Order 2016-6-1

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

Issued by the Department of Transportation on the 2nd day of June, 2016

Orange Air, LLC **Violations of 49 U.S.C. § 41708 and 14 CFR Part 241**	**Docket OST 2016-0002** **Served June 2, 2016**

CONSENT ORDER

This consent order concerns reporting delinquencies by Orange Air, LLC (Orange Air) that constitute violations of 49 U.S.C. § 41708 and the accounting and reporting requirements specified in 14 CFR Part 241. This order directs Orange Air to cease and desist from future violations, and assesses the carrier a compromise civil penalty of $20,000.

Applicable Law

Section 41708 of the United States Code, *inter alia*, authorizes the Secretary of Transportation to require air carriers to submit reports to the Department. Pursuant to section 41708, 14 CFR Part 241 designates various categories of statistical data to be collected from large certificated carriers[1] and prescribes the manner in which these data are to be submitted to the Department. The Department uses Part 241 reports to analyze the effects of air transportation industry policy initiatives, to allocate airport development funds, to forecast traffic, and to develop airport and airway traffic policy. A carrier's failure to file reports prevents the Department from making fully informed decisions. Failure to file reports when they are due constitutes a violation of both 49 U.S.C. § 41708 and 14 CFR Part 241.

[1] A large carrier is defined as an air carrier holding a certificate which operates aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds.

Facts

Orange Air is a large certificated air carrier and is therefore subject to the reporting requirements of 49 U.S.C. § 41708 and 14 CFR Part 241. Orange Air failed to submit timely and complete Form 41 and Form T-100 reports during certain time periods in 2014 and 2015, despite repeated requests from the Bureau of Transportation Statistics (BTS).[2]

Response

In response, Orange Air states that any violation of the Department's reporting requirements was inadvertent. Orange Air notes that during the carrier's initial months of limited charter operations, responsibility for these reports was not consistently recognized as staff functions and management personnel changed. Orange Air states that a relatively new management team has emphasized the need to regularize all business practices, including statistical reporting. Orange Air also states that the carrier's finance team, in coordination with outside consultants who have trained them, now has procedures in place to ensure future, timely, and accurate reporting.

Decision

The Office of Aviation Enforcement and Proceedings (Enforcement Office) has carefully considered the information provided by Orange Air, but continues to believe that enforcement action is warranted. The Enforcement Office and Orange Air have reached a settlement of this matter in order to avoid litigation. Orange Air consents to the issuance of this order to cease and desist from future violations of 49 U.S.C. § 41708 and 14 CFR Part 241 and to the assessment of $20,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301.

The compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It provides a strong incentive for Orange Air and other air carriers to submit data to the Department in a timely and complete manner, as required.

This order is issued under the authority contained in 14 CFR Part 1.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;

2. We find that Orange Air, LLC violated 49 U.S.C. § 41708 and 14 CFR Part 241 by failing to file required reports in a timely manner, as described above;

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[2] After being contacted by the Enforcement Office, Orange Air submitted all past due reports and is currently up to date with respect to its Form 41 and Form T100 reporting obligations.

3. We order Orange Air and its successors and assigns to cease and desist from further violations of 49 U.S.C. § 41708 and 14 CRF Part 241;

4. We assess Orange Air, LLC a compromise civil penalty of $20,000 in lieu of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2, above, which shall be due and payable within 30 days from the date of issuance of this order; and

5. We order Orange Air, LLC to pay the penalty through Pay.gov to the account of the U.S. Treasury in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject Orange Air LLC to the assessment of interest, penalty, and collection charges under the Debt Collection Act, and to possible additional enforcement action for failing to comply with this order.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

BY:

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