

SERVICE DATE – JULY 22, 2026

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 32760 (Sub-No. 52)

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

Decided: July 22, 2026

On November 28, 2025, BNSF Railway Company (BNSF) filed a petition seeking “review, enforcement, and modification” of conditions imposed when the Board approved the common control and merger of the rail carriers controlled by Union Pacific Corporation (collectively and individually, UP) and the rail carriers controlled by Southern Pacific Rail Corporation (SP) in 1996 (the UP/SP merger).¹ (Pet. 1.) BNSF’s petition asked the Board to set a procedural schedule that would allow BNSF to conduct discovery before submitting its requests for remedies.² (*Id.* at 27.) After considering BNSF’s petition, the Board declined to grant BNSF’s request to set a procedural schedule but permitted BNSF to supplement the record with additional information and evidence. BNSF Ry.—Pet. for Review—UP/SP Merger Conditions, FD 32760 (Sub-No. 52), slip op. at 1 (STB served May 26, 2026) (May 26 Decision). The Board set a 60-day time limit for BNSF to submit a supplemental filing and a 30-day deadline for UP and other interested parties to respond. *Id.*, slip op. at 6.

On July 17, 2026, BNSF filed a motion requesting a 30-day extension of time to respond to the May 26 Decision. (BNSF Mot. 1.) BNSF also seeks to extend by 30 days the deadline for interested parties to respond to BNSF’s supplemental filing. (*Id.* at 4.) BNSF argues that good cause exists because the requested extension will allow BNSF to submit a complete response that incorporates all the evidence available to BNSF at this time, including historical Confidential Carload Waybill Sample (CCWS) data to which BNSF recently received access. (*Id.* at 1, 3.) According to BNSF, provided the response deadline is also extended, no parties will be prejudiced by the extension, and the overall impact of the delay will be limited because the extension is relatively brief and no other deadlines have been set. (*Id.* at 4.) BNSF further asserts that the extension will facilitate both UP’s response and the Board’s review because BNSF’s supplemental filing will include a more complete evidentiary record. (*Id.*)

¹ See Union Pac. Corp.—Control & Merger—S. Pac. Corp. (Decision No. 44), 1 S.T.B. 233 (1996).

² Replies were submitted by UP, Canadian Pacific Railway Company d/b/a Canadian Pacific Kansas City and its U.S. rail carrier subsidiaries, the American Chemistry Council, and the National Industrial Transportation League. CSX Transportation, Inc. filed a Notice of Intent to Participate but did not submit a reply to BNSF’s petition.

UP filed a reply in opposition to BNSF's motion on July 21, 2026. UP argues that the waybill analysis that BNSF seeks extra time to conduct is not necessary because prior to filing the November 28, 2025 petition, BNSF should have already had in its possession sufficient data to satisfy the requirements outlined in the Board's order. (Id. at 1-3.) UP contends that granting BNSF additional time to create evidence that BNSF should have prepared before filing its petition would prejudice UP and waste Board resources. (Id. at 3.)

Pursuant to 49 C.F.R. § 1104.7(b), the Board has discretion to extend time periods upon request and for good cause. In the May 26 Decision, the Board provided BNSF an "opportunity to clarify its claims and provide supporting evidence." BNSF Ry.—Pet. for Review—UP/SP Merger Conditions, FD 32760 (Sub-No. 52), slip op. at 6. BNSF promptly requested access to the CCWS data it now seeks to incorporate into its supplemental filing. (See BNSF Mot. 3.) There is good cause to extend the deadline for that filing by 30 days to allow BNSF to complete its submission and UP and other parties will not be prejudiced by the relatively brief extension. Therefore, BNSF's request will be granted. Accordingly, BNSF's supplemental filing will be due on August 26, 2026, and replies to BNSF's supplemental filing will be due on September 25, 2026.

It is ordered:

1. BNSF's motion for an extension of time to respond to the May 26 Decision is granted.
2. BNSF's supplemental filing is due on August 26, 2026.
3. Replies to BNSF's supplemental filing are due on September 25, 2026.
4. This decision is effective on its service date.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.