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

Order 2001-6-20

Served: June 22, 2001

Issued by the Department of Transportation
on the 22nd day of June, 2001

Applications of

**ALASKA AIRLINES, INC.
AMERICA WEST AIRLINES, INC.
AMERICAN AIRLINES, INC.
CONTINENTAL AIRLINES, INC,
DELTA AIR LINES, INC.
FRONTIER AIRLINES, INC.
NATIONAL AIRLINES, INC.
UNITED AIR LINES, INC.
VANGUARD AIRLINES, INC.**

**Dockets OST-2000-7181 - 1374
OST-2001-9185 - 11**

For exemptions from 14 C.F.R. Part 93,
Subparts K and S, pursuant to 49 U.S.C.
§ 41718(a), Special rules for Ronald Reagan
Washington National Airport (beyond perimeter slot
exemptions)

**ORDER GRANTING OUTSIDE-THE-PERIMETER SLOT EXEMPTIONS
AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT**

SUMMARY

By this order the Department grants the application of Alaska Airlines, Inc., for two slot exemptions at Ronald Reagan Washington National Airport (hereafter "DCA") in order to provide nonstop service between DCA and Seattle, Washington.

BACKGROUND

On April 5, 2000, the President signed into law the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21). Among other things, AIR-21 liberalized slot and slot exemption access at the four airports now subject to the provisions of the High Density Rule, 14 C.F.R. 93 Subparts K and S. Specifically, at DCA, new 49 U.S.C. §41718(a), as added by Section 231 of AIR-21, provides that the Secretary shall grant 12 slot exemptions to air carriers for the provision of nonstop air transportation outside the

1,250 mile perimeter established for civil aircraft operations at DCA under 49 U.S.C. §49109.

AIR-21 directs the Secretary to distribute those 12 slot exemptions if the Secretary finds that the exemptions will (1) provide air transportation with domestic network benefits beyond the 1,250 mile perimeter; (2) increase competition by new entrant air carriers¹ or in multiple markets; (3) not reduce travel options for communities served by small hubs airports and medium hub airports within the 1,250 mile perimeter; and (4) not result in meaningful travel delays.

On July 5, 2000, the Department issued Order 2000-7-1, which granted a total of 12 slot exemptions at Ronald Reagan Washington National Airport (DCA) for services outside the 1,250 mile perimeter to the following carriers: America West Airlines, Inc., Frontier Airlines, Inc., National Airlines, and Trans World Airlines, Inc.

Under the provisions of that order, Trans World was granted two slot exemptions to provide nonstop service to Los Angeles, California.

On January 10, 2001, Trans World filed for Chapter 11 bankruptcy protection and concurrently, American Airlines, Inc., proposed to acquire substantially all of Trans World's assets. By letter dated January 23, 2001, the Department of Transportation informed American and Trans World that the language of AIR-21 does not permit the two AIR-21 slot exemptions to be transferred or conveyed. The letter further advised that, were Trans World to cease to use the exemptions, they would be recalled by the Department. The letter was placed in Docket 2000-7181.

On March 12, 2001, the Bankruptcy Court approved American's bid for substantially all of Trans World's assets, over competing offers. On March 15, TWA Airlines LLC, a wholly-owned subsidiary of American and the entity that would acquire TWA's assets at the conclusion of the bankruptcy proceedings, advised that TWA would cease to use the slot exemptions as of the closing date in the bankruptcy case, an event the parties were seeking to have expedited. Given the Department's intention to recall the exemptions at that time, TWA Airlines LLC also applied for *pendente lite* authority to operate the Los Angeles route until the Department could select a long-term replacement carrier to use the exemptions. American thereafter completed its acquisition of Trans World's assets.

¹ AIR-21 amended the previous definition of "new entrant," and its statutory applicability. Under the revised 49 U.S.C. § 41714(h)(3), as added by section 231 of AIR-21, the term "new entrant," for purposes of the slot exemption provisions including those at DCA, means "an air carrier that does not hold a slot at the airport concerned and has never sold or given up a slot at that airport after December 16, 1985, and a limited incumbent carrier as defined in subpart S of part 93 of title 14 code of federal regulations." The latter term, again as amended by AIR-21, is defined as an air carrier or commuter operator that holds or operates (or held or operated, since December 16, 1985) fewer than 20 slots and slot exemptions at the high density airport in question.

By Notice issued April 3, 2001, the Department invited proposals from eligible carriers for reallocation of the two slot exemptions awarded to Trans World Airlines by Order 2000-7-1 to provide nonstop service to DCA from airports beyond the 1,250 mile perimeter. The Notice specified that applications were to be submitted by April 16 with comments due by April 30. The Department also noted that due to the restrictions of AIR-21, we may not be able to accommodate the slot times requested by applicants.²

By Order 2001-4-8, issued April 6, 2001, the Department granted the request of TWA Airlines LLC for *pendente lite* authority to operate the DCA-Los Angeles service formerly provided by Trans World pending a final selection decision by the Department.

APPLICATIONS

Below is a brief description of the carriers' proposals and comments that we have received in response to those proposals. See the Attachment for a much more detailed description of all the filings.

Alaska Airlines Inc.

Alaska requests two slot exemptions in order to operate one daily round trip between Seattle and DCA with 120-seat B-737-700 aircraft. Alaska asserts that it would also provide Anchorage with the first one-stop DCA single-plane beyond service, and that it operates a substantial network of connecting services at Seattle and Anchorage. Alaska argues that the Department found previously that proposals from new entrant carriers should be given significant decisional weight and that Alaska is a new entrant carrier with no service at DCA. The Port of Seattle and Northwest filed answers in support of Alaska's application. Seattle argues that Alaska is the only new entrant carrier in this proceeding and that selection of Alaska would bring competition to the monopoly Washington-Seattle market. Northwest contends that Alaska's proposed service provides two distinct advantages to the Northwest proposal that was not selected last year-- Alaska's new entrant status at DCA and the significant network advantages of its Anchorage-Seattle-DCA service.

Other carrier applicants oppose Alaska's proposal, arguing that the Department rejected a similar proposal by Northwest, in part due to the limitations of Seattle's geographic location, and that Alaska has not demonstrated a commitment to serve cities in the east. They further argue that Alaska would use small aircraft, thus reducing the number of passengers that could benefit from the service.

² TWA's allocated slot times for its nonstop DCA-Los Angeles service were in the 1100 and 1300 hour periods. 49 U.S.C. § 41718(c)(2) does not allow us to assign more than two slot exemptions per one hour period, and most one hour periods were fully subscribed by the Department's Notice dated August 2, 2000.

America West Airlines, Inc.

America West requests two slot exemptions to operate one additional round trip between Phoenix, and DCA using B-757 aircraft (190 seats). In the alternative, if the Department determines that preserving the current DCA-Los Angeles is a primary public interest consideration, America West requests that it be considered as an applicant for such service. America West argues that an additional DCA-Phoenix frequency would enable it to be an effective competitor at DCA, and that it is the only airline with both a large network and low fares to compete with large incumbent carriers in multiple Washington markets.

Other carrier applicants oppose America West's proposal, arguing that it has already been granted more DCA slot exemptions than any other carrier, that the Department has previously rejected America West's request for more than four slots in the Phoenix-DCA market, and that its proposal to serve the Los Angeles-DCA market should not be accepted since it would prefer to provide additional service to Phoenix.

American Airlines, Inc.

American requests two slot exemptions to provide one daily round trip between DCA and Los Angeles using B-757 aircraft (176 seats). American argues that the reasons for selecting Los Angeles in the first proceeding remain in effect, and that its request should be granted because its significant presence at Los Angeles would allow it to best compete with the largest Los Angeles carrier, United.

Other carrier applicants oppose American's request, arguing that it already has a strong presence at Los Angeles and at DCA and other Washington airports. As such, it is a dominant carrier in the Los Angeles-Washington market and it operates substantial connecting service between DCA and Los Angeles via within-perimeter hubs such as Dallas/Ft. Worth or Chicago.

Continental Airlines, Inc.

Continental applied for two slot exemptions to provide one daily round trip to Los Angeles with B-757 aircraft (183 seats). Continental contends that its selection would duplicate the benefits ascribed to TWA's award, i.e., Continental has a relatively small DCA presence and would provide enhanced competition to the large incumbent carriers at both DCA and Los Angeles.

Other carriers argue that in fact Continental has a relatively strong presence at DCA but very few operations at Los Angeles, seriously limiting its ability to provide network benefits.

Delta Air Lines, Inc.

Delta requests two slot exemptions to provide one daily round trip to Salt Lake City using B-757 aircraft (183 seats). Delta argues that its proposal would best satisfy the objectives of maximizing domestic network benefits, that its Salt Lake City hub is well located for low circuitry DCA connecting service for numerous communities, and that it would provide the best and strongest competition for American and United. The Utah Air Travel Commission and the Salt Lake City Department of Airports (Utah and the Salt Lake City Parties) filed answers in support of Delta's application. They argue that Delta's strong Salt Lake City presence and the excellent geographic position of Salt Lake City for low-circuitry routings to DCA make Delta the superior choice.

The other applicants have stated that Delta already is a large operator at DCA and that most of the markets that could connect at Salt Lake City already have the ability to connect one-stop to DCA via one of Delta's interior hubs at Atlanta or Cincinnati.

Frontier Airlines, Inc.

Frontier requests two slot exemptions to operate one additional round trip between Denver and DCA using B-737-300 aircraft. Frontier states that its DCA-Denver service authorized by the Department has been successful, that it operates at a significant disadvantage compared with other carriers operating more flights in the Washington-Denver market, and that it could offer better service and compete more effectively with a second daily round trip. Frontier also argues that due to increasing airline industry concentration it should be awarded the two available slot exemptions as a way to improve airline competition generally. The City and County of Denver filed an answer in support of Frontier's application. Denver asserts that Frontier has substantially improved competition at Denver, but the selection of Frontier's proposal is critical to the full development of Frontier's DCA-Denver service and Frontier's continued growth generally as a new entrant carrier.

Parties opposing the Frontier application argue that due to Frontier's previous selection for DCA-Denver service, an award to Frontier in the instant case would add no new communities receiving first-time, single-connecting service to DCA. They further state that Frontier is no longer a new entrant at DCA, that Frontier's small aircraft size provides only limited benefits, and that Frontier has only a modest hub at Denver.

National Airlines, Inc.

National requests two slot exemptions to operate one additional daily round trip between Las Vegas and DCA. National argues that the Department gave significant weight to improving competition and providing additional service alternatives by awarding DCA slot exemptions to carriers with only a limited DCA presence, and that the same reasoning remains valid for an additional service award to National.

Other carriers objected to National's proposal on the grounds that the only realistic connecting opportunities, i.e., network benefits, would be to Los Angeles and San Francisco, cities that already have significant service to Washington, including substantial connecting service to DCA.

United Air Lines, Inc.

United requests two slot exemptions to operate one round trip between Los Angeles and DCA with 182-seat B-757 aircraft. United contends that maintaining the DCA-Los Angeles service should be given priority since Los Angeles has the largest population, greatest commercial center and largest connecting hub of any beyond-perimeter community, and that grant of its request would not only allow the benefits of TWA's DCA-Los Angeles service to be preserved, but also to be significantly expanded.

Other carrier applicants oppose United's request, arguing that it already has a strong presence at Los Angeles and at DCA and other Washington airports. As such, it is a dominant carrier in the Los Angeles-Washington market and it operates substantial connecting service between DCA and Los Angeles via its within-perimeter hub at Chicago.

Vanguard Airlines, Inc.

Vanguard requests two slot exemptions to provide one daily round trip between DCA and Kansas City with beyond service to Los Angeles. Vanguard acknowledges that Kansas City is within the perimeter, but asserts that a literal reading of AIR-21 allows for consideration of its application because its Kansas City hub would provide network benefits to passengers and communities beyond the perimeter. Vanguard argues that its proposed service would bring low fares to the beyond perimeter markets that Vanguard serves from Kansas City.

Other carriers argue that Vanguard should be dismissed outright on the grounds that Kansas City is within the 1,250 perimeter.

DECISION

We have decided to select Alaska Airlines for nonstop service to Seattle. Our selection is premised on our conclusion that its proposed service best meets the statutory requirements for allocation of DCA slot exemptions that are specified in AIR-21.

The Congress, in establishing the additional slot exemptions at Reagan National Airport, stipulated four criteria that the Department must consider in awarding these exemptions. These criteria supplant the broader "public interest" standard that the Department has traditionally employed in deciding carrier selection cases.

§ 41718(a)(1) directs that any slot exemptions we award must provide “domestic network benefits” beyond the perimeter. Second, under § 41718(a)(2), the slot exemptions awarded must also increase competition by new entrant carriers or in multiple markets. Third, under § 41718(a)(3), the exemptions must not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter. Finally, under § 41718(a)(4), the exemptions granted must not result in meaningfully increased travel delays. Congress did not provide any specific guidance as to the weight we should assign among these criteria in our decisional process; however, the statute requires that any successful applicant meet all four criteria.

Because we find, as discussed below, that each of the proposals would not reduce travel options for communities served by small and medium hub airports within the perimeter and would not result in meaningfully increased travel delays, we focus our analysis in this proceeding on the relative network benefits and enhancements to competition by new entrants that are afforded by each of the proposals under consideration.

As was the case in our first DCA exemption proceeding, applicants have tended to emphasize one or the other of these two criteria, depending upon the strength of their existing presence at DCA. Those with the strongest presence highlighted the scope and size of their respective networks at their beyond-perimeter hubs and the competitive benefits that could be brought to multiple markets via those networks. Applicants with a more limited DCA presence stressed that the Congressional objective to advance competitive benefits could best be addressed by granting their applications. Carriers in this latter group argued that even though, in most cases, their networks were smaller, their selection would produce a stronger competitive impact than an award to any of the larger, more established DCA incumbents. With the exception of Alaska and Vanguard, each of the applicants in the group with a limited DCA presence received an award of at least two slot exemptions in our earlier decision. They now argue that additional frequencies are required to expand the service and competitive benefits of their previous selection.

In Order 2000-7-1, we concluded that Congress's direction could best be met by giving primary consideration to carriers that had either no presence or limited operations at DCA and that had proposed services that would also provide competitive benefits in multiple markets. We chose additional service opportunities by new competitors over existing applicants at DCA because we determined that this course would produce a greater competitive impact than would additional service by the larger DCA incumbents, thereby best satisfying the statutory objective of increasing competition.

As indicated, under § 41718(b)(3), the Department must consider the effect of an award of exemptions for new outside-perimeter service upon existing inside-perimeter operations. Specifically, we must ensure that an award of exemptions would not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter. In our earlier decision, we concluded that Congress sought to ensure that new services provided through the AIR-21 exemptions would not displace or disrupt existing services at small or medium hubs. In the instant proceeding, as was the

case when we initially awarded these exemptions, there was very little argument by the parties that a specific award to a city outside the perimeter would have an adverse impact on existing service within the DCA perimeter. We recognize that the establishment of additional service options may have the result of diverting some traffic from existing services that are now provided from small and medium hubs inside the perimeter. However, there is no persuasive evidence in the record of this proceeding to suggest the level of such diversion would jeopardize the future operation of any of those services.³

We have also reviewed the statutory criterion that the exemptions granted not result in meaningfully increased travel delays. As in the previous case, some commenters pointed out that the General Accounting Office in 1999 found that additional operations at DCA would not cause significant delays. We concluded in Order 2000-7-1 that 24 additional operations at DCA spread out over the entire slot-controlled period to no more than 2 per hour as required by § 41718(c)(2), would not “meaningfully” increase travel delays at DCA. We affirm that finding here. We also conclude that the minimal addition of two operations at any of the airports to which service has been proposed would not meaningfully increase the delays there.

We have concluded that the nonstop service between Reagan National Airport and Seattle proposed by Alaska most completely satisfies the AIR-21 statutory criteria. No other application so successfully combines enhanced competition as a result of new entry to DCA with network benefits beyond the nonstop hub as does Alaska’s proposal.

In light of the significance placed on new entry by AIR-21, we find Alaska’s initial entry into Reagan National to be a compelling factor in reaching our decision to allocate a single round trip service. Alaska is the only clearly qualified true new entrant in this proceeding.⁴ With the exception of Southwest Airlines, Alaska is the only major carrier that cannot now provide passenger service between DCA and beyond perimeter cities via either of its

³ United has argued that America West’s proposed Phoenix-DCA or Los Angeles-DCA services is likely to result in reduced service at America West’s Columbus hub. While we have decided not to select America West for other reasons, we are not persuaded that such reductions would likely have occurred had America West been granted exemptions for either of these services.

⁴ Vanguard’s assertion that the Department may award it beyond-perimeter exemptions under §41718(a) for nonstop service to Kansas City, a hub airport located within the perimeter, is highly debatable. It is true that, unlike § 41718(b), § 41718(a) does not literally restrict award of exemptions to airports on the basis of their geographic location. In structuring the framework for the award of exemptions at DCA, Congress did set out these separate authorities, but notably also provided for an equal number of exemptions for each classification. The equipoise inherent in this approach, which we believe Congress intended, would be unbalanced by Vanguard’s assertion that, effectively, it could receive awards for the same city under either subsection. Moreover, the language of § 41714(a) specifies that the Secretary “shall grant...exemptions from the application of [among others] section 40109 of this title,” in making the awards thereunder. That provision would have no purpose or applicability with regard to an award for nonstop service to an airport inside the perimeter. Section 40109 provides that carriers may not operate an aircraft nonstop between DCA and an airport outside the perimeter, so an exemption from that section would not have been necessary in the case of nonstop service between DCA and an airport within the perimeter such as Kansas City. Congress should not be presumed to have mandated an exemption where none is needed.

principal network hubs, both of which are beyond the DCA perimeter. Last year we gave significant weight to applicants with a limited DCA presence such as TWA or even more importantly, no DCA presence, such as Frontier and National. Given the framework outlined in our previous decision, Alaska's lack of any current presence at DCA gives it a decided advantage over competing applications, especially when the Department has so few slot exemptions to allocate. In addition, Alaska's selection will provide the carrier with a new market presence in the eastern United States.

In recognition of AIR-21's emphasis on the network benefits that result from an award of these slot exemptions, we find that an award to Alaska will bring substantial benefits to communities in the Pacific Northwest region as well as benefiting a number of Alaska communities. It is true that, in our initial DCA slot exemption order, we were concerned about Seattle's geographic limitations as a connecting hub for east-west traffic. However those concerns were raised in the context of Northwest's application in that earlier case. We believe that the current proposal by Alaska contains significant differences from Northwest's that serve to ameliorate many of those concerns. First, Alaska does not claim many of the circuitous connections from points in the Southwestern U.S. that Northwest listed as viable single-connecting cities for DCA-Seattle service. Second, unlike Northwest, Alaska has no inside-perimeter hubs that connecting passengers to DCA could utilize with less circuitry as an alternative to DCA-Seattle service. Thus, the potential network benefits of Alaska's proposal are not diminished by the potential self-diversion of passengers to other inside-perimeter hubs that was evident in Northwest's proposal. Third, Alaska's proposed service, unlike Northwest's, includes single-plane service beyond Seattle to Anchorage, Alaska's other hub, thereby enhancing competitive alternatives to DCA from Anchorage and smaller, more isolated, Alaskan communities.⁵

For the above reasons, we conclude that Alaska's DCA-Seattle proposal best meets the objectives that the Congress sought to promote in authorizing these exemptions and that it should be awarded the two slot exemptions that are at issue in this proceeding.

Clearly, Delta's proposed service to Salt Lake City also offers significant network benefits. Delta operates a substantial connecting hub at Salt Lake City and selection of Delta would bring DCA online single-connecting service to a substantial number of communities in the North and West. However, unlike Alaska, Delta already has the ability

⁵ We acknowledge that Alaska is proposing to operate its proposed service with B-737 aircraft, which are relatively small. However, we believe this is outweighed here by the network and competitive benefits otherwise apparent in Alaska's proposal. In Order 2000-7-1 we awarded Frontier two DCA slot exemptions under similar circumstances. (Note: In the Consolidated Answer of Alaska Airlines at 6, filed April 30, 2001, the applicant alluded to the possibility that it might be operating its proposed DCA-Seattle service with a new B-737-900 aircraft configured for 172 seats. On May 23, Alaska filed Amendment No. 4 to its application in which it advised the Department that with the selection of its DCA-Seattle proposal, it is prepared to utilize the B-737-900 aircraft in this service. On June 5, Alaska also filed a motion and leave to file an answer to Frontier dealing with this same issue. We will grant the motion, but since these latter two filings was made so late in the proceeding, we did not consider them in making our decision.)

to serve, though its within-perimeter hubs at Atlanta and Cincinnati, most of communities to which it has proposed to offer single-connecting service.

Further, Delta already has a significant presence at DCA, operating the second largest number of slots of any carrier serving that airport. Consequently, its selection would not afford the benefits of competition by a new entrant carrier that represent one of the most important factors in our decision to select Alaska.

Frontier's DCA-Denver proposed service is attractive in several regards. First, Frontier, while no longer representing a potential new entrant at DCA, has only a very limited presence. Second, Frontier's new code-share agreement with Great Lakes Aviation would boost Frontier's online single connecting service to 37 communities as compared to the ten connecting cities that Frontier claimed in the first case. Finally, Frontier's DCA-Denver service has demonstrated success with a 65 percent load factor and significant network benefits for passengers traveling beyond Denver. Frontier argues that a single daily round trip in a given market does not provide a level of service attractive to passengers nor does it represent a credible competitive alternative for many DCA beyond-perimeter travelers.

However, this concern is shared by most of the carriers that were awarded slot exemptions last year. Only America West, in the Phoenix-DCA market, received an award sufficient to enable two daily round trips. Every other award in that proceeding was for only a single daily round trip in each city-pair market. While an additional round trip for Frontier, or any of the other carriers awarded DCA slot exemptions last year, would strengthen their respective services and market positions, we have concluded that the benefits of Alaska's proposal to establish an additional new competitor at DCA, coupled with the network benefits of its Seattle service, outweigh the benefits accruing from the augmentation of existing, albeit valuable, services.

Both America West and National, having received awards in our previous decision, also seek to add an additional round trip to augment their existing service. Several of the parties have argued that the grant of additional slot exemptions to America West for a third DCA-Phoenix roundtrip or to National for a second DCA-Las Vegas roundtrip⁶ would not be equitable given that other beyond-perimeter communities have not yet received any DCA nonstop service. As many of the parties have noted, selection of either America West or National would add no new communities receiving first time online single-connecting service to DCA. As with Frontier's proposal, while we are sympathetic to the difficulties of mounting effective competitive service with only limited available slot exemptions, in order to maximize the network and competitive benefits contemplated under AIR-21, the Department believes that we should maximize the number of DCA competitive players in concert with increasing the number of new communities receiving online single-connecting service.

⁶ In fact, with a selection of National, Las Vegas, as in the case of Phoenix with a selection of America West, would receive its third DCA roundtrip since America West also received slot exemptions for DCA-Las Vegas service.

We have decided not to award slot exemptions for Los Angeles service and we regret that our action here will, by necessity, result in the cessation of the nonstop DCA-Los Angeles round trip operated initially by TWA and now by TWA Airlines LLC. When we initially awarded TWA the opportunity to operate a daily round trip between DCA and Los Angeles, we found that TWA would satisfy the dual objectives of advancing competition at DCA, by enhancing its limited presence there, and affording network benefits to a number of smaller cities beyond Los Angeles. Given the requirements of AIR-21, those objectives remain unchanged. But the DCA-Seattle proposal of Alaska represents, in the context of this proceeding, a significantly better option for achieving them, particularly when compared to the current proposals for service to Los Angeles.

The Los Angeles applicants fall into two groups: American and United, with significant Los Angeles hubs and Continental and America West, with more limited Los Angeles operations but that would bring new competition to the Los Angeles-Washington market.

Our previous decision recognized the drawbacks of selecting either American or United in light of the criteria established by AIR-21. Both have a significant presence at DCA and are major participants in the overall Washington-Los Angeles market. While both carriers argued the advantages of their respective Los Angeles networks, even American acknowledged that American and United held a combined 80 percent market share in the Washington-Los Angeles market.⁷ We concluded that regardless of the network benefits that American or United would provide, selection of either carrier would increase the dominant position that the pair already maintains in the Washington-Los Angeles market. In addition, we concluded that an award to either would not optimize the pro-competitive goals of § 41718 given the significant DCA operations of both airlines. Nothing in the current American or United proposals have persuaded us to alter our earlier conclusion.

Continental's network operations at Los Angeles are considerably smaller than those of either American or United and, consequently, the network benefits to communities beyond Los Angeles are more modest. Continental would depend on American Eagle to provide connecting feed traffic to its nonstop Los Angeles-DCA flight. As noted by United and Delta, a review of TWA's experience with a limited Los Angeles network shows that the connecting traffic, and consequently the domestic network benefits, provided by TWA's service were meager. Moreover, Continental's operation of 43 DCA slots cannot be characterized as a limited presence, especially as compared to only 13 DCA slots operated by TWA last year. Finally, like American and United, Continental operates within-perimeter hubs that allow its west coast passengers to make single connections for service to DCA.

Given its limited network presence at Los Angeles and the significant scope of its operations at DCA, we cannot conclude that the selection of Continental would best satisfy the criteria specified by AIR-21.

⁷ Answer of American Airlines, April 30, 2001, at 21.

America West applied for slot exemptions for DCA-Los Angeles only if we determine that Los Angeles requires nonstop DCA service.⁸ American, Continental, and United have made the argument that we should maintain DCA-Los Angeles service based on the large size and importance of Los Angeles and especially the local Washington-Los Angeles market. However, as Delta correctly notes, the size and significance of the local market are not AIR-21 selection criteria, and accordingly we cannot make a finding that any one city, such as Los Angeles, deserves DCA nonstop service on this basis. Given this fact, together with America West's stated preference for additional Phoenix service,⁹ we have chosen to concentrate on America West's DCA-Phoenix proposal, which was discussed earlier in this order. However, we would note that America West's proposed Los Angeles service, like Continental's, would offer only minimal network benefits because of its limited Los Angeles presence.

We have chosen not to select Vanguard, not only because of its dubious claim to eligibility given its proposal to offer nonstop service to a city within the DCA perimeter,¹⁰ but also because it failed to provide sufficient evidence showing how its proposal would meet the AIR-21 statutory criteria. Specifically, Vanguard has failed to satisfactorily demonstrate the domestic network benefits flowing from its proposed service nor did it adequately outline the competitive advantages of its proposal.

CONDITIONS

Assignment of Slot Times: We are directing Alaska Airlines, Inc. to file in the Docket no later than July 30, 2001, the proposed flight schedules and effective date for inauguration of operations authorized by this order. The actual inauguration of service must be no later than October 28, 2001. As we stated in our Notice of April 6, 2001, the slot times currently allocated for TWA's DCA-Los Angeles are in the 1100 and 1300 hour periods. Since 49 U.S.C. §41718(c)(2) does not allow us to assign more than two slot exemptions per one hour period, and most one hour periods were fully subscribed by the Department's Notice of August 2, 2000, Alaska should contact the Slot Administration Office of the Federal Aviation Administration as soon as possible to determine available slot times. The Department will determine the final slot times assigned to Alaska in accordance with the provisions of 49 U.S.C. §41718(c)(2). Thereafter, Alaska may request the FAA Slot Administration Office to approve exchanges of the assigned slot exemptions times with other slots or slot exemptions for the purpose of conducting the operations authorized by this Order in a different hour. In acting on such a request the FAA will employ standard practices in conjunction with applicable statutory and regulatory requirements for the utilization of slot times between and among individual air carriers. Regardless of subsequent slot time exchanges the slot times assigned by the Department or the FAA's Slot Administration Office pursuant to this order will be tagged. If any of the service

⁸ Application of America West at 2.

⁹ Even America West discounts the value of DCA-Los Angeles service as compared to additional DCA-Phoenix service, Consolidated Comments of America West Airlines at 11.

¹⁰ See footnote 4.

granted by this Order is suspended, or is not inaugurated in a timely manner, the Department will withdraw the slot exemptions based on their tagged slot time rather than by any subsequent slot time operated.

Transition of Service. By Order 2001-4-8, issued April 6, 2001, the Department granted the application of TWA Airlines LLC for *pendente lite* authority to operate two slot exemptions at DCA for nonstop service to and from Los Angeles pending a carrier selection in this case or for 90 days whichever came earlier. In order to ensure a smooth transition of service and full utilization of the available slot exemptions, we are amending the provisions of Order 2001-4-8 to allow TWA Airlines LLC to continue to use the slot exemptions until Alaska Airlines begins service. In that regard, we direct Alaska Airlines, Inc. to file in the Docket no later than July 30, 2001, a proposed effective date for inauguration of service for the operations authorized herein that shall not be later than October 28, 2001. If Alaska Airlines does not inaugurate service by October 28, or if it inaugurates service and later discontinues it for any reason, the slot exemptions will be immediately recalled to the Department for redistribution.

We expect TWA Airlines LLC and Alaska Airlines to work cooperatively to facilitate an orderly transition of service. Before TWA Airlines LLC suspends its Los Angeles-DCA service, we expect it to contact passengers that hold reservations on the flights to be cancelled and to assist them in making alternative reservations.

ENVIRONMENTAL ISSUES

Although 49 U.S.C. §41718(e) specifically exempts our action here from environmental review¹¹, we remain sensitive to the environmental impact of increased operations at DCA. Consistent with the statute, we will require that all operations authorized by this order will be conducted with Stage 3 aircraft. We also note that 49 U.S.C. §41718(g) requires the Department to submit a study to the Congress in fiscal 2001 comparing noise levels at the four slot-controlled airports with noise levels experienced before 1991. DCA also has, and must give, priority for noise compatibility planning and program grants, 49 U.S.C. §§ 47117(e), and 41718(e)(3).

ADMINISTRATIVE TERMS

As the FAA slot regulation makes clear "slot(s) do not represent a property right but represent an operating privilege subject to absolute FAA control (and) slots may be withdrawn at any time to fulfill the Department's operating needs..." 14 C.F.R. 93.223(a). Under the provisions of 49 U.S.C. §41714(j) these carriers may not sell, trade, transfer, or convey the operating authorities granted by the subject exemptions unless otherwise authorized herein.

¹¹ §41718(e) states, "Neither the request for, nor the granting of, an exemption under this section shall be considered for purposes of any Federal law a major Federal action significantly affecting the quality of the human environment."

Further, granting of these exemptions in no way is to be construed as allowing a carrier to operate services that it could not otherwise operate, *i.e.*, carriers must still meet all the requirements of the Department of Transportation, the Federal Aviation Administration, and all other statutes and regulations governing air transportation.

This order is issued under authority delegated in 49 C.F.R. 1.56(a).

ACCORDINGLY,

1. The Department grants exemptions from 14 C.F.R. Part 93, Subparts K and S, to Alaska Airlines, Inc., (two slot exemptions to serve Seattle, Washington) to enable Alaska to conduct the operations described in this order at Ronald Reagan Washington National Airport;
2. The Department directs Alaska Airlines, Inc., to file in the Docket no later than July 30, 2001, the proposed flight schedules and effective date for operations authorized by this Order. The effective date of the service must be no later than October 28, 2001. The slot exemptions granted must be conducted with Stage 3 aircraft, may not be used for operations between the hours of 10:00 p.m. and 7:00 a.m., and may not increase the number of operations at Ronald Reagan Washington National Airport in any one-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than two operations. Alaska is advised to consider maximum flexibility in proposed operating times to ensure compliance with these limits;
3. The Department will make the final determination of slot times as soon as possible after schedules are filed to enable the carriers to conduct the operations authorized by this Order. The Department directs Alaska Airlines, Inc. to contact the Federal Aviation Administration Slot Administration Office for the determination of available slot times. The FAA will assign slot exemption numbers, effective dates, and operating times consistent with statutory limitations;
4. If Alaska Airlines, Inc., fails to inaugurate service by October 28, 2001, or if service is inaugurated and subsequently suspended, the Department will reallocate these slot exemptions;
5. The Department extends the grant of authority as described in ordering paragraph 8 of Order 2001-4-8 through October 27, 2001, or until Alaska Airlines, Inc., inaugurates the services authorized by this order, whichever is earlier;
6. Except as otherwise granted, we deny all other applications for exemptions from 14 C.F.R. Part 93, Subparts K and S, filed in these dockets;
7. We grant all motions to file late or otherwise unauthorized documents;

8. The authorities granted under these exemptions are subject to all of the other requirements delineated in 14 C.F.R. Part 93, Subparts K and S, including, but not limited to, the reporting provisions and use or lose requirements; and

9. We will serve this order on all parties in Docket OST-2000-7181 and upon Vanguard Airlines, Inc.

By:

SUSAN MCDERMOTT
Deputy Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document will be made available on the World Wide Web at:
<http://dms.dot.gov/>*

Summary Of The Pleadings

Alaska Airlines, Inc.

Alaska requests two slot exemptions in order to operate one daily round trip between Seattle and DCA with 120-seat B-737-700 aircraft. (Alaska also filed a number of amendments that are discussed in footnote 5 of the order.) Alaska asserts that it would also provide Anchorage with the first one-stop DCA single plane beyond service, and that it operates a substantial network of connecting services at Seattle and Anchorage in conjunction with its code-share partner Horizon Air, including over 320 daily departures to 68 nonstop destinations.

Alaska states that its nonstop Seattle-DCA service would provide new or improved single connection DCA service to 54 communities. Alaska argues that 26 U.S. communities and one Canadian community would receive their first online single connecting access to DCA, six communities (five U.S. and one Canadian) would gain the first competitive online single connecting service to DCA, nine communities (six U.S. and three Canadian) would gain improved DCA online single connecting service, and through two Alaska code-share partners 12 small communities (11 U.S. and one Canadian) would also receive the first ever online single connecting service. Alaska argues that the Department found previously that proposals from new entrant carriers should be given significant decisional weight and that Alaska is a new entrant carrier with no service at DCA. Alaska argues that its proposed service would offer considerable new competition to United's Seattle-Washington service where United enjoys an 80 percent market share. Alaska contends that its proposed service will not reduce travel options for communities served by small and medium hub airports within the perimeter or result in any increased travel delays. Alaska argues that its proposal has received wide support.

Alaska contends that the other applications provide fewer benefits. According to Alaska, the DCA-Salt Lake City O&D market is less than one-half of the DCA-Seattle market, that the Washington-Los Angeles market with 18 flights per day to Dulles and BWI from American and United already receives substantial service and thus Los Angeles is less deserving than Seattle, that its strong presence at Seattle and Anchorage would provide substantially greater network benefits than the current services granted to TWA and now operated by TWA Airlines LLC, that virtually every California community enjoys online single connecting service to DCA as a result of the awards made by Order 2000-7-1 to hubs other than Los Angeles, and that in combination with existing within perimeter hub connecting opportunities, California communities enjoy significantly greater access to DCA than do Pacific Northwest and Alaskan communities.

America West Airlines, Inc.

On April 4, 2001, America West requested the two available DCA slot exemptions to enable it to operate one additional round trip between Phoenix, AZ, and DCA using B-757 aircraft (190 seats). In the alternative, if the Department determines that preserving the

current DCA-Los Angeles is a primary public interest consideration, America West requests that it be considered as an applicant for such service.

America West contends that grant of its application would allow America West to operate the three daily round trips in nonstop DCA-Phoenix service that it originally requested last Spring. America West argues that this would provide a frequency of service necessary to be an effective competitor at DCA and would maximize the benefits of America West's service recognized by the Department in its initial decision last July. America West argues that it is the only airline with both a large network and low fares to compete with large incumbent carriers in multiple Washington markets. America West argues that its DCA-Phoenix and Las Vegas services awarded earlier have been successful with 65 percent load factors and competitive fares to behind-West Coast points. America West argues its continuing expansion in fleet size and markets served, particularly at Phoenix, indicates that it will be a vital competitor for the foreseeable future. America West asserts that a third DCA-Phoenix flight would make America West eligible to bid for Government contract fares for this route, thus improving competition and lowering travel expenses for the taxpayers. Finally, America West argues that its proposed service would benefit small communities and not reduce travel options for small hub airports and medium hub airports inside the perimeter.

America West contends that as a result of the TWA acquisition, American will gain two gates and 32 slots at DCA and after absorbing TWA's current 11 percent market share in the DCA-beyond perimeter markets, American will have a 43 percent market share of DCA-beyond perimeter markets. America West also argues that Southwest's presence at Baltimore/Washington International Airport has not disciplined DCA-beyond perimeter fares and cannot be expected to do so in the future. America West contends that its average fares are 29 percent lower than the industry average of all other carriers in its East Coast-West Coast markets and that its walk up business fares are 40 to 50 percent lower than the fares offered by the major incumbent carriers requesting the two available slot exemptions.

Regarding Los Angeles, America West argues that the Department should reject the applications of United and American for Los Angeles service since the two carriers control more than 80 percent of the Los Angeles-Washington market and both have large DCA presences. America West contends that it would duplicate the DCA service to the five connecting cities served by TWA by having a code-share arrangement with American Eagle. America West asserts that Continental already offers single online connecting service to DCA via hubs at Newark, Cleveland, and Houston and that Continental now has a considerably larger presence at DCA than does America West.

American Airlines, Inc.

On February 12, 2001, American Airlines applied for the two beyond-perimeter slot exemptions to provide one daily round trip between DCA and Los Angeles International Airport (LAX). American would use B-757 aircraft (176 seats). American maintains that LAX is the best candidate for the available two slot exemptions. The applicant argues that

the reasons for selecting Los Angeles in the first proceeding remain in effect: Los Angeles is the largest U.S. city outside the DCA perimeter and the Washington-Los Angeles market is much larger than any other proposed beyond-perimeter market.

American contends that its request should be granted because it has a significant presence at Los Angeles with 237 daily departures and connecting service, either on its own or through its code-sharing agreements, to 34 U.S. points and 17 foreign points, that four California cities--Bakersfield, Monterey, San Luis Obispo and Santa Barbara--would continue to receive the first one-stop service to DCA gained from the award to TWA, that numerous other cities would also receive competitive one-stop service from American and American Eagle, that DCA would also gain new single connecting online service to several international points on the Pacific Rim, and that American would operate using the B-757, the largest aircraft authorized to serve DCA.

American also argues that the grant of its proposed service would improve competition at LAX, where United Air Lines is the largest carrier, and that its application best matches all four of the AIR-21 selection criteria

Continental Airlines, Inc.

On January 30, 2001, Continental applied for the two available DCA slot exemptions to provide one round trip a day to Los Angeles with B-757 aircraft (183 seats).

Continental argues that the Department previously rejected applications of carriers that were already major operators at DCA. Continental contends that its selection would duplicate the same benefits ascribed to TWA's award, *i.e.*, Continental has a relatively small DCA presence (43 slots) and would provide single connecting online service to the five communities served by TWA/Chautauqua plus additional cities not served by TWA. The applicant argues that granting its application would provide enhanced competition to the large incumbent carriers at both DCA and LAX. Continental argues that it would be a stronger competitor and offer better service benefits in the DCA-Los Angeles than TWA.

Delta Air Lines, Inc.

On January 29, 2001, Delta filed an application requesting the two DCA slot exemptions awarded to TWA. Delta would provide one daily nonstop round trip to Salt Lake City (SLC) using B-757 aircraft (183 seats).

Delta argues that the grant of its proposal would best satisfy the AIR-21 objectives of maximizing domestic network benefits and improving competition in multiple markets while operating the largest aircraft authorized for DCA service. Specifically, the applicant contends that its proposal would provide 33 communities outside the perimeter with nonstop to nonstop online connecting service to DCA. Delta states that these would include 18 small and medium-sized communities with 11 communities receiving first ever nonstop to nonstop online single connecting service to DCA and seven communities receiving first competitive nonstop to nonstop online single connecting service to DCA.

Delta argues that its SLC hub is well located for low circuitry DCA connecting service for numerous communities. Delta asserts that its proposed service would provide over 8,000 possible daily connecting seats and almost three million annual single connection seats to DCA. Delta contends that with its partner, Skywest, it offers connecting service to 65 cities from Salt Lake City and that it transported almost 15 million passengers to or from SLC last year.

Delta contends that it would provide the best and strongest competition for the two dominant Washington area carriers, United and American, that it operates at a competitive disadvantage to American and United since its principal western hub, Salt Lake City is outside the DCA perimeter while its competitors operate significant service between DCA and their within-perimeter hubs to connect Washington-western cities traffic, and that its selection would be the best choice to improve market structure in Washington-western cities markets. In addition, the applicant argues that SLC is a major and rapidly growing business center of the western United States with significant ties to the Washington, D.C. area, that there would be no reduction in travel options for communities served by small hub airports and medium hub airports within the perimeter, as the carrier has no plans to reduce existing service, and that its proposed service would not cause additional travel delays. The applicant asserts that Salt Lake City is among the least congested of the western U.S. hub airports. Delta also asserts that its proposal has received strong congressional and civic support.

Frontier Airlines, Inc.

On February 14, 2001, Frontier filed an application for the two available DCA slot exemptions.¹ Frontier seeks to operate one additional nonstop round trip a day between Denver and DCA with B- 737-300 aircraft. In support of its application, Frontier states that its DCA-Denver service authorized by Department Order 2000-7-1 has been successful with an average load factor of 65 percent, but that with only a single daily round trip, Frontier operates at a significant disadvantage compared with other carriers operating more flights in the Washington-Denver market. Frontier contends that operation of this single daily flight is costly and that passengers have few options if a flight is delayed or cancelled due to weather, congestion, or airport problems. Frontier argues that it could offer better service in the market and compete more effectively with a second daily round trip. Frontier states that there would be no reduction in travel options for communities served by small hub airports and medium hub airports within the perimeter, as the carrier does not serve within perimeter cities from DCA. Frontier asserts that its proposed service would not cause additional travel delays. Frontier also argues that its original proposed service received strong congressional and civic support. Finally, Frontier states that its application most closely meets all of the AIR-21 statutory criteria.

¹ Frontier subsequently filed a series of five amendments to its application. Amendment 1, filed April 30, is a set of letters of support. The remaining amendments, filed between May 7 and June 1, deal with Frontier's code-share agreement with Great Lakes Aviation, operating limitations of Alaska's B-737 aircraft, assertions regarding low fare policies of competing applicants, Frontier's recent operating results, and arguments regarding competition.

Frontier argues that due to increasing airline industry concentration it should be awarded the two available slot exemptions as a way to improve airline competition generally. Frontier asserts that specifically at DCA carriers such as American, Delta, and Continental already hold substantial numbers of slots, and therefore should not be granted additional slots to exacerbate the current competitive imbalance. Frontier argues that contrary to suggestions made by Continental, the two available slot exemptions should not be reserved for Los Angeles service, that Continental already has significant DCA slot holdings and that Continental can compete for DCA-Los Angeles traffic through its hubs at Houston, Cleveland, and Newark.

National Airlines, Inc.

On April 16, 2001, National applied for two slot exemptions in order to operate one additional daily round trip between Las Vegas and DCA. National currently serves this market with 175-seat B-757 aircraft. National states that the AIR-21 statutory criteria would be best met by the selection of National's proposal. National argues that by Order 2000-7-1, the Department gave significant weight to improving competition and providing additional service alternatives by awarding DCA slot exemptions to carriers with only a limited DCA presence. The applicant argues that same reasoning behind the Department's award of slot exemptions to National for DCA-Las Vegas service remains valid for an additional service award to National. National states that it is a low-fare carrier with a very small DCA presence. As with its earlier award, National would continue to serve Los Angeles and San Francisco with online connecting service. National contends that its DCA-Las Vegas service has succeeded as exemplified by a March 2001 load factor of 76.5 percent, but that the DCA-Las Vegas market continues to be underserved. The applicant maintains that during the year ended September 2000, Las Vegas's McCarran International Airport was the fourth largest airport based on domestic O&D passengers and that Las Vegas traffic has been growing. National asserts that according to the 2000 Census Las Vegas was the fastest growing area in the nation for the past decade. National contends that its single DCA-Las Vegas flight is costly since the aircraft must be parked overnight at DCA and that National cannot mount effective competitive service without additional flights.

National also contends that its proposed additional Las Vegas-DCA service would not reduce travel options for communities within the DCA perimeter and would not result in meaningfully increased travel delays.

United Air Lines, Inc.

On February 26, 2001, United applied for the two available DCA slot exemptions to allow it to operate one nonstop round trip a day between Los Angeles and DCA using 182-seat B-757 Stage 3 aircraft. United argues that all of the applicants satisfy the AIR-21 criteria regarding no reduction in travel options for communities served by small and medium hub airports within the perimeter and that the proposed service would not result in meaningfully increased travel delays. United argues that grant of its request would not only allow the benefits of TWA's DCA-Los Angeles service to be preserved, but also to be significantly expanded. The applicant contends it can offer online connections at LAX

to 33 California and western U.S. cities. United asserts that its proposed service will provide nine communities with first service to DCA and 21 California communities with single-connecting service to or from DCA via LAX. United argues that although it is not a new entrant, its proposed service would best address the AIR-21 goals of maximizing domestic network benefits and beyond perimeter competition in multiple markets. In particular, United argues that along with its commuter partners, it offers between 350 and 400 daily departures at LAX to 51 U.S. and 10 international cities. United contends that this hub network is superior to that of any other LAX applicant, and thus United would provide connecting service to more passengers in small and medium-sized communities than any other carrier. United contends that maintaining the DCA-LAX service should be given priority since Los Angeles has the largest population, greatest commercial center and largest connecting hub of any beyond-perimeter community.

Vanguard Airlines, Inc.

On April 11, 2001, Vanguard requested the two available slot exemptions to provide one daily round trip flight between DCA and Kansas City with beyond service to Los Angeles. Vanguard did not specify the aircraft type for its proposed service.

Vanguard acknowledges that Kansas City is within the perimeter, but asserts that a literal reading of AIR-21 statute allows for consideration of its application because its Kansas City hub would provide network benefits to passengers and communities beyond the perimeter. Vanguard states that it has made this application because it has been unable to secure DCA slots by any other means and the current proceeding is the only opportunity available for the carrier to gain entry at DCA. Vanguard argues that its selection would best meet the AIR-21 selection criteria since it is a new entrant airline that provides connecting service beyond the DCA perimeter. Vanguard argues that its proposed service would bring low fares to the beyond perimeter markets that Vanguard serves from Kansas City. Vanguard argues that approximately one half of its La Guardia traffic connects through its Kansas City hub and that the La Guardia market is similar to DCA. Vanguard argues that its New York-Los Angeles walkup fare is 64 percent lower than the comparable fare offered by American and other major carriers and that Vanguard can offer similar savings for DCA passengers. Vanguard contends that its proposed service would have a minimal impact on congestion since Kansas City is a non-congested airport.

RESPONSIVE PLEADINGS

Pleadings in Support of Various Applications

Denver

On April 30, 2001, the City and County of Denver filed an answer in support of Frontier's application. Denver argues that it is the largest beyond-perimeter true east-west hub and the principal airport in the Rocky Mountain and Great Plains regions. Denver asserts that in 2000 it was the sixth largest U.S. airport with 38 million passengers and an extensive hub network of connecting cities. Denver asserts that next to the Washington, D.C. area it has the largest number of civilian federal government employees and this strong

community of interest indicates a need for increased lower-fare service to DCA with its closer-to-downtown location. Denver contends that of all the applicant cities, it is the closest to DCA and, therefore, selecting Denver service would be the outcome most consistent with the intent of the Perimeter Rule to give priority to closer cities in granting additional DCA access. Denver asserts that Frontier has substantially improved competition at Denver, but the selection of Frontier's proposal is critical to the full development of Frontier's DCA-Denver service and Frontier's continued growth generally as a new entrant carrier. Denver argues that Frontier's proposal will provide important additional service to many small communities in the region, particularly given Frontier's proposed new code-share agreement with Great Lakes Aviation. Denver argues that with only two slot exemptions Frontier continues to be a new entrant/limited incumbent at DCA, an important consideration in the Department's initial decision last year and that selection of Frontier would also increase competition by new entrant carriers, one of the AIR-21 selection criteria. Denver contends that an award to Frontier would also increase the attractiveness of its DCA-Denver service for business travelers and permit Frontier to spread some of the high costs of its single daily DCA-Denver service. Denver argues that Alaska Airlines, unlike Frontier, has no eastern U.S. presence, and that Alaska has demonstrated little interest in developing eastern markets.

Seattle

On April 30, 2001, the Port of Seattle filed an answer in support of Alaska's application. Seattle contends that it is the largest Pacific Northwest market as well as a gateway to other Northwest cities and that the region is growing economically and in population. Seattle argues that Alaska is the only new entrant carrier in this proceeding in contrast to other larger applicants that have DCA service to their hubs. Seattle argues that selection of Alaska would bring competition to the monopoly Washington-Seattle market. Seattle contends that it is the only proposed airport that does not receive nonstop competitive service to the Washington area and therefore Alaska's selection would have a greater competitive impact than any other applicant. Seattle argues that Alaska's proposed service is likely to be successful given Alaska's strong Seattle presence, Alaska's competitive track record, and the demonstrated high load factors of current Washington-Seattle service. Seattle asserts that Alaska's selection would result in significant network benefits, and that Alaska's selection would provide a wider geographic distribution of the benefits, therefore increasing competition in multiple markets.

Utah/Salt Lake City

On April 30, 2001, the Utah Air Travel Commission and the Salt Lake City Department of Airports (Utah and the Salt Lake City Parties) filed an answer in support of Delta's application. The Utah and the Salt Lake City Parties contend that Delta's selection would maximize new and additional benefits for passengers and would best comply with the criteria of AIR-21. They argue that Delta's selection would bring new and expanded DCA connecting benefits to 33 beyond-perimeter cities, as well as increased competition in both the Washington-Salt Lake City market and in the beyond-Salt Lake City markets. The Utah and the Salt Lake City Parties argue that these domestic network benefits include 18 small and medium sized cities in seven states with 11 of these communities

receiving first nonstop to nonstop connecting service to DCA and seven communities receiving first competitive nonstop to nonstop connecting service to DCA. They assert that an award to Delta would provide 133,500 nonstop seats a year for new DCA services to Salt Lake City and these beyond communities and would significantly improve traveling convenience for thousands of passengers. The Utah and Salt Lake City Parties contend that Delta's selection would result in significantly less connecting circuitry for DCA service to more points than would the selection of another applicant. They argue that Delta's strong Salt Lake City presence serving 65 cities with over 254 daily departures and the excellent geographic position of Salt Lake City for low-circuitous routings to DCA make Delta's proposal the superior choice. In contrast, the Utah and Salt Lake City Parties argue that the West Coast proposals for Los Angeles and Seattle offer fewer domestic connecting opportunities. They argue that the remaining proposals offer substantially fewer connecting cities than does Delta's proposal. The Utah and the Salt Lake City Parties assert that Delta's proposal has received strong congressional and civic support.

Northwest Airlines, Inc.

On April 30, 2001, Northwest Airlines, Inc. filed a consolidated answer in support of Alaska's application.² Northwest contends that while the Department did not select a similar Seattle proposal made by Northwest last year, Alaska's proposed service provides two distinct advantages--Alaska's new entrant status at DCA and the significant domestic network advantages of its Anchorage-Seattle-DCA service. Northwest argues that Seattle is the second largest beyond-perimeter city, after Los Angeles, which does not receive nonstop DCA service and that Los Angeles-Washington already receives ample nonstop service. Northwest asserts that the enplanements of Alaska and Horizon Air at Seattle and Anchorage exceed those of six of the other applicants at their proposed hub cities, that Alaska's combined Seattle and Anchorage proposed service would result in more first ever and first competitively significant single carrier benefits than any other proposal, that Alaska, unlike Northwest, has no alternative inside-perimeter hubs where Seattle-connecting passengers could also receive online single connecting service, and that Alaska's strong Seattle presence and market identity would ensure that Alaska would not duplicate TWA's difficult experience in the DCA-Los Angeles market.

Opposition Pleadings

America West

On April 30, 2001, America West filed consolidated comments. America West argues that the Department should consider the growing market power of the large carrier networks and the need to foster alternative competing networks by carriers such as America West. Due to its significant network and low fares, America West claims to be the only applicant that can offer significant competition in the Washington/DCA-western communities markets. America West asserts that the recent loss of TWA makes this competition more urgent.

² Northwest has code-share and reciprocal frequent flyer agreements with Alaska in several West Coast markets.

America West contends that a third DCA-Phoenix round trip would add almost 139,000 seats a year to the market and at this service level, passengers would save approximately \$11.6 million. America West acknowledges that an additional award now would cause it to hold eight of the 12 slot exemptions authorized by AIR-21. Nonetheless, America West asserts that AIR-21 does not preclude this result nor does it require that the potential competitive impact of new DCA slot exemptions should be diluted through awards to multiple carriers.

America West argues that its fares between the North and the West are 35 percent lower than the industry average and \$136 lower than the average fares for United, Continental, American and Delta.

America West argues that the Department faces an almost identical set of choices in the current proceeding as previously and the Department should apply the same selection standards in this case. According to America West this would preclude an award to United, American, Delta, or Continental since all operate significant numbers of DCA slots, and all already have substantial one-stop connecting service to DCA or significant nonstop Los Angeles service to Dulles or BWI. America West contends that it already serves 14 of the 33 single connecting online markets claimed by Delta. America West states that its selection would benefit 16 times more network passengers than would Delta's proposal. America West argues that the established DCA incumbents could operate DCA flights with larger aircraft thus increasing available seats without requiring additional slots. America West asserts that last year the Department mistakenly awarded two slot exemptions each to financially troubled carriers TWA and National with the result that TWA was absorbed by American and National has filed for Chapter 11 bankruptcy protection. America West asserts that the Frontier and National proposals did not justify more than two slot exemptions previously and these carriers have not demonstrated changed circumstances supporting additional awards now. America West argues that both these carriers offer only limited network benefits as compared to America West. America West argues that its fares to Northeast markets are on average 20 percent lower than those of Frontier and that Frontier's smaller aircraft size would offer many fewer seats than America West's B-757. America West recognizes that Alaska is a new entrant at DCA, but argues that Alaska proposes to use a smaller aircraft on a long-haul route and that most of its points south of Seattle are already served more directly by America West. America West contends that the remainder of Alaska's claimed connecting points generate very little traffic. America West argues that Alaska's proposed service is questionable in light of the DCA available slot times. America West contends that Vanguard's proposed Kansas City service makes it ineligible under AIR-21.

America West asserts that the Washington-Los Angeles market is among the best-served in the nation and that an additional DCA-Phoenix flight from America West would provide much greater public benefits than DCA-Los Angeles service. Nonetheless, if the Department determines that the DCA-Los Angeles market should receive service, the selection of America West would be the best and most pro-competitive choice.

American

On April 30, 2001, American filed an answer opposing the competing applications. American argues that due to the size and importance of the community of Los Angeles and the Washington-Los Angeles market, DCA-Los Angeles service should be retained. American argues that this is reflected in the four applications made for Los Angeles service while no other city received more one application. American asserts that of the four applicants for LAX service, it should be ranked first since it is the applicant best able to challenge the position of United, the dominant carrier in the Washington-Los Angeles market. American asserts that it and its partner American Eagle operate 211 daily departures at LAX to 35 U.S. points and 18 foreign points. American argues that its proposal would give five U.S. cities first single-connecting access to DCA. American notes that it has instituted a \$260 million expansion and improvement program at LAX's Terminal 4 scheduled to be completed in August 2001. American asserts that its proposed service would benefit more passengers than any non-LAX proposal. American argues that its proposal has received widespread public support. American contends that America West has already been granted more DCA slot exemptions than any other carrier and that America West's primary interest is in Phoenix, rather than Los Angeles. The applicant contends that Continental does not have the necessary presence at either LAX or DCA to effectively compete against United, that Continental's frequent flyer program at DCA and LAX is much weaker than comparable programs offered by American and United, and that Continental has never provided nonstop service in the Washington-Los Angeles market. American also argues that with only a single daily round trip flight, DCA-LAX passengers require alternative connecting opportunities in case of flight delays or cancellations. American asserts that Continental does not offer the number of intermediate online connecting flights or hubs as does American. American argues that its more spacious seating configuration would provide passengers more comfort than would Continental's service or United's coach service. American contends that while Continental would also code-share with American Eagle, American Eagle's connecting flights are designed to more closely match American's service. Also, American argues that United should not be selected because it already enjoys the dominant position and its selection would not further competition. American asserts that Vanguard's application should be dismissed since it is outside the scope of this proceeding. American also cites a 1999 GAO report that concluded that authorization of additional slots at DCA would not create significant delays. Finally, American argues that the Department should allow a 60-day transition period for the winning carrier to inaugurate service and TWA Airlines LLC to cease service.

Alaska

Alaska filed a consolidated answer on April 30, 2001, arguing that the Department should select its proposal based on the superiority of its domestic network benefits and its DCA new entrant status. Alaska asserts that industry consolidation as well as increased DCA consolidation requires that the Department give increased decisional weight to new entrant status in making its award. Alaska argues that it has a proven competitive track record

against larger rivals and has successfully inaugurated service in longer haul routes. While acknowledging that its B-737-700 is smaller than the aircraft proposed by other applicants, Alaska contends that the B-737-700 is among the most quiet of available jet aircraft and that the width of the B-737-700 is identical to competing B-757 proposals. Alaska contends that the B-737-700 has been operated successfully in longer-haul routes comparable to DCA-Seattle, and that its proposal has received wide public support.

Alaska asserts that it and Vanguard are the only true new entrants at DCA and that the award of additional slot exemptions to previous winners--America West, Frontier, and National--would provide no new competitive benefits. Alaska argues that the other applicants--American, Continental, Delta and United--already enjoy strong DCA presences. Alaska contends that American and United dominate Los Angeles and both serve the Los Angeles-Washington market through Dulles and through DCA via inside-perimeter connecting hubs. Alaska argues that Continental also can serve DCA via inside-perimeter connecting hubs and that Continental's modest LAX presence makes it vulnerable to strong competitive pressures. In particular, Alaska contends that in 2000 TWA had only a 46.5 percent load factor in the DCA-Los Angeles market and that Continental's modest LAX presence is similar to TWA's position. Alaska asserts that Delta's Salt Lake City-Dulles service and inside perimeter connecting opportunities to DCA diminish Delta's network benefits. Alaska contends that only it and National have requested slot times that closely match the times available consistent with the AIR-21 restrictions.

Alaska argues that its proposal is significantly better than the DCA-Seattle service proposed by Northwest last year since Alaska has a stronger presence at Seattle and Anchorage and Alaska does not claim benefits for communities such as those in the Southwestern United States that would require circuitous routings. Alaska argues that it would offer more first ever and first competitive one-stop single carrier benefits to more communities than any other applicant.

Responding to specific assertions by competing applicants, Alaska argues that America West does not require a third DCA-Phoenix nonstop flight to qualify for participation in GSA's government contract fare program. Alaska asserts that American's large size and modest network benefits in terms of number of communities preclude it from serious consideration for an award of DCA slot exemptions. Alaska contends that contrary to suggestions by American, Los Angeles has no special claim to the DCA slot exemptions awarded to TWA. Rather, Alaska argues that the awards were made to airlines rather than to communities. Alaska contends that even if comparison of communities were relevant, Seattle should be preferred since Los Angeles now receives ample nonstop competitive service to Dulles and BWI whereas only United serves Seattle-Dulles nonstop and USAirways serves Seattle-BWI nonstop only on a seasonal basis.

Alaska asserts that Continental operates even more DCA slots than carriers such as Northwest and United that were described as major operators at DCA in the Department's initial DCA slot decision. Alaska argues that the network benefits of Continental's proposed service are small compared with Alaska's proposal. Regarding Delta's proposal,

Alaska contends that not only does its proposal provide network benefits to more communities, but also the 32,020 DCA O&D passengers at the Alaska-connecting communities are substantially more numerous than the comparable 7,910 DCA O&D passengers at the Delta DCA connecting communities. Alaska asserts that the DCA-Salt Lake City O&D market is one-half the size of the DCA-Seattle market. Alaska states that its combined hub strength at Anchorage and Seattle with 6.6 million enplanements exceeds the 6.3 million enplanements by Delta at Salt Lake City.

Alaska argues that Frontier is no longer a new entrant at DCA and therefore no new communities would receive single connecting online service. Alaska argues that Frontier's hub strength at Denver with an eight percent market share is substantially less than Alaska's 42 percent market at Seattle and 61 percent market share at Anchorage. Regarding National's service proposal, Alaska asserts that Las Vegas does not deserve a third daily round trip to DCA when larger markets such as Seattle lack nonstop DCA service. Alaska argues that United's proposed service should be rejected for the same reasons that United's proposal was not accepted previously--United's dominance in the Washington-Los Angeles market and United's strong DCA presence. Alaska argues that in any event its network benefits exceed the nine DCA first ever online single connecting services offered by United's proposal. Alaska contends that Vanguard's proposal does not comply with AIR-21 criteria since Kansas City lies within the perimeter and that the Department previously rejected a similar proposal by Vanguard last year.

Continental

On April 30, 2001, Continental filed comments. Continental asserts that only its selection would provide the benefits that led the Department to select Los Angeles and TWA last year. Continental contends that even Delta, a competing applicant, recognized the public benefits of Los Angeles service. Continental argues that American, United, and Delta need more competition, not more slots, and that the Department should reject their applications for the same reasons as was done previously, *i.e.*, selection would not improve competition or the proposed domestic benefits are not sufficient. Continental asserts that America West, Frontier, and National already serve their hubs from DCA. Continental contends that Alaska should not be selected because it cannot offer effective competition at DCA and that its proposed domestic network benefits are inadequate. Continental asserts that Vanguard's proposed service is non-responsive and should be rejected out of hand. Continental argues for its selection as a smaller network carrier capable of competing with larger rivals holding large numbers of DCA slots. Continental asserts that its selection will also improve competition in the concentrated Washington-Los Angeles market. Continental contends that due to their large size the city of Los Angeles and particularly the Washington-Los Angeles market require selection for nonstop DCA service. Continental argues that America West is not a serious candidate for a Los Angeles selection since it would prefer to operate additional DCA-Phoenix service rather than DCA-Los Angeles service.

Delta

On April 30, 2001, Delta filed a consolidated answer to the competing applications. Delta argues that the two TWA slot exemptions must be reallocated to a new beyond-perimeter hub in order to maximize domestic network benefits and to increase competition in multiple markets as prescribed by AIR-21. Delta contends that 96 percent of the DCA-Los Angeles traffic carried by TWA were local passengers and therefore the service award did not meet the goals of AIR-21. Delta contends that the current proceeding is not a local service case or a replacement carrier selection case for Los Angeles service. Delta argues that the current Los Angeles applicants would rely on similar connecting services as were offered by TWA and therefore would have similar results. Instead, Delta contends that the decision should focus on which proposal would provide the greatest benefits to the greatest number of beyond-perimeter communities. In this regard, Delta argues that its proposed service is superior to other applications in that it would provide more communities (34 cities) and more states (11) outside the perimeter with effective nonstop to nonstop connections to DCA and more new network service and competitive benefits for 28 small and medium-sized communities.

Delta argues that western communities across the northern tier received no new DCA slot access as a result of the Department's selection last year and that this service void can best be addressed with Delta's selection. Delta argues that its selection would benefit a greater portion of the western U.S. traffic base than any other applicant. Delta contends that Los Angeles's extreme location in the far southwestern corner of the United States limits its effectiveness as a domestic connecting hub, especially when compared to the number of communities served by Delta at Salt Lake City. In particular Delta asserts that at Salt Lake City it would serve four times the number of communities as would American, five times the number of communities as would Continental and one third more communities than would United at Los Angeles.

Delta asserts that it carries 4.3 million domestic connecting passengers at Salt Lake City--more than the applicants at Los Angeles combined. Delta also contends that it has a higher percentage of connecting passengers to total traffic than any of the Los Angeles applicants. Delta argues that while American's proposal would add a few more connecting points to the set of points served by TWA, nonetheless most of these communities can receive DCA single online connecting service via other intermediate hubs such as Dallas/Ft. Worth or Chicago. Delta argues that the five connecting points listed in America West's Los Angeles proposal are already served through America West's DCA-Phoenix or DCA-Las Vegas services. Delta argues that the last year's selection of TWA for DCA-Los Angeles service was based on a foundering carrier rationale that is no longer valid since none of the Los Angeles applicants are in financial or operational distress.

Instead, Delta argues that American and United dominate both the Los Angeles-Washington market with a market share in excess of 80 percent and the Western U.S.-Washington market with a combined 67 percent market share. In contrast Delta contends that it has a Western U.S.-Washington market share of 10 percent. Delta also argues Continental operates three times the number of DCA slots as did TWA at the time of its

selection. Delta argues that an award to a Los Angeles applicant would create a nonstop monopoly route that could greatly disadvantage other carriers operating connecting service between Los Angeles and DCA. In contrast, Delta argues that it would carry a much higher proportion of connecting traffic at Salt Lake City, traffic for which Delta would have to compete with other carriers operating at alternative hubs both outside and within the perimeter. Delta contends that this result would be consistent with the goals of AIR-21.

Delta contends that Alaska's proposed Seattle service has the same drawback that the Department noted in a similar Seattle proposal made by Northwest in the previous case, *i.e.*, Seattle is not well located as a geographic hub for connecting services to eastern points. Delta argues that in terms of geographic catchment area, nonstop cities served, or network passengers carried, its Salt Lake City hub surpasses Alaska's Seattle hub. Delta argues that it would serve 34 connecting cities as compared to 19 cities served by Alaska, and with far less circuitry. Delta asserts that the average circuitry of its 34 communities is one half the median circuitry of Alaska's 19 communities. Delta argues that its proposal would serve 64 percent more underserved small and medium sized communities along the northern tier than would Alaska's proposal. Delta argues that Alaska's claimed single connections at Anchorage are exaggerated since passengers must effectively fly two stop service to DCA. Delta asserts that only three of Alaska's Anchorage connecting cities can make same day connections in both directions to DCA. In terms of aircraft Delta argues that its B-757 aircraft would offer 50 percent more seats than Alaska's B-737 aircraft. Delta contends that in 86 percent of connecting markets commonly served by Alaska and Delta, Delta had the lower average fare.

Delta argues that it carried over 4.3 million western U.S. connecting passengers at Salt Lake City as compared to 1.4 million passengers at Seattle for Alaska. Delta contends that Alaska carries largely local O&D traffic in its markets with only 18 percent connecting traffic as compared to 48 percent connecting passengers for Delta at Salt Lake City. Delta argues that Alaska mistakenly places emphasis on serving the local DCA-Seattle market rather than serving connecting passengers and communities as required by AIR-21. Delta argues that if Alaska is interested in serving the local Seattle-Washington market it should inaugurate Seattle-Dulles service rather than seek an unfair advantage over a competitor already serving the Seattle-Dulles market.

Delta argues that the Department should not give additional DCA slot exemptions to carriers and communities that have already received past awards while Salt Lake City does not yet receive nonstop DCA service. Delta contends that to maximize the competitive and network service benefits contemplated by AIR-21, the Department should select a new carrier/city combination. In particular, Delta argues that the proposals of Frontier, America West, and National should not be selected given the limited network benefits of each as compared to Delta's Salt Lake City proposal.

Frontier =

On April 30, 2001, Frontier filed comments. Frontier argues that the major east-west hubs are dominated by a few large carriers and that passengers do not have low-fare travel options. Frontier argues that with its Denver hub, it is one of the few new entrant carriers to operate an east-west hub. Frontier argues that the Department should take a broader perspective in its selection process toward preserving new entrant air carriers and with them, true competition and service choices. Frontier contends that all of the applicants except it and National were in existence prior to the implementation of the 1985 Buy-Sell rule and therefore these larger carriers had a prior opportunity to acquire slots. Frontier contends that its selection would allow a new entrant, affordable-fare carrier to expand its DCA services and increase service opportunities for a new entrant carrier competing against a larger, dominant carrier at a beyond-perimeter hub. Frontier argues that its proposal would benefit the only true beyond-perimeter east-west hub, expand low-cost service to western markets, increase fare competition in a region where industry concentration is growing, and provide lower fare options for business passengers. Frontier asserts that with a new code-share agreement with Great Lakes Aviation it serves 37 destinations from Denver, including many small communities. Frontier argues that multiple frequencies in a market are critical for business passengers and a second DCA-Denver round trip would allow it to expand service to these and other communities and build additional code-share relationships. Frontier argues that due to high costs, even with the 65 percent load factor it currently experiences in the DCA-Denver market, it may be difficult to maintain service in the market without a second DCA round trip.

Frontier argues that America West was given multiple frequencies in the original decision even though it already served DCA. Frontier asserts that it should be given equal treatment. Frontier argues that Department's selection of TWA in the first case does not mandate another Los Angeles selection, particularly given that all of the Los Angeles applicants are sufficiently larger than TWA prior to its acquisition. Frontier argues that its DCA-Denver service with a 65.9 percent load factor and significant connecting passengers has been more successful than TWA's DCA-Los Angeles service with a 52 percent load factor. Frontier contends that hubs such as Los Angeles or Seattle provide only limited connecting opportunities. Frontier asserts that American and United have dominant positions at Los Angeles, at DCA, in Washington area airports, in the Los Angeles-Washington market, in transcontinental markets, and in domestic markets generally, and selection of either would not promote the pro-competitive goals of AIR-21.

Given America West's multiple DCA slot exemption awards and its resulting opportunities to flow traffic in DCA-Western U.S. markets, as a matter of equity Frontier contends that America West should not be given additional slot exemptions while Frontier has only two DCA slot exemptions. Frontier asserts that America West has used a variety of aircraft in serving its DCA-Phoenix and DCA-Las Vegas nonstop markets resulting in 159 average seats per departure for DCA-Phoenix and 139 average seats per departure for DCA-Las Vegas, rather than the 190-seat aircraft it committed to use in its proposal last year. Frontier argues that America West can provide additional online east-west connections through its code-share relationship with Continental and that in contrast Frontier is the

only independent new entrant operating an east-west network. Frontier argues that selection of Delta would not enhance competition since Delta's large size (16 percent domestic market share), numerous east-west connecting hubs, and substantial (94) DCA slot holdings would allow Delta to simply extend its dominance over smaller rivals. Frontier claims that in the Atlanta-Denver-Salt Lake City markets Delta's average fares are 23 percent higher than Frontier's average fares. Frontier argues that Continental's claim that it has a relatively small DCA presence is misleading given Continental's alliance with Northwest. Frontier also asserts that this arrangement also provides Continental with substantial additional interior hubs for transcontinental online connecting services.

Frontier argues that Alaska's application should not be seriously considered since Alaska has not shown interest in serving markets east of Seattle, as these markets can be served by its partner Northwest. Further, Frontier contends that Alaska is not an independent carrier because of its affiliation with Northwest, and Alaska does not initiate low fares. Frontier argues that contrary to the goals of AIR-21, selection of Alaska would increase market concentration at Seattle since Alaska and its partner Horizon dominate the hub with a 44 percent passenger market share as compared to Frontier's eight percent market share at Denver. Frontier asserts that Alaska is not a true new entrant carrier and does not have a pro-competitive or low-fare history. Frontier argues that National would use the two available slot exemptions to simply provide additional capacity for local DCA-Las Vegas passengers rather than to provide any new network benefits. Frontier contends that the DCA-Las Vegas market already has adequate low-fare service from America West and National.

United

On April 30, 2001, United filed comments. United argues that nonstop DCA service to Los Angeles must be maintained as Los Angeles is the largest beyond-perimeter U.S. city with the most O&D passengers beyond the perimeter and that United's proposed service would provide the best network benefits of any Los Angeles applicant. United argues that with its selection of TWA last summer the Department recognized the importance of Los Angeles and the need to establish DCA-Los Angeles service. United argues that none of the non-LAX applications can convenience more passengers or create greater network benefits than United's proposal. United contends that of the competing Los Angeles applicants only it operates a Los Angeles hub and therefore it is the only carrier that could offer the domestic network benefits contemplated by AIR-21.

United argues that TWA's experience in the DCA-Los Angeles market is instructive. United contends that less than one percent of TWA's onboard passengers came from the beyond-LAX points that TWA had proposed due to TWA's poor LAX network. As a result of their limited LAX networks, Continental and America West are also not likely to succeed. United asserts that its LAX network is superior to American's network and that it would offer first one-stop non-circuitous routings to nine additional communities as well as the four first one-stop connections offered by American. United argues that it would also offer additional one-stop connections to 20 other cities as compared to nine

comparable cities for American. United contends that its set of connecting cities generate 56 percent more DCA passengers than do the American connecting cities.

United argues that the Department should give no weight to arguments that the Los Angeles hub is too concentrated or that the Los Angeles-Washington market is not competitive. United asserts that with its 25 percent LAX enplanement share, its position is significantly less dominant than the position of competing applicants at Salt Lake City, Seattle, or Phoenix.

United argues that Continental is a major carrier with a large DCA presence and a weak hub at Los Angeles thus making it a poor candidate for DCA AIR-21 slot exemptions. United contends that America West would offer connecting service to only seven cities as compared to United's 33 cities.

United argues that grant of America West's application would result in America West gaining two thirds of the beyond-perimeter exemption authority which would be contrary to AIR-21's objective of fostering alternative beyond-perimeter services. United asserts that America West's characterization of itself as a post-deregulation carrier is not relevant as a consideration for its selection in the instant proceeding. United contends that Delta currently provides one-stop DCA-Salt Lake City service and that there is already adequate service between Salt Lake City and Dulles and BWI. United argues that Salt Lake City is the smallest city in this proceeding and that Salt Lake City generates less than half as many DCA passengers as does Los Angeles. United contends that it would also provide greater network benefits than Delta's proposal in that United would provide single-connecting service to the four communities served by TWA plus nine new cities whereas Delta would provide new single connections to 11 communities. United argues that the 22 other DCA connecting cities claimed by Delta would not generate significant benefits since many of these cities already receive substantial alternative single connecting service via other hubs. United contends that one-third of historical DCA passengers from Delta's proposed behind cities can now be served via Las Vegas, Los Angeles, and Phoenix.

United argues that Frontier's proposed service would be operated to only the fourth largest city in this proceeding with the smallest capacity aircraft of any applicant, thus limiting the potential benefits of its proposal. United contends Frontier operates only a small network at Denver and that all of Frontier's claimed nine connecting cities are already served by Frontier's current DCA-Denver flights. United argues that, despite Frontier's higher DCA-Denver load factor, TWA carried a greater number of passengers per flight in its DCA-Los Angeles service. United contends that contrary to Frontier's assertion, United has only 37 DCA slots, fewer than the other major incumbent applicants.

United contends that the Department has previously rejected America West's request for more slots and that the DCA-Phoenix market should not now be granted a third daily round trip at the expense of the much larger DCA-Los Angeles market. United argues that its Phoenix-Washington fare offerings are identical to America West's fare offerings in the same market. United also contends that as a result of the six DCA slot exemptions

granted to America West last year, America West's DCA-Columbus, OH, load factors have declined below break-even levels, thus jeopardizing America West's DCA-Columbus service in contravention to AIR-21.

United argues that National's proposed Las Vegas service would serve only two connecting points, Los Angeles and San Francisco, both of which receive multiple one-stop options to DCA. United asserts that Las Vegas already receives two daily DCA round trips, and an additional round trip would give Las Vegas one-half of the available DCA AIR-21 slot exemption authority, an inequitable result, particularly given National's 48 percent load factor in the first three months of its DCA-Las Vegas service.

Regarding Alaska's proposed Seattle service, United argues that last year the Department rejected a similar proposal by Northwest, in part due to the limitations of Seattle's geographic location. United concedes that Alaska is a new entrant carrier at DCA but questions Alaska's commitment to serving the Washington, D.C. area given that Alaska's closest service point to DCA is Chicago.

Midwest Express

On April 30, 2001, Midwest Express Airlines, Inc, filed comments in opposition to Vanguard's application. Midwest Express argues that the Department should not consider the merits of Vanguard's application since Vanguard's proposed Kansas City service is within the 1,250 mile perimeter described in Department's Notice of April 6, 2001, and therefore the request is beyond the scope of the instant proceeding and is procedurally defective. Midwest Express also argues that the Department does not have the statutory authority to grant Vanguard's application. Midwest Express asserts that while Kansas City as an inside-perimeter city would be eligible to receive DCA slot exemption service under 49 U.S.C. §41718(b), the awards of DCA slot exemptions under §41718(a) and §41718(b) are mutually exclusive. Midwest Express asserts that the statutory cross-referencing of 49 U.S.C. §49109 (DCA Perimeter Rule) in §41718(a) indicates the clear Congressional intent to exclude inside-perimeter cities from consideration for awards under §41718(a). In conclusion Midwest Express urges that the Department dismiss Vanguard's application without consideration of its merits.