

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

NEW U.S.-ARGENTINA COMBINATION
SERVICE OPPORTUNITIES

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Docket OST-99-6210

BRIEF OF
CONTINENTAL AIRLINES, INC.

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I. INTRODUCTION

This case gives the Department an opportunity to complete Continental's South American network by adding to it one of the most important cities in South America and authorizing Continental to offer daily nonstop New York/Newark-Buenos Aires service in 2000 and daily nonstop Houston-Buenos Aires service in 2001.

As Continental's Chairman has said, "United is an aging warrior losing skirmishes throughout South America with a stronger opponent," and "Delta is an untried toddler seeking a protected venue to test its skill rather than entering the fray throughout the region where entry is open and the opponents are more

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numerous and stronger.” (CO-RT-1 at 3) Several years from now, all three applicants may be able to offer their proposed Argentina services. By that time, only Continental needs U.S.-Argentina frequencies now to complete its South American network and continue the momentum it has been building by expanding that network throughout Latin America. For this reason, the Department should award Continental the seven frequencies available in 2000 for New York/Newark-Buenos Aires service and the seven frequencies available in 2001 for Houston-Buenos Aires service before awarding any of the new Argentina authority to Delta, which has barely begun to build a Latin American network, or to United, which already holds 21 weekly Argentina frequencies and could use seven of them at Los Angeles to implement the service it has proposed in this proceeding rather than blocking new entry.

In addition to the compelling need for Continental to complete its Latin American network immediately, the Department should award Continental the authority because

Only Continental will introduce the first nonstop Buenos Aires service at Newark International Airport and the first Buenos Aires-hub service in the New York/Newark area, the second-largest gateway for Argentina traffic.

Only Continental has proposed comprehensive, new nationwide service through an eastern hub (at New York/Newark) as well as at a western hub (at Houston).

Only Continental has proposed Argentina service at airports which have no single-plane Argentina service today.

Only Continental has presented a truly conservative traffic forecast using aircraft suitable for developing the Argentina routes while also having the flexibility to use larger aircraft if traffic demand exceeds expectations.

Continental's proposed New York/Newark and Houston-Buenos Aires service will benefit a total of at least 191,350 passengers (CO-304 and 305) while the Delta and United proposals benefit far fewer passengers, particularly after appropriate adjustments are made to their exaggerated forecasts.

Since no other applicant offers public benefits which approach the benefits of Continental's New York/Newark-Buenos Aires service, the Department should select Continental at New York/Newark for service this year. To assure effective nationwide competition for American, United and their partners, the Department should then select Continental at Houston for service next year to offer Houston its first nonstop Buenos Aires service and to offer passengers throughout the western United States effective U.S.-Argentina connecting service via Houston.

II. AS THE DEPARTMENT HAS RECOGNIZED REPEATEDLY, FULL DEVELOPMENT OF CONTINENTAL'S U.S.-SOUTH AMERICA NETWORK IS CRITICAL TO EFFECTIVE COMPETITION ON U.S.-SOUTH AMERICA ROUTES

Continental's route network between the U.S. and Latin America now offers critical competition throughout most of Latin America for American, the dominant U.S. carrier, and its foreign partners, as well as for the other incumbents, including United and its partners, thanks to a series of decisions by the Department recognizing the importance of developing a strong additional U.S.-South America

network and awarding Continental authority on both open-entry and limited-entry U.S.-Latin America routes.

The Department's "Statement of United States International Air Transportation Policy"¹ recognizes the importance of developing route networks by carriers "striving to develop their own global systems of direct service" as well as those developing codeshare alliances because "international operations will depend more on traffic flows from multiple countries."² International travelers – including particularly the international business travelers who are critical to economic operations – increasingly seek airlines which can offer service between the U.S. and all of the major cities in a region such as Latin America. Among the three applicants in this proceeding, only Continental has developed a nearly-complete Latin American network, and Continental needs Buenos Aires now to complete that network and bring the benefits of new nonstop service to the traveling and shipping public at New York/Newark this year and Houston next year.

Buenos Aires is critical to Continental's South America network, and the Department has recognized time and again the importance of Continental's development of a South America route network competitive with American's. For instance, in the U.S.-Colombia Combination Service Case, the Department said, "... selection of Continental would promote the development of a third significant

¹ Statement of United States International Air Transportation Policy, 60 Fed. Reg. 21841 (May 3, 1995).

² 60 Fed. Reg. 21841, 21843.

U.S.-flag competitor in South America.” (Order 93-9-12 at 7) When Continental was first awarded U.S.-Colombia authority, the Department concluded that “Continental’s proposal will improve market structure in the U.S.-Colombia and U.S.-South America markets by bringing a new entrant into the U.S.-Colombia market . . . and increasing competition in the U.S.-South America market.” (Order 93-7-38 at 9) In the more recent U.S.-Lima Combination Service Proceeding (1996), the Department said, “. . . Continental’s proposal will provide significantly greater overall public benefits in the form of intergateway competition with Miami, the traditionally dominant U.S. gateway, and in the form of enhanced intercarrier competition with American, the dominant U.S. carrier . . . to much of South America.” (Order 96-4-48 at 6)

The Department has recognized repeatedly that adding Continental service between one of its U.S. hubs and South America enhances competition throughout the entire U.S.-South America market by expanding the presence of a third U.S.-flag carrier in the U.S.-South America market. In the 1997 U.S.-Brazil Combination Service Proceeding, Continental’s Chairman explained the importance of Continental’s ability to provide service throughout South America this way:

In developing and marketing its South America service . . . Continental has learned that it must be able to offer consumers destinations throughout South America to compete effectively with American, United and the major foreign-flag carriers which themselves provide service between the U.S. and points throughout the South American continent. Without access to Brazil, the largest U.S.-South America market, Continental’s competitive ability to sell its services to travelers and to identify itself to travel agents as a full-service U.S.-South America

carrier has been severely handicapped. . . . Continental's ability to provide competitive service throughout South America is already becoming even more critical to the traveling and shipping public, and Brazil authority is a critical component for Continental's South American competitiveness.

(CO-T-1 at 3, Docket OST-96-2016) In that proceeding, the Department agreed, awarded Continental New York/Newark-Brazil authority, and said the award "will enhance Continental's participation in South American markets generally, important to Continental's efforts to develop a South American route network, and thereby increase Continental's competitive posture in the U.S.-South America market dominated by American and United." (Order 97-3-8 at 11) In that case, the Department also recognized the importance of "developing a competitive South American route network" and rejected Delta's claim that it was entitled to priority because of "Delta's new entry into South America." (Order 97-4-3 at 9) The same principles apply to Argentina. Continental must have access to all the major South American points, including Argentina, as well as access to smaller South American markets, if it is to compete effectively with American, United and their foreign-flag partners on U.S.-South America routes. Thus, Continental must be able to offer its own nonstop service between New York/Newark and Buenos Aires in 2000 and between Houston and Buenos Aires in 2001 to complete its network incorporating the primary South American cities.³

³ As the Department is well aware, Continental is also expanding its South American network to smaller cities. Thus, Continental will be instituting
(continued...)

Continental should be rewarded for its efforts to build a complete South American network, not punished for those efforts. Thus, the claim by United that it should receive even more Argentina frequencies because it has not been receiving “new” authority in South America (UA-R-250), ignores the fact that United has more “old” authority in Central and South America than it uses and is retreating in the face of competition from American. Delta, on the other hand, says it should get Buenos Aires authority precisely because it has not yet developed a South American network, ignoring all the routes Delta could serve today to develop a network as Continental has done. (CO-R-1131)

As Continental’s Chairman has put it:

For Argentina, Continental’s time has come, United’s time has passed, and Delta’s time is yet to come. What the travelling and shipping public on U.S.-South America routes requires as soon as possible is competition by a carrier with a complete route network in South America connected to a network in the U.S. Continental is the only carrier in this proceeding which can offer that network competition with the Argentina route authority which should become available in 2000 and 2001. Only by awarding Continental New York/Newark authority in 2000 and Houston authority in 2001 can the Department ensure network to network competition throughout the U.S.-South America region. American has by far the largest U.S.-flag share of traffic between the U.S. and South America, and American has sought to join forces with the largest airlines in each of the countries it serves or eliminate them, with success one way or the other in

(...continued)

service between the U.S. and Belo Horizonte, Brazil and Santa Cruz, Bolivia this year. (See Notices of Action Taken, Docket OST-00-6760, January 24, 2000 and Docket OST-00-6794, February 4, 2000)

every country except Brazil. Only Continental has been building a competing network throughout Mexico, Central America and South America, but Continental needs to complete its network with access to Buenos Aires, the one remaining major city critical to that network.

(CO-RT-1 at 1)

Although Continental, its employees and its hub gateways have benefited from Continental's expansion throughout South America, the real beneficiaries are members of the travelling and shipping public, who now have a nearly-complete U.S.-South America network competing with the dominant U.S. airlines and their partners as well as with other airlines operating between the U.S. and South America. But for the Department's foresight and Continental's years of efforts to build that network, the public would be dependent on a single dominant network for U.S.- South America service. Without Buenos Aires, Continental's South American network is missing a critical link Continental has been seeking since at least 1993.

III. CONTINENTAL'S PROPOSED NEW YORK/NEWARK SERVICE IN 2000 AND ITS PROPOSED HOUSTON SERVICE IN 2001 WILL PROVIDE FAR MORE PUBLIC BENEFITS THAN THE OTHER PROPOSED SERVICES

Continental's comprehensive Argentina service pattern will add the first nonstop Argentina service at two airports which have no single-plane Argentina service today, bring the first Argentina service to hub networks in the northeastern and southwestern United States, provide effective nationwide competition for the incumbents and transport more total passengers than either Delta's proposal at

Atlanta or United's proposal at Los Angeles.⁴ Continental has been seeking Buenos Aires authority since at least 1993, and the real choice for instituting Buenos Aires authority in 2000 is between Continental, which needs Buenos Aires to complete its South American route network, and Delta, which has barely started serving South America. United has indicated it seeks new frequencies in either 2000 or 2001,⁵ while Delta has sought only Atlanta frequencies in 2000 (while willing to accept them in 2001) and Continental has sought New York/Newark frequencies immediately to fulfill its long-time goal of instituting U.S.-Buenos Aires service and Houston frequencies in 2001 to complete its U.S.-Argentina network. Thus, the Department must first focus on the contest between Continental at New York/Newark and Delta at Atlanta for 2000 and then focus on the contest between Continental at Houston, Delta at Atlanta and United at Los Angeles for frequencies in 2001.⁶

⁴ Continental's proposed New York/Newark and Houston-Buenos Aires service will benefit a total of at least 191,350 passengers (CO-304 and 305) while the Delta and United proposals benefit far fewer passengers, particularly after appropriate adjustments are made to their exaggerated forecasts. After the minimum essential adjustments are made, Delta's proposed Atlanta service would benefit only 120,387 passengers (CO-R-1105) and United's Los Angeles service would benefit only 145,054 passengers. (CO-R-1145)

⁵ United is an unlikely candidate for additional Buenos Aires frequencies, since the Department has consistently given priority to new entry over additional frequencies for incumbents with multiple flights and gateways. See, e.g., Order 96-4-48 at 7-8.

⁶ Although Continental believes strongly that it should be selected to provide New York/Newark-Buenos Aires service this year, if the Department were to decide otherwise Continental would request New York/Newark backup authority to Delta at Atlanta in 2000 and New York/Newark primary authority in 2001.

Continental's proposal to institute New York/Newark-Buenos Aires service in 2000 will provide far more public benefits than Delta's proposal to institute Atlanta-Buenos Aires service on a route with far less traffic which already enjoys nonstop Buenos Aires service offered by an Argentine carrier long-rumored to be planning an alliance with Delta.

Continental's U.S.-South America network will only be fully complete if Continental is authorized to provide Houston-Buenos Aires service in 2001. That service would provide far more significant benefits than Delta's service at Atlanta or United's service at Los Angeles.

A. Continental's New York/Newark-Buenos Aires Service Will Provide Far More Important Public Benefits Than Delta's Atlanta Service

1. New York/Newark Requires Continental's Service

As Delta's President and Chief Executive Officer has testified this week, "New York is the largest and most important international gateway in the United States" as well as "the largest city in the United States and the center of the business and financial world"⁷ and

- "New York is the largest metropolitan area in the United States."

⁷ See Testimony of Leo F. Mullin, President and Chief Executive Officer, Delta Air Lines, Inc., Exhibit DL-T-1, Docket OST-99-6323, February 29, 2000 at 1 ("Mullin Testimony" hereafter). Delta has made its priorities clear by submitting testimony from its President and Chief Executive Officer in the China proceeding but not in this Argentina proceeding.

- “As a consequence of its huge population base and enormous local economy, New York generates more international passengers than any other U.S. city.”
- “New York stands head and shoulders above any other applicant gateway” (Delta proposes China service at Atlanta and Cincinnati as well as at New York)
- “The New York metropolitan area accounts for more personal income than any other U.S. metropolitan area.”
- “New York residents have greater buying power than residents of any other city, and there are more households in New York with a greater effective buying income of more than \$150,000 than Chicago, San Francisco and Detroit combined.” and
- “New York also has more business establishments and produces more in retail sales than any other U.S. city.”⁸

Nonetheless, Delta has not even sought primary Argentina authority at New York/Newark, and it opposes Continental’s efforts to introduce Argentina service at its New York/Newark hub to assure competition with Argentina services at JFK and competition with other U.S. gateways for Argentina service, including Atlanta, Chicago and Miami.

Unlike Delta, the Department has consistently recognized the importance of introducing South America service at Continental’s New York/Newark hub. Thus, when the Department awarded Continental New York/Newark-Brazil authority and rejected Delta’s request for additional frequencies, it said that “allocation of the remaining frequencies to Continental offers greater service and competitive benefits” because

⁸ Mullin Testimony at 10.

New York-Brazil is the second largest U.S.-Brazil market. Currently, all of the service in the market is operated from JFK. Continental's proposal offers the benefit of an alternative choice of airport for New York passengers. As noted in this proceeding, Newark International Airport is the sixth largest mainland U.S. international gateway with over six million passengers in its catchment area. With Continental's service at Newark, the benefit of this airport choice is significant.

(Order 97-3-8 at 10-11, footnotes omitted) These same factors justify selection of Continental for New York/Newark-Argentina service this year.

Continental and the civic and corporate parties supporting it (CO-601 and 603) agree with Delta's President and Chief Executive Officer and with the Department that New York/Newark's importance is primary. Unlike Delta, Continental matches its words with deeds. Thus, in the New York metropolitan area, Continental provides more daily departures (CO-519), operates nonstop service to more cities (CO-520) and offers more seats (CO-521) than any other airline.

New York/Newark's primacy extends to Argentina. The New York/Newark-Buenos Aires market is 10 times larger than the Atlanta-Buenos Aires market (CO-525), and the gap between the far larger New York/Newark-Buenos Aires traffic and the smaller Atlanta-Buenos Aires traffic will continue to grow over the next six years. (CO-R-1111) Despite New York/Newark's large local market and fast-growing role as a gateway for the northeast and midwest, New York/Newark has the fewest seats per passenger of any U.S.-Buenos Aires gateway (CO-R-1123). The New York/Newark- Buenos Aires traffic is over 10 times larger than the

Atlanta-Buenos Aires traffic, and nearly 2.5 times larger than the Los Angeles-Buenos Aires traffic. (CO-525) New York/Newark handles far more cargo than Atlanta (CO-R-1129), and Continental's cargo carriage will be significant. (CO-R-1162)

Although Delta argues that Continental's introduction of the first nonstop service between Buenos Aires and Newark International Airport should be deferred because other carriers offer Buenos Aires service at JFK, Delta takes the exact opposite approach on Brazil frequencies. In the Brazil case, Delta says it should get JFK-Buenos Aires authority rather than awarding frequencies for service at new gateways despite the fact that there are an average of 35 weekly New York/Newark-São Paulo frequencies offered by six carriers. Delta says New York-São Paulo is "an essential route for any carrier hoping to develop a recognized presence in Latin America,"⁹ just as Continental argues here that New York/Newark-Buenos Aires is an essential route for Continental to complete its comprehensive presence in Latin America.

⁹ See Direct Testimony of Frederick W. Reid, Executive Vice President and Chief Marketing Officer, Delta Air Lines, Inc., Exhibit DL-T-1, Docket OST-99-6284, March 2, 2000 at 8 ("Reid Brazil Testimony" hereafter).

2. Continental's New York/Newark Service Will Introduce the First Nonstop Service at a Hub Gateway in the Northeast and Provide Effective Competition at New York/Newark, the Second Largest U.S.-Argentina Gateway.

The evidence in this proceeding also demonstrates that Continental's service at New York/Newark will provide far more important public benefits than the services proposed by Delta. For this reason, Continental's New York/Newark proposal should be selected first, for implementation this year.

Continental's conservative forecast predicts that Continental will carry 97,040 passengers between New York/Newark and Buenos Aires during its first year operating the route, including 65,251 local New York/Newark-Buenos Aires passengers. (CO-304) The Delta and United traffic forecasts are wildly inflated, and Continental's New York/Newark and Houston-Buenos Aires services combined would carry far more passengers than Delta or United as well as giving Argentina passengers and shippers access to a new, comprehensive nationwide network in the U.S.

Atlanta already has nonstop Buenos Aires service (CO-R-1101), and the Atlanta-Buenos Aires seats already available – without Delta's service – exceed local demand by 60,772 seats annually. (CO-R-1103) Even after application of a 10% growth rate and a stimulation factor of 175%, the Atlanta-Buenos Aires seats currently operated by LAPA would still exceed local demand by over 33,000 seats annually, and adding Delta to the route would increase the number of excess seats to over 256,000 annually. (CO-R-1104)

To make up for the small number of Atlanta-Buenos Aires passengers, Delta has unreasonably stimulated passengers connecting via Atlanta. To assume, for instance, that the number of Tallahassee or Columbus, Georgia-Buenos Aires passengers would increase by 50% because Delta initiates service between Atlanta and Buenos Aires is absurd on its face. In the 1997 Brazil case, Delta forecast 20% stimulation at Tallahassee and Columbus from Delta's institution of Atlanta-Brazil service, but Brazil traffic at Tallahassee actually declined by 16% and traffic at Columbus actually declined by 39% during Delta's first year of Brazil service, according to CRS booking data. Yet Delta claims over 12,000 "stimulated" passengers at connecting points. (CO-R-1106 at 5) Similarly, Delta has claimed a greater market share than Continental at points which are less circuitous via Continental's proposed Newark service than via Delta's Atlanta service, and Delta's market shares should be reduced at the very least to Continental's share level. (CO-R-1107) Despite the 33 weekly roundtrip flights between Miami and Buenos Aires, Delta has the audacity to claim that nearly 14,000 Miami and Orlando passengers will take circuitous routings over Atlanta rather than flying nonstop at Miami or more directly at Orlando. (CO-R-1108) Although Continental's conservative forecast includes no double-connect traffic, Delta included nearly 2,400 double-connect passengers (CO-R-1109) and nearly 3,300 European passengers on highly-circuitous routings with long connect times. (CO-R-1110)

Although Delta claims that 95% of the U.S.-Buenos Aires traffic is within 30% circuitry via Atlanta, the vast majority of those passengers are at points which

already receive nonstop service. (CO-R-1115) Excluding points which already have nonstop service, only 31% of the remaining traffic is within 30% circuitry via Atlanta, but 40% of the remaining traffic is within 30% circuitry via Continental's New York/Newark hub. (CO-R-1116) Similarly, Delta's claim that 44 points would receive their first one-stop online connecting Buenos Aires service is meaningless since those points represent only three-tenths of one percent of the U.S.-Buenos Aires traffic.¹⁰ Adding Delta's first one-stop online and first competitive online connections together would still benefit a mere 5.2% of the U.S.-Buenos Aires travelers. (CO-R-1120) This should not be surprising, since the southeastern states best served through Delta's Atlanta hub account for only 3% of the total U.S.-Buenos Aires traffic, while the northeastern states best served by Continental's New York/Newark hub account for 32.4% of the U.S.-Buenos Aires traffic and the southwestern states best served through Continental's Houston hub account for 14.9% of the U.S.-Buenos Aires traffic, giving Continental a 47.3% to 3% advantage over Delta. (CO-R-1120)

New York/Newark already receives nonstop Buenos Aires service at JFK, but not at Newark International Airport, and Atlanta already receives nonstop Buenos Aires service at Hartsfield International Airport. Although JFK has more service

¹⁰ CO-R-1117. Moreover, the majority of that traffic is at points which would have nonstop to nonstop connections on Continental over Houston (Albuquerque, 400 passengers; Corpus Christi, 110 passengers; El Paso, 180 passengers; Greenville, SC, 120 passengers; Huntsville, 10 passengers; Jackson, 30 passengers; (continued...)

than Hartsfield, New York/Newark has fewer Buenos Aires seats available per passenger than Atlanta does. In fact, Atlanta's seat to passenger ratio is 186% of New York/Newark's seat to passenger ratio. (CO-532) Continental's proposed New York/Newark-Buenos Aires service will benefit two and a half times the number of nonstop passengers Delta would serve at Atlanta. (CO-R-1112) Despite the availability of nonstop Buenos Aires service at JFK, nearly 16,000 New York passengers used connecting service at Miami (CO-R-1113), presumably because suitable nonstop service was not available, either because flights were full or JFK was not convenient. At current growth rates, the New York/Newark –Buenos Aires traffic will surpass Miami's traffic five years after Continental's service begins, while Atlanta's traffic – even after five year's growth – will be only 11% of the New York/Newark traffic. (CO-R-1114) Thus, New York/Newark clearly requires new entry before Atlanta does.

Although Continental carried online passengers between 130 North American cities and Latin America during the 12 months ended November 30, 1999, and will offer online nonstop to nonstop connections for 74 points southbound and 80 points northbound, Continental's extremely conservative forecast included traffic between only 22 North American cities and Buenos Aires on Continental's New York/Newark flights. (CO-301) Delta, on the other hand, has claimed that it will

(...continued)

passengers; Little Rock, 160 passengers; Oklahoma City, 110 passengers; Pensacola, 80 passengers; Shreveport, 20 passengers; and Tulsa, 400 passengers).

carry traffic between 162 North American cities and Buenos Aires, including many of the cities at which Continental offers nonstop-to-nonstop connections but has forecast no traffic. (DL-RT-1 at 3) Continental is conservative in forecasting U.S.-South America traffic while Delta, new to these routes, is not. Although Delta instituted its Atlanta- São Paulo-Rio de Janeiro service with B-767 aircraft and only recently upgraded to the larger MD-11 aircraft and proposes to operate its first nonstop Atlanta-Rio de Janeiro service with B-767 aircraft, it criticizes Continental for proposing to institute service using the smaller B-767-200ER aircraft. Should Continental's forecast prove to be unduly conservative, however, Continental has larger DC-10, B-767-400 and B-777 aircraft it could introduce on the New York/Newark-Buenos Aires route if traffic demand requires it. (CO-218)

The criticisms of Continental's traffic forecast are unfounded. Continental has forecast that it will carry only 22% of the local New York/Newark traffic, in keeping with the 21% of the New York/Newark-Buenos Aires seats Continental will offer. Although Delta claims that Continental's New York/Newark-Brazil flights have low load factors, the number of passengers carried is a far more important indicator than load factors, which vary depending on aircraft type operated. Using this more appropriate measure, Continental's New York/Newark-São Paulo flights outperform both Delta and the industry (CO-R-1138), and Continental's New York/Newark-Rio de Janeiro/São Paulo flights perform very near the industry average in onboard passengers per departure (CO-R-1136).

B. Delta's Fledgling Latin America Services Have Bypassed Numerous Opportunities Available To Delta And Generated Disappointing Load Factors.

Delta claims it is “rapidly growing and seeking new expansion opportunities wherever possible in Latin America” (DL-RT-1 at 8), but Delta has in fact reduced its seats to Latin America and failed to use numerous “new expansion opportunities” available to it today. Although Delta claims that its Atlanta-São Paulo/Rio de Janeiro service has been highly successful, Delta’s onboard passengers per departure are below the industry average for U.S.-São Paulo service and well below Continental’s average for New York/Newark-São Paulo. (CO-R-1138) Significantly, Delta’s weighted average load factors for all the Atlanta-Latin America flights it has introduced since 1997 are 9% lower than industry average load factors between other U.S. points and the same Latin American points. (CO-R-1139) Indeed, on four routes Delta’s load factors were well below 50%.¹¹ These low load factors may explain Delta’s seven percent reduction in the number of Latin American seats offered in 1999 (CO-505) and its unwillingness to serve any but the largest South American points. Delta today has the opportunity to offer at least daily service on 11 routes in its Latin American expansion plan (DL-302), but it has chosen not to do so. (CO-R-1133) Similarly, although Continental will be

¹¹ Those routes are: Atlanta-Caracas (38%), Atlanta-Panama City (44%), Atlanta-San Salvador (42%) and Atlanta-Lima (41%). (CO-R-1139) Each of these load factors is significantly lower than the load factors of Continental flights Delta claims are performing “poorly” at New York/Newark. (DL-177)

operating flights serving 20 points in Mexico this summer, Delta will operate flights serving only two Mexican points. (CO-R-1132) Ironically, Delta claims Continental has “shrunk from competition with American and its antitrust immunized partner in Chile” (DL-176), but Continental will be offering daily New York/Newark-Santiago service this summer while Delta is offering no Chile service whatever on the open-entry U.S.-Chile routes. (CO-R-1135) Moreover, Delta’s claims about Continental service reductions are often flat-out incorrect,¹² and Delta itself has abandoned 45 international routes since 1992. (CO-R-1130)

Although Delta faults Continental for raising the possibility of introducing New York/Newark service with DC-10 aircraft pending implementation of service with Continental’s brand-new B-767-200ER aircraft, Delta is actually proposing to implement its China service with old MD-11 aircraft rather than new B-777 aircraft because “existing demands on Delta’s international fleet resources and constraints

¹² For instance, Delta claims in DL-R-116 that Continental “never implemented” service using one of its New York/Newark-Rio de Janeiro frequencies or three of its Houston-São Paulo frequencies, when Delta knows or should know that Continental operated the seventh weekly Newark-Rio de Janeiro frequency for over two years and continues to use it on a seasonal basis and implemented service using the three Houston frequencies in December on a seasonal basis. Continental continued to offer New York/Newark-Rio de Janeiro nonstop service when American and United abandoned service on that route. Similarly, Continental will provide daily New York/Newark-Santiago service beginning in June, while Delta lacks the fortitude to provide any Santiago service.

on delivery of new aircraft will require Delta to use alternative equipment during a brief six-month transitional phase.”¹³

C. Continental’s Houston-Buenos Aires Service Will Offer Effective Nationwide Competition For The Incumbents, The First Nonstop Buenos Aires Service West Of The Mississippi And Convenient Connections For Passengers Throughout The West And The Midwest

Continental’s New York/Newark service in 2000 will introduce nonstop service at its hub for the second-largest U.S.-Argentina route and for passengers throughout its service area, giving Continental the Buenos Aires access which is critical to its South America network. Adding Continental’s Houston service in 2001 will enable Continental to compete nationwide with American for traffic which can move through its Miami and New York gateways, with United for traffic which can move through its Miami, New York and Chicago gateways and with Aerolineas Argentinas for traffic which can move through its New York and Miami gateways.¹⁴ Although both Continental and United have applied for authority to institute daily Buenos Aires service in the western United States, Continental’s hub location at

¹³ Mullin Testimony at 5. At the same time Delta faces excess demand for its international fleet as well as delivery constraints, it is seeking to add 10 weekly Brazil frequencies and 10 weekly China frequencies as well as the seven Argentina frequencies it seeks in this proceeding, services which together would require at least 7 additional aircraft.

¹⁴ Continental believes it must institute service first at New York/Newark, with its large local market as well as connecting opportunities, to gain sufficient identity in Argentina to support its introduction of Houston service. For this reason, Continental has sought New York/Newark authority in 2000 and Houston authority in 2001.

Houston allows it to provide far more convenient connections for points throughout the western United States than United's Los Angeles gateway, which is highly circuitous for most western cities. (CO-R-1140)

Combining Continental's networks at New York/Newark and Houston will enable Continental to provide excellent nonstop and connecting service for the 15.8% of the Argentina traffic accounted for in the northwest and southwest as well as providing excellent nonstop and connecting service for the 32.4% of the Argentina traffic accounted for in the northeast and competing with United's Chicago hub for the 7.1% of the connecting traffic in the midwest and, at Houston, competing with Miami for the 3% of the connecting traffic in the Southeast.¹⁵

As Delta itself has pointed out, competing in South America with only seven frequencies when the incumbents have three times that many frequencies would be extremely difficult,¹⁶ yet Delta has applied for only one primary award in this proceeding: Atlanta-Buenos Aires. Continental, on the other hand, has committed to a full service pattern at two hubs to compete effectively with all three major incumbents, while United makes a pre-emptive strike to block new competition by proposing to institute Los Angeles service using up seven of the new frequencies.

¹⁵ Florida accounts for 41.7% of the traffic, multiple nonstop flights are available at Miami, and no applicant is proposing Florida service. Thus, competition generated by awards in this proceeding will be primarily for the 58.3% of the total U.S.-Argentina traffic originating or terminating in points outside Florida. The largest single block of such traffic is in the northeast (32.4%), best served by Continental at New York/Newark, and the second largest block is in the southwest (14.9%), best served by Continental at Houston.

Although Continental's entry at New York/Newark will provide the initial Argentina access critical to its South American route network, to optimize U.S.-Argentina competition Continental should be awarded 14 frequencies so it can provide effective two-hub Argentina competition with American and United since both of those airlines offer Argentina service at multiple gateways.

Continental's B-767-200ER aircraft are right-sized to operate its initial Buenos Aires service pattern at Houston (as well as New York/Newark), providing optimal daily frequencies without excessive fuel consumption or expense. Houston's international traffic has surged when Continental introduces new service (CO-504). International passengers using the Houston gateway have increased by nearly 60% over the past five years (CO-508), and Continental's own international traffic at Houston has increased by over 80% during the past five years. (CO-509) Most importantly, Latin American passengers using Continental's Houston gateway have increased by more than 75% over the past five years. (CO-517)

Houston-Buenos Aires traffic alone is seven percent higher than Atlanta-Buenos traffic (CO-526), and Continental's Houston flights will best serve southwestern U.S.-Argentina traffic (14.9% of total U.S.-Argentina traffic) while Delta's Atlanta flights would best serve southeastern U.S.-Argentina traffic (3% of total U.S.-Argentina traffic). (CO-R-1120) For this reason, more passengers lie with a 5% circuitry via Houston than via Atlanta or Los Angeles. (CO-R-1122)

(...continued)

Although Atlanta's traffic base is smaller than Houston's, Atlanta already has nonstop Buenos Aires service while Houston does not. (CO-R-1101, CO-R-1102) Continental has added 18 international destinations at Houston since 1997 (CO-R-1126), and Continental at Houston operates flights serving more international destinations than Delta at Atlanta. (CO-R-1128) Not surprisingly, Continental's Houston proposal has generated substantial civic (CO-602) and corporate (CO-604) support as well as the support of the Houston Parties in this proceeding.

D. United's Los Angeles-Buenos Aires Proposal Has The Least Merit, And United Should Not Receive Additional Frequencies

Continental's chairman described the difference between Continental's proposal and United's this way:

In sharp contrast to the vigorous new entry Continental would bring to Argentina, United already holds 21 Argentina frequencies, and it offers service at Miami (where American has chased it out of Lima), JFK (where American has chased it out of Venezuela) and Chicago, where it has a monopoly on single-plane service. Rather than moving one of its three daily Argentina flights to the Los Angeles hub it is developing, United has chosen to seek seven new frequencies to expand its own cache of Argentina frequencies at the expense of new entry. The benefits to United from its proposal might be significant, but the benefits to the public would not be.

(CO-RT-1 at 2)

1. United Does Not Need More Argentina Frequencies to Institute Nonstop Los Angeles-Buenos Aires Service

United already holds 21 U.S.-Argentina frequencies, one-half of U.S. carrier frequencies and one-third of all frequencies. (CO-R-1152, CO-R-1153) United can achieve all of the benefits it says will result from its proposed service by using seven of its frequencies to operate daily nonstop Los Angeles-Buenos Aires flights. United claims it can achieve a first-year passenger load factor of 92.8% on the route (CO-R-1141), so moving seven frequencies to Los Angeles is the logical solution to United's need to satisfy the demand it claims exists there.¹⁷ United has already moved seven Argentina frequencies to Chicago and could move them again to Los Angeles.¹⁸ Alternatively, United could move its seven JFK frequencies to Los Angeles. In either case, United could provide single-plane service for Chicago or JFK passengers and shippers via Miami.

¹⁷ With load factors of only 55% at Chicago, 54% at JFK and 73% at Miami (DL-R-203), United's Los Angeles load factor forecast suggests a much greater demand for United's service at Los Angeles.

¹⁸ United has also moved its Brazil frequencies. United abandoned its Los Angeles-São Paulo service in favor of Miami-Belo Horizonte service due to "deteriorating economic conditions in Brazil and poor traffic demand for the nonstop flights" on April 3, 1993. (See Application of United for Renewal of a Frequency Allocation in Docket 48267, June 10, 1993, at 2) Although United was still operating daily nonstop Miami-Belo Horizonte service in May of 1996, United had ceased operating the route by April 1998 and shifted its seven U.S.-Brazil frequencies to operate daily nonstop service between Chicago and São Paulo. (See Applications of United, May 3, 1996, and April 23, 1998, in Docket OST-96-1346)

2. United Already Has Ample Argentina Access and Operates Nonstop Buenos Aires Flights at Three U.S. Gateways

United already operates nonstop flights between Buenos Aires and Miami, JFK and Chicago, where it has a monopoly on single-plane service. (CO-541, CO-R-T at 2-3, CO-R-1151) United also operates single-plane Los Angeles-Buenos Aires flights. In sharp contrast to the widespread Argentina service that United can provide, Continental has no Buenos Aires service at all, and Continental's hubs at Newark International Airport and Houston's George Bush Intercontinental Airport have no nonstop or single-plane Argentina service. (CO-211)

United's current Argentina service offers 4,998 weekly nonstop seats consisting of 2,044 between Miami and Buenos Aires, 1,477 between Chicago and Buenos Aires and 1,477 between JFK and Buenos Aires. United's proposed Los Angeles-Buenos Aires service would increase United's weekly capacity by another 1,946 nonstop seats to enable United to reach the massive total of 6,944 weekly nonstop seats between the U.S. and Argentina, more than any other airline. (CO-R-1151) By approving Continental's application, Continental will have 2,394 weekly nonstop seats and introduce new, meaningful competition for United's Argentina service with 4,998 seats at three U.S. gateways (CO-R-1151) and American and Aerolineas Argentinas with 12,110 seats (CO-523). United will still have 25% of all U.S.-Buenos Aires nonstop seats, more than double Continental's 12%, and American and Aerolineas Argentinas will have 60%. (CO-523) Today,

United has 28% of all U.S.-Buenos Aires nonstop seats and its only competition is American and Aerolineas Argentinas. (CO-523)

New competition is urgently needed in the New York/Newark area, for example, to mount a challenge to United, American and Aerolineas Argentinas at JFK. Continental will have daily New York/Newark-Buenos Aires service at Newark International Airport if Continental's application is approved, and United, American and Aerolineas Argentinas each will have daily service at JFK. In comparison to Continental's New York/Newark-Buenos Aires capacity, United will have 23% more nonstop seats and the American and Aerolineas Argentinas alliance will have 157% more nonstop seats. (CO-522)

Allocating additional frequencies to United, an entrenched incumbent, would continue the dominance of the incumbent airlines on U.S.-Buenos Aires routes, preclude comprehensive, new network competition between the U.S. and Argentina, forestall new competition with United, American and Aerolineas Argentinas and intergateway competition with JFK and deny the public the substantially greater benefits of Continental's proposal. (CO-540)

3. United's Passenger Traffic Forecast Lacks Credibility

United revised its passenger traffic forecast on three separate occasions in less than two weeks after the Department's deadline for submitting direct exhibits. (CO-R-1141) United's forecast load factor rose from 66.3% to 92.8% for the first year and from 73.7% to 94.0% for the second year after United had the opportunity to review the forecasts of other applicants, including Continental. (CO-R-1141)

These multiple revisions to United's forecast render its numbers immediately suspect, particularly since United mistakenly applied the growth rate for total U.S.-Buenos Aires traffic instead of using the growth rate for Los Angeles-Buenos Aires traffic, which is dramatically lower (CO-R-1147). United also based unrelated U.S.-Uruguay and Asia-Buenos Aires growth projections on the overall U.S.-Buenos Aires growth rate without explanation. (CO-R-1148) Moreover, United's forecast is by far the highest of any United flights between the U.S. and South America from 1990 to 1998 (CO-R-1143) or any airline's flights between the U.S. and Argentina (CO-R-1144), and seasonal adjustments would cause some monthly load factors to exceed 100% (CO-R-1142). United's unrealistic 100% stimulation factor at Los Angeles is belied by its only recent Latin American service introduction at Los Angeles, where bookings declined by seven percent after United's entry. (CO-R-1146) Accordingly, United's revised forecast lacks the requisite credibility for consideration by the Department. Revising United's traffic forecast to eliminate United's unreasonable stimulation and excessive growth rates reduces its traffic forecast by nearly 21%. (CO-R-1145) If United truly could achieve a first-year load factor of 92.8% and a second-year load factor of 94.0% between Los Angeles and Buenos Aires, United would already have moved frequencies from one of its less-successful gateways to Los Angeles instead of asking the Department to award frequencies to United rather than a new entrant. Continental could put those same

frequencies to optimal use by introducing its first-ever New York/Newark and Houston-Buenos Aires nonstop flights.¹⁹

4. Los Angeles Already Has Single-Plane Argentina Flights, Unlike Newark International Airport and Houston's George Bush Intercontinental Airport

While United says Los Angeles-Buenos Aires is "the largest U.S. market to all of South America that lacks nonstop service" (UA-T-2 at 1), Los Angeles already enjoys daily Buenos Aires single-plane flights. Newark International Airport and Houston's George Bush Intercontinental Airport lack any single-plane Buenos Aires service, much less nonstop service. Continental's proposal will introduce the first single-plane service between these airports and Argentina. Unlike Los Angeles, which cannot support United's proposed B-777 flights (CO-R-1149) and United's existing single-plane service between Los Angeles and Buenos Aires, New York/Newark and Houston will support widebody service over the long term. (CO-R-1150) Moreover, since United today carries U.S.-Argentina passengers between the western United States and Argentina via its Miami, New York/Newark and Chicago gateways, many of its Los Angeles passengers will be self-diverted from existing services which already have relatively-low load factors. The New York/Newark and Houston metropolitan areas have trade and economic ties with

¹⁹ United's selection of B-777 aircraft for its Los Angeles-Buenos Aires proposal does not show United believes there is a need for such capacity, but only that it is the smallest aircraft that meets the distance requirement of the route. (CO-R-1149)

Argentina to support future growth in Continental's service, as exhibits submitted by the New Jersey Parties and the Houston Parties clearly demonstrate.

Continental will introduce intergateway competition in the New York/Newark region, compete with United, American and Aerolineas Argentinas nonstop flights at JFK and provide New York/Newark's first hub connections with points throughout North America. Continental's Houston-Buenos Aires service will be less circuitous than Los Angeles-Buenos Aires service for many passengers in the western U.S. and enable Houston to become the first U.S. gateway for nonstop Buenos Aires service west of the Mississippi (CO-R-1140) and fully competitive with Chicago, Miami and other U.S. gateways for traffic throughout the western and midwest United States.

IV. CONCLUSION

For the reasons stated above, Continental's proposal for daily nonstop New York/Newark-Buenos Aires service starting in 2000 should be selected first to implement Continental's long-awaited entry into Argentina and reward its years of hard work – encouraged by the Department – developing a comprehensive South America route network to compete with the incumbents. Next, the Department should select Continental's proposal for daily Houston-Buenos Aires service in 2001 to complete Continental's South America network fully and bring the first nonstop Buenos Aires service to the western United States.

Respectfully submitted,

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March 6, 2000
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CERTIFICATE OF SERVICE

I certify that I have this date served a copy of the foregoing document on all parties to this proceeding in accordance with the Department's Rules of Practice.

Thomas Newton Bolling

March 6, 2000
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