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Order 2001-3-17



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

Issued by the Department of Transportation
on the 15th day of March, 2001

Application of

MIDWEST EXPRESS AIRLINES, INC.

For an exemption from 14 CFR Part 93, under
49 U.S.C. §41714

Served: March 15, 2001

Docket OST-00-7189 - 11

ORDER

SUMMARY

By this order the Department is granting the request of Midwest Express Airlines, Inc. (Midwest Express) to move the operation of a slot at Ronald Reagan Washington National Airport (Reagan National or DCA) from the 1000 hour (10:00 a.m.) to the 1100 hour (11:00 a.m.). Previously, by Order 2000-10-27, the Department had permitted Midwest Express to temporarily move the operation of a 0700 hour slot to the 1000 hour for the period November 1, 2000, through March 31, 2001. This action will now permanently move this slot to the 1100 hour, effective April 1, 2001.

BACKGROUND

By Order 2000-7-20, issued July 14, 2000, the Department granted the application of Midwest Express for an exemption to permit it to reassign one DCA slot from the 2100 hour to the 0700 hour in order to permit it to offer daily Kansas City-Washington (DCA) service with Stage 3 MD-80 aircraft.

By letter to the Federal Aviation Administration dated September 21, 2000, Midwest Express requested that it be permitted to reassign the 0700 hour slot operation permitted by Order 2000-7-20 from the 0700 hour to the 1000 hour for the period November 1, 2000, through March 31, 2001. By Order 2000-10-27, the Department granted the Midwest Express request.

By a subsequent letter to the Department, dated February 1, 2001, Midwest Express requests that this 1000 slot operation now be permanently reassigned to the 1100 hour.

Midwest Express's code-share partner, Air Midwest, serves a number of rural communities with flights into Kansas City that currently arrive in Kansas City after Midwest Express' flight to DCA has already departed. Moving the Kansas City to DCA flight about an hour later will enable these passengers to connect to Midwest Express's nonstop flight to DCA.

No answers opposing the Midwest Express request were filed.

DECISION

We have decided to grant the Midwest Express request.

By Order 2000-7-2000, and affirmed by Order 2000-10-27, the Department found that Midwest Express had complied with all of the conditions specified in 49 U.S.C. §41714(d), which authorizes the Department to grant exemptions to air carriers operating or holding slots at Reagan National if such conditions are met. Under 49 U.S.C. §41714(d) the Department may, under circumstances that it finds to be exceptional, grant exemptions to an air carrier that holds or operates slots at Reagan National to enable it to slide the operating times of slots to different times. Such exemptions are very limited and must meet explicit conditions. Under present practice, the Department must find that grant of the authority would not (1) result in an increase in the total number of slots per day at Reagan National; (2) result in an increase in the total number of slots at Reagan National between the hours of 0700 through 2159; (3) increase the number of operations at Reagan National in any one-hour period by more than two operations; (4) result in the withdrawal or reduction of slots operated by an air carrier; and (5) result in a net increase in noise impact on surrounding communities resulting from changes in timing of the exempted operations.

We again find that grant of the Midwest Express request meets all five criteria. The only potential criterion that could jeopardize Midwest Express's request is the two operations per hour criterion (number 3, above). The other four criteria are unchanged from when we approved Midwest Express's application by Order 2000-7-20. In this regard we have reviewed our past actions granting exemptions for the reassignment of Reagan National slots pursuant to 49 U.S.C. §41714(d), and we have found that there have been no exemptions granted for the reassignment of slot exemptions during the 1100 hour period.

We accept Midwest Express's assertion that grant of its request will allow the carrier to improve its Kansas City connecting service opportunities for Reagan National passengers.

ADMINISTRATIVE TERMS

The administrative terms outlined in Order 2000-7-20 remain in effect.

This Order is issued under authority delegated in 49 CFR 1.56a(f)(1).

ACCORDINGLY,

1. The Department grants an exemption from 14 CFR Part 93, subparts K and S to Midwest Express Airlines, Inc. to the extent that Midwest Express will be allowed to move the operation of Slot No. 4101 at Ronald Reagan Washington National Airport from the 0700 hour to the 1100-1159 period;

2. This exemption is granted only to the extent that Midwest Express is allowed to move the operation of Slot No. 4101 for the purpose of providing nonstop service between Kansas City, Missouri, and Ronald Reagan Washington National Airport. Should Midwest Express operate this slot to provide service to a community other than Kansas City, this exemption will expire and the operation of this slot will revert back to the 0700 hour. This slot is not transferable;

3. This exemption is granted only to the extent that Midwest Express is allowed to move the operation of Slot No. 4101 and, therefore, Midwest Express continues to be subject to all of the other requirements delineated in 14 CFR Part 93, Subparts K and S including, but not limited to, the reporting provisions and use or lose requirements;

4. We direct Midwest Express to contact the Federal Aviation Administration's Slot Administration Office to determine the effective date for the exemption granted here. The Federal Aviation Administration will assign a slot number for the slot listed in ordering paragraph 1;

5. This exemption will become effective April 1, 2001; and

6. We shall serve a copy of this order on the parties in this docket.

By:

SUSAN E. MCDERMOTT
Deputy Assistant Secretary for Aviation
and International Affairs

(SEAL)

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