

50384

SERVED JAN 26 1999



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

Issued by the Department of Transportation
 on the 26th day of January, 1999

Application of

NATIONAL AIRLINES, INC.

for a certificate of public convenience and necessity under
 49 U. S . C. 4 1102 to engage in interstate scheduled air
 transportation of persons, property and mail

Docket OST-98-4538 - 11

**ORDER TO SHOW CAUSE
 PROPOSING ISSUANCE OF CERTIFICATE AUTHORITY**

Summary

By this order, we tentatively find that National Airlines, Inc., is a citizen of the United States and is fit, willing, and able to provide interstate scheduled air transportation of persons, property, and mail and should be issued a certificate of public convenience and necessity for such operations.

Background

Section 41102 of Title 49 of the United States Code (Transportation) ("the Statute") directs us to determine whether applicants for certificate authority to provide interstate scheduled air transportation are "fit, willing, and able" to perform such transportation, and to comply with the Statute and the regulations of the Department. In making fitness findings, the Department uses a three-part **test that** reconciles the Airline Deregulation Act's liberal entry policy with Congress's 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 operations 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.

On October 2, 1998, National Airlines, Inc., located in Las Vegas, Nevada, filed an application in Docket OST-98-4538 for a certificate to provide interstate scheduled air transportation of persons, property and mail pursuant to section 41102 of the Statute. National accompanied its application with the fitness information required by section **204.3** of our regulations.¹ If its application is approved, National intends to provide scheduled passenger service to various U.S. points from a hub at Las Vegas with leased B-757-200 aircraft beginning in the spring of 1999.

No answers have been received to National's application, and no other issues regarding the applicant have come to our attention. Under these circumstances, we propose to decide the issue of the applicant's fitness on the basis of the written record, and we tentatively conclude that National is a U.S. citizen and is fit, willing, and able to operate its proposed interstate scheduled passenger service. However, we will give interested persons an opportunity to show cause why we should not adopt as final the tentative findings and conclusions stated herein.

The Company

National was organized as a Delaware corporation on April 12, 1995, by its Chairman, Mr. Michael J. Conway. Most of its common stock (73.5 percent) is owned by four investors, which are the only shareholders that own 10 percent or more of the applicant's stock: (1) Mr. Robert A. Morrow II, National's Senior Vice President-Vacations (11.8 percent); (2) Rio Hotel & Casino, Inc. ("Rio"), a publicly owned corporation located in Las Vegas (23.9 percent); (3) Harrah's Operating Company, Inc. ("HOC"), a wholly owned subsidiary of Harrah's Entertainment, Inc. ("Harrah's") a publicly traded company located in Memphis, Tennessee (23.9 percent);" and (4) Wexford Capital Partners II, L.P., and two affiliated

¹ National asked for confidential treatment of its private offering memorandum, five-year business plan, letters of intent to lease aircraft, synopsis of aircraft acquisition discussions, and agreements with investors. National also filed information supplementing its application on November 5 and December 10, 1998, and January 5, 1999, some of which information was also covered by requests for confidential treatment. By staff action in a letter dated January 13, 1999, the Department granted the applicant's requests, in part, and directed that certain material be redacted and filed in the public docket in this proceeding, which National did on January 15, 1999.

² Harrah's can be considered to be the beneficial owner of HOC's shares of National. National has entered into shareholder, registration rights, and marketing alliance agreements with HOC and Rio. The applicant affirms, however, that no agreement among these parties grants HOC, Harrah's, or Rio the right to place a representative on National's board of directors, to participate in its policy-making, to control the company, or to veto any of its decisions. Harrah's and Rio have entered into a merger agreement which, if consummated, would result in Rio's becoming a wholly owned subsidiary of Harrah's. At such point, Harrah's would *beneficially* own both HOC's and Rio's interest (i.e., 47.8 percent) in National; however, the shareholder agreement between HOC and National provides that, if Harrah's merger with Rio is consummated, the voting power exercisable by Harrah's with respect to National's stock will be limited to 25 percent of the total shares outstanding. All National common stockholders are entitled to one vote per share, and there are no provisions for cumulative voting for directors or for a liquidation preference.

entities (“Wexford”), located in Greenwich, Connecticut (13.9 percent).³ In addition to the above-named shareholders, 13 of the applicant’s managers and directors own an aggregate of 4.2 percent of National’s common stock, and 52 other individuals and entities own an aggregate of **22.3** percent.’

Managerial Competence

Mr. Michael J. Conway is Chairman, President and Chief Executive Officer of National. His nearly 30-year career in the aviation industry began with a position as a Certified Public Accountant and senior manager with Price Waterhouse, where his clients included airlines and their lenders. He briefly was Vice President and Controller of Continental Airlines before leaving in 1981 to co-found America West Airlines where, over 12 years, he served as Executive Vice President and Chief Financial Officer, President and Chief Operating Officer, and ultimately President and Chief Executive Officer.

Mr. Raymond T. Nakano has been named Senior Vice President and Chief Financial Officer for National. He was employed by Continental Airlines for eight years in several managerial accounting positions, culminating as Senior Director of General Accounting. Mr. Nakano transferred to America West Airlines in 1983 where over 12 years he served as Controller, Vice President, and Acting Chief Financial Officer.

Mr. James R. Carr is National’s Senior Vice President-Operations. Mr. Carr holds Airline Transport Pilot and Airline Dispatcher Certificates from the FAA. After leaving the U.S. Air Force, he worked as a pilot for Air Florida and a B-737 instructor at American Airlines

³ Wexford Capital Partners II, a Delaware limited partnership, owns 0.8 percent of National’s common stock. Its two affiliates, Imprimis Investors, LLC, a Delaware limited liability company, and Imprimis SB, L.P., a Delaware limited partnership, own 7.5 percent and 5.6 percent, respectively. An affiliate of Wexford owns Chautauqua Airlines, Inc., an Indianapolis-based commuter air carrier doing business as US Airways Express, and warrants to acquire approximately 16 percent of the common stock of Frontier Airlines, Inc., a certificated air carrier located in Denver.

⁴ The members of the applicant’s board of directors are Mr. Michael J. Conway, Chairman, President and Chief Executive Officer of National; Mr. Raymond T. Nakano, Senior Vice President and Chief Financial Officer of National; Mr. Robert A. Morrow II, Senior Vice President-Vacations and one of the applicant’s four principal investors discussed above; Mr. Robert Broadbent, Principal of Broadbent Consulting, Inc., former Director of Aviation for Clark County (Las Vegas), and former Assistant Secretary of the U.S. Department of the Interior for Water and Science; Mr. Charles H. Buckingham, a Las Vegas Certified Public Accountant; Mr. Arnold H. Kroll, Senior Advisor of Schroder & Co., Inc., the investment banking firm serving as National’s private placement agent, and former director of America West Airlines; Mr. Hector Mon, President of Harrah’s Nevada; Mr. Robert K. Moses, Jr., Chairman of Black Jack Resources, Inc., a Houston-based oil and gas exploration company; Mr. Jock Patton, a provider of securities analysis software, mutual fund trustee, and former director of America West Airlines; Mr. Colin V. Reed, Executive Vice President and Chief Financial Officer of Harrah’s; and Mr. James A. Barrett, Jr., President of Rio. In addition, Mr. Joel Lever, managing partner of the law firm of Kurzman & Eisenberg, LLP, of White Plains, New York, has been named a non-voting advisor to the board of directors.

Training Corporation. From 1983 until joining the applicant, Mr. Carr was employed by America West Airlines in increasingly responsible positions including check **airman**, Director of Flight Crews, Chief Pilot, and Vice President of Flight Operations.

Mr. John McKeon has been designated Vice President-Flight Operations and Chief Pilot for the applicant. After completing U.S. Air Force service, Mr. McKeon worked as a pilot, instructor and President of **Fancher Flyways**, a flight school/air taxi operator near Seattle. He subsequently was employed as a pilot with Wien Air Alaska and Saudi Arabian Airlines before working for America West Airlines for 15 years as a pilot and Director of Flight Standards Safety. Mr. McKeon holds an FAA-issued Airline Transport Pilot Certificate, has a B-757 type rating, and has accumulated nearly 9,000 hours of flight time.

Mr. Nolan Wiley is Vice President-Maintenance for National. Mr. Wiley, who holds an FAA-issued Airframe and Powerplant Mechanic Certificate, has worked in aviation maintenance for about 35 years. Positions he has held include Supervisor of Aircraft Maintenance (Continental Airlines), Director of Quality Control/Chief Inspector (Air Pacific, Air Oregon, Horizon Airlines, and America West Airlines), and Director/Vice President of Maintenance (Empire Airlines and Western Pacific Airlines).

In view of the experience and background of the applicant's key personnel, we tentatively conclude that National has demonstrated that it has both senior management and key technical

⁵ In addition to the individuals noted above, National has designated other persons who appear to be well qualified to hold their respective managerial positions with the Company: Mr. Frank M. Schubert, Senior Vice President-Customer Services (previously Director of Field Marketing for Frontier Airlines and Vice President of Customer Services for America West Airlines); Mr. Mark S. Suman, Senior Vice President-Strategic Planning (formerly transportation industry analyst with the Civil Aeronautics Board, Vice President of **Kurth & Co.**, and Senior Director for Market Planning at America West); Mr. Robert A. Morrow II, Senior Vice President-Vacations (one of the applicant's principal investors and owner, Chairman and Chief Executive **Officer** of Dominion Development, Ltd., a Las Vegas real estate development and investment firm); Mr. Kevin J. Tourek, Senior Vice President-Legal and Human Resources (formerly Partner in Corporate/Securities Group of the law firm of **Streich Lang**); Mr. Richard A. **Barba**, Vice President-Hub and Station Operations (previously Manager of Airport Services for TWA and at America West where he ultimately was Senior Director of Field Station Operations); Mr. Thomas A. Jasperson, Director of Maintenance (Director of Maintenance and Director of Quality Control for **12** years with **MarkAir** and Western Pacific Airlines; holds an FAA Airframe and **Powerplant** Mechanic Certificate); Mr. Robert W. Moye, Jr., **Director**-Quality Assurance/Chief Inspector (over 30 years of managerial experience in aircraft maintenance and inspection, maintenance marketing, and aircraft financing, with such companies as Western Airlines, Polaris Aircraft Leasing, **MarkAir**, and Dynair Tech of Arizona; holds an FAA **Airframe** and Power-plant Mechanic Certificate); and Ms. Joanne Royal, Director of Safety (spent last 13 years with America West, most recently as Safety Administrator).

supervisors who have the managerial skills and technical ability to conduct its proposed service.⁶

Financial Plan and Operating Proposal

If granted the certificate authority it seeks, National intends to provide two-class, full-service, non-stop scheduled passenger service from its Las Vegas hub (McCarran International Airport) initially to New York (JFK), San Francisco, Los Angeles, and Chicago with leased B-757-200 aircraft. National states that it has entered into a non-exclusive joint marketing agreement with HOC and Rio, and plans to enter into marketing agreements with foreign air carriers serving the U.S. gateway cities to be served by National. The applicant also discussed its plans to contract out such functions as heavy maintenance, t-light training, reservations, and ground handling, and to assign oversight responsibility for such outsourced activities to National management personnel.

National filed data supporting its operational and financial projections covering a projected six-month pre-operating period and the first five years of scheduled operations, information was provided by market on proposed flight schedules, fares, seasonality factors, and projected growth, as well as on estimated numbers of daily departures, block hours, enplanements, load factors, and passenger yield. In considering assumptions and preparing forecasts, National states that it drew on data contained in *the Official Airline Guides*; historical airline traffic, revenue and service data compiled by the Department (O&D Survey); vendor quotes; and management experience.

Funding for National's start-up and initial operations has been obtained from two private placements, from which National received proceeds totaling approximately \$49 million, National provided a copy of a balance sheet reflecting its financial condition as of August 31, 1998. At that time, the company had current assets totaling \$44.7 million, current liabilities of \$44,600, no long-term debt, and paid-in capital of \$48.7 million. The applicant also supplied an income statement covering the period April 1995 through August 1998, which shows that the company received revenues from interest income and consulting fees totaling \$220,600, and incurred pre-operating expenses of \$4.3 million, resulting in a net operating loss of approximately \$4.1 million. National also filed statements from its financial institutions confirming that, as of September 11, 1998, the company had funds on deposit totaling \$41,753,396 to be applied toward the remaining pre-operating expenses and to serve as a working capital reserve.

National estimated that an additional \$9.3 million will be required to cover remaining pre-operating expenses, including salaries, training, deposits, lease payments, parts and supplies

⁶ Before authorizing a carrier to conduct air transportation operations, the FAA also 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.

inventory, advertising, and certification expenses. The applicant also provided revenue and cost projections based on first-year operations beginning with four aircraft and expanding to nine, ten, or twelve aircraft. We have examined National's estimated expenses and find them, for the most part, to be reasonable.' Based on our analysis of its forecasts, we calculate that National appears to have access to resources sufficient to meet our financial fitness criteria not only for its proposed start-up with four-aircraft and four markets, but also to cover an expansion to up to eight B-757-200 aircraft. For operations of the latter scope, we have determined that National will require access to resources of at least \$39.2 million.⁸

In consideration of the foregoing, we tentatively conclude that National will have sufficient financial resources available to it to enable it to commence its proposed scheduled passenger operations without posing an undue risk to consumers or their funds.

Compliance Disposition

National stated that it is not aware of any actions or outstanding judgments, or of any charges of unfair, deceptive or anti-competitive business practices, or of fraud, felony or antitrust violations that have been brought against it or any of its key personnel within the past ten years. National further stated that there are no pending investigations, enforcement actions, or formal complaints filed by the Department, including the Federal Aviation Administration, against it, its key personnel, or persons having a substantial interest in it with respect to compliance with the Statute or the Department's or the Federal Aviation Administration's regulations.

Our search of the Department's records found no compliance problems with National or its key personnel. However, the applicant provided copies of the most recent available SEC Form 10-K and 10-Q reports filed by Harrah's and Rio for 1997 and for the first and second

⁷ Based on a careful review of the material provided by National supporting its calculation of projected block-hour and first-year aircraft maintenance costs, we consider the projections to be underestimated. Consequently, we recalculated the applicant's first-year maintenance cost estimate to include an accrual for maintenance reserves and to bring it more in line with the average maintenance expense per block hour reported to the Department by other low-cost operators of B-757-200 aircraft. This re-estimation resulted in an increase in the applicant's projected total first-year operating costs by approximately \$1.7 million. This change did not alter National's ability to meet the Department's financial fitness criteria.

⁸ This amount is comprised of the projected \$9.3 million in remaining pre-operating costs plus \$29.9 million, which is approximately one-fourth of our re-estimation of the applicant's total first-year operating costs of \$119.6 million. 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 certificated operations. Because projected expenses during one or more of the first several months of service frequently do not include all costs of operations that will be incurred during a normal period of operations, it is our practice to base our three-month test on one quarter of the first year's operating cost forecast. In calculating available resources, projected revenues may not be used.

quarters of 1998, which summarized pending litigation in which complainants make allegations against the two companies and affiliated entities of fraud, unfair, deceptive or anti-competitive business practices, antitrust violations, breach of fiduciary duty, and other objectionable conduct.’ Rio and Harrah’s claim that many of the charges are without merit, that they will vigorously defend against the charges, and that the outcome of these matters will not likely have a material adverse effect on the companies. We have reviewed the summaries of the pending litigation and found that none of the actions were brought against Harrah’s and Rio by a government or regulatory agency, and that the complaints do not appear to reflect a pattern of proven wrongful business conduct, but rather allege the types of unfair actions commonly charged in adversarial proceedings. Moreover, as described above, neither Harrah’s nor Rio is in a position to control National. We tentatively conclude, therefore, that these matters are unrelated to Harrah’s and Rio’s relationship with National and should not adversely affect the applicant’s compliance disposition.

Our inquiries of the FAA revealed that National has applied for certification under Part 121 of the Federal Aviation Regulations and that the certification process is proceeding normally. The FAA also advised that all key personnel have been found qualified to hold their respective positions.

In light of these circumstances, we tentatively conclude that National will have 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.

⁹ These legal actions include: (1) charges in class action lawsuits against numerous casino operators, including Rio, that the casinos engaged in fraud and violations of the RICO Act by misleading persons about how slot and video poker machines operate and thus about persons’ chances of winning games on these machines, and (2) charges of violations of federal antitrust law, and other statutes by wrongfully excluding “card counters” from playing casino games. Another class action lawsuit charges Rio with fraud for refusing to allow persons who are not Rio customers to use a golf course that Rio had purchased for use by its guests.

Pending litigation involving Harrah’s includes a number of legal actions, including adversarial proceedings and class action lawsuits, related to Harrah’s Jazz Club, an affiliate of Harrah’s which was building a casino in New Orleans when it filed for Chapter 11 bankruptcy protection. Claims allege that Harrah’s (1) made misstatements and omissions in connection with the sale of Harrah’s Jazz Company (“HJC”) 14.25% First Mortgage Notes; (2) engaged in fraud, fraudulent advertising, and unfair trade practices with respect to allegedly inadequate payments made to the general contractor of the casino; (3) failed to timely notify and provide severance to workers terminated by Harrah’s at the time of the HJC bankruptcy; (4) engaged in preferential transfers, insider preferential transfers, and avoidance transfers; and (5) engaged in breach of implied duty of good faith, detrimental reliance, misrepresentation, and false advertising; claimants seek to force Harrah’s to complete the casino in New Orleans.

CITIZENSHIP

Section 41102 requires that certificates 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.

National is a corporation organized under the laws of the State of Delaware. It has provided an affidavit attesting that it is a citizen of the United States within the meaning of the Statute and that it is actually controlled by U.S. citizens. National has declared that each of the four stockholders that own a substantial amount (10 percent or more) of its stock and all of its officers and directors (accounting for 77.7 percent of National's voting stock) are U.S. citizens. The applicant has further affirmed that, of the 52 individuals and entities that own the remaining 22.3 percent of its stock, only one individual investor, with a 2 percent interest, has been identified as a non-U. S. citizen. The company has also provided copies of its certificate of incorporation and bylaws which contain provisions that prevent the percentage of National voting stock owned by non-U.S. citizens from exceeding that allowed by the Statute. Finally, we have found nothing in the record to suggest that control of National rests with non-U.S. citizens.

Based on the above, we tentatively conclude that National is a citizen of the United States and is fit, willing, and able to conduct the interstate scheduled passenger operations proposed in its application.

OBJECTIONS

We will give interested persons 14 calendar days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; answers to objections will be due within 7 calendar days thereafter. We expect such persons to direct their objections, if any, to the application and points at issue and to support such objections with detailed economic analyses.¹⁰ We will not entertain general, vague, or unsupported objections. If no substantive objections are filed, we will issue an order that will make final our tentative findings and conclusions with respect to National's fitness and certification, and will issue a certificate that will contain an exact copy of the attached Terms, Conditions, and Limitations.

¹⁰ If an oral evidentiary hearing or discovery procedures are requested, the objector should state in detail why such a hearing or discovery is considered necessary, and what material issues of decisional fact the objector would expect to establish through a hearing or discovery that cannot be established in written pleadings. The objector should consider whether discovery procedures alone would be sufficient to resolve material issues of decisional fact. If so, the type of procedure should be specified (See Part 302, Rules 19 and 20); if not, the reasons why not should be explained.

CERTIFICATE CONDITIONS AND LIMITATIONS

If National is found fit and issued the certificate it seeks, its authority will not become effective until the company has fulfilled all requirements for effectiveness as set forth in the terms and conditions attached to its certificate. Among other things, this includes our receipt of evidence that National has been certified by the FAA to engage in the subject operations, a fully executed OST Form 6410 evidencing liability insurance coverage that meets the requirements of Part 205 of our rules, and a statement of changes it may have undergone since its fitness was examined.

Furthermore, we remind National of the requirements of 49 U.S.C. 41110(e). Specifically, that section requires that, once a carrier is found fit initially, it must remain fit in order to hold its authority. To be assured that certificated air carriers continue to be fit after effective authority has been issued to them, we require that they supply information describing any subsequent substantial changes they may undergo in areas affecting fitness.

Our tentative findings stated above are based on a first-year operating plan wherein National would utilize up to eight B-757-200 aircraft. These findings might no longer apply if the company were to substantially change the scope or nature of its operations through the introduction of additional aircraft. Therefore, once the applicant's certificate becomes effective, should National propose to acquire and operate more than eight such aircraft, it must notify the Department in writing at least 45 days in advance and demonstrate its fitness for such operations prior to implementing service with any additional aircraft. Furthermore, should National propose other substantial changes in its ownership, management, or operations, it must first comply with the requirements of section 204.5 of our rules.¹¹ The compliance of the company with this requirement is essential if we are to carry out our responsibilities under section 41110(e).¹²

¹¹ By notice dated July 21, 1998, the Department requested air carriers to provide a 30day advance notification of any proposed change in ownership, restructuring, or **recapitalization**. National 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 certificate authority.

¹² We also remind National about the requirements of section 204.7 of our rules. This section provides, among other things, that (1) the certificate 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 may not resume certificated 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.

To aid the Department in its responsibility to monitor the fitness of new carriers, we have adopted a requirement that all start-up carriers must submit a detailed progress report, within 45 days following the end of the first year of actual flight operations, to the Air Carrier Fitness Division. The report should include a description of the carrier's current operations (number and type of aircraft, principal markets served, total number of full-time and part-time employees), a summary of how its operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, current financial statements,¹³ and a listing of current senior management and key technical personnel. The carrier should also be prepared to meet with staff members of the Fitness Division to discuss its current and future operations.

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated above and award a certificate to National Airlines, Inc., authorizing it to engage in interstate scheduled air transportation of persons, property and mail, subject to the attached specimen Terms, Conditions, and Limitations.
2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or the certificate award set forth here to file them with Department of Transportation Dockets, 400 Seventh Street, SW, Room PL-401, Washington, D.C. 20590, in Docket OST-98-4538, and serve them upon all persons listed in Attachment A no later than 14 calendar days after the service date of this order; answers to objections shall be filed no later than 7 calendar days thereafter.
3. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues raised by the objections before we take further action.¹⁴
4. In the event that no objections are filed, we will consider all further procedural steps to be waived and we will enter an order making final our tentative findings and conclusions.
5. We will serve a copy of this order on the persons listed in Attachment A.

¹³ These **financial** statements should include a balance sheet as of the end of the company's first full **year** of actual flight operations and a twelve-month income statement ending that same date.

¹⁴ Since we have provided for the filing of objections to this order, we will not entertain petitions for reconsideration.

6. We will publish a summary 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/reports/reports_aviation.asp*

SPECIMEN

Attachment



Terms, Conditions, and Limitations

NATIONAL AIRLINES, INC.

is authorized to engage in interstate 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 authority to operate under this certificate 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 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.*
- (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 the operations proposed under this certificate, 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 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.*
- (4) *The holder's authority is effective only to the extent that such operations are also authorized by the FAA.*

(5) *The holder shall at all times main 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 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) *In the event that the holder receives effective scheduled passenger authority, the following additional conditions will apply:*

(a) *The holder may reduce or terminate service at any point or between any two points, subject to compliance with the provisions of 49 U.S.C. 41734 and all orders and regulations issued by the Department of Transportation under that section.*

(b) *The holder my 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.*

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

(9) *In the event that the holder does not commence actual flying operations under this certificate within one year of the date of the Department's determination of its jitness, its authority shall be revoked for dormancy. Further, in the event that the holder commences operations for which it was found "fit, willing, and able" and subsequently ceases all such operations, 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.*

SERVICE LIST FOR NATIONAL AIRLINES, INC.

Mr Michael J Conway
President
National Airlines Inc
2330 Paseo Del Prado Ste C- 105
Las Vegas NV 89 102

Mr Kevin J Tourek
Senior Vice President
National Airlines Inc
2330 Paseo Del Prado Ste C-105
Las Vegas NV 89102

Mr George U Carneal
Mr Ronald P Brower
Hogan & Hartson, LLP
Counsel for National Airlines Inc
Columbia Sq 555 13th St NW
Washington DC 20004

Mr Steven Kane
Flight Stds District Office
Federal Aviation Admin
7181 Amigo St #180
Las Vegas NV 89119-4354

Mr David C Gilliom
Mgr Flight Stds Div AWP-200
Federal Aviation Admin
PO Box 92007 World Pstl Ctr
Los Angeles CA 90009

Mr DeWitte T Lawson Jr
Asst Chief Counsel AWP-7
Federal Aviation Admin
PO Box 92007 World Pstl Ctr
Los Angeles CA 90009

Amer Assoc of Airport Execs
4224 King St
Alexandria VA 22302

Mr Richard A Nelson
Official Airline Guides
2000 Clearwater Dr
Oak Brook IL 60521

Mr Jim Zammar
Dir of Revenue Accounting
Air Transport Assoc
1301 Pennsylvania Ave NW
Ste 1100
Washington DC 20004

Mr Allan Muten
Asst Treasurer
Airlines Reporting Corp
1530 Wilson Blvd Ste 800
Arlington VA 22209-2448

Mr Quentin J Smith Jr
Mgr Air Transportation Div.
Office of Flight Stds AFS-200
Federal Aviation Admin
800 Independence Ave SW
Washington DC 2059 1

Mr Louis Cusimano
Mgr Certification Program Office
Office of Flight Stds AFS-900
Federal Aviation Admin
45005 Aviation Dr Ste 131
Dulles VA 20166-7537

Mr Peter J Lynch
Asst Chief Counsel AGC-300
Federal Aviation Admin
800 Independence Ave SW
Washington DC 20591

Mr Tim Carmody
Dir Office of Airline Information
Dept of Transportation K-25
400 Seventh St SW
Washington DC 20590