

Order 98-8-18

Served: August 21, 1998



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

Issued by the Department of Transportation  
on the 23<sup>rd</sup> day of June, 1998

**AMERICAN AIRLINES, INC.**

**DELTA AIR LINES, INC.**

**DHL AIRWAYS, INC.**

**UNITED PARCEL SERVICE CO.**

for new, amended, and/or renewed certificates of public convenience and necessity of persons, property, and mail and/or all-cargo pursuant to 49 U.S.C. 41102 (U.S.-Mexico)

**Dockets OST-97-2560**

**OST-97-2569**

**OST-98-3654**

**OST-97-2626**

**ORDER ISSUING CERTIFICATES**

**Summary**

The captioned applicants seek grant, renewal and/or amendment of certificates of public convenience and necessity under section 41102 of Title 49 of the United States Code. The applications are fully described in the attachments to this order. Because the public convenience and necessity bases for granting these applications are clear, and the applications are not controversial, it is appropriate to use this simplified Subpart Q procedure to grant the requested authority.<sup>1</sup>

The applicants have filed and perfected each application as required by 14 CFR 201 and served it as required by 14 CFR 302.1705. Each application was summarized in the Federal Register, as cited in the relevant descriptive attachment, and was also summarized in the Department's published weekly list of applications filed. These notices described the authority sought and

<sup>1</sup> 14 CFR 302.1701 et seq. Under Rule 29(b), we may, in our discretion, omit a tentative decision in proceeding under Subpart Q and proceed directly to a final decision.

gave interested persons an opportunity to submit evidence and objections to the award of the authority. Except where indicated, no answers to the applications were filed.

### **Public Convenience and Necessity**

We find that grant or amendment of these certificates is consistent with the public convenience and necessity. The services authorized are the subject of, and consistent with, the U.S.-Mexico Air Transport Agreement. The certificates, therefore, use rights for which the United States has exchanged valuable operating rights. All of the authority conferred here contributes to the variety of price and service options available to travelers and shippers.

### **Fitness/Citizenship**

Each applicant is a citizen of the United States as defined in 49 U.S.C. 40102(a)(15). Each is an operating certificated air carrier, for which the authority at issue here would not constitute a substantial change in operations which would require further review by the Department. No information has come to our attention which leads us to question the fitness of the applicants to conduct air transportation operations. Therefore, on the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we find each applicant is fit, willing, and able to provide the services authorized.

### **Terms, Conditions, and Limitations**

Each certificate of public convenience and necessity is subject to the standard terms, conditions, and limitations we consistently impose in the public interest. All of the certificate actions taken by this order pertain to limited-entry routes. Therefore, consistent with our established policy in this regard, we have issued (or renewed) temporary, experimental certificates of five years' duration under section 49 U.S.C. 41102 (a)(2).<sup>2</sup>

### **Pendente Lite Exemptions**

For those services operated under current exemptions, those exemptions will expire in accordance with their own terms 90 days after we submit this order for review under section 49 U.S.C. 41307. For those routes operated under expired exemptions and kept in force by 5 U.S.C. 558(c), the exemption renewal applications on file will be dismissed by separate order, upon the effectiveness of the corresponding certificates of public convenience and necessity. The attachments cite the relevant currently held authority.

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<sup>2</sup> 14 CFR Part 399.120.

## Miscellaneous

### a. Delta's Request for Renewal of Dormant Authority

Delta requested, in Docket OST-97-2569, to renew, among other things, its certificate authority to serve the Los Angeles-Mazatlan market. Delta stated that it planned to cease operations in the Los Angeles-Mazatlan market on or around May 31, 1997, and had no immediate plans to resume service, but that it wanted to renew the dormant authority to give it operational flexibility to resume service should market conditions warrant.

We have decided to dismiss Delta's request. As planned, Delta ceased services in the market in late Spring 1997. Accordingly, pursuant to the terms of Delta's certificate, the authority to serve the Los Angeles-Mazatlan market expired automatically on the 90th day of dormancy.<sup>3</sup> Therefore, the authority to serve the Los Angeles-Mazatlan market is no longer in Delta's certificate for Route 562 and, thus, cannot be renewed.

Nor are we persuaded to grant new certificate authority to Delta to serve the Los Angeles-Mazatlan market based on its request to maintain its authorization.<sup>4</sup> The U.S.-Mexico aviation regime continues to be limited-entry in nature.<sup>5</sup> In this regard, it has consistently been our policy to grant certificate/exemption authority for combination services only where carriers are currently serving the market or where carriers present firm plans to serve. In its application, Delta presents no firm plans to serve the Los Angeles-Mazatlan market. Further, Delta provides no persuasive basis for us to change our policy in this regard. Under these circumstances, we conclude that it is consistent with the public interest to dismiss, without prejudice, Delta's request for new Los Angeles-Mazatlan authority. The carrier may reapply for such authority at a later date when it has firm plans to serve the market.

### b. DHL's Request for Permanent Authority

DHL requests, in Docket OST-98-3654, that it be granted permanent certificate authority to serve the Austin-Mexico City/Guadalajara/Monterrey markets. We have decided to dismiss DHL's request for permanent authority. It is the Department's well-established policy to award temporary certificates to U.S. air carriers on limited-entry international routes.<sup>6</sup> DHL has not presented any information to persuade us to change our policy here.

### c. DHL's Request for Authority to Provide Intermittent Services

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<sup>3</sup> Pursuant to dormancy notice provisions the Department routinely imposes on U.S.-Mexico services, the authority to serve a given route segment "shall expire the 90th day after the holder discontinues service on that segment (see Delta's Route 562, route segment expiration paragraph).

<sup>4</sup> Because Delta's Los Angeles-Mazatlan certificate authority had expired, we elected to consider Delta's request for renewed certificate authority as a request for new certificate authority.

<sup>5</sup> Under the U.S.-Mexico Air Transport Agreement only two U.S. carriers may be designated to serve any given city-pair market.

<sup>6</sup> See 14 CFR Part 399.120. See also 51 FR 43180, No. 239, December 1, 1986. See also Order 96-11-24, regarding similar requests of other carriers for permanent authority in the U.S.-Mexico market.

DHL also requests, in Docket OST-98-354, that it be granted certificate authority to provide all-cargo services in the Austin-Mexico markets on a discretionary/intermittent basis to allow DHL operating flexibility for service to Mexico as may be required by unusual traffic flows, weather, or mechanical difficulties. Further, DHL requests a waiver of the dormancy provisions for these intermittent services. No carrier has opposed DHL's request.

We have decided to grant DHL's request for intermittent authority in the Austin-Mexico markets.<sup>7</sup> As stated above, it has been our policy to grant authority only where carriers present firm plans for service. With respect to all-cargo services, however, we have found that the additional flexibility to provide intermittent services enhances cargo carriers' ability to provide more responsive service to the shipping public by enabling them to adjust their operations to fluctuations in demand for service, as well as to weather-related and mechanical problems.<sup>8</sup> Consistent with that policy, we have decided to grant DHL's request. Notwithstanding this, however, as we have made clear in other similar awards, should another carrier present a proposal to provide regularly-scheduled all-cargo service in a city-pair market then being served intermittently, we would have to reconsider whether, in the circumstances presented, award of the intermittent authority continues to be in the public interest.

d. UPS' Request for Integration Authority

UPS requests, in Docket OST-97-2626, that its U.S.-Mexico certificate for Route 569 be amended to include service to additional U.S.-Mexico city-pair markets, along with integration authority to combine service on the new routes with existing route segments on Route 569.

The route integration authority requested by UPS is already included in UPS' certificate for Route 569 (condition 9). Therefore, we will dismiss, as moot, UPS' request here for route integration authority.

**Findings and Conclusions**

In view of the foregoing, and all the facts of record, we find and conclude that:

1. It is consistent with the public convenience and necessity to grant, issue and/or amend the certificates in the form attached;
2. Each applicant is a citizen of the United States and is fit, willing, and able to perform properly the foreign air transportation described in the attached certificate and to conform to the provisions of Subtitle VII of Title 49, United States Code (Transportation), and to the Department's rules, regulations, and requirements;

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<sup>7</sup> It has been our policy not to impose our standard dormancy conditions on authority that is identified as intermittent (see Order 96-11-24 at 5). We will follow that same policy here for DHL's Austin-Mexico services. Therefore, there is no need for the waiver of the dormancy provisions that DHL has requested.

<sup>8</sup> See Order 96-11-24, at 4 (U.S.-Mexico all-cargo certificates).

3. The public interest requires that the exercise of the privileges granted by the attached certificates and certificate amendments be subject to the terms, conditions, and limitations contained in and attached to those certificates and to such others required by the public interest as the Department may prescribe;

4. Except as otherwise noted in the attachments, the issuance of each of these certificates and certificate amendments does not constitute a “major regulatory action” under the Energy, Policy and Conservation Act of 1975, as defined by section 313.4(a)(1) of the Department’s regulations;<sup>9</sup> and

5. The public interest does not require an oral evidentiary hearing or a show-cause proceeding on any of these applications. There are no material, determinative issues of fact requiring such procedures for their resolution.

**ACCORDINGLY,**

1. We amend, issue, or reissue in the form attached, certificates of public convenience and necessity to the applicants listed in the caption of this order;

2. The certificates and certificate amendments will be effective 30 days after the service date of this order, subject to the extension of those effective dates in accordance with the provision of the certificate and certificate amendments;

4. We dismiss the request of Delta Air Lines, Inc., in Docket OST-97-2569, for certificate authority to serve the Los Angeles-Mazatlan market;

5. We dismiss the request of DHL Airways, Inc., in Docket OST-98-3654, for longer-term authority;

6. We dismiss, as moot, the request of United Parcel Service Co., in Docket OST-97-2626, for integration authority;

7. To the extent not granted or dismissed, we deny all motions and requests in these dockets;

8. Unless disapproved by the President of the United States under 49 U.S.C. 41307, this order shall become effective upon the 61st day after its submission for section 41307 review, or upon the date of receipt of advice from the President or his designee under Executive Order 12597 and implementing regulations that he or she does not intend to disapprove the Department’s order under that section, whichever occurs earlier;<sup>10</sup> and

9. We will serve this order on the persons listed in the attached service list, which includes the applicants; the Ambassador of Mexico in Washington, D.C.; other parties in these dockets; the

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<sup>9</sup> Our finding is based on the fact that grant of each application would not result in a near-term increase in annual fuel consumption in excess of 10 million gallons.

<sup>10</sup> This order was submitted for section 41307 review on

U.S. Department of State (Office of Aviation Negotiations); and the Federal Aviation Administration.

By:

This order was submitted for section 413078 review on June 23, 1998. On August 17, 1998, we received notification that the President's designee under Executive Order 12597 and implementing regulations did not intend to disapprove the Department's order.

**CHARLES A. HUNNICUTT**  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

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

**SUMMARY OF U.S.-MEXICO CERTIFICATE APPLICATIONS**

<b>CARRIER AND DKT. #</b>	<b>CERTIFICATE RENEWAL REQUESTS</b>	<b>NEW/AMENDED AUTHORITY REQUESTS</b>	<b>AUTHORITY GRANTED BY THIS ORDER</b>	<b>DISMISSED/ DEFERRED</b>
American OST-97- 2560	Combination Services: Dallas/Ft. Worth- Cancun/Puerto Vallarta/Guadalajara		Combination Services: Dallas/Ft. Worth- Cancun/Puerto Vallarta/Guadalajara	
Delta OST-97- 2569	Combination Services: Los Angeles- Mazatlan/Puerto Vallarta and Orlando- Mexico City		Combination Services: Los Angeles-Puerto Vallarta and Orlando- Mexico City	Request for Los Angeles-Mazatlan certificate authority dismissed.
DHL OST-98- 3654		All-Cargo Services: Austin-Mexico City/ Guadalajara/Monterrey (intermittent services/ indefinite term)	All-Cargo Services: Austin-Mexico City/ Guadalajara/Monterrey (intermittent services)	Request for longer-term authority dismissed.
UPS OST-97- 2626		All-Cargo Services: Houston-Guadalajara and San Antonio-Mexico City (plus integration authority to combine this w/existing UPS Route 569 (U.S.- Mexico certificate))	All-Cargo Services: Houston-Guadalajara and San Antonio-Mexico City	Request for integration authority dismissed as moot.

American Airlines, Inc.

Renewal of Certificate for **Route 560** (segments 1, 2, and 3)

**Filed:** 5/28/97      **Docket:** OST-97-2560      **Notice:** FR 62 (31187), 6/6/97

- I. Authority Sought:** Renewal of its certificate to provide scheduled foreign air transportation of persons, property, and mail between the terminal point Dallas/Ft. Worth, Texas, and the coterminal points Cancun, Puerto Vallarta, and Guadalajara, Mexico.
- II. Relevant Currently Held Authority:** American currently holds an experimental certificate of public convenience and necessity to serve the above routes (Route 560, segments 1, 2, and 3). Order 96-11-25. Under the terms of the certificate, American's authority expired November 29, 1997. American filed a timely application for renewal and its authority has remained in effect pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), pending action on its renewal application.
- III. Pleadings:** No answers were filed to American's application.
- IV. Public Convenience and Necessity:** The authority requested is consistent with the U.S.-Mexico Air Transport Agreement.
- V. Fitness/Citizenship:** American has previously been found to be a citizen of the United States and fit, willing and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. See, e.g., Order 97-1-10. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulations warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question American's fitness to conduct the air transportation operations authorized here.
- VI. Terms, Conditions and Limitations:** Standard Mexico certificate conditions. (See Order 89-9-36.) We will amend American's certificate for Route 560 to reflect renewal of American's authority to serve the Dallas/Ft. Worth-Cancun/Puerto Vallarta/Guadalajara markets.
- VII. Duration:** Five years. 49 U.S.C. 41102(c).

**\* As amended by  
Order 98-8-18**

**Certificate Amendment**

**American Airlines, Inc., for Route 560**

Amend route segment expiration paragraph to read as follows:

The authority to serve segments 1, 2, and 3 in this certificate shall continue in effect until September 21, 2004 ; and the authority to serve segments 4 and 5 in this certificate shall continue in effect until January 1, 2002; notwithstanding the above, however, the authority to serve any segment shall expire (a) the 90th day after the holder discontinues service on that segment, or (b) the holder notifies the Department (as provided in this certificate) that the segment is dormant, whichever occurs earlier; unless the Department earlier suspends, modifies, or deletes the authority.

This certificate amendment shall become effective September 21, 1998; provided, however, that prior to the date on which the certificate amendment would otherwise become effective, the Department, either on its own initiative or upon a timely filing of a petition for reconsideration of the order issuing this amendment, may by order or orders extend such effective date from time to time.

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\* This certificate, last reissued by Order 96-11-25, is amended to reflect the renewal of certificate authority to serve the Dallas/Ft. Worth-Cancun/Puerto Vallarta/Guadalajara markets.

Delta Air Lines, Inc.

Renewal of Certificate for **Route 562** (segments 3, 4, and 6)

**Filed:** 5/29/97      **Docket:** OST-97-2569      **Notice:** FR 62 (31187), 6/6/97

**I. Authority Sought:** Renewal of its certificate to provide scheduled foreign air transportation of persons, property, and mail between the terminal point Los Angeles, California, and the coterminal points Mazatlan and Puerto Vallarta, Mexico; and between the terminal points Orlando, Florida, and Mexico City, Mexico. \*

**II. Relevant Currently Held Authority:** Delta currently holds an experimental certificate of public convenience and necessity to serve the above routes (Route 562, segments 3, 4, and 6). Order 96-11-25, as amended by Order 97-4-27. Under the terms of the certificate, Delta's authority expired November 29, 1997. Delta filed a timely application for renewal and its authority has remained in effect pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), pending action on its renewal application.

**III. Pleadings:** No answers were filed to Delta's application.

**IV. Public Convenience and Necessity:** The authority requested is consistent with the U.S.-Mexico Air Transport Agreement.

**V. Fitness/Citizenship:** Delta has previously been found to be a citizen of the United States and fit, willing and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. See, e.g., Order 98-4-3. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulations warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Delta's fitness to conduct the air transportation operations authorized here.

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\* As discussed in the text of this order at 3, we dismissed Delta's request for certificate authority to serve the Los Angeles-Mazatlan market.

**VI. Terms, Conditions and Limitations:** Standard Mexico certificate conditions. (See Order 89-9-36.) We will reissue Delta's certificate for Route 562 to (1) reflect renewal of Delta's authority to serve the Los Angeles-Puerto Vallarta and Orlando-Mexico City markets; and (2) to delete dormant certificate authority to serve the Los Angeles-Mazatlan market. As discussed in the text of this order, we will dismiss Delta's request for certificate authority to serve the Los Angeles-Mazatlan market.

**VII. Duration:** Five years. 49 U.S.C. 41102(c).



**Experimental Certificate of Public  
Convenience and Necessity  
for**

**Route 562**  
(as reissued)

**This Certifies That**

**DELTA AIR LINES, INC.**

**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 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 98-8-18  
On June 23, 1998  
Aviation  
Effective on September 21, 1998**

**Charles A. Hunnicutt  
Assistant Secretary for  
and International Affairs**

Terms, Conditions, and Limitations

Delta Air Lines, Inc., for **Route 562**

is authorized to engage in scheduled foreign air transportation of persons, property and mail over the following U.S.-Mexico route segments:

1. Between the terminal point Atlanta, Georgia, and the terminal point Mexico City, Mexico.
2. Between the terminal point Dallas/Ft. Worth, Texas, and the terminal point Mexico City, Mexico.
3. Between the terminal point Los Angeles, California, and the terminal point Puerto Vallarta, Mexico.
4. Between the terminal point New York, New York/Newark, New Jersey, and the terminal point Mexico City, Mexico.
5. Between the terminal point Orlando, Florida, and the terminal point Mexico City, Mexico.
6. Between the terminal point Las Vegas, Nevada, and the terminal point Mexico City, Mexico.

This authority is subject to the following terms, conditions, and limitations:

- (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.

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\* This certificate, last reissued by Order 96-11-25, and amended by Order 97-4-27, is reissued to (1) reflect renewal of Delta's authority to serve the Los Angeles-Puerto Vallarta and Orlando-Mexico City markets (formerly segments 4 and 6, respectively); and (2) delete dormant certificate authority to serve the Los Angeles-Mazatlan market (formerly segment 3).

(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 is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).

(5) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

(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 Federal Aviation Act or the Department's regulations shall be sufficient grounds to revoke this certificate.

(7) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

(8)(a) The holder may combine services on all segments of this certificate and combine services on this certificate with U.S.-Mexico combination services authorized by other Department of Transportation certificates or exemptions.

(b) The provisions in paragraph 8(a), above, shall not authorize services which would constitute multiple designations on city-pair markets where such multiple designations are not agreed to by the United States and Mexico.

(9) The holder may combine services authorized by this certificate with all services authorized by other Department of Transportation certificates or exemptions; provided that such operations are in compliance with the provisions of all applicable bilateral aviation agreements, and provided further that (a) nothing in the award on the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited entry route rights that are included in this certificate by virtue of the route integration authority granted here, but not being used, the holding of such authority by route integration will not be construed as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

(10) The holder shall file a notice with the Department if it discontinues services on a route segment for 90 days or longer. This notice shall be given as soon as the decision to discontinue service (other than seasonally) is made, but in no case later than the 91st day of dormancy. Notices shall be filed in the form of a letter addressed to the U.S. Department of Transportation, U.S. Air Carrier Licensing Division, X-44, 400 Seventh Street, SW, Washington, DC 20590, and shall identify the dormant route segment, the certificate route number, and the date the 90th day of dormancy will or did occur.

(11) 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.

(12) In the event that the holder ceases all such 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.

This certificate shall become effective September 21, 1998; provided, however, that prior to the date on which the certificate would otherwise become effective, the Department, either on its own initiative or upon a timely filing of a petition for reconsideration of the order issuing this certificate, may by order or orders extend such effective date from time to time.

The authority to serve segments 1 and 2 in this certificate shall continue in effect until **December 16, 1999**; the authority to serve segments 3 and 5 in this certificate shall continue in effect until September 21, 2004 ; the authority to serve segment 4 in this certificate shall continue in effect until **May 1, 2002**; and the authority to serve segment 6 in this certificate shall continue in effect until **January 1, 2002**; notwithstanding the above, however, the authority to serve any segment shall expire (a) the 90th day after the holder discontinues service on that segment, or (b) the holder notifies the Department (as provided in this certificate) that the segment is dormant, whichever occurs earlier; unless the Department earlier suspends, modifies, or deletes the authority.

DHL Airways, Inc.

Amendment of Certificate for **Route 725**

**Filed:** 3/20/98      **Docket:** OST-98-3654      **Notice:** FR 63 (15477), 3/31/98

**I. Authority Sought:** Scheduled foreign air transportation of property and mail between the terminal point Austin, Texas, and the coterminal points Mexico City, Guadalajara, and Monterrey, Mexico. On May 26, 1998, DHL supplemented its application, stating that it requested the new Austin-Mexico authority as additional discretionary authority to allow operating flexibility for service to Mexico. DHL requests that this authority be granted on a permanent basis.

**II. Relevant Currently Held Authority:** DHL currently holds experimental certificate authority to serve various U.S.-Mexico markets (Route 725). Order 96-11-24. Additionally, DHL currently holds exemption authority to serve the Austin-Guadalajara market. See Notice of Action Taken issued April 22, 1998.

**III. Pleadings:** No answers were filed to DHL's applications.

**IV. Public Convenience and Necessity:** The authority requested is consistent with the U.S.-Mexico Air Transport Agreement.

**V. Fitness/Citizenship:** DHL has previously been found to be a citizen of the United States and fit, willing and able to provide scheduled foreign air transportation of property and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. See, e.g., Order 96-11-24. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulations warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question DHL's fitness to conduct the air transportation operations authorized here.

**VI. Terms, Conditions and Limitations:** Standard Mexico certificate conditions. (See Order 89-9-36.) We will amend and reissue DHL's certificate for Route 725 to reflect new authority to provide all-cargo services between the terminal point Austin, Texas, and the coterminal points Mexico City, Guadalajara, and Monterrey, Mexico. As discussed in the text of this order, we will dismiss DHL's request for permanent authority.

**VII. Duration:** Five years. 49 U.S.C. 41102(c).



**Experimental Certificate  
of Public Convenience and Necessity  
for**

**Route 725**

(as reissued)

**This Certifies That**

**DHL AIRWAYS, INC.**

**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 foreign air transportation of property and mail.**

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

**By Direction of the Secretary**

**Issued by Order 98-8-18**

**On June 23, 1998**

**Effective on September 21, 1998**

**Charles A. Hunnicutt**

**Assistant Secretary for Aviation**

**and International Affairs**

- As Amended and reissued by  
Order 98-8-18  
Route 725  
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Terms, Conditions and Limitations

DHL Airways, Inc., for **Route 725**

is authorized to engage in scheduled foreign air transportation of property and mail over the following U.S.-Mexico route segments:

1. Between the terminal point Cincinnati, Ohio, and the terminal point Mexico City, Mexico.
2. Between the terminal point Cincinnati, Ohio, and the terminal point Monterrey, Mexico.
3. Between the terminal point Cincinnati, Ohio, and the terminal point Guadalajara, Mexico.
4. Between the terminal point Houston, Texas, and the terminal point Mexico City, Mexico.
5. Between the terminal point Houston, Texas, and the terminal point Monterrey, Mexico.
6. Between the terminal point Houston, Texas, and the terminal point Guadalajara, Mexico.
7. Between the terminal point Austin, Texas, and the terminal point Mexico City, Mexico.
8. Between the terminal point Austin, Texas, and the terminal point Monterrey, Mexico.
9. Between the terminal point Austin, Texas, and the terminal point Guadalajara, Mexico.

This authority is subject to the following terms, conditions, and limitations:

- (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 is not authorized to carry passengers (other than cargo attendants accompanying freight shipments).
- (3) 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.
- (4) 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.
- (5) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).
- (6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (7) 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 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (8) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

(9)(a) The holder may combine services on all segments of this certificate and combine services on this certificate with U.S.-Mexico all-cargo services authorized by other Department of Transportation certificates or exemptions.

(b) The provisions in paragraph 8(a), above, shall not authorize services which would constitute multiple designations on city-pair markets where such multiple designations are not agreed to by the United States and Mexico.

(10) The holder may combine services authorized by this certificate with services between the United States and other foreign points authorized by certificate or by exemption on a blind-sector basis; provided that the services are in compliance with the provisions of all applicable bilateral aviation agreements;

(11) The route integration authority granted is subject to the condition that any service under this certificate shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award on the route integration authority requested should be construed as conferring upon the carrier additional rights (including fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the carrier notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedure to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited entry route rights that are included in this certificate by virtue of the route integration authority granted here, but that are not being used by the carrier, the holding of such authority by route integration will not be construed as providing any preference for the carrier in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

(12) The holder shall file a notice with the Department if it discontinues services on a route segment for 90 days or longer. This notice shall be given as soon as the decision to discontinue service (other than seasonal/intermittent service) is made, but in no case later than the 91st day of dormancy. Notices shall be filed in the form of a letter addressed to the U.S. Department of Transportation, U.S. Air Carrier Licensing Division, X-44, 400 Seventh Street, SW, Washington, DC 20590, and shall identify the dormant route segment, the certificate route number, and the date the 90th day of dormancy will or did occur.

(13) 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.

(14) In the event that the holder ceases all such 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.

This certificate shall become effective **September 21, 1998**; provided, however, that prior to the date on which the certificate would otherwise become effective, the Department, either on its own initiative or upon a timely filing of a petition for reconsideration of the order issuing this certificate, may by order or orders extend such effective date from time to time.

The authority to serve segments 1 through 6 in this certificate shall continue in effect until **January 1, 2002**; and the authority to serve segments 7 through 9 in this certificate shall continue in effect until **September 21, 2004**; notwithstanding the above, however, the authority to serve any segment shall expire (a) the 90th day after the holder discontinues service on that segment, or (b) the holder notifies the Department (as provided in this certificate) that the segment is dormant, whichever occurs earlier; unless the Department earlier suspends, modifies, or deletes the authority.

United Parcel Service Co.

Amendment of Certificate for **Route 569**

**Filed:** 6/17/97      **Docket:** OST-97-2626      **Notice:** FR 62 (35538), 7/1/97

**I. Authority Sought:** Scheduled foreign air transportation of property and mail between (1) the terminal point Houston, Texas, and the terminal point Guadalajara, Mexico; and (2) the terminal point San Antonio, Texas, and the terminal point Mexico City, Mexico. UPS further requests integration authority to combine service over these new segments with service over existing segments on Route 569.

**II. Relevant Currently Held Authority:** UPS currently holds experimental certificate authority to serve various U.S.-Mexico markets (Route 569). Order 96-11-24. Additionally, UPS currently holds exemption authority to serve the Houston-Guadalajara and San Antonio-Mexico City markets. See Orders 98-3-1 and 97-8-17, respectively.

**III. Pleadings:** DHL filed an answer to UPS' application, stating that it had no objection to UPS' application provided that the Department first obtained double-designation approval from the Mexican Government for services on the Houston-Guadalajara route. We subsequently obtained such approval in February 1998.

**IV. Public Convenience and Necessity:** The authority requested is consistent with the U.S.-Mexico Air Transport Agreement.

**V. Fitness/Citizenship:** UPS has previously been found to be a citizen of the United States and fit, willing and able to provide scheduled foreign air transportation of property and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. See, e.g., Order 96-11-24. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulations warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question UPS' fitness to conduct the air transportation operations authorized here.

**VI. Terms, Conditions and Limitations:** Standard Mexico certificate conditions. (See Order 89-9-36.) We will amend and reissue UPS' certificate for Route 569 to reflect new authority to provide all-cargo services between (1) the terminal point Houston, Texas, and the terminal point Guadalajara, Mexico; and (2) the terminal point San Antonio, Texas, and the terminal point Mexico City, Mexico. As discussed in the text of this order, we will dismiss, as moot, UPS' request for integration authority.

**VII. Duration:** Five years. 49 U.S.C. 41102(c).



**Experimental Certificate  
of Public Convenience and Necessity  
for**

**Route 569**

(as reissued)

**This Certifies That**

**UNITED PARCEL SERVICE CO.**

**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 foreign air transportation of property and mail.**

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

**By Direction of the Secretary**

**Issued by Order 98-8-18**

**On June 23, 1998**

**and**

**Effective on September 21, 1998**

**Charles A. Hunnicutt**

**Assistant Secretary for Aviation**

**International Affairs**

Terms, Conditions and Limitations

United Parcel Service Co., for **Route 569**

is authorized to engage in scheduled foreign air transportation of property and mail over the following U.S.-Mexico route segments:

1. Between the terminal point Houston, Texas, and the terminal point Mexico City, Mexico.
2. Between the terminal point San Antonio, Texas, and the terminal point Guadalajara, Mexico.
3. Between the terminal point San Antonio, Texas, and the terminal point Monterrey, Mexico.
4. Between the terminal point Louisville, Kentucky, and the terminal point Mexico City, Mexico.
5. Between the terminal point Louisville, Kentucky, and the terminal point Guadalajara, Mexico.
6. Between the terminal point Louisville, Kentucky, and the terminal point Monterrey, Mexico.
7. Between the terminal point Houston, Texas, and the terminal point Guadalajara, Mexico.
8. Between the terminal point San Antonio, Texas, and the terminal point Mexico City, Mexico.

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\* This certificate, last reissued by Order 96-11-24, is amended and reissued to reflect new authority to serve the Houston-Guadalajara and San Antonio-Mexico City markets.

This authority is subject to the following terms, conditions, and limitations:

- (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 is not authorized to carry passengers (other than cargo attendants accompanying freight shipments).
- (3) 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.
- (4) 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.
- (5) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).
- (6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (7) 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 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (8) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

(9)(a) The holder may combine services on all segments of this certificate and combine services on this certificate with U.S.-Mexico all-cargo services authorized by other Department of Transportation certificates or exemptions.

(b) The provisions in paragraph 8(a), above, shall not authorize services which would constitute multiple designations on city-pair markets where such multiple designations are not agreed to by the United States and Mexico.

(10) The holder may combine services authorized by this certificate with services between the United States and other foreign points authorized by certificate or by exemption on a blind-sector basis; provided that the services are in compliance with the provisions of all applicable bilateral aviation agreements;

(11) The route integration authority granted is subject to the condition that any service under this certificate shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award on the route integration authority requested should be construed as conferring upon the carrier additional rights (including fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the carrier notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedure to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited entry route rights that are included in this certificate by virtue of the route integration authority granted here, but that are not being used by the carrier, the holding of such authority by route integration will not be construed as providing any preference for the carrier in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

(12) The holder shall file a notice with the Department if it discontinues services on a route segment for 90 days or longer. This notice shall be given as soon as the decision to discontinue service (other than seasonally) is made, but in no case later than the 91st day of dormancy. Notices shall be filed in the form of a letter addressed to the U.S. Department of Transportation, U.S. Air Carrier Licensing Division, X-44, 400 Seventh Street, SW, Washington, DC 20590, and shall identify the dormant route segment, the certificate route number, and the date the 90th day of dormancy will or did occur.

(13) 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.

(14) In the event that the holder ceases all such 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.

This certificate shall become effective September 21, 1998 ;  
provided, however, that prior to the date on which the certificate would otherwise become effective, the Department, either on its own initiative or upon a timely filing of a petition for reconsideration of the order issuing this certificate, may by order or orders extend such effective date from time to time.

The authority to serve segments 1 through 6 in this certificate shall continue in effect until **January 1, 2002**; and the authority to serve segments 7 and 8 in this certificate shall continue in effect until September 21, 2004 ; notwithstanding the above, however, the authority to serve any segment shall expire (a) the 90th day after the holder discontinues service on that segment, or (b) the holder notifies the Department (as provided in this certificate) that the segment is dormant, whichever occurs earlier; unless the Department earlier suspends, modifies, or deletes the authority.