**Order 99-4-1**

**Served: April 6, 1999**

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

Issued by the Department of Transportation
on the 2nd day of April, 1999

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| **TRANSATLANTIC, TRANSPACIFIC AND LATIN AMERICAN SERVICE MAIL RATES INVESTIGATION** | **Docket OST-1996-1629**<br>**(Docket 37392)** |

## ORDER ESTABLISHING FINAL SERVICE MAIL RATES

### Summary

By this order the Department is setting final international service mail rates for the period beginning on the date of issue of this order through December 31, 1999. These rates shall also remain in effect as final rates beginning January 1, 2000, or until further order of the Department, whichever is later.

### Background

By Order to Show Cause 98-11-18, served November 23, 1998, the Department proposed final international service mail rates to be effective from January 1 through December 31, 1999. The proposed rates reflected increases of 0.5 and 1.3 percent in the Latin American and Transborder rate areas, respectively, and decreases of 1.6 and 1.9 percent in the Atlantic and Pacific rate areas, respectively, compared to those in effect for the last half of 1998. The rates in effect for the last half of 1998 were established by Order 98-10-25, and were to remain in effect as final rates until either January 1, 1999, or until further order of the Department, whichever occurs later.

American Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc., filed Answers to Order 98-11-18 on January 7, 1999.

The three carriers argue that Delta does not appear to be reporting correctly its non-capacity expenses that are used to construct the mail rates in the Atlantic entity. The carriers note that Delta's Form 41 data show significant increases in capacity and traffic in the Atlantic during the past two years, but significant decreases in expenses during that period. The carriers speculate that that apparent inconsistency may be attributable to accounting errors or Delta's substantial code-share services. Finally, the carriers are of the view that if Delta cannot explain the steep drop in its non-capacity expenses relative to its traffic increases, Delta's reported data should be excluded from the mail rate calculation in the Atlantic.

### Decision

We have decided to make final the rates proposed in Order 98-11-18, with adjustments to the linehaul and the terminal elements for the Atlantic entity to reflect revised data submitted by Delta, as discussed below. The final rates are set forth in Appendices A-1 and A-2 to this order. Based on those revisions, the new final terminal rates for the Atlantic vary from the final rates in effect for the last half of 1998, and from the rates proposed in Order 98-11-18, by the amount and percentage shown in the following table: [1]

| | Last Half of 1998 (Order 98-10-25) | Per Order 98-11-18 | Per This Order |
|---|---|---|---|
| **Atlantic Terminal Rate (cents)** | **26.05** | **25.79** | **27.86** |
| **Percent Change (from '98)** | **--** | **(1.0) %** | **6.9 %** |

In response to the carriers' concerns about Delta's Form 41 Reports, the Director, Office of Airline Information of the Bureau of Transportation Statistics, by letter dated January 25, 1999, requested Delta to review its reporting of Form 41 data for its Atlantic entity code-share services. On February 5, Delta responded that it conducted a comprehensive review of the data it had filed during the last two years to determine whether there was any misclassification in the Traffic Servicing Expenses (or, as used here, its non-capacity or terminal expenses) as filed on Schedule P-7 for its Atlantic operations. [2] Delta concluded that those expenses for the 12 months ended June 30, 1997, and 1998 are correct as reported.

Delta added, however, that in the "Notes to Form 41 Report" (Schedule P-2) for the quarter ended March 31, 1997, it had recorded pre-tax restructuring and other non-recurring charges of $52 million relating to the realignment of its transatlantic and European operations as operating expenses. For ratemaking purposes, one-time restructuring costs are not validly recognized as operating costs, and should therefore be excluded from our mail rate calculations.

Delta's initial Form 41 filings for the relevant periods did not provide sufficient detail to enable us to identify where among its various operating accounts the $52 million of non-recurring costs was reflected. Consequently, there was no basis for the Department to identify what, if any, amounts should have been excluded from our calculations.

Delta has since provided such detail, which shows that of the $52 million in non-recurring charges, $1 million affected the Linehaul rate, and $21.5 million affected the Terminal rate.
We have now excluded those amounts and recalculated the rates (the balance of the $52 million was in passenger-related accounts that did not affect the mail rate calculations). As recalculated, the terminal rate in the Atlantic entity for the remainder of 1999 is nearly
7 percent higher than that in effect for the last half of 1998, rather than 1 percent lower as shown in Order 98-11-18.

**ACCORDINGLY,**

1. We make final the tentative findings and conclusions specified in Order 98-11-18, except to the extent modified herein;

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[1] The change in the linehaul element amounted to one one-hundredth of a cent increase in the linehaul rate compared to the rate proposed in Order 98-11-18. Thus, the final linehaul rate for the remainder of 1999 varies from the linehaul rate in effect for the last half of 1998 by the same amount shown in Order 98-11-18 at pg. 2, a reduction of 1.9 percent.

[2] We have placed both the Director's letter and Delta's response in the Correspondence Section of Docket OST 1996-1629.

2. The fair and reasonable final rates of compensation to be paid in their entirety by the Postmaster General pursuant to the provisions of 49 U.S.C. section 41901, for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, by each holder of a certificate authorizing the transportation of mail by aircraft in the Atlantic, Pacific, Latin America and Transborder rate areas, for the period beginning with the date of issue of this order through December 31, 1999, are those specified in the attached Appendices A-1 and A-2;

3. Ordering paragraph 3 (g) of Order 79-7-16, incorporated by reference, is amended by adding the following:

| | **Standard Container** | **Daylight Container** |
|---|---|---|
| January 1 through December 31, 1999 | 4.713 cents | 4.673 cents |

4. The fair and reasonable final rates of compensation for the transportation of mail by aircraft in international services for the period beginning January 1, 2000, until further order of the Department, shall be the final rates established for the period beginning with the date of issue of this order through December 31, 1999, as set forth in the attached Appendices A-1 and A-2;

5. The terms and conditions applicable to the transportation of each class of mail at the rates established here are those set forth in Civil Aeronautics Board Orders 79-7-17 and 79-7-16;

6. Because all interested persons have had an opportunity to comment on our Order to Show Cause (98-11-18), we shall not entertain petitions for reconsideration of this order;

7. This docket shall remain open until further order of the Department; and

8. We shall serve this order upon all parties on the Service List for this Docket.

By:

**A. BRADLEY MIMS**
Acting Assistant Secretary for Aviation
and International Affairs

**(SEAL)**

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