

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Application of:

Avatar Airlines Incorporated

For a Certificate of Public
Convenience and Necessity under
Section 49 U.S.C. §41102 to
engage in interstate scheduled
air transportation

Docket DOT-OST-2019-0164

**MOTION FOR EXTENSION OF TIME (NUNC PRO TUNC)
TO FILE PETITION FOR RECONSIDERATION
OF 4/28/2020 ORDER DISMISSING APPLICATION**

DATED: May 8, 2020

Communications with respect to this document should be sent to:



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Pursuant to departmental regulations 14 CFR § 302.14, Avatar Airlines, Inc. (“Avatar”) files the within Motion for Extension of Time (Nunc Pro Tunc) to File its Petition for Reconsideration (“Petition”) of that certain Department of Transportation (“DOT” or “Department”) Order Dismissing Application, issued and served on April 28, 2020 (the “Order”), and respectfully sets forth the following:

1. On May 8, 2020, undersigned counsel for Avatar Airlines, Inc. filed its above referenced Petition. Copy of filing receipt is annexed hereto as EXHIBIT “A.”
2. Like many others similarly situated, undersigned counsel is “self-quarantining” in his home, due to the extraordinary circumstances of COVID-19.
3. Undersigned counsel’s home Internet Service Provider is AT&T, which, upon information and belief, has been experiencing sporadic outages and intermittent

service due to the substantial overload of users drawing on the service from their homes.

4. Undersigned counsel was not able to file the Petition by the general 5:00 pm EST deadline due to the intermittent internet service issues. As the filing receipt makes clear, the Petition was filed at about 6:40 pm EST on May 8, 2020.
5. No interested party is prejudiced by the relatively short delay (*less than 2 hours*) in docketing the Petition.
6. 14 CFR § 302.14(a)(2) sets forth in pertinent part:

Motions for extension of time to file a petition or answer, and for leave to file a petition or answer after the time for the filing has expired, will not be granted except on a showing of unusual and exceptional circumstances, constituting good cause for the movant's inability to meet the established procedural dates.

7. Although the filing of Avatar's Petition was filed on the 10th day following the rendering of the Department's Order, it appears that the Department may consider docketed entries made after 5 pm otherwise deemed filed on the following business day.
8. For this reason, for the above extraordinary circumstances and in the exercise of caution, Avatar respectfully requests that the within motion to extend its time (nunc pro tunc) for filing of the Petition be granted and that the Department grant any further relief that it deems just and proper.
9. The contents of this motion and the attached exhibit are true and correct to the best of undersigned's knowledge and belief. Pursuant to Title 18 United States Code Section 1001, undersigned in his individual capacity and as the authorized representative of the Applicant/Movant, has not in any manner knowingly and

willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious, or fraudulent statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the Application. Undersigned counsel understands that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined or imprisoned not more than five years, or both.

Dated: May 8, 2020



Michael E. Zapin
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The **Department of Transportation (DOT)** Other: **2020-4-9 Order Dismissing Application**

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Enclosed please find Avatar Airlines, Inc. Petition for Reconsideration of Dismissal Order of 4/28/2020. Respectfully Submitted by Michael E. Zapin, EVP and Chief Legal Officer for Avatar Airlines, Inc.

Uploaded File(s) (Optional)

- Avatar Petition for Reconsideration 5.8.2020 complete.pdf: **success**

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Country: United States

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Agency: Department of Transportation (DOT)

Document Type: Nonrulemaking

Title: 2020-4-9 Order Dismissing Application

Document ID: DOT-OST-2019-0164-0006

Comment:

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Uploaded File(s):

- Avatar Petition for Reconsideration 5.8.2020 complete.pdf

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