

BEFORE THE
SURFACE TRANSPORTATION BOARD

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

CSX TRANSPORTATION, INC. SECOND SET OF
DISCOVERY REQUESTS TO CANADIAN PACIFIC RAILWAY
AND KANSAS CITY SOUTHERN

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Dated: December 24, 2021

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Pursuant to 49 C.F.R. §§ 1114.21-.31, CSX Transportation Inc. (“CSXT”) requests that KCS (as defined below) and CP (as defined below) respond to the following discovery requests in accordance with the STB’s rules, and the Definitions and Instructions set forth below (see pages 26-31).

Pursuant to 49 C.F.R. § 1114.26(a) and §1114.30, CSXT specifies that responses to the Interrogatories and Requests for Production below should be served no later than January 10, 2022.

INTERROGATORIES

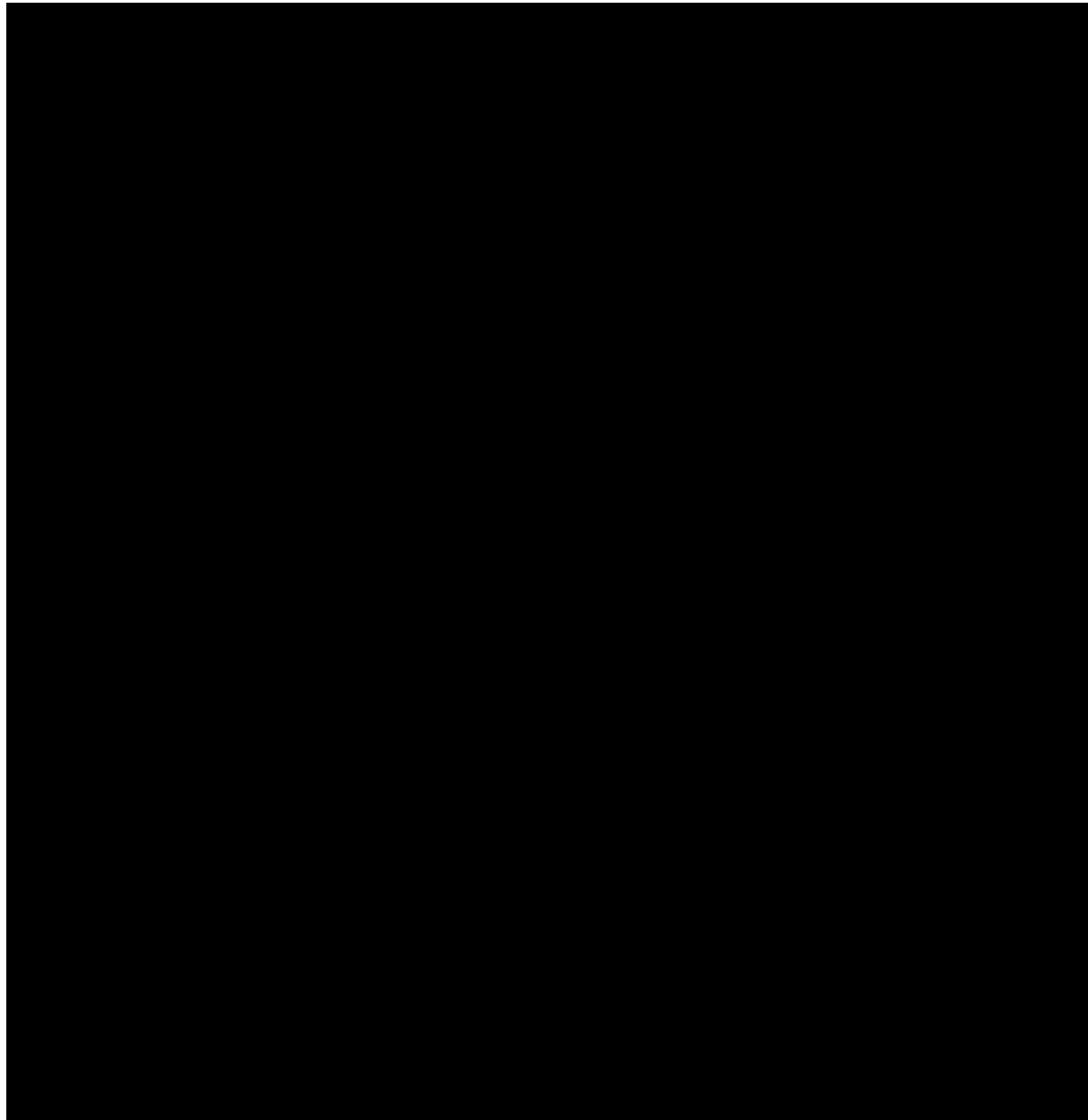
Growth Carloads/Units Included in Applicants' Public Benefits Analysis

Applicants' claim that the Transaction will create public benefits relies in part on significant increases in CPKC combined traffic. See Application at 10-13. Applicants' Highly Confidential work paper titled "Wahba and Naatz HC WP Growth Initiative Calculations.xlsx," offered to support these claimed benefits, indicates that almost [REDACTED] of this increase in traffic -- [REDACTED] } carloads/units of the total [REDACTED] carload/unit increase, or [REDACTED] -- is expected to result from a three-year "Growth Initiative." The same work paper calculates this "Growth Initiative" traffic increase by projecting traffic increases totaling (1) [REDACTED] carloads/units of intermodal traffic to or from Lázaro Cárdenas or other Mexican ports; (2) [REDACTED] carloads of Crude by Rail from Alberta to the U.S. Gulf Coast; and (3) [REDACTED] carloads/units of grain, LPG, "Automotives," "Domestic Perishables," and unspecified "International" intermodal cargo through Canadian ports.

These estimates of carloads/units and revenue increases appear to be based on average revenue per car and unit assumptions that are hardcoded into the spreadsheet without explanation or supporting documentation, which precludes proper assessment of Applicant's estimates. The requests in this section seek any data or Analyses underlying the hardcoded assumptions.

The following Interrogatories concern the "summary" tab of this work paper (defined herein as the Growth Initiative Summary Table), a screenshot from which is reproduced below for reference.

[REDACTED]



1. Identify all Analyses and other Documents Concerning (a) all hardcoded values for carloads/units and average revenue per unit for each line of business and origin area /destination area presented in the Growth Initiative Summary Table, (b) Applicants' definition of the origin and destination "area" information for all traffic reported in the Growth Initiative Summary Table, and (c) any rate reduction You assume will be made as part of the Growth Initiative.
2. For all traffic that is a subject of the Growth Initiative, (i) Identify the origin station and destination station pre- and post- Transaction; and (ii) describe with specificity the pre- and

post-Transaction transportation Movements of that traffic. *See* CSX Corp. – Control – Pan Am Systems, Inc., FD 36472, Decision No. 3 (May 26, 2021) (slip op. at 6-13) (distinguishing information sufficient and insufficient to permit the reader to assess the impacts of a transaction with respect to freight surface transportation and on the provision of essential service by Applicants and other carriers).

3. Identify all Analyses or other Documents created by or for either Applicant between January 1, 2018, and September 15, 2021, Concerning the types of traffic that are the subjects of the Growth Initiative.
4. For “Intermodal” traffic identified in the Growth Initiative Summary Table, Identify all Analyses or other Documents Concerning or supporting the traffic increases listed under "*Lazaro Intermodal*" in the Growth Initiative Summary Table, Including all Analyses or other Documents Concerning:
 - a. Any increase in Lazaro/Mexican Port traffic above any volumes forecast in the Analyses or other Documents identified pursuant to Interrogatory 3, Including any basis for claiming any of the [REDACTED] carloads/units of "*Lazaro Intermodal*" in the Growth Initiative Summary Table are incremental carloads/units Applicants can Displace only as a result of the Transaction.
 - b. The specific Movements to or from North American ports other than Mexican ports the Application claims or assumes Applicants will Displace with intermodal Movements to, from, or through the Lázaro Cárdenas Port and the amount of traffic to be Displaced.
 - c. Any Movement of traffic by any mode of transportation that the Application claims or assumes will be Displaced by the traffic identified as "*Lazaro Intermodal*" in the Growth Initiative Summary Table, Including the amount of traffic Displaced.
 - d. Waterborne container or other freight transportation to or from Pacific Coast ports in North America.
 - e. The technical or operational capabilities and limitations of the Lázaro Cárdenas Port, Including the number of piers with on-site rail service, berth depths, and other specifications that could limit the size of container ships or other waterborne vessels that can dock at the port.
 - f. Potential security or other operational concerns, Including organized crime activities, that may affect the Lázaro Cárdenas port or other Mexican ports served by KCSM.
 - g. Potential changes in the Mexico laws and regulatory regime pertaining to rail transportation in Mexico, and other factors that may affect the future of KCSM and its concession in Mexico.

- h. The potential for confiscation of assets owned by KCSM or non-Mexican companies in Mexico and the consequences of any such confiscation.
5. Identify all Analyses or other Documents Concerning or supporting the traffic increases listed as "Crude" in the Growth Initiative Summary Table, Including all Analyses or other Documents Concerning:
 - a. All increases in CPKC Crude by Rail Movements from Alberta above any volumes forecast in the Analyses or other Documents identified pursuant to Interrogatory 3, Including any basis for claiming any of the [REDACTED] carloads/units of "Crude" in the Growth Initiative Summary Table are incremental carloads/units Applicants can transport only as a result of the Transaction.
 - b. The specific railroad Movements from Alberta to the U.S. Gulf Coast that the Application claims or assumes the traffic identified as "Crude" in the Growth Initiative Summary Table will Displace, and the amount of traffic Displaced.
 - c. Any traffic by any other mode of transportation (e.g., pipeline transportation) that the Application claims or assumes the traffic identified as "Crude" in the Growth Initiative Summary Table will Displace, Including Identifying the mode, origin, destination, routes, and carriers for such Movements and the amount of traffic Displaced.
 - d. Crude by Rail from Alberta involving any existing Gibson Energy Inc. Crude by Rail loading facility, as described in the Wahaba and Naatz Verified Statement ¶ 91.
 - e. Crude by Rail from Alberta involving any potential or planned expansion of the Gibson Energy Inc. facility near Hardisty, as described in the Wahaba and Naatz Verified Statement ¶ 91.
 - f. Environmental assessments and safety issues Concerning Crude by Rail.
6. Identify all Analyses or other Documents supporting the traffic increases claimed in the Growth Initiative Summary Table other than those listed under "*Lazaro Intermodal*" and as "Crude," Including:
 - a. Any increase in traffic above any volumes forecast in the Analyses or other Documents identified pursuant to Interrogatory 3, Including any basis for claiming any of the [REDACTED] carloads/units of grain, LPG, "Automotives," "Domestic Perishables," and unspecified "International" intermodal cargo through Canadian ports in the Growth Initiative Summary Table are incremental carloads/units Applicants can only Displace as a result of the Transaction.
 - b. Analyses or other Documents detailing the Movements Displaced by those increases.
7. Identify all Analyses or other Documents created by or for an Applicant in the ordinary course of business since January 1, 2020, that estimated growth of carloads, revenues, or profits for incremental traffic expected as a result of the Transaction.

8. For all Growth Initiative volumes that originate or terminate in Kansas City, Identify all Analyses or other Documents Concerning the origin station and destination station from and to which those volumes would move on CPKC and how the Transaction is necessary for CP or KCS to achieve that traffic growth.

Analysis of traffic to and from Mexico

Almost [REDACTED] of the Diverted traffic Included in the public benefits Applicants claim the Transaction will produce relate to traffic to or from Mexico. See [REDACTED]

[REDACTED] Applicants' competitive analysis of traffic moving between the United States and Mexico is presented in the Verified Statement of Witness W. Robert Majure, which uses rail traffic moving through the Laredo Gateway as a proxy for all traffic moving between Mexico and the U.S. Dr. Majure's vertical effects analysis (Section 3), however, relates only to the U.S. portions of those Movements. In addition, the vertical effects analysis only considers northbound traffic and excludes Movements from the U.S. to Mexico.

The following Interrogatories seek the basic information that Board and parties to this proceeding would require to verify Majure's conclusions regarding the impact of the Transaction on competition.

[REDACTED]

[REDACTED]

workpapers filed with the Board. To the extent Your answer is "yes," Identify any such Analyses.

10. Identify all requests for Analyses, data, or other Documents that Dr. Majure made to either Applicant regarding markets in Mexico or factors affecting markets in Mexico (Including traffic types, origin stations, destination stations, and route of Movement, revenues, costs, profits etc.) for the transportation of goods to, from, or through the United States.
11. Identify all Analyses, data, or other Documents either Applicant provided to Dr. Majure regarding markets in Mexico or factors affecting markets in Mexico (Including traffic, Movements, origin stations, and destination stations) for the transportation of goods to, from, or through the United States.
12. Regarding customers served by KCSM or KCS, Identify all Analyses or other Documents You contend support the claim that "A combined CP/KCS would not be expected to have any incentive to affect the competitive terms available to a Solely-served shipper because KCS would already be collecting the full measure of returns associated with its existing market power," as stated in the Majure V.S. ¶ 24.
13. Identify each origin station, each destination station, and each shipper that KCSM serves in Mexico for which You contend that FXE is a "ready alternative" to KCSM as stated in the Majure Verified Statement ¶ 25.
14. Identify all Analyses or other Documents You contend support the claim that FXE is a "ready alternative" to KCSM for each origin station, each destination station, and each shipper Identified in response to Interrogatory 13.
15. Identify each origin station, each destination station, and each shipper that KCSM serves directly or indirectly in Mexico for which You contend that FXE is price-competitive and service-competitive to KCSM.
16. Identify all Analyses or other Documents You contend support the claim that FXE is price-competitive and service-competitive to KCSM for each origin station, each destination station, and each shipper identified in response to Interrogatory 15.
17. Identify all Analyses or other Documents Concerning the "ready alternatives" KCSM customers have in Mexico as stated in Majure V.S. ¶ 25 ("...For the shipper with ready alternatives, there would be no ability for a combined KCS/CP to force inferior terms on the shipper...").

18. Identify (a) each origin station, each destination station, and each shipper in Mexico that is Solely-Served by KCSM and (b) all Analyses or other Documents created by or for an Applicant since January 1, 2018 Concerning each such origin, destination, and shipper.
19. Identify (a) each origin station, each destination station, and each shipper in Mexico that is served by both FXE and KCSM and (b) all Analyses or other Documents created by or for an Applicant since January 1, 2018 Concerning each such origin, destination, and shipper.
20. Identify all Analyses or other Documents You contend support Majure's claim that rate increases by KCSM would "lead to a loss of the traffic volumes or failure to attract new traffic" Majure Verified Statement ¶ 25.
21. Identify all Analyses or other Documents You contend support Majure's conclusion that the Transaction will enhance competition through vertical effects, see Majure V.S. ¶¶ 15-19, Concerning traffic that KCSM brings to Laredo, see Majure V.S. Exhibit 2, Including all Analyses or other Documents Concerning traffic between Laredo and points in the U.S. and Canada:
 - a. KCS market shares compared to other carriers' shares.
 - b. Post-Transaction CPKC market shares compared to other carriers' shares.
 - c. The competitively significant elements of KCS service quality compared to those of other carriers, Including route miles and cycle times.
 - d. The competitively significant elements of CPKC post-Transaction service quality compared to those of other carriers, Including route miles and cycle times.
 - e. The shipper's total costs for using KCS compared to the shipper's total costs for using other carriers, Including KCS rates and any additional amounts shippers would pay for services provided KCS by other carriers, Including any haulage, trackage rights, terminal service, or switching fees.
 - f. The shipper's post-Transaction total costs for using CPKC compared to the shipper's total costs for using other carriers, Including post-Transaction CPKC rates and any additional amounts shippers would pay for services provided CPKC by other carriers, Including any haulage, trackage rights, terminal service, or switching fees.
 - g. Any Analyses or other Documents Concerning the Applicants' expected Diversions as a result of the "Growth Initiative" of traffic from other carriers using any mode.
22. Identify an updated Exhibit 2 to of the Majure V.S. that Includes KCSM Laredo gateway traffic to and from Mexico.

23. Identify an updated Exhibit 2 to of the Majure V.S. that Includes post-Transaction CPKC Laredo gateway traffic *to and* from Mexico.
24. Identify all Analyses or other Documents You contend justify the omission of geographic locations in Mexico from the single corridor analyses presented in Majure V.S. Exhibits 3-10 (which excludes all origins and destinations in Mexico).
25. Identify all Analyses or other Documents You contend support the claim that the transportation alternatives to CPKC presented in Majure V.S. Exhibits 3-10 are "viable independent routes," Including, for each traffic type analyzed by Majure, all Analyses or other Documents Concerning:
 - a. The competitively significant elements of CPKC post-Transaction service quality compared to those of other carriers, Including route miles and cycle times.
 - b. The shipper's post-Transaction total costs for using CPKC compared to the shipper's total costs for using other carriers, Including post-Transaction CPKC rates and any additional amounts shippers would pay for services provided CPKC by other carriers, Including any haulage, trackage rights, terminal service, or switching fees.
26. Identify all Analyses or other Documents Concerning each Applicants' pre-Transaction participation in Movements of traffic between Mexico and the U.S. or Canada.
27. Identify all Analyses or other Documents You contend support the claim that competitors "would not likely be foreclosed," see Majure V.S. ¶ 34, on routes originating or terminating in Mexico, Including all Analyses or other Documents Concerning, as regards Movements to, from, or through Mexico via Laredo or other U.S./Mexico border locations:
 - a. KCSM market shares of those compared to those of other carriers competing for those Movements.
 - b. CPKC market shares compared to those of other carriers competing for those Movements
 - c. The competitively significant elements of KCSM service quality compared to those of other carriers competing for those Movements, Including route miles and cycle times.
 - d. The competitively significant elements of CPKC service quality compared to those of other carriers competing for those Movements, Including route miles and cycle times.
 - e. The shipper's total costs for using KCSM compared to the shipper's total costs for using other carriers competing for those Movements, Including KCSM rates and any costs shippers would pay for services provided KCSM by other carriers, Including any haulage, trackage rights, terminal service, or switching fees.

- f. The shipper's total costs for using CPKC compared to the shipper's total costs for using other carriers competing for those Movements, Including CPKC rates and any costs shippers would to pay for services provided CPKC by other carriers, Including any haulage, trackage rights, terminal service, or switching fees.
 - g. CPKC's ability to raise KCSM's rates or reduce KCSM's service quality Concerning Movements to or from stations in Mexico via Laredo to stations in the US. or Canada that can be served by CPKC or another carrier.
 - h. The economic impact on CPKC from raising KCSM's rates or reducing KCSM's service quality Concerning Movements to or from stations in Mexico via Laredo to stations in the US. or Canada that can be served by CPKC or another carrier.
 - i. Analyses of any conditions CPKC anticipates using to keep Laredo and other gateways open to interchange.
 - j. Any foreclosure Analyses Concerning KCSM.
 - k. Any Analysis of railroad rate regulation in Mexico.
28. Identify all Analyses or other Documents You contend support the claim that "a combined CP/KCS will have incentives and ability to compete more effectively, rather than an incentive to impair competitors" on routes originating or terminating in Mexico. See *Majure V.S.* ¶ 35.

Diversion of Existing Rail and Truck traffic to Longer Railroad Routes

Applicants' assertions that the Transaction will create public benefits, and that it will be financially successful, depend in significant part on forecasting the Diversion of existing rail and truck traffic to CPKC. See Application at 10-13. The Brown & Zebrowski V.S. and Mutén V.S. forecast the Diversion of [REDACTED] carloads of existing rail traffic and [REDACTED] units of existing truck traffic. See Brown & Zebrowski V.S. Table 26; Mutén V.S. Appx. A.0

These Verified Statements forecast that CPKC will Divert more than [REDACTED] of this traffic [REDACTED] to routings that are longer than other carriers' routes, without offering any rate decrease. They further forecast that CPKC will Divert another [REDACTED] of traffic to routings that are longer than other carriers' routes, while offering a rate decrease of [REDACTED]. Neither the Application nor the Verified Statements appear to explain how CPKC would induce these Diversions without a rate decrease or, as pertinent, by reducing their rates by [REDACTED] when equally- or more-efficient carriers could offer the same rate. Further, while the financial success of the Transaction depends upon these Diversions, neither the Application nor the Verified Statements assess whether CPKC could financially sustain further discounts necessary to induce these Diversions if equally- or more-efficient carriers also offer rate reductions to retain or attract the traffic. Nor do Applicants provide any

assessment of the risk that their expected Diversions will not be realized or of the implications of that risk for Applicants' financial projections.

The following Interrogatory seeks information regarding the basis for concluding these Diversions will occur.

29. Identify, for all traffic the Application claims or assumes will be Diverted to CPKC as a result of the Transaction, but which would have a longer route via CPKC than via the route from which the traffic will be Diverted:

- a. All Analyses or other Documents supporting the forecast that the traffic is likely to be Diverted to the longer CPKC route.
- b. All Analyses or other Documents Concerning cycle times of the CPKC route or routes as compared to those of the current carrier of the traffic.
- c. All Analyses or other Documents Concerning additional fuel costs and emissions of carbon dioxide (CO₂) or any other EPA regulated substance resulting from the longer CPKC Movement.
- d. All Analyses or other Documents Concerning any service that CPKC will provide that a carrier offering a shorter route does not offer, or that is superior to that of a carrier offering a shorter route, including the "seamless, origin-to-destination management of all facets of the service" and the "very-reliable third-morning availability to/from our strategically located Bensenville Terminal" referred to in the Wahba and Naatz V.S. ¶¶ 48, 52.

Incremental Costing of Transporting Diverted traffic

Applicants' claimed public benefits and financial analyses supporting their Application depend on the Diversion of significant amounts of traffic to CPKC. See Application at 21. Applicants' analyses assume that the incremental costs of transporting this incremental traffic will be no greater than those of the STB URCS costing model (\$306.3 million). See Baranowski V.S. Table 16 (below) and page 12. Though URCS costing is commonly used in various contexts, it does not consider certain categories of costs likely to be incurred for the claimed Diverted traffic at issue that information within Applicants' possession would reveal. For example, URCS costing does not show reciprocal switching fee payments, haulage/trackage right payments, and other accessorial fees. Applicants therefore claim public benefits and present financial analyses that do not appear to reflect all incremental costs that may be realized from the traffic they claim will be Diverted.

The following Interrogatories seek information about these incremental costs.

30. Identify, regarding the expected Movement of all Diverted carloads/units You claim as support for the benefits analyses in the Application, all Analyses or documents Concerning

the incremental costs that Applicants or a shipper would be expected to pay as a result of charges or fees imposed by another carrier or party for reciprocal or other switching, haulage services or trackage rights, demurrage, drayage, detention, or storage.

31. Identify all Analyses or other Documents Concerning fees or costs not identified in response to Interrogatory 30 that Applicants expect CPKC or a shipper to pay as a cost of the Movements that You claim will Divert traffic to CPKC.
32. Identify all Analyses or other Documents Concerning KCS's haulage agreements between Kansas City and Omaha NE, Including:
 - a. KCS haulage from Lincoln to Omaha, Nebraska to Council Bluffs, Iowa, to the Iowa/Missouri state line near Hamburg, Iowa to Kansas City, Kansas. *See* IOWA DEP'T OF TRANSP., IOWA STATE RAIL PLAN 232 (Feb. 2021) ("KCS has haulage rights over the following railroad segments in Iowa: • Union Pacific Railroad (UP) Omaha Subdivision between the Iowa/Nebraska state line at Council Bluffs, Iowa, and Council Bluffs, Iowa; approximately 4.0 miles. • BNSF Railway (BNSF) Council Bluffs Subdivision between BN Junction (Council Bluffs), Iowa, and Pacific Junction, Iowa; approximately 18.4 miles. • BNSF Railway (BNSF) Napier Subdivision between Pacific Junction, Iowa, and the Iowa/Missouri state line near Hamburg, Iowa; approximately 33.0 miles."), available at https://iowadot.gov/iowainmotion/railplan/2017/IowaSRP2017_Complete.pdf.
 - b. KCS haulage rights between Kansas City and each of Council Bluffs, IA and Omaha and Lincoln, NE. *See* KANSAS CITY SOUTHERN, 2003 ANNUAL REPORT 24 ("As a result of the 1988 acquisition of the Missouri-Kansas-Texas Railroad by UP, KCSR was granted (1) haulage rights between Kansas City and each of Council Bluffs, Iowa, Omaha and Lincoln, Nebraska."), available at <https://investors.kcsouthern.com/~media/Files/K/KC-Southern-IR-V2/annual-reports/annualreport2003.pdf>.
33. Identify all analyses or other Documents Concerning CP's haulage and trackage rights agreements between Chicago, Illinois and locations in Ohio, Pennsylvania, and New York, Including "A haulage agreement with Genesee & Wyoming Inc., Identify all Analyses or other Documents Concerning CP's haulage and trackage rights agreements between Chicago, Illinois and locations in Ohio, Pennsylvania, and New York, Including "A haulage agreement with Genesee & Wyoming Inc., provides intermodal service to Jeffersonville, OH" *See* CANADIAN PACIFIC, CP RAIL 2020 ANNUAL REPORT 51, available at https://s21.q4cdn.com/736796105/files/doc_financials/2020/ar/CP_AnnualReport2020_SECURED.pdf.

34. Identify all Analyses or other Documents created in the ordinary course of business by or for an Applicant Concerning incremental costs or profits for incremental traffic expected as a result of the Transaction, Including Documents created before March 2021.

Other Incremental Cost Factors

35. Identify all Analyses or other Documents Concerning the following Applicant estimates appearing in in the Summary of Benefits Exhibit (Appendix B):

- a. \$62.5 million of annual "transportation" cost savings benefits.
- b. \$57.1 million of annual "Support Functions (G&A)" cost savings benefits.
- c. \$20.5 million of annual "Purchasing" cost savings benefits (also appearing at Baranowski V.S. Table 8).
- d. \$19.9 million of annual "Mechanical" cost savings benefits.
- e. \$12.8 million of annual "Equipment Requirements & Utilization" cost savings benefits.
- f. "Engineering- maintenance of way" one-time costs from the Transaction of over \$125 million over three years.

36. Identify all Analyses or other Documents not identified in response to Interrogatory 35 Concerning the costs CPKC will incur to serve the traffic it expects to Divert as a result of the Transaction.

37. Identify all Analyses or other Documents You contend support or explain the difference between (i) the \$306.3 million Total Incremental Cost from increased traffic estimated in Baranowski V.S. Table 16 and the Summary of Benefits Exhibit (Appendix B) based on URCS unit costs and (ii) the \$422 million incremental costs based on Applicant's historical unit costs as implied by the 2019 R1s. Baranowski V.S. Table 9.

38. Identify all Analyses or other Documents Concerning the following estimates that significantly reduced the estimated cost of handling additional traffic:

- a. \$29.79 million of Total Annualized Fuel Savings appearing in Baranowski V.S. Table 4, Including all Analyses or other Documents Concerning the fuel price per gallon described in Baranowski V.S. ¶ 10.
- b. \$10.15 million in Total Operating Metric Savings from needing fewer locomotives appearing in Baranowski V.S. Table 5, Including all Analyses or other Documents You contend support Your locomotive unit mile reduction estimates and foregone depreciation and lease estimates therein.

39. Identify all Analyses or other Documents Concerning Applicants' plans to sell locomotives.

40. Identify all Analyses or other Documents You contend support the "circuitry factor" values listed in Cells F24, G24, and H24 of Tab "Phase III calculations" of Baranowski workpaper "HC- URCS Phase II Calculations for Growth traffic.xlsx."
41. Identify all Analyses or other Documents You contend support the weight per car reported in Column R of Tab "Truck to Rail Diversions" of Baranowski workpaper "HC- URCS Phase II Calculations for Growth traffic Input.xlsm."
42. Identify all "Information on Distance, Freight Car Type, Shipment Size, Car Ownership, Commodity, and Tonnage provided by CP Operating Team" described in Tab "CP Growth initiatives" of Baranowski work paper "HC- URCS Phase II Calculations for Growth traffic Input.xlsm."

Applicants' Truck to Rail Diversions

Applicants' claims that the Transaction will create public benefits and be financially successful depend on Diverting substantial traffic from truck to rail transportation. Applicants claim the Transaction will result in Diverting [REDACTED] carloads/units from truck to rail, Including [REDACTED] carloads/units in the Texas-Minneapolis and Mexico-Minneapolis lanes, [REDACTED] carloads/units in Ohio-Mexico lanes, and [REDACTED] carloads/units in other lanes. See Mutén V.S. ¶ 52, Appendix A. Some of these estimates assume significant Diversions in lanes such as Texas-Minneapolis, where existing single-line intermodal service has failed to attract significant traffic, see Mutén ¶ 48.

The following Interrogatories seek information necessary to evaluate the validity of these estimates.

43. Identify all Analyses or other Documents You contend support the claim that, "[Though] Texas-Minneapolis lanes are . . . served today by BNSF and UP, there was only minimal intermodal traffic in 2019, and CP/KCS would offer a more direct route and dedicated intermodal service." Mutén V.S. ¶ 48, Including all Analyses or other Documents Concerning:

- a. The competitively significant elements of CPKC service on Texas-Minneapolis lanes compared to those of other rail and truck carriers, Including any comparison of route miles, cycle times, rates, services, and network.
- b. All trackage right fees, haulage fees, reciprocal or other switching fees, or other accessorial fee payments that Applicants expect or may be required to make on Texas-Minneapolis and Mexico-Minneapolis lanes, by each customer, origin station and destination station and route, using company-specific estimates.

- c. Any estimated increase in traffic in Texas-Minneapolis and Mexico-Minneapolis lanes, above any volumes forecast by either Applicant prior to January 1, 2021.
44. Identify all Analyses or other Documents You contend support the estimated truck to rail Diversions between points in Mexico and the Columbus, Ohio BEA, Mutén V.S. Appendix A, Including all Analyses or other Documents Concerning:
- a. The competitively significant elements of CPKC service between Mexico and Columbus BEA Areas compared to those of other rail and truck carriers, Including any comparison of route miles, cycle times, rates, services, and network.
 - b. All trackage right fees, haulage fee, reciprocal or other switching fees or other accessorial fee payments that Applicants expect or may be required to make on Mexico-Columbus BEA lanes by each customer, origin station and destination station and route, using company-specific estimates.
 - c. Any estimated increase in traffic between Mexico and Ohio above any volumes forecast by either Applicant prior to January 1, 2021.
45. Identify all Analyses or other Documents You contend support the estimated truck to rail Diversions between (i) points in Mexico and (ii) Detroit MI or Chicago IL, Including the [REDACTED] carloads/units between points in Mexico and Detroit, MI and the [REDACTED] carloads/units between points in Mexico and Chicago, IL identified in Mutén V.S. Appendix A, Including all Analyses or other Documents Concerning:
- a. The competitively significant elements of CPKC service on the Mexico-Detroit or Mexico-Chicago lanes compared to those of other rail and truck carriers, Including any comparison of route miles, cycle times, rates, services, and network.
 - b. All trackage rights fees, haulage fees, reciprocal or other switching fees or other accessorial fee payments that Applicants may be required to make on the Mexico-Detroit and Mexico-Chicago lanes by each customer, origin and destination and route, using company-specific estimates.
 - c. Any increase in traffic in Mexico and Detroit, MI and Chicago, IL, above volumes forecast by either Applicant prior to January 1, 2021.
46. Identify all Analyses or other Documents Concerning truck to rail Diversions and rate setting (e.g. benchmarking, evaluations, negotiations, traffic volume, reductions or increases and impact of alternative carriers or other aspects).
47. For all truck to rail Diversions that originate or terminate in Kansas City, Identify all Analyses or other Documents Concerning:
- a. The specific origin station or destination station and customer.

b. How the Transaction is necessary for CP or KCS to achieve the Diversion.

48. Identify all Analyses or other Documents produced by or for Applicants regarding autonomous vehicles, Including all Analyses or other Documents Concerning competition between transportation by rail and transportation by autonomous trucks and the effect of that competition on Applicants' future traffic.

Railroad-to-Railroad Diversion Percentages and Associated Rate Reductions

Applicants estimate the amount of existing rail traffic that will Divert to CPKC (see Application at 10-12) by assuming that certain percentages of traffic would Divert to CPKC in the situations set out in the Brown & Zebrowski V.S. Table 7, reproduced below. Neither the Application nor the Verified Statements Identify or explain the basis for these Diversion percentages. The Application claims or assumes only [REDACTED] out of the [REDACTED] carloads/units will be Diverted from existing rail traffic to CPKC single-line service as a result of a 5% rate reduction; the remaining [REDACTED] carloads/units would be Diverted without any rate reduction.

TABLE 7
STARTING POINT DIVERSION RULES FOR TRAFFIC SUSCEPTIBLE TO DIVERSION

Existing Conditions	Post-Transaction Conditions	% of Traffic Shifted to CP/KCS
Traffic moves via single-line option via other carriers (e.g., BNSF Direct)	CP/KCS adds new single-line option	25%
Traffic moves via interline service via other carriers (e.g., CN-UP)	CP/KCS adds new single-line option eliminating interchange	50%
CP or KCS participates in traffic via interline service with other carriers (e.g., CP-UP)	CP/KCS could handle traffic in efficient single-line service eliminating interchange	50% (where origin/destination served by CP or KCS today is open to other carriers) 75% (where origin/destination served by CP or KCS today is sole-served)
Traffic moves in interline service via two interchanges, with CP and KCS at origin or destination and a third bridge carrier	CP/KCS could handle traffic in efficient single-line service eliminating two interchanges	75%

This section seeks to secure any data or Analyses underlying the assumptions of traffic Diversion and basis for the small level of a 5% rate reduction and limited traffic applied to.

49. Identify all Analyses or other Documents supporting the Diversion percentages in the Brown & Zebrowski V.S. Table 7.

50. With respect to the traffic that the Application claims or assumes will be Diverted to CPKC single-line service as a result of a 5% rate reduction:

- a. Confirm that the 5% rate reduction is applied to [REDACTED] out of the [REDACTED] carloads/units the Application claims or assumes will be Diverted from existing rail traffic, as appears from the work paper *Brown and Zebrowski V.S. HC – 8 Diversion Identification.xlsx*, at tabs "Results" and "Calculations."
- b. Confirm that intermodal Movements between Dallas and Chicago comprise [REDACTED] of all Diversions the Application claims or assumes will result from of a 5% rate reduction, as calculated from the Brown & Zebrowski V.S. ¶ 95 and work papers *Brown and Zebrowski V.S. HC – 8 Diversion Identification.xlsx*, at tabs "Results" and "Calculations."
- c. Identify all Analyses or other Documents You contend support the claim that CPKC will Divert intermodal Movements between Dallas and Chicago as a result of only a 5% rate reduction.

51. Identify all Analyses or other Documents produced by or for an Applicant since January 1, 2018 Concerning rail Diversions and rate setting (e.g., benchmarking, evaluations, negotiations, reductions or increases, and impact of alternative carriers) for service or traffic between points on which single line service is or will be offered by (i) either Applicant or CPKC and (ii) another carrier.

Incremental Revenues from Diverted traffic

Applicants claim that the Transaction will be financially successful in part by forecasting significant increases in revenue from increases in traffic on CPKC. See Application at 10-12, Appx. B; Baranowski V.S. Table 16. The Application and Verified Statements in support rely on a variety of sources to estimate the incremental revenues CPKC would earn from the incremental traffic resulting from the Transaction, Including sources that appear likely to overstate the revenues to be earned.

The following Interrogatories seek information regarding these sources.

52. Identify all calculations related to the values of changing traffic patterns displayed in "Brown/Zebrowski HC WP Work Paper – HC – 8 - Diversion Identification.xlsx" at tab "Results" in Column E "diverted units" for rows 24 to 93 labeled "Forest Products".

53. Identify all Analyses or other Documents created in the normal course of business by or for an Applicant estimating incremental revenues or projected profit (or contribution) from

incremental traffic expected as a result of the Transaction, Including Documents created before March 2021.

54. For all Diversions that originate or terminate in Kansas City, Identify all Analyses or other Documents Concerning:

- a. The specific origin station or destination station and customer.
- b. How the Transaction is necessary for CP or KCS to achieve the Diversion. See Brown & Zebrowski V.S. ¶ 66.

55. Identify the origin station, destination station, and all interchanges for the claimed traffic Diversions appearing:

- a. In the "Diversion Carloads" column of Brown & Zebrowski Table 11.
- b. As "Effect of Increasing CP's Share From [REDACTED] to Supply Lumber to Dallas" and "Total by 2021 After Accounting for 15% Growth from 2019 to 2021" in Brown & Zebrowski Table 23.
- c. In the "Total Diverted Carloads" column of Brown & Zebrowski Table 24.

56. Identify all Analyses of changing traffic patterns or other Documents You contend support the claimed traffic Diversions identified in Interrogatory 55.

57. State all calculations related to the changing traffic patterns displayed in "Brown/Zebrowski HC WP Work Paper – HC – 8 - Diversion Identification.xlsx" at tab "Results" in Column E "diverted units" for rows 24 to 93 labeled:

- a. "Grain."
- b. "Forest Products."

Capital Investments Needed to Implement the Transaction's Business Plans

Applicants' business plans and claims of public benefits assume that CPKCS will make significant investments to improve service and pursue specific business opportunities. See infra, Interrogatory 58 and sources cited. The Application and Verified Statements offered in support specifically describe many business opportunities resulting from the Transaction that will depend on additional investments. Except for capital investment to upgrade trackage lines, however, the Application does not appear to describe or to quantify the costs of each specific investment Applicants' claim will be required to realize the benefits of the Transaction.

58. Identify all Analyses or other Documents Concerning investments needed to achieve the results forecast in the Application, Including all Analyses or other Documents Concerning the costs of those investments. "We anticipate that this improved competitive posture will

support additional investments by CPKC in rail capacity on our North-South main line, while also justifying investments by us and our prospective shippers in new facilities (like intermodal terminals, auto compounds, transloads, and others) that realize the full potential of the CP/KCS network." See Wahba and Naatz V.S. ¶ 7.

59. Identify all Analyses or other Documents Concerning additional investment necessary to generate additional business to, from, or through Mexico, Including the following:

- a. Purchases of CPKC-owned containers, rail cars, locomotives, or facilities used or useful in rail service.
- b. Infrastructure improvements at the border crossings in Laredo, TX and Brownsville, TX.
- c. Infrastructure improvements at the port of Lazaro Cardenas.

60. Describe, with specificity at least equal to that provided for the "Planned Infrastructure Investments" in Paragraphs 239-55, Tables 8-9, and Appendix R of the Operating Plan (Exhibit 13), the estimated costs of, and Identify all Analyses or other Documents Concerning, each of the following the investments described in the Application:

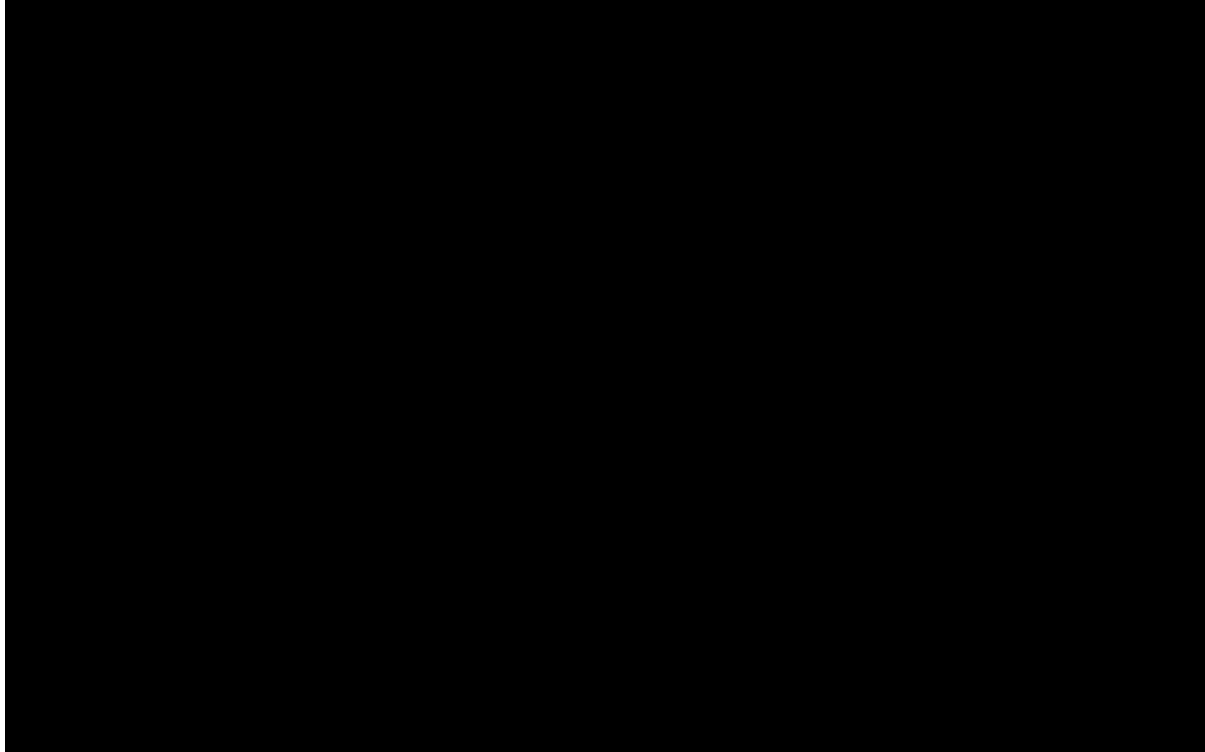
- a. "CP/KCS offerings will support investment in efficient new rail served grain elevators in the growing region of Southeastern Iowa." See Creel V.S. ¶ 25.
- b. "CP and KCS were simply unable individually to financially justify certain infrastructure investments that were needed to unlock commercial opportunities to move more freight on intermodal trains." See Ottensmeyer V.S. 12.
- c. "CP anticipates that new investments in grain-loading capacity on CP's lines in the United States could begin as soon as the first year following control approval, taking advantage of the improved market access we will offer and our improved incentives to support those investments with attractive transportation services." See Wahba and Naatz V.S. ¶ 26.
- d. "CP anticipates that demand for fertilizers from Canada moving via efficient CPKC single-line routes to growers in Southwestern Missouri could support future investment in a potash shed on KCS's lines south of Kansas City. Such an investment could enable the rail Movement of potash originating on CP in Fort Saskatchewan, AB." See Wahba and Naatz V.S. ¶ 33.
- e. "The broader reach of the combined CP/KCS network will open up opportunities for investment in intermodal network expansion that would not have made sense for CP or KCS standing alone." See Wahba and Naatz V.S. ¶ 54.
- f. "CP's access to substantial originations of automotive traffic, will open up opportunities for the investment in traffic growth that would not have made sense for KCS standing alone." See Wahba and Naatz V.S. ¶ 77.

- g. "With the CP/KCS combination, the combined company would explore investing in a new auto compound adjacent to KCS's lines in the Beaumont/Port Arthur area (where UP's restrictions would not apply) that could allow CP/KCS to offer single-line Movement of finished autos from assembly plants in Ontario and imported autos from the Canadian ports served by CP to all of Eastern and Central Texas." See Wahba and Naatz V.S. ¶ 78.
- h. "CP/KCS Transaction will support the investments needed to accelerate the transition away from traditional crude-by-rail and towards the Movement of Alberta crude in private cars in non-hazardous DRUbit form." See Wahba and Naatz V.S. ¶ 92.
- i. "Transition to DRUbit from investments prompted by CP/KCS Transaction displaces traditional (flammable/hazardous) crude-by-rail volumes." See Wahba and Naatz V.S. Figure 11.
- j. "CP and KCS have been at the forefront of a transition toward a safer and more efficient way to move Alberta Crude by Rail. Through investments at origin and destination, the hazardous dilbit can be converted to non-hazardous "DRUbit" that can be more safely moved by rail." See Wahba and Naatz V.S. ¶ 90.
- k. "The benefits of a new, strong, competitor against other railroads and trucks that will possess new single-line services and routes will accrue to customers, employees, shareholders, and stakeholders. It will unleash new infrastructure investment that CP and KCS standing alone could not justify." See Ottensmeyer V.S. 2-3.
- l. "CP and KCS have already determined that there are several opportunities to route freight in more efficient ways, Including by routing certain freight away from Chicago. These new routings will require new infrastructure investment, investment that could not be justified if the parties were to remain separate entities." See Ottensmeyer V.S. 7.

Public Benefits Analysis Conceptual Framework

Applicants claim that the Transaction would produce "quantified public benefits" of "more than \$ 880 million annually." See Application at 19-21 and shown in Appendix B (App. Vol. 1, page 74). The Surface Transportation Board ("STB") defines public benefits to be efficiency gains that take the form of cost reductions, cost savings, and service improvements, 1 S.T.B. 233 (1996), at 363. Applicants may have conflated public benefits as identified by the STB with private benefits such as transfers of revenues from one carrier to another.

In the categories of public benefits identified by the STB, Applicants identify an estimated [REDACTED] in rate reductions in the analysis of Diversions of exiting rail traffic (as calculated from Brown and Zebrowski HC WP "8-Diversion Identification" at tab "calculations"). Applicants do not appear to Identify any rate reductions associated with truck-to-rail Diversions or the "Growth Initiative" volumes. Applicants report \$172.8 million annual operating benefits as shown in Appendix B (App Vol 1 page 74) and the table below. In addition, Applicants claim \$115.7 million operating expense savings as stated in Baranowski V.S. Table 9 page 11.



The following Interrogatories seek information regarding the conceptual framework Applicants used to quantify what they refer to as "public benefits" and what Applicants contend the STB should and should not accept as Cognizable Public Benefits.

61. State whether Applicants contend that the Cognizable Public Benefits of the Transaction

Include or should reflect:

- a. Benefits other than, and in addition to, rate reductions, cost reductions, cost savings, and service quality improvements.
- b. Benefits not arising within the federal jurisdiction of the U.S. (i.e., U.S. localities and customers).
- c. Reductions in benefits to public or public interests in the U.S. resulting from increased benefits to the public or private interests outside the U.S.
- d. Additional risks associated with doing business in foreign countries.
- e. Benefits that could be achieved without the Transaction.
- f. Any financial impact associated with changes in the Applicants' cost of capital as result of the Transaction.

62. Identify all Analyses or other Documents, Including regulatory decisions and academic work, that You contend support the definition of the term "public benefits" as used in the Application, Including all Analyses or other Documents, Including regulatory decisions and academic work, which You contend support Your responses to Interrogatory 61.
63. Identify all Analyses or other Documents Concerning Applicant's determination of what effects of the Transaction constitute or generate Cognizable Public Benefits.

Financial Analysis Assumptions in the Applicants Public Benefits Analysis

Applicants offer the Transaction Pro Forma Analyses described and set out in the Vargas Verified Statement and Exhibits 16-18 as the basis for asserting that incremental benefits from the Transaction will exceed the incremental costs. These interrogatories seek to determine whether the Transaction Pro Forma Analyses are consistent with those used by Applicants in the ordinary course of business.

64. Identify all Analyses or other Documents Concerning any capital investments necessary to create the incremental revenues the Application claims or assumes will result from the Transaction, Including Identifying where in the Application Applicants contend any such investments are accounted for or otherwise addressed.
65. Identify all Analyses or other Documents Concerning:
- a. Applicants' assumed 2.3% for long-term debt and 1.0% for debt maturing within one year ("STB Rail Road Control Application Model – Final" at worksheet "Input – Assumptions" at rows 11-12.)
 - b. Applicants' actual base year debt rate, which can be calculated as 5.12% for CP and 3.57% for KCS using the pro forma income statement and balance sheet statement. ("STB Rail Road Control Application Model – Final" worksheets "Pro Forma Income Statement CP-K" And "Pro Forma Balance Sheet Cp-KCS").
 - c. The current Baa2 corporate Bond Yield. (De Bruyn V.S., page 7 at para. 15 (App. Vol. 1, page 443), Exhibit 4 to De Bruyn V.S. (App. Vol. 1, pages 507-512)).
 - d. Forecasts or actions concerning any planned upcoming financing, Including the amount, rate, repayment period etc. associated with the debt refinancing that CP/KCS indicate will be needed after the bridge loan of up to \$8.5 billion matures (e.g., the total amount to be refinanced, borrowing rate, and repayment period, etc.). (App. Vol. 1, pages 17-18).
66. Identify all Analyses and Documents Concerning the payments that would be required assuming Goldman Sachs' floating interest rate of 4.5% on \$8.5 billion worth of unsecured

debt and compare those payments to the payments assumed in the Application. Application Volume 4 at 882.

67. The Federal Reserve has said it will increase interest rates three times in the next year. Identify all Analyses and Documents Concerning the effect of the potential increases in interest rates on Applicants' payments for both secured and unsecured debt incurred for the purpose of the Transaction.
68. Identify all Analyses and Documents describing the methodologies and assumptions used by Applicants to conduct pro forma analyses of business opportunities or projects considered by each Applicant in the ordinary course of business and requiring approval by the Board of Directors and state (separately for each Applicant):
- a. Whether the Applicant's ordinary course pro forma analyses Include all costs associated with capital investments necessary for the project or opportunity. To the extent the answer is "yes" for either Applicant, explain with specificity why the Applicants have not Included all such costs in the Transaction Pro Forma Analyses.
 - b. The after-tax weighted average cost of capital (WACC) the Applicant uses in ordinary course pro forma analyses, Including each component (cost of debt, cost of equity, and debt/equity percentages) thereof.
 - c. The time horizon (e.g., ten years) and any terminal value the Applicant uses in ordinary course pro forma analyses.
69. To the extent any of either Applicant's ordinary course practices identified in Applicants' responses to Interrogatory 68 differs from the practices regarding the same subjects Included or used in the Transaction Pro Forma Analyses, explain with specificity why, and Identify any Analyses or other Documents supporting that explanation.
70. Explain how the statistical analysis that "has poor predictive power and there are high levels of variance." supports the sufficiency of a 5% reduction to displace intermodal traffic. (Brown and Zebrowski V.S. at Table 7 (p. 22) and at page 66, paragraph 7; Appendix B).
71. Applicants present a regression to determine intermodal market share (Mutén V.S. 1). Identify all Analyses or other Documents:
- a. You contend support Mutén's assumption that intermodal market shares do not have a relationship to trucking and rail costs.

- b. Concerning the “curiously high lane share” referred to by Mutén in the following: “In a few cases my analysis produced expected lane shares for rail intermodal that were curiously high” (Mutén V.S. 19).
 - c. Concerning how why curiously high lane support a reliable regression analysis suitable for Diversion analyses.
 - d. Concerning the 70.9% ceiling assumed by Mutén for CPKC’s rail intermodal market share for each lane analyzed. (Mutén V.S. 19).
 - e. Concerning Mutén’s statement that his market share estimates are potentially overestimated. (Mutén V.S. 19).
72. Applicants present a regression to determine the revenue that CP-KCS will receive from Displaced truck to rail traffic (Mutén V.S. 20-21). Identify all Analyses or other Documents Concerning:
- a. CPKC’s forecasted railroad rates for each lane reported by Mutén.
 - b. Mutén’s claim that the revenue from Diverted units in the lanes he analyzes is significantly influenced only by the factors included in the Intermodal Diversion Revenue Regression Equation, Including all Analyses or other Documents Concerning his claim that such revenue is not significantly influenced by existing truck and rail rates, or the type of commodity shipped.
 - c. The statement “Importantly, this formula should not be used to predict the specific market rates that would be charged for any given Movement or in any specific lane.”
 - d. Mutén’s reliance on the regression coefficient rather than the Applicant’s pre-or post-Transaction rates for the calculation of the market rate as presented in Mutén V.S. Appendix A.

Miscellaneous

73. Identify all Analyses or Documents Concerning:
- a. The formation of Meridian Speedway, LLC.
 - b. Communications between either Applicant and Norfolk Southern Railway Company regarding the operation or ownership of the Meridian Speedway during the period 1/1/2019-09/31/2021 and the period beginning 9/31/2021 until 12/31/2026.
 - c. Applicants’ assessment of the potential environmental impacts, Including increased locomotive miles, of:
 - i. Rerouting traffic subject to Diversions or Growth as a result of the Transaction;
 - ii. Any investments Applicants expect to make as a result of the Transaction.

- d. All communications between Applicants or between either Applicant and any other person Concerning commercial arrangements related to the Transaction.
74. Identify all Analyses and other Documents supporting the claim (Application at 21) that CPKC will provide lower cost and more efficient service, enabling them to Displace traffic to and from Mexico over KCSM.
75. Identify all Analyses and other Documents Applicant produce in response to discovery requests submitted by other Parties.

REQUESTS FOR PRODUCTION

1. Produce all Documents You Identify in response to Interrogatories 1 – 75 that are not Included in the Application or previously produced to CSXT in this proceeding.
2. Applicants submitted previously unattached workpapers and attachments in "FD 36500 – Work Paper – Work Papers Summary.xlsx". However, the updated list is still incomplete. Produce the following:
 - a. KCSM English Converted Timetable 4
 - b. Relating to traffic File – Methodology.doc
 - i. traffic file Script
 - c. Relating to Cars per day by Yard.doc
 - i. “Yard Volumes Processed Car Change Base vs Opt”
 - ii. “Yard Volumes Processed Car Change Opt vs Growth”
 - d. Relating to Methodology for Section 7.3 Maintenance of Way Practices & Equipment Update October 14 2021.doc
 - i. Engineering Fleet Support CarsEquipment.msg
 - ii. Track Systems testing fleet
3. Brown and Zebrowski provide an explanation of the SQL process used to create their combined waybill file at the Document "Process Description.docx". Produce the following Documents referenced in Parts 1A and 1C identified in "Process Description.docx" but not yet provided:
 - e. "CSM_2019", "CWS_2015_UNMASKED", "CWS_2016_UNMASKED", "CWS_2017_UNMASKED", "CWS_2018_UNMASKED", "CWS_2019_UNMASKED".

- f. Please detail all steps necessary to alter CSM_2019 to a usable format.
 - g. Please provide in readable data format (csv, excel, stata) all temporary SQL tables used to generate summaries/Analysis.
 - i. Including, all programs used to generate "CSM_2019", "CWS_2015_UNMASKED", "CWS_2016_UNMASKED", "CWS_2017_UNMASKED", "CWS_2018_UNMASKED", "CWS_2019_UNMASKED".
4. Concerning the files produced in "MajureVS_20211029_workpapers", the Carload Waybill Sample import program: File "01_waybill_build.R" contains a line of code that references multiple file names containing the term "...unmasked.rds". However, no lines of code/additional program have been provided that generate the multiple files with file names containing the term "...unmasked.rds". The final waybill build is impossible to construct without the code to generate "unmasked.rds" files. Produce the code, additional program, and files that with file names containing the term "...unmasked.rds".
5. In the Excel Output File to Exhibit 2 of the Majure V.S., the file "exhibit_02_wp_01.R" contains a line of code that generates an excel file, "exhibit_02_wp_01.xlsx", that should contain four tabs: "results", "car_counts", "results_3_9", and "wp_01". The "Exhibit 02.xlsx" file provided only contains one tab, "results". The data contained in the missing tabs is not available in any location in the excel file which was produced. Produce the missing tabs.

DEFINITIONS

- 1. "Analysis" or "Analyses" includes any examination, study, investigation, breakdown, assessment, scrutinization, calculation, quantification, or comparison.
- 2. "Applicant" refers to Canadian Pacific or Kansas City Southern, as defined herein.
- 3. "Applicants" refers to both Canadian Pacific and Kansas City Southern, as defined herein.
- 4. "Application" means the Railroad Control Application submitted by Applicants on October 29, 2021, in STB Finance Docket No. 36500, as corrected or amended, Including all Verified Statements, Exhibits, Appendices, Statements of Support, Work Papers, and other supporting materials.
- 5. "Canadian Pacific Kansas City" or "CPKC" refers to Applicants' post-Transaction combined services, network, and operations; to Applicants' post-Transaction "integrated system" referred to in Application at page 1; and to the post-Transaction integrated corporate entity or entities of Applicants, Including their predecessors, divisions, affiliates, and subsidiaries, whether individually or collectively, and to their present, former, and expected post-Transaction employees, board of directors, members of the

board of directors, and other persons acting or purporting to act on behalf of the foregoing.

6. "Canadian Pacific" or "CP" refers to Canadian Pacific Railway Limited; Canadian Pacific Railway Company; Central Maine & Quebec Railway US Inc.; Dakota, Minnesota & Eastern Railroad Corporation; Delaware and Hudson Railway Company, Inc.; and Soo Line Railroad Company, Including their predecessors, divisions, affiliates, and subsidiaries, whether individually or collectively, and to their past, present, or expected post-Transaction employees, board of directors, members of the board of directors, and other persons acting or purporting to act on behalf of the foregoing.
7. "Carload Waybill Sample" or "CWS" refers to the Surface Transportation Board's Confidential Carload Waybill Sample as referred to in the Brown & Zebrowski VS.
8. "Cognizable Public Benefits" refers to the benefits to the public from a transaction that the Surface Transportation Board relies on as evidence that the transaction is consistent with the public interest within the meaning of 49 U.S.C. § 11324(c) and applicable Surface Transportation Board regulations (whether 49 C.F.R. §§ 1180.1(c)-(c)(1) (2000) or other regulations).
9. "Concerning" means directly or indirectly, expressly, or impliedly, or in any other way, to bear upon, touch upon, incorporate, constitute, affect, include, pertain to, support, negate, and/or otherwise have any connection with the subject matter about which the request inquires.
10. "CSXT" refers to CSX Transportation, Inc., Including its railroad predecessors, divisions, affiliates, and subsidiaries, whether individually or collectively, and to their present and former employees, board of directors, present and former members of the board of directors, and other persons presently or formerly acting or purporting to act on behalf of the foregoing.
11. "Crude by Rail" refers to rail transportation of any type of petroleum crude oil product, Including light, medium, or heavy crude, and the "DRUbit" referred to in the Wahaba and Naatz V.S.
12. "Displace[ed]," "Displacing" and "Displacement" shall Include, to the extent different, "Divert[ed]," "Diverting," and "Diversion[s]" and vice versa.
13. "Document" has the meaning ascribed to that term under Rule 34(a) of the Federal Rules of Civil Procedure, and includes all originals, non-identical copies and drafts of any form of written, printed, typed, recorded, photocopied, photographed, graphically or electronically generated or stored matter, however produced or reproduced, of any kind or description, Including any book, pamphlet, periodical, correspondence, letter, official form, application, diary, written statement, minutes, memorandum, email, telephone call, invoice, bill, receipt, form, printout, financial statement, accounting record, telegram, cable report, record, contract, agreement, study, report, statistics, summary, handwritten note, tag, label, draft working paper, print, list, tape, photograph, microfilm, data sheet, data processing card, plan, specification list or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter and things similar to the foregoing, however denominated, and any and all attachments to any of the above.
14. "Growth Initiative Summary Table" refers to the "summary" tab of the work paper titled "Wahba and Naatz HC WP Growth Initiative Calculations.xlsx" provided in support of the Application.
15. Unless otherwise specified, "Identify":

- a. when used with reference to a Document, means to: (i) provide a description of such Document or thing sufficient to support a request for production, (ii) state its author(s), addressee(s), recipient(s), title, subject matter, date, present location and custodian, (iii) specify the place where the Document or thing may be inspected, and (iv) if the Document was produced in This Matter, specify the Document by Bates number(s). If a Document once existed and has since been lost, destroyed, or is otherwise missing or unavailable, You shall Identify the Document and state the details Concerning the unavailability of such Document;
 - b. when used with reference to an entity, means to: state the entity's (i) full name, (ii) last known address(es), (iii) telephone number(s), and (iv) organizational form (e.g., corporation, sole proprietorship, partnership, joint venture, etc.); and
 - c. when used with reference to an event, means to: (i) provide the date and place of the event; (ii) Identify all persons involved in the event or who witnessed the event; and (iii) describe what took place during the event.
 - d. when used with reference to an individual person, means to: state that person's: (i) full name; (ii) last known job title or position, business affiliation and employer; (iii) last known business and residential address; and (iv) last known telephone number(s), fax number(s), and e-mail address(es).
 - e. when referring to the Application or work papers requires You to specify the volume and page number in the Application and the file name and page in the work papers.
16. "Including" shall mean including but not limited to. For avoidance of doubt, all matter specified by "Including" shall refer without limitation by, and even if not otherwise encompassed by, the remainder of the request in which it is used.
17. "Intermodal Diversion Revenue Regression Equation" refers to the equations or "formula" specified in the Mutén VS at or immediately following ¶ 53.
18. "Intermodal Market Share Regression Equation" refers to the "predictive equation" specified in the Mutén VS at or immediately following ¶ 46.
19. "Interrogatory" includes all subparts of the Interrogatory referred to.
20. "Kansas City Southern de México" or "KCSM" refers to Kansas City Southern de México, Including their predecessors, divisions, affiliates, and subsidiaries, whether individually or collectively, and to their past, present, or expected post-Transaction employees, board of directors, members of the board of directors, and other persons acting or purporting to act on behalf of the foregoing.
21. "Kansas City Southern" or "KCS" refers to Kansas City Southern, Gateway Eastern Railway Company, The Kansas City Southern Railway Company, The Texas Mexican Railway Company, and Kansas City Southern de México, Including their predecessors, divisions, affiliates, and subsidiaries, whether individually or collectively, and to their past, present, or expected post-Transaction employees, board of directors, members of the board of directors, and other persons acting or purporting to act on behalf of the foregoing.
22. "Lazaro/Mexican Port Traffic" refers to traffic to, from, or through the port of Lázaro Cárdenas or other Mexican ports and associated rail business in Mexico, the U.S. or Canada.

23. Sole-Served or Solely Served refers to a single railroad serving an origin or destination station (i.e., customer location) without access to another railroad through use of the trackage of the single railroad or otherwise.
24. "This Matter" refers to the proceedings before the Surface Transportation Board in Finance Docket No. 36500, Including discovery and correspondence related to the foregoing proceedings.
25. "Movement" or "Movements" means the carriage by one or more carriers by rail or other modes of any commodity or traffic type in any type of container from an origin station to a destination station, the route taken, and any points in the route where different interchange the traffic or commodity.
26. "Transaction Pro Forma Analyses" refers to the Analyses described and set out in the Vargas Verified Statement and Exhibits 16-18, Including all supporting Analyses and calculations.
27. "Transaction" refers to the proposed combination of CP and KCS as described in the Application, pursuant to which CP would acquire and exercise control of KCS, and to all proposed or consummated agreements and transactions further to or ancillary to that combination, Including any with parties other than Applicants.
28. "URCS" refers to the Uniform Rail Costing System as referred to in the Baranowski VS.
29. "V.S." means Verified Statement as used in the Application.
30. "You" refers to Applicants or an Applicant, whether individually or collectively.

INSTRUCTIONS APPLICABLE TO INTERROGATORIES

1. Your answers shall include all responsive information within Your possession, custody, or control.
2. When referring to the Application or work papers You shall specify the volume and page number in the Application and the file name and page in the work papers.
3. As necessary to bring within the scope of these Interrogatories any information and Documents which might otherwise be construed to be outside their scope, all words or phrases shall be construed as either singular, plural, masculine, feminine, or neuter; the singular form of a noun or pronoun shall Include within its meaning the plural form of the noun or pronoun and vice versa; and the use of any tense of any verb shall Include within its meaning all other tenses of the verb.
4. The terms "and" and "or" shall be construed either conjunctively or disjunctively as required by the context to bring within the scope of these requests any information which might be deemed outside their scope by any other construction.
5. If You object to an Interrogatory on the grounds of privilege, answer the Interrogatory with such non-privileged, non-work product information as is responsive, and state the privilege(s) or work product asserted and the basis for such assertion.
6. If You cannot answer any Interrogatory fully and completely after exercising due diligence, making inquiry, and securing the necessary information, You shall: (i) so declare in Your Interrogatory response; (ii) answer each such Interrogatory to the fullest extent possible; (iii) specify the portion of each Interrogatory that You claim You are unable to answer fully and completely; (iv) state the facts upon which You rely to support Your contention that You are unable to answer the Interrogatory wholly and completely; and (v) state what knowledge, information or belief You have Concerning the unanswered portion of each such Interrogatory.

7. If You object to any part of an Interrogatory and refuse to answer as to that part, You shall: (i) state Your objection(s); (ii) Identify and describe fully all facts supporting the objection(s); and (iii) answer the remaining portion of the Interrogatory. If You object to the scope covered by any Interrogatory, and refuse to answer for that scope, You shall: (i) state Your objection(s); (ii) Identify and describe fully all facts supporting Your objection(s); and (iii) answer the Interrogatory for the scope for which no objection is raised.
8. Whenever an Interrogatory requires You to Identify an oral communication, You shall: (i) specify the date on which the communication occurred; (ii) indicate the place where the communication occurred; (iii) Identify the medium through which the communication was established (in person, by phone, etc.); (iv) Identify each and every person who participated or heard the communication; (v) describe fully the substance of the communication, including the decisions or agreements reached, and the information exchanged; and (vi) Identify each Document that relates or refers to the communication or to the decisions or agreements reached and the information exchanged during the communication.
9. Whenever an Interrogatory requires You to Identify a written or electronic communication, You shall specify: (i) the name of each individual who signed or originated the Document or communication, or under whose name it was issued; (ii) the name of each individual to whom the Document or communication was addressed and the name of each individual who received it; (iii) the date the Document or communication bears; (iv) the title of the Document or communication; and (v) a description of the contents and substance of the Document or communication. In lieu of the foregoing, You may produce the Document or communication itself, provided that the Interrogatory response specifies with particularity the Document or communication(s) responsive thereto.
10. These Interrogatories impose on You a continuous obligation. If You become aware of information that renders Your answers to these Interrogatories incomplete, misleading or inaccurate, You must supplement or amend Your answers promptly to make Your answers complete and accurate.
Unless otherwise specified, the period for these Interrogatories is from January 1, 2018, through the present.

INSTRUCTIONS APPLICABLE TO REQUESTS FOR PRODUCTION

1. Furnish all responsive Documents or material in Your possession, custody, or control.
2. As necessary to bring within the scope of these requests any information and Documents which might otherwise be construed to be outside their scope, all words or phrases shall be construed as either singular, plural, masculine, feminine, or neuter; the singular form of a noun or pronoun shall include within its meaning the plural form of the noun or pronoun and vice versa; and the use of any tense of any verb shall include within its meaning all other tenses of the verb.
3. The terms "and" and "or" shall be construed either conjunctively or disjunctively as required by the context to bring within the scope of these requests any information which might be deemed outside their scope by any other construction.

4. If you are not producing any Documents in response to any of the requests herein, Your response should clarify that You are not producing any Documents in response to that request.
5. If Your response to any of these requests is qualified in any particular manner, set forth the details of such qualification and describe the Documents You are and are not producing.
6. All Documents should be produced in the manner, form, and position in which they are kept in the ordinary course of business, as is required in federal civil litigation by Federal Rule of Civil Procedure 36(b), Including, where applicable, any index tabs, file dividers, designations, or other information as to the location of the Documents. Documents containing calculations (e.g., .xlsx files) shall be produced with calculations intact. Documents shall be produced in their native file format unless You first confirm with CSXT or its counsel that the Document in its native file format would not be reasonably usable by CSXT or its counsel.
7. If You object to a request on the grounds of privilege, respond to the request with such non-privileged, non-work product Documents as are responsive, and state the privilege(s) or work product asserted and the basis for such assertion. You must set forth in your response to these requests a schedule which provides the information described in Federal Rule of Civil Procedure 26(b)(5)(A)(ii) and any order entered by the Surface Transportation Board regarding the production of electronically-stored information or hard copy documents.
8. If You object to part of a request and refuse to respond to that part, You must produce all Documents called for which are not subject to that objection. If You object to part of a request and refuse to respond to that part, or if You cannot respond to any request fully and completely after exercising due diligence, making inquiry, and securing the necessary information, You shall: (i) so declare in Your response; (ii) answer each such request to the fullest extent possible; (iii) specify the portion of each request to which you object and refuse to respond or that You claim You are unable to respond fully and completely; (iv) state the facts upon which You rely to support Your objection or Your contention that You are unable to respond to the request wholly and completely; and (v) describe, to the best of your knowledge, information, and belief, and with as much particularity as possible, those portions of the Document which are not produced. If You object to a request's scope or time period, state Your objection and respond to the request for the scope or time period You believe is appropriate.
9. Each request shall be construed independently, and no request shall be viewed as limiting the scope of any other request.
10. You are to produce the original and each non-identical copy of each Document or Documents requested herein which is in Your possession, custody, or control.
11. Unless otherwise specified, the time period for these requests is from January 1, 2018, through the present.

CERTIFICATE OF SERVICE

I hereby certify that I have caused this CSX Transportation, Inc. Second Discovery Request in 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*, to be served electronically or by first class mail, postage pre-paid, on all parties of record in this proceeding.

/S/ Paul A. Cunningham

Paul A. Cunningham
*Attorney for CSX
Transportation, Inc.*

December 24, 2021