BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, DC

Joint Application of JETBLUE AIRWAYS CORPORATION and SPIRIT AIRLINES, INC. For Approval of a Transfer of Route Authorities pursuant to 49 U.S.C. § 41105	)	Docket DOT-OST-2023-_____

JOINT APPLICATION OF JETBLUE AIRWAYS CORPORATION AND SPIRIT AIRLINES, INC. FOR APPROVAL OF TRANSFER OF INTERNATIONAL ROUTE AUTHORITIES

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NOTICE: The Joint Applicants request that this Joint Application be processed pursuant to the expedited non-hearing procedures in Subpart B of the Department's Procedural Regulations. Any person who wishes to support, oppose or otherwise comment on this Joint Application must file an answer by March 3, 2023, and must serve that answer on the Joint Applicants and all persons served with this Joint Application.

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JetBlue Airways Corporation ("JetBlue" or "B6") and Spirit Airlines, Inc. ("Spirit" or "NK") have agreed to combine their respective operations and complementary route networks to create a national low-fare competitor to the dominant "Big Four" airlines.[1] Pursuant to 49 U.S.C. § 41105 and Subpart B of the Department's Rules of Practice in Proceedings (14 C.F.R. §§ 302.201 *et seq*.), JetBlue and Spirit (collectively, the "Joint Applicants") hereby apply for approval of:

(i) the *de facto* transfer of all certificate and other economic authorities held by Spirit that will result from the acquisition of Spirit by JetBlue, to be effective upon closing of the transaction;

[1] American Airlines, Delta Air Lines, United Airlines, and Southwest Airlines.

(ii) the transfer and amendment of the economic authorities currently held by JetBlue and Spirit, respectively, to "JetBlue Airways Corporation and/or Spirit Airlines, Inc.", to be effective upon closing of the transaction; and

(iii) the *de jure* transfer of Spirit's international route authorities to JetBlue, upon their ultimate merger into a single operating entity.

The requested relief would enable JetBlue and Spirit to seamlessly implement this acquisition and merger and enable the combined low-fare airline to deliver the significant benefits and synergies of the resulting combination. Consistent with longstanding Department precedent, the Joint Applicants request that the Department promptly grant this application.

I. INTRODUCTION

The JetBlue/Spirit combination will bring JetBlue's unique combination of low fares and award-winning customer service to more customers and communities nationwide. This powerful combination will extend JetBlue's consistent 23 year track record of leading legacy carriers to lower fares and improve service. The United States Department of Justice (DOJ) has recently acknowledged the existence and importance of this "JetBlue Effect" to benefit consumers and competition.[2] There is a critical need for a larger disruptive competitor in a domestic market where the four largest airlines have increased their dominant market share from 62% in 2010 to approximately 80% in 2021. The JetBlue/Spirit combination will also provide better opportunities and more stability for its 34,000 combined crewmembers, with plans to aggressively hire more as the airline grows. The combination of JetBlue and Spirit operations and largely complementary

[2] The "JetBlue Effect" was first recognized by MIT.

route networks will create a truly national low-cost airline better able to challenge the four dominant carriers and provide greater benefits to consumers and crewmembers than JetBlue and Spirit can provide as independent carriers.

As explained below, the requested transfer of certificates and other economic authorities is in the public interest and satisfies the statutory criteria and Department standards for such transfers. The following is a brief list of the public interest benefits that will flow from a JetBlue/Spirit combination:

- Significantly expand their disruptive, low-fare networks on a scale that would be unachievable through organic growth in the absence of the merger;
- The unified and expanded low-fare network will include over 125 destinations across the United States, Latin America, the Caribbean and Europe;
- More than 1,700 daily flights;
- Modern, fuel-efficient, and environmentally and customer friendly fleet of 458 aircraft;
- Order book of over 300 Airbus aircraft with more sustainable fuel-efficient, lower carbon engines, saving both fuel costs and emissions;
- More low fares for more people in more places;
- More frequent low fare flights;
- Expanded service to underserved and unserved small and mid-sized cities; and
- Superior national platform for initiating low-fare service to new cities and providing meaningful competition to the Big Four.

The Department should promptly approve the transfers and amendments requested herein.

II. OVERVIEW

Since its inaugural flight in February 2000, JetBlue has been a low-fare disruptor and positive change agent in the airline industry. In its short history, JetBlue has been a pioneer with customer-centric innovations including free live television and wifi, unlimited snacks and drinks, the most legroom in coach, and much more. Early on, analysts and "aviation experts" repeatedly predicted JetBlue's failure. When they were proven wrong about JetBlue's survival, they then asserted that JetBlue—as a low-cost/low-fare carrier—could not compete in premium transcontinental markets but JetBlue once again proved them wrong with the unparalleled success of Mint. When they were wrong yet again, they then turned their doubts to challenge the notion that JetBlue could successfully launch transatlantic service. JetBlue proved them wrong once more and established a permanent presence at both London Heathrow Airport (LHR) and London Gatwick Airport (LGW) with service at Paris Charles de Gaulle Airport (CDG) starting later this year. JetBlue has always proved the critics wrong with low fares and consumers in mind. This is the essence of JetBlue.

These accomplishments benefit all travelers as the Big Four carriers are forced to reduce their fares and improve their service and product offerings to compete with JetBlue. Direct examples of these benefits include lower airfares on routes where JetBlue operates, including now to London, and the increase in lie-flat seats on U.S. transcontinental routes where JetBlue operates. As a result, consumers have greater access to lower fares and more service options on multiple carriers, which spreads the "JetBlue Effect" far and wide. JetBlue is not alone in recognizing this phenomenon. DOJ, in Fall 2021, explicitly commented on these benefits:

• "JetBlue's reputation for lowering fares is so well known in the airline industry that it has earned a name: the 'JetBlue Effect.' JetBlue's record in Boston and New York City illustrates why."

• "In the face of consolidation, JetBlue has provided an important and steadfast source of competition."

• "JetBlue is uniquely disruptive… as a result, JetBlue has a long and public track record of significantly lowering fares when it enters a market."

• "[JetBlue] has saved consumers a total of more than $10 billion since the airline's founding, offering lower fares and better service and forcing competitors to do the same."[3]

Nothing about JetBlue's low-fares and customer focus has changed in 23 years and nothing will change as a result of its acquisition of Spirit except its ability to deliver both to more consumers. There will be no consumer harm. The opposite is true; JetBlue's acquisition of Spirt will enhance competition, in a variety of ways. A larger JetBlue will benefit more consumers and communities as JetBlue brings its award-winning product to more routes and sustainably lower fares across the nation in a way it cannot do today because of its limited size and inability to grow organically in certain geographies. Acquiring Spirit will facilitate access for JetBlue to grow and discipline fares at constrained legacy airline hubs including ATL, DFW, DTW, IAH, LAS, ORD, MIA, LAX and elsewhere. After acquiring Spirit, JetBlue will still be approximately half the size of each of the Big Four. The JetBlue-Spirit overlaps are minimal compared to previous airline mergers and the largest concentration, at FLL, even before the divestiture JetBlue

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[3] https://www.justice.gov/opa/pr/justice-department-sues-block-unprecedented-domestic-alliance-between-american-airlines-and

has committed to, is a far cry from the other anti-competitive mega hubs produced by previous mergers.

The JetBlue Effect, and DOT's prior logic and precedent, validates that this merger offers the most effective path to meaningful competition against legacy carriers and to deliver the low fares and great experience that consumers deserve. DOT has been instrumental to JetBlue's success over the last two decades. JetBlue is proud to be a byproduct of prior DOT and DOJ policy actions: Government regulators granted JetBlue 75 JFK slot exemptions in 1999, expanded access to DCA in 2010, policed anti-competitive gate allocations at ATL in 2017, and assisted JetBlue in securing access at LHR in 2021. DOT has an opportunity now to continue this effective pro-competitive streak and ensure that JetBlue has a platform to continue to discipline the airline market and grow, thrive and compete for decades to come by approving the instant route transfer request.

While there have been assertions by some that there has been too much consolidation in the airline industry, the consolidation which resulted in four mega carriers having nearly 80 percent of the marketplace was enabled by approval after approval of mergers brought before DOJ over multiple administrations in the past two decades. The result, contrary to all promises made, was hub closures, route and job losses and where no low fare competitor entered the market, higher fares. The JetBlue acquisition of Spirit will be the antidote to these approvals, enabling two small carriers to grow into a national, low fare force for good, further disciplining the large airlines on both price and product.

III. THE JOINT APPLICANTS AND THE TRANSACTION

JetBlue. JetBlue Airways Corporation is a Delaware corporation and an air carrier with its principal headquarters at 27-01 Queens Plaza North, Long Island City, NY

11101. JetBlue is a citizen of the United States within the meaning of 49 U.S.C. § 40102(a)(15), and has regularly been found fit, willing, and able to engage in interstate and foreign air transportation. It holds various certificates of public convenience and necessity, exemption authority, and authorizations. See Exhibit B6/NK-1. JetBlue currently provides passenger air transportation in the United States and to 26 countries using a fleet of Airbus A320 and A321 aircraft with 138-200 passenger seats, Airbus A220 aircraft with 140 seats, and Embraer E190 aircraft with 100 seats.

Spirit. Spirit is a Delaware corporation and an air carrier with its principal headquarters located at 2800 Executive Way, Miramar, Florida 33025. Spirit is a citizen of the United States within the meaning of 49 U.S.C. § 40102(a)(15), and has regularly been found fit, willing, and able to engage in interstate and foreign air transportation. It holds various certificates of public convenience and necessity, exemption authority, and authorizations. See Exhibit B6/NK-2. Spirit currently provides passenger air transportation in the United States and to 15 countries using a fleet of fuel-efficient Airbus A-319, A-320, and A-321 aircraft with 145-228 passenger seats.

The Transaction. On July 28, 2022, JetBlue and Spirit announced they had entered into a definitive merger agreement, pursuant to which JetBlue will acquire Spirit and eventually merge Spirit with JetBlue. Under the terms of the merger agreement, which has been unanimously approved by the boards of directors of both companies, Spirit equity holders will receive $33.50 per share in cash. Upon closing of the transaction, Spirit will be owned by JetBlue. Closing of the transaction is subject to approval by Spirit's shareholders (which was approved in October 2022),[4] expiration of

[4] Spirit shareholders approved the merger agreement on October 19, 2022. Spirit Announces Stockholder Approval of Merger Agreement with JetBlue, Press Release, October 19, 2022.

the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and certain other regulatory clearances, as well as the satisfaction of other customary closing conditions. While both JetBlue and Spirit will continue to operate under their respective names and operating certificates for a transition period following the closing of the transaction, they will eventually be combined under a single operating certificate and single brand.

IV. THE PROPOSED ROUTE TRANSFER ADVANCES THE PUBLIC INTEREST, SATISFIES THE STATUTORY CRITERIA FOR APPROVAL, AND IS SUPPORTED BY DEPARTMENT PRECEDENT

A. The Applicable Statutory Standards and Department Policy

JetBlue and Spirit seek approval of (i) the *de facto* transfer to JetBlue of all Spirit certificates of public convenience and necessity, exemptions, statements of authorization, frequency allocations, designations, and any other economic or route authorities that will result from the acquisition by JetBlue, (ii) reissuance of the international route authorities listed in Exhibit B6/NK-2 issued to Spirit in the name "JetBlue Airways Corporation and/or Spirit Airlines, Inc.", and (iii) the final, *de jure* transfer of Spirit's international and domestic authorities to JetBlue upon their ultimate merger into a single entity.

Under long-standing Department precedent, when two or more air carriers each holding international route authority come under common ownership and control (as is proposed in this case), DOT construes that a *de facto* transfer of authority has taken place under 49 U.S.C. Section 41105.[5] In such cases, a "certificate may be transferred under

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[5] DOT Order 2017-6-13, at 2 (Alaska/Virgin America); DOT Order 2014-11-13, at 3 (American/US Airways/American Eagle/PSA/Piedmont); DOT Order 2011-11-17, at 2 (Southwest/AirTran).

section 41105 of the Statute if the Department determines that the transfer is in the public interest."[6]

In making the public interest determination under Section 41105, the Department's primary considerations are "whether the certificate transfer would conflict with important international aviation policy objectives, whether the surviving entities are U.S. citizens, and whether they will be fit to hold the authority."[7] In addition, the Department is required by Section 41105(b) to "analyze the impact of the transaction on the viability of the air carrier applicants, competition in the domestic airline industry, and the trade position of the United States in the international air transportation market."[8]

The Department's well-established policy favors approving route transfer applications, such as this one, where "they do not conflict with important international aviation policy objectives and are not otherwise inconsistent with the public interest."[9] Indeed, the Department has regularly approved the *de facto* transfer of certificates and the transfer and amendment of economic authorities in cases similar to this one.[10]

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[6] DOT Order 2014-11-13, at 3; see also 49 U.S.C. § 41105.

[7] DOT Order 2017-6-13, at 2; DOT Order 2014-11-13, at 3; DOT Order 2011-11-17, at 3; DOT Order 2015-8-19, at 3 (Southern/FWIA).

[8] DOT Order 2017-6-13, at 2 (citing 49 U.S.C. § 41105(b)); DOT Order 2014-11-13, at 3 (same); DOT Order 2015-8-19, at 3 (same); see also DOT Order 2011-11-17, at 3 (to same effect).

[9] DOT Order 2000-6-7, at 3 (UPS/Challenge).

[10] See, e.g., DOT Order 2017-6-13 (granting the de facto transfer of certificates and other economic authorities held by Virgin America, Inc., to Virgin America, Inc., under the ownership of Alaska Airlines Group, Inc., and transferring and amending the name of the holder of economic authorities to Alaska Airlines, Inc. and/or Virgin America, Inc.); DOT Order 2014-11-13 (granting the de facto route transfer among American, US Airways, American Eagle, PSA, and Piedmont, and transferring and amending the name of the holder of certificates and other authorities to American and/or US Airways); DOT Order 2011-11-17 (granting the de facto transfer of certificates and other economic authorities held by AirTran Airways, Inc. to AirTran Airways, Inc. under the ownership of Southwest Airlines Co., and transferring and amending the economic authorities to AirTran and/or Southwest); DOT Order 2011-3-14 (granting the transfer of certificates and other economic authorities held by Continental Airways, Inc. to Continental Airways, Inc. under the ownership of United Airlines, Inc., and transferring and amending the economic authorities to Continental Airlines and/or United).

As explained below, the requested transfer of international route authorities is fully consistent with the public interest. It will advance important international aviation policy objectives; the carriers will remain U.S. citizens and continue to be fit to hold the authority; the transaction will favorably impact the viability of the air carriers and enhance competition in the domestic airline industry; and it will enhance the trade position of the United States in the international air transportation market. The Department should therefore promptly grant this Joint Application and approve the transfers and amendments requested herein.

B. The JetBlue/Spirit Combination Provides Benefits to the Public

The combination of JetBlue and Spirit and their highly complementary low-fare route networks will produce substantial public benefits for travelers, the communities served and the employees of both airlines.

Because JetBlue rejects the model of a tradeoff between a low fare and a great experience, the JetBlue/Spirit combination will create America's most competitive airline with a valuable proposition for customers. It will allow the combined carriers to significantly expand their highly complementary networks on a scale that would be unachievable through individual organic growth. The JetBlue/Spirit combination will fly to over 125 destinations across the United States, Latin America, the Caribbean, and Europe with more than 1,700 daily flights, using one of the youngest, most fuel-efficient, and environmentally-friendly fleets among U.S. air carriers (458 aircraft). The combined airline will also have an order book of over 300 Airbus aircraft with fuel-efficient, lower carbon engines, saving both fuel costs and emissions while improving the travel experience. It will expand consumer access to JetBlue's award-winning Mint product and robust Mosaic frequent flyer program.[11] It will provide more low fares for more people in more places, more frequent low fare flights, expanded service to underserved and unserved small and mid-sized cities, and a superior platform for initiating service to new cities.

It will also benefit travelers with increased schedule appeal which is critically important to compete with the big four airlines, enhanced operational reliability achieved in part through diversification away from JetBlue's current northeast-centric network, improved ability to recover from irregular operations, and expanded frequent flyer and membership offerings (e.g., more earn/burn options, more destinations, and more flights). The merger will create the only national airline network that offers consistently lower fares plus the amenities desired by most travelers (including live television, free wifi, and the most legroom in coach) while at the same time benefiting value-conscious consumers through JetBlue's Blue Basic fare offering. Importantly, the JetBlue/Spirit combination will improve career opportunities and stability for the 34,000 professionals of both carriers and create additional jobs.

The resulting carrier will be a unique disruptive low-cost competitor, which the concentrated U.S. market needs. DOJ has acknowledged the existence and vital importance of this "JetBlue Effect" to benefit consumers and competition.[12] There is a desperate need for a disruptive competitor in a domestic market where the same four airlines have increased their dominant market share from 62% in 2010 to approximately 80% in 2021.[13] The combined carrier will provide nationwide access to sustainable,

[11] See e.g., JetBlue Awarded for "Best Regional Business Class" and Overall "Passenger Comfort" in North America by TripAdvisor, Press Release, April 2, 2019.
[12] Department of Justice Complaint, Case 1:21-cv-11558-LTS, para. 6, September 21, 2021.
[13] *Id*. at para. 23.

affordable domestic and international travel for passengers in small, mid-sized, and large communities throughout the United States. The Joint Applicants will provide all of these significant benefits and more as a result of JetBlue's acquisition of Spirit.

C. The Proposed Transfer Will Expand U.S. Flag Carrier Price and Service Competition Across International Markets Which Furthers U.S. International Aviation Policy Objectives

The proposed route transfer is fully consistent with, and would advance, important international aviation objectives. In the 1995 Statement of U.S. International Air Transportation Policy, the Department stated its:

> overall goal continues to be to foster safe, affordable, convenient and efficient air service for consumers. We continue to believe that the best way to achieve this goal is to rely on the marketplace and unrestricted, fair competition to determine the variety, quality, and price of air service.[14]

The Department's international aviation policy highlighted several objectives, including to "[i]ncrease the variety of price and service options available to consumers" and to "[e]nhance the access of U.S. cities to the international air transportation system."[15] Congress has even codified that it is in the public interest for the Department to "strengthen [] the competitive position of air carriers to at least ensure equality with foreign air carriers." 49 U.S.C. § 40101(a)(15).

The JetBlue/Spirit combination and resulting transfer of international route authorities will advance each of these Department objectives. Compared to larger U.S. and foreign air carriers with extensive foreign route networks, JetBlue and Spirit operate a relatively limited number of international services. JetBlue currently operates to 26

[14] 60 Fed. Reg. 21841.
[15] 60 Fed. Reg. at 21844.

countries in the Americas, Caribbean, and Europe: Antigua and Barbuda, Aruba, Bahamas, Barbados, Canada, Colombia, Costa Rica, Cuba, Curacao, Dominican Republic, Ecuador, France (Guadeloupe), Grenada, Guatemala, Guyana, Haiti, Jamaica, Mexico, Peru, Saint Lucia, St. Maarten, Trinidad and Tobago, and the United Kingdom. Spirit currently operates to 15 countries in Latin America and the Caribbean: Aruba, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Peru, and St. Maarten. With the sole exception of Cuba, all of these countries are either Open-Skies partners or have liberal "open entry" air services agreements with the United States.

With more flexibility, greater resources, and an expanded route network, the JetBlue/Spirit combination will be better positioned to take advantage of the now largely liberalized international operating environment and better utilize U.S. rights under applicable air transport agreements, thereby increasing service alternatives for consumers and enhancing U.S.-flag competition on nonstop and connecting itineraries between the United States, on the one hand, and Europe, Latin America and the Caribbean, on the other.

The combined JetBlue/Spirit's low fares and unbundled services to international destinations will also stimulate additional U.S. passenger traffic in these markets and provide a better network platform for the expansion of additional service to other international destinations. Additionally, JetBlue's recent expansion to the United Kingdom has brought the JetBlue Effect to the transatlantic market. As international travel recovers, a stronger combined airline will lead to more competition and more consumer choice between the world's two most developed air travel markets in the U.S. and Europe.

This will benefit business consumers by enhancing competition for global corporate accounts as well as individual travelers.

Approval of the *de facto* route transfer will enhance the U.S. position in international air transportation because, as explained above, the Joint Applicants will benefit from common ownership, combined resources, and highly complementary route networks. As a result, the Joint Applicants will become more effective competitors in the international passenger market. Moreover, there will be no negative effect on the international trade position of the United States because the one nonstop foreign route where JetBlue and Spirit are currently the only two nonstop carriers is not to a limited-entry market, and the transaction should not result in a loss of international route or charter authority by either of the Joint Applicants.[16] The combined carrier will continue flying to destinations currently only served by Spirit, such as Panama, so consumers will lose nothing.

This proposed route transfer is the result of a marketplace-driven transaction that will advance the Department's important international aviation policy objectives.[17]

D. The JetBlue/Spirit Combination Will Enhance Competition In The Domestic Airline Industry

By creating America's most competitive and truly national low-fare airline, the JetBlue/Spirit combination will enhance competition in the domestic airline industry. This

[16] See DOT Order 2017-6-13, at 4 (concluding that the proposed Alaska/Virgin America route transfer would have no material effect on the trade position of the United States in the international air transportation market); DOT Order 2014-11-13, at 5 (concluding that the proposed American/US Airways certificate transfer would not negatively affect the trade position of the United States in the international air transportation market).

[17] See DOT Order 2017-6-13, at 4 (concluding that the Alaska/Virgin America transaction and route transfers would not conflict with any U.S. international aviation policy objectives); DOT Order 2014-11-13, at 5 (same conclusion with respect to American/US Airways); DOT Order 2011-11-17, at 4 (same conclusion with respect to Southwest/AirTran).

merger will provide vigorous discipline to the high level of industry concentration by creating a more robust low-fare airline that can challenge the larger Big Four in more markets. As a result of the combination, two small carriers currently ranked 6th (JetBlue) and 7th (Spirit)[18] (4.7% and 4.5% respectively) in departure seats among U.S. airlines will become the 5th largest U.S. air carrier—though still merely about half the size of the Big Four on average. This larger platform will create a compelling alternative to the Big Four, which have increased their control from 62% in 2010 to approximately 80% of the market in 2021.[19]

The increased fleet and network flowing from this merger will help the combined carrier to compete more effectively with the Big Four, as consumers think of the combined carrier for a broader set of travel destinations than exists today and also avail themselves of superior frequent flier and credit card programs made possible by operating at scale beyond the very limited national market shares that JetBlue and Spirit each have today. Despite its small size, JetBlue estimates it has saved consumers over $10 billion since its founding.[20] Increasing the scale of JetBlue will have disproportionate competitive effects because JetBlue's presence on a nonstop route decreases legacy fares ~16% versus only ~5% for Spirit.[21] A larger JetBlue best supports the Department's statutory goal of fostering (and not constricting) "competition in the domestic airline industry."[22]

The combined carrier will compete with the Big Four carriers, and the ultra-low-cost carrier (ULCC) market will become more robust. Due to planned voluntary

[18] Based on departure seats for full year 2021. Sources: Diio MI, DOT data.
[19] Department of Justice Complaint, Case 1:21-cv-11558-LTS, para. 23, September 21, 2021.
[20] *Id.* at para. 5.
[21] https://lowfaresgreatservice.com/wp-content/uploads/2022/07/Bringing-Low-Fares-and-Great-Service-to-More-Customers.pdf
[22] 49 U.S.C. § 41105.

divestments, a JetBlue-Spirit combination also will create opportunities for ULCC new entrants in the New York, Boston, and Florida markets. Nationally, established ULCCs such as Frontier and Allegiant have greater capacity than they did in 2019. Frontier plans to more than double its fleet,[23] Sun Country launched 34 new markets in 2021,[24] and Allegiant just had its highest revenue-generating quarter in company history.[25] New ULCCs Breeze and Avelo are expanding rapidly, and they each currently operate from, among other locations, six Florida airports. These five airlines (Allegiant, Avelo, Breeze, Frontier and Sun Country) have a combined 365 aircraft in their fleet or on order (455 including options).

The proposed merger will also bring greater capabilities and capacity, including fleet optimization that will free up additional aircraft with which to enter new routes. Greater resiliency and more frequent flights will also improve reliability, thus enhancing quality. And, by being able to enter new routes—including many of the hub-to-hub routes that lack meaningful competition today—the post-merger carrier will bring the "JetBlue Effect" to more people in more places than would otherwise be possible. In short, the combination will enable the combined carrier to compete more vigorously, including with the largest U.S. airlines that control approximately 80% of the market today.

Customers of the combined airline will benefit from lower prices and award-winning service. Blue Basic customers will continue to pay only for the services they value, further increasing choice and savings. Blue Basic allows value-conscious consumers to avoid

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[23] *Frontier Airlines Poised for Significant Growth as America's Ultra-Low Cost Carrier*, Press Release, July 27, 2022 ("From a fleet of more than 100 aircraft today, Frontier has a robust order book of 244 aircraft to support its continued growth.")

[24] https://ir.suncountry.com/static-files/4a051bd1-1d6e-4c3a-bed2-a0fddb8f3d1e at slide 24.

[25] *Allegiant Travel Company Second Quarter Financial Results*, Press Release, August 3, 2022.

paying for ancillary services such as carry-on bags and advance seat selection, while still enjoying JetBlue's award-winning service.[26] This award-winning service, which extends to Blue Basic, includes the most legroom in coach; free and fast Fly-Fi broadband internet; complimentary and unlimited name-brand snacks and soft drinks; and free, live DIRECTV® programming at every seat.

The combined carrier will serve over 125 U.S. and foreign destinations, so that the benefits of low fares and award-winning customer service will be available throughout the United States. It will also enable the Joint Applicants to deepen service to underserved small and mid-sized communities. For example, customers in St. Louis, Memphis, Louisville, Myrtle Beach and other cities will have long-awaited access to the "JetBlue Effect." In parallel, major markets with legacy hubs such as Chicago and Atlanta will have access to increased competition and consumer choice.

Because JetBlue will divest Spirit's holdings in New York, Boston, and Fort Lauderdale, there will only be nine[27] remaining non-stop overlapping city pairs where the two carriers' combined share is greater than 35%. In all but one of these (MCO-BQN), multiple other competitors served the route in 2021 and/or are potential new entrants.[28] These "potential entrants" are carriers that already fly between city pairs, but do not currently offer a non-stop flight. These statistics compare favorably with previous airline mergers.

[26] Our Fares, JetBlue, available at https://www.jetblue.com/flying-with-us/our-fares
[27] Based on any City Pair—domestic or international—served by JetBlue or Spirit in 2021 at least on a daily basis (including seasonally).
[28] On January 31, 2023, Frontier announced a "major expansion" of service to Puerto Rico, including the launch of service at Ponce. https://news.flyfrontier.com/frontier-airlines-announces-major-expansion-of-service-to-puerto-rico-including-5-additional-nonstop-routes-to-san-juan-plus-new-service-to-aguadilla-and-ponce/

After divesting to ensure that ultra-low-cost carriers can access Boston, New York, and Fort Lauderdale, JetBlue and Spirit will have 1 non-stop city pair overlap where combined share is greater than 35% and there are not multiple other competitors or potential entrants. There also will only be 2 airports where the combined share of passengers is greater than 35%:[29] Luis Muñoz Marín International Airport (SJU) –San Juan, Puerto Rico and Rafael Hernández International Airport (BQN) –Aguadilla Pueblo, Puerto Rico. Both airports have a presence of at least one of the "Big Four" airlines and both are also served by Frontier. Neither of those airports is capacity-constrained or otherwise congested, and, as opposed to the limited-entry fortress hubs of the legacy carriers such as Delta at LGA and United at EWR, no carrier can inhibit entry (including by Southwest, which also has a significant position in Puerto Rico and could easily launch additional services).

For all of these reasons, the JetBlue/Spirit combination will enhance competition in the domestic airline industry.[30]

E. Los Angeles and South Florida Potential

Travelers flying to/from JetBlue's existing focus cities will also benefit. There are no more prime examples of this than LAX and FLL, two airports where JetBlue and Spirit face unique growth restraints.

Los Angeles. At LAX, JetBlue and Spirit both operate out of Terminal 5, which has extremely limited space. With current gate allocations and time-channel restrictions, JetBlue and Spirit can only operate a certain number of flights but each carriers' (current

[29] Based on 2021 DB1B DOT data.

[30] See DOT Order 2017-6-13, at 4 (concluding that the combined operations of Alaska and Virgin America would enhance domestic competition in the airline industry).

separate) inability to grow beyond a relatively modest peak number of daily departures inherently limits each carriers' proposition for Los Angeles travelers (less diversity of routes and consistent level of service, etc). By combining JetBlue and Spirit's gates in Terminal 5, a larger JetBlue will have more real estate to better optimize and expand the number of flights and destinations at LAX beyond what the two carriers do separately. A larger JetBlue will be able to maintain its robust transcontinental offering to key cities during certain time periods (mornings and evenings), but also operate a robust intra-West and international leisure schedule during the day when transcontinental flying is time-channel restricted. JetBlue currently struggles to do this efficiently because of its overall minimal presence on the West Coast. A larger JetBlue with access to additional Terminal 5 gates will be able to add even more routes from Los Angeles including Hawaii flying and additional leisure service.

All of the additional JetBlue service that will be possible because of the Spirit acquisition will result in JetBlue having more of a competitive impact for Los Angeles travelers, especially when you factor in that the Big Four carriers will have to match JetBlue and that customers on all airlines will benefit from JetBlue's presence on additional routes. Notably, American, Delta, Southwest and United each have their own (or more than one) concourse at LAX. There is simply no way a standalone JetBlue or Spirit, each currently maxed out on gates, could on their own in the foreseeable future remotely approach having the level of service this transaction allows, but the combined carrier (and consumers) certainly can benefit from this layout and compete with scale against the Big Four.

South Florida. Similar to LAX, FLL will also benefit greatly from JetBlue's acquisition of Spirit. JetBlue and Spirit both have struggled to establish comprehensive Latin/Caribbean connecting operations at FLL to bring meaningful low-fare competitive discipline to American's nearby Miami hub. This is not because of any shortage of overall gates and processing facilities at FLL, but rather because of the limited number of gates that support international immigration/customs clearance. Although JetBlue is primarily a point-to-point airline, connecting traffic can be crucial, especially during off-peak periods and in thinner markets. FLL's international gate limitations have restricted the way JetBlue can schedule certain international flights, which in turn has reduced the viability of certain international flights in South Florida, arguably the Latin and Caribbean capital of the USA. If JetBlue could only operate a certain (small) number of international flights in a given time window, then there are inherent restrictions in how many connecting flights might be available. This is because of the time channel restrictions that certain traffic flows impose, i.e., an international flight that would be required to arrive at FLL in the late evening (because there were no international gates for it do so earlier in the day) might not connect to certain departures to certain markets. This limits the potential success of the first (international) route.

JetBlue and Spirit today independently schedule their international arrivals without any regard for how the other operates. But as a result of JetBlue's acquisition of Spirit, and joint control of a larger number of gates, JetBlue will be able to optimize its schedules, particularly international schedules, to ensure that a larger overall number of customers have more connecting options. Certain JetBlue flights would be possible at FLL that are not viable today including: Antigua (ANU), Belize (BZE), Cincinnati (CVG), Liberia, Costa

Rica (LIR), Minneapolis (MSP), Memphis (MEM), and Savannah (SAV). When combined with the more diverse number of destinations served at FLL, and more robust combined schedules, customers who have no option to fly JetBlue or Spirit today will have an ability, because of new connecting schedules that were not possible before, and incentive, because of JetBlue's low-cost/low-fare structure, to do so. Dozens of O&D markets that JetBlue and Spirit currently either do not serve or compete in because of circuity limitations would be served after JetBlue's acquisition of Spirit. Examples include: SFO/SLC-GUA, DFW/CLT-NAS, IAH/DEN/TPA/DFW-UIO, SFO-SAP, and DFW/CLT/IAH/DTW/DEN/TPA/CMH/IND-NAS. This will provide broad network level restraint against legacy carrier Latin/Caribbean hubs at Atlanta (Delta), Dallas (American) Houston (United) and Miami (American) and more. As JetBlue serves more and more O&D markets via FLL, customers across the nation will benefit as other carriers match these fares and compete with JetBlue.

And because of JetBlue's public commitment to divest, upon receipt of all regulatory approvals and closing, five gates at FLL, including international gates, other ULCCs will still be able to grow and ensure they do not face very real, existing infrastructure constraints for years to come while the airport works to expand its overall number of gates and increases the amount of international gates.

F. JetBlue And Spirit Will Continue To Be Fit And U.S. Citizens

As noted above and detailed in Exhibits B6/NK-1 and B6/NK-2, JetBlue and Spirit hold various certificates and other economic authorities to engage in interstate and foreign air transportation and are citizens of the United States as defined in 49 U.S.C. § 40102(a)(15) ("U.S. Citizen"). Following the acquisition of Spirit by JetBlue, but prior to the integration of Spirit into JetBlue, both JetBlue and Spirit will continue to be U.S.

Citizens and fit to conduct operations as certificated air carriers. The combined carrier will likewise be a U.S. Citizen and fit when the two carriers are merged into a single entity with a single operating certificate, JetBlue and Spirit will continue to have qualified management and more-than-sufficient financial resources to support their operations. The combined carrier will be a more efficient and effective low-cost competitor than either JetBlue or Spirit would be on its own. Pursuant to Rule 24 of the Department's Rules of Practice, the Joint Applicants ask that the Department take official notice of all other information on file with the Department necessary to establish JetBlue and Spirit's respective fitness to engage in air transportation.

The transaction and resulting synergies will enhance the viability of the Joint Applicants, making them more capable and efficient competitors for domestic and international passenger traffic than either one could be on a stand-alone basis. The combined carrier is expected to generate annual run-rate operating synergies of $600-700 million once full integration is completed, primarily driven by scale efficiencies and procurement savings across the combined operation.[31] See, e.g., DOT Order 2014-11-13, at 3 (concluding that approximately $1 billion in synergies between American and US Airways "will allow the combined carrier the ability to more readily face future financial challenges" and the proposed merger would "enhance the viability of the Joint Applicants").

In addition, the transaction will expand JetBlue's service offerings in, among other places, the Midwest, Southeast, and Caribbean. With a larger aircraft fleet and greater resources, the Joint Applicants' operational reliability will improve, as will the ability to

[31] *JetBlue and Spirit to Create a National Low-Fare Challenger to the Dominant Big Four Airlines*, Press Release, July 28, 2022.

recover during irregular operations more rapidly. These synergies and expanded service offerings will enable JetBlue and Spirit to compete more vigorously against U.S. and foreign air carriers in the intensely competitive domestic and international air transportation markets and thereby enhance the viability of the Joint Applicants.[32]

G. The JetBlue/Spirit Combination Will Benefit Crewmembers of Both JetBlue and Spirit

The Department will also consider the impact of any route transfer on JetBlue's crewmembers. American/TWA, DOT Order 2001-4-7 at 4. JetBlue's acquisition of Spirit will create a more competitive airline, with a larger route network and more resources to expand operations and/or weather downturns, all of which will benefit the majority-union crewmembers of JetBlue and Spirit. As such, the combined carrier will be better positioned to continue to provide attractive salaries and benefits, as well as job security and better career and promotion opportunities. Moreover, given the strength and expected growth resulting from the JetBlue/Spirit combination, the Joint Applicants expect to add thousands of direct jobs, including at new bases.

V. CONCLUSION

For the reasons explained above, the proposed route transfer satisfies the applicable statutory criteria and is consistent with Department precedent. The Department should promptly approve the Joint Application, grant the relief requested herein, and grant such other or additional relief as it considers consistent with the Joint Application and the public interest.

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[32] See DOT Order 2017-6-13, at 4 (concluding that Alaska would remain a viable air carrier after the merger with Virgin America); DOT Order 2014-11-13, at 5 (concluding that the proposed American/US Airways merger would enhance the viability of the Joint Applicants); DOT Order 2011-11-17 (concluding that Southwest would remain a viable air carrier after the acquisition of AirTran).

Respectfully submitted,

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Dated: February 9, 2023

EXHIBIT JETBLUE/SPIRIT-1

JetBlue's Certificates, Route Authorities, and Authorizations

Route	Route Description	Order/NOAT	Docket	Expiration Date
N/A (certificate)	Interstate Air Transportation	Order 2000-2-7	DOT-OST-99-5616 and DOT-OST-99-6662	Indefinite
847 (certificate)	Open Skies	Order 2007-7-3	DOT-OST-2007-27790	Indefinite
None (certificate)	Blanket Route Integration	Order 2010-12-24	DOT-OST-2005-22228	Indefinite
894 (certificate)	Consolidated International	Order 2014-6-13	DOT-OST-2005-22228	Indefinite
939 (certificate)	U.S.-Mexico	Order 2020-10-11	DOT-OST-2016-0154	Indefinite
N/A	U.S.-South Africa Codesharing	NOAT issued April 19, 2019	DOT-OST-2013-0147	April 19, 2021 (timely renewal filed February 3, 2021 and authority valid under the APA)
N/A	U.S.-Antigua	NOAT issued January 4, 2023	DOT-OST-2015-0098	January 4, 2025
N/A	U.S.-Ecuador	NOAT issued February 25, 2021	DOT-OST-2018-0153, DOT-OST-2015-0103, DOT-OST-2019-0061	February 25, 2023[33]
N/A	U.S.-Dominica Codesharing	NOAT issued January 4, 2023	DOT-OST-2015-0114	January 4, 2025
N/A	New York/Fort Lauderdale-Havana, Cuba	NOAT issued July 25, 2018	DOT-OST-2016-0021	July 25, 2020 (timely renewal filed April 30, 2020 and authority valid under the APA)

[33] JetBlue's economic authority to serve Ecuador is now covered under its Blanket Open-Skies Certificate (Route 847). JetBlue intends to allow this exemption to expire by its natural terms on February 25, 2023.

N/A	New York-Buenos Aires, Argentina Codesharing	NOAT issued January 4, 2023	DOT-OST-2021-0043	January 4, 2025
N/A	U.S.-Third Country Codesharing	NOAT issued July 26, 2022	DOT-OST-2022-0062 and DOT-OST-2019-0169	July 26, 2024

Codesharing Statements of Authorization

Partner Airline	Route Description	DOT Approval	Docket
Japan Airlines	Blanket Statement of Authorization	April 4, 2012	DOT-OST-2012-0041
South African	Blanket Statement of Authorization	April 26, 2012	DOT-OST-2011-0017
Aer Lingus	Blanket Statement of Authorization	February 27, 2013	DOT-OST-2013-0034
Qatar	Blanket Statement of Authorization	March 28, 2013	DOT-OST-2013-0051
Etihad	Blanket Statement of Authorization	February 12, 2014	DOT-OST-2014-0009
Turkish	Blanket Statement of Authorization	March 31, 2014	DOT-OST-2014-0034
Singapore	Blanket Statement of Authorization	July 3, 2014	DOT-OST-2014-0089
El Al Israel	Blanket Statement of Authorization	October 16, 2014	DOT-OST-2014-0173
Royal Air Maroc	Blanket Statement of Authorization	March 25, 2015	DOT-OST-2015-0046
Icelandair	Blanket Statement of Authorization	April 7, 2015	DOT-OST-2015-0021
Azul	Blanket Statement of Authorization	April 4, 2016	DOT-OST-2016-0062
TAP Portugal	Blanket Statement of Authorization	June 14, 2016	DOT-OST-2016-0090

Frequency Allocations

Weekly Frequencies	Route	Order/NOAT	Docket
1	New York-Havana	Order 2016-8-38 (1 weekly)	DOT-OST-2016-0021

20	Fort Lauderdale-Havana	Order 2016-8-38, Order (13 weekly), Order 2018-4-17 (6 weekly), NOAT September 19, 2022 (1 weekly)	DOT-OST-2016-0021

EXHIBIT JETBLUE/SPIRIT-2

Spirit's Certificates, Route Authorities and Authorizations

Route	Route Description	Order/NOAT	Docket	Expiration Date
N/A (certificate)	Interstate and Overseas	Order 93-1-26	48576	Indefinite
937 (certificate)	U.S.-Mexico	Order 2020-10-11	DOT-OST-2016-0141	Indefinite
N/A (certificate)	Blanket Route Integration	Order 2010-12-24	DOT-OST-2005-22228	Indefinite
899 (certificate)	Dominican Republic	Order 2010-1-12	DOT-OST-2005-22228	Indefinite
845 (certificate)	Open Skies	Order 2007-7-3	DOT-OST-2007-27790	Indefinite

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Joint Application of JetBlue Airways and Spirit Airlines was served this 9th day of February, 2023, via e-mail transmission on the following persons:

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