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AIR Vegas AIRLINES

To: U.S. Department of Transportation Docket
Docket No. FAA-99-5927-q
400 Seventh Street S. W.
Washington, D.C. 20590

Subject : Federal Aviation Administration Notice of Proposed Rulemaking (NPRM)

Commercial Air Tour Limitation in the Grand Canyon National Park Special Flight Rules Area

From: James W. Petty, President
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Date: September 3, 1999

These comments to the above docket are submitted on behalf of Air Vegas Airlines, a Part 12 1 Domestic Air Carrier with daily scheduled service between Las Vegas, Nevada and Grand Canyon National Park Airport in Tusuyan, Arizona. Currently the Air Vegas Airlines fleet consists of nine (9) Beech C-99 turbo-prop aircraft. Air Vegas employs approximately 100 people and will have approximately 180,000 enplanements in calendar 1999.

The overall comment after examination of the four separate documents made available to Air Vegas (1) Modification of Dimensions of SFAR 50-2, NPRM, (2) Commercial air tour limitations in SFAR 50-2, NPRM, (3) Proposed modified route map, (4) Initial Regulatory Flexibility Analysis) is there seems to be many areas of contention as to viability of data used, and validity of conclusions reached. In this response I will attempt to systematically address each issue from Air Vegas' point of view.

Since most conclusions in the documents are based upon the findings in the FAA's "IRFA" I will start with that document.

Air Vegas Airlines, being a scheduled carrier subject to 298C reporting requirements was one of the six carriers the FAA used to evaluate revenues, costs and projected profits. Air Vegas code number on this document is #1 1.

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For calendar year 1997 and 1998, gross revenues are accurately reported on Table Six of this document, since again they are figures copied from Air Vegas' Form 298C. Keeping in mind only "scheduled" flights are included on Form 298C, (no "air only" flights, charter flights or certain repositioning flights are included), the baseline data is subject to error for the purposes of "commercial air tour flights."

In Air Vegas' case, the number of "commercial air tour flights" allocated to Air Vegas (5500) seems to be taken directly off the Form 298C and not flight data submitted as required under 93.3 17 of previously imposed regulations. The actual number of sightseeing flights reported under 93.3 17 for Air Vegas was 6974 flights, an error of approximately 20%.

Nevertheless, moving forward with the operations revenues and the transposing into ten year financial impact numbers for Air Vegas there are several erroneous conclusions. These are listed as follows. Each will be discussed in more depth.

1. Base period air tour flights conducted.

2. Number of passengers flown during base period.

3. Ten-year profile without proposed rule.

    a. Gross operating revenue.

    b. Variable operating cost.

    c. Net operating revenue undiscounted.

    d. Net discounted operating revenue.

The allocation of "Commercial air tour" flights through the SFAR 50-2 given Air Vegas was 5500 annual and 3001 in peak-season. , This number appears to be taken out of data submitted to DOT on Form 298C, scheduled flights. The actual number of air tour flights as reported by Air Vegas under 93.3 17 in the base period of May 1, 1997 – April 30, 1998 was 6974 flights. Similarly passenger counts reported on Form 298c were approximately 61,000 compared to 70,000 actual passengers in the base period. This discrepancy is, of course, due to the fact the Form 298c requires "Scheduled" flights only and passengers thereon. 298C

Even if the allocation were correct and assuming Air Vegas were to accept the rationale for this roll-back (and we don't) the base-line being suggested reflects the worst time frame in the 24 years since Air Vegas has been under present ownership.

Without any more analysis or comments on these proposed allocations, we already know the consequences financially. Since Air Vegas' operations including its fleet configuration is similar today compared with the baseline, we can assume the airline would have a negative net profit of approximately $1.5 million dollars, as it did for the baseline period.

1999 represents a return to more "normal" passenger enplanements after a two-year downturn in our market. Air Vegas is about on track to do the same passenger numbers as 1996. In 1996 Air Vegas operated 20 aircraft consisting of Beech C-99/1 5 passenger but mostly Cessna 402/9 passenger aircraft. With an average load factor of 7 passengers per flight, in 1996 compared to our present load factor of 11 passengers per flight we will carry the same number of passengers this year with 35% fewer flights than 1996. In 1996 Air Vegas Airlines was the #2 operator by passenger volume serving the Las Vegas – Grand Canyon market. Air Vegas Airlines is again the #2 operator in the market in 1999. You can see that the transition to larger aircraft by the larger operators has made a substantial reduction in aircraft operations in the past three years of and around Grand Canyon National Park. Air Vegas estimates we will conduct between 8000 and 8500 sightseeing flights this year as compared to almost 13,000 in 1996 in smaller aircraft. A further reduction would not allow for the efficient use of our $12,000,000 investment in larger aircraft. Fixed costs are very high due to debt service and only full utilization will reduce the hourly rate enough to be profitable.

Table 3a of the IRFA makes no sense to me at all. Air Vegas (Code #1 1) is purported to have total gross revenue over ten years of $153 million dollars with a total return of $119 million undiscounted or $82 million discounted in net operating revenue. First of all, in order to have $153 million in revenue for ten years the company would have to increase revenue an average of 17% per year for ten years. In other documents the government says the industry grows an average of 3.3% per year. From base year of $7 million gross revenue this chart says Air Vegas will grow 22 times without the proposed rules.

It goes on to say over the same ten years, net operating revenue will be 77% of gross undiscounted and 54% discounted. I wish that were true so I could retire in two years a multi-multi-millionaire. The fact is on a good year,such as 1999, Air Vegas will have about an 8% operating revenue margin based on gross revenues of approximately $9.8 million. Assuming an annual revenue increase of 3% (about average) the average revenue per passenger for all tours will be approximately $160 in 10 years based on today's average of $120.00. (We are wholesalers of our product. Published rates are full retail suggested prices.)

As far as the economic analysis (IFRA) is concerned all conclusions reached seem to be based on erroneous information, unsubstantiated business assumptions and in general have no bearing on fact or "real world" business logic. Therefore, Air Vegas refutes the FAA claims that the overall economic imput of this NPRM is negligible.

Turning to the NPRM, modifications of the SFAR and Flight Free Zones. From Air Vegas' point of view it doesn't really matter what the dimensions of the SFAR are realigned to. It only matters what and how the route system is carved out of the SFAR. And so I turn my comments to the notice of new routes depicted on the available route map. Our comments are as follows.

The Blue Direct and Blue Direct South routes are acceptable transportation routes. The Blue 1 air only tour has been eliminated and no sightseeing tour has replaced it. There needs to be an extended "sightseeing" flight available to Las Vegas fixed wing operators in the western portion. Presently Air Vegas offers three versions of air tours to fit the buying public's budget. Short – long – and longer. All with substantially more viewing time than the Blue 2 as proposed. The weather deviation routes have been included and this is a positive step for safety. Not included on the map is a way to do a Reverse Air Only sightseeing tour for passengers originating at Grand Canyon en route to Las Vegas. Our final comments about the proposed route changes are the present route system has already restored natural quiet and has proven to be 100% safe. We would question the claim by the FAA that anything positive has been accomplished (in this NPRM) as regards Native American culture concerns, ground visitors (virtually non-existent in these areas) or air tour visitor's rights. If the park services goal (as we have long suspected) is not to have a viable air tour route system out of Las Vegas, they have succeeded. Our recommendation is to maintain the current route system in the western portion of Grand Canyon until and if there proves to be a need for change.

The balance of our comments will be in response to the NPRM "Commercial Air Tour Limitations . . . . ."

First of all, as previously discussed, Air Vegas Airlines would claim our allocation of 5500 commercial air tour flights as received by FAA is approximately 1500 short of actual number of sightseeing flights the company did during the base period. Lets analyze what our 5500 flight allocation means compared to our actual present day operational level.

Air Vegas has a fairly consistent load factor of 73% or 11 passengers per flight. Assuming 3000 flights in the "peak season" (5 months) this would give us an average ~~passenger enplanement~~ of 6600 passengers per month at 20 flights per day. The company average "break even" monthly passenger count (assuming no extraordinary expenses) is approximately 7400 passengers. This leaves a shortage of 800 passengers or 2.4 flights per day just to break even. The "off-peak' allotment of 2500 flights over 7 months averages out to 12 daily flights and 3900 passengers per month for a 3500 passenger shortage or 10 flights daily capability to "break even."

Consider, in the last 68 months (almost 6 years) Air Vegas has carried less than the allotted 3900 passengers per month (off-peak) only 6 times with 3 of these months in the base period (1997-l 998). In other words this allotment means a roll back to 1992- 1993 passenger levels for Air Vegas at a time when we were operating 23 Cessna 402's.

I believe the conclusion should be obvious here even to FAA economists. Since in a "good" year the company makes a profit on average of only 5 months out of the year, this

NPRM has taken away even that profit potential. If this NPRM becomes a final rule as written and if the company were to comply with the rule under its current business operating strategy, the company will be forced into bankruptcy.

Based on our considerable experience in the Grand Canyon market (24 years) we conclude there is no reason to control the peak/off-peak season as the marketplace already does this. The peak/off-peak seasons proposed under the NPRM are roughly accurate. That is, we agree the months May-September on average are busier months than the balance of the year. However, it is our experience that a March or October or even a February have the potential of equal or more enplanements than the summer months -- depending upon any given country's promotional travel "campaigns" for that period. Therefore, our recommendation is that any limitation should always be based on a 12-month or annual basis because, as we've already stated, the marketplace will dictate peak/off-peak anyway.

With that being said, let us point out the consequences to the company with a 5500 annual flight allocation based on our 1999 operations.

Assuming we could use our allocations daily as passenger demand dictates, we will use our entire allocation by the first week of September. Since our entire business is Grand Canyon air touring we would have no flights to offer for the balance of September-December -- almost 4 months. Presently, pre-bookings indicate that October and even November will be as busy as September (currently with many days sold out.) Again, the consequences (bankruptcy) are the same.

In conclusion of this portion, we would say that any industry regulated to a "no-growth" policy is doomed to extinction. Investors do not invest in no-growth industries let alone an industry required to roll back its production to negative profit levels.

Other comments from Air Vegas include brief discussions of the FAA - Benefit to Visitor Days - analysis and the "no effect" conclusion FAA has assumed regarding foreign trade issues.

First, we would like to point out the serious omission in this NPRM as to the effect on air tour visitors to the Grand Canyon. Much is made of the benefit to ground users assuming air tours are limited, but no discussion of "visitors to the park by air" being affected either positively or negatively.

We would dispute the "assumption" made by FAA in their analysis of backcountry visitor benefits. The entire economic analysis is based on the assumption that aircraft noise at present levels will have a measured negative impact on the value of back country visitors. And again, with the omission of an analysis of park visitors by air, we can only conclude our longtime suspicions have been well founded. That is, that these park visitors by air have no standing whatsoever in NPS eyes and so the consequence of removing them from the equation is nil.

As to the impact of foreign trade, we dispute the FAA finding of no consequential impact. Since 90% of air tour passengers are foreign travelers there is a substantial impact on foreign trade. Again, in our expert opinion the international foreign tourism market is fragile at best. The Grand Canyon tourist industry as well as that of many National Parks, especially in the Western United States, is very dependent on tour operators specializing in foreign tourists. The Grand Canyon air tour industry in particular is arguably the single biggest profit center for many tour operators worldwide. That is, the Grand Canyon air tour is a product which when sold by a tour operator to a customer is highly commissionable. In addition, it is an "easy" sell for the tour operator because of the (1) Popularity of the product, and (2) The availability of the product. Tour operators (wholesalers) sell to consumers and then book the flight with the air tour operator with whom they have a contract. If the availability was to be limited to any great degree (and we would claim a 40-50% reduction in peak demand availability to be a great degree) the wholesaler unable to book will look for a new product to sell to the consumer. As availability goes down demand will also go down because the Grand Canyon air tour is now seen as a "hassle" and an unreliable source of income. New revenue sources for the wholesaler will be sought and nourished to the further detriment of the Grand Canyon air tour industry.

As an example of this we would point out that reduced availability in the Grand Canyon air tour industry (through closings, mergers and acquisitions) has already encouraged the #1 tour operator and wholesaler/retailer in the world, Japan Travel Bureau, to begin transporting, by bus, those passengers not able to be accommodated by air from Las Vegas to Grand Canyon. If this proves to be profitable for JTB and the availability of air tours further declines, they will be forced to move more and more customers by bus and demand for air tours will equally diminish. Relative to this, the NPRM contains no impact analysis on the GCNP if substantially more vehicular traffic because of ground tours replacing air tours.

The overall conclusion FAA has made is that price and demand will offset most negative economic impact for air tour operators. We agree there will still be a demand for air tours of the Grand Canyon but question whether the public will pay substantial increases in prices strictly for transportation to the Grand Canyon Airport by air. Since less than 1% of their total tour time (approximately 7 hours from hotel to hotel for the most popular air/ground tour) will be spent "seeing" the Grand Canyon by air we question if substantial price increases are justifiable or sellable. If this NPRM becomes a final rule as published, only time will tell for sure.

Do the benefits of this proposed rule outweigh the negative impact as concluded in the analysis? We think not. To gamble with an entire industry's potential failure and the thousands of people it supports, for the sake of an extreme minor minority of ground visitors is criminal. To say the rights of one segment of visitor to the Grand Canyon is more important than any other is outlandish. To use "assumptions" to analyze the financial and experience impact of visitors to the park is highly suspect. To say that the reason to implement any new regulation in Grand Canyon airspace is to fix a substantial park visitor experience problem is a lie. To say a problem exists at all is questionable.

To say the National Park Service along with FAA have kept in tact a viable air sightseeing route system is preposterous. To say the National Park Service is not out to eliminate all flights over all public lands is a mis-statement. To say the FAA is in control of the airspace over this country is controversial. To continually criticize and badger the air tour industry as the sole problem of our National Parks is insufferable. To have politics and emotion dictate national policy in place of science, logic and facts is a sad state of affairs.

Air Vegas recommends the following:

- A moratorium on any further regulation of air tours over the Grand Canyon;

- A federal commission composed of representative park users, local, state, and federal authorities and acoustics experts to conduct a fair and balanced study to determine if or to what extent air tours impact the Grand Canyon or the enjoyment of the Park by the preponderance of Park visitors and to make rational and reasonable recommendations on how to fairly address the problem if there is one.

Until this is done and the results are documented, have undergone appropriate review, and are signed off by all interested parties, there should be no further regulation of the air tour industry -- no further caps, curfews, flight limitations, or route modifications.

Sincerely,

James W. Petty
President

JWP/mv