

## AMENDMENT TO PFC APPROVALS—Continued

Amendment No., City, State	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
08-06-C-02-TUL, Tulsa, OK .....	11/15/12	57,177,803	57,444,148	04/01/19	02/01/21
95-01-C-07-MCI, Kansas City, MO .....	11/19/12	277,485,571	280,588,692	12/01/10	12/01/10
05-05-C-02-MCI, Kansas City, MO .....	11/19/12	30,984,859	31,070,963	07/01/14	07/01/14
09-06-C-01-MCI, Kansas City, MO .....	11/19/12	25,579,060	27,416,777	06/01/15	06/01/15
03-05-C-02-MBS, Saginaw, MI .....	11/20/12	1,378,794	400,764	04/01/08	08/01/07
11-15-C-01-BGM, Binghamton, NY .....	11/20/12	298,884	614,250	09/01/17	06/01/17
10-10-C-01-PBI, West Palm Beach, FL .....	11/21/12	11,868,332	12,453,559	09/01/10	12/01/11
11-03-C-01-LCH, Lake Charles, LA .....	11/27/12	650,000	665,490	09/01/15	01/01/16

Issued in Washington, DC, on September 4, 2013.

**Joe Hebert,**

Manager, Financial Analysis and Passenger Facility Charge Branch.

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**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Monthly Notice of PFC Approvals and Disapprovals. In September 2012, there were five applications approved. Additionally, 10 approved amendments to previously approved applications are listed.

**SUMMARY:** The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

#### PFC Applications Approved

*Public Agency:* City of Savannah and Savannah Airport Commission, Savannah, Georgia.

*Application Number:* 12-09-C-00-SAV.

*Application Type:* Impose and use a PFC.

*PFC Level:* \$4.50.

*Total PFC Revenue Approved In This Decision:* \$1,619,201.

*Earliest Charge Effective Date:* December 1, 2016.

*Estimated Charge Expiration Date:* October 1, 2017.

*Class Of Air Carriers Not Required To Collect PFC's:*

Air taxi/commercial operators filing FAA Form 1800-31 and operating at Savannah Hilton Head International Airport (SAV).

*Determination:* Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at SAV.

*Brief Description of Projects Approved for Collection and Use:*

Traffic survey design.

Terminal curbside canopy construction.

Tree removal runway 10 approach. PFC implementation and administration costs.

*Brief Description of Projects Approved for Use:*

Site mitigation.

Realign and construct Gulfstream Road.

Taxiway A extension north—construction/tunnel construction.

Electrical vault.

Taxiway H construction.

Storm water update.

Gulfstream Road/tunnel design.

Airfield electrical vault design.

Taxiway A design.

Taxiway H design.

*Decision Date:* September 18, 2012.

#### FOR FURTHER INFORMATION CONTACT:

Robert Rau, Atlanta Airports District Office, (404) 305-7004.

*Public Agency:* Grand Forks Regional Airport Authority, Grand Forks, North Dakota.

*Application Number:* 12-09-C-00-GFK.

*Application Type:* Impose and use a PFC.

*PFC Level:* \$4.50.

*Total PFC Revenue Approved In This Decision:* \$550,000.

*Earliest Charge Effective Date:* January 1, 2018.

*Estimated Charge Expiration Date:* January 1, 2019.

*Class of Air Carriers Not Required To Collect PFC's:*

Air taxi/commercial operators filing FAA Form 1800-31.

*Determination:* Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Grand Forks International Airport.

*Brief Description of Project Approved for Collection and Use:*

Purchase of runway broom.

*Decision Date:* September 18, 2012.

#### FOR FURTHER INFORMATION CONTACT:

David Anderson, Bismarck Airports District Office, (701) 323-7385.

*Public Agency:* Huntsville-Madison County Airport Authority, Huntsville, Alabama.

*Application Number:* 12-18-C-00-HSV.

*Application Type:* Impose and use a PFC.

*PFC Level:* \$4.50.

*Total PFC Revenue Approved in This Decision:* \$700,868.

*Earliest Charge Effective Date:* May 1, 2022.

*Estimated Charge Expiration Date:* September 1, 2022.

*Classes of Air Carriers Not Required To Collect PFC's:*

(1) Air taxi/commercial operators at Huntsville International Airport—Carl T Jones field (HSV); (2) certified air carriers at HSV; and (3) certified route air carriers having fewer than 500 annual passenger enplanements at HSV.

*Determination:* Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at HSV.

*Brief Description of Projects Approved for Collection and Use:*

Acquire land for development.

Aircraft rescue and firefighting vehicles and equipment.

Glenn Hearn Boulevard/James Record Road intersection improvement.

Airport pavement rehabilitation.

Airport layout plan master plan update.

Interactive training and workstation.

*Decision Date:* September 20, 2012.  
**FOR FURTHER INFORMATION CONTACT:**  
 Jonathan Linquist, Jackson Airports District Office, (601) 664-9893.  
*Public Agency:* Niagara Frontier Transportation Authority, Buffalo, New York.  
*Application Number:* 11-09-C-00-BUF.  
*Application Type:* Impose and use a PFC.  
*PFC Level:* \$4.50.  
*Total PFC Revenue Approved in This Decision:* \$1,702,533.  
*Earliest Charge Effective Date:* June 1, 2014.  
*Estimated Charge Expiration Date:* August 1, 2014.  
*Class of Air Carriers Not Required To Collect PFC's:*  
 None.  
*Brief Description of Projects Approved for Collection and Use at Buffalo Niagara International Airport (BUF) at a \$3.00 PFC Level:*  
 Glycol recovery vehicles.  
 Purchase runway broom.  
*Brief Description of Projects Approved for Collection at BUF and Use at Niagara Falls International Airport at a \$4.50 PFC Level:*  
 Mill and overlay of runway 10L/28R.  
 Runway 06/24 safety area improvements.  
*Brief Description of Withdrawn Projects:*  
 Noise compatibility program at BUF.  
 Glycol treatment project at BUF.  
 Runway friction tester at BUF.  
 PFC planning and programming administration costs.  
*Date of Withdrawal:* May 3, 2012.  
*Decision Date:* September 24, 2012.  
**FOR FURTHER INFORMATION CONTACT:**  
 Patricia Henn, Eastern Regional Airports Division, (718) 553-3357.  
*Public Agency:* Maryland Department of Transportation and Maryland

Aviation Administration, Baltimore, Maryland.  
*Application Number:* 12-10-C-00-BWI.  
*Application Type:* Impose and use a PFC.  
*PFC Level:* \$4.50.  
*Total PFC Revenue Approved in This Decision:* \$341,596,215.  
*Earliest Charge Effective Date:* April 1, 2021.  
*Estimated Charge Expiration Date:* March 1, 2028.  
*Class of Air Carriers Not Required To Collect PFC's:*  
 Air taxi/commercial operators filing FAA Form 1800-31.  
*Determination:* Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Baltimore-Washington International Thurgood Marshall Airport.  
*Brief Description of Projects Approved for Collection and Use at a \$4.50 PFC Level:*  
 Property acquisition—runway protection zone.  
 Obstruction removal—runways 10/28 and 15R/33L.  
 Environmental mitigation—runway safety area.  
 Runway 210/28 airfield lighting improvements.  
 Runway 10/28 navigational aids.  
 Runway 15R/33L lighting improvements.  
 Runway 15R/33L pavement rehabilitation and standards.  
 Taxiway P/runway 15R deicing pad pavement rehabilitation.  
 Taxiway P/runway 15R deicing pad lighting rehabilitation.  
 Taxiways serving runway 15R/33L (pavement rehabilitation).

Taxiways serving runway 15R/33L (lighting).  
 Runway 15R/33L navigational aids.  
 Runway 15R/33L flight kitchen demolition.  
 Runway 15L/33R runway safety area improvements.  
 Future taxiway P (pavement removal).  
 Future taxiway P (taxiway lighting).  
 Future taxiway P (pavement rehabilitation).  
 Taxiway C standards and compliance.  
*Brief Description of Projects Partially Approved for Collection and Use at a \$4.50 PFC Level:*  
 Runway 10/28 runway safety area improvements.  
*Determination:* The approved amount was reduced from that requested due to the public agency receiving an Airport Improvement Program (AIP) grant for partial project funding.  
 Runway 10/28 rehabilitation and standards.  
*Determination:* The approved amount was reduced from that requested due to the public agency receiving an AIP grant for partial project funding.  
 Runway 10/28 AMTRAK catenary system modification.  
*Determination:* The approved amount was reduced from that requested due to the public agency receiving an AIP grant for partial project funding.  
 Runway 15R/33L runway safety area improvements.  
*Determination:* The approved amount was reduced from that requested due to the commitment for partial AIP funding for the project.  
*Decision Date:* September 25, 2012.  
**FOR FURTHER INFORMATION CONTACT:**  
 Jeffery Breeden, Washington Airports District Office, (703) 661-1363.

AMENDMENTS TO PFC APPROVALS

Amendment No., City, State	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
01-03-C-06-LIT, Little Rock, AR .....	08/30/12	\$8,239,062	\$8,237,062	07/01/04	07/01/04
04-04-U-03-LIT, Little Rock, AR .....	08/30/12	NA	NA	07/01/04	07/01/04
11-06-C-01-SDF, Louisville, KY .....	09/04/12	2,123,882	2,479,014	11/01/16	12/01/16
07-08-C-01-BTM, Butte, MT .....	09/11/12	146,916	58,163	03/01/10	03/01/10
04-07-C-02-LSE, La Crosse, WI .....	09/17/12	1,439,553	1,426,949	06/01/07	06/01/07
93-01-C-04-CHA, Chattanooga, TN .....	09/19/12	9,013,922	5,943,004	11/01/04	11/01/04
00-03-C-03-CHA, Chattanooga, TN .....	09/19/12	5,752,115	5,980,888	08/01/10	08/01/10
05-04-C-02-FNL, Fort Collins, CO .....	09/20/12	276,130	212,831	03/01/07	03/01/07
*00-06-C-08-MKE, Milwaukee, WI .....	09/25/12	124,348,365	121,356,488	07/01/13	04/01/13
02-07-C-06-MKE, Milwaukee, WI .....	09/26/12	35,251,806	34,755,919	11/01/15	04/01/15

**Notes:** The amendment denoted by an asterisk (\*) include a change to the PFC level charged from \$3.00 per enplaned passenger to \$4.50 per enplaned passenger. For Milwaukee, WI, this change is effective on November 1, 2012.

Issued in Washington, DC, on September 4, 2013.

**Joe Hebert,**

*Manager, Financial Analysis and Passenger Facility Charge Branch.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Waiver of Requirement To Enter Into a Reciprocal Waiver of Claims Agreement With All Customers for Orbital Sciences Corporation

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of waiver.

**SUMMARY:** This notice concerns a petition for waiver submitted to the Federal Aviation Administration (FAA) by Orbital Sciences Corporation (Orbital) to waive in part the requirement that a launch operator enter into a reciprocal waiver of claims with each customer. The FAA grants the petition.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this waiver, contact Charles P. Brinkman, Licensing Program Lead, Commercial Space Transportation—Licensing and Evaluation Division, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-7715; email: [Phil.Brinkman@faa.gov](mailto:Phil.Brinkman@faa.gov). For legal questions concerning this waiver, contact Sabrina Jawed, Attorney-Adviser, Space Law Branch, AGC-250, Office of the Chief Counsel, Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8839; email: [Sabrina.Jawed@faa.gov](mailto:Sabrina.Jawed@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 8, 2013, Orbital submitted a petition to the FAA's Office of Commercial Space Transportation (AST) requesting a waiver under its launch license for flight of an Antares launch vehicle carrying Orbital's Cygnus module.<sup>1</sup> Orbital requested a partial waiver of 14 CFR 440.17, which requires a licensee to enter into a reciprocal

<sup>1</sup> This mission is also referred to as OrbD-1. See Letter from Mark A. Wright, Manager, Safety Inspection Division AST, to Natalie Imfeld, Contracts Manager, Advanced Programs Group Orbital Sciences Corporation (August 16, 2013) (on file with FAA) (referring to Antares launch of the Cygnus payload as ORB-D1 Mission).

waiver of claims (a "cross-waiver") with each of its customers.

The FAA licenses the launch of a launch vehicle and reentry of a reentry vehicle under authority granted to the Secretary of Transportation by the Commercial Space Launch Act of 1984, as amended and re-codified by 51 U.S.C. Subtitle V, chapter 509 (Chapter 509), and delegated to the FAA Administrator and the Associate Administrator for Commercial Space Transportation, who exercises licensing authority under Chapter 509.

The petition for waiver applies to Orbital's September 2013 launch of an Antares launch vehicle and Orbital's Cygnus pressurized cargo module to be used in the delivery of cargo to the International Space Station (ISS). The Cygnus cargo module will carry cargo for NASA to resupply the ISS. In addition to the ISS supplies, the Antares may also carry other payloads whose transport NASA has arranged as part of the Johnson Space Center cargo. These consist of a NanoRacks, LLC, and NanoRacks locker insert and student experiments created under NASA's Student Spaceflight Experiments Program (SSEP). NASA describes SSEP as a national science, technology, engineering, and mathematics education initiative.<sup>2</sup> According to its Space Act Agreement with NASA,<sup>3</sup> NanoRacks arranges to carry the student experiments on a locker insert to put into an experimental locker on board the ISS. The Space Act Agreement states that NASA will provide on-orbit resources and limited launch opportunities to NanoRacks for the launch of its insert and the experiments the insert carries. Orbital provided the FAA, along with its petition for waiver, a letter signed by Christopher Cummins, Chief Operating Officer of NanoRacks, stating that NanoRacks will not have any personnel at the launch site for the OrbD-1<sup>4</sup> launch, which is the launch that is the subject of this waiver.

<sup>2</sup> Space Station—Here we Come! NASA Press Release: <http://www.nasa.gov/audience/foreducators/station-here-we-come.html> (last visited August 16, 2013).

<sup>3</sup> Nonreimbursable Space Act Agreement Between NanoRacks, LLC and NASA for Operation of the NanoRacks System Aboard the International Space Station National Laboratory. (Sept. 4 and 9 2009) (NanoRacks Agreement), 387938main—SAA—SOMD—6355—NanoRacks—ISS—National—Lab.pdf.

<sup>4</sup> OrbD-1 refers to the COTS Demo mission currently scheduled to launch in September on the Antares launch vehicle from Wallops. See Letter from Mark A. Wright, Manager, Safety Inspection Division AST, to Natalie Imfeld, Contracts Manager, Advanced Programs Group Orbital Sciences Corporation (August 16, 2013) (on file with author) (referring to Antares launch of the Cygnus payload as ORB-D1 Mission).

NanoRacks and each student who places a payload on board the NanoRacks insert qualify as customers under the FAA's definitions. Section 440.3 defines a customer, in relevant part, as any person with rights in the payload or any part of the payload, or any person who has placed property on board the payload for launch, reentry, or payload services. A person is an individual or an entity organized or existing under the laws of a State or country. 51 U.S.C. 50901(12), 14 CFR 401.5. The subjects of this waiver are persons because the students are individuals and NanoRacks is an entity, a limited liability corporation. Accordingly, because NanoRacks and the students are persons who have rights in their respective payloads, the locker insert and the experiments, due to their ownership of those objects, and because they have placed property on board, they are customers. Section 440.17 requires their signatures as customers.

In this instance, however, NanoRacks and the students are also subject to a NASA reciprocal waivers of claims, a cross-waiver, which is governed by NASA's regulations at 14 CFR part 1266. Article 8 of the Space Act Agreement between NASA and NanoRacks governs liability and risk of loss and establishes a cross-waiver of liability.

Other than the NanoRacks and SSEP customers, all other customers as defined by 14 CFR 440.3 will execute the cross-waivers required by 14 CFR 440.17. The cross-waivers among Orbital and all customers, other than NanoRacks and SSEP customers, are amended to provide that signing customers waive claims against any other customer as defined by 14 CFR 440.3. The petition for partial waiver of the requirement that the licensee implement a cross-waiver with each customer applies to NanoRacks and the SSEP customers as customers of the September 2013 launch of the Antares launch vehicle carrying the Cygnus module.

#### Waiver Criteria

Chapter 509 allows the FAA to waive a license requirement if the waiver (1) will not jeopardize public health and safety, safety of property; (2) will not jeopardize national security and foreign policy interests of the United States; and (3) will be in the public interest. 51 U.S.C. 50905(b)(3) (2013); 14 CFR 404.5(b) (2013).