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ALJ

SERVICE DATE – DECEMBER 19, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 32760 (Sub-No. 50)

BNSF RAILWAY COMPANY—PETITION FOR ENFORCEMENT—
INTERCHANGE WITH SAVAGE TOOEELE RAILROAD COMPANY

**ORDER GRANTING
UNION PACIFIC’S MOTION FOR PARTIAL RECONSIDERATION OF ORDER
GRANTING BNSF’S MOTION TO COMPEL DEPOSITIONS**

Decided: December 19, 2025

This discovery matter is before the undersigned pursuant to a ruling by the Surface Transportation Board, see Decision (Nov. 26, 2025).

On June 20, 2024, BNSF Railway Company (BNSF) filed a petition requesting that the Board enforce certain conditions imposed in its 1996 decision authorizing the merger of the Union Pacific Railroad Company (UP) and the Southern Pacific Rail Corporation by requiring UP to allow BNSF to interchange with Savage Tooele Railroad Company (STR), a short line railroad serving the Lakeview Business Park in Tooele County, Utah. By decision served April 28, 2025, the Board denied UP’s request to dismiss BNSF’s petition and set a procedural schedule for this proceeding.

On September 25, 2025, BNSF filed a motion to compel the deposition testimony of three UP witnesses and to hold the procedural schedule in abeyance pending resolution of its motion. BNSF requested expedited consideration of its motion. On September 26, 2025, the Board’s Chief Counsel issued an order directing UP to file any reply to BNSF’s motion by September 30, 2025. The order also held the procedural schedule in abeyance pending further order of the Board. On September 30, 2025, UP filed a reply. Discovery was referred to the undersigned ALJ. Decision (Nov. 26, 2025). The Board also held the procedural schedule in abeyance pending further order of the Board. Id. at 2.

The undersigned granted BNSF’s Motion to Compel and set the deadline for the three depositions to occur no later than Wednesday, December 24, 2025. Decision (Dec. 10, 2025). UP requested reconsideration only of the deadline to conduct the depositions. (UP Motion.) Considering the deadline imposed by the Order granting the Motion to Compel and UP’s requested relief, the undersigned ordered an expedited reply be filed on or before Thursday December 18, 2025. Decision (Dec. 16, 2025).

UP's partial motion for reconsideration requests the deadline to conduct the depositions be extended until January 23, 2026.¹ (UP Motion 1, 6.) UP argues that during the deadline imposed, UP has conflicts with pre-planned vacations and end-of-year obligations for the witnesses, holiday office closures for UP employees, and professional conflicts for counsel for the witnesses and UP. (UP Motion 3-5.)

BNSF filed a Letter in Reply on December 17, 2025, explaining that BNSF has been ready to conduct depositions as ordered.

UP requests a relatively short extension to conduct the depositions considering that the depositions were ordered during the holiday season and at the end of the year. The conflicts that UP explained in its motion are understandable. Those conflicts could be mitigated with advance notice, but the order to complete the depositions gave short notice.

I acknowledge that BNSF has been ready to conduct depositions. However, if UP witnesses and counsel have conflicts, then the depositions will be less than fruitful for BNSF. Moreover, the Board has not set a discovery deadline in this matter. On balance, the relatively short extension is warranted here.

For these reasons, the undersigned GRANTS UP's Motion for Partial Reconsideration of Order Granting BNSF's Motion to Compel Depositions.

It is ordered:

1. UP's Motion to for Partial Reconsideration is Granted.
2. The Depositions of the three individuals, Richard Harris, Melissa Meier, and Michelle Zemeckis, shall occur on or before Friday, January 23, 2026.
3. This decision is effective on the date of service.

By the Board, Jenifer J. Soulikias, Administrative Law Judge.

¹ UP's motion states January 23, 2025. (UP Motion 1, 5.) However, this is a scrivener's error due to the upcoming new year. BNSF's letter acknowledges that UP's requested extension is until January 23, 2026. (BNSF Reply 1.)