



www.cn.ca

Law

Thomas J Healey
Counsel - Regulatory

17641 S Ashland Avenue
Homewood, IL 60430-1339

T - 708-332-4381
F - 708-332-4361
tom.healey@cn.ca



October 14, 2008

VIA OVERNIGHT COURIER

Ms Anne K Quinlan,
Acting Secretary
395 E Street, NW
Washington, DC 20424

ENTERED
Office of Proceedings

OCT 16 2008

Part of
Public Record

Re Finance Docket No 35045 – Amendment to Trackage Rights Agreement between Duluth, Missabe and Iron Range Railway Company and Duluth, Winnipeg and Pacific Railway Company

Finance Docket No 35046 – Amendment to Trackage Rights Agreement between Duluth, Winnipeg and Pacific Railway Company and Duluth, Missabe and Iron Range Railway Company

Finance Docket No 35047 – Trackage Rights Agreement between Duluth, Missabe and Iron Range Railway Company and Wisconsin Central Ltd

Finance Docket No 35048 – Trackage Rights Agreement between Duluth, Winnipeg and Pacific Railway Company and Wisconsin Central Ltd

Finance Docket No 35049 – Trackage Rights Agreement between Wisconsin Central Ltd and Duluth, Missabe and Iron Range Railway Company

Finance Docket No 35050 – Trackage Rights Agreement between Wisconsin Central Ltd and Duluth, Winnipeg and Pacific Railway Company

Dear Secretary Quinlan,

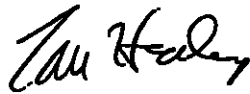
Enclosed for filing in the above-captioned proceeding are the original and ten copies of a Motion to Set Date for Responsive Pleading. A disk containing the caption summary is enclosed.

Acting Secretary Anne Quinlan
October 14, 2008
Page Two

I have included an extra copy of this transmittal letter and request that you date stamp this to show receipt of this filing and return it to me in the envelope provided

Please feel free to contact me should you have any questions regarding this filing Thank you for your assistance on this matter

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tom Healey".

Thomas J Healey

Enc

cc Dan Elliott

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

* * * * *

STB Finance Docket No 35045

TRACKAGE RIGHTS AGREEMENT

Between

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

And

DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY

* * * * *

STB Finance Docket No 35046

TRACKAGE RIGHTS AGREEMENT

Between

DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY

And

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

* * * * *

STB Finance Docket No 35047

TRACKAGE RIGHTS AGREEMENT

Between

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

And

WISCONSIN CENTRAL LTD

* * * * *

STB Finance Docket No 35048

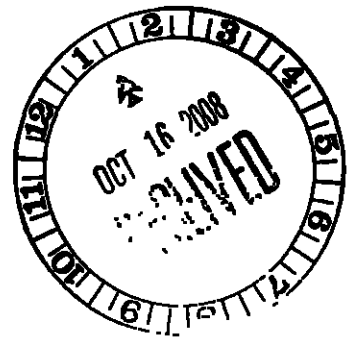
TRACKAGE RIGHTS AGREEMENT

Between

DULUTH, WINNIPEG & PACIFIC RAILWAY COMPANY

And

WISCONSIN CENTRAL LTD



ENTERED
Office of Proceedings
OCT 16 2008
Part of
Public Record

STB Finance Docket No 35049

TRACKAGE RIGHTS AGREEMENT

Between

WISCONSIN CENTRAL LTD

And

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

* * * * *

STB Finance Docket No 35050

TRACKAGE RIGHTS AGREEMENT

Between

WISCONSIN CENTRAL LTD

And

DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY

MOTION TO SET DATE FOR RESPONSIVE PLEADING

Respectfully submitted,

Thomas J Healey
Counsel – Regulatory
CN
17641 S Ashland Avenue
Homewood, IL 60430
Tel (708) 332-4381
Fax (708) 332-4361

Date October 14, 2008

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 35045

TRACKAGE RIGHTS AGREEMENT

Between

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

And

DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY

* * * * *

STB Finance Docket No 35046

TRACKAGE RIGHTS AGREEMENT

Between

DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY

And

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

* * * * *

STB Finance Docket No 35047

TRACKAGE RIGHTS AGREEMENT

Between

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

And

WISCONSIN CENTRAL LTD

* * * * *

STB Finance Docket No 35048

TRACKAGE RIGHTS AGREEMENT

Between

DULUTH, WINNIPEG & PACIFIC RAILWAY COMPANY

And

WISCONSIN CENTRAL LTD

STB Finance Docket No 35049

TRACKAGE RIGHTS AGREEMENT

Between

WISCONSIN CENTRAL LTD

And

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

* * * * *

STB Finance Docket No 35050

TRACKAGE RIGHTS AGREEMENT

Between

WISCONSIN CENTRAL LTD

And

DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY

MOTION TO SET DATE FOR RESPONSIVE PLEADING

COMES NOW Wisconsin Central Ltd, Duluth, Winnipeg and Pacific Railway Company, and Duluth, Missabe and Iron Range Railway Company (collectively "CN"), and request that the Surface Transportation Board ("STB") set a date of October 28, 2008 for CN to provide a substantive response to the Petitions to Revoke Exemptions (collectively "Petitions"), filed by United Transportation Union ("UTU") in the six referenced dockets. While CN and UTU continue to work toward reaching an agreement as to the issues raised in UTU's Petitions, the parties have not yet reached agreement. UTU's counsel has granted the undersigned counsel authority to indicate UTU's concurrence this request.

In furtherance of this Motion, CN states as follows

1. On June 14, 2007, CN filed Notices of Exemption governing six separate trackage rights agreements among several rail carriers owned and controlled by Canadian National Railway Company. Concurrently, CN filed a Motion for Protective Order in

each docket The Motions for Protective Order were granted by order dated June 28, 2007, and each of the exemptions became effective on July 14, 2007

2 On July 23, 2007, UTU filed the Petitions, seeking to have the six exemptions revoked on the allegation that the sole purpose of the exemptions was to circumvent existing collective bargaining agreements

3 On August 15, 2007, the STB entered an order granting the joint motion of CN and UTU to hold the consideration of UTU's Petitions in abeyance for a period of sixty (60) days, to allow the parties to attempt to negotiate an amicable resolution

4 Subsequent to the entry of the August 15, 2007 order, CN and UTU engaged in discussions regarding the implementation of the authority granted in the exemptions However, no agreement was reached, and therefore the STB entered an order on October 11, 2007, granting a joint motion to continue the date for CN's responses to December 14, 2007

5 The parties further requested an additional sixty (60) days to reach an agreement The STB granted this extension of time, and the sixty (60) day period ended on February 12, 2008

6 On February 11, 2008, the parties again requested an additional sixty (60) days to reach an agreement The STB granted this extension of time, and that sixty (60) day period ended on April 14, 2008

7 On April 11, 2008, the parties requested an additional sixty (60) days to reach an agreement The STB granted this extension of time, and that sixty (60) day period will end on June 13, 2008

8 The parties did not reach any agreement on the matters raised by UTU in these dockets. The parties agreed to continue to work toward an agreement over the next sixty (60) days and requested that the STB enter an order extending the response date for CN to respond to UTU's Petitions for an additional sixty (60) days, to August 12, 2008. The STB granted this extension of time.

9 The parties did not reach any have still not reached any agreement on the matters raised by UTU in these dockets. The parties agreed to continue to work toward an agreement over the next sixty (60) days and requested that the STB enter an order extending the response date for CN to respond to the UTU's petitions for an additional sixty (60) days, to October 13, 2008. The STB granted this extension of time.

10 While the parties have still not reached any agreement on the matters raised by UTU in these dockets, the parties are continuing discussions. The UTU has requested that CN make their response to the UTU petitions no later than October 28, 2008. Therefore, by mutual agreement, the parties move the STB to enter an order extending the response date for CN to respond to UTU's Petitions for an additional two (2) weeks, to October 28, 2008.

11 Counsel for UTU has granted the undersigned counsel authority to indicate UTU's concurrence with same.

WHEREFORE, Wisconsin Central Ltd , Duluth, Winnipeg and Pacific Railway Company, and Duluth, Missabe and Iron Range Railway Company respectfully request that the STB hold consideration of UTU's Petitions in abeyance for an additional period of two (2) weeks while the parties meet to reach an agreement

Respectfully submitted,

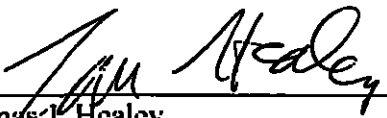


Thomas J. Healey
Counsel – Regulatory
CN
17641 S. Ashland Avenue
Homewood II. 60430
Tel (708) 332-4381
Fax (708) 332-4361

October 14, 2008

CERTIFICATE OF SERVICE

I, Thomas J Healey, hereby certify that on this 14th day of October, 2008, copies of the foregoing Motion To Set Date For Responsive Pleading have been served by first class mail, postage prepaid, or by more expeditious means of delivery upon all parties of record to this proceeding identified on the Surface Transportation Board's website



Thomas J Healey
Attorney for
Wisconsin Central Ltd
Duluth, Winnipeg and Pacific Railway Company
Duluth, Missabe and Iron Range Railway Company

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

* * * * *

STB Finance Docket No. 35045

TRACKAGE RIGHTS AGREEMENT
Between
DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY
And
DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY

* * * * *

STB Finance Docket No 35046

TRACKAGE RIGHTS AGREEMENT
Between
DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY
And
DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

* * * * *

STB Finance Docket No 35047

TRACKAGE RIGHTS AGREEMENT
Between
DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY
And
WISCONSIN CENTRAL LTD

* * * * *

STB Finance Docket No 35048

TRACKAGE RIGHTS AGREEMENT
Between
DULUTH, WINNIPEG & PACIFIC RAILWAY COMPANY
And
WISCONSIN CENTRAL LTD

STB Finance Docket No 35049

TRACKAGE RIGHTS AGREEMENT

Between

WISCONSIN CENTRAL LTD

And

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

* * * * *

STB Finance Docket No 35050

TRACKAGE RIGHTS AGREEMENT

Between

WISCONSIN CENTRAL LTD

And

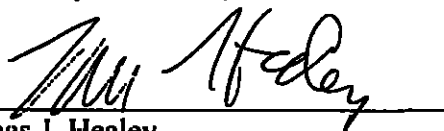
DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY

NOTICE OF FILING

To Mr Dan Elliott
United Transportation Union
14600 Detroit Ave
Cleveland, OH 44107-4205

PLEASE TAKE NOTICE that we have on this 14th day of October, 2008, sent for filing with the Surface Transportation Board, the attached Motion to Set Date for Responsive Pleading in the above captioned matter, a copy of which is hereby served upon you

Respectfully submitted,



Thomas J Healey
Counsel – Regulatory
CN
17641 S. Ashland Avenue
Homewood, IL 60430
Tel (708) 332-4381
Fax (708) 332-4361

Date October 14, 2008