

BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Chief Counsel
January 30, 2026
Part of
Public Record

DOCKET NO. FD 32760 (SUB-NO. 50)

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

UNION PACIFIC'S PROPOSED PROCEDURAL SCHEDULE

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The Board’s decision served January 23, 2026, ordered BNSF Railway Company (“BNSF”) and Union Pacific Railroad Company (“Union Pacific”) to jointly file a proposed procedural schedule for the remainder of this proceeding. The parties were unable agree on a joint proposal because BNSF proposed a schedule that would unduly extend this proceeding and unfairly disadvantage Union Pacific. The Board should reject BNSF’s proposed schedule and adopt Union Pacific’s proposed schedule, under which the parties would file opening, reply, and rebuttal submissions by April 27, 2026.

On September 25, 2025—the day discovery was scheduled to close and just 32 days before its opening submission was due—BNSF moved to compel the deposition testimony of three employees of Union Pacific Railroad Company (“Union Pacific”). After various delays, including a government shutdown, BNSF completed the three depositions on January 23, 2026.

With discovery completed on January 23, BNSF should file its opening submission no later than February 24—that is, 32 days after January 23—consistent with the procedural schedule entered August 15, 2025. Instead, BNSF proposes to delay its opening submission until April 8.

In addition, BNSF's proposal would give it 75 days—rather than 32 days—to prepare its opening, while allowing Union Pacific only 30 days to prepare a reply. The asymmetry is inequitable and would unfairly prejudice Union Pacific.

BNSF attempts to justify its proposal by asserting the discovery period should not close until (i) Union Pacific responds to three document requests propounded after the deposition, and (ii) BNSF has an opportunity to file a motion to compel responses to those requests. BNSF does not explain why the documents it says might exist—a draft memorandum of understanding from 2019, a “napkin drawing” of a proposed rail design requested from the Romney Group, and additional documents from meetings for which multiple documents were already produced—could be expected to provide any different information than the many draft agreements, rail design plans, and meeting materials that Union Pacific has already produced and that were addressed in depositions.

In any event, as BNSF itself recognized in its new discovery requests, the documents it seeks would have been responsive to its initial requests. Union Pacific produced all the responsive documents it located through a reasonable search in August 2025. Union Pacific has no additional responsive documents.

BNSF's scheduling proposal is a thinly veiled request for additional time to prepare its opening submission. BNSF should have understood discovery was over when depositions were completed on January 23 and should have been prepared to file its opening submission in February.

Union Pacific therefore proposes that the Board enter the following schedule:

Event	Date
Close of discovery	January 23, 2026
BNSF's opening submission	February 24, 2026
Union Pacific's reply	March 30, 2026
BNSF's rebuttal	April 27, 2026

If the Board grants BNSF additional time to file its opening submission, it should grant Union Pacific an equal amount of time to file its reply—measured from January 23 to the opening submission deadline. Union Pacific's request for equal time is reasonable and appropriate: BNSF could have been preparing its opening for months, while Union Pacific must wait to see BNSF's arguments before preparing its reply.

CONCLUSION

For the reasons set forth above, Union Pacific respectfully requests that the Board confirm discovery closed January 23 and order the parties to file their opening, reply, and rebuttal submissions as set forth above. If the Board grants BNSF additional time to prepare its opening, the Board should grant Union Pacific equal time to prepare its reply.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of January, 2026, I caused the foregoing document to be served by email on all parties of record in this proceeding and Administrative Law Judge Jenifer Soulikias.

/s/ Michael L. Rosenthal