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April 29, 2024
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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36744

**CANADIAN NATIONAL RAILWAY COMPANY
– CONTROL –
IOWA NORTHERN RAILWAY COMPANY**

**Finance Docket No. 36744
Sub-Dockets Nos. 1&2**

**SMART-TD AND ATDA’S COMMENTS ON
APPLICATION AND REQUEST FOR CONDITIONS**

The Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Workers (“SMART-TD”) and American Train Dispatchers Association (“ATDA”) (hereinafter collectively referred to as “the Unions”) respectfully submit the following as their comments and request for conditions in response to the Application (“Application”) filed by Canadian National Railway Company (“CN”) and Grand Trunk Corporation (“Grand Trunk Corp.”), for the acquisition and control of Iowa Northern Railway Company (“Iowa Northern”) in the above-captioned transaction (“the Proposed Transaction”).

BACKGROUND

On January 30, 2024, CN and Grand Trunk, along with Iowa Northern (hereinafter collectively referred to as “Applicants”) filed an application with the Surface Transportation Board (“STB” or “the Board”) to acquire Iowa Northern, a Class III rail carrier that operates a total of approximately 218 route miles in the State of Iowa, pursuant to 49 U.S.C. §§ 11323-25 and 49 C.F.R. part 1180. Grand Trunk Corp. is a non-carrier holding company through which CN controls

its U.S. rail carrier subsidiaries. (Application at 1 n.1). Iowa Northern is a Class III rail carrier wholly owned by Cable & Ives, LLC (Cable & Ives). (*Id.* at 1-2, 11). On December 6, 2023, Grand Trunk Corp. signed and closed an agreement to acquire 100% of the equity interest of Cable & Ives. (*Id.* at 1-2, 12). According to Applicants, the shares of Cable & Ives were deposited into an independent voting trust pursuant to 49 C.F.R. part 1013, pending review of the Proposed Transaction by the Board. (Application at 1-2, 11-12; CN Letter Filing of Voting Trust Agreement, FD 36744, Dec. 6, 2023). Upon Board approval of the Proposed Transaction, Iowa Northern would become an indirect rail carrier subsidiary of Grand Trunk Corp. and would be indirectly controlled by CN. (Application at 3). Applicants asserted that the proposed Transaction should be classified as a “minor transaction” under 49 C.F.R. § 1180.2(c). (Application at 10). Applicants also filed two related verified notices of exemption seeking trackage rights between Iowa Northern and the Chicago, Central, and Pacific Railroad Company in Sub Docket Nos. 1 and 2 (“the Related Transactions”).

By decision issued on February 29, 2024 (Decision No. 1), the Board found the Proposed Transaction would be a minor transaction under 49 C.F.R. § 1180.2(c), because any anticompetitive effects of said transaction that might exist will clearly be outweighed by its anticipated contribution to the public interest in meeting significant transportation, and because there does not appear to be any significant anticompetitive effects. Decision No. 1, FD 36744, slip op. at 6 (citing 49 U.S.C. §§ 11321-26; 49 C.F.R. part 1180). The Board accepted the Application for consideration and established a procedural schedule for the proceeding, including a Comment deadline of April 1, 2024. (*Id.*).

On March 1, 2024, Canadian Pacific Kansas City (“CPKC”) requested that the Board reconsider its minor transaction finding in Decision No. 1, and instead find that the Proposed

Transaction is a “significant transaction.” By decision dated March 29, 2024, the Board denied CPKC’s petition seeking reconsideration, but did modify the schedule, including a Comment deadline of April 29, 2024.

SMART-TD AND ATDA’S POSITION

SMART-TD is the certified representative of the craft or class of train service employees, including Conductors, employed by CN and the majority of its wholly owned U.S. rail subsidiaries, and Iowa Northern; whereas ATDA is the certified representative of the craft or class of Dispatchers employed by CN and the majority of its wholly owned U.S. rail subsidiaries.

On January 29, 2024, SMART-TD and ATDA filed Notices of Intent to participate in the proceedings before the Board. On that same date, SMART-TD also submitted a letter in support of the Proposed Transaction, which was filed by Applicants with the Application, noting that the Proposed Transaction “solidifies job security and economic longevity for SMART-TD’s membership.”

Applicants state that they are committed to retaining all existing craft employees to maintain and expand operations (Application, Exhibit 15, Operating Plan at 32), that no craft jobs currently at CN or Iowa Northern will be abolished post-merger (Application, Exhibit 15, Operating Plan at 38 (Exhibit E-3)), and that with regard to operating crafts represented by SMART-TD, that CN expects to hire an additional 12 conductors and 4 engineers to perform the Iowa Northern work. (Application, Exhibit 15, Operating Plan at 33). With regard to dispatchers, CN states that it will maintain Iowa Northern’s crew calling and dispatch functions until it can safely and efficiently integrate those functions with its centralized dispatching center in Homewood, IL no earlier than June 2025; and notes that Iowa Northern dispatchers perform a variety of other duties and CN will continue to evaluate how many dispatchers would be integrated

at CN's dispatching center as "Rail Traffic Controllers" (CN's term for dispatchers) and how many would maintain their other roles in Iowa. (Application, Exhibit 15, Operating Plan at 34-35). CN commits that any changes would be subject to the New York Dock protective conditions, including moving allowances. (*Id.*). While the Applicants have anticipated that there will be gains in employment as a result of the proposed merger, they expressly acknowledge that any employees affected by the transaction are entitled to the standard labor protective conditions imposed in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). (Application, Exhibit 15 (Operating Plan – Minor), p. 31). SMART-TD and ATDA agree that the above-referenced employee protective conditions are the appropriate conditions mandated by law, and, as Applicants have acknowledged, that implementing agreements are required to be negotiated in connection with the proposed Transaction. (Application at 23-24; Application, Exhibit 15, Operating Plan at 32-33). Those negotiations are underway.

The Applicants also propose the imposition of the employee protective conditions established in *Norfolk & Western Railway—Trackage Rights— Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad*, 360 I.C.C. 653 (1980) ("Norfolk & Western/Mendocino Coast") for the related trackage rights applications in the Related Transactions. (Application at 23 Application, Exhibit 15, Operating Plan at 32). If the Board approves the Application, such approval must be conditioned on the *New York Dock* and *Norfolk & Western/Mendocino Coast* employee protections as proposed in the Application.

In light of the foregoing, SMART-TD writes in support of, and ATDA does not object to, the Proposed Transaction and Related Transactions at this time, and respectfully request the Board impose such protections, along with any and all commitments made by the Applicants, as

conditions for approval of the Proposed Transaction and Related Transactions.

CONCLUSION

Based on the foregoing, SMART-TD writes in support of the Proposed Transaction and Related Transactions. ATDA continues to take no position on the approval of the Proposed Transaction and Related Transactions. Both SMART-TD and ATDA urge the Board to condition any eventual approval on the protective conditions requested herein and the commitments made by Applicants.

Respectfully submitted,

/s/Erika A. Diehl-Gibbons
Erika A. Diehl-Gibbons
Associate General Counsel
ediehl@smart-union.org

Counsel for SMART-TD and ATDA

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been e-filed this 29th day of April, 2024, via the STB's e-filing system, and served upon the parties of record by email.

/s/Erika A. Diehl-Gibbons
Erika A. Diehl-Gibbons