

Surface Transportation Board Finds No Competitive Problems in 2nd Annual Round of Oversight of "Canadian National-Illinois Central" Merger; Seeks Comment on Formal Oversight Continuation

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has found no competitive or other problems as part of the agency's second annual round of general (formal) oversight in the "CN-IC" railroad-merger proceeding. In view of its finding, the Board seeks public comment on whether its general oversight of the merger should continue.

In a decision issued in May 1999, the Board approved the common control and integration of operations of the Canadian National (CN) and Illinois Central (IC) railroads. In doing so, the Board established general oversight for a period of up to 5 years so that the effectiveness of the various conditions imposed and the competitiveness of service provided by CN-IC and its Alliance Agreement with The Kansas City Southern Railway Company (KCS) might be assessed. In March 2000, the Board began an oversight proceeding by requiring CN to file an annual progress report with the agency and by inviting interested parties to comment on the merger's status.

In the first oversight decision issued in November 2000, the Board found that the integration of CN and IC had been successful to that date and had not resulted in service failures or produced any evidence or allegation of competitive abuses by CN-IC or the parties to the Alliance Agreement. Although it did not find any real problems with the CN-IC merger, the Board continued the general oversight proceeding by requiring CN to file a second annual progress report and by giving interested parties the opportunity to file comments.

CN filed its second progress report in July 2001 indicating that the merger has been successful to date and that CN has added new transportation services and improved transit times throughout its system. CN indicated that its labor relations with employees remain on good terms. CN also reported that rail-to-rail competition is vigorous in the areas where its Alliance Agreement with KCS is in effect, that there have been no complaints regarding access through the Chicago gateway by North Dakota grain shippers or the pricing practices for Canadian lumber, and that CN continues to comply with all Board-imposed environmental conditions.

CN also reported that, by selling its 50-percent interest in the Detroit River Tunnel (Tunnel) and by transferring operational control to the Canadian Pacific Railway Company (CP), it resolved any outstanding concerns regarding the Tunnel. In its May 1999 decision, the Board, while stating that it would continue to monitor issues related to investment in and operation of the Tunnel, encouraged parties disputing the Tunnel's control to actively pursue a private-sector solution to their concerns. In its most recent report to the Board, CN indicated that CP's concerns regarding the Tunnel were satisfied when, in February 2001, CN sold its interest in the Tunnel to Borealis Transportation Investment Trust, which is controlled by the Ontario Municipal Employees Retirement System. CN indicated that CP continues to hold a half interest in the Tunnel and that CP is in the process of replacing CN as the Tunnel's operator.

In the second oversight decision issued today, the Board preliminarily concluded that, in view of the overall affirmative record, there is no apparent need to continue formal oversight for the full 5-year term or, for that matter, the next year (the third year). The Board noted that oversight during the first and second years revealed no real problems following implementation of the CN-IC merger and that the only public comment filed during the second year was positive. The Board therefore invited comments on whether its general oversight of the CN-IC merger should cease. While noting the U.S. Department of Transportation's comment that the Board should continue to oversee the long-term implications of the merger, the Board stated that it has authority independent of the formal oversight process to enforce or revise merger conditions, as warranted, upon request or on its own initiative.

The Board issued its decision today in the case entitled *Canadian National Railway Company, Grand Trunk Corporation, and Grand Trunk Western Railroad Incorporated--Control--Illinois Central Corporation, Illinois Central Railroad Company, Chicago, Central and Pacific Railroad Company, and Cedar River Railroad Company (General Oversight)*, STB Finance Docket No. 33556 (Sub-No. 4), Decision No. 3.

A printed copy of today's decision is available for a fee by contacting: **D~2-D~ Legal, Room 405, 1925 K Street, N.W., Washington, DC 20006, telephone (202) 293-7776**, or via [http://Da_To_Da@Hotmail.com](mailto:Da_To_Da@Hotmail.com). The decision also is available for viewing and downloading via the Board's website at <http://www.stb.dot.gov>.

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