

BEFORE THE
Surface Transportation Board
Washington, DC 20423

STB Finance Docket No. 35087

Canadian National Railway Company
and Grand Trunk Corporation – Control –
EJ&E West Company

**PETITION TO DENY, OR IN THE ALTERNATIVE,
REQUEST FOR IMPOSITION OF CONDITIONS**

Equistar Chemicals, LP (“Equistar”), by and through its undersigned counsel, respectfully submits this Petition to Deny, or in the Alternative, Request for Imposition of Conditions, with respect to the proposed acquisition of control (“Control Acquisition”) of EJ&E West Company (“EJ&EW”), a wholly-owned non-carrier subsidiary of Elgin, Joliet and Eastern Railway Company (“EJ&E”), by Canadian National Railway Corporation (“CNR”) and Grand Trunk Corporation (“GTC”)(CNR and GTC hereinafter collectively referred to as “Applicants”).¹ In support whereof, the following is shown:

I. Statement of Interest

Equistar is a Delaware limited partnership and an indirect wholly-owned subsidiary of Lyondell Chemical Company (“Lyondell”). As a result of the merger which occurred on December 20, 2007 with BIL Acquisitions Holdings Limited, an indirect wholly-owned subsidiary of Basell AF S.C.A., Lyondell became an indirect wholly-owned subsidiary of LyondellBasell Industries AF S.C.A.

¹ Equistar did not file with the STB by December 13, 2007, as mandated by the STB’s Decision served on November 26, 2007, a notice of intent to participate in this proceeding. Equistar is, however, filing simultaneously herewith, its Motion for Leave to File Petition to Deny or, in the Alternative, Request for Imposition of Conditions, and thus is requesting the right to participate as a party of record herein.

Equistar owns and operates a polymers plant in East Morris, Illinois that is currently served by EJ&E. To date, EJ&E has afforded Equistar's East Morris plant a neutral connection permitting Equistar to access with efficiency not only every Class I railroad, with the exception of the Kansas City Southern Railway Company ("KCS"), at a range of gateways, but also numerous short line and regional railroads as well. Equistar has serious reservations that consummation of the Control Acquisition effectively will eliminate such neutral connections. Equistar anticipates CNR's capturing a substantial portion of those connections to maximize its line haul opportunities, thereby causing Equistar's traffic to encounter inefficient and unnecessarily circuitous routing.

II. Argument

As addressed in the attached declaration of Debra Paxton, Manager of Commercial Logistics for LyondellBasell Industries, whose responsibilities include procurement of Equistar's rail services, Equistar's East Morris plant has been accommodated to date by EJ&E. While CSXT has the capacity to serve that plant as well, CSXT does not pose viable competition to EJ&E, in that CSXT is unable to furnish the necessary storage to support the East Morris plant's needs. Storage-in-transit capacity is deemed a critical element in service to the plastics industry. Utilization of rail cars for storage allows plant facilities to function at capacity and products to be readily available for expeditious movement to market as market price and demand change.² Significantly, in *UP/SP*, the STB noted that storage-in-transit facilities are vitally important to

² See *Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company-Control and Merger-Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railroad Company, SPCSL Corporation, and The Denver and Rio Grande Western Railroad Company*, ("hereinafter "*UP/SP*") Surface Transportation Board Finance Docket No. 32760, Decision No. 44, p. 151 (hereinafter "*Decision No. 44*").

plastics distributors because “as much as 70% of a plant’s output may be assigned initially to storage.”³

Indeed, in her attached declaration, Ms. Paxton notes that “EJ&E provides approximately 422 spots of storage for Equistar in Joliet, IL,” capacity which CSXT is at present unable to match. Hence, in the instant case, CSXT’s limitations with respect to the provision of storage-in-transit capacity are readily apparent and underscore the inadequacy of the “competitive service” Applicants have alleged will exist following consummation of the Control Acquisition.

In addition to its appreciable concerns over CSXT’s lack of adequate storage-in-transit capacity, Equistar is cognizant of still another operating constraint underscoring CSXT’s inability both currently and in the future to offer Equistar a level of service equivalent to that of EJ&E. In this regard, Ms. Paxton’s declaration identifies EJ&E’s current provision of “twice daily train service operating 7 days a week, holiday switching and a direct line connection between Chicago and East Morris.” Unfortunately, CSXT does not offer a direct line connection between Chicago and East Morris, instead operating under trackage rights accorded between East Morris and Joliet, East Morris constituting an “island” in CSXT’s network. Understandably, Equistar is quite concerned that any reduction in or restriction of those trackage rights would further compromise CSXT’s efforts to render adequate service to Equistar’s East Morris facility. Not surprisingly, this very same concern was addressed in *UP/SP* wherein the STB recognized that KCS was not an effective competitive option because it too confronted connecting limitations.⁴ Consequently, a carrier such as CSXT, who is unable to provide under current conditions adequate service to Equistar, cannot be deemed one who could provide effective competitive service in the wake of the Control Acquisition’s consummation. Thus, loss

³ Decision No. 44 at p. 153.

⁴ See Decision No. 44 at p. 152-153.

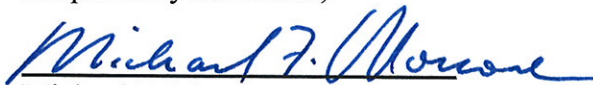
of neutral connections involved by the acquisition of EJ&E by CNR will serve to eliminate competition for Equistar's traffic. Such elimination of competition is inconsistent with the long history of railroad merger proceedings conducted by the STB.

III. Request for Relief

In view of the foregoing considerations, Equistar respectfully requests the STB to deny the Control Acquisition, or in the alternative, to impose conditions providing for the granting of trackage rights and storage-in-transit rights consistent with those currently offered by EJ&E sufficient to protect the ability of Equistar to continue to receive benefits equivalent to neutral connection at its East Morris plant.

Dated: January 28, 2008

Respectfully submitted,



Michael F. Morrone
Keller and Heckman LLP
1001 G Street, N.W., Suite 500 West
Washington, D.C. 20001
Tel: (202) 434-4124
Fax: (202) 434-4646
morrone@khlaw.com

Counsel for Equistar Chemicals LP

Declaration

I, Debra Paxton, hereby declare under penalty of perjury the following statement is true and correct to the best of my knowledge:

I am a Manager of Commercial Logistics for LyondellBasell Industries, and in that capacity, my responsibilities include the procurement of Equistar Chemicals, LP (Equistar) rail services.

Equistar respectfully requests it be listed as a protestant in STB Finance Docket 35087, Canadian National Railway Company and Grand Truck Corporation - Control- EJ&E West Company.

The Elgin, Joliet, & Eastern Railway Company (EJ&E) currently services Equistar's East Morris, IL polymers plant. The EJ&E provides a neutral connection to Equistar in East Morris. This neutral connection allows Equistar to efficiently access every Class I railroad (except the Kansas City Southern) at a range of gateways. Equal access to the major Class I railroads is evidenced in EJ&E's switching history with Equistar. In 2007, EJ&E switched 5,604 loads for Equistar. The following list depicts the carriers to whom that freight was handed off and the percentage of those loads switched to each of those carriers:

CARRIER	% OF EQUISTAR TRAFFIC
BNSF	30%
CSXT	21%
UP	20%
NS	18%
CNR	6%
CPRS	6%

The proposed acquisition of the EJ &E by the Canadian National Railway Company (CNR) will eliminate this neutral connection because the CNR will want to capture a portion of the line haul movements. Such routings, in providing CNR with a portion of the line haul, likely will subject Equistar's traffic to inefficient routings and unnecessary circuitry. If the merger is consummated, Equistar will be forced to acquiesce to inefficient and circuitous routing of its freight because no competitive alternative will exist.

Equistar's East Morris plant is accessible by CSXT, as well as by EJ &E. Unfortunately, CSXT is not a viable competitor to the EJ&E for several reasons. First, CSXT is unable to provide the requisite storage to support the East Morris plant. The polymer industry requires the storage of hundreds of loaded cars prior to sale. The EJ&E provides approximately 422 spots of storage for Equistar in Joliet, IL, and CSXT is unable to meet Equistar's storage requirement. Without this critical storage, production at the East Morris plant will have to be substantially curtailed.

In addition to the lack of adequate storage, CSXT is unable to provide a level of service comparable to the EJ&E. The EJ&E currently provides twice daily train service operating 7 days a week, holiday switching, and a direct line connection between Chicago and East Morris. The CSXT does not have a direct line connection between Chicago and East Morris. Instead, the CSXT has trackage rights between Joliet, IL and East Morris. East Morris is an "island" in the CSXT network. Any change to

these fragile trackage rights would further prevent the CSXT from servicing our plant. The inability of CSXT to provide adequate storage and service makes it an ineffective competitor to the EJ&E.

In summary, the service provided by the EJ & E at Equistar's East Morris plant -- including neutral connection with all the major Class 1 carriers -- is essential to the economic viability of the plant. The proposed acquisition of the EJ&E by the CNR will eliminate all competition for Equistar's East Morris plant by restricting the gateways and routing currently in use. While the East Morris plant is open to the CSXT, the CSXT cannot service this plant's operational needs. As reflected throughout the STB's history in assessing the implications of railroad mergers, preservation of competitive service has always been deemed essential. Equistar is not seeking to change the current gateway alternatives or change the railroads' long haul revenue. Instead, Equistar only seeks competitive shipping alternatives allowing it to efficiently transport its products from East Morris, IL to its consumers.

A handwritten signature in cursive script, appearing to read "Debra Paxton", with a long, sweeping horizontal line extending to the right.

Debra Paxton
January 28, 2008

CERTIFICATE OF SERVICE

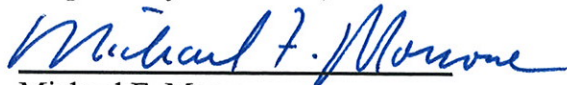
I, Michael F. Morrone, a partner in the law firm of Keller and Heckman LLP, hereby certify that on January 28, 2008, I caused the foregoing Petition to Deny, or in the Alternative, Request for Imposition of Conditions of Equistar Chemicals LP to be served via first class mail, postage prepaid, on all Parties of Record in this proceeding and on the following:

Paul A. Cunningham
Harkins Cunningham LLP
1700 K Street N.W., Suite 400
Washington, D.C. 20006-3804

Secretary of Transportation
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Attorney General of the United States
c/o Assistant Attorney General
Antitrust Division, Room 3109
U.S. Department of Justice
950 Pennsylvania Ave, N.W.
Washington, D.C. 20530-0001

Respectfully Submitted,



Michael F. Morrone