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UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, DC

Issued by the Department of Transportation on August 24, 2001

NOTICE OF ACTION TAKEN -- DOCKET OST-97-2610 -- 102

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).

Application of Northwest Airlines, Inc. filed 7/27/00 for:

**XX** Allocation of six weekly one-way Russia overflight frequencies to:

**Provide daily service between Bombay and Amsterdam on its U.S.-India service. In the alternative, Northwest requested a temporary allocation of six of the Russia overflight frequencies currently allocated to United Air Lines.<sup>1</sup>**

**XX** Motion of Northwest Airlines, Inc. filed 6/27/01 for:

**Expedited treatment of its July 27, 2000 application, so that it can begin Bombay-Amsterdam service immediately. Northwest also requested an allocation of one frequency that it previously held, but that had subsequently reverted to the Department.**

Application of Delta Air Lines, Inc. filed 8/16/00 for:

**XX** Allocation of 14 weekly Russia overflight frequencies to:

**Provide daily service between Frankfurt, Germany, and Delhi, India, on its U.S.-India service.**

**Background:** Under the U.S.-Russia agreement U.S. carriers may operate a total of 28 weekly frequencies overflying Russian territory in conjunction with their U.S.-Europe-India services. The agreement provides that such overflights may be operated on 14 flights eastbound and 14 flights westbound.

United has been allocated 14 frequencies and plans to operate 7 flights eastbound and 7 flights westbound. Northwest has been allocated 7 frequencies which it operates for westbound services. (See United's July 9, 2001 answer to Northwest's motion. Seven frequencies remain available for reallocation.

**Pleadings:** Delta opposes Northwest's proposed use of the overflight frequencies and motion for expedited treatment. Delta argues that given its application for Russia overflight frequencies for service between Frankfurt and Delhi, the Department is required to give comparative consideration to both applications. Delta maintains that it had hoped to begin Frankfurt-Delhi service on June 1, 2001, but due to constraints on the availability of Frankfurt slots, it was unable to implement its plans. Delta argues that Russia overflight rights are far less critical for service between Europe and Bombay as compared to Delhi, and Northwest should not be permitted to occupy Russia overflight frequencies for its Bombay-Europe services at the expense of service by another U.S. carrier. Delta also suggests that with the United States and Russia planning to hold bilateral talks this September, it would be appropriate for the United States to seek an overall expansion of overflight rights to accommodate the service needs of all U.S. carriers.

(See Reverse Side)

<sup>1</sup> Northwest subsequently indicated it was no longer pursuing its alternative request. See Northwest's July 24, 2001 Reply at page 5, footnote 2.

United states that it has no objection to the allocation to Northwest of the 7 dormant Russia overflight frequencies, so long as such allocation does not affect the ability of United to use its 14 frequencies to operate daily services in both directions. If Northwest's request here for the additional 7 overflight frequencies were granted and it operates all 14 of its frequencies in the westbound direction as proposed, United states that it would affect United's ability to operate on the most efficient routings for its India-U.S. services.

In its reply, Northwest asserts that Delta failed to commence India service on June 1, 2001, after advising the Department that it would do so, that Delta has no firm plans to use the frequencies now, and thus, that Delta's request should not be given serious consideration or preclude grant of Northwest's application.

With respect to United's directionality concern, Northwest states that it has communicated with the State Civil Aviation Authority (SCAA) of Russia regarding the possibility of waiving the directional limitation so as to allow at least a total of 21 of the Russia overflight frequencies in the westbound direction. Given the circumstances presented, Northwest stated that it would accept allocation of the 7 weekly frequencies requested contingent on the approval of the SCAA. Northwest further states that if the SCAA does not approve the use of more than a total of 14 frequencies westbound, the frequencies allocated to Northwest here would revert to the Department.

United responded that based on Northwest's consolidated reply it no longer opposes Northwest's application.

Applicant rep: Megan Rae Rosia (202) 842-3193 DOT Analyst: Sylvia Moore (202) 366-6519

#### DISPOSITION

**XX Granted Northwest's application and motion** (subject to conditions, see below)

**XX Denied Delta's application**

The above action was effective when taken: August 24, 2001, and will remain in effect, subject to the conditions below.

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

**XX The authority granted is consistent with the aviation agreement between the United States and Russia.**

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: **XX Holder's certificates of public convenience and necessity**

**Conditions:** Consistent with our standard practice, the overflight frequency allocation granted is subject to the condition that if any frequencies are not used for a period of 90 days, the allocation as to each of those frequencies will expire automatically and the unused frequencies will revert to the Department for reallocation.

(See Next Page)

Northwest's allocation of 7 frequencies is subject to the further condition that if the State Civil Aviation Authority of Russia does not waive the agreement's directionality limitation so as to permit the operation of a total of at least 21 frequencies in the westbound direction, the 7 frequencies allocated Northwest here will revert automatically to the Department. We expect Northwest to provide written notification to the Department (a) that it has formally requested the directionality waiver from the SCAA, and (b) within 10 days after Northwest has been notified by the SCAA of its decision.

**Remarks:** Northwest has requested 7 frequencies, the number available, which it has firm plans to operate. Delta, on the other hand, has sought more frequencies than are available, and has no firm plans to use any of the frequencies at issue. In these circumstances, and consistent with the Department's policy to ensure that limited route rights are used, we found that approval of Northwest's request, as conditioned, was in the public interest.

Northwest proposes to use the 7 frequencies requested for westbound services. As a result, a total of 21 of the 28 authorized frequencies would be operated for westbound services (14 by Northwest, and 7 by United), which exceeds the number provided for in the aviation agreement. Northwest has stated that it would accept a contingent award of the frequencies and would return the frequencies for allocation to another carrier should the Government of Russia not approve its request for waiver of the directional provisions of the U.S.-Russia aviation agreement. We have so conditioned Northwest's award in this case.

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Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; and (2) grant of the authority was consistent with the public interest. To the extent not granted or denied, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority 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.

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