



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Issued by the Department of Transportation on July 26, 2004

NOTICE OF ACTION TAKEN -- DOCKET OST-2001-9766

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 **US Airways, Inc.** filed **6/3/04** to:

XX Amend exemption under 49 U.S.C. §40109 granted in this docket on May 16, 2003, to:

Authorize scheduled foreign air transportation of persons, property, and mail between points in the United States and points in the Bahamas,¹ and to integrate this authority with its existing authorities. US Airways initially intends to operate this service pursuant to a code-share arrangement with Bahamasair Holdings Limited.

Applicant rep: **Howard Kass (703) 872-5230** DOT Analyst: **Sylvia Moore (202)-366-6519**

Gulfstream International Airlines filed an answer objecting to the application. Gulfstream states that Bahamasair is delinquent in filing its required T-100 traffic reports from October 2002 through at least December 2003, creating a significant competitive disadvantage for other airlines offering U.S. Bahamas service which have reported their traffic.

Bahamasair filed a reply stating it did submit T-100 reports for the period October 2002 through December 2003. Bahamasair states, however, that it learned of some data quality problems with a number of its reports from that period and worked with Bureau of Transportation Statistics (BTS) officials to resolve those problems.

DISPOSITION

XX Granted

The above action was effective when taken: **July 26, 2004**, through **May 16, 2005**, coextensive with the authority granted on May 16, 2003.

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

XX The authority granted is consistent with the overall state of aviation relations between the United States and the Bahamas.

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)

¹ US Airways currently holds exemption authority between Charlotte, North Carolina, and New York, New York, on the one hand, and Freeport, Bahamas, on the other, in the above captioned docket.

XX Statement of authorization approving US Airways/Bahamasair code-share operations dated July 26, 2004, and conditions therein

Conditions: The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority requested should be construed as conferring upon US Airways rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless US Airways notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in US Airways' authority by virtue of the route integration exemption granted here, but that are not then being used by US Airways, the holding of such authority by route integration will not be considered as providing any preference for US Airways in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

Remarks: With respect to Gulfstream's comments, we have confirmed with BTS staff that Bahamasair's T-100 traffic reports are current and the data quality problems have been resolved.

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 authority 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 order is available on the World Wide Web at
http://dms.dot.gov/reports/reports_aviation.asp*

U.S. Carrier 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, including, but not limited to, 49 CFR Part 1544. 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 International Principal Security Inspector (IPSI) to advise the IPSI 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.