

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1341X]

Midcoast Railservice, Inc.—Discontinuance of Service Exemption—in Cumberland, Knox, Lincoln, Sagadahoc Counties, Me.

On August 16, 2024, Midcoast Railservice, Inc. (Midcoast), a Class III rail carrier, filed a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to discontinue service over approximately 58.68 miles of rail line consisting of: (1) the Brunswick Terminal Area between the east side of Church Road, milepost 14.97, and Rock Jct., milepost 16.40; (2) the Rockland Branch between milepost 29.40 in Brunswick, Cumberland County, Me., and milepost 85.55 in Rockland, Knox County, Me.; and (3) the Atlantic Branch Line between milepost 85.55 and milepost 86.65 in Rockland (collectively, the Line). Midcoast states that the Line traverses U.S. Postal Service Zip Codes 04011, 04530, 04579, 04578, 04553, 04555, 04556, 04572, 04864, 04861, and 04841, and that 16 stations exist on the Line.

According to Midcoast, the Line is owned by the State of Maine Department of Transportation (Maine DOT) and Midcoast has been operating the Line pursuant to a Lease and Operating Agreement since 2022.¹ (Pet. 1.) Midcoast explains that it is seeking discontinuance authority because it currently operates at an average loss of

¹ See Midcoast Railservice, Inc.—Change of Operators Exemption—Cent. Me. & Que. Ry. US, Inc., FD 36531 (STB served Aug. 25, 2021). Midcoast states that Maine DOT does not oppose this petition. (Pet. 1-2.)

approximately \$65,000 per month. (Id. at 3.) According to Midcoast, when it began operating the Line, nearly all of its freight revenue was generated by serving a cement plant. (Id. at 2.) Midcoast states that the cement plant ceased production in late 2023 and the remaining active shippers on the Line are projected to generate a total of less than five cars per month. (Id. at 2-3.) Midcoast also states that, after the discontinuance is consummated, no operator with a common carrier obligation will remain on the Line.² (Pet. 1.) However, it “believes that alternate transportation service by truck or rail/truck transload is available” for the three remaining customers, all of whom were served a copy of the petition. (Id. at 6.)

Midcoast asserts that, because this proceeding would involve the discontinuance of common carrier service and not abandonment of the Line, the question of whether the Line contains any federally granted rights-of-way is inapplicable. (Id. at 2.) Midcoast states that any documentation related to federally granted rights-of-way pertaining to this

² This assertion appears to be incorrect. In Maine Department of Transportation—Acquisition & Operation Exemption—Maine Central Railroad, 8 I.C.C.2d 835, 837, 838 n.8 (1991), the Board’s predecessor, the Interstate Commerce Commission (ICC), explained that Springfield Terminal Railroad Company (ST) would be conducting common carrier operations on three lines and Maine Central Railroad Company (MEC) would retain a residual common carrier obligation over those lines. A subsequent ICC decision confirms that two of those lines were between milepost 29.40 and milepost 33.79 (a segment of the Rockland Branch) and between milepost 28.03 (Church Road) and milepost 29.40 (Rock Jct.) (the Brunswick Terminal Area). See Me. Coast R.R.—Operation Exemption—Me. Cent. R.R. & Springfield Term. Ry., FD 32272, slip op. at 1 (ICC served June 21, 1993); see also Safe Handling Rail, Inc.—Operation Exemption—Me. Coast R.R., FD 33968, slip op. at 1-2 (STB served Dec. 4, 2000) (“MEC and ST[] have residual common carrier obligations on the subject line[s].”). Note that it appears the milepost numbers on the Brunswick Terminal Area line were changed at some point.

It does not appear there was a subsequent proceeding authorizing MEC or ST to extinguish their common carrier obligations. MEC and ST have since been acquired by CSX Transportation, Inc. See CSX Corp.—Control & Merger—Pan Am Sys., Inc., FD 36472 et al., slip op. at 2, 50 (STB served Apr. 14, 2022).

petition in Midcoast's possession will be made promptly available to those requesting it.
(Id.)

According to Midcoast, the Line constitutes the entirety of its operations. (Id. at 8-9.) Where, as here, a rail carrier is discontinuing service over its entire system, the Board does not normally impose labor protection under 49 U.S.C. 10502(g), unless the evidence indicates the existence of: (1) a corporate affiliate that will continue substantially similar rail operations; or (2) a corporate parent that will realize substantial financial benefits over and above relief from the burden of deficit operations by its subsidiary railroad. See Honey Creek R.R.—Aban. Exemption—in Henry Cnty., Ind., AB 865X (STB served Aug. 20, 2004); Northampton & Bath R.R.—Aban. near Northampton & Bath Junction in Northampton Cnty., Pa. (Northampton), 354 I.C.C. 784, 785-86 (1978); Wellsville, Addison & Galeton R.R.—Aban. of Entire Line in Potter & Tioga Cntys., Pa., 354 I.C.C. 744 (1978). According to Midcoast, it does not have a corporate affiliate that has similar rail operations, and its corporate parent, Finger Lakes Railway Corp., will not benefit from the proposed discontinuance beyond the relief it receives from the burden of deficit operations. (Pet. 9-10.) Therefore, if the Board grants the petition for exemption, in the absence of a showing that one or more of the exceptions articulated in Northampton are present, no labor protective conditions would be imposed.

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by December 4, 2024.

Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because the majority of the Line (from milepost 33.79 to the end of the line at Rockport) was abandoned before it

was acquired by Maine DOT,³ and there will be environmental review during any subsequent abandonment for the remainder of the Line (from milepost 33.79 to milepost 28.03),⁴ this discontinuance does not require an environmental review.

Any offer of financial assistance (OFA) for subsidy under 49 CFR 1152.27(b)(2) will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner.⁵ Persons interested in submitting an OFA must first file a formal expression of intent to file an offer by September 16, 2024, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(1)(i).

All pleadings, referring to Docket No. AB 1341X, must be filed with the Surface Transportation Board either via e-filing on the Board’s website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Midcoast’s representative, Justin J. Marks, Clark Hill PLC,

³ See Me. Cent. R.R.—Pet. for Review of Arbitration Award, FD 31434 et al., slip op. at 1 (ICC served Apr. 19, 1990) (noting that “MEC abandoned the Rockland Branch,” as authorized for abandonment in AB 83 (Sub-No. 8), “in November 1985”); Me. Cent. R.R.—Aban.—in Cumberland, Sagadahoc, Lincoln, & Knox Cntys., Me., AB 83 (Sub-No. 8) (ICC served Oct. 23, 1985) (approving abandonment of rail line between milepost 33.79 at Brunswick and milepost 85.91 at Rockland); see also Me. Coast R.R.—Modified Rail Certificate, FD 31727, slip op. at 1 (ICC served Oct. 5, 1990) (authorizing operations over rail line between milepost 33.79 at Brunswick and milepost 85.91 at Rockland pursuant to a modified certificate).

⁴ Me. Dep’t of Transp.—Acquis. & Operation Exemption, 8 I.C.C.2d at 837, 838 n.8 (stating that MEC will need abandonment authority if it wishes to be relieved of its residual common carrier obligation).

⁵ The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

1001 Pennsylvania Ave., N.W., Suite 1300 South, Washington, DC 20004. Replies to the petition are due on or before September 25, 2024.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245-0294. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

Board decisions and notices are available at www.stb.gov.

Decided: August 30, 2024.

By the Board, Valerie O. Quinn, Acting Director, Office of Proceedings.