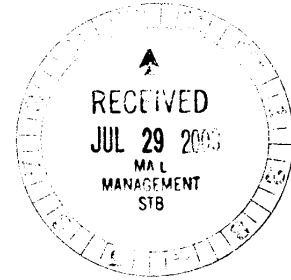


208 547

JAMES E. HOWARD LLC
ONE THOMPSON SQUARE
SUITE 201
CHARLESTOWN, MA 02129

TEL (617) 886-9322
FAX (617) 886-9324



July 25, 2003

VIA FEDERAL EXPRESS

Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Office of Proceedings
JUL 29 2003
U.S. Department of Transportation

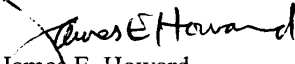
Re: Granite State Concrete Co., Inc. and Milford-Bennington
Railroad Co., Inc. v. Boston and Maine Corporation and
Springfield Terminal Railway Co.

Docket No. NOR 42083

Dear Secretary Williams:

Enclosed for filing in the above captioned matter are the original and 10 copies of the "Opposition of Granite State Concrete Co., Inc. and Milford-Bennington Railroad Co., Inc. to 'Motion of The Boston and Maine Corporation and The Springfield Terminal Railway Co. for Leave to File a Surreply to Rebuttal Filed by Granite State Concrete Co., Inc. and Milford-Bennington Railroad Co., Inc. Pursuant to 49 U.S.C. 11123 and 49 C.F.R. 1146.1'". Thank you very much for your attention to this request.

Very truly yours,


James E. Howard

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. NOR 42083

RECEIVED
JUL 29 2005
MAIL
MANAGEMENT
STB

GRANITE STATE CONCRETE CO., INC. and
MILFORD-BENNINGTON RAILROAD COMPANY, INC.

v.

Office of the Secretary

JUL 29 2005

BOSTON AND MAINE CORPORATION and
SPRINGFIELD TERMINAL RAILWAY CO.

STB

OPPOSITION OF GRANITE STATE CONCRETE CO., INC.
and MILFORD-BENNINGTON RAILROAD CO., INC. TO
“MOTION OF THE BOSTON
AND MAINE CORPORATION and THE SPRINGFIELD
TERMINAL RAILWAY COMPANY FOR
LEAVE TO FILE A SURREPLY TO REBUTTAL FILED BY
GRANITE STATE CONCRETE COMPANY, INC. and
MILFORD-BENNINGTON RAILROAD COMPANY,
INC. PURSUANT TO 49 U.S.C. 11123 and 49 C.F.R. 1146.1”

Granite State Concrete Company, Inc. ("Granite State") and Milford-Bennington Railroad Company, Inc. ("Milford-Bennington") hereby oppose the request of Boston and Maine Corporation and Springfield Terminal Railway Company ("Guilford") for leave to file additional pleadings on the question whether the Board should enter a temporary service order. As described below, the statute and regulations contemplate quick action by the Board, rather than endless pleadings, and the reasons given by Guilford in support of its request are untrue or unpersuasive.

Section 11123 is intended to enable the Board to respond to service emergencies, and the regulations set forth in 49 C.F.R. 1146.1 provide carefully limited time frames for filings so that the Board can quickly be in a position to take action. Indeed, the Board found that Section 11123 "permits us to act immediately, without observing normal due process procedures." Expedited Relief for Service Inadequacies, Ex Parte No. 628, decision dated December 21, 1998.

The Service emergency that is the subject of this proceeding began on June 20, 2003. The parties have provided the Board, both informally through the Office of Compliance and Enforcement and in this proceeding, all of the information needed for the Board to act now. Further delay due to the acceptance of further pleadings will simply prolong the hardship on Granite State and Milford-Bennington.

Guilford has alleged that it should be permitted to file additional materials because "counsel for Granite State and [Milford-Bennington] was unavailable" and Guilford was allegedly "unable to review the substantial number of documents necessary to portray the true nature of the operations of Granite State and [Milford-Bennington]." To the contrary, the undersigned counsel for Granite State and Milford-Bennington has always been available to discuss this matter with Guilford. Moreover, Guilford has submitted volumes of argument and documents to the Board and, in fact, filed its response to the request for service order within four days rather than the five permitted by the rules.

Finally, a review of the additional material that Guilford wishes to submit shows that it is duplicative, inaccurate or irrelevant and based upon the continuing arrogant

attitude that Guilford alone can and should determine how much service Granite State needs and how Milford-Bennington should provide that service. It is not true, for example that Milford-Bennington operated 3.5 trips on July 22, 2003. Furthermore, the fact that Milford-Bennington may have operated only two trains on certain dates in prior years proves only that it was limited by a variety of factors beyond its control, such as track condition, dispatching problems or weather. The record is clear that Granite State wants four trains per day and that Milford-Bennington would provide such service if permitted to do so.

For the reasons described above, the Board is respectfully urged to reject the additional argument offered by Guilford and render a decision as promptly as practicable.

Respectfully submitted,

GRANITE STATE CONCRETE CO., INC.
and
MILFORD-BENNINGTON
RAILROAD COMPANY, INC.

By their attorney,


James E. Howard
One Thompson Square, Suite 201
Charlestown, Massachusetts 02129
Telephone: 617-886-9322
Facsimile: 617-886-9324
e-mail: jehoward@worldnet.att.net

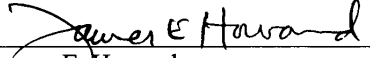
Dated: July 25, 2003

CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Opposition of Granite State Concrete Co., Inc. and Milford-Bennington Railroad Co., Inc. to 'Motion of The Boston and Maine Corporation and The Springfield Terminal Railway Company to Petition for Leave to File a Surreply to Rebuttal Filed by Granite State Concrete Company, Inc. and Milford-Bennington Railroad Company, Inc. Pursuant to 49 U.S.C. § 11123 and 49 C.F.R. § 1146.1'" was served this 25th day of July, 2003 by sending a copy by Federal Express to counsel for the defendants and to the Federal Railroad Administration, as follows:

Robert B. Culliford
Corporate Counsel
Guilford Rail System
Iron Horse Park
N. Billerica, Massachusetts 01862

Mark H. McKeon
Regional Administrator
Federal Railroad Administration
55 Broadway
Room 1077
Cambridge, Massachusetts 02142


James E. Howard