

BEFORE THE  
U.S. DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.

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Application of	:	
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<b>MIDWEST EXPRESS AIRLINES, INC.</b>	:	Docket OST-99-6240
	:	
For an exemption pursuant to	:	
the provisions of 49 U.S.C.	:	
§ 41714(d)	:	

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**REPLY OF MIDWEST EXPRESS AIRLINES, INC. TO  
ANSWER OF THE AIR CARRIER ASSOCIATION OF AMERICA**

Midwest Express Airlines, Inc. ("Midwest Express") has sought an exemption pursuant to 49 U.S.C. § 41417(d) to permit it to slide two 2100 Ronald Reagan Washington National Airport ("DCA") slots to earlier hours (1400 and 1500) in order to facilitate the operation of a forth and much needed round trip nonstop flight in the Milwaukee-DCA market.

The Air Carrier Association of America ("ACAA") filed an answer in opposition to the Midwest Express application alleging that the FAA granted Midwest Express more favorable consideration than it did other carrier, including presumably, one or more of the carrier members of the Association. The ACAA takes this position based on the statement of Midwest Express at page 2 of its application that Midwest Express ". . . responded favorably to an offer by the FAA for expressions of interest in obtaining unused DCA air carrier and commuter slots at 2100.

Midwest Express appreciates the sensitivity of the ACAA to the statement quoted above and understands how it is possible to misconstrue the statement, as did the Association. In fact, it would be more correct to state that Midwest Express made an independent inquiry of the FAA as to the availability of any unused slots and was advised that 2100 slots were available for allocation on a first-come, first-served basis. The self-held process used by Midwest Express to obtain information from the FAA about unused slots is available to any other carrier. It is common knowledge in the industry that unused High Density Airport slots in off-peak hours are available from time to time and will be allocated by the FAA on a temporary basis and subject to recall if a carrier requests the assignment of such temporary slots.

Every carrier with ambitions to serve one or more of the FAA-designated High Density Airports is aware of this long standing FAA practice and many have taken advantage of the process over the years. Midwest Express simply inquired of the FAA and was advised that two 2100 slots were then available. Midwest Express then asked that they be allocated to it and its request was granted by the FAA on the terms noted above. Every other certificated air carrier had an equal opportunity to make a similar request of the FAA, which request would be granted subject to slot availability. Because the slots are issued on a temporary basis and are subject to FAA recall for possible future allocation pursuant to FAR

section 93.225, the FAA has properly treated Midwest Express and all other carriers in this matter.

Midwest Express appreciates the opportunity to clarify the process by which it obtained the two 2100 DCA slots. Since the process by which Midwest Express, or any inquiring carrier, received or could have received a temporary slot allocation was fair and consistent with FAA practice and policy, the Department should proceed to decide the Midwest Express application on the merits and to award to Midwest Express the exemption sought in this Docket.

Very truly yours,

SILVERBERG, GOLDMAN and BIKOFF, L.L.P.

Attorneys for  
**MIDWEST EXPRESS AIRLINES, INC.**

By: \_\_\_\_\_  
Robert P. Silverberg

Dated: September 29, 1999

CERTIFICATE OF SERVICE

I hereby certify that I have on this 29th day of September, 1999, served a copy of the foregoing Reply of Midwest Express Airlines, Inc., by first class mail, postage prepaid, upon the persons on the attached service list.

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Robert P. Silverberg