



Surface Transportation Board
Washington, D.C. 20423-0001

February 5, 2016

The Honorable Terence R. McAuliffe
Governor
Commonwealth of Virginia
1111 East Broad Street
Richmond, VA 23219

Dear Governor McAuliffe:

Thank you for your letter dated December 21, 2015, regarding a potential merger of Canadian Pacific Railway (“CP”) and Norfolk Southern Corporation (“NS”). We appreciate knowing your concerns regarding the potential merger and the effects it could have on Virginia’s economy, short line railroads, passenger rail service, and the Port of Virginia.

At present, there are no proceedings before the Surface Transportation Board (“STB” or “Board”) related to this potential merger. However, please understand that we must nevertheless exercise caution and avoid prejudging issues that could arise if a merger application were submitted to this agency.

In the event that a merger application is presented to the Board, it will be subject to rigorous administrative review. The Board adopted its current merger rules in 2001. Among other things, those rules instruct major merger applicants¹ to show that a proposed merger is in the public interest by demonstrating that public benefits, such as improved service and enhanced competition, outweigh potential negative effects, such as potential service disruptions and harm that cannot be mitigated. They also require applicants to address whether claimed benefits can be achieved by means other than a merger. See *Major Rail Consolidation Procedures*, 5 STB 539, 546-51, 553-59 (2001) (“*Merger Rules*”). No major consolidation proposals have been submitted since the adoption of the *Merger Rules*.

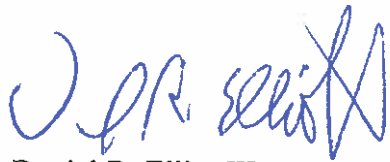
The *Merger Rules* require applicants to address a number of factors including: public benefits, potential harms, cumulative impacts of the merger and crossover effects on the rail industry, downstream impacts (including additional consolidations), transnational issues and National defense implications, and impacts on railway labor. As part of this showing, the applicant must submit specific financial data and market analyses.

Because the merger review process would also trigger the requirements of the National Environmental Policy Act (“NEPA”), carriers must also address the environmental impact of any merger, and the Board may impose mitigation measures if it approves a transaction. Applicants

¹ A “major” transaction is a control or merger involving two or more Class I railroads. A Class I railroad is one whose annual operating revenue exceeded \$475,754,803 in 2014.

are also required to submit a Service Assurance Plan to address potential adverse service effects during merger implementation. The Service Assurance Plan must include information about proposed operational integration, training, information technology systems, customer service, freight and passenger operations coordination, yard and terminal operations management, service disruption contingency plans, and numerous other technical issues. Finally, as part of any major merger, applicants would be subject to formal STB oversight for at least five years following the merger.

Again, thank you for sharing your views. We hope this information is helpful to you. Please do not hesitate to contact us if you have any questions.

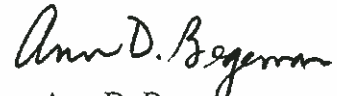


Daniel R. Elliot III
Chairman

Sincerely,



Deb Miller
Vice Chairman



Ann D. Begeman
Commissioner