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October 31, 2023

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Part of
Public Record

VIA E-FILING

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

Re: Canadian Pacific Kansas City Limited and The Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – The Kansas City Southern Railway Company D/B/A Canadian Pacific Kansas City, FD 36731; CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., FD 36727; CSX Transportation, Inc. – Trackage Rights Exemption – Kansas City Southern Railway Company, FD 36730; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724; Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X; CSX Transportation, Inc. – Discontinuance of Trackage Rights Exemption – in Marengo and Choctaw Counties, AL and Lauderdale County, MS, AB 55 (Sub-No. 814X)

Dear Ms. Brown:

Please find attached for filing on behalf of Illinois Central Railroad Company ("CN") in the above-referenced proceedings: (1) Motion for Leave to Reference Earlier Submitted Response/Reply, and (2) CN's Reply to Combined Norfolk Southern Notice of Intent to Participate and Request to Hold CPKC/CSXT Transcon Corridor Transaction in Abeyance.

Sincerely,

/s/ David A. Hirsh

David A. Hirsh

Counsel for Illinois Central Railroad Company

Enclosures

cc: All Parties of Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

CANADIAN PACIFIC KANSAS CITY LIMITED AND THE KANSAS CITY
SOUTHERN RAILWAY COMPANY, D/B/A CPKC – ACQUISITION AND OPERATION
– CERTAIN RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C., IN
LAUDERDALE COUNTY, MISSISSIPPI AND CHOCTAW AND MARENGO
COUNTIES, ALABAMA, FD 36732;
ALABAMA & GULF COAST RAILWAY LLC – TRACKAGE RIGHTS EXEMPTION –
THE KANSAS CITY SOUTHERN RAILWAY COMPANY D/B/A CANADIAN PACIFIC
KANSAS CITY, FD 36731;
CSX TRANSPORTATION, INC. – ACQUISITION AND OPERATION – RAIL LINE OF
MERIDIAN & BIGBEE RAILROAD, L.L.C., FD 36727;
CSX TRANSPORTATION, INC. – TRACKAGE RIGHTS EXEMPTION – KANSAS
CITY SOUTHERN RAILWAY COMPANY, FD 36730;
ALABAMA & GULF COAST RAILWAY LLC – TRACKAGE RIGHTS EXEMPTION –
CSX TRANSPORTATION, INC., FD 36724;
MERIDIAN & BIGBEE RAILROAD, L.L.C. – DISCONTINUANCE OF INCIDENTAL
OVERHEAD TRACKAGE RIGHTS – IN LOWNDES AND MONTGOMERY
COUNTIES, AL, AB 1335X;
CSX TRANSPORTATION, INC. – DISCONTINUANCE OF TRACKAGE RIGHTS
EXEMPTION – IN MARENGO AND CHOCTAW COUNTIES, AL AND LAUDERDALE
COUNTY, MS, AB 55 (SUB-NO. 814X)

**MOTION FOR LEAVE TO REFERENCE
EARLIER SUBMITTED RESPONSE/REPLY**

Illinois Central Railroad Company (“CN”) respectfully submits this motion for leave to include references the Board might consider to be “reply to a reply” material in its reply to Combined Norfolk Southern Notice of Intent to Participate and Request to Hold CPKC/CSXT Transcon Corridor Transaction in Abeyance (“NS’s Request”), filed simultaneously herewith (“CN’s Reply”). While CN is plainly entitled to file a reply to NS’s Request, CN seeks leave here because CN’s Reply references (at 3) statements made by Canadian Pacific Kansas City Limited (“CPKC”) and CSX Transportation, Inc. (“CSXT”) in their own replies to NS’s Request, which were filed only two days after NS’s Request.

CN believes the Board rule against replies to replies, *see* 49 C.F.R. § 1104.13(c), is primarily intended to prevent *movants* from having the last word. Here, CN is not the movant and its timely-filed Reply is CN's first submission regarding NS's Request. CN does, however, reference statements from early-filed replies of other non-movant parties (i.e., CPKC and CSXT) also in response to NS's Request. Accordingly, to assure compliance with the Board's rules, CN is filing this motion to allow CN's Reply to reference the CPKC and CSXT statements.¹

The Board may grant leave to file replies to replies in the interest of compiling a more complete record.² That standard is met here, as CPKC's and CSXT's statements in their replies, and CN's references to them, directly bear on the issue of consolidation of the above-captioned proceedings raised initially by NS and supported by CN's Reply.

Respectfully submitted,

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/s/David A. Hirsh
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Counsel for Illinois Central Railroad Company

Dated: October 31, 2023

¹ *See Complaint & Petition of Nat'l R.R. Passenger Corp. Under 49 U.S.C. § 24308(f)—For Substandard Performance of Amtrak's Sunset Ltd. Trains 1 & 2*, NOR 42175, at 3 n.4 (STB served Aug. 18, 2023).

² *Nat'l Ass'n of Reversionary Prop. Owners—Pet. for Declaratory Order*, EP 749, at 1 n.1 (STB served Aug. 14, 2018); *City of Alexandria—Pet. for Declaratory Order*, FD 35157, at 2 (STB served Nov. 6, 2008).

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of October 2023, a copy of the preceding Motion for Leave to File was served electronically on all Parties of Record for the following proceedings:

CANADIAN PACIFIC KANSAS CITY LIMITED AND THE KANSAS CITY SOUTHERN RAILWAY COMPANY, D/B/A CPKC – ACQUISITION AND OPERATION – CERTAIN RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C., IN LAUDERDALE COUNTY, MISSISSIPPI AND CHOCTAW AND MARENGO COUNTIES, ALABAMA, FD 36732;

ALABAMA & GULF COAST RAILWAY LLC – TRACKAGE RIGHTS EXEMPTION – THE KANSAS CITY SOUTHERN RAILWAY COMPANY D/B/A CANADIAN PACIFIC KANSAS CITY, FD 36731;

CSX TRANSPORTATION, INC. – ACQUISITION AND OPERATION – RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C., FD 36727;

CSX TRANSPORTATION, INC. – TRACKAGE RIGHTS EXEMPTION – KANSAS CITY SOUTHERN RAILWAY COMPANY, FD 36730;

ALABAMA & GULF COAST RAILWAY LLC – TRACKAGE RIGHTS EXEMPTION – CSX TRANSPORTATION, INC., FD 36724;

MERIDIAN & BIGBEE RAILROAD, L.L.C. – DISCONTINUANCE OF INCIDENTAL OVERHEAD TRACKAGE RIGHTS – IN LOWNDES AND MONTGOMERY COUNTIES, AL, AB 1335X

CSX TRANSPORTATION, INC. – DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION – IN MARENGO AND CHOCTAW COUNTIES, AL AND LAUDERDALE COUNTY, MS, AB 55 (SUB-NO. 814X)

/s/ James M. Guinivan
James M. Guinivan