BEFORE THE

FEDERAL AVIATION ADMINISTRATION

Notice of Alternative Policy Options for Managing Capacity at LaGuardia Airport and Proposed Extension of the Lottery Allocation – Phase One	**Docket Nos. FAA-2001-9852 and 9854**

REPLY COMMENTS OF AMERICAN TRANS AIR, INC.

Communications with respect to this document should be addressed to:

Brian T. Hunt
General Counsel
AMERICAN TRANS AIR, INC.
P. O. Box 51609
Indianapolis, Indiana 46251
(317) 240-7006

Marshall S. Sinick
Elizabeth C. Collins
SQUIRE, SANDERS & DEMPSEY L.P.P.
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Phone: (202) 626-6651
Fax: (202) 626-6780
E-mail:msinick@ssd.com

Counsel to American Trans Air, Inc.

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American Trans Air, Inc. ("ATA") respectfully submits its reply comments to certain of the initial comments addressing the Phase One lottery—from which ATA and other similarly situated new entrant carriers would be completely excluded. Under the FAA's proposed formulation for the Phase One Lottery, the only new entrant carriers which would be entitled to participate are the very few new entrant carriers which did not participate in last December's lottery or which received three or fewer slots in that lottery. The FAA's formulation inexplicably skips entirely over the class of new entrant carriers, including ATA, which still are obliged to operate fewer than the ten roundtrip flights contemplated by the drafters of AIR-21 and which also happen to be providing the only meaningful price competition in many LaGuardia markets. The FAA instead proposed to allocate the balance of the available unused slots to the four express carrier affiliates of the major carriers—each of which already holds a very substantial number of LaGuardia slots and each of which also received far more slots in last December's lottery than any of the other new entrant carriers.

ATA renews its request that the FAA revise the eligibility rules for the Phase One lottery to permit as many of the new entrant carriers as feasible to draw two unused slots apiece with one of those slots being a wild card slot.[1] ATA also opposes allowing any new entrant carrier to receive more than two slots and firmly believes that, with the 19 slots now available, the class of eligible new entrant carriers should be broadened to permit nine such carriers to each draw one pair of slots. ATA further believes that the participation of carriers which chose not to participate in last December's lottery should be postponed until Phase Two—unless the FAA now decides to restore to the lottery pool the seven slots initially assigned to Legend, but later allocated to the express carriers. If the FAA restored the Legend slots to the lottery pool, the pool would then consist of 26 slots which should easily accommodate the entire broadened class of new entrant carriers as well as provide a few additional slots for the express carrier affiliates.

With the FAA now holding 19 unused slots instead of just the 14 slots anticipated when the FAA issued its Notice proposing to exclude the majority of new entrant carriers, there is even more reason for the FAA to now expand the class of eligible new entrant carriers to include as many as nine such carriers prior to any further slots being allocated to the express carrier affiliates. ATA pointed out in its initial comments that the very class of new entrant carriers which the FAA had proposed to exclude were the same carriers which, after the passage of AIR-21, sought to expand service to LaGuardia in a responsible and tempered fashion. The four express carrier affiliates of the major carriers, on the other hand, filed for hundreds of new flights.

[1] ATA explained in its initial comments that it does not object to the FAA, as described in the FAA's Notice, excluding certain "peak of the peak" hours from wild card slot usage. ATA would also like to clarify that even though it is a member of the Air Transport Association and that its name appears on the Association's comments, ATA is most assuredly not in support of the FAA's proposed formulation of the Phase One lottery.

According to the comments of the Port Authority of New York and New Jersey, 530 out of the 600 new flights proposed subsequent to the passage of AIR-21 were express carrier flights. Those carriers well understood that their gargantuan appetites would precipitate a crisis at LaGuardia and that, of course, is exactly what occurred. The new entrant carriers, by contrast, can only be said to have been guilty of acting responsibly, and yet they were made to pay a heavy price for their responsible behavior. Rather than rolling back the flights introduced by both the express carriers and the new entrant carriers to the date of enactment of AIR-21, which would have placed both classes of carriers on an equal footing, the cutoff date selected for last December's lottery grandfathered a disproportionately large number of the express carriers' post-AIR-21 enactment flights. The net result was that very few of the new entrant carriers were able to implement the ten roundtrips expressly contemplated by AIR-21. At the same time, the post cutoff date lottery slots were evenly distributed among the express carrier affiliates (80) and the new entrant carriers (79). To now exclude those new entrant carriers, such as ATA, which are still well below ten roundtrips from receiving even one additional roundtrip would compound the injustice already experienced by the new entrant carriers.

Although ATA is reluctant to criticize the desires of any new entrant carrier, ATA must take issue with the suggestions of both Vanguard and the Air Carrier Association that new entrants such as Vanguard which received fewer than three slots in December's lottery (or which did not participate at all) should now receive six additional slots. The Department's recent slot awards in the Reagan Washington National market leave no doubt that aggressive marketing by

new entrant carriers with just one daily roundtrip can nonetheless result in effective competition.[2] Neither Vanguard nor the Air Carrier Association has advanced one reason why carriers such as Alaska, Frontier and National can effectively compete at Reagan Washington National with just one roundtrip, but Vanguard, which already operates one roundtrip flight to LaGuardia, cannot operate effectively if it just receives slots for a second roundtrip.[3] With aggressive marketing and low fares, the demand for LaGuardia service is sufficient to assure successful operation with even just one roundtrip flight.

The FAA should reconsider its decision to permit the express carriers with their already sizeable slot portfolios to retain the seven slots previously assigned to legend. The FAA's Notice indicated that the FAA had tentatively decided not to restore those seven slots to the lottery pool because the FAA was concerned that service to certain smaller communities would have to be reduced. There does not, however, have to be any loss of service by any small community and ATA joins with the Air Carrier Association in recommending that the seven Legend slots be withdrawn and added to the lottery pool. ATA pointed out in its initial comments that the four express carrier affiliates of American, Continental, Delta and USAirways are already using at least 58 LaGuardia slots to operate duplicative regional jet service to a number of large and medium sized hubs which also receive service with large jet aircraft. The express carrier affiliates could each easily shift just one roundtrip now operating to a large or medium hub to

[2] The Department has awarded Alaska, Frontier and National one pair of slots each for service to Reagan Washington National Airport.

[3] Vanguard also puts forth a special plea, again echoed by the Air Carrier Association, that it should be permitted to delay its inauguration of service by as much as four months from the day it receives lottery slots. That is twice the length of the longstanding slot "use it or lose it" period and would unduly prolong the period during which such

whichever smaller community market those carriers may be serving with the slots previously assigned to Legend. The new entrant carriers, by comparison, are using their slots to promote the aggressive competition contemplated by the drafters of AIR-21. The express carriers, on the other hand, continue to engage in highly wasteful and duplicative scheduling practices. There is no reason whatsoever to reward those carriers as long as they continue to engage in such scheduling behavior.

Conclusion

Whether the FAA decides to place just 19 or 26 slots into the lottery pool, the class of new entrant carriers should be broadened and each carrier should be permitted to draw one pair of slots with one of those slots being a wild card slot.

Respectfully submitted,

Marshall S. Sinick /rc

Marshall S. Sinick
SQUIRE, SANDERS & DEMPSEY L.L.P.
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Phone: (202) 626-6651
Fax: (202) 626-6780
Email: msinick@ssd.com

Counsel to American Trans Air, Inc.

precious resources as LaGuardia slots would go unused. ATA, for its part, is prepared to initiate new service to LaGuardia no later than October 1.