

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

_____))
Application of))
))
 AIRCOMPANY MERIDIAN LTD.))
)) Docket No. DOT-OST-2021-_____
for a foreign air carrier permit pursuant to))
49 U.S.C. § 41301 and for exemption authority))
pursuant to 49 U.S.C. § 40109))
_____))

**MOTION OF AIRCOMPANY MERIDIAN LTD.
FOR CONFIDENTIAL TREATMENT UNDER 14 C.F.R. § 302.12**

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September 13, 2021

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Pursuant to Rule 12 of the Department of Transportation’s Rules of Practice (14 C.F.R. §302.12), Aircompany Meridian Ltd. (“Meridian”) hereby requests that the Department withhold from public disclosure the entire contents of Exhibits G and H to its Application for a Foreign Air Carrier Permit and Exemption, filed contemporaneously with this Motion.

Exhibit G consists of Meridian’s financial information (income statement and balance sheet) and related information. Exhibit H consists of forecasted traffic and financial results for the carrier’s proposed operations. The financial information included in Exhibits G and H contains confidential, proprietary and commercially sensitive information. Unredacted copies of Exhibits G and H are being submitted herewith under seal in an envelope labeled “Confidential Treatment Requested Under 14 C.F.R. § 302.12.” Meridian is submitting this information to facilitate the Department’s processing of Meridian’s Application for a Foreign Air Carrier Permit and Exemption filed concurrently with this motion for confidential treatment.

In support of this request, Meridian submits the following:

1. To facilitate the expeditious processing of its Application for a Foreign Air Carrier Permit and Exemption, Meridian's has submitted information required by the Department under 14 C.F.R. § 211.20. The financial information contained in Exhibits G and H to Meridian's permit application is confidential, proprietary, and protected from public disclosure under various exemptions to the Freedom of Information Act ("FOIA"), including 5 U.S.C. § 552(b)(4).
2. 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." *Gulf & Western Indus., Inc. v. United States*, 615 F.2d 527, 529 (D.C. Cir. 1980) (citations omitted). The financial information contained in Exhibits G and H clearly satisfies this standard. The information is commercial and financial in nature. The information was obtained from Meridian, a private limited liability company organized under the laws of Ukraine, which meets the definition of "person" outside of government. Finally, the financial information is confidential. As a private company, Meridian does not publish this information. Meridian could suffer competitive harm if the information contained in Exhibits G and H were publicly disclosed. See *Washington Post Co. v. HHS*, 690 F.2d 252, 268 (D.C. Cir. 1982) (defining the standard for whether a document is privileged or confidential). Public disclosure of such information could "impair the Government's ability to obtain necessary information in the future or . . . cause substantial harm to the competitive position of the person from whom the information was obtained." *National Parks & Conservation Ass'n v. Kleppe*, 547 F.2d

673, 677-78 (D.C. Cir. 1976) (quoting *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765-70 (D.C. Cir. 1974)); *Burke Energy Corp. v. DOE*, 583 F. Supp. 507, 510-11 (D. Kansas 1984).

The granting of Meridian's motion would be consistent with Department precedent in other similar cases. The Department has routinely granted motions for confidential treatment filed by other foreign air carriers seeking to withhold from public disclosure similar financial information submitted in connection with permit or exemption applications.¹ In the interest of fairness, Meridian's financial information should also be granted confidential treatment.

WHEREFORE, for the foregoing reasons, Meridian requests that the Department withhold from public disclosure the confidential, proprietary and commercially sensitive information that Meridian has filed under seal, and grant such other and further relief as the Department deems necessary and appropriate.

[SIGNATURE PAGE FOLLOWS]

¹ See, e.g., *Application of Azul Linhas Aéreas Brasileiras S.A. for Exemption and Permit*, Order 2014-9-7, September 10, 2014 (Docket DOT-OST-2014-0095), at 2 n.2; *Application of Qatar Executive for Exemption and Permit*, Order 2014-8-17, August 21, 2014 (Docket DOT-OST-2014-0041), at 2 n.2; *Application of Empresa Publica TAME Linea Aerea Del Ecuador TAME EP for Exemption and Permit*, Order 2013-7-8, July 10, 2013 (Docket DOT-OST-2013-0085), at 2 n.3.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Mark W. Atwood".

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Dated: September 13, 2021

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Motion of Aircompany Meridian Ltd. by electronic mail upon the following:

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DATED: September 13, 2021