



April 16, 2021

The Honorable Cynthia T. Brown
Chief, Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

ENTERED
Office of Proceedings
April 23, 2021
Part of
Public Record

Re: Finance Docket No. 36500 – Reply to Objections to KCS Waiver

My name is Jim Albertson and my business address is USD Terminals Canada, Suite 1960, 440 – 2nd Ave. S.W., Calgary, AB / T2P5E9. I am Senior VP, Canadian Business Unit, USD Group LLC (“USDG”). In my role, I am responsible for developing the commercial strategies and the proper execution of them for USDG’s Canadian businesses.

USDG has long enjoyed good relationships with many railroads, including Canadian Pacific Railway (“CP”) and, more recently, Kansas City Southern Railway (“KCS”), providing our customers services that involve rail solutions primarily for Dilbit and DRUbit™ (diluted bitumen and bitumen, respectively) in the United States and Canada. These services require close operational collaboration and/or negotiations with rail carriers. USDG believes a CP-KCS combination will create a transcontinental railroad with the scale and reach to deliver improved levels of service that will enable us to better serve our customers and communities.

USDG has previously submitted to the Board a letter dated March 30, 2021, supporting approval of the proposed CP-KCS combination. As expressed in our previous letter, USDG supports swift approval of the CP-KCS combination because of the significant benefits we expect to realize from this transaction.

USDG is aware that several parties have filed objections to the application of the pre-2001 merger rules to the CP-KCS transaction under the “waiver” issued in 2001 for transactions involving KCS. USDG wishes to reply to those objections by urging the Board not to revoke the KCS waiver. The pre-2001 rules provide the Board and all interested parties all the tools that are needed to fully evaluate the proposed transaction.

We are aware of the Board’s mandate to ensure that Class I mergers are in the public interest, and do not risk significant disruptions in the railway system. From our perspective, the unique nature of the CP-KCS transaction alleviates the concerns that motivated the new rules adopted in 2001. Reviewing the CP-KCS combination under the established pre-2001 merger standards will prevent undue delay, while still allowing for a thorough public interest assessment by the Board.

As we have mentioned in our March 30, 2021 letter, the end-to-end CP-KCS transaction will improve service options, with new single-line hauls and broader access to markets across North America. Our experience shows us that single-line rail service options are far superior to public and private fleets. The unique synergies of a CP-KCS combination promises significant public benefits to USDG and similarly situated shippers, which we are eager to see realized as soon as possible, without the delays and additional burdens that would result from applying the 2001 rules for the first time ever to this transaction.

Nothing about the CP-KCS transaction raises the kinds of concerns that would flow from a merger of the much larger Class I railroads. The issues should be simple – the transaction improves competitive options and service – and any concerns any party has should be easy to address under the pre-2000 rules. The 2001 rules were designed for much more complex transactions that raised much more serious issues, and they should not be tested out in this case.

USDG and our shipping partners are looking forward to a stronger CPKC network that will increase our access to diversified market opportunities. As such, we urge the Board to apply the KCS waiver provision it thoughtfully included in its 2001 Major Merger Rules. An elongated period of review will delay and potentially reduce the positive synergies this merger promises. The KCS waiver will allow the Board to conduct a thorough but efficient and fair review and allow for the benefits of the new CPKC network to come to fruition more quickly.

USDG is additionally concerned that applying the 2001 Major Merger Rules to the CP-KCS merger, a transaction the rules were not designed for, would lead to precedent with unintended consequences and might also create an easier path for some other Class I merger proposals that would be problematic in ways CP-KCS is not. The CP-KCS merger is unlike other Class I merger combinations, in that it is a straightforward transaction between the two smallest U.S. Class I railroads, and it promises substantially more benefits than risks to the public interest. We also know that this transaction, among all possible Class I mergers, is unique in not posing any serious concerns about lost competition, service disruption, or other harms. Interpreting and applying the 2001 rules to this transaction could encourage other Class I railroads to see an easier path for their own Class I merger proposals without the same unique benefits of the CP-KCS transaction.

For these reasons, USDG urges the Board to maintain the KCS waiver and reject calls to revoke it, and to proceed to review and approve the CP-KCS proposed combination as expeditiously as possible. We look forward to seeing CPKC as a stronger competitor in the industry.

Yours sincerely,



Jim Albertson
**Senior VP, Canadian Business Unit,
USD Group / USD Terminals Canada**

CC: All Parties of Record



USD Terminals Canada

March 30, 2021

ATTENTION: Surface Transportation Board

My name is Jim Albertson and my business address is USD Terminals Canada, Suite 1960, 440 – 2nd Ave. S.W., Calgary, AB / T2P5E9. I am Senior VP, Canadian Business Unit, USD Group LLC (“USDG”). In my role, I am responsible for developing the commercial strategies and the proper execution of them for USDG’s Canadian businesses.

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USDG supports approval of the CP/KCS combination. The transaction will provide benefits that we are eager to see realized.

From our perspective, the transaction promises to provide improved service options and invigorate transportation competition in the markets we serve. The combined CPKC network – with new single-line hauls and access to premier ports on the U.S. Gulf, Atlantic and Pacific coasts as well as to key overseas markets – will help us reach our existing markets and new markets more efficiently. And, with the two railroads’ strong focus on safety and their track record of operational excellence, I have no doubt that CPKC will be able to integrate their operations seamlessly to the benefit of rail customers and other stakeholders.

CP provides us with good service, but its market reach is limited today, as CP’s lines only go as far south as Kansas City. CP must interline with other railroads to reach destinations beyond Kansas City to which we ship or into which we may expand.

We are very excited about the transaction because it will allow a combined CPKC to provide new, more efficient and reliable rail service options. This should strengthen competition against the other, larger rail carriers and trucks that serve our markets.

- We are particularly enthusiastic about the role new CPKC single-line routes will play in expanding access to growing markets across the United States, Mexico and Canada under the USMCA trade agreement. It is important that there be a true USMCA railroad option.
- CPKC’s new service offerings will improve transit times and reliability, which will reduce equipment costs and improve efficiencies for our customers.

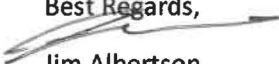
KCS and CP have had a cooperative relationship in the past, and CP-KCS joint routes are among our transportation options, but as separate companies they have not been able to offer the kind of seamless, single-line service we have come to expect from our transportation providers. This transaction will improve our transportation options.

At the same time, the entirely complementary nature of CP's and KCS's networks – connecting only at Kansas City and not overlapping anywhere – makes it less likely that the transaction will have any significant adverse effects on competition. It should make these carriers a better alternative relative to the other options that already exist, since CPKC will continue to interchange with all of their other existing interline partners.

We have been struck by the attention of CP and KCS to safety and operational effectiveness. Given the straightforward network connectivity between CP and KCS, and the fact that CP and KCS are the two smallest U.S. Class I railroads, we are confident that they will be able to implement their transaction without the service disruptions that have accompanied some past rail mergers.

For these reasons, USDG is voicing its support for the combination of CP and KCS, because it will enhance competition, provide expanded options, and drive efficiencies for customers of all sizes. USDG urges the STB to approve CP's acquisition of KCS as swiftly as possible so that these systems can be integrated and the end-to-end benefits of this deal can be realized for the benefit of all stakeholders.

Best Regards,

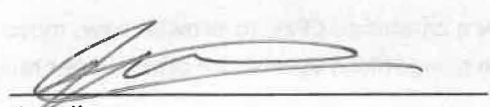

Jim Albertson

Senior VP, Canadian Business Unit,
USD Group / USD Terminals Canada

VERIFICATION

I, Jim Albertson, declare [or certify, verify, or state] under penalty of perjury [“under the laws of the United States,” if executed outside of the United States] that the foregoing is true and correct. Further, I certify that I am qualified and authorized to submit this letter.

Executed on March 30, 2021 [date].


Jim Albertson