



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

DEPARTMENT ACTION ON APPLICATION IN DOCKET DOT-OST-2019-0074
filed May 9, 2019

Joint Application of WestJet and its affiliate WestJet Encore Ltd. (Encore)¹ for blanket statements of authorization under 14 CFR Part 212 to permit both air carriers to display the Sata International – Azores Airlines, S.A. (Sata) (S4*) designator code for an indefinite duration as follows:^{2 3}

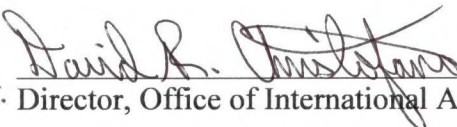
1) WestJet requests a blanket statement of authorization permitting it to conduct codeshare operations with Sata by displaying Sata's (S4*) designator code on flights operated by WestJet in conjunction with foreign air transportation of persons, property and mail from any point or points behind Canada, via any point or points in Canada, and via intermediate points to any point or points in the United States and beyond.

2) Encore requests a blanket statement of authorization permitting it to conduct codeshare operations with Sata by displaying Sata's (S4*) designator code on flights operated by Encore for WestJet in conjunction with foreign air transportation of persons, property and mail from any point or points behind Canada, via any point or points in Canada, and via intermediate points to any point or points in the United States and beyond.

The joint applicants also request a waiver of the 45-day advance filing requirement under 14 CFR Part 212.

*Approved under assigned authority subject to the attached conditions. (14 C.F.R. §385.13)

Date of Action: **May 16, 2019⁴**


For: Director, Office of International Aviation

Persons entitled to petition the Department for review of this action under the Department's regulations, 14 CFR § 385.30, should file their petitions within seven days of the date of this action. This action is effective immediately, and the filing of a petition for review will not alter its effectiveness.

We may amend, modify, or revoke the authority granted at any time, without hearing, at our discretion.

¹ The Joint Applicants note that the code-share agreement between WestJet and Sata also includes the flights operated by Encore for WestJet.

² The Joint Applicants state that Sata will not market its code-share service to local passengers traveling solely between Canada and the United States.

³ The Joint Applicants' proposed initial U.S. code-share service is listed in Attachment A.

⁴ The Department is acting on the Joint Applicants' request prior to the expiration of the answer period with the consent of all parties served.

The code-share operations authorized here are subject to the following conditions:

- (a) The statements of authorization will remain in effect only as long as (i) WestJet, Encore, and Sata continue to hold the necessary underlying authority to operate the code-share services at issue, and (ii) the code-share agreement providing for the code-share operations remains in effect.
- (b) WestJet, Encore, and/or Sata, as appropriate, must promptly notify the Department if the code-share agreement providing for the code-share operations is no longer effective or the carriers decide to cease operating any or all of the approved code-share services. We expect this notification to be received within 10 days of such non-effectiveness or of such decision. Such notices should be filed in docket DOT-OST-2019-0074.
- (c) WestJet, Encore, and/or Sata, as appropriate, must notify the Department no later than 30 days before they begin any new code-share service under the code-share services authorized here. Such notice shall identify the market(s) to be served, which carrier will be operating the aircraft in the added code-share market, and the date on which the service will begin. Such notice should be filed in Docket DOT-OST-2019-0074.⁵
- (d) The code-sharing operations conducted under this authority must comply with 14 CFR 257 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in the computer reservation systems and elsewhere; that the carrier selling such transportation (i.e., the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected.
- (e) The authority granted here is specifically conditioned so that neither WestJet, Encore, nor Sata shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.
- (f) We may amend, modify, or revoke the authority granted at any time without hearing at our discretion.

⁵ Pursuant to the Department's Notice in the Matter of Blanket Notification of Codeshare Service to Open-Skies Partners and Points, dated February 9, 2009, WestJet and Encore provide in their application blanket notification of their intent to engage in code-share service to open skies points. WestJet and Encore agree to notify the Department no later than 30 days before commencing any code-share service to non-open skies points.

CODE-SHARE POINTS

North American Gateways:

Montreal, QC (YUL)
Toronto, ON (YYZ)
Boston, MA (BOS)

Interior Points:

Houston, TX (IAH)
Kahului, HI (OGG)
Kona, HI (KOA)
Lihue (LIH)
Las Vegas, NV (LAS)
Los Angeles, CA (LAX)
Miami, FL (MIA)
Myrtle Beach, SC (MYR)
Nashville, TN (BNA)
New York, NY (JFK)
New York, NY (LGA)
Orlando, FL (MCO)
Orange County, CA (SNA)
Palm Springs, CA (PSP)
Phoenix, AZ (PHX)
San Diego, CA (SAN)
San Francisco, CA (SFO)
San Juan, PR (SJU)
Tampa, FL (TPA)
Halifax, NS (YHZ)
Toronto, ON (YYZ)