

Served: December 1, 1997



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

Issued by the Department of Transportation
on the 24th day of November, 1997

Applications of

OMNI AIR EXPRESS, INC.

for certificates of public convenience and necessity under 49 U.S.C. 41102 to engage in interstate and foreign charter air transportation of persons, property, and mail

**Docket OST-97-2750
(50228 and 50229)**

Application of

OMNI AIR EXPRESS, INC.

for registration of name change and reissuance of its certificates of public convenience and necessity pursuant to Part 215 of the Department's regulations

Docket OST-97-2750

**ORDER ISSUING EFFECTIVE CERTIFICATES
AND CONFIRMING ORAL ACTIONS**

Summary

By this order, we (1) confirm various oral actions taken with respect to Omni Air Express, Inc., (2) reissue to the carrier its certificates of public convenience and necessity authorizing it to engage in interstate and foreign charter air transportation of persons, property, and mail to reflect the company's new name of Omni Air International, Inc. d/b/a Omni Air Express and their effectiveness, and (3) cancel, as redundant, the certificates of public convenience and necessity issued to Omni by Order 93-6-38 authorizing it to engage in interstate and foreign charter all-cargo air transportation.

Background

In 1995, the Department found Omni, an operating all-cargo carrier,¹ to be fit to engage in interstate and foreign charter passenger air transportation and issued to it certificates of public convenience and necessity authorizing it to engage in such operations (*see* Orders 95-6-23 and 95-7-6, issued June 20, 1995). The passenger authority granted by these certificates was to become effective on the sixth (business) day after we had received, among other things, a copy of the company's Air Carrier Certificate and Operations Specifications from the Federal Aviation Administration (FAA) authorizing it to engage in charter passenger service, and a description of any fitness-related changes the company had undergone since the date of the Show Cause Order in this case (*see* Order 95-6-1).

On July 18, 1997, Omni filed an application requesting that the Department grant it a waiver from the provisions of section 201.5 of our rules to the extent necessary to permit the company to enter into agreements and accept payments for charter passenger air transportation pending receipt of effective passenger certificate authority. It accompanied this waiver request with information supporting its continuing fitness, including a detailed description of fitness-related changes it had undergone since our original grant of passenger charter authority to it, and third-party verification of its available funds. By Order 97-9-26, issued September 23, 1997, the Department found that Omni continued to be fit to provide passenger charter service and confirmed its oral action of August 29, 1997, which granted Omni a partial waiver from the requirements of section 201.5.

Part 215 Request

On October 16, 1997, Omni filed an application under Part 215 of our rules requesting the registration of the name "Omni Air International, Inc. d/b/a Omni Air Express" and reissuance of the certificate authority previously issued in the name of "Omni Air Express, Inc." to reflect its new corporate name.

Part 215 of the Department's regulations provides that any carrier wishing to change its name must register its new name with the Department. The rule further states that the Department may register a name after the carrier gives notification to similarly named carriers. In this case, there are no similarly named U.S. or foreign carriers. Therefore, since Omni had complied with the requirements of Part 215, on October 31, 1997, we orally advised the carrier that we had registered its new corporate name. We confirm that action here.

Certificate Effectiveness

¹ Omni was granted effective interstate and foreign charter all-cargo certificate authority by Order 93-4-38, issued April 19, 1993. These certificates, which were issued in the name "Continental Air Transport Co. d/b/a Omni Air Express," were superseded and reissued by Order 93-6-38, served June 29, 1993, to reflect a change in the company's name to "Omni Air Express, Inc."

On November 13, 1997, Omni submitted evidence that it had obtained Operations Specifications from the FAA authorizing it to conduct charter passenger operations. It also submitted information summarizing a personnel change and evidence that it had obtained passenger liability insurance and that it continued to meet our financial fitness criteria.² Further, Omni requested that the Department grant it a waiver from the standard six-day waiting period and make the certificate authority granted by Orders 95-6-23 and 95-7-6 effective immediately.

Our review of the information submitted regarding the changes in Omni's key personnel and its available funding found that the company continued to meet the Department's fitness standards. Therefore, on November 14, we orally advised the company that we were making its charter passenger certificate authority effective on that same date. We confirm that action here.

Cancellation of Redundant Certificate Authority

With the issuance of effective interstate and foreign charter certificates authorizing Omni to engage in air transportation of persons, property, and mail, the property and mail authority encompassed in the separate cargo-only certificates issued by Order 93-6-38 is redundant. Therefore, we have decided to cancel these certificates. Our action here in no way impacts on the ability of Omni to continue to conduct all-cargo operations.

ACCORDINGLY, Acting under authority assigned by the Department in its Regulations, 14 CFR 385.12(a)(5)(iv) and (b)(1):

1. We confirm our oral action of October 31, 1997, registering the name "Omni Air International, Inc. d/b/a Omni Air Express."
2. We confirm our oral action of November 14, 1997, making the section 41102 interstate and foreign charter passenger certificate authority issued to Omni Air Express, Inc., effective on that same date.

² Omni noted that it had recently hired Mr. Robert David Rose as its Chief Pilot for its DC-10 passenger operations. Our review of Mr. Rose's resume found him to be qualified for his position with the carrier. Omni noted that Mr. Charles E. Hemingway, previously identified as its Chief Pilot, remains with it and will continue to serve as Chief Pilot for its B727 all-cargo operations. With regard to Omni's available funding, the company noted that it continued to have available to it \$10.0 million in funds to support its operations, verification of which was previously provided (*see* Order 97-9-26 for a more detailed summary of Omni's available funding).

3. We reissue to Omni Air International, Inc. d/b/a Omni Air Express the interstate and foreign charter passenger section 41102 certificates issued to Omni Air Express, Inc., by Orders 95-6-23 and 95-7-6 in the attached form to reflect the company's new corporate name and their November 14, 1997, effective date.

4. We cancel the interstate and foreign charter all-cargo certificates issued to Omni Air Express, Inc., by Order 93-6-38, as redundant.

5. We will serve a copy of this order on the persons listed in Attachment A.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.30, may file their petitions within 10 days of the service date of this order.

The actions confirmed in this order were effective when taken and the filing of a petition for review shall not alter its effectiveness.

By:

John V. Coleman
Director
Office of Aviation Analysis

(SEAL)

*An electronic version of this document is available on the World Wide Web at:
<http://dms.dot.gov/dotinfo/general/orders/aviation.html>.*



**Certificate of Public Convenience and Necessity
for
Interstate Charter Air Transportation**

(as reissued)

This Certifies That

**OMNI AIR INTERNATIONAL, INC.
D/B/A OMNI AIR EXPRESS**

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in interstate charter air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

Issued by Order 97-11-37
On November 24, 1997
Effective on (See Attached)

John V. Coleman
Director
Office of Aviation Analysis



Terms, Conditions, and Limitations

**OMNI AIR INTERNATIONAL, INC.
D/B/A OMNI AIR EXPRESS**

is authorized to engage in interstate charter air transportation of persons, property, and mail between any point in any State, territory, or possession of the United States or the District of Columbia, and any other point in any of those entities.

This authority is subject to the following provisions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration.
- (3) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (4) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (5) The holder is not authorized to engage in air transportation between points within the State of Alaska.

* This certificate is being reissued to reflect the change in the holder's name from "Omni Air Express, Inc." to "Omni Air International, Inc. d/b/a Omni Air Express" and its effective date.

(6) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.

(7) In the event that the holder commences but subsequently ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

(8) The authority to carry property and mail was effective on March 25, 1993. The authority to carry persons was effective on November 14, 1997.



**Certificate of Public Convenience and Necessity
for
Foreign Charter Air Transportation**

(as reissued)

This Certifies That

**OMNI AIR INTERNATIONAL, INC.
D/B/A OMNI AIR EXPRESS**

is authorized, subject to the provisions of Subtitle VII of Title 49 of the United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign charter air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

Issued by Order 97-11-37
On November 24, 1997
Effective on (See Attached)

John V. Coleman
Director
Office of Aviation Analysis



Terms, Conditions, and Limitations
OMNI AIR INTERNATIONAL, INC.
D/B/A OMNI AIR EXPRESS

is authorized to engage in foreign charter air transportation of persons, property, and mail:

Between any place in the United States and any place outside thereof.

This authority is subject to the following provisions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any orders of the Department of Transportation issued under them or for the purpose of requiring compliance with them.
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (4) The holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration.
- (5) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

* This certificate is being reissued to reflect the change in the holder's name from "Omni Air Express, Inc." to "Omni Air International, Inc. d/b/a Omni Air Express" and its effective date.

(6) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.

(7) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.

(8) In the event that the holder commences but subsequently ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

(9) The authority to carry property and mail was effective on April 1, 1993. The authority to carry persons was effective on November 14, 1997.

SERVICE LIST FOR OMNI AIR INTERNATIONAL, INC.

Attachment A

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