

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re:)
)
Montreal Maine & Atlantic Railway Ltd.,) Chapter 11
) Case No. 13-10670
)
Debtor.)

**ORDER ON WHEELING & LAKE ERIE RAILWAY COMPANY’S MOTION TO
ENFORCE CASH COLLATERAL ORDERS**

Upon consideration of the Wheeling and Lake Eire Railway Company’s *Motion to Enforce Cash Collateral Orders* (the “Cash Collateral Motion”), the parties having entered into certain stipulations as set forth in the Court’s May 5, 2015 Third Amended Joint Pretrial Order and Stipulations (the “Third Amended JPO”) [Adv. Proc. D.E. # 61], and having briefed certain issue pursuant to the Third Amended JPO, a hearing having been held on June 25, 2015 (the “Hearing”), and the Court having heard the arguments of counsel at the Hearing, it is hereby **ORDERED, ADJUDGED, and DECREED** as follows:

1. Service of the Motion, as described therein, constitutes adequate service and notice of the Motion upon all parties in interest.
2. The Motion is hereby GRANTED, as follows:
3. For the reasons set forth on the record at the Hearing, the Court determines as a matter of law and fact that the Ruling¹ is binding on the Trustee and Wheeling for purposes of the Cash Collateral Motion and the Surcharge Motion.
4. Accordingly, and consistent with the stipulations entered into by the parties in the Third Amended JPO, Wheeling shall be deemed to have an allowed superpriority, administrative expense claim against the estate in this Chapter 11 case, pursuant

¹ Defined terms shall have the same meanings as ascribed to them in the Third Amended JPO unless otherwise noted herein.

to 11 U.S.C. § 507(b) and as provided for by the terms of the applicable cash collateral orders, in the amount of \$695,640.93 (the “Superiority Claim”).

5. For the reasons set forth on the record at the Hearing, the Superpriority Claim shall not be subject to disallowance pursuant to 11 U.S.C. § 502(d).
6. Wheeling’s request for attorneys’ fees and expenses pursuant to 28 U.S.C. § 1927 is denied.
7. The parties reserve all rights regarding the Surcharge Motion.
8. A continued status conference on the Surcharge Motion shall be held on September 22, 2015 at 10:30am.

Dated: July 13, 2015

/s/ Peter G. Cary
Hon. Peter G. Cary

District/Off: 0100-1

User: kford

Date Created: 7/13/2015

Case: 13-10670

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