

34360

SERVICE DATE - JANUARY 27, 2004

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34455]

Vermont Railway, Inc.—Modified Rail Certificate

On January 5, 2004, Vermont Railway, Inc. (VTR), a Class III rail carrier, filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, Subpart C, Modified Certificate of Public Convenience and Necessity, to operate a 131-mile rail line owned by the State of Vermont (Vermont). The line extends from Burlington to Bennington, VT.

The Board's predecessor, the Interstate Commerce Commission (ICC), approved the line for abandonment by Rutland Railway Corp., in Rutland Ry. Corp. Abandonment of Entire Line, 317 I.C.C. 393 (1962). Subsequently, the ICC authorized acquisition of the line by Vermont and lease and operation of the line by VTR in State of VT and Vermont Ry., Inc., Acquisition and Op., 320 I.C.C. 330 (1963). The original lease and subsequent amended lease between Vermont and VTR provide for renewal of the lease every 10 years. With ICC

approval, the lease term was extended three times.¹ The current extension expired on January 5, 2004.

The last time the ICC approved an extension of the lease between Vermont and VTR, it noted that, if VTR were to file for a modified certificate of public convenience and necessity, the parties would no longer need to obtain approval for changes or extensions of their lease.²

The rail segment qualifies for a modified certificate of public convenience and necessity. See Common Carrier Status of States, State Agencies and Instrumentalities and Political Subdivisions, Finance Docket No. 28990F (ICC served July 16, 1981).

There is no operating subsidy involved. However, pursuant to the 1990 lease between VTR and Vermont, Vermont is required to pay for the maintenance of certain structures on the line.³ VTR represents that it has extensive insurance coverage for property damage and personal injury. There are no preconditions for shippers to meet in order to receive rail service.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement:

¹ The last extension was approved in State of Vermont and Vermont Railway, Inc.—Acquisition and Operation in Vermont, Finance Docket No. 22830 (ICC served Dec. 28, 1993) (December 1993 Decision). In that decision, the ICC also retroactively approved a revised lease signed by the parties in 1990.

² See December 1993 Decision at 1 n.1.

³ Pursuant to 5 V.S.A. 3401-3409, the Vermont Agency of Transportation is authorized to administer State-owned railroad properties and to take necessary action to ensure continuity of service over such properties.

Association of American Railroads, 50 F Street, N.W., Washington, DC 20001; and on the American Short Line and Regional Railroad Association: American Short Line and Regional Railroad Association, 50 F Street, N.W., Suite 7020, Washington, DC 20001.

Decided: January 20, 2004.

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

Vernon A. Williams

Secretary