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3:30 p.m.

Order 2003-4-13

246513



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

Issued by the Department of Transportation
on the 16th day of April, 2003

Applications of

**CORPORATE AIRLINES, INC.
OZARK AIRLINES, INC.
d/b/a GREAT PLAINS AIRLINES
AMERICAN TRANS AIR, INC.
MIDWEST EXPRESS AIRLINES, INC.
AIRTRAN AIRWAYS, INC.
US AIRWAYS, INC.**

For exemptions from 14 C.F.R. Part 93,
Subparts K and S, pursuant to 49 U.S.C.
§ 41718(b), Special rules for Ronald Reagan
Washington National Airport (within-perimeter slot
exemptions)

Served: April 16, 2003

Docket OST-2000-7182 - 571

ORDER

SUMMARY

By this order, the Department grants the request of AirTran Airways, Inc., to amend Department Order 2003-1-16 to permit AirTran to inaugurate its authorized services at Ronald Reagan Washington National Airport (hereafter "DCA") not later than May 6, 2003. The Department also grants the same relief to Corporate Airlines for the services it was authorized to operate pursuant to Order 2003-1-16.

BACKGROUND

Under the provisions of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21) on January 22, 2003, the Department issued Order 2003-1-16, that, among other things, awarded four DCA slot exemptions to AirTran for new services to one or more points in Florida, including Fort Lauderdale, Fort Myers, or West Palm

Beach.¹ The Department also awarded Corporate Airlines two DCA slot exemptions to provide nonstop service to any of the communities to which it has proposed service, including Wilmington, Fayetteville, or Jacksonville, North Carolina. The order required that AirTran and Corporate institute their respective new DCA services within 90 days of the January 22, 2003, service date of the order, or by April 23, 2003.

APPLICATIONS/RESPONSIVE PLEADINGS

By letter dated February 13, AirTran requested that it be allowed to postpone the required date of DCA service inauguration from April 23, the date required by the Department's order, to May 6. AirTran argues that, due to the requirements of the order for formal notification of the FAA and confirmation of its requested slot times, it had 15 days fewer than the 90 days contemplated by the Department's selection order. AirTran argues that, because it is a new entrant at DCA, it needs the full 90 days from time of confirmation to make the arrangements to commence its DCA service. AirTran contends that these include arranging facility use, aircraft positioning, assignment of crews, and advertising and marketing its service.

On February 19, Midwest Express Airlines, Inc., responded by letter objecting to the grant of the AirTran request for a time extension. Midwest Express argues that it stands ready, willing, and able to commence DCA-Kansas City service by April 23 and that AirTran has not justified the grant of its request. Midwest Express contends that AirTran has not acted expeditiously to arrange for the inauguration of its new services, and, in fact, AirTran waited until the last available day to file its requested slot times with the DOT and FAA. Midwest Express asserts that, because the Department reclaimed four slot exemptions from Spirit Airlines due to its inability to promptly re-institute DCA service, the Department should not now hold AirTran to a different standard for full and prompt usage of available DCA slot opportunities.

On February 24, AirTran responded that Midwest Express simply seeks to block new low-fare service at DCA and thereby advance its own proposal that the Department had previously considered. AirTran contends that Midwest Express has itself requested extensions of time in excess of 90 days to implement retiming of slots at DCA, a much less complex action than inauguration of service at an airport with no previous presence.

On February 26, by letter, the Metropolitan Washington Airports Authority (MWAA) commented on the AirTran request. MWAA states that, as a result of September 11 events, DCA activity has declined, and that it is concerned that available slot opportunities should be fully utilized without undue delay. MWAA states that it looks forward to AirTran's new DCA services and urges that the Department give "fair" consideration to AirTran's request.

¹ Applications for six available DCA slot exemptions were filed by Corporate Airlines, Inc.; Ozark Airlines d/b/a Great Plains Airlines; American Trans Air, Inc.; Midwest Express Airlines, Inc.; US Airways, Inc.; and AirTran Airways, Inc.

DECISION

We have decided to grant AirTran's request to amend Order 2003-1-16 so as to permit AirTran to implement the service authorized by the order not later than May 6, rather than within 90 days of the service date of the order, or April 23.

The Department's requirement that these slot exemptions be initiated within 90 days of the service date of the order was intended to serve the public by bringing the newly authorized operations on line within a reasonably prompt period. We recognize that AirTran is a new entrant at DCA and that it has to undertake the process of setting up a new station at DCA. That process involves several steps, including coordinating and arranging for facility use, security arrangements, aircraft deployment, staffing of station personnel, assignment of crews, and the promotion and marketing of its new service. We also note that this request is for an extension of only a brief period. If the extension were not granted, even greater delays in the initiation of service might result because a replacement carrier would have to be selected. Given these facts, we believe that the public interest is best served by granting AirTran's request for this brief extension. As MWWA, other Washington local groups, and Florida parties are anxiously awaiting the inauguration of AirTran's services, we expect AirTran to work vigorously to fulfill its promise to provide service by May 6.

We have also decided, *sua sponte*, to grant Corporate the same relief that we are granting to AirTran. Like AirTran, Corporate is a new entrant carrier at DCA and is likely to face many of the same hurdles to prompt implementation of its new DCA services. Thus, in the interest of equity and prudence, we have decided to hold Corporate to the same standard that we are establishing for AirTran. As a result, Corporate must also inaugurate its DCA services authorized by Order 2003-1-16 not later than May 6, rather than April 23.

This order is issued under authority delegated in 49 C.F.R. § 1.56(a).

ACCORDINGLY,

1. The Department amends ordering paragraph 2 of Order 2003-1-16 to read as follows:

The Department directs Corporate Airlines, Inc., and AirTran Airways, Inc., to file in Docket OST 2000-7182 no later than January 31, 2003, the proposed flight schedules and effective date for operations authorized by this Order. Further, Corporate Airlines, Inc., and AirTran Airways, Inc., must commence their proposed service no later than May 6, 2003. The slot exemptions granted must be conducted with Stage 3 aircraft, may not be used for operations between the hours of 10:00 p.m. and 7:00 a.m., and may not increase the number of operations at Ronald Reagan Washington National Airport in any one-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than two operations. These carriers are advised to exercise maximum flexibility in proposed operating times to ensure compliance with these limits; and

2. We will serve this order on all parties in Docket OST-2000-7182 and the Federal Aviation Administration Slot Administration Office.

By:

READ C. VAN DE WATER
Assistant Secretary for Aviation
and International Affairs

(SEAL)

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