

December 8, 2000

Ms. Catherine M. Lang  
Director, Airport Planning and Programming  
Federal Aviation Administration  
800 Independence Ave., SW  
Washington, DC 20591

**Re: Response to Comments on the Airport's Competition Plan**

Dear Ms. Lang:

Pursuant to your letter dated November 9, 2000, the Charter County of Wayne, Michigan (the "County") hereby provides the following supplemental information in response to FAA comments on the *Competition Plan* for Detroit Metropolitan Wayne County Airport (the "Airport") dated October 1, 2000.

**Gate Availability**

**FAA Comment #1:** *Because all terminal facilities at DTW will be built or renovated with PFC revenues by 2008, and such gates cannot be leased on a long-term exclusive use basis, we would expect that virtually all of the gates would be leased on a non-exclusive basis well in advance of 2009. Please provide a specific schedule for the phase out of all exclusive use leases at DTW.*

**DTW Response:** While it is anticipated that a large portion of the terminal facilities at the Airport will be built or renovated with PFC revenues by 2008, to date the County has executed a thirty-year, amended use & lease agreement providing for preferential use premises at the new Midfield Terminal only with Northwest Airlines. It is currently anticipated that the Midfield Terminal will be completed by December 2001 and that Northwest Airlines would relocate to the preferential use space at the new Midfield Terminal shortly thereafter.

All other airline terminal leases at the Airport, except for Southwest Airlines' and Spirit Airlines' preferential leases on Concourse A, are on an exclusive-lease basis and currently expire in January 2009. The County is currently evaluating design alternatives for the reconstruction of the North Terminal complex. Upon completion of the design process, the County will be in a better position to assess the schedule and timing of the reconstruction program, and hence, the phase out of exclusive to preferential leases at the Airport. The County recognizes that, in order to move any of the other airlines into PFC-financed terminal space, the leases for that space cannot be on a long-term exclusive use basis. However, the County will need to reach agreement on new leases with those airlines currently entitled to their current exclusive use premises until 2009.

The following table does provide the County's current timetable for the phasing of exclusive to preferential leases at the Airport's 86 terminal gates (excludes international terminal gates and 10 domestic remote parking gates):

Gate Lease	Current	December 2001	January 2009
Exclusive	74	21	0
Preferential	21	65	86

The County will endeavor to reach a new preferential use agreement with the current exclusive lease carriers prior to 2009; however, there is no assurance that it will be able to do so.

**FAA Comment #2:** *Please explain why the County does not plan to provide any domestic gates on a common use basis.*

**DTW Response:** The County has never indicated that it will not provide any domestic gates on a common-use basis. As mentioned previously, the County is currently evaluating design alternatives for the reconstruction of the North Terminal complex, which includes consideration of retaining a few common use gates in the reconfigured terminal complex. As part of this process, the County is assessing overall gate requirements for airlines to be located at the North Terminal complex. Included in this assessment, among other elements, is the type of use basis (e.g., preferential or common-use) under which each gate will operate.

**FAA Comment #3:** *In the absence of a gate-monitoring program, please describe how the County currently determines whether the County's rights to terminate Northwest's lease for PFC financed gates under Assurance #7 have been triggered and whether those rights should be exercised.*

**DTW Response:** The triggering of rights under PFC Assurance #7 presumes that 1) an air carrier seeking gate utilization at an airport has been precluded entry and 2) that an existing air carrier, who holds both leases on PFC-financed facilities and other non-PFC financed facilities on an exclusive basis at the airport, has not fully utilized its exclusive-lease facilities and/or has not allowed the use of its existing facilities by other air carriers.

As stated in the *Competition Plan*, every air carrier that has approached the Airport about obtaining the use of gates has been guided to carriers (including Northwest) that are not utilizing their gates to the maximum extent possible. To the Airport's knowledge, in every instance, the carrier seeking space has been able to reach an arrangement with an existing leaseholder to accommodate desired operations. The Airport is not aware of any airline that has been precluded entry to the Airport because it could not obtain adequate facilities. For example, the County directed Spirit Airlines to Northwest Airlines when Spirit was seeking increased gate access at the Airport prior to its current location and lease on Concourse A. Northwest was able to accommodate Spirit's operations on its existing exclusive leased facilities. It also should be noted that Northwest currently averages six to seven operations per gate per day, the highest turn utilization at the Airport by any air carrier.

**FAA Comment #4:** *In addition, our Airport Practices report found that airport gate monitoring of all gates informs airport management of the efficiency of gate usage and facilitates the accommodation of new entrants and incumbents wishing to expand. In view of your authority to monitor usage of exclusively leased gates, please explain your plans in this area.*

**DTW Response:** As mentioned on page 2 of the *Competition Plan*, the County is formulating a gate use monitoring program that will track air carrier utilization levels for each gate at the Airport, regardless of lease type. This program will be in place by the time the Midfield Terminal opens, currently anticipated in December 2001.

**FAA Comment #5:** *Please clarify in your supplemental information the County's position on whether or not PFC Assurance #7 has been applied to promote access to terminal facilities.*

**DTW Response:** PFC Assurance #7 provides for the termination by an airport of an air carrier's lease on PFC-financed facilities if any portion of the air carrier's existing exclusive use facilities "is not fully utilized and is not made available for use by potentially competing air carriers or foreign air carriers." To date, the application of PFC Assurance #7 has not been required to accommodate new entrant or expanded incumbent air carrier service at the Airport. That is what the County meant when it stated that it has never had to "invoke" Assurance #7. In the case of Spirit Airlines, the County indicated to Northwest that the County would consider using its rights under Assurance #7 in order to make sure facilities were made

available to Spirit. In response, Northwest was able and willing to accommodate Spirit's operations within Northwest's existing exclusive leased facilities without the County forcibly applying the PFC Assurance #7 provision to terminate Northwest's exclusive use lease.

### **Leasing and Subleasing**

**FAA Comment #1:** *The Competition Plan is silent on the subject of acquiring signatory status at DTW. We request that you provide information on this matter as part of the supplemental information...*

**DTW Response:** Under the FAA's PGL 00-3, the subject of signatory status was not listed as an item to be considered in the development and subsequent approval of an airport's *Competition Plan*.

However, the County seeks to clarify its position and provide the FAA information on this matter. Historically, the granting of signatory status to an airline at the Airport was a function of available gates for the airline to lease and the air carrier's decision to sign the standard airline lease and use agreement under which the signatory airlines provide financial security for the Airport's operating and debt-related expenditures. Given that the use and lease agreements, the number of overall gates, and the rates and charges structure are all changing due to the Airport's terminal development program, the County is currently evaluating the process and criteria for acquiring signatory status.

**FAA Comment #2:** *With regard to ground handling services, the Competition Plan is unclear as to whether non-signatory carriers can make use of the two fixed based operators or if they must use the ground handling service provided by the signatory from which they sublease.*

**DTW Response:** Non-signatory airlines can choose from the two fixed based operators (FBOs) or signatory-provided ground handling services. They are not limited in this regard.

### **Gate Assignment Policy**

**FAA Comment #1:** *Please provide more information about the County's role in identifying underutilized gate capacity and in facilitating access to that capacity by new entrants or incumbents seeking to expand operations.*

**DTW Response:** The description of the County's role as well as the process followed in facilitating an air carrier's expanding operations has remained consistent throughout discussions and recent documents filed with the US Department of Transportation (DOT). As stated in the *Competition Plan*,

*Currently, at all existing exclusively-leased domestic gates, it would be necessary for an air carrier to sub-lease gate facilities to obtain access. At the existing preferentially-leased gates, and at the new Midfield Terminal, the Airport has initiated a shared-use or preferential-use requirement which could accommodate new and/or expanded service. It is anticipated that all domestic gates will be preferentially-leased by the expiration of the Airport's current use & lease agreement (January 1, 2009).*

Furthermore:

*All 96 domestic gates at the Airport are currently being used. Today, all but twelve of the domestic gates are held in exclusive use leases executed under a master use and lease agreement. Northwest's exclusive use lease expires upon the opening of the Midfield Terminal. The other exclusive use leases expire January 1, 2009. Therefore, assignment of gates for new and/or expanded service is primarily accomplished through negotiations of sub-leases directly*

*with the incumbent carriers. The Airport has indicated that it will intercede on behalf of the requesting airline if it determines that based on the availability of gates, gate assignments are not appropriate to the needs of new or expanding carrier.*

*Tenant air carriers are made aware of gate availability through direct correspondence with the Airport and/or other communication channels like the DETROIT AIRPORT AIRLINES COUNCIL, which frequently convenes to discuss a wide range of operational issues.*

As stated in December 30, 1998 *Comments of Charter County Wayne, Michigan on Competitive Issue Affecting the Domestic Airline Industry*, filed with the Department of Transportation:

*At the present time, there are no vacant gates at the Airport. Every carrier that has approached the Airport about obtaining that use of gates has been guided to carriers that are not fully utilizing their gates. To Wayne County's knowledge, in every instance, the carrier seeking space has been able to reach an arrangement with an existing leaseholder to accommodate its desired operations.*

*The County has made it clear that in the current environment where most gates at the Airport are leased exclusively, the County will intervene on behalf of a new entrant that is seeking space if an airline with space to spare attempts to charge the new entrant rates that are out of line with the rates other carriers are paying at the Airport.*

The County believes these statements are all fully consistent.

### **Financial Constraints**

**FAA Comment #1:** *The Competition Plan asserts that the Airport uses an airport wide residual rate-setting methodology. However, it was our understanding that in 1996 the Airport entered into a new agreement with Northwest Airlines that will alter the airport-wide residual rate method. We further understood that the County intends to implement these same airline use conditions (referred to as a modified compensatory system) with other signatory carriers at DTW, to become effective no later than 2009. Please address this discrepancy in your supplemental information.*

**DTW Response:** The Airport intends to remain under an airport-wide residual rate setting methodology. This is consistent with the new use and lease agreement that Northwest Airlines signed in 1996, as well as all other new use and lease agreements that ultimately will be signed with signatory air carriers at the Airport. The County believes the FAA's source of confusion on this matter is that the FAA believes a modified compensatory system will replace the airport-wide residual rate setting methodology. This is incorrect. The modified compensatory system refers to the calculation of terminal rental rates and not the overall airport-wide rate setting methodology. The modified compensatory terminal rental rate methodology currently is scheduled to commence for all airlines (including Northwest under its new agreement) at the expiration of the current non-Northwest use and lease agreements (January 1, 2009). The airport-wide residual rate setting methodology is intended to remain in effect throughout the existing and new thirty-year lease periods. The reconstruction and renovation of the existing terminal complex will not affect the airport-wide residual rate setting methodology.

The County appreciates the FAA's comments on other areas of the *Competition Plan* and its encouragement to consider and address these recommendations. The County is currently evaluating the merits of such recommendations and will address them as appropriate in the first planned update of the *Competition Plan*. However, the County would like to comment on one suggestion made by the FAA under "Leasing and Subleasing" that "[a] description of the [preferential] lease's terms and conditions, including the terms under which a carrier may

invoke any rights that the County has to force accommodation at gates subject to preferential use leases, would be helpful to new entrants and to the FAA." While the County certainly can, and will, discuss its preferential use terms in the first update to the *Competition Plan*, the County notes that in all cases it would be the County, not a carrier, that would invoke the forced accommodation provisions of a preferential lease.

If you have any questions regarding this letter or the supplemental information contained herein, please do not hesitate to contact Mr. Robert E. Murphy, Airport General Counsel, at 734-942-3556.

Sincerely,

Lester W. Robinson  
Director of Airports