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SEC

SERVICE DATE – LATE RELEASE MAY 25, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 29963

BAY COLONY RAILROAD CORPORATION–  
MODIFIED RAIL CERTIFICATE

Decided: May 25, 2005

On April 13, 2005, the Massachusetts Bay Transportation Authority (MBTA) filed a Notice of Termination of Operating Authority of the Bay Colony Railroad Corporation (Bay Colony). Bay Colony has been operating the 3.4-mile Millis Industrial Track between Medfield Junction (milepost 0.0) and the end of the line in Millis (milepost 3.4) in Norfolk County, MA under a modified certificate of public convenience and necessity that was issued on September 24, 1987, pursuant to 49 CFR 1150.23. Bay Colony has been operating the line under a lease and operating agreement with MBTA, the owner of the line.

On May 2, 2005, Bay Colony filed a petition to dismiss MBTA's notice. Bay Colony concurrently filed a petition for declaratory order in Bay Colony Railroad Corporation-Petition For Declaratory Order, STB Docket No. 34698, asking the Board to determine that: (1) MBTA's notice is invalid and ineffective to terminate its authority to operate the line; (2) Bay Colony has a regular certificate of public convenience and necessity, not a modified certificate, to operate the line; (3) MBTA can terminate Bay Colony's operating rights only by an adverse abandonment proceeding; and (4) Bay Colony is the successor in interest to, and the current holder of, an easement affording Bay Colony the right of provide freight service on the line.

On May 23, 2005, MBTA filed a motion seeking an extension until May 30, 2005 to file its response to Bay Colony's petition to dismiss. MBTA indicates that it and Bay Colony wish to explore settlement of the issues raised in Bay Colony's petition, and that the parties have recently exchanged information about the record title to the easement reserved by the Penn Central Transportation Company in a 1973 deed, which Bay Colony claims it holds as the successor in interest. According the MBTA, that information may enable the parties to reach a settlement of issues raised by the petition. Bay Colony assents to MBTA's motion.

Good cause exists for granting the requested extension until May 31, 2005 (May 30 is a holiday), for MBTA to file a response to Bay Colony's petition.

It is ordered:

1. MBTA's response to Bay Colony's petition to dismiss is due on or before May 31, 2005.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary