

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

_____)	
Application of)	
)	
Swift Air, L.L.C. d/b/a iAero Airways)	
)	
Pursuant to 49 U.S.C. § 40109 for an)	Docket No. OST-2020-0011
Emergency Exemption from Order 2020-5-7)	Docket No. OST-2020-0129
& Order 2020-8-4)	
(Suspension of U.S. – Cuba Charter)	
Authorizations))	
)	
U.S. – Cuba Humanitarian Aid Charters)	
_____)	

**APPLICATION OF SWIFT AIR, L.L.C. d/b/a iAERO AIRWAYS
FOR AN EMERGENCY EXEMPTION AND MOTION TO
SHORTEN ANSWER PERIOD**

Communications with respect to the
above should be addressed to:

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DATED: August 6, 2021

NOTICE: THE APPLICANT REQUESTS EXPEDITED TREATMENT OF THIS APPLICATION AND THAT THE ANSWER PERIOD BE SHORTENED, WITH ANSWERS FILED ON OR BEFORE AUGUST 10, 2021. THE APPLICANT WILL POLL THE CARRIER REPRESENTATIVES ON THE ATTACHED SERVICE LIST AND NOTIFY THE DEPARTMENT OF THE RESULTS. THIS APPLICATION IS ALSO FILED PURSUANT TO THE EMERGENCY EXEMPTION PROCEDURES OF 14 C.F.R. § 302.311, WHICH AUTHORIZES THE DEPARTMENT TO ACT ON EMERGENCY EXEMPTIONS IMMEDIATELY. ANY PERSON INTERESTED IN FILING AN ANSWER IS REQUESTED TO DO SO IN THE ABOVE DOCKET IMMEDIATELY.

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**APPLICATION OF SWIFT AIR, L.L.C. d/b/a iAERO AIRWAYS
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Swift Air, L.L.C. d/b/a iAero Airways (“iAero”), in accordance with 49 U.S.C. § 40109, and the Department of Transportation’s (“DOT” or “the Department”) Rules of Procedure, 14 C.F.R. § 302.311, hereby applies for an emergency exemption from the prohibitions in Orders 2020-5-7 and Order 2020-8-4,¹ and any such other relief as may be necessary to permit it to operate thirteen total combination passenger and cargo charter flights between Miami, Florida and Santa Clara (SNU) and Holguin (HOG), Cuba on behalf of its customer, Cuba Charter Services, LLC d/b/a Aerocuba. iAero intends to begin these operations on August 13, 2021, or as soon as possible, and intends to fly a single rotation every Friday, alternating between SNU and HOG, through October 29, 2021.

The dire conditions in Cuba justify the grant of the requested exemption. Due to the COVID-19 pandemic and resulting disruption to the Cuban economy, the Cuban people are

¹ Order 2020-5-7 (issued May 28, 2020) (limiting public charter services to Cuba to Havana); Order 2020-8-4 (further prohibiting charters to Cuba).

without basic supplies of food and medicine. In addition, restrictions on travel within Cuba in combination with the Department's prohibition in Order 2020-5-7 on the operation of public charter services to any point in Cuba other than Havana have stranded U.S. residents and citizens in the provinces of Cuba, unable to return home. The Department has recently authorized all-cargo charter flights using small aircraft to transport humanitarian aid between Miami, Florida and Havana, Cuba.² The same humanitarian principles that warranted the grant of those exemptions justify the grant of iAero's exemption request in this application.

Grant of the exemption is consistent with the foreign and aviation policies of the United States articulated in Orders 2020-5-7 and Order 2020-8-4. Order 2020-5-7 prohibited public charter flights to all airports in Cuba except José Martí International Airport (HAV) in Havana.³ In doing so, the Department relied upon a letter from then Secretary of State Mike Pompeo asking the Department to suspend public charter flights to all points outside Havana to "prevent public charter operators from expanding their services to compensate for the Administration's October 25, 2019, action suspending commercial flights to those airports."⁴ With the severe restrictions imposed on travel to Cuba by the Cuban government, the proposed flights do not represent a circumvention of Department-imposed limits.

First, flights between the United States and Cuba have been severely curtailed with the Cuban government allowing only one flight per week with additional infrequent, irregular "rescue" flights to repatriate otherwise stranded passengers. Overall, Cuba's restrictions have forced iAero to cancel 95.4% and 94.2% of its charter flights during June and July respectively. The limited, lifeline services proposed in this application will not undermine the

² Notice of Action Taken, Docket DOT-OST-2020-0129 (Jul. 14, 2021) (authorizing IBC to operate all-cargo charter flights to transport humanitarian aid between Miami, Florida, and Havana, Cuba).

³ Order 2020-5-7 at 1.

⁴ Order 2020-5-7 at 2 (quoting letter from Secretary of State Michael R. Pompeo to Secretary of Transportation Elaine L. Chao (Jan. 7, 2020), which is attached as Exhibit A to Order 2020-5-7).

Administration's objective of preventing public charters from replacing regular, scheduled service to the provinces.

Second, the proposed flights are a humanitarian response to an unfolding crisis in communities outside of Havana. Cuba's prohibitions on travel between provinces such as SNU and HOG and Havana prevent U.S. residents and citizens from making their way to Havana and ultimately returning to Miami. Similarly, passengers returning from the U.S. to Cuba must arrive in Havana because it is the only authorized arrival point. Returning residents of different provinces then are stranded in Havana without a place to stay. Some have stayed at the airport because they cannot afford a hotel indefinitely. The food, medicine and other relief supplies carried by these passengers either spoils or is otherwise unable to be delivered to its intended recipients in the provinces.

In addition, the proposed flights are consistent with the recognized exceptions to Order 2020-8-4 that otherwise "preclude[s] the operation of charter flights between the United States and Cuba."⁵ Charter operations are permitted for "emergency medical purposes..., and other travel deemed to be in the interest of the United States."⁶ The State Department continues to demonstrate a "... willingness to review future exemption requests to determine whether proposed flights fall within the scope of its specified exceptions..."⁷ iAero respectfully submits

⁵ Order 2020-8-4 at 2.

⁶ *Id.*

⁷ *See, e.g.*, NOAT, Docket OST-2020-0129 (May 13, 2021) (Approving an application by Skyway Enterprises, Inc. to conduct eight all-cargo humanitarian operations to Havana because the proposed flights were in the interests of the United States and served emergency medical purpose); *see also* NOAT, Docket OST-2020-0129 (March 30, 2021) (Approving an application of Skyway Enterprises, Inc. to carry diplomatic cargo on behalf of the State Department because the proposed operation was in the interests of the United States); *see also*, NOAT, Docket DOT-OST-2020- 0129 (Jul. 14, 2021) (finding Skyway Enterprise Inc.'s operation to carry humanitarian aid and diplomatic cargo meets the exceptions in Order 2020-8-4); *see also*, NOAT, Docket DOT-OST-2020-0129 (Jul. 14, 2021) (authorizing IBC to conduct twice-weekly all-cargo service between Miami and Havana); NOAT, Docket DOT-OST-2020-0129 (Jul. 23, 2021) (authorizing Skyway to conduct up to twice-weekly all-cargo charter services between Miami and Havana as well as up to one weekly all-cargo charter between Miami and additional points in Cuba); NOAT, Docket DOT-OST-2020-0129 (Jul. 27, 2021) (authorizing IBC to conduct up to five times weekly

that this application is consistent with the basis upon which prior exemptions were granted for humanitarian services to Cuba.

Like prior exemptions granted by the Department, the proposed service will transport much needed humanitarian aid and critical medical supplies to Cuba from charitable organizations in order to help combat the COVID-19 global pandemic's effects on the Cuban population, support U.S. citizens residing in Cuba, and allow Cuban-American families residing in the U.S. to send humanitarian aid and necessitous goods to family members in Cuba. In addition, the services will enable both Cuban and U.S. citizens to return to their homes.⁸

Prompt approval of this application is warranted under the circumstances and is clearly within the public interest and consistent with Departmental precedent.

In further support of its request for an emergency exemption, iAero states as follows:

1. iAero is a certificated air carrier authorized to operate interstate and foreign charter operations using large aircraft.
2. iAero has extensive familiarity with the Cuban market. Prior to the pandemic and the severe flight restrictions imposed by the Cuban government, iAero operated thousands of flights per year to Cuba. Indeed, iAero has five B737-400 aircraft based in Miami dedicated to serving the lane, including the supporting above and below wing infrastructure and employees.
3. iAero understands that Aerocuba is in discussions with a charitable organization that will provide the needed food, medicine and other needed supplies for transport and distribution to the Cuban people.
4. Grant of this application is in the public interest and consistent with Department

all-cargo charter services between Miami and points in Cuba other than Havana).

⁸ Aerocuba anticipates most passengers will travel one-way, returning to their homes. Any U.S. resident or citizen transported to Cuba on the initial flights will be flown home on the last approved passenger flight, so the proposed operations will not worsen the problem of people being stranded in Cuba.

precedent.⁹

5. iAero respectfully requests expeditious processing and the immediate grant of this emergency exemption application and grant of iAero's motion to shorten the answer period. DOT's Procedural Regulations provide that the Department can act on an emergency exemption application immediately pursuant to 14 CFR § 302.311.

WHEREFORE, iAero respectfully requests that the Department issue an emergency exemption permitting it to operate humanitarian aid and public charter flights between Miami (MIA) and Santa Clara (SNU) and Holguin (HOG), Cuba, as described herein, and grant such further relief as the Department deems to be consistent with the public interest.

Respectfully submitted,



J. Parker Erkmann
Attorney for Swift Air, L.L.C.
d/b/a iAero Airways

Dated: August 6, 2021

⁹ See footnote 7, *supra*.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail this 6th day of August 2021 on the following:

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