



Federal Communications Commission
Washington, D.C. 20554

July 3, 2007

DA 07-2958

Dana D. Daberko
Shulman, Rogers, Gandal, Pordy & Ecker, P.A.
11921 Rockville Pike, 3rd Floor
Rockville MD 20852

RE: Northwest Airlines, Inc. Assignment of Licenses Application – FCC File No. 0003046472

Dear Ms. Daberko:

This letter pertains to the above-referenced application seeking Commission consent to the assignment of 191 licenses from Northwest Airlines, Inc. (NWA), debtor-in-possession, to NWA, which was filed on May 30, 2007 (Application). An exhibit to the Application states that the proposed assignment is necessary to reflect the deletion of NWA's debtor-in-possession status in connection with its planned emergence from bankruptcy. You further state that this change in status will occur in conjunction with implementation of the company's First Amended Joint and Consolidated Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (NWA Reorganization Plan), a copy of which is attached to the Application as a separate exhibit.

After review of the Application, we find that the proposed assignment of licenses will serve the public interest, convenience, and necessity, pursuant to Section 310(d) of the Communications Act of 1934, as amended. 47 U.S.C. § 310(d). It appears, however, that one of the provisions in the NWA Reorganization Plan contains a misstatement with respect to the Commission's proceedings, so we take this opportunity to clarify our position on the pertinent matter.

The NWA Reorganization Plan contains a decree stating

“25. Governmental Approvals Not Required. This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any state or any other governmental authority with respect to the implementation or consummation of the Plan and any documents, instruments, or agreements, and any amendments or modifications thereto, and any other acts referred to in or contemplated by the Plan, the Disclosure Statement, and any documents, instruments, or agreements, and any amendments or modifications thereto.” Plan Decree ¶ 25, at pp. 30-31.

Pursuant to Section 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(d), FCC licenses cannot be transferred or assigned without specific FCC authorization. The FCC has the sole authority to determine whether a transfer/assignment is in the public interest, and no order authorizing the transfer or assignment of FCC licenses can effect such a transfer or assignment without specific FCC approval. As the Supreme Court has categorically stated, “it is the Commission, not the courts, which must be satisfied” that the public interest will be served in issuing a spectrum license. *FCC v. WOKO, Inc.*, 329 U.S. 223, 229 (1946); *see also Radio Station WOW, Inc. v. Johnson*, 326 U.S. 120, 127 (1945); *Scripps-Howard Radio, Inc. v. FCC*, 316 U.S. 4, 14 (1942).

The NWA Reorganization Plan here appears to have overlooked the necessity of FCC approval prior to any transfer of NWA's FCC licenses. However, notwithstanding the Plan language, NWA has in fact applied for FCC authorization, and it appears that NWA has not interpreted the NWA Reorganization

Plan as exempting it from its FCC regulatory obligations. Accordingly, we will consent to the application pursuant to our established exclusive regulatory authority.

We caution, however, that bankruptcy plans must recognize that any proposed transfer or assignment of an FCC license is subject to FCC regulatory approval, as well as court approval, before such a transaction can be effective. *See, e.g., In re American Colonial Broadcasting Corp.*, 758 F.2d 794, 802 (1st Cir. 1985) (recognizing that a proposed reorganization plan would fail if the FCC denied approval to assign the licenses as proposed in the plan).

This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. § 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Roger S. Noel
Chief, Mobility Division
Wireless Telecommunications Bureau