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Office of Proceedings
September 14, 2022
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CN-20

September 14, 2022

By E-Filing

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

Re: Finance Docket No. 36500, *Canadian Pacific Railway Company, et al.—Control—Kansas City Southern, et al.* and Sub-Nos. 1-5

Dear Ms. Brown,

Canadian National Railway Company and its rail operating subsidiaries (collectively, “CN”) respectfully submit this notice of CN’s intent to participate in the hearing scheduled for September 28–30, 2022 in the above-referenced proceeding.

The following individuals will present testimony at the hearing for CN and be available for any questions the Board has about CN’s Responsive Application, comments, and condition requests:

- Robert Reilly, Executive Vice President and Chief Operating Officer;
- Doug MacDonald, Chief Marketing Officer;
- Daniel Bresolin, Vice President, Intermodal;
- Derek Taylor, Vice President, Transportation, Southern Region;
- Sarah Slazinski, Assistant Vice President, Automotive;
- Kathryn Gainey, Deputy General Counsel;
- Raymond Atkins of Sidley Austin LLP; and
- Matthew Warren of Sidley Austin LLP.

CN's witnesses plan to appear in person at the hearing. CN respectfully requests that it be allotted 90 minutes to present its testimony, and that if possible CN be scheduled to testify on Thursday, September 28.

CN's testimony will explain why Canadian Pacific's and Kansas City Southern's request for "unconditioned approval"¹ of their proposed merger is not in the public interest and not supported by the record. CN's testimony will also detail conditions that CN believes should be imposed on any approval of a CP-KCS merger.

CN will explain why a divestiture of the Springfield Line under the terms that CN has proposed in its Responsive Application is the right way to preserve competition on the line that is parallel to CP's existing line from Kansas City to Chicago. CN will explain how its Responsive Application has been carefully structured to ensure that Springfield Line customers will receive better service, more investment, and more commercial choices than they experience today, and to allow CP and KCS complete access to serve current and future customers on the line and interchange traffic over the line. And CN will discuss the substantial public interest benefits that its Responsive Application would bring, including \$250 million in investment, 80,000 long-haul trucks off the road annually, improvement of a route for intermodal and automotive traffic that bypasses Chicago congestion, and added capacity to grow such traffic in both East St. Louis and Kansas City markets.

In addition, CN will offer testimony about the need to require CP and KCS to produce a service assurance plan or its equivalent, a need that is more acute because of their failure to base their operating plan on reliable, consistent data. CN will also address the critical need for a gateway commitment with a clear and simple enforcement mechanism to ensure that

¹ Applicants' Response at 314, CP-53/KCS-39 (filed July 13, 2022).

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CP-KCS do not foreclose joint-line options in order to force customers to use CP-KCS service.

Respectfully submitted,

/s/ Raymond A. Atkins

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