



Order 2000-11-28  
UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Served: December 4, 2000

Issued by the Department of Transportation  
on the 29<sup>th</sup> day of November, 2000

Request of

**CITYLINK AIRLINES, INC.**  
**d/b/a CITYLINK**

**Docket OST-96-1916**

for an exemption from the revocation provisions  
of section 204.7 of the Department's  
Regulations

**ORDER GRANTING EXEMPTION**

CityLink Airlines, Inc., was granted a certificate under 49 U.S.C. 41102 to engage in interstate scheduled air transportation of persons, property, and mail by Order 97-5-5, issued May 8, 1997. Effectiveness of the authority contained in that certificate was conditioned upon, among other things, CityLink's providing evidence of Federal Aviation Administration (FAA) certification and availability of sufficient funds to meet the Department's financial fitness criteria. Further, under the terms of the certificate and pursuant to section 204.7 of the Department's Aviation Economic Regulations (14 CFR 204.7), if CityLink did not commence flight operations within one year of the date of its issuance (that is by May 8, 1998), the certificate was to be revoked for reason of dormancy.

CityLink was not able to commence flight operations within the one-year timeframe due to unanticipated problems with completing its funding package. As a result, on May 5, 1998, CityLink requested a six-month extension of time in which to complete the steps necessary for it to commence operations. That request was granted, as were four subsequent six-month extensions,<sup>1</sup> the last of which gave the company until November 20, 2000, to fulfill the conditions for receipt of effective certificate authority and commence operations.

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<sup>1</sup> See letters to CityLink dated July 21 and November 20, 1998, May 21 and November 26, 1999, and May 30, 2000.

On November 20, 2000, CityLink requested another six-month extension. In making this request, the company noted that, while it continued to experience delays in obtaining its financing, it now believed that it had located an investor that would likely be the source of the full \$30 million funding package it required, but that additional time was required in order to finalize its financing. As a result, it requested that the Department extend its exemption from the dormancy provisions of section 204.7 until May 20, 2001.

We have decided to grant this request. However, in so doing, we are putting the company on notice that no further requests for extensions of this exemption will be granted unless CityLink is able to provide independent third-party verification that it has actually received its required funding and has resumed and is actively pursuing its FAA certification.<sup>2</sup> The company has had over three-and-a-half years to become operational, yet it has failed to do so. It is not our policy to allow a company unlimited amounts of time to obtain funding or otherwise meet the conditions of its certificate. In this case, we note that the company wants to operate out of an airport that has required various hanger, terminal, and parking modifications to support the planned service. The failure of the airport authority to obtain funds for these modifications on what CityLink's original potential investors considered to be a timely basis resulted in their withdrawal of funding to CityLink. As a result, the company has had to search for new sources of funding. It now believes that its funding is imminent. Because we do not want to unnecessarily terminate the company's certificate authority when it may be able to complete its funding in the near term, we believe its current exemption request should be granted. However, given the length of time we have allowed the company to seek out sources for its required funding, we do not believe it is appropriate to provide the company future extensions should the anticipated funding not be forthcoming. Therefore, should the company be unable to provide evidence that it has received the anticipated funds prior to the expiration of the current six-month extension (that is by May 20, 2001), we will revoke its authority for reason of dormancy. Any such action on our part would be without prejudice to CityLink's filing for new certificate authority in the future.

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

1. We grant the request of CityLink Airlines, Inc., for a further exemption from the revocation provisions of section 204.7 until May 20, 2001.
2. We will serve a copy of this order on the persons listed in Attachment A.

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<sup>2</sup> Absent independent third-party verification that CityLink has successfully completed its funding efforts, we will not consider evidence of CityLink's resumption of its FAA certification process as adequate to prevent the revocation-for-dormancy action. Hence, CityLink should not attempt to resume its FAA certification prematurely merely to delay or prevent such action on our part.

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 taken in this order shall be effective immediately and the filing of a petition for review shall not alter its effectiveness.

By:

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

(SEAL)

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<http://dms.dot.gov>*

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