

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36368

SOO LINE CORPORATION—CONTROL—
CENTRAL MAINE & QUEBEC RAILWAY US INC.

Decision No. 3

Digest:¹ This decision authorizes Soo Line Corporation to acquire control of Central Maine & Quebec Railway US Inc.

Decided: May 1, 2020

On December 17, 2019, Soo Line Corporation (Soo Line Corp.) and Central Maine & Quebec Railway US Inc. (CMQR US) (collectively, Applicants) filed an application seeking Board approval for Soo Line Corp. to acquire control of CMQR US. This proposal is referred to as the Transaction. The Board approves the application, subject to standard employee protective conditions.

BACKGROUND

Applicants seek the Board's prior review and authorization pursuant to 49 U.S.C. §§ 11323-25 and 49 C.F.R. part 1180 for Soo Line Corp. to acquire control of CMQR US. (Appl. 1.) Applicant Soo Line Corp. is an indirect, wholly owned subsidiary of Canadian Pacific Railway Company (CP). (Id. at 1 n.1.) Applicant CMQR US is a wholly owned subsidiary of Railroad Acquisition Holdings LLC (RAH). (Id. at 1, 6.) RAH is a wholly owned subsidiary of Fortress Transportation and Infrastructure Investors LLC. (Id. at 1 n.2.) Soo Line Corp. plans to acquire all of the outstanding membership interests of RAH, including all of the outstanding common stock of CMQR US, through a merger of Black Bear Acquisition LLC, a wholly owned subsidiary of Soo Line Corp., and RAH, pursuant to an Agreement and Plan of Merger. (Id. at 6.) RAH would be the surviving limited liability company and a wholly owned subsidiary of Soo Line Corp. (Id.)

CMQR US owns and operates approximately 244.2 miles of rail lines in Vermont and Maine and also has the right to operate on approximately 57.25 miles of rail line leased from the Maine Department of Transportation, for a total of approximately 301.45 route miles in the

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

United States.² (*Id.* at 1, 18.) More specifically, these lines consist of the rail line beginning at a point in the vicinity of Searsport, Me., designated on CMQR US's system map as milepost 0.0± of CMQR US's Bangor Subdivision and continuing north through Maine through Brownville Junction, Me. to a point in the vicinity of Millinocket, Me., designated as milepost 109.00± of CMQR US's Millinocket Subdivision, a distance of approximately 109 miles; the rail line beginning at a point in the vicinity of Millinocket, designated on CMQR US's system map as milepost 0.0± of the East Millinocket Subdivision and continuing southeast to East Millinocket, Me., to a point designated as milepost 6.19± of CMQR US's East Millinocket Subdivision, a distance of approximately 6.19 miles; the rail line beginning at a point in the vicinity of Brownville Junction, designated on CMQR US's system map as milepost 0.0± on CMQR US's K.I. Subdivision and continuing to a point in the vicinity of Brownville Junction, designated as milepost 4.0± of the K.I. Subdivision, a distance of approximately 3.74 miles; the rail line beginning in the vicinity of Brownville Junction, from a point of connection with Eastern Maine Railway Company designated on CMQR US's system map as milepost 0.0± of CMQR US's Moosehead Subdivision and continuing west to the United States/Canada border near Skinner, Me., designated as milepost 101.80± of the Moosehead Subdivision, a distance of approximately 101.8 miles; the rail line beginning at the United States/Canada border crossing in the vicinity of Richford, Vt., designated on CMQR US's system map as milepost 26.25± of CMQR US's Newport Subdivision, continuing north into Canada, re-entering the United States near North Troy, Vt., and then continuing south to a point in the vicinity of Newport, Vt., designated as milepost 60.4± at the end of the Newport Subdivision, a distance of approximately 23.47 miles in the United States;³ and the rail line leased from the Maine Department of Transportation beginning in the vicinity of Brunswick, Me., designated on CMQR US's system map as milepost 29.40± of CMQR US's Rockland Subdivision and continuing to a point in the vicinity of Rockland, Me., designated as milepost 86.65± of the Rockland Subdivision, a distance of approximately 57.25 miles. (*Id.* at 18-20.)

Applicants state that, following the Transaction, CMQR US would continue to provide service to local customers on its lines and move interline traffic for interchange with CP. (*Id.* at 3.) Applicants further state that the Transaction would not reduce competitive rail alternatives for customers located on CMQR US. (*Id.*) Additionally, Applicants state that, following the Transaction, there would be opportunities to reduce costs of service by operating more efficiently between CP and the CMQR US system as well as over CMQR US, such as by CMQR US gaining access to CP's equipment pool and by CMQR US and CP performing pre-blocking of traffic for each other. (*Id.* at 10-11.) According to Applicants, to provide faster and more efficient service and ensure safe operations, CP plans to invest in CMQR US's infrastructure, as much as \$75 million over the next three years, as part of a capital plan to upgrade the condition of much of the CMQR US system to Federal Railroad Administration (FRA) Class 3 standards. (*Id.* at 11.) Applicants state that the improvements would lead to faster operating speeds, which should in turn reduce the number of train crews required, reduce cycle times, improve equipment

² Soo Line Corp. will also acquire 236.81 route miles of rail line from CMQR Canada and will seek authorization from the appropriate Canadian authority for that acquisition. (Appl. 2 n.3.)

³ The Newport Subdivision crosses into Canada at milepost 32.63± and enters the United States again at milepost 43.32± near North Troy. (Appl. 19.)

utilization, and improve the reliability and consistency of service. (Id.) According to Applicants, the Transaction would help ensure that CMQR US will have access to capital needed to make track upgrades, maintain the track in good operating condition, and work with shippers to develop potential new business opportunities. (Id. at 11-12.)

On January 16, 2020, the Board issued a decision which accepted the control application, established a procedural schedule, and preliminarily determined that the proposed transaction is a minor transaction as defined by the Board's regulations.⁴ Soo Line Corp.—Control—Cent. Me. & Quebec Ry. US Inc. (Decision No. 1), FD 36368 (STB served Jan. 16, 2020). Based on the application and the record at that time, the Board preliminarily determined that the Transaction would clearly not have anticompetitive effects and that, if any anticompetitive effects did exist, they clearly would be outweighed by the Transaction's anticipated contribution to the public interest in meeting significant transportation needs. Decision No. 1, FD 36368, slip op. at 1. The Board explained, however, that its findings regarding anticompetitive effects were preliminary and that it would carefully consider any claims that the Transaction would have anticompetitive effects that were not apparent from the application and the record at that time. Id. at 5-6. In making that determination, the Board reserved the right to require the filing of supplemental information as necessary to complete the record. Id. at 5.

Substantive comments and/or requests for conditions were filed by Springfield Terminal Railway Company (ST) and Robert J. Keach, the Estate Representative (the Trustee) of the post-effective date estate of Montreal Maine & Atlantic Railway, Ltd. (MMA).⁵ Statements of support for the Transaction were filed by: Irving Consumer Products Limited; Cavendish Farms; Lake Utopia Paper (a Division of J.D. Irving, Limited); Irving Pulp and Paper, Limited; Irving Paper, Limited; J.D. Irving Limited Sawmills; Atlantic Wallboard Limited; Sprague Energy; State of Maine Department of Transportation; the Northern New England Passenger Rail Authority; and the National Railroad Passenger Corporation (Amtrak).

DISCUSSION AND CONCLUSIONS

Statutory Criteria. Under 49 U.S.C. § 11323(a)(3), the acquisition of control of a rail carrier by another rail carrier requires prior Board approval. See also 49 U.S.C. § 11324. Here, Soo Line Corp. seeks to acquire control of CMQR US. Because this transaction does not involve the merger or control of two or more Class I railroads, it is governed by § 11324(d), which directs the Board to approve the application unless it finds that: (1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of

⁴ Under 49 C.F.R. § 1180.2, a transaction that does not involve two or more Class I railroads is considered to be minor if a determination can be made that (1) the transaction would clearly not have anticompetitive effects, or (2) any anticompetitive effects would clearly be outweighed by the transaction's anticipated contribution to the public interest in meeting significant transportation needs.

⁵ Mr. Keach states that he was originally the chapter 11 trustee for MMA appointed pursuant to 11 U.S.C. § 1163 and became the Estate Representative of the post-effective date of MMA in connection with the effective date of the chapter 11 plan confirmed by the Bankruptcy Court. (Trustee Comments ER-1 n.1.)

trade in freight surface transportation in any region of the United States; and (2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

In assessing transactions subject to § 11324(d), the Board's primary focus is on the anticipated competitive effects. The Board must approve the application unless there would be adverse competitive impacts that are both "likely" and "substantial." And, even if the Board were to find that there would be likely and substantial anticompetitive impacts, the Board may not disapprove the transaction unless the anticompetitive impacts outweigh the benefits and cannot be mitigated through conditions. See Norfolk S. Ry.—Acquis. & Operation—Certain Rail Lines of the Del. & Hudson Ry. (NS/D&H), FD 35873, slip op. at 14 (STB served May 15, 2015); Paducah & Louisville Ry.—Acquis.—CSX Transp., Inc., FD 34738, slip op. at 4 (STB served Nov. 18, 2005); Canadian Nat'l Ry.—Control—Wisc. Cent. Transp. Corp., FD 34000, slip op. at 10 (STB served Sept. 7, 2001); Kan. City S. Indus., Inc.—Control—Gateway W. Ry., FD 33311, slip op. at 4 (STB served May 1, 1997); CSX Corp.—Control—Ind. R.R., FD 32892, slip op. at 5 (STB served Nov. 7, 1996).

After considering the application and the full record in this proceeding, the Board finds that Soo Line Corp.'s acquisition of control of CMQR US would not likely cause a substantial lessening of competition or create a monopoly or restraint of trade. The Transaction is an end-to-end acquisition involving approximately 301.45 miles of rail line in Maine and Vermont. The record indicates that CMQR US will continue to provide service to local customers on its lines and move interline traffic for interchange with CP, and the Transaction will not reduce competitive rail alternatives for customers located on CMQR US. Nothing in the record indicates that any shippers would experience reduced competitive rail service options as a result of the Transaction.

Even if the Transaction were to result in anticompetitive effects, they would be outweighed by its public benefits. Applicants state that the Transaction would enhance the efficiency of Applicants' rail operations. The record shows that CP plans to invest as much as \$75 million to upgrade the condition of much of the CMQR US system to FRA Class 3 standards and that Applicants expect the Transaction to result in faster, seamless, and more efficient service on Applicants' lines, which should benefit shippers. (Appl. at 11.) Additional public benefits would include the opening of new markets, such as the import and export markets served by the Atlantic deep-water ports of Searsport, Me., and Saint John, N.B. (Id. at 9-10.) According to Applicants, improved service to Searsport creates the potential to broaden the range of both the commodities handled and geographic markets reached through this port. (Id. at 9.)

Conditions and Other Relief Sought. ST and the Trustee have asked the Board to impose certain conditions upon its approval of the Transaction. Under 49 U.S.C. § 11324(c), the Board has broad authority to impose conditions on a transaction subject to § 11324(d). See Grainbelt Corp. v. STB, 109 F.3d 794, 798 (D.C. Cir. 1997) (the agency "has extraordinarily broad discretion in deciding whether to impose protective conditions in the context of railroad consolidations"). Typically, the Board uses its conditioning authority to ameliorate competitive harm that would result from the transaction. See Kan. City S.—Control—Kan. City S. Ry., FD 34342, slip op. at 16 (STB served Nov. 29, 2004). In doing so, the harm caused by the

transaction “must be distinguished from pre-existing disadvantages that other railroads, shippers, or communities may have been experiencing . . . i.e., pre-existing disadvantages that will neither be caused nor exacerbated” by the transaction. Canadian Nat’l Ry.—Control—Duluth, Missabe & Iron Range Ry., FD 34424, slip op. at 14 (STB served Apr. 9, 2004); see also NS/D&H, FD 35873, slip op. at 14, 22. The Board’s conditioning power is thus “used to preserve competitive options (not to expand them).” Burlington N. Inc.—Control & Merger—Santa Fe Pac. Corp., 10 I.C.C.2d 661, 745 (1995). The Board will address the requests by ST and the Trustee below.

ST’s Requested Condition. ST is a Class II rail carrier providing freight rail transportation service throughout the northeast U.S. and Canadian Maritimes, a region of eastern Canada. (ST Comments 1-2.) ST states that it is a party to an interchange agreement with CMQR US at Northern Maine Junction, Me., governing traffic moving to and from northern Maine and the Canadian Maritimes, which has been in place since approximately 2015. (*Id.* at 2.) According to ST, traffic moving via this interchange is a mix of interline and haulage carloads, the majority of which originates or terminates on the Eastern Maine Railway Company, the Maine Northern Railway Company, or the New Brunswick Southern Railway Company Limited (collectively, the Irving Railroads). (*Id.*) ST states that the Irving Railroads connect with CMQR US at Brownville, Me., and CMQR US then shuttles traffic between Brownville and Northern Maine Junction. (*Id.*) According to ST, this interchange agreement was a result of ST and CMQR US’s desire to increase the interchange of traffic in response to the routing of traffic to and from the Canadian Maritimes away from ST’s line to Mattawamkeag, Me., due to the conditions of that ST line and the efficiencies that could be gained by the new routing. (*Id.*)

ST argues that a similar arrangement is necessary post-Transaction to ensure competitive alternatives for shippers to and from this region. (*Id.* at 2-3.) Specifically, ST requests that the Board condition approval of the Transaction on Soo Line Corp.’s grant to ST of trackage rights between Northern Maine Junction and Brownville. (*Id.* at 5.) ST asserts that, while the application discusses at length the benefits to be gained from east-west interline traffic between the present day CMQR US and Soo Line Corp., there is very little discussion of north-south routings or CMQR’s existing Class II and III connections, including the connection with ST at Northern Maine Junction and the Irving Railroads at Brownville. (*Id.* at 3.) According to ST, the focus on east-west long-haul traffic is the reason why the Transaction will likely have significant anticompetitive impacts on shippers by downgrading or potentially closing the current north-south interchange at Northern Maine Junction. (*Id.*) ST asserts that such adverse impacts would result from Soo Line Corp.’s desire to divert as much traffic as possible over its own lines, or from its desire to utilize the Northern Maine Junction connection to grow its traffic from Searsport to the detriment of other shippers. (*Id.* at 3-4.)

ST asserts that this anticompetitive outcome is directly related to the Transaction because, while the revenue provided to CMQR US by shuttling trains between Brownville and Northern Maine Junction is significant to CMQR US and therefore an incentive to provide reliable service at reasonable rates, Soo Line Corp. is a Class I carrier with no vested interest in maintaining the Northern Maine Junction interchange. (*Id.* at 4.) Therefore, according to ST, there is significant risk that the Transaction would result in a loss to shippers of the existing routing via Northern Maine Junction, leaving those shippers with fewer options than they have

now. (*Id.*) ST does acknowledge, however, that, if necessary, it could revert to using its Mattawamkeag interchange and avoid Northern Maine Junction altogether, while still competing for traffic originating and terminating on the Irving Railroads. (*Id.* at 4-5.)

Applicants respond that ST has failed to provide evidence of either harm to competition or harm of any sort that would result from the Transaction. (Applicants Reply 2.) Applicants state that they intend to maintain existing interchanges and invest in upgrading rail facilities, and that ST’s concerns that the interchange at Northern Maine Junction would be downgraded or closed are “baseless speculation.” (*Id.* at 8.) Applicants also clarify that CMQR US currently handles traffic moving between CMQR US’s connection with ST at Northern Maine Junction and Brownville Junction pursuant to a voluntarily agreed-upon haulage agreement with NBM Railways. (*Id.* at 6.) Applicants note that ST is not a party to that haulage agreement, but CMQR US does interchange a smaller amount of interline traffic with ST at Northern Maine Junction pursuant to a 2015 interchange agreement between CMQR US and ST. (*Id.* at 6-7.) Applicants point out that the majority of interline traffic either originates or terminates on CMQR US, and much of that traffic is subject to the common carrier obligation. (*Id.* at 8.) Accordingly, CMQR US states that it will continue to interchange this traffic with ST absent the availability of a more efficient alternative routing. (*Id.*)

According to Applicants, termination of the haulage agreement would neither result from the Transaction nor harm competition. (*Id.* at 7.) Applicants argue that the condition ST requests—converting a voluntarily agreed-upon haulage agreement to a regulated trackage rights agreement—seeks only to protect and enhance ST’s revenues and cost structure, and would impose operating and capacity burdens on CMQR US, which is beyond the scope of the Board’s conditioning power. (*Id.*) According to Applicants, while ST might prefer the haulage arrangement or interline routing due to the condition of ST’s line to Mattawamkeag or the haulage routing’s efficiencies, if the haulage agreement were to terminate, ST could revert to the Mattawamkeag routing as it chose to do in 2016. (*Id.* at 8.) Therefore, the possibility that CMQR US might terminate the haulage agreement does not put at risk any shipper’s access to competitive surface freight transportation, and trackage rights would be both duplicative and unnecessary. (*Id.* at 8-9.)

Applicants also argue that, even if ST had established a likelihood of competitive harm, the imposition of trackage rights as a condition would be a disproportionate remedy, as it would give ST significantly more rights than it has now. (*Id.* at 3, 12 (citing Wisc. Cent. Transp. Corp.—Continuance in Control—Fox Valley & W. Ltd., 9 I.C.C.2d 233, 246 (1992).) According to Applicants, under a trackage rights agreement, CMQR US would be required to allow ST to operate its own trains on the line, consuming capacity that CMQR US may need to handle its own traffic. (*Id.* at 11-12.) Applicants further note that, under 49 C.F.R. § 1180.3(h), ST’s request for trackage rights must be made in a responsive application and such applications are prohibited in minor transactions per 49 C.F.R. § 1180.4(d)(1). (*Id.* at 12.)

ST’s request for trackage rights will be denied. As noted by Applicants, a request to grant trackage rights to a third party amounts to a responsive application, which is not permitted in a minor transaction proceeding under 49 U.S.C. § 11325 (providing for applications inconsistent with the primary application in only major and significant transactions) and

49 C.F.R. § 1180.3(h) (defining responsive applications to include inconsistent applications and requests for affirmative relief such as trackage rights), 49 C.F.R. § 1180.4(d)(1) (prohibiting responsive applications in minor transactions). See Bessemer & Lake Erie R.R.—Acquis. & Operation—Certain Rail Lines of CSX Transp., Inc. in Onondaga, Oswego, Jefferson, Saint Lawrence, & Franklin Ctys., N.Y., FD 36347, slip op. at 8-9 (STB served April 6, 2020); NS/D&H, FD 35873, slip op. at 24-25. Even if such relief were permissible here, the Board finds that no likely or substantial competitive harm would result from the Transaction that would warrant the trackage rights relief sought by ST. Cf. NS/D&H, FD 35873, slip op. at 25-27 (denying conditions to short lines that would experience the addition of a carrier to their routes as a result of the transaction). ST acknowledges that it could revert to using its Mattawamkeag interchange if necessary. CMQR US confirmed it would continue to provide service to local customers on its lines, and nothing in the record indicates that any shippers would experience reduced competitive rail service options as a result of the Transaction. CMQR US has also stated its intent to maintain all existing interchanges and upgrade rail facilities. No shippers have submitted evidence indicating any competitive harm; indeed, no shippers have opposed the Transaction. Furthermore, Applicants state that the Transaction would enhance the efficiency of Applicants' rail operations, which should benefit shippers.

The Trustee's Request to Delay Consideration of Application. MMA previously owned the CMQR US rail lines that are the subject of the Transaction. See Cent. Me. & Quebec Ry. US Inc.—Acquis. & Operation Exemption—Montreal, Me. & Atl. Ry., FD 35805 (STB served Feb. 28, 2014). The Trustee's comments question the "safety culture" of CP and Soo Line Corp., and focus on the 2013 Lac Megantic, Quebec, Canada, derailment and resultant litigation, and other derailments involving CP-controlled trains. (Trustee Comments ER-2 to ER-3.) The Trustee asserts that the role of CP and Soo Line Corp. in connection with the Lac Megantic disaster is being actively litigated, including a complaint filed by the Trustee seeking damages resulting from CP and Soo Line Corp.'s alleged negligence. (*Id.* at ER-2, ER-6.) The Trustee argues that the Board should delay consideration of the Application until full and final resolution of all pending litigation and investigations in Canada. (*Id.* at ER-12.) According to the Trustee, the Board lacks sufficient information to make an informed decision about whether Soo Line Corp.'s acquisition of CMQR US would be in the public interest without the addition of necessary safety- and environment-related conditions. (*Id.*) Therefore, the Trustee argues that the Board and the public would be best served by waiting for an adjudication or other resolution in all pending litigation and the conclusion of the pending investigations in Canada so that the Board can decide which conditions should be imposed upon the Transaction to ensure the safety of the public and the environment. (*Id.*)

Applicants respond that the Trustee's allegations are baseless and that the suggested conditions are beyond the scope of the Board's conditioning power. (Applicants Reply 12-13.) Applicants argue that the Trustee's concerns and suggested conditions are unrelated to any competitive harm caused by the Transaction and therefore must be rejected. (*Id.* at 13.) Further, Applicants argue that the Trustee's safety concerns fall under the jurisdiction of FRA, not the Board. (*Id.*) Applicants assert that the Trustee's requests are neither in the interests of safety nor intended to address harm likely to be caused by the Transaction, but rather they are an attempt to gain leverage in ongoing litigation against CP. (*Id.*) To the contrary, Applicants argue that the transaction is in the interest of safety given the intended investment of up to \$75 million in the

CMQR US system in the next three years to improve infrastructure, including upgrading track to FRA Class 3 track standards. (*Id.* at 15.)

The Trustee has expressed broad concerns about alleged safety issues on CP and Soo Line Corp. Although rail safety matters are principally within the jurisdiction of the FRA, and the standard for the Board’s approval of the Transaction is primarily competition based, see 49 U.S.C. § 11324(d), the national rail transportation policy provides that facilities and equipment are to be operated “without detriment to the public health and safety,” 49 U.S.C. § 10101(8), and the Board is mindful of the tragic losses suffered at Lac Megantic in 2013. Here, however, the Trustee has not proposed specific conditions, and there is nothing in the record indicating specific safety-related harms that would result directly from the Transaction and warrant the extraordinary relief sought by the Trustee. The Board, therefore, concludes that there is not a sufficient basis for indefinitely postponing its consideration of the Transaction, and the Trustee’s request to do so therefore will be denied. The Board further notes, however, that, under 49 U.S.C. § 1322, the Board may, at any time, reopen a proceeding, or grant rehearing, reargument, or reconsideration of an action of the Board, or change an action of the Board, if, among other things, circumstances substantially change or new evidence becomes available.

Employee Protection. Under 49 U.S.C. § 11326(a), the Board must impose employee protective conditions on its approval of this transaction. Because this transaction is an acquisition of control under 49 U.S.C. § 11323(a)(3), the appropriate employee protective conditions to impose are those set out in New York Dock Railway—Control—Brooklyn Eastern District Terminal, 360 I.C.C 60, aff’d New York Dock Railway v. United States, 609 F.2d 83 (2d Cir. 1979).⁶

Environmental Issues. The traffic levels involved in the proposed acquisition transaction fall below the Board’s thresholds for environmental review in 49 C.F.R. § 1105.7(e)(4) and (5). (Appl. 20-22.) Therefore, the Transaction is exempt from environmental reporting requirements under 49 C.F.R. § 1105.6(c)(1), and no environmental review is required. Furthermore, no historic review is required for this acquisition of control. See 49 C.F.R. § 1105.8(b)(3).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The application for Soo Line Corp. to acquire control of CMQR US is approved.

⁶ As noted by Applicants, Decision No. 1 incorrectly stated that any employees adversely impacted by the Transaction would be entitled to labor protective conditions in accordance with New York Dock, as modified by Wilmington Terminal Railroad—Purchase & Lease—CSX Transportation Inc., 6 I.C.C. 2d 799, 814-26 (1990), aff’d sub nom. Railway Labor Executives’ Ass’n v. ICC, 930 F.2d 511 (6th Cir. 1991). (Applicants Reply 21 n.13.) This error is corrected in this decision.

2. Approval of the Transaction is subject to the employee protective conditions set out in New York Dock Railway—Control—Brooklyn Eastern District Terminal, 360 I.C.C 60, aff'd New York Dock Railway v. United States, 609 F.2d 83 (2d Cir. 1979).

3. Any condition requested by any party in this proceeding that has not been specifically approved in this decision is denied.

4. Petitions for reconsideration of this decision must be filed by May 26, 2020. Requests for stay must be filed by June 10, 2020.

5. This decision will be effective on June 18, 2020.

By the Board, Board Members Begeman, Fuchs, and Oberman.