

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

Joint Application of)

COMPASS AIRLINES, LLC)

and)

BREEZE AVIATION GROUP, INC.)

Docket DOT-OST-2020-_____

for transfer of certificate authority under)
49 U.S.C. §41105)
_____)

**JOINT MOTION OF COMPASS AIRLINES, LLC AND BREEZE AVIATION GROUP,
INC. TO WITHHOLD INFORMATION FROM PUBLIC DISCLOSURE**

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Dated: July 9, 2020

Notice: The Joint Applicants request that the answer period be shortened, and that answers be filed on July 14, 2020. The Joint Applicants intend to poll this Motion.

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Pursuant to section 302.12 of the Department’s Rules of Practice, Compass Airlines, LLC (“Compass”) and Breeze Aviation Group, Inc. (“Breeze,” collectively with Compass, the “Joint Applicants”) hereby move to withhold from public disclosure:

- Portions of Exhibits F-1 – F-5 (Certain personal information)
- Portions of Exhibit N (Select terms of financing agreements)
- Portions of Exhibit T-1 (Initial city pairs)
- Portions of Exhibit T-4 (Revenue Per Mile Assumptions & Charter Rates)
- Portions of Exhibit T-5 (Load Factor, Available Seat Miles, Charter Block Hours)
- Exhibit 1 (Asset Purchase Agreement)
- Exhibit 4 (Aircraft Financing Agreement)
- Exhibit 5 (Aircraft Sale & Leaseback Agreement)
- Exhibit 6 (Term Sheet to Lease Aircraft)

These documents are being filed with this Motion in a sealed envelope marked “Confidential Materials - Rule 12 Treatment Requested.” In support of this Motion, the Joint Applicants submit the following:

1. Exhibits T-1, T-4 and T-5 contain information that is confidential and proprietary, and is protected from public disclosure under the Freedom of Information Act, including 5 U.S.C.

§ 552(b)(4) (“Exemption 4”). Exemption 4 protects from public disclosure information that is (1) commercial or financial, (2) obtained from a person outside the government, and (3) privileged or confidential. The redacted portions of these exhibits satisfy the standard. They are commercial or financial in nature. The redacted information is not available to the public and was obtained from a private citizen, and Breeze considers the information highly confidential. Breeze also submits that public disclosure of the confidential information it is providing would cause substantial harm to its competitive position, and could impair the government’s ability to obtain similar information on a voluntary basis from individuals in the future.¹ Disclosure of Breeze’s initial markets prior to Breeze’s entry into those markets could disadvantage the airline competitively. Moreover, the initial city-pair, revenue per mile, available seat mile, load factor and charter pricing information is the type of information that the Department advises will be protected as confidential in application proceedings.² For the same reason, Breeze has redacted the projected charter block hours to inhibit the easy calculation of the charter pricing information that has been redacted.³ The Department granted a similar request for confidential treatment earlier this year.⁴

¹ *Gulf & Western Indus., Inc. v. United States*, 615 F.2d 527, 529 (D.C. Cir. 1980); *Nat’l Parks & Conservation Ass’n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974).

² U.S. Dep’t of Transp., Air Carrier Fitness Division, How to Become a Certificated Air Carrier, (Sept. 2012), https://cms8.dot.gov/sites/dot.gov/files/docs/Certificated_Packet_2012_final.pdf (“How to Become a Certificated Air Carrier”) (“[T]he Department will generally grant confidentiality to information identifying the specific markets to be served, proposed frequency of service, fares, estimated revenue passenger miles and available seat miles, and projected load factor.”).

³ Because Breeze plans to initiate scheduled service in its seventh month of operations, it has redacted the total system hours during those months because they are all charter hours. In the months where there is a mixture of charter and scheduled service, Breeze has provided the total system block hours.

⁴ See Letter from L. Remo to Parker Erkmann, DOT-OST-2020-0019-0003 (Mar. 10, 2020) (“March 2020 Rule 12 Ruling”) at 2-3.

2. Exhibits 4, 5 and 6 are aircraft financing and leasing documents, and Exhibit N identifies a source of pre-delivery deposit (PDP) financing, which has not been disclosed. As with the commercial information protected by Exemption 4 above, the terms of these agreements are (1) commercial and financial, (2) obtained from a person outside the government, and (3) confidential to Breeze and the counter-parties to these agreements. Moreover, release of this information would cause substantial harm to the competitive position of Breeze and its counterparties. This information also is of the type that the Department typically allows to remain confidential.⁵

3. The Joint Applicants also request confidential treatment for Asset Purchase Agreement submitted as Exhibit 1. This information is clearly commercial and confidential to the parties, and disclosure of the agreement could cause competitive and commercial harm. In analogous certificate transfers, the Department has granted confidential treatment to the entire agreement to protect the parties' confidential business and financial information.⁶ It should do the same here.

4. With respect to Exhibits F-1 through F-5, Breeze has redacted personal contact information of certain of its executives, employees and Board members. Such information is protected from public disclosure under the Freedom of Information Act, including 5 U.S.C. § 552(b)(6) ("Exemption 6"). Exemption 6 permits the withholding from public disclosure that would constitute an unwarranted invasion of privacy. Disclosure of the personal contact

⁵ How to Become a Certificated Air Carrier at 4 ("Information for which confidential treatment will generally be granted includes ... aircraft leases [and] loan agreements"); *see also* March 2020 Rule 12 Ruling at 2-3 (granting confidential treatment with respect to finance and leasing agreements).

⁶ *See* Order 2010-11-19 (Nov. 17, 2010), at 6 (granting confidential treatment to several documents, including (among other things) an Asset Transfer and Historical Cost Agreement as well as an Agreement and Plan of Merger).

information not only would be an unwarranted invasion of privacy, but the information is not particularly probative of Breeze's fitness to provide air transportation. Moreover, the Department granted a similar request for confidential treatment earlier this year.⁷

WHEREFORE, for the foregoing reasons, the Joint Applicants respectfully request that the Department grant this motion for confidential treatment; withhold from public disclosure the confidential, proprietary, and commercially sensitive information Breeze has filed (and subsequently may file) under seal. The Joint Applicants further respectfully requests any additional relief that the Department may deem necessary and in the public interest.

Dated: July 9, 2020

Respectfully Submitted,

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⁷ See March 2020 Rule 12 Ruling at 2.

CERTIFICATE OF SERVICE

I hereby certify that I have, on this 9th day of July 2020, served the foregoing Motion of Breeze Aviation Group, Inc. for Confidential Treatment via email submission on the following:

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