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March 2, 2015

### VIA E-FILING

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

**RE: United States Rail Service Issues – Performance Data Reporting  
STB Docket No. EP 724 (Sub-No. 4)**

Dear Ms. Brown:

In response to the Board's Notice of Proposed Rulemaking issued December 30, 2014 in the above proceeding, The Kansas City Southern Railway Company ("KCS") hereby files its individual initial comments. If there are any questions, please do not hesitate to contact me.

Sincerely,



William A. Mullins  
Attorney for The Kansas City Southern  
Railway Company

Enclosure

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB DOCKET NO. EP 724 (SUB-NO. 4)**

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**UNITED STATES RAIL SERVICE ISSUES – PERFORMANCE DATA REPORTING**

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**INDIVIDUAL INITIAL COMMENTS OF THE KANSAS CITY SOUTHERN RAILWAY  
COMPANY**

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**Attorneys for The Kansas City Southern  
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**Dated: March 2, 2015**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**UNITED STATES RAIL SERVICE ISSUES – PERFORMANCE DATA REPORTING**

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**INDIVIDUAL INITIAL COMMENTS OF THE KANSAS CITY SOUTHERN RAILWAY  
COMPANY**

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Last year, in response to service challenges affecting a broad cross-section of rail shippers, the Board held two public hearings. Based on those hearings, on October 8, 2014, the Board ordered all Class I railroads, including The Kansas City Southern Railway Company (“KCS”), to file weekly reports containing specific performance data. Specifically, railroads were asked to report weekly average train speeds, weekly average terminal dwell times, weekly average cars online, number of trains held short of destination or scheduled interchange, and loading metrics for grain and coal service, among other items. Under certain limitations, KCS has been filing its weekly report since that time.<sup>1</sup>

As expressly contemplated in the October 8, 2014 decision, the Board is now moving forward with a rulemaking and has proposed certain permanent data reporting requirements similar to those established in the October 8 decision. The Board seeks public comments on its proposed new regulations. KCS hereby files its individual initial comments<sup>2</sup> in support of the Board’s proposal to exempt KCS from reporting state-by-state information under Request nos. 7 and 8, and to delete current Request no. 9.

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<sup>1</sup> The limitations were contained in KCS’s Business Rules and its Petition for Waiver, both filed on October 22, 2014 in Ex Parte No. 724 (Sub-No. 3).

<sup>2</sup> KCS also joins in and supports the comments being filed by the Association of American Railroads.

Request nos. 7 and 8 seek data on the weekly total number of grain cars loaded and billed, reported by state, aggregated for certain Standard Transportation Commodity Codes (“STCCs”). The proposed rules regarding Request nos. 7 and 8 in the NPR remain unchanged from those that were included in the October 8 interim rules.

Absent an exemption from state-by-state reporting under Request nos. 7 and 8, KCS’s concerns with proposed Request nos. 7 and 8 would be the same as those expressed in its October 22 Petition for Waiver. Unit grain trains originate on KCS in only about half of the states that KCS serves, and KCS has no more than 2 such origins in any one state. If KCS were to break down its unit grain originations by state, the data would disclose the confidential information about shipping volumes and frequencies of specific shippers that could be used against those shippers by their competitors. This would, in the opinions of both KCS and its shippers, reveal sensitive commercial information, violating both the letter and the spirit of 49 USC §11904. Instead, KCS proposed, and the Board has accepted since October, KCS’s filing of systemwide data for Request nos. 7 and 8 and current Request no. 9, rather than state-by-state breakdowns that would reveal individual customers’ shipping volumes and shipping frequency to their competitors.

The Board’s proposed rules acknowledge these concerns and propose to exempt KCS from filing state-specific information in response to Request nos. 7 and 8. Due to the limited application of current Request no. 9 to the various carriers’ disparate grain unit train operations, the Board has proposed deleting current Request no. 9; however, the Board has requested commenters to propose an alternative measure to capture performance data for grain unit train operations.

KCS and its grain shippers are grateful for the Board's acknowledgment of their concerns. KCS fully supports the proposed exemption of KCS reporting state-by-state data under Request nos. 7 and 8, along with elimination of the existing Request no. 9. Given the competitive concerns of KCS's shippers, limiting KCS's reporting under Request nos. 7 and 8 to systemwide data is justified as the best means to avoid an unintended violation of 49 U.S.C. § 11904.

With respect to the Board's request for performance data for grain unit train operations as was originally included in current Request no. 9, now proposed to be deleted, KCS has no suggestions for substituting other data. KCS requested a waiver from the current Request no. 9 for the same competitive concerns related to Request nos. 7 and 8 and believes most methods to capture the data contained in current Request no. 9 would likewise result in the unintentional release of competitively-sensitive shipper information. KCS will examine any methodologies suggested by others in response to this NPR, but reserves the right to seek a future waiver from any requirement to report on unit trains of grain.

Respectfully submitted,

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