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Order 89-10-19

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

Issued by the Department of Transportation
on the 10th day of October, 1989

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In the matter of :
Expanding International Air Service : Docket 46534
Opportunities To More U.S. Cities :

ORDER REQUESTING COMMENTS

Summary

By this order, we are requesting comments on a new Department proposal designed to expand international air service opportunities to more U.S. cities.

Background

During the past months, state and local officials, as well as business leaders, have advised the Department that their communities are interested in improved international air service. They have also expressed concern that on some occasions our traditional bilateral aviation negotiating process prevents foreign airlines from responding to their service needs. While these community parties understand the importance of maintaining a healthy U.S. airline industry, they also have recognized the importance to their communities of international air service, regardless of the flag of the carrier providing it. They have pointed out that international air service can mean expanded tourism, business, foreign investment, and jobs--in short, a boon to economic development. With these factors in mind, they have asked us to reevaluate our approach to the creation of expanded opportunities for foreign carriers to serve U.S. points.

Proposal

We have considered the above comments and have determined that they justify our taking a fresh look at the process that produces international aviation services. Specifically, we have decided to explore an approach in which, under certain well-defined conditions, we will be able to grant foreign carrier requests to offer new U.S. services, notwithstanding the absence of a bilateral right supporting grant to the foreign carrier of such authority.

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The text of the proposal is as follows:

DOT PROPOSAL FOR EXPANDING INTERNATIONAL AIR SERVICE
OPPORTUNITIES TO MORE U.S. CITIES

In response to the desire expressed by U.S. cities for expanded international air service opportunities, the Department will approve a foreign carrier's application for one year, renewable exemption authority to provide scheduled combination nonstop international air service, or one-stop single-plane international air service via another U.S. point, between its homeland and a U.S. community provided that: 1) a U.S. or foreign carrier does not provide nonstop or one-stop single-plane international air service to that community from the same foreign country; 2) there is a procompetitive agreement in place with the homeland country and thus a basis does not exist for a traditional aviation trade to obtain benefits for U.S. airlines; 3) the foreign carrier's proposal does not involve service to and from third countries; 4) interested U.S. parties have not raised overriding public interest reasons for denying the requested authority; 1/ 5) the foreign carrier has firm plans to operate the proposed service; and 6) the foreign carrier meets all other applicable licensing standards. If the foreign carrier has not inaugurated such service within 90 days 2/ or suspends such service for more than nine months, the authority would expire by its terms without prejudice to any subsequent application for the same authority.

This proposal is not designed to replace the traditional bilateral negotiating process. We believe that, in the majority of cases, this negotiating process advances the public interest, including the interests of communities and carriers.

On the other hand, our own experience, and the experience of many communities interested in improved international air service, indicates that bilateral negotiations may not satisfy community service needs where U.S. carriers have no immediate plans to expand their services to a particular destination, or where they do not need additional foreign government permission to do so. It

1/ Such public interest issues could be, for example: 1) that there are substantial outstanding aviation problems with the foreign carrier's home country, or 2) that a U.S. carrier has firm plans to provide the requested service within a reasonable time frame. A foreign government's reaction to U.S. carrier requests for extrabilateral rights will be relevant in our determination of whether to grant and whether to continue in effect the foreign carrier exemption.

2/ We propose to give foreign carriers only 90 days to inaugurate service, because that is what we require of U.S. carriers when a start-up condition is imposed. However, we would be prepared to grant extensions of the 90-day period for good cause shown.

is in this situation that the traditional balance-of-benefits negotiating approach does not provide the opportunity to accord greater rights to foreign airlines seeking to provide our communities with new international air services.

Our proposal is designed to address this specific problem. As such, we view the proposal as having the potential to address the needs of our communities for additional international air service opportunities while at the same time ensuring that the interests of U.S. carriers are properly taken into account.

We appreciate that it represents an important and significant step that deserves to be seriously considered and thoroughly discussed. To that end, we request interested parties to submit comments in the docket within 30 days from the service date of this order. Any reply comments must be filed within 15 days after that date.

ACCORDINGLY,

1. We request comments from interested parties addressing the topic above within 30 days of the service date of this order; reply comments will be due within 15 days after that date;
2. We will serve this order on all certificated air carriers, all foreign air carriers, the Airport Operators Council International, U.S. Airports for Better International Air Service, and the U.S. Departments of State and Commerce; and
3. We will publish a copy of this order in the Federal Register.

By:

Jeffrey N. Shane
Assistant Secretary for Policy and
International Affairs

(SEAL)

[Docket 46534; Order 89-10-19]

Expanding International Air Service Opportunities to More U.S. Cities; Order Requesting Comments

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BACKGROUND: During the past months, state and local officials, as well as business leaders, have advised the Department that their communities are interested in improved international air service. They have also expressed concern that on some occasions our traditional bilateral aviation negotiating process prevents foreign airlines from responding to their service needs. While these community parties understand the importance of maintaining a healthy U.S. airline industry, they also have recognized the importance to their communities of international air service, regardless of the flag of the carrier providing it. They have pointed out that international air service can mean expanded tourism, business, foreign investment, and jobs—in short, a boon to economic development. With these factors in mind, they have asked us to reevaluate our approach to the creation of expanded opportunities for foreign carriers to serve U.S. points.

PROPOSAL: We have considered the above comments and have determined that they justify our taking a fresh look at the process that produces international aviation services. Specifically, we have decided to explore an approach in which, under certain well-defined conditions, we will be able to grant foreign carrier requests to offer new U.S. services, notwithstanding the absence of a bilateral right supporting grant to the foreign carrier of such authority.

The text of the proposal is as follows:

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In response to the desire expressed by U.S. cities for expanded international air service opportunities, the Department approve a foreign carrier's application for one year, renewable exemption authority to provide scheduled combination nonstop international air service, or one-stop single-plane international air service via another U.S. point, between its homeland and a U.S. community provided that: (1) A U.S. or foreign

carrier does not provide nonstop or one-stop single-plane international air service to that community from the same foreign country; (2) there is a procompetitive agreement in place with the homeland country and thus a basis does not exist for a traditional aviation trade to obtain benefits for U.S. airlines; (3) the foreign carrier's proposal does not involve service to and from third countries; (4) interested U.S. parties have not raised overriding public interest reasons for denying the requested authority;¹ (5) The foreign carrier has firm plans to operate the proposed service; and (6) the foreign carrier meets all other applicable licensing standards. If the foreign carrier has not inaugurated such service within 90 days² or suspends such service for more than nine months, the authority would expire by its terms without prejudice to any subsequent application for the same authority.

This proposal is not designed to replace the traditional bilateral negotiating process. We believe that, in the majority of cases, this negotiating process advances the public interest, including the interests of communities and carriers.

On the other hand, our own experience, and the experience of many communities interested in improved international air service, indicates that bilateral negotiations may not satisfy community service needs where U.S. carriers have no immediate plans to expand their services to a particular destination, or where they do not need additional foreign government permission to do so. It is in this situation that the traditional balance-of-benefits negotiating approach does not provide the opportunity to accord greater rights to foreign airlines seeking to provide our communities with new international air services.

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ensuring that the interests of U.S. carriers are properly taken into account.

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Accordingly,

1. We request comments from interested parties addressing the topic above be filed in this docket by November 13, 1989; reply comments will be due November 28, 1989;

2. We will serve this order on all certificated air carriers, all foreign air carriers, the Airport Operators Council International, U.S. Airports for Better International Air Service, and the U.S. Departments of State and Commerce; and

3. We will publish a copy of this order in the Federal Register.

Jeffery N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-24285 Filed 10-12-89; 8:45 am]

BILLING CODE 4910-62-M

[Docket No. 46459]

Order to Show Cause; Joint Application of Midway Airlines, Inc., Eastern Air Lines, Inc., and Continental Airlines, Inc.

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Order 89-10-12, order to show cause.

SUMMARY: By Order 89-10-12, the Department has tentatively decided to approve the transfer of Eastern/Continental's nonstop authority in the Philadelphia-Montreal and Philadelphia-Toronto markets to Midway Airlines. Midway's new authority for these routes would be in the form of five year, experimental certificates of public convenience and necessity. The Department also tentatively concludes that labor protective provisions should not be imposed as a condition to its approval of this transaction.

DATE: Comments and objections shall be filed by October 13, 1989 and answers shall be filed three calendar days thereafter.

ADDRESS: The above pleadings should be filed in Docket No. 46459, addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street SW., Room 4107,

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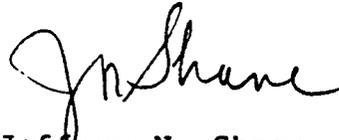
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By:



Jeffrey N. Shane
Assistant Secretary for Policy and
International Affairs

(SEAL)

CERTIFIED TO BE A TRUE
COPY OF THE ORIGINAL

LINDA W. SENESE
Certifying Officer