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VIA E-FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

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

Dear Ms. Brown:

I write on behalf of the Commuter Rail Division of the Regional Transportation Authority d/b/a Metra (“Metra”) to request clarification of, and certain modifications to, the oversight conditions the Board imposed in its March 15, 2023 Decision approving the merger of the Canadian Pacific Railway Limited and Kansas City Southern and their named affiliates. As described below, Metra’s requests do not require reconsideration of the Decision but are intended to further the oversight objectives of the Board’s Decision and provide clarity and transparency in the implementation of those conditions.

At the outset, Metra continues to object to the merger, remains convinced that the merger will result in substantial adverse effects on Chicagoland commuters, and believes that the Board’s Decision failed to adequately address those impacts. However, without waiving rights to challenge the Board’s decision, Metra appreciates the Board’s willingness to monitor the impacts of the merger to evaluate and respond to negative impacts of CPKC’s post-merger operations and to consider whether additional conditions should be imposed to address impacts that emerge. Metra appreciates the Board’s conditions requiring CPKC to provide operational metrics and data on a regular basis throughout the seven or more years of oversight to evaluate whether further regulatory action is appropriate.

To facilitate that oversight, Metra makes the following requests:

1. On pages 119-120 of the Decision, the Board required CPKC to provide the Board with certain operational metrics and data at stated intervals. To clarify that order, and to facilitate oversight, Metra requests that the Board confirm that that data will be provided to, or made available to, Metra, the Coalition to Stop CPKC, and other interested parties, including but not limited to the Illinois Commerce Commission, contemporaneously with its submission to the Board. Those parties will most immediately and directly be affected by CPKC's operations in the Chicago area and are in the best position to evaluate the data and provide feedback to the Board on CPKC's impacts on Metra's operations and Chicagoland communities.¹
2. On Page 120 of the Decision, the Board directed CPKC to participate in a technical conference with Board staff to develop guidance on recordkeeping and reporting on the required data. Metra requests that it be included in that conference to provide input on the reporting procedures, including the format and structure of the data, to assure that the Board and Metra are able to meaningfully review the data.
3. On pages 116-117 of the Decision, the Board declined to address many of Metra's concerns because the Board concluded that Metra's concerns related to preexisting issues or had no nexus to the Transaction. As noted above, the Board nonetheless required that CPKC provide metrics and data to assess actual impacts of the Transaction on Metra. Those data focus on weekly averages. However, actual delays and other impacts do not occur on an average basis, but occur on a train-by-train, station-by-station basis. Weekly averages mask regular impacts that occur on individual trains or specific stations and thus may not provide sufficient detail to properly evaluate the impacts of new merger-related CPKC operations. Further, during the hearings, CP representatives made representations about train-by-train operations, including non-diversion from the Marquette Subdivision, train length, and type of cargo. That individual train-level information will not necessarily be evident from weekly averages. To address that limitation in the data identified in the Decision, Metra requests that CPKC be directed to provide to Metra (and the Board) the following data:

Individual Train Data²

1. For each non-passenger train provide:
 - a. Number of axles
 - b. Number of loaded cars
 - c. Number of empty cars
 - d. Total tons
 - e. Length of train

¹ It is critical that identified Metra operational staff access the data to evaluate it and assess impacts on Metra operations.

² Metra can work with CPKC to determine the frequency of providing this data. Daily submission of these data would be most useful.

- f. Count of hazardous material cars on each train
 - g. Locomotive consist/number of locomotives on each train
 - Conventional or DPU. If DPU, identify if locomotives are situated in the middle, rear, or end of the train.
 - h. Time and location where the train enters and leaves Metra system.
 - i. Network visibility from a noncontrolling dispatch system view 50 to 100 miles outside of the Metra/CP joint control system in order to better plan the Metra/CP portion of the network.
2. For any stops that any non-passenger train makes on the Metra system, provide the location (by station or milepost number), track number on which train was stopped, and duration of each stop, including the listing of any road crossings and/or railroad crossings (*e.g.*, Spaulding or Tower B12) that are blocked during a stop.
 3. Tower B17 block sheet.
 4. Segments of operations with each set of deliveries/removals of cars.

Monthly Request³

1. Gross ton miles generated by the non-passenger trains, engines, and cars.

Most of these data are the type of train-by-train data that is readily available to CPKC and will likely be used to compile the weekly average data the Board requested. Providing this data does not impose additional burden on CPKC, but will provide Metra and the Board with a more precise, and actionable, set of data upon which to evaluate the true impacts of the merger.

Finally, I would like to underscore that the Board's approval of the merger will have negative consequences for the Chicago-area rail network and the thousands of commuters who rely on frequent and timely commuter rail service. Although the Board appreciates the need to monitor actual impacts of the merger to assess whether additional conditions are warranted, Metra submits that the implementation of the supervisory conditions is just as important as imposing those conditions to assure that the conditions accomplish what the Board intended. Accordingly, Metra respectfully requests that as the Board implements the conditions set forth on pages 118-120 of the Decision, that it assures that the technical requirements of the conditions include that Metra be given access to the data, that Metra be included in the technical conference, and that CPKC provide to Metra the more granular data described above. Finally, as actual impacts of CPKC's post-merger operations occur, Metra appreciates the Board's commitment to allow Metra to bring forth additional issues so that the Board can evaluate whether additional conditions should be imposed to address any impacts that emerge.

³ Metra is willing to work with CPKC to determine the frequency of providing this data but believes this should be provided on a monthly basis.

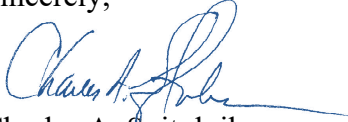
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If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charles A. Spitulnik". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Charles A. Spitulnik

cc: All Parties of Record