

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON DC 20423**

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**FINANCE DOCKET NO. 35081**

**CANADIAN PACIFIC RAILWAY COMPANY, ET AL.  
-CONTROL-  
DAKOTA, MINNESOTA & EASTERN RAILROAD CORP., ET AL.**

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**UNITED TRANSPORTATION UNION LOCAL 911's**

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**REPLY OF UTU LOCAL 911 TO CANADIAN PACIFIC RAILWAY COMPANY,  
SOO LINE RAILROAD COMPANY, AND DAKOTA, MINNESOTA &  
EASTERN RAILROAD CORPORATION LETTER DATED  
NOVEMBER 19, 2010**

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**UTU Local 911  
DM&E Line Sale Subcommittee  
Dennis W. Towner, Secretary  
715D Maple Hills Drive East  
Maplewood, MN 55117**

**Dated: December 4, 2010**

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NOVEMBER 19, 2010**

December 4, 2010

Surface Transportation Board

RE: STB Finance Docket No. 35081 (Sub-No. 1), Canadian Pacific Railway Company, et al. -- Control --Dakota, Minnesota and Eastern Railroad Corporation, et al.

Surface Transportation Board,

UTU Local 911 is writing in response to the CPR reply letter dated November 19, 2010 regarding UTU Local 911's Petition for Enforcement.

To be clear UTU Local 911 is not seeking an implementing agreement with CPR as the CPR Counsel contend in their November 19, 2010 reply letter. UTU Local 911 is requesting clarification from the Surface Transportation Board on their decision dated September 30, 2008 and inforcement of verified statements to the STB by CRR representatives.

The clarification being sought from the Surface Transportation Board is on whether or not CPR has the authority to run more than one train per day regarding the Twin Cities Trackage Rights on the **RIVER SUBDIVISION**.

Recently the CPR has indicated in a January 27, 2010 letter to James H. Nelson GO261 that they believe they have the authority to run up to six trains per day in this corridor. CPR contends the 1997 Agreement between SOO and I&M Rail Link was assumed by IC&E and subsequently DM&E. They believe the STB approval now permits them to run up to six trains per day on the RIVER SUBDIVISION which is Local 911's seniority district. UTU Local 911 disagrees with the understanding now stated by CPR. We see no such exhibits of documentation or testimony or examples of past practise in any La Crescent Minnesota to St. Paul Minnesota **RIVER DISTRICT** Trackage Right Agreements that specifically points out, up to six trains per day. The only information regarding this issue in the CPR reply dated November 19, 2010 is in Exhibit 1 page 5 paragraph one, which states: *“(1) consignors or consignees physically located on trackage acquired by I&M from CPR or (2) points both south and west of the intersection of the latitude of Comus Minnesota and longitude of Davenport, Iowa.”* These location points are on the IOWA and MINNESOTA SUBDIVISION AND SENIORITY DISTICT THAT WAS SOLD TO THE IMRL RAILWAY. THIS LINE AND SENIORITY DISTRICT RAN FROM MASON CITY IOWA TO AUSTIN MINNESOTA TO ST. PAUL YARD BY WAY OF COMUS MINNESOTA. The example used is a totally different subdivision, IT IS OVER 90 MILES AWAY FROM THE RIVER SUBDIVISION. The trackage rights in the exhibit document is to get the trains from Cliff Minnesota by way of Rosemont to St. Paul Yard by way of Division Street located in St. Paul Minnesota. UTU Local 911 takes exception to the misrepresentation of information in this exhibit. In fact when the DM&E purchased the IMRL the CP/SOO also had major concerns regarding this merger. They filed with the STB to enforce interchange locations with the IMRL (now the IC&E) at both La Crescent Minnesota and St. Paul Minnesota **only. Which were enforced by the STB in their decision, (these documents are on file).**

The specific documentation regarding the one Train per day is located in Volume 1, Applications and Exhibits, Exhibit 13, Operating Plan, Page 32, Paragraph 2, states: Applicants' terminal operation at the St. Paul, MN and Chicago, IL should not be affected by the transaction. Currently, CPR (Soo Line) has terminal services agreements with DM&E and IC&E covering the Chicago, IL and St. Paul **terminals**. In both cities, DM&E delivers cars to the CPR Yard (**one train per day at St. Paul, MN and three trains per week at Chicago Bensenville Yard**) and CPR/Soo Line Crews perform switching, interchange, and local termination service on behalf of DM&E/IC&E.

Local 911 does not believe this issue falls under the Collective Bargaining Agreement which is reached in provisions of the Railway Labor Act, moreover, this falls under the Jurisdiction of the Surface Transportation Boards Final Decision dated, September 30, 2008, which deals with the Surface Transportation Boards decision under an Interstate Commerce Commission (ICC) Trackage Rights Arrangements.

Local 911 has confirmed from it's UTU General Chairperson, James H. Nelson and UTU Vice President Robert Kerley, that they did not reach any signed agreement with CPR in February of 2010. During that meeting they indicated to CPR this matter was a UTU Local 911 complaint and they could not act on behalf of Local 911 with regard to their STB filing. *REFERENCE EXHIBIT LETTER A3 – (THIRD PARAGRAPH) IN ORIGINAL FILING OF PETITION OF ENFORCEMENT DATED SEPTEMBER 1, 2010.*

It is ironic that once CPR got the Surface Transportation Board Approval that they then started taunting Local 911 by implimenting more than one train per day and stating that they have the authority to run up to six trains per day resulting in the loss of work for Local 911 members. UTU Local 911 believes that if CPR had stated this thought process and plan to the Surface Transportation Board that the decision may have resulted in an entirely different outcome.

UTU Local 911 feels that the Canadian Pacific Railway is obligated under the Surface Transportation Board final decision dated September 30, 2008. The verified statements therein to the STB and Parties of record and to the public should have been based on truth, facts and integrity.

As quoted in the Decision, of the Surface Transportation Board dated September 30, 2008, Page 19, it states: If it should decide in the future to carry out an operational change that amounts to implementation of the proposed transaction, concerns such as those raised by Local 911 would be handled appropriately in the course of negotiating implementing agreements under the protective conditions.

It now appears that the verified statements to the STB by CPR representatives was deliberately misleading and continues to misrepresent information in the letter of reply dated November 19, 1010.

Accordingly, UTU Local 911, respectfully requests that the Board verify all facts and information brought forward in both parties replies to the STB.

Respectfully submitted,

Dennis W. Towner, Secretary  
DM&E Line Sale Subcommittee  
UTUT Local 911

## CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing United Transportation Union, Local 911's Petition for Reconsideration to be served by first-class mail, postage pre-paid, this 6 day of December, 2010 on all parties of record and the following persons specified in the Board's Decision dated (month, day year of decision here).

### PARTIES OF RECORD

#### 11 COPIES:

**Ms. Cynthia Brown, Chief Section of Administration**  
Office of Proceedings  
Surface Transportation Board  
395 E Street South West  
Washington DC 20423

#### 1 COPY FOR EACH OF THE FOLLOWING:

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**US Senator Amy Klobuchar**  
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**Washington, DC 20510**

**US Senator Al Franken**  
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**St. Paul, MN 55107**

**UTU Local 911**  
**DM&E Line Sale Subcommittee**  
**Dennis W. Towner, Secretary**  
**715D Maple Hills Drive East**  
**Maplewood, MN 55117**

**Dated: December 4, 2010**