BEFORE THE
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.

In the Matter of:	)	
Operating Limits at Chicago O'Hare International Airport - Notice of Scheduling Reduction Meeting and Request for Information	)	**Docket FAA-2004-16944**

COMMENTS OF AMERICA WEST AIRLINES, INC.

Communications with respect to this document may be served upon:

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August 13, 2004

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America West Airlines, Inc. (America West) respectfully submits these comments in response to the Federal Aviation Administration (FAA) Notice of July 28, 2004 (August 2, 2004, 69 Fed. Reg. 46201), to exercise its authority under 49 U.S.C. § 41722, to discuss flight reductions with the airlines at Chicago's O'Hare International Airport. The purpose of the meetings is to obtain voluntary agreement by the carriers to reduce over-scheduling and flight delays during peak hours of operation for six months. Pursuant to this notice the FAA held several days of meetings and follow up with individual carriers. America West participated in these meetings although it has only three arrivals during the peak demand period of concern to the FAA. The FAA has not yet announced whether it has obtained what it views as workable voluntary reductions.

America West questions the need to seek voluntary cut backs from all carriers, or failing to obtain such service cuts, to impose mandatory reductions. America West believes that carriers will reduce flights at O'Hare to maintain the loyalty of customers who, faced with continuing

flight delays, will find alternative routes and carriers to avoid connections through O'Hare.[1] To the extent the FAA feels compelled to achieve a voluntary agreement, America West would certainly review its schedules and assist the FAA efforts to de-peak critical time periods by sliding arrival times, recognizing however, that since America West has only three arrivals during these periods the effects of any changes would be minimal.

If the FAA insists on reductions and intends to go beyond voluntary cuts and impose schedule reductions, it is imperative that the FAA does not compromise airline competition. Mandatory, unilaterally imposed fight cuts are clearly inconsistent with the goals and policies of the Airline Deregulation Act which has guided Federal aviation policy for 26 years. Any restriction is clearly a form of reregulation that will set a dangerous precedent as an acceptable tool to manage air traffic capacity. If the FAA determines such drastic departure from National policy is necessary, it is critical that during any period of mandatory cuts, the FAA must preserve the right of new entrants and limited incumbents at O'Hare to operate at least 30 flights (15 round trips) per day at O'Hare as Congress provided in the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21).

In addition, should the FAA seek to impose cuts in operations, these cuts must focus on the primary source of the congestion problem, namely increases in flights by the dominant carriers at O'Hare, United and American. These carriers have added 101 departures per day between August 2002 and August 2004. In addition, they have significantly increased their operations with small aircraft with 70 or fewer seats. Many of these flights serve medium and

[1] See America West Comments in Docket FAA-2001-9854, Alternative Policy Options for Managing Capacity at LaGuardia Airport.

large hub airports and not small isolated communities. In contrast, since August 2002 America West has reduced its O'Hare service more than any other major carrier, eliminated all operations with aircraft under 100 seats and currently operates only 0.7% of daily O'Hare arrivals. Any forced solution proposed by the FAA must not compromise the competitiveness of America West or other new entrants and limited incumbents by cutting back their already minimal operations. Instead, the FAA should focus on preserving low-fare competition and maximizing the available capacity of the facility in terms of passengers served by reducing flights during critical time periods by small aircraft. In addition, to ensure that the maximum number of consumers have access to O'Hare; America West urges the FAA to prohibit all general aviation and military flights at O'Hare and other capacity restrained airports during the peak constrained hours.

I. SPECIAL SCHEDULING AND DELAY MEASURES MUST BE USED ONLY AS A LAST RESORT AND, IF USED, NARROWLY TAILORED TO ADDRESS CAREFULLY DEFINED OBJECTIVES

America West believes that if left free to act in their own self-interest in a competitive environment, American and United which together conduct the vast majority of operations at O'Hare will rationalize service to maintain customer good will and to meet their published schedules. In this regard, any reductions whether "voluntary" or imposed by the FAA will have a negative impact on the market based system created by deregulation. Accordingly, even if the FAA does not achieve its reduction goal through voluntary cuts, America West is of the view that the FAA should accept these reductions and not consider imposing unilateral cuts at this time. America West is convinced that if excessive delays continue, passengers will vote with their travel itineraries and find ways to bypass O'Hare. As noted above, to the extent the FAA is

intent on obtaining comprehensive voluntary reductions, America West is willing to help to the extent it can adjust some arrival times of its very limited O'Hare service.

II. ANY SPECIAL MEASURES TO CONTROL SCHEDULING AND DELAY PROBLEMS MUST PRESERVE AIRLINE COMPETITION

While the FAA Notice of July 28, 2004, does not authorize the FAA to impose any schedule reductions, it is clear from statements of the Administrator that FAA imposed cuts is a possible next step if agreement is not reached. Should the FAA consider such a drastic solution, America West believes the law requires that an imposed solution to the congestion problem not come at the expense of airline competition fostered by new entrants and limited incumbents. At a minimum, this requires that any special measures not affect the right of each limited incumbent and new entrant airline at O'Hare to increase service at least up to 30 flights per day as Congress provided in AIR-21.

A key policy objective of AIR-21 was to ensure vigorous airline competition and end the continuing trend toward consolidation and dominance of aviation markets by a few major carriers. Congress was particularly concerned about legacy carriers' stranglehold on access to key slot-controlled airports, including O'Hare. For years new entrants and limited incumbents were unable, despite significant efforts to overcome anti-competitive obstacles, to gain even minimally competitive airport access, ultimately harming consumers who must pay higher fares. To address this problem, Congress in AIR-21 enacted rules governing the allocation of slots at slot-controlled airports, specifically defining "limited incumbent" as an airline with 20 or fewer slots (an IFR take off or landing reservation) at a controlled airport. 49 U.S.C. 41716(h)(5).

Congress also mandated that new entrants and limited incumbents be guaranteed access to these airports under the High Density Rules. At LaGuardia, for example, Congress mandated

that such carriers must be granted up to 20 slots per day. 49 U.S.C. § 41716(b). At O'Hare, reflecting the much larger number of operations at the airport overall, Congress mandated that each new entrants and limited incumbents must have access for 30 "exemptions" (slots) per day. 49 U.S.C. § 41717(c)(1). While the High Density Rule has since been phased out at O'Hare, if the FAA imposes new limits on flights at O'Hare, it must respect the intent of Congress to ensure the right of new access to new entrant/limited incumbent carriers . Accordingly, during any period when restrictions are imposed, the FAA must still authorize a new entrant or limited incumbent to increase service up to at least 15 round trips a day.

With respect to America West's position at O'Hare, the need to preserve competition is particularly compelling. As the FAA noted when it first ordered reductions in service at O'Hare in response to scheduling and delay problems, American and United (together with their affiliates) account for an overwhelming 88 percent of operations at the airport. Order, Operating Limitations at Chicago O'Hare International Airport, Docket FAA-2004-16944, January 21, 2004 at 3. As of August, 2004, that percentage is down only slightly to 87%, with United and American respectively conducting 646 and 545 arrivals daily.[2] In contrast, America West accounts for just 0.7% of operations at O'Hare, conducting just 9 daily arrivals (based on its Fall 2004 schedule). Moreover, America West operates only three flights that are in the 15-minute blocks of concern to the FAA; thus, two-thirds of America West's operations occur outside peak periods.[3] America West has already done its part to address the congestion problem at O'Hare, having reduced its relative percentage of arrivals by 25 percent between August 2002 and August

[2] See Exhibit A.
[3] See Exhibit B.

2004, more than any other carrier.[4] In contrast, American and United have added flights during this same period, even accounting for their prior voluntary cut backs:

- American's relative percentage of operations has increased 15 percent since 2002
- United's relative percentage of operations has increased 5 percent since 2002
- While United has "de-peaked" its schedule since 2002, its overall presence at the airport continues to grow[5]
- American has not only continued to increase its presence at O'Hare, its schedule "reductions" have failed to result in de-peaked operations.[6]

Clearly, America West operations are not causing the scheduling and delay problems at O'Hare and it would be unjust to expect the carrier (and other limited incumbent carriers in a similar position) to eliminate or adjust its schedules in ways that eliminate connections at its Western hubs to alleviate a problem not of its making.

America West's few operations are critical to maintaining the carrier's ability to provide connections consumers demand in order to provide service alternatives competitive with the dominant carriers. Based on its current schedule, America West is able to provide service from O'Hare to [41] Western cities that, on average, are ***18 percent*** below those offered by other carriers.[7] In short, to require America West to eliminate or significantly adjust the times of its few operations will sacrifice critical low fare competition by the second largest low fare carrier in the U.S. leading to a loss of large tangible benefits to consumers in the name of reducing problems created by other carriers. Indeed, even if Congressional intent to preserve a minimum level of 30 operations per day at O'Hare for limited incumbents is ignored, it is clearly contrary to the public interest to sacrifice the current level of limited competition provided by America

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[4] See Exhibit C.
[5] See Exhibit D.
[6] See Exhibit E.
[7] See Exhibit F. In addition, as is clear from the Exhibit America West's presence drives other carriers to offer low fares in important America West markets.

West and other low fare new entrant and limited incumbent carriers. In this context, the unfairness of looking to limited incumbents to reduce service is clear: requiring them to compromise the competitiveness of their service in essence **rewards** the dominant carriers for creating the problem in the first place.

III. ANY SPECIAL MEASURES TO CONTROL SCHEDULING AND DELAY PROBLEMS SHOULD BE APPLIED FIRST TO REDUCE SMALL AIRCRAFT OPERATIONS

In the context of voluntary or imposed service reductions, the FAA must take into account the significant degree to which the huge influx of low-capacity regional jet service at O'Hare in recent years has contributed to O'Hare's scheduling and delay problems.[8] Even as they have increased total operations in recent years, United and American have reduced overall capacity because they have replaced larger capacity mainline jets with low-capacity regional jets. For example, while American has added 71 daily departures from 2002 to 2004 (going from 474 to 545) the percentage of operations using aircraft with 70 or fewer seats rose from 25 percent to 45 percent.[9] Similarly, while United added 30 daily departures from 2002 to 2004 (going from 616 to 646) the percentage of operations using aircraft with 70 or fewer seats rose from just 25 percent to 47 percent.[10] Together American and United operate approximately 462 daily departures with regional jets. While America West recognizes the need to serve smaller communities, in the context of mandatory restraints there may be a need to consider the number of flights being operated in some of these markets. Moreover, it is critical to note that 30 percent

[8] Turboprops create an additional problem because of their lower take off and landing speeds and need for greater separation.
[9] See Exhibit G.
[10] Id.

of the regional jet operations by American and United are to medium and large hubs which could be served by fewer flights with large/mainline aircraft. From an objective point of view, it makes little sense to "relieve" an airport capacity problem by cutting large aircraft service in substantial markets and replacing them with regional jets. Accordingly, it is clearly in the public interest and in the interest of air transportation consumers to target low-capacity regional jet operations first, thereby maximizing the number of passengers this public facility can serve.

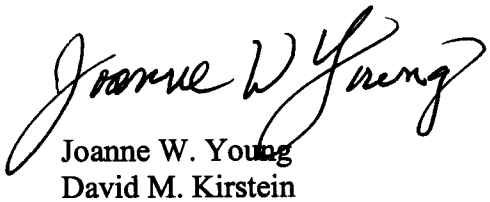
IV. CONCLUSION

America West believes that the FAA must act very carefully in addressing the delay problem at O'Hare. Regardless of what the FAA does, the effect will be to regulate competition in specific markets, which in light of the Airline Deregulation Act, should be an action taken only as a last resort. Any restrictions whether "voluntary" or unilaterally imposed by FAA is government managed service and a step down the slippery reregulation slope. America West remains convinced that this is a step that should not be taken and that American and United which have created the problem, will cut back flights on their own to retain customer loyalty, particularly for business travelers, who today continue to pay higher fares.

To the extent the FAA has obtained fewer commitments for voluntary cut backs and slides than it initially sought, the FAA should approve these reductions and changes before considering the drastic measure of initiating a process to impose cuts. Should the situation truly reach the point where delays at O'Hare are causing significant disruption throughout the system and American and United have not adjusted their service, as discussed above, the FAA must first look to reducing operations by regional jets, particularly flights to medium and large hubs as well as prohibiting general aviation and military flying during peak hours. The FAA must avoid any

cut backs to the already minimal service provided by low fare new entrants and limited incumbents like America West, whose highly competitive service at O'Hare has been protected by Congress and has been key catalyst to the resurgence of air travel . Indeed, as noted above even in this worst case scenario, the FAA must ensure that the new entrant/limited incumbent carriers can add new service up to the AIR-21 levels mandated by Congress even during periods of voluntary or mandatory reductions.

Respectfully submitted,



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August 13, 2004

EXHIBIT A

AWA represents less than 1% of ORD's daily arrivals

AWA has the second fewest scheduled operations at ORD of all U.S. regional and major commercial airlines:

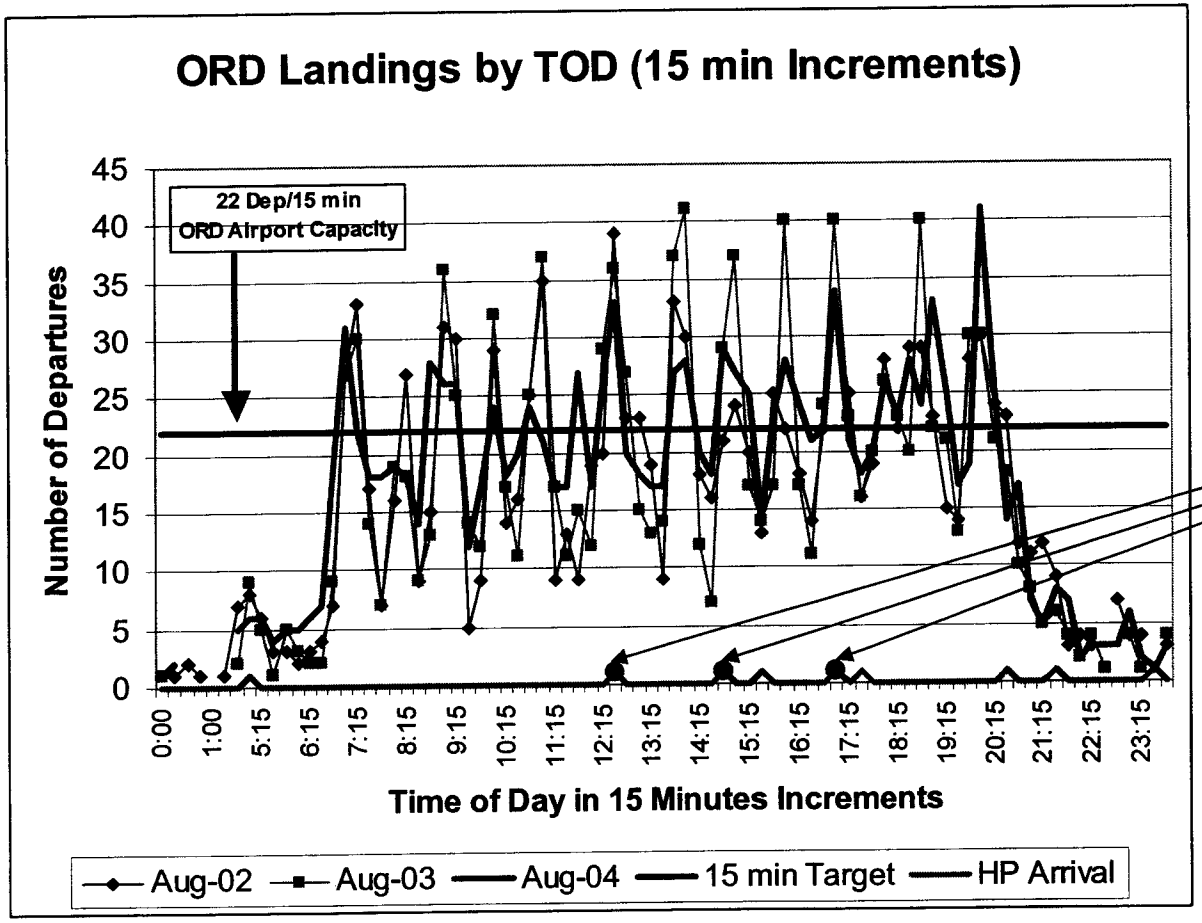
Airline	Aug-04 Daily Arrivals	Percent of Total
AS	3	0.2%
HP*	9	0.7%
NK	9	0.7%
DH	12	0.9%
AC	16	1.2%
US	19	1.4%
DL	22	1.6%
NW	23	1.7%
CO	25	1.8%
Other	43	3.1%
AA	545	39.7%
UA	646	47.1%
Total	1372	100.0%

*AWA's scheduled arrivals reflect final fall schedule effective Oct. 31, 2004

EXHIBIT B

Majority of AWA ops outside of peak periods

AWA is not a principal user of ORD's peak period arrival resource. Only a third of AWA's arrivals occur in a period with more than the FAA's requested max:



Only three out of 9 HP landings occur on a 15 minute block with greater than 22 scheduled landings

EXHIBIT C

AWA has already done its part to alleviate congestion

AWA has rationalized its presence more than any other carrier since the summer of 2002:

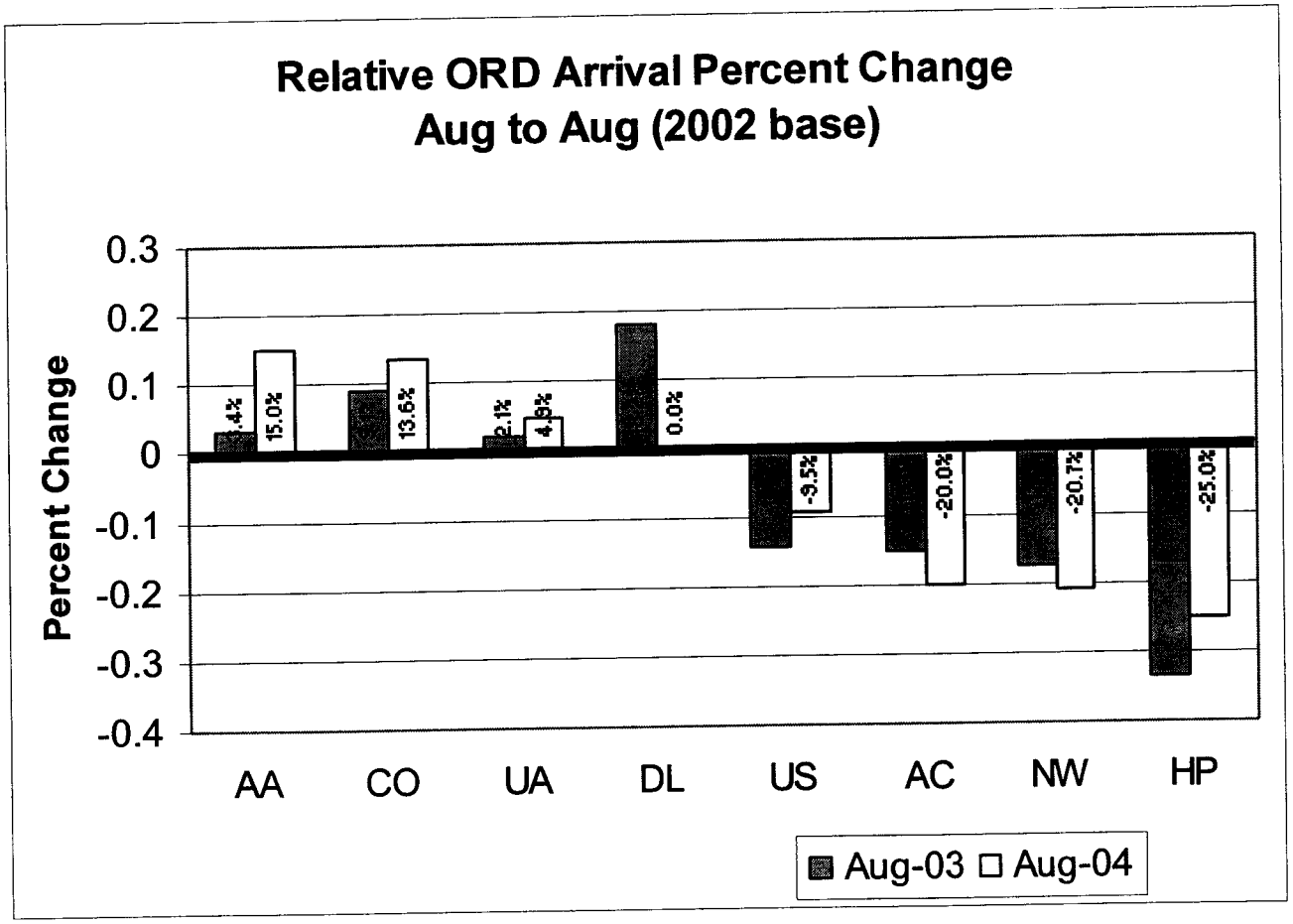


EXHIBIT D

What is driving the congestion problems?

As a result of "consensual reductions" with the FAA in January, the largest carrier at ORD has de-peaked its schedule. However, it continues to grow:

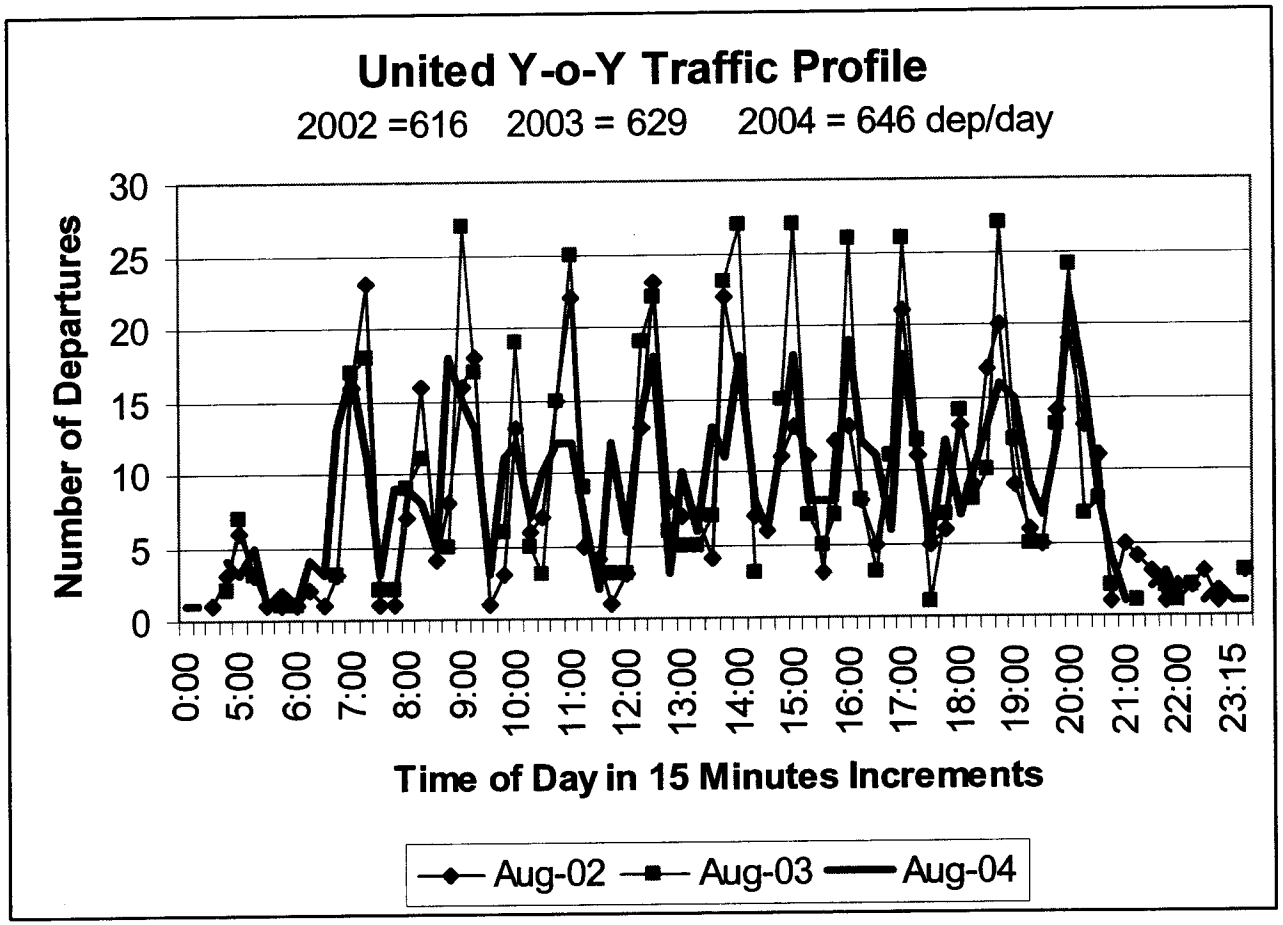


EXHIBIT E

What is driving the congestion problems?

AA's schedule "reductions" have failed to result in a de-peaked operation or a more rational number of total departures

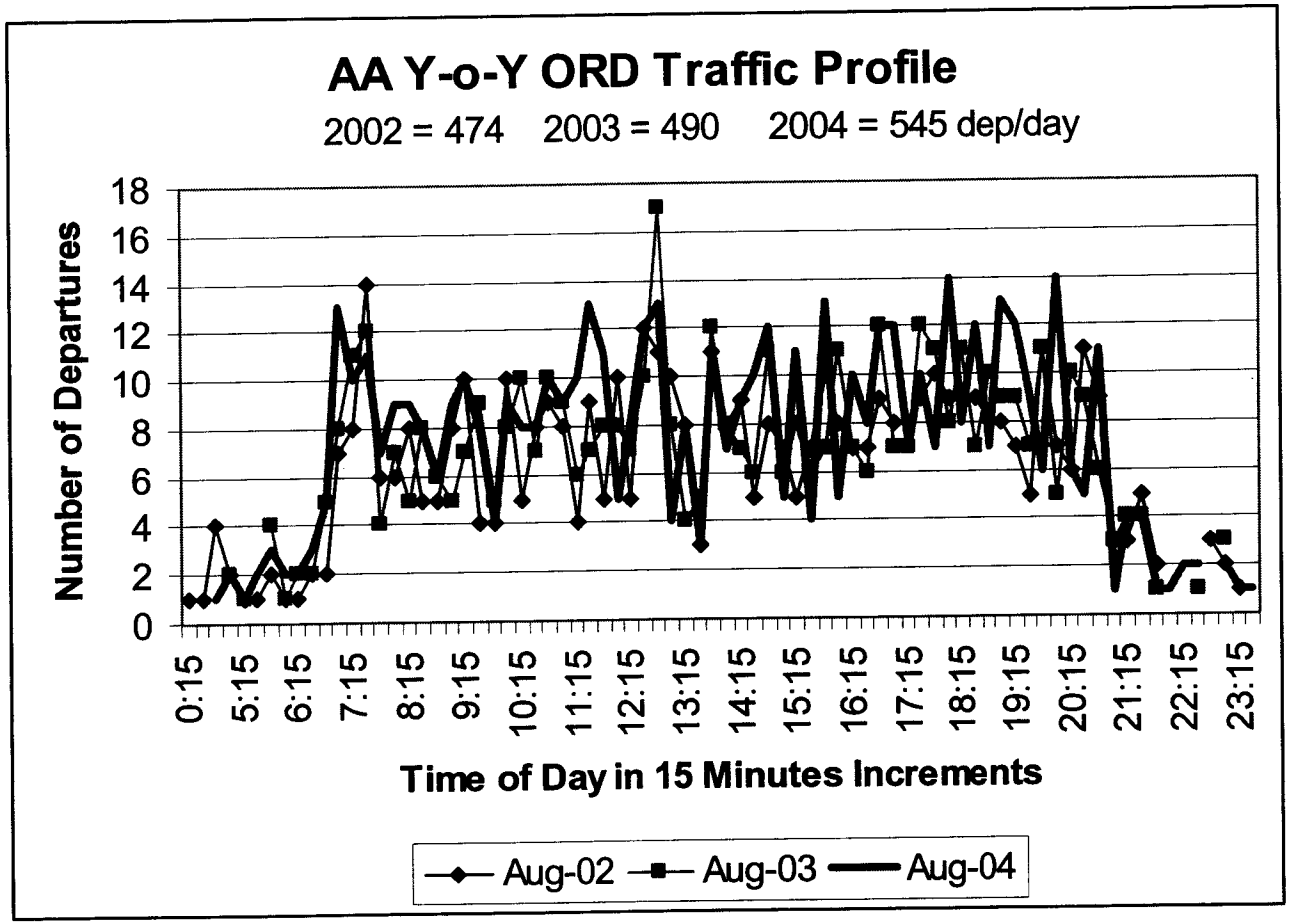


EXHIBIT F

AWA is the only network LCC that operates at ORD

AWA's presence at ORD is of significant importance when it comes to providing the community with quality, low-fare competition.

2003 Average Fares from ORD to Top Cities in the Western U.S.

	America West	American	Delta	Spirit	United	Average	AWA vs. Avg.
Chicago O'Hare To:							
Los Angeles	$134	$162	$123	$94	$174	$161	-17%
Las Vegas	$119	$128	$92	$91	$135	$124	-5%
Phoenix	$125	$113	$98	na	$124	$120	4%
San Fancisco	$155	$165	$130	na	$189	$181	-15%
Seattle	$132	$157	$133	na	$184	$173	-24%
San Diego	$135	$158	$117	na	$172	$161	-16%
Orange County	$155	$169	$121	na	$170	$169	-8%
Portland	$163	$155	$135	na	$196	$182	-10%
San Jose	$156	$159	$125	na	$166	$162	-3%
Salt Lake City	$157	$154	$176	na	$182	$172	-9%
Total	**$126**	**$150**	**$144**	**$93**	**$169**	**$155**	**-18%**

EXHIBIT G

Are the dominant carriers best using the resources?

To make matter worse, both carriers have been rapidly expanding the use of smaller, regional aircraft that consume a disproportionate share of the constrained airspace at ORD:

		Seat Configuration			
Airline	Month	> 70 seats	50 to 70 seats	35 to 50 seats	% < 70 Seats
AA	Aug-02	353		121	25.5%
	Aug-03	292		198	40.4%
	Aug-04	297	33	215	45.5%
UA	Aug-02	463		153	24.8%
	Aug-03	404		225	35.8%
	Aug-04	432	10	204	33.1%