

PUBLIC VERSION – REDACTED

UP-14

305550

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36500

ENTERED
Office of Proceedings
October 21, 2022
Part of
Public Record

CANADIAN PACIFIC RAILWAY LIMITED; CANADIAN PACIFIC RAILWAY
COMPANY; SOO LINE RAILROAD COMPANY; CENTRAL MAINE & QUEBEC
RAILWAY US INC.; DAKOTA, MINNESOTA & EASTERN RAILROAD
CORPORATION; AND DELAWARE & HUDSON RAILWAY COMPANY, INC.

—CONTROL—

KANSAS CITY SOUTHERN; THE KANSAS CITY SOUTHERN RAILWAY COMPANY;
GATEWAY EASTERN RAILWAY COMPANY; AND THE TEXAS MEXICAN RAILWAY
COMPANY

UNION PACIFIC RAILROAD COMPANY'S FINAL BRIEF

CRAIG V. RICHARDSON
JAMES B. BOLES
TONYA W. CONLEY
WHITNEY C. LARKIN
Union Pacific Railroad Company
1400 Douglas Street
Omaha, Nebraska 68179
(402) 544-7004

MICHAEL L. ROSENTHAL
Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, D.C. 20001
(202) 662-6000

Attorneys for Union Pacific Railroad Company

October 21, 2022

TABLE OF CONTENTS

I.	The Board should require Applicants to participate in an independent study of the need for merger-related capacity investment and add needed infrastructure before they may increase train operations through Houston.....	2
A.	Applicants have not adequately addressed the need for new capacity to implement their proposed merger in the Houston area.	2
B.	Board action is necessary to ensure Houston has sufficient capacity before CPKC increases train operations, regardless of who would bear the costs under the UP-KCS trackage rights agreement.	10
C.	A new, independent study is needed to assess the need for merger-related capacity investment in the Houston area.	12
II.	The Board should impose a concrete, enforceable rule for setting “commercially reasonable” gateway rates as a condition, if it approves the merger.	14
A.	Applicants’ promise to arbitrate gateway rates is illusory.....	14
B.	Applicants’ proposed merger creates a significant risk that CPKC will foreclose competition at gateways.	15
C.	UP, NITL, ACC, and TFI proposed a concrete, enforceable rule for setting “commercially reasonable” rates.	17
1.	Mileage-based divisions are “commercially reasonable.”	18
2.	The UP/NITL/ACC/TFI proposal would promote competition and benefit shippers.	20
3.	The UP/NITL/ACC/TFI proposal would not interfere with market-based competition.	24
D.	Mexican law will not prevent gateway foreclosure.	25
E.	The Board has jurisdiction to impose conditions affecting gateway rates for cross-border traffic.	26
F.	The Board should clarify that UP is entitled to use the new international rail bridge KCS is constructing at the Laredo Gateway.	27
III.	Conclusion	28

GLOSSARY OF ABBREVIATIONS

ACC	American Chemistry Council
BNSF	BNSF Railway Company
CP	Canadian Pacific Railway Limited; Canadian Pacific Railway Company; Soo Line; Central Main & Quebec Railway US Inc.; Dakota, Minnesota & Eastern Railroad Corporation; Delaware and Hudson Railway Company, Inc., and its U.S. rail carrier subsidiaries
CPKC	Canadian Pacific Kansas City (the future name of the parent company of CP/KCS, if the Board approves the proposed transaction)
CSXT	CSX Transportation, Inc.
FXE	Ferrocarril Mexicano SA de CV
KCS	Kansas City Southern
KCSM	Kansas City Southern de Mexico, S.A. de C.V.
NITL	The National Industrial Transportation League
TFI	The Fertilizer Institute
UP	Union Pacific Railroad Company

NOTE REGARDING REFERENCES TO VERIFIED STATEMENTS

References to “Rocker/Turner VS,” “Salop VS,” “Haley VS,” and “de la Calle VS” are to verified statements accompanying UP’s Comments.

References to “APP Vol.” are to the consecutively number pages in the Application.

References to verified statements accompanying the Application are identified by the last name of the witness and “VS.”

References to “APP Reply Vol.” are to the consecutively numbered pages in Applicants’ Response to Comments and Conditions, Opposition to Responsive Applications, and Rebuttal in

PUBLIC VERSION – REDACTED

Support of the Application (“Applicants’ Reply”). References to verified statements accompanying Applicants’ Reply are identified by the last name of the witness and “RVS.”

NOTE REGARDING CONFIDENTIALITY DESIGNATIONS

Material within single braces (“{ }”) has been designated Confidential under the Protective Order in this proceeding. Material within double braces (“{{ }}”) has been designated Highly Confidential. Confidential and Highly Confidential materials have been redacted from the public version of this filing.

UNION PACIFIC RAILROAD COMPANY’S FINAL BRIEF

UP opposes an unconditioned merger of CP and KCS. Applicants’ plan to increase traffic in the Houston area without adding capacity would adversely affect “the adequacy of transportation to the public.” 49 U.S.C. § 11324(b)(1). Applicants initially failed to address the merger’s impact on UP’s lines between Robstown and Beaumont, Texas, including the Houston terminal, apparently to avoid responsibility for funding new capacity. After UP criticized their omission, Applicants claimed their merger would not adversely affect Houston-area operations, going so far as to imply at the hearing that a KCS train took just 74 minutes to move through the Houston area, when that train actually took nearly eight hours to travel over UP’s track between Beaumont and Rosenberg. Applicants’ attempts to avoid responsibility for investing in capacity needed to implement their merger—including their selective and misleading introduction of evidence at the hearing—are deeply troubling. To mitigate their failure to confront honestly this critical issue, the Board should require Applicants to participate in an independent study of the need for merger-related capacity investment in the Houston area and to implement the study’s recommendations before they are allowed to increase train operations through Houston.

UP also opposes an unconditioned merger because it “would have an adverse effect on competition among rail carriers,” especially for traffic moving via the Laredo Gateway, to the detriment of shippers. 49 U.S.C. § 11324(b)(5). A merged CPKC would have the incentive and ability to increase the costs and reduce the quality of rail service for carriers providing shippers competitive options to CPKC north of Laredo. UP’s interests are fully aligned with shippers’ interests: shippers want carriers to compete with each other, and UP wants to compete with CPKC. The Board should impose the concrete, enforceable gateway rate condition that UP,

PUBLIC VERSION – REDACTED

NITL, ACC, and TFI independently proposed to ensure Applicants keep their promise to preserve competition at the Laredo Gateway and other gateways.

I. The Board should require Applicants to participate in an independent study of the need for merger-related capacity investment and add needed infrastructure before they may increase train operations through Houston.

UP is deeply concerned about the proposed merger’s potential impact on rail operations in the Houston area. Applicants plan to add a large amount of new traffic to Houston in a short time—eight trains in three years. They deny *any* additional infrastructure is needed to support such traffic growth. UP is not asking the Board to choose between competing views presented by UP and Applicants. The Board should simply order an independent study of the need for merger-related capacity investment to ensure the national rail network is protected.

A. Applicants have not adequately addressed the need for new capacity to implement their proposed merger in the Houston area.

In their Application, Applicants failed to study the need for investment to implement their proposed merger in the Houston area. After UP raised the issue, Applicants did not acknowledge the problem; instead, they tried to cover their tracks by claiming the Houston area has sufficient capacity to accommodate their projected traffic growth.

Applicants’ efforts extended to the hearing, where they presented a video purporting to show a KCS train breezing through Houston in 74 minutes. Applicants’ presentation was either intentionally misleading or exceptionally uninformed. The KCS train needed nearly eight hours to operate over KCS’s trackage rights on UP’s lines between Beaumont and Rosenberg, Texas. It entered UP track at Tower 31 in Beaumont at 7:39 a.m., and departed at North KCS Junction in Rosenberg at 3:28 p.m. The details are shown in Appendix A.

Applicants’ video showed only a sliver of the KCS train’s run through the Houston area. It started after dispatchers cleared a route from Tower 87 to Eureka Junction, so the train could

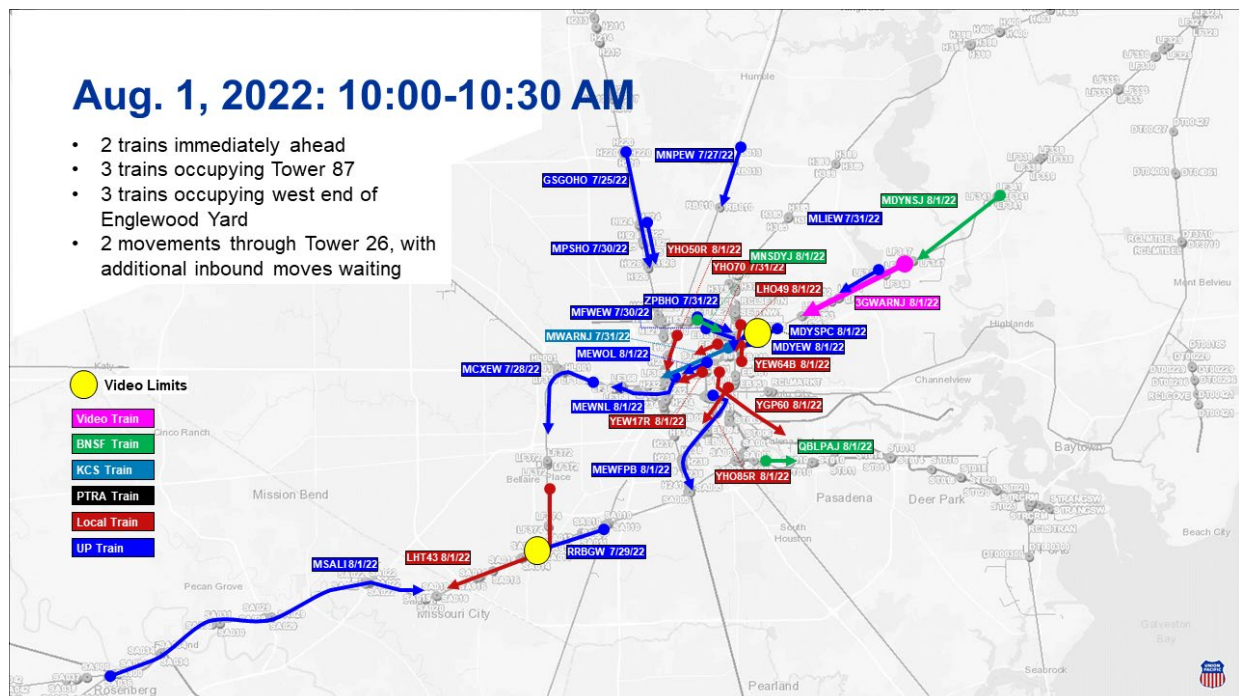
PUBLIC VERSION – REDACTED

run without stopping and blocking other tracks and street crossings. It ended before the train exited UP's tracks at Rosenberg, so it did not show the nearly two hours the train occupied a UP track while a local train served customer facilities. The 8-hour transit time was slightly below the 9.2-hour 2022 average for KCS trains travelling westbound from Beaumont to Rosenberg.

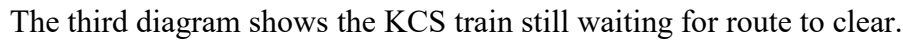
Applicants' video was also deceptive in suggesting there is minimal train activity on the trackage rights lines in Houston. Train cab video shows activity within about one-third of a mile of the cab, but train signals keep trains more than one-third of a mile apart, so the video naturally does not show trains ahead of the KCS train. Also, the video shows activity in one direction—straight ahead—so it does not show trains being blocked by the KCS train.

The diagrams below, developed from dispatching records, provide a more accurate view. They show the locations of trains in half-hour increments. Each train is represented by an arrow indicating its direction of movement and the control points occupied during each time period.

In the first diagram, the KCS train (pink arrow) moves west to Dawes, Texas, where it waited almost two hours before moving.



The second diagram shows the KCS train waiting at Dawes as other trains operate in and through the terminal area.

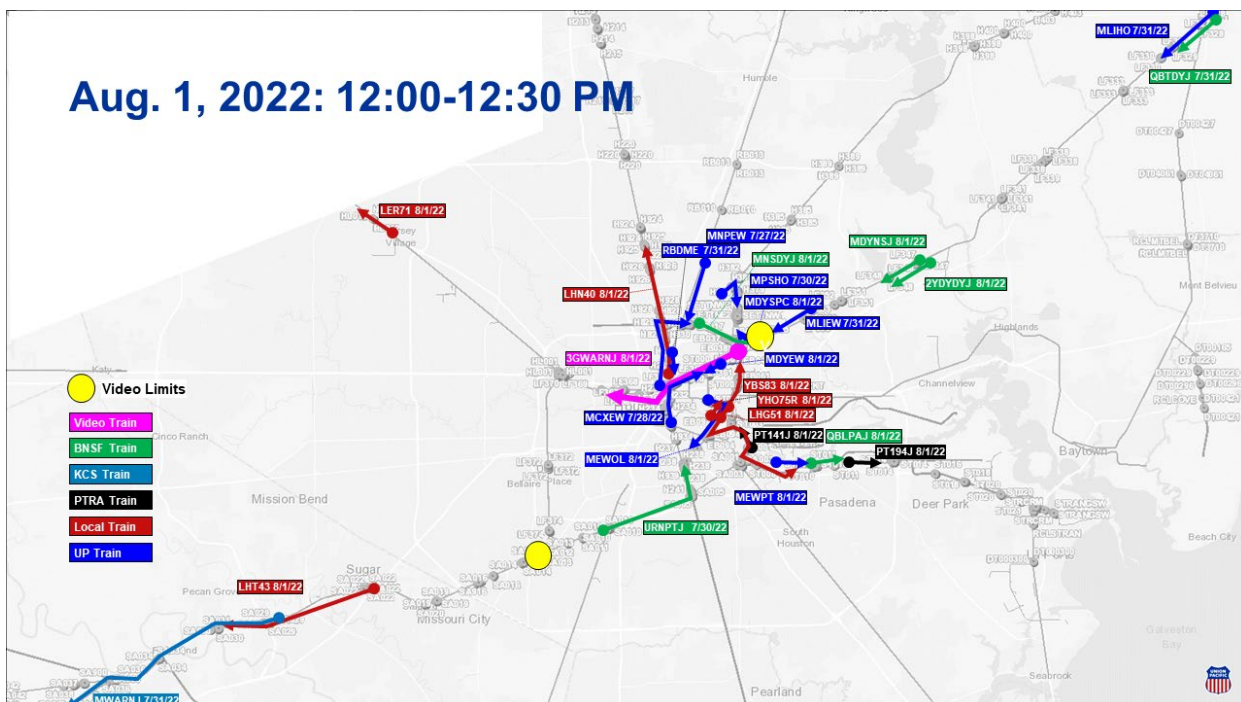


PUBLIC VERSION – REDACTED

The fourth diagram shows the terminal area just as the video begins, shortly before 12:00, as dispatchers cleared a path for the KCS train from Tower 87 to Eureka Junction.



The fifth diagram shows the KCS train will have a clear route to West Junction, the end point of the video, but it also shows the local that will impede the train's exit at Rosenberg.



PUBLIC VERSION – REDACTED

As the diagrams show, Applicants’ video gave the Board a highly misleading impression of the congestion and complexity rail carriers face when operating through Houston.¹

Applicants’ discussion while showing the video also revealed a lack of knowledge about the challenges of adding capacity in Houston. Specifically, Applicants referred to UP’s former Englewood Yard intermodal facility as a “field of dreams” that UP could use to expand capacity “in a matter of months.” UP is planning such a project, but Applicants are apparently unaware that the project cannot proceed until significant environmental issues are resolved.² Reflecting their cavalier approach to the entire question of capacity in the constrained Houston complex, Applicants did not bother to study the detailed facts that will affect their operations in Houston.

Applicants also revealed their lack of knowledge, or engaged in misdirection, when they asserted that adding eight CPKC trains per day to the Houston terminal would leave train counts below historic averages, and that daily counts can vary by more than eight trains.³ Applicants’ data included active trains in all of Houston, not just the lines over which CPKC trains would operate. On the lines CPKC trains would actually use, adding eight daily trains (or four daily trains on lines used for directional operations) to 2019 peak quarter train counts would require accommodating more daily trains than the peak number of trains in any one quarter from 2015 through 2019, even before accounting for UP, BNSF, or Amtrak growth—as shown below.⁴

¹ Applicants criticized UP dispatchers for routing the KCS train over a bypass track outside Englewood Yard. As UP’s diagrams show, the KCS train was not the only train operating in the area. Using the bypass track for through trains is part of sharing existing capacity with trains entering and exiting the Yard and is a normal part of coordinating Houston-area operations.

² Applicants’ lack of awareness of those environmental issues is confounding. In their own presentation to the Board, they referred to the bypass track outside Englewood Yard as the “Creosote track.” Creosote is the constituent of concern at the environmental site.

³ Applicants’ Rebuttal Hearing Presentation at 43 & 44.

⁴ Applicants’ exhibit showing volume fluctuations is also misleading because it shows changes in absolute value. Thus, if Day 1 is 7 trains below average, and Day 2 is 7 trains above average,

KCS Houston Flow – Planned

Percentage increase over peak

Train counts only.
Does not account for train size increases.

Legend

- UPRR
- Port Terminal RR Assn
- BNSF

Not Drawn to Scale

Percentage Increase Data:

Location / Junction	Percentage Increase
Rosenberg	22.9%
Eureka Jct	31.5%
Belt Jct	6.5%
Tower 26	12.9%
Carr St	11.0%
Rabbit crossing	5.7%
Gulf Coast Jct	16.9%
Settegast Jct	26.4%
Settegast Yard	2.8%
Tower 67	13.6%
N Shore Jct	13.4%
Houston Subdivision to Beaumont	16.3%

Applicants also said UP's analysis does not prove Houston could not accommodate their new trains because it addresses changes in traffic levels, not maximum track capacity. But UP's analysis explains why *Applicants' showing* was insufficient to meet *Applicants' burden* of proving Houston could accommodate their projected merger-related growth.

the chart would show a change of 14, even though daily train counts never exceeded the average by more than 7. *See id.* at 44.

much excess capacity, it would not be investing in this route. Yet, as Applicants acknowledge in their Reply, UP “has heavily invested in Houston in the past and continues to do so, including on the routes used by KCS trains.”⁵ Applicants noted one of those investments in their video—the bypass track next to Englewood Yard. Applicants’ capacity claim is wildly incorrect.

UP is investing in the route CPKC trains would use because it anticipated a need for additional capacity and began planning years ago, but it did not anticipate a merger of CP and KCS. Applicants are now proposing to add a substantial amount of *additional* traffic to the route, but without any plan for *additional* investment. They are courting disaster.

Two additional examples from the hearing show how far Applicants have gone to avoid acknowledging that implementing their merger will be far more costly and complex than they described in their Application:

First, after UP showed Applicants used aggressive assumptions in their Reply to address UP’s concerns about capacity needs on UP’s Brownsville Subdivision, Applicants claimed they also relied in part on UP’s Comments, which noted plans to add a new siding between Inari and Bloomington.⁶ But UP’s Comments could not have justified Applicants’ decision to ignore the Brownsville Subdivision *in the Application*. Also, Applicants’ Reply did not mention the siding. The first time Applicants said they considered the siding was at the hearing. If Applicants had said something earlier, UP would have explained the siding is in the design stage, and UP does not know when it will be constructed. If Applicants are actually relying on UP to construct the siding before their merger is fully implemented, their reliance is misplaced.⁷

⁵ APP Reply Vol. II at 435, Elphick/Orr RVS at 39.

⁶ See Applicants’ Rebuttal Hearing Presentation at 38.

⁷ At the hearing, Applicants blamed UP slow orders for their downward adjustment of available capacity from 6.2 trains per day to 1.7 trains per day on the Bloomington-Inari segment of the

Second, in response to UP's showing that Applicants used a different, more optimistic approach in their *reply* to calculate available capacity on the Vidor-Bloomington line segment that includes the Neches River Bridge than they used for other segments, Applicants said they used a different approach because of the "complexity" of the operation.⁸ However, Applicants actually analyzed the segment that includes the Bridge in the workpapers they submitted with their *Application*. In the *Application*, Applicants did not use a special analysis. They used the same analysis they used for other segments, and they concluded that the segment including the Bridge could accommodate {█} trains per day.⁹

UP's concern regarding the Bridge was never Applicants' original capacity calculation. UP's concern was Applicants' failure to recognize that UP, BNSF, and Amtrak trains also use the Bridge. Applicants considered only KCS's {█} daily trains and thus failed to recognize their projected merger-related growth would push the Bridge over capacity. Applicants' reply now shows at least 41 daily trains would operate over the Bridge,¹⁰ exceeding the {█} trains they originally said the Bridge could sustainably accommodate. Rather than accept the result, Applicants changed their methodology and criticized UP for calling out their trick. Changing methodologies to get the answer you want is no way to do a study—certainly not a study the Board should rely on in approving a merger.¹¹

Brownsville Subdivision. Applicants' errata filing shows the change reflected "typographical errors." See CP-61/KCS-47.

⁸ See Applicants' Rebuttal Hearing Presentation at 39.

⁹ See UP Comments at 61; see also *id.*, Ex. 16 (Elphick/Orr Deposition Exhibit 2); *id.*, Ex. 15 (Elphick/Orr Tr. 108:3–11 {█}).

¹⁰ See APP Reply Vol. II at 446, Elphick/Orr RVS at 50, Table 3.

¹¹ Applicants claim a KCS-BNSF-UP study concluded the Bridge has ample capacity. See APP Reply Vol. II at 799, Simmons RVS at 25. In fact, KCS conducted the study and presented its

B. Board action is necessary to ensure Houston has sufficient capacity before CPKC increases train operations, regardless of who would bear the costs under the UP-KCS trackage rights agreement.

Applicants claim that even if new capacity is needed to implement their merger in the Houston area, Board action is unnecessary because UP is responsible for adding capacity under the trackage rights agreement governing KCS operations over UP lines between Robstown and Beaumont. UP is not required to pay for capacity needed to implement the merger. But regardless of who pays, Board action is required to ensure needed capacity is added *before* CPKC increases train operations through Houston.

As UP explained at the hearing, Houston-area capacity projects typically take years to complete because of the many challenges involved in designing, permitting, and constructing new track in a high-density, highly industrialized environment. Applicants recognize UP “has heavily invested in Houston in the past and continues to do so,” but they fail to acknowledge the projects often took many years to complete.¹² Applicants also fail to recognize UP’s continuing investment addresses expected *incremental* traffic growth in the Houston area—not the *step-change* addition of the eight new trains Applicants project will result from their merger. The UP-KCS trackage rights agreement assigns responsibility for paying for new capacity, but it

conclusions to BNSF and UP. When asked at his deposition whether each railroad had agreed no new bridge was needed, Applicants’ witness responded: “I don’t know,” and acknowledged “[i]t is possible” that UP and BNSF disagreed with KCS’s conclusion. Simmons Tr. 131:21-132:5.

Applicants also said the Board should not credit concerns about the Bridge because UP and BNSF “did not get behind the Texas Department of Transportation’s . . . efforts in 2013 and 2016 to construct a new rail bridge.” APP Reply Vol. II at 796, Simmons RVS at 22. When deposed, Applicants’ witness said he only meant UP and BNSF did not “[c]onstruct a new rail bridge.” Simmons Tr. 123:19–124:17. However, KCS owns the Bridge and is responsible for expanding capacity. And, as Applicants’ witness stated, KCS “believe[d] there [was] adequate capacity on the bridge.” Simmons Tr. 126:5–9.

¹² APP Reply Vol. II at 435, Elphick/Orr RVS at 39.

cannot turn back the clock so capacity can be added before CPKC could begin running new trains through Houston. Only the Board can ensure CPKC does not increase operations before necessary capacity is put in place.¹³

At the hearing, the Board asked how the UP-KCS trackage rights agreement (“TRA”) would allocate responsibility for paying for capacity needed to implement the merger. CPKC must pay, at least initially, under Section 5(b)(i). The TRA addresses most “future Changes in and/or Additions to the Joint Trackage” in Section 5(b).¹⁴ Under Section 5(b)(i), if a change or addition “is for the sole benefit of one party, that party shall be solely responsible for the entire cost and expense.” Under Section 5(b)(ii), costs of other changes are shared by the parties “on the basis that the parties’ respective GTM’s [gross ton miles] operated over the Joint Trackage bear to total GTM’s operate over the Joint Trackage for the (12) month period immediately prior to the month work on the project is commenced.” Changes CPKC needs to implement its merger fall under Section 5(b)(i). If, at some future point, UP wanted to use the changes, it could obtain rights by paying 50% of CPKC’s initial costs, plus interest, as provided in Section 5(c).

At times, Applicants seemed to claim UP would be required to pay for all changes necessary to accommodate CPKC operations under Section 2.2(iii) of the TRA’s General Conditions, because CPKC would be paying its share of the costs for all changes through the trackage rights fee (the “GTM Rate”). Applicants are wrong. Section 2.2(iii) obligated UP to pay for changes necessary to ensure the joint trackage could accommodate Tex Mex’s *initial* operations, as opposed to the “future” changes addressed in Section 5(b) of the TRA, “while

¹³ Also, the UP-KCS trackage rights agreement does not govern the Neches River Bridge. KCS owns the Bridge and the track, and UP has trackage rights under a different agreement.

¹⁴ Under Section 5(a), Tex Mex was required to pay for changes necessary to implement the trackage rights.

maintaining existing service standards . . . in effect on the date of the Terms.” Section 2.2(iii) *reinforces* Section 5(b)(i) of the TRA by requiring UP to make other changes Tex Mex desires “if funded in advance by [Tex Mex].”

Applicants plainly understand KCS’s obligation to pay for additions and changes under Section 5(b) is in addition to paying the trackage rights fee. In describing KCS’s responsibilities under the TRA, they said: “KCS currently pays UP approximately \$39 million in trackage rights fees under [the] GTM Rate for the Beaumont-Rosenberg and Victoria-Robstown segments each year, *in addition to* sharing in the cost of infrastructure projects on track where KCS operates.”¹⁵ At the hearing, Applicants emphasized KCS has paid millions of dollars to increase capacity on the trackage rights lines.¹⁶ If KCS truly believed it was not obligated to pay anything in addition to the GTM fee to increase capacity on the trackage rights lines, it would not have paid millions of dollars for such changes over the years.

While UP believes Applicants should pay all of the costs associated with the merger, the Board does not need to decide who must pay: UP and CPKC can resolve any disputes regarding payment through the TRA’s arbitration provision.

C. A new, independent study is needed to assess the need for merger-related capacity investment in the Houston area.

At the hearing, Applicants claimed there was no need for a new study to assess the need for merger-related capacity investment in the Houston area. They said many studies had already been performed over the years, and their promise to “collaborate” with UP and BNSF to support “necessary infrastructure additions” should be sufficient.¹⁷ Applicants’ position is astonishing.

¹⁵ See APP Reply Vol. II at 787, Simmons RVS at 13 (emphasis added); *see also* APP Reply Vol. II at 437, Elphick/Orr RVS at 41, Figure 9 (KCS payments for capacity improvements).

¹⁶ Applicants’ Hearing Presentation at 32–33.

¹⁷ Applicants’ Rebuttal Hearing Presentation at 116.

PUBLIC VERSION – REDACTED

Applicants should have examined the need for new capacity to implement their merger in the Houston area as part of their Application. If they had performed a competent study, there would be no issue now. But Applicants failed to perform *any study*.

Prior Houston-area studies are not sufficient to address the proposed merger's impacts. Applicants did not rely on those studies in developing their Application. Those studies identified need for additional capacity *before even considering* Applicants' plan to increase Houston-area traffic by eight trains per day. A new study is necessary to address a post-merger Houston.

As for Applicants' promise to "collaborate" and support "necessary infrastructure additions," Applicants have made clear they believe no new capacity is necessary. They have shown no flexibility, claiming the UP-KCS trackage rights line can already accommodate 96 trains per day in Houston and the Neches River Bridge has ample room for growth. An independent study is needed to bridge the chasm between the parties' views.

At the hearing, the Board seemed concerned that the need for a study and investment in the Houston area could delay implementation of the merger and impose unexpected costs on Applicants. Those concerns are unwarranted for four reasons:

First, the Board cannot find the proposed merger is in the public interest unless and until it concludes the merger will not cause substantial harm in the Houston area. The Board cannot reach such a conclusion based on the present record, unless it imposes a condition to ensure Houston-area impacts are properly studied, and necessary investments are made before any merger-related changes to traffic levels occur.

Second, Applicants can choose whether to consummate their merger before they learn the results of the study. Applicants can choose not to consummate their merger if they are unwilling to accept the condition, and they could delay any decision until the study is complete.

PUBLIC VERSION – REDACTED

Third, Applicants could have avoided these difficulties by including a proper study of Houston-area capacity and investment needs in their Application. Applicants should not receive special consideration because they failed to address this critical issue in their Application.

Fourth, Applicants accepted the risk that the Board might impose costly conditions on their merger when CP acquired KCS's shares and place them into a voting trust. Applicants should not receive special consideration because of the risks they elected to take.

The Board should impose a condition requiring Applicants to agree, before increasing train operations through Houston, to:

(i) cooperate with UP and BNSF to select an independent consultant who will study the need for infrastructure additions in the Houston area (from Robstown, Texas, to the Neches River Bridge) to accommodate Applicants' projected merger-related traffic growth and recommend specific infrastructure projects;

(ii) provide information requested by the consultant; and

(iii) implement the consultant's recommendations (or cooperate with UP and BNSF to implement the recommendations, as necessary).

The condition should allow Applicants to return to the Board for relief if they believe UP and BNSF are delaying the study or implementation of the study's recommendations. Finally, the condition should provide that disputes over funding any new infrastructure should be resolved under the terms of the joint use agreements governing the facilities at issue.

II. The Board should impose a concrete, enforceable rule for setting "commercially reasonable" gateway rates as a condition, if it approves the merger.

A. Applicants' promise to arbitrate gateway rates is illusory.

Applicants want credit for promising to keep existing gateways open on "commercially reasonable" terms without providing a concrete, enforceable commitment. On the final day of

the hearing, Applicants grudgingly promised to arbitrate with payors of freight that claim gateway foreclosure. But their promise is entirely illusory for two reasons:

First, the arbitrator would have “[n]o authority to prescribe” gateway rates, so a shipper could not obtain relief even if it proved Applicants foreclosed competition by charging gateway rates that were not “commercially reasonable.”¹⁸

Second, a shipper could *never* prove a particular gateway rate is *not* “commercially reasonable” unless the Board establishes a rule for judging whether such a rate is “commercially reasonable.” Applicants admitted as much to UP when addressing the Board’s condition in the KCS/Tex Mex merger requiring KCS to charge “commercially reasonable” gateway rates:

The Board did not define “commercially reasonable” in its 2004 Tex Mex decision There are no set metrics; there are no dollar caps. There is no rule by which UP could even determine, at this later date and with full hindsight, whether a particular rate . . . is “commercially reasonable”¹⁹

Applicants’ last-minute promise is the same as no promise at all.

B. Applicants’ proposed merger creates a significant risk that CPKC will foreclose competition at gateways.

Applicants have acknowledged the validity of concerns about their merger’s effects on gateway rates. { [REDACTED]

[REDACTED] }²⁰ Applicants not only promised to “keep existing gateways open on commercially reasonable terms,” but also to “work with shippers” to make their commitment “more concrete and readily enforceable.”²¹

¹⁸ Applicants’ Rebuttal Hearing Presentation at 97.

¹⁹ UP Comments, Ex. 19 (Applicants’ Reply to UP’s Motion to Compel at 12).

²⁰ UP Comments, Ex. 2 (CP Letter to National Industrial Transportation League).

²¹ APP Vol. 1 at 232, 233, Brooks VS ¶¶ 42, 47.

At the hearing, Applicants tried to assure the Board their unenforceable gateway rate promise was sufficient because they lacked the *incentive* and the *ability* to foreclose competition. They said they had no *incentive* to foreclose because KCSM already extracts the full monopoly profit that could be earned on cross-border traffic, and no *ability* to foreclose because shippers with options would turn to FXE, truck, or water alternatives. Applicants’ arguments are based on a simplistic theory that assumes rail carriers have perfect information and offer undifferentiated products. The real world does not comport with their theory.

Applicants had no answer to the testimony of Dr. Steven Salop, who explained KCSM likely was not extracting the full monopoly profit because KCSM lacked full information about CP and UP costs, and because shippers likely viewed the competing KCSM-UP and KCSM-CP services as qualitatively different.²² Dr. Salop explained shippers generally retain some surplus, which would provide CPKC an *incentive* to engage in foreclosure—to capture that surplus.²³ Applicants admitted they have no evidence KCSM already extracts the full monopoly profit.²⁴

With regard to *ability* to foreclose, Applicants asserted at the hearing that some Laredo rail traffic could move via FXE rather than KCSM, and they suggested other rail traffic could convert to truck or water. But Applicants never presented any factual analysis of KCSM/FXE competition or rail/truck competition for cross-border traffic. They did not dispute testimony from UP’s Chief Marketing Officer, Kenny Rocker, that more than half of UP-KCSM traffic

²² Dr. Salop presented modeling results showing vertical mergers can lead to foreclosure in a variety of circumstances, especially when the merging downstream carrier (*e.g.*, CP) has a low pre-merger market share compared to its downstream rival (*e.g.*, UP), *see* Salop VS ¶¶ 56, 58, as is the case for most traffic Applicants plan to divert. Contrary to Applicants’ claims, Dr. Salop’s models account for elimination of double marginalization (“EDM”). *See id.* ¶¶ 51, 61.

²³ *See id.* ¶¶ 36–39; *id.* ¶¶ 40–59.

²⁴ *See* UP Comments at 28 & n.99 (citing Applicants’ discovery responses).

moves between Laredo and points in Mexico served exclusively by KCSM, and that truck and water options do not exist for the overwhelming majority of traffic Applicants are targeting for diversion.²⁵ In fact, CP’s Chief Marketing Officer confirmed “many of the commodity flows in these [cross-border] lanes—like LPG, grain, finished autos, and others—are not well suited to long-distance movement by truck.”²⁶ Applicants also did not dispute Dr. Salop’s calculations, based on Applicants’ actual data, showing foreclosure would be a profitable tactic for CPKC, even if UP retained a substantial amount of Mexican business using transloading or FXE.²⁷

UP is not saying all vertical mergers are anticompetitive. Contrary to Applicants’ claim at the hearing, Dr. Salop recognized vertical mergers can lead to lower rates, especially when a transaction’s merger-specific efficiency benefits are substantial.²⁸ However, as other witnesses show, Applicants’ merger would have minimal merger-specific efficiency benefits,²⁹ especially compared to prior Class 1 mergers.³⁰ Applicants were thus correct when acknowledging the validity of concerns about their merger’s effect on gateway rates.

C. UP, NITL, ACC, and TFI proposed a concrete, enforceable rule for setting “commercially reasonable” rates.

UP has proposed a concrete, enforceable rule for holding Applicants to their promise to set “commercially reasonable” gateway rates: Where a CPKC route competes with an interline route that includes a former-CP, -KCS, or -KCSM segment, CPKC must, at a shipper’s request,

²⁵ See Rucker/Turner VS at 7, 16–17. Even when KCSM and FXE serve the same locations in Mexico, KCSM’s route to the border is often vastly superior to FXE’s route. See *id.* at 6–8, 16.

²⁶ APP Vol. 1 at 226, Brooks VS ¶ 26.

²⁷ See Salop VS ¶¶ 73–82.

²⁸ See *id.* ¶¶ 45–47.

²⁹ See Haley VS ¶¶ 13–36.

³⁰ See CSXT Comments, Carey & Bremser VS at 25–30.

provide the shipper a confidential Rule 11 rate calculated as a mileage-based prorate of the CPKC rate that the shipper can use to create a competitive interline alternative.³¹ This is the same condition requested by NITL, ACC and TFI.

The UP/NITL/ACC/TFI proposal puts shippers in control of the remedy, which ensures it protects competition, not competitors. Shippers would decide whether to request a gateway rate. Shippers would receive the rate, so other carriers could not reverse-engineer the single-line rate. Shippers would decide whether to ask other carriers to provide a rate for their portion of the movement. Shippers could readily confirm CPKC's compliance with the condition by replicating the mileage prorate calculation, so disputes would arise only rarely, if ever.

1. Mileage-based divisions are “commercially reasonable.”³²

Applicants' main criticism of the UP/NITL/ACC/TFI proposal is that divisions in the marketplace are not strictly mileage-based. But that criticism lacks merit for four reasons:

First, the record shows railroads *do* use mileage-based divisions in their commercial dealings. UP's Chief Marketing Officer showed UP uses mileage-based divisions in commercial arrangements, including its “I-5 Agreement” with BNSF, which covers traffic moving over the Portland Gateway.³³ Discovery revealed that { [REDACTED] }³⁴ Many divisions in the [REDACTED]

³¹ If a shipper requests a CPKC-UP or CPKC-BNSF joint rate, rather than a Rule 11 rate, CPKC would be required to calculate its division of the joint rate in the same manner.

³² In this discussion, the term “division” is used in a generic sense to encompass both a carrier's revenue from a Rule 11 rate and a carrier's revenue from a division of a joint rate.

³³ See *Rocker/Turner VS* at 22–23.

³⁴ See UP Comments, Ex. 7 (Brooks Tr. 66:3–14); see also *id.*, Ex. 20 (Brooks Dep. Ex. 8).

marketplace are not *strictly* mileage-based, but the evidence shows use of mileage-based divisions is commercially reasonable.

Second, Applicants' own analysis of interline rates shows a strong relationship between a railroad's share of mileage and its share of revenue, especially where traffic movements do not involve an especially short haul on one of the carriers involved:³⁵

{{



}}

Once again, Applicants' own evidence shows use of mileage-based divisions is commercially reasonable.

Third, despite Applicants' professed concern for departing from market-based divisions, KCS is apparently not setting market-based divisions today—at least on traffic moving over the Laredo Gateway. Discovery revealed that when KCS offers single-line service between Mexico and the United States, KCSM's division is established *after* the overall rate is determined, based on a variety of considerations—none of which specifically included market conditions for transportation between points in Mexico and Laredo.³⁶

³⁵ See APP Reply Vol. II at 1831, Majure RVS at 99, Ex. 7.

³⁶ See UP Comments, Ex. 11 (KCS/CP Joint Responses and Objections, Request No. 148).

Fourth, Applicants have not offered a better solution, despite acknowledging in their Application that their simple commitment to set “commercially reasonable” gateway rates needed to be “more concrete and readily enforceable.”³⁷

In their Reply, Applicants noted UP’s opposition to using mileage-based divisions to allocate revenue from cross-over traffic in stand-alone cost cases³⁸ But Applicants missed the critical point. The Board agreed with UP and other carriers that using mileage-based prorates is inappropriate for allocating *cross-over revenue* because such revenue should be allocated using a *cost-based* approach. The Board said “a market-based analysis for allocating revenue for cross-over traffic has no place in the SAC analysis.”³⁹ In other words, the Board recognized that a mileage prorate *is a market-based* approach to dividing revenue among carriers.

2. The UP/NITL/ACC/TFI proposal would promote competition and benefit shippers.

Applicants also criticize the UP/NITL/ACC/TFI proposal because they say it would transfer revenue to UP (or BNSF) whenever KCSM’s current division is greater than its mileage share. But an easy solution exists: Applicants’ pre-merger Rule 11 rate (or division) could be a “safe harbor.” In other words, CPKC would have the option of responding to a shipper’s request for a Rule 11 rate with (a) a mileage-based prorate of its single-line rate, or (b) its pre-merger Rule 11 rate. This safe harbor approach builds on the arbitration commitment Applicants offered

³⁷ APP Vol. I at 233, Brooks VS ¶ 47.

³⁸ See APP Reply Vol. 1 at 114.

³⁹ *Major Issues in Rail Rate Cases*, EP 657 (Sub-No. 1), slip op. at 32 (STB served Oct. 30, 2006).

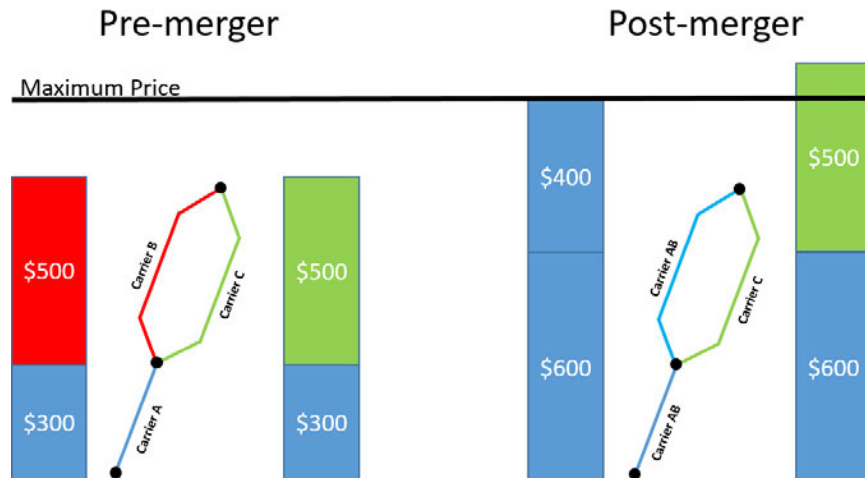
at the hearing. Specifically, Applicants offered to arbitrate allegations of gateway foreclosure with a “Safe harbor for existing rates (adjusted based on applicable inflation factor).”⁴⁰

UP would accept the “safe harbor” variation on its proposed condition, but the variation is not essential. Applicants’ revenue-transfer claim, and their related claim that a mileage prorate remedy would undermine their incentive to reduce rates, lack merit for two reasons:

First, Applicants’ claims are a distraction from the real issue: absent a remedy, CPKC will have the incentive and ability to raise rates on KCSM, which will allow it to divert traffic to CPKC single-line routes *and* raise single-line rates. The proposed remedy would preclude this tactic and allow shippers to benefit from competition on the merits between UP, BNSF, and CPKC. That is why UP, NITL, ACC, and TFI are aligned on this issue.

In other words, Applicants’ “revenue transfer” claim assumes pre-merger interline rates are already at monopoly levels, with KCSM extracting the full monopoly profit in Mexico. But if KCSM is not extracting the full monopoly profit because it has imperfect information, and it “solves” the information problem by merging, then CPKC could raise the post-merger rate to monopoly levels and manipulate divisions to preclude competition in the United States. A simplified version of this scenario is illustrated below:

⁴⁰ Applicants’ Rebuttal Hearing Presentation at 97. UP agrees that an adjustment for inflation would be appropriate, and the Board should order Applicants to submit a proposed adjustment mechanism.



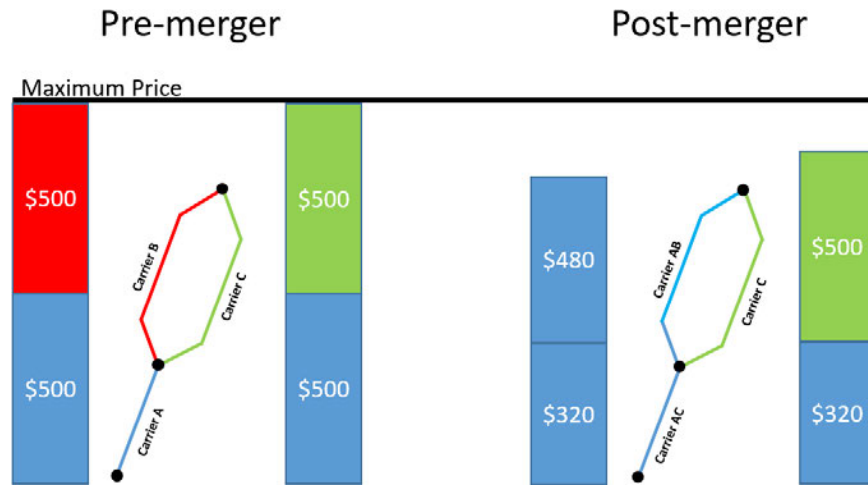
In the illustration, the maximum total interline price that rail carriers could charge without losing the traffic is \$1,000. Upstream monopoly Carrier A could have been able to charge a Rule 11 rate of \$500, if it knew the costs of downstream Carriers B and C were actually \$500. Because Carrier A lacks the information, it sets its rate at \$300 to ensure it does not lose the movement. Carriers B and C compete for the downstream move and set their Rule 11 rates at \$500. The shipper pays \$800. By merging, Carrier A learns Carrier B's costs. The merged Carrier AB sets a single-line rate at \$1,000. To prevent competition from Carrier C, Carrier AB raises its Rule 11 rate to a prohibitive level, which forecloses Carrier C, and ensures Carrier AB earns \$1,000 on the movement. The shipper's rate increases by \$200 (from \$800 to \$1,000).

Second, even assuming rates are initially set at the maximum rail prices (*i.e.*, the monopoly rail price levels), as Applicants appear to assume, Applicants' claim that UP could increase its Rule 11 rate to capture reductions in KCSM's Rule 11 rate is unrealistic. Even if UP knew when KCSM had to reduce its pre-merger rate to comply with the gateway rate remedy,⁴¹ UP could not increase its rate. UP would expect CPKC to set a lower, more competitive, single-line rate to divert traffic to its single-line service. After all, CPKC's objective is to capture all

⁴¹ UP almost never knows KCSM's pre-merger division. *See* Rocker/Turner VS at 9–10.

PUBLIC VERSION – REDACTED

the revenue from current interline traffic, not just keep KCSM's pre-merger share. A simplified version of this scenario is illustrated below:



In the illustration, before any merger the total interline rate is \$1,000. Carriers A, B, and C each charge Rule 11 rates of \$500. Carrier A's mileage is 40% of the total route miles, but its division is 50% of the revenue. After Carriers A and B merge, they take advantage of merger-related efficiencies and pass along some of the benefits to shippers, establishing a single-line rate of \$800. As a result of the mileage prorate condition, Carrier A's Rule 11 rate falls by \$180, from \$500 to \$320 ($\$800 \times 40\%$). But Carrier C cannot raise its Rule 11 rate by \$180 because the single-line rate fell by \$200. Instead, Carrier C must *reduce* its rate to compete with merged Carrier AB. Carrier AB earns an additional \$300 on every movement that previously moved on Carrier C in interline service (*i.e.*, \$800 vs. \$500 to Carrier A), and the shipper saves \$200.

In sum, the UP/NITL/ACC/TFI proposal addresses a real risk of harm to competition from the proposed merger, and it addresses the harm in a manner that promotes competition among affected rail carriers and benefits shippers.

3. The UP/NITL/ACC/TFI proposal would not interfere with market-based competition.

At the hearing, Applicants claimed the UP/NITL/ACC/TFI proposal would interfere with competition in the same way as now-discredited “DT&I” conditions. They are wrong. DT&I conditions were anticompetitive because they required rate equalization—they prohibited the merged carrier from setting rates on new single-line routes below the rates of any competing joint line route in which it participated.⁴² Here, CPKC would be free to set single-line rates at any level it wants. In fact, as illustrated above, the remedy would *encourage* CPKC to reduce rates to capture traffic and additional revenue from competing carriers.

Applicants also claimed the proposed remedy would interfere with ratemaking in markets where KCSM rates are constrained by competition with truck, water, or FXE. But the proposed remedy would not restrict Applicants’ ability to respond to market forces—CPKC would be free to set whatever rates it wants. In addition, the record shows substantial volumes of cross-border traffic handled by KCSM are *not* subject to competition from truck, water, or FXE, especially including movements of auto parts in both boxcar and intermodal service, and movements of finished automobiles that Applicants are targeting for diversion.⁴³

At the hearing, Applicants observed that UP could transload certain intermodal traffic at the border if CPKC raises rates too much. The Board should be preserving rail competition to move freight *off* roads. However, if the Board wants to loosen the competitive reins and allow CPKC to raise rates in some markets, it could exclude non-automotive intermodal traffic from a

⁴² See *Traffic Protective Conditions*, 366 I.C.C. 112, 113 (1982).

⁴³ See *Rocker/Turner VS* at 16-17. Auto parts moving in intermodal service are different from non-automotive intermodal traffic because they often move in large quantities directly to customer facilities, several of which are exclusively served by KCSM, rather than moving to intermodal ramps and drayed to destination by trucks. Rail is also a much more secure mode than truck when transporting high-value commodities such as auto parts in Mexico.

gateway rate remedy. It could also exclude intermodal traffic moving to or from Mexican ports from a gateway rate remedy, if it believes competition from other ports would adequately constrain rates charged by CPKC.

Finally, at the hearing, rail carriers advocating application of a gateway rate condition to intermodal and other exempt traffic were asked why they did not also support the revocation of exemptions in Ex Parte No. 704. There is no inconsistency. Shippers generally can petition to revoke commodity exemptions in specific cases. But if the Board allows CP and KCS to merge without adequately preserving competition at gateways, competition will be lost forever, and the evidence in this proceeding shows substantial amounts of cross-border traffic handled by KCSM, including exempt traffic, is not subject to competition from truck, water, or FXE.

D. Mexican law will not prevent gateway foreclosure.

Applicants claim a gateway rate condition is unnecessary because Mexican law prohibits KCSM from discriminating among connecting carriers when setting rates for its service between Laredo and points in Mexico. However, as UP showed, CPKC could raise KCSM divisions in a “non-discriminatory” manner, while reducing CPKC divisions north of Laredo, to squeeze out UP and BNSF.⁴⁴ CPKC could easily implement such a strategy. KCS and KCSM do not have separate rate-setting functions. “KCS has a core pricing team for all rates, US and Mexico.”⁴⁵ Also, as KCS revealed in discovery, when it offers single-line service between Mexico and the United States, KCSM’s revenue division is established *after* the overall rate is determined.⁴⁶ CPKC could readily manipulate KCSM revenue divisions to foreclose competition.

⁴⁴ See *Rocker/Turner VS* at 12–14; *Salop VS* ¶ 114.

⁴⁵ See UP Comments, Ex. 10 (UP’s Motion to Compel, Ex. C at 9).

⁴⁶ See UP Comments, Ex. 11 (KCS/CP Joint Responses and Objections, Request No. 148).

Applicants also claim raising KCSM divisions to foreclose competition would be self-defeating because CPKC would lose traffic moving to points CP does not serve. Applicants' claim has two major flaws:

First, Applicants offered no proof that such a strategy would be self-defeating. If they believed their claim, they could have submitted the same type of profitability analysis Dr. Salop performed to address their foreclosure incentives. As Dr. Salop observed, “[s]uch a profitability analysis is routinely used in merger analysis.”⁴⁷ Because Applicants have the burden of proof here, the Board should infer a profitability analysis would have undermined their claims.

Second, discovery revealed KCS interprets Mexican law {{ [REDACTED]

}}⁴⁸ {{ [REDACTED]

}}⁴⁹

E. The Board has jurisdiction to impose conditions affecting gateway rates for cross-border traffic.

Applicants have not challenged the Board's authority to impose conditions affecting rates charged by KCSM. To the contrary, they volunteered to accept a condition that would require them to keep the Laredo Gateway open on “commercially reasonable” terms, which obligates them to establish “commercially reasonable” rates on KCSM.⁵⁰

⁴⁷ Salop VS ¶ 77 n.56.

⁴⁸ See UP Comments, Ex. 13 (KCS Policy on Rate Offers for KCSM Routes).

⁴⁹ UP showed attempts to challenge CPKC's interpretation of Mexico's anti-discriminatory pricing laws are unlikely to produce timely or effective remedies. See de la Calle VS at 9–12.

⁵⁰ In the KCS/Tex Mex merger, CP urged the Board “to exercise its conditioning authority . . . to compel Applicants to adhere to their promise to keep the Laredo gateway open on ‘commercially reasonable terms.’” UP Comments, Ex. 4 (CP Additional Comments in *KCS/Tex Mex* at 7).

The Board should not hesitate to assert its authority here. The purpose of a gateway rate condition is to preserve competition to provide rail service *in the United States*—e.g., between Laredo and Chicago—which is plainly the Board’s responsibility. Moreover, Article 21.1.2 of the United States-Mexico-Canada Agreement specifically allows a Party to “‘apply[] its national competition laws to commercial activities outside its borders that have an appropriate nexus to its jurisdiction.’”⁵¹ If the Board has any doubt, it can “consult with relevant officials,” as suggested in its current merger rules.⁵² And, if the Board concludes it cannot remedy the anticompetitive effects of the CPKC merger in the United States, it should not approve the merger.

F. The Board should clarify that UP is entitled to use the new international rail bridge KCS is constructing at the Laredo Gateway.

Applicants did not rebut UP’s showing that the conditions imposed on the KCS/Tex Mex merger entitle UP to access the new bridge KCS is constructing at Laredo under the same terms as the existing bridge (which include a rental payment to KCS).⁵³ Applicants acknowledge they are bound by those conditions.⁵⁴ Applicants do not dispute they would have a reduced incentive to cooperate with UP at the Laredo Gateway if they could shift their operations to the new bridge while excluding UP and maintaining control of the existing bridge.⁵⁵ To avoid future disputes and to protect competition at the Laredo Gateway, the Board should clarify that CPKC must provide UP access to the new bridge.

⁵¹ See de la Calle VS at 15. In addition, the proposed condition would be consistent with Mexican anti-discriminatory pricing laws. See *id.* at 14.

⁵² 49 C.F.R. § 1180.1(k)(2).

⁵³ See generally *Mexirail, Inc. v. Union Pac. R.R.*, 4 S.T.B. 954 (2000).

⁵⁴ APP Vol. 1 at 207, Ottensmeyer VS at 21.

⁵⁵ See UP Comments at 31 & Rucker/Turner VS at 15.

III. Conclusion

Applicants failed to acknowledge the substantial investments in new capacity required to implement their transaction. Also, an unconditioned merger would likely cause a significant loss of competition. UP's proposed conditions would partially mitigate the harms that would result from approval of the transaction. If the Board does not impose UP's proposed conditions, it should deny the Application.

Respectfully submitted,

CRAIG V. RICHARDSON
JAMES B. BOLES
TONYA W. CONLEY
WHITNEY C. LARKIN
Union Pacific Railroad Company
1400 Douglas Street
Omaha, Nebraska 68179
(402) 544-7004

/s/ Michael L. Rosenthal
MICHAEL L. ROSENTHAL
Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, D.C. 20001
(202) 662-6000

Attorneys for Union Pacific Railroad Company

October 21, 2022

PUBLIC VERSION – REDACTED

VERIFICATION OF JOHN TURNER

I, John Turner, Senior Vice President for the Harriman Dispatching Center and Network Planning at Union Pacific Railroad Company declare under penalty of perjury that I reviewed the discussion regarding the KCS train that moved through the Houston area on August 1, 2022, and the information about the KCS train and other trains operating in the Houston area presented in Section I.A and Appendix A of Union Pacific's Final Brief, and that the information contained therein is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed on October 21, 2022.

/s/ John Turner

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of October, 2022, I caused a copy of the foregoing document to be served electronically or by first-class mail, postage prepaid, on all parties of record on the service list for Finance Docket No. 36500.

/s/ Michael L. Rosenthal

PUBLIC VERSION – REDACTED

APPENDIX A

TRN_SCTN	TRN_SYMB	TRN_DATE	CTRL_PNT_ID	CIRC_7	CITY	ST	DATE_TIME
3	GWARNJ	01-Aug-22	LF277	LS462	TOWER 31	TX	8/1/22 7:39 AM
3	GWARNJ	01-Aug-22	LF278	LS461	WALL ST	TX	8/1/22 7:45 AM
3	GWARNJ	01-Aug-22	LF279	LS460	BNSF TOWER	TX	8/1/22 7:46 AM
3	GWARNJ	01-Aug-22	LF979	LS460	BNSF TOWER	TX	8/1/22 7:47 AM
3	GWARNJ	01-Aug-22	LF280	B 462	TOWER 74	TX	8/1/22 7:49 AM
3	GWARNJ	01-Aug-22	LF980	B 462	TOWER 74	TX	8/1/22 7:49 AM
3	GWARNJ	01-Aug-22	LF281	B 461	BEAUMONT	TX	8/1/22 7:51 AM
3	GWARNJ	01-Aug-22	LF282	B 461	BEAUMONT	TX	8/1/22 8:01 AM
3	GWARNJ	01-Aug-22	LF286	B 453	AMELIA	TX	8/1/22 8:06 AM
3	GWARNJ	01-Aug-22	LF287	B 453	AMELIA	TX	8/1/22 8:12 AM
3	GWARNJ	01-Aug-22	LF293	LS441	CHINA	TX	8/1/22 8:16 AM
3	GWARNJ	01-Aug-22	LF295	LS441	CHINA	TX	8/1/22 8:19 AM
3	GWARNJ	01-Aug-22	LF306	LS428	DEVERS	TX	8/1/22 8:56 AM
3	GWARNJ	01-Aug-22	LF308	LS428	DEVERS	TX	8/1/22 9:06 AM
3	GWARNJ	01-Aug-22	LF317	LS416	AMES	TX	8/1/22 9:12 AM
3	GWARNJ	01-Aug-22	LF319	LS416	AMES	TX	8/1/22 9:19 AM
3	GWARNJ	01-Aug-22	LF327	LS407	DAYTON	TX	8/1/22 9:29 AM
3	GWARNJ	01-Aug-22	LF328	LS407	DAYTON	TX	8/1/22 9:32 AM
3	GWARNJ	01-Aug-22	LF329	LS407	DAYTON	TX	8/1/22 9:36 AM
3	GWARNJ	01-Aug-22	LF330	LS407	DAYTON	TX	8/1/22 9:44 AM
3	GWARNJ	01-Aug-22	LF338	LS395	CROSBY	TX	8/1/22 9:50 AM
3	GWARNJ	01-Aug-22	LF341	LS395	CROSBY	TX	8/1/22 10:09 AM
3	GWARNJ	01-Aug-22	LF347	LS382	HATCHERY	TX	8/1/22 10:14 AM
3	GWARNJ	01-Aug-22	LF348	LS379	FAUNA	TX	8/1/22 10:18 AM
3	GWARNJ	01-Aug-22	LF351	LS379	FAUNA	TX	8/1/22 10:25 AM
3	GWARNJ	01-Aug-22	LF353	LS376	DAWES	TX	8/1/22 10:30 AM
3	GWARNJ	01-Aug-22	LF355	LS376	DAWES	TX	8/1/22 11:52 AM
3	GWARNJ	01-Aug-22	LF356	LS373	TOWER 87	TX	8/1/22 11:59 AM
3	GWARNJ	01-Aug-22	LF357	LS373	TOWER 87	TX	8/1/22 12:00 PM
3	GWARNJ	01-Aug-22	LF358	LS373	TOWER 87	TX	8/1/22 12:01 PM
3	GWARNJ	01-Aug-22	LF359	LS371	TOWER 68	TX	8/1/22 12:08 PM
3	GWARNJ	01-Aug-22	LF362	SL372	CRESOTE YARD	TX	8/1/22 12:11 PM
3	GWARNJ	01-Aug-22	LF363	LS369	BRINGHURST	TX	8/1/22 12:13 PM
3	GWARNJ	01-Aug-22	LF364	LS368	TOWER 26	TX	8/1/22 12:15 PM
3	GWARNJ	01-Aug-22	H232	LS368	TOWER 26	TX	8/1/22 12:17 PM
3	GWARNJ	01-Aug-22	LF365	LS368	TOWER 26	TX	8/1/22 12:18 PM
3	GWARNJ	01-Aug-22	LF962	LS366	HOUSTON AMTRAK	TX	8/1/22 12:21 PM
3	GWARNJ	01-Aug-22	LF963	LS366	HOUSTON AMTRAK	TX	8/1/22 12:25 PM
3	GWARNJ	01-Aug-22	LF368	LS364	CHANEY JUNCTION	TX	8/1/22 12:36 PM
3	GWARNJ	01-Aug-22	LF369	LS360	EUREKA JCT	TX	8/1/22 12:42 PM
3	GWARNJ	01-Aug-22	LF372	LS353	BISSONNET	TX	8/1/22 12:57 PM
3	GWARNJ	01-Aug-22	LF374	SO910	SPENCE LEAD	TX	8/1/22 1:01 PM
3	GWARNJ	01-Aug-22	SA013	SO011	WEST JUNCTION	TX	8/1/22 1:04 PM
3	GWARNJ	01-Aug-22	SA014	SO015	HEACKER	TX	8/1/22 1:06 PM
3	GWARNJ	01-Aug-22	SA916	SO017	MISSOURI CITY	TX	8/1/22 1:21 PM
3	GWARNJ	01-Aug-22	SA022	SO023	SUGAR LAND	TX	8/1/22 1:29 PM
3	GWARNJ	01-Aug-22	SA029	SO028	HARLEM	TX	8/1/22 1:36 PM
3	GWARNJ	01-Aug-22	SA030	SO028	HARLEM	TX	8/1/22 3:11 PM
3	GWARNJ	01-Aug-22	SA034	SO032	RICHMOND	TX	8/1/22 3:14 PM
3	GWARNJ	01-Aug-22	SA036	SO037	ROSENBERG	TX	8/1/22 3:22 PM
3	GWARNJ	01-Aug-22	SA900	LT705	MCHATTIE	TX	8/1/22 3:23 PM
3	GWARNJ	01-Aug-22	SA902	LT706	NORTH KCS JCT	TX	8/1/22 3:28 PM