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BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34332



STATEMENT OF
MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
IN SUPPORT OF THE PETITION FOR DECLARATORY
ORDER REGARDING CARRIER STATUS AND
BOARD JURISDICTION FILED ON BEHALF OF
MASSACHUSETTS BAY COMMUTER RAILROAD CO., LLC

The Massachusetts Bay Transportation Authority (MBTA) hereby submits this statement in support of the Petition for Declaratory Order Regarding Carrier Status and Board Jurisdiction dated April 3, 2003 (the Petition) filed by Massachusetts Bay Commuter Railroad Co., LLC (MBCR). For the reasons set forth below, the MBTA believes that the relief requested by MBCR should be granted by the Board.

The MBTA is a body politic and corporate and a political subdivision of the Commonwealth of Massachusetts. It was created under the authority of Massachusetts General Laws, ch. 161A. The MBTA owns and has rights over certain rail lines in the Boston area, and it has responsibility for the provision of commuter rail service over such lines. The lines and commuter rail service are described more fully in the Petition. The MBTA has been found by the Interstate Commerce Commission not to be a carrier subject to its jurisdiction. See Docket No. AB-32, Boston and Maine Corporation -- Exemption -- Discontinuance of Service in Essex County, MA (June 17, 1988). Similarly, the MBTA has been found not to be subject to the Railroad Retirement and Railroad Unemployment Insurance Acts. See

Memorandum of the Deputy General Counsel of the Railroad Retirement Board, No. L-90-160
(October 31, 1990).

Commuter rail service in the Boston area is currently operated by Amtrak pursuant to an agreement with the MBTA. The MBTA recently conducted a competitive procurement process and selected MBCR as its new commuter rail service provider. The MBTA and MBCR have entered into an Operating Agreement dated February 19, 2003, pursuant to which MBCR, acting as an independent contractor to the MBTA, will operate the MBTA's commuter rail services beginning July 1, 2003. MBCR received a March 3, 2003 determination from the Railroad Retirement Board that it will be an employer, as of July 1, 2003, under the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

The Operating Agreement between the MBTA and MBCR requires MBCR to operate interstate rail service as well as intrastate service over lines that are part of the interstate network. In addition, MBCR is required by the Operating Agreement to establish the same number of workforce positions as are in existence under the current commuter rail contract, and to fill those positions from the rosters of current eligible rail employees. The Operating Agreement also requires MBCR to recognize the Amtrak unions as the bargaining representatives of such employees and negotiate collective bargaining agreements with such unions in order to provide wages, benefits and working conditions that are substantially equivalent to the wages, benefits and working conditions under the current collective bargaining agreements between Amtrak and such unions. The MBTA imposed these labor conditions on MBCR in order to minimize or avoid completely any potential disruption of service in connection with the changeover from Amtrak to MBCR as of July 1, 2003.

It is of the utmost importance to the MBTA, as the agency charged with responsibility for commuter rail service in the Boston area, that there be a smooth transition as of July 1,

2003, so that there is no interruption of or adverse impact upon commuter rail service.

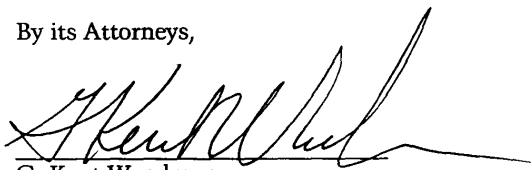
Approximately 133,000 commuters are served each weekday by the MBTA's commuter rail service, and any disruption of that service would have devastating consequences for those passengers and for the Boston area generally. In order to achieve the goal of a smooth transition, it is critical that the status of MBCR as a carrier be confirmed.

Confirmation of MBCR's status as a rail carrier that is subject to the Federal rail statutes governing collective bargaining, retirement and unemployment benefits and other employer-employee relationships will ensure that the transition on July 1, 2003 is efficient and seamless. For the reasons outlined above, the MBTA believes that a favorable decision by the Board on the Petition will serve the public interest.

Respectfully submitted,

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY

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Dated: May 9, 2003

CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Statement of Massachusetts Bay Transportation Authority In Support of 'Petition for Declaratory Order Regarding Carrier Status and Board Jurisdiction' Filed On Behalf of Massachusetts Bay Commuter Railroad Co., LLC" has been served by mailing copies by first class mail as of May 9, 2003 to the following:

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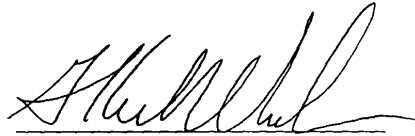
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