

Does United Need a Free Ride?

A Sensible Plan for Funding the PATH Extension to Newark Liberty International Airport

Executive Summary

- Port Authority funding for PATH extension to Newark Liberty International Airport (EWR) is \$700 million short of current estimated cost.
- The PATH extension is projected to shift traffic from JFK and LaGuardia to United Airlines' Newark hub, and will link the airline directly to an enormously valuable lower Manhattan market. An increase in United's share of overall New York air travel by just 1% could mean an estimated additional \$200 million per year in revenue for the airline.
- United should contribute to a project that will benefit the airline for years to come. UNITE HERE commends Senate President Steve Sweeney for proposing a bill in July 2018 that would ensure United does so by eliminating the carrier's jet fuel tax break and redirecting that revenue to the PATH extension.

Last year the Port Authority of New York and New Jersey (PANYNJ) earmarked \$1 billion to extend the PATH train to Newark Liberty International Airport (EWR), getting one step closer to realizing a goal whose time may have finally come. The PATH extension would enhance regional connectivity, help spur development in the South Ward neighborhood of Newark where a new station would be built, and would provide a low-cost transit option to workers who travel to and from the airport each day. It would also be an enormous asset to United Airlines for competing in the New York market.

However, the project still lacks an estimated \$700 million in capital funding, and PATH's operating budget is perennially in the red. Meanwhile other infrastructure projects of higher priority to the region, including the Gateway Program and the Port Authority Bus Terminal, compete with the PATH extension for both Port Authority and federal grant funding. How, then, can the Port Authority and the State of New Jersey ensure PATH's strong footing without sacrificing other priorities or raising tolls even higher?

The sensible way is to ensure United Airlines, the dominant carrier at EWR and the stakeholder that may financially benefit most from the extension, pays its fair share. A one-seat ride from downtown Manhattan would undoubtedly be a boon to United.

Currently, United enjoys a jet fuel tax loophole that has cost the state millions each year, including an estimated \$5.5 million in 2016.¹ In 2016, when New Jersey lawmakers raised gas taxes to fund much-needed transportation infrastructure projects, they left United's jet fuel tax rate and break intact. The State of New Jersey should close the jet fuel tax loophole for United and dedicate that revenue to fund the PATH extension's capital and operating costs. This simple, common-sense solution, as proposed in July 2018 in Sweeney's S2892, would be a benefit to all.

PATH Extension Funding in Perspective

- Estimated costs of PATH extension have steadily risen over time, from \$500 million in 2004 to \$1.7 billion today.
- PATH World Trade Center station cost \$4 billion, almost double initial estimates.²
- Port Authority study found that fares would cover less than 40% of operating costs.

The idea of extending the PATH to EWR has reportedly been around since the 1970s, with its projected cost steadily rising over time.³ In 2004, the Port Authority authorized a \$30 million feasibility study of the project, which it then estimated would cost at least \$500 million to complete.⁴ In 2012, the Port Authority approved another study to explore the extension⁵ and in February 2014 the Port Authority included the project in its ten-year capital plan, committing \$1 billion towards funding what was then projected to be a \$1.5 billion project.⁶

The extension came under scrutiny in the New Jersey Senate in 2015 on the heels of revelations that United had established an unprofitable flight route convenient to then-Port Authority Chairman David Samson, which it promptly canceled three days after Samson's resignation.⁷ Members of the New Jersey Senate Legislative Oversight Committee raised a variety of concerns about going forward with the PATH extension project, including the then-pending SEC investigation of United's unprofitable flight route to South Carolina.⁸ Senator Paul Sarlo said, "we all know that having that extension would be a great benefit to United Airlines."⁹

"I think that \$1.5 billion will be much better spent as an infusion of dollars into the Bus Terminal, an infusion of dollars into the Gateway. It's a much better way of spending our money."¹⁰

—New Jersey Senator Paul A. Sarlo during a Senate Legislative Oversight Committee meeting, September 10, 2015

In 2016, the Port Authority tabled its capital plan, with commissioners voicing concern about the various competing projects and their effect on operating budgets. New York Commissioner Kenneth Lipper said of the PATH extension that it would be “easier to hire an Uber for each passenger than to build a facility for \$1.7 billion.”¹¹

By February 2017, the Port Authority passed a revised ten-year capital plan, which included at \$1 billion allotment to the PATH extension while assuming the remaining estimated \$700 million would be covered by federal grants.¹² A Port Authority-commissioned feasibility study from 2010 found that fares would cover less than 40% of the operating costs.¹³

The PATH extension is competing for capital funds with other Port Authority projects that lack all necessary funds and would be used by a far greater number of New Jersey residents. In the 2017-2026 capital plan in which the Port Authority authorized PATH extension funding, it also devoted \$3.5 billion out of the \$10 billion necessary to replace the bus terminal that already serves more than 200,000 daily commuters.¹⁴ The capital plan additionally promised \$2.7 billion to the Gateway project, which would build a new rail tunnel under the Hudson River and which could cost a total of \$13 billion.¹⁵

United's Crown Jewel

- Carrying nearly two-thirds of all Newark Liberty passengers, United is the only airline with a majority share of passengers at any of the three major New York airports.¹⁶
- Gaining just 1% of the New York market would be worth an estimated \$200 million in annual revenue for the airline.

Today, United is responsible for nearly two-thirds of all passengers flying from EWR. From May 2017 through April 2018, 28.8 million passengers flew United or its regional carriers, including 8 million international travelers. The next busiest carrier, American, flew just 2.2 million passengers during that period.¹⁷

United depends almost entirely on Newark Liberty International Airport for its success in the highly competitive New York City market. It was consolidated as United's gateway to European and Middle Eastern capitals and as the carrier's port for New York's high-end and business travel market after United eliminated flights from John F. Kennedy International Airport to Los Angeles and San Francisco in 2015.¹⁸ United President Scott Kirby said in 2017 that United's profit margin at EWR was around 15%, far above Delta's estimated 4% in New York.¹⁹ A one-seat ride from the New York's financial district to EWR's AirTrain therefore would represent a boon to the dominant carrier at EWR.

In April 2017, Kirby emphasized that United would compete by improving service at EWR. “One of the things we are going to focus on is making Newark the best airport, the best schedule, the best everything for New York.”²⁰ Kirby again highlighted Newark’s value to investors in January 2018, saying, “One of the great things that we have at United Airlines is the best international gateways of anyone in the world. Our hubs on the coast do far better ... than our competitors. And that is a huge competitive advantage. These are crown jewels for United Airlines.”²¹

Growing United’s overall share of the competitive New York market is among the airline’s priorities.^{22 23} United’s annual revenue at EWR is estimated at over \$3.2 billion.²⁴ Capturing just one additional percentage point of the New York market would win United an estimated \$200 million in revenue each year.²⁵

Capturing **1%**
more of the NYC
Market = **\$200 million/year**
for United 

That growth is underway. In November 2015, the U.S. Department of Justice sought to block United from further expanding its presence at EWR by taking slots from Delta, alleging that the carrier was the monopoly nonstop provider to 139 of the 206 destinations from the airport, and controlled over 10 times more slots than the next largest airline.²⁶ In 2016, the airline dropped the plan to take slots from Delta at EWR, ending the DOJ suit.²⁷ In May 2018, United announced it would increase nonstop services between EWR and 15 destinations, as part of its effort to gain market share in New York.²⁸

PATH Extension Grants United Access to Manhattan’s High-End Market

- Regional infrastructure experts testified that PATH extension would shift passengers away from JFK and LaGuardia.
- Port Authority study finds PATH extension would affect more than half of surveyed travelers’ choice of airport.

According to Port Authority figures, less than 30% of passengers flying out of EWR originate from New York City and only about 4% from Lower Manhattan, which is defined as the area south of 14th street. By contrast, around three-quarters of passengers flying from JFK and LGA originate in New York City, and 8% or more from Lower Manhattan. A direct train ride to EWR’s Air Train would allow United to win more of that coveted market from its competitors.²⁹

All passengers are not of equal value to the airlines. According to the International Air Transport Association (IATA), premium passengers account for only about 5% of all airline passengers but about 27% of revenue.³⁰ In recent years, United has focused its efforts to attract first- or business-class international passengers by launching its Polaris service which includes a new suite of luxury seats and service in-flight as well as a network of high-end airport lounges. In June 2018, United opened a Polaris Lounge at EWR, which its regional president said “strengthens our service offering in Newark for the most enjoyable experience.”³¹

In 2016, the Port Authority finished an architecturally celebrated but woefully over-budget \$4 billion World Trade Center station as the PATH train’s downtown terminus. The station doubles as a mall featuring high end retail outlets and is surrounded by millions of square feet of new office space in Port Authority-owned buildings. Millions more square feet are expected to come on line in the next few years, capping off a longer trend of downtown real estate’s rebound since the attacks of September 11, 2001. Connecting EWR to the heart of Manhattan’s financial district is likely to boost United’s quest to increase its share of the New York market.

In addition to the workforce within proximity to PATH’s Manhattan station, the residential neighborhoods surrounding the World Trade Center station also offer a significant potential market to United. According to an analysis of US Census data, the three neighborhoods closest to the WTC PATH station—Tribeca, Battery Park and the Financial District—have the highest, second-highest, and fifth-highest median household incomes across New York City.³²

A Port Authority-commissioned report conducted by the Louis Berger Group in 2010 found that an extended PATH train would affect air travelers’ choice of airport. The survey found that 59% of Manhattan Central Business District residents not traveling for business and 51% of those who were traveling for business said a PATH extension would “very likely” or “somewhat likely” affect their airport choice.³⁴ More than half of survey respondents selected travel time to and from the airport as one of the main factors in selecting an airport, more than any other factor including the price of airfare.³⁵ And in testimony to the New Jersey Senate Legislative Oversight Committee, the Port Authority’s Chief of Major Capital Project, Steven Plate, said, “The extension would provide substantial benefits in reduced travel times, increased travel time predictability, and lower costs for air travelers making use of Newark from Lower Manhattan.”³⁶

“[P]roviding PATH access to EWR would shift passenger pressure away from JFK and LGA airports. Such a move would help balance air traffic among the region’s three major airports, and enable better utilization of EWR’s facilities.”

—Regional Plan Association,
Testimony to the Port Authority,
November 29, 2017³³

United Can Pay Its Fair Share of the PATH Extension

- United saved an estimated \$5.5 million in 2016 due to jet fuel tax loophole, while a 2016 gas tax hike to fund New Jersey transportation infrastructure left United's jet fuel tax bill untouched.
- New Jersey can commit United's jet fuel tax revenue to the PATH extension in compliance with federal regulations.
- New Jersey needs to adjust how it spends jet fuel tax revenue to meet those federal regulations regardless.

Given the potential value of the PATH extension to United, and that the project may have to compete with other crucial infrastructure investments for \$700 million in federal grants, United should contribute to ensure the extension can be completed. Lawmakers should eliminate the tax break that United enjoys on jet fuel and direct that recaptured funding stream to supporting the PATH extension.

While drivers pay taxes to the state on all fuel purchased here, airlines like United only pay taxes on a small portion of its fuel purchased in the state. Specifically, United is taxed at four cents per gallon only for the fuel which is used during taxiing and take-off, or what is known as the "burnout" portion. This is akin to paying taxes only on the gas burned while pulling out of your driveway. The total fuel consumption on domestic flights departing from New Jersey is, of course, many times greater than the burnout portion. In 2016, airlines paid just \$1.8 million in New Jersey aviation fuel taxes.³⁷ We estimate that if United paid the four-cents-per-gallon tax for all fuel consumed on domestic flights departing EWR, it would contribute an additional \$5.5 million to state revenues.³⁸

United's fuel tax break:

\$5.5 million
in lost revenue
in 2016 for NJ



New Jersey already needs to adjust how it spends jet fuel tax revenue to come into compliance with federal regulations. According to the Federal Aviation Administration's Policy and Procedures Concerning the Use of Proceeds From Taxes on Aviation Fuel³⁹, revenue from jet fuel taxes must go towards funding airport-related projects. New Jersey jet fuel tax revenue currently goes into the Transportation Trust Fund, from which the revenue is appropriated to transportation projects

across the state but not specifically to airport-related projects.⁴⁰ The State of New Jersey's failure to abide by this regulation could jeopardize hundreds of millions of dollars in federal airport-related funding.

In December 2017, the FAA stated in a letter to New Jersey's Commissioner of Transportation that the FAA required additional information to evaluate whether the state is compliant with fuel tax revenue use requirements.⁴¹ While the FAA has grandfathered any state jet fuel taxes that already existed on December 30, 1987, New Jersey's Department of the Treasury has stated that the current aviation fuel tax was established after that date. Aviation fuel tax revenues should, therefore, be dedicated to airport or airport access projects. The PATH extension to EWR is one project in need of funding stabilization that would benefit from New Jersey's compliance with the FAA regulation.

Conclusion

Extending the PATH to EWR would help spur development in Newark and would provide a low-cost transit option to airport workers. But it would also be an enormous asset to United Airlines in particular. The shorter and more predictable travel times from lower Manhattan to EWR would encourage travelers to choose the hub where United is so dominant, and even a small tip of the scale is financially meaningful. Capturing just one additional percentage point of the New York market would win United an estimated \$200 million in revenue each year.

To make the PATH extension a reality for all, it is only fair that New Jersey lawmakers reclaim a funding stream from which the state has given United a pass for years and instead devote those funds to ensure the PATH project can be sustainably completed without inhibiting other priorities. S2892, as introduced in July 2018 by Senate President Steve Sweeney, would accomplish just that.

Endnotes

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- 5 “Port Authority To Undertake Study On Extending Path Rail Service To Newark Liberty International Airport,” The Port Authority of New York and New Jersey, September 20, 2012, http://www.panynj.gov/press-room/press-item.cfm?headline_id=1641
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- 25 According to Department of Transportation data, all carriers flew a total of 163,027,075,000 ASMs out of EWR, JFK and LGA airports in 2017. We estimate the value of an additional 1% of the total New York City market to United (about \$200 million) as 1% of the market’s total 2017 ASMs multiplied by United’s 2017 consolidated PRASM of \$0.1235. Unlike the calculation in the previous end note, United’s consolidated PRASM is used instead of its mainline PRASM in this calculation because the total New York City market ASMs includes ASMs on regional carriers. This calculation assumes that United’s PRASM for its consolidated operations out of EWR is equal to its reported consolidated PRASM. We believe that this is a fair assumption because average airfares out of EWR as reported by the Bureau of Transportation Statistics in 2017 were higher than the national average fares out of all airports in the United States. These figures do not include ancillary revenue also earned from passengers. Multiplying the New York City market’s total-revenue-passenger-miles flown out of EWR, JFK and LGA by United’s reported yield-per-revenue-passenger-mile produces a similar result.
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- 35 PATH-EWR Extension Feasibility Study Update, Stated Preference Survey and Ridership Analysis Report, The Louis Berger Group, Inc., http://corpinfo.panynj.gov/files/uploads/documents/freedom-of-information/foi-fulfilled-requests/17749-O_ocInryc.pdf, Appendix B-1, page 7.
- 36 Committee Meeting of the Senate Legislative Oversight Committee, January 17, 2017, <http://www.njleg.state.nj.us/legislativepub/pubhear/slo01172017.pdf>, page 66.

- 37 The New Jersey Treasury Department reported that in 2016, \$1,805,833.44 was collected from the Petroleum Products Gross Receipt Tax on aviation fuel.
- 38 Airlines report their jet fuel consumption to the U.S. Department of Transportation. In 2016, United Airlines reported consumption of 1,515,561,538 gallons of jet fuel for domestic flights. United also reported to the DOT that in 2016, 10.9% of United Airlines total domestic available-seat-miles (ASMs) originated in New Jersey. We assume that the share of United's domestic ASMs flown out of New Jersey is equal to the share of United's domestic jet fuel consumed on flights out of New Jersey. We therefore estimate that United consumes about 165 million gallons of jet fuel on domestic flights leaving from New Jersey (10.9% of 1,515,561,538 billion gallons). If all 165 million gallons were taxed at \$0.04, the total tax would equal about \$6.6 million. Meanwhile, in 2016, the State collected \$1.8 million in jet fuel taxes from all airlines (see endnote 38). According to DOT data, United's share of all domestic available-seat-miles flown out of New Jersey was 60.2% in 2016. We assume that United paid 60.2% of the total tax revenue, or \$1,087,112. The difference between the amount that New Jersey would have collected if United paid a \$0.04 tax on 165 million gallons of jet fuel (about \$6.6 million) and the amount that we estimate that United actual paid (\$1,087,112) is \$5.51 million.
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- 40 New Jersey Transportation Trust Fund Authority, Appropriation Revenues, <http://www.state.nj.us/ttfa/financing/apprevenues.shtml#petroleum> : "The existing Motor Fuel Tax is 10.5 cents-per-gallon and the existing PPGRT imposed on gasoline, blended fuel that contains gasoline, liquefied petroleum gas and aviation fuel is 4 cents-per-gallon... Also exempt from tax are receipts from sales of petroleum products used by marine vessels engaged in interstate or foreign commerce; receipts from sales of aviation fuels used by airplanes in interstate or foreign commerce other than burnout portion."
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