

**Office of the Secretary, DOT**

**Pt. 399, Subpt. C, Example**

[PS-54, 38 FR 24643, Sept. 10, 1973, as amended by PS-99, 45 FR 82625, Dec. 16, 1980]

**§ 399.43 Treatment of leased aircraft.**

In determining the appropriate treatment of leased aircraft for ratemaking purposes, it is the Board's policy to recognize actual rental expenses. In unusual circumstances where the leased aircraft value (determined on a constructive depreciated basis) in relation to net book value of owned aircraft operated by the same air carrier is significantly in excess of the ratio for the aggregate of the domestic trunklines and local service carriers (computed on the same basis), a reasonable profit element may be added which shall reflect the additional risks of operations with the leased aircraft, to the extent that such risks are not compensated by the return on investment. Such profit element would be determined by applying the standard rate of return, less 6 percentage points, to the value of the leased aircraft, on a constructive depreciated basis, to the extent the ratio

of such value to depreciated cost of owned aircraft plus the value of leased aircraft exceeds the average for the domestic air carriers. Rental cost plus allowable profit, if any, will not be recognized in amounts exceeding depreciation plus return on investment computed as if the aircraft had been purchased by the carrier.

[PS-44, 36 FR 7229, Apr. 16, 1971]

**§ 399.44 Treatment of deferred Federal income taxes for rate purposes.**

For rate-making purposes other than the determination of subsidy under section 406(b), it is the policy of the Board that Federal income tax expense should be based on the normal taxes that would be paid under the depreciation standards used for rate making, and that accumulated reserves for deferred taxes should be excluded from the recognized capitalization for rate-base purposes.

[PS-46, 36 FR 7232, Apr. 16, 1971]

**EXAMPLE OF SIFL ADJUSTMENT**

[Methodology for determining change in operating expense per available seat-mile]  
[See footnotes at end of table]

Year ended September 1979	Trunks	Locals	Trunks plus locals	Total passenger/cargo <sup>16</sup>
Total operating expense <sup>1</sup> (millions) .....	\$16,455	\$2,522	\$18,977	\$19,384
Less:				
All-cargo expenses <sup>2</sup> .....	269		269	269
Belly offset <sup>3</sup> .....	952	153	1,105	1,153
Nonscheduled <sup>4</sup> .....	141	46	187	205
Transport related <sup>5</sup> .....	379	31	410	416
Plus: Capitalized lease adjustment <sup>10</sup> .....	119	2	121	121
Passenger operating expense .....	14,833	2,294	17,127	17,462
Passenger fuel cost <sup>11</sup> .....			4,103	N.A.
Scheduled service ASM's (mils.) .....	281,671	33,051	314,722	318,459
Passenger nonfuel operating expense per ASM (dollars) .....			.04138	N.A.
Passenger fuel expense per ASM (dollars) .....			.01304	N.A.
Total passenger expense per ASM (dollars) .....			.05442	.05483
Year ended September 1978				
Total operating expense <sup>1</sup> (millions) .....	14,081	2,033	16,114	16,448
Less:				
All-cargo expenses <sup>2</sup> .....	282		282	282
Belly offset <sup>3</sup> .....	869	152	1,021	1,065
Nonscheduled <sup>4</sup> .....	193	53	246	256
Transport related <sup>5</sup> .....	419	30	449	454
Plus: Capitalized lease adjustment <sup>10</sup> .....	78	1	79	79
Passenger operating expense .....	12,396	1,799	14,195	14,470
Passenger fuel cost <sup>11</sup> .....			3,129	N.A.
Scheduled service ASM's (mils.) .....	262,068	27,067	289,135	292,255
Passenger nonfuel operating expense per ASM (dollars) .....			.03827	N.A.

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[Methodology for determining change in operating expense per available seat-mile]  
 [See footnotes at end of table]

Year ended September 1979	Trunks	Locals	Trunks plus locals	Total passenger/cargo <sup>16</sup>
Passenger fuel expense per ASM (dollars) .....			.01082	N.A.
Total passenger expense per ASM (dollars) .....			.04909	.04951
Percent change in nonfuel operating expense per ASM (percent) .....			8.13	N.A.
Projected change in nonfuel expense from April 1, 1979 to April 1, 1980 <sup>6</sup> .....			8.13	N.A.
Estimated change in fuel cost, year ended September 1979 average to April 1, 1980 <sup>14</sup> .....			73.06	N.A.
Nonfuel operating expense per ASM at April 1, 1980 <sup>7</sup> (dollars) .....			.04474	N.A.
Fuel expense per ASM at April 1, 1980 <sup>7</sup> (dollars) .....			.02257	N.A.
Total expense per ASM at April 1, 1980 <sup>7</sup> (dollars) .....			.06731	<sup>15</sup> .06782

  

Year ended March 1977				
Total operating expense <sup>1</sup> (millions) .....	\$11,726	\$1,520	\$13,316	\$13,601
Less:				
All-cargo expense <sup>2</sup> .....	238		238	238
Belly offset <sup>3</sup> .....	729	96	825	865
Nonscheduled <sup>4</sup> .....	220	35	225	266
Transport related <sup>5</sup> .....	427	111	538	554
Passenger operating expense .....	10,112	1,348	11,460	11,678
Passenger fuel cost .....	2,190	230	2,420	N.A.
Scheduled service ASM's (mils.) .....	239,593	23,428	263,021	265,837
Operating expense per ASM (dollars) .....	.04221	.05754	.04357	.04393
Projected expense per ASM (dollars) as at July 1, 1977 <sup>13</sup> .....				.04593
Projected operating expense per ASM as at April 1, 1980 (page 1) (dollars) .....				.06782
Ceiling adjustment factor <sup>8</sup> (percent) .....				47.66

D.P.F.I. formula effective July 15, 1977<sup>12</sup>:

Terminal charge .....	\$16.16
Plus .....	.0884/mile (0-500 miles).
Plus .....	.0674/mile (501-1,500 miles).
Plus .....	.0648/mile (over 1,500 miles).
Ceiling formula through April 30, 1980 <sup>9</sup> :	
Terminal charge .....	\$23.86
Plus .....	.1305/mile (0-500 miles).
Plus .....	.0995/mile (501-1,500 miles).
Plus .....	.0957/mile (over 1,500 miles).

<sup>1</sup> Total operating expense for all operations and service (in millions).  
<sup>2</sup> Scheduled all-cargo operations expense.  
<sup>3</sup> Total scheduled-service cargo revenue, less scheduled all-cargo operations revenue, carried as a by-product in aircraft belly compartments. Includes freight, express, priority and non-priority U.S. mail, and excess baggage.  
<sup>4</sup> Total non-scheduled revenues times 0.95, assuming charter operations would only be conducted at a profit.  
<sup>5</sup> Total transport-related expense, less any excess of expense over total transport-related revenues.  
<sup>6</sup> We here project costs from April 1, 1979 (the midpoint of the data year ended September 1979) to April 1, 1980 the resultant increase factor effective through April 30, 1980.  
<sup>7</sup> Operating expense per ASM for year-ended September, 1979, times projected change.  
<sup>8</sup> Projected operating expense per ASM on April 1, 1980 divided by the operating expense as at July 1, 1977.  
<sup>9</sup> Adjustment results in a 2.5 percent increase in level over current January 1, 1980 factor.  
<sup>10</sup> Additional rental expense that would have been incurred had leases not been capitalized under FASB-13, less actual amortization of capitalized lease expense.  
<sup>11</sup> Total fuel cost, scheduled service, times complement of rate of All-Cargo expense to total Operating Expense.  
<sup>12</sup> Order 77-7-26.  
<sup>13</sup> Year ended March, 1977 cost per ASM, times cost escalation factor of 1.04543 (to July 5, 1977). See DPFI workpapers, Y.E. March, 1977.  
<sup>14</sup> Estimated average cost per gallon for the trunk plus local service carriers at April 1, 1980, divided by the average for the year ended September, 1979 (48.33c).  
<sup>15</sup> Change in Trunks plus Locals cost per ASM as at April 1, 1980, to year ended September, 1979 times total Psgr/Cargo cost for the year ended September, 1979.  
<sup>16</sup> Includes Alaskan, Hawaiian and other regional carriers.

[PS-92, 45 FR 24119, Apr. 9, 1980]

## Subpart D [Reserved]

## Subpart E—Policies Relating to Hearing Matters

## § 399.60 Standards for determining priorities of hearing.

(a) *General.* This policy statement describes the general standards which will be used by the Board in determining the order in which it will designate for hearing those matters on its docket which are to be decided after notice and hearing. Among such matters are applications for certificates of public convenience and necessity or for foreign air carrier permits; applications under section 408 of the Act for approval of consolidations or acquisitions of control; complaint cases; and various rate-making proceedings.

(b) *Standards.* Matters will be assigned for hearing in accordance with the degree of relative priority which each matter is entitled to on the basis of the comparative public interest involved therein. Among other things, the Board will take into account:

(1) Statutory requirements for preference or statutory limitations on the time within which the Board shall act;

(2) The impact of delay on the public or particular persons;

(3) The need for promptly securing compliance with the provisions of the Act;

(4) The time for which the matter has already been pending and which would be required to dispose of it;

(5) Whether the application requests renewal of an existing temporary authorization; and

(6) In matters relating to operating authority:

(i) Whether a proposal might reduce subsidy or increase economy of operations;

(ii) Whether an application proposes new service;

(iii) The volume of traffic that might be affected by the grant or denial of the proposal;

(iv) The period that has elapsed since the Board considered the service needs of the places or areas involved; and

(v) The relative availability of necessary staff members of the carriers, communities and the Board, in the light of other proceedings already in

progress, to handle the processing of the case.

Interested persons may urge upon the Board such considerations as they believe should lead it to accord a particular application a priority different from that which the Board has given it.

## § 399.61 Presentations of public and civic bodies in route proceedings.

For the purpose of implementing the Board's policy to provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence and otherwise to expedite route proceedings, and in light of experience, the following guidelines are hereby established:

(a) Public and civic bodies which represent the same geographic area or community should consolidate their presentation of evidence, briefs or oral argument to the examiner and the Board;

(b) A public body or a civic organization, or several such bodies or organizations whose presentation of evidence is consolidated, should keep to a minimum the number of witnesses used to present the factual evidence in support of the community's position;

(c) Exhibits offered in evidence by a public body or civic organization should be limited to evidence of the economic characteristics of the community and area involved, data as to community of interest and traffic, evidence with respect to the sufficiency of existing service, and airport data, and should not include data relating to number of electricity, water and gas meters, telephones, schools, freight car loadings, building permits, sewer connections, or volume of bank deposits in the community.

## § 399.62 Target dates in hearing cases.

(a) *Applicability.* This section applies to initial and recommended decisions of administrative law judges, final decisions, and decisions on petitions for review or reconsideration in cases in which the Board has ordered a trial-type hearing before an administrative law judge.

(b) *Issuance of target dates.* In cases to which this section applies, the Board or the administrative law judge, as the situation calls for, shall issue a notice of the target date for the completion of