

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

NEW U.S.-RUSSIA OPPORTUNITIES	)	Docket OST-99-5286
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**RESPONSE OF UNITED AIR LINES, INC.  
AND MOTION FOR LEAVE TO FILE**

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**DATED: April 21, 1999**

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DEPARTMENT OF TRANSPORTATION  
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United Air Lines, Inc. ("United"), submits the following response to the Reply of Delta Air Lines, Inc. ("Delta") dated April 12, 1999, in the above-captioned proceeding:<sup>1</sup>

1.      In its April 12, 1999 Reply, Delta modified its request for Europe-India overflight frequencies. As modified, Delta now seeks the five (5) unallocated Europe-India overflight frequencies immediately. Delta also requests an interim allocation of nine (9) of United's overflight frequencies pending United's resumption of service to Delhi.

2.      United has no objection to an interim allocation to Delta of nine (9) of United's Europe-India overflight frequencies for a period to terminate on October 30, 1999.<sup>2</sup> United plans to begin Chicago-Delhi nonstop service using these nine (9) overflight frequencies on October 31,

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<sup>1</sup>      In its Reply, Delta for the first time seeks an interim allocation of nine (9) of United's Europe-India overflight frequencies. United requests leave to file this response to address the issues relating to this new request of Delta. Receipt of United's timely response will not delay this proceeding or prejudice any party and will provide the Department with a more complete and balanced record on this new issue.

<sup>2</sup>      See, e.g., Orders 98-12-33 at 10; 96-9-26 at 5-7; 96-5-37 at 3, 4; and 95-3-52 at 3 (in each case granting a temporary reallocation of frequencies through a fixed date, such date being the day before the date proposed by the incumbent carrier to begin services using those frequencies).

1999. United needs to have an assured right to the frequencies on a date certain so that it can obtain the necessary permissions from the Russian Federation in advance of its October 31, 1999 startup date. Moreover, in any communications between the U.S. and Russian Federation regarding Delta's interim allocation of these nine frequencies, it should be clearly stated that Delta's right to use these frequencies expires on October 30, 1999, after which date the allocation of these nine frequencies reverts to United.<sup>3</sup>

3. United opposes any interim allocation of these frequencies to Delta for an open ended period such as Delta has proposed. Based on its previous dealings with the Russian authorities, it is United's experience that a precise expiration of any interim allocation is necessary in order to avoid delays in gaining the necessary Russian approvals to start the proposed Chicago-Delhi nonstop flights on schedule. United needs a clear and unambiguous right to the frequencies as of October 31, 1999 in order to assure expeditious approvals of these schedules.

Moreover, United's willingness to accept an interim allocation of these frequencies should not be interpreted as any concession on United's part that Delta can use these frequencies to improve its services between Frankfurt and Bombay on a consistent basis. As United has noted in its Reply, flights operating between Frankfurt and Bombay, according United's analysis, would only rarely benefit from navigating through Russian airspace but avoiding Afghanistan. United,

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<sup>3</sup> Any interim exemption to Delta should also be subject to a specific condition that it is not an "activity of a continuing nature" for purposes of 5 U.S.C. §553(c) and 14 CFR Part 377 and that the filing of a timely renewal application will not continue that interim allocation in effect pending a decision on such renewal. This condition will assure that there is no confusion over the entitlement to these frequencies after the October 30, 1999, expiration date.

on the other hand, stands to benefit from these frequencies on a consistent basis. United will, therefore, maximize the utilization of this valuable resource.

4. In conclusion, United has no objection to an interim allocation of nine of United's Europe-India overflight frequencies to Delta so long as the interim duration of such allocation is limited to a term to expire on October 30, 1999 and so long as the allocation is subject to a condition that it is not an "activity of a continuing nature" for purposes of 5 U.S.C. §555(c) and 14 CFR Part 377.

Respectfully submitted,

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