



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation on May 20, 2004

NOTICE OF ACTION TAKEN -- DOCKET OST-2002-13855

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).

Applications of US AIRWAYS, INC. filed 2/27/04, and 3/30/04, to:

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

2/27/04:

Scheduled foreign air transportation of persons, property, and mail between Ft. Lauderdale, Florida, and Cancun, Mexico.

3/30/04:

Scheduled foreign air transportation of persons, property, and mail between Washington/Baltimore and Cancun, Mexico.

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

DISPOSITION

XX **Granted Ft. Lauderdale-Cancun request** (subject to conditions, see below)

XX **Deferred Washington/Baltimore-Cancun request** (see remarks below)

The authority granted was effective when taken: May 20, 2004, through December 4, 2004 (coextensive with US Airways' existing authority in this Docket).

**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 Mexico.**

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)**

Special Conditions/Remarks: The U.S.-Mexico exemption authority granted is subject to the dormancy notice requirements set forth in condition 7 of Appendix A of Order 88-10-2. Consistent with our standard practice, the dormancy notice period for Ft. Lauderdale-Cancun will begin July 17, 2004, US Airways' proposed startup date for this service.

Request for Washington/Baltimore-Cancun: Under the U.S.-Mexico aviation agreement, only two U.S. carriers may be designated to provide nonstop transborder services in each city-pair market. In its application US Airways states that, because only one U.S. carrier (United Air Lines, Inc.) currently serves the Washington, DC-Cancun market and only one U.S. carrier (Brendan Airways, LLC d/b/a USA 3000) currently serves the Baltimore-Cancun market, US Airways' requests for new authority to serve the Washington/Baltimore-Cancun markets are "within the double-designation-per-city-pair limitation." However, Washington/Baltimore is considered a single U.S. gateway point under the bilateral agreement. Since United and USA 3000 are already using the two possible designations for the Washington/Baltimore-Cancun city-pair market, no additional designations are available at this time. Under these circumstances, we decided to defer action on this portion of US Airways' request.

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 application 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 or deferred, 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 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.

05/2004