

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

In re:	)	
	)	
	)	Chapter 11
ATA Holdings Corp., <u>et al.</u> , <sup>1</sup>	)	Case No. 04-19866
	)	(Jointly Administered)
Debtors.	)	
	)	

**OBJECTION OF AMERICA WEST AIRLINES, INC. TO  
THE DEBTORS' NOTICE REGARDING MAXIMUM CURE  
AMOUNTS AND RESERVATION OF RIGHTS WITH RESPECT TO  
REQUEST FOR ADEQUATE ASSURANCE OF FUTURE PERFORMANCE**

America West Airlines, Inc. ("America West"), by and through its undersigned attorneys, hereby objects (the "Objection") to the Debtors' Notice Regarding Maximum Cure Amounts, dated November 29, 2004 (the "Cure Notice").<sup>2</sup> In response thereto, America West respectfully represents as follows:

1. The Schedule Regarding Maximum Cure Amounts for Executory Contracts and Unexpired Leases That May be Assumed and Assigned (the "Schedule"), attached to the Cure Notice, identifies the following contracts between one or more of the Debtors and America West:<sup>3</sup>

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<sup>1</sup> The Debtors are the following entities: ATA Holdings Corp. (04-19866), ATA Airlines, Inc. (04-19868), Ambassador Travel Club, Inc. (04-19869), ATA Leisure Corp. (04-19870), Amber Travel, Inc. (04-19871), American Trans Air Execujet, Inc. (04-19872), ATA Cargo, Inc. (04-19873), and Chicago Express Airlines, Inc. (04-19874).

<sup>2</sup> Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed to them in the Cure Notice.

<sup>3</sup> America West is listed as Contract Party No. 22.

(a) Service Agreement between America West and Chicago Express Airlines, Inc. with respect to a ground handling agreement at General Mitchell Field in Milwaukee (Internal ID No. 37) (the “MKE Service Agreement”);

(b) Flight Operations Agreement between America West and a to-be-determined Debtor with respect to “emergency equip and classrooms when required” (Internal ID No. 38) (the “Operations Agreement”); and

(c) Service Agreement between America West and a to-be-determined Debtor with respect to cargo at Denver International Airport (Internal ID No. 39) (the “DEN Service Agreement” and, collectively with the MKE Service Agreement and the Operations Agreement, the “Agreements”).

2. The Schedule also proposes a maximum aggregate cure amount for the Agreements of \$21,293.32 (the “Cure Amount”). The Debtors’ proposed Cure Amount is inadequate, as the Debtors’ obligations to America West under the Agreements greatly exceed the proposed Cure Amount.

3. Specifically, pursuant to its internal accounting practices, America West classifies the Debtors’ obligations under the Agreements into two categories – non-transportation obligations and passenger obligations. As of October 26, 2004 (the “Petition Date”), the Debtors had outstanding non-transportation and passenger obligations of \$30,320.00 and \$50.00, respectively, under the Agreements. From the Petition Date through November 30, 2004, the Debtors accrued additional unpaid non-transportation obligations of \$25,325.39 under the Agreements. From the Petition Date through November 30, 2004, the Debtors have also accrued additional unpaid

passenger obligations under the Agreements; however, America West is unable to currently determine the exact amount of such passenger obligations. Therefore, the actual cure amount owed by the Debtors to America West upon assumption or assumption and assignment of the Agreements is not less than \$55,695.39, subject to adjustment upon determination of the Debtors' post-petition passenger obligations to America West under the Agreements, together with all interest, late payment charges, fees (including, without limitation, attorneys' fees) and other charges and amounts provided in the Agreements, and all amounts accrued or accruing on or after, or for periods after, November 30, 2004, and all interest, late payment charges, fees (including, without limitation, attorneys' fees) and other charges and amounts provided in the Agreements thereon.

4. America West hereby expressly reserves its right to amend the amounts asserted against the Debtors on account of cure obligations under the Agreements, including, without limitation, on account of a final determination of the Debtors' post-petition passenger obligations to America West under the Agreements, for amounts accrued or accruing on or after, or for periods after, November 30, 2004, and to assert interest, late payment charges, fees (including, without limitation, attorneys' fees) and other charges and amounts provided in the Agreements.

5. Furthermore, consistent with the provisions of the Order (a) Establishing Procedures for Approval of One or More Transactions, (b) Approving and Authorizing a Break-Up Fee and Expense Reimbursement, and (c) Approving a Form of Notice, entered by this Court on November 19, 2004, America West hereby expressly reserves its right to object to any assignment of the Agreements absent demonstration of adequate assurance of future performance, as required under 11 U.S.C. § 365.

6. By this Objection, America West asserts solely those objections related to the Debtors' assumption or assumption and assignment of the Agreements and expressly reserves all of its rights with respect to any proposed assumption or assumption and assignment of, or to any other action proposed to be taken with respect to, any other contract, agreement or other document between America West and any of the Debtors, including, without limitation, with respect to the Debtors' cure obligations or demonstration of adequate assurance of future performance with respect thereto.

WHEREFORE, America West respectfully requests that the Bankruptcy Court (i) sustain this Objection, (ii) enter an order requiring the Debtors to pay the amounts described herein to America West on account of any assumption or assumption and assignment of the Agreements and (iii) grant such other and further relief as is just and proper.

Dated: Indianapolis, Indiana

December 10, 2004

Respectfully Submitted,

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