

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35749**BOSTON AND MAINE CORPORATION and
SPRINGFIELD TERMINAL RAILWAY COMPANY****v.****TOWN OF WINCHESTER, MASSACHUSETTS, *ET AL.***

**MOTION FOR LEAVE TO FILE REBUTTAL IN SUPPORT OF
EMERGENCY PETITION FOR DECLARATORY ORDER**

Pursuant to 49 C.F.R. § 1112.2, which as part of this Board's modified procedures governs these proceedings under the Board's Decision of July 3, 2013, Boston and Maine Corporation and Springfield Terminal Railway Company request permission to file the attached brief rebuttal in support of their Emergency Petition for a Declaratory Order. In its Reply to our Emergency Petition, the Town of Winchester failed to mention crucial facts confirming that the Petition is an emergency—namely, that on July 5 the Town filed for the preliminary injunction prohibiting “rail traffic” that it suggested to the Board on July 2 it would not seek—and misstated other material facts. Compounding the problem, the Town failed to support its factual assertions with the required verification, and urged the Board to make numerous mistakes of law. Accordingly, Petitioners believe a rebuttal will assist the Board in deciding the Petition.

Respectfully submitted,

/s/ Andrew C. Nichols

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Dated: July 16, 2013

STATEMENT REGARDING SERVICE

I hereby certify that on this 16th day of July, 2013, I have served Defendants in this proceeding with this document by United States Mail as follows:

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