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SERVICE DATE – MARCH 13, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36744 (Sub-No. 3)¹

CANADIAN NATIONAL RAILWAY COMPANY AND GRAND TRUNK CORPORATION
—CONTROL—
IOWA NORTHERN RAILWAY COMPANY
(GENERAL OVERSIGHT)

Decided: March 13, 2025

AGENCY: Surface Transportation Board.

ACTION: Decision No. 1; Notice of General Oversight Proceeding and Guidance on Reporting Requirements.

SUMMARY: On January 30, 2024, Canadian National Railway Company (CNR) and Grand Trunk Corporation (GTC), together with the Iowa Northern Railway Company (IANR) (collectively, Applicants) filed an application seeking approval for CNR and GTC to acquire control of IANR and operate IANR's 218-mile rail system in Iowa. By decision served on January 14, 2025 (Decision No. 3), the Board approved Applicants' application. As a condition of its approval, the Board imposed a three-year oversight period, during which the Board will closely monitor Applicants' compliance with, and the effectiveness of, the conditions imposed by the Board. Throughout the oversight period, Applicants are required to report service, operational, and competition-related metrics at prescribed frequencies, as described in Decision No. 3. The Board now institutes this proceeding to implement the general oversight condition and provide further guidance regarding Applicants' reporting obligations.

DATES: Any person who wishes to participate in this proceeding as a party of record must file, by March 24, 2025, a notice of intent to participate. Applicants' first data submission, including information for the required two-year lookback period and Q1 2025, is due by April 30, 2025. Subsequent quarterly files must be submitted 30 days following the end of each calendar quarter. Applicants' initial plan and report regarding scheduled local service is due by November 13, 2025. Applicants' first quarterly narrative regarding changes to any operating plans on the former IANR system shall be submitted to the Board and any impacted shippers by January 30, 2026. Subsequent quarterly narratives must be submitted 30 days following the end of each quarter.

¹ A copy of this decision is being served on all parties of record on the service list in the main docket, FD 36744.

ADDRESSES: Any filing submitted in this proceeding must be filed with the Board via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each filing must be sent to (1) CNR and GTC's representative, Matthew J. Warren, Sidley Austin LLP, 1501 K Street, N.W., Washington, DC 20005; (2) IANR's representative, Kevin M. Sheys, Law Office of Kevin M. Sheys LLC, 42 Brush Hill Road, Sherborn, MA 01770; and (3) any other person designated as a party of record on the service list for this subdocket.

FOR FURTHER INFORMATION, CONTACT: Sarah Fancher at (202) 740-5507. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

SUPPLEMENTARY INFORMATION: In Decision No. 3,² the Board established oversight for a period of three years, during which the Board will closely monitor Applicants' compliance with, and the effectiveness of, the conditions imposed on the control transaction. Decision No. 3, FD 36744 et al., slip op. at 21, 27-28 (STB served Jan. 14, 2025). The Board is now instituting this proceeding to implement the general oversight condition and provide further guidance regarding Applicants' reporting obligations during the oversight period.

Reporting Guidance and Clarification. As part of the Board's oversight conditions, for the duration of the oversight period, Applicants will report on competition-related, service, and operational metrics at prescribed frequencies, as described in Decision No. 3, FD 36744 et al., slip op. at 27-28. Applicants will also submit a plan for scheduled local service and quarterly narratives regarding changes to any operating plans on the former IANR system. Id. at 27.

Quarterly Reports on Volumes Interchanged at Gateways. In Decision No. 3, the Board explained that Applicants would be required to provide, during the oversight period, the total count of cars interchanged, categorized by two-digit STCC and broken out by interchange partner. Id. at 19. With the first submission, Applicants are also to provide, to the extent possible, the same historical quarterly information for a two-year period dating back from the effective date of Decision No. 3. Id. The Board's decision noted that a report on this data would allow the Board to monitor traffic levels at gateways and take appropriate action if necessary. Id.

By letter filed on January 31, 2025, POET Bioprocessing (POET), a railroad shipper of biofuels and other hazardous commodities that would be affected by the transaction, requests that the Board clarify or revisit the reporting requirement in Decision No. 3 that directs Applicants to provide quarterly reports on interchange volumes. POET Letter 1-2, Canadian Nat'l Ry.—Control—Iowa N. Ry., FD 36744. POET states that it is the only biofuels producer on the IANR system and that its volumes are currently transported through all the interchange points on the IANR. Id. at 2. Accordingly, POET argues that the public disclosure of its interchanged carloads by two-digit STCC code would reveal not only the volumes of biofuels shipped by POET from its facilities, but also the markets to which such shipments are being sent. Id. To balance the Board's oversight goals with confidentiality, POET, therefore, requests that the

² The Board corrected the employee protective conditions in a subsequent decision. See Canadian Nat'l Ry.—Control—Iowa N. Ry., FD 36744 et al. (STB served Jan. 31, 2025).

Board instead require Applicants to publicly report only the count of cars interchanged in total and for each interchange partner. Id. POET suggests, however, that should the Board elect to retain the two-digit STCC requirement, this information be submitted under seal pursuant to the protective order in Docket No. FD 36744. Id.

As the Board found in Decision No. 3, data reflecting traffic volumes interchanged at gateways, categorized by two-digit STCC and broken out by interchange partner, will allow the Board to monitor the traffic levels at gateways and take appropriate action as necessary. Decision No. 3, FD 36744 et al., slip op. at 27-28. The Board, however, finds that public reporting at the STCC level might unnecessarily make commercially sensitive information public. Therefore, the Board will require Applicants to publicly report only the count of cars interchanged in total and for each interchange partner. Applicants also, however, will be required to file under seal the total count of cars interchanged, categorized by two-digit STCC. As previously directed in Decision No. 3, with the first submission, Applicants will be required to provide, to the extent possible, the same historical quarterly information for a two-year period dating back from the effective date of Decision No. 3, and subject to the same requirements regarding what should be public and what should be filed under seal.

Reporting Format. Applicants must submit reports on interchange volumes as filings to the Board, consisting of an electronic copy of the data. Templates have been posted in this docket to help facilitate Applicants' data submissions. Reports on service will be in narrative form.

Protective Order. For the oversight subdocket, the Board adopts the protective order imposed in the main docket of this proceeding. See Canadian Nat'l Ry.—Control—Iowa N. Ry., FD 36744 et al. (STB served Feb. 8, 2024). Parties may submit filings, as appropriate, under seal marked Confidential or Highly Confidential pursuant to the protective order.

Service List. A copy of this decision is being served on all parties of record in Docket No. FD 36744. This decision will serve as notice that persons who were parties of record in Docket No. FD 36744 will not automatically be placed on the service list as parties of record in the general oversight proceeding, Docket No. FD 36744 (Sub-No. 3). Any person who wishes to participate in this oversight proceeding as a party of record must file, in this subdocket, no later than March 24, 2025, a notice of intent to participate, accompanied by a certificate of service indicating that the notice has been properly served on Applicants' representatives.

It is ordered:

1. Any person who wishes to participate in this oversight proceeding as a party of record must file, in this subdocket, a notice of intent to participate, no later than March 24, 2025, accompanied by a certificate of service indicating that the notice has been properly served on Applicants' representatives.
2. POET's request to modify the reporting requirement for volumes interchanged at gateways is granted to the extent discussed above.

3. Applicants' first data submission, including information for the two-year lookback period, is due by April 30, 2025. Subsequent filings shall contain quarterly files and must be submitted 30 days following the end of each quarter.

4. Applicants' initial plan and report regarding scheduled local service is due by November 13, 2025. Applicants' first quarterly narrative regarding changes to any operating plans on the former IANR system shall be filed with the Board and submitted to any impacted shippers by January 30, 2026. Subsequent quarterly narratives must be filed and submitted 30 days following the end of each quarter.

5. This decision will be published in the Federal Register.

6. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz. Board Member Primus concurred with a separate expression.

BOARD MEMBER PRIMUS, concurring:

I concur with today's decision. However, I maintain my objections to the Board's approval of the transaction, as stated in my January 14, 2025 dissent.