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April 12, 2021

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

301952

ENTERED
Office of Proceedings
April 13, 2021
Part of
Public Record

Re: Finance Docket No. 36500 – Reply to Objections to KCS Waiver

My name is Brad Flegel, and my business address is # 104 – 6303 30th Street SW Calgary, Alberta, Canada. I am Vice President of Operations for Boss Lubricants. In my role, I am responsible for many operational aspects including procurement of lubricants shipping via rail from our various suppliers in the United States.

Boss Lubricants has previously submitted to the Board a letter supporting approval of the proposed CP-KCS combination, and I have attached a copy of that letter for the Board's convenience. As expressed in our previous letter, Boss Lubricants supports swift approval of the CP-KCS combination because of the significant benefits we expect to realize from this transaction.

Boss Lubricants is aware that several parties have filed objections to the application of the pre-2001 merger rules to the CP-KCS transaction under the "waiver" issued in 2001 for transactions involving KCS. Boss Lubricants wishes to reply to those objections by urging the Board not to revoke the KCS waiver. The pre-2001 rules provide the Board and all interested parties all the tools that are needed to fully evaluate the proposed transaction.

We are fully cognizant of the Board's mandate to ensure that Class I mergers are in the public interest, and do not risk significant disruptions in the railway system. From our perspective, the unique nature of the CP-KCS transaction alleviates the concerns that motivated the new rules adopted in 2001. Reviewing the CP-KCS combination under the tried and true pre-2001 merger standards will prevent undue delay, while still allowing for a thorough public interest assessment by the Board.

As we have mentioned in our April 01, 2021 letter, the end-to-end CP-KCS transaction will improve service options, with new single-line hauls and broader access to markets across North America. Our experience shows us that single-line rail service options are far superior to public and private fleets. The unique synergies of a CP-KCS combination promise significant public benefits to Boss Lubricants and similarly situated shippers, which we are eager to see realized as soon as possible, without the delays and additional burdens that would result from applying the 2001 rules for the first time ever to this transaction.

Nothing about the CP-KCS transaction raises the kinds of concerns that would flow from a merger of the much larger Class I railroads. The issues should be simple – the transaction improves competitive options and service – and any concerns any party has should be easy to address under the pre-2000 rules. The 2001 rules were designed for much more complex transactions raised much more serious issues, and they should not be tested out in this case.

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Boss Lubricants and our shipping partners are looking forward to a stronger CPKC network that will increase our access to diversified market opportunities. As such, we urge the Board to apply the KCS waiver provision it thoughtfully included in its 2001 Major Merger Rules. An elongated period of review will delay and potentially reduce the positive synergies this merger promises. The KCS waiver will allow the Board to conduct a thorough but efficient and fair review and allow for the benefits of the new CPKC network to come to fruition more quickly.

Boss Lubricants is additionally concerned that applying the 2001 Major Merger Rules to the CP-KCS merger, a transaction the rules were not designed for, would lead to precedent with unintended consequences and might also create an easier path for some other Class I merger proposals that would be problematic in ways CP-KCS is not. The CP-KCS merger is unlike other Class I merger combinations, in that it is a straightforward transaction between the two smallest U.S. Class I railroads, and it promises substantially more benefits than risks to the public interest. We also know that this transaction, among all possible Class I mergers, is unique in not posing any serious concerns about lost competition, service disruption, or other harms. Interpreting and applying the 2001 rules to this transaction could encourage other Class I railroads to see an easier path for their own Class I merger proposals without the same unique benefits of the CP-KCS transaction.

For these reasons, Boss Lubricants urges the Board to maintain the KCS waiver and reject calls to revoke it, and to proceed to review and approve the CP-KCS proposed combination as expeditiously as possible. We look forward to seeing CPKC as a stronger competitor in the industry.

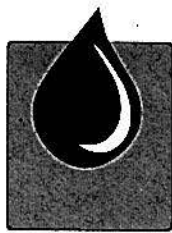
Yours sincerely,

Brad Flegel
Vice President of
Operations Boss Lubricants

CC: Parties of Record

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STB Finance Docket No. 36500

CP-KCS Proposed Combination

ATTENTION: Surface Transportation Board

My name is Brad Flegel and our business address is # 104, 6303 - 30th Street SE, Calgary, Alberta, Canada. I am the Vice President of Operations at Boss Lubricants. In my role, I am responsible for various operational aspects of our business including the procurement of lubricant supply that is shipped in railcars from various suppliers who are mostly located in the United States & Canada.

Boss Lubricants is a family-owned business which is currently entering its 28th year of operation. Over this period, we have chosen CP Rail as our primary rail service provider to ensure our railcars are quickly and efficiently delivered to our Calgary head office location. We have enjoyed working with CP Rail as they have helped us grow and flourish as a company.

Boss Lubricants supports the approval of the CP/KCS combination. The transaction would provide significant benefits that we are eager to see realized as soon as possible.

For our perspective, the transaction promises to provide improved service options and invigorate transportation competition in the markets we serve. The combined CPKC network – with new single-line hauls and access to premier ports on the U.S. Gulf, Atlantic and Pacific coasts as well as to key overseas markets – would help us reach our existing markets and new markets more efficiently. And, with the two railroads' strong focus on safety and their track record of operational excellence, I have no doubt that CPKC will be able to integrate their operations seamlessly to the benefit of rail customers and other stakeholders. Boss Lubricants has not often spoke favorably about railroad consolidation, but we see this transaction as uniquely beneficial, with none of the downsides that might result from another round of Class I consolidation.

Boss Lubricants relies on the supply of lubricants in order to serve and facilitate our customers across Canada. Our company sources these lubricant supplies all over North America in locations such as Minnesota, Ohio, Louisiana, & Texas.

CP Rail has always done their best to provide good service, but its market reach is limited today as their lines only go as far south as Kansas City. If CP Rail could interline with other railroads to reach further markets and locations beyond Kansas City and reduce shipping delays this would only prove beneficial to Boss Lubricants going forward.

Personally, I know from experience and having many conversations with our suppliers who have single-line rail options at their locations, that single-line rail service options are the way to go forward to ensure and provide the best service possible. Boss Lubricants are very excited about the transaction because we feel it will allow a combined CPKC to provide new, more efficient and reliable rail service options. This will strengthen competition against the other, larger rail carriers and trucks that serve our markets.

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Boss Lubricants are particularly enthusiastic about the role new CPKC single-line routes will play in expanding access to growing markets across the United States, Mexico and Canada under the USMCA trade agreement. It is important that there be a true USMCA railroad option.

CPKC's new service offerings will improve transit times and reliability, which will reduce our equipment costs and improve our efficiency. Boss Lubricants currently have railcars that are shipped out of Galena Park Texas and Shreveport Louisiana. Having new single routes will allow for these railcars a faster and quicker delivery of supply to our location in Calgary Canada, which in turn will allow us to provide better service and reliability to our customers.

KCS and CP have had a cooperative relationship in the past, and CP-KCS joint routes are among our transportation options, but as separate companies they have not been able to offer the kind of seamless, single-line service we have come to expect from our transportation providers. This transaction will improve our transportation options.

At the same time, the entirely complementary nature of CP's and KCS' networks – connecting only at Kansas City and not overlapping anywhere – means that the transaction will not have any adverse effects on competition. It will only make these carriers a better alternative relative to the other options that already exist, since CPKC will continue to interchange with all of their other existing interline partners.

We have always been aware that CP and KCS have held high standards of safety and operational effectiveness in their respective organizations. Given the straightforward network connectivity between CP and KCS, and the fact that CP and KCS are the two smallest U.S. Class I railroads, we are confident that they will be able to implement their transaction without the service disruptions that have accompanied some past rail mergers.

For these reasons, Boss Lubricants is voicing strong support for the combination of CP and KCS, because it will enhance competition, provide expanded options and drive efficiencies for customers of all sizes. Boss Lubricants urges the STB to approve CP's acquisition of KCS as quick as possible so that these systems can be integrated, and the end-to-end benefits of this deal can be realized for the benefit of all stakeholders.

Sincerely,

Brad Flegel, VP of Operations

Boss Lubricants

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