

RICHARD H. STREETER
ATTORNEY AT LAW
5255 Partridge Lane, N.W.
Washington, D.C. 20016
tele: 202-363-2011 fax: 202-363-4899
rhstreeter@gmail.com

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September 16, 2004

ENTERED
Office of Proceedings
September 16, 2014
Part of
Public Record

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

Re: STB Finance Docket No. 35087, Canadian National Ry. & Grand Trunk Corp.—Control—EJ&E West Co.

Dear Ms. Brown:

This letter is in response to a number of letters that have been filed by a number of entities in opposition to the request made by the TRAC Coalition that the Board extend the oversight period in this proceeding for another two years. These letters fail to provide any reason for refusing the request for an extension.

At the outset, one must question the motives of those who have written. The Village of Homewood, IL, which happens to be the location of CN's U.S. headquarters, is not located on the EJ&E line and therefore has not been impacted in any respect by the transaction. While it has clearly benefited by the additional jobs and funds generated by CN's new training center, and will no doubt curry favor for its efforts on CN's behalf, it lacks standing to complain that communities that bear the brunt of the CN's increasing operations are seeking additional oversight to ensure that CN actually lives up to its commitments. In short, the Village of Homewood will not feel any impact whatsoever from extended oversight.

The concerns voiced by the Executive Director, Infrastructure Council, Director Federal Affairs should be viewed with a grain of salt. Although the letterhead and subsequent mention of the Illinois Chamber of Commerce may cause one to believe that the letter expresses the views of the Chamber of Commerce, this is not the case. Furthermore, the letter fails to disclose that CN is one of the most prominent members of the Infrastructure Council. See Attachment A. Given CN's prominence, it is not surprising that the Executive Director of the Council would be directed to write a letter supporting CN.

Although the Infrastructure Council complains that stringent oversight in this “minor” transaction has extended longer than oversight for any acquisition of this size, it should be noted that the Board found it necessary to extend oversight when it found significant discrepancies between the data that CN reported and the data that CN had itself collected. In the first place, the instant transaction is *not* minor with regard to its impact on railroad operations through and around the City of Chicago or on the communities located on the EJ&E.

Second, the importance of the rail network through Chicago has long been recognized. As a result, proceedings that have impacted that network have been accorded intense scrutiny. Indeed, in *North Western Employees Transportation Corporation—Purchase—Chicago and North Western Railway Company*, 342 I.C.C. 58 (1972), restrictions of up to 10 years were imposed that impacted even the payment of dividends.

In this case, no restrictions have been placed on CN’s ability to expend funds or to adjust its operations. Hence, Professor Schwieterman’s claim that extending the oversight period would cast a shadow over CN’s capital investment program is farfetched. As noted in the Indiana Chamber of Commerce’s letter, this year CN expects to finish its \$141 million investment in its Kirk Yard facility in Gary, Indiana and, in 2013 it opened a new intermodal terminal in Indianapolis. As those examples show, nothing has prevented CN from upgrading the facilities it acquired. What the professor conveniently ignores is the fact that CN’s track upgrades have not reduced the number and duration of blocked crossings. Instead, the first quarter of 2014 has witnessed the highest number of crossings being blocked by CN trains for ten minutes or more. This also undermines and contradicts Conexus Indiana’s unsupported assertion that CN has lived up to its commitments made to local communities.

Conexus’s further suggestion that higher rates for Indiana shippers can be blamed on the Board’s oversight is absurd. There is nothing whatsoever that remotely shows that CN has been distracted and subjected to any material added costs and burdens by having to provide the Board with periodic reports reflecting the impact of its operations. Plainly, those reports provide CN an opportunity to focus on those impacts. Whether CN actively addresses them remains to be seen. In any event, there is nothing to support the assertion that CN would lower shipping rates if the current reporting and oversight costs were eliminated on January 23, 2015.

Although the Mayor of the Village of Homewood insists that other communities located on the EJ&E are satisfied that CN has lived up to its

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commitments, that hearsay comment is entitled to no weight, especially when CN's reports document the fact that numerous problems continue to be experienced despite the Board's continuing oversight. While it may be asked why those problems have not been identified by other communities, the answer is found in the gag orders inserted by CN in the settlement agreements it imposed on communities that settled. Those CN gag orders effectively deprive communities of any ability to bring their complaints to the Board's attention without CN's express pre-approval.

In summary, no good reason has been demonstrated that should cause the Board to terminate oversight of this very significant proceeding in light of the Board's stated intent to require reports for a 2-year period following the full implementation of the operating plan. As the Board recognized when it approved CN's acquisition of the EJ&E line, CN is now able to re-route traffic around the congestion that ensnarls rail traffic moving through Chicago. Of course, while CN reaps the benefits of the transaction, the communities located along the EJ&E are now faced with the substantial increase of traffic that has recently been moved to them. This is the opposite situation from that involving "folks who move to the O'Hare airport area and then complain about the planes."

In closing, Petitioner asks the Board to note that not one of the entities that have filed letters in opposition to the extension of oversight have any skin in the game. Not one is a community located on the EJ&E. Furthermore, as noted above, a number of the letters have been written by entities that receive substantial financial support or benefit from CN.

Respectfully submitted,



Richard H. Streeter

RHS:rs

Cc: Senator Richard J. Durbin
Paul A. Cunningham, Esq. (pac@harkinscunningham.com)
David A. Hirsh, Esq. (dhirsh@harkinscunningham.com)
Richard A. Hofeld
Joseph P. Schwieterman
Benjamin J. Brockschmidt
David W. Holt
Cameron Carter



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