

**BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, DC**

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Application of )  
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**PHILIPPINE AIRLINES, INC.** )

Docket DOT-OST-2020-0012 )  
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)

for an exemption pursuant to 49 U.S.C. § )  
40109 (Manila – Seattle) )  

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**REPLY OF PHILIPPINE AIRLINES, INC.**

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February 18, 2020

**BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, DC**

Application of	)	
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<b>PHILIPPINE AIRLINES, INC.</b>	)	Docket DOT-OST-2020-0012
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for an exemption pursuant to 49 U.S.C. §	)	February 18, 2020
40109 (Manila – Seattle)	)	
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**REPLY OF PHILIPPINE AIRLINES, INC.**

Philippine Airlines, Inc. (“PAL”) hereby replies to the February 10<sup>th</sup> answer of United Airlines regarding PAL’s pending Application for exemption authority to engage in scheduled foreign air transportation of persons, property and mail between Manila, Philippines (“MNL”), and Seattle, Washington (“SEA”).

United asserts that “it is not opposed to PAL’s Application request and is not asking the Department to deny the application at this time.” UA Answer at 3. However, United asks the Department “to defer action until United is able to execute its Manila growth plans via commercially viable slots and necessary airport infrastructure.” UA Answer at 3.

Once again, United is inappropriately using a license proceeding to try to force a resolution of an alleged slot access issue (which United has failed to describe in its pleadings). This time it seeks to hold hostage beneficial first nonstop service between Seattle and Manila – a service strongly supported by the Seattle parties – and end-run the third-party slot-coordinator supervised IATA-WSG slot allocation process at Manila Airport. United’s request for a delay should be promptly rejected, and PAL’s Application should be expeditiously granted so that the enormous benefits of this new (and only)

nonstop MNL-SEA service can be realized for the benefit of U.S. consumers and businesses.

1. United does not contest the fact that the MNL-SEA exemption authority at issue is expressly authorized under the Air Transport Agreement between the United States and the Philippines. As explained in the Application, (i) the 1995 U.S.-Philippines Protocol further amended the U.S.-Philippines Air Transport Agreement with respect to Route 2 for Philippine air carriers (Annex I, Section 1(B)(2)), in part, to operate from the Philippines via intermediate points to Honolulu, San Francisco, Los Angeles, Guam, Saipan, and four additional points in the U.S. to be selected by the Government of the Philippines<sup>1</sup>, and (ii) the Government of the Philippines has forwarded a communication to the U.S. Government selecting Seattle to replace San Diego as one of the four additional points.

2. Nor does United dispute that grant of the Application is consistent with the public interest. Indeed, United's Answer states that it does not oppose the Application. PAL's Application is strongly supported by the Port of Seattle and the Seattle-Tacoma International Airport which submitted two letters, one in response to PAL's Application and the second in response to United's Answer.<sup>2</sup> As the Port of Seattle explained, the State of Washington is home to one of the nation's largest Filipino-American communities; Seattle and the Puget Sound region have strong economic and cultural links with the Philippines dating back more than a century; and Manila has long been Seattle's largest unserved O&D market. PAL's MNL-SEA service would provide passengers and businesses with enhanced service options between the Philippines and the United States

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<sup>1</sup> See 1995 Protocol between the United States and the Philippines, Section I(6).

<sup>2</sup> See Letters from L. Lyttle, Managing Director of SEA, Port of Seattle, to Secretary Chao, DOT.

and would be the only nonstop service between Seattle and Manila, thereby facilitating trade, commerce, and tourism between the two countries.

3. That should be the end of the analysis, and the exemption authority should be granted. United, however, requests that the Department delay issuance of this authority to PAL until United's alleged (and unexplained on this record) "access issues" at MNL are resolved. UA Answer at 1. The Department should reject United's efforts to delay new nonstop service between the Philippines and the United States and the only nonstop service between Seattle and Manila. Under the circumstances, the failure to timely grant PAL's Application would be tantamount to a violation of the bilateral air transport agreement.

4. This is not the appropriate forum for the Department to address United's issues. United can file a complaint with the Department under the International Air Transportation Fair Competitive Practices Act, as amended, 49 U.S.C. § 41310 ("IATF CPA"). IATF CPA is expressly designed to provide a mechanism to address these types of issues. Indeed, the Department recently reiterated that the IATF CPA mechanism is the more appropriate forum for handling such issues. A few months ago, the Department rejected Kalitta Air's effort to resolve alleged slot and access issues at Amsterdam-Schipol Airport in a recent ATI proceeding. The Department stated: "If Kalitta feels that it has been unjustly or unreasonably discriminated against at AMS, it has other, more appropriate forms of recourse, including filing another IATF CPA complaint." See DOT Order 2019-11-14 at 4 (footnote omitted). Indeed, carriers – including United – have used the IATF CPA process in the past for presenting complaints about slot and airport access issues. See, e.g., Complaint of US Airways against the Government of the United Kingdom, Docket DOT-OST-1998-3615 (Gatwick Airport access), DOT Order 1998-9-19;

Complaint of United Airlines against the European Commission and National Implementing Authorities, Docket DOT-OST-1998-4030 (conditions to be imposed on United's alliance that would allegedly, among other things, impose limits on the level of services provided by the alliance carriers and on slots available to them at U.S. and European airports), DOT Order 2002-11-19; Complaint of Kalitta Air, LLC against the Government of the Netherlands and Amsterdam Airport Authorities, Docket DOT-OST-2019-0021 (slots at AMS), DOT Order 2019-5-2.

5. In any event, the use of this Docket for United's alleged slot and access issues at MNL is particularly misguided because PAL does not control the allocation of slots or infrastructure at MNL. MNL is a Level 3 airport, and thus a slot allocation process is required whereby all airlines and other aircraft operators serving MNL need to have slots allocated by the slot coordinator. Currently, the airlines at MNL have appointed Airport Coordination Australia ("ACA") as the third-party slot coordinator. ACA follows the industry-standard slot allocation process as stipulated in the IATA Worldwide Slot Guidelines. Terminal facilities and access are allocated by the Manila International Airport Authority. PAL does not control and has no input with respect to either of those entities or processes.

6. In sum, the requested SEA-MNL exemption authority is consistent with the U.S. – Philippines bilateral agreement and undeniably in the public interest. Further delay of this Application will only deprive Seattle, U.S. citizens and businesses of the enormous benefits from PAL's new nonstop service. As the Port of Seattle emphasized: "[D]eferred action on PAL's application would penalize [SEA's] longstanding efforts to serve the public interest by providing service to [its] largest unserved market."

WHEREFORE, Philippine Airlines, Inc. requests that the Department expeditiously grant exemption authority so that PAL may provide scheduled foreign air transportation of persons, property and mail between Manila and Seattle, Washington, and grant such other relief as it deems proper and in the public interest.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert E. Cohn". The signature is fluid and cursive, with the first name "Robert" and last name "Cohn" clearly distinguishable.

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Reply of Philippine Airlines, Inc. was served this 18<sup>th</sup> day of February, 2020, via e-mail transmission on the following persons:

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