

SERVICE DATE – OCTOBER 1, 2026

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36844

COMMUTER RAIL DIVISION OF THE NORTHERN ILLINOIS TRANSIT AUTHORITY
D/B/A METRA—TERMINAL TRACKAGE RIGHTS—
UNION PACIFIC RAILROAD COMPANY¹

Digest:² This decision extends the procedural schedule and directs the parties to provide proposals on adequate security of compensation.

Decided: October 1, 2026

By a decision served on August 19, 2026, the Board established a procedural schedule for receiving evidence and arguments to determine the conditions of use and compensation that remain unresolved in this proceeding, including evidence and argument addressing the parties' dispute about which specific facilities are within the scope of the terminal trackage rights granted in the Board's decision of September 3, 2025. As explained below, the Board will extend the procedural schedule by 90 days and will direct the parties to submit briefing on the subject of adequate security of compensation.

BACKGROUND

By decision served September 3, 2025, the Board granted an application for terminal trackage rights filed by the Commuter Rail Division of the Northern Illinois Transit Authority d/b/a Metra (Metra) under 49 U.S.C. § 11102(a) to continue commuter rail service over three rail lines owned by Union Pacific Railroad Company (UP) in the Chicago area (the UP Lines), and directed the parties to undertake negotiations on conditions and compensation for Metra's use of the UP Lines. Commuter Rail Div. of the N. Ill. Transit Auth.—Terminal Trackage Rts.—Union Pac. R.R. (September 2025 Decision), FD 36844 (STB served Sept. 3, 2025). On September 29, 2025, UP petitioned the United States Court of Appeals for the Eighth Circuit for review of the September 2025 Decision.

¹ As of June 1, 2026, the Commuter Rail Division of the Regional Transportation Authority d/b/a Metra is now the Commuter Rail Division of the Northern Illinois Transit Authority d/b/a Metra.

² The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol'y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

On December 1, 2025, Metra requested that the Board establish conditions and compensation for Metra’s use of the UP Lines. By decision served March 13, 2026, the Board denied Metra’s request as premature and directed the parties to continue negotiations for 60 days, followed by submission of a joint report describing the status of negotiations and any issues that remained unresolved. Commuter Rail Div. of the N. Ill. Transit Auth.—Terminal Trackage Rts.—Union Pac. R.R., FD 36844 (STB served Mar. 13, 2026). Following the submission on May 22, 2026, of a joint report advising the Board that UP and Metra were unable to reach resolution absent Board intervention, the Board, by decision served August 19, 2026, denied UP’s request to conduct a bifurcated proceeding relating to facilities subject to the trackage rights granted in the September 2025 Decision and established a procedural schedule to take evidence and argument on which specific facilities are within the scope of the terminal trackage rights granted in the Board’s September 2025 Decision and on the terms of use and compensation for those facilities. See Commuter Rail Div. of the N. Ill. Transit Auth.—Terminal Trackage Rts.—Union Pac. R.R. (August 2026 Decision), FD 36844 (STB served Aug 19, 2026). As part of that procedural schedule, the Board directed the parties to identify with specificity any facilities (other than rail lines) that they claim are encompassed by the September 2025 Decision.

In a decision issued on August 31, 2026, the Eighth Circuit Court concluded that the Board’s grant of terminal trackage rights to Metra under 49 U.S.C § 11102(a), and the extent of those rights to the endpoints of Metra’s current service, were in accordance with law. But the court also determined that the Board’s “pledge” to set compensation at a later date did not constitute “adequate security” under § 11102, and it rejected the Board’s finding that compensation had been adequately secured as a practical matter. See Union Pac. R.R. v. STB, No. 25-2919, slip op. at 13-16 (8th Cir. Aug. 31, 2026). Although the court provided that the Board’s decision was to be vacated and remanded based on the adequate security determination, it delayed the effective date of its order by 180 days, or until March 1, 2027, “[t]o give the parties time to set compensation.” See id. at 17.

On September 8, 2026, UP filed a request seeking modification of the procedural schedule, including additional time for discovery. Specifically, UP asserts that Metra’s August 26 filing identifies at least 72 “non-rail line” facilities that UP alleges were not part of Metra’s original application, are sweeping in scope, and are described too vaguely to permit meaningful discovery. (UP Request for Modification 1-2, 5, Sept. 8, 2026.) UP, therefore, proposes maintaining the existing schedule to resolve compensation for what UP deems “the UP Lines,” while extending discovery for the “non-rail line” facilities or, alternatively, requiring Metra to clarify its property list and extending the entire procedural schedule by three months thereafter. (Id. at 4, 7-8; see also UP Reply Submission Regarding Facilities 1-3, Sept. 2, 2026 (distinguishing between “the rail lines themselves” and all other types of facilities).)

On September 16, 2026, Metra filed a reply in opposition to UP’s request, arguing, in part, that the Board should deny UP’s request because UP has provided no factual or legal basis for reconsidering the Board’s August 2026 Decision denying UP’s prior request to have the “scope of the trackage rights” issue treated separately and postpone establishing the final conditions and compensation for Metra’s trackage rights. (Metra Reply 1, 4, Sept. 16, 2026.)

Metra further asserts that granting the request would undermine the timely resolution of this proceeding within the statutory framework of § 11102. (Metra Reply 1, Sept. 16, 2026.)

On September 18, 2026, UP moved to compel Metra to respond to a subpart of an interrogatory filed by UP on August 21, 2026, related to the “non-rail line” facilities. Metra replied in opposition to UP’s motion to compel on September 24, 2026. The motion is pending before Administrative Law Judge (ALJ) Jenifer Soulikias.³

DISCUSSION AND CONCLUSIONS

The Board denied UP’s prior request to bifurcate this proceeding into two phases. See August 2026 Decision, slip op. at 4, 7. Because UP’s current request to separate the procedural schedule for “non-rail line facilities” is effectively a renewed request to bifurcate, it too will be denied for the reasons given in the Board’s August 2026 Decision. However, consistent with UP’s alternative request, the Board will extend the procedural schedule by 90 days. This extension will allow time for a determination on the pending motion to compel and provide adequate time for completion of any outstanding discovery matters. Further, given the Eighth Circuit’s order and the Board’s decision here to extend the procedural schedule, the Board will require the parties to file, by October 15, 2026, a proposal (jointly, if possible) regarding how the Board may adequately secure compensation to UP consistent with § 11102(a) and the Eighth Circuit’s order, in the event compensation cannot be established by March 1, 2027. If the parties cannot agree on a joint proposal and file separate proposals, they may reply to each other’s proposals by October 22, 2026. Any proposal that Metra post a bond or other form of security⁴ should include, and justify, a proposed amount.

The following revised procedural schedule will govern this proceeding:

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| October 15, 2016: | Parties submit a joint proposal, if possible, or separate proposals addressing adequate security of compensation consistent with § 11102(a). |
| October 22, 2026: | If the proposals are separate, parties may submit simultaneous reply briefs. |
| January 4, 2027: | Close of discovery. |
| January 6, 2027: | Parties exchange then-current proposed trackage rights agreements, including agreed-upon terms and conditions (not to be filed with Board). |

³ As noted in the Board’s August 2026 Decision, slip op. at 5, the Board has assigned ALJ Soulikias to address any discovery matters in this docket.

⁴ UP has previously indicated that compensation may be adequately secured by “means of a bond, deposit, or pledge of other property.” (UP Reply to Appl. 6, Apr. 18, 2025; see also UP Reply to Opening 33, June 3, 2025 (“There are a variety of ways that adequate security can be satisfied, such as a deposit or bond with sufficient sureties.”).)

January 18, 2027: Parties submit simultaneous opening evidence and argument in support of their position on all unresolved issues, including, without limitation, (1) the basis for their position that all facilities listed by the parties are (or are not) within the scope of the terminal trackage rights granted in the September 2025 Decision; and (2) evidence and argument as to appropriate valuation methodology(ies) and compensation for Metra's use of the facilities identified by either party (including any objected to as outside the scope of the September 2025 Decision).

Opening submissions are to include the party's proposed trackage rights agreement to establish conditions of use and compensation. Agreed-upon terms should appear as regular text. Proposed terms on disputed issues should also appear as regular text but should be highlighted in yellow.⁵

February 15, 2027: Parties submit simultaneous reply evidence and argument.

In addition to evidence and argument, reply submissions are to include a markup of the proposed trackage rights agreement submitted by the opposing party on opening that identifies points of disagreement and shows, as applicable, strike-throughs and/or alternative text in redline reflecting the responding party's position and proposal on the issue in dispute.

March 17, 2027: Parties submit simultaneous rebuttal evidence and argument, including any updates to the trackage rights agreement markups.

It is ordered:

1. UP's request to extend the procedural schedule will be granted, in part, as discussed above.

⁵ As described in the May 22, 2026 Joint Report, "[t]he parties are in agreement relating to the terms in [the draft trackage rights agreement attached as] Exhibit A not designated 'RESERVED,' [and] the parties do not seek the resolution of these terms and conditions by the Board." (Joint Report 2, May 22, 2026.) Accordingly, the Board will expect the proposed drafts that are attached to the parties' opening submissions to show in regular text (i) the provisions not marked RESERVED in Exhibit A of the Joint Report, and (ii) any additional terms the parties have resolved since that time. The sections marked RESERVED in Exhibit A that remain in dispute should be replaced with the text of the submitting party's proposal and highlighted in yellow.

2. The parties shall comply with the directives and the procedural schedule set forth in this decision.

3. This decision is effective on the date of service.

By the Board, Board Members Fuchs, Hedlund, Kloster, and Schultz.