

261445

Posted: December 10, 2003

2:50 p.m.



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, DC

Docket: OST-2003-16690 — /

Served: December 15, 2003

**U.S.-BRAZIL ALL-CARGO SERVICES**

**NOTICE INVITING APPLICATIONS**

Under the Air Transport Agreement between the United States and Brazil, four U.S. carriers may be designated to operate scheduled all-cargo services. These carriers, collectively, may operate a maximum of 24 round-trip all-cargo wide-body frequencies per week between the United States and Brazil.<sup>1</sup> Federal Express Corporation, Polar Air Cargo, United Parcel Service, and Atlas Air are the four carriers now designated to provide all-cargo services in the market. Federal Express is allocated five weekly frequencies, Polar four weekly frequencies, UPS four weekly frequencies, and Atlas ten weekly frequencies. One frequency is currently unallocated.

Two of these carriers -- Polar and Atlas -- reached an agreement, under which they would be owned by the same company but would continue to operate as two separate airlines. By Order 2002-5-24, the Department decided to approve, with the exception of Polar's Brazil designation and frequencies, a *de facto* transfer of Polar's certificate and exemption authority, together with related frequency allocations, to Polar under the control of Atlas Air Worldwide Holdings, the parent company of Atlas Air (Docket OST-01-10239). The order also stated that the Department would institute a proceeding to reallocate Polar's Brazil designation and four frequencies.<sup>2</sup>

By Order 2002-6-20, the Department instituted the *2002 U.S.-Brazil All-Cargo Service Proceeding* in Docket OST-2002-12683 to select a carrier for an authorization to be designated to serve the U.S.-Brazil all-cargo market and for allocation of four U.S.-Brazil all-cargo frequencies under the U.S.-Brazil aviation agreement. By Order 2002-11-16 the Department tentatively decided to award Evergreen International Airlines primary authority and an allocation of four U.S.-Brazil frequencies to inaugurate scheduled all-cargo service in the U.S.-Brazil market, subject to a 90-day start-up condition. Order 2002-11-16 also tentatively awarded backup authority to Gemini Air Cargo in the event that Evergreen failed to inaugurate its proposed services.

By Order 2003-5-27, pursuant to the *2002 U.S.-Brazil All-Cargo Service Proceeding*, the Department made final its decision to select Evergreen for primary authority and an allocation of four U.S.-Brazil frequencies with Gemini as the backup carrier.

On September 24, 2003, Evergreen filed a notice in Docket OST-2002-12683 that it did not intend to inaugurate its proposed services. Under the terms of Order 2003-5-27, Evergreen's U.S.-Brazil authority expired. The expiration of Evergreen's authority automatically activated the backup authority of Gemini

---

<sup>1</sup>The agreement expresses the number of flights as units representing wide-body freighters. If a carrier chooses, it may substitute two flights using narrow-body aircraft for any of the wide-body frequencies it holds. The agreement provides that designated airlines may operate from a point or points in the United States via intermediate points, to Manaus, Brasilia, Rio de Janeiro, Sao Paulo, Recife, Porto Alegre, Belem, Belo Horizonte, and Salvador de Bahia, and beyond Brazil to Argentina, Uruguay, Paraguay, and Chile.

<sup>2</sup>Under the terms of Order 2002-5-24, Polar's designation and four frequencies reverted to the Department for reallocation. However, Order 2002-5-24 granted Polar the right to continue using its prior U.S.-Brazil designation and four U.S.-Brazil frequencies on a temporary basis until the rights have been reallocated and the carrier receiving those rights begins service.

under the terms of Order 2003-5-27. Subsequently, on November 24, 2003, Gemini filed a notice in Docket OST-2002-12683 that it also did not intend to inaugurate its proposed services. Accordingly, the authorization to be designated and four frequencies that had been awarded to Gemini are available to the Department for reallocation based on the terms of Order 2003-5-27.

Finally, as a separate matter, Federal Express has advised the Department in Docket OST-2000-7559 that it had decided to surrender for reallocation one of its six U.S.-Brazil all-cargo frequencies.

Against this background, we have decided to invite applications from all U.S. carriers interested in using (a) one U.S.-Brazil authorization to be designated as an all-cargo carrier, which is currently allocated on an interim basis to Polar; and (b) five U.S.-Brazil all-cargo frequencies (four frequencies that are temporarily allocated to Polar, and one frequency previously allocated to Federal Express that has been surrendered to the Department for reallocation). Applications should be filed by January 7, 2004. Answers to applications should be filed by January 16, 2004, and replies should be filed by January 27, 2004.

Carriers without the requisite operating authority should file certificate/frequency allocation applications. Carriers with the requisite underlying authority need only file requests for frequency allocation. Except for the procedural dates, certificate applications should conform to Part 302, Subpart B of our regulations (14 CFR Part 302) and frequency applications should conform to Part 302, Subpart C of our regulations (14 CFR Part 302). All applications should include, at a minimum, the following information: (a) the market(s) to be served; (b) the frequencies requested per market; (c) the type of aircraft to be used; and (d) the startup date for the proposed services. All applications (for operating authority and/or allocation of frequencies) should be filed in the above-captioned docket with the Department of Transportation, Dockets, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590 in Docket OST-2001-8910.<sup>3</sup>

To the extent that we receive more applications than can be satisfied without our needing to engage in carrier selection, we will issue a separate Department order with respect to further procedures necessary to consider the applications filed.

We will authorize service of documents by facsimile and by electronic mail. Carriers that are interested in such service, however, should state if they want service by email and should provide interested parties with their fax number and/or email address. We will serve this notice on all certificated U.S. air carriers.

By:

Paul L. Gretch  
Director, Office of International Aviation

(Seal)

Dated: December 10, 2003

*An electronic version of this order is available on the World Wide Web at  
[http://dms.dot.gov/reports/reports\\_aviation.asp](http://dms.dot.gov/reports/reports_aviation.asp)*

---

<sup>3</sup>The original filing should be on 8½" x 11" white paper using dark ink (not green) and be unbound without tabs, which will expedite use of our docket imaging system. In the alternative, filers are encouraged to use the electronic submission capability available through the dockets/DMS Internet site (<http://dms.dot.gov>) by following the instructions at the web site.