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BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

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Application of)
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NATIONAL AIRLINES, INC.)
)
for an exemption from 14 C.F.R. Part 93,)
Subparts K & S, pursuant to 49 U.S.C. § 41714)
)

Docket OST-99-5521

ANSWER OF AMERICA WEST AIRLINES, INC.

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Dated: April 22, 1999

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ANSWER OF AMERICA WEST AIRLINES, INC.

America West Airlines, Inc. ("America West") hereby answers the above-captioned application submitted on April 7, 1999 by National Airlines, Inc. ("National Airlines") for an exemption from the High Density Rules of Part 93 of the Federal Aviation Regulations ("HDR") for slots at Chicago O'Hare International Airport ("O'Hare") to provide service to Las Vegas, Nevada.

America West has consistently advocated that the Department of Transportation (the "Department") complete the deregulation process and has specifically supported abolition of the High Density rule at O'Hare and the elimination of the perimeter rules at Reagan National and LaGuardia to stimulate competition and enhance consumer welfare. Accordingly, America West joins with National Airlines in urging elimination of the 60-slot exemption limitation at O'Hare which requires no Congressional action. If the Department decides to lift the current exemption ceiling, it should ensure that America West, which has already made a commitment to provide low-fare competitive service at O'Hare, has the opportunity to obtain the slots it has previously requested. Until the slot limitation is lifted such that America West can add needed service in

the O'Hare – Las Vegas market, America West is compelled to oppose National Airlines' exemption application. National Airlines' proposed point-to-point air transportation of tourists to resorts in Las Vegas can be adequately operated out of Chicago's Midway Airport, provides fewer benefits to the traveling public than America West's proposed service and does not meet the public interest and exceptional circumstances criteria established by the Department.

I. America West Concurrs with National Airlines that the Department Should Eliminate the 60-Slot Exemption Limitation at O'Hare Immediately

Congress authorized the Department to grant exemptions from the HDR when it enacted the Federal Aviation Administration Authorization Act of 1994. Over the last several years the Department has recognized the importance of increasing competition at O'Hare, which is dominated by United and American Airlines and has virtually no new entrant service as a result of restrictions imposed by the HDR. The Department recently said, "It is well recognized that slot constraints at the affected airports are a barrier to the marketplace's ability to meet the air transportation demands of many city-pair markets." Application of the Communities of the Virginia Peninsula, Order 99-3-12 (March 16, 1999); see also, Airline Deregulation: Barriers to Entry Continue to Limit Competition in Several Key Domestic Markets (GAO/RCED-97-4, Oct. 18, 1996).

The Department appropriately has used its exemption authority pursuant to 49 U.S.C. § 41714(c) to encourage competitive, low fare service by new entrants at O'Hare. See Application of America West Airlines, Inc., Order 98-4-21 (April 21, 1998). However, since "October 1997 [the Department has] adhered to a limit of sixty slot exemptions at O'Hare, based on an

environmental assessment issued with Order 97-10-16.” Application of the Communities of the Virginia Peninsula, Order 99-3-12 (March 16, 1999).

While slot limitations are a barrier to competition, they are no longer necessary for safety or environmental reasons. See e.g., Testimony of Patrick Murphy, Deputy Assistant Secretary for Aviation and International Affairs, Department of Transportation, before the Senate Committee on Commerce, Science and Transportation (January 20, 1999). Congress and the Administration recognize that if the slot limitations were removed, the traveling public would enjoy lower fares and more new entrant service. See e.g., U.S. Department of Transportation Report to Congress, A Study of the High Density Rule (May 1995).

Secretary Slater, on behalf of the Administration has asked Congress to lift the slot restrictions in several years. However, the Department is not required to wait for Congress to act. Since the O’Hare slot limitation was imposed by the Department, not Congress, the Department can act now to increase the number of available slots. America West agrees with National that more slots should be made available and urges the Department to lift the slot limitation immediately. In this regard, the phase out of stage two aircraft at the end of the year will more than offset any noise resulting from new service. In lifting the restriction, the Department should promote competition by providing more slots to America West, which has been working for years to build a presence at O’Hare despite the dominance by two of the nation’s largest incumbent carriers. America West already has the resources and the network to enhance competition in multiple markets.

II. America West Has Worked Hard to Promote Competition at O'Hare and the Department Should Consider Awarding National Airlines Slots for Service to Las Vegas Only After Awarding Slots to America West

Given the current slot limit, the Department has found "it especially important to allocate these slot exemptions where they will produce maximum transportation benefits." Application of the Communities of the Virginia Peninsula, Order 99-3-12 (March 16, 1999). America West as the only post deregulation airline to achieve major carrier status is able to offer substantially more service benefits at O'Hare than National Airlines and has been seeking an increased presence at O'Hare for a longer period of time. Indeed, on January 21, 1999, America West filed for a transfer of the five Reno Air slots now held by American Airlines through Reno Air, for service to Las Vegas and Reno or alternatively for two additional slots to serve Las Vegas.¹ Out of fairness and to promote "maximum transportation benefits," the Department should award America West slots at O'Hare prior to addressing National Airlines' request.

In pursuing its policy to promote competition in the industry and specifically at O'Hare, the Department granted five slots to America West in 1998 to foster competition at O'Hare for service to America West's primary hub at Phoenix. See Application of America West Airlines, Inc., Order 98-4-21 (April 21, 1998). The Department found the award of these slots would also promote competition to Las Vegas and to cities on the West Coast served through America

¹ The Department elected to leave the service to the communities of Tahoe and Reno at the status quo. The Department was careful to say the decision was "without prejudice to America West's filing for this authority in the future." Order 99-2-26 at 6. Presumably, the Department saw the merit in America West's application, but could not grant the request in part because of the limited number of slots.

West's Phoenix hub. In granting America West's request for Phoenix service, the Department found that America West provides a low-fare stimulus for travelers to and from O'Hare, and that it has a positive price-competitive effect on fares, which are "materially lower" in markets it serves. Id. at 13. Unfortunately, as the Department noted, severe limits on access to O'Hare constrain the degree of America West's ability to influence price in the market. Nevertheless, the Department properly found that additional service to O'Hare will "make significant price competition available for a substantial number of travelers." Id.

Even though Las Vegas is America West's second major hub, it cannot compete effectively with the incumbents in the O'Hare - Las Vegas market. United and American together offer nine daily roundtrips between O'Hare and Las Vegas. Of these, only three flights (two by American and one by United) operate outside the slot-controlled period. However, America West because of its limited slot holdings, can offer only two daily Las Vegas - O'Hare roundtrip flights, all of which operate late at night during the low demand, non-slotted off-peak period. American and United operate at extremely high average load factors -- 90% and 85% respectively -- and thus control the pricing in the market. America West has sought, through the free market² and by application to the Department to strengthen the availability of its highly competitive service at O'Hare including for service to Las Vegas. The inability of America West

² America West has been unable to obtain slots at O'Hare at any price. "Buying slots is extremely difficult for newer airlines because the established carriers rarely sell their slots". Airline Deregulation: Barriers to Entry Continue to Limit Competition in Several Key Domestic Markets (GAO/RCED-97-4, Oct. 18, 1996). When slots were available, they have sold for as much as \$3 million.

to obtain these slots deprives travelers in these markets of the low-fare, high quality full service alternative on which America West has built a national reputation.³

As America West explained in a prior filing, Las Vegas is the most capacity constrained market with an average load factor of 84%. Application of America West for an Exemption, Docket OST-99-5030 (January 21, 1999). More than 563,000 passengers per year travel between Las Vegas and Chicago. Id. America West recognized the need for this service and applied for additional O'Hare slots for service to Las Vegas. America West believes that additional America West flights during the peak demand period would create a substantial competitive stimulus in the Las Vegas – O'Hare market. For example, as noted in its application filed earlier this year, although America West just added its fourth and fifth flights between Phoenix and O'Hare in October 1998, its traffic for November 1998 grew by 34 percent over November 1997.

Given the focus of its system on western markets, America West, as the only low-fare, full service major carrier, is ideally situated to create a competitive spur in the O'Hare – Las Vegas market. It has worked for years to establish a network and build a presence at O'Hare before National Airlines even came into existence. The Department has recognized America West's influence on markets is pro-competitive and low-fare, benefiting large numbers of the traveling public. This is based in part of the presence of a network and the ability to provide connecting service.

³ In 1998 for the second consecutive year, America West was ranked the nation's number one carrier for customer satisfaction for flights of 500 miles or less in the Airline Customer Satisfaction-U.S. Flights Study conducted by Frequent Flyer Magazine and J.D. Power and Associates.

National Airlines has no network and its primary objective is to serve a narrow class of travelers. As a consequence, National Airlines cannot create the competitive benefits to the same extent as America West, or to the degree required under the Department's public interest and exceptional circumstance criteria. Because of the limited resources and the need to put those resources to the greatest and best use to promote "maximum transportation benefits," the Department should address America West's requests for slots prior to considering National Airlines' request. In the meantime, National Airlines can initiate Chicago – Las Vegas service at Chicago's Midway Airport without the Department's approval.

III. National Airlines Can Use Midway Airport for its Point-to-Point Service in Connection With Leisure Travel to Resorts in Las Vegas

National Airlines by its application requests five slots to provide three daily round-trip flights between Las Vegas and O'Hare. National Airlines asked for these slots pursuant to the new entrant exemption to the HDR, claiming that it meets the public interest and exceptional circumstances test. However, National's proposed service is based on a business plan designed primarily to provide air transportation to tourists traveling to resorts in Las Vegas, Nevada. See National Airlines Show Cause Order, Order 99-1-13. National Airlines' plan does not reflect an intent to create a network, provide connecting service or cater to business travelers. Id. Indeed, National is funded by two casino companies, "marking the most aggressive move in decades by Las Vegas casinos to ferry in masses of gamblers." Casinos Roll the Dice on Airline Start-Up, Wall Street Journal at B1, July 30, 1998.

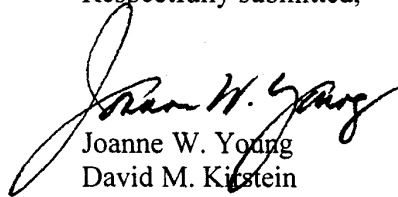
All new entrants have the potential to exert a positive influence on competition and fares. America West is a prime example of the benefits new entrants can bring to the traveling public. However, National Airlines' proposed service is more appropriately based at Midway Airport, which has become the focus of point-to-point travel for Chicago, and National Airlines has stated in its application that it intends to serve Midway. The Department has recognized that O'Hare is a separate market from Midway geared toward connecting service and business travelers. Application of America West, Order 98-4-21 (April 21, 1998). Point-to-point leisure travelers who do not need the benefits of connecting service are amply served by Midway Airport. Finally, when National Airlines applied for certificate authority, including for its proposed service to Chicago, very few slots were available at O'Hare and it would have been unreasonable for National Airlines to assume it could obtain any slots. It is apparent that National Airlines must have intended to use Midway as its Chicago airport for this service to Las Vegas.

CONCLUSION

For the above reasons, America West respectfully requests that the Department immediately lift the 60-slot exemption limitation. Until this occurs, the Department must use its limited resources to promote "maximum transportation benefits" such as by granting America West's pending application for two O'Hare slots to serve Las Vegas since America West can immediately enhance competition in this market. Grant of an exemption to National Airlines for Las Vegas service prior to approving America West's request for the same market would be

unfair in the extreme considering America West's longstanding commitment to low-fare full service, serving Las Vegas, its second largest hub and its long held plans to expand at O'Hare to the fullest extent possible. Moreover, denial of National Airlines' request will not exclude it from Chicago since it has already committed to service Midway. Accordingly, except to the extent the Department's self-imposed slot limitation is eliminated, the application should be denied.

Respectfully submitted,



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