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SERVICE DATE - FEBRUARY 10, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33709

LAMOILLE VALLEY RAILROAD COMPANY, INC.--MODIFIED
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Decided: February 4, 1999

On January 22, 1999, Lamoille Valley Railroad Company, Inc. (LVRC) filed a verified notice of exemption requesting a modified rail certificate of public convenience and necessity under 49 CFR 1150, Subpart C, Modified Certificate of Public Convenience and Necessity, to operate over approximately 95 miles of rail line between milepost 95.324 in Swanton, VT, and milepost 0.058 in St. Johnsbury, VT, in Caledonia, Washington, Lamoille, and Franklin Counties, VT. In the same filing, LVRC also provided notice of termination of service over said line.

Under 49 CFR 1150.23, a notice for a modified certificate must be filed with the Board by the proposed "operator." Here, however, it is clear that LVRC is not, in fact, an operator with respect to this line. Pursuant to a February 19, 1998 settlement agreement (attached) with the State of Vermont, LVRC agreed to surrender its leasehold of the line.¹ Accordingly, since LVRC evidently does not intend to conduct operations over the line, it cannot qualify as an operator for purposes of obtaining a modified certificate under Board rules.

Moreover, LVRC's request itself does not qualify for a modified certificate. The purpose of the modified certification procedure is to reduce regulatory barriers so as to encourage the continuation of rail service which might otherwise be ended. See Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions, Finance Docket No. 28990F (ICC served July 16, 1981). According to LVRC, there has been no request for service on the line for many years, and LVRC does not seek here to continue an existing service. For these reasons, LVRC's request for a modified certificate must be rejected.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ On December 29, 1977, the parties concluded a lease agreement pursuant to which LVRC commenced operation of the line.

It is ordered:

1. The verified notice requesting issuance of a modified certificate of public convenience and necessity is rejected.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary