



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, DC**

Issued by the Department of Transportation on June 9, 2020

**NOTICE OF ACTION TAKEN -- DOCKET DOT-OST-2020-0013**

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This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of **Kalitta Air, L.L.C (Kalitta)**, filed **1/28/20, as amended**, for:<sup>1</sup>

**XX** Allocation of two (2) weekly fifth-freedom all-cargo frequencies to provide all-cargo service between Hong Kong and Singapore.

**XX** Reallocation of one (1) weekly fifth-freedom all-cargo frequency currently held by Kalitta for Hong Kong-Sharjah, U.A.E. services, to permit Kalitta to provide all-cargo service between Hong Kong and Singapore.<sup>2</sup>

Application of **Federal Express Corporation (FedEx)**, filed **5/20/20**, for:<sup>3</sup>

**XX** Allocation of one (1) one weekly Hong Kong all-cargo fifth-freedom frequency to provide all-cargo service between Hong Kong and Singapore.

Applicant reps: **Mark W. Atwood (202) 463-2513 (Kalitta); Anne M. Bechdolt (202) 892-3948 (FedEx)**

DOT Analyst: **Darren Jaffe (202) 366-2512**

**DISPOSITION**

**XX** **Granted, allocation of two weekly fifth-freedom frequencies for Hong Kong-Singapore all-cargo service to Kalitta** (subject to conditions, see below).

**XX** **Granted, reallocation of one weekly fifth-freedom frequency for Hong Kong-Singapore all-cargo service to Kalitta** (subject to conditions, see below).

**XX** **Granted, allocation of one weekly fifth-freedom frequency for Hong Kong-Singapore all-cargo service to FedEx** (subject to conditions, see below).

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<sup>1</sup> We note that Kalitta initially requested allocation of four weekly Hong Kong-Singapore frequencies. See Discussion below. Kalitta subsequently modified its request as described here, for a new allocation of two frequencies and reallocation of one currently-held frequency in order to provide Hong Kong-Singapore all-cargo service.

<sup>2</sup> Kalitta requests to reallocate the frequency allocated by Notice of Action Taken dated March 1, 2011 in Docket DOT-OST-2011-0035.

<sup>3</sup> We note that FedEx's May 20, 2020, application also included an answer to the application of Kalitta and a motion to institute a comparative selection proceeding. On June 5, 2020, FedEx filed a reply stating that since Kalitta amended its application to seek only two of the available Hong Kong fifth-freedom frequencies, the Kalitta and FedEx applications are no longer mutually exclusive. FedEx also states that it withdraws its motion for a comparative selection proceeding.

The above action allocating two frequencies to Kalitta was effective when taken: **June 9, 2020**, and will remain in effect indefinitely, subject to the conditions below.

The above action reallocating one frequency to Kalitta was effective when taken: **June 9, 2020**, and will remain in effect indefinitely, subject to the conditions below.

The above action allocating one fifth freedom frequency to FedEx was effective when taken: **June 9, 2020**, and will remain in effect indefinitely, subject to the conditions below.

**Action taken by: Benjamin J. Taylor**  
**Acting Director, Office of International Aviation**

**XX The authority granted is consistent with the October 19, 2002, Memorandum of Understanding (MOU) between the Government of the United States and the Government of Hong Kong Special Administrative Region of the People's Republic of China.<sup>4</sup>**

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

**XX Holders' certificates of public convenience and necessity**

## **DISCUSSION**

**Background:** On January 28, 2020, Kalitta Air, L.L.C. (Kalitta) applied for four Hong Kong fifth-freedom frequencies for Hong Kong-Singapore all-cargo service. Kalitta noted that the 64 weekly Hong Kong fifth-freedom all-cargo frequencies are fully subscribed; however, Kalitta stated that it understands that a number of Hong Kong-Singapore frequencies are expected soon to be returned to the Department. By letters dated April 30 and May 1, 2020, United Parcel Service Co. (UPS) notified the Department that it was returning three frequencies allocated to it for Hong Kong-Singapore services, effective immediately. On May 5, 2020 Kalitta amended its application to request the three frequencies returned by UPS, and the reallocation of one frequency currently held by Kalitta for Hong Kong-Sharjah service, so that Kalitta would have four frequencies for the Hong Kong-Singapore service that it proposes.

**Responsive Pleadings:** On May 20, 2020, FedEx filed an answer to Kalitta's application, a competing application of its own for one Hong Kong-Singapore fifth-freedom frequency allocation, and a motion to institute a comparative allocation proceeding. Noting that three frequencies are available for allocation, FedEx requests that the Department institute a proceeding to allocate the frequencies among the competing applicants.

On May 22, 2020, Kalitta filed a reply stating that it will not oppose FedEx's request for one of the three former UPS frequencies, so long as the Department grants Kalitta the two remaining former UPS frequencies, and converts Kalitta's Sharjah-Hong Kong authorization into a Hong Kong-Singapore frequency.

On June 5, 2020, FedEx filed a reply stating that with these changed circumstances, the pending applications are no longer mutually exclusive and that the Department has a path forward to grant both applications should it chose to do so. FedEx further states that it withdraws its motion to institute a comparative selection proceeding, and requests that the Department approve contemporaneously the pending FedEx and Kalitta applications.

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<sup>4</sup> Under the MOU between the United States and Hong Kong, U.S. all-cargo carriers are limited to a total of 64 weekly fifth-freedom frequencies. With our action here, there are no remaining fifth-freedom frequencies available for allocation to U.S. all-cargo carriers.

**Decision:** In light of the developments discussed above, the frequency requests of Kalitta and FedEx are now uncontested. We have accordingly decided to grant Kalitta's requests for two weekly fifth-freedom frequencies to provide all-cargo service between Hong Kong and Singapore; and to reallocate one weekly fifth-freedom frequency to provide all-cargo service between Hong Kong and Singapore. We have also decided to grant FedEx's request for allocation of one weekly Hong Kong fifth-freedom frequency for service between Hong Kong and Singapore.<sup>5</sup>

As we said in footnote 4, with our action here, there are no remaining Hong Kong fifth-freedom frequencies available for allocation to U.S. all-cargo carriers. Specifically with respect to Hong Kong-Singapore operations, U.S. carriers may operate no more than seven weekly round trip frequencies with full traffic rights. Five frequencies have been allocated for Hong Kong-Singapore operations (three allocated to Kalitta and one allocated to FedEx by this action, and one to Polar in Docket DOT-OST-2015-0132), and two remain unallocated. However, because the overall 64-frequency cap has been reached, we are unable at this time to allocate the remaining two Hong Kong-Singapore frequencies.

**Conditions:** Consistent with our standard practice, the frequency allocations made here are subject to our standard 90-day dormancy condition, wherein any frequency not operated for a period of 90 days (once inaugurated), will be deemed dormant and the allocation as to that frequency will expire automatically and the frequency will revert to the Department for reallocation.

In addition, consistent with our practice in awarding frequencies, we will require that Kalitta and FedEx inaugurate service with the frequencies allocated here within 90 days. Failure to inaugurate service with a newly allocated frequency within 90 days of the date of this action will result in the unused frequency reverting to the Department.

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Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted, we denied all requests in the referenced docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

*An electronic version of this document is available on the World Wide Web at:*  
<http://www.regulations.gov>

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<sup>5</sup> We also dismiss as moot FedEx's motion to institute a comparative selection proceeding.