

DOT ready to pull Boston-Maine's license to fly

Boston-Maine Corporation operates flights from Pease

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PORTSMOUTH — The U.S. Department of Transportation has found that Boston-Maine Airways Corp., which operates flights out of Pease International Airport, is not fit to fly. Boston-Maine is the successor to Pan Am, which formerly operated aircraft from the Pease location.

The DOT said in its Feb. 1 show cause order that Boston-Maine "is not financially fit and does not possess the managerial competence to conduct any air transportation operations and has failed to comply with the regulations governing its operations."

The DOT is proposing to revoke the air carrier's certificate and has given Boston-Maine 30 days to submit rebuttal information. The decision was made based on a filing by the Air Line Pilots Association back in 2004, and the pilots union will have seven days after the receipt of Boston-Maine's information to offer a rebuttal of its own.

When asked about the DOT order, Stacy Beck, a spokesperson for Boston-Maine, said the company had "no comment at this time." Beck confirmed that Boston-Maine operates one flight daily from Pease and flies only to Hanscom Field in Bedford, Mass., and Trenton Mercer Airport in Trenton, N.J.

The airline flies small, 15-passenger, Jetstream 3100s to these locations, but is currently licensed to fly 141-seat Boeing 727 jets as part of its Pan Am Clipper Connection charter service, Beck said.

Dave Mullen, deputy director of the Pease Development Authority, said he was unaware of the details of the DOT order. However, Mullen said that even if BMAC's license is pulled, it will not have a huge impact on the local airport.

"Boston-Maine offers a fairly limited service," he said. "If you are not going to Bedford or Trenton, you probably won't be affected."

The DOT order noted that BMAC had falsified documents that led to the authorization to take over Pan Am's operations back in 2004.

"Specifically, we find that BMAC's authority to operate large aircraft was based on false financial information submitted to the department, without which the air carrier would not have been found fit to hold such authority when it first sought to expand," the DOT order states. "We find further that BMAC's management knew, or should have known, about the false financial information and it, therefore ... lacks the competence necessary to oversee the air transportation authorized in the air carrier's certificate.

"Finally, not only was BMAC's financing insufficient to be found fit in 2004, but the air carrier has, since that time, been in extremely poor financial condition, placing undue risk on consumers and their funds, and, therefore, has failed to demonstrate its financial fitness at this time," the order goes on to

say.

In 2004 the Air Line Pilots Association asked the DOT to pull the certificate that allows Boston-Maine Airlines Corp. to fly.

The group — which had been embroiled in court battles with Pan Am, Boston-Maine and Guilford Transportation owners Timothy Mellon and David Fink over union-busting attempts by those entities and individuals — is citing failures on several occasions to comply with the orders of federal and state courts as reasons why the DOT should ground the airline.

"Over the past several years, companies owned and managed by the Mellon Group (the name given by the pilots' association to the individuals mentioned above) have been found to have violated a number of federal laws, including the Railway Labor Act," the ALPA action filed on Dec. 29, 2004 stated. "Specifically ... companies owned and managed by the Mellon Group have repeatedly transferred work from unionized to non-union groups to avoid their collective bargaining obligations under the RLA, repeatedly discharged pilots because they were unwilling to fly in violation of FAA safety rules, repeatedly refused to comply with final and binding decisions of system boards of adjustment as required under the RLA and willfully violated environmental laws."

That, the pilots association contended, showed a lack of "compliance disposition," a requirement for holding a certificate to operate aircraft.

"This record ... clearly establishes that the management of BMAC has absolutely no respect for its legal obligations and is willing to violate them whenever it believes it can 'get away with it,'" the court document filed by ALPA indicates.

To substantiate its claim, the union pointed to several instances that it alleges show Boston-Maine is unfit to fly.

In September 2004, ALPA brought action against Pan Am, Boston-Maine and Guilford in the U.S. District Court for New Hampshire for allegedly attempting to transfer airline routes from the unionized Pan Am to the non-unionized Boston-Maine. The union sought and obtained a court order that stopped the transfer of 727 operations from Pan Am to Boston-Maine, and forced the organizations to cease violating the status quo with respect to rates of pay, rules and working conditions of Pan Am pilots.

However, Pan Am ceased operations in October of that year and turned its routes over to Boston-Maine in an action the pilots association claims violated the injunction. Pan Am appealed the district court decision and oral arguments were heard Dec. 7 in the U.S. First District Court of Appeals in Boston and won.

In a 2001 case, a Pan Am pilot determined that he could not complete a flight leg he had been assigned without violating the FAA flight time restrictions. For failing to fly, Donald Simonds was fired.

The arbitration board that heard the case sided with Simonds and ordered his reinstatement. Pan Am appealed the verdict to the U.S. District Court in the District of Columbia, but that court refused to hear the case, indicating the arbitration panel was well within its rights to make the decision it did.

"The startling number and nature of the legal violations by the Mellon Group compels the conclusion that they are not fit to operate an air carrier and that revocation of Boston-Maine's certificate is

appropriate," the court documents state.