

# Northwoods Rail Transit Commission

Members: Ashland, Florence, Forest, Iron, Lincoln, Marathon, Marinette, Oconto, Oneida, and Rusk Counties of WI & Baraga, Delta, Dickinson, Gogebic, Houghton, Marquette, Menominee and Ontonagon Counties of MI.  
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April 9, 2021

VIA E-FILING

301915

The Honorable Cynthia T. Brown  
Chief, Section of Administration  
Surface Transportation Board  
395 E. Street, S.W., Room #100  
Washington, DC 20423-0001

ENTERED  
Office of Proceedings  
April 9, 2021  
Part of  
Public Record

Re: Petition for Revocation of Exemptions and Stay of Effective Date

Surface Transportation Board Finance Docket No. FD 36503  
*Grand Elk Railroad, Inc. – Acquisition – Lines of Wisconsin Central Ltd. in the State of Michigan*

Surface Transportation Board Finance Docket No. FD 36504  
*Fox Valley & Lake Superior Rail System, L.L.C. – Acquisition and Operation Exemption – Lines of Wisconsin Central Ltd. in the State of Wisconsin*

Greetings Ms. Brown:

I represent the Northwoods Rail Transit Commission or NRTC. The NRTC was officially recognized by the State of Wisconsin on May 22, 2012 and at that time consisted of 9 Wisconsin counties. It has since grown to include 10 Wisconsin and 8 Michigan counties whose mission is to sustain and enhance safe, reliable, and efficient rail service critical to businesses, communities, and economies in northern Wisconsin and the Upper Peninsula of Michigan.

On behalf of the NRTC, I submit this letter as a Petition for Revocation of the Exemptions and Stay of the Effective Date in each of the two above captioned Finance Dockets.

Neither Applicant can fairly be said to be a “new carrier” within the meaning of 49 CFR 1130.31(a). In fact, both Applicants are owned and controlled by Watco, which operates more than three dozen rail carriers. The proposed transactions were publicly announced after closed-door negotiations with no known participation by shippers or other stakeholders. They were announced as a deal between CN and Watco. Little detail was provided to the public.

There is no credible factual basis for the Board to deem either Applicant to be a “new carrier” for the purposes of public review. Moreover, there is no credible basis for the Board, as required by 49 USC 10502(a), to grant exemption on the basis:

1. That public review by the Board is not necessary to carry out the transportation policy 49 USC 10101; or
2. That the transaction or service is of limited scope; or

3. That the application is not needed to protect shippers from the abuse of market power.

Neither Notice of Exemption mentions whether or not shippers on the acquired lines will continue to have the benefit of conditions imposed by the Board in the Board's 2001 decision in STB Finance Docket 34000, *Canadian National – Control – Wisconsin Central*. That decision granted CN control of Wisconsin Central subject to which, to this day, CN continues to control Wisconsin Central.

Watco already controls some 600 miles of railroad lines in the State of Wisconsin, operated under the name Wisconsin & Southern Railroad. The proposed transactions will result in the Applicants acquiring more than 650 additional miles of rail lines in Wisconsin and Upper Michigan and will result in Watco's controlling a total of more than 1,250 miles of rail lines in Wisconsin and Upper Michigan.

These proposed transactions ought to be designated as "significant" under 49 CFR Part 1180 and subject to public review by the Board.

On behalf of the Northwoods Rail Transit Commission, I request that this Petition be filed in the formal dockets and the Petitioners be designated parties of record in each Finance Docket, FD 36503 and FD 36504.

Respectfully,



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cc: Parties of Record