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TCU-2

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 36500

CANADIAN PACIFIC RAILWAY LIMITED, ET AL.

– CONTROL –

KANSAS CITY SOUTHERN, ET AL.

**TRANSPORTATION COMMUNICATIONS UNION/IAM'S COMMENTS
REGARDING CANADIAN PACIFIC'S PETITION FOR EXPEDITED DECLARATORY
RELIEF**

The Transportation Communications Union/IAM ("TCU") respectfully submits these comments regarding Canadian Pacific's Petition for Expedited Declaratory Relief (CP-18).

The TCU strongly supports Canadian Pacific's request to have continued access to the information of Kansas City Southern ("KCS") under the Protective Order entered by the Board on April 2, 2021 in Decision No. 1 for its competing application. As of now, both Canadian Pacific and Canadian National have expressed their intention to file applications for approval of the acquisition of KCS. The Board is fully authorized to entertain two competing applications and ultimately approve one based on applicable statutory criteria including, crucially, that is in the public interest. 49 U.S.C. § 11324(c); *see e.g., CSX Corp. & CSX Transp., Inc.—Control & Merger—Conrail Inc. & Consolidated Rail Corp.*, Finance Docket No. 33220 at 5 ("CSX/Conrail") (Decision No. 5 served Jan. 9, 1997).

In assessing each application, the Board must consider, among others, “the effect of the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction,” and “the interest of rail carrier employees affected by the proposed transaction.” 49 U.S.C. § 11324 (b)(2), (4). Allowing Canadian Pacific continued access to KCS’ information for the completion of Canadian Pacific’s competing application would best allow the Board and interested parties, such as the TCU, the opportunity to fully assess the public interest of both potentially competing applications, as well as the projected effects on carrier employees.

Because Canadian Pacific’s petition for declaratory relief would itself serve the public interest, TCU respectfully supports granting the relief requested therein.

Dated: June 7, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that I have this day served copies of the above document by electronic mail per 49 C.F.R. § 1104.12 upon all parties of record in this proceeding.

Dated: June 7, 2021

/s/ Antonia Bird
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Attorney for TCU