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VIA ELECTRONIC FILING

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

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ENTERED
Office of Proceedings
November 16, 2015
Part of
Public Record

Re: *STB Docket No. EP 724-3, United States Rail Service Issues- Data Collection*

Dear Ms. Brown:

Attached for filing in the above proceeding is a copy of Canadian Pacific's Motion to Amend the Board's October 8, 2014 Order. We are serving counsel of record in Subparagraph No. 3 of this proceeding as well as regulatory counsel for the Rapid City, Pierre & Eastern Railroad, Mr. Eric Hocky at Clark Hill in Philadelphia.

Thank you for your courtesy and cooperation in this matter.

Very truly yours,

Charles W. Webster

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. EP 724 (Sub-No. 3)

UNITED STATES RAIL SERVICE ISSUES –
DATA COLLECTION

CANADIAN PACIFIC'S MOTION TO AMEND THE BOARD'S OCTOBER 8, 2014 ORDER

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Canadian Pacific (CP) hereby moves the Surface Transportation Board (Board) to amend its Order of October 8, 2014, and permit CP to discontinue reporting data related to the Rapid City, Pierre & Eastern Railroad (RCP&E).¹

I. Background

In the winter of 2013 – 2014 railroads experienced operational challenges brought on by historically severe weather and an unforeseen surge of traffic. In response to shipper concerns, in particular grain shippers in the Upper Midwest, the Board's Rail Customer and Public Assistance (RCPA) staff increased their ongoing communication with the Class I railroads, and held meetings with shippers and politicians in the Midwest. In addition, the Board held public hearings in Washington, D.C. and Fargo North Dakota on rail service issues at which it heard testimony from interested stakeholders, *See, United States Rail Service Issues–Grain*, No. EP 724-2 (served June 20, 2014), and *United States Rail Service Issues*, No. EP 724 et al (served August 18, 2014).

Following the public hearing in Washington, DC, the Board ordered CP and BNSF to

¹ Canadian Pacific is a trade name under which Canadian Pacific Railway Company and its United States subsidiaries, Soo Line Railroad Company, Dakota, Minnesota and Eastern Railroad Corporation, and Delaware and Hudson Railway Company, Inc. operate.

submit weekly status reports regarding the domestic movement of grain and fertilizer. *Id.* The Board also directed CP to submit weekly reports on the balance of locomotives between CP and RCP&E, the number of grain cars requested by RCP&E, and the number of grain cars supplied to RCP&E. *Id.*

On October 8, 2014, following the public hearing in Fargo, North Dakota, the Board directed all Class I railroads and the Class I railroad members of the Chicago Transportation Coordination Office (CTCO), including CP, to submit weekly reports on an interim basis containing a broad range of specific performance data. *See U.S. Rail Serv. Issues—Data Collection*, No. EP 724- 3 (served October 8, 2014) (Order of October 8).² In addition to the performance data required of all Class I's, footnote seven of the October 8 Order directed CP to continue to report separate data regarding interchange of locomotives and supply of grain cars to RCP&E. It is to these additional requirements pertaining to RCP&E that this motion is addressed.

II. Reporting of RCP&E Data Serves No Regulatory Purpose Now and Should be Discontinued

When the Board first required CP to submit weekly status reports regarding grain cars and locomotives interchanged with RCP&E, RCP&E was a newly operational railroad.³ In the early months of its existence, RCP&E relied on CP to supplement its grain car fleet. During this time, RCP&E requested, and CP supplied, approximately 250 grain cars to the new railroad every week. As RCP&E became fleet sufficient, however, the weekly requests for grain cars tapered off to the point that by March 1, 2015, RCP&E requested zero cars. And in the 36 weeks

² Specifically, the Class I's were ordered to report weekly average train speeds, weekly average terminal dwell times, weekly average cars online, number of trains held short of destination or scheduled interchange, and loading metrics for grain and coal service, and information related to Chicago, among other data points.

³ RCP&E is a subsidiary of Genesee & Wyoming, Inc. It was formed in order to acquire and operate the western portion of the Dakota, Minnesota and Eastern Railroad. The acquisition was consummated effective May 31, 2014. *See Rapid City, Pierre & Eastern Railroad, Inc.—Acquisition and Operation Exemption Including Interchange Commitment—Dakota, Minnesota & Eastern Railroad Corporation*, No. FD 35799 (served May 14, 2015).

since March 1, RCP&E has requested an aggregate total of only 15 grain cars from CP.

Similarly, at start-up RCP&E was concerned about a potential imbalance of RCP&E locomotives on CP compared to available CP locomotives on RCP&E. The STB's locomotive reporting requirement was apparently made in response to RCP&E's concern. This situation too has resolved as RCP&E has become operationally mature, and self-sufficient regarding locomotive power.

In view of the foregoing, continued reporting of RCP&E data by CP no longer serves a regulatory purpose. RCP&E is no longer a fledgling carrier, but rather is now a fleet sufficient, fully functional railroad. Continued reporting of RCP&E data at this point is reporting for reporting sake.

Reporting of RCP&E data also imposes an unnecessary regulatory burden. The required reporting is not automated. The RCP&E/CP locomotive balance data is tracked and reconciled manually. Likewise, the weekly grain car supply data is also tracked and assembled manually.

III. Conclusion

Continued reporting of RCP&E data should be sunsetted, and should be sunsetted without delay. It does not serve a useful regulatory purpose, and is burdensome. CP therefore respectfully requests that the Board amend its Order of October 8, 2014, specifically footnote seven, and allow CP to discontinue reporting of RCP&E specific data.

Respectfully submitted,



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