COVINGTON

BEIJING BOSTON BRUSSELS DUBAI FRANKFURT
JOHANNESBURG LONDON LOS ANGELES NEW YORK
PALO ALTO SAN FRANCISCO SEOUL SHANGHAI WASHINGTON

Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
T +1 202 662 6000

312843

ENTERED
Office of Chief Counsel
November 12, 2026
Part of
Public Record

By E-Filing

November 11, 2026

Hon. Jenifer J. Soulikias
Administrative Law Judge
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

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

Dear Judge Soulikias:

Applicants submit the following brief description of the issues to be resolved at the November 13, 2026, discovery conference, as well as a list of known attendees for each party.

I. Issues to be Resolved

A. Brian S. Smith's Motion to Compel NS to Produce Certain Documents

On November 5, 2026, Brian S. Smith moved to compel NS to produce four categories of materials related to NS's communications structures (*i.e.*, the towers and other structures on which NS places radio equipment). On November 10, NS filed a response opposing the motion because the discovery requests are not relevant to the Proposed Transaction and are burdensome. Furthermore, Mr. Smith has not signed the Protective Order in this proceeding and, even if he were to do so, he would be unable to access Highly Confidential information that may be produced. For these reasons, Applicants respectfully request that Your Honor deny the motion. Furthermore, because Mr. Smith has not signed the Protective Order and, in any event, cannot access Highly Confidential information in this proceeding even if he does sign the Protective Order, Applicants request that his motion be heard first so that Mr. Smith may then be excused from the hearing prior to the other issues being taken up.

B. Applicants' Motion to Compel CPKC to Adopt Applicants' Proposed Custodial Search Parameters (UP-129/NS-123)

On November 5, 2026, Applicants moved to compel CPKC to conduct its custodial document searches using Applicants' proposed parameters. The motion explains that CPKC's proposed search parameters are deficient because they omit custodians with unique, relevant

documents, including former executives; apply an unduly narrow date range to requests seeking ordinary course documents; and rely on insufficient search terms to identify documents concerning the impacts of the Proposed Transaction. On November 10, CPKC filed a response opposing the motion. Because the requested parameters target relevant, proportional discovery that aligns with what CPKC sought and obtained from Applicants, Applicants respectfully request that Your Honor grant the motion and order CPKC to conduct its custodial searches using the parameters set forth in Appendix A to the motion.

C. Applicants' Motion to Compel CSXT to Adopt Applicants' Proposed Custodial Search Parameters (UP-130/NS-124)

On November 5, 2026, Applicants moved to compel CSXT to conduct its custodial document searches using Applicants' proposed parameters. The motion explains that CSXT's proposed search parameters are deficient because they omit custodians with unique, relevant documents, including former executives; apply an unduly narrow date range to requests seeking ordinary course documents; and rely on insufficient search terms to identify documents concerning the impacts of the Proposed Transaction. On November 10, CSXT filed a response opposing the motion. Because the requested parameters target relevant, proportional discovery that aligns with what CSXT sought and obtained from Applicants, Applicants respectfully request that Your Honor grant the motion and order CSXT to conduct its custodial searches using the parameters set forth in Appendix A to the motion.

D. Applicants' Motion to Compel BNSF to Adopt Applicants' Proposed Custodial Search Parameters (UP-128/NS-122)

On November 5, 2026, Applicants moved to compel BNSF to conduct its custodial document searches using Applicants' proposed parameters. The motion explains that BNSF's proposed search parameters are deficient because they omit custodians with unique, relevant documents, including former executives; apply an unduly narrow date range to requests seeking ordinary course documents; and rely on insufficient responsiveness criteria to identify documents concerning the impacts of the Proposed Transaction. The motion also seeks an order requiring BNSF to conduct an adequate search for non-privileged, non-custodial documents responsive to Applicants' First Set of Discovery Requests. On November 10, BNSF filed a response opposing the motion. Because the requested parameters target relevant, proportional discovery that aligns with what BNSF sought and obtained from Applicants, Applicants respectfully request that Your Honor grant the motion and order BNSF to conduct its custodial searches using the parameters set forth in Appendix A to the motion.

II. Other Matters

A. ARU/BLET's Motion to Re-Designate Portions of the Parkerson Deposition Transcript as Public (ARU-6/BLET-5)

On November 9, 2026, ARU/BLET moved to re-designate as public portions of the deposition transcript of Maqui Parkerson that Union Pacific had designated Confidential or Highly Confidential. ARU/BLET and Union Pacific have subsequently reached agreement to resolve this dispute.

III. List of Attendees

A. Union Pacific

1. Laura Flahive Wu
2. Kevin M. Kelly
3. Michael L. Rosenthal
4. Michael Maya

B. Norfolk Southern

1. Matthew J. Warren
2. William A. Mullins
3. Carrie Mahan
4. Marc Korman
5. Spencer M. Naake
6. Stephen S. Laudone

C. BNSF

1. Daniel Donovan
2. Grace Brier
3. Tim Strafford

D. CPKC

1. Joseph J. Matelis
2. David L. Meyer
3. Noah P. M. Stern

E. CSX

1. Eric Enson
2. John Scheib

3. Luke van Houwelingen
4. Eric Fanchiang

F. Brian S. Smith

Respectfully submitted,

/s/ Matthew J. Warren
Matthew J. Warren
Carrie Mahan
Stephen S. Laudone
William A. Mullins
Spencer M. Naake
Attorneys for Norfolk Southern Corporation and Norfolk Southern Railway Company

/s/ Laura Flahive Wu
Laura Flahive Wu
Kevin M. Kelly
Attorneys for Union Pacific Corporation and Union Pacific Railroad Company

cc: All Parties of Record

CERTIFICATE OF SERVICE

I hereby certify that, on this 11th day of November, 2026, the foregoing document was 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 J. Soulikias.

/s/ Jamie Dominique U. Magcale
Jamie Dominique U. Magcale