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# CN petitions U.S. Court of Appeals to order final STB decision on transportation merits of proposed EJ&E acquisition

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WASHINGTON, DISTRICT OF COLUMBIA, Sep 18 (MARKET WIRE)

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CN (TSX: CNR)(NYSE: CNI) today petitioned the United States Court of Appeals for the District of Columbia Circuit for an expedited ruling ordering the Surface Transportation Board (STB) to render a final decision on the transportation merits of CN's proposed acquisition of the principal lines of the Elgin, Joliet & Eastern Railway Company (EJ&E), to allow the transaction to close by the parties' Dec. 31, 2008, deadline.

"Given the substantial, wide-ranging public interest benefits of our planned acquisition of the EJ&E, we cannot permit regulatory delay to imperil this transaction," said CN President and Chief Executive Officer E. Hunter Harrison.

"We are convinced - and many business and community leaders agree - that the transaction will be good for the Chicago region as a whole. It would ease rail congestion, which is critically important to the region's economy and its continued role as one of America's most important transportation hubs. If unaddressed, rail congestion threatens \$2 billion of dollars of production and 17,000 jobs in the Chicago region over the next 20 years.

"Second, the transaction would benefit the environment of the overall Chicago region. For every community along the EJ&E line in the suburbs of Chicago that would see increased train traffic as a result of the transaction, nearly double that number along CN lines in inner Chicago would see decreased rail operations. In fact, roughly 60 communities inside the EJ&E arc would benefit from reduced train traffic as a result of the transaction. That would mean a better quality of life for residents of the Chicago region, with less pollution, fewer idling trains and fewer blocked crossings."

Faced with a Dec. 31, 2008, deadline for completing its purchase of the EJ&E, CN last month proposed a reasonable compromise to the STB that would have allowed the agency to rule on the transportation merits of the EJ&E acquisition while completing its environmental review of the transaction. During this environmental review, CN proposed to maintain an "environmental status quo" by which CN would not shift any of its trains to the EJ&E until that review had been completed. But the agency last week denied CN's petition.

"It is truly unfortunate that the STB rejected CN's compromise solution given the impending deadline on our transaction," Harrison said. "The agency's decision - and continuing uncertainty about the timing of the STB's final decision on the transaction - leave us no option but to ask the court to compel a final STB decision on the transportation merits of the acquisition. We need the STB ruling soon so that we will be in a position to close the transaction before year-end."

CN's petition need not preclude full environmental review of the transaction. If it is granted, that will be a choice for the agency. The STB would have options to assure that if CN's petition is granted, the agency can complete its environmental review of the transaction, including its consideration of the comments of all interested parties and its imposition of lawful mitigation before the transaction would be able to have any adverse environmental effects.

"The bottom line is that the benefits to Chicago's rail network and environment from rerouting trains off congested city and inner Chicago lines onto the underused EJ&E are too great to see this transaction derailed," Harrison said. "We cannot allow controversy created in some Chicago suburbs - and the regulatory delay it has created - to jeopardize the transaction."