



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

Issued by the Department of Transportation
On the 16th day of October, 2024

Applications of:

ALASKA AIRLINES, INC.;
AMERICAN AIRLINES, INC.;
DELTA AIR LINES, INC.;
FRONTIER AIRLINES, INC.;
JETBLUE AIRWAYS CORPORATION;
SPIRIT AIRLINES, INC.;
SOUTHWEST AIRLINES CO.; and
UNITED AIRLINES, INC.

Docket DOT-OST-2024-0065

For exemptions from 14 C.F.R. Part 93, Subparts K and S, pursuant to 49 U.S.C. § 41718(i), Special rules for Ronald Reagan Washington National Airport (Additional Slot Exemptions), as added by Section 502 of the Federal Aviation Administration Modernization and Reauthorization Act of 2024

ORDER TO SHOW CAUSE

I. SUMMARY

By this Order, the U.S. Department of Transportation (the Department) tentatively grants two slot exemptions at Ronald Reagan Washington National Airport (DCA) to each of five non-limited incumbent or limited incumbent air carriers, to operate new nonstop roundtrip service as follows:

- Alaska Airlines, Inc. (Alaska) for service to San Diego, California (SAN);
- American Airlines, Inc. (American) for service to San Antonio, Texas (SAT);

- Delta Air Lines, Inc. (Delta) for service to Seattle, Washington (SEA);
- Southwest Airlines Co. (Southwest) for service to Las Vegas, Nevada (LAS); and
- United Airlines, Inc. (United) for service to San Francisco, California (SFO).

II. BACKGROUND

On May 16, 2024, President Biden signed into law the Federal Aviation Administration Modernization and Reauthorization Act of 2024 (FAA 2024).¹ Section 502 of FAA 2024 amends § 41718 of Title 49 of the U.S. Code by adding subsection (i), “*Additional Slot Exemptions.*” That subsection reads, in relevant part:

(i) Additional Slot Exemptions.—

(1) Increase in slot exemptions.—Not later than 60 days after the date of enactment of the FAA Reauthorization Act of 2024, the Secretary shall grant, by order, 10 exemptions from—

(A) the application of sections 49104(a)(5), 49109, and 41714 to air carriers to operate limited frequencies and aircraft on routes between Ronald Reagan Washington National Airport and domestic airports located within or beyond the perimeter described in section 49109; and

(B) the requirements of subparts K, S, and T of part 93 of title 14, Code of Federal Regulations.

(2) Non-limited incumbents.—Of the slot exemptions made available under paragraph (1), the Secretary shall make 8 available to incumbent air carriers qualifying for status as a non-limited incumbent carrier at Ronald Reagan Washington National Airport as of the date of enactment of the FAA Reauthorization Act of 2024.

(3) Limited incumbents.—Of the slot exemptions made available under paragraph (1), the Secretary shall make 2 available to incumbent air carriers qualifying for status as a limited incumbent carrier at Ronald Reagan Washington National Airport as of the date of enactment of the FAA Reauthorization Act of 2024.

(4) Allocation procedures.—The Secretary shall allocate the 10 slot exemptions provided under paragraph (1) pursuant to the application process established by the Secretary under subsection (d), subject to the following:

(A) Limitations.—Each air carrier that is eligible under paragraph (2) and paragraph (3) shall be eligible to operate no more and no less than 2 of the newly authorized slot exemptions.

(B) Criteria.—The Secretary shall consider the extent to which the exemptions will—

(i) enhance options for nonstop travel to beyond-perimeter airports that do not have nonstop service from Ronald Reagan Washington National Airport as of the date of enactment of the FAA Reauthorization Act of 2024; or

(ii) have a positive impact on the overall level of competition in the markets that will be served as a result of those exemptions.

Section 41718(i) directs the Department to grant ten slot exemptions for nonstop service between DCA and domestic U.S. airports within or beyond the 1,250-mile perimeter established for

¹ FAA Reauthorization Act of 2024, Pub L. No. 118-63 (May 16, 2024) (“FAA 2024”).

commercial operations at DCA.² Section 41718(i) allocates two new slot exemptions to an incumbent air carrier that qualifies for status as a limited incumbent carrier as of the date of enactment of FAA 2024, with the remaining eight slot exemptions allocated to incumbent air carriers that qualify for status as non-limited incumbent carriers as of the date of enactment of FAA 2024.³ No air carrier selected by the Department may receive more or less than two slot exemptions.

III. APPLICATIONS

By Notice on June 24, 2024, the Department requested applications for the ten new slot exemptions made available by § 41718(i).⁴ As detailed in the Department's Notice and referenced above, section 41718(i) directs the Secretary to consider two criteria when awarding the new exemptions. Specifically, the Secretary must consider the extent to which the exemptions will: (A) enhance options for nonstop travel to beyond-perimeter airports that do not have nonstop service from Ronald Reagan Washington National Airport as of the date of enactment of FAA 2024, or (B) have a positive impact on the overall level of competition in the markets that will be served as a result of those exemptions. The Department's analysis focuses on the extent to which the applications meet the eligibility and allocation criteria provided by § 41718(i).

As summarized below, the Department received applications from Alaska, American, Delta, Frontier, JetBlue, Southwest, Spirit, and United. The entire public record for this proceeding, including proposals, answers, and all public comments, may be accessed online at <https://www.regulations.gov>, by searching for docket DOT-OST-2024-0065.

Alaska Airlines⁵

In its application, Alaska requests two slot exemptions to establish one daily nonstop roundtrip service between DCA and San Diego International Airport (SAN) using 159-seat Boeing 737-800 or 737-8 MAX aircraft, commencing within 90-days of allocation.

Arguments in Support

Alaska states that San Diego is the largest market from DCA without nonstop service, with 225 passengers per-day each-way (PPDEW) and 164,000 total annual origin/destination passengers

² A slot exemption is an exemption from the slot limitations in the Federal Aviation Administration's High Density Rule, 14 CFR Part 93, subparts K and S. A slot exemption permits one instrument flight rule takeoff or landing. Two slot exemptions are required to operate one roundtrip service. 49 U.S.C. § 41714(h)(4).

³ A limited incumbent is generally an air carrier that holds or operates fewer than 40 slots (i.e. 20 roundtrips) and is not a new entrant, where any slot exemptions are excluded from the count. *See* 49 U.S.C. § 41714(h)(5); 14 C.F.R. § 93.213(a)(5).

⁴ DOT-OST-2024-0065-5926, Establishment of Slot Exemption Proceeding at Ronald Reagan Washington National Airport Pursuant to 49 U.S.C. § 41718.

⁵ *See* DOT-OST-2024-0065-5926, Application of Alaska Airlines, Inc. for Slot Exemptions.

in 2023.⁶ Additionally, the application cites General Services Administration (GSA) estimates of approximately 28,000 travelers between DCA-SAN on official government business during 2024, increasing to 32,000 in 2025.⁷ In its application, Alaska argues that the introduction of service to SAN will result in price discipline, stating that the carrier's entry in the IAD-SAN market during Q2 2023 reduced average air fares by 26%.⁸ Alaska states that this price discipline would extend to customers using DCA-SAN service to connect onward to one of the carrier's nonstop markets from SAN. Additionally, Alaska states that consumers will benefit from time-savings associated with the new nonstop service, and global connections via its membership in the Oneworld Global Alliance and other airline partnerships.

Regarding demand for the proposed service, Alaska states in its application that San Diego is the eighth-largest city in the United States, is home to the country's largest military community, and is the largest market beyond DCA's 1,250-mile perimeter without nonstop service. Alaska cites \$23.4B and \$10.2B in economic impact to the tourism sectors of San Diego and Washington, DC, respectively.⁹

Alaska provides detail in its application regarding perceived competitive and consumer benefits related to the carrier's product offering and operational record. Specifically, Alaska states that customers travelling between DCA-SAN will benefit from a diverse product offering, which includes First Class, Premium, and Main Cabin seating, as well as a range of air fare options, such as its "Saver Fare." Alaska argues that its mix of products and loyalty program will have a positive impact for consumers traveling between DCA-SAN, offering additional choices and competitive service to that of other incumbent air carriers.¹⁰ Operationally, Alaska states that its DCA flights operate with an 87.76% load factor, and a 99.78% completion factor, which the carrier describes as the highest of all carriers operating at DCA. Because of this, Alaska argues it is positioned to utilize new slot exemptions most efficiently.

Responsive Pleadings

Multiple other applicants submitted comments regarding Alaska's classification as a limited incumbent or non-limited incumbent in this proceeding. JetBlue and United state that all carriers should have the opportunity to provide comment should the Department make any changes regarding Alaska's eligibility in this proceeding. Frontier and Spirit state that Alaska should not be eligible as a limited incumbent in this proceeding, and instead should be evaluated as a non-limited incumbent. We address these comments later in this order.¹¹

JetBlue states that Alaska's proposed schedule may require the use of airport infrastructure at DCA that is not presently available (for example, remain overnight "RON" parking). JetBlue

⁶ *Id.* at 4 and AS-1.

⁷ *Id.* and at AS-5.

⁸ *Id.* at 5 and AS-7.

⁹ *Id.*

¹⁰ Quality-of-service metrics, such as onboard product offerings, are outside the scope of consideration for this proceeding.

¹¹ *See infra* at 18.

also states that Alaska's addition of DCA-SAN service may lead to a reduction in service at IAD or BWI.¹² Spirit states that SAN is presently well served from IAD and therefore an allocation for DCA-SAN service would not be sufficiently competitive.¹³

American Airlines¹⁴

In its application, American requests two slot exemptions to establish one daily nonstop roundtrip service between DCA and San Antonio International Airport (SAT) using Airbus A321 aircraft.

Arguments in Support

American states that San Antonio is the second-largest market from DCA without nonstop service, with 154 PPDEW and 56,000 total annual origin/destination passengers in 2023. American further states that between DCA, IAD, BWI and SAT, there were 221,000 total annual origin/destination passengers in 2023.¹⁵ The application argues that the introduction of American's nonstop service to SAT will result in price discipline and states that IAD and BWI are presently United's and Southwest's highest-fare routes respectively, from SAT.

Regarding demand for the proposed service, American states that DCA-SAT is the third-largest unserved origin/destination market in the United States.¹⁶ American further notes in its application that the proposed schedule will enable round-trip connectivity via DCA to 20 markets, and one-way connectivity to an additional three markets. American states that the total PPDEW for anticipated reachable markets via one-stop connections from new DCA-SAT service, was more than 1,100 in July 2023.¹⁷

In its application, American states that San Antonio is the fastest growing U.S. city without nonstop service to DCA. The proposal specifically cites the city's population growth over the last decade (18%) and economic output (\$163B). American discusses the high concentration of U.S. military activity in the San Antonio region, including three military bases, cited at \$55B in state economic impact in 2023. Additionally, American states that the GSA estimates that there will be 17,472 U.S. Government travelers on official business between DCA-SAT in 2024.¹⁸

¹² See DOT-OST-2024-0065-22193, Consolidated Answer of JetBlue Airways Corporation.

¹³ See DOT-OST-2024-0065-22203, Consolidated Answer of Spirit Airlines, Inc.

¹⁴ See DOT-OST-2024-0065-5784, Application of American Airlines, Inc.

¹⁵ *Id.* At 3.

¹⁶ *Id.* At 4.

¹⁷ *Id.* At 5.

¹⁸ *Id.* At 6.

Responsive Pleadings

Multiple other applicants commented on American's application, stating that American should not receive an allocation in this proceeding due to the carrier's dominant position at DCA.¹⁹ Other applicants stated that American presently holds the largest single-carrier share of beyond-perimeter slot exemptions at DCA. For example, Delta stated that American's share of flights and slot exemptions at DCA is 60% and 30%, respectively. Delta, Southwest, and United state that because American presently holds two pairs of slot exemptions at DCA that do not have a route-specific requirement, it could feasibly use its existing exemptions to commence service between DCA and SAT.²⁰

Additionally, United states that American presently serves customers sufficiently between DCA-SAT via connections over its other hubs, and that passenger demand for its own proposal for service to SFO is greater than that for American's proposed service. Southwest states that its proposed addition of service at DCA is superior to American's proposal because American's average air fares are higher than its own. Southwest also alleges that American does not presently utilize its slots and slot exemptions at DCA efficiently because it uses its DCA hub to serve a significant number of connecting passengers. Southwest further states that providing American two slot exemptions to provide service to San Antonio is not in the public interest because of limited available capacity at DCA. JetBlue states that SAT is presently accessible to customers via Southwest's service between DCA and AUS, and suggests that there may be alternative legislative solutions for enabling access to SAT, such as minimally expanding the existing DCA perimeter.

Delta Air Lines²¹

In its application, Delta requests two slot exemptions to establish one daily nonstop roundtrip service between DCA and Seattle-Tacoma International Airport (SEA), or to establish a second daily roundtrip service between DCA and Salt Lake City International Airport (SLC). The proposed service would be operated using 194-seat Airbus A321NEO aircraft, commencing within 60-days of allocation.

Arguments in Support

Delta states that Seattle is the fourth largest beyond-perimeter market from DCA, with 629 PPDEW.²² Delta argues that unlike other beyond-perimeter markets, DCA-SEA lacks adequate capacity and competition. The application states that DCA-SEA is presently operated by a single

¹⁹ See DOT-OST-2024-0065-22180, Comments of Delta Air Lines, Inc.; DOT-OST-2024-0065-22193, Consolidated Answer of JetBlue Airways Corporation; DOT-OST-2024-0065-22225, Consolidated Answer of Southwest Airlines Co.; DOT-OST-2024-0065-22188, Consolidated Comments of United Airlines, Inc.

²⁰ American holds four slot exemptions created under 49 U.S.C. § 41718(g)(3) for non-limited incumbent air carriers at DCA. § 41718(g)(3)(D) states that each non-limited incumbent carrier receiving slot exemptions under the statute shall "have sole discretion concerning the use of an exemption made available under paragraph (1), including the initial or any subsequent beyond perimeter destinations to be served."

²¹ See DOT-OST-2024-0065-5803, Application of Delta Air Lines, Inc. for Slot Exemptions.

²² *Id.* at 8.

carrier, which cannot alone meet existing demand for the route. Delta estimates that demand for DCA-SEA exceeds available capacity by 311 PPDEW.

In its application, Delta states that the average air fare for service between IAD-SEA is \$289, while the average air fare for DCA-SEA is \$355. Delta also states that in 2023, 72% of customers in the Washington, DC metro area preferred to use DCA for destinations within the 1,250-mile perimeter.²³ Delta states that the addition of its service between DCA-SEA would meet 60% of unmet demand for the market and provide a competitive balance with the single carrier presently operating on this route.

Delta further states that Seattle has the fifth largest population of cities beyond DCA's 1,250-mile perimeter. The application discusses Seattle's population of 4.1 million (citing 30% growth over the last 20 years) and large business community (e.g., 10 Fortune 500, 17 Fortune 1000 companies). Delta argues that corporate travelers prefer to use DCA to reach SEA and estimates that Alaska currently serves 80% of corporate travelers on the DCA-SEA route.²⁴ Delta states it presently operates more than 150 peak day departures from SEA to 60 global markets, and that its growth in SEA has resulted in a reduction of single-carrier markets from 47 to 23 in 12 years.²⁵

Delta provides detail in its application regarding competitive and consumer benefits related to the carrier's product offering and operational record. Specifically, Delta states that it leads global network carriers in operational reliability. Delta also states that it has the lowest number of complaints per 100,000 passengers (3.5) when compared to American (6) and United (6.6), and it cites its award of a top ranking in J.D. Power's 2024 North America Airline Satisfaction Study for first/business and premium economy travelers in its application.

Delta's application includes a backup service proposal for a second daily nonstop operation between DCA and Salt Lake City International Airport. Delta asserts that the additional service would provide customers with connections between DCA and markets in the western United States.²⁶

²³ *Id.* at 9. The Department notes that Delta's estimate is based on a comparison of PPDEW between DCA/IAD-SEA for FY2023 and average daily seats for June 2024. Delta's PPDEW calculation assumes that 72% of origin/destination passengers between IAD/DCA-SEA prefer to use DCA in an unconstrained perimeter environment. To achieve this, Delta combines origin/destination passengers for IAD/DCA in markets with greater than two daily frequencies, and with a greater than 500mi stage length. See *id.* at DL-107).

²⁴ *Id.* at 11.

²⁵ *Id.* at 12.

²⁶ *Id.* at 14 and DL-504. Delta states that its proposed schedule for DCA-SLC service would provide connections "to and from dozens of cities in the western United States." Delta estimates that 40% of passengers on DCA-SLC would connect onward from SLC, and provides a forecasted distribution of connecting passengers for 10 markets in the western U.S.

Responsive Pleadings

Multiple other applicants submitted comments regarding Delta's application.²⁷ Alaska did not submit comments regarding the merits of Delta's application, but rebutted statements made in Delta's proposal regarding DCA-SEA service. For example, Alaska states that air fare levels between DCA-SEA are consistent with that of other transcontinental routes from DCA. Alaska also states that Delta's DCA-SLC service has the highest ticket price in the country, and that Delta's beyond-perimeter flying has some of the highest air fares of any carrier at DCA. Alaska further states that its existing service between DCA-SEA is successful and that capacity on the route presently exceeds demand.

In response to Delta's application, JetBlue states that Delta's DCA-SEA service may lead to a reduction in service from IAD or BWI, and that Delta customers can reach SEA today from DCA, connecting over LAX or SLC and its other core hubs. Southwest states that SEA is already served from DCA and therefore Delta's proposed service would not enhance competition on the route, because Delta operates at a higher fare premium than Southwest and other carriers. Southwest also states that there is presently a surplus of seats in the DCA-SEA market and disagrees with Delta's presentation of passenger demand data for the proposed route. Southwest further states that Delta should not be eligible to serve its backup market (SLC) because it already does so with another DCA slot exemption.²⁸ Additionally, United states that Delta did not acknowledge capacity constraints at DCA in its application, and that demand between DCA-SFO exceeds that of DCA-SEA. United also states that it can connect more passengers over its SFO hub than Delta does via SEA.

JetBlue²⁹

In its application, JetBlue requests two slot exemptions to establish a second daily nonstop roundtrip service between DCA and Luis Muñoz Marin International Airport (SJU) in San Juan, PR, or to establish one daily roundtrip service between DCA and Los Angeles International Airport (LAX). The proposed service would utilize 160- or 200-seat Airbus A321 or A321NEO aircraft.

Arguments in Support

JetBlue states that consumer demand for its current nonstop service between DCA-SJU exceeds the carrier's capacity on the route.³⁰ As such, JetBlue states that the proposed additional operation would capture unmet demand on the DCA-SJU route. JetBlue argues that the additional 200 daily seats between DCA and SJU would offer price discipline in the form of an estimated 31% decrease in average air fares between Washington, DC, and San Juan. JetBlue

²⁷ See DOT-OST-2024-0065-22194, Comments of Alaska Airlines, Inc. for Slot Exemptions; DOT-OST-2024-0065-22193, Consolidated Answer of JetBlue Airways Corporation; DOT-OST-2024-0065-22225, Consolidated Answer of Southwest Airlines Co.; DOT-OST-2024-0065-22188, Consolidated Comments of United Airlines, Inc.

²⁸ Order 2002-11-20.

²⁹ See DOT-OST-2024-0065-5808, Application of JetBlue Airways Corporation for Beyond-Perimeter Slot Exemptions.

³⁰ *Id.* at 10.

cites a \$270, \$245, and \$147 average fare to SJU from IAD, DCA, and BWI respectively in 2023. In its application, JetBlue estimates that the average fare between DCA-SJU could fall to an estimated \$170 if it commences a second daily operation on the route.³¹ Additionally, JetBlue states that consumers would benefit from eleven (11) additional one-stop connections via SJU to various points in the Caribbean.

Regarding demand for the proposed service, JetBlue states that San Juan is the 25th largest market from Washington, DC and is underserved because there is only one daily nonstop service from DCA. JetBlue states that unlike other markets, demand for flying to Puerto Rico and the Caribbean has not fluctuated but has steadily grown. The application states that two million annual cruise passengers use the Port of San Juan, and that JetBlue's second daily service to SJU would enable greater connectivity for travelers boarding cruises. JetBlue further states that approximately 100,000 people of Puerto Rican descent live in the Washington, DC metropolitan area, and therefore the new service would also benefit travelers visiting friends and relatives (VFR).

Additionally, JetBlue states that after commencing service between DCA-SJU in 2012, PPDEW increased by 93% to 175. In its application, JetBlue estimates an additional 51.1% growth if it commences a second daily operation on the route – to approximately 275 passengers per-day each-way.³²

JetBlue also notes in its application that the GSA estimates more than 6,000 travelers in 2024 will use the DCA-SJU route on official business. The application states that there is a clear preference for travelers on this route to use DCA, citing GSA figures for IAD-SJU and BWI-SJU that show DCA-SJU is estimated to serve a greater number of travelers in 2024. JetBlue points out that between July 2023-June 2024, the carrier served 4,079 travelers on government contracted fares for the DCA-SJU route.³³

Finally, JetBlue describes in its application its commitment to the San Juan market, including approximately 700 staff and a future crew and pilot base at SJU. JetBlue states it is the largest airline at SJU, with over 4.7 billion available seat miles (ASMs) in 2024.³⁴

No supporting materials were provided in the application for JetBlue's backup market of Los Angeles, CA.

Responsive Pleadings

Multiple other applicants submitted comments stating that JetBlue's proposal is not competitive because it is presently the only carrier operating on the DCA-SJU route and uses existing slot

³¹ *Id.* The Department notes that this analysis is illustrative. The Department's assessment of air fare levels for proposed markets in this proceeding focuses only on observed data.

³² *Id.* at 12.

³³ *Id.* at 13.

³⁴ *Id.* at 15.

exemptions to do so.^{35, 36} Other applicants stated that an allocation for JetBlue's proposed second-daily service would strengthen its dominance on the route and insulate it from competition. For example, Delta states that because JetBlue is the only carrier operating between DCA-SJU, its own air fare projections included in its proposal are without merit.

In response to JetBlue's application, United notes that JetBlue proposes to serve the smallest market of all applicants in this proceeding and would not provide competitive and efficient connections for consumers. United further states that air fares on the DCA-SJU route have gradually increased over time. United also states that JetBlue's backup proposal (LAX) should not be considered because JetBlue did not include any information regarding this service in its application. Finally, Southwest states that there is presently adequate competition and service on the DCA-LAX route.

Southwest Airlines³⁷

In its application, Southwest requests two slot exemptions to establish one daily nonstop roundtrip between DCA and Harry Reid International Airport (LAS) in Las Vegas, NV (with continuing service to Sacramento International Airport (SMF)), commencing within 90-days of allocation using Boeing 737-800 or 737-8 MAX aircraft with 175 seats.³⁸

Arguments in Support

Southwest states that Las Vegas is DCA's largest underserved market by population size. The application cites 261,000 total annual origin/destination passengers, or 358 PPDEW.³⁹ Southwest argues that current capacity on the DCA-LAS route is not sufficient to meet demand, stating that American, which is the single carrier operating this route, has 137,128 annual scheduled seats between DCA-LAS. Southwest argues that this represents a 90% market gap, when scheduled nonstop seats are compared to total origin/destination passengers. Southwest also notes that LAS is the fifth largest beyond-perimeter market from DCA.⁴⁰

In its application, Southwest states that demand for DCA-LAS was 28% higher in CY2023 than in CY2019, compared to an average of -0.1% for all other beyond-perimeter markets.⁴¹ Southwest further states that compared to 2019 levels, demand for DCA-LAS has recovered at a higher rate than that of all domestic markets from DCA (+0.2% when compared to CY2019).⁴²

³⁵ See DOT-OST-2024-0065-22191, Consolidated Response of American Airlines, Inc.; DOT-OST-2024-0065-22180, Comments of Delta Air Lines, Inc.; DOT-OST-2024-0065-22225, Consolidated Answer of Southwest Airlines Co.; DOT-OST-2024-0065-22188, Consolidated Comments of United Airlines, Inc.

³⁶ Order 2012-5-12.

³⁷ See DOT-OST-2024-0065-5815, Application of Southwest Airlines Co.

³⁸ Because a slot exemption award in this proceeding would be used to operate service between DCA and LAS, Las Vegas is evaluated as the primary proposed market when assessing Southwest's application against the statutory criteria.

³⁹ *Id.* at 6.

⁴⁰ *Id.*

⁴¹ *Id.* at 7.

⁴² *Id.* at 8.

Southwest also cites a greater than 90% load factor for current nonstop service between DCA-LAS as representative of the strong passenger demand for the route.⁴³

Southwest further states that its projected average one-way fare on the DCA-LAS route is estimated at \$188.⁴⁴ In its application, Southwest compares this to a current average of \$258 across all DCA carriers, and \$298 for American Airline's nonstop service. Southwest argues that it would introduce price discipline on the DCA-LAS route, lowering average fares by around 27%. Southwest states that it is likely American and other carriers would also lower air fares to compete with the new service. For example, Southwest explains in its application that for past market-entry at DCA, Southwest's service resulted in an average reduction of 21% for air fares and a passenger increase of approximately 42%.⁴⁵

Southwest's proposal also includes a one-stop connection between DCA and Sacramento (SMF). Regarding the proposed connection between DCA and SMF, Southwest states that it will provide the only one-stop "same plane" service between the markets. The application also states that the proposed DCA-LAS-SMF route will be the "fastest flight option" available to passengers traveling between DCA-SMF. Southwest states that SMF is the fourth-largest market without service from DCA and cites current average Southwest fare levels at 29% lower than average fares between DCA-SMF. Southwest states that the proposed DCA-LAS-SMF route would provide connecting itinerary opportunities for more than two million annual passengers.⁴⁶ Additionally, Southwest states in its application that its average fares in potential downline/connecting markets from SMF are lower than average in all but one. Southwest argues that its entry on the DCA-LAS-SMF route would therefore create additional options for travelers while stimulating price discipline through lower average fares.

Responsive Pleadings

Delta submitted comments in support of Southwest's application, stating that the proposal demonstrates an "earnest commitment to enhancing competition."⁴⁷ However, JetBlue states that Southwest's proposed DCA service could lead to the reduction of current service at BWI and states that Southwest already serves LAS from BWI.⁴⁸

United submitted comments stating that passenger demand between DCA/IAD/BWI (WAS)-SFO is greater than between WAS-LAS, arguing that its own application, therefore, has greater merit based on anticipated consumer benefit.⁴⁹ United also states that Southwest's proposed one-stop

⁴³ *Id.*

⁴⁴ *Id.* at 9 and WN-301. Southwest calculates forecasted fare levels for new DCA-LAS service using systemwide average domestic average air fares, compared to systemwide stage length in 2023. The Department notes that this analysis is illustrative. The Department's assessment of air fare levels for proposed markets in this proceeding focuses only on observed data.

⁴⁵ *Id.* at 10 and WN-303.

⁴⁶ *Id.* at 12 and WN-311.

⁴⁷ See DOT-OST-2024-0065-22180, Comments of Delta Air Lines, Inc.

⁴⁸ See DOT-OST-2024-0065-22193, Consolidated Answer of JetBlue Airways Corporation

⁴⁹ See DOT-OST-2024-0065-22188, Consolidated Comments of United Airlines, Inc.

service to SMF is not competitive as SMF is already served with one-stop service on United and other carriers. United further states that Southwest's forecast air fare impacts, included in its proposal, are without merit because they are not consistent with Southwest's current business practices and air fare levels.

United Airlines⁵⁰

In its application, United Airlines requests two slot exemptions to establish a second daily nonstop roundtrip between DCA and San Francisco International Airport (SFO), or to establish once daily roundtrip service between DCA and Los Angeles International Airport (LAX). The service would commence approximately 90-days after allocation using Boeing 737-8 MAX aircraft with 166 seats.

Arguments in Support

United states that while it was not supportive of expanding access to DCA due to concerns regarding airport capacity and congestion, its proposed service would offer consumer benefits while mitigating operational impacts at the airport. To this end, United states that it intends to operate the new service during early morning or late evening hours, which it states are less congested periods at DCA.

Regarding demand for the service, United's application cites 584,000 annual bookings between Washington, DC, and San Francisco. When also considering Oakland (OAK) and San Jose (SJC), United cites 685,000 total annual bookings.⁵¹ United states SFO is presently the second largest beyond-perimeter route from a passenger-demand perspective. The application discusses existing corporate ties between Washington, DC, and San Francisco, stating that the presence of Fortune 500 companies and leading industries drive time-sensitive travel between the two markets. United points out that California's economy is the fifth largest in the world and increased by 6.1% in 2023 versus the year prior.

United further states that in 2023, 60% of the carrier's frequent flyers who traveled from DCA used the airport exclusively for Washington, DC travel.⁵² United argues that this indicates there is a significant group of travelers who only use DCA when traveling, and when traveling with United. The application argues that this suggests the proposed new service would not conflict with United's existing hub presence at IAD.

Additionally, United states that its proposed SFO service would provide one-stop connections to 25 domestic, and seven international markets. Further, United's application cites 16 cities which would receive new roundtrip connecting service to/from DCA. While the DCA-SFO route is presently served, United states that the addition of this second daily service would improve

⁵⁰ See DOT-OST-2024-0065-5775, Application of United Airlines, Inc.

⁵¹ *Id.* at 4 and UA-107.

⁵² *Id.* at 5. Calculated as 60% of United MileagePlus members traveling to/from DCA in 2023, based on United passenger flown databases.

schedule utility for customers traveling between the two markets. United argues that the increase in capacity would result in additional flight options and lower air fares on the route.

Regarding the potential competitive benefit of the proposed routes, United states that it holds only a small share of operations at DCA, while American Airlines and Alaska Airlines are the largest carriers for service between California and DCA. The application cites a 52% seat share for Alaska on all transcontinental routes, a 26% seat share for American's service to Los Angeles, and an 11% seat share for Delta's service to Los Angeles.⁵³ United argues that its proposed service would provide competition to incumbent air carriers presently operating on these routes.

Regarding its backup proposal for once daily service between DCA and Los Angeles, United states that it presently only serves DCA-LAX customers with one-stop, connecting service, and thus carries approximately 4% of its Washington, DC-Los Angeles customers via DCA.⁵⁴ United states that the introduction of new nonstop service between DCA-LAX would provide competition for American, Alaska, and Delta which currently operate on this route. United further states that its proposed schedule would avoid peak hours at DCA to have a smaller impact on airport delays and operations. United also notes that the proposed service would enable roundtrip connections to eight domestic destinations from Los Angeles.

Motion of JetBlue⁵⁵

JetBlue filed a motion to disqualify United from consideration, stating that the application includes a proposed departure time that is outside of hours when slot exemptions may be allocated at DCA. In its motion, JetBlue states that United submitted an application that includes a proposed 6:30am departure from DCA, which falls outside of the slot exemption periods defined in 49 U.S.C. § 41718(c)(2). JetBlue also states that the data provided by United supporting its proposal are invalid because they are premised on a flight schedule not within slot exemption hours at DCA. We address this Motion later in this Order.⁵⁶

Answer of United Airlines in Objection of JetBlue's Motion⁵⁷

United submitted an objection to JetBlue's motion to disqualify, stating that there is no basis or precedent for disqualification from this proceeding. United states that it is aware of the technical language specified by the Department that directs successful applicants to work with the FAA Slot Administration Office regarding the scheduling of new slot exemptions. Additionally, United states that it has previously received an award of a DCA slot exemption with proposed service during an hour falling outside of slot exemption periods defined by 49 U.S.C. § 41718(c)(2). United states it would work with the FAA to achieve an "optimal solution" regarding the scheduling of new slot exemptions.

⁵³ *Id.* at 13 and UA-113.

⁵⁴ *Id.* at 18.

⁵⁵ See DOT-OST-2024-0065-10863, Motion of JetBlue Airways Corporation.

⁵⁶ See *infra* at 18.

⁵⁷ See DOT-OST-2024-0065-12069, Objection of United Airlines, Inc.

Responsive Pleadings

Other applicants submitted comments regarding United's application.⁵⁸ Multiple other applicants stated that United already serves SFO from DCA, and therefore does not offer a competitive proposal under the statutory criteria in this proceeding. Delta states that United strongly opposed the creation of new slot exemptions under FAA 2024. Delta further states that United's market share at DCA will not change if it receives a slot exemption in this proceeding, and that the proposed DCA-SFO service would not generate city-pair competition, but strengthen United's dominant presence in the Washington, DC market.

JetBlue states that United's proposed schedule could require RON parking positions at DCA, and notes that there is limited available gate and parking capacity at the airport. JetBlue also states that the addition of DCA-SFO service could lead to the reduction of service at BWI or IAD. Additionally, Spirit states that its own proposed service to SJC would provide competition for United's existing DCA-SFO service, and that a second-daily SFO service would not reduce air fares between the two markets. Southwest also states that United's proposed service would reduce competition at DCA by adding a frequency on an already high-fare market that does not have sufficient demand to warrant new flying.

Supplemental Pleadings⁵⁹

On July 24, United filed a limited response and motion for leave to file.⁶⁰ In response to comments from other applicants, United states that the statutory criteria provided by FAA 2024 allow for a broad assessment of competitive impacts resulting from exemptions in this proceeding. United argues that its application enhances competition in multiple areas that merit consideration. United alleges that an additional frequency on the DCA-SFO route, or introduction of new service on the DCA-LAX route, as stated by United, would provide consumer benefits by increasing competition on routes served by other air carriers. United further alleges that its proposed SFO service would enable the greatest number of connections of all proposed markets. United further argues that competitive impacts on beyond-perimeter routes at DCA are unique and dissimilar to those in within-perimeter markets. For example, United argues in its response that past beyond-perimeter exemptions have resulted in competitive benefits (such as price discipline) even when a route is operated by a single air carrier. Regarding its backup application for DCA-LAX service, United alleges that this service would provide a long-term competitive benefit, as other carriers on this route presently operate using slot exemptions which do not include a market requirement and could plausibly be changed.

⁵⁸ See DOT-OST-2024-0065-22191, Consolidated Response of American Airlines, Inc.; DOT-OST-2024-0065-22180, Comments of Delta Air Lines, Inc.; DOT-OST-2024-0065-22193, Consolidated Answer of JetBlue Airways Corporation; DOT-OST-2024-0065-22195, Frontier Airlines, Inc. Comments on Timely-Filed Applications; DOT-OST-2024-0065-22225, Consolidated Answer of Southwest Airlines Co.; DOT-OST-2024-0065-22203, Consolidated Answer of Spirit Airlines, Inc.

⁵⁹ By this Order, the Department is granting all motions seeking leave to file otherwise unauthorized documents submitted by various air carriers in the docket.

⁶⁰ DOT-OST-2024-0065-23492, Motion for Leave to File and Supplemental Comments of United Airlines, Inc.

In response to comments from JetBlue, United states that its application should not be dismissed by the Department and doing so would be contrary to precedent. United states that its proposed service can be operated flexibly in the hours in which the Department is permitted to add slot exemptions. United further states that its application is fully compliant with the statutory criteria for this proceeding.

On July 24, JetBlue filed a letter in response to United's motion for leave to file.⁶¹ JetBlue stated that the Department should not consider the motion because United did not provide good cause for not addressing issues discussed in an earlier answer. In its letter, JetBlue states that the Department should not delay the issuance of a final order in this proceeding. On July 25, Southwest filed a letter in support of JetBlue's response to United's motion for leave to file.⁶² In its letter, Southwest states that United's motion should be denied as it does not provide good cause for filing additional comments after the Department's deadline.

Spirit⁶³

In its application, Spirit requests two slot exemptions to establish one daily roundtrip service between DCA and San Jose Mineta International Airport (SJC) using 182-seat Airbus A320NEO aircraft.

Arguments in Support

Spirit states that SJC is geographically located in proximity to 40% of the population in the Bay Area, making it the most convenient option for southern Bay Area travelers.⁶⁴ While San Francisco is served from both DCA and IAD, Spirit states that there is not presently nonstop service to/from SJC from either airport. Spirit's application argues that the new service would therefore provide a competitive, low fare option for travelers between the two regions.

Regarding demand for the proposed service, Spirit cites 1,445.9 PPDEW travelling between SFO/SJC/OAK and IAD/DCA in YE4Q2023.⁶⁵ Spirit states that San Jose is one of the largest U.S. cities that does not presently have nonstop service to Washington, DC. Additionally, Spirit states that customers would have access to one-stop destinations on Spirit via SJC.⁶⁶

Spirit further states that the San Jose region is home to the world's largest technology companies, most of which are located within 12 miles of SJC Airport. In its application, Spirit argues that the

⁶¹ See DOT-OST-2024-0065-23495, JetBlue Airways Corporation (Letter in Response to United Airlines Unauthorized Filing).

⁶² See DOT-OST-2024-0065-23502, Southwest Airlines Co. (Letter in Response to United Airlines Unauthorized Filing).

⁶³ See DOT-OST-2024-0065-5921, Application of Spirit Airlines, Inc. for Two Slot Exemptions for DCA-SJC Service.

⁶⁴ *Id.* at 3.

⁶⁵ *Id.* at Exhibit 3.

⁶⁶ *Id.* at 5. Spirit cites new service between SJC and Dallas Ft. Worth (DFW), Las Vegas (LAS), and San Diego (SAN).

presence of these companies suggests that there is demand for the additional connection to Washington DC, stating that Silicon Valley companies have “significant investments in facilities located in the Washington, DC region.”⁶⁷

Spirit provides detail in its application, regarding perceived competitive and consumer benefits related to the carrier’s product offering. Specifically, Spirit states that its service offers a range of air fare options and bundles for “value-conscious consumers.” Spirit further states that in multiple cases of market entry, its presence has resulted in a reduction in average industry fares at airports with competition from a hub competitor.

Responsive Pleadings

Multiple other applicants submitted comments stating that Spirit was not eligible for this proceeding.⁶⁸ For example, Alaska asked that DOT confirm Spirit’s ineligibility in a final order. Alaska and others state that Spirit does not presently operate service at DCA. JetBlue states that Spirit is not eligible because it proposes to operate slot exemptions during hours that are presently fully subscribed. We address these comments later in this Order.⁶⁹

Frontier⁷⁰

In its application, Frontier requests two slot exemptions to establish one daily roundtrip service between DCA and Luis Muñoz Marin International Airport in San Juan, PR (SJU). Frontier does not specify an aircraft type or starting date for the proposed service in its application.

Arguments in Support

Frontier states that its air fares are typically the lowest available in the markets in which they operate.⁷¹ Frontier argues that JetBlue’s status as the single-carrier operating the DCA-SJU route disincentivizes price discipline and has led to higher air fares. Frontier’s application cites a \$247 average air fare between January-April 2024, compared to \$219 in 2019. Additionally, Frontier states that the average air fare for service between BWI/IAD-SJU is notably lower, citing \$171 and \$180 for the same periods, respectively.⁷²

Frontier further states in its application that the additional service between DCA-SJU would benefit consumers by introducing price discipline and additional flight options. Frontier states that the carrier offers “favorable” pricing on routes for which it competes with JetBlue.⁷³

⁶⁷ *Id.* at 7.

⁶⁸ See DOT-OST-2024-0065-22194, Comments of Alaska Airlines, Inc. for Slot Exemptions; DOT-OST-2024-0065-22193, Consolidated Answer of JetBlue Airways Corporation; DOT-OST-2024-0065-22195, Frontier Airlines, Inc. Comments on Timely-Filed Applications.

⁶⁹ See *infra* at 18.

⁷⁰ See DOT-OST-2024-0065-5802, Frontier Airlines, Inc. Application for Slot Exemption.

⁷¹ *Id.* at 6.

⁷² *Id.*

⁷³ *Id.* at 7. Frontier comparison of average air fares for 2H2023 in JetBlue/ Frontier “head-to-head” markets.

Frontier adds that it will open a crew base at SJU, with additional planned growth to more than 20 markets.

Responsive Pleadings

In response to Frontier's application, Alaska submitted comments stating that Frontier is not eligible to receive a slot exemption in this proceeding because it is a new entrant carrier.⁷⁴ Alaska asks the Department to confirm this eligibility determination in a final order. Spirit also states that Frontier is not eligible for an allocation in this proceeding, and that Frontier previously acknowledged its status as a new entrant at DCA.⁷⁵ Alaska and JetBlue state that Frontier should be disqualified from this proceeding because it did not provide in its application the required information regarding its proposed service. JetBlue states that Frontier does not accurately present data related to average air fares between DCA-SJU, alleging that that Frontier's average fare for its current slot exemption route at DCA (Denver) is higher than any of its service to DEN from all other points.

Other Comments Filed

Comments of Consumer Advocates⁷⁶

Representatives of eleven consumer advocacy groups submitted joint comments asking the Department to ensure that new slot exemptions at DCA are allocated to maximize consumer benefit by increasing airline competition and reducing air fares. Specifically, the comments suggest that the Department allocate new slot exemptions at DCA to "airlines that do not currently control large numbers of long-haul slots at DCA," including "as many ultra-low cost carriers as are legally qualified under the act." The comments also ask the Department to ensure that carriers receiving new slot exemptions have access to "gates and other critical airport facilities" at DCA which are requisite for operating new service. In support of this, the comments cite a 4% increase in the Consumer Price Index over the last year, as compared to a 25% increase in air fares (reported by the Bureau of Labor Statistics). The comments also cite estimates from the International Air Transport Association of a 14.7% increase in airline operating profit, and 11.3% increase in airline net profit, respectively, between 2023 and 2024. The comments state concern regarding the impact of air carrier dominance at DCA and other major U.S. gateways, and further discuss that 55% of beyond-perimeter slot pairs at DCA are allocated to two carriers, American and Alaska.

Comments of Breeze Aviation Group, Inc.⁷⁷

Breeze Aviation Group, Inc. (Breeze) submitted comments expressing interest in applying for the slot exemptions in this proceeding. Breeze states that, had it been eligible, its application may have included proposed service between DCA and U.S. points including Boise, Sacramento, Reno, and Albuquerque. Breeze states that their application would have well-satisfied FAA

⁷⁴ See *infra* at 18.

⁷⁵ See *infra* at 18. Spirit cites the Application of Frontier for slot exemptions made available by Order 2012-2-21.

⁷⁶ See DOT-OST-2024-0065-4565, Blue Future (Correspondence).

⁷⁷ See DOT-OST-2024-0065-5714, Comments of Breeze Aviation Group, Inc.

2024’s statutory criteria. The comments discuss Breeze’s stated operating model, which connects unserved markets, and markets with only one-stop service via other air carrier hubs. Breeze states that its entry in other markets has led to a reduction in air fares and an increase in passenger traffic. Breeze’s comments state that FAA 2024, as passed by Congress, is incongruent with prior DCA legislation because it does not permit the Department to allocate slot exemptions to new entrant air carriers. Accordingly, Breeze asks that the Department “advocate for policies that make opportunities available for new entrant airlines at DCA and other constrained airports.”

Comments of Service Employees International Union⁷⁸

The Service Employees International Union (SEIU) submitted comments on behalf of its members. SEIU states that it is a labor organization representing two million workers across the United States and Canada. SEIU states that it represents more than 42,000 airport service workers. SEIU states that the employees it represents work for contractors hired by airlines, and therefore it is concerned regarding the “deeply consolidated” nature of the airline industry.⁷⁹ SEIU states that it is concerned about the potential for the allocation of additional slot exemptions at DCA to increase airline market concentration. SEIU requests that the Department award slot exemptions in this proceeding to air carriers that do not already have large slot portfolios at DCA. SEIU explains that doing so will create more competition at DCA, which benefits travelers and airport workers. SEIU states that DCA is the only U.S. slot-controlled airport where a single airline “holds a majority of slots.”⁸⁰ The comments further discuss concern regarding the impact of an increase in airline concentration at DCA on airport workers, stating that in the past airlines have “outsourced jobs, changed contractors, and moved work to subsidiaries as it suits their bottom line.”⁸¹ SEIU states that allocating slot exemptions in a pro-competitive manner would disincentivize unfair or deceptive employment practices for airport workers at DCA. SEIU states that some airlines and airline trade groups have argued against past attempts to update labor and wage practices by some airports, citing, for example, the Philadelphia City Council’s attempt to update minimum wage standards at Philadelphia International Airport. SEIU states that improved standards for airport workers bring consumer benefits through improved service and lower rates of turnover. SEIU requests that the Department consider these factors to allocate additional slot exemptions at DCA in a pro-competitive manner, and with recognition of Department precedent and current air carrier dominance at DCA.

IV. ELIGIBILITY OF AIR CARRIERS TO APPLY FOR AND RECEIVE SLOT EXEMPTIONS

The Department received multiple comments from air carriers regarding the eligibility of certain air carriers for available slot exemptions in this proceeding. The Department summarizes these comments and its tentative determinations regarding air carrier eligibility below.

⁷⁸ See DOT-OST-2024-0065-19814, Comments of Service Employees International Union.

⁷⁹ *Id.* at 2.

⁸⁰ *Id.*

⁸¹ *Id.* at 5.

Incumbency at DCA

Section 41718(i) states, “the Secretary shall make 2 [slot exemptions] available to incumbent air carriers qualifying for status as a limited incumbent carrier,” and, “shall make 8 [slot exemptions] available to incumbent air carriers qualifying for status as a non-limited incumbent carrier at Ronald Reagan Washington National Airport as of the date of enactment of the FAA Reauthorization Act of 2024.” This denotes a two-part test for eligibility: first, a carrier must be an incumbent on the date of enactment of FAA 2024; and second, a carrier must then also qualify for status as a limited incumbent, or non-limited incumbent carrier. “Incumbent air carrier” is not a defined term under either 14 C.F.R. Part 93 or 49 U.S.C. Subtitle VII. Therefore, we rely on a plain language reading of the statute. In this case, “incumbent air carrier” is a carrier that is engaged in air transportation at DCA as of the date of enactment of FAA 2024.⁸²

In its June 24, 2024 Notice, the Department, in coordination with the FAA Slot Administration Office, provided a list of non-limited incumbent and limited incumbent carriers providing air transportation at DCA on the date of the enactment of FAA 2024.⁸³ The Department notes that it did not receive comments regarding, and finds no reason not to confirm the eligibility of: American, Delta, Southwest, and United as non-limited incumbent air carriers in this proceeding. Each of these air carriers was engaged in air transportation at DCA as of the enactment date of the FAA 2024 Act and holds or operates more than 40 slots.

Eligibility of Frontier Airlines

In its application for service to SJU, Frontier states that it is eligible for slot exemptions in this proceeding as a limited incumbent carrier. Frontier states that it meets a plain meaning definition of “incumbent air carrier” because it marketed service at DCA as of the date of the enactment of FAA 2024. Additionally, Frontier states that 49 U.S.C. § 41714(h)(5) amends the regulatory definition of limited incumbent carrier under 14 C.F.R. § 93.213(a)(5) to increase the upper threshold from twelve to 40 slots, but does not specify a lower limit.⁸⁴ Therefore, Frontier argues that it is eligible as a limited incumbent in the Department’s proceeding, despite operating at DCA with six statutory slot exemptions but no slots.⁸⁵ Frontier states that it is the only limited incumbent air carrier eligible to apply for slot exemptions in this proceeding.

In comments filed July 17, 2024,⁸⁶ Frontier reiterates its position, stating that Spirit is not eligible to apply for slot exemptions in this proceeding due to the statutory requirement that any

⁸² See 49 U.S.C. § 40102(a)(5).

⁸³ See 6-24-2024 Notice at 2.

⁸⁴ See DOT-OST-2024-0065-5802, Frontier Airlines, Inc. Application for Slot Exemption.

⁸⁵ 49 U.S.C. § 41714(h)(5)(B)(i) amends the definition of limited incumbent air carrier in 14 CFR §§ 93.213(a)(5) and 93.223(c)(3) to exclude slot exemptions in a carrier’s total number of slots at a particular airport.

⁸⁶ See DOT-OST-2024-0065-22195, Frontier Airlines, Inc. Comments on Timely-Filed Applications.

qualifying carrier is an “incumbent,” interpreted by Frontier as marketing service at DCA at time of the enactment of FAA 2024.

Tentative Determination

Based upon the drafting of FAA 2024, the Department tentatively finds Frontier Airlines ineligible to apply for slot exemptions in this proceeding. Frontier passes the first test for eligibility but not the second. While Frontier was engaged in air transportation at DCA on the date of enactment of FAA 2024, therefore qualifying as an incumbent air carrier, it did (and continues to do) so by only using six slot exemption awards.⁸⁷ 49 U.S.C. § 41714(h)(5)(B)(i) excludes an air carrier’s count of slot exemptions at DCA for purposes of determining a carrier’s status as a limited incumbent air carrier in order to allocate slot exemptions at DCA.⁸⁸ 49 U.S.C. § 41714(h)(3) states that “[t]he term ‘new entrant air carrier’ means an air carrier that does not hold a slot at the airport concerned and has never sold or given up a slot at that airport after December 16, 1985, and a limited incumbent carrier.” It is important to note that while § 41714(h)(3) states that limited incumbent carriers are also new entrant carriers, the reverse is not true, *i.e.*, all new entrant carriers are not limited incumbent carriers.

Frontier, therefore, is not a limited incumbent air carrier, but rather meets the definition of a new entrant air carrier as defined by 49 U.S.C. § 41714(h)(3) since, at time of enactment of FAA 2024, Frontier did not hold or operate any non-exemption slots at DCA, nor had ever sold or given up a slot at DCA after December 16, 1985. Congress did not make any of the ten slot exemptions from the FAA 2024 Act available to new entrant air carriers. We tentatively determine, therefore, that Frontier is not eligible to receive a slot exemption award under 49 U.S.C. § 41718(i).

Eligibility of Spirit Airlines

On June 26, 2024, Spirit filed a Letter of Intent to apply for the two slot exemptions available for limited incumbent air carriers in this proceeding.⁸⁹ In its letter, Spirit states that it is eligible to apply for exemptions as a limited incumbent in this proceeding because it meets the definition of a limited incumbent carrier under 14 CFR § 93.213(a)(5) and a limited incumbent air carrier in 49 U.S.C. § 41714(h)(5). Spirit states that it received four permanent slots for service at DCA under an FAA slot lottery allocation proceeding conducted on August 12, 2003. In 2012, Spirit entered into an agreement to sell those four slots to Southwest. Therefore, Spirit argues that, under 14 CFR § 93.213(a)(5), it should be considered to hold its four permanent slots at DCA because they were held by Spirit after December 16, 1985, and were subsequently “transferred to another party other than by trade for one or more slots at the same airport.”

⁸⁷ Frontier received two slot exemptions by Order 2000-7-1 and four slot exemptions by Order 2004-4-1.

⁸⁸ 49 U.S.C. § 41714(h)(5)(B)(i) states that “[t]he term ‘limited incumbent air carrier’ has the meaning given that term in subpart S of part 93 of title 14, Code of Federal Regulations; except that—for purposes of such sections, the term ‘slot’ shall not include ‘slot exemptions.’”

⁸⁹ See DOT-OST-2024-0065-0007, Spirit Airlines, Inc. (Intent to Apply for 2 Limited Incumbent Slot Exemptions).

Tentative Determination

The Department tentatively finds Spirit Airlines ineligible to apply for slot exemptions in this proceeding. As above, the same two-part test applies: first, a carrier must be an incumbent on the date of enactment of FAA 2024; and second, a carrier must then also qualify for status as a limited incumbent carrier. In contrast to Frontier, Spirit does not pass the first part of the test. Spirit has not engaged in air transportation at DCA since 2012 (after it sold its slots to Southwest). Therefore, Spirit does not meet the prerequisite of incumbency under § 41718(i)(3) as it did not provide air transportation at DCA as of May 16, 2024 (the date of enactment of FAA 2024). We therefore tentatively find that Spirit is ineligible for an award in this proceeding.

Classification of Alaska Airlines

Spirit and Frontier both argue in comments to the Department that 49 U.S.C. § 41714(k) disqualifies Alaska from applying for slot exemptions as a limited incumbent air carrier.⁹⁰ Specifically, the carriers argue that Alaska's code sharing relationship with American requires that the Department consider the number of combined slots and slot exemptions held by both carriers when determining Alaska's status at DCA. The carriers request that Alaska only be considered eligible for slot exemptions in this proceeding as a non-limited incumbent carrier.

Tentative Determination

The Department tentatively determines for this proceeding that Alaska Airlines qualifies as a limited incumbent air carrier and is eligible to apply for slot exemptions in this category. Section 41714(k) states that "...an air carrier that operates under the same designator code, or has or enters into a code-share agreement, with any other air carrier shall not qualify for a new slot or slot exemption as a new entrant or limited incumbent air carrier at an airport if the total number of slots and slot exemptions held by the two carriers at the airport exceed 20 slots and slot exemptions." Section 41714(k) was created by the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century in April of 2000.⁹¹ Alaska and American have had a code share relationship at DCA since at least 2000.⁹² In 2012, Alaska received two slot exemption awards as a new entrant/limited incumbent carrier.⁹³

The scope of Alaska and American's code sharing relationship is limited by a settlement agreement reached in 2017 to resolve issues related to the merger transaction between Alaska and Virgin America Airlines.⁹⁴ The agreement prohibits Alaska from marketing any American flight that originates or terminates at any Key Alaska Airport, or American from marketing any

⁹⁰ See DOT-OST-2024-0065-22195, Frontier Airlines, Inc. Comments on Timely-Filed Applications; DOT-OST-2024-0065-22203, Consolidated Answer of Spirit Airlines, Inc.

⁹¹ Pub L. No. 106-181, Apr. 5, 2000.

⁹² Sabre GDD.

⁹³ See Order 2012-5-12 at 8.

⁹⁴ See <https://www.justice.gov/atr/case-document/file/915971/dl?inline>.

Alaska flight that originates or terminates at any Key American Airport.⁹⁵ The agreement also prohibits the marketing of Alaska and American service on defined overlap routes.⁹⁶ Therefore, Alaska does not presently place the American Airlines code on any nonstop flight it operates at DCA, and would not be permitted to do so for any service operated with a new slot exemption award. Additionally, the relationship between Alaska and American does not include any slot sharing provisions. Therefore, Alaska does not receive any meaningful access to the DCA market via its relationship with American. Further, the legislative history of § 41714(k), as represented by its predecessor provisions in the House and Senate, indicates that it was intended to prevent commuter air carriers (as defined at 49 U.S.C. § 41714(h)(1)) from gaining preferential access to slots or slot exemptions as a new entrant or limited incumbent, only to market and operate those slots on behalf of a larger, incumbent mainline carrier.⁹⁷ That is not the case here as Alaska is not a commuter air carrier and is not seeking to operate its proposed DCA-SAN service under the marketing control and branding of American.⁹⁸

Motion of JetBlue Concerning Application of United Airlines

JetBlue filed a motion to disqualify United's primary application for service to San Francisco from consideration in this proceeding. In its motion, JetBlue argues that United's application includes a proposed departure time that is outside of hours when slot exemptions may be allocated at DCA.⁹⁹ Specifically, JetBlue references Section 41718(c)(2)(A), which states that slot exemptions "may not be for operations between the hours of 10:00 p.m. and 7:00 a.m.; and...may not increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than five operations."

Tentative Determination

The Department tentatively denies JetBlue's motion for the following reasons. United has submitted an application in this proceeding that is compliant with the relevant statute and the Department's June 24, 2024, Notice. In keeping with the requirements of § 41718(i), the Department requested that air carriers submit certain information in their applications including

⁹⁵ Key American Airports are – DCA, Charlotte Douglas International Airport (CLT), Chicago Midway and Chicago O'Hare International Airports (MDW/ORD), Dallas Ft. Worth International Airport and Love Field (DFW/DAL), Fort Lauderdale Hollywood International Airport (FLL), John F. Kennedy International Airport (JFK), Miami International Airport (MIA), New York LaGuardia Airport (LGA), Philadelphia International Airport (PHL), Phoenix Sky Harbor International Airport (PHX). Key Alaska Airports are – Portland International Airport (PDX), Seattle-Tacoma International Airport (SEA), San Francisco International Airport (SFO), Ted Stevens Anchorage International Airport (ANC).

⁹⁶ Alaska and American are prohibited from marketing any flight that serves an Alaska/American overlap route, and any route between Los Angeles (LAX) and a Key Alaska Airport or a Key American Airport.

⁹⁷ See H.R. No. 106-167 and S. Rep. No. 106-9.

⁹⁸ 14 CFR § 298.3(b) defines a commuter air carrier as one that, among other things, does not directly or indirectly utilize large aircraft in air transportation and does not hold a certificate of public convenience and necessity. Alaska utilizes large aircraft in air transportation and holds a certificate of public convenience and necessity.

⁹⁹ See DOT-OST-2024-0065-10863, Motion of JetBlue Airways Corporation.

proposed operating schedules.¹⁰⁰ While the Department has used this information to assess the merits and viability of the applicants' proposals, as stated in the Department's Notice, final slot times for the granted exemptions will be allocated via Notice after the Department's final allocation decision. Selected carriers will be directed to work with the FAA Slot Administration Office to assign slot times corresponding with the authority granted in this proceeding and in accordance with the requirements of § 41718.¹⁰¹

V. TENTATIVE DECISION

The Department, in reaching its tentative decision, has carefully evaluated each application against the statutory criteria, and assessed the competitive and public benefits presented by each proposal. Following its evaluation, the Department tentatively concludes that the following applications best align with the statutory criteria and will provide the greatest competitive and public benefits: Alaska, for nonstop service to San Diego, CA; American, for nonstop service to San Antonio, TX; Delta, for nonstop service to Seattle, WA; Southwest, for nonstop service to Las Vegas, NV; and United, for nonstop service to San Francisco, CA. The Department provides its reasoning to support these decisions below.

As stated herein, § 41718(i) directs the Secretary to consider the extent to which the exemptions will: (A) enhance options for nonstop travel to beyond-perimeter airports that do not have nonstop service from Ronald Reagan Washington National Airport as of the date of enactment of FAA 2024, or (B) have a positive impact on the overall level of competition in the markets that will be served as a result of those exemptions. All of the eligible applications received by the Department have merit and are supported by stakeholders such as state and local elected officials, airports, regional corporations, and community organizations.

The Department also acknowledges comments received in this proceeding by multiple other stakeholders concerning the allocation of these additional slot exemptions.¹⁰² These comments primarily discuss market concentration at DCA and new entrant access to slots and slot exemptions. The Department notes that the criteria established by Congress in the FAA 2024 Act limit our discretion to select a wide range of air carriers and business models for the new slot exemptions made available at DCA.¹⁰³ The Department seeks to ensure that scarce aviation infrastructure and landing permissions, such as slots and slot exemptions, are used to the

¹⁰⁰ § 41718(i) states, "any slot exemption request filed with the Secretary...shall include: the names of the airports to be served, the times requested, and such additional information as the Secretary may require."

¹⁰¹ As referenced by this Order, 49 U.S.C. § 41718(c)(2)(A)(ii) limits the number of operations that may be added during any one hour between 7:00 a.m. and 9:59 p.m. at DCA to no more than five. Several hours have already reached the statutory limit and slot exemptions awarded in this proceeding will not be eligible for operation during these hours. Selected carriers are expected to work collaboratively with the Department and the FAA Slot Administration Office to accommodate new operations. Selected carriers may be asked to justify requested slot times or the viability of the proposed service during alternate operating hours.

¹⁰² See *infra* at 17.

¹⁰³ Departing from past practice, § 41718(i) does not reserve any exemptions in this proceeding for new entrant air carriers at DCA.

maximum benefit of the traveling public, as contemplated by 41718(i)(4)(B), and further discussed below.

Alaska to San Diego, CA

We tentatively conclude that Alaska merits an award of two exemptions for service to San Diego, CA. The proposed service will enhance options for travel to a beyond-perimeter airport that does not presently have nonstop service from DCA. The service will also have a positive impact on the overall level of competition in the Washington, DC-San Diego, CA market.

SAN is the largest local origin/destination market from DCA currently without nonstop service. The Department's analysis finds that there are approximately 139,000 annual local O&D passengers between DCA-SAN, or roughly 189 per-day, each way.¹⁰⁴ Because there is not presently nonstop service between the two markets, local travelers between DCA-SAN today can only access either market via connecting flight options from DCA or SAN. Further, the Department's analysis indicates that 34% of all local O&D customers between DCA-SAN are carried by American, with the second-largest share of O&D customers carried by Southwest (23%). Alaska currently carries a negligible share (less than 1%) of local O&D customers between DCA-SAN, and approximately 8% of local O&D customers between all Washington, DC airports and SAN. The introduction of nonstop service on Alaska would therefore provide a new, convenient flight option, and enhance competition by increasing the number of air carriers in the WAS-SAN market.

The Department's analysis indicates that air fares for DCA-SAN are currently 30% higher than the average for DCA, as well as the average air fare for the greater-Washington, DC market, and the U.S. national average.^{105, 106} Alaska does not have a dominant presence at DCA, holding only approximately 2% of allocated slots, and carrying approximately 3% of O&D traffic.^{107, 108} These factors combined persuade the Department to tentatively conclude that Alaska's DCA-SAN service would have a positive impact on the overall level of competition in the Washington, DC-San Diego market. While Alaska did not provide detail in its proposal regarding the availability of new connecting itineraries via the DCA-SAN service, the Department acknowledges that customers may also benefit from access to the carrier's nonstop network at SAN.

We are not persuaded by comments in opposition of an award to Alaska in this proceeding. The primary contention against Alaska is related to Alaska's classification as a limited incumbent carrier. This issue is addressed elsewhere herein.¹⁰⁹ Other comments from applicants concern the

¹⁰⁴ DOT DB1B Market YE 1Q2024.

¹⁰⁵ DCA/IAD/BWI Airports.

¹⁰⁶ DOT DB1B Market, OAG Schedules, DOT F41 Financials YE 1Q2024.

¹⁰⁷ FAA Slot Administration Data.

¹⁰⁸ DOT DB1B Market YE 1Q2024.

¹⁰⁹ *See supra*, at 18.

availability of existing nonstop service between other Washington-area airports and SAN.¹¹⁰ As stated above, Alaska carries a minimal share of local customers between Washington, DC, and San Diego, and does not hold a dominant share of allocated slots at DCA. The Department tentatively concludes that the benefits of an award to Alaska outweigh those of the proposals not selected in this proceeding.

American to San Antonio, TX

We tentatively conclude that American merits an award of two slot exemptions for service to San Antonio, TX. The proposed service will enhance options for travel to a beyond-perimeter airport that does not presently have service from DCA. The service will also have a positive impact on the overall level of competition in the Washington, DC-San Antonio market.

SAT is the second-largest local origin/destination market from DCA currently without nonstop service. The Department's analysis finds that there are approximately 110,000 annual local O&D passengers between DCA-SAT, or roughly 151 per-day, each way.¹¹¹ Because there is not presently nonstop service between the two markets, local travelers between DCA-SAT today can only access either market via connecting flight options from DCA or SAT. The Department notes its analysis finds that Southwest presently carries the single-largest share of local O&D customers between DCA-SAT (45%).¹¹² Therefore, it can be reasonably assessed that the introduction of new nonstop service between DCA-SAT will enhance the overall level of competition in the market by adding new capacity in a presently unserved market, and providing alternate flight options to the primary carrier in this city-pair.

Multiple parties and other carriers note that American holds the dominant share of allocated slots and slot exemptions at DCA and therefore should not receive additional access through this proceeding.¹¹³ Comments also state that American could feasibly serve SAT from DCA today using slot exemptions which it holds, and which do not include a market/ airport requirement (sometimes referred to as "flexible slot exemptions").¹¹⁴

The Department is not persuaded by these arguments against an award to American for service to SAT. The primary reason for this tentative conclusion is that American's application is one of only two from eligible air carriers that proposes new service to an unserved beyond-perimeter

¹¹⁰ Alaska and United currently operate nonstop service between IAD-SAN, Spirit and Southwest currently operate nonstop service between BWI-SAN.

¹¹¹ DOT DBIB Market YE 1Q2024.

¹¹² *Id.*

¹¹³ See DOT-OST-2024-0065-22180, Comments of Delta Air Lines, Inc.; DOT-OST-2024-0065-22193, Consolidated Answer of JetBlue Airways Corporation; DOT-OST-2024-0065-22225, Consolidated Answer of Southwest Airlines Co.; DOT-OST-2024-0065-22188, Consolidated Comments of United Airlines, Inc.; DOT-OST-2024-0065-4565, Blue Future (Correspondence); DOT-OST-2024-0065-5714, Comments of Breeze Aviation Group, Inc.; DOT-OST-2024-0065-19814, Comments of Service Employees International Union.

¹¹⁴ See Order 2012-2-1.

market from DCA – clearly fulfilling the first statutory requirement defined by § 41718(i).¹¹⁵ Further, and as stated above, American does not presently carry a majority-share of customers traveling between DCA-SAT. Finally, the award of an additional slot exemption pair for service to SAT will provide new connectivity from DCA without requiring a reduction in service to another beyond-perimeter market.

The Department is concerned about the concentration of slots at DCA. We note, however, that were American to use an existing “flexible” slot exemption pair to commence DCA-SAT service, it would require the removal of service from another beyond-perimeter market, which weighs against the statutory criteria in this proceeding. Additionally, as the slot exemptions being awarded here are market-specific, this mitigates the risk that American could move the service to a less competitive market in the future. The Department therefore tentatively concludes that the benefits of an award to American outweigh those of the proposals not selected in this proceeding as well as the detriments of selecting American.

Delta to Seattle, WA or Salt Lake City, UT

We tentatively conclude that Delta merits an award of two slot exemptions for service to Seattle, WA. The proposed service will enhance options for travel to a beyond-perimeter airport and have a positive impact on the overall level of competition in the Washington, DC-Seattle market.

The Department’s analysis finds that there are approximately 232,000 total annual local O&D passengers between DCA-SEA, or 279 per-day, each way.¹¹⁶ While there is a large local O&D market for DCA-SEA, the route is presently only served nonstop by one carrier, Alaska. The Department finds that Alaska presently carries approximately 73% of local O&D customers between DCA-SEA, with American a distant second-place competitor with only approximately 9% of passengers. Delta currently carries only approximately 6% of local O&D customers between DCA-SEA. Additionally, the Department notes that average air fares for DCA-SEA are presently more than 60% higher than the average at DCA, as well as the average air fare for the greater-Washington, DC market, and the U.S. national average.^{117, 118} This combination of factors leads the Department to tentatively conclude that an award to Delta for service to SEA would have a positive impact on the overall level of competition in the Washington, DC-Seattle market. The service will provide new capacity in a high-demand, beyond-perimeter market, while also offering consumers an alternative to the dominant, sole carrier on the route.

Other carriers stated that SEA is already served from DCA, and from the greater-Washington, DC market today.¹¹⁹ JetBlue states that Delta’s addition of service between DCA-SEA may result

¹¹⁵ See *supra* at 18.

¹¹⁶ DOT DB1B Market YE 1Q2024.

¹¹⁷ DCA/IAD/BWI Airports.

¹¹⁸ DOT DB1B Market, OAG Schedules, DOT F41 Financials YE 1Q2024.

¹¹⁹ See DOT-OST-2024-0065-22225, Consolidated Answer of Southwest Airlines Co.

in a reduction of service to SEA from other Washington-area airports.¹²⁰ JetBlue and Southwest state that Delta customers can presently access SEA via service connecting over other Delta hubs, and that Delta's air fares are typically higher than others in the markets it serves. Lastly, Southwest states that there is presently a surplus of seats in the DCA-SEA market, disagreeing with Delta's assessment of passenger demand for the proposed route.

The Department is not persuaded by these comments because, as stated above, the DCA-SEA route is presently served by a single carrier which carries a majority-share of local O&D traffic, and because current air fares are notably higher than the average for DCA and the Washington, DC market. The Department's analysis also finds that a large share of customers traveling between the greater-Washington, DC market and Seattle are connecting beyond either WAS or SEA (approximately 26%).¹²¹ This leads the Department to tentatively conclude that Delta's proposed service would increase nonstop seat capacity for local O&D customers, better serving customers traveling to/from Washington, DC, and Seattle. In consideration of the above, the Department tentatively concludes that the benefits of an award to Delta outweigh those of the proposals not selected in this proceeding.

In awarding two slot exemptions for service to Seattle, the Department selects Delta's primary proposed market in this proceeding. The Department tentatively concludes that Delta's primary proposal more fully meets the criteria of the statute, and its benefits outweigh a selection of Delta's backup proposal (SLC) in this proceeding.

Southwest to Las Vegas, NV

We tentatively conclude that Southwest merits an award of two slot exemptions for service to Las Vegas, NV. The proposed service will enhance options for travel to a beyond-perimeter airport and have a positive impact on the overall level of competition in the Washington, DC-Las Vegas market.

LAS is one of the largest local O&D markets proposed for service in this proceeding. The Department's analysis finds that there are approximately 275,000 annual O&D customers between DCA-LAS, or 376 per-day, each way.¹²² Further, the DCA-LAS O&D market has the greatest discrepancy between annual passengers and available nonstop seats of any market proposed in this proceeding. For the year ending first quarter of 2024, there were approximately 137,000 nonstop seats between DCA-LAS, or 0.5 seats per O&D passenger.¹²³ Put simply, the current O&D market between DCA-LAS is roughly two times larger than the available nonstop capacity. Southwest's service would therefore enhance competition by providing new service in a high-demand, underserved beyond-perimeter market.

¹²⁰ See DOT-OST-2024-0065-22193, Consolidated Answer of JetBlue Airways Corporation.

¹²¹ SABRE GDD.

¹²² DOT DB1B Market YE 1Q2024.

¹²³ DOT DB1B Market, OAG Schedules YE 1Q2024.

DCA-LAS is presently served nonstop by American using an existing slot exemption award from the Department.¹²⁴ Of local O&D customers traveling between DCA-LAS, nearly 56% are carried by American. Southwest carries the second-largest share of customers between DCA-LAS (20%).¹²⁵ However, because Southwest does not currently offer nonstop service on this route, the carrier's customers can only access DCA or LAS via one-stop connecting service. Further, current air fares between DCA-LAS are roughly 27-29% higher than average for DCA, as well as the average air fare for the greater-Washington, DC market, and the U.S. national average.^{126, 127} These factors suggest that new nonstop service between DCA-LAS would have a positive impact on the overall level of competition in the market by providing a nonstop alternative to service currently operated by the dominant carrier at DCA, and by increasing flight options from DCA on a low fare air carrier.

United, in opposition, states that the consumer benefits of its own proposal for service to SFO or LAX outweighs that of Southwest's proposed DCA-LAS service.¹²⁸ United also states that its proposed service would benefit a larger passenger market and provide greater one-stop connections for DCA travelers. JetBlue states that the addition of DCA-LAS service by Southwest could lead to the reduction of service from IAD or BWI to LAS by Southwest and other carriers.¹²⁹

As stated above, the DCA-LAS local O&D market is large, and there is presently a deficit of nonstop seats as compared to annual passengers. Additionally, the introduction of Southwest's service would compete with American, which is the only carrier operating DCA-LAS, and which carries a majority share of O&D passengers on the route. The Department also notes comments of Delta in support of Southwest's proposal.¹³⁰ In consideration of the above, the Department tentatively concludes that the benefits of an award to Southwest outweigh those of the proposals not selected in this proceeding.

United to San Francisco, CA or Los Angeles, CA

We tentatively conclude that United merits an award of two slot exemptions for service to San Francisco, CA. The proposed service will enhance options for travel to a beyond-perimeter airport and have a positive impact on the overall level of competition in the Washington, DC-San Francisco market.

SFO is one of the largest local O&D markets proposed for service in this proceeding. The Department's analysis finds that there are approximately 238,000 total annual local O&D

¹²⁴ See Order 2000-7-1.

¹²⁵ DOT DB1B Market YE 1Q2024.

¹²⁶ DCA/IAD/BWI Airports.

¹²⁷ DOT DB1B Market, OAG Schedules, DOT F41 Financials YE 1Q2024.

¹²⁸ See DOT-OST-2024-0065-22188, Consolidated Comments of United Airlines, Inc.

¹²⁹ See DOT-OST-2024-0065-22193, Consolidated Answer of JetBlue Airways Corporation.

¹³⁰ See DOT-OST-2024-0065-22180, Comments of Delta Air Lines, Inc.

passengers between DCA-SFO, or roughly 393 per-day, each way.¹³¹ Of these passengers, United and Alaska both carry a roughly even share, around 36% and 35% respectively. While Alaska and United presently operate nonstop service between DCA-SFO using slot exemption awards, the Department tentatively concludes that United's proposed second-daily service would have a positive impact on the overall level of competition in the market.¹³²

This is primarily due to the prospective addition of newly accessible one-stop connecting markets from DCA, over United's SFO hub. The Department's analysis of United's application finds that the proposed service could add up to 32 new roundtrip one-stop connections from DCA via SFO, including seven international connections to points in Asia.¹³³ While the availability of new connecting points is, in part, dependent on United's operating schedule for the proposed service, the Department believes it is likely that new time-of-day coverage between DCA-SFO would enable added one-stop connections that will benefit consumers in the Washington, DC-San Francisco market.

Current air fares between DCA-SFO are approximately 60% higher than the average for DCA, as well as the average air fare for the greater-Washington, DC market, and the U.S. national average.^{134, 135} Because United is not the sole nor dominant carrier on the DCA-SFO route, the Department believes that the addition of nonstop seat capacity on the route would likely place downward pressure on air fare levels for DCA-SFO. Additionally, United is not a dominant carrier at DCA, holding only nine percent of allocated slots, including four slot exemptions.¹³⁶ These factors combined lead the Department to tentatively conclude that the addition of service between DCA-SFO will have a positive impact on the overall level of competition in the market by providing additional flight options in a high-demand beyond-perimeter market, expanding accessible one-stop markets from DCA, and stimulating price discipline on the route through added capacity.

Multiple other applicants state that United already serves DCA-SFO, and therefore its proposal would not enhance competition on the route.¹³⁷ Delta states that the addition of service between DCA-SFO would further strengthen United's dominance in the greater-Washington, DC market, and would not enhance competition because DCA-SFO is presently served nonstop. The Department acknowledges United's presence in the greater-Washington, DC market through its IAD hub. For the specific circumstance of this proceeding, however, the Department is persuaded that the competitive benefit of an award to United fulfills the direction of the statute.

¹³¹ DOT DB1B Market YE 1Q2024.

¹³² See Order 2012-2-21.

¹³³ OAG Schedules YE 1Q2024.

¹³⁴ DCA/IAD/BWI Airports.

¹³⁵ DOT DB1B Market, OAG Schedules, DOT F41 Financials YE 1Q2024.

¹³⁶ FAA Slot Administration Data.

¹³⁷ See DOT-OST-2024-0065-22180, Comments of Delta Air Lines, Inc.; DOT-OST-2024-0065-22193, Consolidated Answer of JetBlue Airways Corporation; DOT-OST-2024-0065-22225, Consolidated Answer of Southwest Airlines Co., DOT-OST-2024-0065-22203, Consolidated Answer of Spirit Airlines, Inc.

The Department tentatively concludes that the benefits of an award to United outweigh those of the proposals not selected in this proceeding and the potential detriments of selecting United.

In awarding two slot exemptions for service to San Francisco, the Department selects United's primary proposed market in this proceeding. The Department tentatively concludes that United's primary proposal more fully meets the criteria of the statute, and its benefits outweigh a selection of United's backup proposal (LAX) in this proceeding.

JetBlue to San Juan, PR or Los Angeles, CA

We tentatively conclude that JetBlue does not merit an award of two slot exemptions in this proceeding for proposed service to San Juan, PR or backup proposed service to Los Angeles, CA. While JetBlue's primary proposal would provide expanded access between Washington, DC and Puerto Rico, the service would not enhance air travel options in an unserved beyond-perimeter market. Additionally, because JetBlue is currently the sole operator between DCA-SJU, the Department finds that the proposed second-daily service would not have a significant, positive impact on the level of competition in the Washington, DC-San Juan market.

While JetBlue is not a significant slot-holder at DCA, the Department's analysis finds that JetBlue presently carries nearly 80% of local O&D passengers traveling between DCA-SJU, and that air fares on the route are approximately 16-18% higher than the average for DCA, as well as the average air fare for the greater-Washington, DC market, and the U.S. national average.^{138, 139} Because an award to JetBlue would further strengthen the carrier's dominance in the DCA-SJU market, the application is less compelling than others in this proceeding. The Department acknowledges the importance of air connectivity between the continental U.S. and Puerto Rico. In consideration of the above factors however, the Department tentatively finds that the potential benefits of JetBlue's proposal do not outweigh those of the other applications tentatively selected in this proceeding.

Regarding its backup proposal for service to Los Angeles, JetBlue did not supply the Department with material analysis supporting its application for DCA-LAX. Therefore, the Department cannot adequately assess the merits or deficiencies of the proposed service, nor transparently evaluate the backup proposal.

VI. CONDITIONS

Start-up

We expect that awardees will inaugurate full service in a reasonable timeframe – tentatively 90 days following the date of service of a Final Order, unless otherwise approved by the

¹³⁸ DCA/IAD/BWI Airports.

¹³⁹ DOT DB1B Market YE 1Q2024.

Department. If, for any reason, an awardee is not able to use the slot exemptions awarded, the carrier shall notify the Department as soon as possible - tentatively not later than 10 days after the date of service of a Final Order.

Assignment of Slot Times

As stated in the Department's June 24, 2024, Notice, 49 U.S.C. § 41718(C)(2)(ii) allows the Department to assign two additional slot exemptions per one hour period (for a total of five). There are 15 hourly periods between 7:00 a.m. EST and 9:59 p.m. EST, and all slot exemptions must fit into the combined 75 slot times during these periods. Applicants were advised of these constraints, and that multiple periods have already reached the statutory cap for slot exemption assignments. In a Final Order in this proceeding, selected carriers will be directed to work collaboratively with the FAA Slot Administration Office to accommodate these new operations. Selected carriers may be asked to justify requested slot times or the viability of the proposed service during alternate operating hours.

This Order is issued under authority redelegated by the Under Secretary of Transportation in 49 CFR § 1.25a(b)(6)(ii)(D) to the Assistant Secretary for Aviation and International Affairs.

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not issue an order making final our tentative findings and conclusions discussed herein. Objections or comments to our tentative findings and conclusions shall be due no later than 14 calendar days from the service date of this Order, and answers to objections shall be due no later than seven (7) business days thereafter. In the event that no objections are filed, all further procedural steps shall be deemed waived, and we may enter an order making final our tentative findings and conclusions;
2. We tentatively grant slot exemptions from 14 C.F.R. Part 93, Subparts K and S, to Alaska Airlines, Inc. (two slot exemptions to serve San Diego International Airport); American Airlines, Inc. (two slot exemptions to serve San Antonio International Airport); Delta Air Lines, Inc. (two slot exemptions to serve Seattle-Tacoma International Airport); Southwest Airlines Co. (two slot exemptions to serve Harry Reid International Airport); and United Airlines, Inc. (two slot exemptions to serve San Francisco International Airport);
3. Except as otherwise granted, we tentatively deny all other applications for exemptions from 14 C.F.R. Part 93, Subparts K and S, filed in this docket;
4. The Department prohibits Alaska Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., Southwest Airlines Co., and United Airlines, Inc. from selling, trading, transferring,

or conveying the operating authorities granted by the subject exemptions, except through an air carrier merger or acquisition;

5. The Department prohibits Alaska Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., Southwest Airlines Co., and United Airlines, Inc. from using the operating authorities granted by the subject exemptions to conduct air transportation to points other than those approved by this Order;
6. The authorities tentatively granted under these exemptions are subject to all of the other requirements delineated in 14 C.F.R. Part 93, Subparts K and S, including, but not limited to, the reporting provisions and use-or-lose requirements set forth in 14 C.F.R. § 93.227;
7. The Department tentatively denies the motion of JetBlue Airways Corporation to disqualify United from consideration for an award of DCA beyond-perimeter exemption slots, filed on July 10, 2024;
8. The Department grants all motions seeking leave to file otherwise unauthorized documents submitted by various air carriers in the docket; and
9. We will serve this Order on all parties on the service list in this docket.

By:

CAROL A. (ANNIE) PETSONK
Assistant Secretary for Aviation
and International Affairs

(SEAL)

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