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

Issued by the Department of Transportation
on the 15th day of December, 1999

Served: December 15, 1999

In the matter of the revocation of the interstate
scheduled air transportation certificate issued
under 49 U.S.C. 41102 to

SOUTHEAST AVIATION, INC.

Docket OST-97-2797 - 8

pursuant to the provisions of section 204.7 of
the Department's Aviation Regulations

ORDER ON REVIEW

By this order, the Department is granting a petition for review filed by **Taquan** Air Service, Inc. (**Taquan**), owner of Southeast Aviation, Inc. (Southeast), of Order 99-10-17 which revoked Southeast's certificate of public convenience and necessity to engage in interstate scheduled air transportation of persons, property, and mail. Upon review of the record, we **find** that the action taken by the staff in Order 99-10-17 was appropriate and, therefore, we will affirm that action.

BACKGROUND

By Order 98-3-6, issued March 5, 1998, the Department found Southeast fit, willing, and able to provide limited interstate scheduled passenger air transportation using small aircraft in Alaska and transferred and reissued to Southeast the section 41102 certificate held by **Ketchikan** Air Service, Inc. The effectiveness of Southeast's certificate was conditioned upon the company's fulfilling a number of conditions including providing evidence of Federal Aviation Administration authority. Under section 204.7 of our rules, a company has one year **from** the date it is found fit to make its authority effective or the authority will be subject to revocation for reason of dormancy. In Southeast's case, the one-year period was up on March 5, 1999. On that date, Southeast requested and the staff subsequently granted a four-month extension (until July 5, 1999) for Southeast to make its authority effective. Southeast failed to do so within that time, nor did it seek any further stay of the section 204.7 revocation date. ¹ Thus, on October 20, 1999, the Director, **Office** of Aviation Analysis, acting under authority assigned by the Department in 14 CFR 385.12, issued Order 99-10-17 revoking the certificate authority held by Southeast.

¹ On June 18, 1999, Southeast filed a notice to make its authority effective, but the notice was inadequate since it did not include evidence of FAA authority, a matter that was brought to Southeast's attention.

On November 4, **Taquan** submitted a **late-filed** petition for reconsideration of the order revoking Southeast's certificate authority.² In support, **Taquan** states that the Department revoked Southeast's certificate because continuing fitness information had not been provided, so it asks "that the certificate be restored for the limited purpose of receiving continuing fitness data." **Taquan** further states that, in July 1999, it had an agreement to sell Southeast, and that **Taquan** had expected the prospective buyer to submit the continuing fitness data. **Taquan** also states that there was a second offer contingent on the first buyer's not closing the sale. The first buyer subsequently withdrew its offer. **Taquan** states that the second buyer continues to be interested in purchasing Southeast, but that it needs additional time to complete the sale so that the new owners can then file the necessary fitness information in order to make Southeast's authority effective.

DECISION

Southeast's certificate was revoked because the section 204.7 "use-or-lose period" (including a 120-day extension) had expired on July 5, 1999, and the carrier had not sought any additional time in which to make its authority effective. On July 7, a member of our staff reminded **Taquan's** representative that the extension of the use-or-lose period had expired. On July 15, **Taquan's** representative notified us that there might be a possible ownership change, but that updated information would be filed within two weeks. However, until the filing of the petition for review of the certificate revocation, no further information had been filed with the Department by **Taquan**, Southeast, or their representatives.

The "limited purpose" that **Taquan** references in its petition for overturning the revocation would, in fact, result in the filing of completely new fitness information for an air carrier that will bear little, if any, resemblance to the Southeast that we found fit in March 1998. That Southeast was to be managed by **Taquan's** owners, was to use aircraft provided by **Taquan** and was financed by **Taquan**. The most recent information filed in June indicated that Southeast's key technical personnel were also employed by **Taquan**. **Taquan** now intends to sell Southeast and all of the foregoing structure will change, resulting in a completely new company with new owners, and, in all probability, new managers, aircraft, service proposal, financing, and compliance history--in other words, a new company not previously found fit. The Department's air carrier fitness policies require that any such company be subject to the same standards and procedures for receiving air carrier authority as any other new applicant.

Under these circumstances, we find no reason to overturn the staff action revoking Southeast's certificate.

² We are treating **Taquan's** request as a petition for review of staff action. **Taquan** accompanied its request with a motion to file late, which we will also grant.

ACCORDINGLY,

1. We affirm the staff action taken in Order 99-10-17 revoking the certificate issued by Order 98-3-6 to Southeast Aviation, Inc.
2. We grant the motion filed by Taquan Air Service, Inc., to file an unauthorized document.
3. We will serve a copy of this order on the persons listed in Attachment A.

By:

A. BRADLEY MIMS
Deputy Assistant Secretary for
Aviation and International Affairs

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