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SERVICE DATE – DECEMBER 13, 2007

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35097]

Massachusetts Coastal Railroad, LLC—Modified Rail Certificate

On November 29, 2007,<sup>1</sup> Massachusetts Coastal Railroad, LLC (MC)<sup>2</sup> filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, Subpart C, Modified Certificate of Public Convenience and Necessity, to operate segments of rail lines owned by the Commonwealth of Massachusetts, acting by and through the Massachusetts Executive Office of Transportation and Public Works (EOTPW). The segments over which rail service will be performed are as follows:

(1) Buzzards Bay Secondary, extending from Middleboro, MA (milepost 1.5), to Buzzards Bay, MA (milepost 19.9), a distance of approximately 18.4 miles; (2) Hyannis Secondary, extending from Bourne, MA (milepost 0.0), to Hyannis, MA (milepost 24.3), a distance of approximately 24.3 miles; (3) South Dennis Secondary, extending from Yarmouth Junction, MA (milepost 0.0), to Station Avenue in Yarmouth (milepost 2.81), a distance of approximately 2.8 miles; (4) Falmouth Secondary, extending from Bourne (milepost 0.0) to Falmouth, MA (milepost 6.8), a distance of approximately 6.8 miles;

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<sup>1</sup> This notice was initially filed on November 9, 2007, but a substantial amendment thereto was subsequently filed on November 29. See infra note 3. November 29 will therefore be considered the filing date.

<sup>2</sup> MC is a Massachusetts Limited Liability Company and a wholly owned subsidiary of noncarrier Cape Rail, Inc.

(5) Watuppa Branch, extending from milepost 6.0 west of North Dartmouth, MA, to Westport, MA (milepost 10.66), a distance of approximately 4.7 miles; and (6) Dean Street Industrial Track, between mileposts 0.0 and 1.5, in Taunton, MA, a distance of approximately 1.5 miles. The lines will connect at Middleboro and Taunton with CSX Transportation, Inc. (CSXT), and at milepost 6.0 west of North Dartmouth with Bay Colony Railroad Corporation (Bay Colony).<sup>3</sup>

The involved lines were abandoned pursuant to Section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744) and were acquired by the Commonwealth of Massachusetts from the estate of the Penn Central Transportation Company. The Interstate Commerce Commission issued modified rail certificates to Bay Colony for operation of the involved lines and certain other lines. See Bay Colony Railroad Corporation—Modified Rail Certificate, Finance Docket No. 29963 (ICC served June 29, 1982 and Sept. 24, 1987).

Pursuant to an agreement, MC and EOTPW have agreed that MC will operate the lines for a period of 10 years beginning January 6, 2008, and extending to December 31, 2017. The agreement provides for three extension terms of 5 years each pursuant to written mutual agreement.

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<sup>3</sup> As a result of a response filed on November 20, 2007 by Bay Colony, MC filed an amendment to the notice on November 29, 2007, requesting that the Board correct that part concerning MC's connections, as set forth here. Changes to the Watuppa segment description (segment (5)) have also been made as a result of the November 20 and 29 filings.

MC adds that it is currently developing a proposed trackage rights arrangement with Bay Colony whereby MC would be able to operate over Bay Colony's trackage between the MC/Bay Colony connection at milepost 6.0 and the Bay Colony/CSXT connection at milepost 0.08. If and when such an arrangement is reached, MC states that it will make the required Board filings.

The rail segments qualify for a modified certificate of public convenience and necessity. See Common Carrier Status of States, State Agencies and Instrumentalities and Political Subdivisions, Finance Docket No. 28990F (ICC served July 16, 1981).

MC states that no subsidy is involved and that there are no preconditions for shippers to meet in order to receive rail 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: Association of American Railroads, 50 F Street, N.W., Washington, DC 20001; and on the American Short Line and Regional Railroad Association: American Short Line and Regional Railroad Association, 50 F Street, N.W., Suite 7020, Washington, DC 20001.

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Decided: December 5, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary