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

Docket: OST-95-764 -123

Served: January 24, 2001

NOTICE

U.S.-Hong Kong Fifth-Freedom All-Cargo Frequencies

By this notice we invite all U.S. certificated air carriers interested in using fifth-freedom traffic rights for all-cargo services to and from Hong Kong to file applications for such authority in the captioned docket.

Under the 1995 U.S.-Hong Kong Memorandum of Understanding, U.S. carriers may operate no more than eight weekly all-cargo frequencies with local fifth-freedom traffic rights for services between Hong Kong and two third-country points chosen by the United States in conjunction with their U.S.-Hong Kong services. These two points may be in the Philippines, Thailand, and/or South Korea, with no more than five weekly frequencies allocated to any one point.¹ By Order 96-8-35, the Department allocated five weekly frequencies to Federal Express Corporation and three weekly frequencies to Air Micronesia.² These awards were subject to the Department's standard 90-day dormancy condition, whereby unused frequencies would revert automatically to the Department for reallocation in the event a carrier ceased to use the frequencies for a period of 90 days.

On November 29, 2000, United Parcel Service filed an application, in **Docket-95-764**, for allocation of three weekly frequencies to operate fifth-freedom all-cargo service to and from Hong Kong. UPS contends that Air Micronesia's allocation of three frequencies is now dormant and available for reallocation since Air Micronesia ceased using the frequencies on or about March 5, 2000. Air Micronesia has not disputed UPS's assertion. Thus, we find that Air Micronesia's three frequencies have reverted to the Department and are now available for reallocation.

Evergreen International Airlines, Polar Air Cargo, Gemini Air Cargo, Northwest Airlines, and Federal Express Corporation subsequently filed their own applications for some or all of the available frequencies. In a series of responsive pleadings, each of the applicant carriers opposed the other applications to the extent that the other applications would preclude approval of its own proposal.

¹One of the eight frequencies may be converted into two weekly flights to be operated by aircraft with a capacity of fewer than 50 tonnes (55.1 U.S. tons) if operated in conjunction with a U.S.-Hong Kong service where the U.S. gateway point is not in the continental United States.

²Since Air Micronesia proposed Boeing 727 service with a capacity of fewer than 50 tonnes (55.1 U.S. tons) from Guam, its allocation of three frequencies was converted to four under the terms of the MOU.

Before we decide how to proceed to award the available opportunities, and to ensure that we have applications from all interested carriers, we hereby afford by this notice a final opportunity for any additional U.S. carriers interested in making use of the available frequencies to file applications with the Department no later than January 31, 2001. Answers to such applications should be filed February 5, 2001. Replies to such answers should be filed February 8, 2001.

Carriers without the requisite operating authority should file exemption/frequency allocation applications. Carriers with the requisite underlying authority need only file requests for an allocation of frequencies. All applications should include, at a minimum, the following information: (a) the proposed startup date; (b) the markets to be served, including the last point of departure from the U.S. served as a traffic stop for the applicant's service to Hong Kong;³ (c) the number of fifth-freedom frequencies to be provided to and from Hong Kong and the duration of service if not provided on a year-round basis for each leg of the flights; (d) type of aircraft, including payload capacity, to be used for each leg of the flights, and whether or not those aircraft are currently in the applicant's fleet or must be obtained; and (e) existing authority held to conduct the operations, if applicable. Applicants are free to submit any additional information that they believe will help us in making our decision.

Except for the procedural dates, exemption applications should conform to part 302, Subpart C of our regulations (14 CFR Part 302). All applications (for operating authority and/or frequency allocation) should be filed with the Department of Transportation, Dockets and Media Management, Docket OST-95-764, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590.⁴ As noted above, Evergreen, Federal Express, Gemini, Northwest, Polar, and UPS have already filed applications in **Docket OST-95-764**. These carriers should, if necessary, update their applications with the information requested in this notice by the established application date, or file a new application, making clear whether such new application supersedes that which was previously filed, or is intended to supplement that which has already been filed.

We note that several of the carriers that have already filed applications have urged the Department to initiate a comparative proceeding to award the available frequencies expeditiously, and have presented recommendations regarding the filing of additional evidentiary material and the carrier selection procedures that should be used to allocate the frequencies. The sole purpose of this notice is to ensure that all carriers interested in using the available rights have an opportunity to file applications. We will address the issue of additional evidentiary material and of procedures to be adopted in this case by separate notice/order in the near future.

We will authorize service of documents by facsimile and by electronic mail. Carriers that are interested in such service, however, should state if they want service by email and should provide interested parties with their fax number and/or email address.

³The MOU provides that Hong Kong service may be provided from Alaska, Guam/Commonwealth of the Northern Marianas, Hawaii and eight other points to be selected. There is no limit on the number of carriers that may serve from these gateways. The U.S. to date has selected the following gateway points: Chicago, Columbus, Los Angeles, New York, San Francisco, and Seattle.

⁴The original submission is to be unbound and without tabs on 8 1/2" x 11" white paper using dark ink (not green) to facilitate use of the Department's docket imaging system. In the alternative, filers are encouraged to use the electronic submission capability available through the Dockets/DMS Internet site (<http://dms.dot.gov>) by following the instructions at the web site).

We will serve this notice on all U.S. certificated air carriers operating large aircraft.

By:

PAUL L. GRETCH
Director
Office of International Aviation

(SEAL)

Dated: January 19, 2001

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