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)

SURREPLY OF
BOSTON-MAINE AIRWAYS CORP.
AND MOTION FOR LEAVE TO FILE AN OTHERWISE UNAUTHORIZED DOCUMENT

Communications with respect to this document should be sent to:

John R. Nadolny
Senior Vice President and
General Counsel
BOSTON-MAINE AIRWAYS CORP.
Pease International Tradeport
14 Aviation Avenue
Portsmouth, NH 03801
(603) 766-2002 (tel)
(603) 766-2094 (fax)

Nathaniel P. Breed, Jr.
ZUCKERT SCOUTT & RASENBERGER L.L.P.
888 17TH Street NW Suite 700
Washington, D.C. 20006-3309
(202) 973-7919 (tel)
(202) 342-0683 (fax)

Attorneys for
BOSTON-MAINE AIRWAYS CORP.

January 18, 2005
Application of

BOSTON-MAINE AIRWAYS CORP.  
Docket OST-00-7668
for issuance of an amended certificate of public
convenience and necessity pursuant to 49 U.S.C. § 41102
(Interstate Large-Aircraft Operations)

January 18, 2005

SURREPLY OF
BOSTON-MAINE AIRWAYS CORP.
AND MOTION FOR LEAVE TO FILE AN OTHERWISE UNAUTHORIZED DOCUMENT

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

(“BMAC”) hereby submits this Surreply, with an included Motion for leave to file an otherwise unauthorized document,¹ in response to the Reply (with Motion for Leave to File an Otherwise Unauthorized Document) filed by the Air Line Pilots Association (“ALPA”) on January 13, 2005. ALPA’s Reply was submitted in response to BMAC’s Answer, filed January 7, 2005, in opposition to ALPA’s Motion urging the Department to revoke BMAC’s Certificate of Public Convenience and Necessity on the ground of an alleged lack of fitness as a result of BMAC’s assertedly deficient compliance disposition.

¹ Motion For Leave To File. Pursuant to Rule 6(c) of the Rules of Practice, BMAC hereby moves for leave to file this Surreply as an otherwise unauthorized document in the event that the Department decides to consider the assertions in ALPA’s Reply, which is itself an unauthorized pleading. Receipt and consideration of BMAC’s Surreply is warranted by considerations of

Footnote continued on next page
The unifying thread in all of ALPA's numerous, and increasingly strident, pleadings in opposition to BMAC's application for authority to operate large aircraft in the captioned proceeding is ALPA's desire that BMAC not be permitted to operate B-727-200 aircraft in its interstate and foreign scheduled and charter service operations.

The fatal infirmity in ALPA's Motion To Revoke and in its subsequent Reply in support of that Motion is ALPA's failure to demonstrate even a single instance of a violation of the law by BMAC, or by the owners and senior officers of BMAC acting pursuant to their control over, and responsibility for, BMAC's duty to comply with the requirements of the law in the conduct of its air carrier operations.

That central and indisputable fact is dispositive of ALPA's Motion urging the Department to revoke BMAC's certificate authority on the ground of a lack of fitness. ALPA's abusively vitriolic attacks, although directed at BMAC, are clearly motivated by ALPA's displeasure with BMAC's sister company, Pan American Airways Corp. ("Pan Am"), with whom ALPA has been at odds in conjunction with several grievance disputes arising out of ALPA's representation of Pan Am's pilots pursuant to a collective bargaining agreement governed by the provisions of Title II of the Railway Labor Act (the "RLA"). Indeed, the gravamen behind five of ALPA's eight complaints against BMAC concern Pan Am's alleged improper treatment of pilots employed by Pan Am, while the remaining three of ALPA's complaints involve other asserted violations of the

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fairness in permitting BMAC to respond to ALPA's unjustified allegations of serious misconduct by the owners and senior officers of BMAC and of BMAC's affiliated sister company, Pan American Airways Corp. ("Pan Am").
law by other entities associated with Pan Am’s owners and/or senior officers in the context of other activities by those entities.

It is not BMAC’s duty to respond to ALPA’s allegations of unfitness directed against Pan Am and/or Pan Am’s owners and senior officers. BMAC has no contractual or business relationship with ALPA, and even ALPA does not allege that BMAC somehow controls either Pan Am or its owners and senior officers, including those owners and officers who hold similar positions with both carriers, and in other non-air carrier businesses.

Pan Am is clearly capable of speaking for itself, but Pan Am is not a party to this proceeding, and BMAC is not aware of any other proceeding before the Department in which ALPA has submitted any complaints against Pan Am or has petitioned for the revocation of Pan Am’s certificate authority.

However, inasmuch as ALPA’s complaints are also directed against certain individuals who are owners and/or senior officers of Pan Am, and who also hold the same positions with BMAC, BMAC feels it appropriate to point out that BMAC firmly believes that ALPA has failed to demonstrate that Pan Am and/or its owners and senior officers are guilty of any violations of the law which would warrant enforcement action by either the Department or by any other federal or state agency having jurisdiction over the subject matter of ALPA’s complaints. In fact, all of the disputes cited by ALPA have either long since been adjudicated or resolved through settlement, or have become moot, remain pending before the courts or other government agencies, or, in the case of
the supposedly improper “link” to an historical Pan Am website, are patently frivolous, all as noted in BMAC’s Answer to ALPA’s Motion.

In its Reply, ALPA attempts to demonize BMAC and its owners and/or officers as unrepentant scofflaws, thumbing their noses at all manner of authority. The Department’s experience in dealing with BMAC should give no credibility to such rhetoric. The Department and its staff know that, in their dealings with BMAC (and for that matter with Pan Am), BMAC and its representatives have acted with the greatest measure of respect and deference for the Department and its personnel in all matters which have required our mutual attention during the almost continuous period of the past several years during which BMAC has been an applicant for large-aircraft authority before the Department. BMAC has, without exception, responded quickly, responsively and with complete candor to assist the Department with the administration of its responsibilities.

Finally, BMAC reiterates its position that ALPA is seeking relief for its basic labor complaints against Pan Am in the wrong forum and against the wrong party. ALPA’s argument that BMAC is unfit to operate large aircraft, on the basis of alleged violations of the law committed by Pan Am and/or its owners and senior officers, is patently unfounded and specious. BMAC urges the Department to again reject ALPA’s repeated and transparently baseless efforts to defeat BMAC’s certification to authorize its operation of large aircraft, by denying ALPA’s last-ditch Motion to Revoke BMAC’s Certificate.
WHEREFORE, Boston-Maine urges the Department deny ALPA’s Motion to
Revoke BMAC’s certificate authority.

Respectfully submitted,

[Signature]

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 Surreply 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.

[Signature]

Joyce S. Allen

Washington, D.C.
January 18, 2005
SERVICE LIST (Boston-Maine Airways Interstate Large Aircraft)

John R. Nadolny
Senior Vice President and
General Counsel
BOSTON-MAINE AIRWAYS CORP.
Pease International Tradeport
14 Aviation Avenue
Portsmouth, NH 03801

Nathaniel P. Breed, Jr.
ZUCKERT SCOUTT & RASENBERGER L.L.P.
888 17th Street NW Suite 700
Washington DC 20006-3309

Mr. Anthony Liguori, Manager
Flight Standards District Office 5
FEDERAL AVIATION ADMINISTRATION
2 Al McKay Avenue
Portland, ME 04102

Jerry D. Anker
Russell Bailey
AIR LINE PILOTS ASSOCIATION
1625 Massachusetts Ave., NW
Washington, DC 20036

Christopher Poreda
Office of the Regional Counsel
New England Region
FEDERAL AVIATION ADMINISTRATION
12 New England Executive Park
Burlington, MA 01803-5299