



Order 2004-1-1

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

Issued by the Department of Transportation  
on the 2<sup>nd</sup> day of January, 2004

Application of

**AIR FLORIDA EXPRESS, INC.  
d/b/a AIR FLORIDA**

for authority to conduct scheduled passenger  
operations as a commuter air carrier under  
49 U.S.C. 41738

**Served: January 5, 2004**

**Docket OST-01-9214**

**ORDER DISMISSING APPLICATION**

On March 20, 2001, Air Florida Express, Inc. d/b/a Air Florida (Air Florida), an air taxi operator based in Ft. Lauderdale, filed an application in Docket OST-01-9214 for authority to provide interstate scheduled passenger operations as a commuter air carrier under 49 U.S.C. section 41738. Air Florida proposed to provide daily scheduled flights between Ft. Lauderdale and Marathon, Florida.

Air Florida accompanied its application with the fitness information required by section 204.3 of our regulations. The carrier filed information supplementing its application on several occasions.

During the course of our review of Air Florida's application, we learned from the Federal Aviation Administration (FAA) that, on August 10, 2001, the Miami Flight Standards District Office had initiated enforcement action against Air Florida and sent the carrier a Letter of Investigation alleging various violations of the Federal Aviation Regulations in connection with an accident that occurred in Punta Gordo, Florida, on February 14, 2001. At the same time, the FAA initiated two enforcement cases against Mr. Pervez Khan and Mr. Hanif Butt, key persons with Air Florida.<sup>1</sup> Mr. Khan was the pilot and Mr. Butt was co-pilot at the time of the accident. Each case alleges numerous violations of Parts 119 and 135.

Because of the seriousness of the allegations raised by the FAA in these enforcement cases, we advised Air Florida that, since one of the areas we review in determining an applicant's fitness to hold commuter authority is its and its key personnel's disposition to comply with applicable laws, the outcome of the enforcement cases would have a definite

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<sup>1</sup> Mr. Khan served as a consultant for Air Florida and was the husband of Saulat Khan, Air Florida's owner and President. Mr. Butt served as Air Florida's Chief Pilot.

bearing on our determination. We put the carrier on notice that we would defer processing its application until such time as the FAA's enforcement cases were resolved.

Although no final certificate action was taken by the FAA with respect to these specific enforcement cases, on October 31, 2003, the FAA issued an Emergency Order of Revocation of Air Florida's Part 135 Air Carrier Certificate (Case # 2003SO170089) and of all of Mr. Khan's airman certificates including his Airline Transport Pilot certificate, Flight Instructor certificate, Ground Instructor certificate, and Mechanic certificate (Case # 2003SO170088). The emergency revocation order states that the nature of the violations reveals that Air Florida lacked judgment and respect for the Federal Aviation Regulations and posed a real threat to the safety of air commerce and the flying public. With respect to Mr. Khan, the order states that he knowingly violated several FAA regulations and expressed a lack of concern for those regulations and passenger safety.

Air Florida and Mr. Khan appealed the emergency revocation and, after a hearing before a National Transportation Safety Board Administrative Law Judge, on December 3, 2003, a settlement agreement was reached. Air Florida withdrew its appeal and waived any further review on appeal of the Emergency Order of Revocation of its air carrier certificate. The Emergency Order of Revocation of the airman certificates held by Mr. Khan was withdrawn and superseded by an order suspending Mr. Khan's certificates for a period of 90 days effective October 31, 2003.

As a result of the FAA's action revoking Air Florida's Air Carrier Certificate and suspending Mr. Khan's airman certificates, we have decided to dismiss the carrier's application for commuter authority. The FAA's findings that resulted in the revocation and suspension clearly have a negative bearing on any determination we might make as to the carrier's compliance disposition and, thus, its overall fitness. Air Florida has not been in contact with the Department for well over a year, and, without the ability to conduct air transportation operations, it serves no purpose to maintain its application on file. We will, therefore, dismiss Air Florida's application filed in Docket OST-01-9214 for commuter authority.

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

1. We dismiss the application filed by Air Florida Express, Inc. d/b/a Air Florida, in Docket OST-01-9214 for authority to provide interstate scheduled passenger operations as a commuter air carrier under 49 U.S.C. section 41738.
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.

By:

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

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

**Attachment A**

**SERVICE LIST FOR  
AIR FLORIDA EXPRESS, INC. d/b/a AIR FLORIDA .**

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