

utilized by the consumer). If a consumer has obtained a refund of the September 11th Security Fee or other government-imposed taxes and fees, then those fee amounts may be deducted from the consumer's travel credit or voucher. Nothing in this section relieves the carrier of its obligation to comply with the requirements of other Federal agencies relating to the refund of government-imposed taxes and fees.

§ 262.7 Processing fee.

A carrier may retain a processing fee for issuing the travel voucher or credit, as long as the fee is on a per-passenger basis and the existence and amount of the fee is clearly and prominently disclosed to consumers at the time they purchased the airfare.

§ 262.8 Disclosure of restrictions, conditions or limitations.

A carrier shall not impose unreasonable restrictions, conditions or limitations on the travel credits or vouchers, including a validity period that is shorter than five years from the date of issuance, a restriction on the transferability of the credits or vouchers to another individual, conditions that severely restrict booking with respect to travel date, time, route, or class of service; a limitation that allows redemption only in one booking and renders any residual value void; or a limitation that only allows the value of the credits or vouchers to apply to the base fare of a new booking but not government-imposed taxes or fees, carrier imposed fees, or ancillary service fees. A carrier must clearly disclose, no later than at the time of voucher or credit issuance, any material restrictions, limitations, or conditions on the use of the credits and vouchers that are not deemed unreasonable, including but not limited to advance purchase requirement or capacity restrictions and blackout dates.

§ 262.9 Contract of carriage.

A carrier shall not include terms or conditions in its contract of carriage inconsistent with the carriers' obligations as specified by this part. Any such action will be considered an unfair and deceptive practice within the meaning of 49 U.S.C. 41712.

PART 271—GUIDELINES FOR SUBSIDIZING AIR CARRIERS PROVIDING ESSENTIAL AIR TRANSPORTATION

Sec.

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- 271.9 Discrimination prohibited.

AUTHORITY: 49 U.S.C. Chapters 401, 417.

SOURCE: ER-1398, 49 FR 49846, Dec. 24, 1984, unless otherwise noted.

§ 271.1 Purpose.

This part establishes the guidelines required by 49 U.S.C. 41736 to be used by the Department in establishing the fair and reasonable amount of compensation needed to ensure the continuation of essential air service to an eligible place under 49 U.S.C. 41731 and 41734. These guidelines are intended to cover normal carrier selection cases and rate renewal cases, and not necessarily emergency carrier selection cases.

[60 FR 43524, Aug. 22, 1995]

§ 271.2 Definitions.

As used in this part:

Eligible place means a place in the United States that meets the specified criteria outlined in 49 U.S.C. Chapter 417.

Essential air service is that air transportation which the Department has found to be essential under Subchapter II of Chapter 417 of the Statute.

[60 FR 43524, Aug. 22, 1995, as amended by Doc. No. DOT-OST-2014-0140, 84 FR 15933, Apr. 16, 2019]

§ 271.3 Carrier subsidy need.

In establishing the subsidy for an air carrier providing essential air service at an eligible place, the Department will consider the following:

- (a) The reasonable projected costs of a carrier in serving that place;
- (b) The carrier's reasonable projected revenues for serving that place;

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(c) The appropriate size of aircraft for providing essential air service at that place; and

(d) A reasonable profit for a carrier serving that place.

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

§ 271.4 Carrier costs.

(a) The reasonable costs projected for a carrier providing essential air service at an eligible place will be evaluated:

(1) For costs attributable to the carrier's flying operations (direct expenses), by comparing the projected costs submitted by the carrier with the following:

(i) The carrier's historical direct operating costs with the same or similar aircraft types;

(ii) The direct operating unit costs of similar carriers using the same or similar equipment; and

(iii) Data supplied by the manufacturer of the carrier's aircraft.

(2) For other costs, by one or more of the following methods:

(i) By direct assignment where the indirect costs are attributable to the carrier's operations at the eligible place;

(ii) By comparing the carrier's systemwide indirect operating expenses to those submitted by the carrier for the eligible place; or

(iii) By comparing the indirect operating expenses submitted by the carrier with the ratio of indirect to direct costs that have been experienced by the carrier in other markets or to costs that are representative of the industry.

(3) By considering the unique circumstances of the carrier or the community being served that justify deviations from the costs that would otherwise be established for that carrier under this paragraph.

(4) By determining whether the aircraft to be used by the carrier at the eligible place, and on which its costs are derived, are appropriate for providing essential air service there. The appropriateness of the aircraft to be used is based on the following characteristics of the eligible place:

(i) Traffic levels;

(ii) The level of air service that the Department has decided is essential for the eligible place;

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(iii) Distance to the designated hub;

(iv) The altitude at which the carrier must fly to the designated hub; and

(v) Other operational elements involved.

(b) When the essential air service would be made part of the carrier's linear system, the Department might, instead of the factors in paragraph (a) of this section, consider only the incremental costs that the carrier will incur in adding that service to its system.

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

§ 271.5 Carrier revenues.

(a) The projected passenger revenue for a carrier providing essential air service at an eligible place will be calculated by multiplying the following:

(1) A reasonable projected net fare, which is the standard fare expected to be charged for service between the eligible place and the designated hub less any dilution caused by joint fare arrangements, discount fares that it offers, or prorates of fares for through one-line passengers; and

(2) The traffic (including both local and beyond traffic) projected to flow 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, Aug. 22, 1995]