



**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 May, 2016

Application of

DELUX PUBLIC CHARTER, LLC

as a commuter air carrier under 49 U.S.C. § 41738

Docket DOT-OST-2015-0208

FINAL ORDER

By Order 2016-4-13, issued April 15, 2016, the Department directed all interested persons to show cause why we should not make final our tentative findings and conclusions that Delux Public Charter, LLC (“Delux”) is a citizen of the United States and is fit, willing, and able to conduct scheduled passenger operations as a commuter air carrier using small aircraft¹ pursuant to 14 CFR Part 135 of the Federal Aviation Regulations. Interested persons were given 5 business days to file objections to the order. No objections to the show cause order were received.

In Order 2016-4-13, the Department stated that Delux’s authority to conduct operations as a commuter air carrier would not become effective until the Department received (1) a copy of Delux’s Air Carrier Certificate and Operations Specifications from the Federal Aviation Administration (“FAA”) authorizing such operations, (2) evidence of liability insurance coverage that meets the requirements of 14 CFR 205.5(b) for its aircraft, (3) a statement of any changes it had undergone in areas affecting its fitness subsequent to the issuance date of the Show Cause Order in this case (Order 2016-4-13), and (4) updated financial information and evidence that the air carrier still had available funds sufficient to meet the Department’s financial fitness criteria.

¹ Small aircraft is defined as any aircraft originally designed to have a maximum passenger capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less.

On April 26, 2016, Delux provided the information necessary to receive effective authority.² Specifically, Delux provided updated financials, a copy of its limited liability insurance (OST Form 6410) meeting the requirements of 14 CFR 205.5 (b), evidence of operating authority from FAA, and third-party verification of its financial resources.

FITNESS

As stated in Order 2016-4-13, in establishing an applicant's financial fitness, the Department typically asks an applicant to demonstrate that it has access to financial resources sufficient to cover its pre-operating expenses and any negative working capital balance, plus a working capital reserve equal to the operating costs that are reasonably projected to be incurred during three months of "normal" operations.

In its April 26, 2016, submission, Delux states that it incurred and paid \$1.39 million in pre-operating expenses, an increase of \$474,116 from its initial pre-operating expense projection of \$917,781. The company also states that its balance sheet as of April 6, 2016, which showed Delux as having \$4.72 million in current assets and \$566,749 current liabilities, remained relatively unchanged. Additionally, in its application, Delux projected its first year expenses will total \$10.27 million, one quarter of which is \$2.57 million. Thus we find that Delux requires \$2.64 million, which includes the \$72,500 payment in aircraft deposit, to meet the Department's financial fitness test. Since Delux provided third-party verification from Wells Fargo Bank and First Foundation Bank that it has \$4.78 million and \$250,000 respectively, on deposit in its name, we find that the applicant has access to sufficient funds necessary to commence its scheduled operations.

Based on our review of the updated fitness information, insurance, and FAA documentation provided by Delux, we find Delux fit, willing, and able under 49 U.S.C. § 41738 to provide scheduled passenger service as a commuter air carrier using small aircraft pursuant to Part 135 of the Federal Aviation Regulations and issue a certificate authorizing Delux to engage in such operations. We make such authority effective immediately.

ACCORDINGLY,

1. We find that Delux Public Charter, LLC is fit, willing, and able under 49 U.S.C. § 41738 to provide scheduled passenger service as a commuter air carrier using small aircraft pursuant to Part 135 of the Federal Aviation Regulations.

² On April 26, 2016, Delux also filed a request for a waiver of the six-day waiting period for the effectiveness of its certificate. Since Delux has submitted all of the required information and our review of the materials finds them to be satisfactory, we conclude that Delux has met all of the conditions set forth in Order 2016-4-13 and we grant the request for a waiver.

2. We issue a Commuter Air Carrier Authorization to Delux Public Charter, LLC subject to the Terms, Conditions, and Limitations attached.
3. We grant the request of Delux Public Charter, LLC for a waiver of the six-day waiting period for effective authority specified in Order 2016-4-13.
4. We direct Delux Public Charter, LLC to submit to the Air Carrier Fitness Division a first-year progress report within 45 days following the end of its first year of actual commuter operations.³
5. We will serve a copy of this order on the persons listed in Attachment A.

By:

SUSAN MCDERMOTT
Deputy Assistant Secretary
for Aviation and International Affairs

*An electronic version of this document is available on the World Wide Web at:
<http://www.regulations.gov>*

³ The report should include a description of the air carrier's current operations (number and type of aircraft, principal markets served, total number of full-time and part-time employees), a summary of how these operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, a balance sheet as of the end of the company's first full year of actual flight operations and a twelve-month income statement ending that same date, and a listing of current senior management and key technical personnel. The air carrier should also be prepared to meet the staff members of the Fitness Division to discuss its current and future operations.



Commuter Air Carrier Authorization

DELUX PUBLIC CHARTER, LLC

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in scheduled passenger air transportation operations as a commuter air carrier.

This authorization is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

*Issued by Order 2016-5-2
On May 2, 2016
Effective May 2, 2016*

*Susan McDermott
Deputy Assistant Secretary for
Aviation and International Affairs*



Terms, Conditions, and Limitations

DELUX PUBLIC CHARTER, LLC

is authorized to engage in scheduled passenger air transportation operations as a commuter air carrier.

This authority is subject to the following provisions:

- (1) The holder shall at all times conduct its operations in accordance with the requirements of 14 CFR Part 298 and any other regulations prescribed by the Department of Transportation for the services authorized here, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.*
- (2) The holder's authority is limited to operations conducted pursuant to Part 135 of the Federal Aviation Regulations. In the event that the holder wishes to institute operations that would require Part 121 certification from the FAA, it must first be determined fit for such operations.*
- (3) The holder may not operate aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds.*
- (4) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA), and comply with all U.S. Government requirements concerning security, including, but not limited to 49 CFR Part 1544.**
- (5) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. § 40102 (a)(15).*
- (6) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render this authority ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this authority.*
- (7) The holder may reduce or terminate service at any point or between any two points, subject to compliance with the provisions of 49 U.S.C. § 41734 and all orders and regulations issued by the Department of Transportation under that section.*

** To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its Principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served.*

(8) *Should the holder propose any substantial change in its ownership, management, or operations (as defined in 14 CFR § 204.2(l)), it must first comply with the requirements of 14 CFR § 204.5.*

(9) *In the event that the holder does not commence actual flying operations as a commuter air carrier under this authority within one year of the date of the Department's determination of its fitness, its commuter authority shall be revoked for dormancy. Further, in the event that the holder commences operations for which it was found "fit, willing, and able" and subsequently ceases all scheduled passenger operations, the authority granted here shall be suspended under the terms of 14 CFR § 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its commuter authority shall be revoked for dormancy.*

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