

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

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**2017 U.S.-CUBA FREQUENCY  
ALLOCATION PROCEEDING**

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) Docket DOT-OST-2016-0021  
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**REPLY OF FEDERAL EXPRESS CORPORATION**

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September 26, 2017

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**REPLY OF FEDERAL EXPRESS CORPORATION**

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Federal Express Corporation (“FedEx”) hereby submits its Reply, in accordance with the with the Department of Transportation’s (“the Department”) instituting order for the 2017 U.S.-Cuba Frequency Allocation Proceeding.<sup>1</sup> FedEx has applied for allocation of one business daily frequency (*i.e.*, Monday through Friday) to operate all-cargo air services on a year-round basis, between Miami, Florida (“MIA”) and Havana, Cuba (“HAV” utilizing a Cessna 208 aircraft.<sup>2</sup> FedEx is the only all-cargo applicant in this proceeding and the only carrier<sup>3</sup> offering the integrated, express air cargo services that will address the shipping public component of the public benefits aspect of this matter.<sup>4</sup> As noted in FedEx’s Application and Answer, the Department’s stated principal objective for this proceeding is to maximize public benefits, and these beneficiaries include **both** the traveling public and shipping public (emphasis added).<sup>5</sup>

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<sup>1</sup> Order 2017-8-26, 2017 U.S.-Cuba Frequency Allocation Proceeding, Docket-DOT-OST-2016-0021 (Served August 29, 2017).

<sup>2</sup> Application of Federal Express Corporation for Exemption and Frequency Allocation, Docket DOT-OST-2016-0021-1243 (September 12, 2017); and Application errata filing, Docket DOT-OST-2016-0021-1244 (September 12, 2017). FedEx’s Application also included a request for exemption authority.

<sup>3</sup> Carrier common names will be used in this Reply.

<sup>4</sup> Application of Federal Express Corporation, at p. 4. See also Answer of Federal Express Corporation, Docket DOT-OST-2016-0021-1263 (September 19, 2017).

<sup>5</sup> Order 2017-8-26, at p. 5. See also Application of Federal Express Corporation, at p. 4; and Answer of Federal Express Corporation, at pp. 1-2.

However, no other carrier applicant describes any proposed cargo service offerings for the benefit of the shipping public.<sup>6</sup> While some carrier applicants acknowledge and respect the need for the Department to balance competing requests in this proceeding for cargo and combination carrier air services, there are other applicants who overlook the needs of the shipping public. In so doing, these applicants are overlooking a critical element in this contested proceeding: the Department is mandated by statute<sup>7</sup> to address U.S. shippers' needs in the air transportation consumer context.

Moreover, the Department has unequivocally recognized the vital importance of the air cargo industry to the U.S. economy.<sup>8</sup> In its Application, FedEx incorporated by reference the extensive economic overview information and analysis to illustrate and quantify the significant benefits that FedEx's proposed MIA-HAV all-cargo services would provide to the shipping public.<sup>9</sup> It seems consistent, therefore, with this long-standing recognition of the benefits that cargo services provide to U.S. shippers and the U.S. economy alike, that a proceeding involving all-cargo and combination air services would not exclude the only all-cargo applicant from receiving an allocation.

Nonetheless, the carrier applicants objecting to FedEx's Application advance the idea that FedEx's proposal would not enable the Department's maximization of public benefits.<sup>10</sup> By way of response, FedEx would reiterate that: (1) the public benefits analysis involved in this

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<sup>6</sup> Answer of Federal Express Corporation, at p.2, Docket DOT-OST-2016-0021-1263 (September 19, 2017).

<sup>7</sup> 49 U.S.C. §40101(b).

<sup>8</sup> U.S. International Air Transportation Policy Statement, at p. 8 (1995); Statement of U.S. International Air Cargo Policy, Order 89-5-29 (1989).

<sup>9</sup> Application of Federal Express Corporation for Exemption and Frequency Allocation (errata filing) at p.4, footnote 7, Docket DOT-OST-2016-0021-1244 (September 12, 2017).

<sup>10</sup> Consolidated Answer of JetBlue Corporation, at p. 24, Docket-DOT-OST-2016-0021-1260 (September 19, 2017); Consolidated Answer of Southwest Airlines, Co., at pp. 20-21, Docket-DOT-OST-2016-0021-1259 (September 19, 2017); Consolidated Joint Answer of United Airlines, Inc. and Mesa Airlines, Inc., at pp. 18-19, Docket-DOT-OST-2016-0016-1257 (September 19, 2017); and Answer of Delta Airlines, Inc., at p. 11, Docket DOT-OST-2016-0021-1262 (September 19, 2017).

proceeding also includes the shipping public; and (2) no other carrier applicant proposes to offer cargo services for the benefit of the shipping public. Instead, Delta and Southwest seem to conflate belly space capacity with all-cargo service and argue that their combination services can offer more public benefit than FedEx's all-cargo services.<sup>11</sup> However, all-cargo services are more than an offer of capacity – all-cargo services also include other operational components such as customs clearance and pick-up and delivery.

Regarding United/Mesa's query as to why FedEx could not use charter rights for its MIA-HAV air services,<sup>12</sup> FedEx's would respond that it wants scheduled MIA-HAV scheduled rights for the same reasons that United/Mesa and the other passenger carrier applicants want them: certainty and security of rights without possible limitation by local regulation. With regard to United/Mesa's query about the demand for FedEx's all-cargo services, FedEx would point to the U.S. export and trade opportunities highlighted in the information and exhibits included in the City of Houston's supportive filing for United/Mesa's proposal as one representative example.<sup>13</sup>

Regarding FedEx's proposed aircraft for its MIA-HAV all-cargo service, a Cessna 208, and other carrier applicants' mentioning of its smaller size, FedEx would point out that many of these same carriers have down-gauged certain of their Cuba routes due to the evolving nature of the Cuba market and attempts to right-size their operations.<sup>14</sup> FedEx's Cessna proposal is due to the same factors and considerations, and assuredly not to a lack of interest or commitment to U.S.-Cuba air services. In fact, it is precisely due to having the highest level of commitment to

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<sup>11</sup> Consolidated Answer of Southwest Airlines, Co., at p. 21, Docket-DOT-OST-2016-0021-1259 (September 19, 2017); and Answer of Delta Airlines, Inc., at p. 11, Docket DOT-OST-2016-0021-1262 (September 19, 2017).

<sup>12</sup> Consolidated Joint Answer of United Airlines, Inc. and Mesa Airlines, Inc., at p. 19, Docket-DOT-OST-2016-0021-1257 (September 19, 2017).

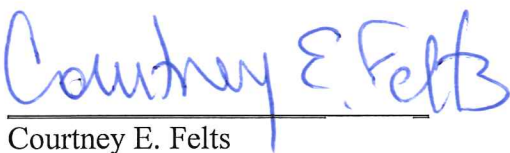
<sup>13</sup> Answer of the City of Houston, at Exhibits, 100 series, Docket-DOT-OST-2016-0021-1261 (September 19, 2017).

<sup>14</sup> *See e.g.*, Consolidated Answer of JetBlue Airways Corporation, at p. 11, Docket-DOT-OST-2016-0021-1260 (September 19, 2017).

its all-cargo product and services that FedEx continues to face operational challenges regarding the start-up of its MIA-Matanzas/Varadero, Cuba ("VRA") air services. As noted above, all-cargo services include more than just belly capacity. These services also include ancillary services for which all arrangements must in place and secured for the successful initiation of the all-cargo service offering overall. Despite the suggestions to the contrary of some other carrier applicants, FedEx has provided the valid reasons for its VRA start-up extension requests in its previous filings on the matter.<sup>15</sup>

In conclusion, FedEx would simply state that no other carrier applicant, except FedEx, has described their cargo services and promised U.S. shippers to prioritize their cargo, which would maximize the shipping public benefit of this proceeding. FedEx, therefore respectfully requests that the Department grant its application for an exemption authorizing its scheduled foreign air transportation of property and mail between Miami, Florida and Havana, Cuba and for allocation of one daily scheduled all-cargo frequency to be operated between those points Monday through Friday on a year-round basis.

Respectfully submitted,



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Dated: September 26, 201

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<sup>15</sup> Motion of Federal Express Corporation for Extension of Start-Up Date, Docket DOT-OST-2016-0021-1186 (February 28, 2017); Motion of Federal Express Corporation for Additional Extension of Start-Up Date, Docket DOT-OST-2016-0021-1236 (September 8, 2017).

### **CERTIFICATE OF SERVICE**

I hereby certify that on September 26, 2017, a copy of the foregoing Reply of Federal Express Corporation was served upon the following persons via email:

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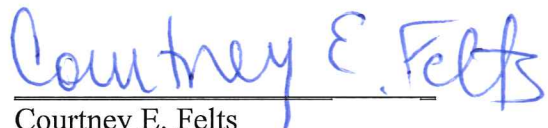
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