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SERVICE DATE – LATE RELEASE JULY 23, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1043 (Sub-No. 1)

MONTREAL, MAINE & ATLANTIC RAILWAY, LTD—DISCONTINUANCE OF SERVICE
AND ABANDONMENT—IN AROOSTOOK AND PENOBSCOT COUNTIES, ME.

Decided: July 23, 2010

The Montreal, Maine & Atlantic Railway, Ltd. (MMA or the railroad) filed an application under 49 U.S.C. § 10903 for permission to abandon and discontinue service over approximately 233 miles of line in Aroostook and Penobscot Counties, Me. on February 25, 2010. On March 17, 2010, the Board set dates for persons to submit filings on the application.¹

The Board received protests from the State of Maine, by and through its Department of Transportation (State), and from various shippers. Specifically, a joint protest was filed by Irving Woodlands LLC, Irving Forest Products, Inc., Fraser Papers Inc., Fraser Timber Limited, and Katahdin Paper Company. Separate protests were filed by Huber Engineered Woods, LLC, The Brotherhood of Locomotive Engineers and Trainmen (BLET), and Louisiana-Pacific Corporation. MMA challenges the claims of the protestants in a rebuttal.

On May 25, the Board issued an order encouraging the parties, in particular the railroad and the State, to enter into talks with the assistance of Board staff in order to resolve issues arising out of the abandonment application and a proposal by the State to purchase the line for continued rail service under the Offer of Financial Assistance (OFA) provisions of 49 U.S.C. § 10904.² The parties, in particular MMA and the State, have continued to meet and, as discussed below, have made progress but have not reached an agreement on all issues before them.

The Board held a public hearing on the proposed abandonment in Presque Isle, Me., on July 7, 2010. Speakers representing public officials, the railroad, the State, shippers, business and community interests, and the BLET testified at the hearing. The railroad noted that it and the State had agreed on a purchase price for the line, but that they were still discussing what

¹ In decisions served in this docket on April 5, 2010, and April 26, 2010, the Board modified this procedural schedule.

² The State filed an OFA on July 19, 2010 requesting that the Board find it to be financially responsible; that the Board toll the OFA process until after it decides the abandonment; that the Board provide a 40-day negotiating period in lieu of the usual 30 days; and that the MMA be required to grant the State or a rail operator under contract to the State certain specified trackage rights over the MMA. A decision accepting the OFA, finding the State to be financially responsible and tolling the OFA process has been served today.

access a new operator would have over the remaining portion of MMA's system to reach other carriers.

The railroad stated at the hearing that it would agree to enter into a haulage agreement with a new operator on the line. The State argued, and a number of other speakers agreed, that the Board should grant trackage rights to the new operator at a reasonable cost. The railroad agreed that mediation should resume on this question.

The Board issued an order on July 20, 2010, seeking briefing on the access question. The Board invited evidence and argument on its authority to impose access over the MMA lines in this case and requested further briefing on both the location and type of access that could be ordered. The Board requested that interested parties file supplements discussing these matters by July 27, 2010, and replies to the supplements by August 3, 2010.

On July 22, 2010, the State filed a motion for an extension of these due dates. The State explains that it and the railroad believe that it would be preferable if they were able to reach a negotiated settlement of these issues. They believe that there is a better likelihood of success if they could spend their immediate efforts on seeking resolution of these issues. They request a 1-week extension of the due dates so that supplemental filings are due on August 3, 2010, and replies are due on August 10, 2010.

This request is reasonable and will be granted. The Board encourages the private resolution of disputes.

It is ordered:

1. The supplements requested in the July 20 order are due on or before August 3, 2010, and replies are due on or before August 10, 2010.
2. This decision is effective on its date of service.

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