



Order 97-9-17

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

SERVED: September 16, 1997

Issued by the Department of Transportation
on the 16th day of September, 1997

Application of

AIR JAMAICA LIMITED

for extension of exemption

Docket **OST-96-1881**

ORDER REVOKING EXEMPTION AUTHORITY

Summary

By this order, we revoke Air Jamaica Limited's exemption authority to conduct scheduled combination operations between New York, New York, and Atlanta, Georgia, on the one hand, and Barbados, on the other, via the intermediate points Antigua and Barbuda and St. Lucia, effective 11:59 p.m., September 19, 1997. This authority was last granted by Order 97-8-28.

Background

On October 18, 1996, Air Jamaica requested an exemption for two years to conduct the extrabilateral operations described above. Amerijet International, Inc., answered and stated that comity and reciprocity did not support grant of the request. Specifically, Amerijet stated that it was unable to secure facilities at Jamaican airports from the Airports Authority of Jamaica (AAJ) to self-handle its cargo, a bilateral right.

By Order 96-11-30, issued November 27, 1996, the Department granted Air Jamaica's request for 90 days, for the reasons noted in that Order. By subsequent Department

Orders, the exemption was extended, most recently by Order 97-8-28, through December 1, 1997.¹

In those Orders, we noted that intergovernmental and intercarrier efforts have been ongoing to resolve a variety of problems Amerijet has faced in attempting to commence its planned Jamaican services. Based on the incremental progress that had been made in attempting to resolve those concerns we granted the noted extensions; however, these orders also showed a continuing pattern of delay and newly arising problems impairing Amerijet's bilateral right. In Order 97-8-28, our most recent extension of this authority, we stated that there had again been some positive developments which led us to believe that the problems Amerijet had experienced might be resolved. Amerijet agreed once again to delay its startup date until December 1. On that basis, we found that those developments warranted an extension of Air Jamaica's extrabilateral Barbados authority through December 1, 1997.

However, by that Order, we also stated that we fully expected the Government of Jamaica (GOJ) to meet its bilateral obligations with respect to Amerijet's services and that we would be prepared to take appropriate action before December 1 should progress not be sustained.

Subsequent Developments

We have now been advised by the AAJ that construction by the AAJ of a wall in the warehouse space for Amerijet, which is necessary to separate Amerijet's space from Air Jamaica's space located in the same warehouse building (and which is furthermore necessary for Amerijet's contractors to begin renovations of the space), has not commenced. Adequate warehouse space is necessary before Amerijet can start operations at the Kingston airport, a requirement long known by the AAJ. Further, the AAJ advised us that the wall would not be completed until four-to-six weeks after commencement of construction, which would leave Amerijet with insufficient time to start up operations by December 1, 1997, its stated commencement date in Order 97-8-28. Additionally, we are aware that an occupancy agreement for the warehouse space has not been executed between Amerijet and the AAJ.

¹ On February 13, 1997, Air Jamaica requested renewal of the authority granted by Order 96-11-30 for two years. By Orders 97-2-22, 97-3-40, 97-4-25, 97-5-21, 97-7-13 and 97-8-28 the Department found that it was in the public interest to grant Air Jamaica's request for limited periods, through December 1, and to defer on the remainder.

Decision

We have consistently held that the GOJ must honor Amerijet's bilateral right to serve the market. Furthermore, we have consistently maintained that the GOJ must ensure that Amerijet has the requisite facilities to implement its proposed operations.²

In view of the situation as noted above, which will prevent Amerijet's ability to commence bilaterally-agreed service to Jamaica by December 1, we find that the public interest requires that we revoke Air Jamaica's authority to conduct extrabilateral operations, as previously granted in this Docket, effective 11:59 p.m., September 19, 1997.

As noted above, we stated in Order 97-8-28 that we expected the GOJ to meet its bilateral obligations with respect to Amerijet's proposed Jamaican services. We are very disappointed that the impediments to Amerijet's commencement of services have not been removed by the GOJ, and that the delays threaten Amerijet's ability to meet the long-delayed December 1 commencement date in Order 97-8-28.

This situation clearly requires action on our part and revocation of Air Jamaica's extrabilateral Barbados authority effective 11:59 p.m., September 19, 1997, is in our view an appropriate, measured step to address our concerns. While we hope that the GOJ moves quickly to accord Amerijet access to the Jamaican market to which it is entitled, we reserve the right to take additional actions should this matter not be resolved promptly.

We will consider reinstating Air Jamaica's authority in this docket when and if Amerijet has the requisite facilities to commence its operations. In light of the subsequent developments described on page 2, above, this would mean, specifically, (1) the wall in the warehouse space sought by Amerijet must be completed; (2) an occupancy agreement must have been formalized by Amerijet and the AAJ; and (3) the GOJ/AAJ must have confirmed once these two events have been accomplished, that Amerijet's contractors will be permitted immediate access to Amerijet's space to commence renovations.

On that basis, we find that it is consistent with the public interest to revoke the authority at issue here, as described above.

² These facilities, of course, are not limited to warehouse space, but include other elements essential to the performance of Amerijet's proposed all-cargo operations, such as Customs facilities (see Order 97-8-28).

ACCORDINGLY,

1. We revoke Air Jamaica Limited's exemption from the provisions of 49 U.S.C. section 41301, granted by Order 97-8-28, allowing it to conduct scheduled foreign air transportation of persons, property and mail between New York, New York, and Atlanta, Georgia, on the one hand, and Barbados, on the other, via the intermediate points Antigua and Barbuda and St. Lucia;
2. The action noted above will become effective at 11:59 p.m., September 19, 1997;
3. We will serve a copy of this order on Air Jamaica Limited, Amerijet International, Inc., the Ambassador of Jamaica in Washington, D.C., the Department of State (Office of Aviation), and the Federal Aviation Administration (AFS-200).

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation and
International Affairs

(SEAL)