

BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.

_____ )	
Application of )	
)	
GREATER BATON ROUGE )	
AIRPORT DISTRICT )	Docket OST-99-5532
)	
for exemption from 14 CFR Part 93, )	
Subparts K and S, under 49 U.S.C. )	
§ 41714 to allow nonstop service to )	
Chicago O'Hare International Airport )	
_____ )	

**CONSOLIDATED REPLY OF THE  
GREATER BATON ROUGE AIRPORT DISTRICT**

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Representatives for  
**Greater Baton Rouge Airport District**

May 6, 1999

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**CONSOLIDATED REPLY OF THE  
GREATER BATON ROUGE AIRPORT DISTRICT**

On April 12, 1999, the Greater Baton Rouge Airport District ("Baton Rouge") requested that the Department grant an exemption from the requirements of Subparts K and S of Part 93 of the Federal Aviation Regulations so that it may obtain direct nonstop service to Chicago's O'Hare International Airport. Baton Rouge has requested four exemption slots to be used in a thrice-daily Baton Rouge-Chicago O'Hare round-trip regional jet service. Baton Rouge asked the Department to award the four slots directly to the community.<sup>1</sup>

United Air Lines, Inc. ("United") and Atlantic Coast Airlines, Inc. d/b/a United Express ("United Express") answered Baton Rouge's application on April 27, 1999, by urging the Department to deny the request for slots. On April 30, 1999, the Community

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<sup>1</sup> On April 27, 1999, American Eagle Airlines filed an application (Docket OST-99-5587) for an exemption from 14 C.F.R. Part 93, Subparts K and S, in order to provide nonstop service between Baton Rouge and Chicago O'Hare, using 50-seat ERJ-145 aircraft.

of Shreveport (“Shreveport”) filed a petition for suspension of slot allocation asking the Department to deny Baton Rouge’s application, and instead to award Shreveport four exemption slots.

In its answer, United asserts that Baton Rouge’s application should be denied because granting exemption slots to communities would be both unsound policy and without legal basis. In contrast, United Express, while supporting the Department’s policy that communities are eligible for exemption slots, contends that Baton Rouge’s application should be denied because Baton Rouge allegedly has not proven that Baton Rouge-O’Hare (“BTR-ORD”) service would be financially feasible and that Baton Rouge allegedly does not fit the profile of a “best candidate” for such an award. Further, United Express also asserts that the communities of Charleston, SC and Mobile, AL (both of which have filed joint applications for exemption slots with United Express) do, in fact, fit the DOT’s profile of a worthy community applicant. In its petition, Shreveport argues that Baton Rouge’s request should be denied in favor of awarding four exemption slots to Shreveport so that it might attempt to attract an airline willing to operate nonstop regional jet service despite American Eagle’s decision to terminate service due to its lack of profitability.

Baton Rouge hereby responds to the foregoing answers by showing that the award of exemption slots to Baton Rouge is consistent with Department policy, and that its proposed service not only is operationally and financially feasible, but also has a demonstrable traffic demand in excess of 76,000 annual passengers – which is greater than or at least on par with any other small or medium-sized community seeking exemption slots at O’Hare.

**I. The Department has authority to award exemption slots to a community**

United raised similar objections to the granting of exemption slots directly to a community in the applications of the communities of Greenville/Spartanburg (OST-99-5130) and Savannah/Hilton Head (OST-98-3603). The Department specifically rejected United's arguments in Order 99-3-12, March 16, 1999, and granted the applications since "approval of slot exemptions to fill the service void in these markets comports with our policy guidelines, which contemplate our use of exemption authority to produce substantial transportation benefits." Order 99-3-12 at p. 6.

Section 41714 urges the Secretary to grant slot exemptions under certain conditions, without placing any restrictions on the Secretary's general authority to grant slot exemptions. Indeed, Section 41714(c) states that the exemptions are to "enable" new entrant carriers to operate at high density airports. It does not provide that the recipient of a slot exemption must be a new entrant carrier. Thus, the statutory language expressly recognizes that entities other than "carriers" can be awarded exemption authority under section 41714. In addition, the Department's general regulatory authority provides it with broad authority to grant slots on any basis that is not arbitrary and capricious, or otherwise contrary to law. See 14 C.F.R. Part 11 and Special Federal Aviation Regulation 43, 45 FR 72637, November 3, 1983.

Accordingly, United is merely repeating objections raised in previous proceedings, which already have been deemed to be "unfounded" by the Department. Order 99-3-12 at p. 7. Baton Rouge thus contends that there is no basis for the Department to award exemption slots to communities such as Greenville/Spartanburg

and Savannah/Hilton Head, but to then deny a similar request from Baton Rouge. We note that American Eagle filed an application seeking four exemption slots to serve BTR-ORD with nonstop regional jet service. In the event that the Department decides that only communities which are cooperating with airlines merit exemption slots, we ask that Baton Rouge's and American Eagle's applications be considered a de facto joint application for this purpose.

With respect to United's discussion of the procedural devices used by the Department to initially award the exemption slots used by American Eagle to serve Shreveport, Fayetteville, Duluth, and Montgomery, Baton Rouge states that it simply seeks the award of available ORD slots without regard to previous usage or conditions attached to any such returned slots. In the event that the Department decides to award Baton Rouge exemption slots, there is no reason that prior restrictions placed upon those slots should be passed on to Baton Rouge, unless circumstances truly warrant it.

**II. Baton Rouge-Chicago O'Hare service will produce substantial traffic and clearly will be financially feasible**

In Order 99-3-12 the Department stated that it seeks "to allocate these slot exemptions where they will produce the maximum transportation benefits." Order 99-3-12 at p. 2. Baton Rouge's conservative forecast of the number of passengers that would be transported on American Eagle's BTR-ORD regional jet service in the first year of operation is 76,161 passengers out of a total O&D traffic base between the two markets of an annual 205,710 passengers. See Reply Exhibit 1 – Summary of Baton Rouge Traffic Via American to Chicago O'Hare. Baton Rouge's forecast of 76,161

passengers is greater than both the 72,000 Charleston passengers and the 46,000 Mobile passengers that United Express projects it will transport during its first full year of nonstop regional jet service. Answer of United Express at pp. 7-8. Accordingly, United Express' argument that Baton Rouge cannot present evidence that its proposed service is feasible has no merit. Furthermore, Reply Exhibit 1 proves, contrary to United Express' contention, that Baton Rouge is a better "candidate" for exemption slots than either Charleston or Mobile, or at a minimum, is a "qualified" candidate based on the DOT's typical profile for slot exemption applicants.

Baton Rouge arrived at its forecast by calculating its figures assuming three daily round-trips using ERJ-145 aircraft with 50-seat capacity operated by American Eagle as the sole nonstop service between BTR-ORD. In order to create a reasonable forecast that could withstand close scrutiny, Baton Rouge used extremely conservative assumptions, i.e., it assumed zero market growth and no service stimulation as a result of the introduction of nonstop service in calculating the traffic carried by the proposed service.

Based on market research conducted in March 1999, of Baton Rouge travel agents and corporations, Baton Rouge suffers an estimated 24.5% leakage of traffic to nonstop New Orleans-O'Hare services. Accordingly, the reported local BTR-ORD O&D of 17,630 passengers for the year ending third quarter 1998 is severely understated. Accounting for the capture of this leakage traffic, and assuming American Eagle would transport a very conservative 85% market share of the true local O&D market, the annual local passengers transported on the proposed service would be 18,657. Adding American Eagle's share – again a conservative 25%-35% market share – of the local

O&D traffic between the three other airports within the Baton Rouge catchment area and O'Hare brings the total local BTR-ORD traffic transported on the proposed service to 24,349 passengers. See Reply Exhibit 1.

The proposed nonstop service between BTR-ORD will also provide convenient domestic connections for 44 additional airport markets with an average circuitry of 22% (and with no included market having a trip circuitry greater than 44%). Baton Rouge forecasts that out of the total 159,080 connecting O&D passengers, its proposed service will capture 30% of that market pool adding 47,724 additional annual passengers transported. See Reply Exhibit 2 – Baton Rouge Domestic Connection Traffic Potential Via Chicago O'Hare and Reply Exhibit 1. Similarly, BTR-ORD service will provide international connections to 14 foreign markets with a total O&D base of 10,220. Assuming a 40% market share by American Eagle, 4,088 additional enplaned passengers will use the proposed BTR-ORD service. See Reply Exhibit 3 – Baton Rouge International Connection Traffic Potential Via Chicago O'Hare and Reply Exhibit 1.

In summary, out of a total base O&D traffic pool of 205,710 passengers between BTR-ORD, Baton Rouge estimates that it will transport 76,161 passengers or 104.3 per day each way (PDEW). This represents a load factor of 69.6% based on an aggregate of 150 available seats available each way. See Reply Exhibit 1.

In response to United Express' arguments that Shreveport is a larger air service market than Baton Rouge and that the Department should, therefore, be skeptical of the feasibility of BTR-ORD service, we state that the foregoing figures are consistent with the fact that Baton Rouge is the second largest air service market in Louisiana. As

previously stated in Baton Rouge's April 12, 1999 application, the leading air travel indicators – total effective buying income and population – show that Baton Rouge would offer a thriving air service market with Chicago. The foregoing reasons demonstrate why American Eagle is confident that Baton Rouge-O'Hare service would be successful. Indeed, American Eagle's confidence is such that they propose to operate three daily round-trips between BTR-ORD. This service proposal makes sense given the fact that, even with three daily round-trips, Baton Rouge's conservative forecast still shows a load factor of 69.6%. Thus, United Express' argument that Baton Rouge's proposed service is not viable has no merit.

Further support for Baton Rouge's application is the fact that Chicago is one of Baton Rouge's foremost communities of interest – a factor that the Department deemed important in Order 99-3-12. As previously stated in Baton Rouge's April 12th Application, Chicago ranks as Baton Rouge's 4<sup>th</sup> largest O&D market without nonstop service, and its 7<sup>th</sup> largest overall O&D market. Moreover, taking into account the entire Baton Rouge catchment area, it ranks as Chicago O'Hare's 5<sup>th</sup> largest market without nonstop or roundtrip single-plane service. See Reply Exhibit 4. With reference to supplemental Exhibit No. 4 of Baton Rouge's application filed with the Department on April 27, the letters in support contained therein amply demonstrate the high level of interest in BTR-ORD service among major private sector companies, trade associations, civic and tourism groups, and public officials representing the needs of their Louisiana constituencies.

### **III. Conclusion**

While Baton Rouge believes that the Department should take action which would ensure that all markets can access slot controlled airports, to the extent that DOT decides that the slots available to be awarded by exemption are to be drawn from the same pool, then Baton Rouge asks that its application be granted since grant of its (or American Eagle's application to serve BTR-ORD) application will produce the most substantial transportation benefits of any other competing community application.

As a demonstrably large market – with a larger forecasted traffic demand than the services proposed by United Express in conjunction with Charleston and Mobile – Baton Rouge can readily support nonstop regional jet service to Chicago. Baton Rouge's exhibits showing an estimated 76,161 annual passengers, reflecting 104.3 PDEW and a 69.6% load factor, combined with American Eagle's confidence to operate three daily round-trips between BTR-ORD indicate the strength of the Baton Rouge market and the fact that it deserves the nonstop service required for its and all of Southern Louisiana's continued economic growth.

As to arguments that Baton Rouge's service proposal is speculative, Baton Rouge is willing to agree that, if awarded the requested slots, it will complete all arrangements needed to ensure that the service is operated within a specific period of time. If slots are awarded, Baton Rouge expects that American Eagle, which presently operates substantial services at Baton Rouge, would initiate service within 60 days of the date slots are awarded to either Baton Rouge or American Eagle as stated in

American Eagle's April 27 Application (Docket OST-99-5587). However, Baton Rouge would agree to return any awarded slots in the unlikely event it is unable to utilize them.

The public interest supports granting this petition. Federal regulations have limited the access of small and medium sized communities to key airports such as O'Hare and have given certain airlines inordinate power to determine what markets will receive critical nonstop service. By granting Baton Rouge's application, the Department will provide it and the Louisiana communities that it serves with a key tool to advance the region's economic growth and enjoy the consumer benefits intended by airline deregulation.

Respectfully submitted,

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Representatives for  
**Greater Baton Rouge Airport District**

May 6, 1999

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 6<sup>th</sup> day of May, 1999, served the foregoing Consolidated Reply of the Greater Baton Rouge Airport District and all exhibits thereto by first-class mail on all persons named on the attached service list.

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Belen Sangria

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