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February 23, 2022

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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
February 23, 2022
Part of
Public Record

Re: Metra's February 18, 2022 Extension Request in Finance Docket No. 36500, Canadian Pacific Railway Company, et al.—Control—Kansas City Southern, et al.

Dear Ms. Brown:

Canadian National Railway Company and its rail operating subsidiaries (collectively, “CN”) submit this letter in reply to the February 18, 2022 request filed by Commuter Rail Division of the Regional Transportation Authority, d/b/a Metra (“Metra”) for a 30-day extension—until March 30, 2022—to file its comments with regard to the proposed transaction in this proceeding.

Metra's basis for its request is entirely reasonable: Metra is entitled to the documents it has requested from CP; the documents are necessary for Metra to understand and analyze the impact of the proposed transaction on Metra's service; and CP has had since November 24, 2021, to provide that requested information but chose to provide Metra an “incomplete production” of responsive documents a mere 13 days before Metra's comments were due in this proceeding.¹ Indeed, Applicants have produced documents to CN as recently as last night.

As such, CN does not oppose Metra's request. However, for the sake of procedural simplicity and fairness, CN does request that, if the Board extends the filing deadline for Metra, it should extend the schedule for all parties. Ordering

¹ Decision No. 14, *Canadian Pacific Railway Company, et al.—Control—Kansas City Southern, et al.*, Docket No. FD 36500 (STB served Feb. 22, 2022), slip op. at 2 (citing Metra Request at 2, 4, 5).

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different filing deadlines for different parties would complicate the entire procedural schedule and is not necessary, given Metra's modest extension request.

CN disagrees with CP's suggestion that any extension should be "limited to Metra." In CN's discovery requests in November 2021, CN specifically requested documents about Applicants' Rail Traffic Controller (RTC) modeling in its discovery requests.² CN also requested Applicants produce all information and documents "that Applicants produce in response to discovery requests submitted by other participants in this proceeding."³ Any extension of the filing deadline should apply to all parties in the proceeding.

Granting Metra's modest extension request would pose no harm to any party and would continue to provide the Board with ample time to complete its review process and issue its final decision within the statutory timetable provided for by Congress.

² Canadian National Railway Company's First Set of Discovery Requests Directed to Applicants, FD 36500 (served Nov. 30, 2021). CN Document Request No. 97 ("Produce all capacity modeling that Applicants have done to develop or test their Operating Plan, or to confirm their ability to handle the increased volumes projected in the Application, including but not limited to Rail Traffic Controller ('RTC') modeling."); CN Document Request No. 98 ("Produce all RTC model simulations that either Applicant has conducted of any part of its United States network since 2015"); CN Document Request No. 99 ("Produce all data files necessary to replace the CP and KCS networks in the RTC model....").

³ CN Document Request No. 142.

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Respectfully submitted,

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cc: Parties of Record in FD 36500