

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

_____)
In the matter of)
)
THE WENDELL H. FORD AVIATION)
INVESTMENT AND REFORM ACT FOR THE) Docket No. OST-2000-7180
21ST CENTURY)
)
for exemptions from 14 CFR Part 93,)
under 49 U.S.C. § 41717(c))
_____)

APPLICATION OF SPIRIT AIRLINES, INC. FOR AN EXEMPTION

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Date: May 1, 2000

NOTICE: ANY PARTY MAY FILE AN ANSWER TO THIS APPLICATION. ANSWERS MUST BE SERVED UPON THE PERSONS LISTED ABOVE AND ON THE ATTACHED SERVICE LIST. ANSWERS MUST BE FILED ON OR BEFORE MAY 16, 2000.

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APPLICATION OF SPIRIT AIRLINES, INC. FOR AN EXEMPTION

Spirit Airlines, Inc. ("Spirit") respectfully requests an exemption pursuant to 49 U.S.C. § 41717(c)(1) from the requirements of Subparts K and S of Part 93 of the Federal Aviation Regulations for a total of 20 new entrant exemption slots at Chicago O'Hare International Airport ("O'Hare" or "ORD"). Spirit seeks these exemptions so that it may offer new daily, low-fare, nonstop roundtrip scheduled jet service between O'Hare and Myrtle Beach, South Carolina and five Florida markets, namely, Ft. Lauderdale, Ft. Myers, Orlando, Tampa, and West Palm Beach.

Spirit intends to introduce service in the above markets on or about September 22, 2000 or such earlier or later date as the Department may prescribe. These markets will be served in accordance with the schedule set forth in Table No. 1 of this Application. All services will be operated with Stage 3 MD-80-series aircraft. The proposed services are clearly in the public interest and will provide significant benefits to the U.S. economy and will offer substantial consumer benefits as the first low-fare, new entrant service between O'Hare and Florida/Myrtle Beach, SC. The certifications required by Order 2000-4-15 are attached as Appendix A to this Application.

Spirit requests that the Secretary grants this application for O’Hare slot exemptions within the 45-day period for such decisions pursuant to 49 U.S.C. § 41717(c)(2). Furthermore, Spirit requests that the 20 slot exemptions be effective from issuance until July 1, 2002, the date O’Hare slot restrictions are removed completely.

I. INTRODUCTION

Under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (the “Air 21 Act”), Congress has directed the Secretary to grant 30 slot exemptions to new entrant and limited incumbent air carriers to provide air transportation to or from O’Hare. Among the primary reasons Congress enacted the Air 21 Act, two stand out. First, Congress believes the liberalization of slot rules will promote competition by decreasing the excessive market concentration possessed by incumbent hub carriers. Second, Congress wishes to promote the entry of new entrant carriers into new markets, and, in particular, those new entrants who offer pro-consumer low fares. Due to the dominant market positions held by United and American Airlines and the restrictions placed on new operations by the slot rules, competitive, low-fare service options have not been available to O’Hare travelers. Spirit’s application provides the Department with an opportunity to rectify this problem by authorizing the first low-fare nonstop services between O’Hare and Florida/Myrtle Beach, SC from an operationally viable new entrant carrier.

Spirit proposes to use the 20 exemption slots to provide competitive low-fare service between O’Hare and Myrtle Beach, Ft. Lauderdale, Ft. Myers, Tampa, Orlando and West Palm Beach. Spirit will utilize the 20 slots to operate the following schedule:

Table No. 1

ORD	805	1140	MCO
MCO	1230	1415	ORD
ORD	1500	1830	TPA
TPA	1915	2100	ORD

RSW	730	930	ORD
ORD	1020	1350	TPA
TPA	1435	1620	ORD
ORD	1705	2055	RSW
ORD	710	1110	FLL
FLL	1200	1405	ORD
ORD	1455	1830	MCO
MCO	1915	2055	ORD
PBI	700	900	ORD
ORD	950	1300	MYR
MYR	1345	1445	ORD
ORD	1530	1930	PBI
ORD	735	1115	RSW
RSW	1200	1400	ORD
ORD	1445	1840	FLL
FLL	1935	2140	ORD

Each of the relevant O'Hare-Florida markets that Spirit proposes to serve is presently dominated by United and/or American Airlines. Indeed, as shown in Table Nos. 5 and 7 below, the two major air carriers control a combined 75% to 87% of the nonstop traffic in each ORD-Florida market at issue. While United and American do not dominate the ORD-Myrtle Beach market, other major carriers do. Here, Delta and US Airways possessed a combined 99% market share of the O&D traffic in the twelve-month period ending September 1999. Accordingly, as in the foregoing ORD-Florida markets, the absence of a nonstop low-fare carrier in the market has resulted in consumers being charged an average fare premium of 24% compared to travelers in the Midway-Myrtle Beach market.¹ Based on the above data, Spirit contends that the proposed markets are ripe for competitive low-fare, new entrant service, and that authorization of its proposed service will provide immense benefits to the 1,834,080 annual passengers who travel between O'Hare and Myrtle Beach and the five Florida markets, plus the thousands of new passengers that will be stimulated by Spirit's low fares and alternative service options.

¹ For the most recent 12-month period (98Q4-99Q3), the average fare in the MYR-MDW market was \$89 while the MYR-ORD average fare was \$111, or 24% higher than MYR-MDW. U.S. DOT O&D Survey.

II. DISCUSSION

A. Spirit Satisfies All of the Requirements for a New Entrant Slot Exemption Under 49 U.S.C. § 41714(c) and 49 U.S.C. § 41717(c)

Spirit meets all the statutory requirements to be eligible for new entrant slot exemptions under 49 U.S.C. § 41717(c). First, Spirit qualifies as a “new entrant” since it does not hold, and never has held, any slots or slot exemptions at O’Hare. Second, Spirit’s proposed services will be operated only using Stage 3-compliant MD-80-series aircraft. Third, as described below, Spirit’s proposed service is in the public interest.

B. Spirit’s Proposed Services Will Provide Significant Public Benefits

Spirit’s proposed O’Hare-Myrtle Beach/Florida services are in the public interest because they will: (1) promote the growth of small air carriers and encourage new entrant carriers to compete; (2) lower the average fare and offer attractive new service options in each proposed market; (3) combat the excessive market domination by United Air Lines and American Airlines; and (4) provide benefits to the U.S. economy in the form of additional jobs, further usage of U.S. manufactured aircraft, and substantial overall economic impact.

The foregoing effects resulting from Spirit’s proposed services directly promote the Congressionally mandated public interest standards set forth in the Airline Deregulation Act. Awarding Spirit the requested slot exemptions would promote, in particular, the following three public interest factors:

- the availability of a variety of adequate, economic, efficient, and low-priced services without unreasonable discrimination or unfair or deceptive practices;
- avoiding unreasonable industry concentration, excessive market domination, monopoly powers, and other conditions that would tend to allow at least one air carrier or foreign air carrier unreasonably to increase prices, reduce services, or exclude competition in air transportation; and

- encouraging entry into air transportation markets by new and existing air carriers and the continued strengthening of small air carriers to ensure a more effective and competitive airline industry.

49 U.S.C. § 40101(a)(4), (10), and (13).

1. **An award to Spirit will strengthen small air carriers and encourage other small air carriers to enter new air transportation markets**

Spirit is a true success story of the post-deregulation era. Celebrating its tenth anniversary this year, Spirit has been gratified by the public's response to Spirit's services. Spirit has been profitable in all but two of its ten years of service, and now operates a fleet of 26 aircraft. Spirit is proud of the fact that it now is the number two carrier at Detroit's Wayne Metro Airport, despite the fact that during most of Spirit's tenure at the airport, it lacked adequate access to gates and other facilities.²

Today, Spirit is the 13th largest U.S. air carrier ranked by revenue passenger miles (RPMs) and has the highest system-wide load factor for the first three months of 2000 at 75.1%.³ Indeed, these statistics demonstrate both the sizable number of travelers seeking convenient, low-fare service options, and Spirit's success in servicing those travelers. Spirit strongly believes that the O'Hare-Myrtle Beach/Florida markets it proposes to serve are uniquely primed for the introduction of low-fare service, and that Spirit's service will enhance competition by lowering ticket prices and stimulating new traffic. The Department has a valuable opportunity here to demonstrate its commitment toward encouraging new entrant carriers to take on incumbent carriers by awarding Spirit the necessary slots to compete against United and American at O'Hare.

² For example, during March 2000, Spirit boarded 51,422 passengers at DTW, outpacing both Delta and Southwest, which each boarded approximately 42,000 passengers during that same time period.

³ In the first three months of 2000, Spirit had 731,314 RPMs ranking 13th among U.S. air carriers and its 75.1% system-wide load factor for that period was highest among all ranked U.S. carriers. See Aviation Daily, April 21, 2000 at 9-10.

2. An award to Spirit will promote low-fare competitive service

Spirit's entry into the O'Hare-Myrtle Beach/Florida markets at issue will provide travelers with substantially lower ticket prices. When Spirit introduces its low-fare service into a market, the average fares in the market generally decline by as much as 70%. Indeed, this pro-consumer phenomenon was recognized by the Department in its April 1996 report, *The Low Cost Airline Service Revolution*.⁴ Accordingly, granting Spirit the opportunity to bring this "Spirit effect" to the O'Hare-Florida/Myrtle Beach markets would comport with the Department's mandate to promote low-priced services. 49 U.S.C. § 40101(a)(4).

Spirit's entry into the Detroit-Orlando market serves as a strong demonstration of the "Spirit effect." Spirit entered the Detroit-Orlando markets in the third quarter of 1993. For the twelve-month period prior to Spirit's entry (92Q3-93Q2), the incumbent hub carrier's average fare was \$126.07. After Spirit had been in the market for slightly over a year, that carrier's average fare during calendar year 1995 dropped 17.6% to \$103.82. By way of comparison, that carrier's average fare in the Minneapolis-Orlando market during the 12 months from 92Q3-93Q2 was \$130.76 and increased by 25.8% to \$164.47. As shown in Table No. 2 below, the effect of Spirit's entry is clear.

Table No. 2

Northwest Airlines' Average Fare			
Market	12 Months from 92Q3-93Q2	CY1995	Difference
DTW-MCO	\$126.07	\$103.82	- 17.6%
MSP-MCO	\$130.76	\$164.47	+ 25.8%

⁴ Spirit's entry into a market causes average fares to decline quite considerably. See Department of Transportation, "The Low Cost Airline Service Revolution," April 1996, at Attachment 2, pp. 1-2.

3. An award to Spirit will also stimulate traffic

The Spirit effect, however, involves more than just lowering fares. The Spirit effect also stimulates O&D traffic growth. For instance, Table No. 3 shows the impressive one-year growth in traffic in the Detroit-Orlando/Ft. Myers/Ft. Lauderdale markets after Spirit entered them in the third quarter of 1993. In each of the relevant DTW-Florida markets, there was a substantial increase in O&D traffic, whereas, by contrast, only a small increase occurred in the market that Spirit did not enter, i.e., the DTW-PBI market.

Table No. 3

<u>Market</u>	<u>92Q3-93Q2</u>	<u>O&D Traffic 93Q3-94Q2</u>	<u>12 Month Change</u>
DTW-FLL (Ft. Lauderdale)	159,680	179,120	12.2%
DTW-RSW (Ft. Myers)	129,230	151,550	17.3%
DTW-MCO (Orlando)	311,150	335,340	7.8%
DTW-PBI (West Palm Beach)	133,650	137,520	2.9%

It is worthwhile to note that the 'Spirit effect' has become more pronounced over time. For example, Orlando-Detroit O&D traffic was 596,830 passengers for the year ending 3Q '99, a 91.8% increase over '92-'93. Traffic in the Ft. Myers-Detroit market has experienced even stronger growth, and now boasts 283,300 passengers, a 119% increase over '92-'93.

Another example of Spirit's stimulation effect can be seen in the Detroit-Myrtle Beach market, which Spirit entered in June 1996. In 1994, there were 21,540 O&D passengers in the DTW-MYR market. The following year, traffic declined to 17,080 O&D passengers. Finally, in June 1996, Spirit entered the market. Despite Spirit being in the market only six months, the DTW-MYR traffic more than doubled in size to 44,720 passengers -- a 162% increase.

Spirit's track record of lowering fares and stimulating traffic upon entry is not limited to the Detroit-Florida markets described above. For example, its entry into

LaGuardia (another slot restricted, incumbent dominated airport) had a similar pro-competitive, pro-consumer effect. In 1998, prior to Spirit's introduction of LaGuardia-Melbourne service, O&D traffic in the market was approximately 17 passengers per day, each way. These passengers paid an average one-way fare of \$130.40. After Spirit introduced service in this market, Spirit alone was carrying 164 passengers per day, each way, for an average one-way fare of approximately \$83. This represents a one-year traffic increase of 964%, and an average fare reduction of 63%.

Similarly, the Spirit effect was experienced when Spirit entered the LaGuardia-Myrtle Beach market. In 1998, there were 28 daily passengers traveling per day, each way in the LGA-MYR market, paying an average one-way fare of \$112. In 1999, Spirit alone carried 143 passengers per day, each way in this market, with an average one-way fare of \$76. This is more than a fivefold traffic increase, and a 67% average fare reduction.

Given the above examples, Spirit clearly has a history of successfully introducing meaningful low-fare competition into price inflated markets. Spirit is willing to commit to offering similar low-fare service at O'Hare. O'Hare is desperately in need of the low-fare competition that Spirit would bring. The current average one-way fares between O'Hare and each of Spirit's proposed markets and the comparable fare from Midway to those same markets are as follows:

Table No. 4

	<u>ORD</u>	<u>MDW</u>	<u>Percentage ORD Fare Higher Than MDW Fare</u>
Ft. Lauderdale	\$155	\$117	32.47%
Orlando	\$141	\$109	29.36%
West Palm Beach	\$163	\$174	-6.75%
Ft. Myers	\$136	\$128	6.25%
Tampa	\$151	\$119	26.89%

Table No. 5

	<u>Combined Market Share Of United and American</u>	<u>Percentage ORD Fare Higher Than MDW Fare</u>
Ft. Lauderdale	81.25%	32.47%
Orlando	86.68%	29.36%
West Palm Beach	74.76%	-6.75%
Ft. Myers	79.21%	6.25%
Tampa	84.85%	26.89%

From the data in Table Nos. 4 and 5, two things are apparent. First, the fares are substantially higher at ORD than at MDW for the same Florida markets. Secondly, there is a direct correlation between the level of market concentration held by United and American and the inflated prices charged to O'Hare passengers. Spirit expects that it can offer O'Hare passengers substantial savings comparable to the 26%-32% difference between the average fares at ORD and MDW. Thus, if the Department grants Spirit the slots necessary to provide its proposed low-fare service, the O'Hare-Florida market will enjoy much needed fare savings, as well as additional service options. As the Department previously has held, Midway is not "a ready substitute for O'Hare." Order 98-4-21, at 14. Accordingly, Spirit must gain access to O'Hare to offer these pro-consumer benefits.

C. An award to Spirit will avoid excessive market concentration

As shown Table No. 5, United and American together control a minimum of 75% of each market Spirit proposes to serve. However, the market domination of United and American cannot be fully understood unless one examines not just their domination of the ORD-Florida market, but the ORD market as a whole. According to the FAA, United holds roughly 47.5% of the slots available for domestic service at O'Hare, and American holds approximately 36.7% of the domestic O'Hare slots. Therefore, the two incumbent major air carriers possess a combined 84.2% of the domestic service slots at O'Hare.

The Department has an opportunity to take affirmative steps to avoid unreasonable industry concentration and excessive market domination as its Congressional mandate directs it to do. 49 U.S.C. § 40101(a)(10). Spirit has a history of introducing much needed competition into a dominated market. For instance, Table No. 6 below shows the success Spirit has had in competing against Northwest at DTW in the Florida markets at issue:

Table No. 6

DTW-FLL	92Q3-93Q2	93Q3-94Q2	98Q4-99Q3
NW	85,910	94,440	116,310
Market %	53.8%	52.7%	46.8%
Spirit	0	15,250	98,500
Market %	0%	8.5%	39.6%
DTW-MCO	92Q3-93Q2	93Q3-94Q2	98Q4-99Q3
NW	173,790	185,500	374,600
Market %	55.9%	55.3%	62.8%
Spirit	0	32,890	137,500
Market %	0%	9.8%	23%
DTW-PBI	92Q3-93Q2	93Q3-94Q2	98Q4-99Q3
NW	92,960	97,790	113,660
Market %	69.6%	71.1%	54.1%
Spirit	0	0	67,440
Market %	0%	0%	32.1%
DTW-RSW	92Q3-93Q2	93Q3-94Q2	98Q4-99Q3
NW	92,470	97,940	126,510
Market %	71.6%	64.6%	44.7%
Spirit	0	23,630	137,460
Market %	0%	15.6%	48.5%
DTW-TPA	92Q3-93Q2	93Q3-94Q2	98Q4-99Q3
NW	170,050	155,210	243,490
Market %	71.7%	68.4%	55.0%
Spirit	0	7,820	134,510
Market %	0%	3.4%	30.4%

In each of the above Detroit-Florida markets, Spirit's entry resulted in a more competitive market. Spirit is confident that its proposed Chicago-Florida/Myrtle Beach services, which are patterned upon Spirit's services at Detroit, will have the same effect on the Chicago market, and counterbalance the domination of American and United. In this respect, Table No. 7 below shows the direct correlation between market share and possession of the only nonstop operations in a given market.

Table No. 7

ORD-FLL	Number of Nonstop RT Flights	Market Share
United	3	44.40%
American	3	36.85%
Combined	--	81.25%

ORD-RSW	Number of Nonstop RT Flights	Market Share
United	3	72.25%
American	3	6.95%
Combined	--	79.21%

ORD-MCO	Number of Nonstop RT Flights	Market Share
United	6	56.10%
American	4	30.58%
Combined	--	86.68%

ORD-TPA	Number of Nonstop RT Flights	Market Share
United	5	55.56%
American	3	29.28%
Combined	--	84.85%

ORD-PBI	Number of Nonstop RT Flights	Market Share
United	2	45.25%
American	2	29.51%
Combined	--	74.76%

Thus, by providing Spirit with the requested slots, the Department will take an important step in pursuit of the foregoing public interest goal by introducing the first new low-fare new entrant service at O'Hare and providing the traveling public with new competitive nonstop service options.

D. An award to Spirit will provide substantial public benefits to the U.S. economy

Finally, awarding Spirit authorization to operate its proposed services will maximize benefits to the U.S. economy as contemplated by the Air 21 Act. Spirit's entire fleet is comprised of U.S. manufactured aircraft. Thus, additional service by Spirit will result in further usage and possibly production of U.S. manufactured aircraft.

Spirit also conservatively estimates that its new operations at O'Hare will lead to direct employment growth of approximately 215 new jobs at Chicago/O'Hare alone. This figure does not account for new employees that might be required at Spirit's Florida and South Carolina stations, or any economic multiplier associated with the creation of those new jobs. Of course, there is also an enormous public benefit in terms of the savings that might be enjoyed as a result of Spirit's low fares, as well as the benefits created by considerable traffic stimulation. Furthermore, the estimate of the benefits created by Spirit's new services does not account for the additional economic impacts from tourism, tax revenue, and downstream commerce.

III. CONCLUSION

The Air 21 Act is a giant step forward in the effort to reduce the constraints upon competition imposed by the High Density Rule. Spirit is hopeful that DOT will take this opportunity to introduce the first low-fare new entrant service between O'Hare and several key Florida markets, and Myrtle Beach. The O'Hare-Florida/Myrtle Beach markets suffer from high fares and excessive concentration. Given the foregoing market characteristics, Spirit contends these markets are ripe for competitive low-fare

service. Spirit's experience at Detroit demonstrates that it is one of the few small carriers capable of offering meaningful price competition against entrenched hub carriers. However, absent the relief requested here, Spirit will not be able to offer O'Hare travelers the significant cost savings and service benefits that Spirit has brought to Detroit and LaGuardia. In addition, the scope of Spirit's proposed operations and its exclusive use of U.S. manufactured aircraft will provide substantial benefits to the U.S. economy.

WHEREFORE, Spirit Airlines, Inc. respectfully requests that the Department grant to Spirit an exemption from Subparts K and S of Part 93 of the Federal Aviation regulations which would confer upon Spirit 20 new slots at O'Hare, thereby permitting Spirit to operate daily non-stop roundtrip service between O'Hare and Myrtle Beach, Ft. Lauderdale, Ft. Myers, Orlando, Tampa, and West Palm Beach.

Respectfully submitted,

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Representatives of
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Date: May 1, 2000

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of May 2000, I served a copy of the foregoing Application of Spirit Airlines, Inc. for an Exemption by postage-paid first-class mail to each of the persons named on the attached service list.

Belen Sangria

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