PUT THE BRAKES ON CANADIAN PACIFIC'S TAKEOVER PLANS OF NORFOLK SOUTHERN

Over the last several months, Canadian Pacific Railway (CP) has made repeated offers to acquire Norfolk Southern (NS) to create a railroad stretching from British Columbia to the Eastern seaboard and Southeastern United States. Having experienced the wave of mega-mergers during the 1980s and 1990s that have left this country with only seven Class I freight railroads, transportation labor understands – and our members have lived through – the devastating impact these transactions can have on jobs, freight service and safety.

Given this history, CP's current operations, and the company's public statements about plans for a merged NS system, we approach this potential merger with the highest degree of skepticism. The Surface Transportation Board (STB) and other federal regulators must be in a position to critically review and analyze any potential merger application to ensure that past mistakes are not repeated and that the broad public interest is protected, as required by federal law. Congress must also exercise its oversight role to ensure the STB meets its statutory responsibilities and that CP is not allowed to proceed with a transaction that would harm workers and jeopardize our vast and interconnected freight rail system.

There is little debate that past mergers have negatively impacted thousands of rail workers and their families. As the wave of consolidation began in the 1980s, Class I railroads employed roughly 458,000 workers. Three decades later, that total has plummeted to about 163,000. While multiple factors have played a role in the decline, we have seen firsthand how merged carriers slash jobs in an attempt to produce quick savings or raise stock prices to satisfy Wall Street expectations. We have also seen employees' positions consolidated, leaving workers jobless or forced to relocate their lives and families to follow work. And in the case of transcontinental mergers, employees lose work when their positions are transferred across the border.

We also know that the previous promises of efficiency and easy integration railroads have made in order to garner government approval of a merger have routinely fallen short when the transaction was actually implemented. For instance, major service disruptions and safety violations occurred following the merger of Union Pacific (UP) and Southern Pacific (SP) railroads in 1996. Nine rail workers died from accidents related to the integration of the two railroads, and the FRA found a "fundamental breakdown in basic railroad operating procedures and practices essential to a safe operation." In addition to the safety crisis that confronted the carrier, delayed service to shippers throughout the West and Midwest cost the broader economy up to $4 billion, according to some estimates.

The break-up of Conrail by NS and CSX railroads in 1999 caused similar service issues. Workforce reduction plans left NS and CSX grappling with employee shortages that prevented the carriers from meeting shipper needs. Rail cars went missing while others became stuck along the track, and congestion inside rail yards forced trains to idle outside of terminals.

Unfortunately, CP seems intent on pursuing a forced purchase of NS that would likely repeat the job cuts, worker dislocations, and accompanying service and safety problems characteristic of past mergers. Under the control of current leadership, CP has lost more than 5,900 jobs since 2012. In 2015 alone, the carrier's workforce shrunk by an estimated 12%. Additionally, CP recently announced plans to cut an additional 1,000 jobs in 2016.

As CP rolls out its link-up plans with NS, it estimates that the implementation of pre-merger "operational improvements" and post-merger "combination synergies" would produce $1.8 billion in annual savings. Notably, more than 70% of these savings would be generated from operational improvements, including "workforce optimization." While CP claims these reductions would be achieved through attrition, we need only to look at CP's treatment of its own workforce to foresee that aggressive jobs cuts and underinvestment would likely occur at the merged entity. The savings CP projects to realize from operational improvements and synergies are significant and harken the failed promises of past mergers. The carrier must be forthcoming about how many U.S. jobs would be eliminated if its plans to take over NS proceed.

In addition to workforce cuts, we worry that CP would allow NS's infrastructure to deteriorate and fleet to stagnate, resulting in an underinvested new carrier. CP clearly plans to replicate its model of selling physical assets for profit, stating that there is "no reason why we can't do there [NS] what we've done at CP." Under its current leadership, CP has sold off a variety of terminals and rail yards and even announced plans to trim $400 million from capital spending for 2016 and extend its moratorium on purchasing locomotives. In other words, CP is retreating from any plans to modernize its fleet and network. The carrier plans to take similar steps at NS by converting valuable infrastructure such as rail yards into real estate developments that can "generate a huge cash flow..." Of course it will be the investors and shareholders who collect these additional profits, all at the expense of maintaining important transportation assets and a skilled and properly staffed workforce.

We are also concerned that a reduced workforce and underinvestment in infrastructure would cause safety to suffer. Again, CP's current operations underscore our concerns: in January, Transport Canada issued CP a Notice and Order for its operations on Extended Service Run. The Notice and Order identified practices contributing to an "immediate threat" to safety, including making it difficult for crews to receive proper rest and predict their schedules, causing crews to be fatigued and less alert at work.

The FRA is already on notice. Commenting on her agency's responsibility to make sure safety is prioritized during the merger process, FRA Administrator Sarah Feinberg recognized that merging "large rail systems, rule books, workforces, and safety cultures can lead to safety vulnerabilities and deficiencies." We share FRA's beliefs and urge regulators and Congress to carefully scrutinize safety vulnerabilities posed by CP's plans and a potential CP merger application.

We also urge the STB to carefully evaluate any filing CP makes related to this merger, including a request that STB provide guidance on whether it would approve a potential voting trust. We are concerned that CP's voting trust proposal would put the carrier in substantial control of NS before STB's approval of a merger application and would serve as an end-around full shareholder and regulatory review.

Transportation labor is not alone in expressing grave concerns regarding CP's plans, as many State and Federal legislators, shippers, and others have already weighed in on this transaction. And we share the view expressed by some that if the CP-NS merger were completed, it would likely trigger a final round of consolidation in the railroad industry, further reducing jobs, safety, and service. Other carriers are closely monitoring the CP-NS situation and may effectively be forced to consider consolidations of their own depending on whether CP backs off its pursuit of NS. Given STB's "substantial concern" for further consolidation, this potential merger should warrant serious attention from regulators.

Despite the economic downturn and reduction in total number of jobs, the freight rail industry continues to provide strong middle-class employment with valuable benefits and robust union representation. Further, the ability of the freight rail industry, already consolidated down to a small handful of mega-carriers, to play a central role in our economy would be at risk if another wave of mergers were sanctioned by our government. Freight capacity and efficiency, middle class jobs, and safety will suffer.

Transportation labor strongly urges regulators and legislators to use their review and oversight authorities to carefully monitor CP's actions and reject merger schemes that harm the economy and the public interest.

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