

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB 1311

ENTERED
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June 9, 2021
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Public Record

**METRO-NORTH COMMUTER RAILROAD COMPANY—ADVERSE
DISCONTINUANCE OF TRACKAGE RIGHTS—HOUSATONIC RAILROAD
COMPANY**

MOTION FOR PROTECTIVE CONDITIONS

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Dated: June 9, 2021

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SURFACE TRANSPORTATION BOARD**

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**METRO-NORTH COMMUTER RAILROAD COMPANY—ADVERSE
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COMPANY**

MOTION FOR PROTECTIVE CONDITIONS

Metro-North Commuter Railroad Company (“Metro-North”), through counsel, hereby files this Motion for Protective Conditions pursuant to 49 C.F.R. § 1114.21(c) to request the Surface Transportation Board (“STB” or “Board”) to excuse Metro-North from responding to certain Interrogatories propounded by Housatonic Railroad Company (“HRRC”). The Interrogatories of Housatonic Railroad Company to Metro-North Commuter Railroad Company (“Interrogatories”) dated May 13, 2021, are attached as **Exhibit A**.

Metro-North has provided HRRC with the information requested in Parts I and II of the Interrogatories. However, the information sought in Part III (“General Line Characteristics, Condition, and Maintenance”) is overly burdensome and bears no relevance to any issues in the proposed adverse discontinuance that is the subject of this proceeding nor are the Interrogatories in Part III likely to lead to the discovery of relevant evidence. In support of the Motion for Protective Conditions, Metro-North states the following:

BACKGROUND

On April 30, 2021, Metro-North filed an Application for Adverse Discontinuance of Trackage Rights (“Application”)¹ of the HRRC over the line of railroad in New York State known as the “Beacon Line” between milepost 0.0 at Beacon, New York, and milepost 71.2 at the Connecticut/New York state line, a distance of 41.1 miles from Beacon, New York to Brewster, New York in Dutchess and Putnam Counties, New York (hereafter, the “Line” or “Beacon Line”). Application, 1.

Metro-North is a New York State public benefit corporation and subsidiary of the Metropolitan Transportation Authority (“MTA”), a New York State public authority. Application, 1. Metro-North acquired the Beacon Line in 1995 for \$4.2 Million. HRRC has exclusive freight operating rights on the Beacon Line pursuant to a Trackage Rights Agreement originally executed between Metro-North and HRRC’s predecessor railroad. *Id.* at 3-4. Since Metro-North acquired the Beacon Line in 1995, no freight traffic has moved on the Line. *Id.* at 5-6, citing Exhibit D, Verified Statement of John Longobardi. Accordingly, in 2020 Metro-North took steps to abandon the Line to alleviate the costs associated with ownership of an active rail line. Pursuant to the authority granted by the Interstate Commerce Commission in 1995, Metro-North is exempt from the provisions of 49 U.S.C. Subtitle IV and may abandon the Beacon Line subject only to the operating carrier seeking authority to discontinue freight service. Application, 2; *Metro North Commuter R.R. Co.—Acquisition Exemption—The Maybrook Line; Metro North Commuter R.R. Co.—Exemption—From 49 U.S.C. Subtitle IV*, ICC Finance Docket No. 32639 (Sub-No. 1), slip

¹ Prior to filing the Application, Metro-North filed a Petition for Partial Waivers of Discontinuance Regulations and for Exemption in anticipation of filing the full Application. *Petition for Partial Waivers of Discontinuance Regulations and for Exemption*, AB 1311 (filed Feb. 8, 2021) (“*Petition for Partial Waivers*”). The Board issued a decision on the *Petition for Partial Waivers*, granting in part and denying in part, on April 20, 2021. *Metro-North Commuter R.R. Co.—Adverse Discontinuance of Trackage Rights—Housatonic R.R. Co.*, STB Docket No. AB 1311 (Service Date April 20, 2021).

op. at 2 (Service Date Jan. 13, 1995). Further, the governing Trackage Rights Agreement between Metro-North and HRRC provides that Metro-North may abandon the Beacon Line by giving HRRC 120 days' notice of Metro-North's intent to abandon the Line. Application, 4 (quoting Application, Exhibit B). The terms of the Trackage Rights Agreement require HRRC to seek authority to discontinue its operations on the Line concurrently with Metro-North's abandonment of the Line, and also prohibit HRRC from interfering with or opposing Metro-North's actions to seek and exercise abandonment authority. *Id.*

In spite of HRRC's obligation to seek discontinuance authority and to not interfere with Metro-North's abandonment of the Line, HRRC has indicated its opposition to Metro-North's abandonment of the Line in violation of the Trackage Rights Agreement. *Reply of Housatonic Railroad Company to Petition for Waivers of Discontinuance Regulations and for Exemption*, AB 1311 (filed Feb. 12, 2021).

On May 13, 2021, HRRC sent Metro-North a list of Interrogatories. The Interrogatories contain three parts: Part I – Proposed Abandonment, Part II – Current and Planned Trail Use and Part III – General Line Characteristics, Condition and Maintenance. **Exhibit A**, Interrogatories, 1-7. Metro-North has provided HRRC with responses to the requests contained in Parts I and II. However, the requests contained in Part III are irrelevant and burdensome. HRRC seeks information regarding the following: estimated annual maintenance expenditures for inspection, track maintenance, signal maintenance and bridge and structure maintenance for each year between 1995 and 2021. Exhibit A, 5. HRRC also seeks a detailed breakdown about how many rail ties have been installed each year since 1995, the number of ties needed to return the Line to Federal Railroad Administration Class 1 standards, material and labor costs associated with replace of the ties, and associated workpapers. *Id.* at 5-6. HRRC requests detailed information regarding

the number of grade crossings on the Line with active warning systems, which of those function as designed, which have been removed in whole or in part and all of the dates for the removal of any grade crossings. *Id.* at 6.

Further, HRRC's discovery includes requests for information about portions of the rail Line that are not related to the abandonment of the Beacon Line. *Id.* Specifically, HRRC seeks information about grade crossings in Danbury, Connecticut and the estimated cost of rehabilitation of those crossings. *Id.*

HRRC's interrogatories also seek information on the condition of the ballast on the Line and details relating to surfacing of the Line dating back to 1995. *Id.* HRRC asks Metro-North "how much ballast is required to upgrade the line," and the estimated cost of material and labor necessary to restore the line to Class I track standards. *Id.*

HRRC seeks the same detailed information on the condition of the rail Line – including labor and material for full replacement of the Line – as well as the maintenance and rehabilitation costs for all bridge and structures on the Line. *Id.* at 7-8.

None of this information is relevant to the Adverse Discontinuance proceeding. HRRC has a contractual obligation to seek discontinuance authority when Metro-North seeks regulatory authority to abandon the Line. Since HRRC has brought no traffic to the Line since at least 1995, and since HRRC's obligation to discontinue is unqualified and does not depend in any way on the condition of or costs to rehabilitate the Line, HRRC can only be presenting these requests to harass Metro-North and create an undue burden. HRRC's request for detailed information about the maintenance of the Line and projected costs to upgrade the Line are well beyond the scope of this proceeding. HRRC cannot use the Board's discovery rules to undertake its own cost analysis of a

rail line. The Board should issue Protective Conditions to ensure Metro-North is not required to provide the information HRRC seeks in Part III of its Interrogatories.

ARGUMENT

A. Discovery is Limited to Information “Relevant to the Subject Matter in a Proceeding”

Pursuant to 49 C.F.R. § 1114.21(a), discovery in abandonment proceedings is limited to matters “relevant to the subject matter involved in a proceeding. . . .” “[P]arties seeking discovery in abandonments and discontinuances must demonstrate relevance and need.” *Delaware and Hudson Ry. Co., Inc.—Discontinuance of Trackage Rights Exemption—In Broome Cty.; Middlesex, Essex, Union, Somerset, Hunterdon, and Warren Counties, N.J.; Cumberland, Chester, Luzerne, Perry, York, Lancaster, Northampton, Lehigh, Carbon, Berks, Montgomery, Northumberland, Dauphin, Lebanon, and Philadelphia Counties, Pa.; Cecil, Harford, Baltimore, Anne Arundel, and Prince George’s Counties, and Baltimore City, Md.; the District of Columbia; and Arlington County, and the City of Alexandria, Va.*, STB Docket No. AB 156 (Sub-No. 27X), slip op. at 2 (STB Service Date Aug. 10, 2015) (“*Delaware and Hudson*”). “In particular, ‘the nature of abandonment cases and the need to decide them promptly have led us to require that discovery requests be sharply focused and clearly justified.’” *Id.* (quoting *Cent. R.R. of Ind.--Aban. Exemption--in Dearborn, Decatur, Franklin, Ripley, & Shelby Cntys., Ind.*, AB 459 (Sub-No. 2X), slip op. at 4 (STB served Apr. 1, 1998)).

Under the Board’s rules, a party may seek protective conditions “to protect a party [] from annoyance, embarrassment, oppression, or undue burden or expense, or to prevent the raising of issues untimely or inappropriate to the proceeding.” 49 C.F.R. § 1114.21(c). The Board has wide latitude to provide relief, including issuing an order “[t]hat the discovery not be had.” 49 C.F.R. § 1114.21(c)(1). In considering a motion for protective conditions, the Board must balance the

burden against the likely relevance or value of the information sought: “Under 49 CFR § 1114.21(c) . . . discovery may be denied if it would be unduly burdensome in relation to the likely value of the information sought.” *Tongue River R.R. Co., Inc.—Rail Construction and Operation—In Custer, Powder River and Rosebud Counties, Mont.*, STB Docket No. 30186, slip op. at 4 (Service Date Sept. 9, 2014). In this case, the discovery sought by HRRC in Part III of the Interrogatories is unduly burdensome in relation to the absence of value of the information sought in this proceeding.

B. Relevant Information in this Case is Information that Addresses Whether the Public Convenience and Necessity Permit Discontinuance of HRRC’s Trackage Rights on the New York portion of the Beacon Line

“The statutory standard governing discontinuances of operations is whether the present or future public convenience and necessity require or permit the proposed discontinuance.” 49 U.S.C. § 10903(d).” *Port of Benton County, Wash.—Adverse Discontinuance of Rail Service—Tri-City R.R. Co., LLC*, STB Docket No. AB 1270, slip op. at 4 (Service Date October 31, 2019). Accordingly, the fundamental question in this Adverse Discontinuance case is whether the public convenience and necessity require or permit the discontinuance of the Line at present. HRRC does not, and in fact, cannot dispute the fact that there is not now and has not been for many years any freight traffic on the subject Line. As such, the public convenience and necessity wholly support the discontinuance of HRRC’s trackage rights over the Beacon Line. Requests for information about the current condition of the Line – in the form of repetitive and unnecessarily detailed and burdensome questions – seek information that is unnecessary to make that determination.

Part III of HRRC’s Interrogatories seeks an extraordinary amount of information on the condition of the Beacon Line, Metro-North’s maintenance of the Line and estimated costs to rehabilitate the Line. HRRC’s requests for in-depth analyses of every facet of the condition of the

Line and associated costs for rehabilitation of the track and attendant labor costs, despite the fact that there has been no demand for rail service and the Line has not been used in years, are not at all relevant to the question at the core of this proceeding. Therefore, Metro-North requests an Order for Protective Conditions excusing Metro-North from having to respond to Part III.

C. The Information HRRC Seeks in Part III of the Interrogatories is Not Relevant to the Application for Adverse Discontinuance and is Unduly Burdensome

i. Request for Discovery on the Connecticut Portion of the Line

HRRC specified in Part III of its Interrogatories, “[f]or each question [in Part III], please provide answers separately for the Putnam Segment (Conn state line to Hopewell Junction), the Beacon Segment (Hopewell Junction to end of track at Hudson Line) and, *only in the case of questions involving grade crossings, the Danbury Segment (including only the crossings for which Metro North has the maintenance responsibility).*” Interrogatories, 5 (emphasis supplied). However, Metro-North’s Application for Adverse Discontinuance implicates only those portions of the Line that are in New York state. Therefore, the condition, maintenance and costs of rehabilitation for the Danbury segment of the Line, which is in Connecticut, are wholly outside the scope of the proceeding.²

This request is unjustified and burdensome. HRRC’s request for information regarding a portion of the Line that is not at issue in this case is evidence of HRRC’s failure to “sharply focus” its discovery request. *See Delaware and Hudson*, slip op. at 2. As the information sought related

² There was an error in the list of zip codes contained in the Notice of Intent and newspaper notices which included “06811,” a Connecticut zip code. The list of zip codes set forth in the Application at page 9 (“12508, 12524, 12533, 12582, 12570, 12531, 12564, 12563, and 10509”) is the correct list of zip codes which the Beacon Line traverses in New York state and over which Metro-North seeks discontinuance of HRRC’s trackage rights. Metro-North has provided a corrected Notice of Intent to the recipients listed in 49 C.F.R. 1152.20 as well as HRRC, and published a notice of correction consistent with 49 CFR 1152.20. Metro-North filed corrected exhibits with the STB on June 7, 2021.

to the track in Connecticut provides no value to the proceeding, the Board should excuse Metro-North from providing this information.

ii. Request for Unjustifiable Detail Regarding the Condition of the Beacon Line

Part III of HRRC's Interrogatories seeks excessively detailed information that is irrelevant to whether the public convenience and necessity permit adverse discontinuance. These requests place an entirely unjustifiable burden on Metro-North, a non-profit public agency with limited funds that it wishes to dedicate to actual provision of commuter rail service rather than to perform unnecessary and expensive track analyses, undertake substantial research and obtain cost estimates for a Line which has seen no demand for freight service by the sole carrier that has the right to provide such service on the Line – *i.e.*, HRRC - in the more than 25 years that Metro-North has owned the Line. As set forth above, HRRC requests detailed information on the following:

- A. Classification of the track
- B. Annual maintenance expenditures for the Beacon Line from 1995 to present (including separate expenditures for inspection, track maintenance, signal maintenance and bridge and structure maintenance)
- C. Tie condition (number of ties installed, number of ties necessary to restore the track to FRA Class I standards, costs for associated labor and material)
- D. Grade Crossings (crossings with “active warning devices,” in 1995 versus present-day; removal of “active warning devices;” cost to restore “grade crossing warning equipment to full functionality” at each crossing)
- E. Ballast and Grading (condition of ballast and grading in 1995, maintenance of ballast, quantity of new ballast required to rehabilitate the line to Class I standards, associated estimated costs for labor and materials)
- F. Rail Condition (rail line replacement since 1995, changes in bridge elevation, current bridge capacity and estimated material and labor costs to rehabilitate bridges, etc.)

Interrogatories, 5-7. The breadth of the information sought by HRRC far exceeds the scope of information that is relevant to this Adverse Discontinuance proceeding.

Here, the agreement that gives HRRC the right to operate on the Line specifically requires HRRC to seek authority to discontinue from this Board when Metro-North seeks authority to abandon the Line. The Trackage Rights Agreement does not condition that cessation on determination of the condition of the Line, on any assessment of the amount and quality of the maintenance that has been performed on it, or any other factor. HRRC has an affirmative obligation to discontinue, and it is attempting to hide behind facts related to wholly burdensome and irrelevant discovery requests to divert attention from its failure to comply with its obligations under that agreement.

Moreover, Metro-North's Application for Adverse Discontinuance already provided information, pursuant to 49 C.F.R. § 1152.22(b), on the "condition of the properties" required for purposes of the Application. Application, 9 and n.3. Due to the lack of demand for freight or passenger service on the Beacon Line for decades, the Beacon Line is not suitable for rail traffic.

As explained in the Application, "Metro-North has been performing maintenance associated with dangerous trees and grade crossing conditions. The bridges on the Beacon Line have been inspected consistently in accordance with applicable rules of the Federal Railroad Administration and are suitable for their current pedestrian use." Application, 9. Metro-North also provided a rough estimate of the cost to rehabilitate the Line for rail traffic of "approximately \$75.5 Million, which includes expenses for rehabilitation of track, communications and signals, and structures." *Id.* Because there has been no service on the Line in years and no bona fide opportunities for rail traffic, Metro-North has not produced "workpapers detailing the exact costs of rehabilitation of the Line as described in 49 C.F.R. § 1152.22(b)." Application, 9 n. 3. Nevertheless, HRRC seeks information over and above what is required for an application for discontinuance – especially this application for discontinuance – and "does not provide any

argument as to why the information [] request[ed] is relevant or necessary.” *Delaware and Hudson*, slip op. at 3.

HRRC’s request is also outside the scope of the Adverse Discontinuance proceeding. *See id.* at 4. In the Board’s decision on the *Petition for Waivers*, the Board explicitly determined what information was necessary to issue a decision on this matter. *Metro-North Commuter R.R. Co.—Adverse Discontinuance of Trackage Rights—Housatonic R.R. Co.*, STB Docket No. AB 1311 (Service Date April 20, 2021). Yet, HRRC seeks data over and above what is traditionally required in abandonment and discontinuance filings. *See generally* 49 C.F.R. § 1152.22 (“Contents of Application”). HRRC’s Interrogatories are neither “sharply focused” nor “clearly justified.” *See Delaware and Hudson*, slip op. at 2. The Interrogatories would unjustifiably burden Metro-North, a non-profit public entity with no budget to subsidize HRRC’s curiosity about the cost of rehabilitation of a Line for which there is no demand.

Metro-North’s Application provided interested parties with the information necessary to provide comments on the Adverse Discontinuance and gave the Board the necessary information to make a determination as to whether the public convenience and necessity permit the discontinuance of trackage rights on the Line. The requests in Part III of HRRC’s Interrogatories are irrelevant and unnecessary and the Board should issue Protective Conditions to excuse Metro-North from responding.

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CONCLUSION

For the foregoing reasons, the Metro-North hereby requests the Board issue Protective Conditions and excuse Metro-North from responding to Part III of HRRC's Interrogatories.

Respectfully submitted,



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Dated: June 9, 2021

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of June 2021, I caused the foregoing Motion for Protective Conditions to be served on the following parties by email:

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Housatonic Railroad Company
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Charles A. Spitulnik

EXHIBIT A

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB 1311

**METRO-NORTH COMMUTER RAILROAD COMPANY – ADVERSE
DISCONTINUANCE OF TRACKAGE RIGHTS – HOUSATONIC RAILROAD
COMPANY**

**INTERROGATORIES OF HOUSATONIC RAILROAD COMPANY
TO
METRO-NORTH COMMUTER RAILROAD COMPANY**

Pursuant to 49 C.F.R. 1114.26 and other applicable authority, Housatonic Railroad Company, Inc. hereby requests Metro-North Commuter Railroad Company to answer the following written interrogatories as soon as practicable but no later than May 28, 2021.

General Instructions:

It is anticipated that answers to different sections or different questions may be provided by separate personnel or agents of Metro-North Commuter Railroad Company having knowledge of or access to the information requested. In such cases, the answers should be separately signed and verified by the person providing the answers with reference to the particular questions.

Each question should be answered fully and completely with Exhibits, if necessary, to fully comply with the request.

These interrogatories are continuing. If the recipient becomes aware of information that causes any answer to be incorrect, then that information shall be supplied within three days of the recipient becoming aware of the information.

Submitted by:

May 13, 2021

Edward J Rodriguez
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Part I- Proposed Abandonment

By letter dated February 18, 2020, a copy of which is attached as Exhibit C to Metro North's "Application for Adverse Discontinuance of Trackage Rights", Ms. Catherine A. Rinaldi, President of Metro North Railroad stated, in part

"Metro North Commuter Railroad Company ("Metro North") intends to abandon the "Beacon Line" in New York State from the "Division Post" at the Connecticut State Line to "River" at the Hudson Line in Beacon, New York (the "Subject Trackage").

With respect to the foregoing statement of intention please answer the following:

1. Does Metro North continue to have the intention of abandoning the entire Beacon Line? If not, please indicate what portion, if any, Metro North currently intends to abandon.
2. When does Metro North intend to abandon the Beacon Line or the stated portion(s) thereof? (if the date of abandonment relates to the date of the proposed Discontinuance of freight service, the question may be answered by indicating a period of time after the Discontinuance)
3. What actions will Metro North take to effect the abandonment?
4. Without limiting the generality of the prior paragraph, when will Metro North remove the rail and ties of the abandoned portion(s) of the Line?
5. Is the abandonment intended to be permanent or does Metro North intend to or contemplate possible re-activation the Line or some portion thereof following the abandonment? If re-activation is contemplated, please indicate the portions of the Line which may be re-activated, the purpose of the re-activation and the approximate date range of such reactivation.

6. Is Metro North aware of any recent (within 5 years) or participating in any current feasibility or similar study involving the possible institution or resumption of passenger service on any portion of the Beacon Line? If so, please describe in detail.
7. If Metro North's proposed Discontinuance of Housatonic Railroad's Trackage Rights is granted, would Metro North consider granting freight rights in the future to any other freight carrier?
8. Within the previous ten (10) years has Metro North had any communication to, from, or with any existing or proposed freight carrier about operation by such party on the Beacon Line or any portion thereof or does Metro North have knowledge of any similar communication by or to NYDOT or any other governmental entity or agency. Please describe the communications in detail including, but not limited to, the approximate date of the communication, the subject and nature of the communications and the identity of the parties thereto.
9. Has Metro North taken any action to date which makes freight operation and provision of common carrier freight service on the Beacon Line impossible or extremely burdensome and impracticable? Without limiting the generality of the foregoing please include any actions which interrupt the continuity of the rail and track, the safe and efficient passage of trains over grade crossings, or any violation of FRA class 1 track standards.
10. Disregarding, for purposes of this paragraph only, the effects which rail or non-rail use of the right of way might have on the answer, is any portion of the Beacon Line subject or potentially subject to reversionary interests of adjoining landowner? If so, please indicate, in general, which portions of the Beacon Line are so affected. If the answer is that there are no reversionary interests because prior reversionary interests have been extinguished, please explain the basis for the claim of extinguishment. IF Metro North is unsure of the answer, please indicate what efforts, if any, have been made to determine the existence of reversionary interests and the preliminary results of such efforts.

Part II- Current and Planned Trail Use

1. Please describe the current, planned and anticipated trail use of the Beacon Line. Specifically, please describe the following items:
 - A. Active Trail Use adjacent to rail line (non-exclusive)
 - B. Exclusive Trail Use – rail removed
 - C. Trail Use under construction adjacent to rail line (non-exclusive)
 - D. Exclusive Trail Use under construction with rail removed or to be removed
 - E. Planned and Approved Trail Use adjacent to rail line – with date of anticipated construction and completion.
 - F. Planned and Approved Exclusive Trail Use rail removed - with date of anticipated construction and completion.
 - G. Proposed but not fully planned or approved trail use anticipated to be completed within 10 years and a description as exclusive or non-exclusive.

The foregoing information may be supplied by description and milepost, by indication on a map or diagram of the Beacon Line or by any other clear and succinct presentation. In the case of adjacent uses on a shared right of way, please indicate for each track segment, the effective horizontal clearance from centerline for train operation and the minimum distance between the track centerline and any fence or obstruction,

Part III - General Line Characteristics, Condition, and Maintenance

Information by Track Segments or Sections

For each question, please provide answers separately for the Putnam Segment (Conn state line to Hopewell Junction), the Beacon Segment (Hopewell Junction to end of track at Hudson Line) and, only in the case of questions involving grade crossings, the Danbury Segment (including only the crossings for which Metro North has the maintenance responsibility)

A. Classification of Track:

Please indicate the Track classification (Class 1, Class 2, out of service or special restrictions) for each portion of the Beacon Line during the period of Metro North ownership to the present.

B. Expenditures

What was the estimated annual expenditure by Metro North for maintenance of the Beacon Line for each year from 1995 to the present? Please separate expenditures into (1) inspection, (2) track maintenance, (3) signal maintenance, and (4) bridge and structure maintenance.

C. Tie Condition

1. Approximately how many ties, if any, have been installed in each year since 1995?
2. Approximately how many ties would be required to bring the line to FRA Class 1 standards?
3. What are the estimated material and labor costs of replacing the ties necessary to restore the Line to FRA Class I condition? Please state the bases for the estimates with particularity and supply workpapers as required by 49 CFR 1152.22 (b) to support the estimates.

D. Grade Crossings

1. How many grade crossings on the line were equipped with active warning devices when Metro North acquired the line in 1995?
2. How many grade crossings on the line are currently equipped with active warning systems which function as designed?
3. At how many grade crossings on the line were active protection devices removed, in whole or on part, since Metro North acquired the line in 1995 and what were the dates of such removal.
4. In what year did Metro North remove the equipment controlling automatic features from the grade crossing warning devices in Danbury for which Metro North had the maintenance responsibilities?
5. What is the estimated cost of restoring the grade crossing warning equipment to full functionality at each crossing on the line in New York? What is the estimated cost of doing so at the crossings in Danbury for which Metro North has maintenance responsibility? In each case, please state the bases for the estimates with particularity and supply workpapers to support the estimates

E. Ballast and Grading

1. Please describe the condition of the ballast and grading on the line and indicate general ballast maintenance, including surfacing on the line performed since Metro North acquired the line in 1995.
2. How much new ballast is required to upgrade the Line to minimum FRA Class I safety standards.
3. What are the estimated costs of material and labor for ballast work necessary to restore the Line to FRA Class I condition? Please state the bases for the estimates with particularity and supply workpapers as required by 49 CFR 1152.22 (b) to support the estimates.

F. Rail Condition

1. Please describe the condition of the rail on the Line.

2. Has any main line rail been replaced since Metro North acquired the Line in 1995? If so, how much?
3. What is the estimated material and labor cost if any, of replacing the rail necessary to restore the Line to FRA Class I condition? Please state the bases for the estimates with particularity and supply workpapers as required by 49 CFR 1152.22 (b) to support the estimates.

G. Bridge and Structure Condition

1. Please furnish copies of the most recent complete bridge inspection report for each structure on the line.
2. Has the elevation of any bridge on the Line been changed since Metro North acquired the line in 1995?
3. Is any bridge currently impassable by a locomotive or rail car? If so, please indicate which bridge, the reason for the impassability and the estimated cost of correcting the problem.
4. What is the estimated material and labor cost of bridge repairs and replacement necessary to restore the Line to FRA Class I condition? Please state the bases for the estimates with particularity and supply workpapers as required by 49 CFR 1152.22 (b) to support the estimates.

Respectfully Submitted,

/s/ Edward J. Rodriguez

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CERTIFICATE OF SERVICE

I, Edward J. Rodriguez, certify that I have this day, May 13, 2021, served a true and correct copy of the foregoing document upon Metro-North Commuter Railroad Company's counsel of record, as listed below, by email and first-class U.S. Mail.

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Dated: May 13, 2021