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Order 2000-7-24

Served: July 21, 2000



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

Issued by the Department of Transportation  
on the 19th day of July, 2000

Applications of

**PLANET AIRWAYS, INC.**

for certificates of public convenience and necessity under  
49 U.S.C. 41102 to engage in interstate and foreign  
charter air transportation of persons, property, and mail

Dockets OST-97-2940-21  
OST-97-2941-19

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

**Summary**

By this order we (1) find that Planet Airways, Inc. (Planet) continues to be fit, willing, and able to provide interstate and foreign charter air transportation pursuant to certificate authority issued under 49 U.S.C. 41102; (2) confirm various oral actions taken with respect to Planet; and (3) reissue to Planet certificates authorizing it to engage in interstate and foreign charter air transportation of persons, property, and mail to reflect their effective date of January 6, 2000.

**Background**

By Orders 98-7-14 and 98-8-19, served July 28 and August 21, 1998, the Department found Planet fit, willing, and able to conduct interstate and foreign charter air transportation of persons, property, and mail and issued to it certificates authorizing such operations. Effectiveness of these certificates was conditioned upon, among other things, completion of the Federal Aviation Administration (FAA) Part 121 certification process. Furthermore, consistent with section 204.7 of the Department's Economic Regulations (14 CFR 204.7), Planet had one year from the date of issuance of the order finding it fit (i.e., by July 28, 1999) to meet the requirements for receipt of

effective certificate authority and commence its proposed operations.<sup>1</sup> Failure to do so would result in the loss of its certificate authority, absent grant of additional time by the Department.

On July 26, 1999, Planet filed for a waiver from the one year "use or lose" provisions of section 204.7 requesting additional time in which to become operational. In support of its request, Planet demonstrated that it continued to have the finances necessary for its proposed operations and was making reasonable progress towards completing its certification process with the FAA. Therefore, on August 5, 1999, we orally granted Planet until November 5, 1999, to become operational. On October 29, Planet filed a second request for an extension through January 6, 2000, that we orally granted on November 5. We confirm those actions here.

On December 6 and 15, 1999, Planet provided information on the fitness-related changes it had undergone since the Department's July 1998 order finding it fit. On January 6, 2000, Planet submitted to the Department a copy of its Air Carrier Certificate and Operations Specifications issued under Part 121 by the FAA and evidence of its liability insurance coverage for all of its aircraft. As summarized below, the information before us demonstrated that the company continued to be fit to conduct the operations at issue, and therefore, we orally made the company's interstate and foreign charter certificates effective on January 6, 2000. We confirm that action here.

### **Ownership and Management**

Planet continues to be owned one-third each by Peter Garrambone, the carrier's President and Chief Executive Officer; Anthony DeCamillis, its Executive Vice President and Board member; and Louis Perlman, its Board Chairman. Also remaining with Planet is Andrew Alexopoulos as Director of Maintenance. The backgrounds and qualifications of these individuals were discussed in Order 98-6-33.

Several individuals have joined the carrier since its initial fitness determination:

Mr. Larry Boudrie joined Planet in May 1999 as its Chief Financial Officer and also serves as President of World Wide Financial Services. He brings to the company over 30 years of financial management experience.

Mr. Frank Barber, an Airline Transport Pilot, became Planet's Director of Operations in May 1999. Prior to this time, he served as a captain and pilot for a total of 32 years

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<sup>1</sup> Section 204.7 of our rules (14 CFR 204.7) provides, among other things, that the certificate authority granted to a company shall be revoked if the company does not commence actual flying operations under that authority within one year of the date of the Department's determination of its fitness.

with companies that included Miami Air International, Rich International Airlines, and Eastern Air Lines.

Mr. Robert LaBerge, an Airline Transport Pilot, joined Planet as its Chief Pilot in May 1999 also bringing to the company a total of 32 years of experience as a captain and pilot with Miami Air International and Eastern Air Lines.

Mr. Tim Holt, an Airframe and Powerplant Mechanic, joined Planet in November 1999 as Director of Quality Assurance. His previous work experience includes 34 years in positions that included Director of Quality Control, Director of Maintenance, and a variety of other inspection and aviation maintenance positions for companies such as Pemco World Air Services, Laker Airways, Carnival Air Lines, and Eastern Air Lines.

Mr. Jeffrey Sicular joined Planet in October 1999 as Director of Safety. For the prior 18 years, he served as a pilot and flight instructor for companies that included Miami Air International, Simulator Training, North American Airline Training Group, America West Airlines, and Nassau Flyers.

The changes in the carrier's management noted above do not alter our previous finding that Planet has a management team with the necessary skills and technical ability to conduct the operations authorized by its certificate. Moreover, the FAA has found each of the noted individuals to be qualified for their positions with Planet.

### **Operating Proposal and Financial Condition**

Planet's operating proposal did not change since its initial fitness determination. The carrier proposed to commence its charter passenger operations using, initially, one 128-seat Boeing 727-100 aircraft.

On December 6, Planet furnished a statement that \$1.62 million of its \$1.64 million in pre-operating expenses had been paid. The carrier also furnished letters from National City Bank that verified that Planet had a \$500,000 line-of-credit that not been drawn upon and that it had a total of \$365,000 on deposit in its account. This amount was sufficient to cover the additional \$824,000 needed to meet our financial fitness criteria.<sup>2</sup>

As a result of Planet's available funding, we concluded that the company had sufficient financial resources available to it to enable it to commence its proposed operations without posing an undue risk to consumers or their funds.

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<sup>2</sup> To meet our financial fitness criteria, a company should have access to financial resources sufficient to cover all remaining pre-operating expenses and the expenses that are reasonably projected to be incurred during three months of "normal" operations.

## **Compliance Disposition**

We found in Show Cause Order 98-6-33 that Planet had the proper regard for the laws and regulations governing its services to ensure that its aircraft and personnel would conform to applicable safety standards and that acceptable consumer relations practices would be followed. None of the management changes noted above have had a negative impact on Planet's overall compliance disposition and no other information has come to light with respect to the carrier that would lead us to change our previous findings with respect to Planet's compliance disposition.

## **CITIZENSHIP**

As noted earlier, Planet remains equally owned by Peter Garrambone, Anthony DeCamillis, and Louis Perlman, all U.S. citizens. Although, the carrier made significant changes to its senior management, Planet has affirmed that all of its key personnel are U.S. citizens. Further, our review of Planet's citizenship uncovered no reason to suggest that control of the carrier rests with non-U.S. citizens.

Based on the above, we conclude that Planet continues to be a citizen of the United States and is fit, willing, and able to conduct the interstate and foreign charter passenger operations authorized by its certificates.

## **CERTIFICATE CONDITIONS AND LIMITATIONS**

We will take this opportunity to reissue to Planet the certificates issued previously by Orders 98-7-14 and 98-8-19 to reflect their effective date.

As stated in Order 98-6-33 our findings regarding Planet's fitness were based on our evaluation of its first year operating plan that proposed to use one aircraft. Therefore, we imposed a condition in Orders 98-7-14 and 98-8-19 that, should Planet propose to operate additional aircraft, it would need to notify the Department in writing at least 45 days in advance and demonstrate its fitness for such operations.

Subsequent to the date that Planet was orally granted effective certificate authority, the carrier notified the Department that it planned to acquire two additional B-727 aircraft and desired to place these aircraft into service in July and August. Along with its notice, Planet provided additional fitness information.<sup>3</sup> Upon review of this information

<sup>3</sup> The fitness information included a Profit and Loss Statement for the three months ended March 31, 2000, and a balance sheet as of March 31. These financial documents showed that Planet's operations, thus far, had been profitable and its overall financial condition was sound. Specifically, its Profit and Loss Statement indicated a net income of nearly \$300,000, and its balance sheet reported total assets of \$2.67 million, a current assets to current liabilities ratio of 1.78 to 1 giving rise to positive working capital of \$209,565. Further, the carrier had stockholders' equity of \$1.08 million. The carrier's fitness information also contained a revised forecast Income Statement for the seven months between May and December 2000.

and confirmation of the FAA's positive assessment of Planet's current operations, we decided to allow Planet to operate a total of three aircraft, and thus, informed the carrier of our decision on June 20, 2000. Planet may not expand beyond these three aircraft without first providing advance notification to the Department and establishing its fitness for such expanded operations.

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

1. We find that Planet Airways, Inc., continues to be fit, willing, and able to engage in interstate and foreign charter air transportation of persons, property, and mail.
2. We confirm our oral actions of August 5 and November 5, 1999, granting Planet Airways, Inc., waivers of section 204.7 of our regulations to allow it additional time in which to become operational.
3. We confirm our oral action of January 6, 2000, making the certificate authority of Planet Airways, Inc., effective on that date.
4. We confirm our oral action of June 20, 2000, allowing Planet Airways, Inc., to operate a total of three aircraft.
5. We reissue to Planet Airways, Inc., the certificates authorizing it to engage in interstate and foreign charter air transportation of persons, property, and mail issued by Orders 98-7-14 and 98-8-19 in the form and subject to the Terms, Conditions, and Limitations attached.
6. Should Planet Airways, Inc., propose to utilize more than three aircraft, we direct it to notify the Department in writing at least 45 days in advance and demonstrate its fitness for such operations prior to placing the additional aircraft into service.
7. We direct Planet Airways, Inc., to submit to the Air Carrier Fitness Division a first year progress report within 45 days of the end of its first year of interstate and foreign charter passenger operations.<sup>4</sup>
8. We will serve a copy of this order on the persons listed in Attachment A.

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<sup>4</sup> The report shall 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 these operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, current financial statements, and a listing of current senior management and key technical personnel.

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 actions confirmed in this order were effective when taken and the filing of a petition for review shall not alter their effectiveness.

By:

**RANDALL D. BENNETT**  
Acting Director  
Office of Aviation Analysis

(SEAL)

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[http://dms.dot.gov/reports/reports\\_aviation.asp](http://dms.dot.gov/reports/reports_aviation.asp)*



Certificate of Public Convenience and Necessity  
for  
Interstate Charter Air Transportation

(as reissued)

*This Certifies That*

**PLANET AIRWAYS, INC.**

*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 charter 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 2000-7-24  
On July 19, 2000  
Effective on January 6, 2000*

*Randall D. Bennett  
Acting Director  
Office of Aviation Analysis*

*\*As Reissued  
By Order 2000-7-24*

*Attachment*



*Terms, Conditions, and Limitations*

**PLANET AIRWAYS, INC.**

*is authorized to engage in interstate charter 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 holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration.*
- (3) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*
- (4) 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.*
- (5) The holder is not authorized to engage in air transportation between points within the State of Alaska.*
- (6) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.*

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*\*This certificate is being reissued to reflect its effective date.*

*(7) 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 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.*



**Certificate of Public Convenience and Necessity  
for  
Foreign Charter Air Transportation**

**(as reissued)**

*This Certifies That*

**PLANET AIRWAYS, 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 charter 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 2000-7-24*

*On July 19, 2000*

*Effective on January 6, 2000*

*Randall D. Bennett*

*Acting Director*

*Office of Aviation Analysis*

*\*As Reissued  
By Order 2000-7-24*

*Attachment*



*Terms, Conditions, and Limitations*

**PLANET AIRWAYS, INC.**

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

*Between any place in the United States and any place outside thereof.*

*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 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 or for the purpose of requiring compliance with them.*
- (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 FAA 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).*

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*\*This certificate is being reissued to reflect its effective date.*

- (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) *Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), 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 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.*

SERVICE LIST FOR  
PLANET AIRWAYS, INC.

Attachment A

MR PETER GARRAMBONE  
PRESIDENT  
PLANET AIRWAYS INC  
4050 SW 11<sup>TH</sup> TERRACE  
FT. LAUDERDALE FL 33315

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