

Served: December 8, 1999



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation  
on the 5th day of October, 1999

Application of

**BALTIA AIR LINES, INC.**

for a certificate of public convenience and necessity  
under 49 U.S.C. 41102 to engage in foreign scheduled  
air transportation of persons, property, and mail

**Docket OST-95-396**

Application of

**BALTIA AIR LINES, INC.**

for a waiver of the revocation provisions of 14 CFR  
204.7

**Docket OST-98-4293**

**ORDER DENYING REQUEST FOR WAIVER AND  
REVOKING CERTIFICATE**

**Summary**

By this order, the Department of Transportation denies the request of Baltia Air Lines, Inc., for a waiver of the revocation-for-dormancy provisions of 14 CFR 204.7, and revokes the certificate of public convenience and necessity issued to Baltia by Order 96-2-51 authorizing it to engage in foreign scheduled air transportation of persons, property, and mail (Route 688).

**Background**

In August 1995, Baltia filed an application in Docket OST-95-296 for authority to provide foreign scheduled air transportation between New York (JFK) and St. Petersburg, Russia. By Order 96-2-51, served February 26, 1996, the Department found Baltia fit, willing, and able,

and issued it a certificate under section 41102 of Title 49 of the United States Code (“the Statute”) to provide scheduled passenger service between New York and St. Petersburg (Route 688). The certificate contained the usual condition that it would not become effective until the sixth (business) day after we had received the appropriate FAA documents reflecting the carrier’s operating authority, a certificate of insurance on OST Form 6410 showing that it had insurance coverage meeting the requirements of Part 205 of our rules, a statement describing any substantial changes it may have undergone since its fitness was reviewed, and verification of the needed operating funds.

Section 204.7 of the Department’s Regulations (14 CFR 204.7) provides, among other things, that the authority granted to a carrier shall be revoked if the carrier does not commence actual flying operations under that authority within one year of the date of the Department’s determination of its fitness.

Due to unanticipated delays in obtaining the financing needed to institute its proposed operations, Baltia requested and was granted waivers of the revocation-for-dormancy provision of section 204.7.<sup>1</sup> The most recent waiver, granted by staff action in a letter dated February 11, 1998, allowed Baltia until August 7, 1998, to commence operations under its certificate authority. On the latter date, Baltia requested an unspecified amount of additional time to complete its financing and FAA certification (*see* Docket OST-98-4293). The company indicated informally that it expected to have the necessary funding within six months. On February 24, 1999, the applicant orally stated that an additional obstacle involving its initial public offering (IPO) had been encountered, which was expected to be resolved within 90 days. On May 17, a representative of the underwriter handling Baltia’s IPO orally stated that the offering was expected to close in approximately three more months, *i.e.*, in late August or early September 1999.

On July 16, Baltia provided a progress report on its efforts to commence operations. The carrier stated that it had entered into a lease agreement for one B-747-100. Provisions of the agreement called for the lessor to invest cash in Baltia and provide funds for the aircraft security deposit, required spares, contract maintenance, and employee training, in exchange for shares of Baltia convertible preferred stock.<sup>2</sup> Baltia stated that it now proposes to institute operations with one round-trip flight weekly between New York and St. Petersburg, increasing to three weekly round-trip flights after the first month, and five such flights after the fourth month. Under this scenario, total operating costs for the first year are projected to be \$37.5

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<sup>1</sup> The first waiver, giving Baltia until August 7, 1997, to commence operations, was granted by staff action on February 6, 1997, and confirmed by Order 97-9-11, served September 11, 1997. (*See* Dockets OST-96-2032 and OST-97-2763.) The latter order also granted Baltia a further extension of time, until February 6, 1998, to institute its air service. On February 5, 1998, Baltia requested an additional extension. (*See* Docket OST-98-3432.) By staff action on February 11, 1998, the applicant was granted a six-month extension, until August 7, 1998.

<sup>2</sup> Baltia furnished a copy of a memorandum from the lessor to Baltia stating that the lessor was in the final stages of funding Baltia’s start-up and certification costs along with the acquisition of a B-747. Also provided was a copy of a promissory note signed by the lessor covering overdue rent through June 1999 for Baltia’s leased space at JFK International Airport. The note stated that an additional sum was paid by the lessor to JFK for rent for July 1999.

million. In addition, Baltia projected that remaining pre-operating expenses would total approximately \$2 million. Therefore, in order to meet the Department's financial fitness criteria, Baltia would need to demonstrate that it has available to it \$11.4 million, which is comprised of the pre-operating expenses (\$2 million) plus one-quarter of the first year's total operating costs (\$9.4 million).<sup>3</sup> Baltia provided a copy of its balance sheet, dated June 30, showing that the company then had total assets of \$155,373, total liabilities of \$179,068, and a stockholder's deficit of \$23,695. Furthermore, the company that is underwriting Baltia's IPO stated in a letter to the Department dated June 9 that, "due to negative securities market conditions," the previously scheduled fall 1998 IPO effective date was postponed and that, "based on current forecasts," the IPO is expected to be completed in late 1999 or early 2000.

More than three and one-half years have now passed since Baltia was found fit in February 1996 to provide the proposed New York-St. Petersburg air service and we still have not received the evidence of financial sufficiency and FAA certification that we require in order to make its certificate authority effective. During this time, Baltia has filed updated information supporting its continuing fitness to conduct certificated air carrier operations and has repeatedly demonstrated its determination to obtain the capital needed to become operational. However, despite our granting the carrier extraordinary amounts of time to complete its financing and FAA certification, Baltia appears to be no closer to accomplishing these tasks than it was on the previous occasions when it requested extensions.

### **Decision**

Therefore, in light of this applicant's history<sup>4</sup> and in accordance with section 204.7 of our rules, we are denying Baltia's request in Docket OST-98-4293 for an indefinite extension of time to institute operations, and are revoking the certificate issued to Baltia authorizing it to engage in foreign scheduled air transportation (Route 688). Although we are taking this action without prejudice to Baltia's filing for certificate authority in the future, before accepting any such application, we will require Baltia to provide third-party verification that it actually has available to it all of the resources needed to be found financially fit.

### **ACCORDINGLY,**

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<sup>3</sup> We are basing our calculation of the start-up funding needed by Baltia on its own stated operating plans (*i.e.*, a start-up with one round-trip flight per week, increasing to five after the fourth month).

<sup>4</sup> Baltia originally applied for certificate authority in July 1990 (Docket 47037), was found fit in March 1991 (Order 91-3-53), and was selected in June 1991 (Order 91-6-2) in the *U.S.-U.S.S.R. North Atlantic Combination Service Case* (Docket 47149) to provide scheduled passenger service over two routes: New York-Riga, U.S.S.R. (now Riga, Latvia) (Route 111), and New York-Leningrad, U.S.S.R. (now St. Petersburg, Russia) (Route 610). Although we granted Baltia a number of extensions of time to become operational (*see* Orders 91-9-47, 92-4-31, 92-7-11, and 92-9-43), the company was unsuccessful in obtaining the necessary financing. In January 1993 (Order 93-1-3), we revoked its exemption to delay instituting operations on Route 611, and, in April 1993 (Order 93-4-8, as reaffirmed in Order 93-10-3), we denied Baltia's request for a further waiver, until September 1993, of the revocation-for-dormancy provisions of section 204.7 of our rules. By the actions taken in the latter two orders, Baltia's certificate to serve Route 610 automatically expired by its own terms.

1. We revoke the certificate of public convenience and necessity issued by Order 96-2-51 to Baltia Air Lines, Inc., authorizing it to engage in foreign scheduled air transportation (Route 688).
2. We deny the application of Baltia Air Lines, Inc., in Docket OST-98-4293 for a waiver of the revocation-for-dormancy provisions of 14 CFR 204.7.
3. Unless disapproved by the President of the United States under 49 U.S.C. 41307, this order shall become effective on 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>
4. We will serve a copy of this order on the persons listed in Attachment A.

By:

**A. BRADLEY MIMS**  
Acting Assistant Secretary for Aviation  
and International Affairs

(SEAL)

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

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<sup>5</sup> This order was submitted for section 41307 review on October 5, 1999. On December 3, 1999, 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.

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