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SERVICE DATE – NOVEMBER 9, 2023

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36732<sup>1</sup>

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, MISS., AND CHOCTAW AND MARENGO COUNTIES, ALA.

Decision No. 2

Decided: November 9, 2023

By decision served November 3, 2023, the Board accepted for consideration the application filed by Canadian Pacific Kansas City Limited (CPKCL), on behalf of itself and its wholly owned subsidiary, The Kansas City Southern Railway Company (KCS) d/b/a CPKC (collectively, Applicants), seeking Board approval for KCS to acquire from Meridian & Bigbee Railroad, L.L.C. (MNBR), and to operate approximately 50.4 route miles of rail line between Meridian, Miss., and Myrtlewood, Ala.<sup>2</sup> The Board also directed Applicants to supplement their Application with certain additional information and set forth a procedural schedule.

Due to a delay in the publication of the Board's decision in the Federal Register,<sup>3</sup> the

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<sup>1</sup> This decision embraces the following dockets: CSX Transportation, Inc.—Discontinuance of Trackage Rights Exemption—in Marengo & Choctaw Counties, Ala. & Lauderdale County, Miss., Docket No. AB 55 (Sub-No. 814X); Alabama & Gulf Coast Railway—Trackage Rights Exemption—Kansas City Southern Railway d/b/a Canadian Pacific Kansas City, Docket No. FD 36731; and CSX Transportation, Inc.—Trackage Rights Exemption—Kansas City Southern Railway, Docket No. FD 36730.

<sup>2</sup> The Board also accepted for consideration the related filings in Docket Nos. FD 36730 and FD 36731. The Board further noted that the verified notice of exemption filed in Docket No. AB 55 (Sub-No. 814X) does not qualify for the class exemption procedures under which it was filed; however, the Board accepted the verified notice as evidence bearing on consideration of whether to grant an individual exemption on the Board's own motion.

<sup>3</sup> The Board's decision was published in the Federal Register on November 9, 2023 (88 Fed. Reg. 77,409).

procedural schedule will be updated as shown in the Appendix to this decision.

It is ordered:

1. The procedural schedule for this proceeding is updated as shown in the Appendix to this decision.

2. This decision is effective on November 9, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

## APPENDIX

### PROCEDURAL SCHEDULE

|                                                 |                                                                                                                                                               |
|-------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| October 6, 2023                                 | Application filed.                                                                                                                                            |
| November 3, 2023                                | Board notice of acceptance of application served.                                                                                                             |
| November 21, 2023                               | Applicants' supplemental information due.                                                                                                                     |
| November 27, 2023                               | Notices of intent to participate in this proceeding due.                                                                                                      |
| December 11, 2023                               | All comments, protests, requests for conditions, and any other evidence and argument in opposition to the application, including filings of DOJ and DOT, due. |
| January 8, 2024                                 | Responses to comments, protests, requests for conditions, and other opposition due. Rebuttal in support of the application due.                               |
| TBD                                             | Record closes.                                                                                                                                                |
| No later than 45 days after close of the record | Date by which a final decision will be served. <sup>4</sup>                                                                                                   |
| 30 days after service                           | Board's decision becomes effective.                                                                                                                           |

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<sup>4</sup> Under 49 U.S.C. 11325(d)(2), the Board must issue its final decision within 45 days of the close of the evidentiary record. However, under NEPA, the Board may not issue a final decision until after the required environmental review is complete. In the event the environmental review process is not able to be concluded in sufficient time for the Board to meet the 45-day provision in section 11325(d)(2), the Board will issue a final decision as soon as possible after that process is complete.