

June 28, 2021

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

ENTERED
Office of Proceedings
June 28, 2021
Part of
Public Record

Sent via Electronic Filing

Re: STB Docket No. FD 36514 – Canadian National Railway – Control – Kansas City Southern

Dear Madam,

As the General Chairman of the SMART-Transportation Division representing Yardmasters on the Canadian Pacific Railway, on behalf of the Union membership, I am writing to communicate our position and the reasons we urge the STB to reject the proposed CN voting trust; and reject any merger application between CN and KCS railways.

My membership is genuinely concerned that CN has publicly stated they intend on carrying significant additional debt of approximately \$19B in addition to their current debt load of \$10B plus KCS current debt load of \$3.8B for a total debt load of \$33B. We strongly believe this will impact jobs, infrastructure and maintenance improvements that will negatively affect employees, shippers, and most importantly employee and public safety. Approval of the CN voting trust proposal has significant potential to harm employees of KCS, and possibly, on CN due to the amount of debt CN will carry. We also believe there is the real possibility that the CN transaction would fail the regulatory test.

The CN/KCS transaction is the opposite of an end-to-end merger and will be anti-competitive due to the overlap of existing rail lines/affected customers. CN has a high-capacity mainline route from Chicago, IL straight to New Orleans, LA, therefore with CN acquiring KCS there would be no need for parallel routes such as the KCS line from Kansas City through to New Orleans. Our concerns were recently confirmed by the transcripts of KCS CEO Pat Ottensmeyer @ Bernstein on June 3, 2021 and CN's CEO Mr. Ruest @ UBS on June 8, 2021, referencing parallel north/south lines, they are quoted in part:

KCS CEO Pat Ottensmeyer @ Bernstein on June 3, 2021

No. I think that is absolutely correct. We see them as kind of different markets, different commodities, different regions. But the one thing that it also does is create some optionality and improved resiliency for some of the traffic that we're planning to go after. If you look at, for example, on the map on slide 4, you'll see the green line (for reference this is BNSF Line) and the yellow line (for reference this is Union Pacific Line) have multiple routes that could be used alternatively, particularly in the case of national disasters, other things that just create optionality and resiliency that are important for some of these markets longer term that we would like to go after.

So, JJ mentioned the Kansas City to Springfield. **That's probably a less attractive route** than the one that exists here with the Kansas City Southern Meridian Speedway to Jackson, and then up to Chicago, Detroit, and beyond.

Map referenced is attached hereto.

CN's CEO Mr. Ruest @ UBS on June 8, 2021

*So, Rule 11 pricing is really something that is not necessarily practiced widely, but under the commitment of keeping the gateway open and making sure there's no bottleneck, we will offer those choices. And frankly, I think from our own point of view having gateway open and Rule 11 pricing at these gateway let the customers pick the best price, best option after he's done his shopping the service, will also allow us to actually get business back on the railroad from the highway or get business back on the CN/KCS competing with some other choices. **So, this whole thing about the two line north-south is really a stretch.***

Based on the foregoing, the preferred north south line will be CN's IC mainline operating Chicago to Jacksonville, MS thru Shreveport and south to Mexico. In addition, they have been clear that they are focusing on both the BNSF and UP lines as key alternate north south routes and not the KCS line between Kansas City and Shreveport.

Due to this confirmation, we believe and fully expect CN will divest, in addition to the line between Baton Rouge to New Orleans, the entire route between Kansas City and New Orleans; or significantly reduce maintenance and rail speed on this route that will drastically harm rail traffic and eliminate competition on this corridor.

The consequences for SMART-TD members and all other crafts will be uncertain, adverse, and negatively affect the public interest and jobs inside and outside of the rail industry. In our view if the CN voting trust is approved we expect as many as 1162 KCS unionized employees, of all crafts plus an unknown number of jobs outside of the railway industry will likely be lost or drastically reduced.

By comparison, CPR has a route that extends south only as far as Kansas City, MO. This is CPR's only connection with the KCS. I have previously stated that the CN/KCS transaction is just the opposite and would be anti-competitive. With a CP/KCS merger, we anticipate pro-growth in both business and jobs for Smart-TD members.

Accordingly, for the reasons described above, on behalf of the membership I represent, I encourage the STB to thoroughly consider the implications and reject CN's motion to approve its proposed voting trust and to reject this proposed transaction.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "C. D. Bailey", with a long horizontal line extending from the end of the signature.

General Chairman – Leader
GO-256 SMART-TD

CC: All Parties of Record

