

BEFORE THE  
INTERSTATE COMMERCE COMMISSION

FINANCE DOCKET NO. 14430  
BOSTON AND MAINE ABANDONMENT

REPLY OF APPLICANT TO PETITIONS FOR LEAVE  
TO INTERVENE AND FOR REOPENING AND RECON-  
SIDERATION

Comes now the applicant in the above entitled proceed-  
ing and for its reply to the petitions for leave to intervene  
and for reopening and reconsideration filed by the Railway  
Labor Executives' Association and the Brotherhood of Main-  
tenance of Way Employees, and respectfully states as follows:

I. Applicant has no objection to the granting of the  
petition of Railway Labor Executives' Association for leave  
to intervene.

II. Applicant has no objection to the reopening of the  
proceeding by the Commission and the extension of the time  
during which the Commission will retain jurisdiction for  
an additional two-year period.

III. Applicant does not, however, agree that the Commis-  
sion should at this time impose the so-called Burlington  
condition (Chicago, Burlington & Quincy R.R. Co. Abandonment,  
257 I.C.C. 700). The Commission considered the question of  
imposing such conditions in reopened proceedings in Sea-  
board-All Florida Railway Receivers Abandonment, 261 I.C.C.  
334. The opinion stated at page 341 that evidence of ad-  
verse effect on employees, or lack of it, should influence

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the decision to impose conditions. It further stated that unless there was evidence that employees would be adversely affected, there was no basis for imposing conditions. In the Burlington case and in the Seaboard-All Florida case, there was a definite showing that the positions of certain employees would be abolished and it was clear that if those employees exercised their seniority rights, other employees would be affected. The opinion made it clear, however, that conditions were imposed in that case only because of a definite showing of adverse effect on at least one employee as a result of the abandonment. Without such showing, conditions would not have been imposed.

IV. As noted in the report of Division 4 in the instant proceeding, the evidence at the hearing did not show that there would be any displacement of employees as a result of this abandonment. Applicant's witnesses stated that there would be no displacement, due to vacancies in crews in the immediate vicinity which applicant could not find the men to fill. It is applicant's belief that this prediction at the hearing has been borne out. At any rate, there is nothing in the record to show anything to the contrary. This fact plainly distinguishes this case from the Burlington and Seaboard-All Florida cases cited above, and following the statements in the opinion in the latter case, specific conditions should not be imposed in the instant proceeding.

Respectfully submitted,

R. J. Fletcher  
Attorney for Applicant

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding and on A. E. Lyon and Clarence M. Mulholland by mailing by first class mail a copy thereof properly addressed to each party.

Dated at Boston, Massachusetts this 22nd day of May,  
1946.

R. J. Fletcher