

Order 2001-12-8

144950



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

Issued by the Department of Transportation
on the 10th day of October, 2001

Applications of

American Airlines, Inc.

Continental Airlines, Inc.

Delta Air Lines, Inc.

North American Airlines, Inc.

Northwest Airlines, Inc.

United Parcel Service Co.

**for certificates of public convenience and necessity
under section 41102 of Title 49 U.S.C. and the orders
and regulations of the Department of Transportation**

Served: **December 13, 2001**

Dockets OST-96-1393-5

OST-96-1318-6

OST-2000-8505-2

OST-2001-9319-2

OST-95-969-6

OST-99-6345-31

ORDER ISSUING CERTIFICATES

The captioned applicants seek grant, renewal, and/or amendment of certificates of public convenience and necessity under section 41102 of Title 49 of the United States Code. The applications are fully described in the attachments to this order. Because the public convenience and necessity bases for granting these applications are clear, and the applications are not controversial, it is appropriate to use this simplified, Subpart B procedure to grant the requested authority.¹

¹ 14 CFR 302.212 *et seq.* Under Rule 33(b) we may, in our discretion, omit a tentative decision in proceedings under Subpart B and proceed directly to a final decision.

The applicants have filed and perfected each application as required by 14 CFR 201 and served it as required by 14 CFR 302.203(b). Each application was summarized in the Federal Register, as cited in the relevant descriptive attachment, and was also summarized in the Department's published weekly list of applications filed. These notices described the authority sought and gave interested persons an opportunity to submit evidence and objections to the award of the authority. No answers to these applications were filed.

Public Convenience and Necessity

We find that grant or amendment of these certificates is consistent with the public convenience and necessity. Where, as noted, the services authorized are the subject of a bilateral agreement, the certificate is consistent with the agreement and uses rights for which the United States has exchanged valuable operating rights. For authority which is not the subject of a bilateral agreement, the grant is consistent with the overall state of aviation relations between the United States and the foreign countries involved. All of the authority conferred here contributes to the variety of price and service options available to travelers and shippers.

Fitness/Citizenship

Each applicant is a citizen of the United States as defined in 49 U.S.C. 40102(a)(15). Each is an operating certificated air carrier for which the authority at issue here would not constitute a substantial change in operations that would require further review by the Department. No information has come to our attention which leads us to question the fitness of the applicants to conduct air transportation operations. Therefore, on the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we find each applicant is fit, willing and able to provide the services authorized.

Terms, Conditions and Limitations

Each certificate of public convenience and necessity is subject to the standard terms, conditions, and limitations we consistently impose in the public interest. Duration of certificate authority is determined by the nature of the routes at issue. Where routes may be served by multiple U.S. carriers, without restrictions on additional entrants, the certificates are of indefinite duration. Where limited-entry routes are involved, we issue temporary, experimental certificates of five years' duration under 49 U.S.C. 41102(c).² The certificates issued to American and Delta to serve Japan, Continental to serve Colombia, and Northwest to serve China are granted for a five-year term; the certificates issued to North American to serve the Dominican Republic and UPS to serve Peru are for an indefinite duration.

² 14 CFR Part 399.120.

Pendente Lite Exemptions

For those services operated under current exemptions, those exemptions will expire in accordance with their own terms 90 days after we submit this order for review under 49 U.S.C. 41307. For those routes operated under expired exemptions and kept in force by 5 U.S.C. 558(c), the exemption renewal applications on file will be dismissed by separate order, upon the effectiveness of the corresponding certificates of public convenience and necessity. The attachments cite the relevant currently held authority.

Findings and Conclusions

In view of the foregoing and all the facts of record, we find and conclude that:

1. It is consistent with the public convenience and necessity to amend or issue each applicant a certificate in the form attached;
2. Each applicant is a citizen of the United States and is fit, willing and able to perform properly the foreign air transportation described in the attached certificate or certificate amendment and to conform to the provisions of Subtitle VII of Title 49, United States Code (Transportation), and to the Department's rules, regulations, and requirements;
3. The public interest requires that the exercise of the privileges granted by the attached certificates and certificate amendments be subject to the terms, conditions, and limitations contained in and attached to those certificates and to such others required by the public interest as the Department may prescribe;
4. Except as otherwise noted in the attachments, the issuance of each of these certificates and certificate amendments does not constitute a "major regulatory action" under the Energy, Policy and Conservation Act of 1975, as defined by section 313.4(a)(1) of the Department's regulations;³ and
5. The public interest does not require an oral evidentiary hearing or a show-cause proceeding on any of these applications. There are no material, determinative issues of fact requiring such procedures for their resolution.

ACCORDINGLY,

1. We amend or issue in the form attached, certificates of public convenience and necessity to the applicants listed in the caption of this order;

³ Our finding is based on the fact that grant of each application would not result in a near-term increase in annual fuel consumption in excess of 10 million gallons.

2. We renew, for an indefinite duration, the allocation of six weekly frequencies to Delta Air Lines to conduct its Los Angeles-Tokyo operations. The allocation of frequencies is subject to the condition that any frequencies not used for a period of 90 days will revert automatically to the Department for reallocation;
3. We dismiss North American's application in Docket OST-2001-9319 to the extent it requests authority to serve the Dominican Republic from points behind the United States;
4. To the extent not granted or dismissed, we deny all motions and requests in these dockets;
5. We grant all motions for leave to file otherwise unauthorized documents in the captioned dockets;
6. We will not entertain petitions for reconsideration of this order;⁴
7. We confirm the oral action of the Director, Office of International Aviation granting UPS a waiver of the 180-day advance filing requirements of Part 377 to the extent its renewal application in Docket OST-99-6345 was not timely filed.
8. Unless disapproved by the President of the United States under 49 U.S.C. 41307, this order and the attached certificates and certificate amendments shall become effective upon the 61st day after its submission for section 41307 review, or upon the date of receipt of advice from the President or his designee under Executive Order 12597 and implementing regulations that he or she does not intend to disapprove the Department's order under that section, whichever occurs earlier;⁵ and
9. We will serve this order on the parties to the captioned dockets of this order, the Ambassador in Washington, DC of each country that the applicants seek authority to serve, the U.S. Department of State (Office of Aviation Negotiations), and the Federal Aviation Administration.

By:

READ C. VAN DE WATER
Assistant Secretary for Aviation
and International Affairs

(SEAL)

⁴ All parties have had a full opportunity to comment on the applications filed. In each case, no answers were filed to the applications for new or amended certificate authority included in this order.

⁵ This order was submitted for section 41307 review on **October 10, 2001**. On **December 10, 2001**, we received notification that the President's designee under Executive Order 12597 and its implementing regulations did not intend to disapprove the Department's order.

American Airlines, Inc.

Renewal of Certificate for **Route 517**

Filed: August 13, 2001 **Docket:** OST-96-1393 **Notice:** 66 FR (46861) 9/7/01

- I. **Authority Sought:** Scheduled foreign air transportation of persons, property, and mail between Dallas/Ft. Worth, Texas, and Tokyo, Japan.

- II. **Relevant Currently Held Authority:** American currently holds certificate authority on Route 517 to serve the above route. Order 97-1-10. Under the terms of the certificate, American's authority will expire on February 20, 2002. American currently operates daily nonstop service between Dallas/Ft. Worth and Tokyo. American filed a timely application for renewal of its certificate.

- III. **Pleadings:** No answers were filed.

- IV. **Public Convenience and Necessity:** The authority granted is consistent with the aviation agreement between the United States and Japan.

- V. **Fitness/Citizenship:** American has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under §41102 of Title 49 U.S.C. See, e.g., Order 2001-5-26. The foreign air transportation authorized here does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question American's fitness to conduct the air transportation operations authorized here.

- VI. **Terms, Conditions and Limitations:** Standard. We will reissue American's certificate for Route 517 to reflect renewal of the authority for another five years and to delete obsolete terms and conditions since the certificate was last issued.

- VII. **Duration:** Five years. 49 U.S.C. §41102(c).



**Experimental Certificate of Public
Convenience and Necessity
for**

**Route 517
(as reissued)**

This Certifies That

American Airlines, Inc.

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 2001-12-8
On October 10, 2001
Effective on December 10, 2001**

**Read C. Van de Water
Assistant Secretary for Aviation
and International Affairs**

Terms, Conditions and Limitations

American Airlines, Inc. for **Route 517**

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

Between the terminal point Dallas/Ft. Worth, Texas, and the terminal point Tokyo, Japan.

The authority is subject to the following conditions:

- (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 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.
- (3) 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.
- (4) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

- (5) The holder's authority 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 49 U.S.C. 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(n)), it must first comply with the requirements of 14 CFR 204.5.
- (9) In the event that the holder 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 determined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

This certificate shall become effective **December 10, 2001**. It shall expire **December 10, 2006**, unless the Department earlier suspends, modifies, or deletes the authority.

*This certificate, issued by Order 86-10-16 and reissued by Orders 91-10-43 and 97-1-10, is further reissued to reflect renewal of authority to serve the Dallas/Ft. Worth-Tokyo market for an additional five years. It incorporates new standard terms and conditions applicable to U.S. carriers and deletes obsolete terms and conditions.

Continental Airlines, Inc.

Renewal of Certificate for **Route 645**

Filed: June 8, 2001 **Docket:** OST-96-3318 **Notice:** 66 FR (32860) 6/18/01

- I. **Authority Sought:** Scheduled foreign air transportation of persons, property, and mail between Houston, Texas, and the coterminal points Barranquilla, Bogota, and Cali, Colombia, via the intermediate point San Jose, Costa Rica, and to combine services on Route 645 with its other existing exemptions and certificates.

- II. **Relevant Currently Held Authority:** Continental currently holds authority on Route 645 to serve the above route. Order 96-10-44. Under the terms of the certificate, Continental's authority will expire on December 5, 2001. Continental currently operates daily nonstop service between Houston and Bogota, via San Jose. Continental filed a timely application for renewal of its certificate.

- III. **Pleadings:** No answers were filed.

- IV. **Public Convenience and Necessity:** The authority granted is consistent with the aviation agreements between the United States and Colombia, and the United States and Costa Rica.

- V. **Fitness/Citizenship:** Continental has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under §41102 of Title 49 U.S.C. See, e.g., Order 2001-5-26. The foreign air transportation authorized here does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Continental's fitness to conduct the air transportation operations authorized here.

- VI. **Terms, Conditions and Limitations:** Standard. We will reissue Continental's certificate for Route 645 to reflect renewal of the authority for another five years and to delete obsolete terms and conditions since the certificate was last issued.

- VII. **Duration:** Five years. 49 U.S.C. §41102(c).



**Experimental Certificate of Public
Convenience and Necessity
for**

**Route 645
(as reissued)**

This Certifies That

Continental Airlines, Inc.

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

On October 10, 2001

Effective on December 10, 2001

Read C. Van de Water

**Assistant Secretary for Aviation
and International Affairs**

Terms, Conditions and Limitations

Continental Airlines, Inc. for **Route 645**

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

Between the terminal point Houston, Texas, the intermediate point San Jose, Costa Rica, and the coterminal points Barranquilla, Bogota, and Cali, Colombia.

The authority is subject to the following conditions:

- (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 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.
- (3) 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.
- (4) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

- (5) The holder's authority 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 49 U.S.C. 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(n)) it must first comply with the requirements of 14 CFR 204.5.
- (9) In the event that the holder 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 determined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.
- (10) The holder may combine services authorized by this certificate with all services authorized by other Department of Transportation certificates or exemptions; provided that such operations are in compliance with the provisions of all applicable bilateral aviation agreements, and provided further that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in this certificate by virtue of the route integration authority granted here, but not being used, the holding of such authority by route integration will not be construed as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

*As reissued by
Order **2001-12-8**
Route 645
Page 3 of 3

This certificate shall become effective **December 10, 2001**. It shall expire **December 10, 2006**, unless the Department earlier suspends, modifies or deletes the authority.

*This certificate, issued by Order 93-9-12 and reissued by Order 96-10-44, is further reissued to reflect renewal of authority to serve the Houston-San Jose-Barranquilla/Bogata, Cali markets for an additional five years. It incorporates new standard terms and conditions applicable to U.S. carriers and deletes obsolete terms and conditions.

Delta Air Lines, Inc.

Renewal of Certificate for **Route 585**

Filed: December 8, 2000 **Docket:** OST-2000-8505 **Notice:** 66 FR (8145-8146) 1/29/01

- I. **Authority Sought:** Scheduled foreign air transportation of persons, property, and mail between the terminal point Los Angeles, California, and the terminal point Tokyo, Japan. Indefinite renewal of the allocation by which Delta received six weekly frequencies to serve the Los Angeles-Tokyo market.
- II. **Relevant Currently Held Authority:** Delta holds certificate authority on Route 585 to serve the above route. It also holds allocations totaling seven weekly frequencies to operate the service. Orders 96-5-9 and 98-5-17.¹ Under the terms of the certificate award, Delta's authority and frequency allocation expired on June 12, 2001. Delta filed a timely application for renewal and its authorities have remained in effect pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), pending action on its renewal application. Delta currently operates daily nonstop service between Los Angeles and Tokyo.
- III. **Pleadings:** No answers were filed.
- IV. **Public Convenience and Necessity:** The authority granted is consistent with the aviation agreement between the United States and Japan.
- V. **Fitness/Citizenship:** Delta has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under §41102 of Title 49 U.S.C. See, e.g., Order 2001-1-14. The foreign air transportation authorized here does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Delta's fitness to conduct the air transportation operations authorized here.

¹ Delta separately holds an allocation of one weekly frequency to serve the market granted by Order 98-5-17. That frequency allocation was granted for an indefinite duration. Delta here is requesting renewal, for an indefinite duration, of the six frequencies originally granted to Delta by Order 90-10-15 and renewed by Order 96-5-9.

- VI. **Terms, Conditions and Limitations:** Standard. We will reissue Delta's certificate for Route 585 to reflect renewal of the authority for another five years and to delete obsolete terms and conditions since the certificate was last issued. Consistent with our standard practice, we have also renewed Delta's frequency allocation for this service for an indefinite duration, subject to our standard dormancy condition.²
- VII. **Duration:** Five years. 49 U.S.C. §41102(c).

² The frequency allocation renewal is set forth in ordering paragraph 2 of the main body of this order.



**Experimental Certificate of Public
Convenience and Necessity
for**

**Route 585
(as reissued)**

This Certifies That

Delta Air Lines, Inc.

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 2001-12-8
On October 10, 2001
Effective on December 10, 2001**

**Read C. Van de Water
Assistant Secretary for Aviation
and International Affairs**

Terms, Conditions and Limitations

Delta Air Lines, Inc. for **Route 585**

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

Between the terminal point Los Angeles, California, and the terminal point Tokyo, Japan.

The authority is subject to the following conditions:

- (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 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.
- (3) 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.
- (4) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

- (5) The holder's authority 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 49 U.S.C. 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(n)) it must first comply with the requirements of 14 CFR 204.5.
- (9) In the event that the holder 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.

This certificate shall become effective **December 10, 2001**. It shall expire **December 10, 2006**, unless the Department earlier suspends, modifies or deletes the authority.

*This certificate, issued by Order 90-10-15 and reissued by Order 96-5-9, is further reissued to reflect renewal of authority to serve the Los Angeles-Tokyo market for an additional five years. It incorporates new standard terms and conditions applicable to U.S. carriers and deletes obsolete terms and conditions. We also renewed, for an indefinite duration, Delta's allocation of six weekly frequencies to conduct its Los Angeles-Tokyo operations. See ordering paragraph 2 of this order reissuing this certificate **2001-12-8**.

North American Airlines, Inc.

New or Amended Certificate of Public Convenience and Necessity

Filed: April 2, 2001 **Docket:** OST-2001-9319 **Notice:** 66 FR (20020) 4/18/01

- I. **Authority Sought:** Scheduled foreign air transportation of persons, property, and mail from points behind the United States, via the United States and intermediate points, to a point or points in the Dominican Republic and beyond.

- II. **Relevant Currently Held Authorities:** North American holds exemption authority to serve between points in the United States, via intermediate points, and points in the Dominican Republic and beyond. (See Notice of Action Taken dated April 6, 2001.)

- III. **Pleadings:** No answers were filed.

- IV. **Public Convenience and Necessity:** The authority granted is consistent with the overall state of aviation relations and the aviation agreement between the United States and the Dominican Republic.¹

- V. **Fitness/Citizenship:** North American has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under §41102 of Title 49 U.S. C. See, e.g., Order 2000-8-19. The foreign air transportation authorized here does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to questions North American's fitness to conduct the air transportation operations authorized here.

- VI. **Terms, Conditions and Limitations:** Standard. We will issue the authority requested by amending North American's certificate for Route 735 to add new authority between the United States and Dominican Republic. The authority to conduct operations from points behind the United States is inherent in the authority that we award U.S. carriers to perform foreign air transportation. Thus, we dismiss North American's application to the extent that it requests authority from points behind the United States. We have granted North American route integration authority to permit North American to combine its existing certificate

¹ Authority to serve Santo Domingo and Puerto Plata is consistent with the U.S.-Dominican Republic agreement. Authority to serve other points in the Dominican Republic is consistent with the overall state of aviation relations.

and exemption authority with the broad U.S.-Dominican Republic authority granted in this docket, which includes authority to operate via intermediate points and beyond the Dominican Republic subject to the conditions set forth in this order.

VII. Duration: Indefinite.

North American Airlines, Inc. for **Route 735**

Add a new segment as follows:

3. Between a point or points in the United States, via intermediate points, and a point or points in the Dominican Republic and beyond.

Add two new conditions as follows:

() The authority granted to serve intermediate and beyond points on segment 3 is limited to countries with which the United States has signed open-skies agreements and/or countries for which the carrier holds authority to serve under certificates or exemptions issued by the Department, and for which it holds route integration authority, by virtue of either the present action or other action of the Department, and is subject to all conditions attached to that authority.

() The holder may combine services authorized by this certificate with all services authorized by other Department of Transportation certificates or exemptions; provided that such operations are in compliance with the provisions of all applicable bilateral aviation agreements, and provided further that (a) nothing in the award of the route integration authority granted should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in this certificate by virtue of the route integration authority granted here, but not being used, the holding of such authority by route integration will not be construed as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

This certificate amendment shall become effective **December 10, 2001**.

*This certificate, issued by Order 97-3-24 and reissued by Order 2000-8-19, is amended to reflect new authority to serve between the United States and Dominican Republic. The authority to combine services is granted *sua sponte*.

Northwest Airlines, Inc.

Renewal and Amendment of Certificate for **Route 378**

Filed: June 5, 2001 **Docket:** OST-95-969 **Notice:** 66 FR (32860) 6/18/01

- I. **Authority Sought:** Renew segment 2 of Route 378 to provide scheduled foreign air transportation of persons, property, and mail between Detroit, Michigan, and Beijing, China. In addition, Northwest also requests new authority to integrate this authority with its existing certificate and exemption authority.

- II. **Relevant Currently Held Authority:** Northwest currently holds certificate authority to operate the above route. Order 96-10-44. Under the terms of the certificate, Northwest's authority will expire on December 5, 2001. Northwest operates daily service between Detroit and Beijing. Northwest has been granted a total of 16 weekly frequencies for its U.S.-China services. Orders 94-12-7, 95-2-30, 99-6-17, 99-8-9, 2000-11-24 and 2001-1-16. Northwest filed a timely application for renewal of its certificate.

- III. **Pleadings:** No answers were filed.

- IV. **Public Convenience and Necessity:** The authority granted is consistent with the aviation agreement between the United States and The People's Republic of China.

- V. **Fitness/Citizenship:** Northwest has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under §41102 of Title 49 U.S.C. See, e.g., Order 2001-4-15. The foreign air transportation authorized here does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Northwest's fitness to conduct the air transportation operations authorized here.

- VI. **Terms, Conditions and Limitations:** Standard. We will amend Northwest's certificate for Route 378 to reflect renewal of authority on segment 2 for another five years.

- VII. **Duration:** Five years. 49 U.S.C. §41102(c).

Northwest Airlines, Inc. for **Route 378**

Add a new condition to read as follows:

() The holder may combine services authorized by this certificate with all services authorized by other Department of Transportation certificates or exemptions; provided that such operations are in compliance with the provisions of all applicable bilateral aviation agreements, and provided further that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in this certificate by virtue of the route integration authority granted here, but not being used, the holding of such authority by route integration will not be construed as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

Amend condition (11) as follows:

(11) The authority to serve between Detroit and Beijing on segment 2 shall expire **December 10, 2006**, unless the Department earlier suspends, modifies, or deletes the authority.

This certificate amendment shall become effective **December 10, 2001**.

*This certificate authority, originally issued by Order 96-10-44, is amended to reflect renewal of authority in the Detroit-Beijing market on segment 2 for an additional five years.

United Parcel Service Co.

Renewal of Certificate for **Route 795**

Filed: April 13, 2001 **Docket:** OST-99-6345 **Notice:** 66 FR (21037) 4/26/01

- I. **Authority Sought:** Renew segment 3 of Route 795 to provide scheduled foreign air transportation of property and mail between the coterminal points Houston, Texas, and Miami Florida, and the coterminal points Lima and Iquitos, Peru, and to integrate this authority with its existing certificate and exemption authority. UPS requests renewal of its authority for an indefinite duration.
- II. **Relevant Currently Held Authorities:** UPS holds certificate authority on segment 3 of Route 795 to serve the above markets. Order 2000-6-7. Under the terms of the certificate UPS' authority expired October 2, 2001. On October 1, 2001, we orally granted UPS a waiver of the 180-day advance filing requirements of Part 377 to ensure that its authority would continue in effect beyond the expiration date, pending action on its renewal application. We confirm that action here.
- III. **Pleadings:** No answers were filed.
- IV. **Public Convenience and Necessity:** The authority requested is consistent with the aviation agreement between the United States and Peru.
- V. **Fitness and Citizenship:** UPS has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of property and mail as a certificated air carrier under §41102 of Title 49 U.S.C. See, e.g., Order 2001-1-6. The foreign air transportation authorized here does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question UPS' fitness to conduct the air transportation operations authorized here.
- VI. **Terms, Conditions and Limitations:** Standard. We will grant the requested authority by deleting the route duration provision (condition (13)) of Route 795.
- VII. **Duration:** The duration of certificate authority is determined by the nature of the routes at issue. Where routes may be served by multiple U.S. carriers, without restrictions on additional entrants, we issue certificates for an indefinite duration.

certificates of five years' duration. In the time since we issued the authority at issue here to UPS, the United States and Peru implemented an open-skies aviation agreement that does not place restrictions on designations, frequencies, or routes for all-cargo services. Thus, we have renewed UPS' certificate authority for an indefinite duration.

*As amended by
Order **2001-12-8**
Route 795
Page 1 of 1

United Parcel Service Co. for **Route 795**

Delete condition (13).

This certificate amendment shall become effective **December 10, 2001**.

*This certificate, issued by Order 2000-6-7, is amended to reflect renewal of the carrier's authority to serve the Houston/Miami-Lima/Iquitos markets on segment 3 for an indefinite duration.