

BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Application of

BOSTON-MAINE AIRWAYS CORP.

for issuance of a certificate of public convenience and
necessity pursuant to 49 U.S.C. § 41102

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**APPLICATION OF
BOSTON-MAINE AIRWAYS CORP.**

Communications with respect to this document should be sent to:

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NOTICE: Boston-Maine requests that this Application be processed pursuant to the expedited procedures established by 14 CFR Part 302, Subpart B. Any person may file an Answer to this Application with the DOT's Docket Section and must serve all persons named on the attached Service List. Answers to this Application are due to be filed on or before August 9, 2000.

July 19, 2000
959279

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July 19, 2000

**APPLICATION OF
BOSTON-MAINE AIRWAYS CORP.**

Boston-Maine Airways Corp., d/b/a Pan Am Services (“BMAC”) hereby applies, pursuant to 49 U.S.C. §41102 of the Federal Aviation Statutes, Subpart B of the Procedural Regulations and Section 204.3 of the Economic Regulations of the Department of Transportation (the “Department”), for issuance of a Certificate of Public Convenience and Necessity authorizing BMAC to engage in interstate scheduled service operations.

In support of this Application, BMAC states as follows:

I. INTRODUCTION AND SUMMARY.

BMAC is a wholly-owned subsidiary of Pan American Airlines, Inc. (“PAA”), a holding company which also owns Pan American Airways Corp. (“Pan Am”). Pan Am is

a certificated air carrier which is currently operating interstate scheduled services and interstate and foreign charter services utilizing a fleet of Stage 3-compliant Boeing B-727-200 aircraft (see Orders 99-8-15, served August 19, 1999 and Order 99-9-8, served September 9, 1999).

BMAC was formed by PAA and incorporated as a New Hampshire corporation in March 1999. BMAC commenced small-aircraft operations under Part 298 of the Department's Economic Regulations and Part 135 of the Federal Aviation Regulations (Certificate No. B16A009J) in June 1999, and subsequently acquired U.S.-Canada transborder charter authority from the Canadian NTA in September 1999. At the present time, BMAC is engaged in performing passenger charter operations utilizing three leased 19-passenger British Aerospace Jetstream 3100 aircraft and all-cargo charter operations utilizing two leased CASA-212 twin turboprop freighter aircraft having a maximum payload capacity of 6,000 pounds.

The purpose of this Application is to enable BMAC to perform scheduled passenger operations with Jetstream 3100 aircraft in various interstate city-pair markets, both in conjunction with the large-aircraft scheduled service operations of Pan Am, and as separate stand-alone operations, as described in this Application.

II. PROPOSED SERVICE AND FITNESS DATA

The following sections of BMAC's Application and attached Exhibits furnish BMAC's responses to the mandatory information required of all applicants for new certification pursuant to Section 204.3 of the Department's Economic Regulations,

presented in the same sequence as those requirements are set forth in Section 204.3, and cross-referenced to the sub-sections of Section 204.3.

1. Name, address and telephone number.
(§204.3(a))

BOSTON-MAINE AIRWAYS CORP.
14 Aviation Avenue
Portsmouth, NH 03801
Tel. (603) 766-2117
Fax (603) 766-2225

2. Form of Organization
(§204.3(b))

BMAC is a corporation. Copies of BMAC's Articles of Incorporation and By-laws are contained in Exhibit BMA-121, infra.

3. State where incorporated
(§204.3(c))

BMAC is organized under the laws of the State of New Hampshire.

4. Certificate of Good Standing
(§204.3(d))

A Certificate of Good Standing issued on July 14, 2000 by the New Hampshire Secretary of State, confirming that BMAC is in good standing and is authorized and competent to transact business in the State of New Hampshire, is set forth in Exhibit BMA-118, infra.

5. Citizenship
(§204.3(e))

BMAC is a citizen of the United States, as defined in 49 U.S.C. § 40102(a)(15). An affidavit attesting to the U.S. citizenship of BMAC is contained in Exhibit BMA-117. Factual information supporting that assertion is contained in Exhibits BMA-112 and BMA-113.

6. Key Personnel
(§204.3(f))

At the present time, the management group at BMAC includes the following individuals:

<u>Name</u>	<u>Title</u>	<u>Citizenship</u>
Timothy Mellon	Chairman of the Board	U.S.
David A. Fink	President	U.S.
John R. Nadolny	Senior Vice President, General Counsel & Secretary	U.S.
Joseph L. Carey	Treasurer	U.S.
Gordon R. Long	Vice President, General Manager and Director of Operations	U.S.
John J. Hughes	Chief Pilot	U.S.
Hobart T. Livingston	Director of Safety	U.S.
Douglas A. Alm	Director of Maintenance	U.S.
James W. Herring	Chief Inspector	U.S.

At this time, Messrs. Mellon and Fink are the only active members of the board of directors of BMAC.¹

Copies of the biographical resumes and other information required by Section 204.3(f) of the Economic Regulations relating to each of BMAC's present officers and directors are set forth in Exhibit BMA-112, infra.

7. Persons having a substantial interest in Applicant
(§204.3(g))

PAA currently owns 100 percent of the issued and outstanding voting stock of BMAC. PAA is owned by Messrs. Mellon and Fink, who own 94.2 percent and 5.2 percent, respectively, of PAA's outstanding common stock. The information required by Section 204.3(g) with respect to PAA and its owners is contained in Exhibit BMA-113. No other person or organization holds a "substantial interest" in BMAC within the meaning of Section 204.2(m) of the Economic Regulations.

8. Subsidiaries
(§204.3(h))

BMAC has no subsidiaries.

9. Other Relationships
(§204.3(i))

¹ At the time of BMAC's initial incorporation, two other individuals – D. Armstrong Fink (who is the son of David A. Fink) and Richard S. Kelso – were designated as directors of BMAC (Exhibit BMA-121, p.3), but they have not subsequently participated as active members of BMAC's board of directors.

BMAC holds no shares of stock in, and does not control, any air carrier, foreign air carrier, common carrier, or person substantially engaged in the business of aeronautics. Through its parent corporation, PAA, BMAC is under common ownership with Pan Am, which is a certificated air carrier.

10. Financial Statements
(§204.3(j))

BMAC is a privately-owned corporation. For that reason, BMAC is not required to file Form 10-K Reports with the Securities and Exchange Commission. BMAC's current Balance Sheet as of June 30, 2000 is set forth in Exhibit BMA-108, infra. A Profit and Loss Statement for BMAC for the 6-month period ended June 30, 2000 is set forth in Exhibit BMA-109, infra. To the extent that Pan Am is viewed as a "relevant corporation" for purposes of this application, its financial reports and other ownership and fitness-related information is on file with the Department in Pan Am's Form 41 reports and in Docket OST-99-5945.

11. Pending actions and outstanding judgments
(§204.3(l) and (m))

a. There are no pending actions or outstanding judgments involving an amount in excess of \$5,000 against BMAC, any other relevant corporation or any key personnel employed by BMAC or any relevant corporation, or any person having a substantial interest in BMAC or any relevant corporation.

b. The total number and aggregate amount of all pending actions or outstanding judgments of less than \$5,000 against BMAC, any other relevant corporation,

and each of their key personnel or persons holding substantial interest in such corporations, is zero.

12. Current aircraft fleet and acquisition plans
(§204.3(n))

a. Current aircraft fleet.

BMAC currently leases three (3) British Aerospace Jetstream 3100 turboprop aircraft, configured to carry 19 passengers, and two (2) CASA-212 twin turboprop freighter aircraft, having a maximum cargo payload of 6,000 pounds (Exhibit BMA-101, infra).

All five of BMAC's aircraft are leased from Guilford Transportation Industries, Inc. ("Guilford"). Guilford, which is principally owned by Messrs. Mellon and Fink, is engaged in railroad operations and related activities primarily in the eastern United States. A redacted copy of two Aircraft Lease Agreements between Guilford and BMAC, relating to the Jetstream 3100 aircraft and the CASA-212 aircraft, respectively, each of which is approximately 50 pages long, are being submitted under separate cover to the Department's Fitness Division.² A redacted copy of each Lease will be made available upon request to any person served with a copy of this Application. An affidavit verifying that the Jetstream 3100 and CASA-212 aircraft currently leased by BMAC have

² The only redacted material pertains to certain lease price information which BMAC regards as confidential and proprietary.

been certified by the Federal Aviation Administration and currently comply with all FAA safety and noise emission standards is contained in Exhibit BMA-103, infra.

b. Planned aircraft acquisitions.

BMAC plans to lease seven (7) additional Jetstream 3100 aircraft during the remainder of calendar year 2000 and thereafter. BMAC plans to conduct its planned initial first-year scheduled service operations serving the Portsmouth-Bangor market utilizing only the three Jetstream 3100 aircraft in its current fleet. That fleet will be expanded to a total of five or six Jetstream 3100 aircraft prior to inauguration of Sanford-Ft. Myers service in March 2001. If requested to do so, BMAC will advise the Department's Fitness Division as additional aircraft are acquired.

c. Capital Financing Plan.

BMAC plans to satisfy its requirement for working capital to support its establishment and expansion of scheduled service operations from two principal sources: (1) its own existing working capital resources, including cash, accounts receivable and assets held for sale, amounting to \$786,700 and (2) a \$500,000 line of credit facility provided by its parent corporation, PAA (Exhibit BMA-108). The ability of PAA to provide financial support in the amount of \$500,000 to its wholly-owned subsidiary, BMAC, is evidenced by PAA's very strong Balance Sheet as of December 31, 1999 (Exhibit BMA-110). BMAC also generates a modest positive cash flow from its profitable and ongoing passenger and charter operations (Exhibit BMA-109).

As reflected in the cited exhibits, the sum total of capital resources available to support the scheduled service operations of BMAC amounts to \$1,286,700. As noted below, that total exceeds BMAC's working capital requirement under the Department's financial fitness test by \$617,199 (Exhibit BMA-111).

13. Pending Investigations, Enforcement Actions and Formal Complaints
(§204.3(o))

There are no pending investigations, enforcement actions, or formal complaints, filed by the DOT or FAA, involving BMAC, or any relevant corporation, or any personnel employed by BMAC, or any relevant corporation or person having a substantial interest in any relevant corporation, regarding compliance with the Act, or orders, rules, regulations or requirements issued pursuant to the Act.

14. Unfair, Deceptive or Anticompetitive Business Practices; Antitrust, Fraud and Felony Charges (10 years)
(§ 204.3(p))

Neither BMAC, nor any relevant corporation, nor any person employed by BMAC, nor any person having a substantial interest in BMAC or any relevant corporation, has been charged with any unfair or deceptive or anticompetitive business practices, or of fraud, felony or antitrust violations, during the past 10 years.

15. Aircraft Accidents and Incidents
(§204.3(q))

Neither BMAC, nor any relevant corporation, nor any person employed by BMAC, nor any person having a substantial interest in BMAC or any relevant corporation, has been involved in any aircraft accident or incident which occurred during

the past year, or at any time in the past and which remains under investigation by the FAA, NTSB or BMAC itself.

16. Narrative History of Applicant
(§204.3(r))

BMAC was initially organized by its parent corporation, PAA, in March 1999, and it was incorporated as a New Hampshire corporation on March 22, 1999 (Exhibit BMA-121). As described above, BMAC is a wholly-owned subsidiary of PAA. BMAC obtained its initial operating authority from the Department to conduct small-aircraft passenger and cargo charter operations under Part 298 of the Department's Economic Regulations effective on May 10, 1999 (Exhibit BMA-114), and was issued an Air Carrier Certificate under FAR Part 135 by the Federal Aviation Administration (the "FAA") on June 16, 1999 (Exhibit BMA-115). GMAC subsequently obtained a Class 9-4 Operating License from the Canadian Transportation Agency (the "CTA") on September 17, 1999, authorizing it to provide passenger and cargo charter flights between the U.S. and Canada (Exhibit BMA-116).

The initial revenue operations conducted by BMAC were limited to ad hoc cargo charter flights utilizing the CASA-212 twin turboprop freighter aircraft. In September 1999, BMAC entered into a contract with a major U.S. air express carrier to perform five-day-a-week cargo charter flights each night over a roundtrip routing from Burlington, VT to Albany, NY to Rochester, NY to New York (JFK) and back to Burlington. That contract continues in force to date. BMAC continues to perform ad hoc

cargo charter flights with the CASA-212 aircraft for customers who generally have critical time-sensitive delivery requirements or unusual dimensional freight requirements which are well-suited to the unique lift and cubic foot dimensional capabilities of the CASA-212 aircraft.

In May 2000, BMAC initiated passenger charter operations with one British Aerospace Jetstream 3100 aircraft configured to carry 19 passengers. BMAC subsequently acquired two additional Jetstream 3100 aircraft and continues to perform both ad hoc and contract passenger charter flights with its current fleet of three Jetstreams, primarily for corporate and tour operator customers, including a major U.S. defense contractor and an Atlantic City casino. The current charter operations conducted by BMAC are profitable (see Exhibit BMA-109).

17. Federal, State and Foreign Authority Held and FAA Jurisdiction
(§204.3(s))

At the present time, BMAC holds the following federal, state or foreign authority to engage in air transportation:

1. Part 298 Air Taxi Exemption, issued by the DOT on May 10, 1999.
2. Part 135 Air Carrier Certificate, number B16A009J, issued by the FAA on June 16, 1999.
3. Canadian Class 9-4 Operating License, number 990126, issued by the Canadian CTA on September 17, 1999.

Copies of each of the foregoing authorizations are contained in Exhibits BMA-114, 115 and 116, infra. BMAC is currently in the process of applying for Part 121 Air Carrier Certification by the FAA.

The Federal Aviation Administration office which has primary jurisdiction over BMAC's operations is:

Mr. Anthony Liquori, Manager
Flight Standards District Office 5
FEDERAL AVIATION ADMINISTRATION
2 Al McKay Avenue
Portland, ME 04102
(217) 780-3263

18. Proposed Service Plan and Forecasts
(§204.3(t))

a. Proposed Service Plan

As noted above, the current operations of BMAC are limited to passenger charter flights operated with the Jetstream 3100 19-passenger aircraft and cargo charter flights operated with the CASA-212 freighter aircraft.

BMAC desires to expand its operations to include scheduled passenger operations utilizing the Jetstream 3100 aircraft in various interstate markets, beginning in October 2000, subject to the receipt of requisite DOT and FAA authorizations.

BMAC plans to conduct its initial scheduled operations in one market -- Portsmouth (PSM) – Bangor (BGR) -- beginning on October 15, 2000, and to commence operations in a second market -- Orlando/Sanford (SFB) – Ft. Myers (RSW) -- on March 1, 2001. As shown in the flight schedule set forth in Exhibit BMA-100, BMAC plans to

operate three roundtrip flights a day, seven days a week between Portsmouth and Bangor. Beginning on March 1, 2001, BMAC plans to operate four roundtrip flights a day between Sanford and Ft. Myers, with two flights operated five days a week and the other two flights operated seven days a week.

Both of the foregoing schedules will be operated utilizing two Jetstream 3100 aircraft in each market, with a third aircraft available to perform extra-section flights and as a maintenance spare in each market, as needed.

b. First Year Financial and Traffic Projections

Based on its projected first-year operating plan, BMAC expects to carry a total of 40,682 passengers, generating \$3,391,251 in revenues, during the 12-month period from October 2000 through September 2001 (Exhibit BMA-105). In accordance with Sections 302.202(d) and 313.4 of the Procedural Regulations, BMAC projects that its proposed scheduled service operations will require a total of 296,200 gallons of jet fuel in the first year, based on an average fuel burn rate of 100 gallons per block hour (Exhibit BMA-104).

In Exhibit BMA-105, BMAC has submitted a detailed projection of its first-year forecast revenues and expenses attributable to its proposed scheduled service operations, broken down on a month-by-month basis and by market served.

As reflected in BMAC's projected first-year profit and loss statement, BMAC will generate gross transport revenues of \$3,391,251 during its first year of operations (Exhibit BMA-105). Based on its projected direct and indirect operating

expenses, including projected monthly aircraft lease payments, and the fixed and variable expenses as shown in Exhibit BMA-105, BMAC projects that its initial operations will generate a first-year operating profit of \$1,449,248 (Exhibit BMA-105).

BMAC believes that its projected operating expenses are indisputably reasonable, inasmuch as that projection is based on its established experience with Jetstream 3100 operations. Thus, virtually all of BMAC's projected operating costs (flight crew cost, maintenance expense, fuel, airport facility leases, aircraft leases, insurance and G&A) are based on BMAC's own known or anticipated actual costs which will be incurred in its planned operations.

A projected pro forma Balance Sheet as of the end of BMAC's first year operations is set forth in Exhibit BMA-106. As indicated in that projection, BMAC anticipates that it will have ample working capital cash reserves throughout the year, and that its first year-end Balance Sheet will present a healthy working capital balance, a favorable current assets to current liabilities ratio, and a positive net worth (Exhibit BMA-106).

c. Preoperating and Startup Expenses

BMAC estimates that its preoperating expenses associated with its preparations to commence its planned scheduled air transportation operations will amount to \$184,000, as itemized in Exhibit BMA-107. The majority of that expense is related to BMAC's shift to Part 121 certification, and a substantial part of that expense has already been incurred and paid.

d. Financial Fitness Test Analysis.

BMAC understands that the DOT has developed a financial fitness test to measure whether an applicant for initial certification will have sufficient capital reserves to withstand the possibility of adverse economic results during its initial period of operations. That test requires each applicant to demonstrate, through “independent, third-party verification”:

“...that it has available to it resources (e.g., cash, lines of credit, bank loans) sufficient to cover all of its pre-operating costs plus a reserve equal to the projected operating expenses projected to be incurred by the applicant during three months of normal operations”. (DOT Fitness Determination Pamphlet (December 1994 Revision), p. 11, fn. 12).

BMAC further understands that the DOT has confirmed that the three-month financial fitness test period is to be based upon “one-fourth of the [applicant’s] estimated first year expenses” (Order 93-9-22, p. 5, fn. 8).

BMAC’s financial fitness test analysis is set forth in Exhibit BMA-111. As shown in that exhibit, the combination of BMAC’s projected preoperating expenses amounting to \$184,000, and one-fourth of its total projected operating expenses for its first year of scheduled service operations amounting to \$485,501, produces a total working capital requirement of \$669,501.

Based on the amount of capital which BMAC currently has available, and a \$500,000 credit facility available to BMAC from its parent corporation, PAA, BMAC has a total of \$1,286,700 in available capital to finance its first year of scheduled service

operations. That level of capitalization exceeds BMAC's capital requirement under the DOT's three-month financial-fitness test by \$617,199 (Exhibit BMA-111).

19. Waiver of Warsaw Liability Limits and Defenses
(§204.3(u))

A signed counterpart of CAB Agreement 18900 (OST Form 4523), executed by Mr. Fink, President of BMAC, is set forth in Exhibit BMA-120.

20. Officer's Certification
(§204.3(v))

A certification in the form set forth in Section 204.3(v) of the Economic Regulations, executed by Mr. Nadolny, Senior Vice President, General Counsel and Secretary of BMAC, is set forth in Exhibit BMA-119.

III. REQUEST FOR EXPEDITED NONHEARING PROCEDURES

BMAC urges that the authority at issue be considered and granted pursuant to expedited non-hearing procedures under Subpart B of the DOT's Procedural Regulations. The authority at issue is relatively limited and wholly non-controversial in nature, and does not involve any limited-entry authority in any market. BMAC's fitness for certification to provide scheduled interstate air transportation is clearly established by the evidence submitted in this application. Accordingly, BMAC submits that this application presents no issues of material fact, or other complex issues of law or policy, for which an oral evidentiary hearing would be necessary or appropriate. Use of non-hearing procedures will also serve the public interest by making the most efficient use of the DOT's staff and resources.

BMAC presently plans to commence scheduled service operations on October 15, 2000, assuming that it can complete the DOT and FAA certification process prior to that date. Consistent with that objective, BMAC respectfully urges the DOT to expedite the processing of this Application so as to permit the issuance of a Final Order on or before September 30, 2000.

IV. CONCLUSION

BMAC respectfully submits that the foregoing information and attached exhibits constitute a complete and detailed response to all of the evidentiary requirements of Section 204.3 of the Economic Regulations, and fully demonstrate that BMAC is fit for certification to engage in scheduled interstate air transportation operations as proposed in this application.

WHEREFORE, BMAC respectfully requests the Department to issue a certificate of public convenience and necessity to BMAC authorizing it to provide scheduled interstate air transportation of persons, property and mail between points in the United States, as described herein. BMAC further respectfully requests that such authority be granted in time to enable BMAC to commence scheduled operations on October 15, 2000.

Respectfully submitted,

Nathaniel P. Breed, Jr.
SHAW PITTMAN

Attorneys for
BOSTON-MAINE AIRWAYS CORP.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Application of Boston-Marine Airways Corp. by messenger, telecopier transmission or United States mail, properly addressed and with postage prepaid, upon each of the persons listed in the Service List attached hereto.

Shelle C. Mays

Washington, D.C.
July 19, 2000