

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

Application of )  
 )  
 AMERICA WEST AIRLINES, INC. )  
 ) Docket OST-2006-\_\_\_\_  
 for an exemption )  
 pursuant to 49 U.S.C. § 40109 )  
 (Phoenix, Arizona – Cancun, Mexico) )  
 (code-sharing) )  
 )

**APPLICATION OF AMERICA WEST AIRLINES, INC.  
FOR AN EXEMPTION  
(Phoenix, Arizona – Cancun, Mexico)**

Communications with respect to this document should be sent to:

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April 24, 2006

**NOTICE:** America West plans to poll on this application and therefore requests that any parties wishing to support or oppose this application submit their answers on or before May 1, 2006.

BEFORE THE  
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AMERICA WEST AIRLINES, INC.	)	
	)	Docket OST-2006-_____
for an exemption	)	
pursuant to 49 U.S.C. § 40109	)	April 24, 2006
(Phoenix, Arizona – Cancun, Mexico)	)	
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	)	

**APPLICATION OF AMERICA WEST AIRLINES, INC.  
FOR AN EXEMPTION  
(Phoenix, Arizona – Cancun, Mexico)**

Pursuant to 49 U.S.C. § 40109 and Subpart C of the Department’s Rules of Practice (14 C.F.R. Part 302), America West Airlines, Inc. (“America West”) hereby applies for an exemption and, to the extent necessary, a designation in order to engage in scheduled foreign air transportation of persons, property, and mail between Phoenix, Arizona, on the one hand, and Cancun, Mexico, on the other hand, pursuant to its code-share arrangement with US Airways.<sup>1</sup> America West requests expedited processing of this application so that it can begin implementing schedule changes and marketing the services proposed herein as soon as possible.

In support of this application, America West respectfully states as follows:

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<sup>1</sup> America West has already received authorization to engage in scheduled foreign air transportation of persons, property and mail between Phoenix and Cancun using its own aircraft. See Notice of Action Taken, Docket OST-1995-736, August 31, 2004.

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1. America West is a Delaware corporation with its principal office at 111 West Rio Salado Parkway, Tempe, Arizona 85281.
2. In a separate Docket filed concurrently, America West's sister carrier, US Airways, Inc. ("US Airways"), applied for authority to provide scheduled air service between Phoenix and Cancun. Consistent with that application, America West seeks to place its "HP" code on flights operated by US Airways. Granting this authority will allow America West, as part of the "new" US Airways, to optimize the use of its fleet and create additional synergies and efficiencies with its sister carrier (within the limits of the Department's dormancy provisions), for the benefit of passengers travelling from the West Coast of the United States to Cancun.
3. In order to initiate these code-sharing services, America West requests an exemption from 49 U.S.C. § 41101 and, to the extent necessary, a designation permitting America West to engage in scheduled foreign air transportation of persons, property, and mail between Phoenix, Arizona, on the one hand, and Cancun, Mexico, on the other hand, pursuant to the US Airways-America West code-share arrangement, by placing the "HP" designator code on flights operated by US Airways.
4. America West is a citizen of the United States within the meaning of 49 U.S.C. § 40102(a)(15)(C) and is fit, willing, and able to serve these markets. America West holds various certificate and exemption authorities. See, e.g., DOT Order 97-11-2 (U.S.-Canada); Notice of Action Taken, August 31, 2004, Docket OST-95-736 (Phoenix-various cities in Mexico); Notice of Action Taken, February 9, 2006, Docket 03-16735 (LAX-PVR); Notice of Action Taken, July 23, 2004, Docket OST-04-18840 (LAX-ACA, OAK-SJD, and various U.S.-Mexico routes via a code-share arrangement with Mesa

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Airlines). Pursuant to Rule 24 of the Department's Rules of Practice, America West requests that the Department take official notice of all information previously filed to establish America West's fitness.

5. America West plans to commence daily code-share service on or about September 6, 2006.

6. The Air Transportation Services Agreement between the United States and Mexico provides for same-country carrier code-sharing, stating that either party may authorize its airlines to place their codes on the services of an airline designated under the Agreement, but, "each party shall have the right to grant such authorization to no more than ten of its airlines for each nonstop gateway city-pair segment."

(December 12, 2005 Amendment to the Air Transportation Services Agreement between the United States and Mexico, Annex III). Currently, there is only one U.S. air carrier with a designation for code-sharing services between Phoenix and Cancun.<sup>2</sup>

Granting the requested authority will leave an ample number of code-share designations available for other U.S. carriers. Accordingly, the proposed services are consistent with the aviation agreement between the United States and Mexico.

7. America West has received an exemption from the provisions of 49 U.S.C. § 41105 in conjunction with the Joint Application of America West, US Airways, and PSA Airlines pending a Department ruling on the *de facto* certificate transfer request (a Joint Application seeking approval of a transfer of certificate and exemption authorities). See DOT Order 2005-8-7. Should the Department grant this application, America West

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<sup>2</sup> US Airways is designated to provide code-share service on flights operated by America West.

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requests – to the extent necessary – that this exemption authority be encompassed by that exemption as well and any Department ruling on the *de facto* transfer application.

8. All code-share flights will be marketed and operated in accordance with the Department's code-share disclosure regulations in 14 C.F.R. Part 257.

9. America West will accept and abide by all terms, limitations, and conditions that the Department normally attaches to exemption authority for scheduled foreign air transportation. America West asks that this requested authority be granted for a term of at least two (2) years.

10. America West urges the Department to use expedited procedures in approving the authority sought in this application. This will enable America West promptly to implement its planned services, secure all necessary local approvals, and engage in advance sales and marketing of its new scheduled air services.

11. The requisite filing fee is enclosed.

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WHEREFORE, America West respectfully requests that its application for an exemption and a designation (to the extent necessary), as discussed herein, be granted, as well as such further relief as the Department deems warranted for such services. America West further requests that the Department notify the Government of Mexico in writing of the designation of America West for the scheduled air services at issue in this application.

Respectfully submitted,

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April 24, 2006

## CERTIFICATE OF SERVICE

I certify that, on April 24, 2006, I caused to be served a copy of the foregoing Application of America West Airlines, Inc. for an Exemption, by email, upon those addressees listed below:

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