CPKC-46

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
– CONTROL –

NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

CPKC'S DESCRIPTION OF ANTICIPATED RESPONSIVE APPLICATIONS

Pursuant to Decision No. 30 served August 18, 2026, Canadian Pacific Railway Company, d/b/a Canadian Pacific Kansas City and CPKC, on behalf of itself and its U.S. rail carrier subsidiaries (collectively "CPKC"),[1] submits this description of the responsive applications it anticipates filing in connection with the UP-NS merger proposal under consideration in this proceeding.[2]

To be clear, the rights CPKC anticipates seeking in this proceeding would arise *only* in the event the Board were to approve the underlying UP-NS merger, and CPKC firmly believes

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[1] CPKC's U.S. rail carrier subsidiaries include Soo Line Railroad Company; Central Maine & Quebec Railway US Inc.; Dakota, Minnesota & Eastern Railroad Corporation; Delaware & Hudson Railway Company, Inc.; The Kansas City Southern Railway Company; Gateway Eastern Railway Company; and The Texas Mexican Railway Company.

[2] In accord with the procedural schedule established in Decision No. 30, CPKC anticipates filing its responsive applications by November 18, 2026. CPKC anticipates basing any required impact analyses on data for 2023, consistent with the approach taken by Applicants in the primary application. CPKC may seek clarification as to whether the rights it anticipates seeking via responsive application would appropriately be treated as minor rather than significant. CPKC reserves the right to revise and supplement the relief it may seek in this proceeding in light of the ongoing evolution of the record through discovery and other developments.

that the UP-NS merger should not be approved. It would harm the public, retard progress toward building a stronger and more competitive U.S. rail network, and undermine the strength of the U.S. economy. American businesses do not need UP and NS to combine for them (and other U.S. railroads) to provide effective transportation solutions that support economic growth, and the harm the Proposed Transaction will cause will hamper rather than advance American prosperity. No conditions would be capable of fully remedying the wide array of adverse consequences of a UP-NS merger, much less those of the further downstream consolidation that likely would follow. Attempts to effectively remedy those many harms would embroil the Board and the industry in substantially more regulatory oversight than Congress envisioned when it partially deregulated the industry beginning in the late 1970s. As a result, the interest of the public would be best served if the Board were to deny the proposed merger outright.

If the Board nonetheless were to conclude that a UP-NS merger may be in the public interest, CPKC would urge the Board to impose several conditions aimed at mitigating some of the competitive and other harms the merger would cause. Because certain of the conditions CPKC anticipates proposing may require responsive applications under the Board's rules,[3] CPKC is filing this description of those conditions in accord with the Board's procedural schedule. CPKC's November 18, 2026 evidentiary submissions will demonstrate the competitive and other harms the proposed UP-NS merger would cause, how such harms could not effectively be overcome by any amount of regulatory intervention, and the appropriateness of the specific conditions CPKC anticipates proposing as partial mitigation for the harms in the

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[3] *See* 49 C.F.R. § 1180.3(h) (defining types of condition requests requiring responsive applications).

event the Board nonetheless decides to approve the merger. Specifically, CPKC anticipates filing responsive applications concerning:

1. Adjustments to CPKC's trackage rights over UP (and Houston Belt & Terminal Railway ("HBT")) lines in Texas to safeguard effective CPKC competition against merger-related disruption and mitigate merger-related competitive harm, including:

    - Adjustments to CPKC's existing trackage rights between Robstown, TX and Beaumont, TX to remove paper-barrier-style restrictions and limit potential interference with CPKC competition; and

    - New rights over UP's line between Victoria, TX and Bloomington, TX to support access to certain UP-served rail customers;

2. New operating rights over UP lines in the vicinity of Baton Rouge, LA to support access to certain UP-served rail customers that would mitigate certain merger-related competitive harm;

3. New trackage rights on UP's line between Shreveport, LA and Houston, TX permitting CPKC trains to bypass merger-related congestion between Houston and DeQuincy, LA;

4. A condition requiring UP to relinquish to CPKC any rights NS may acquire in CPKC's Wylie Intermodal Terminal near Dallas, TX to overcome the adverse competitive effects of UP's control of these assets;

5. New trackage rights on NS lines between Mexico, MO and St. Louis, MO, to enable CPKC to compete more effectively for traffic moving between Kansas City and St. Louis to mitigate merger-related harm, along with rights over trackage owned by the Terminal Railroad Association of St. Louis allowing CPKC to connect its proposed rights over NS trackage with CPKC's existing lines in East St. Louis;

6. New and/or adjusted trackage rights over UP trackage in the vicinity of Kansas City, MO, including:

    - Confirmation (or grant) of CPKC operating rights on certain UP trackage in the Kansas City Terminal, enabling CPKC to connect with the Kansas City Terminal Railway via Troost Avenue and the Incline Track rather than via Kansas City Union Station, in order to avoid merger-related congestion in the Kansas City Terminal; and

    - Adjustments to CPKC's existing paired track arrangements with UP between Kansas City and Polo, MO to safeguard effective CPKC competition against merger-related disruption;

7. Adjustments to CPKC's existing trackage rights on NS lines between Chicago and Detroit to safeguard effective CPKC competition against merger-related disruption and mitigate merger-related competitive harm for traffic in this corridor; and

8. Adjustments to CPKC's existing trackage rights on UP's "Techny Line" in the Chicago area to safeguard effective CPKC competition against merger-related disruption.

CPKC describes the rights it anticipates seeking in each of these areas via responsive application in somewhat more detail below.

I. RESPONSIVE APPLICATION SEEKING NEW AND ENHANCED RIGHTS TO USE UP LINES IN TEXAS

CPKC's network connects Mexico and points in South Texas with the U.S. Midwest and Southeast, but CPKC's ability to compete depends critically on trackage rights over UP lines between Robstown, TX and Beaumont, TX. Were the Board inclined to approve the UP-NS merger, adjustments to CPKC's rights in this corridor would be essential to safeguard effective CPKC competition from merger-related disruption and enable CPKC to mitigate merger-related competitive harm. Accordingly, CPKC anticipates asking the Board to modify and expand CPKC's existing rights in various respects so that (a) CPKC's competition using these rights would be less susceptible to interference by UP, and (b) CPKC would have a greater ability to serve rail customers via the trackage over which CPKC operates, thereby mitigating competitive harm arising from the merger.

A. Adjustments to CPKC Trackage Rights on UP Lines Between Robstown, TX and Beaumont, TX

CPKC anticipates that it will ask the Board to modify CPKC's existing trackage rights over UP lines between Robstown, TX and Victoria, TX, and between Rosenberg, TX and

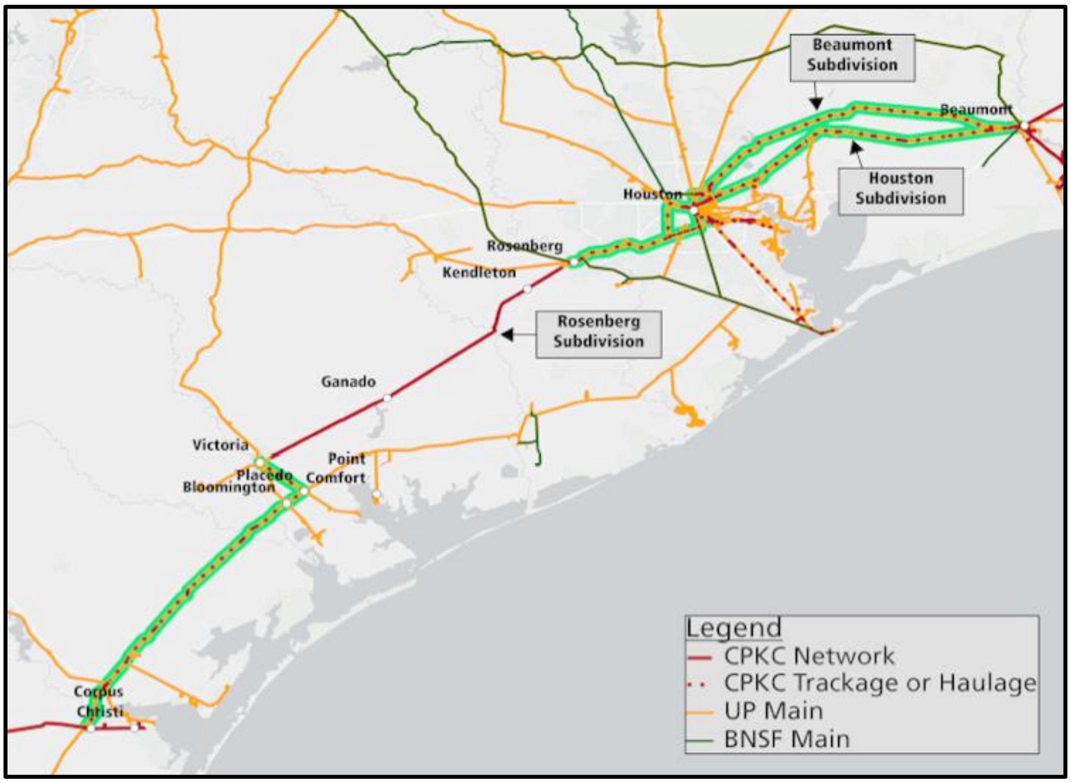
Beaumont, TX, including trackage in the Houston Terminal owned by HBT, a UP subsidiary over which UP has unlimited operating rights, in at least the following respects:

- The Board should remove existing paper-barrier-like restrictions on the rail traffic CPKC can handle using its rights, including to allow CPKC to handle (a) any traffic to or from shippers and connecting shortlines to which CPKC may have access today, regardless of whether the traffic has a prior/subsequent haul over CPKC's lines between Laredo and Corpus Christi; and (b) traffic to/from shipper, transload or other facilities on or reached via CPKC's Rosenberg Subdivision between Victoria, TX and Rosenberg, TX (including by shipper build-ins);
- The Board should remove restrictions preventing CPKC from serving local customers via its trackage rights;
- The Board should impose adjusted trackage rights terms that reduce UP's ability to impede or delay CPKC's efforts to add capacity needed to support CPKC growth;
- The Board should impose adjusted trackage rights terms respecting the levels of service UP must provide via these lines and reducing UP's ability to impose arbitrary operating rules that hinder CPKC's competitiveness;
- The Board should establish enforcement mechanisms and incentives for good UP performance, including the potential (or "springing") transfer of dispatching responsibility to CPKC in the event of UP service failures; and
- The Board should prohibit UP from seeking to terminate CPKC's trackage rights over UP's Houston Subdivision (between Houston and Beaumont), regardless of

whether UP might choose to discontinue its practice of directional running on the Houston and Beaumont Subdivisions.

Figure 1 below provides a map highlighting in green the UP and HBT trackage at issue, all of which CPKC operates across today.

FIGURE 1

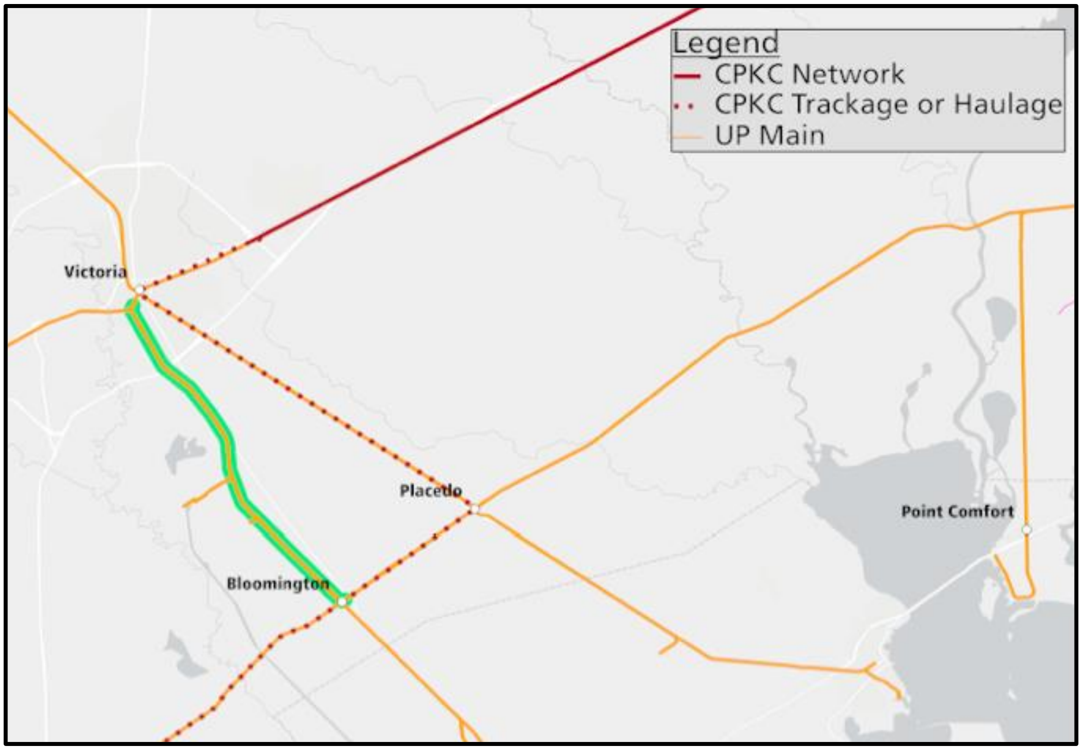


B. Rights to Operate on UP's Victoria Industrial Lead Between Victoria, TX and Bloomington, TX

CPKC anticipates seeking a condition requiring UP to provide CPKC the right to use UP's Victoria Industrial Lead between Victoria, TX and Bloomington, TX for through train operations consistent with current practice and to serve any local customers to which CPKC may be granted access. UP has taken the position that the Victoria Industrial Lead is not a line of railroad within the Board's jurisdiction. CPKC anticipates seeking a condition requiring UP to grant rights on that line via responsive application in the event the Board concludes otherwise.

The UP line at issue is highlighted in green in Figure 2 below.

FIGURE 2



C. Operating Rights Over Additional UP Trackage as Necessary to Serve Customers Reached Via the UP Lines Between Victoria and Robstown Over Which CPKC Operates

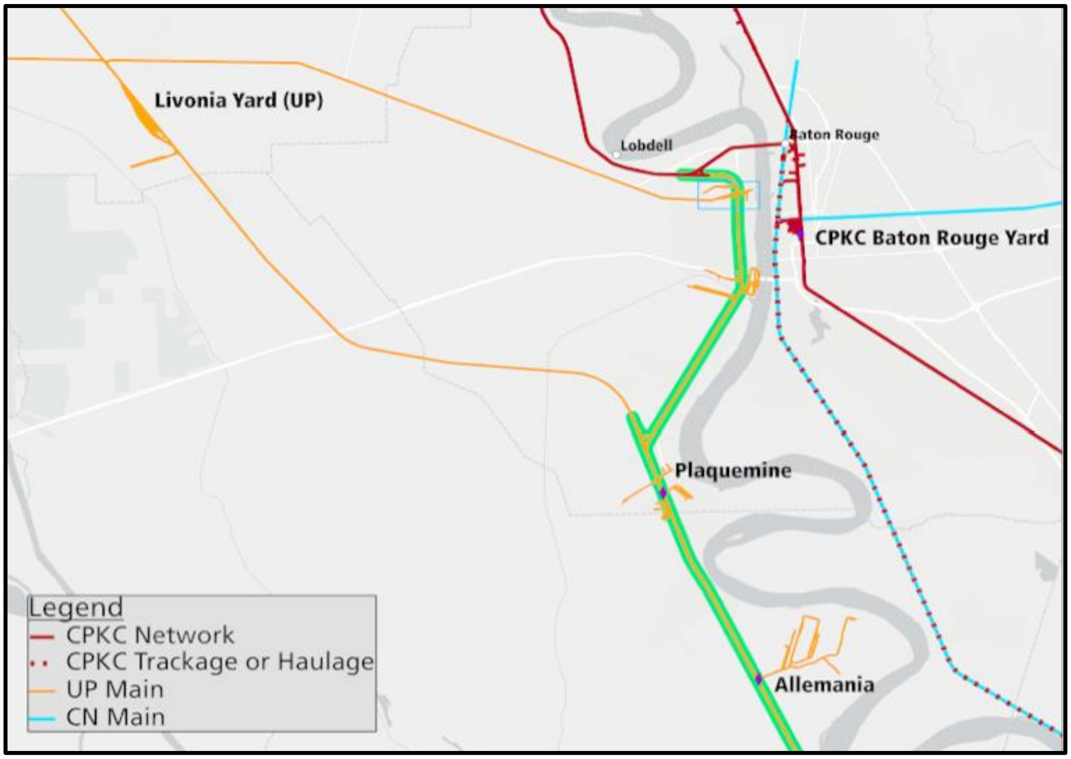
CPKC anticipates seeking access to certain UP-served customers adjacent to or reached via the lines over which CPKC operates (or would operate) between Victoria, TX and Robstown, TX in order to mitigate some of the adverse competitive effects of the Proposed Transaction. CPKC's network is well positioned to compete for a portion of the traffic of those customers. Although CPKC anticipates seeking conditions granting access to such customers via reciprocal switching, which would not require a responsive application, CPKC may request a springing condition allowing direct access via UP trackage in the event UP's reciprocal switching service fails to support effective competition. To the extent any such direct access may require operation across additional UP trackage, CPKC would seek such rights via responsive application.

II. RESPONSIVE APPLICATION SEEKING NEW RIGHTS TO OPERATE ON CERTAIN UP TRACKAGE IN THE BATON ROUGE, LA AREA TO SUPPORT CUSTOMER ACCESS

CPKC anticipates seeking access to certain UP-served customers located west of the Mississippi River in the vicinity of Baton Rouge, LA in order to mitigate some of the adverse competitive effects of the Proposed Transaction. CPKC's network is well positioned to serve some portion of the traffic of those customers. Although CPKC anticipates seeking a condition granting access to such customers via reciprocal switching, which would not require a responsive application, CPKC may request a springing condition allowing direct access via UP trackage in the event UP's reciprocal switching service fails to support effective competition. To the extent any such direct access may require operation across UP trackage, CPKC would seek such rights via responsive application.

The UP trackage at issue is highlighted in green in Figure 3 below.

FIGURE 3



III. RESPONSIVE APPLICATION SEEKING NEW RIGHTS TO OPERATE ON UP'S LUFKIN SUBDIVISION BETWEEN SHREVEPORT, LA AND HOUSTON, TX

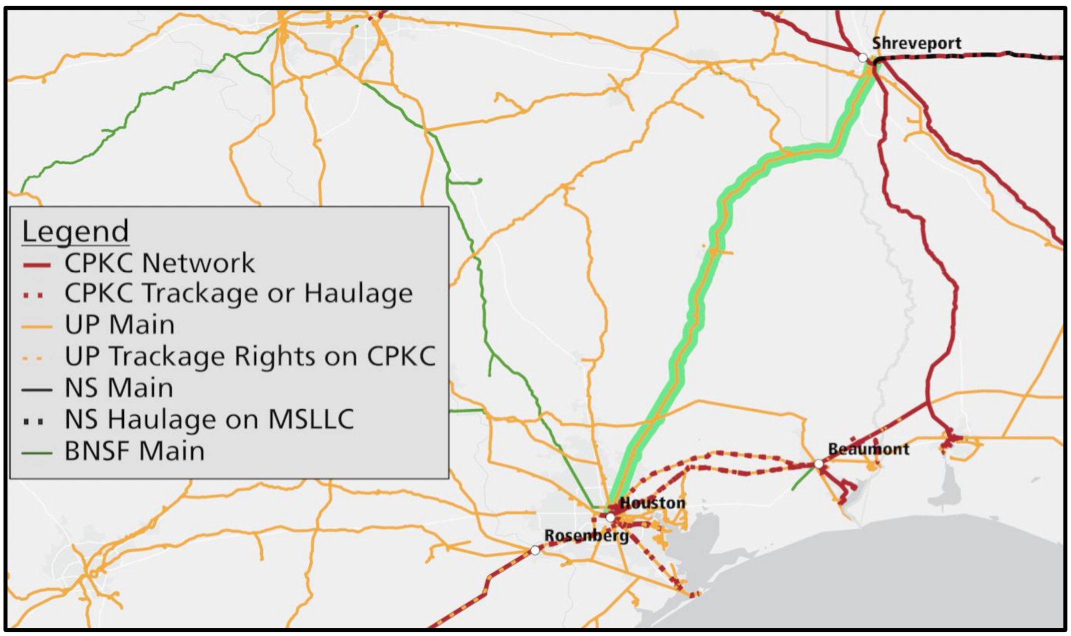
CPKC is concerned that Applicants' forecast of substantial merger-related increases in traffic in the Houston Terminal and between Houston and Livonia, LA will cause serious congestion on lines that CPKC and UP share east of Houston, especially at the single-track Neches River Bridge in Beaumont and on CPKC's trackage (over which UP has trackage rights) between Beaumont and DeQuincy, LA.

CPKC anticipates asking the Board to impose certain conditions addressing this concern that would not require a responsive application, but CPKC also anticipates seeking, likely as a springing condition, trackage rights over UP's Lufkin Subdivision (connecting Houston and Shreveport, LA) that would permit CPKC trains to bypass UP-caused congestion by running on

UP directly between Houston and Shreveport. In addition to the Lufkin Subdivision, CPKC would seek rights over additional UP trackage as may be necessary to connect the Lufkin Subdivision with the lines of CPKC (and of MSLLC) at Shreveport and with CPKC's existing rights over UP in the Houston Terminal.

The UP trackage at issue is highlighted in green in Figure 4 below.

FIGURE 4



IV. RESPONSIVE APPLICATION SEEKING TRANSFER TO CPKC OF ANY INTEREST IN THE WYLIE INTERMODAL TERMINAL THAT NS MAY ACQUIRE PRIOR TO UP'S CONSUMMATION OF THE PROPOSED TRANSACTION

NS has indicated its intention to acquire CPKC's Wylie Intermodal Terminal near Dallas, TX, pursuant to an agreement related to CPKC's MSLLC joint venture with NS, and NS is also seeking to force the sale of CPKC trackage outside the Wylie Intermodal Terminal that supports CPKC's service to the Dallas-Fort Worth region, including in direct competition with UP. UP's acquisition of NS would fundamentally alter the competitive consequences of NS's proposed Wylie acquisition. Unlike NS, UP already operates two intermodal terminals in the Dallas area, and UP competes directly against CPKC for traffic between Dallas and the U.S. Midwest. UP's acquisition of the Wylie Intermodal Terminal would therefore place Wylie under the control of one of CPKC's principal competitors.

CPKC therefore anticipates asking the Board, as a condition of any approval, to prohibit Applicants from exercising or retaining any option or other right to acquire or control the Wylie Intermodal Terminal (or any other CPKC property in the vicinity of Wylie). Such a condition would not require a responsive application. However, in the event that NS (or UP) ultimately acquires any interest in the Wylie Intermodal Terminal (or any other ancillary CPKC property), CPKC will ask the Board to impose a condition requiring Applicants to divest and reconvey any such property to CPKC so as to restore, to the maximum extent practicable, CPKC's ownership and control of its Wylie Intermodal Terminal and other nearby railroad property. Such a condition also may not require a responsive application, but CPKC anticipates proceeding by responsive application out of an abundance of caution in the event NS or UP may succeed in acquiring CPKC trackage, the re-acquisition of which would fall within the Board's licensing authority.

V. RESPONSIVE APPLICATION SEEKING NEW TRACKAGE RIGHTS ON NS'S LINES BETWEEN MEXICO, MO AND ST. LOUIS, MO, AND "CLOSE-THE-GAP" RIGHTS ON TRRA TRACKAGE BETWEEN ST. LOUIS AND EAST ST. LOUIS, IL

UP and NS currently control the two premier mainline routes between Kansas City and St. Louis. The Proposed Transaction would place both of those routes under the control of UP, and post-merger UP would dominate the flows of traffic in this corridor. Although CPKC has a route between Kansas City and St. Louis, via Roodhouse, IL, that route is relatively circuitous and inefficient as compared with the UP and NS routes.

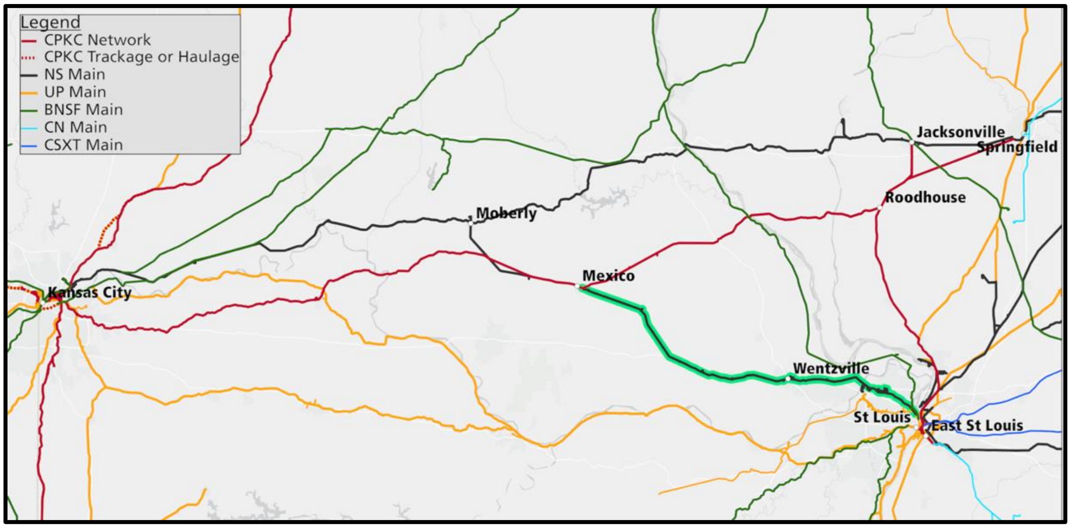
CPKC therefore anticipates asking the Board, as a condition of any approval, to require Applicants to grant CPKC trackage rights over a portion of NS's route in order to improve the competitiveness of CPKC's Kansas City-St. Louis route both for St. Louis-area traffic moving to/from CPKC's own network and as a bridge between BNSF and CSX.

CPKC anticipates seeking overhead and local/full-service trackage rights over NS's line between Mexico, MO and the connection with the Terminal Railroad Association of St. Louis ("TRRA") in St. Louis, MO (including portions of NS's Midwest Division, Kansas City District, and St. Louis Terminal Subdivision). These rights would allow CPKC to provide a shorter, faster, and more efficient route for traffic moving between Kansas City and St. Louis than its existing route via Roodhouse, IL, and would do so without interfering with Applicants' anticipated merger-related traffic increases on NS's route between Kansas City and Springfield, IL. The rights CPKC anticipates seeking would include authority to serve the General Motors facility at Wentzville, MO and other shipper facilities adjacent to or served via the NS line over which CPKC would obtain trackage rights, together with access to other NS trackage (*e.g.*, yard, switching, staging, interchange, and other incidental rights) as may be necessary to serve local customers and interchange traffic with TRRA at St. Louis.

In addition, CPKC anticipates seeking "close-the-gap" rights on TRRA trackage between NS and TRRA in St. Louis (which CPKC believes is referred to as "May Street") and CPKC's existing trackage in East St. Louis (at CP Junction). These rights would allow CPKC to reach its own yard in East St. Louis as well as connect efficiently with CSX (at Rose Lake Yard) and other carriers using the more-efficient route via Mexico, MO and rights over NS. (CPKC may also need to confirm expanded rights on TRRA segments in East St. Louis beyond CP Junction so that CPKC can both connect with itself and interchange with other carriers.)

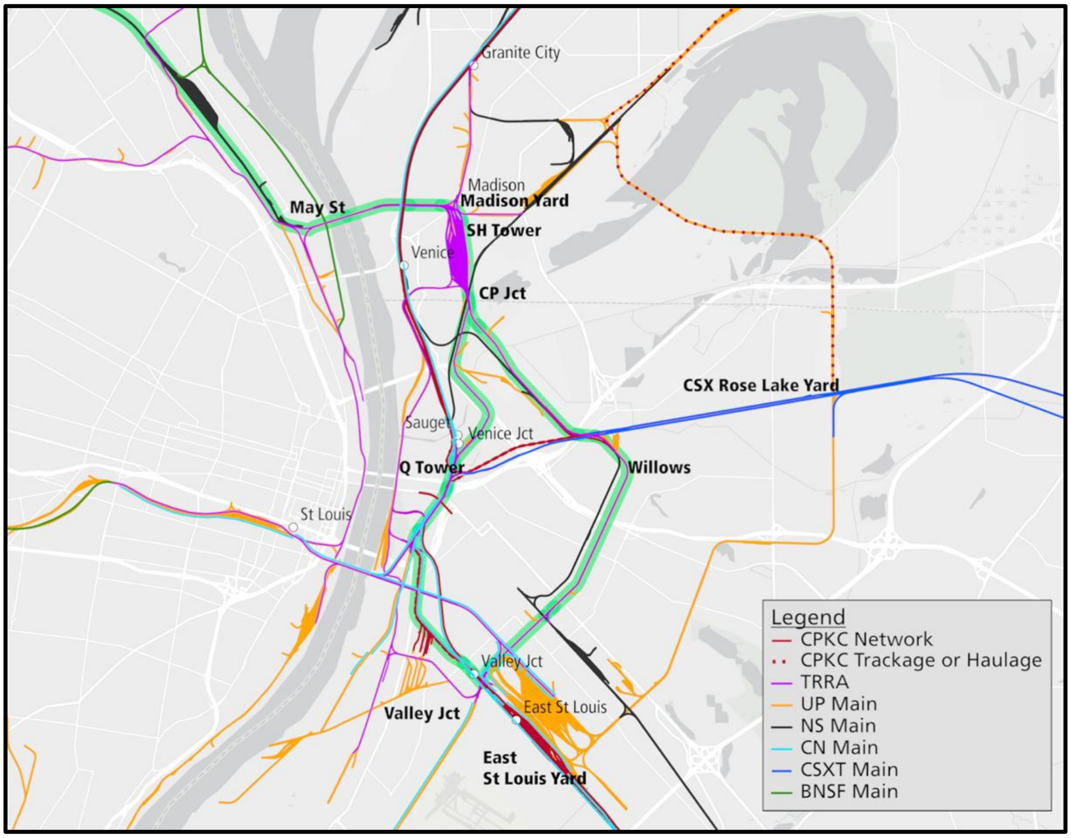
The NS trackage at issue is highlighted in green in Figure 5 below.

FIGURE 5



The TRRA trackage connecting the proposed NS rights with CPKC's lines in East St. Louis is highlighted in green in Figure 6 below.

FIGURE 6



VI. RESPONSIVE APPLICATION SEEKING NEW OR CONFIRMED OPERATING RIGHTS IN THE KANSAS CITY AREA

The proposed UP-NS merger would significantly disrupt rail operations at the vital Kansas City Gateway, with serious adverse impacts for other rail carriers and the customers they serve. CPKC anticipates seeking conditions addressing these impacts, two sets of which may require a responsive application.

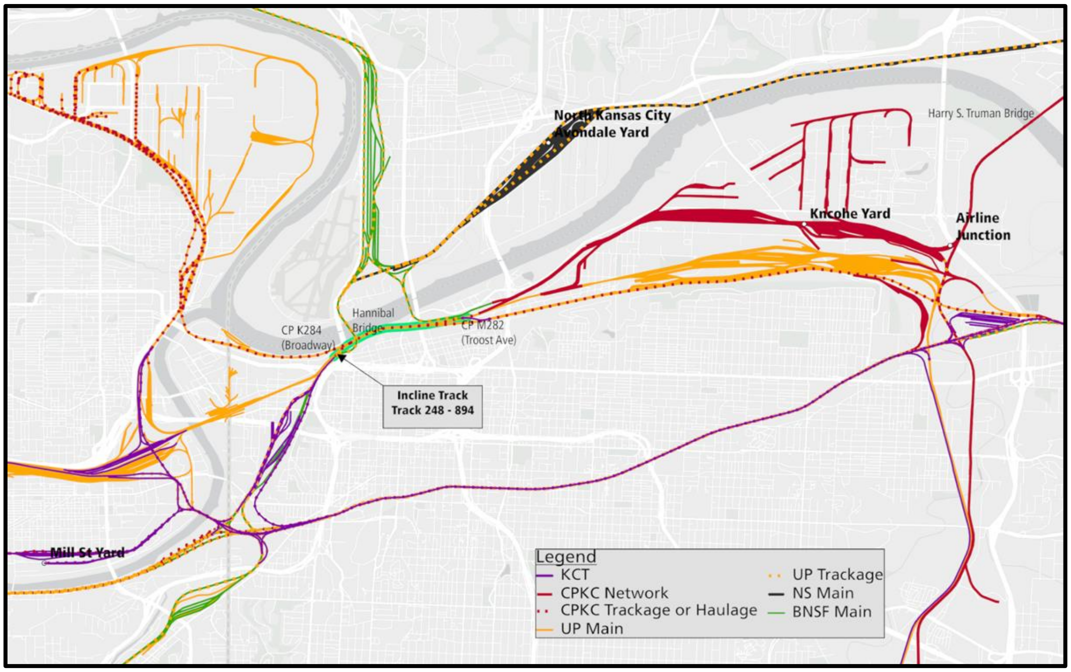
A. CPKC Rights to Operate on Certain UP Trackage in the Kansas City Terminal

First, Applicants project that they will reroute significant volumes of UP-NS traffic through the Kansas City Terminal via a route that traverses trackage and multiple congested interlockings upon which CPKC depends for its operations—in direct competition with UP—between Kansas City and points North, South, and East. CPKC anticipates seeking conditions addressing these impacts, including requiring UP to add sufficient capacity to offset merger-related impacts, which would not require a responsive application.

In addition, CPKC anticipates seeking a condition requiring UP to confirm (or grant outright) rights to traverse certain UP trackage in the Kansas City Terminal (including the so-called "Incline Track") to connect CPKC's Knoche Yard with lines of the Kansas City Terminal Railway ("KCT") on the west side of the Terminal. CPKC believes it already has rights giving it such a route via UP trackage that replaced KCT trackage that was removed as a result of a UP lease of KCT trackage in the area, but UP has refused to acknowledge those rights. UP's refusal has forced CPKC to operate using alternative KCT lines that are more circuitous and place CPKC trains in direct conflict with the route UP proposes for its merger-related trains. The specific UP trackage over which CPKC would seek to operate is between the west end of CPKC's Knoche Yard at a point called "Troost Avenue" and KCT's lines near "Broadway" at the uphill (or western) end of the so-called Incline Track.

The UP trackage at issue is highlighted in green in Figure 7 below.

FIGURE 7

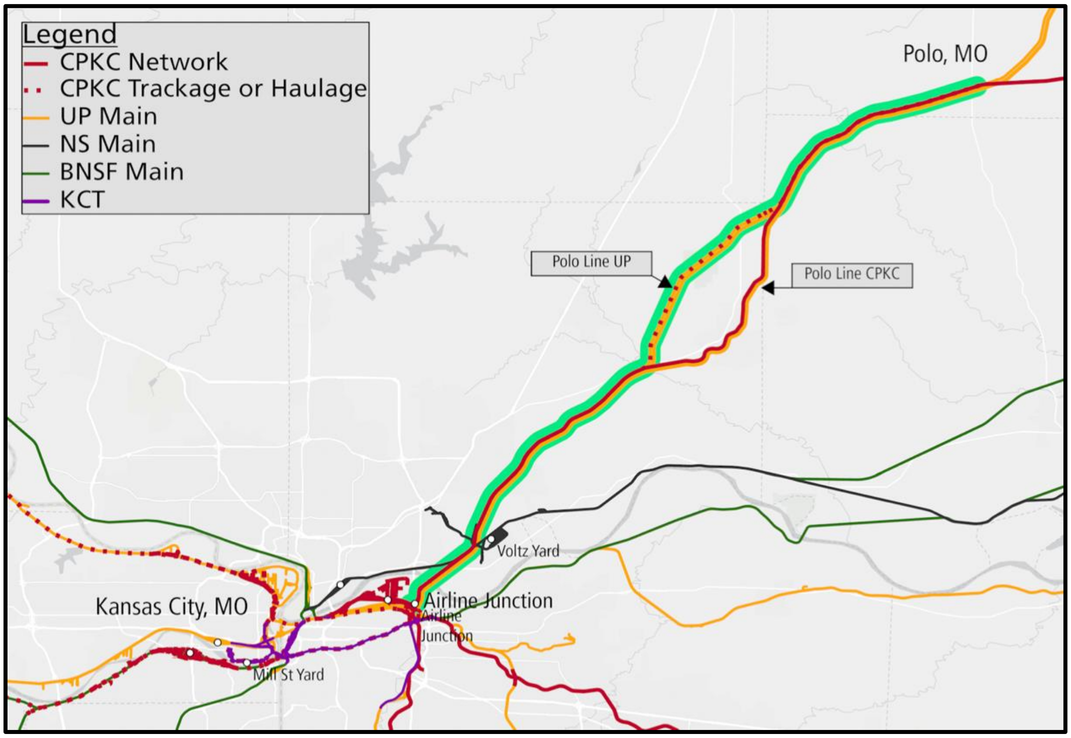


B. Adjustments to CPKC's Existing Rights to Operate on Paired Track Between Kansas City and Polo, MO

Second, CPKC is concerned that UP's proposed acquisition of NS would give it new incentives to discontinue or disrupt the longstanding "Polo Line" paired track arrangement pursuant to which UP and CPKC operate between Kansas City (*i.e.*, Airline Junction) and Polo, MO. CPKC anticipates asking the Board, as a condition of any approval, to preserve effective CPKC competition by prohibiting UP from seeking to terminate the Polo Line agreement and requiring other adjustments to CPKC's rights over that trackage, including with respect to enforceable service standards and dispatching arrangements.

The UP-owned portion of the Polo Line paired trackage, over which CPKC operates today, is highlighted in green in Figure 8 below.

FIGURE 8



VII. RESPONSIVE APPLICATION SEEKING ADJUSTMENTS TO CPKC'S EXISTING TRACKAGE RIGHTS ON NS BETWEEN CHICAGO AND DETROIT

CPKC's U.S. network reaches Detroit and connects the United States with Eastern Canada, but CPKC's ability to compete depends critically on trackage rights over NS lines between Chicago and Detroit. Were the Board inclined to approve the UP-NS merger, adjustments to CPKC's rights in this corridor would be essential to safeguard effective CPKC competition from merger-related disruption and enable CPKC to mitigate merger-related competitive harm. Accordingly, CPKC anticipates asking the Board to modify and expand CPKC's existing rights in various respects so that CPKC's competition with UP would be less susceptible to future interference by UP, and CPKC would have a greater ability to serve rail customers via the trackage over which CPKC operates, thereby mitigating merger-related competitive harm.

CPKC anticipates that it will ask the Board to modify CPKC's existing trackage rights over NS lines between Chicago and Detroit in at least the following respects:

- The Board should prohibit Applicants from seeking to terminate (or in any way restrict or narrow) CPKC's trackage rights over NS lines between Chicago and Detroit;
- The Board should remove existing paper-barrier-like restrictions on the rail traffic CPKC can handle using its rights, and remove any increased fees or other penalties associated with those restrictions, including to allow CPKC to use its trackage rights to handle (a) any traffic interchanged with Conrail in the Detroit Terminal, including finished automobile traffic, regardless of origin or destination; (b) any traffic interchanged with the Ann Arbor Railroad at Milan, MI, or any other carrier that connects with the trackage rights lines, including finished automobile traffic, regardless of origin or destination; and (c) local traffic originated or terminated at a future facility or facilities served by CPKC in Southeast Michigan connected to the trackage (*e.g.*, a new intermodal, automotive, or transload facility to be built by CPKC or accessible to CPKC);
- The Board should grant CPKC the right to use Applicants' trackage as necessary to facilitate interchange with Conrail at Detroit (*e.g.*, via Livernois Yard or Oakwood Yard), interchange with Ann Arbor at Milan, MI, interchange with

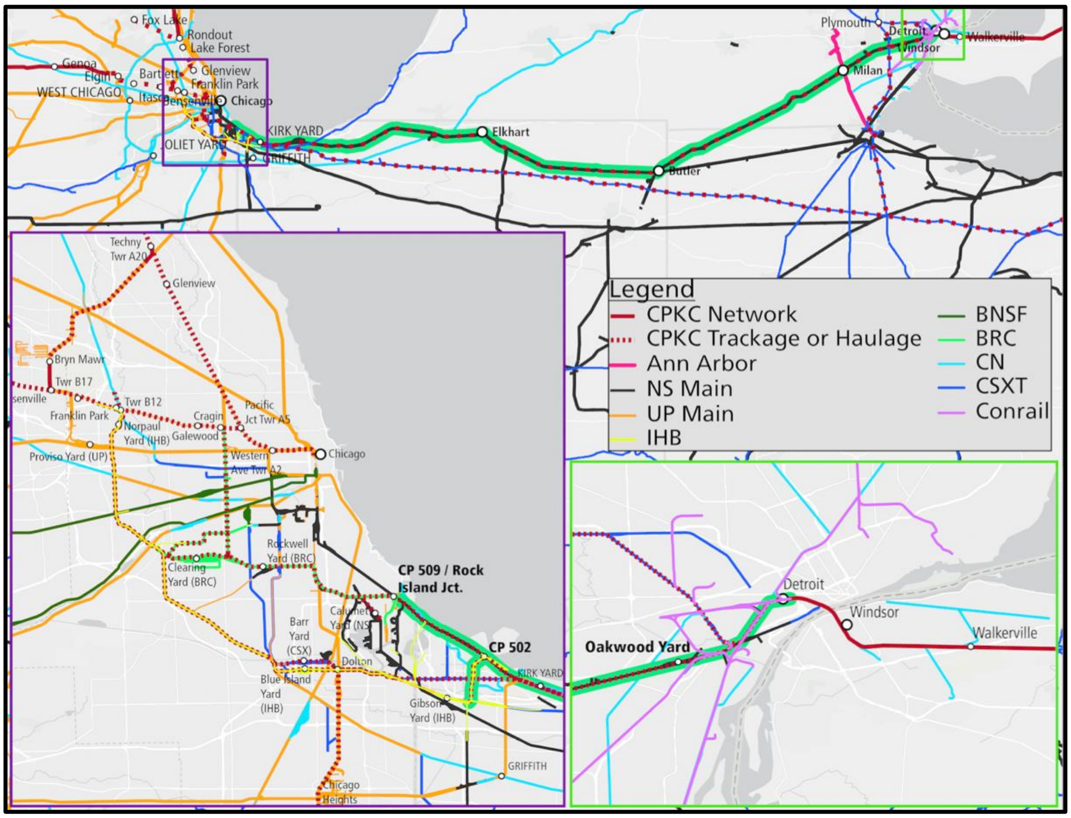
other carriers, and access to any CPKC-served local facilities reached via the trackage rights;

- The Board should grant CPKC the right to connect its own network or facilities with the trackage rights lines, including via the construction of new connecting trackage as appropriate;
- The Board should impose adjusted trackage rights terms respecting the levels of service Applicants must provide via these lines and reducing Applicants' ability to impose arbitrary operating rules that hinder CPKC's competitiveness;
- The Board should establish enforcement mechanisms and incentives for good performance by Applicants, including the transfer of dispatching responsibility to CPKC in the event of Applicant service failures; and
- At the Chicago end of CPKC's existing trackage rights, the Board should require Applicants to grant rights sufficient to allow CPKC to enter and exit its Chicago-Michigan trackage rights at CP 502 and to operate between CP 502 and points on

the Indiana Harbor Belt Railroad ("IHB"), including IHB's Gibson Yard, for any and all purposes.

The NS trackage at issue, over which CPKC operates today, is highlighted in green in Figure 9 below.

FIGURE 9



VIII. RESPONSIVE APPLICATION SEEKING ADJUSTMENTS TO CPKC'S EXISTING RIGHTS TO OPERATE ON UP'S TECHNY LINE TRACKAGE IN THE CHICAGO AREA

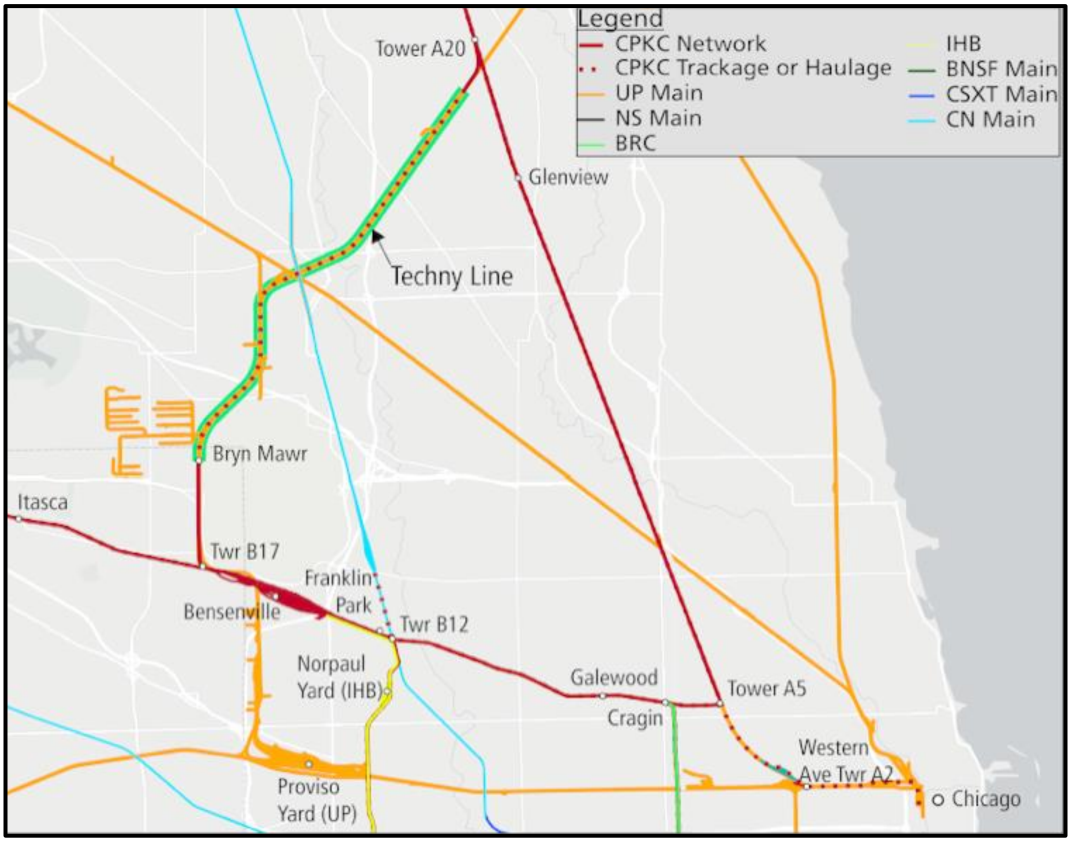
UP's "Techny Line" provides a vital link in CPKC's network, connecting CPKC's Bensenville Yard near Chicago with CPKC's core route between Chicago and the Twin Cities via Milwaukee. CPKC is concerned that UP's proposed acquisition of NS would give UP new incentives to discontinue or disrupt CPKC's longstanding right to operate on the Techny Line.

CPKC anticipates asking the Board, as a condition of any approval, to preserve effective CPKC competition by prohibiting UP from seeking to terminate (or in any way restrict or narrow) CPKC's trackage rights over the Techny Line between Bryn Mawr, IL (near Bensenville Yard, where CPKC connects with the Techny Line) and a connection with CPKC's Chicago & Milwaukee Subdivision near Tower A20.

CPKC will also ask the Board to (a) impose adjusted trackage rights terms respecting the levels of service Applicants must provide via these lines and reducing Applicants' ability to impose arbitrary operating rules that hinder CPKC's competitiveness and (b) establish enforcement mechanisms and incentives for good performance by Applicants, including the transfer of dispatching responsibility to CPKC in the event of Applicant service failures.

The UP trackage at issue, over which CPKC operates today, is highlighted in green in Figure 10 below.

FIGURE 10



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Respectfully submitted,

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September 9, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of September, 2026, I caused a copy of the foregoing CPKC's Description of Anticipated Responsive Applications to be served by email or by first-class mail, postage prepaid on all parties of record in this proceeding, the Secretary of Transportation, the Attorney General of the United States, and Administrative Law Judge Jenifer Soulikias.

/s/ Rachel P. Clyburn
Rachel P. Clyburn