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ALJ

SERVICE DATE – SEPTEMBER 3, 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 HOLDING IN ABEYANCE
APPLICANTS' MOTION REQUESTING DISCOVERY DEADLINES
AND CANCELING SEPTEMBER 4, 2026 DISCOVERY CONFERENCE

Decision No. 36

Decided: September 3, 2026

Discovery is before the undersigned pursuant to a ruling by the Surface Transportation Board. See Decision (Aug. 28, 2025). Pursuant to the Order Setting Discovery Deadlines, parties may submit issues according to an abbreviated briefing schedule that may be brought before a bi-weekly discovery conference. See Decision No. 22, 5-7 (section F, “Resolution of Disputes and Discovery Calendar”).

For the upcoming discovery conference, which is scheduled for Friday, September 4, 2026, Applicants requested I hear their motion requesting discovery deadlines. (Applicants' Letter Brief 1, Sept. 2, 2026.) The issue was held in abeyance. See Decision No. 29, 4. Applicants argued that the Board entered a procedural schedule, see Decision No. 30, and this issue is now ripe. (Applicants' Letter Brief 1, Sept. 2, 2026.)

On August 31, 2026, the Board extended the deadline for Notices of Intent to participate to September 30, 2026. Decision No. 35 (Aug. 31, 2026). The other deadlines remained the same. See id.

The deadline for Notices of Intent to participate has not yet passed. Interested parties and participants may wish to weigh in on proposed discovery deadlines. See Decision No. 28, 4 (“The Board is committed to ensuring that its proceedings remain open to meaningful participation by all interested persons.”). Therefore, Applicants' request for the entry of

discovery deadlines is premature. Thus, I am holding Applicants' request in abeyance until after the deadline for the Notices of Intent to participate.¹

The only issue raised for the September 4, 2026 Discovery Calendar was Applicants' request for discovery deadlines. (See Applicants' Letter Brief 1, Sept. 2, 2026; Non-Applicant Railroads' Letter, September 2, 2026.) Because Applicants' request is held in abeyance, there is not an issue to address at the discovery conference. Accordingly, I am canceling the discovery conference scheduled for Friday, September 4, 2026.

It is ordered:

1. Applicants' motion requesting discovery deadlines is held in ABEYANCE until after the deadline for Notices of Intent to participate.
2. The discovery calendar scheduled for Friday, September 4, 2026, is CANCELED.
3. This decision is effective on the date of service.

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

¹ After the September 30, 2026 Notice of Intent to participate deadline, the first scheduled discovery conference that would have a full briefing calendar under Decision No. 24, Order Setting Discovery Guidelines, available to any participant who filed their notice on the Notice of Intent deadline is October 16, 2026.