

SERVICE DATE – OCTOBER 6, 2026

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN
RAILWAY COMPANY

Decision No. 40

Decided: October 6, 2026

On May 28, 2026, the Board accepted for consideration (1) the revised, primary application (the Revised Application) filed by Union Pacific Corporation (UPC), Union Pacific Railroad Company (UP) (collectively, Union Pacific), Norfolk Southern Corporation (NSC), and Norfolk Southern Railway Company (NS) (collectively, Norfolk Southern) (Union Pacific and Norfolk Southern collectively, Applicants) as well as (2) a related application in Union Pacific Corp.—Control—Peoria & Pekin Union Railway, Docket No. FD 36873 (Sub-No. 1). However, the Board held both proceedings in abeyance pending further Board order and the submission of certain additional information. Applicants filed additional information in two supplements submitted in July.

In a decision served on August 18, 2026, the Board, among other things, removed these proceedings from abeyance and adopted a procedural schedule. Union Pac. Corp.—Control—Norfolk S. Corp., (Decision No. 30), FD 36873 et al., slip op. at 1 (STB served Aug. 18, 2026). The procedural schedule set September 4, 2026, as the deadline to file notices of intent to participate in the proceedings and September 9, 2026, for the submission of descriptions of anticipated responsive, including inconsistent, applications. Id. at 13. The Board later extended the deadline for notices of intent to participate to September 30, 2026. Union Pac. Corp.—Control—Norfolk S. Corp., (Decision No. 35), FD 36873 et al, slip op. at 2 (STB served Aug. 31, 2026).

On September 11, 2026, Chicago, South Shore & South Bend Railroad (CSS) filed a description of anticipated responsive application and request for leave to file out of time. CSS argues that accepting its description after the deadline will not prejudice any party, and that the Board’s extension of the deadline for filing notices of intent to participate until September 30, 2026, may expand “the universe of potentially interested parties and participants, including those that might benefit from” its responsive application. (CSS Description 1, Sept. 11, 2026.)

On September 16, 2026, Great Basin & Northern Railway, Inc. (GBNY) filed a description of anticipated responsive application and request for leave to file. GBNY argues that accepting the filing will promote a complete record without prejudicing other parties. (GBNY

Description 3, Sept. 16, 2026.) GBNY also argues that because notices of intent to participate are not due until September 30, 2026, “many interested parties—including those who may benefit from GBNY’s responsive application—likely have not begun actively participating in this proceeding.” (Id. at 3-4.)

On September 17, 2026, Iowa Interstate Railroad (IAIS) filed a description of anticipated responsive application and request for leave to file out of time. IAIS argues that no party will be prejudiced by its late filing in light of the “number and magnitude of other notices of anticipated responsive applications submitted” and the extension of the deadline to file notices of intent to participate in the proceeding until September 30, 2026. (IAIS Description 1, Sept. 17, 2026). In addition, IAIS argues that discovery is still ongoing and that the depositions of Applicants’ personnel of interest to IAIS have yet to occur. (Id.)

On September 29, 2026, Canton Railroad Company (CRC) also filed a description of anticipated responsive application.

No party has opposed these requests for leave to file descriptions of anticipated responsive applications out of time.

CSS’s, GBNY’s, and IAIS’s requests to accept their late-filed descriptions of anticipated responsive applications will be granted. Although CRC did not submit a motion for leave, the Board will accept CRC’s late-filed description sua sponte because the reasons for accepting the other late-filed descriptions also apply to CRC’s filing. Accordingly, the Board will accept all four descriptions of anticipated responsive applications into the record. Generally, requests to file out of time are permitted when good cause exists and granting the request will not prejudice any party. See, e.g., Norfolk S. Ry.—Aban. Exemption—in Wyoming & Genesee Cntys., N.Y., AB 290 (Sub-No. 271X), slip op. at 2 (STB served Feb. 6, 2008) (accepting a late-filed request for a public use condition because no party would be prejudiced). Good cause exists here. Notices of intent to participate were not yet due when the descriptions were filed. (See, e.g., IAIS Description 1, Sept. 17, 2026.) Moreover, responsive applications are not due until November 18, 2026, and Applicants and other parties will have until February 16, 2027, to respond to any responsive applications that are ultimately filed. Therefore, no party should be prejudiced by acceptance of the late-filed descriptions of anticipated responsive applications, nor has any party objected.

It is ordered:

1. CSS’s, GBNY’s, and IAIS’s requests for leave to file a description of anticipated responsive application are granted. CSS’s, GBNY’s, IAIS’s, and CRC’s descriptions of anticipated responsive application are accepted into the record.

2. This decision is effective on its service date.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.