

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35087<sup>1</sup>

CANADIAN NATIONAL RAILWAY COMPANY AND GRAND TRUNK  
CORPORATION—CONTROL—EJ&E WEST COMPANY

Decision No. 17

Decided: January 8, 2009

In Canadian National Railway Company and Grand Trunk Corporation—Control—EJ&E West Company, STB Finance Docket No. 35087 (STB served Dec. 24, 2008) (Decision No. 16), the Board approved, subject to certain conditions, including environmental mitigation conditions, the acquisition of control by Canadian National Railway Company and Grand Trunk Corporation (collectively, applicants or CN) of EJ&E West Company, a wholly owned, noncarrier subsidiary of Elgin, Joliet and Eastern Railway Company (EJ&E). The decision will be effective on January 23, 2009.

On January 5, 2009, the Village of Barrington (Barrington) filed a petition for stay of the effective date of Decision No. 16 pending judicial review and compliance with the National Environmental Policy Act, 42 U.S.C. 4321 et seq. (NEPA).<sup>2</sup> Barrington also requested expedited consideration, seeking a decision from the Board by January 12, 2009. On January 6, 2009, CN filed a motion to strike Barrington's petition for stay, asserting that Barrington's 58-page petition exceeded the 10-page limit for petitions for stay under 49 CFR 1115.5(c). The next day,

---

<sup>1</sup> This decision also embraces Elgin, Joliet and Eastern Railway Company—Corporate Family Exemption—EJ&E West Company, STB Finance Docket No. 35087 (Sub-No. 1); Chicago, Central & Pacific Railroad Company—Trackage Rights Exemption—EJ&E West Company, STB Finance Docket No. 35087 (Sub-No. 2); Grand Trunk Western Railroad Incorporated—Trackage Rights Exemption—EJ&E West Company, STB Finance Docket No. 35087 (Sub-No. 3); Illinois Central Railroad Company—Trackage Rights Exemption—EJ&E West Company, STB Finance Docket No. 35087 (Sub-No. 4); Wisconsin Central Ltd.—Trackage Rights Exemption—EJ&E West Company, STB Finance Docket No. 35087 (Sub-No. 5); EJ&E West Company—Trackage Rights Exemption—Chicago, Central & Pacific Railroad Company, STB Finance Docket No. 35087 (Sub-No. 6); and EJ&E West Company—Trackage Rights Exemption—Illinois Central Railroad Company, STB Finance Docket No. 35087 (Sub-No. 7).

<sup>2</sup> Will County, IL also filed a petition for stay on January 5, 2009.

Barrington filed a motion for permission to exceed the 10-page limit, to which CN replied in opposition on January 8, 2009.

As CN notes, under our regulations petitions for stay, and replies to them, are to be limited to 10 pages. Adherence to these limits is important given the compressed time frame within which such motions typically must be considered. Here, Barrington has filed a petition nearly six times the permitted length.

The Board recognizes that it is impractical at this point to require Barrington to refile a shorter petition, and that this is a case of significant public interest. Therefore, the Board will accept Barrington's filing even though it exceeds the 10-page limit. We also, however, will permit CN to file a reply of comparable length, by January 12, 2009. We will thus grant Barrington's request to exceed the page limitation and grant similar permission to CN with respect to its reply to the petition for stay.

Finally, we note that the extraordinary length of Barrington's petition is inconsistent with its request for an expedited decision from the Board by January 12, 2009. Given the length of Barrington's petition, and the time needed to permit CN to respond adequately and the Board to consider the matter fully, expedited consideration by January 12 is not feasible. Barrington's request for expedited consideration by January 12 therefore will be denied.

It is ordered:

1. CN's motion to strike is denied.
2. Barrington's request for permission to exceed the page limitation for stays is granted and CN is granted permission to exceed that page limitation in its reply.
3. Barrington's request for expedited review by January 12 is denied.
4. This decision is effective on the date of service.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, and Commissioner Buttrey.

Anne K. Quinlan  
Acting Secretary