

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

In the matter of)	
)	
ALL U.S. AIR CARRIERS)	Docket DOT-OST-2020-0035
)	Docket DOT-OST-2016-0021
Waiver of the dormancy and startup conditions on limited-entry route authority)	
)	

**MOTION OF
DELTA AIR LINES, INC.**

Communications with respect to this document should be addressed to:

Christopher Walker
Director – Regulatory and
International Affairs
Steven J. Seiden
Director – Regulatory Affairs
DELTA AIR LINES, INC.
601 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 216-0700
chris.walker@delta.com
steven.seiden@delta.com

February 27, 2023

Notice: Delta is requesting expedited treatment of this motion; it will poll U.S. carrier representatives on the attached service list and advise the Department of the results.

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

In the matter of)	
)	
ALL U.S. AIR CARRIERS)	Docket DOT-OST-2020-0035
)	Docket DOT-OST-2020-0035
Waiver of the dormancy and startup conditions on limited-entry route authority)	
)	

**MOTION OF
DELTA AIR LINES, INC.**

Delta¹ respectfully moves² for a temporary dormancy waiver for its U.S.-Havana frequencies to afford Delta two additional weeks to marshal the necessary resources to make Delta’s Miami-Havana flying operationally feasible and, in the case of Delta’s Atlanta-Havana flights, an additional season of dormancy relief to ensure Delta’s Atlanta-Havana flying is commercially viable. Specifically, Delta requests: (1) a modest two-week dormancy waiver for its Miami-Havana frequencies, from March 26, 2023 through April 10, 2023, to provide Delta additional time to complete certain logistical arrangements necessary to restart service on this route; and (2) a full-season waiver, from March 26, 2023 through October 28, 2023, for its Atlanta-Havana frequencies to allow additional time for Delta to adjust to evolving market conditions in Cuba attributable to both the COVID-19 Pandemic and the restrictive passenger travel regime between the two countries.

Delta is looking forward to reintroducing critical competition and industry leading customer service in the largest U.S.-Cuba market – Miami-Havana – as well as, eventually, reconnecting Atlanta, Delta’s largest hub and the busiest airport in the world, with Havana. By granting this

¹ Common names are used for airlines and government entities.

² Delta submits this motion pursuant to DOT Orders 2022-9-3 and 2023-2-15, which extended the temporary waivers applicable to the dormancy and startup conditions imposed on U.S.-carrier authority to serve points in China and Tokyo Haneda. In Order 2022-9-3, the Department declined A4A’s request to extend the waivers as to Cuba and South Africa; however, in doing so, the Department advised that it would consider waiver requests from individual carriers for Cuba routes on a case-by-case basis. This motion represents such a request.

motion, the Department would enable the delivery of the same public benefits that formed the basis of the Department's original U.S.-Havana awards to Delta.

In further support of this Motion, Delta states as follows:

1. Delta currently holds 21 weekly frequencies for U.S.-Cuba service: 14 for Miami-Havana and seven for Atlanta-Havana.³ As did other carriers,⁴ Delta suspended its Havana services⁵ during the COVID-19 pandemic while the Department's blanket waivers of dormancy and startup conditions were in effect for limited-entry international route authorities, including the U.S.-Havana frequencies that are the subject of this motion.⁶ Along with the flight suspensions, cost-cutting was a paramount priority for all airlines. As a result, Delta allowed certain commercial arrangements in Cuba to lapse given the uncertainty at the time.

2. By Order 2022-9-3, the Department further extended the blanket waiver for certain limited-entry markets but, in doing so, decided not to extend the blanket waiver for U.S. carrier authorities to operate between the United States and Cuba.⁷ Delta subsequently moved for a waiver through March 25, 2023, for its Miami-Havana frequencies and a waiver through December 31, 2023, for its Atlanta-Havana frequencies. The Department granted the Miami-Havana request in full and the Atlanta-Havana request in part (through March 25, 2023, instead of December 31, 2023). In partially denying Delta's request for a longer-term waiver for Atlanta-Havana, the Department encouraged Delta to update its waiver request closer in time to the March 25, 2023 deadline, "when [the Department] would be better able to assess the market and make public interest determinations based on the circumstances then prevailing."⁸

³ Order 2016-8-38 awarded Delta seven-weekly frequencies for each of New York (JFK)-Havana, Atlanta-Havana, and Miami Havana. Order 2018-4-17 subsequently amended Delta's authority by reallocating the New York (JFK)-Havana frequencies to additional Miami-Havana frequencies.

⁴ See, e.g., Motion of United Airlines, Inc. filed September 21 in this Docket.

⁵ Delta's last operations to and from Havana were on March 29, 2020.

⁶ See, Orders 2020-3-9, 2020-9-26, 2021-3-3, 2021-9-11, and 2022-2-26.

⁷ Order 2022-9-3.

⁸ See Notice of Action Taken dated Oct. 18, 2022 in these dockets, at 2.

3. For the reasons noted above, Delta requests a modest two-weeks' additional time to restart Miami-Havana flying. Grant of the requested dormancy waiver is squarely in the public interest. Miami-Havana is, by far, the largest single O&D market for U.S.-Cuba travel and Delta is the only carrier that would offer a competitive option against American's eight daily Miami-Havana flights. Delta is committed to restarting and sustaining service on this route but needs an additional two weeks to ensure these flights relaunch seamlessly for our customers. Many of the necessary steps for the restart have already been completed, but a few important IT, supply chain, corporate real estate, and other tasks remain outstanding. Delta has maintained a good working relationship with the Cuban aviation authorities and its commercial licenses remain current. The public interest, especially for travelers who prefer Miami as their gateway to Havana, would be served by the Department's grant of the requested dormancy relief, insofar as it would enable renewed, vigorous competition on this route.

4. Delta also requests additional time – in this case, up to and including October 28, 2023 – to restart its Atlanta-Havana flights. Due to changes in government policy and market conditions, the commercial and operational circumstances in Cuba have not changed appreciably since Delta last requested a dormancy waiver for its Atlanta-Havana flights. Although Atlanta is the world's largest, most connected airport hub, the COVID-19 pandemic drastically decreased the demand for Havana connecting passenger flows that would be best served over Atlanta. Additionally, the passenger travel regime for Cuba has changed over time and is significantly more restrictive than when the frequencies were originally awarded. Delta hopes that with time – and more consistent travel rules – passenger demand between the U.S. and Havana will rebound and that Delta's Atlanta hub can facilitate connections to Havana for the millions of travelers who do not enjoy nonstop service from their home airport. In the interim, Delta requests an additional season of dormancy relief from the Department in order to preserve the Atlanta-Havana flying and to relaunch such service when market conditions (and government policies) support doing so.

5. The Department has, in the past, granted numerous startup extensions and dormancy waivers, recognizing the challenges inherent in new or renewed U.S.-Cuba service.⁹ Delta has made no objections to recent extension requests by other airlines, and does not object to any pending requests. Delta's request for an additional season of dormancy waiver relief is not without precedent.¹⁰

6. Delta currently holds exemption authority to provide the services outlined above. This authority was originally granted by Order 2016-8-38, dated August 31, 2016, and was most recently renewed by a Notice of Action Taken on October 18, 2022, and remains in effect until October 18, 2024.

WHEREFORE, for the reasons outlined above, Delta respectfully requests that the Department grant this motion for a dormancy waiver for its Atlanta and Miami flights to Havana as outlined above, and any other relief that the Department deems appropriate.

Respectfully submitted,



Christopher Walker
Director – Regulatory and International Affairs
DELTA AIR LINES, INC.

⁹ See e.g., Notice in Docket DOT-OST-2016-0021 (November 2, 2016) (approving extension of Cuba start-up date for Southwest); Notice in Docket DOT-OST-2016-0021 (November 16, 2016) (approving extension of Cuba start-up date for Delta); Notice in Docket DOT-OST-2016-0021 (October 5, 2017) (approving extension of Cuba start-up date for FedEx); Notice in Docket DOT-OST-2016-0021 (May 23, 2018) (approving extension of Cuba start-up date for American); Notice in Docket DOT-OST-2016-0021 (June 15, 2018) (approving additional extension of Cuba start-up date for FedEx); Notice in Docket DOT-OST-2016-0021 (November 1, 2016); and Notice in Docket DOT-OST-2016-0021 (May 23, 2018) (approving extension of Cuba start-up date for JetBlue).

¹⁰ See e.g., Notice in Docket DOT-OST-2010-0285 (August 29, 2011) (granting dormancy waivers to Delta on multiple routes for 8-12 months); and Notice of Action Taken in Dockets DOT-OST-2014 and DOT-OST-2020-0035 on August 5, 2020 (granting 5-month dormancy waiver to American).

CERTIFICATE OF SERVICE

On this 27th day of February 2023, a copy of the foregoing Motion of Delta Air Lines, Inc. was served by electronic mail on the following:

Air Carrier	Name	Email Address
Alaska	David Heffernan	dheffernan@cozen.com
American	Molly Wilkinson	molly.wilkinson@aa.com
American	Bruce Wark	bruce.wark@aa.com
American	Brent Alex	brent.alex@aa.com
American	Robert Wirick	robert.wirick@aa.com
American	John Williams	john.b.williams@aa.com
Frontier	Howard Diamond	howard.diamond@flyfrontier.com
Hawaiian	Parker Erkmann	perkmann@cooley.com
JetBlue	Robert Land	robert.land@jetblue.com
JetBlue	Reese Davidson	reese.davidson@jetblue.com
JetBlue	Evelyn Sahr	esahr@eckertseamans.com
JetBlue	Drew Derco	dderco@eckertseamans.com
Southwest	Leslie Abbott	leslie.abbott@wnco.com
Spirit Airlines	David Kirstein	dkirstein@yklaw.com
Spirit Airlines	Joanne Young	jyoung@yklaw.com
Sun Country	Eric Levenhagen	eric.levenhagen@suncountry.com
United	Dan Weiss	dan.weiss@united.com
United	Steve Morrissey	steve.morrissey@united.com
United	Amna Arshad	aarshad@freshfields.com
	Ben Taylor	benjamin.taylor@dot.gov
	Robert Finamore	robert.finamore@dot.gov
	Brett Kruger	brett.kruger@dot.gov
	Darren Jaffe	darren.jaffe@dot.gov
	Info	info@airlineinfo.com