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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

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

Dear Ms. Brown,

The Kansas City Southern Railway Company (“KCS”) and Union Pacific Railroad Company (“UP”) request the Surface Transportation Board (“Board”) to schedule a mediation session in this matter utilizing the services of the Federal Mediation and Conciliation Service (“FMCS”) in conjunction with Board staff. KCS and UP continue to believe that the complex issues in this case, particularly operating issues that affect not only parties before the Board but also many non-party shippers, can be resolved much more effectively through flexible, guided give-and-take between the parties than through a set of written rules imposed unilaterally by the Board. KCS and UP hope that BNSF Railway Company (“BNSF”) will join in this renewed effort at Board-sponsored alternative dispute resolution in the above-referenced proceeding.

As the Board is aware, in the summer of 2018 KCS, BNSF and UP conducted an unsuccessful mediation session in this proceeding. Subsequently, the parties filed several additional pleadings responsive to Board requests. The proceeding remains pending with the Board.

Recently, when the Board has set matters for mediation, the Board has utilized the mediation services of the FMCS, along with Board staff. Counsel for KCS has been personally involved with two successful mediations involving Board staff and FMCS, and has been highly

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impressed with the effectiveness of the combined efforts of the two agencies. The use of FMCS mediators has allowed for the involvement of neutral third party professional mediators who bring fresh perspectives to proceedings, guided of course by Board personnel and policies.

KCS and UP believe that particularly in this proceeding, which is extremely complex, all parties would benefit from mediation utilizing both Board staff and the services of the FMCS to break through difficult issues and to reach a negotiated resolution which will serve all parties and affected shippers more effectively than a ruling by the Board. There are several avenues by which this proceeding may be resolved through private agreement, and KCS and UP believe the parties would benefit from the added fresh perspective and expertise of an FMCS mediator. Accordingly, KCS and UP jointly request that the Board set this matter for another round of mediation using FMCS and Board staff.

Sincerely,



William A. Mullins

cc: Parties of Record