

305430

ENTERED
Office of Proceedings
October 5, 2022
Part of
Public Record

UNION PACIFIC PRESENTATION

FINANCE DOCKET NO. 36500

John Turner, Sr. VP, Harriman Dispatch Center & Network Planning
Michael L. Rosenthal, Outside Counsel

September 30, 2022



Applicants offer an empty promise

- An unconditioned merger would likely cause a significant loss of competition, particularly for traffic moving via the Laredo gateway.
- The Applicants acknowledge this is a valid concern and promise to keep gateways open on “commercially reasonable” terms.
- But the Applicants admit a simple promise would be unenforceable.
 - “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’ without wild speculation.”
 - Applicants’ Reply to Union Pacific’s Motion to Compel, p. 12 (Feb. 7, 2022)

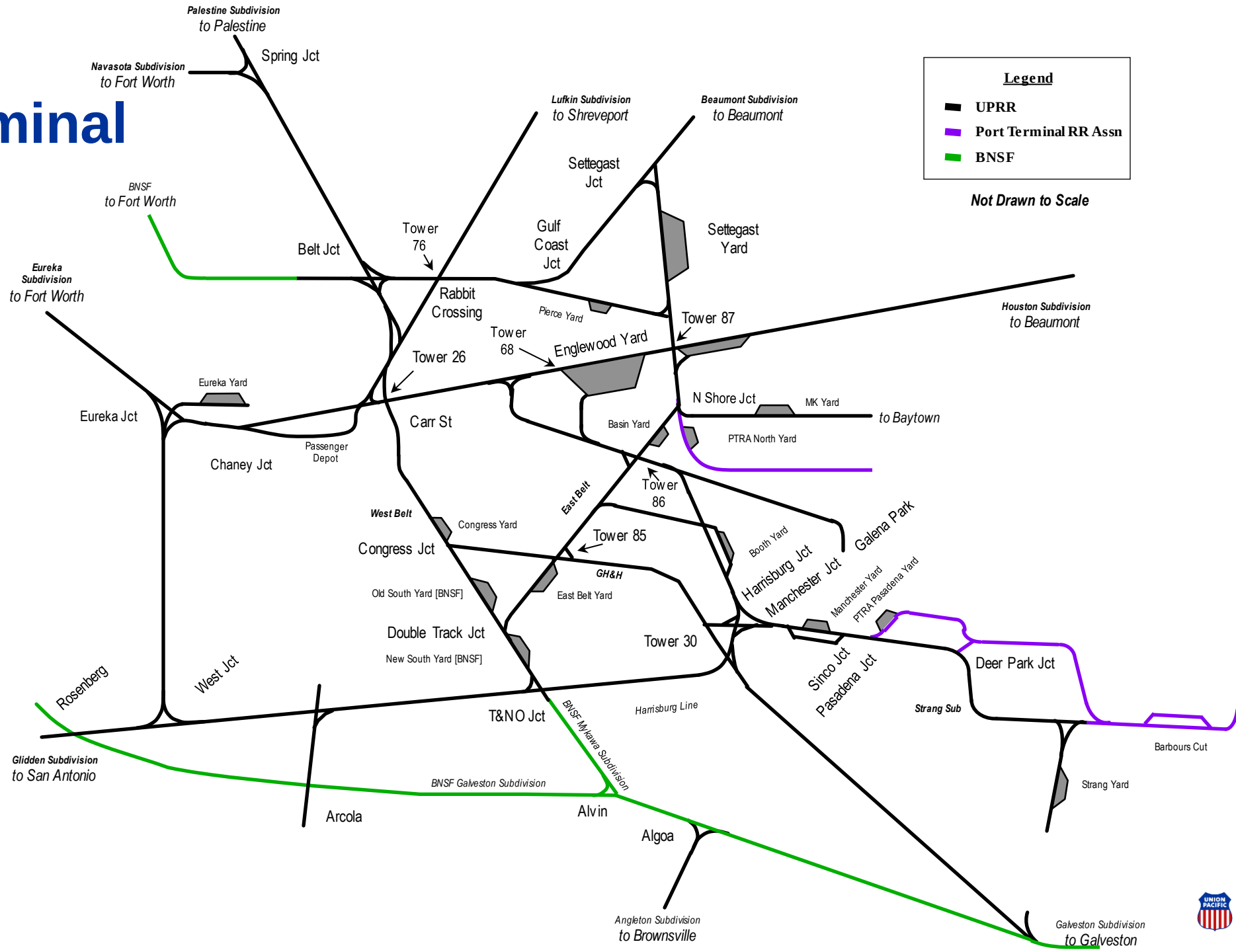
UP has offered a concrete solution

- Where a CPKC single-line route competes with an interline route that includes a former-CP, KCS, or KCSM segment, and
- Where the shipper requests, then
- CPKC must:
 - Provide a Rule 11 segment rate
 - Calculated as a mileage based prorate of the single-line rate

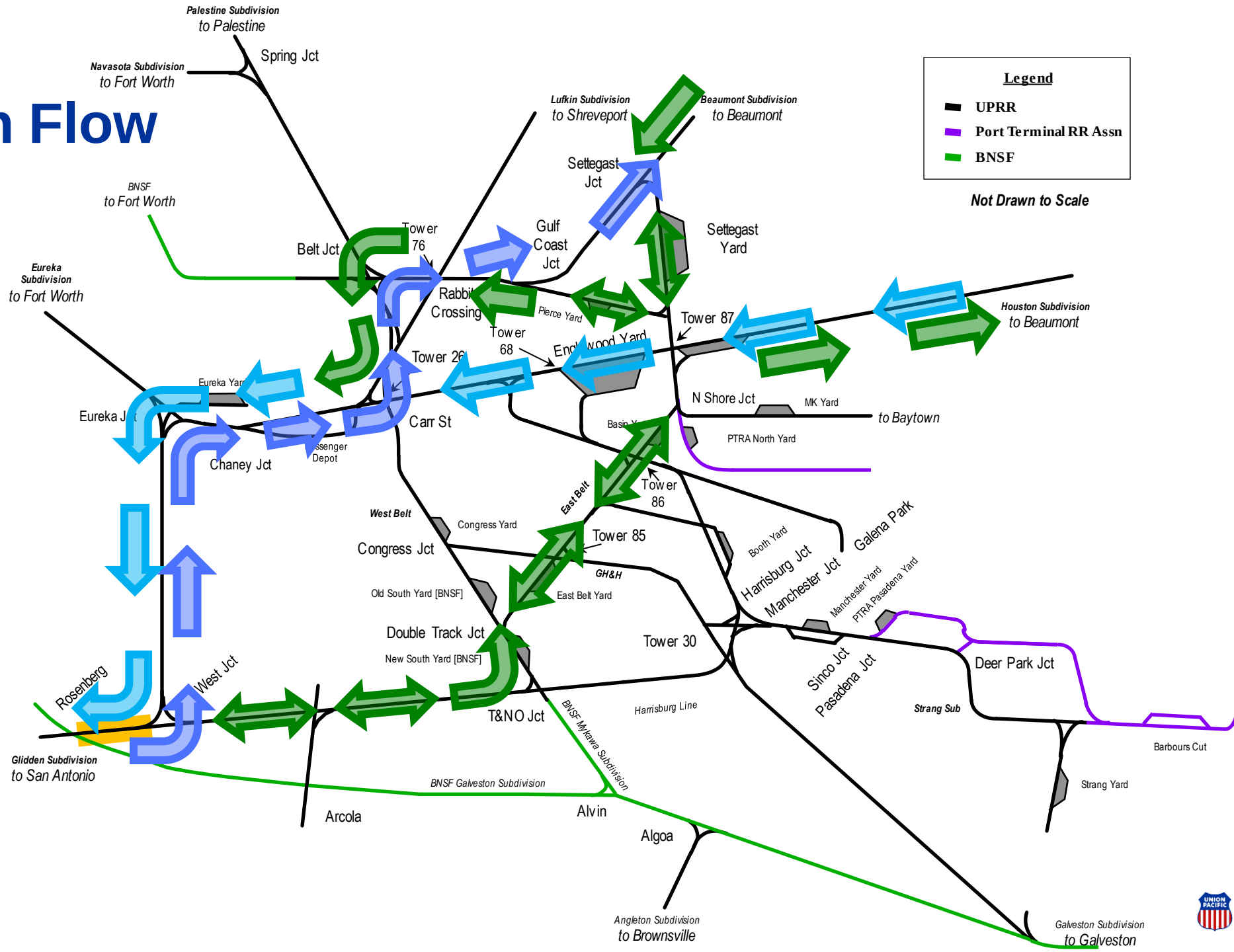
UP's remedy puts shippers in control

- Shippers decide whether to request a gateway rate from CPKC.
- Shippers receive confidential Rule 11 gateway rates from CPKC.
- Shippers can check whether the gateway rate is calculated correctly.
- Shippers decide whether to ask a connecting carrier for a Rule 11 rate.

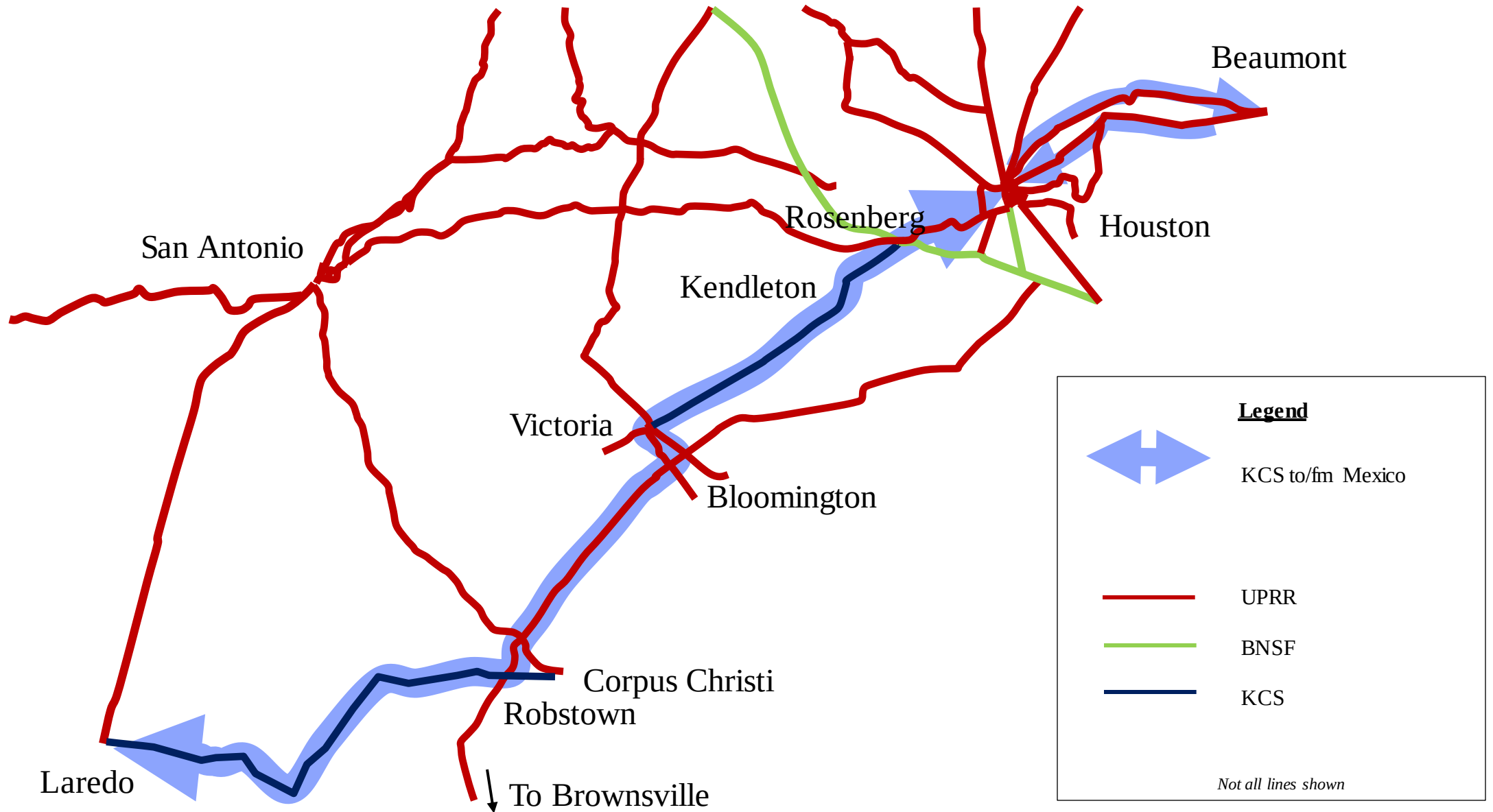
Houston Terminal



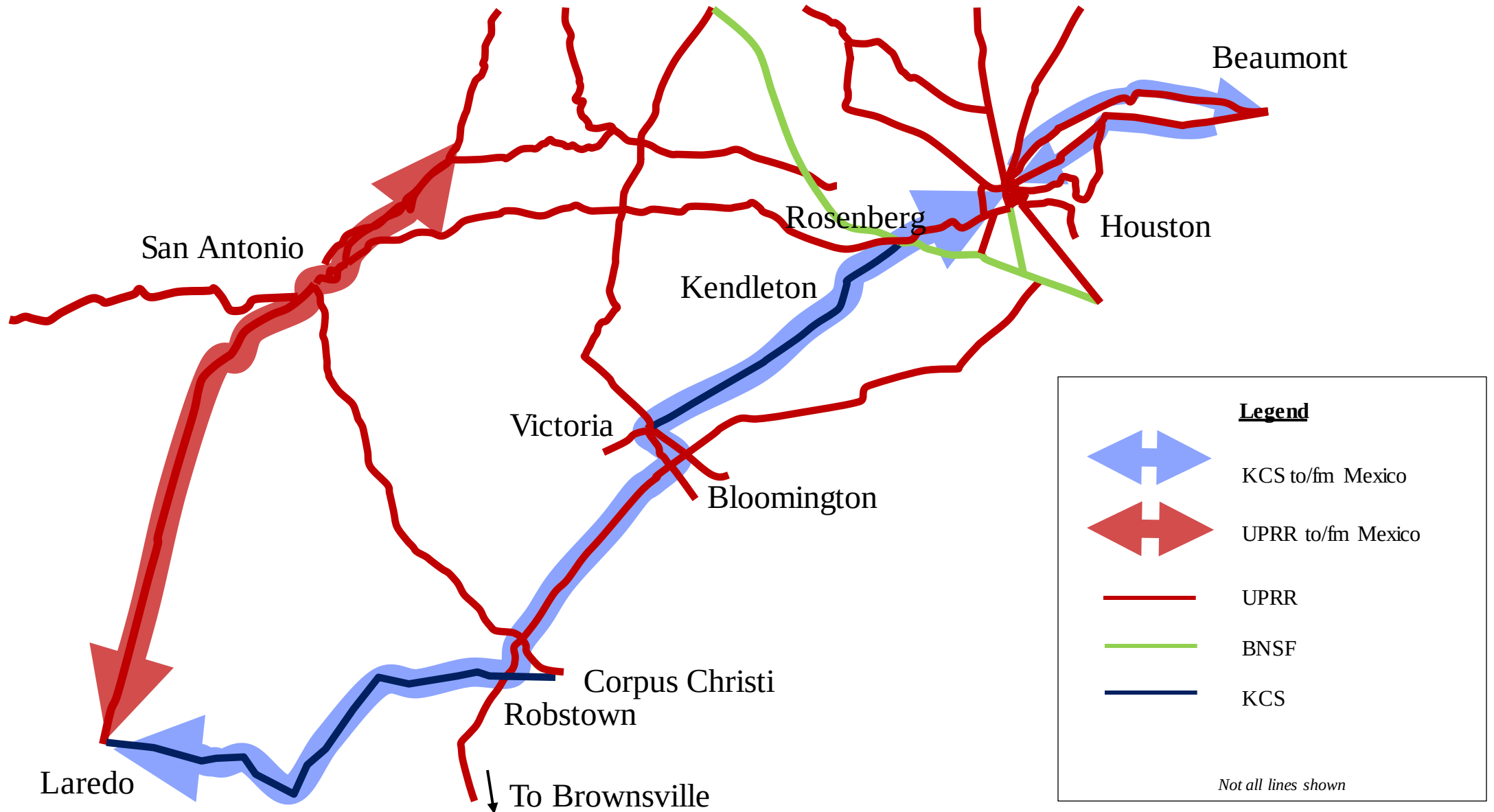
KCS Houston Flow



KCS Laredo Route



UP Laredo Route Avoids Houston

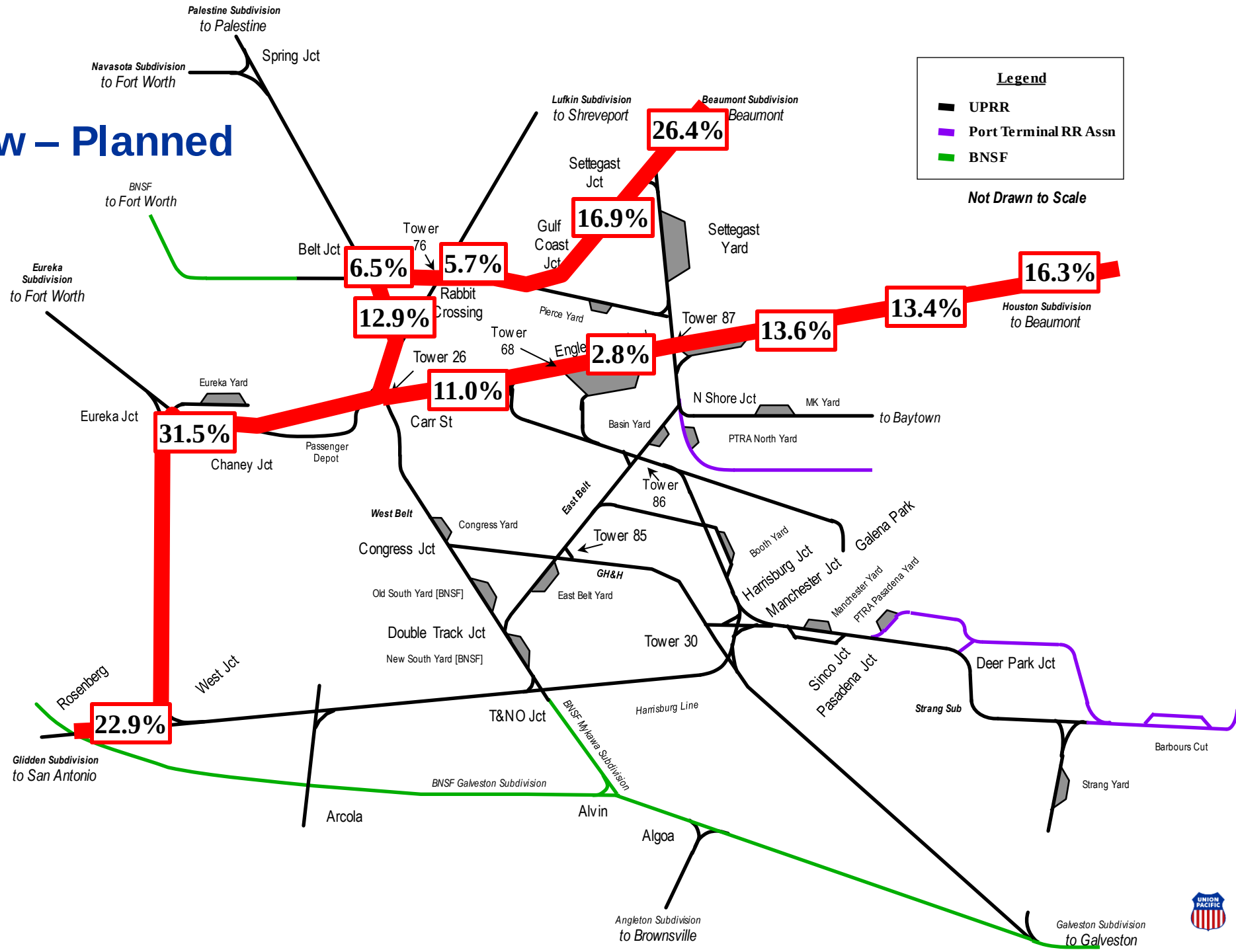


Houston trackage rights segments would consistently exceed past peak train levels

Eastbound Flow (Directional)	Additional TPD	Increase v. 2015-2019 Peak
Rosenberg to West Jct	8	22.9%
West Jct to Tower 26	8	31.5%
Tower 26 to Belt Jct	4	12.9%
Belt Jct to Tower 76	4	6.5%
Tower 76 to Gulf Coast Jct	4	5.7%
Gulf Coast Jct to Settegast Jct	4	16.9%
Settagast Jct to Beaumont	4	26.4%

Westbound Flow (Directional)	Additional TPD	Increase v. 2015-2019 Peak
Beaumont to Dayton	4	16.3%
Dayton to Dawes	4	13.6%
Dawes to Tower 87	4	13.4%
Tower 87 to Tower 68	4	2.8%
Tower 68 to Tower 26	4	11.0%
Tower 26 to West Jct	8	31.5%
West Jct to Rosenberg	8	22.9%

KCS Houston Flow – Planned



**Percentage
increase
over peak**

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

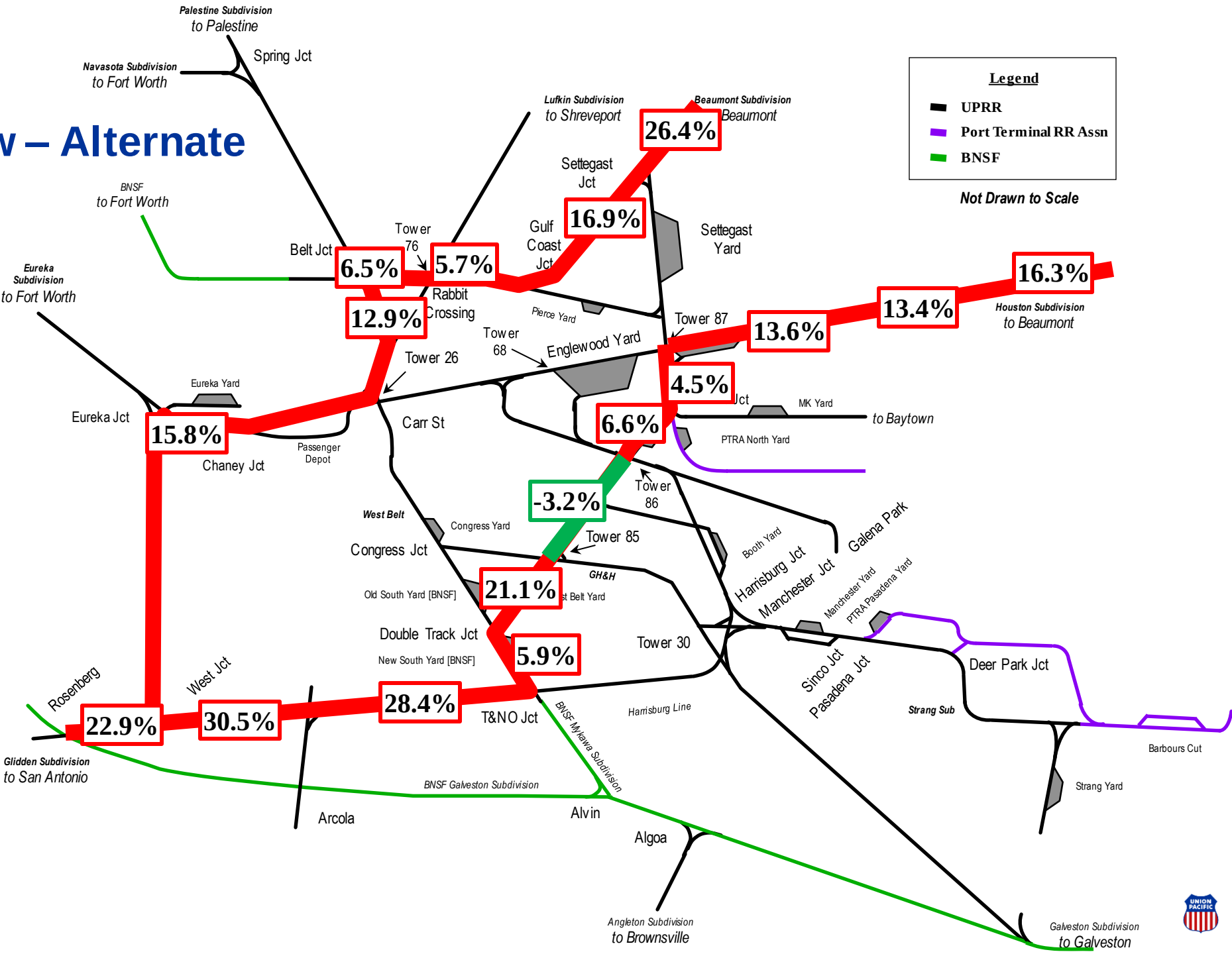
Houston alternate routes are not the solution

Alternate Routing	Additional TPD	Increase v. 2015-2019 Peak
Reducing from 8 to 4 on current routing		
Rosenberg to West Jct	8	22.9%
West Jct to Tower 26	4	15.8%
Adding 4 on alternate routing		
Rosenberg to West Jct	8	22.9%
West Jct to Pierce Jct	4	30.5%
Pierce Jct to T&NO Jct	4	28.4%
T&NO Jct to Double Track Jct	4	5.9%
Double Track Jct to Tower 85	4	21.1%
Tower 85 to Tower 86	4	-3.2%
Tower 86 to North Shore Jct	4	6.6%
North Shore Jct to Tower 87	4	4.5%
Tower 87 to Settegast	4	8.1%

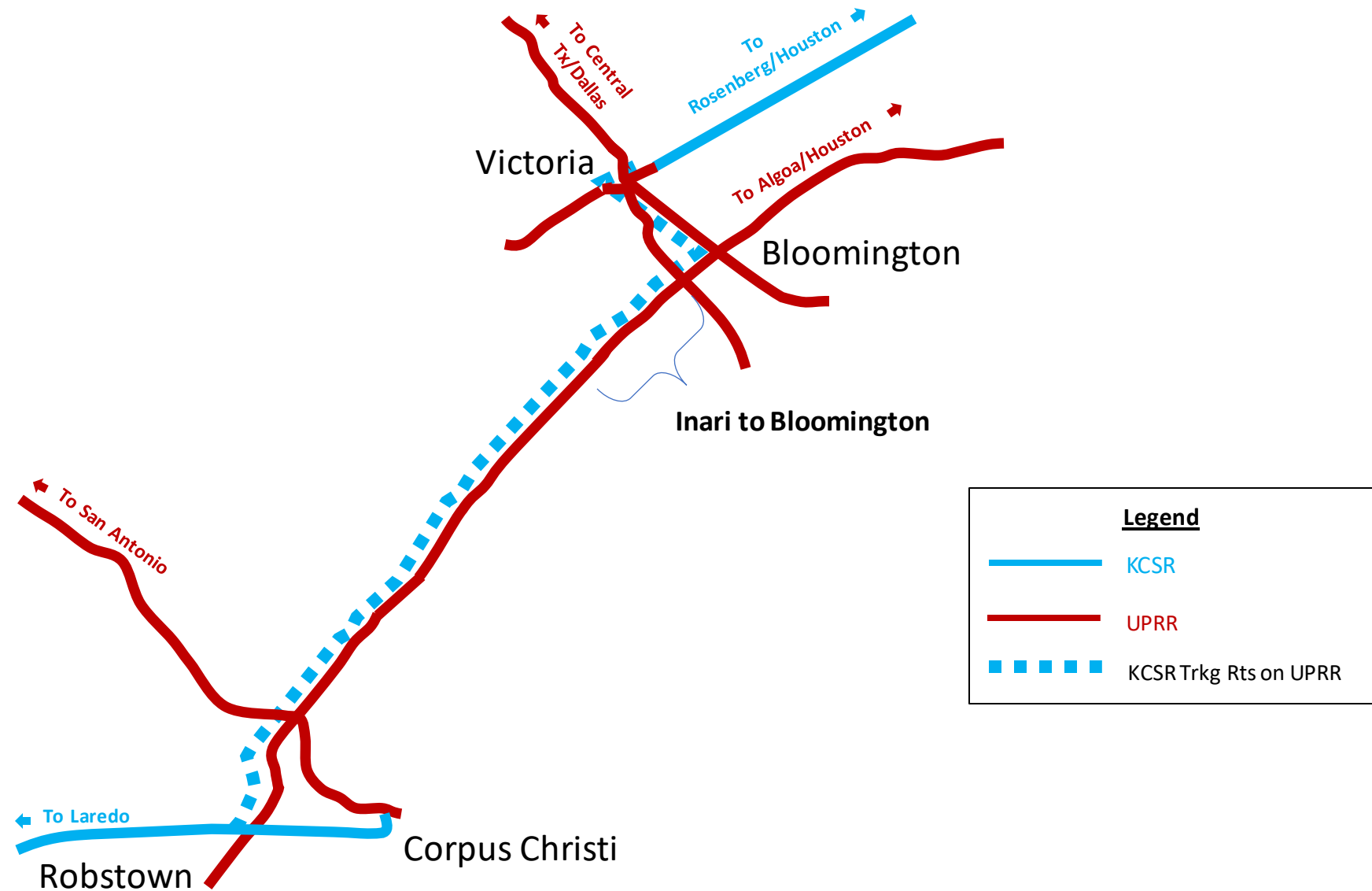
KCS Houston Flow – Alternate

Percentage increase over peak

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



Victoria / Robstown Corridor



The Brownsville Subdivision has a bottleneck problem under optimistic assumptions

Inari-Bloomington, Applicants' assumptions
(@5 min. spacing)

Capacity 100%	Capacity 65%	TPD at End of 2022 vs 65%
41.1	26.7	1.7

Inari-Bloomington, Applicants' assumptions
(@10 min. spacing)

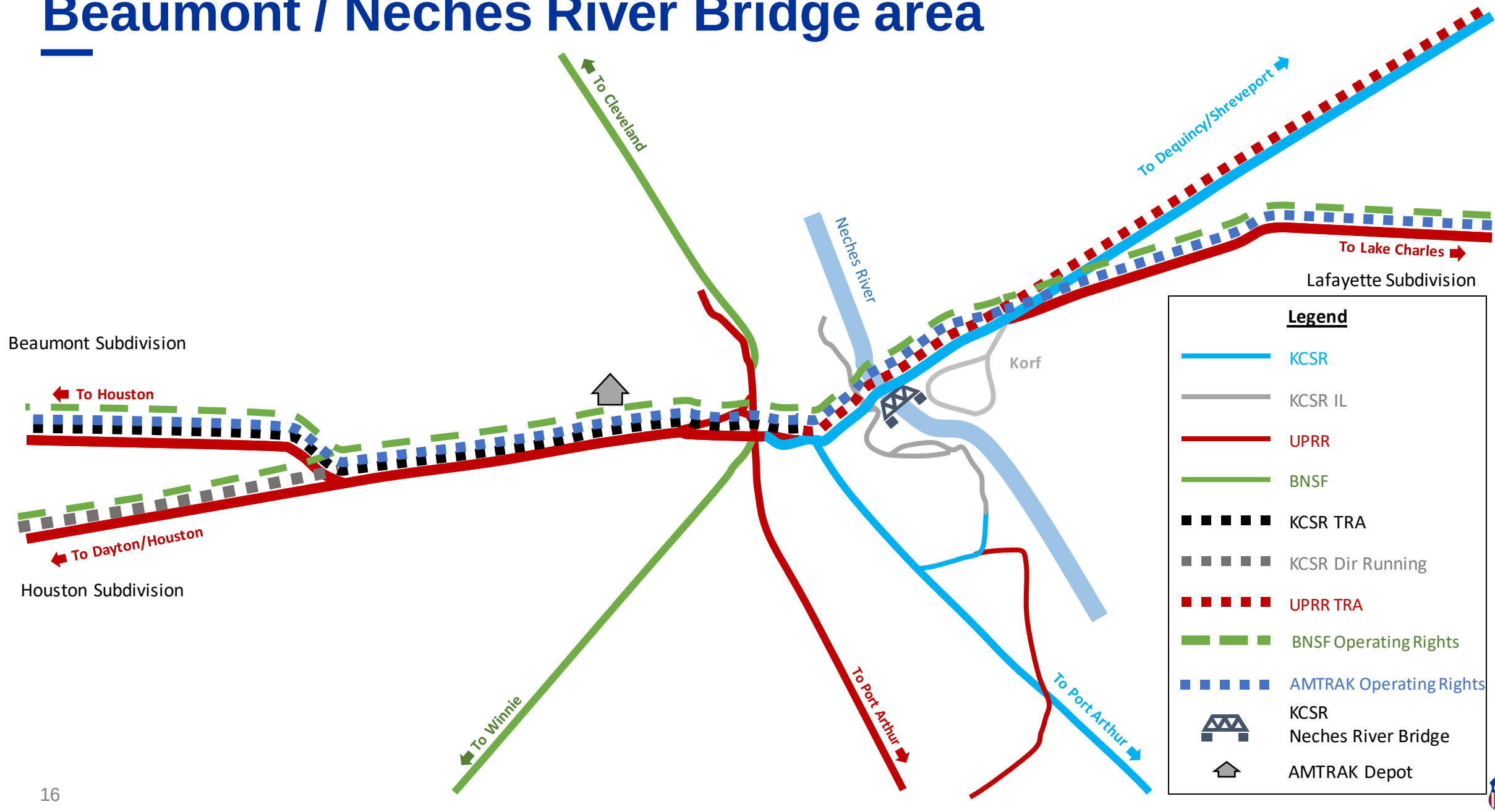
Capacity 100%	Capacity 65%	TPD at End of 2022 vs 65%
36.0	23.4	-1.6



CP/KCS assumptions are unrealistic and overly aggressive

- 1350 minutes/day available for through train operations
 - (1440 min/day – (30 min/day bridge open + 60 min/day maintenance))
- 25.5 minutes per train, with spacing
 - (675 min/33 trains = 20.5 min/train occupancy, plus 5 min/train spacing)
 - Elphick/Orr R.V.S. at 49, Table 2; spacing derived from Elphick/Orr R.V.S. at 31, Table 1
- CP/KCS assertion of “sustainable” capacity: 34.4 trains/day
 - (1350 min/day ÷ 25.5 min/train x 65%)
- Applicants’ projection: 41 trains/day
 - Elphick/Orr R.V.S. at 50, Table 3

Beaumont / Neches River Bridge area



Proposed CP/KCS Merger Conditions

- CPKC provides customers with mileage-based, prorated gateway rates.
- CPKC cooperates with UP to develop a plan for trackage rights lines accommodating merger-related traffic growth.
- CPKC increases train counts on trackage rights lines only after capacity is added and paid for by CPKC.
- CPKC grants UP access to the new rail bridge at Laredo on the same terms and conditions as the existing bridge.



UNION PACIFIC PRESENTATION

FINANCE DOCKET NO. 36500

John Turner, Sr. VP, Harriman Dispatch Center & Network Planning
Michael L. Rosenthal, Outside Counsel

September 30, 2022

