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January 16, 2018

Mr. Joel Szabat  
Deputy Assistant Secretary for Aviation and International Affairs  
United States Department of Transportation  
1200 New Jersey Ave., SE  
Washington, DC 20590

Re: SkyWest Airlines' Petition for Reconsideration and Motion for Stay (docket DOT-OST-2006-23929)

Dear Mr. Szabat,

We are surprised and disappointed that SkyWest Airlines, Inc. ("SkyWest") on January 8, 2018 petitioned for reconsideration of the Department of Transportation's selection of Hyannis Air Service, Inc. dba Cape Air ("Cape Air") to provide Essential Air Service at Decatur, IL. We regret complicating your job managing this extraordinary development, but with thanks and admiration for the work you and your staff do every day administrating the Essential Air Service ("EAS") program we wish to make several points regarding SkyWest's petition and motions.

Cape Air is honored and delighted to have been selected to serve the Decatur community. We look forward to commencing service on February 14, 2018, and have been selling the service to the public since January 11, 2018. Advance bookings are already very strong—even before we have coordinated reaccommodation of the incumbent's post-13FEB18 bookings. Interestingly, bookings are split proportionately between Chicago O'Hare and St. Louis, indicating actual demonstrated demand for Cape Air's dual hub service.

#### **Community Support Irregularities**

As you may know, the elected Decatur Park Board, which oversees the Decatur Airport, voted 3-2 on October 30, 2017 to support Cape Air's proposal, after presentations by all three airlines that proposed service. The Park Board submitted to the Department of Transportation ("DOT") [a letter dated](#)

[November 3, 2017](#) articulating community support of Cape Air. One of the five Park District Board members, who voted in the minority on October 30, 2017, is employed by Archer Daniels Midland (“ADM”) as their director of state government relations. In a [letter dated November 3, 2017](#) posted to this case’s docket, ADM’s vice president of government relations signed a letter articulating ADM’s vested interest in the outcome of this selection case.

In a subsequent Decatur Park Board meeting on November 15, 2017, without an opportunity for the airlines to present their proposals, a senior representative from Archer Daniels Midland lobbied the Board to switch support to SkyWest. As stated in the Board’s November 15, 2017 letter to DOT, ADM [offered \\$100,000 to the airport](#) if the Board would change its support. This \$100,000 was offered only if the airport received ADM’s preferred SkyWest service. One board member did switch his vote. The ADM employee on the board again voted for SkyWest, making the new vote 3-2 in favor of SkyWest. That ADM-employed board member then [recused himself](#) from the official Board action to accept the \$100,000 from ADM, acknowledging the potential conflict of interest.

If (given ADM’s active involvement in this matter and expressed vested interest in the outcome) the board member who is an ADM employee had recused himself from the EAS vote on October 30, 2017, the Board would have supported Cape Air’s proposal 3-1. The vote on November 15, 2017 would have been a 2-2 tie. Is a tie vote worth the US taxpayers having to spend an incremental \$699,886 over two years? The only vote favoring SkyWest seems to have been hopelessly conflicted. Under these extraordinary circumstances we certainly hope the DOT questions the legitimacy of the Board’s letter of November 15, 2017.

### **ADM’s Remarkable Involvement**

Cape Air applauds appropriate civic engagement on issues of air service. Archer Daniels Midland has been remarkably engaged in this case.

- One of the elected officials on the Board who voted in this matter is an actual ADM government relations employee, as previously mentioned.
- During the Park Board meeting on November 15, 2017 at which ADM lobbied, the airlines were not afforded an opportunity to present their proposals. Therefore, ADM and others injected “community comment” without hearing any presentations on proposals.
- As reported in Decatur’s [Herald & Review](#), SkyWest’s own petition included the curious file name meta-data “ADM Outline”.
- Cape Air has reached out to ADM on multiple occasions to introduce our company and present our proposal. ADM has never replied.

Given ADM’s stated transportation needs, Cape Air’s service offers many helpful features like interline connectivity and four Chicago O’Hare – Decatur round trips each weekday, *plus* two round trips to and from St. Louis each weekday. Cape Air would welcome an opportunity to work with ADM to help meet their transportation needs.

### **Total Subsidy Cost to Taxpayers**

The Consolidated Appropriations Act, 2017, Pub. L. 115-31 as continued by the Further Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017, Pub. L. 115-90 says DOT may weigh the “relative subsidy requirements” in making EAS carrier selections. It does not specify comparison of per-passenger subsidy rates. A novel interpretation on this point, if adopted here, would encourage carriers to file expensive EAS proposals with narrow-body aircraft like a Boeing 737, which would drive prohibitively high total costs for the EAS program and the American taxpayer, but low per-seat costs. Clearly that is not in the interest of the Essential Air Service Program, or small community air service in the United States.

As the Department’s selection order notes in reference to petitioner’s \$699,886 premium to the taxpayer, “the Department cannot reasonably justify such an increase in annual subsidy”.

### **SkyWest’s Proposal Required DOT to Waive Rights**

SkyWest’s proposal required the Department of Transportation to waive their right to hold-in the airline. Cape Air’s proposal was carefully crafted to comply with the letter and spirit of the EAS program’s regulations. Under the present circumstances it seems incredible that DOT would reconsider a proposal requiring yet further special accommodation.

### **Scope of EAS**

EAS provides a sufficient “[minimum level of service](#)” as defined in the statutes. EAS is not commissioned to provide communities with their dream air service. Many EAS communities might prefer more extravagant air service than the proscribed minimums but that is neither within the scope of the program, nor the taxpayers’ obligation to pay.

### **SkyWest’s Missing Marketing Plan**

As the selection order states, the EAS selection criteria includes “whether the carrier has included a plan in its proposal to market its service to the community”. Contrary to SkyWest’s petition, nothing resembling a marketing “plan” was included in SkyWest’s proposal. Further, no marketing budget was enumerated.

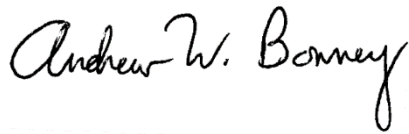
### **Department of Transportation Potential Financial Liability**

If the Department of Transportation overturns the selection of Cape Air at Decatur by admitting a Department of Transportation error, Cape Air will expect to be reimbursed for sunk costs, including substantial pilot and aircraft commitments in our 2018 schedule, executed leases, purchase agreements and sunk start-up costs. If Cape Air’s selection is vacated, Cape Air would then have incurred real and

specific opportunity costs, including foregoing submission of proposals for other Essential Air Service markets.

On behalf of our 850 employee-owners, Cape Air respectfully requests that DOT deny SkyWest's petition and motions and uphold the selection of Cape Air for Decatur.

Sincerely,

A handwritten signature in black ink that reads "Andrew W. Bonney". The signature is written in a cursive, flowing style.

Andrew W. Bonney  
Senior Vice President of Planning