

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NOs. 35063, 35064, 35065

MICHIGAN CENTRAL RAILWAY, LLC –
ACQUISITION AND OPERATION EXEMPTION –
LINES OF NORFOLK SOUTHERN RAILWAY COMPANY

ENVIRONMENTAL LAW AND POLICY CENTER
COMMENTS IN RESPONSE TO PETITION TO REVOKE CLASS EXEMPTION

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Dated: September 18, 2007

Vernon Williams
Secretary
Surface Transportation Board
395 E. Street, SW
Washington, DC 20423-0001

Dear Secretary Williams,

The Environmental Law and Policy Center (ELPC), a public interest environmental advocacy organization, submits the following comments in relation to docket numbers FD-35063, FD-35064, and FD-35065.

ELCP works throughout the Midwest under the belief that environmental protection and economic development can be achieved together. Nothing better exemplifies this belief than the ability, both potential and realized, of railroads to provide benefits to users, to communities, and to the environment. According to the Federal Railroad Administration, "The public benefits of intercity freight and passenger rail systems and individual projects include unique contributions of congestion mitigation, environmental quality, energy savings, and land use."¹

ELPC is particularly concerned about the impact of this proposed transaction on the federally designated high-speed rail corridor between Chicago and Detroit. In recent years, the State of Michigan, Amtrak, and the Federal Railroad Administration have made great strides to improve rail service on the federally designated high-speed rail corridor between Detroit and Chicago, which comprises a portion of the track involved in this transaction. Investment of a combined \$38 million in grade crossing protection, state-of-the-art signals, and upgraded track on the section west of Kalamazoo is now beginning to pay dividends in reduced travel time. Along with additional investment by Michigan in station improvements, the project is moving closer to achieving its goal of 3.5 hour travel between Chicago and Detroit.

¹ The public benefits of intercity freight and passenger rail systems and individual projects include unique contributions of congestion mitigation, environmental quality, energy savings, and land use.

It is our understanding that Amtrak, Watco, and Norfolk Southern will be signing an agreement later today that provides financial guarantees that the passenger rail corridors involved in this transaction will be maintained to current standards for five years. We have not seen the details of this agreement, but can only assume that Amtrak has protected its interest in maintaining its ridership and its investments in Michigan. We applaud the parties for reaching an agreement.

However, five years is an extremely short time horizon for something as important as a change in major transportation infrastructure that will affect the future of passenger rail in the Midwest. We remain concerned that the proposed transaction transfers key track from a company with a market capitalization of \$19 billion to a limited liability company with liquid assets of under \$10 million. We are also concerned about the precedent that may be set by this case. Class I railroads are increasingly moving to reduce cost and liability through transactions with smaller railroads.

We therefore request that the Surface Transportation Board impose additional conditions on the merger to provide long-term protection for passenger rail. First, the Surface Transportation Board should maintain oversight of the transaction for ten years. During this time, it should actively monitor the financial performance of Michigan Central. Second, should Michigan Central prove unable to successfully implement its business plan, Amtrak, the State of Michigan, and the Conrail Shared Assets should, in that order, be given the opportunity to purchase Michigan Central's assets.

Respectfully submitted,


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