

23808
CA

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

DEPARTMENT OF TRANSPORTATION
97 JUN -5 PM 4: 04
DOCKET SECTION

Application of

AIRTRAN AIRWAYS, INC.

for an exemption from Subparts K and S of 14
C.F.R. Part 93 (High Density Rule)

LaGuardia - Bloomington/Normal, IL;
Moline/Quad Cities, IL

LaGuardia - Toledo, OH; Akron-Canton, OH

LaGuardia - Knoxville, TN

Docket OST-97-2557 - 4

ANSWER OF DELTA AIR LINES, INC.

Communications with respect to this document should be addressed to:

D. Scott Yohe
Senior Vice President -
Government Affairs
DELTA AIR LINES, INC.
1629 K Street, N.W.
Washington, D.C. 20006
(202) 296-6464

Robert E. Cohn
Nathaniel P. Breed
Alexander Van der Bellen
SHAW, PITTMAN, POTTS
& TROWBRIDGE
2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8060

and

Counsel for
DELTA AIR LINES, INC.

John Varley
General Attorney
DELTA AIR LINES, INC.
Law Department #986
1030 Delta Boulevard
Atlanta, Georgia 30320
(404) 715-2872

June 5, 1997

8pp

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

June 5, 1997

Application of

AIRTRAN AIRWAYS, INC.

**for an exemption from Subparts K and S of 14
C.F.R. Part 93 (High Density Rule)**

**LaGuardia - Bloomington/Normal, IL;
Moline/Quad Cities, IL**

LaGuardia - Toledo, OH; Akron-Canton, OH

LaGuardia - Knoxville, TN

Docket OST-97-2557

ANSWER OF DELTA AIR LINES, INC.

Delta Air Lines, Inc. ("Delta") hereby files this Answer in response to the Application of AirTran Airways, Inc. ("AirTran") for an exemption from the high density slot rules in effect at LaGuardia Airport. AirTran has asked the Department to create an additional twelve slots at LaGuardia and to award them free of charge to AirTran, so that AirTran can implement service between LaGuardia and several smaller cities that are not currently served on a nonstop or single-plane basis from New York.

Answer of Delta Air Lines, Inc.

Page 2

Delta does not, in principle, oppose exemptions to qualified new entrants in “exceptional circumstances.” However, the Department must exercise its exemption authority judiciously only in truly unique circumstances in order to avoid undermining the objectives of the high density rule. Delta’s concerns about use of the exceptional circumstances criteria for the wholesale issuance of new slots was discussed in detail in Delta’s May 12, 1997 Answer and June 12, 1997 Surreply in Docket OST-97-2442. Delta hereby adopts and incorporates those pleadings in support of this Answer.

Delta’s concern is that the grant of LaGuardia exemptions will open the floodgates for requests for new slots at LaGuardia. In response to Frontier’s request for LaGuardia slots, ValuJet and AirTran promptly filed applications seeking free slots from the Department. AirTran’s application seeks the creation of 12 daily LaGuardia slots. Combined, AirTran, ValuJet and Frontier have requested a total of 30 additional daily peak hour slots at LaGuardia.

LaGuardia is one of the most congested high density airports. There is no surplus capacity at LaGuardia from which to create these additional slots without a significant adverse impact on congestion at that airport. Indeed, as pointed out by the Borough of Queens in its Answer in Docket OST-97-2442, the FAA has become sufficiently concerned about the number of air traffic incidents in the

Answer of Delta Air Lines, Inc.

Page 3

New York area that it has actually considered reducing the number of flights at New York airports. Queens Answer at 6. The high density rule was promulgated by the FAA based on safety and airport capacity considerations. Grant of the pending slot exemption applications would overload the flight operations at LaGuardia.

The Department has in place a market-based mechanism -- the buy-sell rule -- which provides a means for carriers (including AirTran) to obtain slots within the confines of the high density rule. It does not appear that AirTran had made any effort to take advantage of the buy-sell rule provisions. AirTran has offered no evidence showing its efforts to obtain slots at LaGuardia, which is a critical requirement for consideration of exception applications. AirTran claims that “the costs of slots” and times available “make the purchase or lease of existing slots not economically viable.” Application at 4. AirTran further argues that it should be awarded a large block of slots so that it can “maximize station efficiency at LaGuardia” due to the high cost of maintaining operations there. Id. The cost of slots and airport facilities are borne by all operators seeking to add service at LaGuardia. Neither AirTran nor any other operator should be awarded a slot subsidy simply because it is unwilling pay these costs.

Conclusion

AirTran's application does not establish "exceptional circumstances" that would justify an exemption from the high density rule. Together with the applications of Frontier and Valujet, AirTran's application brings to 30 the total of new daily slots requested of LaGuardia. The grant of these applications will inevitably increase delays and congestion at LaGuardia and defeat the objectives of the high density rule.

Respectfully submitted,



Robert E. Cohn
Nathaniel P. Breed
Alexander Van der Bellen
SHAW, PITTMAN, POTTS & TROWBRIDGE
2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8060

Counsel for
DELTA AIR LINES, INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer of Delta Airlines, Inc. has, this 5th day of June, 1997, been served on all parties on the attached service list, by first class mail, postage prepaid.



Doreen S. Hughes

SERVICE LIST

Robert D. Swenson
President & CEO
Lawrence H. Brinker, Esq.
General Counsel
AIRTRAN AIRWAYS, INC.
4170 Wiley Drive
Orlando, Florida 32827

Carl B. Nelson, Jr.
Associate General Counsel
American Airlines, Inc.
1101 17th Street, N.W.
Suite 600
Washington, D.C. 20036

R. Bruce Keiner, Jr.
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Suite 1000
Washington, D.C. 20004

David Nocenti
Counsel
Office of the President
Borough of Queens
120-55 Queens Boulevard
Kew Gardens, New York 11424

John Gillick
Winthrop, Stimson, Putman
1133 Connecticut Avenue, N.W.
Suite 1200
Washington, D.C. 20036

D. Joseph Corr
President & Chief Executive Officer
ValuJet Airlines, Inc.
1800 Phoenix Boulevard
Suite 126
Atlanta, GA 30349

Megan Rae Poldy
Associate General Counsel
Northwest Airlines, Inc.
901 15th Street, N.W.
Suite 310
Washington, D.C. 20005

Richard J. Fahy, Jr.
1800 Diagonal Road
Suite 600
Alexandria, VA 22314

Joel Stephen Burton
Ginsberg, Feldman & Bress
1250 Connecticut Avenue, N.W.
Suite 800
Washington, D.C. 20036

Richard D. Mathias
Frank J. Costello
Cathleen P. Peterson
Zuckert, Scoult & Rasenberger
888 17th Street, N.W.
Suite 600
Washington, D.C. 20006

Robert P. Silverberg
Klein & Bagileo
1101 30th Street, N.W.
Washington, D.C. 20007

Mr. Michael B. LaPier, A.A.E.
Director of Aviation
Bloomington-Normal Airport Authority
R.R. 1 Box 26
Bloomington, IL 61704

Mr. Kent George, A.A.E.
Director of Aviation
Quad City Airport
2200 60th Avenue
Moline, IL 61265

Mr. Fred Krum
Director of Aviation
Akron-Canton Regional Airport Authority
5400 Lauby Road N.W.
Box 9
N. Canton, OH 44720

Mr. Terry Igoe
President
Metropolitan Knoxville Airport
McGhee Tyson Airport
P.O. Box 15600
Knoxville, TN 37901

Paul Stephen Dempsey, Esq.
Vice Chairman & Director
Frontier Airlines, Inc.
1900 Olive Street
Denver, CO 80220

Mr. Mark D. VanLoh, A.A.E.
Director of Airports
Toledo Express Airport
11013 Airport Highway
Box 11
Swanton, OH 43558

The Honorable Rudolph W. Giuliani
Mayor of New York
City Hall
New York, NY 10007

Mr. Robert J. Kelly
Director of Aviation
Port Authority of NY/NJ
One World Trade Center
Room 65 West
New York, NY 10048