



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Issued by the Department of Transportation on June 19, 2020

**NOTICE OF ACTION TAKEN -- DOCKET DOT-OST-2020-0037**

On March 27, 2020, the President signed the Coronavirus Aid, Recovery, and Economic Security Act (the CARES Act) into law. Sections 4005 and 4114(b) of the CARES Act authorize the Secretary of the U.S. Department of Transportation (Secretary) to require, “to the extent reasonable and practicable,” an air carrier receiving financial assistance under the act to maintain scheduled air transportation service as the Secretary deems necessary to ensure services to any point served by that air carrier before March 1, 2020 (Service Obligation). By Order 2020-4-2, the U.S. Department of Transportation established the parameters for implementation of the authority granted to the Secretary under the CARES Act, including an exemption process as described at pages 9 – 10 and in Appendix D of that order. This serves as notice to the public of an action taken by a Department official with regard to exemption(s) from Order 2020-4-2. No additional confirming order will be issued in this matter.

Applicant: **Sun Country, Inc. d/b/a Sun Country Airlines (Sun Country)**<sup>1</sup>

Date Filed: **June 11, 2020**

**XX Service Level Exemption (a)**

Sun Country requests that the Department extend through September 30, 2020, its exemption from its Service Obligation under the provisions of Order 2020-4-2, in order to suspend service to the following covered points.<sup>2</sup>

- |                                       |  |
|---------------------------------------|--|
| (1) Boston, MA Metro Region (BOS/PVD) | (6) San Antonio, TX (SAT)              |
| (2) Chicago, IL (ORD)                 | (7) San Francisco, CA (SFO)            |
| (3) Honolulu, HI (HNL)                | (8) San Juan, PR (SJU)                 |
| (4) Nashville, TN (BNA)               | (9) Seattle, WA (SEA)                  |
| (5) Newark, NJ (EWR)                  | (10) Washington, DC Metro Region (BWI) |

Sun Country states that covered points 1-5, 7, and 9-10 are large hubs with a high percentage of connecting traffic, that some of these destinations remain subject to quarantine or social distancing orders, and that currently-booked load factors for the carrier’s service to these points are low, ranging from an average of 4 percent to 23 percent for the 3-month period ending September 2020. In addition, the carrier states that the Department has approved similar requests for exemption from small air carriers operating at large hub airports and thus, the grant of Sun Country’s request would be consistent with those the Department has granted to other covered carriers. For covered points 6 and 8, Sun Country asserts that currently-booked load factors during the remainder of the summer are extremely low, averaging 12 percent for San Antonio and 9 percent for San Juan. Sun Country asserts that each of the covered points above will continue to receive service from other carriers.

**XX Service Level Exemption (b)**

Sun Country requests an exemption from its Service Obligation under the provisions of Order 2020-4-2 in order to end after September 7, 2020, its seasonal service to the following covered points.

- |                          |                       |
|--------------------------|-----------------------|
| (11) Anchorage, AK (ANC) | (12) Austin, TX (AUS) |
|--------------------------|-----------------------|

<sup>1</sup> A copy of Sun Country’s application and the basis for its exemption request can be found at:  
<https://www.regulations.gov/document?D=DOT-OST-2020-0037-0213>.

<sup>2</sup> See Notice of Action Taken dated April 25, 2020.

Sun Country acknowledges that the Department previously granted the carrier a delayed start to its seasonal service obligation at Anchorage and Austin, through June 21, 2020. The carrier states that load factors for currently booked scheduled flights at these covered points after September 7 (Labor Day) are at unprecedented lows, and that ending service after September 7 would relieve the carrier from having to perform flights that would be near-empty and from incurring significant costs and burden.<sup>3</sup> Sun Country contends that these covered points 11 and 12 would still receive substantial service from major carriers after September 7.

**XX** Waiver from the 10-business day advance filing requirement for exemptions under Order 2020-4-2.

Responsive pleadings: None

## DISPOSITION

**XX** Granted, in part (see below)

**XX** Balance, denied (see below)

Action date: **June 19, 2020**

Requests for exemption granted and effective dates of authority granted:<sup>4</sup>

For covered points 1 to 5, 7, and 9-10: **June 22, 2020 through September 30, 2020 (Large hubs)**

For covered point 11: **September 8, 2020 through September 30, 2020 (Seasonal)**

Requests for exemption denied at: covered points 6, 8, and 12

This authority is subject to the terms, conditions, and limitations indicated:

**XX** Holder's certificate(s) of public convenience and necessity

**XX** Standard exemption conditions (attached)

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**Basis for approval:** *Service level exemption (a):* In its initial request in April, Sun Country sought to suspend service to a number of large hubs, including the below covered points 1-5, 7, and 9-10, through June 21, 2020. The Department, by Notice of Action Taken dated April 25, 2020, granted Sun Country's request, stating that "exempting a carrier from serving a large hub was reasonable and practicable because, at a minimum, (a) the requesting airline is a small carrier with 10% or less share of the domestic market and (b) the relief we are granting is limited in scope to service to large hubs that have abundant service by large operators using the airports in question to provide connecting services."

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|---------------------------------------|--|
| (1) Boston, MA Metro Region (BOS/PVD) | (5) Newark, NJ (EWR)                   |
| (2) Chicago, IL (ORD)                 | (7) San Francisco, CA (SFO)            |
| (3) Honolulu, HI (HNL)                | (9) Seattle, WA (SEA)                  |
| (4) Nashville, TN (BNA)               | (10) Washington, DC Metro Region (BWI) |

For the reasons we set forth justifying an exemption for the large hubs in its initial request in April, we likewise grant the carrier an exemption for the above-listed large hub points through September 30, 2020, consistent with the disposition of similar requests by other carriers.<sup>5</sup>

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<sup>3</sup> Although Sun Country states that it is obligated to operate one weekly flight at each of Anchorage and Alaska, it is actually required to operate *three* weekly flights at each of those covered points. See Order 2020-4-2, Appendix C.

<sup>4</sup> The effectiveness of this authority will terminate on the date(s) specified above. Should the air carrier wish to extend the date(s) of effectiveness, it must file another request for an exemption in accordance with the exemption process as described in Appendix D of Order 2020-4-2.

<sup>5</sup> See Notices of Action dated April 24, 2020 (Cape Air), and May 5, 2020 (JetBlue)

Regarding Sun Country's request to extend its exemption through September 30, 2020, to suspend service at covered points 6 (San Antonio) and 8 (San Juan), we deny the carrier's request. The carrier chose to use its summer 2019 baseline schedule and therefore is committed to serving all points from that baseline, including San Antonio and San Juan.<sup>6</sup>

***Service level exemption (b):*** With regard to Sun Country's request to suspend service to covered points 11 (Anchorage) and 12 (Austin), we note that, in previous actions, the Department granted carriers an exemption to align their start/stop dates for seasonal service with their regularly scheduled seasonal start/stop dates, recognizing the impracticality of beginning seasonal service normally slated to begin later in the summer, immediately, and extending their seasonal service baseline schedule beyond their seasonal termination dates.<sup>7</sup> In light of this, we reviewed the seasonal summer schedule during which Sun Country conducted its Anchorage and Austin service last year, and find that granting the carrier's request to suspend seasonal service at Anchorage after September 7 aligns with its regularly-scheduled seasonal end date. For Austin, however, we deny the carrier's request; last year, Sun Country continued to operate at Austin beyond September.

Finally, Sun Country requested a waiver of the 10-business day advance filing requirement for exemptions under Order 2020-4-2 so that its proposed schedule changes could be implemented promptly. In view of our action in this proceeding, that request is now moot and we dismiss it.

We may amend, modify, or revoke this exemption at any time without hearing at our discretion.

Persons entitled to petition the Department for reconsideration of the action set forth in this Notice under the Department's regulations, 14 CFR § 302.14, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for reconsideration will not alter such effectiveness.

Action taken by: David Short  
Deputy Assistant Secretary  
Aviation and International Affairs

*An electronic version of this document is available at: <http://www.regulations.gov>*

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<sup>6</sup> Sun Country is not obligated to serve one seasonal covered point, Philadelphia, Pennsylvania, in its summer 2019 baseline schedule. By Order 2020-6-2, the Department granted Sun Country an exemption to suspend service at this covered point, among others.

<sup>7</sup> See Notices of Action Taken dated April 17, 2020 (Delta) and May 12, 2020 (United).

**U.S. Carrier Exemption Conditions**

In the conduct of the operations authorized, the U.S. carrier applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with consumer protection and civil rights requirements, including, but not limited, to requirements contained in 14 CFR Parts 250, 254, 257, 259, 374, 382 and 399;
- (3) Comply with the requirements for reporting data to the Department, including, but not limited, to requirements contained in 14 CFR Parts 234, 241, and 244;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with all applicable requirements of the Federal Aviation Administration, the Transportation Security Administration, and with all applicable U.S. Government requirements concerning security, including, but not limited to, 49 CFR Part 1544. To ensure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its Principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served;
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.