

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

CONTINUATION OF CERTAIN AIR SERVICE)	Docket DOT-OST-2020-0037
)	
)	
Under Public Law 116-136 §§ 4005 and 4114(b))	
)	

**SPIRIT AIRLINES, INC. REQUEST FOR EXEMPTION
FROM SERVICE OBLIGATION**

Communications with respect to this document should be sent to:

Joanne W. Young
David M. Kirstein
Kirstein & Young, PLLC
1750 K Street, N.W.
Suite 700
Washington, D.C. 20006
(202) 331-3348 (telephone)
jyoung@yklaw.com
dkirstein@yklaw.com

April 8, 2020

Attorneys for Spirit Airlines, Inc.

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

CONTINUATION OF CERTAIN AIR SERVICE)	Docket DOT-OST-2020-0037
Under Public Law 116-136 §§ 4005 and 4114(b))	

**SPIRIT AIRLINES, INC. REQUEST FOR EXEMPTION
FROM SERVICE OBLIGATION**

I. Introduction

Spirit Airlines appreciates the Department issuing Final Order 2020-4-2 on Continuation of Certain Air Service within short time constraints, recognizing the importance of expediting financial assistance to the airlines. Spirit understands the challenge facing the Department to meet the dual objectives of the CARES ACT to help the airlines, which are facing unprecedented economic collapse due to the COVID 19 pandemic, while ensuring communities around the country retain access to air transportation.

Spirit recognizes the generally applicable service level requirement in the final Order is intended to balance these overall objectives (Order at 7-8). The Order, by providing for an expedited exemption process, also recognizes the service requirement must be open to adjustments where continued service to specific cities at the present time for a particular carrier may not be “reasonable or practicable,” particularly where substantial service will remain available through other airlines. See, Public Law 116-136 §§ 4005 and 4114(b).

Spirit, like other airlines, is in survival mode which has necessitated temporarily discontinuing service to the cities on the attached list. Spirit has been completely transparent with the Department about these cancelations. These city reductions, for which the schedules were previously loaded, became effective today, April 8, 2020, and were provided to the Office of Aviation Analysis on April 3, 2020, in conjunction with Spirit's comments on the Show Cause Order.

For the reasons discussed below and explained with respect to each city, it is not "reasonable or practicable" for Spirit to operate to these cities at this time. Importantly, in terms of the considerations specifically referenced in the CARES ACT, none of the cities on Spirit's list are "small and remote." Each will have good continuous access to air transportation either directly or through a neighboring hub. In addition, unlike the A4A members, Spirit does not offer any cargo service and does not have the systems or infrastructure to offer such service. For this reason, Spirit is not able to support the medical supply chain as can be done by carriers like Delta that regularly carry cargo in passenger aircraft as referenced in the Order.

Pursuant to Section VI and Appendix D of the Order, Spirit in the attached exhibit provides an updated list of cities for which an exemption is requested and the reasons Spirit believes its request should be approved as consistent with the CARES ACT and the public interest.

As an initial matter, Spirit elects to use the summer seasonal schedule, based on the OAG schedule for the week ending August 4, 2019 which only affects two airports.¹ In addition, Order 2020-4-2 incorrectly identifies three cities Albuquerque (ABQ), Birmingham (BHM), and Macon (MCN) as covered points for Spirit even though Spirit has never provided scheduled service to

¹ From the April 3 list Spirit sent to the Office of Aviation Analysis, Spirit no longer requires an exemption for Nashville (BNA) and West Palm Beach (PBI) as these cities were not served in the summer seasonal schedule.

these cities. *See* Appendix B to Order 2020-4-2 at pp. 2, 5, and 26 respectively. These three cities were not listed as served by Spirit in the Show Cause Order, Order 2020-3-10. Spirit requests the Department remove these cities as covered points for Spirit.²

II. The Requested Exemptions are in the Public Interest

As explained in its comments to the Show Cause Order, Spirit's business model is based on fewer frequencies and point-to-point rather than hub-and-spoke or high frequency service. While, the Department addressed the differences between very large and smaller carriers to some extent, there remains a significant difference in aircraft, financial resources and service levels between carriers such as Southwest or American Airlines with well over 10 percent of market capacity and Spirit with approximately 4 percent. It bears emphasis that of the 25 cities on Spirit's list that are open (Aguadilla Airport (BQN) is closed), 20 of them as of April 20 have at least 100 weekly flights and 13 have between 450 and over 3,000 weekly flights.

Requiring Spirit to continue to operate 3 flights a week to these cities, will rapidly exhaust Spirit's financial resources and manpower, while adding virtually nothing to those cities access to air transportation at this time. Spirit notes that last Sunday TSA screened just over 122,000 people nationwide versus 2,462,929 on the same day in 2019. *See, The Washington Post*, April 8, 2020 at A22.

Demanding Spirit serve these cities is not in the public interest particularly given: 1) the minimal service Spirit would provide to these cities against the otherwise available service³ and

² Spirit suspects these cities were inadvertently added as covered points because Spirit may have had a flight in the past year which diverted to these airports.

³ For example, at Raleigh Durham (RDU), prior to March 1, Spirit and the larger carriers operated the following weekly frequencies: Delta – 473, American – 314, Southwest – 209, United– 174, Spirit – 27. Under the Order, the four larger carriers above are only required to maintain between 1 and 2% of their flights while Spirit must maintain 11%

the 2) extremely low passenger levels. Significantly, requiring Spirit to continue to serve these cities when, unlike larger carriers, it relies almost exclusively on independent contractors (for which Spirit receives no employee grant money) at these airports will harm Spirit's ability to restore service as the pandemic ends and deny consumers the low fare service Spirit wants to bring back to the public.

III. Spirit's Exemption Request

Attached as Exhibit 1 is the list of cities and the reasons continued service to each individual city is not "reasonable or practical" at this time. Overall, these reasons include:

- FAA has closed Aguadilla Airport (BQN) in Puerto Rico to all traffic.
- Since Spirit contracts out the work at these airports, to the extent the CARES Act support for contractors is not sufficient or properly distributed, Spirit will have to financially support contractors without the grant money larger carriers will receive for similar work by their own employees in order to comply with the minimum service requirement under the terms of the Show Cause Order.
- As of date of filing and based on publicly available future airline schedules, this city is well-served by several other airlines.
- As of date of filing and based on publicly available future airline schedules, this city is well-served by many other airlines, including through a nearby city.
- For airports in New York, New Jersey, and Connecticut, the Centers for Disease Control (CDC) issued a directive urging residents in these states to refrain from non-essential travel (<https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-in-the-us.html>). This directive from the Federal Government significantly limits or burdens passengers flying to the cities in these states.

Spirit intends to continuously monitor traffic and restore service when feasible at these cities.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Joanne W. Young".

Joanne W. Young
David M. Kirstein
Kirstein & Young, PLLC
1750 K Street, N.W., Suite 700
Washington, D.C. 20006
(202) 331-3348 (telephone)
jyoung@yklaw.com
dkirstein@yklaw.com

Attorneys for Spirit Airlines, Inc.

*Domestic departures only, as of April 4, 2020 publicly available schedules

City	Comment on service being not reasonable or practical	Weekly departures on other airlines (week of April 20-26, 2020)*
Aguadilla, PR	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement Per the FAA, the airport is closed to passenger operations (source: https://www.fortaleza.pr.gov/content/governor-wanda-v-zquez-garced-announces-us-federal-aviation-administration-granted) Spirit Airlines intends to continue serving the nearby city of San Juan, PR	0
Asheville, NC	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	123
Austin, TX	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	747
Charleston/Dunbar, WV	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines, including the nearby city of Huntington, WV	58
Charlotte Amalie, VI	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement Recent restrictions (local, state, or federal) limit or burden passengers flying to this city	157
Charlotte, NC	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	3305
Christiansted, VI	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement Recent restrictions (local, state, or federal) limit or burden passengers flying to this city	143
Cleveland, OH (Metropolitan Area)	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	477
Columbus, OH	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	509
Greensboro/High Point, NC	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, the nearby city of Raleigh/Durham, NC is well-served by numerous other airlines	194
Hartford, CT	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement Recent restrictions (local, state, or federal) limit or burden passengers flying to this city (source: https://www.cdc.gov/media/releases/2020/s038-travel-advisory.html) As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	304
Indianapolis, IN	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	554
Jacksonville, FL	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement Recent restrictions (local, state, or federal) limit or burden passengers flying to this city As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	333
Kansas City, MO	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	630
Latrobe, PA	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, the nearby city of Pittsburgh, PA is well-served by numerous other airlines	0
Minneapolis/St. Paul, MN	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	1506
Myrtle Beach, SC	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement Recent restrictions (local, state, or federal) limit or burden passengers flying to this city As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	92
New York City, NY (Metropolitan Area)	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement Recent restrictions (local, state, or federal) limit or burden passengers flying to this city (source: https://www.cdc.gov/media/releases/2020/s038-travel-advisory.html) As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	3262
Niagara Falls, NY	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement Recent restrictions (local, state, or federal) limit or burden passengers flying to this city (source: https://www.cdc.gov/media/releases/2020/s038-travel-advisory.html) As of date of filing and based on publicly available future airline schedules, the nearby city of Buffalo, NY is well-served by numerous other airlines	10
Pittsburgh, PA	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	632
Plattsburgh, NY	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement Recent restrictions (local, state, or federal) limit or burden passengers flying to this city (source: https://www.cdc.gov/media/releases/2020/s038-travel-advisory.html)	25
Portland, OR	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	1261
Raleigh/Durham, NC	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	523
Richmond, VA	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	260
Sacramento, CA	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	673
San Francisco, CA (Metropolitan Area)	To the extent that the CARES Act support for contractors is not sufficient or properly distributed, Spirit may have to financially support contractors in certain markets, in order to comply with our minimum service requirement As of date of filing and based on publicly available future airline schedules, this city is well-served by numerous other airlines	3210

CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2020 I caused to be served by email a copy of the foregoing Request for Exemption on the following persons

Cities

Aguadilla, PR

rhernandez@prpa.pr.gov
carlosmendezgracias@gmail.com

Asheville, NC

lbleiweis@flyavl.com
esthermanheimer@avlcouncil.com

Austin, TX

Jacqueline.yaft@austintexas.gov
Steve.adler@austintexas.gov

Charleston/Dunbar, WV

Dominique@yeagerairport.com
Mayoroffice@cityofcharleston.org

Charlotte Amalie, VI & Christiansted, VI

cdowe@viport.com
albert.bryan@go.vi.gov
karl.knight@go.vi.gov

Charlotte, NC

Brent.cagle@cltairport.com
vlyles@charlottenc.gov

Cleveland, OH

rkennedy@clevelandairport.com
vmccall@city.cleveland.oh.us

Columbus, OH

jnardone@columbusairports.com
311@columbus.gov

Greensboro/High Point, NC

rosserA@gsoair.org
nancy.vaughan@greensboro-nc.gov
jay.wagner@highpointnc.gov

Pittsburgh, PA

Hartford, CT

kdillon@bradleyairport.com
luke.bronin@hartford.gov

Indianapolis, IN

mrodriguez@ind.com
Julie.marvel@indy.gov

Jacksonville, FL

Mark.vanloh@flyjacksonville.com
mayorlennycurry@coj.net

Kansas City, MO

Pat.klein@kcmo.org
Quinton.lucas@kcmo.org

Latrobe, PA

Gmonzo@palmerairport.com
rwolford@cityoflatrobe.com

Minneapolis/St. Paul, MN

Brian.ryks@mspmac.org
Melvin.carter@ci.stpaul.mn.us
Jacob.frey@ci.minneapolis.mn.us

Myrtle Beach, SC

vanmopress@horrycounty.org
bbethune@cityofmyrtlebeach.com

New York City, NY

hlawrence@panynj.gov
acaplan@cityhall.nyc.gov

Niagara Falls, NY

William_vanecek@nfta.com
Robert.restaino@niagarafallsny.gov

Richmond, VA

pmiller@flyrichmond.com

Ccassotis@flypittsburgh.com
Bill.peduto@pittsburghpa.gov

Plattsburgh, NY
Chris.kreig@clintoncountygov.com
carlinb@cityofplattsburgh-ny.gov

Portland, OR
Chris.czarniecki@portofportland.com
mayorwheeler@portlandoregon.gov

Raleigh/Durham, NC
Bill.sandifer@rdu.com
Mary-ann.baldwin@raleighnc.gov
Steve.schewel@durhamnc.gov

Airlines

Alaska
Dheffernan@cozen.com

Allegiant Air
agoerlich@ggh-airlaw.com
laura.overton@allegiantair.com

American
Robert.wirick@aa.com
Bruce.wark@aa.com

Delta
Alex.krulic@delta.com
Chris.walker@delta.com
Steven.seiden@delta.com

Frontier
Robert.cohn@hoganlovells.com

Hawaiian
perkmann@cooley.com

JetBlue
Adam.schless@jetblue.com
Reese.davidson@jetblue.com
Robert.land@jetblue.com

levar.stoney@richmondgov.com

Sacramento, CA
nicholc@sacounty.net
mayorsteinberg@cityofsacramento.org

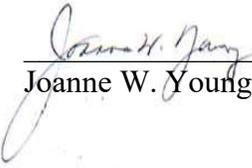
San Francisco, CA
bfrancis@portoakland.com
mayorlondonbreed@sfgov.org

Southwest
Bob.kneisley@wnco.com
Leslie.abbott@wnco.com

Sun Country
Eric.levenhagen@suncountry.com
Tori.palant@suncountry.com

United
Dan.weiss@united.com
Steve.morrissey@united.com
Amna.arshad@freshfields.com

FAA/DOT
john.s.duncan@faa.gov
todd.homan@dot.gov
david.short@dot.gov
joel.szabat@dot.gov
peter.irvine@dot.gov
kevin.bryan@dot.gov
albert.muldoon@dot.gov
fahad.ahmad@dot.gov
cindy.baraban@dot.gov



Joanne W. Young