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SERVICE DATE – JUNE 15, 2011

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35521]

Maine Northern Railway Company—Modified Rail Certificate—in Aroostook and Penobscot Counties, Me.

On June 7, 2011, Maine Northern Railway Company (MNRC) filed a notice for a modified certificate of public convenience and necessity, pursuant to 49 C.F.R. pt. 1150 subpart C—Modified Certificate of Public Convenience and Necessity, to lease and operate approximately 233 miles of rail line (the Line) in Aroostook and Penobscot Counties, Me.

The Line was the subject of an abandonment application granted by the Board in Montreal, Maine & Atlantic Railway, Ltd.—Discontinuance of Service and Abandonment—in Aroostook and Penobscot Counties, Me., AB 1043 (Sub-No. 1)(STB served Dec. 27, 2010).<sup>1</sup> Although authorized for abandonment, the State of Maine, by

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<sup>1</sup> Specifically, the application, as amended, identified the Line to be abandoned as comprising: (1) the Madawaska Subdivision, consisting of approximately 151 miles of line between milepost 109 near Millinocket and milepost 260 near Madawaska in Penobscot and Aroostook Counties; (2) the Presque Isle Subdivision, consisting of approximately 25.3 miles of line between milepost 0.0 near Squa Pan and milepost 25.3 near Presque Isle in Aroostook County; (3) the Fort Fairfield Subdivision, consisting of approximately 10 miles of line between milepost 0.0 near Presque Isle and milepost 10.0 near Easton in Aroostook County; (4) the Limestone Subdivision, consisting of approximately 29.85 miles of line between milepost 0.0 near Presque Isle and milepost

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and through its Department of Transportation (State), sought to preserve service on the Line and purchased the Line pursuant to the class exemption found in Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions, 363 I.C.C. 132 (1980) (Common Carrier), aff'd sub nom Simmons v. ICC, 697 F.2d 326 (D.C. Cir. 1982), codified at 49 C.F.R. § 1150.22. Montreal, Maine & Atlantic Railway, Ltd. (MMA), the abandoning carrier, was authorized to provide service on the Line on an interim basis while the State conducted a search for a new operator.<sup>2</sup> In April 2011, the State selected MNRC as the new operator, and on April 14, 2011, MMA filed its 60-day notice to terminate its interim service.<sup>3</sup>

Pursuant to a lease and operating agreement (Agreement) dated June 1, 2011, between MNRC and the State, MNRC will provide operations on the Line for an initial term of 10 years, which MNRC may extend for 1 or 2 additional 10-year terms. The Agreement may be terminated, and operations may cease, in whole or in part, during any term upon the occurrence of certain events described in the Agreement. MNRC points out that, as stated in the Agreement, the portion of the Limestone Subdivision between Caribou and the end of the line in Limestone is not operational and will not be operated,

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29.85 near Limestone in Aroostook County and; (5) the Houlton Subdivision, running between milepost 0.0 near Oakfield and milepost 17.27 near Houlton in Aroostook County, and including the B Spur.

<sup>2</sup> See Montreal, Me. & Atl. Ry.—Modified Rail Certificate—in Aroostook and Penobscot Cntys., Me., FD 35463 (STB served Jan. 26, 2011).

<sup>3</sup> Under 49 C.F.R. § 1150.23, rail operations of a carrier under a modified certificate may commence immediately upon the filing of a modified certificate notice with the Board. MNRC, however, will not begin its rail operations until June 15, 2011.

as of the date of the Agreement. If future circumstances warrant, MNRC can begin operations on this segment under the Agreement.

The transaction in Docket No. FD 35521 is related to the following transactions.

(1) In Montreal, Maine & Atlantic Railway, Ltd.—Trackage Rights Exemption—Maine Northern Railway Company, FD 35505 (STB served May 27, 2011), MMA invoked Board authority for overhead trackage rights being granted to it by MNRC over approximately 151 miles of rail line extending between milepost 109 near Millinocket, Me. and milepost 260 near Madawaska, Me., to access MMA lines south of Millinocket and the MMA line beyond Madawaska.

(2) In Maine Northern Railway Company—Trackage Rights Exemption—Montreal, Maine & Atlantic Railway, Ltd., FD 35518 (STB served June 3, 2011), MNRC invoked Board authority for overhead trackage rights being granted to it by MMA over MMA's line extending between Madawaska, Me. (at or about milepost 260 on MMA's Madawaska Subdivision) and the connection to the Canadian National Railway (CN) in St. Leonard, N.B. (at or about milepost 194.1 on CN's Nappadoggin Subdivision), plus additional trackage as described in that notice, so that MNRC can directly access CN to the north once MNRC begins its operations.

(3) In Maine Northern Railway Company—Trackage Rights Exemption—Montreal, Maine & Atlantic Railway, Ltd., FD 35519 (STB served June 3, 2011), MNRC invoked Board authority for overhead trackage rights being granted to it by MMA over MMA's line extending between Millinocket, Me. (at or about milepost 109 on MMA's Millinocket Subdivision) and Brownville Junction, Me. (at or about milepost 104.84 on the Mattawamkeag Subdivision of the Eastern Maine Railway (EMR)), including

MMA's Brownville Junction Yard, so that MNRC can directly access EMR to the south once MNRC begins its operations.

(4) In The New Brunswick Railway Company—Continuance in Control Exemption—Maine Northern Railway Company, FD 35520 (STB served June 3, 2011), The New Brunswick Railway Company (NBRC), the parent company of both EMR and MNRC, was authorized to continue in control of EMR and MNRC once MNRC becomes a Class III carrier after filing the modified certificate notice in Docket No. FD 35521.

The Line qualifies for a modified certificate of public convenience and necessity. See Common Carrier and 49 C.F.R. § 1150.22. MNRC states that it will receive no subsidies in connection with its operations and that there will be no preconditions that shippers must meet to receive service.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement at 425 Third Street, S.W., Suite 1000, Washington, DC 20024; and on the American Short Line and Regional Railroad Association at 50 F Street, N.W., Suite 7020, Washington, DC 20001.

Board decisions and notices are available on our website at “[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: June 15, 2011.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.