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SERVICE DATE - MAY 18, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-32 (Sub-No. 83)

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

STB Docket No. AB-355 (Sub-No. 23)

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

Decided: May 15, 1998

By decision served on April 22, 1998, the Board found that the public convenience and necessity permit Boston and Maine Corporation (B&M) and Springfield Terminal Railway Company (ST) to abandon and discontinue service, respectively, over a line of railroad known as the Canal Branch extending from milepost 14.50 in Cheshire, CT, to milepost 24.00 in Southington, CT, a distance of 9.50 miles, in Hartford and New Haven Counties, CT (the line). The decision was scheduled to become effective on May 22, 1998, unless an offer of financial assistance (OFA) was filed on or before May 1, 1998.

On May 1, 1998, Dalton Enterprises, Inc. (Dalton), timely filed an OFA under 49 U.S.C. 10904 and 49 U.S.C. 1152.27(c). By decision served on May 5, 1998, Dalton was found to be financially responsible and the effective date of the April 22 decision was postponed to permit the financial assistance process to proceed.

On May 4, 1998, Dalton filed a petition for stay of the effective date of the April 22 decision pending its appeal of the decision to the United States Court of Appeals for the Second Circuit.

The stay request will be denied. As noted, because of the pendency of Dalton's OFA, the effective date of the abandonment decision has been postponed until the completion of the OFA process. Thus, a stay is not warranted at this time. Moreover, Dalton has made no showing for a stay in accordance with the criteria set forth in Washington Metropolitan Area Transit Comm'n v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977).¹ It should be noted that, if Dalton were to

¹ The standards governing disposition of a petition for stay are: (1) whether applicants are likely to prevail on the merits on appeal; (2) whether applicants will be irreparably harmed in the
(continued...)

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prevail on the merits of its court appeal, and if B&M and ST had already acted on the authority to abandon and discontinue, B&M and ST could be required to restore the line to service. Thus, there is no irreparable harm.

It is ordered:

1. The petition for stay is denied.
2. This decision is effective on its service date.

By the Board, Linda J. Morgan, Chairman.

Vernon A. Williams
Secretary

¹(...continued)
absence of a stay; (3) whether issuance of a stay would substantially harm other parties; and (4) whether issuance of a stay is in the public interest.