

April 27, 2020

CONTINUATION OF CERTAIN AIR SERVICE

Docket DOT-OST-2020-0037

In accordance with DOT Order 2020-4-2 (the Order), and Notices of Action Taken issued in this docket on April 24, 2020 and April 25, 2020,¹ JetBlue Airways Corporation (JetBlue) hereby respectfully requests an immediate exemption from certain service obligations under the CARES Act, as described below. JetBlue also requests a waiver of the 10-business day advance filing requirement.²

JetBlue greatly appreciates all of the support provided by Congress, the Trump Administration and the U.S. Department of Transportation (DOT) during this unprecedented crisis. JetBlue executed its Payroll Support Program agreement last week with the U.S. Department of the Treasury, which will ensure that JetBlue's 23,000 crewmembers remain employed and compensated with benefits through September 30, 2020, as the pandemic continues to unfold.

DOT earlier granted JetBlue a partial exemption from the minimum service level requirements of the CARES Act, and JetBlue has continued to implement network changes in

¹ Notice of Action Taken, Hyannis Air Service d/b/a Cape Air, April 24, 2020, Docket DOT-OST-2020-0037; Notice of Action Taken, Frontier Airlines, Inc., April 25, 2020, Docket DOT-OST-2020-0037; Notice of Action Taken, Sun Country Inc. d/b/a/ Sun Country Airlines (Sun Country), April 25, 2020, Docket DOT-OST-2020-0037.

² As explained in this pleading, ample good cause exists in support of JetBlue's request.

response to the Order. On Friday, JetBlue announced that it would implement certain costly and inefficient schedule changes in order to attempt compliance with the Order. However, the situation facing JetBlue continues to deteriorate and compliance with the Order will significantly harm JetBlue's financial liquidity and threaten to undermine the national economic recovery, which is crucial to restoring the country to its pre-pandemic status. As such, in light of Notices of Action Taken on April 24, 2020, and April 25, 2020, which expanded exemption criteria for small carriers to include airports classified as a "large hub", and for the reasons explained below, JetBlue hereby respectfully requests an exemption for the following "large hub" service points:

Airport Code	Airport Name
ATL	Hartsfield Jackson Atlanta International Airport
CLT	Charlotte Douglas International Airport
ORD	Chicago O'Hare International Airport
DFW	Dallas/Ft. Worth International Airport
DEN	Denver International Airport
DTW	Detroit Metro Airport
IAH	George Bush Intercontinental Airport
LAS	McCarran International Airport
MSP	Minneapolis - St. Paul International Airport
BNA	Nashville International Airport
PHL	Philadelphia International Airport
PHX	Phoenix Sky Harbor Airport
PDX	Portland International Airport
SAN	San Diego International Airport
SEA	Seattle-Tacoma International Airport
TPA	Tampa International Airport

JetBlue requests this exemption so that it can continue to proactively respond to the near-zero demand for air travel caused by the coronavirus pandemic and resulting national economic crisis. JetBlue's request is fully consistent with the criteria in Notices of Action Taken issued on April 24, 2020 and April 25, 2020.³ Approval will allow JetBlue to help preserve financial

³ JetBlue is a "small carrier with 10% or less share of the domestic market", and "is seeking relief from serving a large hub or focus city airport that has abundant service by large operators using the airport to provide connecting services."

liquidity and minimize operational and safety risks while the coronavirus pandemic remains epicentered in New York City, the location of JetBlue’s headquarters and largest base of operations at John F. Kennedy International Airport (JFK). Prompt DOT approval will allow JetBlue to take immediate actions that will help to ensure it can emerge from this crisis and resume its full schedule of flying as soon as safe, reasonable and practicable to do so.

Public Interest Justification for Reasonable and Practicable Exemptions

This consolidated request for an exemption for the above-listed markets is consistent with the public interest, the explicit direction of Congress, and recent DOT precedent.⁴ At these airports, JetBlue will continue to closely monitor market conditions and roll out schedule changes as the pandemic progresses. JetBlue specifically requests that the exemption be granted through September 30, 2020, and requests a waiver of the 10-business-day advance filing requirement so that it can implement these schedule changes as soon as possible.

JetBlue’s request “is well justified and narrowly tailored” to “provide relief for a small carrier.” The airports for which JetBlue seeks this exemption have “abundant service from other carriers” and the relief sought would “relieve JetBlue of “undue economic and operational burden.” Further, “no points [will] lose access to the national air transportation system” and JetBlue will retain its service obligations in large hub markets including Fort Lauderdale, Orlando, Boston, New York, Washington, D.C., Salt Lake City and others. Notice of Action Taken, Hyannis Air Service d/b/a Cape Air, April 24, 2020, Docket DOT-OST-2020-0037.

⁴ In exempting carriers from serving particular markets, DOT has cited “long travel distances of several thousand miles” and unique aspects of carriers’ “domestic networks [which] relies disproportionately on [certain factors].” Some of the routes JetBlue seeks an exemption for, such as JFK/BOS-PDX, are nearly the identical distance, or longer on some routes, than routes DOT has exempted, including PDX-OGG and HNL.

DOT also approved exemptions for carriers to not serve certain points in Hawaii, in part, because the “imposition of Hawaii’s mandatory 14-day quarantine order for all travelers to or within Hawaii impacts severely and discourages such passenger travel.” JetBlue believes that DOT’s decisions for Alaska, Hawaiian and United for Hawaii service were correct and believes that rationale should be applied to New York, the internationally-recognized epicenter of the coronavirus pandemic. Although the State of Hawaii imposed a 14-day quarantine order, other local conditions in the mainland United States, especially in New York, are *de facto* quarantined, even without a *de jure* quarantine order. See Notice of Action Taken, Alaska Airlines, Inc, April 17, 2020, Docket DOT-OST-2020-0037; Notice of Action Taken, Hawaiian Airlines, Inc., April 17, 2020, Docket DOT-OST-2020-0037; Notice of Action Taken, United Airlines, Inc., April 25, 2020, Docket DOT-OST-2020-0037.

These temporary network adjustments are being undertaken to ensure that JetBlue's liquidity remains intact. There are ample reasons favoring JetBlue's exemption request. The market conditions have continued to worsen since JetBlue's original exemption request. As of April 20, 2020, over 316 million people in the United States alone were subject to stay-at-home orders. This represents 95% of the United States' population. Airline passenger volumes in the United States have declined 97% in the week ending April 19, 2020. U.S. airlines are averaging 12 passengers per domestic flight. The Transportation Security Administration (TSA) is processing approximately 100,000 travelers daily, versus about 2,300,000 per day a year ago. Three U.S. airlines have already ceased operations (Trans States, Compass and RavnAir Group).⁵

Beyond these national statistics, the following statistics from the Centers for Disease Control and Prevention speak to the disproportionate affect the coronavirus is having on New York, the location of JetBlue's headquarters and largest base of operations:⁶

Entity	Cases	Deaths
New York State	288,045	16,966 (1/3 of U.S. total)
New York City	160,000	12,287

Prompt approval of this exemption request will help ensure that JetBlue is in a post-crisis position to contribute to the country's economic recovery. JetBlue fully intends to gradually resume service to the levels prescribed in the Order at each of these airports as soon as it is both safe to do so and when even the slightest customer demand re-emerges. When this health and economic crisis subsides, a strong and healthy JetBlue will resume its pivotal competitive role in ensuring that travel can resume and U.S. economic links are strengthened.

⁵ See < <https://www.airlines.org/dataset/impact-of-covid19-data-updates/>>.

⁶ Source: Wikipedia and The COVID Tracking Project. Last updated Apr 27, 2020, 6:20 AM.

Furthermore, under the terms of the CARES Act, JetBlue will continue to pay and provide benefits to all crewmembers who work at these affected airports through, at a minimum, September 30, 2020. Finally, there will be de minimis impact on passengers as JetBlue recently signed two industry-standard reprotect agreements with Alaska Airlines, Inc. and American Airlines, Inc., which will likely allow the few customers who are still currently flying these routes to be re-accommodated. Several airports JetBlue is seeking an exemption for are hubs or focus cities of these two carriers including PDX, SAN, SEA, CLT, ORD, DFW, PHL, and PHX. JetBlue has also requested reprotect agreements with other major U.S. carriers.

JetBlue is depleting its pre-crisis strong balance sheet at a rate that is simply not sustainable. Fortunately, Congress recognized the national security importance of airlines and the crisis being faced by carriers and in the CARES Act mandated that the Secretary, when considering service levels for airlines that availed themselves of the Payroll Support program, maintain levels that are “reasonable and practicable.”⁷ This urgent exemption request plainly meets this standard.

For each of these specific airports, there are also compelling public interest reasons for DOT to grant JetBlue an exemption that is squarely within the congressionally-mandated review standards of “reasonable and practicable”:

ATL – Hartsfield Jackson Atlanta International Airport

JetBlue serves ATL to/from BOS, FLL, JFK and MCO. After reducing April service from a peak of 10 flights per day to less than 2 flights per day, JetBlue has seen plummeting flown load factors for the month (as of 4/24). For example, on April 20th, ATL-BOS and BOS-ATL had 8 and 4 customers, respectively. The service is not sustainable for JetBlue to operate at current demand levels and JetBlue is seeking flexibility to serve ATL below the minimum service levels defined in the Order, including the ability to temporarily suspend service.

⁷ § 4114(b)(1) of the CARES Act states “The Secretary of Transportation is authorized to require, to the extent reasonable and practicable, an air carrier provided financial assistance under this subtitle to maintain scheduled air transportation service, as the Secretary of Transportation deems necessary, to ensure services to any point served by that carrier before March 1, 2020.”

CLT – Charlotte Douglas International Airport

JetBlue serves CLT to/from BOS. Despite reducing April service from a peak of 4 flights per day to 3 flights per week, JetBlue has averaged less than an 8% flown load factor for the month (as of 4/24). For example, on April 23rd, BOS-CLT and CLT-BOS had 6 and 7 customers, respectively. The service is not sustainable for JetBlue to operate at current demand levels and JetBlue is seeking flexibility to serve CLT below the minimum service levels defined in the Order, including the ability to temporarily suspend service.

ORD – Chicago O'Hare International Airport

JetBlue serves ORD to/from BOS, FLL and JFK. Despite reducing April service from a peak of 6 flights per day to 4 flights per week, JetBlue has averaged less than a 10% flown load factor for the month (as of 4/24). For example, on April 22nd, BOS-ORD and ORD-BOS had 5 and 8 customers, respectively. The service is not sustainable for JetBlue to operate at current demand levels and JetBlue is seeking flexibility to serve ORD below the minimum service levels defined in the Order, including the ability to temporarily suspend service.

DFW - Dallas/Ft. Worth International Airport

JetBlue serves DFW to/from BOS. Despite reducing April service from a peak of 2 flights per day to as few as 3 flights per week, JetBlue has averaged less than a 5% flown load factor for the month (as of 4/24). For example, on April 20th, BOS-DFW and DFW-BOS each had 4 customers. The service is not sustainable for JetBlue to operate at current demand levels and JetBlue is seeking flexibility to serve DFW below the minimum service levels defined in the Order, including the ability to temporarily suspend service.

DEN – Denver International Airport

JetBlue serves DEN to/from BOS and JFK. Despite reducing April service from a peak of 3 flights per day to as few as 3 flights per week, JetBlue has averaged less than an 8% flown load factor for the month (as of 4/24). For example, on April 20th, BOS-DEN and DEN-BOS had 13 and 9 customers, respectively. The service is not sustainable for JetBlue to operate at current demand levels and JetBlue is seeking flexibility to serve DEN below the minimum service levels defined in the Order, including the ability to temporarily suspend service.

DTW – Detroit Metro Airport

JetBlue serves DTW to/from BOS. Despite reducing April service from a peak of 3 flights per day to as few as 3 flights per week, JetBlue has averaged less than a 4% flown load factor for the month (as of 4/24). For example, on April 20th, BOS-DTW and DTW-BOS had 6 and 2 customers, respectively. The service is not sustainable for JetBlue to operate at current demand levels and JetBlue is seeking flexibility to serve DTW below the minimum service levels defined in the Order, including the ability to temporarily suspend service.

IAH – George Bush Intercontinental Airport

JetBlue serves IAH to/from BOS and JFK. Despite reducing April service from a peak of 2 flights per day to each of New York and Boston to as few as 4 flights per week, JetBlue has averaged less than a 7% flown load factor for the month (as of 4/24). For example, on April 23rd, BOS-IAH and IAH-BOS had 10 and 13 customers, respectively. The service is not sustainable for JetBlue to

operate at current demand levels and JetBlue is seeking flexibility to serve IAH below the minimum service levels defined in the Order, including the ability to temporarily suspend service.

LAS – McCarran International Airport

JetBlue serves LAS to/from BOS, FLL, JFK and LGB. Despite reducing April service from a peak of 9 flights per day to as few as 6 flights per week, JetBlue has averaged less than an 8% flown load factor for the month (as of 4/24) on this mostly transcon market. For example, on April 20th, BOS-LAS and LAS-BOS had 4 and 8 customers, respectively. The service is not sustainable for JetBlue to operate at current demand levels and JetBlue is seeking flexibility to serve LAS below the minimum service levels defined in the final order, including the ability to temporarily suspend service.

MSP – Minneapolis - St. Paul International Airport

JetBlue serves MSP to/from BOS. Despite reducing April service from a peak of 3 flights per day to as few as 3 scheduled flights per week, JetBlue has averaged less than a 3% flown load factor for the month (as of 4/24). For example, on April 23rd, BOS-MSP and MSP-BOS each had 2 customers. The service is not sustainable for JetBlue to operate at current demand levels and JetBlue is seeking flexibility to serve MSP below the minimum service levels defined in the Order, including the ability to temporarily suspend service.

BNA – Nashville International Airport

JetBlue serves BNA to/from BOS and FLL, and had announced JFK service. Despite reducing April service from a peak of 3 flights per day to as few as 3 flights per week, JetBlue has averaged less than a 5% flown load factor for the month (as of 4/24). For example, on April 23rd, BOS-BNA and BNA-BOS had 3 and 5 customers, respectively. The service is not sustainable for JetBlue to operate at current demand levels and JetBlue is seeking flexibility to serve BNA below the minimum service levels defined in the Order, including the ability to temporarily suspend service.

PHL – Philadelphia International Airport

JetBlue serves PHL to/from BOS and FLL. Despite reducing April service from a peak of 6 flights per day to as few as 6 flights per week, JetBlue has averaged less than a 19% flown load factor for the month (as of 4/24). For example, on April 23rd, BOS-PHL and PHL-BOS each had 4 customers. The service is not sustainable for JetBlue to operate at current demand levels and JetBlue is seeking flexibility to serve PHL below the minimum service levels defined in the Order, including the ability to temporarily suspend service.

PHX – Phoenix Sky Harbor Airport

JetBlue serves PHX to/from BOS, FLL and JFK. Despite reducing April service from a peak of 3 flights per day to as few as 3 flights per week, JetBlue has averaged less than a 10% flown load factor for the month (as of 4/24) on these all transcon routes. For example, on April 21st, BOS-PHX and PHX-BOS had 9 and 7 customers, respectively. The service is not sustainable for JetBlue to operate at current demand levels and JetBlue is seeking flexibility to serve PHX below the minimum service levels defined in the Order, including the ability to temporarily suspend service.

PDX – Portland International Airport

JetBlue serves PDX to/from BOS (seasonally), JFK and LGB. Despite reducing April service from a peak of 2 flights per day to as few as 3 flights per week, JetBlue has averaged less than a 10% flown load factor for the month (as of 4/24). For example, on April 20th and 21st, LGB-PDX and PDX-LGB had 4 and 11 customers, respectively. The service is not sustainable for JetBlue to operate at current demand levels and JetBlue is seeking flexibility to serve PDX below the minimum service levels defined in the Order, including the ability to temporarily suspend service.

SAN - San Diego International Airport

JetBlue serves SAN to/from BOS, FLL and JFK. Despite reducing April service from a peak of 5 flights per day to as few as 6 flights per week, JetBlue has averaged less than a 9% flown load factor for the month (as of 4/24) on these all transcon routes. For example, on April 20th, BOS-SAN and SAN-BOS had 12 and 10 customers, respectively. The service is not sustainable for JetBlue to operate at current demand levels and JetBlue is seeking flexibility to serve SAN below the minimum service levels defined in the Order, including the ability to temporarily suspend service.

SEA – Seattle-Tacoma International Airport

JetBlue serves SEA to/from BOS, JFK and LGB. Despite reducing April service from a peak of 5 flights per day to as few as 5 flights per week, JetBlue has averaged less than a 10% flown load factor for the month (as of 4/24). For example, on April 20th, JFK-SEA and SEA-JFK had 8 and 7 customers, respectively, on these transcon flights. The service is not sustainable for JetBlue to operate at current demand levels and JetBlue is seeking flexibility to serve SEA below the minimum service levels defined in the Order, including the ability to temporarily suspend service.

TPA – Tampa International Airport

JetBlue serves TPA to/from BDL, BOS, EWR, HPN, JFK and SJU. Despite reducing April service from a peak of over 12 flights per day to as few as 1 flight per day, JetBlue has averaged less than a 15% flown load factor for the month (as of 4/24). For example, on April 24th, BDL-TPA and TPA-BDL had 15 and 14 customers, respectively. The service is not sustainable for JetBlue to operate at current demand levels and JetBlue is seeking flexibility to serve TPA below the minimum service levels defined in the Order, including the ability to temporarily suspend service.

Conclusion

The temporary ad hoc relief sought by JetBlue, given the near-total lack of customer demand, does not threaten national connectivity in any way whatsoever and fully satisfies the congressional standard of “reasonable and practicable.” It is also fully consistent with the criteria DOT issued on April 24, 2020 and April 25, 2020. Every airport for which JetBlue is seeking an

exemption will continue to be well-served by numerous carriers and JetBlue itself intends to resume service at each and every airport as soon as safe and possible to do so.

In the last few days, certain JetBlue BOS-MSP flights have had only TWO total customers booked on 162-seat A320 aircraft. Unfortunately, such flights are operating with similar passenger loads to and from large hubs out of Boston, New York and throughout the JetBlue network. As a small carrier with less than 10% of domestic market share, we respectfully urge DOT not to require JetBlue to operate such empty flights during this national health emergency.

For all of these reasons, JetBlue respectfully requests that the exemption sought herein, which meets the “reasonable and practicable” standard of the CARES Act and is consistent with DOT criteria and the public interest, promptly be granted.

Respectfully submitted,

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

Robert C. Land
Senior Vice President Government Affairs and
Associate General Counsel

April 27, 2020

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail this 27th day of April, 2020 on the following:

Alaska	dheffernan@cozen.com rwelford@cozen.com
Allegiant	agoerlich@ggh-airlaw.com
ALPA	sascha.vanderbellen@alpa.org
American	robert.wirick@aa.com bruce.wark@aa.com
Atlas Air	rpommer@atlasair.com naveen.rao@atlasair.com
Delta	alex.krulic@delta.com chris.walker@delta.com steven.seiden@delta.com
FedEx Express	anne.bechdolt@fedex.com sllunsford@fedex.com
Frontier	robert.cohn@hoganlovells.com
Hawaiian	perkmann@cooley.com
Polar	kevin.montgomery@polaraircargo.com
Southwest	bob.kneisley@wnco.com leslie.abbott@wnco.com
Spirit	dkirstein@yklaw.com jyoung@yklaw.com
Sun Country	robert.cohn@hoganlovells.com
United	dan.weiss@united.com steve.morrissey@united.com amna.arshad@freshfields.com
UPS	anita.mosner@hklaw.com
State/FAA/DOT	forsbergap@state.gov john.s.duncan@faa.gov todd.homan@dot.gov david.short@dot.gov joel.szabat@dot.gov peter.irvine@dot.gov kevin.bryan@dot.gov albert.muldoon@dot.gov fahad.ahmad@dot.gov cindy.baraban@dot.gov benjamin.taylor@dot.gov
AirlineInfo	info@airlineinfo.com

Airpot Code	Full Airport Name	Airport Director e-mail	Mayor e-mail
ATL	Hartsfield - Jackson Atlanta International Airport	jselden@atlantaga.gov	kbottoms@atlantaga.gov
CLT	Charlotte/Douglas International Airport	Brent.Cagle@cltairport.com	vlyles@charlottenc.gov
ORD	Chicago O'Hare International Airport	Jamie.Rhee1@cityofchicago.org	lori.lightfoot@cityofchicago.org
DFW	Dallas / Fort Worth International Airport	sdonohue@dfwairport.com	eric.johnson@dallascityhall.com betsy.price@fortworthtexas.gov
DEN	Denver International Airport	Kim.Day@flydenver.com	michael.hancock@denvergov.org
DTW	Detroit Metropolitan Airport	Chad.Newton@wcaa.us	wevans@waynecounty.com
IAH	George Bush Intercontinental Airport	Mario.Diaz@houstontx.gov	sylvester.turner@houstontx.gov
LAS	McCarren International Airport	RosemaryV@mccarran.com	yking@clarkcountynv.gov
MSP	Minneapolis–Saint Paul International Airport	brian.ryks@state.mn.us	rick.king@mspmac.org
BNA	Nashville International Airport	Doug.Kreulen@flynashville.com	john.cooper@nashville.gov
PHL	Philadelphia International Airport	Rochelle.Cameron@phl.org	james.kenney@phila.gov
PHX	Phoenix Sky-Harbor International Airport	james.bennett@phoenix.gov	kate.gallego@phoenix.gov
PDX	Portland International Airport	dan.pippenger@portofportland.com	curtis.robinhold@portofportland.com
SAN	San Diego International Airport	kbecker@san.org	kevinfaulconer@sandiego.gov
SEA	Seattle–Tacoma International Airport	lyttle.l@portseattle.org	jenny.durkan@seattle.gov
TPA	Tampa International Airport	Jlapano@tampaairport.com	millerlj@hcflgov.net