

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1043 (Sub-No. 1)

MONTREAL, MAINE & ATLANTIC RAILWAY, LTD.—DISCONTINUANCE OF
SERVICE AND ABANDONMENT—IN AROOSTOOK AND PENOBSCOT COUNTIES,
ME.

Decided: June 22, 2010

In this decision, the Board announces that it will hold a public hearing in Maine concerning the abandonment application filed by Montreal, Maine & Atlantic Railway, Ltd. (MMA) in the above captioned docket. The purpose of the hearing will be to allow interested persons to comment on the application. The public hearing will take place on July 7, 2010, beginning at 9:00 a.m., at the District Court House, 27 Riverside Drive, Presque Isle, ME 04769. In this decision, the Board also is addressing a request for clarification filed in this docket by MMA on June 4, 2010.

On February 25, 2010, MMA filed an application under 49 U.S.C. § 10903 for authority to discontinue service over and abandon approximately 233 miles of line (the line) in Aroostook and Penobscot Counties, Me.¹ The State of Maine (State), by and through its Department of Transportation, has expressed opposition to the proposed discontinuance of service and abandonment, and the State is seeking the funds, in part through a successful bond referendum on June 8, 2010, with which to acquire the line to preserve rail service should the Board grant MMA's application.

On April 22, 2010, following a meeting attended that day by MMA, the State, and Board mediation staff, MMA filed a motion requesting that the Board extend the procedural schedule

¹ MMA seeks discontinuance and abandonment authority for the following: (1) the Madawaska Subdivision, consisting of approximately 151 miles of line between milepost 109 near Millinocket and milepost 260 near Madawaska in Penobscot and Aroostook Counties; (2) the Presque Isle Subdivision, consisting of approximately 25.3 miles of line between milepost 0.0 near Squa Pan and milepost 25.3 near Presque Isle in Aroostook County; (3) the Fort Fairfield Subdivision, consisting of approximately 10 miles of line between milepost 0.0 near Presque Isle and milepost 10.0 near Easton in Aroostook County; (4) the Limestone Subdivision, consisting of approximately 29.85 miles of line between milepost 0.0 near Presque Isle and milepost 29.85 near Limestone in Aroostook County; and (5) the Houlton Subdivision, consisting of approximately 16.9 miles of line between milepost 0.0 near Oakfield and milepost 16.9 near Houlton in Aroostook County.

for a period of 3 weeks so that MMA and the State could enter into confidential mediation concerning the future of the line. In a decision served on April 26, 2010, the Board granted this request and made MMA's rebuttal due on May 26. In doing so, the Board noted that it favors the negotiated resolution of disputes.

By order served on May 25, the Board noted that mediation was progressing, but that it might be difficult for the parties to reach an agreement without knowing the outcome of the June 8, 2010 bond referendum. The Board therefore ordered the State and the railroad to submit a joint status report outlining their progress toward a settlement by June 17, 2010. The Board also noted that, due to the scope of this proposed abandonment and the potential economic impact to the State, it expected to hold a hearing to gather testimony and to afford the Board members an opportunity to ask questions before reaching a decision on MMA's application. Because of the time needed to schedule a hearing, to consider the testimony received at the hearing, and to produce a written decision, the Board stated that it did not anticipate issuing a decision on the merits of MMA's application by July 9, 2010, the date proposed by MMA in its April 22 motion.

On June 8, 2010, the citizens of Maine approved the bond issue and thus gave the State of Maine authority to finance the purchase of the line. However, the parties notified the Board in their status report filed on June 18, 2010, that they are at an impasse concerning the sale of the line.

Against this backdrop, MMA seeks clarification of the May 25 decision and asks the Board to issue a decision on the merits of the application by July 9, 2010. The railroad asserts that it is losing significant sums keeping the line in service. It notes that the Board has adopted the practice of issuing a decision on the merits of an application 110 days after the submission is filed. This approach, notes MMA, allows offerors to file an offer of financial assistance (OFA) within 120 days of the application being filed in accordance with 49 U.S.C. § 10904(c).

As noted in the Board's May 25 decision, a hearing is necessary due to the scope and the magnitude of this proceeding. The Board will issue a decision as soon as practicable after the hearing, which it is scheduling for July 7, 2010. However, it is not feasible for the Board to hold a hearing, to consider the evidence presented, and to prepare and issue a decision on the merits of the application by July 9, 2010, as sought by MMA.

The Board understands MMA's interest in moving this proceeding forward and relieving itself of the line. But we must balance MMA's interests against the public interest of facilitating continued rail service. To achieve that objective, we needed to give the State the time it required to procure sufficient funds to acquire the line. The State has had to seek legislative authority as well as public approval through a bond referendum to fund the acquisition of the line. Those efforts go to the heart of Congressional policy on rail abandonments as set out in 49 U.S.C. § 10904, and the Board therefore has properly accommodated them. The process by which the State has obtained authority to issue the bonds has been difficult, controversial and time-consuming. Under the circumstances, the time elapsed has been reasonable.

The hearing will be held on July 7, 2010, beginning at 9:00 a.m., at the District Court House, 27 Riverside Drive, Presque Isle, ME 04769. Earlier in the proceeding, the Board

solicited notices of intent to participate that listed the party represented, the proposed speaker, and the number of minutes requested. Based on those submissions, the Board is setting a schedule of speakers, which is attached as the Appendix to this decision. The Board has adjusted the allotted times from those requested in some instances to maintain uniformity and ensure an orderly hearing. Parties should confirm by June 24, 2010, that their proposed speakers will be testifying at the July 7 hearing.

After the Board holds the hearing, the Board will consider the evidence presented and issue a final decision on the merits of MMA's application. OFAs to either purchase the line or subsidize continued service are due by July 19, 2010, but the OFA process might be subsequently tolled pending a final decision on the merits of the application.

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

It is ordered:

1. MMA's petition for clarification is denied.
2. An oral hearing in Presque Isle, Maine will be held on July 7, 2010.
3. Time for the hearing is allotted as reflected in the Appendix to this decision.
4. Confirmations of hearing participation are due by June 24, 2010.
4. OFAs are due by July 19, 2010.
5. This decision is effective on the date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

APPENDIX
SCHEDULE OF SPEAKERS

<u>Party</u>	<u>Time Allotted</u>
Hon. Olympia J. Snowe, United States Senate	10 Minutes
Hon. Susan M. Collins, United States Senate	10 Minutes
Hon. Michael H. Michaud, Member of Congress	10 Minutes
Panel I: Government	
State of Maine, Department of Transportation David Cole, Commissioner of the Maine Department of Transportation or Designee	20 Minutes
Michael James Willette State Legislator, District 5 Representative, Presque Isle	10 Minutes
Panel II: Carrier	
Montreal, Maine & Atlantic Railway, Ltd. (MMA) Robert C. Grindrod, MMA's President and CEO Linda J. Morgan James E. Howard	30 Minutes
Panel III: Shippers	
Twin Rivers Paper Company LLC Brian Sass or Designee	7 Minutes
Fraser Timber Limited Arkon Horne or Designee	7 Minutes
Portage Wood Products Stephen W. Schley	7 Minutes
Irving Woodlands LLC Robert J. Penette, Vice President	7 Minutes

Huber Engineered Woods, LLC Alan Weber, Vice President for Logistics and Supply Chain	7 Minutes
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Louisiana-Pacific Corporation Travis Turner, Manager of Houlton Facility	7 Minutes
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Panel IV: Community Associations

LEADers Encouraging Aroostook Development (LEAD) Virginia Joles, President of LEAD	5 Minutes
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Aroostook Partnership for Progress (APP) Walter J. Elish, President of APP	5 Minutes
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Presque Isle Industrial Council Larry E. Clark	5 Minutes
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Presque Isle Area Chamber of Commerce Theresa M. Fowler	5 Minutes
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Southern Aroostook Development Corporation Jon A. McLaughlin, Executive Director	5 Minutes
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Panel V: Community Interests

Maine Public Service Company (Maine PSC) Rodney K. Leach, Manager of Supply Chain and Facilities Management, Maine PSC	5 Minutes
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Northern Maine Development Commission Denis Berube	5 Minutes
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The Aroostook Hospitality Inn Steve Dobson	5 Minutes
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Seven Islands Land Company John W. McNulty	5 Minutes
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Panel VI: Labor

Brotherhood of Locomotive Engineers and Trainmen TBD	5 Minutes
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Panel VII: Other

Eric S. Strohmeyer

2 Minutes