



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

Issued by the Department of Transportation on **February 5, 2004**

**NOTICE OF ACTION TAKEN -- DOCKET OST 2003-16735**

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 **America West Airlines, Inc.** filed **12/16/03** for:

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

**Scheduled foreign air transportation of persons, property, and mail between Los Angeles, California, and Puerto Vallarta, Mexico.<sup>1</sup>**

Applicant rep: **Joanne W. Young (202) 861-1532** DOT Analyst: **Linda L. Lundell (202) 366-2336**

**DISPOSITION**

**XX** Granted, subject to conditions (See below).

The action above was effective when taken: **February 5, 2004,** through **February 5, 2006**.

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

**XX** Authority granted is consistent with the aviation agreement between the United States and Mexico.

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)

**Special Conditions:** The U.S.-Mexico exemption authority granted is subject to the dormancy notice requirements set forth in condition 7 of Appendix A of Order 88-10-2. Consistent with our policy, the dormancy notice period will begin June 1, 2004, America West's proposed startup date for these services. The exemption authority granted is limited to service provided on a code-share basis only.

The code-share operations conducted under this authorization are subject to the following conditions: (a) the code-sharing operations conducted under this authority must comply with 14 CFR 257 and with any amendment to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions

<sup>1</sup> America West states that it will use the requested authority pursuant to a code-share arrangement with Mesa Airlines, Inc. (Mesa), whereby America West will place its "HP" code on flights operated by Mesa in the subject market. Under the U.S.-Mexico aviation agreement, up to two U.S. carriers may be designated to operate direct-carrier service (own-aircraft flights), and up to four U.S. carriers may be authorized to provide code-share services in a given city-pair market. At the time this application was filed, Alaska Airlines, Inc., held one of the designations to serve the Los Angeles-Puerto Vallarta route, and the second designation was available. However, four carriers already held the Los Angeles-Puerto Vallarta code-share authorizations (Continental Airlines, Inc.; Delta Air Lines, Inc.; Northwest Airlines, Inc.; and Hawaiian Airlines, Inc. (Hawaiian)). Thus, there were no code-share authorizations available for the America West/Mesa code-share proposal here. Subsequently, Hawaiian filed a dormancy notice for the Los Angeles-Puerto Vallarta market, and we withdrew Hawaiian's code-share authorization. As a result, both the requisite designation and code-share authorizations were available to allow us to proceed with the instant application.

in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected; and (b) the authority granted here is specifically conditioned so that neither America West nor Mesa shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

---

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 application 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, 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 seven (7) 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\\_aviation.asp](http://dms.dot.gov/reports_aviation.asp)*

## APPENDIX

### U.S. Carrier Standard Exemption Conditions

In the conduct of the operations authorized, the U.S. carrier 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 all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its Principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served; 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.

8/2003