

## STB EX PARTE NO. 634

PROPOSAL TO REQUIRE CONSOLIDATED REPORTING  
BY COMMONLY CONTROLLED RAILROADS<sup>1</sup>

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*Decided October 31, 2001*

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The Board has concluded that consolidated financial reports should be filed for each group of railroads or railroad-related affiliates that operate as a single, integrated United States rail system whose cumulative annual operating revenues meet the Class I threshold of \$250 million (in 1991 dollars).

## BY THE BOARD:

Our accounting and reporting regulations require financial reports to be filed by Class I railroads, that is, railroads with annual operating revenues of at least \$250 million (in 1991 dollars).<sup>2</sup> Currently, our regulations do not require commonly owned carriers to report on a consolidated basis. Thus, families of railroads that are operated as an integrated system with cumulative operating revenues well above the \$250 million threshold are not required to file financial reports so long as the operating revenues of each individual railroad are less than \$250 million.

On September 25, 2000, we proposed, in STB Ex Parte No. 634,<sup>3</sup> that commonly controlled railroads (and their railroad-related affiliates) whose combined annual operating revenues meet the \$250 million threshold be required to file consolidated financial reports. Our principal objective was to gather more meaningful and accurate information on the large rail systems operating in the United States by conforming our regulatory reporting requirements as closely as practical to Financial Accounting Standards Board Statement No. 94, *Consolidation of All Majority-Owned Subsidiaries* (FASB No. 94). On November 15, 2000, partially in response to this proposal, Wisconsin Central Transportation Corporation (WCTC), the parent company of a railroad that was

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<sup>1</sup> This decision embraces STB Ex Parte No. 584, *Wisconsin Central Ltd. — Petition for Rulemaking — Classification of Carriers*.

<sup>2</sup> Class II carriers are those with annual operating revenues (in 1991 dollars) greater than \$20 million but less than \$250 million, while Class III carriers have annual operating revenues not exceeding \$20 million. See 49 CFR Part 1201, General Instruction 1-1.

<sup>3</sup> 65 Fed. Reg. 57,650 (2000).

then approaching Class I carrier status,<sup>4</sup> requested (in a petition docketed as STB Ex Parte No. 584) that we also consider increasing the revenue threshold for Class I status to \$500 million.<sup>5</sup>

We now conclude that consolidated reports should be required for each group of railroads (or railroad-related affiliates) that operate as a single, integrated United States rail system whose cumulative operating revenues meet the Class I threshold. We deny the request to institute a rulemaking to consider raising the revenue threshold for Class I railroads.

#### A. Consolidated Reporting

*Comments.* In response to our proposal to require consolidated reporting for Class I rail systems, comments were filed by over 20 short line and regional railroad holding companies,<sup>6</sup> the American Short Line and Regional Railroad Association, the Canadian Pacific Railway Company (CP), and the Canadian National Railway Company (CN).<sup>7</sup> Three railroad labor representatives,<sup>8</sup> the Western Coal Traffic League (WCTL), and the United States Department of Agriculture (USDA) also filed comments.

The short line and regional railroad industry, along with USDA, expressed concern that the viability of small rail operations could be adversely affected if the proposal is used as a means to group together, for classification purposes, all

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<sup>4</sup> Under our rules, a railroad attains Class I status only after satisfying the revenue requirement for 3 consecutive years. 49 CFR Part 1201, General Instruction 1-1(b)(1). At the time this rulemaking was instituted, Wisconsin Central Ltd., a subsidiary of WCTC, had satisfied the revenue requirement for the prior year.

<sup>5</sup> For administrative convenience, we address the issues presented in both of these proceedings in this decision. These proceedings have not been consolidated, however.

<sup>6</sup> Genesee & Wyoming, Inc.; Emons Transportation Group; Pinsky Railroad Company; RailAmerica, Inc.; Rail Management Corporation; Transtar, Inc.; Omnitrax, Inc.; StatesRail; Bethlehem Steel Corporation Subsidiary Railroads; and Wisconsin Central Transportation Corporation. Joint comments were filed by Red River Valley & Western Company; Rutland Line, Inc.; Twin Cities & Western Railroad Company; The Monongahela Connecting Railroad Company; Aliquippa & Southern Railroad Company; The Mahoning Valley Railway Company; The Cuyahoga Valley Railway Company; The River Terminal Railway Company; Chicago Shortline Railway Company; ParkSierra Rail Corporation; Montana Rail Link; and I&M Rail Link.

<sup>7</sup> CP is the parent of the Class I railroad the Canadian Pacific Railway (U.S. West) Ltd. (formerly the Soo Line Railroad Company). CN is the parent of two Class I railroads, the Illinois Central Railroad Company and the Grand Trunk Western Railroad Company.

<sup>8</sup> The United Transportation Union; John Fitzgerald for the UTU General Committee of Adjustment GO-386 (UTU/GO-386); and the Rail Labor Division of the Transportation Trades Department, AFL-CIO (AFL-CIO).

commonly controlled carriers without regard to operational and marketing integration. They point out that Class III carriers are not subject to certain potentially costly labor protection provisions (*see* 49 U.S.C. 10902); that Class III carriers can lease older “grandfathered” boxcars at reduced rates; and that rail industry agreements provide special incentives to Class III carriers. If Class III carriers that are members of larger corporate families (even those that have no physical or marketing connection) were reclassified as Class II, they would no longer be able to take advantage of these special provisions or benefits, which the small carriers say were established precisely so that small railroads will be able to survive to provide continued rail service over lines that might otherwise be abandoned.

Arguing that combined financial results would more accurately reflect carrier classification, the three rail labor organizations and WCTL favor consolidated reporting for all commonly controlled carriers, regardless of how the carriers operate or market their services. UTU/GO-386 would expand the proposed new reporting requirements so that all railroads, regardless of size, would have to file financial reports with the Board, while AFL-CIO suggests that railroads also be required to report data on rail operations outside of the United States.

While neither CP nor CN opposes consolidated reporting, CP urges that a consolidated reporting requirement be limited to commonly controlled railroads that operate as a single integrated rail system.<sup>9</sup> CN suggests that we retain our current practice that carriers with non-domestic operations need to report data only on their United States rail operations.

*Discussion.* Although grouping together families of carriers could conceivably change the classification status of Class II or III carriers, the main purpose of the consolidated reporting proposal was to gather better data, for use in our oversight of the rail industry, on the operations of rail systems that are Class I in size. We did not intend to reimpose recordkeeping or reporting requirements on non-Class I railroads<sup>10</sup> that do not function as a larger system,

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<sup>9</sup> We note that the majority of the Class I carriers already voluntarily file consolidated reports for their systems.

<sup>10</sup> *See Elimination of Accounting & Reporting Requirements of Class II Railroads*, No. 37614 (ICC served Feb. 25, 1982) (relieving Class II railroads from the accounting and reporting requirements); *Reduction of Accounting & Reporting Requirements*, No. 37523 (ICC served Dec. 15, 1980) (relieving Class III railroads from the accounting and reporting requirements). UTU/GO386 has not adequately supported its request that we effectively reverse these actions (continued...)

or otherwise to change the classification status of individual carriers simply because they have corporate relationships with other carriers. As our predecessor, the Interstate Commerce Commission explained, “common control should not be the sole criterion for consolidation [for reporting purposes]. It is also important to consider the nature and the extent of the operating and management relationship between the commonly controlled \* \* \* railroads.” *Standards for Railroad Revenue Adequacy*, 3 I.C.C.2d 261, 301-302 (1986). Nothing on this record persuades us to alter that approach. Thus, we believe that consolidated reporting makes sense except where the commonly controlled railroads or related affiliates do not operate as a single integrated rail system in the United States. Indeed, even WCTL — which advocates consolidated reporting “even when individual railroads (or railroad-related affiliates) have no connection with one another except for a common parent” (WCTL comments at 2-3) — recognizes that consolidating reports of non-integrated carriers would be of limited value and suggests that carriers also maintain information on an unconsolidated basis.

When a group of commonly controlled railroads is operated as a single integrated system, that system should be recognized and treated as such for classification purposes. It is not practical, however, for us to attempt to determine, in the abstract, how particular families of small carriers are operated and which, if any, might be sufficiently integrated to require that they be classified as a single entity. Moreover, this proceeding is not the place to examine classifications for individual carriers or groups of carriers. Rather, carriers are expected to notify us when their classification status has changed, *see* 49 CFR 1241.15 — whether the change results from this new consolidation requirement or from growth in operating revenues. If any party believes that a carrier has not done so, or that a carrier is incorrectly classified, it may bring a proceeding before us. We will be in a position to address specific carrier classification issues only on a case-by-case basis where a record has been developed with information on how the related carriers operate.<sup>11</sup>

Finally, we will not require carriers to report on their non-United States operations. FASB No. 94 generally requires consolidated reporting for all

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<sup>10</sup>(...continued)

relaxing the burdensome reporting previously required of smaller carriers.

<sup>11</sup> In determining what operations to include in a consolidated report, we will presume that all commonly controlled, interconnected rail lines in the United States form an integrated rail system for reporting purposes. However, carriers are free to explain why in individual circumstances this presumption should not be applied.

commonly controlled companies to ensure that the financial reports provide investors (whose principal interest is in the financial results of the combined companies) and general users of the reports a complete picture of the overall operations of the parent corporation. In contrast, we seek information primarily to assist us in the regulation of the matters within our jurisdiction, which is rail transportation in the United States. As CN points out, Canadian rail operations are “governed by different regulatory and labor regimes,” which can affect the cost structure and earnings of the carriers. So as not to distort the results of those United States rail operations that we regulate, we will continue to require reporting only on rail operations within the United States.

*Conclusion.* We conclude that Class I rail systems should file consolidated reports that combine the operations of all their commonly controlled railroads or railroad-related affiliates functioning as an integrated rail system within the United States. The reporting requirement will take effect for the reporting year beginning January 1, 2002. To effectuate this new requirement, 49 CFR Part 1201, General Instruction 1-1 (b)(1) will be amended to read as follows:

(b)(1) The class to which any carrier belongs shall be determined by annual carrier operating revenues after the railroad revenue deflator adjustment. Families of railroads operating within the United States as a single, integrated rail system will be treated as a single carrier for classification purposes. Upward and downward reclassification will be effected as of January 1 in the year immediately following the third consecutive year of revenue qualification.

#### B. Revenue Threshold

Prior to its acquisition by CN,<sup>12</sup> WCTC requested that we consider raising the Class I revenue threshold to \$500 million. However, now that WCTC has been integrated into CN’s United States operations, increasing the Class I revenue threshold to \$500 million would have no impact on its reporting obligations,<sup>13</sup> as WCTC’s rail operations are interconnected with CN’s other United States rail operations and should be included in CN’s consolidated reports under our ruling in Ex Parte No. 634. In any event, because railroads with operating revenues of more than \$250 million are clearly large entities for which

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<sup>12</sup> See *Canadian National, et al. — Control — Wisconsin Central Transp. Corp., et al.*, 5 S.T.B. 890 (2001) (approving acquisition of WCTC by CN).

<sup>13</sup> Likewise, Kansas City Southern Railway Company (KCS), which supported the request that we revisit the Class I threshold, would not be affected by WCTC’s proposal as KCS’ annual operating revenues already exceed \$500 million.

financial reporting is reasonable and not unduly burdensome, we decline to institute a rulemaking to consider increasing the Class I revenue threshold.

We certify that this action will not have a substantial adverse impact upon a significant number of small entities. We are not here reclassifying any railroads, and the consolidated reporting that we are requiring applies only to large railroads.

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

*It is ordered:*

1. The Board will require consolidated reporting for all Class I carriers for the reporting year beginning January 1, 2002.
2. The request to institute a rulemaking in Ex Parte No. 584 is denied.
3. This decision will be effective December 7, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn and Commissioner Burkes.