



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Issued by the Department of Transportation on July 7, 2005

NOTICE OF ACTION TAKEN -- DOCKET OST-2002-12503

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of **Amerijet International, Inc.** filed **06/17/05** for:

XX **Waiver of the start-up condition applicable to U.S.-Ecuador all-cargo frequencies.**

Amerijet seeks a waiver of the start-up condition for two U.S.-Ecuador all-cargo frequencies through October 11, 2005. By Order 2005-4-11, in this docket, the Department granted Amerijet two frequencies to provide scheduled all-cargo service in the U.S.-Ecuador market. The award was subject to the condition that Amerijet inaugurate its proposed services within 90 days of the award, *i.e.*, July 11, 2005.

In support of its waiver request, Amerijet states that it has made arrangements necessary to begin service, including establishing a legal presence in Ecuador, retaining employees and representatives, securing essential premises, and entering into agreements. Amerijet indicates that it has commenced the licensing process in Ecuador. However, Amerijet does not anticipate that the Ecuadorian licensing process will be completed by July 11. In these circumstances, Amerijet requests that the Department grant a waiver of the start-up condition through October 11, 2005, to allow more time for Amerijet to begin its new services.

Arrow Air filed an answer opposing Amerijet's waiver application. Amerijet filed a reply.

Arrow asserts that Amerijet will not follow through on its proposal to use the two frequencies. Arrow argues that the steps Amerijet cites in connection with starting its Ecuador service merely reiterate claims Amerijet made as to arrangements for starting Ecuador charter service in the fall of 2004. Arrow maintains that, unlike Amerijet, it will use the two frequencies quickly and, thus, its back-up award for the two frequencies should be activated on July 11. Arrow states that the frequencies are valuable and there should be no further delay in providing service to Ecuador for the benefit of the shipping public.

In its reply, Amerijet asserts that Arrow's answer in opposition is a thinly veiled petition for reconsideration of the Department's final order awarding Amerijet the frequencies. Amerijet maintains that Arrow has failed to produce any probative evidence to support its assertions. Amerijet argues that a short delay in the implementation of its scheduled service to Ecuador will not harm any recognizable interest. Finally, Amerijet notes that its services will bring new competition to the U.S.-Ecuador market.

Applicant rep: **John Richardson, 202-371-2258** DOT analyst: **Michael D. Bodman 202-366-9667**

DISPOSITION

XX **Granted.** (See below).

The above action was effective when taken: **July 7, 2005**, through **October 11, 2005**.¹

Action taken by: Paul L. Gretch, Director
Office of International Aviation

¹Amerijet's waiver is effective through October 11, 2005. As to any frequency with which Amerijet does not begin service by that date, its allocation with respect to that frequency will expire automatically.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's U.S.-Ecuador exemption authority
XX Order 2005-4-11.

Remarks: By Order 2005-4-11, we decided to award Amerijet rather than Arrow two unallocated frequencies for all-cargo service between the U.S. and Ecuador. We fully set forth our reasons in our tentative decision (Order 2005-2-6) as to why we believed that the public interest warranted Amerijet's selection. We continue to believe that the introduction of Amerijet's new scheduled Ecuador service will be in the public interest. We had hoped that Amerijet would have been able to commence these operations within the timeframe of our standard 90-day start-up condition. While it has not done so, we believe that it has provided a basis on the record for us to conclude that it is actively working to begin its new scheduled service. In these circumstances, we shall grant Amerijet the waiver it requests. However, we are putting Amerijet on notice that there should be no expectation that an additional request will similarly be granted. As is our policy in considering waiver requests, we reserve the right to reexamine whether grant of this waiver continues to be in the public interest. Any future request to extend the waiver for the frequencies at issue here will have to be considered in light of the specific arguments offered and responses thereto, and in the context of the circumstances present at that time, including whether another carrier seeks to use the frequencies at issue.²

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; and (2) grant of the authority was consistent with the public interest. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the action taken in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR § 385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

An electronic version of this document is available on the World Wide Web at:
http://dms.dot.gov/reports/reports_aviation.asp

²Consistent with Order 2005-4-11, Arrow's backup award remains in place.