

BEFORE THE SURFACE TRANSPORTATION BOARD**Daniel T. White,
Petitioner,****v.****Kansas City Southern Railway Company,
The Texas Mexican Railway Company, and
Canadian Pacific Kansas City Limited,
Respondents.****ENTERED
Office of Chief Counsel
May 20, 2026
Part of
Public Record****STB Finance Docket No. 34342****REPLY TO RESPONDENTS' OPPOSITION (MAY 14, 2026)****I. INTRODUCTION**

Petitioner respectfully submits this Reply to Respondents' Opposition filed May 14, 2026. Respondents' Opposition rests on a fundamental mischaracterization of this proceeding by attempting to recast the Petition as a dispute concerning the merits of a labor agreement rather than the actual issue presented: whether New York Dock implementation authority now being asserted in connection with post-merger integration under FD 36500 is being exercised in a manner consistent with the structural framework and conditions underlying the Board's approval of the Tex-Mex transaction in FD 34342. The Petition does not seek to relitigate the arbitration award as a labor matter, nor does it challenge the role of the certified bargaining representative. Rather, it concerns whether the authority invoked to implement the arbitration award remains within lawful bounds.

The Petition invokes the Board's retained jurisdiction to determine whether New York Dock implementation authority now being asserted in connection with post-merger integration under FD 36500 remains consistent with the structural framework and conditions underlying the Board's approval of the Tex-Mex transaction in FD 34342. Because the Board's approval in FD 36500 remains subject to continuing oversight authority, the question whether implementation actions depart from the structural framework underlying the Tex-Mex transaction approved in FD 34342 falls squarely within the Board's jurisdiction and cannot be avoided through recharacterization.

**II. PETITIONER HAS STANDING UNDER THE BOARD'S CONTINUING
OVERSIGHT AUTHORITY**

Respondents argue that Petitioner lacks standing because he was not a party to the arbitration and does not represent a labor organization. That contention reflects a misapprehension of the nature of this proceeding. This proceeding concerns whether New York Dock implementation authority now being asserted in connection with post-merger integration under FD 36500 remains

consistent with the structural framework and conditions underlying the Board's approval of the Tex-Mex transaction in FD 34342. Petitioner does not seek review of the arbitration award as a representative of BLET or as a participant in the arbitration itself.

In approving the CP-KCS transaction in FD 36500, the Board expressly retained oversight authority to monitor compliance with, and enforce, the conditions upon which its approval rested. That retained authority encompasses whether implementation remains consistent not only with the scope of the integration authority asserted under FD 36500, but also with the structural framework underlying the Tex-Mex transaction approved in FD 34342. Petitioner is directly affected by actions taken pursuant to that authority, including the imposition of a materially different contractual and operational framework. The question presented is therefore not who participated in the arbitration, but whether implementation authority exercised pursuant to Board-imposed conditions remains within lawful bounds. The absence of a union appeal does not eliminate the Board's independent responsibility to determine whether implementation authority exercised pursuant to Board-approved conditions remains within lawful bounds. Petitioner's standing arises not from participation in the arbitration itself, but from direct subjection to implementation measures allegedly exceeding the scope of authority exercised pursuant to Board-imposed conditions.

III. THE ALLEGED FILING IRREGULARITY DOES NOT BAR REVIEW OF AN ONGOING IMPLEMENTATION DISPUTE

Respondents suggest that the Petition may be procedurally defective due to an alleged one-day mailing discrepancy under 49 C.F.R. § 1104.6. That suggestion does not present a jurisdictional bar. Respondents acknowledge that the Petition was executed and mailed on April 21, 2026—the date Respondents themselves characterize as the applicable deadline—and identify no prejudice, delay, or bad faith arising from the manner of filing. At most, Respondents raise a minor procedural issue regarding mailing mechanics. Notably, Respondents themselves state only that Petitioner “may have” filed outside the applicable period, underscoring the absence of any clear jurisdictional defect.

More importantly, the challenged action is neither historical nor complete. The April 1, 2026 arbitration award is being invoked as the operative mechanism through which Respondents seek to implement ongoing operational integration and contractual realignment that Respondents contend are necessary to effectuate post-merger integration under New York Dock authority arising from FD 36500. Respondents themselves characterize the award as essential to achieving future operational and transportation benefits, while simultaneously describing implementation as an evolving, gradual, and experience-driven process. In doing so, Respondents confirm that the challenged measures form part of an ongoing integration process subject to continuing Board oversight rather than a fixed and completed historical action insulated from review.

The dispute became ripe upon issuance of the arbitration award itself because the award established and authorized the implementation framework through which the challenged

restructuring measures would proceed. Respondents cannot simultaneously invoke merger necessity and Board-conditioned New York Dock authority as the basis for implementing sweeping structural changes while also suggesting that the Board's continuing oversight interest is defeated by a technical mailing issue involving a pro se petitioner acting within the prescribed review period following issuance of the arbitration award. Accordingly, the issue before the Board is not whether a petition mailed on April 21 should be dismissed on technical grounds absent demonstrated prejudice, but whether the challenged arbitration award exceeds the scope of implementation authority asserted under New York Dock in connection with FD 36500 and the structural framework underlying the Board's approval of the Tex-Mex transaction in FD 34342. Respondents' procedural argument should therefore be understood not as a jurisdictional limitation, but as an effort to avoid substantive review of an ongoing implementation dispute.

IV. THE BOARD'S APPROVAL RESTED ON CONDITIONS THAT DEFINE THE LIMITS OF IMPLEMENTATION AUTHORITY

Respondents' characterization of the relevant representations as limited to "commercial and operational issues" is unduly narrow and does not reflect their function in the Board's analysis. The Board's approval of the transaction was predicated on representations that defined the scope of what was authorized. Those representations—including the commitments relied upon by the Board—formed the basis for approval of the limited-control transaction in FD 34342, not system-wide integration. These representations were not collateral assurances, but integral to the Board's determination that the transaction could be approved without broader integration.

Their significance lies not in how they are categorized, but in the role they played in defining the boundaries of what the Board approved. The Board relied upon those representations to conclude that the transaction would not result in structural disruption or integration beyond what was presented. Because the Board approved a limited-control framework in FD 34342, implementation authority later asserted under New York Dock through FD 36500 cannot lawfully be used to effectuate integration materially broader in scope than the framework presented to and approved by the Board. Respondents' argument that the representations at issue do not expressly address collective bargaining agreements therefore misses their function in the Board's analysis. The relevance of those representations is not that they explicitly regulate labor agreements, but that they define the structural limits of the transaction itself. Those limits constrain the scope of permissible implementation regardless of the specific subject matter through which that implementation is effected.

Actions that materially alter existing contractual and operational frameworks implicate that distinction and raise the question whether implementation remains within the bounds of the approval or instead effects a degree of integration that was neither presented to nor authorized by the Board. The challenged implementation does not merely adjust incidental operating practices, but materially restructures the contractual and operational framework applicable to the affected territory, including deployment structures, qualification systems, assignment frameworks, and

operational workforce organization. Where implementation authority asserted under New York Dock through FD 36500 is used to alter the structural premises upon which the Board's approval of the Tex-Mex transaction in FD 34342 rested, such action exceeds the scope of the authority conferred through those approvals.

V. RESPONDENTS' "NO HARM" ARGUMENT MISSTATES THE GOVERNING LEGAL STANDARD

Respondents assert that the arbitration award produces benefits or does not result in cognizable harm. That contention does not address the governing legal standard. This proceeding does not turn on a comparative evaluation of the Tex-Mex and MidSouth agreements, nor does it require the Board to resolve competing claims regarding wages, assignments, or working conditions. The question presented is whether implementation authority asserted under New York Dock in connection with FD 36500 has been lawfully exercised in a manner consistent with the framework approved by the Board in FD 34342.

Even assuming, arguendo, that certain aspects of the imposed framework could be characterized as beneficial, that is not the governing standard. New York Dock permits only those changes that are necessary to effectuate the approved transaction. It does not authorize otherwise unnecessary actions on the ground that they may be more efficient or desirable. The harm identified therefore arises not from disagreement with the relative merits of one agreement over another, but from implementation of a materially different contractual and operational framework through measures alleged to exceed the scope of implementation authority asserted under New York Dock through FD 36500 and constrained by the framework approved in FD 34342. Where the asserted basis for that imposition is "necessity" under New York Dock, the validity of that necessity becomes central to the Board's review.

Respondents' detailed enumeration of purported benefits—including compensation structure, work opportunities, and retirement options—does not bear on the governing inquiry.¹ The relevant question is whether the authority invoked to impose those changes has been lawfully exercised. Assertions of benefit cannot validate action taken beyond the scope of that authority. Likewise, the existence of certain retained benefits or mitigative protections does not eliminate the structural nature of the challenged implementation nor resolve whether the authority invoked to impose it was lawfully exercised.

¹ Respondents devote substantial discussion to purported benefits associated with the imposed framework. Petitioner does not ask the Board to adjudicate the comparative merits of competing labor agreements. However, Respondents' presentation omits material economic consequences directly relevant to their assertions of benefit and lack of harm. By way of example, under the existing Tex-Mex framework, extra-board guarantee compensation is approximately \$5,146.24 per pay period, whereas the imposed MidSouth structure eliminates that guarantee entirely, and the separate "Hourly" framework referenced by Respondents provides a substantially reduced guarantee of \$1,744.26 per pay period. These omissions illustrate why generalized assertions of "benefit" or "efficiency" cannot substitute for the required showing of lawful necessity under New York Dock.

Respondents characterize Petitioner's position as a matter of personal preference or dissatisfaction with the imposed agreement. That characterization is incorrect. Petitioner's claim does not rest on preference, but on the limits of authority under which the challenged action was taken. The issue is not whether one agreement is preferable to another, but whether the imposition of that agreement was authorized within the framework established by the Board.

VI. PETITIONER PROCEEDS IN AN INDIVIDUAL CAPACITY, BUT THE CHALLENGED ACTION IS NOT INDIVIDUAL IN NATURE

Respondents contend that Petitioner lacks capacity to assert harm on behalf of "similarly situated employees." Petitioner does not dispute that he proceeds solely in his individual capacity. The reference to similarly situated employees was not intended to assert representative status, but to describe the nature of the challenged action. The arbitration award and resulting implementation apply across a defined group and impose a common contractual and operational framework.

The challenged implementation effects structural changes that are neither readily reducible to monetary compensation nor easily unwound once implemented. Those changes arise pursuant to implementation authority asserted under New York Dock in connection with FD 36500 and alleged to exceed the scope permitted when measured against the framework approved in FD 34342. Structural change does not require geographic relocation or elimination of representation rights. The replacement of the governing contractual framework controlling assignments, compensation structures, operational administration, and workforce integration itself constitutes a material restructuring measure. The structural nature of the challenged implementation does not depend upon whether aspects of the resulting framework could later be administratively modified. The relevant injury arises from the implementation itself pursuant to authority alleged to exceed lawful bounds. Finally, the sequence of events—including the advancement of a separate "Hourly" agreement prior to implementation of the imposed MidSouth framework—further underscores that the challenged action is not isolated or individual, but part of a broader restructuring process substantially undermining Respondents' characterization of the imposed MidSouth framework as a necessary implementation endpoint under New York Dock in connection with the integration authority asserted through FD 36500 and measured against the transaction framework approved in FD 34342.

VII. THE ARBITRATION AWARD FAILS THE NEW YORK DOCK NECESSITY REQUIREMENT

Respondents assert that the imposed agreement is necessary to effectuate the approved transaction framework. New York Dock requires necessity—not preference, efficiency, or expedience. Implementation authority asserted under New York Dock through FD 36500 is derivative of the Board's underlying approval authority and therefore cannot lawfully expand or exceed the structural framework and conditions underlying the limited-control transaction approved in FD 34342. Accordingly, assertions of necessity must remain tethered to the limits of the authority conferred by the Board itself.

The record further reflects that Respondents advanced a separate “Hourly” agreement for ratification prior to implementation of the imposed framework. This sequence is legally significant because it indicates that the arbitration outcome was not treated as a stable operational endpoint, but rather as part of a broader and continuing restructuring process.² An agreement functioning as an interim restructuring step substantially undermines Respondents’ characterization of the imposed MidSouth framework as a necessary implementation endpoint under New York Dock. The rapid advancement of a materially different operational framework shortly after securing arbitration authority grounded in necessity further undermines the claim that implementation of the imposed MidSouth framework was genuinely necessary to effectuate the integration authority asserted through FD 36500 in a manner consistent with the framework approved in FD 34342.

Respondents rely heavily on the arbitrator’s finding that the imposed agreement is “necessary” to effectuate the approved transaction framework. That reliance is misplaced. An arbitrator’s finding of necessity cannot independently expand the scope of implementation authority asserted under New York Dock through FD 36500 beyond the framework approved by the Board in FD 34342. If the underlying action exceeds that scope, the designation of “necessity” does not cure the defect. The question before the Board is therefore not whether the arbitrator found necessity, but whether such necessity exists within the bounds of authority lawfully conferred.

Respondents repeatedly invoke a purported “direct connection” or “proven nexus” between the challenged implementation measures and the underlying transaction. That characterization does not resolve the question presented. A connection to an approved transaction does not eliminate the requirement that implementation remain within the scope and structural premises of the authority granted. Otherwise, any later restructuring measure bearing some operational relationship to the original transaction could be characterized as implementation regardless of how substantially it altered the framework presented to and approved by the Board. Likewise, Respondents’ emphasis on the arbitrator’s characterization of the challenged action as a “transaction” within the meaning of New York Dock does not resolve the issue. The relevant inquiry is not whether an action can be described as a transaction in the abstract, but whether it is a transaction of the type and scope approved by the Board. New York Dock does not provide a vehicle for expanding the approved transaction beyond its defined limits under the guise of implementation.

² Petitioner notes this chronology only because Respondents themselves place operational necessity at the center of their justification. Voting on a separate “Hourly” framework commenced May 5, 2026 and remains ongoing through May 21, 2026, while implementation of the imposed MidSouth framework is scheduled for June 8, 2026. The sequence is notable because the separate Hourly framework materially alters guarantee compensation structures relative to both the existing Tex-Mex framework and the imposed MidSouth structure. Petitioner does not ask the Board to adjudicate the comparative merits of competing labor agreements. Rather, the chronology bears on whether the imposed MidSouth framework is genuinely functioning as a necessary operational endpoint under New York Dock, or instead as part of a broader and continuing restructuring process extending beyond the scope of implementation authority contemplated by the Board’s approval.

These considerations substantially undermine Respondents' assertion that the challenged implementation measures constitute necessary implementation within the meaning of New York Dock. The issue before the Board is therefore whether the arbitration award represents lawful implementation under New York Dock—or an unauthorized extension of integration authority beyond the framework approved by the Board in FD 34342.

VIII. RESPONDENTS' RELIANCE ON PRIOR AUTHORITY DOES NOT RESOLVE THE QUESTION PRESENTED

Respondents rely extensively on prior arbitral, administrative, and judicial decisions to assert that the imposition of a single collective bargaining agreement falls within established New York Dock authority. Those authorities, however, do not resolve the question presented here. Petitioner does not dispute that New York Dock may permit substantial operational integration or the application of a single agreement in appropriate circumstances. Rather, the question presented is whether implementation authority asserted under New York Dock through FD 36500 may be exercised in a manner that exceeds the scope of the transaction framework presented to and approved by the Board in FD 34342.

None of the authorities cited by Respondents address whether implementation measures that materially alter the structural premises of the transaction framework approved in FD 34342—particularly where such measures function as part of an ongoing and evolving restructuring process—remain within the bounds of that approval. The authorities relied upon by Respondents presuppose that the implementation at issue falls within the scope of the transaction framework approved by the Board in FD 34342. They do not address whether New York Dock authority may lawfully be used to expand that scope.

Accordingly, generalized statements regarding the permissibility of operational integration or the application of a single collective bargaining agreement do not resolve the issue presented here. The question before the Board is whether implementation authority asserted under New York Dock through FD 36500 remains consistent with the structural framework and conditions underlying the limited-control transaction approved by the Board in FD 34342.

IX. PUBLIC INTEREST AND MONETARY PROTECTIONS DO NOT EXPAND THE SCOPE OF AUTHORITY

Respondents assert that the arbitration award promotes efficiency, service improvements, and customer benefits, and that employees are protected by New York Dock monetary provisions. These assertions do not alter the governing analysis. Public-interest considerations cannot expand the scope of implementation authority asserted under New York Dock through FD 36500 beyond the structural framework approved by the Board in FD 34342. Efficiency gains, transportation benefits, and operational improvements, while relevant to the Board's approval of the integration authority asserted through FD 36500, do not independently authorize implementation measures exceeding the limits of the framework approved in FD 34342.

Assertions of operational efficiency or customer benefit cannot transform implementation measures exceeding the scope of Board-conferred authority into lawful action merely because purported benefits are asserted. Likewise, the availability of monetary protections under New York Dock does not cure actions taken outside the scope of lawful authority. Such protections presuppose otherwise lawful implementation; they do not operate to validate implementation measures exceeding the implementation authority asserted under New York Dock through FD 36500 and constrained by the framework approved in FD 34342. Monetary protections under New York Dock address compensation consequences arising from otherwise lawful implementation, not whether the challenged measures themselves remain within the scope of authority lawfully exercised pursuant to the Board's approvals.

Respondents further suggest that any resulting changes could be readily reversed in the event the arbitration award is later set aside. That assertion underscores, rather than resolves, the issue. If the imposed MidSouth framework can be undone without significant impediment, it becomes difficult to characterize implementation of that framework as genuinely necessary under New York Dock to effectuate the integration authority asserted through FD 36500 in a manner consistent with the framework approved in FD 34342. If the imposed MidSouth framework were truly indispensable to effectuating the integration authority asserted through FD 36500 in a manner consistent with the framework approved in FD 34342, its apparent replaceability and transitional character would substantially undermine the claim that it was genuinely necessary within the meaning of New York Dock. Such a position confirms that the challenged action reflects a discretionary restructuring step rather than a required implementation measure within the scope of lawful implementation authority. Moreover, the possibility of reversal does not negate the structural nature of the harm once implementation occurs, nor does it justify actions not necessary to effectuate the transaction framework approved in FD 34342.

X. PUBLIC INTEREST CONSIDERATIONS REINFORCE THE NEED FOR CONTINUING BOARD OVERSIGHT

Respondents repeatedly justify the implementation of the imposed MidSouth framework as necessary to achieve operational efficiencies, transportation benefits, and improved service to customers. Those asserted public benefits form part of Respondents' justification for implementation of the imposed MidSouth framework under New York Dock authority arising from the transaction approved in FD 36500. Accordingly, the Board's public-interest responsibilities remain directly relevant to whether implementation of the imposed MidSouth framework under asserted New York Dock authority in FD 36500 remains consistent with the structural and operational framework underlying the Tex-Mex transaction approved in FD 34342.

The public-interest implications of the challenged implementation extend beyond the immediate parties. The affected operations occur within a geographically constrained operating territory in which crew availability is limited by fixed qualification requirements and operational workforce structures not readily susceptible to immediate system-wide substitution. As a result, workforce

instability within that territory cannot readily be offset through broader system-wide reassignment. The attrition risk presented by the challenged implementation is further amplified by the characteristics of the affected labor market, including the presence of competing Class I railroads, energy-sector employers, industrial transportation operations, and other alternative skilled-employment opportunities within the greater Houston metropolitan region.

In such an environment, operational changes materially affecting existing compensation and workforce-retention structures reasonably create attrition pressures affecting the retention and availability of qualified operating personnel. Because the affected territory depends upon localized qualification structures and operational workforce limitations affecting rapid system-wide reassignment, even incremental workforce attrition may materially impact operational continuity, train starts, service reliability, and the carrier's ability to meet shipper demand. While such effects are prospective, the causal mechanism is already apparent. This proceeding therefore establishes the causal predicate for foreseeable service degradation arising from implementation of the imposed MidSouth framework. Respondents contend that implementation is necessary to effectuate the transaction approved in FD 36500 notwithstanding the distinct structural and operational framework historically associated with the Tex-Mex transaction approved in FD 34342.

The Board's public-interest mandate is not limited to reacting to service failures after they occur. It includes preventing foreseeable degradation where the underlying causal mechanism is already evident within an ongoing implementation process subject to the Board's continuing seven-year oversight established in FD 36500. Respondents' own invocation of transportation efficiencies, customer benefits, and operational integration therefore reinforces the Board's interest in determining whether the challenged implementation measures remain within the lawful bounds of New York Dock authority, particularly in light of the operational structure and framework historically associated with the Tex-Mex transaction approved in FD 34342.

The Board's oversight responsibilities are preventative as well as remedial and are not limited to addressing service degradation only after operational instability has already manifested in the form of shipper harm or network disruption. The concerns identified herein are therefore not speculative abstractions, but fall within the very category of operational, service-related, and competitive consequences the Board determined warranted continuing seven-year oversight and monitoring in FD 36500.

XI. AUTHORITY PRECEDES THE STAY TEST

Respondents frame their Opposition through the traditional four-factor test for a stay. That framework does not eliminate the threshold issue presented here. Where implementation authority asserted under New York Dock through FD 36500 is alleged to exceed the structural framework approved in FD 34342, the question of lawful authority necessarily precedes and informs the stay analysis. An action alleged to exceed the scope of Board-conferred authority cannot be sustained by reference to balancing factors such as efficiency, asserted benefits, or

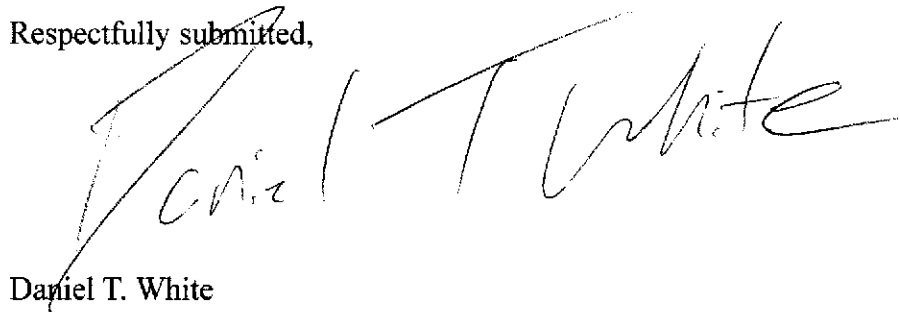
administrative convenience. The dispositive question remains whether the authority invoked under New York Dock has been lawfully exercised.

The issue before the Board is therefore not merely whether the challenged implementation may produce operational efficiencies or other asserted benefits, but whether implementation of the imposed MidSouth framework remains within the lawful scope of the authority asserted under New York Dock in connection with the transaction approved in FD 36500 and consistent with the structural and operational framework reflected in FD 34342.

XII. CONCLUSION

Respondents' Opposition does not address the central issue presented: whether implementation authority asserted under New York Dock through FD 36500 permits the challenged implementation measures in a manner consistent with the structural framework and conditions underlying the Board's approval of the Tex-Mex transaction in FD 34342. That issue directly invokes the Board's retained jurisdiction and continuing oversight authority under FD 36500 to ensure that implementation remains consistent with the conditions upon which approval was granted. For the foregoing reasons, the requested relief should be granted, together with such other relief as the Board deems appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel T. White". The signature is written in a cursive, flowing style with a large initial "D" and "W".

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Date: May 20, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of May, 2026, I served a true and correct copy of Petitioner's Reply to Respondents' Opposition to Emergency Motion for Stay and Interim Relief upon all known and reasonably ascertainable parties and representatives associated with this proceeding, including Respondents, counsel of record, and representatives of the Brotherhood of Locomotive Engineers and Trainmen ("BLET"), via electronic mail and certified mail, as applicable.

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Dated: May 20, 2026