

BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

In the Matter of

2004 U.S.-CHINA CARGO DESIGNATION
AND 2004/2005 ALL CARGO FREQUENCIES

Docket OST-2004-18468

CONSOLIDATED REPLY
OF
GEMINI AIR CARGO, INC.

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July 8, 2004

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Gemini Air Cargo, Inc. submits this Consolidated Reply to the Answers filed in this proceeding on July 6, 2004 by Arrow Air, Inc., Evergreen International Airlines, Inc., Polar Air Cargo, Inc., Federal Express Corporation, Northwest Airlines, Inc., and United Parcel Service Co. After full consideration of the answers by the three incumbent applicants and by the four applicants seeking designation for the additional all-cargo carrier to China, Gemini's proposal is the one that remains markedly superior to the proposals from competing applicants.

Gemini's proposal will best advance the interests of the shipping public by offering the most appropriate level of service in the U.S.-China markets that have the greatest demand. Gemini therefore requests the Department to establish expedited procedures that will allow Gemini to submit evidence that will further substantiate the public benefits arising from Gemini's service proposal.

Proposals of Incumbent Carriers

The incumbent carriers, Federal Express, Northwest, and UPS, currently hold a total of 20 frequencies used for all-cargo service to China (FedEx 11, Northwest 3, and

UPS 6). Awarding Gemini 12 of the 39 total frequencies available in 2004 and 2005 will leave 27 additional frequencies available for allocation among the three incumbent carriers, an increase of 135 percent over the number of frequencies currently allocated to incumbents. Gemini's request for 12 frequencies is reasonable and is purposely designed to allow Gemini to introduce new service to China at a level that is economically viable and that also allows Gemini to establish itself in the U.S.-China marketplace. Importantly, however, granting Gemini's award still allows the Department to allocate a number of frequencies to the incumbent applicants -- 27 -- that would permit them to introduce a massive increase in their overall service.¹

Federal Express and UPS, however, take an unreasonable, unjustifiably restrictive, and indeed uncharitable position with respect to the number of frequencies that the Department should allocate to the new entrant carrier. While Federal Express does not state a specific limit on how many frequencies the Department should award to the new entrant, it does assert that all four applicants have sought "frequencies well in excess of the number needed to establish a new service." Consolidated Answer of Federal Express, page 3. For its part, UPS states, apparently seriously, that "UPS does not object to an award of four new frequencies in 2004 to the new designated carrier in this docket, *assuming that such an award is commercially necessary.*" Consolidated Answer of UPS,

¹ As stated in its Consolidated Answer, however, Gemini takes no position on how the Department should allocate the remaining 27 frequencies -- 15 in 2004 and 12 in 2005 -- among Federal Express, Northwest, and UPS.

page 7 (emphasis added).² Both carriers assert that the Department should not award the new entrant *any* frequencies from the 18 frequencies that become available in 2005. FedEx Answer, page 3; UPS Answer, pages 7-8.

Notwithstanding the blithe and self-serving assertions of Federal Express and UPS that a frequency allocation of four -- maybe five -- flights out of the 39 available in 2004/2005 would be adequate for the success of the new entrant,³ the concentration of the huge number of remaining frequencies among the incumbent carriers would certainly cripple, if not doom, the ability of the new entrant carrier to compete effectively. Furthermore, a *de minimus* frequency award would mean that the substantial startup costs incurred by the new entrant would have to be spread over fewer flights, making commercial success even more challenging. Such a restrictive allocation is wholly unnecessary, however, since, as stated above, full award of Gemini's frequency request would still allow a 135% increase in the total number of frequencies available for distribution among the incumbent applicants.

Lastly, Federal Express's assertion (FedEx Answer, page 8) that Gemini did not participate in the U.S.-China discussions is incorrect. Gemini did send a representative to the February talks in Hong Kong as well as to discussions in Washington in March of

² UPS seems to suggest that the Department might not award *any* frequencies to the new carrier or, perhaps, not even designate another all-cargo carrier to China unless such an award is "commercially necessary."

³ "[G]eneral freight operators often operate scheduled services using a pattern of four or five weekly round trips." Consolidated Answer of Federal Express, page 3.

2004. Gemini did not send a company representative to the negotiations in June of 2004 but was represented through the participation of the National Air Carrier Association.

Proposals of New Entrant Carriers

1. Polar. Polar proposes to operate six B747 flights weekly on the routing New York/Chicago - Incheon - Shanghai, using frequencies available as of August 1, 2004, with the addition of three more B747 flights per week as of March 2005 on the routing Los Angeles - Incheon - Shanghai.⁴ Polar acknowledges in its Answer that “the pattern of service put forward by Gemini is similar to the pattern proposed by Polar,” Polar Answer, page 11, but scrutiny of Polar’s subsequent arguments in support of its proposal in fact establishes the superiority of the Gemini proposal.

As Polar notes, the proposals of both Gemini and Polar include service between both the New York/Chicago and the Los Angeles markets, on the one hand, and Shanghai, on the other. Gemini’s proposal, however, also includes San Francisco as a co-terminal point with Los Angeles, facilitating service to and from China from Northern California and the Pacific Northwest. In addition, Gemini’s proposal will divide its initial six flights equally between the New York/Chicago market and the Los Angeles/San Francisco market, while Polar will not introduce flights originating and terminating in Los Angeles until its proposed receipt of three additional frequencies in March 2005.

⁴ In its Consolidated Answer Gemini’s argument did not note that the three flights that Polar proposes to add in March 2005 will serve the LA market.

Secondly, notwithstanding Polar's attack on Gemini's experience in Asia, the fact remains that Gemini has maintained an extensive presence in Asian markets since it operated its first proving flight to Hong Kong in 1996. As one example, Gemini has operated a weekly schedule for Asiana Airlines, serving markets in Korea and Taiwan since 1996.

Gemini has the equipment, the marketing personnel, and the commitment to successfully introduce new scheduled all-cargo service to China. Gemini's senior marketing staff is particularly skilled and has over 35 years of marketing and operational experience in Asia.

Polar promotes its hub at Incheon "over which it can operate its proposed services, supporting the China operations with traffic to/from other markets." Polar Answer, pages 11-12. While Polar does not quantify, either by percentage or in absolute terms, the extent of "traffic to/from other markets," such traffic carried via Incheon would diminish the capacity that Polar could offer for its proposed service between New York/Chicago and Shanghai and between Los Angeles and Shanghai.

Gemini, however, will dedicate its MD-11F aircraft to the U.S.-Shanghai cargo market, offering an established cargo capacity. Furthermore, as Gemini stated in its Consolidated Answer (page 3), the capacity represented by the 12 MD-11F flights that Gemini plans to operate as of 2005 will approximate the capacity of Polar's nine B747 flights, **but** that fact alone does not recognize that the" traffic to/from numerous other

markets” that Polar also proposes to carry will further decrease the volume of U.S.-China capacity available on the flights proposed by Polar.

Finally, the Gemini proposal is superior to the Polar proposal because the six MD-11F flights that Gemini will operate to and from Los Angeles and San Francisco as of 2005 will provide West Coast shippers and consignees with three additional frequencies per week to and from Shanghai than the three weekly B747 flights proposed by Polar.

2. Evergreen. Nothing in Evergreen’s Consolidated Answer counteracts the deficiencies in the Evergreen proposal previously detailed by Gemini and other applicants in their respective answers. The eastbound round-the-world service that Evergreen proposes for two of its seven frequencies -- HOU-JFK-LUX-TAS-BJS-SHA-CTS (non-traffic) -ANC-ORD -- is fraught with commercial risk. To make this pattern a success will obviously require Evergreen to expend a great deal of attention on markets other than the U.S. - China market. Evergreen’s pleadings also do not indicate the extent of U.S.-China traffic that Evergreen will move over this routing.

The routing for the other five frequencies, JFK-ORD-ANC-BJS-SHA-CTS (non-traffic) - ORD-JFK, also suffers from the uncertainty regarding Evergreen’s ability and commitment to undertake such substantial scheduled service. As has been noted, Evergreen has an unenviable track record in failing to implement the limited entry route awards that it has received from the Department.

The capacity represented by Gemini’s proposed service operating 12 MD-11F flights dedicated to the China market as of 2005 exceeds the capacity of the seven B747

frequencies that Evergreen proposes. Gemini's proposal also has the straightforward benefit of offering shippers more frequent flights than Evergreen's proposal.

Lastly, Evergreen's assertion that Gemini is proposing less than optimal service by relying on its MD-11F equipment is simply erroneous. The MD-11F is a superior aircraft to serve the Chinese market. The MD-11F has a lower trip cost relative to the B-747-200 aircraft operated by Evergreen. In today's environment of rising fuel costs, the MD-11F is even more efficient relative to the B-747, and the resultant increase in demand for the MD-11F allows Gemini to serve a much broader market base than Evergreen.

3. Arrow. Arrow's Consolidated Answer does not rehabilitate Arrow's proposal or counter the superiority of Gemini's proposal. The many negative aspects of the Arrow proposal prevent it from being viable. First, Arrow's current financial status is tentative as it attempts to emerge from bankruptcy, creating substantial uncertainty whether Arrow has the financial wherewithal to undertake such a major expansion in its operations.

Secondly, Arrow does not have aircraft in its fleet capable of operating its service proposal. It would not only have to procure acceptable aircraft, but it would have to qualify to operate these aircraft in new markets. The time that it would take for Arrow to accomplish these tasks would itself be fatal to Arrow's proposal in light of the Department's desire for the new entrant to start service as soon as possible.

Third, Arrow proposes to serve so many U.S. and Chinese markets that implementing its almost haphazard service pattern would be a monumental challenge, even

for the most experienced air carrier. Arrow could not sustain the burden of operating such a complicated pattern of long-haul flights.

Fourth, in addition to the burden of the complex service pattern, Arrow's unfamiliarity with Asian markets, where it has never before operated, will cause Arrow's startup costs, and its marketing expense in particular, to be proportionally greater than those of Gemini, which has had long-standing experience in Asia.

CONCLUSION

Gemini's proposal to operate six frequencies, three in the New York/Chicago - Shanghai market and three in the Los Angeles/San Francisco market, in 2004, and an additional six in each market in 2005, for a total of 12 flights, represents the best utilization of the rights granted to the United States under the most recent revisions to the bilateral aviation relationship between the United States and China. Gemini's proposal is superior to those of the other applicants for the reasons stated above and in Gemini's Application and Consolidated Answer.

The Department should therefore select Gemini Air Cargo, Inc. for the award of a certificate of public convenience and necessity to operate scheduled foreign air transportation of property and mail from point or points in the United States; via intermediate points; to point or points in the People's Republic of China open to scheduled international operations; and beyond. The Department should also designate Gemini as the third U.S. scheduled all-cargo carrier to China and allocate to Gemini six all-cargo

frequencies to operate to China in 2004 and six additional all-cargo frequencies to operate to China in March 2005.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of July 2004, a copy of the foregoing Consolidated Reply of Gemini Air Cargo, Inc. was served via email or fax upon the following parties. No indication was received that any transmission had failed.

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