

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

STB Finance Docket No. 35264

Elgin, Joliet & Eastern Railway Company –  
-- Trackage Rights Exemption –  
Illinois Central Railroad Company

\* \* \* \* \*

STB Finance Docket No. 35265

Elgin, Joliet & Eastern Railway Company  
-- Trackage Rights Exemption –  
Wisconsin Central, Ltd.

\* \* \* \* \*

STB Finance Docket No. 35266

Elgin, Joliet & Eastern Railway Company  
-- Trackage Rights Exemption –  
Grand Trunk Western Railroad Company

\* \* \* \* \*

STB Finance Docket No. 35267

Illinois Central Railroad Company  
– Trackage Rights Exemption –  
Chicago, Central & Pacific Railroad Company

\* \* \* \* \*

STB Finance Docket No. 35268

Illinois Central Railroad Company  
– Trackage Rights Exemption –  
Grand Trunk Western Railroad Company

\* \* \* \* \*

**ENTERED**  
Office of Proceedings

**AUG 27 2009**

Part of  
Public Record

STB Finance Docket No. 35269

Illinois Central Railroad Company  
– Trackage Rights Exemption –  
Wisconsin Central, Ltd.

\* \* \* \* \*

STB Finance Docket No. 35270

Grand Trunk Western Railroad Company  
– Trackage Rights Exemption –  
Illinois Central Railroad Company  
(Harvey to University Park)

\* \* \* \* \*

STB Finance Docket No. 35271

Grand Trunk Western Railroad Company  
– Trackage Rights Exemption –  
Illinois Central Railroad Company  
(Bridgeport to Belt Crossing)

\* \* \* \* \*

STB Finance Docket No. 35272

Grand Trunk Western Railroad Company  
– Trackage Rights Exemption –  
Illinois Central Railroad Company  
(Argo to Joliet)

\* \* \* \* \*

STB Finance Docket No. 35273

Grand Trunk Western Railroad Company  
– Trackage Rights Exemption –  
Wisconsin Central, Ltd.

\* \* \* \* \*

STB Finance Docket No. 35274

Grand Trunk Western Railroad Company  
– Trackage Rights Exemption –  
Chicago, Central & Pacific Railroad Company

\* \* \* \* \*

STB Finance Docket No. 35275

Chicago, Central & Pacific Railroad Company  
– Trackage Rights Exemption –  
Illinois Central Railroad Company  
(Belt Crossing to University Park)

\* \* \* \* \*

STB Finance Docket No. 35276

Chicago, Central & Pacific Railroad Company  
– Trackage Rights Exemption –  
Illinois Central Railroad Company  
(Bridgeport to Joliet)

\* \* \* \* \*

STB Finance Docket No. 35277

Chicago, Central & Pacific Railroad Company  
– Trackage Rights Exemption –  
Wisconsin Central, Ltd.

\* \* \* \* \*

STB Finance Docket No. 35278

Chicago, Central & Pacific Railroad Company  
– Trackage Rights Exemption –  
Grand Trunk Western Railroad Company

\* \* \* \* \*

STB Finance Docket No. 35279

Wisconsin Central, Ltd.  
– Trackage Rights Exemption –  
Illinois Central Railroad Company

\* \* \* \* \*

STB Finance Docket No. 35280

Wisconsin Central, Ltd.  
– Trackage Rights Exemption –  
Grand Trunk Western Railroad Company

**UNITED TRANSPORTATION UNION'S  
PETITION TO STAY**

Clinton J. Miller, III  
General Counsel  
United Transportation Union  
14600 Detroit Avenue  
Cleveland, Ohio 44107  
Tel: (216) 228-9400  
Fax: (216) 228-0937  
[c\\_miller@utu.org](mailto:c_miller@utu.org)

Pursuant to 49 C.F.R. § 1150.32(c), United Transportation Union (“UTU”) respectfully moves the Board for a stay of the effective date of the exemption in three of the above-captioned proceedings, i.e., those that involve reciprocal trackage rights between the Elgin Joliet and Eastern Railway Company (“EJ&E”) and the other Canadian National carriers. “Irreparable harm” is evident here since UTU members stand to be displaced as a result of the operation of these trackage rights, and it will be nearly impossible to unscramble the egg of seniority rights, and perhaps residence changes, once the trackage rights go into effect.

In footnote 5 of the Applicants’ Supplement to Verified Notice of Exemption, the Applicants note that, “Implementing agreements with Applicants’ operating unions are already in place for 14 of the 17 pending trackage rights notices, and Applicants are prepared to negotiate implementing agreements for the three notices wherein EJ&E is to secure trackage rights over the other CN carriers.” But conspicuous by its absence is a commitment to have those implementing agreements in place prior to implementation, which is not required in trackage rights transactions. *See Norfolk & Western Ry. Co. – Trackage Rights – BN*, 354 ICC 605 (1978), as modified in *Mendocino Coast Ry., Inc. – Lease and Operate*, 360 ICC 653 (1980). So, while the bulk of the involved trackage rights have implementing agreements in place, the three involving the EJ&E do not.

While Applicants in their Supplement explain the current applications are a simple matter of increasing flexibility of its operations among its subsidiaries, they do not fully address the Board’s orders of August 17, 2009 and August 18, 2009 to provide “an explanation of how [each] notice relates to the 16 other notices filed simultaneously by carrier subsidiaries of CN[R], [and] an explanation of how these notices would impact the information provided to the Board in [Canadian National Railway Company and Grand Trunk Corporation - Control - EJ&E West Company, STB

Finance Docket No. 35087 ('CN-EJ&E')”.

Nor do they explain the logic of having the right to implement the three EJ&E trackage rights transactions on 20 days' notice under the applicable conditions, where they have implementing agreements with the operating unions on the fourteen (14) other trackage rights transactions. Clearly, the potential irreparable harm to operating employees represented by UTU, the breadth of which cannot be measured because of the inadequacy of Applicants' explanation in their Supplement, warrants a stay.

### CONCLUSION

The three trackage rights applications involving the EJ&E should be stayed, and a briefing schedule should be imposed.

Respectfully submitted,

/s/ Clinton J. Miller, III  
Clinton J. Miller, III  
General Counsel  
United Transportation Union  
14600 Detroit Avenue  
Cleveland, Ohio 44107  
Tel: (216) 228-9400  
Fax: (216) 228-0937  
[c\\_miller@utu.org](mailto:c_miller@utu.org)

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing United Transportation Union's Motion for Stay has been served this 27th day of August, 2009 by first-class, postage pre-paid mail upon

Thomas J. Healey  
Counsel - Regulatory  
CN  
17641 South Ashland Avenue  
Homewood, IL 60430  
Tel: (708) 332-4381  
Fax: (703) 332-4361

Dated: August 27, 2009

/s/ Clinton J. Miller, III

Clinton J. Miller, III