which a jet can achieve breakeven load factors the profit potential of the jet exceeds that of a comparable sized piston engine or turbo-prop aircraft due to the jet's high seat-mile productivity, relative low cost maintenance and passenger appeal.

3. The primary drawback to recommending jet aircraft for service on Florida's intrastate routes not now being served by CAB-certificated carriers is the acquisition cost of jet aircraft as well as the high cost per aircraft mile.

4. Most of Florida's intrastate markets cannot provide the absolute number of passengers required to make the potential economics of jet operation a reality to an operator.

5. Routes which could support Type 1 aircraft are currently adequately served by at least one interstate carrier using Type 1 or larger aircraft.

6. Availability of new, modern Type 3 aircraft is speculative because of production cost and sales prices.

Findings and Conclusions (Continued)

7. The DC-3 may continue, in the short term, to be the first choice of Florida intrastate operators.

8. Type 2 aircraft, especially Convair 580 and Fairchild F-27, will be increasingly sought for intrastate routes because of availability and relative price.

9. Aircraft of Types 2, 3 and 4 will be turbo-prop powered.

10. Operating costs of intrastate carriers can be substantially less than the costs of the CAB-certificated carriers.

11. No routes are discovered or recommended that will require the unique flight characteristics, and higher costs, of STOL aircraft.

FINDINGS AND CONCLUSIONS (CONTINUED)

Chapter 4 - Cost of Air Service

The cost of scheduled air service is usually stated in direct and indirect expenses.

Findings and Conclusions

1. Operating costs of intrastate carriers can be substantially less than the costs of the CAB-certificated carriers.

2. For purposes of cost estimates the Convair 580, Mohawk 298 (Nord 262) and the Beechcraft 99A were selected as representative of Type 2, Type 3 and Type 4 aircraft, respectively.

3. The costs used in this study are all of the cost incurred and assigned to a route. These are "fully allocated costs" and are appropriate to this analysis.

4. Depreciation and interest (capital costs) are the greatest single obstacle to aircraft upgrading in intrastate air services.

FINDINGS AND CONCLUSIONS (CONTINUED)

Chapter 5 - Florida Intrastate Air Fares

Revenue for intrastate airline operations come primarily from passenger fares. Fares and charges are a major concern of the State under its regulatory authority.

Findings and Conclusions

1. Fare policies which will clearly serve the public interest and strengthen the intrastate air transportation system should be established by the State. They should be as simple as possible with one standard class of service and limited discounted or promotional fares.

2. Intra-Florida traffic is primarily business oriented and will not be greatly stimulated by reduced or "low" fares.

3. Commuter airline fares in Florida compare favorably with those in markets of similar size in other areas.

4. Joint fares involving trunklines and commuters are established in selected markets at the initiative and discretion of the carriers concerned.

5. The prorate of joint fare revenues between the carriers is privately contracted and of little interest to the passengers or to Federal regulators.

6. Revenue in this study is based on the fare formula by the CAB and used by the interstate carriers. The fares yield revenue below that now charged on many routes by intrastate carriers in Florida.

7. On most routes revenue other than from passengers will be minor.

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FINDINGS AND CONCLUSIONS (CONTINUED)

Chapter 6 - Routes and Service

The intrastate system proposed here is made up of 17 routes.

Findings and Conclusions

1. Many intrastate air markets in Florida have not received the quality of service needed for their full development.

2. Most air service in Florida is provided by airlines certificated by the Civil Aeronautics Board for interstate routes, consequently the carriers' interest basically is in the longer haul, interstate markets. A substantial number of intrastate markets are, however, receiving adequate service from interstate and intrastate carriers.

3. These city-pairs are receiving adequate service (March 1975) and are not included in the route plans.

Miami-Ft. Walton Beach	Miami -Tampa
Miami-Jacksonville	Orlando-Ft. Lauderdale
Miami-Key West	Orlando-Ft. Walton Beach
Miami-Marathon	Orlando-Panama City
Miami-Marco Island	Orlando-Tallahassee
Miami-Naples	Tampa -Ft. Myers
Miami-Orlando	Tampa -Gainesville
Miami-Panama City	Tampa -Jacksonville
Miami-Tallahassee	Tampa -Tallahassee

4. Seventeen air service routes, under the assumptions of this study, can operate profitably.

5. The recommended plan for obtaining the proposed intrastate air service should be adopted and implemented.

6. The route system recommended complies with or exceeds the minimum Standards of Service, is operationally feasible and will provide adequate air service between each of the city-pairs on each of the routes.

7. As compared to current interstate carrier costs and revenues, profitable operations on those routes result from:

   (a) Lower costs,
   (b) Equal fares, and,
   (c) Higher load factors.

   Assured by exclusive right to local traffic and a share of interline connecting traffic.

FINDINGS AND CONCLUSIONS (CONTINUED)

Chapter 7 - A Plan For Florida Intrastate Air Service

Implementation of adequate air service for Florida requires both legislative and regulatory actions to,

1. Bring all routes and carriers under State control, and,

2. Assure economic viability of the intrastate carriers.

This project has evolved a plan which uses the available resources to the maximum extent while providing adequate service in all essential markets. It will be necessary that the following legislative and regulatory actions be taken by the Florida authorities, in order to implement the planned route structure.

1. Amend Florida legislation titled, An Act Relating To The Air Carriers Of Florida to make the interstate carriers operating between points within the State subject to State regulation in the same manner as intrastate carriers now certificated by the Public Service Commission. The amending legislation should provide a date on which the present privilege of carrying intrastate traffic will terminate if not specifically authorized by the State before that date.

   - This action will permit the carriage of intrastate traffic by only those carriers authorized by the State and will not affect interstate operations or the carriage of interstate traffic.

2. Adopt Standards of Minimum Service applicable to *all* carriers serving intrastate passengers.

   - This action will bring the intrastate traffic of the interstate carriers under State control.

3. Award intrastate certificates to all interstate carriers operating in the following markets and meeting Standards of Minimum Service:

   - Miami-Tampa
   - Miami-Orlando
   - Miami-Tallahassee
   - Orlando-Tallahassee

   - These major markets (except Orlando-Tallahassee) are each receiving more than adequate service

Findings and Conclusions (Continued)

from two interstate carriers. The history of service and route structure of the carriers indicate that service will continue at this level indefinitely.

4. Award intrastate certificates to interstate carriers in any market not listed in (3) above, in which the carrier requests certification.

   - It is understood that such a request is agreement to operate in compliance with the Standards and failure to do so will result in termination of the authority in the market. Further, failure to request authorization results in forfeiture of all rights to any *intrastate* traffic in the market. This action will permit the interstate carriers to determine the routes over which they do not intend to provide adequate service.

5. Award *limited* certificates to interstate carriers in markets where their CAB authority relies primarily on intrastate traffic but where they do not meet the Standards of Minimum Service.

   - Such awards should be made only where it is demonstrated that an intrastate carrier can expect to profitably supply the remainder of the standard service.

   - The certificate will limit the interstate carrier to the service performed at the time of certification. Abandonment of that service will result in permanent loss of authority in the market.

   - Gainesville-Miami is an illustration of such a route.

6. Award remaining routes to intrastate carriers.

   - The State should announce the routes available to be awarded and receive applications for those routes. Action on applications filed at random may result in failure to provide for some essential services on routes expected to be economically viable as planned.

Findings and Conclusions (Continued)

7. Request from the CAB appropriate exemptions for carriers holding Florida intrastate certificates to enter into interline ticketing and baggage agreements with interstate and international carriers.

   - Intrastate carriers who also qualify as commuter airlines under Part 298 of the CAB Economic Regulations now enjoy this privilege which would be lost if they acquire larger than 30 passenger aircraft.

   - The probability is that new aircraft, even under 30 passengers, will not otherwise be used in many markets because they will be (1) not available; (2) too expensive; or (3) not large enough. Under these circumstances use of Convair 580 or Fairchild F-27/227 throughout the State can be expected and this exemption needed.

8. Undertake collaboration with the CAB to develop means of making all cities in Florida equal in the application of State as well as Federal regulations.

   - The definitions of "interstate commerce" and "interstate transportation" as stated in the Federal Aviation Act make air routes between many Florida cities *interstate* rather than *intrastate* because the routes lie over the high seas. Thus, the unique geography of Florida and the wording of the Act appear to impose unequal treatment or benefits on certain cities.

   - This overwater operations problem can frustrate effective State regulation intended to obtain better air service throughout the State.

   - This problem appears to be complex and its solution may require amendment of the Federal Aviation Act.

FINDINGS AND CONCLUSIONS (CONTINUED)

Chapter 8 - Subsidy

The establishment by any unit of Government of air service which cannot support itself and thus requires a subsidy, is primarily a political or social rather than an economic decision. While such services are usually established to "develop" a market to the level where it will not require support, it is very difficult to demonstrate with specific cities or city-pairs where this has actually occurred with modern aircraft.

Findings and Conclusions

1. The Federal Government subsidy program is the only on-going subsidy program for air service in the U.S.

2. No Federal subsidy has been paid for air service in Florida since 1950.

3. The route system designed in this study, established as recommended, requires no subsidy.

4. Subsidy payment may take many forms. Subsidy is public funds used to obtain services from private individuals or companies. Each need can present a different solution. There is no universally applicable system of subsidy administration.

5. A system of subsidy for services not proposed by this study would have to be designed to fit the service desired and money available.

CHAPTER 1

STANDARDS OF ADEQUATE AIR SERVICE FOR FLORIDA'S INTRASTATE AIR SERVICE MARKETS

It is appropriate for the State of Florida to develop a set of guidelines for adequate air services. These guidelines can serve as a measure of how well the various air carriers are meeting the convenience and necessity of intra-Florida travellers. They can indicate markets where new or additional services are required. Such standards are an invaluable tool in the planning process and a necessary ingredient for the rational development of a state-wide network of air service.

Air service standards for Florida, as developed in this study, appear on the following pages. Thereafter, federal and state regulation in this area are reviewed, the concept and design of standards for Florida are presented and finally, the development of each component of the proposed standards is discussed in some detail.

Proposed Air Service Standards for Florida

The following standards have been developed with due consideration of the basic economic characteristics of short and medium haul air transportation.

1. Local air transportation is not required between cities located less than 100 highway miles apart, provided that the expected driving time does not exceed two hours.

2. Where local and connecting traffic meets or exceeds 10 passengers daily in each direction, the market requires and can support air service.

3. In any given market,[1] the minimum level of effective air service is two daily round trips.

4. The two flights should be timed to include a departure between 7:00 a.m. and 11:00 a.m. and a departure between 3:00 p.m. and 8:00 p.m. Six hours should be the minimum time between departures.

5. In those cases where a carrier adds a third frequency, it should depart in the 11:00 a.m.-3:00 p.m. time frame. The minimum time between departures should be three hours.

6. Average monthly load factors should not exceed 65%. If larger equipment is not available for needed capacity, the carrier will add another flight to make sufficient seats available.

7. More than two intermediate stops are unacceptable on flights required to meet the standards in Florida's short and medium haul markets.

Adoption of the first two standards will greatly reduce the task of regulating intrastate air services by limiting the number of markets to be regulated. By counting all possible combinations of the 26 air traffic points under consideration, Florida's potential intrastate air markets number 325.[2] The first minimum guideline on intercity highway distance indicates that 76 city-pairs are so accessible by surface means as not to

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1/ The term "market" as used herein refers to a pair of cities or the traffic moving in such a city pair.

2/ See Table 1-2 (page 1-21) for a listing of the 26 Florida cities being considered for air service.

require air services. The minimum requirement of 10 daily air travellers eliminates many of the 325 markets. Remaining are those intrastate markets which need and can support air services and which warrant the State of Florida's regulatory concern.

Following this quantitative identification of Florida's eligible air markets, the five remaining standards outline the essential ingredients of the required services. These guidelines are based on the practical needs of the local air traveller, and they ensure that the same quality of service will be available in all markets of similar size. Fairness and equity require that air transportation services be evenly distributed to the travelling public, and these five standards point the way toward that proper and legitimate regulatory goal.

Overall, these standards will provide the State with an organized, planned, and consistent approach to the provision of adequate intrastate air services. The particular circumstances of each market will always have to be considered on an individual basis, but these guidelines are essential for an objective administration of a statewide air transportation network.

A careful review has been made for any history of similar standards. This research determined that no other state has formally adopted service standards. The following section reviews the record of the federal effort in regulating service adequacy which is the responsibility of the Civil Aeronautics Board (CAB).

Federal and State Regulation of Adequacy of Service

As one of its regulatory objectives since 1938, the CAB is required to ensure that every certificated air carrier provide adequate services in meeting the public convenience and necessity. Section 404(a) of the Federal Aviation Act reads:

> *"...It shall be the duty of every air carrier to provide...adequate service, equipment, and facilities in connection with [air] transportation,..."*

The CAB's understanding and application of this statute is the basis of this section.

From its early days, the Board has been confronted with the question of adequacy. It has recognized its responsibility to define and administer adequate air service, but it has also argued that fixed, unchanging concepts are not workable. A thorough review of CAB regulation indicates that the Board has always considered adequacy in terms of changing contemporary standards.

At Senate hearings in 1965, then CAB Chairman Murphy testified that the Board developed its criteria for measuring adequacy of service on a case-by-case method. In 1969, CAB Chairman Crooker gave a similar testimony in hearings before the House.

> *"...The adequate service standard is not fixed and rigid, but depends on the facts and circumstances in a given case."*

In interviews taken by SARC for this study, senior CAB staff members indicated that the Board continues to view service adequacy or inadequacy only within the context of each particular case.

It is clear, then, that the State of Florida cannot turn to the CAB for a precise definition of adequate air service. Such hard and fast standards do not exist. At best, a historical overview of CAB regulation will reveal the general criteria which traditionally have been considered. Over the years, some basic guidelines have emerged and these will be explored as a basis for establishing standards of air service within Florida.

The specific issue of air service adequacy has been the subject of only four regulatory proceedings. In the late 1950's, the Board decided four separate cases in response to demands by civic groups for improved air service. The cities involved were Ft. Worth, Texas, Toledo, Ohio, Baltimore, Maryland, and Flint and Grand Rapids, Michigan. For all of the cities except Ft. Worth, the CAB ordered new and improved air services. These

four cases were the first and only time that the CAB has directly enforced section 404(a) of the Act. 1/

All of the major ingredients of adequate air service were dealt with in these proceedings.

- Through-plane service to communities of interest.
- Number of daily schedules.
- Timing of schedules.
- Load factors and available seats.
- Type of aircraft.
- Number of intermediate stops on through-plane service.

Although the question of service standards were under explicit consideration, the Board declined to assign specific weights to any of these factors.

> *"Expressions 'adequate service' and 'minimum standard of service' are flexible terms and are not susceptible to precise definition."* Flint decision *30 CAB 1121.*

The preferred approach was to analyze each market at issue and then apply reasonable administrative judgment.

In the Flint case, the Board ruled that Capital Airlines had not been providing a sufficient level of service in several Flint and Grand Rapids markets. The Board decision called for a minimum of:

- 3 Daily Round Trips between Grand Rapids-New York.
- 2 Daily Round Trips between Flint-New York and Grand Rapids-Minneapolis.
- 1 Daily Round Trip between Grand Rapids-Washington.

The Board also ruled that, "Morning and late afternoon or early evening departures found necessary to provide adequate service." 30 CAB 1120. Capital was prohibited from scheduling more than two stops on the required flights. The Board felt that in these 600 mile markets, more than two enroute stops would result in excessive delay in reaching the final point of destination. Another factor in the case involved Capital's use of unpressurized DC-3 and DC-4 aircraft in first class service at first class fares. The

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1/ See page 1-4.

Board decided that, given the industry's stage of development, unpressurized aircraft such as these could not be used in *first-class* service. Thus the Board did not specify the equipment to be used but the class of service (and the fare) that could be operated with specific equipment.1/

The Baltimore investigation was based primarily on the fact that the carriers claimed to be serving Baltimore's markets through the Washington National Airport. The City of Baltimore contended that it was a major air traffic center in its own right and that it was unreasonable to ask Baltimore travellers to use a more distant airport located in another city. In that case, the Board found that Baltimore's air service was inadequate in a total of 31 markets.

Ruling in Baltimore's favor, the CAB ordered that markets which had 10 or more daily passengers should have single-plane service, if other factors were favorable.2/ The Board also found fault with the timing of the schedules at Baltimore and asked the carriers to correct these deficiencies. For example, the Board objected to the lack of southbound service from Boston between 7:30 a.m. and 5:00 p.m. On equipment, the CAB ruled again that trunkline service at *first-class* rates in the unpressurized DC-4's was inadequate.

The Toledo case involved Capital's failure to provide schedules in several markets which were already receiving some flights by United. It was a situation in which the Board said that Capital was not living up to its certificate obligations, more so than there being a gross lack of service in the particular markets. The intention of the Board, however, was to improve the total availability of air transportation with the addition of Capital's flights.

The results of the Board's intrusion into the carriers' scheduling process was not impressive. The acquisition of Capital by United Air Lines in a 1961 merger negated the Board's order for improved competitive services at Toledo. The replacement of Capital by United at Flint and Grand Rapids was undoubtedly an improvement for those cities, but it cancelled that brief experience with direct enforcement of adequate air service. Baltimore did see some improvement, but the long-range effect of the Board's decision in that case is very difficult to gauge. The congestion

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1/ The Federal Aviation Act prohibits the Board from determining equipment to be used.

2/ This standard of 10 passengers a day was related strictly to the record of facts developed in the Baltimore investigation. It has not been used in any other proceedings before or since.

and restrictions on Washington National Airport, as well as the completion of Dulles International Airport have been extenuating circumstances for the levels of air services at Baltimore's airport.

In June, 1961, the Senate Commerce Committee issued a report, National Transportation Policy, which concluded that the public would be better served by expanded air carrier competition than by enforcement proceedings. In the same year, the Task Force on National Aviation Goals called for a policy of minimizing regulatory controls so that business incentives and competition could play a more influential role in the regulation of service.

The Board apparently had come to similar conclusions, mostly due to the poor results of their initial experience with direct intervention. The CAB turned away from adequacy-of-service investigations and directed their attention to new route awards. The Board concluded that service deficiencies were better resolved by introducing new competition than by requiring the grudging services of an unwilling carrier. Civic groups embraced this doctrine also. In presenting their needs for additional services, the communities called for certification of new carriers rather than enforcement of the incumbent carriers' obligations to provide adequate service.

The Board processed scores of route certification applications in the decade of the '60's. In those instances where new competitive authority was at stake, the incumbent carriers usually attempted to show that the markets were being adequately served. Applicants, however, would cite evidence of short-comings as an argument favoring their entry into the markets.

The criteria of adequate service, as evidenced in the decisions of many cases, were the same as in the earlier enforcement proceedings. Heavier weight was given to the question of load factors and available seats. In one major case, the Southern Tier Investigation, the CAB authorized new competition in several markets and cited historic load factors of over 70% as one of several factors requiring new authority. The load factor which the Board would accept as reasonable was never precisely identified, but in case after case the Board found that load factors exceeding the 65%-70% range were evidence of less than adequate service. 1/

Other criteria were also applied in these cases, but they did not seem to be of decisional importance in deciding on the need for competitive authorization. In fact, the Board made it clear

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1/ Gulf States-Midwest Points Service Investigation, Docket 17726; Dallas/Ft. Worth-Phoenix Nonstop Service Case, Docket 18579; Central Route 81 Case, Docket 16196.

that a finding of adequate service by an incumbent was not sufficient in itself to disapprove the application of an aspiring competitor. As a result, there is no clear, unambiguous policy on service standards that emerges from this series of decisions.

One other regulatory activity should be mentioned as an example of the Board's position on minimum standards of service. This activity was concerned with the problem of providing scheduled air services at cities that produced very little air traffic. In this area the questions that have been asked are, "At what minimum level of traffic should air service be provided?" and "What is the minimum level of service?"

As early as 1946 in the Texas-Oklahoma case, the Board ruled that two round trip flights are the basic minimum schedule pattern for a small city. The local service carriers, whose prime responsibility was the smaller cities, were required to serve each station on each of their routes with at least two daily flights. As subsidy programs to the locals have developed through the years, the element of two daily services has been retained as a guideline to the amount of federal support that should go to small air traffic points. In practice, there have been exceptions to this general rule, but it still stands as a measure of the Board's position on minimal service where subsidy is involved.

The traffic levels which require and can support a minimum schedule pattern depend on several variable factors. The very lowest that the CAB was ever prepared to go was to require that a station enplane at least 5 passengers per day to justify continuation of service. Even at the cost levels prevalent in the local carrier industry in 1958-1962, this represented a situation where operating losses were inevitable. The CAB held that federal subsidy should not be paid to a carrier to support operations at a city which could not meet this bare minimum.

As the local carriers have gradually phased out the smallest aircraft in their fleets, the cost of serving very small points has risen proportionately. A minimum of 5 passengers a day would no longer meet the CAB's policy of a reasonable balance between the desire of a city for air service -- and the desire of the Congress to limit federal subsidy payments. Overall, the CAB recognizes this relationship and seeks to come to a balance on the basis of contemporary air carrier economics. The Board has not established any fixed minimum traffic levels to replace the 5 passenger per day criteria which is no longer applied as a "use it or lose it" standard.

A complete review of the history of CAB regulation fails to disclose any absolute standard for measuring adequate air service. Rapid changes in technology have outdated the Board's efforts to set any quantitative guidelines. It is clear that a pattern of

morning and evening service is desirable in any air market, but even adherence to this minimum has not been strictly enforced.

At the state level, regulation of air transport has been practically non-existent except in Texas, California, Alaska, and Hawaii. Here, as at the Federal level, issues have been resolved on a case-by-case approach, and there are no clear, well-defined standards that can be applied to Florida's particular needs.

As this report turns next to a consideration of air service standards for the State of Florida, it is well to bear in mind that clear, consistent, precise standards have not been developed in over 35 years of Federal regulation. The reliance of the states and the CAB on *ad hoc* regulation should serve as a caution, suggesting either a political or a practical nedessity of avoiding mechanical formulas in the economic regulation of commercial air transport.

The failure of others to achieve or adopt workable standards does not preclude or even argue successfully against Florida's need for such regulation. Geographically, Florida is unique and the intrastate travel needs of its people are unique.

Concept and Design of Uniform Air Service Standards for Florida

Benefits to the Public

Although the State of Florida contains many substantial local air transportation markets, uncontrolled and extraneous factors often result in less than adequate air services. Air services in Florida's intrastate markets vary with the trunklines' scheduling decisions on interstate flights and with the economic health and ambitions of various commuter carriers. By adopting a set of standards or guidelines, the State of Florida will have a regulatory tool for coping with these obstacles to consistent, reliable, and convenient service.

A key effect of the enforcement of air service standards will be the equalizing of the opportunity of public access to this mode of transportation. For the first time, markets of similar size will have the same basic level of air transport available to them. Other factors may give some markets an excess of service, but every deserving city will be able to count on regular, convenient service to its primary communities of interest.

From the regulatory viewpoint, the establishment of standards is essential as a means to preserve fairness and equity in providing for access to air transportation. Communities will know what services they should have, and the carriers will know what, as a minimum, is expected of them. In practice, the administration of standards is more art than science, but, without the basic points of reference, any semblance of objectivity is lost.

Problems and Limitations

As the research indicates, the CAB has avoided the very difficult political and practical task of setting national air service standards. For many of the same reasons, it is not any easier to strike upon such standards for intra-Florida air markets. Several obstacles to a simple, consistent, statewide standard are apparent:

- The wide range in market size.
- Variance in traffic composition from one market to the next, i.e. business, personal, tourism, interstate and intrastate, etc.
- Intercity distances ranging from 20 up to 663 miles.
- The unique characteristics of individual cities and of city-pair markets.

- Two distinct levels of air carriers.
- Possible conflicts in regulatory jurisdiction.

These variables affect the intra-Florida markets as well as the interstate markets which the CAB regulates, and they will be reviewed in turn to illustrate their complexities.

The size of any given market is a primary factor in determining how much air service should be provided. In Florida, markets range from Tampa-Miami with 800+ daily passengers in 1973 to scores of smaller markets with less than 5 passengers per day. It is illogical to propose a standard to be used for city-pair markets at both extremes.

The disparity in intercity distances is another troublesome consideration. These mileages range from 19 miles (Tampa-St. Petersburg) to 663 miles (Miami-Pensacola). With the competition of the passenger car to be considered, distance, as it converts to time and cost, must be a primary factor in any determination of standards of air service.

The subject of traffic composition present questions which go to the nature of this study itself. By definition, this report is concerned with the needs and problems of intrastate travellers. In many cases, however, a local true intrastate market would not qualify for air service if it was not supported by the connecting interstate flow of traffic. Complicating this question is the fact that the proportions of local and connecting traffic vary from market to market.

The individual characteristics of each city and each market must also be considered. Gainesville is a university city, Eglin/Ft. Walton Beach is a military market desiring to develop as a resort market, Tallahassee is an educational center and the State Capitol, and so on. Some cities are affected by the proximity of larger points with better air service, such as St. Petersburg (Tampa), Ft. Lauderdale (Miami), TI-CO (Melbourne and Orlando), Sarasota (Tampa), and Lakeland (Tampa and Orlando). It is clear that each market is unique and that generalized recommendations may require exceptions in application.

Finally, the implementation of standards is complicated by the existing levels of service by various types of air carriers. The trunk carriers operate schedules in Florida primarily for the needs of long-haul interstate markets. They operate large jets with plenty of available intrastate seats, but generally they completely ignore the timing of their services for the intra-Florida traveller. Only in the largest Miami and Tampa markets does the sheer frequency of service compensate for the lack of planning for local needs. It is important to note that, whether or not they actually provide the schedules, the trunkline carriers and Southern have

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CAB authority to serve most of the significant markets in the State. In many of these markets, there are at least two interstate carriers with operating authority.

Further down on the scale are the commuter carriers currently operating in the State. Their equipment is sized for smaller markets and they do not generally attempt to compete head-on with the CAB carriers. However, at the short distances characteristic of most Florida markets, the equipment operated by third level carriers is adapted to the task. The overall speed advantage of the large trunkline jets is not significant in these short up-and-down hops. When a trunkline vacates a market or leaves large gaps in the times of service, a third level carrier can operate efficiently and successfully.

With these factors in mind, it seems most useful to outline the simplest set of guidelines possible, with the expectation that some administrative judgment may be required in the day-to-day regulatory process.

Minimum Requirements For Air Service Between Florida Cities

From a logical point of view, it is not difficult to arrive at the simplest standard of air service -- either a market has a scheduled air service or it doesn't. Beyond this absolute minimum, the reasons for setting any particular level of service as a standard are a matter of reasoned judgment. The essential criteria to be considered include length of trip, traffic levels, frequency of service, timing of service, availability of seats, and type of aircraft.

In the following analysis of these factors, every effort has been made to recognize the particular characteristics of the intra-Florida markets. Each standard has been reviewed for its applicability to the actual markets in question. The overall goal has been to derive a set of uniform guidelines which can be applied to any given market in the state.

The Limitations Imposed by Intercity Distance

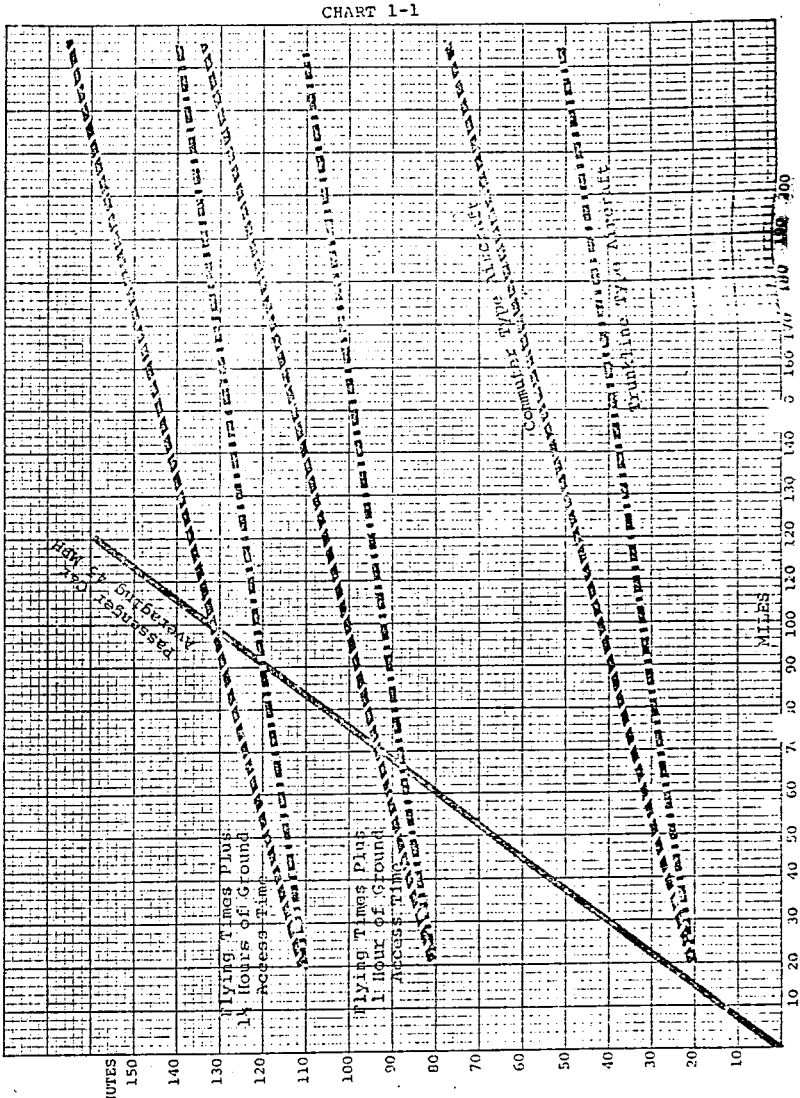
The relative geographic location of Florida's population centers and the excellent highway system which links them constitute a very basic limitation on scheduled air services. Of the 325 city-pair combinations being reviewed, 76 are separated by less than 120 miles of highway driving. Many of these roads are four-lane and some are limited access expressways. None of the cities are separated by mountainous terrain or other obstacles to normal highway driving. At this level of accessibility, the requirement for air transport may well be questioned.

A review of the relationship between airline schedules and driving times reveals the advantage of the passenger car for short trips within Florida. As evident from Chart 1-1, savings in door-to-door elapsed times cannot be achieved by using air services at intercity distances of less than 70 miles. In the 70 to 120 mile range, the advantage of air is questionable in most circumstances. As mileages increase beyond 120 miles, intercity driving times climb proportionately, and the overall efficiency of air versus surface transport comes into play. Even at these greater distances where the intercity speed of the air vehicle exceeds the door-to-door performance of the passenger car, the overall advantage may still go to the car, due to its lower cost and its versatility for local travel at the destination.

Actual experience in Florida's short-haul markets bears out the conclusion that air transport is not competitive with the passenger car. In Table 1-1, markets which had air services in 1972 are ranked in ascending order by intercity highway mileage. Traffic experience in these markets is not entirely the result of the intercity distance, but it is significant to note that the

CHART 1-1

SURFACE TRANSPORTATION VERSUS SURFACE-PLUS-AIR TRANSPORTATION
A COMPARISON OF DOOR-TO-DOOR ELAPSED TIME



first substantial local market is Tampa-Ft. Myers, with 14,168 local travellers moving over a 123 mile segment. Of the 76 city-pairs less than 120 miles apart, only 8 generated 1,000 or more local passengers in 1972. By way of contrast, the five *largest* intra-Florida air markets have an average intercity distance of 308 miles.

Before reaching a conclusion based on this evidence, one special circumstance should be mentioned. For some individuals, particularly those retired citizens who cannot or do not wish to drive, an air service might be a convenience, even if no real time savings were realized. This may account for some of the traffic which turns up between the first three city-pairs on Table 1-1: Tampa-Sarasota, Miami-West Palm Beach and Tampa-Orlando. In these, as well as most other short-haul markets, there are convenient and less expensive alternatives to air service. With the possibilities of bus, intercity limousine, or passenger train services, it does not seem reasonable to assign great weight to the provision of air service in markets that are easily and economically accessible by surface means.

Although there is no magic in the particular number, 100 intercity highway miles can be used as a basic minimum standard, below which the state need not be actively concerned with local air transportation. Few travellers would find any advantage in air versus surface transport at intercity distances below this minimum. Assuming an average door-to-door driving time of 45 mph, a 100-mile trip would take 2 hours and 12 minutes. With good highways over generally level terrain, a local trip of this length is not sufficiently burdensome to require the alternative of air service.

The Minimum Effective Level of Air Service

In selecting a standard of minimum air services, it is desirable to go beyond the physical minimum to the more widely accepted practical standard of two well-timed daily round trips. If a market is qualified to receive scheduled air service at all, it is necessary to provide at least two schedules. While better than nothing, one flight a day does not create and has never developed a market for air transportation where alternative means of travel are available.

The point may best be made clear by way of an illustration. If, for example, a market of 240 miles receives only a 9:00 a.m. flight, those travellers whose preferred departure time is between 7 and 11 a.m. may be able to adjust their affairs to use the 9:00 a.m. departure. For passengers with any other preferred departure time, the alternatives are to use other means of transport or to wait until the next day to use the 9:00 a.m. flight. The frustration is heightened since the desired destination is so close by air but a 5-6 hour drive by car. The single

TABLE 1-1

LOCAL AIR TRAFFIC IN FLORIDA'S SHORTEST CITY PAIR MARKETS

Calendar Year 1972

Market	Intercity Highway Mileage[1/]	Local Air Passengers[2/]
Tampa-Sarasota	51	4,972
Miami-W. Palm Beach	67	6,679
Tampa-Orlando	84	7,252
Jacksonville-Ocala	99	1,000
Miami-Marco Island	105	2,045
Orlando-Gainesville	109	1,340
Miami-Naples	110	2,945
Miami-Marathon	112	2,585
Tampa-Ft. Myers	123	14,168
Tampa-Gainesville	130	1,310
Tampa-Melbourne	132	3,120
Pensacola-Daytona Beach	133	950
Jacksonville-Orlando	133	7,475
Miami-Vero Beach	137	980
Tampa-Daytona Beach	138	1,941
Miami-Ft. Myers	146	11,066
Tallahassee-Ft. Walton Beach	151	1,630
Orlando-Ft. Myers	154	2,244
Miami-Key West	158	18,000
Tampa-Naples	160	1,298
Jacksonville-Tallahassee	168	8,516
Miami-Melbourne	171	8,335
Tampa-Jacksonville	196	35,076
Tampa-W. Palm Beach	199	19,924
Tallahassee-Pensacola	199	3,483

NOTE: Includes only those markets which generated at least 1,000 local passengers in 1972 and which were separated by less than 200 highway miles.

1/ SOURCE: Official Florida Highway Map, 1973.

2/ Passengers whose origin and destination are the cities shown. In many cases there are very significant numbers of passengers who connect to interstate flights at the major terminal of these city pairs.

9:00 a.m. flight may meet the needs of some but it can hardly be said that the communities are being fully served.

The addition of a second daily flight demonstrates the utility of air service by greatly reducing the compromise in travel plans. With only one daily flight, the compromise required between a preferred departure time and the actual schedule may go as high as 12 hours. With two flights well-spaced during the 7 a.m. to 8 p.m. day, few travellers would be required to make more than 4-5 hour adjustment. To the people and the communities involved, this quantum leap in convenience and time-saving is the difference between being knitted together by a pattern of air service and being strung out on an under-utilized air route.

The importance of a minimum standard of two daily round trips can be measured by the CAB's long-standing position that anything less is not a true test of a market's ability to require or support the continuation of services. In cases where suspension or deletion of air service is at issue, civic parties argue convincingly that the potential of their city has not been adequately tested if less than two daily round trips have been operated. On their part, the air carriers seldom propose less than two daily round trips in markets for which they are seeking certification. The CAB, civic and aviation interests, and the carriers themselves are in agreement on this minimum criteria of air service. There is no reason to believe that Florida's markets deserve to have anything less or require more as a minimum.

The Minimum Traffic Demand to Require and Support Air Services

The minimum level of traffic required to support economically viable air services depends largely on the type of equipment and thus the carrier that will provide the service. Standards developed for the commuter carriers may be inappropriate for the trunklines. Since commuters operate on a smaller commercial scale, minimums for commuters are the levels of traffic below which scheduled air service cannot be economically supported.

At the current level of commuter-type airline economics in Florida, a market that enplanes less than 5 passengers per flight will rarely be economical to serve. In a recent report, the CAB staff found that operations by third-level carriers at less than 5 passengers per flight would seldom meet breakeven needs. The report also concluded that payment of federal subsidy was not justifiable at lower traffic levels,

even if a city was geographically isolated.[1/] By the Board's criteria, no significant point in Florida could be considered as isolated from alternative air services.

Five passengers per flight translates into 3,650 passengers annually per round trip. Since 2 round trips have been established as a minimum standard, the level of annual traffic to support those flights would be 7,300. Looked at another way, an annual traffic flow of 10 passengers per day in each direction requires and can support two daily round trip services.

The question arises as to the consideration of interstate or international connecting traffic in addition to local O&D travellers. Since the economics of the service do not require such a distinction, it follows that the 7,300 annual traffic standard should be based on the total amount of available traffic. In many intrastate markets, this connecting traffic will support third-level services that would not otherwise be provided. Such traffic should be included in the test for a minimum standard.

Additional Scheduling Requirements

Having established the basic air service standards, it will be useful to specify some additional conditions concerning the provision of these services. These considerations involve the timing of the schedules, the availability of seats, and the type of equipment used. Another point to be resolved concerns the permissible number of enroute stops.

The purpose of establishing a standard as to schedule timing is to prevent schedules from being bunched together, a practice which can leave long periods of the day without any service. Well-timed air schedules are generally defined as morning, mid-day, and evening departures in both directions. This allows for one-day travel between the two cities, a particularly useful feature for business travellers.

For intrastate purposes, the active traveling day can be broken down as follows:

1/ Service to Small Communities, CAB, March, 1972. In this report, the Bureau of Operating Rights at the Board traced the CAB's recent history of suspensions and deletions of air service at the nation's smallest communities. To be considered geographically isolated, a city would have to be at least 1 1/2 hours driving time from the nearest air service point. If the nearest point receives a large volume of schedules, the maximum allowable driving time rises to 2 hours and 20 minutes.

Morning---------- 7 a.m. to 11 a.m.

Mid-day----------11 a.m. to 3 p.m.

Evening---------- 3 p.m. to 8 p.m.

If a market can support the minimum level of 2 daily flights, these should fall in the morning and evening categories, with at least a 6 hour separation. When a third flight can be justified, a mid-day departure rounds out the pattern. If the three flights are spaced at a minimum interval of 3 hours, the market is clearly receiving a well rounded pattern of service. As mentioned earlier, such a pattern of service will minimize the compromise between preferred and actual departure times.

Some judgment must be used when applying these guidelines to the carrier's schedules. Since any efficient operator must use his aircraft throughout the day, a pattern of service which will optimize the utilization of these expensive vehicles may require some deviation from the timing standard. For example, the departure time from the city of origin could be within the morning time frame, but the departure time from an intermediate stop could fall into the mid-day zone. Depending on circumstances, this might not be an unacceptable variation from the stated standard of morning and evening services.

It is preferable to use departure times in a scheduling guideline since arrival times can vary with the routing flown and with the equipment used. Departure times indicate the moment of embarkation, a factor which traditionally has been of more interest to air travellers than the time of arrival. At the relatively short distances of most Florida markets, the time of departure can act as a surrogate for arrival times, in terms of the time slot being served.

It is difficult to set forth objective guidelines as to when a third, fourth or fifth service may be required. With this in mind, it may be sufficient to require that schedule frequencies be a function of enplaned load factors. If a market receiving the minimum service pattern of two daily round trips consistently exceeds a 65% load factor, the operator should be required to improve service, either by using larger equipment with more seats, or by adding a flight to relieve the pressure. At load factors above 65% there will be inadequate capacity in the market to handle traffic demands in peak periods. An alternative to requiring additional service by an incumbent carrier is to authorize a new competitor over the route. As mentioned earlier, this has been the CAB's method of dealing with excessively high load factors. 1/

1/ This is not to be taken as a recommendation of this study. The subject of route competition is to be treated fully in a later section of this study.

Other phases of this study will explore the question of aircraft types in greater detail. As a standard, however, it is not necessary to specify particular types of equipment. The aircraft flown by the CAB carriers is certainly adequate. Commuter aircraft likely to be used will run the gamut from the DC-3 to the modern turbo-prop planes specially designed for third-level operations. All of these aircraft will have to meet rigid F.A.A. safety requirements. Whatever they may lack in the way of speed and comfort is compensated for by the relatively short flying distances of most intra-Florida markets. By using older and less expensive aircraft, commuters can provide basic short-haul air transportation at the lowest cost levels possible. For this reason, they should be allowed substantial latitude in their choice of equipment.

As a final point, the actual operating itinerary of intra-Florida services warrants two particular comments. In these relatively short-haul markets, a routing should not include more than two intermediate points. This kind of stop-and-go operation dissipates much of the speed advantage of the airplane. The only exceptions could be on potential routings between South Florida and the panhandle area, where the distances involved do not make as many as three intermediate stops an overwhelming problem. Also, services which require a change of planes enroute are not included in the proposed standards. Although some few local travellers may use intrastate connecting services, this alternative is of little interest in any market that qualifies to receive two daily single-plane flights.

NOTE: For bibliography of research for this chapter see Appendix D.

TABLE 1-2

FLORIDA'S TWENTY-SIX MOST ELIGIBLE CITIES FOR INTRASTATE AIR TRANSPORTATION SERVICES

	City	Projected 1990 Population
1.	Miami	1,815,000
2.	Ft. Lauderdale	1,015,000
3.	St. Petersburg/Clearwater/New Port Richey	939,000
4.	Orlando/Leesburg/Eustis	869,000
5.	Jacksonville	758,000
6.	Tampa	701,000
7.	West Palm Beach	668,000
8.	Melbourne)	298,000
9.	Titusville-Cocoa)	
10.	Pensacola	257,000
11.	Sarasota/Bradenton	254,000
12.	Daytona Beach	190,000
13.	Tallahassee	164,000
14.	Lakeland	148,000
15.	Gainesville	127,000
16.	Ft. Myers/Cape Coral	125,000
17.	Panama City	80,000
18.	Ocala	65,000
19.	Ft. Walton Beach/Eglin AFB	65,000
20.	Vero Beach/Ft. Pierce	57,000
21.	Bartow/Winter Haven/Auburndale	55,000
22.	Key West	50,000
23.	Marathon	N.A.*
24.	Marco Island	N.A.*
25.	Naples	N.A.*
26.	Punta Gorda	N.A.*

* Not Available.

SOURCE: Florida's Statewide Transportation Plan and Program. State of Florida, Department of Transportation. March, 1973. Table 3-1.

CHAPTER 2

REGULATORY ALTERNATIVES FOR OBTAINING SERVICE

Any master design for air service must be concerned with the authorizations which may be necessary from the governmental agencies responsible for the regulation of air transportation. Appropriate authority for the operation, given to qualified carriers, together with the application of accepted standards, will provide the state regulators with a logical framework for achieving the desired public service.

At present air service in Florida is performed by a combination of carriers, some regulated by the Civil Aeronautics Board (CAB), others by the Florida Public Service Commission (PSC). Under Florida law, the only jurisdiction which the PSC can assert over CAB-certificated carriers is the right to disapprove fares, rates or schedule changes between Florida points, if such changes would impose an undue economic burden on State-certificated carriers operating between the same points. This jurisdiction has not been invoked since the legislation was enacted.

In designing Florida's air transportation system the State properly is concerned with the type of regulatory authority which should apply. It is evident from past experience that the provision of an adequate system for Florida's total air service needs must be, primarily, the responsibility of the State. The federal agency has provided some assistance to the states in meeting intrastate traffic needs in addition to interstate authorizations. The CAB's local service airline program, and the exemption permitting air taxis and commuter carriers to operate with practically complete freedom from federal economic regulation are examples. However, the CAB has not asserted regulatory authority over purely intrastate movements -- and such movements are basic for a Florida air transportation system.

Statement of the Problem

The State of Florida, in implementing service in the markets which form its air transportation system, must determine the sources of the service to be provided. Primary markets in Florida are served by airlines certificated by the CAB. These carriers are not responsive to specific intrastate requirements, because of transcending opportunities in interstate transportation. Yet these same intrastate services are beyond the reach of the CAB (which regulates interstate transportation only) and, in Florida are exempt from PSC regulation. Thus the Florida regulators are frustrated in any attempt to have these carriers furnish service which meets the State's standards of adequacy. On the other hand, if supplementary service is authorized by

State regulation to ensure service adequacy, the CAB-certificated carriers are a competitive fact of life with the end result that the supplemental service can expect to be uneconomic because of competitive pressures.

The jurisdictional conflict between federal and state regulators illustrates the difficulty in achieving a proper regulatory relationship to assure the desired service result. This is the basic problem which the State of Florida must meet.

Possible Alternatives For A Florida System

It is necessary that each city-pair market be judged individually as to the optimum regulatory arrangement. However, before this process is undertaken it is useful to identify alternatives which may be available, and to discuss generally the constraints and contributions inherent in each.

Options available for service authorizations in the various Florida markets may be summarized as follows:

1. Service presently authorized and performed by interstate CAB-certificated airlines may be continued without any change.

2. Service not performed and not authorized, but deemed necessary, may be sought by application to the CAB for interstate carrier authorization.

3. Service presently authorized and performed by intrastate carriers, under certificates from the Florida Public Service Commission, may be continued without change.

4. Service not performed and not authorized, but deemed necessary, may be authorized by additional certification to intrastate carriers.

Essentially, the foregoing possibilities for service authorization embrace three basic regulatory philosophies:

1. Dependence on the Federal Government (the CAB) to provide the air service required for Florida by using (1) interstate carriers, (2) commuter carriers, and (3) air taxi operators.

2. Dependence on Florida PSC to provide exclusively intrastate operations.

3. The integration of federal and state regulation to meet Florida's needs.

Each of these three approaches offers some advantage for implementing air service plans. As a group they are adaptable to a broad range of service needs -- differing densities of traffic, varying interrcity distances, etc. For particular situations, however, each also has some disadvantages.

Dependence Solely On CAB Regulatory Action

Background

It is important to recognize that the primary interest of the CAB is to provide a *national* system of air transportation. Consequently, any intrastate services provided by carriers under CAB authority are incidental to the broader interstate system.

The responsibilities of the Civil Aeronautics Board arise from the legislation which governs that agency's operation -- the Federal Aviation Act of 1958. In the Declaration of Policy, Section 102, the Act states that the Board, in the performance of its powers and duties, shall consider the following:

102(a) The encouragement and development of an air transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

102(b) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in, such transportation, and to improve the relations between, and coordinate transportation by air carriers;

102(c) The promotion of adequate, economical and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive policies;

102(d) Competition to the extent necessary to assure the sound development of an air transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

The following definitions contained in Section 101 of the Act are applicable to the foregoing:

- "Air Carrier" - "any citizen of the United States who undertakes...to engage in air transportation..."

- "Air Commerce" - "interstate, overseas, or foreign air commerce or the transportation of mail by aircraft... which directly affects, or which may endanger safety in interstate, overseas or foreign air commerce."

- "Air Transportation" - "interstate, overseas, or foreign air transportation or the transportation of mail by aircraft."

- "Interstate Air Commerce",...mean(s) the carriage by aircraft of persons or property for compensation or hire, or the carriage of mail by aircraft, or the operation or navigation of aircraft in the conduct or furtherance of a business or vocation, in commerce between, - a place in any State of the United States,...and a place in any other State of the United States,...;or between places in the same State of the United States through the airspace over any place outside thereof;...

- "Interstate air transportation",...mean(s) the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft, in commerce between, - a place in any State of the United States,...and a place in any other State of the United States,...; or between places in the same State of the United States through the airspace over any place outside thereof,...

The intent of Congress, as specified in the Federal Aviation Act, was to limit the authority of the CAB to *interstate, overseas and foreign* air services. Thus, by apparent intent the Act eliminates the Board as a significant factor in satisfying wholly *intrastate* air service requirements.

This policy is consistent with the original legislation -- The Civil Aeronautics Act of 1938 -- in which the Congress did not extend economic regulatory provisions of that Act to intrastate air traffic. It did, however, assert full control over intrastate and interstate flying with regard to safety regulation.1/

The definitions above delineate a problem which must be considered further in later sections of this report. Several routes between two points in Florida go outside the three-mile limit and "through airspace over any place outside thereof." All flights between

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1/ Regulation of Air Transport, State, Federal, Local, Industry Taxation, Stuart G. Tipton - The Chicago Association of Commerce, 1945.

the following pairs of points are interstate flights under these definitions:1/

1. Pensacola, Ft. Walton Beach and Panama City on the one hand and all other points in Florida, except Tallahassee and Jacksonville, on the other.

2. Key West and Marathon on the one hand and all other points in Florida on the other.

3. Tallahassee on the one hand and Tampa or St. Petersburg and all points on the west coast of Florida south thereof on the other.

Problems Involved In Depending On CAB Regulation Exclusively

The primary constraint inherent in looking to the CAB for action, as far as Florida is concerned, is simply that the Board's authority is not sufficiently broad for Florida's total needs. CAB certifications for air service in Florida were determined not by Florida's internal requirements, but by the more extensive national demands. Thus, Florida's needs, not structurally integrated with interstate commerce, were not considered and are not provided for.

Other limitations which flow from this basic constraint involve questions of carrier entry, adequacy of service and rates. The CAB has demonstrated from its past actions that the possibility of new carriers being certificated is remote indeed. Therefore, any new services which Florida may desire would more than likely be entrusted to one or more of the existing carriers, which are primarily interstate in character.

The adequacy of air transport service between Florida cities is beyond the reach of the CAB. The agency lacks authority to require air carriers to provide adequate service for purely local intrastate traffic. Only if schedules between two Florida points on an interstate route appear to be insufficient to meet *interstate* demands can the CAB properly examine the matter.

Similarly, air fares and rates are established by the CAB for interstate system operations and are conditioned by interstate traffic.

An additional problem exists in the CAB's complex procedure which is necessary before relief can be obtained. This procedure, in

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1/ See CAB Order 25483, Docket 18713, 18759 (August 7, 1967); CAB Order 24895, Docket 17528 (March 24, 1967), where PSA was given authority to go beyond the three-mile limit off the California coast.

effect, precludes prompt response to any need for improved or additional air service. Because the CAB is concerned primarily with interstate matters, and because as a federal regulator it must conduct its proceedings in accordance with the Administrative Procedures Act, the route, service and rate proceedings of the Board tend to be cumbersome. To illustrate, if an application affecting *intrastate* service were to be submitted by a carrier or the State, it would be assigned a docket number and await its turn to be processed, if in fact it is processed at all.1/ Depending upon the urgency of the case, from the CAB's point of view, months could elapse before it was set for hearing. Prior to hearing, all applications for service between the pairs of cities named, including portions of applications which may contemplate the intrastate service only as part of an interstate route, would be consolidated into the proceeding, to be certain that all parties concerned would be heard.

Additionally, again because the Board's concern is with interstate routes, it is possible that the proceeding could be expanded, and become a regional interstate proceeding. In such an event the original application, basically for a limited intrastate purpose, could be completely subordinated.

The time required for such proceedings varies, but a period of two years from date of filing to a CAB decision is not uncommon. The ability to respond promptly to a state's need is limited at best.

Benefits To Be Derived From CAB Regulation

On the other hand there are advantages in having CAB-authorized airlines provide intrastate services. Companies which meet rigid CAB tests of fitness and ability generally are much larger and usually are financially stable. Operations by such companies are for the most part conducted with the most modern and comfortable equipment. The companies are well-known and have wide acceptance with the public. These, of course, are not trivial considerations in choosing the source for any scheduled service. These carriers are formidable competition for any intrastate carrier.

In addition to certificated carrier operations the Federal Government has made available, as additional resources for a state air transportation system, commuter airlines and air taxi operators. These carriers operate pursuant to Part 298 of the CAB's Economic

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1/ If the application was for exclusively intrastate authority it should be rejected by the CAB and not docketed.

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Regulations.[1/] These carriers are also interstate carriers and as such may enter into interline ticketing agreements and file joint tariffs with the CAB certificated carriers. In many Florida markets the interstate traffic is absolutely essential to the continued existence of the intrastate service. Thus in many instances the existence of the carrier is more dependent upon the permissive nature of the CAB regulations than upon the authorization of the PSC. This dual identity for these carriers seems to have just happened in the course of events and is not the product of legislative or CAB planning. It has a greater impact on air service in Florida than in any other state.

Dependence Exclusively On State Regulatory Powers

State authority as an alternative for ensuring that a state service plan is implemented is restrained because the State has authority only over local, intrastate traffic. This excludes traffic which may have as its ultimate destination a location in another state, a U.S. territory or a foreign country, whether or not the total journey may include an intrastate trip, or segment.

Notwithstanding this limitation the regulation of air services has been undertaken in several states. The number of such states has been limited by the unusual factors which lend themselves to intrastate air transport:

- geographical dimensions of the state;
- the existence of multiple high-density traffic centers;
- large concentrations of population; and
- the location of airports so that flight outside the state can be avoided.

The primary example, in terms of its initial involvement in this activity and its volume of intrastate operations is, of course, California. Others such as Illinois and Texas are also active. Other large states, such as New York and Pennsylvania, are possible future areas for increased state regulation. Because of its geographical dimensions and demographic characteristics, expanded State regulation by Florida is a logical alternative to consider in obtaining better service.

1/ Except Air Florida which uses aircraft larger than permitted under Part 298.

Experience Of Other States

The results of rather extensive regulation by state authorities in California and Texas, which have been well-documented, appear to be positive from the standpoint of the public.

From a small beginning in 1946, California intrastate operations have grown steadily and substantially until today the State is regulating the activity of two large-aircraft intrastate carriers and at least 11 commuter airlines which together serve more than 100 intrastate city pairs.

The effect of intrastate carrier entry into intrastate markets, under the aegis of California rather than the Federal Government, was studied by the CAB1/ in 1965. It examined service, traffic and fare developments in the Los Angeles-San Francisco market, for the period 1957-1964. This interval covered the transition from piston to turbo-prop to pure jet aircraft. The study compares Pacific Southwest Airways with United, TWA and Western, the CAB-certificated airlines.

The study found that the Los Angeles-San Francisco market expanded faster than the national average, service was improved, and the average fare decreased.

The financial record of PSA was impressive. In 1959, it was operating DC-4 equipment and by 1964 had converted to Lockheed Electra turbo-props. At the beginning of 1959 stockholder equity was less than $1 million; by 1964 it had grown to more than $10 million. In 1964 the return on total investment was 25%.2/ This success story was accomplished with fare yields about one-half of a cent per mile less than the CAB-certificated carriers.

An admonition must be entered that PSA's experience in California cannot necessarily be duplicated in Florida. The Los Angeles-San Francisco market is probably the largest air market in the world. The two metropolitan areas have a combined population twenty-five percent greater than the population of the entire State of Florida. The routes of the interstate carriers are basically at right angles to the intrastate route so that very few interstate flights serve both cities as they leave the state. In Florida interstate flights commonly serve Miami and another

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1/ Traffic, Fares and Competition, Los Angeles-San Francisco Air Corridor, Bureau of Accounts and Statistics, Civil Aeronautics Board, August 1965.

2/ No subsequent studies of PSA have been published and the CAB study is 10 years old. Current (1975) reports indicate that PSA is experiencing losses, has grounded part of its jet fleet and is again requesting fare increases.

city as the flights leave the state and provide strong competition to any intrastate flights in the markets. Other differences are apparent between California and Florida air service but these serve to amplify the admonition.

In Texas the results of the state-authorized services also were positive. Southwest Airlines began operating as a large aircraft intrastate carrier in June, 1971, under authority granted by the Texas Aeronautics Commission. Operations are carried on in the Dallas-Houston, Dallas-San Antonio and Houston-San Antonio markets. Recently Harlingen was added to both Houston and Dallas.

As in California, traffic expanded greatly in the markets served by Southwest1/ and participation by Southwest progressed almost geometrically.

The situation in Texas is, of course, different from that in California. For example, in Texas the markets are limited in number while in California many markets are served. Also in Texas the intrastate airline uses different airports than the CAB carriers and thus are closer to downtown areas. Southwest was well-financed and managed, began its service with modern aircraft and funded a strong sales and public identity program. It was strongly supported by the State Commission.

It is interesting that Southwest did not always originate reduced fares -- so did Braniff. The competitive efforts to capture the markets were strong and varied. Several lawsuits kept Southwest's name before the public and divided operations at two airports in Dallas and Houston caused large problems for the competing carriers. Fares have been both reduced and raised and are now on a two level basis with a rather low fare off-peak and on weekends. The interstate carriers met the intrastate fares for a long period but are now charging their normal fares, thus giving the fare-conscious portion of the market to Southwest.

The financial effect on Southwest has been good, notwithstanding the low revenue yield. For the 12 months ended September 30, 1974 the carrier reported net earnings of nearly $2 million on revenues of $10 million.2/

1/ For a complete statistical analysis see Recommended Report of Examiner Joan Holloway, Texas Aeronautics Commission Application of Southwest Airlines Company for a Texas Air Carrier Certificate of Public Convenience and Necessity for service to the Rio Grande Valley.

2/ Currently (1975) Southwest reports earnings are continuing but at a reduced rate.

Problems With Exclusive Regulation By The State

The obvious disadvantage in depending solely on State regulation is the lack of leverage which the State may have over the CAB-certificated airlines. This lack of leverage occurs because CAB carriers are never dependent upon purely local intrastate traffic for their economic life. This is particularly true in Florida where, compared to the total movements of air traffic which include massive volumes to and from numerous out-of-State points, the amount of purely local Florida travel is not significant. The economic livelihood of CAB carriers is tied to interstate routes, and interstate traffic; their participation in local intrastate Florida traffic is an incidental economic benefit and not a necessity.

Given this situation the State should expect to have little real influence over these airlines. The most extreme action which a state may take is to restrict participation in local traffic. It cannot otherwise interfere with the rights of carriers selected by the Federal Government to perform interstate operations, as part of a national transport system.

Other difficulties with exclusive state regulation of air service are in fact related to the inability to effectively control CAB-authorized carriers. Should the CAB carriers not be involved in intrastate markets, because of their unwillingness to abide by state regulation, the state would be forced to rely on small companies which would lack the financial stability enjoyed by CAB carriers. The types of aircraft would probably be less modern and public acceptance, initially at least, might be substantially less.

Benefits Of State Regulatory Control

Paradoxically, the single major advantage of exclusive regulation by the State of its air transportation system is the element of control which the State *is* able to exercise. Theoretically, the power could be absolute -- over the entry and exit of air carriers, fares, rates and schedules. The State can establish, and then enforce, standards and thus insure that appropriate service, responsive to the State's needs, will be provided. Should a carrier's economic life depend entirely upon intrastate traffic, the advantage of State regulation would be greatest because the power which could be exerted over the carrier would indeed be real.

The experience in California and Texas seems to reflect additional advantages -- to the travelling public -- in the form of improved service and lower fares, compared with that which was available when service was provided exclusively by CAB-certificated airlines.1/

1/ Applicable only in the few major intrastate markets in these states. In lesser markets the fares may be quite high.

The characteristics of intrastate markets in Florida differ greatly from those of California and Texas. Nevertheless, active state participation in regulating air transportation between its cities is likely to encourage purely intrastate services in Florida which will be beneficial to Florida air passengers.

The Integration Of Federal And State Regulation

It is evident from the foregoing discussion that if the State of Florida is to achieve an air transportation system which adequately serves the State's needs, it must rely partially on the CAB and partially on its own regulatory initiatives. The task confronting the State, then, is to integrate the regulatory actions of the CAB with its own in such a manner as to achieve optimum results.

Complications Of Dual State-Federal Regulations

It has been pointed out earlier that, by implication, the CAB's jurisdiction is limited to interstate air traffic and does not encompass intrastate operations. However, the fact is that much of the traffic which now moves between *intrastate* points is in reality interstate in character, because passengers continue their journey on connecting flights across state lines. Consequently, the regulation of intrastate air operations is complicated because of the overlapping which exists on the jurisdictional issue.

A conflict has existed for most of the period during which federal economic regulation of air transport has existed. Probably the first major jurisdictional question occurred in California, with the introduction of large aircraft, scheduled service by intrastate carriers in 1949. In an article appearing in the California Law Review[1/] the need for Congressional review of the interrelation of federal and state economic jurisdiction over air carriers was emphasized. The author commented that the complexity of regulation arising out of dual jurisdiction, and the attendant confusion, had an important adverse effect on the development of an air transportation system which will meet all needs -- national, regional and local -- adequately.

Despite this and other pleas for clarification, the jurisdiction issue remains unresolved. Robert F. Maris, writing for the

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1/ Economic Regulation of Intrastate Air Carriers in California, Marvel M. Taylor, California Law Review, Fall 1953, Volume 43, No. 3, page 454.

Journal of Air Law and Commerce in 1973[1] comments that the language of the Federal Aviation Act of 1958 clearly gives the Federal Aviation Administration power in intrastate aviation with respect to safety matters, but is not so specific on the question of economic regulation.[2] He cites a court decision[3] in which the court endorsed the language in the Federal Aviation Act as being a deliberate act on the part of Congress to differentiate between safety and economic jurisdiction by the Federal Government. The court reasoned that it was not the intent of Congress to extend federal jurisdiction in economic regulation, and that there is room for state regulation as well. There are limits, of course, which Maris discusses. He mentioned the case of CAB vs. Friedkin Aeronautics, Inc.[4] where the carrier had in effect concluded interline arrangements with CAB-certificated carriers to carry passengers entering and leaving California. The court held that the transport of these interstate passengers changed the character of the airline's services from intrastate to interstate.

Maris pointed out that current Supreme Court interpretation of the "interstate commerce" clause of the Federal Aviation Act would permit Congress to create exclusive federal regulation in all phases of aviation -- economics as well as safety, intrastate as well as interstate. It is Maris' opinion that federal authority could be made adequate to handle local as well as national problems, and is needed to assure that a national air transport system will be regulated uniformly. He recommends that Congress amend the Federal Aviation Act to give the Federal Government equal power in both the safety and economic fields.

In several of its decisions the CAB has said that the states may regulate "purely intrastate" air operations and that only a *"de minimis"* amount of interstate traffic would be tolerated. What constitutes a *"de minimis"* volume has not been defined, nor has a mechanism for actually identifying and measuring such traffic been developed. Nevertheless, the CAB on occasion has exercised jurisdiction, and has been upheld in the courts, if and when it felt that an airline operating wholly within a state is in fact carrying interstate traffic.[5] The CAB has given some guidance

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1/ State vs. Federal Regulation of Commercial Aeronautics, Robert F. Maris, Journal of Air Law and Commerce, Autumn 1973.

2/ See also Tipton. Footnote 1, page 2-4.

3/ Texas International Airlines vs. Civil Aeronautics Board, 473 F.2d 1150 (D.C. Cir. 1972).

4/ 246 F.2d 173 (9th Cir. 1957).

5/ Civil Aeronautics Board vs. Canadian Colonial Airways, Inc., 41 F Supp. 1006 S.D. N.Y. (1940).

as to what it expects as a "purely intrastate" operation. In its decision on the application of Southeast Airlines, Inc. in connection with a Florida intrastate operation1/ the Board stated:

> *"We note that Southeast represents that the proposed flights will be confined wholly to the airspace over the State of Florida; that the proposed operations will be conducted without any arrangements with interstate carriers for joint, through-plane service; that the service will not be advertised in out-of-state media; and that even if some out-of-state visitors are carried there will be a break in the journey of these passengers, between the flight from another state to Florida and the flight on Southeast. If Southeast's operations are in fact conducted in the foregoing manner, carrying no more than a de minimis volume of interstate traffic...the flights will not constitute air transportation subject to the Board's jurisdiction."*1/2/

The question of state vs. federal regulation of air transportation is still receiving much official attention, along with the rather basic question of whether regulatory powers of the CAB (and the Interstate Commerce Commission) should be drastically curtailed (not, however, in favor of state control). A CAB member recently raised the issue of extensive state regulation of interstate carriers which also are engaged in intrastate commerce. In a speech before the Association of Local Transport Airlines, CAB Acting Chairman Richard J. O'Melia expressed concern that a number of state governments are authorizing large aircraft intrastate operations, usually at fare levels below those found reasonable by the Board for similar interstate operations. He stated that the Board in the past has scrupulously respected the limits of its jurisdiction in the light of its present statutory provisions and urged state governments to present regulatory matters involving intrastate air service to the CAB for adjudication if a jurisdictional problem arises. If this is not done, O'Melia said that "it may be necessary to appeal to the lawmaker to amend the law."

Significantly, Acting Chairman O'Melia pointed out that the growth of large aircraft operations by intrastate carriers in part resulted from decisions by the interstate carriers to abandon or limit their services in intrastate markets. This left untended market opportunities offering substantial economic rewards to the intrastate carriers.

1/ Order 70-7-57, Docket 21864.

2/ It appears here that the Board has applied "*de minimis* volume" as a condition rather than as a finding or as satisfaction of a criteria.

The state-federal jurisdictional conflict appears to have deepened as a result of Mr. O'Melia's remarks. In a recommendation to the Texas Aeronautics Commission relating to intrastate route awards1/ the hearing examiner took the unusual action of attaching a "proposed Statement of Policy" which in part constituted a response to O'Melia. That Statement if adopted, would announce that Texas intends to encourage and develop an independent system, over which it may exercise control, in order to meet the needs of the traveling public in Texas.

Given the determination of the states to seek means of assuring adequate air services for their local traffic, and the existing conflicts in interpretation as to jurisdiction, it appears that full resolution of the dual regulation dilemma is not imminent.

The Realities In Florida

Notwithstanding any confusion which exists in some areas where joint federal-state regulation is attempted, the realities of the situation in Florida are that combined control offers the best solution if a state air transportation plan is to be implemented, and adequate service provided at reasonable cost.

First of all, about half of the Florida markets included in this study are currently receiving service from interstate carriers which meets the standards for adequate service developed in this report. Thus, a substantial base of intrastate operations, which meet Florida's intrastate needs, already exists as provided by interstate carriers. The schedules meet the criteria for service and require no regulatory action or financial support by the State.

Secondly, the total number and percentage of *interstate* passengers estimated to be moving in the markets studied here, is high. Of 4.7 million intrastate passengers, only 2.7 million are local Florida passengers. This means that 2 million, or about 42% of the total passengers moving between Florida points, originate or terminate their journeys outside the State of Florida. Clearly the volume of interstate movements in these markets exceeds *de minimis* level by any definition.

Thirdly, several routes between pairs of Florida cities are, by virtue of the State's geography and the language of the Federal Aviation Act, actually interstate routes since they use the airspace outside the three-mile limit. While a commuter carrier may operate between such points2/ it would do so under Part 298

1/ See Holloway, footnote 1, page 2-9.

2/ See page 2-5 for list of city-pairs.

of the CAB regulations and not as an intrastate carrier under control of the State. An intrastate carrier using large aircraft could not be regulated by the State between these Florida cities.

Finally, even if its legislation is revised to cover all intrastate services, the State of Florida would have little leverage on CAB-certificated airlines to compel them to respond to demands for adequate service. The intrastate traffic utilizing these carriers is not important enough economically to persuade the carriers to respond favorably, particularly if the response entailed a change which would have an adverse impact on their interstate services. For example, in 1973 the interstate airlines carried 26,293 million revenue passenger miles into, out of and within Florida. Of the total, 158 million were generated by passengers traveling intrastate -- or about six tenths of one percent. Their revenue earned from intrastate passengers is estimated to be about 1.3 percent of total revenue from all domestic passengers *boarding* flights in Florida.

It is apparent from these facts that dependence solely upon positive State regulation would not be a realistic alternative in Florida. Consequently, a plan which utilizes the positive features of Federally regulated services, with supplemental services authorized by the State, seems to represent the most useful regulatory vehicle.

Competition And Adequate Service

A review of alternatives for obtaining service must consider competitive authority as a possibility. One theory of regulation holds that the problems of inadequate service and excessive fares can be solved by authorizing an additional carrier in the market. Another current theory holds that abolition of all, or at least most, regulation to permit "freedom of entry and exit" and "freedom of fare experimentation" will promptly achieve abundant service and low fares.

Like most sophisticated theories of economics either of these theories might be eminently sound in a specific market at a specific time but as a generality they brush aside or ignore some very important facts. In Florida neither the presence or absence of competitive authority has assured adequate air service. On the 17 routes recommended by this study there are 75 city pairs where service is inadequate. Seven have no air service, 26 have one carrier authorized, 12 have two carriers authorized and the remaining 30 city pairs are authorized to three or more (up to seven in one case) carriers with full uninhibited permission to compete. Still the service is inadequate and only one carrier in the State has attempted competition in rates. That carrier is in financial difficulty.

The operators of the air service in Florida are undoubtedly reasonably intelligent and clever and have a desire and need to prosper. Their reluctance to join in competitive struggle in these markets is precisely because the markets are not large enough to support two or more competitors.

The forecasts of this study indicate that very few markets will show dramatic growth as a result of installing adequate service. The profit estimates of the route section show that revenue to be earned from these routes cannot be divided between two or more operators and either of them remain viable. Even the most profitable routes must be viewed realistically -- if a competitor enters these markets, his *revenue* comes first from the incumbent carriers' *profits* and then is reflected in both of their *losses*. A few of the routes may later be found capable of supporting competition but initially it will be fatal to both carriers.

Proof of the above reasoning is available in the long history of airline failures in Florida. Without exception every intrastate carrier who has ever operated in Florida has (1) failed, (2) been sold to refinance or (3) is currently in tenuous financial condition. Also without exception, they have attempted to compete with the interstate carriers or other intrastate carriers as strong as themselves.

The theory that the stronger will survive in an economic struggle does not produce lasting air service; it more easily results in the death of both competitors. Should one survive he does not necessarily reap the rewards of the victor to recover from the drain of battle, for he may be immediately confronted with a fresh entrepreneur who has not yet lost his backing.

A classic demonstration of this type of competition occurred in Florida in recent years. Two well-financed carriers, Shawnee and Executive, entered the State with extensive route systems, using identical aircraft. Their route systems were unregulated and overlapped in critical areas. Each had its own management philosophy but both were aggressive and built considerable following with the public. Over about a four-year period it is reported that one lost $3.5 million and the other up to $5.0 million. At about the mid-point of this period it was apparent that so much had been lost that the survivor on the routes, if left alone, could not recoup his losses through profits. The final result was the demise of *both* carriers with the public losing all the service and the backers a significant sum along with their desire to perform a worthwhile public service.

The recommendation of this study will reduce competition except in the major city pair markets. This is necessary to resolve the long standing dilemma of how to obtain adequate service in the lesser markets of the State. It is a simple fact that competition -- or the multiple designation of carriers between

points -- has failed to produce service. Further, there is no reason to expect that it will produce in the future. The analysis of the plan developed herein shows that a single carrier on any of the 17 routes who provides a minimum of two well-timed daily roundtrips over the route will earn a profit, provided he (1) is free of competition for the local traffic and (2) gets a reasonable share of the connecting and stopover traffic. On every route it appears that splitting the traffic between two or more carriers, whether intrastate or CAB-interstate, will result in certain losses for the carriers.

The impact of the proposed limitations on the interstate carriers is varied but not critical. In fact they can be granted exclusive rights in many markets if they request it. First of all, no restraint is proposed on any carrier currently meeting the Minimum Standards of Service if the carrier requests the privilege to continue. Secondly, authority will be given to any present carrier who agrees to meet the Standards and that carrier will have exclusive authority. Finally, new carrier authority will be used *only* on those routes where existing carriers are unwilling to provide the service and on new routes.

Thus, the interstate carriers can only lose intrastate traffic in markets where they are unwilling to provide minimum standard service. Their interstate revenue is not affected in any way except that an intrastate carrier can compete for connecting and stopover passengers.

In summary, competition as observed in Florida has not produced stable, adequate intrastate service and has caused well-intentioned Floridians to lose large sums of money in efforts to provide intrastate air service.

In contrast, given all of the local traffic and a share of connecting traffic on any of the 17 proposed routes, a single carrier who provides minimum standard service will earn a profit. Dividing that traffic with any competitor assures that both operators will incur losses, reduce service and probably fail.

CHAPTER 3

AIRCRAFT SELECTION

The Current Service Environment

Florida's intrastate markets are currently being served by a wide variety of aircraft ranging from single reciprocating engine types to four-engine jet wide bodies. The vast majority of the jet service within the State is provided as a result of intermediate stops on interstate service. The type of aircraft in these markets is dictated by the density of the long-haul market and the equipment operated by the interstate carrier rather than by any consideration of the intrastate traffic demand or route characteristics. These operators primarily require aircraft of a type which cannot be economically operated at the stage lengths and frequencies required to provide adequate intrastate service.

The March 15, 1975 Official Airline Guide shows that the eight trunklines and one local service carrier in Florida offered only ten entirely intrastate schedules providing four markets with nonstop roundtrip service, five markets with one-stop roundtrip service, two markets with two-stop roundtrip, and eight markets with one-way nonstop service. It follows that in order for Florida to be able to assure adequate air service within the State, smaller types of aircraft must be introduced. Since it is probably unreasonable to expect the long-haul carrier to purchase aircraft to be used only in Florida intrastate service, the State will have to look to the intrastate operators to provide the bulk of the intrastate service.

Aircraft Currently Serving Florida Intrastate Routes

The CAB-certificated carriers operate jet aircraft exclusively in Florida markets. The intrastate carriers operate aircraft ranging from small twin-engined aircraft to turbine-powered Lockheed Electras. Table 3-1 indicates the type of aircraft being operated by each of the carriers offering scheduled intrastate service as of March 15, 1975.

TABLE 3-1

AIRCRAFT USED IN FLORIDA INTRASTATE SERVICE

CAB Certificated Carriers

Braniff International	B-727, DC-8
Delta	B-727, DC-8
Eastern	DC-9, B-727, L-1011
National	DC-10, B-727, B-747
Northwest	DC-10
Southern	DC-9
Trans World	B-727
United	DC-10

Commuter Lines and Intrastate

Air Florida	Lockheed Electra
Air Sunshine	DC-3
Florida Airlines	DC-3
Monmouth Airlines	(Ceased Operation)
Southeast Airlines	M-404
Marco Island Airways	M-404
Sun Airline	B-80
Naples Airlines	DC-3

Use Of Turbo-Fan (Pure Jet) Aircraft

All of the certificated trunklines (with the exception of Eastern Air Lines back-up service on the Air Shuttle) have now converted to jet aircraft and local service carriers are converting to this type of aircraft as quickly as possible, although several have many routes for which the available jets are not suited.

In markets which can support a jet the profit potential of the jet exceeds that of other comparable sized aircraft due to the jet's high seat-mile productivity, relative low cost maintenance and passenger appeal.

The primary drawbacks to use of jet aircraft on Florida's intrastate routes are the acquisition cost of jet aircraft and the high cost per aircraft mile. Most of Florida's intrastate markets cannot provide the number of passengers required to make jet operation economically practical. For example, for an average stage length of 150 miles, the 80-passenger DC-9-10 requires 40 passengers just to breakeven on costs. This translates to 58,240 annual passengers in a market receiving minimum service of two roundtrips per day. Only the following markets are forecast to exceed this traffic volume (1975):

Ft. Lauderdale-Tampa	Miami-Tallahassee
Ft. Myers-Tampa	Miami-Tampa
Jacksonville-Miami	Sarasota-Tampa
Jacksonville-Tampa	Tallahassee-Tampa
Key West-Miami	Tampa-W. Palm Beach
Miami-Orlando	

All of the above except Sarasota-Tampa and Tampa-W. Palm Beach are currently adequately served. Sarasota-Tampa is only 41 miles and, therefore, cannot be considered a true jet market. It is unrealistic to expect that an intrastate carrier could compete with the carriers serving the other jet markets.

By 1985 traffic is forecasted to exceed the 60,000 level in the following additional markets:

Daytona Beach-Miami	88,740
Ft. Lauderdale-Jacksonville	66,790
Ft. Lauderdale-Orlando	174,160
Ft. Lauderdale-Tallahassee	62,400
Ft. Myers-Miami	89,880
Gainesville-Miami	99,080
Jacksonville-Orlando	108,150
Jacksonville-W. Palm Beach	89,650
Marco Island-Miami	101,540
Melbourne-Miami	76,760
Melbourne-Tampa	64,230
Miami-Naples	100,680
Miami-Pensacola	65,440
Miami-Sarasota	124,960
Miami-W. Palm Beach	86,300
Orlando-Tallahassee	107,200
Orlando-Tampa	90,260
Orlando-W. Palm Beach	61,170
Pensacola-Tampa	73,720

Six of the above markets currently have adequate service - predominantly by jet aircraft. All but two have some air service, again, predominantly by jets. This means that an intrastate operator contemplating use of jet aircraft would have to become the dominant carrier in each of the above markets in order to pay for even direct operating costs. This conclusion presupposes that the above markets will require nonstop service which would preclude combining markets as segments of routes. Of the above markets, Pensacola-Tampa are now receiving some nonstop service - with jet aircraft.

Aircraft Selection Criteria

The following aircraft characteristics were used in the routing analysis to select aircraft types:

1. Seating capacity;
2. Block speed;
3. Range;
4. Performance; and,
5. Price.

These characteristics were studied to determine a reasonable economic and performance profile of the types of aircraft available to provide air service in Florida. Selection of a "best" aircraft in terms of manufacturer and model, is not intended in this analysis.

As discussed previously aircraft types have been selected by reference to traffic volume, service level, and aircraft capacity.

Aircraft Seating Capacity

Competition between manufacturers has resulted in a number of similar-sized aircraft being available at fairly discrete levels of capacity. Rather than debate the exact merits of one aircraft over a very similar one built by a different manufacturer this study uses categories or types of aircraft having approximately the same seating capacity:

Type 1	80 seats
2	48
3	28
4	16

Tables 3-2 and 3-3 give operating data and other information on representative aircraft of each type. Only limited data is included on Type 1 aircraft since they are considered too large for potential new markets in Florida.

TABLE 3-2

CHARACTERISTICS OF REPRESENTATIVE AIRCRAFT

Aircraft Type	Max. Take-Off Wt. (Lbs.)	Seating Capacity 1/	Max. Cruise Speed (MPH)	Block Speed (@ 150 Miles)	Block Time	Fuel Consumed (Lbs.)	Fuel/ Avg. Seat (Lbs.)	Range (SM) 2/ IFR	Range (SM) 2/ VFR	Type of Power	Country of MFR Airframe	Country of MFR Engine
TYPE 2												
Convair 580	57,000	50	325	228	:39	1,408	28.2	895	1,010	Turbo-prop	U.S.A.	U.S.A.
DeHavilland Dash 7	43,500	45	294	224	:40	1,110	24.7	958	1,073	Turbo-prop	U.S.A.	England
Fairchild-Hiller F-227	43,000	50	276	215	:42	1,385	27.7	565	680	Turbo-prop	Canada	Canada
TYPE 3												
Douglas DC-3	25,200	28	165	138	1:05	503	18.0	90	205	Piston	U.S.A.	U.S.A.
Mohawk 298	23,810	26	246	192	:47	568	21.8	380	432	Turbo-prop	France	Canada
Short SD 3-30	21,100	30	228	182	:49	605	20.2	133	248	Turbo-prop	England	Canada
TYPE 4												
Beech B-99A	10,725	15	227	211	:43	389	25.9	247	362	Turbo-prop	U.S.A.	Canada
Britten-Norman Trislander	9,350	11	175	137	1:05	226	20.5	138	254	Piston	England	U.S.A.
DeHavilland DHC-6	12,500	19	192	157	:57	529	27.8	224	339	Turbo-prop	Canada	Canada
Swearingen Metro II	12,500	19	294	222	:40	426	22.4	127	242	Turbo-prop	U.S.A.	U.S.A.

1/ These are common configurations. Other configurations with either higher or lower density are possible.

2/ Range calculations were made on a direct comparative basis with equal loads assigned to aircraft in each type of equipment.

Type 2 - 45 seats
Type 3 - 26 seats
Type 4 - 15 seats

IFR ranges assume a distance to alternate of 115 SM at maximum cruise speed and :45 hold. VFR assumes :45 reserves.

TABLE 3-3

AIRCRAFT CHARACTERISTICS

Aircraft Type	Seats[1]	Max. Payload Range W/IFR Reserves[3] (Statute Miles)	Power
Type 1 - 80 Seat			
Douglas DC-9-10, Boeing 737	80	UNR[2]	Turbo-fan
Lockheed 188 (Electra)	87	UNR	Prop-jet
Fokker F-28	75	UNR	Turbo-fan
Type 2 - 48 Seat			
Fairchild Hiller F-27	48	UNR	Prop-jet
Fairchild Hiller F-227	52	UNR	Prop-jet
Convair 580	52	UNR	Prop-jet
DeHavilland Dash 7*	50	UNR	Prop-jet
FW Fokker 614*	44	UNR	Turbo-fan
HS 748	40	UNR	Prop-jet
Martin 404	40	UNR	Reciprocating
Type 3 - 28 Seat			
Short SD 3-30*	30	133	Prop-jet
Nord-262 (M-298)*	26	380	Prop-jet
YAK 40	32	UNR	Turbo-fan
Douglas DC-3	26	90	Reciprocating
Type 4 - 16 Seat			
Beech B-99A	15	247	Prop-jet
DeHavilland DHC-6	15	224	Prop-jet
Swearingen Metro II	19	127	Prop-jet
Britten-Norman Trislander	11	138	Reciprocating

The above list includes aircraft which are either currently available or programmed to be available within 24 months. The future aircraft are indicated with an asterisk.

1/ Typical seating density for airline operations.

2/ UNR - Signifies that there is no range restriction on stage lengths which will be flown in Florida intrastate service.

3/ 115 statute miles to alternate; :45 hold.

Block Speed Curves

The speed of an aircraft over its assigned route (block speed) is a primary determinant of the economics of that route. Block time is the time elapsing between departure from the gate (blocks) at one airport and arrival at the parking position (blocks) at another. Block speed is the average speed of the aircraft during this time.

Block speed is not solely an aircraft capability - it is controlled by many factors, including airport congestion, availability of navigational aides, and the mix of aircraft using an airport. Other significant characteristics of the flight itself are flight altitude, desired speed versus fuel economy trade-off, aircraft loading, pilot training and technique, and weather.

Any or all of the above considerations bear to some degree on variations in block time (speed) over a given flight segment. For this reason, an empirical speed curve approach rather than a flight stage time approach was used in this study to relate block speed to stage length. The data used to develop the curve included reports by the certificated carriers to the Civil Aeronautics Board, manufacturer's data, carriers' route operations analysis and personal interviews with carrier operating personnel. Table 3-4 shows the block speeds, by aircraft type, reported to the CAB for the year ended December 31, 1973. Table 3-5 gives data on aircraft not used by CAB carriers and is derived from manufacturers and commuter operator sources for block speeds at 150 mile stage length. These speeds differ from the speed in Table 3-2 because of different taxiing times used by SARC and the manufacturers.

TABLE 3-4

AIRCRAFT BLOCK SPEED AND AVERAGE STAGE LENGTH

Aircraft	Block Speed (MPH)	Average Stage Length (SM)
Convair 580		
Allegheny	198	147
Frontier	206	124
North Central	181	100
Convair 600		
Texas International	184	131
DHC-6 (Twin Otter)		
Frontier	140	90
Ozark (1972)	148	175
F-27/227		
Airwest	148	175
Mohawk (1972)	168	128
Ozark	160	102
Piedmont	173	110
Martin 404		
Southern	147	100
Nord 262		
Allegheny (1970)	153	96
Douglas DC-3		
Central (1966)	133	94
Frontier (1966)	133	87
North Central (1966)	128	90
Ozark (1966)	118	88
Southern (1966)	119	83
Trans-Texas (1966)	140	111
West Coast (1966)	120	82

SOURCE: Aircraft Operating Cost and Performance Report, Civil Aeronautics Board, June, 1974.

TABLE 3-5

BLOCK SPEED OF AIRCRAFT NOT USED BY CAB CARRIERS

Aircraft Type	Block Speed (mph)
Beech B-99	219
Swearingen Metro II	208 1/
DeHavilland DHC-6	138
DeHavilland Dash 7	230
Britten-Norman Trislander	135 2/

A review of the available empirical and published information led to the adoption of the block speed functions shown in Table 3-6.

TABLE 3-6

BLOCK SPEED FUNCTIONS
(x = stage length in statute miles)

Fairchild F-227	-52 + 127 log x
DeHavilland Dash 7	-50 + 122 log x
Convair 580	-55 + 130 log x
Short SD-3-30	-55 + 109 log x
Mohawk 298 (Nord 262)	-56 + 114 log x
Douglas DC-3	-80 + 100 log x
Beech B-99A	-54 + 122 log x
DeHavilland DHC-6	-17 + 80 log x
Britten-Norman Trislander	-20 + 72 log x
Swearingen Metro II	-50 + 125 log x

NOTE: These functions are to be applied only in a range of stage lengths from 50 through 350 statute miles.

1/ Composite of carrier data for actual operation including into LaGuardia in New York City and O'Hare in Chicago. Operation into high density areas will result in lower block speeds than would ordinarily be expected.

2/ At 100 mile stage length (from operator experience).

Take-Off Performance

All cities considered for scheduled service within the scope of this study have airports capable of handling aircraft up to, but not necessarily including, the Lockheed Electra without imposing any fuel and/or payload restrictions on the aircraft's operation under density altitude conditions likely to be encountered in the State. The Electra and DC-9 type aircraft require a minimum of 5,400 ft. and 6,000 ft. of runway, respectively, to avoid weight restrictions at 90°F. Airports, included in this study which cannot presently meet this criteria are:

Ft. Walton Beach	3,400 ft.
Key West	4,800 ft.
Marathon	5,000 ft.
Naples	5,000 ft.
Ocala	5,000 ft.
Punta Gorda	5,000 ft.

DC-9 service at Ft. Walton Beach is provided by Southern at Eglin AFB through special arrangement with the USAF. Destin Airport does not have sufficient runway length for either Type one or Type two aircraft with the exception of the DHC-7 under STOL performance regulations.

Performance Competition

Engineering state-of-the-art and cost considerations also tend to minimize performance differentials between competitive types of aircraft. Each manufacturer has access to comparable construction skills and design talent and pays essentially the same for its raw materials. There is even a remarkable degree of commonality in power plants. Competition also requires that aircraft competing in a certain type of market (i.e. short-haul, low density) provide basically similar performance. Variations can be expected in the emphasis of trade-offs between standard seating capacity and fuel capacity or speed vs. short-field performance.

There is really only one major performance difference between similar sized aircraft in the relatively low density short-haul market. This occurs between the short take-off/landing (STOL) designed aircraft and more conventional designs. Perhaps the best example of this difference is the four-engined DeHavilland DHC-7 which is currently undergoing flight tests and has been ordered by a number of small airlines. This aircraft is designed to lift 50 passengers out of a 2,000 ft. semi-prepared strip. This type of capability will cost about 30% more than a conventionally performing aircraft that may require twice the runway length to lift a comparable load. Clearly, there are operational environments in

which such a capability would justify a premium price. However, in Florida's current air service pattern, there is no need for this type of performance. In the future, some situations may arise in which city-center to city-center air service may become feasible but this will be deferred at least until a number of feasibility projects currently underway have been evaluated and proper airborne and ground-based navigation equipment is commercially available.

Price Competition

From a practical standpoint, the major factor in aircraft selection, from the operator's viewpoint, is price. Because of the stringent airworthiness regulations of the FAA aircraft which have been used in airline service and have a current airworthiness certificate are perfectly feasible choices for service. The classic example of this is the DC-3 which has seen almost 40 years of service and is still the only currently available aircraft in the 21-40 seat category. A DC-3 with a current air carrier license costs in the neighborhood of $100,000-$125,000 ($4,100 per seat). Its two turbine-powered competitors the Nord 262 (Mohawk 298) and the Short SD3-30 will be priced at over $1.5 million ($50,000-$57,000 per seat). While it is true that the DC-3 can't go on forever, a price differential factor of 10 makes the operator think about hanging on a bit longer, particularly when the direct operating costs of the DC-3 are still lower than the competition.

As aircraft increase in size, the dollar difference between used and new aircraft gets even greater in the Type 2 category (48 seats). The 50 seat DHC-7 will be priced at approximately $3.0 million ($60,000 per seat). A Convair 580, licensed for airline service currently sells for approximately $700,000 ($14,000 per seat). Both of these aircraft are turbine-powered with roughly the same speed and carrying capacity. It must be noted that an operator can buy a 50 seat Convair for less tha one-half the price of a new 28 seat aircraft. Further, the used Convair 580 can be acquired for approximately the same price as a new 15-19 place turbine-powered aircraft.

At the small end of the aircraft size scale, there is much less price difference to choose between in modern turbine-powered aircraft. These prices range from something over $600,000 for the 15 passenger Beech B-99 ($40,000 per seat) and the 19-place DHC-6 (Twin Otter) ($32,000 per seat) to over $850,000 for the 19-place Swearingen Metro ($45,000 per seat). The only piston-powered modern aircraft in a similar capacity category is the 16-place Britten-Norman Trislander, a three engine aircraft manufactured in England, certificated by the FAA, and currently used by several airlines world wide. This aircraft is priced at approximately $325,000 ($20,000 per seat).

Aircraft Used For Analysis

For purposes of evaluating the financial results of the example route systems, it was necessary to select a representative aircraft type for each size category. The Convair 580, Mohawk 298 and the Beech 99A were selected as representative of Type 2, Type 3 and Type 4 aircraft, respectively. The following sections relate these aircraft to others in their class.

Type 2

Specific operating environments may require aircraft of non-standard operating characteristics. However, there are no such circumstances foreseen in providing an adequate level of intrastate air service in Florida. The Convair 580 and the Fairchild F-227 have similar operating characteristics and seating. There is no implication in the use of the Convair 580 as an example in this study that an operator should not consider use of an F-227 as an alternative, particularly if the acquisition cost was advantageous. It should be noted that both of these aircraft have had considerable service and require continuous inspection and structural upgrading such as a program currently underway on the CV-580 aircraft owned by Allegheny Airlines. It must also be pointed out that CV-580 burns a relatively large amount of fuel per mile and therefore will be more subject to increases in direct operating costs as fuel prices escalate.

The DeHavilland DHC-7 (Dash 7) is scheduled for introduction into airline service early in 1977. This four-engine, turbine-powered aircraft has been designed to carry 50 passengers and to operate out of a 2,000 ft. air strip at gross loads. It uses 5-bladed props which significantly reduce noise levels both inside and outside the aircraft. However, the high cost of the aircraft, in excess of $3.5 million, will probably make it unattractive in a market where turbine-powered aircraft of similar capacity and slightly higher speed are available for approximately 25% of the cost, and where STOL capability is not essential.

Type 3

Since both the Short SC3-30 and the Mohawk 298[1/] are foreign built and have yet to be put into service in the U.S., a meaningful comparison of their operational characteristics is impossible.

1/ The Mohawk 298 is the Nord 262 fitted with an American engine.