38262 SERVICE DATE – LATE RELEASE AUGUST 3, 2007
DO

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-32 (Sub-No. 53X)

BOSTON AND MAINE CORPORATION–ABANDONMENT EXEMPTION–
IN ESSEX COUNTY, MA

STB Docket No. AB-355 (Sub-No. 5X)

SPRINGFIELD TERMINAL RAILWAY COMPANY–DISCONTINUANCE OF
SERVICE EXEMPTION–IN ESSEX COUNTY, MA

Decided: August 3, 2007

Boston and Maine Corporation (B&M) and Springfield Terminal Railway Company (ST) jointly filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments and Discontinuances of Service for B&M to abandon, and for ST to discontinue service over, approximately 1.47 miles of railroad known as the Georgetown Branch, extending from milepost 4.66 to milepost 6.13 in Haverhill, Essex County, MA. Notice of the exemption was served and published in the Federal Register on July 9, 2007 (72 FR 37307-08). The exemption is scheduled to become effective on August 8, 2007.

On July 26, 2007, James Riffin (Riffin), identifying himself as a Class III railroad, filed: (1) a notice of intent to participate in the proceeding and comments; (2) a notice of intent to file an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27 to purchase the rail line; and (3) a petition to toll the due date for filing an OFA.[1]

Under 49 CFR 1152.27(c)(2)(i), persons with a potential interest in providing financial assistance must file and serve a formal notice of intent to file an OFA no later than 10 days after publication in the Federal Register of the relevant notice of exemption. Accordingly, the Federal Register notice that was published on July 9, 2007, specified that expressions of intent to file an OFA for continued rail service were due by July 19, 2007. Riffin did not file the notice of intent to file an OFA until July 26, 2007, which is 7 days late, and has provided no explanation as to

[1] Riffin attempted to submit the notice by facsimile late at night on July 24, 2007, but did not complete the filing until July 26, 2007.

why Riffin could not have complied with the 10-day deadline. Congress' intent in limiting the time for filing OFAs was to allow carriers to abandon unprofitable lines expeditiously while affording a reasonable opportunity for shippers and others to express an interest in purchasing the line. See Hayfield No. R. Co. v. Chicago & N.W. Tr. Co., 467 U.S. 622, 630 (1989); H.R. Rep. No. 96-1430, 96th Cong., 2d Sess. at 125 (1980). Here, without good cause being presented, it is inappropriate to extend the class exemption process. See 49 CFR 1152.27(c)(2)(i) (submission of timely formal notice of intent automatically stays the effective date of the notice of exemption for 40 days). Riffin's notice of intent and petition to toll the filing date for an OFA will therefore be rejected. See 49 CFR 1152.25(d)(5). Riffin may, of course, pursue acquisition of whatever rights it seeks directly from the line's owner, B&M, outside of the OFA process.

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

It is ordered:

1. Riffin's notice of intent to file an OFA and petition to toll the date for filing an OFA are rejected.

2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary