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SERVICE DATE - JULY 5, 2002

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34054]

Morristown & Erie Railway, Inc.—Modified Rail Certificate

On June 5, 2002, as amended by facsimile on June 24, 2002, Morristown & Erie Railway, Inc. (M&E), filed an application for a modified certificate of public convenience and necessity under 49 CFR 1150, subpart C, Modified Certificate of Public Convenience and Necessity, to operate certain railroad lines in New Jersey. Based on M&E's representations, the following lines will be activated for service in four phases: (1) the former line of the Staten Island Railway Corporation (Staten Island Railway) from milepost 7.4 immediately west of the New Jersey Turnpike in Linden to milepost 9.8 immediately east of St. Georges Avenue in Linden; (2) the former line of the Staten Island Railway from milepost 9.8 to milepost 12.09 at the junction of the Staten Island Railway and the New Jersey Transit (NJ Transit) (Raritan Valley Line) in Cranford, exclusive of the portion of the line immediately west of milepost 9.8 to milepost 11.5 at the municipal boundary of the Borough of Roselle and the Township of Cranford; (3) the former Rahway Valley Railroad Company (Rahway Valley) main line from milepost 0 at the junction with the NJ Transit (Raritan Valley Line) in Cranford to milepost 3.9 immediately southeast of the Rahway River Bridge in Union, inclusive of the branch line from the junction at milepost 3.1 and extending northeast approximately 1.1 miles, and the branch

line from the junction at milepost 1.1 and extending southeast approximately .50 miles; and (4) the former Rahway Valley main line from milepost 3.9 immediately southeast of the Rahway River Bridge in Union to milepost 7.1 at the junction of the Rahway Valley Line and the NJ Transit (Morris and Essex Line) in Summit, NJ.¹ These lines are currently in the custody of the County of Union, NJ (the County).

On May 9, 2002, the County and M&E entered into a 10-year operating agreement commencing on May 15, 2002.² Under the agreement, which contemplates rehabilitation of the lines, M&E will complete all rehabilitation of the lines specified in Phases I and II, except for the limitation specified in Phase II, and be ready to initiate rail services over these segments within 6 months. M&E will not proceed with the rehabilitation of Phase III lines and the commencement of rail services until it receives the written concurrence of the County. Upon receiving such concurrence, M&E agrees to proceed with the rehabilitation of Phase III lines and initiate service over this portion within 9 months. Phase IV lines will be rehabilitated only upon the mutual consent of the County and M&E.

¹ Abandonment of the lines was previously authorized in Staten Island Railway Corporation–Abandonment, Docket No. AB-263 (Sub-No. 3) (ICC served Dec. 5, 1991), and Rahway Valley Railroad Company–Abandonment–Between Aldene and Summit in Union County, NJ, Docket No. AB-211 (ICC served Aug. 27, 1992). According to M&E, line segments of the Staten Island Railway and the entire line of Rahway Valley were subsequently conveyed to the State of New Jersey.

² Pursuant to the agreement, M&E will have the option to extend the 10-year period for two additional 5-year periods.

M&E states that it will interline freight with Consolidated Rail Corporation (Conrail), Norfolk Southern Railway Company (NS) and CSX Transportation, Inc. (CSXT), at Cranford, Bayway (Linden), and Bound Brook, NJ. In addition, M&E states that it will be able to operate through service by using its rights to operate over NJ Transit at Cranford Junction, NJ.³

The rail lines qualify for a modified certificate of public convenience and necessity. See Common Carrier Status of States, State Agencies and Instrumentalities and Political Subdivisions, Finance Docket No. 28990F (ICC served July 16, 1981).

M&E indicates that, even though rehabilitation subsidies are being provided, the lines will operate without any operating subsidies. M&E also indicates that there are no preconditions for shippers to meet in order to receive rail service, and that it has obtained liability insurance coverage.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement:

³ On June 13, 2002, Conrail filed comments in this proceeding. Conrail states that no interchange and/or operating arrangements have been made between Conrail, M&E, CSXT, and NS in conjunction with M&E's proposal to operate the subject lines. Moreover, it states that there is no connection between the former Rahway Valley and Staten Island Railway lines. Conrail contends that the connection M&E seeks to create is over the Raritan Valley line now owned by NJ Transit and over which exclusive freight rights were granted to Conrail by agreement effective on October 1, 1984. Conrail reserves the right to make comments at a later date once M&E is ready to activate rail service and in the event that reasonable interchange and/or operating arrangements cannot be reached between Conrail and M&E.

Association of American Railroads, 50 F Street NW, Washington, DC 20001; and on the American Short Line and Regional Railroad Association: American Short Line and Regional Railroad Association, 1120 G Street NW, Suite 520, Washington, DC 20005.

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Decided: June 27, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary