



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

Issued by the Department of Transportation on July 2, 2020

**NOTICE OF ACTION TAKEN – DOCKET DOT-OST-2020-0011**

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

1. Application of **Swift Air, LLC d/b/a iAero Airways (iAero)**, filed **6/4/20**, for:

**XX** Allocation of charters from the U.S.-Havana public charter pool established in Order 2020-5-7, as follows:

**iAero requests allocation of 260 round-trip charter flights to be operated on behalf of the public charter operator, INVICTA Group Services, Inc. d/b/a Invicta Air (Invicta Air). iAero states that it plans to operate six Miami-Havana flights a week commencing August 1, 2020 through May 31, 2021, as depicted in the schedule included in the application.**

2. Application of **Caribbean Sun Airlines, Inc. d/b/a World Atlantic Airlines (WAA)**, filed **6/4/20**, for:

**XX** Allocation of charters from the U.S.-Havana public charter pool established in Order 2020-5-7, as follows:

**WAA requests allocation of 287 round-trip charter flights to offer direct-sale, Miami-Havana charters. WAA states that it would operate six weekly Miami-Havana flights during the period July 1, 2020-May 31, 2021.**

3. Application of **iAero**, filed **6/8/20**, for:

**XX** Allocation of charters from the U.S.-Havana public charter pool established in Order 2020-5-7, as follows:

**iAero requests allocation of 10 round-trip charter flights to be operated on behalf of the public charter operator, Cubazul Travel Services, Inc. (Cubazul). iAero states that it plans to operate ten Miami-Havana flights on behalf of Cubazul commencing May 22, 2021 through May 31, 2021, as depicted in the schedule included in the application.**

4. Application of **iAero**, filed **6/16/20**, for:

**XX** Allocation of charters from the U.S.-Havana public charter pool established in Order 2020-5-7, as follows:

**iAero requests allocation of 166 round-trip charter flights to be operated on behalf of the public charter operator, Cuba Charter Services, LLC d/b/a Aerocuba (Aerocuba). iAero states that it plans to operate Miami-Havana flights commencing March 6, 2021 through May 31, 2021, according to the schedule depicted in the application.**

5. Application of WAA, filed 6/18/20, for:

XX Allocation of charters from the U.S.-Havana public charter pool established in Order 2020-5-7, as follows:

**WAA requests allocation of 17 round-trip charter flights to be operated on behalf of the public charter operator, Havana Air. WAA states that it plans to operate 16 Tampa-Havana flights and one Miami-Havana flight, between November 25, 2020 and May 31, 2021, as described in the application.**

Applicant reps: **J. Parker Erkmann 202-842-7800 (iAero); and  
John R. Mietus, Jr. 202-747-5212 (WAA)**

DOT Analyst: **Brett Kruger 202-366-8025**

#### **DISPOSITION**

XX Granted, on a pro rata basis as follows; remainder dismissed (see Discussion below):<sup>1</sup>

| <b>Carrier</b>                              | <b>Public Charter Operator</b> | <b>Pro Rata Allocation of Round-Trip Charters</b> |
|---|--------------------------------|---|
| iAero                                       | Invicta Air                    | 129   |
| WAA   | WAA (Direct Sales)             | 142   |
| iAero                                       | Cubazul                        | 5   |
| iAero                                       | Aerocuba                       | 82  |
| WAA   | Havana Air                     | 8   |
| <b>Total Round Trip Charters Allocated:</b> |                                | <b>366</b>  |

XX Granted, motions for confidential treatment of charter contracts.<sup>2</sup>

The above action granting pro rata charter allocations was effective when taken: **July 2, 2020**, subject to conditions.

The above action dismissing the remainder of the applications filed was effective when taken: **July 2, 2020**.

The above action granting motions for confidential treatment was effective when taken: **July 2, 2020**.

**Action taken by: Esta Rosenberg  
Acting Director, Office of International Aviation**

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

XX Applicants' certificates of public convenience and necessity  
XX Order 2020-5-7  
XX DOT charter regulations (*e.g.*, 14 CFR Parts 212 and 380)

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<sup>1</sup> The applications seek a combined 740 round-trip charters, while only 366 round-trip charters remain available for allocation. Dividing 366 by 740 equals (rounded) .495. We are therefore able to allocate 49.5% of the total requests and, consistent with the charter pool procedures described in Order 2020-5-7, we are allocating each application's 49.5% pro rata share rounded to the nearest whole number.

<sup>2</sup> iAero and WAA each submitted motions for confidential treatment of their charter contracts with their respective public charter operators. Good cause having been shown, we have decided to grant the motions.

## DISCUSSION

**Background:** By Notice dated January 10, 2020, in response to a foreign policy request of the U.S. Department of State, the U.S. Department of Transportation (the Department) established a limit of 3,600 round-trip public charter flights between the United States and José Martí International Airport in Havana, Cuba.<sup>3</sup>

On May 28, 2020, the Department issued a final order (Order 2020-5-7) establishing procedures and a regulatory framework to distribute the available round-trip public charter flights. On June 18, 2020, under the terms of the order, iAero notified the Department that it would operate 2,978 charters and WAA notified the Department that it would operate 256 charters during the 2020/2021 charter year.<sup>4</sup> The initial allocations to iAero and WAA leave 366 round-trip charters available for allocation under the cap for this charter year.

Order 2020-5-7 established that charters not allocated in advance to the carriers, as well as any charters that might be returned as the charter year proceeds, will be placed in a charter pool for distribution on a first-come, first-served basis under procedures established in the order. Among other requirements, charter pool applications must be served on interested parties, filed in the docket, and are subject to a seven calendar-day answer period. The procedures in the order also state that mutually exclusive requests that would result in exceeding the cap will be reduced on a pro rata basis to remain within the annual cap on Havana public charters, and the remaining portion of each carrier's request will be dismissed.<sup>5</sup>

This Notice of Action Taken addresses applications of iAero and WAA for allocations from the charter pool. Combined, the carriers seek a total of 740 round-trip charters, exceeding the 366 that remain available under the cap. Consistent with the terms of the charter pool procedures, we have allocated each carrier's requests on a pro rata basis as indicated in the above chart.

**Responsive Pleadings:** Aerocuba and Superior Air filed answers to WAA's June 4, 2020, application for an allocation to support direct-sales public charters. Aerocuba asserts that the Cuban Government requires the involvement of public charter operators, and that, as a direct air carrier, WAA would be prohibited from conducting its proposed direct-sale public charters. Superior characterizes World Atlantic's request as a re-distribution of the 287 charters already allocated to Superior Travel, and states that there is no reason to deprive Superior of the already assigned 287 charters to Cuba.

**Decision:** We do not find anything in the responsive pleadings that would warrant withholding allocation of charters to WAA. Nothing in our regulations or Havana charter procedures would preclude WAA from conducting the direct-sale public charters it proposes. Should WAA not be able to operate its proposed charters for any reason, the unused charters would be returned to the pool under the procedures described in Order 2020-5-7.

Against that background, and consistent with the terms of Order 2020-5-7, the Department has decided to grant each carrier's request on a pro rata basis, as reflected above. The respective public charter operators

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<sup>3</sup> See January 10, 2020 Notice in Docket DOT-OST-1998-20, attaching a January 7, 2020, letter of Secretary of State Michael R. Pompeo to Secretary of Transportation Elaine L. Chao.

<sup>4</sup> Order 2020-5-7 granted an initial allocation of 3,000 charters to iAero and 256 charters to WAA, based on each carrier's proposed public charter flights for calendar year 2019. The initial allocations were subject to the condition that the carriers advise the Department by June 18 of the flights they intend to operate, as well as those flights they do not intend to operate, which would be returned to the charter pool. iAero notified the Department that it would return 22 charter flights to the pool, and WAA notified the Department that it would operate all of the flights included in its initial allocation.

<sup>5</sup> Order 2020-5-7, ordering paragraph 9(g).

are now free to submit the necessary public charter prospectus for review under the Department's normal procedures.<sup>6</sup>

In taking this action, we remind carriers that the allocations made here are for the specific flights proposed in the respective applications, and are subject to the required reporting and use-or-lose conditions described in Order 2020-5-7. We further remind parties that a number of significant limitations and requirements remain in place concerning air transportation between Cuba and the United States. Nothing in the Department's award of authority will relieve any party from complying with all applicable regulations and requirements of other U.S. agencies and with all applicable laws of the United States.

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This action was taken under authority assigned in Order 2020-5-7. To the extent not granted or dismissed, we denied all requests in the referenced applications. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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<http://www.regulations.gov>

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<sup>6</sup> Carriers will need to file in the docket revised schedules reflecting their pro rata allocations before the Department can accept a corresponding public charter prospectus.