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May 12, 1999

OST-99-5587-4

VIA HAND DELIVERY

Ms. Dorothy Walker, Chief
Docket Section
U.S. Department of Transportation
400 Seventh Street, S.W.
Room PL401
Washington, D.C. 20590

Re: Atlantic Coast Airlines
BS&G File No. 4746

DEPT. OF TRANSPORTATION
DOCKETS
99 MAY 12 PM 4:28

Dear Ms. Walker:

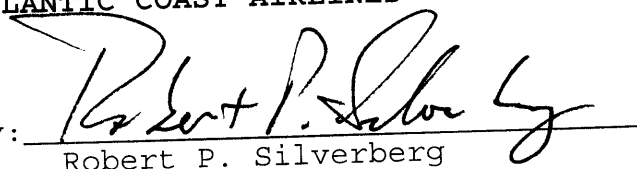
Enclosed is a revised page 4 to the Answer of Atlantic Coast Airlines to the Application of American Eagle Airlines, Inc. in Docket OST-99-5587. Please insert the revised page 4 into the file copies of the pleading. I appreciate your assistance in this matter and apologize for any inconvenience.

Very truly yours,

BAGILEO, SILVERBERG & GOLDMAN, L.L.P.

Attorneys for
ATLANTIC COAST AIRLINES

By:


Robert P. Silverberg

RPS/pmm
Enclosure
cc: Service List

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operates fewer than 12 air carrier or commuter slots, in any combination, at a particular airport.

Unlike Eagle, ACA is a new entrant air carrier within the meaning of § 41714(c). As of the date of this answer, ACA conducts 30 operations at O'Hare during the controlled hours of 6:45 a.m. to 9:15 p.m. Of these operations, 26 are conducted pursuant to slot exemption awards granted by the Department.^{1/} See Orders 98-4-21, 98-10-28. However, the conduct of these O'Hare services by ACA does not cause ACA to fall outside of the definition of new entrant air carrier. Other than with respect to only three slots, ACA neither "holds" nor "operates" any slots at O'Hare. Rather, the Department has exempted ACA from the requirement that it hold slots in order to conduct these 26 operations at O'Hare. Specifically, ordering paragraph no. 2 of Order 98-4-21 states:

The Department grants an exemption from 14 CFR Part 93, Subparts K and S, to Atlantic Coast Airlines, Inc. (sic) to enable it to conduct 16 flight operations a day (departures and arrivals) at Chicago O'Hare Airport during the slot-controlled hours of 6:45 a.m. to 9:15 p.m.

Similarly, in Order 97-1-7, the Department granted 20 O'Hare exemption slots to Great Lakes Aviation (which slot exemptions were subsequently transferred to ACA by the Department by Order 98-10-28) using virtually identical operative language ("The Department grants Great Lakes exemptions from subpart K and S of Part 93...."). Since ACA has been granted exemptions from the High

^{1/} ACA's four operations at O'Hare are conducted pursuant to the slots obtained by ACA in the normal course under the FAA's "buy-sell rule."

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