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Order 2000-12-13

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the 19th day of December 2000

Served: December 19, 2000

1999 U.S.-Argentina Combination Service Case

Docket OST-1999-6210 - 327

ORDER TO SHOW CAUSE

Summary

By this order, we tentatively select Delta Air Lines, Inc. and Continental Airlines, Inc. to serve the U.S.-Argentina market and tentatively allocate each carrier seven weekly frequencies for its proposed services. Delta's award would be for services commencing April 1, 2001 in the Atlanta-Buenos Aires market and Continental's award is for services commencing December 1, 2001 in the Newark-Buenos Aires market. We also tentatively select Continental as the backup carrier to Delta's Atlanta award for service from Houston and United Air Lines, Inc. as the backup carrier for Continental's primary award for services from Los Angeles. We will afford interested persons 7 calendar days to file objections to our tentative decision and 3 calendar days to file answers to objections.

Background

Currently, U.S. carriers may operate 42 weekly combination service frequencies between the United States and Argentina. American Airlines and United Air Lines are the two carriers authorized to serve the market and each is allocated 21 weekly frequencies for its services.

On November 22, 1999, the Department instituted the *1999 U.S.-Argentina Combination Service Case* for allocation of 14 additional weekly frequencies available for services between the U.S. and Argentina. At the time we instituted the case the frequencies would have become available on September 1, 2000 and June 1, 2001, respectively. Delta Air Lines, Inc., Continental Airlines, Inc., and United Air Lines, Inc. applied for the available frequencies. Continental sought all 14 frequencies for services from Newark and Houston; Delta sought the first available seven frequencies for service from Atlanta, and United sought seven frequencies for service from Los Angeles. In addition, civic parties from New

Jersey and Houston in support of Continental, from Atlanta and Georgia in support of Delta, and from Los Angeles in support of United, participated in the case, filing direct exhibits, rebuttal exhibits and briefs under the procedural schedule set forth in the Department's order.

On November 24, 2000, the United States and Argentina agreed, through an exchange of notes, that the fourteen additional frequencies will now become available on April 1, 2001, and December 1, 2001.

By Notice dated November 30, 2000, the Department stated its intent to allocate the frequencies in this proceeding based on the evidentiary record established earlier this year, except for some limited updated information requested of each of the applicants, and provided an opportunity for interested parties to comment.¹ Continental, Delta, and United as well as Houston, New Jersey, the Georgia and Atlanta Parties, and Los Angeles filed responsive pleadings.

All of the carrier applicants and civic parties support the Department's proposal to use the existing record for allocation of the available frequencies, and urge the Department to make a decision quickly so that the carrier selected for the April 2001 frequencies can make adequate preparations to institute service. Each of the applicants, supported by its interested civic parties, confirmed its intent to implement the proposed services and renewed arguments in support of its original proposal(s).

The Market

The U.S.-Argentina market is the fourth largest U.S.-South America market, generating approximately 1 million passengers for the 12 months ended June 1999 of which approximately 675,000 traveled on U.S. carriers.² Based on O&D data for the year ended June 1999, Miami, New York, Los Angeles, Chicago, and Washington, D.C. were the five top O&D markets. Of these, Miami, New York, and Chicago had nonstop service. These three gateways constitute 52 percent of the O&D traffic. Thus, nearly 50 percent of the traffic in the U.S.-Argentina market connects over one of these gateways.³

American and United, the two U.S. carriers serving Argentina, each operates three daily services. American operates twice daily nonstop service between Miami and Buenos Aires and one daily flight between New York (JFK) and Buenos Aires. One of American's daily Miami flights also operates on a single-plane basis to Dallas/Ft. Worth. United operates a daily nonstop service from three U.S. gateways--Miami, New York, and Chicago. It also

¹ The Department's notice also called for comment to a motion filed on November 29 by Delta for immediate action in the case and calling for an expedited final Department decision.

² DOT IR-1A.

³ DOT IR-2A and 2B.

serves Los Angeles and San Francisco on a single flight number basis. The Los Angeles flights are operated via Chicago, and the San Francisco flights are operated via Miami.⁴

Foreign carriers also offer services between the United States and Argentina offering 23 nonstop flights and 24 one-stop flights. Aerolineas Argentinas operates daily nonstop service to Buenos Aires from New York (JFK), ten weekly nonstop flights from Miami, and three weekly nonstop flights from Los Angeles.⁵ It also operates three weekly one-stop flights from Miami via Punta Cana, Dominican Republic and Cancun, Mexico. LAPA, another Argentine carrier, operates three weekly nonstop flights between Atlanta and Buenos Aires. LAN-Chile operates a daily two-stop flight from Los Angeles and a daily one-stop flight from New York. Compania Panamena de Aviacion (COPA), a carrier of Panama, operates daily one-stop service from Los Angeles to Buenos Aires via Panama City.⁶

Carrier Applications

Continental and Delta, two carriers not now serving Argentina, and United, an incumbent carrier, have sought some or all of the available frequencies. Continental seeks all 14 frequencies to operate daily nonstop services from its hubs at Newark and Houston. Continental would commence Newark services on April 1, 2001 and Houston services on December 1, 2001, using B-767 aircraft. If awarded only one set of frequencies, Continental states that it would use the frequencies at Newark. Delta seeks seven of the available frequencies and would operate nonstop Buenos Aires service from Atlanta, using MD-11 aircraft. United seeks seven of the available frequencies and would operate nonstop service from Los Angeles using B-777 aircraft with single flight number service behind Los Angeles to San Francisco, using B-737 aircraft. Both Delta and United would prefer an award of the April 2001 frequencies, but both have stated that they would accept an award of the December 2001 frequencies.

In terms of backup awards, if not selected for the first set of frequencies, Continental seeks to be selected for a backup award from Newark for the April 2001 primary award with Houston as its second choice.⁷ Delta states that if it is selected for a primary award for the April 2001 frequencies, then it seeks a selection as backup for the second primary award for service between New York (JFK) and/or Atlanta and Buenos Aires.⁸ United states that it would accept a backup award to either of the primary awards.⁹

A chart summarizing key aspects of the applicants' proposals is attached as Appendix A.

⁴ These flights require a change of aircraft at Chicago and Miami.

⁵ One weekly Aerolineas Argentinas flight from Miami also serves New York on a single-plane basis.

⁶ Some of these flights require a change of aircraft at a foreign intermediate point.

⁷ Exhibit CO-544.

⁸ Exhibit DL-T-1, Pages 16-18.

⁹ See Motion of United Air Lines, Inc. to Clarify dated December 2, 1999 and Exhibit UA-500.

The New Jersey Parties and the Houston Parties filed in support of Continental; the Georgia and Atlanta Parties filed in support of Delta; and the Los Angeles Parties filed in support of United.¹⁰ The applicants and civic parties filed Direct Exhibits, Rebuttal Exhibits, and Briefs under the schedule set forth in the Department's instituting order. In addition, each party supplemented the record in response to the Department's November 30, 2000 Notice.

Position of the Parties

Applicants

Continental argues that its selection for all 14 of the frequencies offers the greatest public benefits because (a) its Newark proposal would provide the first nonstop service between Newark and Buenos Aires, providing passengers in the New York catchment area an important new choice of airport service, and would provide important competition in the second largest U.S.-Argentina market; and (b) its Houston proposal would provide a western hub for flow traffic and offer intergateway competition to United's service from Chicago. Continental states that its proposed services would provide the first and only services to Argentina from both airports, whereas the other cities proposed in this case now have service from foreign carriers. With respect to Newark, Continental states that the New York/Newark market is ten times larger than Atlanta and over twice as large as Los Angeles, and that 16,000 New York passengers now fly to Argentina via Miami, demonstrating the need for additional service from New York/Newark. Continental further argues that not only will its proposal benefit the large local market, but connecting markets as well. In this regard, Continental states that the northeast, which constitutes nearly 35 percent of the U.S.-Argentina traffic, is better served through Continental's Newark hub than through JFK. Similarly with respect to Houston, Continental argues that its service would provide the first U.S.-flag service west of the Mississippi and that connecting traffic in southwestern states, which comprise about 15 percent and the second largest block of connecting traffic, would be well served through its Houston hub.

In terms of structural benefits, Continental argues that its Newark services would provide intra-and intergateway competition at New York, and that Houston service would provide intergateway competition with the services of American, United, and Aerolineas Argentinas at New York and Miami, with United at New York, Miami, and Chicago, and with Aerolineas Argentinas' service at Los Angeles. From a regional standpoint, Continental states that the awards would complete its South American network and would provide valuable regional competition in South America with the services now offered by American and United, the two carriers that dominate the U.S.-South America market.

¹⁰ The Houston Parties consist of the City of Houston and the Greater Houston Partnership. The New Jersey Parties are represented by the Regional Business Partnership (Newark). The Georgia and Atlanta Parties consist of the State of Georgia, the City of Atlanta, the Hartsfield-Atlanta International Airport, and the Metro Atlanta Chamber of Commerce. The Los Angeles Parties consist of the Los Angeles World Airports and the Los Angeles Convention and Visitors Bureau.

Delta and United argue that there already is extensive service at New York and that the addition of Continental's service from Newark does not outweigh services from their proposed gateways. Delta and United argue that Atlanta and Los Angeles have no U.S.-flag services, whereas the New York area has service from two U.S. carriers. As a result, they maintain that their proposals would offer greater service benefits. In addition, they argue that the only nonstop service provided at their proposed gateways is less than daily service by foreign carriers and, thus, that their proposals offer greater competitive benefits than Continental's Newark proposal. United further states that, while Continental claims 16,000 New York/Newark passengers now connect over Miami, 89,000 Los Angeles passengers have had to use services with at least one stop between Los Angeles and Buenos Aires. Delta and United also argue that of all of the applicants in this proceeding, Continental proposes to use the smallest aircraft and would benefit the fewest number of passengers. They further argue that Houston is a small local market, and Delta adds that Houston offers fewer connecting benefits than Atlanta. Both carriers also criticize Continental for its reductions in service to South America from both Newark and Houston, raising questions as to whether Continental would "institute and maintain" service to Argentina as proposed.¹¹ They maintain that allocating all 14 frequencies to Continental would forego the major service and competitive benefits offered by the other proposals in the case and would not be a wise use of the available frequencies.

Delta argues that its selection for the first set of frequencies would install a strong new entrant competitor in the U.S. Argentina market, effectively serving every region of the U.S. Delta maintains that its proposal would open a new gateway for U.S.-flag service to Argentina and that its large Atlanta hub would provide the most connecting service benefits with more on-line connections than any other applicant in this proceeding and the most convenient and least circuitous service for the greatest number of U.S.-Argentina passengers. Delta further argues that its Atlanta hub is the only proposed gateway in this case that is well positioned to challenge American's dominant Miami hub for behind-gateway traffic. It further states that its daily service would compete with the thrice-weekly service now provided by the Argentine carrier, LAPA, and that its proven track record in South America demonstrates its ability to offer strong, effective competition in the region which it claims is critical in a market where American and United are the dominant carriers.

United and Continental argue that Atlanta is a small local market, that the service now provided by LAPA is more than sufficient to accommodate the level of traffic generated at Atlanta, and that Delta's proposed service would duplicate that provided by LAPA. They maintain that Los Angeles and Newark are considerably larger local markets and, therefore, that there is a greater need for service to those cities than to Atlanta. United adds that while Delta has stressed the importance of its selection to open a new U.S. carrier gateway, Los Angeles also represents a new gateway, and a gateway that generates over five times as

¹¹ United states that since exhibits in this proceeding were filed, Continental has reduced service to Brazil from Newark and terminated altogether its services to Chile and Bolivia. United also states that Continental reduced capacity on its Houston-Brazil services.

many passengers as Atlanta. United and Continental also argue that Delta has significantly overstated the connecting traffic that would benefit from its proposed service by including passengers that would need to make double connections and passengers that would not reasonably use the service, such as Florida and New York passengers that have available convenient nonstop service. Continental maintains that its hub at Houston, a city unlike Atlanta, with no nonstop or single-plane Argentina service would serve connecting passengers equally well and is a better choice for network Argentina service than Atlanta. United and Continental further argue that Delta had originally proposed to operate smaller B-767 aircraft and that its proposal now to use larger aircraft is intended only to afford it a capacity advantage in the proceeding, and that if selected, Delta would substitute the smaller B-767 aircraft on the route.

United argues that its proposal to offer the first U.S.-flag service from Los Angeles, a gateway that is considerably larger than either Atlanta or Houston, should be selected for one of the awards in this proceeding. United maintains that Los Angeles is the largest U.S.-Argentina market that lacks U.S.-flag service and that the recent introduction of three weekly nonstop flights by Aerolineas Argentinas between Los Angeles and Buenos Aires makes it even more critical for United to receive an award in this case. United further argues that the Los Angeles market has grown six percent in the first eight months of 2000 and that additional growth occurred in September and October as a result of stimulation from Aerolineas Argentinas' service. United contends that the success of this service confirms United's decision to expand its service to Argentina by operating nonstop from Los Angeles and makes it even more critical for United to receive an award in this case to ensure that U.S. carriers can compete effectively with foreign carriers, consistent with the policy goals set forth in the statute. United maintains that its proposed daily service from Los Angeles will provide that competition.¹²

With respect to Newark, although a larger market than Los Angeles, United argues that an award to Continental is not necessary as three carriers, including two U.S. carriers, already serve the New York-Buenos Aires market and meeting foreign carrier competition is not an issue. United maintains that the Department should not once again reject service by United at its Los Angeles hub based on favoritism to carriers claiming to be new entrants. As there are two opportunities available and three applicants, the Department could grant one opportunity to a new entrant while still enabling United to offer demonstrably needed U.S. carrier service in the Los Angeles-Buenos Aires market. United rejects arguments that it can offer its Los Angeles service within its existing frequency allocation, stating that it is using its 21 frequencies to serve the major gateways of Miami and New York as well as its largest hub at Chicago, and that it cannot operate the Los Angeles service without sacrificing valuable competition at these other gateways. Moreover, it contends that selection of Los Angeles will give much needed service to the west and western cities using

¹² United cites the U.S.-Toronto Second Year Service Proceeding, Order 96-7-18, and the United States-United Kingdom Regional Airport Proceeding, Order 91-4-45 in support of its position.

Los Angeles as a gateway and will provide some geographical balance to U.S.-Argentina services, the majority of which are concentrated in the east.

Delta and Continental argue that United has 21 frequencies already and can offer a daily service from three gateways. They maintain that with the high load factors projected by United, which are 40 points higher than any of its other Argentina services, it would make sense for United to move some of its existing frequencies to Los Angeles, notwithstanding United's comments to the contrary. They argue that such options are not available for them, as they cannot now serve Argentina at all. They further maintain that the overall competitive benefits of two new airlines serving Argentina outweigh the benefits of a fourth service by United.

Civic Parties

The New Jersey and Houston parties support Continental's proposals. They argue that Continental's service would open two new gateways to Argentina and would inject a third network competitor into this major market. New Jersey states that awarding Newark its first nonstop Argentina access effective April 1, 2001 would bring far greater public benefits for consumers than additional nonstop service at Atlanta or Los Angeles. It maintains that New York/Newark generates far more traffic than either Atlanta or Los Angeles and that introducing service from the only true airline hub serving the region will enhance service particularly in the Northeast U.S. New Jersey further states that although Newark is the fifth largest U.S. international gateway and handles over 6.7 million annual passengers, it has no single-plane Argentina service despite the fact that over 6 million people live within 25 miles of the airport. From a competitive standpoint, New Jersey argues that permitting United to add a fourth service before Continental can serve even one gateway, particularly since nonstop service is already operated at Los Angeles by Aerolineas, would not be the most effective means to increase competition. Houston states that it is a major domestic and international hub gateway to Latin America, but has no nonstop service to Buenos Aires; that trade with Argentina continued to be a significant component of economic ties with Latin America, with Houston and Argentina exchanging more than 697,000 kilograms of goods valued at nearly \$35 million; and that it has continued to improve the airfield and terminal areas at Houston, making it an efficient and convenient airport, attractive to business and leisure travelers which would help make Continental's proposed Argentina service a success. Both communities argue that United has 50 percent of the currently available frequencies and has ample Buenos Aires access through three gateways and that Atlanta already has nonstop Buenos Aires service.

The Georgia and Atlanta parties support Delta's Atlanta proposal and state that Delta's proposal is superior to the others since Atlanta is the only hub gateway at issue capable of providing effective coverage for the entire U.S., that Delta operates more flights to and from more U.S. cities at Atlanta than any other carrier at any other gateway. It also states that Delta would be a new entrant to the Argentina market, and through its Atlanta hub would be the most able to compete effectively with American at Miami in the U.S.-

Argentina market and to strengthen competition in the U.S.-Latin America region. They argue that no other proposal can match these benefits. In this regard, they state that neither Houston nor Newark offers the hub benefits available at Atlanta. With respect to United, the parties state that while both Atlanta and Los Angeles have limited nonstop service from foreign carriers, and both would benefit from daily service by U.S. carriers, only the selection of Delta would provide service by a new entrant, whereas selection of United would only strengthen an existing carrier in the market.

Los Angeles supports United and its comments in this proceeding. Los Angeles states that it is the largest city without daily nonstop service to Argentina and without any U.S. carrier nonstop service. It further states that the demand for Los Angeles-Buenos Aires service is evidenced by the recent decision of Aerolineas Argentinas to introduce nonstop service at Los Angeles service three times a week. It maintains that United's service would fill a void in the U.S.-Argentina market by providing the first daily nonstop service in the western U.S. and first service by a U.S. carrier, benefiting not only Los Angeles passengers, but also passengers throughout the western U.S. and United's worldwide network served via Los Angeles. By contrast Los Angeles argues that New York/Newark already has service from three carriers, and that Atlanta is a much smaller market than Los Angeles and already has service from a foreign carrier.

Tentative Decision

We have tentatively decided to select Delta and Continental to serve the U.S.-Argentina market and to allocate each carrier seven weekly frequencies for its services. We propose to allocate Delta the seven weekly frequencies available on April 1, 2001, for its proposed Atlanta-Buenos Aires service, and Continental the seven frequencies available on December 1, 2001, for its proposed Newark-Buenos Aires service.

Our primary objective in this proceeding is to select a carrier or carriers that would provide the greatest public benefits. This goal is particularly important in a market such as Argentina, which historically has been one of the most restrictive in South America and is considered by the applicants as a critical component for an effective South America route network. While the U.S.-Argentina market is one of our most important South America markets, it historically has been limited to combination services by only two U.S. airlines. Indeed, there has been no increase in the number of U.S. scheduled combination airlines in the market for over 50 years.¹³ Argentina is now the only major South America market served by fewer than three U.S. combination carriers. Because of this long history of restrictive service, one of our major objectives in liberalizing our aviation regime with Argentina was to create new opportunities for additional carriers to serve this important market. We seek such expanded opportunities with our aviation partners because we

¹³ Eastern Air Lines and Pan American World Airways were the two carriers originally authorized for U.S.-Argentina services. They were succeeded by American Airlines and United Air Lines, respectively, when Eastern and Pan American ceased airline services.

believe that new entry is the most effective means of improving service, price, and competition, which in turn, provides the widest and most responsive range of competitive services to consumers.

These considerations strongly support the selection of the two new entrant applicants in this proceeding. Both carriers would offer service from their hub airports, thereby benefiting not only the local passengers at these gateways, but also benefiting connecting traffic through the extensive services operated at their hubs. In addition, each would serve an airport not now receiving any nonstop or single-plane service from a U.S. carrier in regions of the country, the northeast and southeast United States, that generate the most U.S.-Argentina traffic.¹⁴ Such new services would benefit the local passengers in these markets, and would provide the connecting passengers, which constitute nearly half the U.S. Argentina traffic, with two new service/price options making for a total of four U.S. carrier service options overall.

Delta would operate service at its Atlanta hub, providing the first U.S. carrier Argentina service from that gateway and benefiting connecting passengers through competition with the services offered by American at Miami and United at Chicago. Delta now operates services to several points in South America from Atlanta, including Venezuela, Peru, Brazil, Colombia and Chile, demonstrating the success of that gateway for competitive South America services. Continental would provide service from Newark. This opportunity for choice is particularly significant as all of the current services from New York, the second largest U.S.-Argentina market, are provided from JFK. By providing such service, Continental not only enhances competition among the U.S. and foreign carriers serving the broader New York/Newark region, but also provides competition between the airports. Moreover, as the New Jersey parties have noted, Newark would be the only true hub service offered in the New York/Newark region as neither American nor United has a hub at JFK. Continental's service, therefore, would offer the added advantage of providing the large local market the benefits of a network service. The combined services of four carriers offering service through major hubs--at New York/Newark and Atlanta by the new entrants and Miami and Chicago from the incumbents--would afford the public the broadest range of competitive services in the portion of the country that generates nearly 70 percent of the U.S.-Argentina traffic.

We tentatively find that awards to Continental and Delta would provide further structural benefits as well. With the addition of Argentina to each of their systems, Delta and Continental will have extended the reach of their South America services to another South American country, and will be able to offer the public more comprehensive services in the South America market. As American and United already offer comprehensive services in South America, serving many South American countries, including Argentina, the broad competition offered by four airlines serving the region would serve to maximize the range

¹⁴ DOT Information Responses.

of services available throughout South America, promoting the most responsive service to consumers.

These same considerations support a determination that, given the presence of another new entrant applicant, one carrier should not be awarded all 14 frequencies. To do so would not fully use the valuable opportunity available to increase the number of competitors in the market and would not maximize the public benefits that result from the availability of multiple carrier/service options to consumers.¹⁵

While Delta and Continental would provide significant public benefits as new competitors in the U.S.-Argentina market, United is one of the two carriers that can now serve Argentina and it already has a significant presence in the market. This consideration provides Delta and Continental with a significant advantage for the authority at issue in this case. We have tentatively determined, on balance, that this important consideration outweighs the factors favoring United in the circumstances of this case.

The primary benefit of United's proposal derives from the service improvements that it would bring to Los Angeles, specifically the first U.S.-flag nonstop service in the largest U.S.-Argentina gateway without U.S.-flag service. Delta and Continental, however, would also provide the first U.S.-flag nonstop service to their proposed gateways of Atlanta and Newark. Moreover, Los Angeles enjoys considerably more service than either Atlanta or Newark. In addition to the three weekly nonstop flights provided by Aerolineas Argentinas, United provides single flight number service in the market over Chicago, and COPA, a Panamanian carrier, and LAN Chile, a Chilean carrier, provide one-and two-stop services, respectively, for a total of 24 weekly services. Thus, while we would hardly dispute that United's introduction of nonstop service at Los Angeles is a benefit, in the context of this proceeding, given the restrictive history of the market and the new entrant applicant proposals before us, which themselves would provide substantial public benefits, we tentatively find that the public benefits that Delta and Continental are likely to provide as a result of an award in this case outweigh the benefits that United would provide.

In reaching these tentative decisions, we have fully considered United's arguments that its nonstop service would offer competition with foreign-flag service at Los Angeles, a specific policy objective set forth in the statute. We note, however, that that same statute also encourages us to promote new entry in air transportation markets and competition in foreign markets among U.S. carriers.¹⁶ Our proposed awards in this case would meet both of those statutory considerations. Moreover, the record in this case shows that greater entry into the

¹⁵ As Continental has stated that its preference is for an award for Newark service should it be allocated seven, rather than all 14 frequencies, there is no need for comparative consideration of Continental's Houston and Newark proposals.

¹⁶ 49 U.S.C. 40101.

Argentina market would provide greater overall public benefits than strengthening one of the two carriers already providing extensive service.¹⁷

Moreover, we tentatively are not persuaded by arguments that Continental should not receive an award in this case because it has recently reduced or terminated some of its services in the U.S.-South America region. As the record has shown, all carriers have incurred reductions in their international services at various times.¹⁸ United acknowledges that it experienced some problems in implementing its South America services following the route transfer from Pan American, and Delta has reduced some international services of its own and not yet implemented some of the Latin American authority that it holds. We tentatively are not persuaded however that these service adjustments will affect Continental's commitment to institute and maintain the services that are authorized here, and Continental has confirmed its commitment on the record of this case. In any event, we are also proposing, as we customarily do in certificate cases, to select a backup carrier for Continental's and Delta's primary awards.

Nor tentatively are we persuaded by arguments that the proposals in this case are not credible. Each of the applicants has criticized the traffic forecasts of the others. Our analysis indicates that all of the proposals may be overstated in some respects. We have seen nothing, however, that convinces us that the service proposals and supporting information are outside the bounds of reasonableness, taking into account the matters that we have tentatively found to be determinative in this case.

Finally, we tentatively conclude that the need for additional service and competitive options supports an award of the first seven frequencies to Delta for its Atlanta service. Delta would provide the first U.S.-flag service at the Atlanta gateway and its daily service would offer competition to the thrice weekly foreign carrier services operated by an Argentine carrier. While Continental would provide the first U.S.-flag service to Newark, passengers in the New York/Newark metropolitan area have more convenient Argentina service options available to them to Argentina than do passengers in the Atlanta area, since American, United, and Aerolineas Argentinas provide daily service from JFK. In these circumstances, while Continental's service at Newark would provide significant public benefits, we believe that the inauguration of the first U.S.-flag service to Argentina from the Atlanta region justifies the award to Delta for the first seven frequencies. In reaching this tentative conclusion, we recognize that the selection of Houston would bring the benefit of opening a new gateway to Argentina. However, we have tentatively determined that the selection of Atlanta will provide greater public benefits taking into consideration all of the evidence of record and Continental's position in this case.

¹⁷ The Second-Year Toronto Case and the U.S.-U.K. Regional Case cited by United are inapposite. In neither of those cases had the market been closed to the extent or for the many years that the Argentina market has been restricted.

¹⁸ See, e.g., December 8, 2000 Answer of Continental at 4; December 5, 2000 Comments of United at 7, n.9; CO-R-1130 and 1133.

Backup Authority

We have tentatively decided to make Continental backup to Delta's primary award for services from Houston and United backup up to Continental's primary award for services from Los Angeles. Should Delta not operate its Atlanta-Buenos Aires services, Continental's proposed services from Houston would provide service at a new gateway for a new entrant and would offer intergateway competition with the services of American, United, and Aerolineas Argentinas at Miami, New York, Chicago, and Los Angeles. An award to United as backup to Continental would provide the first U.S.-flag nonstop service at Los Angeles. Based on their proposals in this case, we are persuaded that both backup carriers would be in a position to implement their backup awards should the primary carriers not implement service or should they discontinue service during the first year of operations, and that, as noted above, the services authorized would provide valuable public benefits. While Delta had also sought backup authority for an award to Continental, it requested that such an award be for services from New York and/or Atlanta. Delta does not have an economic proposal before us for New York or for additional Atlanta services, and therefore, we are not prepared to consider it for a backup award in this case. Finally, with respect to both backup awards, as we have done in other cases, should the primary carrier not use all of the frequencies allocated to it for its services, we are prepared to permit a portion of the frequencies to be reallocated to the backup carrier during the year term of the backup award should the backup carrier seek to use them.¹⁹

Economic Authority

Consistent with the procedures set forth in our instituting order, we propose to issue Delta and Continental experimental certificates of public convenience and necessity for their proposed Atlanta-Buenos Aires and Newark-Buenos Aires services. We also propose to issue Continental a backup certificate for Houston-Buenos Aires authority. As United already holds authority on Route 632 to serve Los Angeles-Buenos Aires, no additional certificate authority is needed. The primary certificates will be for a period of five years; the backup certificates will have a one-year duration. The awards will also be subject to startup conditions. In response to interrogatories in this case, Delta proposes a 90-day startup condition, Continental proposes a 120-day startup condition, and United proposes a 60-day startup condition. Each carrier states that it is prepared to begin services on the date on which the first frequencies become available or within the startup period described above, whichever is later. As we have tentatively selected Delta for the first set of frequencies, we will require that Delta begin service within 90 days of the effective date of its certificate award. As we propose to award Continental the second set of frequencies available in December 2001, which is beyond Continental's proposed startup date, we propose to require that Continental begin services no later than December 1, 2001.

We also intend to subject the frequency allocations in this proceeding for both the primary and backup awards to our standard 90-day dormancy condition. The dormancy period

¹⁹ See 1997 U.S.-Brazil Combination Service Proceeding, Order 97-4-13.

would begin on the required startup date for the services or the date on which the carriers commence service, whichever occurs earlier.

To ensure that the selected carriers, particularly the carrier selected for the April 2001 frequencies, have sufficient time to plan and promote their services, we believe that it is important that we complete this case as soon as possible. To that end, and in light of the fact that all parties to this proceeding have urged us to reach a final decision quickly, we have decided to provide an accelerated procedural schedule for responsive pleadings. We will require that objections to our tentative decision be filed within seven calendar days of the service date of this order and that any answers to objections be filed within three calendar days thereafter. In light of the accelerated procedural schedule, we will authorize service by facsimile and e-mail. All parties should specify the type of service that they prefer and provide their fax numbers and/or e-mail addresses to the other parties in this case.

ACCORDINGLY,

1. We tentatively decide to (a) select Delta Air Lines, Inc. for services in the Atlanta-Buenos Aires market commencing April 1, 2001 and Continental Airlines, Inc. for services in the Newark-Buenos Aires market commencing December 1, 2001; and (b) allocate each carrier seven weekly frequencies for its proposed services, subject to our standard 90-day dormancy condition;
2. We tentatively select Continental Airlines as backup to Delta's primary award for services between Houston and Buenos Aires and United Air Lines as backup to Continental's primary award for services between Los Angeles and Buenos Aires and tentatively allocate each seven weekly frequencies for its services on a backup basis;
3. We direct any interested parties having objections to our tentative decision set forth in this order and described in ordering paragraph 1 and 2, above, to file their objections with the Department, Dockets, Docket OST-99-6210, U.S. Department of Transportation, 400 Seventh Street, S.W., Room PL-401, Washington, D.C. 20590, no later than seven calendar days from the date of service of this order; answers to objections are due no later than 3 calendar days thereafter;²⁰
4. If timely and properly filed objections are filed, we will afford full consideration to the matters or issues raised by the objections before we take further action;²¹ if no objections

²⁰ The original filing should be on 8½" x 11" white paper using dark ink (not green) and be unbound without tabs, which will expedite use of our docket imaging system. In the alternative, filers are encouraged to use the electronic filing submission capability available through the Dockets/DMS Internet site (<http://dms.dot.gov>) by following the instructions at the web site.

²¹ As we are providing for the filing of objections to this tentative decision, we will not entertain petitions for reconsideration of this order.

are filed we will deem all further procedural steps to be waived and will proceed to enter a final order awarding the authority proposed in this order;

5. We grant all motions for leave to file otherwise unauthorized documents in this proceeding;

6. We grant the December 2, 1999, Motion of United Air Lines, Inc. to Clarify filed in this docket;

7. We grant the November 29, 2000, Motion of Delta Air Lines, Inc. for Immediate Action to the extent it seeks an expedited decision in this case; and

8. We will serve this order on all parties to this docket; the Ambassador of Argentina in Washington, D.C.; the U.S. Department of State (Office of Aviation Negotiations); and the Federal Aviation Administration.

By:

SUSAN MCDERMOTT
Deputy Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at:
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SUMMARY OF APPLICANTS' TRAFFIC FORECASTS
U.S. ARGENTINA (Buenos Aires)
YEAR ENDED SEPTEMBER 2001 OR JUNE 2002 AS INDICATED

TRAFFIC	APPLICANTS' FORECASTS			
	CONTINENTAL 3/		DELTA	UNITED
	YE 9/2001	YE 6/2002	YE 9/2001	YE 9/2001
	<u>EWR-EZE</u>	<u>IAH-EZE</u>	<u>ATL-EZE</u>	<u>LAX-EZE</u>
Nonstop	65,251	38,019	26,979	147,838
One-stop Single-plane	-	-	-	13,144
Online connecting	24,165	48,588	119,472	14,711
Interline	7,109	6,929	948	-
Subtotal	96,525	93,535	147,398	175,693
Int'l Originating	-	-	4,132	10,084
EZE Totals	96,525	93,535	151,530	185,777
Beyond EZE 1/	1,062	775	280	1,480
Overall Total	97,587	94,310	151,810	187,257
Nonstop to Total 4/	66.9%	40.3%	17.8%	78.9%
Other US Orig. to Total 4/	33.1%	59.7%	82.2%	21.1%
Aircraft/Seats	B767/171 Seats	B767/171 Sts.	MD11/268 Sts.	B777/278 Sts
Capacity 2/	124,317	124,317	195,640	202,940
Pax. Load Factor (%)	78.5%	75.9%	77.6%	92.3%

1/ Cordoba, Chile and Uruguay.

2/ Applicants forecast as reported.

3/ Computational error corrected per CO Exhibits.

4/ For United, percentages computed prior to self-diversion adjustment.