



SURFACE TRANSPORTATION BOARD

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SURFACE TRANSPORTATION BOARD DECIDES PETITION FOR DECLARATORY ORDER RELATING TO MATERIALS SOUGHT BY CP IN PREPARING APPLICATION FOR CONTROL OF KCS

The Surface Transportation Board today announced a decision on a petition filed by Canadian Pacific Railway (CP) which asked the Board to confirm that Kansas City Southern Railway (KCS) remains obligated to provide information to CP for purposes of preparing an application to acquire control of KCS. In today's decision, the Board declined to opine on whether the parties' contractual obligations require the return of information previously provided and clarified that the Board's protective order does not provide a basis for the relief sought by CP. However, the Board confirmed that CP may use discovery under the Board's regulations to seek relevant information from KCS.

CP filed its petition on May 27, 2021, shortly after KCS notified the Board that it was formally terminating its merger agreement with CP in order to pursue a merger with Canadian National Railway. Essentially, CP asked the Board to confirm that it could still access information from KCS that it needed for purposes of moving forward with a merger application, notwithstanding the termination. KCS disputed any affirmative duty under the terminated merger agreement to furnish information to CP.

The Board's decision in 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, Docket No. FD 36500, may be viewed and downloaded [here](#).

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