17 MAINE DEPARTMENT OF TRANSPORTATION

229 OFFICE OF THE COMMISSIONER

Chapter 500: PROCEDURES FOR CONTRACTUAL NEGOTIATIONS FOR PROVIDING CONTINUED RAIL SERVICE ON LINES THAT HAVE BEEN AUTHORIZED FOR DISCONTINUANCE.

SUMMARY: The following Rules and Regulations govern the procedures for contractual negotiations for providing continued rail service on lines that have been authorized for discontinuance.

.01 Continued Operation Required by the Economic Well-being of the State of Maine

 The Maine Department of Transportation will make a preliminary judgment that the economic well-being of the State of Maine or a significant portion thereof will be impaired by the discontinuance of rail service over the railroad line or lines that have been authorized for abandonment by the Interstate Commerce Commission. Such determination shall include but not necessarily limited to:

 A. Cost of subsidizing continued service compared with the additional costs incurred by users of the rail service and the cost of the loss of rail service to the communities directly served.

 B. That the rail users or the communities served or the State, as the case may be, have indicated a willingness to provide the funds necessary to match available federal funds to insure continued operation.

 C. When the line involved is the only reasonable rail access to a major area of the State and the present and future development needs of the area would be unduly restricted in the absence of rail service.

 A notice of the determination that the public well-being requires continued operation will have been served when the State files an offer of financial assistance with the Railroad and the Interstate Commerce Commission in accordance with the rules of that agency.

.02 Availability of Funds

 The Department of Transportation will be the agency responsible for determining the availability of local funds necessary to match available federal funds. The determination of the availability of federal funds will also be made by the Department of Transportation through the development of its annual program of projects submitted to and approved by the Federal Railroad Administration, U.S. Department of Transportation.

 Local funds may be obtained by act of the Legislature, provided by rail users or the communities served by the line involved. Such funds will be made available to the State Department of Transportation for distribution in accordance with service continuation contracts.

.03 Contract Negotiations

 As soon as practicable after notification by the Interstate Commerce Commission that the State's offer of financial assistance is financially responsible and likely to cover the difference between the revenue attributable to the line and the avoidable cost of providing the service plus a reasonable return on the value of the property, the Department of Transportation will enter into negotiations with the rail carrier involved. Such negotiations shall among other things develop a final estimate of the subsidy costs and the level of service to be provided over the line will be agreed upon.

 In addition, the Department of Transportation will enter in negotiations and develop an agreement with rail users and/or communities who are to provide matching fund subsidies necessary for continued operation. Such an agreement shall provide for a general level of service and an estimated cost of matching funds requirements which are to be made available to the State in accordance with the payment schedules which will be provided for in the agreement between the State and the rail carrier involved.

 When such agreements have been reached in fact or in principle, an application will be prepared by the State and filed with the Federal Railroad Administration to provide the necessary federal funds.

.04 Public Participation

 Prior to the execution of the contracts for the continuation of rail service, a public hearing will be held. Notice of the hearing will be provided as follows.

 A. By regular mail to the signatory parties.

 B. By publishing notice in a newspaper of general circulation no more than 6 days prior to the scheduled date of hearing.

.05 Amendments to Contracts

 No amendments to the substantive terms of the contracts will be approved by the Maine Department of Transportation until the public has notice and an opportunity to request that a public hearing be held. A hearing will be held if five (5) interested parties make the Request of the Department. Notice of the hearing shall be given in the same manner as in Rule, Chapter 500.04.

Basis Statement: These rules were adopted to satisfy the prerequisites established in 23 M.R.S.A. §7105 requiring the M.D.O.T. to adopt rules and regulations for the contracting of continued rail service on lines authorized for discontinuance.

STATUTORY AUTHORITY: 23 M.R.S.A. §7105

EFFECTIVE DATE: September 29, 1978 as an emergency rule;

 Re-adopted on February 13, 1979 and filed on March 21, 1979.

EFFECTIVE DATE (ELECTRONIC CONVERSION): April 24, 1996

NON-SUBSTANTIVE CORRECTIONS: June 29, 1998 - statutory references, formatting.

APAO WORD VERSION CONVERSION (IF NEEDED) AND ACCESSIBILITY CHECK: July 22, 2025