

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, DC

_____)	
Application of)	
AMERICA WEST AIRLINES, INC.)	
for an exemption pursuant to 49 U.S.C.)	OST-2000-6957
§ 41714 Columbus-New York LaGuardia)	
Airport Phoenix/Las Vegas – John F.)	
Kennedy International Airport)	
_____)	

ANSWER OF JETBLUE AIRWAYS CORPORATION TO
APPLICATION OF AMERICA WEST AIRLINES, INC.

JetBlue Airways Corporation (“JetBlue”) hereby submits this Answer in response to the Application of America West Airlines, Inc. (“America West”) for an exemption from the high-density rule, 14 C.F.R. Part 93, Subparts K and S, at John F. Kennedy International Airport (“JFK”).

JetBlue Airways, on September 16, 1999, was awarded 75 slot exemptions for use at JFK, to be phased in over a three-year period. (DOT Order 99-9-11). As part of the proceedings leading up to the grant of this application, JetBlue worked closely with the Department of Transportation (“DOT” or “the Department”) and the Federal Aviation Administration (“FAA”) in ensuring that the grant of an exemption for 75 slots at JFK complied with all environmental and operational regulations and that JetBlue’s operations over the next three years were compatible with FAA operational concerns. JetBlue prepared a thorough Environmental Assessment (“EA”) which provided one of the foundations upon which the Department based its decision to grant JetBlue’s slot exemption application.

The EA analyzed the specific actions proposed by JetBlue (including its use of exclusively new, quiet and environmentally friendly Stage 3 aircraft) with regards to both its slot application before DOT and its pending request for Operations Specifications before the FAA. On September 16, 1999, in conjunction with the issuance of DOT Order 99-9-11, the Secretary of Transportation issued a Finding of No Significant Environmental Impact (copy attached).

While JetBlue vigorously supports increased competition in the airline industry, especially by other low fare new entrants, the application of America West for three new entrant exemption slots at JFK is neither supported nor opposed by JetBlue. JetBlue does have reservations, however, about applications for JFK exemption slots not necessarily based on the particular merits of a specific request, but rather based upon both operational availability of exemptions and compliance with all environmental laws and regulations. The Department's grant of this, or any other application for an exemption at JFK, without first requiring that the appropriate operational and environmental be performed, including the assumption that JetBlue's operations will utilize all 75 slots granted in Order 99-9-11, would set a disturbing precedent.

JetBlue's EA was based on the phase-in of an entire fleet consisting of thirty-two brand-new, state-the-art Airbus A320s with the most environmentally friendly engines available. Emission and noise assumptions contained in the EA were based upon JetBlue's specific operating proposal. According to America West's application (at page 1), their proposed service is to be provided with A-320 aircraft, with engines that may be different from those used by JetBlue and analyzed in the EA. This aircraft may not be comparable to the environmentally friendly and low-noise and emissions A-320 aircraft that will comprise JetBlue's entire fleet, which was the basis for the EA. The environmental analysis performed to support the introduction of the A320 into JFK may not be equivalent to an analysis that assumes the

introduction of older A-320 aircraft utilized by America West into the same airport. The Department should not grant America West's application by solely relying on the environmental work performed by JetBlue, especially in such a noise and emissions sensitive region as Queens, New York.¹

As a matter of public policy, the Department must ensure that all new entrant applicants, as the term is defined in 49 U.S.C. § 41714 (c), applying for slot exemptions comply with the same federal environmental requirements. JetBlue will strongly advocate that all of its new entrant competitors, and indeed all domestic airlines, comply with existing environmental laws when introducing new aircraft at JFK or any other domestic airport, just as JetBlue has been required to do. JetBlue is also concerned with the resolution of how any slots granted to America West, or any other airline applying to operate from JFK, will fit into the FAA's operational plan. If America West or the Department assumes that because JetBlue will not be immediately using all of its 75 slot exemptions, and therefore those slots are available, JetBlue would want America West and any other carrier proposing to "piggyback" on JetBlue's Slot Order and EA, to clearly understand that when JetBlue is ready to utilize those slots exemptions as its new aircraft arrive, America West, and others filing for JFK slots, will have to return the JetBlue slot exemptions on demand. Such a scenario will likely cause future operational issues for America West which ought best to be addressed as part of the present proceeding.

JetBlue does not know if there are additional slot exemptions available from an operational standpoint. If there are slots available over and above the 75 awarded to JetBlue, then JetBlue's concerns from an operational standpoint are diminished. If there are not, then

¹ The Borough of Queens answered JetBlue's slot application (Docket 99-5616-2) and, among other concerns, raised noise and air quality issues regarding JetBlue's proposed increase in

continued...

DOT must address this issue in any order issued granting America West's request or any other application at JFK for slot exemptions. JetBlue has relied extensively upon DOT Order 99-9-11 in developing its route structure, hiring, training and other operational issues as it plans for the next three years. That reliance is entirely justified and other carriers, whether new or existing, should not be allowed to "cherry pick" JetBlue's slot award (achieved through significant effort and expense) for their own benefit.²

To reiterate, JetBlue applauds and welcomes other financially solid and environmentally conscious new entrants into JFK and looks forward to America West's addition to those operating at JFK during the high density hours of operation. JetBlue, however, does believe that all carriers, big and small, must comply with the same standards applied to JetBlue by both the DOT and FAA. Moreover, if America West is awarded any exemptions that include exemptions already awarded to JetBlue, America West and any other carriers must be put on notice by the

...continued

airport activity at JFK.

² It would indeed be ironic if other new entrant carriers were permitted to utilize the slot exemptions previously awarded to JetBlue given that JetBlue itself is specifically not permitted to "sell, trade, transfer or convey" their use to any other carrier. (Order Granting Slot Exemptions, Order 99-9-11 at page 14, issued September 16, 1999).

Department that such slots must be relinquished when JetBlue is ready to begin its already approved HDR operations.

Respectfully submitted,

Jonathan B. Hill
Dow, Lohnes & Albertson
1200 New Hampshire Ave., N.W.
Washington, DC 20035
202/776-2000

Counsel for
JetBlue Airways Corporation

Robert C. Land
Vice President & Associate
General Counsel
JetBlue Airways Corporation
13802 Lambertina Place
Rockville, MD 20850

February 23, 2000

CERTIFICATE OF SERVICE

I hereby certify that a copy of the following Notice to File Out of Time and Answer of JetBlue Airways Corporation to Application of America West Airlines, Inc. was sent this 23rd day of February via first-class mail, postage prepaid, to the following:

Joanne W. Young
David M. Kirstein
Baker & Hostetler, LLP
Washington Square, Suite 1100
1050 Connecticut Ave., N.W.
Washington, DC 20036

Hugh Weinberg
Queen's Borough President's Office
120-Queens Boulevard, Room 244
Kew Gardens, NY 11424-1015

Jonathan B. Hill