



# SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

312434

PETER A. PFOHL

September 24, 2026

ENTERED  
Office of Chief Counsel  
September 24, 2026  
Part of  
Public Record

Via E-Filing

Hon. Jenifer J. Soulikias  
Administrative Law Judge  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20423

Re: FD 36844, *Commuter Rail Division of the Northern Illinois  
Transit Authority d/b/a Metra – Terminal Trackage  
Rights – Union Pacific Railroad Company*

Dear Judge Soulikias:

The Commuter Rail Division of the Northern Illinois Transit Authority d/b/a Metra (“Metra”) provides this reply in opposition to UP’s September 18, 2026, Motion to Compel (“Motion”) related to Metra’s responses to subpart (a) of Interrogatory No. 1 of UP’s Third Set of Discovery Requests (“UP’s Request”).

## INTRODUCTION AND SUMMARY

Metra has fully responded to UP’s Request. The Motion is based on UP’s disagreement with the substance of Metra’s responses – not Metra’s failure to respond. Metra is required to respond to the discovery served. Metra is not required to provide discovery responses that accord and conform with UP’s litigation position, which seeks to limit the scope of the relief available to Metra under the Board’s September 3, 2025, decision.

The Board’s Rules generally allow broad discovery but not without limits. UP’s Motion oversteps those limits in multiple ways: (1) The substantive responses and the accompanying substantial volume of responsive documents already produced fully respond to UP’s Request. (2) UP is as well informed as Metra, if not more so, regarding the identify, location, and size of the facilities that are the subject of the Motion, because UP (or its predecessor) utilized those same facilities – which UP owns, not Metra – for over 50 years before discontinuing and transitioning the passenger service involved to Metra. (3) The procedure established in the Board’s August 19, 2026, decision contemplates that evidence and argument regarding whether specific facilities properly are included within the trackage rights granted

under the September 3, 2025, decision should be made to the Board, not resolved through the discovery process. (4) UP has refused to provide any meaningful response to Metra's reciprocal discovery on the same subject matter, violating the general principle that discovery is a two-way street and preventing the narrowing of the discovery issues in dispute. UP's Motion is also procedurally defective because it is untimely and was not preceded by efforts to resolve the claimed dispute by less intrusive means. UP did not present to Metra the individual facilities identified in UP's Motion, for which it now claims it needs additional information, until filing the Motion. Metra has since responded with additional information responding to UP's six supplemental questions concerning these facilities, rendering the Motion moot. *See Exhibit 4.*

Accordingly, UP's Motion should be denied

### STATEMENT OF FACTS

The Board's March 13, 2026, decision allowed discovery to commence on May 22, 2026. On August 21, 2026, UP filed its Third Set of Discovery Requests on Metra, and requested Metra to serve its answers and responses by no later than three business days later, on August 26, 2026.<sup>1</sup>

UP's Request sought the following:

*Interrogatory No. 1*

*Identify and describe in detail each and every Facility (other than the Union Pacific Lines) to which Metra seeks access pursuant to the Board's September 3, 2025 Decision including, but not limited to, the following information:*

*a. Name of every Facility or descriptor sufficient to identify every Facility;*

*i. For example, if a rail yard is identified, the name of the rail yard. If a facility is unnamed but is located at a named station, identify the facility by use of the named station.*

Metra filed timely objections and responses to UP's Request on August 26, 2026, included as Exhibit 1 to UP's Motion. Metra's response provided several threshold and specific objections to the Request (and to UP's other

---

<sup>1</sup> The Board's rules pertaining to written interrogatories to parties provide that answers and objections are to be made within the time period designated, but "not less than 15 days after the service thereof." 49 C.F.R. § 1114.26(a).

requests). These objections included that UP's Request is duplicative of the information already required by the Board's decision served August 19, 2026, ordering Metra to submit a list of the facilities (other than rail lines) to which it seeks access pursuant to the Board's September 3, 2025, decision, by August 26, 2026, and ordering UP to respond with any additional facilities, not listed by Metra, that UP believes are encompassed by the September 3, 2025, decision, by September 2, 2026.

Metra also objected that UP is as equally aware of the facilities that Metra requires and seeks access to under 49 U.S.C. § 11102(a) to replace the services formerly provided by UP. UP and its predecessor used these same facilities to provide commuter passenger service to Metra for over 50 years, starting in 1975, under the former Purchase of Service Agreement ("PSA"), until UP turned its operations over to Metra on May 16, 2025, and terminated the PSA outright on June 30, 2025. (Until 1975, UP's predecessor had provided the commuter service directly to the public.) The parties have been engaged in extensive negotiations for the sale, lease, or other use of these facilities since UP announced its intent to terminate the PSA in 2019. UP's Request is thus objectionable in seeking information that is as available, if not more available, to UP than to Metra.

In addition, to the extent UP's request sought more, *i.e.*, a discussion of Metra's substantive position that the Board's September 3, 2025, decision granted Metra trackage rights over all the facilities required for the provision of public transportation under the now-expired PSA, which continue to be necessary for the public transportation services that Metra now provides, Metra objected that UP's Request seeks an improper preview of Metra's case, undermining the procedure the Board specified in its August 19 order. *E.g.*, *Minnesota Power, Inc. v. Duluth, Missabe and Iron Range Ry.*, Docket No. 42038 (STB served May 11, 1999) ("*Minnesota Power*") (denying requests to "preview" complainant's case).

Subject to these and other objections, Metra provided a fully responsive answer to UP's Request on August 26, 2026. In its response, Metra referenced its response to the Board's August 19, 2026, decision that listed in detail the specific individual facilities to which Metra seeks access pursuant to the September 3, 2025, decision. Metra responded that "[w]ith respect to portions of facilities, Metra seeks access and use consistent with current operations." Metra also agreed to produce, and then produced to UP, hundreds of pages of documents giving detailed information about the facilities. The documents include detailed schematics and show the location and size of the facilities at issue, and Metra pinpointed the specific document bates ranges for UP, thereby "specify[ing] the records from which the answer may be derived" in accordance with the Board's Rules governing interrogatory responses at 49 C.F.R. § 1114.26(b). *See Exhibit 1.*

UP did not seek to meet and confer on Metra's objections and responses prior to filing its Motion. UP's Motion also was made 23 days after expiration of the period UP requested for submission of Metra's answers to its Third Set of Discovery Requests.

## **ARGUMENT**

### **A. Metra Appropriately Objected and Fully Responded to UP's Request**

UP's Motion should be denied for the following reasons:

*First*, as the movant, UP bears the burden to establish that Metra's objections and responses are insufficient and that UP is entitled to additional information, despite the further burden in discovery to Metra. UP's Motion fails to address, much less overcome, any of Metra's specific objections described above.

*Second*, UP's argument that Metra has "fail[ed] to provide the information on specific facilities" is simply incorrect. Subject to and without waiving its objections, Metra responded fully to UP's Request. On August 26, 2026, Metra listed the individual facilities to which it seeks access pursuant to the September 3, 2025, decision, and provided further responsive information with respect to portions of facilities. Metra produced to UP, and specifically identified by bates number, hundreds of pages of documents giving detailed information about the facilities in conformance with 49 C.F.R. § 1114.26(b), "[o]ption to produce business records." Many of the documents produced, in turn, were taken from the parties' current and previous agreements – *i.e.*, they were already well known and readily available to UP, and Metra also provided detailed schematics of the facilities. Metra's responses included a name or descriptor for every facility involved that Metra uses and seeks access to pursuant to the Board's September 3, 2025, decision, for the provision of commuter passenger service over the UP's lines that Metra could locate or identify after a reasonable search.

*Third*, to the extent that UP believes that the specific facilities Metra has identified should not be included in those encompassed by the September 3, 2025, decision, that is an issue UP can raise in its evidentiary filings. UP is not entitled to a sneak preview of Metra's case in discovery. The Board has rejected attempts to discover information "designed to identify and limit the scope of [the] case-in-chief in advance" of the opening evidence or otherwise seek to "preview" an opponent's case while it is still in development. *Capitol Materials, Inc. – Pet. for Declaratory Order – Certain Rates and Practices of Norfolk So. Ry. Co.*, Docket NOR 42068 (STB served Apr. 19, 2002) at 4; *Minnesota Power*, at 4.

*Fourth*, UP has not cooperated in discovery to narrow the discovery issues in dispute. The Board's September 3, 2025, decision granted Metra trackage rights over facilities "owned by" UP, and its August 19, 2026, decision directed UP to identify any additional facilities not listed in Metra's August 26, 2026, submission. UP's September 2, 2026, submission acknowledged that there are "no additional facilities missing from" Metra's list. September 2, 2026, UP Reply Submission at 4. UP's own submission, accordingly, establishes that there is a known universe of facilities (other than rail lines) that will be subject to the Board's adjudicative process to determine whether they are within the scope of terminal trackage rights granted in the September 3, 2025, decision.

To help clarify any potential discrepancies, Metra served its own reciprocal discovery on September 4, 2026 (attached as *Exhibit 2*). Metra asked UP to identify: (1) each facility that UP used to provide commuter passenger services for Metra as the operator (prior to May 16, 2025) and/or that Metra current uses to provide commuter passenger services, and (2) each facility identified by Metra in its August 26, 2026, listing of facilities owned by UP that UP did *not* use to provide commuter passenger services for Metra as the operator and/or that Metra does *not* currently use to provide the services. Metra's discovery, consistent with the processes established in the Board's August 19, 2026, decision, was intended to eliminate any facilities included in its August 26, 2026, listing that are not used in commuter service and, therefore, not within the scope of the trackage rights granted.

UP's response served September 9, 2026 (attached as *Exhibit 3*), refused to provide any responsive information to Metra. To the extent that UP believes it needs to clarify or correct Metra's list of covered facilities, it could and should have and could have engaged by meaningfully responding to the Board's August 19, 2026, decision, and/or Metra's reciprocal discovery requests. "[D]iscovery must be a two-way street," *Wardius v. Oregon*, 412 U.S. 470, 475 (1973)). Instead, UP identified no additional facilities and declined to work with Metra through the discovery process to limit any facilities specifically identified by Metra that UP believes are not used to deliver the commuter passenger service involved.

*Fifth*, UP's Motion is untimely. Under 49 C.F.R. § 1114.31(a), a motion to compel responses to discovery requests "must be filed with the Board and served on all parties . . . within 10 days after expiration of the period allowed for submission of answers to interrogatories." The Board has strictly enforced the 10-day rule, except where parties to a proceeding agree to a longer time or the proponent of the motion requests an extension in advance. *E.g., Kansas City S. Ry. Co. – Adverse Discontinuance Application – A Line of Arkansas and Missouri R.R. Co.*, Docket AB-103 (Sub-No. 14) (STB served Jan. 11, 1999) at 2 (rejecting motion filed two days after the 10-day period

expired). Here, Metra filed and served its interrogatory answer to UP's Request on August 26, 2026, the same day it submitted its facility listing to the Board. UP filed its motion on September 18, 2026, 23 days later, well past the due date prescribed in 49 C.F.R. § 1114.31(a), without seeking Metra's consent for a late filing or requesting an extension from the Board. By rule and precedent, UP has waived any right to move to compel further responses.

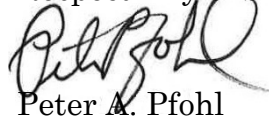
*Sixth*, UP filed its Motion without first seeking to meet and confer with Metra regarding any alleged deficiencies in Metra's listing and identification of facilities. This failure to seek to narrow the scope of any dispute also warrants denial of UP's Motion. *E.g.*, *Consumers Energy Co. v. CSX Transp., Inc.*, Docket NOR 42142 (STB served Apr. 2, 2015) at 1-2 ("Because the parties have not yet conferred on the issues raised in [the] motion to compel discovery, and because it appears that many of these issues can be resolved without Board intervention, the parties are directed to meet and confer on these discovery issues."); *see also CF Indus., Inc. v. Kaneb Pipe Line Partners, L.P.*, Docket No. 42084 (STB served Nov. 23, 2004) at 2 ("As a general rule, the Board expects parties to try to resolve their differences on their own before involving the Board. There is no indication that has occurred here.").

**B. Metra has Further Responded to UP's Supplemental Questions First Raised in Its Motion**

In its Motion, UP raises six specific questions on which it seeks supplemental information or clarification regarding whether Metra seeks access to two depots, parking lots located at stations, facilities located at stations owned by two municipalities, a fueling facility, and Metra-funded infrastructure on UP's lines. UP did not ask for clarification on any of these specific facilities or engage with Metra to address these questions before filing its Motion. Along with fully and sufficiently answering UP's Request in the first instance, Metra has now also provided UP with additional responses to its supplemental questions, included in *Exhibit 4*, provided to UP today. Accordingly, the specific issues raised in UP's Motion are moot.

For these reasons, Metra respectfully requests that Your Honor deny UP's Motion.

Respectfully submitted,



Peter A. Pfohl

Robert D. Rosenberg

*Attorneys for the Commuter Rail Division of the  
Northern Illinois Transit Authority d/b/a Metra*

## **CERTIFICATE OF SERVICE**

I hereby certify this 24th day of September, 2026, I caused a copy of the foregoing document to be served by first-class mail, postage prepaid, or by more expeditious means to all parties of record.

/s/ Peter A. Pfohl

## **EXHIBIT 1**

**Peter Pfohl**

---

**From:** Peter Pfohl  
**Sent:** Thursday, September 17, 2026 12:14 PM  
**To:** 'Davis, Allison C.'  
**Cc:** Robert Rosenberg; 'Atkins, Raymond'; 'Laudone, Stephen S.'; Andrew B. Kolesar III; Daniel M. Jaffe  
**Subject:** RE: UP/Metra Discovery

Good afternoon Allison:

We have the following updates on Metra's discovery responses and production. First, as you have seen, Metra has made two productions this week and expect to have another one tomorrow.

Second, on UP's second set RFPs 21-22, we previously reported that these documents are subject to a confidentiality agreement with BNSF and that we were following up with BNSF to see if we could reach resolution on their production. After further consultation, we have resolved matters related to the confidentiality agreement. We will be producing nonprivileged documents responsive to these requests.

Third, in addition to, and as a supplement to Metra's previous response to UP's third set of discovery requests, Metra has produced responsive business records from which the requested information in Interrogatory No. 1 (identify Facilities to which Metra seeks access) can be derived or ascertained, as follows:

**Metra Production**  
**(METRA-\_\_\_\_)**

Bates Range    Bates Range

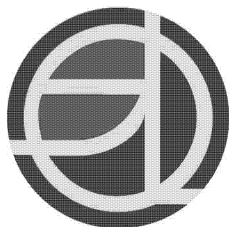
Start                      End

|       |       |
|-------|-------|
| 42291 | 42537 |
| 49698 | 50600 |
| 51065 | 51083 |
| 52919 | 53294 |
| 53342 | 53717 |
| 53731 | 53734 |
| 56607 | 57509 |
| 57521 | 57524 |
| 57541 | 57615 |
| 59006 | 59031 |

|       |       |
|-------|-------|
| 59124 | 59178 |
| 59201 | 59207 |
| 59270 | 59337 |
| 59341 | 59359 |

These documents include, but are not limited to, the parties' former and current Purchase of Service Agreement, Fixed Facility Agreements, Right of Entry agreements, and other related/responsive documents. Please note that the referenced ranges of documents may include some documents (or portions of documents) that are not responsive to the requests and are included because they relate to the same agreements, are part of the same document family, and/or were produced in the same batch, and to ensure completeness. Metra expects to provide a further specification of records as additional responsive documents are produced, and we anticipate that the materials produced tomorrow will include additional documents from which the requested information in Interrogatory No. 1 can be derived.

Regards,  
Pete



PETER A. PFOHL  
PAP@SLOVERANDLOFTUS.COM  
**SLOVER & LOFTUS LLP**

DIRECT: (202) 454-4419 | MAIN: (202) 347-7170 | CELL: (202) 288-4072  
1828 L ST. N.W., SUITE 1000, WASHINGTON, D.C. 20036  
WWW.SLOVERANDLOFTUS.COM

## Peter Pfohl

---

**From:** Peter Pfohl  
**Sent:** Friday, September 18, 2026 6:13 PM  
**To:** 'Davis, Allison C.'  
**Cc:** Robert Rosenberg; 'Atkins, Raymond'; 'Laudone, Stephen S.'; Andrew B. Kolesar III; Daniel M. Jaffe  
**Subject:** RE FD36844, UP/Metra Discovery

Allison:

In addition to, and as a supplement to Metra's previous response to UP's third set of discovery requests, Metra's production today contains responsive business records from which the requested information in Interrogatory No. 1 to UP's third set of discovery requests (identify Facilities to which Metra seeks access) can be derived or ascertained, as follows:

### **Metra Production (METRA-\_\_\_\_)**

Bates Range    Bates Range

Start                      End

|        |        |
|--------|--------|
| 089104 | 089575 |
|--------|--------|

These documents include the parties' Right of Entry agreements and related documents, spreadsheets identifying the name and addresses of all of the rail yards (mechanical facilities), spreadsheets identifying the name and addresses of all of the stations, along with ownership information, and detailed schematics of all the stations, and related facilities, including ownership information.

Regards,  
Pete



PETER A. PFOHL  
PAP@SLOVERANDLOFTUS.COM  
SLOVER & LOFTUS LLP

DIRECT: (202) 454-4419 | MAIN: (202) 347-7170 | CELL: (202) 288-4072  
1828 L ST. N.W., SUITE 1000, WASHINGTON, D.C. 20036  
WWW.SLOVERANDLOFTUS.COM

## **EXHIBIT 2**

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

FINANCE DOCKET NO. 36844

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

---

**METRA’S THIRD SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

Applicant Commuter Rail Division of the Northern Illinois Regional Transportation Authority d/b/a Metra (“Metra”) hereby submits, pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, its Third Set of Interrogatories and Requests for Production of Documents to Union Pacific Railroad Company (“Union Pacific” or “UP”).

Please provide Answers to Interrogatories and Responses to Requests for Production as soon as possible, and no later than September 9, 2026, in light of the procedural schedule adopted by the Board on August 19, 2026, and consistent with UP’s Instructions to its Third Set of Discovery Requests to Metra, to which Metra responded on the basis requested by UP.

Metra is prepared to cooperate with UP to facilitate the expeditious production of documents and responsive data with the minimum practical burden. Metra further requests that UP provide reasonable supplementation of its Answers and Responses.

## **I. DEFINITIONS**

As used in these Interrogatories and Requests for Production of Documents (collectively “Requests”), the following terms shall have the meaning set forth below:

1. “Union Pacific” or “UP” means Union Pacific Railroad Company, its present or former employees, agents, counsel, officers, directors, advisors, consultants, divisions, departments, predecessor, parent and/or holding companies, subsidiaries, or any of them, and all other persons acting (or who have acted) on its behalf.
2. “Union Pacific Lines” means the same lines referenced and identified in definition “M” to UP’s Third Set of Discovery Requests to Metra.
3. “Facility” or “Facilities” means the same facilities referenced and identified in definition “N” to UP’s Third Set of Discovery Requests to Metra.
4. “PSA” means the parties’ Purchase of Services Agreement that expired on June 30, 2025.

## **II. INSTRUCTIONS**

UP is requested to conform to the following instructions in responding to these Requests.

1. Each paragraph below shall operate and be construed independently. Unless otherwise indicated, no paragraph limits the scope of any other paragraph. Where these Requests seek data in a computer-readable format, machine-readable

format, or in its native format, this data is defined as including, but is not limited to, any electronically stored data on hard disk drives, flash, or solid state memory (*e.g.*, USB drive or SSD), optical storage media (*e.g.*, CD or DVD), or as an “active” file or files readable by one or more computer applications (*e.g.*, a Microsoft Excel file).

2. The singular includes the plural and vice versa; the words “and” and “or” shall be both conjunctive and disjunctive, as required by the context to bring all information within the scope of these Requests; the word “all” means “any and all;” the word “any” means “any and all”; the word “including” means “including but not limited to” and “including without limitation”; the masculine includes the feminine and neutral genders; the past tense includes the present tense where the clear meaning is not distorted by the change of tense.

3. If the production of any requested document is withheld, state with specificity the basis for such withholding.

4. UP is requested to supplement its responses to these Requests and supplement its production of responsive information or documents.

5. All documents should be produced or made available for inspection in the form in which they are retained by UP in the usual course of business (*e.g.*, if the documents are in a file, the file containing the documents should be produced), unless otherwise agreed to by the parties. All files containing responsive documents should be identified by the file name and number.

6. Please organize or number the documents produced in such a manner that Metra may readily determine which documents are being produced in response

to each specific Request. If no documents will be produced in response to a specific Request, please so indicate in the response.

7. If UP objects to producing documents on grounds that UP does not maintain the information described in the form or format requested by Metra, please produce documents which contain such information in whatever form or format UP does maintain such information, along with adequate information to allow use of the produced documents.

8. Notwithstanding any UP belief that portions of a document that otherwise may contain responsive information may not be responsive or relevant, Metra nevertheless requests that UP produce the document in its entirety. Metra states that it is willing to discuss with UP the possibility of redacting portions of such documents, as appropriate, on a document-by-document basis.

9. Metra reserves the right to file supplemental or follow-up requests and other discovery, as necessary or appropriate.

10. Unless otherwise specified, these Requests cover the time period from January 1, 2023 to the present.

### **III.** **INTERROGATORIES**

#### **Interrogatory No. 1**

Identify and describe in detail each and every Facility (other than the Union Pacific Lines) that UP used to provide commuter passenger services for Metra pursuant to the PSA and/or that Metra uses to provide commuter passenger services, including, but not limited to, the following information:

- a. Name of every Facility or descriptor sufficient to identify every Facility;
  - i. For example, if a rail yard is identified, the name of the rail yard. If a facility is unnamed but is located at a named station, identify the facility by use of the named station.
- b. Full address of every Facility or, if an address is unavailable, an approximate milepost location or geographic coordinates sufficient to identify the location of each Facility; and
- c. Any other information necessary to identify what Facilities or portions thereof UP used to provide commuter passenger services for Metra pursuant to the PSA and/or Metra uses to provide commuter passenger services.
  - i. For example, if only a portion of a building is used or has been used to perform commuter passenger services, specify the portion (*e.g.*, floor(s)) used.

## **Interrogatory No. 2**

Identify and describe each and every Facility identified by Metra in its List of Facilities (Other than Rail Lines) to which Metra Seeks Access Pursuant to the September 3, 2025, Decision (filed August 26, 2026) that UP did not use to provide commuter passenger services for Metra pursuant to the PSA and/or that Metra does not use to provide commuter passenger services.

#### IV.

## Request for Production No. 1

Produce all Documents and Communications identified, described, or relied upon in responding to Metra's Third Set of Interrogatories, above.

Respectfully submitted,

By: /s/  
Peter A. Pfohl  
Robert D. Rosenberg  
Andrew B. Kolesar III.  
SLOVER & LOFTUS LLP  
1828 L Street, N.W.  
Suite 1000  
Washington, D.C. 20036  
(202) 347-7170

*Attorneys for Commuter Rail Division  
of the Northern Illinois Transit  
Authority d/b/a Metra*

Dated: September 4, 2026

## **EXHIBIT 3**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**DOCKET NO. FD 36844**

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

---

**UNION PACIFIC'S RESPONSES AND OBJECTIONS TO  
METRA'S THIRD SET OF INTERROGATORIES AND  
REQUESTS FOR PRODUCTION OF DOCUMENTS**

---

Pursuant to 49 C.F.R. Part 1114 and other applicable rules and authority, Union Pacific Railroad Company, through undersigned counsel, responds and objects as follows to Metra's Third Set of Interrogatories and Requests for Production of Documents (together, "Requests").

**GENERAL OBJECTIONS**

Union Pacific's General Objections, as set forth herein, are to be considered objections to each of the specific Interrogatories or Requests for Production (including subparts) that follow. These general objections are not exhaustive and, where appropriate, Union Pacific will also state specific objections. Union Pacific's objections shall not waive, limit, or prejudice any objections that it may later assert.

1. Union Pacific objects to any and all Definitions and/or Instructions to the extent that the Definitions and Instructions either seek to expand upon or conflict with 49 C.F.R. Part 1114, Subpart B. Further, Union Pacific objects to each and every Interrogatory and Request for Production to the extent that they seek to

impose obligations on Union Pacific that are greater than or otherwise inconsistent with those imposed under 49 C.F.R. Part 1114, Subpart B or under other Surface Transportation Board (“STB” or “Board”) rules or precedents.

2. Union Pacific objects to Metra’s request that Union Pacific serve answers and documents to Metra’s Requests “as soon as possible, and no later than September 9, 2026.” Pursuant to 49 C.F.R. § 1114.26(a) and § 1114.30(a), answers or responses to discovery requests are due within fifteen (15) days of service.

3. Union Pacific objects to each and every Interrogatory and Request for Production to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine, the joint defense and/or common interest privilege, or any other applicable privilege, exemption, or protection from discovery or disclosure. Union Pacific further objects to each and every Interrogatory and Request for Production to the extent it seeks the production of documents prepared in connection with, or information relating to, possible settlement or mediation of this or any other proceeding, in whole or in part. In the event that any such privileged, exempted, or otherwise protected information is inadvertently produced or provided, such disclosure or production is not to be construed as a waiver of any of these privileges, exemptions, or protections. Union Pacific reserves the right to demand that such inadvertently produced privileged information be returned to it and that all copies in Metra’s possession, and that of its counsel, consultants, subsidiaries, or other agents, be destroyed.

4. Union Pacific objects to each and every Interrogatory and Request for Production to the extent it seeks information or data that is not relevant to the subject matter of this proceeding.

5. Union Pacific does not concede the relevance, materiality, competency, authenticity, or admissibility as evidence of documents or information requested in the Interrogatories and Requests for Production. Union Pacific reserves its right to object on any ground to the use of these responses or the documents being produced in this proceeding or in any subsequent appeal, proceeding, action, or trial.

6. Union Pacific objects to each and every Interrogatory and Request for Production requesting that Union Pacific produce “all” responsive information as unduly burdensome to the extent it requests that Union Pacific engage in an unreasonably broad collection and review in order to identify each and every document that may possibly be responsive. For those requests to which it is obliged to respond, Union Pacific will produce such responsive non-privileged information or documentation as it is able to locate or identify in a reasonable search and which is not otherwise subject to an applicable privilege or other protection.

7. Union Pacific objects to each and every Interrogatory and Request for Production to the extent that it would require Union Pacific to perform a “special study” to identify or derive the requested information or to “recreate information that was not kept in the ordinary course of business.” *See, e.g., Entergy Ark., Inc. v. Union Pac. R.R.*, Docket No. NOR 42104, at 6 (STB served May 19, 2008).

8. Union Pacific objects to each and every Interrogatory and Request for Production that requests information, documents, or communications that are:

- (a) already in the possession of Metra; (b) publicly available or otherwise readily available or accessible to Metra from other sources; (c) unreasonably cumulative or duplicative of documents already in Metra's possession, custody, or control;
- (d) otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from Union Pacific; or (e) as accessible or available to Metra as they are to Union Pacific and producing responsive information would impose substantially the same or greater burden on Union Pacific as it would impose on Metra.

9. Union Pacific objects to Metra's Interrogatories and Requests for Production to the extent they would require Union Pacific to access data or information not within Union Pacific's possession, custody, or control, such as data or information contained in third-party systems, or that Metra could obtain itself.

10. Union Pacific objects to the Requests to the extent that they may call for production of information that might reveal commercially sensitive long-term corporate strategy that is not responsive to Metra's Requests and is unrelated to this proceeding. Union Pacific will redact any such information from otherwise responsive documents produced to Metra.

11. Union Pacific objects to each and every Interrogatory and Request for Production to the extent it is: (a) duplicative; (b) overly broad; (c) fails to describe with reasonable particularity the information or documents sought; (d) seeks

information that is not within the possession, custody, or control of Union Pacific; or (e) would impose an undue burden that outweighs any relevance or probative value the information sought may have in this proceeding.

12. Union Pacific objects to Definition No. 1, “Union Pacific” or “UP,” as overly broad, unduly burdensome, disproportionate to the needs of this case, and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it purports to require Union Pacific to respond to the Requests with respect to “Union Pacific Railroad Company, its present or former employees, agents, counsel, officers, directors, advisors, consultants, divisions, departments, predecessor, parent and/or holding companies, subsidiaries, or any of them, and all other persons acting (or who have acted) on its behalf.” Union Pacific will respond to the Requests only with respect to Union Pacific Railroad Company.

13. Union Pacific objects to Instruction No. 3 to the extent it purports to impose obligations on Union Pacific that are greater than or otherwise inconsistent with those imposed under 49 C.F.R. Part 1114 Subpart B.

14. Union Pacific objects to Instruction No. 4 in that it is vague, unduly burdensome, and could be read to conflict with 49 C.F.R. Part 1114 Subpart B. Consistent with the Board’s regulatory provisions, to the extent that Union Pacific becomes aware that any non-privileged information or document is responsive to any of these Interrogatories and Requests for Production, Union Pacific will supplement its responses as soon as practicable thereafter.

15. Union Pacific objects to Instruction No. 5 to the extent that strict compliance with this instruction may be impracticable, unduly burdensome, or overbroad for certain information or data, including, for example, data contained within very large datasets. Union Pacific further objects to Instruction No. 5 to the extent identifying documents “by file name and number” is inconsistent with the form in which such documents are retained “in the usual course of business.”

16. Union Pacific objects to Instruction No. 6 to the extent it requests that Union Pacific index every individual responsive document to particular discovery requests, as doing so would be unduly burdensome.

17. Union Pacific objects to Instruction No. 7 to the extent it seeks to impose obligations beyond those required by the Board’s discovery rules or applicable precedent.

18. Union Pacific objects to Instruction No. 8 to the extent it purports to require Union Pacific to produce documents in their entirety notwithstanding Union Pacific’s determination that portions of such documents are non-responsive, irrelevant, or otherwise outside the scope of permissible discovery. Union Pacific further objects to the extent it purports to prohibit Union Pacific from redacting information that might reveal Union Pacific’s commercially sensitive or long-term corporate strategies that are not relevant to this proceeding. The Board’s discovery rules do not require a responding party to produce non-responsive or irrelevant information, nor do they obligate a party to produce entire documents merely because some portion may be responsive. Union Pacific further objects to the extent

this instruction improperly shifts the burden to Union Pacific to produce, and then negotiate, redactions of non-responsive material on a document-by-document basis.

19. Union Pacific objects to Metra's Instruction No. 10 as vague and ambiguous to the extent that it requires production "to the present," which is an ever-moving target.

20. Union Pacific objects to each and every Definition, Instruction, Interrogatory, and Request for Production of Documents to the extent they seek or may result in the use, disclosure, or dissemination of any confidential, proprietary, or commercially or competitively sensitive information produced in response to the Interrogatories and Requests for Production of Documents for the purpose of training, fine-tuning, evaluating, or otherwise interacting with artificial intelligence (AI) models or systems in a manner that violates the terms of the Protective Order entered in this case. This objection includes, but is not limited to, any use of such materials in connection with large language models (LLMs), machine learning algorithms, or generative AI tools, regardless of whether such use is direct or indirect, manual or automated, or anonymized or de-identified. Union Pacific does not consent to the use of any of its discovery materials for purposes unrelated to this proceeding, including but not limited to AI training.

### **SPECIFIC OBJECTIONS AND RESPONSES**

In addition to its General Objections (which apply in full to each and every Interrogatory and Request for Production, without further enumeration), below Union Pacific sets forth Specific Objections and Responses to each Interrogatory and Request for Production. Union Pacific preserves all of its General Objections

set forth above, and none of the following Specific Objections shall waive its General Objections. Nor shall any of Union Pacific's Specific Objections limit the scope, breadth, generality, or applicability of those General Objections.

**Interrogatory No. 1**

Identify and describe in detail each and every Facility (other than the Union Pacific Lines) that UP used to provide commuter passenger services for Metra pursuant to the PSA and/or that Metra uses to provide commuter passenger services, including, but not limited to, the following information:

- a. Name of every Facility or descriptor sufficient to identify every Facility;
  - i. For example, if a rail yard is identified, the name of the rail yard. If a facility is unnamed but is located at a named station, identify the facility by use of the named station.
- b. Full address of every Facility or, if an address is unavailable, an approximate milepost location or geographic coordinates sufficient to identify the location of each Facility; and
- c. Any other information necessary to identify what Facilities or portions thereof UP used to provide commuter passenger services for Metra pursuant to the PSA and/or Metra uses to provide commuter passenger services.
  - i. For example, if only a portion of a building is used or has been used to perform commuter passenger services, specify the portion (e.g., floor(s)) used.

**Response:** Union Pacific objects to this Interrogatory it seeks information that is irrelevant or not reasonably calculated to lead to the discovery of admissible evidence. Union Pacific further objects to this Interrogatory as vague, ambiguous, overbroad, unduly burdensome, and not proportional to the needs of this case.

Union Pacific also objects to this Interrogatory to the extent it would require Union Pacific to identify or derive the requested information from disparate sources or to recreate or reconstruct information that was not kept in the ordinary course, as this would be a "special study" that is not required to be produced. Union Pacific further objects to this Interrogatory to the extent it seeks information that is already in

Metra's possession, custody, or control, is readily available or accessible to Metra from other sources, or is otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from Union Pacific. And Union Pacific objects to this Interrogatory to the extent it seeks to shift Metra's burden of identifying the Facilities for which it seeks Board-ordered access under 49 U.S.C. § 11102(a), and the need for that Board-ordered access, to Union Pacific.

**Interrogatory No. 2**

Identify and describe each and every Facility identified by Metra in its List of Facilities (Other than Rail Lines) to which Metra Seeks Access Pursuant to the September 3, 2025, Decision (filed August 26, 2026) that UP did not use to provide commuter passenger services for Metra pursuant to the PSA and/or that Metra does not use to provide commuter passenger services.

**Response:** Union Pacific objects to this Interrogatory to the extent it seeks information that is irrelevant or not reasonably calculated to lead to the discovery of admissible evidence. Union Pacific further objects to this Interrogatory as vague, ambiguous, overbroad, unduly burdensome, and not proportional to the needs of this case. Union Pacific also objects to this Interrogatory to the extent it would require Union Pacific to identify or derive the requested information from disparate sources or to recreate or reconstruct information that was not kept in the ordinary course, as this would be a "special study" that is not required to be produced. Union Pacific further objects to this Interrogatory to the extent it seeks information that is already in Metra's possession, custody, or control, is readily available or accessible to Metra from other sources, or is otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from Union Pacific. And Union Pacific objects to this Interrogatory to the extent it seeks to shift Metra's burden of

identifying the Facilities for which it seeks Board-ordered access under 49 U.S.C. § 11102(a), and the need for that Board-ordered access, to Union Pacific.

\* \* \*

**Request for Production No. 1**

Produce all Documents and Communications identified, described, or relied upon in responding to Metra's Third Set of Interrogatories, above.

**Response:** Union Pacific objects to this Request for the reasons set forth in its individual responses to Metra's Interrogatories above. Union Pacific further objects to this Request as overly broad, unduly burdensome, and disproportionate to the needs of this proceeding to the extent it seeks identification of every document reviewed, consulted, or considered directly or indirectly in connection with the preparation of the Responses and Objections to the Requests.

/s/ Raymond A. Atkins

Raymond A. Atkins

Allison C. Davis

Stephen S. Laudone

SIDLEY AUSTIN LLP

1501 K Street, NW

Washington, DC 20005

(202) 736-8000

ratkins@sidley.com

allison.davis@sidley.com

*Attorneys for Union Pacific  
Railroad Company*

Dated: September 9, 2026

## **EXHIBIT 4**



# SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

September 24, 2026

**Via Email**

Raymond A. Atkins  
Allison C. Davis  
Stephen S. Laudone  
Sidley Austin LLP  
1501 K Street, N.W.  
Washington, DC 20005

Re: FD 36844, *Commuter Rail Division of the Northern Illinois  
Transit Authority d/b/a Metra – Terminal Trackage  
Rights – Union Pacific Railroad Company*

Dear Counsel:

This letter addresses UP's request that Metra respond to questions UP posed for the first time in its September 18, 2026, Motion to Compel related to Metra's responses to subpart (a) of Interrogatory No. 1 of UP's Third Set of Discovery Requests. Subject to and without waiving its specific objections, as well as its Threshold and General Objections, Metra provides the following additional responses to each of UP's supplemental requests:

- *Union Pacific owns the depot at North Chicago but it is currently leased to Metra under a 50 year lease. Because Metra already has access under a current agreement, the Right of Entry as amended does not include the depot.[I] In light of the language in its List of Facilities identifying North Chicago, however, it should be compelled to list any facilities not in the Right of Entry to which it seeks access.*

Metra Response: As specified in Metra's August 26, 2026, List of Facilities, (Other than Rail Lines) to which Metra Seeks Access Pursuant to the September 3, 2025, decision ("Metra's List of Covered Facilities"), Metra seeks access to all "passenger depots," "stations" and "station platforms" "that were used in the provision of commuter service on the same lines by UP under the now-expired PSA and that continue to be useful for the public transportation services that Metra provides." The North Chicago depot is identified in Metra's List of Covered Facilities, at Exhibit A, as the "North Chicago Station." As part of its discovery production, Metra has provided the address of the North Chicago depot. Metra has also included specific additional identifying information, including detailed schematics of all of the stations/depots, yards, and related facilities, including the North Chicago depot. On September 17, 2026, and September 18, 2026, Metra, in addition to, and as a supplement

to Metra's previous response to UP's Third Set of Discovery Requests, identified for UP, by bates range, the specific documents from which this information can be derived or ascertained. This information is also in the possession of UP. Metra further responds that its List of Covered Facilities is not delimited to Right of Entry facilities and reiterates that "[t]he inclusion of any facility in [its] listing should not be construed as a concession that UP is entitled to additional compensation for its interests, if any."

- *Metra has an exclusive perpetual easement over Union Pacific property at Ravenswood depot. Because Metra already has access, the Right of Entry does not include the depot.[] In light of the language in its List of Facilities identifying Ravenswood, however, it should be compelled to list any facilities not in the Right of Entry to which it seeks access.*

Metra Response: As specified in Metra's List of Covered Facilities, Metra seeks access to all "passenger depots," "stations" and "station platforms" "that were used in the provision of commuter service on the same lines by UP under the now-expired PSA and that continue to be useful for the public transportation services that Metra provides." The Ravenswood depot is identified in Metra's List of Covered Facilities, at Exhibit A, as "Ravenswood." As part of its discovery production, Metra has provided the address of the Ravenswood depot. Metra has also included specific additional identifying information, including detailed schematics of all of the stations/depots, yards, and related facilities, including the Ravenswood depot. On September 17, 2026, and September 18, 2026, Metra, in addition to, and as a supplement to Metra's previous response to UP's Third Set of Discovery Requests, identified for UP, by bates range, the specific documents from which this information can be derived or ascertained. This information is also in the possession of UP. Metra further responds that its List of Covered Facilities is not delimited to Right of Entry facilities and reiterates that "[t]he inclusion of any facility in [its] listing should not be construed as a concession that UP is entitled to additional compensation for its interests, if any."

- *In its List of Facilities, Metra seeks access to the properties defined in the Right of Entry to Improved Property (Station Property). That agreement specifies that parking lots are not included in the Agreement.[] In its catch-all request for "all other relevant station property" in addition to those specified in the Right of Entry, Metra does not specify parking lots.[] As such, Union Pacific assumes that Metra is not seeking access to parking lots. However, earlier in its submission, Metra states it seeks access to parking lots.[] If Metra is seeking access to parking lots, it should be compelled to specify the parking lots to which it seeks access,*

*including specific lot numbers (as for many stations, there are multiple parking lots).*

Metra Response: As specified in Metra's List of Covered Facilities, Metra seeks access to all "parking lots" "that were used in the provision of commuter service on the same lines by UP under the now-expired PSA and that continue to be useful for the public transportation services that Metra provides." "Parking" is also identified and included in Metra's List of Covered Facilities, at Exhibit A, included with the station properties, and the maintenance and storage yards/facilities. As part of its discovery production, Metra has provided the address of each of the station/depots properties and the maintenance and storage yards/facilities where the parking lots are located. Metra has also included specific additional identifying information, including detailed schematics of all of the stations/depots, yards, and related facilities, reflecting each of the parking lots owned by UP to which Metra seeks access. On September 17, 2026, and September 18, 2026, Metra, in addition to, and as a supplement to Metra's previous response to UP's Third Set of Discovery Requests, identified for UP, by bates range, the specific documents from which this information can be derived or ascertained. This information is also in the possession of UP. Metra further responds that its List of Covered Facilities is not delimited to Right of Entry facilities and reiterates that "[t]he inclusion of any facility in [its] listing should not be construed as a concession that UP is entitled to additional compensation for its interests, if any."

- *In its List of Facilities, Metra admits that it has included facilities that are not owned by Union Pacific, but fails to specify which facilities those are. Metra is aware of the status of facility ownership—indeed, the Right of Entry agreement excludes many of the stations that are owned by Metra or municipalities.[] But as such, it is not clear what if anything Metra is seeking at these locations. For example, the Village of Cary owns the station at Cary. Thus, the Right of Entry excludes the station and only includes the platform.[] Similarly, the Right of Entry notes that Union Pacific does not own the Norwood Park station building or the underlying land.[] Yet Metra's List of Facilities still asks for "all other relevant station property not included in the Right of Entry, including but not limited to the real property stations" at a list of locations, including Cary and Norwood Park.[] If Metra is seeking access to anything other than the platform at these locations, it should be compelled to specify what if anything additional it seeks.*

Metra Response: As specified in Metra's List of Covered Facilities, Metra seeks access to all facilities "that were used in the provision of commuter service on the same lines by UP under the now-expired PSA and that

continue to be useful for the public transportation services that Metra provides.” The Village of Cary and the Norwood Park stations are identified in Metra’s List of Covered Facilities, at Exhibit A, as “Cary” and “Norwood Park.” As part of its discovery production, Metra has provided the address of each of these stations. Metra has also included specific additional identifying information, including detailed schematics of all of the stations/depots, yards, and related facilities, including the Cary and Norwood Park stations. On September 17, 2026, and September 18, 2026, Metra, in addition to, and as a supplement to Metra’s previous response to UP’s Third Set of Discovery Requests, identified for UP, by bates range, the specific documents from which this information can be derived or ascertained. This information is also in the possession of UP. Metra further responds that its List of Covered Facilities is not delimited to Right of Entry facilities and reiterates that “[t]he inclusion of any facility in [its] listing should not be construed as a concession that UP is entitled to additional compensation for its interests, if any.” Metra explained further in Exhibit A, footnote 2 that “[f]or purposes of completeness, this listing includes facilities that may be owned in whole or in part by Metra, various municipalities, and/or third parties, which been included in the event that Union Pacific also may have property interests in the same facilities.” Additionally, Metra informed UP and the Board in its September 16, 2026, Opposition to Request for Modification of the Procedural Schedule (at 6), that “[t]he Board granted Metra trackage rights over facilities ‘owned by’ UP pursuant to § 11102(a) in its September 3, 2025, decision” and that Metra’s listing does not suggest, as UP has stated (UP Request for Modification at 5), that Metra “would apparently have the Board direct a taking of [third-party owners’] property without their participation in this proceeding.”

- *In its List of Facilities, Metra seeks access to “UP trackage and underlying realty” defined in a Right of Entry to Track (dated February 28, 2024) for various purposes at a list of locations, which list includes Kinzie/Clinton Fueling Facility.[] Yet the identified Right of Entry to Track does not include Kinzie/Clinton Fueling Facility at all.*

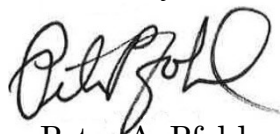
Metra Response: As specified in Metra’s List of Covered Facilities, Metra seeks access to all facilities “that were used in the provision of commuter service on the same lines by UP under the now-expired PSA and that continue to be useful for the public transportation services that Metra provides.” The Kinzie/Clinton Fueling Facility is identified in Metra’s List of Covered Facilities, at Exhibit A, in several locations. (Metra notes that the Right of Entry to Track does include access for “periodic fueling . . . of locomotives,” and Exhibit A to the Third Amendment specifically references the “Kinzie/Clinton Fueling Facility.” Also, the Right of Entry

to Improved Property includes the Kinzie/Clinton Fueling Facility.) This information is also in the possession of UP. Metra further responds that its List of Covered Facilities is not delimited to Right of Entry facilities and reiterates that “[t]he inclusion of any facility in [its] listing should not be construed as a concession that UP is entitled to additional compensation for its interests, if any.”

- *In its List of Facilities, Metra states that it seeks access and use to “additional facilities covered by the parties’ Fixed Facility Agreements” and then states that the facilities “are described with more particularly in the attached Exhibit A.”[] But Metra’s Exhibit A makes no reference to the Fixed Facility Agreements. There are approximately 150 Fixed Facility Agreements between the parties dating back decades. Because Metra purports to seek access to these facilities, Metra should be compelled to respond to ROG 1(a) by identifying each such facility with specificity.*

Metra Response: As specified in Metra’s List of Covered Facilities, Metra seeks access to all facilities “that were used in the provision of commuter service on the same lines by UP under the now-expired PSA and that continue to be useful for the public transportation services that Metra provides,” including “additional facilities covered by the parties’ Fixed Facility Agreements.” The FFAs govern right-of-way construction projects and station projects. Under the FFAs, Metra has invested approximately \$1.25 billion in capital improvements and expansions as of December 31, 2024, to sustain the right-of-way and related commuter facilities on UP’s system. Metra agrees that the FFAs have been amended multiple times to accommodate funding of individual projects. Metra maintains records for each of those projects, but those records may not list each specific asset improved by the project. On September 17, 2026, and September 18, 2026, Metra, in addition to, and as a supplement to Metra’s previous response to UP’s Third Set of Discovery Requests, identified for UP, by bates range, the specific documents from which this information can be derived or ascertained. This information is also in the possession of UP. Metra further responds that its List of Covered Facilities is not delimited to Right of Entry facilities and reiterates that “[t]he inclusion of any facility in [its] listing should not be construed as a concession that UP is entitled to additional compensation for its interests, if any.”

Sincerely,

A handwritten signature in black ink, appearing to read "Peter A. Pfohl".

Peter A. Pfohl  
Robert D. Rosenberg