

**BEFORE THE  
U.S. DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

\_\_\_\_\_)  
Application of )  
 )  
**SOUTHWEST AIRLINES CO.** )  
 ) Docket DOT-OST-2016-0021  
for renewal of exemption authority pursuant )  
to 49 U.S.C. § 40109 (Fort Lauderdale and )  
Tampa, Florida - Havana, Cuba) )  
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**APPLICATION OF SOUTHWEST AIRLINES CO.  
FOR RENEWAL OF EXEMPTION AUTHORITY**

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May 11, 2020

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**APPLICATION OF SOUTHWEST AIRLINES CO.  
FOR RENEWAL OF EXEMPTION AUTHORITY**

Pursuant to 49 U.S.C. § 40109 and Subpart C of the Department’s Rules of Practice (14 C.F.R. Part 302), Southwest Airlines Co. (“Southwest”) hereby applies for renewal of its exemption authority to engage in scheduled foreign air transportation of persons, property, and mail between (1) Fort Lauderdale, Florida (FLL), and Havana, Cuba (HAV) and (2) Tampa, Florida (TPA), and HAV. Southwest’s current exemption authority is scheduled to expire on July 25, 2020.<sup>1</sup> To ensure there is no interruption of scheduled service, Southwest respectfully requests that this exemption be promptly renewed for a period of at least two (2) years consistent with the Department’s precedent.

In support of this application, Southwest states the following:

\_\_\_\_\_ )  
<sup>1</sup> To the extent necessary, Southwest relies on the automatic extension provisions of the Administrative Procedure Act, 5 U.S.C. § 558(c), as implemented by 14 C.F.R. Part 377, to continue its operations subject to its current authority in effect beyond the expiration date, pending DOT action on this application. Southwest’s renewal application is timely filed under this part.

1. Southwest is a Texas corporation with its principal place of business at 2702 Love Field Drive, Dallas, Texas, 75235.

2. Southwest is a citizen of the United States as defined by Section 40102(a)(15)(C) of Title 49 of the United States Code and Section 204.2(c) of the Department's Economic Regulations. Southwest's president and at least two-thirds of its board of directors and other managing officers are citizens of the United States. Southwest is under the actual control of citizens of the United States and more than 75 percent of its voting interest is owned or controlled by persons that are citizens of the United States.

3. Southwest commenced commercial service in 1971 as an intrastate airline, and has operated as a U.S. certificated air carrier since 1979. Southwest requests that the Department take official notice pursuant to Rule 24 (14 CFR § 302.24) of Southwest's Certificate of Public Convenience and Necessity for Interstate Air Transportation, originally issued by Order 79-6-187, and subsequently amended by Order 81-12-131 (December 22, 1981), Order 86-5-60 (May 15, 1986), Order 98-7-6 (July 8, 1998), and Order 2005-12-4 (December 9, 2005). Southwest has consistently maintained its Certificate in good standing.

4. Southwest remains fit, willing and able to conduct the services described in this Application. Southwest currently holds exemption authority from the Department authorizing service to countries in the Caribbean, including Aruba, the Bahamas, Jamaica, and the Dominican Republic,<sup>2</sup> Grand Cayman,<sup>3</sup> Turks and Caicos,<sup>4</sup> as well as

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<sup>2</sup> Notice of Action Taken (NOAT) issued September 16, 2019, in Docket DOT-OST-2016-0013.

<sup>3</sup> NOAT issued November 9, 2018, in Docket DOT-OST-2017-0004.

<sup>4</sup> NOAT issued April 11, 2019, in Docket DOT-OST-2016-0059.

Mexico.<sup>5</sup> Pursuant to Rule 24 of the Department's Rules of Practice, Southwest asks the Department to take official notice of all data on file necessary to establish Southwest's fitness.

5. On August 31, 2016, the Department granted Southwest an exemption under 49 U.S.C. § 40109 to provide scheduled foreign air transportation of persons, property, and mail between (1) Fort Lauderdale, Florida, and Havana, Cuba; and (2) Tampa, Florida, and Havana, Cuba.<sup>6</sup> The Department also allocated Southwest frequencies to provide service in each of these markets.<sup>7</sup> On July 25, 2018, the Department renewed Southwest's exemption authority for two years.

6. Renewal of the Southwest's exemption authority is in the public interest because it will enable Southwest to continue providing consumers with high-quality, low-cost travel options, and low-fare competition between the United States and Cuba.<sup>8</sup> Southwest's Bags Fly Free<sup>®</sup> policy has been particularly popular with U.S. travelers to Cuba. Southwest's extensive network and long history of lowering fares, stimulating new traffic, and increasing competition has enabled Southwest to generate significant economic and consumer benefits.<sup>9</sup> Southwest operates service to Cuba using Stage III Boeing 737-700 and 737-800 aircraft configured for 143 and 175 seats respectively.

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<sup>5</sup> NOAT issued July 9, 2018, in Docket DOT-OST-2016-0157.

<sup>6</sup> See Order 2016-8-38, August 31, 2016, in Docket DOT-OST-2016-0021.

<sup>7</sup> See *Id.* The Department initially allocated Southwest frequencies for twice daily FLL-HAV service and once daily TPA-HAV service. Subsequently, the DOT allocated Southwest an additional daily FLL-HAV frequency (Order 2018-4-17) and an additional Saturday TPA-HAV frequency (Order 2018-10-1).

<sup>8</sup> Due to the COVID-19 worldwide pandemic and the Department of State "Global Level 4 Health Advisory – Do Not Travel," issued on March 31, 2020, Southwest has temporarily suspended its service to Cuba. Conditions permitting, Southwest plans to resume service to Cuba on June 7, 2020.

<sup>9</sup> See, e.g., Public Benefits and Private Success: The Southwest Effect Revisited (August 10, 2017), available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3016047](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3016047).

7. Approval of this application will have no impact on Southwest's Civil Reserve Air Fleet commitments and will not result in an increased near-term annual aviation fuel consumption of ten million gallons or more.

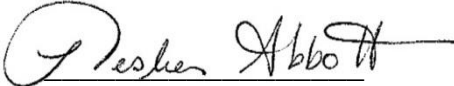
8. The requested exemption authority is consistent with the terms of the Memorandum of Understanding between the Government of the United States and the Government of Cuba, signed February 16, 2016 ("MOU").

9. The environmental impacts of Southwest's proposed services are *de minimis*, and will therefore not lead to a near-term annual increase in aircraft fuel consumption of 10 million gallons or more. Accordingly, grant of this application will not constitute a "major regulatory action" within the meaning of the Energy Policy and Conservation Act of 1975 or Part 313 of the Department's Economic Regulations.

10. Southwest will continue to accept and comply with the terms and conditions that the Department routinely imposes on exemption authority for scheduled foreign air transportation.

WHEREFORE, Southwest respectfully requests that the Department renew the exemption authority requested in this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Leslie C. Abbott", with a long horizontal flourish extending to the right.

Leslie C. Abbott

May 11, 2020

## CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2020, a copy of the foregoing was served via e-mail on the following persons:

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