

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36500

CANADIAN PACIFIC RAILWAY LIMITED, ET AL.
– CONTROL –
KANSAS CITY SOUTHERN, ET AL.

ARU-9

305532

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**BRIEF OF THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,
AFL-CIO**

The International Brotherhood of Electrical Workers (“IBEW”) submits this Brief in support of its Comments and requests for conditions in response to the Application (“Application”) of Canadian Pacific Railway Ltd. and its subsidiaries/affiliates (collectively “CP”) and Kansas City Southern and its rail carrier subsidiaries/affiliates (collectively “KCS”) for Board approval of CP’s acquisition of control of KCS (“Transaction”), and in response to the Responsive Applications (“Responsive Applications”) of Canadian National Railway (“CNR”) and its subsidiary Illinois Central Railroad Co. (“ICRR”) (“Responsive Applicants”).

The IBEW takes no position on whether the Board should approve the Application. If the Board grants its approval, the IBEW urges the Board to impose the following conditions.

1. The Board should impose the *New York Dock Railway—Control—Brooklyn Eastern District (Terminal)*, 360 I.C.C. 60 (1979) (“*New York Dock*”) employee protections as a condition of any approval of the Transaction. CP has acknowledged that the *New York Dock* conditions must apply to the Transaction, and application of the *New York Dock* conditions is required for this transaction by 49 U.S.C. § 11326.
2. The Board should impose all commitments made by the Applicants in seeking Board approval of the Transaction as a condition of any approval of the Transaction.

3. The Board should impose the agreement titled “Revised Standards for Preemption of Collective Bargaining Agreements for Transactions Initiated Pursuant to Section 11323 of the Interstate Commerce Act,” colloquially referred to as the “Cramdown Agreement” as a condition of any approval of the Transaction. Imposition of the Cramdown Agreement will ensure that if any consolidated or coordinated work is covered by two or more collective bargaining agreements, the union or unions that represent the affected employees may choose which of the applicable collective bargaining agreements will apply to the coordination or consolidation. If the union fails to select a collective bargaining agreement within the appropriate time, an arbitrator is empowered to decide which agreement is most beneficial for the involved employees.

The IBEW further takes no position on whether the Board should approve the Responsive Applications. If the Board grants its approval, the IBEW urges the Board to impose the following conditions.

1. The Board should impose the *New York Dock Railway—Control—Brooklyn Eastern District (Terminal)*, 360 I.C.C. 60 (1979) (“*New York Dock*”) employee protections as a condition of any approval of the Transaction.
2. The Board should impose all commitments made by the Responsive Applicants in seeking Board approval of the Transaction as a condition of any approval of the Transaction.
3. The Board should impose the “Cramdown Agreement” as a condition of any approval of the Responsive Applications.

The IBEW adopts the arguments of the Allied Rail Unions in their October 21, 2022, Brief

to the Board in support of the proposed conditions.

Respectfully submitted,

/s/ Lucas R. Aubrey

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been e-filed this 21st day of October, 2022, via the STB's e-filing system, and served via email or regular postage prepaid mail upon the parties of record.

/s/ Lucas R. Aubrey
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Dated: October 21, 2022