

42501

DEPT. OF TRANSPORTATION
DOCKET SECTION

98 SEP -8 AM 11:57

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

OST-98-4425-1

APPLICATION OF:

Chautauqua Airlines, Inc.

For an exemption from Subparts K and S of 14 CFR Part 93 (Slot Restrictions at New York LaGuardia Airport) to provide non-stop service between:

Bloomington/Normal, IL and New York, NY (LaGuardia Airport)

Docket OST-98-4425

APPLICATION OF CHAUTAUQUA AIRLINES, INC.

Communications with respect to this document should be addressed to:

John Presburg
Vice President
Chautauqua Airlines, Inc.
South High School Road
Indianapolis, Indiana 4624 1
(3 17) 484-6000 Fax (3 17) 484-6040

~~Sept.~~
August 8, 1998

NOTICE: Any party may file an answer to this application. Answers must be served upon the persons listed above and on the attached service list. Answers supporting or opposing this application are due on August , ___ 1998

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

APPLICATION OF:

Chautauqua Airlines, Inc.

For an exemption from Subparts K and S of 14 CFR
Part 93 (Slot Restrictions at New York LaGuardia
Airport) to provide non-stop service between:

Bloomington/Normal, IL and New York, NY
(LaGuardia Airport)

Docket OST-98-

APPLICATION OF CHAUTAUQUA AIRLINES, INC.

Chautauqua Airlines (“Chautauqua”) hereby applies for an exemption from Subpart K and S of Part 93 of the Federal Aviation Regulations (14 C.F.R. Part Subpart K and S) (the “High Density Rule”) to permit Chautauqua to conduct three daily roundtrip flights between Bloomington-Normal, IL (Central Illinois Regional Airport) and New York’s LaGuardia Airport. Chautauqua will operate the proposed service using 50-seat Embraer 145 regional jet aircraft.

Chautauqua qualifies as a new entrant carrier within the meaning of 49 U.S.C. §41714 is so much as it does not presently hold any LaGuardia slots nor has it sold or given up any such slots after December 16, 1985.¹

¹ 49 U.S.C. 41714(c).

In Order 97-1 O-16, the DOT articulated its slot exemption policy, stating the factors on which it will rely to find “exceptional circumstances” as required by for the grant of exemptions of from the High Density Rule pursuant to 49 U.S.C. §41714 (c).²

Specifically, the DOT noted three essential factors which it would consider in passing on **future** slot exemption requests. Each of these three considerations is clearly evident in Chautauqua’s application.

First, the DOT noted its preference for Stage 3 jet aircraft. Chautauqua’s proposed service will be operated with Embraer 145 regional jets, one of the quietest passenger aircraft in current operation. Second, the DOT said it will consider the operational and financial viability of the applicant carrier’s slot controlled services. Third, the DOT said it would judge applications based on the introduction of new nonstop service where none presently exists. Chautauqua’s application will satisfy all of these tests. Operationally, the Embraer 145 has excellent operating characteristics in markets of from 400 to 800 miles, as is the case of Bloomington-Normal, IL to New York’s **LaGuardia** Airport. In addition, the demographics of the Bloomington-Normal service area will provide sufficient local and connecting traffic to permit Chautauqua to profitably serve the proposed city pair using **50-seat** regional jets.

As to the third party of the exceptional circumstances test, there is currently no nonstop service between Bloomington-Normal and the New York metropolitan area, and Chautauqua’s application will produce valuable service benefits to the traveling public if **LaGuardia** slots are made available to Chautauqua for the purpose of enabling regional jet service.

² Order 97-10-16

The Bloomington-Normal Market

The Bloomington-Normal market is served by the Central Illinois Regional Airport, which is situated at the intersection of four major highways and offers access within an hour's drive to the residents and businesses of Bloomington-Normal and all, or substantially all, of the populations of Peoria, Champaign, Urbana, Springfield, and Decatur. All told, the Chautauqua's proposed service would provide convenient jet service to approximately 800,000 people.

It is of note that this market is of similar size to Melbourne, Florida, from which the Department granted an exemption to Spirit Airlines to provide two daily roundtrips to **LaGuardia** Airport, using aircraft with double the capacity as proposed by Chautauqua.³

The Bloomington-Normal business base is diverse. It has a large concentration of service and manufacturing industries, and is an active participant in the emerging global economy. For example, Eureka, which is headquartered in Bloomington-Normal, manufactures vacuum cleaners and appliances both locally as well as in factories overseas. In addition, Mitsubishi Motors of America manufactures automobile components in Normal, IL, for its own brands as well as for Chrysler, Dodge, and Plymouth. Bloomington is home to the corporate headquarters of State Farm Insurance, one of the largest insurance providers in the country. Finally, the University of Illinois at Urbana-Champaign has over 35,000 students and 2,000 **faculty**. Convenient access to New York, arguably one of the most important centers of commerce in the world, if not **the most** important, would help to ensure the continued economic vitality of the region.

³ Docket No. OST-97-2870-1 and Order 98-4-22. Although Spirit Airlines did not state the type of aircraft to be operated in its application, nor did the Department stipulate the type in its Order, to the best of Chautauqua's knowledge, the DC-9 and MD-80 are the only two aircraft types currently operated by Spirit.

Traffic Trends

Chautauqua projects that it will carry approximately 63,000 passengers annually in the market, which equates to a 59 percent load factor, assuming a 98 percent schedule completion factor.

Chautauqua is cognizant of the fact that the Department previously denied an application by Air Tran Airways for an exemption to provide nonstop service between Bloomington-Normal and New York's **LaGuardia** Airport. In its order, the Department stated traffic in the proposed market was relatively small, citing origin and destination data between Bloomington-Normal and the New York metropolitan area, and did not constitute efficient use of slot **exemptions**.⁴

Respectfully, Chautauqua asserts that reported origin and destination traffic data ("O&D data") is not an accurate measure by which to judge to viability of its proposed service. Origin and destination data is at best reflective of market response to current and historical service **offerings** and **can** not be construed as reflecting true **market demand**. At its worst, origin and destination data is under reported. With current routings and connections, traffic in many city pairs is "lost" in air carrier reporting systems.

Historical market performance at Bloomington/Normal supports this assertion. Frontier Airlines, with a single one-stop flight to Denver (at sub-optimal times) is attracting **over** 17,000 annual passengers. Recent DOT data, however, indicates that there are only about 10,000 passengers in the total market, including those carried by other airlines.

Chautauqua is not alone in this assertion. The Office of the Inspector General of the Department of Transportation stated that "although O&D data are used by Department analysts to provide quantitative support for key policy and funding decisions, we found that O&D data are

⁴ Order 97-10-17

unreliable for use in making these important **decisions.**⁵ Accordingly, Chautauqua requests the Department not rely **on** O&D **data**, which does likely reflect **true market demand** for the proposed services, when evaluating the merits of this application.

While the DOT inferred in Order 97-10-17 (denying Air Trans' request for LaGuardia slots with which to serve Bloomington/Normal) that **Airtran's** selection of B-737 aircraft to serve the Bloomington/Normal-LaGuardia market was not ideal based on the size of the market, Chautauqua's use of modern and quiet **50-seat** regional jet aircraft is far more in keeping with the dimensions of the market (once nonstop service is offered), thereby providing a basis to find financial and operational viability of Chautauqua's LaGuardia service. In general terms, Secretary Slater anticipated this approach when he recently stated:

“Now I understand that in some areas of the country there has been insufficient demand to support jet service. The development of a new generation of regional jets may assist in addressing the problem. We all need to work together – labor and industry, congress and the DOT – to integrate these planes into the aviation systems.”

What markets cannot profitably be operated with large jet equipment can be served and served well by regional jets. The Bloomington/Normal-LaGuardia market is just such a market and **one** in which Chautauqua is sufficiently confident to stake its reputation and to assign one of its first regional jet **aircraft.**⁷

On reconsideration of the denial of the prior Air Tran request for access to LaGuardia with which to serve Bloomington/Normal, the Department in which the DOT confirming its original decision, noted that only the community petitioned the Department for reconsideration. Order 98-

⁵ Department of Transportation, **Office** of the Inspector General, Report Number AV-1998086.

⁶ Remarks of Secretary Slater to the American Bar Association Forum on air & space Law, Washington, D.C., January 30, 1998.

⁷ Chautauqua intends to place its first **50-seat EMB-145 aircraft** into revenue service in June, 1998. Chautauqua will commit to employ one of its first EMB-145 aircraft to the Bloomington/Normal-**LaGaurdia** market.

4-22, p. 24. The lack of any indication **from** Air Tran that it was prepared to serve the market was instrumental in the DOT's decision not to reconsider its initial determination to **withhold** LaGuardia slots to prevent Air Tran to serve Bloomington/Normal. This impediment to service between Bloomington/Normal and LaGuardia is now removed. Chautauqua is **well** positioned to provide three times daily roundtrip regional jet service to LaGuardia. The community and the air carrier have made common cause in the pursuit of providing needed nonstop service in the Bloomington/Normal-LaGuardia market, where no such service currently is provided. The DOT should credit the community and the carrier for actively pursuing their common goal of linking Bloomington/Normal to LaGuardia by offering nonstop service that will annually benefit so many thousands of passengers.

Other

Chautauqua is mindful of the Department's need to balance the dual objectives of maximizing competition at High Density Airports while avoiding **significant** adverse impact on the air traffic control system. Therefore, Chautauqua is committed to work with the FAA to produce a schedule pattern which will minimize any operational problems that may arise.

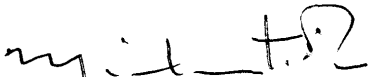
Furthermore, as a condition of the granting of this application, Chautauqua would agree and acknowledge that the slots do not confer on Chautauqua any permanent right to serve New York LaGuardia Airport for the purpose of selling, trading, transferring or conveying the slots for anything of value. Chautauqua would, however, respectfully request the right to slide any slots it obtains through an exemption into another time period by agreement with another slot holder to make reciprocal slide such that the number of operations in any relevant time period is not increased.

Conclusion

It is understood that the grant of an exemption is made only in “exceptional circumstances.” Chautauqua believes its request meets this criterion and that the DOT will clearly be acting in the “public interest” by granting the exemption sought.

Therefore, Chautauqua Airlines, Inc. respectfully requests that the Secretary grant its request for exemption to the High Density **Rule**, and provide Chautauqua Airlines, Inc. with sufficient and appropriate slots to operate three daily roundtrip flights between **Bloomington-Normal** and New York’s **LaGuardia** Airport.

Respectfully submitted,



Michael B. **LaPier**, A.A.E.
Director of Aviation
Bloomington-Normal Aviation Authority
R.R. 1, Box 26
Bloomington, IL 61704
(309) 663-7383 Fax (309) 663-2430

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the following persons with a copy of the APPLICATION OF CHAUTAUQUA AIRLINES, INC. by depositing a true copy of same in the United States Mail with proper postage affixed thereto and addressed as follows:

Mr. Carl Nelson
1101 17th Street, NW
Washington, DC 20036
For: **American Airlines**

R. Bruce Keiner, Jr.
Crowell & Moring
100 1 Pennsylvania Avenue, NW
suite 1100
Washington, DC 20004
For: **Continental Airlines**

Robert E. Cohn
Shaw, **Pittman**, Potts & Trowbridge
2300 N. Street, NW
Washington, DC 20037
For: **Delta Air Lines** and **Midway Airlines**

John **Gillick**
Winthrop, Stimson, Putnam & Roberts
1133 Connecticut, NW
Suite 1200
Washington, DC 20036
For: **America West Airlines**

Robert P. Silverberg
Bagilio, Silverberg & Goldman, L.L.P.
1101 30th Street, NW
Washington, DC 2007
For: **Midwest Express, Inc.**

Megan Rae Poldy
Associate General Counsel
Northwest Airlines, Inc.
901 15th Street, NW
Suite 3 10
Washington, DC 20005
For: **Northwest Airlines**

Richard J. Fahy, Jr.
1800 Diagonal Road
Suite 600
Alexandria, VA 22314
For: **Trans World Airlines**

Joel Stephen Burton
Ginsburg, Feldman, & Bress
1250 Connecticut Avenue, NW
Suite 800
Washington, DC 20036
For: **United Airlines**

Richard D. Mathias
Frank J. Costello
Cathleen Peterson
Zuckert, **Scoutt** & Rasenberger
888 17th Street, NW
Washington, DC 20006
For: **US Airways, Inc.**

Mr. Robert J. Kelly
Director of Aviation
Port Authority of New York & New Jersey
One World Trade Center
Room 65 West
New York, NY 10048

The Honorable Rudolph W. Giuliani
Mayor
City of New York
City Hall
New York, NY 10007

Mr. Michael B. **LaPier**, A.A.E.
Director of Aviation
Bloomington-Normal Airport Authority
R.R. 1, Box 26
Bloomington, IL 61704

This ____ day of August, 1998

John Presburg
Vice President
Chautauqua Airlines, Inc. d/b/a US Airways Express