

EX PARTE NO. 582
OPENING REMARKS, CHAIRMAN LINDA J. MORGAN
MARCH 7, 2000

Good morning. Over the next four days, the Board will be hearing public testimony about major rail consolidations and the future of the rail network. We will be looking at how the railroad industry is structured today and what customer service it is providing, where we would like the rail industry and rail service to be headed, and what we can do to provide the opportunity for the rail sector to be where we would like it to be. As I have said before during my 6 years at the Board and the ICC, the rail sector continues to be at an important crossroads, and the decisions we make in the near term have great influence in the long term. When these hearings are over, we will promptly decide how to proceed.

These hearings have been triggered by the announcement that BNSF and CN intend to merge. This announcement has come at a time when the rail sector is suffering from merger fatigue. Under any circumstances, a consolidation of the magnitude of BNSF/CN would be a major event, but its timing, given the backdrop, has made this announcement particularly significant, and it has raised a number of important issues about the future of the industry and the service that it provides.

We have just completed a major round of restructuring. This consolidation regrettably has been accompanied by a number of serious service problems, and while service levels have shown improvement in certain areas, overall, service is clearly not where it should be. Promised customer benefits have not been fully realized, and financial results have been underwhelming. The industry is now facing financial instability that could threaten the very capital investment that is needed to ensure that service improvements and growth can be sustained. This recent round of mergers has strained relationships between railroads and their customers and employees, and with the investment community, and there are those who have come to the conclusion that we need to take a breather and to consider whether the rules of the merger game should be changed.

There is an interest in taking a step back because, regardless of the merits of the BNSF/CN proposal standing alone, statements have been made that, if the BNSF/CN proceeding goes forward, that proposal will not go forward alone. It appears that other railroads will react to it, and before too long, we could be looking at the possibility of having two or three large railroads serving North America. There is a serious concern about whether the rail industry ought to be pursuing this type of restructuring at all, or at least at this time while the industry is still recovering from service difficulties and other disruptions associated with the last round of major rail consolidations. And so we at the Board believe that, as we proceed ahead, we must all address the important issues relating to major rail consolidations and the future of the North American railroad industry.

I have read the many statements that have been filed and the letters that have been written, and I have given much thought to everything said in them. There is much discussion of the past, and I think we can always learn from the past in determining where we need to go in the

future. Looking forward, we need to figure out whether further consolidation in the industry should be going on; if so, when; and whether the merger rules need to be changed given the current state of the industry.

As we look at those broad questions, I will be focusing on a few themes. The first one has to do with downstream effects. The actions that we take impact large shippers and small shippers, various commodity shippers, shippers in different parts of the country, and rail employees. We need to look for the right balance for all of these interests, and we must think about where the decisions we make will take us, not only in the short term, but also in the long term.

Another focus must be on how to achieve more responsive rail service. Railroads exist to provide for their customers, but in recent years -- many say because of consolidation -- service has not been what it needs to be. I hope that we will be able to draw some conclusions about how to promote better service and to make sure that future consolidations, if they move forward, improve rather than degrade service. For it is only through improved service that customer confidence can be restored and the opportunity for business growth can be realized.

Vital to good service is a rail system with the ability to raise capital and to invest in infrastructure and capacity. And one way to promote investment and help the industry serve its customers is by instilling confidence in the rail system. Over time, the financial community has lost confidence in the railroad industry. I hope that we will be able to draw some conclusions about whether additional consolidation will restore or further undermine confidence in the rail system, and about how to make sure that, if future consolidations move forward, they will improve rather than degrade confidence and investment in the industry.

The last round of mergers has produced much frustration and instability in the railroad sector. If as a result of these hearings we can find the right course to follow, then hopefully we can help restore the stability needed for this industry to be sustainable into the future and to be able to service its customers. That will be good for shippers, railroads, employees, and the economy in general. If our dilemma sounds a bit like a vicious cycle -- service problems undermine confidence, which undermines investment, which in turn undermines improved service -- it is. And to me, the best way to break the cycle is to restore some stability to the rail sector.

I know that many suggestions have been made as to how we get the rail sector back on track. I can assure you that we will look at all suggestions seriously. And I can also assure you that, given the importance of the matters before us, we will respond expeditiously.