



Order 97-9-22

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

Served September 19, 1997

Issued by the Department of Transportation
on the 19th day of September, 1997

Application of

AIR JAMAICA LIMITED

DOCKET OST 96-1881

for extension of exemption

ORDER

Summary

By this order, we stay the effectiveness, until 11:59 p.m., September 30, 1997, of Order 97-9-17.

Discussion

By Order 97-9-17, we revoked the exemption held by Air Jamaica Limited to conduct scheduled combination operations between New York, New York, and Atlanta, Georgia, on the one hand, and Barbados, on the other (via the intermediate points Antigua and Barbuda and St. Lucia), effective 11:59 p.m., September 19, 1997. That action had the effect of terminating the authority held by Air Jamaica to conduct services in those markets.¹ As stated in that Order, our action was in response to the Government of Jamaica's (GOJ) failure to ensure that Amerijet International, Inc., had the requisite facilities to implement its bilaterally-agreed right to conduct operations to Jamaica by December 1, 1997. We noted that we had specifically been advised by the Airports

¹ On November 27, 1996, Air Jamaica was granted a Department exemption to conduct the operations noted above for 90 days. On February 13, 1997, the carrier requested renewal of the authority for two years. By various Department Orders in this Docket, the authority was extended through December 1, 1997. However, by Order 97-9-17, the Department revoked the exemption effective 11:59 p.m., September 19, 1997.

Authority of Jamaica (AAJ) that construction by the AAJ of a wall in the warehouse space for Amerijet, which is necessary to separate Amerijet's space from Air Jamaica's space located in the same warehouse building (and which is necessary for Amerijet's contractors to begin renovations of the space), had not commenced. Further, we were advised by the AAJ that the wall would not be completed until four-to-six weeks after commencement of construction, which would leave Amerijet insufficient time to start up operations by its planned December 1, 1997, commencement date. We also noted that an occupancy agreement for the warehouse space had not yet been executed by Amerijet and the AAJ.²

In taking our action in Order 97-9-17, we stated that we would consider reinstating Air Jamaica's authority in this Docket when and if Amerijet had the requisite facilities to commence its operations. Specifically, we stated that: (1) a wall in the warehouse space sought by Amerijet must have been completed; (2) an occupancy agreement must have been formalized; and (3) the GOJ/AAJ must have confirmed that once those two events were accomplished, that Amerijet's contractors would be permitted immediate access to that space to commence renovations.

Subsequent developments

By letter of September 16, 1997, to the Department, the Jamaican Deputy Prime Minister and Minister of Foreign Affairs and Foreign Trade stated, on behalf of the Prime Minister, that the GOJ would ensure the expeditious resolution of Amerijet's issues.³ He stated, in part, that construction of the wall in the warehouse space would be completed by September 26, 1997; that the AAJ would propose an Occupancy Agreement to Amerijet which would state, in part, that the AAJ would deliver the warehouse space to Amerijet on September 26 and would grant the carrier an abatement of rent until December 14, 1997; and that Amerijet's contractors would be permitted to begin renovations on September 26. The letter stated that on that basis, the GOJ has met its obligations under the U.S.-Jamaica Agreement and urged withdrawal of Order 97-9-17.⁴

Decision

We regard the commitments made by the GOJ in its September 16 letter as positive and encouraging. In these circumstances, and based on the timetable set forth in the Deputy Prime Minister's September 16 letter, we believe that the most appropriate course of

² We further noted that other elements, such as Customs facilities, were essential to Amerijet's having the requisite facilities to implement its proposed all-cargo operations.

³ A copy of this letter has been placed in Docket OST 96-1881.

⁴ The letter of September 16 also stated that appropriate Customs services would be in place for Amerijet by December 1.

action is to stay our announced revocation for a limited period. This will give the Department time to monitor the GOJ's progress in fulfilling the stated commitments and, should the commitments remain unfulfilled, this will permit our previously announced revocation to then take effect without the need for further action on our part. Against this background, we find that it is in the public interest to stay the effectiveness of Order 97-9-17 until 11:59 p.m., September 30, 1997.

ACCORDINGLY,

1. We stay the effectiveness of Order 97-9-17 until 11:59 p.m., September 30, 1997; and
2. We will serve a copy of this order on Air Jamaica Limited, Amerijet International, Inc., the Ambassador of Jamaica in Washington, D.C., the Department of State (Office of Aviation), and the Federal Aviation Administration (AFS-200.)

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation and
International Affairs

(SEAL)