

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

**CONTINUATION OF CERTAIN AIR
SERVICE**

Under Public Law 116-336 §§ 4005 and 4114 (b)

Docket DOT-OST-2020-0037

REQUEST FOR EXEMPTION FROM SERVICE OBLIGATION

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being taken to protect JetBlue crewmembers, other network-related actions have been planned to help preserve financial liquidity and minimize operational risk while the coronavirus pandemic remains epicentered in New York City, the location of JetBlue’s headquarters and largest base of operations. These steps will help ensure that JetBlue emerges from this crisis as strong as possible, so that it can continue being a competitive force for good in the U.S. airline industry when the economy rebounds.

Liquidity

JetBlue, like all other U.S. airlines, is facing a liquidity crisis based on the current, near total lack of demand. While the Payroll Support program under the CARES Act may ease this shortfall, it will only delay the crisis through September 30, 2020, unless demand for travel significantly increases. By comparison, last April JetBlue earned approximately \$22 million each day in revenue, whereas this April it is only \$1 million. Further, in accordance with the Department’s recently issued enforcement guidance, JetBlue is issuing cash refunds of more than \$2 million each day along with millions more in travel credits for cancelled bookings. JetBlue is burning through its pre-crisis strong balance sheet at a rate that is simply not sustainable. Fortunately, Congress recognized the crisis being faced by airlines and in the CARES Act mandated that the Secretary, when considering service levels for airlines that availed themselves of the Payroll Support program, maintain levels that are “reasonable and practicable.”⁵ This urgent exemption request plainly meets these standards and is vital to the continued, extended liquidity of JetBlue.

⁵ § 4114(b)(1) of the CARES Act states “The Secretary of Transportation is authorized to require, to the extent reasonable and practicable, an air carrier provided financial assistance under this subtitle to maintain scheduled air transportation service, as the Secretary of Transportation deems necessary, to ensure services to any point served by that carrier before March 1, 2020.”

Co-Terminal Markets

JetBlue announced today that, in accordance with the provisions of the Order, it is temporarily suspending service at the following U.S. airports, while maintaining service at nearby co-terminal airports:

Temporary Suspension	Co-Terminal Airport With Service
BWI - Baltimore/Washington International Airport	DCA
BUR - Hollywood Burbank Airport	LAX and LGB
HPN - Westchester County Airport	JFK and EWR
LGA - LaGuardia Airport	JFK and EWR
ONT - Ontario International Airport	LAX and LGB
PVD - T. F. Green International Airport	BOS
SJC - San Jose Mineta International Airport	SFO
SWF - New York Stewart International Airport	JFK, EWR and ALB

These temporary suspensions are effective April 15, 2020.

Reasonable and Practicable Exemptions

JetBlue is also planning to implement additional temporary service reductions and suspensions, which were previously planned and to be announced yesterday. However, in light of the Order, which was issued yesterday morning, JetBlue temporarily postponed those plans and now requests an emergency exemption authorizing it to continue its planned temporary service reductions at additional airports where there is no online co-terminal airport alternative (as defined in the Order):

ABQ – Albuquerque International Sunport
BQN – Aguadilla / Rafael Hernández International Airport
BZN – Bozeman Yellowstone International Airport
DFW – Dallas/Fort Worth International Airport
IAH – Houston George Bush Intercontinental Airport
MSP – Minneapolis–Saint Paul International Airport
ORH – Worcester Regional Airport
PDX – Portland International Airport
PSE – Mercedita / Ponce International Airport
RNO – Reno-Tahoe International Airport
SMF – Sacramento International Airport

At these airports, JetBlue intends to temporarily suspend service effective April 15, 2020 through June 10, 2020, and therefore respectfully requests an emergency exemption allowing it to load these schedule changes and make the necessary operational plans as soon as possible.

Public Interest Justification

This consolidated request for an exemption for these above-listed markets is consistent with the public interest and the explicit direction of Congress.⁶ These temporary network adjustments are being undertaken to ensure that JetBlue’s liquidity remains functional. There are ample reasons favoring JetBlue’s exemption request. The competitive situation has drastically worsened, even in the last few days. It has been well-documented that travel nationwide is down more than 90%.⁷ In some metropolitan areas, including New York, the reduction is closer to 100%. Simply put, there are so few customers traveling to justify even the reduced service levels required by the Order, and a rigid interpretation of the Service Obligation will only threaten to unnecessarily diminish JetBlue’s liquidity, with no commensurate public interest benefit.

Prompt approval of this exemption request will help ensure that JetBlue is in a post-crisis position to contribute to the country’s economic recovery. JetBlue fully intends to gradually

⁶ *Id.*

⁷ “Air Travelers in U.S. Dip Below 100,000 in Worst-Ever Free Fall,” April 8, 2020, Bloomberg Government.

resume service to the levels prescribed in the Order at each of these airports as soon as it is both safe to do so and when even the slightest customer demand re-emerges. When this health and economic crisis subsides, a strong and healthy JetBlue will play a pivotal competitive role in ensuring that travel can resume and U.S. economic links are strengthened.

Furthermore, under the terms of the CARES Act, JetBlue will continue to pay all crewmembers who work at these affected airports through, at a minimum, September 30, 2020, should the pending exemption request be granted. Finally, there will be de minimis impact on passengers as JetBlue recently signed two industry-standard reprotect agreements with Alaska Airlines, Inc. and American Airlines, Inc., which will likely allow the few customers who are still currently flying these routes to be re-accommodated.

For each of these specific airports, there are also compelling public interest reasons for the Department to grant JetBlue an exemption that is squarely within the congressionally-mandated review standards of “reasonable and practicable”:

- ABQ – JetBlue serves ABQ with transcontinental service to/from JFK. After reducing this service to twice weekly, booked load factors have remained below 25% for the month of April with actual flown load factors even lower, making the 1,800 mile route unsustainable for JetBlue to operate.
- BQN – In response to a request from the Governor of Puerto Rico, the FAA has agreed to suspend all commercial air carrier operations at BQN during the COVID-19 pandemic (Attached as Appendix 1). BQN will also continue to be served via nearby SJU.⁸
- BZN – JetBlue serves BZN to/from LGB, but suspends service during certain months of the year when demand does not warrant the service. After reducing the service from a peak of two flights per week to up to one flight per week in April, booked load factors are below 5% for the month, making the 900-mile route unsustainable for JetBlue to operate. If granted the exemption, JetBlue plans to resume BZN service on June 11, 2020.
- DFW – JetBlue serves DFW to/from Boston, MA (BOS). After reducing the service from a pre-crisis peak of 12 flights per week to five flights per week, booked load factors have remained

⁸ The Department noted that “[r]equiring carriers to continue service to multiple airports serving a single point would impose undue costs on covered carriers.” The Order at 4.

below 20% for the month of April with actual load factors even lower, making the 1,500 mile route unsustainable for JetBlue to operate. The Dallas/Fort Worth area serves as a primary hub for two major carriers, including American Airlines, Inc., which will allow affected JetBlue customers to be re-accommodated.

- IAH – JetBlue serves IAH to/from BOS and JFK. After reducing the service from a pre-crisis peak of 14 flights per week to four flights per week (per market), booked load factors have remained below 15% for the month of April with actual flown load factors even lower, making the 1,400+ mile routes unsustainable for JetBlue to operate. The Houston area serves as a primary hub for two major carriers.
- MSP – JetBlue serves MSP to/from BOS. After reducing the service from a peak of 20 flights per week to one flight per day, booked load factors have remained below 20% for the month of April with actual flown load factors even lower, making the 1,100-mile route unsustainable for JetBlue to operate. MSP serves as a primary hub for a major carrier.
- ORH – JetBlue serves ORH to/from JFK. After cancelling pre-existing service between ORH and FLL/MCO, JetBlue’s remaining service between ORH and JFK is booked to less than a 15% load factor for the month of April, making the service unsustainable for JetBlue to operate. Additionally, JetBlue’s largest domestic operation is at BOS, only 55 miles away from ORH. ORH is also closer to BOS than PVD, which is deemed to be a co-terminal airport with BOS in the Order.
- PDX – JetBlue serves PDX to/from JFK and LGB. After reducing the LGB service to two flights per week, booked load factors have remained below 30% for the month of April with actual flown load factors even lower, making the 2,450 mile and 800-mile routes, respectively, unsustainable for JetBlue to operate. PDX is also a major hub for Alaska Airlines, Inc., which will allow affected JetBlue customers to be re-accommodated. Further, LGB is a co-terminal city with LAX, which is a major hub for both American and Alaska, as well as the three other largest U.S. carriers.
- PSE – In response to a request from the Governor of Puerto Rico, the FAA has agreed to suspend all commercial air carrier operations at PSE during the COVID-19 pandemic (Attached as Appendix 1). PSE will also continue to be served via nearby SJU.⁹
- RNO – JetBlue serves RNO to/from JFK and LGB. After reducing the LGB service to two flights per week, booked load factors have remained below 15% for the month of April with actual flown load factors even lower, making the 2,400-mile and 400-mile routes, respectively, unsustainable for JetBlue to operate.
- SMF – JetBlue serves SMF with transcontinental service to/from JFK. After reducing this service to four flights weekly, booked load factors have remained below 20% for the month of April with actual flown load factors even lower, making the 2,500-mile route unsustainable for JetBlue to operate. Additionally, JetBlue continues to operate service between nearby SFO (approximately 90 miles away) and JFK.

⁹ *Id.*

Seasonal Exemption

JetBlue hereby confirms that it selects the winter 2020 schedule to serve as the basis for its Service Obligation.¹⁰ In accord with the winter 2020 schedule baseline, JetBlue hereby requests the following exemption:

PSP – Palm Springs International Airport

- PSP – JetBlue operates service between BOS/JFK and PSP on a seasonal basis. As of March 27, 2020, the service was discontinued until October 2020. Reinstating service in April after discontinuing operations for the off-season would present significant challenges, both operationally and financially for JetBlue. Given there currently is not any JetBlue service scheduled to/from PSP until October, flights scheduled during the off-season for the purposes of meeting the requirements of the Order would be expected to operate at significantly low load factors, especially taking into consideration certain flights in April would fly within days of first going out for sale. Additionally, JetBlue continues to operate service between LAX (about 120 miles from PSP) and BOS/JFK. JetBlue plans to resume service to/from PSP in October 2020 as currently planned.

Conclusion

For all of these reasons, JetBlue respectfully requests that the exemption sought herein be granted. JetBlue also respectfully requests that the exemption, which meets the “reasonable and practicable” standard of the CARES Act and is consistent with the public interest, be granted orally on an emergency basis pending ultimate disposition of this request.

Respectfully submitted,



Robert C. Land
Senior Vice President Government Affairs and
Associate General Counsel

April 8, 2020

¹⁰ JetBlue will again inform the Department of this selection when it submits its first monthly certification report.



Office of the Associate Administrator
for Airports

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March 23, 2020

Joel A. Pizá Batiz, Esq.
Executive Director
Puerto Rico Ports Authority
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Dear Mr. Pizá Batiz:

I write in response to the letter of March 21 from Governor Wanda Vázquez, which outlines proposed restrictions on flights into Puerto Rico in response to the novel coronavirus (COVID-19) pandemic. Governor Vázquez's letter follows a March 20 telephone conversation between the Federal Aviation Administration's (FAA) Office of the Chief Counsel and Office of Airports, the Honorable Román, Puerto Rico Secretary of State, General José Reyes, United States National Guard, and representatives of the Puerto Rico Ports Authority (PRPA) to discuss flight restrictions that had been proposed in letters of March 4 and 17 from the PRPA. I understand that the flight restrictions outlined in your March 21 letter supersede the proposals made in those two earlier letters.

As outlined in Governor Vázquez's letter and during the March 20 telephone call, the objective behind the proposed flight restrictions is to centralize the health screening of persons arriving into Puerto Rico by air. Governor Vázquez noted in particular that Luis Muñoz Marín International Airport (SJU) is the only airport in Puerto Rico with the resources to perform infrared temperature screening and the only airport at which Puerto Rico can provide the National Guard to perform or assist with the screening. In the March 20 call, Secretary Román also emphasized the fragile state of Puerto Rico's public health infrastructure, following two hurricanes and an earthquake, and the particular vulnerability that the islands face from contagious disease outbreaks such as the COVID-19 virus. I can assure you that the FAA and the Federal Government share the Governor's concerns and her desire to stop the spread of this deadly virus.

The request to impose restrictions on flights coming into Puerto Rico consists of two elements. The first element would require that all Part 121 passenger flights be redirected to land at SJU, where the Puerto Rican Health Department (PRHD) has centralized health

screening for arriving passengers. Although not stated in your letter, we understand from the March 20 discussion that the intent is to divert all scheduled and unscheduled commercial air carrier passenger operations – whether foreign or domestic – to SJU for screening by the PRHD. The second element in the request would require all domestic and foreign general aviation and charter passenger flights arriving from a location outside Puerto Rico to land first at one of three airports –SJU, Isla Grande Airport (SIG), or Aguadilla PR (BQN) – where the passengers will be screened by the PRHD. The request specifically did not propose any flight restrictions on air cargo or maintenance flights into Puerto Rico.

We evaluated the request in light of the FAA’s oversight authorities, including in particular the Airport Improvement Program grant assurances, and have determined that the proposed flight restrictions are a reasonable response to the COVID-19 pandemic. In making this determination, we specifically have taken into account the state of emergency declared by Puerto Rico in response to the COVID-19 pandemic. We note that Puerto Rico is still suffering the effects of two major hurricanes and an earthquake earlier this year. These multiple disasters are having an ongoing impact, limiting the resources and staffing that the Government of Puerto Rico can devote to the screening of passengers and the protection of public health. We also find that your requests would not have a significant impact on the National Airspace System because the affected flights will be allowed to continue to their regularly scheduled destinations following a health screening. Because of these unique circumstances, the FAA does not object to your requests. The restrictions are a reasonable accommodation under the law, and particularly the grant assurances, inasmuch as they are temporary, justified by the emergency, respond to a domestic and worldwide public health crisis, and are intended to save lives. We, along with the Office of the Secretary of Transportation, consider that such actions would not conflict with the Federal Government’s obligations under applicable international agreements.

In the circumstances raised by the pandemic, U.S. Customs and Border Protection’s (CBP), Office of Field Operations, San Juan Field Office, has advised us that they possess the authority to grant or deny landing rights or permits to land pursuant to its regulatory authority under title 19 Code of Federal Regulations 122.14 for flights arriving from foreign places and are willing to do so to support the request of the Government of Puerto Rico. The CBP notes that the vast majority of foreign arrivals have been taking place at SJU; therefore, the operational impact of granting this request is minimal. Furthermore, they are prepared to direct all general aviation and charter passenger flights arriving from a foreign location to SJU, SIG, or BQN. In summary, CBP advises that they are prepared to continue to process all foreign arrivals, in accordance with existing federal protocols, including those established by the Centers for Disease Control and Prevention, prior to the PRPH screening at the designated airports. CBP’s decision is effective during the period of the present emergency.

The FAA supports Puerto Rico in its efforts to protect the island and pledges to work with you and the people of Puerto Rico in fighting COVID-19. If you have any questions regarding the matters discussed above, please do not hesitate to reach out to me or to have your staff contact Steven Hicks, Director, Southern Regional Airports Division at 404-305-6700.

Sincerely,



Winsome A. Lenfert
Deputy Associate Administrator
for Airports

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail this 8th day of April, 2020 on the following:

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