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January 26, 2004

Surface Transportation Board
Office of the Secretary
Case Control Unit
1925 K Street, NW
Washington, DC 20423-0001

209953

Re: CN/GTW Application for Control of DM&IR/B&LE/P&C Dock
(STB Finance Docket No. 34424)

Dear Mr. Williams:

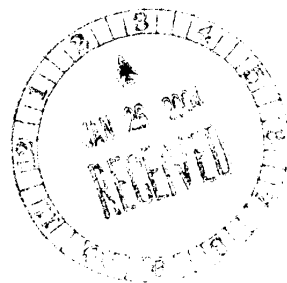
Pursuant to the Board's Rules, please find enclosed for filing an original and 20 copies of the Comments of the International Brotherhood of Electrical Workers, the International Association of Machinists and Aerospace Workers, the American Train Dispatchers Association and the National Conference of Firemen & Oilers - SEIU. We enclose an electronic copy of same on 3.5" disk in Wordperfect 6/7/8 format. Thank you.

Sincerely,

Michael S. Wolly

Michael S. Wolly

msw/ifc
Enclosures



209953

BEFORE THE SURFACE TRANSPORTATION BOARD

IBEW, IAM, ATDA, NCFO - 3

In the Matter of:

STB Finance Docket No. 34424

CANADIAN NATIONAL RAILWAY COMPANY, GRAND TRUNK CORPORATION, - CONTROL - DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY, BESSEMER AND LAKE ERIE RAILROAD COMPANY, AND THE PITTSBURGH & CONNEAUT DOCK COMPANY



ENTERED
Office of Proceedings

JAN 26 2004

Part of
Public Record

COMMENTS OF IBEW, IAM, ATDA, AND NCFO

The International Brotherhood of Electrical Workers ("IBEW"), the International Association of Machinists and Aerospace Workers ("IAM"), the American Train Dispatchers Association ("ATDA")¹, and the National Conference of Firemen & Oilers - SEIU ("NCFO") offer the following Comments on the Application:

These unions neither support nor oppose the Application at this time. The Applicants recognize that the labor protections contained by New York Dock Ry. - Control - Brooklyn Eastern Terminal District, 360 I.C.C. 60 (1979), aff'd sub nom. New York Dock Ry. v. U.S., 609 F.2d 83 (2d Cir. 1979) provide the appropriate level of protection to the employees represented by these unions and these unions agree.

Although this is a transaction that is international in nature insofar as CN is a Canadian

¹ On January 1, 2004, the American Train Dispatchers Department of the International Brotherhood of Locomotive Engineers changed its name to the American Train Dispatchers Association.

carrier acquiring control over domestic carriers, the applicants do not say that any of the jobs or work performed by the members of these unions will be transferred to Canada. According to their filings, all transfers of work and jobs will occur within the United States. If the applicants change their mind in this regard, they should be required to promptly inform the Board and all parties so that the Board can reopen the proceeding for further comment on the effect of such an international transfer and whether further action by the Board is warranted. At the very least, the Board should impose the same condition that it imposed in 1998 when CN acquired the Illinois Central Railroad - STB Finance Docket No. 33556, Decision No. 37 (May 21, 1999) -- that employees affected by a transfer of their work across the border will not be required to transfer to Canada in order to preserve their New York Dock benefits.

Moreover, insofar as train dispatching is concerned, the Board should recognize that the Federal Railroad Administration has promulgated a rule prohibiting the dispatching of trains in the United States from outside this country, with limited exceptions that do not apply here. The Board should not take any action that would exempt the applicants from the application of FRA's extraterritorial dispatching rule. 49 CFR 241.1 et seq. (2002)

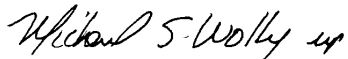
There are two deficiencies in the Application regarding employees represented by two of the unions:

1. The Labor Impact Exhibit filed by the Applicants relates the effects on employees of their intention to transfer heavy locomotive repair work from the DMIR facility at Proctor, MN, to CN's Woodcrest, IL, facility. It addresses the impact on machinist, electricians, boilermakers, and sheet metal workers, and details how many jobs will be transferred and how many will be abolished. It does not however disclose how the carriers' plans will affect employees represented

by the National Conference of Firemen & Oilers - SEIU at Proctor. The carriers should be required to provide this information promptly. Counsel for NCFO has raised this concern with counsel for the Applicants and anticipate that this issue will be clarified during this proceeding before the Board acts on the Application.

2. The Labor Impact Exhibit insofar as train dispatching changes is unclear. The Safety Integration Plan says that the carriers have not yet developed a timetable for integrating DMIR train dispatching into the CN system. Instead, they say the plan will be developed between May 9 and September 30, 2004 with implementation sometime between June 1, 2004, and March 31, 2006. Further, the Labor Impact Exhibit says that 4 train dispatchers' jobs will be transferred from Duluth, MN, to Stevens Point, WI, or Superior, WI, while 3 train dispatchers' jobs at Duluth will be abolished. ATDA's records reflect that there are 8, not 7, train dispatching positions at Duluth. The carriers should disclose their intention as to the eighth position as well. Counsel for ATDA has raised this concern with counsel for the Applicants and anticipate that this issue will be clarified during this proceeding before the Board acts on the Application.

Respectfully submitted,

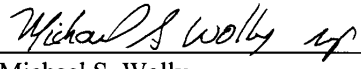


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Attorney for IBEW, IAM, ATDA, NCFO

CERTIFICATE OF SERVICE

This is to certify that a copy of the attached Comments was served upon all known parties of record by first class mail, postage prepaid, this 26th day of January 2004.



Michael S. Wolly