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Order 2002-7-31



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

Issued by the Department of Transportation  
on 21<sup>st</sup> day of May, 2002

Served: July 25, 2002

**Applications of**

**Arrow Air, Inc.**

**Continental Airlines, Inc.**

**Delta Air Lines, Inc.**

**Federal Express Corporation**

**Northwest Airlines, Inc.**

**Polar Air Cargo, Inc.**

**United Parcel Service Co.**

Dockets OST-99-5140 - 10  
OST-96-2016 - 82  
OST-96-2016  
OST-97-2764 - 16  
OST-01-11079 - 2  
OST-01-10792 - 2  
OST-99-6425 - 4  
OST-99-6389 - 2

**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**

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.<sup>1</sup>

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. Except to the extent noted 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).<sup>2</sup>

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<sup>1</sup> 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.

<sup>2</sup> 14 CFR Part 399.120.

The certificates issued to Continental and Delta to serve Brazil are granted for a five-year term; the certificates issued to Arrow to serve Peru, Federal Express to serve Colombia, Northwest to serve Italy and Portugal, and Polar and United Parcel Service to serve Argentina and nine additional foreign countries are for an indefinite duration.

#### 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;<sup>3</sup> 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.

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<sup>3</sup> 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.

## 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;
2. We dismiss, as moot, the applications of Polar Air Cargo and United Parcel Service Co. to the extent that they seek certificate authority to serve the U.S.-Chile market;
3. We grant all motions for leave to file otherwise unauthorized documents in the captioned dockets;
4. We confirm the oral action of the Director, Office of International Aviation, granting Continental a waiver of the 180-day advance filing requirements of Part 377 to the extent its renewal application in Docket OST-96-2016 was not timely filed;
5. To the extent not granted or dismissed, we deny all motions and requests in these dockets;
6. We will not entertain petitions for reconsideration of this order;<sup>4</sup>
7. 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;<sup>5</sup> and
8. 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

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

<sup>5</sup> This order was submitted for section 41307 review on May 21, 2002. On July 18, 2002, we received notification that the President's designee under Executive Order 12597 and implementing regulations did not intend to disapprove the Department's order.

Arrow Air, Inc.

Renewal and Amendment of Certificate for **Route 710**

**Filed:** March 16, 2001 **Docket:** OST-99-5140 **Notice:** 66 FR (16518) 3/26/01

- I. **Authority Sought:** (1) Renew authority to provide scheduled foreign air transportation of property and mail between Houston, Texas and Miami, Florida, on the one hand and Lima and Iquitos, Peru on the other and (2) amend the authority to reflect the broader U.S.-Peru authority permitted U.S. carriers under the U.S.-Peru aviation agreement for services between points in the United States via intermediate points and points in Peru and beyond. Arrow also requested that the amended authority be granted for an indefinite duration.
- II. **Relevant Currently Held Authority:** Arrow holds certificate authority on Route 710 to serve the Houston/Miami-Lima/Iquitos markets. Under the terms of the certificate Arrow's authority expired on October 2, 2001. Arrow filed a timely application for renewal and its authority has remained in effect pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), pending action on its renewal application. Arrow currently operates weekly service between Miami and Lima/Iquitos.
- 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 Peru.
- V. **Fitness/Citizenship:** Arrow 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 U.S.C. See, e.g., Order 2000-8-5. 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 Arrow's fitness to conduct the air transportation operations authorized here.
- VI. **Terms, Conditions and Limitations:** Standard. We will reissue Arrow's certificate for Route 710 to grant the requested authority. The authority to operate via intermediate points and beyond Peru to third countries 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.

- 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. Where limited-entry routes are involved, we issue temporary, experimental certificates of five years' duration. Since the last time we issued the authority at issue here to Arrow, the United States and Peru implemented an open-skies aviation agreement that does not place restrictions on designations, frequencies, or routes. Thus, we have renewed and reissued Arrow's certificate authority for an indefinite duration and granted it the broader authority now afforded U.S. carriers.



**Certificate of Public  
Convenience and Necessity  
for**

**Route 710  
(as reissued)**

**This Certifies That**

**Arrow Air, 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 property and mail.**

**This Certificate is not transferable without the approval of the Department of Transportation.**

**By Direction of the Secretary**

**Issued by Order 2002-7-31  
On May 21, 2002  
Effective on July 18, 2002**

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

Terms, Conditions and Limitations

Arrow Air, Inc. for **Route 710**

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

Between a point or points in the United States, via intermediate points, and a point or points in Peru, and beyond.

This 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 is not authorized to carry passengers (other than cargo attendants accompanying freight shipments).
- (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 orders 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.
- (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 U.S. government 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 that are not then 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.

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(11) The authority granted to serve intermediate and beyond points is limited to countries with which the United States has signed open-skies agreements and/or countries for which Arrow holds authority to serve under certificates and 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.

This certificate shall become effective July 18, 2002.

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\*This certificate, issued by Order 96-10-2 and reissued by Order 2000-8-5, is further reissued to reflect renewal and expansion of all-cargo authority in the U.S.-Peru market.

Continental Airlines, Inc.

Renewal of Certificate for **Route 739**

**Filed:** October 15, 2001    **Docket:** OST-96-2016    **Notice:** 66 FR (55978) 11/5/01

- I.    **Authority Sought:** Renew authority to provide scheduled foreign air transportation of persons, property, and mail between New York/Newark and the coterminal points Sao Paulo and Rio de Janeiro, Brazil.
  
- II.    **Relevant Currently Held Authority:** Continental holds authority on Route 739 to serve the above route. Order 97-4-13. Under the terms of the certificate, Continental's authority expired on April 11, 2002. Continental requested a waiver of the 180-day advance filing requirement. On January 16, 2002, we orally granted Continental a waiver of the 180-day advance filing requirement 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. Continental operates daily nonstop service between New York/Newark and Sao Paulo with connecting service offered to Rio de Janeiro passengers at Sao Paulo.
  
- 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 Brazil.
  
- 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 2002-2-1. 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 739 to reflect renewal of the authority for another five years.

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



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

**Route 739  
(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 2002-7-31  
On May 21, 2002  
Effective on July 18, 2002**

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

Terms, Conditions and Limitations

Continental Airlines, Inc. for **Route 739**

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

Between Newark, New Jersey, and the coterminal points Sao Paulo and Rio de Janeiro, Brazil.

This 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 orders 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'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 U.S. government requirements concerning security.

- (5) 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.
- (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

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integration authority granted here, but that are not then 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 shall become effective July 18, 2002. It shall expire July 18, 2007 unless the Department earlier suspends, modifies, or deletes the authority.

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\*This certificate, issued by Order 97-4-13 is reissued to reflect renewal of authority in the Newark-Sao Paulo/Rio de Janeiro market for an additional five years.

Delta Air Lines, Inc.

Renewal of Certificate for **Route 740**

**Filed:** October 11, 2001      **Docket:** OST-96-2016      **Notice:** 66 FR (54054) 10/25/01

- I.     **Authority Sought:** Renew authority to provide scheduled foreign air transportation of persons, property, and mail between Atlanta, Georgia and the coterminal points Sao Paulo and Rio de Janeiro, Brazil.
  
- II.    **Relevant Currently Held Authority:** Delta holds authority on Route 740 to serve the above route. Order 97-4-13. Under the terms of the certificate, Delta's authority expired on April 11, 2002. Delta filed a timely application for renewal and its authority has 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 operates daily nonstop service between Atlanta and Sao Paulo and seven weekly nonstop flights between Atlanta and Rio de Janeiro.<sup>1</sup>
  
- 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 Brazil.
  
- 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 2002-2-1. 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.
  
- VI.    **Terms, Conditions and Limitations:** Standard. We will reissue Delta's certificate for Route 740 to reflect renewal of the authority to serve Brazil for another five years.
  
- VII.   **Duration:** Five years. 49 U.S.C. §41102(c).

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<sup>1</sup> Delta holds a permanent allocation of three weekly frequencies for Atlanta-Rio de Janeiro service and a temporary allocation of four weekly frequencies. (See Orders 2000-12-2 and 2002-4-19.)



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

**Route 740**  
(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 2002-7-31  
On May 21, 2002  
Effective on July 18, 2002**

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

**Terms, Conditions and Limitations**

**Delta Air Lines, Inc. for Route 740**

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

Between Atlanta, Georgia, and the coterminal points Sao Paulo and Rio de Janeiro, Brazil.

This 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 orders 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'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 U.S. government requirements concerning security.

- (5) 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.
- (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

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integration authority granted here, but that are not then 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 shall become effective July 18, 2002. It shall expire July 18, 2007, unless the Department earlier suspends, modifies, or deletes the authority.

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\*This certificate, issued by Order 97-4-13, is reissued to reflect renewal of authority in the Atlanta-Sao Paulo/Rio de Janeiro market for an additional five years.

Federal Express Corporation

Renewal and Amendment of Certificate for **Route 748**

**Filed:** March 22, 2002 **Docket:** OST-97-2764 **Notice:** 67 FR (15656) 4/02/02

- I. **Authority Sought:** (1) Renew authority to provide scheduled foreign air transportation of property and mail between a point or points in the United States and a point or points in Colombia and (2) amend the authority to reflect the broader U.S.-Colombia authority permitted U.S. all-cargo carriers under the U.S.-Colombia aviation agreement for service between points in the United States via intermediate points and points in Colombia and beyond to points in the Western Hemisphere. Federal Express also requested authority to integrate this amended authority with its existing certificate and exemption authority and that the amended authority be granted for an indefinite duration.
- II. **Relevant Currently Held Authority:** Federal Express holds certificate authority on Route 748 to serve the U.S.-Colombia market. Under the terms of the certificate Federal Express' authority will expire on November 28, 2002. Federal Express filed a timely application for renewal. Federal Express currently operates five weekly all-cargo flights between the United States and Colombia.
- 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 Colombia.

Consistent with our standard practice to afford carriers the maximum operating flexibility possible, we will also grant Federal Express the requested authority to integrate the U.S.-Colombia authority with its existing certificate and exemption authority. The route integration authority is granted subject to the provisions of the aviation agreements between the United States and the foreign countries involved, and with our standard condition regarding route integration in limited-entry markets.

- V. **Fitness/Citizenship:** Federal Express 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 U.S.C. See, e.g., Order 2000-4-5. 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 Federal Express' fitness to conduct the air transportation operations authorized here.

- VI. Terms, Conditions and Limitations:** Standard. We will reissue Federal Express' certificate for Route 748 to grant the requested authority. The authority to operate via intermediate points and beyond Colombia to third countries 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.
- 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. Where limited-entry routes are involved, we issue temporary, experimental certificates of five years' duration. Since the last time we issued the authority at issue here to Federal Express, the United States and Colombia implemented an aviation agreement that does not place restrictions on designations, frequencies, or routes for all-cargo services. Thus, we have renewed and reissued Federal Express' certificate authority for an indefinite duration and granted it the broader authority now afforded U.S. carriers.



**Certificate of Public  
Convenience and Necessity  
for**

**Route 748  
(as reissued)**

**This Certifies That**

**Federal Express Corporation**

**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 property and mail.**

**This Certificate is not transferable without the approval of the Department of Transportation.**

**By Direction of the Secretary**

**Issued by Order 2002-7-31  
On May 21, 2002  
Effective on July 18, 2002**

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

**Terms, Conditions and Limitations**

**Federal Express Corporation for Route 748**

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

Between a point or points in the United States, via intermediate points, and a point or points in Colombia and beyond to points in the Western Hemisphere.

This 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 is not authorized to carry passengers (other than cargo attendants accompanying freight shipments).
- (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 orders 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.
- (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 U.S. government 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 that are not then being used, the holder 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  
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(11) The authority granted to serve intermediate and beyond points is limited to countries with which the United States has signed open-skies agreements and/or countries for which Federal Express' holds authority to serve under certificates and 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.

This certificate shall become effective July 18, 2002.

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\*This certificate, issued by Order 97-10-23, is reissued to reflect renewal and expansion of all-cargo authority in the U.S.-Colombia market.

Northwest Airlines, Inc.

New Certificate of Public Convenience and Necessity

**Filed:** October 5, 2001      **Docket:** OST-01-10792      **Notice:** 66 FR (52826) 10/17/01  
November 30, 2001                      OST-01-11079                      66 FR (65775) 12/20/01

- I.      **Authority Sought:** Scheduled foreign air transportation of persons, property, and mail between (1) a point or points in the United States, via intermediate points, and a point or points in Italy and beyond (Docket OST-01-10792) and (2) a point or points in the United States, via intermediate points, and a point or points in Portugal and beyond (OST-01-11079) and to integrate these authorities with its existing certificate and exemption authority.
  
- II.     **Relevant Currently Held Authority:** Northwest holds exemption authority to serve the above routes. (See Notices of Action Taken dated November 5, 2001, in Docket OST-99-6496 and December 28, 2001, in Docket OST-2000-6776.) Northwest currently operates these services under a code-share arrangement with KLM.
  
- 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 Italy and the United States and Portugal.

Consistent with our standard practice to afford carriers the maximum operating flexibility possible, we will also grant Northwest the requested authority to integrate the U.S.-Italy and U.S.-Portugal authority with its existing certificate and exemption authority. The route integration authority granted is subject to the provisions of the aviation agreements between the United States and the foreign countries involved, and with our standard condition regarding route integration in limited-entry markets.

- 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 2001-12-8. 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 issue Northwest a new certificate for the requested authority. The authority to operate via intermediate points and beyond Italy and Portugal to third countries 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.
- VII. Duration:** Indefinite.



**Certificate of Public  
Convenience and Necessity  
for**

**Route 814**

**This Certifies That**

**Northwest 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 2002-7-31  
On May 21, 2002  
Effective on July 18, 2002**

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

Terms, Conditions and Limitations

Northwest Airlines, Inc. for **Route 814**

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

1. Between a point or points in the United States, via intermediate points, and a point or points in Italy and beyond.
2. Between a point or points in the United States, via intermediate points, and a point or points in Portugal and beyond.

This 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 orders 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'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 U.S. government requirements concerning security.

(5) The holder shall at all times remain a “Citizen of the United States” as required by 49 U.S.C. 40102(a)(15).

(6) 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.

(7) 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.

(8) 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.

(9) The holder may combine services on the authorized segments in this certificate and 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 that are not then 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 issued by  
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(10) The authority granted to serve intermediate and beyond points is limited to countries with which the United States has signed open-skies agreements and/or countries for which Northwest holds authority to serve under certificates and 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.

This certificate shall become effective July 18, 2002.

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\*This certificate is issued to reflect award of new authority in the U.S.-Italy and U.S.-Portugal markets. It also incorporates standard terms and conditions applicable to U.S. carriers.

Polar Air Cargo, Inc.

Amendment of Certificate for **Route 651**

**Filed:** October 29, 1999 **Docket:** OST-99-6425 **Notice:** 64 FR (61175-61176) 11/9/99

- I. **Authority Sought:** Scheduled foreign air transportation of property and mail between points in the United States, via intermediate points, and points in Argentina and Chile, and beyond. Polar also requests authority to integrate this authority with its existing certificate and exemption authority.
- II. **Relevant Currently Held Authority:** Polar currently holds broad certificate authority on Route 651 between U.S. points and various countries. (See Order 99-12-7.) Polar also holds exemption authority in the U.S.-Argentina market. (See Notice of Action Taken dated October 5, 2001, in Docket OST-99-6424.)
- III. **Pleadings:** Federal Express filed an answer stating it did not oppose Polar's application provided that the Department concurrently granted Federal Express' application in Docket OST-99-6539 for identical authority. Federal Express' application in Docket OST-99-6539 is part of a broader request seeking the realignment and restructuring of Federal Express' certificates. In this circumstance, we are not persuaded to withhold Polar's authority until we complete processing of Federal Express' application. We note that Federal Express holds broad exemption authority to serve the U.S.-Argentina-Chile markets and beyond. (See Notice of Action Taken dated November 15, 2002 in Docket OST-96-1196.)
- IV. **Public Convenience and Necessity:** The authority requested is consistent with the aviation agreement between the United States and Argentina. Polar was granted certificate authority to serve Chile on Route 651 by Order 99-12-7. In this circumstance, we have decided to dismiss that portion of Polar's application to the extent it seeks duplicate authority to serve Chile.
- V. **Fitness and Citizenship:** Polar 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 99-12-7. 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 Polar's fitness to conduct the air transportation authorized here.

- VI. Terms, Conditions and Limitations:** Standard. For administrative efficiency we will award the authority requested by amending Polar's certificate for Route 651 to add Argentina as a new point rather than issue a new certificate for separate authority as Polar had requested. Polar also requested route integration authority. Route 651 includes a route integration condition that permits Polar to combine its existing certificate and exemption authority with the authority granted in this docket, which includes authority to serve via intermediate and beyond points, subject to the conditions set forth in this order.
- VII. Duration:** Indefinite.

\*As amended by  
Order 2002-7-31  
Route 651  
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Polar Air Cargo, Inc.

**Certificate Amendment for Route 651**

Amend certificate to add the following country:

Argentina

This certificate amendment shall become effective July 18, 2002.

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\*This certificate, issued by Order 99-12-7, is amended to reflect new authority in the U.S.-Argentina market.

United Parcel Service Co.

Amendment of Certificate for **Route 557**

**Filed:** October 20, 1999 **Docket:** OST-99-6389 **Notice:** 64 FR (59226-59227) 11/2/99

- I. **Authority Sought:** Scheduled foreign air transportation of property and mail between a point or points in the United States via intermediate points, to a point or points in Argentina, Belize, Panama, Guadeloupe, Haiti, Martinique, Chile, Guyana, Paraguay, Uruguay, and Suriname, and beyond with full traffic rights. UPS also requests authority to integrate this authority with its existing certificate and exemption authority.
- II. **Relevant Currently Held Authority:** UPS currently holds broad certificate authority on Route 557 between U.S. points and various countries. (See Order 99-12-7.)
- 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 Argentina; the United States and Panama; the United States and France;<sup>1</sup> the United States and Paraguay; and the United States and Uruguay; with the overall state of aviation relations and the aviation agreements between the United States and the United Kingdom (to which Guyana and Belize acceded upon their independence); the United States and the Netherlands (to which Suriname acceded upon its independence); and with the overall state of aviation relations between the United States and Haiti. UPS was granted authority to serve Chile on Route 557 by Order 99-12-7. Therefore, we will dismiss as moot that portion of UPS' application in the captioned docket to the extent it seeks duplicate authority to serve Chile.
- V. **Fitness/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 2001-12-8. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's

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<sup>1</sup> The January 22, 2002 U.S.-France agreement includes certain restrictions on intermediate and beyond services to Guadeloupe and Martinique. (See section 1A of the amended Annex I route schedule as set forth in Article I, paragraph 16 of the January 2002 agreement). The services authorized here are subject to those restrictions.

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. For administrative efficiency we will award the authority requested by amending UPS' certificate for Route 557 to add Argentina, Belize, Guadeloupe, Guyana, Haiti, Martinique, Panama, Paraguay, Suriname, and Uruguay as new points rather than issue a new certificate for separate authority as UPS requested. UPS also requested route integration authority. Route 557 includes a route integration condition that permits UPS to combine its existing certificate and exemption authority with the authority granted in this docket, which includes authority to serve via intermediate and beyond points, subject to the conditions set forth in this order.
- VII. Duration:** Indefinite.

United Parcel Service Co.  
Certificate Amendment for **Route 557**

Amend certificate to add the following countries:

Argentina  
Belize  
Guadeloupe  
Guyana  
Haiti  
Martinique  
Panama  
Paraguay  
Suriname  
Uruguay

This certificate amendment shall become effective July 18, 2002.

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\*This certificate, issued by Order 99-12-7, is amended to reflect new authority to provide all-cargo services between the United States, on the one hand, and Argentina, Belize, Guadeloupe, Guyana, Haiti, Martinique, Panama, Paraguay, Suriname, and Uruguay, on the other.