



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

Issued by the Department of Transportation on October 21, 1999

NOTICE OF ACTION TAKEN -- DOCKET OST-99-6217

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 Atlas Air, Inc. filed 9/9/99 for:

XX An exemption for two years under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of property and mail between points in the United States and points in Argentina, Colombia (Bogota), Paraguay (Asuncion), Peru (Lima), and Chile (Santiago), either nonstop or by various routings over which stops in these countries may be served as intermediate or beyond points. Atlas states that it holds exemption authority to operate scheduled all-cargo service between Miami and Bogota, but seeks exemption authority to serve the other countries on various routings in conjunction with its Colombia services. Finally, the carrier requests authority to integrate its requested authority with its existing certificate and exemption authority.

Applicant rep: William C. Evans, 202-371-6030 DOT Analyst: John Quay, 202-366-1052

DISPOSITION

XX **Granted (subject to conditions, see below)**

The above action was effective when taken: **October 21, 1999, through October 21, 2001, or until 90 days' after final Department action on corresponding certificate authority for Atlas Air, whichever occurs earlier.**

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

XX **The exemption authority granted is consistent with the aviation agreements between the United States and Colombia, the United States and Paraguay, the United States and Peru, and the United States and Chile (signed October 21, 1999). The exemption authority granted to serve Argentina is consistent with the August 12, 1999, Memorandum of Consultations and *ad referendum* amendments to Annex I of the 1985 U.S.-Argentina Air Transport Services Agreement (Attachment A, Annex 1, Section 6).¹**

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 exemption conditions (attached)**

Conditions: The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority

¹ Pending the conclusion of the amendment by the governments, the United States and Argentina agreed to permit operations consistent with the new provisions and Annexes on the basis of comity and reciprocity.

requested should be construed as conferring upon Atlas rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Atlas notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in Atlas' authority by virtue of the route integration exemption granted here, but that are not then being used by Atlas, the holding of such authority by route integration will not be considered as providing any preference for Atlas in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

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 regulatory action" under the Energy, Policy and Conservation Act of 1975. To the extent not granted, 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.

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