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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 7th day of August, 2000

Application of

ATLANTIC COAST JET, INC.

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

Served: August 10, 2

Docket OST-99-6249 - 13

Application of

**ATLANTIC COAST JET, INC. and
DELTA AIR LINES, INC.**

for a waiver of the provisions of section 201.5 of the
Department's regulations

Docket OST-99-6249

**ORDER CONFIRMING ORAL ACTIONS AND
ISSUING EFFECTIVE CERTIFICATE**

Summary

By this order, we (1) confirm our oral action granting Atlantic Coast Jet, Inc. (ACJ) a waiver of the six-day waiting period prescribed in Order 2000-2-17 for receipt of effective certificate authority, (2) reissue ACJ's section 41102 interstate scheduled passenger certificate to reflect its effective date, as well as other modifications as discussed below, and (3) dismiss the application of ACJ and Delta Air Lines, Inc., for a waiver of section 201.5 of our rules.

Background

By Order 2000-2-17, issued February 14, 2000, the Department found ACJ to be fit, willing, and able to conduct interstate scheduled passenger air transportation under section 41102 of Title 49 of the United States Code ("the Statute") and issued it a certificate authorizing such operations. The effectiveness of the authority in that certificate was conditioned upon ACJ's providing documentation demonstrating that it had obtained required Federal Aviation Administration (FAA) operating authority for such services as well as insurance coverage

meeting the requirements of Part 205 of our rules, and a statement describing any changes the carrier had undergone in areas impacting its fitness (that is, ownership, key personnel, operating plans, financial posture, or compliance history) since the issuance of the show-cause order in this case (*see* Order 2000-1-25, issued January 28, 2000).

On May 26, 2000, ACJ provided updated fitness information and a certificate of insurance. We have reviewed the updated fitness information and conclude that ACJ remains fit. Except as discussed herein, the carrier's ownership and management remains the same as set forth in Order 2000-1-25. ACJ advises that its key personnel remain the same except that Michael Davis, formerly Senior Vice President for Customer Affairs of ACJ and its related companies, Atlantic Coast Airlines (ACA) and Atlantic Coast Airlines Holding (ACAH), has become the carrier's Chief Operating Officer.¹ In his previous position as Senior Vice President for Customer Service, Mr. Davis was responsible for ACA's airport, in-flight and system control functions. Before joining ACA in 1995, Mr. Davis was Vice President of Customer Service at Business Express (1993-1995). Prior to that, he had been employed in customer service positions for over 10 years at USAir.

ACJ also provided updated financial information that shows that it continues to have the financial resources needed to commence its operations without posing an undue risk to consumers. ACJ's pre-operating expenses, which were initially estimated at \$2.9 million have been adjusted upward to \$4.9 million due to the increased time required to obtain all required operating authority. As noted in Order 2000-1-25, ACJ's routes will be determined by Delta and ACJ will operate as a "Delta Connection" code-share partner of Delta. The carrier advises that its plans now call for the operation of 28 aircraft by the end of the first year of operations, rather than the 20 initially forecast,² and has provided revised expense forecasts reflecting this increased activity.

ACJ advises that ACA and its parent, ACAH, will continue to provide the resources needed to finance the carrier's start-up, and recent financial documents support their ability to do so. The March 31, 2000, consolidated balance sheet for ACAH shows that, at that date, it had \$35.5 million in cash, positive working capital of \$58.9 million, current assets to current liabilities of 2 to 1, total assets of \$301 million, retained earnings of \$72.3 million, and net stockholders' equity of \$127.3 million. ACAH also has a \$32 million available credit facility.

¹ Formerly, Thomas Moore served as President and Chief Operating Officer of the three companies. Mr. Moore will now be President of ACJ, while continuing as President and Chief Operating Officer of ACA and ACAH.

² Order 2000-1-25 noted that ACJ plans to operate 45 Dornier 328JET-300s and Canadair Regional Jets within the first three years of service and noted that these aircraft were currently on order by its sister company, ACA. ACA, in turn, intends to assign its rights to these aircraft to ACJ.

In light of the above, along with the pre-payment and other provisions of the code-sharing agreement between ACJ and Delta,³ we continue to conclude that the carrier has the financial resources needed to meet our financial fitness test, including an expansion of operations to include the 28 aircraft proposed in the first year.⁴

On July 21, ACJ provided a copy of its FAA Air Carrier Certificate and Operations Specifications authorizing the carrier to engage in scheduled passenger air service. It also provided a statement that it had not undergone any substantial changes in fitness-related areas since its May 26 submission, and requested that the Department waive the six (business) day waiting period to the extent necessary to allow it to institute operations by August 1.

Since the carrier had satisfied the requirements for effective authority set forth in the terms, conditions, and limitations attached to its certificate, and since no new issues regarding its fitness have arisen, on July 21, we orally waived the six-day waiting period and allowed ACJ's certificate authority to become effective on that date. We confirm that action here and reissue the certificate to reflect its effective date.⁵

In another matter, on May 16, 2000, ACJ and Delta filed a joint application in Docket OST-99-6249 requesting a waiver of the provisions of section 201.5 (14 CFR 201.5) of our rules to the extent necessary to authorize Delta to sell tickets and receive payment for prospective ACJ flights prior to ACJ's actual receipt of effective certificate authority. At the time, the two carriers anticipated that ACJ's Delta Connection operations would commence on or before July 1. Due to subsequent delays encountered by ACJ in obtaining its FAA authority, we did not act on the carriers' request. In light of our July 21 grant of effective authority to ACJ, the request of Delta and ACJ for this waiver is now moot. Therefore, by this order, we will dismiss the joint waiver application.

³ Delta will pay ACJ, weekly in advance, funds equal to approximately one week's estimated operating costs. Delta will also be responsible for such other items as ground handling, advertising, reservations, sales, ticketing, refunds, and revenue accounting for ACJ's Delta Connection flights.

⁴ In Order 2000-2-17, we required ACJ to advise us 45 days prior to an expansion of operations beyond the 20 aircraft that were included in the company's first-year plans at that time. In light of the updated financial information provided by ACJ, we will amend this requirement to require the aforementioned 45-day notice prior to any expansion beyond 28 aircraft.

⁵ The reissued certificate will also contain two modifications. First, in issuing certificates to air carriers proposing to use only "small" aircraft (that is, aircraft designed for a maximum seating capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less), it has been our practice to limit authority to the operation of such aircraft. As noted in Order 2000-1-25, ACJ intends to operate only small aircraft (32-seat Dornier 328JETs and 50-seat Canadair Regional Jets). Through an oversight on our part, however, the authority granted in our earlier orders did not include this restriction. We have discussed this matter with ACJ's counsel and been advised that the carrier does not object to the inclusion of such a restriction in its certificate. Thus, the reissued certificate will restrict ACJ's operations to those using only small aircraft. Should the carrier wish to use large aircraft in the future, it may request that we modify or remove this restriction and demonstrate its fitness to conduct such operations at that time. Second, at ACJ's request, the reissued certificate will reflect the "Delta Connection" trade name that it will use in its air carrier services.

ACCORDINGLY, Acting under authority assigned by the Department in its regulations, 14 CFR 385.12:

1. We confirm our oral action of July 21, 2000, making the certificate issued to Atlantic Coast Jet, Inc., effective on July 21, 2000.
2. We reissue to Atlantic Coast Jet, Inc., the certificate of public convenience and necessity issued to it by Order 2000-2-17 in the attached form to reflect its effective date and the modifications noted in footnote 5 above.
3. We dismiss the application filed by Atlantic Coast Jet, Inc., and Delta Air Lines, Inc., for a waiver of section 201.5 (14 CFR 201.5) of our rules.
4. We direct Atlantic Coast Jet, Inc., to submit to the Air Carrier Fitness Division a first-year progress report within 45 days following the end of its first year of actual flight operations.⁶
5. We direct that, should Atlantic Coast Jet, Inc., propose to operate more than 28 aircraft, it must first notify the Department in writing at least 45 days prior to the proposed expansion and demonstrate its fitness to conduct such operations before their commencement.⁷
6. We will serve a copy of this order on the persons listed in Attachment A.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.30, may file their petitions within 10 days of the service date of this order.

The action confirmed in this order was effective when taken and the filing of a petition for review shall not alter its effectiveness.

By:

RANDALL D. BENNETT
Acting Director
Office of Aviation Analysis

(SEAL)

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

⁶ The report should include a description of the carrier's current operations (number and type of aircraft, principal markets served, total number of full-time and part-time employees), a summary of how those operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, current financial statements (including a balance sheet at the end of the company's first full year of actual flight operations and a 12-month income statement ending that same date), and a listing of current senior management and key technical personnel.

⁷ This notice shall be submitted to the Air Carrier Fitness Division. The carrier may contact the Fitness Division prior to submitting this notice to determine what information must be provided.



**Certificate of Public Convenience and Necessity
for
Interstate Air Transportation**

(as reissued)

This Certifies That

**ATLANTIC COAST JET, INC.
d/b/a DELTA CONNECTION**

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in interstate 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 2000-8-9

On August 7, 2000

Effective on July 21, 2000

Randall D. Bennett

Acting Director

Office of Aviation Analysis



Terms, Conditions, and Limitations

**ATLANTIC COAST JET, INC.
d/b/a DELTA CONNECTION**

is authorized to engage in interstate air transportation of persons, property, and mail between any point in any State, territory, or possession of the United States or the District of Columbia, and any other point in any of those entities.

This authority is subject to the following provisions:

- (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 operations authorized by this certificate are restricted to those performed with aircraft having a maximum passenger capacity of 60 seats or a maximum payload capacity of 18,000 pounds.*
- (3) The effectiveness of the authority contained in this certificate is conditioned upon the holder's continuing existence as a wholly owned subsidiary of Atlantic Coast Airlines Holdings, Inc., and its operation under the terms of the Delta Connection code-sharing agreement with Delta Air Lines, Inc.*
- (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.*

**This certificate is being reissued to (1) reflect its effective date and the carrier's "Delta Connection" trade name, and (2) include a restriction limiting the operations authorized herein to the use of small aircraft.*

- (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 Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.*
- (7) *The holder may reduce or terminate service at any point or between any two points, subject to compliance with the provisions of 49 U.S.C. 41734 and all orders and regulations issued by the Department of Transportation under that section.*
- (8) *The holder may not provide scheduled passenger air transportation to or from Dallas (Love Field), Texas, except within the limits set forth in section 29 of the International Air Transportation Competition Act of 1979, as amended by section 337 of the Department of Transportation and Related Agencies Appropriations Act, 1998.*
- (9) *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.*
- (10) *In the event that the holder commences but subsequently 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.*

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