



**AIR TRANSPORT ASSOCIATION OF CANADA
ASSOCIATION DU TRANSPORT AÉRIEN DU CANADA**

255 ALBERT STREET, SUITE 1100, OTTAWA, ONTARIO K1P 6A9
255, RUE ALBERT, PIÈCE 1100, OTTAWA (ONTARIO) K1P 6A9

TEL:/TÉL: (613) 233-7727
FAX: (613) 230-8648

WEB: <http://www.atac.ca>
EMAIL: atac@atac.ca

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Docket Operations
US Department of Transportation
West Building, Ground Floor
Room W12-140
Routing Symbol M-30
1200 New Jersey Avenue, S.E.
Washington, DC 20590
USA

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DEPT. OF TRANSPORTATION
DOCKETS

Dear Madame Peters,

Re: Docket No. FAA-2008-0036 - Policy Regarding Airport Rates and Charges

The Air Transport Association of Canada (ATAC) is a trade association representing approximately 230 members engaged in commercial air transport in Canada. A number of our members operate scheduled and charter flights to and from airports in the United States. We have read the proposed amendment to the policy noted above and have the following comments:

1. ATAC has received the comments that the International Air Transport Association has prepared for the Docket and is in substantial agreement with and support their submission.
2. ATAC regards the proposed amendment as flawed and possibly in contravention of the bilateral treaty between Canada and the U.S.A. on air transport signed March 12, 2007. In addition, the proposal violates ICAO's policies on airport charges as set out in Doc 9082.
3. Two Part Landing Fees
The Policy envisions the establishment of two part landing fees with per operation component (irrespective of weight of the aircraft) for periods when the airport designates traffic to cause congested operations.

Article 9 of the US/Canada Bilateral Air Transport Agreement, Paragraph 2 States:

"User charges that may be imposed by the competent charging authorities...for the use of airport...facilities and services shall be just, reasonable, and not unjustly discriminatory, and equitably apportioned

among categories of users." A fixed charge does not constitute an "Equitable appointment" and is indeed intended to discriminate against smaller aircraft operators. One should note that a significant proportion of Canada's flight operations take place in regional (read smaller) aircraft."

4. Cost of Facilities Under Construction

The proposal intends to amend the cost eligible for recovery by airports by including pre-financing costs for capital projects under construction (or even contemplated). Article 9 of the Bilateral goes on to say "User charges imposed on the airlines of the other party may reflect, but shall not exceed the full cost to the competency charging authorities of providing the appropriate airport ... facilities and services at the airport."

The proposal clearly violates this paragraph (3) inasmuch as pre-financing charges are for facilities not yet provided.

5. Cross Subsidization

The proposal to allow for cross subsidization between congested and non congested airports in a regional airport system again would violate Article 9-Paragraph 3 of the Bilateral Treaty noted above because the paragraph clearly states, "at the airport".

6. ICAO's Policies on Charges for Airports and Air Navigation Services (Doc 99082) - has clear guidelines for the cost basis of airport charges and against pre-funding of projects. It further sets out requirements for airport charging systems. The proposal is a violation of all three points.

7. The various Bilateral Air Transport Treaties between Canada and the USA explicitly ensures access to New York LaGuardia Airport and Washington National Airport for Canadian air carriers. This proposal may be seen as a *Sub Rosa* attempt to limit access to these congested airports.

ATAC and its member airlines accordingly urge the DOT to abandon this ill-considered proposal.

Yours very truly,



Michael Skrobica
VP Industry and Monetary Affairs