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SERVICE DATE – NOVEMBER 15, 2021

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36500

CANADIAN PACIFIC RAILWAY LIMITED; CANADIAN PACIFIC RAILWAY COMPANY; SOO LINE RAILROAD COMPANY; CENTRAL MAINE & QUEBEC RAILWAY US INC.; DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION; AND DELAWARE & HUDSON RAILWAY COMPANY, INC.

—CONTROL—

KANSAS CITY SOUTHERN; THE KANSAS CITY SOUTHERN RAILWAY COMPANY; GATEWAY EASTERN RAILWAY COMPANY; AND THE TEXAS MEXICAN RAILWAY COMPANY

Decision No. 10

Decided: November 15, 2021

Canadian Pacific Railway Limited (Canadian Pacific), Canadian Pacific Railway Company, and their U.S. rail carrier subsidiaries, Soo Line Railroad Company, Central Maine & Quebec Railway US Inc., Dakota, Minnesota & Eastern Railroad Corporation, and Delaware & Hudson Railway Company, Inc. (collectively, CP) and Kansas City Southern and its U.S. rail carrier subsidiaries, The Kansas City Southern Railway Company (KCSR), Gateway Eastern Railway Company, and The Texas Mexican Railway Company (collectively, KCS) (CP and KCS collectively, Applicants) seek Board approval under 49 U.S.C. §§ 11321-26 for a proposed transaction that involves the acquisition of control by Canadian Pacific, through its indirect, wholly owned subsidiary Cygnus Merger Sub 2 Corporation, of Kansas City Southern, and through it, of KCSR and its railroad affiliates, and for the resulting common control by Canadian Pacific of its U.S. railroad subsidiaries, and KCSR and its railroad affiliates.

On April 2, 2021, a protective order was entered in this proceeding. See Canadian Pac. Ry.—Control—Kan. City S. (Decision No. 1), FD 36500 (STB served Apr. 2, 2021). Paragraph 18 of that order provides: “All parties must comply with all of the provisions of this Protective Order unless the Board or an administrative law judge or other officer exercising authority lawfully delegated by the Board determines that good cause has been shown warranting suspension of any of the provisions herein.” Decision No. 1, FD 36500, slip op. at 6.

Pursuant to paragraph 18, the protective order will be suspended to the limited extent necessary for either CP or KCS to disclose to the Attorney General of the United States or the U.S. Federal Trade Commission, upon request, any confidential document or confidential information (as those terms are used in the protective order) submitted in a filing made to the Board by that applicant in this proceeding.

Good cause exists to warrant this limited suspension of the protective order. The Board's regulations at 49 C.F.R. § 1180.4(c)(5) (2000) require that a conformed copy of the application in a major merger be served on the Attorney General and the Federal Trade Commission. The protective order is not intended to prevent the Attorney General and the Federal Trade Commission from receiving full and complete versions of the application or related materials upon request.

It is ordered:

1. The protective order entered in this docket is hereby suspended to the limited extent necessary for either CP or KCS to disclose to the Attorney General of the United States or the U.S. Federal Trade Commission, upon request, any confidential document or confidential information in a filing made to the Board by that Applicant in this proceeding. At the time of submission to those offices, Applicants must request confidential treatment of this information to the full extent permissible by law.

2. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.