



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Issued by the Department of Transportation on June 10, 1999

NOTICE OF ACTION TAKEN -- DOCKET OST-99-5613

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of America West Airlines, Inc. filed 4/30/99 for:

XX Exemption under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between (1) Newark, New Jersey, on the one hand, and Birmingham and Manchester, United Kingdom, and Glasgow, Scotland, on the other, and (2) Newark, New Jersey, and Dusseldorf and Frankfurt, Germany. America West intends to operate this service under a code-share arrangement with Continental Airlines on flights operated by Continental. America West has requested this authority for an indefinite duration.

Applicant rep: Joanne W. Young, 202-861-1532 DOT Analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX **Granted for two years** (subject to conditions, see below)

XX **Balance dismissed** (i.e., for longer-term exemption authority)

The above action was effective when taken: June 10, 1999, through June 10, 2001

Action taken by: Paul L. Gretch, Director
Office of International Aviation

XX **The authority granted is consistent with the aviation agreements between the United States and the United Kingdom, and the United States and the Federal Republic of Germany.**

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: XX **Holder's certificate of public convenience and necessity**

XX **Standard exemptions conditions (attached)**

Remarks: Consistent with our standard practice for this type of application, we granted America West's exemption for a period of two years, and dismissed its request for longer-term authority.

(See Reverse Side)

Conditions:

(1) The code-share operations conducted under this authority must comply with 14 CFR 399.88 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted.¹ Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected.

(2) The authority granted here is specifically conditioned so that neither America West nor Continental Airlines shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

On the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) immediate action was required and was consistent with Department policy; (2) grant of the exemption authority was consistent with the public interest; and (3) grant of the authority would not constitute a "major federal action" under the Energy, Policy and Conservation Act of 1975. To the extent not granted or dismissed, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

*An electronic version of this document is available on the World Wide Web at:
http://dms.dot.gov/reports/reports_aviation.asp*

¹ On March 8, 1999, the Department adopted a new regulation, Part 257, governing code-share operations. That regulation becomes effective July 13, 1999.