

BEFORE THE
SURFACE TRANSPORTATION BOARD
STB DOCKET NO. AB-1117X

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**-- PETITION FOR DISCONTINUANCE OF SERVICE EXEMPTION --
IN CUMBERLAND COUNTY, ME**

**REPLY OF ST. LAWRENCE & ATLANTIC RAILROAD COMPANY
TO COMMENTS AND PROTEST OF B&G FOODS NORTH AMERICA, INC.**

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Dated: December 27, 2013

Attorneys for
St. Lawrence & Atlantic Railroad Company

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St. Lawrence & Atlantic Railroad Company (“SLR”) commenced this proceeding with the filing of a Petition for Exemption (the “Petition”) seeking an exemption under 49 U.S.C. §10502 from the provisions of 49 U.S.C. §10903 to enable SLR to discontinue service over the line of railroad between the end of the line at M.P. 1.74 near Deering, Cumberland County, Maine, and M.P 25.97 at the town line between New Gloucester, Cumberland County, Maine and Auburn, Androscoggin County, Maine, a total distance of 24.23 miles (collectively, the “Line”). On December 17, 2013, the sole remaining shipper on the Line, B&G Foods North America, Inc. (“B&G”), filed Comments and a Protest (the “B&G Protest”) in opposition to the proposed discontinuance. SLR files this Reply to correct certain facts raised by the Protest and to ensure that the Board has a full record on which to determine whether to grant the proposed discontinuance.¹

¹ The Board’s regulations contemplate, in the context of an application for discontinuance, that the applicant has a right to respond to a Protest. *See* 49 CFR 1152.25(c)(4), 1152.26. The Board should similarly allow this Reply to B&G’s Protest. If the Board were to determine that this Reply is instead a “reply to a reply,” then SLR requests that the Board allow the filing because it “provides a more complete record, clarifies the arguments, will not prejudice any party, and does not unduly prolong the proceeding.” *GNP Rly, Inc.—Acquisition and Operation*

Discussion

1. Forecast Year Traffic and Revenues

Upon receipt of the B&G Protest, SLR reviewed its shipping records for B&G. SLR acknowledges that B&G received { } carloads during calendar year 2013. Verified Statement of Blake C. Jones (“Jones VS”) at ¶ 4. B&G predicts continuing to ship at the same level; it does not claim that shipments will increase. B&G Protest, Snook VS at 2. While calendar year 2013 does not match the time period of the Forecast Year, SLR is willing to accept an estimate of traffic for the Forecast Year to { } carloads.² This would mean an increase in the revenue for the Forecast Year to { }. Jones VS at 6.

Despite B&G’s protestations, there is no obligation for SLR to seek additional revenues from increasing its rates (which B&G admittedly does not pay), or from requesting B&G to pay towards the service. As discussed in the Petition and in Section 2 below, since SLR’s costs so greatly exceed its revenues, any such efforts to become even breakeven would have been futile. Moreover, SLR has had discussions with B&G over the years about ways that revenues could be increased (through outbound moves of product, or additional inbound moves), or costs be decreased (through transload or through B&G purchasing equipment to spot its own cars). Jones V.S. 15. B&G was not interested in pursuing any of these options. Indeed, if B&G truly is willing to pay sufficient revenues to SLR for continued service, then B&G will have the

Exemption–Redmond Spur and Woodinville Subdivision, STB Docket No. FD 35407 (served June 15, 2011), slip op at 4-5.

² B&G did not receive the { } carloads it predicted; and there is no basis for rounding the carloads up to { } for the Forecast Year. Since B&G received only { } carloads in the Base Year, SLR is already giving B&G the benefit of rounding up.

opportunity to make an offer of financial assistance under 49 C.F.R. § 1152.27(b)(2) to subsidize continued rail service.

2. Forecast Year Costs

Although not discussed by B&G, the higher level of traffic for the Forecast Year would also mean an increase in the Forecast Year costs of serving B&G. Because of the still small volume of traffic, and the limited track space at B&G's plant, it is necessary for SLR to make a separate run for each carload that is received. Jones VS at ¶ 8. Crew costs associated with the predicted freight volume of { } carloads would be { }. Jones VS at ¶ 9. Other operating costs that SLR has not specifically quantified (including off branch costs of handling the traffic for approximately 200 miles from the interchange in Quebec to the Line, fuel and locomotive costs, and inspection costs³) would also increase. Jones V.S. at ¶¶ 10, 11.

SLR continues to believe that the estimate of maintenance costs set forth in the Petition (\$6,900 per mile) represents a conservative estimate of the costs that it incurs in maintaining the Line. Although B&G attacks the estimate generally, B&G acknowledges that SLR does incur maintenance costs.⁴ Freight revenues for the Forecast Year only exceed the crew costs by approximately { } – less than \$1,000 per mile. Under any scenario, the Board should take notice, the maintenance costs will clearly exceed \$1,000 per mile, meaning that SLR would be operating at a significant deficit, without even accounting for other expenses.

³ Because of the infrequency of deliveries, SLR must inspect the track ahead of each loaded car shipment.

⁴ For SLR to be entitled, as B&G argues, to the full 45G Tax Credit of \$3,500 per mile, SLR would need to spend at least \$7,000 per mile. B&G Protest, at 12-13.

B&G also claims that SLR's maintenance costs should be reduced by the amount of the 45G Tax Credit that is currently available. Setting aside that the 45G Tax Credit expires at the end of 2013 without any guaranty of extension, because SLR has sold the Line to the State of Maine, it no longer claims any 45G Tax Credit for the mileage associated with the Line. *See* Verified Statement of Blake C. Jones ("Jones VS"), ¶ 13.

The sale of the Line to the State of Maine did not affect the costs of operating the Line. The prior sale would only affect SLR's opportunity costs of holding the Line, and SLR has not relied on opportunity costs in justifying the discontinuance authority sought in this proceeding.

Thus it is clear that when crew costs, maintenance costs and other costs of operation, including off branch costs and fuel and locomotive costs, are considered, SLR has been operating the Line at a deficit, and it would be required to suffer a considerable operating loss if it were required to continue to provide service to B&G going forward.

3. Standards for Discontinuance

The record clearly shows that SLR will continue to suffer operating losses if it is required to continue to provide service over the Line, potentially undermining the service that SLR performs over the rest of its system. B&G does not seriously dispute this fact. B&G does not predict any increase in traffic or revenues. Further, B&G acknowledges that truck transportation is available, albeit at an increased cost. B&G argues that the Board should compare the increased costs that B&G alleges it would incur against the losses that SLR might incur. While the Board balances the potential harm to affected shippers with the burden on continued railroad operations and interstate commerce, the fact that a shipper may incur added expense is not sufficient by itself to outweigh the detriment to the public interest of continued uneconomic operations and excess facilities. *Montreal, Maine & Atlantic Railway, Ltd. – Discontinuance of*

Service and Abandonment – In Aroostook and Penobscot Counties, ME, Docket No. AB 1043 (Sub-No. 1) (served December 27, 2010), at 6-7 (and cases cited therein). Since B&G has not presented any evidence of harm other than possible increased expenses, the Board should find, on balance, that the public convenience and necessity permit discontinuance of the Line.

Conclusion

For the foregoing reasons and the reasons set forth in the Petition, SLR requests that the Board, under 49 U.S.C. §10502, exempt its discontinuance of service over the Line from regulation under 49 U.S.C. §10903.

Respectfully submitted,



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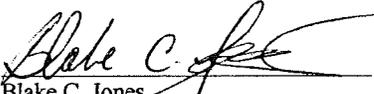
Dated: December 27, 2013

Attorneys for
St. Lawrence & Atlantic Railroad Company

Verification

I hereby verify on behalf of St. Lawrence & Atlantic Railroad Company, under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on December 27, 2013.


Blake C. Jones
General Manager

**VERIFIED STATEMENT OF
BLAKE C. JONES**

VERIFIED STATEMENT OF

BLAKE C. JONES

I, Blake C. Jones, hereby state as follows:

1. I am the General Manager of the St. Lawrence & Atlantic Railroad Company (“SLR”).
2. After receiving the Comments and Protest of B&G Foods North America, Inc. (“B&G”), we reviewed our records with respect to shipments to B&G.
3. I agree that based on the period of time selected for our review, the results disclosed, while not factually in error, could be misleading, and that the amount of rail traffic for the Forecast Year may be understated.
4. SLR confirms that { } carloads were shipped to B&G between January 1, 2013 and November 19, 2013 as stated in the B&G Comments. SLR confirms that { } additional carloads have been received between November 19, 2013 and today, for a total of { } carloads during calendar year 2013. (See attached.) SLR is willing to accept an estimate of { } carloads for the Forecast Year.
5. The increased estimate still only represents { } carloads per month, and approximately { } carload per mile per year.
6. Based on the amended estimate of carloads, SLR will earn approximately { } in revenue in the Forecast Year.
7. Because the carloads for the Forecast Year were understated, the crew cost expenses were also understated.
8. Cars for B&G arrive either singly, or sometimes in pairs. When the cars arrive in pairs, SLR delivers them both to B&G in a single trip; however, because B&G only has a single car spot, SLR must make a second trip to B&G to pull the empty and to place the second

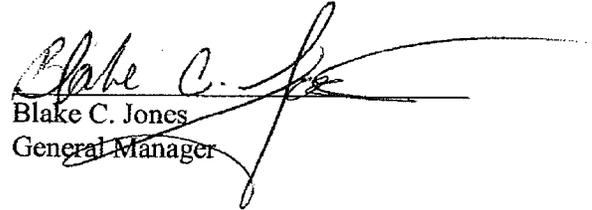
loaded car. Thus, SLR must essentially make one round trip for each loaded car that is received. (SLR does not charge B&G, or the shipper, for the extra trip.)

9. Based on the costs per trip set forth in Exhibit B to SLR's Petition, the total crew costs for the Forecast Year based on the receipt of { } carloads, would be approximately { }.
10. Under FRA regulations, because the line is in FRA Class 2 condition, the line must be inspected ahead of each loaded shipment.
11. SLR receives the cars for B&G in interchange at Richmond QC, approximately 200 miles from Danville Jct., and the beginning of the line.
12. While SLR could allow save some maintenance by allowing the condition of the line to deteriorate, the result would be that it would have to operate at lower speeds increasing the crew and operating costs of each delivery.
13. SLR has not claimed the 45G Tax Credit for the mileage comprising the line since the line was sold to the State of Maine.
14. Despite B&G's statements to the contrary, SLR has attempted to work with B&G to reduce costs or to increase revenues.
15. SLR over the years has spoken with both Tom King and Greg Ford of B&G about such possibilities as B&G shipping its product outbound by boxcar, about transloading the inbound beans at SLR's transload facility at Auburn, Maine, and about B&G acquiring a trackmobile so that it could spot its own cars. B&G was not interested in pursuing any of these options.

Verification

I, Blake C. Jones, hereby verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement.

Executed on December 27, 2013.


Blake C. Jones
General Manager

{CONFIDENTIAL ATTACHMENT}

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing document was served on the persons shown on the attached list, by email, or by first class mail, postage prepaid, as indicated on the list.



Eric M. Hocky

Dated: December 27, 2013

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