

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
CANADIAN NATIONAL RAILWAY) File No.: EB-IHD-14-00013490^
COMPANY)
) Acct. No.: 201432080041
Parent Company of Multiple Subsidiaries Holding)
Various Authorizations in the Wireless Radio) FRN: 0021843800
Services)

ORDER

Adopted: September 10, 2014

Released: September 11, 2014

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has resolved its investigation into whether Canadian National Railway Company (CN or Company) acquired wireless radio licenses without prior Commission approval, and constructed, operated, modified, and relocated wireless radio stations absent any Commission authorization. We take this action as part of our duty to prevent unlicensed radio operations from potentially interfering with authorized radio communications in the United States, facilitate the efficient administration of wireless radio authorizations, and stop the unauthorized transfer of radio authorizations to a potentially unqualified party or in a manner that might otherwise be inconsistent with the public interest. For many years, CN has operated hundreds of unauthorized radio facilities to monitor and support its railroad operations. Some of these unauthorized operations date back as far as 1990, with the most recent beginning in August 2012. In addition, CN failed to obtain Commission consent before acquiring ownership and control of several hundred wireless radio authorizations. CN admits that the scope and duration of its violations are extensive. To resolve the Bureau's investigation, the Company will pay a civil penalty of \$5,250,000, maintain internal compliance policies that the Company instituted prior to the investigation, and implement a three-year compliance plan with additional compliance and reporting obligations.

2. In this Order, we adopt the attached Consent Decree entered into between the Bureau and CN. The Consent Decree resolves and terminates the Bureau's investigation into possible violations of Section 310(d) of the Communications Act of 1934, as amended (Act),^2 and Section 1.948 of the Commission's rules (Rules),^3 pertaining to unauthorized transfers of control and assignments of licenses; and Section 301 of the Act^4 and Section 1.903 of the Rules,^5 pertaining to unauthorized operation of stations and station equipment.

3. The Bureau and CN have negotiated the Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated herein by reference.

^1 This case was formerly assigned File No. EB-13-IH-0363.

^2 47 U.S.C. § 310(d).

^3 47 C.F.R. § 1.948.

^4 47 U.S.C. § 301.

^5 47 C.F.R. § 1.903.

4. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

5. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether CN possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 503(b) of the Act,⁶ and Sections 0.111 and 0.311 of the Rules,⁷ the Consent Decree attached to this Order **IS ADOPTED**.

7. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Theodore K. Kalick, Senior U.S. Regulatory Counsel, Canadian National Railway Company, 601 Pennsylvania Avenue, NW, Suite 500 North Building, Washington, D.C. 20004.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Chief
Enforcement Bureau

⁶ 47 U.S.C. §§ 154(i), 154(j), 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311.

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CANADIAN NATIONAL RAILWAY)	File No.: EB-IHD-14-00013490 ¹
COMPANY)	
)	Acct. No.: 201432080041
Parent Company of Multiple Subsidiaries Holding)	
Various Authorizations in the Wireless Radio)	FRN: 0021843800
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CONSENT DECREE

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) and Canadian National Railway Company (CN or Company), by their authorized representatives, hereby enter into this Consent Decree that resolves and terminates the Bureau’s investigation into CN’s compliance with Section 310(d) of the Communications Act of 1934, as amended (Act),² and Section 1.948 of the Commission’s rules (Rules),³ pertaining to unauthorized transfers of control and assignments of licenses; and Section 301 of the Act⁴ and Section 1.903 of the Rules,⁵ pertaining to unauthorized operation of stations and station equipment.

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) “Adopting Order” means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (e) “Communications Laws” means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which CN is subject by virtue of its business activities.
 - (f) “CN” or “Company” means Canadian National Railway Company, and its U.S. subsidiaries, affiliates, predecessors-in-interest, and successors-in-interest.
 - (g) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 14.
 - (h) “Covered Employees” means all employees and agents of the Company who perform, supervise, oversee, or manage the performance of duties that relate to CN’s

¹ This case was formerly assigned File No. EB-13-IH-0363.

² 47 U.S.C. § 310(d).

³ 47 C.F.R. § 1.948.

⁴ 47 U.S.C. § 301.

⁵ 47 C.F.R. § 1.903.

responsibilities under the Communications Laws, including Sections 310(d) and 301 of the Act and Sections 1.948 and 1.903 of the Rules.

- (i) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (j) “Investigation” means the investigation commenced by the Bureau in File No. EB-IHD-14-00013490 (formerly EB-13-IH-0363) into possible violations by CN of provisions of Communication Laws relating to unauthorized transfers of control, unauthorized assignments of licenses, and unauthorized operations of stations and station equipment.
- (k) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by CN to implement the Compliance Plan.
- (l) “Parties” means CN and the Bureau, each of which is a “Party.”
- (m) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

3. Section 310(d) of the Act states that “[n]o construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby.”⁶ Section 1.948 of the Rules similarly requires Commission consent prior to a transfer of control or assignment of license.⁷ In addition, Section 301 of the Act and Section 1.903(a) of the Rules prohibit the use or operation of any radio transmitting equipment within the United States, except under and in accordance with the Act and with a Commission-granted authorization.⁸

4. CN is a large, diversified, Montreal-based corporation that provides rail, trucking, warehousing, and distribution services throughout Canada and parts of the United States. It was incorporated in 1919 as a government-owned entity and privatized in 1995. CN and its U.S. rail operating subsidiaries currently employ over 20,000 people in the operation of a North American rail network with approximately 20,600 route-miles of track.⁹

5. Over the course of several years after it was privatized, CN acquired a number of railroad companies in the United States, all of which held FCC authorizations in the wireless radio services.¹⁰ Radio transmitting devices are widely used in the railroad industry for voice and data transmissions related to the safe operation of freight and passenger trains. In 2012, CN discovered a number of instances in which it had acquired control of various wireless radio licenses without prior Commission consent.¹¹ The Company commenced a comprehensive internal audit of all of its FCC authorizations, and

⁶ 47 U.S.C. § 310(d).

⁷ 47 C.F.R. § 1.948.

⁸ 47 U.S.C. § 301, 47 C.F.R. § 1.903(a).

⁹ See Letter from Theodore K. Kalick, U.S. Senior Regulatory Counsel, Canadian National Railway Company, to Jeffrey Tobias, Attorney Advisor, Mobility Division, FCC Wireless Telecommunications Bureau; Theresa Cavanaugh, Chief, Investigations & Hearings Division, FCC Enforcement Bureau; and Gary Schonman, Special Counsel, Investigations & Hearings Division, FCC Enforcement Bureau at 1 (Feb. 28, 2013) (on file in EB-IHD-14-00013490) (February 2013 Letter).

¹⁰ See *id.* at 2.

¹¹ See *id.*

disclosed its violations to the Commission.¹² The Bureau then commenced its Investigation of CN's compliance with applicable provisions of the Act and Rules.

6. The Investigation revealed that CN consummated more than a dozen substantial and *pro forma* transactions involving several hundred licenses without having obtained prior Commission consent.¹³ The earliest of these unauthorized transactions dated back to 1995.¹⁴ The Investigation also revealed that CN and its predecessors had constructed, relocated, modified, and/or operated several hundred wireless facilities without approval from the FCC.¹⁵ The earliest of these unauthorized operations began as far back as 1990.¹⁶ Most of the unauthorized transactions and unauthorized operations continued unabated until 2013, when the Commission's Wireless Telecommunications Bureau granted CN's multiple requests for Special Temporary Authority and associated remedial applications.

7. The Investigation did not reveal any evidence of complaints about interference from CN's unauthorized operations, and the Company states that the radio facilities it constructed, relocated, modified, and operated without Commission authorization were at all times intended to enhance the safety of its rail system.¹⁷ CN reported its violations upon discovery, and it acknowledges the extensive scope and duration of its noncompliance. To resolve the Bureau's Investigation, the Parties now enter this Consent Decree to ensure CN's future compliance with all applicable Communications Laws.

III. TERMS OF AGREEMENT

8. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

9. **Jurisdiction.** The Company agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

10. **Admission of Liability.** CN admits, solely for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 12 herein, that its actions described in paragraphs 5 through 7 of this Consent Decree constitute violations of Sections 310(d) and 301 of the Act, and Sections 1.948 and 1.903 of the Rules.

11. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a

¹² *See id.*

¹³ *See* Letter from Theodore K. Kalick, U.S. Senior Regulatory Counsel, Canadian National Railway Company, to Jeffrey Tobias, Attorney Advisor, Mobility Division, FCC Wireless Telecommunications Bureau; Theresa Cavanaugh, Chief, Investigations & Hearings Division, FCC Enforcement Bureau; Gary Schonman, Special Counsel, Investigations & Hearings Division, FCC Enforcement Bureau; Gary Oshinsky, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau; and Gregory Simon, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau at 4-16 (Aug. 12, 2013) (on file in EB-IHD-14-00013490) (August 2013 Letter).

¹⁴ *See id.*

¹⁵ *See id.* at 17-18, Tab 2; *see also* Letter from Theodore K. Kalick, U.S. Senior Regulatory Counsel, Canadian National Railway Company, to Gary Oshinsky, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau; and Gregory Simon, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau (Dec. 19, 2013) (on file in EB-IHD-14-00013490).

¹⁶ *See* August 2013 Letter at Tab 2.

¹⁷ CN states that it used its radio facilities to, among other things, support dispatch operations and intra-yard communications, detect defects on railroad tracks or cars, monitor water levels near tracks, check the status of fences or security barriers, and detect and change the position of tracks. *See* February 2013 Letter at 6-7.

Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

12. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, the Company agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against the Company concerning the matters that were the subject of the Investigation. The Bureau also agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against the Company with respect to its basic qualifications, including its character qualifications, to be a Commission licensee or hold Commission licenses or authorizations.

13. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, to the extent it has not already done so under its current Compliance Plan, the Company shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that the Company complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of Sections 310(d) and 301 of the Act and Sections 1.948 and 1.903 of the Rules prior to assuming his/her duties.

14. **Compliance Plan.** The Bureau recognizes that on February 28, 2013, the Company implemented, and has since maintained, a comprehensive Compliance Plan, under which it has engaged in compliance reporting to the FCC.¹⁸ For purposes of settling the matters set forth herein, the Company agrees that it shall continue to maintain its existing Compliance Plan. In addition, within sixty (60) calendar days after the Effective Date, the Company shall develop and implement the measures described below, if not already in place, to ensure future compliance with the Communications Laws, including Sections 310(d) and 301 of the Act and Sections 1.948 and 1.903 of the Rules, and with the terms and conditions of this Consent Decree. The Compliance Plan shall implement the following procedures:

- (a) **Operating Procedures.** Within sixty (60) calendar days after the Effective Date, the Company shall establish Operating Procedures that all Covered Employees shall follow to help ensure the Company's compliance with the Communications Laws. The Company's Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Company complies with Sections 310(d) and 301 of the Act and Sections 1.948 and 1.903 of the Rules. The Company shall also develop a Compliance Checklist that describes the steps that a Covered Employee must follow to ensure compliance with Sections 310(d) and 301 of the Act and Sections 1.948 and 1.903 of the Rules.
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees, all of whom shall follow the procedures detailed in the Compliance Manual. The Compliance Manual shall explain the Communications Laws that apply to the Company, including Sections 310(d) and 301 of the Act and Sections 1.948 and 1.903 of the Rules, and set forth the Operating Procedures that Covered Employees shall follow to help ensure the Company's compliance with

¹⁸ See *id.* at 2. As an initial step in the implementation of its compliance effort, CN designated Theodore K. Kalick, CN's Senior U.S. Regulatory Counsel, to serve as the Company's Compliance Officer to review and oversee all of its FCC licensing matters.

Sections 310(d) and 301 of the Act and Sections 1.948 and 1.903 of the Rules. At least once annually, the Company shall review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. The Company shall distribute any revisions to the Compliance Manual promptly to Covered Employees. The Compliance Manual shall require personnel, including Covered Employees, to contact the Company's Compliance Officer and, if appropriate, regulatory legal counsel with any questions or concerns that arise with respect to the Company's obligations under Sections 310(d) and 301 of the Act and Sections 1.948 and 1.903 of the Rules.

- (c) **Compliance Training Program.** The Company shall establish and implement a Compliance Training Program on compliance with the Communications Laws, including Sections 310(d) and 301 of the Act and Sections 1.948 and 1.903 of the Rules, and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of the Company's obligation to report any noncompliance with Sections 310(d) and 301 of the Act and Sections 1.948 and 1.903 of the Rules under paragraph 15 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. Given the Company's size and the complexity of its operations, all Covered Employees shall be trained pursuant to the Compliance Training Program within one hundred twenty (120) calendar days after the Effective Date. Any person who becomes a Covered Employee at any time thereafter shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. The Company shall repeat the compliance training on an annual basis. At least once annually, the Company shall review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

15. **Reporting Noncompliance.** The Company shall report any noncompliance with Sections 310(d) and 301 of the Act and Sections 1.948 and 1.903 of the Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that the Company has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that the Company has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, SW, Washington, DC 20554, with a copy submitted electronically to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov, Gary Schonman at Gary.Schonman@fcc.gov, Gary Oshinsky at Gary.Oshinsky@fcc.gov, and Gregory Simon at Gregory.Simon@fcc.gov.

16. **Compliance Reports.** The Company, in consideration of the reporting regimen it has already implemented, shall file Compliance Reports with the Commission one hundred twenty (120) calendar days after the Effective Date, twelve (12) months after the Effective Date, and twenty-four (24) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of the Company's efforts during the relevant period to comply with the terms and conditions of this Consent Decree, Sections 310(d) and 301 of the Act, and Sections 1.948 and 1.903 of the Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of the Company, stating that the Compliance Officer has personal knowledge that the Company: (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent

Decree, including the reporting obligations set forth in paragraph 15 of this Consent Decree.

- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with Section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth in Section 1.16.¹⁹
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of the Company, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that the Company has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that the Company has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to the Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, SW, Washington, DC 20554, with a copy submitted electronically to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov, Gary Schonman at Gary.Schonman@fcc.gov, Gary Oshinsky at Gary.Oshinsky@fcc.gov, and Gregory Simon at Gregory.Simon@fcc.gov.

17. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 13 through 16 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

18. **Civil Penalty.** The Company will make a payment to the United States Treasury in the amount of five million, two hundred fifty thousand dollars (\$5,250,000) within thirty (30) calendar days after the Effective Date (Civil Penalty). The Company shall also send electronic notification of payment to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov, Gary Schonman at Gary.Schonman@fcc.gov, Gary Oshinsky at Gary.Oshinsky@fcc.gov, and Gregory Simon at Gregory.Simon@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²⁰ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions regarding the form of payment:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O.

¹⁹ 47 C.F.R. § 1.16.

²⁰ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

Questions regarding payment procedures should be addressed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

19. **Waivers.** The Company waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues the Adopting Order as defined in this Consent Decree. The Company shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither the Company nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Company shall waive any statutory right to a trial *de novo*. The Company hereby agrees to waive any claims they may otherwise have under the Equal Access to Justice Act²¹ relating to the matters addressed in this Consent Decree.

20. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

21. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which the Company does not expressly consent) that provision will be superseded by such Commission rule or order.

22. **Successors and Assigns.** The Company agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

23. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree contains all the terms and conditions to which the Parties have agreed and shall constitute a final settlement between the Parties with respect to the Investigation.

24. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

25. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

26. **Authorized Representative.** Each Party represents and warrants to the other Parties that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

27. **Counterparts.** This Consent Decree may be signed in counterparts and may be delivered by facsimile or electronic delivery. Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

²¹ See 5 U.S.C. § 504; 47 C.F.R. Part 1, Subpart K.

Travis LeBlanc
Chief
Enforcement Bureau

Date

Luc Jobin
Executive Vice President & Chief Financial Officer
Canadian National Railway Company

Date