Corrected Copy

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Order 2001-5-8
*Replaced Order 2001-4-33

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

Issued by the Department of Transportation
on the 9th day of May, 2001

Application of **BRENDAN AIR, LLC** **d/b/a BRENDAN AIRWAYS** **d/b/a USA 3000** 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	Served: May 14, 2001 **Docket OST-00-8030-** 7

ORDER ISSUING FOREIGN CERTIFICATE

By Order 2001-5-2 issued May 3, 2001, we found Brendan Air, LLC d/b/a Brendan Airways and d/b/a USA 3000 fit, willing, and able to engage in interstate and foreign scheduled air transportation of persons, property, and mail. Further, by that order, we issued a certificate of public convenience and necessity authorizing Brendan Air to engage in interstate scheduled air transportation.

By this order, we are issuing a companion certificate to Brendan Air authorizing it to engage in foreign scheduled air transportation. Instead of repeating our findings and conclusions in Order 2001-5-2 we incorporate them here by reference.

ACCORDINGLY,

1. We issue a certificate of public convenience and necessity to Brendan Air, LLC d/b/a Brendan Airways and d/b/a USA 3000 to engage in foreign scheduled air transportation of persons, property, and mail in the form and subject to the Terms, Conditions, and Limitations attached.

2. 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

*Order 2001-4-33, inadvertently was released. Order 2001-5-8, supersedes the previous order to reflect the changes.

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.[1]

3. Should Brendan Air, LLC d/b/a Brendan Airways and d/b/a USA 3000 propose to operate more than five aircraft, we direct it to notify the Department in writing at least 45 days prior to the proposed operation and demonstrate its fitness to conduct such operations before their commencement.[2]

4. We direct Brendan Air, LLC d/b/a Brendan Airways and d/b/a USA 3000 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.[3]

5. We will serve a copy of this order on the persons listed in Attachment A.

By:

SUSAN MCDERMOTT
Deputy Assistant Secretary for Aviation
and International Affairs

(SEAL)

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http://dms.dot.gov

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1 This order was submitted for section 41307 review. On May 9, 2001, we received notification that the President's designee under Executive Order 12597 and implementing regulations did not intend to disapprove the Department's order.

2 This notice should be submitted to the Air Carrier Fitness Division. The carrier may contact the Air Carrier Fitness Division prior to submitting its notice to determine what fitness information must be provided.

3 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 these operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, a listing of current senior management and key technical personnel, and current financial statements. These financial statements should include a balance sheet as of the end of the company's first full year of actual flight operations and a 12-month income statement ending that same day.

Certificate of Public Convenience and Necessity
for
Foreign Air Transportation

Route 798

This Certifies That

BRENDAN AIR, LLC
d/b/a BRENDAN AIRWAYS
d/b/a USA 3000

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 2001-5-8
On May 9, 2001
Effective on (see attached)

Susan McDermott
Deputy Assistant Secretary for
Aviation and International Affairs

Attachment

Terms, Conditions, and Limitations

BRENDAN AIR, LLC
d/b/a BRENDAN AIRWAYS
d/b/a USA 3000

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

Between a point or points in the United States and Aruba.

This authority is subject to the following provisions:

(1) The authority to operate under this certificate will not become effective until six (business) days after the Department has received the following documents; provided, however, that the Department may stay the effectiveness of this authority at any time prior to that date:

(a) A copy of the holder's Air Carrier Certificate and Operations Specifications authorizing such operations from the Federal Aviation Administration (FAA).

(b) A certificate of insurance on OST Form 6410 evidencing liability insurance coverage meeting the requirements of 14 CFR 205.5(b) for all of its aircraft.

(c) A statement of any changes the holder has undergone in its ownership, key personnel, operating plans, financial posture, or compliance history, since the date of the Show Cause Order in this case.

(d) A revised list of pre-operating expenses already paid and those remaining to be paid, as well as independent verification that the holder has available to it funds sufficient to cover any remaining pre-operating expenses and to provide a working capital reserve equal to the operating costs that would be incurred in three months of operations.

(e) A copy of the holder's Aviation Disaster Family Assistance Plan as required by 49 U.S.C. 41113 and a statement summarizing how it will collect passenger manifest information and submit it to the Department of State in the event of an aviation disaster as required under 14 CFR Part 243.

(2) Pending receipt of effective authority, the holder may not accept payment of any kind (i.e., cash, check, or credit card), or issue tickets for the operations proposed under this certificate, and any advertisement by the holder must prominently state: "This service is subject to receipt of government operating authority."

(3) 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.

(4) 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 order 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.

(5) 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.

(6) The holder's authority is effective only to the extent that such operations are also authorized by the FAA, and comply with all FAA requirements concerning security.

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

(8) 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.

(9) 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.

(10) In the event that the holder does not commence actual flying operations under this certificate within one year of the date of the Department's determination of its fitness, its authority shall be revoked for dormancy, unless the holder is conducting operations under another type of certificate authority. Further, in the event that the holder commences operations for which it was found "fit, willing, and able" and subsequently ceases all such operations, its authority under all certificates held 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.

Attachment A

BRENDAN AIR, LLC
d/b/a BRENDAN AIRWAYS
d/b/a USA 3000

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