



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

Issued by the Department of Transportation on March 26, 2004

NOTICE OF ACTION TAKEN -- DOCKET OST 2004-17387

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Applicant: POLYNESIAN LIMITED

Date Filed: March 22, 2004

Relief requested: Exemption from 49 U.S.C. section 40109(g) to permit the applicant to carry persons, property and mail between Pago Pago, American Samoa, and the Manu'a Islands, American Samoa, during the period April 1, through June 25, 2004, using 18-seat Twin Otter aircraft. Polynesian asserts that the only carrier currently serving the subject market is Inter Island Airways, and that this U.S. carrier is preparing to suspend its inter-island flights on March 31, 2004. Polynesian Limited notes that such cessation would leave American Samoa without needed inter-island lift and that the Government of American Samoa formally has requested it to resume operations in the subject market to prevent residents from being left without inter-island air service. 1/

Applicant representative: Charles F. Donley II, 202-626-6840 DOT analyst: Allen F. Brown, 202-366-2405

Responsive pleadings: Polynesian Limited served its application on those U.S. carriers having the potential to conduct these intra-American Samoa services. After polling these carriers, the applicant advised us that each carrier indicated that it did not have aircraft available to conduct the proposed operation and that it had no comment or did not oppose grant of the requested authority.

Statutory Standards: Under 49 U.S.C. section 40109(g), we may authorize a foreign air carrier to carry commercial traffic between U.S. points (*i.e.*, cabotage traffic) under limited circumstances. Specifically, we must find that the authority is required in the public interest; that because of an emergency created by unusual circumstances not arising in the normal course of business the traffic cannot be accommodated by U.S. carriers holding certificates under 49 U.S.C. section 41102; that all possible efforts have been made to place the traffic on U.S. carriers; and that the transportation is necessary to avoid unreasonable hardship to the traffic involved (an additional required finding, concerning emergency transportation during labor disputes, was not relevant here).

DISPOSITION

Action: Approved in part, remainder deferred (see below).

Action date: March 26, 2004

Basis for approval: We are granting Polynesian Limited authority to operate its proposed intra-American Samoa services, using 18-seat Twin Otter equipment, for a period of 30 days, that is, April 1 through April 30, 2004, or until five days after we are notified that Inter Island Airways resumes, or another U.S. carrier initiates, service in these inter-island markets, whichever occurs first. We are deferring action on the remaining portion of Polynesian's application, that is, to continue this operation beyond April 30 through June 25, 2004.

1/ The Department previously granted Polynesian Limited exemption authority to operate in this market. See Docket OST-2003-16163 and Docket OST-2003-16404

In acting favorably on this unopposed application for emergency cabotage authority, we find that Polynesian Limited's request met all the relevant criteria of 49 U.S.C. section 40109(g) for the grant of an exemption of this type and that such favorable action is required in the public interest.

The effects of the March 31, 2004, suspension in service in the inter-island American Samoa markets by Inter Island Airways, the only U.S. carrier serving these markets, clearly constitute an emergency created by unusual circumstances not arising in the normal course of business. Also, the record in this case clearly indicates that no U.S. carrier appears able at this time to provide the level of service necessary to meet the needs of American Samoa, an isolated multi-island community that is uniquely dependent on air transportation. Further, provision of the services that Polynesian Limited proposes clearly is needed to prevent undue hardship to the residents of American Samoa.

Given these circumstances, we find that the standards for grant of emergency cabotage authority have been met, and that grant of the exemption requested by Polynesian Limited, for a maximum of 30 days, with deferral on the remainder, is warranted.

As provided in 49 U.S.C. section 40109(g), we will review this exemption near the end of this 30-day term to see if the unusual circumstances that established the need for the exemption still exist, and will be prepared to decide at that time whether the situation warrants extension of this authority for an additional term.

Finally, we find that the applicant is qualified to perform its proposed operation.

Except to the extent exempted/waived, this authority is subject to our standard exemption conditions.

Action taken by: Karan K. Bhatia
Assistant Secretary
for Aviation and International Affairs

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