



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

Issued by the Department of Transportation
on the 4th day of December, 1998

Served: December 8, 1998

Fitness Determination of

EDELWEISS HOLDINGS, INC.

d/b/a Edelweiss Air

d/b/a Rio Grande Air

as a commuter air carrier under section 49 U.S.C.

41738

**ORDER TO SHOW CAUSE
PROPOSING ISSUANCE OF COMMUTER AIR CARRIER AUTHORITY**

Summary

By this order, we tentatively find that Edelweiss Holdings, Inc. d/b/a Edelweiss Air d/b/a Rio Grande Air is fit to conduct commuter air carrier operations using aircraft with no more than nine passenger seats.

Background

Section 41738 of Title 49 of the United States Code (Transportation) (“the statute”) directs us to determine whether companies proposing to provide scheduled passenger service as commuter air carriers are “fit, willing, and able” to perform such service, and to ensure that all operations relating to this service conform to the safety standards established by the Federal Aviation Administration (FAA). In making fitness findings, the Department uses a three-part test that reconciles the Airline Deregulation Act's liberal entry policy with Congress' concern for operational safety and consumer protection. The three areas of inquiry that must be addressed in order to determine a company's fitness are whether the applicant (1) will have the managerial

skills and technical ability to conduct the proposed operations, (2) will have access to resources sufficient to commence the operations proposed without posing an undue risk to consumers, and (3) will comply with the statute and regulations imposed by Federal and State agencies. We must also find that the applicant is a U.S. citizen.

We have received an application from Edelweiss Holdings, Inc. d/b/a Edelweiss Air d/b/a Rio Grande Air (Edelweiss) to conduct commuter operations, and, upon review of the information in the application and the safety and compliance information on the carrier received from the FAA and the National Transportation Safety Board (NTSB), we tentatively conclude that the applicant is a U.S. citizen and has met the fitness test to conduct commuter operations. We will, however, give any interested persons an opportunity to show cause why we should not adopt as final the tentative determination that Edelweiss is fit, willing, and able to provide commuter service.

The Carrier

Edelweiss was organized as a corporation under the laws of the State of New Mexico in 1994 by the late Christopher Wooldridge for the primary purpose of acquiring and operating a hotel at the base of the Taos (New Mexico) Ski Valley. In conjunction with this endeavor, the company obtained air taxi authority in order to provide an additional means of transportation for guests of the hotel. In 1996, two unrelated events occurred which resulted in a change in focus for the company's overall business operations from hotel management to the provision of air transportation.¹ Now owned by Mr. and Mrs. Timothy Wooldridge (70 percent) and Mr. Michael Mellinger (30 percent),² Edelweiss services the Taos charter market and, if found fit, intends to commence scheduled passenger service to Taos, Albuquerque, and Los Alamos using a 9-seat Cessna Grand Caravan as its primary aircraft.

Managerial Competence

Edelweiss' Chief Executive Officer and Chairman of the Board is Mr. Timothy Wooldridge. He has been involved with the company's operations since its formation, first as co-owner and General Manager of the Edelweiss Hotel and later assuming responsibility for oversight of its air taxi operations and development of its planned commuter service. In addition, he has been active in the management of the Taos Municipal Airport and has worked closely with the airport board authorities in transitioning this formerly private airport into a public facility. Prior to his involvement with Edelweiss and its air taxi operations, all of Mr. Wooldridge's 27 years of experience were in the hospitality industry where, among other things, he held various management positions with several major hotels, including the Sawgrass Country Club and The Lodge and Bath Club, both of Ponte Verda Beach, Florida, and Caneel Bay in St. John, U.S. Virgin Islands, and The Capitol Hilton and Towers in Washington, D.C., managing as many as 150 employees while overseeing all food and beverage operations of these properties.

Since January 1997, Mr. Geary S. Monckton, an Airline Transport Pilot and Airframe & Powerplant mechanic, has served as Edelweiss' Director of Operations, Director of Maintenance, and Chief Pilot. However, with Edelweiss' receipt of commuter authority, the duties of these

¹ The two unrelated events were a fire which destroyed a significant portion of the hotel and the untimely death of Christopher Wooldridge.

² Mr. Michael Mellinger is the co-founder and Chief Executive Officer of Data Research Associates of St. Louis. He holds no positions with the applicant, although he serves as an advisor.

positions will be split with Mr. Monckton continuing to serve as its Director of Operations. During his 20-year career prior to joining Edelweiss, Mr. Monckton held positions as a mechanic and pilot (including positions as Director of Operations, Director of Maintenance, and Chief Pilot) for various air taxis and fixed-base operators, including Cargo, Inc., of Sioux City, Iowa, Angel Aviation and Missile Aviation both of Slidell, Louisiana, and Pierce Enterprises of Albuquerque, New Mexico. In addition, Mr. Monckton has served as a team mechanic to the United States Aerobatics Team and as Airport Manager for the Town of Taos. During his career, Mr. Monckton has accumulated over 9,000 total flight hours.

Upon its receipt of commuter authority, Mr. Darrell S. Rickert, an Airframe & Powerplant mechanic, will serve as Edelweiss' Director of Maintenance. Mr. Rickert began his career in 1990 as a mechanic with Robertson Aircraft, an FAA Authorized Repair Station that specializes in the repair and maintenance of Cessna aircraft. Since that time, he has continued in the employ of Robertson Aircraft, advancing to his current position as its Chief Inspector.

Edelweiss' Chief Pilot will be Mr. Steven Sandquist, an Airline Transport Pilot with approximately 3,400 hours of flight time. Mr. Sandquist obtained a B.S. degree in Flight Technology in 1994 and, since then, has worked as a pilot for Ketchikan Air Service, Ameriflight, and Barken International, all of which provided air taxi operations using Cessna and Beechcraft aircraft.

In view of the experience and background of Edelweiss' current management,³ we tentatively conclude that the company has demonstrated that it possesses the management skills and technical ability to conduct the limited operations proposed as a commuter air carrier.⁴

Operating Proposal and Financial Condition

If granted the commuter air carrier authority requested here, Edelweiss plans to commence scheduled passenger operations consisting of four round trips each weekday and two round trips each weekend day between Albuquerque and Los Alamos, and two daily round trips between Albuquerque and Taos,⁵ using a 9-seat Cessna Grand Caravan as its primary aircraft.⁶

³ Edelweiss also submitted for our review the qualifications of Ann-Marie Wooldridge who serves as its Vice President and Director of Public Relations.

⁴ Before authorizing a carrier to conduct scheduled passenger operations, the FAA evaluates certain of the carrier's key personnel with respect to the minimum qualifications for those positions as prescribed in the Federal Aviation Regulations. The FAA's evaluation of these key personnel provides an added practical and in-person test of the skills and technical ability of these individuals. The FAA has reviewed the qualifications of the key technical personnel noted and found them qualified for their positions with the applicant.

⁵ Edelweiss will operate three round trips per weekend day between Albuquerque and Taos during the peak ski season.

⁶ Edelweiss stated that it will use its 3-seat Cessna Hawk and 7-seat Cessna Stationair to provide its charter operations and as a back-up for its scheduled service aircraft.

In support of its financial fitness, Edelweiss provided historic financial statements,⁷ as well as a detailed forecast of its operating expenses for its first year of operations. We have reviewed Edelweiss' first year expense forecast and find that it appears to be reasonable. Edelweiss also provided estimates of various commuter-related expenses it will incur prior to its commencement of these operations.

Based on the information before us, Edelweiss will need funds in the low-six figure range to meet our financial fitness criteria.⁸ Funding in the mid-six figures will be supplied to Edelweiss in the form of additional equity investment and a loan from one of its current shareholders, Mr. Michael Mellinger.⁹ In addition, Mr. Wooldridge is supplying Edelweiss with all necessary operating capital to fund its pre-operating expenses, including the down payment on the Cessna Grand Caravan being acquired, and Mr. Wooldridge will contribute various office equipment and supplies to Edelweiss.¹⁰

In light of these facts, we tentatively conclude that Edelweiss will have access to sufficient financial resources to enable it to commence its proposed commuter operations without posing an undue risk to consumers or their funds.

⁷ Edelweiss supplied financial statements for its fiscal years ended May 31, 1996, 1997, and 1998. These statements reflect the company's losses from its former hotel operations. The company's May 31, 1998, balance sheet shows total assets in the low-six figures and total liabilities in the mid-five figures, with none of these liabilities current (all of the company's liabilities are in the form of a note payable to a shareholder), and positive stockholders' equity in the mid-five figures.

⁸ In evaluating an applicant's financial fitness, the Department generally asks that the company have available to it resources sufficient to cover all pre-operating costs plus a working capital reserve equal to the operating costs that would be incurred in three months of normal commuter operations. Because projected operations during one or more of the first three months of anticipated commuter services frequently do not include all costs that will be incurred during a normal period of operations, it is our practice to base our three-month standard on one quarter of the first year's operating cost forecast. In calculating available resources, projected revenues may not be used.

⁹ Third-party verification that Mr. Mellinger has available sufficient financial resources to supply such funds was supplied from various major national brokerage firms with whom Mr. Mellinger maintains accounts. Altogether, verification of assets in the mid-eight figures was supplied.

¹⁰ Third-party verification of Mr. Wooldridge's ability to supply such assets was provided.

Compliance Disposition

We also tentatively conclude that Edelweiss has the proper regard for the laws and regulations governing its services to ensure that its aircraft and personnel conform to applicable safety standards and that acceptable consumer relations practices will be followed.

Our search of the Department's enforcement files found no record of problems involving this company, its owners, or its key personnel. In addition, the applicant has stated that there are no actions or outstanding judgments against it, its owners, or its key personnel, nor have there been any charges of unfair, deceptive or anti-competitive business practices, or of fraud, felony or antitrust violations brought against any of these parties. Edelweiss states further that there have been no formal complaints filed or orders issued finding it, its key personnel, or persons having a substantial interest in it to be in violation of the statute or of the Federal Aviation Regulations.

Our search of FAA records found that Edelweiss has had no FAA enforcement actions taken against it, nor has it been involved in any incidents or accidents. Further, the FAA has advised us that Edelweiss' current air taxi operations are being conducted in a satisfactory manner and that it knows of no reason why we should act unfavorably on this application.¹¹

CITIZENSHIP

49 U.S.C. 41102 requires that authority to engage in air transportation be held only by citizens of the United States as defined in 49 U.S.C. 40102(a)(15). That section requires that the president and two-thirds of the Board of Directors and other managing officers be U.S. citizens and that at least 75 percent of the outstanding voting stock be owned by U.S. citizens. We have also interpreted the statute to mean that, as a factual matter, the carrier must actually be controlled by U.S. citizens.

Edelweiss is a corporation organized under the laws of the State of New Mexico, and its owners, Mr. & Mrs. Timothy Wooldridge and Mr. Michael Mellinger, are all citizens of the United States. Further, the carrier has stated that each of its directors,¹² officers, and key personnel is a U.S. citizen, and it has provided an affidavit stating that it is a U.S. citizen within the meaning of section 40102(a)(15). Moreover, there is nothing in the record that would indicate that Edelweiss is controlled by non-U.S. citizens.

¹¹ Prior to being authorized to provide commuter service, Edelweiss must obtain amended Operations Specifications from the FAA authorizing it to conduct scheduled passenger air transportation as a commuter.

¹² Edelweiss' Board of Directors is composed of Mr. & Mrs. Timothy Wooldridge and Mr. & Mrs. Geary Monckton. As noted elsewhere in this order, Mr. Wooldridge serves as Edelweiss' Chief Executive Officer, Mrs. Wooldridge serves as its Vice President and Director of Public Relations, and Mr. Monckton serves as its Director of Operations. Mrs. Monckton also works for Edelweiss, serving as its bookkeeper.

In view of the foregoing, we tentatively conclude that Edelweiss is a U.S. citizen and that it is fit, willing, and able to provide the scheduled passenger service it proposes as a commuter air carrier.

OBJECTIONS

We will give interested persons 14 days following the service date of this order to show cause why the tentative findings and conclusions made here should not be made final; answers to objections will be due within 7 days thereafter. We expect that persons objecting to our tentative findings and conclusions will support their objections with relevant and material facts. We will not entertain general, vague, or unsupported objections. If no substantive objections are filed, we will enter an order making final our tentative findings and conclusions with respect to Edelweiss' fitness and commuter authority.

EFFECTIVE COMMUTER AUTHORIZATION CONDITIONS AND LIMITATIONS

In the event that we find Edelweiss fit, willing, and able to conduct the proposed scheduled passenger operations, we will issue to it a Commuter Air Carrier Authorization. However, that authorization will not become effective until the carrier has fulfilled all of the requirements for effectiveness as set forth in the Terms, Conditions, and Limitations attached to its authorization. Among other things, this includes our receipt of amended Operations Specifications from the FAA authorizing scheduled passenger operations under Part 135, and evidence of liability insurance coverage meeting the requirements of section 205.5(b) of our rules.

Furthermore, we remind Edelweiss of the requirements of 49 U.S.C. 41110(e). Specifically, that section requires that, once a company is found fit initially, it must remain fit in order to hold its authority. To be assured that commuter air carriers continue to be fit after effective authority has been issued to them, we require that they supply information describing any subsequent major changes they may undergo in areas affecting fitness. Our tentative findings stated above are based on the operating plans described in Edelweiss' application which call for Edelweiss to utilize a single nine-seat aircraft in its commuter operations, with two smaller aircraft serving as back-up aircraft. These findings might no longer apply if the company were to substantially change the scope of its operations through the introduction of larger aircraft. Therefore, we propose to limit any commuter authority issued to Edelweiss to operations with aircraft that can be operated under Part 135 of the FARs (that is aircraft having nine passenger seats or less). Should Edelweiss later decide to operate larger aircraft, it must first be determined fit for such operations. Further, should Edelweiss propose any other substantial changes in its ownership, management, or operations, it must first comply with the requirements of section 204.5 of our regulations.¹³ The

¹³ In addition, by notice dated July 21, 1998, the Department requested air carriers to provide a 30-day advance notification of any proposed change in ownership, restructuring, or recapitalization. Edelweiss may contact our Air Carrier Fitness Division to report proposed substantial changes in its operations, ownership, or management, and to determine what additional information, if any, will be required under section 204.5. If the carrier fails to file the information or if the information fails to demonstrate that the carrier will continue to be fit upon implementation of the substantial change, the Department may take such action as is appropriate, including enforcement action or steps to modify, suspend, or revoke the carrier's commuter authority.

compliance of the company with this requirement is essential if we are to carry out our responsibilities under the statute.¹⁴

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not issue an order finding that Edelweiss Holdings, Inc. d/b/a Edelweiss Air d/b/a Rio Grande Air is fit, willing, and able under 49 U.S.C. 41738 to provide scheduled passenger service as a commuter air carrier.
2. We direct any interested persons having objections to the issuance of an order making final any of the proposed fitness findings set out here to file such objections with Janet A. Davis, Air Carrier Fitness Division, X-56, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, and serve them on all persons listed in Attachment A no later than 14 days after the service date of this order; answers to objections will be due within 7 days thereafter.
3. We will accord full consideration to the matters and issues raised in any timely and properly filed objections before we take further action.
4. In the event no one files objections, we will deem all further procedural steps waived, and we will enter an order making final the tentative findings and conclusions set out here and awarding Edelweiss Holdings, Inc. d/b/a Edelweiss Air d/b/a Rio Grande Air a Commuter Air Carrier Authorization, subject to the attached specimen Terms, Conditions, and Limitations.¹⁵
5. We will serve a copy of this order on the persons listed in Attachment A.

¹⁴ We also remind Edelweiss about the requirements of section 204.7 of our rules which provides among other things, that: (1) the commuter authority granted to a company shall be revoked if the company does not commence actual flying operations under that authority within one year of the date of the Department's determination of its fitness; (2) if the company commences operations for which it was found fit and subsequently ceases such operations, it cannot resume commuter operations unless its fitness has been redetermined; and (3) if the company does not resume operations within one year of its cessation, its authority shall be revoked for dormancy. The carrier must file a notice of its intent to resume operations at least 45 days prior to said resumption. This notice shall contain updated fitness information.

¹⁵ Since we have provided for the filing of objections to this order, we will not entertain petitions for reconsideration.

6. We will publish a notice of this order in the Federal Register.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

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



Specimen
Terms, Conditions, and Limitations

EDELWEISS HOLDINGS, INC.
d/b/a Edelweiss Air
d/b/a Rio Grande Air

is authorized to engage in scheduled passenger air transportation operations as a commuter air carrier.

This authority is subject to the following provisions:

- (1) The authority to conduct scheduled passenger operations will not become effective until six (business) days after the Department has received the following documents; provided, however, that the Department may stay the effectiveness of this authority at any time prior to that date:
 - (a) A copy of the holder's Air Carrier Certificate and Amended Operations Specifications authorizing such operations from the Federal Aviation Administration (FAA).
 - (b) A certificate of insurance on OST Form 6410 evidencing liability insurance coverage meeting the requirements of 14 CFR 205.5(b) for all of its aircraft.
 - (c) A statement of any changes the holder has undergone in its ownership, key personnel, operating plans, financial posture, or compliance history, since the date of the Show Cause Order in this case.
 - (d) A revised list of pre-operating expenses already paid and those remaining to be paid, as well as independent verification that the holder has available to it funds sufficient to cover any remaining pre-operating expenses and to provide a working capital reserve equal to the operating costs that would be incurred in three months of operations.
- (2) Pending receipt of effective authority, the holder may not accept payment of any kind (i.e., cash, check, or credit card) or issue tickets for scheduled passenger operations, and any advertisement or listing of flights by the holder must prominently state: "This service is subject to receipt of government operating authority."

- (3) The holder shall at all times conduct its operations in accordance with the requirements of 14 CFR Part 298 and any other regulations prescribed by the Department of Transportation for the services authorized here, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (4) The holder may not operate aircraft designed to have a maximum capacity of more than nine passenger seats.
- (5) The holder's authority is effective only to the extent that such operations are also authorized by the 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 this authority 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 authority.
- (8) The holder shall maintain in effect at all times with the Department of Transportation current information on OST Registration Form 4507.
- (9) The holder may not provide scheduled passenger air transportation to or from Dallas (Love Field), Texas, except within the limits set forth in section 29 of the International Air Transportation Competition Act of 1979, as amended by section 337 of the Department of Transportation and Related Agencies Appropriations Act, 1998.
- (10) 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.
- (11) In the event that the holder does not commence actual flying operations as a commuter air carrier under this authority within one year of the date of the Department's determination of its fitness, its commuter authority shall be revoked for dormancy. Further, in the event that the holder commences but subsequently ceases all scheduled passenger operations, the authority granted here 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.

SERVICE LIST FOR EDELWEISS HOLDINGS, INC.

Attachment A

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