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CSXT-31

September 29, 2026

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By E-Filing

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

ENTERED
Office of Chief Counsel
September 29, 2026
Part of
Public Record

Re: Docket No. FD 36873, Union Pacific Corp., et al. – Control – Norfolk Southern Corp., et al.

Dear Judge Soulikias:

CSXT Transportation, Inc. (“CSXT”) submits this letter in opposition to Applicants’ motion to compel. *See Union Pac. R.R. Co.’s Motion to Compel Discovery* (UP-110/NS-111), *Union Pac. Corp.–Control–Norfolk S. Corp.* (“UP/NS”), FD 36873 (Sep. 24, 2026). Applicants have once again brought a misleading and unnecessary motion designed only to rush CSXT and impose burdens on CSXT as well as the broader discovery process. This time, Applicants seek to compel CSXT to provide proposed custodial search parameters by October 5, 2026, despite the fact that Applicants raised these issues with CSXT for the first time ***just a week ago***. To be clear, CSXT has agreed to provide the custodial search parameters Applicants have requested, but has proposed a more-reasonable deadline of providing the information Applicants seek by the week of October 13, 2026, except for a search term hit report, which will follow shortly after the other information is provided. As set forth below, it is unreasonable for Applicants to make such an unreasonable demand, their timetable is unnecessary given the broader schedule and their request simply does not give CSXT the time needed to perform all of the work that goes into creating the type of custodial search plan Applicants seek. Applicants’ motion to compel should therefore be denied.

I. Applicants Did Not Meet And Confer With CSXT Until One Week Ago.

Applicants’ and CSXT’s meet and confer history demonstrates why it is fundamentally unfair for Applicants to demand that CSXT provide a detailed custodial search proposal by October 5. As background, Applicants served two sets of discovery requests on CSXT. CSXT timely objected to both on several grounds, but expressed a willingness to meet and confer. *See* Exs. A and B. After discussions about Applicants’ First Set of Discovery Requests, CSXT agreed to produce documents in response to them and will be producing those documents soon.

See CSXT-27, at 1. CSXT also agreed to respond to the data-related discovery request in Applicants' Second Set of Discovery Requests, *id.*, and two other requests, Request Nos. 7 and 8, that Applicants had identified as priority requests. See Ex. C.

But it was not until **September 22, 2026** that CSXT and Applicants met and conferred specifically about the other requests in Applicants' Second Set of Discovery Requests, even though CSXT had expressly indicated its willingness to do so previously. See UP-110/NS-111, Ex. B (counsel for CSXT stating to counsel for Applicants that Applicants have not sought to meet and confer with CSXT in weeks and note from counsel for Applicants summarizing Applicants' custodial information request from the September 22 meet and confer). During that September 22, 2026 meet and confer, CSXT reminded Applicants that Applicants had not reached out to meet and confer regarding Applicants' Second Set of Discovery Requests in weeks and attempted to walk through Applicants' requests. *Id.* Applicants refused to do so, and instead demanded – for the first time – that CSXT provide a custodial search parameter proposal. *Id.* Two days later, CSXT agreed to provide a custodial search parameter proposal by the week of October 13, with the exception of the search report, which CSXT agreed to provide as soon as possible after October 13. *Id.*

Yet Applicants' misleadingly claim in their motion that they had “meet-and-confer sessions on June 30, August 6, August 24, and September 22” with CPKC and CSXT and also sent “correspondence on July 6, July 13, August 12, September 9, September 11, and September 17.” UP-110/NS-111, at 2. That is not accurate with respect to CSXT:

- CSXT was not invited to, and did not attend, the August 6 and August 24 meet and confer sessions that Applicants purportedly held.
- The July 6 letter from Applicants to CSXT, BNSF, and CPKC makes no mention of custodial searches or the discovery requests at issue. See Ex. D. It only made vague reference to the document requests generally and the data requests. See *id.*
- The July 13 correspondence from Applicants to CSXT is limited entirely to Applicants' First Set of Discovery Requests and does not mention Applicants' Second Set of Discovery Requests. See Ex. E. It also says nothing about a potential custodial search protocol—it simply confirms that CSXT is conducting searches for non-privileged materials in response to Applicants' First Set of Discovery Requests. See *id.*
- Applicants' August 12 correspondence to CSXT merely relates to the data requests that Applicants served on CSXT, which are not at issue in this motion. See Ex. F.
- And Applicants' September 9 correspondence makes only passing reference to potential custodial searches, with a note that Applicants “will be in touch separately with each railroad to further address these concerns.” See Ex. G.

Thus, the fact is that it was not until one week ago that Applicants finally met and conferred with CSXT regarding whether CSXT would conduct custodial document searches. UP-110/NS-111, Ex. B at 2-3. CSXT then agreed to Applicants' demand for a custodial search proposal just two days later, but requested a more-reasonable production date of the week of

October 13. *See id.*, at 1. While Applicants may have been meeting and conferring with others about potential custodial collections during the past few months, they simply were not doing so with CSXT.

II. Applicants' Rushed Schedule Is Unreasonable Given The Meet And Confer History.

In light of the fact that Applicants and CSXT only first met and conferred about a potential custodial searches on September 22, Applicants' demand for a sweeping amount of information by October 5 is unreasonable and imposes an artificial and unnecessary deadline on CSXT. While CSXT has not yet agreed to produce custodial documents in response to all of Applicants' requests, CSXT has agreed to investigate such a process and produce to Applicants data and information as part of a search proposal based on Applicants' requests. That work requires CSXT to investigate the documents of a number of individuals, including CSXT's senior-most executives to determine whether and where custodial discovery might make sense and to develop a proposal based on CSXT's positions on each request. Specifically, based on Applicants' demands, CSXT must evaluate each request; investigate and identify potential custodians and appropriate dates ranges; assess e-discovery processes and systems; develop specific search terms that will be used to search for documents against those custodial files; and generate hit reports for those search terms. UP/110/NS-111, at 2 and Ex. B. This process will likely implicate thousands if not hundreds of thousands of documents; will require setting up new e-discovery databases and systems; and will require significant work from CSXT's executives, legal team, and e-discovery specialists. That kind of work takes time.

Moreover, CSXT has to do all this work while reviewing Applicants' tardy productions that are still ongoing, deposing Applicants' witnesses, and preparing its responsive comments and applications, which are due on November 18, 2026. *UP/NS*, Decision No. 30, FD 36873 (S.T.B. served Aug. 18, 2026), slip op. at 13. And Applicants' next opportunity to use discovery materials from CSXT is not until February 16, 2027. *Id.* This means that the most logical and reasonable time for depositions of CSXT's witnesses would be mid- or late-January 2027. Thus, there is simply no need for Applicants' rush, and their unreasonable demands suggest that they are simply seeking to jam CSXT during a busy period, rather than trying to set out a reasonable schedule that works for both Applicants and non-Applicants, such as CSXT. CSXT's proposal that it will provide a custodial search proposal by the week of October 13, 2026, with the exception that the search term hit report will follow shortly after that, is a far more reasonable schedule that accounts both for CSXT's burden and Applicants' needs.

III. Conclusion.

In short, CSXT has already agreed to provide Applicants with the information they are demanding. CSXT, however, must be given a reasonable amount of time to get that information. Applicants' failure to meet and confer with CSXT until recently is a problem of Applicants' own making. That failure does not justify CSXT now being forced to bear the unreasonable burden of being rushed unnecessarily. Applicants' motion to compel should be denied.

Sincerely,

Eric P. Enson

Attorney for CSX Transportation, Inc.

cc: Counsel of Record

CERTIFICATE OF SERVICE

I hereby certify that on this day of September 29, 2026, I have caused the foregoing document to be served electronically or by first-class mail, postage pre-paid, on the Secretary of Transportation, the Attorney General of the United States, Applicants' representatives, Administrative Law Judge Jenifer Soulikias, and all parties of record in this proceeding.

Eric P. Enson

Attorney for CSX Transportation, Inc.

EXHIBIT A

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

CSXT'S RESPONSES AND OBJECTIONS
TO UNION PACIFIC'S AND NORFOLK SOUTHERN'S
FIRST SET OF DISCOVERY REQUESTS

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Attorneys for CSX Transportation, Inc.

CSX Transportation (“CSXT”) responds to the First Set of Discovery Requests (the “Requests” and individually, a “Request”) of Union Pacific Railroad Company, Union Pacific Corporation, Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, “Applicants”), served on May 29, 2026, as follows.

GENERAL RESPONSES AND OBJECTIONS

1. CSXT’s responses and objections to these Requests are based on CSXT’s present knowledge, information, and belief. CSXT reserves the right to rely upon facts, documents, and other evidence that it may develop or that may subsequently come to its attention; to assert additional objections; and to supplement or amend these responses at any time as this proceeding continues.

2. CSXT objects to these Requests to the extent they seek to impose on CSXT discovery obligations similar to those applicable to Applicants. Applicants are seeking approval from the Surface Transportation Board (“STB”) of the Proposed Transaction—CSXT is not. Applicants therefore should and do face a significantly larger burden in discovery than entities such as CSXT that are not parties to the Proposed Transaction.

3. In providing these responses, CSXT reserves all objections as to competency, relevancy, materiality, authenticity, and admissibility of any information requested in the Applicants’ Requests and in any responses or productions CSXT may provide thereto, in any subsequent proceeding, or further proceedings in this matter. To the extent that CSXT provides responsive information or documents, CSXT does not concede that such information is relevant,

material, or admissible into evidence, and any such production is not intended to waive any of CSXT's objections to any of Applicants' Requests.

4. CSXT objects to these Requests, and to each Definition, Instruction, and Request contained therein, to the extent they impose upon CSXT burdens or duties that are greater than, or otherwise conflict with, the requirements, or the permissible scope, of discovery under 49 C.F.R. Part 1114, Subpart B or under other Surface Transportation Board rules or precedents; are not proportional to the needs of the above-captioned proceeding; or impose an undue burden on CSXT.

5. CSXT objects to each and every Request that asks that CSXT produce "all" documents, communications, or information as unduly burdensome to the extent it requests that CSXT engage in an unreasonably broad document and information search, collection and review in order to identify each and every document or piece of information that may possibly be responsive. To the extent CSXT agrees to produce responsive documents or information, CSXT will only produce reasonably accessible, non-privileged, responsive documents or information that it is able to locate or identify after a reasonable search.

6. CSXT objects to these Requests, and to each Definition, Instruction, and Request contained therein, that request information, documents, or communications that are: (a) already in the possession of Applicants; (b) publicly available or otherwise readily available or accessible to Applicants from other sources; (c) unreasonably cumulative or duplicative of documents already in

Applicants' possession, custody, or control; or (d) otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT.

7. CSXT objects to these Requests, and to each Definition, Instruction, and Request contained therein, as unduly burdensome to the extent they seek production from the files of all current and former CSXT employees, including those who are not reasonably likely to possess non-duplicative responsive documents. Unless specifically stated otherwise, by stating that it will produce documents responsive to these Requests, CSXT represents that it will produce documents from files most likely to contain materials responsive to the Request without undue burden.

8. CSXT objects to these Requests, and to each Definition, Instruction, and Request contained therein, as unduly burdensome to the extent they purport to require CSXT to conduct a special study or to undertake anything more than a reasonable search for responsive information. In responding to Applicants' Requests, CSXT will conduct a reasonable search of those accessible files in its possession in which information responsive to Applicants' Requests, as limited by CSXT's Objections, is likely to be located.

9. CSXT objects to these Requests, and to each Definition, Instruction, and Request contained therein, to the extent they purport to prohibit CSXT from redacting information that might reveal CSXT's commercially sensitive or long-term corporate strategies and is not relevant to this proceeding or is non-responsive to the Request. CSXT will redact any such information and reserves the right to redact

any non-responsive information from otherwise responsive documents produced to Applicants.

10. CSXT objects to the production of, and is not producing, documents or information subject to any attorney-client privilege, work-product doctrine, or other applicable privilege or protection. CSXT reserves the right to redact privileged information from materials that it produces in response to the Requests. Any production of privileged documents or information is inadvertent and should not be deemed as a waiver of any privilege. CSXT reserves all rights under applicable law, including the Protective Order entered in this case, to demand or require the return of all copies thereof and non-use by Applicants or by any other person or entity in this or any other proceeding.

11. CSXT objects to these Requests, and to each Request contained therein, as unduly burdensome and disproportionate to the needs of this case to the extent that Applicants have themselves refused to respond or refused to produce adequate materials or information in response to discovery requests served on them that seek similar or identical information.

12. CSXT objects to the production of documents that constitute or disclose confidential, proprietary, or commercially or competitively sensitive information. CSXT will produce such information, if not otherwise objectionable, designated “Confidential” or “Highly Confidential,” subject to the terms of the Protective Order entered in this case. CSXT reserves the right to seek additional protections as needed.

13. CSXT objects to Applicants' Definition No. 2 defining "Communication" and any Request that uses the term to the extent this Definition seeks to expand upon and conflicts with 49 C.F.R. Part 1114, Subpart B. CSXT further objects to Definition No. 2 and any Request that uses the term as unduly burdensome and as seeking information that is not proportional to the probative value the information sought may have in this proceeding. CSXT also objects to Definition No. 2 and any Request that uses the term to the extent it seeks information not in the possession, custody, or control of CSXT.

14. CSXT objects to Applicants' Definition No. 3 defining "Document" and any Request that uses the term to the extent this Definition seeks to expand upon and conflicts with 49 C.F.R. Part 1114, Subpart B. CSXT further objects to Definition No. 3 and any Request that uses the term as unduly burdensome and as seeking information that is not proportional to the probative value the information sought may have in this proceeding. CSXT also objects to Definition No. 3 and any Request that uses the term to the extent it seeks information not in the possession, custody, or control of CSXT.

15. CSXT objects to Applicants' Definition No. 4 defining "Produce" and any Request that uses the term to the extent this Definition seeks to expand upon and conflicts with 49 C.F.R. Part 1114, Subpart B. CSXT further objects to Definition No. 4 and any Request that uses the term as unduly burdensome and as seeking information that is not proportional to the probative value the information sought may have in this proceeding. CSXT also objects to Definition No. 4 and any

Request that uses the term to the extent it seeks information not in the possession, custody, or control of CSXT. CSXT also objects to Definition No. 4 and any Request that uses the term to the extent it seeks information or materials that CSXT does not keep in its ordinary course of business or would require CSXT to modify or alter documents from the way they are kept in the ordinary course of business.

16. CSXT objects to Definition No. 6 defining “You” and “Your” and any Request that uses the term 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 CSXT to respond to the Requests with respect to CSXT’s “predecessors and successors in interest, as well as its present and former directors, officers, employees, agents, managing agents, representatives, attorneys, parents, subsidiaries, affiliates, divisions, area offices, and regional offices, as well as all persons acting or purporting to act on its behalf.” CSXT will respond to the Requests only with respect to CSXT.

17. CSXT objects to each and every Instruction as unduly burdensome to the extent the Instruction seeks to impose obligations on CSXT that are greater than or otherwise inconsistent with those imposed under 49 C.F.R. Part 1114, Subpart B.

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

No. 3 as overbroad and unduly burdensome in asking for additional information about any information or Document that is “otherwise not discoverable.”

19. CSXT objects to Instruction No. 5 to the extent it purports to require CSXT to collect documents or information for an unduly burdensome period of time from January 1, 2019 to the present, particularly since Applicants have themselves objected to a similar time range for discovery requests served on them. Discovery is ongoing, and CSXT reserves the right to supplement this response and/or negotiate a “time period” at a later time as appropriate.

20. CSXT objects to each and every Instruction as unduly burdensome to the extent the Instruction seeks to impose obligations on CSXT that are greater than or otherwise inconsistent with the instructions that Applicants have agreed to in responding to discovery requests served on them.

DISCOVERY REQUESTS AND RESPONSES

REQUEST NO. 1

Describe all railroad mergers, acquisitions, or other control transactions involving You and any other Class I railroad that You are considering or have considered within the last 12 months, whether in response to the Proposed Transaction or otherwise.

CSXT RESPONSE TO REQUEST NO. 1

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to

those required of Applicants. CSXT further objects to this Request to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privileges or immunities. CSXT also objects to this Request as overly broad, unduly burdensome, and not relevant to the STB's review of the Proposed Transaction, to the extent it seeks information about mergers, acquisitions, or other control transactions that may not qualify as a Major Transaction as defined by the STB. CSXT additionally objects to this Request as vague and ambiguous with respect to the terms "considering," "have considered" and "other control transactions." CSXT also objects to this Request on the grounds that it is vague, ambiguous, and overbroad with regard to the term "other control transactions," which could include routine trackage rights, leases and other similar arrangements. CSXT further objects to this Request on the grounds that it is vague, ambiguous, and overbroad to the extent the term "You" is defined to include every agent and employee of CSXT, many of whom may have "considered" a potential transaction but had no authority or responsibility to pursue any such transaction for CSXT.

Subject to and without waiving the foregoing objections and its General Objections, CSXT is investigating whether any responsive, non-privileged information exists and will respond once its investigation is complete.

REQUEST NO. 2

Produce all Documents and Communications relating to all railroad mergers, acquisitions, or other control transactions involving You and any other Class I

railroad that You are considering or have considered within the last 12 months, whether in response to the Proposed Transaction or otherwise.

CSXT RESPONSE TO REQUEST NO. 2

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privileges or immunities. CSXT also objects to this Request as overly broad, unduly burdensome, and not relevant to the STB's review of the Proposed Transaction, to the extent it seeks information about mergers, acquisitions, or other transactions that may not qualify as a Major Transaction as defined by the STB. CSXT additionally objects to this Request as vague and ambiguous with respect to the terms "considering," "have considered" and "other control transactions." CSXT also objects to this Request on the grounds that it is vague, ambiguous, and overbroad with regard to the term "other control transactions," which could include routine trackage rights, leases and other similar arrangements. CSXT further objects to this Request on the grounds that it is vague, ambiguous, and overbroad to the extent the term "You" is defined to include every agent and employee of CSXT, many of whom may have "considered" a potential transaction but had no authority or responsibility to pursue any such

transaction for CSXT. CSXT additionally objects to this Request to the extent it seeks materials not within CSXT's possession, custody, or control.

Subject to and without waiving the foregoing objections and its General Objections, CSXT is investigating whether any responsive, non-privileged materials exist and will produce such materials if they exist, are within CSXT's possession, custody, or control and are reasonably accessible.

REQUEST NO. 3

Produce all Documents and Communications relating to the Proposed Transaction's impacts or potential impacts on potential future mergers involving Class I railroads, including but not limited to any mergers You have considered executing with any other Class I railroads.

CSXT RESPONSE TO REQUEST NO. 3

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privileges or immunities. CSXT also objects to this Request as overly broad and unduly burdensome to the extent it seeks information about mergers that may not qualify as a Major Transaction as defined by the STB. CSXT additionally objects to this Request as vague and ambiguous with respect to the terms "impacts," "potential impacts," and

“considered.” CSXT further objects to this Request to the extent it seeks materials not within CSXT’s possession, custody, or control.

Subject to and without waiving the foregoing objections and its General Objections, CSXT is investigating whether any responsive, non-privileged materials exist and will produce such materials if they exist, are within CSXT’s possession, custody, or control and are reasonably accessible.

REQUEST NO. 4

Produce all Documents and Communications relating to any potential or actual transaction, combination, joint venture, alliance, partnership, initiative, other form of cooperative arrangement or other strategic response that You have considered or implemented, or are considering or are implementing, as a result of the Proposed Transaction.

CSXT RESPONSE TO REQUEST NO. 4

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privileges or immunities. CSXT additionally objects to this Request as duplicative of Requests Nos. 1-3 with respect to the terms “transaction” and “combination,” and as vague and ambiguous with respect to the terms “cooperative arrangement,” “initiative,” “strategic response,”

“considered,” “considering,” “implemented,” and “implementing,” and as overly broad and unduly burdensome to the extent it seeks discovery of any potential transaction, initiative, or other “response” CSXT may have considered, regardless of scope or significance, “as a result” of the merger. CSXT also objects to this Request on the grounds that it is vague, ambiguous, and overbroad with regard to the term “other strategic response,” which could include nearly every action taken by CSXT. CSXT further objects to this Request on the grounds that it is vague, ambiguous, and overbroad to the extent the term “You” is defined to include every agent and employee of CSXT, many of whom may have “considered” a potential transaction or actual transaction, combination, joint venture, alliance, partnership, initiative, other form of cooperative arrangement or other strategic response but had no authority or responsibility to pursue any such transaction, combination, joint venture, alliance, partnership, initiative, other form of cooperative arrangement or other strategic response for CSXT. CSXT further objects to this Request to the extent it seeks materials not within CSXT’s possession, custody, or control.

Subject to and without waiving the foregoing objections and its General Objections, CSXT responds that it understands this Request seeks materials concerning joint marketing agreements, interline partnerships, alliances, and other cooperative arrangements short of merger with other Class I railroads that CSXT has considered or implemented, in response to the Proposed Transaction, and will respond on that basis. CSXT further responds that it is investigating whether any responsive, non-privileged materials exist and will produce such materials if they

exist, are within CSXT's possession, custody, or control and are reasonably accessible.

Respectfully submitted,

/s/ Eric P. Enson

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Attorneys for CSX Transportation, Inc.

Dated: June 15, 2026

CERTIFICATE OF SERVICE

I hereby certify that, on this 15th day of June, 2026, I caused a true and correct copy of the foregoing CSX Transportation, Inc.'s Responses and Objections to Applicants' First Set of Discovery Requests to be served by first-class mail or email 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/ Eric P. Enson

Eric P. Enson

Attorney for CSX Transportation, Inc.

EXHIBIT B

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

CSXT'S RESPONSES AND OBJECTIONS
TO UNION PACIFIC'S AND NORFOLK SOUTHERN'S
SECOND SET OF DISCOVERY REQUESTS

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Attorneys for CSX Transportation, Inc.

CSX Transportation (“CSXT”) responds to the Second Set of Discovery Requests (the “Requests” and individually, a “Request”) of Union Pacific Railroad Company, Union Pacific Corporation, Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, “Applicants”), served on June 1, 2026, as follows.

GENERAL RESPONSES AND OBJECTIONS

1. CSXT’s responses and objections to these Requests are based on CSXT’s present knowledge, information, and belief. CSXT reserves the right to rely upon facts, documents, and other evidence that it may develop or that may subsequently come to its attention; to assert additional objections; and to supplement or amend these responses at any time as this proceeding continues.

2. CSXT objects to these Requests to the extent they seek to impose on CSXT discovery obligations equivalent to those applicable to Applicants. Applicants are seeking approval from the Surface Transportation Board (“STB”) of the Proposed Transaction—CSXT is not. Applicants therefore should and do face a significantly larger burden in discovery than entities such as CSXT that are not parties to the Proposed Transaction.

3. CSXT objects to these Requests as premature, as information from CSXT is not relevant to the case that Applicants chose to present in their Application. That Application reflects Applicants’ affirmative case and has already been filed, and CSXT has not submitted any responsive comments or application.

4. CSXT also objects to these Requests as premature in that CSXT and other parties served discovery requests on Applicants starting months ago, and to date, Applicants have produced very little in response to those requests. It is unreasonable for Applicants to demand large scale discovery from CSXT before they have yet to fully engage with their own discovery obligations.

5. In providing these responses, CSXT reserves all objections as to competency, relevancy, materiality, authenticity, and admissibility of any information requested in the Applicants' Requests and in any responses or productions CSXT may provide thereto, in any subsequent proceeding, or further proceedings in this matter. To the extent that CSXT provides responsive information or documents, CSXT does not concede that such information is relevant, material, or admissible into evidence, and any such production is not intended to waive any of CSXT's objections to any of Applicants' Requests.

6. CSXT objects to these Requests, and to each Definition, Instruction, and Request contained therein, to the extent they impose upon CSXT burdens or duties that are greater than, or otherwise conflict with, the requirements or the permissible scope of discovery under 49 C.F.R. Part 1114, Subpart B or under other Surface Transportation Board rules or precedents; are not proportional to the needs of the above-captioned proceeding; or impose an undue burden on CSXT.

7. CSXT objects to each and every Request that asks that CSXT produce "all" documents, communications, or information as unduly burdensome to the extent it requests that CSXT engage in an unreasonably broad document and

information search, collection, and review in order to identify each and every document or piece of information that may possibly be responsive. To the extent CSXT agrees to produce responsive documents or information, CSXT will only produce reasonably accessible, non-privileged, responsive documents or information that it is able to locate or identify after a reasonable search.

8. CSXT objects to these Requests, and to each Definition, Instruction, and Request contained therein, that request information, documents, or communications that are: (a) already in the possession of Applicants; (b) publicly available or otherwise readily available or accessible to Applicants from other sources; (c) unreasonably cumulative or duplicative of documents already in Applicants' possession, custody, or control; or (d) otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT.

9. CSXT objects to these Requests, and to each Definition, Instruction, and Request contained therein, as unduly burdensome to the extent they seek production from the files of all current and former CSXT employees, including those who are not reasonably likely to possess non-duplicative responsive documents. Unless specifically stated otherwise, by stating that it will produce documents responsive to these Requests, CSXT represents that it will produce documents from files most likely to contain materials responsive to the Request without undue burden.

10. CSXT objects to these Requests, and to each Definition, Instruction, and Request contained therein, as unduly burdensome to the extent they purport to

require CSXT to conduct a special study or to undertake anything more than a reasonable search for responsive information. In responding to Applicants' Requests, CSXT will conduct a reasonable search of those accessible files in its possession in which information responsive to Applicants' Requests, as limited by CSXT's Objections, is likely to be located.

11. CSXT objects to these Requests, and to each Definition, Instruction, and Request contained therein, to the extent they purport to prohibit CSXT from redacting information that might reveal CSXT's commercially sensitive or long-term corporate strategies and is not relevant to this proceeding or is non-responsive to the Request. CSXT will redact any such information and reserves the right to redact any non-responsive information from otherwise responsive documents produced to Applicants.

12. CSXT objects to these Requests, and to each Request contained therein, as unduly burdensome and disproportionate to the needs of this case to the extent that Applicants have themselves refused to respond or refused to produce adequate materials or information in response to discovery requests served on them that seek similar or identical information.

13. CSXT objects to the production of, and is not producing, documents or information subject to any attorney-client privilege, work-product doctrine, or other applicable privilege or protection. CSXT reserves the right to redact privileged information from materials that it produces in response to the Requests. Any production of privileged documents or information is inadvertent and should not be

deemed as a waiver of any privilege. CSXT reserves all rights under applicable law, including the Protective Order entered in this case, to demand or require the return of all copies thereof and non-use by Applicants or by any other person or entity in this or any other proceeding.

14. CSXT objects to the production of documents that constitute or disclose confidential, proprietary, or commercially or competitively sensitive information. CSXT will produce such information, if not otherwise objectionable, designated “Confidential” or “Highly Confidential,” subject to the terms of the Protective Order entered in this case. CSXT reserves the right to seek additional protections as needed.

15. CSXT objects to Applicants’ Definition No. 2 defining “Communication” and any Request that uses the term to the extent this Definition seeks to expand upon and conflicts with 49 C.F.R. Part 1114, Subpart B. CSXT further objects to Definition No. 2 and any Request that uses the term as unduly burdensome and as seeking information that is not proportional to the probative value the information sought may have in this proceeding. CSXT also objects to Definition No. 2 and any Request that uses the term to the extent it seeks information not in the possession, custody, or control of CSXT.

16. CSXT objects to Applicants’ Definition No. 3 defining “Document” and any Request that uses the term to the extent this Definition seeks to expand upon and conflicts with 49 C.F.R. Part 1114, Subpart B. CSXT further objects to Definition No. 3 and any Request that uses the term as unduly burdensome and as

seeking information that is not proportional to the probative value the information sought may have in this proceeding. CSXT also objects to Definition No. 3 and any Request that uses the term to the extent it seeks information not in the possession, custody, or control of CSXT.

17. CSXT objects to Applicants' Definition No. 4 defining "Produce" and any Request that uses the term to the extent this Definition seeks to expand upon and conflicts with 49 C.F.R. Part 1114, Subpart B. CSXT further objects to Definition No. 4 and any Request that uses the term as unduly burdensome and as seeking information that is not proportional to the probative value the information sought may have in this proceeding. CSXT also objects to Definition No. 4 and any Request that uses the term to the extent it seeks information not in the possession, custody, or control of CSXT. CSXT also objects to Definition No. 4 and any Request that uses the term to the extent it seeks information or materials that CSXT does not keep in its ordinary course of business or would require CSXT to modify or alter documents from the way they are kept in the ordinary course of business.

18. CSXT objects to Definition No. 6 defining "You" and "Your" and any Request that uses the term 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 CSXT to respond to the Requests with respect to CSXT's "predecessors and successors in interest, as well as its present and former directors, officers, employees, agents, managing agents, representatives, attorneys, parents, subsidiaries, affiliates, divisions, area offices,

and regional offices, as well as all persons acting or purporting to act on its behalf.” CSXT will respond to the Requests only with respect to CSXT.

19. CSXT objects to each and every Instruction as unduly burdensome to the extent the Instruction seeks to impose obligations on CSXT that are greater than or otherwise inconsistent with those imposed under 49 C.F.R. Part 1114, Subpart B.

20. CSXT objects to each and every Instruction as unduly burdensome to the extent the Instruction seeks to impose obligations on CSXT that are greater than or otherwise inconsistent with the instructions that Applicants have agreed to in responding to discovery requests served on them.

21. CSXT objects to Instruction No. 3 to the extent it purports to impose obligations on CSXT that are greater than or otherwise inconsistent with those imposed under 49 C.F.R. Part 1114, Subpart B. CSXT further objects to Instruction No. 3 as overbroad and unduly burdensome in asking for additional information about any information or Document that is “otherwise not discoverable.”

22. CSXT objects to Instruction No. 5 as purporting to seek documents or information for an unduly burdensome time period from CSXT, which is not an Applicant, and particularly since Applicants have themselves objected to a similar time period. Discovery is ongoing, and CSXT reserves the right to supplement this response and/or negotiate a relevant time period for its responses at a later time as appropriate.

DISCOVERY REQUESTS AND RESPONSES

REQUEST NO. 5

Produce all Documents and information that You produce or have previously produced in response to discovery requests submitted by other participants in this proceeding.

CSXT RESPONSE TO REQUEST NO. 5

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request as vague and ambiguous with respect to the term “produced.” CSXT also objects to this Request to the extent it seeks materials not within CSXT’s possession, custody, or control.

Subject to and without waiving the foregoing objections and its General Objections, CSXT will provide Applicants with a copy of or access to the information and documents that CSXT produces in response to discovery requests in this proceeding and will serve its responses and objections to discovery requests in this proceeding on all parties of record.

REQUEST NO. 6

Produce all Documents and Communications relating to the Proposed Transaction that You have sent to, received from, or submitted to any persons other than Applicants, including but not limited to customers, shippers, industry groups,

labor organizations, labor officials, government agencies or officials, other rail carriers, public officials, ports, rail industry suppliers, the Surface Transportation Board, the United States Department of Justice, the United States Department of Transportation, the Federal Railroad Administration, the governor of any state, the attorney general of any state, the White House, or any other federal or state government agency.

CSXT RESPONSE TO REQUEST NO. 6

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT also objects to this Request as overly broad and unduly burdensome in asking CSXT to produce “all” Documents and Communications. CSXT likewise objects to this Request as vague and ambiguous with respect to the terms “relating” and “submitted to.” CSXT additionally objects to this Request to the extent it seeks materials not within CSXT’s possession, custody, or control. CSXT also objects to this Request on the grounds that it is vague, ambiguous, and overbroad to the extent the term “You” is defined to include every agent and employee of CSXT, many of whom may have discussed the Potential Transaction but had no authority or responsibility in relation to the Potential

Transaction. CSXT further objects to this Request to the extent it seeks materials that are readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT. CSXT also objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants have refused to produce similar Documents and Communications in response to discovery requests they have received. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT's Documents or Communications relating to the Proposed Transaction, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT reserves the right to modify or supplement this response in the event the requested information becomes relevant after CSXT has filed any responsive comments or application.

REQUEST NO. 7

Produce all Documents concerning or consisting of any talking points or prepared messaging relating to the Proposed Transaction that You used for communications to persons other than Applicants, including but not limited to customers, shippers, industry groups, labor organizations, labor officials, government agencies or officials, other rail carriers, public officials, ports, rail industry suppliers, the Surface Transportation Board, the United States Department of Justice, the United States Department of Transportation, the Federal Railroad Administration, the

governor of any state, the attorney general of any state, the White House, or any other federal or state government agency.

CSXT RESPONSE TO REQUEST NO. 7

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT also objects to this Request as overly broad and unduly burdensome in asking CSXT to produce “all” Documents. CSXT likewise objects to this Request as vague and ambiguous with respect to the terms “concerning,” “consisting,” “talking points,” “prepared messaging,” and “relating.” CSXT also objects to this Request on the grounds that it is vague, ambiguous, and overbroad to the extent the term “You” is defined to include every agent and employee of CSXT, many of whom may have discussed the Potential Transaction but had no authority or responsibility in relation to the Potential Transaction. CSXT additionally objects to this Request to the extent it seeks materials that are readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT. CSXT also objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants have refused to

produce similar Documents in response to discovery requests they have received.

CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT's talking points or prepared messaging relating to the Proposed Transaction, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT reserves the right to modify or supplement this response in the event the requested information becomes relevant after CSXT has filed any responsive comments or application.

REQUEST NO. 8

Identify all individuals and/or entities from whom You have sought, solicited, or discussed a potential comment, letter, or statement of opposition relating to the Proposed Transaction.

CSXT RESPONSE TO REQUEST NO. 8

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT further objects to this Request as overly broad and unduly burdensome in asking CSXT to identify "all" individuals and/or

entities. CSXT further objects to this Request as vague and ambiguous with respect to the terms “sought,” “solicited,” and “discussed.” CSXT also objects to this Request on the grounds that it is vague, ambiguous, and overbroad to the extent the term “You” is defined to include every agent and employee of CSXT, many of whom may have discussed the Potential Transaction but had no authority or responsibility in relation to the Potential Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT reserves the right to modify or supplement this response in the event the requested information becomes relevant after CSXT has filed any responsive comments or application.

REQUEST NO. 9

Produce all Documents and Communications relating to any discounts, contract extensions, or any other economic value or concession requested or offered in connection with or related to any discussion with a customer or stakeholder related to its opposition to or non-support for the Proposed Transaction.

CSXT RESPONSE TO REQUEST NO. 9

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other

applicable privileges or immunities. CSXT also objects to this Request as overly broad and unduly burdensome in asking CSXT to produce “all” Documents and Communications. CSXT additionally objects to this Request as vague and ambiguous with respect to the terms “discounts,” “contract extensions,” “other economic value or concession,” “requested,” “offered in connection,” “stakeholder,” and “non-support.” CSXT likewise objects to this Request to the extent it seeks materials that are otherwise readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT.

Subject to and without waiving the foregoing objections and its General Objections, CSXT will conduct a reasonable investigation into whether any responsive, non-privileged materials exist and will produce such materials identified after a reasonable search.

REQUEST NO. 10

Produce all Documents and Communications that You have created or received from January 1, 2019, to the present relating to potential railroad mergers, acquisitions, or other control transactions (collectively, “mergers”) involving BNSF, CSX, NS or UP, or discussing railroad mergers or alternatives to railroad mergers generally, including any mergers between BNSF, CSX, NS, or UP and any other Class I railroads and any mergers You have considered executing with BNSF, CSX, NS, or UP.

CSXT RESPONSE TO REQUEST NO. 10

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT additionally objects to this Request as duplicative of the Requests contained in Applicants' First Set of Discovery Requests. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT further objects to this Request as overly broad and unduly burdensome in asking CSXT to produce "all" Documents and Communications. CSXT also objects to this Request as vague and ambiguous with respect to the terms "relating to," "involving," "discussing," "alternatives," "considered," and "executing," and as vague, ambiguous, overly broad and unduly burdensome with respect to the term "other control transactions." CSXT further objects to this Request on the grounds that it is vague, ambiguous, and overbroad to the extent the term "You" is defined to include every agent and employee of CSXT, many of whom may have "discuss[ed]" or "consider[ed]" a potential transaction but had no authority or responsibility to pursue any such transaction for CSXT. CSXT likewise objects to this Request to the extent it seeks materials that are otherwise readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT. CSXT also objects to this

Request as overly broad, unduly burdensome, and not relevant to the STB's review of the Proposed Transaction, to the extent it seeks information about mergers, acquisitions, or other transactions that may not qualify as a Major Transaction as defined by the STB. CSXT also objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants have refused to produce similar Documents and Communications in response to discovery requests they have received. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT's Documents or Communications relating to potential railroad mergers, acquisitions, or other control transactions, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT refers Applicants to CSXT's Responses and Objections to Applicants' First Set of Discovery Requests.

REQUEST NO. 11

Produce all Documents and Communications relating to competition in the railroad industry, consolidation in the railroad industry, Your position in the railroad industry, UP's or NS's position in the railroad industry, Your growth or strategies for growth, and UP's or NS's growth or strategies for growth.

CSXT RESPONSE TO REQUEST NO. 11

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT,

which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT further objects to this Request as overly broad and unduly burdensome in asking CSXT to produce “all” Documents and Communications. CSXT also objects to this Request as overly broad and unduly burdensome in seeking exceptionally broad topics that as stated could potentially encompass countless documents concerning CSXT’s business operating a railroad, in the possession of every CSXT employee at every level. CSXT also objects to this Request as vague and ambiguous with respect to the terms “competition,” “consolidation,” “position,” “growth,” and “strategies for growth.” CSXT likewise objects to this Request to the extent it seeks materials that are otherwise readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT. CSXT also objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants have refused to produce similar Documents and Communications in response to discovery requests they have received. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT’s Documents or Communications relating to competition in the railroad industry, consolidation in

the railroad industry, and the other topics listed in this Request, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT responds that it is willing to meet and confer with Applicants regarding the relevance to the Application and scope of this Request.

REQUEST NO. 12

Produce all Documents and Communications relating to the Proposed Transaction's potential impacts on Your, the Applicants', or any other rail carrier's rates, routes, services, revenues, costs, expenses, operations, investments, traffic volumes, service offerings, markets, market shares, growth, financial viability, competitive position, relationships with other railroads, or relationships with customers.

CSXT RESPONSE TO REQUEST NO. 12

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT also objects to this Request as overly broad and unduly burdensome in asking CSXT to produce "all" Documents and Communications. CSXT additionally objects to this Request as vague and ambiguous with respect to the terms "potential impacts," "markets," "market

shares,” “growth,” “financial viability,” “competitive position,” and “relationships.” CSXT likewise objects to this Request to the extent it seeks materials that are otherwise readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT. CSXT also objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants have refused to produce similar Documents and Communications in response to discovery requests they have received. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT’s Documents or Communications relating to the Proposed Transaction’s potential impacts, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT responds that it is willing to meet and confer with Applicants regarding the relevance to the Application and scope of this Request.

REQUEST NO. 13

Produce all Documents and Communications relating to the Potential Transaction’s potential impacts on Class II or Class III railroads, including but not limited to KCT, PPU, TRRA, or TTX.

CSXT RESPONSE TO REQUEST NO. 13

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT,

which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT also objects to this Request as overly broad and unduly burdensome in asking CSXT to produce “all” Documents and Communications. CSXT additionally objects to this Request as vague and ambiguous with respect to the term “potential impacts.” CSXT likewise objects to this Request to the extent it seeks materials that are otherwise readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT. CSXT also objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants have refused to produce similar Documents and Communications in response to discovery requests they have received. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT’s Documents or Communications relating to the Proposed Transaction’s potential impacts on Class II or Class III railroads, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT responds that it is willing to meet and confer with Applicants regarding the relevance to the Application and scope of this Request.

REQUEST NO. 14

Produce all Documents and Communications relating to the Proposed Transaction's potential or projected public benefits, diversions of railroad or truck traffic, operating efficiencies, or cost savings; the Proposed Transaction's potential or projected impacts on railroad or truck competition, You or other Class I railroads, short line railroads, or ports; and the potential or projected impacts of the Applicants' proposed Committed Gateway Pricing program.

CSXT RESPONSE TO REQUEST NO. 14

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT also objects to this Request as overly broad and unduly burdensome in asking CSXT to produce "all" Documents and Communications. CSXT additionally objects to this Request as vague and ambiguous with respect to the terms "potential or projected public benefits," "potential or projected impacts," and "railroad or truck competition." CSXT likewise objects to this Request to the extent it seeks materials that are otherwise readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT.

CSXT also objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants have refused to produce similar Documents and Communications in response to discovery requests they have received. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT's Documents or Communications relating to the Proposed Transaction's potential public benefits, diversions, operating efficiencies, cost savings, or potential impacts, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT responds that it is willing to meet and confer with Applicants regarding the relevance to the Application and scope of this Request.

REQUEST NO. 15

Produce all Documents and Communications relating to potential requests for conditions or responsive applications relating to the Proposed Transaction.

CSXT RESPONSE TO REQUEST NO. 15

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT has not submitted any comments or responsive application to the Proposed Transaction. CSXT objects to this Request in that it seeks the premature disclosure, outside the deadlines to be set by the STB if and when it issues a procedural schedule in these proceedings, of any requests for

conditions or responsive applications that CSXT may request. CSXT further objects to this Request in that it seeks a category of materials that, at least at this time, is very likely to be protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT also objects to this Request as overly broad and unduly burdensome in asking CSXT to produce “all” Documents and Communications. CSXT additionally objects to this Request as vague and ambiguous with respect to the term “potential requests for conditions or responsive applications.” CSXT likewise objects to this Request to the extent it seeks materials that are otherwise readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT.

REQUEST NO. 16

Produce all Documents and Communications relating to any actual or potential joint ventures, alliances, partnerships, initiatives, or other forms of cooperative arrangements between You and any other Class I railroad, regardless of whether such arrangements were implemented.

CSXT RESPONSE TO REQUEST NO. 16

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it

seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT further objects to this Request as overly broad and unduly burdensome in asking CSXT to produce “all” Documents and Communications. CSXT also objects to this Request as vague and ambiguous with respect to the terms “partnerships,” “initiatives,” “arrangements,” and “implemented.” CSXT further objects to this Request to the extent it is duplicative of Request No. 4. CSXT likewise objects to this Request to the extent it seeks materials that are otherwise readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT. CSXT also objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants have refused to produce similar Documents and Communications in response to discovery requests they have received. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT’s Documents or Communications relating to potential joint ventures, alliances, partnerships, initiatives, or other forms of cooperative arrangements, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT responds that it is willing to meet and confer with Applicants regarding the relevance to the Application and scope of this Request.

REQUEST NO. 17

Produce all Documents and Communications relating to the Proposed Transaction's impact or potential impact on interchange arrangements; interline or joint line rates, services, or routes; interline or joint line routing options; or cooperation with UP, NS, or other rail carriers, including but not limited to potential changes in interchange volumes, gateway usage, or service offerings.

CSXT RESPONSE TO REQUEST NO. 17

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT also objects to this Request as overly broad and unduly burdensome in asking CSXT to produce "all" Documents and Communications. CSXT additionally objects to this Request as vague and ambiguous with respect to the terms "impact" or "potential impact." CSXT likewise objects to this Request to the extent it seeks materials that are otherwise readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT. CSXT also objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants have refused to produce similar

Documents and Communications in response to discovery requests they have received. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT's Documents or Communications relating to the Proposed Transaction's impacts or potential impacts and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT responds that it is willing to meet and confer with Applicants regarding the relevance to the Application and scope of this Request.

REQUEST NO. 18

Produce system-wide car and, where applicable, container, movement event data for all Your traffic. Car event data should be sufficient to identify all events and the sequence of cars within a train for each applicable event. Container event data should be sufficient to identify the car conveying the container for each applicable event and all events, including in-gate, out-gate, ramp, and deramp events.

CSXT RESPONSE TO REQUEST NO. 18

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT also objects to this Request as overly broad and unduly burdensome to the extent Applicants have not themselves produced the same data fields requested. CSXT additionally objects to this Request as overly

broad and unduly burdensome in seeking data relating to “all” traffic and events. CSXT likewise objects to this Request to the extent it seeks materials that are otherwise readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT’s system-wide car, container, or movement data, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT responds that it is willing to meet and confer with Applicants regarding the relevance to the Application and scope of this Request.

REQUEST NO. 19

Produce system-wide train event data for all Your trains.

CSXT RESPONSE TO REQUEST NO. 19

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT also objects to this Request as overly broad and unduly burdensome to the extent Applicants have not themselves produced the same data fields requested. CSXT additionally objects to this Request as overly broad and unduly burdensome in seeking data relating to “all” trains. CSXT likewise objects to this Request to the extent it seeks materials that are otherwise

readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT's train event data, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT responds that it is willing to meet and confer with Applicants regarding the relevance to the Application and scope of this Request.

REQUEST NO. 20

Produce data relating to reciprocal switching for the period from January 1, 2019, through December 31, 2025, including but not limited to car-level movement records, switch lists, interchange logs, line-segment level usage data, and any other records or communications reflecting reciprocal switching arrangements or traffic. To the extent not otherwise encompassed by this request, Your response should include: (1) waybill date, number, and identifiers associated with the switch operation; (2) the switching locations where the actual car switching between roads occur (FSAC, SPLC, Rule 260 junction code, station name, and state/province); (3) local customer information where the switched cars are picked-up or delivered in the switching terminal area (CIF, Parent Customer Name, FSAC, SPLC, station name, and state/province); (4) payment information for that switch; and (5) date of operation.

CSXT RESPONSE TO REQUEST NO. 20

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT also objects to this Request as overly broad and unduly burdensome in that Applicants have not themselves produced the same data fields requested. CSXT also objects to this Request as overly broad and unduly burdensome including because it seeks data that is not kept in a readily collectable format and would require CSXT to perform a special study to collect the data, to the extent it exists. CSXT likewise objects to this Request to the extent it seeks materials that are otherwise readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT, including from Applicants themselves. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT's reciprocal switching data, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT responds that it is willing to meet and confer with Applicants regarding the relevance to the Application and scope of this Request.

REQUEST NO. 21

Produce data sufficient to show all interchange volumes with other rail carriers, broken down by line, location, and counterparty, together with any associated

payments, settlements, or charges between carriers for haulage, switching, or other car handling (including waybill identifiers, car initials and numbers, dates and times, service type, payment types, and amounts), for the period from January 1, 2019, through December 31, 2025.

CSXT RESPONSE TO REQUEST NO. 21

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT also objects to this Request as overly broad and unduly burdensome to the extent Applicants have not themselves produced the same data fields requested. CSXT also objects to this Request as overly broad and unduly burdensome including because it seeks data that is not kept in a readily collectable format and would require CSXT to perform a special study to collect the data, to the extent it exists. CSXT further objects to this Request as overly broad and unduly burdensome in seeking data relating to “all” interchange volumes regardless of their relationship to the issues posed in these proceedings. CSXT likewise objects to this Request to the extent it seeks materials that are otherwise readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT, including from Applicants themselves. CSXT also objects to this Request as premature. The case Applicants have presented in their Application

does not rely on CSXT's interchange volume data, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT reserves the right to modify or supplement this response in the event the requested information becomes relevant after CSXT has filed any responsive comments or application.

REQUEST NO. 22

Produce Documents sufficient to show how You determine the rates that You establish for rail transportation for each route, commodity, and customer, including but not limited to any pricing models, pricing systems, or internal pricing formulas You have utilized.

CSXT RESPONSE TO REQUEST NO. 22

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT also objects to this Request as vague and ambiguous with respect to the terms “rates,” “pricing models,” “pricing systems,” and “internal pricing formulas.” CSXT also objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants

have refused to produce similar Documents and Communications in response to discovery requests they have received. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT's internal methodology for determining rates for each route, commodity, and customer or its Documents showing how it determines such rates, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT reserves the right to modify or supplement this response in the event the requested information becomes relevant after CSXT has filed any responsive comments or application.

REQUEST NO. 23

Produce all Documents relating to Your calculations of movement-related costs for the rail transportation services You provide, including detailed breakdowns of cost (such as by route, commodity, car type, and customer) in documents and/or a computer-readable database or electronic spreadsheet.

CSXT RESPONSE TO REQUEST NO. 23

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request as seeking data that is not relevant, overly broad, unduly burdensome, and not proportional to the needs of this case. Applicants themselves rely on the STB's Uniform Rail Costing

System data in their Application for calculations of their costs and have not themselves produced their internal movement-related costing data. CSXT also objects to this Request as overly broad and unduly burdensome including because it seeks data that is not kept in a readily collectable format and would require CSXT to perform a special study to collect the data, to the extent it exists. CSXT likewise objects to this Request to the extent it seeks materials that are otherwise readily available or accessible to Applicants from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from CSXT, including from Applicants themselves.

REQUEST NO. 24

Produce all Documents and Communications relating to Your policies or strategies for the pricing of Your rail transportation services, including without limitation the level of returns that You require when pricing rail traffic.

CSXT RESPONSE TO REQUEST NO. 24

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT additionally objects to this Request as overly broad and unduly burdensome in seeking “all” Documents and

Communications. CSXT also objects to this Request as vague and ambiguous with respect to the terms “policies,” “strategies,” “pricing,” and “level of returns.” CSXT also objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants have refused to produce similar Documents and Communications in response to discovery requests they have received. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT’s particular pricing policies and strategies or its Documents and Communications concerning those policies and strategies, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT reserves the right to modify or supplement this response in the event the requested information becomes relevant after CSXT has filed any responsive comments or application.

REQUEST NO. 25

Produce all Documents and Communications relating to Your strategies for growing Your rail traffic.

CSXT RESPONSE TO REQUEST NO. 25

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it

seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT additionally objects to this Request as overly broad and unduly burdensome in seeking “all” Documents and Communications. CSXT also objects to this Request as vague and ambiguous with respect to the terms “strategies” and “growing.” CSXT also objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants have refused to produce similar Documents and Communications in response to discovery requests they have received. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT’s particular growth strategies or its Documents and Communications concerning those strategies, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT reserves the right to modify or supplement this response in the event the requested information becomes relevant after CSXT has filed any responsive comments or application.

REQUEST NO. 26

Produce all Documents and Communications relating to Your strategies for obtaining or maintaining business from customers with multiple facilities on Your rail lines, including with respect to pricing, bundling, tying, or linking rates or

services, and providing discounts or otherwise reducing fees for customers that have multiple facilities.

CSXT RESPONSE TO REQUEST NO. 26

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT additionally objects to this Request as overly broad and unduly burdensome in seeking “all” Documents and Communications. CSXT also objects to this Request as vague and ambiguous with respect to the terms “obtaining or maintaining business,” “pricing,” “bundling,” “tying,” “linking rates or services,” and “discounts.” CSXT additionally objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants have refused to produce similar Documents and Communications in response to discovery requests they have received. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT’s particular strategies for pricing for customers with multiple facilities or Documents or Communications concerning any such strategies, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT reserves the right to modify or supplement this response in the event the requested information becomes relevant after CSXT has filed any responsive comments or application.

REQUEST NO. 27

Produce all Documents and Communications relating to Your changes (including without limitation reductions) in service or service frequency occasioned by implementation of Precision Scheduled Railroading.

CSXT RESPONSE TO REQUEST NO. 27

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT additionally objects to this Request as overly broad and unduly burdensome in seeking “all” Documents and Communications. CSXT also objects to this Request as vague and ambiguous with respect to the terms “changes” and “implementation.” CSXT also objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants have refused to produce similar Documents and Communications in response to discovery requests they have received. CSXT also objects to this

Request as premature. The case Applicants have presented in their Application does not rely on CSXT's Precision Scheduled Railroading-related service changes or Documents and Communications concerning any such changes, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT reserves the right to modify or supplement this response in the event the requested information becomes relevant after CSXT has filed any responsive comments or application.

REQUEST NO. 28

Produce all Documents and Communications relating to instances in which You made offers (such as bids on Request for Proposals) to customers opening new facilities that could be served by a rail carrier.

CSXT RESPONSE TO REQUEST NO. 28

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT additionally objects to this Request as overly broad and unduly burdensome in seeking "all" Documents and Communications. CSXT also objects to this Request as vague and ambiguous with

respect to the term “offers.” CSXT also objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants have refused to produce similar Documents and Communications in response to discovery requests they have received. CSXT also objects to this Request as premature. The case Applicants have presented in their Application does not rely on CSXT’s offers to customers opening new facilities or Documents or Communications concerning any such offers, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT reserves the right to modify or supplement this response in the event the requested information becomes relevant after CSXT has filed any responsive comments or application.

REQUEST NO. 29

Produce all Documents prepared on a weekly, monthly, quarterly, annual, or other regular basis that discuss Your plans or strategies for retaining or increasing the revenues obtained from rail customers (whether by growing traffic, increasing prices, or otherwise).

CSXT RESPONSE TO REQUEST NO. 29

CSXT incorporates all General Responses and Objections as if stated fully herein. CSXT specifically objects to this Request in that it seeks to impose on CSXT, which is not an Applicant in this proceeding, discovery obligations equivalent to those required of Applicants. CSXT further objects to this Request to the extent it

seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other applicable privileges or immunities. CSXT additionally objects to this Request as overly broad and unduly burdensome in seeking “all” Documents and Communications. CSXT also objects to this Request as vague and ambiguous with respect to the terms “prepared,” “regular basis,” “plans,” “strategies,” and “retaining.” CSXT also objects to this Request as unduly burdensome and not proportional to the needs of this case to the extent Applicants have refused to produce similar Documents and Communications in response to discovery requests they have received. CSXT also objects to this Request as premature. The case that Applicants have presented in their Application does not rely on CSXT’s particular revenue growth plans or strategies or its Documents and Communications concerning such plans or strategies, and CSXT has not submitted any responsive comments or application to the Proposed Transaction.

Subject to and without waiving the foregoing objections and its General Objections, CSXT reserves the right to modify or supplement this response in the event the requested information becomes relevant after CSXT has filed any responsive comments or application.

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Respectfully submitted,

/s/ Eric P. Enson

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Attorneys for CSX Transportation, Inc.

Dated: June 16, 2026

CERTIFICATE OF SERVICE

I hereby certify that, on this 16th day of June, 2026, I caused a true and correct copy of the foregoing CSX Transportation, Inc.'s Responses and Objections to Applicants' Second Set of Discovery Requests to be served by first-class mail or email 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/ Eric P. Enson

Eric P. Enson

Attorney for CSX Transportation, Inc.

EXHIBIT C

Fanchiang, Eric

From: Fanchiang, Eric
Sent: Thursday, July 16, 2026 8:41 AM
To: Magcale, Jamie Dominique U; Thompson, McClain; Kelly, Kevin; *AEllis@stblaw.com2; Matelis, Joseph (NON-SIDLEY @SULLCROM.COM); Donovan, Daniel T.; McCarrick, T.J.; Razi, Sara Y.; Bohl, Lindsey C.; David Meyer; *pdenton@steptoe.com; *tstrafford@steptoe.com; Cunningham, Rich; Scheib, John M.; Gardiner, Kent; van Houwelingen, Luke; Aluise, Dylan M.; Hynes, Samantha F.; Golden, Nathan H.; Joseph, Neil; Volbrecht, Tate D.; Enson, Eric; *Avia.Gridi@stblaw.com; Vaidya, Tushar
Cc: Flahive Wu, Laura; Ludwin, Derek; Rosenthal, Michael; Damitio, Daniel; Warren, Matthew J.; Korman, Marc; ratkins; Laudone, Stephen S.; William Mullins; Spencer Naake; OpalDisco
Subject: RE: FD 36873 - Applicants' 2nd Set of Discovery Requests

Counsel,

Regarding Applicants' Request Nos. 7 and 8 from their Second Set of Discovery Requests, CSXT has considered your position based on our meet and confer last week and is willing to respond as follows: CSXT published a public-facing webpage expressing its position on the proposed transaction and is willing to search for any centralized tracking or similar document(s) compiling any responses or engagement with it. By making this proposal, CSXT is not waiving its objections and reserves all rights with respect to Request Nos. 7 and 8 should Applicants not agree.

Best,

Eric Fanchiang

Eric Fanchiang

Pronouns: he/him/his

Crowell & Moring LLP

efanchiang@crowell.com

+1.949.798.1338 direct

From: Magcale, Jamie Dominique U <JMagcale@cov.com>
Sent: Wednesday, July 8, 2026 12:17 PM
To: Thompson, McClain <mcclain.thompson@kirkland.com>; Kelly, Kevin <Kkelly@cov.com>; *AEllis@stblaw.com2 <AEllis@stblaw.com>; Matelis, Joseph (NON-SIDLEY @SULLCROM.COM) <Matelisj@sullcrom.com>; Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; David Meyer <david@meyerlawdc.com>; *pdenton@steptoe.com <pdenton@steptoe.com>; *tstrafford@steptoe.com <tstrafford@steptoe.com>; Cunningham, Rich <rich.cunningham@kirkland.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Golden, Nathan H. <goldenn@sullcrom.com>; Joseph, Neil <neil.joseph@kirkland.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Enson, Eric <EEnson@crowell.com>; Fanchiang, Eric <EFanchiang@crowell.com>; *Avia.Gridi@stblaw.com <Avia.Gridi@stblaw.com>; Vaidya, Tushar <tushar.vaidya@kirkland.com>
Cc: Flahive Wu, Laura <lflahivewu@cov.com>; Ludwin, Derek <dludwin@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Warren, Matthew J. <mjwarren@sidley.com>; Korman, Marc <mkorman@sidley.com>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco

<OpalDisco@cov.com>

Subject: RE: FD 36873 - Applicants' 2nd Set of Discovery Requests

McClain,

Thank you again for providing your availability to meet and confer. We look forward to discussing Applicants' second set of discovery requests and our July 6 letter further during today's call. To address the points you raised below:

First, we appreciate your confirmation that BNSF has agreed to conduct a reasonable search for Requests Nos. 6–8, 16, and 22, and to meet and confer on Requests Nos. 11–14, 17–21, and 23–30. However, agreeing to take those steps is not the same as actually searching for, let alone producing, responsive documents. Indeed, we do not know whether BNSF has actually conducted any searches in response to these requests and, to date, BNSF has produced zero documents in response to any of Applicants' discovery requests. Has BNSF taken any steps to search in response to the referenced requests? If so, what are those steps for each request?

Second, with respect to BNSF's relevance, proportionality, and burden concerns, our July 6 letter and prior communications address these issues directly. Applicants' requests seek documents on topics that are directly relevant to this proceeding and that, in many cases, BNSF itself has placed at issue through the discovery it has sought from Applicants and its public statements regarding the Proposed Transaction. Any argument on burden or proportionality of burden to relevance is the responsibility of BNSF to make. BNSF has not articulated any specific burden. We disagree that the requests Applicants have made are disproportional or unduly burdensome, but we are hopeful that the parties can address any burden-related issues through the negotiation of appropriate search terms, custodians, and/or de-duplication. We look forward to discussing those with you.

Third, as to the question of reciprocity, we disagree with BNSF's framing. Applicants are seeking relevant, proportional discovery from a voluntary participant in this proceeding. BNSF elected to participate as a party, has launched a robust public relations campaign against the Proposed Transaction, has served extensive discovery requests on Applicants, and has indicated it may submit evidence and argument in opposition to the merger. As we discussed during our meet and confer on June 30, the Board's regulations provide for broad discovery, the Board's discovery rules apply to all parties, and nothing in those rules creates a lower standard for non-Applicant parties. *See* 49 C.F.R. § 1114.21(a)(1).; *see also Canadian Pac. Ry.—Control—Kan. City S.* (Decision No. 7), FD 36500, slip op. at 4 (Aug. 2, 2021); *CSX Transp. & Del. & Hudson Ry.—Joint Use Agreement*, FD 35348, slip op. at 3 (STB served Aug. 16, 2010). Thus, as parties, BNSF and the other non-Applicant railroads are subject to discovery. To the extent you possess relevant information, we are entitled to obtain it in discovery, subject to proportionality/burden analyses. As noted above, we disagree that the requests Applicants have made are disproportional or unduly burdensome, but any concerns can be addressed through negotiation of custodial search parameters. We look forward to discussing those with you.

Fourth, we recognize that targeted, non-custodial collections and searches may be appropriate for data-specific requests, such as Request Nos. 18-21. However, for all other requests – especially those seeking communications and documents that would not likely be housed in centralized, non-custodial repositories – we believe custodial searches are appropriate. We look forward to discussing this with you further.

Applicants reserve all rights.

Thanks,

Jamie

Jamie Magcale

Covington & Burling LLP
30 Hudson Yards
New York, NY 10001-2170

COVINGTON

This message is from a law firm and may contain information that is confidential or legally privileged. If you are not the intended recipient, please immediately advise the sender by reply e-mail that this message has been inadvertently transmitted to you and delete this e-mail from your system. Thank you for your cooperation.

From: Thompson, McClain <mcclain.thompson@kirkland.com>

Sent: Tuesday, July 7, 2026 9:45 AM

To: Kelly, Kevin <Kkelly@cov.com>; *AEllis@stblaw.com2 <AEllis@stblaw.com>; Matelis, Joseph (NON-SIDLEY @SULLCROM.COM) <Matelisj@sullcrom.com>; Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; David Meyer <david@meyerlawdc.com>; *pdenton@steptoe.com <pdenton@steptoe.com>; *tstrafford@steptoe.com <tstrafford@steptoe.com>; Cunningham, Rich <rich.cunningham@kirkland.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Golden, Nathan H. <goldenn@sullcrom.com>; Joseph, Neil <neil.joseph@kirkland.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Enson, Eric <EEnson@crowell.com>; Fanchiang, Eric <EFanchiang@crowell.com>; *Avia.Gridi@stblaw.com <Avia.Gridi@stblaw.com>; Vaidya, Tushar <tushar.vaidya@kirkland.com>

Cc: Flahive Wu, Laura <lflahivewu@cov.com>; Ludwin, Derek <dludwin@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Warren, Matthew J. <mjwarren@sidley.com>; Korman, Marc <mkorman@sidley.com>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

Subject: RE: FD 36873 - Applicants' 2nd Set of Discovery Requests

[EXTERNAL]

Kevin –

We write for BNSF in response to UP's July 6 letter. We disagree with it on several grounds.

First, UP's letter ignores that we have agreed to conduct a reasonable search in response to five of the requests (Nos. 6-8, 16, and 22) and offered to meet and confer on 17 of the other requests (Nos. 11-14, 17-21, 23-30). We also agreed to provide rolling productions and keep you apprised of the timing of those rolling productions. As a result, much of UP's letter—which is premised on a narrative that we are refusing to search—is not particularly relevant, productive, or even close to being true.

Second, UP's letter fails to specifically respond to any of the relevance, proportionality, and burden concerns that we raised. It would be more productive for UP to engage on the issues we raised rather than ignore them. For example, Applicants seek information from BNSF about how it sets rates for every single one of its routes, for each individual customer, over a multi-year time-period. See Applicants' RFP No. 23; see also, e.g., Applicants RFP No. 25 (seeking all documents relating to BNSF's strategy for pricing rail traffic); No. 26 (seeking all documents relating to BNSF's strategies for growing its rail traffic); No. 28 (seeking "all Documents and Communications relating to instances in which You made offers (such as bids on Request for Proposals) to customers opening new facilities that could be served by a rail carrier"). BNSF explained its relevance and proportionality objections to those requests (and others) in its responses and objections 21 days ago, but UP has not responded to any of those objections. Will UP be doing so, and if so, when?

Third, there is, in fact, a dispute whether some of the documents and information that UP seeks from BNSF are fairly subject to discovery. We note that others have repeatedly asked UP for authority to support its contention that UP and non-Applicant railroads are similarly situated as to all aspects of discovery. UP has never provided it, and there's not a

single citation in UP's letter. Simply stated, there is not 1:1 reciprocity between BNSF and UP as to discovery in this proceeding. UP elected to enter into a merger and file a control application in which UP (not BNSF) bears the burden of proof. Further, UP elected to make hundreds of fact-based contentions in its application about the merits of its merger proposal, and BNSF is entitled to test those. UP's choices do not open BNSF up to 1:1 reciprocal discovery. BNSF and the other non-Applicant railroads are differently situated than UP and NS, and the discovery considerations are different.

Fourth, UP claims that for an unidentified set of its requests, BNSF must conduct custodial searches. UP does not identify which requests that UP believes require custodial searches or explain why custodial searches are necessary for those particular requests. What is your request-specific position?

We hope you will provide that information and responses in writing before our discussion. And which specific requests would you like to discuss? I am free most of Wednesday afternoon and before 11 AM ET on Thursday.

Thanks,

McClain

McClain Thompson

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From: Kelly, Kevin <Kkelly@cov.com>

Sent: Monday, July 6, 2026 10:27 AM

To: Thompson, McClain <mcclain.thompson@kirkland.com>; *AEllis@stblaw.com2 <AEllis@stblaw.com>; Matelis, Joseph (NON-SIDLEY @SULLCROM.COM) <Matelisj@sullcrom.com>; Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; David Meyer <david@meyerlawdc.com>; *pdenton@steptoe.com <pdenton@steptoe.com>; *tstrafford@steptoe.com <tstrafford@steptoe.com>; Cunningham, Rich <rich.cunningham@kirkland.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Aluisse, Dylan M. <aluised@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Golden, Nathan H. <goldenn@sullcrom.com>; Joseph, Neil <neil.joseph@kirkland.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Enson, Eric <EEnson@crowell.com>; Fanchiang, Eric <EFanchiang@crowell.com>; *Avia.Gridi@stblaw.com <Avia.Gridi@stblaw.com>; Vaidya, Tushar <tushar.vaidya@kirkland.com>

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Subject: FD 36873 - Applicants' 2nd Set of Discovery Requests

Counsel,

Please see the attached correspondence.

Best,

Kevin

Kevin Kelly

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EXHIBIT D

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By Email

July 6, 2026

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Re: Docket No. FD 36873, *Union Pacific Corp., et al. - Control - Norfolk Southern Corp., et al.*

Counsel:

We write on behalf of Applicants to address deficiencies in the responses of BNSF, CN, CPKC, and CSX (“Non-Applicant Railroads”) to Applicants’ Second Set of Discovery Requests, which were served on June 1, 2026.

In response to a substantial majority of requests, Non-Applicant Railroads have refused to produce responsive documents and information. For the few requests where Non-Applicant Railroads have provided a substantive response or committed to produce responsive documents or information, they appear to be improperly narrowing the scope of responsive material. Non-Applicant Railroads’ refusal to search for or produce responsive material is contrary to the discovery rules of the Surface Transportation Board, the decisions of the Board and Judge Soulikias, and inconsistent with Non-Applicant Railroads’ assertions regarding the types and scope of discovery necessary in this proceeding.

As a result of Non-Applicant Railroads’ obstruction, they have produced **zero** responsive documents in this proceeding. This is unacceptable. Non-Applicant Railroads elected to participate in this proceeding as parties. While party status grants Non-Applicant Railroads the right to serve discovery requests, submit comments and motions to the Board and Judge Soulikias, and formally challenge or seek conditions to the proposed merger, it also imposes obligations, including the obligation to respond to discovery in accordance with the Board’s rules.

There can be no dispute that the documents and information Applicants seek from Non-Applicant Railroads are subject to discovery. They all relate to topics that Non-Applicant Railroads have already insisted are relevant to this proceeding—whether through the hundreds of discovery requests that they have issued to Applicants, their statements opposing the merger, or their robust public relations campaigns against the proposed transaction. Indeed, many mirror

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July 6, 2026

Page 2

requests that Non-Applicant Railroads themselves have served on Applicants. Among other things, Applicants' requests seek documents regarding: (i) efforts to influence shippers' and other stakeholders' positions with respect to the proposed merger; (ii) the state of competition, cooperation, and consolidation in the rail industry; (iii) potential impacts of the proposed transaction; and (iv) how strategies with respect to pricing, rail growth, revenue growth, and bundling services affect the market. Applicants also seek production of the same types of data that Non-Applicant Railroads requested and received from Applicants.

Some of the above requests, namely the requests for data, can be addressed through targeted collection of responsive documents or information. For the remaining requests, Non-Applicant Railroads must conduct custodial searches—comparable to the searches they have demanded of Applicants. This is necessary to avoid placing Applicants at a disadvantage in responding to Non-Applicant Railroads' arguments regarding the proposed transaction. If Non-Applicant Railroads are permitted to sift through Applicants' internal day-to-day communications in an attempt to identify materials that undermine Applicants' claims regarding the proposed transaction and its effect on the rail industry, Applicants must have access to comparable materials from other railroads in order to fairly respond.

Please provide your availability to meet and confer this week regarding Applicants' requests.

Respectfully submitted,

/s/ Kevin M. Kelly

Kevin M. Kelly

*Attorney for Union Pacific
Corporation and Union
Pacific Railroad Company*

EXHIBIT E

Fanchiang, Eric

From: Magcale, Jamie Dominique U <JMagcale@cov.com>
Sent: Monday, July 13, 2026 5:13 PM
To: Rojas-England, Natalia; Enson, Eric; van Houwelingen, Luke; Gardiner, Kent; Lesser, Rachel; Fanchiang, Eric
Cc: Flahive Wu, Laura; Ludwin, Derek; Rosenthal, Michael; Kelly, Kevin; Damitio, Daniel; Warren, Matthew J.; Korman, Marc; ratkins; Laudone, Stephen S.; William Mullins; Spencer Naake; OpalDisco
Subject: RE: STB Finance Docket No. 36873 - CSXT's Supplemental Responses and Objections to Applicants' First Set of Discovery Requests

Counsel,

We are writing to follow up on the status of CSXT's responses to Applicants' first set of discovery requests. Based on your July 6 email, we understand that CSXT is conducting searches and will undertake rolling productions of non-privileged materials responsive to the requests.

Please provide an update on the status of your search for responsive materials and your anticipated timeline for production.

Applicants reserve all rights.

Best regards,

Jamie

Jamie Magcale

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Cc: Enson, Eric <EEnson@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Gardiner, Kent <KGardiner@crowell.com>; Johnson, Shawn <shawn.johnson@friedfrank.com>; Lesser, Rachel <RLesser@crowell.com>

Subject: STB Finance Docket No. 36873 - CSXT's Supplemental Responses and Objections to Applicants' First Set of Discovery Requests

[EXTERNAL]

Counsel,

Please find attached CSXT's Supplemental Responses and Objections to Applicants' First Set of Discovery Requests. For parties who have executed the requisite Highly Confidential undertakings, please contact me for service of the unredacted Highly Confidential version of the filing.

As noted in these Supplemental Responses and Objections, CSXT is conducting reasonable searches in response to these Requests. We will start rolling productions of responsive, non-privileged materials when they are ready, and will provide a more specific estimate when we have it. Thanks.

Best,
Natalia

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EXHIBIT F

Fanchiang, Eric

From: Kelly, Kevin <Kkelly@cov.com>
Sent: Wednesday, August 12, 2026 9:57 AM
To: Fanchiang, Eric; Gardiner, Kent; van Houwelingen, Luke; Enson, Eric
Cc: Flahive Wu, Laura; Rosenthal, Michael; Warren, Matthew J.; Korman, Marc; Laudone, Stephen S.; William Mullins; Spencer Naake; OpalDisco
Subject: RE: FD 36873 - Applicants' 2nd Set of Discovery Requests - Data Requests - CSX

Eric,

We are following up on Applicants' data requests to CSX. First, for the car and train event data for 2019-2025 that CSX previously agreed to produce, when will we receive that data? Second, given Judge Soulikias's ruling at yesterday's hearing, does CSX now agree to produce its reciprocal switching and interchange data for 2019-2025?

We are available to confer if helpful.

Thanks,

Kevin

Kevin Kelly

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Sent: Thursday, July 16, 2026 12:57 PM
To: Kelly, Kevin <Kkelly@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; Thompson, McClain <mccclain.thompson@kirkland.com>; *Aellis@stblaw.com2 <Aellis@stblaw.com>; Matelis, Joseph (NON-SIDLEY @SULLCROM.COM) <Matelisj@sullcrom.com>; Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; David Meyer <david@meyerlawdc.com>; *pdenton@steptoe.com <pdenton@steptoe.com>; *tstrafford@steptoe.com <tstrafford@steptoe.com>; Cunningham, Rich <rich.cunningham@kirkland.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Golden, Nathan H. <goldenn@sullcrom.com>; Joseph, Neil <neil.joseph@kirkland.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Enson, Eric <EEnson@crowell.com>; Lindsey.Bohl@stblaw.com; *Avia.Gridi@stblaw.com <Avia.Gridi@stblaw.com>; Vaidya, Tushar <tushar.vaidya@kirkland.com>
Cc: Flahive Wu, Laura <lflahivewu@cov.com>; Ludwin, Derek <dludwin@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Warren, Matthew J. <mjwarren@sidley.com>; Korman, Marc <mkorman@sidley.com>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>
Subject: RE: FD 36873 - Applicants' 2nd Set of Discovery Requests - Data Requests

[EXTERNAL]

Counsel,

Thank you for your email stating your position on the relevance of Request Nos. 18-21 in your Second Set of Discovery Requests. In light of your explanation, CSXT is willing to produce car and train event data for 2019-2025. With respect to your other requests, CSXT is evaluating the burden and feasibility of collecting such data, their relation to CSXT's traffic tapes, and their relevance. In particular, CSXT does not see the relevance of non-Applicants' reciprocal switching data. CSXT is also concerned, like others, about Applicants' deficiencies with their own data productions. We are available to discuss further if needed.

Best,

Eric Fanchiang

Eric Fanchiang

Pronouns: he/him/his

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From: Kelly, Kevin <Kkelly@cov.com>

Sent: Tuesday, July 14, 2026 4:01 PM

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Cc: Flahive Wu, Laura <lflahivewu@cov.com>; Ludwin, Derek <dludwin@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Warren, Matthew J. <mjwarren@sidley.com>; Korman, Marc <mkorman@sidley.com>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

Subject: RE: FD 36873 - Applicants' 2nd Set of Discovery Requests - Data Requests

Counsel,

At a recent meet and confer, certain non-applicant railroads asked Applicants to explain the relevance of the reciprocal traffic data requests that Applicants have served on the non-applicant railroads (which are numbered 18-21 in each set of requests). In particular, non-applicant railroads asked for an explanation of the relevance of event data requests, which Applicants provide below.

Car and train event data is produced as a matter of course in a range of STB proceedings, including prior merger proceedings. For example, in the CP-KCS proceeding the applicants requested that other railroads produce “system-wide car and container event data,” and this data was produced. See, e.g., Request No. 54, Applicants’ First Set of Interrogatories and Second Set of Discovery Requests, STB Fin. Docket 36500 (served Mar. 16, 2022). While waybill data may include basic transportation characteristics like origin and destination, only event data provides operational information on how traffic moves over the network, which is necessary to assess any claims that might be made by nonapplicant railroads about the impact of the proposed transaction on their service and operations or any conditions they may propose. Moreover, event data is maintained and used in the ordinary course of business, and production of those data files is not unduly burdensome, particularly for sophisticated Class I railroads.

Indeed, the STB’s merger rules reflect an expectation of reciprocal traffic data discovery for railroads who choose to participate in the proceeding. Under 49 § 1180.4(b)(4)(iii), applicants are permitted to condition their disclosure of their 100% traffic tapes to other railroads on those railroads’ commitment to do the same. Here, Applicants responded to non-applicant railroads’ request for event data without objection, and non-applicants have no basis to resist production of the exact same forms of traffic data that they have requested and have received.

There was also a question about whether Request 21 asks for information duplicative of previously produced waybill data. This request was directed at information “sufficient to show” the requested information on interchange volumes and associated payments between carriers, and non-applicant railroads are free to point to their waybill data if that data provides a sufficient answer to some or all of the information requested by Request 21. As we discussed on the call, some of the requested information like haulage or switching payments between railroads may not be reflected in waybills. But that is a question that each nonapplicant railroad should answer based on its own data.

As it stands, none of the non-applicant railroads have agreed to produce the reciprocal data that was requested. Please let us know promptly, and by no later than Thursday at 12 PM ET, if that has changed.

Best,

Kevin

Kevin Kelly

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From: Magcale, Jamie Dominique U <JMagcale@cov.com>

Sent: Wednesday, July 8, 2026 3:17 PM

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Cc: Flahive Wu, Laura <lflahivewu@cov.com>; Ludwin, Derek <dludwin@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Warren, Matthew J. <mjwarren@sidley.com>; Korman, Marc <mkorman@sidley.com>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

Subject: RE: FD 36873 - Applicants' 2nd Set of Discovery Requests

McClain,

Thank you again for providing your availability to meet and confer. We look forward to discussing Applicants' second set of discovery requests and our July 6 letter further during today's call. To address the points you raised below:

First, we appreciate your confirmation that BNSF has agreed to conduct a reasonable search for Requests Nos. 6–8, 16, and 22, and to meet and confer on Requests Nos. 11–14, 17–21, and 23–30. However, agreeing to take those steps is not the same as actually searching for, let alone producing, responsive documents. Indeed, we do not know whether BNSF has actually conducted any searches in response to these requests and, to date, BNSF has produced zero documents in response to any of Applicants' discovery requests. Has BNSF taken any steps to search in response to the referenced requests? If so, what are those steps for each request?

Second, with respect to BNSF's relevance, proportionality, and burden concerns, our July 6 letter and prior communications address these issues directly. Applicants' requests seek documents on topics that are directly relevant to this proceeding and that, in many cases, BNSF itself has placed at issue through the discovery it has sought from Applicants and its public statements regarding the Proposed Transaction. Any argument on burden or proportionality of burden to relevance is the responsibility of BNSF to make. BNSF has not articulated any specific burden. We disagree that the requests Applicants have made are disproportional or unduly burdensome, but we are hopeful that the parties can address any burden-related issues through the negotiation of appropriate search terms, custodians, and/or de-duplication. We look forward to discussing those with you.

Third, as to the question of reciprocity, we disagree with BNSF's framing. Applicants are seeking relevant, proportional discovery from a voluntary participant in this proceeding. BNSF elected to participate as a party, has launched a robust public relations campaign against the Proposed Transaction, has served extensive discovery requests on Applicants, and has indicated it may submit evidence and argument in opposition to the merger. As we discussed during our meet and confer on June 30, the Board's regulations provide for broad discovery, the Board's discovery rules apply to all parties, and nothing in those rules creates a lower standard for non-Applicant parties. *See* 49 C.F.R. § 1114.21(a)(1).; *see also Canadian Pac. Ry.—Control—Kan. City S.* (Decision No. 7), FD 36500, slip op. at 4 (Aug. 2, 2021); *CSX Transp. & Del. & Hudson Ry.—Joint Use Agreement*, FD 35348, slip op. at 3 (STB served Aug. 16, 2010). Thus, as parties, BNSF and the other non-Applicant railroads are subject to discovery. To the extent you possess relevant information, we are entitled to obtain it in discovery, subject to proportionality/burden analyses. As noted above, we disagree that the requests Applicants have made are disproportional or unduly burdensome, but any concerns can be addressed through negotiation of custodial search parameters. We look forward to discussing those with you.

Fourth, we recognize that targeted, non-custodial collections and searches may be appropriate for data-specific requests, such as Request Nos. 18–21. However, for all other requests – especially those seeking communications and documents that would not likely be housed in centralized, non-custodial repositories – we believe custodial searches are appropriate. We look forward to discussing this with you further.

Applicants reserve all rights.

Thanks,

Jamie

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Sent: Tuesday, July 7, 2026 9:45 AM

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Subject: RE: FD 36873 - Applicants' 2nd Set of Discovery Requests

[EXTERNAL]

Kevin –

We write for BNSF in response to UP's July 6 letter. We disagree with it on several grounds.

First, UP's letter ignores that we have agreed to conduct a reasonable search in response to five of the requests (Nos. 6-8, 16, and 22) and offered to meet and confer on 17 of the other requests (Nos. 11-14, 17-21, 23-30). We also agreed to provide rolling productions and keep you apprised of the timing of those rolling productions. As a result, much of UP's letter—which is premised on a narrative that we are refusing to search—is not particularly relevant, productive, or even close to being true.

Second, UP's letter fails to specifically respond to any of the relevance, proportionality, and burden concerns that we raised. It would be more productive for UP to engage on the issues we raised rather than ignore them. For example, Applicants seek information from BNSF about how it sets rates for every single one of its routes, for each individual customer, over a multi-year time-period. See Applicants' RFP No. 23; see also, e.g., Applicants RFP No. 25 (seeking all documents relating to BNSF's strategy for pricing rail traffic); No. 26 (seeking all documents relating to BNSF's strategies for growing its rail traffic); No. 28 (seeking "all Documents and Communications relating to instances in which You made

offers (such as bids on Request for Proposals) to customers opening new facilities that could be served by a rail carrier”). BNSF explained its relevance and proportionality objections to those requests (and others) in its responses and objections 21 days ago, but UP has not responded to any of those objections. Will UP be doing so, and if so, when?

Third, there is, in fact, a dispute whether some of the documents and information that UP seeks from BNSF are fairly subject to discovery. We note that others have repeatedly asked UP for authority to support its contention that UP and non-Applicant railroads are similarly situated as to all aspects of discovery. UP has never provided it, and there’s not a single citation in UP’s letter. Simply stated, there is not 1:1 reciprocity between BNSF and UP as to discovery in this proceeding. UP elected to enter into a merger and file a control application in which UP (not BNSF) bears the burden of proof. Further, UP elected to make hundreds of fact-based contentions in its application about the merits of its merger proposal, and BNSF is entitled to test those. UP’s choices do not open BNSF up to 1:1 reciprocal discovery. BNSF and the other non-Applicant railroads are differently situated than UP and NS, and the discovery considerations are different.

Fourth, UP claims that for an unidentified set of its requests, BNSF must conduct custodial searches. UP does not identify which requests that UP believes require custodial searches or explain why custodial searches are necessary for those particular requests. What is your request-specific position?

We hope you will provide that information and responses in writing before our discussion. And which specific requests would you like to discuss? I am free most of Wednesday afternoon and before 11 AM ET on Thursday.

Thanks,

McClain

McClain Thompson

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From: Kelly, Kevin <Kkelly@cov.com>

Sent: Monday, July 6, 2026 10:27 AM

To: Thompson, McClain <mcclain.thompson@kirkland.com>; *AEllis@stblaw.com2 <AEllis@stblaw.com>; Matelis, Joseph (NON-SIDLEY @SULLCROM.COM) <Matelisi@sullcrom.com>; Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; David Meyer <david@meyerlawdc.com>; *pdenton@steptoe.com <pdenton@steptoe.com>; *tstrafford@steptoe.com <tstrafford@steptoe.com>; Cunningham, Rich <rich.cunningham@kirkland.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Golden, Nathan H. <goldenn@sullcrom.com>; Joseph, Neil <neil.joseph@kirkland.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Enson, Eric <EEnson@crowell.com>; Fanchiang, Eric <EFanchiang@crowell.com>; *Avia.Gridi@stblaw.com <Avia.Gridi@stblaw.com>; Vaidya, Tushar <tushar.vaidya@kirkland.com>

Cc: *Ifrahivewu@cov.com <Ifrahivewu@cov.com>; *dludwin@cov.com <dludwin@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Warren, Matthew J. <mjwarren@sidley.com>; Korman, Marc <mkorman@sidley.com>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

Subject: FD 36873 - Applicants' 2nd Set of Discovery Requests

Counsel,

Please see the attached correspondence.

Best,

Kevin

Kevin Kelly

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EXHIBIT G

Fanchiang, Eric

From: Kelly, Kevin <Kkelly@cov.com>
Sent: Wednesday, September 9, 2026 10:01 AM
To: Thompson, McClain; Donovan, Daniel T.; McCarrick, T.J.; Cunningham, Rich; *pdenton@steptoe.com; *tstraftford@steptoe.com; Matelis, Joseph J.; Judge, Kiera S.; Fanchiang, Eric; Aluise, Dylan M.; Enson, Eric; van Houwelingen, Luke; Hynes, Samantha F.; Gardiner, Kent; Golden, Nathan H.; David Meyer; Scheib, John M.; Stern, Noah P. M.; Brier, Grace C.; sara.razi@stblaw.com; *AEllis@stblaw.com2; lindsey.bohl@stblaw.com; *Avia.Gridi@stblaw.com
Cc: Flahive Wu, Laura; Rosenthal, Michael; Ludwin, Derek; Maya, Michael; OpalDisco; Warren, Matthew J.; Korman, Marc; Laudone, Stephen S.; Mahan, Carrie; ratkins; William Mullins; Spencer Naake
Subject: FD 36873 - Productions in Response to Applicants' Requests

Counsel,

We write regarding BNSF, CPKC, and CSX's failure to produce documents in response to Applicants' First and Second Sets of Discovery Requests, which were served on May 29 and June 1, and which non-Applicants railroads responded to on June 15 and June 16. In their responses, each non-Applicant railroad committed to producing a subset of the documents requested by Applicants, but more than twelve weeks later, BNSF, CPKC, and CSX have failed to produce any of the documents promised in their responses. CPKC and CSX have produced zero documents in response to Applicants' discovery requests, and BNSF has only produced datasets that were not among the items it committed to producing back in June.

BNSF, CPKC, and CSX's failure to live up to their discovery obligations is unacceptable. **Please confirm that BNSF, CPKC, and CSX will begin rolling productions of responsive documents no later than September 11 and complete production of the documents they previously agreed to produce no later than September 25.** Without a firm production commitment by Thursday at 1 PM ET, Applicants intend to raise this issue with Judge Soulikias.

Beyond the narrow subset of documents that non-Applicant railroads previously agreed to produce, Applicants have also raised disputes with BNSF, CPKC, and CSX regarding additional documents that must be produced in discovery and each railroad's obligation to undertake diligent searches of custodial and non-custodial sources for responsive documents. While BNSF, CPKC, and CSX have indicated a willingness to address some of these concerns, they have failed to provide any substantive updates regarding the status of their production efforts, including the custodial parameters being applied (if any), the sources being searched, the expected date of production, or any other information that would allow Applicants to assess the scope of the searches purportedly underway. The absence of any such update—combined with the lack of production to date—raises serious concerns regarding BNSF, CPKC, and CSX's compliance with their discovery obligations. We will be in touch separately with each railroad to further address these concerns.

Best,

Kevin

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