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

Issued by the Department of Transportation on June 1, 2001

**NOTICE OF ACTION TAKEN -- DOCKET OST-96-1013**

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 Arrow Air, Inc. filed 4/9/98 and amended 3/20/01 to:

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

**Scheduled foreign air transportation of property and mail between Miami, Florida, and Buenos Aires, Argentina.**

**XX** Renew allocation of two weekly U.S.-Argentina all-cargo frequencies

**XX** Amend application under 49 U.S.C. 40109 to:

**(1) Grant the broader authority afforded U.S. carriers under the U.S.-Argentina aviation agreement between any point or points in the United States, via intermediate points, to any point or points in Argentina and beyond, and (2) integrate this authority with its existing exemption and certificate authority.**

Southern Air Transport and Polar Air Cargo filed answers on April 24, 1998, and May 4, 1998, respectively, objecting to Arrow's original renewal application.<sup>1</sup> Both carriers argued that Arrow's frequencies were dormant and had reverted automatically to the Department and were not, therefore, available for renewal. We received no answers to Arrow's amended renewal application.<sup>2</sup>

Applicant rep: Pierre Murphy (202) 872-1679 DOT Analyst: Sylvia Moore (202) 366-6519

**DISPOSITION**

**XX** **Granted amended exemption**

**XX** **Balance dismissed** (i.e., for renewal of frequencies)

The above action was effective when taken: June 1, 2001, through June 1, 2003

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

(See Reverse Side)

<sup>1</sup> Polar's answer was accompanied by a motion for leave to file an otherwise unauthorized document. We will grant the motion.

<sup>2</sup> Following the filing of Polar's and Southern's answers, and prior to the filing of Arrow's amended application, the United States and Argentina implemented an open-skies regime for all-cargo services, thereby removing the need for any allocation of frequencies.

**XX The exemption authority granted is consistent with the aviation agreement between the United States and Argentina.**

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: **XX Holder's certificates of public convenience and necessity**  
**XX Standard exemption conditions (attached)**

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**Conditions:** The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority requested should be construed as conferring upon Arrow rights (including fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Arrow notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in Arrow's authority by virtue of the route integration exemption granted here, but that are not then being used by Arrow, the holding of such authority by route integration will not be considered as providing any preference for Arrow in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

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

**Dismissal:** In light of the U.S.-Argentina cargo open-skies regime, which eliminated route and frequency limitations for all-cargo services, we dismissed that portion of Arrow's application that requested renewal of its frequency allocation. The concerns of Southern and Polar are, therefore, moot.

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On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the exemption authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy, Policy and Conservation Act of 1975. To the extent not granted or dismissed, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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

## APPENDIX

### U.S. CARRIER Standard Exemption Conditions

In the conduct of operations authorized by the attached notice, the applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with the applicable requirements of the Federal Aviation Administration Regulations, including all FAA requirements concerning security; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.

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