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RICK L MARCEAU  
Assistant President

DAN E JOHNSON  
General Secretary and Treasurer

# *united* *transportation* *union*



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CLINTON J MILLER III  
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Associate General Counsel

• DANIEL R ELLIOTT, III  
Associate General Counsel

### UPS Next Day Air

July 16, 2007



Vernon A. Williams, Secretary  
Surface Transportation Board  
395 E Street, S. W  
Washington, DC 20423-0001  
(202) 245-0335

Re: Finance Docket No. 35045, 35046,  
35047, 35048, 35049, 35050

Dear Secretary Williams:

Please find enclosed for filing in the above-captioned matter, the original and 10 copies of United Transportation Union's Petition to Revoke Exemptions, UTU check No. 197152 in the amount of \$200.00 and a disk in WordPerfect format.

Thank you for your cooperation.

Sincerely,

Daniel R. Elliott, III  
Associate General Counsel

Enclosures

cc. C. J. Miller, III, General Counsel

ENTERED  
Office of Proceedings

JUL 23 2007

Part of  
Public Record

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**FINANCE DOCKET NO. 35045**  
\_\_\_\_\_

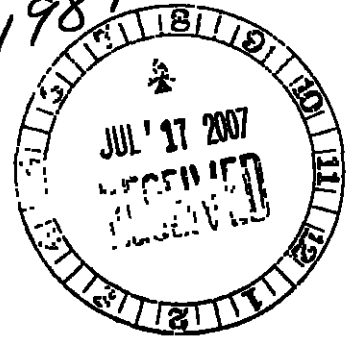
**DULUTH, MISSABE AND IRON RANGE  
RAILWAY COMPANY  
- TRACKAGE RIGHTS EXEMPTION -  
DULUTH, WINNIPEG, AND PACIFIC  
RAILWAY COMPANY**  
\_\_\_\_\_  
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\_\_\_\_\_  
**FINANCE DOCKET NO. 35046**  
\_\_\_\_\_

**DULUTH, MISSABE AND IRON RANGE  
RAILWAY COMPANY  
- TRACKAGE RIGHTS EXEMPTION -  
DULUTH, WINNIPEG, AND PACIFIC  
RAILWAY COMPANY**  
\_\_\_\_\_  
\_\_\_\_\_

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**FINANCE DOCKET NO. 35047**  
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**WISCONSIN CENTRAL LTD  
- TRACKAGE RIGHTS EXEMPTION -  
DULUTH, MISSABE AND IRON RANGE  
RAILWAY COMPANY**  
\_\_\_\_\_



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Public Record**

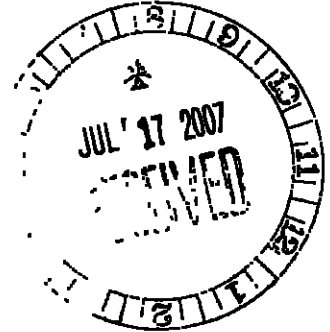
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FINANCE DOCKET NO. 35048

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WISCONSIN CENTRAL LTD  
- TRACKAGE RIGHTS EXEMPTION -  
DULUTH, WINNIPEG AND PACIFIC  
RAILWAY COMPANY

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FINANCE DOCKET NO. 35049

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DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY  
- TRACKAGE RIGHTS -  
WISCONSIN CENTRAL

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FINANCE DOCKET NO. 35050

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DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY  
- TRACKAGE RIGHTS EXEMPTION -  
WISCONSIN CENTRAL, LTD

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**UNITED TRANSPORTATION UNION'S  
PETITION TO REVOKE EXEMPTIONS**

Daniel R. Elliott, III  
United Transportation Union  
14600 Detroit Avenue  
Cleveland, OH 44107  
Tel: (216) 228-9400  
Fax: (216) 228-0937

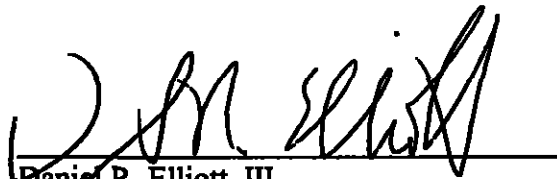
United Transportation Union ("UTU") respectfully submits its petition to revoke the exemptions under 49 U.S.C. § 10502(d) in the above-captioned proceedings filed under 49 C.F.R. § 1180.2(d)(7). The carriers involved in these transactions are all under the common control of Canadian National Railway ("CN"), including Duluth, Missabe, and Iron Range Railway ("DMR"), Duluth, Winnipeg and Pacific Railway Company ("DWP"), and Wisconsin Central, Ltd. ("WC"). *See e.g., Canadian National Railway Company and Grand Trunk Corporation -- Control -- Duluth, Missabe and Iron Range Railway Company, Bessemer and Lake Erie Railroad Company, and The Pittsburgh and Conneaut Dock Company*, Finance Docket No. 34424 (April 9, 2004), *Canadian National Railway Company, Grand Trunk Corporation, and WC Merger Sub, Inc. -- Control -- Wisconsin Central Ltd., Fox Valley and Western Ltd., Sault Ste Marie Bridge Company, and Wisconsin Chicago Link Ltd*, Finance Docket No. 34000 (September 5, 2001). These carriers seek exemption authority for various trackage rights agreements under 49 U.S.C. § 11323(a)(6) in these intra-corporate transactions. In other words, these various CN carriers seek to operate over each other, although each carrier is already under the common control of CN pursuant to various prior transactions. *Id.*

There is no basis for the exercise of the Surface Transportation Board's jurisdiction under 49 U.S.C. § 11323. The real purpose of these transactions is obviously to abrogate or change the applicable labor agreements by moving work from one carrier to another. Thus, the exemptions sought here are truly a sham because they would not result in transactions cognizable under 49 U.S.C. § 11323. This movement of traffic by different carriers under the same corporate umbrella should be rejected for what it is: a false and misleading filing that merely allows the carriers to run roughshod over the collective bargaining agreements in place under the Railway Labor Act. This transaction is hauntingly familiar to another end around attempt by CN, but stopped by the STB in 1995. *See*

*Canadian National Railway Company -- Contract to Operate -- Grand Trunk Western Railroad Inc. and Duluth, Winnipeg & Pacific Railway Co., Finance Docket No. 32640 (April 14, 1995).*

Similarly, here, the carriers solely seek to change the collective bargaining agreements applicable to certain CN operations already performed by another carrier in the same corporate family. Wherefore, UTU asks the Board to revoke the exemption authority. Alternatively, UTU asks the Board to carefully investigate/review this transaction. UTU intends to engage in discovery to further support this petition.

Respectfully submitted,

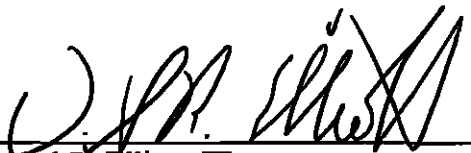
A handwritten signature in black ink, appearing to read "Daniel R. Elliott, III", written over a horizontal line.

Daniel R. Elliott, III  
Associate General Counsel  
United Transportation Union  
14600 Detroit Avenue  
Cleveland, OH 44107  
Tel: (216) 228-9400  
Fax: (216) 228-0937

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing United Transportation Union's Petition to Revoke Exemptions has been served this 13th day of July, 2007 via first-class, postage pre-paid mail upon the following:

Thomas J. Healey  
Counsel-Regulatory  
Canadian National  
17641 S. Ashland Avenue  
Homewood, IL 60430

  
\_\_\_\_\_  
Daniel R. Elliott, III