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SERVICE DATE – JULY 16, 2009

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-32 (Sub-No. 100)]

Boston and Maine Corporation, Inc. and Springfield Terminal Railway Company—
Adverse Discontinuance—New England Southern Railroad Co., Inc.

On June 19, 2009, Pan Am Railways¹ and its subsidiaries, Boston and Maine Corporation, Inc. (B&M), and Springfield Terminal Railway Company (ST) (collectively, Pan Am), filed an application under 49 U.S.C. 10903 asking the Board to authorize the third-party, or “adverse,” discontinuance of operating authority of New England Southern Railroad Co., Inc. (NES), over approximately 27 miles of B&M’s New Hampshire Main Line (Line), extending from milepost B80.68 at Penacook to milepost B56 at Manchester, NH, and including (1) the portion of the former Claremont and Concord Railroad line from the switch to the New Hampshire Main Line valuation station 41+98; and (2) one track for interchange purposes in the B&M yard at Manchester.

The line traverses United States Postal Service ZIP Codes 03101, 03106, 03301, 03303, and 03304.

Pan Am states that NES has been operating the Line under a lease which was entered into on January 14, 1985, and which provides that either party may terminate it

¹ Formerly Guilford Rail System.

on 90 days' written notice to the other party once the initial 10-year term expires. Pan Am states that, on or about April 27, 2007, it gave NES written notice of termination, effective on or about August 1, 2007, and indicated that it would assume operating the Line under its own operating plan. According to Pan Am, NES, in a letter dated July 21, 2007, responded that it would not file for discontinuance. Pan Am states that the adverse discontinuance is necessary to remove NES's interest in the Line from Board jurisdiction and enable Pan Am to pursue contract remedies under state law.

In a decision served in this proceeding on February 12, 2008, the Board granted a petition filed by Pan Am for exemptions from several statutory provisions and for waivers of certain Board regulations governing rail line discontinuances. The Board required Pan Am to serve a copy of the decision on all of the Line's shippers and connecting carriers, the U.S. Railroad Retirement Board, and the headquarters of all duly certified labor organizations ²

Pan Am states that the Line does not contain federally granted rights-of-way. Any documentation in Pan Am's possession will be made available promptly to those requesting it. Pan Am's entire case in chief for adverse discontinuance was filed with the application.

The interest of railroad employees will be protected by the conditions set forth in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

Any interested person may file written comments concerning the proposed adverse discontinuance or protests (including protestant's entire opposition case) by

² According to Pan Am's certificate of service, a copy of the waiver request was served on the Governor of New Hampshire, the New Hampshire Public Utility Commission, and the Bureau of Rail and Transit of New Hampshire.

August 30, 2009. Replies and rebuttal to written comments and protests shall be filed and served by applicants by September 14, 2009. Because Pan Am intends to conduct operations on the Line, all interested persons should be aware that this application is for adverse discontinuance and will not result in the abandonment of existing operations. Therefore, the public use provisions of 49 U.S.C. 10905 (49 CFR 1152.28) and the trail use provisions 16 U.S.C. 1247(d) (49 CFR 1152.29) will not apply.

Persons opposing the proposed adverse discontinuance who wish to participate actively and fully in the process should file a protest. Persons who may oppose the adverse discontinuance but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Parties seeking information concerning the filing of protests should refer to 49 C.F.R. 1152.25.

All filings in response to this notice must refer to STB Docket No. AB-32 (Sub-No. 100) and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; and (2) Michael Q. Geary, Pan Am Railways, 1700 Iron Horse Park, North Billerica, MA 01877. Filings may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions found on the Board's "www.stb.dot.gov" website, at the "E-FILING" link. Any person submitting a filing in the traditional paper format should send the original and 10 copies of the filing to the Board with a certificate of service. Except as otherwise set forth in 49 CFR 1152, every document filed with the Board must be served on all parties to this adverse discontinuance proceeding. See 49 CFR 1104.12(a).

Persons seeking further information concerning abandonment/discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245-0230 or refer to the full abandonment/discontinuance regulations at 49 CFR 1152. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: July 10, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan

Acting Secretary