



Federal Aviation Administration

Memorandum

Date: October 16th, 2019

To: [REDACTED], Manager, Air Transportation Division, AFS-200

From: [REDACTED], Assistant Manager, Certification and Evaluation
Program Office (CEPO), AFS-910

Prepared by: [REDACTED], Aviation Safety Inspector – Operations, 703-
334-1183, Subject:

Request for Clarification – No evidence of Regulatory Authority for current certificate holder practice to consolidate Atlas Airlines (UIEA) and Polar Air Cargo (P5CA), to conduct Pilot Training and Checking using the Atlas Airlines Training Program, and assigning pilots to crew both certificates' flight operations from a combined pilot seniority list. In our investigations to this point, during the National Certificate Holder Evaluation Process (CHEP), we have not located any regulatory guidance, exemptions, deviations, previous approvals, or any historical precedent, which would allow Atlas Airlines (UIEA) and Polar Air Cargo (P5CA), to operate in this manner.

Supplemental Information to Original Memorandum:

1. Atlas Airlines and Polar Air Cargo are not authorized Wet Lease Agreements, in accordance with (IAW) Operations Specifications (OpSpec) A004, Section B, and neither have OpSpec A028, Wet Lease Agreement. In addition, Polar and Atlas do not have any regulatory authority to operate under a name different than what is listed in OpSpec A001. (Attachment 1 & 2) So, the operation of using the Cathy Pacific call sign is contrary to the Atlas OpSpec A001.
2. Title 14, Part 121, Subpart N, Paragraph 121.401(a), states; each certificate holder shall... and then continues to list the requirements of the training program. Paragraph 121.401(a)(4), states; they shall provide enough flight instructors, simulator instructors and approved check airmen to conduct the required flight training and flight checks, and simulator training courses permitted under this part. This requirement falls to the certificate holder, not another certificate holder.
3. "Shall" denotes a mandatory requirement and the NYFSDO 15, did not have the authority to grant an exemption to this regulation. If Atlas and Polar wanted to proceed as requested, they

would need an exemption from the regulation showing an equivalent level of safety and demonstrate it would be in the public interest to be granted this exemption. No exemptions were located, which list a request for, or an exemption granted, for Atlas or Polar regarding the regulations in OpSpec A005.

4. In the NYFSDO 15, letter authorizing the transfer of checking and training to Atlas from Polar states; “after review of the pertinent Federal Aviation Regulations and Guidance,” but does not provide specific references, to which regulations and guidance were reviewed. The CHEP Team cannot locate any regulations, or guidance, which would authorize this approval.
5. For economic reasons, Atlas and Polar are managed by one legal entity, but have two separate certificates. The FAA requires each certificate holder to maintain operations in compliance with the regulations and the certificate holders OpSpecs, or to surrender the certificate. If Atlas and Polar wish to operate outside of the published regulations, they must apply for an exemption from each rule they wish to deviate. The certificate holder petitions the FAA under Title 14, Part 11, Section 11.15. Notwithstanding this process, the certificate holder becomes obligated to comply with the requirements of the regulations and their OpSpecs.
6. The 8900.1, Volume 3, Chapter 20, Section 2, Paragraph 3-1430, provides a standard method for approving a check pilot to serve multiple operators, as long as they are compatible. The FAA does not have regulations, or handbook guidance, which would allow Atlas and Polar to operate in their current form. Headquarters may grant authority to allow one check ride to suffice for both Atlas and Polar, but no request, or approval of such request, can be located.

The AFS-910 CHEP Team would like to thank the AFS-280 SMEs in advance for any assistance they are able to provide, in consideration of this new information.

Sincerely,

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