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April 4, 2022

By E-Filing

Ms. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: STB Finance Docket No. 36500, *Canadian Pacific Ry., et al.* –
Control – Kansas City Southern, et al.

Dear Ms. Brown:

This letter is submitted on behalf of the Village of Itasca and the Coalition to Stop CPKC (collectively the “Coalition”)¹ in response to the letter submitted by Applicants on March 29, 2022, to the extent it addresses the procedural schedule in Docket No. FD 36500 and its sub-dockets.² By decision served on March 16, 2022, the Board suspended the procedural schedule in all dockets for the purpose of requesting the Applicants to “explain further [the] apparent inconsistency between the 2019 baseline GT/M data in Exhibit 14 and the 2019 baseline GT/M data submitted to OEA.”³ Applicants and other parties have responded to the Boards’ request. In their March 29, 2022 letter the Applicants have proposed that the Board “reinstate the procedural schedule,

¹ As of February 28, 2022 the Coalition members were the Village of Bensenville, Illinois, City of Wood Dale, Illinois, Village of Roselle, Illinois, Village of Schaumburg, Illinois, Village of Hanover Park Illinois, Village of Bartlett, Illinois, and City of Elgin, Illinois. On March 8, 2022 the County of DuPage, Illinois formally joined the Coalition for the purpose of providing support for data collection on and analysis of the adverse effects of the proposed merger on the Coalition communities.

² The term “Applicants” as used in this letter is the same as described in footnote 1 of the March 29, 2022 letter.

³ March 16 Decision at 3.

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with 10-day adjustments,” which, if adopted, would mean that responses to comments, protests, and requests for conditions, and to responsive, including inconsistent applications, would be due on May 2, 2022.⁴ The Coalition submits that reinstating the schedule as proposed by Applicants would be inappropriate for the following reasons. First, the Coalition’s Opening Comments and Request for Conditions contain issues and factual allegations that are very similar to the issues and factual allegations raised by the Comments and Request for Conditions of the Commuter Rail Division of the Regional Transportation Authority d/b/a Metra (“Metra”). Metra’s filing is over 900 pages long and contains a copious amount of data and analysis that bear directly on the claims made by the Coalition on their segment of the Metra system. The Coalition is reviewing Metra’s filing and intends to respond to it. However, Metra’s opening filing was made on March 15, two weeks after the filing deadline for all other comments, thus substantially shortening the time for parties to prepare replies to it. Reinstating the schedule with only a 10-day extension from the current April 22 date would not overcome this disadvantage to the Coalition and other parties.

Second, the Coalition noted in its Opening Comments that certain aspects of the Responsive Application filed by the Canadian National Railway and Illinois Central Railroad Company (“CN/IC”) might provide a means for the substantial congestion and harm to Coalition member communities posed by the Applicant’s Operating Plan to be alleviated through competitive market forces. The Coalition is reviewing CN/IC’s filing and expects to submit a response to it as well. However, the CN/IC filing is over 600 pages long, not including workpapers and other supporting documentation. The Coalition communities have limited time and resources to devote to these issues notwithstanding their immense importance, and so adhering to a May 2, 2022 deadline for responding to both CN/IC and Metra would be extremely difficult for them.

In summary, for the reasons expressed in this letter, the Coalition respectfully requests that when the Board reinstates the procedural schedule for these proceedings it establishes the date for submitting (1) responses to comments, protests, requests for conditions, and other opposition including to DOJ and USDOT filings, (2) rebuttal in support of the Application, and (3) responses to responsive, including inconsistent, applications to be no earlier than Friday, May 29, 2022.⁵

⁴ March 29 letter at 2.

⁵ Although not the Coalition’s preference, the Board should, at a minimum, extend the deadline for the Coalition and other parties to respond to Metra’s opening submission to May 6, 2022 to account for the two week delay in receiving it.

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Please do not hesitate to call me if you have any questions. I certify that I have served a copy of this letter on all parties of record in Docket No. FD 36500.

Sincerely,



Thomas W. Wilcox

*Attorney for the Village of Itasca, Illinois
and the Coalition to Stop CPKC*