



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

Issued by the Department of Transportation on October 19, 1999

NOTICE OF ACTION TAKEN -- DOCKET OST-99-6288

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 **9/30/99** 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 (i) between a point or points in the United States via intermediate points to a point or points in Germany and beyond; (ii) between a point or points in the United States via intermediate points to a point or points in the United Arab Emirates and beyond; and (iii) between a point or points in the United States via intermediate points to a point or points in Malaysia and beyond. The carrier also requests authority to integrate the proposed services 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 19, 1999, through October 19, 2001, or until 90 days after final Department action on Atlas' certificate application in Docket OST-98-4348, 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 Germany, the United States and Malaysia, and the United States and the United Arab Emirates.**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 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

¹ The United States and the United Arab Emirates have initialed a new open-skies aviation agreement and have agreed to begin implementation of the available rights on the basis of comity and reciprocity pending entry into force of the agreement.

(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.

The authority to serve intermediate and beyond points is limited to countries with which the United States has signed open-skies agreements and/or countries for which Atlas holds authority to serve under certificates and exemptions issued by the Department, and for which it holds route integration authority by virtue of either the present action or other action of the Department.

Remarks: 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.

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