

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

Application of:

21 Air, LLC

for a certificate of public convenience and
necessity pursuant to 49 U.S.C. § 41102
(interstate charter cargo air transportation)

Docket DOT-OST-2015-0044

Application of:

21 Air, LLC

for a certificate of public convenience and
necessity pursuant to 49 U.S.C. § 41102
(foreign charter cargo air transportation)

Docket DOT-OST-2015-0043

**MOTION OF 21 AIR LLC TO WITHHOLD
INFORMATION FROM PUBLIC DISCLOSURE**

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21 Air LLC (21 Air), pursuant to Rule 12 of the Department's Rules of Practice, 14 CFR § 302.12, moves to withhold from public disclosure certain information in 21 Air's application to increase its fleet size filed contemporaneously in the above-referenced dockets. In accordance with Rule 12, the information at issue has been marked "Confidential Treatment Requested Under Section 302.12" and is being filed under seal.

Information to be Withheld from Public Disclosure:

1. The Balance Sheet and Income Statement as of July 31, 2021 (Exhibit B).
2. The projected revenues in 21 Air's Pro Forma Income Statement which provide a financial projection for the 12 months following commencement of the operations proposed in Air's request (portions of Exhibit C).
3. A Promissory Note between 21 Air and its owners (portions of Exhibit E).

Basis for Confidentiality

Exhibit B and portions of Exhibits C and E, described above, contain information that is customarily and actually treated as private by 21 Air, and which if publicly released would cause substantial competitive and financial harm to 21 Air. The Freedom of Information Act (FOIA) protects against the government’s public disclosure of such information. *E.g.*, 5 U.S.C. § 552(b)(4); *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356 (2019); *Flyers Rights Educ. Fund, Inc. v. FAA*, 2021 U.S. Dist. LEXIS 175977 (D.D.C. Sept. 16, 2021) (“Whether information is ‘customarily and actually treated as private by its owner’ turns on ‘how *the particular party* customarily treats the information, *not* how the industry as a whole treats the information.”) (citing *Ctr. for Auto Safety v. Nat’l Highway Traffic Safety Admin.*, 244 F.3d 144, 148 (D.C. Cir. 2001); *Critical Mass Energy Project v. Nuclear Regulatory Comm’n*, 975 F.2d 871, 872, 878-80 (D.C. Cir. 1992) (en banc))).

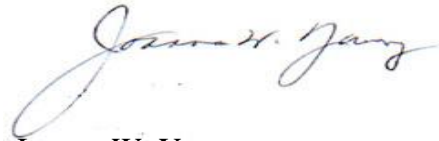
Exhibits B, C, and E contain proprietary and highly sensitive commercial and financial information relating to 21 Air’s strategic decisions for growth and operations. The Department’s public disclosure of this information would give potential competitors of 21 Air insider knowledge of 21 Air’s market strategies and customers, enabling those competitors to harm 21 Air through competitive responses. As 21 Air already holds the necessary exemption or certificate authority for its operations, public disclosure of the confidential commercial and financial information contained in Exhibits B, C, and E serves no public interest benefit. 21 Air does not disclose this information to the public and controls its access within the company.

The Department has granted requests to withhold similar financial information from public disclosure. In response to a motion by Breeze Airways, the Department stated: “the Department will generally grant confidential treatment to information pertaining to a company’s forecast

revenues (and related statistics).” Department Response to Breeze Airways’ Motion for Confidential Treatment of Documents (Docket OST-2020-0019), dated March 10, 2020, p. 2.

Accordingly, 21 Air LLC requests that the information identified above be withheld from public disclosure.

Respectfully submitted,



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