

MULLINS LAW GROUP PLLC

Transportation Solutions for the 21st Century

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July 19, 2024

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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

ENTERED
Office of Proceedings
July 19, 2024
Part of
Public Record

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 On May 24, 2024, in Decision No. 13, the Board set the technical conference for Thursday, June 13 at the Board’s headquarters. Counsel for KCS, BNSF Railway Company (“BNSF”), and Union Pacific Railroad Company (“UP”) participated in the technical conference. Following the technical conference, on June 25, 2024, the Board issued Decision No. 14 reinstituting the procedural schedule and setting KCS’s due date for submission of supplemental analysis, data, and workpapers supporting KCS’s line segment earnings calculations to August 9, 2024.

Since Decision No. 14, KCS and its expert witnesses at Brattle Group have been analyzing and preparing a response to the Board’s requests. Unfortunately, Brattle’s efforts come at a time when certain key Brattle Group staff who are preparing KCS’s response are not available to finish their analysis and comments by August 9, 2024. This is either because of vacation schedules or the existence of another time-sensitive project with largely the same

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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Page 2 of 2

deadline. Complicating matters Mullins Law Group PLLC is relocating its office effective August 1, 2024. In light of these developments, KCS approached BNSF and UP about consenting to a short extension of the procedural schedule, and both BNSF and UP have consented to a short two week extension.

KCS appreciates both the Board's desire to move forward expeditiously and its overriding interest in having adequate information in the record for the Board to reach a decision. A two-week extension in the procedural schedule, to August 23, 2024, is reasonable under the circumstances and furthers both objectives, particularly given that BNSF and UP have consented. A grant of the extension requested would likewise move BNSF and UP's deadline for replies to September 23, 2024, and KCS's rebuttal deadline to October 7, 2024. 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