



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

Issued by the Department of Transportation on March 10, 2017

NOTICE OF ACTION TAKEN -- DOCKET DOT-OST-2016-0076

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).

Motion of AMERICAN AIRLINES, INC. (American) filed 2/13/17 for:

XX Extension of the 90-day startup condition applicable to its Los Angeles-Beijing frequencies, as follows:

American requests that the Department extend the start-up date for the Los Angeles-Beijing frequencies allocated to it by Order 2016-12-14, for one year, or within 90 days of American's obtaining commercially viable slots at Beijing, whichever occurs first.

In support of its request, American states that, despite its filing of two applications with the Civil Aviation Administration of China (CAAC) and efforts American has taken with other stakeholders, American has been unable to secure commercially viable takeoff and landing slot times at Beijing. American asserts that U.S.-carrier difficulties with China's slot allocation system are well documented, and they place U.S. carriers at a substantial disadvantage vis-à-vis their Chinese counterparts. American also notes that the Department has consistently granted start-up extensions to other U.S. carriers facing difficulty in obtaining slots at international airports across the globe. American asserts that its request should be treated no differently. American states that it is eager to commence Los Angeles-Beijing service, and that it expects its continued efforts to obtain slots will eventually prove successful.

Applicant representative: Howard Kass (202) 496-5643

DOT Analyst: Brett D. Kruger (202) 366-8025

Background: By Order 2016-12-14, the Department allocated to American seven weekly frequencies to provide scheduled combination services in the Los Angeles-Beijing market. The order concluded a proceeding to consider the competing applications of American and Delta Air Lines, Inc. (Delta), each having applied for authority to operate daily round-trip Los Angeles-Beijing flights. The frequencies were awarded to American subject to the Department's standard 90-day start-up condition, which would require that American begin its proposed service in the Los Angeles-Beijing market on or before March 16, 2017.

Responsive Pleadings: On February 23, 2017, Delta filed an objection to American's request. Delta asserts that the circumstances cited by American were foreseeable, that the requested delay is unduly long, and that there was a competitive proceeding in which a competing carrier was and remains willing and able to begin service in a timely fashion. Delta argues that as a result, the Department should deny American's proposed extension, or at least significantly limit its duration and assign Delta back-up authority. In the alternative, Delta states that the Department could revoke American's award and re-allocate the frequencies to Delta which can obtain slots through its partner China Eastern and which accordingly is ready and able to inaugurate service.

On March 6, 2017, American filed a reply arguing that Delta's objection provides no basis to reject American's request for a start-up extension.¹ American asserts that the Department has granted numerous start-up extensions following contested proceedings to U.S. carriers, including Delta. American argues that it has worked diligently to obtain commercially viable slots in Beijing, and that its inability to obtain them is entirely the product of CAAC decisions, not a lack of effort by American. American asserts that there is nothing more that it could have reasonably done to obtain the needed slots. American states that the difficulty it faces is no different from the difficulties that United encountered, which warranted extensions of nearly 18 months for the start-up date of its second daily San Francisco-

¹ In the interest of a complete record, we will accept the otherwise unauthorized document.

Shanghai service.² American asserts that United received the necessary extensions from the Department, and so too should American.

Decision: We have decided to grant American an extension of the start-up date for the seven weekly Los Angeles-Beijing frequencies allocated by Order 2016-12-14, until September 16, 2017, or until 90 days after American obtains commercially viable slots at Beijing, whichever occurs first.

When we selected American's Los Angeles-Beijing proposal, we did so because we concluded that American's proposal would provide greater enhancements to competition and service than selection of Delta and would thereby maximize public benefits.³ The Department recognizes that, in granting an extension of the start-up deadline, the benefits of American's service might be somewhat delayed. On balance, however, we have determined that such a delay, resulting from American's inability to obtain commercially viable slots from the Chinese authorities, does not warrant the carrier's loss of authority and the resultant loss of those public benefits that formed the basis of our selection decision.⁴

At the same time, we note that U.S.-China frequency opportunities remain limited. While the Department finds merit in American's request for an extension, we do not find that an approval for one year is warranted in the circumstances presented.⁵ We regard a six-month period as more appropriate for American either to secure the slots it needs, or if it has not yet been able to do so, report on the status of its efforts in the context of seeking a further start-up extension. The Department will therefore grant American relief for six months (*i.e.*, until September 16, 2017) from the 90-day start-up condition applicable to its allocation of seven weekly Los Angeles-Beijing frequencies. The Department will require that American inaugurate daily Los Angeles-Beijing service no later than September 16, 2017, or 90 days after American obtains commercially viable slots at Beijing, whichever occurs first.

DISPOSITION

XX Approved, in part (six-month extension of American's startup date for Los Angeles-Beijing services), balance dismissed.

XX Dismissed Delta's request for backup authority.

XX Denied Delta's request that American's Los Angeles-Beijing frequencies be revoked and reallocated to Delta.

The above action approving a start-up extension was effective when taken: **March 10, 2017**, until **September 16, 2017**, or until 90 days after American obtains commercially viable slots at Beijing, whichever occurs first.

**Action taken by: Susan McDermott
Deputy Assistant Secretary for
Aviation and International Affairs**

An electronic version of this document is available on the World Wide Web at:

<http://www.regulations.gov>

² See Docket DOT-OST-2014-0196.

³ Order 2016-12-14, at 6.

⁴ Nor does the Department find that the public interest warrants the selection of a backup carrier. As stated in Order 2016-12-14, American has committed to providing the Los Angeles-Beijing service. The Department continues to find no compelling evidence on the record to suggest that American will not fully deliver on its proposal or that other factors warrant selection of a backup carrier in the circumstances presented.

⁵ In support of its request for a start-up extension, American cites the start-up extensions granted to United while it sought to secure slots for its second daily San Francisco-Shanghai service (Docket DOT-OST-2014-0196). We would note, however, that all of the extensions granted to United were for shorter periods than the one-year period requested by American here.