

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Application of

CONTINENTAL AIRLINES, INC.

for an exemption from Subparts K and S of
14 C.F.R. Part 93 pursuant to 49 U.S.C. § 41714

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Docket OST-00-

APPLICATION OF
CONTINENTAL AIRLINES, INC.

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February 28, 2000

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APPLICATION OF
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Continental¹ applies under 49 U.S.C. § 41714(c), for an exemption from 14 C.F.R. Part 93, Subparts K and S ("the High Density Airport Rule"), to conduct one daily nonstop roundtrip flight between Houston (Intercontinental) and John F. Kennedy International Airport ("JFK") so Continental can offer the first competitive nonstop service between JFK and Houston as well as offering competitive service between JFK and points served by Continental through its Houston hub effective June 14, 2000.²

¹ Common names are used for airlines.

² Continental plans to operate two daily roundtrips between Houston and JFK. Continental requests an exemption for only two slots, however, as two operations will fall outside JFK's slot-controlled hours.

1. Continental's proposed service will introduce competition to the underserved Houston-JFK route and provide enhanced competition for passengers and cargo between JFK and points throughout the Americas served through Continental's Houston hub. At present, the Houston-JFK route is served by only one daily roundtrip flight operated by Delta. This solitary flight offers no meaningful online connections at Houston since Delta operates very few flights at Houston. Moreover, Delta operates its Houston-JFK flights at times convenient for transatlantic passengers, not local traffic. Continental's proposed service, therefore, would constitute the first service pattern on the route designed for the convenience of local Houston-JFK passengers, passengers connecting at Houston for points throughout the western United States, Mexico and Latin America, and passengers connecting with flights operated at JFK by Continental's partners.³ The public would benefit from the nonstop Houston-JFK service and from online fares for connections via Houston between JFK and points throughout Continental's Houston network.⁴

2. The Department has said "proposals for competitive service" meet the "exceptional circumstances" test and that "the Department intends to be more

³ Continental offers codeshare service with the following airlines which serve JFK: Virgin Atlantic, Northwest, KLM, Air France, and Alitalia.

⁴ Continental's proposed Houston-JFK service also would constitute the only Texas hub-JFK service designed to meet the needs of domestic passengers. American and Delta each operate only one daily roundtrip JFK-Dallas/Fort Worth flight, and their flights are timed for transatlantic connections rather than for local traffic.

receptive to considering competition as a factor in granting slot exemptions to new entrants under the exceptional circumstances criterion." (See Order 98-4-22 at 4, quoting the Department's January 6, 1997 response to a General Accounting Office report) The Department also has articulated guidelines for finding exceptional circumstances:

First, we would favor proposals that are based on jet aircraft that meet Stage 3 noise requirements; second, there should be a reasonable expectation that the proposed service would be operationally and financially viable; and third, we will place a premium upon the introduction of (a) new nonstop services where none exist and (b) new competitive services, especially where there is single carrier service and the market could support entry, or where existing services do not produce meaningful price competition.

(Id.) Continental's request for a JFK slot exemption clearly meets these requirements.

3. Continental proposes to operate Stage 3 B-737 jet aircraft. The operational and financial viability of the proposed service is ensured by Continental's ability to provide service between its Houston hub and JFK, a major airport and gateway which serves New York City and Long Island.⁵ Finally, Continental seeks to provide nonstop service on the underserved Houston-JFK

⁵ Continental recognizes that legislation pending in Congress could open up JFK to far more additional service by Continental as a new entrant air carrier than it proposes in this application, but Continental requires an exemption now so it can make necessary arrangements to commence service between JFK and Houston by June 14, 2000.

route, which today receives only one daily nonstop roundtrip flight which offers neither convenient service to roundtrip business travelers nor online connections at Houston.

4. The Department may grant exemptions from the High Density Airport Rule to new entrant air carriers upon finding that exceptional circumstances exist and that such a grant would be in the public interest. (49 U.S.C. § 41714(c)) Continental is a new entrant air carrier at JFK,⁶ and Continental's proposed services would provide the first competitive nonstop service between Houston and JFK and provide passengers between JFK and points served by the Continental hub at Houston with their first significant online nonstop-to-nonstop connections at Houston. Continental will operate two conveniently-timed daily roundtrip flights between Houston and JFK with Stage 3 B-737 aircraft, as shown in Attachment A.

5. The lack of multiple convenient nonstop Houston flights at JFK constitutes an "extraordinary circumstance,"⁷ and approval of Continental's proposed service clearly would serve the public interest. First, increasing the number of Houston-JFK flights would provide passengers at JFK with greater access to the Continental/Continental Express hub in Houston, which serves cities throughout the Americas. Second, approval of Continental's application would

⁶ Continental Express currently leases two JFK slots to provide JFK-Cleveland service. Otherwise, Continental and its affiliates currently hold or operate (or have held or operated since December 16, 1985) fewer than twelve slots at JFK. See 49 U.S.C. § 41714(h); 14 C.F.R. § 93.213(a)(5).

⁷ In sharp contrast with the single daily JFK-Houston nonstop flight, LaGuardia has 13 daily nonstop Houston flights and Newark has eight daily nonstop Houston flights.

provide passengers in Houston with greater access to international flights at JFK, as well as enhanced service between Houston and points served via Houston, on the one hand, and JFK and points throughout its local and international catchment areas, on the other hand. Approval of Continental's proposed service also would accord with "the statutory declaration that it is in the public interest that the Department encourage entry into air transportation markets by new carriers and encourage competition to provide efficiency, innovation, and low prices in air transportation markets." (Order 98-4-22 at 14, citing 49 U.S.C. § 40101(a)(12), (13)); see also 49 U.S.C. § 40101(a)(6), mandating the Department to consider "maximum reliance on competitive market forces and on actual and potential competition" as being in the public interest) Increasing the number of Houston-JFK flights would provide price and service competition among carriers serving the route, with the public benefiting directly through competitive fares and service.⁸

⁸ The public benefits of Continental's flights will be substantial, but an exemption for only two slots will be de minimis in comparison with recent slot exemptions at JFK (see Order 99-9-11 granting 75 slot exemptions at JFK) and proposed legislation which would allow substantially more JFK flights immediately and eliminate slot constraints entirely in the future.

WHEREFORE, Continental respectfully asks the Department to grant its request for an exemption from 14 C.F.R. Part 93, Subparts K and S to operate one daily roundtrip flight between Houston and JFK.

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February 28, 2000

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PROPOSED SCHEDULE
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(B-737)

Daily

Daily

0600	1620	JFK	1511	2326
↓	↓		↑	↑
0849	1929	IAH	1040	1855

All times local.