



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

Issued by the Department of Transportation on July 29, 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: **Silver Airways LLC (Silver)**¹

XX Service Level Exemption

Date Filed: **July 17, 2020**

Silver requests that the Department extend through September 30, 2020, its current exemption that allows it to reduce, from three flights per week to one flight per week, its minimum service obligation under the provisions of Order 2020-4-2 at Miami and Orlando, Florida.

Silver states that the basis for the relief requested remains consistent with the Department’s reasoning when it previously granted Silver’s exemption for Miami and Orlando,² is “reasonable and practicable” as required by the CARES Act, and is consistent with similar relief provided to other smaller carriers.³ The carrier also claims that extending these exemptions is in the public interest due to the uncertainty in near-term demand resulting from the continued COVID-19 public health emergency, especially in Florida.

Responsive pleadings: None

DISPOSITION

XX Granted (see below)

Action date: **July 29, 2020**

Requests for exemption granted and effective dates of authority granted:⁴

For Miami and Orlando, Florida: **August 1, 2020 through September 30, 2020**

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

XX Holder’s certificate(s) of public convenience and necessity

¹ A copy of Silver’s application and the basis for its exemption request can be found at: <https://www.regulations.gov/document?D=DOT-OST-2020-0037-0247>.

² See Notice of Action Taken dated May 12, 2020.

³ See Notice of Action Taken dated June 19, 2020 (Sun Country).

⁴ 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.

XX Standard exemption conditions (attached)

Basis for approval: Previously, Silver sought to reduce its minimum service obligation at Miami and Orlando, Florida, to one weekly flight through July 31, 2020. By Notice of Action Taken dated May 12, 2020, the Department granted Silver's request, stating that exempting the carrier from serving these large hubs was reasonable and practicable because the requesting airline was a small carrier with 10% or less share of the domestic market and the relief sought was limited to large hubs that have abundant service by large operators using the airports to provide connecting services.

For the reasons set forth justifying the Department's prior Notice of Action Taken with respect to Miami and Orlando, we find that granting Silver's request to extend through September 30, 2020 its exemption for a service level reduction at Miami and Orlando is warranted and consistent with the disposition of similar requests by other carriers.⁵

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>

⁵ See Notices of Action dated April 24, 2020 (Cape Air), and May 5, 2020 (JetBlue).

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.