

Served: February 4, 2000



**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 February, 2000

Application of

**JETBLUE AIRWAYS CORPORATION**

for a certificate of public convenience and necessity under  
49 U.S.C. 41102 to engage in interstate scheduled air  
transportation of persons, property and mail

**Docket OST-99-5616-19**

Application of

**JETBLUE AIRWAYS CORPORATION**

for a waiver of the provisions of section 201.5 of the  
Department's regulations

**Docket OST-99-6662-2**

**ORDER CONFIRMING ORAL ACTIONS AND  
ISSUING EFFECTIVE CERTIFICATE**

**Summary**

By this order, we (1) confirm our oral actions granting JetBlue Airways Corporation a waiver of section 201.5 of our rules (14 CFR 201.5) in order to permit it to issue tickets and accept payments from prospective passengers prior to receiving effective authority from the Department, and a waiver of the six-day waiting period prescribed in Order 99-8-26 before its certificate authority could be made effective; and (2) reissue JetBlue's section 41102 interstate scheduled passenger certificate to reflect its effective date.

**Background**

By Order 99-8-26, served August 31, 1999, the Department found JetBlue to be fit, willing, and able to conduct interstate scheduled passenger air transportation under section 41102 of Title 49 of the United States Code ("the Statute") and issued a certificate authorizing it to engage in such operations.

The certificate contained the usual condition that it would not become effective until the sixth (business) day after we had received certain documents, unless a stay was issued prior to that date. These included appropriate Federal Aviation Administration documents reflecting the carrier's operating authority, a certificate of insurance on OST Form 6410 showing that it had insurance coverage meeting the requirements of Part 205 of our rules, and a statement describing any changes it had undergone in its ownership, key personnel, operating plans, financial posture, or compliance history since the issuance of Show Cause Order 99-8-12.

On August 31, 1999, we received the required certificate of insurance on OST Form 6410 evidencing that JetBlue possesses liability insurance coverage, effective August 1, 1999, as prescribed by Part 205 of our regulations.

### **Request for Waiver**

On December 15, JetBlue filed in Docket OST-99-6662 a request for a waiver of the provisions of section 201.5 of our regulations to the extent necessary to authorize it to sell tickets and receive payments beginning January 5, 2000.<sup>1</sup> In support of this request, JetBlue stated that it expected to have completed its FAA certification and be ready to commence flight operations on or about February 5. Also on December 15, JetBlue's FAA Certification Project Manager advised the Department that, if the certification continued satisfactorily, the carrier's FAA certificate could be issued in late January or early February 2000.

To safeguard passenger funds, JetBlue stated that it had agreed to enter into an irrevocable escrow and other consumer fund protection arrangements with financial institutions to hold cash and credit card ticket payments prior to the institution of revenue operations. Furthermore, the carrier declared that it would advise its customers that it did not yet possess full authority to provide the advertised flights, and that, if it did not receive its final certification in time to perform the advertised flights, customers could obtain full ticket price refunds, or it would assist customers to obtain alternate transportation.

### **Changes Since Fitness Review**

On January 3, 2000, the carrier provided information on certain personnel changes made since its fitness was last reviewed.<sup>2</sup> We have examined the background and compliance information for

---

<sup>1</sup> With the issuance of a final fitness determination (Order 99-8-26), JetBlue was authorized by section 201.5 to advertise its services, list schedules, and take reservations as long as all advertisements and schedule listings prominently stated that performance of the advertised service was "subject to the receipt of government operating authority." It could not, however, sell tickets or receive payments for any such reservations.

<sup>2</sup> Mr. David W. Checketts has been selected to serve on JetBlue's board of directors. Mr. Checketts has served as President and Chief Executive Officer of Madison Square Garden since 1994.

Mr. David F. Ulmer joined JetBlue in October 1999 as Vice President-Planning. He previously held that position with ValuJet Airlines and was employed as Assistant Manager-International Route

Footnote continued --

the new personnel and conclude that they have the background and skills to properly perform their respective duties for JetBlue. Moreover, the FAA has confirmed that the new key technical personnel meet the qualifications for their positions as set forth in the Federal Aviation Regulations.

JetBlue states that it still intends to begin certificated operations on or about February 11 from New York/JFK to Buffalo with an A-320 aircraft, adding a second A-320 in the following week for service to Ft. Lauderdale. A third aircraft and market are expected to be added in March, with two more aircraft and markets to be added in June. By January 2001, JetBlue expects to be providing service to nine markets with ten A-320s.

The company filed revised statements of pre-operating expenses covering the year 1999 and the first month of 2000, and pro-forma traffic and income data for the first year of proposed actual operations (February 2000-January 2001). These documents indicate that JetBlue expects to have expended approximately \$76.3 million as of the end of January 2000 for expensed and capitalized pre-operating needs. This figure is about \$9.3 million higher than predicted in its original application. JetBlue's newly revised first-year operating cost projection of \$115.6 million represents an increase of \$17.5 million over its original projection. The new cost projection includes higher estimates for a number of items, including fuel, aircraft leases, landing fees, airport premises, and salaries.

We have examined JetBlue's revised data and find them to be reasonable. As a result of the pre-operating and projected operating cost increases, however, the amount of resources to which JetBlue will need access in order to continue to meet our financial fitness criteria has correspondingly increased. Dividing the company's revised total first-year operating cost estimate of \$115.6 million by four yields a three-month working capital reserve requirement of

---

Development with Delta, as Director-Pricing with Western Airlines, as Manager-Economic Planning with Frontier Airlines, and as Manager-Regulatory Affairs with Hughes Airwest.

Mr. John Harvey came to JetBlue in October 1999 as Vice President and Treasurer. His aviation experience includes serving as Senior Director-Corporate Finance with America West Airlines, and Manager-Corporate Taxation with Southwest Airlines.

Mr. Eric Montgomery joined JetBlue in July 1999 as Vice President and Controller. Previously, he served as Vice President-Finance and Director of CCAir and Director-General Accounting for Piedmont Aviation, Inc.

Mr. Lanny D. McAndrew was hired in December 1999 as Chief Pilot. Mr. McAndrew previously worked as a pilot for a number of certificated carriers, including Atlas Air and Ryan International Airlines. He also was employed as a simulator instructor with Delta Air Lines and Flight Safety International. He holds an Airline Transport Pilot Certificate from the FAA and has accumulated approximately 6,600 hours of flight time.

Mr. Georges LeGuernic recently was designated JetBlue's Director of Quality Control. Mr. LeGuernic's aviation maintenance and inspection experience was acquired at Tower Air (maintenance auditor, quality control), Kiwi International Airlines (quality control auditor and inspector), and Pan American World Airways (aircraft and engine mechanic and supervisor). He holds an Airframe and Powerplant Mechanic Certificate issued by the FAA.

\$28.6 million. With the preponderance of pre-operating expenses already paid, we have calculated that JetBlue's total start-up funds requirement is \$28.6 million.

The company provided an update of the stockholder investment payments it has received. At the time of its application, JetBlue anticipated investments totaling \$128.2 million. Its most recent accounting showed total investment received as \$129.2 million. The company's banks verified that, as of January 3, JetBlue had deposited funds available to it totaling \$52.3. Thus, the company, at that time, had access to approximately \$23.7 million more than is required to meet our financial fitness criteria.

In view of the company's continued satisfactory financial condition, we conclude that the tentative finding made in Order 99-8-12 that JetBlue would have the resources available to support the operation of up to eleven A-320 aircraft in the first year is substantiated. However, we will direct the carrier to notify the Department at least 45 days in advance if it plans to utilize more than eleven aircraft in its certificated operations.

### **Waiver Conditions**

On December 27, JetBlue provided a copy of a proposed irrevocable escrow agreement with Citibank in New York City, and a copy of a proposed credit card agreement with U.S. Bank National Association located in Minneapolis, which institutions will serve as depositories for cash and credit card payments received for future JetBlue flights until the carrier begins revenue service. We have examined these documents and find them to be in order.

In addition, JetBlue pledged to meet additional conditions required by the Department to protect passenger funds. Specifically, JetBlue agreed to prominently include a statement in its advertising and schedule listings that the proposed service was subject to receipt of government operating authority. It also agreed that ticket purchasers would be advised prior to purchase, either orally or in writing, as appropriate, that JetBlue did not yet have effective authority to operate the services for which the ticket was issued, and that customers could cancel their reservations at any time prior to JetBlue's startup of revenue operations without penalty. JetBlue further consented that, if it was unable to commence revenue operations by the date of the flights for which tickets were purchased, customers would have the choice of accepting a full refund or substitute air transportation to be arranged for and paid in full by JetBlue. If customers chose substitute air transportation and that transportation could not be obtained, JetBlue agreed that it would compensate affected passengers by paying them 200 percent of the ticket price paid, inclusive of the refund. In addition, JetBlue agreed that if it had not inaugurated scheduled operations within 60 days of the date on which its pre-sale waiver was granted, the waiver would be terminated.

In view of JetBlue's acceptance of the conditions prescribed by the Department, its demonstration of continuing fitness, and affirmation by the FAA of the carrier's satisfactory progress toward certification, we orally granted JetBlue's request for a waiver of the pre-operational sales prohibitions of section 201.5 on January 3, 2000, effective January 5 for a period of 60 days (*i.e.*, until March 6), which we confirm here.

### **Issuance of Effective Certificate**

On February 3, we received a copy of Jet Blue's FAA Air Carrier Certificate and Operations Specifications authorizing it to engage in scheduled passenger air service. After reviewing these documents, we find them to be satisfactory and in consonance with the economic authority granted JetBlue in Order 99-8-26.

With the submission of its FAA documents, JetBlue has completed all of the steps necessary for its certificate to be made effective. Under these circumstances, JetBlue requested that the Department waive the usual six (business) day waiting period and make its authority effective immediately.

Inasmuch as the carrier has satisfied the requirements for effective authority enumerated in the terms, conditions, and limitations attached to its certificate, and since no new issues regarding its fitness have arisen, we found that it was in the public interest to make JetBlue's authority effective immediately and orally granted JetBlue's request and allowed its certificate authority to become effective on February 3. We confirm that action here and reissue JetBlue's certificate and attached terms, conditions, and limitations, to reflect the effective date of that authority.

**ACCORDINGLY**, acting under authority assigned by the Department in its Regulations, 14 CFR 385.12(a)(5)(i):

1. We reissue to JetBlue Airways Corporation the certificate of public convenience and necessity issued to it by Order 99-8-26, in the attached form to reflect its effective date.
2. We confirm our oral action of January 3, 2000, granting JetBlue Airways Corporation a 60-day waiver of the pre-operational ticket sales prohibitions of 14 CFR 201.5, subject to certain conditions, effective January 5, 1999.
3. We confirm our oral action of February 3, 2000, granting JetBlue Airways Corporation a waiver of the six-day waiting period stipulated in Order 99-8-26, and making its certificate effective on February 3, 2000.
4. We direct that, should JetBlue Airways Corporation propose to utilize more than eleven aircraft in its operations, it must notify the Department in writing at least 45 days in advance and demonstrate its fitness for such operations prior to placing the additional aircraft into service.

5. We direct JetBlue Airways Corporation to submit to the Air Carrier Fitness Division a first-year progress report within 45 days following the end of its first year of actual flight operations.<sup>3</sup>

6. We will serve a copy of this order on the persons listed in Attachment A.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.30, may file their petitions within 10 days of the service date of this order.

The actions confirmed in this order were effective when taken and the filing of a petition for review shall not alter their effectiveness.

By:

**RANDALL BENNETT**  
Acting Director  
Office of Aviation Analysis

(SEAL)

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

---

<sup>3</sup> 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 these operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, current financial statements, 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.



**Certificate of Public Convenience and Necessity  
for  
Interstate Air Transportation**

*(as reissued)*

*This Certifies That*

**JETBLUE AIRWAYS CORPORATION**

*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 interstate 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 2000-2-7  
On February 4, 2000  
Effective on February 3, 2000*

*Randall Bennett  
Acting Director  
Office of Aviation Analysis*

Attachment

\*Reissued by  
Order 2000-2-7



*Terms, Conditions, and Limitations*  
**JETBLUE AIRWAYS CORPORATION**

*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 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's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration.*
- (3) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*
- (4) 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.*
- (5) 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.*
- (6) 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.*

---

*\*This certificate is being reissued to reflect the effective date.*

(7) *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.*

(8) *In the event that the holder commences but subsequently ceases all 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.*

**SERVICE LIST FOR JETBLUE AIRWAYS CORPORATION**

Mr Thomas E Kelly  
Exec Vice Pres & Gen Counsel  
JetBlue Airways Corporation  
90 Park Ave  
New York NY 10016

Mr J D Mealor  
Airline Data Coordinator  
INNOVATA LLC  
3915 Old Mundy Mill Rd  
Oakwood GA 30566-3410

Mr Robert C Land  
Vice Pres for Gov Affairs  
JetBlue Airways Corporation  
PO Box 1927  
Rockville, MD 20849-1927

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

Mr Jonathan B Hill  
Ms Heather A Purcell  
Dow Lohnes & Albertson PLLC  
Counsel for JetBlue Airways Corp  
1200 New Hampshire Ave Ste 800  
Washington DC 20036

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

Mr Mel Freedman  
Flight Stds District Office  
Federal Aviation Admin  
990 Stewart Ave Ste 630  
Garden City NY 11530-4858

Mr Robert S Clayman  
Guerrieri Edmond & Clayman PC  
Counsel for IAM  
1625 Mass Ave NW Ste 700  
Washington DC 20036-2243

Mr Nicholas A Sabatini  
Mgr Flight Stds Div AEA-200  
Federal Aviation Admin  
JFK Intl Airport  
Fitzgerald Fed Bldg  
Jamaica NY 11430

Mr. Richard Dutton  
Asst Mgr, CSET, AFS-900  
Federal Aviation Admin  
45005 Aviation Dr Ste 131  
Dulles VA 20166-7537

Ms Loretta E Alkalay  
Regional Counsel AEA-7  
Federal Aviation Admin  
JFK Intl Airport  
Fitzgerald Fed Bldg  
Jamaica NY 11430

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

Amer Assoc of Airport Execs  
4224 King St  
Alexandria VA 22302

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

Ms Joni Mount  
Product Mgr  
Transportation Print Products  
Official Airline Guides  
2000 Clearwater Dr  
Oak Brook IL 60521