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Via E-Filing

Ms. Cynthia T. Brown
Chief of the Services of Administration, Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20423

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Public Record

RE: Docket No. FD 36514

Dear Ms. Brown:

I am writing to express SSAB Americas' perspective on Canadian National's ("CN's") proposal to use a voting trust in connection with its proposed acquisition of Kansas City Southern (KCS). In Decision No. 3, the Board explained that it will adopt a "more cautious approach" to the proposed voting trust process under the 2001 Major Merger Rules and will consider whether allowing the use of a voting trust would be consistent with the public interest in light of the "potential benefits and costs of such use." It is our view that the use of a trust for any merger under the 2001 Major Merger Rules would not be in the public interest.

SSAB has not formed a definitive view regarding the public interest consequences of CN's proposed acquisition of control of KCS, but we welcome the fact that the Board has confirmed its intention to consider whether that transaction is in the public interest under the Board's 2001 Major Merger rules. As the Board acknowledged in Decision No. 3, those rules place "heavier burden[s] on merger applicants to show that a major rail consolidation is consistent with the public interest" and give the Board much greater discretion to disapprove proposed transactions or impose extensive conditions aimed at ensuring that they serve the public interest.

We believe the fact that the Board cannot (and should not) pre-judge whether any proposed control transaction would ultimately be found consistent with the public interest and would not cause substantial financial harm to one or both railroads is cause to conduct a full and thorough review of the transaction instead of allowing a trust.

In addition, this is the first time the Board will be applying the 2001 merger rules, both on the merits and in considering whether to allow a voting trust. It would not be consistent with the public interest to rubber stamp use of a voting trust here when doing so could create a precedent that

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both encourages additional rail mergers and also limits the Board's freedom to apply the 2001 merger rules the way they were intended – meaning that disapproval or extensive conditions are much more likely. Ultimately, we do not support any approach that creates an easier path to future mergers under the 2001 Major Merger Rules.

Accordingly, we urge the STB to reject CN's motion to approve its proposed voting trust.

Respectfully submitted,

Best Regards,



Sean Keenan
Vice President, Supply Chain
SSAB Americas

cc: All Parties of Record