

September 26, 2013

File Nos: R 8005/M5
R 8005/M6

Case No. 13-05608

Montreal, Maine & Atlantic Canada Co.
Montreal, Maine & Atlantic Railway, Ltd.
c/o Henry S. Brown, Q.C.
Gowling Lafleur Henderson LLP
160 Elgin Street, Suite 2600
Ottawa, Ontario
K1P 1C3

Dear Sir:

Re: Application by Montreal, Maine & Atlantic Canada Co. and Montreal, Maine & Atlantic Railway, Ltd. pursuant to section 32 of the *Canada Transportation Act*, S.C., 1996, c. 10, as amended, to vary Order No. 2013-R-266, as varied by Decision No. LET-R-98-2013.

Pursuant to Order No. 2013-R-266, as varied by Decision No. LET-R-98-2013 (Order), Certificate of Fitness No. 02004-3 of Montreal, Maine & Atlantic Canada Co. and Montreal, Maine & Atlantic Railway, Ltd. (MMAR) was suspended effective October 1, 2013.

MMAR has now applied to vary the Order to allow it to continue to operate to January 15, 2014.

The Canadian Transportation Agency (Agency) has considered the application and finds that MMAR has demonstrated that there are new facts and circumstances warranting a review of the Order. The application provides evidence that MMAR continues to hold third party liability insurance coverage in the short term. The Agency also notes that that the *Companies Creditors Arrangement Act* (CCAA) Court order secures funds for the self-insured retention amount while the Certificate of Fitness is in force. As a result, the Agency is satisfied that MMAR has adequate third party liability insurance coverage and the financial capacity to cover the self-insured portion of its liability insurance coverage for the continued operation over a short period of time. Therefore, the Agency, pursuant to section 32 of the *Canada Transportation Act*, varies the Order by amending the date of effect of the suspension of Certificate of Fitness No. 02004-3 to October 18, 2013.

With respect to continued operations after October 18, 2013 to January 15, 2014, this clearly involves operations over a longer period of time and the Agency needs to obtain and consider information prior to making a ruling on the longer period. In this regard, the Agency will be requiring further information from MMAR to allow it to make a final ruling on the request to extend to January 15, 2014. Further, the Agency notes that a CCAA hearing is scheduled for October 9, 2013, in Sherbrooke, Quebec to deal with issues that may have an impact on the consideration of the variance request over the longer period.

BY THE AGENCY:

(signed)

Geoffrey C. Hare
Member