



CITY OF LONG BEACH

H-1

LONG BEACH AIRPORT

4100 East Donald Douglas Drive • Long Beach, CA 90808 • (562) 570-2619 • Fax (562) 570-2601

May 8, 2018

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Receive the supporting documentation into the record, conclude the public hearing, and uphold the decision of the City Manager to deny the appeal of JetBlue Airways for an exemption for certain late night (curfew) violations at the Long Beach Airport (Airport) during the second quarter of 2017, and adopt Findings related thereto. (Citywide)

DISCUSSION

This matter is an appeal by JetBlue Airways (JetBlue) of the administrative decisions of the Airport Director and the City Manager determining that JetBlue is not entitled to an exemption from the City's Airport Noise Ordinance (LBMC 16.43 - Airport Noise Compatibility Ordinance) for certain JetBlue curfew violations occurring during the second quarter of 2017 (April through June).

JetBlue made its initial exemption request on July 7, 2017 (Exhibit 1). This request was denied in a response by the Airport Director on July 18, 2017 (Exhibit 2). JetBlue requested clarification of the Airport Director's exemption denial on July 28, 2017 (Exhibit 3), and the Airport Director provided the requested clarification on August 17, 2017 (Exhibit 4). Thereafter, JetBlue requested an Administrative Hearing on August 25, 2017 (Exhibit 5) in accordance with the provisions of Long Beach Municipal Code (LBMC) Section 16.43.110A (Exhibit 6).

The Airport Director conducted an Administrative Hearing of JetBlue's appeal on October 6, 2017, at which time the Airport Director received relevant evidence from JetBlue representatives and Airport staff (Exhibit 7 - Transcript of proceeding). After taking the matter under submission, the Airport Director issued a formal written Decision denying JetBlue's exemption request on October 16, 2017 (Exhibit 8). On October 31, 2017 JetBlue, filed an appeal of the Airport Director's Decision (Exhibit 9) and requested an Administrative Hearing before the City Manager in accordance with LBMC Section 16.43.110B (Exhibit 6). The City Manager held an Administrative Appeal Hearing on December 21, 2017, at which time JetBlue representatives and City Staff provided relevant evidence to the City Manager for his consideration (Exhibit 10 - Transcript of proceeding). After taking the matter under submission, the City Manager issued a formal written Decision on December 21, 2017, upholding the determination of the Airport Director and denying JetBlue's exemption request (Exhibit 11).

On January 5, 2018, JetBlue filed an appeal to the City Council of the City Manager's Decision in accordance with the provisions of LBMC Sections 16.43.110B&C (Exhibit 12).

Background

The Airport Noise Compatibility Ordinance (the Ordinance) was adopted by the City Council in 1995 as an effective method to manage Air Carrier flight activity and related aircraft noise impacts. The Ordinance provides a balance between the operational needs of the aviation community, the desire of the City and the Airport to provide travel and economic benefits to our residents while being environmentally responsible, and the valid concerns of those residents who are consistently impacted by late night flight noise events.

Although the Airport is technically open 24 hours a day, the Ordinance contains a "soft curfew" that requires all commercial Air Carrier departures and arrivals to be scheduled between 7:00 a.m. and 10:00 p.m. Violations of the curfew regulations are subject to monetary administrative penalties as well as criminal sanctions. Certain flight activities, regardless of the hour of the day that they occur, are completely exempt from the Ordinance's curfew restrictions. These activities include military flights, law enforcement and fire-related flights, Civil Air Patrol flights, medical emergency flights, aircraft experiencing in-flight emergencies, and aircraft operating pursuant to explicit air traffic control direction (LBMC Section 16.43.070.G, Exhibit 6).

Curfew violations occurring only between the hours of 10:00 p.m. and 11:00 p.m. can be waived by the Airport Director if the Air Carrier provides satisfactory evidence that the delayed arrival or departure is due to circumstances beyond the "reasonable control" of the operator. Such circumstances could include mechanical failures (but not routine maintenance), weather conditions, air traffic control conditions, or circumstances such as a passenger suffering from a serious in-flight medical emergency. It is important to note that nothing in the Ordinance establishes a "right" or "privilege" of any Air Carrier to conduct air operations outside of the established curfew hours.

The Ordinance provides two classifications of exemptions related to air traffic control. Between the hours of 10:00 p.m. and 11:00 p.m. the Airport Director may waive violations attributable to "air traffic control conditions." After 11:00 p.m., the Ordinance specifies a more stringent standard of, "explicit air traffic control direction" to justify an exemption.

The appeal by JetBlue involves 16 of 58 curfew violations occurring after 11:00 p.m.; and only in situations where JetBlue is claiming that it is exempt from the Ordinance's curfew restrictions because of claims that a JetBlue aircraft was operating pursuant to "explicit air traffic control direction" at the time of the violation.

It should be noted that during the period in question (second quarter of 2017), JetBlue had 114 operations that did occur between the hours of 10:00 p.m. and 11:00 p.m. JetBlue was assessed an administrative penalty for ten of these operations that were determined to be violations; however, JetBlue was not assessed any administrative or criminal penalty for the remaining 104 operations because it was determined that the operations occurred due to circumstances beyond the "reasonable control" of JetBlue, as

described above. In particular, 21 of the 104 operations that were beyond the “reasonable control” of JetBlue were waived specifically for “air traffic control conditions.”

JetBlue’s basic contention in this proceeding, and on the appeal, is that the phrase “explicit air traffic control direction” should exempt JetBlue from the Ordinance’s curfew and penalty provisions if the air traffic control direction comes at any time of the day from any airport nationwide that JetBlue might be arriving at or departing from irrespective of how far removed the flight(s) are from the flight(s) departing or arriving from Long Beach Airport. The City, on the other hand, contends that JetBlue can only claim an exemption if the explicit air traffic control direction comes from the Air Traffic Control facility operating at the Long Beach Airport. For example, JetBlue would contend that a four-hour air traffic control weather-related morning delay occurring in Boston that “backs up” a flight that has numerous arrivals and departures throughout the day (or that is a direct flight into LGB) would permit a JetBlue flight to land in Long Beach after the 11:00 p.m. curfew, with no violation or penalty. Arguably, JetBlue’s “exemption” argument may even apply to flights that have been delayed the previous day due to air traffic control weather or other delays.

The Airport contends, however, that since such a delay was attributable to “air traffic control conditions” but not “explicit air traffic control direction” from the Air Traffic Control facility at the Airport, JetBlue should be subject to administrative penalties consistent with the Ordinance for a curfew violation if it chooses to land at the Airport well after the established curfew hours. An example of a permitted exemption would be a situation where a JetBlue flight takes off from Boston in a timely manner and upon arrival in Long Beach is directed by the Air Traffic Control facility at the Airport to delay its landing beyond the curfew hours and until a local condition, such as a runway hazard or other event specific to the Airport, is cleared. This type of curfew violation would be exempted from the imposition of any curfew violation or administrative penalty because it is a result of an explicit directive coming from the Long Beach Air Traffic Control.

The Airport has consistently applied the “exemption provisions” of the Ordinance relative to curfew violations since the adoption of the Ordinance in 1995 and has, likewise, consistently applied the exemption provisions in situations involving JetBlue since its arrival as an Air Carrier in 2001. Until JetBlue’s recent assertions in July 2017, it has not objected to the application or interpretation of the Ordinance by the Airport Director or Airport staff, despite having been issued numerous violations over the past ten years. In fact, JetBlue has routinely self-reported late night curfew violations. Therefore, the Airport’s interpretation of the Ordinance is not new. Rather, the Airport Director and Airport staff have continued to enforce the curfew provisions of the Ordinance related to possible air traffic control exemptions in a consistent manner whether the violation involves JetBlue or any other Air Carrier operating at the Airport.

The Airport’s interpretation of the Ordinance is consistent with the way other curfew airports enforce curfew provisions including John Wayne Airport, Orange County and San Diego International Airport (departure curfew). The failure to interpret the exemption provisions in the manner that the Airport Director and Airport staff have consistently done since 1995 would essentially render the curfew provisions of the Ordinance meaningless because flights for all air carriers operating at the Airport would be able to depart or arrive

HONORABLE MAYOR AND CITY COUNCIL

May 8, 2018

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at the Airport subject to air traffic control delays throughout the country on any leg of the flights, irrespective of the actual curfew provisions at the Airport.

JetBlue continues to have several options relating to air traffic control delays occurring at other airports throughout the country including, but not limited to, cancelling or diverting flights to other airports, substituting aircraft, providing alternative operations during non-curfew hours, accommodating passengers by alternative transit, or providing sleeping accommodations for the delayed passengers until the aircraft can depart or arrive consistent with the curfew requirements at the Airport. Interpreting the exemption provisions of the Ordinance as now suggested by JetBlue would essentially render meaningless many of the important curfew provisions in the Ordinance and would disrupt the delicate balance between the valid noise-related concerns of surrounding Airport neighbors impacted by late night flights, and those operational concerns of the Air Carriers who consistently provide service at the Airport.

Not only do consistent and pervasive curfew violations disturb surrounding neighborhoods, such violations serve to "fill up" the Air Carrier "noise budget," thereby preventing the allocation of additional flight slots in accordance with the provisions of the Ordinance. This is because curfew violation flights are penalized from a noise budget standpoint at ten times the rate of a flight landing or taking off during the daytime (7:00 a.m. to 7:00 p.m.) and approximately three times the rate of a flight landing or taking off during the evening (7:00 p.m. to 10:00 p.m.).

The longstanding interpretation of the curfew provisions of the Ordinance reflect the experience of the City in the management and operation of the Airport and the public controversies resulting from operations at the Airport since adoption of the Ordinance in 1995; including extensive experience in many forums with the views and interests of the federal government, commercial aviation operators, general aviation operators, the Long Beach business community, local public entities, and the residents of the areas affected by aircraft noise in the general vicinity of the Airport.

The City's consistent interpretation of the exemption provisions of the Ordinance serves to balance the needs of the Long Beach community for adequate commercial air transportation facilities, and the desire of the local community for environmentally responsible air transportation operations at the Airport.

This matter was reviewed by Assistant City Attorney Michael J. Mais on April 27, 2018 and by Budget Analysis Officer Julissa José-Murray on April 30, 2018.

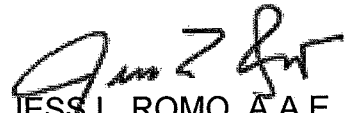
FISCAL IMPACT

The amount contested by JetBlue for the second quarter of 2017 is \$96,000. Approval of this item constitutes the final step in the administrative process as provided in LBMC Section 16.43.070. Accordingly, this amount would become payable, subject to any remaining remedies, either administrative or statutory. Any amounts paid would be credited to the Long Beach Library Foundation, for the benefit of the Library Department, under the terms of the Consent Decree between JetBlue and the City Prosecutor.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



JESS L. ROMO, A.A.E.
DIRECTOR, LONG BEACH AIRPORT

APPROVED:



PATRICK H. WEST
CITY MANAGER

CB:SC:AP:ad

Exhibits:

1. July 7, 2017, Letter from JetBlue requesting exemptions
2. July 18, 2017, Letter from Jess Romo responding to JetBlue July 7, 2017 letter
3. July 28, 2017, Letter from JetBlue requesting clarification
4. August 17, 2017, Letter from Airport Director responding to JetBlue's July 28, 2017 letter
5. August 25, 2017, Letter from JetBlue requesting an administrative hearing
6. LBMC §§16.43.070, 16.43.110, and 16.43.070.G
7. Hearing Transcript of October 6, 2017, before Airport Director w/Exhibits
8. Airport Director's Decision dated October 16, 2017
9. October 31, 2017, Letter from JetBlue requesting administrative hearing before City Manager
10. Hearing Transcript of December 21, 2017, before City Manager
11. City Manager's Decision dated December 21, 2017
12. January 5, 2018, Letter from JetBlue appealing City Manager decision to the City Council

EXHIBIT 1

jetBlue®

27-01 Queens Plaza North
Long Island City, NY 11101
T: 1-800-JETBLUE
jetblue.com

July 7, 2017

Mr. Jess Romo, A.A.E., Director
Long Beach Municipal Airport
4100 Donald Douglas Drive
Long Beach, CA 90808

Dear Mr. Romo:

I am writing with regard to JetBlue's operations during the second quarter of 2017 (starting on April 1, 2017 and extending through June 30, 2017).

JetBlue schedules all of its operations at Long Beach in full compliance with the restrictions on flights which limits scheduled operations to the hours of 7 a.m. until 10 p.m. In our review of our operations for the second quarter of 2017, JetBlue believes that some of its late night operations are exempt from the Airport Noise Compatibility provision of Chapter 16.43 of the Long Beach Municipal Code (16.43.070 General Exemptions), section G. The applicable section states:

“Aircraft operating pursuant to explicit air traffic control direction in a manner which would otherwise not comply with the terms of this Chapter.”

As the attached spread sheet demonstrates, the operations of JetBlue which are listed all operated beyond the airport curfew hours due to explicit air traffic control direction. As such, it is JetBlue's belief that these flights should not be counted towards our tally of late flights for purposes of the governing Consent Decree of May 30, 2003, in effect with the Office of the City Prosecutor.

Your consideration of this request for exemptions is appreciated and I look forward to discussing this matter with you.

Sincerely,



Robert C. Land
Senior Vice President Government Affairs and
Associate General Counsel

JetBlue Airways
LGB Station Curfew Report

Date	Vio?	Flight #	A/C On	A/C Out	A/C Off	2300-0700	Delay	Description
04/01/17	YES	1635	22:13			NO	ATC	N640 operated F1436 LGB-SFO earlier this evening that was captured on the SFO GDP program that was issued due to runway construction. Total delay was 65 minutes. This delayed down line flying and resulted in F1635 breaking curfew.
04/02/17	YES	1635	22:19			NO	ATC	F1436 was originally delayed in LGB 66 minutes due to a GDP to SFO for RWY-Taxi construction. This delayed the a/c line and caused F1635 to arrive late, breaking soft curfew.
4/6/2017	YES	2132		22:34	22:48	NO	WX/CREW	F2136 was on a GDP to SFO for weather/winds. See ADVZY 034. Due to the extensive delay, the inflight crew timed out and F2136/2135 were cancelled which moved up the departure time of F2132 but not enough to not break curfew.
4/7/2017	YES	2135	22:38			NO	ATC	N562 operated F2136 LGB-SFO earlier this afternoon that was captured on an SFO GDP program that was issued due to weather/winds. This delayed down line flying and resulted in F2135 breaking curfew.
4/9/2017	YES	504		22:03	22:14	NO	ATC	N821 WAS ON ITS WAY TO BOS BUT WAS HAD A LONGER THAN SCHEDULED FLIGHT TIME TO BOS. THEN WAS FURTHER DELAYED OUT OF BOS DUE TO ATC HAVING REROUTE THE A/C LEAVING BOS. THIS RESULTED IN THE A/C ARRIVING LGB 44 MIN LATE. DUE TO THE LATE ARRIVAL OF INBOUND 405 FROM BOS F504 TO BOS BROKE CURFEW.
4/13/2017	YES	1635	22:40			NO	ATC	N636 operated F1436 LGB-SFO earlier this afternoon and was captured on an SFO GS/GDP list that was issued for weather/winds. This delayed down line flying and resulted in F1635 breaking curfew.
4/21/2017	YES	1635	22:07			NO	ATC	N564 operated F1436 LGB-SFO earlier this afternoon and was captured on an SFO GDP list that was issued for runway construction. This delayed down line flying and resulted in F1635 breaking curfew.
4/22/2017	YES	504		22:12	22:20	NO	ATC	F504 LGB-BOS had to hold for their connecting Inflight Crewmembers that arrived late off of N594, that was delayed inbound due to an extensive SFO GDP that was issued for runway construction.
4/22/2017	YES	1635	22:37			NO	ATC	N565 operated F1436 LGB-SFO earlier this afternoon and was captured on an SFO GDP list that was issued for runway construction. This delayed down line flying and resulted in F1635 breaking curfew.
4/24/2017	YES	1635	22:20			NO	ATC	F1436 (LGB-SFO) was on GDP to SFO for runway construction and took a 69 min delay in LGB. See ADVZY: 079. This delayed the a/c line and caused F1635 to break soft curfew.
4/26/2017	YES	1635	22:30			NO	ATC	F1436 was delayed 60 minutes in LGB due to a GDP to SFO for low ceilings. See ADVZY: 060. This delayed the a/c line and caused F1635 to break soft curfew.
4/28/2017	YES	504		22:33	22:44	NO	ATC	N806 operated segments DFW-BOS-LGB-BOS, F1214 DFW-BOS was issued a revised flight plan which resulted in a much longer flight time. This delayed all down line flying and led F504 LGB-BOS to break curfew.

JetBlue Airways
LGB Station Curfew Report

Date	Vio?	Flight #	A/C On	A/C Out	A/C Off	2300-0700	Delay	Description
4/7/2017	YES	1635	23:05			YES	ATC	N615 operated F1436 LGB-SFO earlier this afternoon that was captured on an SFO GDP program that was issued due to weather/winds. This delayed down line flying and resulted in F1635 breaking curfew.
4/11/2017	YES	1635	23:08			YES	ATC	N639 operated F1436 LGB-SFO earlier this afternoon and was captured on an SFO GS/GDP list that was issued for weather/winds. This delayed down line flying and resulted in F1635 breaking curfew.
4/12/2017	YES	1635	23:13			YES	ATC	N570 operated F1436 LGB-SFO earlier this afternoon and was captured on an SFO GS/GDP list that was issued for weather/winds. This delayed down line flying and resulted in F1635 breaking curfew.
4/13/2017	YES	1013	23:36			YES	ATC	N585 operated F1222 NAS-JFK earlier this afternoon and was delayed due to holiday volume, coupled with an ATC labor action in NAS which resulted in a 90 minute taxi time. This delayed down line flying and led F1013 to break curfew.

**JetBlue Airways
LGB Station Curfew Report**

Date	Vio?	Flight #	A/C On	A/C Out	A/C Off	2300-0700	Delay	Description
5/6/2017	YES	2079	22:41			NO	ATC	N644 operated F680 LGB-LAS earlier this afternoon and was captured on a LAS GDP list that was issued for winds. This delayed down line flying and resulted in F2079 breaking curfew.
5/7/2017	YES	14		22:38	22:47	NO	ATC/CREW	CREW WORKING FLT 14 WAS ALSO WORKING DELAYED INBOUND F2079. F2079 WAS DELAYED DUE TO ATC GDP DUE TO WINDS IN LAS. NO AVAILABLE CREWS TO RECOVER F14.
5/11/2017	YES	1635	22:19			NO	WX/ATC	A/C 554 arrived 35 minutes late into LGB. Then F1436 was delayed 41 minutes in LGB due to a GS and then a GDP to SFO for low ceilings. See ADVZY: 005 & 015. This delayed the a/c line and caused F1635 to break soft curfew.
5/13/2017	YES	2079	22:20			NO	ATC	DUE TO EXTENSIVE ATC DELAYS IN SFO F2079 WAS DELAYED. A/C ROUTING WAS DELAYED OUT OF LAS-SFO-LAS-LGB-LAS-LGB. BECAUSE OF THE EXTENSIVE DELAY A/C WAS NOT ABLE TO RECOVER
5/21/2017	YES	2132		22:30	22:44	NO	ATC	F2136 (LGB-SFO) was caught in a GDP to SFO due to construction and delayed 135 minutes. See ADVZY: 020. This delayed the a/c line and caused F2135 (SFO-LGB) to arrive late and caused F2132 to break soft curfew.
2/25/2017	YES	405	23:01			NO	ATC	F405 had to tech stop in PHX for fuel due to being given a longer route by ATC and with the payload, would not make it to LGB. This tech stop delayed F405 and caused it to break hard curfew.
5/26/2017	YES	2132		22:08	22:17	NO	ATC/CREW	The operating flight crews for F2132 were connecting off of an aircraft line that was involved in an extensive SFO GDP. No crew replacements were available.
5/27/2017	YES	504		22:09	22:18	NO	ATC	F365-SMF was previously delayed due to SFO GDP, A/C N554JB, earlier in the day and impacted downline flight segments. There were 86 customers connecting from F365-SMF.
5/27/2017	YES	944		22:26	22:36	NO	ATC	N554JB operated F1936 LGB-SFO earlier this morning and was captured on an SFO GDP list that was issued for runway construction. This delay impacted all downline flights.
5/29/2017	YES	405	22:23			NO	ATC	F822 (PBI-BOS) was delayed 79 minutes due to a GDP to BOS due to construction/winds. See ADVZY: 058. This delayed the a/c line and caused F405 to break soft curfew.
5/30/2017	YES	405	22:33			NO	ATC	F822 (PBI-BOS) was delayed 104 minutes due to a GDP to BOS due to construction/low ceilings. See ADVZY: 061. This delayed the a/c line and caused F405 to break soft curfew.

JetBlue Airways

LGB Station Curfew Report

Date	Vio?	Flight #	A/C On	A/C Out	A/C Off	2300-0700	Delay	Description
5/13/2017	YES	1635	1:12			YES	ATC/CREW	DUE TO EXTENSIVE GDP IN SFO FOR CONSTRUCTION FLT WAS DELAYED LEAVING LGB. SINCE THE FLIGHT WAS SEVERALLY DELAYED OUT OF LGB THE ORIGINAL PILOTS TIMED OUT AND HAD TO BE REPLACED. PILOTS HAVE A 2 HOUR CALL TO ARRIVE TO THE AIRCRAFT AFTER BEING NOTIFIED. THIS FURTHER DELAYED THE FLIGHT RESULTING IN IT BREAKING HARD CURFEW
5/21/2017	YES	1635	23:10			YES	ATC	F1436 (LGB-SFO) was caught in a GDP to SFO for construction and delayed 116 minutes. See ADVZY: 020. This delayed the a/c line and caused F1635 to break soft curfew.
5/25/2017	YES	14		23:53	0:00	YES	ATC	F405 had to tech stop in PHX for fuel due to being given a longer route by ATC and with the payload, would not make it to LGB. This tech stop delayed F14 and caused it to break hard curfew.
5/26/2017	YES	1635	23:58			YES	ATC	N580 operated F1436 LGB-SFO earlier this afternoon and was captured on a SFO GDP list that was issued for low ceilings. This delayed down line flying and resulted in F1635 breaking curfew.

JetBlue Airways
LGB Station Curfew Report

Date	Vio?	Flight #	A/C On	A/C Out	A/C Off	2300-0700	Delay	Description
6/5/2017	YES	405	22:29			NO	ATC	F822 (PBI-BOS) was delayed 70 minutes due to a GDP for rwy construction. See ADVZY 77. This delayed the a/c line and caused F405 to break soft curfew.
6/8/2017	YES	179	22:34			NO	ATC	F2589 (LAS-SFO) was delayed 109 minutes due to a GDP to SFO for weather/low ceilings. See ADVZY 049. Then F188 was delayed 79 minutes waiting for connecting flight crew off F2136 which was also delayed by the SFO GDP. This delayed the a/c line and caused F179 to break soft curfew.
6/16/2017	YES	405	22:50			NO	ATC	F880 (LAS-BOS) was delayed 81 minutes in LAS due to a GDP into BOS. This delayed the a/c line and caused F405 to break soft curfew.
6/17/2017	YES	1013	22:41			NO	ATC	F1190 (MCO-JFK) was delayed due to a GDP into JFK due to low ceilings. See ADVZY: 117. This delayed the a/c and caused F1013 to break soft curfew.
6/18/2017	YES	1013	22:17			NO	ATC	F1190 (MCO-JFK) WAS DELAYED DUE TO A GDP INTO JFK DUE TO WX AND WINDS. THIS DELAYED THE A/C AND CAUSED F1013 TO BREAK CURFEW.
6/29/2017	YES	1013	22:37			NO	ATC/WX	F242 (HAV-JFK) got a reroute enroute to JFK which made their flight time a little longer. Then F1013 encountered weather over the Midwest which slowed the flight down. These two items caused F1013 to break soft curfew.
6/29/2017	YES	1436		22:28	22:51	NO	ATC	SFO GDP EDCT 2318 DUE TO LOW CEILINGS IN SFO AREA. FLIGHT GOT RELEASED EARLIER THAN ORIGINAL EDCT. ADVY 010
6/30/2017	YES	405	22:22			NO	ATC/WX	F405 was delayed 35 min at the gate by ATC due to thunderstorms in the area. Then F405 had a 37 minute taxi time. These two items delayed F405 and caused it break soft curfew.

JetBlue Airways
LGB Station Curfew Report

Date	Vio?	Flight #	A/C On	A/C Out	A/C Off	2300-0700	Delay	Description
6/7/2017	YES	405	23:08			YES	ATC	F404 (ATL-BOS) on 6/6 was delayed 88 minutes in ATL on a GDP due to construction/weather. See ADVZY 74. Then later on that night, F796 (ATL-BOS) was delayed 70 minutes on a GDP due to construction/weather. See ADVZY 74. These two GDP's delayed the a/c in into today and caused F405 to break hard curfew.
6/7/2017	YES	943	23:52			YES	ATC	F1379 (DCA-FLL) was delayed 135 minutes due to a AFP for flights going to Florida. See ADVZY 91. This issue caused F943 to break hard curfew.
6/8/2017	YES	1635	23:39			YES	ATC	F1436 (LGB-SFO) was caught in a GDP to SFO for weather/low ceilings and delayed 137 minutes which included 50 late arrival from SEA due to a GDP to SEA. See ADVZY: 049. These two GDP's delayed the a/c line and caused F1635 to break hard curfew.
6/11/2017	YES	1635	23:27			YES	ATC	A/C WAS RUNNING ON TIME UNTIL IT WAS CAUGHT IN A SFO GDP AT THE LAST MIN FOR A FEW HOURS THAT RESULTED IN IT RETURNING AFTER CURFEW
6/13/2017	YES	1013	23:16			YES	WX/ATC	F1013 was delayed 17 minutes at the gate due to a Time Surface Management program. Then the a/c then taxied for 128 minutes due to weather-driven route closures. This delayed the flight which caused it to break hard curfew.
6/16/2017	YES	1013	23:42			YES	ATC	F1190 (MCO-JFK) was delayed 147 due to a GDP into JFK due to weather/low ceilings. See ADVZY: 097. This delayed the a/c and caused F1013 to break hard curfew.
6/19/2017	YES	405	1:21			YES	ATC	F992 (TPA-BOS) GOT CAUGHT IN A GDP AND WAS DELAYED AND RESULTED IN F405 BREAKING CURFEW.
6/19/2017	YES	1013	2:16			YES	ATC	F1190 (MCO-JFK) GOT CAUGHT IN A GDP AND WAS DELAYED AND RESULTED IN F1013 BREAKING CURFEW.



EXHIBIT 2

long beach
airport

where the going is easy®

July 18, 2017

Robert C. Land
Senior Vice President Government Affairs and Associate General Counsel
JetBlue Airways Corporation
27-01 Queens Plaza North
Long Island City, NY 11101

Subject: Request for Exemption for Curfew Flights at Long Beach Airport

Dear Mr. ^{Rob}Land:

This letter is in response to your letter dated July 7, 2017, in which you request exemptions from Chapter 16.43 of the Long Beach Municipal Code, Airport Noise Compatibility, for some of JetBlue's curfew operations at Long Beach Airport ("Airport") during the second quarter of 2017 (April 1, 2017, through June 30, 2017). Specifically, and according to your recent letter, although JetBlue does not deny that the curfew violations occurred at the Airport, you believe that some of JetBlue's operations fall within the Section 16.43.070 general exemptions for curfew operations.

Section 16.43.070 of the Airport Noise Compatibility Ordinance provides categories of aircraft that are exempt from the noise, curfew and related requirements of the Ordinance. Specifically, Section 16.43.070(G) provides: "[a]ircraft operating pursuant to explicit air traffic control direction in a manner which would otherwise not comply with the terms of this Chapter" are exempt from the provisions of the Noise Ordinance. It is important to recognize, however, that these "explicit air traffic control direction[s]" must necessarily relate directly to operations at Long Beach Airport (i.e., an air traffic control delay at LGB which results in a late departure from the Airport outside JetBlue's control), not to other airports nationwide throughout the day.

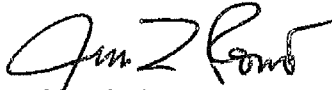
According to the spreadsheet provided as an attachment to your July 7, 2017, letter, it appears that the curfew violations at the Airport during the second quarter of 2017 occurred due to air traffic control delays earlier in the day at San Francisco International Airport, Boston International Airport, and other airports nationwide, and not to air traffic control delays at Long Beach Airport. It is important for JetBlue

Request for Exemption for Curfew Flights at Long Beach Airport
July 18, 2017
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to recognize that it is the airline's responsibility to comply strictly with the curfew requirements at Long Beach Airport irrespective of air traffic control delays to its operations at other airports nationwide throughout the day. Air traffic control delays at other airports do not qualify as Section 16.43.070 exemptions from the Noise Ordinance at LGB.

I hope this letter clarifies the applicability of Section 16.43.070 to air traffic control delays and that this information will assist JetBlue in its strict compliance with the curfew requirements at the Airport in the future. Please feel free to contact me if you have any additional questions regarding this issue.

Sincerely,



Jess L. Romo, A.A.E.
Director

JR:RR:km

cc: Douglas P. Haubert, City Prosecutor
Michael Mais, Assistant City Attorney
Ron Reeves, Noise and Environmental Affairs Officer
Lori Ballance, Outside Counsel

EXHIBIT 3



27-01 Queens Plaza North
Long Island City, NY 11101
T: 1-800-JETBLUE
jetblue.com

July 28, 2017

Mr. Jess Romo, A.A.E., Director
Long Beach Municipal Airport
4100 Donald Douglas Drive
Long Beach, CA 90808

Dear Mr. Romo,

This is in response to your July 18, 2017 letter, which asserts that the Long Beach Airport Noise Compatibility Ordinance's exception for "explicit air traffic control direction" extends only to air traffic control (ATC) direction "relate[d] directly to operations at Long Beach Airport." JetBlue respectfully disagrees with this narrow interpretation, which is contrary to the plain meaning of the ordinance language¹ and is inconsistent with federal statutes granting the Federal Aviation Administration (FAA) exclusive control over the national airspace system.² JetBlue again requests that the flights listed in the July 8, 2017 spreadsheet not be counted towards the tally of late flights for purposes of the government Consent Decree of May 30, 2003.

Any air carrier that operates scheduled service at Long Beach Airport must comply with the FAA's explicit ATC direction. JetBlue, like other certificated air carriers, is required to operate in strict compliance with express ATC direction from the FAA.³ To assert that the ATC exception in the governing ordinance only applies to Long Beach Airport's local operations ignores that the airport is merely one of many components of a large, complex and integrated national airspace system that has many interdependent pieces. It is impossible to separate Long Beach Airport operations from the rest of the national airspace system as they operate as part of a common

¹ See *U.S. v. Lehman*, 225 F. 3d 426 (4th Cir. 2000) ("A fundamental canon of statutory construction requires that 'unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning.'").

² See 49 U.S.C. § 40103 ("The United States Government has exclusive sovereignty of airspace of the United States... The Administrator of the Federal Aviation Administration shall develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace.").

³ See 14 C.F.R. Part 91.123 "Compliance with ATC clearances and instructions" ("(a)When an ATC clearance has been obtained, no pilot in command may deviate from that clearance unless an amended clearance is obtained, an emergency exists, or the deviation is in response to a traffic alert and collision avoidance system resolution advisory. However, except in Class A airspace, a pilot may cancel an IFR flight plan if the operation is being conducted in VFR weather conditions. When a pilot is uncertain of an ATC clearance, that pilot shall immediately request clarification from ATC.

(b) Except in an emergency, no person may operate an aircraft contrary to an ATC instruction in an area in which air traffic control is exercised.").

network, administered by the FAA. As you know, the FAA often imposes ground stops at particular airports or shuts down busy airway routes leading into or out of Long Beach Airport. Because of JetBlue's legal obligation to adhere to the express ATC direction of the FAA, these situations sometimes create delays for flights operating at Long Beach Airport. However, JetBlue has no ability to deviate from the FAA's instructions at Long Beach Airport or elsewhere.

Against this backdrop, the interpretation in your letter belies the plain language meaning of the ordinance. By its very definition, "explicit air traffic control" direction from the FAA necessarily refers to and involves direction that results from events outside of Long Beach Airport. It is impossible to classify some FAA directions as Long Beach-specific and others as non-Long Beach-specific. Because of the FAA's sole authority over the national airspace system, there is simply no feasible way to define or parse which FAA "explicit air traffic control directions" would be covered under your recent interpretation of the ordinance and which would not be covered. Such an interpretation would be impermissibly narrow, arbitrary and capricious, and obviate the plain-language meaning of the ordinance.

Further, any ATC delay that impacts a flight operating to or from Long Beach Airport necessarily "relate[s] directly to operations at Long Beach Airport." If an aircraft cannot take off at Long Beach Airport due to a FAA ground stop at San Francisco International Airport or John F. Kennedy International Airport, the FAA has essentially made a *de facto* decision that aircraft at Long Beach should not be allowed to take off from Long Beach for San Francisco or JFK. In other words, all flights operating to or from Long Beach Airport are subject to explicit FAA direction and all are covered under the plain meaning language of the exception in the ordinance.

JetBlue reiterates that some of its late night operations are rightfully exempt from the Airport Noise Compatibility provision of Chapter 16.43 of the Long Beach Municipal Code due to its obligation to adhere to ATC directions from the FAA. The spread sheet included in the July 7, 2017 letter clearly demonstrated that all JetBlue operations that occurred beyond the airport curfew hours were due to explicit ATC direction, which, as noted above, is clearly covered by the language in the exception. Therefore, JetBlue respectfully reiterates its request that the flights listed in the July 8, 2017 spreadsheet not be counted towards the tally of late flights for purposes of the Consent Decree of May 30, 2003.

I look forward to your reply.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert C. Land". The signature is fluid and cursive, written in a professional style.

Robert C. Land
Senior Vice President Government Affairs and
Associate General Counsel



long beach
airport

where the going is easy®

August 17, 2017

Robert C. Land
Senior Vice President Government Affairs and Associate General Counsel
JetBlue Airways Corporation
27-01 Queens Plaza North
Long Island City, NY 11101

Subject: Request for Exemption for Curfew Flights at Long Beach Airport

Dear Mr.  Land:

This letter is in response to your letter dated July 28, 2017, in which you request further clarification regarding the exemptions from Chapter 16.43 of the Long Beach Municipal Code, Airport Noise Compatibility, for some of Jet Blue's curfew operations at Long Beach Airport ("Airport") during the second quarter of 2017 (April 1, 2017, through June 30, 2017). Specifically, and according to your most recent letter, although JetBlue does not deny that the curfew violations occurred at the Airport, you continue to believe that some of JetBlue's operations fall within the Section 16.43.070 general exemptions for curfew operations and should not be counted toward the tally of late flights for purposes of the JetBlue/City Prosecutor negotiated Consent Decree of May 30, 2003.

As indicated in my July 18, 2017, letter, Section 16.43.070 of the Airport Noise Compatibility Ordinance ("Ordinance") provides categories of aircraft that are exempt from the noise, curfew and related requirements of the Ordinance. Specifically, Section 16.43.070(G) provides: "[a]ircraft operating pursuant to explicit air traffic control direction in a manner which would otherwise not comply with the terms of this Chapter" (emphasis added) are exempt from the provisions of the Noise Ordinance. Although this exemption applies directly to operations at Long Beach Airport (i.e., an air traffic control delay at LGB which results in a late departure or arrival from the Airport outside of JetBlue's control), it does not apply to other nationwide airports or circumstances occurring throughout the day.

The Ordinance does provide the Airport Director with the discretionary authority to provide an air carrier with the ability to conduct operations outside of the curfew hours if a flight is delayed by not more than one hour beyond the curfew (i.e.,

between 10 p.m. and 11 p.m.) as a result of delays substantially beyond the control of the operator. See Section 16.43.040(B). However, prior to waiving any curfew violation during this time period, the operator is required to present evidence satisfactory to the Airport Director relating to the circumstances surrounding the operation. In addition, it is important to emphasize that nothing in the Noise Ordinance establishes a "right" or privilege of any person to conduct air operations outside of the curfew.

According to the spreadsheet provided as an attachment to your July 7, 2017, letter, and as previously indicated, it appears that the majority of curfew violations at the Airport during the second quarter of 2017 occurred due to air traffic control delays earlier in the day at other airports nationwide, and not to air traffic control delays at Long Beach Airport.

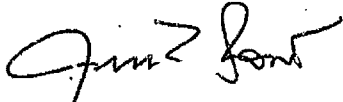
It is important for JetBlue to recognize that it is the Airline's responsibility to comply strictly with the curfew requirements at Long Beach Airport, irrespective of air traffic control delays to its operations at other airports nationwide throughout the day. As previously indicated, air traffic control delays at other airports do not qualify as Section 16.43.070 exemptions from the Noise Ordinance at LGB. Only in the limited one hour window after curfew will the Airport consider a request for a curfew exemption based on the specific circumstances which caused the curfew violation, such as that the operation was delayed by emergency, mechanical, air traffic control, or weather delays substantially beyond the control of the operator. It is also important to note that the Airport has consistently applied the "exemption provisions" of the Ordinance relative to JetBlue's curfew violations since the inception of the Consent Decree in 2003, and until JetBlue's recent correspondence, JetBlue has not objected to the application or interpretation of the Ordinance by the Airport Director or Airport staff. In fact, JetBlue routinely self-reports late night curfew violations.

In response to JetBlue's assertions that the FAA has exclusive control over airspace, certainly the Airport recognizes the FAA's jurisdictional responsibilities; however, it is also important to recognize that JetBlue continues to have a number of options relating to any FAA ATC delay that may impact flights operating to or from the Airport, including, but not limited to substituting aircraft, providing alternative operations during non-curfew hours, accommodating passengers by alternative transit, providing sleeping accommodations for the delayed passengers until the aircraft can depart or arrive consistent with the curfew requirements at the Airport or operating during curfew hours (which will necessarily result in curfew violations and administrative and alternative enforcement procedures). These are business decisions that all incumbent air carriers must make at this Airport and at other curfew airports in the region.

Request for Exemption for Curfew Flights at Long Beach Airport
August 17, 2017
Page 3

I hope this letter clarifies the applicability of Section 16.43.070 to air traffic control delays and that this information will continue to assist JetBlue in its strict compliance with the curfew requirements at the Airport in the future. Please feel free to contact me if you have any additional questions regarding this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Jess L. Romo". The signature is fluid and cursive, with the first name "Jess" and last name "Romo" clearly distinguishable.

Jess L. Romo, A.A.E.
Director

JR:MM:RR:km

cc: Michael Mais, Assistant City Attorney
Douglas P. Haubert, City Prosecutor
Lori Ballance, Gatzke Dillon & Ballance LLP
Ron Reeves, Long Beach Airport

EXHIBIT 5

AIRPORT COMIN

RCVD AUG 10

AUG 29 2017

jetBlue

27-01 Queens Plaza North
Long Island City, NY 11101
T: 1-800-JETBLUE
jetblue.com

August 25, 2017

Mr. Jess Romo, A.A.E., Director
Long Beach Municipal Airport
4100 Donald Douglas Drive
Long Beach, CA 90808

Dear Mr. Romo,

In accordance with Section 16.43.110 of the Long Beach Municipal Code, JetBlue Airways Corporation (JetBlue) hereby timely requests an administrative hearing in response to the August 17, 2017 letter from Jess L. Romo to Robert C. Land regarding exemptions for curfew flights at Long Beach Airport. The decision in the August 17, 2017 letter regarding the applicability of the "explicit air traffic control" exemption in Section 16.43.070 is erroneous and unjustified.

In accordance with Section 16.43.110, please provide notice regarding the date of the administrative hearing.

Sincerely,



Robert C. Land
Senior Vice President Government Affairs and
Associate General Counsel

EXHIBIT 6

the Airport Manager shall prepare a record of the proceeding, including a copy of all written materials received and a summary of the oral testimony presented. The Airport Manager shall, within ten (10) days following the hearing, issue a written post-hearing decision. That decision shall be final unless appealed to the City Manager as provided in Subsection B below.

- B. Any final decision of the Airport Manager pursuant to this Chapter shall be appealable to the City Manager by giving written notice to the City Manager within fifteen (15) days following the mailings of a notice of final decision by the Airport Manager. The City Manager or his designee shall give such person or entity at least fifteen (15) days' notice in writing specifying the time and place of the hearing of the appeal, and inviting such person or entity to present any additional argument deemed appropriate in determining whether a violation has occurred. The notice shall be served by U.S. mail, with service being complete upon mailing. The hearing may be held before a hearing officer designated by the City Manager; provided that the designated hearing officer shall not be from the same department as the Airport Manager, and shall be at least a Bureau Manager. The City Manager may, in the alternative, appoint an administrative hearing board consisting of not less than three (3) members of the City's administrative staff, each of whom must meet the same criteria as an administrative Hearing Officer as described above. The appeal will be decided on the basis of the submissions to the Airport Manager, his summary of the evidence presented, and the arguments presented to the City Manager or his designee. The City Manager or his designee shall not be required to accept additional evidence. A written notice of decision shall be issued within fifteen (15) days following the hearing on appeal. The final decision of the City Manager shall be final unless appealed to the City Council within fifteen (15) days after the mailing of notice thereof by the City Manager.
- C. Appeals of final decisions of the City Manager under this Chapter shall be conducted as provided in Chapter 2.93 of this Code.
- D. The pendency of any proceeding pursuant to Section 16.43.110 shall not affect or excuse any violation of this Chapter occurring during the pendency of such proceedings unless the Airport Manager, the City Manager, or City Council stays the effectiveness of the decision under review.

(Ord. C-7320 § 2, 1995)

16.43.070 - General exemptions.

- G. Aircraft operating pursuant to explicit air traffic control direction in a manner which would otherwise not comply with the terms of this Chapter.

EXHIBIT 6

16.43.070 - General exemptions.

The following categories of aircraft shall be exempt from the provisions of this Chapter:

- A. Public Aircraft, including military aircraft;
- B. Law enforcement, emergency, and fire or rescue aircraft operated by any governmental entity;
- C. Aircraft used for emergency purposes during an emergency which has been officially proclaimed by competent authority pursuant to the laws of the United States, the State or the City;
- D. Civil Air Patrol aircraft when engaged in actual search and rescue missions;
- E. Aircraft engaged in landings or takeoffs while conducting tests, pursuant to written authorization of the Airport Manager, to determine probable compliance with the provisions of this Chapter. Such tests shall only be authorized for aircraft which, based on material submitted to the Airport Manager, are reasonably expected to be able to comply with the terms of this Chapter;
- F. Aircraft experiencing an in-flight emergency; provided, however, that the aircraft Owner/Operator or pilot in command shall, within ten (10) days after a written request from the City, file with the Airport Manager an affidavit documenting the precise emergency condition(s) which necessitated the Operation;
- G. Aircraft operating pursuant to explicit air traffic control direction in a manner which would otherwise not comply with the terms of this Chapter.
- H. Aircraft conducting operations in response to a medical emergency which has been documented in the manner required by the Airport Manager.

(Ord. C-7320 § 2, 1995)

16.43.110 - Administrative hearings and appeals.

- A. In any case where a person or entity notified of a violation of this Chapter or a decision of the Airport Manager or his staff under this Chapter which such person or entity contends is erroneous or unjustified, the person shall be entitled to an administrative hearing before the Airport Manager or his designee. The request for such a hearing shall be made within fifteen (15) days following the mailing of notice of the decision to be reviewed or within ten (10) days following actual receipt of notice delivered other than by mail. The Airport Manager shall give notice when the hearing will be conducted (which shall be between fourteen (14) and twenty-one (21) days after the request for a hearing is received). The administrative hearing shall be informal. Witnesses may be called, but written statements may be submitted. All relevant and persuasive evidence shall be considered. The rules of evidence, discovery, and formal trial procedures shall not be applicable. Following the hearing,

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EXHIBIT 7

TRANSCRIPT OF AUDIO RECORDING OF
HEARING BETWEEN LONG BEACH AIRPORT
AND JETBLUE AIRWAYS

OCTOBER 6, 2017

MARY E. PIERCE, CSR 6143
17-185

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OCTOBER 6, 2017; LONG BEACH, CALIFORNIA

MR. ROMO: Okay. Good morning, everybody. We're here for the administrative hearing with JetBlue Airways and the City of Long Beach, Long Beach Airport. We've got a group of attendees here in the room, so we'll just go around for purposes of identifying who we are, and then we'll get into the hearing.

So I'm Jess Romo, Airport Director for Long Beach.

MR. McMULLAN: I'm Ryan McMullan. I work with noise group here at Long Beach Airport.

MR. REEVES: Ron Reeves, noise and environmental affairs officer, Long Beach.

MS. BALLANCE: Lori Ballance, Gatzke, Dillon & Ballance, outside counsel for Long Beach Airport.

MR. LAND: I'm Rob Land, senior vice president of government affairs and associate general counsel for JetBlue Airways.

MR. HNAT: James Hnat, the executive vice president and general counsel, JetBlue Airways.

MR. ROMO: Okay. So again, we're opting to record this informal hearing because we did plan on having a court reporter that would have done this to capture the essence of the events here today, but with her not

1 showing up for whatever reason, not sure what, we're in
2 agreement to capturing this via audio recording.

3 So I'll go and start the process, and
4 essentially, this appeal is being conducted pursuant to
5 Section 16.43.110 of the Long Beach Municipal Code, which
6 is a subpart of the City's Airport Noise Compatibility
7 Regulations that is being held in response to a written
8 request made by JetBlue on August 25th, 2017.

9 So as per JetBlue's written appeal, JetBlue
10 has taken issue with the Airport's interpretation of
11 Section 16.43.070 of the Long Beach Municipal Code that
12 relates generally to those categories of flights which
13 are deemed to be exempt for one reason or another from
14 the City's general airport noise regulations.

15 Specifically, JetBlue has raised a concern
16 with the City's interpretation of subsection G of
17 Section 16.43.070, which relates to, quote, aircraft
18 operating pursuant to explicit air traffic control
19 direction in a manner which would otherwise not comply
20 with the terms of Chapter 16.43, end quote.

21 So pursuant to the section as outlined in
22 the Municipal Code, this is an informal hearing, and
23 JetBlue and the City are free to provide written or oral
24 comments for the record and are, likewise, free to supply
25 the hearing officer, that being me, Jess Romo, with any

1 written documentation.

2 Since this is an informal proceeding, the
3 strict rules of evidence or conformance to formal trial
4 procedures or rules are not required.

5 So at this point, we are going to turn it
6 over to JetBlue for the opportunity for you to provide
7 anything in writing or orally that would support your
8 appeal.

9 MR. LAND: Thanks. Jim, do you want to make an
10 opening comment?

11 Thank you, Jess, and everyone for letting us
12 come to this informal hearing, and appreciate the
13 opportunity to briefly speak to you on this matter which
14 follows our correspondence response.

15 Just to reiterate, for the background,
16 JetBlue is a proud corporate citizen in the City of Long
17 Beach with more than 700 crew members, thousands more
18 taxpaying citizens whose livelihood is supported directly
19 and indirectly by our operations here at the Airport.

20 As I believe you know, we deliver low fare
21 flights to 13 different markets with 35 daily departures
22 and have been serving here since 2001.

23 Of our hundreds of thousands of operations
24 in the past decade, far less than half -- well, less than
25 half of 1 percent of those are the subject of what we're

1 going to be discussing in this appeal today, and that is
2 a violation of the hard curfew hours, specifically for
3 today's purposes, those that occurred in the second
4 quarter of April through June 2017.

5 JetBlue's -- further background.

6 JetBlue's two largest focus cities are in
7 the New York City and Boston markets, and, in fact,
8 68 percent on average every day this summer, sometimes a
9 little more, sometimes a little less, 68 percent of our
10 aircraft touch one of those two markets every day.

11 For example, unfortunately, in one of those
12 markets, New York, this summer, the FAA, which controls
13 the air space, as you know -- and we have to be in strict
14 compliance with their orders, as you know -- issued
15 ground stop or ground delay programs in New York two out
16 of every three days, 67 percent of the time this summer.
17 Simply put, that causes delays.

18 And similar operating conditions,
19 unfortunately, exist in Northern California. We have a
20 heavy presence flying from here in Long Beach.

21 As you know, the U.S. has only one national
22 air space system, and it only has one authority
23 controlling that system, and that is the FAA.

24 The Airport denied our request, and we
25 appeal that today so that our delays that are ATC-driven

1 delays pursuant to the ordinance are exempt.

2 As you mentioned in your opening,
3 Section 16.43.070, subsection G, plainly exempts, quote,
4 aircraft operating pursuant to explicit air traffic
5 control direction, unquote.

6 Yet the Airport asserts that somehow this
7 plain language regarding, quote, explicit air traffic
8 control direction must, quote, necessarily relate to --
9 directly to operations at Long Beach and not to other
10 airports.

11 That latter quote being in your letter
12 denying our request, the former quote being the plain
13 language in the ordinance.

14 Further, the Airport asserts that it's
15 JetBlue's duty to comply with the curfew requirements of
16 the ordinance irrespective -- quote, irrespective of ATC
17 delays our operations at airports nationwide, unquote.

18 Nowhere -- I want to reiterate, nowhere does
19 the ordinance or the history of the litigation leading to
20 the ordinance that we were able to research offer an
21 explanation or even hint at how the Airport came up with
22 that language that's new and we believe a discriminatory
23 interpretation in that it wholly disregarded that
24 interpretation of the plain meaning of the ordinance
25 itself.

1 Again, the United States only has one ATC
2 system, and it's governed by one entity, the FAA, of
3 which the Long Beach tower is but a small but integral
4 part of a very large, dynamic, complicated and expansive
5 air traffic control system.

6 Case law is abundant and crystal clear that
7 such unjustified, unsupported and we believe myopic
8 definitions of our system (unintelligible), system has
9 anything but such as an airport's view here violate
10 federal law.

11 Case law is also clear that words, unless
12 they're otherwise said, different definitions, are to be
13 afforded their simple, plain meaning. The Airport's
14 unsubstantiated and unsupported views flies in the face
15 of this basic tenet of law. It has an unjust -- we
16 believe an unjust and discriminatory impact directly on
17 JetBlue.

18 According to the City's unsubstantiated
19 view, for example, on a day like today, a sunny day, if
20 the FAA in San Francisco, which might have fog, or the
21 FAA in New York City, which might be having
22 thunderstorms, refuses to clear a Long Beach aircraft to
23 depart and delays them on the ground past curfew here in
24 Long Beach, that would not be exempt because the Long
25 Beach tower didn't exempt it or didn't direct it from a

1 Long Beach perspective.

2 That defies logic and in our belief defies
3 the plain language of the noise ordinance.

4 For the record, in the Airport's August 17th
5 letter to JetBlue, the Airport raised several new matters
6 which we didn't raise, including whether JetBlue has the
7 right or privilege to operate outside of the curfew -- we
8 never asserted that JetBlue does -- that JetBlue has
9 never before sought an exemption under Section 16.43.070,
10 subsection G, which we view as wholly irrelevant to this
11 current objection. And finally, that JetBlue has
12 alternate available options to avoid curfew violations.

13 This final point is also, in our belief,
14 irrelevant to the Airport's unfounded and we believe
15 discriminatory reinterpretation of the plain meaning of
16 the language exempting ATC-driven delays.

17 In closing, the Airport's position we
18 believe is baseless and flies in the face of the plain
19 language of the ordinance, and its interpretation is
20 having a discriminatory impact against JetBlue on where
21 we can and cannot operate. This violates both the plain
22 reading of ANCA, as well as the City's obligations to the
23 FAA under its grant assurance agreements.

24 Thank you for the opportunity to make that
25 quick statement. I would like to, if it's okay -- I'll

1 leave a copy so you'll have it for the record -- just
2 walk you very briefly through two specific second quarter
3 examples of actual delays that are in question here.

4 MR. ROMO: Absolutely.

5 MS. BALLANCE: Could we also get a copy of your
6 statement?

7 MR. LAND: Absolutely.

8 MS. BALLANCE: Can I get one clarification on
9 that?

10 When you talk about Long Beach bound flights
11 from New York City and San Francisco, so you're looking
12 for exemptions for flights that are impacted that are
13 direct flights from -- you're not looking for exemptions
14 for kind of one flight removed ATC. You're just looking
15 for those inbound flights that are direct flights?

16 MR. LAND: Every one of the forty -- I think this
17 will answer your question. Every one of the 47 requests
18 we made in the original letter -- there were certainly
19 more than 47 violations, but some were mechanical or
20 crew, and they were on us and we'll pay our fine.

21 But of the 47 we're questioning, all of them
22 either arrived after 11:00 -- between the curfew hours of
23 11:00 and 7:00.

24 MS. BALLANCE: Right.

25 MR. LAND: Or departed.

1 MS. BALLANCE: Right.

2 MR. LAND: So obviously, if it was an arrival,
3 yes, it was a direct result of an inbound flight. But if
4 it was a departure, it would have been a direct result of
5 a delay previous down the line.

6 MS. BALLANCE: And I guess that's my question.
7 Down the line --

8 MR. LAND: Right.

9 MS. BALLANCE: -- is something that I'm trying to
10 understand for purposes of us looking at these issues
11 after this administrative hearing.

12 "Down the line" means if you have an ATC
13 let's say at 6:00 a.m. at an airport and it stalls out
14 the flights throughout the day, but there are several
15 stops and there's not an ATC at the airport before you --

16 MR. LAND: That final leg.

17 MS. BALLANCE: Exactly, the final leg.

18 That's something that -- I'm just trying to
19 understand your interpretation is it doesn't matter if
20 it's the final leg or four legs earlier in the day?

21 MR. LAND: Right.

22 MS. BALLANCE: Or if it's just the final leg that
23 you're --

24 MR. LAND: So I'm going to actually walk you
25 through an example.

1 MS. BALLANCE: Okay.

2 MR. LAND: Exactly like that on the San Francisco
3 Long Beach flight (unintelligible).

4 MS. BALLANCE: Okay.

5 MR. LAND: But literally, the interpretation is
6 the language of the ordinance is direction of ATC. And
7 can I add anywhere, whether it's one flight before, three
8 flights before, five flights before. It's an ATC
9 directive.

10 And by the way, we work actively -- as
11 you'll see in a moment when I walk you through this --
12 actively as a matter of full processing ingrained in our
13 computer system, ingrained in our training to do
14 everything we can every day to avoid any curfew,
15 including substituting aircraft.

16 Unfortunately, that's not always an option.
17 So --

18 MS. BALLANCE: Okay. Thank you for that
19 clarification.

20 MR. LAND: Hand you this so you can see what I'm
21 walking through.

22 We'll start with the one that says -- I'm
23 sorry. I only brought two copies.

24 MR. ROMO: No, that's okay.

25 MR. LAND: What we're looking at now is a literal

1 example of a JetBlue curfew violation of JetBlue flight
2 1635, which was from San Francisco to Long Beach on
3 June 8th. So it is one of those that is in this document
4 as one we're requesting the appeal for.

5 First, just this opening page just shows you
6 -- it's a computer screen printout from our operating
7 manual. So this shows there was an awareness of the
8 system operations level of exactly what the penalties
9 are, and there is a curfew here, so just wanted you to be
10 aware of that.

11 If you turn the page, I'm just going to walk
12 you through this briefly. This was flight 1635, San
13 Francisco Long Beach, June 8th, 121 customers, an
14 Airbus 320. It arrived 149 minutes delayed into the Long
15 Beach due to three earlier impacted flights and two
16 separate FAA-issued ground delay programs.

17 So this goes a little bit to your question.

18 MS. BALLANCE: Yes.

19 MR. LAND: If you look at the sequence of flying
20 -- so this is over a 24-hour Zulu period. It's just a
21 linear version of that physical aircraft.

22 What I did want to point out is on the far
23 left side -- just saying this very basically for purpose
24 of the recording. On the far left side of this drawing
25 and on the far right side, you'll see different color Xs.

1 Those delineate the hard curfew and the soft curfew at
2 Long Beach.

3 So our dispatchers on a daily basis, sunny
4 across the country, delays across the country or anything
5 in between, every day through their training and their
6 actual on-screen displays are aware when any airport has
7 any restriction, including at Long Beach a daily curfew
8 restriction.

9 This aircraft, flight -- tail number 534, it
10 began its day in this sequence here. Went Long Beach to
11 Seattle, delayed due to Seattle ground delay program due
12 to weather.

13 To remind everyone, again for the purpose of
14 the recording, the ground delay program is an edict by
15 the FAA. The FAA that day to our pilots is the law.
16 They do what they're told. They taxi out and they take
17 off when they're told to, when they get clearance. If
18 they violate that, they lose their license.

19 So federal law told them you're going to be
20 delayed on this initial leg for 20 minutes, and then it
21 shows you the times.

22 The next one was delayed. The next leg,
23 Seattle back to Long Beach, was delayed 43 minutes, so
24 little more than double that, due to a late arrival, due
25 to the issued delay.

1 Long Beach then went -- that same aircraft
2 went back up to San Francisco. The delay had grown to
3 137 minutes -- excuse me -- due to the previous delays
4 and then new delays at FAA that had issued in the Bay
5 area.

6 And then finally, that last arrival, which
7 was the flight back, the one we're seeking the exemption
8 for, 1635, it was delayed 149 minutes as a result of the
9 late arrival and a 35-minute taxi time in San Francisco
10 due to surface congestion.

11 Again, surface congestion -- are you --

12 MS. BALLANCE: I think we have the wrong --

13 MR. LAND: I think -- I gave you two documents.

14 Jess has the correct one.

15 (Overlapping speakers.)

16 MS. BALLANCE: Okay. I'm looking --

17 MR. ROMO: Okay. Sorry.

18 (Overlapping speakers.)

19 MR. ROMO: I'm gonna slide this over.

20 MR. LAND: And if it helps, I can leave this
21 second hard copy with you.

22 MS. BALLANCE: That would be --

23 MR. LAND: Two hard copies.

24 (Overlapping speakers.)

25 MS. BALLANCE: Focus on your words here.

1 MR. LAND: Hope that made better sense to you.

2 (Overlapping speakers.)

3 MS. BALLANCE: I don't know what airport they're
4 flying out of.

5 MR. LAND: Again, and this just delineates the
6 time. So it got into Long Beach 42 minutes late.

7 On the next page, what you'll see here,
8 these are screen shots of actual FAA instructions to our
9 dispatch. This is showing you the weather up and down
10 the West Coast that day. Seattle, two miles visibility,
11 light rain, fog, fog layers 300 feet, 900 feet, 3,000
12 feet.

13 So these aren't optimal conditions and
14 explains why there were FAA-issued delays. When they
15 can't control things, they just slow everybody down.
16 That's what the FAA does. The FAA command center issued
17 that due to reduced visibility, and as I mentioned,
18 JetBlue has no choice but to comply with those.

19 We have all of this backed up in the air
20 traffic control logs from the FAA on computer tape, so if
21 there were ever a need to see that, just by simple
22 request we could produce that.

23 Should we pause for a minute just while he
24 makes a photocopy?

25 (Overlapping speakers.)

1 MR. LAND: We'll just pause for a minute.

2 (Brief discussion off the record.)

3 MR. LAND: Okay. Thanks, Ron.

4 So we're back on tape here. And we're on
5 page five.

6 I just wanted to show you on these pages,
7 for each of the legs we had talked about prior to the one
8 that arrived late back from San Francisco, these are
9 screen shots of explicit FAA direction.

10 If you look in the lower right corner on
11 this page, for example, it shows exactly -- it says here
12 the codes are delayed due to ATC destination -- what was
13 issued up there, the ground delay program, you see "GDP"
14 and it shows the time.

15 So this is input we get from the national
16 command center into our computer system that tells our
17 dispatchers. You know, we want the flight to run on
18 time. We schedule it on time. We have pilots who need
19 to be at their next place on time, let alone customers.

20 But again, because they'll lose their
21 license if they disobey the FAA, the edict from the FAA
22 was you're not going on time. And on these next pages,
23 it's the exact same thing just for each leg we talked
24 about.

25 That pretty much -- on the back here on page

1 nine is a screen shot of surface congestion, which then
2 is another facet of FAA direction that sometimes escapes
3 from -- nothing to do with the ground delay program or
4 ground stop, which is sometimes literal gridlock on
5 taxiways.

6 So if you look in the bottom here, the red
7 is the JetBlue plane, and then you see the other planes
8 near the end of the runway. Sometimes it just gets out
9 of control and an aircraft can't physically move even
10 when they get clearances.

11 And then the same thing, it shows at a
12 different angle at different time, San Francisco
13 following pages, and then the last one when it got in
14 here and how we code it.

15 So with that, I'm going to ask if you
16 wouldn't mind turning to the second document I handed
17 out, which is JetBlue flight 14, and that was a Long
18 Beach to JFK flight on May 25th, also one of the 47 in
19 the appeal letter.

20 Again, this first page is a repeat of the
21 other first page. Anything in Long Beach, this is what
22 our crew members see in the computer system when they're
23 working a flight from Long Beach, just reminding them
24 this is a special airport with special procedures and
25 limitations.

1 Again, I'm starting on page three here.
2 Long Beach flight 14, Long Beach to JFK, delayed 157
3 minutes due to the late arrival of flight 405, which was
4 inbound from Boston to Long Beach that same day.

5 405 was almost full, 148 customers. Shows
6 it's scheduled to depart at 6:10. Actually departed at
7 6:19. So it pretty much left on time. D14, which is the
8 D.O.T. metric, is on time according to the government.
9 We left within nine minutes of on time.

10 This one was a completely different one, so
11 there wasn't necessarily bad weather or any weather here
12 in Long Beach. But before -- I'm going to ask you to
13 flip the page in a minute. If you -- in a minute.

14 I just want to remind you that same grid we
15 showed on the Seattle example and the San Francisco
16 example, this is the timeline of that aircraft, aircraft
17 504, and it shows everywhere it goes.

18 And again, if you look here around Long
19 Beach, you'll see the curfew hours that are blocked off
20 in special colors eliminating -- indicating to our crew
21 members who run dispatch and system operations this is a
22 special airport, we need to get it in and get it out on
23 time.

24 If you turn the page -- I'm going to jump
25 around a little here, and I apologize -- this is the

1 satellite image with radar imposed the New York airspace.
2 The red lines are the different FAA TRACONS, New York
3 center in 90 being the heart of it.

4 You'll see here just south of the New York
5 area in what is -- I call the mid Atlantic from the
6 Delmarva peninsula to where the green arrow is, that's DC
7 center. 90 percent of the traffic in the northeast going
8 anywhere in America goes through DC center. It's just
9 the way the FAA flows things.

10 Certainly the straight line between Boston
11 and Long Beach, which was the inbound flight that caused
12 the delay, goes directly through DC center.

13 And you can see this wasn't a line of
14 thunderstorms. This is pop-up thunderstorms. You can
15 see they're just little -- they're indicated by the
16 little yellow and red.

17 So if I can ask you to turn the page, this
18 one really shows you the cause of the delay. Boston's in
19 the upper right. Long Beach is in the lower left. It
20 shows the optimal routing. That's what we do on a
21 typical day.

22 When we don't have any violations on that
23 flight and that flight runs on time or early, it's
24 because it generally gets something along this
25 trajectory. It's virtually a straight line.

1 Unfortunately, it's not a perfect straight
2 line, and it does go through the most crowded airport or
3 New York center and DC center.

4 That day because of those pop-up storms and
5 because everybody else had to avoid the pop-up storms in
6 the United States, it took a great deal of time to get a
7 reroute. That reroute, as you see, they released you off
8 the gate to go sit out on the tarmac in Boston.

9 You're burning fuel while you're waiting for
10 the reroute. This is all dynamic in real time with
11 hundreds and hundreds and hundreds of planes coming
12 through the center, transoceanic up high, getting into
13 the air from down low and everything else.

14 Maybe even extensive, extensive rerouting
15 that had to go through Canadian airspace up into
16 Minnesota before finally making a southwest trajectory
17 that you see here.

18 Unfortunately, what that did was cause the
19 aircraft to need to divert for fuel because the range of
20 our aircraft was maxed out. The plane is built to go
21 from Boston to San Francisco Bay area with fuel reserves.
22 It's a transcon plane. It does it every day.

23 But when it sits out for over an hour in
24 Boston and then gets a longer trajectory, it had to stop
25 for fuel. It just didn't have the necessary reserves.

1 This shows -- I hate to jump back and forth.
2 I really wanted you to just see those two graphics side
3 by side. But I want to jump back, if you don't mind
4 turning to page three, and it just shows here flight 405,
5 Boston to Long Beach, its scheduled departure and then
6 the scheduled departure and actual for the delayed flight.

7 And right below the grid we talked about, it
8 says flight 405, Boston Long Beach, required a fuel stop
9 in Phoenix due to the lengthy reroute. The reroute was
10 issued by the command center.

11 We have the log of that advisory if you need
12 to see that. And we, of course, have that evidence for
13 every flight that we've requested exemption for.

14 The route added an extra 102 minutes of
15 flight. That's almost two hours of flight, which
16 stretched the aircraft beyond its capabilities and, thus,
17 the fuel stop.

18 This shows the Boston taxiway while our
19 aircraft were out there waiting on page six, and then
20 this page seven and eight throughout the rest of the deck
21 are exactly what we showed in the other example. Just
22 this screen shots for every leg of this and the
23 causation.

24 This shows the in and out times. This is
25 Zulu, but we're subtracting the delay times. We have

1 that. Anything relevant to -- this is just -- these are
2 the things our own dispatchers see.

3 So in essence, that one was delayed due to
4 rerouting. The last thing I would mention -- I'll just
5 -- you do have copies. Okay.

6 The last thing I would mention, for each of
7 these I visited Long Beach this summer to explain to some
8 elected officials who were just concerned about delays.
9 Not anything to do with the exemption request, the noise
10 ordinance change, our appeal exemption request, our
11 comments. Nothing to do with that. Just generally
12 asking, hey, JetBlue you're running late, what's going
13 on. And I was delighted to get that call and delighted
14 to come sit with them and walk them through.

15 I didn't bring it -- those materials to this
16 hearing because they were third quarter. I tried to get
17 real time -- this was an August meeting, so I gave August
18 examples. So I didn't want to bring that here and
19 confuse it, but I certainly could.

20 And maybe next quarter if we appeal, I will
21 sit here with Jim and we'll walk you through those.

22 If you bring Kennedy into it -- we haven't
23 talked about Kennedy today.

24 I did mention to you two thirds of our
25 planes basically touch Boston and Kennedy, a predominance

1 of those New York and Kennedy, and two thirds of the days
2 this summer Kennedy was in a program, and the severity
3 and length of those programs varied, but that added
4 things and compounded delays system-wide for JetBlue.

5 When you see the grids at Kennedy, those
6 taxiway grids, schematics, there are very often 40 or 50
7 aircraft at 11:00 p.m. on the ground at Kennedy day in
8 and day out in a gridlock situation.

9 So multiple, multiple dozens at an hour
10 where the airport should be virtually empty, and these
11 are A-320s coming to Long Beach. These are delayed
12 inbound to Kennedy from Long Beach because they were
13 told to sit here, not by your tower, which by your rule
14 wouldn't exempt it, but by the command center who said
15 you can't leave there because New York can't absorb you.
16 The airspace can't take it because of weather most
17 normally is the case or winds.

18 And that gridlock, let alone the ATC delays,
19 are what cause all this. And at a different time, love
20 to walk you through that. We didn't touch on Kennedy.

21 So that is all JetBlue wanted to present
22 today. We appreciate your consideration of this
23 explanation. I hope this is a little bit educational. I
24 hope you and your teams and colleagues look through the
25 materials. It is our belief that, as we said in writing,

1 the interpretation of the Airport is very narrow and not
2 substantiated or supported by any language we've been
3 able to find or that you've provided.

4 And again, Jim and I thank you for letting
5 us come in today and explain this to you.

6 MR. ROMO: Well, we appreciate you coming.

7 So I think at this point, I know that part
8 of what we were intending to enter into the record were
9 the (unintelligible) correspondence that initiated this
10 hearing, and I think we've --

11 MR. LAND: The materials that I turned in today
12 that my comments -- my comments and these documents I
13 hope will be --

14 MR. ROMO: They will.

15 MS. BALLANCE: Yes.

16 MR. ROMO: Everything you provided both in writing
17 and again you've made verbally will be part of the record
18 along with what we intend, which is basically, again, I
19 think there were two sets of --

20 MR. LAND: Back and forth, back and forth.

21 MR. ROMO: That will be -- you've got copies.

22 MR. LAND: Yes, I do. Thank you.

23 (Overlapping speakers.)

24 MS. BALLANCE: Why don't we just give you a --

25 MR. LAND: Yes.

1 MS. BALLANCE: -- copy of exactly what we're
2 entering into the record.

3 MR. ROMO: And then, Ron, I believe there was some
4 additional information you were intending to enter in the
5 record. Is this -- these are -- represent analysis of
6 the performance of the aircraft that are part of the
7 discussion. So I think we'll pass those out.

8 MS. BALLANCE: And it may be helpful if, Ron, you
9 just kind of walk them through this that they understand
10 what it is that they're looking at in case you have
11 questions.

12 MR. LAND: Thank you.

13 MR. REEVES: Sure.

14 So this is a summary of JetBlue late night
15 operations from first quarter of '16 beginning
16 January 1st through June 30th of 2017.

17 MR. LAND: Six quarters.

18 MR. REEVES: Six quarters' worth.

19 And each of the tables there present a
20 quarter, and since the second quarter of '17 is the
21 subject of the hearing today. It's the last table on the
22 backside.

23 MR. LAND: Thank you.

24 MR. REEVES: So we see that JetBlue had a total of
25 177 late night operations during that quarter as defined

1 by operations after 10:00 p.m. and prior to 7:00 a.m.

2 114 of those 177 operations occurred between
3 the hours of 10:00 p.m. and 11:00 p.m. 63 operations
4 occurred after 11:00 p.m. and prior to 7:00 a.m.

5 Of those occurring between 10:00 and 11:00
6 p.m., 114 total operations, 10 of those operations
7 received violations. Of the 63 occurring between 10:00
8 p.m. and 7:00 a.m., 58 received violations.

9 The type of violation is indicated in the
10 next section. The operations between 10:00 and 11:00
11 p.m. were given an administrative fine. That's the \$300.

12 MR. LAND: Yes.

13 MR. REEVES: The operations between 10:00 p.m. and
14 7:00 a.m. --

15 MS. BALLANCE: (Unintelligible.)

16 MR. REEVES: -- or 11:00 p.m. and 7:00 a.m. -- my
17 apologies -- were passed along to the City Prosecutor for
18 consent decree.

19 The next section contains the category of
20 our exemptions, so we have several categories of
21 exemption. In-house, although it's not written down
22 anywhere, we offer a five-minute grace period, and that's
23 just to prevent arguing clocks.

24 MR. LAND: Sure.

25 MR. REEVES: Maintenance is included as one of the

1 potential exemptions between the hour of 10:00 and 11:00.

2 MR. LAND: Yes.

3 MR. REEVES: Not after 11:00.

4 Weather, likewise ATC, and we also have a
5 category there for other, and those are crew exemptions,
6 late arriving crew, problems with a passenger, whatever.
7 And then we also have a category there, unreported.

8 So we see, for example -- we won't go
9 through all of these, but between 10:00 p.m. and 11:00
10 p.m., we see there were 21 air traffic control delays in
11 there. Each of those were exempted between 10:00 and
12 11:00 p.m.

13 There were 13 air traffic control delays
14 between 11:00 p.m. and 7:00 a.m., and none of those
15 received an exemption.

16 MR. LAND: Right.

17 MR. REEVES: The exemptions between 10:00 p.m. and
18 11:00 p.m. are provided in 1643040 (b), the unanticipated
19 delay section. And exemptions after 11:00 p.m. are in
20 060. Yeah, Section 060, I believe. 070.

21 So that's a summary. We won't go through
22 all of these.

23 MR. LAND: That's very helpful.

24 MR. REEVES: Think it's self-explanatory.

25 MR. LAND: Appreciate you giving us this.

1 MR. KNAT: Just a question for accuracy and
2 clarification. In the Q2 2017 summary, you
3 (unintelligible) see if my math is right.

4 Under "other" you have 12 operations at
5 10:00 p.m. mark, two exemptions, and then at 11:00 p.m.
6 window you had four operations with zero exemptions. You
7 go across the total, it says 16 operations and --

8 MR. REEVES: 16 and 16. Yeah, there is a problem
9 there. 16 exemptions.

10 (Overlapping speakers.)

11 MR. LAND: Five. We want to call that out, and
12 thank you.

13 MR. REEVES: Yeah.

14 MR. LAND: Unless you'd like to grant us those
15 exemptions.

16 MR. REEVES: We would love to.

17 MR. LAND: Worth coming up.

18 MR. ROMO: We'll check the formula in that cell.

19 MR. LAND: So who does the math?

20 (Overlapping speakers.)

21 MR. LAND: No, thank you for showing. We'll bring
22 this back --

23 MR. REEVES: And these, by the way, the
24 categories, many thanks to your staff for providing us
25 with that data.

1 And some of these, Rob, may be -- obviously
2 they fit -- may fit into more than one category.

3 MR. LAND: Exactly.

4 MR. REEVES: Sometimes it's --

5 MR. LAND: Sure.

6 MR. REEVES: -- it's a little bit of a guessing
7 game, a little bit of a judgment --

8 MR. LAND: Sure.

9 MR. REEVES: -- as to which category.

10 MR. LAND: While I can tell you that most of the
11 time ATC is weather, it's not all the time.

12 MR. REEVES: Right.

13 MR. LAND: So that's why I didn't interrupt to
14 say. It could very well have been an outage at a
15 different station or a staffing shortage. Very often
16 it's sunny here to there and --

17 MR. REEVES: Right.

18 MR. LAND: -- they don't have enough people to
19 control things, so they issue programs even though
20 there's no weather. So it's (unintelligible).

21 MR. REEVES: Right.

22 MR. LAND: Well, thank you very much.

23 MR. ROMO: Okay. So just adding on to what Ron
24 had shared and kind of just to clarify again, I think
25 reiterate the City's position is that we are -- the

1 City's interpretation has been longstanding, in effect
2 since 2003, that incidents, as it were, we do provide for
3 exemptions (unintelligible) from provisions of the noise
4 ordinance. And there's a reason why we do it.

5 And I'll turn it over to you, Lori, if
6 there's anything else in terms of interpretation of G if
7 you --

8 MS. BALLANCE: Yeah. I think our letters speak
9 for themselves, and we will consider what you've provided
10 today and provide you with a written response.

11 MR. LAND: Thank you.

12 MS. BALLANCE: But I don't think I have anything
13 to add at this point unless you have clarification
14 questions.

15 MR. LAND: No, we don't.

16 MR. ROMO: So as I think we all understand,
17 mentioned in the beginning of all this will be taken into
18 consideration. You'll receive a decision on the outcome
19 of (unintelligible) what's been presented today within a
20 ten-day period.

21 MR. LAND: Appreciate it.

22 One closing comment. If in the letter
23 that's forthcoming if the City doesn't reverse its
24 opinion or the Airport doesn't reverse its decision, if
25 you can spell out the next appeal steps and cite the

1 sections of the ordinance or the sections of the City
2 Code that underline it, that would be greatly
3 appreciated.

4 MS. BALLANCE: We certainly will.

5 MR. LAND: Thank you.

6 MR. HNAT: And my only closing comment is Rob and
7 I were both here in Long Beach on the day we inaugurated
8 service 16 years ago.

9 MR. LAND: August 31st.

10 MR. HNAT: We both appreciate the longstanding
11 partnership with the City and the Airport. So thank you
12 very much.

13 MS. BALLANCE: Well, we want to reiterate that, as
14 well. And as you know, airports that have curfews -- and
15 there are a number of them that are in Southern
16 California -- it's a balancing act.

17 We balance the community's needs,
18 environmental needs, the airlines' needs, political
19 needs, and certainly the curfew is a very important
20 component to Long Beach. It has been for years and years
21 and years. So it is important for the Airport to balance
22 those interests while enforcing the curfew, and that's
23 what we're continuing to try to do.

24 MR. LAND: Thank you.

25 MR. ROMO: Thank you.

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Yeah, thanks again for coming out. Really appreciate it. And (unintelligible) log (unintelligible) east.

(Whereupon the audio recording ended.)

o-O-o

1 STATE OF CALIFORNIA)
2 COUNTY OF ORANGE) ss.
3)

4 I, MARY E. PIERCE, CSR 6143 and Deposition Officer
5 for the State of California, certify:

6 That I listened to the recording of the foregoing
7 hearing and that all colloquy and comments made at the
8 time of the hearing were recorded stenographically by me
9 and that the foregoing is a true record of the
10 proceedings and all comments made at the time thereof to
11 the best of my abilities.

12 I hereby certify that I am not interested in the
13 event of the action.

14 IN WITNESS WHEREOF, I have subscribed my name this
15 2nd day of November, 2017.

16
17
18 _____
19 Certified Shorthand Reporter in and
20 for the State of California
21
22
23
24
25

EXHIBIT 8

CITY OF LONG BEACH

LONG BEACH AIRPORT

4100 East Donald Douglas Drive • Long Beach, CA 90808 • (562) 570-2619 • Fax (562) 570-2601



October 16, 2017

Robert C. Land
Senior Vice President Government Affairs and
Associate General Counsel
27-01 Queens Plaza North
Long Island City, NY 11101

Subject: October 6, 2017, Administrative Hearing – Airport Director Decision

Dear Mr. Land:

On October 6, 2017, and pursuant to JetBlue Airways' ("JetBlue") August 25, 2017 written request, an administrative hearing was held at Long Beach Airport ("Airport" or "LGB") pursuant to the requirements of Chapter 16.43 of the City of Long Beach Municipal Code, Airport Noise Compatibility Ordinance ("Noise Ordinance") to consider JetBlue's request for an exemption for curfew flights at the Airport during the second quarter of 2017 (April 1, 2017, through June 30, 2017). This letter provides a summary of the October 6, 2017, administrative hearing, the correspondence leading up to the administrative hearing, and my written decision, based on the record of the proceeding consistent with the requirements of Section 16.43.110 of the Airport's Noise Ordinance. As discussed in detail below, based on the record of proceedings, I have determined that JetBlue's curfew operations during the second quarter of 2017 are not exempt from the Noise Ordinance because the curfew operations were a result of air traffic control delays at other airports nationwide, and not to air traffic control delays for JetBlue flights directly departing or arriving at the Airport.

As background, on July 7, 2017, JetBlue Airways requested exemptions from the Noise Ordinance for some of Jet Blue's curfew operations at the Airport during the second quarter of 2017 (April 1, 2017, through June 30, 2017). On July 18, 2017, and in response to JetBlue's July 7, 2017, letter, I sent a letter to JetBlue clarifying the applicability of the exemptions provided in Section 16.43 of the Noise Ordinance and indicating that the curfew exemptions only apply to air traffic control directions that relate directly to operations at the Airport, not to other airports nationwide throughout the day.

On July 28, 2017, JetBlue requested further clarification regarding the exemptions from Chapter 16.43.¹ On August 17, 2017, I further clarified the applicability of curfew

¹ Specifically, and according to your July 28, letter, although JetBlue does not deny that the curfew violations occurred at the Airport, JetBlue continues to believe that some of its operations fall within the Section 16.43.070 general exemptions for curfew operations and should not be counted toward the tally of late flights for purposes of the JetBlue/City Prosecutor negotiated Consent Decree of May 30, 2003.

exemptions and indicated that because the majority of JetBlue curfew violations in question occurred due to air traffic control delays earlier in the day at other airports nationwide, and not to air traffic control delays at the Airport, the Noise Ordinance exemption did not apply. Specifically, I explained that Section 16.43.070 of the Noise Ordinance provides categories of aircraft that are exempt from the noise, curfew and related requirements of the Ordinance, as follows: “[a]ircraft operating pursuant to *explicit air traffic control direction* in a manner which would otherwise not comply with the terms of this Chapter” are exempt from the provisions of the Noise Ordinance (emphasis added). As indicated in my August 17, 2017, letter, although this exemption applies directly to operations at the Airport (*i.e.*, an air traffic control delay at the Airport which results in a late departure or arrival from the Airport outside of JetBlue’s control), it does *not* apply to other nationwide airports or circumstances occurring throughout the day.

I also clarified in my August 17, 2017, letter that the Ordinance does provide the Airport Director with the discretionary authority to provide an air carrier with the ability to conduct operations outside of the curfew hours if a flight is delayed by not more than one hour beyond the curfew (*i.e.*, between ten p.m. and eleven p.m.) as a result of delays substantially beyond the control of the operator. See, Section 16.43.040(B). However, prior to waiving any curfew violation during this time period, the operator is required to present evidence satisfactory to the Airport Director relating to the circumstances surrounding the operation and nothing in the Noise Ordinance establishes a “right” or privilege of any person to conduct air operations outside of the curfew.

On August 25, 2017, JetBlue requested an administrative hearing regarding exemptions for curfew flights at the Airport pursuant to Section 16.43.110 of the Noise Ordinance. In response to this request, and on September 11, 2017, I notified you that an administrative hearing had been set for October 6, 2017.² Consistent with this notification, the requested informal administrative hearing was held on October 6, 2017, at the Airport administrative offices where written statements were taken and oral testimony was presented. The hearing was also recorded. I attended the hearing as the hearing officer. Other attendees included yourself and James Hnat representing JetBlue, and Ron Reeves, Noise and Environmental Affairs Officer, Lori Ballance, outside counsel for the Airport, and Ryan McMullan representing the Airport.

After I provided my introductory remarks, a summary of the administrative hearing process, the purposes of the hearing and a brief description of how the hearing would take place (consistent with Section 16.43.110 of the Noise Ordinance), JetBlue was invited to provide written and oral information to support its appeal. JetBlue provided a number of introductory remarks and two exemplary presentations relating to JetBlue Flight 1635 from San Francisco International Airport (SFO) to the Airport and JetBlue Flight 14 from the Airport to John F. Kennedy International Airport (JFK). Copies of the introductory remarks by JetBlue and the presentations provided by JetBlue are included as Attachments 6 and 7 respectively to this letter.

² Copies of all correspondence referenced above have been included as attachments to this letter.

After JetBlue's remarks and presentations, the Airport provided a copy of a spreadsheet for the record of proceedings summarizing JetBlue's late night operations from January 1, 2016, through June 30, 2017. During the administrative hearing, an error was noted in the spreadsheet regarding the total exempt late night operations for the second quarter of 2017. The spreadsheet has since been revised to correct this error and a copy of the revised spreadsheet is provided as Attachment 8 to this letter.

Consistent with the requirements of Section 16.43.110 of the Noise Ordinance, and based on the record of the proceeding at the October 6, 2017, administrative hearing, including all written materials received and oral testimony presented, I have determined that air traffic control delays at other airports, except those air traffic control delays that directly impact a scheduled flight into or out of the Airport, do *not* qualify as Section 16.43.070 exemptions from the Noise Ordinance at LGB. Importantly, however, in the limited one hour window after curfew the Airport will continue to consider a request for a curfew exemption based on the specific circumstances which caused the curfew violation, such as that the operation was delayed by emergency, mechanical, air traffic control, or weather delays substantially beyond the control of the operator. See, Section 16.43.040(B).

In response to JetBlue's assertion at the administrative hearing that this interpretation of the Noise Ordinance is a "new and discriminatory interpretation," It is important to note that the Airport has consistently applied the "exemption provisions" of the Noise Ordinance relative to JetBlue's curfew violations in this manner since the inception of the Consent Decree in 2003, and until JetBlue's recent correspondence, JetBlue had not objected to the application or interpretation of the Ordinance by the Airport Director or Airport staff. In fact, JetBlue routinely self-reports late night curfew violations. Therefore, this interpretation of the Noise Ordinance is certainly not "new." Rather, it continues in a consistent manner the important enforcement of the curfew provisions of the Noise Ordinance.

In addition, this interpretation of the Noise Ordinance is consistent with the manner in which other curfew airports (including John Wayne Airport, Orange County and San Diego International Airport (departure curfew)) enforce important curfew provisions. It is important to also emphasize that failure to interpret the exemption provisions in this manner would essentially render the curfew provisions of the Noise Ordinance meaningless because flights would be able to depart and arrive at the Airport subject to air traffic control and related delays throughout the country on a daily basis irrespective of the curfew provisions at the Airport. Certainly, this was not the intent of the curfew provisions when approved.

In response to JetBlue's assertions that the Federal Aviation Administration (FAA) has exclusive control over airspace, certainly the Airport recognizes the FAA's jurisdictional responsibilities; however, as indicated in previous correspondence, it is also important to recognize that JetBlue continues to have a number of options relating to any FAA air traffic control delays that may impact flights operating to or from the Airport, including, but not limited to substituting aircraft, providing alternative operations during non-curfew hours, accommodating passengers by alternative transit, providing sleeping accommodations for the delayed passengers until the aircraft can depart or arrive consistent with the curfew requirements at the Airport or operating during curfew hours (which will necessarily result

in curfew violations and administrative and alternative enforcement procedures). These are business decisions that all incumbent air carriers must make at this Airport and at other curfew airports in the region.

With respect to JetBlue's example relating to Flight 1635 from SFO to the Airport, the presentation indicates that the JetBlue arrival was delayed into the Airport due to three (3) earlier flights impacted by two (2) separate FAA issued ground delay programs. Similarly, JetBlue's example relating to Flight 14 from the Airport to JFK was delayed due to the late arrival of a flight from Boston to the Airport. Neither of these examples falls within the exemption provided in the Noise Ordinance. As indicated above, the exemption provided in the Noise Ordinance applies *only* to FAA air traffic control delays that relate directly to flights departing and arriving at the Airport, not to flight delays earlier in the day at Airports outside of the direct arrival/departure curfew flights at the Airport.

Finally, and importantly, my decision and interpretation of the curfew provisions of the Noise Ordinance reflects the experience of the City in the management and operation of the Airport – and the public controversies resulting from operation of the Airport - since approval of the Noise Ordinance; including extensive experience in many forums with the views and interests of the federal government, commercial aviation operators, general aviation operators, the Long Beach business community, local public entities, and the residents of areas in the general vicinity of the Airport. I believe that this decision continues to balance the needs of the Long Beach community for adequate commercial air transportation facilities, and the desire of the local community for environmentally responsible air transportation operations at the Airport.

My decision will be final unless appealed to the City Manager as provided in Section 16.43.110(B) of the Noise Ordinance. Specifically, Section 16.43.110(B) of the Noise Ordinance provides that any final decision pursuant to Chapter 16.43 shall be appealable to the City Manager by giving written notice to the Manager within fifteen (15) days following the mailing of a notice of final decision by the Airport Director. The City Manager shall provide any person appealing the Airport Director's decision at least fifteen (15) days written notice specifying the time and place of the hearing of the appeal, and inviting such person or entity to present any additional arguments deemed appropriate in determining whether a violation occurred. The notice shall be served by U.S. mail, with service being complete upon mailing. Consistent with the provisions of Section 16.43.110(B), the hearing may be held before a hearing officer designated by the City Manager, with certain limited exceptions. In the alternative, the City Manager may appoint an administrative hearing board consisting of not less than three (3) members of the City's administrative staff.

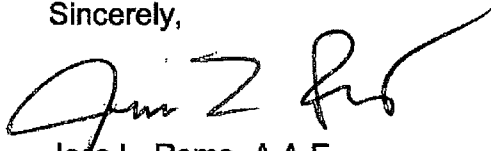
Any appeal will be decided based on the submissions of the Airport Director, his summary of the evidence presented, and the arguments presented to the City Manager. The City Manager shall not be required to accept additional evidence. A written notice of decision is required to be issued within fifteen (15) days following the hearing on appeal. The final decision of the City Manager shall be final unless appealed to the City Council within fifteen (15) days after the mailing of notice by the City Manager. Any appeal of the final decision of the City Manager under Chapter 16.43 must be conducted as provided in Chapter 2.93 of the City's Municipal Code.

Robert C. Land
October 16, 2017
Page 5

It is important to emphasize that the pendency of this proceeding shall not affect or excuse any violation of Chapter 16.43 of the Noise Ordinance occurring during the pendency of this proceeding. (See, Section 16.43.110(D)). Therefore, JetBlue must continue to comply strictly with the curfew requirements at the Airport irrespective of air traffic control delays to its operations at other airports nationwide throughout the day during the pendency of this proceeding.

Please do not hesitate to contact me if you have any questions regarding this final decision or if you have any questions regarding the appeals process outlined above.

Sincerely,



Jess L. Romo, A.A.E.
Airport Director

JR:LB:RR:km

Attachments:

- (1) JetBlue correspondence dated July 7, 2017
- (2) Long Beach Airport correspondence dated July 18, 2017
- (3) JetBlue correspondence dated July 28, 2017
- (4) Long Beach Airport correspondence dated August 17, 2017
- (5) JetBlue correspondence dated August 25, 2017
- (6) JetBlue Exemplary Presentation Flight 1635
- (7) JetBlue Exemplary Presentation Flight 14
- (8) Long Beach Airport Summary of JetBlue Late Operations January 1, 2016 – June 30, 2017

cc: Ron Reeves, Long Beach Airport
Michael J. Mais, Assistant City Attorney
Lori Ballance, Outside Counsel



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Long Island City, NY 11101
T: 1-800-JETBLUE
jetblue.com

July 7, 2017

Mr. Jess Romo, A.A.E., Director
Long Beach Municipal Airport
4100 Donald Douglas Drive
Long Beach, CA 90808

Dear Mr. Romo:

I am writing with regard to JetBlue's operations during the second quarter of 2017 (starting on April 1, 2017 and extending through June 30, 2017).

JetBlue schedules all of its operations at Long Beach in full compliance with the restrictions on flights which limits scheduled operations to the hours of 7 a.m. until 10 p.m. In our review of our operations for the second quarter of 2017, JetBlue believes that some of its late night operations are exempt from the Airport Noise Compatibility provision of Chapter 16.43 of the Long Beach Municipal Code (16.43.070 General Exemptions), section G. The applicable section states:

"Aircraft operating pursuant to explicit air traffic control direction in a manner which would otherwise not comply with the terms of this Chapter."

As the attached spread sheet demonstrates, the operations of JetBlue which are listed all operated beyond the airport curfew hours due to explicit air traffic control direction. As such, it is JetBlue's belief that these flights should not be counted towards our tally of late flights for purposes of the governing Consent Decree of May 30, 2003, in effect with the Office of the City Prosecutor.

Your consideration of this request for exemptions is appreciated and I look forward to discussing this matter with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert C. Land". The signature is fluid and cursive.

Robert C. Land
Senior Vice President Government Affairs and
Associate General Counsel

JetBlue Airways
LGB Station Curfew Report

Date	Vio?	Flight #	A/C On	A/C Out	A/C Off	2300-0700	Delay	Description
04/01/17	YES	1635	22:13			NO	ATC	N640 operated F1436 LGB-SFO earlier this evening that was captured on the SFO GDP program that was issued due to runway construction. Total delay was 65 minutes. This delayed down line flying and resulted in F1635 breaking curfew.
04/02/17	YES	1635	22:19			NO	ATC	F1436 was originally delayed in LGB 66 minutes due to a GDP to SFO for RWY-Taxi construction. This delayed the a/c line and caused F1635 to arrive late, breaking soft curfew.
4/6/2017	YES	2132		22:34	22:48	NO	WX/CREW	F2136 was on a GDP to SFO for weather/winds. See ADVZY 034. Due to the extensive delay, the inflight crew timed out and F2136/2135 were cancelled which moved up the departure time of F2132 but not enough to not break curfew.
4/7/2017	YES	2135	22:38			NO	ATC	N562 operated F2136 LGB-SFO earlier this afternoon that was captured on an SFO GDP program that was issued due to weather/winds. This delayed down line flying and resulted in F2135 breaking curfew.
4/9/2017	YES	504		22:03	22:14	NO	ATC	N821 WAS ON ITS WAY TO BOS BUT WAS HAD A LONGER THAN SCHEDULED FLIGHT TIME TO BOS. THEN WAS FURTHER DELAYED OUT OF BOS DUE TO ATC HAVING REROUTE THE A/C LEAVING BOS. THIS RESULTED IN THE A/C ARRIVING LGB 44 MIN LATE. DUE TO THE LATE ARRIVAL OF INBOUND 405 FROM BOS F504 TO BOS BROKE CURFEW.
4/13/2017	YES	1635	22:40			NO	ATC	N636 operated F1436 LGB-SFO earlier this afternoon and was captured on an SFO GS/GDP list that was issued for weather/winds. This delayed down line flying and resulted in F1635 breaking curfew.
4/21/2017	YES	1635	22:07			NO	ATC	N564 operated F1436 LGB-SFO earlier this afternoon and was captured on an SFO GDP list that was issued for runway construction. This delayed down line flying and resulted in F1635 breaking curfew.
4/22/2017	YES	504		22:12	22:20	NO	ATC	F504 LGB-BOS had to hold for their connecting Inflight Crewmembers that arrived late off of N594, that was delayed inbound due to an extensive SFO GDP that was issued for runway construction.
4/22/2017	YES	1635	22:37			NO	ATC	N565 operated F1436 LGB-SFO earlier this afternoon and was captured on an SFO GDP list that was issued for runway construction. This delayed down line flying and resulted in F1635 breaking curfew.
4/24/2017	YES	1635	22:20			NO	ATC	F1436 (LGB-SFO) was on GDP to SFO for runway construction and took a 69 min delay in LGB. See ADVZY: 079. This delayed the a/c line and caused F1635 to break soft curfew.
4/26/2017	YES	1635	22:30			NO	ATC	F1436 was delayed 60 minutes in LGB due to a GDP to SFO for low ceilings. See ADVZY: 060. This delayed the a/c line and caused F1635 to break soft curfew.
4/28/2017	YES	504		22:33	22:44	NO	ATC	N806 operated segments DFW-BOS-LGB-BOS, F1214 DFW-BOS was issued a revised flight plan which resulted in a much longer flight time. This delayed all down line flying and led F504 LGB-BOS to break curfew.

JetBlue Airways
LGB Station Curfew Report

Date	Vio?	Flight #	A/C On	A/C Out	A/C Off	2300-0700	Delay	Description
4/7/2017	YES	1635	23:05			YES	ATC	N615 operated F1436 LGB-SFO earlier this afternoon that was captured on an SFO GDP program that was issued due to weather/winds. This delayed down line flying and resulted in F1635 breaking curfew.
4/11/2017	YES	1635	23:08			YES	ATC	N639 operated F1436 LGB-SFO earlier this afternoon and was captured on an SFO GS/GDP list that was issued for weather/winds. This delayed down line flying and resulted in F1635 breaking curfew.
4/12/2017	YES	1635	23:13			YES	ATC	N570 operated F1436 LGB-SFO earlier this afternoon and was captured on an SFO GS/GDP list that was issued for weather/winds. This delayed down line flying and resulted in F1635 breaking curfew.
4/13/2017	YES	1013	23:36			YES	ATC	N585 operated F1222 NAS-JFK earlier this afternoon and was delayed due to holiday volume, coupled with an ATC labor action in NAS which resulted in a 90 minute taxi time. This delayed down line flying and led F1013 to break curfew.

JetBlue Airways
LGB Station Curfew Report

Date	Vio?	Flight #	A/C On	A/C Out	A/C Off	2300-0700	• Delay	Description
5/6/2017	YES	2079	22:41			NO	ATC	N644 operated F680 LGB-LAS earlier this afternoon and was captured on a LAS GDP list that was issued for winds. This delayed down line flying and resulted in F2079 breaking curfew.
5/7/2017	YES	14		22:38	22:47	NO	ATC/CREW	CREW WORKING FLT 14 WAS ALSO WORKING DELAYED INBOUND F2079. F2079 WAS DELAYED DUE TO ATC GDP DUE TO WINDS IN LAS. NO AVAILABLE CREWS TO RECOVER F14.
5/11/2017	YES	1635	22:19			NO	WX/ATC	A/C 554 arrived 35 minutes late into LGB. Then F1436 was delayed 41 minutes in LGB due to a GS and then a GDP to SFO for low ceilings. See ADVZY: 005 & 015. This delayed the a/c line and caused F1635 to break soft curfew.
5/13/2017	YES	2079	22:20			NO	ATC	DUE TO EXTENSIVE ATC DELAYS IN SFO F2079 WAS DELAYED. A/C ROUTING WAS DELAYED OUT OF LAS-SFO-LAS-LGB-LAS-LGB. BECAUSE OF THE EXTENSIVE DELAY A/C WAS NOT ABLE TO RECOVER
5/21/2017	YES	2132		22:30	22:44	NO	ATC	F2136 (LGB-SFO) was caught in a GDP to SFO due to construction and delayed 135 minutes. See ADVZY: 020. This delayed the a/c line and caused F2135 (SFO-LGB) to arrive late and caused F2132 to break soft curfew.
2/25/2017	YES	405	23:01			NO	ATC	F405 had to tech stop in PHX for fuel due to being given a longer route by ATC and with the payload, would not make it to LGB. This tech stop delayed F405 and caused it to break hard curfew.
5/26/2017	YES	2132		22:08	22:17	NO	ATC/CREW	The operating flight crews for F2132 were connecting off of an aircraft line that was involved in an extensive SFO GDP. No crew replacements were available.
5/27/2017	YES	504		22:09	22:18	NO	ATC	F365-SMF was previously delayed due to SFO GDP, A/C N554JB, earlier in the day and impacted downline flight segments. There were 86 customers connecting from F365-SMF.
5/27/2017	YES	944		22:26	22:36	NO	ATC	N554JB operated F1936 LGB-SFO earlier this morning and was captured on an SFO GDP list that was issued for runway construction. This delay impacted all downline flights.
5/29/2017	YES	405	22:23			NO	ATC	F822 (PBI-BOS) was delayed 79 minutes due to a GDP to BOS due to construction/winds. See ADVZY: 058. This delayed the a/c line and caused F405 to break soft curfew.
5/30/2017	YES	405	22:33			NO	ATC	F822 (PBI-BOS) was delayed 104 minutes due to a GDP to BOS due to construction/low ceilings. See ADVZY: 061. This delayed the a/c line and caused F405 to break soft curfew.

JetBlue Airways

LGB Station Curfew Report

Date	Vio?	Flight #	A/C On	A/C Out	A/C Off	2300-0700	Delay	Description
5/13/2017	YES	1635	1:12			YES	ATC/CREW	DUE TO EXTENSIVE GDP IN SFO FOR CONSTRUCTION FLT WAS DELAYED LEAVING LGB. SINCE THE FLIGHT WAS SEVERALLY DELAYED OUT OF LGB THE ORIGINAL PILOTS TIMED OUT AND HAD TO BE REPLACED. PILOTS HAVE A 2 HOUR CALL TO ARRIVE TO THE AIRCRAFT AFTER BEING NOTIFIED. THIS FURTHER DELAYED THE FLIGHT RESULTING IN IT BREAKING HARD CURFEW
5/21/2017	YES	1635	23:10			YES	ATC	F1436 (LGB-SFO) was caught in a GDP to SFO for construction and delayed 116 minutes. See ADVZY: 020. This delayed the a/c line and caused F1635 to break soft curfew.
5/25/2017	YES	14		23:53	0:00	YES	ATC	F405 had to tech stop in PHX for fuel due to being given a longer route by ATC and with the payload, would not make it to LGB. This tech stop delayed F14 and caused it to break hard curfew.
5/26/2017	YES	1635	23:58			YES	ATC	N580 operated F1436 LGB-SFO earlier this afternoon and was captured on a SFO GDP list that was issued for low ceilings. This delayed down line flying and resulted in F1635 breaking curfew.

JetBlue Airways
LGB Station Curfew Report

Date	Vio?	Flight #	A/C On	A/C Out	A/C Off	2300-0700	Delay	Description
6/5/2017	YES	405	22:29			NO	ATC	F822 (PBI-BOS) was delayed 70 minutes due to a GDP for rwy construction. See ADVZY 77. This delayed the a/c line and caused F405 to break soft curfew.
6/8/2017	YES	179	22:34			NO	ATC	F2589 (LAS-SFO) was delayed 109 minutes due to a GDP to SFO for weather/low ceilings. See ADVZY 049. Then F188 was delayed 79 minutes waiting for connecting flight crew off F2136 which was also delayed by the SFO GDP. This delayed the a/c line and caused F179 to break soft curfew.
6/16/2017	YES	405	22:50			NO	ATC	F880 (LAS-BOS) was delayed 81 minutes in LAS due to a GDP into BOS. This delayed the a/c line and caused F405 to break soft curfew.
6/17/2017	YES	1013	22:41			NO	ATC	F1190 (MCO-JFK) was delayed due to a GDP into JFK due to low ceilings. See ADVZY: 117. This delayed the a/c and caused F1013 to break soft curfew.
6/18/2017	YES	1013	22:17			NO	ATC	F1190 (MCO-JFK) WAS DELAYED DUE TO A GDP INTO JFK DUE TO WX AND WINDS. THIS DELAYED THE A/C AND CAUSED F1013 TO BREAK CURFEW.
6/29/2017	YES	1013	22:37			NO	ATC/WX	F242 (HAV-JFK) got a reroute enroute to JFK which made their flight time a little longer. Then F1013 encountered weather over the Midwest which slowed the flight down. These two items caused F1013 to break soft curfew.
6/29/2017	YES	1436		22:28	22:51	NO	ATC	SFO GDP EDCT 2318 DUE TO LOW CEILINGS IN SFO AREA. FLIGHT GOT RELEASED EARLIER THAN ORIGINAL EDCT. ADVY 010
6/30/2017	YES	405	22:22			NO	ATC/WX	F405 was delayed 35 min at the gate by ATC due to thunderstorms in the area. Then F405 had a 37 minute taxi time. These two items delayed F405 and caused it break soft curfew.

JetBlue Airways
LGB Station Curfew Report

Date	Vio?	Flight #	A/C On	A/C Out	A/C Off	2300-0700	Delay	Description
6/7/2017	YES	405	23:08			YES	ATC	F404 (ATL-BOS) on 6/6 was delayed 88 minutes in ATL on a GDP due to construction/weather. See ADVZY 74. Then later on that night, F796 (ATL-BOS) was delayed 70 minutes on a GDP due to construction/weather. See ADVZY 74. These two GDP's delayed the a/c in into today and caused F405 to break hard curfew.
6/7/2017	YES	943	23:52			YES	ATC	F1379 (DCA-FLL) was delayed 135 minutes due to a AFP for flights going to Florida. See ADVZY 91. This issue caused F943 to break hard curfew.
6/8/2017	YES	1635	23:39			YES	ATC	F1436 (LGB-SFO) was caught in a GDP to SFO for weather/low ceilings and delayed 137 minutes which included 50 late arrival from SEA due to a GDP to SEA. See ADVZY: 049. These two GDP's delayed the a/c line and caused F1635 to break hard curfew.
6/11/2017	YES	1635	23:27			YES	ATC	A/C WAS RUNNING ON TIME UNTIL IT WAS CAUGHT IN A SFO GDP AT THE LAST MIN FOR A FEW HOURS THAT RESULTED IN IT RETURNING AFTER CURFEW
6/13/2017	YES	1013	23:16			YES	WX/ATC	F1013 was delayed 17 minutes at the gate due to a Time Surface Management program. Then the a/c then taxied for 128 minutes due to weather-driven route closures. This delayed the flight which caused it to break hard curfew.
6/16/2017	YES	1013	23:42			YES	ATC	F1190 (MCO-JFK) was delayed 147 due to a GDP into JFK due to weather/low ceilings. See ADVZY: 097. This delayed the a/c and caused F1013 to break hard curfew.
6/19/2017	YES	405	1:21			YES	ATC	F992 (TPA-BOS) GOT CAUGHT IN A GDP AND WAS DELAYED AND RESULTED IN F405 BREAKING CURFEW.
6/19/2017	YES	1013	2:16			YES	ATC	F1190 (MCO-JFK) GOT CAUGHT IN A GDP AND WAS DELAYED AND RESULTED IN F1013 BREAKING CURFEW.



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July 18, 2017

Robert C. Land
Senior Vice President Government Affairs and Associate General Counsel
JetBlue Airways Corporation
27-01 Queens Plaza North
Long Island City, NY 11101

Subject: Request for Exemption for Curfew Flights at Long Beach Airport

Dear Mr. Land:

This letter is in response to your letter dated July 7, 2017, in which you request exemptions from Chapter 16.43 of the Long Beach Municipal Code, Airport Noise Compatibility, for some of JetBlue's curfew operations at Long Beach Airport ("Airport") during the second quarter of 2017 (April 1, 2017, through June 30, 2017). Specifically, and according to your recent letter, although JetBlue does not deny that the curfew violations occurred at the Airport, you believe that some of JetBlue's operations fall within the Section 16.43.070 general exemptions for curfew operations.

Section 16.43.070 of the Airport Noise Compatibility Ordinance provides categories of aircraft that are exempt from the noise, curfew and related requirements of the Ordinance. Specifically, Section 16.43.070(G) provides: "[a]ircraft operating pursuant to explicit air traffic control direction in a manner which would otherwise not comply with the terms of this Chapter" are exempt from the provisions of the Noise Ordinance. It is important to recognize, however, that these "explicit air traffic control direction[s]" must necessarily relate directly to operations at Long Beach Airport (i.e., an air traffic control delay at LGB which results in a late departure from the Airport outside JetBlue's control), not to other airports nationwide throughout the day.

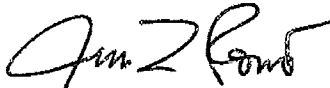
According to the spreadsheet provided as an attachment to your July 7, 2017, letter, it appears that the curfew violations at the Airport during the second quarter of 2017 occurred due to air traffic control delays earlier in the day at San Francisco International Airport, Boston International Airport, and other airports nationwide, and not to air traffic control delays at Long Beach Airport. It is important for JetBlue

Request for Exemption for Curfew Flights at Long Beach Airport
July 18, 2017
Page 2

to recognize that it is the airline's responsibility to comply strictly with the curfew requirements at Long Beach Airport irrespective of air traffic control delays to its operations at other airports nationwide throughout the day. Air traffic control delays at other airports do not qualify as Section 16.43.070 exemptions from the Noise Ordinance at LGB.

I hope this letter clarifies the applicability of Section 16.43.070 to air traffic control delays and that this information will assist JetBlue in its strict compliance with the curfew requirements at the Airport in the future. Please feel free to contact me if you have any additional questions regarding this issue.

Sincerely,



Jess L. Romo, A.A.E.
Director

JR:RR:km

cc: Douglas P. Haubert, City Prosecutor
Michael Mais, Assistant City Attorney
Ron Reeves, Noise and Environmental Affairs Officer
Lori Ballance, Outside Counsel



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jetblue.com

July 28, 2017

Mr. Jess Romo, A.A.E., Director
Long Beach Municipal Airport
4100 Donald Douglas Drive
Long Beach, CA 90808

Dear Mr. Romo,

This is in response to your July 18, 2017 letter, which asserts that the Long Beach Airport Noise Compatibility Ordinance's exception for "explicit air traffic control direction" extends only to air traffic control (ATC) direction "relate[d] directly to operations at Long Beach Airport." JetBlue respectfully disagrees with this narrow interpretation, which is contrary to the plain meaning of the ordinance language¹ and is inconsistent with federal statutes granting the Federal Aviation Administration (FAA) exclusive control over the national airspace system.² JetBlue again requests that the flights listed in the July 8, 2017 spreadsheet not be counted towards the tally of late flights for purposes of the government Consent Decree of May 30, 2003.

Any air carrier that operates scheduled service at Long Beach Airport must comply with the FAA's explicit ATC direction. JetBlue, like other certificated air carriers, is required to operate in strict compliance with express ATC direction from the FAA.³ To assert that the ATC exception in the governing ordinance only applies to Long Beach Airport's local operations ignores that the airport is merely one of many components of a large, complex and integrated national airspace system that has many interdependent pieces. It is impossible to separate Long Beach Airport operations from the rest of the national airspace system as they operate as part of a common

¹ See *U.S. v. Lehman*, 225 F. 3d 426 (4th Cir. 2000) ("A fundamental canon of statutory construction requires that 'unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning.'").

² See 49 U.S.C. § 40103 ("The United States Government has exclusive sovereignty of airspace of the United States... The Administrator of the Federal Aviation Administration shall develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace.").

³ See 14 C.F.R. Part 91.123 "Compliance with ATC clearances and instructions" ("(a)When an ATC clearance has been obtained, no pilot in command may deviate from that clearance unless an amended clearance is obtained, an emergency exists, or the deviation is in response to a traffic alert and collision avoidance system resolution advisory. However, except in Class A airspace, a pilot may cancel an IFR flight plan if the operation is being conducted in VFR weather conditions. When a pilot is uncertain of an ATC clearance, that pilot shall immediately request clarification from ATC.

(b) Except in an emergency, no person may operate an aircraft contrary to an ATC instruction in an area in which air traffic control is exercised.").

network, administered by the FAA. As you know, the FAA often imposes ground stops at particular airports or shuts down busy airway routes leading into or out of Long Beach Airport. Because of JetBlue's legal obligation to adhere to the express ATC direction of the FAA, these situations sometimes create delays for flights operating at Long Beach Airport. However, JetBlue has no ability to deviate from the FAA's instructions at Long Beach Airport or elsewhere.

Against this backdrop, the interpretation in your letter belies the plain language meaning of the ordinance. By its very definition, "explicit air traffic control" direction from the FAA necessarily refers to and involves direction that results from events outside of Long Beach Airport. It is impossible to classify some FAA directions as Long Beach-specific and others as non-Long Beach-specific. Because of the FAA's sole authority over the national airspace system, there is simply no feasible way to define or parse which FAA "explicit air traffic control directions" would be covered under your recent interpretation of the ordinance and which would not be covered. Such an interpretation would be impermissibly narrow, arbitrary and capricious, and obviate the plain-language meaning of the ordinance.

Further, any ATC delay that impacts a flight operating to or from Long Beach Airport necessarily "relate[s] directly to operations at Long Beach Airport." If an aircraft cannot take off at Long Beach Airport due to a FAA ground stop at San Francisco International Airport or John F. Kennedy International Airport, the FAA has essentially made a *de facto* decision that aircraft at Long Beach should not be allowed to take off from Long Beach for San Francisco or JFK. In other words, all flights operating to or from Long Beach Airport are subject to explicit FAA direction and all are covered under the plain meaning language of the exception in the ordinance.

JetBlue reiterates that some of its late night operations are rightfully exempt from the Airport Noise Compatibility provision of Chapter 16.43 of the Long Beach Municipal Code due to its obligation to adhere to ATC directions from the FAA. The spread sheet included in the July 7, 2017 letter clearly demonstrated that all JetBlue operations that occurred beyond the airport curfew hours were due to explicit ATC direction, which, as noted above, is clearly covered by the language in the exception. Therefore, JetBlue respectfully reiterates its request that the flights listed in the July 8, 2017 spreadsheet not be counted towards the tally of late flights for purposes of the Consent Decree of May 30, 2003.

I look forward to your reply.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert C. Land". The signature is written in a cursive, flowing style.

Robert C. Land
Senior Vice President Government Affairs and
Associate General Counsel



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August 17, 2017

Robert C. Land
Senior Vice President Government Affairs and Associate General Counsel
JetBlue Airways Corporation
27-01 Queens Plaza North
Long Island City, NY 11101

Subject: Request for Exemption for Curfew Flights at Long Beach Airport

Dear Mr. Land:

This letter is in response to your letter dated July 28, 2017, in which you request further clarification regarding the exemptions from Chapter 16.43 of the Long Beach Municipal Code, Airport Noise Compatibility, for some of Jet Blue's curfew operations at Long Beach Airport ("Airport") during the second quarter of 2017 (April 1, 2017, through June 30, 2017). Specifically, and according to your most recent letter, although JetBlue does not deny that the curfew violations occurred at the Airport, you continue to believe that some of JetBlue's operations fall within the Section 16.43.070 general exemptions for curfew operations and should not be counted toward the tally of late flights for purposes of the JetBlue/City Prosecutor negotiated Consent Decree of May 30, 2003.

As indicated in my July 18, 2017, letter, Section 16.43.070 of the Airport Noise Compatibility Ordinance ("Ordinance") provides categories of aircraft that are exempt from the noise, curfew and related requirements of the Ordinance. Specifically, Section 16.43.070(G) provides: "[a]ircraft operating pursuant to explicit air traffic control direction in a manner which would otherwise not comply with the terms of this Chapter" (emphasis added) are exempt from the provisions of the Noise Ordinance. Although this exemption applies directly to operations at Long Beach Airport (i.e., an air traffic control delay at LGB which results in a late departure or arrival from the Airport outside of JetBlue's control), it does not apply to other nationwide airports or circumstances occurring throughout the day.

The Ordinance does provide the Airport Director with the discretionary authority to provide an air carrier with the ability to conduct operations outside of the curfew hours if a flight is delayed by not more than one hour beyond the curfew (i.e.,

Request for Exemption for Curfew Flights at Long Beach Airport

August 17, 2017

Page 2

between 10 p.m. and 11 p.m.) as a result of delays substantially beyond the control of the operator. See Section 16.43.040(B). However, prior to waiving any curfew violation during this time period, the operator is required to present evidence satisfactory to the Airport Director relating to the circumstances surrounding the operation. In addition, it is important to emphasize that nothing in the Noise Ordinance establishes a "right" or privilege of any person to conduct air operations outside of the curfew.

According to the spreadsheet provided as an attachment to your July 7, 2017, letter, and as previously indicated, it appears that the majority of curfew violations at the Airport during the second quarter of 2017 occurred due to air traffic control delays earlier in the day at other airports nationwide, and not to air traffic control delays at Long Beach Airport.

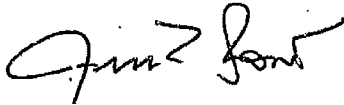
It is important for JetBlue to recognize that it is the Airline's responsibility to comply strictly with the curfew requirements at Long Beach Airport, irrespective of air traffic control delays to its operations at other airports nationwide throughout the day. As previously indicated, air traffic control delays at other airports do not qualify as Section 16.43.070 exemptions from the Noise Ordinance at LGB. Only in the limited one hour window after curfew will the Airport consider a request for a curfew exemption based on the specific circumstances which caused the curfew violation, such as that the operation was delayed by emergency, mechanical, air traffic control, or weather delays substantially beyond the control of the operator. It is also important to note that the Airport has consistently applied the "exemption provisions" of the Ordinance relative to JetBlue's curfew violations since the inception of the Consent Decree in 2003, and until JetBlue's recent correspondence, JetBlue has not objected to the application or interpretation of the Ordinance by the Airport Director or Airport staff. In fact, JetBlue routinely self-reports late night curfew violations.

In response to JetBlue's assertions that the FAA has exclusive control over airspace, certainly the Airport recognizes the FAA's jurisdictional responsibilities; however, it is also important to recognize that JetBlue continues to have a number of options relating to any FAA ATC delay that may impact flights operating to or from the Airport, including, but not limited to substituting aircraft, providing alternative operations during non-curfew hours, accommodating passengers by alternative transit, providing sleeping accommodations for the delayed passengers until the aircraft can depart or arrive consistent with the curfew requirements at the Airport or operating during curfew hours (which will necessarily result in curfew violations and administrative and alternative enforcement procedures). These are business decisions that all incumbent air carriers must make at this Airport and at other curfew airports in the region.

Request for Exemption for Curfew Flights at Long Beach Airport
August 17, 2017
Page 3

I hope this letter clarifies the applicability of Section 16.43.070 to air traffic control delays and that this information will continue to assist JetBlue in its strict compliance with the curfew requirements at the Airport in the future. Please feel free to contact me if you have any additional questions regarding this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Jess L. Romo". The signature is fluid and cursive, with the first name "Jess" being the most prominent.

Jess L. Romo, A.A.E.
Director

JR:MM:RR:km

cc: Michael Mais, Assistant City Attorney
Douglas P. Haubert, City Prosecutor
Lori Ballance, Gatzke Dillon & Ballance LLP
Ron Reeves, Long Beach Airport

AIRPORT COMM

RCVD 8/29/17

AUG 29 2017

jetBlue

27-01 Queens Plaza North
Long Island City, NY 11101
T: 1-800-JETBLUE
jetblue.com

August 25, 2017


Mr. Jess Romo, A.A.E., Director
Long Beach Municipal Airport
4100 Donald Douglas Drive
Long Beach, CA 90808

Dear Mr. Romo,

In accordance with Section 16.43.110 of the Long Beach Municipal Code, JetBlue Airways Corporation (JetBlue) hereby timely requests an administrative hearing in response to the August 17, 2017 letter from Jess L. Romo to Robert C. Land regarding exemptions for curfew flights at Long Beach Airport. The decision in the August 17, 2017 letter regarding the applicability of the "explicit air traffic control" exemption in Section 16.43.070 is erroneous and unjustified.

In accordance with Section 16.43.110, please provide notice regarding the date of the administrative hearing.

Sincerely,



Robert C. Land
Senior Vice President Government Affairs and
Associate General Counsel

LGB Curfew

JetBlue Flight 1635 SFO LGB

June 8, 2017

jetBlue

JetBlue System Operations Manual Guidance

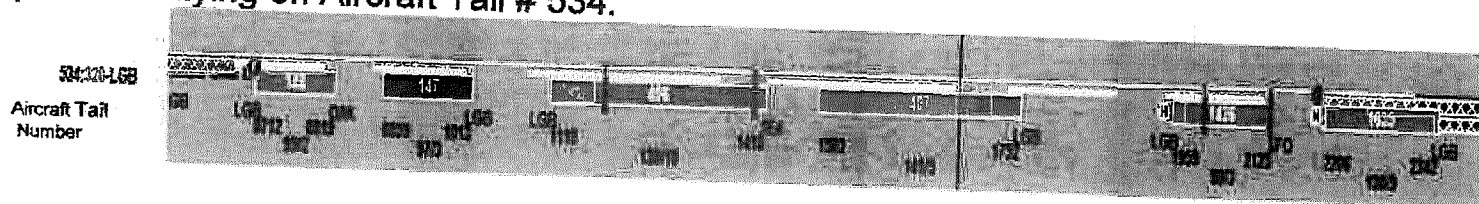
SYSTEM OPERATIONS MANUAL

jetBlue

JETBLUE CURFEW CITY INFORMATION				
Cities	Operating Hours	Soft Curfew	Hard Curfew	Fines
LGB	0700-2200	2200-2300	2300-0700	\$3000 for the first 6 per quarter.
				\$6000 for each violation after 6 per quarter.
				Additional \$245.66 fee for any flights that land after 2200 which is based on our landing weight.
				If we divert to avoid busting the curfew the city will reimburse us for some of our expenses.

Overview: Flight 1635 SFO-LGB June 8, 2017 (121 Customers) arrives 149 minutes delayed into LGB due to three earlier flights impacted by two separate FAA issued Ground Delay Programs.

Sequence of flying on Aircraft Tail # 534:



- F406 LGB-SEA delayed 20 minutes due to SEA GDP for WX.
 - Standard Time Departure (STD) 1759Z (1059L); Actual Time of Departure 1819Z (1119L)
- F407 SEA LGB delayed 43 minutes as a result of F406 late arrival due to FAA issued delay.
 - Standard Time Departure (STD) 2120Z (1420L); Actual Time of Departure 2203Z (1503L)
- F1436 LGB SFO delayed 137 minutes due to SFO FAA issued delays.
 - Standard Time Departure (STD) 0042Z (1742L); Actual Time of Departure 0259Z (1959L)
- F1635 SFO LGB delayed on June 8, 2017 arrives 149 minutes late as a result of F1436 late arrival and a 35 minute taxi time in SFO due to surface congestion in SFO.
 - Standard Time Departure (STD) 0251Z (1951L); Actual Time of Departure out of SFO at 0506Z (2206L) - Actual Time of Arrival in LGB at 0642Z (2342L)

SEA Weather and ATC

SP 08/06/2017 16:30-> SPECI KSEA 081630Z 19008KT 6SM -RA BR SCT003 BKN047 OVC085
13/13 A2969 RMK AO2 P0002 T01330128=

SA 08/06/2017 15:53-> METAR KSEA 081553Z 20007KT 2SM -RA BR SCT003 SCT009 OVC030
13/12 A2967 RMK AO2 SFC VIS 5 SLP052 P0003 T01280122=

SEA Weather - 2 miles visibility, light rain, fog, cloud layers at 300 feet , 900 feet and 3,000 feet.

Weather Key:

"SA" – Surface Analysis

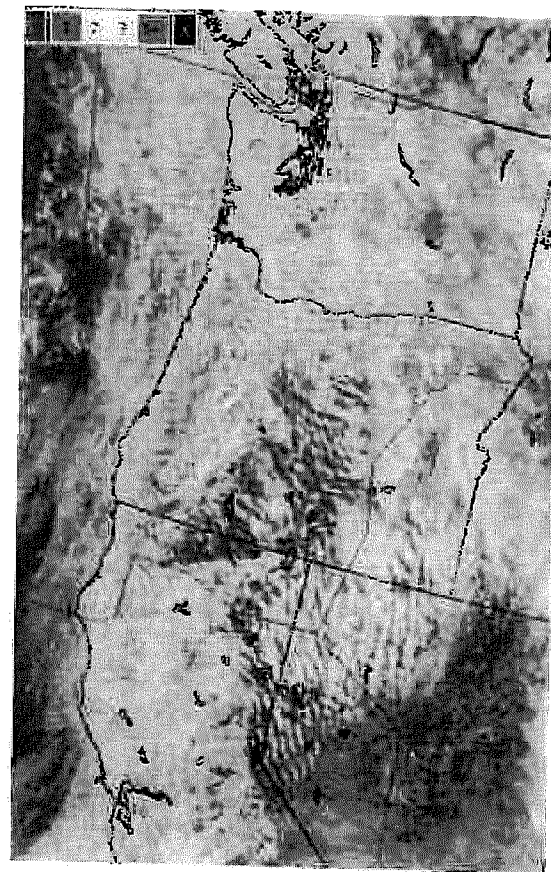
"SP" – Special Report – Issued when precip begins and when cloud levels increase or decrease.

- SEA Ground delay program was issued by the FAA Command Center due to reduced visibility in Seattle. All flights for all airlines originating in Canada or CONUS 48 were subjected to 47 minute average delays.

SEA	GDP	A# + CZY	1	47	Low ceilings
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Parameters for SEA Ground Delay Program were for arrivals between 1500Z (0800L) and 1859Z (1159L) - 4 Hours Total.

Above information was obtained through FAA historical data provided to all airlines (ATCSCC Logs)



Flight 406 LGB SEA – Delayed 20 min due to ATC Destination EDCT Controlled GDP STD- 1759Z (1059L) and Actual Time of Departure 1819Z (1119L).

534329-LGB



Flight Information

View Options

Identification

ALC	Flight / ATC	Depart (UTC)	Org (I):	Seq	Depart	STD (UTC)	Arrive	STA (UTC)	Tail
JBU	406	06JUN17	08	10	LGB	1759	SEA	2039	534

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Riders | Pit Plan

Progress | Crew | Miscellaneous | ATC/Routing/Id's | Additional

Departure (UTC)

City	LGB
Terminal	Gate
Date	08JUN17
STD	0011
DCN	
ETD	1831
ETD	1903

Arrival (UTC)

City	SEA
Terminal	Gate
Date	08JUN17
STD	0010
ETD	0209
EDN	2115
ETA	2118

APIS

Block Time

Scheduled	Actual
02:40	02:59

Flight Time

Scheduled	Actual
02:19	02:12

Hub: SFO, Status: SCCB, Seq: 500, Conf: 320, SOB: 0

Customer: Contract Number, Log Page, DA Tax Number, Aircraft Version

Table of valid Aircraft C

Flight Information

View Options

Identification

ALC	Flight / ATC	Depart (UTC)	Org (I):	Seq	Depart	STD (UTC)	Arrive	STA (UTC)	Tail
JBU	406	08JUN17	08	10	LGB	1759	SEA	2039	534

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Riders | Pit Plan

Departure Total: 20, Departure Left: 0, Arrival Total: 19, Arrival Left: 19

NOTE: First delay determines Updated Date/Time (utc)

Type	Time	Date/Time	Code	Reason	Updated Date/Time (utc)
ETD	08JUN17	1831	510	DLY DUE ATC DEST EDCT CONTROLLED GDP	08JUN17 1656

Type	Amount	Code	Reason
DEP	20	510	DLY DUE ATC DEST EDCT CONTROLLED GDP ETC

Flight 407 SEA LGB Delayed 43 min due to Late Arriving Equipment STD- 2120Z (1420L) and Actual Time of Departure 2203Z (1503L).

Flight Information

View Options

Save Cancel Apply

Flt	Flight	FC	Depart (UTC)	Orig. Air. Equip	Dest. (UTC)	Arrive	Est. (UTC)	Taxi
JBU	407		09JUN17	09 12 SEA	1123	156	2356	534

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Riders | Fit Plan <>

Progress | Crew | Miscellaneous | ATC/Routing/Id's | Additional

Departure (UTC)

City	SEA	City	LGB
Terminal	Gate	Terminal	Gate
Date	09JUN17	Date	09JUN17
STD	0019	STD	0003
DCN		ETE	0218
ETD	2155	EDN	0050
ETD	2238	ETA	0052

Block Time

Block Time	02:18	02:43
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Flight Summary

Date/Time	09:14	02:21
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Leg Information

Hub	Desk	Status	Snd Equip	Config	Alt Equip	SOB	Load Plan	Desk	Tel Before	Cancel
Customer		SC06	330	320	3					

Contract Number Log Page DA/Tel Number Aircraft Version Table of valid Aircraft C

Flight Information

View Options

Save Cancel Apply

Flt	Flight	FC	Depart (UTC)	Orig. Air. Equip	Dest. (UTC)	Arrive	ETA (UTC)	Taxi
JBU	407		09JUN17	09 10 SEA	2120	156	2356	534

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Riders | Fit Plan

Departure Total Departure Left Arrival Total Arrival Left

43	0	13	13
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NOTE: First delay determines overall delay

Updated Date/Time (UTC)

Type	Time	Date/Time	Code	Reason
ETD	08JUN17	2152	516	LATE DEPARTURE DUE TO LATE ARRIVAL OF

08JUN17 2033

SFO Weather and ATC

SP 08/06/2017 18:49-> SPECI KSFO 081849Z 03004KT 4SM -RA FEW018 BKN030 OVC050 15/12
A3002 RMK AO2 RAB01 P0003 T01500122=

SFO Weather- 4 Miles visibility , light rain, cloud layers at 1,800 feet , 3,000 feet and 5,000 feet.

Weather Key.

"SP" – Special Report – Issued when precip begins and when cloud levels increase or decrease.

- SFO Ground delay program was issued by the FAA Command Center due to reduced visibility in San Francisco. All flights for all airlines originating in Canada or CONUS 48 were subjected to 152 minute average delays.

SFO	GDP	All + CZY	15	152	Low ceilings
-----	-----	-----------	----	-----	--------------

Parameters for SFO Ground Delay Program were for arrivals between 1400Z (0700L) and 0659Z (2359L) - 17 hours total.

Above information was obtained through FAA historical data provided to all airlines (ATCSCC Logs)

Flight 1436 LGB SFO: STD -0042Z (1742L) – Flight 1436 Actual Departure at 0259Z (1959L) Delays Attributed to Late Arrival of Equipment & ATC Destination EDCT Controlled GDP

Flight Information

View Options

Identification

Flight	Flight #	Depart	City	Day	Class	Depart	STD	Arrive	STD	Time
1436	1436	09JUN17	LGB	08	10	LGB	0042	SFO	0210	534

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Riders | Fit Plan <>

Progress | Crew | Miscellaneous | ATC/Routing/Id's | Additional

Departure (LGB) Arrival (SFO)

City	Terminal	Gate	Date	Time	City	Terminal	Gate	Date	Time
LGB			09JUN17	-0700	SFO	A114		09JUN17	-0700
			STD	0012				STD	0009
			DCH	GUT 0259				ETA	0055
			ETD	0250				EOH	0417
			ETO	0328				ETA	0423

Hub	Desk	Status	Std Equip	Config	Mod	SN	Load	File	Dest	Tax	Before	Cancel
Customer		SC05	320	320								

Log Page DA Tail Number Aircraft Version

Table of valid Aircraft c

Flight Information

View Options

Identification

Flight	Flight #	Depart	City	Day	Class	Depart	STD	Arrive	STD	Time
1436	1436	09JUN17	LGB	08	10	LGB	0042	SFO	0210	534

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Riders | Fit Plan <>

Departure Total Departure Left Arrival Total Arrival Left Delay Locks

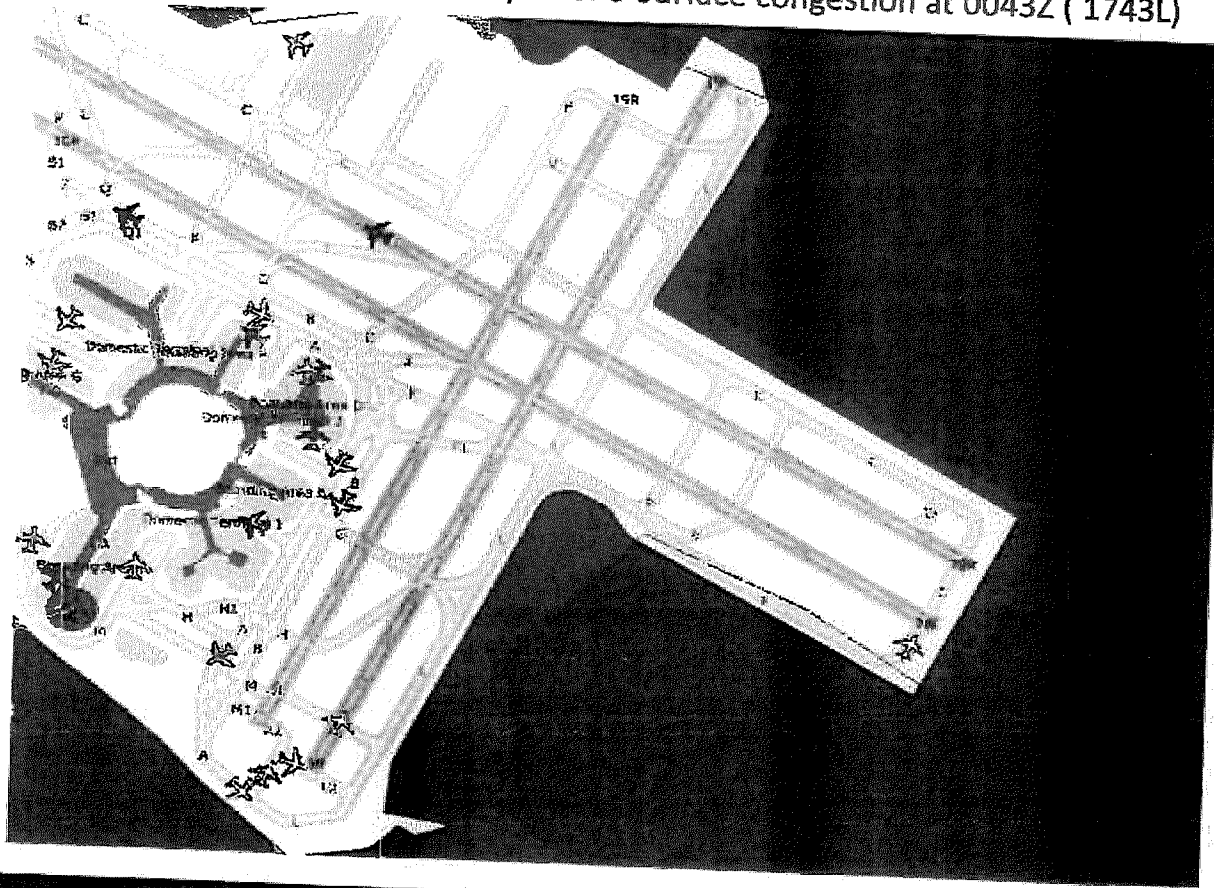
139 0 0 0 0

NOTE: First delay determines
 G-Block delay

Type	Time	Date/Time	Code	Reason	Updated Date/Time (etc)
ETD	09JUN17 0123	0123	516	LATE DEPARTURE DUE TO LATE ARRIVAL OF EQUIPT	08JUN17 2209
ETD	09JUN17 0121	0121	516	LATE DEPARTURE DUE TO LATE ARRIVAL OF EQUIPT	08JUN17 2247
ETD	09JUN17 0045	0045	510	DLY DUE ATC DEST EDCT CONTROLLED GDP	08JUN17 2318
ETD	09JUN17 0145	0145	510	DLY DUE ATC DEST EDCT CONTROLLED GDP	08JUN17 2318

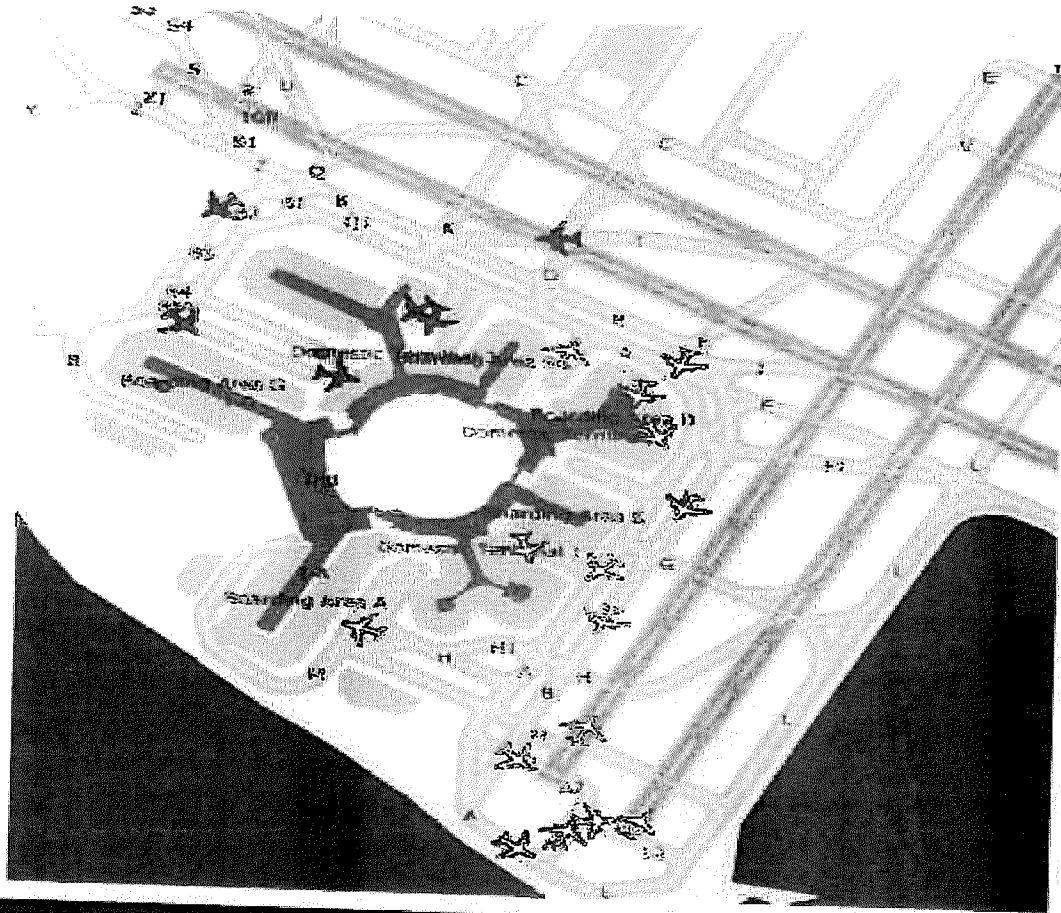
Type	Amount	Code	Reason
DEP	87	510	DLY DUE ATC DEST EDCT CONTROLLED GDP ETC
DEP	50	516	LATE DEPARTURE DUE TO LATE ARRIVAL OF EQUIPT

Flight 1436 LGB SFO: STD -0042Z (1742L) - SFO Surface congestion at 0043Z (1743L)



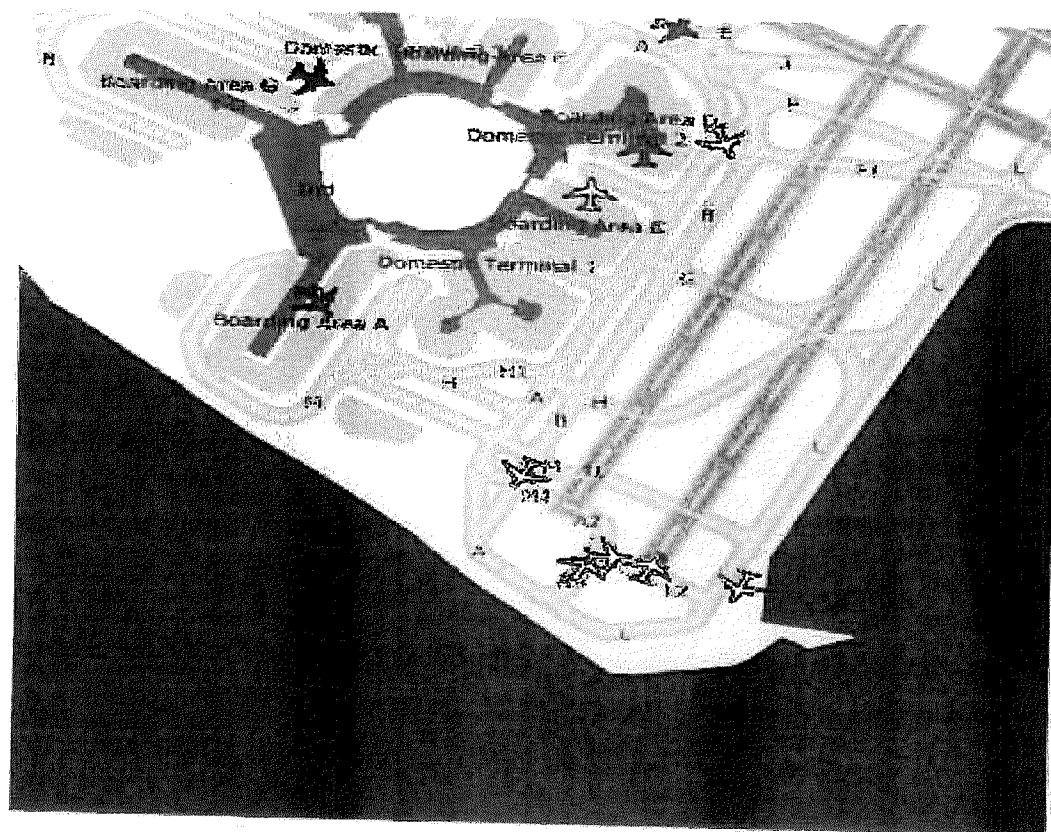
jetBlue

Flight 1436 LGB SFO: STD -0042Z (1742L) - SFO Surface congestion at 0143Z (1843L)



jetBlue

Flight 1436 LGB SFO: STD - 0042Z (1742L) - SFO Surface congestion at 0243Z (1943L)
Aircraft being staged for departure metering. Flight 1436 Actual departure at 0259Z (1959L)



Flight 1635 SFO-LGB June 8, 2017 arrives 149 minutes late as a result of Flight 1436 late arrival and a 35 minute taxi time in SFO due to surface congestion (GDP) in SFO.

Flight 1635 arrives to LGB Gate at 0642Z (2342L) – 42 Minutes after Curfew.

Flight Information

View Options

Identification

ALC	Flight / ATC	Depart (UTC)	Org	Lft	Seq	Repart	STD (UTC)	Arrive	STA (UTC)	Tail
JBU	1635	09JUN17	08	10	SFO	0251	LGB	0413	524	

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Riders | Flt Plan <>

Progress | Crew | Miscellaneous | ATC/Routing/Id's | Additional

Departure (UTC)

City	SFO
Terminal	I
Date	09JUN17
STC	0014
DCN	
ETD	0503
ETA	0548

Arrival (UTC)

City	LGB
Terminal	
Date	09JUN17
STC	0103
EDN	
ETA	0642

APIS

Block Time	Scheduled	Actual
	01:22	01:35

Flight Time	Scheduled	Actual
	01:05	00:56

Identification

ALC	Flight / ATC	Depart (UTC)	Org	Lft	Seq	Repart	STD (UTC)	Arrive	STA (UTC)	Tail
JBU	1635	09JUN17	08	10	SFO	0251	LGB	0413	524	

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Riders | Flt Plan <>

Departure Total: 135
 Departure Left: 0
 Arrival Total: 14
 Arrival Left: 14

NOTE: First Delay Determines overall delay

Type	Time	Date/Time	Code	Reason	Updated Date/Time (utc)
ETD		09JUN17 0321	516	LATE DEPARTURE DUE TO LATE ARRIVAL OF 08JUN17 2209	
ETD		09JUN17 0445	516	LATE DEPARTURE DUE TO LATE ARRIVAL OF 09JUN17 0018	

Type	Amount	Code	Reason
DEP	132	516	LATE DEPARTURE DUE TO LATE ARRIVAL OF EQUIPT
DEP	2	A11	LATE LOADING OF CUSTOMERS CUSTOMER IRREGULARITIES

Log Information

Hub	Desk	Status	Std Equip	Config	Act Equip	DOB	Load Plan	Dest	Tail	Before Cancel
		SC05	320		320	0				

Customer: _____ Contract Number: _____ Log Page: _____ OA Tail Number: _____ Aircraft Version: _____
 Table of valid Aircraft: C

LGB Curfew

JetBlue Flight 14 LGB JFK

May 25, 2017

jetBlue

JetBlue Manual Guidance

SYSTEM OPERATIONS MANUAL

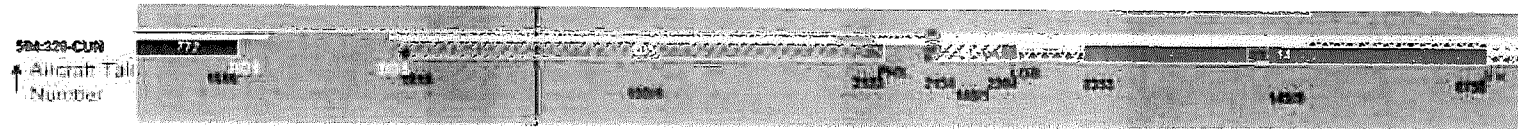
jetBlue

JETBLUE CURFEW CITY INFORMATION				
Cities	Operating Hours	Soft Curfew**	Hard Curfew	Fines
LGB	0700-2200	2200-2300	2300-0700	\$3000 for the first 6 per quarter.
				\$6000 for each violation after 6 per quarter.
				Additional \$245.66 fee for any flights that land after 2200 which is based on our landing weight.
				If we divert to avoid busting the curfew the city will reimburse us for some of our expenses.

Flight 14 LGB-JFK delayed 157 minutes due late arrival of F405 BOS-LGB on 05/25/17

Flight 405 BOS LGB (148 CUs) - Scheduled Time Departure: 2210Z, (1810L), Actual Time Departure: 2219Z (1819L) - Tech Stop in PHX.

Flight 14 LGB JFK (145 CUs) - Scheduled Time Departure: 0416Z, (2116L), Actual Time Departure: 0653Z, (2353L).



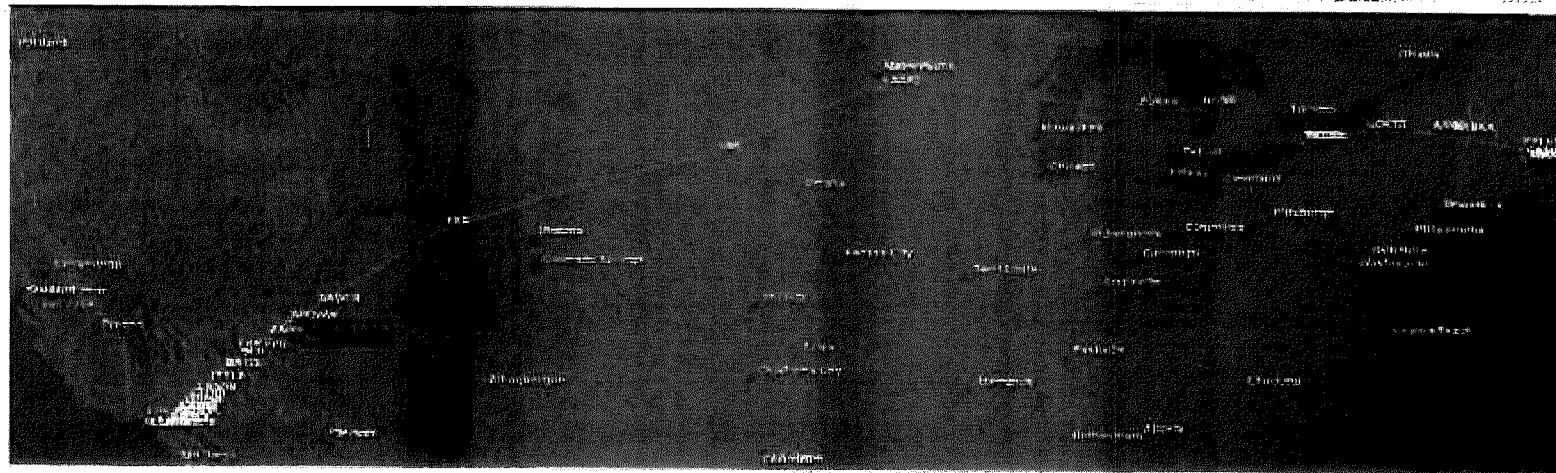
F405 BOS-LGB required a fuel stop in Phoenix Arizona due to the lengthy required route issued by the FAA. The required route was issued by the command center in Advisory #86 on ATCSCC logs and FAA OIS Advisory thread. This route added an additional 102 minutes of flight which exceeded structural range of our Airbus 320 aircraft. Therefore JetBlue elected to fuel stop in Phoenix.

86

1900z – 0200z

CAN_NOSIK_WEST_2

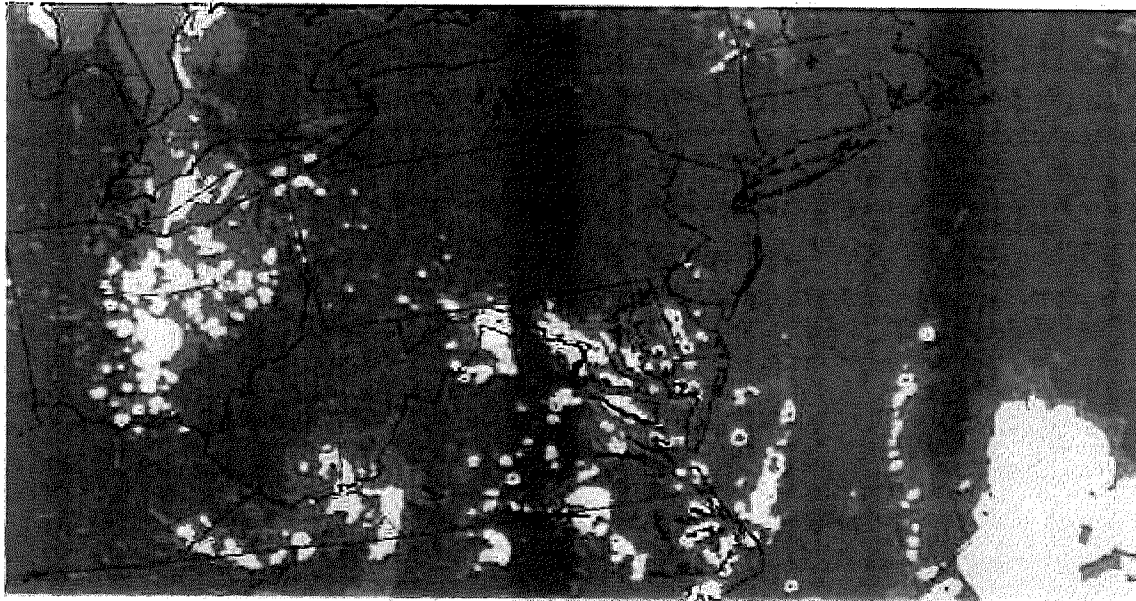
Thunderstorms



Actual Route Flown

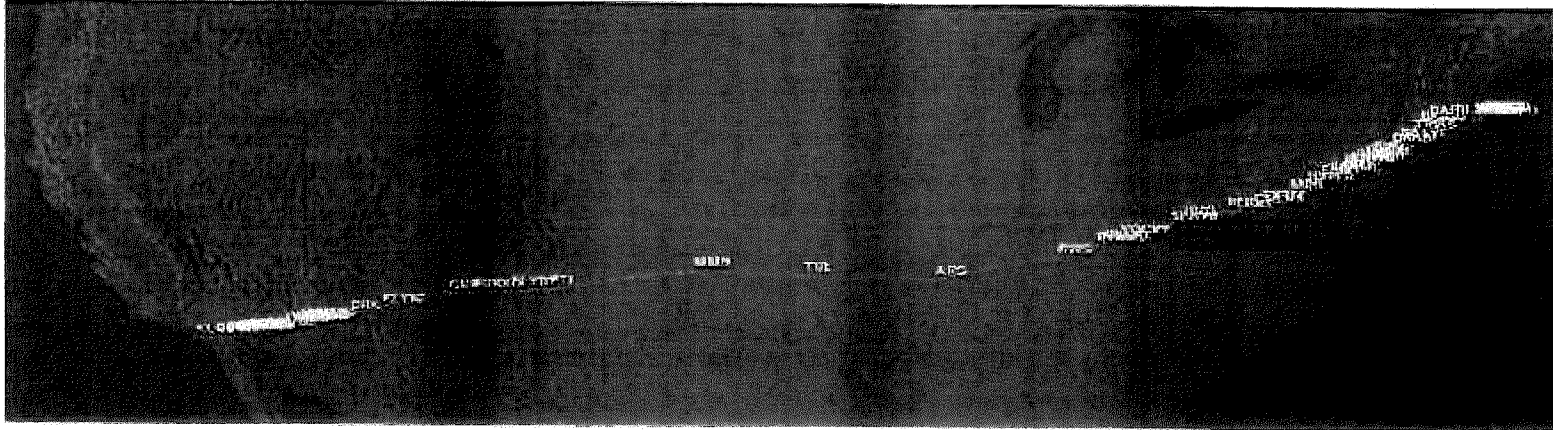
If F405 BOS-LGB were able to fly on a normal route (next slide) we would have arrived on time and Flight 14 LGB-JFK would have departed prior to curfew.

The FAA for the day issued 21 required routes all mainly stemming from weather in DC Center Airspace causing volume issues.

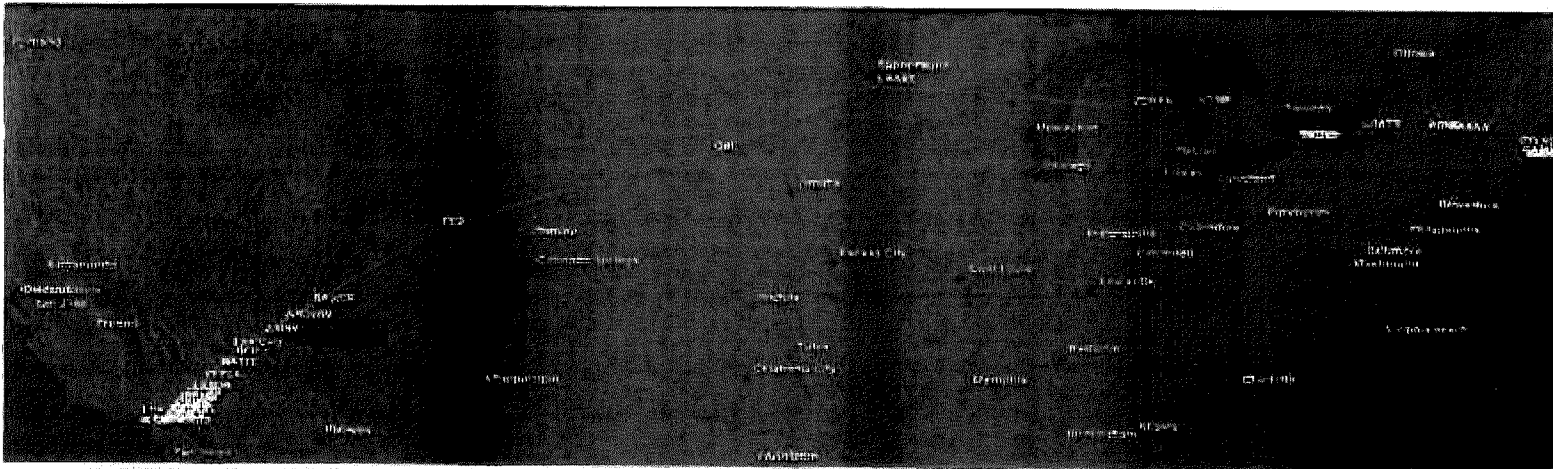


DC Center (Yellow areas depict thunderstorms)

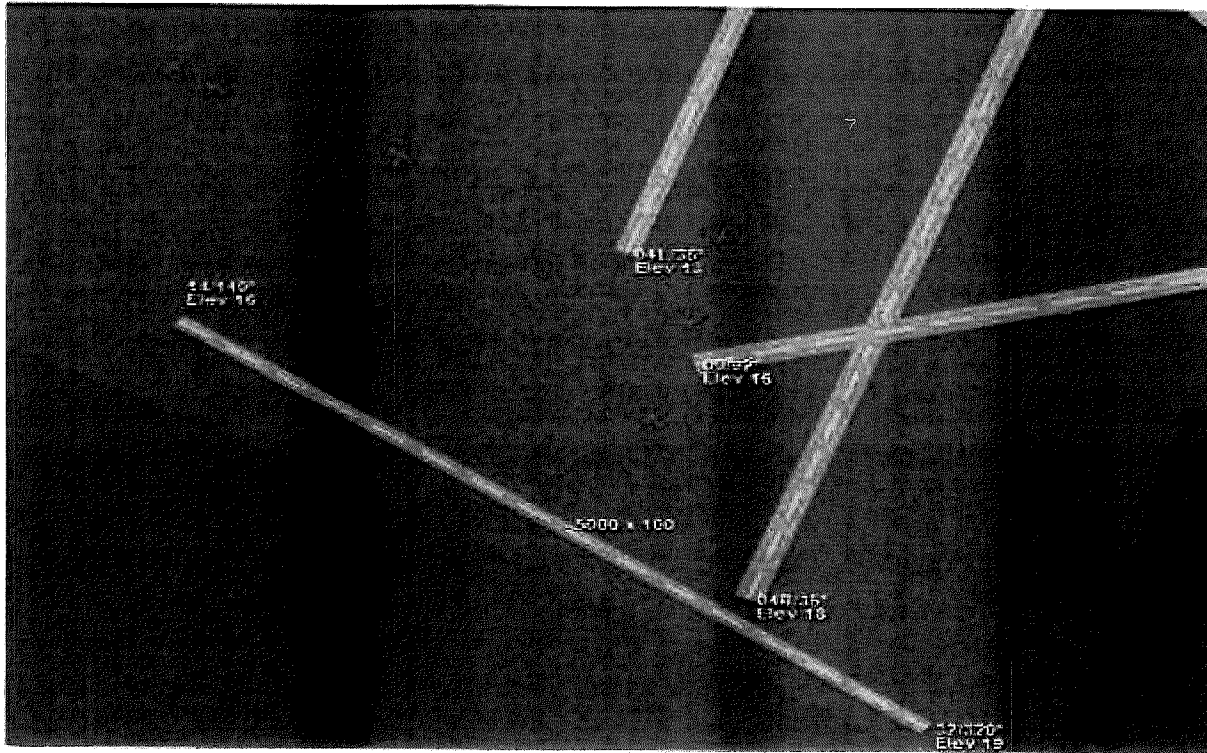
Optimal Route



Required Route



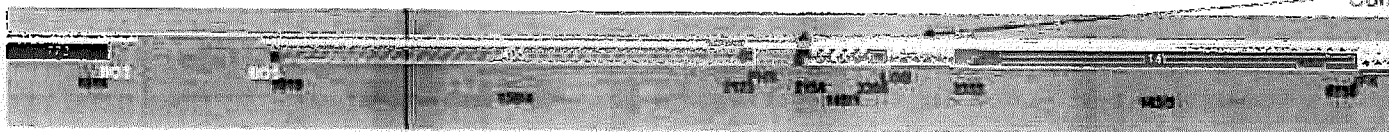
BOS Flight 405 Departure - Aircraft staged not departing due to no departure routes.
Aircraft awaiting on the surface for new routing instructions at 2200Z (1800L).



Flight 405 BOS LGB – Original STD 2210Z (1810L), STA 0435Z (2135L)

Curfew Restriction Depiction

384-320-CJW
 ↑ Aircraft Tail Number



Flight Information
 View Options

Identification

ALC	Flight / ATC	Depart (UTC)	City	Alt	Seq	Depart	STD (UTC)	Arrive	STA (UTC)	Tail
JBU	405	25MAY17	BOS	25	10	BOS	2210	LGB	0435	-36504

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Riders | Flt Plan <>

Progress | Crew | Miscellaneous | ATC/Pausing/Id's | Additional

Departure (UTC)			Arrival (UTC)			APIS	
City	Terminal	Date	City	Terminal	Date	Block Time	Flight Time
BOS		25MAY17	LGB		26MAY17	Scheduled	Scheduled
		Variance: -0430			Variance: -0700	Actual	Actual
		Di Code: A24				05:25	
		OUT: 2219					
		TAXI: 2210					
		OFF: 2242					

Leg Information

Hub	Desk	Status	Std Equip	Config	Wgt Equip	JOB	Load Plan	Desk	Tail Before	Cancel
		X111	220		32T	0				504

Customer Contract Number Log Page GA Tail Number Aircraft Version
 Table of valid Aircraft C

Flight Information
 View Options

Identification

ALC	Flight / ATC	Depart (UTC)	City	Alt	Seq	Depart	STD (UTC)	Arrive	STA (UTC)	Tail
JBU	405	25MAY17	BOS	25	14	BOS	2210	PHX	0345	504

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Riders | Flt Plan <>

Departure Total	Departure Left	Arrival Total	Arrival Left	Flt Delay Locs
9	0	29	28	

NOTE: First delay determines overall delay

Type Amount Code Reason
 157 * A24 GATE UNAVAILABLE FOR REPOSITION

Sabre Movement Control – Flight Following

Flight 405 – BOS Tech Stop in PHX – 0423Z (2123L) Arrives at Gate

Flight Information

View Options

Identification

ALC	Flight / ATC	Depart (UTC)	Orig (L) / Seq	Operat	STD (UTC)	Arrive	STA (UTC)	Tail
JBU	405	25MAY17	PHX 25 14	BOS	2210	PHX	0345	504

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Rides | Flt Plan <>

Progress | Crew | Miscellaneous | ATC/Routing/Id's : Additional

Departure (UTC)

City	BOS
Terms	C
Date	25MAY17
STD	0818
DCN	
FTD	2210
ETD	

Arrival (UTC)

City	PHX
Terminal	
Date	25MAY17
ST	0807
ETE	
EQN	ON 0419
ETA	0403

APIS

Block Time	Scheduled	Actual
	05:35	05:04
Flight Time	Scheduled	Actual
	05:10	05:34

Leg Information

Flt#	Desk	Status	Sld Equip	Config	Act Equip	SCB	Load Plan	Desk	Tail Before Cancel
**		X112	320		32T	0			

Customer Contract Number: Log Page: OP Tail Number: Aircraft Version: **Table of valid Aircraft C**

Sabre Movement Control – Flight Following

Flight 405 PHX – LGB 0604Z (2304L) Arrives at Gate Violation – 4 minutes past LGB Curfew

Flight Information

View Options

Identification

ALC	Flight / NTC	Depart (UTC)	Org (L) / Sea	Depart	STD (UTC)	Arrive	STA (UTC)	Tail
JBU	405	25MAY17	25 18 PHX	0420	LGB	0535	504	

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Riders | Flt Plan <>

Progress | Crew | Miscellaneous | ATC/Routing/Ops | Additional

Departure (UTC)

City: PHX

Terminal: Gate:

Date: 25MAY17 Variance: -0700

STD: 0015 City Code: S16

GRN: OUT: 0454

ETD: 0505 TAXI

ETD: 0507 OFF: 0505

Arrival (UTC)

City: LGB

Terminal: Gate:

Date: 25MAY17 Variance: -0700

ETA: 0503 Dep. Node

ETE: 0058

EDI: ON: 0501

ETA: 0504 IN: 0504

APIS

Message Sent

Message Print

Message Print

Block Time

Scheduled	Actual
01:15	01:10

Flight Time

Scheduled	Actual
00:57	00:56

Leg Information

HLR	Desk	Status	Via Equip	Contig	Alt Equip	GBR	Load Plan	Dest	Tail	Before	Cancel
-	-	X112	SCG		327	0					

Customer Contract Number Log Page 04 Tail Number Aircraft Version
Table of used Aircraft C

Flight Information

View Options

Identification

ALC	Flight / NTC	Depart (UTC)	Org (L) / Sea	Depart	STD (UTC)	Arrive	STA (UTC)	Tail
JBU	405	25MAY17	25 18 PHX	0420	LGB	0535	504	

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Riders | Flt Plan <>

Progress | Crew | Miscellaneous | ATC/Routing/Ops | Additional

Departure Total: 34 Departure Left: 34 Arrival Total: 0 Arrival Left: 0

NOTE: First delay determines overall delay

Type	Time Data/Time	Code	Reason	Updated Date/Time (UTC)
ETD	25MAY17 0505	S15	LATE DEPARTURE DUE TO LATE ARRIVAL ON 25MAY17 0458	

Type: Arrived Code: Reason:

Sabre Movement Control – Flight Following

Flight 14 LGB JFK 0653Z (2353L) OUT From Gate Violation: Departure 53 minutes past LGB Curfew

Identification

ALC	Flight / ATC	Depart (UTC)	Org (L) / Seq	Depart	STD (UTC)	Arrive	STA (UTC)	Tail
JBU	14	26MAY17	25 10	LGB	0416	JFK	0940	504

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Riders | Fit Plan <>

Progress | Crew | Miscellaneous | ATC/Routing/Id's | Additional

Departure (UTC)

City	LGB
Terminal	Gate <input type="checkbox"/>
Date	26MAY17 Variance -0700
STD	0011 City Code S16
DDH	→ 007 0653
STD	0655 Taxi
STD	0704 Off 0700

Arrival (UTC)

City	JFK
Terminal	Gate 25
Date	26MAY17 Variance -0400
ST	0006 <input type="checkbox"/> Day
ETE	0446
STN	ON 1146
ETA	IN 1128

APIS

LF Message Sent

MX Message Sent

CA Message Sent

Block Time

Scheduled	Actual
05:24	05:05

Flight Time

Scheduled	Actual
05:07	04:46

Flight Information

Save

Cancel

Apply

Help

Identification

ALC	Flight / ATC	Depart (UTC)	Org (L) / Seq	Depart	STD (UTC)	Arrive	STA (UTC)	Tail
JBU	14	26MAY17	25 10	LGB	0416	JFK	0940	504

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Riders | Fit Plan <>

Departure Total	Departure Left	Arrival Total	Arrival Left	PT Delay Local
257	0	0	0	

NOTE: First delay determines

Type	Time	Date/Time	Code	Reason	Updated Date/Time (UTC)
ETD	26MAY17	0516	S16	LATE DEPARTURE DUE TO LATE ARRIVAL OF	26MAY17 0121
ETD	26MAY17	0536	S16	LATE DEPARTURE DUE TO LATE ARRIVAL OF	26MAY17 0121
ETD	26MAY17	0610	S16	LATE DEPARTURE DUE TO LATE ARRIVAL OF	26MAY17 0633
ETD	26MAY17	0615	S16	LATE DEPARTURE DUE TO LATE ARRIVAL OF	26MAY17 0356

Type	Amount	Code	Reason
DEP	89	S16	LATE DEPARTURE DUE TO LATE ARRIVAL OF EQUIPT
DEP	68	S05	FLIGHT DELAY DUE TO INSUFFICIENT GROUND

Leg Information

Hub	Desk	Status	Std Equip	Config	Av Seat	DOB	Load Plan	Class	Rev	Balance	Language
		SCDB	32B		327	0					

Equipment	Contract Number	Air Type	OA	Alt Number	Aircraft Version
					Table of valid Aircraft C

Sabre Movement Control – Flight Following

157 min delay of Flight 14 LGB JFK - Caused by Upline Delays on Aircraft 504

Flight Information

View Options

Identification:

ALC	Flight / ATC	Depart (UTC)	Dep (LT) Seq	Depart	STD (UTC)	Arrive	STA (UTC)	Tail
JBU	14	26MAY17	700 25 10	LGB	0415	JFK	0940	504

General | SI | Delays | Crew | Pax | Fuel | Load | Dep Notes | Arr Notes | Messages | Riders | Flt Plan <>

Departure Total: 120 | Departure Left: 0 | Arrival Total: 0 | Arrival Left: 0 | FTDelay Locked

NOTE: First delay determines overall delay

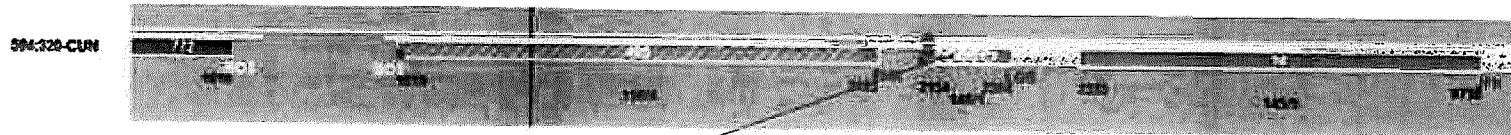
Type	Time Data/Time	Code	Reason	Updated Data/Time (UTC)
ETD	26MAY17 0415	S16	LATE DEPARTURE DUE TO LATE ARRIVAL OF	26MAY17 0101
ETD	26MAY17 0356	S16	LATE DEPARTURE DUE TO LATE ARRIVAL OF	26MAY17 0121
ETD	26MAY17 0310	S16	LATE DEPARTURE DUE TO LATE ARRIVAL OF	26MAY17 0233
ETD	26MAY17 0313	S16	LATE DEPARTURE DUE TO LATE ARRIVAL OF	26MAY17 0336
Type	Amount	Code	Reason	
DEP	25	S06	LATE DEPARTURE DUE TO LATE ARRIVAL OF EQUIPT	
DEP	14	S05	FLIGHT DELAY DUE TO INSUFFICIENT GROUND	

Four departure delays posted on Flight 14 due to Late Arriving Equipment and insufficient turn time.

Type: DEP	Amount: 25	Code: S16	Reason: LATE DEPARTURE DUE TO LATE ARRIVAL OF EQUIPT	Enter
				Delete

Sabre Movement Control – Flight Following

Tower Restriction Information – JetBlue SOC User Display



Tower Restriction Information

Identification

Airport
CUR

Tower Restriction

Start Date/Time Utc.	End Date/Time Utc.
25MAY17 0500	25MAY17 1400

Security: ML25T Departure: 1700Z

Exclusions

Service type

Flight Number

Remarks

OK

Help

Sabre Movement Control – Flight Following

Long Beach Airport
JetBlue Airways Late Night Operations Summary (1 Jan 16 - 30 Jun 17)

JetBlue 1Q16 Late Night Operations Summary

Category	Time Period					
	10 pm -11 pm		11 pm - 7 am		Total	
Late Night Operations	81		49		130	
Late Night Violations	3		45		48	
Administrative Fine	3		0		3	
Consent Decree	0		45		45	
Category	Operations	Exempt	Operations	Exempt	Operations	Exempt
5-min Grace Period	13	13	4	4	17	17
Maintenance	16	16	10	0	26	16
Weather	8	8	4	0	12	8
Air Traffic Control	13	13	8	0	21	13
Other (Crew, Passenger, etc.)	5	4	2	0	7	4
Unreported by carrier	26	24	21	0	47	24
Total	81	78	49	4	130	82

JetBlue 2Q16 Late Night Operations Summary

Category	Time Period					
	10 pm -11 pm		11 pm - 7 am		Total	
Late Night Operations	44		13		57	
Late Night Violations	8		12		20	
Administrative Fine	8		0		8	
Consent Decree	0		12		12	
Category	Operations	Exempt	Operations	Exempt	Operations	Exempt
5-min Grace Period	6	6	1	1	7	7
Maintenance	9	6	4	0	13	6
Weather	5	5	1	0	6	5
Air Traffic Control	2	2	1	0	3	2
Other (Crew, Passenger, etc.)	1	1	0	0	1	1
Unreported by carrier	21	16	6	0	27	16
Total	44	36	13	1	57	37

JetBlue 3Q16 Late Night Operations Summary

Category	Time Period					
	10 pm -11 pm		11 pm - 7 am		Total	
Late Night Operations	51		43		94	
Late Night Violations	1		26		27	
Administrative Fine	1		0		1	
Consent Decree	0		26		26	
Category	Operations	Exempt	Operations	Exempt	Operations	Exempt
5-min Grace Period	7	7	8	8	15	15
Maintenance	13	13	4	0	17	13
Weather	4	4	6	0	10	4
Air Traffic Control	4	4	4	1	8	5
Other (Crew, Passenger, etc.)	5	5	8	8	13	13
Unreported by carrier	18	17	13	0	31	17
Total	51	50	43	17	94	67

Long Beach Airport
JetBlue Airways Late Night Operations Summary (1 Jan 16 - 30 Jun 17)

JetBlue 4Q16 Late Night Operations Summary

Category	Time Period				Total	
	10 pm -11 pm		11 pm - 7 am			
Late Night Operations	62		29		91	
Late Night Violations	2		29		31	
Administrative Fine	2		0		2	
Consent Decree	0		29		29	
Category	Operations	Exempt	Operations	Exempt	Operations	Exempt
5-min Grace Period	10	10	0	0	10	10
Maintenance	11	11	8	0	19	11
Weather	8	8	6	0	14	8
Air Traffic Control	5	5	0	0	5	5
Other (Crew, Passenger, etc.)	2	2	2	0	4	2
Unreported by carrier	26	24	13	0	39	24
Total	62	60	29	0	91	60

JetBlue 1Q17 Late Night Operations Summary

Category	Time Period				Total	
	10 pm -11 pm		11 pm - 7 am			
Late Night Operations	110		61		171	
Late Night Violations	3		54		57	
Administrative Fine	3		0		3	
Consent Decree	0		54		54	
Category	Operations	Exempt	Operations	Exempt	Operations	Exempt
5-min Grace Period	21	21	7	7	28	28
Maintenance	28	27	16	0	44	27
Weather	27	27	15	0	42	27
Air Traffic Control	19	19	11	0	30	19
Other (Crew, Passenger, etc.)	9	7	8	0	17	7
Unreported by carrier	6	6	4	0	10	6
Total	110	107	61	7	171	114

JetBlue 2Q17 Late Night Operations Summary

Category	Time Period				Total	
	10 pm -11 pm		11 pm - 7 am			
Late Night Operations	114		63		177	
Late Night Violations	10		58		68	
Administrative Fine	10		0		10	
Consent Decree	0		58		58	
Category	Operations	Exempt	Operations	Exempt	Operations	Exempt
5-min Grace Period	12	12	5	5	17	17
Maintenance	46	46	21	0	67	46
Weather	23	23	20	0	43	23
Air Traffic Control	21	21	13	0	34	21
Other (Crew, Passenger, etc.)	12	2	4	0	16	2
Unreported by carrier	0	0	0	0	0	0
Total	114	104	63	5	177	109



27-01 Queens Plaza North
Long Island City, NY 11101
T: 1.800.JETBLUE
jetblue.com

October 31, 2017

Mr. Patrick H. West
City Manager
City of Long Beach
333 W. Ocean Blvd.
Long Beach, CA 90802

Dear Mr. West:

In accordance with Section 16.43.110(B) of the Long Beach Municipal Code, JetBlue Airways Corporation (JetBlue) hereby timely appeals the October 16, 2017 written post-hearing decision of Long Beach Airport Director Jess L. Romo, regarding exemptions for curfew flights at Long Beach Airport. A copy of the October 16, 2017 decision is attached. The decision regarding the applicability of the "explicit air traffic control" exemption in Section 16.43.070 is erroneous and unjustified.

I look forward to working with you to determine a date and time for the appeal hearing, in accordance with Section 16.43.110(B).

Sincerely,

A handwritten signature in black ink, appearing to read "Robert C. Land". The signature is written in a cursive, flowing style.

Robert C. Land
Senior Vice President Government Affairs and
Associate General Counsel

Enclosure



CITY OF LONG BEACH

LONG BEACH AIRPORT

4100 East Donald Douglas Drive • Long Beach, CA 90808 • (562) 570-2619 • Fax (562) 570-2601

October 16, 2017

Robert C. Land
Senior Vice President Government Affairs and
Associate General Counsel
27-01 Queens Plaza North
Long Island City, NY 11101

Subject: October 6, 2017, Administrative Hearing – Airport Director Decision

Dear Mr. Land:

On October 6, 2017, and pursuant to JetBlue Airways' ("JetBlue") August 25, 2017 written request, an administrative hearing was held at Long Beach Airport ("Airport" or "LGB") pursuant to the requirements of Chapter 16.43 of the City of Long Beach Municipal Code, Airport Noise Compatibility Ordinance ("Noise Ordinance") to consider JetBlue's request for an exemption for curfew flights at the Airport during the second quarter of 2017 (April 1, 2017, through June 30, 2017). This letter provides a summary of the October 6, 2017, administrative hearing, the correspondence leading up to the administrative hearing, and my written decision, based on the record of the proceeding consistent with the requirements of Section 16.43.110 of the Airport's Noise Ordinance. As discussed in detail below, based on the record of proceedings, I have determined that JetBlue's curfew operations during the second quarter of 2017 are not exempt from the Noise Ordinance because the curfew operations were a result of air traffic control delays at other airports nationwide, and not to air traffic control delays for JetBlue flights directly departing or arriving at the Airport.

As background, on July 7, 2017, JetBlue Airways requested exemptions from the Noise Ordinance for some of Jet Blue's curfew operations at the Airport during the second quarter of 2017 (April 1, 2017, through June 30, 2017). On July 18, 2017, and in response to JetBlue's July 7, 2017, letter, I sent a letter to JetBlue clarifying the applicability of the exemptions provided in Section 16.43 of the Noise Ordinance and indicating that the curfew exemptions only apply to air traffic control directions that relate directly to operations at the Airport, not to other airports nationwide throughout the day.

On July 28, 2017, JetBlue requested further clarification regarding the exemptions from Chapter 16.43.¹ On August 17, 2017, I further clarified the applicability of curfew

¹ Specifically, and according to your July 28, letter, although JetBlue does not deny that the curfew violations occurred at the Airport, JetBlue continues to believe that some of its operations fall within the Section 16.43.070 general exemptions for curfew operations and should not be counted toward the tally of late flights for purposes of the JetBlue/City Prosecutor negotiated Consent Decree of May 30, 2003.

exemptions and indicated that because the majority of JetBlue curfew violations in question occurred due to air traffic control delays earlier in the day at other airports nationwide, and not to air traffic control delays at the Airport, the Noise Ordinance exemption did not apply. Specifically, I explained that Section 16.43.070 of the Noise Ordinance provides categories of aircraft that are exempt from the noise, curfew and related requirements of the Ordinance, as follows: “[a]ircraft operating pursuant to *explicit air traffic control direction* in a manner which would otherwise not comply with the terms of this Chapter” are exempt from the provisions of the Noise Ordinance (emphasis added). As indicated in my August 17, 2017, letter, although this exemption applies directly to operations at the Airport (*i.e.*, an air traffic control delay at the Airport which results in a late departure or arrival from the Airport outside of JetBlue’s control), it does *not* apply to other nationwide airports or circumstances occurring throughout the day.

I also clarified in my August 17, 2017, letter that the Ordinance does provide the Airport Director with the discretionary authority to provide an air carrier with the ability to conduct operations outside of the curfew hours if a flight is delayed by not more than one hour beyond the curfew (*i.e.*, between ten p.m. and eleven p.m.) as a result of delays substantially beyond the control of the operator. See, Section 16.43.040(B). However, prior to waiving any curfew violation during this time period, the operator is required to present evidence satisfactory to the Airport Director relating to the circumstances surrounding the operation and nothing in the Noise Ordinance establishes a “right” or privilege of any person to conduct air operations outside of the curfew.

On August 25, 2017, JetBlue requested an administrative hearing regarding exemptions for curfew flights at the Airport pursuant to Section 16.43.110 of the Noise Ordinance. In response to this request, and on September 11, 2017, I notified you that an administrative hearing had been set for October 6, 2017.² Consistent with this notification, the requested informal administrative hearing was held on October 6, 2017, at the Airport administrative offices where written statements were taken and oral testimony was presented. The hearing was also recorded. I attended the hearing as the hearing officer. Other attendees included yourself and James Hnat representing JetBlue, and Ron Reeves, Noise and Environmental Affairs Officer, Lori Ballance, outside counsel for the Airport, and Ryan McMullan representing the Airport.

After I provided my introductory remarks, a summary of the administrative hearing process, the purposes of the hearing and a brief description of how the hearing would take place (consistent with Section 16.43.110 of the Noise Ordinance), JetBlue was invited to provide written and oral information to support its appeal. JetBlue provided a number of introductory remarks and two exemplary presentations relating to JetBlue Flight 1635 from San Francisco International Airport (SFO) to the Airport and JetBlue Flight 14 from the Airport to John F. Kennedy International Airport (JFK). Copies of the introductory remarks by JetBlue and the presentations provided by JetBlue are included as Attachments 6 and 7 respectively to this letter.

² Copies of all correspondence referenced above have been included as attachments to this letter.

After JetBlue's remarks and presentations, the Airport provided a copy of a spreadsheet for the record of proceedings summarizing JetBlue's late night operations from January 1, 2016, through June 30, 2017. During the administrative hearing, an error was noted in the spreadsheet regarding the total exempt late night operations for the second quarter of 2017. The spreadsheet has since been revised to correct this error and a copy of the revised spreadsheet is provided as Attachment 8 to this letter.

Consistent with the requirements of Section 16.43.110 of the Noise Ordinance, and based on the record of the proceeding at the October 6, 2017, administrative hearing, including all written materials received and oral testimony presented, I have determined that air traffic control delays at other airports, except those air traffic control delays that directly impact a scheduled flight into or out of the Airport, do *not* qualify as Section 16.43.070 exemptions from the Noise Ordinance at LGB. Importantly, however, in the limited one hour window after curfew the Airport will continue to consider a request for a curfew exemption based on the specific circumstances which caused the curfew violation, such as that the operation was delayed by emergency, mechanical, air traffic control, or weather delays substantially beyond the control of the operator. See, Section 16.43.040(B).

In response to JetBlue's assertion at the administrative hearing that this interpretation of the Noise Ordinance is a "new and discriminatory interpretation," It is important to note that the Airport has consistently applied the "exemption provisions" of the Noise Ordinance relative to JetBlue's curfew violations in this manner since the inception of the Consent Decree in 2003, and until JetBlue's recent correspondence, JetBlue had not objected to the application or interpretation of the Ordinance by the Airport Director or Airport staff. In fact, JetBlue routinely self-reports late night curfew violations. Therefore, this interpretation of the Noise Ordinance is certainly not "new." Rather, it continues in a consistent manner the important enforcement of the curfew provisions of the Noise Ordinance.

In addition, this interpretation of the Noise Ordinance is consistent with the manner in which other curfew airports (including John Wayne Airport, Orange County and San Diego International Airport (departure curfew)) enforce important curfew provisions. It is important to also emphasize that failure to interpret the exemption provisions in this manner would essentially render the curfew provisions of the Noise Ordinance meaningless because flights would be able to depart and arrive at the Airport subject to air traffic control and related delays throughout the country on a daily basis irrespective of the curfew provisions at the Airport. Certainly, this was not the intent of the curfew provisions when approved.

In response to JetBlue's assertions that the Federal Aviation Administration (FAA) has exclusive control over airspace, certainly the Airport recognizes the FAA's jurisdictional responsibilities; however, as indicated in previous correspondence, it is also important to recognize that JetBlue continues to have a number of options relating to any FAA air traffic control delays that may impact flights operating to or from the Airport, including, but not limited to substituting aircraft, providing alternative operations during non-curfew hours, accommodating passengers by alternative transit, providing sleeping accommodations for the delayed passengers until the aircraft can depart or arrive consistent with the curfew requirements at the Airport or operating during curfew hours (which will necessarily result

in curfew violations and administrative and alternative enforcement procedures). These are business decisions that all incumbent air carriers must make at this Airport and at other curfew airports in the region.

With respect to JetBlue's example relating to Flight 1635 from SFO to the Airport, the presentation indicates that the JetBlue arrival was delayed into the Airport due to three (3) earlier flights impacted by two (2) separate FAA issued ground delay programs. Similarly, JetBlue's example relating to Flight 14 from the Airport to JFK was delayed due to the late arrival of a flight from Boston to the Airport. Neither of these examples falls within the exemption provided in the Noise Ordinance. As indicated above, the exemption provided in the Noise Ordinance applies *only* to FAA air traffic control delays that relate directly to flights departing and arriving at the Airport, not to flight delays earlier in the day at Airports outside of the direct arrival/departure curfew flights at the Airport.

Finally, and importantly, my decision and interpretation of the curfew provisions of the Noise Ordinance reflects the experience of the City in the management and operation of the Airport – and the public controversies resulting from operation of the Airport - since approval of the Noise Ordinance; including extensive experience in many forums with the views and interests of the federal government, commercial aviation operators, general aviation operators, the Long Beach business community, local public entities, and the residents of areas in the general vicinity of the Airport. I believe that this decision continues to balance the needs of the Long Beach community for adequate commercial air transportation facilities, and the desire of the local community for environmentally responsible air transportation operations at the Airport.

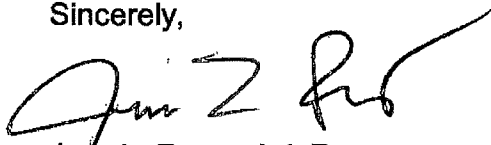
My decision will be final unless appealed to the City Manager as provided in Section 16.43.110(B) of the Noise Ordinance. Specifically, Section 16.43.110(B) of the Noise Ordinance provides that any final decision pursuant to Chapter 16.43 shall be appealable to the City Manager by giving written notice to the Manager within fifteen (15) days following the mailing of a notice of final decision by the Airport Director. The City Manager shall provide any person appealing the Airport Director's decision at least fifteen (15) days written notice specifying the time and place of the hearing of the appeal, and inviting such person or entity to present any additional arguments deemed appropriate in determining whether a violation occurred. The notice shall be served by U.S. mail, with service being complete upon mailing. Consistent with the provisions of Section 16.43.110(B), the hearing may be held before a hearing officer designated by the City Manager, with certain limited exceptions. In the alternative, the City Manager may appoint an administrative hearing board consisting of not less than three (3) members of the City's administrative staff.

Any appeal will be decided based on the submissions of the Airport Director, his summary of the evidence presented, and the arguments presented to the City Manager. The City Manager shall not be required to accept additional evidence. A written notice of decision is required to be issued within fifteen (15) days following the hearing on appeal. The final decision of the City Manager shall be final unless appealed to the City Council within fifteen (15) days after the mailing of notice by the City Manager. Any appeal of the final decision of the City Manager under Chapter 16.43 must be conducted as provided in Chapter 2.93 of the City's Municipal Code.

It is important to emphasize that the pendency of this proceeding shall not affect or excuse any violation of Chapter 16.43 of the Noise Ordinance occurring during the pendency of this proceeding. (See, Section 16.43.110(D)). Therefore, JetBlue must continue to comply strictly with the curfew requirements at the Airport irrespective of air traffic control delays to its operations at other airports nationwide throughout the day during the pendency of this proceeding.

Please do not hesitate to contact me if you have any questions regarding this final decision or if you have any questions regarding the appeals process outlined above.

Sincerely,



Jess L. Romo, A.A.E.
Airport Director

JR:LB:RR:km

Attachments:

- (1) JetBlue correspondence dated July 7, 2017
- (2) Long Beach Airport correspondence dated July 18, 2017
- (3) JetBlue correspondence dated July 28, 2017
- (4) Long Beach Airport correspondence dated August 17, 2017
- (5) JetBlue correspondence dated August 25, 2017
- (6) JetBlue Exemplary Presentation Flight 1635
- (7) JetBlue Exemplary Presentation Flight 14
- (8) Long Beach Airport Summary of JetBlue Late Operations January 1, 2016 – June 30, 2017

cc: Ron Reeves, Long Beach Airport
Michael J. Mais, Assistant City Attorney
Lori Ballance, Outside Counsel

EXHIBIT 10

TRANSCRIPT OF PROCEEDINGS

HEARING BETWEEN CITY OF LONG BEACH/LONG BEACH AIRPORT
AND JETBLUE AIRWAYS

DECEMBER 8, 2017

MARY E. PIERCE, CSR 6143

17-201



P•A•N•T•E•R•A
COURT REPORTERS

10042 Cutty Sark Drive
Huntington Beach, Ca 92646
(714) 964-6200

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ATTENDEES:

PAT WEST, HEARING OFFICER

CITY OF LONG BEACH:

MICHAEL J. MAIS, Assistant City Attorney

JESS ROMO, Airport Director

RON REEVES, Noise & Environmental Affairs, LB Airport

JETBLUE:

ROBERT C. LAND, Sr. Vice President, Government Affairs

LOU ANTHONY, General Manager

REESE DAVIDSON, Manager, Staff Counsel International

1 FRIDAY, DECEMBER 8, 2017; 10:35 A.M.

2 LONG BEACH, CALIFORNIA

3 o-O-o

4 MR. MAIS: Why don't we go on the record.

5 So we have with us Mary Pierce, who is a
6 court reporter who's kindly going to take down everything
7 that we say in here today so that we have a record in the
8 event that this goes to a next step.

9 As everybody knows, we're here because
10 JetBlue has started an appeal proceeding to appeal
11 basically a decision of the Airport Manager relative to
12 how the City interprets a certain provision of the
13 Aircraft Noise Compatibility Ordinance, so that's why we
14 are here.

15 There was a hearing before the Airport
16 Director, Jess Romo, on October 6th. Jess issued his
17 opinion on October 16th, and as per the Code, JetBlue
18 appealed the Airport Director's decision to the City
19 Manager. So that's why we're here.

20 Maybe we should go through and let everybody
21 introduce themselves for the record so Mary knows who we
22 are all. Rob?

23 MR. LAND: I'm Robert Land, Senior Vice President
24 for Government Affairs and Associate General Counsel for
25 JetBlue Airways based in Washington, D.C.

1 MR. ANTHONY: Lou Anthony, general manager for
2 JetBlue Airways here in Long Beach.

3 MR. DAVIDSON: Reese Davidson. I'm an attorney
4 for JetBlue's government affairs office in Washington,
5 D.C.

6 MR. REEVES: Ron Reeves, Noise & Environmental
7 Affairs officer, Long Beach Airport.

8 MR. ROMO: Jess Romo, Airport Director.

9 HEARING OFFICER WEST: Patrick West, City Manager
10 of Long Beach.

11 MR. MAIS: And the hearing officer today.

12 HEARING OFFICER WEST: And the hearing officer
13 today.

14 MR. MAIS: And I'm Mike Mais, Assistant City
15 Attorney with the City of Long Beach.

16 I mentioned in general what this appeal
17 concerns, but specifically it concerns the City's
18 interpretation and the difference of opinion in regards
19 to how the City interprets Section 16.43.070(g) of the
20 Muni Code, which involves determining whether or not a
21 particular flight is exempt from the Noise Control
22 Ordinance.

23 And both sides have documented why we have
24 our respective opinions on this or what our respective
25 opinions are, so I won't go through that.

1 But this appeal hearing, unlike the first
2 one, based on the Code is more of an abbreviated appeal
3 situation. Prior to today's meeting, we did provide to
4 the City Manager and he did read a copy of the transcript
5 of the October 6th hearing, as well as the October 16th
6 Airport Director's decision and the exhibits that were
7 presented by both sides during the October 6th hearing.

8 So Pat has gone through all of that and
9 really now, according to the Code, no additional evidence
10 is required, but JetBlue is free to supplement any
11 argument or different argument that you made at the
12 original hearing on October 6th.

13 So going to turn it over to you, Rob.

14 MR. LAND: Thank you, Mike, and thanks, Pat, for
15 hosting this.

16 Just one administrative comment before we
17 get going. Would it be possible to request with, as late
18 as when the decision today comes out, a copy of the
19 transcript?

20 MR. MAIS: Oh, sure. I thought you'd been
21 provided --

22 MR. LAND: I don't think I was last time, which is
23 fine, but this is -- as we elevate the procedure, just be
24 great to have it.

25 MR. MAIS: Absolutely. I'll make sure that that

1 gets emailed.

2 MR. LAND: I think last time it was into an
3 iPhone. With Mary here, becomes an easier request.

4 MR. MAIS: So you don't have the October 6th --

5 MR. LAND: The actual transcript, no. I don't
6 even need that one, but --

7 MR. MAIS: And we'll get you the one for today, as
8 well.

9 MR. LAND: Great.

10 So just by way of background, what I plan to
11 do now is as quickly as I can, because it might be a
12 little repetitive from the record you saw, walk through
13 that which we made a point to the Airport Director in
14 October, perhaps go a little off script and embellish
15 some things, discuss some things, and close with the
16 offer to you -- happy either way -- to walk you through
17 the exhibits we prepared and walk the team through in
18 October. And if not, I know you have it on record.
19 Sometimes it's just better to hear it, but if not
20 necessary, don't want to impinge on anybody's time
21 either.

22 So with that, thank you for the opportunity
23 speak at this hearing today to contest the findings from
24 our initial request that some of our flight activity in
25 the second quarter 2017 be considered exempt under the

1 provisions of the ordinance.

2 As you know, JetBlue considers itself a
3 proud corporate citizen of Long Beach. We employ more
4 than 700 crew members directly and thousands more
5 taxpaying citizens whose livelihood is supported
6 directly, as well as indirectly, through our operations
7 at the airport.

8 Today JetBlue delivers its low fares on 35
9 daily flights, 32 permanent ones, three temporary ones on
10 a one-year rolling basis to 13 different markets.

11 And importantly, as part of today's
12 discussion, we have had hundreds and hundreds of
13 thousands of operations over the past ten years, and in
14 that period, far less than half of 1 percent have
15 impinged on the curfew, both soft and hard curfew, and a
16 very small percentage of that is what we are here to talk
17 about today, and that's our appeal of those operations
18 between April and June of 2017 that were between 11:00
19 p.m. and 7:00 a.m., which were, in our view, 100 percent
20 due to air traffic control direction.

21 We withdraw the violations that did impinge
22 on the hard curfew that had secondary, tertiary
23 causation. Perhaps a crew times out. Perhaps an
24 aircraft had an issue, something in addition to ATC. We
25 are only appealing those that were strictly, from our

1 perspective, ATC and not any other causation that could
2 be contributed to JetBlue to keep it cleaner.

3 And we continued that, I should add, for the
4 appeal that we have pending on the third quarter
5 violations, as well, from June through September 30th.

6 By way of background, JetBlue's largest
7 focus cities, often referred to at other airlines as
8 hubs, difference is they depend on the local demographic
9 as opposed to feeding flights, but our largest two focus
10 cities are New York and Boston, and nearly 70 percent of
11 our operations touch one of those two markets every day.
12 Not our Long Beach operations. Our total operations of
13 more than a thousand flights a day.

14 For example, though, this past June, which
15 is the third month of the months we're appealing, the key
16 New York airports, LaGuardia, Kennedy, Newark, were in
17 ground delay or ground stop programs, which are programs
18 that limit capacity and flow. They're issued by the FAA
19 to restrict traffic on two out of every three days.

20 When you constrict the flow of anything, a
21 garden hose or air traffic, it's going to cause delays.
22 And with two thirds of our operations, for example, going
23 through the northeast that I just mentioned, that caused
24 delays throughout our system.

25 Similar operating delays, second only to the

1 northeast, occur predominantly just up the road here in
2 the Bay area, San Francisco Bay area. Different
3 causation, but the same FAA restrictions are put in
4 place.

5 JetBlue today has approximately one third of
6 all its operations in Long Beach going to the Bay area.
7 So not only are those aircraft often restricted in their
8 on-time performance at Long Beach because of their
9 touching the northeast, but by just flying directly to
10 and from the Bay area, which is as constricted very often
11 in the summer as the northeast, it compounds the problem
12 here locally.

13 Obviously, the U.S. as a nation has one
14 national airspace system. It doesn't have the Long Beach
15 system or the California system. And it has one national
16 airspace system governed by one authority, the FAA.

17 The Airport Director respectfully denied our
18 request and our appeal to exempt what we believe are
19 strictly ATC-driven delays pursuant to the exemption
20 provision in the ordinance that you referred to earlier.

21 That provision states aircraft operating
22 pursuant to explicit aircraft traffic control direction
23 are plainly exempt.

24 The Airport has asserted that that plain
25 language, explicit air traffic control direction,

1 unquote, must -- and I quote from the denial letter --
2 must necessarily relate to operations at Long Beach and
3 not other airports.

4 Further, the Airport asserts that it's
5 JetBlue's duty to comply with the curfew requirements of
6 the ordinance, quote, irrespective of ATC delays to our
7 operations at airports nationwide, unquote.

8 That's the crux of this issue. That's where
9 JetBlue disagrees respectfully with the decision of the
10 Airport. It's as if the position taken by the Airport
11 Director presupposes that there are two air traffic
12 control systems, one that the ordinance relates to that
13 governs Long Beach and one that governs the rest of the
14 United States of America.

15 And we respectfully disagree and reassert
16 there is one national airspace system controlled by one
17 authority, the FAA, and that was what the language of the
18 ordinance when it was drafted refers to.

19 Nowhere in the ordinance or in the history
20 of the litigation leading to the creation of the
21 ordinance through our research or through that which has
22 been provided by the Airport Director is there an
23 explanation or even hint at how the Airport came up with
24 the logic that we believe has caused a direct
25 discriminatory interpretation without any regard to the

1 plain meaning of the language of the ordinance.

2 Again, as I just mentioned, the U.S. has
3 only one ATC system and it's governed by one entity, and
4 that entity is not the tower in Long Beach, which is an
5 important but a small part of an otherwise complex
6 dynamic nationwide expansive system.

7 Our research shows that case law is abundant
8 and crystal clear that such narrow definitions of an air
9 traffic control system as being only one airport violates
10 federal law.

11 Case law is also clear that words, unless
12 they're otherwise defined, are to be afforded their plain
13 meaning. And it's JetBlue's position that the plain
14 meaning of the ordinance and the exemption contained in
15 the ordinance are exactly what they show on their face,
16 an ATC-driven delay is exempt.

17 According to the City's view, for example,
18 on a sunny day in Long Beach, not unlike today, the FAA
19 at San Francisco where, for example, there might be fog
20 or fire, God forbid, or some other delay or causation, or
21 New York City today there could be a thunderstorm or
22 tomorrow, actually, a snowstorm, refuses to clear and
23 allow a JetBlue valid aircraft for Long Beach, just on
24 that one leg, to depart even though it left the gate on
25 time until after a certain period of time so that its

1 nonstop arrival will be after the curfew.

2 The position the Airport has provided in its
3 denial of our exemption request would say that that
4 flight is not exempt. We believe that belies the plain
5 definition of the language in the ordinance.

6 For the record, in the Airport's August 17th
7 letter, the Director raised several new matters aside
8 from what we just talked about, including that JetBlue
9 has no right or privilege to operate outside of the
10 curfew.

11 I would assert or reassert JetBlue has never
12 indicated that it does have a right or privilege to
13 operate outside of the curfew, and, in fact, we've taken
14 numerous steps, documented and explained to predecessor
15 of the Airport Director over the many years we've been
16 here that we've constantly sought to adjust our schedule
17 and operated scheduled operations well within the curfew
18 hours to allow a buffer.

19 We've never -- the Airport also asserted
20 that we had never before this recent case sought an
21 exemption from Section 16.43.007, subsection G. It's our
22 view that that's also wholly irrelevant to the current
23 objection, and it relates to our you consent decree also
24 with the City Prosecutor.

25 We opted not to appeal any fines because we

1 were operating under a consent decree, consent decree
2 that was recently voluntarily modified, but our not
3 availing ourselves of the opportunity to seek an
4 exemption in no way justifies that the flights aren't
5 exempt.

6 And finally, the Airport Director noted that
7 we have options to avoid curfew violations. And for the
8 record, in practicality we do not. Whereas in the past,
9 probably dating back a decade, JetBlue used to divert
10 aircraft to LAX with the City's encouragement and partial
11 reimbursement, that airport no longer has facilities that
12 would enable us to divert aircraft. And that also is, in
13 our view, irrelevant from the crux of what we appealed.

14 The final point is, as I mentioned, not
15 really relevant to the fact that these aircraft are being
16 delayed solely by the FAA.

17 In closing, the Airport's position, in our
18 view, respectfully, is baseless and ignores the plain
19 language of the ordinance, and the way it's being
20 interpreted has a direct discriminatory impact against
21 JetBlue airways uniquely in the Airport or any future
22 operator that has operations that choose to be in air
23 traffic control delayed regions, such as the northeast or
24 the Bay area.

25 It is our belief that this violates both

1 ANCA and the City's obligations to the FAA under its
2 Grants Assurances agreement. Thank you for your time.

3 I want to just before I close ask if it
4 would be helpful, I'm happy to briefly walk through one
5 or both examples I walked through in an earlier hearing
6 that just literally take a random flight of the many we
7 appealed and gives you an idea of what the hour-by-hour,
8 minute-by-minute clearances and causations and delays
9 were so it would, in essence, act as a pictorial example
10 of what I just --

11 MR. MAIS: I think that would be a good idea.

12 HEARING OFFICER WEST: I'd appreciate that.

13 MR. MAIS: For him to walk you through it would be
14 helpful.

15 MR. LAND: Happy to do it.

16 For the record, I'm going to walk you
17 through a flight. It's flight No. 14 that was scheduled
18 to go from Long Beach nonstop to JFK on May 25th, 2017,
19 right before Memorial Day.

20 MR. MAIS: This is the exhibits from the --

21 MR. LAND: This is the exact exhibit. And if I
22 may, I'm going to just loan you an extra copy so as I
23 walk through this, I'll share sort of with Pat here based
24 on where he's sitting.

25 MR. MAIS: I have it, too, but that's fine.

1 MR. LAND: You have a copy?

2 MR. MAIS: I do.

3 MR. LAND: I'm going to share that.

4 On page two, number two of the exhibit,
5 please ignore the fact of what it shows as the cost per
6 violations over here. That has since been renegotiated,
7 but it was accurate at the time of May 25th when this
8 flight was late.

9 The main purpose of this slide is it's a
10 screen shot of our system operations manual. It's how we
11 operate the airline. It's a manual required by the FAA.
12 And in the manual, all of our dispatchers, who are FAA
13 licensed professionals, they see and are alerted for
14 every flight in and out of Long Beach in red that there
15 is a curfew and they have to honor that curfew unless
16 they're directed by the FAA not to.

17 On the next page, it's a recap that shows
18 the flight was delayed nearly three hours, 157 minutes,
19 And it was due to the late arrival of the inbound
20 aircraft, which was a Boston-Long Beach flight.

21 Flight 405, from Boston to Long Beach,
22 nearly full, 148 customers. Our aircraft holds 150. And
23 was going out nearly full back to Kennedy with 145
24 customers.

25 (Reporter interruption.)

1 MR. MAIS: He's a fast talker.

2 MR. LAND: It has a scheduled departure time from
3 Boston of 6:10 p.m. local. Its actual departure time
4 from the gate was only nine minutes delayed at 6:19.

5 However, what you can see at the bottom of
6 the page is the routing the aircraft was given. Because
7 of the extreme northern routing, as directed by the FAA
8 from Boston to Long Beach, it exceeded the aircraft's
9 capabilities even on full fuel capabilities, and it
10 required a tech stop, a technical stop, basically a gas
11 stop, in Phoenix, and that was why the plane was late.

12 If you turn the page -- and I apologize that
13 the two graphics are not side by side. The next page,
14 page four, shows a radar overlay of the northeast, and
15 you'll see the little yellow and red dots.

16 That is the typical airspace from Boston to
17 Long Beach. If you just imagine a geographic straight
18 line, that you'd come south out of Long Beach, cut across
19 the middle Atlantic.

20 Well, all of those routes were closed, so
21 what happened was the aircraft sat and sat and sat in
22 Boston, then had to go back to the gate for fuel, and
23 then finally got to leave on a much longer routing,
24 causing the fuel stop in Phoenix, the late arrival to the
25 late departure.

1 And if I can refer you on one other page --
2 yeah, you have it there, Pat -- where it shows optimal
3 route and required route. You can see, strictly because
4 the FAA told our aircraft where it can fly -- it doesn't
5 free fly and choose its routing. It does what it's told
6 -- the pilots took a much, much longer route after a
7 significant delay to get the reroute.

8 They were dispatched with the top, asked to
9 sit on the taxiway in Boston when the route's closed due
10 to saturation and then given this reroute that went far
11 north. So it stopped in Phoenix, and that was the delay.

12 On the next page, which in the deck is page
13 six, you see blue aircraft depicted that are not on a
14 runway. Those are aircraft, not only JetBlue's, that
15 were held during new routing instructions.

16 All aircraft that were going west had the
17 exact same problem. Not JetBlue aircraft not going to
18 Long Beach, just needing to go from the furthest major
19 airport in the east to anywhere in the west through the
20 storms.

21 On the next page, which is page seven, this
22 is a screen shot that our dispatchers use, and on the top
23 here you can see the inbound aircraft was a 320 that went
24 from Cancun to Boston, and then it shows Boston to
25 Phoenix to Long Beach.

1 And you can see in white the Long Beach
2 curfew, so that our dispatchers are very well aware and
3 we have records that show a seek expedited treatment for
4 curfew flights.

5 Unfortunately, due to the routings not being
6 available and being denied or what we would say is a
7 plain example of explicit air traffic control direction
8 quoting the ordinance, the aircraft was not allowed to
9 leave Boston in a timely fashion and it wasn't allowed to
10 go there in a rapid fashion, taking the northern route.

11 On the next page you see the tech stop in
12 Phoenix, what time it arrived there, which was 9:23
13 local. So at that point, it was already impossible to
14 arrive in Long Beach before the soft curfew put in and
15 barely get out, just missing the hard curfew on the next
16 page by four minutes to turn the plane. The plane turned
17 basically full inbound, full outbound in 50 minutes,
18 which was exceedingly quick, but unfortunately, it missed
19 it by four minutes.

20 That's the end of this presentation.
21 There's another one in the record from San Francisco,
22 just to give an idea of the aircraft's movement
23 throughout the day, but both of these were cases where
24 due to aircraft traffic control, the aircraft's physical
25 presence in Long Beach to make its outbound presence,

1 while having nothing to do admittedly with the Long Beach
2 tower, has everything to do with explicit air traffic
3 control direction on a flight to or from Long Beach.

4 So any questions? Otherwise, I have --

5 MR. MAIS: I don't have any. I don't know if the
6 City Manager has any.

7 HEARING OFFICER WEST: No, I don't. This was very
8 helpful. Thank you.

9 MR. LAND: Thank you.

10 MR. MAIS: So we don't have anything in
11 addition --

12 MR. LAND: Sure.

13 MR. MAIS: -- to add.

14 I think just like last time, the City
15 Manager will take this under submission, and within 15
16 days of today's date he'll get -- or tomorrow's date, I
17 guess --

18 MR. LAND: Tomorrow is fine.

19 MR. MAIS: -- get you a written decision.

20 And I think you know any decision of the
21 City Manager that would be adverse to JetBlue is
22 appealable to the City Council. Basically, the same
23 protocol. I think it's a 15-day notice. And we'll let
24 you know all of that. And we will get you the transcript
25 from the last hearing. I'll get that to you today.

1 MR. LAND: No rush. Just so we have it.

2 MR. MAIS: As soon as we get a copy from Mary --

3 THE REPORTER: Can we go off the record?

4 (Brief discussion off the record.)

5 MR. LAND: Back on the record.

6 If we could also request, as the Airport
7 Director was kind enough to do in the last denial letter,
8 in this decision memo that we'll be getting, if there can
9 be instructions on the appeals process, we'd be grateful.

10 MR. MAIS: Absolutely, yeah.

11 MR. LAND: Make our lives easier.

12 MR. MAIS: No problem.

13 We're done.

14 MR. LAND: Thank you very much for welcoming us.

15 (Whereupon the proceedings adjourned
16 at 10:59 a.m.)

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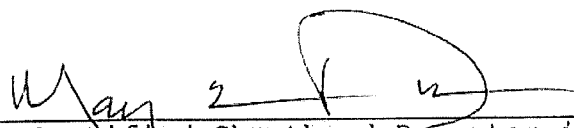
1 STATE OF CALIFORNIA)
2 COUNTY OF ORANGE) ss.

3
4 I, MARY E. PIERCE, Certified Shorthand Reporter
5 No. 6143 in and for the State of California, do hereby
6 certify:

7 That I attended the foregoing hearing and that all
8 testimony, argument and comments made at the time of the
9 proceedings were recorded stenographically by me and that
10 the foregoing is a true record of the proceedings and all
11 comments made at the time thereof.

12 I hereby certify that I am not interested in the
13 event of the action.

14 IN WITNESS WHEREOF, I have subscribed my name this
15 14th day of December, 2017.

16
17
18 
19 _____
20 Certified Shorthand Reporter in and
21 for the State of California

22
23
24
25

CITY OF LONG BEACH

CITY MANAGER

4100 East Donald Douglas Drive • Long Beach, CA 90808 • (562) 570-2619 • Fax (562) 570-2601



December 21, 2017

Robert C. Land
Senior Vice President Government Affairs and
Associate General Counsel
JETBLUE AIRWAYS
27-01 Queens Plaza North
Long Island City, NY 11101

Subject: December 8, 2017, Administrative Hearing – City Manager Decision

Dear Mr. Land:

On December 8, 2017, pursuant to JetBlue Airways' ("JetBlue") October 31, 2017 written request, an administrative hearing ("hearing") was conducted at Long Beach City Hall pursuant to the requirements of Long Beach Municipal Code Chapter 16.43 ("Airport Noise Compatibility Ordinance" ("Noise Ordinance")). The purpose of the hearing was to consider JetBlue's appeal of the Airport Director's October 16, 2017 Decision pertaining to JetBlue's request for an exemption for certain curfew flights occurring at the Airport during the second quarter of 2017 (April 1, 2017 through June 30, 2017). This letter provides a summary of the December 8, 2017 administrative hearing before me as City Manager, the correspondence leading up to the administrative hearing, and my written decision, based on the record of the proceeding consistent with the requirements of Section 16.43.110 of the Noise Ordinance.

As discussed in detail below, and based on the evidence received at the hearing and on the complete record of proceedings, I am upholding the Airport Director's decision and have determined that the October 16, 2017 Decision of the Airport Director was correct and that JetBlue's curfew operations during the second quarter of 2017 are not exempt from the Noise Ordinance because the late night curfew operations were a direct result of air traffic control delays occurring at other airports nationwide, and not as a result of air traffic control delays occasioned by a directive from authorities operating at the Long Beach Airport; and that no new evidence was provided at the December 8, 2017 hearing that would in any manner serve to overturn the Airport Director's Decision of October 16, 2017.

As background, on July 7, 2017, JetBlue Airways requested exemptions from the Noise Ordinance for some of Jet Blue's curfew operations at the Airport during the second quarter of 2017 (April 1, 2017, through June 30, 2017). On July 18, 2017, and in response to JetBlue's July 7, 2017 letter, the Airport Director sent a letter to JetBlue clarifying the applicability of the exemptions provided in Section 16.43 of the Noise Ordinance and indicating that the curfew exemptions only apply to air traffic control directions that relate directly to operations at the Airport, not to other airports nationwide throughout the day.

On July 28, 2017, JetBlue requested further clarification regarding the exemptions from Chapter 16.43. On August 17, 2017, the Airport Director further clarified the applicability of curfew exemptions and indicated that because the majority of JetBlue curfew violations in question occurred due to air traffic control delays earlier in the day at other airports nationwide, and not due to air traffic control delays at the Long Beach Airport, the Noise Ordinance exemption did not apply. Specifically, the Airport Director explained that Section 16.43.070 of the Noise Ordinance provides categories of aircraft that are exempt from the noise, curfew and related requirements of the Ordinance, as follows: "[a]ircraft operating pursuant to *explicit air traffic control direction* in a manner which would otherwise not comply with the terms of this Chapter" are exempt from the provisions of the Noise Ordinance (emphasis added). As indicated in the Airport Director's August 17, 2017 letter, an exemption applies directly to operations at the Long Beach Airport (*i.e.*, an air traffic control delay at the Airport which results in a late departure or arrival from the Airport outside of JetBlue's control), it does *not* apply to other nationwide airports or circumstances occurring throughout the day.

The Airport Director also clarified in the Director's August 17, 2017 letter that the Ordinance does provide the Director with the discretionary authority to provide an air carrier with the ability to conduct operations outside of the curfew hours if a flight is delayed by not more than one hour beyond the curfew (*i.e.*, between ten p.m. and eleven p.m.) as a result of delays substantially beyond the control of the operator. See, Section 16.43.040(B). However, prior to waiving any curfew violation during this time period, the operator is required to present evidence satisfactory to the Director relating to the circumstances surrounding the operation and nothing in the Noise Ordinance establishes a "right" or privilege of any person to conduct air operations outside of the curfew.

On August 25, 2017, JetBlue requested an administrative hearing regarding exemptions for curfew flights at the Airport pursuant to Section 16.43.110 of the Noise Ordinance. In response to this request, and on September 11, 2017, the Airport Director notified JetBlue that an administrative hearing had been set for October 6, 2017. Consistent with this notification, the requested administrative hearing was held on October 6, 2017, at the Airport administrative offices where written statements were taken and oral testimony was presented. The hearing was also recorded. The Airport Director presided over that hearing as the hearing officer. Other attendees at that hearing included yourself and James Hnat representing JetBlue, and Ron Reeves, Noise and Environmental Affairs Officer at the Airport, Lori Ballance, outside legal counsel for the Airport, and Ryan McMullan also representing the Airport.

At the October 6, 2017 hearing, the Airport Director provided introductory remarks, a summary of the administrative hearing process, the purposes of the hearing, and a brief description of how the hearing would take place (consistent with Section 16.43.110 of the Noise Ordinance). JetBlue was then invited to provide written and oral information to support its appeal. JetBlue provided a number of introductory remarks and two exemplary presentations relating to JetBlue Flight 1635 from San Francisco International Airport (SFO) to the Airport, and JetBlue Flight 14 from the Airport to John F. Kennedy International Airport (JFK).

After JetBlue's remarks and presentations, the Airport provided a copy of a spreadsheet for the record of proceedings summarizing JetBlue's late night operations from January 1, 2016, through June 30, 2017. During the administrative hearing, an error was noted in the spreadsheet regarding the total exempt late night operations for the second quarter of 2017. The spreadsheet was subsequently revised to correct this error and a copy of the revised spreadsheet was provided to JetBlue as Attachment "8" to the Airport Director's decision of October 16, 2017. In accordance with Section 16.43.110(A) of the Noise Ordinance, the Airport Director provided his written post hearing Decision to JetBlue with within ten days of the October 6, 2017 Hearing (i.e., on October 16, 2017).

The December 8, 2017 appeal hearing to the City Manager was attended by myself (Patrick H. West) as the as Hearing Officer. City representatives at the hearing were Airport Director Jess Romo, Airport Noise and Environmental Officer Ron Reeves, and Assistant City Attorney Michael Mais. JetBlue was represented at the hearing by yourself (Robert Land Senior Vice-President for Government Affairs and Associate General Counsel), Mr. Lou Anthony (General Manager for JetBlue Airways in Long Beach) and Reese Davidson (an attorney in JetBlue's Washington, D.C., Governmental Affairs Office).

Prior to the City Manager appeal hearing on December 8, 2017, and in preparation for the hearing, I reviewed several documents, including, but not limited to, a complete copy of a written transcript of the October 6, 2017 Airport Director's hearing proceeding, together with the written Exhibits submitted by both parties at the Hearing, the Airport Director's October 16, 2017 written decision determining that JetBlue's request for exemption from curfew provisions would not be granted (together with the eight (8) attachments appended to the Airport Director's October 16, 2016 decision), as well as relevant provisions from the Noise Ordinance, including, but not limited to, Section 16.43.070 ("General Exemptions") of the Municipal Code.

Consistent with the requirements of Section 16.43.110 of the Noise Ordinance, and based on the record of the proceeding at the October 6, 2017 administrative hearing, together with the record of proceedings at the December 8, 2017 City Manager appeal hearing, including all written materials received and oral testimony presented at both hearings, I have determined that there is no basis by which to overturn the written Decision of the Airport Director of October 16, 2017, and further have determined that air traffic control delays occurring at other airports, do *not* qualify as Section 16.43.070 exemptions from the Noise Ordinance at LGB.

The record of proceedings at both hearings demonstrates that the Airport has consistently applied the "exemption provisions" of the Noise Ordinance relative to JetBlue's curfew violations since the inception of the Consent Decree in 2003; and until JetBlue's recent assertions, JetBlue has not objected to the application or interpretation of the Ordinance by the Airport Director or Airport staff. In fact, JetBlue has routinely self-reported late night curfew violations. Therefore, the City's interpretation of the Noise Ordinance is not "new." Rather, the Airport Director and Airport staff have continued in a consistent manner to enforce the curfew provisions of the Noise Ordinance related to possible Air Traffic Control exemptions.

In addition, the interpretation of the Noise Ordinance is consistent with the manner in which other curfew airports (including John Wayne Airport, Orange County and San Diego International Airport (departure curfew)) enforce curfew provisions. As pointed out in the Airport Director's October 16, 2017 Decision (at page 3), the failure to interpret the exemption provisions in the manner that the Airport Director and Airport staff have consistently done for many years would essentially render the curfew provisions of the Noise Ordinance meaningless because flights would be able to depart or arrive at the Airport subject to air traffic control delays throughout the country irrespective of the actual curfew provisions at the Airport.

In response to JetBlue's assertions that the Federal Aviation Administration (FAA) has exclusive control over airspace, the Airport Director and Airport staff clearly do recognize the FAA's jurisdictional responsibilities; however, it is also important to recognize that JetBlue continues to have a number of options relating to any FAA air traffic control delays occurring at other airports throughout the country including, but not limited to substituting aircraft, providing alternative operations during non-curfew hours, accommodating passengers by alternative transit, providing sleeping accommodations for the delayed passengers until the aircraft can depart or arrive consistent with the curfew requirements at the Airport. With respect to the example of late flight curfew situations described by JetBlue representatives at both the October 6, 2017 and December 8, 2017 administrative hearings, I concur with the Airport Director's decision that these examples do not provide JetBlue with an "exemption" from the curfew provisions of the Noise Ordinance because the exemption provisions contained in Section 16.43.070 G of the Ordinance apply only to FAA air traffic control delays that relate directly to flights departing and arriving at the Airport, not to flight delays earlier in the day at Airports throughout the country. To find otherwise would essentially render meaningless many of the important curfew provisions in the Ordinance and would disrupt the delicate balance between the valid noise related concerns of surrounding Airport neighbors impacted by late night flights, and those operational concerns of the Air Carriers who consistently provide service at the Long Beach Airport.

Finally, my decision and the decision of the Airport Director and the interpretation of the curfew provisions of the Noise Ordinance reflect the experience of the City in the management and operation of the Airport – and the public controversies resulting from operations at the Airport since adoption of the Noise Ordinance in 1995; including extensive experience in many forums with the views and interests of the federal government, commercial aviation operators, general aviation operators, the Long Beach business community, local public entities, and the residents of areas in the general vicinity of the Airport. Therefore, I concur with the Airport Director's determination that the City's consistent interpretation of the exemption provisions of Section 16.43.070 of the Noise Ordinance serves to balance the needs of the Long Beach community for adequate commercial air transportation facilities, and the desire of the local community for environmentally responsible air transportation operations at the Airport.

My decision will be final unless appealed to the City Council as provided in Section 16.43.110(B) and (C) of the Noise Ordinance. Specifically, Section 16.43.110(B) of the Noise Ordinance provides that any final decision pursuant to Chapter 16.43 shall be

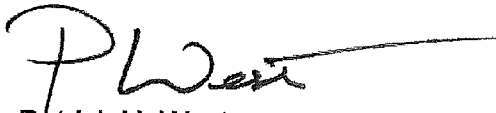
Robert C. Land
December 21, 2017
Page 5

appealable to the City Council by giving written notice within fifteen (15) days following the mailing of a notice of final decision by the City Manager. Written Notice of an appeal to the City Council should be provided to the City Manager, with a copy of the Notice provided to the City Attorney, Attention: Assistant City Attorney Michael J. Mais. Any appeal of this matter will be conducted pursuant to the provisions of Chapter 2.93 of the Long Beach Municipal Code.

It is important to emphasize that the pendency of this proceeding shall not affect or excuse any violation of Chapter 16.43 of the Noise Ordinance occurring during the pendency of this proceeding. (See, Section 16.43.110(D)). Therefore, JetBlue must continue to comply strictly with the curfew requirements at the Airport irrespective of air traffic control delays to its operations at other airports nationwide throughout the day during the pendency of this proceeding.

Please do not hesitate to contact me if you have any questions regarding this final decision or if you have any questions regarding the appeals process outlined above.

Sincerely,

A handwritten signature in black ink, appearing to read "P. West", with a long horizontal line extending to the right.

Patrick H. West
City Manager

cc: Jess Romo, Airport Director
Ron Reeves, Long Beach Airport
Michael J. Mais, Assistant City Attorney
Lori Ballance, Gatzke Dillon & Ballance, Outside Counsel



27-01 Queens Plaza North
Long Island City, NY 11101
T: 1.800.JETBLUE
jetblue.com

January 5, 2018

Mr. Patrick H. West
City Manager
City of Long Beach
333 W. Ocean Blvd.
Long Beach, CA 90802

Re: Written Notice of JetBlue Appeal to the City Council

Dear Mr. West:

In accordance with Sections 16.43.110(B) and 16.43.110(C) of the Long Beach Municipal Code, JetBlue Airways Corporation (JetBlue) hereby timely appeals the December 21, 2017 final decision of the City Manager regarding exemptions for curfew flights at Long Beach Airport. A copy of the December 21, 2017 decision is attached. The decision regarding the applicability of the "explicit air traffic control" exemption in Section 16.43.070 is erroneous and unjustified.

I look forward to working with you to determine a date and time for the appeal hearing before the City Council.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert C. Land". The signature is written in a cursive, flowing style.

Robert C. Land
Senior Vice President Government Affairs and
Associate General Counsel

Enclosure

CC: Assistant City Attorney Michael J. Mais