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December 11, 2023

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: STB Docket No. FD 36406, Port Authority of Kansas City, Missouri
– Construction and Operation Exemption–In Jackson and Clay Counties, MO

Dear Ms. Brown:

Enclosed for filing in the above referenced docket is the Verified Supplement of Jon Stephens as requested by the Board in its November 20, 2023, decision served in the above referenced docket.

Also enclosed is a certification that – as per the Board's November 20 decision – a copy of that decision and the enclosed Verified Supplement have been served on representatives of Union Pacific Railroad Company, Kansas City Southern Railroad Company, and Molycop.

If you have any questions related to this filing, please let me know.

Sincerely,



Justin J. Marks
Counsel to Port KC

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that I have caused the Board's November 20, 2023 Decision in Docket No. FD 36406 and the Verified Supplement of Jon Stephens to be served electronically on representatives of the Union Pacific Railroad Company, the Kansas City Southern Railroad Company, and Molycop.

Union Pacific Railroad Company

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Dated: December 11, 2023



Justin J. Marks

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36406

PORT AUTHORITY OF KANSAS CITY
– CONSTRUCTION AND OPERATION OF A LINE OF RAILROAD –
IN JACKSON AND CLAY COUNTIES, MO

VERIFIED SUPPLEMENT OF JON STEPHENS

My name is Jon Stephens, I am President and CEO of the Port Authority of Kansas City, Missouri (Port KC). I previously submitted a joint verified statement in support of Port KC’s construction petition.

On November 20, 2023, the Board issued a decision requesting a verified supplement clarifying aspects of the Port KC Proposed Rail Line for our MRT Project. Port KC appreciates the opportunity to provide this clarification because the Board appears to be under the impression that the Proposed Line is dependent on accessing the Kansas City Terminal Railroad “KCTL” yard that lies on the south side of the Proposed Line. In its November 20 decision, the Board stated “[a]s currently described, Port KC’s construction project seemingly depends on its ability to obtain access to the line and track of other parties.”¹

Considering the Board’s permissive licensing authority, Port KC developed the Proposed Line to provide the most advantageous commercial flexibility for the redevelopment of the former AK Steel property into the MRT Project by developing the Proposed Line to connect to KCTL and thus to have interchange potential to all of KCTL’s interchange partners in the Kansas City area.

¹ *Port Authority of Kansas City, Mo. – Construction and Operation Exemption - in Jackson and Clay Counties, Mo.*, STB Financed Docket No. 36406, slip op. at 3 (served Nov. 20, 2023).

However, in the petition, Port KC did not explicitly state that another option that it could pursue in lieu of accessing KCTL would be to instead interchange directly with the serving carrier, Union Pacific Railroad Company (UP).² If Port KC interchanged with UP, it could connect at the same point on the UP line as it is Proposing to cross over to KCTL under the Proposed Line. Therefore, interchanging with UP would not change the footprint of the Proposed Line for the purposes of OEA's NEPA review.

In response to the Board's questions, Port KC answers as follows:

- 1) Port KC's plans (if any) for obtaining access over UP Main 1, the UP wye track, and the KCS line to route westbound traffic (i.e., the UP-KCS Route), including the status of any negotiations with UP and KCS;

Port KC's preferred plans for obtaining access to the UP-KCS Route remains a negotiated agreement, if Port KC were to conclude that interchanging with KCTL provides the Proposed Line and the MRT Project with the best commercial opportunities. However, in Port KC's most recent conversation with UP on August 15, 2023, UP expressed concern with the Port KC proposal to cross its track.

Port KC's exchanges with KCS on the topic of the MRT Project to date have been limited to the filings by the parties in this docket. Port KC hopes to connect with KCS in January 2024 to discuss the MRT Project. Port KC is optimistic considering KCS's support of Kansas City – as demonstrated by CPKC acquiring the naming rights of the KC Current Soccer Stadium which is constructed on land owned by Port KC.³

² UPRR currently serves another Port KC terminal – Woodswether Terminal, although Port KC is not a rail common carrier at this facility. *See Joint Verified Statement of Jon Stephens and Richard Grenville* at 2-3 filed in support of the Port KC Petition for Construction and Operating Authority.

³ Kansas City Current and CPKC announce historic stadium naming rights agreement, available at <https://www.cpkcr.com/en/community/cpkc-stadium#:~:text=Kansas%20City%20Current%20and%20CPKC,be%20known%20as%20CPKC%20Stadium>. (last accessed Dec. 4, 2023).

- 2) Port KC's plans (if any) for obtaining access over UP Main 1, UP Main 2, and the Molycop industrial track to route eastbound traffic (i.e, the UP-Molycop Route), including the status of any negotiations with UP and Molycop.

In terms of the Molycop property, it is Port KC's intention to negotiate access to the non-carrier industry track in the same manner that Port KC is currently acquiring the property neighboring the MRT Project.

As stated above, Port KC's preference is to negotiate an agreement with UP for access to UP Main 1 and UP Main 2.

- 3) If Port KC cannot reach agreement with UP and/or KCS to access the UP-KCS Route, or with UP and/or Molycop to access the UP-Molycop Route, which portions of these routes Port KC intends to seek access to by filing a crossing petition under 49 U.S.C. § 10901(d).

It is premature for Port KC to consider which portions of these routes that Port KC may require under a crossing petition. In our petition, Port KC requested a certificate of public convenience and necessity (PC&N) if the parties could not reach agreement for Port KC to access KCTL to facilitate Port KC's request for a crossing order. Port KC is willing to withdraw its request for a PC&N (subject to a reserved right to do so at a later date) if that would alleviate concern from the railroads and the Board that a crossing petition from Port KC is imminent.

The development of the MRT Project continues as Port KC awaits the release of the Environmental Assessment and Board consideration of Port KC's petition. As stated above, Port KC is in the process of acquiring the neighboring property. In addition, the State of Missouri recently awarded \$30 million to Port KC to be used to improve road access to the MRT Project.⁴

Considering that Port KC's Proposed Line could connect to the UP line instead of crossing over to the KCTL for access to the interstate rail network, Port KC respectfully requests that the

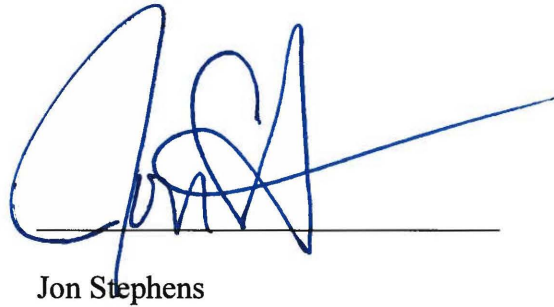
⁴ Todd Palmer, Port KC to renovate, develop Missouri River ports with \$37 million in state finding. KSHB-TV, Kansas City *available at* <https://www.kshb.com/news/local-news/port-kc-to-renovate-develop-missouri-river-ports-with-37-million-in-state-funding> (last accessed December 3, 2023).

Board remove the NEPA review from abeyance so that OEA may finish analyzing the potential environmental impacts of the Proposed Line.

VERIFICATION

I, Jon Stephens, declare under penalty of perjury that I have read the foregoing Verified Statement, that I know the facts asserted therein, and that the same are true as stated. Further, I certify that I am qualified to and authorized to submit this Verified Statement.

Executed on December 11, 2023



Jon Stephens