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September 11, 2006

VIA ELECTRONIC FILING

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, DC 20423-0001

Re: **Docket No. 42080**
Minnesota Northern Railroad, Inc. v.
Canadian National Railway Company

Dear Secretary Williams:

Pursuant to the Board's decision served in this proceeding on August 10, 2006, Canadian National Railway Company ("CN") hereby files this status report regarding discussions with Minnesota Northern Railroad, Inc. ("MNN") since issuance of the Board's March 18, 2005 decision herein.

The 2005 decision held in abeyance MNN's complaint regarding interchange between CN and MNN at Warroad, Minnesota, but specifically addressed MNN's demand that CN bear the full cost of reinstalling a main line switch at Warroad for interchange purposes. The Board concluded that it would not be reasonable under 49 U.S.C. § 10742 to "requir[e], as MNN urges, CN to pay the full cost of restoring this switch without a guarantee that it will receive any traffic," and where "the record casts doubt on whether MNN ever intends to" ship traffic through Warroad. 2005 Decision at 5. Accordingly, the Board found that "MNN must bear some responsibility for reinstallation of the switch at Warroad if it still wishes to interchange traffic there." *Id.* at 6. With that guidance, the Board directed that MNN and CN seek to negotiate a reasonable arrangement for a Warroad interchange "pursuant to the requirements of this decision" *Id.* at 7 (ordering paragraph 2).

If MNN wished to proceed with negotiations pursuant to the Board's decision, MNN thus knew it was required to assume some responsibility for re-installing the Warroad switch. MNN has not subsequently indicated a willingness to do so. The only communications from MNN to CN after the Board's decision were an April 12, 2005 letter from MNN's president directly to CN's president (Attachment A) and, after a telephone conversation between CN and MNN personnel, a follow-up letter dated May 6, 2005 from MNN's general manager (Attachment B). Those letters did not depart from MNN's prior position, and appeared instead to

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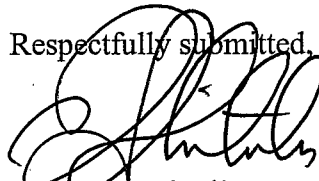
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be a final effort at the highest levels to persuade CN to depart from its own position and the Board's ruling regarding switch installation costs -- before, in the words of MNN's president, "I give up on this matter." See Attachment A at 2. After a further thorough review of the matter, CN declined to do so, and MNN has not in the last sixteen months pressed the matter further.

Because MNN has not elected to pursue negotiations with CN under the terms specified in the 2005 Decision, there is nothing that remains to be resolved by the Board. CN respectfully submits, therefore, that this proceeding should be discontinued.

I certify that a copy of this letter has been served by e-mail and first class mail, postage prepaid, on counsel for MNN.

Respectfully submitted,



Thomas J. Litwiler
Attorney for Canadian National
Railway Company

TJL:tl

Attachments

cc: Thomas F. McFarland, Esq.
Theodore K. Kalick, Esq.



Minnesota Northern Railroad, Inc.

PO Box 705

Crookston, MN 56716

Phone: 218.281.4704 Fax: 218.281.4705

12 April 2005

Mr. E. Hunter Harrison,
President & Chief Executive Officer
Canadian National Railway
935 de La Gauchetiere Street West
Montreal QC H3B 2M9

Dear Mr. Harrison:

I hope that you might recall me from our meeting not long after the Frisco - BN merger. You were serving as a Mechanical Officer in Memphis and I was CMO Cars in St. Paul, you were assigned to drive a group of us from the General Office and introduce us to the Memphis Terminal. The favorable impression you made on our group was apparently not illusory as I have followed your career progression with interest ever since.

I have taken the unusual step of writing you directly to outline a problem and present our position.

I am currently President of Minnesota Northern Railroad a Class III short line which connects (ostensibly as I will explain) with CN at Warroad, MN. Minnesota Northern (MNN) consists of lines formerly operated by Burlington Northern, we purchased the property from Rail American in 2000. For many years there existed an interchange between BN and CN at Warroad, MN. During Rail America's ownership no cars were interchanged at this location and CN advised that its interchange track was in need of repairs and the costs would have to be borne at least in part by the short line. Rail America elected not to participate in these costs and the interchange remained unused. A gateway with CN at Warroad always figured prominently in our long term plans for developing MNN traffic. We were dismayed to learn not long after our purchase that CN intended to remove the Warroad interchange in its entirety. The removal was prompted by the need to replace CN's main line switches due to a rail relay project.

In subsequent discussion with parties at CN we were advised that in order to maintain the interchange not only would MNN be required to participate in repairs of CN's interchange track but also CN's main line switches to access the interchange track. We had agreed from the outset to completely take over (via lease or purchase) CN's interchange track and assume all responsibility for maintenance, leaving CN only with responsibility for its main line switches. CN remained adamant that to retain the interchange MNN has to participate in CN's costs of replacing its main line switches and guarantee a certain level of traffic that would move via this interchange. While we are confident that with cooperation on rates (which initially was very encouraging based on quotes from CN Marketing) it is difficult to market something that one does not actually have, and we do not have an open

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interchange with CN at Warroad.

On the advice of counsel MNN filed a formal complaint at the Surface Transportation Board against CN for an improper closing of an interchange. After almost 18 months the STB has finally released their decision - which is - no decision, our complaint was held in abeyance. STB found both MNN's and CN's arguments in the case were lacking, the only positive statement in the STB's "decision" was a stern warning to all carriers to not arbitrarily close interchanges.

Quite frankly, I lacked the terribility to ask CN to pay for any part of MNN's capital cost in maintaining, upgrading or reopening MNN infrastructure in support of this interchange and given our small companies capital needs we cannot afford to cover CN's costs in this regard.

I feel that MNN has gone more than halfway on this question, we have agreed to take over 100% of all costs (including those of CN's Interchange track) except those associated with CN's mainline switches.

MNN is still interested in maintaining an active interchange with CN at Warroad. MN, we believe that in the long term a Warroad interchange will benefit both carriers. I hesitate to bring before you a matter of such small import to an entity of the scale of Canadian National, but before I give up on this matter I would very much like to discuss this matter with you personally or a member of your staff and see if some compromise is not possible.

Please consider this matter and if your desire contact me directly I can be reached at my home office 701.642.6420 or by cell 701.640.4001. I very much hope to hear from you.

Sincerely,



Thomas G. Kotnour
President



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PO Box 705
Crookston, MN 56716
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6 May 2005

Francois Hebert
Canadian National Railways
Montreal, Quebec
via email: francois.hebert@cn.ca

Dear Mr. Hebert:

Reference our phone conversation of 4 May 2005 concerning CN - MNN interchange at Warroad, MN.

Per your request I am including in this .pdf file documentation and correspondence relating to rates and traffic levels via this gateway.

Specifically included in this file please find:

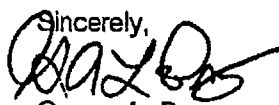
- ◆ Pages 2 and 3. Existing traffic either originating or terminating via CN and MNN for years 2001, 2002 and first 5 months of 2003.

We do not currently have figures for 2004 or 2005 to date, if you want this additional data let us know and we will gather it.

- ◆ Pages 4, 5, and 6. 2002 Correspondence between MNN and CN Marketing concerning rates and cost of switch restoration.
- ◆ Pages 7 and 8. 2002 Correspondence to MNN shippers regarding rates quoted by CN and shippers response.
Note: difference between rates referenced on pages 3, 4, and 5 and rates quoted to MNN shippers on page 6 is MNN's projected division.
- ◆ Pages 9 and 10. September 2003 Correspondence from CN concerning rates and price conditions.
- ◆ Page 11. Internal MNN memo outlining rate changes found in Sept. 2003 CN correspondence and concerns over important changes in price conditions outlined in this letter. You will note that my principal concern relates to equipment supply and car hire.
- ◆ Pages 12, 13 and 14. E-mails and memos regarding enquires received from CN Marketing concerning possible traffic to be routed via a Warroad interchange. These contacts were always viewed with both amusement and frustration as CN Marketing seemed to assume that there was an existing and active interchange in place at Warroad.

Please review and let us know if we can provide anything additional.

We look forward to hearing from you.

Sincerely,

George LaPray
General Manager