

respects access to the build-in/build-out point) through voluntary agreement with a competing railroad, it is, of course, possible that the parties might be unable to agree on such terms. CN therefore contends that, if the Board approves the primary application, the Board should retain jurisdiction over the CN/GLT Transaction for a reasonable period for the purpose of reopening this proceeding if the EVTAC facility should resume operations and require rail service, if necessary to prescribe terms of access for a second rail carrier to handle general freight (*i.e.*, commodities other than iron ore and taconite) to and/or from the EVTAC facility, or to prescribe terms of access to a build-in or build-out point on the existing DWP line that would permit a second rail carrier to handle iron ore and taconite to/from that facility. CN adds that, because its trackage rights agreement with DMIR prohibits CN from transporting iron ore (including taconite pellets) over the DMIR line between Nopeming Junction and South Itasca, CN should not be required to permit use of that DMIR line for transportation of iron ore, except on commercial terms. CN also adds that, because CN does not have access to an ore dock of its own in the Duluth/Superior area, the railroad receiving trackage rights to a build-in/build-out point should not be one that presently owns such a dock.

Labor Protection. CN projects that the CN/GLT Transaction would result in the elimination of 122 positions and the transfer of 18 positions. CN also projects that the reciprocal grants of Shelton Junction-Nopeming Junction trackage rights provided for in the related filings would have no adverse effect on train and engine service employees. CN notes, however, that, whereas these projections represent CN's best estimate, based on information presently available, of the changes necessary to effect the public transportation benefits and the efficiencies of the CN/GLT Transaction, additional changes might be required as circumstances change, opportunities open elsewhere on the CN system, traffic and shipping patterns evolve, and CN acquires experience in operating the combined system. CN acknowledges that the applicable level of labor protection for the CN/GLT Transaction would be that set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60, 84–90 (1979), *aff'd sub nom. New York Dock Ry. v. United States*, 609 F.2d 83 (2d Cir. 1979), and that the applicable level of labor protection for the Shelton Junction-Nopeming Junction trackage rights would be that set forth in *Norfolk*

and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605, 610–15 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653, 664 (1980), *aff'd sub nom. Railway Labor Exec. Ass'n v. United States*, 675 F.2d 1248 (D.C. Cir. 1982). CN adds that management employees whose positions would be eliminated as a result of the Transaction, and who would not be offered a job opportunity elsewhere in the CN system, would be offered severance packages, and that, if relocation to another job is offered, CN would also offer to relocate the management employee in accordance with the then-current CN management relocation plan.

Primary Application and Related Filings Accepted

The Board agrees with CN that the CN/GLT Transaction proposed in the primary application would be a “minor transaction” under 49 CFR 1180.2(c), and the Board is accepting the primary application for consideration because it is in substantial compliance with the applicable regulations governing minor transactions. *See* 49 U.S.C. 11321–26; 49 CFR part 1180. The Board is also accepting for consideration the two related filings, which are also in compliance with the applicable regulations. The Board reserves the right to require the filing of supplemental information from CN or any other party or individual, if necessary to complete the record in this matter.

Public Inspection

The primary application and the related filings are available for inspection in the Docket File Reading Room (Room 755) at the offices of the Surface Transportation Board, 1925 K Street, NW., in Washington, DC. In addition, they may be obtained from CN's representative (Mr. Cunningham) at the address indicated above.

Procedural Schedule

CN contends that, in view of the asserted public benefits of the CN/GLT Transaction, the asserted lack of competitive harm, and the asserted absence of complicating environmental factors or related applications, a shorter procedural schedule than the 180-day maximum procedural schedule allowed by statute would be appropriate. CN has therefore proposed a 146-day procedural schedule that provides for issuance of a decision by the Board on March 30, 2004.

The Board is adopting a 156-day procedural schedule patterned upon the 156-day procedural schedule that was adopted earlier this year in the “KCS/

Tex Mex” proceeding. The Board's 156-day procedural schedule, although 10 days longer than the schedule suggested by CN, still provides for less total time than the 180-day procedural schedule (30 days + 105 days + 45 days) established by the deadlines set forth at 49 U.S.C. 11325(a), (d)(2). Comments on CN's Environmental Appendix (submitted November 5, 2003, and supplemented November 10, 2003) are due by December 10, 2003. CN must submit its Safety Integration Plan (SIP) by December 15, 2003. Any person who wishes to participate in this proceeding as a party of record (POR) must file, no later than December 19, 2003, a notice of intent to participate. Comments on CN's SIP must be filed by January 22, 2004. All comments, protests, requests for conditions, and any other evidence and argument in opposition to the primary application and/or either or both of the related filings, including filings by the U.S. Department of Justice (DOJ) and the U.S. Department of Transportation (DOT), must be filed by January 26, 2004. As in past proceedings, DOT will be allowed to file, on the reply due date (here, February 24, 2004), its comments in response to the comments of other parties, and CN will be allowed to late-file (as quickly as possible) a reply to DOT's responsive comments. Responses to comments, protests, requests for conditions, and other opposition, responses to comments of DOJ and DOT, and rebuttal in support of the primary application and/or either or both of the related filings must be filed by February 24, 2004. A public hearing/oral argument will be held the week of March 1, 2004 (the precise date and the location will be announced later). The Board's decision will be issued on April 9, 2004 (the 156th day after the date on which the primary application and the related filings were filed, and the 45th day after the close of the record). If, however, it is determined that an Environmental Impact Statement or Environmental Assessment is required, the procedural schedule will be adjusted as necessary.

Notice of Intent To Participate

Any person who wishes to participate in this proceeding as a POR must file with the Board, no later than December 19, 2003, an original and 20 copies of a notice of intent to participate, accompanied by a certificate of service indicating that the notice has been properly served on the Secretary of the United States Department of Transportation, the Attorney General of the United States, and CN's representative (Mr. Cunningham). In