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Order 2000-10-32



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

Issued by the Department of Transportation  
on the 27<sup>th</sup> day of October, 2000

Served: October 27, 2000

**Application of**

**AMERICA WEST AIRLINES, INC.**

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

**Docket OST-00-8112 - 4**

**ORDER**

**SUMMARY**

By this order the Department is granting the request of America West Airlines, Inc. (America West) to move the operation of a slot at Ronald Reagan Washington National Airport (Reagan National or DCA) from the 0700 hour (7:00 a.m.) to the 1000 hour (10:00 a.m.).

**APPLICATION**

On October 16, 2000, America West filed an application for an exemption to slide one existing 0700 hour (7:00 a.m.) Reagan National slot to the 1000 hour (10:00 a.m.) in order to permit it to continue to offer its full service offering of three roundtrips per day in the Columbus, OH-Reagan National market. 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 September, American had notified America West that it would no longer be leasing the requisite DCA slot to America West. Since then, American and America West have reached an alternative arrangement in which American would lease a 0700 slot to America West. However, to support continuation of its three daily round trip Columbus service, America West states that it requires a 1000 hour slot and thus has filed its application. America West states that since its current slot agreement with American expires on October 28, 2000, it requests that the slot slide should be made effective on October 29, 2000.

In support of its application, America West contends that the circumstances of its application are exceptional in that its DCA-Columbus service provides a low-fare,

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competitive alternative not only for local passengers, but also for DCA-West Coast connecting passengers. America West argues that with 198 passengers per day each way the DCA-Columbus market is significant and growing. America West asserts that the Department has previously found that improving DCA service to a Midwest hub met the exceptional circumstance statutory criterion. 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 holds or operates only nine DCA slot exemptions and even when the two commuter slots operated by its codesharing partner, Mesa Airlines for DCA Columbus service are included, America West still qualifies as an air carrier holding a limited number of DCA slots or slot exemptions.

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 from changes in the timing of operations.

### **RESPONSIVE PLEADINGS**

Under the provisions of 14 C.F.R. §302.307 interested parties have 15 days to file answers in response to applications for exemptions. America West has requested Department action within 13 days of the date of its application. By letter dated October 25, 2000, America West states that it has polled all known interested parties to its application and no party has objected to the application. In reliance on this representation, we will waive the standard 15-day answer period.

On October 25, 2000, the Metropolitan Washington Airports Authority (MWAA) filed an answer to the application. While MWAA does not object to grant of the application, it asserts that grant of the application must result in one less available slot in the 0700 hour period. MWAA also requests that the Department verify that there have not been two slots added to the 1000 hour period prior to the instant application.

### **DECISION**

We have decided to grant America West's application.

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 from 0700 to 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; or (5) result in a net increase in noise impact on surrounding communities resulting from changes in timing of the exempted operations.

We have noted in past orders that our authority to grant exemptions for slot slides at Reagan National is applicable only in limited circumstances to meet the specific needs of carriers holding a limited number of slots at that airport.<sup>1</sup> America West currently operates only nine Reagan National slots. Further, the applicant has stated that the 0700 slot obtained from American is not commercially viable for the DCA-Columbus market, and we recognize the importance of preserving the current DCA-Columbus schedule that would continue through the slot slide authorized here. The exemption will enable America West to maintain the current schedule of suitable flight times offered in both the local Columbus-Reagan National market and in connecting markets that America West serves beyond Columbus. For the latter markets, preservation of the current convenient schedule to Reagan National will also sustain Columbus as a competitive alternative hub, particularly for West Coast points. Thus, the applicability of our slot exemption authority is appropriate under the exceptional circumstances America West has presented.

America West's proposed slide will not result in a net increase in the total number of authorized slots at Reagan National during any day. Rather, it will decrease by one the number of operations that have been authorized in the 0700 period and will result in a net increase of one authorized operation in the 1000 period. In this respect 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, with the exception of a temporary slot slide recently granted to Midwest Express Airlines,<sup>2</sup> there have been no other exemptions granted for the reassignment of slot exemptions during the 1000 hour (10:00 a.m.) period. No other airline's slot holdings will be affected by granting this application. And, because America West will be simply changing the timing of one operation, there will be no net increase in noise impact on the communities surrounding the airport. Thus, the proposal meets all of the statutory requirements described above.

#### **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..."

<sup>1</sup> See, for example, Order 94-9-49 and more recently, Order 2000-7-20.

<sup>2</sup> Order 2000-10-27.

14 CFR 93.223(a). We also stipulate that operation of the Reagan National slot time at 1000 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. 1425 at Ronald Reagan Washington National Airport from the 0700 hour to the 1000-1059 period;
2. This exemption is granted only to the extent that America West is allowed to move the operation of Slot No. 1425 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. 1425 and, therefore, America West 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 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; and

5. This exemption will become effective on October 29, 2000;

By:

**FRANCISCO J. SANCHEZ**  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

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