

Congress of the United States
House of Representatives
Washington, DC 20515-3223

February 27, 2025

The Honorable Sean Duffy
Secretary
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

RE: Docket DOT-OST-2022-0071

Dear Secretary Duffy:

To ensure the safety of the traveling public, we are writing to object to the Department's Order to Show Cause, which proposes to issue a commuter air carrier authorization to SkyWest Charter, LLC (SWC) to allow the company to conduct scheduled passenger service under 14 C.F.R. Part 135 (Docket DOT-OST-2022-0071 (Application of SkyWest Charter, LLC for a Commuter Air Carrier Authorization)).

As background, in the mid-1990s, the Federal Aviation Administration (FAA) committed to provide "one level of safety" for all scheduled passenger operations using aircraft with 10 or more seats. Subsequently, following the tragic crash of Colgan Air Flight 3407, Congress passed the Airline Safety and FAA Extension Act of 2010 (P.L. 111-210), which further strengthened safety regulations for airline passengers and crew. Unfortunately, a loophole in existing federal aviation regulations enables some passenger airlines to operate scheduled service under lower safety standards as "public charters." These are not traditional charter operators. Travelers who book tickets on these airlines may not be aware of the FAA's bifurcated safety rules which allow these operations without the same crew rest requirements; pilot training and experience standards; or flight dispatch and maintenance requirements that most other airlines must follow, even when operating the same type of aircraft.

It is encouraging that the FAA is already in the process of reviewing and potentially revising rules to ensure such safety standards are mandatory for scheduled passenger airlines operating aircraft with 10 or more seats, whether or not such airlines take advantage of the scheduled "charter" loophole. Until the FAA has completed its work on Docket-FAA-2023-1857 (Regulatory Definitions of On-Demand Operations; Supplemental Operation, and Scheduled Operation) and required all scheduled passenger airline operations to meet a consistent set of high safety standards, we urge the Department not to issue the aforementioned commuter carrier authorization to SWC (or such an authorization to any other person or entity seeking to provide similar service). Absent such action, the government's prior commitment to providing "one level of safety" will prove hollow.

Some have suggested lower safety standards will enable service to more communities; however, we believe that we do not need to sacrifice safety to achieve this goal. We are eager to work together to strengthen rural and small community air service. The Department and the FAA should be mindful of these issues, but we believe crewmembers and passengers flying to and from all communities – large and small – deserve the highest level of safety.

The OSC issued by the Department states: [SWC] has stated it intends to adopt a number of voluntary measures that exceed Part 135 minimum operating requirements. Specifically, SWC has stated it will use dual captain holding ATP certificates on its flight decks, utilize active flight dispatching, adhere to FAR Part 117 rest requirements, and implement Safety Management Systems and Advanced Qualification Program training. SWC also stated it plans to operate only at airports with traditional TSA security checkpoints.

It is not clear whether SWC intends to carry out an FAA-approved fatigue education and awareness program, install secondary cockpit barriers, comply with pilot retirement standards that apply to scheduled Part 121 air carriers, and submit to ongoing and permanent direct oversight by a dedicated FAA certificate management office.

The fact that SkyWest Charter has stated it voluntarily “intends” to meet many of the safety standards required for Part 121 operators goes to show that safety is not an impediment to their plans to provide service to smaller communities. Therefore, there is no reason that the Department and FAA should fail to reinforce the “one level of safety” principle in this case or in other similar authorization requests.

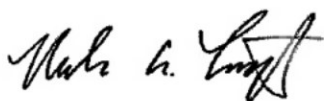
However, to the extent that the Department remains inclined to grant SWC’s commuter air carrier authorization prior to the FAA’s completion of the urgently required regulatory reforms discussed above—which we strongly oppose—we urge the Department to require at a minimum that SWC commit to implementing the voluntary measures set out in the OSC as a prerequisite for the issuance and maintenance of its commuter air carrier authorization. Safety for scheduled passenger airlines must not be “voluntary,” and the Department must not rely on the “intent” of applicants to be safe.

It is with this same concern for safety that we wrote on January 27, 2025, to Homeland Security Secretary Kristi Noem regarding the Transportation Security Administration’s (TSA’s) recent announcement to address security discrepancies for “scheduled public charter flight” operations on January 17, 2025. Like the FAA’s recent observations, TSA has also rightfully noted that scheduled public charter operators “have fixed routes and are selling boarding passes to individuals.”

However, the TSA’s announcement did not go far enough in addressing these discrepancies and the only acceptable outcome to address these security gaps across agencies is to ensure that any carrier that sells tickets by the seats, puts a schedule out to the public, and operates an aircraft with more than 9 seats is subject to full TSA security and all other safety measures expected by the traveling public when flying on a scheduled passenger airline. Additionally, we will be reintroducing the *Safer Skies Act* to codify fully closing these gaps in security and to ensure that any passenger, whether flying into a major airport or rural community, benefits from the same security and flight safety standards.

Therefore, in light of the need for continued review at DOT, and to ensure the safety of the traveling public, the Department must not finalize action on Docket DOT-OST-2022-0071 until the FAA has completed its important safety-focused work on Docket-FAA-2023-1857 and requires all scheduled passenger airline operations to meet a consistent set of high safety standards—namely, those applicable to Part 121 carriers. Passengers need not be subjected to different classes of safety to ensure small communities have access to air services, and we welcome the opportunity to work with you on this issue. Alternatively, should the Department move forward with granting SWC’s application, we strongly urge the Department to attach, as a condition, the voluntary measures that SWC has stated that it intends to adopt.

Respectfully,



Nicholas A. Langworthy
Member of Congress



Marc A. Veasey
Member of Congress