



Office of the Chairman

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

December 23, 2015

The Honorable Amy Klobuchar
United States Senate
302 Hart Senate Building
Washington, DC 20510

Dear Senator Klobuchar:

Thank you for your December 7th letter regarding Canadian Pacific Railway's proposed merger with Norfolk Southern Railway. I appreciate your concerns regarding the impact of a possible merger, and the effects it may have upon competition, and the cost and quality of rail service.

In the event that Canadian Pacific and Norfolk Southern pursue a merger, they will be subject to a rigorous review process. In accordance with STB rules governing mergers of Class I railroads, applicants bear a substantial burden to show that a proposed merger is consistent with the public interest. In its 2001 decision adopting the current rules, *Major Rail Consolidation Procedures*, EP 582 (STB served June 11, 2001), the Board recognized that rail mergers are no longer needed to address significant excess capacity that once existed in the rail industry. The Board also recognized that merger benefits can be offset by service disruptions that sometimes follow mergers. As a result, the Board emphasized the need to protect the public interest and enhance competition, while ensuring a stable and balanced rail transportation system.

The Board's merger rules require the applicant carrier to address a number of factors in its application to the Board: the net public benefit, potential harms, cumulative impacts of the merger and crossover effects on the rail industry, downstream impacts, transnational issues and National defense implications. In addition, the carriers must submit financial data and market analyses. The applicant carrier is also required to submit a Service Assurance Plan to address potential adverse service effects during implementation and plans to accommodate any such effects on service. 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, how traffic-level changes or increases will be accommodated by the combined system, infrastructure improvement, labor issues, service benchmarking, and timetables for the completion of implementation activities, as appropriate.

As you stated in your letter, the merger rules also address the use of voting trusts. The rules require the applicant to demonstrate that the voting trust is in the public interest and also call for a public comment period before the Board issues a decision on whether the applicants may establish and use the trust.

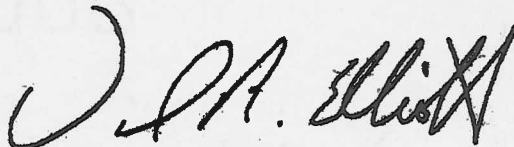
No Class I railroads have sought to merge with each other since adoption of these rules. However, as the Board discussed at length in its decision adopting the rules, merger applicants will be required to offset any expected harms resulting from a merger by agreeing to competition-enhancing conditions.

Additionally, as part of any merger, applicants will be bound by the terms of a service assurance plan, and will be subject to formal STB oversight for at least five years following the merger.

You can access the Board's full decision adopting the rules at:
[http://www.stb.dot.gov/boundvolumes5.nsf/38f502d6898daf3385256811004b5a12/71db6901b74ccfa385257085006d4711/\\$FILE/vol5-31.pdf](http://www.stb.dot.gov/boundvolumes5.nsf/38f502d6898daf3385256811004b5a12/71db6901b74ccfa385257085006d4711/$FILE/vol5-31.pdf)

Thank you again for reaching out to me on this important matter. If you have any questions or further concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "D.R. Elliott III". The signature is fluid and cursive, with a large initial "D" and "R".

Daniel R. Elliott III
Chairman