

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

_____)	
Continuation of Certain Air Service)	
)	DOT-OST-2020-0037
)	
Under Public Law 116-136 §§ 4005 and 4114(b))	
_____)	

REQUEST FOR EXEMPTION FROM SERVICE OBLIGATION

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April 9, 2020

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REQUEST FOR EXEMPTION FROM SERVICE OBLIGATION

In response to the Department’s Final Order 2020-4-2 establishing service obligations for covered air carriers under Sections 4005 and 4114(b) of the Coronavirus Aid, Recovery, and Economic Security Act (the CARES Act),¹ Hawaiian Airlines, Inc. (“Hawaiian”) respectfully submits this request for an exemption from its obligation to serve the U.S. mainland points of: (1) Boston, (2) Las Vegas, (3) New York, (4) Phoenix, (5) Portland, (6) Sacramento, (7) San Diego, and (8) Seattle (collectively, the “Mainland Exemption Points.”)² Hawaiian also respectfully requests an exemption of its obligation to serve Lahaina on the island of Maui because the point will be adequately served by Hawaiian’s service to Maui’s nearby and larger Kahului Airport.

I. Introduction

Hawaiian applauds the Department’s leadership and decisive action in this unprecedented crisis for our country and our industry. Hawaiian further expresses its appreciation for the Department’s consideration of its comments in reducing the minimum service obligation for smaller air carriers and temporarily exempting Hawaiian’s service to American Samoa so

¹ Public Law No. 116-XX, §§ 4003(b)(1)-(2), and 4112(a)(1)-(2).

² Hawaiian has continued to serve Los Angeles and San Francisco and plans to fulfill that service obligation.

Hawaiian may honor Governor of American Samoa Lolo Moliga's request for Hawaiian to suspend its service. The Department's flexible approach will allow air carriers to maintain vital services while preserving limited resources during the current crisis.

Grant of Hawaiian's request for exemptions is consistent with the policies underlying the CARES Act. The CARES Act authorizes the Secretary "to the extent reasonable and practicable" to require recipients of financial assistance to provide services to any point served before March 1, 2020.³ The CARES Act further directs that the Secretary "shall take into consideration the air transportation needs of small and remote communities and the need to maintain well-functioning health care supply chains...."⁴ Hawaiian remains committed to providing vital air transport links to, from and between the communities it serves. Because every Hawaiian flight either originates or terminates at a point in the Hawaiian Islands, it is well positioned to provide essential connections for these geographically-isolated points during this time of national health crisis.

Hawaiian believes that the service obligation contemplated by the Final Order goes beyond what is currently necessary to provide essential services to remote communities. Governor of the State of Hawaii David Ige has imposed mandatory 14-day quarantine orders for travelers to and within Hawaii, which has dramatically limited both the demand and the need for passenger transportation in the state.⁵ These orders reflect Governor Ige's judgment that the health and safety

³ CARES Act § 4114(b)(1).

⁴ *Id.* § 4114(b)(2).

⁵ See State of Hawaii, Office of the Governor, Third Supplementary Proclamation (Mar. 23, 2020) available at <https://health.hawaii.gov/news/corona-virus/covid-19-daily-update-march-22-2020/> (imposing mandatory 14-day quarantine restrictions on travelers from the mainland United States); see State of Hawaii, Office of the Governor, Fourth Supplementary Proclamation (Mar. 31, 2020) available at <https://health.hawaii.gov/news/corona-virus/hawaii-covid-19-daily-news-digest-march-29-2020-2/> (imposing mandatory 14-day quarantine restrictions, with limited exceptions, on travelers within Hawaii).

of the people of Hawaii require severe restrictions on passenger air transportation. The Hawaii Tourism Authority has been reporting the daily Hawaii passenger arrivals by air, noting the precipitous year-over-year decline in traffic.⁶ And public sentiment is now very much against additional tourist traffic.⁷ Moreover, the baseline service obligation in the Final Order would require Hawaiian to reestablish service from Hawaii to the Mainland Exemption Points that have no current demand for travel to Hawaii, will be served by other covered air carriers from other destinations and would be uniformly unwelcome in the current environment by Hawaii local and state government leaders as well as the vast majority of the State's populace. Accordingly, Hawaiian respectfully submits that the reinstitution of service to the Mainland Exemption Points is neither desirable nor warranted under the current circumstances. Hawaiian will be ready to reinstitute service when it is reasonable and practicable to do so.

To the extent a requested exemption is not granted, Hawaiian respectfully requests that the Department grant it until seven business days from the later of (a) the Department's ruling on this exemption request and (b) the date Hawaiian receives its requested financial assistance under the CARES Act.

⁶ Hawaii Tourism Authority, Press Release, Hawaii Passenger Arrivals by Air, (Apr. 8, 2020), <https://www.hawaiitourismauthority.org/media/4426/040820-passenger-count-press-release.pdf> (reporting arrival of 654 people in Hawai'i on April 7 compared to nearly 30,000 daily the year before).

⁷ The Hawaiian Islands, *Special Alert and Notice for The Hawaiian Islands*, (Apr. 7, 2020), <https://www.gohawaii.com/special-alerts-information> ("Hawaii has a long tradition of welcoming visitors from around the world.... At this time, ... we are focusing on the health and safety of our community, visitor industry employees, health care professionals and our healthcare system. As a small, remote island community, our residents are particularly vulnerable to the COVID-19 crisis. Hawaii Governor David Ige has asked that you postpone your trips to Hawaii to give us the opportunity to address this health crisis.").

II. Hawaii's Quarantine Order and Travel Restrictions Warrant Grant of the Requested Exemptions.

As noted above, the State of Hawaii has issued restrictive orders severely limiting air travel to and within Hawaii in an effort to protect Hawaii's citizens from the spread of COVID-19. In the Final Order, the Department cited the U.S. Department of State's issuance of a global Level 4 Health Advisory and the imposition by foreign governments of travel restrictions discouraging international travel as the basis for not requiring service to international points.⁸ Moreover, in deference to the American Samoa Governor Lolo Moliga's request to suspend flights to American Samoa, the Department granted Hawaiian a temporary exemption of its service requirement while the Governor Moliga's request remains in place.⁹ The same deference should be shown with respect to the Mainland Exemption Points given the statewide quarantine imposed on travel to and within the Hawaiian Islands by Hawaii's Governor Ige. Governor Ige has requested that Secretary Chao limit flights to Hawaii in support of the state's efforts to combat the spread of the virus. Governor Ige's letter also supports Hawaiian's request for an exemption from serving the Mainland Exemption Points. In addition, the Mayors of three Hawai'i counties support Hawaiian's exemption request.¹⁰

While Hawaiian maintains lifeline air service connections to critical mainland points, serving the full breadth of Hawaiian's pre-COVID-19 network is neither reasonable nor practicable in these circumstances. Expanded services are neither warranted by traveler demand nor welcome by the State of Hawaii from which each and every one of Hawaiian's flights either

⁸ Final Order at 3.

⁹ Id. at 6 n. 16.

¹⁰ See Letters of Support, DOT-OST-2020-0037 (Apr. 9, 2020) (submitting letters of support from State of Hawai'i Governor David Ige, City and County of Honolulu Mayor Kirk Caldwell, Hawai'i County Mayor Harry Kim, Kaua'i County Mayor Derek Kawakami).

emanates or returns. And, in direct contravention of State and local government mandates, risks bringing passengers with potential infections from more places to Hawaii.

III. The Mainland Exemption Points will be More Than Adequately Served by Other Covered Air Carriers.

In response to public health threat and the corresponding loss of demand, Hawaiian already has suspended service from Hawaii to the Mainland Exemption Points. As the Mainland Exemption Points are either large or medium hub airports, all of them will have substantial service from at least 10 other covered carriers.

Mainland Exemption Point	Covered Carriers	Adjusted Weekly Frequencies
Boston	15	47
Las Vegas	13	45
New York	15	45
Phoenix	14	50
Portland	11	41
Sacramento	12	42
San Diego	11	37
Seattle	11	41

Requiring Hawaiian to reinstate service to these points would not achieve the goal of serving the “transportation needs of small and remote communities” and all of these major points will be reachable with connecting services.¹¹ Hawaiian will fulfill its service obligation by maintaining service between the Hawaiian Islands and the large hubs of Los Angeles and San Francisco.

¹¹ Cares Act § 4114(b)(2).

Because its operating base is in Hawaii, Hawaiian does not have the practical option of substituting a short-haul service or substituting the service of a regional carrier with lower capacity than the A330-200 or A321 aircraft Hawaiian flies to the Mainland Exemption Points.¹² Service to the Mainland Exemption Points would offer minimal, if any, public benefits, while requiring the expenditure of scarce resources and potentially undermining the purpose of the CARES Act. It would make no sense in this challenging environment that three of the 45 required weekly services to New York must be from Honolulu. Requiring Hawaiian to restore its long-haul services to New York or any of the other Mainland Exemption Points would not be reasonable nor practicable.

IV. The Mainland Exemption Points Have No Current Demand for Travel to or from Hawaii.

Hawaiian's flights from the Mainland Exemption Points primarily serve leisure travelers coming to Hawaiian for vacation. In ordinary times, such travelers stay an average of 8 days.¹³ Accordingly, the State of Hawaii's mandatory 14-day quarantine order frustrates the primary purpose of such trips. Independent of the well-founded health considerations, there is simply no demand for Hawaiian's service from these points. Indeed, the load factor on in-bound flights to Hawaii on recent flights has been as low as 8 percent from the major hubs of Los Angeles and San Francisco. Before the COVID-19 crisis, flights to the points of Los Angeles and San Francisco represented 53 percent of the passengers between Hawaii and the mainland points that Hawaiian is required to serve by the Final Order, while the eight Mainland Exemption Points together

¹² If this Request for an Exemption is not granted, Hawaiian would fulfill a portion of its service obligation by offering tag flights between mainland points in connection with a trans-Pacific flight. For example, Hawaiian might operate HNL-SEA-PDX-SEA-HNL to fulfill its service obligation to both SEA and PDX.

¹³ Hawaii Tourism Authority, Monthly Visitor Statistics (April 2019), <https://www.hawaiitourismauthority.org/research/monthly-visitor-statistics/?year=2019> (average length of stay one year ago was 8.34 days).

represented the remaining 47 percent of the traffic.¹⁴ The reintroduction of service from eight different mainland points when the total traffic to Hawaii is down approximately 98 percent¹⁵ is not practicable or reasonable.

V. The Department Should Exempt Hawaiian’s Service to the Point of Lahaina.

Hawaiian respectfully requests that the Department exempt the point of Lahaina from its service obligation. Both Kahului Airport (“OGG”) and Kapalua Airport in Lahaina (“JHM”) are located on the island of Maui. OGG is the primary airport on Maui, and JHM is located only 30 miles away by road. The critical supplies and medical personnel that must reach Maui may be accommodated efficiently at OGG. Kapalua Airport itself describes the simple nature of its facilities: “[t]he facility consists of a single runway, terminal facilities and support facilities. There are no air cargo facilities at this airport.... The airport is managed by the Maui Airport District, headquartered at Kahului Airport.”¹⁶

Hawaiian has provided service to JHM in west Maui with its ‘Ohana by Hawaiian ATR42 service as a convenience for guests of the nearby luxury resorts. In the absence of demand to those resorts, service to JHM is not reasonable or practicable. Indeed, the facilities at OGG are superior to those at JHM, which cannot accommodate Hawaiian’s primary inter-island aircraft, the B717.

In contrast, Hawaiian continues to provide vital services to Lanai (LNY) and Molokai (MKK) with its ‘Ohana by Hawaiian ATR42 aircraft. Those airports serve the small and remote communities that the CARES Act intended to assist. Diversion of the ATR42s, which are the only

¹⁴ DB1B Data (YE 4Q19).

¹⁵ See Hawaii Tourism Authority, Press Release, Hawaii Passenger Arrivals by Air, (Apr. 8, 2020), <https://www.hawaiitourismauthority.org/media/4426/040820-passenger-count-press-release.pdf>.

¹⁶ State of Hawaii, Department of Transportation, Airports Division, Airport Info <http://airports.hawaii.gov/jhm/airport-info/>

wheelchair-accessible aircraft serving MKK and LNY, to serve JHM may reduce critical services to those small communities. Requiring Hawaiian to serve JHM would not result in any public benefits.

In the alternative if the Department does not grant a complete exemption from its obligation to serve Lahaina, Hawaiian requests the flexibility to fulfill that obligation by serving OGG six times per week.

WHEREFORE, Hawaiian Airlines, Inc. respectfully requests that the Department grant the following relief:

(1) The Department's grant of exemptions from the obligation imposed by Order 2020-04-02 for Hawaiian to serve the mainland points of (a) Boston, (b) Las Vegas, (c) New York, (d) Phoenix, (e) Portland, (f) Sacramento, (g) San Diego, and (h) Seattle;¹⁷

(2) The Department's grant of an exemption from the obligation imposed by Order 2020-04-02 for Hawaiian to serve the point of Lahaina on the island of Maui;

(3) In the event the Department denies any exemption requested herein, Hawaiian requests the flexibility to restore suspended services seven business days after the later to occur of (i) the Department's ruling on this exemption request and (ii) Hawaiian's receipt of financial assistance under the CARES Act for which it has applied; and

(4) Such other relief as the Department finds is in the public interest.

Respectfully submitted,



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¹⁷ Hawaiian has continued to serve Los Angeles and San Francisco and plans to fulfill that service obligation.

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April 9, 2020

CERTIFICATE OF SERVICE

I certify that on April 9, 2020 a copy of the foregoing Request for Exemption from Service Obligation of Hawaiian Airlines, Inc. was served via email upon those addresses listed below:

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/s/ Erin Combs

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