



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

Issued by the Department of Transportation on August 21, 2020

NOTICE OF ACTION TAKEN -- DOCKET DOT-OST-2020-0037

On March 27, 2020, the President signed the Coronavirus Aid, Recovery, and Economic Security Act (CARES Act) into law. Sections 4005 and 4114(b) of the CARES Act authorize the Secretary of the U.S. Department of Transportation (Secretary) to require, "to the extent reasonable and practicable," an air carrier receiving financial assistance under the act to maintain scheduled air transportation service as the Secretary deems necessary to ensure services to any point served by that air carrier before March 1, 2020 (Service Obligation). By Order 2020-4-2, the U.S. Department of Transportation established the parameters for implementation of the authority granted to the Secretary under the CARES Act, including an exemption process as described at pages 9-10 and in Appendix D of that order. This serves as notice to the public of an action taken by a Department official with regard to exemption(s) from Order 2020-4-2. No additional confirming order will be issued in this matter.

Applicant: **United Airlines, Inc. (United)**

XX Service Level Exemption

Date Filed: **July 27, 2020, as supplemented on August 4, 2020¹**

United requests that the Department extend through at least January 1, 2021, its exemption from its Service Obligation under the provisions of Order 2020-4-2, in order to temporarily suspend service at Aguadilla, Puerto Rico.

In support of its exemption request, United provided a copy of an email from the Executive Director of the Puerto Rico Ports Authority indicating that Rafael Hernández Airport (BQN) in Aguadilla is closed until January 1, 2021. The carrier also references a Federal Aviation Administration (FAA) Notice to Airmen (NOTAM) that extends the closure at BQN through December 31, 2020.²

XX Waiver from the 10-business day advance filing requirement for the covered carrier's proposed service alteration date.

Responsive pleadings: None

DISPOSITION

XX **Granted in part (see below)**

Action date: **August 21, 2020**

Request for exemption granted **in part** and effective date of authority granted:³

For Aguadilla, Puerto Rico: **August 6, 2020 through September 30, 2020**

¹ A copy of United's application and the basis for its exemption request can be found at: <https://www.regulations.gov/document?D=DOT-OST-2020-0037-0250>, and its supplement at: <https://www.regulations.gov/document?D=DOT-OST-2020-0037-0256>.

² In its application, the carrier references NOTAM #: 07/018 (TJBQ-A0427/20). However, we are aware of a more recent FAA-issued NOTAM, effective August 5, 2020, that requires certain BQN-inbound aircraft operating under 14 CFR Part 121 to first land at San Juan Luis Muñoz Marín International Airport (SJU) for a health inspection screening before proceeding to BQN. See NOTAM #: 08/011 (TJBQ-A0461/20) at <https://notams.aim.faa.gov/notamSearch/nsapp.html#/details>.

³ The effectiveness of this authority will terminate on the date specified above.

This authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate(s) of public convenience and necessity
XX Standard exemption conditions (attached)

Basis for approval: In its most recent extension request, United sought to temporarily suspend service at Aguadilla through August 5, 2020. By Notice of Action Taken dated July 21, 2020, the Department granted United's request, noting that it would not be reasonable or practicable for the carrier to serve Aguadilla given: (i) that the Governor of Puerto Rico requested that the FAA permit flight restrictions to divert all scheduled and unscheduled commercial carrier passenger flights to Puerto Rico to San Juan Luis Muñoz Marín International Airport (SJU) for screening, and via letter dated March 23, 2020 the FAA did not object; and (ii) the updated FAA-issued NOTAM requiring, through August 5, 2020, certain incoming Part 121 flights to Puerto Rico to first land at SJU for screening. On August 5, 2020, a new FAA-issued NOTAM was published extending, through December 31, 2020, the requirement that certain incoming Part 121 flights must first land at SJU.⁴

For the reasons set forth justifying the carrier's initial request to suspend service at Aguadilla, and in light of the new NOTAM referenced above, we find that granting United's request to extend its exemption at Aguadilla is warranted through September 30, 2020 (the date of termination of the Service Obligations set forth in Order 2020-4-2 in this Docket) and is consistent with the disposition of similar requests by other carriers.⁵

Finally, we grant United's request for a waiver of the 10-business day advance filing requirement for exemptions under Order 2020-4-2, so that its proposed schedule changes can be implemented promptly.

We may amend, modify, or revoke this exemption at any time without hearing at our discretion.

Persons entitled to petition the Department for reconsideration of the action set forth in this Notice under the Department's regulations, 14 CFR § 302.14, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for reconsideration will not alter such effectiveness.

Action taken by: David Short
Deputy Assistant Secretary
Aviation and International Affairs

An electronic version of this document is available at: <http://www.regulations.gov>

⁴ See *supra* n.2. In its application and supplement, United describes the NOTAM as "clos[ing] BQN to all Part 121 operations from locations that do not originate on the island," and attaches an email from the Executive Director of the Puerto Rico Ports Authority stating that "the Government of Puerto Rico has decided to postpone the reopening of Ponce (PSE) and Aguadilla (BQN) airports until January 1st, 2021." While the FAA has not objected to certain flight funneling practices as described in the body of this Notice, the FAA has not consented to the closure of either PSE or BQN.

⁵ See Notices of Action Taken dated April 16, 2020 (Spirit Airlines and JetBlue Airways).

U.S. Carrier Exemption Conditions

In the conduct of the operations authorized, the U.S. carrier applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with consumer protection and civil rights requirements, including, but not limited, to requirements contained in 14 CFR Parts 250, 254, 257, 259, 374, 382 and 399;
- (3) Comply with the requirements for reporting data to the Department, including, but not limited, to requirements contained in 14 CFR Parts 234, 241, and 244;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with all applicable requirements of the Federal Aviation Administration, the Transportation Security Administration, and with all applicable U.S. Government requirements concerning security, including, but not limited to, 49 CFR Part 1544. To ensure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its Principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served;
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.