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SERVICE DATE - NOVEMBER 3, 1999

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33807]

Washington County Railroad Company—Modified Rail Certificate

On October 6, 1999, Washington County Railroad Company (WCRC), a noncarrier, 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 a 14-mile rail line owned by the State of Vermont (the line).¹

The line was approved for abandonment by Montpelier and Barre Railroad Company in Montpelier and Barre Railroad Company--Entire Line Abandonment--From Graniteville to Montpelier Junction in Washington County, VT, Docket No. AB-202 F (ICC served Mar. 12, 1980), and acquired by the State of Vermont on November 21, 1980. The Washington County Railroad Corporation (WACR) filed a notice for a modified certificate of public convenience and necessity on November 17, 1980, and a modified rail certificate was issued to WACR authorizing it to operate the line as of November 17, 1980.² On February 2, 1999, WACR agreed to assign its lease of the line to New England Central Railroad, Inc. (NECR).³ NECR accepted the assignment

¹ WCRC was incorporated on September 23, 1999, for the purpose of providing rail service over the line for the State of Vermont.

² See Washington County Railroad Corporation--Operations--From Montpelier Junction to Graniteville, VT, Finance Docket No. 29536F (ICC served Jan. 2, 1981).

³ See New England Central Railroad, Inc.--Modified Rail Certificate, STB Finance Docket No. 33715 (STB served Feb. 26, 1999).

on February 9, 1999, and operated the line through the close of business on September 8, 1999, when it terminated operations over the line. Vermont Railway, Inc. (VTR) filed a notice for a modified certificate of public convenience and necessity on September 14, 1999, and a modified rail certificate was issued to VTR for the immediate interim operation of the line while VTR and the State of Vermont negotiated and entered into a lease and operating agreement that would govern future operations of the line by VTR or a subsidiary of VTR.⁴ On September 30, 1999, WCRC and the State of Vermont entered into an agreement whereby WCRC would operate the line, unless modified, through June 30, 2004. WCRC states that, effective immediately, it will replace VTR as the operator of the line.⁵

The line extends between Montpelier Junction, VT, and Graniteville, VT, a distance of approximately 14 miles. WCRC expects to conduct operations between Montpelier Junction and Websterville, a distance of approximately 12 miles. At Montpelier Junction, the line connects with NECR.

The rail segment qualifies 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).

⁴ See Vermont Railway, Inc.—Modified Rail Certificate, STB Finance Docket No. 33800 (STB served Sept. 24, 1999).

⁵ WCRC states that it is owned by the same persons who control VTR. WCRC further states that it has the same officers and directors as VTR and two other Class III carriers, Clarendon & Pittsford Railroad Company, and Green Mountain Railroad Corporation. WCRC states that an exemption will be sought under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 11323-25 for the control of WCRC by individuals who control other rail carriers. Common control authority or an exemption is needed before WCRC may begin rail carrier operations.

A subsidy is involved. Under the agreement, the State of Vermont's Agency of Transportation (VAOT) agrees to pay WCRC a subsidy equivalent to \$5,000 per week, through June 30, 2000. The agreement further provides that VAOT, beginning July 1, 2000 and for each subsequent year of the agreement, agrees to pay a subsidy of \$260,000 per year, reduced by a subsidy credit equivalent to 50% of all gross revenues between \$150,000 and \$670,000.⁶ WCRC represents that it has obtained general liability insurance coverage 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, 1120 G Street, N.W., Suite 520, Washington, DC 20005.

Decided: October 28, 1999.

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

Vernon A. Williams

Secretary

⁶ VAOT states that it is authorized under 5 V.S.A. 3401-3409 to administer State-owned railroad properties and to take necessary action to ensure continuity of service over such properties.