

BEFORE THE

**SURFACE TRANSPORTATION BOARD** 234662

ICC Finance Docket No. 29963

ENTERED

Office of Proceedings

August 12, 2013

Part of

Public Record

**BAY COLONY RAILROAD CORPORATION  
– MODIFIED RAIL CERTIFICATE –  
CERTAIN LINES OF  
COMMONWEALTH OF MASSACHUSETTS**

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**NOTICE OF INTENT TO PARTIALLY TERMINATE SERVICE**

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Dated: August 12, 2013

Attorneys for Bay Colony Railroad  
Corporation

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SURFACE TRANSPORTATION BOARD

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**BAY COLONY RAILROAD CORPORATION  
– MODIFIED RAIL CERTIFICATE –  
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**NOTICE OF INTENT TO PARTIALLY TERMINATE SERVICE**

Pursuant to 49 CFR 1150.24, Bay Colony Railroad Corporation (“BCLR”) hereby gives notice of its intent to partially terminate service over the lines described herein which it operates under a modified certificate. In support of the notice, BCLR states as follows:

1. BCLR is and was the operator of certain lines of railroad owned by the Commonwealth of Massachusetts (the “Commonwealth”) or the Massachusetts Bay Transportation Authority (“MBTA”) under a modified certificate of public convenience and necessity issued by the Interstate Commerce Commission (“ICC”) in this docket on June 29, 1982 (the “1982 Modified Certificate”). A copy of the 1982 Modified Certificate is attached hereto as Exhibit A.

2. BCLR is the operator of certain other lines of railroad, one of which (the Lowell Secondary) is owned by the Commonwealth, and one of which (the Millis Industrial Track) is owned by MBTA subject to a permanent freight easement owned by BCLR, under a modified certificate of public convenience and necessity issued by the Interstate Commerce Commission (“ICC”) in this docket on September 24, 1987 (the “1987 Modified Certificate”). A copy of the 1987 Modified Certificate is attached hereto as Exhibit B.

3. Pursuant to a notice filed with the Board on November 5, 2007, BCLR gave notice of its intent to terminate service as of 11:59 pm on January 5, 2008, on the Lowell Secondary described in the 1987 Modified Certificate, and on certain lines described in the 1982 Modified Certificate.

4. MBTA has requested that BCLR terminate service over the following lines of railroad described in the 1982 Modified Certificate:

- (a) the Needham Secondary Track between Milepost 10.1 at Needham Jct., Middlesex County, Massachusetts, and continuing to Milepost 14.1, known as Cook Street, Newton, Middlesex County, Massachusetts, and including the wye track and the portion of the Needham Branch from Milepost 10.1 at Needham Junction to Milepost 7.2 at W. Roxbury, Middlesex County, Massachusetts.
- (b) the portion of the Dover Secondary Track extending from BCLR Railroad Milepost 0.0 in Needham Junction, Middlesex County, Massachusetts and continuing through Needham, Dover and Medfield to a point of termination near BCLR Railroad Milepost 7.2 located at the South edge of Ice House Road, one-tenth (0.1) of a mile from the point known as Medfield Junction, Middlesex County, Massachusetts.<sup>1</sup>

MBTA and BCLR will amend their Trackage Rights and Operating Agreement accordingly.

5. No freight service has been provided on the lines described in paragraph 4 for over two years.

6. BCLR intends to terminate service as of 11:59 pm on October 11, 2013.

7. BCLR has not, and is not by this Notice giving notice of the termination of its right to provide service on the Millis Industrial Track described in the 1987 Modified Certificate,

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<sup>1</sup> BCLR will continue to operate the portion of the Dover Secondary Track beginning near BCLR Railroad Milepost 7.2 located at the South edge of Ice House Road in Medfield, Middlesex County, Massachusetts and continuing to a point of termination at approximately BCLR Railroad Milepost 7.3 known as Medfield Junction. (The 1982 Modified Certificate only indicates that the line to Milepost 7.2 although the line as currently measured extends to approximately Milepost 7.3 where it connects to the Millis Branch described in the 1987 Modified Certificate.)

or on the lines described in the 1982 Modified Certificate other than the lines described in paragraphs 3 and 4 above.

8. As required under 49 CFR 1150.24(a), BCLR is serving a copy of this Notice on MBTA as the owner of the lines, and on the Commonwealth of Massachusetts. There are no persons that have used the lines within the six months preceding the date of this Notice, and accordingly, no additional persons must be served under 49 CFR 1150.24(b).

Based on the foregoing, BCLR requests that the Board issue a notice confirming the termination of service over the lines described in paragraph 4 above.

Respectfully submitted,



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Dated: August 12, 2013

Attorneys for Bay Colony Railroad  
Corporation

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Notice to Partially Terminate Service were served by first class US mail, postage prepaid, upon the following:

Leonard M. Singer, Esq.  
Law Office Of Leonard M. Singer  
101 Federal Street, Nineteenth Floor  
Boston, MA 02110  
*(Attorney for MBTA)*

Commonwealth of Massachusetts  
Executive Office of Transportation  
10 Park Plaza, Suite 4160  
Boston, MA 02116

  
Eric M. Hocky

Dated: August 12, 2013

**EXHIBIT "A"**

INTERSTATE COMMERCE COMMISSION

Finance Docket No. 29963

BAY COLONY RAILROAD CORPORATION

• Modified Rail Certificate

11/1/82  
SERVICE DATE

JUN 29 1982

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June 21, 1982

**NOTICE:**

On June 10, 1982, a notice was filed by the Bay Colony Railroad Corporation for a modified certificate of public convenience and necessity under 49 C.F.R. 1170.21, published at 47 Fed. Reg. 8195. As of that date, this carrier is authorized to provide service over the following lines of the former Penn Central Transportation Company: Buzzards Bay (milepost 0.3) to Falmouth (milepost 13.8), Sandwich (milepost 7.8) to Hyannis (milepost 24.3), Yarmouth (milepost 0.0) to South Dennis (milepost 5.6), Needham Jct. (milepost 10.1) to W. Roxbury (milepost 7.2), N. Abington (milepost 0.0) to W. Hanover (milepost 3.6), S. Braintree (milepost 1.7) to Plymouth (milepost 27.1), Needham Jct. (milepost 0.0) to Medfield Jct. (milepost 7.2), Needham Jct. (milepost 10.1) to Cook St. (milepost 14.1), Watuppa (milepost 6.0) to Westport Factory (milepost 12.1), Weir Jct. (milepost 0.0) to Winter Street (milepost 1.5), Weymouth (milepost 1.5) to Hingham (milepost 6.5) and Buzzards Bay (milepost 0.0) to East Sandwich (milepost 7.8) to Buzzards Bay (milepost 1.5) to Middlemore (milepost 19.8).

The lines are owned by the Commonwealth of Massachusetts.

This notice shall be served upon the Association of American Railroads (Car Service Division) as agent of all railroads subscribing to the car-service and car-hire agreement, and upon the American Short Line Railroad Association.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

AGATHA L. MERGENOVICH  
Secretary

JUL 06 1982

**EXHIBIT "B"**

FR-7035-01  
DO

**SERVICE DATE**  
**SEP 24 1987**

INTERSTATE COMMERCE COMMISSION

Finance Docket No. 29963

BAY COLONY RAILROAD CORPORATION  
MODIFIED RAIL CERTIFICATE<sup>1/</sup>

NOTICE

On September 2, 1987, a notice was filed by the Bay Colony Railroad Corporation (Bay Colony), for a modified certificate of public convenience and necessity under 49 CFR 1150.23. Bay Colony has entered into an agreement with the Commonwealth of Massachusetts to operate the Millis Industrial Track, now operated by Consolidated Rail Corporation (Conrail), and the Lowell Secondary Track, now operated by Springfield Terminal Railway Company (ST). The Commonwealth of Massachusetts runs both of these rail lines.

The Millis Industrial Track is a 3.4 mile rail line in the Commonwealth of Massachusetts between the northeast side of the Framingham Secondary right-of-way line in Medfield Junction (Milepost 0.0) and the end of the line in Millis

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<sup>1/</sup> Bay Colony's operation of the Millis Industrial Track and the Lowell Secondary Track -- the two lines here at issue -- is the subject of this modified rail certificate, and, contrary to Bay Colony's assertion, does not involve an amendment of Bay Colony's prior modified rail certificate, served June 29, 1982, that covers a number of lines owned by the Commonwealth of Massachusetts.

**EXHIBIT "B"**

Finance Docket No. 29963

(Milepost 3.4), all in Norfolk County. The involved 5.3 mile segment of the Lowell Secondary Track in the Commonwealth of Massachusetts extends between West Concord (Milepost 11.5) and Acton (Milepost 16.8), all in Middlesex County.

The Lowell Secondary Track was conveyed to the Commonwealth of Massachusetts by deed of the Penn Central Transportation Company (Penn Central) dated May 14, 1982. Service on the line was continued by ST under lease from the Commonwealth of Massachusetts. ST currently has a modified certificate to operate over the Lowell Secondary. ST is expected to terminate its service pursuant to 49 CFR 1150.24 at or about the time Bay Colony commences operations.

The Millis Industrial Track was conveyed to Massachusetts Bay Transportation Authority, an agency of the Commonwealth of Massachusetts, by deed of Penn Central dated January 17, 1973, subject to a reservation of right to operate freight service over the track. Freight service on the line was continued by Penn Central, and subsequently by Conrail. Conrail's application under 45 U.S.C. 748 to discontinue operation of the Millis Industrial Track in No. AB-167 (Sub-No. 954N) was approved by decision served September 11, 1987.

**EXHIBIT "B"**

Finance Docket No. 29963

This notice must be served on the Association of American Railroads (Car Service Division) as agent of all railroads subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.

Dated: September 16, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

(SEAL)

Noreta R. McGee  
Secretary