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

Issued by the Department of Transportation on April 4, 2001

NOTICE OF ACTION TAKEN --DOCKET OST 2001-9312-2

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 3/30/01 for:

XX Emergency exemption, frequency allocation and designation in the matter of U.S.-Brazil all-cargo frequencies and designation and request for shortened answer period to application:

By Order 2001-3-27, the Department issued its tentative decision in the *2000 U.S.-Brazil All-Cargo Service Case*, Docket OST-2000-7559, and tentatively selected Atlas Air, Inc. for authority to provide scheduled all-cargo service in the U.S.-Brazil market with ten weekly frequencies. Interested parties may file objections to the Department's decision by April 9, 2001, and replies thereto by April 16, 2001.

By application, March 30, 2001, Atlas seeks a *pendente lite* exemption to authorize its services in the U.S.-Brazil market and related allocation of the ten frequencies in order to provide scheduled service until such time as a final order can be issued in the *U.S.-Brazil All-Cargo Case*. Atlas maintains that the Department has previously granted such authority, and Atlas wishes to be able to begin immediately selling its new scheduled services. Atlas notes that U.S.-Brazil carriers and shippers are experiencing tremendous difficulty in obtaining lift and that the Department should ensure that the available scheduled cargo rights are put to immediate use and Atlas maintains that it has the ability to provide immediate service. In addition, Atlas requests that the Department shorten the answer period for the application in Docket OST-01-9312 to Wednesday, April 4, 2001, and states that the carrier will poll the other two applicants (Evergreen International Airlines and Gemini Air Cargo) concerning this request.

By letter dated April 4, 2001, counsel for Atlas Air notified the Department that counsel for Evergreen has authorized Atlas to state that Evergreen does not object to the *pendente lite* requests and that counsel for Gemini Air Cargo has stated that Gemini has no objection to the shortening of the answer period to Thursday, April 5, 2001. Atlas, therefore, urges the Department to issue a notice to establish April 5, 2001, as the due date for answers to the application in Docket OST-2001-9312.

Applicant reps: Bill Evans, 202 371-6030 or Russell E. Pommer, 202-371-6072
DOT analyst: Linda Senese 202-366-2367

DISPOSITION

XX Granted Request to Shorten Answer Period. (See Remarks)

XX Deferred Atlas Request for immediate *pendente lite* grant of exemption, additional frequencies, and designation. (See Remarks)

The above action was effective when taken: **April 4, 2001**

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

Remarks: Inasmuch as the other applicants for the available authority in Docket OST-2000-7559, do not object to the shortening of the answer period, we will shorten the answer period for answers to the application to close of business, Thursday, April 5, 2001. In addition, we will *sua sponte* shorten the time period for replies to any answers filed to close of business, Friday, April 6, 2001.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; and (2) shortening the answer period was consistent with the public interest. We may amend, modify, or revoke the action taken 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*