

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

Motion of	)	
	)	
<b>AMERICAN AIRLINES, INC.</b>	)	Docket DOT-OST-2016-0021
	)	
for the removal of the U.S. gateway conditions	)	
applicable to all U.S.-Cuba frequencies	)	
	)	

**MOTION OF AMERICAN AIRLINES, INC. FOR THE REMOVAL OF THE U.S.  
GATEWAY CONDITIONS APPLICABLE TO ALL U.S.-CUBA FREQUENCIES**

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GATEWAY CONDITIONS APPLICABLE TO ALL U.S.-CUBA FREQUENCIES**

American respectfully requests that the Department remove the U.S. gateway conditions applicable to the current allocations and future awards of U.S.-Cuba frequencies.<sup>1</sup> This request, if granted, will provide all carriers that offer scheduled service to Cuba the flexibility to operate service from any U.S. gateway where the carrier holds underlying route authority. Route flexibility will enable carriers to respond quickly and efficiently to the unusually frequent and marked changes in demand for U.S.-Cuba travel since the re-introduction of scheduled service in 2016. Passengers will be the winners as scarce frequencies will be more likely to remain in continuous usage and to be directed to gateways with the greatest demand. The current gateway-specific awards have proven not to maximize public benefits. Due to sharp and unforeseeable demand fluctuations, frequencies have gone unutilized pending Department reallocations and carriers have been unable to provide sufficient service where it is most needed. Granting carriers route flexibility resolves these problems by allowing market forces to work while maintaining the Department's important role in the allocation of scarce frequencies.

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<sup>1</sup> Common names are used for all carriers.

### **Executive Summary**

American seeks route flexibility to allow all carriers to adjust their Cuba services efficiently in response to the rapid shifts in demand that are unique to U.S.-Cuba travel. Changing restrictions on travel to Cuba have already contributed to the failure of several Cuba services in the two-year period following the reinstitution of scheduled passenger service. The effect of those changes and the likelihood of further change warrant providing carriers more tools to ensure that Cuba capacity at all U.S. gateways can be realigned to match demand. Without this flexibility, carriers, passengers, and the Department must endure lengthy and repeated frequency allocation proceedings before frequencies can be moved to other gateways. Passengers suffer during the extended period when the frequencies at issue remain unused.

Route flexibility is well supported by the Department's policy of deference to carrier judgment of how best to grow service to Cuba and the Department's past precedent. When a carrier determines that the relocation of Cuba frequencies to another U.S. gateway will better serve market demand, passengers will benefit from deference to this judgment. The Department's grants of flexibility on other international routes show that route flexibility is an appropriate solution to the particular challenges faced by the carriers serving U.S.-Cuba routes.

American desires route flexibility to move its daily Charlotte (CLT) – Havana (HAV) flight to its Miami (MIA) hub for the near future. American's CLT-HAV service is underutilized, with an average load factor of under 55 percent for the first half of 2018. Of the passengers who fly this route, fewer than one in five is a local passenger. Both local passengers and connecting passengers on American's CLT-HAV service will retain multiple connecting opportunities via MIA.

At the same time, Miami remains underserved relative to its share of Havana frequencies, and American can best use its frequencies at MIA while demand for CLT-HAV service remains low. Despite American's persistent efforts to try to offer more MIA-HAV service, American has been unable to do so. Should American be granted flexibility to launch new MIA-HAV service, American will operate this service using 160-seat B737 aircraft, delivering a net increase to total U.S.-Havana capacity. Only the Department's grant of route flexibility will allow American to bring these benefits to the traveling public, while ensuring that all carriers can respond efficiently to further shifts in demand.

### **Discussion**

#### **I. Granting Carriers Route Flexibility Will Benefit the Traveling Public by Ensuring that U.S.-Cuba Capacity Can Be Efficiently Realigned with Demand**

Frequent and rapid shifts in demand for U.S.-Cuba scheduled service have frustrated the Department's objectives in its awards of frequencies. In awarding 20 daily Havana frequencies across a range of cities, including Charlotte, the Department sought to "present[] the public with a wide array of travel choices" and to allow carriers to "develop the market consistent with the public interest."<sup>2</sup> But sharp changes in demand necessitated that some carriers discontinue U.S.-Cuba service and return Havana frequencies to the Department for reallocation. The traveling public was left with fewer choices while the frequencies returned for reallocation went unused for more than a year. Carriers eager to "develop the market" by expanding service to Havana could not do so until the conclusion of the 2017 U.S.-Cuba frequency allocation proceeding earlier this year.<sup>3</sup>

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<sup>2</sup> Show Cause Order 2016-7-4, Docket DOT-OST-2016-0021 (July 7, 2016), at 6-7.

<sup>3</sup> See Instituting Order 2017-8-26, Docket DOT-OST-2016-0021 (Aug. 29, 2017) (commencing 2017 U.S.-Cuba Frequency Allocation Proceeding); Final Order 2018-4-17, Docket DOT-OST-2016-0021 (Apr. 20, 2018) (concluding 2017 U.S.-Cuba Frequency Allocation Proceeding).

Although the U.S.-Cuba Memorandum of Understanding (MOU) authorizes 20 daily Havana flights by U.S. airlines, the traveling public, to its detriment, has not enjoyed this level of service since May 2017.<sup>4</sup>

To ensure that the Department's goals are not further hindered by the public's continued deprivation of the full level of Havana service contemplated by the U.S.-Cuba MOU, a revised approach is warranted. Route flexibility, which would allow carriers to move their Cuba frequencies to other U.S. gateways in response to shifting demand, would minimize the disruptions caused by returns of frequencies and the long periods of nonuse that follow. Granting carriers more tools to help them sustain their Cuba services will enhance the benefits created by the Department's current allocation of frequencies and will advance the Department's objective of benefitting passengers through the allocation of those frequencies.

***A. Rapid Response to the Shifts in Demand that Are Unique to U.S.-Cuba Travel Is Best Enabled by Granting Carrier Route Flexibility***

The evolving restrictions on travel to Cuba have caused sharp changes in demand for U.S.-Cuba scheduled service, creating unique challenges for carriers. When the U.S. Government normalized relations with Cuba and authorized "individual people-to-people" travel to Cuba, traffic to Cuba from several U.S. gateways surged. But the new restrictions on individual people-to-people travel, which became effective on November 9, 2017, reduced demand by non-Cuban-American travelers and caused U.S.-Cuba traffic at many gateways to drop significantly.<sup>5</sup> As a result, Alaska and Delta terminated their daily Havana services from Los Angeles and New York,

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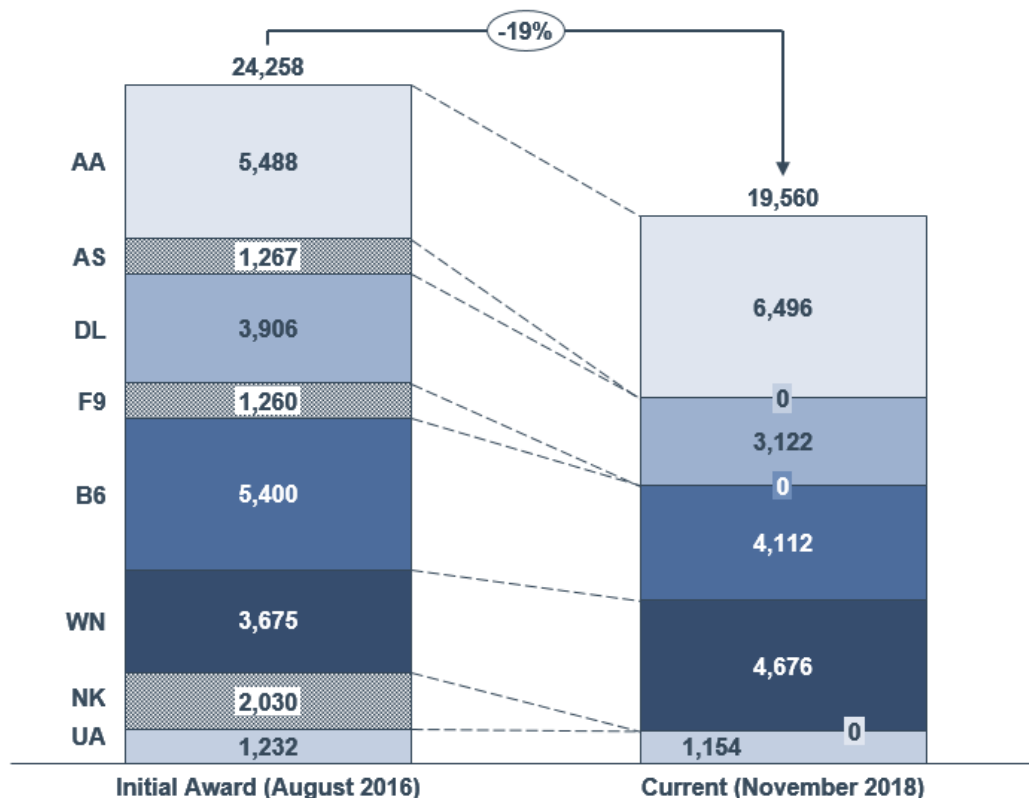
<sup>4</sup> Memorandum of Understanding between the Government of the United States of American and the Government of the Republic of Cuba (Feb. 16, 2016), <https://www.state.gov/e/eb/rls/othr/ata/c/cu/252525.htm>.

<sup>5</sup> See Consolidated Answer of American Airlines, Inc., Docket DOT-OST-2016-0021 (Jan. 5, 2018) at Ex. AA-R-102 (showing the decline in U.S.-Havana traffic at several U.S. gateways).

respectively. Both carriers attributed their service terminations to the new U.S.-Cuba travel restrictions.<sup>6</sup> Frontier and Spirit cancelled service as well, and several other Havana services were downgauged, greatly reducing overall Havana capacity, to the detriment of passengers.

The cuts to Havana service that began in 2017 have reduced Havana seats by nearly 20 percent from the Department’s initial allocation in 2016, even accounting for the new services that will begin later this year.

### **U.S.-Havana Weekly Seat Capacity Change<sup>7</sup>**



<sup>6</sup> See *Alaska Airlines Will Discontinue Flying to Havana, Cuba*, Alaska Airlines Newsroom (Nov. 14, 2017), <https://newsroom.alaskaair.com/2017-11-14-Alaska-Airlines-will-discontinue-flying-to-Havana-Cuba> (last accessed Aug. 24, 2018) (“Given the changes in Cuba travel policies, the airline will redeploy these resources to other markets the airline serves where demand continues to be strong.”); Letter from A. Krulic to B. Hedberg re: 2016 U.S.-Cuba Frequency Allocation Proceeding, Docket DOT-OST-2016-0021 (Dec. 8, 2017) (“recent regulatory changes have resulted in lower demand for travel to Cuba from areas outside of South Florida.”).

<sup>7</sup> Innovata Schedules Data (Nov. 2018).

No other limited-entry international routes have been subject to similarly rapid shifts in demand and capacity caused by changing travel restrictions.

Demand for CLT-HAV service has been no exception. In every month in 2018, since the new restrictions on U.S.-Cuba travel became effective, the load factor on this route has been substantially lower than at the same point in 2017.<sup>8</sup> With an average load factor of less than 55 percent for the first half of 2018, this service has been underutilized.<sup>9</sup> Despite American's efforts to maintain this service, fewer passengers are flying to Cuba from or via Charlotte now that the U.S.-Cuba travel authorizations have narrowed.

Because each Cuba frequency allocated by the Department is tied to a specific U.S. gateway, carriers cannot respond effectively to these shifts in demand by relocating their services to gateways with more resilient demand, such as MIA. Instead, misalignments between U.S.-Cuba capacity and demand persist, and consumers suffer.

Under the current limitations, the misalignments between U.S.-Cuba capacity and demand caused by changing travel restrictions cannot be rectified until a carrier chooses to end service and returns its frequencies, and the Department decides to reallocate them to a different gateway, likely after a contested proceeding. During this process, the frequencies returned to the Department may go unused for many months, and in some cases, for more than a year.<sup>10</sup> By the time this process concludes, demand may have shifted yet again. This is not an effective way for carriers to meet the changing demands for U.S.-Cuba travel.

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<sup>8</sup> Application of American Airlines, Inc., Docket DOT-OST-2016-0021 (July 20, 2018), at Ex. AA-308.

<sup>9</sup> *See id.*

<sup>10</sup> Spirit ended its service to Havana on May 31, 2017, and confirmed on June 5, 2017, that it did not object to the reallocation of its two daily U.S.-Havana frequencies. Memorandum re: Notice of Communication in Docket, Docket DOT-OST-2016-0021 (June 6, 2017). The first Havana service using frequencies awarded in the second allocation proceeding commenced on August 20, 2018—well over a year after Spirit's return of frequencies.



The absence of U.S.-Cuba route flexibility prevents carriers from meeting the needs of travelers effectively and stymies the Department's objective of giving the public a wide array of travel choices. For example, should American choose to end its CLT-HAV service, this service will not be offered again unless (1) more frequencies become available for reallocation, *and* (2) American or another carrier proposes to launch this service and wins the ensuing frequency allocation proceeding. That process could take years to unfold, and could lag far behind changes in demand for Cuba travel. When changing demand makes Cuba services at a wider array of gateways viable, restrictions that prevent carriers from offering service at those gateways will only thwart the Department's goals.

***B. Deference to Carrier Judgment in Reallocating U.S.-Havana Frequencies Supports the Grant of Route Flexibility***

In reallocating the five daily Havana frequencies returned in 2017, the Department granted each applicant's highest-ranked proposal, "afford[ing] significant weight to the applicants' own judgment as to how best to continue to develop the U.S.-Cuba market."<sup>11</sup> The Department also granted United's request for operational flexibility to use regional aircraft in serving its Havana routes, again "deferring to carrier judgment of how best to develop the market."<sup>12</sup> The grant of route flexibility will reinforce the Department's reliance on the judgment of carriers to "develop the U.S.-Cuba market," and is well supported by the Department's prior decisions in this docket.<sup>13</sup>

When a carrier seeks to use its existing Cuba frequencies at another U.S. gateway, this too merits deference. Deference to carrier judgment should not end once the final order is issued and

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<sup>11</sup> Show Cause Order 2018-3-16, Docket DOT-OST-2016-0021 (Mar. 30, 2018), at 7.

<sup>12</sup> *Id.* at 8.

<sup>13</sup> *Id.* at 7.

the frequencies are formally reallocated. Static decisions in a dynamic market produce sub-optimal results. Carriers know best when relocating services to another gateway is warranted. They have the most current information on passenger demand, and they consistently analyze new opportunities to serve that demand. Route flexibility will allow carriers to put their information and analytics capabilities to use by adjusting their Cuba services to meet the traveling public's changing needs in a quick and efficient manner.

Exercises of route flexibility by carriers, like the use of regional aircraft during periods of low demand, will be better for travelers than returns of frequencies and prolonged periods of nonuse during lengthy and burdensome allocation proceedings. Moreover, route adjustments are superior to aircraft adjustments because they do not necessarily involve net reductions of Cuba capacity. In some cases, carriers that adjust their routes may even increase capacity. For example, should American shift its CLT-HAV service to MIA-HAV, American will upgauge from the 128-seat A319 aircraft that serves CLT-HAV to the 160-seat B737 aircraft now used for all of its MIA-HAV flights—a 25 percent net increase in capacity without a break in service. Such route adjustments will create immediate benefits for passengers, and will benefit passengers far more any outcome that may result from further allocation proceedings to relocate frequencies to specific U.S. gateways.

***C. Route Flexibility Is Consistent with the Department's Precedent***

Route flexibility is warranted by the unique challenges faced by carriers offering U.S.-Cuba service. Carriers already enjoy flexibility to adjust their routes in certain volatile limited-entry markets, such as U.S.-Brazil. U.S.-Cuba services, which must withstand distinct shocks to demand that affect no other international routes, merit the same flexibility.

Like U.S.-Cuba routes, U.S.-Brazil routes were once subject to city-pair restrictions that prevented carriers from adjusting their services freely. Following Delta’s application for flexibility to allow it to adjust its frequencies “as dictated by market conditions,” the Department decided to “accord[] a greater degree of flexibility here than might be the case in other circumstances or settings.”<sup>14</sup> The Department based its decision on the “disparate treatment of otherwise similarly-situated carriers in the Brazil market, along with the particularities of the current market environment.”<sup>15</sup> Here too, the “particularities of the current market environment”—the rapid shifts in demand that stem from evolving restrictions on travel to Cuba—call for greater flexibility on U.S.-Cuba routes.<sup>16</sup>

**II. Miami Remains Underserved Relative to Its Share of Havana Frequencies, and Can Best Use This Frequency When Demand for CLT-HAV Service Is Low**

Should the Department grant route flexibility to carriers that offer service to Cuba, American will relocate its daily Havana frequency used for CLT-HAV service to provide service from MIA instead. For as long as the restrictions on U.S.-Cuba travel depress demand for nonstop CLT-HAV service, American can best use the frequency allocated for this service to expand Havana service at MIA. MIA is situated in Miami-Dade County, home to half the nation’s Cuban-American population, and serves the strongest concentration of demand for Havana service.<sup>17</sup> The Department’s grant of flexibility will ensure that Miami’s demand for Havana flights is met at a

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<sup>14</sup> Order 2004-6-25, Docket OST-2003-15021 (June 28, 2004), at 2–3. Although the Department’s grant of U.S.-Brazil flexibility allowed carriers to move frequencies between gateways in either country, the U.S.-Cuba Memorandum of Understanding precludes such flexibility because it caps the number of daily frequencies allowed at each gateway in Cuba. American therefore requests that the Department only grant carriers flexibility to move their U.S.-Cuba frequencies to other U.S. gateways, not to other gateways in Cuba.

<sup>15</sup> *Id.*

<sup>16</sup> *Supra* Part I.A.

<sup>17</sup> Application of American Airlines, Inc., Docket DOT-OST-2016-0021 (July 20, 2018), at 6.

much earlier date than if American must wait for additional Havana frequencies to become available before expanding its MIA-HAV service.

American has consistently sought to provide the appropriate level of service for Miami's demand since 2016. But despite its efforts, American has not been able to do so. In every year since the resumption of U.S.-Cuba scheduled service, American has been left with a suboptimal number of frequencies to use for MIA-HAV flights.

- 2016: In the initial allocation proceeding, American requested ten daily frequencies for MIA-HAV service, and prioritized seven daily MIA-HAV flights over CLT-HAV service.<sup>18</sup> Although American was awarded four daily frequencies for MIA-HAV service and one daily frequency for CLT-HAV service, more MIA-HAV service has always been American's first choice.
- 2017: Following returns of frequencies by Alaska, Delta, Frontier, and Spirit, American sought to add seventeen weekly MIA-HAV flights, but was awarded frequencies for just seven.<sup>19</sup>
- 2018: In the proceeding that recently concluded, Tampa (TPA) was awarded another Saturday frequency while MIA was not,<sup>20</sup> despite strong evidence showing that Miami is underserved relative to its share of demand for Havana service.<sup>21</sup>

There are currently just seven daily MIA-HAV flights total offered by all carriers, less than the average number of daily *charter* flights between the two airports in the year before scheduled service to Cuba resumed.<sup>22</sup> Based on the charter traffic and demographic data, Miami's level of Havana service remains misaligned with demand.

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<sup>18</sup> Application of American Airlines, Inc., Docket DOT-OST-2016-0021 (Mar. 2, 2016), at Ex. AA-202.

<sup>19</sup> Amended Application of American Airlines, Inc., Docket DOT-OST-2016-0021 (Dec. 8, 2017), at 1.

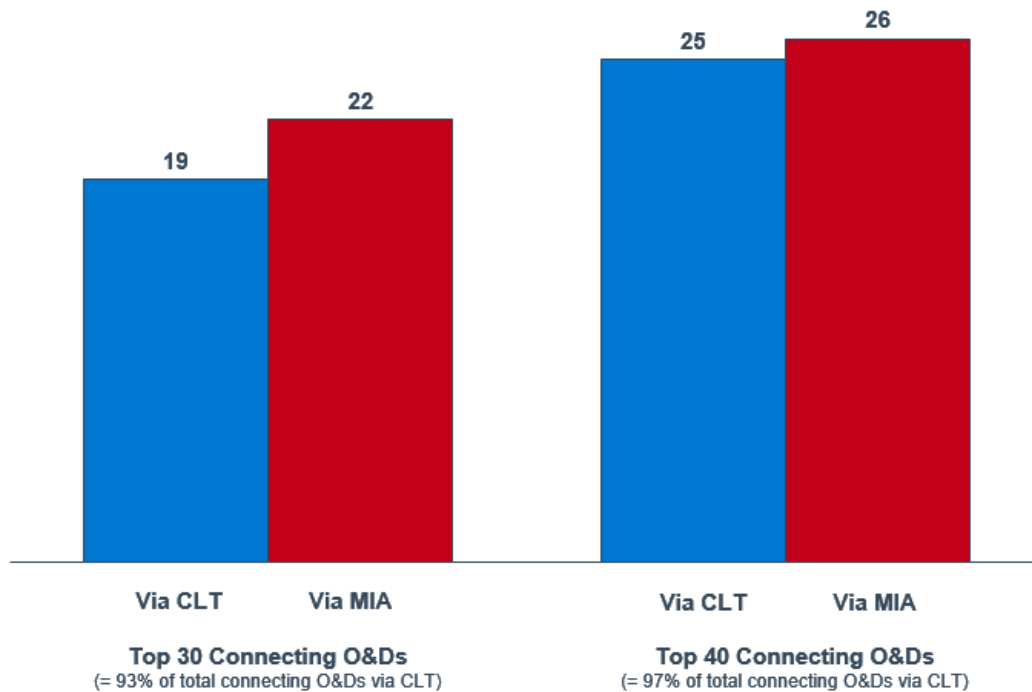
<sup>20</sup> Show Cause Order 2018-9-10, Docket DOT-OST-2016-0021 (Sept. 7, 2018).

<sup>21</sup> Consolidated Reply of American Airlines, Inc., Docket DOT-OST-2016-0021 (Aug. 3, 2018), at 9–12. MIA needs approximately nine daily Havana frequencies to achieve rough parity with TPA on the basis of departures per Cuban-American population served. *Id.* at 11. Even if American adds an additional daily MIA-HAV flight, Miami will still be underserved relative to Tampa.

<sup>22</sup> See Application of American Airlines, Inc., Docket DOT-OST-2016-0021 (Mar. 2, 2016) at Ex. AA-708.

Any harm from American's proposed route adjustment is mitigated by American's robust network at MIA, which links many destinations across the United States, including Charlotte, with Cuba. Local travelers on American's CLT-HAV service, who comprise fewer than one in five total passengers on this service, will have ample connecting opportunities on American's MIA-HAV service.<sup>23</sup> Connecting passengers on American's CLT-HAV service will have comparable or slightly better connections over MIA:

**Number of Connecting O&Ds with Roundtrip Connections to HAV – CLT vs. MIA**<sup>24</sup>



The benefits created by the expansion of MIA-HAV service will make up for any harm from the loss of CLT-HAV service.

<sup>23</sup> U.S. DOT Segment O&D data via Diio Mi (YE 1Q 2018).

<sup>24</sup> Based on Innovata Schedules Data via Diio (Typical week of November 2018); U.D. DOT O&D Data (YE 1Q 2018). Uses minimum connecting times of 55 minutes (Southbound) and 70 minutes (Northbound), and a maximum connecting time of 4 hours.

By using the frequency now allocated for CLT-HAV service to help fix the misalignment between MIA-HAV capacity and demand, American will strengthen the public benefits that this frequency provides. American's plan to upgauge aircraft should the Department grant route flexibility will further enhance the benefits for passengers.<sup>25</sup>

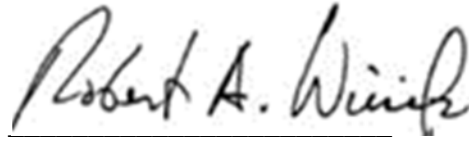
### **Conclusion**

The Department's grant of U.S.-Cuba route flexibility will benefit passengers, will best advance the Department's objectives in allocating Cuba frequencies, and is well supported by precedent. American's desire to operate additional MIA-HAV service is based on the passenger traffic and load factor data, which are the strongest measures of public demand. Particularly because American's assessment is grounded in the best available data, American respectfully requests that its preference to offer more MIA-HAV service over CLT-HAV service in the near term be given no less deference than the judgment of carriers in the Department's prior allocations of Cuba frequencies.

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<sup>25</sup> *Supra* Part I.B.

Respectfully submitted,

A handwritten signature in black ink that reads "Robert A. Wirick". The signature is fluid and cursive, with the first name "Robert" being more prominent than the last name "Wirick".

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## **CERTIFICATE OF SERVICE**

I certify that on September 28, 2018, I served a copy of the foregoing Motion of American Airlines, Inc. by email upon the addressees listed below:

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