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

Application of

BOSTON-MAINE AIRWAYS CORP.

for issuance of an amended certificate of public
convenience and necessity pursuant to 49 U.S.C. § 41102
(Interstate Large-Aircraft Operations)

Docket OST-00-7668

ANSWER OF
BOSTON-MAINE AIRWAYS CORP.

Communications with respect to this document should be sent to:

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January 15, 2003
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Boston-Maine Airways Corp., d/b/a Pan Am Clipper Connection

(“BMAC”) hereby submits this Answer in response to the Objections of the Air Line
Pilots Association (“ALPA”) to the Department’s Order to Show Cause (Order 2002-
12-20, served December 30, 2002) in the captioned proceeding. In Order 2002-12-20,
the Department tentatively found that BMAC is fit for issuance of an amended
Certificate of Public Convenience and Necessity authorizing BMAC to provide
interstate scheduled air transportation utilizing large aircraft – specifically the 141-
passenger Boeing 727 aircraft.

Once again, in its Objections to Show Cause Order 2002-12-20, ALPA continues
to oppose BMAC’s routine and non-controversial application to amend its existing
certificate authority to enable BMAC to serve the public with large aircraft in its
interstate scheduled-service operations.

In its objections, ALPA’s sole stated basis for urging that BMAC should not be
authorized to utilize large aircraft in its scheduled interstate operations is its specious
assertion that BMAC’s working capital resources are “grossly insufficient to meet the
Department’s minimum requirements” (ALPA objections, p. 2).

In support of that argument, ALPA argues that the Department committed “clear
error” in failing to take account of BMAC’s recent operating losses in its current small-
aircraft operations in assessing BMAC’s working capital requirements for its planned
future large- aircraft operations (ALPA Objections, pp. 1-5). To buttress that argument,
ALPA speculates that BMAC’s future small-aircraft operations “will suffer even
greater losses in the coming months than they have in the past” (ALPA Objections, p. 4).

There are at least three glaring flaws in ALPA’s position in this case.

First, there is no support in the Federal Aviation Statutes, the Department’s
Regulations, or Department precedent for ALPA’s contention that the financial results
of the existing operations of an applicant for expanded authority should be considered
in assessing the future financial fitness of that applicant for expanded authority. ALPA
cites no decision in support of that proposition, and BMAC is aware of no such
decision. On the contrary, the Department’s financial fitness test — which BMAC has
passed by a comfortable margin — is very severe, and sets forth a working capital
standard which very few, if any, current large and small certificated air carriers could satisfy, notwithstanding the statutory continuing fitness requirement set forth in 49 U.S.C. § 41110(e).

Second, ALPA’s proposed financial fitness test is inherently speculative, since it depends on an assumption that prior losses incurred in a carrier’s existing services: (a) will continue in its future similar services, and (b) will provide a reliable indication that the applicant will sustain losses in its future proposed expanded services. That argument ignores carrier management discretion to adjust services from time to time to achieve profitable operations, and it ignores the Department’s longstanding refusal to consider projected revenues in fitness cases on the ground that such projections are inherently speculative.

Third, and most irresponsibly, ALPA’s argument ignores the continuing devastating impact of the September 11, 2001 terrorist attacks, and the weakness for the U.S. economy, on all U.S. (and many foreign) air carriers. BMAC has suffered its share of that impact, and it is simply contemptible for ALPA to argue that BMAC’s operating losses attributable to external factors beyond its control should be used to deprive BMAC of obtaining authority which it believes will enable it to operate more efficiently and profitably in the future.

Finally, ALPA is unable to file a pleading in this proceeding without taking a gratuitous shot at the unrelated and irrelevant circumstances affecting BMAC’s commonly-owned sister carrier, Pan American Airways Corp. ("Pan Am").
Thus, ALPA notes that Pan Am has recently announced a one-month hiatus in its own scheduled service due to abnormally low traffic demand during the next 30 days, and expresses its own wholly unsupported doubt that Pan Am will resume service in mid-February (ALPA Objections, p. 4). ALPA even attaches an irrelevant copy of a furlough notice sent by Pan Am to one of its pilots (ALPA Objections, Attachment 1).

BMAC notes that Pan Am had previously advised the Department, and the public, of its planned temporary suspension of operations between January 15 and February 13, 2003, and has taken exhaustive steps to insure that no passenger is adversely affected by Pan Am’s reluctant and temporary suspension of scheduled services. Notwithstanding ALPA’s professed skepticism about Pan Am’s service resumption plans, Pan Am has already mailed recall notices to certain flight crew personnel, effective February 12, 2003, and dates shortly thereafter. It will also recall furloughed flight crew personnel earlier, as needed, to perform on demand charter flights. See Attachment A, infra.

WHEREFORE, Boston-Maine urges the Department to issue an immediate order making final the tentative findings and conclusions in Order 2002-12-20.

Respectfully submitted,

Nathaniel P. Breed, Jr.
ZUCKERT SCOUTT & RASENBERGER L.L.P.
Attorneys for
BOSTON-MAINE AIRWAYS CORP.
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the Answer of Boston-Maine 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.

Joyce S. Allen

Washington, D.C.
January 15, 2003
Pan American Airways Corp.
14 Aviation Avenue
Pears International Tradeport
Portsmouth, NH 03801

January 8, 2003

Name: Norman Schott
Address: 3110 Diamond Road
Address: Titusville FL 32796

Re: Notice of Recall from Furlough

Dear Norman Schott

This letter is sent in accordance with the provisions of Section 23.B of the Agreement Between Pan American Airways Corp. and the Air Line Pilots Association dated November 15, 1999 (the “Agreement”) in order to notify you that you are hereby recalled from furlough status and directed to report for active employment, effective February 12, 2003. Section 23.B.2 of the Agreement requires that you respond to the Company within seven (7) days of your receipt of this notice to advise of your decision to either (i) accept the recall and report for duty or (ii) bypass this recall. In making your decision, it should be clearly understood that the Company makes no representations as to when or if any subsequent recalls will be made. Details regarding your particular reporting time, location and assignment(s) will be provided upon confirmation of your decision to accept this recall.

Your required response should be directed, in writing, to the attention of the Director of Operations, to be received within the seven (7) day response period described above. Your response may be faxed to (603) 766-2085 followed promptly by delivery of an original. Failure to receive a timely response will be deemed a decision on your part to resign from your employment with the Company, your employment will be terminated as a voluntary resignation, and you will not be subject to or entitled to participate in any subsequent recall action.

We look forward to your response.

Sincerely,

Pan American Airways Corp.

By: ____________________________
Russell Q. Lester
Director of Operations