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DEPT. OF TRANSPORTATION
DOCKET SECTION

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AIRPORT AUTHORITY
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United States Department of Transportation
400 7th Street SW
Docket Clerk, Room PL-401
Washington, DC 20590

RE: Docket No. OST-98-4025-a 9

The purpose of this letter is to respond to Department of Transportation's (DOT) request for public comment on issues affecting the domestic airline *industry* (Docket No. OST 98-4025). In my response I would like to address the issues raised that relate to market conditions at airports. In the July 13, 1998 federal register (*volume* 63, number *133*), (page *37612-37613*) the DOT requests information on a number of issues. I would like to respond from the perspective of a medium hub airport.

Tucson International Airport (TIA) is classified as a medium hub with 1997 annual enplanements of **1,774,927**. The airport is served by eleven airlines with nonstop service to 14 destinations, of which thirteen are large hub airports, with numerous connecting opportunities to domestic and international destinations. The DOT has asked the following questions:

1. *What is the exact nature of airport (landside) constraints air carriers have encountered when attempting to enter a market or expand service?*

TIA is not subject to any **landside** constraints limiting the ability of an incumbent carrier to expand service or new carrier to enter the market. The airport serves its air carriers through a 23 gate terminal of which multiple gates are available for immediate lease to new entrants or incumbent carriers that wish to expand service. The airport also has available ticket counter and office space to support additional airline service. The terminal facility has been designed to allow cost-effective expansion to meet future needs. In turn, we do not have any immediate facility constraints that would restrict the expansion of air service nor do we believe we will be faced with future capacity restrictions related to a lack of available **landside** facilities.

2. *Have these constraints been so significant as to preclude entry at certain airports?*

No, TIA has not faced facility constraints that have restricted or limited entry or expansion of air service. (see question one above).



3. *What is the exact nature and competitive significance of the complaints that have been raised against current airport practices?*

We have not had any complaints from air carriers that relate to competitive issues such as availability of facilities or any other factors that would imply favoritism for any specific carriers or class of carriers. TIA, as with most small and medium hub airports is aggressively working to attract additional airlines and to encourage the expansion of service by incumbent carriers. To this end our leasing practices are flexible and allow for both the short-term (month-to-month) and long-term leasing of airport facilities. Our long-term leasing practices for signatory carriers have not restricted our ability to accommodate new airlines, nor have they restricted the expansion opportunities of existing air carriers.

4. *Do leasing practices and financing agreements at airports limit access and discourage entry?*

No, we do not believe that any of our leasing practices or financial agreements have had the impact of limiting access or discouraging entry. With respect to our financing methods which include the issuance of revenue bonds, bank loans and PFC cash flows, we do not see any basis to suggest that these practices would have a restrictive impact on the expansion of air carrier opportunities. In fact, it is our position that these financial tools have provided us the capability to construct and add to our facilities, thereby avoiding potential capacity related issues. Our leasing practices are flexible and we believe they serve to help promote entry with the ability to lease facilities on a short-term basis.

5. *Are airport financing practices changing in ways that will allow airports to have greater control over how they allocate gates?*

Recent trends in the airport industry are toward enhanced flexibility for the airport sponsor in both its operating and financial practices. With the market for air travel being the principal credit determinant, new operating and financial practices are responsive.

- Some new operating agreements have focused on the concept of “preferential” use privileges (at least with respect to passenger boarding areas, if not to ticket counter, offices, and baggage make-up facilities) rather than “exclusive” use privileges,
- Some new agreements at airports around the country provide for “common” use baggage claim facilities.
- Some new operating agreements which incorporate recapture and reallocation approaches for remaining exclusive use facilities.
- Where **MII** is incorporated in new agreements, it is likely that the provision includes a list of categories of improvements which are exempt from the

requirement for approval. These improvements may be undertaken (with their associated operating and capital costs incorporated as an element of the airport's rates and charges calculations) simply upon providing notice to the signatory carriers. **Landside** capacity-related improvements can be included as one of these "exempt" categories.

The principal financing consideration is that, given all of the operating agreement provisions which govern the relationships between the airport and the signatory airlines, the airport can demonstrate that it will be able to establish rates and charges for the use and occupancy of its facilities that will be sufficient to cover all of its financial obligations. The specific business operating practices are no longer subject to the same scrutiny that applied to airport revenue bonds in the past. Consequently, as control and flexibility with respect to the allocation of gates is more of an operating consideration, the financial markets tend to accept whatever local practice seems to serve the airport most effectively.

6. *Have airport projects funded through Passenger Facility Charges been successful in promoting competition? Why or why not?*

Any conclusions drawn with respect to the effectiveness of the PFC regarding the promotion of competition may be premature at this point. It would seem that any improvements which enhance capacity should promote competition, but it is difficult to demonstrate or document that specific improvements have led to a more competitive environment at any particular airport. We are confident that the PFC avenue of funding will in the course of time prove to be a benefit to new entrants. The application of PFC's to airport projects should have the impact of reducing debt service and in turn the cost of doing business at an airport. These reduced debt service costs should be of significant benefit allowing new entrants easier and more cost effective access to airport facilities.

7. *What actions have airports taken to promote entry?*

As we have noted in our response to question number three, TIA as is the case with most small/medium hub airports, works aggressively to encourage the addition of new air service and the expansion of service by existing carriers. In this context the airport terminal development plans have met our goal of having facilities available to accommodate our desire to meet the needs of an expanding air market.

8. *How do Majority-in-interest Agreements affect the competitive environment at airports?*

Tucson International Airport operates with an airline lease and use agreement. The agreement has a **30-year** term which expires in 2006. The **MII** portion has had no impact on the competitive environment at TIA. Although the agreement provides for the long-term lease of airport terminal facilities, the airport has available facilities for new entrants and incumbent carriers wishing to expand. In addition TAA has the capability to expand terminal facilities to provide for more capacity should conditions require additional space. It should be noted that it is the airport management's opinion that the **MII** agreement itself has not been used at TIA as an instrument to restrict capacity or facilities in an effort to reduce competition.

9. *Is there a trend a way from long-term exclusive-use gate leases?*

Yes, TIA although operated on an **MII** basis with long term use agreements does not lease air carrier gates on an exclusive basis. The lease of gate facilities is done on a preferential but non-exclusive basis. This form of lease allows the carrier to use its leased facilities on a first call basis, but also allows TAA to permit other carriers the use of these facilities in the event they are not being used by the primary leaseholder. This would prohibit a carrier or carriers from holding gates in an attempt to restrict the entry or expansion of service by competing carriers. It should be noted that TIA has not had to use this contract provision and that expansion is possible through two other methods (1) available facilities, (2) the ability to add additional facilities.

10. *Have airports reallocated gates away from incumbent carriers ("recapture" provisions) in ways that promote entry?*

No, however, as mentioned in the response to question number nine, TAA has the capability to authorize the use of gates leased under its long term use agreements, however, due to available facilities it has not been necessary to exercise this provision in our airline use agreement.

11. *Do airports involve themselves in monitoring subleasing/use agreements among air carriers?*

TAA airline use agreements require that TAA review and approve all subleases of its facilities.

12. Do airports attempt to ensure that prices charged for subleasing facilities are ancillary services are reasonable?

TAA ensures that prices charged for the subleasing of its facilities are reasonable by having alternate facilities available. Should a carrier feel that a potential subleasing agreement is excessive, they have the option of leasing space directly from TAA.

13. *Is there any evidence that established air carriers are transferring access to airport facilities among themselves in ways that affect competition?*

No, in reviewing the history of leasing and subleasing activity at TIA by the established or signatory carriers, we see no pattern or any evidence to suggest that these carriers have transferred facilities among themselves for anti-competitive purposes.

14. Are there reasons to retain current airport practices even if they adversely affect competition?

TAA does not believe any of its operating, leasing or financial practices adversely affect competition. Although this may not be the case at all airports, we suggest that our experience may be more representative of the nation's small and medium hub airports.

In reviewing the questions asked in the DOT's request for public comment I believe it is worthwhile to step back and review these responses in terms of the total rule making process. It is my belief that the competitive environment is alive and well in Tucson Arizona and that no barrier to entry exists for new entrants or the expansion of service by incumbent carriers.

I clearly understand that this may not be the case at a limited number of airports that have significant capacity problems, however, I would hope the DOT prior to any action considers the potential impact of its action on the majority of the nations airports that may not be faced with these anti-competitive issues.

Sincerely,

Walter A. Burg
President/CEO