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SEC

SERVICE DATE - APRIL 6, 1999

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33556

CANADIAN NATIONAL RAILWAY COMPANY, GRAND TRUNK CORPORATION,
AND GRAND TRUNK WESTERN RAILROAD INCORPORATED

--CONTROL--

ILLINOIS CENTRAL CORPORATION,
ILLINOIS CENTRAL RAILROAD COMPANY,
CHICAGO, CENTRAL AND PACIFIC RAILROAD COMPANY,
AND CEDAR RIVER RAILROAD COMPANY

Decision No. 36

Decided: April 6, 1999

By application (variously referred to as the CN/IC application, the CN/IC control application, and the CN/IC primary application) filed July 15, 1998, Canadian National Railway Company (CNR), Grand Trunk Corporation (GTC), and Grand Trunk Western Railroad Incorporated (GTW),¹ and Illinois Central Corporation (IC Corp.), Illinois Central Railroad Company (ICR), Chicago, Central & Pacific Railroad Company (CCP), and Cedar River Railroad Company (CRRC),² seek approval under 49 U.S.C. 11321-26 for:³ (1) the acquisition by CN of

¹ CNR is a rail carrier. GTC, a holding company, is a wholly owned subsidiary of CNR. GTW, a rail carrier, is a wholly owned subsidiary of GTC, as are Duluth, Winnipeg and Pacific Railway Company (DWP, a rail carrier) and St. Clair Tunnel Company (SCTC, a rail carrier). CNR, GTC, and GTW, and their wholly owned subsidiaries (including DWP and SCTC, but excluding Illinois Central Corporation and its wholly owned subsidiaries), are referred to collectively as CN.

² IC Corp. is a holding company, as is CCP Holdings, Inc. (CCPH, a wholly owned subsidiary of IC Corp.). ICR, a rail carrier, is a wholly owned subsidiary of IC Corp. Waterloo Railway Company (WRC, a rail carrier) is a wholly owned subsidiary of ICR. CCP (a rail carrier) and CRRC (also a rail carrier) are wholly owned subsidiaries of CCPH. IC Corp., ICR, CCP, and CRRC, and their wholly owned subsidiaries (including CCPH and WRC), are referred to collectively as IC.

³ The transaction for which approval is sought (i.e., the acquisition by CN of control of IC, and the integration of the rail operations of CN and IC) is referred to as the CN/IC control transaction.

control of IC; and (2) the integration of the rail operations of CN and IC.⁴ At the Board's March 25, 1999 voting conference, the Board voted to approve the CN/IC application, subject to certain conditions. A written decision reflecting that vote will be issued by May 25, 1999.

In their CN/IC-68 motion filed March 25, 1999 (after the conclusion of the voting conference), applicants have requested that the protective order governing this proceeding⁵ be amended to authorize CN and IC personnel to gain access at this time to information relating to each other's transportation data and contracts for the limited purpose of using that information to facilitate the planning and preparation for integrated rail operations. Applicants contend that approval of this request would serve the public interest and the interests of CN's and IC's shippers by facilitating applicants' efforts to provide the safest and most reliable and efficient integrated operations possible upon consummation of the CN/IC control transaction and thereafter. The CN/IC-68 motion is unopposed.

Paragraph 2 of the protective order governing this proceeding provides that CN personnel and IC personnel, including outside consultants and attorneys, "may exchange Confidential Information for the purpose of participating in the [CN/IC and any related] proceedings, but not for any other business, commercial, or other competitive purpose, unless and until their control application in [the CN/IC proceeding] is approved." Decision No. 1, slip op. at 3. Applicants are correct that this provision must be modified to permit CN personnel and IC personnel, including outside consultants and attorneys, to exchange Confidential Information for the additional (though still limited) purposes of creating integrated information systems, and planning and preparing for integrated rail operations. The requested modification here is appropriate to enable CN and IC to work out the details of the CN/IC control transaction as early as possible, so as to ensure a smooth transition in the creation of a unified CN/IC, and given the absence of any opposition, good cause has been shown to grant applicants' motion.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The CN/IC-68 motion is granted, and the protective order is amended as indicated in the appendix. In all other respects, the protective order shall remain unchanged and in effect.

⁴ CN and IC are referred to collectively as applicants.

⁵ See Decision No. 1 (served Feb. 26, 1998).

STB Finance Docket No. 33556

2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

APPENDIX

The protective order issued in Decision No. 1 in STB Finance Docket No. 33556, served February 26, 1998, is amended to add the following paragraphs:

19(a). On or after March 25, 1999, IC may provide to personnel of CN, and CN may provide to personnel of IC, and personnel of CN and IC may receive, copies of or other information regarding transportation services and contracts to which IC or CN is a party, other contracts to which IC or CN is a party, their historic performance and cost of performance, and related operations by CN or IC. The authorization set forth in the preceding sentence is subject to the restrictions set forth in Paragraph 19(b).

19(b). Until the Board's decision approving the CN/IC control transaction becomes fully effective, the contracts or other information mentioned in Paragraph 19(a) may be provided and received solely for the purposes of placing information about such contracts or information in the information systems of CN and IC, testing such systems, and planning and preparing for rail operations, but not for any other business, commercial, or competitive purpose; and the CN and IC personnel allowed access to such contracts or information shall be limited to those requiring such access in order to carry out such permissible purposes.