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SERVICE DATE – DECEMBER 7, 2023

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36727¹

CSX TRANSPORTATION, INC.—ACQUISITION AND OPERATION—RAIL LINE OF
MERIDIAN & BIGBEE RAILROAD, L.L.C.

Decision No. 3

Decided: December 7, 2023

By decision served November 3, 2023, the Board accepted for consideration the application filed October 6, 2023, by CSX Transportation Inc. (CSXT), seeking Board approval for CSXT to acquire from Meridian & Bigbee Railroad, L.L.C. (MNBR), and operate certain rail line between Burkville, Ala., and Myrtlewood, Ala. On that same day, the Board served a decision in Docket No. FD 36732 accepting for consideration the application filed by Canadian Pacific Kansas City Limited, 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 MNBR, and to operate approximately 50.4 route miles of rail line between Meridian, Miss., and Myrtlewood, Ala. These proposed transactions involve contiguous segments of the same rail line and, if both are approved, would establish a new direct interchange between Class I railroads. See Can. Pac. Kan. City Ltd.—Acquis. & Operation—Certain Rail Line of Meridian & Bigbee R.R. in Lauderdale Cnty., Miss., & Choctaw & Marengo Cntys., Ala., FD 36732, slip op. at 8-9 (STB served Nov. 3, 2023).

The Board established a procedural schedule in each case with deadlines identical to the other. Id. at Appendix; CSX Transp., Inc.—Acquis. & Operation—Rail Line of Meridian Bigbee R.R., FD 36727, slip op. at Appendix (STB served Nov. 3, 2023). Due to a delay in the publication of the Board’s decision in the Federal Register in both this proceeding and in Docket No. FD 36732, the Board amended the procedural schedules in both proceedings in decisions served on November 9, 2023. Again, the Board established identical procedural schedules for both proceedings. Can. Pac. Kan. City Ltd.—Acquis. & Operation—Certain Rail Line of Meridian & Bigbee R.R. in Lauderdale Cnty., Miss., & Choctaw & Marengo Cntys., Ala., FD 36732, slip op. at Appendix (STB served Nov. 9, 2023); CSX Transp., Inc.—Acquis. & Operation—Rail Line of Meridian Bigbee R.R., FD 36727, slip op. at Appendix (STB served Nov. 9, 2023).

¹ This decision embraces the following dockets: Alabama & Gulf Coast Railway—Trackage Rights Exemption—CSX Transportation, Inc., Docket No. FD 36724; Meridian & Bigbee Railroad—Discontinuance of Incidental Overhead Trackage Rights—in Lowndes & Montgomery Counties, Ala., Docket No. AB 1335X.

On November 8, 2023, Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NSR) filed a motion in Docket No. FD 36732 requesting that the Board direct Applicants to redesignate certain portions of their application from highly confidential to either confidential or public. By decision served December 6, 2023, the Board granted in part and denied in part NSR's motion. That decision directed Applicants to file, by December 11, 2023, full and complete redesignated versions of their application and any of their other filings in which the redesignated materials appear. Can. Pac. Kan. City Ltd.—Acquis. & Operation—Certain Rail Line of Meridian & Bigbee R.R. in Lauderdale Cnty., Miss., & Choctaw & Marengo Cntys., Ala., FD 36732, slip op. at 7 (STB served Dec. 6, 2023). In light of the refiling of the application (and any other filings, if necessary) in Docket No. FD 36732, the Board postponed the deadline for filing all comments, protests, requests for conditions, and any other evidence and argument in opposition to that application and related filings, including filings by the U.S. Department of Justice and the U.S. Department of Transportation, until December 18, 2023. Id. In addition, the Board postponed the deadline for filing responses to comments, protests, requests for conditions, other opposition, and rebuttal in support of the application in Docket No. FD 36732 until January 18, 2024. Id.

Because the Board believes that administrative efficiency is best served by keeping the procedural schedules in both proceedings in alignment, the deadlines in this proceeding will be amended to match those in Docket No. FD 36732. Accordingly, the Board will postpone the deadline for filing all comments, protests, requests for conditions, and any other evidence and argument in opposition to CSXT's application and related filings, including filings by the U.S. Department of Justice and the U.S. Department of Transportation, until December 18, 2023. In addition, the Board will postpone the deadline for filing responses to comments, protests, requests for conditions, other opposition, and rebuttal in support of CSXT's application until January 18, 2024.²

It is ordered:

1. All comments, protests, requests for conditions, and any other evidence and argument in opposition to CSXT's application and related filings, including filings by the U.S. Department of Justice and the U.S. Department of Transportation, must be filed by December 18, 2023. Responses to comments, protests, requests for conditions, other opposition, and rebuttal in support of CSXT's application must be filed by January 18, 2024.
2. This decision is effective on December 7, 2023.

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

² On December 5, 2023, NSR filed a motion in this proceeding and in Docket No. FD 36732 to allow for completion of discovery and to amend the procedural schedule. On December 7, 2023, CSXT filed a reply. NSR's December 5, 2023 motion will be addressed in a subsequent decision.