

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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DOCKET NO. AB 1043 (Sub-No. 1)

**MONTREAL, MAINE & ATLANTIC RY., LTD.
-DISCONTINUANCE OF SERVICE AND ABANDONMENT-
IN AROOSTOOK AND PENOBSCOT COUNTIES, MAINE**

**PETITION OF CANADIAN PACIFIC RAILWAY COMPANY
FOR LEAVE TO INTERVENE**

**ENTERED
Office of Proceedings**

AUG 3 - 2010

**Part of
Public Record**

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Dated: August 3, 2010

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Pursuant to 49 C.F.R. § 1112.4, Canadian Pacific Railway Company (“CP”) respectfully submits this Petition for Leave to Intervene for the limited purpose of submitting the accompanying comments regarding the questions posed by the Board in a decision served on July 20, 2010 in the above-captioned proceeding (the “*July 20 Decision*”). In that Decision, the Board invited comment with respect to two jurisdictional issues: (1) “whether the provisions of 49 U.S.C. § 10903 and 49 U.S.C. § 10904 would support the imposition of conditions in this case requiring access of any sort (including trackage rights and haulage rights)” in connection with the Offer of Financial Assistance (“OFA”) filed by the State of Maine, and (2) “[the Board’s] authority to order [such] access over a carrier’s lines into a foreign country.” *July 20 Decision* at 3.

CP believes that the Board’s request for “briefing from interested parties” on those issues (*July 20 Decision* at 3) indicates that the Board welcomes comments from any interested party (including parties, like CP, who have not previously participated in this proceeding). Nevertheless, out of an abundance of caution, CP submits this Petition to Intervene for the limited purpose of filing the accompanying “Comments of Canadian Pacific Railway Company” (the “CP Comments”). The CP Comments take no position with respect to the merits of the

abandonment application filed by Montreal, Maine & Atlantic Railway, Ltd (“MM&A”), or the Offer of Financial Assistance (“OFA”) submitted by the State of Maine, in this proceeding. Nor do those Comments express any view as to whether the facts and circumstances of record would warrant such relief in this case. Rather, the CP Comments (and CP’s interest in this proceeding) relate solely to the jurisdictional questions of whether the Board has authority generally to impose such conditions in OFA cases and, in particular, whether such authority (if it exists) extends to rail lines in Canada.¹

CP, in conjunction with its United States subsidiaries, Soo Line Railroad Company, Dakota Minnesota & Eastern Railroad Corporation, and Delaware and Hudson Railway Company, Inc., conducts extensive rail operations in both the United States and Canada, including the transportation of substantial volumes of cross-border freight. The rail network operated by CP and its affiliates includes both rail lines located in the United States that are subject to the Board’s jurisdiction and rail lines serving Canada that are subject to the exclusive jurisdiction of the Canadian Transportation Agency (“CTA”). As a Canadian railroad, CP has an obvious interest in the Board’s request for “comment on its authority to order access over a carrier’s lines into a foreign country” (*July 20 Decision* at 3), and a vital stake in the manner in which the Board ultimately answers that question. Moreover, because CP’s United States subsidiaries operate thousands of miles of track in the United States, it is likely that one or more of those carriers may become a party to an OFA proceeding in connection with which the prospective purchaser asks the Board to grant ancillary access rights over rail lines that are not part of the proposed abandonment.

¹ CP understands that the rail lines over which State of Maine seeks to acquire ancillary trackage rights or haulage rights in connection with its OFA include MM&A’s line extending from the United States-Canada border in the vicinity of Van Buren, ME to a point of connection with Canadian National Railway Company in the vicinity of St. Leonard, NB.

For the foregoing reasons, CP respectfully requests that the Board grant it leave to intervene in the above-captioned proceeding for the limited purpose of filing the CP Comments.

Respectfully submitted,

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Counsel for Canadian Pacific Railway Company

Dated: August 3, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing Petition of Canadian Pacific Railway Company for Leave to Intervene to be served by first class mail, postage prepaid, this 3rd day of August 2010 to all parties of record.

/s/Terence M. Hynes

Terence M. Hynes