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between the eligible place and the designated hub or hubs, which is based on the carrier's own estimates, Department estimates, and on traffic levels in the market at issue when such data are available.

(b) The reasonableness of a carrier's passenger revenue projections will be evaluated by:

(1) Comparing the carrier's proposed fare with the fare charged in other city-pair markets of similar distances and traffic densities; and

(2) Comparing the carrier's proposed pricing structure with historical pricing practices in the market at issue, with the pricing practices of that carrier in other markets, and with any standard industry pricing guidelines that may be available.

(c) An estimate of freight and other transport-related revenue will be included as a component of projected revenues and will be based on recent experience in the market involved and on the experience of the carrier involved in other markets.

[ER-1398, 49 FR 49846, Dec. 24, 1984, as amended at 60 FR 43524, 43525, Aug. 22, 1995]

§ 271.6 Profit element.

The reasonable return for a carrier for providing essential air service at an eligible place generally will be set at a flat percentage, typically 5 percent of that carrier's projected operating costs as established under § 271.4, plus any applicable interest expenses on flight equipment.

[ER-1398, 49 FR 49846, Dec. 24, 1984, as amended at 60 FR 43524, 43525, Aug. 22, 1995]

§ 271.7 Subsidy payout formula.

(a) Subsidy will be paid by the Department to the air carrier monthly, based on the subsidy rate established by the Department for the carrier under this part. Payments will not vary except as provided in this section.

(b) While a carrier's subsidy rate will not vary even if actual revenues or costs differ from projections, the actual amount of each payment may vary depending on the following factors:

(1) Seasonal characteristics of the carrier's operations at the eligible place;

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(2) The actual number of flights completed, aircraft miles flown, available seat-miles flown, or variations in other operational elements upon which the subsidy rate is based; or

(3) Adjustments to the carrier's subsidy required by § 271.8(b).

(c) Payments will continue for the duration of the rate term established under § 271.8 provided that the carrier continues to provide the required service.

[ER-1398, 49 FR 49846, Dec. 24, 1984, as amended at 60 FR 43524, 43525, Aug. 22, 1995]

§ 271.8 Rate period.

(a) The subsidy rate generally will be set for a 2-year period, or two consecutive 1-year periods. The Department may set the rate for a shorter period in the following situations:

(1) A commuter air carrier is replacing a larger certificated carrier at the eligible place;

(2) Traffic at the eligible place has substantially decreased;

(3) The Department considers the cost or revenue projections of the carrier for the second year to be unrealistic;

(4) It is likely that there will be changes in the eligible place essential air service level; or

(5) The uncertainties of the market or other circumstances warrant a shorter rate period.

(b) The subsidy rate established for a carrier under this part will not be changed during the rate period unless an adjustment is required in the public interest.

(c) At the end of the rate period, the carrier will not have a continuing right to receive subsidy for providing essential air service at the eligible place.

[ER-1398, 49 FR 49846, Dec. 24, 1984, as amended at 60 FR 43524, 43525, Aug. 22, 1995]

§ 271.9 Discrimination prohibited.

(a) All air carriers receiving subsidy under this part shall comply with the following:

(1) The Age Discrimination Act of 1975;

(2) The Civil Rights Act of 1964 and 49 CFR part 21; and

(3) The Rehabilitation Act of 1973, 49 CFR part 27, and part 382 of this chapter.

(b) Within 1 year after it first receives a subsidy under this part, the carrier shall evaluate its practices and procedures for accommodating the handicapped in accordance with § 382.23 of this chapter.

(c) All air carriers seeking a subsidy under this part shall include in their subsidy application the assurances required by 49 CFR parts 20, 21, 27 and 29, and § 382.21 of this chapter.

[ER-1398, 49 FR 49846, Dec. 24, 1984, as amended at 60 FR 43525, Aug. 22, 1995]

PART 272—ESSENTIAL AIR SERVICE TO THE FREELY ASSOCIATED STATES

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272.12 Termination.

AUTHORITY: 49 U.S.C. Chapters 401, 402, 416, 461, 1102; sec. 221(a)(5) of the Compact of Free Association, and paragraph 5 of Article IX of the Federal Programs and Services Agreement in implementation of that Compact (Pub. L. 99-239; Pub. L. 99-658); Pub. L. 101-219.

SOURCE: Amdt. No. 272-1, 52 FR 5443, Feb. 23, 1987, unless otherwise noted.

§ 272.1 Purpose.

Paragraph 5 of Article IX of the Federal Programs and Services Agreement implementing section 221(a)(5) of the Compact of Free Association between the United States and the Governments of the Federated States of Micronesia, the Marshall Islands and Palau (the Freely Associated States) provides, among other things, for the Department of Transportation (Department), as successor to the Civil Aero-

navics Board (Board), to guarantee essential air service, with compensation if necessary, to certain places in these islands. Subparagraph 5(h) of the Agreement provides that the Department shall adopt rules to implement the provisions of paragraph 5 as it in its discretion deems appropriate. Section 221(a)(5) of the Compact, which was adopted by Congress as public laws (Pub. L. 99-239, Jan. 14, 1986; Pub. L. 99-658, Nov. 14, 1986), provides that the Department (as successor to the Board) has the authority to implement the provisions of paragraph 5 of the Agreement. This part implements these provisions of paragraph 5.

[Amdt. No. 272-1, 52 FR 5443, Feb. 23, 1987, as amended at 60 FR 43525, Aug. 22, 1995]

§ 272.2 Applicability.

This part establishes the provisions applicable to the Department's guarantee of essential air service to places in the Federated States of Micronesia, the Marshall Islands and Palau, and the payment of compensation for such services. The rule applies to U.S. air carriers and Freely Associated State Air Carriers providing essential air service to these places.

[Amdt. No. 272-1, 52 FR 5443, Feb. 23, 1987, as amended at 60 FR 43525, Aug. 22, 1995]

§ 272.3 Places eligible for guaranteed essential air service.

(a) Subject to the provisions of this part, and paragraph 5 of Article IX of the Federal Programs and Services Agreement, the Department will make provision for the operation of essential air service, with compensation if necessary, to the following places in the Freely Associated States:

In the *Federated States of Micronesia*: Ponape, Truk and Yap.

In the *Marshall Islands*: Majuro and Kwajalein.

In *Palau*: Koror.

(b) The places specified herein in the Federated States of Micronesia, the Marshall Islands or Palau, respectively, shall cease to be eligible places under this part if any of those Governments withdraw from the subsidy provisions of Article IX of the Federal Programs and Services Agreement in