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November 27, 2023
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November 27, 2023

CPKC-8

The Honorable Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E. Street, S.W., Room #100
Washington, DC 20423-0001

VIA E-FILING

Re: *Canadian Pacific Kansas City Limited and The Kansas City
Southern Railway Company, d/b/a CPKC—Acquisition and Operation— Certain Rail Line of
Meridian & Bigbee Railroad, L.L.C. in Lauderdale County, Mississippi and Choctaw and
Marengo Counties, Alabama*
Finance Docket No. 36732

Dear Ms. Brown:

On November 20, 2023, Norfolk Southern (“NS”) filed an 84-page filing which it characterized as a “brief update” on the status of discovery. NS complains about the timing of CPKC’s discovery objections and responses in light of the procedural schedule, and predicts disputes over CPKC’s responses and the possible “need” to extend the procedural schedule to accommodate follow up discovery. However, NS does not identify any actual dispute that requires the Board’s attention. To say NS’s letter is premature is an understatement. Under the Board’s rules, CPKC’s objections and responses were not even due until November 24, 2023.

In fact, CPKC served its discovery objections and responses on November 22, 2023—two days early. CPKC also filed its Supplemental Information on November 21, 2023, which addressed some of NS’s less extraneous requests (most of NS’s discovery seeks information that is not germane to the Board’s consideration of the merits of the proposed minor transaction). And if NS believed that it needed to receive discovery responses even earlier, it could have served discovery as soon as it became available instead of waiting for nearly a week.

NS has already tried to delay competition by asking the Board to consolidate and hold the CPKC and CSXT proceedings in abeyance. The Board denied NS’s motion. NS’s latest filings make it abundantly clear that NS intends to continue its misguided efforts to delay and stymie the onset of competition. The Board should not condone such conduct.

Sincerely,

Stinson LLP

/s/ David F. Rifkind

David F. Rifkind

cc: Parties of Record
Secretary of Transportation
Attorney General of the United States