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SERVICE DATE - NOVEMBER 14, 1997

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-32 (Sub-No. 82)

BOSTON AND MAINE CORPORATION--ABANDONMENT--
IN HARTFORD AND NEW HAVEN COUNTIES, CT

STB Docket No. AB-355 (Sub-No. 22)

SPRINGFIELD TERMINAL RAILWAY COMPANY--DISCONTINUANCE--
IN HARTFORD AND NEW HAVEN COUNTIES, CT

Decided: November 12, 1997

By application filed October 27, 1997, Boston and Maine Corporation (B&M) seeks authority under 49 U.S.C. 10903-05 to abandon its line of railroad between milepost 14.50 in Cheshire, CT, and milepost 24.00 in Southington, CT, a distance of 9.50 miles, in Hartford and New Haven Counties, CT. Concurrently, B&M's affiliate, Springfield Terminal Railway Company (ST), seeks authority to discontinue operations over the line.¹ The application will be rejected for failure to comply with the Board's abandonment and discontinuance regulations at 49 CFR part 1152 and the environmental and historic reporting requirements of 49 CFR part 1105.²

B&M and ST previously sought to abandon and discontinue service over this line in 1996, by filing a petition for exemption.³ We denied their petition because, among other reasons, the record did not contain an estimate of the line's revenue potential if protestants' current traffic

¹ B&M tendered the application for filing on October 14, 1997, but it was not accepted for filing at that time because B&M failed to join ST as a necessary party. By supplemental pleading submitted on October 27, 1997, ST was made a party to the application and, thus, the application was considered filed as of that date.

² Rejection is without prejudice to filing a new application in compliance with 49 U.S.C. 10903 and the regulations at 49 CFR parts 1152 and 1105. The current regulations were adopted in Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903, STB Ex Parte No. 537 (STB served Dec. 24, 1996 and June 27, 1997). A new application must have a new subnumber and be accompanied by a new filing fee.

³ Applicants state that the line has been out of service since November 23, 1994, when it was embargoed due to hazardous operating conditions.

projections were taken into consideration.⁴ Applicants have failed to cure this deficiency in the current application.

Applicants' estimate of forecast year operating results⁵ assumes that, because the line is embargoed, no traffic would be transported over the line and, consequently, no revenue would be earned or costs incurred by B&M and ST. However, as we discussed in Exemption, there is evidence of demand by three shippers for rail service over the line if there were no embargo.⁶ Because applicants' forecast year estimate fails to take into account the potential traffic on the line, it provides an inaccurate projection of the financial results of future operation of the line. Applicants should provide a revised estimate of operating results, assuming that there is no embargo, and include revenue projections for potential traffic. Applicants should also provide detailed estimates of both on- and off-branch avoidable costs, including normalized track maintenance costs that assume rehabilitation of the line.

Applicants submitted an environmental report with their application. Our Section of Environmental Analysis has examined the environmental report and has found it to be unacceptable. The environmental and historic reports submitted by applicants are based on consultations with agencies that took place almost 3 years ago. Apparently, applicants have not attempted to initiate new consultations and redraft the environmental and historic reports to take into account any new or changed information. It is likely that, since the consultations took place, new circumstances may have arisen or information relevant to environmental concerns may have changed.

⁴ Boston and Maine Corporation--Abandonment Exemption--In Hartford and New Haven Counties, CT, STB Docket No. AB-32 (Sub-No. 75X), et al., slip op. at 5 (STB served Dec. 31, 1996) (Exemption).

⁵ See Application, Exhibit 1.

⁶ One of the shippers, Country Lumber, Inc., already has filed a letter in opposition to this application.

Finally, if applicants file a new application, they must first serve, post, and publish the Notice of Intent to abandon or to discontinue service in accordance with 49 CFR 1152.20 and 1152.21.⁷

It is ordered:

1. The application is rejected.
2. This decision is effective on its service date.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary

⁷ Notice of B&M's application was published on July 28, 1997, not within 30 days of the filing of the application, as required by 49 CFR 1152.20(b), and was re-posted on October 10, 1997. The amended notice submitted on October 27, 1997, which joined ST as an applicant, was not posted or published.

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