

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED

Office of Chief Counsel
September 2, 2026

DOCKET NO. FD 36844

Part of
Public Record

**COMMUTER RAIL DIVISION OF THE REGIONAL
TRANSPORTATION AUTHORITY D/B/A METRA
—TERMINAL TRACKAGE RIGHTS—
UNION PACIFIC RAILROAD COMPANY**

UNION PACIFIC REPLY SUBMISSION REGARDING OTHER FACILITIES

In its decision served August 19, 2026, the Board ordered Metra to identify with specificity the facilities (other than rail lines) to which it seeks access pursuant to the September 2025 Decision.

Metra’s listing of other facilities is sweeping in scope and vague in definition. Beyond the rail lines themselves, Metra now seeks access rights to various types of properties spanning from Chicago to Kenosha and from Elburn to Harvard—encompassing not just platforms and depots but buildings, canopies, walkways, parking lots, and all appurtenances at 63 separate stations.¹ Metra further seeks access to various types of property at separate maintenance, fueling station, and storage facilities, including roadways, pedestrian access areas, fuel tanks, and parking areas, as well as associated yard tracks at eight of those locations.² Yet despite this breadth, Metra has defined these facilities in vague terms—incorporating

¹ See Metra List of Facilities, Ex. A at 1–2.

² See *id.*, Ex. A at 3.

private Right of Entry agreements dated 2024 by reference, but then adding catch-all language covering “any other facilities” that were “useful” to commuter service or “associated” with Metra’s provision of passenger service.³ And Metra purports to seek access to “UP trackage and underlying realty” at the Kinzie/Clinton Fueling Facility pursuant to a Right of Entry to Track agreement yet that agreement does not mention the facility let alone identify what tracks beyond the mainline Metra has access to.⁴

The STB directed Union Pacific to reply to that submission by September 2, 2026, “identify[ing] with specificity any additional facilities, not listed by Metra, that [Union Pacific] believes are encompassed by the September 2025 Decision.”⁵

There are no such facilities. Before the Board can effectuate a constitutional taking of terminal facilities under 49 U.S.C. § 11102(a), it must make various statutory findings, including that they are terminal facilities within the ambit of the statute and that the statutory requirements are met. No such findings were made as to any of the facilities identified by Metra (or any other facility other than the UP Lines). As Union Pacific has previously explained, Metra’s application for terminal trackage rights “relate[d] to the three UP Lines,” which it defined in its application as “the UP-N line,” the “UP-NW line” “with a branch to McHenry,” and “the UP-W line.”⁶ Metra effectively concedes this point, acknowledging that its Application

³ *Id.* at 2 & Ex. A at 1, 3.

⁴ *Id.*, Ex. A at 3 (listing “Kinzie/Clinton Fueling Facility in the “Yard and Non-Main Line Track” box of Exhibit A).

⁵ August 2026 Decision at 4.

⁶ Metra Appl. at 7–8.

sought access only to the three UP Lines and not the additional facilities to which it now seeks access.⁷ Because Metra's application was for the three UP Lines, the parties' briefing—and thus the Board's decision—likewise were limited to the UP Lines.⁸ Thus, none of the station properties, platforms, depots, buildings, canopies, walkways, towers, parking lots, appurtenances, maintenance and storage yards, fueling facilities, roadways, and parking areas, or non-mainline yard trackage are encompassed by the September 2025 Decision.

If the Board's August 19 Order contemplates that Union Pacific should go further and identify facilities not encompassed by the September 2025 Decision that should be taken for Metra's benefit—that is, Union Pacific property that the Board might seize and transfer to Metra's use in a future order—that expectation is fundamentally inconsistent with the statutory and constitutional framework governing terminal trackage rights. The forced transfer of a railroad's property to Metra is a constitutional taking, and Congress has properly imposed meaningful guardrails on that authority. The Board must have jurisdiction over the property at issue and there are legitimate questions about that jurisdiction for many of the properties to which Metra seeks access. The proposed seizure must fall within the Board's authority under the terminal access provision. The Board must make the required statutory findings. It must then afford the parties a genuine opportunity to reach agreement on the terms and conditions of use, and only where agreement

⁷ See Metra List of Facilities at 1–2.

⁸ See, e.g., September 2025 Decision at 19–20, 27, 28; see also Metra List of Facilities at 1.

cannot be reached may the Board impose federally mandated terms. Each of these steps is Metra's burden to initiate and sustain—it is Metra's obligation to identify new property it now seeks, and to justify any expanded taking of Union Pacific property.

Accordingly, Union Pacific does not believe that the other facilities listed by Metra were encompassed by the September 2025 Decision, and thus that there are no additional facilities missing from that list.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of September 2026, a copy of the foregoing Joint Status Report was served by email or first-class mail on the service list for Docket No. FD 36844.

/s/ Stephen S. Laudone

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