



Order 2016-7-14

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

Issued by the Department of Transportation
on the 20th day of July, 2016

Served: July 20, 2016

***2016 U.S.-HANEDA COMBINATION SERVICES
ALLOCATION PROCEEDING***

DOCKET DOT-OST-2016-0048

ORDER TO SHOW CAUSE

Summary

By this Order, the Department tentatively allocates five available daytime slot pairs for daily scheduled combination services between the United States and Tokyo's Haneda Airport, as follows: 1) one slot pair to American Airlines, Inc. (American) for its proposed Los Angeles-Haneda service; 2) two slot pairs to Delta Air Lines, Inc. (Delta) for its proposed Los Angeles-Haneda and Minneapolis/St. Paul-Haneda services; 3) one slot pair to Hawaiian Airlines, Inc. (Hawaiian) for its proposed Honolulu-Haneda service; and 4) one slot pair to United Airlines, Inc. (United) for its proposed San Francisco-Haneda service.

Background

On February 18, 2016, delegations from the United States and Japan negotiated an agreement that, effective October 30, 2016, will amend the 2010 Open Skies agreement ("the Agreement") between the two countries. The amendment to the Agreement replaces the existing Annex section on operations at Tokyo's Haneda Airport (Haneda). The four existing U.S. carrier nighttime slot pairs will become daytime slot pairs (*i.e.*, available between 0600 and 2255 hours local time). In addition, a fifth daytime slot pair and one new nighttime/early morning (*i.e.*, between 2200 and 0655 hours local time) slot pair (nighttime slot pair) will become available for U.S. carrier scheduled passenger service to and from Haneda.¹

¹ The amendment to the Agreement establishes daytime hours as between 0600 and 2255 hours (local time) and nighttime/early morning hours as between 2200 and 0655 hours (local time).

As a result of prior Departmental proceedings, the most recent allocations of the four nighttime slot pairs available under the 2010 Agreement were as follows: 1) one slot pair to American for Los Angeles-Haneda service; 2) one slot pair to Delta for Los Angeles-Haneda service; 3) one slot pair to Hawaiian for Honolulu-Haneda service; and 4) one slot pair to United for San Francisco-Haneda service.²

By Order 2016-3-26, issued March 22, 2016, the Department instituted the *2016 U.S.-Haneda Combination Services Allocation Proceeding*, inviting interested U.S. carriers to apply for allocation of the five newly available pairs of daytime slots and one new nighttime slot pair for U.S.-Haneda scheduled combination services. The Order also tentatively allocated four of the daytime slot pairs to the four incumbent U.S. carriers to provide U.S.-Haneda services from their current city, during the pendency of this proceeding and for the forthcoming IATA winter traffic season.³

American, Hawaiian, and United filed Petitions for Reconsideration of the Instituting Order, arguing that the incumbent carriers should maintain their current slot pair authority and transition them from nighttime into the new daytime slot pairs, thus leaving only the new nighttime slot pair and the unassigned new fifth daytime slot pair to be allocated in this proceeding.⁴ By Order 2016-4-11 the Department granted the petitions and denied the requested relief. The Department also made final the temporary allocation of four daytime slot pairs to the incumbents and established a revised procedural schedule. Pursuant to that revised procedural schedule, applications were due April 21, 2016, answers were due May 5, 2016, and replies were due May 12, 2016.⁵

Summary of Applications and Responsive Pleadings

Four carriers, American, Delta, Hawaiian, and United, applied for the five available daytime slot pairs to provide daily combination services in the U.S.-Tokyo (Haneda) market. Hawaiian was the only carrier to apply for the nighttime slot pair. Carriers that requested more than one slot were directed to prioritize their requests in order of preference, and the requests are described below.

American requests two daytime slot pairs for daily service from both (1) Los Angeles (using B787 aircraft) and (2) Dallas/Fort Worth (using B777 aircraft). Delta requests three daytime slot pairs for daily service from: (1) Los Angeles, (2) Minneapolis/St. Paul, and (3) Atlanta, all using B777 aircraft. Hawaiian requests one daytime slot pair for daily service from Honolulu using A330 aircraft.⁶ United requests two daytime slot pairs for daily service from both (1) San Francisco (using B787 aircraft) and (2) Newark (using B777 aircraft).

² See Docket DOT-OST-2010-0018.

³ Order 2016-3-26 at 4.

⁴ See, e.g., Petition of American at 1.

⁵ Order 2016-4-11.

⁶ Hawaiian also submitted a second daytime slot request which we discuss in the Subsequent Developments section, below.

Answers and replies were filed by all of the applicant carriers. In addition, a number of civic parties filed formal pleadings in support of the various applicant carriers. The DFW Airport Board filed in support of American's Dallas/Fort Worth proposal; San Francisco International Airport filed in support of United's San Francisco proposal; Los Angeles World Airports filed in support of both Delta's and American's Los Angeles proposals; the New Jersey Parties, a collection of New Jersey officials, businesses, and individuals, filed in support of United's Newark proposal; the United Master Executive Council filed in support of both of United's route proposals; and the Delta Master Executive Council filed in support of all three of Delta's proposals.

Subsequent Developments

By motion dated May 4, 2016, Hawaiian requested that the Department grant its uncontested application for the nighttime slot pair to serve the Kona/Honolulu-route in time for Hawaiian to participate in the slot allocation process for the forthcoming winter traffic season.⁷ In doing so, Hawaiian said that while its application prioritized daytime service over nighttime authority for the Kona/Honolulu route, Hawaiian will accept the award of nighttime authority for this proposed service. After reviewing the motion and the arguments of the carriers, the Department awarded Hawaiian the sole nighttime slot pair available under the amendment to the agreement by Notice of Action Taken dated May 13, 2016, in the present docket.

Position of the Parties

American contends that its proposed gateways of Los Angeles (LAX) and Dallas/Fort Worth (DFW) would maximize public benefits by creating competitive U.S.-Japan service in critical regions for local and connecting traffic. American states that it is currently operating a Haneda nighttime slot pair from Los Angeles and claims that its load factor, averaging 91.5%, is the highest on record in the U.S.-Haneda market over the last five years.⁸ Comparing its LAX proposal with that of Delta, American claims that its proposed Los Angeles route would offer superior connections, potentially reaching 10% more passengers than Delta's network through LAX.⁹ American asserts that its successful Los Angeles-Haneda service creates vibrant competition against Delta, United, and their alliance partners.¹⁰

American is skeptical of the consumer benefits of the other proposals that would provide service to the central and eastern portions of the United States. American asserts that DFW would be the ideal new Haneda gateway due to its central location for connections and its potential for bringing geographic diversity.¹¹ American claims that DFW is the best of the proposals to expand gateways beyond the Rocky Mountains because it currently offers three daily Tokyo-Narita flights and would therefore, if it were not approved, be the largest Tokyo gateway without

⁷ As noted in Orders 2016-3-26 and 2016-4-11, U.S. carriers faced a deadline of May 20, 2016 (May 19, 2016 in the United States), to file applications with Japanese authorities for takeoff and landing slot times at Haneda airport for the forthcoming winter traffic season that begins October 30, 2016.

⁸ American Exhibit 404.

⁹ American Answer at 6; American Answer Exhibits 102, 103.

¹⁰ American Application at 8.

¹¹ American Answer at 10.

a Haneda flight once All Nippon Airways institutes its New York-JFK flight.¹² American also indicates that DFW is best situated to take advantage of Latin American connections.

The competing carriers question American's experience in the Los Angeles gateway, and the viability and consumer benefits of its DFW proposal. Delta stresses that American has only been operating LAX-Haneda since February 2016 and cannot reasonably compare its currently high load factor data from such a small window to Delta's, whose load factors have steadily increased since 2011.¹³ Delta also points out that its Los Angeles proposal provides for the use of the larger B777 aircraft while American proposes a B787, thus suggesting the consumer benefit of American's proposal is inferior. United asserts that American's Los Angeles proposal is duplicative of Delta's and only offers 18 round trip connecting flights versus 40 for United at San Francisco.¹⁴ Hawaiian and Delta both claim that American already has a large share of the Tokyo market due to its joint venture with Japan Airlines in the oneworld alliance, so it should not receive multiple slot pairs at the expense of carriers with lower Tokyo market share.¹⁵ Delta also claims that its Minneapolis and Atlanta proposals are superior to American's DFW proposal because they provide a more direct routing from most connecting markets in the Northeast, Midwest, and Southeast.¹⁶ United argues that San Francisco would reach significantly more consumers than American's proposed DFW gateway and that the San Francisco-Tokyo market is over eight times larger than that of the DFW-Tokyo market.¹⁷

Delta states that each of its three proposed gateways would promote competition while inserting a large amount of capacity to the Haneda market. With respect to its Los Angeles proposal, Delta asserts that it would be serving the largest Origin and Destination (O&D) market in the mainland United States and would continue to provide intra-gateway competition in the LAX-Haneda route since the JAL/American (oneworld) and ANA/United (Star) alliances are both present.¹⁸ Delta claims that Minneapolis (MSP) is much less circuitous as a connecting city than either DFW or Newark, and that most of the populace east of the Rockies would accordingly prefer to connect via MSP.¹⁹ Delta also stresses that its Minneapolis and Atlanta proposals offer geographic diversity and therefore serve the public interest.

Delta contends that its LAX proposal is supported by its long and proven track record of success on this route,²⁰ and that it is a much stronger candidate than American at LAX. It points out that it is offering roughly 30 percent more seat capacity per flight than American due to its larger aircraft.²¹ Delta also suggests that the size of the Los Angeles O&D market and the presence of both major Japanese carriers necessitate a robust U.S. carrier presence in the market. Delta

¹² American Answer at 7.

¹³ Delta Answer at 14.

¹⁴ United Answer at 25.

¹⁵ Hawaiian Answer at 68; Delta Reply at 2-3.

¹⁶ Delta Answer at 15-16; *see* Delta Reply Exhibit 207.

¹⁷ United Answer at 25.

¹⁸ Delta Application at 15.

¹⁹ Delta Reply at 22.

²⁰ Delta Application at 17.

²¹ Delta Reply at 21.

claims that its large network would best serve the public interest by offering connecting flights from at least 14 major airports in the western United States.²²

Delta asserts that its Minneapolis proposal provides both geographic diversity and strong connection possibilities, while also serving a large business O&D market in the local Minneapolis area. Delta points out that Minneapolis is home to 17 Fortune 500 companies and there is significant demonstrated demand for travel between Tokyo and MSP.²³ Delta also contends that MSP is the best proposed gateway for travelers from the Northeast, offering more and better connections than Newark and Dallas-Fort Worth, while also maintaining inter-gateway competition. Delta states that ANA's plans to operate from New York-JFK render United's Newark proposal duplicative and anticompetitive due to its metal neutral joint venture with ANA, thereby making Minneapolis the best choice to serve the northeast corridor.²⁴

Delta contends that its Atlanta proposal would bring geographic diversity and serve the southeastern United States, a currently underserved market. Its investment in the Atlanta airport provides for a seamless and customer-friendly connection hub, which would connect 66 southern cities to Haneda via one-stop service.²⁵ Delta asserts that, as between Newark and Atlanta, the two East Coast gateways proposed in this proceeding, Atlanta is far larger and offers better inter-gateway competition and far more connection opportunities.²⁶

The competing carriers focused on Delta's history with nighttime Haneda slots and its inability to maintain a Haneda service at both Detroit and Seattle. They note that Delta still has a large presence in Asia generally, and Tokyo specifically, due to its hub at Narita, and should therefore not receive its proposed three slot pairs. United and American both argue that Delta focuses too much on their immunized alliances in an attempt to draw attention from the fact that Delta is in an advantageous position in the Japan market generally.²⁷ American also points out that Delta has conceded its plans to draw down Narita service from MSP if it is awarded Haneda service, and American contends that this would hurt consumers who rely on Delta's Narita hub for beyond services into Asia.²⁸ American asserts that actual passenger demand shows that DFW would be a superior gateway to Minneapolis and Atlanta for U.S.-Tokyo service. Hawaiian contends that Delta's arguments about competition are misleading, in that it only mentions competition among Star, oneworld, and Skyteam, completely ignoring the public interest value added by independent carriers such as Hawaiian.²⁹ Hawaiian also notes that its Honolulu proposal draws on a vastly larger O&D base than any of Delta's proposals, particularly MSP and Atlanta.

²² Delta Application at 17.

²³ Delta Exhibit 303.

²⁴ Delta Reply at 24-25.

²⁵ Delta Application at 22; Delta Exhibit 401.

²⁶ Delta Reply at 25.

²⁷ United Answer at 23; *see* American Answer at 2.

²⁸ American Answer at 2.

²⁹ Hawaiian Answer at 65.

Hawaiian characterizes its existing Honolulu-Haneda service as “overwhelmingly successful,” saying that it has flourished as a new entrant carrier in the U.S.-Japan market.³⁰ Furthermore, it asserts that the Honolulu-Haneda service has been critical to Hawaiian’s success, allowing the airline to build its brand and sales presence in Japan.³¹ Hawaiian asserts that it proposes the largest O&D route in the proceeding and that its current performance in the Haneda market demonstrates the clear value it offers through its Honolulu proposal. Hawaiian stresses that it is the only independent carrier in the proceeding and that it brings needed competition to a consolidated market.³² It also repeatedly stresses the high load factors it is currently achieving using nighttime slots, with the assumption that a daytime slot pair will perform even better. Hawaiian also contends that its proposal brings the unique public benefit of increased tourism, the lynchpin of Hawaii’s economy.³³

The competing carriers contend that Hawaiian has already received one nighttime slot pair and the public interest supports that daytime slot pairs be used for routes in the contiguous United States.³⁴ United and Delta argue that Honolulu is inconvenient as a connection gateway because it is highly circuitous from most of the mainland United States.³⁵ United and Delta also contend that Hawaiian’s proposal largely benefits Japanese consumers, not American consumers; therefore, Honolulu does not bring the same benefits that mainland proposals do.³⁶

United contends that its proposed gateways would both serve large markets and provide inter-gateway and intra-gateway competition, as well as providing needed geographic diversity. United emphasizes the strong performance of its San Francisco-Haneda route using nighttime authority and stresses that it will only do better using a daytime slot pair.³⁷ It also notes that United’s application to serve Newark would provide access to the large O&D market in New York City, and offer an East Coast gateway to best take advantage of the new daytime slot pairs.

United argues that it should be selected from San Francisco for the same public interest reasons that the Department relied on in selecting United for the route over two years ago, and where it has been operating successfully since October 2014.³⁸ It asserts that its presence at San Francisco is necessary to maintain intra-gateway competition because JAL, an immunized partner of American, is currently operating from Haneda to San Francisco, as well.³⁹ It also asserts that San Francisco is a convenient connecting point for much of the contiguous United States and has frequently connected passengers from many cities across the country, including smaller airports like Boise, ID; Sioux Falls, SD; and Canton, OH.⁴⁰ United asserts that taking

³⁰ Hawaiian Application at 1, 4.

³¹ *Id.*

³² *Id.* at 2.

³³ *Id.* at 3.

³⁴ *See, e.g.*, Delta Answer at 22-23.

³⁵ Delta Answer at 23-24; United Answer at 2.

³⁶ Delta Answer at 26; United Answer at 27-28.

³⁷ United Answer at 6-7.

³⁸ United Application at 2-3.

³⁹ United Answer at 27.

⁴⁰ United Exhibit 121 at 2.

away its San Francisco-Haneda service would negatively impact their 150,000 customers and over 100 U.S. points that have come to rely on it.

United contends that Newark is the best choice for expanded service due to its location in the largest East Coast Tokyo market, currently averaging over 360,000 travelers per year.⁴¹ United also asserts that its large hub at Newark would provide connections to its substantial network. It also argues that further linking the major tourist and business hubs of New York City and Tokyo will be economically beneficial.⁴²

The competing carriers largely focus their critiques of United's application on its Newark proposal. American, Delta, and Hawaiian all argue that the presence of United's metal-neutral alliance partner All Nippon Airways in the JFK-Haneda route should be disqualifying for United's Newark proposal because Star would thus be operating uncontested in the New York-Haneda market.⁴³ The competing carriers suggest that an award for United's Newark proposal would therefore be duplicative and not in the public interest because it would not expand competition or geographic diversity in the U.S.-Haneda market.⁴⁴ Delta and Hawaiian more generally point to the strong market share of the United-ANA/Star alliance in the Haneda market, contending that even United's San Francisco proposal is not in the public interest because, without any award to United, the Star Alliance would still be in possession of 4 of the 12 U.S.-Haneda operating authorities.⁴⁵

Tentative Decision

We have tentatively decided to allocate the five available daytime slot pairs for daily scheduled services between the United States and Haneda, as follows: 1) one slot pair to American for its proposed Los Angeles-Haneda service; 2) two slot pairs to Delta for its proposed Los Angeles-Haneda and Minneapolis-Haneda services; 3) one slot pair to Hawaiian for its proposed Honolulu-Haneda service; and 4) one slot pair to United for its proposed San Francisco-Haneda service.

The Agreement provided for four daily slot pairs for U.S. carriers to provide nighttime scheduled combination services between the United States and Haneda. Through a succession of route allocation proceedings, the Department has made a number of public interest determinations that resulted in the four existing incumbent/gateway combinations. At the beginning of this proceeding the Department determined to take a fresh look at the allocation of Haneda slot pairs in light of the potentially different characteristics of daytime slots versus nighttime slots.

However, the Department subsequently said that "whether the public interest will ultimately call for moving the existing gateways to other cities remains to be seen and will be considered based on the applications ultimately filed by the U.S. carriers in this case."⁴⁶ The applications have

⁴¹ United Exhibit 109.

⁴² United Reply at 3.

⁴³ American Answer at 3; Delta Reply at 24-25; Hawaiian Answer at 73.

⁴⁴ *See, e.g.*, Delta Reply at 24-25.

⁴⁵ Hawaiian Answer at 73.

⁴⁶ Order 2016-4-11, at 6.

now been filed, and each incumbent has listed its current gateway as its number one priority. In the circumstances presented, we have tentatively decided to continue each incumbent at its chosen gateway.

We made clear in our instituting order and our order on reconsideration that in making our current selections we would consider factors previously found relevant in deciding Haneda allocations. Each incumbent's selection was the product of a careful public interest analysis. The Department has said in the present proceeding that "it does not disagree in any way with the public interest findings it previously made to support the award of Haneda slot pairs to the incumbent carriers. In fact, it is entirely possible that many of these same findings would again prevail in the context of selection for daytime slot-pair access."⁴⁷ Each incumbent has stated unequivocally on the current record that its Haneda operations under those awards have been successful and each anticipates continued or even greater success with a switch to daytime slots. Having thoroughly reviewed all of the arguments made in the record of this selection proceeding, the Department tentatively has not seen any persuasive evidence that would undermine its previous public interest findings in the face of a switch to daytime slots or would justify the disruption that could result were it to remove successful services from any of these markets. Therefore, the Department tentatively determines that an award to each of the incumbents would be in the public interest.

That leaves the one new daytime slot pair remaining for allocation. Three carriers have submitted four gateway proposals: American at Dallas/Fort Worth, Delta at Minneapolis and Atlanta (with Delta ranking the former ahead of the latter), and United at Newark. We tentatively find that it is in the public interest to grant Delta its Minneapolis proposal.

In 2010, when the Department initially addressed the reintroduction of U.S. carrier services at Haneda, it recognized the public interest importance of a Northern/Midwestern hub with a substantial catchment area for central and eastern U.S. passengers that could benefit from Haneda service. It was largely on that basis that the Department selected Delta's Detroit-Haneda service proposal. At the time of that first Haneda selection case it had not yet become evident just how severe a negative impact the nighttime Haneda slot restrictions would have on any attempt by a U.S. carrier to serve Haneda from the central or eastern United States.⁴⁸ Delta's unsuccessful Detroit experience helped demonstrate the extent of the problem.

However, we tentatively find that Delta's Detroit experience did not undermine the Department's original public interest assessment favoring the selection of a northern Midwestern hub to Haneda. Rather, it provided a basis for a reasoned assessment that, for a carrier to achieve those anticipated public interest benefits, a bilateral regime allowing for daytime slots at Haneda would first have to be established. The United States and Japan have now amended the Agreement to establish the daytime slot regime necessary to take advantage of this opportunity.

The Department tentatively believes that, in light of the new more favorable operating conditions at Haneda, Delta's Minneapolis service proposal provides an ideal opportunity to again address

⁴⁷ *Id.*

⁴⁸ In that same case the Department also selected American to provide Haneda service from New York (JFK). American later returned the awarded slot.

the Department's goal of providing Haneda access from a Northern/Midwestern hub city with a substantial catchment area in the Midwestern and Eastern United States.

Furthermore, the Department tentatively finds that Delta's Minneapolis proposal would enhance geographic diversity, a factor the Department expressly said it would consider in making its selections in this case.⁴⁹ Delta's Minneapolis proposal would provide an upper Midwest hub to serve the significant business interests in the Minneapolis area and the greater Midwest that would benefit from new nonstop or one-stop service to the in-town Haneda facility. And granting Delta's Minneapolis proposal also furthers inter-gateway competition by presenting a Midwest alternative to ANA's Chicago (ORD)-Haneda service. Finally, we do not overlook the potential competitive benefit of awarding a second slot to Delta, the one remaining applicant in the proceeding for the fifth available daytime slot that lacks a Japanese alliance partner.

The other applicants in the proceeding question the adequacy of traffic at Minneapolis to support Delta's proposal. One can understand the source of the concern since they made similar arguments in challenging Delta's 2010 proposal at Detroit and, in the end, the Detroit service proved unsuccessful. But as was pointed out in the instituting order and in the order on reconsideration of the instituting order, and as we point out above, the daytime slot regime represents a new situation, indeed, "a fundamental change to the nature of U.S.-Haneda route rights, a change that could broaden the range of economically viable U.S. gateways to Haneda."⁵⁰ In these circumstances, and given the number of positive elements supporting the Minneapolis selection, we tentatively find that the public interest favors the award to Delta.

That being said, we cannot ignore, and indeed the other applicants have asserted that we must not ignore, Delta's past record in operating (and at times not operating) Haneda service, not only at Detroit but also at Seattle. Delta responds that those problems were essentially a byproduct of the difficult nighttime slot regime, and that given the passing of that regime, Delta's prior conduct should not be dispositive here.⁵¹

We tentatively agree that Delta's past experience should not bar it from a present selection. At the same time, however, the Department recognizes that Haneda slot pairs remain limited, and that therefore any introduction of new Haneda service will almost certainly involve competitive proceedings such as this one, with the expending of carrier and Department resources, time lost, uncertainty for both communities and consumers, and winners and losers. Against this background, the Department would not look favorably on future carrier conduct that undermined the Department's process or the selections it made. In light of Delta's past conduct, should our tentative decision in favor of Delta at Minneapolis be finalized, we have tentatively decided to condition the award of that authority: in the event that Delta were to significantly deviate from its Minneapolis proposal in this proceeding, Delta's authority would automatically terminate and a backup carrier's authority would automatically activate (we discuss our tentative selection of a backup carrier below).

⁴⁹ Order 2016-3-26, at 2.

⁵⁰ Order 2016-4-11, at 6.

⁵¹ We also do not regard as dispositive the possibility that, following a Haneda award, Delta might discontinue its MSP-Narita service.

Our tentative selection of Minneapolis means that we tentatively will not be selecting American's proposal at Dallas/Fort Worth. Although not selected as for Haneda services, we tentatively find a number of positive elements in the American Dallas/Fort Worth proposal. For example, Dallas/Fort Worth has demonstrated a strong demand for Tokyo service as evidenced by its current three daily Narita flights. Dallas is the home to many companies that conduct business with Japan, including a fresh wave of Japanese companies that have invested heavily in the area, signifying a strong growing market for Tokyo service. A Dallas/Fort Worth selection would provide geographic diversity in an underserved area of the country in terms of Haneda flights. And the record makes clear that American's Dallas/Fort Worth hub has provided substantial connecting service to Tokyo. Saying all this, we nevertheless find that, on balance, selection of Delta at its Minneapolis hub – which would also offer geographic diversity and which would serve a broad catchment area with arguably less circuitry – represents the greater level of public benefits.

We tentatively did not select United's Newark proposal. We recognize that Newark would directly serve the large New York market, but United's proposed Newark-Haneda service would offer fewer and, in a number of instances more circuitous, connecting opportunities than Delta's proposed service at Minneapolis. Perhaps even more important, United's metal-neutral, joint-venture partner, ANA, will be serving Haneda from New York's JFK airport. ANA's service will give United a competitive presence in the New York-Haneda market and a means to offer nonstop Haneda service to the New York area's substantial local market. In these circumstances we tentatively find that the public interest would be better served by an award to Delta – which has no Japanese partner – at Minneapolis.

For the reasons outlined above in our discussion of Delta's Minneapolis proposal, we tentatively find that selection of Delta's Atlanta proposal is less compelling than that of Minneapolis. Atlanta benefits from Delta's many connections, but Atlanta would provide non-circuitous connections to Haneda to a relatively smaller portion of the country. Therefore, on balance, we tentatively find that Delta's Minneapolis proposal provides more public benefits than its lower-prioritized Atlanta proposal, and indeed, more than all the other fifth slot proposals in the proceeding.

Terms, Conditions, and Limitations

We propose to impose a startup condition for each award. We will require the carriers to institute their proposed services within 90 days of the service date of a final order in this proceeding.

We also propose that the slot pairs allocated in this proceeding be subject to a 90-day dormancy condition, wherein any slot pair not utilized for a period of 90 days (once inaugurated) would be deemed dormant and revert to the Department.

In addition, we propose to condition Delta's Minneapolis award to provide that, if Delta significantly deviates from its Minneapolis proposal in this proceeding, then Delta's Minneapolis authority will automatically terminate and the backup carrier's authority will automatically activate.

Finally, the slot pair allocations tentatively granted here will also be subject to the Department's standard condition that the Department may amend, modify or revoke the authority at any time and without hearing, at our discretion.

Backup Authority

The Department tentatively finds that selection of a backup carrier will ensure that maximum public benefits are achieved with the fifth daytime slot pair.⁵² The Department has tentatively decided to select American at Dallas/Fort Worth as a backup to Delta's primary award for Minneapolis-Haneda service. American's Dallas/Fort Worth proposal would provide the only Haneda nonstop service to a city with strong demand for Tokyo service, in addition to providing substantial connecting opportunities to cities in a broad catchment area.

United's Newark-Haneda proposal, on the other hand, would add service to the New York region on top of the New York (JFK)-Haneda services of United's metal-neutral alliance partner. In the circumstances presented, the Department tentatively finds that awarding backup authority to Dallas/Fort Worth – a region that would otherwise not receive nonstop Haneda service – outweighs the benefits of awarding backup authority to a region that will already benefit from nonstop access to Haneda.

The Department has tentatively decided to impose a startup condition on the backup award. If the Department's tentative decision is made final, the Department will require American to institute its proposed service within 90 days of the activation of its backup award. Should the backup award be activated, the Department proposes that the allocation of the slot pair to American would have no expiration date, and be subject to the Department's standard 90-day dormancy condition and to the Department's standard condition that the Department may amend, modify or revoke the authority at any time and without hearing, at our discretion.

The Department tentatively finds that the backup award in this case should be for two years (meaning that if the backup award is not activated in two years it lapses).

ACCORDINGLY,

1. We tentatively allocate American Airlines, Inc. one daytime slot pair for its proposed Los Angeles-Haneda service;
2. We tentatively allocate Delta Airlines, Inc. two daytime slot pairs for its proposed Los Angeles-Haneda and Minneapolis-St. Paul-Haneda services, respectively;
3. We tentatively allocate Hawaiian Airlines, Inc. one daytime slot pair for its proposed Honolulu-Haneda service;

⁵² As discussed above, the four existing U.S.-Haneda services have each proven to be successful, and the Department tentatively finds no basis to believe that the public interest warrants additional protection in the form of backup authority for the allocations to existing carriers and gateways.

4. We tentatively allocate United Airlines, Inc. one daytime slot pair for its proposed San Francisco-Haneda service;
5. We tentatively select American Airlines, Inc. as a backup to Delta's Minneapolis-St. Paul-Haneda award and provisionally allocate it one daytime slot pair for its proposed Dallas/Fort Worth-Haneda services on a backup basis, subject to the conditions described in the text of this order;
6. To the extent not granted, we tentatively deny the remaining applications in this proceeding;
7. The slot pairs tentatively allocated by ordering paragraphs 1 through 4 above would be effective immediately and would not expire, *provided that* the holder continues to hold the necessary underlying authority to serve the markets authorized; that the holder begins service with the allocated slot pair within 90 days of the issuance of a final order in this proceeding; and also *provided further* that any slot pair will become dormant and will revert automatically to the Department if not used for a period of 90 days (once inaugurated);
8. Notwithstanding the terms of ordering paragraph 7 above, specifically with regard to Delta's Minneapolis award, if Delta significantly deviates from its Minneapolis proposal in this proceeding then Delta's authority will automatically terminate and the backup carrier's authority will automatically activate.
9. The slot pairs tentatively allocated by ordering paragraphs 1 through 5 above would be subject to the Department's standard condition that the Department may amend, modify or revoke the allocation at any time and without hearing, at its discretion;
10. We direct any interested parties having objections to our tentative findings and conclusions set forth in this order and in ordering paragraphs 1 through 9 above, to file their objections, in the above-captioned docket, with the Department's Docket Section, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, D.C., 20590, no later than ten (10) calendar days from the date of service of this order; answers thereto shall be filed by interested parties no later than seven (7) calendar days thereafter;⁵³
11. If timely and properly supported objections are filed, we will afford full consideration to the matters or issues raised by the objections, and any answers thereto, before we take further action;⁵⁴ if no objections 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; and

⁵³ The original filing should be on 8½" x 11" white paper using dark ink 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/FDMS Internet site (<http://www.regulations.gov>) by following the instructions at the web site.

⁵⁴ As we are providing for the filing of objections to this tentative decision, we will not entertain petitions for reconsideration of this order.

12. We will serve this order on the parties to the captioned docket of the order, the Japanese Ambassador to the United States in Washington, DC, the Federal Aviation Administration, and the U.S. Department of State (Office of Aviation Negotiations).

By:

Jenny T. Rosenberg
Acting Assistant Secretary for Aviation
and International Affairs

(SEAL)

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