



July 5, 2013

**VIA EMAIL (sylvie.giroux@otc-cta.gc.ca)**

**THE SECRETARY  
CANADIAN TRANSPORTATION AGENCY  
AIR AND ACCESSIBLE TRANSPORTATION BRANCH**  
15, rue Eddy/15 Eddy Street  
Gatineau, QC K1A 0N9

Attention: Ms. Sylvie Giroux

Dear Madam Secretary and Ms.Giroux,

**Re: The Nawrots v. Sunwing Airlines Inc.**  
**Your File: M 4120-3/13-01696**  
**Our File: 100-006**

Further in the above-captioned matter, please find attached as Exhibit "A" hereto Sunwing Airlines' proposed revised scheduled international tariff Rule 20 with respect to denied boarding compensation.

Please note that, given that the matter of denied boarding compensation is currently being considered by the Agency in the context of two complaints, such complaints being *Lukacs v. Air Canada* (File No. M 4120-3/11-06673) and *Lukacs v. WestJet* (File No. M 4120-3/13-01286), Sunwing Airlines reserves the right to make changes to its tariff Rule 20 if necessary once final decisions in the said complaints have been rendered by the Agency.

In addition, please be advised that on June 13, 2013, Sunwing Airlines filed with the Agency an amendment to Rule 18, among certain other amendments to its tariff. Sunwing Airlines submits that amended Rule 18, a copy of which is attached hereto, resolves the complaint concerning former Rule 18(g).

Yours truly,

(signed)

SUNWING AIRLINES INC.

Cc: Mr. Louis Beliveau  
Mr. Clay Hunter

**Exhibit “A” to Sunwing Airlines’ Submissions**  
**Dated July 5, 2013**

**RULE 20. DENIED BOARDING COMPENSATION**

For the purposes of this Rule 20, “alternate transportation” means air transportation with a confirmed reservation at no additional charge (by a scheduled airline licensed by Canada or another appropriate country), or other transportation accepted and used by the passenger in the case of denied boarding.

(a) **General.** If a passenger has been denied a confirmed seat in the case of an oversold flight of the Carrier, the Carrier will offer the passenger the following options:

- (1) refund the total fare paid for each unused segment; or
- (2) arrange reasonable alternative transportation on its own services; or
- (3) if reasonable alternate transportation on its own services is not available, the Carrier will make reasonable efforts to arrange transportation on the services of another carrier or combination of carriers on a confirmed basis in the comparable booking code.

(b) **Volunteers and Boarding Priorities.** If a flight is oversold (more passengers hold confirmed reservations than there are seats available), no one may be denied boarding against his or her will until the Carrier’s personnel first ask for volunteers who will give up their reservations willingly, in exchange for a payment of the Carrier’s choosing. If there are not enough volunteers, other passengers may be denied boarding involuntarily, in accordance with the following boarding priority: the last passenger to arrive at the ticket lift point will be the first to be denied boarding, except:

- passengers travelling due to death or illness of a member of the passenger’s family, or
- unaccompanied minors, or
- passengers who are disabled, or
- elderly passengers.

(c) **Compensation for Involuntary Denied Boarding.** If you are denied boarding involuntarily you are entitled to a payment of denied boarding compensation unless:

- you have not fully complied with the Carrier’s ticketing, check-in or reconfirmation requirements, or you are not acceptable for transportation under the Carrier’s usual rules or practices; or
- you are denied boarding because the flight is cancelled; or
- you are denied boarding because a small capacity aircraft was substituted for safety or operational reasons; or

- you are offered accommodations in a section of the aircraft other than specified in your ticket, at no extra charge, (a passenger seated in a section for which a lower fare is charged must be given an appropriate refund); or
- the Carrier is able to place you on another flight or flights that are planned to reach your final destination or your next stopover within one hour of the scheduled arrival of your original flight.

(d) **Amount of Denied Boarding Compensation.** Passengers travelling with a reserved seat on an oversold flight of the Carrier who are denied boarding involuntarily from an oversold flight are entitled to:

- (i) No compensation if the Carrier offers alternate transportation that is planned to arrive at the passenger’s destination or first stopover not later than one hour after the scheduled arrival of the passenger’s original flight;
- (ii) 200% of the fare to the passenger’s destination or first stopover, with a maximum of \$650 CDN if the Carrier is able to place the passenger on alternate transportation that is planned to arrive at the passenger’s destination or first stopover more than one hour but less than four hours after the scheduled arrival time of the passenger’s original flight; and
- (iii) 400% of the fare to the passenger’s destination or first stopover, with a maximum of \$1,300 CDN, if the Carrier does not offer alternate transportation that is planned to arrive at the airport of the passenger’s destination or first stopover less than four hours after the scheduled arrival time.

0 to 1 hour delay	No compensation
1 to 4 hour arrival delay	200% of one-way fare (but no more than \$650 CDN)
Over 4 hours arrival delay	400% of one-way fare (but no more than \$1,300 CDN)

Passengers travelling with a reserved seat on an oversold flight of the Carrier, where the flight originates in the United States, who are denied boarding involuntarily from an oversold flight are entitled to the same compensation or lack of compensation provisions as set out above with the exception that all dollar amounts will be United States dollar amounts rather than CDN.

For the purpose of calculating compensation under this Rule 20, the “fare” is the one-way fare for the flight including any surcharges and air transportation tax, minus any applicable discounts. All flights, including connecting flights, to the passenger’s destination or first stopover of four hours or greater are used to calculate the compensation payable.

(e) **Method of Payment.** The Carrier must provide each passenger who qualifies for denied boarding compensation a payment by cheque or draft for the amount specified above, on the day

and place the involuntary denied boarding occurs. However, if the Carrier arranges alternate transportation for the passenger's convenience that departs before the payment can be made, the payment will be sent to the passenger within 24 hours. The Carrier may offer free or discounted transportation vouchers in place of cash or cheque payment. The passenger may, however, insist on the cash payment, or refuse all compensation and bring private legal action.

**SECTION VI - REFUNDS**

**RULE 18. REFUNDS**

**(a) Voluntary Cancellations**

If a passenger decides not to use the ticket and cancels the reservation, the passenger may not be entitled to a refund or compensation. (C)

**(b) Involuntary Cancellations**

In the event a refund is required because of the carrier's failure to operate or refusal to transport, the refund will be made as follows:

If the ticket is totally or partially unused, the total fare paid for each unused segment will be refunded.

**(c) A passenger will not be eligible for compensation or refund under the following condition:**

(i) The passenger checked-in or presents himself/herself at the boarding gate after the carrier's minimum check-in time or gate time [Rule 15 (2)] for any reason including being delayed in security or customs. (N)

**(d) Application for refund shall be made to the carrier or its duly authorized Agent.**

**RULE 19. DENIED BOARDING COMPENSATION**

If a passenger has been denied a reserved seat, in case of an oversold flight, the carrier will:

**(a)** refund the total fare paid for each unused segment; or

**(b)** arrange to provide reasonable alternate transportation on its own services.

If the carrier is unable to provide reasonable alternate transportation acceptable to the passenger on its own services, the carrier will try to arrange transportation on the services of another carrier or combination of carriers on a confirmed basis in the same comparable, or lower booking code.

For example of abbreviations, reference marks and symbols used but not explained hereon, see page 2.

ISSUE DATE

June 13, 2013

EFFECTIVE DATE

June 14, 2013

Per CTA SP # 76028