



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

Issued by the Department of Transportation on October 22, 2004

NOTICE OF ACTION TAKEN -- UNDOCKETED

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).

XX Request of Polar Air Cargo, Inc., for allocation of 16 U.S.-China all-cargo charter flights

By letter dated September 22 and supplemented September 22, 2004, Polar requested an allocation of 16 one-way charters to provide service over the routing Shanghai - (Anchorage) – Chicago. Polar proposes to operate these charters between November 3 and December 8, 2004.

XX Request of Kalitta Air, Inc., for allocation of 15 U.S.-China all-cargo charter flights

By letter dated September 27, 2004, Kalitta requested an allocation of 15 one-way charters to provide service over the routing Shanghai – (Khabarovsk, Russia) – (Anchorage) – New York. Kalitta proposes to operate these charters between January 11 and March 29, 2005.

Kalitta objected to Polar's request stating that an award to Polar would represent an inappropriate and unfair allocation of the extremely limited number of charters that the U.S. was able to secure in the last round of China negotiations, and would foreclose those U.S. carriers which have chosen to focus on charter operations to and from China from participating any further in the China market until late next summer. Kalitta maintained that what Polar was asking is to be allowed to exhaust the charter pool in order to provide it with *de facto* authority to operate scheduled service prior to the final decision in the *2004 Cargo Designations and 2004/2005 All-Cargo Frequencies (U.S.-China) Proceeding*. Kalitta further maintained that it is an insufficient answer for Polar to say that it will return any unused charters if it received authority to commence scheduled service. Kalitta argued that for Polar to control the remaining slots for an indeterminate period would prevent other carriers from entering into contracts with shippers and forwarders in time to schedule their aircraft during an increasingly busy time of the year.

Polar, in response, stated that it did not at the time of its pleadings, hold scheduled all-cargo authority in the market and, thus, it was in the same situation as Kalitta. Polar further stated that even after the issuance of a final order, all necessary authorizations from the Chinese authorities would have to be obtained, and until both were obtained, Polar would not be able to provide scheduled service. Polar stated that it was seeking to use these charters during the peak season when they are needed most. Polar noted that Kalitta did not ask for additional charters until five days after Polar submitted its application and that, as contained in the Department's Notice, available charters would be distributed on a first-come, first-served basis.

Applicant reps: Kevin Montgomery (Polar) 202-828-1002 DOT Analyst: Sylvia Moore (202-366-6519)
Mark Atwood (Kalitta) 202-463-2513

DISPOSITION

XX Granted - Kalitta's request

XX Denied – Polar's request (see remarks below)

The above action was granted to Kalitta on October 22, 2004, and will be effective January 9, 2005, through March 31, 2005

**Action taken by: Paul L. Gretch, Director
Office of International Aviation**

Remarks: By Notice dated August 5, 2004,¹ we notified U.S. carriers of the procedures we would follow in distributing newly available charter opportunities between the United States and the People's Republic of China. We specifically stated in that Notice that "U.S. carriers holding scheduled combination or all-cargo authority in the U.S.-China market will not be eligible applicants until the last two months of the charter year...."² By Order 2004-10-8, the Department issued its final decision in the *2004 Cargo Designations and 2004/2005 All-Cargo Frequencies (U.S.-China) Proceeding*. That order granted Polar scheduled certificate authority to serve the U.S.-China all-cargo market. As Polar now holds scheduled authority in the U.S.-China market, we view it as no longer eligible for the charters it is seeking, and we have decided to deny Polar's request and grant the request of Kalitta. With the grant of this request, one charter remains in the pool for Zone 1.

An electronic version of this document is available on the World Wide Web at:
http://dms.dot.gov/reports/reports_aviation.asp

¹ The Notice can be located on the World Wide Web at: http://dms.dot.gov/reports_aviation.asp.

² Notice, at 2. The last two months of the charter year are June and July, 2005.