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

Issued by the Department of Transportation  
on the 5th day of July, 2000

**Applications of**

**AMERICA WEST AIRLINES, INC.  
AMERICAN AIRLINES, INC.  
AMERICAN TRANS AIR, INC.  
DELTA AIR LINES, INC.  
FRONTIER AIRLINES, INC.  
NATIONAL AIRLINES, INC.  
NORTHWEST AIRLINES, INC.  
TRANS WORLD AIRLINES, INC.  
UNITED AIR LINES, INC.**

For exemptions from 14 CFR Part 93,  
Subparts K and S, pursuant to 49 U.S.C.  
§ 41718(a), Special rules for Ronald Reagan  
Washington National Airport (beyond perimeter slot  
exemptions)

Docket OST-2000-7181-93

**ORDER GRANTING OUTSIDE-THE-PERIMETER SLOT EXEMPTIONS  
AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT**

**SUMMARY**

By this order the Department partially grants the applications of a number of carriers for slot exemptions at Ronald Reagan Washington National Airport (hereafter "DCA") in order to provide nonstop service between DCA and five cities, as follows: (1) America West Airlines, six slot exemptions in order to provide one daily nonstop round trip between DCA and Las Vegas, NV, and two daily nonstop round trips between DCA and Phoenix; (2) Frontier Airlines, two slot exemptions to provide one nonstop round trip a day between DCA and Denver; (3) National Airlines, two slot exemptions to provide one nonstop round trip a day between DCA and Las Vegas, NV; and (4) Trans World Airlines, two slot exemptions to provide one nonstop round trip a day between DCA and Los

Angeles, conditioned upon its execution, within 60 days, of a signed agreement with Chatauqua Airlines to provide it on-line feeder service at Los Angeles.

## **BACKGROUND**

On April 5, 2000, the President signed into law the Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century (AIR-21). Among other things, AIR-21 liberalized slot and slot exemption access at the four airports now subject to the provisions of the High Density Rule, 14 C.F.R. 93 Subparts K and S. Specifically, at DCA, new 49 U.S.C. §41718(a), as added by Section 231 of AIR-21, provides that the Secretary *shall* grant 12 slot exemptions to air carriers for the provision of nonstop air transportation outside the 1,250 mile perimeter established for civil aircraft operations at DCA under 49 U.S.C. §49109.

AIR-21 directs the Secretary to distribute those 12 slot exemptions if the Secretary finds that the exemptions will (1) provide air transportation with domestic network benefits<sup>1</sup> beyond the 1,250 mile perimeter; (2) increase competition by new entrant air carriers or in multiple markets; (3) not reduce travel options for communities served by small hubs airports and medium hub airports within the 1,250 mile perimeter; and (4) not result in meaningful travel delays.

By Notice dated April 14, 2000, the Department notified interested parties that requests under this section had to be submitted to the Secretary not later than May 5; that comments with respect to any timely filed request for a slot exemption had to be filed by May 22; and that the Secretary's decision would be made not later than July 5.

## **APPLICATIONS**

### **America West Airlines, Inc.**

On May 5, 2000, America West requested 10 slot exemptions under the provisions of AIR-21 to enable it to operate three round trips (six slot exemptions) between Phoenix, AZ, and DCA using B-757 aircraft (190 seats) and two daily round trips (four slot exemptions) between Las Vegas, NV, and DCA.

America West argues that grant of its application will result in the first significant new network of single online connections between DCA and the western United States by a

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<sup>1</sup> AIR-21 amended the previous definition of "new entrant," and its statutory applicability. Under the revised 49 U.S.C. § 41714(h)(3), as added by section 231 of AIR-21, the term "new entrant," for purposes of the slot exemption provisions including those at DCA, means "an air carrier that does not hold a slot at the airport concerned and has never sold or given up a slot at that airport after December 16, 1985, and a limited incumbent carrier as defined in subpart S of part 93 of title 14 code of federal regulations." The latter term, again as amended by AIR-21, is defined as an air carrier or commuter operator that holds or operates (or held or operated, since December 16, 1985) fewer than 20 slots and slot exemptions at the high density airport in question.

post deregulation low-cost, low-fare carrier. The applicant contends that its proposed service would provide substantial new travel options and flexibility for DCA-western U.S. passengers as well as significant new price competition and fare savings. Specifically, America West states that its proposal would provide 15 communities with their first one-stop online connecting service to DCA as well as competing one-stop connecting service to 42 cities beyond Phoenix and Las Vegas. America West contends that grant of its request would result in \$18 million in savings to America West passengers and an additional \$12 million in savings to other carriers' passengers whose fares would be disciplined by America West's. The applicant asserts that its unrestricted transcontinental business fares average 43 percent less than those offered by other major network competitors and that those savings would become available to DCA passengers as well if the Department granted its application. America West also argues that lack of DCA access has forced it to operate at a considerable competitive disadvantage since other carriers have better access to points on its network than does America West itself. The carrier contends that grant of its application would address this imbalance. Finally, America West argues that its proposed service would benefit small communities and not reduce travel options for small hub airports and medium hub airports inside the perimeter.

**American Airlines, Inc.**

On March 30, 2000, American Airlines requested four beyond-perimeter slot exemptions to provide two daily round trips between DCA and Los Angeles International Airport (LAX). The carrier would use B-757 aircraft (176 seats).

American maintains that LAX is the best candidate for four of the available twelve slot exemptions. The applicant argues that Los Angeles is the largest city proposed for service in this proceeding and that DCA-LAX is the largest proposed beyond-perimeter market. American contends that its request should be granted for several reasons.

First, the applicant asserts that it would provide the first non-stop service between LAX and DCA.

Second, the carrier claims it would provide connecting service, either on its own or through its code-sharing agreements, to 26 U.S. points and 16 foreign points. American further argues that it would provide first or competitive one-stop service to DCA from numerous California, Nevada, and Hawaii cities.

Third, the applicant contends that the grant of its request would improve competition at LAX, where United Air Lines is the largest carrier. American argues that United has 29.3 percent of total enplanements at LAX, while American has only 12.3 percent. In addition, American maintains that United has a 50.9 percent share of the Washington-LAX market, while American has only a 31.0 percent share. Approval of its application, American argues, would therefore improve competition in the Washington-LAX market. American also states that its proposal has received significant congressional and civic support.

Lastly, American contends that its application best matches all four of the AIR-21 selection criteria. First, American maintains that it will be able to provide on-line connecting benefits to numerous western and international cities. Second, American asserts that approval of its application will improve competition at LAX, in the DCA-LAX market, and at small California cities such as Santa Barbara that will gain first time access to single connecting, on-line service to DCA. Third, American maintains that grant of its request would not reduce existing service to DCA. Fourth, American argues that a 1999 GAO report ultimately concluded that authorizing of additional slots at DCA would not create significant delays.

**American Trans Air, Inc. (ATA)**

On May 5, 2000, ATA requested four slot exemptions to provide one round trip a day to San Francisco International Airport (SFO) and one round trip a day to LAX with B-757 aircraft (216 seats).

Since ATA began providing low-fare DCA-Chicago Midway service, the carrier claims that a high proportion of its capacity has been used to accommodate LAX or SFO passengers. The applicant seeks to better serve this substantial market segment with nonstop, low-fare service from DCA to California.

ATA contends that its low-fare service from New York La Guardia (LGA) to SFO and LAX has proved successful. The carrier argues that despite operating only three daily round trips between LGA and LAX, it is the second largest carrier in the market, offering fares 60 percent below those charged by American and United. ATA argues that it can replicate this success at DCA and consequently lower the DCA high average fares and bring market discipline to the dominant carriers in the Washington-California markets. Based on its LGA experience, ATA estimates that it can generate \$64 million in consumer savings in the DCA-California markets.

ATA further argues that its proposal satisfies the selection criteria outlined in AIR-21. First, the applicant maintains that its proposal would enhance competition in the Washington-California markets and offer on-line networking benefits to Hawaii and interline network benefits to numerous west coast communities. Second, ATA contends that the grant of its proposal would enhance the number of travel options available to passengers and reduce travel delays.

Last, ATA contends that its proposal meets the airline selection criteria outlined in section 41715 of AIR-21 by increasing employment at ATA and throughout the nation as a result of ATA's \$2 billion aircraft order with Boeing.

**Delta Air Lines, Inc.**

On March 22, 2000, Delta requested four DCA slots to provide two daily non-stop round trips to Salt Lake City (SLC) using B-757 aircraft (183 seats).

Delta argues that the grant of its proposal would best satisfy the selection criteria outlined by AIR-21. Specifically, the applicant contends that its proposal would provide extensive network benefits beyond the 1,250-mile perimeter. Delta maintains that with its partner, Skywest, it can offer connecting service to 65 cities from Salt Lake City, providing dozens of small- and medium-sized communities in the intermountain west region access to either their first online single connecting service or additional competitive online single connecting service to DCA. (SkyWest also code-shares with United Airlines.) In addition, the applicant argues that SLC is among the nation's top business centers and has a rapidly growing population. Second, Delta argues that its proposal will increase competition in multiple markets through its SLC connecting service to 65 cities. Delta contends that ten communities in the northern tier of the western United States would receive their first one-stop, on-line service to DCA. Third, Delta asserts that there would be no reduction in travel options for communities served by small hub airports and medium hub airports within the perimeter, as the carrier has no plans to reduce existing service. Fourth, Delta contends that its proposed service would not cause additional travel delays. The applicant asserts that Salt Lake City is among the least congested of the western U.S. hub airports and that a 1999 GAO report found that the addition of slots at DCA would not cause significant aircraft delays.

**Frontier Airlines, Inc.**

Frontier requests four slot exemptions to enable it to operate two nonstop round trips a day between Denver and DCA with Boeing 737-300 aircraft. Its proposed start-up date is September 7, 2000. In support of its application, Frontier states that it is a true low-fare, new-entrant success story, having started operations in July 1994 at Denver. It has prospered and grown, despite being blocked from several major airports due to a lack of slots. It says it would represent the first low-fare new entry at DCA in 15 years. In support of the favorable competitive impact of its low fares, the carrier points to its entry into the Denver-BWI market in November 1997 and the resulting 20 percent decrease in fares and 67 percent increase in passengers in the market. Frontier paints a similar picture in the Denver-La Guardia market where it inaugurated service in December 1997. Finally, Frontier states that its application meets all of the statutory criteria in that it would: provide network benefits to communities that it currently serves into Denver from the south, west and northwest; increase competition by a new entrant; not reduce travel options for communities within the 1,250-mile perimeter; and not result in increased delays at DCA or elsewhere throughout the system.

**National Airlines, Inc.**

National requests six slot exemptions in order to operate three daily round trips between Las Vegas and DCA with 175-seat B-757 aircraft. National states that Las Vegas is the second-largest domestic market outside DCA's perimeter, and the fastest growing. The applicant maintains that during the past decade, traffic at Las Vegas's McCarran International Airport has increased by 6.5 percent a year. In contrast, says National,

Las Vegas-Washington traffic has been relatively stagnant because of inadequate capacity. National contends that its proposed service would dramatically improve Las Vegas-Washington service and generate significant network benefits by creating online single connecting service to DCA from both Los Angeles and San Francisco immediately, and from additional cities west of the carrier's Las Vegas hub eventually.<sup>2</sup>

National states that it qualifies as a "new entrant carrier" under 49 U.S.C. 41714(h)(3), and that it will promote competition by offering significantly lower fares than those now being offered by United for Las Vegas-Dulles service or by Southwest Airlines, Inc., for Las Vegas-BWI service. National also notes that its introduction of Las Vegas-DCA service could not harm its service from other points to DCA since it serves no such routes, and that the proposed service would not result in meaningfully increased travel delays.

**Northwest Airlines, Inc.**

Northwest requests two slot exemptions in order to operate one daily round trip between Seattle and DCA with 124-seat Airbus 319 aircraft. In support of its request, Northwest notes that Seattle is the fifth-largest origin-and-destination (O&D) market lacking nonstop access to DCA, and only United Air Lines operates nonstop service between Seattle and the Washington area. Northwest states that its proposed service would therefore enable it to compete head-to-head with United's present monopoly in the Seattle-Washington market. Northwest also asserts that it operates a substantial network of connecting services at Seattle in conjunction with its code-share partners, including service at 38 cities in the western United States and eight others in Japan, Canada and Mexico. As a result, its nonstop Seattle-DCA service would provide the first one-stop access to DCA for 16 mostly small- or medium-sized U.S. cities. Northwest further states that it has no plans to reduce its existing services to DCA from any airport within the perimeter as a result of its proposal, and that the grant of its application would not meaningfully increase travel delays at DCA or anywhere else. Northwest says that its service would reduce the travel times and increase the convenience of passengers traveling to DCA from Seattle and other cities on its network. Northwest therefore asserts that its proposal would improve service to DCA for western U.S. cities, particularly small and medium-sized ones, and would promote domestic air transportation.

**Trans World Airlines, Inc.**

On May 5, 2000, TWA requested six slot exemptions to provide three daily round trip flights between DCA and LAX with B-757 aircraft (180 seats).

TWA contends that its proposal would satisfy a need for new competition in the non-stop DCA-LAX market and that it views the opportunity to provide this service as a catalyst for developing an integrated LAX network. The carrier also contends that its application best meets the AIR-21 selection criteria. First, the carrier argues that through a code-

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<sup>2</sup> National states that it has plans to add flights to Las Vegas from Portland, San Diego, San Jose and Seattle within the next four years.

sharing agreement with regional carrier Chautauqua Airlines, TWA will offer the first or competitive one-stop service to five California cities, namely San Luis Obispo, Bakersfield, Monterey, Santa Barbara, and Palm Springs, in addition to providing first-time service to the largest beyond-perimeter city currently without direct service to DCA. Second, TWA maintains that it would also offer competition in multiple markets and provide the first nonstop service between DCA and LAX. Further, the carrier claims that its strong brand name would facilitate competition with United Air Lines and American Airlines, the dominant carriers in the Washington-LAX market. Third, TWA asserts that its proposal will not reduce travel options for communities within the perimeter, as there will be no reduction in existing service. Fourth, TWA argues that the proposed service will reduce travel time for DCA-LAX passengers. TWA also cites a 1999 GAO report, which concluded that additional operations at DCA would not cause significant delays.

TWA also contends that its proposal best matches the relevant carrier selection criteria outlined in section 41715(c) of AIR-21. The applicant argues that grant of its request would enhance both intra-gateway LAX competition and on the local DCA-LAX route. In a different vein, TWA argues that the grant of its application would be instrumental in revitalizing the carrier's declining fortunes. TWA further argues that it has the best service performance of any applicant, having the leading on-time performance record. In that regard, TWA also notes that it won J.D. Powers and Associates' 1998 and 1999 awards for customer service.

**United Air Lines, Inc.**

United has applied for four slot exemptions to allow it to operate two nonstop round trips a day between Los Angeles and DCA using 182-seat Boeing 757 Stage 3 aircraft. United states that granting its application would be fully consistent with all of the statutory criteria. Regarding network benefits in multiple markets, United states that it has made a significant investment in developing Los Angeles into a major hub to the point that it now serves 48 domestic cities from Los Angeles, not to mention 11 international cities, with an average of 384 departures a day. In addition, United states that its regional code-share affiliate SkyWest Airlines serves 19 cities from Los Angeles, further enhancing the network benefits. United also asserts that 16 communities would receive their first ever one-stop online connection to DCA, while 16 more would receive their first competitive one-stop service. In addition, United would use 182-seat Boeing 757s--the largest aircraft currently authorized to use DCA. United further states that granting its application would not have a negative effect on service at any communities located within the perimeter. Finally, United states that grant of its application would not result in "meaningfully increased travel delays" at any airport.

## **RESPONSIVE PLEADINGS**

### **Pleadings in Support of Various Applications**

#### **Phoenix**

On May 22, 2000, the City of Phoenix filed an answer in support of America West's application. Phoenix argues that it was the fastest growing metropolitan area in the U.S. from 1970 to 1996 and that it enjoys a large, diverse, high-technology economy. Phoenix contends that America West is the only major network carrier that cannot serve its primary hub from DCA. Phoenix argues that, except for United at Los Angeles, America West has more daily departures and serves more points at Phoenix than would any other applicant's proposed services. It further contends that America West offers more U.S. western city departures from Phoenix than would any other carrier in this proceeding from its proposed destination city. Phoenix argues that America West offers the aircraft with the largest two-class service of any of the applicants.

#### **Denver**

On May 22, 2000, the City and County of Denver filed an answer in support of Frontier's application. Denver asserts that it was the sixth largest U.S. airport in 1999 with 38 million passengers, an extensive route network and a critical link to small and mid-sized communities in the Rocky Mountain and Great Plains regions. Denver argues that of the seven applicant cities, Denver is the closest to DCA and, therefore, awarding Denver service would be the result most consistent with the intent of the Perimeter Rule to limit DCA access to closer cities. Denver contends that granting Denver DCA access would effectively extend the Perimeter Rule by only 220 miles while grant of applications to other cities would unfairly allow other communities to "leapfrog" Denver. Denver argues that Frontier serves 20 cities from Denver and that the carrier would be a new entrant at DCA. Denver argues that Frontier's presence at Denver has had a major impact toward lowering fares in Denver markets.

#### **Seattle**

On May 22, 2000, the Port of Seattle filed an answer in support of Northwest's application. Seattle argues that absent the Perimeter Rule and High Density Rule, Seattle would have nonstop DCA service today. Seattle asserts that it is the fifth largest market without nonstop DCA service and that it is an important business, high technology, world trade center that generates over 500,000 annual Washington, D.C. O&D passengers. Seattle contends that DCA is largely a business, rather than a leisure, market and that most low-fare Washington leisure travelers use BWI and IAD airports. Seattle argues that these airports could most effectively serve the Las Vegas market. Seattle contends that Northwest's selection would provide domestic network benefits to 38 cities, 16 of which would benefit from first one-stop DCA service. Seattle argues that Los Angeles and San Francisco already enjoy substantial competitive nonstop transcontinental service to two Washington airports and that Phoenix, Denver and Salt Lake City already provide overlapping Rocky Mountain regional service. Seattle cites its rapidly expanding economy

and claims to be the fastest growing of the three west coast airports seeking nonstop service to DCA in this proceeding. Seattle argues that grant of Northwest's application of only two slot exemptions would bring new competitive services to Seattle while reserving a significant slot pool for other applicants.

#### **Alaska/Horizon Airlines**

On May 22, 2000, Alaska Airlines, Inc., and Horizon Air Industries, Inc. d/b/a Horizon Air (Alaska/Horizon) filed comments in support of Northwest's proposal. Alaska/Horizon contends that through the Alaska/Northwest codeshare agreement, selection of Northwest's proposal would result in the unique double benefit of two new carriers for Pacific Northwest-DCA passengers. This is because Alaska and Northwest would compete on some routes as well as codeshare, thereby resulting in substantial potential competitive and network benefits.

#### **St. Louis**

On May 22, 2000, the City of St. Louis and the St. Louis Airport Commission (St. Louis Parties) filed comments in support of TWA's application. The St. Louis Parties argue that TWA's proposal will strengthen the carrier, now an employee-owned company, and positively impact the St. Louis region.

#### **Las Vegas**

On May 22, 2000, Las Vegas McCarran International Airport, the Las Vegas Chamber of Commerce, the Las Vegas Visitor and Convention Authority, and the Nevada Development Authority (Las Vegas Parties) filed an answer in support of the applications of America West and National. The Las Vegas parties argue that Las Vegas offers service to 70 nonstop domestic destinations and that the Las Vegas area has experienced strong growth and an expanding economy. The Las Vegas parties argue that many incumbent applicant carrier proposals closely resemble existing services to alternative Washington airports and should not be given high selection priority. The Las Vegas Parties also assert that selection of two Las Vegas-Washington proposals would avoid creation of a monopoly in the market. The Las Vegas Parties also argue that Las Vegas-Washington nonstop flights have the highest load factors of any nonstop flights between Washington and the applicant cities.

#### **Salt Lake City**

On May 22, 2000, the Utah Air Travel Commission and the Salt Lake City Corporation (Utah and the Salt Lake City Parties) filed an answer in support of Delta's application. The Utah and the Salt Lake City Parties argue that an award to Delta would result in new and expanded DCA connecting benefits to 33 beyond-perimeter cities, including 28 small and medium sized cities. The Utah and the Salt Lake City Parties assert that Delta's service would provide 267,000 seats for new DCA services to these points and Salt Lake City and would improve traveling convenience for thousands of passengers. The Utah and the Salt Lake City Parties take no position on other proposals, except to the extent that fully granting America West's request would preclude a full award for Delta's Salt Lake City proposal. The Utah and Salt Lake City Parties argue that Salt Lake City's superior

geographic position would result in significantly overall less DCA connecting circuitry for more points than other competing cities.

### **Opposition Pleadings**

#### **America West**

On May 22, 2000, America West filed comments. America West claims that none of the applicants can match the domestic network benefits of its proposal. America West asserts that an award of slot exemptions to any of the established DCA incumbents would provide minimal network benefits since most of the larger cities claimed for new DCA single connecting service in the competing applications can be reached by one-stop service over inside perimeter hubs. America West asserts that Los Angeles applicants United and American emphasize the benefits of their proposals to the local market in contrast to the statutory criteria requiring domestic network benefits and competition in multiple markets. America West also contends that selection of a DCA incumbent, especially American, Delta, or United would do little to lower very high DCA average fares and that it offers lower fares in several of the markets where it competes with Frontier, National and ATA. America West argues that its proposed service would bring new single connecting service to over 1.25 million passengers in concert with the congressional intent of AIR-21.

#### **American**

On April 7, 2000, American filed a motion to file late<sup>3</sup> and an answer in opposition to Delta's application to the extent that granting Delta's request precludes granting American's application. On May 22, 2000, American filed an answer to all of the applications filed in this docket. American contends that since Los Angeles is the largest U.S. city without DCA service it should be given selection priority over other cities in this proceeding. American argues that of the four carriers seeking DCA slot exemptions for Los Angeles service, it should be ranked first. American asserts that United is the dominant carrier at both Washington and Los Angeles as well as in the Los Angeles-Washington market and should not be selected as a matter of competitive balance. American also argues that the service benefits of ATA's proposed single daily round trip as well as its network benefits at Los Angeles are insufficient. American alleges that TWA is not strong enough to effectively compete against United and that TWA's network benefits are speculative.

#### **ATA**

ATA filed an answer on May 22, 2000, arguing that the Department should first consider the largest markets for proposed service, i.e., Los Angeles and San Francisco. ATA argues that the other competing hubs are significantly smaller and therefore should be given less consideration for first-time nonstop DCA service than Los Angeles or San Francisco. ATA contends that its proposal would provide the greatest benefits per slot (passengers, seats, and lowest fares) of any of the applicants. ATA contends that selection of United or American for DCA-LAX service would simply strengthen the market

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<sup>3</sup> We will grant American's motion to file late as well as all other motions to file late or unauthorized documents.

dominance of one of those carriers and that either applicant would simply carry self-diverted traffic that would move on its services in any event.

ATA contends that TWA's difficult financial position, cost structure, and lack of a low-fare reputation would inhibit its full development as an effective competitor against American or United. ATA asserts that San Francisco's position as second largest beyond-perimeter market without nonstop DCA service also makes it a prime candidate for selection for new service. ATA notes that it is the only applicant to propose nonstop service in the San Francisco-DCA market.

ATA argues that America West deserves some consideration for DCA slot exemptions given its role in seeking liberalization of the DCA slot regime. On the other hand, ATA argues that America West's code-sharing relationships with Continental, Mesa, and Northwest disqualify America West as a DCA limited incumbent under 49 U.S.C. §41714(k).<sup>4</sup> ATA argues that its proposal is superior to America West's request based on the importance of the markets to be served, number of passengers, seats, and impact of low fares.

ATA asserts that Delta's proposal offers few, if any, competitive benefits and that most of its anticipated traffic would be self diverted from current services rather than be new traffic. ATA asserts that Delta would be offering service to a smaller market than either Los Angeles or San Francisco and would use a smaller aircraft than ATA. ATA contends that National would bring some low fare benefits to the Las Vegas-Washington market but that National's low-fare offerings require advance purchase and have other restrictions not required by ATA's low-fare services. ATA also argues that the Las Vegas market is considerably smaller than Los Angeles or San Francisco and that National's B-757 aircraft have 20 percent fewer seats than ATA's B-757.

ATA argues that Northwest's Seattle proposal would be provided with a smaller, foreign-manufactured aircraft and serve a market substantially smaller than San Francisco or Los Angeles. ATA asserts that Northwest would offer a "conventional established fare menu." ATA argues that Frontier's Denver proposal with small B-737 aircraft to a market smaller than Los Angeles or San Francisco should be ranked lower than ATA's proposal.

#### **Delta**

Delta argues that the applications of American, United, TWA, and ATA (California applications) all involve markets that now receive high levels of nonstop service to either Baltimore Washington International or Dulles International airports. Delta also argues that California's far western location does not make its cities a good candidate as a connecting hub except for a few California cities.

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<sup>4</sup> Under 49 U.S.C. § 41714(k) "...an air carrier that operates under the same designator code, or has or enters into a code-share agreement, with any other air carrier shall not qualify for a new slot or slot exemption as a new entrant or limited incumbent air carrier at an airport if the total number of slots and slot exemptions held by the 2 carriers at the airport exceed 20 slots and slot exemptions."

Delta contends that the American, TWA, and United applications have focused on the large size of the Los Angeles-DCA local market and placed less emphasis on increasing competition in multiple markets. Delta argues that ATA would provide few domestic network benefits. Delta states that American already competes effectively in the Los Angeles-Washington market, both locally and on a connecting basis. Delta asserts that selecting American would do little to increase competition in multiple markets because American already serves most of its claimed Los Angeles connecting cities from its Dallas/Ft. Worth hub and that most of the benefits of United's Los Angeles hub are for international service, rather than for domestic service as required by the statute. Delta argues that United would have an incentive to reserve its DCA-Los Angeles service for its local passengers paying the highest fares and to transport connecting passengers on its existing service, thereby lessening the network benefits of its proposal.

Delta states that ATA would provide no network benefits, and that ATA's existing one-stop service provides the carrier with ample opportunity to compete in the market. Like the other applicants proposing nonstop service to California, TWA's choice of DCA-Los Angeles for DCA service is misguided, and even with its proposed codesharing relationship, TWA's network benefits would be minimal. Delta argues that TWA could better serve DCA-western points through its St. Louis hub.

Delta argues that America West's request for 10 of the 12 available slot exemptions in this proceeding to duplicative and overlapping hubs (Phoenix and Las Vegas) is excessive and unjustified and that fully granting America West's request would preclude development of alternative competitive beyond-perimeter hub services. Delta contends that given reasonable circuitry and connecting times, 15 out of 16 potential Las Vegas connecting markets can also be served through America West's larger Phoenix hub.

Delta also contends that the Department should also consider the recent poor on-time arrival performance of carriers serving Las Vegas, Phoenix and Seattle compared to Salt Lake City, given the statutory requirement that an award should not result in meaningful increased traffic delays. Delta argues that its performance at Salt Lake City was ranked first for the same year ended March 2000 period. Delta argues that America West should not be awarded more than two round trips (four slots). Delta argues that Frontier's proposal would offer service to only nine cities beyond Denver and no cities would receive their first time one-stop connecting DCA service. Delta contends that all nine of those cities already receive significant one-stop connecting service to DCA from other carriers. Delta argues that small and medium-sized Rocky Mountain communities would receive few benefits from Frontier's proposal. Delta contends that its proposal would benefit 27 communities with new or improved DCA access as compared to just two for Frontier. Delta argues that Frontier's small aircraft also limit the benefits that could be realized from its proposed service. Delta also contends that its own fares from Washington to Frontier's proposed destinations are 22 percent lower than Frontier's.

Delta argues that National's Las Vegas proposal is flawed because DCA-Las Vegas demand has not been growing and that overall Washington-Las Vegas demand has been

declining. Delta asserts that National's proposal would offer few new network benefits since National's only two beyond-Las Vegas points, Los Angeles and San Francisco, already receive ample one-stop connecting services. Delta asserts that Northwest would operate its proposed Seattle service using the smallest aircraft of all the applicants, thus limiting the benefits of its service, and that Northwest would have to depend on the code-share services of Alaska Airlines. Delta contends that Seattle's Pacific Northwest location limits its utility as a domestic connecting hub and that almost all of Northwest's claimed connecting cities would require a significant backhaul. Delta argues that Northwest already serves many of these communities to DCA with more convenient one-stop connections over Minneapolis/St. Paul, a large within-perimeter hub. Delta argues that Northwest's proposed one-round-trip-a-day limits the number of viable connecting flights and travel options available to passengers as compared to multi-flight proposals.

#### **Frontier**

On May 22, 2000, Frontier filed an answer arguing that promotion of new entry by new entrant airlines should be a key selection factor given the pro-competitive goals of the Airline Deregulation Act, the Department's own policies promoting new entrant service, and the objectives of AIR-21. Frontier asserts that only it would bring new competition to a highly concentrated hub (Denver) while providing new competitive services to multiple markets. Frontier argues that given the recent general rise in air fares, the Department must ensure that new entrant airlines have every opportunity to offer alternative, lower fares to the traveling public. Frontier contends that of all the applicant cities, Denver is the most conveniently located beyond-perimeter hub, providing significantly less circuitry to DCA than other proposed communities. Frontier argues that as a general competitive issue, large slot-holders at all High Density Rule airports, and especially at DCA, should not be given additional slots in this proceeding. Frontier argues that grant of 10 of the 12 slot exemptions to America West would effectively be a monopoly beyond-perimeter award to one carrier. Frontier asserts that an award to America West would not result in new connecting service to many large western cities such as Denver or Albuquerque. Frontier argues that an award to America West would likely result in self diversion of passengers from America West's current Columbus-DCA service, forcing the carrier to reduce flights on that segment. Such a result would be contrary to the beyond-perimeter selection criterion not to denigrate service at communities within the perimeter outlined in 49 U.S.C. §41718(a)(3). Frontier argues that given its current relationships with Northwest and Continental, America West cannot be considered a new entrant air carrier at DCA under 49 U.S.C. § 41714(k).

Frontier asserts that National's Las Vegas proposal would provide service at a community where traffic demand has been flat and that traffic in the Las Vegas-Dulles market has, in fact, decreased. Frontier argues that National offers connecting service only to Los Angeles and San Francisco. Frontier argues that many routings over National's Las Vegas hub are more circuitous than from Frontier's Denver hub and that Frontier would offer connecting service to more communities than would National.

Regarding the Los Angeles proposals, Frontier argues that they should not be favored because effectively only the Los Angeles/Southern California Basin would benefit from nonstop DCA-Los Angeles service. Frontier contends that given the significant circuitry involved with LAX connecting service, other major west coast cities such as Portland or Seattle would not benefit from selection of LAX for new DCA service.

#### **National**

On May 22, 2000, National filed an answer arguing that, consistent with the congressional intent of AIR-21, the Department's policy objectives, and the goals of airline deregulation, the Department should favor awarding DCA slot exemptions to a new entrant carrier such as itself over the DCA incumbent carriers. National asserts that only three applicants (National, Frontier, and ATA) qualify as DCA new entrant/limited incumbent carriers. Specifically, National argues that America West does not qualify as a new entrant/limited incumbent because it has a code-share agreement with Continental Airlines and under the provisions of 49 U.S.C. § 41714(k) the DCA slot holdings of both carriers must be aggregated in considering new entrant/limited incumbent eligibility. National argues that America West and Continental combined hold 49 DCA slots, making the combination the fifth largest DCA slot holder. National argues that the goal of improving competition and facilitating new entrant market entry should take precedence over increasing connections at beyond-perimeter hubs for incumbent carriers. National argues that it would offer significantly lower fares in the DCA-Las Vegas market than incumbent carriers, including America West. National asserts that America West currently matches the higher Dulles-Las Vegas fares offered by United but does not match Southwest's lower fares to BWI. National asserts that DCA passengers traveling on proposed incumbent carrier services would primarily be diverted from existing incumbent within perimeter hub connecting services or from existing incumbent Dulles or BWI services. National argues that those resulting traffic diversions would engender strong incentives to reduce existing incumbent services in contradiction to AIR-21's requirement that a DCA slot exemption award "not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter." Finally, National argues that its proposal could not result in service reductions at within perimeter hubs since National does not serve DCA.

#### **Northwest**

On May 22, 2000, Northwest filed comments. Northwest asserts that Los Angeles should not be selected over Seattle because Los Angeles already enjoys more competitive nonstop service to Washington than any other city proposed in this proceeding with three carriers offering a total of 14 daily flights to Dulles and four daily flights to Baltimore/Washington International. Also, Northwest asserts that selecting American would not introduce a new competitor in the Los Angeles-Washington market. Northwest alleges that American would provide one-stop connecting service to only 13 communities beyond Los Angeles as compared to 48 cities served comparably by Northwest at Seattle.

Similarly, Northwest states that ATA's proposal for Washington-Los Angeles and Washington-San Francisco service would simply add service to markets already well-served by IAD and BWI airports. Northwest argues that ATA's proposal would add new

service to only two points, Honolulu and Kahului (Maui), Hawaii, beyond the perimeter. Northwest argues that America West's proposals benefit only two of the smallest Washington O&D markets, Phoenix and Las Vegas, and that both of those cities are already competitively served through BWI, while Seattle, a larger Washington O&D market, receives only monopoly service from United. Northwest argues that America West at Las Vegas will offer one-stop connecting service to only 21 domestic points outside the perimeter while Northwest would offer similar service to 48 cities. Northwest argues similarly that America West's proposed Phoenix service would offer one-stop connecting service to fewer domestic points than would Northwest's Seattle proposal. Northwest argues that Delta proposes to serve DCA-Salt Lake City when it provides two daily round trips in the IAD-Salt Lake City market and that selecting Delta will not improve competition since it is the monopoly carrier in the market. Northwest contends that Delta would provide 46 communities with single-connecting service as compared to 48 communities at Seattle by Northwest. Northwest says that Frontier currently operates two daily flights between Denver and BWI and that United also serves the Denver-Dulles market. Northwest argues that Frontier serves only nine cities from Denver and that Frontier would not offer a single community its first single connecting service to Washington. Northwest argues that National's DCA-Las Vegas service would benefit a small market that already receives service to both BWI and IAD. Further, Northwest argues that National offers same-day, one-stop connecting service in only two markets, Los Angeles and San Francisco, both of which already receive substantial Washington service. Northwest argues that TWA's Los Angeles request proposes service for a well-served market and that only two markets, Kona and Honolulu, would receive single connecting service from TWA's proposal. Northwest argues that United's proposal would simply enhance United's dominant position in the well-served Los Angeles-Washington market.

#### TWA

On May 22, 2000, TWA filed comments stating that with limited DCA frequencies the Department must identify the largest DCA markets without nonstop DCA service and decide which applicants can best serve those cities. TWA asserts that no applicant disputes that Los Angeles is the largest market proposed for DCA service and the fact that four carriers applied for Los Angeles indicates its importance. TWA contends that the competing cities have only from 13 to 30 percent of the Los Angeles population and 16 to 62 percent of Los Angeles-Washington O&D traffic. TWA argues that the Department must limit its choices to a few communities to maximize the competitive and service benefits from its total decision package. TWA argues that selecting either United or American for Los Angeles service would only strengthen the positions of one of the two dominant carriers in the market. TWA asserts that AIR-21 gives the Department the opportunity to inject new competition in the Los Angeles-Washington and beyond-Los Angeles markets. TWA argues that its three daily round trip Los Angeles service proposal is superior to United's and American's proposed two daily round trips. TWA further asserts that its Los Angeles network benefits are comparable to those of American and United. While TWA concedes that United's Los Angeles network could reach marginally

greater numbers of passengers, TWA argues that that would not overcome the detrimental competitive impact of selecting United for Los Angeles service.

TWA argues that ATA's primary focus is on serving its Chicago Midway hub rather than serving Los Angeles and that with a single daily round trip, ATA would not provide effective competition in the DCA-Los Angeles market. TWA contends that ATA's proposal offers no network benefits and that ATA's proposed connections to Hawaii are not viable, since they would require a passenger to overnight at either Los Angeles or San Francisco. TWA contends that ATA's corporate strategy has been to avoid competition with major carriers rather than to serve as a low-fare alternative. TWA also argues that it would offer lower fares than those of the Los Angeles-Washington incumbents, as generally evidenced by its transcontinental low-fare policies. TWA argues that ATA's proposed Los Angeles service would cater only to price-sensitive passengers, to the detriment of service and schedule sensitive business passengers, and that TWA would offer a more comprehensive package of service options for both classes of passengers.

TWA argues that Delta's Salt Lake City proposal would result in new single connecting services for only ten new cities and that its proposed new one-stop connecting service would reach communities with a total population of less than 450,000, and only 16,690 O&D passengers a year. TWA argues that those network benefits are modest when compared to the beyond Los Angeles market. TWA concedes that the benefits of America West's Phoenix proposal are significant, with new one-stop connecting service to 14 new cities with a total population of over two million and 73,660 O&D passengers, but TWA argues that its proposal would offer comparable network benefits and would serve a much larger local market. TWA argues that America West's proposed service at Las Vegas would operate at the smallest community with the smallest traffic of any applicant's proposed nonstop DCA markets, providing only one online connection (Bakersfield) that couldn't be accessed via Phoenix. TWA argues that growth in the Las Vegas-DCA market has been flat.

TWA argues that Northwest's Seattle proposal would serve a comparatively smaller volume market with one-stop connecting service to 13 cities. TWA states that Northwest's proposed service would reach cities with a population of 833,535 and 37,980 O&D passengers, or significantly less than the beyond-Los Angeles traffic. TWA argues that Northwest's smaller A319 aircraft would not fully utilize the limited available slot exemptions and, on this basis, Northwest should not be considered for selection.

TWA argues that National's Las Vegas request is excessive in terms of the DCA-Las Vegas market size and National's claimed benefits. TWA asserts that, in contrast to National's assertions, the Las Vegas-Washington market does not require additional service stimulation, and perceived market stagnation is simply a shift in passenger preference from Dulles to BWI service. TWA argues that Frontier's proposed B-737 Denver service (roughly 140 seats) is with an aircraft too small to justify the award of more than one daily round trip (two slot exemptions) in the DCA-Denver market.

### **United**

On May 22, 2000, United filed comments. United argues that, as the largest local beyond perimeter market, Los Angeles-Washington requires service to DCA. The applicant asserts that although three other carriers have also applied to serve DCA-Los Angeles, none offer the domestic hub benefits that United would bring since none operate a hub at Los Angeles. United argues that all of the other applicants are either proposing service at smaller points (Northwest, Delta, and America West) or do not operate true hubs comparable to United's Los Angeles operations (America West and National at Las Vegas, Frontier at Denver and American Trans Air at San Francisco). United claims that its service would provide greater benefits to more passengers in more communities in western states than any other applicant including the first one-stop connecting service to 16 cities and competitive DCA connecting service to 16 other cities. United states that it would serve all of American's first-time, one-stop connecting markets and 12 additional cities as well. United says that it will provide additional one-stop connecting service to 16 markets as compared to nine markets for American.

United states that the network benefits claimed by ATA are miniscule and that TWA's claimed network benefits of single connecting service to five communities rest on a uncompleted codesharing arrangement with Chautauqua Airlines. United argues that Delta's Salt Lake City proposal would offer only new single connecting service to 10 points compared to 16 points for United. Also, United argues that its 16 connecting service cities generate 144 Washington passengers per day compared to 18.5 Washington passengers per day for Delta's 10 cities. Delta's 10 cities also involve greater circuitry than United's cities. United states that the benefits of additional DCA service to 30 cities claimed by Delta are not substantial since most of those communities enjoy connecting opportunities over numerous alternative within-perimeter hubs. United contends that Northwest's Seattle proposal with a single daily round trip and the smallest aircraft proposed<sup>5</sup> provides fewer benefits than United's. United contends that although Northwest claims one-stop connecting service to 38 communities, many of those connections would not be viable with only one round trip a day in the market. United asserts that the feasibility of these proposed services is further diminished given that many of these communities already have daily connecting service to DCA and that service to DCA via Seattle to many of these points involves substantial circuitry. United also asserts that Northwest is the only applicant to propose service with a foreign manufactured aircraft, which is a factor that the Department may consider in granting slot exemption awards.

United argues that America's West's Phoenix and Las Vegas proposals would serve smaller Washington markets than Los Angeles. United argues that both of those cities already receive nonstop Washington service from America West to BWI and connecting service to DCA via Columbus. United argues that only 15 of America West's claimed 42 connecting cities to DCA would receive first time connecting service compared to 16 cities by United. United contends that service to its connecting cities is less circuitous

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<sup>5</sup> United also contends that the operating characteristics of Northwest's A319 aircraft limit its full utilization at DCA.

than the service proposed by America West to its connecting cities. United argues that America West's claims of consumer savings from its proposed services are exaggerated and unsupported by its current pricing policies.

United argues that Frontier's proposed service at Denver would be operated with small B737-200 aircraft<sup>6</sup> (136 seats) designed primarily to accommodate the local Denver-DCA market with few network benefits. United contends that most of the connecting cities claimed by Frontier are large cities already well served over alternate connecting hubs or communities involving substantial circuitry over Denver. United argues that Frontier already serves the Denver-Washington market with BWI service, and that BWI is better suited to the low-fare, discretionary traffic sought by Frontier. United argues that given Frontier's low load factors on the Denver-BWI route, Frontier would likely reduce that service if its DCA request were granted. United argues that fewer passengers would benefit from selecting Frontier over United.

United argues that National's Las Vegas proposal would provide service to the smallest proposed local market in terms of DCA passengers, and that the Los Angeles-Washington market is almost three times larger. United asserts that Las Vegas is primarily a leisure market that is now well-served by Southwest to BWI. United contends that traffic in the Las Vegas-Washington market grew 17.7 percent per year as compared to 6.5 percent for the overall Las Vegas market, and therefore lack of DCA service has not limited growth. United asserts that National's proposal provides only minimal network benefits.

### **Other Pleadings**

#### **Washington Airports Authority (MWAA)**

On May 22, 2000, MWAA filed a response. MWAA takes no position on the merits of the various applications, but says that the Department should disregard the irrelevant attacks of some applicants on the Perimeter Rule and the High Density Rule. MWAA argues that the applicants have focused on the first two statutory selection criteria involving domestic network benefits and increased competition by new entrant air carriers or in multiple markets. MWAA asserts that the applicants have not effectively addressed the third criterion involving the reduction of travel options for passengers. MWAA contends that the applicants have not uniformly stated that they would retain current levels of Dulles service if also selected for DCA service. MWAA says that only Delta has addressed this issue. Regarding the fourth criterion involving no increased travel delays resulting from an award, MWAA has also expressed concern that several applicants have cited a General Accounting Office study as evidence that DCA can accommodate up to seven additional flights per hour without additional delay. MWAA argues that the GAO study assumes an increase in combined instrument flight rule (IFR) and visual flight rule (VFR) operations and is not valid for additional available capacity under IFR conditions alone. MWAA also argues that the Department must consider the impact of distributing

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<sup>6</sup> Like Northwest's aircraft, United also contends that the operating characteristics of Frontier's B737-300 aircraft limit its full utilization at DCA.

hourly slot awards in this proceeding along with "slot slides" permitted under 49 U.S.C. §41714(d).

### **Other Issues**

On June 5, National filed a motion to strike portions of comments filed by America West regarding fares offered by National and National's recent financial performance. National alleges that America West has misrepresented National's fare structure by claiming that America West's fares are lower in several markets. National contends that it actually offers lower fares than America West in most comparative markets. National argues that America West has characterized National as conducting unprofitable operations when America West should have been aware of recent press coverage of National's profitable operations.

On June 8, America West filed an answer. America West argues that it made no misstatements concerning National and the motion should be denied. America West contends that its fare comparisons are based on average fares paid by passengers and are derived from the Department's O&D data, DB1B data base. America West argues that these data are better comparative indicators than National's published fare comparisons, which can change frequently. America West also argues that the Department's Form 41 submissions indicate that National experienced a 1999 net loss of over \$40 million. America West argues that even if National was profitable for the month of March 2000, the carrier has not demonstrated sustained profitability.

We will deny National's motion. National has not shown that America West has misused, mischaracterized, or distorted this information, and we do not find that its exclusion from the record is warranted. As derived from Department sources, these data are officially noticeable and may be used by any party. Of course, our decision to allow the information into the record of this proceeding does not imply our endorsement of any of the America West's arguments that rely on these data as support.

### **DECISION**

We have decided to select America West for four slot exemptions for nonstop service to Phoenix and two slot exemptions for nonstop service to Las Vegas, Frontier for two DCA slot exemptions for nonstop service to Denver, National for two DCA slot exemptions for nonstop service to Las Vegas, and TWA for two slot exemptions for nonstop service to Los Angeles.

While all the applicants put forth strong arguments in favor of their proposals, AIR-21 necessarily requires that we focus our attention on those certain criteria specified by Congress to govern our selection. Section 41718 identifies four criteria the Department

must consider in making allocations in this proceeding. The statute also requires that any successful applicant meet all four criteria.

Accordingly, as directed by new § 41718(a)(1) any slot exemptions we award must provide "domestic network benefits" beyond the perimeter. Next, under § 41718(a)(2), we are directed to ensure that the slot exemptions awarded will also increase competition by new entrant carriers or in multiple markets. Under § 41718(a)(3), we must insure that a grant of exemptions would not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter. Finally, under § 41718(a)(4), the exemptions awarded must not result in meaningfully increased travel delays. With regard to the latter two statutory requirements, as discussed below we find that all applicants meet both.

Our analysis indicated that the network benefit and competition criteria imposed under (a)(1) and (a)(2) were more determinative than the other two Congressionally-mandated criteria. The Congress did not, however, provide any specific direction as to how we should weigh between the former two criteria in our decisional process. This is clearly required, however, since carriers tended to offer more relative strength in meeting one criterion than in the other. Thus, carriers with a stronger existing presence at DCA emphasized their networks and the competitive benefits that could be brought to multiple markets via those networks. Carriers with a less established presence emphasized that Congress's focus on competitive benefits could best be met by selecting their applications, and that even though, in most cases, their networks were smaller they could bring more effective competition to them. We have concluded that, to give full meaning to § 41718(a)(2), Congress's direction could best be met by awarding exemptions to new entrants/limited incumbent carriers, as well as to those carriers that have relatively smaller operations at DCA and would offer competitive benefits in multiple markets, rather than providing additional opportunities for carriers that already have extensive operations at DCA. In other words, we concluded that increased service alternatives by existing competitors at DCA would have less competitive effect than additional service alternatives by new competitors. The latter thus would better meet the statutory intent of increasing competition.

As indicated, under § 41718(b)(3), we must ensure that a grant of exemptions would not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter. By this, we believe Congress wished especially to ensure that the service being provided though the new exemptions would not displace or disrupt service now being provided though a small or medium hub. There was little argument in the responses that service being proposed by other carriers would have this effect, and we did not find any proposals that carried any significant risk that small and medium hubs inside the perimeter would be sufficiently affected by the awards made so as to reduce the travel options for the communities they currently serve.

Finally, we have given heed to Congress's concern that the exemptions awarded would not result in meaningfully increased travel delays. As several commenters pointed out, the

General Accounting Office in 1999 found that additional operations at DCA would not cause significant delays. While we take note of Metropolitan Washington Airports Authority's reservation that that study is not valid for available capacity under IFR conditions alone, our review here indicated that 24 additional operations at DCA, spread out over the slot period as required by § 41718(c)(2) to no more than 2 per hour, would not "meaningfully" increase travel delays at that airport. Nor would the few additional operations at each of the beyond perimeter destination hubs involved – only four per day at Phoenix and Las Vegas and two at each of the other airports – meaningfully increase the delays there.

We concluded that America West had the strongest overall application. It is the only major network carrier that cannot now provide service between DCA and beyond perimeter cities via either of its two principal network hubs, which are themselves beyond the perimeter. Thus, although because of its code-share relationships with Continental it would not be a new entrant at DCA, allowing America West to serve DCA from those hubs will provide the carrier the opportunity to become an effective new competitor between DCA and all beyond perimeter cities it serves via Phoenix and Las Vegas. Even TWA in its answer to competing applications noted that the network benefits of America West's Phoenix hub were significant.

Frontier has argued that giving America West an award would likely cause it to reduce Columbus-DCA service. America West has specifically rejected this contention. America West states "America West, which has by far the smallest presence of any major network carrier at DCA, has no plans to reduce its existing DCA services to Columbus, Ohio the only airport it is currently able to serve from DCA, as a result of its proposed Phoenix and Las Vegas service." We have no reason to dispute that assertion.

America West has applied for six exemptions to serve Phoenix, and four to serve Las Vegas. As respondents pointed out, a grant of ten exemptions to America West – of the twelve overall to be awarded – could preclude development of alternative competitive beyond-perimeter services. As guided by Congress's transcendent interest in promoting competition, and after considering the strengths and weaknesses of the competing applications, we have decided to grant America West four exemptions for Phoenix and two for Las Vegas. Granting two slots at Las Vegas will enable America West to offer additional connecting options to passengers who will have the option of connecting either through Phoenix or Las Vegas.

Having disposed of America West, we turn to the three applicants who clearly qualify as new entrants under § 41718(a)(2): ATA, Frontier, and National.

Although American Trans Air has new entrant status, and the statute provided that we give weight to increased competition by new entrants, the statute also required the provision of network benefits. ATA offers service from Los Angeles and San Francisco only to Honolulu and Kahului. However, given ATA's current schedule a connecting flight to DCA from either Los Angeles or San Francisco would involve an overnight stay,

significantly limiting its attractiveness to passengers. It is difficult to find "network benefits" in this arrangement. ATA argues that the requirement for network benefits could also be met by travelers using its low-fare service to Los Angeles and connecting on an interline basis to other cities beyond. We disagree. Travelers so strongly prefer online connecting services that interline connections would not provide the network benefits sought by Congress. We therefore find that ATA is unable to show, as it must to qualify under § 41718(a)(1), that an award of slot exemptions in this proceeding would enable it to provide domestic network benefits.

We have decided to award two exemptions to Frontier, for service to Denver. Frontier represents a true new entrant at DCA, as its Denver service will represent its first ever from Reagan National Airport. Besides being a true new entrant applicant, Frontier offers connecting service to approximately ten cities to the north, south, and west, including such cities as Portland, San Francisco, and Seattle/Tacoma. While travelers from these cities have present connecting service to the Washington market, we believe that Frontier at Denver would provide a viable and potentially attractive alternative at several of these points. Given the limited number of slot exemptions available and the strengths of some other applicants, we have limited the award to two slots rather than the four the carrier requested. We also recognize that Frontier's proposed service would be provided with B-737's, a relatively small aircraft; however, we believe that these disadvantages are outweighed by Frontier's new entrant status and the network benefits that Frontier's proposal would bring.

Similarly, we have awarded two exemptions to National, for service to Las Vegas. National is also a true new entrant applicant and its selection will bring a new competitor to DCA. National will provide network benefits beyond Las Vegas to Los Angeles and San Francisco, and the carrier has stipulated that it will add service to additional cities west of Las Vegas. Moreover, National has a demonstrated history of offering low fares in the markets it serves, thereby benefiting travelers and enhancing competition. We believe that National's Las Vegas service would provide a viable and potentially attractive alternative at these points. As with Frontier, given the strength of other applications, we have also limited its award to two slots, rather than the six it requested.

None of the remaining applicants for the last two slot exemptions available qualify as new entrant/limited incumbent carriers under the definitions established by AIR-21. American, Delta, Northwest, TWA, and United all serve Reagan National and all hold or held more than 20 slots. However, each would offer network benefits through service provided to cities served beyond their respective outside-perimeter nonstop destinations and would increase competition in multiple markets. One distinction, however, is that all of these carriers, with the exception of TWA, are major operators at Reagan National. American operates 63 daily slots, Delta 95, Northwest 40, and United 34, while TWA presently operates a total of only 13 slots a day at DCA. Of the incumbent carriers, TWA clearly has the smallest presence.

TWA also argues that it has the potential to offer a meaningful competitive alternative to the existing one-stop services to LAX that are now being provided by incumbent DCA slot holders, often through multiple hubs located within the perimeter. Because American, Delta, Northwest, and United operate much more service to DCA than TWA, those carriers can offer multiple flights to alternative hubs that already connect with service to many of the western cities those carriers are proposing to serve on a connecting basis in this proceeding. TWA, on the other hand, in order to provide connecting service to beyond-perimeter cities must rely on its single hub at St. Louis. This hinders its ability to effectively compete in transcontinental markets from DCA and to offer the variety of departure alternatives that its competitors operate in those markets. While we do not overestimate the competitive impact of a single daily round trip in a market of this size, we do believe that enabling TWA to serve on a nonstop basis will afford it the opportunity to become a more effective competitor and to present travelers with an additional service opportunity.

TWA also will offer the benefit of online, single connection service to 5 cities in California through its partner, Chautauqua Airlines. We are mindful that TWA's west coast network is significantly smaller than those of several of the other carriers that are seeking outside-perimeter slot exemptions in this proceeding. However, we find that each of these cities will be afforded either first single-plane or additional competitive access to Washington National by TWA and, when considered together with the competitive benefits derived from expanding service opportunities for a carrier with a relatively limited presence at DCA, the public will be well served by our decision to award TWA two slot exemptions.

We find that these selections will provide the greatest benefit of the 12 slot exemptions the Secretary must grant consistent with the criteria established by AIR-21. The other applicants, other than American Trans Air, would provide additional network benefits, but the competitive significance of those applications is limited by the fact that many of the passengers for which they would provide new single-connecting service are already served by these carriers over alternate inside-perimeter hubs.

In addition, in the case of American and United we must consider the fact that, irrespective of their proposals' network benefits, their proposals would also result in an increased presence in the Washington-Los Angeles market in which they are already the dominant participants. American acknowledges in its pleading that it and United now carry more than 80 percent of the traffic in the Los Angeles-Washington market. Moreover, it would undermine the otherwise pro-competitive intent of § 41718 were we to make available the limited pool of slot exemptions to carriers that have relatively large operations at DCA, and provide considerable service to their principal network hub cities.

Delta's application has merit because Salt Lake City is a major network hub for Delta that is outside the perimeter and, thus, cannot be linked directly to DCA. Like American and United, however, Delta now serves on a single-connection basis via its principal inside the perimeter hubs many of the same cities it would serve via Salt Lake City. Given the

limited number of slot exemptions the Department has to distribute, we have to take into account the fact that a very high percentage of passengers and a large proportion of the communities that Delta would serve via Salt Lake City already receive single connection service on Delta via its other hubs. Delta's increased number of service alternatives would benefit these passengers and communities, but we concluded that increased service alternative by new competitors would have a greater competitive influence.

We decided not to select Northwest's proposal because, while it does offer network benefits, as a whole the Northwest proposal does not offer the same level of benefits as other competing proposals. The geographic location of Seattle limits its effectiveness as a hub for service from the east. In that regard, Northwest in its application includes connections to cities in Arizona, California, Nevada and Montana that would involve very circuitous routings, such as Phoenix, and San Francisco. In fact, like American, Delta and United, Northwest now serves on a, single-connection basis via its principal inside-perimeter hubs many of the same cities it would serve via Seattle, and many would involve less circuitry.

#### **CONDITIONS**

Unused slots: We are directing America West Airlines, Inc., Trans World Airlines, Inc., Frontier Airlines, Inc., and National Airlines, Inc. to file in the Docket no later than July 14, 2000, the proposed flight schedules and effective date for operations authorized by this Order. Once the Department approves the final times for each of the applicants, the carriers will then have 60 days to inaugurate their service as proposed. If service is not inaugurated within that timeframe, or if service is inaugurated and later the awardee discontinues service for any reason, the slot exemptions will be immediately returned to the Department for redistribution.

TWA's slot exemptions: As we noted, one factor that weighed on our decision to provide TWA slot exemptions is its intention to establish network benefits beyond Los Angeles through its commuter partner, Chautauqua Airlines. Because this is fundamental both to the statutory criterion requiring the provision of network benefits, and also to our decision to select TWA's proposal in lieu of other applicants, we will require evidence of a contract with a feeder carrier prior to TWA's implementing service. Should TWA not provide such evidence within 60 days of the service date of this order, the two slot exemptions we are conditionally granting TWA will be automatically returned to the Department for reallocation.

## **ENVIRONMENTAL ISSUES**

Although 49 U.S.C. §41718(e) specifically exempts our action here from environmental review<sup>7</sup>, we remain sensitive to the environmental impact of increased operations at DCA. Consistent with the statute, we will require that all operations authorized by this order will be conducted with Stage 3 aircraft. We also note that 49 U.S.C. §41718(g) requires the Department to submit a study to the Congress in fiscal 2001 comparing noise levels at the four slot-controlled airports with noise levels experienced before 1991. DCA also has, and must give, priority for noise compatibility planning and program grants, 49 U.S.C. §§ 47117(e), and 41718(e)(3).

## **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). Under the provisions of 49 U.S.C. §41714(j) these carriers may not sell, trade, transfer, or convey the operating authorities granted by the subject exemptions unless otherwise authorized herein.

Further, granting of these exemptions in no way is to be construed as allowing a carrier to operate services that it could not otherwise operate, *i.e.*, carriers must still meet all the requirements of the Department of Transportation, the Federal Aviation Administration, and all other statutes and regulations governing air transportation.

This Order is issued under authority delegated in 49 CFR 1.56(a).

## **ACCORDINGLY,**

1. The Department grants exemptions from 14 CFR Part 93, Subparts K and S, to Frontier Airlines, Inc., (two slot exemptions, to serve Denver, Colorado); National Airlines, Inc., (two slot exemptions, to serve Las Vegas, Nevada); America West Airlines, Inc., (four slot exemptions, to serve Phoenix, Arizona, and two slot exemptions to serve Las Vegas, Nevada); and Trans World Airlines, Inc., (two slot exemptions, to serve Los Angeles, California) to enable these applicants to conduct the operations described in this order at Ronald Reagan Washington National Airport.;

2. The Department directs America West Airlines, Inc., Trans World Airlines, Inc., Frontier Airlines, Inc., and National Airlines, Inc. to file in the Docket no later than July 14, 2000, the proposed flight schedules and effective date for operations authorized by this Order. The slot exemptions granted must be conducted with Stage 3 aircraft, may

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<sup>7</sup> §41718(e) states, "Neither the request for, nor the granting of an exemption, under this section shall be considered for purposes of any Federal law a major Federal action significantly affecting the quality of the human environment."

not be used for operations between the hours of 10:00 p.m. and 7:00 a.m., and may not increase the number of operations at Ronald Reagan Washington National Airport in any one-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than two operations. Carriers are advised to consider maximum flexibility in proposed operating times to ensure compliance with these limits;

3. The Department will make the final determination of slot times as soon as possible after schedules are filed to enable the carriers to conduct the operations authorized by this Order. The Department directs America West Airlines, Inc., Trans World Airlines, Inc., Frontier Airlines, Inc., and National Airlines, Inc. to contact the Federal Aviation Administration Slot Administration Office after the Department's determination of slot times. The FAA will assign slot exemption numbers, effective dates, and operating times consistent with statutory limitations.

4. If America West Airlines, Inc., Trans World Airlines, Inc., Frontier Airlines, Inc., or National Airlines, Inc. fail to inaugurate service within 60 days of being given their exact slot times by the Department, or if service is inaugurated and subsequently suspended, the Department will reallocate those slot exemptions;

5. We require TWA to provide evidence of a signed contract with a carrier to provide on-line feeder service to TWA at Los Angeles, including start-up dates, frequency levels, aircraft type, and all other relevant operating data within 60 days of the date of service of this order. Should TWA not provide such evidence, the two slot exemptions we are conditionally granting TWA will be automatically returned to the Department for reallocation;

6. Except as otherwise granted, we deny all other applications for exemptions from 14 C.F.R. Part 93, subparts K and S, filed in this docket;

7. We deny the motion to strike filed by National Airlines, Inc.;

8. We grant all motions to file late or otherwise unauthorized documents;

9. The authorities granted under these exemptions are subject to all of the other requirements delineated in 14 C.F.R. Part 93, subparts K and S, including, but not limited to, the reporting provisions and use or lose requirements; and

10. We will serve this order on all parties in Docket OST-2000-7181.

By:

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

(SEAL)

*An electronic version of this document will be made available on the World Wide Web at:  
<http://dms.dot.gov/reports/reports-aviatio.asp>*