



Order 97-7-25

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

Issued by the Department of Transportation
on the 24th day of July, 1997

SERVED: July 24, 1997

**NEW U.S.-HONG KONG COMBINATION
AIR SERVICE OPPORTUNITIES**

Docket OST-95-765

Application of

NORTHWEST AIRLINES, INC.

Docket OST-97-2693

for designation of Minneapolis/St. Paul as a
U.S.-Hong Kong gateway

ORDER AUTHORIZING HONG KONG SERVICES

Summary

By this order we select Minneapolis/St. Paul, Minnesota, as a new gateway for U.S.-Hong Kong services. To enable us to implement the new gateway selection, we will also withdraw the existing designation of Detroit as single-designation gateway. We will forward these recommendations to the Department of State for implementation.

Background

Under a 1995 U.S.-Hong Kong Memorandum of Understanding, Alaska, Hawaii, Guam/Commonwealth of the Northern Marianas, and six additional U.S. cities to be selected are gateways for U.S. carrier combination service to Hong Kong. Los Angeles, San Francisco, New York and Seattle, which have been selected as gateways, are eligible for service from multiple U.S. carriers (multiple-designation gateways). By Order 96-3-64 the Department also selected Chicago and Detroit as gateways for Hong Kong service. Under the terms of the MOU, the U.S. may select a seventh U.S. gateway if it designates one of its multiple-designation gateways for service by one U.S. carrier (single-designation gateway). The MOU also provides for 90 days' advance notice to the other Party of any change in designated gateways.

Application

By application filed July 9, 1997, Northwest Airlines, Inc., requests that the Department select Minneapolis/St. Paul as a new gateway to Hong Kong and designate Northwest for this service. Northwest states that it plans to commence services October 1, 1997, operating three weekly flights with B-747-400 aircraft. Northwest states that it already holds the necessary underlying authority to serve the market on its certificate for Route 129, and requests only the designation of Minneapolis/St. Paul as a gateway and designation of Northwest to serve it. Northwest also states that Seattle has authorized it to state that it would accept conversion of its status from a multiple-designation to a single-designation gateway so that service to Minneapolis could be instituted.¹

In support of its application, Northwest states that selection of Minneapolis will maximize use of the available gateway opportunities under the 1995 U.S.-Hong Kong MOU and will provide significant public benefits by offering a new Asian service to Minneapolis and the midwest region of the United States.

Northwest requests expedited action on its application so that it may begin marketing and promotion of the new service for its proposed October 1 startup, and so that the United States may provide the required notice to the Hong Kong authorities of the new gateway selection.

Responsive Pleadings²

Answers to Northwest's application were filed by the Minneapolis/St. Paul Metropolitan Airports Commission (Minneapolis), American Airlines, Inc., Delta Air Lines, Inc., and United Air Lines, Inc. Replies were filed by Northwest, Wayne County and Detroit Metropolitan Wayne County Airport (Detroit), and Minneapolis.

Minneapolis supports Northwest's application, stating that Northwest's proposed service will provide valuable benefits to the public and will maximize use of the limited gateway designations for Hong Kong service. It also argues that approval of Northwest's application will not prejudice any other community as there are no competing applications for service to Hong Kong, and Seattle will continue to retain an available designation for any carrier that may seek to serve it in the future. Minneapolis urges the U.S. Government to secure Hong Kong's agreement to waive the 90-day advance notice requirement for new gateway selections to ensure that Northwest can commence service in the market on October 1, as proposed.

American, Delta, and United oppose Northwest's application to the extent that Northwest proposes securing the new gateway opportunity by converting Seattle from a multiple-designation

¹ Although Northwest currently serves Seattle, it states that it has recently announced that it will discontinue that service on September 8.

² In view of the notice requirements in the MOU and Northwest's proposed startup date for service, by Notice dated July 10, 1997, the Department accelerated the procedural schedule for responsive pleadings to Northwest's application. The Department required that answers be filed by noon on July 14, 1997, and that any replies be filed by 3:00 p.m. on July 15, 1997.

gateway to a single-designation gateway. All three carriers argue that Northwest was selected to serve Detroit in 1996, but has yet to institute its Detroit service, and that rather than taking away an opportunity for future service to another community by converting Seattle's multiple-designation status, the Department should require Northwest to relinquish its unused Detroit designation in order to operate its proposed Minneapolis service. The opposing carriers argue that there is no need to compromise Seattle's status in a situation where a single-designation gateway, Detroit, is currently unused, and that it is not in the public interest for the Department to permit Northwest to "stockpile" valuable gateway designations and then obtain an additional scarce gateway designation by converting Seattle's gateway status. United states that Seattle, unlike Detroit, is not dominated by services of just one carrier and is well situated as a nonstop gateway to Hong Kong and, thus, could be served by multiple carriers in the future. American argues that Northwest is attempting to block competition by securing the remaining available gateway opportunity, thereby precluding service to other interior gateway cities such as Dallas/Ft. Worth when long-range aircraft to operate nonstop services to Hong Kong become available.

In its reply, Northwest argues that no carrier has presented a competing proposal, or disputed the public interest benefits of its Minneapolis proposal, or the fact that there is no bilateral obstacle to authorizing its proposed service. Rather, Northwest argues, the opposing carriers have instead used the application to relitigate the Department's previous selection of Detroit as a gateway, and to argue about the manner in which Minneapolis' gateway selection is accomplished under the provisions of the MOU. In this regard, Northwest states that it remains committed to serving Detroit as soon as appropriate aircraft and/or feasible air navigation routings for the service are available; and that given Northwest's continued plans to serve Detroit, and Seattle's acceptance of a change in its gateway status, the Department should proceed to grant its application.

Detroit strongly opposes any proposal that would result in replacement of Detroit as a designated gateway for service to Hong Kong, stating that it has a continued interest in Hong Kong service and that Northwest is committed to providing that service as soon as technically feasible. Detroit states that there are no concrete proposals for service in any other U.S.-Hong Kong market, including Seattle and, thus, there is no need to withdraw Detroit's designation in order to approve Northwest's Minneapolis service. Detroit contends that its continued designation as a gateway need not be considered until another airline offers a comparable proposal, there is no gateway authority readily available, and Northwest has not initiated Detroit service.

Minneapolis reiterates the public interest factors it contends support selection of Minneapolis as a gateway for Hong Kong service and urges the Department not to delay its approval of Northwest's application.

Decision

We have decided to grant Northwest's application and will request the Department of State to designate Minneapolis/St. Paul as a gateway for service in the U.S.-Hong Kong market and to designate Northwest to provide service on the route. Northwest already holds the economic license authority to serve this route. To enable us to implement this new gateway selection, we have also decided to recommend withdrawal of Detroit's gateway designation.

We find that approval of Northwest's application is consistent with the public interest.³ No party disputes the public benefits of selecting Minneapolis/St. Paul as a new Hong Kong gateway. Nor has any party disputed that opportunities exist under the bilateral to authorize the proposed new service. Indeed, the addition of service from Northwest's Minneapolis hub will offer a valuable new service option to travelers and shippers throughout the eastern and midwestern United States, and will ensure greater use of the limited bilateral opportunities for Hong Kong services. Since the Department has previously designated the six additional gateways provided for under the 1995 MOU, replacement of the unused Detroit gateway will facilitate service from an additional city.

The only issue in dispute involves how the existing gateway designations should be changed to permit the implementation of the Minneapolis service. One option, as proposed by Northwest, involves conversion of Seattle's multiple-designation gateway status to single-designation, making it possible for the United States to designate a seventh gateway. Seattle, the affected community, has not opposed the change in its gateway status in order to facilitate Northwest's service. American, Delta, and United support replacement of the existing, but dormant, designation of Detroit rather than the conversion of the Seattle gateway.

After careful consideration, we have decided to shift the existing designation of Detroit to Minneapolis/St. Paul. At the time we authorized service at Detroit last year, two opportunities for new service to Hong Kong were available and only two applications that could be granted under the MOU had been filed.⁴ Noting the absence of competing applications we stated that we were prepared to grant one of the designations to Northwest for Detroit, affording Northwest time to obtain the necessary air navigation routing for the service.⁵ Although we recognized that service would not be instituted immediately, it was our clear expectation that Northwest would be introducing Detroit-Hong Kong service by November 1, 1997.

Circumstances have changed significantly since our initial authorization of Detroit. First, there is no clear indication on the record of this case that Northwest will be instituting service in November 1997, or at any definitive date thereafter. Rather, Northwest has stated that it remains "interested" in serving Detroit-Hong Kong, but that "securing a feasible air navigation routing

³ We have decided to act on this application without using show-cause procedures in light of Northwest's proposed startup date, the 90-day notice requirement in the MOU, and the fact that the issues presented here are fairly straightforward and thoroughly presented in the pleadings to date.

⁴ The second available gateway designation was granted to Chicago. American had also filed an application, but its proposed service involved third-country code-share operations, services not available under the MOC, and we dismissed its application. Order 96-3-64 at 4.

⁵ Order 96-3-64 at 4.

and/or production of new generation aircraft is taking longer than Northwest anticipated.”⁶ Second, Northwest has now proposed a new service to Minneapolis/St. Paul which it has firm plans to begin October 1. That service cannot be authorized without taking away rights from an existing gateway. While Northwest has suggested converting Seattle’s multiple-designation gateway status, such action would restrict Seattle’s future options for multiple carrier service and would use the only available opportunity for the Department to authorize service from a seventh gateway.

In these circumstances, we believe that the public interest is better served by shifting Detroit’s unused single-gateway opportunity to Minneapolis/St. Paul rather than by converting Seattle’s multiple-designation status to single-designation. This will preserve the greatest degree of flexibility possible for the future.

Contrary to Northwest’s and Detroit’s arguments, designating Minneapolis in this manner does not foreclose service at Detroit in the future. Should a carrier, including Northwest at Detroit, have firm plans to operate a new Hong Kong service, we will review the options available at that time--(multiple gateway conversion, as well as any single-designation gateways that may be dormant at the time)--to determine what gateway changes would best serve the public interest and ensure maximum use of the limited gateway opportunities available under the MOU.

Given the advance notification requirements of the MOU, as well as the public interest benefits of facilitating the introduction of Northwest’s service at a new gateway in October as planned, we will ask the State Department to notify the Hong Kong authorities of our new gateway selection immediately.⁷

ACCORDINGLY,

1. We select Minneapolis/St. Paul, Minnesota as a new gateway for U.S.-Hong Kong service, and Northwest to serve that route;
2. We withdraw the gateway designation of Detroit, Michigan;
3. To the extent not granted, we deny all outstanding requests in Docket OST-97-2693;
4. We may amend, modify, or revoke this order at any time at our discretion without notice or hearing; and

⁶ July 15, 1997 Reply of Northwest at 4.

⁷ To ensure that its Minneapolis service is not delayed while the Department determines how to make the gateway selection under the MOU, Northwest urges the Department (a) to grant it a *pendente lite* exemption from 14 CFR § 201.5 to permit Northwest to commence advertising and promotion of its Minneapolis/St. Paul-Hong Kong service, (b) notify Hong Kong authorities of its designation of Minneapolis/St. Paul as a new gateway and Northwest to provide the service; and (c) work with the Hong Kong authorities to waive the 90-day advance notice requirement under the MOU so that Northwest may implement its Minneapolis service on October 1 as planned. Given the advance notice provisions of the 1995 MOU, we will seek waiver of the advance notice requirements to facilitate commencement of Northwest’s Minneapolis service on October 1. In light of our decision here, Northwest’s request for exemption from the provisions of Part 201 regarding advance sales is moot.

5. We will serve this order on American Airlines, Inc., Delta Air Lines, Inc., Northwest Airlines, Inc., United Air Lines, Inc., Wayne County and the Detroit Metropolitan Wayne County Airport, The Minneapolis/St. Paul Metropolitan Airports Commission, the Hong Kong Air Services Negotiations Unit, the Department of State (Office of Aviation Negotiations), and the Federal Aviation Administration (AFS-200).

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)