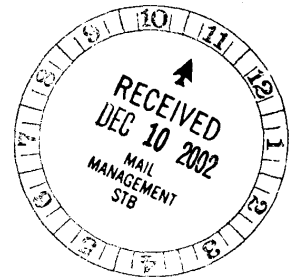


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BEFORE THE
SURFACE TRANSPORTATION BOARD



DOCKET NO. AB 83 (SUB NO. 17)

MAINE CENTRAL RAILROAD COMPANY
-ADVERSE DISCONTINUANCE-
A LINE OF MAINE CENTRAL RAILROAD COMPANY KNOWN
AS THE "TWIN STATE RAILROAD"
FROM WHITEFIELD, NH TO ST. JOHNSBURY, VT.

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PETITION FOR WAIVER

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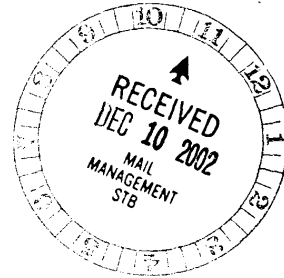
DEC 10 2002

MAINE
TRANSPORTATION BOARD

Katherine E. Potter
Staff Attorney
Guilford Rail System
Iron Horse Park
North Billerica, MA 01862

**ATTORNEY FOR MAINE
CENTRAL RAILROAD
COMPANY**

BEFORE THE
SURFACE TRANSPORTATION BOARD



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PETITION FOR WAIVER

A. BACKGROUND

Pursuant to 49 C.F.R. § 1152.24(e)(5), the Maine Central Railway Company ("MEC") seeks waiver of certain requirements of the Surface Transportation Board ("STB") abandonment regulations for an adverse discontinuance application that MEC intends to file in this proceeding. MEC also seeks certain minor related exemptions, as described below. These requirements are inapplicable or irrelevant in an adverse discontinuance context, and the STB has consistently granted waivers and exemptions from such provisions in previous adverse abandonment and discontinuance cases. MEC intends to seek an adverse discontinuance of operations by the Twin State Railroad Corporation ("TSR") as designee of the Lamoille Valley Railroad Company ("LVRC"). MEC intends to file its adverse discontinuance application on or about January 13, 2003.

MEC intends to ask the STB to find that the public convenience and necessity permit the discontinuance of operations by LVRC and TSR over approximately 28.15 miles of track between Whitefield, New Hampshire and St. Johnsbury, Vermont (the "Line").

LVRC and TSR have been operating on the Line pursuant to the Lease and Operating Agreement dated March 1, 1984 (the "Agreement") approved in Interstate Commerce Commission ("ICC") Decision decided May 16, 1984. Guilford Transportation Industries, Inc. – Control – Boston and Maine Corporation, Finance Docket No. 29720 (Sub-No. 1); Guilford Transportation Industries, Inc. – Control – Delaware and Hudson Railway Corporation, Finance Docket No. 29772 (ICC decided May 16, 1984).

Currently, LVRC and TSR remain in default of their obligations under the Agreement for several reasons. First, LVRC and TSR have failed to or are unable to provide service on the Line. LVRC and TSR do not presently provide any rail freight service on the line and have not provided service on the line since at least October 5, 1999. Nor has there been any effort to solicit traffic or reinstitute rail service. Second, LVRC and TSR retained the option to renew the Agreement upon its expiration on December 31, 1988. However, LVRC and TSR did not exercise that option and have been operating under an expired lease since the expiration of the Agreement. Finally, LVRC and TSR are required by the terms of the Agreement to maintain the Line so that freight operations can be conducted and in compliance with all federal and state regulations. LVRC and TSR have not performed any recognizable track maintenance for several years and the Line is not in compliance with state and federal regulations. As a result of their failure to maintain, the Line was embargoed on January 30, 2002 due to the poor track conditions and maintains its embargoed status.

Pending the approval of its application and consummation of the discontinuance of service, MEC intends to transfer its interest in the Line to the State of New Hampshire, Department of Transportation ("NH"). NH desires to have LVRC and TSR interests in the property terminated so that it may purchase the Line and institute a new operator, which will

recreate a viable freight rail service option in this area. The adverse discontinuance is necessary to remove LVRC and TSR's interest in the Line from STB jurisdiction so that MEC and/or NH can proceed to remove the interests of LVRC and TSR under State law. The only apparent objection to the discontinuance comes from LVRC and TSR, whose principal concern appears only to be the terms of the sale of the Line.

NH intends to purchase the Line pursuant to NH ST § 228:56, which provides: "[The Commissioner of the New Hampshire Department of Transportation]...with the approval of the governor and council, is authorized to acquire...rail property...for the purpose of the continued and future operation of a railroad or transportation corridor...which is deemed to be in the public interest..." NH determined it would be in the public interest to resume service and insure service on the Line in the future.

However, the presence of LVRC and TSR on the Line is an impediment to pursuing this objective. TSR and LVRC refuse to voluntarily discontinue their operations and demand compensation for any such discontinuance. Essentially, TSR and LVRC intend to use the Agreement as a shield to prevent the sale of the Line until they receive compensation for a lease, which up until recently held no value to them.

B. WAIVER REQUESTS

As the STB and its predecessor have consistently found, much of the information that the STB's regulations otherwise required in an abandonment or discontinuance application is largely inapplicable or irrelevant to the issues in an adverse discontinuance proceeding. MEC seeks waiver on the grounds that the line at issue is out of service and little of the information in the regulations sought to be waived is relevant to the merits of an adverse discontinuance application. Additionally, as MEC has not been the operator on the Line, MEC is not in

possession of much of the information required in the regulations sought to be waived. Waiver of these inapplicable and unneeded portions of the STB's abandonment regulations is routine in adverse abandonment or discontinuance cases. Chelsea Property Owners – Abandonment—Portion of Consolidated Rail Corporation's West 30th Street Secondary Track in New York, NY, Docket No AB-167 (Sub No. 1094) (ICC served July 19, 1989) ("Chelsea"); Grand Trunk Western Railroad Incorporated – Adverse Discontinuance of Trackage rights application – A Line of Norfolk and Western Railway Company in Cincinnati, Hamilton County, OH, Docket No. AB-31 (Sub No. 30) (STB served Feb. 12, 1998) ("Grand Trunk Western Railroad Incorporated"); and City of Rochelle, Illinois – Adverse Discontinuance—Rochelle Railroad Company, STB Docket No. AB-549 (STB served June 5, 1998) ("City of Rochelle").

MEC requests waiver of the following informational requirements of 49 C.F.R. § 1152, Subpart C:

1. 49 C.F.R. § 1152.22(a)(5), 1152.10-1152.14 – System diagram map

MEC seeks waiver of the system diagram map requirements of § 1152, Subpart B. There is no need for the filing of a system diagram map in an application, which is designed to permit a change of operators, not discontinue service entirely. City of Rochelle at 3. See also Grand Trunk Western Railroad Incorporated at 2 (finding that the filing of a system diagram map is not appropriate in the context of an adverse abandonment).

2. 49 C.F.R. § 1152.22(c), (d) and (e) – Service provided, Revenue and cost data, and Rural and community impact.

Because the adverse discontinuance arises in the context of the restoration of continued service, "there is no point in requiring the submission of traffic data, data on revenues and costs, and information about transportation alternatives." Fore River Railroad

Corporation – Discontinuance of Service Exemption – Norfolk County, MA, Docket No. AB-539 (ICC served Feb 13, 1992) at 2 citing Chelsea.

3. 49 C.F.R. § 1105 – Environmental historical requirements

Because this adverse discontinuance arises in the context of the sale of the Line for the purpose of continued rail operations and does not result in significant changes that exceed the thresholds established in section 1105.7(e)(4) or (5), this proceeding is exempt from the environmental and historic reporting requirements of § 1105 pursuant to 49 C.F.R. §§ 1105.6(c)(2) and 1105.8(b)(1). See City of Rochelle at 2. See also The Kansas City southern Railway Company – Adverse Discontinuance Application – A Line of Arkansas & Missouri Railroad Company, Docket No, AB-103 (Sub. No. 14) (STB served Nov. 24, 1998) (“Kansas City Southern Railway Company”) at 2, n. 3. MEC requests any further exemption or waiver that the STB may find necessary to confirm the inapplicability of environmental and historical reporting requirements to this proceeding.

MEC requests exemption from the following requirements:

1. 49 U.S.C. § 10903 (c)(2) – System diagram map

MEC requests an exemption from the system diagram map requirements of 49 U.S.C. § 10903(c)(2), pursuant to 49 U.S.C. § 10502, to the extent deemed necessary for the adverse discontinuance application.

2. 49 U.S.C. § 10904 – Financial assistance requirements

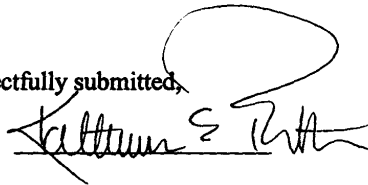
MEC requests an exemption from the financial assistance requirements of 49 U.S.C. § 10904 (and waiver of the related regulations, 49 C.F.R. § 1152.27). Kansas City Southern Railway Company, at 2.

MEC understands that, as an applicant in an adverse discontinuance proceeding, it bears the burden of proof to submit sufficient relevant information to allow the STB to reach a decision on the merits and grant the requested relief.

WHEREFORE, MEC respectfully requests that the STB grant the requested waivers and exemptions set forth herein.

Respectfully submitted,

By:



Katherine E. Potter
Maine Central Railroad Company
Iron Horse Park
North Billerica, MA 01862
978-663-1215

**ATTORNEY FOR MAINE CENTRAL
RAILROAD COMPANY**

CERTIFICATE OF SERVICE

**Maine Central Railroad Company – Adverse Discontinuance of Service
“Twin State Railroad from Whitefield, New Hampshire to St. Johnsbury, Vermont
Docket No. AB 83 (Sub No. 17)”**

The undersigned hereby certifies that on the 10th day of December 2002, a copy of the
Petition for Waiver filed in the above-referenced proceeding was served by first class mail,
postage prepaid, upon:

David H. Anderson, Esq.
288 Littleton Rd.
Westford, MA 01886

Vermont Agency of Transportation
1 National Life Drive
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Montpelier, VT 05633-0001

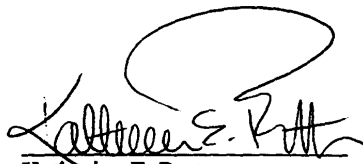
Hon. Jeanne Shaheen
Governor
State of New Hampshire
Office of the Governor
State House, Room 208-214
Concord, NH 03301-4990

New Hampshire Public Utilities Commission
8 Old Suncook Road
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