

Posted: September 3, 2004 – 12:20pm



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

Served: September 3, 2004

2004 U.S.-Mexico Combination Service Proceeding

DOCKET OST-2004-18692

NOTICE

By this Notice we dismiss the application of Champion Air in this Proceeding and deny the request of Spirit to change the procedural schedule in the Proceeding.

By Order 2004-7-17, July 21, 2004, we instituted the *2004 U.S.-Mexico Combination Service Proceeding*, Docket OST-2004-18692, to select one primary and one backup carrier, to provide foreign air transportation of persons, property, and mail over the following transborder routes: Denver-Cancun, Denver-Puerto Vallarta, Detroit-Cancun, and St. Louis-Cancun. We also consolidated the already-filed applications into this proceeding. In addition, Order 2004-7-17 established a procedural timetable for this case.

On August 20, 2004, separate motions were filed by Frontier, Spirit Airlines, Inc. (Spirit), and Brendan Airways, LLC d/b/a USA 3000 (USA 3000) in the *2004 U.S.-Mexico Combination Service Proceeding*. Spirit urges the Department to dismiss the application of Grand Holdings, Inc., d/b/a Champion Air (Champion Air) for Detroit-Cancun authority, and Frontier and USA 3000 urge the Department to dismiss Champion Air's application for St. Louis-Cancun authority due to the carrier's failure to submit direct exhibits or to otherwise respond to the Department's Order 2004-7-17 in this *Proceeding*. Spirit also states that, because the carrier selection issues will now be fairly simple with fewer applicants, Spirit "would not be adverse to an acceleration of the briefing deadline (or even an elimination of the briefing requirement)" for the Detroit-Cancun portion of the *Proceeding* (where Spirit and USA 3000 are actively competing for the authority).¹

USA 3000 filed an answer to Spirit's motion, stating that it "would be hard to conceive of any shorter briefing schedule" and that USA 3000 would be opposed to elimination of briefs in this *Proceeding*.² United filed a consolidated answer to the motions filed by Frontier and Spirit, and replied to the answers filed by Frontier and USA 3000, stating that it does not oppose the requests of Frontier, Spirit, and USA 3000 so long as those requests do not delay the Department's action on United's motion for immediate action to grant United Denver-

¹ Spirit Motion, at 2.

² USA 3000 answer to motion, at 2.

Cancun and Denver-Puerto Vallarta exemption authority.³ No other responses to the motions were filed. Specifically, Champion Air did not respond to the motions to dismiss its applications.

Upon consideration of the pleadings filed here, we have decided to grant the motions of Frontier, Spirit, and USA 3000 to the extent that the carriers request dismissal of Champion Air's applications in this *Proceeding*. Champion Air has not prosecuted its application as directed by our Order. Nor did it respond to the motions requesting its dismissal. In these circumstances, the public interest warrants dismissal of Champion Air's application in this case.

Further, we will terminate the *2004 U.S.-Mexico Combination Service Proceeding* to the extent that this *Proceeding* would involve carrier selection awards for the Denver-Cancun and Denver-Puerto Vallarta markets. We will not alter the briefing requirement. We continue to believe that briefs will prove useful to our consideration of the record. Briefs are currently due September 8, and we believe that the existing schedule remains reasonable.

Therefore, acting under authority assigned in 14 CFR 385.13(p), we (1) dismiss the applications of Champion Air for Detroit-Cancun and St. Louis-Cancun exemption authority in the 2004 U.S.-Mexico Combination Service Proceeding; and (2) terminate the *2004 U.S.-Mexico Combination Service Proceeding* to the extent that this *Proceeding* would involve consideration of the Denver-Cancun and Denver-Puerto Vallarta markets. Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR 385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken September 3, 2004, and the filing of a petition for review will not alter such effectiveness.

We will serve this notice by electronic mail on all parties to this proceeding, and hereby authorize service of documents by facsimile and by electronic mail.

By:

PAUL L. GRETCH
Director, Office of International Aviation

(SEAL)

Dated: September 3, 2004

An electronic version of this notice is available on the World Wide Web at:

http://dms.dot.gov/reports/reports_aviation.asp

³ By Notice of Action Taken dated August 25, 2004, in Docket OST-2004-18692, the Department granted exemption authority to United to serve the Denver-Cancun and Denver-Puerto Vallarta markets.