



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

Issued by the Department of Transportation
on the 2nd day of November, 2005

Posted: November 2, 2005 12:30 p.m.

America West Airlines, Inc.

**Violations of 14 CFR Part 382 and
49 U.S.C. §§ 41310, 41702, 41705 and 41712**

Docket 2004-16943

ORDER

On August 5, 2005, America West Airlines, Inc. (“America West”) filed a motion under 14 CFR 302.419 to amend America West Order 04-08-19, Docket 04-16943-30 (August 18, 2004) (hereinafter Order 04-08-19). Order 04-08-19, among other obligations, required America West to pay a civil penalty of \$75,000 to the U.S. Treasury. Of the amount to be paid to the U.S. Treasury, America West was required to pay \$37,500 no later than September 17, 2004, which it did, and is required to pay the remaining \$37,500 no later than September 16, 2005. America West’s motion requests to have the amount due and payable on September 16, 2005 offset by \$15,000 in order to make additional improvements to its service for passengers with disabilities above and beyond what is required by the Air Carrier Access Act (“ACAA”) and its implementing regulation 14 CFR Part 382. Pursuant to Parts 419 and 385, the Department has taken review of this motion.

BACKGROUND

On August 18, 2004, the Department issued Order 04-08-19 approving a settlement between America West and the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (“Enforcement Office”) regarding America West’s failure to provide adequate enplaning, deplaning and connecting assistance in violation of the ACAA and 14 CFR 382.39. The Order assessed a civil penalty of \$850,000 with specific off-set provisions. America West was to make over \$775,000 in offsetting improvements to its corporate programs serving customers with disabilities and to pay the U.S. Treasury \$75,000. Of the amount to be paid to the U.S. Treasury, America West was required to pay \$37,500 no later than September 17, 2004, which it did, and is required to pay the remaining \$37,500 no later than September 16, 2005.

When America West was asked by members of disability advocacy organizations to provide more training regarding the handling, packaging, and carriage of manual and electric wheelchairs, it contacted the Enforcement Office to propose that America West produce two videos at a cost of \$20,000 and to increase training its employees with direct public contact at an increased cost of \$30,000. Specifically, America West proposes to produce two employee training videos, at an additional cost of \$20,000 regarding “sensitivity for passengers with disabilities” and “safe handling of wheelchairs.” America West states that the sensitivity video, to be produced by an outside vendor, will inform and educate ticket agents, skycaps, and flight attendants of the challenges faced by passengers with disabilities, how they can be better served, and how their challenges can be lessened or resolved during air travel. According to the carrier’s motion, the wheelchair handling video, to be produced by America West’s in-house training department, will address safe and proper handling and storage of passengers’ wheelchairs for ramp and gate employees in order to avoid damage and to ensure their quick return to passengers upon arrival at their destination. America West also states that it will increase employee training by one half-hour for its direct public contact employees.

In order to secure corporate funding to expend over \$50,000 for production costs and increased training, America West requested that the amount payable to U.S. Treasury be reduced by \$15,000 and that their increased costs serve as additional offsets to the original assessed civil penalty. The Enforcement Office supports this proposal and the Department has taken review of this motion.

DECISION

After reviewing America West’s motion, we have determined that, in this specific case, as long as additional conditions are met granting America West’s motion to amend would best the public’s interest by enhancing the quality of service air passengers with disabilities receive. Therefore, we grant the motion to modify Order 04-08-19 by reducing the amount due and payable to the U.S. Treasury on September 16, 2005 by \$15,000 and require as an additional offset video production and increased employee training at a cost of \$50,000 on the condition that America West submits a sworn and certified statement from an appropriate company official demonstrating that the \$50,000 was properly expended. Such documentation must be submitted to the Enforcement office, the Inspector General’s Office, and the Office of Aviation and International Affairs, and is subject to review or audit by those offices.

ACCORDINGLY,

1. We grant America West Airlines’ motion to amend Order 04-08-04 such that the amount due and payable to the U.S. Treasury is amended as set forth below, on the condition that it complies with paragraphs 2 and 3 and that it submits, by September 16, 2006 a sworn and certified statement from an appropriate corporate official, to the Enforcement Office, this office, and the Inspector General’s Office demonstrating that it completed the video production and the increased training at a cost of \$50,000. Failure to comply with any of these provisions will result in the immediate reinstatement of the requirement to pay the \$15,000 civil penalty.

2. In Order 04-08-19, America West is assessed a civil penalty in the amount of \$850,000 in compromise of civil penalties that might otherwise be assessed for the violations of the Air Carrier Access Act. Of the total amount assessed, America West is to be credited up to \$775,000 if it completes certain offsets which are improvements above and beyond what is required by the regulations. The Order also requires that America West pay \$75,000 to the U.S. Treasury. Of the \$75,000, \$37,500 was paid within 30 days of the service date of the order. The Order also requires America West to pay the remaining \$37,500 within 12 months of the service date of the Order. Of the \$37,500 to be paid within 12 months of the service date of the order, America West shall be credited an additional \$15,000 and is thus required to pay \$22,500 the U.S. treasury within 12 months of the service date of the Order 04-08-19 provided it complies with the following¹:
- a. America West submits documentation to the Enforcement Office by September 17, 2006, showing that America West has accomplished the following tasks that go beyond the requirements of 14 CFR Part 382:
 - i. Produced two employee training videos regarding “sensitivity for passengers with disabilities” and “safe handling of wheelchairs” at a cost of \$20,000,

¹ Specifically, this order amends ordering paragraph 10 of Order 04-08-19 so that it reads as follows:
 10. America West Airlines, Inc. is assessed a civil penalty in the amount of \$850,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 through 8 of this order, subject to the payment schedule set forth in paragraph 10 (a) and (b) below, and subject to credit offsets of up to \$790,000 as provided in subparagraphs 10 (c) through (f) below:

- a. \$37,500 shall be due and payable 30 days after the service of this order;
- b. \$22,500 shall be due and payable 12 months after the initial payment as set forth in subparagraph (a) above;
- c. \$15,000 shall be credited to America West Airlines, Inc. towards the amount of the assessed civil penalty provided that America West submits documentation to the Enforcement Office by September 17, 2006, showing that America West has accomplished the following tasks that go beyond the requirements of 14 CFR Part 382:
 - i. Produced two employee training videos regarding “sensitivity for passengers with disabilities” and “safe handling of wheelchairs” at a cost of \$20,000,
 - ii. Increased recurrent annual training for employees with direct passenger contact at an increase in training cost of \$30,000, and
 - iii. America West will share the videos, training material, and knowledge it has learned in producing it videos on safe handling of wheelchairs with other carriers and disability organizations and will give the Enforcement Office the opportunity to monitor its training activities.

The remaining subparagraphs under paragraph 10 shall be renumbered accordingly and remain in full force and effect.

- ii. Increased recurrent annual training for employees with direct passenger contact at an increase in training cost of \$30,000, and
 - iii. America West will share the videos, training material, and knowledge it had learned in producing its videos on safe handling of wheelchairs with other carriers and disability organizations and will give the Enforcement Office the opportunity to monitor its training activities.
3. America West will retain all books and records pertinent to this Order for three years following the date that America West fulfilled its obligations under paragraphs 1-2.

This order is issued under authority in 14 CFR 302.419.

By:

MICHAEL W. REYNOLDS,
Acting Assistant Secretary for Aviation
and International Affairs

(SEAL)

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