

AB-32

SUB 4F

SERVICE DATE

MAY 31 1979

RB#5

INTERSTATE COMMERCE COMMISSION

CERTIFICATE AND DECISION

Docket No. AB-32 (Sub-No. 4F)

ROBERT W. MESERVE AND BENJAMIN H. LACY, TRUSTEES OF THE PROPERTY OF BOSTON AND MAINE CORPORATION, DEBTOR, ABANDONMENT NEAR TOWNSEND, MA, AND GREENVILLE, NH, IN WORCESTER COUNTY, MA, AND HILLSBOROUGH COUNTY, NH

Decided May 29, 1979

On April 2, 1979, Robert W. Meserve and Benjamin H. Lacy, Trustees of the Property of Boston and Maine Corporation, Debtor (B&M) filed an application for a certificate of public convenience and necessity permitting the abandonment of a segment of a line of railroad known as the Greenville Branch extending from railroad milepost B 46.85 in Townsend, MA to the end of the line at railroad milepost b 59.76 in Greenville, NH, a distance of 12.91 miles in Worcester County, MA and Hillsborough County, NH (the line).

The application is governed by 49 U.S.C. §10903 (formerly Section 1a of the Interstate Commerce Act) and by the Commission's Regulations Governing the Abandonment of Railroad Lines and Discontinuance of Service, 49 C.F.R. Part 1121.

The application is filed under the "summary" procedures of Section 1121.33 of the Regulations, which are designed to facilitate the filing and processing of abandonment applications to which little or no opposition is anticipated.

Public notice of the abandonment application was served, posted and published by the application in accordance with the notice requirements set forth in Section 1121.30 of the Regulations.

Comments were filed by Railway Labor Executives' Association and Marshall A. Buttrick. No "petitions to investigate" within the meaning of 49 U.S.C. §10904(c)(1) (formerly Section 1a(3) of the Interstate Commerce Act) and Section 1121.36(a)(1) of the Regulations have been filed and this proceeding may be disposed of on the record as submitted.

Applicant alleges that the line is no longer profitable and that materials which would be recovered through salvage operations are required for more essential rail purposes. The sole customer on the line, Pilgrim Foods Inc., Greenville, NH, would continue to receive public delivery in Townsend, MA, a distance of approximately 9 miles along the area road network.

Within Massachusetts, the line traverses the Townsend State Forest. Land-use adjacent the track in NH is primarily wooded or agricultural. The line traverses the Russell Abbott and Kimball forests. Should the line be abandoned interest for that portion of right-of-way in MA has been expressed by the Massachusetts Department of Environmental Management. The town of Mason, NH and the State Dept. of Natural Resources has indicated an interest in acquiring that portion of line in NH.

A response was received from the Massachusetts Historic Commission indicating that the proposed abandonment was not anticipated to impact any historic or archaeological sites. The New Hampshire State Historic Preservation Office has not as yet completed their investigation. They have been advised to notify the Commission should any sites be identified.

The record contains no evidence that the abandonment will have a serious adverse impact on rural and community development; or that the abandonment will have an adverse environmental impact.

Therefore, we find:

1. Abandonment of the said line will not result in a serious adverse impact on the rural and community development of Worcester County, MA and Hillsborough County, NH.
2. The property is suitable for other public purposes.
3. This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

It is certified: The present and future public convenience and necessity permits the abandonment by Robert W. Meserve and Benjamin H. Lacy, Trustees of the property of Boston and Maine Corporation, Debtor, of the above-described line of railroad, subject to the conditions for the protection of employees discussed in AB-35 (Sub-No. 2), Oregon Short Line R. Co.-Abandonment Goshen I.C.C. decided February 9, 1979, and further that B&M shall keep intact all of the right-of-way underlying the track, including all of the bridges and culverts for a period 120 days from the effective date of this certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way.

It is ordered:

1. In the absence of any petitions to investigate, we waive the requirements of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final, and notice of our findings may be submitted for publication in the Federal Register immediately. Also, within 10 days after receiving an appropriate filed notice that an offer of financial assistance is being considered, applicant shall comply with informational requirements of Section 1121.38(a) of the Regulations.
2. All correspondence to the Commission with respect to offers of financial assistance for the continued operation or acquisition of the subject line shall contain an appropriate reference to this proceeding, and the following notation shall be typed in boldface on the lower left hand corner of envelopes containing such correspondence: "Section of Finance, AB-RSCP".
3. Subject to the conditions as set forth above and provided no offer for continued rail operation is received, actual abandonment may be effected by B&M after the effective date of this certificate and decision.
4. In the event abandonment is effected, tariffs applicable to the line herein may be cancelled upon not less than 10 days' notice to this Commission under Section 6 of the Act, and when filing schedules cancelling tariffs applicable to that line, B&M shall refer to this certificate and decision by date and docket number.
5. If the authority granted by this certificate and decision is exercised, B&M shall submit two copies of the journal entries showing the retirement of the line from service, and shall advise this Commission in writing, immediately after abandonment of the line of railroad, of the date on which the abandonment actually took place.
6. If the authority granted in this certificate and decision is not exercised within one year from its effective date, it shall be of no further force and effect.
7. This certificate and decision shall be effective 45 days after the date of publication of notice in the Federal Register unless otherwise ordered by this Commission.

By the Commission, Review Board Number 5, Members Krock, Pohost and Taylor.  
(Board Member Taylor did not participate)

(SEAL)

H.G. HOMME, JR.  
Secretary