



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

Issued by the Department of Transportation on May 16, 2003

NOTICE OF ACTION TAKEN -- DOCKET OST-1997-2648

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 Florida West International Airway, Inc. filed 4/24/03 to:

XX Renew exemption under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of property and mail (1) from points behind the United States, via the United States and intermediate points, to a point or points in Argentina and beyond; and (2) between Argentina and any point or points, and to integrate this authority with its existing exemption and certificate authority.

XX Waiver from 14 CFR 377.10(c)

Applicant rep: Elizabeth C. Collins (202) 626-6207 DOT Analyst: Sylvia Moore (202) 366-6519

DISPOSITION

XX Exemption granted in part (see remarks) (subject to conditions, see below)

XX Balance dismissed (see remarks)

XX Waiver granted

The above action with respect to Florida West's exemption authority was effective when taken: May 16, 2003, through May 16, 2005

The above action granting the waiver was effective: May 16, 2003

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

XX The authority granted is consistent with the aviation agreement between the United States and Argentina.

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)

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 Florida West rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Florida West notifies the Department of its intent to serve such a market and unless and until the Department has completed any

(See Reverse Side)

necessary carrier selection procedures to determine which carriers(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 Florida West's authority by virtue of the route integration exemption granted here, but that are not then being used by Florida West, the holding of such authority by route integration will not be considered as providing any preference for Florida West in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

The authority granted to serve intermediate and beyond points is limited to countries with which the United States has signed open-skies agreements and/or countries for which the carrier holds authority to serve under certificate or exemptions issued by the Department, and for which it holds route integration authority by virtue of either the present action or other action of the Department.

Remarks: We dismissed Florida West's application to the extent that it requests authority from points behind the United States. The authority to conduct operations from points behind the United States is inherent in the authority that we award U. S. carriers to perform foreign air transportation.

Florida West requested a waiver from the 60-day advance filing requirements of 14 CFR 377 to ensure that its Argentine authority would continue in effect beyond the expiration date (June 12, 2003), pending action on its renewal application. On May 13, 2003, we orally granted the request. We confirm that action here.

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

U.S. CARRIER
Standard Exemption Conditions

In the conduct of operations authorized by the attached notice, the 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 the applicable requirements of the Federal Aviation Administration Regulations and with all applicable U.S. Government requirements concerning security;¹ 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.

10/2002

¹ To assure compliance with all applicable U.S. Government requirements concerning security, the holder should, before commencing any new service (including charter flights) to or from a foreign airport, inform its Principal Security Inspector of its plans.