



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

Issued by the Department of Transportation
on the 1st day of April, 2004

Applications of

AIRTRAN AIRWAYS, INC.
COMAIR, INC.
MIDWEST AIRLINES, INC.
PRIMARIS AIRLINES, INC.
SPIRIT AIRLINES, INC.
US AIRWAYS, INC.

for exemptions from 14 C.F.R. Part 93, Subparts K and S, pursuant to 49 U.S.C. § 41718(b), Special rules for Ronald Reagan Washington National Airport (within-perimeter slot exemptions)

Docket OST-2000-7182

**ORDER GRANTING WITHIN-PERIMETER SLOT EXEMPTIONS AT
RONALD REAGAN WASHINGTON NATIONAL AIRPORT**

SUMMARY

By this order, the Department grants the following requests for slot exemptions at Ronald Reagan Washington National Airport (DCA), to be operated with Stage 3 aircraft: (1) AirTran Airways, Inc., two slot exemptions to provide nonstop service to Atlanta, Georgia; (2) Comair, Inc., two slot exemptions to provide nonstop service to Jackson, Mississippi, or Lexington, Kentucky; (3) Midwest Airlines, Inc., two slot exemptions to provide nonstop service to Kansas City, Missouri; (4) Spirit Airlines, Inc., two slot exemptions to provide nonstop service to Detroit, Michigan; and (5) US Airways, Inc., two slot exemptions to provide nonstop service to Asheville, North Carolina; Chattanooga, Tennessee; or Wilmington, North Carolina.

BACKGROUND

On December 12, 2003, President Bush signed into law the Vision 100--Century of Aviation Reauthorization Act, P.L. 108-176 (Vision 100), which, among other things, directs the Department to grant a total of eight additional slot exemptions at Ronald Reagan Washington National Airport (DCA) for services to another airport within 1,250

miles of DCA.¹ By Notice dated December 22, 2003, we requested applications for these slot exemptions, among other things. In addition, at section 425 (c)(2), Vision 100 also amended certain provisions of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21) that specify the criteria upon which the allocation of certain DCA “within perimeter” slot exemptions should be based. At the time that Vision 100 was enacted, the Department was conducting a proceeding to reallocate two previously awarded “within perimeter” slot exemptions that had been returned to the Department. Because Vision 100 amended the criteria for awarding slot exemptions after the date of its enactment, we re-solicited applications for those exemptions as well.

WITHIN-PERIMETER SLOT EXEMPTIONS

As originally enacted in AIR-21, 49 U.S.C. section 41718(b) directed the Secretary to distribute within-perimeter slot exemptions in a manner that promotes air transportation: (1) by new entrant air carriers and limited incumbent air carriers; (2) to communities without existing nonstop air transportation to DCA; (3) to small communities; (4) that will provide competitive nonstop air transportation on a monopoly nonstop route to DCA; or (5) that will produce the maximum competitive benefits, including low fares.²

As amended by Vision 100, section 41718(c)(3) effectively provides that four of the newly available eight within-perimeter slot exemptions may be for air transportation to airports of any size, two of the newly available eight slot exemptions may be to medium hub or smaller airports, and two of the newly available eight slot exemptions must be for air transportation to small hub airports and nonhub airports.³ Further, Vision 100 amends section 41718(b) so that, for these latter two available slot exemptions set aside for air transportation to small hub airports and nonhub airports, the Department shall not consider the new entrant/limited incumbent status of the carrier applicants. In addition, as stated in our Notice of October 22, 2003, the two available DCA slot exemptions originally awarded to Corporate Airlines must, consistent with their statutory status, be for nonstop service to a small hub or nonhub airport. Because of Vision 100’s statutory

¹ Specifically, at DCA, 49 U.S.C. § 41718(b), added by Section 231 of AIR-21, provides that the Secretary shall grant 12 slot exemptions to air carriers for the provision of air transportation within the 1,250-mile perimeter established for air transportation under 49 U.S.C. § 49109. By Order 2000-7-2, and Order 2003-1-16, the Department fully allocated those 12 within-perimeter slot exemptions. Vision 100 directs the Department now to distribute an additional eight DCA within-perimeter slot exemptions.

² The terms “new entrant air carrier” and “limited incumbent air carrier” are defined in 49 U.S.C. § 41714(h). In addition, under 49 U.S.C. § 41714(k) “...an air carrier that operates under the same designator code, or has or enters into a code-share agreement, with any other air carrier shall not qualify for a new slot or slot exemption as a new entrant or limited incumbent air carrier at an airport if the total number of slots and slot exemptions held by the 2 carriers at the airport exceed 20 slots and slot exemptions.”

³ Definitions of nonhub, small hub, and medium hub airports are provided under 49 U.S.C. § 41714(h)(7), (8), and (9), and are based on the Federal Aviation Administration’s *Primary & Commercial Service Airport Enplanement Activity Summary For Calendar Year 1997*.

change, we will consider applications for the “Corporate slot exemptions” without regard to the new entrant/limited incumbent status of the applicants.

APPLICATIONS

On January 9, 2004, AirTran Airways,⁴ Comair,⁵ Midwest Airlines, Primaris Airlines, Spirit Airlines, and US Airways⁶ each filed requests for slot exemptions to provide nonstop, within-perimeter DCA scheduled services, using Stage 3 compliant aircraft.

A. AirTran Airways, Inc. (AirTran)

AirTran requests four slot exemptions to provide nonstop, low-fare service in the DCA-Atlanta, Georgia (ATL) market, using Stage 3 compliant aircraft (Boeing 717, configured for 117 seats). AirTran states that an award will provide its customers with additional connecting opportunities, allow growth in those markets, and sustain services to smaller communities. AirTran asserts that its proposal fulfills each of the Vision 100 statutory criteria and will provide important service and competitive benefits, promoting transportation by a low-fare limited incumbent and providing maximum competitive benefits.

The carrier maintains that for it to fully compete at DCA and strengthen its service throughout its system, including in small and medium hubs, it requires additional DCA service to ATL.⁷ It argues that if allocated the four large hub slots available here, it would have a more competitive schedule although still a “smaller” schedule than its primary competitor. AirTran states that its proposed schedule would space flights throughout the day to provide the most convenient arrival and departure times for both business and leisure passengers and will maximize connections at ATL to dozens of small- and medium-sized communities.

⁴ On November 5, 2003, AirTran requested the two Corporate slot exemptions that had been temporarily awarded to US Airways to operate nonstop service between DCA and Akron-Canton Airport (CAK), Akron-Canton, Ohio. Orders 2003-1-16, 2003-7-5 and 2003-10-21. On January 9, 2004, AirTran withdrew its request for DCA-CAK slot exemptions (see Application at 4, fn1).

⁵ On September 25, 2003, Comair additionally requested the two Corporate slot exemptions to operate nonstop service between DCA and Lexington, Kentucky (LEX). Orders 2003-1-16, 2003-7-5 and 2003-10-21.

⁶ On September 10, 2003, and amended on November 5, 2003, US Airways requested the two Corporate slot exemptions to continue its nonstop operations in the DCA-New Hanover County Airport, Wilmington, North Carolina (ILM) market. Orders 2003-1-16, 2003-7-5 and 2003-10-21.

⁷ AirTran states that slot restrictions at DCA currently have “limited” it to three slots between 0700 and 2200 that it can use to serve ATL. Application at 7.

AirTran argues that its proposal will increase competition in multiple markets by providing dozens of communities in the southeastern and southwestern region of the United States with new competitive travel opportunities to DCA.⁸ AirTran asserts that only its request offers the benefit of promoting new entry and low-fare service. It maintains that with the availability of its low fares, business travelers will travel more frequently; that the Atlanta area, the Southeast, the eastern United States, the Midwest and the Washington metropolitan area will all benefit; and that its ATL hub will expand and become stronger allowing AirTran to be a larger part of the U.S. low-fare industry.

Finally, AirTran states that of all limited incumbents operating at DCA, it connects to the largest hub airport. It states that lack of competition at DCA results in significantly higher fares for business and government travel and that if it is going to provide a reasonable and competitive level of service in the DCA-ATL market, it requires the four large-hub slots available to it in this proceeding.

B. Comair, Inc. (Comair)

Comair requests four slot exemptions to provide nonstop service between DCA and Lexington, KY (LEX), and Jackson, MS (JAN), using Stage 3 compliant 50-seat Bombardier CRJ-200 regional jet aircraft.⁹ Comair states that it is well qualified to provide the proposed air service, and that its proposal would clearly satisfy the legislative objectives of AIR-21. Comair maintains that its proposed services will dramatically improve DCA access for both communities. It states that more than 50,000 passengers currently travel in the DCA-LEX/JAN markets each year, that both communities have demonstrated recent growth in DCA traffic,¹⁰ and that travelers from each community would save more than an hour in each direction. Comair maintains that its CRJ-200 regional jet aircraft are faster, and offer greater capacity than most turboprop aircraft and therefore are the appropriately sized aircraft for these markets.

1. Lexington, KY

The applicant asserts that DCA is important to Lexington, given the strong communities of interest that exist with Washington, D.C. Comair notes that the greater Lexington area has a population of nearly 500,000. The applicant notes that the region's major employers include several Fortune 500 companies, and that Lexington is home to the University of Kentucky and fourteen other colleges and universities.

⁸ The record indicates that AirTran's service to ATL connects to thirty-three beyond markets, and that an additional four slots at DCA would allow the airline to have 140 daily departures at ATL that will connect to DCA. Application at 9.

⁹ Comair hereby adopts and incorporates by reference the arguments that it set forth in its September 25, 2003, application and its November 14, 2003, answer, requesting two slot exemptions to provide nonstop service in the DCA-LEX market. Application at 1-2.

¹⁰ See Exhibits OH-3 and OH-4.

Comair states that providing more convenient access to Washington, D.C. will facilitate the business, governmental, and educational interests of Lexington. It notes that LEX is a small hub airport. Comair also notes that the Lexington metropolitan area is larger than several other communities that already enjoy DCA nonstop service.

2. Jackson, MS

Comair notes that Jackson is Mississippi's capital and largest city (425,000), and that it too is more populous than several other communities with nonstop DCA service. Comair states that Jackson has a strong economic base to support its proposed service.¹¹ Comair asserts that its proposed operations will maximize benefits to small communities, consistent with the objectives of Vision 100.

C. Midwest Airlines, Inc. (Midwest)

Midwest requests two slot exemptions to enhance its existing nonstop service in the DCA-Kansas City (MCI) market, using Stage 3 compliant aircraft (Boeing 717, configured for 88 seats). Midwest states that an award in this proceeding would not only strengthen its efforts to grow at MCI by establishing a minimum service pattern of three weekday round trips, but also improve one-stop connecting service between DCA and the seven smaller communities in the Midwest region served by Midwest's code-share partner at MCI.

Midwest states that it is a limited-incumbent air carrier as defined by 49 U.S.C. § 41714 (h) (5).¹² Midwest states that it has provided significant consumer benefits in the DCA-MCI market, that it has an obvious need for a third round-trip flight, and that its application should be given the highest consideration. Midwest states that it has made MCI a strong focal point of its operations, offering nonstop service to seven cities with fifteen daily weekday departures, including service to San Francisco, which is expected to start in the spring of this year.¹³

Midwest maintains that an award here would further its commitment to the MCI-DCA market by permitting it to offer a minimum pattern of service in this important and relatively large market. Midwest asserts that the demand for additional nonstop service is evidenced by the fact that 39 percent of MCI-DCA Origin and Destination Survey (O&D) passengers used connecting service. The applicant maintains that an award here will strengthen Midwest. It estimates that Midwest's new nonstop flight will attract 34,000 annual passengers, achieve a load factor of approximately 65 percent, and generate \$6,000,000 in additional system revenues and earn an operating profit.¹⁴

¹¹ Application at 4-5.

¹² Application at 9.

¹³ Application at 9.

¹⁴ Application at 11.

D. Primaris Airlines, Inc. (Primaris)

Primaris requests six slot exemptions to provide nonstop service in the DCA-Chicago Midway Airport (MDW) market, using Stage 3 compliant aircraft (Boeing 757-200, configured for 126 seats).¹⁵ Primaris is a new-entrant airline.¹⁶ Primaris states that it will introduce business-class service at comparatively low fares. It expects that its service will stimulate business traffic and make business travel more competitive through introduction of its fare structure. Primaris states that it will employ a fare structure that is at least 70 percent lower than first, unrestricted business and coach class fares of the major network airlines.¹⁷ Primaris states that any slot award it receives will satisfy a primary objective of AIR-21 and Vision 100 in introducing a new entrant airline to DCA. It also maintains that this proceeding provides an excellent opportunity for the Department to introduce a new entrant at DCA and at the same time introduce competition in city-pair markets now served by only one airline.

1. Chicago (MDW)

Primaris argues that its proposed DCA-MDW operations would provide competing nonstop service with ATA Airlines, which is currently the only scheduled airline operating in the market. It maintains that it will provide an attractive alternative service for business travelers in the DCA-MDW market, and that it will compete vigorously with all airlines serving the greater DCA-Chicago market.

2. St. Louis (STL)

Primaris states that American Airlines is now the only airline serving the DCA-STL market, and that its alternative proposal for STL service would introduce competition in that city-pair market. The applicant asserts that the introduction of its service into this market will result in consumer benefits through lower fares, superior service, and increased travel opportunities.

¹⁵ In the alternative, Primaris requests four slots in the DCA-Lambert-St. Louis International Airport (STL) market, and two slots in the DCA-MDW market. Application at 1. Moreover, Primaris states that it is amenable to any combination of slots in the DCA-MDW/STL markets, as the Department may determine appropriate. Application at 2, fn 1.

¹⁶ The record shows that the airline received its Certificate of Public Convenience and Necessity for Interstate Air Transportation from the Department on September 24, 2003. Primaris is currently seeking FAA certification. Primaris states that it expects to achieve its funding objectives within “sixty to ninety days” and to receive authority from the Department to begin operations “in late winter or early spring.” Application at 2-3.

¹⁷ Application at 2.

E. Spirit Airlines, Inc. (Spirit)

Spirit requests four slot exemptions to provide nonstop service in the DCA-Detroit Wayne Metro Airport (DTW) market, using Stage 3 compliant aircraft (MD-80, configured for 150 seats). Spirit states that Detroit is the largest within-perimeter city without competitive nonstop service to DCA. It maintains that its request is fully supported by the statutory selection criteria.

Spirit states that its proposed service will end monopoly service in the DCA-DTW market and will maximize the competitive benefits associated with the use of these slots.¹⁸ Spirit maintains that the DCA-DTW market has high fares and no competition, and that the market is the second largest Detroit O&D city pair without competitive service. Spirit maintains that Northwest Airlines controls 90 percent of the total market.¹⁹ Spirit states that its low-fare service has created competitive benefits in several large O&D markets (Detroit-Los Angeles/Denver).²⁰ Finally, Spirit asserts that its proposed operations will not only benefit Detroit area travelers, but also travelers from cities that Spirit serves behind Detroit, such as Los Angeles, Las Vegas and Denver. Spirit states that it intends to offer direct one-stop service or convenient connections to DCA from Los Angeles/Denver/Las Vegas.²¹

F. US Airways, Inc. (US Airways)

1. Wilmington, NC

US Airways requests two slot exemptions so that it can continue to provide nonstop service in the DCA-Wilmington, North Carolina (ILM) market where it is currently using Dash-8 aircraft, configured for 37 seats. US Airways maintains that it has the full support of the Wilmington community,²² and that both the DCA and ILM communities have benefited from these operations. US Airways states that its continued service meets and exceeds the statutory criteria of an award of these slots; that service to and from Wilmington best serves the statutory objectives; that its proposal will provide superior service and consumer benefits;²³ and that its commitment to DCA and the Eastern United States further supports an award.

¹⁸ Spirit states that it now provides more service to and from Detroit than any other city it serves (23 flights per day to 11 destinations). Application at 2.

¹⁹ Application at 4.

²⁰ Application at 6.

²¹ Application at 8.

²² The applicant states that access to DCA is important to Wilmington given its socioeconomic interests, noting that Wilmington is home to major manufacturing and pharmaceutical concerns, military installations, and colleges and universities. Amended Application at 5.

²³ The applicant asserts that, unlike Comair's request for DCA-Lexington service, Wilmington-region passengers only have access to the national air transportation network through two network hubs and have no nearby, low-cost air carrier service. Amended Application at 6-8.

2. Asheville, NC, and Chattanooga, TN

US Airways requests four slot exemptions to provide nonstop service in the DCA-Asheville, North Carolina (AVL) market, and four slot exemptions to provide nonstop service in the DCA-Chattanooga, Tennessee (CHA) market, using Stage 3 compliant 50-seat CRJ regional jet aircraft.²⁴

US Airways maintains that its proposal meets and exceeds the statutory criteria of Vision 100,²⁵ that DCA-AVL/CHA service best serves the objectives of Vision 100, asserting that no other airline can offer the benefits of as large a connecting network throughout the Eastern United States; that its proposal will provide superior service and consumer benefits; and that changes at DCA make an award to US Airways appropriate.²⁶

RESPONSIVE PLEADINGS

On January 22, the Lexington and Kentucky Parties (the Kentucky Parties) filed in support of Comair's request noting that the proposed service would enhance competition in the Lexington-DCA market, provide time savings over existing service options, and stimulate economic development and tourism.

On January 23, AirTran, Comair, Midwest, Primaris, Spirit, and US Airways filed answers.

A. Concerning AirTran

AirTran maintains that it is the only full-service, low-fare new entrant that would significantly strengthen domestic network competition, provide low-fare service in multiple markets, and produce maximum competitive benefits. AirTran asserts that the large incumbent airlines continue to dominate DCA and that low-fare competition only exists in a few markets.²⁷ The applicant states that for it to compete effectively in the DCA-ATL market, it needs four slot exemptions to offer additional travel options. AirTran states that although it has impacted ATL fares with its limited "prime time" DCA-ATL flights and off-peak flights, it is unable to meet the flight needs of most

²⁴ US Airways states that it is prepared to accept an award of less than its full service request. January 9 Application at 2 fn 1.

²⁵ US Airways states that AVL/CHA are both nonhub airports; AVL/CHA do not have existing nonstop service to DCA; AVL/CHA are both underserved communities; and its proposal will produce maximum competitive benefits for the traveling public.

²⁶ The applicant maintains that its route network at DCA is static and that it is just as constrained as any other airline serving or wanting to serve DCA. US Airways argues that denying it additional slots because it is the largest DCA airline harms the proposed communities and denies travelers throughout the Eastern United States the competitive benefits of additional US Airways' service at DCA.

²⁷ AirTran notes that in the DCA-ATL market, Delta Air Lines operates eighteen daily round trips, while it operates three daily round trips. Comment at 6.

business travelers and cannot provide any reasonable service to many connecting markets.²⁸

Primaris and US Airways state that there is no Washington area O&D market with more daily service than ATL. Primaris and US Airways also note that AirTran already has three daily DCA nonstops to ATL.

US Airways argues that an award to AirTran does not introduce new nonstop service, introduce competition on a monopoly route, or introduce greater air access to smaller communities on a nonstop basis.

Spirit notes that while AirTran proposes to use its slot allocation to expand its current DCA-ATL operations, Spirit would use these slots to offer first-ever competitive service in the Detroit-DCA market. Spirit maintains that fares in the Washington, DC-ATL market are lower than those in the Washington, DC-Detroit market. Spirit also asserts that its proposed use of 150-seat aircraft would benefit more passengers than the services proposed by AirTran (117-seaters).

B. Concerning Comair

Comair maintains that LEX/JAN are both important small hub communities that, absent slot restrictions, would now receive DCA service on the basis of population, economic activity, and strong communities of interest with Washington, DC. Comair states that LEX/JAN each generates substantial numbers of DCA passengers, and that each airport qualifies as a small hub airport for purposes of Vision 100. Comair notes that far greater numbers of DCA nonstop passengers will benefit from its DCA-LEX/JAN proposal than any of US Airways' three proposed communities.

On October 10, 2003, the Kentucky Parties filed in support of Comair's request to provide nonstop service in the DCA-LEX market. The Kentucky Parties state that the proposed service would save travelers about two and a half hours on a round-trip basis. They note that LEX is larger than ILM and that Comair's proposed regional jet service provides greater benefits and is more attractive from a quality of service standpoint than that proposed by US Airways.

On November 14, 2003, the New Hanover County Airport Authority filed in opposition to Comair's request for slot exemptions to provide nonstop service to LEX. It asserts that LEX is only 75 miles from Louisville while ILM is 138 miles from Raleigh-Durham airport.

²⁸ AirTran states that its DCA-ATL service and connecting markets serve 4,464 daily passengers each way. It also states that if its request is granted, it will be able to connect DCA-ATL passengers to its 189 daily ATL flights. Comments at 14.

AirTran, Midwest, and Primaris oppose the Comair request, arguing that Delta Air Lines/Comair have a sufficient number of DCA slots to serve the markets that Comair is proposing to serve in this proceeding.²⁹ AirTran asserts that if Delta/Comair wanted to serve JAN and LEX, it could have done so with the slots it is utilizing to serve DCA-ATL/CVG. AirTran maintains that as Delta/Comair grow, additional impediments are instituted that will impact the ability of smaller airlines, including AirTran, to provide low-fare service to the traveling public.

Midwest opposes the Comair request, asserting that Delta and its regional subsidiaries now dominate the Lexington market and that granting Comair's request would only further concentrate the market and make new carrier entry even less likely. Midwest also notes that Southwest Airlines currently provides two daily low-fare, nonstop round trips in the BWI-JAN market.

While Spirit does not oppose the Comair request, it does note that Comair/Delta is the second largest slot holder at DCA.

Primaris notes that Comair is not a new entrant or limited incumbent airline, and thus is not deserving of an award.

US Airways opposes Comair's LEX request.³⁰ US Airways argues that LEX has numerous nonstop, connecting and low-fare service options to all three Washington, DC airports while ILM's closest low-cost or daily nonstop service to the Washington area is over 130 miles away. US Airways states that Comair's service proposal does not provide any significant connecting of network benefits at DCA while it offers 19 connecting markets behind DCA for the benefit of ILM passengers throughout the Northeast. Finally, US Airways asserts that Comair is proposing to use inappropriate aircraft for the LEX market while it proposes to use more appropriate sized aircraft at ILM.

C. Concerning Midwest Airlines

Midwest maintains that the congressional intent in this matter was to open the DCA slot exemption process to airports in all size categories, so that the two slots available for use to serve medium hub and smaller airports (§41718 (b)(3)(B)) should be limited to an award to medium hub airports.³¹ Midwest states that it is a limited incumbent airline;³² that the MCI-DCA market is on the verge of losing a substantial portion of its service and

²⁹ AirTran notes that Delta/Comair is the second largest slot holder at DCA.

³⁰ US Airways filed its Answer on November 14, 2003.

³¹ Other than Midwest, Primaris is the only applicant for slots to serve a medium hub airport.

³² Midwest states that it employs thirteen slots and slot exemptions at DCA within the slot-controlled time period, and it holds or operates fewer than twenty DCA slots and slot exemptions. Consolidated Comments at 22.

Midwest seeks to fill this void with a single midday flight;³³ and that the DCA-MCI market receives less service than any other large or medium hub airport market in the proceeding.

AirTran opposes the request, stating that Midwest is the largest slot holder of the DCA limited incumbent airlines. AirTran argues that ATL and its connecting markets are larger than Kansas City and its connecting markets, and that Midwest can serve MCI through its other DCA nonstops, while AirTran has no such options to serve ATL. AirTran also argues that if Midwest wants to add service to the Washington area, it could add service at BWI or initiate Washington Dulles Airport service.

US Airways opposes the request, asserting that Midwest's proposal neither promotes air transportation to communities without existing nonstop service to DCA; nor does it promote air transportation to small communities. Comair, US Airways and Primaris argue that MCI is well served and that Midwest's proposal will merely strengthen its well-established position in the MCI-DCA market, by adding an additional round trip to a medium hub that currently has four daily round trips by two competing airlines.

D. Concerning Primaris

Primaris argues that, of the applications to serve large or medium hub airports, its proposal best meets the statutory criteria.³⁴ It maintains that the "cardinal" objective of Congress in enacting § 41718 was to facilitate new entry at DCA.

Primaris states that its proposed STL-DCA operations will bring new and competitive service to a large hub market that has recently suffered from the reduction in air service of the only airline now operating in the market. Primaris notes that American Airlines is the only air service provider in this market and that it utilizes regional jets configured for 50 seats or fewer, and that it offers no first or business class seating on its aircraft. Primaris maintains that its proposed service will bring competition to the market, increase frequencies, introduce standard size jet aircraft, and provide competitive fares.

In the DCA-MDW market, Primaris states that ATA Airlines is the only air service provider. Therefore, like DCA-STL, its proposed air service will introduce competition in a market served by only one airline, and it will provide alternative service for business travelers and compete with all airlines now serving the Chicago-Washington market.

³³ Midwest states that because of downsizing of aircraft by US Airways, the MCI-DCA market has declined by 176 daily seats each way and that its proposed service will help alleviate this loss of capacity. Consolidated Comments at 11.

³⁴ Primaris notes that it is in the "final" stages of FAA certification and that it expects to achieve its funding objectives within "sixty to ninety days" and thus receive effective authority from the Department to begin operations in the "spring." Primaris's answer lacks further specificity. Consolidated Answer, fn 1.

AirTran, Comair, Midwest,³⁵ Spirit, and US Airways³⁶ oppose the Primaris request, arguing that Primaris is a non-certified airline with no definite business plan and therefore it should not receive slot exemptions in this proceeding. They maintain that it would not be in the public interest to allocate these slots to an entity that has never operated, has not yet met its funding objectives, and does not appear to have a firm business plan.

Comair also argues that additional DCA service to MDW will not benefit small or medium-sized communities that currently lack adequate DCA service; that it will simply add still more DCA service to Chicago, one of the largest and most heavily served communities in the country.

Midwest states that Primaris lacks any facilities at DCA, Midway or St. Louis, bringing into question its ability to commence operations in a reasonable period of time. Midwest also argues that the Chicago-Washington, DC market is one of the most competitive in the country, and that Primaris's fares will not add competitive stimulation to existing low-fare airlines operating in the Washington-Midway market.³⁷ Midway also asserts that the Washington-St. Louis market is well served by American Airlines and United Airlines, so Primaris has provided no competitive reason for favoring St. Louis over Kansas City.

Spirit also notes that the market is well served by ATA, a low-fare airline, and that there is nothing in the record to indicate that Primaris's all-business/premium class product will deliver the competitive benefits promoted by the applicant.

US Airways states that Primaris's proposal neither promotes air transportation to communities without existing nonstop service to DCA; nor does it promote air transportation to small communities. It states that the Chicago/St. Louis-Washington, DC markets already have an abundance of service provided by multiple competing airlines, including Southwest (MDW/STL-BWI), ATA Airlines (MDW-DCA), and United Airlines (STL-IAD). Moreover, US Airways argues that Primaris's business plan has not been market tested and seems unlikely to be successful in a short-haul market.

E. Concerning Spirit

Spirit states that without its proposed DCA-DTW service, the market will continue to have among the highest fares of any market of comparable size. Spirit states that its low-fare service has consistently had a pro-competitive effect on the markets it serves, causing dramatic decreases in average fares, and large traffic stimulation. The applicant

³⁵ Midwest notes that the Department has been cautious in awarding valuable DCA slot exemption authority when the applicant was not an operating airline. See Order 2000-7-1 at 17.

³⁶ US Airways states that, unlike other new entrant airlines, Primaris cannot demonstrate its ability to inaugurate service in a timely fashion. Consolidated Answer at 13.

³⁷ Midwest notes that Southwest Airlines provides significant nonstop operations in the Baltimore-Chicago market.

states that it has the smallest slot holdings at DCA. Spirit urges the Department to approve its request, allowing Spirit to enhance the economic viability of its existing twice a day service.

AirTran maintains that, contrary to Spirit's claim, its proposed DCA-DTW operations would offer very limited connecting opportunities. AirTran argues that although Spirit may serve eleven destinations at DTW, a majority of those destinations to/from DCA would not connect. AirTran also asserts that while the DCA-DTW market is now only served by Northwest, DTW competition does exist at the other Washington, DC area airports.

Primaris and US Airways state that the Detroit-Washington, DC market already enjoys considerable air service and that granting Spirit's request does nothing to advance the goals of improving access or introducing new nonstop air services.

F. Concerning US Airways

US Airways states that its proposal best serves the purpose of the Vision 100 statute by increasing access, offering substantial network benefits, and promoting substantial growth and economic prosperity to underserved nonhub communities.³⁸ US Airways states that its proposal will bring first-ever Washington, DC nonstop service to AVL/CHA/ILM and that these communities best represent the type of markets that Congress sought to benefit, when expanding the number of slot exemptions available under Vision 100.³⁹ US Airways states that these three communities will receive the benefits of US Airways' complement of services to/from the Northeast and Midwest.

On November 6, 2003, the New Hanover County Airport Authority (New Hanover) filed in support of US Airways' request to continue its nonstop service to Wilmington, North Carolina. New Hanover states that its temporary DCA service has and will continue to benefit the community's continued growth and economic vitality. New Hanover notes that the Department previously approved service to ILM when it designated Corporate Air and that a reallocation of these two slot exemptions now would not be equitable.

AirTran, Midwest, Primaris and Spirit oppose the request, arguing that US Airways is the largest slot holder at DCA and that it has a sufficient number of DCA slots to support the markets that it is proposing to serve in this proceeding. AirTran and Midwest argue that US Airways should address its current economic situation before it seeks additional slots. Spirit is troubled by the applicant's proposal to use 50-seat regional jets, asserting that these slot exemptions should be used to capture the competitive benefits of large equipment.

³⁸ US Airways notes that small and nonhub airports are the only airports that are qualified to receive service using all ten of the slot exemptions available in this proceeding.

³⁹ US Airways currently provides temporary nonstop service in the DCA-ILM market until such time as the Department reallocates these two slot exemptions. Order 2004-1-2.

Moreover, Midwest asserts that the Department should not award slot exemptions to US Airways at a time when the airline is evaluating the sale of DCA slots.

Primaris notes that US Airways is not a new entrant or limited incumbent airline, and thus is not deserving of an award.

Comair opposes the application. It maintains that JAN/LEX have demonstrated greater community interest, both communities are state capitals lacking DCA nonstop service, they have stronger community ties with Washington, DC, and each generates substantially greater levels of O&D traffic to/from DCA. Moreover, Comair argues that US Airways' request is inconsistent with the selection criteria provided under the statute. Comair maintains that US Airways intends to use its slot exemptions to carry traffic via DCA to connecting markets throughout the Northeastern United States. Therefore, Comair asserts that US Airways will maximize its own benefits, but that it will diminish any claimed nonstop DCA within-perimeter service benefits because passengers connecting onward to other cities will take up many seats on its proposed DCA-AVL/CHA/ILM operations.

Additionally, Comair states that ILM generates less than a third as many annual DCA passengers as LEX. Comair notes that the applicant would use smaller, slower, turboprop equipment at ILM while it proposes to use CRJ-200 regional jet aircraft at LEX. Contrary to US Airways' contentions, Comair states that ILM has multiple, competitive connecting options to reach DCA. Finally, Comair states that this proceeding is not about connecting service. Rather, it is about the allocation of slot exemptions, consistent with the statute, so as to promote DCA nonstop service benefits for underserved communities.

LATE-FILED SUBMISSIONS⁴⁰

On January 26, the Jackson and Mississippi Parties ("JMP") filed a motion to file and an answer in supporting Comair's request for slot exemptions to provide the first and only nonstop jet service in the JAN-DCA market.

On January 28, AirTran submitted a motion to file and reply comments.⁴¹ AirTran argues that contrary to competing arguments, its proposal will bring significant savings to the traveling public in small, medium and large markets traveling to and from DCA.

On January 30, Spirit filed a motion to strike AirTran's late-filed comments and a contingent reply and a motion for leave to file.⁴² Spirit maintains that its request would

⁴⁰ In the interest of a complete record, we will grant each of these motions to file otherwise unauthorized documents. However, we have found that these additional submissions did not offer any new dispositive facts to the record, and thus have given them no decisional weight.

⁴¹ On March 12, AirTran filed a further response to Spirit's motions to strike.

⁴² On February 3 and March 12, Spirit filed motions to strike AirTran's supplementary submissions.

bring greater public benefits than the incremental benefits proposed by other competing airlines in this case.

On January 30, US Airway filed a motion for leave to file and a reply. US Airways argues that the competing applicants have mischaracterized its service proposal, and misinterpreted the Vision 100 selection criteria.

On February 2, AirTran filed a motion for leave to file and a response urging the Department to grant its request.

On February 27, Primaris filed a motion for leave to file and supplemental comments that address its FAA certification process and funding objectives, and it submitted letters/comments that offer support for its request. Primaris maintains that it will be ready to commence service in the spring.

On March 1, Midwest filed a motion for leave to file and comments noting that Primaris lacks the operating authority from the Department and the FAA that it needs to commence its proposed operations.

DECISION

As discussed above, a total of 10 “within perimeter” slot exemptions are subject to allocation in this proceeding. Six airlines have filed requests with the Department, asking for a total of 30 slot exemptions, to be used to provide nonstop service to ten communities. This circumstance requires the Department to select among competing applications.

We find that allocating two within-perimeter exemptions each to AirTran, Comair, Midwest, Spirit, and US Airways best fulfills the statutory criteria.

A. Airports Without Regard to their Size

As amended by Vision 100, 49 U.S.C. §41718(c)(3)(C) allows the Department to grant four new slot exemptions for air transportation to airports without regard to size. Thus, the maximum number of slot exemptions we could award for service to a large hub is four. In this category, AirTran applied for four slot exemptions to serve Atlanta and Spirit applied for four slot exemptions to serve Detroit’s Metropolitan Wayne County Airport (DTW). We find that these applications stand out as clearly meritorious under the statutory criteria. AirTran and Spirit are both new entrants/limited incumbents with histories of providing competitive benefits, including low-fares. Whether to Atlanta (AirTran) or Detroit (Spirit), such service to DCA would promote competition in a currently concentrated major national market.

ATL-DCA and DTW-DCA are the two largest O&D markets in this case and these two applicants are proposing to use the largest equipment to provide their air service of any of the awardees here. Our grants in the category will benefit both business and leisure traveler, who are likely to take advantage of these air carriers' low-fare air services.

Both AirTran and Spirit have clearly demonstrated that their proposed air services will promote important public benefits for the Atlanta and Detroit communities. Both AirTran and Spirit are low-fare airlines; both are proposing to serve large hubs; each applicant is proposing air services that will benefit a different U.S. geographic region; both airlines will provide benefits for smaller communities through connections at their hubs; and both applicants are proposing to offer increased competition, including low air fares, in highly concentrated city-pair markets.

Based on a comprehensive evaluation of each of these applications, recognizing the limited number of slot exemptions available for award in this proceeding, and consistent with the criteria outlined in §41718(b), we find that in order to maximize competitive benefits, including low fares, a compelling case exists to award two slot exemptions to AirTran for its proposed enhanced DCA-ATL operations, and two slot exemptions to Spirit for its proposed DCA-DTW operations.

As we have noted above, we are limited to the allocation of only four slot exemptions for this category of airports. While an award of all four exemptions to either AirTran or Spirit would satisfy the selection criteria under Vision 100, we find that awarding two exemptions each to AirTran and Spirit more fully promotes the air transportation objectives advanced by Vision 100 than a full award of four exemptions to either applicant. Both airlines are proposing to offer a variety of important operational, service and fare options. Our decision here will enable the consumers of air services involving both Atlanta and Detroit to benefit from the new or enhanced air service proposed by these applicants.

1. AirTran Airways

AirTran's DCA-ATL proposal fully meets the requirements of §41718(b). AirTran is a limited incumbent airline at DCA. §41718(b)(1). Its service will promote air transportation to Atlanta's Hartsfield Airport by using Stage 3 compliant jets (B-717, configured for 117 passengers). With this award of two slot exemptions, AirTran will operate four daily nonstop round-trip flights in the DCA-ATL market. Besides AirTran, Delta Air Lines provides nonstop service in the DCA-ATL market, operating seventeen daily nonstop round trip DCA-ATL flights. AirTran has shown that its proposal "will produce maximum competitive benefits, including low fares" given its demonstrated history of offering quality air service at low fares. §41718(b)(5).

Compared to other proposals in this proceeding, AirTran's request potentially produces the maximum consumer benefits, because the Washington, D.C.-Atlanta market is the largest market under consideration in this case. For the year ended September 2003, O&D traffic data show a total of about 960,000 passengers in the Washington, D.C.

(DCA and Dulles Airport)-Atlanta market, or about 2,630 passengers a day. As noted above, Delta dominates the DCA-ATL market. Our grant here of two slot exemptions to AirTran will promote continued low-fare competition in a market that is now dominated by one of the largest domestic airlines.

2. Spirit Airlines

Spirit is a limited incumbent airline at DCA. §41718(b)(1). Importantly, we note that only one air service provider - Northwest Airlines - currently serves the DCA-DTW market on a nonstop basis. §41718(b)(4). Thus, Spirit's proposal explicitly fulfills the statutory criteria of providing nonstop air transportation on a monopoly route. Spirit has a demonstrated history of offering low fares and its proposed operations should stimulate demand and inject competition in the market.⁴³ Spirit's proposal will promote air transportation at Detroit that will produce maximum competitive benefits, particularly geared to the price-sensitive traveler. §41718(b)(5). Spirit proposes to use Stage 3 compliant jets (MD-80 equipment, configured for 150 seats), the largest equipment proposed for use by any applicant. Finally, while our award here limits Spirit to a single daily round-trip flight in the market, Spirit's fare structure can be expected to have an immediate competitive impact on service in the larger Detroit market.

B. Medium Hub and Smaller Airport Applications

Following an award of four exemptions to AirTran and Spirit, we are left with six slot exemptions to allocate. As amended by Vision 100, 49 U.S.C. §41718(c)(3)(B) allows the Department to grant two new within-perimeter slot exemptions for air transportation to medium hub and smaller airports.

Thus, we must choose between awarding two slot exemptions for service to a medium hub and four slot exemptions to a small hub or smaller airports, or all six to a small hub or smaller airports. As discussed below, after a thorough analysis of the remaining applications, we found that an award for service to a medium hub will promote greater overall air transportation benefits as advanced by Vision 100 than would an award for service to smaller airports. Two air carriers proposed service to a medium hub airport. Midwest Airlines applied for two slot exemptions to serve Kansas City, Missouri (MCI); Primaris applied for six slot exemptions to serve Chicago, Illinois (MDW).⁴⁴

We have already noted that there are a very limited number of slot exemptions available to us in this proceeding. We find that it is not in the public interest to award slot exemptions to Primaris. Primaris's application proposes to introduce a premium, business-class service in medium- and long-haul routes at "comparatively" low fares in high volume O&D markets. We fully recognize that Primaris would qualify as a new entrant if it were operational. However, Primaris currently lacks effective certificate

⁴³ Northwest Airlines provides nine daily nonstop round trips in the DCA-DTW market.

⁴⁴ Primaris states that it is amenable to any combination of within-perimeter slot exemptions in the DCA-MDW/St. Louis, Missouri (STL) markets, as the Department finds appropriate.

authority from the Department and the FAA. Although the Department found Primaris fit to engage in interstate scheduled air transportation by Order 2003-9-19 (Sept. 24, 2003), the effectiveness of that authority is conditioned upon the carrier's providing the Department with evidence that it has received its FAA Air Carrier Certificate and that it has available to it sufficient financial resources to meet the Department's financial fitness criteria. Primaris has not as yet/to date filed such evidence. Under these circumstances, we are reluctant to take the extraordinary step of granting slot exemptions to Primaris when its certification by the FAA is still pending, as is its final fitness certification. *See* Order 98-4-22 at 24 (April 21, 1998) (denying La Guardia slot exemptions to AccessAir on the grounds that it did not have effective authority from the Department or FAA). Order 99-9-11 (Sept. 16, 1999), which Primaris cites in support of its application, is inapposite. Among other differences, in that proceeding, there were no competing applications for slot exemptions.

As to Midwest's application, it is a limited incumbent at DCA, as defined by the statute. It proposes to enhance its existing service in the DCA-MCI market, using Stage 3 jets (B-717 aircraft). Kansas City is a medium hub airport that is now also served on a nonstop basis by US Airways to DCA. Midwest's proposal will further promote competition in the DCA-MCI market, consistent with §41718(b).

Our award here will provide enhanced competitive benefits for the traveling public by increasing DCA air service to an important mid-country community. Midwest has a demonstrated history of offering quality air service. The applicant serves major destinations throughout the United States. The record shows that Midwest today offers nonstop mainline service to six cities from MCI with fifteen daily weekday departures, and San Francisco service is planned to commence in the spring. Moreover, one of Midwest's code-share partners provides service to a number of small communities throughout the Midwest region from MCI.

The Washington, D.C. area is Kansas City's twelfth largest O&D market, and that strong community interest should provide robust support for the applicant's expanded air service in the market. For the year ended September 2003, O&D traffic data show a total of about 186,500 passengers in the Washington, D.C.-Kansas City market, or about 520 passengers a day. As noted by Midwest in its application, more than half of those MCI-DCA passengers used connecting service, implying that there is unmet demand for nonstop service. Moreover, the DCA-MCI market is the third largest O&D market in this proceeding. We find that these considerations combine to demonstrate that Midwest's proposal is consistent with §41718(b), and that it will maximize competitive benefits for consumers, thereby meeting §41718(b)(5).

C. Small and Nonhub Applications

As amended by Vision 100, 49 U.S.C. §41718(c)(3)(A) directs the Department to grant, without regard to the criteria contained in § 41718(b)(1), at least two new within-perimeter exemptions for air transportation to small hub airports and nonhub airports. As indicated above, we must also reallocate the two exemptions originally awarded to Corporate Airlines, Inc., by Order 2003-1-16, to a small hub airport or a nonhub airport.

After granting six slot exemptions for the earlier discussed airports, four remain for air transportation to small and nonhub airports.

Comair and US Airways are the only applicants to apply for slot exemptions to serve small hub airports and nonhub airports. Comair applied for two slot exemptions each to serve Jackson, Mississippi (JAN) and Lexington, Kentucky (LEX). US Airways applied for four slot exemptions to serve Asheville, North Carolina (AVL); four slot exemptions to serve Chattanooga, Tennessee (CHA); and two slot exemptions to serve Wilmington, North Carolina (ILM). We find that each applicant has shown that it would promote air transportation to the respective communities and achieve important public benefits. Based on a thorough evaluation of each request and consistent with the criteria outlined in §41718(b), we find that our statutory obligations are best served by granting two slot exemptions to Comair for its proposed operations between DCA and either JAN or LEX, and two slot exemptions to US Airways for its proposed operations between DCA and either AVL, CHA or ILM. Regardless of which community each carrier may decide to serve initially, both Comair and US Airways may at any time move their respective air services to one of the other communities indicated in this order.

We find that both of the applicants' proposed air services fully satisfy three of the selection criteria provided for under the statute. First, we note that none of the affected communities currently have nonstop DCA service, except one (ILM) with only temporary service.⁴⁵ §41718(b)(2). Second, both Comair's and US Airways' proposed operations promote air transportation to small communities. §41718(b)(3). Third, while competing parties have noted that both applicants have significant slot holdings at DCA, the statute directs the Department to allocate exemptions to small hub airports and nonhub airports without regard to the status of the applicants as new entrant or limited incumbent air carriers. §41718(c)(3)(A). While neither applicant is a low-fare airline, we find that consumers in many small communities can benefit from the many service advantages accruing from the extensive network offerings of both Comair and US Airways.

As we have noted, each of these five communities is worthy of consideration for service as set forth in the applications. In that regard, we should also note that Comair and US Airways are of course free to serve any of the five with their existing DCA slot holdings. The record has clearly demonstrated the local economic and regional strengths of each

⁴⁵ US Airways currently provides temporary nonstop air service in the DCA-ILM market until such time as the Department reallocates these two slot exemptions. Order 2004-1-2.

community. Section 41718(b)(3) commends us to promote service to small communities. Although each of the communities represented in this category has advantages over others in one or more relevant aspects in terms of its individual characteristics, none clearly stands out when community characteristics are viewed more cumulatively. We have therefore decided to provide the applicants with the flexibility to make the appropriate systemic decisions regarding the introduction of air service for this category of communities.

With this in mind, Comair and US Airways may each allocate its two slot exemptions granted here to provide nonstop service from DCA to any of their named airports, based on their individual assessment of market conditions and system needs.

CONDITIONS

Start-up:

We will require that the awardees inaugurate full service within 90 days of the date on which the Department allocates slot times. In that regard, except for Midwest, we have awarded each carrier less than the full complement of slot exemptions that it requested. If, for any reason, an awardee is not able to use the slot exemptions awarded, we request that it notify the Department as soon as possible, but not later than 30 days after the date of service of this order, so that we can reallocate them.

Assignment of Slot Times:

We are directing AirTran, Comair, Midwest, Spirit, and US Airways to file in the Docket no later than seven business days from the service date of this Order, their proposed flight schedules and effective dates for inauguration of operations authorized by this Order.

As we stated in our Notice of December 22, 2003, we note that 49 U.S.C. § 41718(c)(2) allows us to assign only one additional slot exemption per one-hour period, an increase from the original two per hour authorized in AIR-21. The Department will evaluate the assignment of slot times for both the within- and beyond-perimeter slot exemptions as one “pool.” Because many one-hour periods are likely to be over-subscribed, we may not be able to accommodate carrier requests for slot exemption times. There are 15 hourly periods beginning at the 0700 period and ending at the 2100 period and a total of 44 slot exemptions must fit into those 45 slot times.⁴⁶ Thus, under both AIR-21 and Vision 100, the following slot times are available: 0700 (two available), 0800 (one

⁴⁶ AIR-21 authorized 24 DCA slot exemptions and Vision 100 authorized an additional 20 slot exemptions. As our Notice of October 22 states, the AIR-21 times allocated for the Corporate Airlines’ DCA service in the within-perimeter proceeding are in the 1000 and 1100 hour period, and these times will be available. There are times available at the 0700, 1100, 1200, 1300 (two openings available), and 2000 hour periods based on the previous AIR-21 slot times assigned in previous proceedings. Additionally, the Vision 100 legislation increased the amount of permissible operations per hour at DCA by one.

available), 0900 (one available), 1000 (two available), 1100 (three available), 1200 (two available), 1300 (three available), 1400 (one available), 1500 (one available), 1600 (one available), 1700 (one available), 1800 (one available), 1900 (one available), 2000 (two available), 2100 (one available). In instances where carriers granted slot exemptions in the instant proceedings have conflicting requested scheduled times, the Department can be expected to give priority to those carriers with the least flexibility provided by current DCA slot and slot exemption holdings. Moreover, given their longer stage lengths and flight times as well as the requirement for network benefits at 49 U.S.C. § 41718(a)(1) that may require that their DCA slot times be conducted with connecting banks, beyond-perimeter services may have less scheduling flexibility and merit a priority over within-perimeter services.⁴⁷ In applying for specific times, applicants granted slot exemptions should be prepared to justify their requests. Applicants should keep these constraints in mind prior to submitting any schedules and should understand that these slot-time constraints may cause some proposals not to be viable. In coordination with Federal Aviation Administration's Slot Administration Office, we shall assign slot times corresponding with the authority granted in these proceedings in a notice subsequent to our decision.

Thereafter, the awardees may request the FAA Slot Administration Office to approve temporary exchanges of the assigned slot exemptions times with other slots or slot exemptions for the purpose of conducting the operations authorized by this Order in a different hour. In acting on such a request, the FAA will employ standard practices in conjunction with applicable statutory and regulatory requirements for the utilization of slot times between and among individual air carriers. Regardless of subsequent approved slot time exchanges, the slot times assigned by the Department or the FAA's Slot Administration Office pursuant to this Order will be tagged such that, if any of the service granted by this Order is suspended or is not inaugurated in a timely manner, the Department will withdraw the slot exemptions based on their tagged slot time rather than by any subsequent slot time operated.

ENVIRONMENTAL ISSUES

Although 49 U.S.C. §41718(e)(3) specifically exempts our action here from review under the National Environmental Policy Act,⁴⁸ we remain sensitive to the environmental impact of increased operations at DCA. Consistent with the statute, we will require that all operations authorized by this order will be conducted with Stage 3 aircraft. Also, under 49 U.S.C. §47117(e), the Department will give DCA priority in making grants for airport noise compatibility planning and programs.

⁴⁷ In this regard, Vision 100 also directs the Department to allocate an additional twelve DCA beyond-perimeter slot exemptions, which the Department will do in a separate order.

⁴⁸ §41718(e) states, "Neither the request for, nor the granting of an exemption, under this section shall be considered for purposes of any Federal law a major Federal action significantly affecting the quality of the human environment."

ADMINISTRATIVE TERMS

As the FAA slot regulations make clear, “slot(s) do not represent a property right but represent an operating privilege subject to absolute FAA control (and) slots may be withdrawn at any time to fulfill the Department’s operating needs”

14 C.F.R. § 93.223(a). Moreover, under the provisions of 49 U.S.C. § 41714(j), these carriers may not sell, trade, transfer, or convey the operating authorities granted by the subject exemptions unless otherwise authorized herein.

Further, granting of these exemptions in no way is to be construed as allowing a carrier to operate services that it could not otherwise operate. Each of the awardees must still meet all the requirements of the Department of Transportation, the Federal Aviation Administration, and all other statutes and regulations governing air transportation.

This order is issued under authority delegated in 49 C.F.R. § 1.56(a).

ACCORDINGLY,

1. The Department grants slot exemptions from 14 C.F.R. Part 93, Subparts K and S, to AirTran Airways, Inc. (two slot exemptions to serve Hartsfield-Jackson Atlanta International Airport); Comair, Inc. (two slot exemptions to serve Jackson, Mississippi, or Lexington, Kentucky); Midwest Airlines, Inc. (two slot exemptions to serve Kansas City International Airport); Spirit Airlines, Inc. (two slot exemptions to serve Detroit Metropolitan Wayne County Airport); and US Airways, Inc. (two slot exemptions to serve Asheville, North Carolina; Chattanooga, Tennessee; or Wilmington, North Carolina) to enable these applicants to conduct operations described in this Order at Ronald Reagan Washington National Airport;
2. The Department directs AirTran Airways, Inc., Comair, Inc., Midwest Airlines, Inc., Spirit Airlines, Inc., and US Airways, Inc. to file in Docket OST 2000-7182 no later than seven business days after the service date of this Order their proposed flight schedules and effective date for operations authorized by this Order. Further, AirTran Airways, Inc., Comair, Inc., Midwest Airlines, Inc., Spirit Airlines, Inc., and US Airways, Inc. must commence their proposed service no later than 90 days after the date on which the Department allocates slot times pursuant to this Order. The slot exemptions granted must be conducted with Stage 3 aircraft, may not be used for operations between the hours of 10:00 p.m. and 7:00 a.m., and may not increase the number of operations at Ronald Reagan Washington National Airport in any one-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than three operations. These carriers are advised to exercise maximum flexibility in proposed operating times to ensure compliance with these limits;

3. The Department will make the final determination of slot times as soon as possible after schedules are filed to enable the carrier to conduct the operations authorized by this Order. The Department directs the awardees to contact the Federal Aviation Administration Slot Administration Office after the Department's determination of slot times. The FAA will assign slot exemption numbers, effective dates, and operating times consistent with statutory limitations;
4. We grant all motions to file otherwise unauthorized documents;
5. Except as otherwise granted, we deny all other applications for exemptions from 14 C.F.R. Part 93, Subparts K and S, filed in this docket;
6. The authorities granted under these exemptions are subject to all of the other requirements delineated in 14 C.F.R. Part 93, Subparts K and S, including, but not limited to, the reporting provisions and use-or-lose requirements; and
7. We will serve this order on all parties in Docket OST-2000-7182 and the Federal Aviation Administration Slot Administration Office.

By:

KARAN K. BHATIA
Assistant Secretary for Aviation
and International Affairs

(SEAL)

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