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Order 2000-1-3

Served: January 7, 2000



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

Issued by the Department of Transportation  
on the 4th day of January, 2000

Applications of

**Trans States Airlines, Inc.,  
Atlantic Coast Airlines,  
Air Wisconsin Airlines Corp.,  
American Eagle Airlines, Inc., and  
Chattanooga Metropolitan Airport Authority**

For exemptions from 14 CFR Part 93, under  
49 U.S.C. 41714

Dockets OST-1997-2368 - 65  
and  
OST-1999-6686 - 3

**ORDER**

**Summary**

By this order, the Department is reallocating 16 Chicago O'Hare Airport slot exemptions that were previously granted in Order 98-4-21 to Trans States Airlines, Inc. Trans States has announced that, effective February 8, 2000, it will discontinue the operations it has been performing with those exemptions. We find it in the public interest to reallocate the exemptions in a manner that will maintain direct air service and the substantial transportation benefits by replacement air carriers with little or no service hiatus, in the specified city-pair markets. The reallocations we are authorizing in this order are as follows:

<u>City</u>	<u>Number of slot exemptions</u>	<u>To</u>
Chattanooga, Tennessee	5	American Eagle Airlines, Inc.
Tri-Cities, Tennessee/Virginia <sup>1</sup>	6	Air Wisconsin Airlines Corp.
Roanoke, Virginia	5	Atlantic Coast Airlines

<sup>1</sup> Kingsport, Johnson City, and Bristol, Tennessee, and Bristol, Virginia.

## Background

By Order 98-4-21, April 21, 1998, the Department granted an exemption from 14 CFR Part 93, Subparts K and S, to Trans States Airlines, Inc., to enable it to conduct 16 flight operations a day (departures or arrivals) at Chicago O'Hare Airport during the slot-controlled hours of 6:45 a.m. to 9:15 p.m. This authority was valid only for the provision of nonstop service with regional jet aircraft between O'Hare and the cities of Chattanooga, Tri-Cities, and Roanoke. Trans States inaugurated and has operated the authorized service under a code-sharing arrangement with United Airlines. It currently operates the following flights:

<u>Origin</u>	<u>Departs</u>	<u>Arrives</u>	<u>Destination</u>
<b>Chattanooga</b>	<b>6:05 a.m.</b>	<b>6:44 a.m.</b>	<b>Chicago O'Hare</b> <sup>2</sup>
Chicago O'Hare	7:30 a.m.	10:07 a.m.	Chattanooga
Chattanooga	10:37 a.m.	11:21 a.m.	Chicago O'Hare
Chicago O'Hare	12:15 p.m.	2:55 p.m.	Chattanooga
Chattanooga	3:34 p.m.	4:14 p.m.	Chicago O'Hare
Chicago O'Hare	8:45 p.m.	11:20 p.m.	Chattanooga
Chicago O'Hare	7:44 a.m.	10:09 a.m.	<b>Tri-Cities</b>
<b>Tri-Cities</b>	10:39 a.m.	11:14 a.m.	Chicago O'Hare
Chicago O'Hare	1:30 p.m.	4:00 p.m.	<b>Tri-Cities</b>
<b>Tri-Cities</b>	4:40 p.m.	5:21 p.m.	Chicago O'Hare
Chicago O'Hare	4:45 p.m.	7:15 p.m.	<b>Tri-Cities</b>
<b>Tri-Cities</b>	7:40 p.m.	8:14 p.m.	Chicago O'Hare
<b>Roanoke</b>	<b>6:00 a.m.</b>	<b>6:44 a.m.</b>	<b>Chicago O'Hare</b> <sup>3</sup>
Chicago O'Hare	7:15 a.m.	9:55 a.m.	<b>Roanoke</b>
<b>Roanoke</b>	10:30 a.m.	11:12 a.m.	Chicago O'Hare
Chicago O'Hare	12:20 p.m.	3:05 p.m.	<b>Roanoke</b>
<b>Roanoke</b>	3:35 a.m.	4:25 p.m.	Chicago O'Hare
Chicago O'Hare	5:00 p.m.	7:40 p.m.	<b>Roanoke</b>

In summary, Trans States is using five slot exemptions each to serve Chattanooga and Roanoke, and six slot exemptions to serve Tri-Cities. A sixth daily operation is performed outside the slot-controlled hours at both Chattanooga and Roanoke.

By letter dated December 17, 1999, Trans States, Atlantic Coast Airlines (ACA) and Air Wisconsin Airlines Corp. notified the Department that Trans States and United Airlines have mutually agreed to terminate their code-sharing relationship. As a result, Trans States will redeploy its aircraft in other non-Chicago markets after February 8, 2000. In order to avoid loss of nonstop Chicago O'Hare service for Tri-Cities and

<sup>2</sup> Flight is operated outside the slot-controlled hours.

<sup>3</sup> Flight is operated outside the slot-controlled hours.

**Roanoke**, the parties request that the Department approve the reallocation of five O'Hare slot exemptions to **ACA** for service to **Roanoke** and six O'Hare slot exemptions to Air Wisconsin for service to **Tri-Cities**. (Both **ACA** and Air Wisconsin have a **code-sharing** relationship with United Airlines and will serve their respective markets as United Express. **ACA** will do so with regional jet aircraft. Air Wisconsin will use **32-seat Dornier 328** aircraft, which **Tri-Cities** has endorsed.)

By letter dated December 17, 1999, the Chattanooga Metropolitan Airport Authority and American Eagle Airlines, Inc., jointly requested a similar transfer of slot exemption authority from **Trans States** to American Eagle in order to preserve nonstop regional jet service between Chattanooga and O'Hare. The Chattanooga/American Eagle letter requested that the Department exercise its authority on the matter "as expeditiously as possible".

In all cases, the applicants seek to be enabled to maintain the same frequencies and essentially to replicate the departure and arrival times currently operated by **Trans States**.

By Notice served December 21, 1999, the Department stated that it would treat the letters as applications. Considering the requests for expedition in this matter to be **well-founded**, the Department set December 22, 1999 as the due date for answers to the applications. No answers have been filed.

#### **Decision**

We will reallocate five of the 16 O'Hare slot exemptions previously granted to **Trans States** to American Eagle for service at Chattanooga, six to Air Wisconsin for service at **Tri-Cities**, and five to **ACA** for service at **Roanoke**. By reallocating the slot exemptions in this fashion, we are enabling the replacement carriers to maintain the same frequencies and comparable departure and arrival times that are currently operated by **Trans States** with little or no hiatus in service.

We affirm the findings we made in Order **98-4-21** that important transportation benefits would be realized by the grant of slot exemptions for direct service between O'Hare and the three designated communities. **Trans States'** planned cessation of service in the subject markets does not reflect a lack of traffic response. Rather, it is prompted by the decision reached mutually between **Trans States** and United to discontinue their **code-sharing** relationship, which will necessitate a redeployment of **Trans States'** aircraft fleet. The proposed replacement operations by **ACA** at **Roanoke**, Air Wisconsin at **Tri-Cities**, and American Eagle at Chattanooga are enthusiastically endorsed by all of the civic parties, and we are satisfied that those carriers' proposals are operationally and financially viable. In addition, we note that no answers were filed in opposition to the proposed reallocation of the exemptions.

## Administrative Terms

As the FAA slot regulation makes clear, “slot(s) do not represent a property right but represent an operating privilege subject to absolute FAA control (and) slots may be withdrawn at any time to fulfill the Department’s operating needs.. .”

**14 CFR 93.223(a)**. This order should not be construed as conferring on these carriers any ability to sell, trade, transfer, or convey the operating authorities granted by the subject exemptions.

The Department is allocating slot exemptions by this order on the ground that the services proposed by the applicants meet the statutory public interest and exceptional circumstances criteria. The Department reserves the right to modify or terminate such exemption authority if the Department determines that, due to changed circumstances, these criteria are no longer satisfied by an applicant’s use of the authority.

This order is issued under authority delegated in **49 CFR 1.56(l)**.

## ACCORDINGLY

1. The Department amends its action in Order **98-4-21** by withdrawing the **16** slot exemptions at Chicago O’Hare Airport during the slot-controlled hours of **6:45** a.m. to **9:15** p.m. allocated therein to **Trans States Airlines, Inc.**, and reallocating them as follows :

Five exemptions to American Eagle Airlines, Inc., to enable it to conduct five flight operations a day (departures or arrivals) in nonstop service with regional jet aircraft between Chicago O’Hare Airport and the City of Chattanooga, Tennessee;

Six exemptions to Air Wisconsin Airlines Corp. to enable it to conduct six flight operations a day (departures or arrivals) in nonstop service with **Dornier 328** or regional jet aircraft between Chicago O’Hare Airport and **Tri-Cities** Airport, Tennessee;

Five exemptions to Atlantic Coast Airlines to enable it to conduct five flight operations a day (departures or arrivals) in nonstop service with regional jet aircraft between Chicago O’Hare Airport and the City of **Roanoke**, Virginia;

2. The Department directs American Eagle Airlines, Inc., Air Wisconsin Airlines Corp., and Atlantic Coast Airlines to contact the Airspace and Air Traffic Law Branch of the Office of Chief Counsel in the Federal Aviation Administration as soon as possible following the issuance of this order to determine with the FAA the actual times for arriving and departing flights as authorized by this order;

3. The authority granted under these exemptions is subject to all of the other requirements delineated in **14 CFR Part 93**, Subparts **K** and **S**, including, but not limited to, the reporting provisions and use or lose requirements;

4. Dockets **OST-1997-2368** and **OST-1999-6686** shall remain open until further order of the Department; and

5. We will serve this order on all parties in Dockets **OST-1997-2368** and **OST-1999-6686**.

By:

**A. BRADLEY MIMS**  
Deputy Assistant Secretary for Aviation  
and International Affairs

(SEAL)

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