

53207
ALJ

SERVICE DATE – AUGUST 19, 2026

SURFACE TRANSPORTATION BOARD

Docket No. FD 36873

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

ORDER GRANTING APPLICANTS' MOTION TO COMPEL CPKC
TO MAKE RECIPROCAL PRODUCTIONS OF DATA
AND
GRANTING IN PART AND DENYING IN PART
CPKC'S MOTION TO COMPEL

Decision No. 31

Decided: August 19, 2026

Discovery is before the undersigned pursuant to a ruling by the Surface Transportation Board. See Decision (Aug. 28, 2025). The undersigned scheduled and conducted a discovery conference on August 11, 2026. See Decision Nos. 22 & 26. This decision memorializes the rulings made at that conference and decides the remainder of CPKC's motion to compel that I took under review regarding proposed search terms.

The Surface Transportation Board regulations provide for broad discovery. These regulations provide that “[p]arties may obtain discovery under this subpart regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding.” 49 C.F.R. § 1114.21(a)(1). The Board has recognized that this regulation allows for broad discovery. See Canadian Pac. Ry.—Control—Kan. City S. (Decision No. 7), FD 36500, slip op. at 4 (Aug. 2, 2021) (acknowledging authority to seek material relevant to subject matter of proceeding under 49 C.F.R. § 1114.21 and interpreting scope of relevance in discovery “[b]roadly”). An order may be entered for good cause and which justice requires, to protect from “annoyance, embarrassment, oppression, or undue burden or expense, or to prevent the raising of the issues untimely or inappropriate to the proceeding.” 49 C.F.R. § 1114.21(c). Protective orders may include that discovery not be had or that discovery be had only on specified conditions. 49 C.F.R. § 1114.21(c)(1)-(2).

I. Applicants' Motion to Compel CPKC to Make Reciprocal Production of Data

Applicants moved to compel non-Applicants to make a reciprocal production of data.

(Apps. Letter Brief, July 16, 2026.)¹ Specifically, at the most recent discovery conference, Applicants sought to compel CPKC's reciprocal production.² (Apps. Letter, Aug. 5, 2026.)

Applicants request an order compelling CPKC to produce car and train event, reciprocal switching, and interchange data in response to Applicants' Request Numbers 18, 19, 20, and 21. (Apps. Letter Brief 1-2, July 16, 2026.) Applicants already produced the requested categories of data in discovery. (Id. at 2.)

Applicants argued the information is discoverable, because it is relevant to the Board's evaluation of the merger, including assessing non-Applicants' claims about the impact of the proposed transaction on their service and operations. (Apps. Letter Brief 1, July 16, 2026.) While responsive filings have not been made yet, Applicants argue that they require the data to conduct their own analysis from the data to contest responsive filings. (Apps. Letter Brief 3, July 16, 2026.) At the discovery conference, Applicants argued that CPKC placed its information at issue in its recent letter arguing that Applicants have not set forth a prima facie case. (See, e.g., CPKC Letter 7-8, Aug. 6, 2026 (CPKC interchanges).)

CPKC argued that the motion is premature, because the parties are still meeting and conferring and responsive filings are not due yet. (See CPKC Opp. Letter, July 21, 2026.) CPKC also argued that it was unduly burdensome to produce these records, because CPKC would have to "reconstruct" the information from its legacy systems (former CP and KCS and an interim transition system). (Id. at 3.)

The issue is ripe for adjudication. Applicants filed their motion, and no progress was made on Applicants' and CPKC's meeting and conferring to resolve the issues since then. Moreover, CPKC argued it had questions to Applicants pending; however, Applicants argued that responding to CPKC's questions would be futile and not lead to a resolution of the issues.

The Board's regulations provide for broad discovery, 49 C.F.R. § 1114.21(a)(1), and reciprocal discovery on traffic tapes, 49 C.F.R. § 1180.4(b)(4)(iii). The requested data is likely to lead to admissible evidence, because the Board must evaluate whether the proposed transaction is in the public interest. See 49 C.F.R. § 1180.1(c). The car and train event, reciprocal switching, and interchange data may all be used to evaluate the transaction, in non-Applicants' responsive filings, and then by Applicants to contest non-Applicants' arguments. While the responsive filings have not yet been made, evaluation of the proposed transaction and any claimed service or operational impacts warrants the production of this data now.

The data should be produced as is. CPKC has not claimed that it cannot retrieve the data from its legacy systems. Nor did CPKC argue that retrieving the data from its legacy systems involved technical issues that could not be resolved. (See CPKC Opp. Letter 4, July 21, 2026.) Rather, CPKC argued that it somehow must "reconstruct" the data. (See id. at 3.) But that is not

¹ Citations are to the public filing, unless otherwise stated.

² Applicants' motion against the other non-Applicants is held in abeyance. (See Apps. Letter, Aug. 5, 2026.)

what the requests seek. Applicants seek production of the data as kept in the ordinary course.

CPKC also argued that the requested data is not proportional, because they seek information from 2019 through 2025 and for CPKC's operations in Canada and Mexico. (CPKC Opp. Letter 3-4, July 21, 2026.) The requested time period is what non-Applicants sought and obtained from Applicants in discovery, and information and data for a few years before the proposed transaction was announced is relevant. Corresponding information and data from non-Applicants is proportional. Applicants did not seek information beyond what non-Applicants requested and received from Applicants.

CPKC did not argue that its Canada or Mexico operations were unaffected by the proposed transaction or somehow isolated from the proposed transaction. (See CPKC Opp. Letter 3, July 21, 2026.) Instead, CPKC argued that the requests were not proportional, because neither UP nor NS operate in Canada and Mexico and CPKC has not put those operations at issue. (See *id.*) CPKC, however, requested discovery from Applicants about UP's initiative to reduce transit time between the U.S., Mexico, and Canada. (E.g., CPKC's First Discovery Requests to Applicants, Request No. 13.)³ Applicants have agreed to produce documentation in response to CPKC's request, and thus, the information about operations in Mexico and Canada are likely to lead to discoverable evidence. Further, CPKC has not articulated how the requested information could be limited in relation to the proposed transaction and its potential effects.

Applicants' Motion to Compel CPKC to Make Reciprocal Production of Data is GRANTED. CPKC shall produce the requested documentation within thirty (30) days of the service of this order. To the extent feasible, CPKC should make rolling productions before the deadline.

II. CPKC's Motion to Compel

On May 28, 2026, CPKC moved to compel Applicants' discovery responses. (CPKC Letter Brief, May 28, 2026.) CPKC requested that this motion be held in abeyance while it met and conferred with Applicants about search terms. (CPKC Letter, July 16, 2026.) For the August 11, 2026 discovery conference, CPKC requested that three issues from its motion to compel be considered: search terms, the timeframe for the original custodians, and the timeframe for UP's former CEO, Lance Fritz (who is among the additional custodians).⁴ (See CPKC Letter 1, July 30, 2026; see also Decision No. 25, 1-3, July 8, 2026) (granting in part motion to compel additional UP and NS custodians and holding in abeyance UP's request to restrict collection for 20 additional custodians of pre-2022 documents).

³ CPKC's discovery requests are found at Exhibit A to CPKC's Letter motion to compel, dated May 28, 2026.

⁴ The remainder of CPKC's motion to compel is held in abeyance, because discussion is ongoing. (See *id.*) CPKC's motion also requested an order compelling UP to search for pricing and growth strategies, (CPKC Letter 1, July 30, 2026); however, UP's opposition letter made clear it was conducting those searches. (Apps' Opp Letter 1, Aug. 4, 2026.)

A. Search Terms

CPKC argued that UP's search terms are too narrow for its discovery requests regarding pricing strategies (Request Nos. 20-21, 24-29); growth strategies (Request Nos. 16-19); and interline initiatives (Request No. 13).⁵ CPKC argued that Applicants' search terms were underinclusive, which was demonstrated by documents produced from non-custodial sources that would not be included by Applicants' search terms. (CPKC Letter 2, July 30, 2026.) CPKC argued, assuming its search terms captured non-responsive documents, that was not grounds for rejecting CPKC's proposed search terms. (*Id.* at 3.)

According to the Board's regulations, "it is not grounds for objection that the information sought will be inadmissible as evidence **if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.**" 49 C.F.R. § 1114.21(a)(3). Protective conditions, including that discovery not be had or only upon specified conditions, may be entered to protect a party including from undue burden. 49 C.F.R. § 1114.21(c)(1), (2).

CPKC argued that it reviewed the documents produced from non-custodial sources, and Applicants' proposed search terms do not capture those results. (CPKC Letter 2, July 30, 2026.) While the documents may not be captured by Applicants' proposed search terms in response to CPKC's discovery requests, that does not mean those documents and other responsive documents will not be captured by any of the agreed search terms. Those documents were captured as responsive to agreed search terms, because Applicants already produced them from their non-custodial searches.⁶ (*Id.*; Apps. Opp. Letter 2, Aug. 5, 2026.) CPKC has not explained why those documents would not likewise be produced from Applicants' custodial searches (e.g., attached to emails). (*See* CPKC Letter 2-3, July 30, 2026.)

At the discovery conference, CPKC argued that it reviewed the produced documents and picked search terms according to those documents, such as "breakage." But CPKC's search terms do not include the term "breakage." Including the term "breakage" with some coordinating term(s) to narrow the search according to CPKC's corresponding request would be reasonably calculated to lead to discoverable evidence. Instead, CPKC's search terms attempt to capture the concept of breakage. The result is that CPKC's search terms are overly broad.

⁵ The parties have resolved the search terms for other requests for these categories, (*see, e.g.*, CPKC Letter, Exhs. E, F, July 30, 2026); however, these requests remain disputed. (*See* Apps. Opp. Letter, Exhs. A & B, Aug. 5, 2026.) These charts include CPKC's corresponding discovery requests, proposed search terms, and hit counts from CPKC's proposed search terms. (*Id.*) Exhibit A is UP's chart with hit counts from existing agreed terms; the rows are highlighted as follows: disputed search terms in a reddish color, UP's proposed search terms in blue, and agreed search terms in green. (*See* Apps. Opp. Letter, Exhs. A & B, Aug. 5, 2026.) To the extent Applicants provided hit counts from existing agreed terms, Applicants stated they are still processing those requests for the additional custodians, as I ordered in Decision Number 25, served July 8, 2026. (*See* Apps. Opp. Letter 2 n.3, Aug. 5, 2026.)

⁶ This is not a situation where CPKC is pointing to documents that were not produced at all but should have been.

I reviewed the documents CPKC cited and provided for review in camera. (See CPKC Letter 2 (redacted in public filing), July 30, 2026; CPKC Letter, Aug. 11, 2026 (transmitting the referenced letters for the ALJ's review).) Nor do CPKC's proposed search terms use other targeted phrases found in the produced documents for targeted searches.⁷

CPKC cast aside whether its search terms will capture numerous non-responsive documents and argued that the documents will be fed into Applicants' TAR process. (CPKC Letter 3, July 30, 2026 (arguing that "[i]f CPKC's search terms capture non-responsive documents, Applicants' TAR program will screen out the non-responsive material").) CPKC argued that the search terms are not to identify documents for production, (*id.*), but failed to recognize that in narrowing the universe of documents to feed into the TAR process, the guidepost of whether the request is "reasonably calculated to lead to the discovery of admissible evidence" still applies. Applicants' subsequent use of TAR does not cure CPKC's overly broad search terms. Overly broad search terms are impermissible to the same extent as if the discovery request itself were overly broad. The search terms should be reasonably calculated to return the discoverable materials framed by a request. CPKC's proposed search terms do not do this.

CPKC argued that it needs to know the total number of documents in the universe and the hit percentage to assess Applicants' overbreadth argument.⁸ (CPKC Letter 3-4, July 30, 2026 (arguing "if CPKC's search terms capture a low share of the initial population, that might undermine that claim" of overbreadth).) But CPKC does not explain how knowing the hit percentage or the total number of documents to calculate that percentage correlates with retrieving responsive documents. (See *id.* at 3-4.)

The case cited by CPKC in support of its request underscores this flaw in its argument. CPKC argues that in another case, UP disclosed the hit percentage. (*Id.* at 3 & Exh. G (citing Joint Status Report, Oxbow Carbon & Mins. LLC v. Union Pac. R.R. Co., 2017 WL 5508793 (D.D.C. Aug. 2, 2017).) In Oxbow, plaintiffs applied search terms to one custodian's files, reviewed a sample of 10% of the retrieved documents for responsiveness, and found 11.67% of the documents were responsive. 2017 WL 5508793, at *10. UP argued that less than 20% of the custodian's total documents were retrieved, and from those, the percentage of responsive documents returned demonstrated the search terms were effective in narrowing the universe of documents to be reviewed. *Id.* UP stated it was unable to withdraw its motion to compel and argued that the remainder of that custodian's documents should be reviewed for responsiveness. *Id.*

⁷ I am not listing examples of additional potential terms I noted, because the documents are marked "highly confidential" and were provided under seal for review in camera. In this small sampling of documents, certain words and terms were readily apparent.

⁸ Notably, CPKC raised this first at the July 24, 2026 discovery conference. See Decision No. 29 at 3, July 28, 2026. In the order following the discovery conference, I specifically inquired: "how do those percentages demonstrate whether CPKC's proposed search terms yield responsive documents that are not captured by the agreed search terms?" and ordered CPKC to supplement its motion to compel to brief this issue "including its argued significance." *Id.* at 3-4.

The Oxbow case is not analogous to the situation here. Here, UP has retrieved documents from other agreed searches from the universe of documents. (Apps. Opp. Letter 2 & Exh. A, Aug. 4, 2026.) Applicants are in the process of reviewing those documents for responsiveness in accordance with their TAR (technology-assisted review) protocols, including determining the total hit count. (Id. at 2 n.3.) The hit percentages that CPKC requested—without any measure of responsiveness—are meaningless currently. The percentages simply demonstrate the number of documents in the universe compared to the number of documents retrieved by search terms—agreed and CPKC’s proposed search terms. There is not any measure of responsiveness. Those percentages do not demonstrate that the CPKC’s proposed search terms return a meaningful percentage of responsive documents compared with the existing agreed search terms.

Applicants each reviewed a sample of 385 documents that were not retrieved by the agreed search terms but captured by CPKC’s search terms for one request to each Applicant—Request Number 18 for UP and Request Number 25 for NS. (Apps. Opp. Letter 2, n.1 & Exhs. A & B, Aug. 4, 2026 (UP disputed search term 18.2).) For UP, CPKC’s search terms returned an additional 258,857 documents and 388,792 documents with families. (Id. at Exh. A, 2.) For NS, CPKC’s search terms returned an additional 2,093,917 documents and 3,056,119 documents with families. (Id. at Exh. B, 4.) Applicants each reviewed their sample documents for the requests and reported that zero (0) additional responsive documents were found by CPKC’s proposed search terms. (Id. at 2 & n.1.) Applicants argued that the marginal value produced by CPKC’s proposed search terms is outweighed by the burden to Applicants. (See id. at 3-4.) Applicants argued that their TAR use does not eliminate their burden. (Id. at 4.)

Turning to CPKC’s search terms as drafted, CPKC’s Request Number 13 stated: “Produce all UP Executive Level Documents relating to the initiative described in the UP Press Release dated September 12, 2023, entitled ‘Union Pacific’s Newest Offering Removes Full Day of Transit Between the U.S., Mexico and Canada, Creating Unmatched Service for Customers.’” (E.g., Apps. Opp. Letter Exh. A, 1, Aug. 4, 2026.) CPKC’s proposed search term was:

falcon OR eagle OR “Mexico-US-Canada” OR “Mexico U.S. Canada” OR ((“CN” OR “Canadian National” OR CNR OR CNI) AND (“UP” OR “Union Pacific” OR UNP OR UPRR) w/20 (“joint service” OR “new service” OR “service connection” OR “seamless connection” OR interchange OR interline OR “commercial product” OR “new product”)) AND (GMXT OR “Grupo Mexico” OR “Grupo México” OR Ferromex OR FXE)

(Id.) CPKC’s discovery request number 13 seeks documents about UP’s “Falcon” project in Mexico. But reviewing CPKC’s proposed search term demonstrates that it would retrieve documents about all UP projects and commercial products with the company, Grupo México (or Ferromex), whether the Falcon project or not. Falcon is not Grupo México’s only project with UP, and all of those projects would be found by CPKC’s proposed search term. This search term is not reasonably calculated to lead to the discovery of admissible evidence. CPKC’s search term is overly broad by capturing all projects with Grupo México.

CPKC argued that UP’s proposed search term “falcon w/5 premium” will not capture all

Falcon documents. But CPKC has not proposed a search term that is reasonably calculated and not overly broad.

Request Number 16 stated: “Produce all UP Executive Level Documents relating to strategies for growing UP’s rail traffic.” (E.g., Apps. Opp. Letter Exh. A at 2, Aug. 4, 2026.) Request Number 17 substituted NS for UP. (E.g., Apps. Opp. Letter Exh. B, Aug. 4, 2026.) CPKC’s proposed search term was:

(plan* OR strateg* OR project* OR initiative* OR playbook OR develop* OR roadmap OR campaign* OR AOP) w/20 ((grow* OR increas* OR retain* OR enhanc* OR boost* or driv* OR expan* OR conver* OR captur*) w/15 (volume OR traffic OR revenue* OR shipper* OR customer* OR account* OR carload* OR intermodal OR share OR truck* OR modal OR price))

(Id.) CPKC attempted to craft a search term to capture the discovery request’s essence—strategies for rail traffic growth. But the inclusion of multiple disjunctive terms (i.e., “OR”), especially “retain*” (which does not reflect the request’s “growth” limitation), “customer*,” “account*,” “share,” and “price” contribute to the search term’s overbreadth. In the search term, the “*” represents a wild card, so it will capture all forms of the word after the asterisk. “Account*” will also return accounting, accountant, and accounts-payable, which are not limited by rail traffic. CPKC’s proposed search term is not reasonably calculated to lead to discovery of admissible evidence without being overly broad.

Request Number 18 stated: “Produce all UP Executive Level Documents relating to forecasts prepared in the ordinary course of future traffic levels on the UP rail network.” (E.g., Apps. Opp. Letter Exh. A at 2, Aug. 4, 2026.) Request Number 19 substitutes NS for UP. (E.g., Apps. Opp. Letter Exh. B, Aug. 4, 2026.) CPKC’s proposed search term for Request Number 18 was:

((traffic OR volume* OR capacity OR network OR demand) w/10 (forecast* OR project* OR outlook OR plan*))

(E.g., Apps. Opp. Letter Exh. A at 2, Aug. 4, 2026.) CPKC’s proposed search term for Request Number 19 was:

(“same store” OR “SSP” OR playbook OR “follow the market” OR “market approach” OR “market update”) AND (price OR volume OR revenue)
OR
(traffic OR volume* OR capacity OR network OR demand OR RPU) w/10
(forecast* OR project* OR outlook OR budget)

(E.g., Apps. Opp. Letter Exh. B, Aug. 4, 2026.)

These search terms use multiple disjunctive terms and attempt to limit them (i.e., within ten words—approximately one sentence or phrase), but the attempted limitation contains multiple disjunctive wild-card terms. CPKC’s search term will retrieve documents about

planned network outages (e.g., IT issues), which are not responsive to the request about future traffic levels. For the request to NS, CPKC started with targeted words within the first part of the search term (i.e., “same store” or “SSP”) but it does not contain any limitation about future traffic as the discovery request asked. Instead, CPKC’s proposed search term to NS added the disjunctive string with multiple disjunctive wildcard terms.

This is the search term that UP reviewed a sampling of documents and found zero additional responsive documents. (*Id.* at 2.) CPKC’s search term is not reasonably calculated to lead to the discovery of admissible evidence without being overly broad.

I reviewed each of the contested search terms. They all suffer from one or more of these infirmities. CPKC crafted search terms that cast very wide nets. The nets must be wide enough to capture responsive documents but should not be so wide as to ignore any limitations found within the discovery requests themselves. Casting too wide a net is not requesting discovery that is **reasonably calculated** to lead to the discovery of admissible evidence. That is fishing, and it is beyond what is permissible by the Board’s discovery regulations.

CPKC is concerned that responsive documents will be left behind and thus, not included in Applicants’ TAR protocols. (CPKC Letter 2-3, July 30, 2026.) However, CPKC’s concern cannot be alleviated by essentially asking for the universe of documents to be included in the TAR protocols. That is what a series of overly broad search terms accomplishes as a practical matter. Even under the Board’s broad discovery standard, Applicants’ unduly burdensome argument must be considered. Here, the universe of custodial data is substantial—66 total custodians with some timeframes spanning seven years. (*See* Apps. Opp. Letter 2; Exhs. A & B.) CPKC argues that Applicants have not explained how it is unduly burdensome for additional documents to be added into to the TAR process midstream. (CPKC Letter 3, July 30, 2026.) Applicants estimate that CPKC’s proposed search terms will add millions of documents to Applicants’ review process. (Apps. Opp. Letter 2.) Applicants’ review is not simply electronically feeding data into models and running the programs. There is also human review to train and validate the models. (*See id.* at 4.) Humans also conduct a privilege review. (*Id.*)

If CPKC’s search terms, on their face, were reasonably calculated to lead to the discovery of admissible evidence, then the number of potential documents would be smaller. The search terms would be more likely to retrieve responsive documents compared to a vast array of non-responsive documents. Then Applicants’ burden of processing those additional documents might not be outweighed by the value in retrieving responsive discoverable evidence. But here, CPKC has not demonstrated in the first instance that its proposed search terms would retrieve responsive documents that are not otherwise found by Applicants’ current search process.

For all these reasons, CPKC’s motion to compel regarding its proposed search terms is denied. I considered whether to deny CPKC’s motion regarding the search terms without prejudice to allow CPKC another opportunity to revise its search terms. However, this is not a situation where CPKC will not obtain any discovery on its requests. Instead, Applicants have offered alternative search terms for CPKC’s discovery requests. (*See, e.g.*, CPKC Letter, Exh. A, July 30, 2026; Apps. Opp. Letter Exh. A, Aug. 4, 2026.) Applicants’ proposals are not as expansive as CPKC wants, because they are targeted and reasonably calculated to lead to

discovery of admissible evidence. Moreover, Applicants are using the previously-agreed search terms for both custodial and non-custodial data.

B. Timeframe

UP's custodial documents before 2022 are found on a legacy system (i.e., Lotus Notes). CPKC argues that UP should apply its searches to those documents too. (CPKC Letter 1, July 30, 2026.) UP applied CPKC's search terms to the legacy system, and the results could not be collected and exported. (Apps' Opp Letter 1, Aug. 4, 2026.) Accordingly, due to technical issues, it is overly burdensome for UP to apply CPKC's search terms to the legacy (pre-2022) system. 49 C.F.R. § 1114.21(c). CPKC's motion to compel is denied regarding the UP's legacy system for the original custodians.

CPKC sought documents of UP's former CEO, Lance Fritz, from 2019 up to January 1, 2022.⁹ (CPKC Letter 1, 4-5, July 30, 2026.) UP argued that the pre-2022 documents are in UP's legacy system and disproportionate to any relevance. (Apps' Opp Letter 1, Aug. 4, 2026.) UP also argued that many of Mr. Fritz's documents were or would be produced as a result of non-custodial searches. (Id.)

UP's non-custodial searches are unlikely to contain Mr. Fritz's e-mail comments (if any exist) about presentations and reports, although the presentations and reports will be produced. CPKC seeks the (non-privileged) additional commentary that might be found in Mr. Fritz's emails. UP has not argued that it cannot collect and export Mr. Fritz's documents in its legacy system but rather that its burden outweighs any relevance. (See Apps' Opp Letter 1, 4, Aug. 4, 2026.) UP argues that any production of Mr. Fritz's pre-2022 documents would be "incremental" and would not significantly add to other produced materials. (Id. at 4-5.)

CPKC argues that Mr. Fritz was CEO when UP was not interested in pursuing a merger. Mr. Fritz's comments would be highly relevant to non-Applicants' opposition to the proposed transaction. Those documents are in UP's legacy system and are burdensome to retrieve. However, Mr. Fritz received documents, such as presentations and reports, that are also highly relevant (e.g., regarding pricing, merger potential). To the extent that Mr. Fritz's non-privileged, responsive documents contain his comments or observations about those responsive presentations and reports, the relevance outweighs UP's burden in producing them. Even if UP's additional production is only "incremental," with Mr. Fritz's pre-2022 documents, the information sought by CPKC is highly relevant to non-Applicants' opposition. CPKC requests a targeted search of a named individual, Mr. Fritz, who received responsive documents, which outweighs UP's burden of searching the legacy system. CPKC's motion to compel is granted regarding the production of Mr. Fritz's pre-2022 documents.

⁹ One part of CPKC's motion requests that UP search Mr. Fritz's documents "for the full 2019-2023 time period." (CPKC Letter 1, July 30, 2026.) Mr. Fritz was CEO until August 2023. (Id. at 4.) Mr. Fritz is one of the "additional" custodians. See Decision No. 25, 2-3, July 8, 2026. UP is searching Mr. Fritz's post-January 1, 2022 documents already. (See id. at 4-5.) Therefore, this order addresses the pre-2022 timeframe for Mr. Fritz.

It is ordered:

1. Applicants' Motion to Compel CPKC to Make Reciprocal Productions of Data is GRANTED. CPKC shall produce the data requested in response to Applicants' Request Numbers 18, 19, 20, and 21 within thirty (30) days of the service of this order.
2. CPKC's Motion to Compel is:
 - a. DENIED in part as to the search terms,
 - b. DENIED in part as to the pre-2022 timeframe for the original custodians, and
 - c. GRANTED in part as to the pre-2022 timeframe for custodian Lance Fritz.
3. This decision is effective on the date of service.

By the Board, Jenifer J. Soulikias, Administrative Law Judge.