



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

Issued by the Department of Transportation on February 24, 2004
**NOTICE OF ACTION TAKEN – DOCKETS OST-03-15021, OST-1998-6284,
and OST-2002-11711**

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).

Application of Delta Air Lines, Inc. filed 2/17/04 for:

XX Dormancy Waiver for seven of Delta's U.S.-Brazil frequencies through December 31, 2004 for Atlanta-Rio de Janeiro services.

Order 2003-4-18 granted U.S. passenger carriers holding limited international route authority a blanket waiver of the dormancy conditions applicable to their authorities through March 31, 2004. The order also required U.S. carriers to notify the Department in writing no later than February 15, 2004, of the limited-entry rights that they will not be using beginning April 1.¹ Finally, Order 2003-4-18 provided that carriers are free to seek extension of the dormancy waiver beyond March 31, 2004, for specific city-pair limited-entry services where they can demonstrate that circumstances warrant.

Delta gives notice to the Department that it does not plan to commence Atlanta-Rio de Janeiro service by April 1, 2004, but requests a further dormancy waiver for seven (7) of its U.S.-Brazil frequencies through December 31, 2004, so that Delta can continue working on restoration of its full pattern of U.S.-Brazil service. Delta urges the Department to grant a waiver of the dormancy condition applicable to seven of its U.S.-Brazil frequencies from April 1, 2004 through December 31, 2004.

On February 24, Delta informed the Department that it had conducted a poll and had determined there are no objections to its request by any U.S. carrier authorized to serve Brazil.

Applicant rep: Robert E. Cohn, 202-663-8060 DOT analyst: Linda Senese, 202-366-2367

DISPOSITION

XX Granted (see Remarks below)

The above action was effective when taken February 24, 2004, through December 31, 2004²

¹ Since February 15, 2004, fell on a Sunday and February 16, 2004 was a Federal holiday, comments could be filed on February 17, 2004.

² Delta's waiver from the dormancy condition is effective through December 31, 2004, or until the date on which Delta begins service with each of these frequencies, whichever occurs earlier. As to any frequency with which Delta does not begin service by December 31, 2004, its frequency allocation with respect to that frequency expires automatically.

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

Remarks: We find that grant of Delta's request, in the particular circumstances presented, is in the public interest. However, we are putting Delta on notice that there should be no expectation that an additional request will necessarily be granted. Any future request to extend the dormancy waiver for the frequencies at issue here will have to be considered in light of any specific arguments offered and responses thereto, and in the context of the circumstances present at that time, including whether another carrier seeks to use the frequencies at issue.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; and (2) grant of the authority was consistent with the public interest. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the action taken in this Notice at any time without hearing at our discretion.

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, and the filing of a petition for review will not alter such effectiveness.

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