

Order 2007-1-4



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 9th day of January, 2007

Served: January 9, 2007

In the Matter of

**2007 U.S.-CHINA COMBINATION AND
ALL-CARGO FREQUENCY
ALLOCATION PROCEEDING**

Docket OST-2006-25275

**ORDER
ADDRESSING MOTIONS OF AMERICAN AIRLINES, INC. AND
NORTHWEST AIRLINES, INC. AND TO SHOW CAUSE ON ALLOCATION OF
U.S.-CHINA COMBINATION FREQUENCIES**

Summary

By this Order, we tentatively decide to allocate United Air Lines, Inc. (United) seven weekly combination frequencies for its proposed Washington (Dulles)-Beijing combination services in the U.S.-China market. The rights become available on March 25, 2007.

Also, by this Order we deny the motion of American Airlines, Inc. (American) for leave to amend its Dallas/Ft. Worth-Beijing application and to reopen the record in this proceeding; grant American's motion for leave to withdraw its application from this proceeding; and dismiss, as moot, the motion of Northwest Airlines, Inc. (Northwest) to dismiss American's application from this proceeding.

Background

On July 24, 2004, representatives of the United States and the People's Republic of China (PRC) signed a protocol to amend the U.S.-PRC aviation agreement, greatly expanding opportunities in the U.S.-China market through 2010. The amended agreement phases in

rights for the respective parties according to an agreed schedule. In light of that schedule, we have already awarded rights in several previous proceedings as described below.

First among these opportunities, the new agreement authorized both countries to allocate 14 additional weekly combination frequencies, effective August 1, 2004. By Order 2004-7-23, the Department allocated seven weekly frequencies each to Northwest and United, which were the only carriers eligible to use these frequencies at that time.

Second, the agreement permitted the United States to designate an additional carrier for scheduled all-cargo service and to allocate 21 weekly frequencies for all-cargo services, effective August 1, 2004. In addition, effective March 25, 2005, the United States had the opportunity to allocate an additional 18 weekly frequencies for scheduled all-cargo services among the designated carriers. By Order 2004-10-8, the Department selected Polar Air Cargo, Inc. (Polar) to serve the U.S.-China all-cargo market, allocating it nine weekly frequencies (six in 2004 and three in 2005) for its proposed services. In the same Order, the Department further allocated 12 frequencies (six in 2004 and six in 2005) each to Federal Express Corporation (FedEx) and United Parcel Service, Co. (UPS), and six weekly frequencies (three in 2004 and three in 2005) to Northwest.

The agreement then authorized the United States, for services beginning March 25, 2005, to designate one additional carrier for combination services between the United States and China, and to allocate seven weekly frequencies for combination services. The agreement also provided that, effective March 25, 2006, the United States may designate one additional carrier for combination or all-cargo service and allocate an additional seven weekly combination frequencies and 12 weekly all-cargo frequencies. By Order 2005-3-24, the Department selected Continental Airlines, Inc. (Continental) to serve the U.S.-China combination services market, allocating it seven weekly frequencies for its proposed services beginning March 25, 2005. By Order 2005-3-40, the Department selected American to serve the U.S.-China combination services market, allocating it seven weekly frequencies for its proposed services, effective March 25, 2006. In the same Order, the Department further allocated three weekly all-cargo frequencies each to FedEx, Northwest, Polar, and UPS.

As a result of those proceedings, and pre-existing authority as of the date of the Instituting Order for this proceeding, U.S. carriers hold authority to operate weekly roundtrip flights in the U.S.-China market, as follows: American – 7; Continental – 7; Northwest – 32;¹ United – 28; FedEx – 26; UPS – 21; and Polar – 12.

While the protocol represents a welcome liberalization of our bilateral air services relationship with China, the agreement still retains various restrictions -- including limits on designations and frequencies -- that continue to place major constraints on entry and competition. These restrictions ill serve the economies, consumers, carriers, and communities of both China and the United States. They not only underline the critical need for greater liberalization of the U.S. and China air services market, but also highlight the importance of allocating these valuable but limited resources in a manner

¹ Northwest currently utilizes 21 of these frequencies for combination services.

that facilitates their use in a way that best serves the public interest in this restricted market.

The expansion of air service rights under the protocol has enabled us to address some of the major service deficiencies in the U.S.-China combination services market. Notably, in selecting Continental for the 2005 award to serve Newark-Beijing, we were able to address the greatest service deficiency in the U.S.-China market – the lack of U.S. carrier nonstop service to China from the largest U.S.-China Origin & Destination (O&D) market in that proceeding, the New York/New Jersey metro area. In selecting American for the 2006 award to serve Chicago-Shanghai, we addressed the need for additional competition in the market by providing intra-gateway competition benefits at Chicago with United's China services.

We tentatively conclude that we should use this proceeding, as was the case with the 2005/2006 proceeding, to select the carrier that would best address the most significant unmet service needs of the market and thereby maximize public benefits in the still restricted environment.²

2007 U.S.-China Combination and All-Cargo Frequency Allocation Proceeding

The amended agreement authorizes new opportunities for the United States, for services effective March 25, 2007, to allocate the following frequencies: (1) seven combination frequencies to serve points in China Zone 1 or China Zone 2;³ (2) 15 all-cargo frequencies to serve points in China Zone 1 or China Zone 2; and (3) seven combination or all-cargo frequencies specifically limited to serving points in China Zone 2. Since the amended agreement does not provide for a new U.S. carrier designation until 2008, only incumbent U.S. carriers that are currently designated to operate combination and/or all-cargo services to China were eligible to apply for these additional frequencies.⁴

On July 10, 2006, the Department issued Order 2006-7-9, instituting the 2007 U.S.-China Combination and All-Cargo Frequency Allocation Proceeding, and inviting applications from incumbent combination and all-cargo carriers for the frequencies at issue. The Order also set forth a procedural schedule and evidentiary requirements for the establishment of a record for the Department to make a decision in this case. Under the procedural schedule established by the Department, new applications were due on August 17, 2006, Direct Exhibits were due on September 25, 2006, Rebuttal Exhibits on

² After the completion of this proceeding, the next set of additional rights established under the protocol become available on March 25, 2008. These rights include seven frequencies for combination services, 15 frequencies for all-cargo services, seven combination or all-cargo frequencies limited to service to points in China Zone 2 and one designation for a combination or all-cargo carrier. We will address that designation and other future opportunities for service in the U.S.-China market in subsequent proceedings.

³ As defined by the amended agreement, China Zone 1 consists of Beijing, Shanghai, and Guangzhou. China Zone 2 consists of Anhui, Fujian, Guangdong (except Guangzhou), Hebei, Henan, Hubei, Hunan, Jiangsu, Jiangxi, Shandong, Shanxi, Tianjin, and Zhejiang.

⁴ The incumbent combination carriers are Northwest Airlines, Inc., United Air Lines, Inc., Continental Airlines, Inc., and American Airlines, Inc. The incumbent all-cargo carriers are Northwest Airlines, Inc., Federal Express Corporation, United Parcel Service Co., and Polar Air Cargo, Inc.

October 16, 2006, and Briefs on October 31, 2006. In establishing that schedule, the Department noted the importance of reaching its selection decision on a timetable that would allow the selected carrier to enjoy the maximum benefit of the frequencies at issue here as soon as they become available on March 25, 2007.

With regard to the allocation of the 15 all-cargo frequencies that were available in this proceeding, FedEx, Northwest, and Polar applied for four frequencies each, for a total of 12 of the 15 available. Consequently, by Notice of Action Taken dated August 24, 2006, we awarded the requested number of all-cargo frequencies to each of the applicant carriers for use beginning March 25, 2007.

Also, no applications were filed for the allocation of the seven additional frequencies for combination or all-cargo services specifically limited to serving points in China Zone 2. Therefore, the remainder of this proceeding will address the allocation of seven available combination frequencies for U.S. carriers to serve points in either China Zone 1 or China Zone 2.

The U.S.-China Combination Services Market⁵

There continues to be strong growth in the U.S.-China market. Notwithstanding bilateral constraints on new service opportunities, and despite the impact of SARS in 2003, the Department's passenger O&D traffic data show an average annual growth rate of 18.1 percent over the ten-year period from 1996 to 2005. Since calendar year 2000, O&D traffic grew by an average annual rate of 12.5 percent. For the twelve months ended March 2006, the Department's O&D data reflect that the market generated approximately 1,404,390 O&D passengers, nearly double the number of passengers from two years ago. Of this total, 604,590 traveled between the United States and Beijing, 615,060 traveled between the United States and Shanghai, and 123,380 traveled between the United States and Guangzhou.⁶ The Department's T-100 data for this same period show that U.S. carriers transported approximately 845,800 nonstop passengers,⁷ and Chinese carriers transported approximately 686,200 nonstop passengers, between the two countries. U.S. carrier totals would be much higher, but Northwest, the second largest U.S. carrier in the U.S.-China market, flows all of its flights over Tokyo.

Four U.S. carriers – American, Continental, Northwest, and United – currently operate roundtrip combination services between the U.S. and China. American operates seven weekly nonstop flights between Chicago and Shanghai. Continental provides seven weekly nonstop flights between Newark and Beijing. Northwest operates 21 weekly flights on a one-stop basis via its Tokyo connecting hub, providing daily service to Beijing, Shanghai, and Guangzhou. United operates 28 weekly nonstop flights,

⁵ See Appendix A (Current Service Summary).

⁶ DOT-IR-2A, 2B, 2C; the O&D traffic data do not include traffic carried solely on a foreign air carrier and therefore do not include the portion of U.S.-China traffic carried by the Chinese carriers.

⁷ DOT-IR-1A; the T-100 data only include traffic carried nonstop between the U.S. and China, and therefore Northwest's traffic, all of which is routed via a stop in Tokyo, is not included.

providing daily service in the Chicago-Beijing, Chicago-Shanghai, San Francisco-Beijing and San Francisco-Shanghai markets.

In addition to the direct carrier service provided by the four U.S. carriers described above, American, Delta Air Lines, Inc. (Delta), and United also provide service in the U.S.-China market by putting their codes on flights operated by their respective Chinese airline code-share partners. American puts its code on flights operated by China Eastern between Beijing/Shanghai and Los Angeles. Delta puts its code on flights operated by China Southern between Guangzhou and Los Angeles. United puts its code on flights operated by Air China between Beijing and San Francisco, Los Angeles, and New York. In addition to putting their codes on the Chinese carriers' transpacific flights, these carriers also market services with their Chinese partners to points within China. Similarly, Chinese carriers place their codes on flights operated by their U.S. carrier partners. China Eastern puts its code on American's transpacific flights and Air China puts its code on United's transpacific flights. Shanghai Airlines puts its code on United's flights to Shanghai from Chicago and San Francisco. Air China, China Eastern, China Southern, and Shanghai Airlines also market services to points within the United States by putting their codes on their respective U.S. code-share partners' flights.

Three Chinese carriers serve the U.S.-China market, operating a combined total of 37 weekly combination flights. Air China operates daily service to Beijing from both New York and Los Angeles, and five weekly Beijing-San Francisco flights. China Eastern operates a daily Beijing-Shanghai-Los Angeles service, two flights per week between Shanghai and Saipan, and recently inaugurated four weekly Shanghai-New York (JFK) flights.⁸ China Southern operates five flights per week between Guangzhou and Los Angeles.

Summary of Combination Frequency Applications and Responsive Pleadings

The four incumbent combination carriers - American, Continental, Northwest, and United - filed applications for the seven available combination frequencies to expand their services in the U.S.-China market. Each carrier requests seven frequencies to institute daily nonstop service. Continental would serve the Newark-Shanghai market with B-777 aircraft.⁹ Northwest proposes to serve the Detroit-Shanghai market with B-747 aircraft.¹⁰ United would serve the Washington, D.C. (Dulles)-Beijing market with B-747 aircraft. American initially proposed roundtrip nonstop service with B-777 aircraft between Dallas/Ft. Worth and Beijing, but on December 8 sought leave to amend its application to downgrade its service proposal to nonstop in the eastbound direction only. The westbound leg from Dallas/Ft. Worth to Beijing would be operated one-stop via Chicago.

⁸ China Eastern began its JFK-Shanghai service on December 9, 2006, with four weekly flights. We note that as of January 15, 2007, it proposes to reduce its operations to two weekly flights. (Official Airline Guide, December 2006)

⁹ Continental's proposal will offer single flight number service to Cleveland passengers through Newark to Shanghai. It proposes to operate Cleveland-Newark with B-737 aircraft and Newark-Shanghai with B-777 aircraft.

¹⁰ Northwest indicates that it may operate B-787 aircraft on the Detroit-Shanghai route in the future.

We further address American's motion and the subsequent pleadings of the other carriers below.

A number of civic parties filed formal statements of support for the applicant carriers. The Dallas/Fort Worth & North Texas Parties filed in support of American; the New Jersey Parties filed in support of Continental; the Port Authority of New York and New Jersey filed in support of Continental; the Ohio Parties filed in support of Continental; the Wayne County Airport Authority/Detroit Metropolitan Airport filed in support of Northwest; the Washington Airports Task Force filed in support of United; and the Metropolitan Washington Airports Authority filed in support of United. In addition, US Airways, Inc. (US Airways) filed in support of United, highlighting its pending application for U.S.-China exemption authority pursuant to a code-share agreement with United.

Direct Exhibits, Rebuttal Exhibits, and Briefs were filed by all of the carrier applicants, the Dallas/Fort Worth & North Texas Parties, the Port Authority of New York and New Jersey, the New Jersey Parties, the Wayne County Airport Authority/Detroit Metropolitan Airport, and the Metropolitan Washington Airports Authority.¹¹ The remainder of the civic parties made at least one submission to the formal record.

Motions of American and Northwest

On December 8, 2006, American filed a motion in the captioned docket for leave to amend its Dallas/Ft. Worth–Beijing service application, and to reopen the record. Specifically, American seeks to amend its proposal from nonstop to one-stop westbound service between Dallas/Ft. Worth and Beijing so that it has flexibility to serve the route on a single plane one-stop basis via the intermediate point Chicago, in the outbound Dallas/Ft. Worth-to-Beijing direction only. American states that the change is necessary to satisfy on-duty time restrictions in the collective bargaining agreement between American and its pilots union. American supplied supplemental exhibits reflecting the change in service and asked that they be entered into the record if it were reopened. American further states that if the Department were to deny its motion for leave to amend its application and to reopen the record, American moves for leave to withdraw its application from this proceeding, and will apply next year for an award of the U.S.-China frequencies that become available in 2008.

On the same date, Northwest filed a motion to dismiss American's application stating that American's motion amounted to a completely new service proposal and that consideration of such a proposal would grossly complicate and delay the proceedings, would be highly prejudicial to the other applicants, and would violate the procedural due process requirements of the Administrative Procedure Act. Northwest also noted that in filing its motion, American acted contrary to the terms of the Instituting Order for this

¹¹ We note that United filed its Direct Exhibit on the September 25 due date, but inadvertently omitted answers to interrogatories required in the Direct Exhibit. United provided these answers in a separate filing on September 26, 2006. Also, on November 6 the Metropolitan Washington Airports Authority filed a supplement to its Direct Exhibit that was originally filed on September 25.

proceeding, Order 2006-7-9, and that dismissal of American's application is the appropriate remedy.

In response to the two motions, we issued a Notice on December 11 *sua sponte* shortening the answer period for both motions and requiring answers by December 13, and replies by December 15. Parties choosing to answer American's motion were asked to also submit, on a contingent basis and on the same date provided, any substantive issues they might wish to address in relation to American's submission, in the interest of facilitating a timely decision.

Continental, Northwest and United filed answers to American's motion and American answered Northwest's motion. American, Continental and Northwest filed replies. A number of civic parties also answered American's motion.

In their answers, Continental, Northwest and United each objected to American's motion on procedural grounds, stating that allowing American to amend its service proposal at this late date in the proceeding and reopening the record would violate due process, as well as the procedural rules applicable to this proceeding, and would undermine the Department's ability to conclude the proceeding in time to support commencement of scheduled service on March 25, 2007, when the frequencies become available. The carriers assert that American knew of the labor-related impediment to its service proposal when it proposed nonstop Dallas/Fort Worth-Beijing service and should not now be allowed to delay the proceeding, months after the August 17 deadline for the filing of new applications and the record has been closed. Continental states that reopening the record to allow American's proposed amendment would make a mockery of the Department's procedures if all applicants were not given the same opportunity to submit an answer to American's new application, as well as revised and updated direct exhibits and briefs. The objecting carriers urge that, in the interest of due process and fairness, as well as the public interest in reaching an expedited decision, and in light of the procedural rules set down by the Department in the July 10 Instituting Order, we disallow American's amendment and grant American's contingent motion to withdraw from the proceeding. Alternatively, the carriers state that we should grant Northwest's motion to dismiss American from the proceeding.

In support of their objections, Northwest and United cite the Department's decision in the *U.S.-Lima Combination Service Proceeding* (referred to here as the 1995 Lima Case), in which American objected to a late-filed amendment by Continental to its service proposal.¹²

United's answer to American's motion also addressed, in part, the substantive issues presented by American's amended proposal, although United objected that the two days provided for answers was itself a violation of due process as it did not afford interested parties a fair and meaningful opportunity to comment on substantive matters. United

¹² See Order 95-8-48. Northwest also cited the Department's decision in this proceeding in its December 15, 2006 reply.

states that American's revised proposal is inferior to United's Washington-Beijing proposal because it offers less capacity than United, would provide less desirable one-stop service in one direction, and would not establish a new U.S. gateway from which passengers could enjoy nonstop service to China. Continental and Northwest did not offer comments on the substantive issues presented, noting that meaningful evaluation of American's revised proposal would require more than the few days allowed under the shortened answer period established by the Department in the December 11 Notice.

American filed an answer to Northwest's motion stating that it should be denied and that consideration of American's amended proposal and supplemental exhibits should be allowed. In a separate reply to answers, American cited the *U.S.-Vietnam Third-Country Codesharing Opportunities* proceeding, Order 2001-5-27, as precedent for allowing a carrier to change its service proposal long after all the evidence and pleadings have been submitted. American also states that reliance by Northwest and United on the 1995 Lima Case is misplaced because it involved a carrier's late attempt to upgrade its application to nonstop service after seeing its competitor's proposal, whereas in this case, American is doing the opposite – and not in response to the other proposals in the case, but due to a labor issue. American states that it filed its motion to amend once it determined that it could not resolve the pending labor issue. It also notes that two of the parties could have but chose not to use the time provided by the Department to submit answers on the substantive issues presented.

Continental and Northwest filed replies reiterating their positions.

A number of civic parties filed pleadings in response to the American and Northwest motions. The Dallas/Fort Worth and North Texas Parties support American's application in this proceeding and, in their answer, reaffirm support for American's application as initially filed and as amended. The New Jersey Parties and the Port Authority of New York and New Jersey endorse Continental's application in this proceeding. Both filed answers objecting to American's proposed amendment on procedural grounds. The Metropolitan Washington Airports Authority (MWAA) endorses United's application and filed an answer in opposition to American's motion to amend. The MWAA cited the 1995 Lima case and states that allowing a late-filed amendment would be grossly unfair, would violate the due process rights of the parties, and is inconsistent with the need for an expeditious decision.

Disposition of the Motions of American and Northwest

We have decided to deny American's motion to amend its Dallas/Ft. Worth–Beijing application and reopen the record. Instead, we will grant American's alternative request for leave to withdraw its original application in this proceeding. Therefore, we dismiss, as moot, Northwest's motion to dismiss American's application.

In the order instituting this proceeding, we established a procedural schedule expressly designed to generate a decision enabling the selected carrier to commence scheduled combination services on the March 25, 2007 availability date.¹³

The change proposed by American, from nonstop service in both directions to nonstop service in only one, with one-stop service in the other, over an additional gateway, represents so significant a deviation from its original proposal that we could not consider it as eligible for selection without first according the other parties further opportunity for rebuttal and comment. In the particular circumstances of this case, where from the outset we made clear the public interest basis for maintaining a schedule that would ensure a timely decision, we cannot conclude that the public interest would favor the type of delay such further process inevitably would entail.¹⁴ This is particularly true where that inevitable delay would have been for the purpose of considering a significantly downgraded one-stop service proposal which would raise substantial issues in terms of its relative quality of service. It would have to be compared to the nonstop service proposals of all of the other applicants in this proceeding which do not duplicate U.S. carrier service already in the market.

Therefore, in the interest of expedition and to ensure that service can be instituted as soon as the rights are available so that the full benefits of the frequencies at issue here will be realized, we will not permit American to amend its service proposal at this late stage in the proceeding. We will, however, allow American to withdraw its application as it has requested and note that the carrier may re-apply in a future proceeding to award the 2008 frequencies.

Position of the Remaining Parties

A. Combination Carriers¹⁵

Continental asserts that, as a new entrant in the New York/Newark-Shanghai market, it will provide the first daily nonstop service and the first U.S. flag carrier nonstop service between the largest U.S. gateway (New York/Newark) and the largest Chinese gateway without existing service.¹⁶ Continental contends that the New York/Newark-Shanghai market is more than twice as large as the Detroit-Shanghai market; and more than one and one-half times larger than Washington-Beijing.¹⁷ It notes that its proposal will link the largest financial and commercial centers in the United States and China.

¹³ See Order 2006-7-9, issued July 10, 2006, at pages 3-4.

¹⁴ We are unpersuaded by the precedents cited by American as none of the cited cases supports allowing a late-filed amendment where doing so would violate the due process rights of the other parties involved or would significantly delay the conduct of the proceeding. Any delay in this proceeding would run contrary to the Department's explicit emphasis, both in the Instituting Order, Order 2006-7-9 and in the December 11 Notice, on adhering to a procedural schedule designed to facilitate a timely and successful service launch in the circumstances presented.

¹⁵ We provide a chart in Appendix C summarizing the main aspects of each applicant's proposal.

¹⁶ Continental Brief, at 6.

¹⁷ Continental Direct Exhibits, CO-502 and CO-503.

Continental maintains that New York/Newark has more Shanghai O&D traffic than Chicago and Los Angeles, and points out that both of those gateways already have nonstop service to Shanghai. Thus, Continental contends that its proposed service will provide inter-gateway competition with those gateways, as well as intra-gateway competition with the Shanghai service operated by China Eastern at New York (JFK). In that connection, Continental states that institution of its Newark-Beijing service in 2005 increased competition to the point that Air China increased its JFK-Beijing service from four times weekly to daily service.

Continental argues that serving both Shanghai and Beijing is critical to its ability to compete effectively with incumbent U.S. and foreign airlines providing U.S.-China service, noting that each of the other applicants already provides on-line service between its U.S. hubs and both Shanghai and Beijing on its own flights, on flights operated by its code-share partners, or both.¹⁸

Continental contends that Shanghai, not Beijing, requires additional service in 2007 and that the U.S.-Shanghai market, with significantly less service, is underserved relative to Beijing. It asserts that foreign direct investment in Shanghai is double that of Beijing, Shanghai trade far surpasses Beijing trade, Shanghai generates more local revenue and exports, and there are more business travelers to Shanghai.

Continental states that its through-flight-number service between its Cleveland hub and Shanghai via Newark will provide convenience for its Cleveland passengers and a marketing benefit to both the city of Cleveland and Continental.

With regard to the other applicants, Continental maintains that Northwest and United already hold 28 frequencies each, and that each could implement their proposed flights using frequencies they currently hold.¹⁹ It asserts that the prime objective of both Northwest and United is to prevent additional entry on U.S.-China routes rather than offering new service of their own.²⁰

The competing carriers point out that with the start of China Eastern's nonstop New York (JFK)-Shanghai service in December, three carriers will be providing nonstop service in the NY/NJ-China market.²¹ They maintain that Continental's proposal relies heavily on local traffic, and they question the ability of Continental to draw passengers from New York to Newark.²² Northwest and United also reject Continental's contention that they should not be considered for the award of frequencies simply because they have more current frequencies than Continental. United notes that Continental has no Chinese code-share partner and, if awarded the frequencies at issue, would serve only the Newark-Beijing and Newark-Shanghai markets, with no on-line service between the two, and no on-line service to other Chinese cities.²³

¹⁸ Continental Brief, at 11.

¹⁹ *Id.* at 4.

²⁰ *Id.* at 24.

²¹ Northwest Brief, at 26; United Brief, at 17.

²² Northwest Brief, at 27; United Brief, at 15.

²³ United Brief, at 20.

Northwest asserts that its proposal will serve the largest number of U.S. cities, provide new access for the largest share of the U.S.-China traffic base, and benefit the greatest number of U.S.-China passengers.²⁴ It states that Detroit has the largest primary catchment area, enabling it to provide nonstop-to-nonstop Shanghai service for 108 U.S. points, including the first nonstop-to-nonstop service for 15 U.S. cities, and the first competitive service for 29 more. Northwest notes that its single-connection cities and Detroit account for over half of all U.S.-China traffic.

Northwest argues that new service to Shanghai is more important than to Beijing.²⁵ It states that Shanghai accounts for 13 percent of China's imports, that foreign direct investment in Shanghai exceeds that in Beijing by 112 percent, and that there are 34 percent more U.S. business travelers to Shanghai than to Beijing. Northwest asserts that while Shanghai growth has outpaced Beijing growth by six percentage points over the last six years, Shanghai is clearly underserved with 40 percent fewer available nonstop seats per passenger than Beijing. It notes that there are currently three U.S. flag nonstop gateways to Beijing, compared to just two for Shanghai.

Northwest maintains that its Boeing 747 aircraft will deliver substantially more capacity than Continental's Boeing 777 aircraft, resulting in 43,000 more seats than Continental. It also maintains that its proposal would offer approximately the same number of seats as United's Boeing 747 proposal.

Northwest states that it urgently needs new frequencies to offer nonstop service from Detroit.²⁶ It maintains that its current one-stop services to Beijing, Guangzhou, and Shanghai via Tokyo are the most effective pattern of service possible with its limited frequency allocation, and the only way it can effectively serve China from all of the United States. Northwest argues that, because it does not have a U.S. west coast hub, Tokyo is in effect its west coast hub and is critical to serving the large U.S. west coast markets to China. It contends that if it were to drop Tokyo-Shanghai in favor of Detroit-Shanghai, it would cede all of the important west coast markets to United's San Francisco-China service and service of foreign flag carriers, because Northwest would not be competitive at the 40 percent circuitry a connection from the west coast via Detroit would entail.

Furthermore, Northwest asserts that the proposals of the other applicants fail to measure up to its own. It points out that Continental's proposal is heavily weighted towards the New York local market, even though the New York-Shanghai market will have nonstop service beginning in December and that United could offer Washington-Beijing service with its existing frequencies.

The competing applicants argue that Northwest has tried to sustain nonstop Detroit-China service in the past, and failed to do so. United points out that Northwest currently

²⁴ Northwest Brief, at 1.

²⁵ *Id.* at 10-11.

²⁶ *Id.* at 14-15.

operates all of its existing U.S.-China services on a one-stop basis via Tokyo, inconveniencing U.S.-China passengers and displacing U.S.-China traffic with Japan-China fifth-freedom traffic.²⁷ Similarly, Continental claims that an award to Northwest would be anticompetitive because Northwest uses all of its current U.S.-China frequencies to benefit its Tokyo hub, rather than its Detroit hub and nonstop U.S.-China passengers.²⁸ Continental argues that Northwest should not be awarded additional frequencies because it is a dominant incumbent in the U.S.-China market. United contends that Northwest offers no on-line connections beyond Shanghai.

United asserts that its proposal responds most fully to the greatest need and largest unmet customer demand for new China service by opening a new gateway in the largest U.S. metropolitan area lacking nonstop service to China.²⁹ It states that the Washington metro area has more overall China O&D traffic than any other metropolitan area lacking nonstop China service. United maintains that the Washington-China O&D traffic is growing faster than the national average and faster than that of the Detroit and New York metropolitan areas. It asserts that, while Detroit-Shanghai O&D traffic grew 2 percent in the last year and New York-Shanghai traffic shrank by more than 4 percent, Washington-Beijing traffic grew nearly 14 percent.

United states that its B-747-400 aircraft with three-class configuration provides the largest amount of new capacity to China. It maintains that the more capacity a carrier provides, the more benefit the traveling public derives from the service, particularly in a restricted market where demand is growing faster than supply.³⁰ United also notes that it is currently operating B-747 aircraft on three of its four existing U.S.-China routes.

Furthermore, United contends that its “capital-to-capital”³¹ service would promote the national interest and U.S.-China relations in a uniquely important way. It notes the importance of the strategic relationship between the two countries, and maintains that the absence of nonstop service between Washington and Beijing is the most significant infrastructure impediment to more effectively managed U.S.-China relations.

United says that it will offer on-line connections to 16 Chinese cities beyond Beijing through its code-share partnership with Air China. It contends that this is a benefit that none of the other applicants can begin to match, because Northwest and Continental offer no on-line connections beyond Shanghai. United also notes the benefits that its proposal would provide to its Star Alliance partner, US Airways.³²

²⁷ United Brief, at 45.

²⁸ Continental Brief, at 30.

²⁹ United Brief, at 12.

³⁰ *Id.* at 21.

³¹ United Direct Exhibit, UA-T-1.

³² We note that US Airways has a pending application on file in Docket OST-2006-25967, for exemption authority and a designation to engage in U.S.-China code-share operations with United between: 1) Chicago/San Francisco and Shanghai, and beyond; and 2) Chicago/San Francisco/Washington (Dulles) and Beijing, and beyond. US Airways states that its Washington (Dulles)-Beijing request is contingent upon United being awarded the frequencies for its Washington (Dulles)-Beijing frequencies in this proceeding, and requests that its authority for that city pair be granted concurrent with an award of

Contrary to the claim of Continental, United argues that the fact that it holds the largest number of China combination frequencies among the incumbent applicants in this proceeding is not a reason to reject its application. It states that, since demand for seats is growing faster than the supply in the restrictive U.S.-China market, the benefits of competition – in terms of responding to consumer demand and limiting pressures for price increases – are most likely to be realized by awarding the frequencies to the applicant whose proposal would increase output most substantially and meet most fully the greatest demonstrated need for China service. Furthermore, United asserts that, contrary to the claims of the other applicants, it has accounted for self-diversion from its existing services in formulating its passenger forecast. It predicts that there will be virtually no diversion from its existing services to Beijing because demand in the U.S.-Beijing market is so strong, and continues to grow faster than supply, and cites consistently high load factors on its Beijing services from Chicago and San Francisco.

With regard to Continental’s proposal, United contends that the underserved Washington metro area should receive its first nonstop service to China before the New York/New Jersey area receives its fourth. It also asserts that the fact that Northwest has twice failed to sustain nonstop Detroit-China service underscores the weakness of the Detroit-China market and raises doubt about the sustainability of its Detroit-Shanghai service as an inter-gateway competitor.³³

Continental argues that United should not be awarded additional frequencies because it is a dominant incumbent in the U.S.-China market. Northwest contends that United has a choice today of operating its proposed Washington-Beijing services with frequencies it already holds, and also states that United’s B-747 proposal is not credible.³⁴ Each of the competing carriers assert that United failed to account for self-diversion from its existing service to Beijing from Chicago and San Francisco, and that United’s behind-Washington catchment area virtually overlaps its behind-Chicago catchment area.³⁵

B. Civic Parties^{36 37}

The New Jersey Parties (New Jersey) support Continental’s application for nonstop service between Newark and Shanghai.³⁸ New Jersey notes the lack of nonstop service to Shanghai from the New York/Newark area and states that Shanghai service at Newark Liberty International Airport (Newark Liberty), the only true hub airport in the

frequencies to United. US Airways further states that its request for authority in the remaining city pair markets need not be contingent upon the outcome of this proceeding.

³³ United Brief, at 44-45.

³⁴ Northwest Brief, at 29.

³⁵ Continental Brief, at 28; Northwest Brief, at 40.

³⁶ See Appendix B, Civic Party Position.

³⁷ The Dallas/Fort Worth and North Texas Parties (Texas Parties) filed submissions in support of American’s original Dallas/Ft. Worth-Beijing proposal, as well as its request for leave to amend its application. Since we are granting American’s contingent motion to withdraw, we are not including the Texas Parties’ submissions in this summary.

³⁸ Continental proposes single flight number service from Cleveland-Newark-Shanghai.

New York/Newark metropolitan area, is critical to Newark and New Jersey. New Jersey stresses that Newark/NY-Shanghai is by far the largest market in this proceeding, and that Continental's current successful Newark-Beijing service demonstrates that its proposed Newark-Shanghai service will also succeed. New Jersey asserts that nonstop Shanghai service at Newark Liberty will ensure that New Jersey has the vital service needed to sustain and build upon its large and rapidly growing economic ties with China. New Jersey notes that Continental has already developed other important nonstop Asian services at Newark Liberty, and that overall, the airport enjoys service to more international and Asian destinations than any of the other hubs. New Jersey maintains that the lack of nonstop service to Shanghai represents the most significant gap in Newark Liberty's service. Finally, New Jersey states that if China Eastern begins its proposed New York (JFK)-Shanghai service in December, the selection of Continental's Newark-Shanghai service is that much more important to provide U.S. flag carrier competition.

The Port Authority of New York and New Jersey (Port Authority) supports Continental's application for nonstop service between Newark and Shanghai. The Port Authority asserts that the New York/Newark metropolitan area and Shanghai are the primary financial and commercial centers for the U.S. and China, respectively, and a daily nonstop link between them is required to promote commerce and trade between the United States and China. The Port Authority notes that New York/New Jersey exports to China have more than doubled since 2000, and that many New York/New Jersey-based businesses have established or are expanding Shanghai-based operations. The Port Authority notes that the New York/New Jersey area has the second largest Chinese population in the United States, more than the combined total for the other applicants' gateways. Finally, the Port Authority states that because every other gateway with daily nonstop service to Beijing also has service to Shanghai, the New York/Newark gateway should also have nonstop service to both cities in order to remain competitive.

The Ohio Parties (Ohio) support Continental's application for nonstop service between Newark and Shanghai. Ohio notes that Continental's proposal will also provide single flight number service to Cleveland and states that access to Shanghai via New York/Newark will bring Ohio one step closer to realizing its goal of fully developing Ohio's China trade. Ohio asserts that Continental's Cleveland-Shanghai service will support the Cleveland Airport System's role as an economic catalyst for Cleveland and the entire Northeast Ohio region and as a partner with the City of Cleveland, the State of Ohio and businesses all around Ohio in driving growth and development through the attraction and retention of businesses throughout the region. Ohio contends that through-service to Shanghai will assist Cleveland in competing with other hub airports that already have through-service to Asia. Ohio asserts that Continental's Cleveland-Shanghai service will compete effectively with Shanghai service offered by United through Chicago since it will offer virtually identical elapsed time with the added benefit of travel on Cleveland's hub airline.

The Wayne County Airport Authority/Detroit Metropolitan Airport (Wayne County) supports Northwest's application for nonstop service between Detroit and

Shanghai. Wayne County asserts that Detroit is unquestionably the most effective and efficient U.S. gateway to China. Wayne County states that Northwest's WorldGateway hub at Detroit is one of the newest and most technologically advanced airports in the world, providing passengers easy connections and exceptional concession options. Furthermore, Wayne County states that new nonstop service between Detroit and Shanghai will have a tremendous positive economic impact on the regional economy in southeast Michigan, and the entire U.S. economy. Wayne County maintains that since it is the home to some of the world's largest automotive manufacturers and their suppliers, Detroit's unique commercial expertise will continue to be in strong demand by China as its economy continues to expand, noting that because China's robust economic growth is based first and foremost in manufacturing, linking Detroit and Shanghai with nonstop service will produce significant and highly valuable economic activity between the United States and China. Wayne County states that Detroit Metropolitan Airport is Northwest's largest hub and points out the success of Northwest's operations to Asia from Detroit.

The Washington Airports Task Force (Task Force) supports United's application for nonstop service between Washington (Dulles) and Beijing. The Task Force states that Washington is the largest metropolitan area in the United States in terms of both population and size of economy that does not already have nonstop service to China. The Task Force asserts that while the New York/Newark-China O&D passenger market is larger in total than that of Washington, it is already served by two non-stop carriers and will have the benefit of a third nonstop carrier to China before the end of 2006. The Task Force notes its belief that the public benefit of adding yet more scarce frequencies to China from that area is minimal at best. Furthermore, the Task Force states that the Washington area has greater market strength to support an award of China frequencies than Detroit; that Washington, D.C. has almost twice as many O&D passengers as Detroit; and that Detroit historically has not been strong enough to sustain nonstop service to China, resulting in Northwest routing all of its existing China service through Tokyo.

The Metropolitan Washington Airports Authority (MWAA) supports United's application for nonstop service between Washington, D.C. (Dulles) and Beijing. The MWAA asserts that nonstop Washington-Beijing service is critically important to the Nation's capital, the diverse and vibrant Washington Region, and the Nation itself. The MWAA maintains that United's proposal would open a new gateway to China, would offer more capacity than any other proposal, and would generate more local and total overall passengers between the United States and China. The MWAA states that Newark/New York already has substantial nonstop service to/from China, including (as of December 2006), nonstop service to Shanghai, amounting to 36 weekly nonstop frequencies and more than 10,800 nonstop weekly seats. The MWAA notes that the Washington Region has the largest local O&D traffic base and largest local O&D market forecast of any proposed gateway without current nonstop service to China. Furthermore, the MWAA states that the Washington Region has the largest growth rate in O&D traffic to Beijing and to China. The MWAA notes that United's proposal offers the most extensive beyond connectivity to interior Chinese points. Finally, the MWAA notes that

United's nonstop Washington-Beijing "capital-to capital" service will provide greater levels of engagement and exchanges in the political, governmental, educational, and commercial sectors.

C. US Airways, Inc.

US Airways, Inc. (US Airways) supports United's application for nonstop service between Washington (Dulles) and Beijing. US Airways states that only United's proposal would provide nonstop service to a large underserved market while simultaneously enhancing competition among international air carriers and gateway airports. US Airways notes that it has applied to codeshare with United on the Washington-Beijing route and maintains that an award to United linking the two capitals will benefit US Airways' strong passenger and shipper base throughout the mid-Atlantic region, and, more specifically, in the Washington, D.C. area. US Airways contends that selection of United's proposal would then permit US Airways to compete with other major U.S. international airlines offering U.S.-China service, by means of its proposed code-share operations with United.

Tentative Decision

We tentatively decide to allocate United seven weekly combination frequencies for its proposed Washington (Dulles)-Beijing services in the U.S.-China market because it will offer the greatest overall public benefits. The rights would become available to United on March 25, 2007.

As described earlier, since the signing of the protocol in 2004, we have taken steps to address shortfalls in the U.S.-China air services market as additional rights became available. When we selected Continental to introduce Newark-Beijing service in 2005, we did so to address the biggest service deficiency in the U.S.-China market at that time – the lack of U.S. carrier nonstop service to China from New York, which represented the largest U.S.-China O&D market in that proceeding. Then, for 2006, our selection of American's Chicago-Shanghai service addressed the competitive deficit in the U.S.-China market by enhancing both inter-gateway competition, and intra-gateway competition with United's Chicago-Shanghai service.

The record in this proceeding highlights the growing inadequacy of U.S.-China air services, with demand far exceeding supply under the current restrictive bilateral environment. Though China is the second largest trading partner of the United States, a combined total, on average, of only eleven daily nonstop flights are offered between the two countries. This shortfall of available nonstop service options emphasizes the importance of injecting as much nonstop capacity into the U.S.-China market as possible when awarding these frequencies.

Against this background, we have tentatively determined that the record in this case calls for selection of United. Of the U.S. gateways proposed in this proceeding, the Washington, D.C. metro area is the largest such gateway without any nonstop service to

China.³⁹ Not only would United serve that Washington gateway, but it would do so while also creating the greatest capacity proposed in this proceeding.⁴⁰

The market between the Washington, D.C. metro area and China represents the largest overall O&D market without nonstop service. Currently, Washington, D.C.-China services operated by U.S. airlines involve only one-stop on-line connections via a U.S. hub or two-stop on-line connections via Tokyo. In the 12 months ended March 2006, approximately 92,000 passengers traveled between the Washington, D.C. metro area and China.⁴¹ Furthermore, the O&D traffic to China from the Washington, D.C. metro area is growing at a rapid pace.⁴² Only San Francisco, Chicago, and New York/Newark have more China O&D traffic than the Washington, D.C. metro area, and each of those gateways already has more than one nonstop service option to China.⁴³

United's B-747 service would provide 253,310 seats between the U.S. and China on an annual basis, 22% more capacity than Continental.⁴⁴ Although Northwest will offer capacity almost equal to that of United, the record shows that there is much greater need for this capacity to China from the Washington, D.C. metro area than from Detroit, since, as we have emphasized already, the Washington, D.C. metro area is the largest O&D market without nonstop service to China.

Furthermore, we tentatively find that United's Washington (Dulles)-Beijing proposal has important advantages that should benefit the traveling public while also enhancing sustainability of the service.

First among these factors is the clear community of interest between the two gateway cities. The availability of nonstop services between the Washington, D.C metro area and Beijing should improve the convenience of travel for government, academic, and industry representatives of both countries and enhance the opportunities for more frequent face to face contact.

Second is the behind traffic that United will be able to flow over Washington. Washington would be the first Mid-Atlantic gateway to China. Given the high load factors on United's Chicago-Beijing services, we tentatively find that notwithstanding the geographic overlap of Washington with United's existing Chicago catchment area, travelers from Washington, D.C. and its immediate catchment area could be expected to take advantage of United's new nonstop Washington service, which would provide these catchment area travelers with greater options and convenience while thereby also enhancing the viability of United's service.

Finally, we tentatively find that United's proposal will offer China-bound travelers the benefits of the beyond-Beijing hub services provided by United's code-share partnership

³⁹ United Direct Exhibit, UA-30.

⁴⁰ United Brief, at 20.

⁴¹ Department O&D data for 12 months ended March 2006.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ United Direct Exhibit, UA-80.

with Air China, which enables it to offer service to 16 Chinese cities beyond Beijing.⁴⁵ Thus, United's proposal would respond to the need for service to steadily growing Chinese cities in addition to Beijing, Guangzhou, and Shanghai. This constitutes a further means of maximizing the service benefits of our carrier selection in this highly restricted market.

Given the potential pool of U.S. and China passengers traveling from the Washington, D.C. area on official, industry, and trade-related business, the existence of behind Washington passengers likely to make use of the only Mid-Atlantic nonstop gateway to China, and the beyond-Beijing benefits that United can offer, we tentatively find that there exists a sufficiently strong traffic base to support the viability of United's proposed service, and that, in the context of our existing U.S.-China aviation relationship, United's proposal offers the greatest combination of potential public benefits of any of the applications in this case.

In tentatively concluding that the service proposal of United offers the most public benefits in the context of this proceeding, we acknowledge that the proposals of the other applicants also offer attractive attributes. However, on balance, for the reasons stated below, we tentatively find that United's proposal is superior.

Northwest's proposed service would offer convenient connections through Detroit from a substantial behind-gateway catchment area.⁴⁶ However, Northwest's proposal is largely duplicative of the Detroit-Shanghai service that it currently provides one-stop via Tokyo, and if it chose to do so, it could provide nonstop Detroit-Shanghai service without the award of additional frequencies. Northwest's election to provide all of its China service over Tokyo -- whatever its commercial basis -- results in the U.S. public's receiving fewer nonstop choices to China than otherwise might be provided. In these circumstances, we tentatively conclude that an additional award to Northwest would not be an efficient use of valuable frequencies in the restricted U.S.-China market when compared to the benefits of United's Washington, D.C. (Dulles)-Beijing proposal, which will provide the first-ever nonstop service to China from the largest U.S. metropolitan O&D market without such service.

Continental's proposal offers service and competition benefits. It would provide the first nonstop service to Shanghai by a U.S. carrier in the New York/Newark market and thus provide intra-gateway competition with China Eastern's New York (JFK)-Shanghai service.⁴⁷ We also note that Continental proposes single flight number service from Cleveland to Shanghai, providing on-line service benefits to Cleveland passengers. However, in the circumstances presented here, we tentatively conclude that the service and competitive benefits of an additional New York/Newark-China service are outweighed by the superior service benefits of United's Washington, D.C.-Beijing proposal and the benefits of that new gateway.

⁴⁵ United Direct Exhibit, UA-74.

⁴⁶ Northwest Direct Exhibit, NW-102.

⁴⁷ Continental Brief, at 12.

We recognize that adding U.S. carrier nonstop New York/Newark-Shanghai service to the New York/Newark-Beijing services already in place would provide significant service benefits. However, we have tentatively determined that, given the New York/Newark-China services that already exist, the need for first-ever nonstop service to China from the Washington, D.C. metro area is a more urgent need and will result in greater overall public benefits than Continental's additional Newark-Shanghai service. Currently, three carriers are serving the New York/Newark-China market. Continental provides daily nonstop service to Beijing from Newark. Air China provides daily nonstop service from New York (JFK) to Beijing. In addition, on December 9, 2006, China Eastern inaugurated New York (JFK)-Shanghai service.

United would also provide significantly more U.S.-China capacity than Continental, offering over 46,000 more seats annually.⁴⁸ We note again that with the limited number of available frequencies in the restricted U.S.-China market, it is important to address the increasing demand of U.S.-China traffic with the superior capacity that United will provide. Furthermore, unlike United, Continental has no Chinese code-share partner and cannot offer the beyond-gateway connectivity to the economically developing interior Chinese cities that United does with Air China.⁴⁹ United's ability to offer services beyond Beijing provides the traveling public with additional service options, further maximizing the attractiveness of its overall proposal. Therefore, on the record before us, we tentatively find that, overall, United's proposal would maximize public benefits by offering the most capacity and a new U.S. gateway for the largest metropolitan area currently lacking nonstop U.S.-China service. We tentatively find these dual benefits -- establishing an entirely new gateway (not just first U.S.-flag nonstop service) and providing the greatest capacity -- outweigh the advantage of giving Continental its second -- and the market's fourth -- nonstop service option in the New York/Newark-China market.

While we have of course taken note of the competition arguments asserted against United, the circumstances of this particular case lead us to tentatively conclude that the benefits of gaining the first-ever nonstop service to China from a new gateway representing the largest unserved O&D market in this proceeding, coupled with the capacity to maximize the benefits of that new service, outweigh the arguments that for competitive reasons the frequencies should have instead been awarded to a different applicant.

Taking all of the above considerations of this particular case into account, we tentatively conclude that, on balance, an award to United of the seven combination frequencies available in 2007 would best serve the public interest.

Additional rights in the U.S.-China combination market become available to U.S. carriers on March 25, 2008. On that date, the protocol provides for seven additional combination frequencies to serve points in China Zone 1 or China Zone 2, 15 additional all-cargo frequencies for to serve points in China Zone 1 or China Zone 2, seven combination or

⁴⁸ United Direct Exhibit, UA-80.

⁴⁹ United Brief, at 20.

all-cargo frequencies specifically limited to serve points in China Zone 2, and the right to designate one new combination or all-cargo carrier for services.

Economic Authority

We will tentatively grant United's request to integrate Beijing on its Certificate of Public Convenience and Necessity for Route 246 with its authority to serve Washington, D.C. on its Certificate of Public Convenience and Necessity for Route 130.⁵⁰ In response to interrogatories in this case, United stated that it is prepared to begin services on the date on which the frequencies become available (March 25, 2007). Therefore, we have tentatively decided to require that United begin service no later than that date.

In addition, consistent with our standard practice, we propose that the frequencies allocated in this proceeding be subject to our standard 90-day dormancy condition, wherein any frequencies not operated for a period of 90 days (once inaugurated) would be deemed dormant. Under the dormancy condition, if any of the frequencies allocated are not used for a period of 90 days (once inaugurated), the frequency allocation with respect to each frequency would expire automatically and the frequency would revert to the Department for reallocation.⁵¹

ACCORDINGLY,

1. We deny the motion of American Airlines, Inc. for leave to amend its Dallas/Ft. Worth-Beijing application and to reopen the record in this proceeding;
2. We grant the motion of American Airlines, Inc. for leave to withdraw its application from this proceeding;
3. We dismiss, as moot, the motion of Northwest Airlines, Inc. to dismiss the application of American Airlines, Inc.;
4. We tentatively allocate seven weekly frequencies to United Air Lines, Inc. to engage in scheduled foreign air transportation of persons, property, and mail between Washington, D.C. (Dulles), on the one hand, and Beijing, People's Republic of China, on the other hand, effective March 25, 2007;
5. We tentatively deny the applications of Continental Airlines, Inc, and Northwest Airlines, Inc.;
6. We direct any interested parties having objections to our tentative findings and conclusions set forth in this order and in ordering paragraphs 4 and 5, above, to

⁵⁰ See Certificate of Public Convenience and Necessity for Route Integration of United Air Lines, Inc., as issued by Order 2006-1-1.

⁵¹ As we have noted earlier, the frequencies allocated represent valuable rights obtained in exchange for rights to Chinese carriers. Accordingly, we remind the selected carrier that the frequencies awarded are for weekly operations. A scheduled carrier may not bank frequencies from one week to the next.

file their objections, in the above-captioned docket, with the Department's Docket Section, U.S. Department of Transportation, 400 Seventh Street SW, Room PL-401, Washington DC 20590, no later than fourteen (14) calendar days from the date of service of this order; answers thereto shall be filed no later than seven (7) calendar days thereafter;⁵²

7. If timely and properly supported objections are filed, we will afford full consideration to the matters or issues raised by the objections before we take further action;⁵³ if no objections are filed, we will deem all further procedural steps to be waived and will proceed to enter a final order awarding the authority proposed in this order;
8. We will serve this order on the parties to the captioned docket of the order, the Chinese Ambassador to the United States in Washington, DC, the Federal Aviation Administration, and the U.S. Department of State (Office of Aviation Negotiations); and
9. We grant all motions for leave to file otherwise unauthorized documents, as referenced in this order.

By:

ANDREW B. STEINBERG
Assistant Secretary for Aviation
and International Affairs

(SEAL)

An electronic version of this document is available on the World Wide Web at
http://dms.dot.gov/reports/reports_aviation.asp

⁵² The original filing should be on 8½" x 11" white paper using dark ink and be unbound without tabs, which will expedite use of our docket imaging system. In the alternative, filers are encouraged to use the electronic filing submission capability available through the Dockets/DMS Internet site (<http://www.dms.dot.gov>) by following the instructions at the web site.

⁵³ As we are providing for the filing of objections to this tentative decision, we will not entertain petitions for reconsideration of this order.

Appendix A

Current Service Summary - U.S. and China Authorities

Airline	Route	Aircraft (Seats)	Freq	Alliance
U.S. Carriers (Authorized Number of Frequencies)				
American (7)	Chicago-Shanghai	777 (245)	Daily	oneworld
Continental (7)	Newark-Beijing	777 (283)	Daily	Skyteam
United (28)	Chicago-Beijing	747 (347)	Daily	Star
	Chicago-Shanghai	777 (245)	Daily	
	San Francisco-Beijing	747 (347)	Daily	
	San Francisco-Shanghai	747 (347)	Daily	
Northwest (21) ¹	Detroit-Tokyo-Beijing	332 (302)	Daily	Skyteam
	Detroit-Tokyo-Shanghai	747 (403)	Daily	
	Honolulu-Tokyo-Guangzhou	757 (184)	Daily	

Airline	Route	Aircraft (Seats)	Freq	Codeshare Partner
Chinese Carriers (Frequencies Operated)				
Air China (19)	Beijing- New York (JFK)	747 (406)	Daily	United
	Beijing-Los Angeles	747 (368)	Daily	
	Beijing-San Francisco	747 (368)	5X/Week	
China Eastern (13)	Shanghai-New York (JFK) ²	346 (322)	4X/Week	American
	Beijing-Shanghai-Los Angeles	346 (322)	Daily	
	Shanghai-Saipan	306 (274)	2X/Week	
China Southern (5)	Guangzhou-Los Angeles	777 (380)	5X/Week	Delta

¹ Northwest is also authorized to operate all-cargo frequencies.

² China Eastern began its JFK-Shanghai service on December 9, 2006, with four weekly flights. We note that as of January 15, 2007, it plans to reduce its operations to two weekly flights.

Appendix B

Civic Party Position

CIVIC PARTY	Position
The Dallas/Fort Worth & North Texas Parties	Support American's application for allocation of seven frequencies.
The Washington Airports Task Force	Supports United's application for allocation of seven frequencies.
The Metropolitan Washington Airports Authority	Supports United's application for allocation of seven frequencies.
The New Jersey Parties	Support Continental's application for allocation of seven frequencies.
The Port Authority of New York and New Jersey	Supports Continental's application for allocation of seven frequencies.
The Ohio Parties	Support Continental's application for allocation of seven frequencies
The Wayne County Airport Authority/Detroit Metropolitan Airport	Supports Northwest's application for allocation of seven frequencies.

Appendix C

2007 China Combination Frequency Proposals

Applicant	Proposed Routing	Aircraft Type	Capacity	Applicant Forecast and Load Factor
American	Dallas/Ft Worth-Beijing	B777-200ER	245 seats (16F-35C-194Y) Cargo- 33,845 (E) / 17,059 (W)	144,463 80.8%
Continental	Cleveland-Newark-Shanghai ³	B737/B777-200ER	283 seats (48F/C-235Y) Cargo- 25,211 (E) / 27,543 (W)	152,432 75.7%
Northwest	Detroit-Shanghai	B747-400 ⁴	335 seats	214,344 87.6%
United	Washington (Dulles)-Beijing	B747-400	347 seats	206,590 81.5%

³ Continental's proposal will offer single flight number service to Cleveland passengers through Newark to Shanghai. It proposes to operate Cleveland-Newark with B-737 aircraft and Newark-Shanghai with B-777 aircraft.

⁴ Northwest proposes to possibly operate B-787 aircraft on the Detroit-Shanghai route in the future.