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SERVICE DATE - APRIL 16, 1999

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33722]

Brandywine Valley Railroad Company--Modified Rail Certificate

On March 17, 1999, Brandywine Valley Railroad Company (Brandywine), 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 the following lines of railroad: (a) between milepost 12.7 at the Delaware/Pennsylvania state line and milepost 30.29 at Modena, PA, a distance of 17.59 miles; and (b) between milepost 18.0 at Wawa, PA, and milepost 54.50 at the Pennsylvania/Maryland state line near Sylmar, MD, a distance of 36.50 miles.¹

The lines of railroad are owned by the Pennsylvania Department of Transportation (PennDOT) and by the Southeastern Pennsylvania Transportation Authority (SEPTA), respectively. The lines were not included in the final system plan at the time the Consolidated Rail Corporation was formed and, as such, were authorized to be abandoned without further approval of the Interstate Commerce Commission (ICC) pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. No. 94-210. PennDOT acquired its line segment from the trustees of the Reading Railroad, while SEPTA

¹ In a decision served March 26, 1999, the Board's Chairman denied a petition filed March 19, 1999, by the Delaware Valley Railroad Company (DV), the former operator of the line, to stay the effectiveness of this notice. Under our rules, carriers can begin operating immediately on the filing of the notice. 49 CFR 1150.23(a).

acquired its segment from the trustees of the Penn Central Transportation Company, after the respective lines were abandoned in 1976.

Brandywine states that, when the notice was filed, the lines were being operated by the Delaware Valley Railroad Company (DV) under an arrangement with PennDOT pursuant to a modified certificate. Brandywine further states that PennDOT gave DV a notice of termination (in December 1998, according to Brandywine) effective March 19, 1999, and DV stopped operating on that date. PennDOT contracted with Brandywine to assume operations, which began on March 22, 1999.² Under an interim operating agreement between Brandywine and PennDOT, service is to be provided by Brandywine until September 30, 1999.³

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. 28990 (ICC served July 16, 1981).

Brandywine indicates 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

² On March 23, 1999, Brandywine filed a petition for prescription of alternative rail service under 49 CFR part 1146 over a line of track owned by the Wilmington and Northern Railroad Company and operated by DV as a designated operator between milepost 12.7 at the Delaware/Pennsylvania border and milepost 2.9 at Elsmere Jct., DE. See Brandywine Valley Railroad Company--Petition for Prescription of Alternative Rail Service--Line Operated by Delaware Valley Railway Company, STB Finance Docket No. 33732. That petition will be addressed in a separate Board decision.

³ Brandywine is also negotiating to purchase the line.

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Division) as agent for all railroads subscribing to the car-service and car-hire agreement:

Association of American Railroads, 50 F Street, NW, Washington, DC 20001; and on the

American Short Line Railroad Association: American Short Line Railroad Association,

1120 G St., NW, Suite 520, Washington, DC 20005.

Decided: April 13, 1999.

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

Vernon A. Williams

Secretary