



Steve Morrissey
Vice President
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October 13, 2023

The Honorable Pete Buttigieg
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, D.C. 20590

The Honorable Polly Trottenberg
Administrator (Acting)
Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20591

Re: Comments of United Airlines, Inc. to FAA Notice of Intent to Consider Revisions to the Regulatory Definitions of “On-Demand Operation,” “Supplemental Operation” and “Scheduled Operation” – Docket FAA-2023-1857

Dear Secretary Buttigieg and Acting Administrator Trottenberg:

United Airlines, Inc. (“United”) submits this letter to express views regarding the Federal Aviation Administration’s (“FAA”) Notice of Intent to amend the definitions of scheduled, on-demand and supplemental operations under 14 C.F.R. Part 110 (the “NOI”).¹ United urges FAA and the Department of Transportation (“DOT”) to recognize the important role of the Part 380/Part 135 service model in the national aviation network, to avoid exacerbating existing challenges to pilot supply and air service to smaller communities, and to be wary of commercial agendas masquerading as safety and security arguments.

The Part 380/Part 135 regulatory construct that FAA and DOT propose to redefine needs no significant remedy or fundamental reform – it affords a service model² that is authorized by existing regulations and has, for years, enabled air service to smaller airports and communities. United believes that DOT and FAA should contemplate scheduled on-demand operations using the Part 380/Part 135 service model as a component in the larger air transportation system in the United States. It is not a substitute for Part 121 airlines, it is an adjunct and complement to Part 121. In addition to enabling service to smaller airports and communities, the model maintains a pipeline of well trained and experienced pilots who are prepared over time to progress into pilot positions at regional and mainline Part 121 airlines. As such, it helps address the severe shortage of pilots that is particularly acute for regional airlines. While United has an adequate supply of pilots due to its industry-leading pay scales, working conditions, and expanding fleet of state-of-

¹ 88 Fed. Reg. 59,480 (Aug. 29, 2023).

² The Part 380/Part 135 construct, or Part 380/Part 135 model, uses a combination of DOT public charter authority (14 C.F.R. 380) and DOT commuter air carrier economic and fitness authority (49 U.S.C. 41738 and 14 C.F.R. Part 298) and FAA certification authority (14 C.F.R. Part 119) and FAA on-demand operating authority (14 C.F.R. Part 135, further implemented through OpSpecs), to authorize “scheduled passenger service” using “small aircraft” between eligible points as public charter operations. Combining DOT and FAA authorities is neither new or novel and it is fundamental that air carriers require *both* DOT economic and fitness authority and FAA safety and operating authority.

the art aircraft, it has had to carefully curate the production of pilots suitable to United by training pilots at its first-of-its-kind United Aviate Academy, creating a regional pilot career development program, hiring experienced military pilots, and hiring experienced regional airline Captains and First Officers. Many of United's regional airline affiliates, however, are still drastically short of pilots, leading to the grounding of airplanes and cuts in service to small communities. The Part 380/Part 135 model is good for regional airlines, small communities, and aviation in general because it maintains a service option while it increases the pool of experienced pilots.

JSX³ is one operator that exemplifies the utility and benefits of the Part 380/Part 135 model, and whose existence is jeopardized by changes proposed by some. It is publicly known that United is an investor in JSX. It serves airports using Embraer 135/145 turbo-jet aircraft with no more than 30 passenger seats.⁴ However, despite its ease of customer experience, there should be no doubt to customers that JSX is conducting public charter flights operated under on-demand rules rather than flights conducted by an air carrier as supplemental or domestic operations.⁵ There should also be no doubt that JSX offers safe and reliable service through, and subject to, long-established laws and regulations. If there is a legitimate safety concern with the Part 380/Part 135 model it would be discernable through data and documented through historical occurrences. However, the NOI does not identify any safety risk associated with the model.

Additionally, any rulemaking should consider the foreseeable impact to rural and small community air service, which is already feeling the squeeze of short pilot supply. Service to more than 70 percent of small and regional U.S. communities has been suspended or disrupted since 2019.⁶ In addition, 74 regional airports have lost service from a mainline carrier since the onset of the COVID-19 pandemic.⁷ Part 380/Part 135 service can and does maintain important links between dozens of communities, connecting them with United's hubs and global network. Issues around the nation's pilot pipeline and how it relates to small community service are already extremely complex, sensitive, and politically charged. The problems are well understood but solutions are in short supply and foreclosing the Part 380/Part 135 model without any evidence of a safety risk will make solutions even harder to achieve.

Finally, it is a well-established principle that airlines do not compete on safety, and the safety of passengers and crew should always be the primary concern in aviation operations as well as aviation regulations. DOT and FAA should take notice in this proceeding to ensure that safety and security concerns raised by other parties, including other airlines with commercial motives, are not being used as a pretext to thwart competition from a new and successful operator, backed

³ JetSuiteX, Inc. provides public charters that are authorized by DOT under Part 380 and flown by its affiliate, Delux Public Charter LLC d/b/a JSX Air, under FAA Part 135 (collectively "JSX"). United is an investor in JetSuiteX, Inc.

⁴ JSX is a key link for pilots when they graduate from United's Aviate Academy and serves as a pipeline until they can qualify to fly for a Part 121 carrier.

⁵ JSX flights sold under the interline agreement through United have a separate and distinct booking path that makes it clear through disclosures, references, and linked documents that "all JSX flights are public charters operated in accordance with 14 C.F.R. Part 380 and 14 C.F.R. Part 135." The booking path includes an acknowledgement whereby customers agree to JSX's Contract of Carriage and Operator-Participant Agreement Contract, as well as a notice that "JSX does not operate at the main airport terminal. Instead, you will check-in and board from JSX's private terminal."

⁶ OAG Airline Flight Schedules, October 2019 vs. October 2023.

⁷ Cirium Schedule Data Analyzed by Ailevon Pacific Aviation Consulting, May 15, 2023.

by legitimate investment partners, and well-received by passengers. Rather, DOT and FAA should carefully evaluate any regulatory changes to these operations based on objective facts, sound data, expert analysis and clear safety methodologies. A reduction in competition without any real improvement in passenger and crew safety would be an unfortunate and unnecessary outcome of this proceeding.

Thank you for consideration of United's views.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Steve Morrissey', with a stylized flourish extending to the right.

Steve Morrissey
Vice President, International Regulatory and Policy