53195 SERVICE DATE – AUGUST 18, 2026
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SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN
RAILWAY COMPANY

Decided: August 18, 2026

AGENCY: Surface Transportation Board.

ACTION: Decision No. 30 in Docket No. FD 36873; Removing the Proceedings from Abeyance; Adopting a Procedural Schedule; Directing the Production of Certain Material; and Ruling on a Pending Procedural Request.

SUMMARY: On May 28, 2026, the Board accepted for consideration (1) the revised, primary application (the Revised Application) filed by Union Pacific Corporation (UPC), Union Pacific Railroad Company (UP) (collectively, Union Pacific), Norfolk Southern Corporation (NSC), and Norfolk Southern Railway Company (NS) (collectively, Norfolk Southern) (Union Pacific and Norfolk Southern collectively, Applicants) as well as (2) a related application in Union Pacific Corp.—Control—Peoria & Pekin Union Railway, Docket No. FD 36873 (Sub-No. 1). However, the Board held both proceedings in abeyance pending further Board order and the submission of certain additional information. Applicants filed additional information in two supplements submitted in July. In this decision, the Board removes the proceedings from abeyance, adopts a procedural schedule, directs Applicants to resubmit certain workpapers with unfiltered data, rules on a pending procedural request, and advises that the Board will address other outstanding motions at a future date.

DATES: The effective date of this decision is August 18, 2026. Notices of intent to participate in these proceedings are due by September 4, 2026. Descriptions of anticipated responsive, including inconsistent, applications are due by September 9, 2026. Petitions for waiver or clarification with respect to such applications are due by October 5, 2026. Responsive environmental information and environmental verified statements for responsive, including inconsistent, applications are due by November 13, 2026. Comments, protests, requests for conditions, and any other evidence and argument in opposition to the Revised Application are due by November 18, 2026. All responsive, including inconsistent, applications are also due by November 18, 2026. Any preliminary comments from the U.S. Department of Justice (DOJ) and U.S. Department of Transportation (USDOT) are due by December 3, 2026. Responses to comments, protests, requests for conditions, and other opposition—including responses to DOJ and USDOT filings—are due by February 16, 2027. Rebuttal in support of the Revised Application is also due by February 16, 2027. Responses to responsive, including inconsistent, applications are also due by February 16, 2027. Rebuttals in support of responsive, including inconsistent, applications must be filed by March 29, 2027. A public hearing will be held on a date or dates to be determined in a subsequent decision. Final briefs will be due by May 28, 2027.

ADDRESSES: Any filing submitted in the primary or related proceeding, referring to Docket No. FD 36873, must be filed with the Board either via e-filing on the Board's website or in writing addressed to: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each filing must be sent (and may be sent by email only, if service by email is acceptable to the recipient) to each of the following: (1) Secretary of Transportation, 1200 New Jersey Avenue, S.E., Washington, DC 20590; (2) Attorney General of the United States, c/o Assistant Attorney General, Antitrust Division, Room 3109, Department of Justice, Washington, DC 20530; (3) UP's representative, Michael L. Rosenthal, Covington & Burling LLP, One CityCenter, 850 Tenth Street, N.W., Washington, DC 20001; (4) NS's representative, Raymond A. Atkins, Sidley Austin LLP, 1501 K Street, N.W., Washington, DC 20005; (5) any other person designated as a Party of Record on the service list; and (6) the assigned administrative law judge (ALJ), the Hon. Jenifer Soulikias, at alj.soulikias.inbox@stb.gov.

FOR FURTHER INFORMATION CONTACT: Nathaniel Bawcombe at (202) 915-3555. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

SUPPLEMENTARY INFORMATION: Applicants seek Board approval in the primary docket for (i) the acquisition of control by UPC of NSC, and through NSC of NS and NS's rail carrier subsidiaries, and (ii) the resulting common control by UPC of UP and NS and the consolidation of the rail operations of UP and NS. This proposal is referred to as the Transaction.

On July 30, 2025, Applicants filed a notice of intent to file their original application (the Application). By decision served August 28, 2025, the Board found the Transaction to be a "major" transaction under 49 CFR 1180.2(a), as it is a control transaction involving two or more Class I railroads. UPC presently controls UP, a Class I railroad, and proposes to acquire common control of NS, also a Class I railroad. See Union Pac. Corp.—Control—Norfolk S. Corp. (Decision No. 3), FD 36873, slip op. at 2 (STB served Aug. 28, 2025). The Board took other actions in Decision No. 3, including assigning Judge Soulikias as ALJ to provide initial resolution of discovery disputes. Id. The Board later invited public comments on a proposed procedural schedule for the proceeding. See Union Pac. Corp.—Control—Norfolk S. Corp., FD 36873, slip op. at 2 (STB served Sept. 26, 2025).

Applicants filed the Application on December 19, 2025, seeking authority for the Transaction, which the Board rejected in a decision served on January 16, 2026. The Board found that the Application was incomplete because it did not contain certain information required by the Board's regulations. See Union Pac. Corp.—Control—Norfolk S. Corp., (Decision No. 9), FD 36873 et al., slip op. at 1 (STB served Jan. 16, 2026). The Board noted, however, that its rejection was without prejudice to Applicants filing a revised application. Id. at 2.

On April 30, 2026, Applicants filed the Revised Application. Various stakeholders filed comments concerning the completeness of the Revised Application, and Applicants filed a response to those comments on May 12, 2026.

The Board determined that the Revised Application was complete. Union Pac. Corp.—Control—Norfolk S. Corp., (Decision No. 21), FD 36873 et al., slip op. at 12-17 (STB served May 28, 2026). The Board added, however, that although Applicants had included sufficient information to satisfy the completeness requirements for a "major" transaction application, there were several aspects of the Revised Application that were unclear or underdeveloped and required supplementation. Id. at 17-18. As such, the Board sought specific information concerning: (1) Applicants' claimed competitive enhancements; (2) access for 2-to-1 and 3-to-2 shippers to Class I railroads after the Transaction; (3) Applicants' public benefit claims, including their diversion analysis; (4) Applicants' Service Assurance Plan; (5) gateway issues involving two terminal railroads (the Terminal Railroad Association of St. Louis (TRRA) and the Kansas City Terminal Railway (KCT)) and the TTX Company (TTX), a rail car-pooling entity; (6) Applicants' market share projections; (7) downstream merger impacts; and (8) passenger rail matters. Id. at 19-32.

The Board required Applicants to supplement their Revised Application with this detailed information by July 27, 2026. Id. at 18-19. The Board held the proceedings in abeyance pending submission and review of the supplemental information. Id. at 19.

On July 7, 2026, Applicants filed a supplement concerning TRRA, KCT, and TTX (the July 7 Supplement). Applicants filed a second supplement on July 27, 2026, relating to the remaining subjects described in Decision No. 21 (the July 27 Supplement) (collectively, the July 7 Supplement and the July 27 Supplement are referred to as the July Supplements). Applicants support the July 27 Supplement with Supplemental Verified Statements from Dr. Mark Israel, Dr. Elizabeth Bailey, and David Hunt. Applicants also provide a Verified Statement from Dr. Kristof Zetenyi.

In the July 27 Supplement, Applicants also make four new commitments as part of the Transaction. Specifically, Applicants commit to: (1) expanding their proposed Committed Gateway Pricing (CGP) program to include bulk unit train traffic as well as shippers at "competitively served" BNSF Railway Company (BNSF) and CSX Transportation, Inc. (CSXT) origins and destinations; (2) a Targeted Access Program whereby sole-served shippers in a terminal area become eligible for reciprocal switching if service falls below certain performance standards; (3) a condition Applicants contend is designed to preserve the pre-merger level of access to Class I railroads for 2-to-1 and 3-to-2 shipper facilities; and (4) a Rate Alternative Dispute Resolution Program that could be implemented if anticipated public benefits have not materialized in a timely manner. (July 27 Suppl. 8-10.)

Applicants also note that after they submitted the July 7 Supplement, they entered into a settlement agreement with Grand Trunk Corporation, on behalf of itself and its U.S. rail operating subsidiaries (collectively, CN) (the agreement is referred to as the CN Settlement Agreement). (Id. at 5.) The CN Settlement Agreement, which is contingent on Board approval and completion of the merger, provides for, among other things, (1) CN's acquisition of "NS's ownership interest in" TRRA, (id.); (2) CN's acquisition of NS's ownership interest in KCT; (3) CN's acquisition of "a portion of UP's ownership interest in Peoria and Pekin Union Railway Company (PPU), such that UP/NS and CN will each have a 50% ownership stake in PPU," (id. at 6 n.1); and (4) UP's selection of CN to provide access to 2-to-1 and 3-to-2 shipper facilities, if feasible, where the Board requires Applicants to grant an additional Class I railroad access, (id. at 5-6.)

On August 6, 2026, the Board received a joint motion for summary denial of the Revised Application from the American Chemistry Council (ACC), American Fuel & Petrochemical Manufacturers (AFPM), Alliance for Chemical Distribution (ACD), National Industrial Transportation League (NITL), and The Fertilizer Institute (TFI) (collectively, Joint Associations). The Board also received motions for summary denial from CSXT and BNSF as well as comments from the National Grain and Feed Association (NGFA) asserting that Applicants have failed to present a prima facie case. Similarly, Canadian Pacific Railway Company d/b/a Canadian Pacific Kansas City and CPKC (CPKC) also commented regarding whether Applicants have presented a prima facie case. Other filings were submitted, including a joint letter from the state attorney generals for Montana, Iowa, Florida, North Dakota, South Dakota, Tennessee, and Kansas. The Board will address the motions and comments (many of which focus on merits-related issues) in a subsequent decision.

Additional Material and Abeyance.

In Decision No. 21 accepting the Revised Application, the Board did not issue a procedural schedule under 49 U.S.C. 11325 and 49 CFR 1180.4(c)(7)(i), finding that Applicants' supplemental information was necessary to allow the Board to thoroughly evaluate, and the public to meaningfully comment on, the proposed Transaction. Decision No. 21, FD 36873 et al., slip op. at 17-18. After reviewing the July Supplements and comments, the Board finds that the record now is sufficient to allow the record development in the proceedings to resume. The finding reflects no view on the merits of the Revised Application or on any matter raised in the motions and comments filed since July 27, which the Board will address separately. The Board will remove the proceedings from abeyance, including the environmental review of the Transaction,[1] establish and publish a procedural schedule in the Federal Register, and solicit comments on the merits of the Revised Application and the related application.[2] Those comments may also address the merits of the information discussed in the July Supplements, including Applicants' new commitments and the CN Settlement Agreement.

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[1] The environmental review will be based on the revised traffic projections that Applicants submitted to the Office of Environmental Analysis (OEA) on July 27, 2026.

[2] The Board has received other requests from various parties and will address those in one or more separate decisions.

The Board will, however, require Applicants to re-submit certain workpapers to include data not previously presented. In certain parts of the Revised Application and July 27 Supplement, Applicants applied filtering or screening criteria to the data in the workpapers that their experts submitted, purportedly because they did not consider the omitted data to be material to the Applicants' analyses, and to streamline the presentation of the remaining data. In several instances, these filters removed substantial portions of the underlying analysis from the final presentation layer. For example, in Applicants' diversion projections in the July 27 Supplement's responses to MS-1, their expert Hunt applied criteria that seem to have filtered out at least 31% of merchandise/bulk locations, 59% of intermodal locations, and 30% of automotive locations. (See July 27 Suppl. 352-356, Suppl. V.S. Hunt 30-34.) Hunt's Verified Statement submitted with the Revised Application also indicated that Market Share Exhibit E-2 covered only "major commodity traffic flows corresponding to 80% of current state UP and NS traffic." (Rev. Appl. 2-592, V.S. Hunt 205.) Likewise, Bailey stated in her Verified Statement submitted with the Revised Application that the share analyses presented in Appendices D, E, and F were expressly "restricted to major points on the parties' combined system, major corridor commodity pairs, and major origin-commodity pairs / major destination-commodity pairs." (Rev. Appl. 2-13, Bailey 6; see also Rev. Appl. 2-159, 2-161, 2-164 (Apps. D–F).) Those Appendices appear to be based on an analysis of 80% of the traffic at issue in this proceeding. These limitations underscore that what was provided was partial rather than exhaustive.

Even if these excluded locations in fact represent "statistical outliers" (July 27 Suppl. 352, Suppl. V.S. Hunt 30), the Board will require Applicants to make these and other excluded or filtered data from their worksheets available for inspection by the Board and other persons authorized to view them under this case's protective order. The Board directed Applicants to provide an impact analysis for *each* route on which Applicants' combined market share will increase as a result of the Transaction, Decision No. 21, FD 36873 et al., slip op. at 30, and Applicants committed to "address all [such] routes," "not just the 'major' corridor-commodity pairs," (Applicants' Letter 1, Jun. 26, 2026.) To satisfy these obligations, Applicants must provide all underlying rows of data supporting their experts' analyses, not merely the subsets selected for presentation.

To permit the Board and commenting parties to determine the data elements that were excluded from Applicants' exhibits and whether their inclusion would alter any conclusions, Applicants will be directed to provide additional information by August 28, 2026. Specifically, Applicants must refile any workpaper to which screening or filtering criteria were applied, or that otherwise omitted underlying data or truncated the full dataset—including, but not limited to, the workpapers underlying the omissions discussed here.[3] Applicants must regenerate (making programming changes if necessary) and refile all such workpapers without applying any filtering or screening criteria, and each refiled workpaper must identify which data were included in the immediate previous version and which additional data have been restored to render the workpaper complete. This directive applies only to workpapers and not to the associated narratives or verified statements.

[3] Applicants are reminded to file pursuant to the guidelines the Board has established. See Decision No. 21, FD 36873 et al, slip op. at 32-33.

Request for Expedited Proceeding regarding TRRA.

In the July 7 Supplement, Applicants request that the Board determine in advance of a decision on the merits of the Transaction whether Applicants' various proposals to divest control of TRRA would satisfy the proposed divestiture condition. (July 7 Suppl. 7.)[4] They assert that an early determination "would increase the likelihood that Applicants and TRRA's other owners cooperatively resolve the control issue." (Id. at 7.) Applicants propose a 90-day procedural schedule on the issue. (Id. at 12.) Several parties object to Applicants' request that the Board set a separate schedule to consider the TRRA issue. (See, e.g., BNSF Reply 1, July 20, 2026; CSXT Reply 1-2, July 22, 2026.)

Although Applicants and CN have since agreed that CN "will acquire NS's ownership interest in" TRRA (July 27 Suppl. 5), Applicants have not withdrawn their request. (Id. at 207.)[5]

The Board declines to make such a determination prior to record development. Control of TRRA is best evaluated within the context of the larger Transaction and granting the request would be premature. Therefore, Applicants' request for an expedited proceeding regarding their proposed divestiture options will be denied.

Procedural Schedule. On July 30, 2025, concurrent with their notice of intent to file an application, Applicants filed a petition to establish a procedural schedule. Applicants proposed a procedural schedule that provided for a 390-day period between the date an application is filed and the date on which the Board would serve its final decision on the merits. (Pet., App. A.) Under the proposal, the evidentiary record would be open for 270 days, amounting to a 300-day schedule between the application filing date and the close of the record. (Id.) On September 26, 2025, the Board served a decision detailing the proposed procedural schedule and proposing its own modifications to the schedule. See Union Pac. Corp.—Control—Norfolk S. Corp. (Decision No. 5), FD 36873 (STB served Sept. 26, 2025). The Board proposed a 90-day period to file written comments and a corresponding 90-day period to file responses, as Applicants had proposed. Id. at 2. The Board also proposed that the time frame for preliminary comments from DOJ and USDOT conform to the time frame set forth in 49 U.S.C. 11325. Id. Further, the Board proposed that any necessary public hearing or oral argument close the record, at a date to be determined later in the proceeding but following the submission of final briefs. Id. at 2-3.

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[4] Applicants list five options for divestiture, including their preferred option, Option A, which involves divesting NS's shares and the attendant NS board seat to one or more existing owners of TRRA. (July 7 Suppl. 13, 15.)

[5] The CN Settlement Agreement provides: "[i]n the event that, for any reason, none of the Existing TRRA Options can be implemented, or the STB does not approve any of them, CN will not oppose any alternative option Union Pacific may propose to satisfy the TRRA Resolution ('Alternative TRRA Options'), provided that any such Alternative TRRA Option would not impose a material financial obligation on CN." (July 27 Suppl. 207.)

The Board also requested public comments on the procedural schedule proposed in Decision No. 5.[6] Id. at 4.

The Board received comments on the proposed procedural schedule from each Class I railroad, including a comment from Applicants, and from Reading Blue Mountain & Northern Railroad, Co. (RBMN). The Board also received comments from the Freight Rail Customer Alliance (FRCA), NGFA, and Joint Associations. In addition, the Board received comments from several parties in the Houston, Tex. area, including the City of Houston, Harris County Attorney Christian D. Menefee, Harris County Commissioner Adrian Garcia, and the Joint East End Super Neighborhood Coalition (East End Coalition)[7] (collectively, Houston parties).[8]

In their comments, Applicants request that the Board adopt a maximum 345-day procedural schedule between the date an application is filed and the date the Board serves a final decision, rather than the 390-day schedule Applicants initially proposed. (Applicants Comments 2, Nov. 13, 2025.) Under their revised proposal, the evidentiary record would be open for 225 days. (Id., App. A.) Specifically, Applicants argue that the Board should shorten the periods to file: (1) comments, protests, requests for conditions, and responsive applications; (2) responses to comments, rebuttal in support of the primary application and any related applications, and responses to responsive applications; and (3) final briefs. (Id. at 2-3.) According to Applicants, a shorter schedule is warranted because the proposed Transaction is end-to-end and thus "does not present any complex competitive or operating issues." (Id. at 2.) Applicants also argue that their initial proposal presumed discovery would commence after the Board accepted an application, but Applicants began responding to discovery requests before the acceptance and the Board has appointed an ALJ to handle discovery disputes. (Id. at 3.) Applicants state that their proposal is consistent with presidential initiatives to eliminate or reduce regulations that undermine the national interest. (Id. at 2 (citing Exec. Order No. 14,219, 90 FR 10583 (Feb. 19, 2025)).) Additionally, Applicants ask the Board to specify that the record would close (and a hearing would occur) no more than 30 days after final briefs are due, a final

[6] The deadline to submit comments on the proposed procedural schedule was November 20, 2025—prior to Applicants' submission of their initial December 19, 2025 Application. See Union Pac. Corp.—Control—Norfolk S. Corp., FD 36873 (STB served Nov. 14, 2025). Accordingly, some specific deadlines proposed in the comments are outdated.

[7] Representing Super Neighborhood 63 (Second Ward), Super Neighborhoods 64 & 88 (Greater Eastwood, Lawndale, Wayside), and Super Neighborhoods 85 & 82 (Magnolia Park, Manchester, Smith Addition, Harrisburg). (E. End Coal. Comments 1, Nov. 13, 2025.)

[8] The Board also received letters from several elected officials that do not respond to the proposed procedural schedule but urge the Board to provide meaningful public comment periods. (See Hernandez Letter 1, Nov. 13, 2025; Ramirez Letter 2, Nov. 13, 2025; Castillo Letter 2, Nov. 13, 2025.) Lindsay Williams, president of the Eastwood Civic Association and Super Neighborhood 64 & 68 in Houston, filed a letter titled as a comment on the proposed procedural schedule. (Williams Letter 1, Nov. 19, 2025.) Williams' letter addresses the merits of the proposed Transaction, rather than the procedural schedule, and thus it will not be considered here.

decision would be served no more than 90 days after the record closes, and such decision would take effect no more than 30 days after it is served. (Id. at 3.)

Most other commenters request that the Board adopt a longer procedural schedule.[9] BNSF, CSXT, RBMN, Joint Associations, FRCA, and NGFA request that the Board adopt the longest evidentiary period permitted by law, amounting to a 395-day schedule between the application filing date and the close of the record. See 49 U.S.C. 11325(b)(3) (requiring that the Board conclude evidentiary proceedings by one year after the Board publishes a notice of the application). CPKC argues that the Board should extend evidentiary proceedings by approximately three months, about one month short of the statutory deadline. Generally, these commenters argue that stakeholders and the Board would benefit from additional time to analyze the proposed transaction, which is unprecedented and likely to raise many complex issues.[10]

BNSF, CPKC, and Joint Associations argue that the additional time should be used to permit a supplemental round of evidence and argument after the response period. BNSF requests a 60-day period for non-applicants to submit sur-replies, followed by a 60-day period for Applicants to respond to sur-replies. (BNSF Comments 4, Nov. 13, 2025; see id., App. A.) BNSF argues that such filings "will sharpen and distill" key issues, assist the Board's review, and allow parties to address issues that may arise or evolve over the next year. (Id. at 7-8.) CPKC requests a 60-day period for sur-replies responding to new material submitted in responses, arguing that evidence submitted in Applicants' responses otherwise would be unchallengeable. (CPKC Comments 16-18, Nov. 13, 2025.) CPKC suggests that Applicants submit their rebuttal after sur-replies are filed, thereby retaining the right to close the record. (Id. at 20.) Similarly, Joint Associations request a 60-day period for sur-replies limited to addressing new analysis, data, or theories raised in responses to comments. (Joint Ass'ns Comments 14, Nov. 20, 2025.) They propose that sur-replies precede Applicants' rebuttal. (Id. at 16.)

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[9] The Houston parties request that the Board provide a meaningful public comment period but do not request specific changes to the proposed procedural schedule. (See Menefee Comments 2, Nov. 20, 2025; City of Houston Comments 3, Nov. 13, 2025; Garcia Comments 3, Nov. 13, 2025; E. End Coal. Comments 3, Nov. 13, 2025.) Rather, the Houston parties raise arguments regarding the merits of the proposed transaction and potential environmental impacts, which will not be considered in this decision. Comments involving environmental issues should be submitted to OEA and will be considered during the environmental review process.

[10] (See CSXT Comments 3, Nov. 19, 2025 (arguing that the Board will be "faced with an unprecedented proposal where many highly complex issues could arise under never-applied standards"); BNSF Comments 1, 4-5, Nov. 13, 2025 ("No railroad merger of this scale has ever been proposed."); CPKC Comments 4, 7, Nov. 13, 2025 (arguing that the "momentous and novel issues posed by the proposed transaction [should] receive the airing they deserve"); RBMN Comments 2, Nov. 20, 2025 ("The magnitude of this proceeding and the proposed control transaction cannot be overstated."); Joint Ass'ns Comments 3, 5-7, Nov. 20, 2025 (arguing that the proposed merger "is unprecedented in scale, scope, and potential impact on competition, service, and the rail industry"); FRCA Comments 1, Nov. 17, 2025 (arguing that the merger application will be "the most significant ever brought before the Board" and "necessarily carries the most potential harm"); NGFA Comments 2, Nov. 17, 2025 ("[T]he proposed merger of UP and NS will be the most consequential railroad merger the STB has ever considered.").)

Several commenters request that the Board extend or modify deadlines for filings contemplated by the proposed procedural schedule. NGFA and Joint Associations urge the Board to extend both the 90-day period to file opening comments and responsive applications, and the 90-day period to file responses.[11] (Joint Ass'ns Comments 11, Nov. 20, 2025 (requesting 20- and 15-day extensions, respectively); NGFA Comments 3, Nov. 17, 2025 (requesting a 15-day extension for both periods).) RBMN requests that all deadlines for filings by participating parties be extended by 30 days. (RBMN Comments 3, Nov. 20, 2025.) CN requests that comments, requests for conditions, and certain responsive applications be due 150 days after the application is filed or May 29, 2026, whichever is earlier. (CN Comments 3, Nov. 13, 2025.) CSXT requests additional time for parties to file rebuttals in support of responsive, including inconsistent, applications. (CSXT Comments 11, Nov. 19, 2025 (requesting a 15-day extension).) CSXT also requests that the Board remove the requirement for non-applicants to file a description of anticipated responsive applications 75 days after the application is filed. (Id. at 9-10.)

In addition, BNSF, CN, CPKC, CSXT, and Joint Associations request that the Board allow final briefs after any public hearing. They argue that post-hearing briefing would allow parties to address evidence and argument presented at the hearing and facilitate the Board's review. (BNSF Comments 8-9, Nov. 13, 2025; CN Comments 12, Nov. 11, 2025; CPKC Comments 22-23, Nov. 11, 2025; CSXT Comments 8-9, Nov. 19, 2025; Joint Ass'ns Comments 8-9, Nov. 20, 2025.) CPKC, CSXT, and Joint Associations also request that post-hearing briefing include both opening and reply briefs. (CPKC Comments 24, Nov. 11, 2025 (arguing that two rounds of briefing would "ensure a more effective joining of the issues"); CSXT Comments, App. A, Nov. 19, 2025; Joint Ass'ns Comments, App. 1, Nov. 20, 2025.) Relatedly, BNSF, CN, CPKC, and Joint Associations request that the Board permit pre-hearing briefs or summaries. (BNSF Comments 8-9, Nov. 13, 2025 (arguing that pre-hearing briefs would "set the stage" for a hearing); CN Comments 12, Nov. 11, 2025 (arguing that pre-hearing briefs would identify key facts and evidence for the Board); CPKC Comments 24 & n.33, Nov. 11, 2025 (arguing that pre-hearing briefs could outline key evidentiary and legal points); Joint Ass'ns Comments 8-9, Nov. 20, 2025 (arguing that pre-hearing summaries "are imperative for a productive hearing").)

Evidentiary Record Deadlines. The Board declines to adopt the expedited procedural schedule proposed by Applicants. Applicants have acknowledged that the proposed Transaction is "unprecedented" and would create the nation's first transcontinental railroad. (Applicants Notice 2, July 30, 2025.) The size and scope of a transcontinental merger could have far-reaching effects on the rail industry, shippers, and the public. See Decision No. 21, FD 36873, slip op. at 18 (noting the "possible implications of subsequent mergers for the long-term future of the national rail network" and impacts to "communities, employees, shortline railroads, ports, and others"). A less truncated procedural schedule will better allow stakeholders and the Board

[11] While NGFA would also extend the deadline for Applicants' rebuttal, (NGFA Comments 3, Nov. 17, 2025), Joint Associations would move the deadline for Applicants' rebuttal pursuant to Joint Associations' request for a sur-reply period, (Joint Ass'ns Comments, App. 1., Nov. 17, 2025).

to consider the potential impacts of such a merger. When directing Applicants to file supplemental information, the Board noted that such information was "not intended to be an exhaustive list of potential questions or concerns the Board may have in assessing the Revised Application." Decision No. 21, FD 36873 et al., slip op. at 19. And commenters have already raised concerns related to other important matters, including those potentially implicated by vertical, or "end-to-end," combinations. See also Canadian Pac. Ry.—Control—Kan. City S., FD 36500, slip op. at 3, 19, 47 (STB served Mar. 15, 2023) (declining to apply a presumption that a vertical combination will not result in competitive harm). In addition, unique and complex questions are likely to arise in this proceeding as the Board applies its 2001 merger rules for the first time.[12] See Major Rail Consolidation Procs., 5 S.T.B. 539, 546 (2001) (stating that the revised rules "reflect a significant change" in how the Board applies the statutory public interest test and places a heavier burden on applicants).

The Board is not persuaded that the availability of pre-application discovery warrants a shorter comment period. Applicants argue that they initially proposed a 90-day comment period based on discovery commencing after the Board accepted an application, but Applicants' petition to establish a procedural schedule does not discuss when discovery would commence. (Applicants Comments 3, Nov. 13, 2025; see Pet., App. A.) Instead, the petition states that the 90-day comment period would provide "ample time for interested parties to comment" and provides only the date on which an ALJ would be appointed to handle discovery matters. (Applicants Pet. 2; id., App. A.) The record also indicates that several discovery disputes are ongoing and may continue into the comment period.[13] (See, e.g., Non-Applicant Railroads Letter to ALJ, July 22, 2026.)[14] The Board continues to expect that Applicants and other parties will expeditiously respond to any outstanding requests. In short, the Board views a 90-day comment period as appropriate in this matter regardless of when discovery commenced.

Additionally, the Board will extend and modify certain procedural deadlines proposed in Decision No. 5. The Board will extend the deadline for rebuttals in support of responsive applications (including inconsistent applications) by 10 days (plus one additional day to avoid a weekend deadline). Final briefs will be due 60 days after rebuttals in support of responsive applications are due. Before final briefs are due, the Board will hold a public hearing on a date or dates to be determined in a subsequent decision, which will provide details about how to participate in the public hearing. The Board will close the record following the submission of final briefs but may order the submission of additional argument or evidence before doing so. The Board will endeavor to issue its final decision within 90 days of the close of the evidentiary record, provided that the environmental review process is complete.

[12] Although Applicants reference Executive Order No. 14,219 as supporting a compressed procedural schedule, the schedule adopted by the Board is in no way inconsistent with Executive Order No. 14,219.

[13] Comments on the procedural schedule also assert that Applicants had not produced materials responsive to discovery requests. (BNSF Comments 12, Nov. 13, 2025; CN Comments 6, Nov. 13, 2025; see also CSXT Comments 7, Nov. 19, 2025; CPKC Comments 15 n.19, Nov. 13, 2025.)

[14] Non-Applicant Railroads are BNSF, CN, CSXT, and CPKC.

Descriptions of anticipated responsive applications will be due 20 days after publication of the procedural schedule in the Federal Register, which will facilitate the Board's review of any responsive applications. CSXT requests that the Board remove this requirement entirely, arguing that it "would unfairly and unnecessarily rush non-applicants' evaluation of the Application's claimed benefits, merger-related impacts and harms, and proposed conditions to enhance competition." (CSXT Comments 10, Nov. 19, 2025.) The Board is not persuaded by this argument, as the Revised Application and Applicants' supplemental submissions have already been available for some time, and descriptions of anticipated responsive applications need not contain a full evaluation of the proposed transaction.

Other evidentiary deadlines proposed in Decision No. 5 permit ample time for parties to submit evidence and argument. The Board finds that sur-replies are unnecessary because the Board's rules give Applicants the final word in any merger proceeding. Canadian Pac. Ry.—Control—Kan. City S., FD 36500 et al., slip op. at 3 (STB served Sept. 13, 2022); Norfolk S. Ry.—Joint Control & Operating/Pooling Agreements—Pan Am S. LLC, FD 35147, slip op. at 5 (STB served July 21, 2008). The Board also declines to include pre-hearing briefs at this time, as any necessary pre-hearing filings will be specified in a future decision ordering a public hearing. Following further development of the record, the Board may order parties to submit additional evidence and argument. The full procedural schedule adopted here is set out in the Appendix to this decision.

Notice of Intent to Participate. Any person who wishes to participate in these proceedings as a Party of Record must file with the Board, no later than September 4, 2026, a notice of intent to participate, accompanied by a certificate of service indicating that the notice has been properly served on the Secretary of Transportation, the Attorney General of the United States, Mr. Rosenthal (representing UP), and Mr. Atkins (representing NS). Parties who have already submitted a notice of intent to participate are not required to resubmit an additional notice.

If a request is made in a notice of intent to participate to have more than one name added to the service list as a Party of Record representing a particular entity, the extra name(s) will be added to the service list as a "Non-Party." Any person designated as a Non-Party will receive copies of Board decisions, orders, and notices but need not be served with copies of filings submitted to the Board.

Deadlines Applicable to Appeals and Replies. Consistent with the Board's practice in prior major merger proceedings of setting certain expedited briefing deadlines, any appeal to a decision issued by the ALJ must be filed within five calendar days of the date of the ALJ's decision; any response to such appeal must be filed within five calendar days of the date of filing of the appeal; and any reply to any motion filed with the Board itself in the first instance must be filed within five calendar days of the date of filing of the motion.

It is ordered:

1. The proceedings, including the environmental review of the Transaction, are removed from abeyance.

2. Applicants shall submit workpapers with unfiltered data on August 28, 2026.

3. Applicants' request for an expedited proceeding regarding their proposed divestiture of TRRA is denied.

4. Parties must comply with the procedural schedule adopted in this decision and shown in the Appendix. The parties must comply with the procedural requirements described in this decision.

5. This decision will be published in the Federal Register.

6. This decision is effective on August 18, 2026.

By the Board, Board Members Fuchs, Hedlund, Kloster, and Schultz.

APPENDIX

PROCEDURAL SCHEDULE

April 30, 2026	Revised Application filed.
May 28, 2026	Board accepted Revised Application and the related application. Proceedings held in abeyance.
August 18, 2026	Board decision issuing procedural schedule.
September 4, 2026	Notices of intent to participate in these proceedings due.
September 9, 2026	Descriptions of anticipated responsive, including inconsistent, applications due.
October 5, 2026	Petitions for waiver or clarification with respect to responsive, including inconsistent, applications due.
November 13, 2026	Responsive environmental information and environmental verified statements for responsive, including inconsistent, applications due.
November 18, 2026	Comments, protests, requests for conditions, and any other evidence and argument in opposition to the Revised Application due (except filings from DOJ and USDOT).
	Responsive, including inconsistent, applications due.
December 3, 2026	Preliminary comments from DOJ and USDOT, if any, due.
December 18, 2026	Notice of acceptance of responsive, including inconsistent, applications, if any, published in the Federal Register.
February 16, 2027	Responses to comments (including those of DOJ and USDOT, if any), protests, requests for conditions, and other opposition due.
	Rebuttal in support of the Revised Application due.
	Responses to responsive, including inconsistent, applications due.
March 29, 2027	Rebuttals in support of responsive, including inconsistent, applications due.
TBD	Public hearing.

May 28, 2027	Final briefs due.[15]
TBD	Close of the record.
0-90 days after close of record	Service date of final decision.[16]

[15] The Board will determine the page limits for final briefs in a later decision after the record has been more fully developed.

[16] 49 U.S.C. 11325(b)(3) provides that the Board must issue its final decision within 90 days of the close of the evidentiary record. Consistent with Decision No. 21, the Board has streamlined the environmental review process with the intent of issuing its final decision within the period prescribed by section 11325(b)(3). However, under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4347, the Board may not issue a final decision until after the required environmental review is complete. In the event the environmental review process cannot be concluded in sufficient time for the Board to meet the 90-day provision set forth in section 11325(b)(3), the Board will issue a final decision as soon as possible after that process is complete.