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OST-2006-24243-20

ORIGINAL

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

DEPARTMENT OF TRANSPORTATION
1989 NOV 13 PM 4:30
DOCKET SECTION

In the matter of)
Expanding International Air Service)
Opportunities To More U.S. Cities)

Docket No. 46534

COMMENTS OF CANADIAN AIRLINES INTERNATIONAL LTD.

Communications with respect to
this document should be sent to

Pierre P. Roy
Director, Regulatory Affairs
Canadian Airlines International
Ltd.
Suite 2800
700 Second Street SW
Calgary Alberta T2P 2W2
Canada

David B. Ortman
61 G Street Southwest
Washington, D.C. 20024
202 488 7429

Counsel for Canadian Airlines
International Ltd.

November 13, 1989

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

In the matter of)
Expanding International Air Service)
Opportunities To More U.S. Cities) Docket No. 46534
_____)

COMMENTS OF CANADIAN AIRLINES INTERNATIONAL LTD.

Canadian Airlines International Ltd. strongly supports the Department of Transportation's initiative to formulate a policy for expanding international air services. The Department's proposal meets a need that has long been felt for a way to provide additional services to U.S. communities and cities. It underscores the need for these services and provides a sensible "extra bilateral" vehicle to respond to unserved markets.

Because of the enormous variation in markets and bilateral atmosphere around the world, we question whether it is possible to develop criteria more specific than those in the Department's proposal.

Several aspects of the Canada/U.S. Market are unique. It is the largest bilateral international air transport market in the

world and by far the largest international market for U.S. carriers in terms of passengers. At the same time, there is probably more potential for growth in this market than anywhere else in the world.¹

The market is also unique in that 95% of its tourist component, more than half the total traffic, consists of Canadians tourists to the United States. The potential additional growth of this market for cities and communities throughout the U.S. is greater than for any other conceivable foreign source of tourists.

Further, this is a market serving at least eight different major Canadian cities and there is the potential of establishing direct links between these cities and dozens of communities in the United States, few of which now have non-stop service to or from Canada.

The United States/Canada air transport relationship is also unique, in that it is composed of some six separate agreements.²

¹ "There is a greater gap between consumer demand and supply in the U.S.-Canada market than in any other bilateral market" according to Eugene J. McAllister, Assistant Secretary of State for Economic and Business Affairs, June 20, 1989 in an address to the International Aviation Club, Washington, D.C.

² (i) 1966 Scheduled Services Agreement, as amended; (ii) 1974 Nonscheduled Services Agreement; (iii) 1974 Preclearance Agreement; (iv) 1966 Exchange of Notes on Regional and Local Services, as amended; (v) 1966 Exchange of Notes on Cargo Services; (vi) Experimental Transborder Air Services Program.

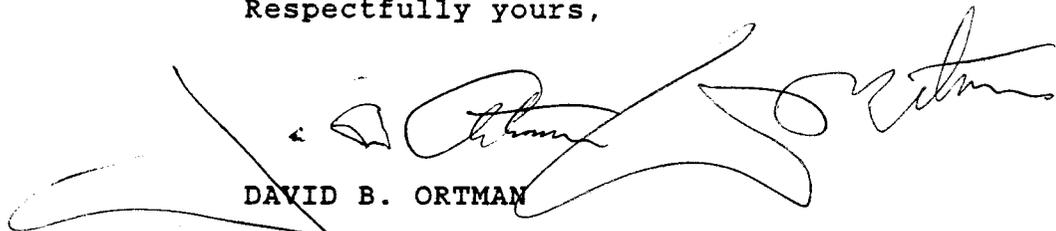
One of these, the U.S.- Canada Exchange of Notes on Regional and Local Services fits into the pattern suggested by the Department's proposal, in that it authorizes routes not covered by the Scheduled Services Agreement or by any of the other U.S./Canada bilateral air transport agreements. If a proposed route meets criteria with respect to size of aircraft and distance from the border, it is approved automatically. If a route does not meet either of these criteria, it may be approved in the discretion of the Parties. Many routes in both categories have been approved. We assume that this automatic/discretionary approach will also be applied to the conditions set forth in the DOT proposal, for instance, automatic approval of service where "a U.S. or foreign carrier does not provide non-stop or one stop single international air service" to a community from Canada and discretionary approval in other cases, where appropriate.

Canadian Airlines International Ltd. believes that the best way to make progress in the direction desired by the Department of Transportation and by many U.S. communities and cities is to propose specific services to specific cities with specific equipment. Therefore, we have carefully studied this problem and are submitting along with these comments, an application for routes which we believe meets the substance of all of the

Department's conditions. None of the proposed routes is included in the Scheduled Services Bilateral.

A copy of this application is attached to and incorporated in these comments.

Respectfully yours,

A large, stylized handwritten signature in black ink, appearing to read 'D. Ortmann', is written over the typed name and extends across the width of the signature block.

DAVID B. ORTMAN

Counsel for Canadian Airlines
International Ltd.

November 13, 1989

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Application of)
)
)

Canadian Airlines International Ltd.)
)

Docket No.

for exemption pursuant to)
Section 416(b) of) the Federal Aviation)
Act of 1958, as amended)

APPLICATION FOR EXEMPTION

Pierre P. Roy
Director, Regulatory Affairs
Canadian Airlines International
Ltd.
Suite 2800
700 Second Street SW
Calgary Alberta T2P 2W2
Canada

David B. Ortman
61 G Street Southwest
Washington, D.C. 20024
202 488 7429

Counsel for Canadian Airlines
International Ltd.

NOTICE

Answers in support of or in opposition to this application may be
filed with the Department on or before November 28, 1989.

November 13, 1989

Toronto-Atlanta	2/Daily
Toronto-Phoenix	Daily
Edmonton/Calgary-Phoenix	Daily
Vancouver-Denver	2/Daily
Vancouver-Phoenix	Daily
Vancouver-San Diego	2/Daily
Montreal-Ft. Lauderdale	Daily
Montreal-Orlando	Daily

These services will be provided with Boeing 737 aircraft having a capacity of 121 persons plus belly cargo. The aircraft will be drawn from a fleet some of which are owned, and some leased by the Applicant.

Applicant is qualified to perform the proposed services. It has a fleet of 81 aircraft serving 76 cities and 17 foreign countries. It provides scheduled services pursuant to the 1966 U.S./Canada Air Transport Agreement, as amended, between Vancouver, Canada on the one hand and San Francisco and Los Angeles on the other; between Chicago and Toronto; and between Honolulu and Vancouver, Calgary and Toronto. It also has a permit under Section 402 for charter services to and from the United States.

The authority sought is not governed by a bilateral agreement but is being sought under the principles of comity and

reciprocity. In particular, we refer to the Department's proposal dated October 10, 1989 "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".¹ The Department has set forth 6 conditions. As described in detail below, this application meets all of these conditions.

The first condition is that "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".

The routes Toronto-Ft. Lauderdale, Toronto-West Palm Beach and Montreal-Orlando receive no non-stop or one-stop scheduled service. These routes meet clearly meet this condition.

The routes Toronto-Phoenix, Calgary-Phoenix and Vancouver Phoenix receive no non-stop scheduled service and one stop service in one direction only. These flights appear to be for the purpose of positioning aircraft and are not designed to be viable services. American Airlines is listed as providing a daily one-stop scheduled service from Toronto to Phoenix, but

¹. Canadian Airlines International Ltd. is submitting comments to the Department's proposal in Docket 46534. A copy of these comments is attached as an integral part of this application.

there are no services from Phoenix to Toronto. America West is listed as providing twice daily one-stop scheduled service from Phoenix to Calgary, but there are no services listed from Calgary to Phoenix. Delta Airlines is listed as providing twice daily one-stop scheduled service from Phoenix to Vancouver, but there are no services from Vancouver to Phoenix. Service in only one direction does not constitute "one stop service" between the two points. At best, it could be called 1/2 of "one stop service". Accordingly, these routes also meet condition #1.

The routes Toronto-Orlando and Montreal-Ft.Lauderdale receive no non-stop scheduled service. Most of traffic between these points travels on charter flights. However, The Official Airline Guide lists Northwest Airlines as providing a one-stop service between Toronto and Orlando and Delta is listed as providing twice daily one-stop scheduled service from Montreal to Ft. Lauderdale but only daily one-stop scheduled service from Ft. Lauderdale to Montreal. These services are also related to aircraft routing. Routes such as these to major Florida sun spots should be served by scheduled carriers on a non-stop basis not merely by nonscheduled services as at present. We would argue that our applications for these routes should be approvable on a discretionary basis and that our applications should be approved since one stop operations of the U.S. carriers on these routes are de minimis.

The routes Toronto-Washington, Toronto-Atlanta, Vancouver-Denver and Vancouver-San Diego receive no scheduled non-stop jet air service. They are not on the bilateral route schedule but are served from behind a gateway. U.S. Air is listed as providing four (4) daily one-stop scheduled services from Toronto to Washington and three (3) daily one-stops Washington-Toronto. Eastern Airlines is listed as providing three (3) daily one-stop scheduled services from Toronto to Atlanta and four (4) daily one-stops Atlanta to Toronto. Continental is listed as providing twice daily one-stop scheduled service between Vancouver and Denver. In addition, United Airlines is listed as providing directional daily one-stop scheduled service from Vancouver to Denver. American Airlines is listed as providing a daily one-stop scheduled service between Vancouver and San Diego. It is inconvenient and unfair for the public to be forced to depend entirely on indirect services between these major points. These also are cases where the Department should exercise discretion to allow a direct non stop service which is not provided in the bilateral air transport agreement.

The second condition is that "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".

The air transport relationship between the United States and Canada is composed of six separate agreements.² Given the nature of the elements of the relationship described below, one may conclude that on balance the relationship is procompetitive. The Experimental Transborder Air Service Program allows free access from certain airports to all but a handful of points in the other country without limitation of services or tariffs. The Regional, Local and Commuter Services Exchange of Notes allows carriers of either country to operate services with a certain size of aircraft to any city up to a certain distance from the border, if the route is not in the Scheduled Services Bilateral. It also allows services to other cities not meeting the stated criteria, or to use larger aircraft, in the discretion of the Parties.

Further, the DOT proposal fits into the pattern set by the U.S.- Canada Exchange of Notes on Regional, Local and Commuter Services in that it proposes to deal with another segment of the air transport picture not covered by the Scheduled Services Agreement or by any of the six existing U.S./Canada bilateral air transport agreements. Many routes have been approved under the discretionary, as well as the automatic provisions of the

² (i) 1966 Scheduled Services Agreement, as amended; (ii) 1974 Nonscheduled Services Agreement; (iii) 1974 Preclearance Agreement; (iv) 1966 Exchange of Notes on Regional, Local and Commuter Services, as amended; (v) 1966 Exchange of Notes on Cargo Services; (vi) Experimental Transborder Air Services Program. Agreements (i), (ii), and (iii) are interdependent so that the denunciation of one would automatically trigger the denunciation of all three. Agreement (vi) will terminate in March, 1990, unless extended.

Regional, Local and Commuter Service program, with little controversy and with benefit to the public.

The third condition is that "the foreign carrier's proposal does not involve service to and from third countries".

None of the proposed routes involve service to or from third countries.

The fourth condition is that "interested U.S. parties have not raised overriding public interest reasons for denying the requested authority".

We are not aware of any overriding public interest reasons for denying the requested authority.

The fifth condition is that "the foreign carrier has firm plans to operate the proposed service".

Applicant has operated most of the proposed routes with charter services for many years and has developed in detail firm plans to operate the proposed services.

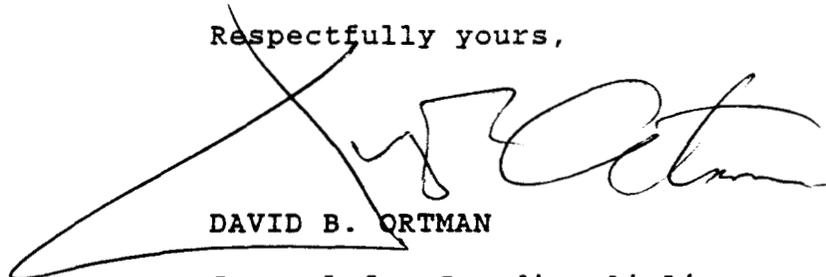
The sixth condition is that the foreign carrier meets all other applicable licensing standards. As indicated above, Canadian Airlines International meets this standard.

CONCLUSIONS

Although this application was stimulated by the Department's proposal, the Department has the authority to approve routes outside a bilateral, absent its recent proposal. We urge that the Department approve this application without awaiting a final text for its new policy since it will provide immediately new air services needed to bring additional tourists and business to U.S. communities and cities not covered by existing bilateral agreements between Canada and the United States.

WHEREFORE, Applicant requests approval of the routes described above, for a period of one year.

Respectfully yours,

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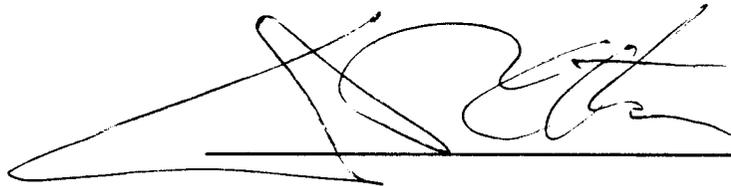
DAVID B. ORTMAN

Counsel for Canadian Airlines
International Ltd.

November 13, 1989

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing application was this day served by mail upon the persons named below.



November 13, 1989

Charles Angevine
Deputy Assistant Secretary for
Transportation Affairs
Department of State
Washington, D. C. 20520

R.J. Fahy
Associate General Counsel
American Airlines
P.O. Box 61616 MD4C14
DFW Airport, TX 75261

Mr. Richard B. Hirst
V.P. & General Counsel
Continental Airlines
PO Box 4607
Houston, TX 77210-4607

Clark H. Onstad
VP/Government Affairs
Continental Airlines
1201 Pa. Ave., N.W., Suite 300
Washington, D.C. 20004

Mr. Barry P. Simon
Sr. V.P. Legal Affairs & Admin.
General Counsel & Secretary
Eastern Airlines
Miami International Airport
Bldg. 16, Rm. 432
Miami, Florida 33148 0001

Robert N. Duggan
Legal Department
Eastern Airlines
Miami International Airport
Miami, Florida 33148
305 873 6788

Michael J. Conway
Pres. & Chief Operating Officer
America West Airlines, Inc.
222 S. Mill Avenue
Tempe, AZ 85281

James A. Abbott, Esq.
Vice Chairman & General Counsel
Northwest Airlines, Inc.
Minn. St. Paul Intl. Airport
St. Paul, MN 55111 3075

Mr. Paul E. Schoellhamer
V.P. Government Affairs
Northwest Airlines, Inc.
900 17th Street, N.W.
Suite 524
Washington, D.C. 20006-2501

George J. Aste, III
Vice President Government & International Affairs
United Airlines, Inc.
O'Hare Int. Airport Box 66100
Chicago, IL 60666

David O'Connor
Government Affairs
Pan American World Airways
1660 L St., N.W., Suite 901
Suite 901
Washington, D.C. 20036-5603

James W. Callison, Esq.
Sr. V.P., General Counsel & Secy
Delta Air Lines, Inc.
Law Department
Hartsfield Atlanta Int. Airport
Atlanta, Georgia 30320-9998

Scott Yohe
Assistant Vice Pres. Government

Delta Air Lines, Inc.
1629 K Street, N.W.
Washington, D.C. 20006

Stephen Slade
Vice President Govt Affairs
TWA
18th and I NW
Washington D.C.

Frank J. Cotter, Esq.
USAir, Inc.
Crystal Park Four
Arlington, VA 22227