



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

Issued by the Department of Transportation on June 29, 1999

NOTICE OF ACTION TAKEN -- DOCKETS OST 99-5664 AND 5745, AND UNDOCKETED

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Applicants: **Guyana Airways 2000, Inc.** (Docket OST 99-5664) Date Filed: May 6, 1999
Nordstress Australia Pty. Limited (Docket OST 99-5745 Date Filed: May 28, 1999
and Undocketed)

Relief requested:

Guyana Airways 2000: Exemption from 49 U.S.C. § 41301 to conduct foreign air transportation of persons, property and mail between Georgetown, Guyana, and the coterminal points Miami, New York, and San Juan, via the intermediate points Curacao; Port of Spain, Trinidad; and Bridgetown, Barbados, and to conduct charters in accordance with 14 CFR Part 212. The applicant would conduct these services only by wet leasing aircraft from a duly authorized and properly supervised U.S. or foreign air carrier.

Nordstress Australia: Exemption from 49 U.S.C. § 41301, and statement of authorization under 14 CFR Part 212, to the extent necessary to permit it to wet lease aircraft on a long-term basis to Guyana Airways 2000 on its proposed services between Georgetown and New York.

Applicant representatives:

Guyana Airways 2000: Pierre Murphy, (202) 872-1679
Nordstress Australia: Richard D. Mathias, (202) 298-8660

Responsive pleadings: North American Airlines, Inc. filed an answer in opposition to the request of Nordstress, stating that the Government of Guyana has not approved its request to operate a summer season charter program of three roundtrip flights per week between Georgetown and New York. It also alleged that a company owned by one of Guyana Airways 2000's principals also holds a monopoly on ground handling at Georgetown. Guyana Airways 2000 filed a reply to this answer disputing North American's assertions. In addition, two private citizens filed answers in opposition to the request of Guyana Airways 2000, expressing concern over one of the identified minority shareholders in the carrier. Guyana Airways 2000 and the two private citizens also filed motions for leave to file otherwise unauthorized documents, which we will grant.

DISPOSITION

Action: Approved (see below)

Action date: June 29, 1999

Effective dates of authority granted:

Exemptions to Guyana Airways 2000 and Nordstress Australia: June 29, 1999-June 29, 2000.
Statement of authorization to Nordstress 2000: June 29, 1999-August 29, 1999, remainder deferred.

Basis for approval: Comity and reciprocity with Guyana and Australia. With respect to the concerns expressed by North American over the status of its request to conduct Guyana-New York charters, we note that by diplomatic note dated June 22, 1999, Guyana's Ministry of Foreign Affairs advised that it "has no objection to simultaneous reciprocal approval of the GA2000/Nordstress application and the North American Airlines Inc. application being granted by the relevant authorities of both the Cooperative Republic of Guyana and the United States of America." In light of this intergovernmental communication, we are granting Guyana Airways 2000's request with the expectation that the Government of Guyana will likewise approve North American's request. With respect to North American's concern over the provision of ground handling services at Georgetown, we have no indication that these services are being provided on other than a fair and equitable basis.

Finally, with respect to the answers filed by the two private parties, we note, upon a careful review of the record, that the pleadings do not provide adequate justification to warrant withholding the authority requested by Guyana Airways 2000.

We find, based on the record, that Guyana Airways 2000 is substantially owned and effectively controlled by citizens of Guyana. In the case of Nordstress, we previously found that waiver of our ownership and control standard for this carrier was warranted (*see* Order 95-3-7). We see nothing in the present record to justify a different finding here, and we will again waive that standard in this proceeding.

On June 24 and 28, 1999, the FAA advised us that it knew of no reason why we should act unfavorably on these requests, so long as the authority granted to Guyana Airways 2000 was limited, as the carrier proposed, to operations using aircraft wet-leased from a duly authorized and properly supervised U.S. or foreign air carrier.

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations attached to this Notice.

Special conditions/Partial grant/Denial basis/Remarks: Guyana Airways 2000 may conduct operations under this authority only using aircraft wet-leased from a duly authorized and properly supervised U.S. or foreign air carrier, and may not conduct U.S. operations with its own aircraft and crews without further order of the Department.

Action taken by: Paul L. Gretch, Director
Office of International Aviation

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) the applicants were qualified to perform the proposed operations; (2) immediate action was required and was consistent with Department policy; (3) grant of the authorities was consistent with the public interest; and (4) grant of the authorities would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted/deferred/dismissed, we denied all requests in the referenced Dockets. We may amend, modify, or revoke the authorities granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR § 385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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