

BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Chief Counsel
July 17, 2026
Part of
Public Record

FINANCE DOCKET NO. 32760 (SUB-NO. 52)

BNSF RAILWAY COMPANY
—PETITION FOR REVIEW—
UP/SP MERGER CONDITIONS

**BNSF RAILWAY COMPANY’S MOTION
FOR EXTENSION OF TIME TO RESPOND**

BNSF Railway Company (“BNSF”) respectfully moves to extend the date to file a supplement in support of its Petition for Review, Enforcement, and Modification of the UP/SP Merger Conditions in the above-captioned docket until August 26, 2026. Under the Board’s May 26, 2026 decision, the current deadline for BNSF to file its supplement is July 27, 2026. *See BNSF Ry. Co.—Pet. for Rev.—UP/SP Merger Conditions*, FD 32760 (Sub-No. 52), slip op. at 6 (STB served May 26, 2026) (“Decision”). There is good cause for a brief extension of 30 days to allow BNSF to provide a complete response to the Board’s request that BNSF supplement its filing with “available factual support (including documentation) for its claims.” *Id.* Undersigned counsel has conferred with counsel for UP, which does not consent to this Motion.

1. BACKGROUND

On November 28, 2025, BNSF filed a petition seeking review, enforcement, and modification of conditions imposed when the Board approved the UP/SP merger. *See*

BNSF Railway Company’s Petition for Review, Enforcement, and Modification of the UP/SP Merger Conditions, *BNSF Ry. Co.—Pet. for Rev.—UP/SP Merger Conditions*, FD 32760 (Sub-No. 52) (filed Nov. 28, 2025) (“Original Petition”). In the Original Petition, BNSF asked the Board to “enter a procedural order that permits the parties and interested third parties to undertake discovery regarding the efficacy of the UP/SP merger conditions and to participate in the proceeding” so that the Board and parties could proceed with the benefit of “a fully developed evidentiary and expert record.” *Id.* at 27. Replies to BNSF’s Original Petition were originally due on December 18, 2025, but the Board extended the reply deadline for all interested parties in response to UP’s extension request, which BNSF did not oppose. *See* Decision at slip op. 3 n.6; *BNSF Ry. Co.—Pet. for Rev.—UP/SP Merger Conditions*, FD 32760 (Sub-No. 52) (STB served Dec. 10, 2025). The Board received replies in support of and opposition to the Original Petition from UP and interested third parties and a Notice of Intent to Participate from CSX Transportation, Inc. *See* Decision at slip op. 3–4.

After review of these materials, the Board issued a decision stating it could not grant or deny the Original Petition based on the information before it, but the Board also provided that “BNSF will be given an opportunity to clarify its claims and provide supporting evidence.” Decision at slip op. 5–6. Accordingly, the Board provided 60 days for BNSF to submit a supplement. *Id.* at slip op. 6.

Since receiving the Decision, BNSF has worked diligently to prepare the evidentiary and expert presentation that will aid the Board in its analysis. In order

to allow BNSF to complete its compilation of the evidence available, BNSF respectfully requests that the Board utilize its discretion under 49 C.F.R. § 1104.7(b) to extend the time for BNSF to file its supplement to August 26, 2026. Good cause for an extension exists so the Board can review BNSF's request with the benefit of the full evidence available to BNSF at this time.

2. AN EXTENSION OF TIME UNTIL AUGUST 26, 2026 IS WARRANTED

Good cause exists for a brief extension of time for BNSF to file its supplement. BNSF has marshaled resources to compile the additional evidence the Board has requested. BNSF also requested on June 3, and received on July 6, over three decades' worth of Confidential Carload Waybill Sample data from the Board. BNSF requires a short extension in order to more fully integrate and synthesize the available evidence into its presentation. The Board has previously determined that the need to evaluate recently received evidence to fully address the issues in a proceeding constitutes good cause for an extension. *See, e.g., Ind. & Ohio Centr. R.R., Inc.—Acquisition & Operation Exemption—CSX Transp., Inc.*, FD 34536, slip op. at 1–2 (STB served Dec. 21, 2004) (granting request for extension where party had not received necessary documents until shortly before filing deadline and party “stat[ed] that it needs the additional time to receive the unredacted documents and to prepare its supplemental filing”); *Review of Commodity, Boxcar, & TOFC/COFC Exemptions*, EP 704 (Sub-No. 1), slip op. at 1 (STB served July 2, 2019) (granting request for extension so that the extending party “may complete its review of . . . new evidence

and develop its response”). BNSF respectfully submits that the same extension should be granted here.

3. NO PARTY WOULD BE PREJUDICED BY AN EXTENSION

No party will be prejudiced by the brief extension of time sought in this Motion. An extension would not result in cascading delays on other deadlines in this proceeding, as the Board has not yet adopted a procedural schedule nor even determined whether and to what extent this proceeding will move forward. Indeed, the only deadline that would be impacted by an extension is UP’s and other interested parties’ deadline to respond to the supplement, which BNSF requests be set for 30 days after BNSF submits its supplement. Moreover, an extension of time would aid and simplify both UP’s response and the Board’s review of the issues in this proceeding. Thus, a short extension will not prejudice any party but instead will facilitate the Board’s efforts to “determine whether the conditions it has imposed in merger proceedings are being properly implemented in a manner consistent with the public policy underlying those conditions.” Decision at slip op. 5 (quoting *Union Pac. Corp.—Ctrl. & Merger—S. Pac. Rail Corp.*, FD 32760, slip op. at 3 (STB served May 5, 2017)). An extension will also benefit UP, which will be able to draft its response on the basis of a more complete evidentiary record reflecting information now available to BNSF.

The Board has recognized that BNSF’s “allegations, if proven, could have serious ramifications for shippers and competition” and that “a Board proceeding may be appropriate when a petition raises issues that have broad implications for

implementing the merger conditions.” Decision at slip op. 5 (citations omitted). In light of this recognition, a brief extension is warranted to allow BNSF to submit its supplement containing the evidence BNSF currently has available for the Board to evaluate these serious concerns. For these reasons, BNSF respectfully requests that the Board extend the time to file BNSF’s supplement until August 26, 2026.

Respectfully submitted,

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Dated: July 17, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of July, 2026, I caused a copy of the foregoing Motion for Extension of Time to Respond to be served electronically on all parties of record in this proceeding.

/s/ *Peter W. Denton*
Peter W. Denton