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ORDER 2000-11-12



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

Issued by the Department of Transportation  
on the 14<sup>th</sup> day of November, 2000

Application of

**DAYSTAR AIRWAYS, LTD.  
d/b/a NEVIS EXPRESS**

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

Served: November 17, 2000

Docket OST-99-5062-6

**ORDER RESCINDING STAY  
AND ISSUING EFFECTIVE CERTIFICATE**

**Summary**

By this order we (1) find that Daystar Airways, Ltd. d/b/a Nevis Express continues to be fit, willing, and able to provide foreign air transportation using small aircraft pursuant to certificate authority issued under 49 U.S.C. 41102; (2) confirm our oral actions of October 31, 2000, rescinding Order 2000-10-28 staying the effectiveness of the carrier's certificate and making the certificate issued to Daystar by Order 99-10-18 effective; and (3) reissue to Daystar its certificate to reflect the effective date.

**Background**

By Order 99-10-18, served October 22, 1999, the Department found Daystar fit, willing, and able to conduct foreign scheduled air transportation using small (*i.e.*, 9 seat or less aircraft) and issued it a certificate of public convenience and necessity authorizing it to engage in such transportation. Under the terms of Order 99-10-18, the certificate would become effective on the sixth business day after we received (1) a copy of the carrier's Air Carrier Certificate and Operations Specifications from the Federal Aviation Administration (FAA) authorizing it to engage in foreign scheduled operations, (2) evidence of liability insurance coverage meeting the requirements of section 205.5(b) of our rules for all of its aircraft, (3) a statement of any changes it had undergone in areas affecting its fitness subsequent to the issuance date of Show Cause Order 99-8-16, and (4) evidence that Daystar had available funds sufficient to meet the Department's financial fitness criteria.

On October 19, 2000, Daystar submitted to the Department evidence that it had been issued an Air Carrier Certificate and Operations Specifications under Part 135 from the FAA, a copy of a certificate of insurance that met the requirements of our regulations, resumes for Daystar's new Director of Operations and Chief Pilot,<sup>1</sup> and evidence of available funds. Since this was not all of the fitness information needed to make Daystar's certificate authority effective, we telephoned the carrier on October 23 to advise it to also furnish no later than October 26 updated financial statements and compliance information for the carrier, a statement indicating any changes the carrier may have undergone in areas affecting its fitness subsequent to the issuance date of Show Cause Order 99-8-16, and a revised list of its pre-operating expenses.

Unless we acted to stay the effectiveness of Daystar's certificate before October 27 (the sixth business day after we had received evidence of its FAA certification), its certificate would have become effective automatically on that date. However, since the information received from Daystar as of October 26 remained inadequate for us to determine the company's continuing fitness to operate the services covered by its certificate, by Order 2000-10-28 issued October 26, we stayed the effectiveness of the certificate for a period of 30 days or until Daystar's continuing fitness could be established, whichever occurred sooner.

On October 27, 2000, Daystar furnished information that indicated that, other than the description of management changes described in its earlier submission, there were no changes in ownership or management that the company had undergone since its fitness determination, its pre-operating expenses had all been paid, and its financial posture and compliance disposition were both satisfactory.<sup>2</sup> Since Daystar's filing of all of its necessary fitness information was complete, we orally rescinded Order 2000-10-28 staying the effectiveness of the carrier's certificate and made Daystar's foreign scheduled passenger authority effective on October 31. We confirm those actions here and reissue Daystar's certificate to reflect its effective date.

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<sup>1</sup> Mr. Robert Drumbic, an Air Transport Pilot, has assumed the position of Director of Operations. Mr. Drumbic has brought to Daystar nearly 30 years of pilot experience having served with companies that included Banner Aviation Air Cargo, Superior Airways, Cross Canada Air, Imperial Air, Turks and Caicos Airways, Trans Anguilla, and the U.S. Department of State. Mr. Sean Henville, an Airline Transport Pilot with over 2,500 hours of flight time, has assumed the role of Chief Pilot. Mr. Henville has been employed by Daystar since 1994 in positions that included line pilot and flight manager.

<sup>2</sup> Daystar required approximately \$40,000 in funds to meet the Department's financial fitness criteria. The company's balance sheet indicates that it has sufficient internal resources to meet this criteria. Moreover, it provided verification from Barclays Bank that Daystar has in excess of that amount on deposit as of September 20, 2000.

**ACCORDINGLY**, Acting under authority assigned by the Department in its regulations, 14 CFR 385.12:

1. We find that Daystar Airways, Ltd. d/b/a Nevis Express continues to be fit, willing, and able to engage in scheduled air transportation with small aircraft under its certificate of public convenience and necessity.
2. We confirm our oral actions of October 31, 2000, rescinding Order 2000-10-28 staying the effectiveness of Daystar Airways, Ltd. d/b/a Nevis Express' certificate and making the certificate issued to Daystar by Order 99-10-18 effective as of that date.
3. We reissue to Daystar Airways, Ltd. d/b/a Nevis Express the certificate issued to it by Order 99-10-18 in the attached form to reflect its effective date.
4. We direct Daystar Airways, Ltd. d/b/a Nevis Express 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>
5. 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 action confirmed in this order was effective when taken and the filing of a petition for review shall not alter its effectiveness.

By:

**RANDALL D. 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/>*

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<sup>3</sup> The report shall 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.



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

**Route 786**

**(as reissued)**

*This Certifies That*

**DAYSTAR AIRWAYS, LTD.  
d/b/a NEVIS EXPRESS**

*is authorized, subject to the provisions of Subtitle VII of Title 49 of the United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign 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 2000-11-12  
On November 14, 2000  
Effective on October 31, 2000*

*Randall D. Bennett  
Acting Director  
Office of Aviation Analysis*



*Terms, Conditions, and Limitations*

**DAYSTAR AIRWAYS, LTD.**  
**d/b/a NEVIS EXPRESS**

*is authorized to engage in foreign air transportation of persons, property, and mail:*

*Between a point or points in the United States and the islands of Nevis and St. Kitts, West Indies*

*This authority is subject to the following provisions:*

*(1) The holder may not operate aircraft designed to have a maximum passenger capacity of more than nine seats. In the event that the holder wishes to institute operations with aircraft having a larger capacity, it must first be determined fit for such operations.*

*(2) 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.*

*(3) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights and has notified the foreign country(ies) involved that any such selected carrier(s) has the required authority. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.*

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

(4) *The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.*

(5) *The holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA) and comply with all FAA requirements concerning security.*

(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 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.*

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

(9) *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  
DAYSTAR LTD  
D/B/A NEVIS EXPRESS

Attachment A

MR ALLEN HADDADI  
DAYSTAR AIRWAYS LTD  
PO BOX 682  
CHARLESTOWN NEVIS WI

AMER ASSOC OF ARPT EXECS  
4224 KING STREET  
ALEXANDRIA VA 22302

MR HANK MYERS  
M&C TRANSP. CONSULTANTS  
PO BOX 7341  
BELLEVUE WA 98008

MR EDDIE L THOMAS  
ASST CHIEF COUNSEL ASO-7  
FAA SOUTHERN REGION HDQTRS  
PO BOX 20636  
ATLANTA GA 30320

MS JONI MOUNT  
PRODUCT MANAGER  
TRANSP PRINT PRODUCTS  
OFFICIAL AIRLINE GUIDES  
2000 CLEARWATER DR  
OAK BROOK IL 60523

MR W MICHAEL SACREY  
DIV MGR FLT STAND DIV ASO-200  
FAA SOUTHERN REGION HDQTRS  
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MR RICHARD DUTTON AFS-900  
ASST MGR CSEST  
FEDERAL AVIATION ADMIN  
45005 AVIATION DR STE 203B  
DULLES VA 20166-7537

DIRECTOR K-25  
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DEPT OF TRANSP  
400 SEVENTH ST SW  
WASHINGTON DC 20590

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ASST CH COUNSEL  
FOR ENFORCEMENT  
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AIRLINE DATA COORDINATOR  
INNOVATA LLC  
3915 OLD MUNDY MILL ROAD  
OAKWOOD GA 30566-3410