BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, DC

In the matter of

2016 U.S.-Cuba Frequency Allocation Proceeding Docket No. OST-2016-0021

CONSOLIDATED REPLY OF SILVER AIRWAYS CORP.

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CONSORTIUM REPLY OF SILVER AIRWAYS CORP.


Silver Airways’ well-reasoned and rational service proposal, in contrast to several competing applications based on excessive, unrealistic demand expectations with capacity levels that could never be sustained, maximizes public benefits under the Memorandum of Understanding (“MOU”) by efficiently and creatively utilizing valuable frequencies for service between multiple points in Florida, where the greatest likely demand for Cuba travel will originate, and all 10 international airports in Cuba. For the reasons set forth herein, the Department should grant in full Silver Airways’ request for frequencies and, to the extent

1 Although Dynamic International Airways, LLC (“Dynamic”) and MN Airlines, LLC d/b/a Sun Country Airlines (“Sun Country”) filed applications for frequency allocations and exemption authority in this docket, neither carrier filed an answer, indicating that neither carrier has any serious interest in pursuing its request for frequencies. Furthermore, and as Silver Airways previously noted, see Consolidated Answer of Silver Airways at 25, Dynamic’s application should be denied solely on the basis of that carrier’s lack of currently effective certificate authority to provide scheduled foreign air transportation.
necessary, an exemption pursuant to 49 U.S.C. § 40109 to provide scheduled foreign air transportation between the United States and Cuba.

I. INTRODUCTION

The U.S.-Cuba frequency allocation proceeding is one of the most highly contested route cases in recent memory. U.S. carrier proposals to serve José Martí International Airport (“HAV”) on a scheduled basis far exceed the pool of available frequencies. This abundance of applications provides the Department an important opportunity to truly consider scheduled air service to Cuba from multiple perspectives and select proposals that provide the greatest public benefits. With that in mind, Silver Airways urges the Department to use three guiding principles in allocating frequencies.

First, select carrier proposals for which the reasonably expected underlying demand will support sustainable service. Routes and proposals that rely on insufficient likely demand, especially daily flights from non-Florida gateways with relatively small populations of Cuban Americans, should be avoided. Allocating frequencies beyond the reasonable level of expected demand will, ultimately, lead to economically unsustainable routes, reductions in service levels, and, potentially, entirely avoidable carrier re-selection proceedings.

Second, allocate the large majority of HAV frequencies for service to and from Florida, where the demand is greatest, but avoid concentrating the majority of such frequencies among a small handful of carriers to support very high numbers of daily flights in single city-pair markets. This level of concentration will lessen competition in the U.S.-Cuba air services market, to the long-term detriment of the traveling public, including future travelers in the event of a relaxation.

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2 Florida is home to almost 70% of the total Cuban American population, which nearly all applicants in this proceeding agree constitutes the single largest source of demand for travel to Cuba. See, e.g., Application of Silver Airways at 9; Application of American at 7; Application of Southwest at 3; Application of Frontier at 6.
or lifting of U.S. travel restrictions or the embargo. Such an outcome will allow large incumbents in the U.S.-Cuba scheduled air services market to dominate that market for years to come.

Third, subject to the first two principles outlined above, distribute available HAV frequencies widely among only those carriers with effective scheduled authority that are ready, willing and able to promptly provide no less than daily HAV passenger service. That distribution will maximize choice, provide low fare travel options, and promote the public interest by ensuring the market has healthy and vigorous competition in which carriers must compete via their particular service offerings.

Under these guiding principles, the Department should clearly allocate HAV frequencies for Silver Airways’ U.S.-Cuba service proposal. The other carrier proposals, when considered in the aggregate, would provide exponentially more seats than demand could ever support now or in the foreseeable future. Silver Airways has put forward a credible and innovative service proposal based on realistic traffic forecasts and demand projections to propose a long-term, sustainable pattern of service to Cuba, especially HAV.

In contrast to Silver Airways, several other applicants, including Alaska, Frontier and American, did not provide any route-specific traffic forecasts and underlying forecast methodologies in their applications or answers. This is particularly troubling as Alaska\(^3\) proposes twice daily non-stop HAV service at Los Angeles, a gateway where the total Cuban American population is not even 1/20\(^{\text{th}}\) the size of South Florida’s Cuban American population.

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\(^3\) Alaska’s application states, “Passenger demand between Los Angeles and Cuba is estimated at 159,000 local passengers and up to 190,000 when connecting passengers are included.” Application of Alaska at 2 (emphasis added). Alaska does not state how much of this forecast is attributable to its Havana, much less the methodology it used to arrive at these “estimated” numbers.
See Exhibit 3M-A-5. Similarly, Frontier proposes non-stop daily HAV service at Denver, which has the second smallest Cuban American population of any proposed non-stop U.S. gateway.

See Exhibit 3M-A-7. Without city-pair specific traffic forecasts, the viability of these routes is left open for debate, and it is clear based solely on local Cuban American population levels that the proposed service levels are not viable in the case of both Alaska and Frontier. Additionally, American seeks more than 60% of total available HAV frequencies, including an astonishing 10 frequencies alone for a Miami-HAV “shuttle” route, yet has failed to provide sufficiently detailed city-pair specific traffic forecasts to justify this pattern of service. Without such data, American’s proposal is at best unrealistic about demand and, at worst, an attempt to corner and control the market.4

Meanwhile, other carriers have presented wildly unrealistic demand projections modeled on historic traffic levels in markets that have little or no bearing on U.S.-Cuba scheduled service. In particular this is true of Southwest, which estimated the size of the market based on Canada-Cuba, U.S.-Puerto Rico and U.S.-Dominican Republic traffic levels, and Spirit, which also relied on U.S.-Dominican Republic traffic levels. Such projections, bolstered by low fare, super stimulated demand profiles, lack any credibility given ongoing U.S. tourism prohibitions applicable to Cuba.

Also, and unlike other applicants, Silver Airways has proposed flights that leverage frequencies to serve, on a non-stop or one-stop basis, the greatest number of communities that are likely to use scheduled service to HAV. This is in contrast to other applicants’ focus on very

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4 The need for American to submit city-pair specific traffic forecasts is underscored by the large gap between its historic charter capacity and proposed scheduled capacity for the MIA-HAV route. For the year ending August 31, 2015, T-100 segment data indicates American and Envoy Air d/b/a American Eagle operated a combined total of 139,936 seats on the route, yet American proposes 10 daily MIA-HAV roundtrip scheduled flights amounting to 1,680,000 annual seats, representing a 1,200% increase in its historic charter capacity for MIA-HAV.
high frequency, and ultimately unsustainable, patterns of service at Miami International Airport (“MIA”) or Fort Lauderdale/Hollywood International Airport (“FLL”) with large aircraft. By looking beyond those two airports Silver Airways will ensure sustainable access to communities that otherwise would lack convenient Cuba service. Indeed, under Silver Airways’ proposed utilization of its first and second ranked frequencies, the airline is able to provide non-stop and one-stop service to no fewer than seven different communities. This includes non-stop HAV flights to and from Palm Beach, which, when South Florida is measured at the county level, has the 5th largest Cuban American population, larger than any Census metropolitan/micropolitan statistical area (“MSA”) outside Florida other than New York (see Exhibit 3M-A-6) and Fort Myers/Southwest Florida International Airport (“RSW”), serving a region that, on a Census combined statistical area (“CSA”) basis, also is larger than any MSA outside Florida other than New York (see Exhibit 3M-A-5).5

Silver Airways is proposing routes that are sustainable without question. Silver Airways is committed to each of the Florida communities it proposes to serve, even if it does not receive its full requested award of five HAV frequencies or its top ranked preferences. Moreover, although Silver Airways views HAV service as critical to the viability of the other nine Cuban markets it has applied to serve, the airline is not requesting that it receive its highest ranked frequencies in order to serve lower ranked markets, as is the case with Southwest, or demanding multiple round-trip flights in a particular city-pair market as a condition to launching services, as is the case with both Southwest and Delta.

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5 As RSW is the only airport within the Cape Coral-Fort Myers-Naples, FL CSA (encompassing Lee and Collier Counties) from which scheduled passenger services are operated, Silver Airways believes it is appropriate to compare the Cuban America CSA population against MSAs.
Finally, in addition to an award of frequencies to Silver Airways being aligned with the principles stated above, an allocation also would promote a diversity of service and operators, as Silver Airways is the only regional carrier participating in this proceeding.\(^6\) In that capacity, Silver Airways operates more routes in Florida than any other airline and understands the Florida market better than any other airline. This experience, which sets Silver Airways apart from other applicants, is critical given that the vast majority of demand for travel to Cuba will originate in Florida. Silver Airways also has extensive experience providing scheduled international air services, currently operating more routes between the U.S. and the Bahamas than any other airline, including niche markets served by no other scheduled U.S. carrier. Additionally, Silver Airways is the only applicant proposing to serve all 10 Cuban international airports—a service pattern it is able to maintain given the size of the aircraft it operates as a regional carrier. Indeed, and as JetBlue said in its answer:

JetBlue applauds Silver for its innovative service proposal, under which a strong cross section of Cuban points would receive new scheduled service. Silver has developed detailed traffic forecasts, has a legitimate network of destinations and can offer travelers a variety of connecting destinations. Furthermore, JetBlue knows from firsthand experience as a codeshare partner of Silver that its management understands how to provide excellent service in the Caribbean in a cooperative spirit.\(^7\)

A distribution of HAV frequencies to Silver Airways will ensure access to the market by a small, independent and low fare carrier, and allow Silver to have a positive impact on competition by providing more travel choices and convenience to persons most likely to visit Cuba. This includes both Florida communities with large Cuban American populations – as well

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\(^6\) Although Silver Airways is the only regional carrier participating in this proceeding, regional airlines play a critical role in meeting the needs of the traveling public, enplaning more than 158 million passengers each year and performing more than 4.2 million departures annually—about 88% the number of departures performed by the U.S. major airlines. Regional Airline Association Annual Report (2015) at 17, available at \url{http://www.raa.org/?page=Publications} (last visited Mar. 20, 2016).

\(^7\) Consolidated Answer of JetBlue at 45.
as other U.S. travelers benefiting from the connectivity provided over Florida points due to Silver Airways’ vast interline and code-sharing relationships.

**II. THE DEPARTMENT SHOULD ALLOCATE FREQUENCIES BASED ON ACTUAL, NOT IMAGINARY, DEMAND, THEREBY ENSURING CONTINUITY OF SERVICE**

As noted by JetBlue in this proceeding,8 the selection of unrealistic service proposals in limited entry markets can have adverse consequences for the traveling public when carriers abandon markets previously identified as their first preference during contested route proceedings, leaving the public with fewer options than the Department intended. Given other applicants’ very high proposed capacity levels, ongoing U.S. travel restrictions and severely limited local Cuba infrastructure, in particular available hotel capacity,9 there is an even greater need to avoid selecting proposals for which likely demand does not justify the award. Great care must be taken in this case to distribute frequencies for markets with the greatest likelihood of success.

The Department, thus, must primarily allocate frequencies to markets where demand for Cuba travel service is most robust, while seeking to avoid an undesirable concentration of such frequencies among a select few carriers and routes. The best indicators for demand are communities with large Cuban American populations, which are home to the single largest group

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8 Consolidated Answer of JetBlue at 8.
9 In the event the Department were to award all HAV frequencies to only large aircraft operators, Silver Airways estimates that Cuba would require an additional 18,000 hotel rooms merely to keep pace with the overly optimistic demand forecasts that a number of carrier applicants have presented, up from a current inventory of approximately 63,000 rooms currently accommodating more than three million annual foreign visitors. Consolidated Answer of Silver Airways at 14. Although Starwood Hotel & Resorts recently announced plans to operate in Cuba, that announcement was limited to the rebranding of three hotel properties and conversion of less than 300 existing rooms in total, rather than the construction of new hotel capacity. See Starwood Investor Relations News, “Starwood Hotels and Resorts Announces Groundbreaking Expansion to Cuba” (Mar. 19, 2016), accessible at http://www.starwoodhotels.com/corporate/about/investor/news.html (last visited Mar. 21, 2016).
of likely travelers. This includes travelers making familial visits, as well as other individuals who, because of strong local community cultural and educational links to Cuba, are highly likely to use newly authorized scheduled service.\textsuperscript{10} Therefore, as the majority of the U.S. Cuban American population is located in Florida, most frequencies should be allocated to Florida gateways. Allocating frequencies to markets that lack strong local demand to support the proposed capacity will squander valuable and scarce resources and lead to service curtailments or suspensions. This is particularly so in the case of long, thin untested routes.

For example, Alaska has requested frequencies to support two daily non-stop HAV flights from Los Angeles, which has a Cuban American population about 1/20\textsuperscript{th} the size of that in South Florida. See Exhibit 3M-A-5. For Alaska to achieve a load factor of 70\% on this route, either (i) every Cuban American in the Los Angeles area would have to make two roundtrips on Alaska’s proposed non-stop Los Angeles-HAV each year (an absurd scenario), or (ii) the interest in Alaska’s service would have to be great enough to otherwise generate traffic equivalent to more than 92,000 passengers per year each way, which is highly unlikely given that Alaska offers few connecting options at Los Angeles International Airport ("LAX"), none of which has any large Cuban American populations. The economic risk of awarding frequencies to support such service and Alaska cancelling the route due to it being unprofitable is compounded by the fact that long flights using large narrow body equipment are extremely expensive to operate, especially where fares to support the service must be set very high and demand (both local and connecting traffic) is minimal.

The Department must allocate routes based on realistic and credible traffic forecasts. Failure to do so will, ultimately, lead to service reductions or cessations and undermine

\textsuperscript{10} Application of Silver Airways at 10.
competition and the public interest. In deciding the credibility of carrier proposals, the unique nature of the Cuba market, including travel restrictions and local infrastructure challenges that are likely to continue in the near future, must be taken into account. Models based on Caribbean markets with high levels of unrestricted tourism are poor predictors of success. Moreover, frequency requests based on low fare super-stimulated demand projections, such as those put forward by Southwest and Spirit, must be viewed with even more skepticism.

III. SILVER AIRWAYS’ HAV SERVICE WILL ADDRESS LARGE UNMET TRAVEL NEEDS, WHICH COMPETING APPLICANTS CONVENIENTLY OVERLOOK

Silver Airways proposed HAV services, including from Palm Beach International Airport (“PBI”), Southwest Florida International Airport (“RSW”), Jacksonville International Airport (“JAX”) and Key West International Airport (“EYW”), which it uniquely proposes to serve, are amply supported by demand.11 None of the competing applicants has argued there is insufficient demand for Cuba travel from Silver Airways’ proposed gateways to support its proposed HAV flights. Nor has any competing applicant argued that the traffic forecasts or demand projections prepared by Silver Airways are less than reasonable.12

In fact, American submitted an exhibit in this proceeding that quite effectively demonstrates the likely demand for non-stop HAV service from the Palm Beach and Fort Myers areas, neither of which American proposes to serve. That exhibit, a copy of which is enclosed

11 Sun Country originally applied for frequencies for non-stop RSW-HAV, but seems to have lost interest in serving that route given that Sun Country has not filed an answer in this proceeding. Silver Airways can only assume that Sun Country has decided to abandon its proposal, perhaps out of recognition that its proposal would not be selected over Silver Airways’ service pattern.

12 Indeed, they cannot credibly mount such a challenge without (i) calling into question their own forecasts and demand projections, which, in contrast to Silver’s, are overly optimistic, or (ii) drawing attention to the fact that they utterly failed to include such information in their own applications.
with this Consolidated Reply as Exhibit 3M-R-2, shows (according to American) that PBI and RSW each have a need for HAV frequencies that exceed every other Florida gateway proposed in this proceeding other than MIA, when the local Cuban American population is calculated relative to proposed frequencies. As American explains in the exhibit, “The higher the number [i.e., the ratio of Cuban Americans to each proposed frequency], the more potential demand based on Cuban American population, so a higher number means that relevant to other requested gateways, there would be a shortage of frequencies at that gateway relative to other gateways.”

Without the service which Silver Airways is proposing at PBI and RSW, which have a combined Cuban American population of nearly 95,000 (see Exhibit 3M-A-6), many of the most likely travelers to Cuba would be forced to endure excessively long drive times to either FLL or MIA or endure extremely circuitous routings over other U.S. gateways that may be allocated HAV frequencies. As previously submitted by Silver Airways, routings over Charlotte or Atlanta would involve total elapsed travel times of between 2.5 and 3 times more than Silver Airways’ proposed non-stop service. See Exhibit 3M-A-17.

Indeed, American and Frontier have argued that FLL – 30 miles from MIA – is not a reasonable substitute for MIA based on drive-time and distance. It then stands to reason that (i) FLL is not a reasonable substitute for PBI, which is 60 miles from FLL and 90 miles from MIA – all via very congested roadways, and (ii) FLL, MIA and Tampa International Airport (“TPA”)

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13 As set forth on Exhibit 3M-A-6, the total Cuban American population of Palm Beach County and the Cape Coral-Fort Myers-Naples, FL combined statistical area (“CSA”) is estimated at 94,903. As Silver Airways proposes to efficiently serve both PBI and RSW with a single frequency, and provide daily service at these communities with two frequencies, it is entirely appropriate to compare the combined Cuban American populations of these areas (i.e., the Cuban American populations of Palm Beach County and the Cape Coral-Fort Myers-Naples, FL CSA) with those of single U.S. gateways that other applicants propose to serve.

14 Consolidated Answer of American at 16 and Exhibits AA-R-311 and 312; Answer of Frontier at 11. Delta also argues that “Fort Lauderdale and Miami are not perfect substitutes.” Application of Delta at 5.
are not reasonable substitutes for RSW, which is over 120 miles from each of those airports, four
times the driving distance between FLL and MIA.

American’s principal argument in support of its very large number of requested HAV
frequencies is based primarily on the number of U.S.-Cuba charter flights conducted in 2015.
American even acknowledges in its answer that Key West, from which only Silver Airways
proposes to operate non-stop HAV service, generated no fewer than 115 annual charter Cuba
flights in 2015\textsuperscript{15} with non-jet aircraft,\textsuperscript{16} of which 86 were charters to HAV. On a per-flight basis,
this is the highest level of annual U.S.-Cuba and U.S.-HAV charters from any U.S. gateway
other than Miami and Tampa. These levels underscore the reasonableness of Silver Airways
proposed five times weekly service at EYW. Furthermore, American’s measurement of the local
Cuban American population relative to the number of requested Florida frequencies by proposed
gateway underscores that non-stop flights between HAV and each of PBI and RSW are more
likely to generate traffic than many other non-Florida gateways proposed by applicants.

American’s reliance on the number of MIA charter departures and T-100 data to justify a
full allocation of its 10 requested MIA frequencies is seriously flawed however. T-100 data for
MIA charter traffic does not reflect the true underlying passenger O&D journey for passengers
who do not begin and end their journey at MIA. By American’s admission, more than 83% of
U.S.-HAV charter flights depart MIA\textsuperscript{17} despite Miami-Dade County having about 48% of the
total Cuban American population.\textsuperscript{18} This suggests that MIA is already overserved relative to its

\textsuperscript{15} Application of American at 17; Exhibits AA-701 and AA-704.
\textsuperscript{16} Consolidated Answer of American at 20.
\textsuperscript{17} Exhibit AA-705
\textsuperscript{18} Exhibit AA-613.
local population due to passengers from the rest of the state and country being forced to fly through MIA.

In fact, under the current situation, residents from the Palm Beach and Fort Myers areas are being forced to make long, distant and inconvenient drives to MIA for air service to Cuba. The introduction of scheduled U.S.-Cuba air service must end this and, despite American’s attempt to over-claim MIA demand and continue to funnel most passengers via MIA, residents of the Palm Beach and Fort Myers areas, which includes nearly 5% of the total Cuban American population, should be provided service via the routes Silver Airways has proposed. Moreover, Silver Airways should be provided both its first and third HAV frequency preferences, to ensure PBI and RSW travelers receive daily non-stop service.

Fundamentally, American’s proposed MIA-HAV capacity, notwithstanding the admittedly large Cuban American population in Miami, is far in excess of what South Florida local demand and connecting MIA traffic can reasonably support. If anything, American’s service proposal, including its daily non-stop Charlotte service, which American prioritizes a distant 8th among all requested frequencies19 and where there is likely little local demand and for which most connecting O&D traffic can be accommodated over MIA, entails one of the most inefficient proposed uses of valuable frequencies by any applicant. Furthermore, if American wished to truly maximize public benefits, it could have proposed to provide its 1,600 seats per day each way between MIA and HAV with 218-seat Boeing B767-300 aircraft, which are often scheduled on similar stage-length routes such as Miami-Orlando and would entail an application

19 Exhibit AA-102.
for approximately seven daily MIA-HAV frequencies (rather than 10, which is simply stunning). 20

Alaska’s contention that Silver Airways’ proposed HAV service “would be a waste of any of the very limited number of available scheduled service frequencies” 21 is ironic, given that Alaska requests two frequencies for indefensible double daily service with large 737-900ER aircraft on a long, thin route from LAX. The very limited local demand for Cuba travel from Los Angeles is demonstrated by current Cuba charter operations, with the market supporting only a single weekly flight 22 that is reported to have achieved less than a 50% annual load factor. 23 As noted above, the local Cuban American population of Los Angeles is a tiny fraction of that in South Florida, and Alaska offers few connecting options behind and beyond LAX. In fact, Alaska submitted no detailed traffic forecasts and methodology in support of its application, perhaps out of recognition that the very low traffic levels would only draw attention to its proposed extremely inefficient use of frequencies. 24

20 Exhibit AA-1044. By way of further illustration, the deployment of American’s 310-seat Boeing B777-300 to provide 1,600 seats per day each way would entail approximately five daily frequencies. These comparisons are intended to illustrate American’s proposed utilization of its requested frequencies and should not be read to suggest Silver Airways in any way supports an allocation of five—much less seven—daily HAV frequencies to American.

21 Consolidated Answer of Alaska at 17.


23 Consolidated Answer of American at Exhibit AA-R-1002.

24 Curiously, Alaska states in its answer that Silver Airways “lacks scheduled certificate authority,” but neglects to explain the relevance of that statement. Consolidated Answer of Alaska at n. 16. As Alaska well knows, Silver Airways holds commuter air carrier authorization and provides foreign air transportation, including routes between the United States and the Bahamas on which Alaska traffic is carried under interlining arrangements. To the extent Alaska’s statement was intended to call into question Silver Airways’ eligibility to compete for frequency allocations, there are no restrictions under Silver Airways’ commuter air carrier authorization, Part 298, or the MOU that would prevent Silver Airways from operating scheduled U.S.-Cuba services if awarded route authority from the Department. No other applicant in this highly contested proceeding has questioned Silver Airways’ eligibility to engage in foreign air transportation between the U.S. and Cuba, and Silver Airways will assume that Alaska’s statement was not intended to do so.
Southwest’s critique of Silver Airways’ service proposal is highly questionable, given that it has prepared one of the most exaggerated and unsubstantiated traffic forecasts in this proceeding. Based on that forecast, Southwest makes the bald assertion that for every HAV frequency allocated to Silver Airways, 94,000 annual passengers would be “den[ied]” the “ability to travel in the U.S. – Havana market.” This comparison is illusory, involving a large number of phantom passengers based on Southwest’s own traffic forecast that estimated the market size based on Canada, Puerto Rico and Dominican Republic traffic and improperly assumed that Southwest can stimulate demand in a travel restricted market at very high levels. If anything, Silver Airways’ proposed service would prevent Southwest from operating flights with a large number of empty seats—for which Southwest should be thankful once it stops and considers the unreasonableness of its traffic forecast.

Moreover, the 94,000 passengers which Southwest claims would be cut off from service is almost exactly the size of the combined (and actual, not mythical) Cuban American population in the Palm Beach and Fort Myers areas, for which Silver Airways is the only carrier actively proposing non-stop Cuba service. Indeed, both communities would receive non-stop service through a single requested Silver Airways HAV frequency and daily non-stop service through the allocation of two such requested HAV frequencies.

IV. COMPETING APPLICANTS WRONGLY EQUATE AIRCRAFT SIZE WITH PUBLIC BENEFITS

Notwithstanding the demonstrable public benefits of Silver Airways’ proposed service, applicants attempt to distract the Department from the merits of Silver Airways’ proposal by focusing solely on the size of the aircraft which Silver Airways would operate. However, the

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25 Consolidated Answer of Southwest at 50.
record demonstrates that most of these carriers have put forward a number of highly dubious, and far less compelling, service proposals.

This primary fixation by competing applicants on the size of Silver Airways’ aircraft to oppose its application wrongly assumes that the only way to maximize public benefits is through the selection of large aircraft proposals for scheduled service to HAV. The Department must not be swayed by arguments that equate maximum public benefits with the most seats per flight. Although such arguments might be appropriate where only two or three frequencies are available for allocation, they have far less applicability in a proceeding dealing with a distribution of 20 available frequencies that have the potential to grossly oversupply the market relative to realistic demand levels.

American, in attacking Silver Airways’ aircraft size, goes so far as to argue that Silver Airways should not be awarded any Cuba frequencies (HAV or otherwise) due to Silver Airways flying aircraft that are “far too small to serve anticipated U.S.-Cuba traffic.”26 However, it is American’s proposed MIA-HAV capacity that significantly exceeds the “anticipated” traffic, in an obvious attempt to corner the market and undermine competition. Additionally, American’s argument that Silver Airways should not be awarded frequencies for non-HAV routes is mystifying given that (i) total requested frequencies for these points do not exceed the available allocation pool for such points, and (ii) American does not even propose to serve four Cuban points that Silver Airways would serve. Incredibly, such an assertion implies a view that only American should receive Cuba frequencies, even if that means there will be no service to a number of Cuba points. American would be better served by submitting detailed city-pair specific traffic forecasts to substantiate its own anticipated traffic before criticizing other

26 Consolidated Answer of American at 29.
carriers’ service proposals, especially when insisting that it, and it alone, is entitled to more than 60% of the available HAV frequencies.

The truth is that Silver Airways’ aircraft allows the airline to deliver the benefits which are the most relevant in this proceeding – maximizing non-stop and one-stop service options from multiple U.S. communities where the travel demand exists to support such service. Silver Airways’ aircraft size is actually the reason it can provide service to all 10 Cuban international airports, a service pattern no other applicant has proposed. If the Department selects only large aircraft operators for HAV frequency awards based on their highest ordered frequency preferences, MIA and FLL will be overserved and communities in Florida with Cuban American populations that are much larger than those in many other competing applicants’ proposed gateways will be cut off from the convenience of direct service to HAV.

Silver’s proposed routes at PBI and RSW are examples of the value the size of its plane. Palm Beach County, which no other airline applied to serve, has the 5th largest Cuban American population when South Florida is measured at the county level. See Exhibit 3M-A-6.27 Additionally, no applicant is committed to providing scheduled Cuba service at RSW—a gateway that Sun Country applied for but appears to have lost interest in serving, given that Sun Country did not file an answer in this proceeding.28 The Cape Coral-Fort Myers-Naples, FL CSA region is home to a Cuban American population larger than any other region outside

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27 As set forth on Exhibit 3M-A-6, the Palm Beach County’s Cuban American population is larger than that in other communities from which carriers are requesting frequencies for daily service, including Atlanta, Boston, Charlotte, Dallas, Denver, Los Angeles and Orlando. In a number of cases, carriers are proposing hundreds of daily seats in those markets.

28 Silver Airways can only assume that Sun Country has decided to abandon its application for RSW-HAV frequencies, perhaps out of recognition that its application would not be selected over Silver Airways’ superior service proposal.
Florida other than New York.29 In both cases, Silver Airways is able to – and interested in – flying these routes because of its airplane’s size and ability to service the population and their likely demand for routes to Cuba and HAV.

Delta, although acknowledging that “some unique points would be served by Silver,” nevertheless claims that “it cannot be in the public’s interest to allocate any scarce Havana frequencies to such a small-gauge operation.”30 However, it is Delta’s proposed deployment of approximately 320 seats per day each way to and from MIA (the minimum level of service which Delta is willing to operate) that would produce few public benefits. Delta’s arguments that an award of its requested MIA frequencies is critical for competition is dubious. The principal source of competition for American’s expected large MIA presence will come from FLL, where four carriers, all low fare competitors, have requested a combined 13 daily HAV frequencies. Additionally, Delta’s ability to maintain its projected traffic levels at MIA is questionable, given that it will be almost exclusively dependent upon local demand, with very few connecting options. Delta also has, in the past, had difficulty sustaining international service from its non-hub airports, as noted by other applicants.31

As to FedEx’s comments, Silver Airways initially took no position on FedEx’s application. Nevertheless, FedEx, an all-cargo carrier, notes in its answer that is sees “very little”32 benefit for the traveling public under Silver Airways’ proposal, which would serve all 10

29 The Fort Myers region, i.e., the Cape Coral-Fort Myers-Naples, FL CSA, which includes Lee and Collier Counties, has a larger Cuban American population that that in Atlanta, Boston, Charlotte, Dallas, Denver, and Orlando, and is roughly comparable in size to the Cuban American population in the Los Angeles area. See Exhibit 3M-A-5.

30 Answer of Delta at 15.

31 Consolidated Answer of JetBlue at 11-12; Consolidated Answer of American at 23-24.

32 Answer of FedEx at 7.
Cuban international airports versus FedEx’s less-than-daily cargo service. FedEx’s service proposal provides at best marginal public benefits to the shipping public. Indeed, as several other applicants have properly observed, there will be ample cargo capacity provided by a number of the large passenger combination carriers proposing HAV service which will easily accommodate the modest volume of authorized cargo than can be shipped in the U.S.-Cuba air services market.

Additionally, and in recognition of the fact that the U.S.-Cuba cargo market cannot support even less-than-daily service, FedEx has proposed to utilize its frequency for a flight that departs HAV and continues to Mérida, Mexico (“MID”), to take on local cargo before returning to the U.S. FedEx explains that this routing is necessary “to provide the proper revenue basis so that the flights can be economically viable.” If demand for U.S.-Cuba cargo capacity was truly as robust as FedEx claims, an intermediary stop at MID would obviously be unnecessary. The limited cargo demand, thus, is best accommodated through charter service which may be operated without limitation under the MOU. An allocation of a HAV frequency to support FedEx’s less-than-daily service would be a waste of a scarce and valuable resource.

Frontier, despite acknowledging that Silver Airways would serve more Cuban points than any other applicant, also urges the Department not to allocate a single HAV frequency to Silver Airways, believing that all HAV frequencies should go to large aircraft operators. This argument has no persuasiveness as it is the size of Silver Airways’ aircraft which would be able to serve all 10 Cuban points on an economically viable and sustainable basis. Indeed, Frontier directly undercuts its own argument against Silver Airways by also urging that “applicants that include

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33 Application of FedEx at 5.
non-HAV service [ ] be favored for HAV frequencies.”34 As the only applicant proposing service to all 10 Cuban points, Silver Airways strongly agrees with this point and believes it should be awarded its full complement of requested HAV frequencies.

Arguments that Silver Airways should not receive any HAV frequencies are especially suspect in the case of Frontier, which proposes daily non-stop service from Denver International Airport (“DEN”) and MIA. An award of a single frequency to support Frontier’s DEN-HAV flights would be ill-advised, as the Denver area has the smallest Cuban American population among all gateways being actively proposed by applicants35 (see Exhibit 3M-A-7) and connecting traffic will not be sufficient to offset the likely very low levels of local demand. Frequencies to support Frontier’s proposed MIA-HAV flights also are not justified given that Frontier has very limited connecting service at MIA (see Exhibit 3M-A-19) and Frontier’s proposed capacity will vastly outstrip demand if American is awarded even a fraction of its overwhelming requested frequencies. Additionally, Frontier has failed to provide detailed city-pair specific traffic forecasts and methodologies against which to assess the reasonableness of its proposal. While traffic forecasts are not required under Order 2016-2-12, the lack of such basic information strongly supports a denial of Frontier’s application outright.

Although Silver Airways is appreciative of JetBlue’s complimentary remarks regarding Silver Airways’ “innovative” proposal and “excellent service” in the Caribbean, JetBlue is simply wrong with respect to its argument that, due to the size of Silver Airways’ aircraft,

34 Answer of Frontier at 6.
35 Sun Country initially proposed non-stop HAV service from Minneapolis, which has a local Cuban American population smaller than that of the Denver area (see Exhibit 3M-A-7) but did not file an answer in this proceeding. Assuming that Sun Country no longer has any interest in prosecuting its service proposal (a reasonable assumption), Denver now has the smallest Cuban American population of all non-stop U.S. gateways still under active consideration.
Silver’s HAV proposal does not put the frequencies to their maximum and most efficient use.36 Silver Airways’ service provides a viable alternative, for a broad cross section of travelers, to the multiple non-stop flights that JetBlue proposes to operate with large aircraft on the FLL-HAV route. As with other applicants, JetBlue has proposed a level of capacity that exceeds the likely level of demand from passengers authorized to travel to and from Cuba. There are ample frequencies to accommodate a number of carriers’ competing daily non-stop service proposals in the Florida-HAV market, and allocating most of the available frequencies to JetBlue, along with Southwest and American, would not be in the public interest.

Spirit argues that HAV allocations to Silver Airways would be “a serious misallocation of resources and seriously constrain capacity in South Florida where most Cuban Americans reside” due to Silver Airways’ aircraft size.37 Given the large number of carrier requests for daily HAV service from the region, even if Silver Airways were awarded all requested HAV frequencies, capacity from South Florida would not be constrained. More fundamentally, however, Spirit’s service proposal, as with Southwest’s, is based on excessive, unrealistic demand assumptions, which vastly overstates the public benefits of Spirit’s service. Spirit’s projected demand for overall U.S.-Cuba travel38 is based on an assumed average of 9,000 passengers per day each way, amounting to 3.3 million annual passengers each way, a stunning increase of more than 625% over T-100 charter traffic for the year ending August 31, 2015. Spirit’s demand analysis lacks credibility due to ongoing tourism travel restrictions in the market and severe infrastructure limitations in Cuba. In contrast, Silver Airways’ city-pair specific

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36 Consolidated Answer of JetBlue at 45.
37 Consolidated Answer and Objection of Spirit at 13.
38 Spirit did not provide a city-pair specific traffic forecast for its proposed FLL-HAV service.
forecasts are reasonable, balanced and thoughtful, and therefore support the size of the aircraft it proposes to operate. This is quite the opposite in the case of Spirit and, as discussed above, Southwest, each of which relies on low fare super-stimulation passenger forecasts, which are largely irrelevant when evaluating traffic expectations for scheduled Cuba service.

With respect to all carrier proposals, and as Silver Airways has emphasized in this proceeding, the Department must take the current U.S. travel restrictions into account and consider Cuban American population centers as the most likely predictor of whether particular service proposals are credible. Nevertheless, some carriers attempt to distract the Department from this necessary correlation. For example, Alaska suggests that using Cuban American population grouping to gauge interest in travel to Cuba is a poor guide, and purports to have research regarding interest level in travel to Cuba by non-Cuban Americans—however Alaska’s answer does not draw a single direct conclusion from that supposed research, to which the obvious question from everyone should be, “What research?”.

Even if restrictions on U.S. travel to Cuba under Office of Foreign Assets Control (“OFAC”) regulations are relaxed, they cannot be eliminated without congressional action—that is not likely in the near-term. And, even were the travel restrictions eliminated, the development of Cuba infrastructure necessary to support unrestricted travel—whether for

39 Application of Silver Airways at 6; Consolidated Answer of Silver Airways at 13.

40 Consolidated Answer of Alaska at 6.

41 On March 15, 2016, one day after answers in this proceeding were due, OFAC announced an amendment to the Cuban Assets Control Regulations, removing a restriction under the people-to-people educational exchange general license that previously required the exchange to occur under the auspices of a sponsoring organization. Notwithstanding this amendment, individuals traveling for such purposes still must (i) be engaged in a full-time schedule of educational exchange activities intended to enhance contact with the Cuban people, support civil society in Cuba, or promote the Cuban people’s independence from Cuban authorities, and (ii) comply with OFAC’s document, recordkeeping, and reporting requirements. See 51 Fed. Reg. 13989 (Mar. 16, 2016).
tourism or other currently prohibited purposes—will take many years. Given these limitations, frequency awards based on wildly unrealistic carrier traffic forecasts and promises to dramatically grow the market through low fare super-stimulation must be avoided.  

In sum, no other applicant has put forward a compelling justification to deny Silver Airways’ requested HAV frequencies solely on the basis of its aircraft size. One other applicant, American, appears to have identified the needs of the Fort Myers and Palm Beach communities in its application. But American, along with all applicants other than Silver Airways, overlooked these needs, with most applicants favoring either multiple daily flights from MIA or FLL or daily flights on long/thin routes from U.S. gateways with much smaller Cuban American populations. Silver Airways’ service to Havana with “right sized” aircraft will meet the needs of the Fort Myers and Palm Beach communities and their 95,000 Cuban American residents, preventing them from enduring excessively long drives to distant airports or very circuitous connections for their Cuba travel needs. Silver Airways also will meet the needs of other communities throughout Florida by efficiently leveraging frequencies to maximize the number of non-stop and one-stop communities served throughout the state. Finally, Silver Airways’ service will benefit U.S. communities outside Florida given the airline’s extensive interline and code-share arrangements, as emphasized by Silver Airways throughout this proceeding.

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42 Silver Airways can readily up-gauge its aircraft in the U.S.-HAV market should demand warrant over the mid- or long-term. Under Silver Airways commuter air carrier authorization, the airline is authorized to operate aircraft originally designed to have a passenger capacity of up to 60 seats where the maximum payload capacity does not exceed 18,000 pounds. 14 C.F.R. § 298.2. Such aircraft include the Bombardier Dash 8-300, Bombardier CRJ-200 and Embraer ERJ 145.

43 As noted elsewhere in this application, Sun Country appears to no longer have any serious interest in pursuing its RSW-HAV service proposal.

44 Application of Silver Airways at 13; Consolidated Answer of Silver Airways at 12.
V. COMPETING APPLICANTS’ REMAINING REBUTTALS ARE UNPERSUASIVE

Southwest and Spirit also criticize Silver Airways’ HAV service proposal on grounds unrelated to aircraft size. Their arguments lack merit and are intended to distract the Department from the true public benefits of Silver Airways’ unique service proposal and Southwest’s and Spirit’s own questionable and overly optimistic traffic assumptions.

Southwest claims that Silver Airways has a “small network that is unable to provide Havana service to passengers in other parts of the United States.”\(^{45}\) This argument is baseless. Silver Airways, unlike Southwest, has a large number of interline and code-sharing arrangements in place that will facilitate, under the convenience of a single ticket, seamless travel to and from wide portions of the country, with such services available for booking through carrier Web sites as well as traditional brick-and-mortar and online travel agencies.

Spirit argues that an award to Silver Airways and JetBlue of requested HAV frequencies would somehow convert the entirety of the “Central/South Florida-HAV market” into a “duopoly between two codeshare partners.”\(^{46}\) Silver Airways has requested HAV frequencies to support a total of three daily non-stop South Florida-HAV flights, with one such flight at FLL and two such flights at PBI. Multiple carriers are expected to receive frequencies for South Florida-HAV service, and Spirit may indeed receive one such frequency.

In fact, the code-share arrangement between JetBlue and Silver Airways is limited to connecting passengers, with no ability for FLL originating passengers to purchase JetBlue code-share flights operated by Silver Airways unless combined with another JetBlue operated flight.

\(^{45}\) Consolidated Answer of Southwest at 51.

\(^{46}\) Consolidated Answer and Objection of Spirit at 13.
Additionally, and regardless of the frequency allocations made by the Department, the fact also remains that Silver Airways and JetBlue set their prices independently under their arms’ length code-sharing arrangement and compete against each other for traffic—including competing for valuable HAV frequencies in this proceeding. And, unlike many other regional carriers, Silver Airways provides, quite successfully, its own branded services and does not participate in capacity purchase agreements where a large, mainline carrier manages its inventory. Under the circumstances, the “duopoly” scenario suggested by Spirit is entirely imaginary and disingenuous.

VI. EVEN COMPETING APPLICANTS’ IMPLIED US-HAV CAPACITY LEVELS SUPPORT HAV FREQUENCY ALLOCATIONS TO SILVER AIRWAYS

Competing applicants for scheduled passenger authority have all argued that their proposed capacity levels best promote the public interest by providing a large number of seats to accommodate Cuba travelers at various U.S. gateways and U.S. points behind and beyond those gateways. Assuming _arguendo_ that this is the case, then, based on proposals put forward by carriers with effective scheduled authority, a carrier-specific implied capacity for the overall U.S.-HAV market may be derived by multiplying the number of available frequencies (20) by each applicant’s average number of seats per day each way.

The result yields carrier-specific implied capacity levels for the U.S.-HAV market that range from 2,760 seats per day each way (in the case of Frontier) to 3,763 seats per day each way (in the case of JetBlue). See Exhibit 3M-R-1. Distributing these seats among regions based on the size of their respective Cuban American populations, the best indicator of travel demand, indicates that Palm Beach County has an average implied seat capacity of 88 seats per day each way and the Fort Myers region has an average implied seat capacity of 77 seats per day each
way. As the Palm Beach and Fort Myers areas have a combined Cuban American population of approximately 95,000—far in excess of the Cuban American populations for all proposed U.S. gateways outside Florida with the single exception of New York – this is not surprising.

Thus, using competing applicants’ own proposed capacity levels as a benchmark, the Palm Beach and Fort Myers areas are more than deserving of non-stop HAV service, which only Silver Airways will provide under its first preference, with such service provided on a daily basis through the combination of Silver Airways’ first and third preferences. The alternative—requiring residents of Palm Beach and Fort Myers to endure long and inconvenient drives to FLL or MIA or circuitous routings over non-Florida hubs—would be contrary to the public interest, and effectively deprive communities with some of the largest Cuban American populations, i.e., communities most likely to travel to Cuba, of convenient and direct scheduled HAV air service.

VII. ACCOMMODATING A WIDE VARIETY OF CARRIER PROPOSALS WILL BEST MAXIMIZE THE PUBLIC BENEFITS OF SCHEDULED AIR SERVICES IN THE U.S.-CUBA MARKET

Silver Airways’ application fully justifies an allocation of five HAV frequencies on the basis of (i) reasonably anticipated U.S.-HAV traffic levels, which simply cannot support the large capacity proposals put forward by other applicants, and (ii) Silver Airways’ unique and efficient service proposal with aircraft appropriately sized for the likely demand, linking HAV to several Florida gateways that are home to large Cuban American populations and which

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47 If the Department determines that EYW and JAX, gateways that Silver Airways proposed under its second ranked frequency, are adequately served via other carriers and connections, the Department can award to Silver Airways its first and third preferred frequencies, which in combination provide non-stop daily service at each of PBI and RSW. See Section VII, infra.

48 Given the large Cuban American populations in the Palm Beach and Fort Myers areas and the size of Silver Airways’ aircraft, even if some such passengers choose to endure long drives or elapsed travel times, there still is a high likelihood that these services will be successful, as Silver Airways only needs to capture a portion of the market for the flights to be viable.
otherwise would be deprived of convenient direct HAV service. As noted in Silver Airways’ Answer, scheduled access to HAV is the cornerstone of the airline’s larger Cuba air services proposal—the only proposal entailing access to all 10 Cuban international airports. Silver Airways’ ability to maximize the public benefits under the MOU will be severely constrained if it is not awarded HAV frequencies.

Nevertheless, the Department faces a difficult choice in this proceeding as it seeks to weigh the public benefits of each applicant’s proposal, given the large number of HAV frequency requests. Silver Airways, along with a number of other applicants, including United, Frontier and Eastern, have urged the Department to proceed in a manner that maximizes the number of carriers competing in the U.S.-Cuba scheduled air services market. These applicants – one regional carrier, one low cost carrier, one charter carrier and one legacy carrier – represent a diverse cross section of the industry, and each has differing views on the methodology the Department should follow to obtain this result. However, they generally are in agreement that a wide distribution of HAV frequencies to a large number of carriers, rather than concentrating the majority of HAV frequencies in the hands of three carriers, will best serve the public interest by promoting healthy competition in the U.S.-HAV market in particular and U.S.-Cuba market more generally.

Silver Airways reads with particular interest the proposition put forward by United and described by United as Alternative B, under which the Department could potentially award to each applicant in this proceeding two of its requested HAV frequencies. Silver Airways urges the Department to carefully consider United’s general proposition, aspects of which Silver

49 Consolidated Answer of Silver Airways at 40-41; Consolidated Answer of United at 13-16; Answer of Frontier at 3-8; Answer of Eastern at 2.

50 Consolidated Answer of United at 14-15.
Airways believe have merit. Silver Airways submits, however, that the Department should consider applying the following criteria:

- Carriers that lack currently effective scheduled authority, carriers that propose to operate cargo-only scheduled service (a small market segment that can easily be accommodated given unlimited charter operations) or carriers that failed to file an answer in this proceeding (which is strongly suggestive of a lack of continuing interest) should be excluded from the allocation. This includes Dynamic, Eastern, FedEx and Sun Country.

- Each of the remaining carriers, which includes Alaska, American, Delta, Frontier, JetBlue, Silver Airways, Southwest, Spirit, and United, should be awarded its highest ranked daily frequency.

By Silver Airways’ calculation, the above approach would result in nine immediately allocated HAV frequencies on each day of the week. This would leave 11 remaining daily frequencies available for award, subject to the Department’s public interest selection criteria, on each day of the week. To further maximize the public benefits of scheduled air service, the Department could distribute these remaining HAV frequencies by assigning a preference to U.S.-HAV proposals where the carrier has indicated a willingness (as in the case of Silver Airways and JetBlue)\(^\text{51}\) or even desire (as in the case of United)\(^\text{52}\) to operate a portion of proposed service on a less-than-daily basis, thereby accommodating an even greater number of carrier services. Similarly, and consistent with the intended benefits of the MOU, the Department could (as Silver Airways has urged), assign a preference to U.S.-HAV proposals submitted by applicants that also propose serving a large number of non-HAV points.

Silver Airways submits that the approach outlined above, which is sensible, well-balanced and equitable, will ensure a vigorous level of competition and lay the foundations for a healthy and vibrant U.S.-HAV scheduled air services market, with consumer choice determining

\(^{51}\) Application of Silver Airways at 19; Application of JetBlue at 29.

\(^{52}\) Application of United at 2.
the likelihood of success in the market. In so doing, the Department would be sending a clear
signal that market forces are the best driver for air service development, and that consumers
benefit most when provided access to a variety of carrier services and product offerings. The
need to ensure a large number of U.S.-HAV market participants is essential given that the
choices made by the Department in this proceeding will shape the competitive landscape of the
U.S.-Cuba air services market for many years to come.

With respect to the remaining frequencies to be awarded after an initial allocation of one
frequency to each of the carriers identified above, the Department must ensure that the large
majority of the those 11 remaining frequencies are awarded to support scheduled service from
Florida, from which likely demand for Cuba travel will be greatest, that maximizes public
benefits. Silver Airways’ second and third priority frequencies, which each efficiently link
multiple Florida communities with strong likely demand, best meet that objective.

Although Silver Airways is the only applicant in this proceeding to put forward a
proposal involving scheduled service at all 10 Cuban international airports, this larger service
pattern is built around access to HAV, which will be the largest Cuban gateway for U.S. traffic.
Without that access, Silver Airways’ ability to sustain and grow scheduled air service to Cuban
points outside HAV will be placed at risk, diminishing the benefits which the MOU was intended
to provide by opening up all of Cuba to scheduled air service. Thus, in order to ensure for a wide
variety of service in the U.S.-Cuba market, including service to all Cuban points authorized
under the MOU, it is essential that the Department provide Silver Airways with frequencies to
compete in the U.S.-HAV market. Silver Airways’ request for HAV frequencies is fully justified
on the basis of the anticipated demand for such service and the appropriate size of the airline’s
aircraft to accommodate that demand.
Nevertheless, if the Department is unable to award to Silver Airways its first, second and third priority frequencies, Silver Airways would be amenable to an award of two daily frequencies to support the split RSW/PBI-HAV service pattern identified as Silver Airways’ first and third preferences in its application. Such an award would ensure daily non-stop service at PBI and RSW, from regions that have a combined Cuban American population of approximately 95,000. The need to ensure daily non-stop service in these communities is heightened given that (i) Sun Country no longer appears interested in pursuing its application for RSW-HAV scheduled air service, and (ii) the lack of such service would require many of the most likely travelers to Cuba to endure lengthy drives to either FLL or MIA, or travel via circuitous itineraries over non-Florida connecting points.

VIII. CONCLUSION

The time has come for the Department to move expeditiously, but deliberatively, to allocate frequencies in a manner that will maximize the public benefits of U.S.-Cuba scheduled air service, particularly in the U.S-HAV market. Silver Airways’ HAV service proposal should be favored over other applicants’ proposals given its reasonable traffic forecasts and service to all 10 Cuban international airports. With the overwhelming majority of Cuban Americans—the most likely consumers of scheduled air service while the travel restrictions and embargo remain in effect—residing in Florida, Silver Airways’ proposal will yield demonstrable public benefits, including non-stop and one-stop HAV service for communities with strong travel demand that otherwise would lack such service.

Awarding all the available HAV frequencies to only large aircraft operators will result in an unsustainable level of capacity that cannot realistically be supported given unique limitations in the U.S.-Cuba market, including travel restrictions and hotel supply shortages in Cuba—
limitations that will continue into the foreseeable future and cannot be overcome through fare
stimulation alone. The challenges created by excess airline capacity will disadvantage all
operators in the market, inevitably leading to service curtailments and potentially time-
consuming carrier re-selection proceedings, thus diminishing the very benefits which the U.S.
Government worked so hard to achieve under the MOU. Silver Airways’ proposal, which relies
on realistic traffic forecasts and appropriately sized aircraft to serve communities with large
Cuban American populations, including communities that have been overlooked by other
applicants, will deliver sustainable air service and ensure continuity in the market.

Most importantly, Silver Airways will bring much needed discipline and competition to
an industry that has an appalling track record when it comes to exercising capacity restraint.
With broad support from customers and residents throughout Florida, including over 3,200
individuals who have urged the Department to award to Silver Airways its requested
frequencies,53 as well as a long history of operating scheduled international air services and
extensive interline and code-sharing arrangements, Silver Airways is the regional airline which
packs an oversize punch and knows how to put the customer first.

For all the foregoing reasons, Silver Airways respectfully requests that the Department
grant its requested frequencies to provide non-stop scheduled services between Havana, Cuba
and each of Fort Lauderdale, Fort Myers, Jacksonville, Key West and West Palm Beach, as well
as between Fort Lauderdale and the nine (9) Cuban points identified in Silver Airways’

53 This is in addition to several letters supporting Silver Airways’ proposed Cuba services filed in Docket DOT-
OST-2016-0021 by various Florida organizations, including Discover the Palm Beaches, Chamber of Commerce of
the Palm Beaches, Florida Restaurant and Lodging Association—Palm Beach Chapter, Palm Beach International
Airport and the Lee County Port Authority/Southwest Florida International Airport.
Application and, to the extent necessary, an exemption, as well as such other or additional relief as the Department considers consistent with Silver Airways’ request and the public interest.

Respectfully submitted,

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Jason Bewley
Chief Financial Officer and
Executive Vice President of Commercial
Bryan P. Winters
Chief Legal Officer
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March 21, 2016
CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing Reply of Silver Airways Corp. to be served, this the 21st day of March 2016, upon each of the parties below by electronic mail.

<p>| Alaska Airlines                | <a href="mailto:jeremy.ross@alaskaair.com">jeremy.ross@alaskaair.com</a> |
| American Airlines              | <a href="mailto:howard.kass@aa.com">howard.kass@aa.com</a>         |
|                               | <a href="mailto:robert.wirick@aa.com">robert.wirick@aa.com</a>       |
|                               | <a href="mailto:john.b.williams@aa.com">john.b.williams@aa.com</a>     |
| Delta Air Lines                | <a href="mailto:chris.walker@delta.com">chris.walker@delta.com</a>     |
| Dynamic International          | <a href="mailto:jmaddux@ggh-airlaw.com">jmaddux@ggh-airlaw.com</a>     |
| Eastern Air Lines              | <a href="mailto:john@mietuslaw.com">john@mietuslaw.com</a>         |
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| JetBlue Airways                | <a href="mailto:robert.land@jetblue.com">robert.land@jetblue.com</a>    |
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|                               | <a href="mailto:bob.keneisley@wnco.com">bob.keneisley@wnco.com</a>     |
| Spirit Airlines                | <a href="mailto:jyoung@yklaw.com">jyoung@yklaw.com</a>           |
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| Palm Beach International Airport | <a href="mailto:msimmons@pbia.org">msimmons@pbia.org</a>         |
| City of Houston                | <a href="mailto:rbtrinder@zsrlaw.com">rbtrinder@zsrlaw.com</a>       |
|                               | <a href="mailto:jasilversmith@zsrlaw.com">jasilversmith@zsrlaw.com</a>   |
| Denver International Airport   | <a href="mailto:kim.day@flydenver.com">kim.day@flydenver.com</a>      |
| Hillsborough International Aviation Authority | <a href="mailto:mgoldman@sgbdc.com">mgoldman@sgbdc.com</a> |
| MWAA                           | <a href="mailto:robert.cohn@hoganlovells.com">robert.cohn@hoganlovells.com</a> |
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| U.S. Department of Transportation | <a href="mailto:susan.kurland@dot.gov">susan.kurland@dot.gov</a>     |
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Bryan P. Winters

[Signature]

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<td>American Acknowledges that PBI and RSW Have the Greatest Need for Frequencies Among Proposed Florida Gateways Outside Of MIA</td>
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### IMPLIED CAPACITY LEVELS FOR THE U.S.-HAV MARKET FULLY JUSTIFY ALLOCATIONS FOR PBI/RSW-HAV SERVICE

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<td>3,763</td>
<td>98</td>
<td>87</td>
</tr>
<tr>
<td>Southwest</td>
<td>9.00</td>
<td>1,575</td>
<td>3,500</td>
<td>91</td>
<td>81</td>
</tr>
<tr>
<td>Spirit</td>
<td>2.00</td>
<td>290</td>
<td>2,900</td>
<td>75</td>
<td>67</td>
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<tr>
<td>United</td>
<td>1.86</td>
<td>286</td>
<td>3,075</td>
<td>80</td>
<td>71</td>
</tr>
<tr>
<td><strong>Average</strong></td>
<td></td>
<td></td>
<td><strong>3,367</strong></td>
<td><strong>88</strong></td>
<td><strong>77</strong></td>
</tr>
</tbody>
</table>
AMERICAN ACKNOWLEDGES THAT PBI AND RSW HAVE THE GREATEST NEED FOR FREQUENCIES AMONG PROPOSED FLORIDA GATEWAYS OUTSIDE OF MIA

There is more Cuban-American population per requested HAV frequency at MIA than any other requested Florida gateway.

Cuban-American Population per Proposed Weekly Frequencies to Havana
(The Higher the Cuban-American Population per Proposed Weekly Frequencies at Each Gateway, the Greater the Need for More Frequencies)

- MIA: 8,152
- PBI: 3,074
- RSW: 2,778
- TPA: 2,338
- FLL: 920
- MCO: 805

Notes: The higher the number, the more potential demand based on Cuban-American population, so a higher number means that relevant to other requested gateways, there would be a shortage of frequencies at that gateway compared to other gateways. The lower number means an excess of frequencies compared to other requested gateways.
1. Daily frequencies per % of Cuban-American population were calculated based on total 20 daily frequencies to Havana for allocation multiplied by % of Cuban-American population in each proposed U.S. gateways. 2/ Excludes carriers without necessary scheduled foreign authority (Eastern and Dynamic) and requested cargo-only authority (FedEx). 3/ Cuban-American population: U.S. Census (2010) - County (FL gateways), MSA (Other gateways), MSA population distribution between EWR and JFK based on the allocation described in United’s application (Exhibit UA-112).

Source: Consolidated Answer of American; Exhibit AA-R-308