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Order 2001-3-30

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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 29th day of March, 2001

Served: March 29, 2001

Application of

AMERICA WEST AIRLINES, INC.

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

Docket OST-2000-8112 - 7

ORDER

SUMMARY

By this order the Department is granting the request of America West Airlines, Inc. (America West) to move the operation of one slot at Ronald Reagan Washington National Airport (Reagan National or DCA) from the 0700 hour (7:00 a.m.) to the 1100 hour (11:00 a.m.).

APPLICATION

On February 20, 2001, America West filed an application for an exemption to slide one existing 1000 hour Reagan National slot to the 1100 hour in order to permit it to maintain its current service in the Columbus, OH-Reagan National market.¹ America West states that previously it has been able to provide this level of service based on a slot trade arrangement with American Airlines, but that in January 2001, American notified America West that it would no longer renew the lease. Since then, America West has obtained a 0700 replacement slot (Slot No. 1209) and now requests a slot slide from the 0700 hour to the 1100 hour. America West states that grant of its request would provide passengers with better flight times and allow America West to better utilize its DCA gate and its connecting service at Columbus. America West requests that the slot slide be made effective not later than April 1, 2001.

¹ By Order 2000-10-32, the Department granted America West's request to move the operation of Slot No. 1425 from the 0700 hour to the 1000 hour.

In support of its application America West contends that the circumstances of its application are unchanged from when the Department granted a similar application in October 27, 2000. America West argues that by Order 2000-10-32, the Department found that exceptional circumstances exist given the importance of the DCA-Columbus market and that passengers benefit from America West's competitive service. America West also argues that the Department has limited its use of this exemption authority to the specific requests of air carriers holding a limited number of DCA slots. America West argues that it continues to hold or operate only a limited number of DCA slots.

Finally, America West argues that its request complies with all of the statutory criteria set forth in 49 U.S.C. §41714(d) for approval of DCA slot slide requests. Specifically, America West states that grant of its application would not (1) result in an increase in the total number of slots per day at DCA; (2) result in an increase in the total number of slots allocated at DCA from 0700 to 2159; (3) increase the number of operations at DCA during any one-hour period by more than two operations; (4) result in the withdrawal or reduction of slots operated by an air carrier; (5) result in a net increase in the noise impact on surrounding communities resulting from changes in the timing of the exempted operations.

No answers opposing the America West application were filed.

DECISION

We have decided to grant America West's application.

By Order 2000-10-32, the Department found that America West 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 to enable it to slide the operating times of slots to different times. Such exemptions are very limited and must meet explicit conditions, including the five statutory provisions quoted above.

We again find that grant of the America West request continues to meet all five criteria and that America West continues to hold only a limited number of DCA slots or slot exemptions. The only potential criterion that could jeopardize America West's request is the two operations per hour criterion (number 3, above). The other four criteria are unchanged from when we approved America West's application by Order 2000-10-32. 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 has been only one exemption granted for the reassignment of slot

exemptions during the 1100 hour period.² Thus, granting America West's request would not exceed the two-slot-exemptions-per-hour limit.

We accept America West's assertion that grant of its request will allow the carrier to continue to operate its competitive Columbus-DCA services at current levels to the benefit of both local and connecting passengers and therefore the applicability of our slot exemption authority is appropriate under the exceptional circumstances America West has presented.

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). We also stipulate that operation of the Reagan National slot time at 1100 authorized by this order must be used only to provide nonstop service between Columbus, OH, and Reagan National Airport.

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

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

ACCORDINGLY,

1. The Department grants an exemption from 14 CFR Part 93, subparts K and S to America West Airlines, Inc. to the extent that America West will be allowed to move the operation of Slot No. 1209 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 America West is allowed to move the operation of Slot No. 1209 for the purpose of providing nonstop service between Columbus, Ohio, and Ronald Reagan Washington National Airport. Should America West operate this slot to provide service to a point other than Columbus, this exemption will expire and the operation of this slot will revert back to the 0700 hour;
3. This exemption is granted only to the extent that America West is allowed to move the operation of Slot No. 1209 and, therefore, America West continues to be

² Order 2001-3-17.

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 America West to contact the Federal Aviation Administration's Slot Administration Office to determine the startup date for the exemption granted here. The Federal Aviation Administration will assign a slot number for the slot exemption listed in ordering paragraph 1;

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

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

By:

SUSAN MCDERMOTT
Deputy Assistant Secretary for Aviation
and International Affairs

(SEAL)

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