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MULLINS LAW GROUP PLLC

Transportation Solutions for the 21st Century

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May 28, 2024

VIA E-FILING

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

Re: BNSF Railway Company – Terminal Trackage Rights – The Kansas City
Southern Railway Company And Union Pacific Railroad Company,
FD 32760 (Sub-No. 46)

Ms. Brown,

On December 14, 2023, The Kansas City Southern Railway Company (“KCS”) petitioned for a “staff supervised technical conference to clarify the exact issues the Board has with the evidence submitted by KCS and its expert Dr. Kevin Neels.”¹ In a decision served January 10, 2024, the Board granted KCS’s unopposed request for a technical conference limited to outside counsel and outside consultants only and directed KCS to submit by January 24, 2024 a list of specific technical questions that it seeks to discuss at the technical conference See Decision No. 12 (STB served Jan. 10. 2024). As directed, KCS submitted a list of questions to the Board on January 24, 2024.

On May 24, 2024, in Decision No. 13, the Board set the technical conference for Thursday, June 13, at 10:00 am at the Board’s headquarters at 395 E Street, S.W., Washington, DC 20423. Decision No. 13 directed KCS to provide the names and positions of persons

¹ In a decision served November 28, 2023, the Board directed the parties to submit supplemental analysis and data due to an apparent error in the parties’ evidence regarding the proposed methods for determining compensation for BNSF Railway Company’s terminal trackage rights over the Rosebluff Lead. See Decision No. 11 (served Nov. 28, 2023).

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May 28, 2024
Page 2 of 2

participating in the conference by May 31, 2024.² This letter hereby provides the Board with the information requested. The participants will be:

From Mullins Law Group, PLLC, outside counsel for KCS.

- William A. Mullins, Managing Partner
- Crystal M. Zorbaugh, Senior Counsel

The following outside consultants for KCS:

- Dr. Kevin Neels, Principal, Tampa Bay Economists, sub-contractor to The Brattle Group
- Nicholas E. Powers, Principal, The Brattle Group
- Ivy Yang, Senior Research Analyst, The Brattle Group

While the Board's decision served on May 24, 2024, provided three weeks' notice of the upcoming technical conference, Dr. Neels had already committed to a longstanding prior obligation that prevents him from attending in person. In the interest of moving forward expeditiously, KCS respectfully requests that Dr. Neels be allowed to participate remotely, while Mr. Mullins, Ms. Zorbaugh, Mr. Powers, and Ms. Yang will all participate in person. Should you have any questions, please do not hesitate to contact me by telephone at (202) 663-7823, or by email at wmullins@mullinslawgroup.net.

Sincerely,

/s/ William A. Mullins

William A. Mullins

Counsel for The Kansas City Southern Railway
Company

cc: Parties of Record

² UP and BNSF were likewise directed to file a letter providing the names and positions of the participants by May 31, 2024, should UP and BNSF plan to participate in the conference.