

procedural schedule for this transaction would be shorter than others of its scope. The schedule announced today is consistent with the schedule for similar prior transactions. Applicants must submit their Environmental Appendix and Safety Integration Plan (SIP) to the Board, and supplement the KCS/TM application to reflect the implications, for KCS/TM common control, of KCS/TFM common control, by June 23, 2003. Any person who wishes to participate in this proceeding as a party of record (POR) must file, no later than June 27, 2003, a notice of intent to participate. Applicants must distribute their Environmental Appendix and SIP to parties of record and other designated entities, and must initiate publication of newspaper notices, by July 1, 2003. A public hearing will be held in July 2003 (the precise date and the location will be announced later). All comments on applicants' Environmental Appendix and SIP must be filed by July 31, 2003. Comments, protests, requests for conditions, and any other evidence and argument in opposition to the KCS/TM application, including filings by the U.S. Department of Justice (DOJ) and the U.S. Department of Transportation (DOT), must be filed by August 4, 2003.²⁷ Responses to comments, protests, requests for conditions, and other opposition, responses to comments of DOJ and DOT, and rebuttal in support of the KCS/TM application must be filed by September 2, 2003. The Board's decision will be issued on October 17, 2003 (the 156th day after the date on which the KCS/TM application was filed, and the 45th day after the close of the record). If, however, it is determined that an Environmental Assessment or Environmental Impact Statement is required, the procedural schedule will be adjusted as necessary. Also, if an oral argument is held, the Board's decision will be issued no later than the 45th day

(and will continue to adhere) to their promise to provide, promptly upon request, copies of the KCS/TM application to any other party. The Board understands that applicants' promises rest on the assumption that the parties requesting the KCS/TM application have complied with the protective order granted in Decision No. 1 (served May 13, 2003). See applicants' procedural schedule petition at 6 n.3.

²⁷ DOT, in its DOT-1 pleading (filed June 2, 2003), has asked that the procedural schedule be modified to accommodate its past practice of filing comments not only in response to the application itself but also in response to the comments filed by other parties. As in past proceedings, DOT will be allowed to file its comments in response to other parties' comments on the reply due date (here, September 2, 2003). Applicants will be allowed to late-file (as quickly as possible) a reply to DOT's responsive comments. In this manner, the procedural schedule will not be extended unnecessarily.

after the date on which the oral argument is held.²⁸

Notice of Intent to Participate. Any person who wishes to participate in this proceeding as a POR must file with the Board, no later than June 27, 2003, an original and 25 copies of a notice of intent to participate, accompanied by a certificate of service indicating that the notice has been properly served on the Secretary of the United States Department of Transportation, the Attorney General of the United States, and applicants' representatives. In addition, as previously noted, parties must submit one electronic copy of each document filed with the Board. Further details respecting such electronic submissions are provided below.

The Board will serve, as soon as practicable, a notice containing the official service list (the service list notice). Each POR will be required to serve upon all other PORs, within 10 days of the service date of the service list notice, copies of all filings previously submitted by that party (to the extent such filings have not previously been served upon such other parties). Each POR also will be required to file with the Board, within 10 days of the service date of the service list notice, an original plus 10 copies of a certificate of service, along with an electronic copy, indicating that the service required by the preceding sentence has been accomplished. Every filing made by a POR after the service date of the service list notice must have its own certificate of service indicating that all PORs on the service list have been served with a copy of the filing. Members of the United States Congress (MOCs) and Governors (GOVs) are not parties of record (PORs), and therefore, need not be served with copies of filings, unless any such Member or Governor has requested to be, and is designated as, a POR.

The Board will serve copies of its decisions, orders, and notices only on those persons who are designated on the official service list as either POR, MOC, or GOV. All other interested persons are encouraged to make advance arrangements with the Board's copy contractor, Dā 2 Dā Legal Copy Service, to receive copies of Board decisions, orders, and notices served in this proceeding. Dā 2 Dā Legal Copy Service will handle the collection of charges and the mailing and/or faxing of decisions, orders, and notices to persons who request this service. The telephone

²⁸ If the Board ultimately approves the KCS/TM application, consideration will be given to applicants' request that the decision take effect on the 5th day (and not, as is customary, the 30th day) after the date of service.

number for Dā 2 Dā Legal Copy Service is (202) 293-7776.²⁹

Public Hearing. A hearing at which members of the public may voice their views regarding the KCS/TM transaction will be held in July 2003. The precise date and location of the public hearing will be announced later. A public hearing is somewhat informal and the views expressed are not expected to be "legal" arguments. On the other hand, an oral argument is more formal and the lawyers representing the parties in a proceeding are expected to express "legal" views regarding any matters that are in dispute. It is possible that an oral argument may be held in this proceeding at a later date.

Comments, Protests, Requests for Conditions, and Other Opposition Evidence and Argument, Including Filings by DOJ and DOT. All comments, protests, requests for conditions, and any other evidence and argument in opposition to the KCS/TM application, including filings by DOJ and DOT, must be filed by August 4, 2003.

Parties (including DOJ and DOT) filing such comments, etc., must submit an original and 25 copies thereof. Each such submission: must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001; must refer to STB Finance Docket No. 34342; and must be clearly labeled with an identification acronym and number (e.g., the KCS/TM application was labeled "KCS-3"), see 49 CFR 1180.4(a)(2). In addition, as previously noted, parties must submit one electronic copy of each document filed with the Board. Further details respecting such electronic submissions are provided below.

Comments, etc., must be concurrently served by first class mail on the U.S. Attorney General and the U.S. Secretary of Transportation, applicants' representatives, and all other PORs, and should include the docket number and title of the proceeding, and the name, address, and telephone number of the commenting party and its representative upon whom service shall be made.

²⁹ An interested person does not need to be on the service list to obtain a copy of the KCS/TM application or any other filing made in this proceeding. The Board's Railroad Consolidation Procedures provide: "Any document filed with the Board (including applications, pleadings, etc.) shall be promptly furnished to interested persons on request, unless subject to a protective order." 49 CFR 1180.4(a)(3). The KCS/TM application and other filings in this proceeding will also be available on the Board's Web site at "<http://www.stb.dot.gov>" under "Filings." Furthermore, Dā 2 Dā Legal Copy Service will provide, for a charge, copies of the KCS/TM application or any other filing made in this proceeding, except to the extent any such filing is subject to the protective order previously entered in this proceeding.