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**VIA ELECTRONIC FILING**

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

**Re: Finance Docket Nos. 30800 and 30800 (Sub-No. 22)**

Dear Ms. Brown:

The Kansas City Southern Railway Company ("KCSR") wishes to advise the Board that it has received a number of recent requests for competitive rail service to the Gulf using KCSR's longstanding rights under the Term Sheet imposed as a condition in this docket. CPKC has had at least four concrete requests, including being notified this week that a customer that needs to move grain to Houston is delaying the shipment in hopes that a resolution by the Board will confirm the availability of the KCSR-direct route. Unfortunately, UP continues to object to KCSR providing that competition, preferring that CPKC interchange traffic to UP at Kansas City so that UP can charge its tariff rates south of Kansas City. *See* correspondence with UP in Attachment A hereto. However, allowing UP to control the pricing of shipments is not the competition that the ICC sought to preserve via the rights granted to KCSR under the Term Sheet.

The factual content of this letter is verified by Stephanie Roediger, Director of Sales at CPKC.

Respectfully submitted,

/s/ John M. Scheib

John M. Scheib

*Attorney for KCSR*

cc: All Parties of Record

**VERIFICATION**

I, Stephanie M. Roediger, declare under penalty of perjury that I serve as a Director of Sales at CPKC and that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed on this 20th day of March, 2024.

DocuSigned by:  
  
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Stephanie M. Roediger

# ATTACHMENT A



February 23, 2024

Ryan Raess  
General Director – Grain, Union Pacific Railroad  
1400 Douglas St.  
Omaha, NE 68179

**Re: Movement of Freight to Houston/Galveston to Meet Shipper Demand**

Dear Ryan:

In recent weeks, The Kansas City Southern Railway Company (“KCSR”) has received interest from multiple customers to move grain to destinations in Houston and Galveston, which would necessarily involve KCSR’s exercise of haulage/trackage rights granted by the Union Pacific Railroad Company (“UP”) from Beaumont to those points. CPKC has received concrete requests from four different customers for movement of grain from origins served by CP/Soo to Houston or Galveston via CP-Kansas City-KCSR direct routings, including a new request received last week.

As you are aware KCSR and UP are involved in litigation both at the Surface Transportation Board<sup>1</sup> and in Federal Court in Missouri<sup>2</sup> regarding the scope of the rights granted to KCSR in 1988 and set forth in the “Term Sheet for UP/KCS Haulage/Joint Rate Agreement with Trackage Rights Option” dated July 25, 1988. KCSR believes that it is in both KCSR and UP’s interest to make sure that customers are served even while this dispute is pending.

To avoid having to reject the transportation requests made by these customers, KCSR requests that UP accept shipments from these customers pursuant to the Term Sheet by handling the traffic on KCSR’s behalf over UP’s lines between Beaumont and Houston/Galveston. KCSR would agree that UP’s acceptance of these shipments during the pendency of our litigation is without prejudice to either party’s position in each of these two legal matters; that is, KCSR/CPKC

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<sup>1</sup> FD 30800 - *Union Pacific Corp., Union Pacific R.R. & Missouri Pacific R.R. – Control – Missouri-Kansas-Texas R.R., et al.*; FD 30800 (Sub-No. 22) - *The Kansas City Southern Ry. – Trackage Rights – Over Missouri Pacific R.R. and Missouri-Kansas-Texas R.R.*

<sup>2</sup> *Union Pac. R.R. Co. v. Kansas City S. Ry. Co.*, Civ. No. 4:23-cv-593-DGK.



would not refer before the STB or the court to movement of these shipments via the haulage rights as evidence of the scope of those rights.

Please advise by noon Central Time on February 28, 2024, whether UP will agree to KCSR's use of its Term Sheet rights for these movements without prejudice to UP's position in the pending litigation.

Sincerely,

Stephanie Roediger



**BUILDING AMERICA®**

February 28, 2024

Stephanie Roediger  
CPKC  
120 South 6<sup>th</sup> Street  
Minneapolis, MN 55402

Dear Stephanie:

Thank you for your recent letter received on February 23, 2024. Union Pacific remains unwavering in its commitment to service even while the dispute regarding the scope of 'Term Sheet for UP/KCS Haulage/Joint Rate Agreement with Trackage Rights Option' (dated July 25, 1988) (Term Sheet dispute) is pending.

Union Pacific advised Kansas City Southern Railway Company on May 5, 2023, that it would continue to accept traffic in interchange from Kansas City to Houston/Galveston, TX, subject to rates published in active UP-CP tariffs. If CPKC desires to continue utilizing this solution until the Term Sheet dispute between the parties can be resolved, please advise so that UP can further coordinate those services. Thank you.

Sincerely,

Ryan Raess  
General Director-Marketing and Sales, Bulk