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May 29, 2001



Surface Transportation Board
Office of the Secretary
Case Control Unit
1925 K Street, N.W.
Washington, D.C. 20423-0001

**Re: Canadian National Railway Company, Grand Trunk Corporation
and WC Merger Sub, Inc. -Control- Wisconsin Central Transportation
Corporation, Wisconsin Central Ltd., Fox Valley & Western Ltd.,
Sault Ste. Marie Bridge Company, and Wisconsin Chicago Link, Finance
Docket No. 34000**

Dear Madam or Sir:

Enclosed for filing in the above-referenced docket are an original and 25 copies of Great Lakes Transportation LLC's Petition for Waiver of the Board's Rules. A certificate of service is attached to the filing. We have designated this filing as GLT-5.

Also enclosed is a 3.5-inch diskette containing the pleading in Word 2000, which is capable of being read by WordPerfect for Windows 9.0.

Please file-stamp the enclosed copy of the pleading and return it to our messenger. Thank you for your assistance.

Sincerely yours,

Carolyn F. Corwin
Attorney for
Great Lakes Transportation LLC

ENTERED
Office of the Secretary

MAY 29 2001

Part of
Public Record

Enclosures

200400



BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34000

ORIGINAL

CANADIAN NATIONAL RAILWAY COMPAN
GRAND TRUNK CORPORATION, AND WC MERGER SUB, INC.
- CONTROL AND MERGER -
WISCONSIN CENTRAL TRANSPORTATION CORPORATION,
WISCONSIN CENTRAL LTD., FOX VALLEY & WESTERN LTD.,
SAULT STE. MARIE BRIDGE COMPANY, AND
WISCONSIN CHICAGO LINK LTD.

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Office of the Secretary
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GREAT LAKES' PETITION FOR
WAIVER OF THE BOARD'S RULES

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Dated: May 29, 2001

BEFORE THE
SURFACE TRANSPORTATION BOARD



Finance Docket No. 34000

CANADIAN NATIONAL RAILWAY COMPANY,
GRAND TRUNK CORPORATION, AND WC MERGER SUB, INC.
- CONTROL AND MERGER -
WISCONSIN CENTRAL TRANSPORTATION CORPORATION,
WISCONSIN CENTRAL LTD., FOX VALLEY & WESTERN LTD.,
SAULT STE. MARIE BRIDGE COMPANY, AND
WISCONSIN CHICAGO LINK LTD.

GREAT LAKES' PETITION FOR
WAIVER OF THE BOARD'S RULES

Great Lakes Transportation LLC ("Great Lakes") hereby petitions for a waiver of the Board's rule providing that no responsive application shall be permitted to minor transactions, 49 C.F.R. 1180.4(d)(4)(i), for purposes of this proceeding. Great Lakes seeks such relief in order to ensure that the Board will have available to it the full range of remedies to address any harm that may be shown to result from the transaction proposed in the application.

BACKGROUND

In its Decision No. 2 in this proceeding, served on May 9, 2001, the Board accepted the control application filed by Canadian National Railway Company ("CN"), Wisconsin Central Transportation Corporation ("WC"), and their affiliates (collectively,

“Applicants”) and issued a procedural schedule. Under that schedule, comments on the application are due to be filed on June 25.

In its decision, the Board further concluded at page 8 that the proposed transaction is a “minor transaction” under 49 C.F.R. 1180.2(c). The Board went on to state that, “[b]ecause we have determined that this proposal is a minor transaction, no responsive applications will be permitted. See 49 C.F.R. 1180.4(d)(4)(i).” Decision No. 2, at 11.

As described in the Reply that it filed on April 30 (GLT-1), Great Lakes is concerned about the competitive, environmental, and safety implications of statements contained in the application regarding a potential diversion to all-rail movement of taconite shipments that currently move by a combination of rail and water. As Great Lakes explained, because taconite is the baseload traffic on the lakes, substantial diversions of taconite movements to all-rail would constitute a significant threat to the viability of lake transportation. The end result could be to eliminate an important competitive alternative for transportation of various backhaul commodities, since the economics of moving backhaul traffic on the lakes depend heavily on the existence of headhaul taconite movements. Moreover, if Applicants were to succeed in diverting a substantial amount of taconite traffic from the lakes to an all-rail movement, there would be significant environmental and safety concerns.

ARGUMENT

In view of the Board’s decision to classify the proposed control transaction as “minor,” Great Lakes requests a waiver of the rule prohibiting responsive applications in connection with such transactions, 49 C.F.R. 1180.4(d)(4)(i). Great Lakes seeks this waiver

in order to ensure that all appropriate remedies for any harmful effects of the proposed transaction will remain open to the Board when it renders its decision in this proceeding.

Great Lakes' April 30 reply raised serious questions about potential competitive and environmental harm that could arise from the transaction proposed in the application, concerns not dealt with in the application itself. Other parties echoed these concerns in separate submissions to the Board.¹ Great Lakes expects to submit additional evidence to the Board concerning potential harm from the proposed transaction. Other parties may also provide evidence of such harm.

In concluding that the proposed transaction should be classified as "minor," the Board stated that "Great Lakes' concerns (including environmental concerns) can be fully addressed in the submission of all interested parties and considered by the Board within the schedule we are establishing for this proceeding." Decision No. 2, at 8. There was no suggestion that some potential remedies would be unavailable to the Board if Great Lakes and others could establish that significant harm would result from the proposed transaction. However, certain types of remedies are ordinarily sought through a responsive application to the Board. For example, requests for trackage rights as a remedy for loss of competition are presented through a responsive application. See 49 C.F.R. 1180.3(h); see also, Finance Docket No. 33556, 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

¹ See, e.g., Letter from Davis Helberg, Executive Director, Duluth Seaway Port Authority, filed May 2, 2001; Letter from John Jamian, Chairman, American Great Lakes Ports, filed May 7, 2001; Letter from Robert Herron, City Manager, City of Conneaut, Ohio, filed May 4, 2001; Letter from Greg Kinteccki, Village President, Village of Wheeling, Illinois, filed May 3, 2001.

Company, and Cedar River Railroad Company, Decision No. 8 (served Sept. 18, 1998).

Other types of remedies, such as inclusion, also are requested through a responsive application. See 49 C.F.R. 1180.3(h).

At this point, the Board cannot be certain what the evidence will show. To avoid prematurely tying its own hands, the Board should grant a waiver of its rules. This would ensure that its decision classifying the proposed transaction as “minor” does not preclude any remedy that might be appropriate in light of the evidence, including remedies that ordinarily are sought through a responsive application.² A waiver would leave open to the Board the full range of remedies, to ensure that it will be in a position to impose measures such as trackage rights or inclusion if the evidence should warrant it.

CONCLUSION

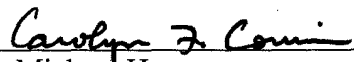
For the reasons stated above, Great Lakes respectfully requests that the Board waive the provisions of 49 C.F.R. 1180.4(d)(4)(i) in order to permit the grant of any

² Nothing in the statute itself precludes the filing of a responsive application in this proceeding; the prohibition on responsive applications in “minor” transactions appears only in the Board’s regulations. Thus, the Board may waive the prohibition.

appropriate form of relief, including remedies that ordinarily would be sought through a responsive application.

Respectfully submitted,

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Counsel for Great Lakes Transportation LLC

Dated: May 29, 2001

CERTIFICATE OF SERVICE

I, Carolyn F. Corwin, certify that, on this 29th day of May, 2001, I caused a copy of the foregoing Great Lakes' Petition for Waiver of the Board's Rules, to be served on the following by the method indicated:

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