



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

Issued by the Department of Transportation  
on the 1<sup>st</sup> day of May, 2003

Application of

**AVIATION VENTURES, INC.  
d/b/a VISION AIR**

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: May 1, 2003**

**Docket OST-99-5949**

**ORDER DISMISSING APPLICATION**

On July 12, 1999, Aviation Ventures, Inc. d/b/a Vision Air (Vision Air), an air carrier registered as an air taxi and based in Las Vegas, Nevada, filed an application in Docket OST-99-5949 requesting that the Department issue it a certificate authorizing it to engage in interstate scheduled passenger operations.<sup>1</sup> By letter dated March 7, 2003, Vision Air notified the Department that it was withdrawing its application.

During the course of our review of Vision Air's application, the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office) completed an investigation of certain apparent unauthorized scheduled passenger operations by Vision Air. As a result of this investigation, on July 24, 2002, the Department issued Order 2002-7-30. This consent order found Vision Air to have held out and conducted scheduled passenger operations without appropriate authority. Specifically, Vision Air was found to have violated the provisions of 49 U.S.C. §§ 41101 and 41712 and 14 CFR 201.5.<sup>2</sup> The consent order assessed a civil penalty of \$25,000 and directed Vision Air to cease and desist from the activities that led to the order.

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<sup>1</sup> Various filings supplementing this application have been filed.

<sup>2</sup> The order finds that by holding out and operating scheduled service while its application for certificate authority was pending, Vision Air violated 49 U.S.C. § 41101 and section 201.5, and engaged in an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712.

The Enforcement Office has informed us that its willingness to resolve its investigation of Vision Air's unauthorized operations by means of a consent order was based in large part on the fact that Vision Air had a pending application for certificate authority, and that the carrier assured the office informally that it would pursue that application. Initially, the carrier did so. *See* Requests for Extension of Time and Supplements 6 and 7 to Vision Air Application.

In its current request to withdraw its application, Vision Air states that it has been informed by the Federal Aviation Administration (FAA) that, in that agency's opinion, Vision Air is operating properly as an on-demand air carrier, and that Vision Air need not seek authority to operate as a scheduled air carrier. As discussed in Order 2002-7-30, Vision Air earlier asked the Enforcement Office to excuse its prior unauthorized operations because the FAA did not require the carrier to obtain FAA scheduled authority. In response, Order 2002-7-30 reminded the carrier that the Office of the Secretary of Transportation (OST) and the FAA enforce separate economic and safety statutory and regulatory requirements, and that Vision Air had no grounds to base its reliance on an FAA determination in order to ascertain whether scheduled authority was required from OST.

At Vision Air's request, we will dismiss its pending application. However, our action should not be taken as an indication that we believe that Vision Air's current operations do not require scheduled authority from OST. In fact, the Enforcement Office has advised us that it intends to further investigate Vision Air's operations. Should this investigation find that Vision Air is conducting unauthorized operations in violation of Order 2002-7-30 and the relevant statutes and regulations, the Enforcement Office will institute further enforcement action. Such action may cover any Vision Air violations since the order was issued.<sup>3</sup>

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

1. We dismiss the application filed in Docket OST-99-5949 by Aviation Ventures, Inc. d/b/a Vision Air.
2. 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.

This order shall become effective and become the final action of the Department of Transportation upon expiration of the above period unless within such period a petition for review is filed or the Department gives notice that it will review this order on its own motion.

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<sup>3</sup> Any such action might seek to revoke all economic authority of the carrier, whether on-demand or scheduled. Moreover, any findings of knowing and willful violations may be referred for criminal prosecution. *See* 49 U.S.C. § 46316.

By:

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

*An electronic version of this document is available on the World Wide Web at:  
<http://dms.dot.gov>*

**SERVICE LIST FOR VISION AIR**

Attachment A

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