

BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Application of)
)
)
HAWAIIAN AIRLINES, INC.) Docket DOT-OST-2016-0048
)
In the matter of 2016 U.S.-Haneda)
Combination Services Allocation Proceeding)
)
)

**MOTION OF HAWAIIAN AIRLINES, INC.
FOR IMMEDIATE GRANT OF UNCONTESTED APPLICATION FOR
ROUTE AUTHORITY TO SERVE TOKYO, JAPAN (HANEDA AIRPORT)
FROM KONA, HAWAII (3 TIMES PER WEEK) AND HONOLULU, HAWAII (4 TIMES
PER WEEK) DURING NIGHTTIME OPERATING HOURS**

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Hawaiian's second priority choice to serve Haneda from Kona/Honolulu, Hawaiian was the only carrier to submit an application for the single available nighttime Haneda frequency. While Hawaiian's application prioritized daytime service over nighttime authority for the Kona/Honolulu-Haneda route, Hawaiian will accept the award of nighttime authority for this proposed service. Accordingly, because Hawaiian's application for nighttime authority is uncontested, Hawaiian submits this motion for immediate award of the nighttime authority to serve its proposed route.³

To be clear, Hawaiian's first priority is and remains the permanent award of authority to serve Honolulu daily during daytime operating hours, and nothing in this motion implies implicitly or otherwise that Hawaiian's needs are met with the award of this nighttime route authority. Hawaiian will continue to pursue that application with the upmost vigor. To that end, Hawaiian will submit a timely and compelling Answer to the applications of American, Delta and United and advocate for the award of permanent authority to serve Haneda-Honolulu daily during daytime operating hours. It is as a separate matter, in the absence of a competing application for the nighttime route, that Hawaiian requests that the Department follow past precedent in proceedings where the award of limited entry authority is not contested and proceed directly to issue a Notice of Action Taken granting the authority to Hawaiian to operate its Haneda-Kona/Honolulu route during nighttime operating hours.

³ For the avoidance of doubt, Hawaiian is not seeking authority *pendente lite* to operate its proposed service pending the outcome of this proceeding, but the permanent award of authority to serve Kona/Honolulu-Haneda during nighttime operating hours.

I. Hawaiian Requests Grant of Uncontested Application to Initiate Service During the 2016 Winter Traffic Season.

Hawaiian requests that the Department grant its uncontested application to serve the Kona/Honolulu-Haneda route in time for Hawaiian to participate in the slot allocation process for the forthcoming winter traffic season. As stated in the Initiating Order, “the Department recognizes that U.S. carriers face a deadline of May 20, 2016 (May 19, 2016 in the United States), to file applications with Japanese authorities for takeoff and landing slot times at Haneda airport for the forthcoming winter traffic season that begins October 30, 2016.”⁴ October 30, 2016 is also the date that the 2016 Amendment to the U.S.-Japan Open Skies Agreement authorizing the additional U.S.-Haneda opportunities takes effect.⁵ By granting Hawaiian’s application, the Department will ensure that the limited Haneda opportunity will be utilized as soon as possible. As the first carrier to initiate Haneda service after receiving authority in the 2010 Haneda allocation proceeding, Hawaiian has established a track record of promptly maximizing the benefits of its Haneda authority.

Hawaiian proposes to initiate the four-times-per week Honolulu-Haneda service on or about October 30, 2016. Because Hawaiian is proposing to reintroduce international service to Kona, Hawaiian proposes to initiate its three-times-per-week Kona service on or about October 30, 2016 or 90 days following the Department’s grant of the authority, whichever is later.

⁴ Instituting Order at 4.

⁵ Email from John Dunham, International Civil Aviation Officer, U.S. Dep’t of State, U.S.-Japan Agreement exchange of dipnotes (Apr. 27, 2016), on file with Cooley, LLP (“Yesterday we exchanged diplomatic notes with Japan to finalize the agreement on access to Haneda airport, reached in Tokyo in February. The dipnotes contained the amendment to Section 3 of the Air Transport Agreement, as recorded in our Record of Discussions (posted on our website), and stated that the agreement shall enter into force on October 30, 2016.”).

Consistent with the relief that the Department granted to American with respect to the start of its Haneda-Los Angeles service, Hawaiian's proposal to start the Haneda-Honolulu/Kona service is conditioned on the receipt of commercially-viable slots from the Japanese Civil Aviation Bureau.⁶ Hawaiian believes that the Department's timely grant of this motion enabling Hawaiian to participate in the upcoming slot allocation process will increase the likelihood that Hawaiian will receive a commercially viable slot pair.

II. The Award of Hawaiian's Uncontested Application Is Consistent with Past Department Precedent and Maximizes Public Benefits.

Grant of Hawaiian's uncontested application is consistent with longstanding Department practice. It is axiomatic that the Department needs not hold a comparative proceeding if there is nothing to contest. When frequencies are available on limited entry routes, the Department will promptly grant carrier requests for authority in the ordinary course.⁷ Even in proceedings that are initially contested, the Department will promptly grant authority when there are no longer competing applications. For example, in the 2000 U.S-France Combination Service Frequency Allocation proceeding, there were 15 weekly frequencies at issue for allocation. United filed a motion withdrawing its application for frequencies, and in response, American and Delta filed a

⁶ Reply of American Airlines, Inc. to Motion of Delta Air Lines, Inc. to Revoke Backup Award And Motion of American Airlines, Inc. for a Startup Extension, DOT-OST-2010-0018 (Oct. 9, 2015), at 1 (requesting startup extension because commercially viable slots were not available). Hawaiian supported American's request for a startup extension on this basis, *see* Answer of Hawaiian Airlines, Inc. to Motion of American for a Startup Extension and Application of Hawaiian Airlines, Inc. for Award of Backup Authority, DOT-OST-2010-0018 (Oct. 21, 2015), at 1, and the Department granted American the requested relief. *See* Order 2015-11-23 (issued Nov. 25, 2015).

⁷ *See, e.g.*, Application of United Airlines, Inc. for a Frequency Allocation (SFO-PVG), DOT-OST-2014-0196 (Nov. 13, 2014). The Department granted United's application within 8 days. *See* Notice of Action Taken (issued Nov. 21, 2014).

joint answer indicating that each carrier would seek seven frequencies, meaning the frequencies were no longer contested.⁸ After initially shortening the answer periods, the Department granted the relief sought in the joint answer in less than 10 days, stating, “We find that, in the circumstances presented, approval of the carriers’ requests is consistent with the public interest.”⁹ Accordingly, in the circumstances presented here where Hawaiian’s application for nighttime operating authority is uncontested, the Department should promptly grant Hawaiian authority to serve its proposed Kona/Honolulu-Haneda route.

A prompt award of Hawaiian’s uncontested application will maximize public benefits for two independent reasons. First, Hawaiian will increase capacity in the U.S.-Japan market. In addition to the nighttime route, Hawaiian will operate both the Haneda-Honolulu daily daytime service authorized by Department’s Order on Reconsideration¹⁰ and will continue with its planned launch of daily Narita-Honolulu service in July of 2016.

Second, in addition to the numerous public benefits detailed in this docket, grant of Hawaiian’s instant motion serves another public interest previously recognized by the Department in prior Haneda allocation proceedings. By imposing strict conditions on Delta requiring year-round operation of its Seattle-Haneda route authority, the Department made clear that these limited Haneda opportunities must be put to use.¹¹ Granting Hawaiian’s motion will

⁸ In the matter of U.S.-France Frequency Allocation Proceeding, Docket OST-2000-7628, Joint Answer of American Airlines, Inc. and Delta Air Lines, Inc. to Motion of United Airlines, Inc. to Withdraw Its Application at 2 (Aug. 29, 2000).

⁹ Notice of Action Taken, Docket OST-2000-7628 (Sept. 7, 2000).

¹⁰ As detailed in Hawaiian’s Application and Answer, Hawaiian believes strongly that this authority should be confirmed as permanent.

¹¹ Order 2015-3-17 (issued Mar. 27, 2015), at 10.

ensure that the public benefits of Hawaiian's service will begin to accrue as soon as possible without having to wait for conclusion of the contested portion of this proceeding, as Hawaiian can begin its efforts to market and initiate the service.

III. CONCLUSION.

Hawaiian respectfully requests that the Department grant the following relief:

- (1) shorten the answer period for any responsive pleadings to Hawaiian's Motion to facilitate prompt grant of Hawaiian's uncontested application;
- (2) grant Hawaiian's uncontested application to serve Haneda from Kona (3 times per week) and Honolulu (4 times per week) during nighttime operating hours; and
- (3) such other relief as the Department finds is consistent with the public interest.

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Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion of Hawaiian Airlines, Inc. was served this 4th day of May 2016 via email transmission or U.S. mail on the following:

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