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November 18, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

Re: *Docket No. FD 36873 - Union Pacific Corporation and Union Pacific Railroad Company – Control – Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief of Case Administration:

Grand Trunk Corporation and its U.S. rail operating subsidiaries[1] (collectively, "CN") submit the follow responsive application in in FD 36873 (Sub-Nos. 2, 3, 4, 6, 7, 8).

- In Sub-No. 2, CN requests divestiture of a line between Kansas City, Missouri and St. Louis, Missouri.
- In Sub-No. 3, CN requests trackage rights of the same line between Kansas City, Missouri and St. Louis, Missouri in the alternative, if divestiture is not ordered.
- In Sub-No. 4, CN seeks overhead trackage rights between Lydia Avenue and Broadway Boulevard in Kansas City, Missouri.
- In Sub-No. 6, CN seeks lease or purchase of Neff Yard in Kansas City, Missouri.
- In Sub-No. 7, CN seeks overhead trackage rights between Tuscola, Illinois and East St. Louis, Illinois.
- In Sub-No. 8, CN seeks overhead trackage rights over the Alton & Southern Railway between Mitchell, Illinois, and East St. Louis, Illinois.

[1] Bessemer and Lake Erie Railroad Company, Cedar River Railroad Company, Chicago, Central & Pacific Railroad Company, Grand Trunk Western Railroad Company, Illinois Central Railroad Company, Iowa Northern Railway Company, The Pittsburgh & Conneaut Dock Company, and Wisconsin Central Ltd.

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In addition to the materials submitted herein, we have separately transmitted supporting workpapers via the below FTP links:

- https://stblaw.sharefile.com/d-s8589e49ff6dc4aa98333fdc0b8b8e7bd
- https://stblaw.sharefile.com/d-se769a0503a904a779900ca37f38e39aa
- https://stblaw.sharefile.com/d-saed4a805743a48bdb4b75441aec54182

We are also providing 20 unbound copies of every map contained in this responsive application to the Board's office today via courier. CN has paid the applicable filing fees for this responsive application.

Respectfully submitted,

/s/ Sara Y. Razi
Sara Y. Razi

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36873 (SUB-NO. 2)

ILLINOIS CENTRAL RAILROAD COMPANY
—DIVESTITURE—
LINE OF UNION PACIFIC RAILROAD COMPANY
BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

DOCKET NO. FD 36873 (SUB-NO. 3)

ILLINOIS CENTRAL RAILROAD COMPANY
—TRACKAGE RIGHTS—
LINE OF UNION PACIFIC RAILROAD COMPANY
BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

DOCKET NO. FD 36873 (SUB-NO. 4)

ILLINOIS CENTRAL RAILROAD COMPANY
—OVERHEAD TRACKAGE RIGHTS—
LINE OF UNION PACIFIC RAILROAD COMPANY
BETWEEN LYDIA AVENUE AND BROADWAY BOULEVARD IN KANSAS CITY, MO.

DOCKET NO. FD 36873 (SUB-NO. 6)

ILLINOIS CENTRAL RAILROAD COMPANY
—LEASE AND PURCHASE—
UNION PACIFIC RAILROAD COMPANY NEFF YARD IN KANSAS CITY, MO.

DOCKET NO. FD 36873 (SUB-NO. 7)

ILLINOIS CENTRAL RAILROAD COMPANY
—OVERHEAD TRACKAGE RIGHTS—
LINE OF UNION PACIFIC RAILROAD COMPANY
BETWEEN TUSCOLA, ILL. AND EAST ST. LOUIS, ILL.

DOCKET NO. FD 36873 (SUB-NO. 8)

ILLINOIS CENTRAL RAILROAD COMPANY
—OVERHEAD TRACKAGE RIGHTS—
OVER LINE OF THE ALTON & SOUTHERN RAILWAY COMPANY
BETWEEN MITCHELL, ILL. AND EAST ST. LOUIS, ILL.

RESPONSIVE APPLICATION OF ILLINOIS CENTRAL RAILROAD COMPANY

APPLICATION AND EXHIBITS

PUBLIC VERSION

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Attorneys for Illinois Central Railroad Company

Dated: November 18, 2026

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1180.6(a) All applications filed under 49 U.S.C. 11323 shall show in the title the names of the applicants and the nature of the proposed transaction. Beneath the title indicate the name, title, business address, and telephone number of the person(s) to whom correspondence with respect to the application should be addressed. The following information shall be included in all applications: 14

1180.6(a)(1) A description of the proposed transaction, including appropriate references to any supporting exhibits and statements contained in the application and discussing the following: 14

1180.6(a)(1)(i) A brief summary of the proposed transaction, the name of the applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed. 14

1180.6(a)(1)(ii) The proposed time schedule for consummation of the proposed transaction… 23

1180.6(a)(1)(iii) The purpose sought to be accomplished by the proposed transaction, e.g., operating economies, eliminating excess facilities, improving service, or improving the financial viability of the applicants. 23

1180.6(a)(1)(iv) The nature and amount of any new securities or other financial arrangements… 26

1180.6(a)(2) A detailed discussion of the public interest justifications in support of the application, indicating how the proposed transaction is consistent with the public interest, with particular regard to the relevant statutory criteria, including: 26

1180.6(a)(2)(i) The effect of the transaction on inter- and intramodal competition, including a description of the relevant markets (see § 1180.7). Include a discussion of whether, as a result of the transaction, there is likely to be any lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States… 26

1180.6(a)(2)(ii) The financial consideration involved in the proposed transaction, and any economies, to be effected in operations, and any increase in traffic, revenues, earnings available for fixed charges, and net earnings, expected to result from the consummation of the proposed transaction. 28

1180.6(a)(2)(iii) The effect of the increase, if any, of total fixed charges resulting from the proposed transaction. 28

1180.6(a)(2)(iv) The effect of the proposed transaction upon the adequacy of transportation service to the public, as measured by the continuation of essential transportation services by applicants and other carriers. 28

1180.6(a)(2)(v) The effect of the proposed transaction upon applicant carriers' employees (by class or craft), the geographic points where the impact will occur, the time frame of the

impact (for at least 3 years after consolidation), and whether any employee protection agreements have been reached. 29

1180.6(a)(2)(vi) The effect of inclusion (or lack of inclusion) in the proposed transaction of other railroads in the territory, under 49 U.S.C. 11324. 34

1180.6(a)(3) Any other supporting or descriptive statements applicants deem material. 34

1180.6(a)(4) An opinion of applicants' counsel that the transaction meets the requirements of the law and will be legally authorized and valid, if approved by the Board. This should include specific references to any pertinent provisions of applicants' bylaws or charter or articles of incorporation. 34

1180.6(a)(5) A list of the State(s) in which any part of the property of each applicant carrier is situated. 34

1180.6(a)(6) Map (exhibit 1). Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the map accompanying each application, 20 unbound copies of the map shall be filed with the Board. 35

1180.6(a)(7) Explanation of the transaction. 36

1180.6(a)(7)(i) Describe the nature of the transaction (e.g., merger, control, purchase, trackage rights), the significant terms and conditions, and the consideration to be paid (monetary or otherwise). 36

1180.6(a)(7)(ii) Agreement (exhibit 2). Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction. In addition, parties to exempt trackage rights agreements and renewal of agreements described at § 1180.2(d)(7) must submit one copy of the executed agreement or renewal agreement with the notice of exemption, or within 10 days of the date that the agreement is executed, whichever is later. 36

1180.6(a)(7)(iii) If a consolidation or merger is proposed, indicate—(A) The name of the company resulting from the consolidation or merger; (B) the State or territory under the laws of which the consolidated company is to be formed or the merged company is to file its certificate of amendment; (C) the capitalization proposed for the resulting company; and (D) the amount and character of capital stock and other securities to be issued. 41

1180.6(a)(7)(iv) Court Order (exhibit 3). If a trustee, receiver, assignee, or personal representative of the real party in interest is an applicant, submit a certified copy of the order, if any, of the court having jurisdiction, authorizing the contemplated action. 41

1180.6(a)(7)(v) State whether the property involved in the proposed transaction includes all the property of the applicant carriers and, if not, describe what property is included in the proposed transaction. 41

1180.6(a)(7)(vi) Briefly describe the principal routes and termini of the lines involved, the principal points of interchange on the routes, and the amount of main-line mileage and branch line mileage involved. 43

1180.6(a)(7)(vii) State whether any governmental financial assistance is involved in the proposed transaction and, if so, the form, amount, source, and application of such financial assistance… 44

1180.6(a)(8) Environmental data (exhibit 4). Submit information and data with respect to environmental matters prepared in accordance with 49 CFR part 1105. In major and significant transaction, applicants shall, as soon as possible, and no later than the filing of a notice of intent, consult with the Board's Office of Environmental Analysis for the proper format of the environmental report. 44

1180.6(b)(3) Change in control (exhibit 8). If an applicant carrier submits an annual report Form R-1, indicate any change in ownership or control of that applicant carrier not indicated in its most recent Form R-1, and provide a list of the principal six officers of that applicant carrier and of any related applicant, and also of their majority-owned rail carrier subsidiaries. If any applicant carrier does not submit an annual report Form R-1, list all officers of that applicant carrier, and identify the person(s) or entity/entities in control of that applicant carrier and all owners of 10% or more of the equity of that applicant carrier. 45

1180.6(b)(5) Issues (exhibit 10). Submit a discussion of any other issues relevant to the transaction… 45

1180.6(b)(6) Corporate chart (exhibit 11). Submit a corporate chart indicating all relationships between applicant carriers and all affiliates and subsidiaries and also companies controlling applicant carriers directly, indirectly or through another entity (with each chart indicating the percentage ownership of every company on the chart by any other company on the chart). For each company: include a statement indicating whether that company is a noncarrier or a carrier; and identify every officer and/or director of that company who is also an officer and/or director of any other company that is part of a different corporate family that includes a rail carrier. Such information may be referenced through notes to the chart. 45

1180.6(b)(7) If applicant is not a carrier, indicate (i) the type of business in which it is engaged, (ii) the length of time so engaged, and (iii) its present and prospective activities which have or may have a relation to transportation subject to 49 U.S.C. Subtitle IV. 46

1180.6(b)(8) Intercorporate or financial relationships. Indicate whether there are any direct or indirect intercorporate or financial relationships at the time the application is filed, not disclosed elsewhere in the application, through holding companies, ownership of securities, or otherwise, in which applicants or their affiliates own or control more than 5% of the stock of a non-affiliated carrier, including those relationships in which a group affiliated with applicants owns more than 5% of the stock of such a carrier. Indicate the nature and extent of any such relationships, and, if an applicant owns securities of a carrier subject to 49 U.S.C. Subtitle IV, provide the carrier's name, a description of securities, the par value of each class of securities held, and the applicant's percentage of total ownership. For purposes of this paragraph, "affiliates" has the same meaning as "affiliated companies" in Definition 5 of the Uniform System of Accounts (49 CFR part 1201, subpart A). 46

1180.7(a) For major and significant transactions, applicants shall submit impact analyses (exhibit 12) describing the impacts of the proposed transaction—both adverse and beneficial—on inter-and intramodal competition with respect to freight surface transportation in the regions affected and on the provision of essential services by applicants and other carriers. An impact analysis should include underlying data, a study of the implications of

those data, and a description of the resulting likely effects of the proposed transaction on the transportation alternatives that would be available to the shipping public. Each aspect of the analysis should specifically address significant impacts as they relate to the applicable statutory criteria (49 U.S.C. 11324(b) or (d)), essential services, and competition. Applicants must identify and address relevant markets and issues, and provide additional information as requested by the Board on markets and issues that warrant further study. Applicants (and any other party submitting analyses) must demonstrate both the relevance of the markets and issues analyzed and the validity of their methodology. All underlying assumptions must be clearly stated. Analyses should reflect the consolidated company's marketing plan and existing and potential competitive alternatives (inter- as well as intramodal). They can address: city pairs, interregional movements, movements through a point, or other factors; a particular commodity, group of commodities, or other commodity factor that would be significantly affected by the transaction; or other effects of the transaction (such as on a particular type of service offered). 46

1180.8(b) For major and significant transactions: Operating plan (exhibit 13). Submit a summary of the proposed operating plan changes, based on the impact analyses, that will result from the transaction, and their anticipated timing, allowing for any time required to complete rehabilitation, upgrading, yard construction, or other major operational changes following consummation of the proposed transaction. The plan should make clear the gains in service, operating efficiencies, and other benefits anticipated from the merger. The plan should include: 47

1180.8(b)(1) The patterns of service on the properties, including the proposed principal routes, proposed consolidations of main-line operations, and the anticipated traffic density and general categories of traffic (including numbers of trains) on all main and secondary lines in the system. Identify all yards expected to have an increase in activity greater than 20 percent. Changes in operations may be summarized in a pro forma density chart. 47

1180.8(b)(2) If commuter or other passenger services are operated over the lines of applicant carriers, detail any impacts anticipated on such services, including delays which may be occasioned because a line is scheduled to handle increased traffic due to route consolidations… 47

1180.8(b)(3) The anticipated equipment requirements of the proposed system, including locomotives, rolling stock by type, and maintenance-of-way equipment; plans for acquisition and retirement of equipment; projected improvements in equipment utilization and their relation to operating changes; and how these will lead to the financial and service benefits described in the summary. 48

1180.8(b)(4) A description of the effect of any deferred maintenance or delayed capital improvements on any road or equipment properties involved, the schedule for eliminating such deferrals, details of general system rehabilitation including rehabilitation relating to the transaction (including proposed yard and terminal modifications), and how these activities will lead to the service improvements or operating economies anticipated from the transaction… 48

1180.8(b)(5) Density charts (exhibit 14). Gross ton-mile traffic density charts shall be filed for applicant carriers containing a map geographically showing those lines handling 1 million gross ton-miles per mile road or more per year and respective densities, expressed in gross ton-

miles per year, in each direction, in segments of such lines between major freight yards and terminals, including major intramodal and intermodal interchange points, using the corporate or political subdivision name of the points shown as well as the railroad station name. The mileage of each segment of line shall be provided, and should be shown on the chart. Data shown in the density chart shall be for the latest available full calendar year preceding the filing of the application. At applicants' option data may be shown on the density chart or an explanatory list.………..51

1180.11(b) All applicants must assess whether any restrictions or preferences under foreign or domestic law or policies could affect their commercial decisions, and discuss any ownership restrictions applicable to them. 51

CONCLUSION 51

EXHIBITS

Exhibit 1: **Maps**

Exhibit 1: CN System Map

Exhibit 1A: Map of the Kansas City Line (Sub-No. 2 and Sub-No. 3)

Exhibit 1B: Map of Former Sarpy Yard Property (Sub-No. 3)

Exhibit 1C: Map of the Trackage Rights Between Lydia Ave. and Broadway Blvd. in Kansas City, Mo. (Sub-No. 4)

Exhibit 1D: Map of Neff Yard in Kansas City, Mo. (Sub-No. 6)

Exhibit 1E: Map of Trackage Rights Between Tuscola, Ill. and East St. Louis, Ill. (Sub-No. 7)

Exhibit 1F: Map of Trackage Rights Between Lenox in Mitchell, Ill. and East St. Louis, Ill. (Sub-No. 8)

Exhibit 1G: Map of All Requested Kansas City Line Conditions

Exhibit 2: **Proposed Agreements**

Exhibit 2A: Asset Purchase Agreement for Kansas City Line (Sub-No. 2)

Exhibit 2B: Agreement for Trackage Rights Over Kansas City Line (Sub-No. 3)

Exhibit 2C: Asset Purchase Agreement for former Sarpy Yard Property (Sub-No. 3)

Exhibit 2D: Agreement for Trackage Rights Between Lydia Ave. and Broadway Blvd. in Kansas City, Mo. (Sub-No. 4)

Exhibit 2E: Agreement to Lease or Purchase Neff Yard in Kansas City, Mo. (Sub-No. 6)

Exhibit 2F: Agreement for Trackage Rights Between Tuscola, Ill. and East St. Louis, Ill. (Sub-No. 7)

Exhibit 2G: Agreement for Trackage Rights Between Lenox in Mitchell, Ill. and East St. Louis, Ill. (Sub-No. 8)

Exhibit 2H: Local Haulage Agreement for Union Pacific on the Kansas City Line (Sub-No. 2)

Exhibit 2I: Overhead Trackage Rights Agreement for Union Pacific on the Kansas City Line (Sub-No. 2)

Exhibit 4: Environmental Data

Exhibit 8: Change in Ownership or Control

Exhibit 11: Corporate Chart

Exhibit 12: Market Analyses

Exhibit 12A: Verified Statement of Dr. Mary Coleman

Exhibit 12B: Verified Statement of Dr. Henry Kahwaty

Exhibit 12C: Verified Statement of Sarah Slazinski

Exhibit 12D: Verified Statement of David Przednowek

Exhibit 12E: Verified Statement of Girish Nair

Exhibit 12F: Verified Statement of Sandra Ellis

Exhibit 12G: Verified Statement of Kelly Levis

Exhibit 12H: Verified Statement of Janet Drysdale

Exhibit 13: Operating Plan

Exhibit 13: Verified Statement of Patrick Whitehead & Kim Hillenbrand

Exhibit 14: Density Charts

APPENDICES

Appendix A: Opinion of Counsel

Appendix B: Support Statements

Appendix C: Neff Yard Area Track Chart and Timetable

BEFORE THE

SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36873 (SUB-NO. 2)

ILLINOIS CENTRAL RAILROAD COMPANY—DIVESTITURE—LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

DOCKET NO. FD 36873 (SUB-NO. 3)

ILLINOIS CENTRAL RAILROAD COMPANY—TRACKAGE RIGHTS—LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

DOCKET NO. FD 36873 (SUB-NO. 4)

ILLINOIS CENTRAL RAILROAD COMPANY—OVERHEAD TRACKAGE RIGHTS—LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN LYDIA AVENUE AND BROADWAY BOULEVARD IN KANSAS CITY, MO.

DOCKET NO. FD 36873 (SUB-NO. 6)

ILLINOIS CENTRAL RAILROAD COMPANY—LEASE AND PURCHASE—UNION PACIFIC RAILROAD COMPANY NEFF YARD IN KANSAS CITY, MO.

DOCKET NO. FD 36873 (SUB-NO. 7)

ILLINOIS CENTRAL RAILROAD COMPANY—OVERHEAD TRACKAGE RIGHTS—LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN TUSCOLA, ILL. AND EAST ST. LOUIS, ILL.

DOCKET NO. FD 36873 (SUB-NO. 8)

ILLINOIS CENTRAL RAILROAD COMPANY—OVERHEAD TRACKAGE RIGHTS—OVER LINE OF THE ALTON & SOUTHERN RAILWAY COMPANY BETWEEN MITCHELL, ILL. AND EAST ST. LOUIS, ILL.

RESPONSIVE APPLICATION OF ILLINOIS CENTRAL RAILROAD COMPANY

Pursuant to 49 U.S.C. § 11324(c) and 49 C.F.R. Part 1180, Grand Trunk Corporation ("GTC") and its rail carrier affiliate, Illinois Central Railroad Company ("ICRR") (collectively, "CN"), respectfully submit this responsive application for approval by the Surface Transportation Board ("Board") as a condition of the proposed acquisition by Union Pacific Corporation and Union Pacific Railroad Company of control of Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "Applicants") in Docket No. FD 36873 (the "Proposed Transaction").[1]

EXECUTIVE SUMMARY

CN respectfully submits this responsive application to request conditions to remedy the competitive harms that would result from the Proposed Transaction between Union Pacific and Norfolk Southern in key watershed geographies where Applicants' networks overlap. On July 22, 2026, CN entered into a binding Memorandum of Understanding with UP related to the Proposed Transaction (the "Settlement MOU"). The conditions detailed in the Settlement MOU, if and when implemented, would remediate several potential competitive harms from the Proposed Transaction.

Pursuant to Decision No. 30, issued August 18, 2026, which set the procedural schedule for this docket,[2] CN filed its Description of Anticipated Responsive Application (CN-30) on

[1] For the purposes of this document, certain other terms are defined as follows: Union Pacific Railroad Company ("UP"); Union Pacific Corporation and UP (together, "Union Pacific"); Norfolk Southern Railway Company ("NS"); and Norfolk Southern Corporation and NS (together, "Norfolk Southern").

[2] Decision No. 30, FD 36873 (STB served Aug. 18, 2026).

September 9, 2026. This responsive application provides the detailed support for the Kansas City and related St. Louis conditions outlined in CN-30.[3]

This responsive application seeks conditions in the following key areas:

- **Accessing Kansas City**: granting CN new access remedying the loss of Class I access in areas where Applicants' networks overlap between Kansas City and St. Louis through (i) divestiture of UP's line between St. Louis, Missouri and Kansas City, Missouri (the "Kansas City Line") to CN; (ii) alternatively, if divestiture is not granted, (1) trackage rights, including access to the former Sarpy Yard property in St. Louis, and overhead haulage rights, and (2) local haulage rights over the Kansas City Line; and (iii) access to UP's Neff Yard, including Neff intermodal terminal, in Kansas City;
- **Preventing Loss of Competition for 2-to-1 Customers**: granting CN rail access to customer facilities in Illinois where Class I railroad options would be reduced from 2-to-1;
- **Preserving Competition for 3-to-2 Customers**: granting CN rail access to customer facilities in Illinois and Iowa where Class I railroad options would be reduced from 3-to-2; and
- **Improving Access to East St. Louis and St. Louis**: granting CN new and improved access to St. Louis, Missouri and East St. Louis, Illinois through (i) overhead trackage rights between Tuscola, Illinois and East St. Louis, Illinois (the "Tuscola Line"); (ii) overhead trackage rights over UP's wholly owned subsidiary, The Alton & Southern Railway Company ("A&S"), between Lenox in Mitchell, Illinois and Valley Junction in East St.

[3] Responsive applications related to certain terminal trackage rights over BNSF Railway Company ("BNSF"), trackage rights to Hillsboro, trackage rights to Des Moines, and trackage rights to Carlinville are separately filed in their respective sub-dockets.

Louis; and (iii) access to the former Sarpy Yard property as a location for handling CN's intermodal and automotive traffic.

CN is a strong and well-situated remedy carrier to preserve competition for impacted customers in these areas. CN's strong existing network in the Midwest makes it geographically well-positioned to expand and preserve competition, and CN has the capabilities, infrastructure, and expertise to serve the impacted commodities and customers, as well as a track record of investment in expansion and success integrating new operations. CN is committed to investing in the Kansas City Line and to developing new service offerings for customers in the Kansas City and St. Louis areas, as demonstrated by its efforts to gain access to Kansas City in prior transactions. And CN is well suited to serve the most significant commodities originating and terminating in Kansas City and St. Louis, including automotive, auto parts, and intermodal traffic, among other commodities.

Complete divestiture of the Kansas City Line is the most effective way to restore competition in Kansas City. Structural relief is the best approach here because complete divestiture is clean, certain, and effective and avoids ongoing entanglement between the merged UP/NS and the remedy carrier. Without divestiture, CN's ability to compete would be contingent on negotiating haulage and trackage rates and service guarantees with the merged entity, which is CN's direct rival. CN is the only railroad willing to acquire 100% of the Kansas City Line in order to preserve competition. Following divestiture, CN plans to grant UP overhead trackage and local haulage rights to utilize the Kansas City Line to preserve competition and ensure that no customers lose any competitive options following the Proposed Transaction.

Accordingly, CN's proposed conditions would preserve competition for customers in the impacted geographies and would be procompetitive. CN provides all the information that would

be required for a "significant" transaction, including thorough market analyses as Exhibit 12, a detailed operating plan as Exhibit 13, density charts as Exhibit 14, and other exhibits such as Exhibit 8 (Change in Ownership or Control) and Exhibit 11 (Corporate Chart).

This responsive application encompasses six separate sub-dockets. In Docket No. FD 36873 (Sub-No. 2), ICRR seeks divestiture of the Kansas City Line to ICRR as a condition on any approval of the Proposed Transaction. Although divestiture of the Kansas City Line is the most effective remedy to restore competition, in Docket No. FD 36873 (Sub-No. 3), in the alternative, ICRR seeks (1) trackage rights, including access to the former Sarpy Yard property in St. Louis, and overhead haulage rights; and (2) local haulage rights over the Kansas City Line. In Docket No. FD 36873 (Sub-No. 4), ICRR seeks overhead trackage rights over UP's line between Lydia Avenue and Broadway Boulevard in Kansas City, Missouri. In Docket No. FD 36873 (Sub-No. 6), ICRR seeks the lease, with an option to purchase, of UP's Neff Yard, including Neff intermodal terminal, in Kansas City, Missouri. In Docket No. FD 36873 (Sub-No. 7), ICRR seeks overhead trackage rights over UP's Tuscola Line between Tuscola, Illinois and East St. Louis, Illinois. In Docket No. FD 36873 (Sub-No. 8), ICRR seeks overhead trackage rights over A&S between Lenox in Mitchell, Illinois and Valley Junction in East St. Louis, Illinois.

CN is also filing three other responsive applications addressing the following additional sub-dockets relating to terminal trackage rights over BNSF from Eton, Missouri to Congo, Missouri, trackage rights to Hillsboro, Illinois, trackage rights to Des Moines, Iowa, and trackage rights to Carlinville, Illinois. In Docket No. FD 36873 (Sub-No. 5), ICRR seeks terminal trackage rights over BNSF's line between Eton, Missouri and Congo, Missouri. In Docket No. FD 36873 (Sub-No. 9), ICRR seeks trackage rights over UP to serve Hillsboro, Illinois. In Docket No. FD 36873 (Sub-No. 10), ICRR seeks trackage rights over UP between Manly, Iowa and Des Moines,

Iowa. In Docket No. FD 36873 (Sub-No. 34), ICRR seeks trackage rights over UP to serve Carlinville, Illinois.

SPECIFIC INFORMATION REQUIRED BY THE REGULATIONS

Section 1180.6 of title 49 of the Code of Federal Regulations specifies information that must be included in applications filed under 49 U.S.C. § 11324(c). The requested information is provided below, preceded by the sub-section of the regulations to which it responds. Each regulatory requirement is set forth verbatim in bold. CN includes the information required for a significant application in the event the Board decides to evaluate the proposed conditions as a significant transaction.

1. General Information Supporting the Transaction

1180.6(a) ***All applications filed under 49 U.S.C. 11323 shall show in the title the names of the applicants and the nature of the proposed transaction. Beneath the title indicate the name, title, business address, and telephone number of the person(s) to whom correspondence with respect to the application should be addressed. The following information shall be included in all applications:***

1180.6(a)(1) ***A description of the proposed transaction, including appropriate references to any supporting exhibits and statements contained in the application and discussing the following:***

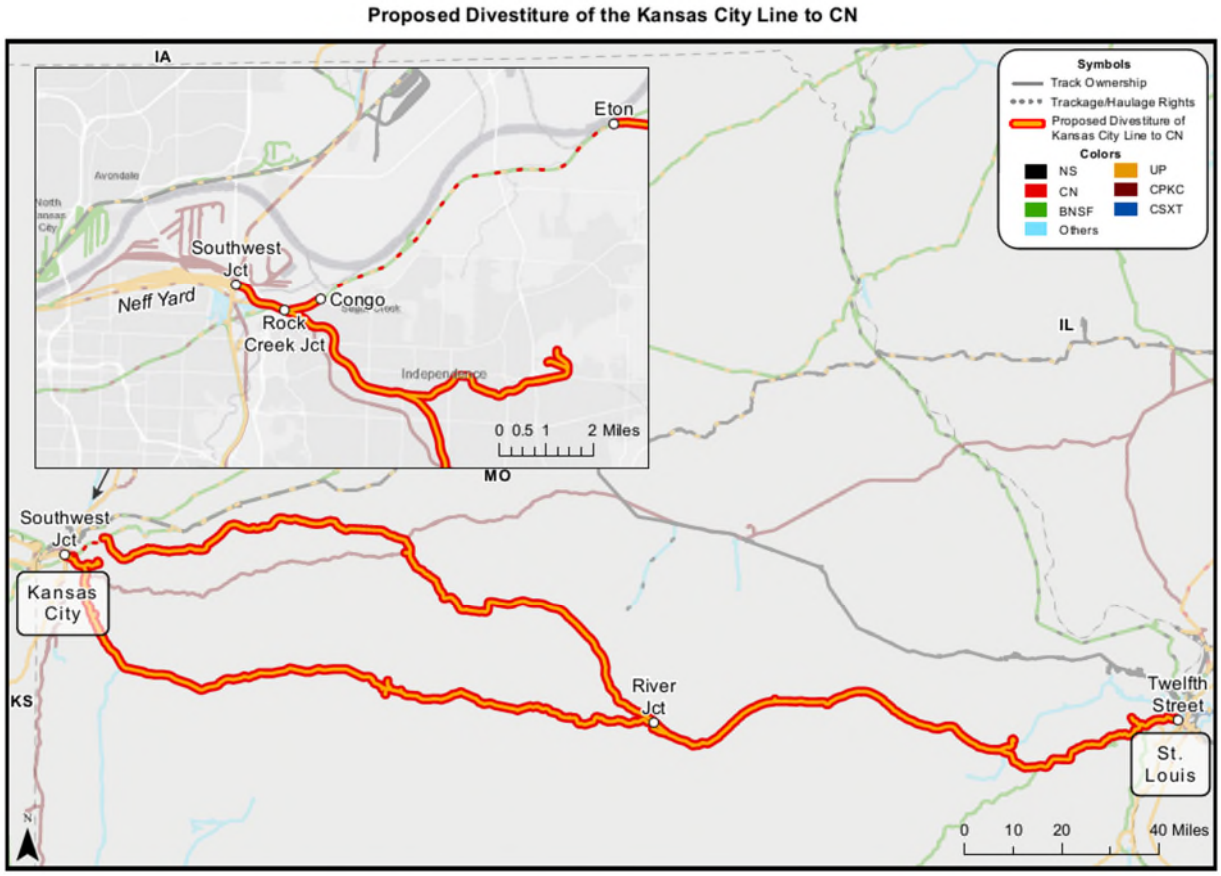
1180.6(a)(1)(i) ***A brief summary of the proposed transaction, the name of the applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed.***

The proposed transactions in this responsive application encompass multiple elements filed under separate sub-dockets within Docket No. FD 36873, all of which are collectively intended to grant CN the necessary access to Kansas City and expanded access to St. Louis to preserve competition for customers impacted by the Proposed Transaction. CN requests that any approval of the Proposed Transaction between Union Pacific and Norfolk Southern be subject to the following conditions:

In Sub-Nos. 2 and 3, CN seeks divestiture of, or alternatively trackage rights and haulage rights over, UP's Kansas City Line between Neff Yard in Kansas City, Missouri and Twelfth Street in St. Louis, Missouri (the Kansas City Line). The most effective remedy, and the remedy CN asks the Board to order, is complete divestiture of the Kansas City Line. Structural remedies are strongly preferred because complete divestiture is clean, certain, and effective and avoids ongoing entanglement between the merged UP/NS and the remedy carrier. Without divestiture, CN's ability to compete effectively would be contingent on negotiating haulage and trackage rates and service guarantees with the merged UP/NS, and trackage rights alone would involve entanglement and require indefinite oversight. Only if the Board finds that divestiture is not warranted does CN request, in the alternative, (1) trackage rights, including access to the former Sarpy Yard property in St. Louis, and overhead haulage rights; and (2) local haulage rights over the Kansas City Line to serve affected customers on the line;[4]

[4] Relatedly, in Sub-No. 5, CN separately requests terminal trackage rights pursuant to 49 U.S.C. § 11102 over approximately 7.5 miles of track owned by BNSF between Eton, Missouri and Congo, Missouri (the "Eton to Congo Segment"). As noted above, CN is filing this request separately in Sub-No. 5.

Exhibit 1A: Map of the Kansas City Line (Sub-No. 2 and Sub-No. 3)



Sources: Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

If the Board orders divestiture of the Kansas City Line (Sub-No. 2), CN plans to use the former Sarpy Yard property located on the divested portion of the line to develop facilities to handle automotive and intermodal traffic. To the extent the Board grants CN trackage rights over the Kansas City Line, instead of divestiture, those trackage rights in Sub-No. 3 include access to the former Sarpy Yard property, as an on/off point of the trackage rights between Kansas City and St. Louis, for the same purpose, and CN is requesting a condition from the Board ordering the sale

of the former Sarpy Yard property to CN.[5] Without access to the former Sarpy Yard property, CN would not have a location to handle this traffic in St. Louis. CN's planned investments in the former Sarpy Yard property to handle intermodal and automotive equipment are detailed in Exhibit 13 (Operating Plan).

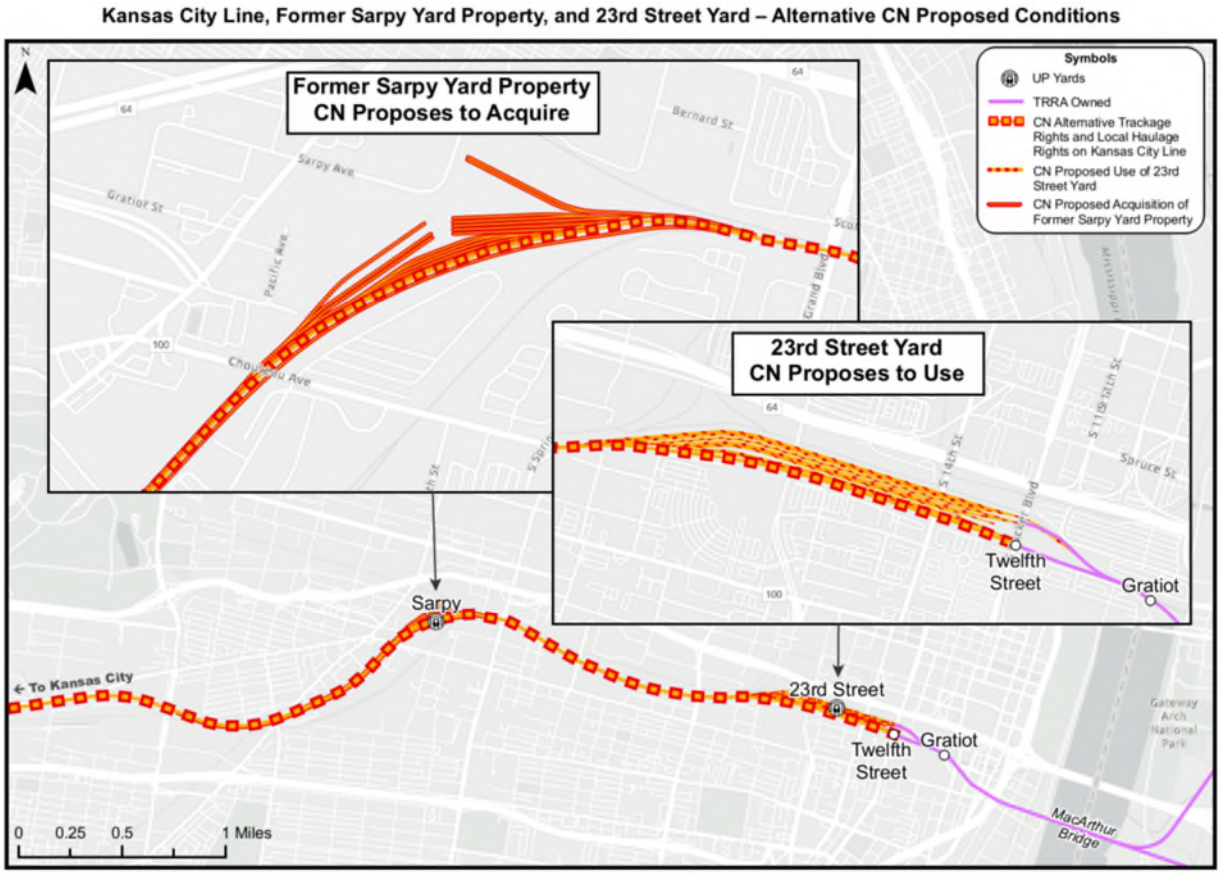
In its Description of Anticipated Responsive Application, CN stated an intent to seek access to a location for handling CN's intermodal and automotive traffic in East St. Louis/St. Louis.[6] However, using an active UP facility would be less favorable because CN would be relying on the merged entity, and using the former Sarpy Yard property would avoid that entanglement concern. Therefore, in this responsive application CN seeks to purchase the former Sarpy Yard property for these purposes.[7] CN understands its potential use of this property to be consistent with overhead trackage rights because it would be a CN-owned property. If the Board views it otherwise, CN's access to this property as an on/off point would be the only local component of the trackage rights that CN seeks with respect to the Kansas City Line; those rights would otherwise be overhead rights.

[5] Unlike Neff Yard, for which CN is filing a responsive application, there is no longer an active rail yard on the former Sarpy Yard property. Also unlike Neff Yard, the former Sarpy Yard property is within the limits of the Kansas City Line.

[6] *See* CN-30 at 2, FD 36873 (filed Sept. 9, 2026).

[7] CN would also plan to use the 23rd Street Yard, which is part of the Kansas City Line. If the Board orders divestiture, 23rd Street Yard is part of the line to be divested.

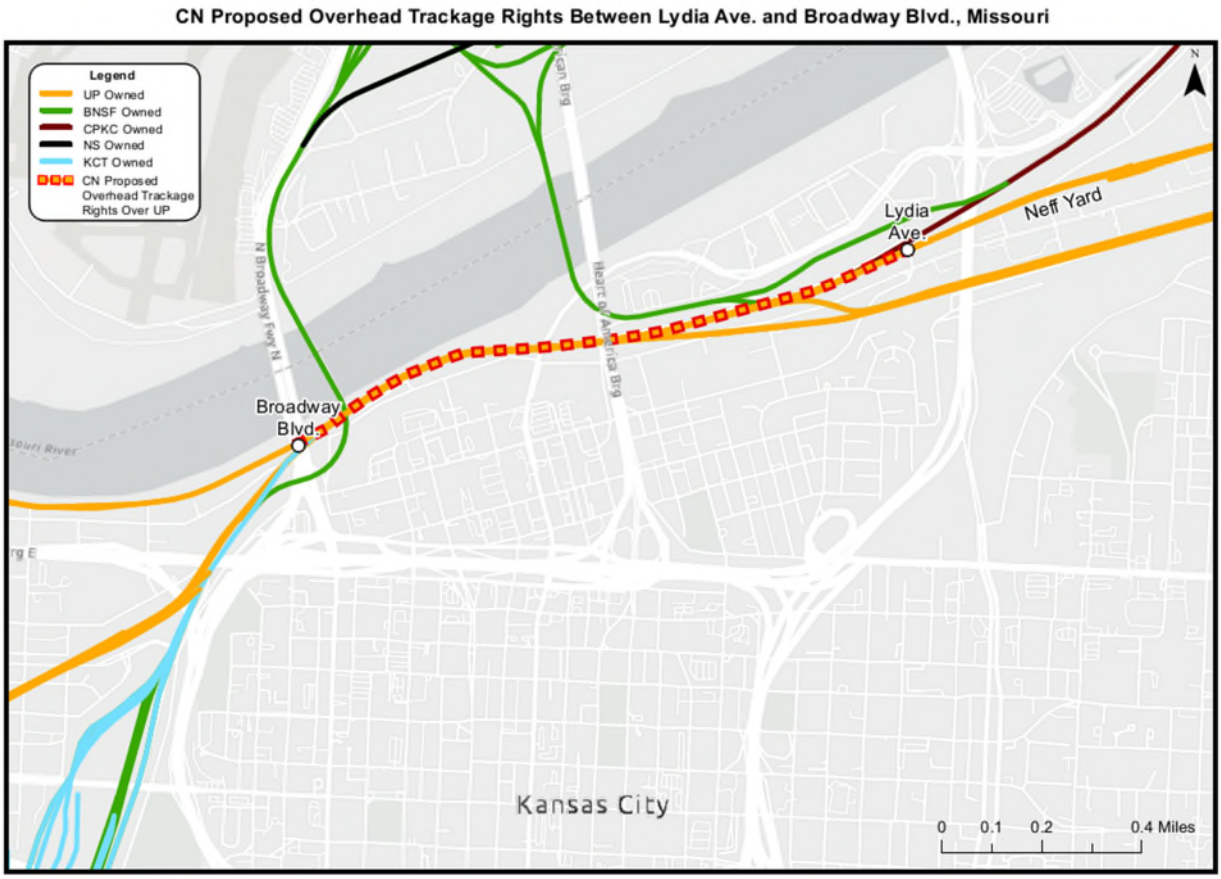
Exhibit 1B: Map of Former Sarpy Yard Property (Sub-No. 3)



Sources: Federal Railroad Administration Shapefiles; Railinc Centralized Station Master; UP-40/NS-38, "GIS Shape Files.Zip," "UP_Yard_Track" and "UP_Main" Shapefile.

In Sub-No. 4, CN seeks overhead trackage rights over UP's K.C. Metro (Neff) Subdivision between Lydia Avenue and Broadway Boulevard in Kansas City, Missouri. These rights would allow CN to move traffic efficiently within the Kansas City terminal area and to facilitate interchange with other carriers to effectuate its Kansas City access. The purpose of these trackage rights is to provide CN with a route out of Neff Yard to the west to access the Kansas City Terminal Railway Company ("KCT") and interchange with BNSF and other carriers. Lydia Avenue is the eastern terminus of the trackage rights because it is the western yard limit of Neff Yard according to UP's track chart and timetable. *See* Appendix C at 1, 5, 7;

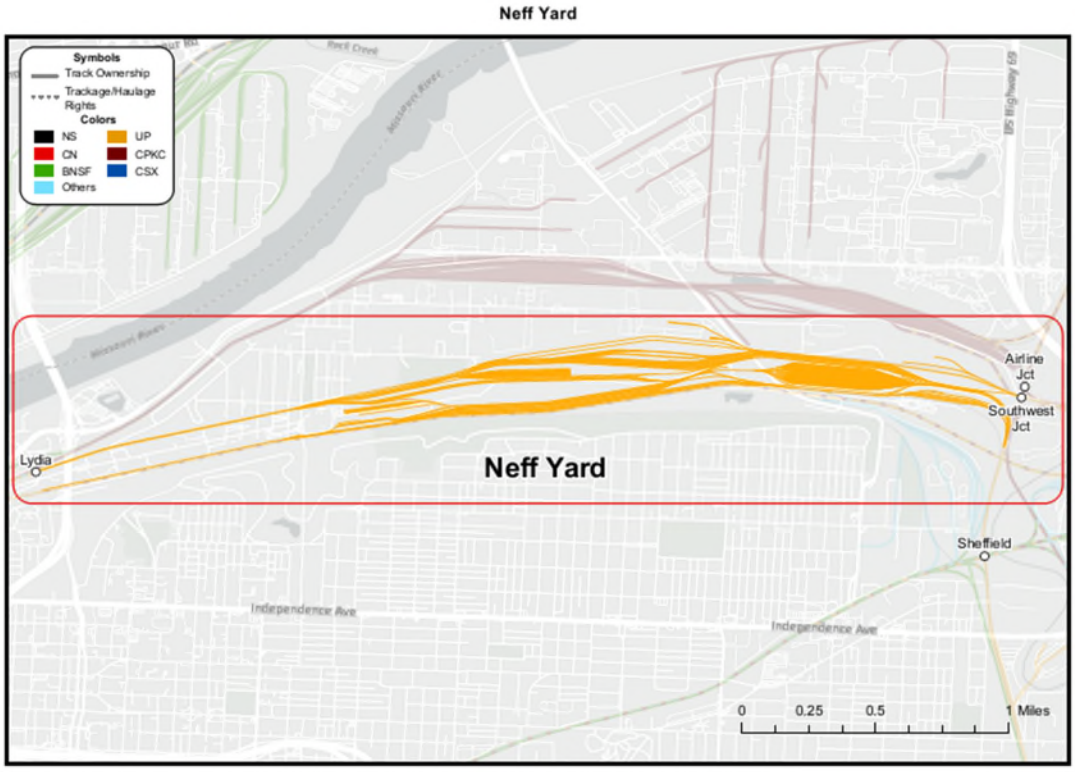
Exhibit 1C: Map of the Trackage Rights Between Lydia Ave. and Broadway Blvd. in Kansas City, Mo. (Sub-No. 4)



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

In Sub-No. 6, CN seeks the lease of Neff Yard, including Neff intermodal terminal, in whole or in part, with an option to purchase. Neff Yard is needed to support CN's operating plan and its ability to serve intermodal and automotive traffic in Kansas City;

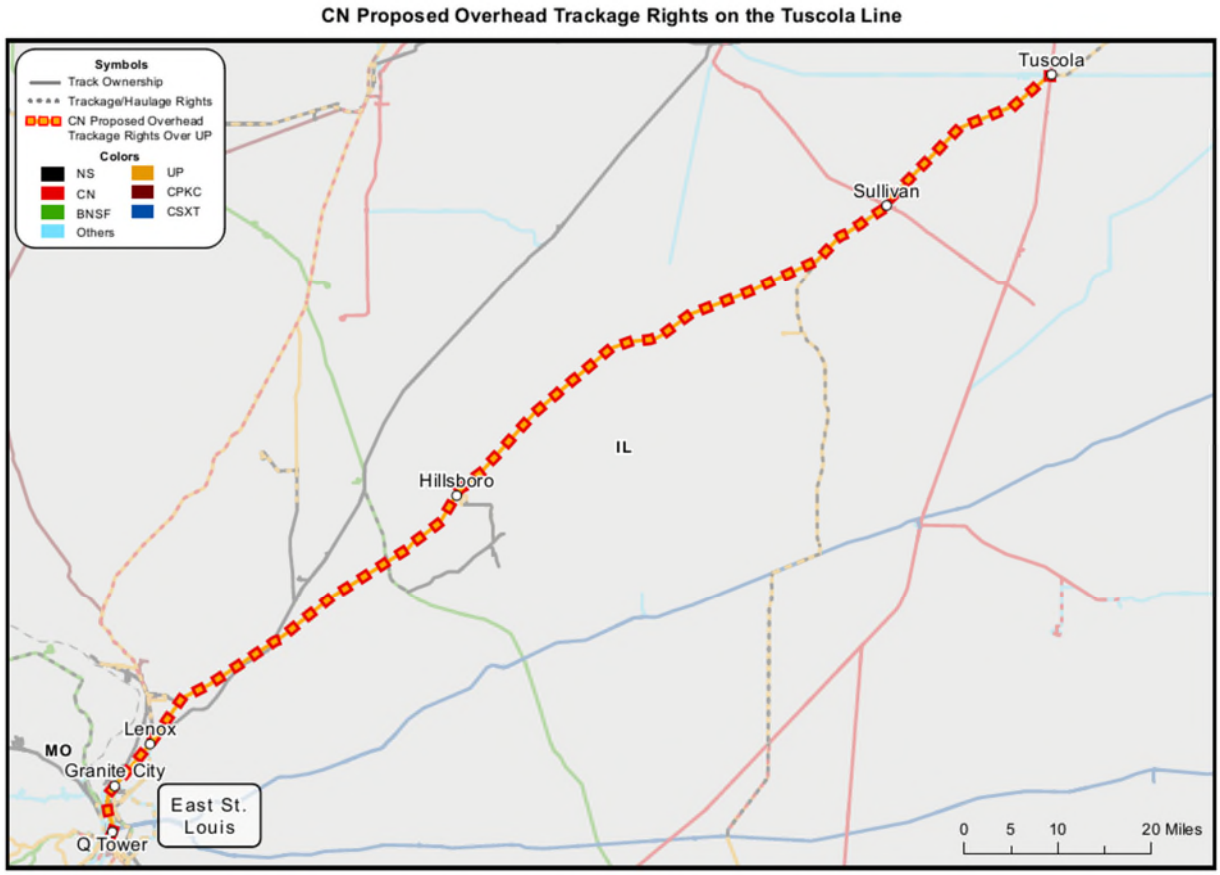
Exhibit 1D: Map of Neff Yard in Kansas City, Mo. (Sub-No. 6)



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

In Sub-No. 7, CN seeks overhead trackage rights over UP's Tuscola Line between Tuscola, Illinois and East St. Louis, Illinois. These rights would expand CN's access into St. Louis and make CN's routing to both St. Louis and Kansas City more efficient by eliminating approximately 70 miles from CN's route from Chicago; and

Exhibit 1E: Map of Trackage Rights Between Tuscola, Ill. and East St. Louis, Ill.
(Sub-No. 7)

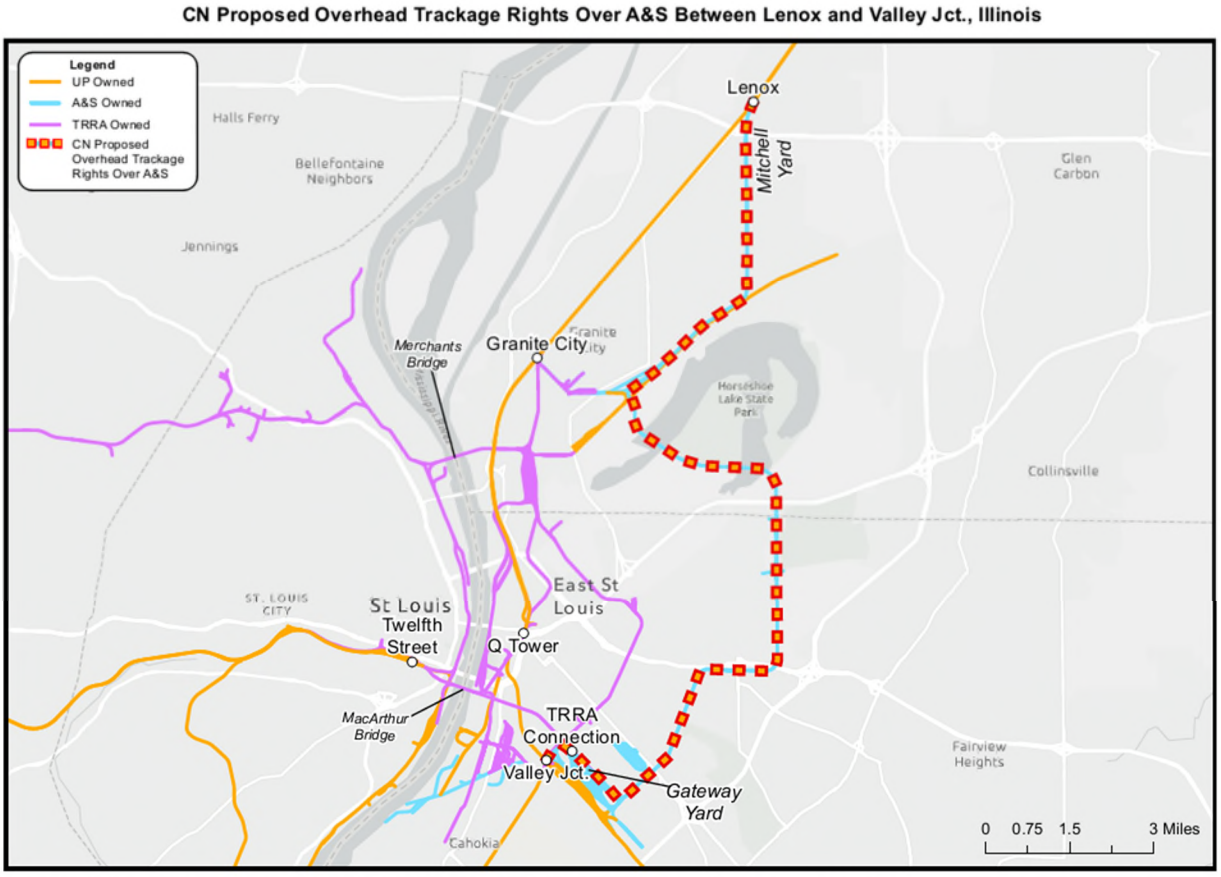


Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

In Sub-No. 8, CN seeks overhead trackage rights over A&S between Lenox in Mitchell, Illinois and Valley Junction in East St. Louis, Illinois. CN's network currently reaches only East St. Louis, and these rights are part of a comprehensive condition to effectuate CN's expanded access to St. Louis, allow seamless connection from East St. Louis, Illinois to St. Louis, Missouri, and fully preserve competition there.[8]

[8] Per CN-30, CN separately plans to seek trackage rights directly from the Terminal Railroad Association of St. Louis ("TRRA") to effectuate this access. The Board approved of this plan in Decision No. 46. *See* Decision No. 46, FD 36873, slip op. at 6 (STB served Nov. 4, 2026) ("The Board agrees that because TRRA is a non-applicant, CN is not requesting that the trackage rights agreement be made a condition to the Proposed Transaction, and the anticipated trackage rights agreement would be entered into voluntarily and available to CN regardless of the proposed

Exhibit 1F: Map of Trackage Rights Between Lenox in Mitchell, Ill. and East St. Louis, Ill. (Sub-No. 8)



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

The business address and telephone number for ICRR is 17641 Ashland Avenue, Homewood, IL 60430; 888-888-5909. The business address and telephone number for GTC is 17641 Ashland Avenue, Homewood, IL 60430; 888-888-5909.

Questions can be addressed to CN's counsel: Sara Y. Razi, Simpson Thacher & Bartlett LLP, 900 G Street, NW, Washington, DC 20001, (202) 636-5500.

Transaction, it is appropriate for CN to seek authority for such trackage rights outside of this proceeding.").

1180.6(a)(1)(ii) The proposed time schedule for consummation of the proposed transaction.

CN seeks to consummate the proposed conditions as soon as possible following a Board decision conditioning approval of the Proposed Transaction on the conditions set forth herein. Specifically, as to the divestiture of the Kansas City Line, CN expects to consummate the proposed divestiture as soon as possible following a Board decision and completion of negotiations with UP regarding the terms of agreements governing the proposed divestiture. Exhibit 2 to this responsive application includes the proposed divestiture agreement and the other proposed agreements for each of the other related conditions.[9] CN requests that the Board order the conditions to be effective immediately following a decision conditioning approval of the Proposed Transaction, and that the parties be ordered to negotiate the divestiture agreement terms (and any other remaining agreements that have not yet been finalized) within 90 days from the effective date of the Board's decision. If the parties cannot complete such negotiations prior to the expiration of that 90-day period, CN asks the Board to require the parties to submit any remaining disputed issues to the Board for determination.

1180.6(a)(1)(iii) The purpose sought to be accomplished by the proposed transaction, e.g., operating economies, eliminating excess facilities, improving service, or improving the financial viability of the applicants.

As CN explains in more detail in its Comments on the Amended Application & Requests for Conditions submitted in Docket No. FD 36873 (the "Comment"), complete divestiture of the Kansas City Line and CN's related requests are necessary to preserve competition. The purpose of CN's responsive application is to remedy the significant competitive harms that would result from

[9] CN continues to cooperate with Union Pacific to finalize the definitive agreements required to give effect to the Settlement MOU. Those negotiations remain ongoing and have not yet resulted in final definitive agreements as of the date of this responsive application. The agreements provided as Exhibit 2 are proposed form agreements.

the Proposed Transaction between Union Pacific and Norfolk Southern in key watershed geographies. The Proposed Transaction would combine two of the remaining Class I railroads and reduce competitive rail options for customers in Kansas City and St. Louis. CN's conditions reflected in this responsive application are designed to:

- Provide CN with access to Kansas City, where the combination of UP and NS parallel routes would otherwise significantly increase market concentration; and
- Improve CN's access to the St. Louis/East St. Louis gateway through trackage rights over the Tuscola Line, connecting CN's existing lines in central Illinois to the St. Louis gateway.

Applicants acknowledge in public statements and sworn testimony that these conditions would resolve competitive harms from the Proposed Transaction, including where Union Pacific's and Norfolk Southern's networks overlap in Kansas City and St. Louis.[10]

[10] *See* Jim Vena, UP Q2 2026 Earnings Call (July 23, 2026) (stating that the Settlement MOU will provide CN with additional access to St. Louis and access to Kansas City, which prevents Union Pacific from being "too concentrated" post-merger and "takes care of" this part "of the company where [they] have a significant overlap"); *see also* David Lassen, *CEOs of UP, NS, say latest additions to merger application further enhance competitive aspect*s, TrainsPro (July 28, 2026), https://www.trains.com/pro/freight/class-i/ceos-of-up-ns-say-latest-additions-to-merger-application-further-enhance-competitive-aspects/ (last visited Nov. 17, 2026) (noting that NS's CEO Mark George acknowledged that the agreement with CN "resolves Kansas City for us"); *see also* Remarks of Jim Vena, Virtual Fireside Chat Hosted by Bernstein Research (Sept. 1, 2026) ("This is an end-to-end merger with a small piece that we knew we had to take care of, which we have with the Canadian National Railway access between St. Louis and Kansas City…we knew that we had some concentration happening because of the additional line that we were going to take over from Norfolk Southern between St. Louis and Kansas City. Right from the very start, we knew we needed to fix that, and that's what we've done."); *see also* Pincock Dep. Tr. at 372:15-373:2 {{

}}; Pincock Dep. Tr. at 373:16-19 {{

Divestiture is the *only remedy* that would fully preserve competition for shippers in the Kansas City and St. Louis areas, by placing another Class I carrier in these areas with full commercial and operational independence and free to compete for traffic that traverses this key corridor without risk of entanglements. Moreover, CN is the *only carrier* seeking a full divestiture of the Kansas City Line and is well positioned to robustly compete following the Proposed Transaction based on its adjacent geographic network, commodity expertise, strong financial positioning and demonstrated commitment to investing in the Kansas City area. Other carriers have proposed alternative remedies to address Applicants' overlaps in Kansas City.[11] Proposed remedies that permit UP to retain any ownership interest in the Kansas City Line are insufficient to fully preserve competition. If the Board believes it is necessary to provide Class I carriers in addition to CN with access to Kansas City to preserve competition, CN is willing to jointly acquire the Kansas City Line with another Class I carrier, so long as CN retains at least 50% ownership and no ownership stake remains with the merged UP/NS. Finally, CN plans to grant overhead trackage and local haulage rights to UP to serve local customers on the Kansas City Line following divestiture, to ensure no customers lose their existing competitive options.

}}; Pincock Dep. Tr. at 382:24-383:2 {{

}}; Rynaski Dep. Tr. at 205:22-206:19 {{

}}; Vena Dep. Tr. at 275:6-16 {{

}}.

[11] *See* CSXT-25 at 4, 7, FD 36873 (filed Sept. 9, 2026); *see also* CPKC-46 at 3, 11–12, FD 36873 (filed Sept. 9, 2026).

1180.6(a)(1)(iv) The nature and amount of any new securities or other financial arrangements.

CN does not anticipate issuing any new securities in connection with the transactions sought in this responsive application.

1180.6(a)(2) A detailed discussion of the public interest justifications in support of the application, indicating how the proposed transaction is consistent with the public interest, with particular regard to the relevant statutory criteria, including:

1180.6(a)(2)(i) The effect of the transaction on inter- and intramodal competition, including a description of the relevant markets (see § 1180.7). Include a discussion of whether, as a result of the transaction, there is likely to be any lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States.

The public interest justifications for CN's responsive application are substantial. The Proposed Transaction between Union Pacific and Norfolk Southern will reduce the number of Class I railroads serving key geographies and customers in the Midwest and, absent the conditions sought herein, would result in significant competitive harm to rail customers and the broader transportation network. The conditions in this responsive application are specifically designed to preserve and enhance competition in the areas most affected by the Proposed Transaction.

The overwhelmingly positive effect of this remedy on inter- and intramodal competition is described in Exhibit 12. Those verified statements describe the positive effect the remedy would have on competitive options for intermodal, automotive, coal, fertilizer, metals and minerals, and grain shippers. Granting these conditions will remedy the loss of Class I access in areas where Applicants' networks directly overlap between Kansas City and St. Louis.[12] As the discussion above and in Exhibit 12 demonstrates, CN's acquisition of the Kansas City Line poses no risk of

[12] *See* CN's Comments on the Amended Application & Requests for Conditions, CN-38 at 35, FD 36873 (filed Nov. 18, 2026) [hereinafter "Comment"].

harm to competition but will instead generate substantial, cognizable procompetitive and public interest benefits.

CN is a strong and well-situated remedy carrier for Kansas City and St. Louis customers. *First*, CN's existing Midwest network provides valuable connections to the Kansas City gateway region and access to new geographic areas. CN's North American reach is extensive, with access to customers across 18,600 route miles and service to seven major ports on three coasts.[13] *Second*, CN has the commodity expertise to serve the most significant commodities originating and terminating in Kansas City, including intermodal, automotive, and grain, with 2.53 million total U.S. originations and terminations (including 534,000 intermodal, 353,000 grain and fertilizer, and 137,000 automotive), existing service to automotive distribution centers in Detroit, Chicago, Markham, New Richmond, Memphis, and Jackson, 10 intermodal terminals in the United States, and 1,500 high-efficiency hopper cars.[14] *Third*, CN has a demonstrated interest in investing to preserve competition: it previously sought access to Kansas City in the Canadian Pacific Railway/Kansas City Southern Railway merger proceeding and, following its acquisition of the Iowa Northern Railway Company, has improved transit times and increased traffic moving within Iowa.[15] *Finally*, CN is the only railroad willing to acquire 100% of the Kansas City Line, which would provide a clean, complete transfer to an independent operator. By contrast, proposals that would leave UP with a 50% ownership interest in the line, or that rely on trackage rights alone, would involve entanglement and require indefinite oversight.[16] While CN is willing to jointly

[13] *See* Exhibit 12H, Verified Statement of Janet Drysdale at 5 [hereinafter "Drysdale V.S."].

[14] *See* Drysdale V.S. at 5-6; Exhibit 12D, Verified Statement of David Przednowek at 8 [hereinafter "Przednowek V.S."]; Exhibit 12E, Verified Statement of Girish Nair at 3–4 [hereinafter "Nair V.S."]; Exhibit 12C, Verified Statement of Sarah Slazinski at 3, 5 [hereinafter "Slazinski V.S."].

[15] *See* Drysdale V.S. at 7-8; Przednowek V.S. at 8–9; Comment at 62.

[16] *See* Comment at 39-41, 53; Drysdale V.S. at 12; Nair V.S. at 8.

acquire the Kansas City Line with another Class I carrier if the Board believes it necessary to preserve competition, CN must retain at least 50% ownership, and the merged UP/NS should not retain any ownership stake.

1180.6(a)(2)(ii) The financial consideration involved in the proposed transaction, and any economies, to be effected in operations, and any increase in traffic, revenues, earnings available for fixed charges, and net earnings, expected to result from the consummation of the proposed transaction.

The financial consideration for the proposed divestiture will be negotiated by CN and Applicants following any Board decision granting this responsive application. The other relevant agreements related to these conditions are provided in Exhibit 2 and detail the financial consideration involved. The economies to be effected in operations, and the projected increase in traffic and revenues expected to result from the proposed divestiture transaction, are described in the verified statements set forth in Exhibit 12 and Exhibit 13.

1180.6(a)(2)(iii) The effect of the increase, if any, of total fixed charges resulting from the proposed transaction.

None. CN presently has no plans to take on additional debt or incur any fixed charges in connection with the transactions contemplated by this responsive application.

1180.6(a)(2)(iv) The effect of the proposed transaction upon the adequacy of transportation service to the public, as measured by the continuation of essential transportation services by applicants and other carriers.

The conditions sought in this responsive application will enhance the adequacy of transportation service to the public. By preserving and improving CN's competitive access to key markets, the conditions will ensure that customers retain meaningful competitive options following the Proposed Transaction.

If the Proposed Transaction were approved without CN's proposed conditions, the combined UP/NS would have no incentive to invest in or utilize the Kansas City Line in a manner that would compete with its other routes between Kansas City and St. Louis. By contrast, divesting

the Kansas City Line to CN will enable the line to serve as an independent competitive routing option, and Exhibit 13 (Operating Plan) discusses the capital projects CN would undertake to ensure shippers enjoy faster, safer, and more efficient rail transportation on the line. The transaction proposed in this responsive application is decidedly procompetitive: shippers on the Kansas City Line would continue to enjoy their present transportation options, as CN would agree to grant overhead trackage and local haulage rights back to UP to serve customers.[17] As a result, no local customer on that line would lose a rail option. Instead, customers would enjoy new options via CN, and UP would still be able to commercially access those customers.

1180.6(a)(2)(v) ***The effect of the proposed transaction upon applicant carriers' employees (by class or craft), the geographic points where the impact will occur, the time frame of the impact (for at least 3 years after consolidation), and whether any employee protection agreements have been reached.***

Divestiture of the Kansas City Line (Sub-No. 2)

Divestiture, or alternatively grant of trackage rights, of the Kansas City Line is not anticipated to have any adverse impact on the current employees of CN or any of its U.S. rail subsidiaries. The anticipated hiring detailed below is based on limited information currently available. CN's likely staffing locations include the following:

Engineers/conductors: Missouri (Jefferson City, St. Louis)

Maintenance of way/engineering: Missouri (Jefferson City, Sedalia, Boonville).

Dispatchers: Illinois (Homewood)

CN anticipates hiring in Year 1 after consummation. No employee protection agreements have been reached.

[17] If the Kansas City Line is divested to CN, CN expects that UP and BNSF would continue to have the local trackage rights necessary to bring unit trains of coal to Labadie, and CN would not make any changes to the status quo for that traffic. Labadie therefore would not lose the single-line service options it has today.

The summary of the anticipated labor impacts is attached to Exhibit 13 (Operating Plan) at Appendix B and is included below. ICRR will be hiring new employees to operate the Kansas City Line after consummation and plans to offer priority hiring consideration to qualified UP employees currently working on the line. As summarized below, CN estimates that it will hire 159 new employees in Missouri and Illinois (identified as "Anticipated Jobs Created" in the summary of anticipated labor impacts) to operate the Kansas City Line, if divested. Those employees will include 149 craft employees and 10 managers. If trackage rights are granted, CN estimates that it will hire 30 new employees. Those employees will include 28 craft employees and 2 managers.

KANSAS CITY LINE DIVESTITURE
Summary of Anticipated Labor Impacts

Illinois Central Railroad Company (ICRR)	
Craft or Class	**Anticipated Jobs Created**
BLET Locomotive Engineers	**26**
BMWED Engineering and Track Maintenance	**73**
BRS Signalmen	**16**
SMART-TD Conductors	**26**
IBEW Electrician	**4**
IAM Machinist	**0**
BRC Car Mechanic	**0**
ATDA Dispatchers	**4**
Craft Total	**149**
Management	**Anticipated Jobs Created**

Management – Transportation	**2**
Management – Engineering	**8**
Management Total	**10**
GRAND TOTAL	**159**

Trackage Rights over the Kansas City Line (Sub-No. 3)

KANSAS CITY LINE TRACKAGE RIGHTS
Summary of Anticipated Labor Impacts

Illinois Central Railroad Company (ICRR)	
Craft or Class	**Anticipated Jobs Created**
BLET Locomotive Engineers	**14**
BMWED Engineering and Track Maintenance	**0**
BRS Signalmen	**0**
SMART-TD Conductors	**14**
IBEW Electrician	**0**
IAM Machinist	**0**
BRC Car Mechanic	**0**
Craft Total	**28**
Management	**Anticipated Jobs Created**
Management – Transportation	**2**
Management – Engineering	**0**
Management Total	**2**

GRAND TOTAL	**30**

Trackage Rights over the Tuscola Line (Sub-No. 7)

The trackage rights over the Tuscola Line are not anticipated to have any adverse impact on the current employees of CN or any of its U.S. rail subsidiaries. The anticipated hiring is based on limited information currently available. CN's likely staffing location includes the following: Illinois (Champaign). CN anticipates hiring in Year 1 after consummation. No employee protection agreements have been reached.

The summary of the anticipated labor impacts is attached to Exhibit 13 (Operating Plan) at Appendix B and is included below. ICRR will be hiring new employees to conduct operations under the trackage rights over the Tuscola Line after consummation. As summarized below, ICRR estimates that it will hire 15 new employees in Illinois (identified as "Anticipated Jobs Created" in the summary of anticipated labor impacts) to conduct operations under the trackage rights over the Tuscola Line. Those employees will include 14 craft employees and 1 manager.

TUSCOLA LINE TRACKAGE RIGHTS
Summary of Anticipated Labor Impacts

Illinois Central Railroad Company (ICRR)	
Craft or Class	**Anticipated Jobs Created**
BLET Locomotive Engineers	**6**
BMWED Engineering and Track Maintenance	**0**
BRS Signalmen	**0**
SMART-TD Conductors	**8**
IBEW Electrician	**0**
IAM Machinist	**0**

BRC Car Mechanic	**0**
Craft Total	**14**
Management	**Anticipated Jobs Created**
Management – Transportation	**1**
Management – Engineering	**0**
Management Total	**1**
GRAND TOTAL	**15**

* * *

For the line sale divestiture in Docket No. FD 36873 (Sub-No. 2), employees adversely affected by the transaction will be entitled to the employee protective conditions and other procedures adopted in *New York Dock—Control—Brooklyn Eastern District Terminal*, 360 I.C.C. 60 (1979), *aff'd sub nom. New York Dock Ry. v. United States*, 609 F.2d 83 (2d Cir. 1979), as modified by *Wilmington Terminal Railroad—Purchase & Lease—CSX Transportation Inc.*, 6 I.C.C.2d 799, 814–26 (1990), *aff'd sub nom. Railway Labor Executives' Ass'n v. ICC*, 930 F.2d 511 (6th Cir. 1991).

The trackage rights transactions in Docket No. FD 36873 (Sub-Nos. 3, 4, 7, and 8) are subject to the employee protective conditions established in *Norfolk & Western Ry.—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry.—Lease & Operate*, 360 I.C.C. 653 (1980). ICRR does not anticipate that the trackage rights transactions proposed in those sub-dockets will adversely affect any rail employees.

For the lease and potential acquisition transaction in Docket No. FD 36873 (Sub-No. 6), employees adversely affected by the transaction will be entitled to the employee protective conditions and other procedures adopted in *New York Dock—Control—Brooklyn Eastern District Terminal*, 360 I.C.C. 60 (1979), *aff'd sub nom. New York Dock Ry. v. United States*, 609 F.2d 83 (2d Cir. 1979).

1180.6(a)(2)(vi) The effect of inclusion (or lack of inclusion) in the proposed transaction of other railroads in the territory, under 49 U.S.C. 11324.

Not applicable.

1180.6(a)(3) Any other supporting or descriptive statements applicants deem material.

In addition to the previously described verified statements, in Appendix B, CN provides support letters from stakeholders expressing their support for a Kansas City Line divestiture to CN. CN also incorporates by reference the Comment submitted by CN in Docket No. FD 36873 and the accompanying testimony.

1180.6(a)(4) An opinion of applicants' counsel that the transaction meets the requirements of the law and will be legally authorized and valid, if approved by the Board. This should include specific references to any pertinent provisions of applicants' bylaws or charter or articles of incorporation.[18]

See Appendix A (Opinion of Counsel).

1180.6(a)(5) A list of the State(s) in which any part of the property of each applicant carrier is situated.

GTC and its U.S. rail operating subsidiaries own and operate approximately 5,453 route miles in the United States in the following states:

- Grand Trunk Western Railroad Company: Illinois, Indiana, Michigan, and Ohio[19]

[18] An opinion of counsel is not required in a control transaction for the party sought to be controlled, or in a responsive application for the party against whom relief is sought. 49 C.F.R. § 1180.6(a)(4) n.2.

[19] Grand Trunk Western Railroad Company also has non-rail property assets in Massachusetts.

- Wisconsin Central, Ltd.: Illinois, Indiana, Michigan, Minnesota, and Wisconsin
- Illinois Central Railroad Company: Alabama, Illinois, Kentucky, Louisiana, Mississippi, and Tennessee[20]
- Bessemer and Lake Erie Railroad Company: Ohio and Pennsylvania
- Chicago, Central & Pacific Railroad Company: Illinois, Iowa, and Nebraska
- Iowa Northern Railway Company: Iowa
- Cedar River Railroad Company: Iowa and Minnesota
- The Pittsburgh & Conneaut Dock Company: Ohio
- Sault Ste. Marie Bridge Company: Michigan and Wisconsin
- Waterloo Railway Company: Mississippi and Maine
- Wisconsin Chicago Link Ltd.: Illinois

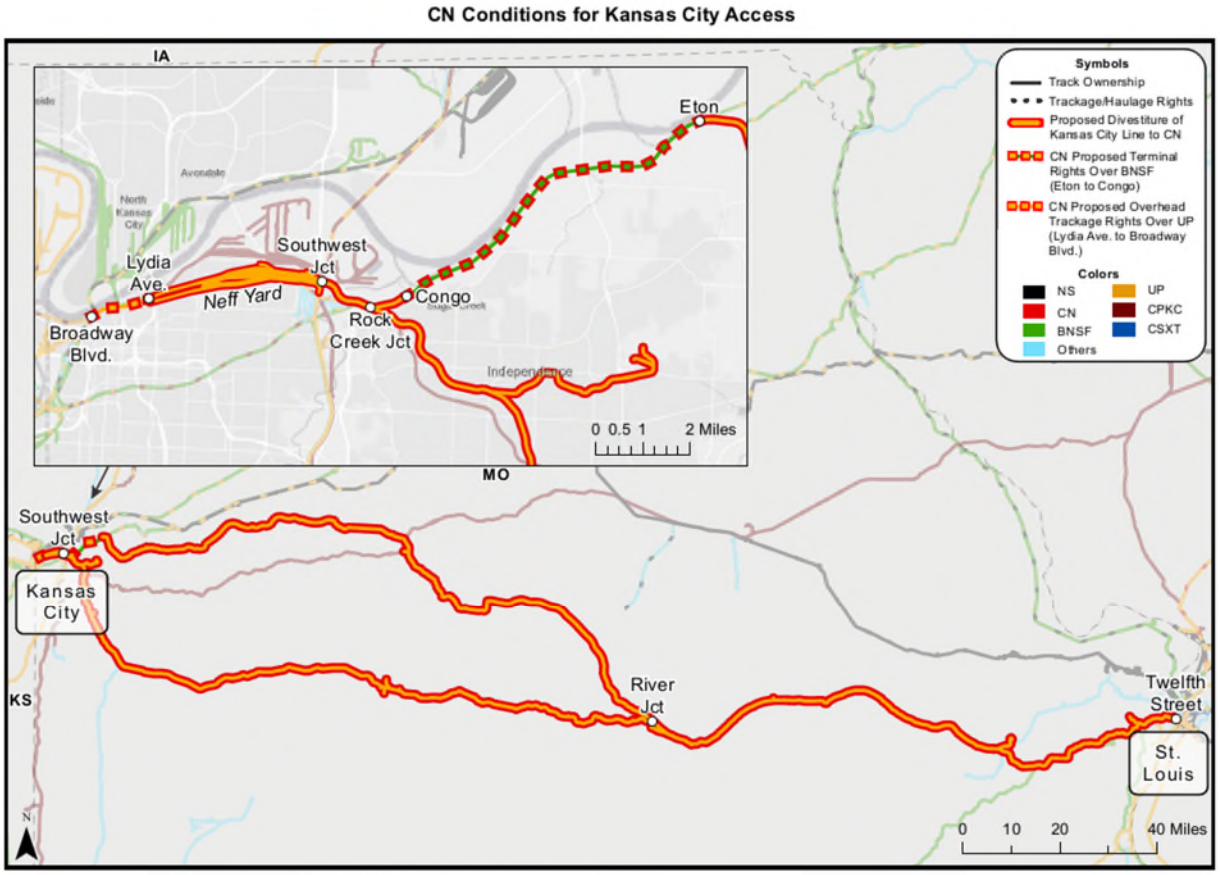
1180.6(a)(6) Map (exhibit 1). Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the map accompanying each application, 20 unbound copies of the map shall be filed with the Board.

See Exhibit 1 (Maps), which contains a series of maps that depict CN's network and the Kansas City Line, the Tuscola Line, and other requested trackage rights. Specifically, Exhibit 1A: Map of the Kansas City Line (Sub-No. 2 and Sub-No. 3); Exhibit 1B: Map of Former Sarpy Yard Property (Sub-No. 3); Exhibit 1C: Map of the Trackage Rights Between Lydia Ave. and Broadway Blvd. in Kansas City, Mo. (Sub-No. 4); Exhibit 1D: Map of Neff Yard in Kansas City, Mo. (Sub-No. 6); Exhibit 1E: Map of Trackage Rights Between Tuscola, Ill. and East St. Louis, Ill. (Sub-No. 7); Exhibit 1F: Map of Trackage Rights Between Lenox in Mitchell, Ill. and East St. Louis,

[20] ICRR also has non-rail property in South Dakota and Wisconsin.

Ill. (Sub-No. 8). For completeness, Exhibit 1G is also provided, which depicts all the requested Kansas City Line conditions together.

Exhibit 1G: Map of All Requested Kansas City Line Conditions



Sources: Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

1180.6(a)(7) ***Explanation of the transaction.***

1180.6(a)(7)(i) ***Describe the nature of the transaction (e.g., merger, control, purchase, trackage rights), the significant terms and conditions, and the consideration to be paid (monetary or otherwise).***

1180.6(a)(7)(ii) ***Agreement (exhibit 2). Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction. In addition, parties to exempt trackage rights agreements and renewal of agreements described at § 1180.2(d)(7) must submit one copy of the executed agreement or renewal agreement with the notice of exemption, or within 10 days of the date that the agreement is executed, whichever is later.***

CN's responsive application encompasses the following types of transactions:

- Divestiture/Acquisition: CN seeks divestiture of UP's Kansas City Line (Sub-No. 2).
- Trackage Rights: If divestiture is not ordered, CN seeks (1) trackage rights, including access to the former Sarpy Yard property in St. Louis, and overhead haulage rights; and (2) local haulage rights over the Kansas City Line (Sub-No. 3). CN also seeks overhead trackage rights over UP's line between Lydia Avenue and Broadway Boulevard in Kansas City, Missouri (Sub-No. 4), over UP's Tuscola Line (Sub-No. 7), and over the A&S between Lenox in Mitchell, Illinois and Valley Junction in East St. Louis, Illinois (Sub-No. 8).
- Lease/Purchase: CN seeks a lease of Neff Yard, including Neff intermodal terminal, in Kansas City, in whole or in part, with an option to purchase (Sub-No. 6).

The terms of the proposed transactions are provided in Exhibit 2:

- **Exhibit 2A: Asset Purchase Agreement for Kansas City Line (Sub-No. 2).** The draft Asset Purchase Agreement between UP and ICRR contemplates the divestiture of the lines of railroad extending from Southwest Junction in Kansas City, Missouri to Twelfth Street in St. Louis, Missouri at or near the MacArthur Bridge, including the Sedalia Subdivision and the River Subdivision, pursuant to an order of the Board.[21] The divestiture includes the former Sarpy Yard property.
- **Exhibit 2B: Agreement for Trackage Rights Over Kansas City Line (Sub-No. 3).** In the alternative to divestiture of the Kansas City Line (Sub-No. 2), CN seeks trackage rights over the Kansas City Line between Twelfth Street in St. Louis, Missouri and Neff Yard in

[21] *See* Comment at 38–39; Asset Purchase Agreement between UP and ICRR, Recitals, § 4.03(g) (Exhibit 2A) [hereinafter "Asset Purchase Agreement"].

Kansas City, Missouri, including via River Junction, Eton, Congo, and Southwest Junction, Missouri, and via the Sedalia Subdivision, including access to the former Sarpy Yard property, as an on/off point of the trackage rights, for handling CN's intermodal and automotive traffic, as well as overhead haulage rights.[22] The trackage rights would permit the movement of traffic from any origin or to any destination and of all commodities, equipment, and train types. CN also seeks local haulage rights on the Kansas City Line to serve affected customers. These rights would allow CN to operate its own trains between Kansas City and St. Louis and to serve customers on the line, providing a competitive Class I alternative in the corridor where Applicants' parallel lines overlap if the Board declines to order divestiture.[23]

- **Exhibit 2C: Asset Purchase Agreement for former Sarpy Yard property (Sub-No. 3).** The draft Asset Purchase Agreement between UP and ICRR provides for UP to divest to ICRR the real property in St. Louis, Missouri formerly known as Sarpy Yard, pursuant to an order of the Board in the event the Board orders trackage rights over the Kansas City Line.
- **Exhibit 2D: Agreement for Trackage Rights Between Lydia Ave. and Broadway Blvd. in Kansas City, Mo. (Sub-No. 4).** In connection with its Kansas City access, CN seeks overhead trackage rights between Lydia Avenue in Kansas City, Missouri at milepost ("MP") 281.7 and Broadway Boulevard in Kansas City, Missouri at MP 283.1, for the movement of traffic from any origin or to any destination, for all commodities, equipment,

[22] If the Board orders divestiture of the Kansas City Line to CN, CN expects to gain access to the former Sarpy Yard property and plans to invest in developing the yard to handle CN's automotive and intermodal traffic at that location. *See* Comment at 11 n.25, 37–38; CN-30 at 2–3, 11.

[23] *See* CN-30 at 10; Kansas City Line Trackage Rights Agreement, Recitals, § 1 (Exhibit 2B).

and train types. This segment connects Neff Yard and KCT and is necessary for CN to interchange with BNSF and other carriers in Kansas City via Neff Yard, which is essential to CN's ability to serve as an effective remedy carrier and to open new interline routes through the Kansas City gateway.

- **Exhibit 2E: Agreement to Lease or Purchase Neff Yard in Kansas City, Mo. (Sub-No. 6).** CN seeks the lease of UP's Neff Yard, including the Neff intermodal terminal, in Kansas City, Missouri, in whole or in part, with an option to purchase, to support CN's operating plan set forth in Exhibit 13 (Operating Plan). Access to Neff Yard will provide CN with the terminal capacity needed to load and unload containers and finished vehicles and to handle merchandise traffic, allowing CN to effectively serve intermodal, automotive, and other customers in Kansas City that would otherwise lose a Class I alternative as a result of the Proposed Transaction.[24]
- **Exhibit 2F: Agreement for Trackage Rights Between Tuscola, Ill. and East St. Louis, Ill. (Sub-No. 7).** CN seeks overhead trackage rights over the Tuscola Line, for the movement of any traffic between Tuscola and Q Tower on TRRA, Illinois. The Tuscola Line extends between Tuscola, Illinois at MP 153.49, and Sullivan, Illinois at MP 176.2, to Lenox in Mitchell, Illinois at MP 275.4/269.70, and between Lenox in Mitchell, Illinois and Q Tower TRRA, Illinois at MP 281.00, including on/off rights so that CN may connect with A&S or TRRA.[25] These rights will connect CN's existing lines in central Illinois to the St. Louis gateway and, through it, to the Kansas City Line, expanding CN's access to

[24] *See* CN-30 at 8, 10; Neff Yard Lease/Purchase Agreement, Recitals, §§ 2, 8, 10 (Exhibit 2E).

[25] *See* UP-80/NS-78 at 216, FD 36873 (filed July 27, 2026) [hereinafter the "Second Supplemental Submission"].

St. Louis and eliminating approximately 70 miles from CN's route from Chicago to St. Louis and Kansas City, increasing CN's effectiveness as a competitive option for customers in the St. Louis area.[26]

- **Exhibit 2G: Agreement for Trackage Rights Between Lenox in Mitchell, Ill. and East St. Louis, Ill. (Sub-No. 8).** CN seeks overhead trackage rights over the lines of A&S, UP's wholly owned subsidiary, between Lenox in Mitchell, Illinois and Valley Junction in East St. Louis, Illinois, for connection to TRRA, for the movement of empty and loaded railcars. Together with the Tuscola Line rights and trackage rights over TRRA between East St. Louis, Illinois and St. Louis, Missouri, these rights will give CN a continuous route into St. Louis, expanding CN's access beyond East St. Louis and giving more customers in the St. Louis area a competitive option to mitigate the loss of NS.[27]
- **Exhibit 2H: Local Haulage Agreement for Union Pacific on the Kansas City Line (Sub-No. 2).** If the Kansas City Line is divested to CN pursuant to the proposed Asset Purchase Agreement for the Kansas City Line, CN anticipates granting UP local haulage rights over the Kansas City Line so that every customer on the line retains access to UP following the divestiture. These haulage rights will ensure that existing customers on the Kansas City Line do not lose a competitive option as a result of the divestiture.
- **Exhibit 2I: Overhead Trackage Rights Agreement for Union Pacific on the Kansas City Line (Sub-No. 2).** If the Kansas City Line is divested to CN, UP would retain access to the Kansas City Line through overhead trackage rights granted by CN. These trackage

[26] *See* CN-30 at 8–10; Overhead Trackage Rights Agreement (Tuscola, IL to St. Louis, MO), Recitals, § 1 (Exhibit 2F).

[27] *See* CN-30 at 1–2, 11; Overhead Trackage Rights Agreement (Lenox in Mitchell, IL to East St. Louis, IL), Recitals (Exhibit 2G).

rights will permit UP to continue to operate over the line following the divestiture, so that the Proposed Transaction's efficiencies are preserved while CN operates the line as an independent competitor. Under the draft Asset Purchase Agreement, any such trackage rights would be non-exclusive overhead rights over only the portions of the line specified by the Board, and would not grant UP local service rights, dispatching control, or operating priority.[28]

1180.6(a)(7)(iii) ***If a consolidation or merger is proposed, indicate—(A) The name of the company resulting from the consolidation or merger; (B) the State or territory under the laws of which the consolidated company is to be formed or the merged company is to file its certificate of amendment; (C) the capitalization proposed for the resulting company; and (D) the amount and character of capital stock and other securities to be issued.***

Not applicable. No consolidation or merger is proposed in this responsive application.

1180.6(a)(7)(iv) ***Court Order (exhibit 3). If a trustee, receiver, assignee, or personal representative of the real party in interest is an applicant, submit a certified copy of the order, if any, of the court having jurisdiction, authorizing the contemplated action.***

Not applicable. No trustee, receiver, assignee, or personal representative is an applicant.

1180.6(a)(7)(v) ***State whether the property involved in the proposed transaction includes all the property of the applicant carriers and, if not, describe what property is included in the proposed transaction.***

The proposed transaction does not include all the property of UP, CN, or ICRR. The proposed transaction consists of the following property:

- In FD 36873 (Sub-No. 2), UP's line from Twelfth Street, St. Louis, Missouri (MP 0.36) to 23rd Street Yard (at or near MP 0.8), to Grand Ave., St. Louis, Missouri (MP 2.5), to the former Sarpy Yard property (at or near MP 2.6), to River Junction (MP 128.0) west of Jefferson City, Missouri to Rock Creek Junction (MP 276.9) to Southwest Junction (MP 278.2) into Neff Yard, Kansas City, Missouri, or from Twelfth Street, St. Louis,

[28] *See* Comment at 38–39; Asset Purchase Agreement § 4.03(f).

Missouri (MP 0.36) to 23rd Street Yard (at or near MP 0.8), to Grand Ave., St. Louis, Missouri (MP 2.5), to the former Sarpy Yard property (at or near MP 2.6), to River Junction, Missouri (MP 128.0) to Eton, Missouri (MP 276.1 (BNSF MP 436.6)) and from Congo, Missouri (BNSF MP 444.1) to Rock Creek Junction (MP 276.9) to Southwest Junction (MP 278.2) into Neff Yard, Kansas City, Missouri including, but not limited to, any and all yards, sidings, auxiliary tracks located along the UP solely owned right of way (the Kansas City Line). Alternatively, in FD 36873 (Sub-No. 3), (1) trackage rights, including access to the former Sarpy Yard property in St. Louis, and overhead haulage rights; and (2) local haulage rights over the Kansas City Line.

- In FD 36873 (Sub-No. 4), trackage rights over UP's K.C. Metro (Neff) Subdivision between Lydia Avenue (MP 281.7) and Broadway Boulevard (MP 283.1) in Kansas City, Missouri for connection to KCT and BNSF.
- In FD 36873 (Sub-No. 6), a lease, with an option to purchase, of UP's Neff Yard, including Neff intermodal terminal, in Kansas City, Missouri, in whole or in part. The portion of Neff Yard to be leased comprises all UP–owned property north of the UP main tracks on the yard's southern border, west of the Canadian Pacific Kansas City Railway Company ("CPKC") Pittsburg Subdivision and the eastern limits of the Lydia Avenue control point, and extending to the northern boundary of UP's land. It includes the classification bowl and all related leads, tracks, switches, signals, buildings and improvements within that area.
- In FD 36873 (Sub-No. 7), overhead trackage rights over UP's line from Tuscola, Illinois (MP 153.49) to Sullivan, Illinois (MP 176.2) to Lenox in Mitchell, Illinois (MP 275.4/269.70) to WR Tower in Granite City, Illinois (MP 275.39) to Q Tower TRRA in East St. Louis, Illinois (MP 281.00) (the Tuscola Line).

- In FD 36873 (Sub-No. 8), overhead trackage rights over A&S's line from Lenox in Mitchell, Illinois (MP 21.09) to the connection to the TRRA's MacArthur Bridge route (MP 2.4) to Valley Jct. in East St. Louis, Illinois (MP 2.2), via Gateway Yard (MP 4.16) and Mitchell Yard (MP 19.9).

1180.6(a)(7)(vi) Briefly describe the principal routes and termini of the lines involved, the principal points of interchange on the routes, and the amount of main-line mileage and branch line mileage involved.

As described in greater detail in Exhibit 13 (Operating Plan), the principal routes and termini are as follows:

- Tuscola Line: Tuscola, Illinois (MP 153.49) to Sullivan, Illinois (MP 176.2) to Lenox in Mitchell, Illinois (MP 275.4/269.70) to WR Tower in Granite City, Illinois (MP 275.39) to Q Tower TRRA in East St. Louis, Illinois (MP 281.00).
    - Principal interchange points: East St. Louis/St. Louis with TRRA, A&S, BNSF, UP/NS, CPKC, and CSX Transportation, Inc. ("CSXT").
    - Main-line mileage is 133.2 miles.
- Kansas City Line: Twelfth Street, St. Louis, Missouri (MP 0.36), to 23rd Street Yard (at or near MP 0.8), to Grand Ave., St. Louis, Missouri (MP 2.5), to the former Sarpy Yard property (at or near MP 2.6), to River Junction (MP 128.0) west of Jefferson City, Missouri to Rock Creek Junction (MP 276.9) to Southwest Junction (MP 278.2) into Neff Yard, Kansas City, Missouri, or from Twelfth Street, St. Louis, Missouri (MP 0.36) to 23rd Street Yard (at or near MP 0.8), to Grand Ave., St. Louis, Missouri (MP 2.5), to the former Sarpy Yard property (at or near MP 2.6), to River Junction, Missouri (MP 128.0) to Eton, Missouri (MP 276.1 (BNSF MP 436.6)) and from Congo, Missouri (BNSF MP 444.1) to

Rock Creek Junction (MP 276.9) to Southwest Junction (MP 278.2) into Neff Yard, Kansas City, Missouri.

  - Principal interchange points: East St. Louis/St. Louis with TRRA, A&S, BNSF, UP/NS, CPKC, and CSXT; Kansas City with UP/NS, CPKC, BNSF, KCT, and the Missouri & Northern Arkansas Railroad. If the Board grants the requested divestiture, an additional interchange point would be Pacific, Missouri with BNSF.
  - Main-line mileage is 426.8 miles.

- Lydia Avenue, Kansas City, Missouri (MP 281.7) to Broadway Boulevard, Kansas City, Missouri (MP 283.1).
  - Principal interchange point: Kansas City with KCT, UP/NS, and BNSF.
  - Main-line mileage is 1.4 miles.
- Lenox in Mitchell, Illinois (MP 21.09) to the connection to the TRRA MacArthur Bridge route (MP 2.4) to Valley Jct. in East St. Louis, Illinois (MP 2.2), via Gateway Yard (MP 4.16) and Mitchell Yard (MP 19.9). Entry and exit at Gateway Yard and Mitchell Yard would be for the sole purpose of delivering and pulling traffic interchanged with A&S.
  - Principal interchange points: East St. Louis/St. Louis with TRRA, A&S, BNSF, UP, NS, CPKC, and CSXT.
  - Main-line mileage is 18.89 miles.

1180.6(a)(7)(vii) State whether any governmental financial assistance is involved in the proposed transaction and, if so, the form, amount, source, and application of such financial assistance.

No governmental financial assistance is involved in the transactions sought in this responsive application.

1180.6(a)(8) Environmental data (exhibit 4). Submit information and data with respect to environmental matters prepared in accordance with 49 CFR part 1105. In major and significant transaction, applicants shall, as soon as possible, and no later

than the filing of a notice of intent, consult with the Board's Office of Environmental Analysis for the proper format of the environmental report.

CN has consulted with the Board's Office of Environmental Analysis ("OEA") and provided the information in the format requested by OEA. That information is set forth in Exhibit 4.

1180.6(b)(3) Change in control (exhibit 8). If an applicant carrier submits an annual report Form R-1, indicate any change in ownership or control of that applicant carrier not indicated in its most recent Form R-1, and provide a list of the principal six officers of that applicant carrier and of any related applicant, and also of their majority-owned rail carrier subsidiaries. If any applicant carrier does not submit an annual report Form R-1, list all officers of that applicant carrier, and identify the person(s) or entity/entities in control of that applicant carrier and all owners of 10% or more of the equity of that applicant carrier.

See Exhibit 8. ICRR is a wholly owned indirect subsidiary of GTC. ICRR and the other U.S. rail carrier subsidiaries of GTC report to the Board on a consolidated Class I basis under the name Grand Trunk Corporation. *See Consol. Reporting by Commonly Controlled R.Rs.*, 5 S.T.B. 1050 (2001), codified at 49 C.F.R. pt. 1201, subpt. A, Gen. Instruction 1-1(b)(1).

1180.6(b)(5) Issues (exhibit 10). Submit a discussion of any other issues relevant to the transaction.

Attached as Appendix B are letters of support from interested stakeholders, who are excited by the prospect of a revitalized Kansas City Line with new investments that will preserve and increase competition for both existing railroad service and trucking alternatives.

1180.6(b)(6) Corporate chart (exhibit 11). Submit a corporate chart indicating all relationships between applicant carriers and all affiliates and subsidiaries and also companies controlling applicant carriers directly, indirectly or through another entity (with each chart indicating the percentage ownership of every company on the chart by any other company on the chart). For each company: include a statement indicating whether that company is a noncarrier or a carrier; and identify every officer and/or director of that company who is also an officer and/or director of any other company that is part of a different corporate family that includes a rail carrier. Such information may be referenced through notes to the chart.

See Exhibit 11.

1180.6(b)(7) If applicant is not a carrier, indicate (i) the type of business in which it is engaged, (ii) the length of time so engaged, and (iii) its present and prospective activities which have or may have a relation to transportation subject to 49 U.S.C. Subtitle IV.

Not applicable. Grand Trunk Corporation is a carrier within the meaning of 49 U.S.C. Subtitle IV, as are its U.S. rail operating subsidiaries.

1180.6(b)(8) Intercorporate or financial relationships. Indicate whether there are any direct or indirect intercorporate or financial relationships at the time the application is filed, not disclosed elsewhere in the application, through holding companies, ownership of securities, or otherwise, in which applicants or their affiliates own or control more than 5% of the stock of a non-affiliated carrier, including those relationships in which a group affiliated with applicants owns more than 5% of the stock of such a carrier. Indicate the nature and extent of any such relationships, and, if an applicant owns securities of a carrier subject to 49 U.S.C. Subtitle IV, provide the carrier's name, a description of securities, the par value of each class of securities held, and the applicant's percentage of total ownership. For purposes of this paragraph, "affiliates" has the same meaning as "affiliated companies" in Definition 5 of the Uniform System of Accounts (49 CFR part 1201, subpart A).

All known financial relationships between applicant carriers, including persons affiliated with those carriers, and carriers from other corporate families, including persons affiliated with those carriers, are reported in Exhibit 11.

2. Competitive & Market Information

1180.7(a) For major and significant transactions, applicants shall submit impact analyses (exhibit 12) describing the impacts of the proposed transaction—both adverse and beneficial—on inter-and intramodal competition with respect to freight surface transportation in the regions affected and on the provision of essential services by applicants and other carriers. An impact analysis should include underlying data, a study of the implications of those data, and a description of the resulting likely effects of the proposed transaction on the transportation alternatives that would be available to the shipping public. Each aspect of the analysis should specifically address significant impacts as they relate to the applicable statutory criteria (49 U.S.C. 11324(b) or (d)), essential services, and competition. Applicants must identify and address relevant markets and issues, and provide additional information as requested by the Board on markets and issues that warrant further study. Applicants (and any other party submitting analyses) must demonstrate both the relevance of the markets and issues analyzed and the validity of their methodology. All underlying assumptions must

be clearly stated. Analyses should reflect the consolidated company's marketing plan and existing and potential competitive alternatives (inter- as well as intramodal). They can address: city pairs, interregional movements, movements through a point, or other factors; a particular commodity, group of commodities, or other commodity factor that would be significantly affected by the transaction; or other effects of the transaction (such as on a particular type of service offered).

See Exhibit 12 (Market Analyses). CN has prepared comprehensive market analyses addressing the impacts of the Proposed Transaction and CN's conditions on competition in the affected regions. These analyses include:

- Exhibit 12A: Verified Statement of Dr. Mary Coleman
- Exhibit 12B: Verified Statement of Dr. Henry Kahwaty
- Exhibit 12C: Verified Statement of Sarah Slazinski
- Exhibit 12D: Verified Statement of David Przednowek
- Exhibit 12E: Verified Statement of Girish Nair
- Exhibit 12F: Verified Statement of Sandra Ellis
- Exhibit 12G: Verified Statement of Kelly Levis
- Exhibit 12H: Verified Statement of Janet Drysdale

3. Operational Information

1180.8(b) ***For major and significant transactions: Operating plan (exhibit 13). Submit a summary of the proposed operating plan changes, based on the impact analyses, that will result from the transaction, and their anticipated timing, allowing for any time required to complete rehabilitation, upgrading, yard construction, or other major operational changes following consummation of the proposed transaction. The plan should make clear the gains in service, operating efficiencies, and other benefits anticipated from the merger. The plan should include:***

1180.8(b)(1) ***The patterns of service on the properties, including the proposed principal routes, proposed consolidations of main-line operations, and the anticipated traffic density and general categories of traffic (including numbers of trains) on all main and secondary lines in the system. Identify all yards expected to have an increase in activity greater than 20 percent. Changes in operations may be summarized in a pro forma density chart.***

1180.8(b)(2) ***If commuter or other passenger services are operated over the lines of applicant carriers, detail any impacts anticipated on such services, including delays which may be occasioned because a line is scheduled to handle increased traffic due to route consolidations.***

1180.8(b)(3) The anticipated equipment requirements of the proposed system, including locomotives, rolling stock by type, and maintenance-of-way equipment; plans for acquisition and retirement of equipment; projected improvements in equipment utilization and their relation to operating changes; and how these will lead to the financial and service benefits described in the summary.

1180.8(b)(4) A description of the effect of any deferred maintenance or delayed capital improvements on any road or equipment properties involved, the schedule for eliminating such deferrals, details of general system rehabilitation including rehabilitation relating to the transaction (including proposed yard and terminal modifications), and how these activities will lead to the service improvements or operating economies anticipated from the transaction.

See Exhibit 13 (Operating Plan). CN has prepared a comprehensive operating plan. CN's planned operations under the conditions sought herein include:

Operations over the Kansas City Line would comprise three principal components: (1) local service to customers along the line; (2) CN overhead service connecting Kansas City and St. Louis with the broader CN network, including traffic originating, terminating, or interchanging at those locations; and (3) operations by other railroads exercising overhead or other trackage rights over the line.[29] CN's proposed operating plan set forth in Exhibit 13 (Operating Plan) would maintain and seek to improve upon the local service currently provided by UP to existing customers on the Kansas City Line. CN would provide local switching and customer service, including the movement of cars to and from interchange locations with other railroads along the line. The plan would coordinate local service with connecting train operations to support reliable pickups and deliveries and the efficient movement of customer traffic.[30]

CN will access the Kansas City Line from the Tuscola Line through trackage rights over the A&S and TRRA in East St. Louis and over Mississippi River bridges owned and operated by TRRA (Merchants and MacArthur). CN will access the Tuscola Line at Tuscola from the north

[29] *See* Exhibit 13 (Operating Plan) at 105.

[30] *See id*. at 106.

via a new connection from the south through a rehabilitated connection with CN's Champaign Subdivision.[31]

Under its proposed operating plan, CN would operate two trains per day in each direction over the Kansas City Line, for a total of four daily train movements, with the two eastbound trains operating over the River Subdivision and the Eton to Congo Segment. A portion of the traffic carried by CN would be diverted from existing UP movements over the line. Thus, while this diversion would change the carrier handling the traffic, it would not represent an equivalent increase in the total freight volume moving over the affected route. CN would also assume responsibility for existing local service, which ranges from approximately {{ }} to {{ }} trains per day depending on the segment, transferring those operations to CN rather than establishing an entirely new service.[32] New post-transaction operations will commence as soon as possible following a Board decision. New CN trains operating between Kansas City and Tuscola are anticipated to commence immediately following consummation of the Proposed Transaction and divestiture of the line. Neff Yard is largely "plug and play" and would be used immediately for intermodal service. Over time, CN plans to make significant investments at Neff Yard to improve and expand its intermodal operations and to facilitate automotive service.[33]

CN's United States dispatching is centralized at Homewood, Illinois where it has approximately 90 employees and 11 desks. CN would dispatch the Kansas City Line from there by creating another dispatching desk and adding four additional, trained rail traffic controllers ("RTCs").[34] CN anticipates hiring additional personnel in Missouri and Illinois to operate the

[31] *See id*. at 20.

[32] *See id*. at 111, 121, 129.

[33] *See id*. at 42-43.

[34] *See id*. at 96, 140.

Kansas City and Tuscola Lines, including employees in the train and engine crew, signals, and maintenance crafts. CN will hire the number of employees at the time of acquisition that is needed to operate safely and effectively. CN will offer qualified UP employees currently working on the Kansas City and Tuscola Lines priority consideration during the hiring process.[35]

The proposed divestiture transaction and grant of trackage rights will not materially impair passenger rail service. Amtrak service overlaps the Kansas City and Tuscola Lines in only two areas. CN's proposed operations would add four daily train movements between the MacArthur Bridge and River Junction; west of River Junction, directional running would reduce CN's contribution to two daily trains on the segment extending to Southwest Junction, and CN's service would again total four daily train movements where the eastbound and westbound routes converge in the Kansas City terminal area.[36] RTC simulation results indicate that these additional freight services would have only a minor effect on Amtrak operations, with a worst-case delay increase of approximately 10 minutes at the MacArthur Bridge and surrounding approaches over the 10-day simulation period, and only slight, gradual increases in Amtrak delays across the Jefferson City and Sedalia Subdivisions.[37] Nevertheless, CN will commit to work with Amtrak to address any issues of concern.

[35] *See id*. at 140.

[36] *See id*. at 145-146.

[37] *See id*. at 146; App. A (Iron Road study).

1180.8(b)(5) ***Density charts (exhibit 14). Gross ton-mile traffic density charts shall be filed for applicant carriers containing a map geographically showing those lines handling 1 million gross ton-miles per mile road or more per year and respective densities, expressed in gross ton-miles per year, in each direction, in segments of such lines between major freight yards and terminals, including major intramodal and intermodal interchange points, using the corporate or political subdivision name of the points shown as well as the railroad station name. The mileage of each segment of line shall be provided, and should be shown on the chart. Data shown in the density chart shall be for the latest available full calendar year preceding the filing of the application. At applicants' option data may be shown on the density chart or an explanatory list.***

Density charts are provided as Exhibit 14.

4. Transnational and Other Information

1180.11(b) ***All applicants must assess whether any restrictions or preferences under foreign or domestic law or policies could affect their commercial decisions, and discuss any ownership restrictions applicable to them.***

There are no foreign or domestic legal restrictions or preferences that could affect CN's commercial decisions, and there are no ownership restrictions applicable to CN.

CONCLUSION

For the foregoing reasons, CN respectfully requests that the Board grant this responsive application and impose the conditions set forth herein as part of any approval of the Proposed Transaction in Docket No. FD 36873. The conditions sought by CN are necessary to preserve competition and protect the public interest in the areas most affected by the proposed combination of Union Pacific and Norfolk Southern.

The Proposed Transaction would combine parallel UP and NS routes between Kansas City and St. Louis, and Applicants themselves have acknowledged that this overlap requires a remedy. Complete divestiture of the Kansas City Line to CN is the most effective way to address that harm. It is a clean, certain, and structural solution that places an independent Class I carrier in the corridor

and avoids ongoing entanglement with the merged UP/NS. CN is the only carrier willing to acquire 100% of the Kansas City Line. With its adjacent Midwest network, commodity expertise, and record of investment, CN is well positioned to compete vigorously for intermodal, automotive, grain, and other traffic. The related conditions, including access to Neff Yard and the former Sarpy Yard property and trackage rights over the Lydia Avenue segment, the Tuscola Line, and A&S, are necessary to make that access effective. And because CN will grant UP local haulage and overhead trackage rights on the line, no customer will lose an existing rail option. If the Board declines to order divestiture, it should at a minimum grant CN the alternative trackage rights (including access to the former Sarpy Yard property), overhead haulage rights, and local haulage rights requested herein.

Respectfully submitted,

/s/ Sara Y. Razi

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Attorneys for Illinois Central Railroad Company

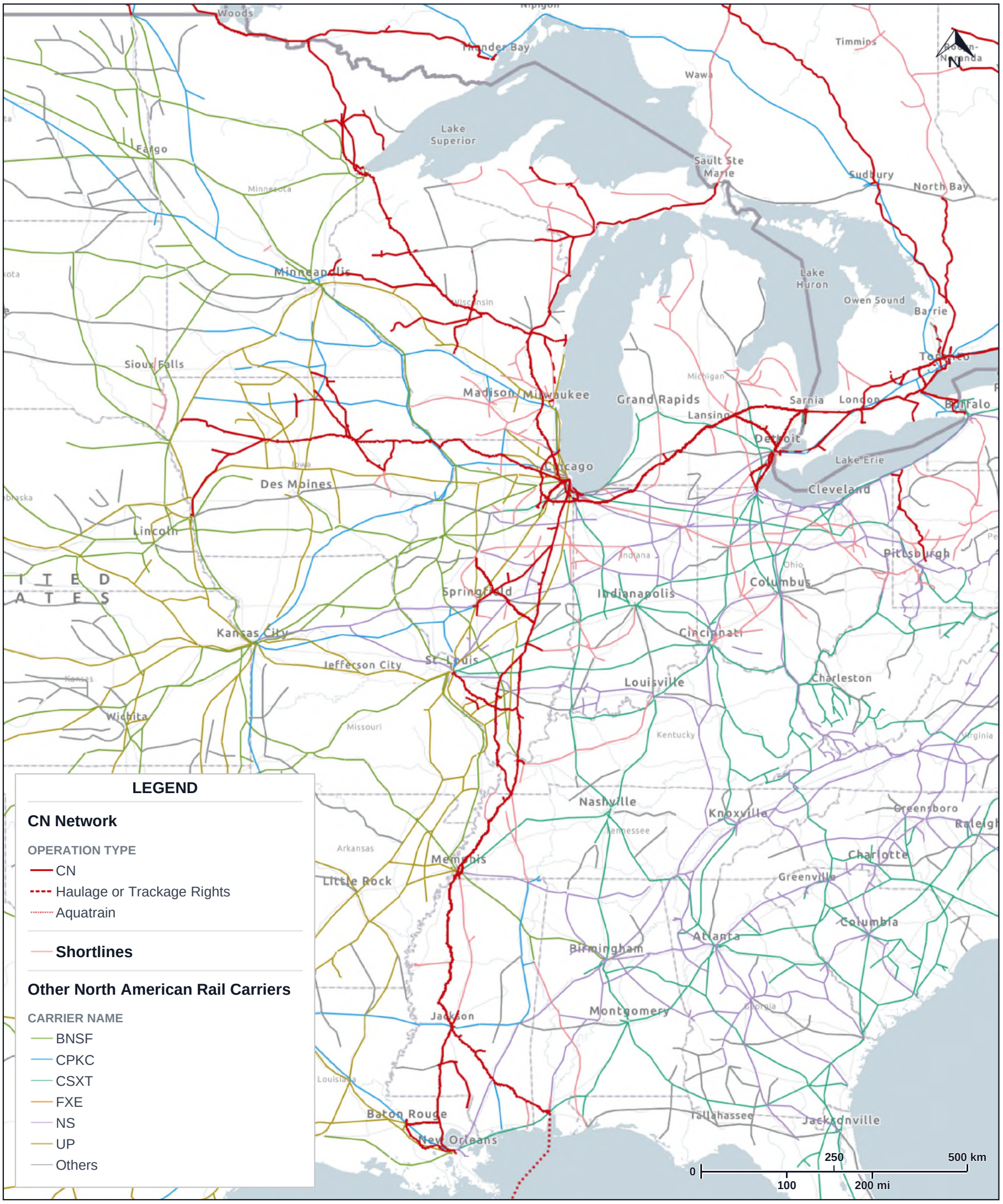
Dated: November 18, 2026

CERTIFICATE OF SERVICE

I hereby certify that, on this 18th day of November, 2026, I caused a true and correct copy of the foregoing to be served by first-class mail or email on all parties of record in this proceeding, the Secretary of Transportation, the Attorney General, and Administrative Law Judge Jenifer Soulikias.

/s/ Andrew Bernstein
Andrew Bernstein
Simpson Thacher & Bartlett LLP

Exhibit 1



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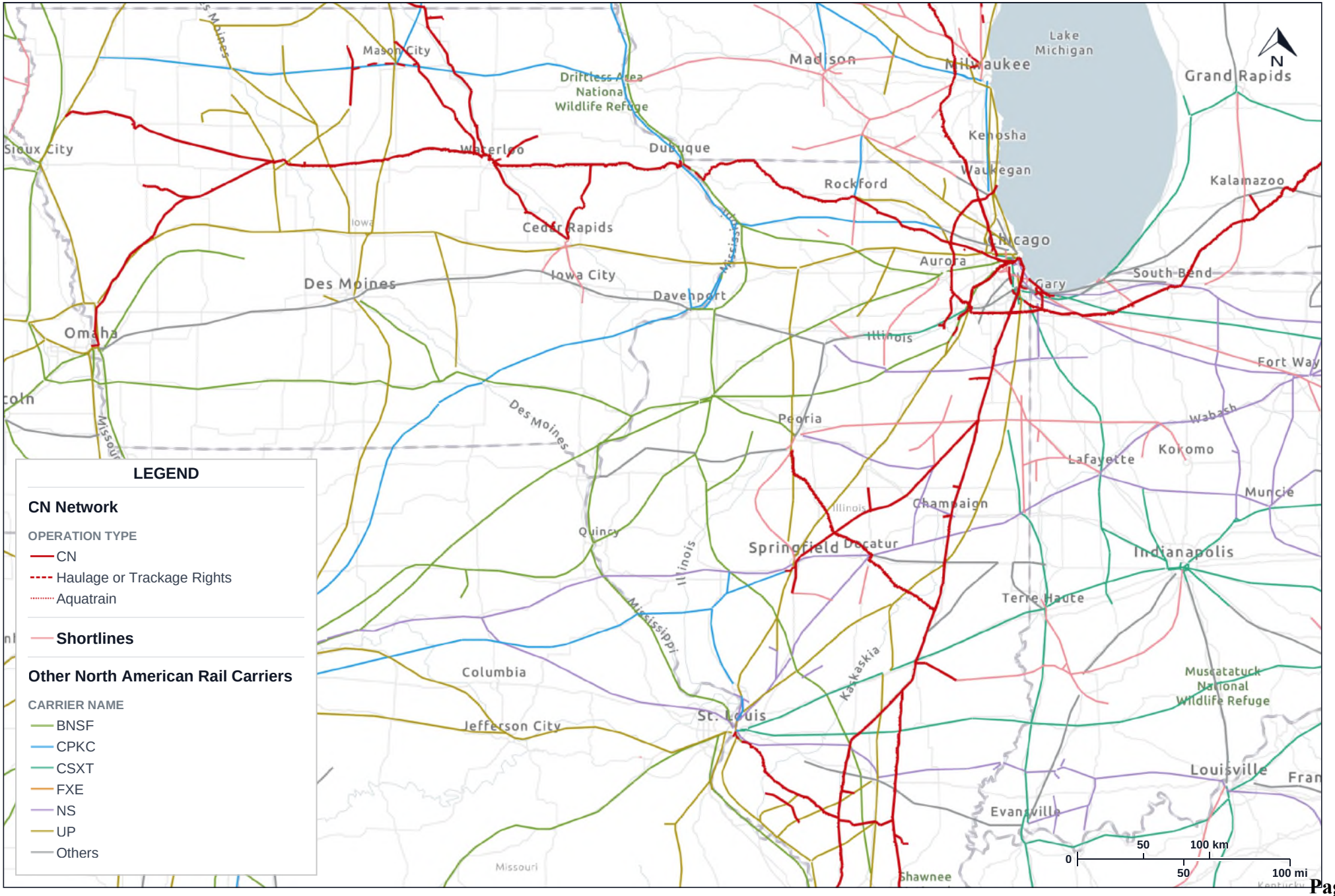

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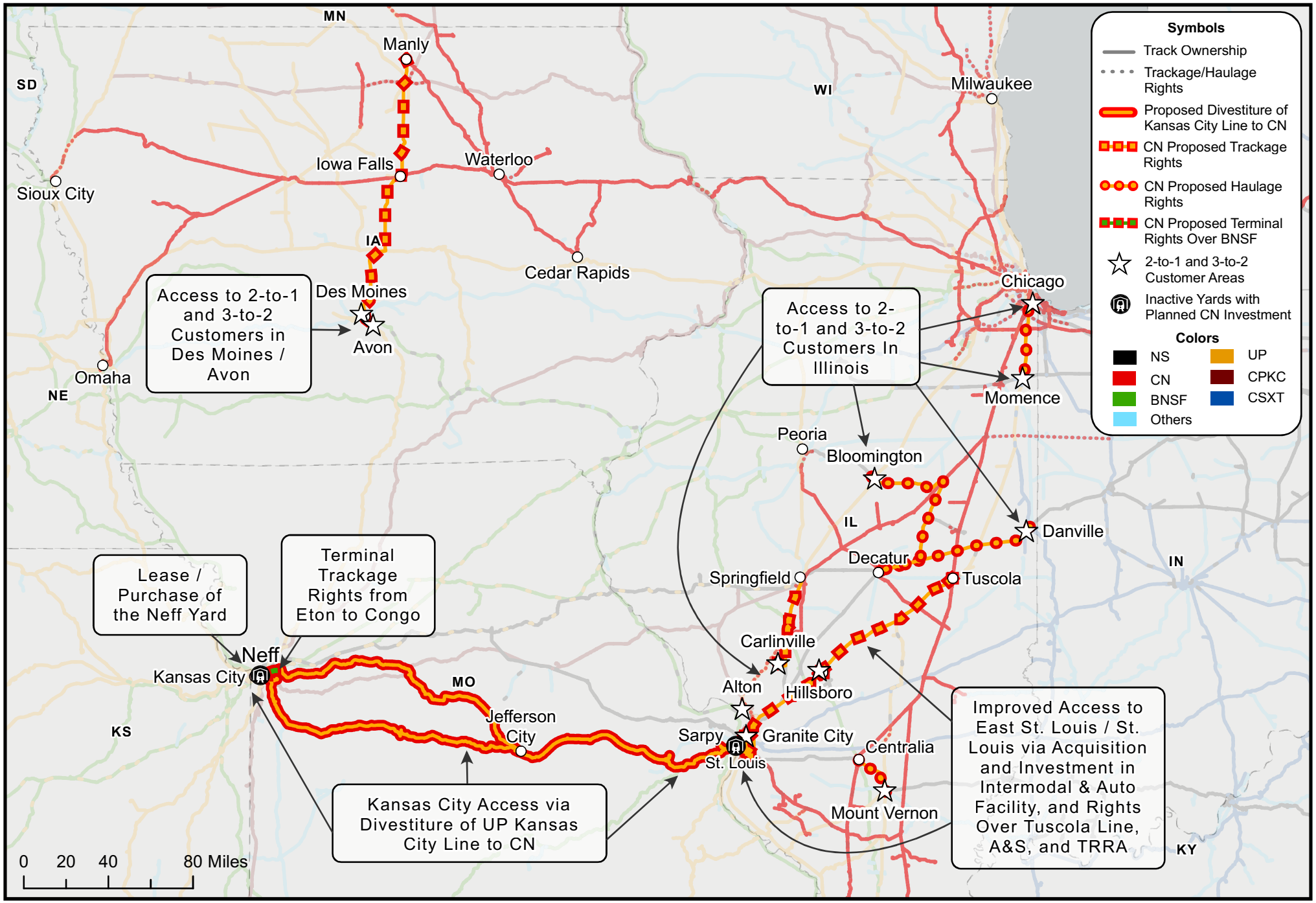
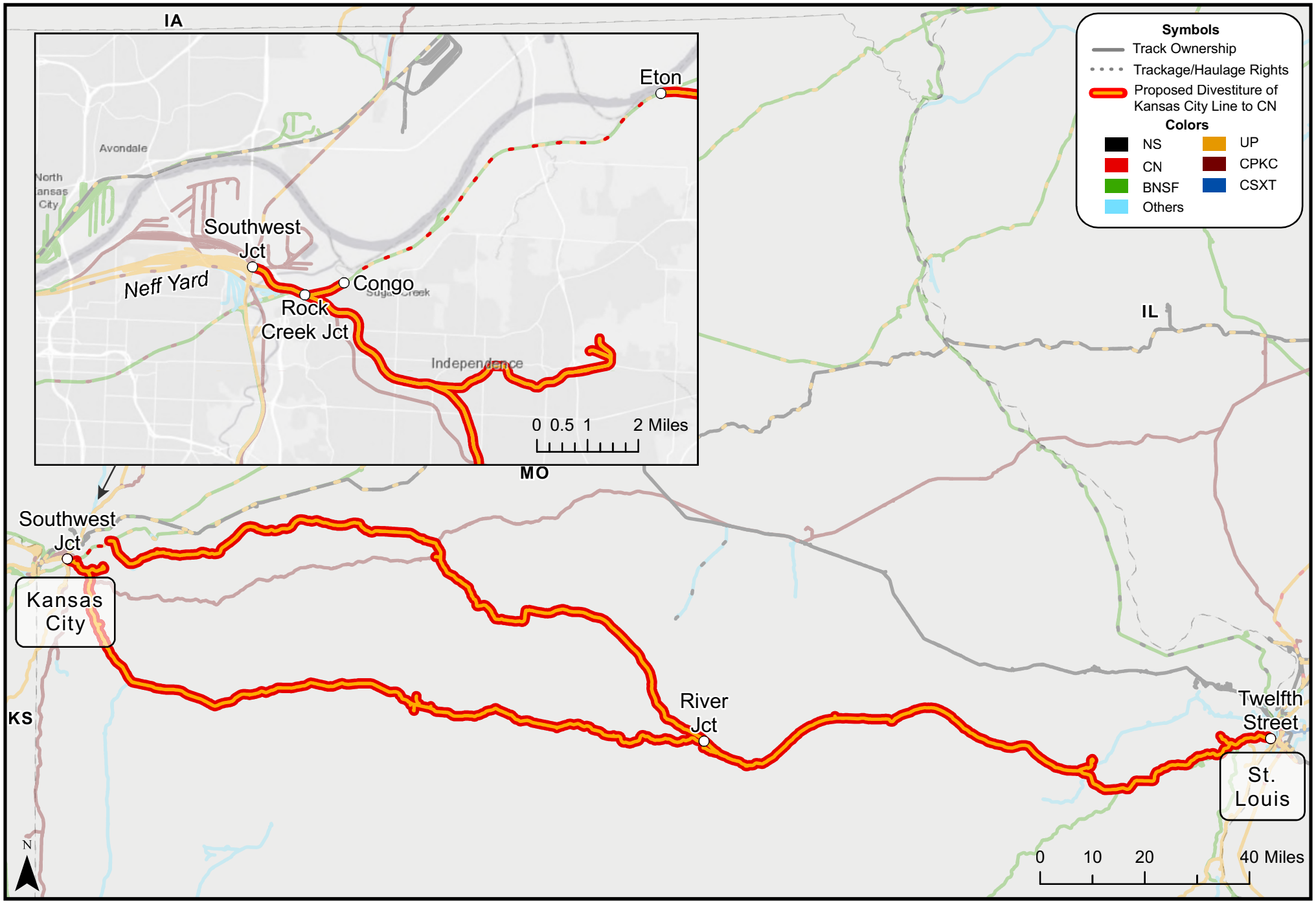
CN Network with CN Conditions



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database.

Exhibit 1A

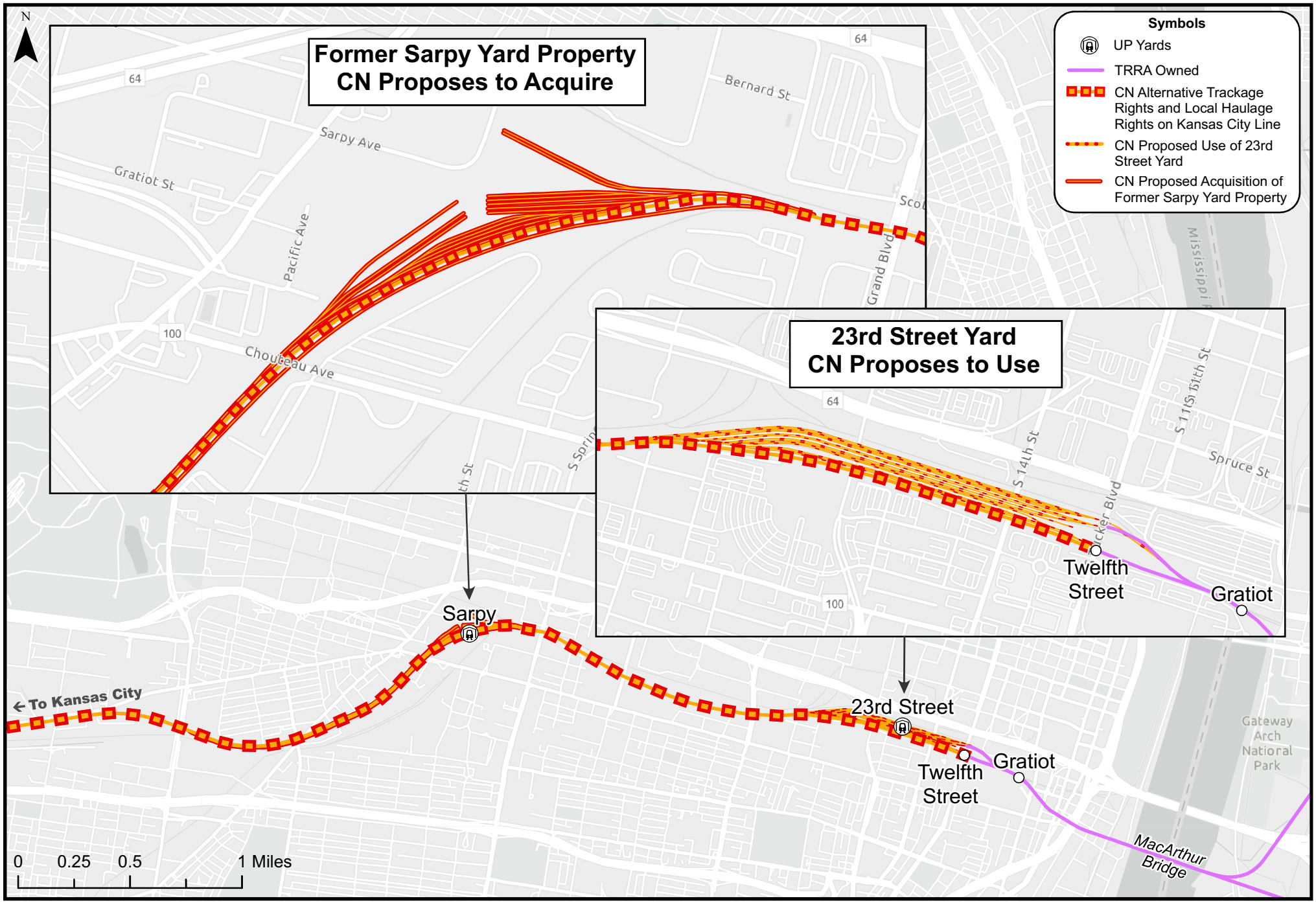
Proposed Divestiture of the Kansas City Line to CN



Sources: Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

Exhibit 1B

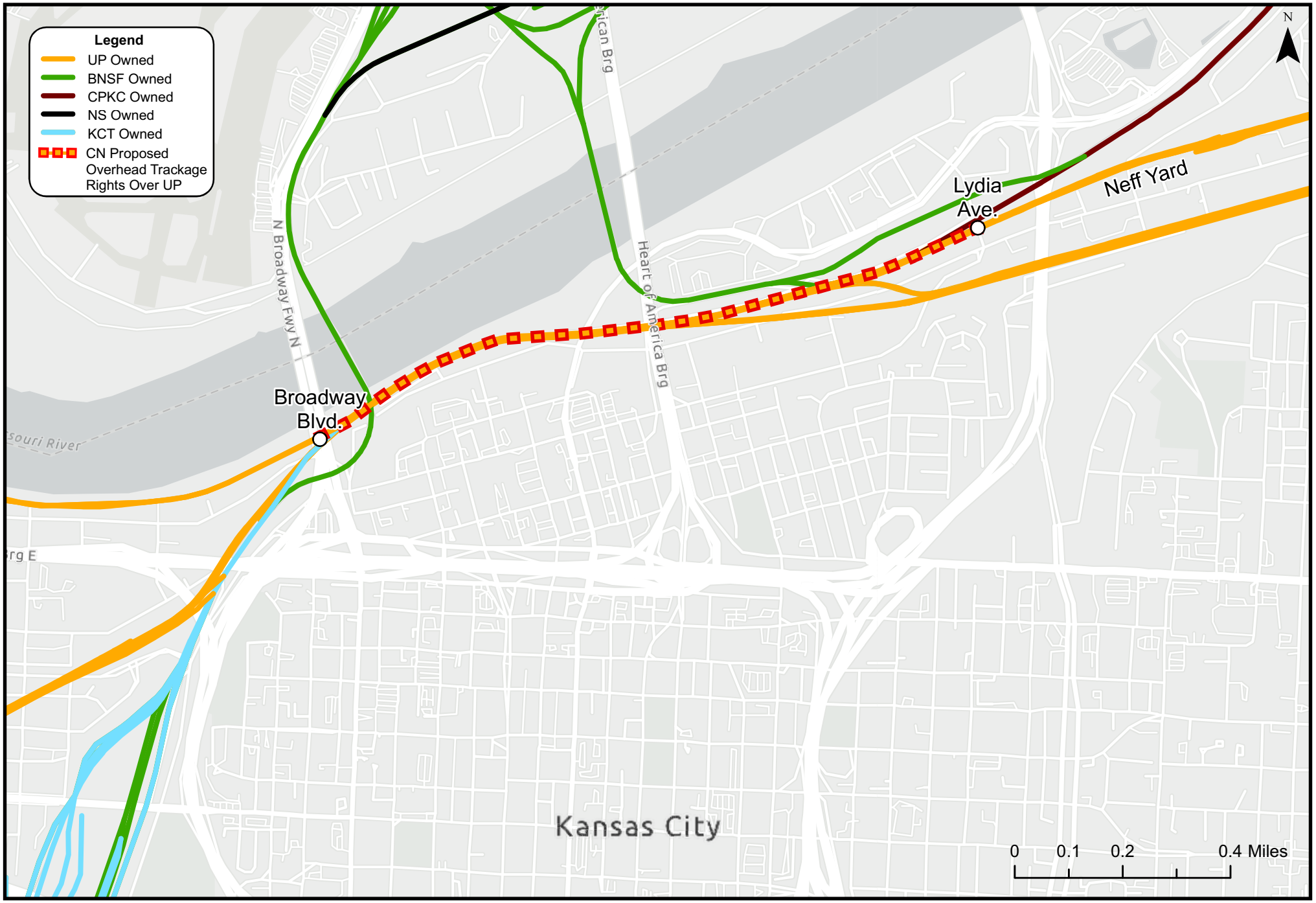
Kansas City Line, Former Sarpy Yard Property, and 23rd Street Yard – Alternative CN Proposed Conditions



Sources: Federal Railroad Administration Shapefiles; Railinc Centralized Station Master; UP-40/NS-38, "GIS Shape Files.Zip," "UP_Yard_Track" and "UP_Main" Shapefile.

Exhibit 1C

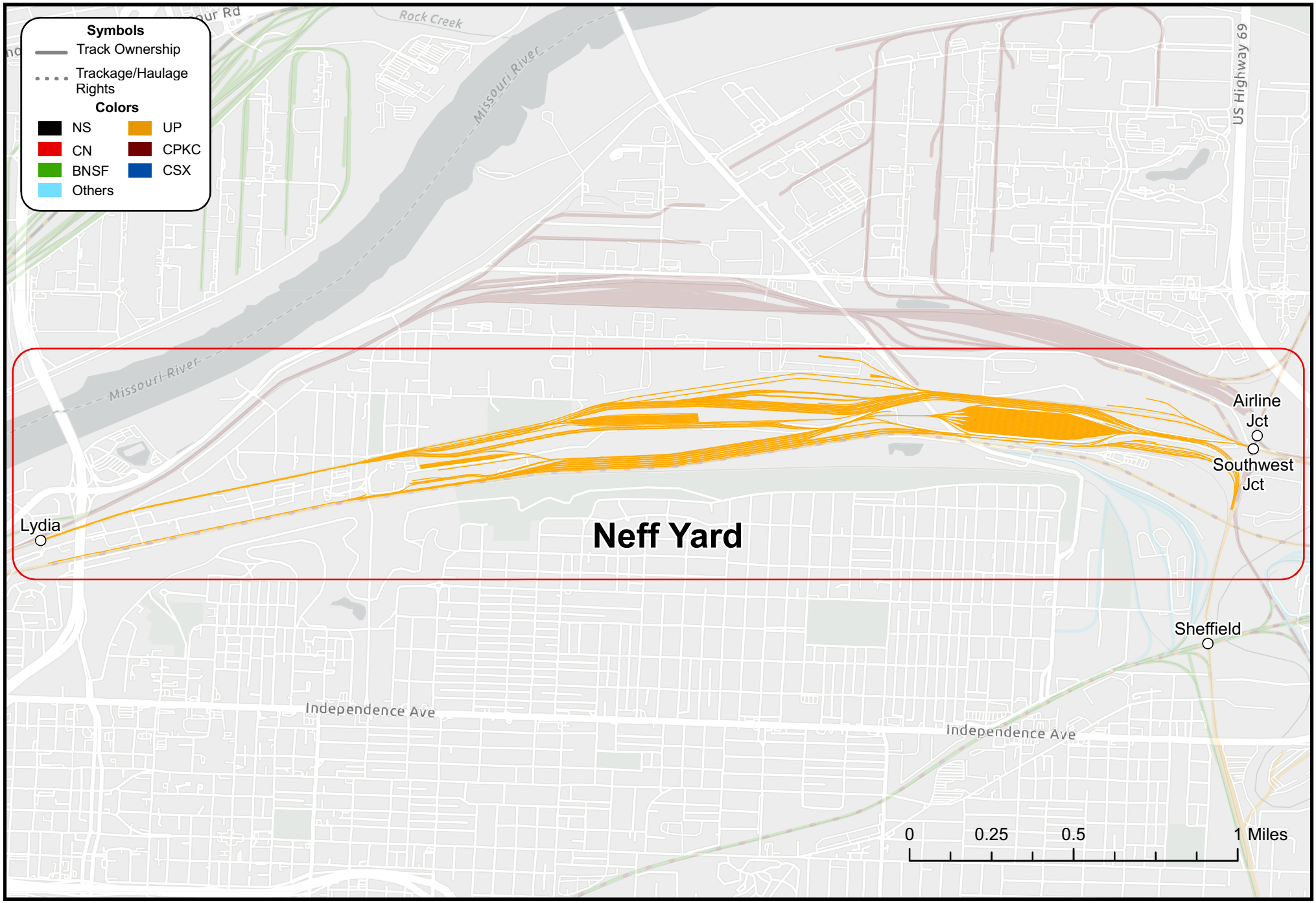
CN Proposed Overhead Trackage Rights Between Lydia Ave. and Broadway Blvd., Missouri



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

Exhibit 1D

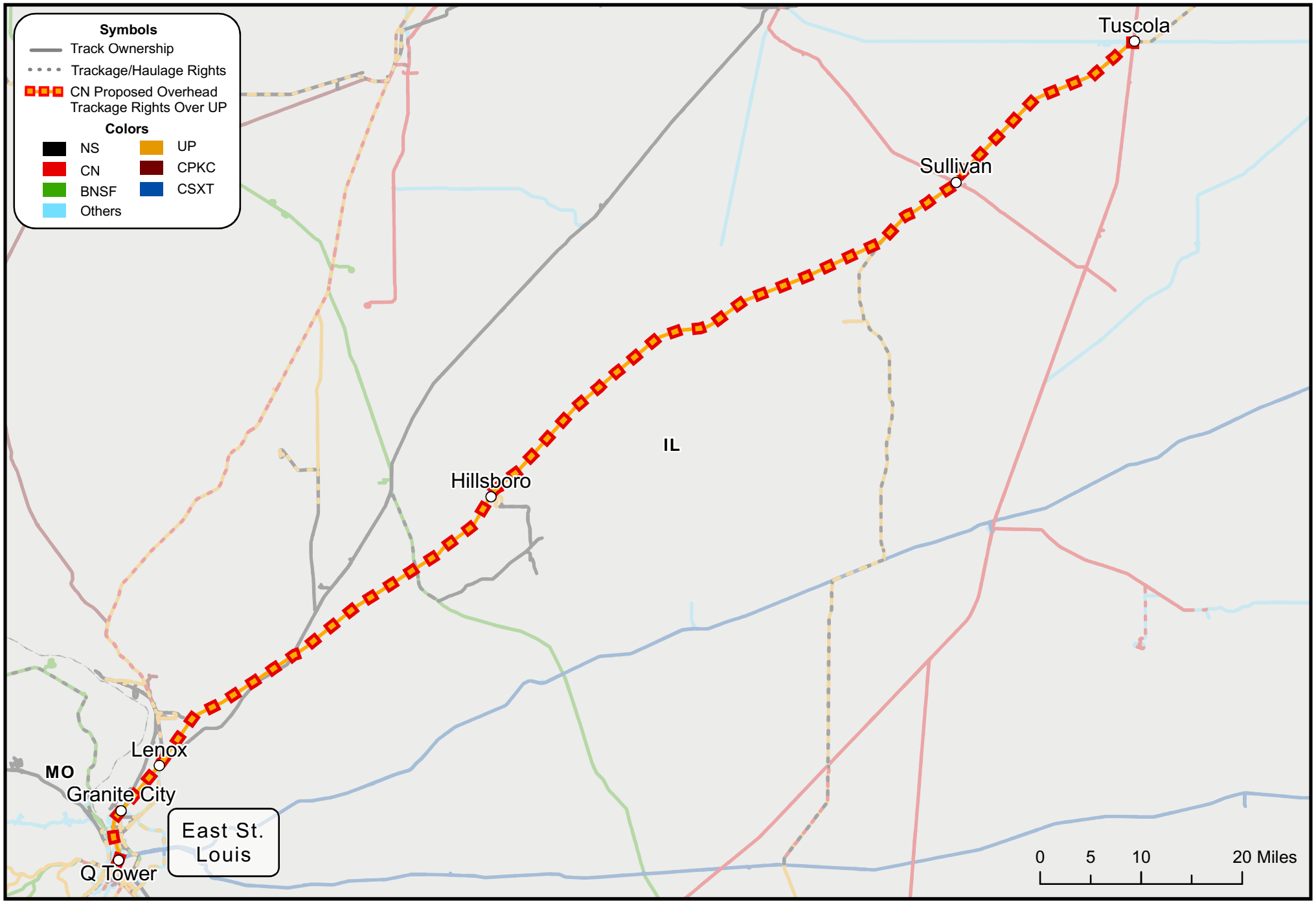
Neff Yard



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

Exhibit 1E

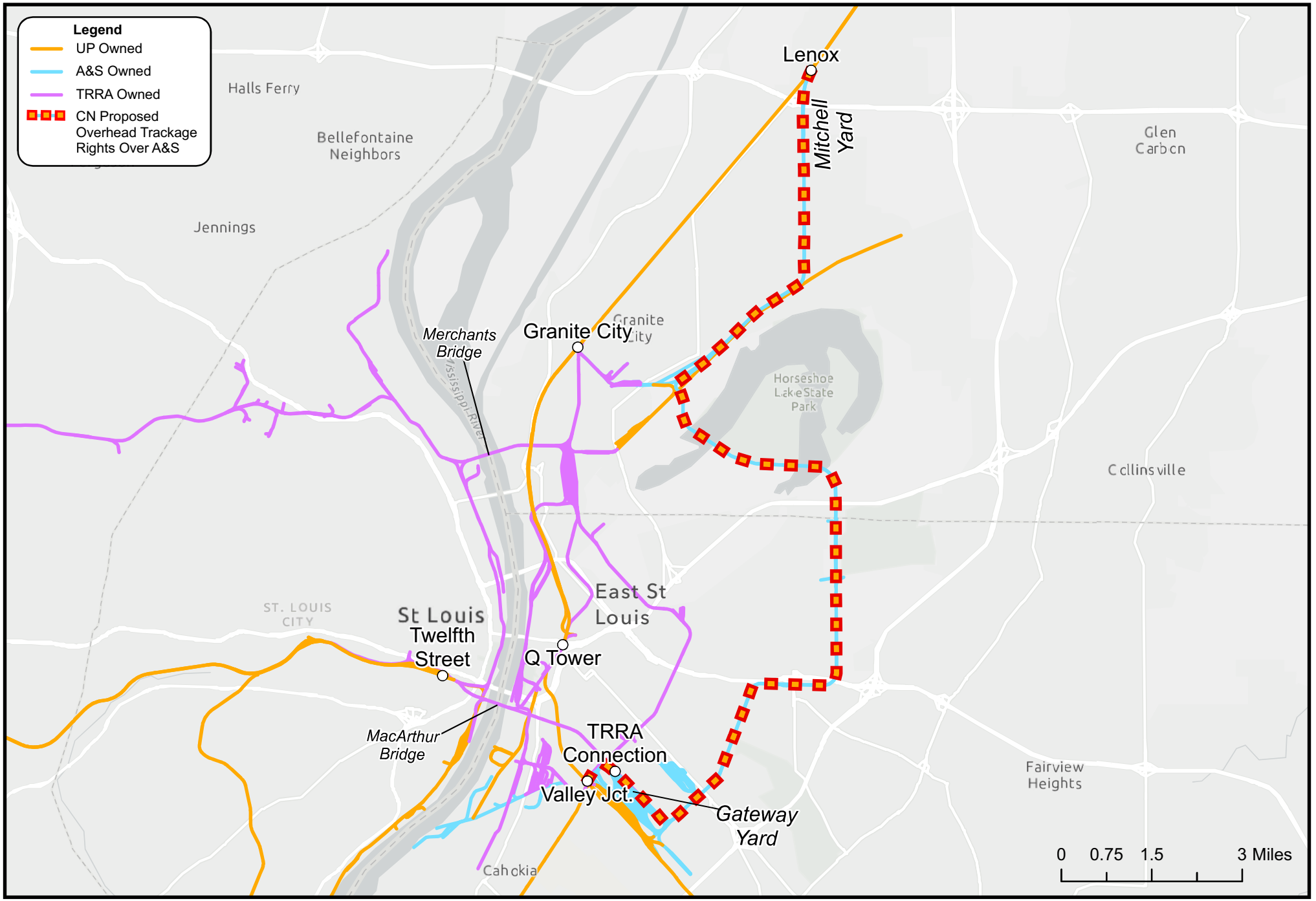
CN Proposed Overhead Trackage Rights on the Tuscola Line



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

Exhibit 1F

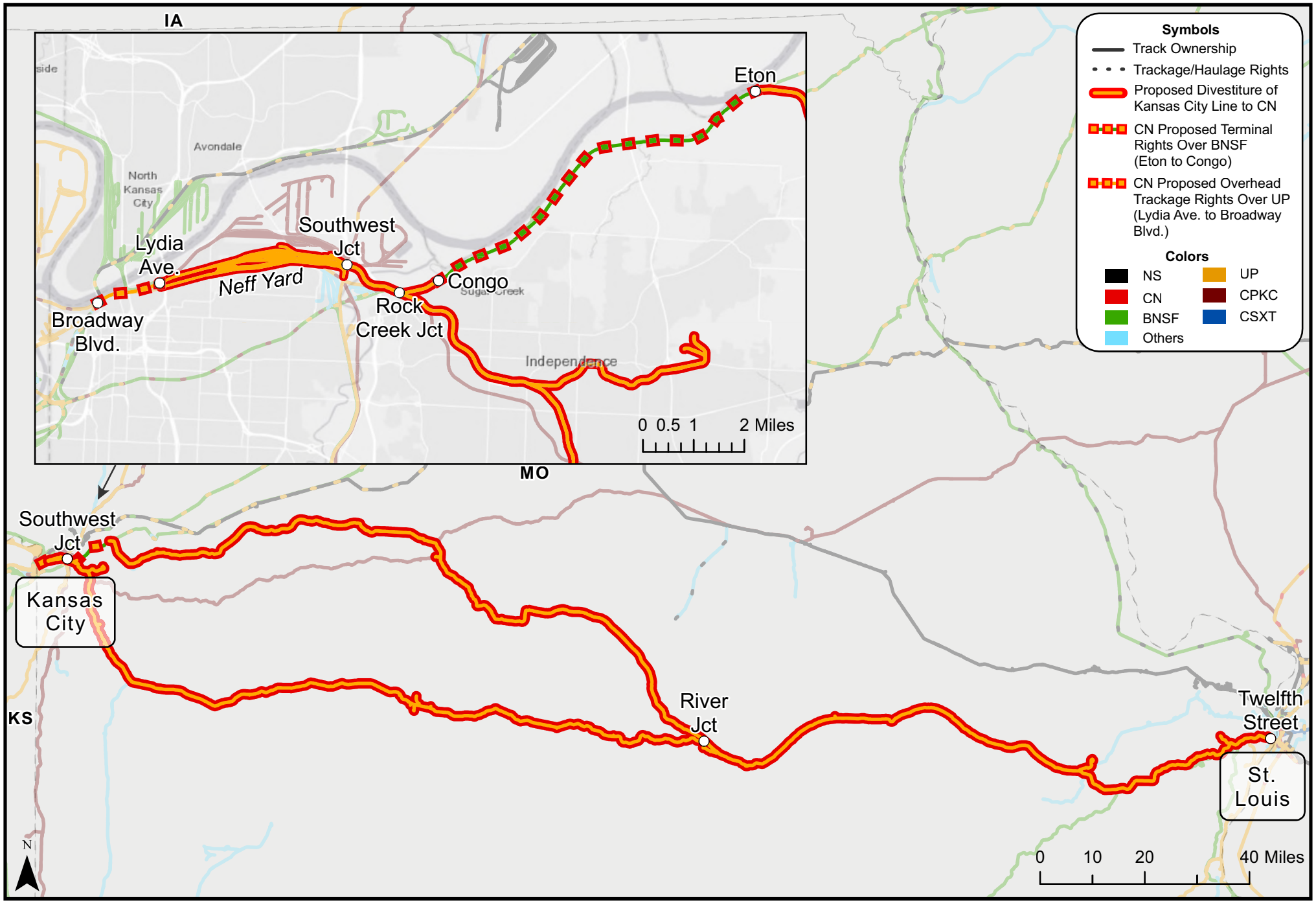
CN Proposed Overhead Trackage Rights Over A&S Between Lenox and Valley Jct., Illinois



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

Exhibit 1G

CN Conditions for Kansas City Access



Sources: Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

Exhibit 2A

ASSET PURCHASE AGREEMENT

By and Between

UNION PACIFIC RAILROAD COMPANY

and

ILLINOIS CENTRAL RAILROAD COMPANY

Dated as of [●], 2027

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ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this "Agreement"), dated as of [●], 2026, is entered into by and between Union Pacific Railroad Company, a Delaware corporation ("UP" or "Seller") and Illinois Central Railroad Company, an Illinois corporation ("Purchaser"). Seller and Purchaser are referred to herein individually as a "Party" and collectively as the "Parties."

W I T N E S S E T H:

WHEREAS, on July 28, 2025, Union Pacific Corporation ("UPC"), two wholly owned subsidiaries of UPC, and Norfolk Southern Corporation ("NSC") entered into an Agreement and Plan of Merger providing for the acquisition of NSC by UPC (the "UP/NS Transaction");

WHEREAS, the consummation of the UP/NS Transaction (the "UP/NS Transaction Closing") has been authorized by the Surface Transportation Board (the "STB") in Finance Docket No. 36873;

WHEREAS, the STB has issued the STB Divestiture Order (as defined below), which requires Seller to divest the Subject Line and the other Purchased Assets to Purchaser;

WHEREAS, Seller owns, operates or controls, and has certain right, title and interest in and to the lines of railroad extending from Twelfth Street in St. Louis, Missouri at or near the MacArthur Bridge to Southwest Junction, Kansas City, Missouri into Neff Yard, Kansas City, Missouri, including the Sedalia Subdivision and the River Subdivision and the related assets and operating rights shown on Exhibit A (collectively, and as defined more fully below, the "Subject Line"), and certain other assets described in Section 2.01 (the Subject Line and such other assets referred to collectively hereinafter as the "Purchased Assets");

WHEREAS, pursuant to the STB Divestiture Order, Purchaser desires to acquire the Subject Line and the other Purchased Assets and is willing to assume certain liabilities, in each case as set forth herein, and Seller is willing to sell, convey and assign the same, all on the terms and conditions set forth in this Agreement; and

NOW, THEREFORE, for and in consideration of the foregoing, the representations, warranties, covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I.
DEFINITIONS

Section 1.01. Definitions.

The following terms shall have the respective meanings set forth below throughout this Agreement:

"Accounts Receivable" means the accounts receivable, billed and unbilled, of Seller.

"Access Agreements Termination Instrument" shall have the meaning set forth in Section 4.03(h).

"Adjustment Amount" shall have the meaning set forth in Section 4.02(b).

"Adjustment Statement" shall have the meaning set forth in Section 4.02(b).

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract or otherwise.

"Agreement" shall have the meaning set forth in the Preamble hereto.

"Allocation Schedule" shall have the meaning set forth in Section 7.04(c).

"Asset Taxes" means ad valorem, property, excise, sales, use, public utility and similar Taxes based upon the acquisition, operation or ownership of the Purchased Assets, but excluding, for the avoidance of doubt, Income Taxes and Transfer Taxes.

"Assigned Contracts" shall have the meaning set forth in Section 2.01(c).

"Assignment and Assumption Agreement" shall have the meaning set forth in Section 4.03(e).

"Assumed Liabilities" shall have the meaning set forth in Section 3.01.

"Base Purchase Price" shall have the meaning set forth in Section 4.02(a).

"Bill of Sale" shall have the meaning set forth in Section 4.03(a).

"Business Day" means any day other than a Saturday, Sunday or a day on which the banks in New York, NY are authorized or obligated by Law or executive order to close.

"Cap" shall have the meaning set forth in Section 10.02(c).

"Claim Notice" shall have the meaning set forth in Section 10.02(d).

"Closing" shall have the meaning set forth in Section 4.01.

"Closing Date" shall have the meaning set forth in Section 4.01.

"Code" means the Internal Revenue Code of 1986, as amended.

"Confidential Information" shall have the meaning set forth in Section 7.08(e).

"Data Room" means the "[●]" virtual data room relating to the transactions contemplated by this Agreement hosted by [●].

"Deed" shall have the meaning set forth in Section 4.03(d).

"Disclosing Party" shall have the meaning set forth in Section 7.08(c).

"Disclosure Schedules" shall have the meaning set forth in ARTICLE V.

"Electronic Delivery" shall have the meaning set forth in Section 11.08.

"Encumbrance" means any mortgage, lien, encumbrance, charge, option, right of first refusal or first offer, security interest, pledge, right of way, easement or encroachment.

"Environmental Laws" means any and all Laws that have as their principal purpose the protection, preservation, investigation, remediation, or restoration of, or prevention of harm or damage to, natural resources or the environment, or (to the extent addressing human exposure to Hazardous Substances) occupational or human health and safety, including the Comprehensive Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; the Hazardous Materials Transportation Act; the Federal Insecticide, Fungicide, and Rodenticide Act; the Toxic Substances Control Act; the Clean Water Act; the Clean Air Act; and the Oil Pollution Act.

"Environmental Liabilities" means any Liability that arises under or relates to Environmental Laws or a Hazardous Substance, including for property damage, personal injury or death caused by an actual or alleged Release, or exposure to, a Hazardous Substance at any location whatsoever including a location at which Hazardous Substances have been disposed, for Remedial Action, and for any violation of Environmental Law.

"Excluded Assets" shall have the meaning set forth in Section 2.02.

"Excluded Contracts" shall have the meaning set forth in Section 2.02(g).

"Excluded Liabilities" shall have the meaning set forth in Section 3.02.

"FCC" means the Federal Communications Commission.

"FCC Approval" means authorization from the FCC pursuant to 47 U.S.C. § 310(d) for the assignment of all radio frequency licenses currently held by Seller related to the Purchased Assets.

"FCC Licenses" shall have the meaning set forth in Section 2.01(j).

"Final Determination" shall have the meaning set forth in Section 10.02(e).

"FRA" shall have the meaning set forth in Section 7.05(c).

"Fraud" means actual and intentional fraud or misrepresentation made by a Party with respect to the specific representations and warranties of such Party expressly set forth in this Agreement with the knowledge that such representation and warranty was false when made, that such Party had the intent to induce the other Party to act or refrain from acting in making such representation and warranty, that such other Party acted in reliance on such misrepresentation or false representation and warranty, and as a result such other Party suffers harm.

"Fundamental Representations" shall have the meaning set forth in Section 10.01.

"GAAP" means generally accepted accounting principles in the United States as in effect from time to time, as consistently applied.

"Governmental Authority" means any government or political subdivision, whether federal, state, local, foreign or supranational, or any agency, authority, official or instrumentality of any such government or political subdivision, or any federal, state, local, foreign or supranational court, tribunal or arbitrator.

"Governmental Order" means any order, judgment, injunction, decree, writ, stipulation, determination or award, in each case, entered by or with any Governmental Authority.

"Haulage Agreement" shall have the meaning set forth in Section 4.03(g).

"Hazardous Substance" means any pollutant or contaminant or any toxic, radioactive or otherwise hazardous substance, waste or material, including petroleum, as such terms are defined in, identified pursuant to, or give rise to Liability under any Environmental Law, per- and polyfluoroalkyl substances, and any substance that would reasonably be expected to have an adverse impact on human health or property.

"Income Taxes" means (a) all Taxes based upon, measured by, or calculated with respect to gross or net income, gross or net receipts or profits (including franchise Taxes and any capital gains, alternative minimum, and net worth Taxes, but excluding ad valorem, property, excise, severance, production, sales, use, real or personal property transfer or other similar Taxes), (b) Taxes based upon, measured by, or calculated with respect to multiple bases (including corporate franchise, doing business or occupation Taxes) if one or more of the bases upon which such Tax may be based, measured by, or calculated with respect to is included in clause (a) above, or (c) withholding Taxes measured with reference to or as a substitute for any Tax included in clauses (a) or (b) above.

"Indemnified Party" shall have the meaning set forth in Section 10.02(d).

"Indemnitor" shall have the meaning set forth in Section 10.02(d).

"Intellectual Property" means all rights in intellectual property of any type throughout the world, including (a) patents, patent applications and statutory invention registrations, including continuations, continuations-in-part, divisionals, provisionals, reexaminations, reissues and extensions; (b) name and source identifiers; (c) copyrights, whether registered or unregistered, database rights, and registrations and applications for registration thereof; and (d) trade secrets.

"IRS" means the Internal Revenue Service.

"Knowledge" or any other similar knowledge qualification, shall mean the actual or constructive knowledge of an individual, assuming due inquiry. For purposes of this Agreement, Knowledge of Seller and Knowledge of Purchaser shall, respectively, be limited to the actual knowledge of those persons listed under such Party's name on Section 1.01 of the Disclosure Schedules.

"Law" means any law, statute, code, ordinance, regulation or Governmental Order or other legally enforceable requirement of any Governmental Authority.

"Leased Real Property" shall have the meaning set forth in Section 5.08(a).

"Liability" means any liability, debt, guarantee, assurance, commitment, claim, deficiency, or obligation, whether known or unknown, fixed, absolute or contingent, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, asserted or unasserted, due or to become due, whenever or however arising (including whether arising by operation of Law, or out of any contract, or of any tort based on negligence or strict liability, or otherwise based on strict liability) and whether or not the same would be required to be stated in financial statements or disclosed in the notes thereto.

"Losses" shall have the meaning set forth in Section 10.02(a).

"Material Adverse Effect" means any event, change, development, circumstance or effect that is materially adverse to (x) the value of the Purchased Assets or the amount of the Assumed Liabilities, taken as a whole, or (y) the ability of Seller to consummate the transactions contemplated by this Agreement; *provided* that none of the following shall be deemed to constitute, and none of the following shall be, either alone or in combination, taken into account in determining whether there has been, a Material Adverse Effect: (a) any adverse event, change, development, circumstance or effect (whether short-term or long-term) arising from or relating to (i) general business, industry or economic conditions, (ii) national or international political or social conditions, including the engagement by the United States or any other country in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack, any conditions resulting from natural or manmade disasters or other acts of God or weather conditions, flood, epidemics, pandemics or other similar outbreaks or health crises (including the COVID-19 pandemic) or other force majeure events, (iii) changes in financial, banking or securities markets (including any disruption thereof and any decline in the price of any security or any market index), (iv) changes in GAAP or other applicable accounting rules or standards, (v) changes in Laws or the entry, revision or reversal of any Governmental Order, (vi) the taking of any action required by this Agreement or any of the other Transaction Documents, (vii) the announcement, pendency or completion of the transactions contemplated by this Agreement or any of the other Transaction Documents or the identity of Purchaser, including Losses or threatened Losses of employees, customers, suppliers, distributors or others having relationships with Seller or any of its Affiliates or with the Purchased Assets, or (viii) the terms or availability of Purchaser's financing with respect to the transactions contemplated by the Transaction Documents; (b) any failure to meet a forecast (whether internal or published) of revenue, earnings, cash flow, or other data for any period or any change in such a forecast; *provided*

that this clause (b) shall not prevent a determination that any event, change, development, circumstance or effect (whether short-term or long-term), not otherwise excluded from this definition of Material Adverse Effect, that results in such failure to meet projections or forecasts has resulted in a Material Adverse Effect; (c) matters disclosed or referred to in the Disclosure Schedules; (d) any event, change, development, circumstance or effect (whether short-term or long-term) with respect to which Purchaser has Knowledge on the date hereof; or (e) any actions taken or omitted to be taken by or at the request or with the consent of Purchaser or any of its Affiliates.

"National Priorities List" means the list of sites of national priority under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., among the known Releases or threatened Releases of Hazardous Substances, pollutants, or contaminants throughout the United States.

"Party" shall have the meaning set forth in the Preamble hereto.

"PCBs" shall have the meaning set forth in Section 5.09(i).

"Permits" means all governmental licenses, permits or other governmental authorizations related to the Purchased Assets.

"Permitted Encumbrances" means (a) all existing agreements, encroachments, claims, easements, servitudes, occupancies, grants, reservations, deed obligations and similar covenants, rights, title defects and other impediments, whether or not recorded and whether or not this Agreement provides actual notice thereof, by operation of Law or otherwise, (b) all existing telecommunications facilities, public and private utilities, pipe and wire crossings, reservations, exceptions and restrictions whether or not of record, (c) legally applicable building, zoning, subdivision and other federal, state, provincial, county, municipal or local Laws, ordinances and regulations, (d) property Taxes and assessments, both general and special, which may become due or payable on or after the Closing Date which relate to all periods from and after the Closing, (e) any and all encroachments which might be revealed by a survey meeting applicable state or provincial minimum technical requirements and (f) any and all existing ways and servitudes, and rights of way, howsoever created, for roads, streets and highways.

"Person" means any individual, corporation, partnership, firm, joint venture, association, limited liability company, limited liability partnership, joint-stock company, trust, joint venture, unincorporated organization, governmental, judicial or regulatory body, business unit, division or any other business entity, organization or Governmental Authority.

"Pre-Closing Tax Period" means any taxable period (or portion of any Straddle Period) ending on or before the Closing Date.

"Prior Environmental Liabilities" shall have the meaning set forth in Section 3.02(b).

"Proceeding" means any claim, charge, action, arbitration, audit, investigation, hearing, litigation or suit (whether civil, criminal, administrative or judicial) commenced, brought, conducted or heard by or before any Governmental Authority.

"PTC" shall have the meaning set forth in Section 7.05(c).

"Purchase Price" shall have the meaning set forth in Section 4.02(a).

"Purchased Assets" shall have the meaning set forth in the Recitals.

"Purchaser" shall have the meaning set forth in the Preamble hereto.

"Purchaser Indemnified Parties" shall have the meaning set forth in Section 10.02(a).

"Release" means any spill, seepage, discharge, leak, migration, emission, escape, injection, pouring, pumping, emptying, dumping, disposal or other release of any Hazardous Substances into the indoor or outdoor environment.

"Remedial Action" means any investigation, remediation, clean-up, abatement, removal or monitoring (or words of similar import) of Hazardous Substances.

"Representative" means any director, officer, member, owner, partner, employee, agent or advisor (including attorneys, accountants, consultants, bankers and financial advisors) of a Party.

"Required Consent Contract" shall have the meaning set forth in Section 2.03(a).

"Seller" shall have the meaning set forth in the Preamble hereto.

"Seller Indemnified Parties" shall have the meaning set forth in Section 10.02(b).

"Seller Marks" shall have the meaning set forth in Section 7.09.

"Seller Taxes" means, without duplication, (a) any and all Income Taxes imposed on Seller, any of its direct or indirect owners or Affiliates, or any combined, unitary or consolidated group of which any of the foregoing is or was a member, (b) Taxes attributable to the Purchased Assets for any Pre-Closing Tax Period, (c) Transfer Taxes that Seller is obligated to pay as set forth in Section 7.04(a), (d) Asset Taxes that Seller is obligated to pay as set forth in Section 7.04(b), (e) any and all Taxes resulting from a breach by Seller of any covenant relating to Taxes, and (f) any Taxes imposed on or with respect to the ownership or operation of the Excluded Assets or that are attributable to any asset or business of Seller that is not part of the Purchased Assets; *provided*, *however*, that no such Tax shall constitute a Seller Tax (i) if Purchaser is liable therefor under Section 7.04 or (ii) to the extent that the amount of such Tax was included as an adjustment to the Purchase Price under Section 4.02.

"STB" means the U.S. Surface Transportation Board.

"STB Approvals" means, collectively, (a) the STB Divestiture Order, (b) any other approval or exemption required under 49 U.S.C. § 10901, 49 U.S.C. § 11323 *et seq*. or other applicable Law for Purchaser to acquire, own and operate the Purchased Assets, and (c) any approval or exemption required for the transactions contemplated by the Trackage Rights

Agreement, the Haulage Agreement or any other Transaction Document, in each case pursuant to a final order of the STB that has become effective, is not subject to any stay and remains in full force and effect.

"STB Divestiture Order" means a final order of the STB in Finance Docket No. 36873 that has become effective, is not subject to any stay and remains in full force and effect, and that (a) conditions approval of the UP/NS Transaction on Seller's divestiture of the Purchased Assets to Purchaser, (b) authorizes Purchaser to acquire, own and operate the Purchased Assets and (c) provides any exemption, preemption or other authority necessary to implement the transactions contemplated by this Agreement.

"Straddle Period" means any taxable period that includes but does not end on the Closing Date. Where necessary to allocate Taxes under this Agreement with respect to a Straddle Period (a) property, ad valorem, intangible, and other periodic Taxes allocable to the Pre-Closing Tax Period shall be equal to the amount of such Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of calendar days during the Straddle Period that are in the Pre-Closing Tax Period and the denominator of which is the number of calendar days in the entire Straddle Period; and (b) Taxes (other than Taxes allocable under clause (a) of this definition) allocable to the Pre-Closing Tax Period shall be computed on the basis of a "closing of the books," as if such taxable period ended as of the end of the day on the Closing Date; *provided* that exemptions, allowances or deductions that are calculated on an annual basis (including depreciation and amortization deductions) shall be allocated between the period ending on the Closing Date and the period beginning after the Closing Date in proportion to the number of calendar days in each period.

"Subject Line" means the lines of railroad extending from Twelfth Street, St. Louis, Missouri (MP 0.36), to 23rd Street Yard (at or near MP 0.8), to Grand Ave., St. Louis, Missouri (MP 2.5), to the former Sarpy Yard property (at or near MP 2.6), to River Junction (MP 128.0) West of Jefferson City, Missouri to Rock Creek Junction (MP 276.9) to Southwest Junction (MP 278.2) into Neff Yard, Kansas City, Missouri, or from Twelfth Street, St. Louis, Missouri (MP 0.36) to 23rd Street Yard (at or near MP 0.8), to Grand Ave., St. Louis, Missouri (MP 2.5), to the former Sarpy Yard property (at or near MP 2.6), to River Junction, Missouri (MP 128.0) to Eton, Missouri (MP 276.1 (BNSF MP 436.6)) and from Congo, Missouri (BNSF MP 444.1) to Rock Creek Junction (MP 276.9) to Southwest Junction (MP 278.2) into Neff Yard, Kansas City, Missouri including, but not limited to any and all yards, sidings, auxiliary tracks located along the UP solely owned right of way, as more particularly shown on Exhibit A. The Subject Line includes, with respect to such lines, all tracks, rails, ties, ballast, spikes, tie plates, fastenings, rail anchors, track materials, connections, switches and frogs, shared diamonds, wyes, crossings, bridges, culverts, signals, crossing warning devices, and other rail-related fixtures and improvements, supporting structures and other infrastructure, including all buildings, improvements, shops, on-duty points, yards, terminals, parking and storage areas, adjoining siding, industrial, ancillary and yard track property located on the Transferred Real Property or Leased Real Property, and all rights to provide local and overhead rail service, switching, reciprocal switching and interchange service to customers and facilities located on or accessed from such lines. For the avoidance of doubt, the Subject Line does not include (A) Neff Yard or any asset subject to a separate lease or other agreement between Seller or its Affiliates and Purchaser or its Affiliates relating to Neff Yard, except for the access, connection, interchange and other operating rights expressly included in the

Purchased Assets, (B) any equity interest in Kansas City Terminal Railway Company, Terminal Railroad Association of St. Louis or any other joint terminal company, or (C) any portion of the MacArthur Bridge or other property not owned by Seller, except for Seller's assignable rights necessary for Purchaser to access, connect to and operate over or through such property.

"Tax" or "Taxes" means (a) all taxes, assessments, duties, levies, imposts or other similar charges in the nature of a tax imposed by a Governmental Authority (whether payable directly or by withholding and whether or not requiring the filing of a Tax Return), including all income, profits, gross receipts, license, payroll, employment, excise, fuel, environmental, severance, stamp, occupation, premium, customs duties, license, withholding, social security, unemployment, disability, ad valorem, real property, personal property, sales, use, lease, transfer, registration, value added, alternative or add-on minimum, estimated, and withholding (including backup withholding) or other similar taxes (together with any and all interest, penalties and additions to tax imposed with respect thereto), (b) including any Liability for payment of any amounts of the type described in clause (a) as a result of being a member of any affiliated, consolidated, combined or unitary group or required to be included in any Tax Return relating to such group prior to the Closing Date by reason of Treasury Regulations Section 1.1502-6(a) or any similar foreign, state or local Law, and (c) any Liability for the payment of any amounts of the type described in clause (a) or (b) as a result of the operation of Law or any express or implied obligation to indemnify any other Person.

"Tax Returns" means any and all returns, declarations, claims for refund, or information returns or statements, reports and forms relating to Taxes filed with any governmental Tax authority (including any schedule or attachment thereto) with respect to the Purchased Assets, including any amendment thereof.

"Third Party" means any Person not a Party to this Agreement.

"Third Party Claim" shall have the meaning set forth in Section 10.02(f).

"Threshold Amount" shall have the meaning set forth in Section 10.02(c).

"Trackage Rights Agreement" shall have the meaning set forth in Section 4.03(f).

"Transaction Documents" means this Agreement, the Bill of Sale, the Deed, the Assignment and Assumption Agreement, the Transition Services Agreement, the Haulage Agreement, the Trackage Rights Agreement, the Access Agreements Termination Instrument, and each certificate or instrument to be executed and delivered by any Party in connection with or pursuant to this Agreement.

"Transfer Taxes" shall have the meaning set forth in Section 7.04(a).

"Transferred Real Property" shall have the meaning set forth in Section 2.01(b).

"Transition Services Agreement" shall have the meaning set forth in Section 4.03(c).

ARTICLE II.
PURCHASE AND SALE OF ASSETS

Section 2.01. Purchase and Sale of the Purchased Assets.

On the terms and subject to the conditions set forth in this Agreement, Seller hereby agrees to sell, assign, transfer, convey and deliver to Purchaser, and Purchaser hereby agrees to purchase, acquire, and accept from Seller on the Closing Date, all of Seller's and its Affiliates' right, title and interest in, to and under the following assets, to the extent that such assets exist as of the Closing, in all cases excepting the Excluded Assets. Seller shall cause each of its Affiliates that holds any right, title or interest in a Purchased Asset to convey such right, title or interest to Purchaser at the Closing:

(a) the Subject Line;

(b) the real property as described in Section 2.01(b) of the Disclosure Schedules attached hereto, together with (and subject to) all easements, rights-of-way and other rights and interests appurtenant thereto (collectively, the "Transferred Real Property");

(c) those certain agreements, leases and contracts of Seller that relate to the ownership and operation of the Subject Line, including the Leased Real Property, and are listed in Section 2.01(c) of the Disclosure Schedules (the "Assigned Contracts");

(d) all of Seller's right, title and interest in and to each joint facility, shared track, trackage rights, haulage, lease, license, easement, crossing, interchange, access, dispatching operating or similar agreement or arrangement necessary for Purchaser to own and operate a continuous rail route over the Subject Line, including the agreements and arrangements listed in Section 2.01(d) of the Disclosure Schedules;

(e) all of Seller's right, title and interest in and to the connections, interchange rights, access rights, terminal and yard access, crew-change, fueling, locomotive and car maintenance, communications, data and other operational rights that are necessary for Purchaser to connect the Subject Line with Purchaser's network and other rail carriers, in each case as shown on Exhibit A or listed in Section 2.01(e) of the Disclosure Schedules;

(f) all of Seller's right, title and interest in and to any fee, leasehold, easement, joint ownership, trackage, haulage, dispatching or other operating right over any portion of the Subject Line not owned by Seller in fee, in each case sufficient to permit Purchaser to own and operate a continuous route between Neff Yard in Kansas City, Missouri and Twelfth Street in St. Louis, Missouri after the Closing;

(g) all other access, connection, interchange, terminal, dispatching and operating rights of Seller that are necessary for Purchaser to own and operate the Subject Line after the Closing in substantially the same manner as operated by Seller immediately before the Closing;

(h) all Permits, in each case to the extent transferable by Seller, and all prepaid fees, deposits, credits and other rights relating thereto to the extent attributable to periods after the Closing;

(i) all keys, entry devices and passcodes with respect to the Purchased Assets including combinations to any locks or vaults (if any) in Seller's possession;

(j) the radio license authorizations currently held by Seller with respect to the Purchased Assets, as set forth on Section 2.01(j) of the Disclosure Schedule (the "FCC Licenses"); and

(k) copies of all books and records relating primarily to the ownership or operation of the Purchased Assets, including track charts, maps, surveys, deeds and other title records, bridge and track inspection and maintenance records, signal, communications and PTC records, environmental records, crossing files, utility records, customer and traffic data, waybill and operating data (subject to applicable Law and confidentiality obligations), capacity studies, dispatching records and the records provided in the Data Room (but excluding (i) Seller's Tax Returns and related books and records other than those relating exclusively to the Purchased Assets, (ii) any records prepared by Seller in connection with the transactions contemplated by this Agreement, (iii) Seller's corporate charter, seal, minute books, stock record books and other similar documents relating to the organization, maintenance and existence of Seller, (iv) privileged legal advice and attorney work product, provided that Seller shall provide non-privileged factual and operational information contained in otherwise privileged or commingled records to the extent reasonably practicable, and (v) any transportation or customer agreements that are Excluded Contracts).

Section 2.02. Excluded Assets.

Other than the Purchased Assets, all of Seller's assets, properties, rights and contracts of every description, real, personal, mixed, tangible and intangible, wherever situated (collectively, the "Excluded Assets") will remain the property of Seller after the Closing. The Excluded Assets include the following assets of Seller:

(a) all cash, cash equivalents and marketable securities;

(b) all Accounts Receivable (including rights to rebates, refunds, and similar items) of Seller;

(c) all tangible personal property other than the Subject Line and the other tangible personal property expressly included in the Purchased Assets, including all raw materials, work-in-process and other inventory, radios, locomotives, rolling stock and vehicles, maintenance-of-way equipment, and hand tools that are not located on or dedicated primarily to the Subject Line;

(d) all Intellectual Property owned by Seller together with the right to sue and collect for past infringement thereof, and all radio licenses or frequencies owned or operated by Seller other than the FCC Licenses;

(e) subject to Section 2.03 below, any Required Consent Contracts for which an effective consent or approval permitting the assignment of such contract(s) has not been obtained prior to the Closing Date;

(f) all claims, rights and causes of action relating to or arising from (i) any of the Excluded Assets or the Excluded Liabilities, and (ii) the ownership and operation of the Purchased Assets prior to the Closing Date;

(g) all agreements, leases and contracts of Seller that relate to the ownership and operation of the Subject Line other than those listed in Section 2.01(c) of the Disclosure Schedules (the "Excluded Contracts");

(h) all prepaid expenses, credits, advance payments, security, deposits, charges, sums and fees;

(i) all policies of insurance and any proceeds or return of premiums thereunder;

(j) all claims, rights and interests of Seller in and to any deposits or refunds of Taxes, or Tax credits for any period, and all Tax deposits, refunds and credits related to the Purchased Assets for taxable periods (or portions thereof, having regard to Section 7.04) ending on or prior to the Closing Date (with all such Tax refunds and credits calculated as if the relevant Tax period ended on the Closing Date);

(k) Seller's Tax Returns and related books and records;

(l) all rights of Seller under or pursuant to this Agreement, the other Transaction Documents or any other instrument between Seller and Purchaser or their respective Affiliates entered into pursuant to this Agreement or the transactions contemplated hereby; and

(m) all other assets of Seller and its Affiliates.

Section 2.03. Required Consent Contracts.

(a) Anything in this Agreement to the contrary notwithstanding, this Agreement shall not constitute an agreement to assign or otherwise sell, convey or transfer any Assigned Contract (or any claim, right or benefit arising thereunder or resulting therefrom) prior to receiving any required consent or approval for such assignment, conveyance or transfer if an attempted assignment, sale, conveyance or transfer without the consent or approval of a Third Party would constitute a breach thereof, be ineffective with respect to any party thereto or otherwise adversely affect the rights of Seller or Purchaser thereunder. With respect to any Assigned Contract as to which the consent or approval of a Third Party is required (each, a "Required Consent Contract"), promptly after the date hereof Seller shall, at its sole cost and expense and with Purchaser's reasonable cooperation, use its best efforts, and shall cause its applicable Affiliates to use their best efforts, to obtain the written consent, approval, novation or other arrangement required to transfer such Required Consent Contract to Purchaser at the Closing. Notwithstanding the foregoing, no contract, right or arrangement necessary to provide a continuous rail route over the Subject Line or otherwise material to Purchaser's ownership or operation of the Purchased Assets shall be excluded from the Purchased Assets or deferred beyond the Closing, and receipt of the applicable consent or a replacement arrangement reasonably satisfactory to Purchaser shall be a condition to Purchaser's obligation to close.

(b) Until any consent or approval is obtained with respect to a Required Consent Contract that is not necessary to provide a continuous rail route over the Subject Line or otherwise material to Purchaser's ownership or operation of the Purchased Assets, to the extent permitted by applicable Law and the terms of such Required Consent Contract, from and after the Closing Date (i) Purchaser shall obtain the claims, rights and benefits of Seller arising under such Required Consent Contract, (ii) Purchaser shall perform the obligations thereunder that constitute Assumed Liabilities, and (iii) Seller shall, at Purchaser's reasonable request and Seller's sole cost and expense, enforce for Purchaser's benefit any rights of Seller under such Required Consent Contract. No arrangement under this Section 2.03(b) shall reduce the rights or benefits Purchaser would have received upon an effective assignment, impose any additional Liability on Purchaser or impair Purchaser's ability to own or operate the Subject Line as a continuous rail route.

(c) With respect to any Required Consent Contract not assigned or transferred pursuant to Section 2.03(a) for which Purchaser must undertake performance pursuant to Section 2.03(b), Seller will pay to Purchaser any monies received by Seller from any Third Party for services rendered by Purchaser after the Closing Date, less any actual out-of-pocket costs or expenses incurred by Seller and payable to any Third Party as a result of receiving and processing payment of such monies.

(d) At the request of Seller, Purchaser shall use commercially reasonable efforts to assist Seller in seeking the unconditional release of Seller from any and all obligations or Liabilities under or in respect of any Assigned Contract constituting a Purchased Asset on the Closing Date or thereafter deemed a Purchased Asset as of the Closing Date, including by means of novation, release or similar arrangement with the applicable Third Party; *provided* that Purchaser shall not be responsible for any fees, out-of-pocket costs or expenses resulting from or arising out of seeking such unconditional releases.

ARTICLE III.
LIABILITIES

Section 3.01. Assumed Liabilities.

From and after the Closing Date, Purchaser assumes, and agrees to pay, perform and discharge in accordance with the respective terms and subject to the respective conditions thereof, the following Liabilities of Seller in all cases excepting the Excluded Liabilities (collectively, the "Assumed Liabilities"):

(a) all Liabilities arising out of, related to or required to be performed under the Purchased Assets, including the Assigned Contracts, to the extent arising out of, relating to or resulting from any act, error or omission of Purchaser occurring at or following the Closing; *provided, however*, that until such time as any Required Consent Contract is assigned or transferred to Purchaser pursuant to an effective consent or approval, Purchaser shall assume and undertake to pay, perform and discharge such Required Consent Contract in accordance with the terms of Section 2.03 herein;

(b) all obligations of Purchaser pursuant to the terms of the Haulage Agreement and the Trackage Rights Agreement arising from and after the Closing, in each case to the extent such agreement remains in effect following the Closing;

(c) except as otherwise provided in the Trackage Rights Agreement and the Haulage Agreement, all Liabilities arising out of or related to Purchaser's ownership, operation and use of the Subject Line from and after the Closing, but only to the extent arising from Purchaser's acts, omissions or operations after the Closing and not from any pre-Closing act, omission, condition or event, including all Taxes that Purchaser is obligated to assume under Section 7.04; and

(d) all other Liabilities arising out of, or related to, Purchaser's ownership, operation or use of the Purchased Assets from and after the Closing, but only to the extent arising from Purchaser's acts, omissions or operations after the Closing and not from any pre-Closing act, omission, condition or event or any Excluded Liability. Seller shall fully cooperate and timely provide to Purchaser any information requested by Purchaser to properly review, evaluate, settle and/or litigate any Liabilities assumed by Purchaser pursuant to this Section 3.01(d).

Section 3.02. Excluded Liabilities.

Purchaser shall not assume or be obligated to pay, perform or otherwise discharge any of the following Liabilities of Seller (all of such Liabilities not so assumed by Purchaser being referred to herein as the "Excluded Liabilities"):

(a) except as otherwise provided in Section 2.03 herein, any Liabilities arising out of or related to the Excluded Assets or arising out of or related to indebtedness for borrowed money or capital lease obligations;

(b) all Environmental Liabilities arising out of or related to the ownership, operation or use of the Purchased Assets, including the disposal of Hazardous Substances at any location whatsoever, whether arising out of, related to, or resulting from, the ownership, operation or use of the Purchased Assets prior to the Closing, including all Environmental Liabilities for any Release of Hazardous Substances at the Purchased Assets or any other location whatsoever or violation of Environmental Law at the Purchased Assets, first occurring prior to the Closing even if continuing after the Closing, including any Environmental Liabilities for the Remedial Action or Release of Hazardous Substances identified on Section 3.02(b) of the Disclosure Schedules ("Prior Environmental Liabilities");

(c) any Liability for Seller Taxes or public utilities relating to the Purchased Assets for periods (or portions thereof, having regard to Section 7.04), ending on or prior to the Closing Date;

(d) any Liability of Seller (i) to any employees or independent contractors of Seller and its Affiliates relating to their employment or retention by Seller and its Affiliates (including for salary, wages, commissions, labor protective conditions, or any other form of compensation, severance pay, termination pay, notice of termination of employment or pay in lieu of such notice, damages for wrongful dismissal, health, accident, sickness, death and disability benefits, workers compensation benefits, claims made under the Federal Employers Liability Act

or the Consolidated Omnibus Budget Reconciliation Act of 1985, each as amended from time to time, employee benefits and claims, employee welfare benefits and claims, and all other claims arising out of, relating to or resulting from their employment or provision of services to Seller and its Affiliates) or (ii) under any employee benefit plan or agreement, employee welfare plan or employee pension plan of Seller and its Affiliates, including any multi-employer pension plan in which Seller or any of its Affiliates participates;

(e) any Liability of Seller in respect of any breach of or default under, or any non-compliance with respect to, any Assigned Contract by Seller to the extent arising out of, relating to or resulting from any act, error or omission of Seller occurring at or prior to Closing or any payment obligation of Seller for any goods or services provided to Seller under any Assigned Contract prior to Closing;

(f) all obligations of Seller pursuant to the terms of the Haulage Agreement and the Trackage Rights Agreement, including obligations arising before the Closing and, to the extent applicable, obligations that remain with Seller following the Closing;

(g) any Liabilities arising out of, related to, or resulting from, the ownership, operation or use of the Purchased Assets prior to the Closing. Purchaser shall fully cooperate and timely provide to Seller any information requested by Seller to properly review, evaluate, settle and/or litigate any Liabilities retained by Seller;

(h) any Liability of Seller to indemnify any Person by reason of the fact that such Person was a partner, manager, trustee, director, officer, employee or agent of Seller or any of its Affiliates or was serving at the request of any such Person as a partner, manager, trustee, director, officer, employee or agent of another Person;

(i) except as otherwise provided by the terms of this Agreement, any Liability of Seller for costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby, or under this Agreement or any other Transaction Document, or of Seller to any Affiliate or Representative of Seller;

(j) any Liability of Seller arising out of any collective bargaining agreement or labor contract to which Seller or any Affiliate is a party;

(k) except as otherwise provided in this Agreement, any Liability of Seller to any customer of Seller or any Liability for any accounts payable of Seller as of the Closing, in each case related to or resulting from the ownership and operation of the Purchased Assets prior to the Closing;

(l) any Liability, claim, Proceeding, cost or expense arising from or relating to the UP/NS Transaction, the proceedings in Finance Docket No. 36873, the STB Divestiture Order or Seller's implementation of the divestiture contemplated hereby, except to the extent resulting from Purchaser's breach of this Agreement or Purchaser's ownership or operation of the Purchased Assets after the Closing; and

(m) any Liability, cost or expense resulting from Seller's failure to convey any Purchased Asset, obtain any required consent, release any Encumbrance required to be released or provide Purchaser with the continuous rail route and other rights required by this Agreement.

ARTICLE IV.
CLOSING AND PURCHASE PRICE

Section 4.01. Closing; Closing Date Deliveries.

The closing of the transactions contemplated by this Agreement (the "Closing") shall take place by exchange of documents by Electronic Delivery (except for the Deed, for which Seller shall deliver to Purchaser one original wet-ink, signed and notarized copy for each county in which the Transferred Real Property is located) on the date specified in the STB Divestiture Order or, if no date is specified, immediately prior to or concurrently with the UP/NS Transaction Closing, subject to the satisfaction or waiver, to the extent permitted, of the conditions set forth in ARTICLE VIII (other than conditions to be satisfied by action taken at the Closing, but subject to their satisfaction or waiver at the Closing), or at such other time and date as Seller and Purchaser may agree in writing (such date, the "Closing Date").

Section 4.02. Purchase Price; Adjustment Amount.

(a) In consideration of the transactions contemplated by this Agreement, Purchaser agrees (i) to pay $[●] (the "Base Purchase Price") *plus or minus* the Adjustment Amount calculated in the manner set forth in Section 4.02(b) (collectively, the "Purchase Price") and (ii) to assume the Assumed Liabilities.

(b) Not less than three Business Days prior to the Closing Date, Seller shall deliver to Purchaser a written statement in the form of Exhibit B (the "Adjustment Statement") setting forth (i) Seller's good faith estimate of Purchaser's share of the prorated amounts for the following, in each case as of the Closing Date (collectively, the "Adjustment Amount"): (A) Taxes in accordance with **Error! Reference source not found.**, (B) prepaid fees related to the Permits attributable to periods after the Closing, (C) accrued but unpaid fees related to the Permits attributable to periods ending on or before the Closing, (D) prepaid amounts and accrued but unpaid amounts under the Assigned Contracts allocated between the pre-Closing and post-Closing periods consistently with the allocation of Assumed Liabilities and Excluded Liabilities, and (E) [●], and (ii) on the basis of the foregoing, a calculation of the Purchase Price payable by Purchaser at Closing. For the avoidance of doubt, if the Adjustment Amount is a positive number, such amount shall be added to the Base Purchase Price to calculate the Purchase Price and, if the Adjustment Amount is a negative number, the absolute value of such amount shall be deducted from the Base Purchase Price to calculate the Purchase Price.

(c) Within ninety (90) days after the Closing, Purchaser shall deliver to Seller a final Adjustment Statement, together with reasonable supporting documentation. Seller may object to the final Adjustment Statement by written notice delivered within thirty (30) days after receipt, specifying in reasonable detail the items disputed. Any item not timely disputed shall be final and binding. The Parties shall resolve any timely disputed item in good faith and, if not resolved within thirty (30) days, shall submit the remaining dispute to a mutually agreed

independent accounting firm, whose determination shall be final and binding. Any amount due as a result of the final determination of the Adjustment Amount shall be paid within five (5) Business Days thereafter.

Section 4.03. Seller Closing Deliveries.

At the Closing and subject to the terms and conditions herein contained, Seller shall deliver to Purchaser the following:

(a) a bill of sale for the personal property included in the Purchased Assets, in substantially the form attached hereto as Exhibit C, duly executed by Seller (the "Bill of Sale");

(b) a certificate pursuant to Treasury Regulations Section 1.1445-2(b) that Seller is not a foreign Person within the meaning of Section 1445 of the Code as well as IRS Form W-9 of Seller;

(c) the Transition Services Agreement, in substantially the form attached as Exhibit D regarding the provision of transition services, duly executed by Seller (the "Transition Services Agreement");

(d) for each county in which the Transferred Real Property is located, a quitclaim deed with respect to the transfer to Purchaser of the Transferred Real Property in such county, duly executed by Seller (collectively, the "Deed");

(e) an assignment and assumption agreement evidencing the sale, assignment, transfer, conveyance and delivery to Purchaser, and Purchaser's purchase, acquisition and acceptance from Seller on the Closing Date, of the Assigned Contracts and Assumed Liabilities, in substantially the form attached hereto as Exhibit E, duly executed by Seller (the "Assignment and Assumption Agreement");

(f) to the extent expressly required by the STB Divestiture Order, a trackage rights agreement granting Seller non-exclusive overhead trackage rights over only the portions of the Subject Line specified therein, in substantially the form attached hereto as Exhibit F and on terms that do not grant Seller local service rights, dispatching control or operating priority and do not materially impair Purchaser's ownership, control, operation or competitive use of the Subject Line, duly executed by Seller (the "Trackage Rights Agreement");

(g) to the extent expressly required by the STB Divestiture Order, an agreement pursuant to which Purchaser provides haulage service for the account of Seller over only the portions of the Subject Line specified therein, in substantially the form attached hereto as Exhibit G and on terms that do not grant Seller dispatching control or operating priority and do not materially impair Purchaser's ownership, control, operation or competitive use of the Subject Line, duly executed by Seller (the "Haulage Agreement");

(h) an instrument terminating or superseding, effective as of the Closing, each pre-Closing haulage, trackage rights or other access agreement under which Seller granted Purchaser rights over the Subject Line, except to the extent any right or obligation is expressly

stated to survive the Closing in such instrument, duly executed by Seller (the "Access Agreements Termination Instrument");

(i) a certificate executed by an officer of Seller certifying that attached thereto are (i) true and correct copies of the organizational documents of Seller; (ii) a true and correct copy of the resolutions of the board of directors or other governing body of Seller authorizing the execution and delivery of this Agreement and the other Transaction Documents and the performance by Seller of the transactions contemplated hereby and thereby; and (iii) a certificate of good standing in respect of Seller from its applicable jurisdiction of organization;

(j) an officer's certificate of Seller required by Section 8.02(c) dated as of the Closing Date in substantially the form attached hereto as Exhibit H;

(k) a final and complete Exhibit A, all legal descriptions and all Disclosure Schedules required by this Agreement, in each case reasonably satisfactory to Purchaser and consistent with the STB Divestiture Order; and

(l) all consents, approvals, novations and replacement arrangements required under Section 2.03, together with all releases, termination statements and other instruments necessary to release any Encumbrance that is not a Permitted Encumbrance.

provided that where this Section 4.03 (or the definition of such document) refers to a Transaction Document other than this Agreement as being in substantially the form attached hereto, the form of such Transaction Document shall be subject only to such changes as may be agreed to by the Parties, acting reasonably and in good faith, between the date hereof and the Closing Date; *provided further* that no such change shall materially impair Purchaser's ownership, control, operation or competitive use of the Subject Line or be inconsistent with the STB Divestiture Order.

Section 4.04. Purchaser Closing Deliveries.

At the Closing and subject to the terms and conditions herein contained, Purchaser shall deliver to Seller the following:

(a) the Purchase Price, by wire transfer of immediately available funds to an account designated in writing by Seller to Purchaser prior to the Closing Date;

(b) a counterpart of each Bill of Sale, duly executed by Purchaser;

(c) a counterpart of the Transition Services Agreement, duly executed by Purchaser;

(d) a counterpart of the Assignment and Assumption Agreement, duly executed by Purchaser;

(e) if applicable pursuant to Section 4.03(f), a counterpart of the Trackage Rights Agreement, duly executed by Purchaser;

(f) if applicable pursuant to Section 4.03(g), a counterpart of the Haulage Agreement, duly executed by Purchaser;

(g) a counterpart to the Access Agreements Termination Instrument, duly executed by Purchaser;

(h) an officer's certificate of Purchaser required by Section 8.03(c), dated as of the Closing Date in substantially the form attached hereto as Exhibit I;

(i) a certificate, dated as of the Closing Date, from an officer of Purchaser certifying that attached thereto are (i) true, correct and complete copies of the organizational and governing documents of Purchaser; (ii) a true and correct copy of the resolutions of the board of directors (or board of managers, as applicable) of Purchaser authorizing the execution and delivery of this Agreement and the other Transaction Documents and the performance by Purchaser of the transactions contemplated hereby and thereby; and (iii) a good standing certificate in respect of Purchaser from its applicable jurisdiction of organization; and

(j) an IRS Form W-9 or applicable IRS Form W-8.

Section 4.05. Withholding.

Provided that the certification contemplated by Section 4.03(b) is provided by Seller, neither Seller nor Purchaser expects for any withholding to be imposed under any applicable Tax Law in connection with the transactions contemplated by this Agreement. Notwithstanding the foregoing, Purchaser and its Affiliates shall be entitled to deduct and withhold from the consideration otherwise payable or deliverable pursuant to this Agreement to Seller such amounts as are required to be withheld and paid over to the applicable Governmental Authority under the Code or any applicable provision of Tax Law; *provided*, *however*, that (a) Purchaser shall use commercially reasonable efforts to notify Seller prior to making any such deduction or withholding and consider in good faith any claim by Seller that such withholding is not required or should be imposed at a reduced rate, and (b) Seller shall be given a reasonable opportunity to provide any Tax forms which might reduce or eliminate such withholding. Any amounts deducted and withheld pursuant to this Section 4.05 and timely paid over to the applicable Governmental Authority shall be treated for all purposes of this Agreement as having been paid to Seller in respect of which such deduction or withholding was made.

ARTICLE V.
REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Purchaser that the statements set forth in this ARTICLE V are true and correct as of the date hereof, except as qualified by the correspondingly numbered disclosure schedules delivered by Seller to Purchaser (the "Disclosure Schedules") and arranged in sections corresponding to numbered and lettered sections contained in this ARTICLE V.

Section 5.01. Organization and Standing.

Seller (a) is duly organized, validly existing and in good standing under the Laws of the State of Delaware, (b) is duly qualified to do business as a foreign entity and is in good standing in each jurisdiction in which the conduct of its business so requires, and (c) has the corporate power and authority to own the Purchased Assets owned by it.

Section 5.02. Authorization, Execution and Enforceability.

Seller has the requisite corporate power, capacity and authority to execute and deliver this Agreement and each other Transaction Document to which it is a party, and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Seller of this Agreement and each other Transaction Document to which it is a party, the performance of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action on the part of Seller. This Agreement has been, and each other Transaction Document to which it is a party will be, duly executed and delivered by Seller. Assuming due authorization, execution and delivery by Purchaser, this Agreement constitutes, and each other Transaction Document to which it is a party will constitute when executed, the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar Laws relating to or affecting creditors' rights generally, and by general equitable principles (regardless of whether such enforceability is considered in a Proceeding in equity or at Law).

Section 5.03. No Conflict or Violation.

Except as set forth in Section 5.03 of the Disclosure Schedules, and subject to the STB Approvals, the execution, delivery and performance of this Agreement and each other Transaction Document to which it is a party and the consummation of the transactions contemplated hereby and thereby by Seller will not: (a) conflict with any of the provisions of Seller's organizational documents, (b) result in a violation or contravention of any Law or Governmental Order applicable to Seller, (c) result in a breach of, or constitute a default under, or otherwise give any Person the right to terminate or accelerate the performance required under, any Assigned Contract, or (d) result in the creation or imposition of any Encumbrance on or with respect to any of the Purchased Assets.

Section 5.04. No Governmental Consent or Filing.

Except for the STB Approvals, the FCC Approval and the consents, approvals, novations and other arrangements specifically identified on Section 5.04 of the Disclosure Schedules, no consent, approval or authorization of, or declaration or filing with, or notice to, any Governmental Authority or Third Party is required to be obtained, made or given by Seller or any of its Affiliates to transfer or assign any Purchased Asset to Purchaser or otherwise in connection with the execution, delivery or performance of this Agreement or any other Transaction Document or the consummation of the transactions contemplated hereby or thereby.

Section 5.05. Assigned Contracts.

Sections 2.01(c), 2.01(d), 2.01(e), 2.01(f) and 5.05 of the Disclosure Schedules contain a true, correct and complete list of all material Assigned Contracts, Required Consent Contracts and other joint-facility, shared-track, trackage-rights, haulage, lease, license, easement, crossing, interchange, access, dispatching and operating agreements and arrangements relating to the Subject Line. Other than expirations or non-renewals following the date of this Agreement in accordance with the terms of the applicable Assigned Contract, each Assigned Contract is in full force and effect, and is valid, binding and enforceable against Seller and, to the Knowledge of Seller, the other parties thereto in accordance with its terms, in each case, except as such enforceability may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar Laws relating to or affecting creditors' rights generally, and by general equitable principles (regardless of whether such enforceability is considered in a Proceeding in equity or at Law). As of the date hereof, neither Seller nor, to the Knowledge of Seller, any other party to an Assigned Contract is in breach or violation of, or default under, any Assigned Contract and, to the Knowledge of Seller, no event has occurred that with or without notice or lapse of time or both would constitute a breach or default (whether by lapse of time or notice or both) of any Assigned Contract. Seller has not received, since January 1, 2021, any written notice of any dispute or claim asserting any material breach or default under any Assigned Contract that has not been fully resolved or withdrawn by a Third Party without any further Liability or obligation of Seller. Seller is not currently renegotiating any of the Assigned Contracts or paying liquidated damages in lieu of performance thereunder. No Assigned Contract contains terms unduly burdensome to Seller with respect to the Purchased Assets or is harmful to the Subject Line.

Section 5.06. Purchased Assets.

Except as set forth in Section 5.06 of the Disclosure Schedules, Seller owns good, valid and marketable title to all Purchased Assets owned in fee and has valid, binding, enforceable and transferable rights to possess, use and convey all other Purchased Assets, in each case free and clear of all Encumbrances other than Permitted Encumbrances. Seller has the power and authority, and at the Closing will have the right, to convey or cause to be conveyed to Purchaser all of the Purchased Assets and all rights necessary for Purchaser to own and operate the Subject Line as a continuous rail route.

Section 5.07. Litigation.

Except as set forth in Section 5.07 of the Disclosure Schedules, there are no Proceedings pending or, to the Knowledge of Seller, threatened, seeking to restrain or prohibit Seller from entering into this Agreement or consummating the transactions contemplated hereby, prohibit the Closing, or seek damages against Seller or the Purchased Assets as a result of the consummation of this Agreement. No Proceeding is pending and, to Seller's Knowledge, no claim has been made or threatened, nor does there exist any fact or circumstance that could reasonably be expected to give rise to such a claim, in each case since January 1, 2021, that has resulted in or reasonably could be expected to result in a liability or an indemnification obligation with respect to Seller or the Purchased Assets.

Section 5.08. Real Property.

(a) Section 5.08(a) of the Disclosure Schedules sets forth a list of all leases of real property to which Seller is a party included in the Purchased Assets (the real property subject to such leases being referred to herein as the "Leased Real Property"). Except as set forth in Section 5.08(a) of the Disclosure Schedules (i) Seller is not in default under any lease of Leased Real Property and has not received notice of any asserted default, (ii) no event or condition exists which constitutes, or after notice or lapse of time or both would constitute, a default on the part of Seller under any lease of Leased Real Property, and (iii) as of the date of this Agreement, Seller has not received written notice from any other party to a lease of Leased Real Property that such other party intends to terminate, not renew, or renegotiate the terms of, any such lease.

(b) There are no leases, subleases, concessions, licenses or other contracts granting to any Person other than Seller the right to use or occupy any Transferred Real Property or Leased Real Property, in each case that would constitute an Encumbrance (other than a Permitted Encumbrance). There are no outstanding options, rights of first offer, or rights of first refusal to purchase or lease any Transferred Real Property or any portion thereof or any interest therein.

(c) Seller has title to or other valid rights in and to the Transferred Real Property, subject only to Permitted Encumbrances, and has a valid leasehold interest in each Leased Real Property, in each case sufficient to enable Purchaser to operate the Purchased Assets after Closing in the same manner as currently operated by Seller and its Affiliates.

Section 5.09. Environmental Matters.

Except as set forth in Section 5.09 of the Disclosure Schedules:

(a) Seller in its ownership, operation and use of the Purchased Assets, including operation of the Subject Line, ownership of the Transferred Real Property, and use of the Leased Real Property, (i) is, and has been since March 1, 2017, in compliance with all Environmental Laws and (ii) possesses and is in compliance with and has since March 1, 2017 possessed, been in compliance with and filed timely renewal applications for, all Permits that are required pursuant to Environmental Laws;

(b) (i) No Governmental Orders have been received by Seller from a Governmental Authority or other Person, and (ii) there are no Proceedings pending or, to the Knowledge of Seller, threatened against Seller, in the case of each of clauses (i) and (ii), that (A) relates to the Purchased Assets and (B) alleges a violation of any Environmental Law by Seller, seeks to impose Liabilities on Seller under an Environmental Law, or seeks the revocation, modification or termination of a Permit required pursuant to Environmental Laws held by Seller, that has not been settled, dismissed, paid or otherwise resolved or for which outstanding obligations exist under a settlement agreement;

(c) To the Knowledge of Seller, none of the Transferred Real Property or the Leased Real Property has been placed or proposed for placement on the National Priorities List or any similar state list of properties requiring Remedial Action under Environmental Law;

(d) Seller is not subject to any pending or threatened Proceeding in connection with the Purchased Assets alleging or concerning (i) any Liabilities arising from the Release or threatened Release of any Hazardous Substances, (ii) any Liabilities for personal injury or threatened personal injury, or damage or threatened damage to property or natural resources or (iii) any Liabilities or costs arising out of or under any Environmental Law;

(e) There have been no Releases of any Hazardous Substances on, at, under, to or from the Transferred Real Property or the Leased Real Property, that would reasonably be expected to require Remedial Action;

(f) The Remedial Action identified on Section 3.02(b) of the Disclosure Schedules for certain Purchased Assets has been completed;

(g) To the Knowledge of Seller, there are no state or federal liens on the Transferred Real Property or the Leased Real Property arising under Environmental Laws for the payment of money by any Governmental Authority;

(h) Neither the Transferred Real Property nor the Leased Real Property is subject to a pending or recorded activity use limitation, institutional control or engineering control pursuant to any Environmental Laws;

(i) To the Knowledge of Seller, there is not constructed, placed, deposited, released, stored, disposed, leaching nor located on any of the Purchased Assets any polychlorinated biphenyls ("PCBs") or transformers, capacitors, ballasts or other equipment which contain dielectric fluid containing PCBs, or any other insulating material containing urea formaldehydes;

(j) To the Knowledge of Seller, there are no underground storage tanks, landfills, impoundments, waste piles, sumps, or gas or oil wells, or associated piping, located on the Transferred Real Property or the Leased Real Property;

(k) Neither this Agreement nor the consummation of the transactions contemplated herein will result in any obligation for site investigation or cleanup, or notification to or consent of any Governmental Authority or Third Party, pursuant to any Environmental Laws, including any of the so-called "transaction triggered" or "responsible property transfer" Environmental Laws; and

(l) Seller has provided to Purchaser all material environmental reports, including compliance audits, Phase I environmental site assessments, and Phase II environmental site assessments, in Seller's possession regarding the Purchased Assets.

Section 5.10. Tax Matters.

(a) all Tax Returns required to be filed with respect to the Purchased Assets have been timely filed and all such Tax Returns are correct and complete in all material respects. All material Taxes required to have been paid with respect to the Purchased Assets have been timely paid (whether or not shown as due on any Tax Return);

(b) There are no Encumbrances for Taxes upon the Purchased Assets;

(c) Seller has withheld and paid or remitted all material Taxes required to be withheld and paid with respect to the Purchased Assets, and all Tax Returns required with respect thereto have been completed substantially in accordance with Law and timely filed;

(d) There is no pending dispute or claim concerning any Taxes of Seller with respect to the Purchased Assets claimed or raised by any taxing authority in writing. Seller has not waived any statute of limitation or agreed to any extension of time with respect to any Tax assessment or deficiency pertaining to the Purchased Assets;

(e) All of the Purchased Assets have been properly listed and described on the applicable property Tax rolls prior to and including the Closing Date and no portion of the Purchased Assets constitutes omitted property for property Tax purposes;

(f) None of the Purchased Assets is subject to any tax partnership agreement or is otherwise treated, or required to be treated, as held in an arrangement requiring a partnership income Tax Return to be filed under Subchapter K of Chapter 1 of Subtitle A of the Code; and

(g) There are no abatements of or exemptions from Taxes applicable to the Purchased Assets.

The representations and warranties contained in this Section 5.10 constitute the sole representations and warranties of Seller relating to Taxes.

Section 5.11. Compliance with Laws; Permits.

Seller has complied with and is in compliance with all Laws applicable to the Subject Line and the Purchased Assets. No violation of any Permit or Laws governing the issuance or continued validity thereof has occurred. Seller has all Permits necessary to own the Purchased Assets and operate the Subject Line lawfully and in the manner in which the Purchased Assets and the Subject Line are now operated, which Permits are listed in Section 5.11 of the Disclosure Schedules. No Proceeding is pending or, to the Knowledge of Seller, threatened, to revoke or limit any Permit.

Section 5.12. Conduct of Business.

Since January 1, 2021 to the date of this Agreement, (a) no unrepaired physical Loss or damage has occurred to the Purchased Assets in an amount exceeding $1,000,000 individually, and (b) the Purchased Assets have not suffered any event, change, development, circumstance or effect that, individually or together with any other event, change, development, circumstance or effect, has resulted in or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect (for the avoidance of doubt, excluding impacts of the COVID-19 pandemic).

Section 5.13. Condition of Subject Line and Bridges.

True and complete copies of all periodic Subject Line and bridge inspections and exemption reports in the possession or under the control of Seller or any of its Affiliates describing the condition of all of the Subject Line and bridges owned, leased or operated by Seller have been

provided to Purchaser. All of such Subject Line and bridges are in good operating condition and repair and are capable of being utilized by Purchaser after Closing in the same manner in which it has been used by Seller, except as otherwise indicated on Section 5.13 of the Disclosure Schedules (specified by mile posts). Section 5.13 of the Disclosure Schedules sets forth the current track class of all Subject Line owned, lease or operated by Seller, and all slow orders affecting the designated track class. All of the Subject Line and bridges owned, leased or operated by Seller and currently in service are maintained and operated in compliance with all Laws in all material respects.

Section 5.14. Brokerage.

Except as set forth in Section 5.14 of the Disclosure Schedules, no Person is entitled to any brokerage commission, finders' fee or similar compensation in connection with this Agreement and the transactions contemplated hereby based on any arrangement or agreement made by or on behalf of Seller.

Section 5.15. Insurance.

Section 5.15 of the Disclosure Schedules sets forth a true and complete list and brief description (including nature of coverage, limits, deductibles, premiums and the loss experience for the most recent two years with respect to each type of coverage) of all policies of insurance maintained, owned or held by Seller on the date hereof with respect to the Purchased Assets. All insurance policies have been in effect since they were issued and remain in full force and effect in accordance with their terms. All premiums payable under such insurance policies have been timely paid and Seller has complied with each of such insurance policies and has not failed to give any notice or present any claim thereunder in a due and timely manner. With respect to each insurance policy, (a) the coverage limits under such policy have not been exhausted or impaired, (b) to the Knowledge of Seller, Seller has given timely notice to the applicable carrier of all matters occurring prior to the date hereof which may give rise to a claim under such policy and (c) to the Knowledge of Seller, the applicable carrier is not bankrupt or insolvent or seeking reorganization, winding-up, liquidation, dissolution or other similar relief with respect to it or its debts.

Section 5.16. Sufficiency of Assets.

(a) The Purchased Assets include all assets and rights necessary to provide a continuous rail route between Rock Creek Junction and Twelfth Street in St. Louis at or near the MacArthur Bridge, to serve, switch and interchange traffic for all customers and facilities located on or accessed from the Subject Line and to conduct the business of Seller with respect to the Subject Line in the same manner as currently conducted by Seller, and will enable Purchaser to own, control and operate the Subject Line after the Closing in substantially the same manner as operated by Seller immediately before the Closing, without requiring any material asset, right, consent or service from Seller or any Third Party other than the services expressly provided under the Transaction Documents.

(b) Except as disclosed on Section 5.16(b) of the Disclosure Schedules, there are no material assets, rights, licenses, Permits or businesses of any kind or description, real, personal or mixed, tangible or intangible, owned, held or currently used for the conduct of the

business of Seller with respect to the Purchased Assets that are not owned by Seller or currently used by it pursuant to valid and existing leases or licenses.

ARTICLE VI.
REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to Seller that the statements set forth in this ARTICLE VI are true and correct as of the date hereof.

Section 6.01. Organization and Standing.

(a) Purchaser is duly organized, validly existing and in good standing under the Laws of the State of Illinois, (b) Purchaser is duly qualified and in good standing as a foreign entity and is in good standing in each jurisdiction in which the conduct of its business so requires, except where the failure to be so qualified and in good standing would not reasonably be expected to have a material adverse effect on the ability of Purchaser to consummate the transactions contemplated by this Agreement and (c) Purchaser has all requisite corporate power and authority to own, lease, and operate its properties and to carry on its businesses as now being conducted.

Section 6.02. Authorization, Execution and Enforceability.

Purchaser has the requisite corporate power, capacity and authority to execute and deliver this Agreement and each other Transaction Document to which it is a party, and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Purchaser of this Agreement and each other Transaction Document to which it is a party, the performance of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action on the part of Purchaser. This Agreement has been, and each other Transaction Document to which it is a party will be, duly executed and delivered by Purchaser. Assuming due authorization, execution and delivery by Seller, this Agreement constitutes, and each other Transaction Document to which it is a party will constitute when executed, the valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar Laws relating to or affecting creditors' rights generally and by general equitable principles (regardless of whether such enforceability is considered in a Proceeding in equity or at Law).

Section 6.03. No Conflict or Violation.

Subject to the STB Approvals and the FCC Approval, the execution, delivery and performance of this Agreement and each other Transaction Document to which it is a party and the consummation of the transactions contemplated hereby and thereby by Purchaser will not: (a) conflict with any of the provisions of its organizational documents, (b) result in a violation or contravention of any statute, Law or Governmental Order applicable to it, (c) result in a breach of or constitute a default under, or otherwise give any Person the right to terminate or accelerate the performance required under, any contract or agreement to which Purchaser is a party, or (d) result

in the creation or imposition of any Encumbrance on or with respect to any property or asset of Purchaser.

Section 6.04. No Governmental Consent or Filing.

No consent, approval or authorization of, or declaration or filing with, or notice to, any Governmental Authority is required to be obtained, made or given by Purchaser in connection with the execution, delivery or performance of this Agreement or any other Transaction Document to which it is a party, or the consummation of the transactions contemplated hereby or thereby, except for (a) the STB Approvals, (b) the FCC Approval and (c) those that, if not obtained, made or given, would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the ability of Purchaser to consummate the transactions contemplated hereby.

Section 6.05. Litigation.

As of the date hereof there are no Proceedings pending or, to the Knowledge of Purchaser, threatened in writing against Purchaser, in each case that would reasonably be expected to have, individually or in the aggregate, a material adverse impact on the ability of Purchaser to consummate the transactions contemplated hereby.

Section 6.06. No Brokers.

No Person is entitled to any brokerage commission, finders' fee or similar compensation in connection with this Agreement and the transactions contemplated hereby based on any arrangement made by or on behalf of Purchaser.

ARTICLE VII.
COVENANTS

Section 7.01. Effort

(a) From and after the date hereof, Purchaser and Seller shall use their respective commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable under any applicable Law to consummate and make effective in the most expeditious manner possible the transactions contemplated by this Agreement, including (i) the preparation and filing of all applications, forms, registrations and notices required to be filed to consummate the transactions contemplated by this Agreement, (ii) taking all actions necessary to obtain (and cooperating with each other in obtaining) any consent or approval of any Third Party, including any Governmental Authority, required to be obtained or made by Purchaser or Seller in connection with the transactions contemplated by this Agreement and (iii) the execution and delivery of any additional instruments necessary to consummate the transactions contemplated by this Agreement and to fully carry out the purposes of this Agreement.

(b) Seller shall comply with the STB Divestiture Order and shall take all actions necessary to implement the divestiture required thereby and consummate the transactions contemplated by this Agreement.

(c) Purchaser shall bear its own costs, fees and expenses incurred in connection with the proceedings in Finance Docket No. 36873 and any filing required to obtain the STB Approvals. Seller shall bear all costs, fees and expenses incurred to obtain any consent, approval, novation or other arrangement required to transfer the Purchased Assets and to comply with and implement the STB Divestiture Order, except as otherwise expressly provided in a Transaction Document.

Section 7.02. Conduct of Business.

(a) Except as set forth in Section 7.02(a) of the Disclosure Schedules, as required by applicable Law, as otherwise required or contemplated by the terms of this Agreement, or as Purchaser may otherwise consent to (such consent not to be unreasonably withheld, conditioned or delayed), from the date of this Agreement to the Closing, Seller shall:

(i) maintain and operate the Purchased Assets in the ordinary course and preserve intact the Purchased Assets and Seller's business relationships with material customers and others having material business relationships with Seller relating to the Purchased Assets;

(ii) pay or cause to be paid all material costs and expenses (including insurance premiums) incurred in connection therewith in a timely manner, except those contested in good faith by Seller;

(iii) use commercially reasonable efforts to keep all Assigned Contracts in full force and effect (and, where such Assigned Contracts are due to expire prior to Closing, to secure a renewal or extension of such Assigned Contracts on terms substantially similar to their existing terms);

(iv) comply with all of the material covenants contained in all Assigned Contracts;

(v) maintain in force until the Closing Date insurance policies equivalent to those in effect on the date hereof;

(vi) comply in all material respects, with all applicable Laws;

(vii) during normal business hours, in accordance with reasonable procedures established by Seller and in a manner that does not unreasonably interfere with the normal operation of Seller's business, including any procedures established by Seller, accommodate reasonable access by Purchaser to (A) the Transferred Real Property and the Leased Real Property included in the Purchased Assets to allow Purchaser to prepare and stage for operations effective as of the Closing Date and (B) copies of the books and records relating to the ownership and operation of the Purchased Assets;

(viii) not take any of the following actions: (A) sell, pledge, dispose of, lease, license or encumber any of the Purchased Assets except for the disposition of worn-out or obsolete personal property that is not material to the operation of the Subject Line and is replaced before the Closing with property of equivalent or greater utility and value;

(B) terminate or materially amend any Assigned Contract; (C) grant trackage rights, haulage rights or any right to use all or a part of the Subject Line to any Person; (D) abandon any part of the rail lines included in the Purchased Assets; (E) authorize any of, or commit or agree to take, whether in writing or otherwise, or do any of, the foregoing actions; (F) enter into, modify, amend or terminate any Assigned Contract.

(b) Anything to the contrary in this Agreement notwithstanding, the Parties acknowledge and agree that nothing in this Section 7.02 shall be deemed to limit the sale, lease, license, disposition or transfer of any Excluded Assets by Seller prior to, at or after the Closing.

(c) Anything to the contrary in this Agreement notwithstanding, nothing in this Section 7.02 shall prohibit or otherwise restrict in any way the operation of any business of Seller or its Affiliates, except solely with respect to the operation of the Subject Line and the Purchased Assets by Seller and its Affiliates.

(d) Seller shall promptly notify Purchaser of any damage to or destruction of any tangible Purchased Asset following the date hereof and prior to the Closing. If the aggregate cost to repair or replace such damaged or destroyed Purchased Assets exceeds $1,000,000, Purchaser may elect, in its sole discretion, to (i) require Seller to repair or replace the affected Purchased Assets to substantially their pre-casualty condition at Seller's sole cost before the Closing, with the Closing postponed for the period reasonably necessary to complete such work, (ii) proceed with the Closing and receive a reduction in the Purchase Price equal to the reasonably estimated unreimbursed cost to repair or replace the affected Purchased Assets, together with an assignment of all related insurance claims and proceeds, or (iii) terminate this Agreement if the damage or destruction has resulted in, or would reasonably be expected to result in, a Material Adverse Effect. Seller shall not settle or compromise any related insurance claim in a manner that adversely affects Purchaser without Purchaser's prior written consent.

Section 7.03. Expenses; No Offset.

Except as otherwise specifically provided in this Agreement, the Parties to this Agreement each shall bear their respective expenses incurred in connection with the preparation, execution and performance of this Agreement and consummation of the transactions contemplated hereby, including all fees and expenses of their respective Representatives. Neither Party may make any offset against amounts due to the other Party or its Affiliates pursuant to this Agreement or the other Transaction Documents, except with respect to amounts that are then due and payable and either agreed in writing by the Parties or finally determined by a court of competent jurisdiction.

Section 7.04. Tax Matters.

(a) All amounts payable by Purchaser to Seller pursuant to this Agreement do not include any goods and services, harmonized sales, value-added, sales, use, consumption, multi staged, ad valorem, personal property, customs, excise, stamp, documentary, transfer or similar Taxes, duties or charges arising out of or in connection with the transactions effected pursuant to this Agreement (collectively, "Transfer Taxes"). All Transfer Taxes, and the collection and remittance thereof to appropriate Governmental Authorities, are the responsibility and for the

account of Seller. Seller and Purchaser agree to use commercially reasonable efforts to mitigate, reduce or eliminate any Transfer Taxes, and to obtain any certificate or other document from any Governmental Authority or any other Person, and to jointly make any election as may be available to mitigate, reduce or eliminate any such Transfer Taxes that could be imposed on Seller as a result of the consummation of the transactions contemplated by this Agreement. Seller and Purchaser shall cooperate with one another in the preparation of any necessary Tax Returns and other related documentation with respect to such Transfer Taxes (including any exemption certificates and forms as each may request to establish an exemption from (or otherwise reduce) or make a report with respect to such Transfer Taxes).

(b) Seller shall be responsible for all Asset Taxes attributable to any Pre-Closing Tax Period, and Purchaser shall be responsible for all Asset Taxes attributable to any taxable period beginning after the Closing Date. Asset Taxes for a Straddle Period shall be allocated in accordance with the definition of Straddle Period. To the extent the actual amount of any such Asset Tax (or the amount thereof paid or economically borne by a Party) is ultimately determined to be different from the amount, if any, taken into account as an adjustment to the Purchase Price under Section 4.02(b), timely payments will be made from one Party to the other to the extent necessary to cause each Party to bear the amount of such Tax allocable to such Party under this Section 7.04(b).

(c) Purchaser and Seller shall, and shall cause their respective Affiliates to, cooperate fully, as and to the extent reasonably requested by the other Party, in connection with the filing of Tax Returns, opening and closing of Tax accounts, and any audit, litigation or other Proceeding with respect to Taxes owed or claimed to be owed with respect to the Purchased Assets and the Assumed Liabilities.

(d) The Purchase Price related to the Purchased Assets (and the agreed fair market value of the Assumed Liabilities, if any, required to be treated as consideration under Section 1060 of the Code) shall be allocated among the Purchased Assets for Tax purposes (and also for all non-Income Tax purposes to the extent acceptable) in accordance with Section 1060 of the Code and the Treasury Regulations thereunder and as set forth on Exhibit J, which schedule also sets forth the identifying information to be included in Part I of IRS Form 8594 (the "Allocation Schedule"). Such Allocation Schedule shall specifically set forth the allocation in accordance with Section 1060 of the Code the amount allocated to the Purchased Assets that are within the Subject Line. A draft of the Allocation Schedule shall be prepared by Purchaser and delivered to Seller not less than three Business Days prior to the Closing Date. Seller shall review and provide comments, and Purchaser shall duly consider all reasonable comments of Seller, and Seller and Purchaser will mutually determine the amounts set forth in the Allocation Schedule as of Closing. If Seller and Purchaser are unable to agree on the specific amounts to be allocated among the Purchased Assets in accordance with the Allocation Schedule then they shall continue to work together in good faith after Closing to reach agreement on such allocation. Upon reaching final agreement, either before or after Closing, the Parties shall reflect the agreed allocation in writing in an updated version of the Allocation Schedule.

(i) Purchaser and Seller shall file their income (and non-income, to the extent permitted under applicable Law) Tax Returns (including IRS Form 8594 and any corresponding state or local Tax form) in all respects and for all purposes consistent with

the Allocation Schedule, and no Party shall thereafter take a position on any such Tax Return that is inconsistent with the Allocation Schedule unless expressly required to do so by Law. Purchaser and Seller shall also apply the values in the Allocation Schedule as of Closing for purposes of determining the amount of any Transfer Tax and the value of recording any Transferred Real Property conveyed pursuant to this Agreement. If Seller and Purchaser are unable to agree on the specific amounts to be allocated among the Purchased Assets in accordance with the Allocation Schedule then they shall be required to continue to work together in good faith to agree after Closing on a preliminary allocation among the Purchased Assets that shall be used for purposes of determining the amount of any Transfer Taxes or property transfer Taxes, and such preliminary allocation shall be used for all such related Tax Returns.

(ii) If any such allocation is disputed by any taxation or other Governmental Authority, the Party receiving notice of such dispute shall promptly notify the other Party and the Parties shall use commercially reasonable efforts to sustain those allocations. The parties shall share information and cooperate to the extent reasonably necessary to permit the transactions contemplated by this Agreement to be properly, timely and consistently reported.

(e) Any adjustments to the Purchase Price shall be reflected as an adjustment to the price allocated to the specific asset, if any, giving rise to the adjustment, and if any such adjustment does not relate to a specific asset, such adjustment shall be allocated among the Purchased Assets in a manner consistent with the Allocation Schedule. Such adjustments, if any, shall be determined in good faith by mutual agreement of Seller and Purchaser.

Section 7.05. Further Actions.

(a) After the Closing, at the request of a Party, the other Party shall cooperate and use commercially reasonable efforts to carry out the intent of this Agreement, and each Party will execute and deliver such other documents and instruments of conveyance, assignment, transfer, assumption and delivery and take such other actions as the other Party reasonably may request in order to consummate, complete and carry out the transactions contemplated hereby, at the expense of the requesting Party.

(b) At Purchaser's sole cost and expense and within 30 days of the Closing Date, at each railroad-highway at-grade crossing on and along the Subject Line, Purchaser shall either (i) replace Seller's Emergency Notification Systems (ENS) signs posted at such crossings with Purchaser's ENS signs, which shall identify Purchaser as the emergency contact and provide an emergency telephone number to contact Purchaser at all times (24/7) pursuant to 49 C.F.R. 234, Subpart E, or (ii) use a sticker, decal or other device to cover Seller's name and emergency telephone number on the emergency sign and replace such information with Purchaser's name and an emergency telephone number to contact Purchaser at all times (24/7). Within 35 days of the Closing Date, Purchaser shall provide Seller notice, pursuant to Section 11.01 of this Agreement, that it has complied with this Section 7.05(b).

(c) Seller shall cooperate with Purchaser in connection with any requirement the Federal Railroad Administration ("FRA") may impose related to Positive Train Control

("PTC") and Purchaser adding any PTC-equipped subdivision on the Subject Line to Purchaser's PTC Implementation Plan or other changes related to PTC. Such cooperation shall include responding to communications from the FRA, submitting historical information in Seller's possession to the FRA directly or through Purchaser, providing physical access to the Subject Line, testing of PTC on the Subject Line, and any other actions necessary to comply with FRA requirements and requests.

(d) Seller shall provide to Purchaser true, correct and complete copies of all Assigned Contracts and all amendments, supplements, waivers and related material correspondence no later than 20 Business Days before the Closing

Section 7.06. Insurance.

From and after the Closing Date, the Purchased Assets, the Assumed Liabilities, and the operations and assets and Liabilities in respect thereof, shall cease to be insured by Seller's or its Affiliates' insurance policies or by any of their self-insured programs, and none of Purchaser or its Affiliates shall have any access, right, title or interest to or in any Seller insurance policies (including to all claims and rights to make claims and all rights to proceeds) to cover the Purchased Assets, the Assumed Liabilities, the operation of the Subject Line or Liabilities in respect thereof. Seller or its Affiliates may amend any insurance policies in the manner it deems appropriate to give effect to this Section 7.06. Except as may be otherwise required in the Transaction Documents, from and after the Closing, Purchaser shall be responsible for securing all insurance it considers appropriate for the Subject Line, the Purchased Assets, the Assumed Liabilities, and the operations and Liabilities in respect thereof. Nothing in this Section 7.06 shall limit Seller's obligations with respect to any Excluded Liability or pre-Closing occurrence, or Purchaser's rights to any insurance claim or proceeds expressly assigned to Purchaser under this Agreement, including in connection with a casualty under Section 7.02 or any indemnifiable Loss under ARTICLE X.

Section 7.07. Real Property Matters.

Conveyance of the Transferred Real Property shall be made by the Deed, which shall convey all of Seller's right, title and interest in the Transferred Real Property free and clear of any Encumbrances other than Permitted Encumbrances. Seller shall, at its sole cost and expense, satisfy all state and local requirements necessary to make the Deed recordable and to cure any defect in subdivision, survey, legal description, title, perfection or opposability of Seller's rights in the Transferred Real Property existing at or before the Closing, and shall execute and deliver all further documents and information reasonably required for recordation, including real estate transfer tax valuation forms. Purchaser shall be responsible only for ordinary recording fees customarily payable by a grantee. Purchaser acknowledges and agrees that the conveyance of the Transferred Real Property shall be made subject to the Permitted Encumbrances which shall survive Closing.

Section 7.08. Confidentiality.

(a) The terms of that certain confidentiality agreement between the Parties relating to the transactions contemplated by this Agreement (the "Confidentiality Agreement") are

incorporated into this Agreement by reference and shall continue in full force and effect and the confidentiality obligations thereunder shall be binding upon Purchaser and its Representatives until the Closing, at which time the confidentiality obligations under the Confidentiality Agreement shall terminate subject to the continuing obligations set forth herein. Notwithstanding the terms of the Confidentiality Agreement, Purchaser may prior to the Closing disclose Confidential Information to existing or prospective lenders or equity investors of Purchaser who have a reasonable need to know such Confidential Information, are informed of the confidential nature of the information and are subject to confidentiality obligations to Purchaser. Purchaser acknowledges and agrees that Purchaser shall be responsible for any breach of the terms of this Agreement or the Confidentiality Agreement by such existing or prospective lenders or equity investors of Purchaser.

(b) Subject to Section 7.08(c), for a three-year period following the Closing, unless otherwise agreed to in writing by the other Party, each of Seller, on the one hand, and Purchaser, on the other hand, hereby agrees not to (and to cause its Representatives not to) (i) disclose any Confidential Information to any Person other than (A) its Representatives who need to know the Confidential Information for the purpose of the consummation of the transactions contemplated by this Agreement and the other Transaction Documents, (B) public authorities for the purpose of recording the Deed, (C) the STB, any party to Finance Docket No. 36873 and the public, to the extent disclosed in or in connection with the proceedings in Finance Docket No. 36873 and subject to any applicable protective order, or (D) existing or prospective lenders or equity investors of such Party who (1) have a reasonable need to know the Confidential Information, (2) are informed of the confidential nature of the information and (3) are subject to confidentiality obligations to such Party, and (ii) use any Confidential Information for any purpose other than as contemplated by this Agreement, the proceedings in Finance Docket No. 36873 or any of the other Transaction Documents. Each Party shall be responsible for any breach of the terms of this Agreement by its Representatives or existing or prospective lenders or equity investors who receive Confidential Information.

(c) If a Party or its Representative (the "Disclosing Party") determines, based upon the advice of its legal counsel, that it is required by applicable Law, by applicable stock exchange regulation, by legal process, or for the purposes of enforcement of its rights under this Agreement, to disclose all or any portion of the Confidential Information, the Disclosing Party may so disclose such Confidential Information; *provided* that the Disclosing Party shall, to the extent permitted by Law, (i) provide the other Party with a written notice of such requirement so that the other Party may seek a protective order or other appropriate remedy to the extent applicable; (ii) exercise commercially reasonable efforts to narrow the scope of any such disclosure and consult with the other Party regarding the scope of such disclosure; and (iii) if such protective order or other remedy is not obtained, furnish only that portion of the Confidential Information which the Disclosing Party is compelled to disclose and exercise commercially reasonable efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information to the extent applicable.

(d) If the transactions contemplated by this Agreement are not consummated, each Party shall (and shall ensure that its Representatives will) promptly, upon the other Party's written request, and in any event within twenty (20) Business Days of such request, return or destroy all copies of the other Party's Confidential Information in its possession or in the

possession of any of its Representatives and return or destroy all information or other documents derived from such Confidential Information. Notwithstanding the foregoing, each Party and its Representatives may, subject to continued compliance with this Section 7.08, to retain copies of computer records and files containing Confidential Information created pursuant to automatic electronic archiving and backup procedures and retain Confidential Information to the extent required by Law or bona fide document-retention policies. If requested by the Disclosing Party, the receiving Party shall confirm in writing that it has complied with its undertakings relating to the return or destruction of such Confidential Information.

(e) For purposes of this Agreement, "Confidential Information" means: (i) in relation to the obligations of Purchaser, any and all information related to Seller and/or its Affiliates and, prior to the Closing, the Purchased Assets, the Leased Real Property or the Assumed Liabilities received or held by Purchaser or its Representatives, but shall not include any and all information related to the Purchased Assets, the Leased Real Property or the Assumed Liabilities following the Closing, whether oral or written; (ii) in relation to the obligations of Seller, any and all information related to Purchaser, and/or its Affiliates and, following the Closing, the Purchased Assets, the Leased Real Property or the Assumed Liabilities, received or held by Seller or its Representatives, whether oral or written; and (iii) any of the terms, conditions or content of the discussions between the Parties with respect to, and the existence and the terms of, this Agreement and the other Transaction Documents; *provided*, *however*, that Confidential Information shall not include any information that: (A) is or becomes generally available to the public other than as a result of a disclosure by that Party or any of its Representatives in violation of this Section 7.08; (B) was lawfully in the possession of that Party or any of its Representatives prior to such information being received from the other Party or its Representatives free of any restriction as to its use and disclosure (as can be demonstrated by that Party's or its Representative's written records); (C) becomes available to that Party or any of its Representatives thereafter; *provided* that, at the time of its receipt, such information is not, to the Knowledge of that Party, subject to any confidentiality or restricted-use obligation for the benefit of the other Party; and/or (D) is independently developed by that Party or any of its Representatives without reference to the other Party's Confidential Information (as can be demonstrated by that Party's or its Representative's written records).

Section 7.09. Removal of Seller Marks.

No interest in or right to use any Intellectual Property, trademarks, trade names and trade dress of Seller or any of its Affiliates (the "Seller Marks") is being, or will be, assigned, transferred or otherwise conveyed to Purchaser pursuant to this Agreement or the transactions contemplated hereby. As promptly as practicable following the Closing Date, but in no event later than 30 days after the Closing Date, Purchaser shall remove, permanently obliterate, cover or otherwise stop displaying all Seller Marks in or on any signage, tools, dies, equipment, real estate or other durable items included in the Purchased Assets.

Section 7.10. Surface Transportation Board.

Purchaser shall prepare any additional documents or filings that may be required to secure any remaining STB Approvals and implement the STB Divestiture Order. Seller shall cooperate fully with Purchaser, furnish such information and reasonable assistance as Purchaser

may request in connection with any such filing or proceeding, and take all actions required to implement the STB Divestiture Order and consummate the transactions contemplated by this Agreement.

Section 7.11. FCC Radio Licenses.

Purchaser and Seller shall cooperate to obtain the consent of the FCC pursuant to 47 U.S.C. § 310(d) and 47 C.F.R. § 1.948 for the assignment of FCC Licenses. Promptly following execution of this Agreement, but not later than five Business Days following execution of this Agreement, Seller shall initiate the electronic filing of a FCC Form 603, "FCC Application for Assignments of Authorization or Transfers of Control," through the FCC's Universal Licensing System, for each FCC License and shall be responsible for the filing fees associated with such applications. Purchaser shall electronically approve and sign the FCC Form 603 applications through the Universal Licensing System and shall, within 30 days after the Closing Date, notify the FCC of the consummation of the transfer of control of each FCC License through the filing of FCC Form 603, Schedule D.

Section 7.12. Notice Regarding Changes.

Prior to the Closing Date, Seller shall promptly inform Purchaser in writing of (a) the receipt of a written or oral notice from any counterparty that they intend to terminate, not renew, or renegotiate the terms of an Assigned Contract, (b) any event, change or circumstance that could reasonably result in a Material Adverse Effect, and (c) any change in facts and circumstances that could render any of the representations and warranties made herein by Seller inaccurate or misleading if such representations and warranties had been made upon the occurrence of the fact or circumstance in question. Purchaser shall promptly inform Seller in writing of any change in facts and circumstances that could render any of the representations and warranties made herein by Purchaser inaccurate or misleading if such representations and warranties had been made upon the occurrence of the fact or circumstance in question.

Section 7.13. Employment.

Purchaser shall have the right but not the obligation and shall not otherwise have the responsibility or obligation to absorb, hire, or otherwise employ any employees of Seller that may or will be dismissed or displaced as a result of implementing the transaction contemplated by this Agreement, except as may be required by the STB. In the event Purchaser hires any employees for the continued operation of the Subject Line, Purchaser agrees to offer priority hiring consideration to Seller employees (both craft and non-craft) working on the Subject Line whose employment is impacted by Purchaser acquiring the Subject Line on the Closing Date.

ARTICLE VIII.
CONDITIONS PRECEDENT TO OBLIGATIONS OF THE PARTIES

Section 8.01. Conditions to Each Party's Obligations to Close.

The respective obligations of Seller and Purchaser to effect the Closing and to consummate the transactions contemplated by this Agreement are subject to the satisfaction or waiver at or prior to the Closing of the following conditions:

(a) No Governmental Order or Proceedings. There shall not be in force any Governmental Order to and there shall be no Proceeding pending, or to Seller's Knowledge threatened by any Governmental Authority (other than the STB, which shall be governed by Section 8.01(b)) that seeks to, enjoin or prohibit the transactions contemplated by this Agreement or any other Transaction Documents;

(b) STB Approvals. The STB Approvals shall have been obtained and become final and effective and otherwise be in full force and effect.

(c) FCC Approvals. The FCC Approvals shall have been obtained and become final and effective and otherwise be in full force and effect.

(d) No Law. No Governmental Authority shall have enacted, issued or promulgated any Law that has the effect of (i) making any of the transactions contemplated by this Agreement illegal or (ii) otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by this Agreement, and no order shall be in effect in Finance Docket No. 36873 that is inconsistent with the STB Divestiture Order or directs that all or any material portion of the Purchased Assets be transferred to a Person other than Purchaser.

(e) UP/NS Transaction Closing. The UP/NS Transaction Closing shall occur concurrently with, or immediately preceding, the Closing.

Section 8.02. Conditions to Obligations of Purchaser to Close.

The obligation of Purchaser to effect the Closing is subject to the satisfaction (or waiver by Purchaser) at or prior to the Closing of the following additional conditions:

(a) Representations and Warranties. The Fundamental Representations of Seller shall be true and correct in all respects as of the Closing Date and the representations and warranties of Seller contained in ARTICLE V (other than the Fundamental Representations of Seller) shall be true and correct in all material respects as of the Closing Date (without regard to any express qualifier therein as to materiality);

(b) Performance of Obligations of Seller. The covenants and agreements of Seller to be performed on or before the Closing Date in accordance with this Agreement shall have been performed in all material respects;

(c) Officer's Certificate. Purchaser shall have received a certificate, dated as of the Closing Date and signed on behalf of Seller by an executive officer of Seller, stating that the conditions specified in Section 8.02(a) and Section 8.02(b) have been satisfied;

(d) Seller Closing Deliveries. Seller shall have delivered those instruments and performed those actions set forth in Section 4.03;

(e) Purchaser shall have received prior written approval from its board of directors validly authorizing and approving the transactions contemplated by this Agreement;

(f) no Proceeding shall have been initiated against Seller by any Person (other than Purchaser or any of its Affiliates), arising by reason of the acquisition of the Purchased Assets pursuant to this Agreement, which could reasonably be expected to restrain, prohibit or invalidate the consummation of the transactions contemplated by this Agreement and that remains in effect at the time of the Closing;

(g) Required Consents and Continuous Route. All consents, approvals, novations and replacement arrangements required to transfer the Purchased Assets and provide Purchaser with a continuous rail route and all material local-service, interchange, access and operating rights contemplated by this Agreement shall have been obtained and be in full force and effect on terms reasonably satisfactory to Purchaser; and

(h) No Material Adverse Effect. Since the date of this Agreement, no Material Adverse Effect shall have occurred, and no casualty or condemnation shall have occurred that has not been resolved in accordance with this Agreement;

Section 8.03. Conditions to Obligations of Seller to Close.

The obligation of Seller to effect the Closing is subject to the satisfaction (or waiver by Seller) at or prior to the Closing of the following additional conditions:

(a) Representations and Warranties. The Fundamental Representations of Purchaser shall be true and correct in all respects as of the Closing Date and the representations and warranties of Purchaser contained in ARTICLE VI (other than the Fundamental Representations of Purchaser) shall be true and correct in all material respects as of the Closing Date (without regard to any express qualifier therein as to materiality);

(b) Performance of Obligations of Purchaser. The covenants and agreements of Purchaser to be performed on or before the Closing Date in accordance with this Agreement shall have been performed in all material respects;

(c) Purchaser Officer's Certificate. Seller shall have received a certificate, dated as of the Closing Date and signed on behalf of Purchaser by an executive officer of Purchaser, stating that the conditions specified in Section 8.03(a) and Section 8.03(b) have been satisfied; and

(d) Purchaser Closing Deliveries. Purchaser shall have delivered those instruments and performed those actions set forth in Section 4.04.

Section 8.04. Frustration of Closing Conditions.

Neither Purchaser nor Seller may rely on the failure of any condition set forth in this ARTICLE VIII to be satisfied if such failure was caused by such Party's failure to act in good faith or to use the requisite efforts to cause the Closing to occur as required by this Agreement, including the requirements of Section 7.01.

ARTICLE IX.
TERMINATION; EFFECT OF TERMINATION

Section 9.01. Termination.

Anything to the contrary in this Agreement notwithstanding, this Agreement may be terminated and the transactions contemplated by this Agreement abandoned at any time prior to the Closing:

(a) by mutual written consent of Seller and Purchaser;

(b) by Purchaser, if any of Seller's representations and warranties contained in ARTICLE V of this Agreement shall fail to be true and correct or Seller shall have breached or failed to perform in any material respect any of its covenants or other agreements contained in this Agreement, and such failure or breach would give rise to the failure of a condition set forth in Section 8.02(a) or Section 8.02(b) and has not been cured by the date that is 10 days after the date that Purchaser has notified Seller in writing of such failure or breach; *provided* that Purchaser is not then in breach of any of its representations, warranties, covenants or agreements contained in this Agreement such that the conditions set forth in Section 8.03(a) or Section 8.03(b) would fail to be satisfied; or

(c) by either Party, if the agreement governing the UP/NS Transaction is terminated or the UP/NS Transaction is abandoned, or if the STB Divestiture Order is vacated, reversed, stayed or otherwise ceases to be in full force and effect.

Section 9.02. Effect of Termination.

If this Agreement is terminated and the transactions contemplated by this Agreement are abandoned as described in Section 9.01, this Agreement shall become null and void and of no further force and effect, except for the provisions of Section 7.03, Section 7.08, this ARTICLE IX and ARTICLE XI. Nothing in this Section 9.02 shall be deemed to release any Party from any Liability for Fraud or willful breach by such Party of the terms and provisions of this Agreement. For purposes of this Agreement, "willful breach" means a material breach or failure to perform that is the consequence of an act or omission of a Party with the knowledge that such act or omission would, or would be reasonably expected to, cause a material breach of this Agreement.

Section 9.03. Notice of Termination.

In the event of termination by Purchaser pursuant to Section 9.01(b), written notice of such termination shall be given by Purchaser to Seller in the manner set forth in Section 11.01.

ARTICLE X.
SURVIVAL, INDEMNIFICATION AND REMEDIES

Section 10.01. Survival.

All representations and warranties made by each party in this Agreement and in any certificate delivered in connection herewith shall survive the Closing until the third anniversary of the Closing Date; *provided, however*, that the representations and warranties set forth in (a) Section 5.01, Section 5.02, Section 5.08(c), Section 5.14, Section 6.01, Section 6.02 and Section 6.06 (the "Fundamental Representations") shall survive indefinitely, (b) Section 5.09 and Section 5.16 shall survive the Closing until the fourth anniversary of the Closing Date and (c) Section 5.10 shall survive the Closing until the date that is 60 days following the expiration of the statute of limitations applicable to any claim arising in respect thereof (including any extensions thereof). All representations and warranties related to any claim asserted in writing prior to the expiration of the applicable survival period shall survive, but only with respect to such claim, until the claim is resolved and any payment owing is made. Any claim that a Party committed Fraud shall survive until expiration of the applicable statute of limitations. The covenants and agreements to be performed at or after the Closing, the allocation of Assumed Liabilities and Excluded Liabilities and the indemnification obligations under this ARTICLE X shall survive the Closing in accordance with their terms or, if no period is specified, indefinitely, subject to applicable Law. The survival periods in this Section 10.01 are intended to replace and supersede any otherwise applicable statute of limitations for claims based on a representation or warranty, even if the survival period is shorter or longer than otherwise provided by applicable Law

Section 10.02. Indemnification.

(a) Seller shall indemnify, defend, reimburse and hold harmless Purchaser and its Representatives, Affiliates, and their respective successors and assigns (the "Purchaser Indemnified Parties") against and with respect to any and all demands, claims, obligations, complaints, actions or causes of action, suits, Proceedings, investigations, arbitrations, assessments, losses, damages, fines, penalties, liabilities, judgments, settlements, costs and expenses (including reasonable attorneys' fees) (collectively, "Losses") (including any Losses based on claims for breach of contract, warranty, tortious conduct (including negligence) or otherwise and whether predicated on common Law, statute, strict liability, or otherwise) arising from, in connection with or with respect to the following items:

(i) any breach or misrepresentation of a representation or warranty by Seller contained in this Agreement, any certificate delivered in connection herewith or any other Transaction Document;

(ii) any breach or failure to fulfill any agreement or covenant on the part of Seller;

(iii) any Encumbrances other than Permitted Encumbrances;

(iv) any Labor Protective Conditions imposed for the benefit of Seller's employees;

(v) any pre-Closing violations of, and non-compliance with, FCC regulations with respect to the maintenance and use of radio frequency licenses currently held by Seller with respect to the Purchased Assets (including the payment of any fine or penalty, and the satisfaction of any condition, imposed by the FCC on account of such violations or non-compliance); and

(vi) any Excluded Liabilities.

(b) Purchaser shall indemnify, defend and hold harmless Seller and its Representatives, Affiliates and assigns (the "Seller Indemnified Parties") against and with respect to any and all Losses, arising from, in connection with or with respect to the following items:

(i) any breach or misrepresentation of a representation or warranty by Purchaser contained in this Agreement or any certificate delivered in connection herewith;

(ii) any breach or failure to fulfill any agreement or covenant on the part of Purchaser;

(iii) any Labor Protective Conditions imposed for the benefit of Purchaser's employees; and

(iv) any Assumed Liabilities.

(c) Notwithstanding anything to the contrary contained in this Agreement, (i) Seller shall not have any obligation to indemnify, defend and hold harmless any Purchaser Indemnified Party pursuant to Section 10.02(a)(i) (A) unless the aggregate amount of Losses incurred by the Purchaser Indemnified Parties exceeds $**[●]** (the "Threshold Amount") at which point, Seller shall indemnify, defend and hold harmless the Purchaser Indemnified Parties for the full amount of such Losses and (B) except as provided in clause (iii) below, in excess of $**[●]** (the "Cap"), (ii) Purchaser shall have no obligation to indemnify any Seller Indemnified Parties pursuant to Section 10.02(b)(i) (A) unless the aggregate amount of Losses incurred by the Seller Indemnified Parties exceeds the Threshold Amount, at which point Purchaser shall indemnify Seller Indemnified Parties for the full amount of such Losses and (B) in excess of the Cap, and (iii) the parties acknowledge that the Threshold Amount and the Cap shall not apply to any Losses resulting from (A) Fraud, (B) breaches or misrepresentations of the Fundamental Representations, (C) any Adjustment Amount or (D) any indemnification obligations of the parties hereto (other than as set forth in Section 10.02(a)(i) and Section 10.02(b)(i)).

(d) Any Purchaser Indemnified Party or Seller Indemnified Party seeking indemnification hereunder (the "Indemnified Party") shall promptly give to the party obligated to provide indemnification to such Indemnified Party (the "Indemnitor") a written notice (a "Claim Notice"); *provided, however*, that the failure of any Indemnified Party to give the Claim Notice promptly as required by this Section shall not affect such Indemnified Party's rights under this

Section 10.02 unless and only to the extent that such failure actually prejudices the Indemnitor. The Claim Notice shall provide reasonable detail of the claims being asserted.

(e) After the giving of any Claim Notice pursuant hereto, the amount of indemnification to which an Indemnified Party shall be entitled under this Section 10.02 shall be determined: (i) by the written agreement between the Indemnified Party and the Indemnitor; (ii) by a final non-appealable determination of a court of competent jurisdiction pursuant to Section 11.06; or (iii) by any other means to which the Indemnified Party and the Indemnitor shall agree (a "Final Determination"). Subject to Section 10.03, all amounts due to the Indemnified Party shall be paid by wire transfer within 10 Business Days after such Final Determination.

(f) An Indemnified Party shall notify the Indemnitor in writing, and in reasonable detail, of any Proceeding commenced by any third Person against the Indemnified Party (a "Third Party Claim") promptly after receipt by such Indemnified Party of written notice of the Third Party Claim. Notwithstanding the foregoing, should a party be physically served with a complaint with regard to a Third Party Claim, the Indemnified Party must deliver a copy of the complaint to the Indemnitor within 10 days after the receipt of such complaint; *provided, however*, that the failure of any Indemnified Party to give such notice shall not affect such Indemnified Party's rights under this Section 10.02 unless and only to the extent that such failure actually prejudices the Indemnitor.

(g) In the event of the initiation of any Proceeding with respect to a Third Party Claim (in which the only relief sought is monetary damages), the Indemnitor may elect, at its own expense, to be represented by counsel of its choice (reasonably acceptable to the Indemnified Party) and to control and defend such Third Party Claim. The Indemnified Party shall have the right to participate (and to retain legal counsel to participate) in any such defense at its sole cost and expense. The Parties hereto agree to cooperate fully with each other in connection with the defense, negotiation or settlement of any such Proceeding. Such cooperation shall include the retention and the provision of records and information that are reasonably relevant to such Third Party Claim, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Indemnitor shall not settle or agree to the entry of a final order in any such Proceeding without the prior written consent of the Indemnified Party unless (i) the sole recourse under such settlement or final order is payment by the Indemnitor of monetary damages, (ii) such settlement or final order does not obligate the Indemnified Party to admit any liability, and (iii) such settlement includes a full and unconditional release of the Indemnified Parties.

(h) Any indemnification payment under this Agreement shall be considered an adjustment to the Purchase Price.

(i) This Section 10.02 constitutes the Indemnified Parties' sole and exclusive remedy for any and all Losses or other claims relating to or arising from this Agreement and the transactions contemplated hereby, except for claims based on Fraud. No Indemnitor shall have any indemnification, contribution, or other obligation for any Loss that the Indemnified Parties may suffer, and the Indemnified Parties shall have no remedies, with respect to (i) the subject matter of this Agreement or the transactions contemplated hereby or (ii) any other matter relating to Seller, prior to the Closing, the operation of its businesses prior to the Closing, or any other transaction

or state of facts involving the Purchased Assets or Seller prior to the Closing (including any common law or statutory rights or remedies), in each case, other than the provisions of this ARTICLE X, which are the Indemnified Parties' sole and exclusive remedies with respect thereto, except for claims based on Fraud.

(j) Notwithstanding the foregoing, nothing in this ARTICLE X shall limit or preclude (i) any claim based on Fraud, (ii) specific performance, injunctive relief or other equitable relief, (iii) any right or remedy under or to enforce the STB Divestiture Order, (iv) any Purchase Price adjustment, (v) the allocation of Assumed Liabilities and Excluded Liabilities, or (vi) any right or remedy under any other Transaction Document

Section 10.03. Expiration of Claims.

The ability of any Person to receive indemnification under Section 10.02 shall terminate on the applicable survival termination date (as set forth in Section 10.01), unless such Person shall have incurred a Loss and made a valid claim for indemnification pursuant to Section 10.02 prior to such termination date. If a Person has made a valid claim for indemnification pursuant to Section 10.02 prior to such termination date, such valid claim, if then unresolved, shall not be extinguished by the passage of the deadlines set forth in Section 10.01.

Section 10.04. Determination of Loss Amount.

The amount of any Loss subject to indemnification hereunder or of any claim therefor shall be calculated net of and shall be limited to the amount of such Loss that remains after deducting therefrom any insurance proceeds and any other indemnity, contribution or similar payment actually realized by and paid to the applicable Indemnified Parties in respect of any such claim, less any related costs and expenses, including the aggregate cost of pursuing any related insurance claims. The Indemnified Parties shall use commercially reasonable efforts to seek recovery under applicable insurance policies or other indemnity, contribution or similar agreements or sources of payment covering any Loss to the same extent as they would if such Loss were not subject to indemnification hereunder; provided that no Indemnified Party shall be required to pursue or exhaust any such recovery before receiving indemnification under this Agreement. Promptly after the realization of any such insurance proceeds, or other indemnity, contribution or similar payment, the Indemnified Parties shall reimburse the applicable Indemnitor for such reduction in

Losses for which the Indemnified Party was indemnified prior to the realized reduction of such Losses.

Section 10.05. Mitigation.

Each Person entitled to indemnification hereunder shall take all reasonable steps to mitigate all Losses after becoming aware of any event which could reasonably be expected to give rise to any Losses that are indemnifiable or recoverable hereunder or in connection herewith.

ARTICLE XI.
GENERAL PROVISIONS

Section 11.01. Notices.

All notices and other communications under this Agreement shall be in writing and shall be deemed given (a) when delivered personally by hand (with written confirmation of receipt), (b) on the day transmitted by electronic mail (with written confirmation of transmission), if sent before 5:00 p.m. Eastern Time on a Business Day, otherwise on the next Business Day following transmission, or (c) one Business Day following the day sent by overnight courier (with written confirmation of receipt), in each case at the following addresses (or to such other address as a Party may have specified by notice given to the other Party pursuant to this provision):

If to Seller:

[●]
[●]
[●]
Attention: [●]
Email: [●]

with a copy (which shall not constitute notice) to:

[●]
[●]
[●]
Attention: [●]
Email: [●]

If to Purchaser:

Illinois Central Railroad Company
[●]
[●]
Attention: [●]
Email: [●]

with a copy (which shall not constitute notice) to:

Polsinelli PC
7676 Forsyth Boulevard, Suite 800
St. Louis, MO 63105
Attention: Kevin Hogan
Email: khogan@polsinelli.com

Section 11.02. Waiver.

No delay or failure on the part of any Party hereto in exercising any right, power or privilege under this Agreement or under any other instrument or document given in connection with or pursuant to this Agreement shall impair any such right, power or privilege or be construed as a waiver of any default or any acquiescence therein. No single or partial exercise of any such right, power or privilege shall preclude the further exercise of such right, power or privilege, or the exercise of any other right, power or privilege. No waiver shall be valid against a Party hereto unless made in writing and signed by the Party against whom enforcement of such waiver is sought and then only to the extent expressly specified therein.

Section 11.03. Benefit and Assignment.

No Party to this Agreement shall assign this Agreement, in whole or in part, whether by operation of Law or otherwise, without the prior written consent of the other Parties; *provided* that no such assignment shall relieve the assigning Party of its obligations hereunder. Any purported assignment contrary to the terms hereof shall be null, void and of no force and effect. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. No Person other than the Parties hereto and their respective successors and permitted assigns is or shall be entitled to bring any action to enforce any provision of this Agreement against any of the Parties hereto, and the representations and warranties, covenants and other agreements set forth in this Agreement shall be solely for the benefit of, and shall be enforceable only by, the Parties hereto or their respective successors and assigns as permitted hereunder. Notwithstanding the foregoing, Purchaser shall, subject to any required STB Approval, be entitled to assign all or any portion of its rights and obligations hereunder, without Seller's consent but upon prior written notice to Seller, to (i) an Affiliate of Purchaser, (ii) a successor to Purchaser by merger, consolidation or reorganization, or (iii) a purchaser or transferee of all or a material portion of the Purchased Assets; *provided* that no such assignment shall relieve Purchaser of its obligations hereunder unless Seller expressly agrees otherwise in writing.

Section 11.04. Amendment.

No amendment, modification or supplement to this Agreement shall be binding unless executed in writing by all of the Parties hereto.

Section 11.05. Severability.

If any part of any provision of this Agreement or any other Transaction Document shall be invalid or unenforceable under applicable Law, such part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of such provisions or the remaining provisions of this Agreement or any other Transaction Document.

Section 11.06. Governing Law; Waiver of Jury Trial; Submission to Jurisdiction.

(a) This Agreement, the rights and obligations of the Parties hereto, and any claims or disputes relating thereto, shall be governed by and construed under and in accordance with the Laws of the State of Delaware, without regard to any choice of Law provision or rule of the State of Delaware that would otherwise result in the application of the Laws of any other State or jurisdiction.

(b) THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER TRANSACTION DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, WHETHER NOW EXISTING OR HEREAFTER EXISTING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. THE PARTIES HERETO AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS SECTION 11.06(B) WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT BETWEEN THE PARTIES HERETO IRREVOCABLY TO WAIVE TRIAL BY JURY AND THAT ANY ACTION OR PROCEEDING WHATSOEVER BETWEEN THEM RELATING TO THIS AGREEMENT, ANY OTHER TRANSACTION DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

(c) Each of the Parties agrees that any Proceeding with respect to this Agreement brought by a Party hereto or its successors or assigns shall be brought and determined in the Federal or state court sitting in the State of Delaware and each of the Parties hereby submits with regard to any such Proceeding for itself and in respect to its property, generally and unconditionally, to the jurisdiction of the aforesaid courts. Each of the Parties hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim, or otherwise, in any Proceeding with respect to this Agreement, (i) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason, (ii) that it or its property is exempt or immune from jurisdiction of such court or from any legal process commenced in such court (whether through judgment or otherwise), and (iii) to the fullest extent permitted by applicable law that (A) the Proceeding in any such court is brought in an inconvenient forum, (B) the venue of such Proceeding is improper and (C) this Agreement, or the subject matter hereof, may not be enforced in or by any such court.

Section 11.07. Interpretation.

(a) When a reference is made in this Agreement to a Section, subsection, Exhibit or Schedule, such reference shall be to a Section, subsection, Exhibit or Schedule of this Agreement unless otherwise indicated. The headings contained in this Agreement, in any Schedules and in the table of contents to this Agreement, are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made part of this Agreement as if set forth in full herein. Any fact or item which is clearly disclosed on any Schedule to this Agreement in such a way as to make its relevance or applicability to information called for by another Schedule or Schedules to this Agreement reasonably apparent on the face of the disclosure shall be deemed to be disclosed on such other Schedule or Schedules, as the case may be,

notwithstanding the omission of a specific reference or cross-reference thereto. Any capitalized term used in any Exhibit or Schedule and not otherwise defined shall have the meaning given to such term in this Agreement.

(b) Unless the context clearly requires otherwise, whenever the words "include", "includes", "including", "such as" or terms of similar meaning are used in this Agreement, they shall be deemed to be followed by the words "without limitation." The words "hereof", "herein", "hereby" and "hereunder" and terms of similar meaning when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The term "or" is not exclusive. The word "extent" in the phrase "to the extent" means the degree to which a subject or other thing extends, and such phrase shall not mean simply "if". The definitions contained in this Agreement are applicable to the singular as well as to the plural forms of such terms. Any agreement or instrument defined or referred to herein means such agreement or instrument as from time to time amended, modified or supplemented. References to a Person are also to its permitted successors and assigns. Pronouns of one gender shall include all genders. All accounting conventions shall be consistent with GAAP, unless otherwise specified. All references to "Dollars" or "$" shall be to U.S. Dollars unless otherwise specified. All references to "days" shall mean calendar days unless Business Days are specified. Unless otherwise specified herein, undefined terms shall be given the meaning customarily applied to such terms in the railroad industry in the United States.

Section 11.08. Signature in Counterparts; Electronic Delivery.

This Agreement may be executed in separate counterparts, none of which need contain the signatures of all Parties, each of which shall be deemed to be an original, and all of which taken together shall constitute one and the same instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than the number of counterparts containing the respective signatures of, or on behalf of, each of the Parties. This Agreement, the other Transaction Documents and any signed agreement or instrument entered into in connection with this Agreement, and any amendments hereto or thereto (in each case other than the Deed), to the extent delivered by means of a facsimile, email or electronic .pdf transmission (any such delivery, an "Electronic Delivery"), shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any Party hereto or to any such agreement or instrument, each other Party hereto or thereto shall re-execute original forms thereof and deliver them to the other Party. No Party hereto or to any such agreement or instrument shall raise the use of Electronic Delivery to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of Electronic Delivery as a defense to the formation of a contract, and each such Party forever waives any such defense, except to the extent such defense related to lack of authenticity.

Section 11.09. Entire Agreement.

This Agreement, together with all Exhibits and Schedules hereto and the Transaction Documents, constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties, except for any prior agreements regarding

obligations of Seller or an Affiliate or predecessor for the performance of and/or payment for Remedial Action identified on Section 3.02(b) of the Disclosure Schedules.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

SELLER:

Union Pacific Railroad Company

By:_____
Name: [●]
Title: [●]

PURCHASER:

Illinois Central Railroad Company

By:_____
Name: [●]
Title: [●]

Exhibit 2B

TRACKAGE RIGHTS AGREEMENT
KANSAS CITY LINE

THIS TRACKAGE RIGHTS AGREEMENT (this "Agreement") is made and entered into as of [●] by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("Owner"), and ILLINOIS CENTRAL RAILROAD COMPANY, an Illinois corporation ("User"). Owner and User are each a "Party" and together the "Parties".

WITNESSETH:

WHEREAS, Owner owns or controls certain railroad trackage between the St. Louis, Missouri area and the Kansas City, Missouri area, via the UP Kansas City Line, as more particularly described in Exhibit "A" (the "Joint Trackage"); and

WHEREAS, User desires trackage rights over the Joint Trackage for the movement of traffic on and over the Joint Trackage from any origin or any destination and all commodities, equipment, and train types; and

WHEREAS, Owner and User desire to state the conditions under which User may exercise such rights;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the Parties agree as follows:

Section 1. TRACKAGE SUBJECT TO AGREEMENT

1.1 Attached hereto as Exhibit "A," and incorporated herein by reference, is a print that depicts the rail line between the St. Louis, Missouri area and the Kansas City, Missouri area, via the UP Kansas City Line, more particularly described as Owner's line from Twelfth Street, St. Louis, Missouri (MP 0.36), to 23rd Street Yard (at or near MP 0.8), to Grand Ave., St. Louis, Missouri (MP 2.5), to the former Sarpy Yard property (at or near MP 2.6), to River Junction (MP 128.0) West of Jefferson City, Missouri to Rock Creek Junction (MP 276.9) to Southwest Junction (MP 278.2) into Neff Yard, Kansas City, Missouri, or from Twelfth Street, St. Louis, Missouri (MP 0.36) to 23rd Street Yard (at or near MP 0.8), to Grand Ave., St. Louis, Missouri (MP 2.5), to the former Sarpy Yard property (at or near MP 2.6), to River Junction, Missouri (MP 128.0) to Eton, Missouri (MP 276.1 (BNSF MP 436.6)) and from Congo, Missouri (BNSF MP 444.1) to Rock Creek Junction (MP 276.9) to Southwest Junction (MP 278.2) into Neff Yard, Kansas City, Missouri including, but not limited to any and all yards, sidings, auxiliary tracks located along the UP solely owned right of way, over which User shall be granted trackage rights pursuant to this Agreement (referred to collectively as the "Joint Trackage").

Section 2. GRANT OF TRACKAGE RIGHTS

2.1 Subject to the terms and conditions (the "General Conditions") set forth in Exhibit "B" to this Agreement (which is attached hereto and incorporated herein by reference), Owner grants to User the nonexclusive right to operate its trains with its own Equipment and crews over the Joint Trackage. User's use of the Joint Trackage shall be in common with Owner and such other railroad company or companies as Owner may hereafter at any time admit to the joint use of any and all of the Joint Trackage, provided that such use shall not materially interfere with or delay User's operations. For purposes of this Agreement, trains and "Equipment" (as defined in Section 1.5 of Exhibit "B") of such other railroad company or

companies admitted by Owner to the use of the Joint Trackage shall be considered trains and Equipment of Owner.

2.2 The trackage rights granted to User pursuant to this Agreement may be exercised by Illinois Central Railroad Company ("ICRR") or by a rail carrier affiliate of ICRR, including Canadian National Railway Company ("CN"); provided, however, that only one of ICRR, CN or an affiliate may exercise such trackage rights at any time; and provided further, that ICRR, CN or such affiliate (as applicable) shall have first obtained any required Surface Transportation Board ("STB") approval or exemption for the exercise of such trackage rights.

2.3 The exercise of the trackage rights granted to User by this Agreement shall be subject at all times to the General Conditions. If any conflict between the General Conditions and this Agreement shall arise, the provisions of this Agreement shall prevail.

2.4 Owner represents that it has all rights necessary to admit User to the entire Joint Trackage, including any segment where Owner is a co-owner or tenant. If required authority is not available for any such segment, Owner shall permit User to operate over the portion of the route Owner owns outright, including against the normal flow of traffic if operationally feasible, until Owner secures the required rights; provided that User shall participate in mutually agreed capital costs necessary to make such interim route bi-directional.

2.5 User shall qualify its crew members as pilots and provide pilots or qualified crews on all User trains prior to entering the Joint Trackage.

2.6 Owner's use of the 23rd Street Yard shall not unreasonably interfere with User's use of such yard.

Section 3. MAINTENANCE AND OPERATION OF TRACKAGE

3.1 Owner, at its expense, shall maintain, repair and renew the Joint Trackage in accordance with Class I railroad industry maintenance practices and in a manner permitting operation at no less than the track standard designated in the timetable in effect on the date of this Agreement. In the event that, for operating convenience, necessity or emergency, Owner permits or directs User to use adjacent tracks or track connections between or beyond the termini of the Joint Trackage as an alternate route, then and in such event, such trackage, track connections and appurtenances shall be deemed to be part of the Joint Trackage and shall be governed by all the provisions of this Agreement while such use continues.

Section 4. LIMITATIONS AND MEASUREMENT OF TRACKAGE RIGHTS TRAINS

4.1 User trains shall have a sufficient horse-power per ton ratio ("HPT") to traverse the Joint Trackage; provided, that Owner shall accept User trackage rights trains of similar size and operating characteristics as Owner's own trains, consistent with available capacity, mainline and siding restrictions, operating rules such as designated horsepower per ton, maximum train length, and maximum gross tonnage parameters that govern Owner's (and other users') trains moving over the Joint Trackage.

4.2 All trains of Owner and User shall be treated equally and operated and dispatched on a first-come first-served basis without prejudice or partiality, except for passenger trains which shall have priority. In the event of refusal to grant a User train admission to or operation on the Joint Trackage, User

shall have no claim of any nature against Owner by reason of such refusal provided that the trains of Owner and User are treated equally and operated and dispatched without prejudice or partiality.

4.3 Owner shall coordinate with User regarding crew-change locations, fueling, locomotive and car maintenance, access to AEI sites and other operating data, and other means of reporting data, including reasonable dispatcher-screen access. The Parties shall establish the operational plans reasonably necessary to commence trackage-rights operations before such operations begin, and User shall not be required to commence such operations until the infrastructure required for those operations is in place.

4.4 User may, at its sole election, pre-fund improvements to increase capacity, including the number, length or tonnage of trains, on terms agreed in writing by the Parties.

Section 5. COMPENSATION

5.1 In addition to any other payments to be made under this Agreement, User shall remit to Owner for its use of the Joint Trackage, on a monthly basis, [●] cents per car mile for each loaded or empty car, locomotive or caboose moved by User (the "Base Charge") The Base Charge shall be deemed to include compensation to Owner for ordinary and programmed maintenance of the Joint Trackage, operating expenses, interest rental, depreciation and taxes. With respect to articulated units, the number of cars shall be determined by the AAR Car Type Code as defined in the UMLER Specification Manual. The second character in the Car Type Code field covering codes "Q" and "S" will be the factor in determining the car count for an articulated unit. For example, AAR Car Type Code (S566) would equate to a five (5) car count as these type cars have five wells capable of handling 40' to 53' containers in each well. (Car count data for articulated units are subject to change upon development of technology to separate units by car numbers.)

5.2 For the purpose of computing the Base Charge under this Section 5, the parties hereby mutually agree that the distances between the designated points of the Joint Trackage are [●] miles (the "Mileage Factors"). In the event that for whatever reason physical changes are made to the Joint Trackage that result in a change in the track mileage provided in the prior sentence, then the Mileage Factors will be adjusted up or down to reflect such new mileage, and such adjusted Mileage Factors will be used to calculate the monthly Base Charge effective with the commencement of train operations over the new track.

5.3 The Base Charge set forth in Section 5.1 of this Agreement shall be adjusted annually during the term of this Agreement beginning on the day that starts the next quarter following the Merger Approval, as defined hereinafter, to reflect seventy-five percent (75%) of increases or decreases in the Rail Cost Adjustment Factor, not adjusted for changes in productivity ("Index" or "RCAF-U"), published by the AAR or successor agency or other organization. In the event RCAF-U is no longer maintained, the Parties shall select a substantially similar index and failing to agree on such an index, the matter shall be referred to binding arbitration under Section 6 of the General Conditions. For the first rate adjustment, the ratio between the Index for the most recent quarter available and the Index for the corresponding quarter of the preceding year shall be developed, and the Base Charge shall be increased or decreased in direct proportion to such ratio, with subsequent years following that framework (subject to rebasing). The adjusted Base Charge shall be rounded to the nearest whole cent.

Section 6. LIABILITY

6.1 Any liability for loss, damage, injury or death which arises from the operation of trains under this Agreement shall be allocated, settled and paid in the manner set forth in Section 5 of the General Conditions attached hereto.

Section 7. TERM AND TERMINATION

7.1 This Agreement shall become effective upon (i) receipt and effectiveness of all regulatory approvals relating to the transaction contemplated in STB Finance Docket No. 36873 ("Merger Approval"), and (ii) the consummation of such UP/NS transaction (the "Effective Date"), regardless of whether User elects to commence trackage-rights operations on that date or later. This Agreement shall have a term of ninety-nine (99) years from the Effective Date. Upon expiration or termination of this Agreement, all obligations, including obligations to remit fees and obligations of indemnity, arising or accruing before such expiration or termination and all provisions necessary to enforce and resolve those obligations shall survive and remain enforceable.

[*Signature page follows*]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

UNION PACIFIC RAILROAD COMPANY

By: _____
Name: [AUTHORIZED SIGNATORY]
Title: [TITLE]

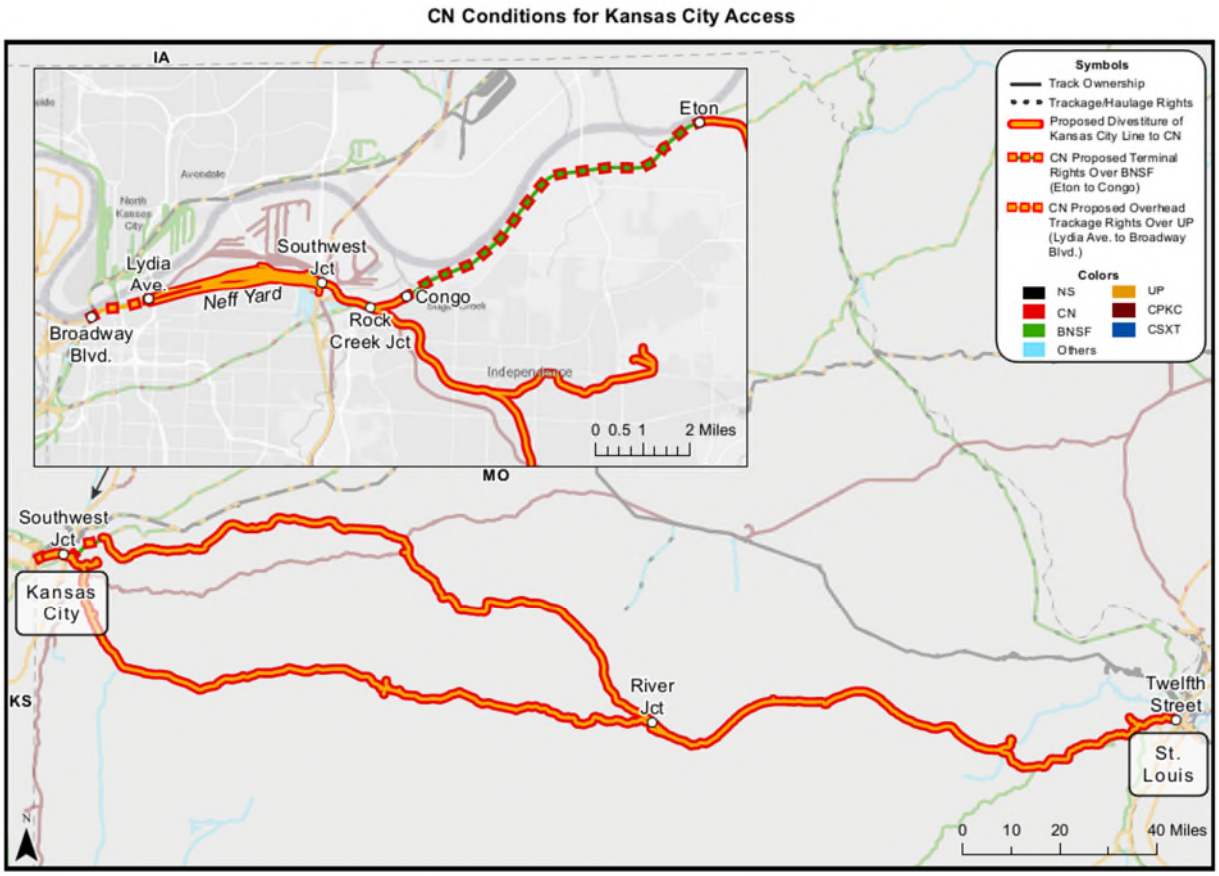
ILLINOIS CENTRAL RAILROAD COMPANY

By: _____
Name: [AUTHORIZED SIGNATORY]
Title: [TITLE]

EXHIBIT "A"

JOINT TRACKAGE

KANSAS CITY LINE



Sources: Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

EXHIBIT "B"

GENERAL CONDITIONS

Section 1. DEFINITIONS

1.1 "Agreement" shall mean that certain Trackage Rights Agreement dated as of [●] by and between UNION PACIFIC RAILROAD COMPANY ("Owner") and ILLINOIS CENTRAL RAILROAD COMPANY ("User"), to which this Exhibit "B" is appended. The term "Agreement" shall include this Exhibit "B" in its entirety.

1.2 "Owner" shall mean UNION PACIFIC RAILROAD COMPANY.

1.3 "User" shall mean ILLINOIS CENTRAL RAILROAD COMPANY.

1.4 "Joint Trackage" shall mean those certain lines of railroad extending between the St. Louis, Missouri area and the Kansas City, Missouri area, via the UP Kansas City Line as described in the Agreement, including all necessary head room/tail room, right-of-way and appurtenances and support facilities thereof, and all additions and betterments to, and changes in, the tracks and facilities constituting the Joint Trackage in the future as are required or desirable for the operation of the trains of the parties hereto.

1.5 "Equipment" shall mean and include (i) trains, locomotives, cars and cabooses, (ii) vehicles and machinery which are capable of being operated on railroad tracks that, at the time of an occurrence, are being operated on the Joint Trackage, and (iii) vehicles and machinery that, at the time of an occurrence, are on the Joint Trackage or its right-of-way for the purpose of performing maintenance, repairs or the clearing of wrecks thereon.

1.6 "STB" shall mean the Surface Transportation Board, or any successor agency.

Section 2. MAINTENANCE CHANGES IN AND/OR ADDITIONS, OPERATION AND CONTROL

2.1 The construction, maintenance, repair and renewal of the Joint Trackage shall be the responsibility, and under the exclusive direction and control, of Owner. Owner shall use reasonable and customary care, skill and diligence in the construction, operation, maintenance, repair and renewal of the Joint Trackage and shall maintain the Joint Trackage in accordance with Class I railroad industry maintenance practices. Subject to the foregoing obligations, User shall not, solely by reason of Owner's performing or failing to perform such work, have a claim against Owner for loss, damage, destruction, injury or death resulting therefrom, except to the extent caused by Owner's gross negligence or willful misconduct.

2.2 Owner may make any additions and betterments to, and changes in, the Joint Trackage which may be required by law, or which Owner deems necessary or desirable for the safe, efficient, and economical use of the Joint Trackage by the parties. Such additions, betterments and changes shall progressively become part of the Joint Trackage during construction as they are completed. User may request additions and betterments to, and changes in, the Joint Trackage which User shall deem necessary or desirable for the safe, efficient, and economical use of the Joint Trackage by the parties. If Owner concurs with such additions and betterments, or changes requested by User, Owner shall construct the same upon

such terms and conditions as may be agreed upon and they shall become part of the Joint Trackage. In the event that Owner does not concur with such additions, betterments or changes requested by User, Owner shall nevertheless construct the same at User's sole cost and expense if so requested by User. Owner shall make no retirement, withdrawal, elimination or disposal of any part of the Joint Trackage which would permanently or materially impair the usefulness thereof to User.

2.3 The management and operation of the Joint Trackage shall be under the exclusive direction and control of Owner. Owner shall make such changes to the management and operations on and over the Joint Trackage as in Owner's reasonable judgment may be necessary, expedient, or proper for the operations thereof herein intended.

2.4 If the use of the Joint Trackage shall at any time be interrupted or traffic thereon or thereover be delayed for any cause, neither party shall have or make any claim against the other for loss, damage, or expense of any kind, caused by or resulting from such interruption or delay.

2.5 Owner may from time to time substitute any track or tracks for those delineated in the Agreement for use by User; provided, User shall at all times have access to contiguous route of equal utility as the Joint Trackage for the operation of User's Equipment between the termini of the Joint Trackage. When tracks that are not specified as part of the Joint Trackage in Section 1.4 of these General Conditions are used as provided in this Section 2.5, the Agreement shall govern for purposes of direction and control and liability as if all train movements had been made over the Joint Trackage.

2.6 Each party shall be responsible for furnishing, at its own expense, all labor, fuel, and train supplies necessary for the operation of its own Equipment over the Joint Trackage. In the event a party hereto does furnish such labor, fuel, or train supplies to another party hereto, the party receiving same shall promptly, upon receipt of billing therefor, reimburse the party furnishing same for its reasonable costs of furnishing such labor, fuel, or train supplies.

2.7 The operation by User on or along the Joint Trackage shall at all times be in accordance with the rules, instructions and bulletins of Owner as they may be amended and supplemented from time to time; provided, however, that such rules, instructions and bulletins shall be reasonable, just, and applied fairly to all parties using the Joint Trackage and shall not discriminate against any of them.

2.8 User shall be responsible for reporting and paying any mileage, per diem, use, or rental charges accruing on Equipment in User's account while on the Joint Trackage. Except as may be specifically provided for in the Agreement, nothing herein contained is intended to change practices with respect to interchange of traffic between the parties or with other carriers on or along the Joint Trackage.

2.9 The total cost of clearing a derailment, cleaning up any Hazardous Materials released during such derailment, and/or repairing the Joint Trackage or any other property damaged thereby shall be borne by the party or parties liable therefor in accordance with Sections 4 and 5 of these General Conditions.

2.10 In the event of release of Hazardous Materials caused by faulty equipment or third parties, cleanup will be conducted and total costs resulting therefrom shall be borne by the parties as provided for in Section 4 of these General Conditions.

2.11 All employees of User engaged in or connected with operations on or along the Joint Trackage shall be required to pass periodic examinations on Owner's applicable rules. Upon User's request, Owner shall qualify one or more of User's supervisory officers on those rules, and the qualified supervisory

officer or officers may thereafter examine User's employees engaged in or connected with operations on or along the Joint Trackage. Pending qualification of User's train and engine crews, Owner shall furnish a pilot or pilots, at User's expense, as reasonably necessary to assist in operating User's trains over the Joint Trackage.

2.12 If any employee of User shall neglect, refuse, or fail to abide by Owner's rules, instructions, and bulletins governing the operation on or along the Joint Trackage, such employee shall, upon written request of Owner, be prohibited by User from working on the Joint Trackage. If either party shall deem it necessary to hold a formal investigation to establish such neglect, refusal, or failure on the part of any employee of User, then upon such notice presented in writing, Owner and User shall promptly hold a joint investigation in which all parties concerned shall participate and bear the expense for its officers, counsel, witnesses, and employees. Notice of such investigation shall be given to employees of User by User's officers, and such investigation shall be conducted in accordance with applicable terms and conditions of schedule agreements between User and its employees. If, in the judgment of Owner, the result of such investigation warrants, such employee shall, upon written request of Owner, be withdrawn by User from service on the Joint Trackage, and User shall release and indemnify Owner from and against any and all claims and expenses because of such withdrawal, except as otherwise provided below.

2.13 If the disciplinary action is appealed by an employee of User to the National Railroad Adjustment Board or other tribunal lawfully created to adjudicate such cases, and if the decision of such board or tribunal sustains the employee's position, such employee shall not thereafter be barred from service on the Joint Trackage by reason of such occurrence.

2.14 It is understood that Owner shall reimburse User for all payments that User might be required to make as a result of a successful challenge being made by the employee or his representative as to the discipline recommended by Owner and assessed by User. User agrees to notify Owner before committing itself to making payment of any such employee claim. In the event a claim is progressed to an Adjustment Board, Owner will be given an opportunity to review User's submission. Any payments made to employees, as a result of an investigation being "overturned", shall include not only actual wages, but in addition, shall include expenses which User may be required to pay covering vacation allowances, Railroad Retirement taxes, unemployment insurance taxes and any other payroll tax or fringe benefits.

2.15 If any Equipment of User is bad ordered enroute on the Joint Trackage and it is necessary that it be set out, such bad ordered Equipment shall, after being promptly repaired, be promptly picked up by User. Unless otherwise agreed, Owner may, upon request of User and at User's expense, furnish the required labor and material and perform light repairs to make such bad ordered Equipment safe for movement. The employees and Equipment of Owner while in any manner so engaged or while en route to or returning to Owner's terminal from such an assignment shall be considered sole employees of User and sole property of User. However, should Owner after repairing such Equipment for User, move directly to perform service for Owner's benefit rather than return to Owner's terminal, then User's exclusive time and liability will end when Owner's employees depart for work to be performed for Owner's benefit. In the case of such repairs by Owner to freight cars in User's account, billing therefor shall be in accordance with the Field and Office Manuals of the Interchange Rules adopted by the Association of American Railroads, hereinafter called "Interchange Rules", in effect at the date of performance of the repairs. Owner shall prepare and submit billing directly to and collect from the car owner for car-owner responsibility items as determined under said Interchange Rules. Should said car owner refuse or otherwise fail to make payment therefor, Owner shall submit billing to and collect from User any charges for repair to freight cars that are car-owner responsibility items, as determined under said Interchange Rules.

2.16 If Equipment of User shall become derailed, wrecked, or otherwise disabled while upon the Joint Trackage, it shall be re-railed or cleared by Owner; provided, that employees of User may re-rail User's derailed Equipment on the Joint Trackage whenever use of motorized on or off track equipment is not required and User has obtained permission to perform such re-railing from Owner (which permission shall not be unreasonably denied, conditioned or delayed). The costs and expenses of clearing derailments and wrecks shall be at User's expense unless otherwise provided for in allocation of liability in Section 5 of these General Conditions.

2.17 In the event Equipment of User shall be forced to stop on Joint Trackage, and such stoppage is due to insufficient hours of service remaining among User's employees, or due to mechanical failure of User's Equipment, or any other cause not resulting from an accident or derailment, and such Equipment is unable to proceed, or if a train of User fails to maintain the speed required by Owner on the Joint Trackage, or if in emergencies, crippled or otherwise defective Equipment is set out of User's trains on the Joint Trackage, Owner shall have the option to furnish motive power or such other assistance (including but not limited to the right to re-crew User's train) as may be necessary to haul, help or push such Equipment, or to properly move the disabled Equipment off the Joint Trackage. The costs and expenses of furnishing motive power or of rendering such other assistance shall be at User's expense.

2.18 In the event any accident, derailment, or wreck (hereinafter, a "Derailment") involving Units on or in a train operated by User or for User by Owner carrying hazardous materials, substances, pollutants or wastes, as defined pursuant to federal, state or local laws, regulations and ordinances and/or court decisions interpreting such laws, regulations and ordinances (hereinafter, "Hazardous Materials") shall occur on any segment of the Joint Trackage, any report required by federal, state or local authorities shall be the responsibility of User. User shall also advise the owner/shipper of the Hazardous Materials involved in the derailment, and Owner, immediately.

2.19 Unless otherwise agreed by the parties, Owner shall assume responsibility for cleaning up any release of Hazardous Materials from User's cars in accordance with all federal, state, or local regulatory requirements. User may have representatives at the scene of the derailment to observe and provide information and recommendations concerning the characteristics of Hazardous Materials release and the cleanup effort. Such costs shall be borne in accordance with Section 4 of these General Conditions.

2.20 If Hazardous Materials must be transferred to undamaged cars, User shall perform the transfer, provided, however, that if the Hazardous Materials are in damaged cars that are blocking the Joint Trackage, Owner, at its option, may transfer the Hazardous Materials. Transfers of Hazardous Materials by User shall only be conducted after being authorized by Owner.

Section 3. BILLING; DEFAULT

3.1 Billing shall be accomplished on the basis of data contained in a billing form mutually agreed to between the parties. Such billing form shall contain sufficient detail to permit computation of payments to be made hereunder. Billing shall be prepared in accordance with the Base Charge and Mileage Factor set forth in Sections 5.1 and 5.2, respectively, of this Agreement (and, as applicable, the rules, additives, and equipment rental rates published by Owner). User shall pay to Owner at the Office of the Treasurer of Owner or at such other location as Owner may from time to time designate, all the compensation and charges of every name and nature that User is required to pay pursuant to the Agreement, in lawful money of the United States, within sixty (60) days after the receipt of bills therefor. Bills shall contain a statement of the amount due on account of the expenses incurred and services rendered during the billing period.

3.2 No exception to any bill or payment shall be honored, recognized, or considered if filed after the expiration of three (3) years from the last day of the calendar month during which the bill is rendered. No bill shall be rendered later than three (3) years (i) after the last day of the calendar month in which the expense covered thereby is incurred, or (ii) in the case of claims disputed as to amount or liability, after the amount is settled and/or the liability(ies) established.

3.3 So much of the books, accounts and records of each party hereto as are related to the subject matter of the Agreement shall at all reasonable times be open to inspection by the authorized representatives and agents of the parties hereto.

3.4 All books, accounts, and records shall be maintained to furnish readily full information for each item in accordance with 49 U.S.C. § 11161 et seq. and the related regulations of the STB in 49 C.F.R. Part 1201, 1-3, et seq.

3.5 Should any amount become payable by Owner to User under the Agreement, the provisions of Section 3.1 through Section 3.3 of these General Conditions shall apply with User as the billing party and Owner as the paying party.

3.6 No action of Owner in waiving any default of User under this Agreement shall be deemed to waive any subsequent default of User, or to impair any rights of Owner under the Agreement.

Section 4. COMPLIANCE WITH LAWS

4.1 User shall not treat, store or dispose of petroleum products or Hazardous Materials at any location on or along the Joint Trackage.

4.2 Responsibility for "Environmental Claims" (as defined in Section 4.8, below) as between the parties shall be borne by the party or parties liable therefor pursuant to the allocation of liability in Section 5 of these General Conditions.

4.3 Each party shall release the other party to the extent it is responsible for an Environmental Claim, and, to the extent of such responsibility, shall defend, indemnify, protect and save harmless such other party from and against such Environmental Claim and costs associated therewith, including, but not limited to, environmental consultant fees, attorneys' fees and third party claims.

4.4 In the event that any incident, accident, Derailment, or vehicle striking or being struck by Equipment (hereinafter "Incident") involving Equipment operated by a party hereto carrying Hazardous Materials shall occur on the Joint Trackage, any report required by Federal, State or local authorities shall be the responsibility of such party. Each party shall advise the other party immediately of the occurrence of an Incident involving Equipment operated by the party carrying Hazardous Materials.

4.5 Unless otherwise agreed by the parties, Owner shall undertake any "Response Action" (as defined in Section 4.7, below) in accordance with all Federal, State, or local regulatory requirements necessitated by a release of Hazardous Materials resulting from an Incident involving Equipment operated by either party on Owner's right-of-way underlying the Joint Trackage. User shall provide data or a representative available at the scene of any Incident involving Equipment operated by it to provide information concerning the characteristics of Hazardous Materials released.

4.6 If, following an Incident occurring on or along the Joint Trackage, Hazardous Materials must be transferred to undamaged cars or other vehicles, unless otherwise agreed by the parties, the party whose Equipment was involved in such Incident shall perform the transfer; provided, however, that if the Hazardous Materials are in damaged cars of a train of User that are blocking the Joint Trackage, Owner shall transfer the Hazardous Materials; provided further that transfers of Hazardous Materials by User shall only be conducted after being authorized by Owner (which authorization shall not be unreasonably denied, conditioned or delayed). The cost of such transfer of Hazardous Materials shall be borne by the party or parties liable therefor pursuant to the allocation of liability in Section 5 of these General Conditions.

4.7 In the event any cleanup, response, removal or remediation of any environmental condition on the Joint Trackage is necessary (collectively, a "Response Action"), neither party shall be entitled to any damages, actual or consequential, by reason of the Response Action's interference with the other party's use of the Joint Trackage. Owner and its contractors shall have full, unrestricted and unconditional access to the Joint Trackage for the purpose of completing or engaging in a Response Action for which Owner has any responsibility or, at Owner's option, a Response Action which Owner has undertaken should User fail to diligently pursue and complete such Response Action to the satisfaction of Owner; provided, however, that any Response Action (i) shall be undertaken and completed pursuant to a work plan (including a schedule) submitted to the other party for its review and, in the case of Owner, approval, and (ii) shall not unreasonably, in terms of duration or otherwise, restrict the other party's use of the Joint Trackage. Either party's completion of the other party's obligations hereunder shall not be deemed a waiver of such obligations under the Agreement. Owner shall have the right, but not the obligation, to conduct reasonable inspections of any Response Action of User and User shall provide Owner all information requested by Owner regarding any Response Action of User or any Environmental Claims for which User is responsible.

4.8 The term "Environmental Claim" means the direct costs of any cleanup, Response Action, removal, remediation, natural resource damage, closure and/or post-closure required by any environmental condition affecting the air, soil, surface waters, ground waters, streams, sediments and similar environmental conditions caused by, resulting from, arising out of, or occurring in connection with this Agreement.

4.9 The liability and indemnity provisions of this Section 4 shall continue in full force and effect regardless of whether this Agreement is terminated pursuant to any other provision, or the Joint Trackage is abandoned and vacated by User.

4.10 The total cost of clearing a Derailment or other Incident, cleaning up any Hazardous Materials released during such Derailment or Incident, and repairing the Joint Trackage or any other property damaged thereby shall be borne by the party or parties liable therefor pursuant to the allocation of liability in Section 5 of these General Conditions.

Section 5. LIABILITY

5.1 The responsibility and liability as between the parties for: (i) any personal injury or death of any person (including employees of the parties and third parties), (ii) any real or personal property damage (including property of the parties and any third person), (iii) any damage or destruction to the environment (including land, air, water, wildlife and vegetation), and (iv) all cleanup and remedial expenses, court costs, litigation expenses and attorney's fees resulting from the use of the Joint Trackage by the parties to this Agreement or by third party users, all of which are collectively referred to as a "Loss", will be divided as follows:

5.2 If a Loss results from the use of the Joint Trackage solely by the Equipment of only one of the parties to this Agreement without the involvement of any Equipment of the other party, then the party whose Equipment is involved shall be solely responsible for the Loss, even if caused partially or completely by the other party.

5.3 If a Loss results from the use of the Joint Trackage by both Owner and User and involves the Equipment of both parties, then: (i) each of Owner and User shall be solely responsible for any Loss to its own employees and Equipment in its own account (including lading) and (ii) Owner and User shall each be responsible for one-half of any Loss to the Joint Trackage and Loss sustained by third parties, regardless of the proportional responsibility between or among them as to the cause of the Loss.

5.4 If a Loss results from the use of the Joint Trackage by both User and a third party user of the Joint Trackage that is not a party to this Agreement, and involves the Equipment of both User and such third party user, then the responsibility of User and such third party user for the Loss shall be allocated in the manner specified in Section 5.3, with the third party user being considered as Owner for the purpose of allocating such Loss. Owner shall be responsible for, and shall indemnify, defend, and hold harmless User from and against, all Loss allocated to a third party user in accordance with Section 5.3.

5.5 Notwithstanding any provision of this Section 5 to the contrary, each Party shall assume and bear all responsibility for any Loss or Damage that is directly or proximately caused by acts or omissions of any of its employees while under the influence of drugs or alcohol.

5.6 Whenever any liability, cost, or expense is assumed by or allocated to any party to this Agreement pursuant to this Section 5, that party shall forever protect, defend, indemnify, and save harmless the other party to this Agreement and its subsidiaries and affiliates, and all of its and their respective directors, officers, agents, and employees from and against that liability, cost, and expense assumed by that party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of the indemnitee or its directors, officers, agents or employees. Notwithstanding any provision to the contrary herein, no obligations of indemnity of either party shall apply with respect to punitive or exemplary damages to the extent arising from the conduct of the party to be otherwise indemnified hereunder.

5.7 In every case of death or injury suffered by an employee of any party to this Agreement, when compensation to such employee or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employer's liability, or other law, and either of said parties under the provisions of this Agreement is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such party shall not be released from paying any future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.

5.8 For purposes of determining liability, pilots furnished by Owner to User pursuant to this Agreement shall be considered as the employees of User while such employees are on board or getting on or off trains of User.

5.9 If any suit or action shall be brought against any party for damages which under the provisions of the Agreement are in whole or in part the responsibility of the other party, said other party shall be notified in writing by the party sued, and the party so notified shall have the right and be obligated to take part in the defense of such suit and shall pay its allocated share of the judgment and cost, expense and attorneys' fees incurred in such suit as determined pursuant to this Section 5.

5.10 In the event of a Loss involving lading, the parties to this Agreement shall be bound by the Freight Claim Rules, Principles, and Practices of the Association of American Railroads (AAR) as to the handling of any claims for the loss or damage to lading, except to the extent expressly provided otherwise herein.

5.11 Notwithstanding any provision to the contrary herein, the obligation of a party to indemnify the other party pursuant to this Section 5 shall not include any obligation to indemnify such other party for punitive or exemplary damages to the extent arising from conduct of such indemnified party.

Section 6. ARBITRATION

6.1 If at any time a question or controversy shall arise between the parties hereto in connection with the Agreement upon which the parties cannot agree, then, upon the written request of either party setting forth the issue in dispute, such question or controversy shall be submitted to arbitration. If the parties involved in such dispute are able to agree upon a single arbitrator experienced in matters of the character in dispute within thirty (30) days after the party desiring such arbitration (the "Demanding Party") shall notify in writing the other party to such dispute (the "Noticed Party"), such dispute shall be submitted to such single arbitrator. Otherwise, the Demanding Party shall appoint an arbitrator and notify the Noticed Party in writing of such appointment. Within twenty (20) days after receipt of said notice, the Noticed Party shall appoint an arbitrator and notify the Demanding Party in writing of such appointment. Should the Noticed Party fail within twenty (20) days after receipt of such notice to name its arbitrator, the arbitrator for the Demanding Party shall select one for the Noticed Party so failing and, if they cannot agree, said arbitrator may be appointed by the Chief Judge (or acting Chief Judge) of the United States District Court for the District in which the headquarters office of the Demanding Party is located upon application by either party after ten (10) days' written notice to the other party. The arbitrators so chosen, if an even number, shall select a third arbitrator to complete the panel. If they fail to agree upon a third arbitrator, the third arbitrator shall, upon application of any party, be appointed by said judge in the manner heretofore stated.

6.2 Upon selection of the arbitrator(s), said arbitrator(s) shall with reasonable diligence determine the questions set forth in said notice of demand for arbitration, shall give all parties reasonable notice of the time and place (which shall be at the discretion of the arbitrator(s)) of hearing evidence and argument, may take such evidence as they deem reasonable or as either party may submit with witnesses required to be sworn, and may hear arguments of counsel or others. If any arbitrator declines or fails to act, the party (or parties in the case of a single arbitrator) by whom such arbitrator was chosen or said judge shall appoint another to act in such arbitrator's place. After considering all evidence, testimony, and arguments, said single arbitrator or the majority of said panel of arbitrators shall promptly state such decision or award in writing which shall be final, binding, and conclusive on all parties to the arbitration when delivered to them. Until the arbitrator(s) shall issue the first decision or award upon any question submitted for arbitration, performance under the Agreement shall continue in the manner and form existing prior to the rise of such question. After delivery of said first decision or award, each party shall forthwith comply with said first decision or award immediately after receiving it.

6.3 Each party to the arbitration shall pay the compensation, costs, and expenses of the arbitrator appointed in its behalf and all fees and expenses of its own witnesses, exhibits, and counsel. The compensation, costs, and expenses of the single arbitrator or the additional arbitrator in the board of arbitrators shall be paid in equal shares by all parties to the arbitration.

6.4 The books and papers of all parties, as far as they relate to any matter submitted for arbitration, shall be open to examination by the arbitrator(s).

Section 7. APPLICABLE LAW

7.1 This Agreement and any claims, disputes or controversies arising hereunder shall be governed by and construed in accordance with the laws of the state of Missouri, without giving effect to any choice or conflict of laws provision or rule (whether of the State of Missouri or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Missouri.

Section 8. GOVERNMENTAL APPROVAL; ABANDONMENT

8.1 User shall, at its own cost and expense, initiate by appropriate application or petition and thereafter diligently prosecute proceedings to obtain any required STB and Federal Communications Commission ("FCC") approval or exemption for the exercise of the trackage rights granted to User pursuant to the Agreement. Owner, at its expense, shall use best efforts to support said application or petition and shall furnish such information and execute, deliver and file such instruments as may be necessary or appropriate to obtain such STB and/or FCC consent, approval or authority. User and Owner shall cooperate fully to procure all such necessary consent, approval or authority.

8.2 Owner shall not abandon, discontinue, sell or otherwise dispose of all or any part of the Joint Trackage during the term of the Agreement in a manner that would materially impair User's rights or operations unless Owner first provides, at no additional cost to User, a contiguous substitute route of substantially equal utility and on substantially equivalent terms, or User otherwise consents in writing. Subject to the foregoing and any required STB approval or exemption, if Owner proposes to abandon all or any part of the Joint Trackage, Owner shall provide at least six (6) months' prior written notice, and User shall have a right of first refusal to purchase the applicable portion at a price calculated in the manner prescribed by the STB's regulations governing Offers of Financial Assistance at 49 C.F.R. § 1152.27 or successor regulations.

8.3 Each party shall be responsible for any labor claims of, and shall bear the cost of employee protection payable to, its own employees and the employees of companies affiliated with it, to the extent resulting from the Agreement and/or such party's operations on the Joint Trackage.

Section 9. OTHER CONSIDERATIONS

9.1 Nothing in the Agreement contained shall limit the right of Owner to admit other companies to the use of the Joint Trackage or any part thereof on such terms and conditions as are acceptable to Owner; provided, that the operations of such other companies shall not unduly interfere with or delay the operations of User on and along the Joint Trackage. Except as otherwise provided in Section 2.2 of the Agreement, User shall have no right to admit any person, firm, or corporation to the use of the Joint Trackage.

9.2 The Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors, lessees, and assigns. The Agreement and any rights granted hereunder may not be assigned in whole or in part by Owner or User without the prior written consent of the other. The Agreement may be assigned by Owner or User without the prior written consent of the other only (i) as a result of a merger, corporate reorganization, consolidation, change of control or sale of substantially all of its assets, or (ii) to an affiliate of the assigning party where the term "affiliate" means a corporation, partnership or

other entity controlled, controlling or under common control with the assigning party. In connection with the sale, lease or transfer by Owner of all or a portion of the Joint Trackage, Owner shall require the purchaser, lessee or transferee of such portion (or all) of the Joint Trackage to accept assignment in writing of this Agreement with respect to, and to perform Owner's obligations under this Agreement, with respect to the portion of the Joint Trackage sold, leased or transferred.

9.3 The Agreement and each and every provision hereof is for the exclusive benefit of the parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right in any third person to recover by way of damages or otherwise against any of the parties hereto.

9.4 All notices, demands, requests or submissions which are required or permitted to be given pursuant to the Agreement shall be given by either party to the other in writing by serving the same upon the Vice President of Operations of each company.

9.5 If any covenant or provision of the Agreement not material to the right of User to use the Joint Trackage shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which is in itself valid. No controversy concerning any covenant or provision shall delay the performance of any other covenant or provision. Should any covenant or provision of the Agreement be adjudged void, the parties will make such other arrangements as, under the advice of counsel, will effect the purposes and intent of the Agreement.

9.6 All Section headings are inserted for convenience only and shall not affect any construction or interpretation of the Agreement.

9.7 No term or provision of the Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to the Agreement.

9.8 All words, terms and phrases used in the Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms, and phrases in the railroad industry in the United States.

9.9 The Agreement is the result of mutual negotiations between the parties hereto, neither of whom shall be considered the drafter for purposes of contract construction.

9.10 Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of the Agreement, or as may be necessary or appropriate for a party hereto to enforce its rights under the Agreement, all commercial information to which access is provided or obtained hereunder will be kept confidential and will not be disclosed by either Owner or User to any party other than Owner or User (as applicable), their respective affiliates, and its and their respective officers, employees, and attorneys, without the prior written approval of the other party.

Exhibit 2C

ASSET PURCHASE AGREEMENT

By and Between

UNION PACIFIC RAILROAD COMPANY

and

ILLINOIS CENTRAL RAILROAD COMPANY

Dated as of [●], 2027

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ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this "Agreement"), dated as of [●], 2027, is entered into by and between Union Pacific Railroad Company, a Delaware corporation ("UP" or "Seller") and Illinois Central Railroad Company, an Illinois corporation ("Purchaser"). Seller and Purchaser are referred to herein individually as a "Party" and collectively as the "Parties."

W I T N E S S E T H:

WHEREAS, on July 28, 2025, Union Pacific Corporation ("UPC"), two wholly owned subsidiaries of UPC, and Norfolk Southern Corporation ("NSC") entered into an Agreement and Plan of Merger providing for the acquisition of NSC by UPC (the "UP/NS Transaction");

WHEREAS, the consummation of the UP/NS Transaction (the "UP/NS Transaction Closing") has been authorized by the Surface Transportation Board (the "STB") in Finance Docket No. 36873;

WHEREAS, the STB has issued the STB Divestiture Order (as defined below), which requires Seller to divest the Sarpy Property and the other Purchased Assets to Purchaser;

WHEREAS, Seller owns, operates or controls, and has certain right, title and interest in and to the real property in St. Louis, Missouri formerly known as Sarpy Yard, together with the railroad trackage, yard areas, buildings, structures, facilities, improvements, access rights and other related assets and rights shown on Exhibit A (collectively, and as defined more fully below, the "Sarpy Property"), and certain other assets described in Section 2.01 (the Sarpy Property and such other assets being referred to collectively herein as the "Purchased Assets");

WHEREAS, pursuant to the STB Divestiture Order, Purchaser desires to acquire the Sarpy Property and the other Purchased Assets and is willing to assume certain liabilities, in each case as set forth herein, and Seller is willing to sell, convey and assign the same, all on the terms and conditions set forth in this Agreement; and

NOW, THEREFORE, for and in consideration of the foregoing, the representations, warranties, covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I.
DEFINITIONS

Section 1.01. Definitions.

The following terms shall have the respective meanings set forth below throughout this Agreement:

"Accounts Receivable" means the accounts receivable, billed and unbilled, of Seller.

"Access Agreements Termination Instrument" shall have the meaning set forth in Section 4.03(h).

"Adjustment Amount" shall have the meaning set forth in Section 4.02(b).

"Adjustment Statement" shall have the meaning set forth in Section 4.02(b).

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract or otherwise.

"Agreement" shall have the meaning set forth in the Preamble hereto.

"Allocation Schedule" shall have the meaning set forth in Section 7.04(c).

"Asset Taxes" means ad valorem, property, excise, sales, use, public utility and similar Taxes based upon the acquisition, operation or ownership of the Purchased Assets, but excluding, for the avoidance of doubt, Income Taxes and Transfer Taxes.

"Assigned Contracts" shall have the meaning set forth in Section 2.01(c).

"Assignment and Assumption Agreement" shall have the meaning set forth in Section 4.03(e).

"Assumed Liabilities" shall have the meaning set forth in Section 3.01.

"Base Purchase Price" shall have the meaning set forth in Section 4.02(a).

"Bill of Sale" shall have the meaning set forth in Section 4.03(a).

"Business Day" means any day other than a Saturday, Sunday or a day on which the banks in New York, NY are authorized or obligated by Law or executive order to close.

"Cap" shall have the meaning set forth in Section 10.02(c).

"Claim Notice" shall have the meaning set forth in Section 10.02(d).

"Closing" shall have the meaning set forth in Section 4.01.

"Closing Date" shall have the meaning set forth in Section 4.01.

"Code" means the Internal Revenue Code of 1986, as amended.

"Confidential Information" shall have the meaning set forth in Section 7.08(e).

"Data Room" means the "[●]" virtual data room relating to the transactions contemplated by this Agreement hosted by [●].

"Deed" shall have the meaning set forth in Section 4.03(d).

"Disclosing Party" shall have the meaning set forth in Section 7.08(c).

"Disclosure Schedules" shall have the meaning set forth in ARTICLE V.

"Electronic Delivery" shall have the meaning set forth in Section 11.08.

"Encumbrance" means any mortgage, lien, encumbrance, charge, option, right of first refusal or first offer, security interest, pledge, right of way, easement or encroachment.

"Environmental Laws" means any and all Laws that have as their principal purpose the protection, preservation, investigation, remediation, or restoration of, or prevention of harm or damage to, natural resources or the environment, or (to the extent addressing human exposure to Hazardous Substances) occupational or human health and safety, including the Comprehensive Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; the Hazardous Materials Transportation Act; the Federal Insecticide, Fungicide, and Rodenticide Act; the Toxic Substances Control Act; the Clean Water Act; the Clean Air Act; and the Oil Pollution Act.

"Environmental Liabilities" means any Liability that arises under or relates to Environmental Laws or a Hazardous Substance, including for property damage, personal injury or death caused by an actual or alleged Release, or exposure to, a Hazardous Substance at any location whatsoever including a location at which Hazardous Substances have been disposed, for Remedial Action, and for any violation of Environmental Law.

"Excluded Assets" shall have the meaning set forth in Section 2.02.

"Excluded Contracts" shall have the meaning set forth in Section 2.02(g).

"Excluded Liabilities" shall have the meaning set forth in Section 3.02.

"FCC" means the Federal Communications Commission.

"FCC Approval" means, to the extent any FCC Licenses are included in the Purchased Assets, authorization from the FCC pursuant to 47 U.S.C. § 310(d) for the assignment of such FCC Licenses.

"FCC Licenses" shall have the meaning set forth in Section 2.01(j).

"Final Determination" shall have the meaning set forth in Section 10.02(e).

"FRA" shall have the meaning set forth in Section 7.05(c).

"Fraud" means actual and intentional fraud or misrepresentation made by a Party with respect to the specific representations and warranties of such Party expressly set forth in this Agreement with the knowledge that such representation and warranty was false when made, that such Party had the intent to induce the other Party to act or refrain from acting in making such representation and warranty, that such other Party acted in reliance on such misrepresentation or false representation and warranty, and as a result such other Party suffers harm.

"Fundamental Representations" shall have the meaning set forth in Section 10.01.

"GAAP" means generally accepted accounting principles in the United States as in effect from time to time, as consistently applied.

"Governmental Authority" means any government or political subdivision, whether federal, state, local, foreign or supranational, or any agency, authority, official or instrumentality of any such government or political subdivision, or any federal, state, local, foreign or supranational court, tribunal or arbitrator.

"Governmental Order" means any order, judgment, injunction, decree, writ, stipulation, determination or award, in each case, entered by or with any Governmental Authority.

"Haulage Agreement" shall have the meaning set forth in Section 4.03(g).

"Hazardous Substance" means any pollutant or contaminant or any toxic, radioactive or otherwise hazardous substance, waste or material, including petroleum, as such terms are defined in, identified pursuant to, or give rise to Liability under any Environmental Law, per- and polyfluoroalkyl substances, and any substance that would reasonably be expected to have an adverse impact on human health or property.

"Income Taxes" means (a) all Taxes based upon, measured by, or calculated with respect to gross or net income, gross or net receipts or profits (including franchise Taxes and any capital gains, alternative minimum, and net worth Taxes, but excluding ad valorem, property, excise, severance, production, sales, use, real or personal property transfer or other similar Taxes), (b) Taxes based upon, measured by, or calculated with respect to multiple bases (including corporate franchise, doing business or occupation Taxes) if one or more of the bases upon which such Tax may be based, measured by, or calculated with respect to is included in clause (a) above, or (c) withholding Taxes measured with reference to or as a substitute for any Tax included in clauses (a) or (b) above.

"Indemnified Party" shall have the meaning set forth in Section 10.02(d).

"Indemnitor" shall have the meaning set forth in Section 10.02(d).

"Intellectual Property" means all rights in intellectual property of any type throughout the world, including (a) patents, patent applications and statutory invention registrations, including continuations, continuations-in-part, divisionals, provisionals, reexaminations, reissues and extensions; (b) name and source identifiers; (c) copyrights, whether registered or unregistered, database rights, and registrations and applications for registration thereof; and (d) trade secrets.

"IRS" means the Internal Revenue Service.

"Knowledge" or any other similar knowledge qualification, shall mean the actual or constructive knowledge of an individual, assuming due inquiry. For purposes of this Agreement, Knowledge of Seller and Knowledge of Purchaser shall, respectively, be limited to the actual knowledge of those persons listed under such Party's name on Section 1.01 of the Disclosure Schedules.

"Law" means any law, statute, code, ordinance, regulation or Governmental Order or other legally enforceable requirement of any Governmental Authority.

"Leased Real Property" shall have the meaning set forth in Section 5.08(a).

"Liability" means any liability, debt, guarantee, assurance, commitment, claim, deficiency, or obligation, whether known or unknown, fixed, absolute or contingent, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, asserted or unasserted, due or to become due, whenever or however arising (including whether arising by operation of Law, or out of any contract, or of any tort based on negligence or strict liability, or otherwise based on strict liability) and whether or not the same would be required to be stated in financial statements or disclosed in the notes thereto.

"Losses" shall have the meaning set forth in Section 10.02(a).

"Material Adverse Effect" means any event, change, development, circumstance or effect that is materially adverse to (x) the value of the Purchased Assets or the amount of the Assumed Liabilities, taken as a whole, or (y) the ability of Seller to consummate the transactions contemplated by this Agreement; *provided* that none of the following shall be deemed to constitute, and none of the following shall be, either alone or in combination, taken into account in determining whether there has been, a Material Adverse Effect: (a) any adverse event, change, development, circumstance or effect (whether short-term or long-term) arising from or relating to (i) general business, industry or economic conditions, (ii) national or international political or social conditions, including the engagement by the United States or any other country in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack, any conditions resulting from natural or manmade disasters or other acts of God or weather conditions, flood, epidemics, pandemics or other similar outbreaks or health crises (including the COVID-19 pandemic) or other force majeure events, (iii) changes in financial, banking or securities markets (including any disruption thereof and any decline in the price of any security or any market index), (iv) changes in GAAP or other applicable accounting rules or standards, (v) changes in Laws or the entry, revision or reversal of any Governmental Order, (vi) the taking of any action required by this Agreement or any of the other Transaction Documents, (vii) the announcement, pendency or completion of the transactions contemplated by this Agreement or any of the other Transaction Documents or the identity of Purchaser, including Losses or threatened Losses of employees, customers, suppliers, distributors or others having relationships with Seller or any of its Affiliates or with the Purchased Assets, or (viii) the terms or availability of Purchaser's financing with respect to the transactions contemplated by the Transaction Documents; (b) any failure to meet a forecast (whether internal or published) of revenue, earnings, cash flow, or other data for any period or any change in such a forecast; *provided*

that this clause (b) shall not prevent a determination that any event, change, development, circumstance or effect (whether short-term or long-term), not otherwise excluded from this definition of Material Adverse Effect, that results in such failure to meet projections or forecasts has resulted in a Material Adverse Effect; (c) matters disclosed or referred to in the Disclosure Schedules; (d) any event, change, development, circumstance or effect (whether short-term or long-term) with respect to which Purchaser has Knowledge on the date hereof; or (e) any actions taken or omitted to be taken by or at the request or with the consent of Purchaser or any of its Affiliates.

"National Priorities List" means the list of sites of national priority under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., among the known Releases or threatened Releases of Hazardous Substances, pollutants, or contaminants throughout the United States.

"Party" shall have the meaning set forth in the Preamble hereto.

"PCBs" shall have the meaning set forth in Section 5.09(i).

"Permits" means all governmental licenses, permits or other governmental authorizations related to the Purchased Assets.

"Permitted Encumbrances" means (a) all existing agreements, encroachments, claims, easements, servitudes, occupancies, grants, reservations, deed obligations and similar covenants, rights, title defects and other impediments, whether or not recorded and whether or not this Agreement provides actual notice thereof, by operation of Law or otherwise, (b) all existing telecommunications facilities, public and private utilities, pipe and wire crossings, reservations, exceptions and restrictions whether or not of record, (c) legally applicable building, zoning, subdivision and other federal, state, provincial, county, municipal or local Laws, ordinances and regulations, (d) property Taxes and assessments, both general and special, which may become due or payable on or after the Closing Date which relate to all periods from and after the Closing, (e) any and all encroachments which might be revealed by a survey meeting applicable state or provincial minimum technical requirements and (f) any and all existing ways and servitudes, and rights of way, howsoever created, for roads, streets and highways.

"Person" means any individual, corporation, partnership, firm, joint venture, association, limited liability company, limited liability partnership, joint-stock company, trust, joint venture, unincorporated organization, governmental, judicial or regulatory body, business unit, division or any other business entity, organization or Governmental Authority.

"Pre-Closing Tax Period" means any taxable period (or portion of any Straddle Period) ending on or before the Closing Date.

"Prior Environmental Liabilities" shall have the meaning set forth in Section 3.02(b).

"Proceeding" means any claim, charge, action, arbitration, audit, investigation, hearing, litigation or suit (whether civil, criminal, administrative or judicial) commenced, brought, conducted or heard by or before any Governmental Authority.

"PTC" shall have the meaning set forth in Section 7.05(c).

"Purchase Price" shall have the meaning set forth in Section 4.02(a).

"Purchased Assets" shall have the meaning set forth in the Recitals.

"Purchaser" shall have the meaning set forth in the Preamble hereto.

"Purchaser Indemnified Parties" shall have the meaning set forth in Section 10.02(a).

"Release" means any spill, seepage, discharge, leak, migration, emission, escape, injection, pouring, pumping, emptying, dumping, disposal or other release of any Hazardous Substances into the indoor or outdoor environment.

"Remedial Action" means any investigation, remediation, clean-up, abatement, removal or monitoring (or words of similar import) of Hazardous Substances.

"Representative" means any director, officer, member, owner, partner, employee, agent or advisor (including attorneys, accountants, consultants, bankers and financial advisors) of a Party.

"Required Consent Contract" shall have the meaning set forth in Section 2.03(a).

"Seller" shall have the meaning set forth in the Preamble hereto.

"Seller Indemnified Parties" shall have the meaning set forth in Section 10.02(b).

"Seller Marks" shall have the meaning set forth in Section 7.09.

"Seller Taxes" means, without duplication, (a) any and all Income Taxes imposed on Seller, any of its direct or indirect owners or Affiliates, or any combined, unitary or consolidated group of which any of the foregoing is or was a member, (b) Taxes attributable to the Purchased Assets for any Pre-Closing Tax Period, (c) Transfer Taxes that Seller is obligated to pay as set forth in Section 7.04(a), (d) Asset Taxes that Seller is obligated to pay as set forth in Section 7.04(b), (e) any and all Taxes resulting from a breach by Seller of any covenant relating to Taxes, and (f) any Taxes imposed on or with respect to the ownership or operation of the Excluded Assets or that are attributable to any asset or business of Seller that is not part of the Purchased Assets; *provided*, *however*, that no such Tax shall constitute a Seller Tax (i) if Purchaser is liable therefor under Section 7.04 or (ii) to the extent that the amount of such Tax was included as an adjustment to the Purchase Price under Section 4.02.

"STB" means the U.S. Surface Transportation Board.

"STB Approvals" means, collectively, (a) the STB Divestiture Order, (b) any other approval or exemption required under 49 U.S.C. § 10901, 49 U.S.C. § 11323 *et seq*. or other applicable Law for Purchaser to acquire, own, develop, use or operate the Purchased Assets, including any rail facilities located on or serving the Sarpy Property, and (c) any approval or

exemption required for the transactions contemplated by the Trackage Rights Agreement, the Haulage Agreement or any other Transaction Document, in each case pursuant to a final order of the STB that has become effective, is not subject to any stay and remains in full force and effect.

"STB Divestiture Order" means a final order of the STB in Finance Docket No. 36873 that has become effective, is not subject to any stay and remains in full force and effect, and that (a) conditions approval of the UP/NS Transaction on Seller's divestiture of the Purchased Assets to Purchaser, (b) authorizes Purchaser to acquire, own, develop, use and operate the Purchased Assets, including any rail facilities located on or serving the Sarpy Property, and (c) provides any exemption, preemption or other authority necessary to implement the transactions contemplated by this Agreement.

"Straddle Period" means any taxable period that includes but does not end on the Closing Date. Where necessary to allocate Taxes under this Agreement with respect to a Straddle Period (a) property, ad valorem, intangible, and other periodic Taxes allocable to the Pre-Closing Tax Period shall be equal to the amount of such Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of calendar days during the Straddle Period that are in the Pre-Closing Tax Period and the denominator of which is the number of calendar days in the entire Straddle Period; and (b) Taxes (other than Taxes allocable under clause (a) of this definition) allocable to the Pre-Closing Tax Period shall be computed on the basis of a "closing of the books," as if such taxable period ended as of the end of the day on the Closing Date; *provided* that exemptions, allowances or deductions that are calculated on an annual basis (including depreciation and amortization deductions) shall be allocated between the period ending on the Closing Date and the period beginning after the Closing Date in proportion to the number of calendar days in each period.

"Sarpy Property" means the real property in St. Louis, Missouri formerly known as Sarpy Yard, as more particularly described on Exhibit A and Section 2.01(b) of the Disclosure Schedules, together with all appurtenant easements, rights-of-way, access rights and other real property interests and all tracks, rails, ties, ballast, switches, signals, crossing devices, roadways, parking areas, buildings, structures, utilities, drainage facilities, fixtures and improvements located thereon or affixed thereto, in each case to the extent owned by Seller and included in the Purchased Assets. The Sarpy Property includes any adjacent Seller-owned land specifically identified on Exhibit A as part of the property to be conveyed and excludes any property expressly identified as excluded on Exhibit A or in the Disclosure Schedules..

"Tax" or "Taxes" means (a) all taxes, assessments, duties, levies, imposts or other similar charges in the nature of a tax imposed by a Governmental Authority (whether payable directly or by withholding and whether or not requiring the filing of a Tax Return), including all income, profits, gross receipts, license, payroll, employment, excise, fuel, environmental, severance, stamp, occupation, premium, customs duties, license, withholding, social security, unemployment, disability, ad valorem, real property, personal property, sales, use, lease, transfer, registration, value added, alternative or add-on minimum, estimated, and withholding (including backup withholding) or other similar taxes (together with any and all interest, penalties and additions to tax imposed with respect thereto), (b) including any Liability for payment of any amounts of the type described in clause (a) as a result of being a member of any affiliated, consolidated, combined or unitary group or required to be included in any Tax Return relating to

such group prior to the Closing Date by reason of Treasury Regulations Section 1.1502-6(a) or any similar foreign, state or local Law, and (c) any Liability for the payment of any amounts of the type described in clause (a) or (b) as a result of the operation of Law or any express or implied obligation to indemnify any other Person.

"Tax Returns" means any and all returns, declarations, claims for refund, or information returns or statements, reports and forms relating to Taxes filed with any governmental Tax authority (including any schedule or attachment thereto) with respect to the Purchased Assets, including any amendment thereof.

"Third Party" means any Person not a Party to this Agreement.

"Third Party Claim" shall have the meaning set forth in Section 10.02(f).

"Threshold Amount" shall have the meaning set forth in Section 10.02(c).

"Trackage Rights Agreement" shall have the meaning set forth in Section 4.03(f).

"Transaction Documents" means this Agreement, the Bill of Sale, the Deed, the Assignment and Assumption Agreement, the Transition Services Agreement, the Haulage Agreement, the Trackage Rights Agreement, the Access Agreements Termination Instrument, and each certificate or instrument to be executed and delivered by any Party in connection with or pursuant to this Agreement.

"Transfer Taxes" shall have the meaning set forth in Section 7.04(a).

"Transferred Real Property" shall have the meaning set forth in Section 2.01(b).

"Transition Services Agreement" shall have the meaning set forth in Section 4.03(c).

ARTICLE II.
PURCHASE AND SALE OF ASSETS

Section 2.01. Purchase and Sale of the Purchased Assets.

On the terms and subject to the conditions set forth in this Agreement, Seller hereby agrees to sell, assign, transfer, convey and deliver to Purchaser, and Purchaser hereby agrees to purchase, acquire, and accept from Seller on the Closing Date, all of Seller's and its Affiliates' right, title and interest in, to and under the following assets, to the extent that such assets exist as of the Closing, in all cases excepting the Excluded Assets. Seller shall cause each of its Affiliates that holds any right, title or interest in a Purchased Asset to convey such right, title or interest to Purchaser at the Closing:

(a) all railroad trackage, yard areas, roads, parking areas, buildings, structures, facilities, equipment, fixtures, utilities, drainage facilities, improvements and other tangible assets owned by Seller and located on or used primarily in connection with the Sarpy Property, including

all tracks, rails, ties, ballast, spikes, tie plates, fastenings, rail anchors, track materials, connections, switches, frogs, crossings, signals and crossing warning devices, in each case excepting the Excluded Assets;

(b) the real property as described in Section 2.01(b) of the Disclosure Schedules and depicted on Exhibit A, together with (and subject to) all easements, rights-of-way and other rights and interests appurtenant thereto (collectively, the "Transferred Real Property");

(c) those certain agreements, leases and contracts of Seller that relate to the ownership, maintenance, access, development or use of the Sarpy Property, including the Leased Real Property, and are listed in Section 2.01(c) of the Disclosure Schedules (the "Assigned Contracts");

(d) all of Seller's right, title and interest in and to each joint-facility, shared-track, trackage-rights, lease, license, easement, crossing, interchange, access, utility, drainage, communications, shared-use, dispatching, operating or similar agreement or arrangement necessary or useful for Purchaser to own, access, develop, use and operate the Sarpy Property, including the agreements and arrangements listed in Section 2.01(d) of the Disclosure Schedules;

(e) all of Seller's right, title and interest in and to the rail connections, interchange rights, access rights, terminal and yard access, roadway and pedestrian access, utility, drainage, communications, data and other operational rights that are necessary or useful for Purchaser to connect the Sarpy Property with Seller's line of railroad between St. Louis and Kansas City, Missouri (the "Kansas City Line"), Purchaser's network, other rail carriers, public roads and utility systems, in each case as shown on Exhibit A or listed in Section 2.01(e) of the Disclosure Schedules;

(f) all of Seller's right, title and interest in and to any fee, leasehold, easement, joint-ownership, trackage, dispatching, utility or other access or operating right over any property not owned by Seller in fee, in each case to the extent necessary or useful for Purchaser to access, develop, use and operate the Sarpy Property after the Closing;

(g) all other access, connection, interchange, terminal, utility, dispatching and operating rights of Seller that are necessary or useful for Purchaser to own, access, develop, use and operate the Sarpy Property after the Closing for freight railroad yard and terminal purposes, including intermodal and automotive operations;

(h) all Permits, in each case to the extent transferable by Seller, and all prepaid fees, deposits, credits and other rights relating thereto to the extent attributable to periods after the Closing;

(i) all keys, entry devices and passcodes with respect to the Purchased Assets including combinations to any locks or vaults (if any) in Seller's possession;

(j) the radio license authorizations, if any, currently held by Seller and used primarily in connection with the Purchased Assets, as set forth on Section 2.01(j) of the Disclosure Schedule (the "FCC Licenses"); and

(k) copies of all books and records relating primarily to the ownership, condition, maintenance, access, development or use of the Purchased Assets, including track charts, maps, surveys, deeds and other title records, track, building, structure and facility inspection and maintenance records, signal and communications records, environmental records, crossing files, utility and drainage records, permits, engineering and development plans, appraisals, access and operating records and the records provided in the Data Room (but excluding (i) Seller's Tax Returns and related books and records other than those relating exclusively to the Purchased Assets, (ii) any records prepared by Seller in connection with the transactions contemplated by this Agreement, (iii) Seller's corporate charter, seal, minute books, stock record books and other similar documents relating to the organization, maintenance and existence of Seller, (iv) privileged legal advice and attorney work product, provided that Seller shall provide non-privileged factual and operational information contained in otherwise privileged or commingled records to the extent reasonably practicable, and (v) any agreements that are Excluded Contracts).

Section 2.02. Excluded Assets.

Other than the Purchased Assets, all of Seller's assets, properties, rights and contracts of every description, real, personal, mixed, tangible and intangible, wherever situated (collectively, the "Excluded Assets") will remain the property of Seller after the Closing. The Excluded Assets include the following assets of Seller:

(a) all cash, cash equivalents and marketable securities;

(b) all Accounts Receivable (including rights to rebates, refunds, and similar items) of Seller;

(c) all tangible personal property other than the tangible personal property expressly included in the Purchased Assets, including all raw materials, work-in-process and other inventory, radios, locomotives, rolling stock and vehicles, maintenance-of-way equipment, and hand tools that are not located on or dedicated primarily to the Sarpy Property;

(d) all Intellectual Property owned by Seller together with the right to sue and collect for past infringement thereof, and all radio licenses or frequencies owned or operated by Seller other than the FCC Licenses;

(e) subject to Section 2.03 below, any Required Consent Contracts for which an effective consent or approval permitting the assignment of such contract(s) has not been obtained prior to the Closing Date;

(f) all claims, rights and causes of action relating to or arising from (i) any of the Excluded Assets or the Excluded Liabilities, and (ii) the ownership and operation of the Purchased Assets prior to the Closing Date;

(g) all agreements, leases and contracts of Seller that relate to the ownership and maintenance, access, development or use of the Sarpy Property other than those listed in Section 2.01(c) of the Disclosure Schedules (the "Excluded Contracts");

(h) all prepaid expenses, credits, advance payments, security, deposits, charges, sums and fees;

(i) all policies of insurance and any proceeds or return of premiums thereunder;

(j) all claims, rights and interests of Seller in and to any deposits or refunds of Taxes, or Tax credits for any period, and all Tax deposits, refunds and credits related to the Purchased Assets for taxable periods (or portions thereof, having regard to Section 7.04) ending on or prior to the Closing Date (with all such Tax refunds and credits calculated as if the relevant Tax period ended on the Closing Date);

(k) Seller's Tax Returns and related books and records;

(l) all rights of Seller under or pursuant to this Agreement, the other Transaction Documents or any other instrument between Seller and Purchaser or their respective Affiliates entered into pursuant to this Agreement or the transactions contemplated hereby; and

(m) all other assets of Seller and its Affiliates.

Section 2.03. Required Consent Contracts.

(a) Anything in this Agreement to the contrary notwithstanding, this Agreement shall not constitute an agreement to assign or otherwise sell, convey or transfer any Assigned Contract (or any claim, right or benefit arising thereunder or resulting therefrom) prior to receiving any required consent or approval for such assignment, conveyance or transfer if an attempted assignment, sale, conveyance or transfer without the consent or approval of a Third Party would constitute a breach thereof, be ineffective with respect to any party thereto or otherwise adversely affect the rights of Seller or Purchaser thereunder. With respect to any Assigned Contract as to which the consent or approval of a Third Party is required (each, a "Required Consent Contract"), promptly after the date hereof Seller shall, at its sole cost and expense and with Purchaser's reasonable cooperation, use its best efforts, and shall cause its applicable Affiliates to use their best efforts, to obtain the written consent, approval, novation or other arrangement required to transfer such Required Consent Contract to Purchaser at the Closing. Notwithstanding the foregoing, no contract, right or arrangement material to Purchaser's ownership, access, development, use or operation of the Sarpy Property shall be excluded from the Purchased Assets or deferred beyond the Closing, and receipt of the applicable consent or a replacement arrangement reasonably satisfactory to Purchaser shall be a condition to Purchaser's obligation to close.

(b) Until any consent or approval is obtained with respect to a Required Consent Contract that is not material to Purchaser's ownership, access, development, use or operation of the Sarpy Property, to the extent permitted by applicable Law and the terms of such Required Consent Contract, from and after the Closing Date (i) Purchaser shall obtain the claims, rights and benefits of Seller arising under such Required Consent Contract, (ii) Purchaser shall perform the obligations thereunder that constitute Assumed Liabilities, and (iii) Seller shall, at Purchaser's reasonable request and Seller's sole cost and expense, enforce for Purchaser's benefit any rights of Seller under such Required Consent Contract. No arrangement under this Section 2.03(b) shall reduce the rights or benefits Purchaser would have received upon an effective

assignment, impose any additional Liability on Purchaser or impair Purchaser's ability to own, access, develop, use or operate the Sarpy Property.

(c) With respect to any Required Consent Contract not assigned or transferred pursuant to Section 2.03(a) for which Purchaser must undertake performance pursuant to Section 2.03(b), Seller will pay to Purchaser any monies received by Seller from any Third Party for services rendered by Purchaser after the Closing Date, less any actual out-of-pocket costs or expenses incurred by Seller and payable to any Third Party as a result of receiving and processing payment of such monies.

(d) At the request of Seller, Purchaser shall use commercially reasonable efforts to assist Seller in seeking the unconditional release of Seller from any and all obligations or Liabilities under or in respect of any Assigned Contract constituting a Purchased Asset on the Closing Date or thereafter deemed a Purchased Asset as of the Closing Date, including by means of novation, release or similar arrangement with the applicable Third Party; *provided* that Purchaser shall not be responsible for any fees, out-of-pocket costs or expenses resulting from or arising out of seeking such unconditional releases.

ARTICLE III.
LIABILITIES

Section 3.01. Assumed Liabilities.

From and after the Closing Date, Purchaser assumes, and agrees to pay, perform and discharge in accordance with the respective terms and subject to the respective conditions thereof, the following Liabilities of Seller in all cases excepting the Excluded Liabilities (collectively, the "Assumed Liabilities"):

(a) all Liabilities arising out of, related to or required to be performed under the Purchased Assets, including the Assigned Contracts, to the extent arising out of, relating to or resulting from any act, error or omission of Purchaser occurring at or following the Closing; *provided*, *however*, that until such time as any Required Consent Contract is assigned or transferred to Purchaser pursuant to an effective consent or approval, Purchaser shall assume and undertake to pay, perform and discharge such Required Consent Contract in accordance with the terms of Section 2.03 herein;

(b) all obligations of Purchaser pursuant to the terms of the Haulage Agreement and the Trackage Rights Agreement arising from and after the Closing, in each case to the extent such agreement remains in effect following the Closing;

(c) except as otherwise provided in the Trackage Rights Agreement and the Haulage Agreement, all Liabilities arising out of or related to Purchaser's ownership, access, development, use and operation of the Sarpy Property from and after the Closing, but only to the extent arising from Purchaser's acts, omissions or operations after the Closing and not from any pre-Closing act, omission, condition or event, including all Taxes that Purchaser is obligated to assume under Section 7.04; and

(d) all other Liabilities arising out of, or related to, Purchaser's ownership, operation or use of the Purchased Assets from and after the Closing, but only to the extent arising from Purchaser's acts, omissions or operations after the Closing and not from any pre-Closing act, omission, condition or event or any Excluded Liability. Seller shall fully cooperate and timely provide to Purchaser any information requested by Purchaser to properly review, evaluate, settle and/or litigate any Liabilities assumed by Purchaser pursuant to this Section 3.01(d).

Section 3.02. Excluded Liabilities.

Purchaser shall not assume or be obligated to pay, perform or otherwise discharge any of the following Liabilities of Seller (all of such Liabilities not so assumed by Purchaser being referred to herein as the "Excluded Liabilities"):

(a) except as otherwise provided in Section 2.03 herein, any Liabilities arising out of or related to the Excluded Assets or arising out of or related to indebtedness for borrowed money or capital lease obligations;

(b) all Environmental Liabilities arising out of or related to the ownership, operation or use of the Purchased Assets, including the disposal of Hazardous Substances at any location whatsoever, whether arising out of, related to, or resulting from, the ownership, operation or use of the Purchased Assets prior to the Closing, including all Environmental Liabilities for any Release of Hazardous Substances at the Purchased Assets or any other location whatsoever or violation of Environmental Law at the Purchased Assets, first occurring prior to the Closing even if continuing after the Closing, including any Environmental Liabilities for the Remedial Action or Release of Hazardous Substances identified on Section 3.02(b) of the Disclosure Schedules ("Prior Environmental Liabilities");

(c) any Liability for Seller Taxes or public utilities relating to the Purchased Assets for periods (or portions thereof, having regard to Section 7.04), ending on or prior to the Closing Date;

(d) any Liability of Seller (i) to any employees or independent contractors of Seller and its Affiliates relating to their employment or retention by Seller and its Affiliates (including for salary, wages, commissions, labor protective conditions, or any other form of compensation, severance pay, termination pay, notice of termination of employment or pay in lieu of such notice, damages for wrongful dismissal, health, accident, sickness, death and disability benefits, workers compensation benefits, claims made under the Federal Employers Liability Act or the Consolidated Omnibus Budget Reconciliation Act of 1985, each as amended from time to time, employee benefits and claims, employee welfare benefits and claims, and all other claims arising out of, relating to or resulting from their employment or provision of services to Seller and its Affiliates) or (ii) under any employee benefit plan or agreement, employee welfare plan or employee pension plan of Seller and its Affiliates, including any multi-employer pension plan in which Seller or any of its Affiliates participates;

(e) any Liability of Seller in respect of any breach of or default under, or any non-compliance with respect to, any Assigned Contract by Seller to the extent arising out of, relating to or resulting from any act, error or omission of Seller occurring at or prior to Closing or

any payment obligation of Seller for any goods or services provided to Seller under any Assigned Contract prior to Closing;

(f) all obligations of Seller pursuant to the terms of the Haulage Agreement and the Trackage Rights Agreement, including obligations arising before the Closing and, to the extent applicable, obligations that remain with Seller following the Closing;

(g) any Liabilities arising out of, related to, or resulting from, the ownership, maintenance, operation or use of the Purchased Assets prior to the Closing. Purchaser shall fully cooperate and timely provide to Seller any information requested by Seller to properly review, evaluate, settle and/or litigate any Liabilities retained by Seller;

(h) any Liability of Seller to indemnify any Person by reason of the fact that such Person was a partner, manager, trustee, director, officer, employee or agent of Seller or any of its Affiliates or was serving at the request of any such Person as a partner, manager, trustee, director, officer, employee or agent of another Person;

(i) except as otherwise provided by the terms of this Agreement, any Liability of Seller for costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby, or under this Agreement or any other Transaction Document, or of Seller to any Affiliate or Representative of Seller;

(j) any Liability of Seller arising out of any collective bargaining agreement or labor contract to which Seller or any Affiliate is a party;

(k) except as otherwise provided in this Agreement, any Liability of Seller to any customer, tenant, licensee, occupant, contractor, vendor or other Person, or any Liability for any accounts payable of Seller as of the Closing, in each case related to or resulting from the ownership, maintenance, operation or use of the Purchased Assets prior to the Closing;

(l) any Liability, claim, Proceeding, cost or expense arising from or relating to the UP/NS Transaction, the proceedings in Finance Docket No. 36873, the STB Divestiture Order or Seller's implementation of the divestiture contemplated hereby, except to the extent resulting from Purchaser's breach of this Agreement or Purchaser's ownership, access, development, use or operation of the Purchased Assets after the Closing; and

(m) any Liability, cost or expense resulting from Seller's failure to convey any Purchased Asset, obtain any required consent, release any Encumbrance required to be released or provide Purchaser with the trackage rights, haulage, access, rail connection, utility and other rights required by this Agreement.

ARTICLE IV.
CLOSING AND PURCHASE PRICE

Section 4.01. Closing; Closing Date Deliveries.

The closing of the transactions contemplated by this Agreement (the "Closing") shall take place by exchange of documents by Electronic Delivery (except for the Deed, for which Seller shall deliver to Purchaser one original wet-ink, signed and notarized copy for each county in which the Transferred Real Property is located) on the date specified in the STB Divestiture Order or, if no date is specified, immediately prior to or concurrently with the UP/NS Transaction Closing, subject to the satisfaction or waiver, to the extent permitted, of the conditions set forth in ARTICLE VIII (other than conditions to be satisfied by action taken at the Closing, but subject to their satisfaction or waiver at the Closing), or at such other time and date as Seller and Purchaser may agree in writing (such date, the "Closing Date").

Section 4.02. Purchase Price; Adjustment Amount.

(a) In consideration of the transactions contemplated by this Agreement, Purchaser agrees (i) to pay $[●] (the "Base Purchase Price") *plus or minus* the Adjustment Amount calculated in the manner set forth in Section 4.02(b) (collectively, the "Purchase Price") and (ii) to assume the Assumed Liabilities.

(b) Not less than three Business Days prior to the Closing Date, Seller shall deliver to Purchaser a written statement in the form of Exhibit B (the "Adjustment Statement") setting forth (i) Seller's good faith estimate of Purchaser's share of the prorated amounts for the following, in each case as of the Closing Date (collectively, the "Adjustment Amount"): (A) Taxes in accordance with **Error! Reference source not found.**, (B) prepaid fees related to the Permits attributable to periods after the Closing, (C) accrued but unpaid fees related to the Permits attributable to periods ending on or before the Closing, (D) prepaid amounts and accrued but unpaid amounts under the Assigned Contracts allocated between the pre-Closing and post-Closing periods consistently with the allocation of Assumed Liabilities and Excluded Liabilities, and (E) [●], and (ii) on the basis of the foregoing, a calculation of the Purchase Price payable by Purchaser at Closing. For the avoidance of doubt, if the Adjustment Amount is a positive number, such amount shall be added to the Base Purchase Price to calculate the Purchase Price and, if the Adjustment Amount is a negative number, the absolute value of such amount shall be deducted from the Base Purchase Price to calculate the Purchase Price.

(c) Within ninety (90) days after the Closing, Purchaser shall deliver to Seller a final Adjustment Statement, together with reasonable supporting documentation. Seller may object to the final Adjustment Statement by written notice delivered within thirty (30) days after receipt, specifying in reasonable detail the items disputed. Any item not timely disputed shall be final and binding. The Parties shall resolve any timely disputed item in good faith and, if not resolved within thirty (30) days, shall submit the remaining dispute to a mutually agreed independent accounting firm, whose determination shall be final and binding. Any amount due as a result of the final determination of the Adjustment Amount shall be paid within five (5) Business Days thereafter.

Section 4.03. Seller Closing Deliveries.

At the Closing and subject to the terms and conditions herein contained, Seller shall deliver to Purchaser the following:

(a) a bill of sale for the personal property included in the Purchased Assets, in substantially the form attached hereto as Exhibit C, duly executed by Seller (the "Bill of Sale");

(b) a certificate pursuant to Treasury Regulations Section 1.1445-2(b) that Seller is not a foreign Person within the meaning of Section 1445 of the Code as well as IRS Form W-9 of Seller;

(c) the Transition Services Agreement, in substantially the form attached as Exhibit D regarding the provision of transition services, duly executed by Seller (the "Transition Services Agreement");

(d) for each county in which the Transferred Real Property is located, a quitclaim deed with respect to the transfer to Purchaser of the Transferred Real Property in such county, duly executed by Seller (collectively, the "Deed");

(e) an assignment and assumption agreement evidencing the sale, assignment, transfer, conveyance and delivery to Purchaser, and Purchaser's purchase, acquisition and acceptance from Seller on the Closing Date, of the Assigned Contracts and Assumed Liabilities, in substantially the form attached hereto as Exhibit E, duly executed by Seller (the "Assignment and Assumption Agreement");

(f) to the extent expressly required by the STB Divestiture Order, a trackage rights agreement granting Purchaser non-exclusive trackage rights over the portions of the Kansas City Line and related connections necessary for Purchaser to access, develop, use and operate the Sarpy Property, in substantially the form attached hereto as Exhibit F and on terms that do not materially impair Purchaser's ownership, access, development, use or operation of the Sarpy Property, duly executed by Seller (the "Trackage Rights Agreement");

(g) to the extent expressly required by the STB Divestiture Order, an agreement pursuant to which Seller provides haulage service for the account of Purchaser over the portions of the Kansas City Line specified therein, including service necessary to support Purchaser's access to and use of the Sarpy Property, in substantially the form attached hereto as Exhibit G and on terms that do not materially impair Purchaser's ownership, access, development, use or operation of the Sarpy Property, duly executed by Seller (the "Haulage Agreement");

(h) an instrument terminating or superseding, effective as of the Closing, each pre-Closing lease, license, access, shared-use, trackage-rights or other agreement under which Seller or any Third Party has rights in or over the Sarpy Property that are inconsistent with Purchaser's ownership or the Transaction Documents, except to the extent any right or obligation is expressly stated to survive the Closing in such instrument, duly executed by Seller (the "Access Agreements Termination Instrument");

(i) a certificate executed by an officer of Seller certifying that attached thereto are (i) true and correct copies of the organizational documents of Seller; (ii) a true and correct copy of the resolutions of the board of directors or other governing body of Seller authorizing the execution and delivery of this Agreement and the other Transaction Documents and the performance by Seller of the transactions contemplated hereby and thereby; and (iii) a certificate of good standing in respect of Seller from its applicable jurisdiction of organization;

(j) an officer's certificate of Seller required by Section 8.02(c) dated as of the Closing Date in substantially the form attached hereto as Exhibit H;

(k) a final and complete Exhibit A, all legal descriptions, surveys and all Disclosure Schedules required by this Agreement, in each case reasonably satisfactory to Purchaser and consistent with the STB Divestiture Order; and

(l) all consents, approvals, novations and replacement arrangements required under Section 2.03, together with all releases, termination statements and other instruments necessary to release any Encumbrance that is not a Permitted Encumbrance.

provided that where this Section 4.03 (or the definition of such document) refers to a Transaction Document other than this Agreement as being in substantially the form attached hereto, the form of such Transaction Document shall be subject only to such changes as may be agreed to by the Parties, acting reasonably and in good faith, between the date hereof and the Closing Date; *provided further* that no such change shall materially impair Purchaser's ownership, access, development, use or operation of the Sarpy Property or be inconsistent with the STB Divestiture Order.

Section 4.04. Purchaser Closing Deliveries.

At the Closing and subject to the terms and conditions herein contained, Purchaser shall deliver to Seller the following:

(a) the Purchase Price, by wire transfer of immediately available funds to an account designated in writing by Seller to Purchaser prior to the Closing Date;

(b) a counterpart of each Bill of Sale, duly executed by Purchaser;

(c) a counterpart of the Transition Services Agreement, duly executed by Purchaser;

(d) a counterpart of the Assignment and Assumption Agreement, duly executed by Purchaser;

(e) if applicable pursuant to Section 4.03(f), a counterpart of the Trackage Rights Agreement, duly executed by Purchaser;

(f) if applicable pursuant to Section 4.03(g), a counterpart of the Haulage Agreement, duly executed by Purchaser;

(g) a counterpart to the Access Agreements Termination Instrument, duly executed by Purchaser;

(h) an officer's certificate of Purchaser required by Section 8.03(c), dated as of the Closing Date in substantially the form attached hereto as Exhibit I;

(i) a certificate, dated as of the Closing Date, from an officer of Purchaser certifying that attached thereto are (i) true, correct and complete copies of the organizational and governing documents of Purchaser; (ii) a true and correct copy of the resolutions of the board of directors (or board of managers, as applicable) of Purchaser authorizing the execution and delivery of this Agreement and the other Transaction Documents and the performance by Purchaser of the transactions contemplated hereby and thereby; and (iii) a good standing certificate in respect of Purchaser from its applicable jurisdiction of organization; and

(j) an IRS Form W-9 or applicable IRS Form W-8.

Section 4.05. Withholding.

Provided that the certification contemplated by Section 4.03(b) is provided by Seller, neither Seller nor Purchaser expects for any withholding to be imposed under any applicable Tax Law in connection with the transactions contemplated by this Agreement. Notwithstanding the foregoing, Purchaser and its Affiliates shall be entitled to deduct and withhold from the consideration otherwise payable or deliverable pursuant to this Agreement to Seller such amounts as are required to be withheld and paid over to the applicable Governmental Authority under the Code or any applicable provision of Tax Law; *provided, however*, that (a) Purchaser shall use commercially reasonable efforts to notify Seller prior to making any such deduction or withholding and consider in good faith any claim by Seller that such withholding is not required or should be imposed at a reduced rate, and (b) Seller shall be given a reasonable opportunity to provide any Tax forms which might reduce or eliminate such withholding. Any amounts deducted and withheld pursuant to this Section 4.05 and timely paid over to the applicable Governmental Authority shall be treated for all purposes of this Agreement as having been paid to Seller in respect of which such deduction or withholding was made.

ARTICLE V.
REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Purchaser that the statements set forth in this ARTICLE V are true and correct as of the date hereof, except as qualified by the correspondingly numbered disclosure schedules delivered by Seller to Purchaser (the "Disclosure Schedules") and arranged in sections corresponding to numbered and lettered sections contained in this ARTICLE V.

Section 5.01. Organization and Standing.

Seller (a) is duly organized, validly existing and in good standing under the Laws of the State of Delaware, (b) is duly qualified to do business as a foreign entity and is in good

standing in each jurisdiction in which the conduct of its business so requires, and (c) has the corporate power and authority to own the Purchased Assets owned by it.

Section 5.02. Authorization, Execution and Enforceability.

Seller has the requisite corporate power, capacity and authority to execute and deliver this Agreement and each other Transaction Document to which it is a party, and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Seller of this Agreement and each other Transaction Document to which it is a party, the performance of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action on the part of Seller. This Agreement has been, and each other Transaction Document to which it is a party will be, duly executed and delivered by Seller. Assuming due authorization, execution and delivery by Purchaser, this Agreement constitutes, and each other Transaction Document to which it is a party will constitute when executed, the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar Laws relating to or affecting creditors' rights generally, and by general equitable principles (regardless of whether such enforceability is considered in a Proceeding in equity or at Law).

Section 5.03. No Conflict or Violation.

Except as set forth in Section 5.03 of the Disclosure Schedules, and subject to the STB Approvals, the execution, delivery and performance of this Agreement and each other Transaction Document to which it is a party and the consummation of the transactions contemplated hereby and thereby by Seller will not: (a) conflict with any of the provisions of Seller's organizational documents, (b) result in a violation or contravention of any Law or Governmental Order applicable to Seller, (c) result in a breach of, or constitute a default under, or otherwise give any Person the right to terminate or accelerate the performance required under, any Assigned Contract, or (d) result in the creation or imposition of any Encumbrance on or with respect to any of the Purchased Assets.

Section 5.04. No Governmental or Third Party Consent or Filing.

Except for the STB Approvals, the FCC Approval (if applicable) and the consents, approvals, novations and other arrangements specifically identified on Section 5.04 of the Disclosure Schedules, no consent, approval or authorization of, or declaration or filing with, or notice to, any Governmental Authority or Third Party is required to be obtained, made or given by Seller or any of its Affiliates to transfer or assign any Purchased Asset to Purchaser or otherwise in connection with the execution, delivery or performance of this Agreement or any other Transaction Document or the consummation of the transactions contemplated hereby or thereby.

Section 5.05. Assigned Contracts.

Sections 2.01(c), 2.01(d), 2.01(e), 2.01(f) and 5.05 of the Disclosure Schedules contain a true, correct and complete list of all material Assigned Contracts, Required Consent Contracts and other joint-facility, shared-track, trackage-rights, haulage, lease, license, easement,

crossing, interchange, access, utility, drainage, communications, shared-use, dispatching and operating agreements and arrangements relating to the Sarpy Property. Other than expirations or non-renewals following the date of this Agreement in accordance with the terms of the applicable Assigned Contract, each Assigned Contract is in full force and effect, and is valid, binding and enforceable against Seller and, to the Knowledge of Seller, the other parties thereto in accordance with its terms, in each case, except as such enforceability may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar Laws relating to or affecting creditors' rights generally, and by general equitable principles (regardless of whether such enforceability is considered in a Proceeding in equity or at Law). As of the date hereof, neither Seller nor, to the Knowledge of Seller, any other party to an Assigned Contract is in breach or violation of, or default under, any Assigned Contract and, to the Knowledge of Seller, no event has occurred that with or without notice or lapse of time or both would constitute a breach or default of any Assigned Contract. Seller has not received, since January 1, 2021, any written notice of any dispute or claim asserting any material breach or default under any Assigned Contract that has not been fully resolved or withdrawn by a Third Party without any further Liability or obligation of Seller. Seller is not currently renegotiating any of the Assigned Contracts or paying liquidated damages in lieu of performance thereunder. No Assigned Contract contains terms unduly burdensome to Seller with respect to the Purchased Assets or is harmful to the Purchaser's ownership, access, development, use or operation of the Sarpy Property.

Section 5.06. Purchased Assets.

Except as set forth in Section 5.06 of the Disclosure Schedules, Seller owns good, valid and marketable title to all Purchased Assets owned in fee and has valid, binding, enforceable and transferable rights to possess, use and convey all other Purchased Assets, in each case free and clear of all Encumbrances other than Permitted Encumbrances. Seller has the power and authority, and at the Closing will have the right, to convey or cause to be conveyed to Purchaser all of the Purchased Assets and all rights necessary for Purchaser to own, access, develop, use and operate the Sarpy Property for freight railroad yard and terminal purposes, including intermodal and automotive operations.

Section 5.07. Litigation.

Except as set forth in Section 5.07 of the Disclosure Schedules, there are no Proceedings pending or, to the Knowledge of Seller, threatened, seeking to restrain or prohibit Seller from entering into this Agreement or consummating the transactions contemplated hereby, prohibit the Closing, or seek damages against Seller or the Purchased Assets as a result of the consummation of this Agreement. No Proceeding is pending and, to Seller's Knowledge, no claim has been made or threatened, nor does there exist any fact or circumstance that could reasonably be expected to give rise to such a claim, in each case since January 1, 2021, that has resulted in or reasonably could be expected to result in a liability or an indemnification obligation with respect to Seller or the Purchased Assets.

Section 5.08. Real Property.

(a) Section 5.08(a) of the Disclosure Schedules sets forth a list of all leases of real property to which Seller is a party included in the Purchased Assets (the real property subject

to such leases being referred to herein as the "Leased Real Property"). Except as set forth in Section 5.08(a) of the Disclosure Schedules (i) Seller is not in default under any lease of Leased Real Property and has not received notice of any asserted default, (ii) no event or condition exists which constitutes, or after notice or lapse of time or both would constitute, a default on the part of Seller under any lease of Leased Real Property, and (iii) as of the date of this Agreement, Seller has not received written notice from any other party to a lease of Leased Real Property that such other party intends to terminate, not renew, or renegotiate the terms of, any such lease.

(b) There are no leases, subleases, concessions, licenses or other contracts granting to any Person other than Seller the right to use or occupy any Transferred Real Property or Leased Real Property, in each case that would constitute an Encumbrance (other than a Permitted Encumbrance). There are no outstanding options, rights of first offer, or rights of first refusal to purchase or lease any Transferred Real Property or any portion thereof or any interest therein.

(c) Seller has title to or other valid rights in and to the Transferred Real Property, subject only to Permitted Encumbrances, and has a valid leasehold interest in each Leased Real Property, in each case sufficient to enable Purchaser after the Closing to own, access, develop, use and operate the Sarpy Property for freight railroad yard and terminal purposes, including intermodal and automotive operations, subject to construction, rehabilitation and governmental approvals applicable to Purchaser's planned development and operations.

Section 5.09. Environmental Matters.

Except as set forth in Section 5.09 of the Disclosure Schedules or except as would not, individually or in the aggregate, reasonably be expected to be material:

(a) Seller, in its ownership, maintenance, operation and use of the Purchased Assets, including during periods when all or any portion of the Sarpy Property has been inactive, (i) is, and has been since March 1, 2017, in compliance with all Environmental Laws and (ii) possesses and is in compliance with and has since March 1, 2017 possessed, been in compliance with and filed timely renewal applications for, all Permits that are required pursuant to Environmental Laws;

(b) (i) No Governmental Orders have been received by Seller from a Governmental Authority or other Person, and (ii) there are no Proceedings pending or, to the Knowledge of Seller, threatened against Seller, in the case of each of clauses (i) and (ii), that (A) relates to the Purchased Assets and (B) alleges a violation of any Environmental Law by Seller, seeks to impose Liabilities on Seller under an Environmental Law, or seeks the revocation, modification or termination of a Permit required pursuant to Environmental Laws held by Seller, that has not been settled, dismissed, paid or otherwise resolved or for which outstanding obligations exist under a settlement agreement;

(c) To the Knowledge of Seller, none of the Transferred Real Property or the Leased Real Property has been placed or proposed for placement on the National Priorities List or any similar state list of properties requiring Remedial Action under Environmental Law;

(d) Seller is not subject to any pending or threatened Proceeding in connection with the Purchased Assets alleging or concerning (i) any Liabilities arising from the Release or threatened Release of any Hazardous Substances, (ii) any Liabilities for personal injury or threatened personal injury, or damage or threatened damage to property or natural resources or (iii) any Liabilities or costs arising out of or under any Environmental Law;

(e) There have been no Releases of any Hazardous Substances on, at, under, to or from the Transferred Real Property or the Leased Real Property, that would reasonably be expected to require Remedial Action;

(f) The Remedial Action identified on Section 3.02(b) of the Disclosure Schedules for certain Purchased Assets has been completed;

(g) To the Knowledge of Seller, there are no state or federal liens on the Transferred Real Property or the Leased Real Property arising under Environmental Laws for the payment of money by any Governmental Authority;

(h) Neither the Transferred Real Property nor the Leased Real Property is subject to a pending or recorded activity use limitation, institutional control or engineering control pursuant to any Environmental Laws;

(i) To the Knowledge of Seller, there is not constructed, placed, deposited, released, stored, disposed, leaching nor located on any of the Purchased Assets any polychlorinated biphenyls ("PCBs") or transformers, capacitors, ballasts or other equipment which contain dielectric fluid containing PCBs, or any other insulating material containing urea formaldehydes;

(j) To the Knowledge of Seller, there are no underground storage tanks, landfills, impoundments, waste piles, sumps, or gas or oil wells, or associated piping, located on the Transferred Real Property or the Leased Real Property;

(k) Neither this Agreement nor the consummation of the transactions contemplated herein will result in any obligation for site investigation or cleanup, or notification to or consent of any Governmental Authority or Third Party, pursuant to any Environmental Laws, including any of the so-called "transaction triggered" or "responsible property transfer" Environmental Laws; and

(l) Seller has provided to Purchaser all material environmental reports, including compliance audits, Phase I environmental site assessments, and Phase II environmental site assessments, in Seller's possession regarding the Purchased Assets.

Section 5.10. Tax Matters.

(a) all Tax Returns required to be filed with respect to the Purchased Assets have been timely filed and all such Tax Returns are correct and complete in all material respects. All material Taxes required to have been paid with respect to the Purchased Assets have been timely paid (whether or not shown as due on any Tax Return);

(b) There are no Encumbrances for Taxes upon the Purchased Assets;

(c) Seller has withheld and paid or remitted all material Taxes required to be withheld and paid with respect to the Purchased Assets, and all Tax Returns required with respect thereto have been completed substantially in accordance with Law and timely filed;

(d) There is no pending dispute or claim concerning any Taxes of Seller with respect to the Purchased Assets claimed or raised by any taxing authority in writing. Seller has not waived any statute of limitation or agreed to any extension of time with respect to any Tax assessment or deficiency pertaining to the Purchased Assets;

(e) All of the Purchased Assets have been properly listed and described on the applicable property Tax rolls prior to and including the Closing Date and no portion of the Purchased Assets constitutes omitted property for property Tax purposes;

(f) None of the Purchased Assets is subject to any tax partnership agreement or is otherwise treated, or required to be treated, as held in an arrangement requiring a partnership income Tax Return to be filed under Subchapter K of Chapter 1 of Subtitle A of the Code; and

(g) There are no abatements of or exemptions from Taxes applicable to the Purchased Assets.

The representations and warranties contained in this Section 5.10 constitute the sole representations and warranties of Seller relating to Taxes.

Section 5.11. Compliance with Laws; Permits.

Seller has complied with and is in material compliance with all Laws applicable to the Sarpy Property and the Purchased Assets. No violation of any Permit or Laws governing the issuance or continued validity thereof has occurred. Seller has all Permits necessary to own, maintain and use the Purchased Assets lawfully in the manner in which they are now owned, maintained, and used, which Permits are listed in Section 5.11 of the Disclosure Schedules. No Proceeding is pending or, to the Knowledge of Seller, threatened, to revoke or limit any Permit.

Section 5.12. Conduct of Business.

Since January 1, 2021 to the date of this Agreement, (a) no unrepaired physical Loss or damage has occurred to the Purchased Assets in an amount exceeding $1,000,000 individually, and (b) the Purchased Assets have not suffered any event, change, development, circumstance or effect that, individually or together with any other event, change, development, circumstance or effect, has resulted in or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect (for the avoidance of doubt, excluding impacts of the COVID-19 pandemic).

Section 5.13. Condition of Sarpy Property.

True and complete copies of all material inspection, maintenance, engineering, environmental and condition reports in the possession or under the control of Seller or any of its Affiliates describing the condition of the tracks, buildings, structures, utilities, drainage facilities and other improvements included in the Purchased Assets have been provided to Purchaser.

Section 5.13 Schedules identifies all material tracks or facilities that are inactive, out of service or subject to operating restrictions and all material physical defects, deferred maintenance and rehabilitation requirements known to Seller. Except as set forth on Section 5.13 of the Disclosure Schedules, the Purchased Assets have not suffered any material casualty or material deterioration since January 1, 2021, and Seller has not received written notice that any material improvement included in the Purchased Assets is in violation of applicable Law.

Section 5.14. Brokerage.

Except as set forth in Section 5.14 of the Disclosure Schedules, no Person is entitled to any brokerage commission, finders' fee or similar compensation in connection with this Agreement and the transactions contemplated hereby based on any arrangement or agreement made by or on behalf of Seller.

Section 5.15. Insurance.

Section 5.15 of the Disclosure Schedules sets forth a true and complete list and brief description (including nature of coverage, limits, deductibles, premiums and the loss experience for the most recent two years with respect to each type of coverage) of all policies of insurance maintained, owned or held by Seller on the date hereof with respect to the Purchased Assets. All insurance policies have been in effect since they were issued and remain in full force and effect in accordance with their terms. All premiums payable under such insurance policies have been timely paid and Seller has complied with each of such insurance policies and has not failed to give any notice or present any claim thereunder in a due and timely manner. With respect to each insurance policy, (a) the coverage limits under such policy have not been exhausted or impaired, (b) to the Knowledge of Seller, Seller has given timely notice to the applicable carrier of all matters occurring prior to the date hereof which may give rise to a claim under such policy and (c) to the Knowledge of Seller, the applicable carrier is not bankrupt or insolvent or seeking reorganization, winding-up, liquidation, dissolution or other similar relief with respect to it or its debts.

Section 5.16. Sufficiency of Assets.

(a) The Purchased Assets, together with the rights to be provided under the Trackage Rights Agreement and the Haulage Agreement, include all assets and rights owned or controlled by Seller that are necessary for Purchaser to own, access, develop, use and operate the Sarpy Property for freight railroad yard and terminal purposes, including intermodal and automotive operations, subject to construction, rehabilitation and governmental approvals applicable to Purchaser's planned development and operations, without requiring any material asset, right, consent or service from Seller or any Third Party other than those expressly provided under the Transaction Documents.

(b) Except as disclosed on Section 5.16(b) of the Disclosure Schedules, there are no material assets, rights, licenses, Permits or property interests of any kind or description, real, personal or mixed, tangible or intangible, owned, held or currently used in connection with the Purchased Assets that are not owned by Seller or currently used by it pursuant to valid and existing leases, licenses or other agreements.

ARTICLE VI.
REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to Seller that the statements set forth in this ARTICLE VI are true and correct as of the date hereof.

Section 6.01. Organization and Standing.

(a) Purchaser is duly organized, validly existing and in good standing under the Laws of the State of Illinois, (b) Purchaser is duly qualified and in good standing as a foreign entity and is in good standing in each jurisdiction in which the conduct of its business so requires, except where the failure to be so qualified and in good standing would not reasonably be expected to have a material adverse effect on the ability of Purchaser to consummate the transactions contemplated by this Agreement and (c) Purchaser has all requisite corporate power and authority to own, lease, and operate its properties and to carry on its businesses as now being conducted.

Section 6.02. Authorization, Execution and Enforceability.

Purchaser has the requisite corporate power, capacity and authority to execute and deliver this Agreement and each other Transaction Document to which it is a party, and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Purchaser of this Agreement and each other Transaction Document to which it is a party, the performance of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action on the part of Purchaser. This Agreement has been, and each other Transaction Document to which it is a party will be, duly executed and delivered by Purchaser. Assuming due authorization, execution and delivery by Seller, this Agreement constitutes, and each other Transaction Document to which it is a party will constitute when executed, the valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar Laws relating to or affecting creditors' rights generally and by general equitable principles (regardless of whether such enforceability is considered in a Proceeding in equity or at Law).

Section 6.03. No Conflict or Violation.

Subject to the STB Approvals and the FCC Approval (if applicable), the execution, delivery and performance of this Agreement and each other Transaction Document to which it is a party and the consummation of the transactions contemplated hereby and thereby by Purchaser will not: (a) conflict with any of the provisions of its organizational documents, (b) result in a violation or contravention of any statute, Law or Governmental Order applicable to it, (c) result in a breach of or constitute a default under, or otherwise give any Person the right to terminate or accelerate the performance required under, any contract or agreement to which Purchaser is a party, or (d) result in the creation or imposition of any Encumbrance on or with respect to any property or asset of Purchaser.

Section 6.04. No Governmental Consent or Filing.

No consent, approval or authorization of, or declaration or filing with, or notice to, any Governmental Authority is required to be obtained, made or given by Purchaser in connection with the execution, delivery or performance of this Agreement or any other Transaction Document to which it is a party, or the consummation of the transactions contemplated hereby or thereby, except for (a) the STB Approvals, (b) the FCC Approval, if applicable, and (c) those that, if not obtained, made or given, would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the ability of Purchaser to consummate the transactions contemplated hereby.

Section 6.05. Litigation.

As of the date hereof there are no Proceedings pending or, to the Knowledge of Purchaser, threatened in writing against Purchaser, in each case that would reasonably be expected to have, individually or in the aggregate, a material adverse impact on the ability of Purchaser to consummate the transactions contemplated hereby.

Section 6.06. No Brokers.

No Person is entitled to any brokerage commission, finders' fee or similar compensation in connection with this Agreement and the transactions contemplated hereby based on any arrangement made by or on behalf of Purchaser.

ARTICLE VII.
COVENANTS

Section 7.01. Effort

(a) From and after the date hereof, Purchaser and Seller shall use their respective commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable under any applicable Law to consummate and make effective in the most expeditious manner possible the transactions contemplated by this Agreement, including (i) the preparation and filing of all applications, forms, registrations and notices required to be filed to consummate the transactions contemplated by this Agreement, (ii) taking all actions necessary to obtain (and cooperating with each other in obtaining) any consent or approval of any Third Party, including any Governmental Authority, required to be obtained or made by Purchaser or Seller in connection with the transactions contemplated by this Agreement and (iii) the execution and delivery of any additional instruments necessary to consummate the transactions contemplated by this Agreement and to fully carry out the purposes of this Agreement.

(b) Seller shall comply with the STB Divestiture Order and shall take all actions necessary to implement the divestiture of the Purchase Assets required thereby and consummate the transactions contemplated by this Agreement.

(c) Purchaser shall bear its own costs, fees and expenses incurred in connection with the proceedings in Finance Docket No. 36873 and any filing required to obtain the STB Approvals. Seller shall bear all costs, fees and expenses incurred to obtain any consent, approval, novation or other arrangement required to transfer the Purchased Assets and to comply with and implement the STB Divestiture Order, except as otherwise expressly provided in a Transaction Document.

Section 7.02. Conduct of Business.

(a) Except as set forth in Section 7.02(a) of the Disclosure Schedules, as required by applicable Law, as otherwise required or contemplated by the terms of this Agreement, or as Purchaser may otherwise consent to (such consent not to be unreasonably withheld, conditioned or delayed), from the date of this Agreement to the Closing, Seller shall:

(i) maintain and preserve the Purchased Assets in the ordinary course consistent with the current inactive status of the Sarpy Property, protect the Purchased Assets from waste and material deterioration and preserve Seller's material relationships with tenants, licensees, utility providers, governmental authorities and other Persons having material property-related relationships with Seller relating to the Purchased Assets;

(ii) pay or cause to be paid all material costs and expenses (including insurance premiums) incurred in connection therewith in a timely manner, except those contested in good faith by Seller;

(iii) use commercially reasonable efforts to keep all Assigned Contracts in full force and effect (and, where such Assigned Contracts are due to expire prior to Closing, to secure a renewal or extension of such Assigned Contracts on terms substantially similar to their existing terms);

(iv) comply with all of the material covenants contained in all Assigned Contracts;

(v) maintain in force until the Closing Date insurance policies equivalent to those in effect on the date hereof;

(vi) comply in all material respects, with all applicable Laws;

(vii) during normal business hours, in accordance with reasonable procedures established by Seller and in a manner that does not unreasonably interfere with Seller's business or operations, accommodate reasonable access by Purchaser and its Representatives to (A) the Transferred Real Property and the Leased Real Property included in the Purchased Assets for surveys, title review, environmental and engineering diligence, sampling, design, permitting, planning and preparation for Purchaser's development and operations effective as of the Closing Date and (B) copies of the books and records relating to the ownership, condition, maintenance, access and use of the Purchased Assets;

(viii) not take any of the following actions: (A) sell, pledge, dispose of, lease, license or encumber any of the Purchased Assets except for the disposition of worn-out or obsolete personal property that is not material to Purchaser's contemplated use of the Sarpy Property and is replaced before the Closing with property of equivalent or greater utility and value; (B) terminate or materially amend any Assigned Contract; (C) grant any lease, license, easement, trackage right, access right, shared-use right or other right to use all or any part of the Sarpy Property to any Person; (D) abandon, remove, retire or materially alter any track, building, utility, access point or other material improvement included in the Purchased Assets; (E) authorize, commit or agree to take any of the foregoing actions; or (F) enter into, modify, amend or terminate any Assigned Contract.

(b) Anything to the contrary in this Agreement notwithstanding, the Parties acknowledge and agree that nothing in this Section 7.02 shall be deemed to limit the sale, lease, license, disposition or transfer of any Excluded Assets by Seller prior to, at or after the Closing.

(c) Anything to the contrary in this Agreement notwithstanding, nothing in this Section 7.02 shall prohibit or otherwise restrict in any way the operation of any business of Seller or its Affiliates, except solely with respect to the ownership, maintenance, operation or use of the Sarpy Property and the other Purchased Assets by Seller and its Affiliates.

(d) Seller shall promptly notify Purchaser of any damage to or destruction of any tangible Purchased Asset following the date hereof and prior to the Closing. If the aggregate cost to repair or replace such damaged or destroyed Purchased Assets exceeds $1,000,000, Purchaser may elect, in its sole discretion, to (i) require Seller to repair or replace the affected Purchased Assets to substantially their pre-casualty condition at Seller's sole cost before the Closing, with the Closing postponed for the period reasonably necessary to complete such work, (ii) proceed with the Closing and receive a reduction in the Purchase Price equal to the reasonably estimated unreimbursed cost to repair or replace the affected Purchased Assets, together with an assignment of all related insurance claims and proceeds, or (iii) terminate this Agreement if the damage or destruction has resulted in, or would reasonably be expected to result in, a Material Adverse Effect. Seller shall not settle or compromise any related insurance claim in a manner that adversely affects Purchaser without Purchaser's prior written consent.

Section 7.03. Expenses; No Offset.

Except as otherwise specifically provided in this Agreement, the Parties to this Agreement each shall bear their respective expenses incurred in connection with the preparation, execution and performance of this Agreement and consummation of the transactions contemplated hereby, including all fees and expenses of their respective Representatives. Neither Party may make any offset against amounts due to the other Party or its Affiliates pursuant to this Agreement or the other Transaction Documents, except with respect to amounts that are then due and payable and either agreed in writing by the Parties or finally determined by a court of competent jurisdiction.

Section 7.04. Tax Matters.

(a) All amounts payable by Purchaser to Seller pursuant to this Agreement do not include any goods and services, harmonized sales, value-added, sales, use, consumption, multi staged, ad valorem, personal property, customs, excise, stamp, documentary, transfer or similar Taxes, duties or charges arising out of or in connection with the transactions effected pursuant to this Agreement (collectively, "Transfer Taxes"). All Transfer Taxes, and the collection and remittance thereof to appropriate Governmental Authorities, are the responsibility and for the account of Seller. Seller and Purchaser agree to use commercially reasonable efforts to mitigate, reduce or eliminate any Transfer Taxes, and to obtain any certificate or other document from any Governmental Authority or any other Person, and to jointly make any election as may be available to mitigate, reduce or eliminate any such Transfer Taxes that could be imposed on Seller as a result of the consummation of the transactions contemplated by this Agreement. Seller and Purchaser shall cooperate with one another in the preparation of any necessary Tax Returns and other related documentation with respect to such Transfer Taxes (including any exemption certificates and forms as each may request to establish an exemption from (or otherwise reduce) or make a report with respect to such Transfer Taxes).

(b) Seller shall be responsible for all Asset Taxes attributable to any Pre-Closing Tax Period, and Purchaser shall be responsible for all Asset Taxes attributable to any taxable period beginning after the Closing Date. Asset Taxes for a Straddle Period shall be allocated in accordance with the definition of Straddle Period. To the extent the actual amount of any such Asset Tax (or the amount thereof paid or economically borne by a Party) is ultimately determined to be different from the amount, if any, taken into account as an adjustment to the Purchase Price under Section 4.02(b), timely payments will be made from one Party to the other to the extent necessary to cause each Party to bear the amount of such Tax allocable to such Party under this Section 7.04(b).

(c) Purchaser and Seller shall, and shall cause their respective Affiliates to, cooperate fully, as and to the extent reasonably requested by the other Party, in connection with the filing of Tax Returns, opening and closing of Tax accounts, and any audit, litigation or other Proceeding with respect to Taxes owed or claimed to be owed with respect to the Purchased Assets and the Assumed Liabilities.

(d) The Purchase Price related to the Purchased Assets (and the agreed fair market value of the Assumed Liabilities, if any, required to be treated as consideration under Section 1060 of the Code) shall be allocated among the Purchased Assets for Tax purposes (and also for all non-Income Tax purposes to the extent acceptable) in accordance with Section 1060 of the Code and the Treasury Regulations thereunder and as set forth on Exhibit J, which schedule also sets forth the identifying information to be included in Part I of IRS Form 8594 (the "Allocation Schedule"). The Allocation Schedule shall specifically set forth the amount allocated to the Transferred Real Property and each other material category of Purchased Assets. A draft of the Allocation Schedule shall be prepared by Purchaser and delivered to Seller not less than three Business Days prior to the Closing Date. Seller shall review and provide comments, Purchaser shall duly consider all reasonable comments of Seller, and Seller and Purchaser will mutually determine the amounts set forth in the Allocation Schedule as of Closing. If Seller and Purchaser are unable to agree on the specific amounts to be allocated among the Purchased Assets, they shall

continue to work together in good faith after Closing to reach agreement on such allocation. Upon reaching final agreement, either before or after Closing, the Parties shall reflect the agreed allocation in writing in an updated version of the Allocation Schedule.

(i) Purchaser and Seller shall file their income (and non-income, to the extent permitted under applicable Law) Tax Returns (including IRS Form 8594 and any corresponding state or local Tax form) in all respects and for all purposes consistent with the Allocation Schedule, and no Party shall thereafter take a position on any such Tax Return that is inconsistent with the Allocation Schedule unless expressly required to do so by Law. Purchaser and Seller shall also apply the values in the Allocation Schedule as of Closing for purposes of determining the amount of any Transfer Tax and the value of recording any Transferred Real Property conveyed pursuant to this Agreement. If Seller and Purchaser are unable to agree on the specific amounts to be allocated among the Purchased Assets in accordance with the Allocation Schedule then they shall be required to continue to work together in good faith to agree after Closing on a preliminary allocation among the Purchased Assets that shall be used for purposes of determining the amount of any Transfer Taxes or property transfer Taxes, and such preliminary allocation shall be used for all such related Tax Returns.

(ii) If any such allocation is disputed by any taxation or other Governmental Authority, the Party receiving notice of such dispute shall promptly notify the other Party and the Parties shall use commercially reasonable efforts to sustain those allocations. The parties shall share information and cooperate to the extent reasonably necessary to permit the transactions contemplated by this Agreement to be properly, timely and consistently reported.

(e) Any adjustments to the Purchase Price shall be reflected as an adjustment to the price allocated to the specific asset, if any, giving rise to the adjustment, and if any such adjustment does not relate to a specific asset, such adjustment shall be allocated among the Purchased Assets in a manner consistent with the Allocation Schedule. Such adjustments, if any, shall be determined in good faith by mutual agreement of Seller and Purchaser.

Section 7.05. Further Actions.

(a) After the Closing, at the request of a Party, the other Party shall cooperate and use commercially reasonable efforts to carry out the intent of this Agreement, and each Party will execute and deliver such other documents and instruments of conveyance, assignment, transfer, assumption and delivery and take such other actions as the other Party reasonably may request in order to consummate, complete and carry out the transactions contemplated hereby, at the expense of the requesting Party.

(b) At Purchaser's sole cost and expense and within 30 days after the Closing Date, at each railroad-highway at-grade crossing located on the Sarpy Property for which Purchaser becomes responsible, Purchaser shall either (i) replace Seller's Emergency Notification Systems (ENS) signs posted at such crossing with Purchaser's ENS signs, which shall identify Purchaser as the emergency contact and provide an emergency telephone number to contact Purchaser at all times (24/7) pursuant to 49 C.F.R. 234, Subpart E, or (ii) use a sticker, decal or

other device to cover Seller's name and emergency telephone number on the emergency sign and replace such information with Purchaser's name and an emergency telephone number. Within 35 days after the Closing Date, Purchaser shall provide Seller notice, pursuant to Section 11.01, that it has complied with this Section 7.05(b). This Section applies only to crossings and signs for which responsibility transfers to Purchaser at Closing.

(c) Seller shall cooperate with Purchaser in connection with any requirement the Federal Railroad Administration ("FRA"), the STB or any other Governmental Authority may impose in connection with Purchaser's acquisition, rehabilitation, development or rail use of the Sarpy Property, including any requirement related to track classification, grade crossings, signaling, Positive Train Control ("PTC") to the extent applicable, or connection of the Sarpy Property to adjacent rail lines. Such cooperation shall include responding to communications from the applicable Governmental Authority, providing historical information in Seller's possession, providing reasonable physical access to the Purchased Assets before Closing and taking other actions reasonably necessary to comply with applicable requirements.

(d) Seller shall provide to Purchaser true, correct and complete copies of all Assigned Contracts and all amendments, supplements, waivers and related material correspondence no later than 20 Business Days before the Closing

Section 7.06. Insurance.

From and after the Closing Date, the Purchased Assets, the Assumed Liabilities, and the operations and assets and Liabilities in respect thereof, shall cease to be insured by Seller's or its Affiliates' insurance policies or by any of their self-insured programs, and none of Purchaser or its Affiliates shall have any access, right, title or interest to or in any Seller insurance policies (including all claims and rights to make claims and all rights to proceeds) to cover the Purchased Assets, the Assumed Liabilities, Purchaser's ownership, access, development, use or operation of the Sarpy Property or Liabilities in respect thereof. Seller or its Affiliates may amend any insurance policies in the manner it deems appropriate to give effect to this Section 7.06. Except as otherwise required in the Transaction Documents, from and after the Closing, Purchaser shall be responsible for securing all insurance it considers appropriate for the Sarpy Property, the Purchased Assets, the Assumed Liabilities, and the operations and Liabilities in respect thereof. Nothing in this Section 7.06 shall limit Seller's obligations with respect to any Excluded Liability or pre-Closing occurrence, or Purchaser's rights to any insurance claim or proceeds expressly assigned to Purchaser under this Agreement, including in connection with a casualty under Section 7.02 or any indemnifiable Loss under ARTICLE X.

Section 7.07. Real Property Matters.

Conveyance of the Transferred Real Property shall be made by the Deed, which shall convey all of Seller's right, title and interest in the Transferred Real Property free and clear of any Encumbrances other than Permitted Encumbrances. Seller shall, at its sole cost and expense, satisfy all state and local requirements necessary to make the Deed recordable and to cure any defect in subdivision, survey, legal description, title, perfection or opposability of Seller's rights in the Transferred Real Property existing at or before the Closing, and shall execute and deliver all further documents and information reasonably required for recordation, including real estate

transfer tax valuation forms. Purchaser shall be responsible only for ordinary recording fees customarily payable by a grantee. Purchaser acknowledges and agrees that the conveyance of the Transferred Real Property shall be made subject to the Permitted Encumbrances which shall survive Closing.

Section 7.08. Confidentiality.

(a) The terms of that certain confidentiality agreement between the Parties relating to the transactions contemplated by this Agreement (the "Confidentiality Agreement") are incorporated into this Agreement by reference and shall continue in full force and effect and the confidentiality obligations thereunder shall be binding upon Purchaser and its Representatives until the Closing, at which time the confidentiality obligations under the Confidentiality Agreement shall terminate subject to the continuing obligations set forth herein. Notwithstanding the terms of the Confidentiality Agreement, Purchaser may prior to the Closing disclose Confidential Information to existing or prospective lenders or equity investors of Purchaser who have a reasonable need to know such Confidential Information, are informed of the confidential nature of the information and are subject to confidentiality obligations to Purchaser. Purchaser acknowledges and agrees that Purchaser shall be responsible for any breach of the terms of this Agreement or the Confidentiality Agreement by such existing or prospective lenders or equity investors of Purchaser.

(b) Subject to Section 7.08(c), for a three-year period following the Closing, unless otherwise agreed to in writing by the other Party, each of Seller, on the one hand, and Purchaser, on the other hand, hereby agrees not to (and to cause its Representatives not to) (i) disclose any Confidential Information to any Person other than (A) its Representatives who need to know the Confidential Information for the purpose of the consummation of the transactions contemplated by this Agreement and the other Transaction Documents, (B) public authorities for the purpose of recording the Deed, (C) the STB, any party to Finance Docket No. 36873 and the public, to the extent disclosed in or in connection with the proceedings in Finance Docket No. 36873 and subject to any applicable protective order, or (D) existing or prospective lenders or equity investors of such Party who (1) have a reasonable need to know the Confidential Information, (2) are informed of the confidential nature of the information and (3) are subject to confidentiality obligations to such Party, and (ii) use any Confidential Information for any purpose other than as contemplated by this Agreement, the proceedings in Finance Docket No. 36873 or any of the other Transaction Documents. Each Party shall be responsible for any breach of the terms of this Agreement by its Representatives or existing or prospective lenders or equity investors who receive Confidential Information.

(c) If a Party or its Representative (the "Disclosing Party") determines, based upon the advice of its legal counsel, that it is required by applicable Law, by applicable stock exchange regulation, by legal process, or for the purposes of enforcement of its rights under this Agreement, to disclose all or any portion of the Confidential Information, the Disclosing Party may so disclose such Confidential Information; *provided* that the Disclosing Party shall, to the extent permitted by Law, (i) provide the other Party with a written notice of such requirement so that the other Party may seek a protective order or other appropriate remedy to the extent applicable; (ii) exercise commercially reasonable efforts to narrow the scope of any such disclosure and consult with the other Party regarding the scope of such disclosure; and (iii) if such protective

order or other remedy is not obtained, furnish only that portion of the Confidential Information which the Disclosing Party is compelled to disclose and exercise commercially reasonable efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information to the extent applicable.

(d) If the transactions contemplated by this Agreement are not consummated, each Party shall (and shall ensure that its Representatives will) promptly, upon the other Party's written request, and in any event within twenty (20) Business Days of such request, return or destroy all copies of the other Party's Confidential Information in its possession or in the possession of any of its Representatives and return or destroy all information or other documents derived from such Confidential Information. Notwithstanding the foregoing, each Party and its Representatives may, subject to continued compliance with this Section 7.08, to retain copies of computer records and files containing Confidential Information created pursuant to automatic electronic archiving and backup procedures and retain Confidential Information to the extent required by Law or bona fide document-retention policies. If requested by the Disclosing Party, the receiving Party shall confirm in writing that it has complied with its undertakings relating to the return or destruction of such Confidential Information.

(e) For purposes of this Agreement, "Confidential Information" means: (i) in relation to the obligations of Purchaser, any and all information related to Seller and/or its Affiliates and, prior to the Closing, the Purchased Assets, the Leased Real Property or the Assumed Liabilities received or held by Purchaser or its Representatives, but shall not include any and all information related to the Purchased Assets, the Leased Real Property or the Assumed Liabilities following the Closing, whether oral or written; (ii) in relation to the obligations of Seller, any and all information related to Purchaser, and/or its Affiliates and, following the Closing, the Purchased Assets, the Leased Real Property or the Assumed Liabilities, received or held by Seller or its Representatives, whether oral or written; and (iii) any of the terms, conditions or content of the discussions between the Parties with respect to, and the existence and the terms of, this Agreement and the other Transaction Documents; *provided*, *however*, that Confidential Information shall not include any information that: (A) is or becomes generally available to the public other than as a result of a disclosure by that Party or any of its Representatives in violation of this Section 7.08; (B) was lawfully in the possession of that Party or any of its Representatives prior to such information being received from the other Party or its Representatives free of any restriction as to its use and disclosure (as can be demonstrated by that Party's or its Representative's written records); (C) becomes available to that Party or any of its Representatives thereafter; *provided* that, at the time of its receipt, such information is not, to the Knowledge of that Party, subject to any confidentiality or restricted-use obligation for the benefit of the other Party; and/or (D) is independently developed by that Party or any of its Representatives without reference to the other Party's Confidential Information (as can be demonstrated by that Party's or its Representative's written records).

Section 7.09. Removal of Seller Marks.

No interest in or right to use any Intellectual Property, trademarks, trade names and trade dress of Seller or any of its Affiliates (the "Seller Marks") is being, or will be, assigned, transferred or otherwise conveyed to Purchaser pursuant to this Agreement or the transactions contemplated hereby. As promptly as practicable following the Closing Date, but in no event later

than 30 days after the Closing Date, Purchaser shall remove, permanently obliterate, cover or otherwise stop displaying all Seller Marks in or on any signage, tools, dies, equipment, real estate or other durable items included in the Purchased Assets.

Section 7.10. Surface Transportation Board.

Purchaser shall prepare any additional documents or filings that may be required to secure any remaining STB Approvals and implement the STB Divestiture Order. Seller shall cooperate fully with Purchaser, furnish such information and reasonable assistance as Purchaser may request in connection with any such filing or proceeding, and take all actions required to implement the STB Divestiture Order and consummate the transactions contemplated by this Agreement.

Section 7.11. FCC Radio Licenses.

To the extent any FCC Licenses are included in the Purchased Assets, Purchaser and Seller shall cooperate to obtain the consent of the FCC pursuant to 47 U.S.C. § 310(d) and 47 C.F.R. § 1.948 for the assignment of such FCC Licenses. Promptly following execution of this Agreement, but not later than five Business Days following execution, Seller shall initiate the electronic filing of an FCC Form 603 through the FCC's Universal Licensing System for each such FCC License and shall be responsible for the associated filing fees. Purchaser shall electronically approve and sign the applications and shall, within 30 days after the Closing Date, notify the FCC of consummation of the assignment as required by applicable Law.

Section 7.12. Notice Regarding Changes.

Prior to the Closing Date, Seller shall promptly inform Purchaser in writing of (a) the receipt of a written or oral notice from any counterparty that they intend to terminate, not renew, or renegotiate the terms of an Assigned Contract, (b) any event, change or circumstance that could reasonably result in a Material Adverse Effect, and (c) any change in facts and circumstances that could render any of the representations and warranties made herein by Seller inaccurate or misleading if such representations and warranties had been made upon the occurrence of the fact or circumstance in question. Purchaser shall promptly inform Seller in writing of any change in facts and circumstances that could render any of the representations and warranties made herein by Purchaser inaccurate or misleading if such representations and warranties had been made upon the occurrence of the fact or circumstance in question.

Section 7.13. Employment.

Purchaser shall have the right but not the obligation and shall not otherwise have the responsibility or obligation to absorb, hire, or otherwise employ any employees of Seller that may be dismissed or displaced as a result of implementing the transaction contemplated by this Agreement, except as may be required by the STB. If Purchaser hires employees in connection with its ownership, development or operation of the Sarpy Property, Purchaser shall offer priority hiring consideration to Seller employees, if any, working primarily at the Sarpy Property whose employment is impacted by Purchaser's acquisition of the Purchased Assets on the Closing Date.

ARTICLE VIII.
CONDITIONS PRECEDENT TO OBLIGATIONS OF THE PARTIES

Section 8.01. Conditions to Each Party's Obligations to Close.

The respective obligations of Seller and Purchaser to effect the Closing and to consummate the transactions contemplated by this Agreement are subject to the satisfaction or waiver at or prior to the Closing of the following conditions:

(a) No Governmental Order or Proceedings. There shall not be in force any Governmental Order to and there shall be no Proceeding pending, or to Seller's Knowledge threatened by any Governmental Authority (other than the STB, which shall be governed by Section 8.01(b)) that seeks to, enjoin or prohibit the transactions contemplated by this Agreement or any other Transaction Documents;

(b) STB Approvals. The STB Approvals shall have been obtained and become final and effective and otherwise be in full force and effect.

(c) FCC Approvals. To the extent any FCC Licenses are included in the Purchased Assets, the FCC Approval shall have been obtained and become final and effective and otherwise be in full force and effect.

(d) No Law. No Governmental Authority shall have enacted, issued or promulgated any Law that has the effect of (i) making any of the transactions contemplated by this Agreement illegal or (ii) otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by this Agreement, and no order shall be in effect in Finance Docket No. 36873 that is inconsistent with the STB Divestiture Order or directs that all or any material portion of the Purchased Assets be transferred to a Person other than Purchaser.

(e) UP/NS Transaction Closing. The UP/NS Transaction Closing shall occur concurrently with, or immediately preceding, the Closing.

Section 8.02. Conditions to Obligations of Purchaser to Close.

The obligation of Purchaser to effect the Closing is subject to the satisfaction (or waiver by Purchaser) at or prior to the Closing of the following additional conditions:

(a) Representations and Warranties. The Fundamental Representations of Seller shall be true and correct in all respects as of the Closing Date and the representations and warranties of Seller contained in ARTICLE V (other than the Fundamental Representations of Seller) shall be true and correct in all material respects as of the Closing Date (without regard to any express qualifier therein as to materiality);

(b) Performance of Obligations of Seller. The covenants and agreements of Seller to be performed on or before the Closing Date in accordance with this Agreement shall have been performed in all material respects;

(c) Officer's Certificate. Purchaser shall have received a certificate, dated as of the Closing Date and signed on behalf of Seller by an executive officer of Seller, stating that the conditions specified in Section 8.02(a) and Section 8.02(b) have been satisfied;

(d) Seller Closing Deliveries. Seller shall have delivered those instruments and performed those actions set forth in Section 4.03;

(e) Purchaser shall have received prior written approval from its board of directors validly authorizing and approving the transactions contemplated by this Agreement;

(f) no Proceeding shall have been initiated against Seller by any Person (other than Purchaser or any of its Affiliates), arising by reason of the acquisition of the Purchased Assets pursuant to this Agreement, which could reasonably be expected to restrain, prohibit or invalidate the consummation of the transactions contemplated by this Agreement and that remains in effect at the time of the Closing;

(g) Required Consents and Property Rights. All consents, approvals, novations and replacement arrangements required to transfer the Purchased Assets and provide Purchaser with all material trackage-rights, haulage, access, rail-connection, utility, drainage and other rights contemplated by this Agreement shall have been obtained and be in full force and effect on terms reasonably satisfactory to Purchaser; and

(h) No Material Adverse Effect. Since the date of this Agreement, no Material Adverse Effect shall have occurred, and no casualty or condemnation shall have occurred that has not been resolved in accordance with this Agreement;

Section 8.03. Conditions to Obligations of Seller to Close.

The obligation of Seller to effect the Closing is subject to the satisfaction (or waiver by Seller) at or prior to the Closing of the following additional conditions:

(a) Representations and Warranties. The Fundamental Representations of Purchaser shall be true and correct in all respects as of the Closing Date and the representations and warranties of Purchaser contained in ARTICLE VI (other than the Fundamental Representations of Purchaser) shall be true and correct in all material respects as of the Closing Date (without regard to any express qualifier therein as to materiality);

(b) Performance of Obligations of Purchaser. The covenants and agreements of Purchaser to be performed on or before the Closing Date in accordance with this Agreement shall have been performed in all material respects;

(c) Purchaser Officer's Certificate. Seller shall have received a certificate, dated as of the Closing Date and signed on behalf of Purchaser by an executive officer of Purchaser, stating that the conditions specified in Section 8.03(a) and Section 8.03(b) have been satisfied; and

(d) Purchaser Closing Deliveries. Purchaser shall have delivered those instruments and performed those actions set forth in Section 4.04.

Section 8.04. Frustration of Closing Conditions.

Neither Purchaser nor Seller may rely on the failure of any condition set forth in this ARTICLE VIII to be satisfied if such failure was caused by such Party's failure to act in good faith or to use the requisite efforts to cause the Closing to occur as required by this Agreement, including the requirements of Section 7.01.

ARTICLE IX.
TERMINATION; EFFECT OF TERMINATION

Section 9.01. Termination.

Anything to the contrary in this Agreement notwithstanding, this Agreement may be terminated and the transactions contemplated by this Agreement abandoned at any time prior to the Closing:

(a) by mutual written consent of Seller and Purchaser;

(b) by Purchaser, if any of Seller's representations and warranties contained in ARTICLE V of this Agreement shall fail to be true and correct or Seller shall have breached or failed to perform in any material respect any of its covenants or other agreements contained in this Agreement, and such failure or breach would give rise to the failure of a condition set forth in Section 8.02(a) or Section 8.02(b) and has not been cured by the date that is 10 days after the date that Purchaser has notified Seller in writing of such failure or breach; *provided* that Purchaser is not then in breach of any of its representations, warranties, covenants or agreements contained in this Agreement such that the conditions set forth in Section 8.03(a) or Section 8.03(b) would fail to be satisfied; or

(c) by either Party, if the agreement governing the UP/NS Transaction is terminated or the UP/NS Transaction is abandoned, or if the STB Divestiture Order is vacated, reversed, stayed or otherwise ceases to be in full force and effect.

Section 9.02. Effect of Termination.

If this Agreement is terminated and the transactions contemplated by this Agreement are abandoned as described in Section 9.01, this Agreement shall become null and void and of no further force and effect, except for the provisions of Section 7.03, Section 7.08, this ARTICLE IX and ARTICLE XI. Nothing in this Section 9.02 shall be deemed to release any Party from any Liability for Fraud or willful breach by such Party of the terms and provisions of this Agreement. For purposes of this Agreement, "willful breach" means a material breach or failure to perform that is the consequence of an act or omission of a Party with the knowledge that such act or omission would, or would be reasonably expected to, cause a material breach of this Agreement.

Section 9.03. Notice of Termination.

In the event of termination by Purchaser pursuant to Section 9.01(b), written notice of such termination shall be given by Purchaser to Seller in the manner set forth in Section 11.01.

ARTICLE X.
SURVIVAL, INDEMNIFICATION AND REMEDIES

Section 10.01. Survival.

All representations and warranties made by each party in this Agreement and in any certificate delivered in connection herewith shall survive the Closing until the third anniversary of the Closing Date; *provided, however*, that the representations and warranties set forth in (a) Section 5.01, Section 5.02, Section 5.08(c), Section 5.14, Section 6.01, Section 6.02 and Section 6.06 (the "Fundamental Representations") shall survive indefinitely, (b) Section 5.09 and Section 5.16 shall survive the Closing until the fourth anniversary of the Closing Date and (c) Section 5.10 shall survive the Closing until the date that is 60 days following the expiration of the statute of limitations applicable to any claim arising in respect thereof (including any extensions thereof). All representations and warranties related to any claim asserted in writing prior to the expiration of the applicable survival period shall survive, but only with respect to such claim, until the claim is resolved and any payment owing is made. Any claim that a Party committed Fraud shall survive until expiration of the applicable statute of limitations. The covenants and agreements to be performed at or after the Closing, the allocation of Assumed Liabilities and Excluded Liabilities and the indemnification obligations under this ARTICLE X shall survive the Closing in accordance with their terms or, if no period is specified, indefinitely, subject to applicable Law. The survival periods in this Section 10.01 are intended to replace and supersede any otherwise applicable statute of limitations for claims based on a representation or warranty, even if the survival period is shorter or longer than otherwise provided by applicable Law

Section 10.02. Indemnification.

(a) Seller shall indemnify, defend, reimburse and hold harmless Purchaser and its Representatives, Affiliates, and their respective successors and assigns (the "Purchaser Indemnified Parties") against and with respect to any and all demands, claims, obligations, complaints, actions or causes of action, suits, Proceedings, investigations, arbitrations, assessments, losses, damages, fines, penalties, liabilities, judgments, settlements, costs and expenses (including reasonable attorneys' fees) (collectively, "Losses") (including any Losses based on claims for breach of contract, warranty, tortious conduct (including negligence) or otherwise and whether predicated on common Law, statute, strict liability, or otherwise) arising from, in connection with or with respect to the following items:

(i) any breach or misrepresentation of a representation or warranty by Seller contained in this Agreement, any certificate delivered in connection herewith or any other Transaction Document;

(ii) any breach or failure to fulfill any agreement or covenant on the part of Seller;

(iii) any Encumbrances other than Permitted Encumbrances;

(iv) any Labor Protective Conditions imposed for the benefit of Seller's employees;

(v) any pre-Closing violations of, and non-compliance with, FCC regulations with respect to any FCC Licenses included in the Purchased Assets or any other Permits primarily related to the Purchased Assets (including the payment of any fine or penalty, and the satisfaction of any condition, imposed on account of such violations or non-compliance); and

(vi) any Excluded Liabilities.

(b) Purchaser shall indemnify, defend and hold harmless Seller and its Representatives, Affiliates and assigns (the "Seller Indemnified Parties") against and with respect to any and all Losses, arising from, in connection with or with respect to the following items:

(i) any breach or misrepresentation of a representation or warranty by Purchaser contained in this Agreement or any certificate delivered in connection herewith;

(ii) any breach or failure to fulfill any agreement or covenant on the part of Purchaser;

(iii) any Labor Protective Conditions imposed for the benefit of Purchaser's employees; and

(iv) any Assumed Liabilities.

(c) Notwithstanding anything to the contrary contained in this Agreement, (i) Seller shall not have any obligation to indemnify, defend and hold harmless any Purchaser Indemnified Party pursuant to Section 10.02(a)(i) (A) unless the aggregate amount of Losses incurred by the Purchaser Indemnified Parties exceeds $**[●]** (the "Threshold Amount") at which point, Seller shall indemnify, defend and hold harmless the Purchaser Indemnified Parties for the full amount of such Losses and (B) except as provided in clause (iii) below, in excess of $**[●]** (the "Cap"), (ii) Purchaser shall have no obligation to indemnify any Seller Indemnified Parties pursuant to Section 10.02(b)(i) (A) unless the aggregate amount of Losses incurred by the Seller Indemnified Parties exceeds the Threshold Amount, at which point Purchaser shall indemnify Seller Indemnified Parties for the full amount of such Losses and (B) in excess of the Cap, and (iii) the parties acknowledge that the Threshold Amount and the Cap shall not apply to any Losses resulting from (A) Fraud, (B) breaches or misrepresentations of the Fundamental Representations, (C) any Adjustment Amount or (D) any indemnification obligations of the parties hereto (other than as set forth in Section 10.02(a)(i) and Section 10.02(b)(i)).

(d) Any Purchaser Indemnified Party or Seller Indemnified Party seeking indemnification hereunder (the "Indemnified Party") shall promptly give to the party obligated to provide indemnification to such Indemnified Party (the "Indemnitor") a written notice (a "Claim Notice"); *provided, however*, that the failure of any Indemnified Party to give the Claim Notice promptly as required by this Section shall not affect such Indemnified Party's rights under this

Section 10.02 unless and only to the extent that such failure actually prejudices the Indemnitor. The Claim Notice shall provide reasonable detail of the claims being asserted.

(e) After the giving of any Claim Notice pursuant hereto, the amount of indemnification to which an Indemnified Party shall be entitled under this Section 10.02 shall be determined: (i) by the written agreement between the Indemnified Party and the Indemnitor; (ii) by a final non-appealable determination of a court of competent jurisdiction pursuant to Section 11.06; or (iii) by any other means to which the Indemnified Party and the Indemnitor shall agree (a "Final Determination"). Subject to Section 10.03, all amounts due to the Indemnified Party shall be paid by wire transfer within 10 Business Days after such Final Determination.

(f) An Indemnified Party shall notify the Indemnitor in writing, and in reasonable detail, of any Proceeding commenced by any third Person against the Indemnified Party (a "Third Party Claim") promptly after receipt by such Indemnified Party of written notice of the Third Party Claim. Notwithstanding the foregoing, should a party be physically served with a complaint with regard to a Third Party Claim, the Indemnified Party must deliver a copy of the complaint to the Indemnitor within 10 days after the receipt of such complaint; *provided, however*, that the failure of any Indemnified Party to give such notice shall not affect such Indemnified Party's rights under this Section 10.02 unless and only to the extent that such failure actually prejudices the Indemnitor.

(g) In the event of the initiation of any Proceeding with respect to a Third Party Claim (in which the only relief sought is monetary damages), the Indemnitor may elect, at its own expense, to be represented by counsel of its choice (reasonably acceptable to the Indemnified Party) and to control and defend such Third Party Claim. The Indemnified Party shall have the right to participate (and to retain legal counsel to participate) in any such defense at its sole cost and expense. The Parties hereto agree to cooperate fully with each other in connection with the defense, negotiation or settlement of any such Proceeding. Such cooperation shall include the retention and the provision of records and information that are reasonably relevant to such Third Party Claim, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Indemnitor shall not settle or agree to the entry of a final order in any such Proceeding without the prior written consent of the Indemnified Party unless (i) the sole recourse under such settlement or final order is payment by the Indemnitor of monetary damages, (ii) such settlement or final order does not obligate the Indemnified Party to admit any liability, and (iii) such settlement includes a full and unconditional release of the Indemnified Parties.

(h) Any indemnification payment under this Agreement shall be considered an adjustment to the Purchase Price.

(i) This Section 10.02 constitutes the Indemnified Parties' sole and exclusive remedy for any and all Losses or other claims relating to or arising from this Agreement and the transactions contemplated hereby, except for claims based on Fraud. No Indemnitor shall have any indemnification, contribution, or other obligation for any Loss that the Indemnified Parties may suffer, and the Indemnified Parties shall have no remedies, with respect to (i) the subject matter of this Agreement or the transactions contemplated hereby or (ii) any other matter relating to Seller, prior to the Closing, the operation of its businesses prior to the Closing, or any other transaction

or state of facts involving the Purchased Assets or Seller prior to the Closing (including any common law or statutory rights or remedies), in each case, other than the provisions of this ARTICLE X, which are the Indemnified Parties' sole and exclusive remedies with respect thereto, except for claims based on Fraud.

(j) Notwithstanding the foregoing, nothing in this ARTICLE X shall limit or preclude (i) any claim based on Fraud, (ii) specific performance, injunctive relief or other equitable relief, (iii) any right or remedy under or to enforce the STB Divestiture Order, (iv) any Purchase Price adjustment, (v) the allocation of Assumed Liabilities and Excluded Liabilities, or (vi) any right or remedy under any other Transaction Document

Section 10.03. Expiration of Claims.

The ability of any Person to receive indemnification under Section 10.02 shall terminate on the applicable survival termination date (as set forth in Section 10.01), unless such Person shall have incurred a Loss and made a valid claim for indemnification pursuant to Section 10.02 prior to such termination date. If a Person has made a valid claim for indemnification pursuant to Section 10.02 prior to such termination date, such valid claim, if then unresolved, shall not be extinguished by the passage of the deadlines set forth in Section 10.01.

Section 10.04. Determination of Loss Amount.

The amount of any Loss subject to indemnification hereunder or of any claim therefor shall be calculated net of and shall be limited to the amount of such Loss that remains after deducting therefrom any insurance proceeds and any other indemnity, contribution or similar payment actually realized by and paid to the applicable Indemnified Parties in respect of any such claim, less any related costs and expenses, including the aggregate cost of pursuing any related insurance claims. The Indemnified Parties shall use commercially reasonable efforts to seek recovery under applicable insurance policies or other indemnity, contribution or similar agreements or sources of payment covering any Loss to the same extent as they would if such Loss were not subject to indemnification hereunder; provided that no Indemnified Party shall be required to pursue or exhaust any such recovery before receiving indemnification under this Agreement. Promptly after the realization of any such insurance proceeds, or other indemnity, contribution or similar payment, the Indemnified Parties shall reimburse the applicable Indemnitor for such reduction in

Losses for which the Indemnified Party was indemnified prior to the realized reduction of such Losses.

Section 10.05. Mitigation.

Each Person entitled to indemnification hereunder shall take all reasonable steps to mitigate all Losses after becoming aware of any event which could reasonably be expected to give rise to any Losses that are indemnifiable or recoverable hereunder or in connection herewith.

ARTICLE XI.
GENERAL PROVISIONS

Section 11.01. Notices.

All notices and other communications under this Agreement shall be in writing and shall be deemed given (a) when delivered personally by hand (with written confirmation of receipt), (b) on the day transmitted by electronic mail (with written confirmation of transmission), if sent before 5:00 p.m. Eastern Time on a Business Day, otherwise on the next Business Day following transmission, or (c) one Business Day following the day sent by overnight courier (with written confirmation of receipt), in each case at the following addresses (or to such other address as a Party may have specified by notice given to the other Party pursuant to this provision):

If to Seller:

[●]
[●]
[●]
Attention: [●]
Email: [●]

with a copy (which shall not constitute notice) to:

[●]
[●]
[●]
Attention: [●]
Email: [●]

If to Purchaser:

Illinois Central Railroad Company
[●]
[●]
Attention: [●]
Email: [●]

with a copy (which shall not constitute notice) to:

Polsinelli PC
7676 Forsyth Boulevard, Suite 800
St. Louis, MO 63105
Attention: Kevin Hogan
Email: khogan@polsinelli.com

Section 11.02. Waiver.

No delay or failure on the part of any Party hereto in exercising any right, power or privilege under this Agreement or under any other instrument or document given in connection with or pursuant to this Agreement shall impair any such right, power or privilege or be construed as a waiver of any default or any acquiescence therein. No single or partial exercise of any such right, power or privilege shall preclude the further exercise of such right, power or privilege, or the exercise of any other right, power or privilege. No waiver shall be valid against a Party hereto unless made in writing and signed by the Party against whom enforcement of such waiver is sought and then only to the extent expressly specified therein.

Section 11.03. Benefit and Assignment.

No Party to this Agreement shall assign this Agreement, in whole or in part, whether by operation of Law or otherwise, without the prior written consent of the other Parties; *provided* that no such assignment shall relieve the assigning Party of its obligations hereunder. Any purported assignment contrary to the terms hereof shall be null, void and of no force and effect. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. No Person other than the Parties hereto and their respective successors and permitted assigns is or shall be entitled to bring any action to enforce any provision of this Agreement against any of the Parties hereto, and the representations and warranties, covenants and other agreements set forth in this Agreement shall be solely for the benefit of, and shall be enforceable only by, the Parties hereto or their respective successors and assigns as permitted hereunder. Notwithstanding the foregoing, Purchaser shall, subject to any required STB Approval, be entitled to assign all or any portion of its rights and obligations hereunder, without Seller's consent but upon prior written notice to Seller, to (i) an Affiliate of Purchaser, (ii) a successor to Purchaser by merger, consolidation or reorganization, or (iii) a purchaser or transferee of all or a material portion of the Purchased Assets; *provided* that no such assignment shall relieve Purchaser of its obligations hereunder unless Seller expressly agrees otherwise in writing.

Section 11.04. Amendment.

No amendment, modification or supplement to this Agreement shall be binding unless executed in writing by all of the Parties hereto.

Section 11.05. Severability.

If any part of any provision of this Agreement or any other Transaction Document shall be invalid or unenforceable under applicable Law, such part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of such provisions or the remaining provisions of this Agreement or any other Transaction Document.

Section 11.06. Governing Law; Waiver of Jury Trial; Submission to Jurisdiction.

(a) This Agreement, the rights and obligations of the Parties hereto, and any claims or disputes relating thereto, shall be governed by and construed under and in accordance with the Laws of the State of Delaware, without regard to any choice of Law provision or rule of the State of Delaware that would otherwise result in the application of the Laws of any other State or jurisdiction.

(b) THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER TRANSACTION DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, WHETHER NOW EXISTING OR HEREAFTER EXISTING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. THE PARTIES HERETO AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS SECTION 11.06(B) WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT BETWEEN THE PARTIES HERETO IRREVOCABLY TO WAIVE TRIAL BY JURY AND THAT ANY ACTION OR PROCEEDING WHATSOEVER BETWEEN THEM RELATING TO THIS AGREEMENT, ANY OTHER TRANSACTION DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

(c) Each of the Parties agrees that any Proceeding with respect to this Agreement brought by a Party hereto or its successors or assigns shall be brought and determined in the Federal or state court sitting in the State of Delaware and each of the Parties hereby submits with regard to any such Proceeding for itself and in respect to its property, generally and unconditionally, to the jurisdiction of the aforesaid courts. Each of the Parties hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim, or otherwise, in any Proceeding with respect to this Agreement, (i) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason, (ii) that it or its property is exempt or immune from jurisdiction of such court or from any legal process commenced in such court (whether through judgment or otherwise), and (iii) to the fullest extent permitted by applicable law that (A) the Proceeding in any such court is brought in an inconvenient forum, (B) the venue of such Proceeding is improper and (C) this Agreement, or the subject matter hereof, may not be enforced in or by any such court.

Section 11.07. Interpretation.

(a) When a reference is made in this Agreement to a Section, subsection, Exhibit or Schedule, such reference shall be to a Section, subsection, Exhibit or Schedule of this Agreement unless otherwise indicated. The headings contained in this Agreement, in any Schedules and in the table of contents to this Agreement, are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made part of this Agreement as if set forth in full herein. Any fact or item which is clearly disclosed on any Schedule to this Agreement in such a way as to make its relevance or applicability to information called for by another Schedule or Schedules to this Agreement reasonably apparent on the face of the disclosure shall be deemed to be disclosed on such other Schedule or Schedules, as the case may be,

notwithstanding the omission of a specific reference or cross-reference thereto. Any capitalized term used in any Exhibit or Schedule and not otherwise defined shall have the meaning given to such term in this Agreement.

(b) Unless the context clearly requires otherwise, whenever the words "include", "includes", "including", "such as" or terms of similar meaning are used in this Agreement, they shall be deemed to be followed by the words "without limitation." The words "hereof", "herein", "hereby" and "hereunder" and terms of similar meaning when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The term "or" is not exclusive. The word "extent" in the phrase "to the extent" means the degree to which a subject or other thing extends, and such phrase shall not mean simply "if". The definitions contained in this Agreement are applicable to the singular as well as to the plural forms of such terms. Any agreement or instrument defined or referred to herein means such agreement or instrument as from time to time amended, modified or supplemented. References to a Person are also to its permitted successors and assigns. Pronouns of one gender shall include all genders. All accounting conventions shall be consistent with GAAP, unless otherwise specified. All references to "Dollars" or "$" shall be to U.S. Dollars unless otherwise specified. All references to "days" shall mean calendar days unless Business Days are specified. Unless otherwise specified herein, undefined terms shall be given the meaning customarily applied to such terms in the railroad industry in the United States.

Section 11.08. Signature in Counterparts; Electronic Delivery.

This Agreement may be executed in separate counterparts, none of which need contain the signatures of all Parties, each of which shall be deemed to be an original, and all of which taken together shall constitute one and the same instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than the number of counterparts containing the respective signatures of, or on behalf of, each of the Parties. This Agreement, the other Transaction Documents and any signed agreement or instrument entered into in connection with this Agreement, and any amendments hereto or thereto (in each case other than the Deed), to the extent delivered by means of a facsimile, email or electronic .pdf transmission (any such delivery, an "Electronic Delivery"), shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any Party hereto or to any such agreement or instrument, each other Party hereto or thereto shall re-execute original forms thereof and deliver them to the other Party. No Party hereto or to any such agreement or instrument shall raise the use of Electronic Delivery to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of Electronic Delivery as a defense to the formation of a contract, and each such Party forever waives any such defense, except to the extent such defense related to lack of authenticity.

Section 11.09. Entire Agreement.

This Agreement, together with all Exhibits and Schedules hereto and the Transaction Documents, constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties, except for any prior agreements regarding

obligations of Seller or an Affiliate or predecessor for the performance of and/or payment for Remedial Action identified on Section 3.02(b) of the Disclosure Schedules.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

SELLER:

Union Pacific Railroad Company

By:_____
Name: [●]
Title: [●]

PURCHASER:

Illinois Central Railroad Company

By:_____
Name: [●]
Title: [●]

Exhibit 2D

OVERHEAD TRACKAGE RIGHTS AGREEMENT
LYDIA AVENUE TO BROADWAY, KANSAS CITY, MISSOURI

THIS OVERHEAD TRACKAGE RIGHTS AGREEMENT (this "Agreement") is made and entered into as of [●] by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("Owner"), and ILLINOIS CENTRAL RAILROAD COMPANY, an Illinois corporation ("User"). Owner and User are each a "Party" and together the "Parties".

WITNESSETH:

WHEREAS, Owner owns or controls certain railroad trackage between North Lydia Avenue and Broadway Boulevard in Kansas City, Missouri, as more particularly described in Exhibit "A" (the "Joint Trackage"); and

WHEREAS, User desires overhead trackage rights over the Joint Trackage for the movement of traffic on and over the Joint Trackage from any origin or any destination and all commodities, equipment, and train types; and

WHEREAS, Owner and User desire to state the conditions under which User may exercise such rights;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the Parties agree as follows:

Section 1. TRACKAGE SUBJECT TO AGREEMENT

1.1 Attached hereto as Exhibit "A," and incorporated herein by reference, is a print that depicts the rail line between Lydia Avenue and Broadway in Kansas City, more particularly described as UP's K.C. Metro Subdivision from Lydia Avenue, Kansas City, Missouri (MP 281.7) to Broadway Boulevard, Kansas City, Missouri (MP 283.1), over which User shall be granted trackage rights pursuant to this Agreement (referred to collectively as the "Joint Trackage"). These rights include the ability to interchange with BNSF Railway Company and Kansas City Terminal Railway Company.

Section 2. GRANT OF TRACKAGE RIGHTS

2.1 Subject to the terms and conditions (the "General Conditions") set forth in Exhibit "B" to this Agreement (which is attached hereto and incorporated herein by reference), Owner grants to User the nonexclusive right to operate its trains with its own Equipment and crews over the Joint Trackage. User's use of the Joint Trackage shall be in common with Owner and such other railroad company or companies as Owner may hereafter at any time admit to the joint use of any and all of the Joint Trackage. For purposes of this Agreement, trains and "Equipment" (as defined in Section 1.5 of Exhibit "B") of such other railroad company or companies admitted by Owner to the use of the Joint Trackage shall be considered trains and Equipment of Owner.

2.2 The trackage rights granted to User pursuant to this Agreement may be exercised by Illinois Central Railroad Company ("ICRR") or by a rail carrier affiliate of ICRR, including Canadian National Railway Company ("CN"); provided, however, that only one of ICRR, CN or an affiliate may exercise such trackage rights at any time; and provided further, that ICRR, CN or such affiliate (as applicable) shall have first obtained any required Surface Transportation Board ("STB") approval or exemption for the exercise of such trackage rights.

2.3 The exercise of the trackage rights granted to User by this Agreement shall be subject at all times to the General Conditions. If any conflict between the General Conditions and this Agreement shall arise, the provisions of this Agreement shall prevail.

2.4 User shall qualify its crew members as pilots and provide pilots or qualified crews on all User trains prior to entering the Joint Trackage.

Section 3. MAINTENANCE AND OPERATION OF TRACKAGE

3.1 Owner, at its expense, shall maintain, repair and renew the Joint Trackage in a manner permitting operation at no less than the track standard designated in the timetable in effect on the date of this Agreement. In the event that, for operating convenience, necessity or emergency, Owner permits or directs User to use adjacent tracks or track connections between or beyond the termini of the Joint Trackage as an alternate route, then and in such event, such trackage, track connections and appurtenances shall be deemed to be part of the Joint Trackage and shall be governed by all the provisions of this Agreement while such use continues.

Section 4. LIMITATIONS AND MEASUREMENT OF TRACKAGE RIGHTS TRAINS

4.1 User trains shall have a sufficient horse-power per ton ratio ("HPT") to traverse the Joint Trackage; provided, that Owner shall accept User trackage rights trains of similar size and operating characteristics as Owner's own trains, consistent with available capacity, mainline and siding restrictions, operating rules such as designated horsepower per ton, maximum train length, and maximum gross tonnage parameters that govern Owner's (and other users') trains moving over the Joint Trackage.

4.2 All trains of Owner and User shall be treated equally and operated and dispatched on a first-come first-served basis without prejudice or partiality, except for passenger trains which shall have priority. In the event of refusal to grant a User train admission to or operation on the Joint Trackage, User shall have no claim of any nature against Owner by reason of such refusal provided that the trains of Owner and User are treated equally and operated and dispatched without prejudice or partiality.

Section 5. COMPENSATION

5.1 In addition to any other payments to be made under this Agreement, User shall remit to Owner for its use of the Joint Trackage, on a monthly basis, [●] cents per car mile for each loaded or empty car, locomotive or caboose moved by User (the "Base Charge"). The Base Charge shall be deemed to include compensation to Owner for ordinary and programmed maintenance of the Joint Trackage, operating expenses, interest rental, depreciation and taxes. With respect to articulated units, the number of cars shall be determined by the AAR Car Type Code as defined in the UMLER Specification Manual. The second character in the Car Type Code field covering codes "Q" and "S" will be the factor in determining the car count for an articulated unit. For example, AAR Car Type Code (S566) would equate to a five (5) car count as these type cars have five wells capable of handling 40' to 53' containers in each well. (Car count data for articulated units are subject to change upon development of technology to separate units by car numbers.)

5.2 For the purpose of computing the Base Charge under this Section 5, the parties hereby mutually agree that the distances between the designated points of the Joint Trackage are [●] miles (the "Mileage Factors"). In the event that for whatever reason physical changes are made to the Joint Trackage that result in a change in the track mileage provided in the prior sentence, then the Mileage Factors will be

adjusted up or down to reflect such new mileage, and such adjusted Mileage Factors will be used to calculate the monthly Base Charge effective with the commencement of train operations over the new track.

5.3 The Base Charge set forth in Section 5.1 of this Agreement shall be adjusted annually during the term of this Agreement beginning on the first day of the calendar quarter following the first anniversary of the Effective Date, to reflect seventy-five percent (75%) of increases or decreases in the Rail Cost Adjustment Factor, not adjusted for changes in productivity ("Index" or "RCAF-U"), published by the AAR or successor agency or other organization. In the event RCAF-U is no longer maintained, the Parties shall select a substantially similar index and, failing agreement, the matter shall be referred to binding arbitration under Section 6 of the General Conditions. For the first rate adjustment, the ratio between the Index for the most recent quarter available and the Index for the corresponding quarter of the preceding year shall be developed, and the Base Charge shall be increased or decreased in direct proportion to such ratio, with subsequent years following that framework (subject to rebasing). The adjusted Base Charge shall be rounded to the nearest whole cent.

Section 6. LIABILITY

6.1 Any liability for loss, damage, injury or death which arises from the operation of trains under this Agreement shall be allocated, settled and paid in the manner set forth in Section 5 of the General Conditions attached hereto.

Section 7. TERM AND TERMINATION

7.1 This Agreement shall become effective upon (i) receipt and effectiveness of all regulatory approvals relating to the transaction contemplated in STB Finance Docket No. 36873 ("Merger Approval"), and (ii) the consummation of such UP/NS transaction (the "Effective Date"). This Agreement shall have an Initial Term of ninety-nine (99) years. After the Initial Term of 99 years, the agreement shall continue until terminated by one Party serving upon the other Party 90 days' advance written notice of its intention. Upon expiration or termination of this Agreement, all obligations (including, without limitation, obligations to remit fees and obligations of indemnity) arising or accruing prior to such termination or expiration and all provisions of this Agreement necessary to enforce and resolve same shall survive and remain enforceable.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

UNION PACIFIC RAILROAD COMPANY

By: _____
Name: [AUTHORIZED SIGNATORY]
Title: [TITLE]

ILLINOIS CENTRAL RAILROAD COMPANY

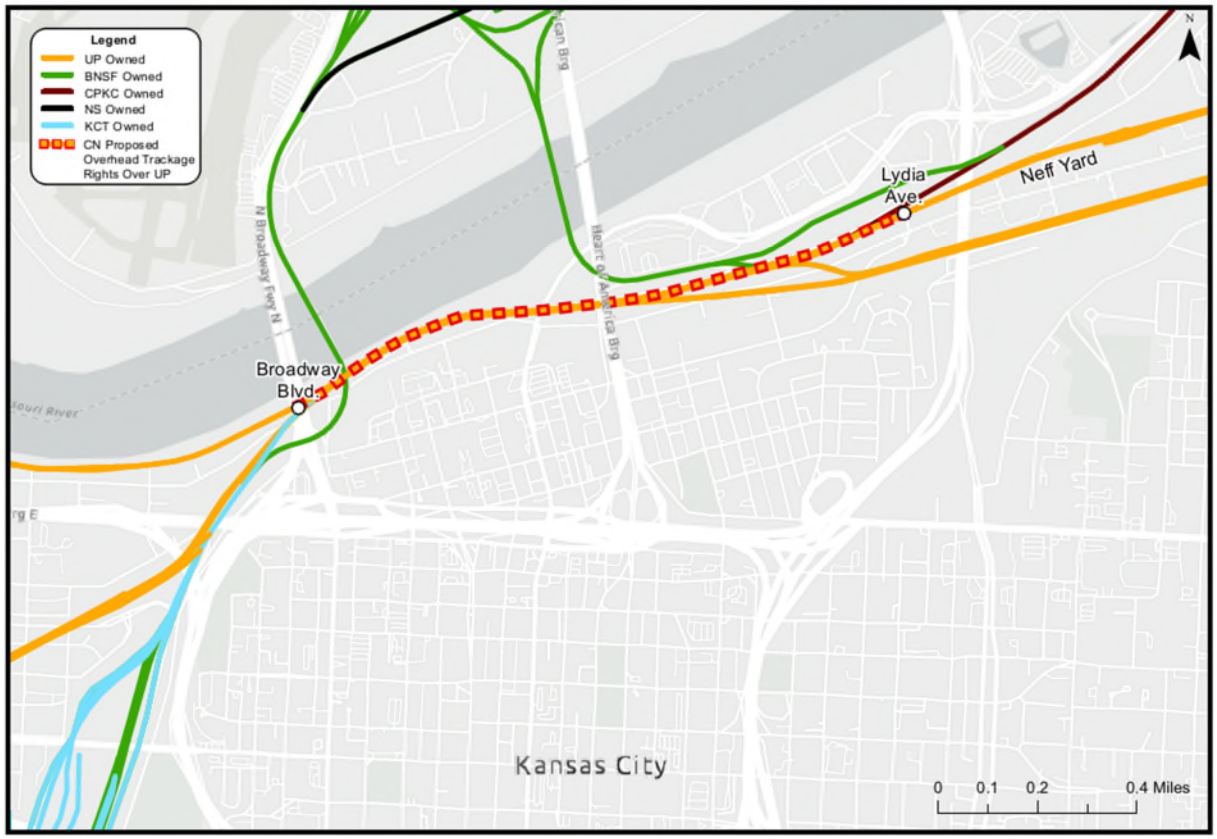
By: _____
Name: [AUTHORIZED SIGNATORY]
Title: [TITLE]

EXHIBIT "A"

JOINT TRACKAGE

LYDIA AVENUE TO BROADWAY IN KANSAS CITY, MISSOURI

CN Proposed Overhead Trackage Rights Between Lydia Ave. and Broadway Blvd., Missouri



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

EXHIBIT "B"

GENERAL CONDITIONS

Section 1. DEFINITIONS

1.1 "Agreement" shall mean that certain Trackage Rights Agreement dated as of [●] by and between UNION PACIFIC RAILROAD COMPANY ("Owner") and ILLINOIS CENTRAL RAILROAD COMPANY ("User"), to which this Exhibit "B" is appended. The term "Agreement" shall include this Exhibit "B" in its entirety.

1.2 "Owner" shall mean UNION PACIFIC RAILROAD COMPANY.

1.3 "User" shall mean ILLINOIS CENTRAL RAILROAD COMPANY.

1.4 "Joint Trackage" shall mean those certain lines of railroad extending between North Lydia Avenue and Broadway Boulevard in Kansas City, Missouri, including all necessary head room/tail room, right-of-way and appurtenances and support facilities thereof, and all additions and betterments to, and changes in, the tracks and facilities constituting the Joint Trackage in the future as are required or desirable for the operation of the trains of the parties hereto.

1.5 "Equipment" shall mean and include (i) trains, locomotives, cars and cabooses, (ii) vehicles and machinery which are capable of being operated on railroad tracks that, at the time of an occurrence, are being operated on the Joint Trackage, and (iii) vehicles and machinery that, at the time of an occurrence, are on the Joint Trackage or its right-of-way for the purpose of performing maintenance, repairs or the clearing of wrecks thereon.

1.6 "STB" shall mean the Surface Transportation Board, or any successor agency.

Section 2. MAINTENANCE CHANGES IN AND/OR ADDITIONS, OPERATION AND CONTROL

2.1 The construction, maintenance, repair, and renewal of the Joint Trackage shall be the responsibility, and under the exclusive direction and control, of Owner. Owner shall use reasonable and customary care, skill, and diligence in the construction, operation, maintenance, repair, and renewal of the Joint Trackage and in managing same. Notwithstanding anything to the contrary contained in the Agreement, User shall not, by reason of Owner's performing or failing or neglecting to perform any construction, operation, maintenance, repair, renewal, or management of the Joint Trackage, have or make against Owner any claim or demand for any loss, damage, destruction, injury, or death whatsoever resulting therefrom; provided, that the Joint Trackage is at all times maintained to Federal Railroad Administration Class 3 or higher track standards.

2.2 Owner may make any additions and betterments to, and changes in, the Joint Trackage which may be required by law, or which Owner deems necessary or desirable for the safe, efficient, and economical use of the Joint Trackage by the parties. Such additions, betterments and changes shall progressively become part of the Joint Trackage during construction as they are completed. User may request additions and betterments to, and changes in, the Joint Trackage which User shall deem necessary or desirable for the safe, efficient, and economical use of the Joint Trackage by the parties. If Owner concurs with such additions and betterments, or changes requested by User, Owner shall construct the same upon

such terms and conditions as may be agreed upon and they shall become part of the Joint Trackage. In the event that Owner does not concur with such additions, betterments or changes requested by User, Owner shall nevertheless construct the same at User's sole cost and expense if so requested by User. Owner shall make no retirement, withdrawal, elimination or disposal of any part of the Joint Trackage which would permanently or materially impair the usefulness thereof to User.

2.3 The management and operation of the Joint Trackage shall be under the exclusive direction and control of Owner. Owner shall make such changes to the management and operations on and over the Joint Trackage as in Owner's reasonable judgment may be necessary, expedient, or proper for the operations thereof herein intended.

2.4 If the use of the Joint Trackage shall at any time be interrupted or traffic thereon or thereover be delayed for any cause, neither party shall have or make any claim against the other for loss, damage, or expense of any kind, caused by or resulting from such interruption or delay.

2.5 Owner may from time to time substitute any track or tracks for those delineated in the Agreement for use by User; provided, User shall at all times have access to a contiguous route of equal utility as the Joint Trackage for the operation of User's Equipment between the termini of the Joint Trackage. When tracks that are not specified as part of the Joint Trackage in Section 1.4 of these General Conditions are used as provided in this Section 2.5, the Agreement shall govern for purposes of direction and control and liability as if all train movements had been made over the Joint Trackage.

2.6 Each party shall be responsible for furnishing, at its own expense, all labor, fuel, and train supplies necessary for the operation of its own Equipment over the Joint Trackage. In the event a party hereto does furnish such labor, fuel, or train supplies to another party hereto, the party receiving same shall promptly, upon receipt of billing therefor, reimburse the party furnishing same for its reasonable costs of furnishing such labor, fuel, or train supplies.

2.7 The operation by User on or along the Joint Trackage shall at all times be in accordance with the rules, instructions and bulletins of Owner as they may be amended and supplemented from time to time; provided, however, that such rules, instructions and bulletins shall be reasonable, just, and applied fairly to all parties using the Joint Trackage and shall not discriminate against any of them.

2.8 User shall be responsible for reporting and paying any mileage, per diem, use, or rental charges accruing on Equipment in User's account while on the Joint Trackage. Except as may be specifically provided for in the Agreement, nothing herein contained is intended to change practices with respect to interchange of traffic between the parties or with other carriers on or along the Joint Trackage.

2.9 The total cost of clearing a derailment, cleaning up any Hazardous Materials released during such derailment, and/or repairing the Joint Trackage or any other property damaged thereby shall be borne by the party or parties liable therefor in accordance with Section 4 of these General Conditions.

2.10 In the event of release of Hazardous Materials caused by faulty equipment or third parties, cleanup will be conducted and total costs resulting therefrom shall be borne by the parties as provided for in Section 4 of these General Conditions.

2.11 All employees of User engaged in or connected with the operations of User on or along the Joint Trackage shall be required to pass periodic examination on the rules of Owner related to the Joint Trackage; provided, with respect to such examinations that, upon request of User, Owner shall qualify one

or more of User's supervisory officers on said rules and such supervisory officer or officers so qualified shall thereafter examine all employees of User engaged in or connected with User's operations on or along the Joint Trackage. Pending qualification of train and engine crews of User, Owner shall furnish a pilot or pilots, at the expense of User, as deemed necessary by Owner to assist in operating trains of User over the Joint Trackage.

2.12 If any employee of User shall neglect, refuse, or fail to abide by Owner's rules, instructions, and bulletins governing the operation on or along the Joint Trackage, such employee shall, upon written request of Owner, be prohibited by User from working on the Joint Trackage. If either party shall deem it necessary to hold a formal investigation to establish such neglect, refusal, or failure on the part of any employee of User, then upon such notice presented in writing, Owner and User shall promptly hold a joint investigation in which all parties concerned shall participate and bear the expense for its officers, counsel, witnesses, and employees. Notice of such investigation shall be given to employees of User by User's officers, and such investigation shall be conducted in accordance with applicable terms and conditions of schedule agreements between User and its employees. If, in the judgment of Owner, the result of such investigation warrants, such employee shall, upon written request of Owner, be withdrawn by User from service on the Joint Trackage, and User shall release and indemnify Owner from and against any and all claims and expenses because of such withdrawal, except as otherwise provided below.

2.13 If the disciplinary action is appealed by an employee of User to the National Railroad Adjustment Board or other tribunal lawfully created to adjudicate such cases, and if the decision of such board or tribunal sustains the employee's position, such employee shall not thereafter be barred from service on the Joint Trackage by reason of such occurrence.

2.14 It is understood that Owner shall reimburse User for all payments that User might be required to make as a result of a successful challenge being made by the employee or his representative as to the discipline recommended by Owner and assessed by User. User agrees to notify Owner before committing itself to making payment of any such employee claim. In the event a claim is progressed to an Adjustment Board, Owner will be given an opportunity to review User's submission. Any payments made to employees, as a result of an investigation being "overturned", shall include not only actual wages, but in addition, shall include expenses which User may be required to pay covering vacation allowances, Railroad Retirement taxes, unemployment insurance taxes and any other payroll tax or fringe benefits.

2.15 If any Equipment of User is bad ordered enroute on the Joint Trackage and it is necessary that it be set out, such bad ordered Equipment shall, after being promptly repaired, be promptly picked up by User. Unless otherwise agreed, Owner may, upon request of User and at User's expense, furnish the required labor and material and perform light repairs to make such bad ordered Equipment safe for movement. The employees and Equipment of Owner while in any manner so engaged or while en route to or returning to Owner's terminal from such an assignment shall be considered sole employees of User and sole property of User. However, should Owner after repairing such Equipment for User, move directly to perform service for Owner's benefit rather than return to Owner's terminal, then User's exclusive time and liability will end when owner's employees depart for work to be performed for Owner's benefit. In the case of such repairs by Owner to freight cars in User's account, billing therefor shall be in accordance with the Field and Office Manuals of the Interchange Rules adopted by the Association of American Railroads, hereinafter called "Interchange Rules", in effect at the date of performance of the repairs. Owner shall prepare and submit billing directly to and collect from the car owner for car-owner responsibility items as determined under said Interchange Rules. Should said car owner refuse or otherwise fail to make payment therefor, Owner shall submit billing to and collect from User any charges for repair to freight cars that are car-owner responsibility items, as determined under said Interchange Rules.

2.16 If Equipment of User shall become derailed, wrecked, or otherwise disabled while upon the Joint Trackage, it shall be re-railed or cleared by Owner; provided, that employees of User may re-rail User's derailed Equipment on the Joint Trackage whenever use of motorized on or off track equipment is not required and User has obtained permission to perform such re-railing from Owner (which permission shall not be unreasonably denied, conditioned or delayed). The costs and expenses of clearing derailments and wrecks shall be at User's expense unless otherwise provided for in allocation of liability in Section 5 of these General Conditions.

2.17 In the event Equipment of User shall be forced to stop on Joint Trackage, and such stoppage is due to insufficient hours of service remaining among User's employees, or due to mechanical failure of User's Equipment, or any other cause not resulting from an accident or derailment, and such Equipment is unable to proceed, or if a train of User fails to maintain the speed required by Owner on the Joint Trackage, or if in emergencies, crippled or otherwise defective Equipment is set out of User's trains on the Joint Trackage, Owner shall have the option to furnish motive power or such other assistance (including but not limited to the right to re-crew User's train) as may be necessary to haul, help or push such Equipment, or to properly move the disabled Equipment off the Joint Trackage. The costs and expenses of furnishing motive power or of rendering such other assistance shall be at User's expense.

2.18 In the event any accident, derailment, or wreck (hereinafter, a "Derailment") involving Units on or in a train operated by User or for User by Owner carrying hazardous materials, substances, pollutants or wastes, as defined pursuant to federal, state or local laws, regulations and ordinances and/or court decisions interpreting such laws, regulations and ordinances (hereinafter, "Hazardous Materials") shall occur on any segment of the Joint Trackage, any report required by federal, state or local authorities shall be the responsibility of User. User shall also advise the owner/shipper of the Hazardous Materials involved in the derailment, and Owner, immediately.

2.19 Unless otherwise agreed by the parties, Owner shall assume responsibility for cleaning up any release of Hazardous Materials from User's cars in accordance with all federal, state, or local regulatory requirements. User may have representatives at the scene of the derailment to observe and provide information and recommendations concerning the characteristics of Hazardous Materials release and the cleanup effort. Such costs shall be borne in accordance with Section 4 of these General Conditions.

2.20 If Hazardous Materials must be transferred to undamaged cars, User shall perform the transfer, provided, however, that if the Hazardous Materials are in damaged cars that are blocking the Joint Trackage, Owner, at its option, may transfer the Hazardous Materials. Transfers of Hazardous Materials by User shall only be conducted after being authorized by Owner.

Section 3. BILLING; DEFAULT

3.1 Billing shall be accomplished on the basis of data contained in a billing form mutually agreed to between the parties. Such billing form shall contain sufficient detail to permit computation of payments to be made hereunder. Billing shall be prepared in accordance with the Base Charge and Mileage Factor set forth in Sections 5.1 and 5.2, respectively, of this Agreement (and, as applicable, the rules, additives, and equipment rental rates published by Owner). User shall pay to Owner at the Office of the Treasurer of Owner or at such other location as Owner may from time to time designate, all the compensation and charges of every name and nature that User is required to pay pursuant to the Agreement, in lawful money of the United States, within sixty (60) days after the receipt of bills therefor. Bills shall contain a statement of the amount due on account of the expenses incurred and services rendered during the billing period.

3.2 No exception to any bill or payment shall be honored, recognized, or considered if filed after the expiration of three (3) years from the last day of the calendar month during which the bill is rendered. No bill shall be rendered later than three (3) years (i) after the last day of the calendar month in which the expense covered thereby is incurred, or (ii) in the case of claims disputed as to amount or liability, after the amount is settled and/or the liability(ies) established.

3.3 So much of the books, accounts and records of each party hereto as are related to the subject matter of the Agreement shall at all reasonable times be open to inspection by the authorized representatives and agents of the parties hereto.

3.4 All books, accounts, and records shall be maintained to furnish readily full information for each item in accordance with 49 U.S.C. § 11161 et seq. and the related regulations of the STB in 49 C.F.R. Part 1201, 1-3, et seq.

3.5 Should any amount become payable by Owner to User under the Agreement, the provisions of Section 3.1 through Section 3.3 of these General Conditions shall apply with User as the billing party and Owner as the paying party.

3.6 No action of Owner in waiving any default of User under this Agreement shall be deemed to waive any subsequent default of User, or to impair any rights of Owner under the Agreement.

Section 4. COMPLIANCE WITH LAWS

4.1 User shall not treat, store or dispose of petroleum products or Hazardous Materials at any location on or along the Joint Trackage.

4.2 Responsibility for "Environmental Claims" (as defined in Section 4.8, below) as between the parties shall be borne by the party or parties liable therefor pursuant to the allocation of liability in Section 5 of these General Conditions.

4.3 Each party shall release the other party to the extent it is responsible for an Environmental Claim, and, to the extent of such responsibility, shall defend, indemnify, protect and save harmless such other party from and against such Environmental Claim and costs associated therewith, including, but not limited to, environmental consultant fees, attorneys' fees and third party claims.

4.4 In the event that any incident, accident, Derailment, or vehicle striking or being struck by Equipment (hereinafter "Incident") involving Equipment operated by a party hereto carrying Hazardous Materials shall occur on the Joint Trackage, any report required by Federal, State or local authorities shall be the responsibility of such party. Each party shall advise the other party immediately of the occurrence of an Incident involving Equipment operated by the party carrying Hazardous Materials.

4.5 Unless otherwise agreed by the parties, Owner shall undertake any "Response Action" (as defined in Section 4.7, below) in accordance with all Federal, State, or local regulatory requirements necessitated by a release of Hazardous Materials resulting from an Incident involving Equipment operated by either party on Owner's right-of-way underlying the Joint Trackage. User shall provide data or a representative available at the scene of any Incident involving Equipment operated by it to provide information concerning the characteristics of Hazardous Materials released.

4.6 If, following an Incident occurring on or along the Joint Trackage, Hazardous Materials must be transferred to undamaged cars or other vehicles, unless otherwise agreed by the parties, the party whose Equipment was involved in such Incident shall perform the transfer; provided, however, that if the Hazardous Materials are in damaged cars of a train of User that are blocking the Joint Trackage, Owner shall transfer the Hazardous Materials; provided further that transfers of Hazardous Materials by User shall only be conducted after being authorized by Owner (which authorization shall not be unreasonably denied, conditioned or delayed). The cost of such transfer of Hazardous Materials shall be borne by the party or parties liable therefor pursuant to the allocation of liability in Section 5 of these General Conditions.

4.7 In the event any cleanup, response, removal or remediation of any environmental condition on the Joint Trackage is necessary (collectively, a "Response Action"), neither party shall be entitled to any damages, actual or consequential, by reason of the Response Action's interference with the other party's use of the Joint Trackage. Owner and its contractors shall have full, unrestricted and unconditional access to the Joint Trackage for the purpose of completing or engaging in a Response Action for which Owner has any responsibility or, at Owner's option, a Response Action which Owner has undertaken should User fail to diligently pursue and complete such Response Action to the satisfaction of Owner; provided, however, that any Response Action (i) shall be undertaken and completed pursuant to a work plan (including a schedule) submitted to the other party for its review and, in the case of Owner, approval, and (ii) shall not unreasonably, in terms of duration or otherwise, restrict the other party's use of the Joint Trackage. Either party's completion of the other party's obligations hereunder shall not be deemed a waiver of such obligations under the Agreement. Owner shall have the right, but not the obligation, to conduct reasonable inspections of any Response Action of User and User shall provide Owner all information requested by Owner regarding any Response Action of User or any Environmental Claims for which User is responsible.

4.8 The term "Environmental Claim" means the direct costs of any cleanup, Response Action, removal, remediation, natural resource damage, closure and/or post-closure required by any environmental condition affecting the air, soil, surface waters, ground waters, streams, sediments and similar environmental conditions caused by, resulting from, arising out of, or occurring in connection with this Agreement.

4.9 The liability and indemnity provisions of this Section 4 shall continue in full force and effect regardless of whether this Agreement is terminated pursuant to any other provision, or the Joint Trackage is abandoned and vacated by User.

4.10 The total cost of clearing a Derailment or other Incident, cleaning up any Hazardous Materials released during such Derailment or Incident, and repairing the Joint Trackage or any other property damaged thereby shall be borne by the party or parties liable therefor pursuant to the allocation of liability in Section 5 of these General Conditions.

Section 5. LIABILITY

5.1 The responsibility and liability as between the parties for: (i) any personal injury or death of any person (including employees of the parties and third parties), (ii) any real or personal property damage (including property of the parties and any third person), (iii) any damage or destruction to the environment (including land, air, water, wildlife and vegetation), and (iv) all cleanup and remedial expenses, court costs, litigation expenses and attorney's fees resulting from the use of the Joint Trackage by the parties to this Agreement or by third party users, all of which are collectively referred to as a "Loss", will be divided as follows:

5.2 If a Loss results from the use of the Joint Trackage solely by the Equipment of only one of the parties to this Agreement without the involvement of any Equipment of the other party, then the party whose Equipment is involved shall be solely responsible for the Loss, even if caused partially or completely by the other party.

5.3 If a Loss results from the use of the Joint Trackage by both Owner and User and involves the Equipment of both parties, then: (i) each of Owner and User shall be solely responsible for any Loss to its own employees and Equipment in its own account (including lading) and (ii) Owner and User shall each be responsible for one-half of any Loss to the Joint Trackage and Loss sustained by third parties, regardless of the proportional responsibility between or among them as to the cause of the Loss.

5.4 If a Loss results from the use of the Joint Trackage by both User and a third party user of the Joint Trackage that is not a party to this Agreement, and involves the Equipment of both User and such third party user, then the responsibility of User and such third party user for the Loss shall be allocated in the manner specified in subsection 5.3, with the third party user being considered as Owner for the purpose of allocating such Loss. Owner shall be responsible for, and shall indemnify, defend, and hold harmless User from and against, all Loss allocated to a third party user in accordance with subsection 5.3.

5.5 Notwithstanding any provision of this Section 5 to the contrary, each Party shall assume and bear all responsibility for any Loss or Damage that is directly or proximately caused by acts or omissions of any of its employees while under the influence of drugs or alcohol.

5.6 Whenever any liability, cost, or expense is assumed by or allocated to any party to this Agreement pursuant to this Section 5, that party shall forever protect, defend, indemnify, and save harmless the other party to this Agreement and its subsidiaries and affiliates, and all of its and their respective directors, officers, agents, and employees from and against that liability, cost, and expense assumed by that party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of the indemnitee or its directors, officers, agents or employees. Notwithstanding any provision to the contrary herein, no obligations of indemnity of either party shall apply with respect to punitive or exemplary damages to the extent arising from the conduct of the party to be otherwise indemnified hereunder.

5.7 In every case of death or injury suffered by an employee of any party to this Agreement, when compensation to such employee or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employer's liability, or other law, and either of said parties under the provisions of this Agreement is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such party shall not be released from paying any future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.

5.8 For purposes of determining liability, pilots furnished by Owner to User pursuant to this Agreement shall be considered as the employees of User while such employees are on board or getting on or off trains of User.

5.9 If any suit or action shall be brought against any party for damages which under the provisions of the Agreement are in whole or in part the responsibility of the other party, said other party shall be notified in writing by the party sued, and the party so notified shall have the right and be obligated to take part in the defense of such suit and shall pay its allocated share of the judgment and cost, expense and attorneys' fees incurred in such suit as determined pursuant to this Section 5.

5.10 In the event of a Loss involving lading, the parties to this Agreement shall be bound by the Freight Claim Rules, Principles, and Practices of the Association of American Railroads (AAR) as to the handling of any claims for the loss or damage to lading, except to the extent expressly provided otherwise herein.

5.11 Notwithstanding any provision to the contrary herein, the obligation of a party to indemnify the other party pursuant to this Section 5 shall not include any obligation to indemnify such other party for punitive or exemplary damages to the extent arising from conduct of such indemnified party.

Section 6. ARBITRATION

6.1 If at any time a question or controversy shall arise between the parties hereto in connection with the Agreement upon which the parties cannot agree, then, upon the written request of either party setting forth the issue in dispute, such question or controversy shall be submitted to arbitration. If the parties involved in such dispute are able to agree upon a single arbitrator experienced in matters of the character in dispute within thirty (30) days after the party desiring such arbitration (the "Demanding Party") shall notify in writing the other party to such dispute (the "Noticed Party"), such dispute shall be submitted to such single arbitrator. Otherwise, the Demanding Party shall appoint an arbitrator and notify the Noticed Party in writing of such appointment. Within twenty (20) days after receipt of said notice, the Noticed Party shall appoint an arbitrator and notify the Demanding Party in writing of such appointment. Should the Noticed Party fail within twenty (20) days after receipt of such notice to name its arbitrator, the arbitrator for the Demanding Party shall select one for the Noticed Party so failing and, if they cannot agree, said arbitrator may be appointed by the Chief Judge (or acting Chief Judge) of the United States District Court for the District in which the headquarters office of the Demanding Party is located upon application by either party after ten (10) days' written notice to the other party. The arbitrators so chosen, if an even number, shall select a third arbitrator to complete the panel. If they fail to agree upon a third arbitrator, the third arbitrator shall, upon application of any party, be appointed by said judge in the manner heretofore stated.

6.2 Upon selection of the arbitrator(s), said arbitrator(s) shall with reasonable diligence determine the questions set forth in said notice of demand for arbitration, shall give all parties reasonable notice of the time and place (which shall be at the discretion of the arbitrator(s)) of hearing evidence and argument, may take such evidence as they deem reasonable or as either party may submit with witnesses required to be sworn, and may hear arguments of counsel or others. If any arbitrator declines or fails to act, the party (or parties in the case of a single arbitrator) by whom such arbitrator was chosen or said judge shall appoint another to act in such arbitrator's place. After considering all evidence, testimony, and arguments, said single arbitrator or the majority of said panel of arbitrators shall promptly state such decision or award in writing which shall be final, binding, and conclusive on all parties to the arbitration when delivered to them. Until the arbitrator(s) shall issue the first decision or award upon any question submitted for arbitration, performance under the Agreement shall continue in the manner and form existing prior to the rise of such question. After delivery of said first decision or award, each party shall forthwith comply with said first decision or award immediately after receiving it.

6.3 Each party to the arbitration shall pay the compensation, costs, and expenses of the arbitrator appointed in its behalf and all fees and expenses of its own witnesses, exhibits, and counsel. The compensation, costs, and expenses of the single arbitrator or the additional arbitrator in the board of arbitrators shall be paid in equal shares by all parties to the arbitration.

6.4 The books and papers of all parties, as far as they relate to any matter submitted for arbitration, shall be open to examination by the arbitrator(s).

Section 7. APPLICABLE LAW

7.1 This Agreement and any claims, disputes or controversies arising hereunder shall be governed by and construed in accordance with the laws of the state of Missouri, without giving effect to any choice or conflict of laws provision or rule (whether of the State of Missouri or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Missouri.

Section 8. GOVERNMENTAL APPROVAL; ABANDONMENT

8.1 User shall, at its own cost and expense, initiate by appropriate application or petition and thereafter diligently prosecute proceedings to obtain any required STB and Federal Communications Commission ("FCC") approval or exemption for the exercise of the trackage rights granted to User pursuant to the Agreement. Owner, at its expense, shall assist and support said application or petition and will furnish such information and execute, deliver, and file such instrument or instruments in writing as may be necessary or appropriate to obtain such STB and/or FCC consent, approval, or authority. User and Owner agree to cooperate fully to procure all such necessary consent, approval, or authority.

8.2 Owner reserves the right, to the extent that Owner may lawfully do so and subject to any required STB approval or exemption, to abandon all or any part of the Joint Trackage at any time during the life of the Agreement without concurrence of User, by giving six (6) months prior written notice to User of its intention so to do; provided, that User shall have a right of first refusal to purchase all or such part of the Joint Trackage that Owner proposes to abandon at a price to be calculated in the manner prescribed by the STB's regulations governing Offers of Financial Assistance at 49 C.F.R. § 1152.27 or any successor regulations.

8.3 Each party shall be responsible for any labor claims of, and shall bear the cost of employee protection payable to, its own employees and the employees of companies affiliated with it, to the extent resulting from the Agreement and/or such party's operations on the Joint Trackage.

Section 9. OTHER CONSIDERATIONS

9.1 Nothing in the Agreement contained shall limit the right of Owner to admit other companies to the use of the Joint Trackage or any part thereof on such terms and conditions as are acceptable to Owner; provided, that the operations of such other companies shall not unduly interfere with or delay the operations of User on and along the Joint Trackage. Except as otherwise provided in Section 2.2 of the Agreement, User shall have no right to admit any person, firm, or corporation to the use of the Joint Trackage.

9.2 The Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors, lessees, and assigns. The Agreement and any rights granted hereunder may not be assigned in whole or in part by Owner or User without the prior written consent of the other. The Agreement may be assigned by Owner or User without the prior written consent of the other only (i) as a result of a merger, corporate reorganization, consolidation, change of control or sale of substantially all of its assets, or (ii) to an affiliate of the assigning party where the term "affiliate" means a corporation, partnership or other entity controlled, controlling or under common control with the assigning party. In connection with the sale, lease or transfer by Owner of all or a portion of the Joint Trackage, Owner shall require the

purchaser, lessee or transferee of such portion (or all) of the Joint Trackage to accept assignment in writing of this Agreement with respect to, and to perform Owner's obligations under this Agreement, with respect to the portion of the Joint Trackage sold, leased or transferred.

9.3 The Agreement and each and every provision hereof is for the exclusive benefit of the parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right in any third person to recover by way of damages or otherwise against any of the parties hereto.

9.4 All notices, demands, requests or submissions which are required or permitted to be given pursuant to the Agreement shall be given by either party to the other in writing by serving the same upon the Vice President of Operations of each company.

9.5 If any covenant or provision of the Agreement not material to the right of User to use the Joint Trackage shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which is in itself valid. No controversy concerning any covenant or provision shall delay the performance of any other covenant or provision. Should any covenant or provision of the Agreement be adjudged void, the parties will make such other arrangements as, under the advice of counsel, will effect the purposes and intent of the Agreement.

9.6 All Section headings are inserted for convenience only and shall not affect any construction or interpretation of the Agreement.

9.7 No term or provision of the Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to the Agreement.

9.8 All words, terms and phrases used in the Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms, and phrases in the railroad industry in the United States.

9.9 The Agreement is the result of mutual negotiations between the parties hereto, neither of whom shall be considered the drafter for purposes of contract construction.

9.10 Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of the Agreement, or as may be necessary or appropriate for a party hereto to enforce its rights under the Agreement, all commercial information to which access is provided or obtained hereunder will be kept confidential and will not be disclosed by either Owner or User to any party other than Owner or User (as applicable), their respective affiliates, and its and their respective officers, employees, and attorneys, without the prior written approval of the other party.

Exhibit 2E

LEASE AGREEMENT

FOR

NEFF YARD, KANSAS CITY, MO

BY

UNION PACIFIC RAILROAD COMPANY

TO

ILLINOIS CENTRAL RAILROAD COMPANY

THIS LEASE AGREEMENT made and entered into this _____ day of _____, 2026 (the "Execution Date"), by and between UNION PACIFIC RAILROAD COMPANY (hereinafter referenced as "Lessor" or "UP") and ILLINOIS CENTRAL RAILROAD COMPANY (hereinafter referenced as "Lessee" or "CN").

WHEREAS, Lessor desires to grant to Lessee, on the terms and conditions set forth in this Lease, a lease for railroad purposes of trackage and real property owned by Lessor at Kansas City, Missouri, commonly known as Neff Yard ("Neff Yard") and to set forth the parties' agreements concerning certain other rights and obligations as specified in this Lease.

NOW THEREFORE, Lessee and Lessor agree as follows

Section 1. DESCRIPTION OF LEASED PROPERTY

A. Grant by Lessor. Lessor hereby grants to Lessee, effective as of the Commencement Date, subject to the terms and conditions set forth in this Lease, an exclusive lease (except with respect to the Shared Access Assets as expressly provided in Section 1(B)) for freight railroad purposes in the following property of Lessor:

1) All real property owned by UP north of all UP main tracks on the southern border of Neff Yard as of the Execution Date, west of the CPKC Pittsburg Subdivision, eastern limits of the Lydia Avenue control point, and extending to the northern boundary of land owned by UP (the "Primary Leased Area"), including the classification bowl and related trackage, leads, tracks, switches, signals, fixtures and appurtenances located within the Primary Leased Area or otherwise identified on Exhibit "A" as part of the yard bowl (the "Bowl"), except the locomotive shop unless and until included pursuant to the Expansion Rights, as generally depicted on the map attached hereto as Exhibit "A";

2) All trackage, buildings, equipment, and other improvements and appurtenances within the Primary Leased Area;

3) The entire upper floor of the yard office as identified on Exhibit "A";

4) Intermodal area support buildings as identified on Exhibit "A";

5) Yard air plants as identified on Exhibit "A";

6) All access, parking, and common areas that may be reasonably used in connection with the property described in subparagraphs (1) through (5); and

7) All UP-owned land adjacent to the property described in subparagraphs (1) and (2) that is physically capable of development for any legally permitted transportation use.

All of the foregoing are collectively referred to herein as the "Leased Premises." All portions of Neff Yard and other property or assets of Lessor that are not included in the Leased Premises or identified as Shared Access Assets are referred to herein as the "Reserved Premises." The Reserved Premises include the lower floor of the yard office, the locomotive shop and any other property or assets expressly reserved to Lessor, unless and until any such property or asset is added to the Leased Premises pursuant to the Expansion Rights or otherwise made available to Lessee by written agreement of the parties. For the avoidance of doubt, the Bowl is

included in the Leased Premises and, except to the extent any related asset is expressly identified as a Shared Access Asset on Exhibit "A" or Schedule A-2, is an Exclusive Asset and is not Reserved Premises.

B. Exclusive Possession; Shared Access Assets; Limited Retained Rights of Lessor. Except with respect to those assets specifically identified on Exhibit "A" or Schedule A-2 as "Shared Access Assets," all other assets included in the Leased Premises, including the Bowl, shall be deemed "Exclusive Assets" and Lessee shall have the exclusive right to possess, use and operate upon the Exclusive Assets during the Term, and Lessor shall have no right to operate trains, locomotives, railcars or other equipment upon, occupy, use, or grant any third party any right to use any portion of the Exclusive Assets without Lessee's prior written consent. Lessor and Lessee shall share non-exclusive rights to operate over the Shared Access Assets solely to the extent reasonably necessary for their respective access and operations, and each party's use of the Shared Access Assets shall not materially interfere with, delay or obstruct the other party's operations and shall at all times be coordinated in accordance with reasonable operating protocols established by the parties. During the one (1) month period beginning on the Execution Date (the "Inventory Period"), the parties shall work together in good faith to identify any additional assets (including tracks, utilities, drainage facilities, roadways, air plants, shop areas, storage areas, shared communications infrastructure and signage) that (i) are located on the Leased Premises and are reasonably necessary for Lessor's retained operations or common carrier obligations, or (ii) are located on other property of Lessor but are reasonably necessary to support Lessee's operations on the Leased Premises. Any addition to the Shared Access Assets or any additional Lessor reserved right shall require the parties' written agreement, not to be unreasonably withheld, conditioned or delayed, and shall be subject to the no-material-interference standard set forth above. If the parties do not agree during the Inventory Period whether any asset should be added as a Shared Access Asset or reserved right, such asset shall not be treated as a Shared Access Asset or reserved right unless and until the dispute is finally resolved pursuant to Section 20, and Lessee's rights with respect to the Leased Premises shall not be impaired during the pendency of any such dispute; provided, however, that if Lessor demonstrates that it historically used such disputed asset and that interim access is reasonably necessary for Lessor's retained operations or common carrier obligations, Lessor may access such disputed asset during the pendency of the dispute solely to the extent reasonably necessary for such retained operations or common carrier obligations, on reasonable prior notice to Lessee except in emergencies, coordinated with Lessee in accordance with reasonable operating protocols, and subject at all times to the no-material-interference standard set forth above. Such interim access shall not constitute an admission that such asset is a Shared Access Asset or reserved right, shall not waive Lessee's position in any dispute, and shall not permit Lessor to expand such access beyond the historical use or demonstrated need. Until such matters are agreed or finally resolved, no asset or right shall be deemed added to the Shared Access Assets or reserved to Lessor except as expressly identified on Exhibit A or Schedule A-2. For administrative clarity, the parties shall identify on Exhibit A and Schedule A-2 any assets that are subject to this Lease as distinguished from assets governed by a separate trackage rights or joint-facility agreement. Such identification shall not, without an amendment signed by both parties, add any shared tracks or reserved rights, modify the Leased Premises or alter rights under any other agreement. For any request for interim access to a disputed asset, Lessor shall provide reasonably available records or other reasonably specific information describing its historical use and the operational necessity of the requested interim access, subject to the existing no-material-interference, coordination and dispute-resolution requirements.

C. Bowl Storage Agreement. Promptly following the Commencement Date, at Lessor's request, Lessee shall offer Lessor a non-exclusive storage agreement or license, on

terms reasonably acceptable to Lessee, for the storage of railcars and equipment in portions of the Bowl designated by Lessee (the "Bowl Storage Agreement"). Any rights granted to Lessor under the Bowl Storage Agreement shall be subordinate in all respects to Lessee's use, operation, maintenance, safety and dispatching of the Leased Premises, shall not materially interfere with, delay or obstruct Lessee's operations, shall be subject to Lessee's reasonable operating, safety and access protocols, and shall not constitute a Shared Access Asset, Reserved Premises, retained right of Lessor or limitation on Lessee's exclusive rights under this Lease. Lessee may terminate the Bowl Storage Agreement, in whole or in part, for any reason upon not less than six (6) months' prior written notice to Lessor, and may suspend or relocate any storage activity immediately to the extent reasonably necessary for safety, emergency response, maintenance, construction, regulatory compliance or Lessee's railroad operations. Upon termination or suspension of storage rights under the Bowl Storage Agreement, Lessor shall use commercially reasonable efforts to promptly remove railcars and locomotives under its control in accordance with Lessee's reasonable operating and safety directions, subject to applicable law and any necessary FRA authorization. Nothing in this sentence limits Lessee's existing rights to suspend or relocate storage activity.

D. Rights of Lessee. On and after the Commencement Date, Lessee shall be entitled to use and occupy the Leased Premises for railroad transportation, delivery, pickup, switching, classification, storage, staging, interchange, locomotive servicing, fueling, crew changes, administrative activities and any other railroad transportation or ancillary purposes determined by Lessee to be reasonably necessary or desirable in connection with its operations. Lessee shall use the track on the Leased Premises subject to the terms provided in this Lease. This Lease is granted expressly subject to only those existing rights, interests and estates of third parties specifically identified on Schedule C attached hereto. Except as may be contained within and transported by railcars, Lessee shall not use or store hazardous substances, as defined by the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA") or petroleum or oil as defined by applicable Environmental Laws on any part of the Leased Premises, except in the ordinary course of Lessee's railroad operations, including locomotive fueling, servicing, maintenance and emergency response activities, in each case in compliance with applicable Environmental Laws. Lessor shall provide Lessee a detailed land plot and/or valuation maps including the Leased Premises upon request.

Section 2. TERM, EXPANSION RIGHTS, AND PURCHASE OPTION

A. Execution Date; Commencement Date and Term. This Lease shall become effective as of the Execution Date; provided, however, that Lessee's right of possession of the Leased Premises and rights to use the Shared Access Assets, as well as Lessee's obligations under this Lease, shall not commence until the Commencement Date. Lessor and Lessee acknowledge that that certain Agreement and Plan of Merger (the "Merger Agreement") among Lessor's corporate parent Union Pacific Corporation ("UPC"), two wholly owned subsidiaries of UPC, and Norfolk Southern Corporation ("NSC"), providing for the acquisition of NSC by UPC (the "Transaction"), has not yet been consummated, and that consummation of the Transaction is subject to review and approval by the Surface Transportation Board ("STB") pending in Docket No. FD 36873 and such approval becoming effective and unstayed (such approval, the "STB Approval"). The "Commencement Date" shall be the day following the closing of the Transaction after the STB Approval has become effective and unstayed. If the Merger Agreement is terminated in accordance with its terms before the Commencement Date, then this Lease shall be null and void and neither party shall have any further rights or obligations hereunder, except for obligations that expressly survive termination. Once the Commencement Date has occurred, unless earlier terminated pursuant to the provisions of this Lease, this Lease shall continue in

effect for an initial term of ninety-nine (99) years from and after the Commencement Date (the "Initial Term") and thereafter, at Lessee's option, shall be automatically extended for successive additional periods of ninety-nine (99) years each (each, a "Renewal Term") unless Lessee provides written notice of non-renewal to Lessor not less than thirty (30) days before expiration of the then-current Term. The Initial Term and each Renewal Term, as applicable, are collectively referred to as the "Term." All rights, obligations, liabilities, and indemnities that arise or accrue under this Lease prior to its termination or expiration, including, without limitation, those provided in subsections 2(B)(2) and 2(B)(3) below shall survive such termination or expiration.

B. Expansion Rights. During the Term, Lessee shall have the option, exercisable from time to time with a minimum of ninety (90) days' written notice to Lessor, to lease any additional tracks, yard areas, buildings or other railroad property within Neff Yard, including but not limited to the property identified on Exhibit B as the "Expansion Property" and any other portion of the Reserved Premises or Neff Yard not included in the initial Leased Premises that Lessee reasonably determines is necessary or desirable for its railroad transportation, yard, terminal, support, development or ancillary operations. Upon Lessee's exercise of an expansion option, the property referenced in Lessee's notice shall automatically cease to be Reserved Premises to the extent applicable, become part of the Leased Premises and shall be subject to all terms and conditions of this Lease without further action by the parties, except that the parties shall execute an amendment to Exhibit A reflecting the expanded Leased Premises. Effective as of the date on which any property becomes part of the Leased Premises pursuant to this Section 2(B), Base Rent shall be increased by the incremental fair market monthly commercial lease rental value of such property, determined using the same standard, exclusions and methodology applicable to Base Rent under Section 3(B) (the "Expansion Rent"). Lessor and Lessee shall attempt in good faith to agree upon the Expansion Rent for a period of thirty (30) days after Lessor's receipt of Lessee's expansion notice. If the parties do not agree upon the Expansion Rent within such thirty (30)-day period, the Expansion Rent shall be determined pursuant to the appraisal procedure set forth in Section 2(C), applied to determine the incremental fair market monthly rental value of such property rather than purchase price. The exercise of the Expansion Rights shall not be ineffective solely because the Expansion Rent has not yet been finally determined, and, upon final determination, the Expansion Rent shall apply retroactively to the date such property became part of the Leased Premises, with any underpayment or overpayment paid or credited, as applicable, within thirty (30) days after final determination. Any Expansion Rent shall be deemed Base Rent for all purposes of this Lease, including the Base Rent credit against the Purchase Price under Section 2(C). Lessor shall not sell, lease, license, encumber or otherwise grant rights in any Expansion Property during the Term that would impair Lessee's expansion rights hereunder.

C. Purchase Option.

1) At any time during the Term, Lessee shall have the exclusive option to purchase from Lessor all of Lessor's right, title and interest in and to the Leased Premises, the Expansion Property, and/or any other property for which Lessee has exercised the Expansion Rights option set forth in Section 2(B) (the "Purchase Option"). Lessee may exercise the Purchase Option by written notice to Lessor. The purchase price (the "Purchase Price") shall be the fair market value of the applicable property as of the date of exercise, determined pursuant to the appraisal procedure set forth below, less (a) a credit for all Base Rent actually paid by Lessee under Section 3(B); and (b) a credit for value attributable to any Lessee-Funded Improvements. Upon exercise of the Purchase Option, Lessor shall convey the applicable property to Lessee by quitclaim deed and shall convey or assign all appurtenant railroad rights, easements and improvements owned by Lessor and necessary for Lessee's continued use and operation of such property, free and clear of all liens and encumbrances created by Lessor after the Execution Date

other than those approved by Lessee in writing. Notwithstanding the foregoing, any exercise of the Purchase Option shall be subject to required governmental and regulatory approvals, if any, to the extent such approvals have not already been obtained as part of the STB approval of this Lease and the Purchase Option.

2) For purposes of this Section, "fair market value" means, subject to Section 4 below, the price that would be paid for the applicable property in an arm's-length cash sale between a willing seller and a willing buyer, neither being under compulsion to buy or sell and each having reasonable knowledge of the relevant facts, based solely on continued use of the applicable property as a freight railroad yard and terminal. For appraisal purposes, the highest and best use of the applicable property shall be such continued rail yard and terminal use.

> **Valuation Methodology.** The appraisers shall determine the fair market value of the applicable property using generally accepted appraisal methods and principles appropriate for property used as a freight railroad yard and terminal, including the sales comparison, income and cost approaches, as applicable, and shall reconcile the results of any such approaches in accordance with generally accepted appraisal practice. No appraisal method or assumption may value the applicable property based on any non-rail, logistics, industrial, mixed-use or other transportation-related use.

Fair market value shall be determined without regard to the existence of this Lease or the Purchase Option and shall exclude speculative non-rail development value, assemblage value, strategic value to Lessor, and any value attributable to this Lease, the Transaction, Lessee's operations, or Lessee-Funded Improvements.

If Lessee exercises the Purchase Option, Lessor and Lessee shall attempt in good faith to agree upon the fair market value of the applicable property for a period of thirty (30) days after Lessor's receipt of Lessee's exercise notice. If the parties do not agree upon fair market value within such thirty (30)-day period, then, within thirty (30) days thereafter, each party shall appoint one independent appraiser. Each appraiser shall be a qualified real estate appraiser with not less than ten (10) years of experience appraising railroad, rail yard, industrial, logistics, terminal or other comparable transportation-related real property, and shall not have any material financial interest in, or then-current material business relationship with, either party or any of their respective affiliates. If either party fails to timely appoint an appraiser, the appraiser timely appointed by the other party shall determine the fair market value of the applicable property, and such determination shall be final and binding on the parties absent fraud, bad faith or manifest error. Each proposed appraiser shall disclose to both parties any material prior engagement or relationship reasonably bearing on independence; disclosure shall not waive the independence requirements in this paragraph absent written agreement of both parties.

Within sixty (60) days after the appointment of the second appraiser, the two appraisers shall each deliver to Lessor and Lessee a written determination of the fair market value of the applicable property. If the two appraisals differ by ten percent (10%) or less of the higher appraisal, the fair market value shall be the average of the two appraisals. If the two appraisals differ by more than ten percent (10%) of the higher appraisal, then the two appraisers shall, within ten (10) days after delivery of the second appraisal, appoint a third independent appraiser meeting the qualifications set forth above.

The third appraiser shall independently determine the fair market value of the applicable property within sixty (60) days after appointment. The third appraiser's determination shall be final and binding on the parties absent fraud, bad faith or manifest error; provided that

the third appraiser's determination shall not be less than the lower of the two initial appraisals or greater than the higher of the two initial appraisals. If the third appraiser determines a value less than the lower of the two initial appraisals, fair market value shall be deemed to equal the lower of the two initial appraisals, and if the third appraiser determines a value greater than the higher of the two initial appraisals, fair market value shall be deemed to equal the higher of the two initial appraisals. Each party shall bear the fees and expenses of the appraiser appointed by such party, and the parties shall share equally the fees and expenses of any third appraiser. Unless Lessee and Lessor mutually agree otherwise in writing, the appraisal procedure set forth in this Section shall be the exclusive procedure for determining the Purchase Price.

Closing of any purchase under the Purchase Option shall occur no later than the later of (i) thirty (30) days after the Purchase Price is finally determined and (ii) ten (10) business days after all required governmental or regulatory approvals, title deliverables, survey matters and reciprocal access, easement or other railroad operating documents reasonably necessary for Lessee's continued rail operations have been obtained or finalized. At closing, Lessor shall deliver customary ancillary documents reasonably necessary to transfer title and record the deed. The parties shall cooperate to memorialize existing pedestrian, vehicular and utility access rights, if necessary, solely as already granted under this Lease and without creating additional retained rights, additional infrastructure obligations, a new cost allocation or any delay beyond the closing conditions stated above.

Section 3. LESSEE'S OBLIGATIONS

In consideration for Lessor's lease of the Leased Premises, and conveyance of the other rights, interests and obligations described herein, Lessee agrees to all of the following:

A. Condition of Premises.

1) Lessee shall accept all Leased Premises "AS IS, WHERE IS" and "with all faults."

2) Upon termination or expiration of the Term of this Lease, Lessee shall surrender possession of the properties free and clear of any encumbrances imposed or caused to be accrued by Lessee or resulting from Lessee's possession or operation of the Leased Premises after the Execution Date.

3) Upon termination or expiration of the Term of this Lease, Lessee shall relinquish possession of the track on the Leased Premises in at least FRA Class 1 Standard to the extent such track met FRA Class 1 Standard as of the Execution Date, ordinary wear and tear, casualty, condemnation, permitted alterations and improvements, changes required by law, obsolescence, and conditions not caused or contributed by Lessee excepted. Lessee shall indemnify Lessor for reasonable, documented, out-of-pocket costs only to the extent rehabilitation is required to restore the Leased Premises to the condition required by this subsection 3(A)(3). During the Inventory Period, the parties shall reasonably cooperate to prepare a written and photographic baseline condition report for the Leased Premises; provided, however, that the absence of an agreed report shall not shift to Lessee responsibility for any pre-existing deficiency or condition.

B. Lease Rentals. Lessee shall pay Lessor monthly base rent for the Leased Premises in the amount of $[___] per month (the "Base Rent"), which the parties intend to reflect the fair market commercial lease rental value of the Leased Premises for continued use as a

freight railroad, yard and terminal; excluding speculative non-rail development value, assemblage value, strategic value to Lessor, value attributable to the Transaction, this Lease, the Purchase Option or Lessee's operations, and value attributable to Lessee-Funded Improvements. Base Rent shall be payable monthly in arrears within thirty (30) days after bills are rendered therefor. If the parties have not agreed on the amount of Base Rent as of the Execution Date, the parties shall work in good faith during the Inventory Period to agree on Base Rent based on the standard set forth in this Section 3(B); if the parties do not agree by the end of the Inventory Period, Base Rent shall be determined pursuant to the appraisal process in Section 2(C), applied to determine fair market monthly rental value rather than purchase price. All Base Rent actually paid by Lessee under this Lease shall be credited dollar-for-dollar against the Purchase Price upon any exercise of the Purchase Option. In the event of early termination of this Lease, prepaid Base Rent, if any, shall be prorated as of the termination date except to the extent termination results from Lessee's uncured default.

C. **Rehabilitation and Maintenance**. Notwithstanding any provision to the contrary herein and in addition to all obligations under same:

1) Lessee shall at all times, and at its sole cost and expense, maintain the Leased Premises and maintain, or cause to be rehabilitated and/or maintained, the railroad trackage to the standards described herein, including all grade crossings and signals, located upon the Leased Premises in such safe and satisfactory condition as necessary to conform with generally applicable industry standards for the class and nature of operations conducted thereon, and to conform with all applicable standards promulgated by the Federal Railroad Administration and other applicable governmental agencies provided that Lessee shall not be responsible for correcting any pre-existing deficiency to the extent the applicable portion of the Leased Premises does not satisfy the maintenance standards required hereunder as of the Execution Date, unless otherwise expressly agreed by the parties in writing.

2) The cost and expense of any and all public works projects, including but not limited to grade crossing projects, involving the Leased Premises shall be apportioned between Lessor and Lessee equitably based on the extent to which such project is required by, benefits, or is caused by each party's operations, retained rights or use of the applicable assets. During the Term hereof, Lessor shall transfer to Lessee any public funds received by Lessor for such public works projects to the extent attributable to the Leased Premises or Lessee's obligations under this Lease.

3) Lessee shall at all times, and at its sole risk and expense, maintain, or cause to be maintained, the track and all turnouts (from the point of switch to the clearance point, a distance defined by current UP Engineering Standards) located on the Leased Premises in compliance with the maintenance standards expressly required by this Section 3. Without relieving Lessee from any of its obligations under this Lease, if Lessor reasonably determines, based on the objective maintenance standards expressly required by this Lease, that any track condition is unsatisfactory for operation, Lessor shall provide Lessee written notice describing the condition in reasonable detail and allow Lessee thirty (30) days following receipt of such notice to correct the condition or, if the condition cannot reasonably be corrected within thirty (30) days, to commence correction and thereafter diligently pursue it to completion. Lessor may take action to remedy the condition at Lessee's expense only if Lessee fails to do so within the applicable period, except that Lessor may take reasonable immediate action in an emergency involving an imminent threat of material harm. Lessee shall reimburse only Lessor's reasonable, documented, out-of-pocket costs properly allocable to such remedial action, and Lessee may dispute any such charge pursuant to Sections 12 and 20 without waiving its rights by paying the undisputed portion. Lessor

may also avail itself of the default remedies set forth in Section 13 of this Lease. For clarity, applicable track safety requirements include 49 C.F.R. Part 213, as amended or succeeded, only to the extent applicable to the class and nature of the operations conducted on the affected track; this sentence does not require upgrades beyond the express maintenance obligations or shift responsibility for pre-existing deficiencies.

4) Lessor's operation over the Shared Access Assets with knowledge of an unsatisfactory condition shall not be deemed a waiver of Lessee's obligations contained herein.

5) Maintenance for the purpose of this Lease includes, but is not limited to, responsibility for maintaining proper drainage along the Leased Premises and for keeping the trackage on the Leased Premises free and clear of snow, ice, vegetation, structures, and other obstacles. Maintenance also includes, but is not limited to, responsibility for the maintenance of grade crossing warning devices, stop signs, gates, fences or barriers, roadway construction, track drainage facilities, lighting, track signals and signal maintenance.

6) Lessee shall be allowed to construct, add, install, use, maintain, repair, reconfigure, modify, relocate, and remove all trackage and fixtures on the Leased Premises in its discretion and at its sole risk and expense except as otherwise contemplated herein, in a manner and of materials consistent with FRA requirements and generally accepted railroad industry standards. Any salvage value attributable to property owned by Lessor shall be paid to Lessor, and any salvage value attributable to Lessee-Funded Improvements or other property owned by Lessee shall be retained by Lessee. Lessee, during the installation, construction, use, operation, renewal, relocation, modification, maintenance and repair of the Leased Premises, shall exercise reasonable and customary care, skill and diligence to prevent damage to the property of Lessor or injury to its agents, employees, invitees and contractors.

7) It is understood and agreed that Lessee shall maintain the track on the Shared Access Assets located within the Leased Premises to a FRA Class 1 Standard which is reasonably suited for the combined requirements of Lessor and Lessee, and Lessor shall maintain any Shared Access Assets located on Lessor's property outside the Leased Premises to the same standard to the extent necessary to support Lessee's operations. Each party shall accept the Shared Access Assets as it finds them, and neither party shall, by reason of any failure, deficiency or defect therein or failure or neglect in the maintenance or dispatching of the Shared Access Assets, have or make against the other party any claim or demand for any loss or damage whatsoever; provided, however, nothing in the foregoing shall be construed to preclude either party from availing itself of any remedies expressly provided under this Lease for breach of the terms hereof, including without limitation, rights of termination for material default and failure to cure.

8) Notwithstanding the foregoing, costs of maintaining, repairing and replacing any Shared Access Assets, as well as any public works projects involving Shared Access Assets, shall be equally allocated (50%-50%) between Lessor and Lessee; provided, however, that if either party reasonably determines that such allocation is inequitable due to disproportionate use, wear, cause of work or other operational factors, the parties shall cooperate in good faith to agree upon an equitable allocation based on actual use, cause, benefit and operational impact.

D. **Inspections by Lessor**. At reasonable times and upon reasonable prior notice to Lessee (except in the event of an emergency), Lessor shall have the right to enter upon the Leased Premises for purposes of inspecting the Leased Premises, performing obligations

expressly required of Lessor under this Lease, or exercising Lessor's expressly retained rights, so long as it does not interfere with Lessee's safe and efficient operation of the Leased Premises, including making inspections to determine compliance with the terms of this Lease. In no event shall Lessor be obligated to make any such inspections, and Lessor shall not be liable for any failure to make any such inspections or failure to identify and/or cure observable defects upon making any such inspections.

E. Use of Locomotive Facilities. To the extent Lessor or its agent or affiliate retains and operates the locomotive repair shop and/or fueling facilities located at Neff Yard, Lessor shall make locomotive service, fueling, and sand facilities and services available to Lessee for the servicing, inspection and fueling of Lessee's locomotives on a non-discriminatory basis and at commercially reasonable rates and upon terms no less favorable than those applicable to Lessor's comparable internal operations. The parties shall cooperate in good faith to establish reasonable procedures for requesting and providing such services so as not to unreasonably interfere with either party's operations. Lessor shall not discontinue or materially reduce access to such facilities or services in a manner that materially impairs Lessee's operations without reasonable advance notice to Lessee and reasonable cooperation with Lessee to permit alternative arrangements, including use of third-party service providers.

Section 4. IMPROVEMENTS

A. Lessor Improvements. Lessor shall retain ownership of the Leased Premises and all buildings, tracks, fixtures, structures, facilities, equipment and other improvements located on the Leased Premises and owned by Lessor as of the Execution Date, subject in all respects to this Lease and Lessee's rights hereunder, including Lessee's rights under the Purchase Option.

B. Lessee-Funded Improvements. All improvements, equipment, facilities, fixtures, additions, betterments, replacements and other property constructed, installed or paid for by Lessee at Lessee's expense after the Execution Date, including any track work, rail infrastructure, operating facilities, utility improvements, building improvements, equipment, trade fixtures and related facilities, are referred to herein as "Lessee-Funded Improvements." As between Lessor and Lessee, all Lessee-Funded Improvements shall remain Lessee's property during the Term to the extent such Lessee-Funded Improvements are removable without material damage to the Leased Premises. To the extent any Lessee-Funded Improvements become permanently incorporated into the real property or are not removable without material damage to the Leased Premises, such Lessee-Funded Improvements shall remain subject to Lessee's exclusive use and benefit during the Term and shall not be deemed to increase the Purchase Price or the fair market value payable by Lessee upon exercise of the Purchase Option. Lessee may remove any Lessee-Funded Improvements that are removable without material damage to the Leased Premises at any time during the Term or within a reasonable period after the expiration or earlier termination of this Lease, provided that Lessee shall repair any material damage caused by such removal. Lessee shall have no obligation to remove any Lessee-Funded Improvements that have become permanently incorporated into the real property.

C. Treatment Upon Exercise of Purchase Option. Upon exercise of the Purchase Option, Lessor shall convey by quitclaim deed to Lessee the applicable property, including all improvements owned by Lessor and all Lessee-Funded Improvements then located on or incorporated into the applicable property, to the extent conveyable by Lessor, without additional consideration other than the Purchase Price. For purposes of determining the Purchase Price, the fair market value of the applicable property shall include the value of the Leased Premises and the improvements owned or funded by Lessor as of the Execution Date, but shall exclude all

Lessee-Funded Improvements and any incremental value attributable to any Lessee-Funded Improvements. The appraisers determining fair market value pursuant to the Purchase Option appraisal procedure shall be instructed to determine fair market value as if the Lessee-Funded Improvements had not been constructed, installed or funded by Lessee. For the avoidance of doubt, Lessee shall not be required to pay Lessor for the value of improvements, equipment or facilities constructed, installed or paid for by Lessee at Lessee's expense. Any deed may exclude property not subject to the Purchase Option as actually exercised, but shall not exclude any property, improvement, appurtenance or right required to be conveyed under Section 2(C).

Section 5. LESSEE'S INSPECTION PRIOR TO LEASE

A. Acknowledgement of Inspection. By signing this Lease, Lessee acknowledges that it has had, or will have before the Commencement Date, a reasonable opportunity to inspect the Leased Premises, including the improvements and structures on the Leased Premises. Lessee further acknowledges that:

1) No representation or warranty has been made by Lessor to Lessee concerning the state or condition of the Leased Premises, or the age of any improvements on the Leased Premises; and

2) Lessee has not relied upon any statement or declaration of Lessor with respect to the physical condition of the Leased Premises, Lessor's title to the Leased Premises, Lessor's or any other party's freight traffic volumes to or from the Leased Premises, or any other matter, either oral or in writing, as an inducement to entering into this Lease, other than as stated in this Lease; and

3) The sole consideration for execution of this Lease by Lessee is set forth in this Lease.

4) Notwithstanding the foregoing, Lessor represents that it has sufficient right, title and authority to enter into this Lease and grant the rights granted to Lessee hereunder. So long as Lessee is not in uncured material default, Lessee shall peaceably and quietly hold, occupy and enjoy the Leased Premises during the Term without interference by Lessor or any person claiming by, through or under Lessor, subject only to the express terms of this Lease.

B. Lessor's Disclaimers.

1) EXCEPT FOR LESSOR'S EXPRESS REPRESENTATIONS, WARRANTIES, COVENANTS, INDEMNITIES AND OTHER OBLIGATIONS UNDER THIS LEASE, LESSOR HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, WHETHER BY OPERATION OF LAW OR IN EQUITY, NOW OR IN THE FUTURE AS TO THE DESIGN OR CONDITION OR ANY OTHER MATTER RELATED TO THE LEASED PREMISES, ITS MERCHANTABILITY, HABITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE LEASED PREMISES, OR THE CONFORMITY OF THE LEASED PREMISES TO ITS INTENDED USES. LESSOR SHALL NOT BE LIABLE TO LESSEE FOR ANY LOSS, DAMAGE, INJURY, OR DEATH, INCLUDING WITHOUT LIMITATION, ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING STRICT LIABILITY IN TORT) WITH RESPECT TO THE DESIGN, CONDITION, QUALITY, SAFETY, MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE, OF THE LEASED PREMISES OR THE CONFORMITY OF THE LEASED PREMISES TO ITS INTENDED USES. NOTHING IN THIS SECTION LIMITS LESSOR'S

OBLIGATIONS WITH RESPECT TO QUIET ENJOYMENT, THIRD PARTY AGREEMENTS, PRE-EXISTING ENVIRONMENTAL CONDITIONS, LESSOR'S NEGLIGENCE OR WILLFUL MISCONDUCT, OR ANY OTHER MATTER FOR WHICH LESSOR IS EXPRESSLY RESPONSIBLE UNDER THIS LEASE.

2) EXCEPT AS STATED OTHERWISE HEREIN, LESSEE ACCEPTS, THE LEASED PREMISES IN "AS IS, WHERE IS" AND "WITH ALL FAULTS" CONDITION, AND SUBJECT TO LESSOR'S EXPRESS REPRESENTATIONS, WARRANTIES, COVENANTS, INDEMNITIES AND OTHER OBLIGATIONS UNDER THIS LEASE.

Section 6. LIABILITY AND INDEMNITY

A. Lessee shall indemnify, defend and hold harmless Lessor and Lessor's affiliated companies, partners, successors, assigns, legal representatives, officers, directors, shareholders, employees and agents (collectively, "Lessor Indemnitees") for, from and against any and all claims, liabilities, fines, penalties, costs, damages, losses, liens, causes of action, suits, demands, judgments and expenses (including, without limitation, court costs, attorneys' fees and costs of investigation, removal and remediation and governmental oversight costs) environmental or otherwise (collectively "Liabilities") of any nature, kind or description of any person or entity to the extent arising out of, resulting from or caused by: (i) Lessee's breach of this Lease, (ii) the negligence or willful misconduct of Lessee or its employees, agents or contractors, (iii) Lessee's operations upon the Leased Premises, or (iv) environmental conditions caused or contributed to by Lessee.

B. Lessor shall indemnify, defend and hold harmless Lessee and Lessee's affiliated companies, partners, successors, assigns, legal representatives, officers, directors, shareholders, employees and agents for, from and against any and all Liabilities of any nature, kind or description of any person or entity to the extent arising out of, resulting from or caused by: (i) Lessor's breach of this Lease, (ii) the negligence or willful misconduct of Lessor or its employees, agents or contractors, (iii) Lessor's operations upon the Leased Premises, or (iv) environmental conditions caused or contributed to by Lessor or any environmental condition existing on, under or migrating from the Leased Premises prior to the Execution Date, except to the extent caused or contributed to by Lessee.

C. Upon written notice from the indemnified party, the indemnifying party shall assume the defense of any third-party claim, lawsuit or proceeding for which the indemnifying party has an indemnification obligation under this Lease, using counsel reasonably acceptable to the indemnified party, and shall pay the reasonable costs of such defense. The indemnified party may participate with counsel of its choice at its own expense; provided that the indemnifying party shall pay the reasonable fees and expenses of separate counsel if an actual conflict of interest exists or the proceeding seeks material non-monetary relief against the indemnified party. The indemnifying party shall not settle any claim in a manner that admits wrongdoing by, imposes non-monetary obligations on, or does not provide a complete release to the indemnified party without the indemnified party's prior written consent, not to be unreasonably withheld, conditioned or delayed. To the extent the parties share responsibility for a matter, defense costs and liability shall be equitably allocated in accordance with their respective responsibility.

D. Notwithstanding the foregoing, Lessee's only responsibility under this Section with respect to environmental Liabilities shall be in proportion of the extent Lessee (including, without limitation, its officers, agents, invitees, employees, or anyone directly or indirectly employed by any of them or anyone they control or exercise control over) caused or contributed to the

environmental conditions involved. Lessee shall not have any responsibility whatsoever for any environmental conditions which: (1) were caused or existed before the Execution Date and which Lessee did not cause, in whole or in part, or (2) originated from neighboring properties, whether before or after the effective date of this Lease, which Lessee did not cause, in whole or in part.

Section 7. PERSONAL PROPERTY WAIVER

Except as otherwise expressly provided in this Lease, all personal property, including, but not limited to, fixtures, equipment, or related materials placed by Lessee upon the Leased Premises will be at the risk of Lessee only, and no Lessor Indemnitee will be liable for any damage thereto or theft thereof, except to the extent due in whole or in part to the negligence of any Lessor Indemnitee.

Section 8. COMPLIANCE WITH LAWS

A. With respect to its respective operations on the Leased Premises and Shared Access Assets, each Party shall comply with any applicable federal, state, and local laws, rules, regulations, orders, decisions, and ordinances ("Standards"), and if any failure on the part of any party to so comply shall result in a fine, penalty, cost, or charge being imposed or assessed on or against another party, such other party shall give prompt notice to the failing party and the failing party shall promptly reimburse and indemnify the other party for such fine, penalty, cost, or charge and all expenses and reasonable attorneys' fees incurred in connection therewith and shall upon request of the other party defend such action free of cost, charge, and expense to the other party. Prior to entering Lessor's Property (other than the Leased Premises), Lessee shall cause its employees, agents, contractors, invitees and representatives to comply with all Lessor's applicable safety rules and regulations, to the extent said safety rules and regulations are provided in writing by Lessor to Lessee. Prior to entering the Leased Premises, Lessor shall cause its employees, agents, contractors and invitees and representatives to comply with all Lessee's applicable safety rules and regulations, to the extent said safety rules and regulations are provided in writing to Lessor. Notwithstanding the foregoing, neither party's rules and regulations shall unreasonably interfere with or restrict the other party's rights expressly granted under this Lease. Access by a party to property outside the Leased Premises and Shared Access Assets shall remain governed by the express rights provided in this Lease and any other applicable agreement between the parties; no right of access otherwise granted is diminished by this Section.

Section 9. ENVIRONMENTAL

A. Lessee shall strictly comply with all applicable federal, state and local environmental laws and regulations in its use of the Leased Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, CERCLA (collectively referred to as the "Environmental Laws"). Lessee shall not maintain a treatment, storage, transfer or disposal facility, or underground storage tank, as defined by Environmental Laws on, under, or within the Minimal Clearances of track. Lessee shall not release or suffer the release of oil or hazardous substances, as defined by Environmental Laws on, under the Leased Premises or within the Minimal Clearances of the track.

B. Lessee shall give Lessor immediate notice to Lessor's Risk Management Communication Center at (888) 877-7267 of any release of hazardous substances on or from the Leased Premises, violation of Environmental Laws, or non-routine inspection or inquiry by

governmental authorities charged with enforcing Environmental Laws with respect to Lessee's use of the Leased Premises. Lessee shall use commercially reasonable efforts to promptly respond to any release on or from the Leased Premises. Lessee also shall give Lessor immediate notice of all measures undertaken on behalf of Lessee to investigate, remediate, respond to or otherwise cure such release or violation.

C. In the event that Lessor has notice from Lessee or otherwise of a release or violation of Environmental Laws on the Leased Premises which occurred or may occur during the term of this Lease and for which Lessee is responsible pursuant to Section 6, without prejudice to any other rights or remedies available at law or in equity, Lessor may require Lessee to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Leased Premises or any adjacent properties affected thereby. Except in an emergency requiring immediate action to prevent imminent harm, Lessor shall provide Lessee reasonable prior written notice and an opportunity to undertake response measures before Lessor undertakes such measures at Lessee's expense. Subject to the preceding sentence, Lessor may, at its sole discretion and without prejudice to any other rights or remedies available at law or in equity, undertake such measures. Cost and expense of any such actions shall be apportioned between the parties as provided for in Section 6 of this Lease.

D. Lessee shall promptly report to Lessor in writing any conditions or activities upon the Leased Premises which create an unreasonable risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons or property arising out of such conditions or activities; provided, however, that Lessee's reporting to Lessor shall not relieve Lessee of any obligation whatsoever imposed on it by this Lease. Lessee shall promptly and fully respond to Lessor's request for information regarding said conditions or activities.

Section 10. GOVERNMENTAL APPROVAL

A. Each party shall, at its own cost and expense, initiate and diligently prosecute the applications, petitions, notices and other proceedings required specifically for such party's authority, ownership, retained operations or obligations under this Lease. Lessee shall be responsible for approvals required specifically for Lessee's possession and operations, and Lessor shall be responsible for approvals required specifically for Lessor's title, authority to grant the rights provided under this Lease, retained operations and performance of its obligations. Lessee and Lessor shall jointly use best efforts to secure STB approval for this Lease and the Purchase Option as conditions on the Transaction, including diligently prosecuting required filings, opposing third-party objections that could impair the rights granted to Lessee, and cooperating in all respects to the extent permitted by applicable law. Unless otherwise agreed in writing, each party shall bear its own internal and third-party costs associated with approvals for which it is responsible, and the parties shall share equally any filing fees or third-party costs incurred jointly.

B. Each party shall reasonably cooperate with the other party in connection with any governmental or regulatory approval required for this Lease, any exercise of the Expansion Rights option set forth in Section 2(B) or the Purchase Option, including by executing and delivering reasonably necessary applications, notices and other filings; provided that neither party shall be required to incur material unreimbursed third-party costs unless otherwise expressly required by this Lease or agreed in writing.

Section 11. DEFINITION OF COST AND EXPENSE

For the purpose of this Lease, "cost' or "costs" and "expense" or "expenses" means reasonable, documented, actual out-of-pocket labor, material and third-party costs properly allocable to the applicable work or service, including customary labor additives actually incurred, but excluding profit, markup, duplicative overhead or general corporate allocations unless expressly agreed in writing. Materials and supplies shall be charged at the lower of actual cost or current replacement value, net of applicable credits, rebates, salvage and other recoveries.

Section 12. INVOICES

All invoices are due thirty (30) days after the date of invoice. Each invoice shall include reasonable supporting detail and documentation. The invoiced party may dispute any amount in good faith by written notice, shall timely pay all undisputed amounts, and may withhold the disputed amount pending resolution under Section 20 without being in default solely by reason of such withholding.

Section 13. DEFAULT

A. If Lessee or any of its employees, agents, contractors, invitees, or other persons acting under its direction or control creates or maintains any condition, including an environmental condition, on or about the Leased Premises that poses a material risk to persons, property, or the environment, Lessor shall provide Lessee with written notice describing the condition in reasonable detail. Lessee shall have sixty (60) days after receipt of such notice to cure the condition; provided, however, that if the condition cannot reasonably be cured within sixty (60) days, Lessee shall not be in default if it commences appropriate corrective action within that period and thereafter diligently pursues such action to completion. If the condition presents an imminent threat of material harm, Lessee shall take such corrective action as is reasonably appropriate in a reasonable period of time under the circumstances. Lessor may terminate this Lease only if Lessee fails to cure, commence cure, or diligently pursue cure as required by this subparagraph, by providing a further written notice specifying a termination date at least thirty (30) days after Lessee's receipt of that notice, provided, however, that such period shall be tolled during the pendency of any arbitration or litigation regarding the dispute. Nothing in this subparagraph limits Lessor's right to take reasonable action without prior notice to address an emergency involving an imminent threat of material harm, provided that Lessor promptly notifies Lessee of the action taken and minimizes, to the extent reasonably practicable, any resulting disruption or expense to Lessee.

B. Except as otherwise provided in subparagraph A, Lessee shall be in default under this Lease if Lessee fails to perform any material covenant or obligation under this Lease and such failure continues for ninety (90) days after Lessee receives written notice from Lessor describing the failure in reasonable detail. If the failure cannot reasonably be cured within ninety (90) days, Lessee shall not be in default if Lessee commences the cure within that period and thereafter diligently pursues the cure to completion. If the default remains uncured after expiration of the applicable cure period, Lessor may terminate this Lease by providing Lessee with a further written notice specifying a termination date at least thirty (30) days after Lessee's receipt of that notice, provided, however, that such period shall be tolled during the pendency of any arbitration or litigation regarding the dispute.

C. Lessor shall be in default under this Lease if Lessor fails to perform any material covenant or obligation under this Lease and such failure continues for sixty (60) days after Lessor

receives written notice from Lessee describing the failure in reasonable detail. If the failure cannot reasonably be cured within sixty (60) days, Lessor shall not be in default if Lessor commences the cure within that period and thereafter diligently pursues the cure to completion. If the default remains uncured after expiration of the applicable cure period, Lessee may exercise any rights and remedies available under this Lease or at law or in equity, including damages, specific performance, and injunctive relief. If the uncured default materially deprives Lessee of the use or benefit of the Leased Premises, Lessee may terminate this Lease by providing Lessor with a further written notice specifying a termination date at least thirty (30) days after Lessor's receipt of that notice, provided, however, that such period shall be tolled during the pendency of any arbitration or litigation regarding the dispute.

D. A party's waiver of any default shall be effective only if made in writing and shall not constitute a waiver of any other or subsequent default. A party's delay or failure to exercise any right or remedy shall not constitute a waiver of that right or remedy. Except as expressly provided in this Lease, the rights and remedies of each party are cumulative and are in addition to any rights and remedies available at law or in equity; provided, however, that neither party shall be entitled to duplicative recovery for the same loss. Each party shall use commercially reasonable efforts to mitigate damages resulting from the other party's default.

Section 14. LIENS

A. Lessee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done or any other liens or encumbrances suffered or permitted to be done by Lessee on the Leased Premises and shall indemnify, defend, and hold harmless Lessor against any loss, liability or expense incurred by Lessor on account of such liens. Lessor is hereby authorized (but not otherwise obligated) to post any notices or take any other action upon or with respect to the Leased Premises that is or may be permitted by law to prevent the attachment of any such liens to the Leased Premises; provided, however, that failure of Lessor to take any such action shall not relieve Lessee of any obligation or liability under this Section or any other Section of this Lease. If, because of any act or omission of Lessee, any mechanic's lien or other lien, attachment, charge or order for the payment of money shall be filed against Lessor or any portion of the Leased Premises, Lessee shall, at its own expense, cause the same to be discharged of record within thirty (30) days after written notice from Lessor to Lessee of the filing thereof, and shall indemnify, defend and hold harmless Lessor against and from all costs, liabilities, penalties, and claims, including legal expenses, resulting therefrom.

B. Memorandum of Lease. At either party's request, the parties shall execute and acknowledge a memorandum of this Lease in recordable form identifying the Leased Premises and setting forth the Term and Lessee's Renewal, Expansion and Purchase Option rights, and either party may record such memorandum in the applicable real property records.

C. Lessor shall not sell, transfer, mortgage, encumber or otherwise dispose of the Leased Premises except subject to this Lease and Lessee's rights hereunder, including Lessee's Renewal and Purchase Option rights. Any successor owner or transferee shall take the Leased Premises subject to this Lease and shall assume in writing all obligations of Lessor hereunder.

Section 15. CLEARANCES

A. Lessee shall not place, permit to be placed, or allow to remain, any permanent or temporary material, structure, pole, or other obstruction within eight and one-half (8-1/2) feet laterally from the centerline (nine and one-half (9-1/2) feet on either side of the centerline of curved

track) or from 24 feet vertically from the top of the rail of said track ("Minimal Clearances"), provided that if any applicable law requires greater clearances than those provided for in this Section, then Lessee shall strictly comply with such legal requirement. However, vertical or lateral clearances which are less than the Minimal Clearances but are in compliance with legal requirements will not be a violation of this Section, so long as Lessee strictly complies with the terms of any such legal requirement.

B. Lessee shall not place or allow to be placed any freight car within 250 feet of either side of any at-grade crossings on the track, and shall release, indemnify, defend and hold harmless Lessor from any loss or damage resulting from violations of any legal requirements with respect to the condition or blockage by Lessee of any at grade crossings.

Section 16. ASSIGNMENT AND SUBLEASE

Lessee may, without Lessor's consent, (i) assign this Lease to an Affiliate of Lessee or in connection with a merger, consolidation, reorganization, sale of substantially all of Lessee's assets or railroad operations, or other corporate transaction, and (ii) sublease or license all or any portion of the Leased Premises to an Affiliate, connecting or interchange carrier, railroad service provider, contractor, vendor or other person whose use is related or incidental to Lessee's railroad operations. For purposes of this Lease, "Affiliate" means any entity that controls, is controlled by, or is under common control with Lessee. Lessee may otherwise assign this Lease or sublease all or any portion of the Leased Premises with Lessor's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Any assignee of this Lease shall assume in writing Lessee's obligations arising from and after the effective date of the assignment; provided that Lessee shall be released from obligations arising thereafter in the case of an assignment of the entire Lease to an Affiliate or in connection with a permitted corporate transaction described above.

Section 17. PROPERTY TAXES; CONDEMNATION; CASUALTY

A. **Property and Ad Valorem Taxes**. Lessee shall be responsible for the timely payment of any incremental real property or ad valorem taxes imposed by the United States of America or any state political subdivision thereof, municipality, or other governmental authority upon the Leased Premises to the extent directly attributable to Lessee's lease and use thereof during the Term hereof that is locally assessed and is the obligation of the Lessee under the applicable statute. If any tax bill includes taxes related to real property other than the Leased Premises, the payment of such tax bill shall be allocated between the Lessor and Lessee such that Lessee shall pay that portion of such tax bill related to the Leased Premises during the Term hereof and Lessor shall pay the remainder of such bill. If directly billed by a taxing or levying authority, all taxes and fees required to be paid by the Lessee pursuant to this Section shall be timely paid by Lessee directly to the taxing or levying authority. Proof of payment of any taxes and fees shall be provided by Lessee to Lessor no later than thirty (30) days after the due date. In the event any tax or fee required to be paid by Lessee or Lessor pursuant to this Section is paid by the other, the responsible party shall reimburse the paying party for the full amount paid within thirty (30) days of the date a bill for reimbursement is mailed by the paying party. To the extent permitted by law, Lessee shall timely prepare and file all reports and returns which are required to be made with respect to any obligation of Lessee arising out of this Section. Proof of filing and a copy of all reports and returns shall be provided by Lessee to Lessor no later than thirty (30) days after the due date. For the avoidance of doubt, no Party shall be entitled to invoice, collect, recover, retain or be reimbursed under this Section 17(A) for any amount in excess of the actual Taxes and fees imposed by, and paid or payable to, the applicable taxing or levying

authority with respect to the Leased Premises, or the applicable portion thereof, for the relevant tax period, net of any refund, rebate, abatement, credit, discount or other reduction actually received or applied with respect to such Taxes or fees.

B. Contest. If the Leased Premises are assessed by the taxing authority directly to the Lessee and separate from the assessment of any other property of the Lessor, Lessee shall have the right to contest or protest, in Lessee's own name and at its own cost, any tax or fee for which it is responsible, provided only that such contest or protest will not result in any material danger of sale, forfeiture, or loss of the Leased Premises or any other asset of Lessor. If the Leased Premises are assessed by the taxing authority directly to the Lessor or as part of any other property of the Lessor, Lessee shall seek from the Lessor written permission to contest or protest any tax or fee for which it is obligated pursuant to this Section, which permission shall not be unreasonably withheld, delayed or conditioned.

C. Condemnation.

1) Lessor and Lessee shall oppose any taking or condemnation or attempted taking or condemnation of the Leased Premises or any Shared Access Assets.

2) If all or any material portion of the Leased Premises is taken or condemned for any public or quasi-public use or purpose by any competent authority, or is conveyed in lieu of or under threat of condemnation (a "Taking"), and such Taking materially interferes with Lessee's use or operation of the Leased Premises for the purposes permitted under this Lease, Lessee may, at its option, terminate this Lease as to all or the affected portion of the Leased Premises by written notice to Lessor, effective as of the date possession of the affected portion is required to be surrendered to the condemning authority.

3) If a Taking does not result in termination of this Lease, this Lease shall remain in full force and effect with respect to the portion of the Leased Premises not taken, and Lessor and Lessee shall reasonably cooperate to restore, relocate or reconfigure the remaining Leased Premises, including any affected track, access, utilities or other facilities, as reasonably necessary to permit Lessee's and, where applicable, Lessor's continued railroad operations. To the extent condemnation proceeds are available for such purpose, such proceeds shall first be applied to the reasonable costs of such restoration, relocation or reconfiguration. Base Rent shall be equitably abated or reduced to reflect the portion of the Leased Premises taken, any material impairment of Lessee's use or operations, and any reduction in the fair market rental value of the remaining Leased Premises.

4) Lessor and Lessee shall each be entitled to pursue and receive from the condemning authority any separate award or compensation attributable to its respective interest in the Leased Premises. Without limiting the foregoing, Lessee shall be entitled to pursue and receive any award attributable to Lessee's leasehold interest, improvements or other property owned by Lessee, relocation expenses, loss of access, moving expenses, business interruption or other losses or expenses suffered by Lessee, provided that Lessee's claim does not reduce any award otherwise payable to Lessor for Lessor's fee interest in the Leased Premises.

5) Lessor shall promptly notify Lessee in writing of any actual or threatened Taking affecting the Leased Premises upon Lessor obtaining knowledge thereof and shall not settle, compromise or convey any portion of the Leased Premises in lieu of condemnation in a manner that materially impairs Lessee's rights or operations under this Lease without Lessee's prior written consent, not to be unreasonably withheld, conditioned or delayed.

6) If Lessee has exercised the Purchase Option prior to the date on which Lessor first receives written notice of a proposed Taking, the parties shall proceed with the purchase and sale pursuant to the Purchase Option, and upon closing Lessee shall be entitled to all condemnation awards and proceeds attributable to the property being acquired. If a Taking occurs before Lessee exercises the Purchase Option and materially affects the property subject thereto, Lessee may elect either (a) to terminate the Purchase Option solely with respect to the property affected by the Taking or (b) to exercise the Purchase Option with respect to such property, in which event the Purchase Price shall be equitably adjusted to reflect the Taking and Lessor shall assign to Lessee at closing all of Lessor's rights to any unpaid condemnation award attributable to the property acquired by Lessee.

D. Casualty.

1) If all or any material portion of the Leased Premises, including any track, building, improvement, access, utility or other facility necessary for Lessee's use of the Leased Premises, is damaged or destroyed by fire, casualty or other event (a "Casualty"), each party shall promptly notify the other of such Casualty upon obtaining knowledge thereof, and the parties shall reasonably cooperate to restore, repair, relocate or reconfigure the affected portion of the Leased Premises as reasonably necessary to permit Lessee's continued railroad operations.

2) Except to the extent the Casualty was caused by the negligence or willful misconduct of Lessee or any person for whom Lessee is responsible, Lessor shall be responsible for repairing or restoring any buildings, improvements, facilities or other property owned by Lessor and damaged or destroyed by the Casualty. Lessee shall be responsible for repairing or restoring any improvements, equipment or other property owned by Lessee and damaged or destroyed by the Casualty. Responsibility for repairing or restoring any Shared Access Asset shall be allocated between Lessor and Lessee in the same manner as maintenance, repair and replacement costs for such Shared Access Asset are allocated pursuant to Section 3(C)(8).

3) Any insurance proceeds received by either party with respect to property required to be repaired or restored by such party pursuant to this Section shall be applied to the reasonable costs of such repair or restoration to the extent required by the terms of the applicable insurance policy. Neither party shall be entitled to any insurance proceeds payable with respect to property owned by the other party, except to the extent expressly provided under an applicable insurance policy.

4) If a Casualty materially interferes with Lessee's use or operation of all or any material portion of the Leased Premises and (a) the affected portion of the Leased Premises cannot reasonably be restored, repaired, relocated or reconfigured to permit Lessee's continued railroad operations, or (b) such restoration, repair, relocation or reconfiguration is not substantially completed within one hundred eighty (180) days following the Casualty, Lessee may, at its option, terminate this Lease as to all or the affected portion of the Leased Premises upon written notice to Lessor, without penalty or further liability arising from such termination. If Lessee elects to terminate this Lease only as to the affected portion, this Lease shall remain in full force and effect with respect to the remainder of the Leased Premises. Base Rent shall be equitably abated during the period and to the extent the Casualty materially impairs Lessee's use or operation of the Leased Premises, except to the extent the Casualty was caused by the negligence or willful misconduct of Lessee or any person for whom Lessee is responsible.

5) If Lessee has exercised the Purchase Option prior to the occurrence of a Casualty affecting the property subject to the Purchase Option, Lessee may elect either (a) to

terminate the Purchase Option solely with respect to the property materially affected by the Casualty, or (b) to proceed with the purchase of such property, in which event the Purchase Price shall be equitably adjusted to reflect any damage or destruction not repaired prior to closing, and Lessor shall assign to Lessee at closing all of Lessor's rights to any unpaid insurance proceeds attributable to the property being acquired, to the extent assignable and not previously applied to restoration.

Section 18. TERMINATION

A. To the extent allowed by law, upon the termination or expiration of this Lease, Lessee shall vacate the Leased Premises.

B. Following the final, non-appealable expiration or termination of this Lease, and only to the extent required by applicable law to terminate Lessee's rights under this Lease, Lessee shall reasonably cooperate with Lessor in obtaining necessary regulatory approvals; provided that Lessee shall not be required to support, not oppose, or take any position in any regulatory proceeding that Lessee determines could reasonably be expected to impair Lessee's operations, regulatory rights, common carrier obligations, STB position, or rights under any Transaction document.

C. Each party agrees to defend, indemnify and hold harmless the other party and its parent corporation, subsidiaries and affiliates, and all their respective directors, officers, agents and employees from and against any and all costs and payments, including benefits, allowances and arbitration, administrative and litigation expenses, arising out of claims or grievances made by or on behalf of its own employees, pursuant to a collective bargaining agreement. It is the intention of the parties that each party shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

D. Upon termination of this Lease, howsoever, Lessee shall vacate and surrender the quiet and peaceable possession of the Leased Premises. Lessee, at its expense, shall (a) remove from the Leased Premises all (i) obstructions installed by Lessee and not permitted to remain under this Lease, (ii) contamination caused by or arising from Lessee's use of the Leased Premises to the extent Lessee is responsible under Sections 6 and 9, but solely to the extent removal or other remediation is necessary to obtain regulatory closure for continued industrial use of the Leased Premises, and (iii) other personal property owned by Lessee that Lessee elects or is required to remove, and (b) restore the Leased Premises to the condition required by Section 3(A)(3), subject to ordinary wear and tear, casualty, condemnation, permitted alterations and improvements, changes required by applicable law, obsolescence, and conditions not caused or contributed to by Lessee. Lessee shall have no obligation to remove Lessee-Funded Improvements that have become permanently incorporated into the real property except to the extent expressly agreed in writing. If Lessee fails to perform required removal and restoration work, or if such work does not satisfy the objective standards stated in this Lease, Lessor may, as its sole and exclusive remedy for such failure under this subsection, perform the required work at Lessee's expense, limited to reasonable, documented, out-of-pocket costs.

E. The provisions of subsections B, C, and D above shall survive termination or expiration of this Lease. The parties acknowledge money damages alone are insufficient to remedy a breach of the terms of subsection B hereinabove by Lessee, and Lessor shall have in addition to any other remedies available at law or in equity, a right of specific performance and/or injunctive relief.

Section 19. APPLICABLE LAW

This Lease shall be governed by and construed in accordance with the laws of the State of Missouri.

Section 20. DISPUTE RESOLUTION

A. If any dispute, controversy, or claim between the parties arises in connection with or related to this Lease, then either party may notify the other of its intention to arbitrate the dispute ("Arbitration Notice").

B. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") then in effect at the time or such other rules as agreed by the parties. Federal law shall govern the arbitrability of all claims. The provisions of this Lease shall control if they conflict with the AAA Commercial Arbitration Rules or such other rules as agreed by the parties. The parties need not use the AAA for filing documents, the selection of arbitrators, administrative services, or any hearings.

C. The arbitration shall be before a three (3) member arbitration panel comprising two (2) non-neutral arbitrators and one neutral arbitrator. Within sixty (60) days of the Arbitration Notice, the parties shall appoint their respective non-neutral arbitrators. Should either party fail to name an arbitrator, then the party's non-neutral arbitrator shall be selected from the AAA's Large, Complex Commercial Case Panel in accordance with the Commercial Arbitration Rules. Once the non-neutral arbitrators are in place, such arbitrators, in consultation with their respective parties, will select a third neutral panel member. The third neutral panel member will serve as chairperson of the arbitration panel. If the party-appointed arbitrators are unable to agree upon the neutral arbitrator within thirty (30) days after appointment of the second party-appointed arbitrator, the neutral arbitrator shall be appointed by the American Arbitration Association acting as appointing authority. The neutral arbitrator shall be independent and impartial and shall serve as chairperson of the arbitration panel. The parties may have confidential ex parte communications with their respective appointed non-neutral arbitrators prior to the commencement of any final arbitration hearings.

D. The parties agree to arbitrate solely on an individual basis and that this Lease does not permit class arbitration or any claims brought as a plaintiff or class member in any class or representative arbitration proceeding. The arbitration panel has no power to consolidate cases and may not otherwise preside over any form of a representative or class proceeding. Questions concerning the validity, scope, meaning, and enforceability of this section regarding the parties' waiver of class arbitration and consolidation shall be decided by a court of competent jurisdiction and may not be decided by arbitration. In the event the prohibition on class arbitration or consolidation is deemed invalid or unenforceable by a court of competent jurisdiction, then the remaining portions of the arbitration agreement will remain in force.

E. The arbitration shall take place at a location selected by the arbitration panel. Except as otherwise provided in this section, the arbitration panel shall have the authority to determine the arbitrability of any dispute, controversy, or claim between the parties. The arbitration panel shall have the authority to enter awards of equitable remedies, legal remedies, and to award costs, such as pre-award interest and post-award interest, but shall not have the authority to change the terms of this Lease, or award indirect, special, consequential, or punitive damages. Any decision of the arbitration panel shall be rendered within thirty (30) days after the matter has been submitted and shall be contained in a reasoned written award. All parties consent

to the entry of judgment by any court of competent jurisdiction with respect to the decision of the arbitration panel.

F. All expenses of the arbitration shall be borne by the parties equally; however, each party shall bear the expense of its own arbitrator, counsel, and experts.

Section 21. NOTICES

Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if (i) placed in the United States mail, certified, return receipt requested, or (ii) deposited into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) days' advance written notice of such change in address.

For UP:

Union Pacific Railroad Company
AVP Joint Facilities — Mail Stop 1180
1400 Douglas Street
Omaha, Nebraska 68179

For CN:

ILLINOIS CENTRAL RAILROAD COMPANY
Director Interline Services
17641 South Ashland Avenue
Homewood, IL 60430

Section 22. SURVIVAL

Neither termination nor expiration will release either party from any liability or obligation under this Lease, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration.

Section 23. WAIVER AND AMENDMENTS

No amendment to this Lease shall be effective unless made in writing and signed by both parties hereto. No waiver of rights under this Lease shall be effective unless it is made in writing and signed by the waiving party. The waiver by either party of the breach of any provision herein by the other party shall in no way impair the right of the waiving party to enforce that provision for any subsequent breach thereof.

Section 24. SEVERABILITY

To the maximum extent possible, each provision of this Lease shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Lease shall be prohibited by, or held to be invalid under, applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this Lease.

Section 25. INTEGRATION

This Lease is the full and complete agreement between Lessor and Lessee with respect to all matters relating to the lease, maintenance and operation of the Leased Premises and supersedes all other agreements between the parties hereto relating to the maintenance and operation of the Leased Premises, except for the Settlement MOU, Settlement Definitive

Agreement, STB commitments or orders, trackage rights agreements, haulage or access agreements, confidentiality agreements, and any other transaction document entered into in connection with the Transaction, none of which is amended, superseded or limited by this Lease except to the extent expressly stated herein. The parties shall coordinate the schedules and operational descriptions in this Lease with any separate trackage rights and joint-facility agreements to avoid duplicative coverage of specific assets, but no such coordination or other agreement shall amend, supersede, limit or establish priority over any agreement except by an express written provision duly agreed by the parties.

Section 26. AGREEMENTS WITH THIRD PARTIES

A. Lessor shall retain, administer and be responsible for all records and shall be entitled to all rents or revenues relating to property acquisition agreements, industry track agreements, property leases, term leases, indefinite term leases, permits, licenses, easements and all other agreements concerning the Leased Premises ("Third Party Agreements"). Lessor shall, during the Inventory Period, provide Lessee a complete list of all Third Party Agreements and copies of any Third Party Agreements under which any third party is granted rights to use, occupy, cross, access or otherwise affect the Leased Premises, the Shared Access Assets or the Expansion Property, which shall be included on Schedule C. Lessee shall be subject only to those Third Party Agreements expressly identified on Schedule C and only to the extent such Third Party Agreements do not materially interfere with, delay or obstruct Lessee's rights or operations under this Lease. No Third Party Agreement not expressly identified on Schedule C shall be binding on Lessee or limit Lessee's rights under this Lease unless Lessee agrees in writing.

B. Notwithstanding anything to the contrary in this Lease, Lessee may sublease the Leased Premises to a third-party operator to facilitate Lessee's operations in and around the Leased Premises. The sublease shall provide the sublessee with the rights and obligations set forth herein to conduct railroad operations on Lessee's behalf.

C. Notwithstanding anything to the contrary in this Lease, Lessee may permit its Affiliates, connecting and interchange rail carriers, customers, contractors, vendors, suppliers, locomotive service providers, fuel suppliers and other invitees to enter upon and use the Leased Premises to the extent reasonably related or incidental to Lessee's operations. Such use shall not constitute an assignment or sublease requiring Lessor's consent. Lessor shall not, during the Term, lease, license, encumber, grant operating rights over or otherwise grant any third party any right to use or occupy the Exclusive Assets or any other exclusively leased portion of the Leased Premises without Lessee's prior written consent. Lessor may grant rights affecting Shared Access Assets only to the extent such rights do not materially interfere with Lessee's rights or operations.

IN WITNESS WHEREOF, authorized representatives of the parties have executed this Lease as of the date referenced hereinabove.

UNION PACIFIC RAILROAD COMPANY

_____

ILLINOIS CENTRAL RAILROAD COMPANY

_____

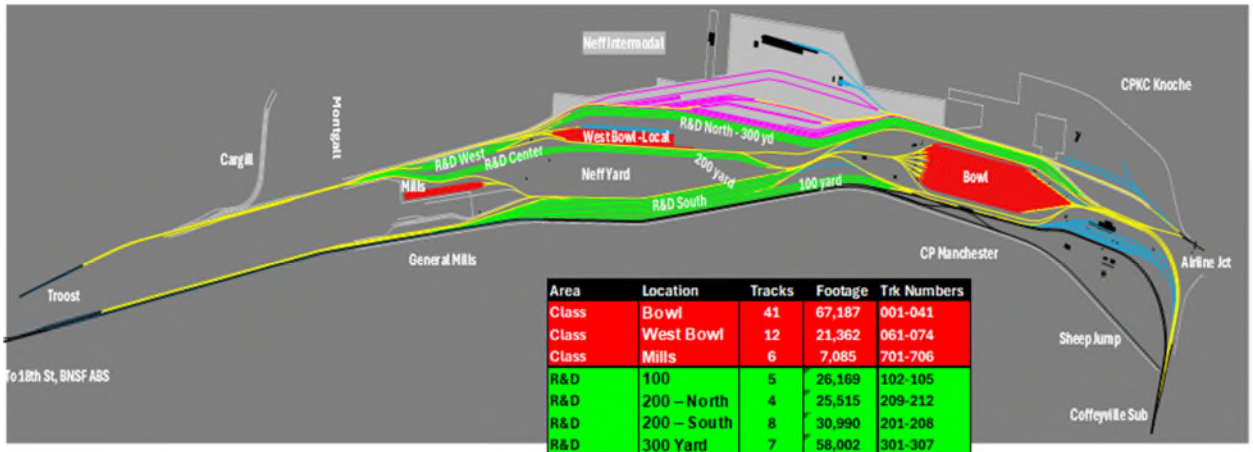
Patrick Whitehead

Its: Executive Vice-President and Chief Operating Officer

EXHIBITS AND SCHEDULES

Exhibit A	Preliminary Neff Yard components map
Schedule A-1	Yard office common areas and shared spaces [to be completed]
Schedule A-2	Shared Access Assets and Lessor reserved rights
Schedule C	Third Party Agreements
Exhibit B	Expansion Property

EXHIBIT "A"



Area	Location	Tracks	Footage	Trk Numbers
Class	Bowl	41	67,187	001-041
Class	West Bowl	12	21,362	061-074
Class	Mills	6	7,085	701-706
R&D	100	5	26,169	102-105
R&D	200 – North	4	25,515	209-212
R&D	200 – South	8	30,990	201-208
R&D	300 Yard	7	58,002	301-307
Intermodal	Intermodal	est	40,965	400's, 700's
Support	Shop	est	9,750	601-604
TOTAL			287,025	

Preliminary Neff Yard components map. Final legal description, schedules and rights remain subject to this Lease.

SCHEDULE A-1 – YARD OFFICE COMMON AREAS AND SHARED SPACES

[To be completed.]

SCHEDULE A-2 – INITIAL SHARED ACCESS ASSETS AND RESERVED RIGHTS

The initial Shared Access Assets shall consist of:

- Approximately 300 feet of Track 100 to allow for movement from Track 131 to 130;
- Track 141 into Track 212;
- All access, parking, and common areas that may be reasonably used in connection with the property described in Section 1(A) 1) through 5). The parties may mutually prepare a map or descriptive schedule identifying previously agreed shared roadways, parking areas and walkways, subject to written approval by both parties. Such documentation shall not add shared tracks, limit existing Lessee access or modify exclusive possession or reserved rights.

EXHIBIT "B"

Expansion Property

The Expansion Property shall consist of the locomotive shop as reflected in Exhibit "A" and any other tracks, yard areas, buildings, support facilities or railroad property within Neff Yard not included in the initial Leased Premises that Lessee reasonably determines is necessary or desirable for its railroad transportation, yard, terminal, support, development or ancillary operations.

SCHEDULE "C"

Identified Third Party Rights

[To be completed during the Inventory Period. Lessee shall be subject only to those Third Party Agreements expressly identified on Schedule C, and only to the extent such Third Party Agreements do not materially interfere with, delay or obstruct Lessee's rights or operations under this Lease]

Exhibit 2F

OVERHEAD TRACKAGE RIGHTS AGREEMENT TUSCOLA, ILLINOIS TO EAST ST. LOUIS, ILLINOIS

THIS OVERHEAD TRACKAGE RIGHTS AGREEMENT (this "Agreement") is made and entered into as of [●] by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("Owner"), and ILLINOIS CENTRAL RAILROAD COMPANY, an Illinois corporation ("User"). Owner and User are each a "Party" and together the "Parties".

WITNESSETH:

WHEREAS, Owner owns or controls certain railroad trackage between Tuscola, Illinois and East St. Louis, Illinois, as more particularly described in Exhibit "A" (the "Joint Trackage"); and

WHEREAS, User desires overhead trackage rights over the Joint Trackage for the movement of traffic on and over the Joint Trackage from any origin or any destination and all commodities, equipment, and train types; and

WHEREAS, Owner and User desire to state the conditions under which User may exercise such rights;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the Parties agree as follows:

Section 1. TRACKAGE SUBJECT TO AGREEMENT

1.1 Attached hereto as Exhibit "A," and incorporated herein by reference, is a print that depicts the rail line between Tuscola, Illinois and East St. Louis, Illinois, more particularly described as Tuscola, Illinois (MP 153.49) to Sullivan, Illinois (MP 176.2) to Lenox in Mitchell, Illinois (MP 275.4/269.70) to WR Tower in Granite City, Illinois (MP 275.39) to Q Tower TRRA in East St. Louis, Illinois (MP 281.00), over which User shall be granted trackage rights pursuant to this Agreement (referred to collectively as the "Joint Trackage").

Section 2. GRANT OF TRACKAGE RIGHTS

2.1 Subject to the terms and conditions (the "General Conditions") set forth in Exhibit "B" to this Agreement (which is attached hereto and incorporated herein by reference), Owner grants to User the nonexclusive right to operate its trains with its own Equipment and crews over the Joint Trackage. User's use of the Joint Trackage shall be in common with Owner and such other railroad company or companies as Owner may hereafter at any time admit to the joint use of any and all of the Joint Trackage. For purposes of this Agreement, trains and "Equipment" (as defined in Section 1.5 of Exhibit "B") of such other railroad company or companies admitted by Owner to the use of the Joint Trackage shall be considered trains and Equipment of Owner.

2.2 The trackage rights granted to User pursuant to this Agreement may be exercised by Illinois Central Railroad Company ("ICRR") or by a rail carrier affiliate of ICRR, including Canadian National Railway Company ("CN"); provided, however, that only one of ICRR, CN or an affiliate may exercise such trackage rights at any time; and provided further, that ICRR, CN or such affiliate (as applicable) shall have first obtained any required Surface Transportation Board ("STB") approval or exemption for the exercise of such trackage rights.

2.3 The exercise of the trackage rights granted to User by this Agreement shall be subject at all times to the General Conditions. If any conflict between the General Conditions and this Agreement shall arise, the provisions of this Agreement shall prevail.

2.4 User shall qualify its crew members as pilots and provide pilots or qualified crews on all User trains prior to entering the Joint Trackage.

Section 3. MAINTENANCE AND OPERATION OF TRACKAGE

3.1 Owner, at its expense, shall maintain, repair and renew the Joint Trackage in accordance with Class I railroad industry maintenance practices and in a manner permitting operation at no less than the track standard designated in the timetable in effect on the date of this Agreement. In the event that, for operating convenience, necessity or emergency, Owner permits or directs User to use adjacent tracks or track connections between or beyond the termini of the Joint Trackage as an alternate route, then and in such event, such trackage, track connections and appurtenances shall be deemed to be part of the Joint Trackage and shall be governed by all the provisions of this Agreement while such use continues.

Section 4. LIMITATIONS AND MEASUREMENT OF TRACKAGE RIGHTS TRAINS

4.1 User trains shall have a sufficient horsepower-per-ton ratio ("HPT") to traverse the Joint Trackage; provided that Owner shall accept User trackage-rights trains of the same lengths and tonnages, and with operating characteristics no more restrictive, than those applicable to Owner's comparable trains for all commodities and train types, including as such limits increase over time, subject to available capacity and generally applicable mainline, siding and operating restrictions applied on a non-discriminatory basis.

4.2 Owner shall dispatch User's trains equitably and similarly to Owner's comparable trains, without prejudice or partiality, except that passenger trains may have priority. User shall be entitled to operate a minimum of three (3) trackage-rights trains per day, Monday through Sunday, subject to generally applicable operating conditions. In the event of refusal to grant a User train admission to or operation on the Joint Trackage, User shall have no claim of any nature against Owner by reason of such refusal only if Owner and User trains are treated equitably and without prejudice or partiality.

4.3 Owner shall coordinate with User regarding crew-change locations, fueling, locomotive and car maintenance, access to AEI sites and other operating data, and other means of reporting data, including reasonable dispatcher-screen access. User may, at its sole election, pre-fund improvements to increase capacity, including the number, length or tonnage of trains, on terms agreed in writing by the Parties.

Section 5. COMPENSATION

5.1 In addition to any other payments to be made under this Agreement, User shall remit to Owner for its use of the Joint Trackage, on a monthly basis, [●] cents per car mile for each loaded or empty car, locomotive or caboose moved by User (the "Base Charge"). The Base Charge shall be deemed to include compensation to Owner for ordinary and programmed maintenance of the Joint Trackage, operating expenses, interest rental, depreciation and taxes. With respect to articulated units, the number of cars shall be determined by the AAR Car Type Code as defined in the UMLER Specification Manual. The second character in the Car Type Code field covering codes "Q" and "S" will be the factor in determining the car count for an articulated unit. For example, AAR Car Type Code (S566) would equate to a five (5) car count as these type cars have five wells capable of handling 40' to 53' containers in each well. (Car count data

for articulated units are subject to change upon development of technology to separate units by car numbers.)

5.2 For the purpose of computing the Base Charge under this Section 5, the parties hereby mutually agree that the distances between the designated points of the Joint Trackage are [●] miles (the "Mileage Factors"). In the event that for whatever reason physical changes are made to the Joint Trackage that result in a change in the track mileage provided in the prior sentence, then the Mileage Factors will be adjusted up or down to reflect such new mileage, and such adjusted Mileage Factors will be used to calculate the monthly Base Charge effective with the commencement of train operations over the new track.

5.3 The Base Charge set forth in Section 5.1 of this Agreement shall be adjusted annually during the term of this Agreement beginning on the first day of the calendar quarter following the first anniversary of the Effective Date, to reflect seventy-five percent (75%) of increases or decreases in the Rail Cost Adjustment Factor, not adjusted for changes in productivity ("Index" or "RCAF-U"), published by the AAR or successor agency or other organization. In the event RCAF-U is no longer maintained, the Parties shall select a substantially similar index and, failing agreement, the matter shall be referred to binding arbitration under Section 6 of the General Conditions. For the first rate adjustment, the ratio between the Index for the most recent quarter available and the Index for the corresponding quarter of the preceding year shall be developed, and the Base Charge shall be increased or decreased in direct proportion to such ratio, with subsequent years following that framework (subject to rebasing). The adjusted Base Charge shall be rounded to the nearest whole cent.

Section 6. LIABILITY

6.1 Any liability for loss, damage, injury or death which arises from the operation of trains under this Agreement shall be allocated, settled and paid in the manner set forth in Section 5 of the General Conditions attached hereto.

Section 7. TERM AND TERMINATION

7.1 This Agreement shall become effective upon (i) receipt and effectiveness of all regulatory approvals relating to the transaction contemplated in STB Finance Docket No. 36873 ("Merger Approval"), and (ii) the consummation of such UP/NS transaction (the "Effective Date"). This Agreement shall have an Initial Term of ninety-nine (99) years. After the Initial Term of 99 years, the agreement shall continue until terminated by one Party serving upon the other Party 90 days' advance written notice of its intention. Upon expiration or termination of this Agreement, all obligations (including, without limitation, obligations to remit fees and obligations of indemnity) arising or accruing prior to such termination or expiration and all provisions of this Agreement necessary to enforce and resolve same shall survive and remain enforceable.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

UNION PACIFIC RAILROAD COMPANY

By: _____
Name: [AUTHORIZED SIGNATORY]
Title: [TITLE]

ILLINOIS CENTRAL RAILROAD COMPANY

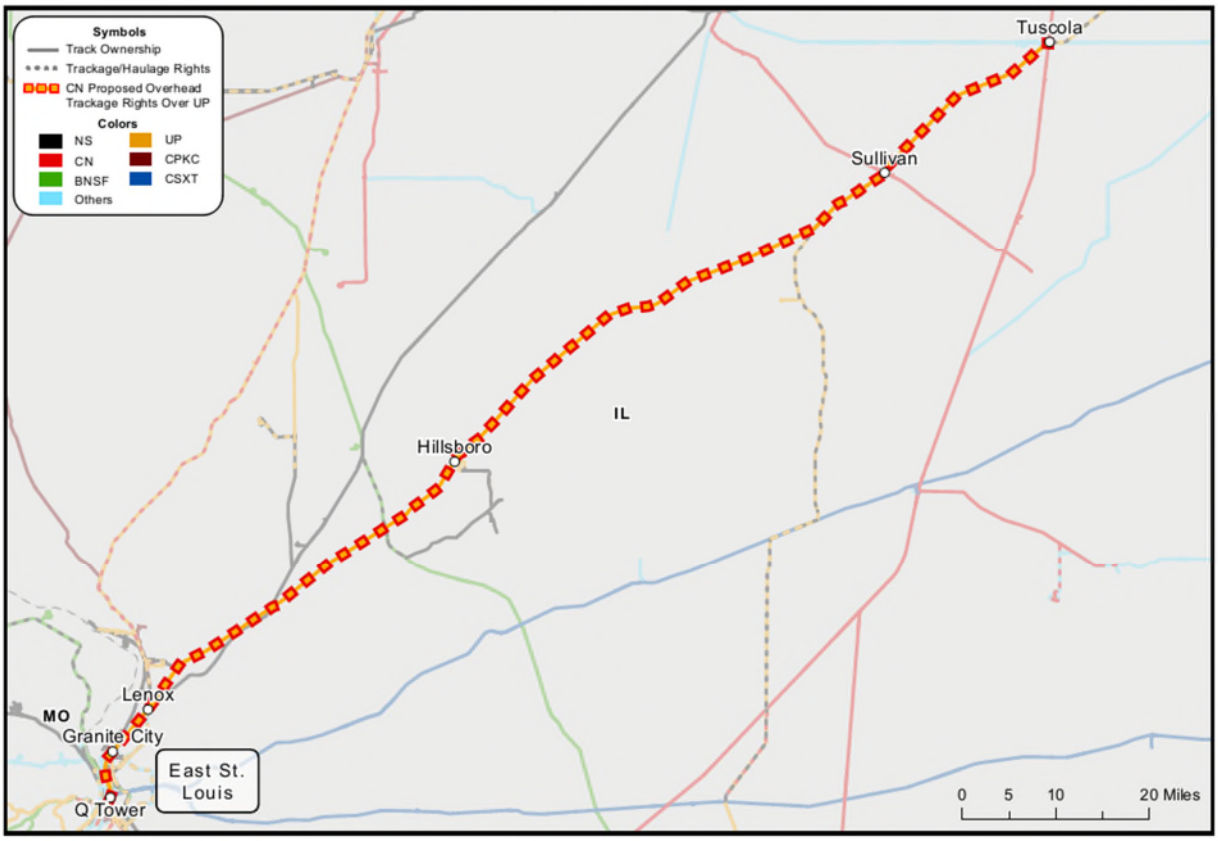
By: _____
Name: [AUTHORIZED SIGNATORY]
Title: [TITLE]

EXHIBIT "A"

JOINT TRACKAGE

TUSCOLA, ILLINOIS AND EAST ST. LOUIS, ILLINOIS

CN Proposed Overhead Trackage Rights on the Tuscola Line



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

EXHIBIT "B"

GENERAL CONDITIONS

Section 1. DEFINITIONS

1.1 "Agreement" shall mean that certain Trackage Rights Agreement dated as of [●] by and between UNION PACIFIC RAILROAD COMPANY ("Owner") and ILLINOIS CENTRAL RAILROAD COMPANY ("User"), to which this Exhibit "B" is appended. The term "Agreement" shall include this Exhibit "B" in its entirety.

1.2 "Owner" shall mean UNION PACIFIC RAILROAD COMPANY.

1.3 "User" shall mean ILLINOIS CENTRAL RAILROAD COMPANY.

1.4 "Joint Trackage" shall mean those certain lines of railroad extending between Tuscola, Illinois and East St. Louis, Illinois as described in the Agreement, including all necessary head room/tail room, right-of-way and appurtenances and support facilities thereof, and all additions and betterments to, and changes in, the tracks and facilities constituting the Joint Trackage in the future as are required or desirable for the operation of the trains of the parties hereto.

1.5 "Equipment" shall mean and include (i) trains, locomotives, cars and cabooses, (ii) vehicles and machinery which are capable of being operated on railroad tracks that, at the time of an occurrence, are being operated on the Joint Trackage, and (iii) vehicles and machinery that, at the time of an occurrence, are on the Joint Trackage or its right-of-way for the purpose of performing maintenance, repairs or the clearing of wrecks thereon.

1.6 "STB" shall mean the Surface Transportation Board, or any successor agency.

Section 2. MAINTENANCE CHANGES IN AND/OR ADDITIONS, OPERATION AND CONTROL

2.1 The construction, maintenance, repair, and renewal of the Joint Trackage shall be the responsibility, and under the exclusive direction and control, of Owner. Owner shall use reasonable and customary care, skill, and diligence in the construction, operation, maintenance, repair, and renewal of the Joint Trackage and in managing same. Notwithstanding anything to the contrary contained in the Agreement, User shall not, by reason of Owner's performing or failing or neglecting to perform any construction, operation, maintenance, repair, renewal, or management of the Joint Trackage, have or make against Owner any claim or demand for any loss, damage, destruction, injury, or death whatsoever resulting therefrom; provided, that the Joint Trackage is at all times maintained to Federal Railroad Administration Class 3 or higher track standards.

2.2 Owner may make any additions and betterments to, and changes in, the Joint Trackage which may be required by law, or which Owner deems necessary or desirable for the safe, efficient, and economical use of the Joint Trackage by the parties. Such additions, betterments and changes shall progressively become part of the Joint Trackage during construction as they are completed. User may request additions and betterments to, and changes in, the Joint Trackage which User shall deem necessary or desirable for the safe, efficient, and economical use of the Joint Trackage by the parties. If Owner concurs with such additions and betterments, or changes requested by User, Owner shall construct the same upon

such terms and conditions as may be agreed upon and they shall become part of the Joint Trackage. In the event that Owner does not concur with such additions, betterments or changes requested by User, Owner shall nevertheless construct the same at User's sole cost and expense if so requested by User. Owner shall make no retirement, withdrawal, elimination or disposal of any part of the Joint Trackage which would permanently or materially impair the usefulness thereof to User.

2.3 The management and operation of the Joint Trackage shall be under the exclusive direction and control of Owner. Owner shall make such changes to the management and operations on and over the Joint Trackage as in Owner's reasonable judgment may be necessary, expedient, or proper for the operations thereof herein intended.

2.4 If the use of the Joint Trackage shall at any time be interrupted or traffic thereon or thereover be delayed for any cause, neither party shall have or make any claim against the other for loss, damage, or expense of any kind, caused by or resulting from such interruption or delay.

2.5 Owner may from time to time substitute any track or tracks for those delineated in the Agreement for use by User; provided, User shall at all times have access to a contiguous route of equal utility as the Joint Trackage for the operation of User's Equipment between the termini of the Joint Trackage. When tracks that are not specified as part of the Joint Trackage in Section 1.4 of these General Conditions are used as provided in this Section 2.5, the Agreement shall govern for purposes of direction and control and liability as if all train movements had been made over the Joint Trackage.

2.6 Each party shall be responsible for furnishing, at its own expense, all labor, fuel, and train supplies necessary for the operation of its own Equipment over the Joint Trackage. In the event a party hereto does furnish such labor, fuel, or train supplies to another party hereto, the party receiving same shall promptly, upon receipt of billing therefor, reimburse the party furnishing same for its reasonable costs of furnishing such labor, fuel, or train supplies.

2.7 The operation by User on or along the Joint Trackage shall at all times be in accordance with the rules, instructions and bulletins of Owner as they may be amended and supplemented from time to time; provided, however, that such rules, instructions and bulletins shall be reasonable, just, and applied fairly to all parties using the Joint Trackage and shall not discriminate against any of them.

2.8 User shall be responsible for reporting and paying any mileage, per diem, use, or rental charges accruing on Equipment in User's account while on the Joint Trackage. Except as may be specifically provided for in the Agreement, nothing herein contained is intended to change practices with respect to interchange of traffic between the parties or with other carriers on or along the Joint Trackage.

2.9 The total cost of clearing a derailment, cleaning up any Hazardous Materials released during such derailment, and/or repairing the Joint Trackage or any other property damaged thereby shall be borne by the party or parties liable therefor in accordance with Section 4 of these General Conditions.

2.10 In the event of release of Hazardous Materials caused by faulty equipment or third parties, cleanup will be conducted and total costs resulting therefrom shall be borne by the parties as provided for in Section 4 of these General Conditions.

2.11 All employees of User engaged in or connected with the operations of User on or along the Joint Trackage shall be required to pass periodic examination on the rules of Owner related to the Joint Trackage; provided, with respect to such examinations that, upon request of User, Owner shall qualify one

or more of User's supervisory officers on said rules and such supervisory officer or officers so qualified shall thereafter examine all employees of User engaged in or connected with User's operations on or along the Joint Trackage. Pending qualification of train and engine crews of User, Owner shall furnish a pilot or pilots, at the expense of User, as deemed necessary by Owner to assist in operating trains of User over the Joint Trackage.

2.12 If any employee of User shall neglect, refuse, or fail to abide by Owner's rules, instructions, and bulletins governing the operation on or along the Joint Trackage, such employee shall, upon written request of Owner, be prohibited by User from working on the Joint Trackage. If either party shall deem it necessary to hold a formal investigation to establish such neglect, refusal, or failure on the part of any employee of User, then upon such notice presented in writing, Owner and User shall promptly hold a joint investigation in which all parties concerned shall participate and bear the expense for its officers, counsel, witnesses, and employees. Notice of such investigation shall be given to employees of User by User's officers, and such investigation shall be conducted in accordance with applicable terms and conditions of schedule agreements between User and its employees. If, in the judgment of Owner, the result of such investigation warrants, such employee shall, upon written request of Owner, be withdrawn by User from service on the Joint Trackage, and User shall release and indemnify Owner from and against any and all claims and expenses because of such withdrawal, except as otherwise provided below.

2.13 If the disciplinary action is appealed by an employee of User to the National Railroad Adjustment Board or other tribunal lawfully created to adjudicate such cases, and if the decision of such board or tribunal sustains the employee's position, such employee shall not thereafter be barred from service on the Joint Trackage by reason of such occurrence.

2.14 It is understood that Owner shall reimburse User for all payments that User might be required to make as a result of a successful challenge being made by the employee or his representative as to the discipline recommended by Owner and assessed by User. User agrees to notify Owner before committing itself to making payment of any such employee claim. In the event a claim is progressed to an Adjustment Board, Owner will be given an opportunity to review User's submission. Any payments made to employees, as a result of an investigation being "overturned", shall include not only actual wages, but in addition, shall include expenses which User may be required to pay covering vacation allowances, Railroad Retirement taxes, unemployment insurance taxes and any other payroll tax or fringe benefits.

2.15 If any Equipment of User is bad ordered enroute on the Joint Trackage and it is necessary that it be set out, such bad ordered Equipment shall, after being promptly repaired, be promptly picked up by User. Unless otherwise agreed, Owner may, upon request of User and at User's expense, furnish the required labor and material and perform light repairs to make such bad ordered Equipment safe for movement. The employees and Equipment of Owner while in any manner so engaged or while en route to or returning to Owner's terminal from such an assignment shall be considered sole employees of User and sole property of User. However, should Owner after repairing such Equipment for User, move directly to perform service for Owner's benefit rather than return to Owner's terminal, then User's exclusive time and liability will end when owner's employees depart for work to be performed for Owner's benefit. In the case of such repairs by Owner to freight cars in User's account, billing therefor shall be in accordance with the Field and Office Manuals of the Interchange Rules adopted by the Association of American Railroads, hereinafter called "Interchange Rules", in effect at the date of performance of the repairs. Owner shall prepare and submit billing directly to and collect from the car owner for car-owner responsibility items as determined under said Interchange Rules. Should said car owner refuse or otherwise fail to make payment therefor, Owner shall submit billing to and collect from User any charges for repair to freight cars that are car-owner responsibility items, as determined under said Interchange Rules.

2.16 If Equipment of User shall become derailed, wrecked, or otherwise disabled while upon the Joint Trackage, it shall be re-railed or cleared by Owner; provided, that employees of User may re-rail User's derailed Equipment on the Joint Trackage whenever use of motorized on or off track equipment is not required and User has obtained permission to perform such re-railing from Owner (which permission shall not be unreasonably denied, conditioned or delayed). The costs and expenses of clearing derailments and wrecks shall be at User's expense unless otherwise provided for in allocation of liability in Section 5 of these General Conditions.

2.17 In the event Equipment of User shall be forced to stop on Joint Trackage, and such stoppage is due to insufficient hours of service remaining among User's employees, or due to mechanical failure of User's Equipment, or any other cause not resulting from an accident or derailment, and such Equipment is unable to proceed, or if a train of User fails to maintain the speed required by Owner on the Joint Trackage, or if in emergencies, crippled or otherwise defective Equipment is set out of User's trains on the Joint Trackage, Owner shall have the option to furnish motive power or such other assistance (including but not limited to the right to re-crew User's train) as may be necessary to haul, help or push such Equipment, or to properly move the disabled Equipment off the Joint Trackage. The costs and expenses of furnishing motive power or of rendering such other assistance shall be at User's expense.

2.18 In the event any accident, derailment, or wreck (hereinafter, a "Derailment") involving Units on or in a train operated by User or for User by Owner carrying hazardous materials, substances, pollutants or wastes, as defined pursuant to federal, state or local laws, regulations and ordinances and/or court decisions interpreting such laws, regulations and ordinances (hereinafter, "Hazardous Materials") shall occur on any segment of the Joint Trackage, any report required by federal, state or local authorities shall be the responsibility of User. User shall also advise the owner/shipper of the Hazardous Materials involved in the derailment, and Owner, immediately.

2.19 Unless otherwise agreed by the parties, Owner shall assume responsibility for cleaning up any release of Hazardous Materials from User's cars in accordance with all federal, state, or local regulatory requirements. User may have representatives at the scene of the derailment to observe and provide information and recommendations concerning the characteristics of Hazardous Materials release and the cleanup effort. Such costs shall be borne in accordance with Section 4 of these General Conditions.

2.20 If Hazardous Materials must be transferred to undamaged cars, User shall perform the transfer, provided, however, that if the Hazardous Materials are in damaged cars that are blocking the Joint Trackage, Owner, at its option, may transfer the Hazardous Materials. Transfers of Hazardous Materials by User shall only be conducted after being authorized by Owner.

Section 3. BILLING; DEFAULT

3.1 Billing shall be accomplished on the basis of data contained in a billing form mutually agreed to between the parties. Such billing form shall contain sufficient detail to permit computation of payments to be made hereunder. Billing shall be prepared in accordance with the Base Charge and Mileage Factor set forth in Sections 5.1 and 5.2, respectively, of this Agreement (and, as applicable, the rules, additives, and equipment rental rates published by Owner). User shall pay to Owner at the Office of the Treasurer of Owner or at such other location as Owner may from time to time designate, all the compensation and charges of every name and nature that User is required to pay pursuant to the Agreement, in lawful money of the United States, within sixty (60) days after the receipt of bills therefor. Bills shall contain a statement of the amount due on account of the expenses incurred and services rendered during the billing period.

3.2 No exception to any bill or payment shall be honored, recognized, or considered if filed after the expiration of three (3) years from the last day of the calendar month during which the bill is rendered. No bill shall be rendered later than three (3) years (i) after the last day of the calendar month in which the expense covered thereby is incurred, or (ii) in the case of claims disputed as to amount or liability, after the amount is settled and/or the liability(ies) established.

3.3 So much of the books, accounts and records of each party hereto as are related to the subject matter of the Agreement shall at all reasonable times be open to inspection by the authorized representatives and agents of the parties hereto.

3.4 All books, accounts, and records shall be maintained to furnish readily full information for each item in accordance with 49 U.S.C. § 11161 et seq. and the related regulations of the STB in 49 C.F.R. Part 1201, 1-3, et seq.

3.5 Should any amount become payable by Owner to User under the Agreement, the provisions of Section 3.1 through Section 3.3 of these General Conditions shall apply with User as the billing party and Owner as the paying party.

3.6 No action of Owner in waiving any default of User under this Agreement shall be deemed to waive any subsequent default of User, or to impair any rights of Owner under the Agreement.

Section 4. COMPLIANCE WITH LAWS

4.1 User shall not treat, store or dispose of petroleum products or Hazardous Materials at any location on or along the Joint Trackage.

4.2 Responsibility for "Environmental Claims" (as defined in this Section 4) as between the parties shall be borne by the party or parties liable therefor pursuant to the allocation of liability in Section 5 of these General Conditions.

4.3 Each party shall release the other party to the extent it is responsible for an Environmental Claim, and, to the extent of such responsibility, shall defend, indemnify, protect and save harmless such other party from and against such Environmental Claim and costs associated therewith, including, but not limited to, environmental consultant fees, attorneys' fees and third party claims.

4.4 In the event that any incident, accident, Derailment, or vehicle striking or being struck by Equipment (hereinafter "Incident") involving Equipment operated by a party hereto carrying Hazardous Materials shall occur on the Joint Trackage, any report required by Federal, State or local authorities shall be the responsibility of such party. Each party shall advise the other party immediately of the occurrence of an Incident involving Equipment operated by the party carrying Hazardous Materials.

4.5 Unless otherwise agreed by the parties, Owner shall undertake any "Response Action" (as defined in this Section 4) in accordance with all Federal, State, or local regulatory requirements necessitated by a release of Hazardous Materials resulting from an Incident involving Equipment operated by either party on Owner's right-of-way underlying the Joint Trackage. User shall provide data or a representative available at the scene of any Incident involving Equipment operated by it to provide information concerning the characteristics of Hazardous Materials released.

4.6 If, following an Incident occurring on or along the Joint Trackage, Hazardous Materials must be transferred to undamaged cars or other vehicles, unless otherwise agreed by the parties, the party whose Equipment was involved in such Incident shall perform the transfer; provided, however, that if the Hazardous Materials are in damaged cars of a train of User that are blocking the Joint Trackage, Owner shall transfer the Hazardous Materials; provided further that transfers of Hazardous Materials by User shall only be conducted after being authorized by Owner (which authorization shall not be unreasonably denied, conditioned or delayed). The cost of such transfer of Hazardous Materials shall be borne by the party or parties liable therefor pursuant to the allocation of liability in Section 5 of these General Conditions.

4.7 In the event any cleanup, response, removal or remediation of any environmental condition on the Joint Trackage is necessary (collectively, a "Response Action"), neither party shall be entitled to any damages, actual or consequential, by reason of the Response Action's interference with the other party's use of the Joint Trackage. Owner and its contractors shall have full, unrestricted and unconditional access to the Joint Trackage for the purpose of completing or engaging in a Response Action for which Owner has any responsibility or, at Owner's option, a Response Action which Owner has undertaken should User fail to diligently pursue and complete such Response Action to the satisfaction of Owner; provided, however, that any Response Action (i) shall be undertaken and completed pursuant to a work plan (including a schedule) submitted to the other party for its review and, in the case of Owner, approval, and (ii) shall not unreasonably, in terms of duration or otherwise, restrict the other party's use of the Joint Trackage. Either party's completion of the other party's obligations hereunder shall not be deemed a waiver of such obligations under the Agreement. Owner shall have the right, but not the obligation, to conduct reasonable inspections of any Response Action of User and User shall provide Owner all information requested by Owner regarding any Response Action of User or any Environmental Claims for which User is responsible.

4.8 The term "Environmental Claim" means the direct costs of any cleanup, Response Action, removal, remediation, natural resource damage, closure and/or post-closure required by any environmental condition affecting the air, soil, surface waters, ground waters, streams, sediments and similar environmental conditions caused by, resulting from, arising out of, or occurring in connection with this Agreement.

4.9 The liability and indemnity provisions of this Section 4 shall continue in full force and effect regardless of whether this Agreement is terminated pursuant to any other provision, or the Joint Trackage is abandoned and vacated by User.

4.10 The total cost of clearing a Derailment or other Incident, cleaning up any Hazardous Materials released during such Derailment or Incident, and repairing the Joint Trackage or any other property damaged thereby shall be borne by the party or parties liable therefor pursuant to the allocation of liability in Section 5 of these General Conditions.

Section 5. LIABILITY

5.1 The responsibility and liability as between the parties for: (i) any personal injury or death of any person (including employees of the parties and third parties), (ii) any real or personal property damage (including property of the parties and any third person), (iii) any damage or destruction to the environment (including land, air, water, wildlife and vegetation), and (iv) all cleanup and remedial expenses, court costs, litigation expenses and attorney's fees resulting from the use of the Joint Trackage by the parties to this Agreement or by third party users, all of which are collectively referred to as a "Loss", will be divided as follows:

5.2 If a Loss results from the use of the Joint Trackage solely by the Equipment of only one of the parties to this Agreement without the involvement of any Equipment of the other party, then the party whose Equipment is involved shall be solely responsible for the Loss, even if caused partially or completely by the other party.

5.3 If a Loss results from the use of the Joint Trackage by both Owner and User and involves the Equipment of both parties, then: (i) each of Owner and User shall be solely responsible for any Loss to its own employees and Equipment in its own account (including lading) and (ii) Owner and User shall each be responsible for one-half of any Loss to the Joint Trackage and Loss sustained by third parties, regardless of the proportional responsibility between or among them as to the cause of the Loss.

5.4 If a Loss results from the use of the Joint Trackage by both User and a third party user of the Joint Trackage that is not a party to this Agreement, and involves the Equipment of both User and such third party user, then the responsibility of User and such third party user for the Loss shall be allocated in the manner specified in subsection (b), with the third party user being considered as Owner for the purpose of allocating such Loss. Owner shall be responsible for, and shall indemnify, defend, and hold harmless User from and against, all Loss allocated to a third party user in accordance with subsection (b).

5.5 Notwithstanding any provision of this Section 5 to the contrary, each Party shall assume and bear all responsibility for any Loss or Damage that is directly or proximately caused by acts or omissions of any of its employees while under the influence of drugs or alcohol.

5.6 Whenever any liability, cost, or expense is assumed by or allocated to any party to this Agreement pursuant to this Section 5, that party shall forever protect, defend, indemnify, and save harmless the other party to this Agreement and its subsidiaries and affiliates, and all of its and their respective directors, officers, agents, and employees from and against that liability, cost, and expense assumed by that party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of the indemnitee or its directors, officers, agents or employees. Notwithstanding any provision to the contrary herein, no obligations of indemnity of either party shall apply with respect to punitive or exemplary damages to the extent arising from the conduct of the party to be otherwise indemnified hereunder.

5.7 In every case of death or injury suffered by an employee of any party to this Agreement, when compensation to such employee or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employer's liability, or other law, and either of said parties under the provisions of this Agreement is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such party shall not be released from paying any future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.

5.8 For purposes of determining liability, pilots furnished by Owner to User pursuant to this Agreement shall be considered as the employees of User while such employees are on board or getting on or off trains of User.

5.9 If any suit or action shall be brought against any party for damages which under the provisions of the Agreement are in whole or in part the responsibility of the other party, said other party shall be notified in writing by the party sued, and the party so notified shall have the right and be obligated to take part in the defense of such suit and shall pay its allocated share of the judgment and cost, expense and attorneys' fees incurred in such suit as determined pursuant to this Section 5.

5.10 In the event of a Loss involving lading, the parties to this Agreement shall be bound by the Freight Claim Rules, Principles, and Practices of the Association of American Railroads (AAR) as to the handling of any claims for the loss or damage to lading, except to the extent expressly provided otherwise herein.

5.11 Notwithstanding any provision to the contrary herein, the obligation of a party to indemnify the other party pursuant to this Section 5 shall not include any obligation to indemnify such other party for punitive or exemplary damages to the extent arising from conduct of such indemnified party.

Section 6. ARBITRATION

6.1 If at any time a question or controversy shall arise between the parties hereto in connection with the Agreement upon which the parties cannot agree, then, upon the written request of either party setting forth the issue in dispute, such question or controversy shall be submitted to arbitration. If the parties involved in such dispute are able to agree upon a single arbitrator experienced in matters of the character in dispute within thirty (30) days after the party desiring such arbitration (the "Demanding Party") shall notify in writing the other party to such dispute (the "Noticed Party"), such dispute shall be submitted to such single arbitrator. Otherwise, the Demanding Party shall appoint an arbitrator and notify the Noticed Party in writing of such appointment. Within twenty (20) days after receipt of said notice, the Noticed Party shall appoint an arbitrator and notify the Demanding Party in writing of such appointment. Should the Noticed Party fail within twenty (20) days after receipt of such notice to name its arbitrator, the arbitrator for the Demanding Party shall select one for the Noticed Party so failing and, if they cannot agree, said arbitrator may be appointed by the Chief Judge (or acting Chief Judge) of the United States District Court for the District in which the headquarters office of the Demanding Party is located upon application by either party after ten (10) days' written notice to the other party. The arbitrators so chosen, if an even number, shall select a third arbitrator to complete the panel. If they fail to agree upon a third arbitrator, the third arbitrator shall, upon application of any party, be appointed by said judge in the manner heretofore stated.

6.2 Upon selection of the arbitrator(s), said arbitrator(s) shall with reasonable diligence determine the questions set forth in said notice of demand for arbitration, shall give all parties reasonable notice of the time and place (which shall be at the discretion of the arbitrator(s)) of hearing evidence and argument, may take such evidence as they deem reasonable or as either party may submit with witnesses required to be sworn, and may hear arguments of counsel or others. If any arbitrator declines or fails to act, the party (or parties in the case of a single arbitrator) by whom such arbitrator was chosen or said judge shall appoint another to act in such arbitrator's place. After considering all evidence, testimony, and arguments, said single arbitrator or the majority of said panel of arbitrators shall promptly state such decision or award in writing which shall be final, binding, and conclusive on all parties to the arbitration when delivered to them. Until the arbitrator(s) shall issue the first decision or award upon any question submitted for arbitration, performance under the Agreement shall continue in the manner and form existing prior to the rise of such question. After delivery of said first decision or award, each party shall forthwith comply with said first decision or award immediately after receiving it.

6.3 Each party to the arbitration shall pay the compensation, costs, and expenses of the arbitrator appointed in its behalf and all fees and expenses of its own witnesses, exhibits, and counsel. The compensation, costs, and expenses of the single arbitrator or the additional arbitrator in the board of arbitrators shall be paid in equal shares by all parties to the arbitration.

6.4 The books and papers of all parties, as far as they relate to any matter submitted for arbitration, shall be open to examination by the arbitrator(s).

Section 7. APPLICABLE LAW

7.1 This Agreement and any claims, disputes or controversies arising hereunder shall be governed by and construed in accordance with the laws of the state of Illinois, without giving effect to any choice or conflict of laws provision or rule (whether of the State of Illinois or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Illinois.

Section 8. GOVERNMENTAL APPROVAL; ABANDONMENT

8.1 User shall, at its own cost and expense, initiate by appropriate application or petition and thereafter diligently prosecute proceedings to obtain any required STB and Federal Communications Commission ("FCC") approval or exemption for the exercise of the trackage rights granted to User pursuant to the Agreement. Owner, at its expense, shall assist and support said application or petition and will furnish such information and execute, deliver, and file such instrument or instruments in writing as may be necessary or appropriate to obtain such STB and/or FCC consent, approval, or authority. User and Owner agree to cooperate fully to procure all such necessary consent, approval, or authority.

8.2 Owner reserves the right, to the extent that Owner may lawfully do so and subject to any required STB approval or exemption, to abandon all or any part of the Joint Trackage at any time during the life of the Agreement without concurrence of User, by giving six (6) months prior written notice to User of its intention so to do; provided, that User shall have a right of first refusal to purchase all or such part of the Joint Trackage that Owner proposes to abandon at a price to be calculated in the manner prescribed by the STB's regulations governing Offers of Financial Assistance at 49 C.F.R. § 1152.27 or any successor regulations.

8.3 Each party shall be responsible for any labor claims of, and shall bear the cost of employee protection payable to, its own employees and the employees of companies affiliated with it, to the extent resulting from the Agreement and/or such party's operations on the Joint Trackage.

Section 9. OTHER CONSIDERATIONS

9.1 Nothing in the Agreement contained shall limit the right of Owner to admit other companies to the use of the Joint Trackage or any part thereof on such terms and conditions as are acceptable to Owner; provided, that the operations of such other companies shall not unduly interfere with or delay the operations of User on and along the Joint Trackage. Except as otherwise provided in Section 2.2 of the Agreement, User shall have no right to admit any person, firm, or corporation to the use of the Joint Trackage.

9.2 The Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors, lessees, and assigns. The Agreement and any rights granted hereunder may not be assigned in whole or in part by Owner or User without the prior written consent of the other. The Agreement may be assigned by Owner or User without the prior written consent of the other only (i) as a result of a merger, corporate reorganization, consolidation, change of control or sale of substantially all of its assets, or (ii) to an affiliate of the assigning party where the term "affiliate" means a corporation, partnership or other entity controlled, controlling or under common control with the assigning party. In connection with the sale, lease or transfer by Owner of all or a portion of the Joint Trackage, Owner shall require the

purchaser, lessee or transferee of such portion (or all) of the Joint Trackage to accept assignment in writing of this Agreement with respect to, and to perform Owner's obligations under this Agreement, with respect to the portion of the Joint Trackage sold, leased or transferred.

9.3 The Agreement and each and every provision hereof is for the exclusive benefit of the parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right in any third person to recover by way of damages or otherwise against any of the parties hereto.

9.4 All notices, demands, requests or submissions which are required or permitted to be given pursuant to the Agreement shall be given by either party to the other in writing by serving the same upon the Vice President of Operations of each company.

9.5 If any covenant or provision of the Agreement not material to the right of User to use the Joint Trackage shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which is in itself valid. No controversy concerning any covenant or provision shall delay the performance of any other covenant or provision. Should any covenant or provision of the Agreement be adjudged void, the parties will make such other arrangements as, under the advice of counsel, will effect the purposes and intent of the Agreement.

9.6 All Section headings are inserted for convenience only and shall not affect any construction or interpretation of the Agreement.

9.7 No term or provision of the Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to the Agreement.

9.8 All words, terms and phrases used in the Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms, and phrases in the railroad industry in the United States.

9.9 The Agreement is the result of mutual negotiations between the parties hereto, neither of whom shall be considered the drafter for purposes of contract construction.

9.10 Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of the Agreement, or as may be necessary or appropriate for a party hereto to enforce its rights under the Agreement, all commercial information to which access is provided or obtained hereunder will be kept confidential and will not be disclosed by either Owner or User to any party other than Owner or User (as applicable), their respective affiliates, and its and their respective officers, employees, and attorneys, without the prior written approval of the other party.

Exhibit 2G

OVERHEAD TRACKAGE RIGHTS AGREEMENT LENOX/MITCHELL, ILLINOIS TO EAST ST. LOUIS, ILLINOIS

THIS OVERHEAD TRACKAGE RIGHTS AGREEMENT (this "Agreement") is made and entered into as of [●] by and between THE ALTON & SOUTHERN RAILWAY COMPANY, a Delaware corporation ("Owner"), and ILLINOIS CENTRAL RAILROAD COMPANY, an Illinois corporation ("User"). Owner and User are each a "Party" and together the "Parties".

WITNESSETH:

WHEREAS, Owner owns or controls certain railroad trackage between Mitchell, Illinois and East St. Louis, Illinois, as more particularly described in Exhibit "A" (the "Joint Trackage"); and

WHEREAS, User desires overhead trackage rights over the Joint Trackage for the movement of traffic on and over the Joint Trackage from any origin or any destination and all commodities, equipment, and train types; and

WHEREAS, Owner and User desire to state the conditions under which User may exercise such rights;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the Parties agree as follows:

Section 1. TRACKAGE SUBJECT TO AGREEMENT

1.1 Attached hereto as Exhibit "A," and incorporated herein by reference, is a print that depicts the rail line between Lenox in Mitchell, Illinois and East St. Louis, Illinois, more particularly described as Owner's line from Lenox in Mitchell, Illinois (MP 21.09) to the connection to the Terminal Railroad Association of St. Louis's ("TRRA") MacArthur Bridge route (MP 2.4) to Valley Jct. in East St. Louis, Illinois (MP 2.2), via Gateway Yard (MP 4.16) and Mitchell Yard (MP 19.9), over which User shall be granted trackage rights pursuant to this Agreement (referred to collectively as the "Joint Trackage"). Entry and exit at Gateway Yard and Mitchell Yard shall be for the sole purpose of delivering and pulling traffic interchanged with Owner.

Section 2. GRANT OF TRACKAGE RIGHTS

2.1 Subject to the terms and conditions (the "General Conditions") set forth in Exhibit "B" to this Agreement (which is attached hereto and incorporated herein by reference), Owner grants to User the nonexclusive right to operate its trains with its own Equipment and crews over the Joint Trackage. User's use of the Joint Trackage shall be in common with Owner and such other railroad company or companies as Owner may hereafter at any time admit to the joint use of any and all of the Joint Trackage. For purposes of this Agreement, trains and "Equipment" (as defined in Section 1.5 of Exhibit "B") of such other railroad company or companies admitted by Owner to the use of the Joint Trackage shall be considered trains and Equipment of Owner.

2.2 The trackage rights granted to User pursuant to this Agreement may be exercised by Illinois Central Railroad Company ("ICRR") or by a rail carrier affiliate of ICRR, including Canadian National Railway Company ("CN"); provided, however, that only one of ICRR, CN or an affiliate may exercise such trackage rights at any time; and provided further, that ICRR, CN or such affiliate (as applicable) shall have

first obtained any required Surface Transportation Board ("STB") approval or exemption for the exercise of such trackage rights.

2.3 The exercise of the trackage rights granted to User by this Agreement shall be subject at all times to the General Conditions. If any conflict between the General Conditions and this Agreement shall arise, the provisions of this Agreement shall prevail.

2.4 User shall qualify its crew members as pilots and provide pilots or qualified crews on all User trains prior to entering the Joint Trackage.

Section 3. MAINTENANCE AND OPERATION OF TRACKAGE

3.1 Owner, at its expense, shall maintain, repair and renew the Joint Trackage in accordance with Class I railroad industry maintenance practices and in a manner permitting operation at no less than the track standard designated in the timetable in effect on the date of this Agreement. In the event that, for operating convenience, necessity or emergency, Owner permits or directs User to use adjacent tracks or track connections between or beyond the termini of the Joint Trackage as an alternate route, then and in such event, such trackage, track connections and appurtenances shall be deemed to be part of the Joint Trackage and shall be governed by all the provisions of this Agreement while such use continues.

Section 4. LIMITATIONS AND MEASUREMENT OF TRACKAGE RIGHTS TRAINS

4.1 User trains shall have a sufficient horsepower-per-ton ratio ("HPT") to traverse the Joint Trackage; provided that Owner shall accept User trackage-rights trains of the same lengths and tonnages, and with operating characteristics no more restrictive, than those applicable to Owner's comparable trains for all commodities and train types, including as such limits increase over time, subject to available capacity and generally applicable mainline, siding and operating restrictions applied on a non-discriminatory basis.

4.2 Owner shall dispatch User's trains equitably and similarly to Owner's comparable trains, without prejudice or partiality, except that passenger trains may have priority. User shall be entitled to operate a minimum of three (3) trackage-rights trains per day, Monday through Sunday, subject to generally applicable operating conditions. In the event of refusal to grant a User train admission to or operation on the Joint Trackage, User shall have no claim of any nature against Owner by reason of such refusal only if Owner and User trains are treated equitably and without prejudice or partiality.

4.3 Owner shall coordinate with User regarding crew-change locations, fueling, locomotive and car maintenance, access to AEI sites and other operating data, and other means of reporting data, including reasonable dispatcher-screen access. User may, at its sole election, pre-fund improvements to increase capacity, including the number, length or tonnage of trains, on terms agreed in writing by the Parties.

Section 5. COMPENSATION

5.1 In addition to any other payments to be made under this Agreement, User shall remit to Owner for its use of the Joint Trackage, on a monthly basis, [●] cents per car mile for each loaded or empty car, locomotive or caboose moved by User (the "Base Charge"). The Base Charge shall be deemed to include compensation to Owner for ordinary and programmed maintenance of the Joint Trackage, operating expenses, interest rental, depreciation and taxes. With respect to articulated units, the number of cars shall be determined by the AAR Car Type Code as defined in the UMLER Specification Manual. The second

character in the Car Type Code field covering codes "Q" and "S" will be the factor in determining the car count for an articulated unit. For example, AAR Car Type Code (S566) would equate to a five (5) car count as these type cars have five wells capable of handling 40' to 53' containers in each well. (Car count data for articulated units are subject to change upon development of technology to separate units by car numbers.)

5.2 For the purpose of computing the Base Charge under this Section 5, the parties hereby mutually agree that the distances between the designated points of the Joint Trackage are [●] miles (the "Mileage Factors"). In the event that for whatever reason physical changes are made to the Joint Trackage that result in a change in the track mileage provided in the prior sentence, then the Mileage Factors will be adjusted up or down to reflect such new mileage, and such adjusted Mileage Factors will be used to calculate the monthly Base Charge effective with the commencement of train operations over the new track.

5.3 The Base Charge set forth in Section 5.1 of this Agreement shall be adjusted annually during the term of this Agreement beginning on the first day of the calendar quarter following the first anniversary of the Effective Date, to reflect seventy-five percent (75%) of increases or decreases in the Rail Cost Adjustment Factor, not adjusted for changes in productivity ("Index" or "RCAF-U"), published by the AAR or successor agency or other organization. In the event RCAF-U is no longer maintained, the Parties shall select a substantially similar index and failing to agree on such an index, the matter shall be referred to binding arbitration under Section 6 of the General Conditions. For the first rate adjustment, the ratio between the Index for the most recent quarter available and the Index for the corresponding quarter of the preceding year shall be developed, and the Base Charge shall be increased or decreased in direct proportion to such ratio, with subsequent years following that framework (subject to rebasing). The adjusted Base Charge shall be rounded to the nearest whole cent.

Section 6. LIABILITY

6.1 Any liability for loss, damage, injury or death which arises from the operation of trains under this Agreement shall be allocated, settled and paid in the manner set forth in Section 5 of the General Conditions attached hereto.

Section 7. TERM AND TERMINATION

7.1 This Agreement shall become effective upon (i) receipt and effectiveness of all regulatory approvals relating to the transaction contemplated in STB Finance Docket No. 36873 ("Merger Approval"), and (ii) the consummation of such UP/NS transaction (the "Effective Date"). This Agreement shall have an Initial Term of ninety-nine (99) years. After the Initial Term of 99 years, the agreement shall continue until terminated by one Party serving upon the other Party 90 days' advance written notice of its intention. Upon expiration or termination of this Agreement, all obligations (including, without limitation, obligations to remit fees and obligations of indemnity) arising or accruing prior to such termination or expiration and all provisions of this Agreement necessary to enforce and resolve same shall survive and remain enforceable.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

THE ALTON & SOUTHERN RAILWAY COMPANY

By: _____
Name: [AUTHORIZED SIGNATORY]
Title: [TITLE]

ILLINOIS CENTRAL RAILROAD COMPANY

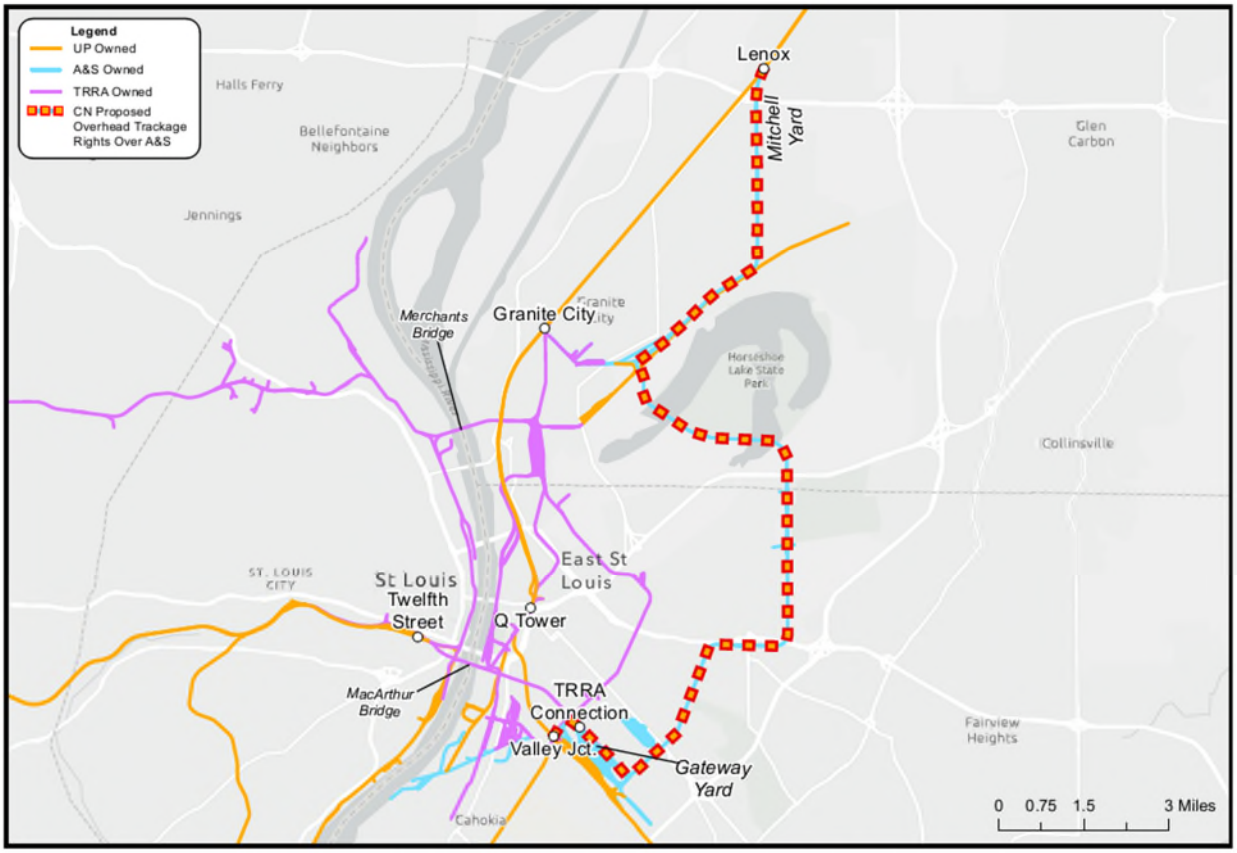
By: _____
Name: [AUTHORIZED SIGNATORY]
Title: [TITLE]

EXHIBIT "A"

JOINT TRACKAGE

LENOX IN MITCHELL AND EAST ST. LOUIS, ILLINOIS

CN Proposed Overhead Trackage Rights Over A&S Between Lenox and Valley Jct., Illinois



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

EXHIBIT "B"

GENERAL CONDITIONS

Section 1. DEFINITIONS

1.1 "Agreement" shall mean that certain Trackage Rights Agreement dated as of [●] by and between THE ALTON & SOUTHERN RAILWAY COMPANY ("Owner") and ILLINOIS CENTRAL RAILROAD COMPANY ("User"), to which this Exhibit "B" is appended. The term "Agreement" shall include this Exhibit "B" in its entirety.

1.2 "Owner" shall mean THE ALTON & SOUTHERN RAILWAY COMPANY.

1.3 "User" shall mean ILLINOIS CENTRAL RAILROAD COMPANY.

1.4 "Joint Trackage" shall mean those certain lines of railroad extending between Mitchell, Illinois and East St. Louis, Illinois as described in the Agreement, including all necessary head room/tail room, right-of-way and appurtenances and support facilities thereof, and all additions and betterments to, and changes in, the tracks and facilities constituting the Joint Trackage in the future as are required or desirable for the operation of the trains of the parties hereto.

1.5 "Equipment" shall mean and include (i) trains, locomotives, cars and cabooses, (ii) vehicles and machinery which are capable of being operated on railroad tracks that, at the time of an occurrence, are being operated on the Joint Trackage, and (iii) vehicles and machinery that, at the time of an occurrence, are on the Joint Trackage or its right-of-way for the purpose of performing maintenance, repairs or the clearing of wrecks thereon.

1.6 "STB" shall mean the Surface Transportation Board, or any successor agency.

Section 2. MAINTENANCE CHANGES IN AND/OR ADDITIONS, OPERATION AND CONTROL

2.1 The construction, maintenance, repair, and renewal of the Joint Trackage shall be the responsibility, and under the exclusive direction and control, of Owner. Owner shall use reasonable and customary care, skill, and diligence in the construction, operation, maintenance, repair, and renewal of the Joint Trackage and in managing same. Notwithstanding anything to the contrary contained in the Agreement, User shall not, by reason of Owner's performing or failing or neglecting to perform any construction, operation, maintenance, repair, renewal, or management of the Joint Trackage, have or make against Owner any claim or demand for any loss, damage, destruction, injury, or death whatsoever resulting therefrom; provided, that the Joint Trackage is at all times maintained to Federal Railroad Administration Class 3 or higher track standards.

2.2 Owner may make any additions and betterments to, and changes in, the Joint Trackage which may be required by law, or which Owner deems necessary or desirable for the safe, efficient, and economical use of the Joint Trackage by the parties. Such additions, betterments and changes shall progressively become part of the Joint Trackage during construction as they are completed. User may request additions and betterments to, and changes in, the Joint Trackage which User shall deem necessary

or desirable for the safe, efficient, and economical use of the Joint Trackage by the parties. If Owner concurs with such additions and betterments, or changes requested by User, Owner shall construct the same upon such terms and conditions as may be agreed upon and they shall become part of the Joint Trackage. In the event that Owner does not concur with such additions, betterments or changes requested by User, Owner shall nevertheless construct the same at User's sole cost and expense if so requested by User. Owner shall make no retirement, withdrawal, elimination or disposal of any part of the Joint Trackage which would permanently or materially impair the usefulness thereof to User.

2.3 The management and operation of the Joint Trackage shall be under the exclusive direction and control of Owner. Owner shall make such changes to the management and operations on and over the Joint Trackage as in Owner's reasonable judgment may be necessary, expedient, or proper for the operations thereof herein intended.

2.4 If the use of the Joint Trackage shall at any time be interrupted or traffic thereon or thereover be delayed for any cause, neither party shall have or make any claim against the other for loss, damage, or expense of any kind, caused by or resulting from such interruption or delay.

2.5 Owner may from time to time substitute any track or tracks for those delineated in the Agreement for use by User; provided, User shall at all times have access to a contiguous route of equal utility as the Joint Trackage for the operation of User's Equipment between the termini of the Joint Trackage. When tracks that are not specified as part of the Joint Trackage in Section 1.4 of these General Conditions are used as provided in this Section 2.5, the Agreement shall govern for purposes of direction and control and liability as if all train movements had been made over the Joint Trackage.

2.6 Each party shall be responsible for furnishing, at its own expense, all labor, fuel, and train supplies necessary for the operation of its own Equipment over the Joint Trackage. In the event a party hereto does furnish such labor, fuel, or train supplies to another party hereto, the party receiving same shall promptly, upon receipt of billing therefor, reimburse the party furnishing same for its reasonable costs of furnishing such labor, fuel, or train supplies.

2.7 The operation by User on or along the Joint Trackage shall at all times be in accordance with the rules, instructions and bulletins of Owner as they may be amended and supplemented from time to time; provided, however, that such rules, instructions and bulletins shall be reasonable, just, and applied fairly to all parties using the Joint Trackage and shall not discriminate against any of them.

2.8 User shall be responsible for reporting and paying any mileage, per diem, use, or rental charges accruing on Equipment in User's account while on the Joint Trackage. Except as may be specifically provided for in the Agreement, nothing herein contained is intended to change practices with respect to interchange of traffic between the parties or with other carriers on or along the Joint Trackage.

2.9 The total cost of clearing a derailment, cleaning up any Hazardous Materials released during such derailment, and/or repairing the Joint Trackage or any other property damaged thereby shall be borne by the party or parties liable therefor in accordance with Section 4 of these General Conditions.

2.10 In the event of release of Hazardous Materials caused by faulty equipment or third parties, cleanup will be conducted and total costs resulting therefrom shall be borne by the parties as provided for in Section 4 of these General Conditions.

2.11 All employees of User engaged in or connected with the operations of User on or along the Joint Trackage shall be required to pass periodic examination on the rules of Owner related to the Joint Trackage; provided, with respect to such examinations that, upon request of User, Owner shall qualify one or more of User's supervisory officers on said rules and such supervisory officer or officers so qualified shall thereafter examine all employees of User engaged in or connected with User's operations on or along the Joint Trackage. Pending qualification of train and engine crews of User, Owner shall furnish a pilot or pilots, at the expense of User, as deemed necessary by Owner to assist in operating trains of User over the Joint Trackage.

2.12 If any employee of User shall neglect, refuse, or fail to abide by Owner's rules, instructions, and bulletins governing the operation on or along the Joint Trackage, such employee shall, upon written request of Owner, be prohibited by User from working on the Joint Trackage. If either party shall deem it necessary to hold a formal investigation to establish such neglect, refusal, or failure on the part of any employee of User, then upon such notice presented in writing, Owner and User shall promptly hold a joint investigation in which all parties concerned shall participate and bear the expense for its officers, counsel, witnesses, and employees. Notice of such investigation shall be given to employees of User by User's officers, and such investigation shall be conducted in accordance with applicable terms and conditions of schedule agreements between User and its employees. If, in the judgment of Owner, the result of such investigation warrants, such employee shall, upon written request of Owner, be withdrawn by User from service on the Joint Trackage, and User shall release and indemnify Owner from and against any and all claims and expenses because of such withdrawal, except as otherwise provided below.

2.13 If the disciplinary action is appealed by an employee of User to the National Railroad Adjustment Board or other tribunal lawfully created to adjudicate such cases, and if the decision of such board or tribunal sustains the employee's position, such employee shall not thereafter be barred from service on the Joint Trackage by reason of such occurrence.

2.14 It is understood that Owner shall reimburse User for all payments that User might be required to make as a result of a successful challenge being made by the employee or his representative as to the discipline recommended by Owner and assessed by User. User agrees to notify Owner before committing itself to making payment of any such employee claim. In the event a claim is progressed to an Adjustment Board, Owner will be given an opportunity to review User's submission. Any payments made to employees, as a result of an investigation being "overturned", shall include not only actual wages, but in addition, shall include expenses which User may be required to pay covering vacation allowances, Railroad Retirement taxes, unemployment insurance taxes and any other payroll tax or fringe benefits.

2.15 If any Equipment of User is bad ordered enroute on the Joint Trackage and it is necessary that it be set out, such bad ordered Equipment shall, after being promptly repaired, be promptly picked up by User. Unless otherwise agreed, Owner may, upon request of User and at User's expense, furnish the required labor and material and perform light repairs to make such bad ordered Equipment safe for movement. The employees and Equipment of Owner while in any manner so engaged or while en route to or returning to Owner's terminal from such an assignment shall be considered sole employees of User and sole property of User. However, should Owner after repairing such Equipment for User, move directly to perform service for Owner's benefit rather than return to Owner's terminal, then User's exclusive time and liability will end when owner's employees depart for work to be performed for Owner's benefit. In the case of such repairs by Owner to freight cars in User's account, billing therefor shall be in accordance with the Field and Office Manuals of the Interchange Rules adopted by the Association of American Railroads, hereinafter called "Interchange Rules", in effect at the date of performance of the repairs. Owner shall prepare and submit billing directly to and collect from the car owner for car-owner responsibility items as

determined under said Interchange Rules. Should said car owner refuse or otherwise fail to make payment therefor, Owner shall submit billing to and collect from User any charges for repair to freight cars that are car-owner responsibility items, as determined under said Interchange Rules.

2.16 If Equipment of User shall become derailed, wrecked, or otherwise disabled while upon the Joint Trackage, it shall be re-railed or cleared by Owner; provided, that employees of User may re-rail User's derailed Equipment on the Joint Trackage whenever use of motorized on or off track equipment is not required and User has obtained permission to perform such re-railing from Owner (which permission shall not be unreasonably denied, conditioned or delayed). The costs and expenses of clearing derailments and wrecks shall be at User's expense unless otherwise provided for in allocation of liability in Section 5 of these General Conditions.

2.17 In the event Equipment of User shall be forced to stop on Joint Trackage, and such stoppage is due to insufficient hours of service remaining among User's employees, or due to mechanical failure of User's Equipment, or any other cause not resulting from an accident or derailment, and such Equipment is unable to proceed, or if a train of User fails to maintain the speed required by Owner on the Joint Trackage, or if in emergencies, crippled or otherwise defective Equipment is set out of User's trains on the Joint Trackage, Owner shall have the option to furnish motive power or such other assistance (including but not limited to the right to re-crew User's train) as may be necessary to haul, help or push such Equipment, or to properly move the disabled Equipment off the Joint Trackage. The costs and expenses of furnishing motive power or of rendering such other assistance shall be at User's expense.

2.18 In the event any accident, derailment, or wreck (hereinafter, a "Derailment") involving Units on or in a train operated by User or for User by Owner carrying hazardous materials, substances, pollutants or wastes, as defined pursuant to federal, state or local laws, regulations and ordinances and/or court decisions interpreting such laws, regulations and ordinances (hereinafter, "Hazardous Materials") shall occur on any segment of the Joint Trackage, any report required by federal, state or local authorities shall be the responsibility of User. User shall also advise the owner/shipper of the Hazardous Materials involved in the derailment, and Owner, immediately.

2.19 Unless otherwise agreed by the parties, Owner shall assume responsibility for cleaning up any release of Hazardous Materials from User's cars in accordance with all federal, state, or local regulatory requirements. User may have representatives at the scene of the derailment to observe and provide information and recommendations concerning the characteristics of Hazardous Materials release and the cleanup effort. Such costs shall be borne in accordance with Section 4 of these General Conditions.

2.20 If Hazardous Materials must be transferred to undamaged cars, User shall perform the transfer, provided, however, that if the Hazardous Materials are in damaged cars that are blocking the Joint Trackage, Owner, at its option, may transfer the Hazardous Materials. Transfers of Hazardous Materials by User shall only be conducted after being authorized by Owner.

Section 3. BILLING; DEFAULT

3.1 Billing shall be accomplished on the basis of data contained in a billing form mutually agreed to between the parties. Such billing form shall contain sufficient detail to permit computation of payments to be made hereunder. Billing shall be prepared in accordance with the Base Charge and Mileage Factor set forth in Sections 5.1 and 5.2, respectively, of this Agreement (and, as applicable, the rules, additives, and equipment rental rates published by Owner). User shall pay to Owner at the Office of the Treasurer of Owner or at such other location as Owner may from time to time designate, all the

compensation and charges of every name and nature that User is required to pay pursuant to the Agreement, in lawful money of the United States, within sixty (60) days after the receipt of bills therefor. Bills shall contain a statement of the amount due on account of the expenses incurred and services rendered during the billing period.

3.2 No exception to any bill or payment shall be honored, recognized, or considered if filed after the expiration of three (3) years from the last day of the calendar month during which the bill is rendered. No bill shall be rendered later than three (3) years (i) after the last day of the calendar month in which the expense covered thereby is incurred, or (ii) in the case of claims disputed as to amount or liability, after the amount is settled and/or the liability(ies) established.

3.3 So much of the books, accounts and records of each party hereto as are related to the subject matter of the Agreement shall at all reasonable times be open to inspection by the authorized representatives and agents of the parties hereto.

3.4 All books, accounts, and records shall be maintained to furnish readily full information for each item in accordance with 49 U.S.C. § 11161 et seq. and the related regulations of the STB in 49 C.F.R. Part 1201, 1-3, et seq.

3.5 Should any amount become payable by Owner to User under the Agreement, the provisions of Section 3.1 through Section 3.3 of these General Conditions shall apply with User as the billing party and Owner as the paying party.

3.6 No action of Owner in waiving any default of User under this Agreement shall be deemed to waive any subsequent default of User, or to impair any rights of Owner under the Agreement.

Section 4. COMPLIANCE WITH LAWS

4.1 User shall not treat, store or dispose of petroleum products or Hazardous Materials at any location on or along the Joint Trackage.

4.2 Responsibility for "Environmental Claims" (as defined in this Section 4) as between the parties shall be borne by the party or parties liable therefor pursuant to the allocation of liability in Section 5 of these General Conditions.

4.3 Each party shall release the other party to the extent it is responsible for an Environmental Claim, and, to the extent of such responsibility, shall defend, indemnify, protect and save harmless such other party from and against such Environmental Claim and costs associated therewith, including, but not limited to, environmental consultant fees, attorneys' fees and third party claims.

4.4 In the event that any incident, accident, Derailment, or vehicle striking or being struck by Equipment (hereinafter "Incident") involving Equipment operated by a party hereto carrying Hazardous Materials shall occur on the Joint Trackage, any report required by Federal, State or local authorities shall be the responsibility of such party. Each party shall advise the other party immediately of the occurrence of an Incident involving Equipment operated by the party carrying Hazardous Materials.

4.5 Unless otherwise agreed by the parties, Owner shall undertake any "Response Action" (as defined in this Section 4) in accordance with all Federal, State, or local regulatory requirements necessitated by a release of Hazardous Materials resulting from an Incident involving Equipment operated by either

party on Owner's right-of-way underlying the Joint Trackage. User shall provide data or a representative available at the scene of any Incident involving Equipment operated by it to provide information concerning the characteristics of Hazardous Materials released.

4.6 If, following an Incident occurring on or along the Joint Trackage, Hazardous Materials must be transferred to undamaged cars or other vehicles, unless otherwise agreed by the parties, the party whose Equipment was involved in such Incident shall perform the transfer; provided, however, that if the Hazardous Materials are in damaged cars of a train of User that are blocking the Joint Trackage, Owner shall transfer the Hazardous Materials; provided further that transfers of Hazardous Materials by User shall only be conducted after being authorized by Owner (which authorization shall not be unreasonably denied, conditioned or delayed). The cost of such transfer of Hazardous Materials shall be borne by the party or parties liable therefor pursuant to the allocation of liability in Section 5 of these General Conditions.

4.7 In the event any cleanup, response, removal or remediation of any environmental condition on the Joint Trackage is necessary (collectively, a "Response Action"), neither party shall be entitled to any damages, actual or consequential, by reason of the Response Action's interference with the other party's use of the Joint Trackage. Owner and its contractors shall have full, unrestricted and unconditional access to the Joint Trackage for the purpose of completing or engaging in a Response Action for which Owner has any responsibility or, at Owner's option, a Response Action which Owner has undertaken should User fail to diligently pursue and complete such Response Action to the satisfaction of Owner; provided, however, that any Response Action (i) shall be undertaken and completed pursuant to a work plan (including a schedule) submitted to the other party for its review and, in the case of Owner, approval, and (ii) shall not unreasonably, in terms of duration or otherwise, restrict the other party's use of the Joint Trackage. Either party's completion of the other party's obligations hereunder shall not be deemed a waiver of such obligations under the Agreement. Owner shall have the right, but not the obligation, to conduct reasonable inspections of any Response Action of User and User shall provide Owner all information requested by Owner regarding any Response Action of User or any Environmental Claims for which User is responsible.

4.8 The term "Environmental Claim" means the direct costs of any cleanup, Response Action, removal, remediation, natural resource damage, closure and/or post-closure required by any environmental condition affecting the air, soil, surface waters, ground waters, streams, sediments and similar environmental conditions caused by, resulting from, arising out of, or occurring in connection with this Agreement.

4.9 The liability and indemnity provisions of this Section 4 shall continue in full force and effect regardless of whether this Agreement is terminated pursuant to any other provision, or the Joint Trackage is abandoned and vacated by User.

4.10 The total cost of clearing a Derailment or other Incident, cleaning up any Hazardous Materials released during such Derailment or Incident, and repairing the Joint Trackage or any other property damaged thereby shall be borne by the party or parties liable therefor pursuant to the allocation of liability in Section 5 of these General Conditions.

Section 5. LIABILITY

5.1 The responsibility and liability as between the parties for: (i) any personal injury or death of any person (including employees of the parties and third parties), (ii) any real or personal property damage (including property of the parties and any third person), (iii) any damage or destruction to the environment (including land, air, water, wildlife and vegetation), and (iv) all cleanup and remedial

expenses, court costs, litigation expenses and attorney's fees resulting from the use of the Joint Trackage by the parties to this Agreement or by third party users, all of which are collectively referred to as a "Loss", will be divided as follows:

5.2 If a Loss results from the use of the Joint Trackage solely by the Equipment of only one of the parties to this Agreement without the involvement of any Equipment of the other party, then the party whose Equipment is involved shall be solely responsible for the Loss, even if caused partially or completely by the other party.

5.3 If a Loss results from the use of the Joint Trackage by both Owner and User and involves the Equipment of both parties, then: (i) each of Owner and User shall be solely responsible for any Loss to its own employees and Equipment in its own account (including lading) and (ii) Owner and User shall each be responsible for one-half of any Loss to the Joint Trackage and Loss sustained by third parties, regardless of the proportional responsibility between or among them as to the cause of the Loss.

5.4 If a Loss results from the use of the Joint Trackage by both User and a third party user of the Joint Trackage that is not a party to this Agreement, and involves the Equipment of both User and such third party user, then the responsibility of User and such third party user for the Loss shall be allocated in the manner specified in subsection (b), with the third party user being considered as Owner for the purpose of allocating such Loss. Owner shall be responsible for, and shall indemnify, defend, and hold harmless User from and against, all Loss allocated to a third party user in accordance with subsection (b).

5.5 Notwithstanding any provision of this Section 5 to the contrary, each Party shall assume and bear all responsibility for any Loss or Damage that is directly or proximately caused by acts or omissions of any of its employees while under the influence of drugs or alcohol.

5.6 Whenever any liability, cost, or expense is assumed by or allocated to any party to this Agreement pursuant to this Section 5, that party shall forever protect, defend, indemnify, and save harmless the other party to this Agreement and its subsidiaries and affiliates, and all of its and their respective directors, officers, agents, and employees from and against that liability, cost, and expense assumed by that party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of the indemnitee or its directors, officers, agents or employees. Notwithstanding any provision to the contrary herein, no obligations of indemnity of either party shall apply with respect to punitive or exemplary damages to the extent arising from the conduct of the party to be otherwise indemnified hereunder.

5.7 In every case of death or injury suffered by an employee of any party to this Agreement, when compensation to such employee or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employer's liability, or other law, and either of said parties under the provisions of this Agreement is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such party shall not be released from paying any future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.

5.8 For purposes of determining liability, pilots furnished by Owner to User pursuant to this Agreement shall be considered as the employees of User while such employees are on board or getting on or off trains of User.

5.9 If any suit or action shall be brought against any party for damages which under the provisions of the Agreement are in whole or in part the responsibility of the other party, said other party shall be notified in writing by the party sued, and the party so notified shall have the right and be obligated to take part in the defense of such suit and shall pay its allocated share of the judgment and cost, expense and attorneys' fees incurred in such suit as determined pursuant to this Section 5.

5.10 In the event of a Loss involving lading, the parties to this Agreement shall be bound by the Freight Claim Rules, Principles, and Practices of the Association of American Railroads (AAR) as to the handling of any claims for the loss or damage to lading, except to the extent expressly provided otherwise herein.

5.11 Notwithstanding any provision to the contrary herein, the obligation of a party to indemnify the other party pursuant to this Section 5 shall not include any obligation to indemnify such other party for punitive or exemplary damages to the extent arising from conduct of such indemnified party.

Section 6. ARBITRATION

6.1 If at any time a question or controversy shall arise between the parties hereto in connection with the Agreement upon which the parties cannot agree, then, upon the written request of either party setting forth the issue in dispute, such question or controversy shall be submitted to arbitration. If the parties involved in such dispute are able to agree upon a single arbitrator experienced in matters of the character in dispute within thirty (30) days after the party desiring such arbitration (the "Demanding Party") shall notify in writing the other party to such dispute (the "Noticed Party"), such dispute shall be submitted to such single arbitrator. Otherwise, the Demanding Party shall appoint an arbitrator and notify the Noticed Party in writing of such appointment. Within twenty (20) days after receipt of said notice, the Noticed Party shall appoint an arbitrator and notify the Demanding Party in writing of such appointment. Should the Noticed Party fail within twenty (20) days after receipt of such notice to name its arbitrator, the arbitrator for the Demanding Party shall select one for the Noticed Party so failing and, if they cannot agree, said arbitrator may be appointed by the Chief Judge (or acting Chief Judge) of the United States District Court for the District in which the headquarters office of the Demanding Party is located upon application by either party after ten (10) days' written notice to the other party. The arbitrators so chosen, if an even number, shall select a third arbitrator to complete the panel. If they fail to agree upon a third arbitrator, the third arbitrator shall, upon application of any party, be appointed by said judge in the manner heretofore stated.

6.2 Upon selection of the arbitrator(s), said arbitrator(s) shall with reasonable diligence determine the questions set forth in said notice of demand for arbitration, shall give all parties reasonable notice of the time and place (which shall be at the discretion of the arbitrator(s)) of hearing evidence and argument, may take such evidence as they deem reasonable or as either party may submit with witnesses required to be sworn, and may hear arguments of counsel or others. If any arbitrator declines or fails to act, the party (or parties in the case of a single arbitrator) by whom such arbitrator was chosen or said judge shall appoint another to act in such arbitrator's place. After considering all evidence, testimony, and arguments, said single arbitrator or the majority of said panel of arbitrators shall promptly state such decision or award in writing which shall be final, binding, and conclusive on all parties to the arbitration when delivered to them. Until the arbitrator(s) shall issue the first decision or award upon any question submitted for arbitration, performance under the Agreement shall continue in the manner and form existing prior to the rise of such question. After delivery of said first decision or award, each party shall forthwith comply with said first decision or award immediately after receiving it.

6.3 Each party to the arbitration shall pay the compensation, costs, and expenses of the arbitrator appointed in its behalf and all fees and expenses of its own witnesses, exhibits, and counsel. The compensation, costs, and expenses of the single arbitrator or the additional arbitrator in the board of arbitrators shall be paid in equal shares by all parties to the arbitration.

6.4 The books and papers of all parties, as far as they relate to any matter submitted for arbitration, shall be open to examination by the arbitrator(s).

Section 7. APPLICABLE LAW

7.1 This Agreement and any claims, disputes or controversies arising hereunder shall be governed by and construed in accordance with the laws of the state of Illinois, without giving effect to any choice or conflict of laws provision or rule (whether of the State of Illinois or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Illinois.

Section 8. GOVERNMENTAL APPROVAL; ABANDONMENT

8.1 User shall, at its own cost and expense, initiate by appropriate application or petition and thereafter diligently prosecute proceedings to obtain any required STB and Federal Communications Commission ("FCC") approval or exemption for the exercise of the trackage rights granted to User pursuant to the Agreement. Owner, at its expense, shall assist and support said application or petition and will furnish such information and execute, deliver, and file such instrument or instruments in writing as may be necessary or appropriate to obtain such STB and/or FCC consent, approval, or authority. User and Owner agree to cooperate fully to procure all such necessary consent, approval, or authority.

8.2 Owner reserves the right, to the extent that Owner may lawfully do so and subject to any required STB approval or exemption, to abandon all or any part of the Joint Trackage at any time during the life of the Agreement without concurrence of User, by giving six (6) months prior written notice to User of its intention so to do; provided, that User shall have a right of first refusal to purchase all or such part of the Joint Trackage that Owner proposes to abandon at a price to be calculated in the manner prescribed by the STB's regulations governing Offers of Financial Assistance at 49 C.F.R. § 1152.27 or any successor regulations.

8.3 Each party shall be responsible for any labor claims of, and shall bear the cost of employee protection payable to, its own employees and the employees of companies affiliated with it, to the extent resulting from the Agreement and/or such party's operations on the Joint Trackage.

Section 9. OTHER CONSIDERATIONS

9.1 Nothing in the Agreement contained shall limit the right of Owner to admit other companies to the use of the Joint Trackage or any part thereof on such terms and conditions as are acceptable to Owner; provided, that the operations of such other companies shall not unduly interfere with or delay the operations of User on and along the Joint Trackage. Except as otherwise provided in Section 2.2 of the Agreement, User shall have no right to admit any person, firm, or corporation to the use of the Joint Trackage.

9.2 The Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors, lessees, and assigns. The Agreement and any rights granted hereunder may not be assigned in whole or in part by Owner or User without the prior written consent of the other. The Agreement

may be assigned by Owner or User without the prior written consent of the other only (i) as a result of a merger, corporate reorganization, consolidation, change of control or sale of substantially all of its assets, or (ii) to an affiliate of the assigning party where the term "affiliate" means a corporation, partnership or other entity controlled, controlling or under common control with the assigning party. In connection with the sale, lease or transfer by Owner of all or a portion of the Joint Trackage, Owner shall require the purchaser, lessee or transferee of such portion (or all) of the Joint Trackage to accept assignment in writing of this Agreement with respect to, and to perform Owner's obligations under this Agreement, with respect to the portion of the Joint Trackage sold, leased or transferred.

9.3 The Agreement and each and every provision hereof is for the exclusive benefit of the parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right in any third person to recover by way of damages or otherwise against any of the parties hereto.

9.4 All notices, demands, requests or submissions which are required or permitted to be given pursuant to the Agreement shall be given by either party to the other in writing by serving the same upon the Vice President of Operations of each company.

9.5 If any covenant or provision of the Agreement not material to the right of User to use the Joint Trackage shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which is in itself valid. No controversy concerning any covenant or provision shall delay the performance of any other covenant or provision. Should any covenant or provision of the Agreement be adjudged void, the parties will make such other arrangements as, under the advice of counsel, will effect the purposes and intent of the Agreement.

9.6 All Section headings are inserted for convenience only and shall not affect any construction or interpretation of the Agreement.

9.7 No term or provision of the Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to the Agreement.

9.8 All words, terms and phrases used in the Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms, and phrases in the railroad industry in the United States.

9.9 The Agreement is the result of mutual negotiations between the parties hereto, neither of whom shall be considered the drafter for purposes of contract construction.

9.10 Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of the Agreement, or as may be necessary or appropriate for a party hereto to enforce its rights under the Agreement, all commercial information to which access is provided or obtained hereunder will be kept confidential and will not be disclosed by either Owner or User to any party other than Owner or User (as applicable), their respective affiliates, and its and their respective officers, employees, and attorneys, without the prior written approval of the other party.

Exhibit 2H

LOCAL HAULAGE AGREEMENT
KANSAS CITY LINE

THIS LOCAL HAULAGE AGREEMENT (this "Agreement") is made as of [●] (the "Execution Date") by and between ILLINOIS CENTRAL RAILROAD COMPANY, an Illinois corporation ("ICRR" or "CN"), and UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("UP"). ICRR and UP are individually a "Party" and collectively the "Parties".

WITNESSETH:

WHEREAS, in connection with the proposed transaction between Union Pacific Corporation and Norfolk Southern Corporation and following divestiture of the Kansas City Line as defined herein, ICRR has agreed to provide UP local customer access via haulage on ICRR's Kansas City Line between East St. Louis/St. Louis, Missouri and Kansas City, Missouri, and the Parties desire to document the terms under which ICRR will provide such haulage service;

WHEREAS, the Parties intend this Agreement to govern local haulage movements for UP traffic serving customers on or along the Kansas City Line, and not to confer general overhead or bridge traffic rights; and

WHEREAS, the Parties desire to set forth their respective operational, financial and liability obligations for such service;

NOW, THEREFORE, in consideration of the mutual covenants herein, the Parties agree as follows:

Section 1. DEFINITIONS

1.1 "Railcars" means each loaded or empty railroad freight car, caboose or similar equipment tendered by UP for handling by ICRR pursuant to this Agreement. For articulated equipment, each platform or well shall be counted as one Railcar. Railcars also include a locomotive moving under waybill, but not locomotives furnished by ICRR to power trains.

1.2 "Haulage Route" means the line of railroad consisting of track structure extending from (i) Twelfth Street, St. Louis, Missouri (MP 0.36), to 23rd Street Yard (at or near MP 0.8), to Grand Ave., St. Louis, Missouri (MP 2.5), to the former Sarpy Yard property (at or near MP 2.6), to River Junction (MP 128.0) West of Jefferson City, Missouri to Rock Creek Junction (MP 276.9) to Southwest Junction (MP 278.2) into Neff Yard, Kansas City, Missouri, or from Twelfth Street, St. Louis, Missouri (MP 0.36) to 23rd Street Yard (at or near MP 0.8), to Grand Ave., St. Louis, Missouri (MP 2.5), to the former Sarpy Yard property (at or near MP 2.6), to River Junction, Missouri (MP 128.0) to Eton, Missouri (MP 276.1 (BNSF MP 436.6)) and from Congo, Missouri (BNSF MP 444.1) to Rock Creek Junction (MP 276.9) to Southwest Junction (MP 278.2) into Neff Yard, Kansas City, Missouri, as identified in Exhibit A (the "Subject Line"), (ii) changes, additions, improvements and betterments to the foregoing now or hereafter used by ICRR to perform Haulage Services, and (iii) any other railroad line, track, siding, yard track, lead track, terminal track, connection, interchange location or facility over which ICRR operates or has operating rights that ICRR reasonably determines is necessary or desirable to provide the Haulage Services, whether or not shown on Exhibit A. ICRR may change the routing used to provide Haulage Services from time to time, provided that UP's continued access and substantially equivalent service are preserved. Any temporary alternate routing used by ICRR to provide comparable service shall be included for the duration of that use. The Parties shall identify the endpoints, mileage limits and interchange locations of the Subject Line in Exhibit A before execution.

1.3 "UP Traffic" means Railcars moving in the revenue account of UP or its U.S. rail carrier affiliates, and eligible under Section 1.4.

1.4 "Haulage Cars" means UP Traffic tendered for handling by ICRR pursuant to this Agreement that originates at or is destined to a customer facility on or along the specified ICRR route on the Subject Line, as identified in Exhibit A or an agreed customer schedule. Such traffic may move loaded or empty and may be interchanged with connecting carriers to complete the movement. Haulage Services do not include bridge or overhead traffic that neither originates nor terminates at an eligible customer facility, absent the Parties' prior written agreement. The Parties may agree in writing to add other eligible facilities.

1.5 "Haulage Services" shall have the meaning set forth in Section 2 of this Agreement.

Section 2. HAULAGE SERVICES

2.1 ICRR shall, upon UP's request, provide the following "Haulage Services" for Haulage Cars over the Haulage Route for all commodities and train types, including unit train, manifest, intermodal and automotive traffic: (a) line-haul movement to and from eligible customer facilities; (b) pickup, delivery, switching, spotting and placement at such facilities; (c) receipt and delivery at the interchange points listed in Exhibit A; (d) interchange with third-party railroads when required for eligible traffic; (e) handling and movement of bad-order equipment to or from repair tracks, with repairs and applicable switching charges billed as provided in Section 3.6; (f) inspections required by law or ICRR's reasonable operating rules; and (g) associated operational supervision. ICRR shall perform the Haulage Services as a haulage contractor and not as a participant in UP's or its applicable affiliates' line-haul revenues.

2.2 The Parties shall agree upon blocking and tendering requirements consistent with safe, efficient operations, to be set forth in Exhibit A or a mutually agreed operating protocol.

2.3 ICRR shall provide Haulage Cars substantially the same types and levels of service for the protection of freight (such as inspections, load shifting and security) as ICRR does for other traffic moving in ICRR trains.

2.4 ICRR shall provide, at its expense, sufficient crews and PTC-equipped locomotives where required to perform the Haulage Services at the applicable rated track speed and at train lengths and tonnage consistent with ICRR's handling of its own comparable traffic, unless the Parties agree on an alternate operating arrangement in writing.

2.5 If additional main line track, siding capacity, spur or lead track, or other infrastructure (collectively, "Capacity Improvements") is proposed to increase capacity for Haulage Services, including the number, length or tonnage of trains, UP may, at its sole election, pre-fund such Capacity Improvements. The Parties shall cooperate in good faith and exchange reasonably available capacity models and maps relating to the Haulage Route. No Capacity Improvement shall be undertaken at UP's cost without UP's prior written agreement regarding scope, cost, ownership, construction, maintenance and operation.

Section 3. MANAGEMENT AND OPERATION

3.1 ICRR shall receive and deliver Haulage Cars at the designated interchange tracks and customer facilities listed in Exhibit A or subsequently agreed upon by the Parties. Each Party's personnel and equipment shall comply with the applicable safety and operating rules and directions of the carrier controlling the track or facility on which they are operating.

3.2 UP and ICRR each shall provide, via EDI transmission (or by such other means as may be mutually agreed by the Parties), information necessary for the efficient interchange and movement of Haulage Cars that are delivered or received at St. Louis, Missouri, Kansas City, Missouri, and at customer facilities, transload, intermodal or auto facilities or interchange locations on and along the Haulage Route. Such information shall include, for each Haulage Car: (i) car initial and number; (ii) loaded or empty; (iii) commodity; (iv) all required hazardous materials information; and (v) such other information as the Parties may agree is necessary or convenient for the safe and efficient exchange and further movement of such cars, to support efficient car management and to support their respective customer service functions.

3.3 Haulage Cars shall be deemed physically delivered by UP to ICRR when (i) placed on an agreed interchange track and uncoupled from UP locomotives, or, in run-through operations, when the UP crew disembarks, or (ii) at an eligible customer or interchange location, when ICRR locomotives couple to the cars or ICRR's crew boards the train. Delivery of information under Section 3.2 shall precede physical delivery.

3.4 Haulage Cars shall be deemed physically delivered by ICRR to UP when (i) placed on an agreed interchange track and uncoupled from ICRR locomotives, or, in run-through operations, when the ICRR crew disembarks, or (ii) at an eligible customer or interchange location, when ICRR locomotives uncouple from the cars or its crew disembarks. Delivery of information under Section 3.2 shall precede physical delivery.

3.5 ICRR shall have exclusive management and control over the movement of trains containing Haulage Cars while on ICRR's rail lines.

3.6 ICRR may arrange for repairs to Haulage Cars, and adjustments to or transfers of lading from bad ordered, defective or overloaded Haulage Cars, in accordance with the Field and Office Manuals of the Interchange Rules of the Association of American Railroads ("AAR"), as may be necessary to move such Haulage Cars safely on or along the Haulage Route. UP shall reimburse ICRR for the cost of such work at rates prescribed in, and submitted pursuant to, the AAR Interchange Rules. UP shall also pay to ICRR the switch fee set forth on Schedule 1 for each of (i) removing the car from the train and (ii) picking up the car after repairs are made and placing it in a train for further movement.

3.7 At UP's election, interchange to pull and deliver may occur (i) via Kansas City Terminal Railway Company with other carriers in Kansas City or (ii) directly with UP at Neff Yard. If needed, ICRR shall provide connecting carriers with access to Neff Yard to interchange with UP, subject to reasonable operating and safety protocols agreed by the Parties.

Section 4. SERVICE STANDARDS

4.1 ICRR shall accord Haulage Cars the same level of service as other traffic of the same type moving in ICRR trains.

4.2 ICRR shall provide Haulage Services with the same frequency and priority as is consistent with ICRR's handling of its own comparable traffic, to the extent UP tenders traffic requiring such service. The Parties shall cooperate in developing and adjusting commercially reasonable service schedules. In no event shall ICRR accord Haulage Cars a lower priority than comparable ICRR traffic solely because the cars are moving in UP's account.

Section 5. CAR ACCOUNTING AND CAR HIRE

5.1 ICRR shall not be entitled to any line-haul revenue for the handling of Haulage Cars, nor shall ICRR participate in the routing of, nor appear in tariffs, waybills or other shipping documents (other than transportation routing documents) as a participating carrier in connection with, the movement of Haulage Cars. ICRR shall be entitled to charge UP only those accessorial charges expressly identified in Schedule 1 or otherwise approved in writing by UP, including any applicable demurrage, storage and other car-related charges, in each case to the extent not included in the Haulage Fees.

5.2 Haulage Cars shall at all times remain in the car hire account of UP or its applicable affiliate while moving on or along the Haulage Route, while awaiting interchange with UP or a third-party railroad, and while located at customer facilities, industry, team or house tracks and transload, intermodal or auto facilities on and along the Haulage Route. UP shall report and pay, or arrange to have reported and paid, directly to the owner(s) of such Haulage Cars, all appropriate allowances and charges for the time period(s) during which such Haulage Cars are moving on or along the Haulage Route, awaiting interchange with UP or a third-party railroad, and located at customer facilities, industry, team or house tracks and transload, intermodal or auto facilities on and along the Haulage Route. If a Haulage Car is at any time found to be in the car hire account of ICRR, ICRR shall be entitled to reclaim from UP any car hire assessed to ICRR with respect to such Haulage Car.

Section 6. COMPENSATION

6.1 UP shall pay ICRR the initial haulage fees set forth in Schedule 1 (the "Haulage Fees"), including applicable loaded per-car-mile, switching, fuel and accessorial components expressly specified there. In addition, UP shall reimburse ICRR, without markup, for documented third-party trackage-rights fees, regulatory fees, bridge-crossing fees and other third-party charges expressly identified in Schedule 1 or otherwise approved in advance in writing by UP and actually invoiced to or incurred by ICRR to the extent that Haulage Services are the primary and direct cause of the charges. ICRR shall provide reasonable supporting documentation, shall not duplicate charges included in Haulage Fees, and shall use commercially reasonable efforts to avoid unnecessary charges. UP shall remain responsible for covered third-party charges arising from the agreed interchange location even if operations are adjusted to effect the interchange.

6.2 The Haulage Fees in Schedule 1 shall be adjusted annually, beginning on the first day of the calendar quarter following the first anniversary of the effective date of this Agreement, to reflect seventy-five percent (75%) of the percentage increase or decrease in the Rail Cost Adjustment Factor, Unadjusted for Productivity ("RCAF-U"), published by the Association of American Railroads or its successor (the "Index"). For each adjustment, the percentage change shall be determined by comparing the most recently available quarterly Index with the Index for the corresponding quarter of the preceding year, with appropriate rebasing for later years. Each adjusted Haulage Fee shall be rounded to the nearest cent. If the Index ceases to be published, the Parties shall select a substantially similar replacement index, and any dispute shall be resolved under Section 12.

6.3 No later than the fifteenth (15th) day of each month, ICRR shall provide UP an agreed monthly list of Haulage Cars handled during the preceding month, unless the Parties agree to use mutually accessible electronic movement records. ICRR shall invoice UP monthly for Haulage Services at the rates then in effect under Sections 6.1 and 6.2, together with separately itemized and documented third-party charges. UP shall pay each invoice within thirty (30) days after receipt.

6.4 Invoice disputes shall be reconciled in good faith. UP shall timely pay undisputed amounts, and a resulting credit or debit shall be reflected on a subsequent invoice. A Party shall notify the other of an invoice exception within three (3) years after the last day of the month in which the services were performed.

6.5 UP and ICRR each shall have the right, at its own expense, to audit the records of the other Party pertaining to Haulage Services provided under this Agreement at any time within three (3) years after the date of the relevant Haulage Invoice. All such audits shall be conducted at reasonable intervals (not to exceed once every twelve (12) months), locations and times. Each Party agrees that, except as permitted by Section 14, all information disclosed to it or its representatives in connection with such an audit will be held in strictest confidence and will not be disclosed to any third party (other than to an arbitrator in connection with an arbitration conducted pursuant to Section 12 of this Agreement, or as required by applicable law). Any adjustment resulting from an audit conducted pursuant to this Section 6.5 with respect to which UP and ICRR are in concurrence shall be reflected in a subsequent Haulage Invoice.

Section 7. LIABILITY

7.1 As between the Parties hereto, responsibility for any loss or destruction of, or damage to, any property whatsoever (including without limitation Cars and Equipment, as defined in Section 7.2), damage to or destruction of the environment (including without limitation land, air, water, wildlife and vegetation), and any injury to or death of any person or persons whomever (including without limitation employees of ICRR and UP), resulting from, arising out of, incidental to or occurring in connection with this Agreement and the Haulage Services contemplated hereby (collectively, "Loss or Damage"), shall be allocated as follows, without regard to considerations of fault or negligence (except as otherwise provided in Sections 7.4 and 7.10 hereof).

7.2 For purposes of this Section 7, the following words shall have the meanings set forth in this Section 7.2: "Cars" shall mean loaded and empty freight cars, trailers and containers (including lading). "Equipment" shall mean locomotives, cabooses, hi-rail vehicles, track inspection equipment and other non-revenue vehicles and machinery capable of being operated on railroad tracks that, at the time of an occurrence, (i) are being operated on the trackage upon which such occurrence takes place, or (ii) are on the trackage upon which such occurrence takes place, or on the adjoining right-of-way, for the purpose of maintenance or repair thereof or the clearing of wrecks thereon.

7.3 UP agrees to indemnify and hold ICRR harmless from and against any and all loss or damage to Haulage Cars, or the contents thereof (including damages for delay to freight), arising out of ICRR's handling of such rail cars pursuant to this Local Haulage Agreement. In the event claim is made against ICRR for any such loss, damage, or delay, UP agrees to defend, process, adjust, settle, or pay any such claim, to appear and defend any suit brought to enforce such claim, and to pay all expenses, costs, and judgments obtained or incurred in any such suit. As between the Parties, each Party shall bear all loss or damage to rail cars in its own account, the contents thereof, and its own property arising out of the handling of rail cars under this Local Haulage Agreement, except as otherwise expressly provided in this Section 7.

7.4 UP shall assume and bear liability for all loss or damage to the Haulage Route or ICRR's property used in handling rail cars in UP's account, including locomotives and ETDs, tracks and appurtenances, and injury (including death) to ICRR's employees or third persons, or damage to or loss of the property of such employees or third persons, suffered as a result of the handling of rail cars in UP's account hereunder in that proportion which the number of rail cars in UP's account in the train containing such rail cars shall bear to the total number of rail cars in such train (excluding locomotives); provided that UP shall not bear any portion of damage to or loss of rail cars in ICRR's account or the contents thereof which may result from such operation.

7.5 For purposes of determining responsibility for Loss and Damage as between the Parties hereto pursuant to this Section 7, (i) any Cars or Equipment of any railroad not a party to this Agreement and moving in an ICRR train shall be deemed to be Cars or Equipment of ICRR, and (ii) any Cars or

Equipment of any railroad not a party to this Agreement and moving in a UP train shall be deemed to be Cars or Equipment of UP.

7.6 Notwithstanding any provision of this Section 7 to the contrary, each Party shall assume and bear all responsibility for any Loss or Damage that is directly or proximately caused by acts or omissions of any of its employees while under the influence of drugs or alcohol.

7.7 ICRR shall arrange promptly for wrecking service on the Subject Line and other ICRR-controlled portions of the Haulage Route, and UP shall arrange promptly for such service on UP-controlled interchange tracks. Costs shall be allocated under this Section 7, including Section 7.12.

7.8 If any suit or action shall be brought against either Party for Loss or Damage which under the provisions of this Agreement is in whole or in part the responsibility of the other Party, said responsible Party shall be notified in writing by the Party sued, and the Party so notified shall have the right and be obligated to take part in the defense of such suit and shall pay its share of the judgment and the costs and expense incurred in such suit in accordance with the terms of this Section 7.

7.9 In every case of death or injury suffered by an employee of ICRR or UP, when compensation to such employee or employee's dependents is required to be paid under any present or future state or federal worker's compensation, occupational disease, employers' liability or other law, and a Party is required under provisions of this Agreement to pay some or all of such compensation in installments over a period of time, said Party shall not be released from paying any such future installment(s) by reason of the expiration or other termination of this Agreement prior to any of the respective date(s) upon which any such future installments are to be paid.

7.10 Whenever any liability, cost or expense is assumed by or the responsibility of a Party under this Section 7, that Party shall (i) forever protect, defend, indemnify and save harmless the other Party, its parent corporations, subsidiaries and affiliates, and their respective directors, officers, agents, and employees from and against that liability, cost and expense, regardless of whether such liability, cost and expense was caused in whole or in part by the fault, failure, negligence, misconduct, malfeasance or misfeasance of the indemnitees, their parent corporations, subsidiaries and affiliates, or their respective directors, officers, agents or employees, and (ii) defend such indemnitees, their parent corporations, subsidiaries and affiliates, and their respective directors, officers, agents or employees against such claims with counsel selected by the responsible Party and reasonably acceptable to the indemnified Party.

7.11 UP will investigate, adjust, and defend all cargo related claim liability arising from its Rail Cars moving in Haulage Services in accordance with UP's tariff governing limited liability for loss and damage pursuant to the Carmack Amendment, 49 U.S.C. Section 11706, or the Railway Traffic Liability Regulations (Canada), or in accordance with any applicable transportation contract pursuant to 49 U.S.C. Section 10709. Nothing in this subsection shall alter or restrict UP's indemnification obligations under this Agreement.

7.12 Notwithstanding anything to the contrary in this Agreement, as between the Parties, all "HazMat Damages" arising from or relating to the presence, release, threatened release, discharge, migration, notification, response, remediation or cleanup of hazardous materials contained in a Railcar in a Party's car-hire or revenue account shall be the sole responsibility of that Party. "HazMat Damages" include all claims, liabilities, damages, response costs, emergency services, notices and reports to governmental authorities, investigation, containment, removal, transportation, disposal, monitoring, cleanup, restoration, remediation, fines, penalties and reasonable attorneys' and consultants' fees to the extent legally indemnifiable. UP shall defend, indemnify and hold harmless ICRR and its affiliates and personnel from HazMat Damages attributable to Haulage Cars in UP's account, irrespective of any negligence of ICRR,

including to the extent caused by ICRR's gross negligence. ICRR shall bear corresponding HazMat Damages attributable to cars in ICRR's account on the same basis. The Party with operational control shall promptly undertake legally required emergency response and notification, with the ultimate costs allocated as stated in this Section 7.11. This subsection controls over any inconsistent allocation elsewhere in Section 7.

7.13 All costs and expenses in connection with the investigation, adjustment and defense of any claim or suit (other than cargo-related claims made against a Party by a customer of such Party) under this Agreement shall be included as costs and expenses in applying the liability provisions of this Section 7; provided, however, that salaries or wages of full-time agents, full-time attorneys and other full-time employees of a Party engaged directly or indirectly in such work shall be borne by such Party.

7.14 No Party shall settle or compromise any claim, demand, suit or cause of action (other than a cargo-related claim filed with it in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, in accordance with any applicable transportation contract filed pursuant to 49 U.S.C. Section 10709, or in accordance with any applicable Canadian or Mexican law or regulation) for which the other Party has any liability under this Agreement without the written concurrence of such other Party.

7.15

Section 8. COMPLIANCE WITH LAW

8.1 UP and ICRR each shall comply with all applicable federal, state and local laws, rules, regulations and orders promulgated by any government or governmental agency that relate to the loading, handling, movement, inspection, repair and maintenance of Haulage Cars. If any fine, penalty, cost or charge is imposed or assessed on or against a Party hereto by reason of the other Party's failure to comply with any such laws, rules, regulations or orders, such non-complying Party shall reimburse and indemnify the other Party for or on account of any such fine, penalty, cost, or charge, and all expenses and attorney's fees incurred in connection therewith, and, to the extent feasible, such noncomplying Party shall defend the interests of that other Party in any related legal proceeding free of cost, charge or expense to such other Party.

Section 9. TERM

9.1 This Agreement shall become effective upon (i) receipt and effectiveness of all regulatory approvals relating to the transaction contemplated in STB Finance Docket No. 36873 ("Merger Approval"), and (ii) the consummation of such UP/NS transaction (the "Effective Date"). The date of execution of this Agreement may precede the Effective Date.

9.2 This Agreement shall remain in effect for a term of ninety-nine (99) years from the Effective Date (the "Term").

9.3 Termination of this Agreement shall not relieve or release any Party hereto from any obligation assumed or from any liability which may have arisen or been incurred by that Party under the terms of this Agreement prior to such termination. Upon expiration or termination of this Agreement, all obligations (including, without limitation, obligations to remit fees and obligations of indemnity) arising or accruing prior to such termination or expiration and all provisions of this Agreement necessary to enforce and resolve same shall survive and remain enforceable.

Section 10. FORCE MAJEURE

10.1 The obligations, other than payment obligations, of the Parties to this Agreement shall be subject to force majeure, including strikes, riots, weather or floods, explosions, accidents, Acts of God, acts of war or terrorism, pandemics, and other causes or circumstances beyond the control of the Party invoking such force majeure as an excuse for nonperformance, but only for as long as, and to the extent that, such force majeure reasonably prevents performance of such obligations by the affected Party; provided that the affected Party promptly gives the other Party written notice of such force majeure. If an event of force majeure impairs a Party's ability to fulfill its obligations under this Agreement, the affected Party shall take reasonable measures to restore performance in a timely manner.

Section 11. SUCCESSORS AND ASSIGNS

11.1 The Agreement shall be binding upon and inure to the benefit of the Parties, their respective successors, lessees and assigns. The Agreement and any rights granted hereunder may not be assigned in whole or in part by ICRR or UP without the prior written consent of the other. The Agreement may be assigned by ICRR or UP without the prior written consent of the other only (i) as a result of a merger, corporate reorganization, consolidation, change of control or sale of substantially all of its assets, or (ii) to an affiliate of the assigning Party, where "affiliate" means a corporation, partnership or other entity controlled by, controlling or under common control with the assigning Party. In connection with the sale, lease or transfer by ICRR of all or a portion of the Haulage Route, ICRR shall require the purchaser, lessee or transferee of such portion or all of the Haulage Route to accept assignment in writing of this Agreement and to perform ICRR's obligations under this Agreement with respect to the portion of the Haulage Route sold, leased or transferred.

Section 12. ARBITRATION

12.1 Any dispute arising between the Parties with respect to the interpretation, enforcement or breach of this Agreement shall be referred to their respective senior operating officers for resolution. In the event such officers are unable to resolve the dispute within thirty (30) days, then, upon the written request of either Party setting forth the issue in dispute, such question or controversy shall be submitted to arbitration. If the Parties involved in such dispute are able to agree upon a single arbitrator experienced in matters of the character in dispute within thirty (30) days after the Party invoking arbitration (the "Demanding Party") has notified the other Party to such dispute (the "Noticed Party") in writing, such dispute shall be submitted to such single arbitrator. Otherwise, the Demanding Party shall appoint an arbitrator and notify the Noticed Party in writing of such appointment. Within twenty (20) days after receipt of said notice, the Noticed Party shall appoint an arbitrator and notify the Demanding Party in writing of such appointment. Should the Noticed Party fail within twenty (20) days after receipt of such notice to name its arbitrator, the arbitrator for the Demanding Party shall select one for the Noticed Party so failing and, if the Noticed Party does not agree with such selected arbitrator, said arbitrator may be appointed by the Chief Judge (or acting Chief Judge) of the United States District Court for the District in which the headquarters office of the Demanding Party is located upon application by any Party after ten (10) days' written notice to all other Parties. The arbitrators so chosen shall select one additional arbitrator to complete the arbitration panel. If they fail to agree upon an additional arbitrator, the same shall, upon application of any Party, be appointed by said judge in the manner heretofore stated.

12.2 Upon selection of the arbitrator(s), said arbitrator(s) shall with reasonable diligence determine the questions set forth in said notice of demand for arbitration, shall give all Parties reasonable notice of the time and place (which shall be at the discretion of the arbitrator(s)) of hearing evidence and argument, may take such evidence as they deem reasonable or as either Party may submit with witnesses required to be sworn, and may hear arguments of counsel or others. If any arbitrator declines or fails to act,

the Party (or Parties in the case of a single arbitrator) by whom he was chosen or said judge shall appoint another to act in his place. After considering all evidence, testimony, and arguments, said single arbitrator or the majority of said panel of arbitrators (as applicable) shall promptly issue a decision or award in writing on the issue(s) in dispute, which shall be final, binding, and conclusive on all Parties to the arbitration when delivered to them. Until the arbitrator(s) shall issue the first decision or award upon any question or dispute submitted for arbitration, performance under the Agreement shall continue in the manner and form existing prior to the rise of such question or dispute. After delivery of said first decision or award, each Party shall forthwith comply with said first decision or award immediately after receiving it.

12.3 Each Party to the arbitration shall pay the compensation, costs, and expenses of the arbitrator appointed in its behalf and all fees and expenses of its own witnesses, exhibits, and counsel. The compensation, costs, and expenses of the single arbitrator (or the additional arbitrator in the panel of arbitrators) shall be paid in equal shares by all Parties to the arbitration.

12.4 The books and papers of the Parties, as far as they relate to any matter submitted for arbitration, shall be open to the examination of the arbitrator(s).

Section 13. NOTICE

13.1 Any notice required or permitted to be given by one Party to another Party under this Agreement (a "Notice") shall be in writing. Notices shall be deemed to have been given, made or delivered: (a) if delivered in person or by overnight courier service, when received; and (b) if sent by registered or certified mail return receipt requested, on the earlier of the date of receipt or the fifth day after it is mailed. Notices shall be addressed as follows:

[NOTICE ADDRESSES]

13.2 Any Party may provide notice of changes in the above addressees to the other Party by personal service or certified or registered mail.

Section 14. CONFIDENTIALITY

14.1 Except as provided by law or by rule, order or regulation of any court or governmental agency with jurisdiction over the subject matter of this Agreement, as may be necessary or appropriate to obtain or maintain any required STB or other governmental approval or to request imposition or enforcement of this Agreement, or as may be necessary or appropriate for a Party to enforce its rights under this Agreement, during the Term, the terms and provisions of this Agreement and all information to which access is provided or which is obtained pursuant to this Agreement will be kept confidential and will not be disclosed by any Party to any person other than such Party's affiliates, officers, employees, attorneys and other professional advisors, without the prior written approval of the other Party.

Section 15. GENERAL PROVISIONS

15.1 This Agreement and each and every provision hereof is for the exclusive benefit of the Parties hereto and not for the benefit of any third person. Nothing herein contained shall be taken as creating or increasing any right of any third person to recover by way of damages or otherwise against any Party hereto.

15.2 This Agreement contains the entire understanding of the Parties hereto and supersedes any and all prior oral or written agreements or understandings between the Parties with respect to the subject matter hereof. In the event of any conflict between the terms of this Agreement and the terms of any

interchange agreement, arrangement or understanding between ICRR and UP, the terms of this Agreement shall govern with respect to the movement, handling, delivery and transfer of Haulage Cars between the Parties.

15.3 No term or provision of this Agreement may be changed, waived, discharged or terminated except by an instrument in writing signed by all Parties.

15.4 Each definition in this Agreement includes the singular and the plural, and references in this Agreement to the neuter gender include the masculine and feminine where appropriate. References herein to any agreement or contract mean such agreement or contract as amended. As used in this Agreement, the word "including" means "without limitation", and the words "herein", "hereof" and "hereunder" refer to this Agreement as a whole. All dollar amounts stated herein are in United States currency.

15.5 All words, terms and phrases used in this Agreement, and not otherwise defined explicitly, shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry in the United States.

15.6 The division of this Agreement into sections and subsections and the insertion of headings and section numbers are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Unless the context otherwise requires, all references to sections are to sections of this Agreement.

15.7 This Agreement is the result of mutual negotiations between the Parties hereto, neither of whom shall be considered the drafter for purposes of contract construction.

15.8 No consent or waiver, expressed or implied, by a Party of any breach or default by the other Party in the performance by such other Party of its obligations hereunder shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance hereunder by such other Party. Failure on the part of a Party to complain of any act or failure of the other Party or to declare the other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such first mentioned Party of its rights hereunder.

15.9 If any provision of this Agreement, or the application thereof to any Party hereto or to any circumstance, shall be determined by a court of competent jurisdiction to be invalid or unenforceable to any extent or for any reason, the remainder of this Agreement or the application of the provisions thereof to such Party or circumstance, other than those determined to be invalid or unenforceable, shall not be affected thereby and shall be enforced to the fullest extent permitted by law. In such event, the Parties shall promptly enter into such other agreement(s) as their respective legal counsel may deem appropriate in order to replace such invalid or unenforceable provisions in a manner that produces a result which is substantially equivalent to the terms of this Agreement in all material respects.

15.10 Nothing herein shall be interpreted as creating an association, partnership, joint venture or other joint undertaking between UP and ICRR.

15.11 This Agreement shall be construed in accordance with the domestic laws of the State of Missouri, without giving effect to any choice or conflict of laws provision or rule (whether of the State of Missouri or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Missouri. Any legal action or proceeding involving the interpretation or application of this Agreement or arising out of this Agreement shall be subject to the exclusive jurisdiction and venue of the courts of the State of Missouri.

15.12 This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same instrument.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Execution Date.

ILLINOIS CENTRAL RAILROAD COMPANY

By: _____

Name: _____

Title: _____

Date: _____

UNION PACIFIC RAILROAD COMPANY

By: _____

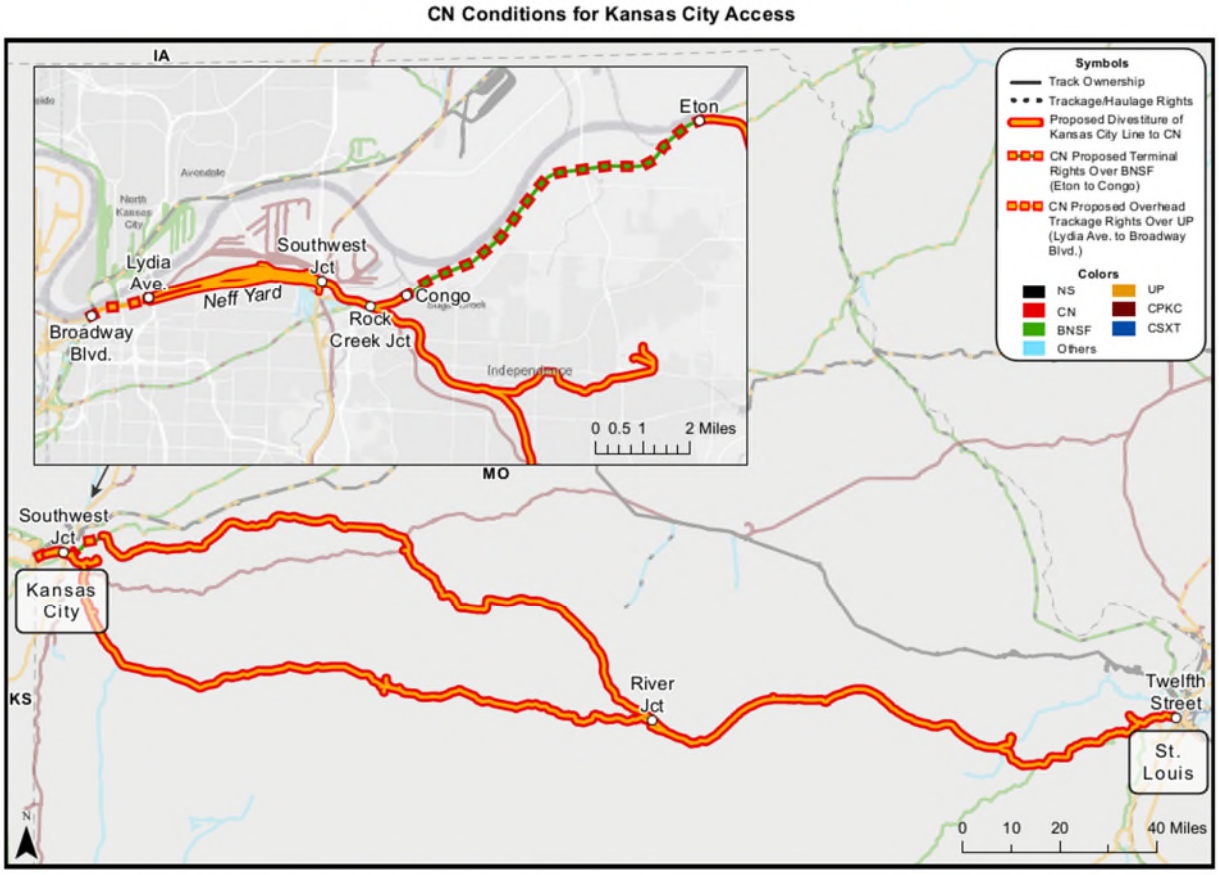
Name: _____

Title: _____

Date: _____

EXHIBIT A

HAULAGE ROUTE, INTERCHANGE POINTS AND ELIGIBLE CUSTOMERS



Sources: Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

SCHEDULE 1

INITIAL HAULAGE FEES AND CHARGES

Exhibit 2I

OVERHEAD TRACKAGE RIGHTS AGREEMENT
KANSAS CITY LINE

THIS OVERHEAD TRACKAGE RIGHTS AGREEMENT (this "Agreement") is made and entered into as of [●] by and between ILLINOIS CENTRAL RAILROAD COMPANY, an Illinois corporation ("Owner"), and UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("User"). Owner and User are each a "Party" and together the "Parties".

WITNESSETH:

WHEREAS, Owner owns or controls certain railroad trackage between the St. Louis, Missouri area and the Kansas City, Missouri area, via the Kansas City Line, as more particularly described in Exhibit "A" (the "Joint Trackage"); and

WHEREAS, User desires overhead trackage rights over the Joint Trackage for the movement of traffic on and over the Joint Trackage from any origin or any destination and all commodities, equipment, and train types; and

WHEREAS, Owner and User desire to state the conditions under which User may exercise such rights;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the Parties agree as follows:

Section 1. TRACKAGE SUBJECT TO AGREEMENT

1.1 Attached hereto as Exhibit "A," and incorporated herein by reference, is a print that depicts the rail line between the St. Louis, Missouri area and the Kansas City, Missouri area, via the Kansas City Line, more particularly described as Owner's line from Twelfth Street, St. Louis, Missouri (MP 0.36), to 23rd Street Yard (at or near MP 0.8), to Grand Ave., St. Louis, Missouri (MP 2.5), to the former Sarpy Yard property (at or near MP 2.6), to River Junction (MP 128.0) West of Jefferson City, Missouri to Rock Creek Junction (MP 276.9) to Southwest Junction (MP 278.2) into Neff Yard, Kansas City, Missouri, or from Twelfth Street, St. Louis, Missouri (MP 0.36) to 23rd Street Yard (at or near MP 0.8), to Grand Ave., St. Louis, Missouri (MP 2.5), to the former Sarpy Yard property (at or near MP 2.6), to River Junction, Missouri (MP 128.0) to Eton, Missouri (MP 276.1 (BNSF MP 436.6)) and from Congo, Missouri (BNSF MP 444.1) to Rock Creek Junction (MP 276.9) to Southwest Junction (MP 278.2) into Neff Yard, Kansas City, Missouri including but not limited to, any and all yards, sidings, auxiliary tracks located along the UP solely owned right of way, except to the extent specifically shown on Exhibit "A" and reasonably necessary for such overhead movements, over which User shall be granted trackage rights pursuant to this Agreement (referred to collectively as the "Joint Trackage").

1.2 User may enter and exit the Joint Trackage only at Twelfth Street and Neff Yard.

Section 2. GRANT OF TRACKAGE RIGHTS

2.1 Subject to the terms and conditions (the "General Conditions") set forth in Exhibit "B" to this Agreement (which is attached hereto and incorporated herein by reference), Owner grants to User the nonexclusive right to operate its trains with its own Equipment and crews over the Joint Trackage for all commodities and train types for overhead movements. User's use of the Joint Trackage shall be in common with Owner and such other railroad company or companies as Owner may hereafter at any time admit to

the joint use of any and all of the Joint Trackage, provided that such use shall not materially interfere with or delay User's operations. For purposes of this Agreement, trains and "Equipment" (as defined in Section 1.5 of Exhibit "B") of such other railroad company or companies admitted by Owner to the use of the Joint Trackage shall be considered trains and Equipment of Owner.

2.2 The trackage rights granted to User pursuant to this Agreement may be exercised by Union Pacific Railroad Company ("UPRR") or by a rail carrier affiliate of UPRR; provided, however, that only one of UPRR or an affiliate may exercise such trackage rights at any time; and provided further, that UPRR or such affiliate (as applicable) shall have first obtained any required Surface Transportation Board ("STB") approval or exemption for the exercise of such trackage rights.

2.3 The exercise of the trackage rights granted to User by this Agreement shall be subject at all times to the General Conditions. If any conflict between the General Conditions and this Agreement shall arise, the provisions of this Agreement shall prevail.

2.4 Owner grants rights under this Agreement only with respect to portions of the Joint Trackage owned or controlled by Owner following consummation of the divestiture. User shall be responsible for obtaining and maintaining any rights required over tracks owned or controlled by third parties. Nothing in this Agreement obligates Owner to obtain or guarantee any such third-party rights or to construct, fund or reconfigure any alternate route or other improvements to accommodate User's operations, except pursuant to a separate written agreement of the Parties.

2.5 User shall qualify its crew members as pilots and provide pilots or qualified crews on all User trains prior to entering the Joint Trackage.

Section 3. MAINTENANCE AND OPERATION OF TRACKAGE

3.1 Owner, at its expense, shall maintain, repair and renew the Joint Trackage in accordance with Class I railroad industry maintenance practices and in a manner permitting operation at no less than the track standard designated in the timetable in effect on the date of this Agreement (a copy of which is appended hereto as Exhibit "C"). In the event that, for operating convenience, necessity or emergency, Owner permits or directs User to use adjacent tracks or track connections between or beyond the termini of the Joint Trackage as an alternate route, then and in such event, such trackage, track connections and appurtenances shall be deemed to be part of the Joint Trackage and shall be governed by all the provisions of this Agreement while such use continues.

Section 4. LIMITATIONS AND MEASUREMENT OF TRACKAGE RIGHTS TRAINS

4.1 The Trackage Rights are for overhead or bridge freight service only between authorized entry and exit points; User shall not provide local freight service on the Joint Trackage.

4.2 User trains shall have a sufficient horse-power per ton ratio ("HPT") to traverse the Joint Trackage; provided, that Owner shall accept User trackage rights trains of similar size and operating characteristics as Owner's own trains, consistent with available capacity, mainline and siding restrictions, operating rules such as designated horsepower per ton, maximum train length, and maximum gross tonnage parameters that govern Owner's (and other users') trains moving over the Joint Trackage.

4.3 All trains of Owner and User shall be treated equally and operated and dispatched on a first-come first-served basis without prejudice or partiality, except for passenger trains which shall have

priority. In the event of refusal to grant a User train admission to or operation on the Joint Trackage, User shall have no claim of any nature against Owner by reason of such refusal provided that the trains of Owner and User are treated equally and operated and dispatched without prejudice or partiality.

4.4 Owner shall coordinate with User regarding crew-change locations, fueling, locomotive and car maintenance, access to AEI sites and other operating data, and other means of reporting data, including reasonable dispatcher-screen access. The Parties shall establish the operational plans reasonably necessary to commence trackage-rights operations before such operations begin, and User shall not be required to commence such operations until the infrastructure required for those operations is in place. For the avoidance of doubt, Owner shall have no obligation to construct or fund any new infrastructure or provide any fueling, maintenance, dispatcher-screen or other operational facility or access unless the Parties separately agree in writing.

4.5 User may, at its sole election, pre-fund improvements to increase capacity, including the number, length or tonnage of trains, on terms agreed in writing by the Parties.

Section 5. COMPENSATION

5.1 In addition to any other payments to be made under this Agreement, User shall remit to Owner for its use of the Joint Trackage, on a monthly basis, [●] cents per car mile for each loaded or empty car, locomotive or caboose moved by User (the "Base Charge") The Base Charge shall be deemed to include compensation to Owner for ordinary and programmed maintenance of the Joint Trackage, operating expenses, interest rental, depreciation and taxes. With respect to articulated units, the number of cars shall be determined by the AAR Car Type Code as defined in the UMLER Specification Manual. The second character in the Car Type Code field covering codes "Q" and "S" will be the factor in determining the car count for an articulated unit. For example, AAR Car Type Code (S566) would equate to a five (5) car count as these type cars have five wells capable of handling 40' to 53' containers in each well. (Car count data for articulated units are subject to change upon development of technology to separate units by car numbers.)

5.2 For the purpose of computing the Base Charge under this Section 5, the parties hereby mutually agree that the distances between the designated points of the Joint Trackage are [●] miles (the "Mileage Factors"). In the event that for whatever reason physical changes are made to the Joint Trackage that result in a change in the track mileage provided in the prior sentence, then the Mileage Factors will be adjusted up or down to reflect such new mileage, and such adjusted Mileage Factors will be used to calculate the monthly Base Charge effective with the commencement of train operations over the new track.

5.3 The Base Charge set forth in Section 5(a) of this Agreement shall be adjusted annually during the term of this Agreement beginning on the day that starts the next quarter following the Merger Approval, as defined hereinafter, to reflect seventy-five percent (75%) of increases or decreases in the Rail Cost Adjustment Factor, not adjusted for changes in productivity ("Index" or "RCAF-U"), published by the AAR or successor agency or other organization. In the event RCAF-U is no longer maintained, the Parties shall select a substantially similar index and failing to agree on such an index, the matter shall be referred to binding arbitration under Section 6 of the General Conditions. For the first rate adjustment, the ratio between the Index for the most recent quarter available and the Index for the corresponding quarter of the preceding year shall be developed, and the Base Charge shall be increased or decreased in direct proportion to such ratio, with subsequent years following that framework (subject to rebasing). The adjusted Base Charge shall be rounded to the nearest whole cent.

Section 6. LIABILITY

6.1 Any liability for loss, damage, injury or death which arises from the operation of trains under this Agreement shall be allocated, settled and paid in the manner set forth in Section 5 of the General Conditions attached hereto.

Section 7. TERM AND TERMINATION

7.1 This Agreement shall become effective upon (i) receipt and effectiveness of all regulatory approvals relating to the transaction contemplated in STB Finance Docket No. 36873 ("Merger Approval"), including an order requiring divestiture of the Joint Trackage from User to Owner, and (ii) the closing of the divestiture of the Joint Trackage from User to Owner pursuant to such order, which closing may occur immediately prior to or concurrently with consummation of the UP/NS transaction (the "Effective Date"), regardless of whether User elects to commence trackage-rights operations on that date or later. This Agreement shall have a term of ninety-nine (99) years from the Effective Date. Upon expiration or termination of this Agreement, all obligations, including obligations to remit fees and obligations of indemnity, arising or accruing before such expiration or termination and all provisions necessary to enforce and resolve those obligations shall survive and remain enforceable.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

ILLINOIS CENTRAL RAILROAD COMPANY

By: _____
Name: [AUTHORIZED SIGNATORY]
Title: [TITLE]

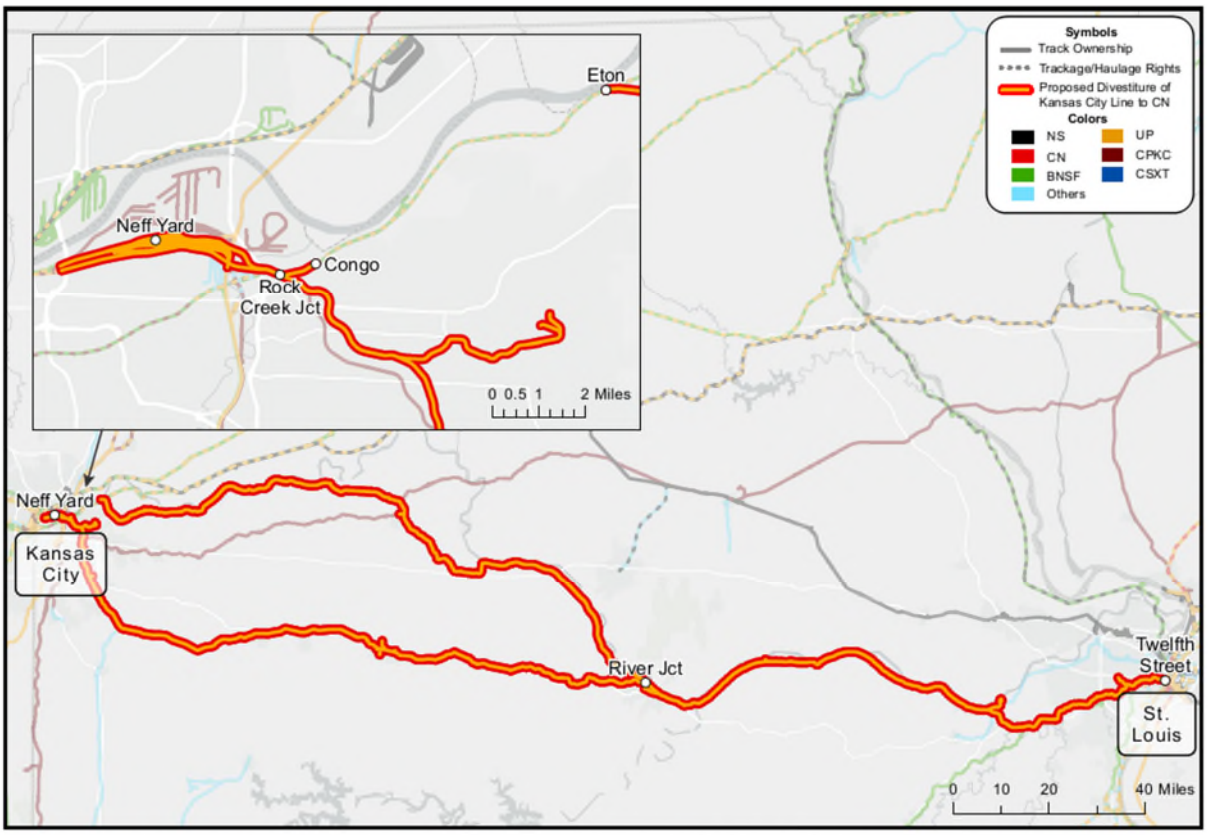
UNION PACIFIC RAILROAD COMPANY

By: _____
Name: [AUTHORIZED SIGNATORY]
Title: [TITLE]

EXHIBIT "A"

JOINT TRACKAGE

PROPOSED GRANT OF OVERHEAD TRACKAGE RIGHTS OF KANSAS CITY LINE FROM CN TO UP



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

EXHIBIT "B"

GENERAL CONDITIONS

Section 1. DEFINITIONS

1.1 "Agreement" shall mean that certain Trackage Rights Agreement dated as of [●] by and between ILLINOIS CENTRAL RAILROAD COMPANY ("Owner") and UNION PACIFIC RAILROAD COMPANY ("User"), to which this Exhibit "B" is appended. The term "Agreement" shall include this Exhibit "B" in its entirety.

1.2 "Owner" shall mean ILLINOIS CENTRAL RAILROAD COMPANY.

1.3 "User" shall mean UNION PACIFIC RAILROAD COMPANY.

1.4 "Joint Trackage" shall mean those certain main-line tracks, passing sidings, connecting tracks and other tracks specifically shown on Exhibit "A" and reasonably necessary for continuous overhead movements between the St. Louis, Missouri area and the Kansas City, Missouri area, via the Kansas City Line, including all necessary head room/tail room, right-of-way and appurtenances reasonably necessary for such overhead movements, but excluding yard, industry, storage, classification, terminal and auxiliary tracks except to the extent specifically shown on Exhibit "A" and reasonably necessary for such overhead movements, together with all additions and betterments to, and changes in, such tracks and appurtenances in the future as are required or desirable for the operation of the trains of the parties hereto.

1.5 "Equipment" shall mean and include (i) trains, locomotives, cars and cabooses, (ii) vehicles and machinery which are capable of being operated on railroad tracks that, at the time of an occurrence, are being operated on the Joint Trackage, and (iii) vehicles and machinery that, at the time of an occurrence, are on the Joint Trackage or its right-of-way for the purpose of performing maintenance, repairs or the clearing of wrecks thereon.

1.6 "STB" shall mean the Surface Transportation Board, or any successor agency.

Section 2. MAINTENANCE CHANGES IN AND/OR ADDITIONS, OPERATION AND CONTROL

2.1 The construction, maintenance, repair and renewal of the Joint Trackage shall be the responsibility, and under the exclusive direction and control, of Owner. Owner shall use reasonable and customary care, skill and diligence in the construction, operation, maintenance, repair and renewal of the Joint Trackage and shall maintain the Joint Trackage in accordance with Class I railroad industry maintenance practices and at no less than the track standard designated in Exhibit "C." Subject to the foregoing obligations, User shall not, solely by reason of Owner's performing or failing to perform such work, have a claim against Owner for loss, damage, destruction, injury or death resulting therefrom, except to the extent caused by Owner's gross negligence or willful misconduct.

2.2 Owner may make any additions and betterments to, and changes in, the Joint Trackage which may be required by law, or which Owner deems necessary or desirable for the safe, efficient, and economical use of the Joint Trackage by the parties. Such additions, betterments and changes shall progressively become part of the Joint Trackage during construction as they are completed. User may request additions and betterments to, and changes in, the Joint Trackage which User shall deem necessary

or desirable for the safe, efficient, and economical use of the Joint Trackage by the parties. If Owner concurs with such additions and betterments, or changes requested by User, Owner shall construct the same upon such terms and conditions as may be agreed upon and they shall become part of the Joint Trackage. In the event that Owner does not concur with such additions, betterments or changes requested by User, Owner shall nevertheless construct the same at User's sole cost and expense if so requested by User. Owner shall make no retirement, withdrawal, elimination or disposal of any part of the Joint Trackage which would permanently or materially impair the usefulness thereof to User.

2.3 The management and operation of the Joint Trackage shall be under the exclusive direction and control of Owner. Owner shall make such changes to the management and operations on and over the Joint Trackage as in Owner's reasonable judgment may be necessary, expedient, or proper for the operations thereof herein intended.

2.4 If the use of the Joint Trackage shall at any time be interrupted or traffic thereon or thereover be delayed for any cause, neither party shall have or make any claim against the other for loss, damage, or expense of any kind, caused by or resulting from such interruption or delay.

2.5 Owner may from time to time substitute any track or tracks for those delineated in the Agreement for use by User; provided, User shall at all times have access to contiguous route of equal utility as the Joint Trackage for the operation of User's Equipment between the termini of the Joint Trackage. When tracks that are not specified as part of the Joint Trackage in Section 1.4 of these General Conditions are used as provided in this Section 2.5, the Agreement shall govern for purposes of direction and control and liability as if all train movements had been made over the Joint Trackage.

2.6 Each party shall be responsible for furnishing, at its own expense, all labor, fuel, and train supplies necessary for the operation of its own Equipment over the Joint Trackage. In the event a party hereto does furnish such labor, fuel, or train supplies to another party hereto, the party receiving same shall promptly, upon receipt of billing therefor, reimburse the party furnishing same for its reasonable costs of furnishing such labor, fuel, or train supplies.

2.7 The operation by User on or along the Joint Trackage shall at all times be in accordance with the rules, instructions and bulletins of Owner as they may be amended and supplemented from time to time; provided, however, that such rules, instructions and bulletins shall be reasonable, just, and applied fairly to all parties using the Joint Trackage and shall not discriminate against any of them.

2.8 User shall be responsible for reporting and paying any mileage, per diem, use, or rental charges accruing on Equipment in User's account while on the Joint Trackage. Except as may be specifically provided for in the Agreement, nothing herein contained is intended to change practices with respect to interchange of traffic between the parties or with other carriers on or along the Joint Trackage.

2.9 The total cost of clearing a derailment, cleaning up any Hazardous Materials released during such derailment, and/or repairing the Joint Trackage or any other property damaged thereby shall be borne by the party or parties liable therefor in accordance with Sections 4 and 5 of these General Conditions.

2.10 In the event of release of Hazardous Materials caused by faulty equipment or third parties, cleanup will be conducted and total costs resulting therefrom shall be borne by the parties as provided for in Section 4 of these General Conditions.

2.11 All employees of User engaged in or connected with operations on or along the Joint Trackage shall be required to pass periodic examinations on Owner's applicable rules. Upon User's request, Owner shall qualify one or more of User's supervisory officers on those rules, and the qualified supervisory officer or officers may thereafter examine User's employees engaged in or connected with operations on or along the Joint Trackage. Pending qualification of User's train and engine crews, Owner shall furnish a pilot or pilots, at User's expense, as reasonably necessary to assist in operating User's trains over the Joint Trackage.

2.12 If any employee of User shall neglect, refuse, or fail to abide by Owner's rules, instructions, and bulletins governing the operation on or along the Joint Trackage, such employee shall, upon written request of Owner, be prohibited by User from working on the Joint Trackage. If either party shall deem it necessary to hold a formal investigation to establish such neglect, refusal, or failure on the part of any employee of User, then upon such notice presented in writing, Owner and User shall promptly hold a joint investigation in which all parties concerned shall participate and bear the expense for its officers, counsel, witnesses, and employees. Notice of such investigation shall be given to employees of User by User's officers, and such investigation shall be conducted in accordance with applicable terms and conditions of schedule agreements between User and its employees. If, in the judgment of Owner, the result of such investigation warrants, such employee shall, upon written request of Owner, be withdrawn by User from service on the Joint Trackage, and User shall release and indemnify Owner from and against any and all claims and expenses because of such withdrawal, except as otherwise provided below.

2.13 If the disciplinary action is appealed by an employee of User to the National Railroad Adjustment Board or other tribunal lawfully created to adjudicate such cases, and if the decision of such board or tribunal sustains the employee's position, such employee shall not thereafter be barred from service on the Joint Trackage by reason of such occurrence.

2.14 It is understood that Owner shall reimburse User for all payments that User might be required to make as a result of a successful challenge being made by the employee or his representative as to the discipline recommended by Owner and assessed by User. User agrees to notify Owner before committing itself to making payment of any such employee claim. In the event a claim is progressed to an Adjustment Board, Owner will be given an opportunity to review User's submission. Any payments made to employees, as a result of an investigation being "overturned", shall include not only actual wages, but in addition, shall include expenses which User may be required to pay covering vacation allowances, Railroad Retirement taxes, unemployment insurance taxes and any other payroll tax or fringe benefits.

2.15 If any Equipment of User is bad ordered enroute on the Joint Trackage and it is necessary that it be set out, such bad ordered Equipment shall, after being promptly repaired, be promptly picked up by User. Unless otherwise agreed, Owner may, upon request of User and at User's expense, furnish the required labor and material and perform light repairs to make such bad ordered Equipment safe for movement. The employees and Equipment of Owner while in any manner so engaged or while en route to or returning to Owner's terminal from such an assignment shall be considered sole employees of User and sole property of User. However, should Owner after repairing such Equipment for User, move directly to perform service for Owner's benefit rather than return to Owner's terminal, then User's exclusive time and liability will end when Owner's employees depart for work to be performed for Owner's benefit. In the case of such repairs by Owner to freight cars in User's account, billing therefor shall be in accordance with the Field and Office Manuals of the Interchange Rules adopted by the Association of American Railroads, hereinafter called "Interchange Rules", in effect at the date of performance of the repairs. Owner shall prepare and submit billing directly to and collect from the car owner for car-owner responsibility items as determined under said Interchange Rules. Should said car owner refuse or otherwise fail to make payment

therefor, Owner shall submit billing to and collect from User any charges for repair to freight cars that are car-owner responsibility items, as determined under said Interchange Rules.

2.16 If Equipment of User shall become derailed, wrecked, or otherwise disabled while upon the Joint Trackage, it shall be re-railed or cleared by Owner; provided, that employees of User may re-rail User's derailed Equipment on the Joint Trackage whenever use of motorized on or off track equipment is not required and User has obtained permission to perform such re-railing from Owner (which permission shall not be unreasonably denied, conditioned or delayed). The costs and expenses of clearing derailments and wrecks shall be at User's expense unless otherwise provided for in allocation of liability in Section 5 of these General Conditions.

2.17 In the event Equipment of User shall be forced to stop on Joint Trackage, and such stoppage is due to insufficient hours of service remaining among User's employees, or due to mechanical failure of User's Equipment, or any other cause not resulting from an accident or derailment, and such Equipment is unable to proceed, or if a train of User fails to maintain the speed required by Owner on the Joint Trackage, or if in emergencies, crippled or otherwise defective Equipment is set out of User's trains on the Joint Trackage, Owner shall have the option to furnish motive power or such other assistance (including but not limited to the right to re-crew User's train) as may be necessary to haul, help or push such Equipment, or to properly move the disabled Equipment off the Joint Trackage. The costs and expenses of furnishing motive power or of rendering such other assistance shall be at User's expense.

2.18 In the event any accident, derailment, or wreck (hereinafter, a "Derailment") involving Units on or in a train operated by User or for User by Owner carrying hazardous materials, substances, pollutants or wastes, as defined pursuant to federal, state or local laws, regulations and ordinances and/or court decisions interpreting such laws, regulations and ordinances (hereinafter, "Hazardous Materials") shall occur on any segment of the Joint Trackage, any report required by federal, state or local authorities shall be the responsibility of User. User shall also advise the owner/shipper of the Hazardous Materials involved in the derailment, and Owner, immediately.

2.19 Unless otherwise agreed by the parties, Owner shall assume responsibility for cleaning up any release of Hazardous Materials from User's cars in accordance with all federal, state, or local regulatory requirements. User may have representatives at the scene of the derailment to observe and provide information and recommendations concerning the characteristics of Hazardous Materials release and the cleanup effort. Such costs shall be borne in accordance with Section 4 of these General Conditions.

2.20 If Hazardous Materials must be transferred to undamaged cars, User shall perform the transfer, provided, however, that if the Hazardous Materials are in damaged cars that are blocking the Joint Trackage, Owner, at its option, may transfer the Hazardous Materials. Transfers of Hazardous Materials by User shall only be conducted after being authorized by Owner.

Section 3. BILLING; DEFAULT

3.1 Billing shall be accomplished on the basis of data contained in a billing form mutually agreed to between the parties. Such billing form shall contain sufficient detail to permit computation of payments to be made hereunder. Billing shall be prepared in accordance with the Base Charge and Mileage Factor set forth in Sections 5.1 and 5.2, respectively, of this Agreement (and, as applicable, the rules, additives, and equipment rental rates published by Owner). User shall pay to Owner at the Office of the Treasurer of Owner or at such other location as Owner may from time to time designate, all the compensation and charges of every name and nature that User is required to pay pursuant to the Agreement,

in lawful money of the United States, within sixty (60) days after the receipt of bills therefor. Bills shall contain a statement of the amount due on account of the expenses incurred and services rendered during the billing period.

3.2 No exception to any bill or payment shall be honored, recognized, or considered if filed after the expiration of three (3) years from the last day of the calendar month during which the bill is rendered. No bill shall be rendered later than three (3) years (i) after the last day of the calendar month in which the expense covered thereby is incurred, or (ii) in the case of claims disputed as to amount or liability, after the amount is settled and/or the liability(ies) established.

3.3 So much of the books, accounts and records of each party hereto as are related to the subject matter of the Agreement shall at all reasonable times be open to inspection by the authorized representatives and agents of the parties hereto.

3.4 All books, accounts, and records shall be maintained to furnish readily full information for each item in accordance with 49 U.S.C. § 11161 et seq. and the related regulations of the STB in 49 C.F.R. Part 1201, 1-3, et seq.

3.5 Should any amount become payable by Owner to User under the Agreement, the provisions of Section 3.1 through Section 3.3 of these General Conditions shall apply with User as the billing party and Owner as the paying party.

3.6 No action of Owner in waiving any default of User under this Agreement shall be deemed to waive any subsequent default of User, or to impair any rights of Owner under the Agreement.

Section 4. COMPLIANCE WITH LAWS

4.1 User shall not treat, store or dispose of petroleum products or Hazardous Materials at any location on or along the Joint Trackage.

4.2 Responsibility for "Environmental Claims" (as defined in Section 4.8, below) as between the parties shall be borne by the party or parties liable therefor pursuant to the allocation of liability in Section 5 of these General Conditions.

4.3 Each party shall release the other party to the extent it is responsible for an Environmental Claim, and, to the extent of such responsibility, shall defend, indemnify, protect and save harmless such other party from and against such Environmental Claim and costs associated therewith, including, but not limited to, environmental consultant fees, attorneys' fees and third party claims.

4.4 In the event that any incident, accident, Derailment, or vehicle striking or being struck by Equipment (hereinafter "Incident") involving Equipment operated by a party hereto carrying Hazardous Materials shall occur on the Joint Trackage, any report required by Federal, State or local authorities shall be the responsibility of such party. Each party shall advise the other party immediately of the occurrence of an Incident involving Equipment operated by the party carrying Hazardous Materials.

4.5 Unless otherwise agreed by the parties, Owner shall undertake any "Response Action" (as defined in Section 4.7, below) in accordance with all Federal, State, or local regulatory requirements necessitated by a release of Hazardous Materials resulting from an Incident involving Equipment operated by either party on Owner's right-of-way underlying the Joint Trackage. User shall provide data or a

representative available at the scene of any Incident involving Equipment operated by it to provide information concerning the characteristics of Hazardous Materials released.

4.6 If, following an Incident occurring on or along the Joint Trackage, Hazardous Materials must be transferred to undamaged cars or other vehicles, unless otherwise agreed by the parties, the party whose Equipment was involved in such Incident shall perform the transfer; provided, however, that if the Hazardous Materials are in damaged cars of a train of User that are blocking the Joint Trackage, Owner shall transfer the Hazardous Materials; provided further that transfers of Hazardous Materials by User shall only be conducted after being authorized by Owner (which authorization shall not be unreasonably denied, conditioned or delayed). The cost of such transfer of Hazardous Materials shall be borne by the party or parties liable therefor pursuant to the allocation of liability in Section 5 of these General Conditions.

4.7 In the event any cleanup, response, removal or remediation of any environmental condition on the Joint Trackage is necessary (collectively, a "Response Action"), neither party shall be entitled to any damages, actual or consequential, by reason of the Response Action's interference with the other party's use of the Joint Trackage. Owner and its contractors shall have full, unrestricted and unconditional access to the Joint Trackage for the purpose of completing or engaging in a Response Action for which Owner has any responsibility or, at Owner's option, a Response Action which Owner has undertaken should User fail to diligently pursue and complete such Response Action to the satisfaction of Owner; provided, however, that any Response Action (i) shall be undertaken and completed pursuant to a work plan (including a schedule) submitted to the other party for its review and, in the case of Owner, approval, and (ii) shall not unreasonably, in terms of duration or otherwise, restrict the other party's use of the Joint Trackage. Either party's completion of the other party's obligations hereunder shall not be deemed a waiver of such obligations under the Agreement. Owner shall have the right, but not the obligation, to conduct reasonable inspections of any Response Action of User and User shall provide Owner all information requested by Owner regarding any Response Action of User or any Environmental Claims for which User is responsible.

4.8 The term "Environmental Claim" means the direct costs of any cleanup, Response Action, removal, remediation, natural resource damage, closure and/or post-closure required by any environmental condition affecting the air, soil, surface waters, ground waters, streams, sediments and similar environmental conditions caused by, resulting from, arising out of, or occurring in connection with this Agreement.

4.9 The liability and indemnity provisions of this Section 4 shall continue in full force and effect regardless of whether this Agreement is terminated pursuant to any other provision, or the Joint Trackage is abandoned and vacated by User.

4.10 The total cost of clearing a Derailment or other Incident, cleaning up any Hazardous Materials released during such Derailment or Incident, and repairing the Joint Trackage or any other property damaged thereby shall be borne by the party or parties liable therefor pursuant to the allocation of liability in Section 5 of these General Conditions.

Section 5. LIABILITY

5.1 The responsibility and liability as between the parties for: (i) any personal injury or death of any person (including employees of the parties and third parties), (ii) any real or personal property damage (including property of the parties and any third person), (iii) any damage or destruction to the environment (including land, air, water, wildlife and vegetation), and (iv) all cleanup and remedial expenses, court costs, litigation expenses and attorney's fees resulting from the use of the Joint Trackage

by the parties to this Agreement or by third party users, all of which are collectively referred to as a "Loss", will be divided as follows:

5.2 If a Loss results from the use of the Joint Trackage solely by the Equipment of only one of the parties to this Agreement without the involvement of any Equipment of the other party, then the party whose Equipment is involved shall be solely responsible for the Loss, even if caused partially or completely by the other party.

5.3 If a Loss results from the use of the Joint Trackage by both Owner and User and involves the Equipment of both parties, then: (i) each of Owner and User shall be solely responsible for any Loss to its own employees and Equipment in its own account (including lading) and (ii) Owner and User shall each be responsible for one-half of any Loss to the Joint Trackage and Loss sustained by third parties, regardless of the proportional responsibility between or among them as to the cause of the Loss.

5.4 If a Loss results from the use of the Joint Trackage by both User and a third party user of the Joint Trackage that is not a party to this Agreement, and involves the Equipment of both User and such third party user, then the responsibility of User and such third party user for the Loss shall be allocated in the manner specified in Section 5.3, with the third party user being considered as Owner for the purpose of allocating such Loss. Owner shall be responsible for, and shall indemnify, defend, and hold harmless User from and against, all Loss allocated to a third party user in accordance with Section 5.3.

5.5 Notwithstanding any provision of this Section 5 to the contrary, each Party shall assume and bear all responsibility for any Loss or Damage is that is directly or proximately caused by acts or omissions of any of its employees while under the influence of drugs or alcohol.

5.6 Whenever any liability, cost, or expense is assumed by or allocated to any party to this Agreement pursuant to this Section 5, that party shall forever protect, defend, indemnify, and save harmless the other party to this Agreement and its subsidiaries and affiliates, and all of its and their respective directors, officers, agents, and employees from and against that liability, cost, and expense assumed by that party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of the indemnitee or its directors, officers, agents or employees. Notwithstanding any provision to the contrary herein, no obligations of indemnity of either party shall apply with respect to punitive or exemplary damages to the extent arising from the conduct of the party to be otherwise indemnified hereunder.

5.7 In every case of death or injury suffered by an employee of any party to this Agreement, when compensation to such employee or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employer's liability, or other law, and either of said parties under the provisions of this Agreement is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such party shall not be released from paying any future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.

5.8 For purposes of determining liability, pilots furnished by Owner to User pursuant to this Agreement shall be considered as the employees of User while such employees are on board or getting on or off trains of User.

5.9 If any suit or action shall be brought against any party for damages which under the provisions of the Agreement are in whole or in part the responsibility of the other party, said other party

shall be notified in writing by the party sued, and the party so notified shall have the right and be obligated to take part in the defense of such suit and shall pay its allocated share of the judgment and cost, expense and attorneys' fees incurred in such suit as determined pursuant to this Section 5.

5.10 In the event of a Loss involving lading, the parties to this Agreement shall be bound by the Freight Claim Rules, Principles, and Practices of the Association of American Railroads (AAR) as to the handling of any claims for the loss or damage to lading, except to the extent expressly provided otherwise herein.

5.11 Notwithstanding any provision to the contrary herein, the obligation of a party to indemnify the other party pursuant to this Section 5 shall not include any obligation to indemnify such other party for punitive or exemplary damages to the extent arising from conduct of such indemnified party.

Section 6. ARBITRATION

6.1 If at any time a question or controversy shall arise between the parties hereto in connection with the Agreement upon which the parties cannot agree, then, upon the written request of either party setting forth the issue in dispute, such question or controversy shall be submitted to arbitration. If the parties involved in such dispute are able to agree upon a single arbitrator experienced in matters of the character in dispute within thirty (30) days after the party desiring such arbitration (the "Demanding Party") shall notify in writing the other party to such dispute (the "Noticed Party"), such dispute shall be submitted to such single arbitrator. Otherwise, the Demanding Party shall appoint an arbitrator and notify the Noticed Party in writing of such appointment. Within twenty (20) days after receipt of said notice, the Noticed Party shall appoint an arbitrator and notify the Demanding Party in writing of such appointment. Should the Noticed Party fail within twenty (20) days after receipt of such notice to name its arbitrator, the arbitrator for the Demanding Party shall select one for the Noticed Party so failing and, if they cannot agree, said arbitrator may be appointed by the Chief Judge (or acting Chief Judge) of the United States District Court for the District in which the headquarters office of the Demanding Party is located upon application by either party after ten (10) days' written notice to the other party. The arbitrators so chosen, if an even number, shall select a third arbitrator to complete the panel. If they fail to agree upon a third arbitrator, the third arbitrator shall, upon application of any party, be appointed by said judge in the manner heretofore stated.

6.2 Upon selection of the arbitrator(s), said arbitrator(s) shall with reasonable diligence determine the questions set forth in said notice of demand for arbitration, shall give all parties reasonable notice of the time and place (which shall be at the discretion of the arbitrator(s)) of hearing evidence and argument, may take such evidence as they deem reasonable or as either party may submit with witnesses required to be sworn, and may hear arguments of counsel or others. If any arbitrator declines or fails to act, the party (or parties in the case of a single arbitrator) by whom such arbitrator was chosen or said judge shall appoint another to act in such arbitrator's place. After considering all evidence, testimony, and arguments, said single arbitrator or the majority of said panel of arbitrators shall promptly state such decision or award in writing which shall be final, binding, and conclusive on all parties to the arbitration when delivered to them. Until the arbitrator(s) shall issue the first decision or award upon any question submitted for arbitration, performance under the Agreement shall continue in the manner and form existing prior to the rise of such question. After delivery of said first decision or award, each party shall forthwith comply with said first decision or award immediately after receiving it.

6.3 Each party to the arbitration shall pay the compensation, costs, and expenses of the arbitrator appointed in its behalf and all fees and expenses of its own witnesses, exhibits, and counsel. The

compensation, costs, and expenses of the single arbitrator or the additional arbitrator in the board of arbitrators shall be paid in equal shares by all parties to the arbitration.

6.4 The books and papers of all parties, as far as they relate to any matter submitted for arbitration, shall be open to examination by the arbitrator(s).

Section 7. APPLICABLE LAW

7.1 This Agreement and any claims, disputes or controversies arising hereunder shall be governed by and construed in accordance with the laws of the state of Missouri, without giving effect to any choice or conflict of laws provision or rule (whether of the State of Missouri or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Missouri.

Section 8. GOVERNMENTAL APPROVAL; ABANDONMENT

8.1 User shall, at its own cost and expense, initiate by appropriate application or petition and thereafter diligently prosecute proceedings to obtain any required STB and Federal Communications Commission ("FCC") approval or exemption for the exercise of the trackage rights granted to User pursuant to the Agreement. Owner, at its expense, shall use best efforts to support said application or petition and shall furnish such information and execute, deliver and file such instruments as may be necessary or appropriate to obtain such STB and/or FCC consent, approval or authority. User and Owner shall cooperate fully to procure all such necessary consent, approval or authority.

8.2 Owner shall not abandon, discontinue, sell or otherwise dispose of all or any part of the Joint Trackage during the term of the Agreement in a manner that would materially impair User's rights or operations unless Owner first provides, at no additional cost to User, a contiguous substitute route of substantially equal utility and on substantially equivalent terms, or User otherwise consents in writing. Subject to the foregoing and any required STB approval or exemption, if Owner proposes to abandon all or any part of the Joint Trackage, Owner shall provide at least six (6) months' prior written notice, and User shall have a right of first refusal to purchase the applicable portion at a price calculated in the manner prescribed by the STB's regulations governing Offers of Financial Assistance at 49 C.F.R. § 1152.27 or successor regulations.

8.3 Each party shall be responsible for any labor claims of, and shall bear the cost of employee protection payable to, its own employees and the employees of companies affiliated with it, to the extent resulting from the Agreement and/or such party's operations on the Joint Trackage.

Section 9. OTHER CONSIDERATIONS

9.1 Nothing in the Agreement contained shall limit the right of Owner to admit other companies to the use of the Joint Trackage or any part thereof on such terms and conditions as are acceptable to Owner; provided, that the operations of such other companies shall not unduly interfere with or delay the operations of User on and along the Joint Trackage. Except as otherwise provided in Sections 2 (b) of the Agreement, User shall have no right to admit any person, firm, or corporation to the use of the Joint Trackage.

9.2 The Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors, lessees, and assigns. The Agreement and any rights granted hereunder may not be assigned in whole or in part by Owner or User without the prior written consent of the other. The Agreement

may be assigned by Owner or User without the prior written consent of the other only (i) as a result of a merger, corporate reorganization, consolidation, change of control or sale of substantially all of its assets, or (ii) to an affiliate of the assigning party where the term "affiliate" means a corporation, partnership or other entity controlled, controlling or under common control with the assigning party. In connection with the sale, lease or transfer by Owner of all or a portion of the Joint Trackage, Owner shall require the purchaser, lessee or transferee of such portion (or all) of the Joint Trackage to accept assignment in writing of this Agreement with respect to, and to perform Owner's obligations under this Agreement, with respect to the portion of the Joint Trackage sold, leased or transferred.

9.3 The Agreement and each and every provision hereof is for the exclusive benefit of the parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right in any third person to recover by way of damages or otherwise against any of the parties hereto.

9.4 All notices, demands, requested, or submissions which are required or permitted to be given pursuant to the Agreement shall be given by either party to the other in writing by serving the same upon the Vice President of Operations of each company.

9.5 If any covenant or provision of the Agreement not material to the right of User to use the Joint Trackage shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which is in itself valid. No controversy concerning any covenant or provision shall delay the performance of any other covenant or provision. Should any covenant or provision of the Agreement be adjudged void, the parties will make such other arrangements as, under the advice of counsel, will effect the purposes and intent of the Agreement.

9.6 All Section headings are inserted for convenience only and shall not affect any construction or interpretation of the Agreement.

9.7 No term or provision of the Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to the Agreement.

9.8 All words, terms and phrases used in the Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms, and phrases in the railroad industry in the United States.

9.9 The Agreement is the result of mutual negotiations between the parties hereto, neither of whom shall be considered the drafter for purposes of contract construction.

9.10 Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of the Agreement, or as may be necessary or appropriate for a party hereto to enforce its rights under the Agreement, all commercial information to which access is provided or obtained hereunder will be kept confidential and will not be disclosed by either Owner or User to any party other than Owner or User (as applicable), their respective affiliates, and its and their respective officers, employees, and attorneys, without the prior written approval of the other party.

Exhibit 4

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October 29, 2026

Danielle Gosselin
Director
Office of Environmental Analysis
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

Re: *Docket No. FD 36873 - Union Pacific Corporation and Union Pacific Railroad Company – Control – Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Ms. Gosselin:

On behalf of Grand Trunk Corporation and its U.S. rail operating subsidiaries[1] (collectively, "CN"), we submit the attached materials to the Office of Environmental Analysis ("OEA") in support of CN's forthcoming responsive applications in the following sub-dockets[2]:

- **Sub-No. 2** - Illinois Central Railroad Company – Divestiture – Line of Union Pacific Railroad Company Between St. Louis, Mo. and Kansas City, Mo.;
- **Sub-No. 3** - Illinois Central Railroad Company – Overhead Trackage Rights – Line of Union Pacific Railroad Company Between St. Louis, Mo. and Kansas City, Mo.;

[1] Bessemer and Lake Erie Railroad Company, Cedar River Railroad Company, Chicago, Central & Pacific Railroad Company, Grand Trunk Western Railroad Company, Illinois Central Railroad Company, Iowa Northern Railway Company, The Pittsburgh & Conneaut Dock Company, and Wisconsin Central Ltd.

[2] Pursuant to 49 C.F.R. § 1105.6(c)(3), CN understands that OEA is not requesting any maps or other information relating to other trackage rights requests in CN's forthcoming responsive applications that are unrelated to the Kansas City line, including Sub-No. 7 (Tuscola, Illinois to East St. Louis, Illinois), Sub-No. 8 (Lenox/Mitchell, Illinois to East St. Louis, Illinois), Sub-No. 9 (Hillsboro, Illinois), and Sub-No. 10 (Manly/Iowa Falls, Iowa to Des Moines, Iowa). CN is submitting maps related to Sub-No. 5 (Eton, Missouri to Congo, Missouri) for completeness concerning the broader Kansas City requests.

- **Sub-No. 4** - Illinois Central Railroad Company – Overhead Trackage Rights – Line of Union Pacific Railroad Company Between Lydia Ave. and Broadway Blvd. in Kansas City, Mo.;
- **Sub-No. 5** - Illinois Central Railroad Company – Terminal Trackage Rights – Over Line of BNSF Railway Company Between Eton, Mo. and Congo, Mo.; and
- **Sub-No. 6** - Illinois Central Railroad Company – Lease and Purchase – Union Pacific Railroad Company Neff Yard in Kansas City, Mo.[3]

As shown on the enclosed index, CN is providing multiple maps concerning its requested conditions relating to (1) the divestiture of the Union Pacific line between St. Louis, Missouri and Kansas City, Missouri; and (2) the lease and/or purchase of Union Pacific's Neff Yard, including Neff intermodal terminal, in Kansas City, Missouri, in whole or in part. These maps are approximations based on CN's current knowledge of publicly available information.

In addition to these maps, OEA has requested five-year projections for anticipated traffic volumes (including for truck traffic), the anticipated number of trains per day on the main Kansas City line, and the anticipated number of railcars handled per day at Neff Yard. While that information is not yet available, CN will provide it to OEA as soon as those estimates are completed. CN also will provide OEA with information concerning its planned capital improvements for Neff Yard when available.

While CN's understanding is that OEA does not need specific information on hazardous materials loads within the traffic projections, or information pertaining to the trackage rights aspects of CN's forthcoming responsive applications or pertaining to other parts of CN's network, should OEA identify additional information needs (beyond the traffic projections and capital improvement requests), please let us know. CN is committed to promptly responding to any OEA supplemental requests.

Thank you for your attention to this matter, and please do not hesitate to contact me directly if you have any questions.

[3] CN petitioned for a waiver or clarification regarding trackage rights to Macoupin Energy LLC Shay Mine #1 near Carlinville, Illinois and trackage rights over the Terminal Railroad Association of St. Louis. *See* CN-31, FD 36873 (filed Oct. 5, 2026). As of the time of submission of this letter, the petition remains pending before the Board. CN will notify OEA if the resolution of CN's petition requires it to request additional sub-dockets and file additional responsive applications.

Respectfully submitted,

/s/ Sara Y. Razi

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Attorneys for CN

Kansas City Line and Neff Yard Area Maps Index

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2	CN Conditions for Kansas City Access
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4	Neff Yard – West Side
5	CN Planned Investment Area Within Neff Yard
6	West of Neff Yard – Overview
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19	East of Neff Yard – Southwest Jct. and Airline Jct. (Facing North)
20	East of Neff Yard – Southwest Junction and Airline Junction – KCT Track Chart

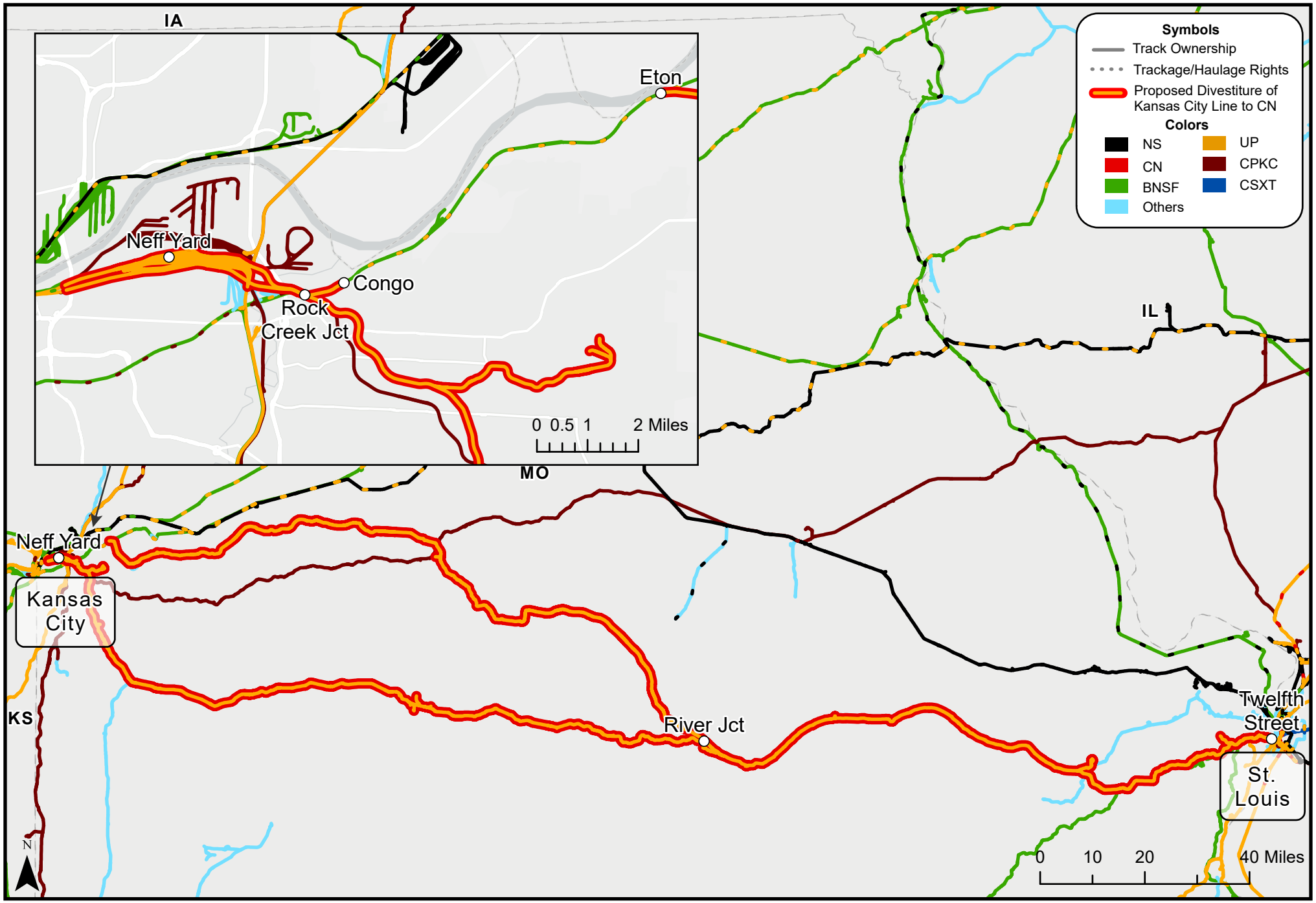
CERTIFICATE OF SERVICE

I hereby certify that, on October 29, 2026, I caused a true and correct copy of the foregoing to be served by first-class mail or email on all parties of record in this proceeding, the Secretary of Transportation, the Attorney General, and Administrative Law Judge Jenifer Soulikias.

/s/ Andrew Bernstein
Andrew Bernstein
Simpson Thacher & Bartlett LLP

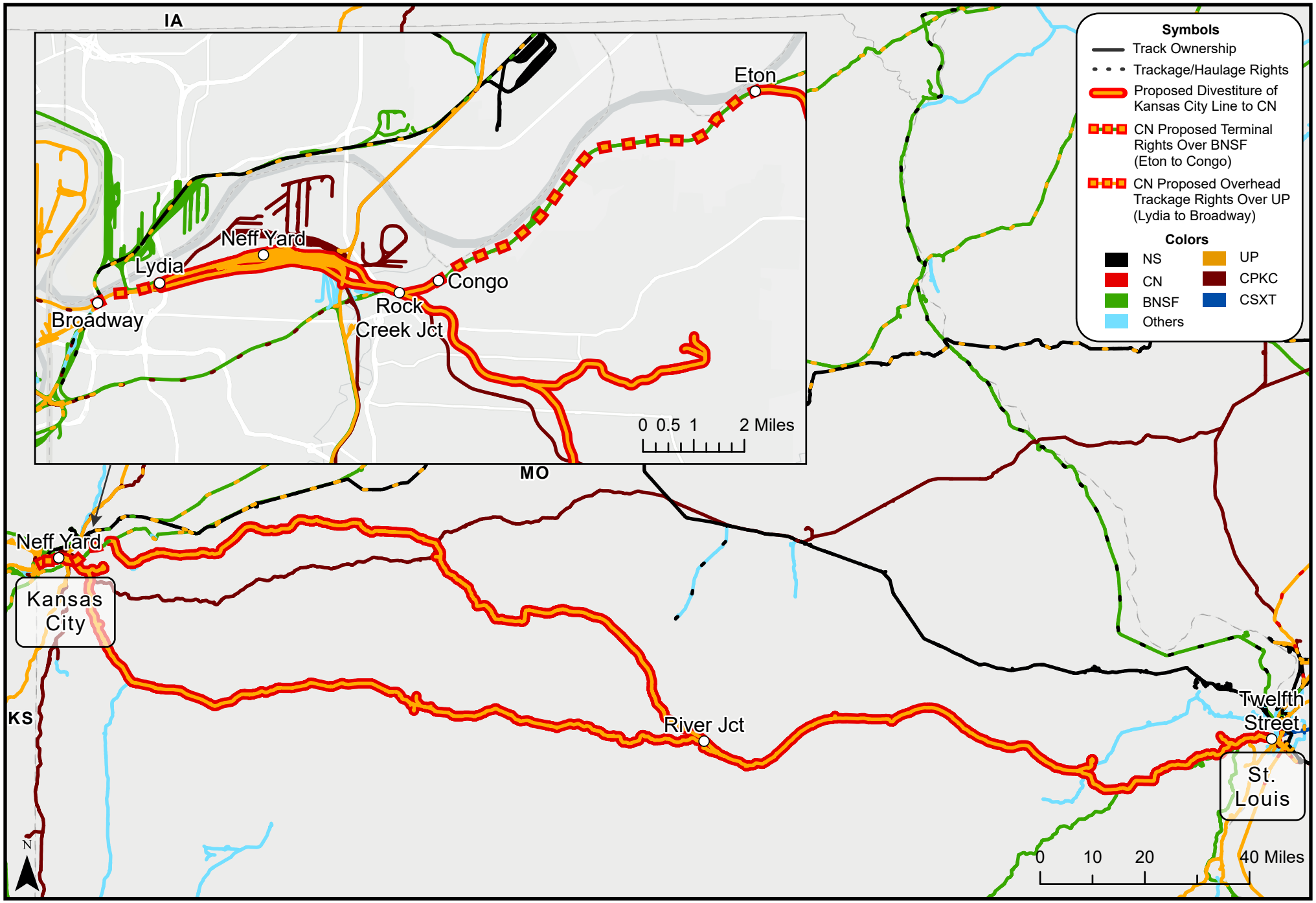
Kansas City Line and Neff Yard Area Maps

CN Condition for Divestiture of Kansas City Line



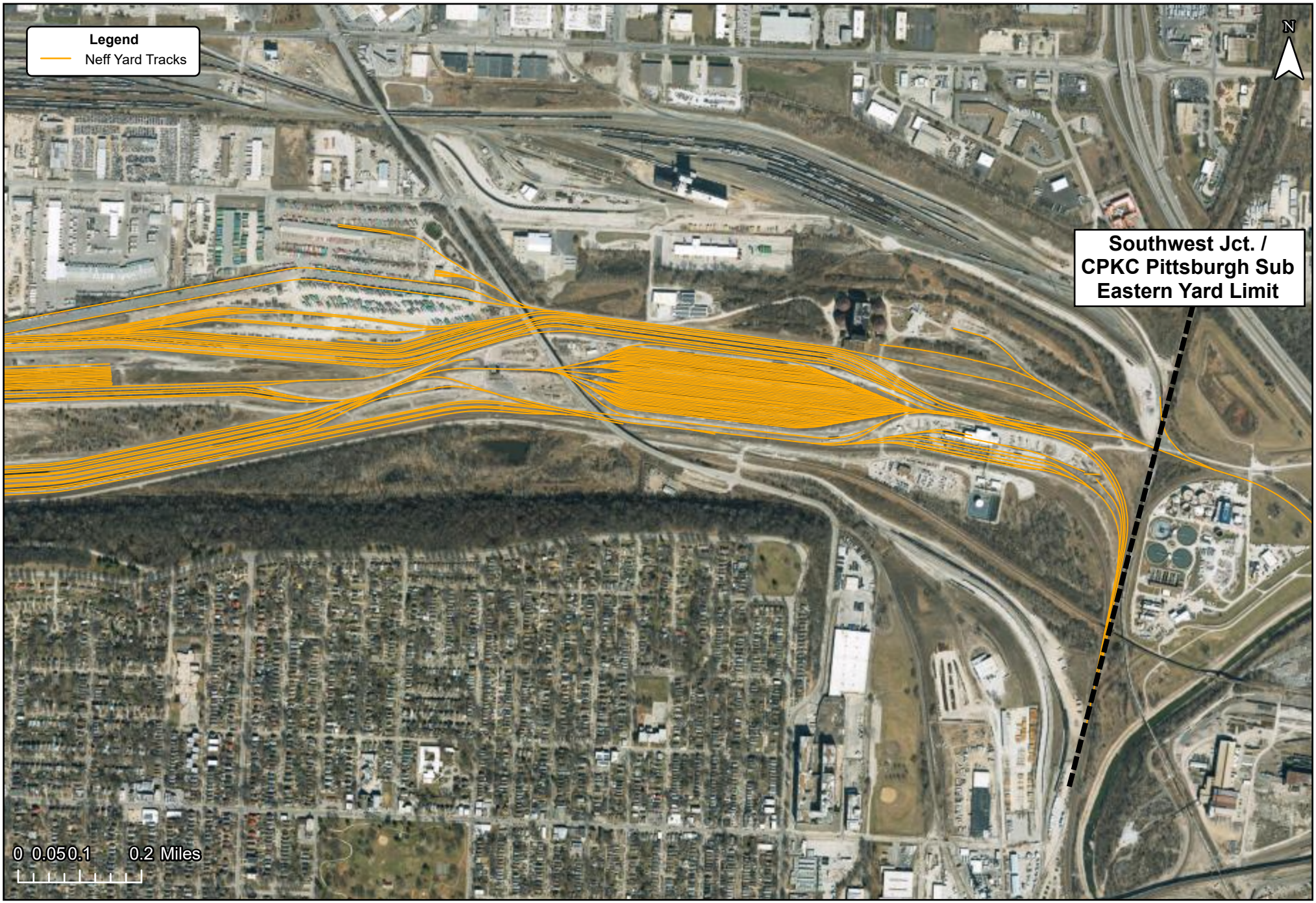
Sources: Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

CN Conditions for Kansas City Access



Sources: Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

Neff Yard – East Side



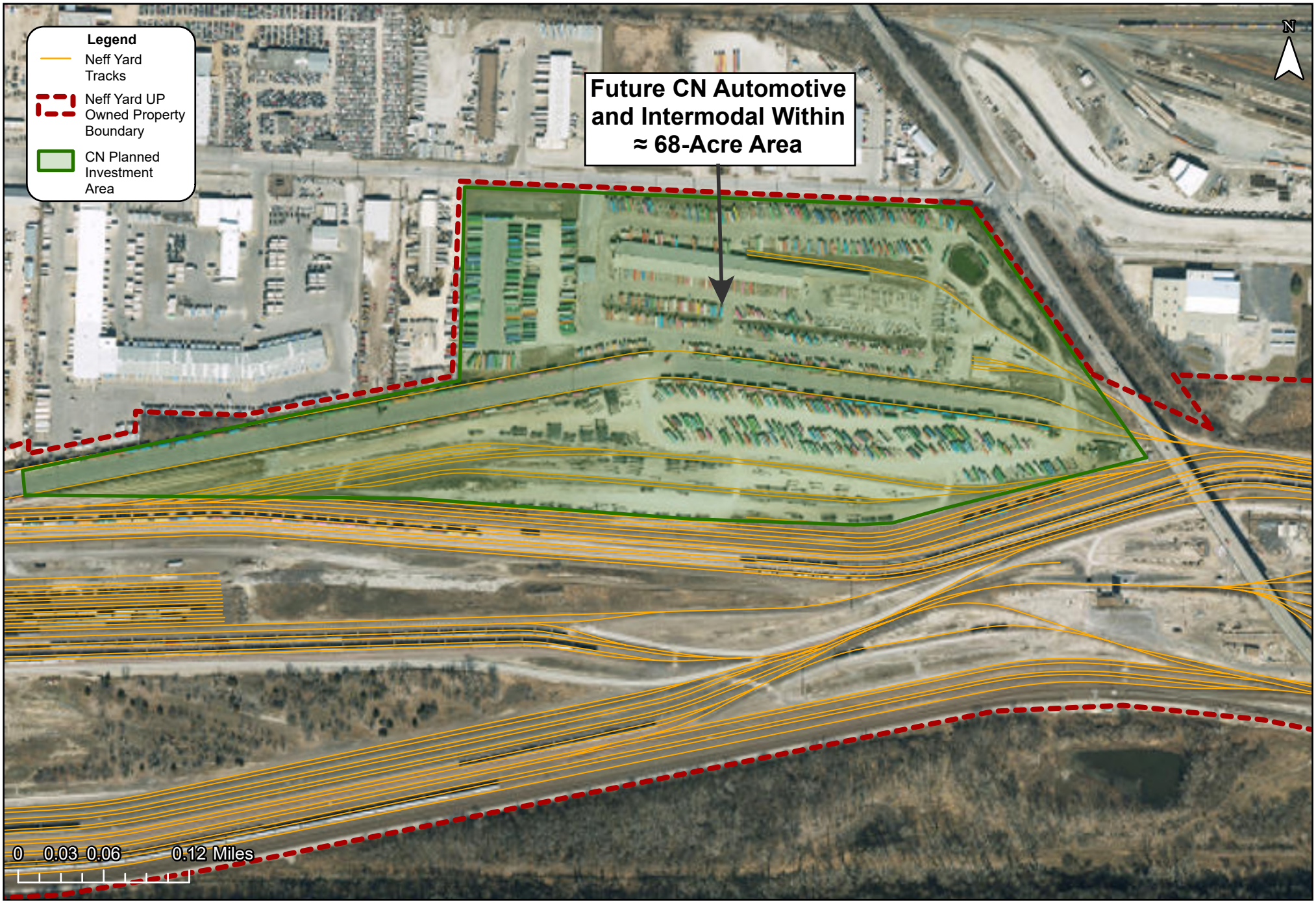
Sources: UP-40/NS-38, "GIS Shape Files.Zip," "UP_Yard_Track" Shapefile.

Neff Yard – West Side



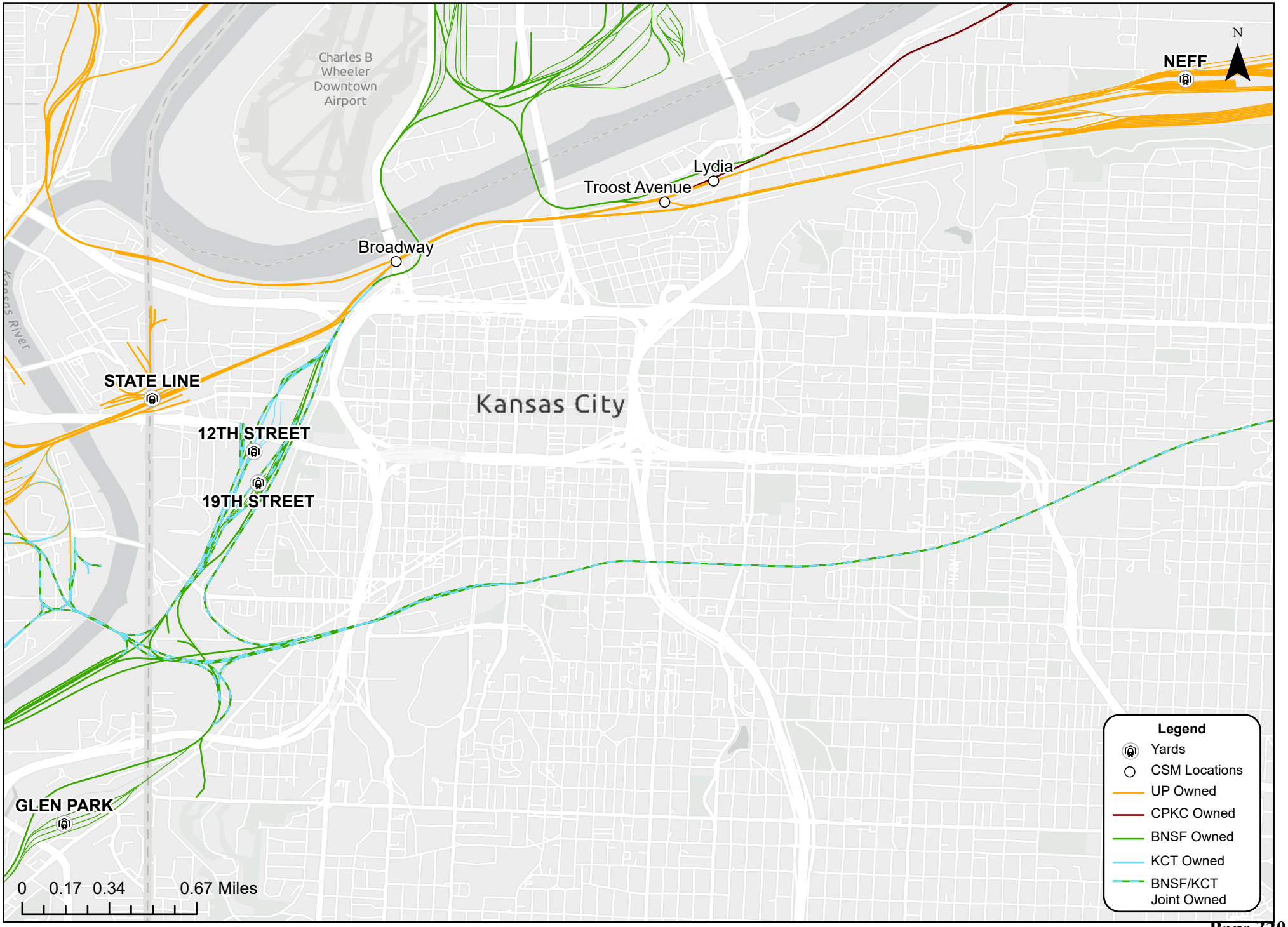
Sources: UP-40/NS-38, "GIS Shape Files.Zip," "UP_Yard_Track" Shapefile.

CN Planned Investment Area Within Neff Yard



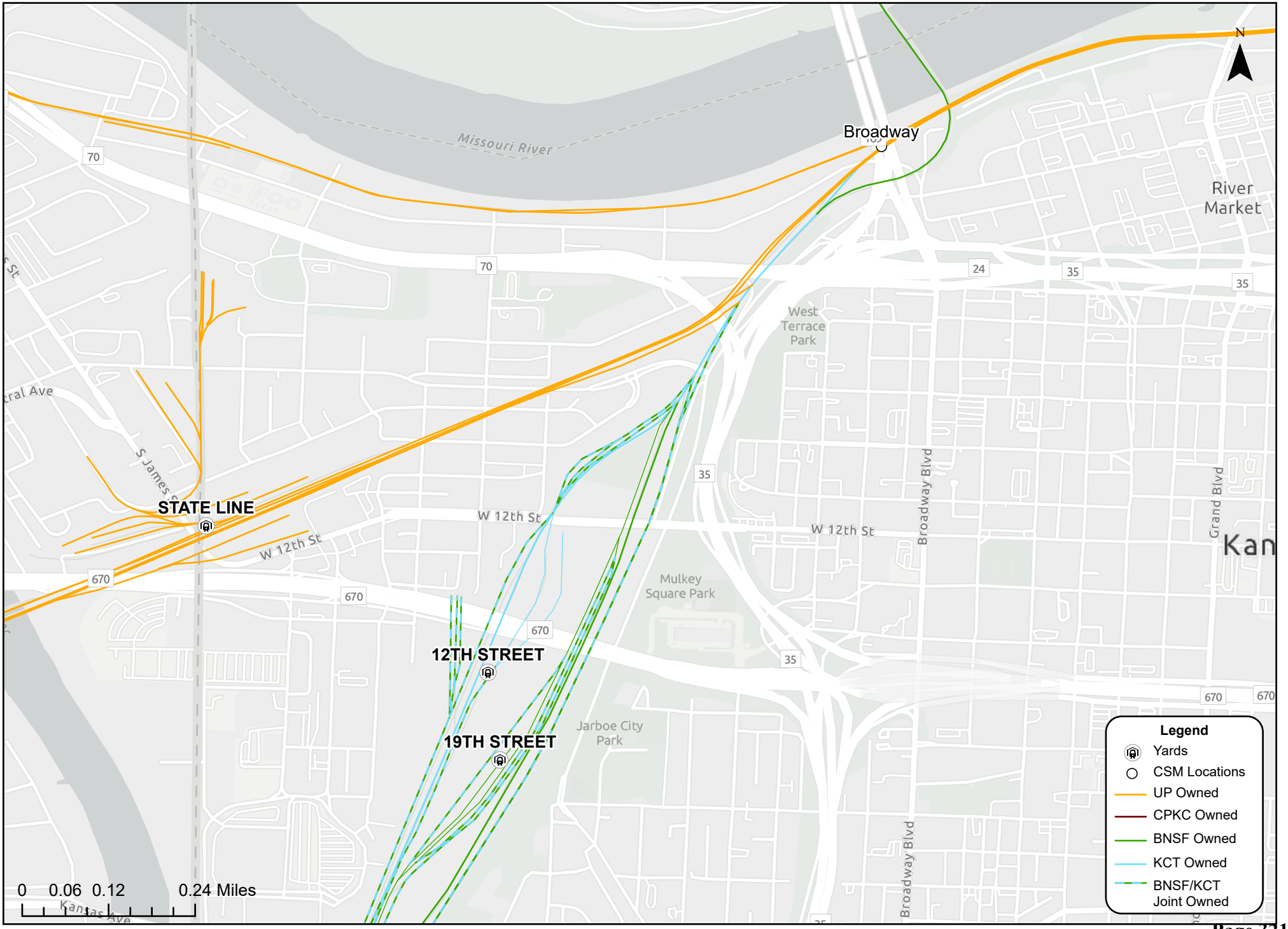
Sources: UP-40/NS-38, "GIS Shape Files.Zip," "UP_Yard_Track" Shapefile; Jackson County Parcel Viewer, www.jcgis.jacksongov.org/.parcelviewer/.

West of Neff Yard – Overview



Sources: UP-40/NS-38, "GIS Shape Files.Zip"; Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

West of Neff Yard – Broadway Junction



Sources: UP-40/NS-38, "GIS Shape Files.Zip"; Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

West of Neff Yard – Broadway Junction (Facing Northeast)



Source: Google Earth Pro; Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

West of Neff Yard – Broadway Junction (Facing Southwest)



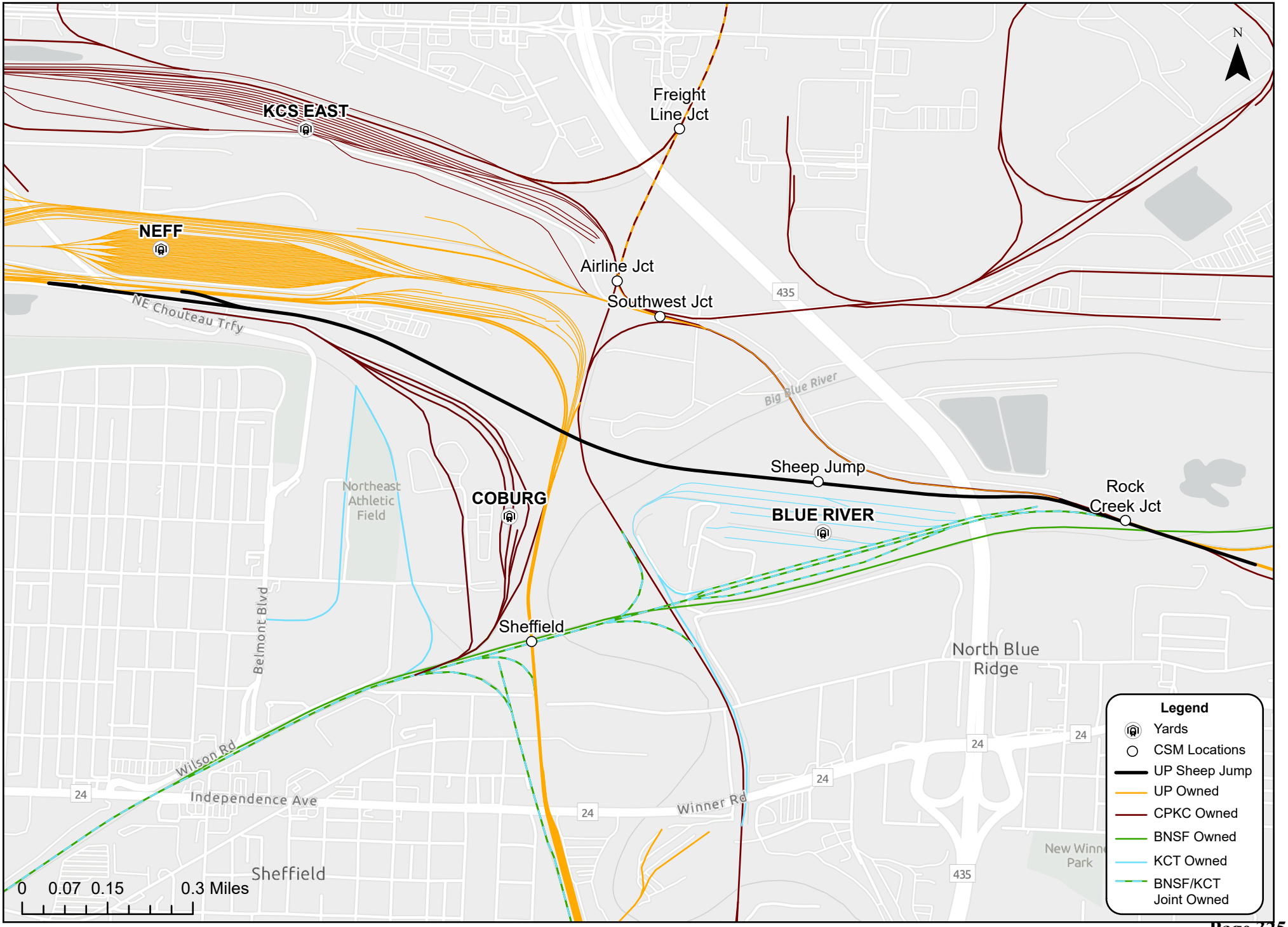
Source: Google Earth Pro; Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

East of Neff Yard – Overview



Sources: UP-40/NS-38, "GIS Shape Files.Zip"; Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

East of Neff Yard – Sheep Jump Line



Sources: UP-40/NS-38, "GIS Shape Files.Zip"; Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

East of Neff Yard – Rock Creek Junction (Facing North)



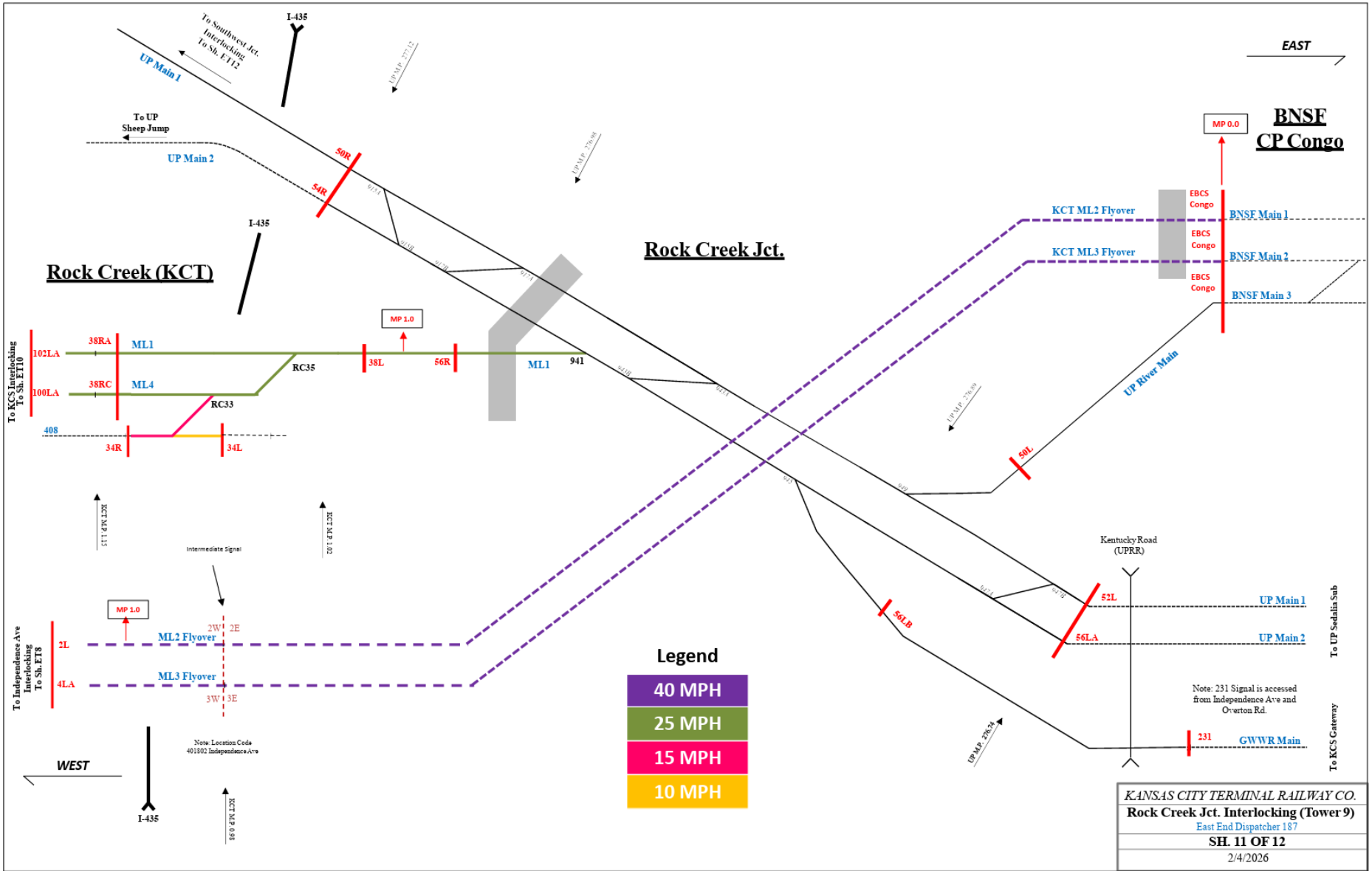
Source: Google Earth Pro; Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

East of Neff Yard – Rock Creek Junction (Facing East)



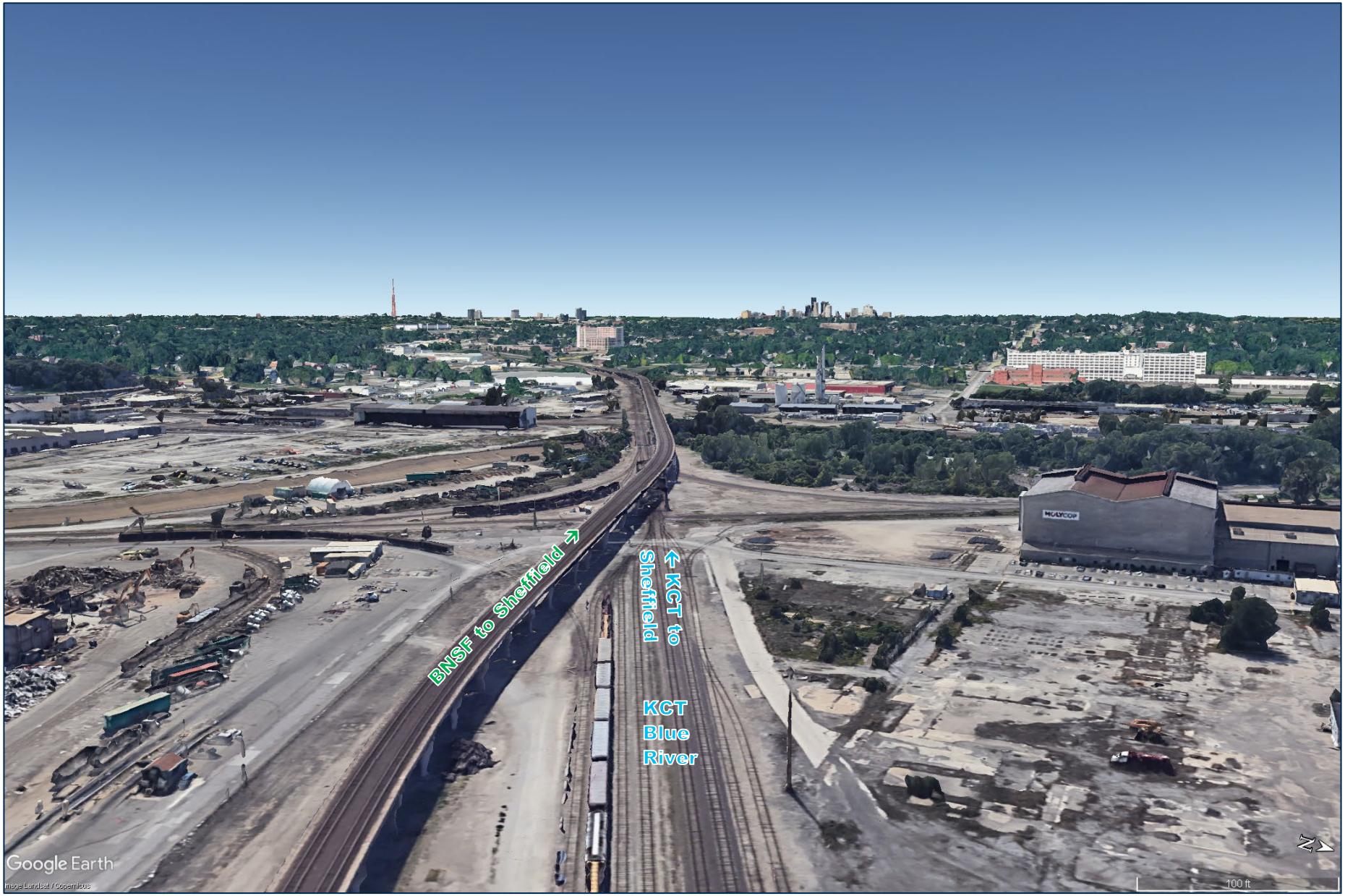
Source: Google Earth Pro; Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

East of Neff Yard – Rock Creek Junction – KCT Track Chart



Source: Kansas City Terminal Railway Track Diagram, KCT and BNSF, April 27, 2026, available at https://kctrailway.com/wp-content/uploads/2026/05/KCT-Track-Map-v4.27.26.pdf

East of Neff Yard – Blue River Yard Area (Facing West)



Source: Google Earth Pro; Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

East of Neff Yard – Independence Ave Area (Facing North)

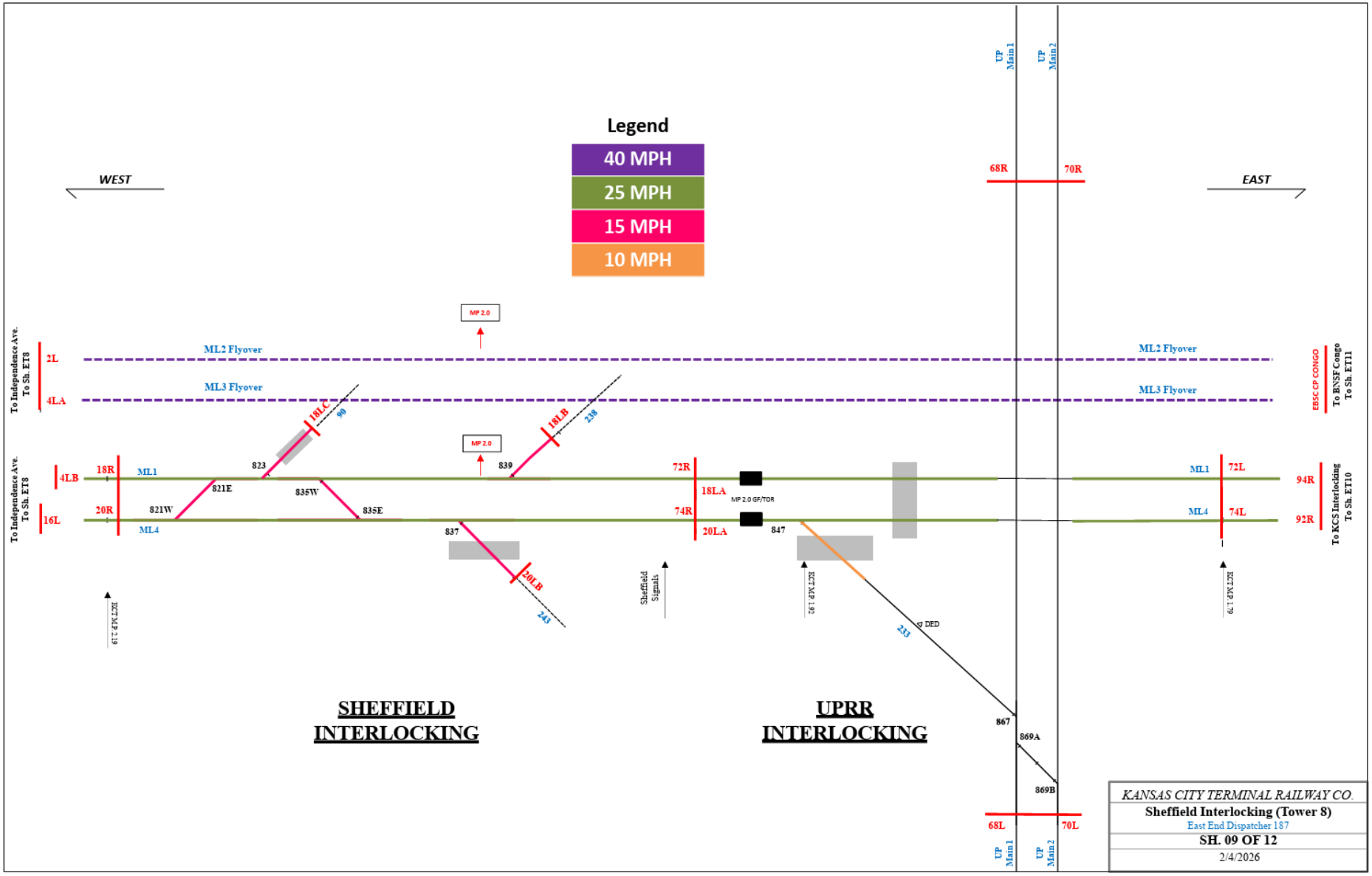


Source: Google Earth Pro; Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

East of Neff Yard – Sheffield Junction (Facing North)



Source: Google Earth Pro; Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.



Source: Kansas City Terminal Railway Track Diagram, KCT and BNSF, April 27, 2026, available at https://kctrailway.com/wp-content/uploads/2026/05/KCT-Track-Map-v4.27.26.pdf

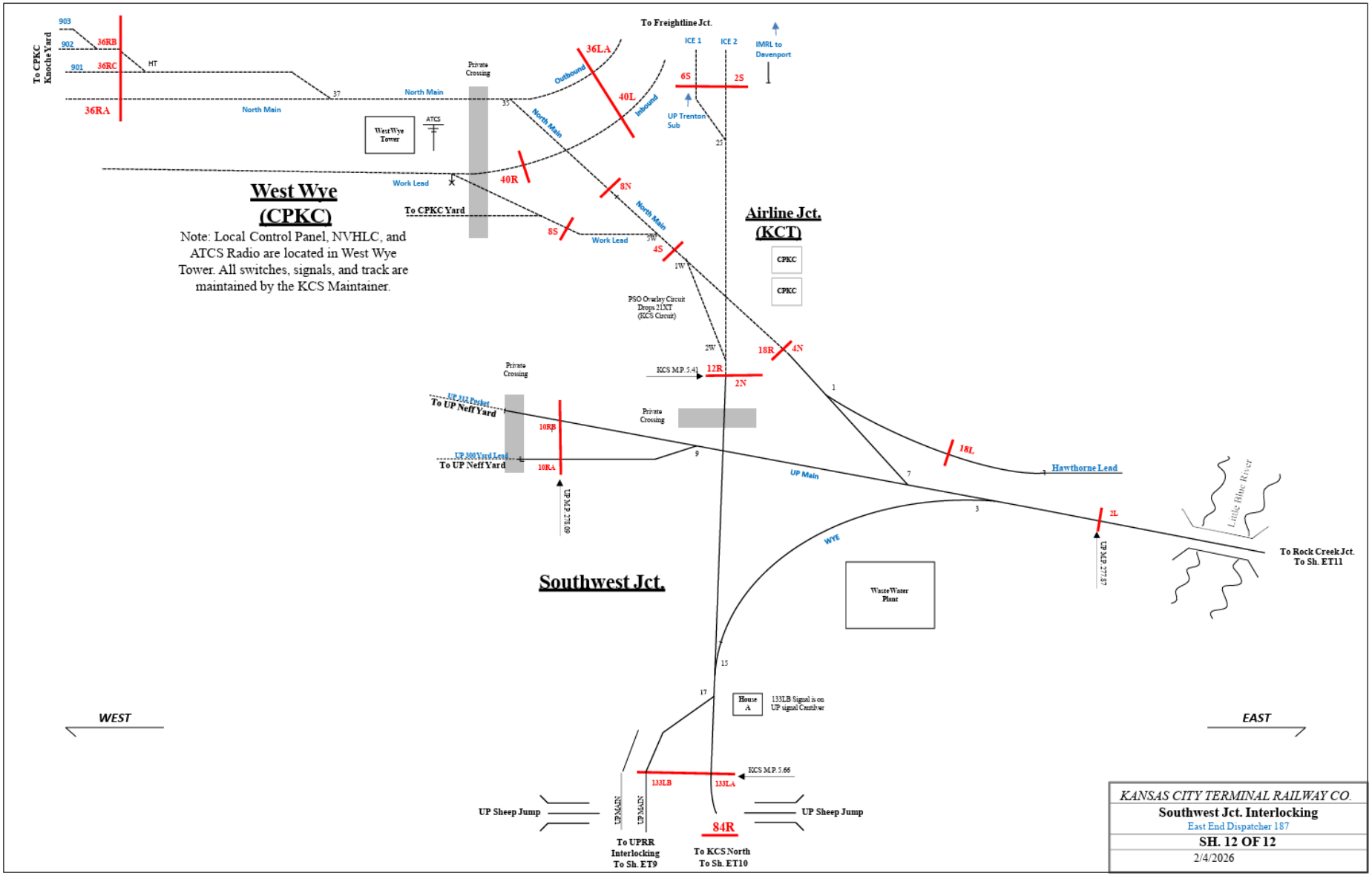
Sub-Dockets 2, 3, 4, 6, 7, 8

East of Neff Yard – Southwest Jct. and Airline Jct. (Facing North)



Source: Google Earth Pro; Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

East of Neff Yard – Southwest Junction and Airline Junction – KCT Track Chart



Source: Kansas City Terminal Railway Track Diagram, KCT and BNSF, April 27, 2026, available at https://kctrailway.com/wp-content/uploads/2026/05/KCT-Track-Map-v4.27.26.pdf

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CN-37

November 13, 2026

Danielle Gosselin
Director
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Surface Transportation Board
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Washington, D.C. 20423-0001

Re: *Docket No. FD 36873 – Union Pacific Corporation and Union Pacific Railroad Company – Control – Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Ms. Gosselin:

On behalf of Grand Trunk Corporation and its U.S. rail operating subsidiaries[1] (collectively, "CN"), we submit the attached supplemental materials to the Office of Environmental Analysis ("OEA") as a follow-up to CN's letter dated October 29, 2026 (CN-36) and in further support of CN's forthcoming responsive applications in connection with CN's proposed condition to purchase Union Pacific's rail line between Kansas City and St. Louis, Missouri and to lease or purchase Union Pacific's Neff Yard:

- **Sub-No. 2** - Illinois Central Railroad Company – Divestiture – Line of Union Pacific Railroad Company between St. Louis, Mo. and Kansas City, Mo.; and
- **Sub-No. 6** - Illinois Central Railroad Company – Lease and Purchase – Union Pacific Railroad Company Neff Yard in Kansas City, Mo.[2]

[1] Bessemer and Lake Erie Railroad Company, Cedar River Railroad Company, Chicago, Central & Pacific Railroad Company, Grand Trunk Western Railroad Company, Illinois Central Railroad Company, Iowa Northern Railway Company, The Pittsburgh & Conneaut Dock Company, and Wisconsin Central Ltd.

[2] Pursuant to 49 C.F.R. § 1105.6(c)(3), CN understands that OEA is not requesting any maps, connecting track plans, or other information relating to trackage rights requests in CN's

OVERVIEW

This submission provides the following information for OEA's review:

- **Maps concerning CN's requested condition to purchase Union Pacific's Kansas City to St. Louis Line, including Union Pacific's former Sarpy Yard property and 23rd Street Yard in St. Louis (Sub-No. 2).**
- **CN's anticipated yard capital improvements for the former Sarpy Yard property in St. Louis, Missouri (Sub-No. 2).**
- **Future rail traffic projections:** OEA's requested five-year projections for anticipated traffic volumes, including the estimated number of trains per day, on the Kansas City Line (Sub-No. 2).
- **Future rail yard activity projections:** OEA's requested five-year projections for the number of railcars and truck traffic handled per day at Neff Yard (Sub-No. 6) and the former Sarpy Yard property and 23rd Street Yard (Sub-No. 2).

CN'S SUPPLEMENTAL INFORMATION

CN provides the following supplemental information.

I. Maps for Former Sarpy Yard Property and 23rd Street Yard in St. Louis (Sub-No. 2)

Enclosed as **Exhibit A**, CN is providing multiple maps concerning its plan to utilize Union Pacific's former Sarpy Yard property and 23rd Street Yard, both of which are in St. Louis, as part of its requested condition for divestiture of Union Pacific's Kansas City to St. Louis Line. These maps follow the same approach and level of detail as the Neff Yard maps CN provided to OEA on October 29 for Sub-No. 6.

II. Anticipated Yard Capital Improvements for Former Sarpy Yard Property (Sub-No. 2)

Enclosed as **Exhibit B**, CN is providing its anticipated capital improvements for the former Sarpy Yard property based upon information available at this time. CN does not anticipate capital improvements at the 23rd Street Yard in St. Louis. In both Neff Yard and the former Sarpy Yard property, CN plans to invest in new intermodal and automotive terminals. Importantly, for both yards, CN anticipates that any improvements will occur within the existing boundary of the yard.[3]

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forthcoming responsive applications: Docket Sub-No. 7 (Tuscola, Illinois to East St. Louis, Illinois), Sub-No. 8 (Lenox in Mitchell, Illinois to East St. Louis, Illinois), Sub-No. 9 (Hillsboro, Illinois), Sub-No. 10 (Manly/Iowa Falls, Iowa to Des Moines/Avon, Iowa), and Sub-No. 34 (Carlinville, Illinois). CN previously submitted maps related to Sub-No. 5 (terminal trackage rights between Eton, Missouri and Congo, Missouri near Kansas City).

[3] CN provided the anticipated extent of its capital improvements in Neff Yard (Sub-No. 6) in its October 29, 2026 submission to OEA (CN-36).

III. Anticipated Five-Year Traffic Projections

Enclosed as **Exhibit C**, CN is providing the five-year traffic projections OEA has requested for the divestiture of Union Pacific's Kansas City Line (Sub-No. 2), including the anticipated number of trains per day.

IV. Anticipated Five-Year Yard Activity Projections

Enclosed as **Exhibit D**, CN is providing the five-year projections OEA has requested for the number of railcars and truck traffic to be handled per day at Neff Yard (Sub-No. 6) and the former Sarpy Yard property (Sub-No. 2).

CN is not planning any loading/unloading or intermodal activities at the 23rd Street Yard. Rather, tracks in this yard would be used as staging and head room for trains utilizing the former Sarpy Yard property. For this reason, the enclosed rail yard activity projections focus on Neff Yard and the former Sarpy Yard property.

V. One Environmental Impact Statement

Pursuant to the Board's Decision No. 21 in this proceeding, CN understands that OEA will be preparing one Environmental Impact Statement ("EIS") to assess Applicants' proposed transaction and any responsive applications seeking specific conditions for the Board's consideration. *See* EB-53052, FD 36873 at 37 (May 28, 2026) ("an EIS is warranted in light of the potential for significant impacts of the Transaction on numerous communities across the United States that would likely result from increased activity levels on rail line segments and at rail facilities."); *id.* at 39 (the EIS "will analyze in detail the potential environmental impacts of the Transaction, respond to public comments on the [Notice of Intent to perform the EIS], and, if appropriate, make recommendations for environmental mitigation.").

CN supports OEA's holistic approach, which is consistent with the National Environmental Policy Act ("NEPA") and the Board's acknowledgment that it "will consider the entire record," "all public and agency comments received," and "what conditions, including environmental mitigation conditions, to impose" in reaching its final decision. EB-53052, FD 36873 at 39; *see also D.C. Pres. League v. U.S. Dep't of the Interior*, No. 1:26-cv-477, 2026 U.S. Dist. LEXIS 244887, at *79–83 (D.D.C. Oct. 26, 2026) (holding that post-*Seven County*, NEPA still requires agencies to consider related actions and avoid improper segmentation); 42 U.S.C. § 4332(2)(C) (environmental statement must "detail[]," among other things, the "reasonable range of alternatives to the proposed agency action").

VI. Attainment Area Status Under the Clean Air Act

One component of OEA's environmental review involves assessing (1) whether there is an increase in rail traffic of at least eight trains per day in "attainment" areas or at least three trains per day in "nonattainment" areas under the Clean Air Act, and (2) whether there is increased activity at rail yards (including intermodal facilities) of at least 100% in "attainment" areas or at least 20% in "nonattainment" areas, in both cases measured by carload activity. EB-53052, FD 36873 at 37 (citing 49 C.F.R. § 1105.7(e)(5)).

With respect to CN's proposed conditions concerning divestiture of the Kansas City-St. Louis Line (including the former Sarpy Yard property and 23rd Street Yard) (Sub-No. 2) and lease/purchase of Neff Yard (Sub-No. 6), CN has assessed whether these areas are currently in attainment or nonattainment status by reviewing United States Environmental Protection Agency resources.[4] Based on that review:

- In the St. Louis area, several counties are currently in nonattainment for the 2015 8-hour ozone standard: Madison County and St. Clair County, Illinois; and St. Louis County and part of Franklin County, Missouri. Additionally, the City of St. Louis (where the former Sarpy Yard property and 23rd Street Yard are located) is in nonattainment for the 2015 8-hour ozone standard.
- No nonattainment areas are located in the Kansas City area or along the Kansas City Line (outside of the St. Louis area).

A. CN's Anticipated Increase in Trains Per Day

CN's estimated five-year traffic projections (**Exhibit C**) indicate that its proposed merger-related operations on the Kansas City-St. Louis Line (Sub-No. 2) would add the following:

- four trains per day above Union Pacific's baseline and projected growth model post-transaction between St. Louis and River Junction,
- two trains per day over the River Subdivision, and
- two trains per day over the Sedalia Subdivision.

Although the anticipated four trains per day in St. Louis exceeds the Board's threshold of three trains per day in nonattainment areas, that exceedance does not indicate that CN's proposed divestiture condition of the Kansas City-St. Louis Line presents any significant environmental effects. *See, e.g.*, *Seven Cnty. Infrastructure Coal. v. Eagle Cnty.*, 605 U.S. 168, 172 (2025) ("The EIS must address the significant environmental effects of a proposed project and identify feasible alternatives that could mitigate those effects."). The thresholds in 49 C.F.R. § 1105.7(e)(5) are a screening mechanism to determine whether environmental documentation is warranted in the first instance. *See* 49 C.F.R. § 1105.6(c)(1) ("No environmental documentation will normally be prepared" for actions below the applicable thresholds). Here, the Board already has decided that OEA will prepare a holistic EIS. EB-53052, FD 36873 at 37, 39. In so doing, OEA "may weigh environmental consequences as the agency reasonably sees fit under its governing statute and any relevant substantive environmental laws." *Seven Cnty.*, 605 U.S. at 173.

B. CN's Anticipated Rail Yard Activity

The Applicants did not provide rail yard truck or railcar counts to OEA covering the former Sarpy Yard property, 23rd Street Yard, or Neff Yard.[5]

[4] USEPA Office of Air and Radiation, Non-Attainment Areas and Designations, https://services.arcgis.com/cJ9YHowT8TU7DUyn/arcgis/rest/services/Nonattainment_Areas_and_Designations/FeatureServer (last visited Nov. 5, 2026).

[5] *See* UP-NS Response to OEA for Second Errata Filing, Information Request A3 and A4, EI-34308 and EI-34309, FD 36873 (filed Sept. 9, 2026).

In St. Louis, because Union Pacific does not use the former Sarpy Yard property (Sub-No. 2) and the yard therefore has a utilization rate of zero, CN's estimated five-year traffic projections (**Exhibit D**) necessarily would reflect an increase of more than 100%. However, in this situation, the Board already has determined that the air quality threshold does not apply. *See Mo. Cent. R.R.—Acquisition & Operation Exemption—Lines of Union Pac. R.R.*, 4 S.T.B. 391, 397 (1999) (reaffirming that rail yard activity increase threshold of 100% (for an attainment area) is "inappropriate to apply" to a base activity level of zero).

For the 23rd Street Yard (Sub-No. 2), as mentioned above, CN does not anticipate any loading/unloading or intermodal activities. Consequently, there is no increase in rail yard activity as measured by carload activity. *See* 49 C.F.R. § 1105.7(e)(5)(ii)(B).

In Kansas City, with respect to Neff Yard (Sub-No. 6), Union Pacific does not use Neff Yard for intermodal or automotive traffic.[6] Nor does Union Pacific use Neff Yard for classifying railcars.[7] Applicants have stated that Neff Yard is part of their "Contingency Plans for Kansas City" in the Service Assurance Plan.[8] CN thus assumes baselines of zero trucks and zero carloads per day.

* * *

Thank you for your attention to this matter, and please do not hesitate to contact me directly if you have any questions. CN remains committed to promptly responding to any supplemental requests from OEA.

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[6] *See* UP-39/NS-37, FD 36873, Vol. 2, at 683 (filed Apr. 30, 2026) ("UP recently relocated its intermodal operations from Neff Yard, a repurposed hump yard, to its new Kansas City Intermodal Terminal."); *see also New Kansas City Terminal Begins Operations July 15*, https://www.up.com/customers/announcements/premium/internationalintermodalterminals/PR2025-44.html (June 16, 2025) ("Our current Kansas City facility will be closed effective Monday, July 21, 2025 at 1600.").

[7] *Neff Yard Sits Nearly Empty After Union Pacific Announcement* (Oct. 17, 2019), https://www.kshb.com/news/local-news/neff-yard-sits-nearly-empty-after-union-pacific-announcement; *Union Pacific closes Neff Yard in Northeast*, https://northeastnews.net/pages/union-pacific-closes-neff-yard-northeast/ (Oct. 23, 2019).

[8] UP-39/NS-37, FD 36873 at 1125. In the Service Assurance Plan, Applicants "documented their contingency plans for addressing merger-related service disruptions on the main lines identified above and in …Chicago, St. Louis, Kansas City, Memphis, and New Orleans, including the elements described in the following sections, in Appendix A." *Id*. at 1033. In Appendix A, Applicants' "Contingency Plans for Kansas City" list Neff Yard as a Manifest Yard/Terminal, as "Buffer Resources" for "Yard/Terminal Substitutes" for Manifest Capacity; and in "Car Inventory Reduction Management." *Id.* at 1125 ("UP will store excess cars in the first instance at terminals and mainlines adjacent to the Kansas City Gateway likely to have excess capacity. Examples include facilities at Neff and North Kansas City.").

Respectfully submitted,

/s/ Sara Y. Razi

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Attorneys for CN

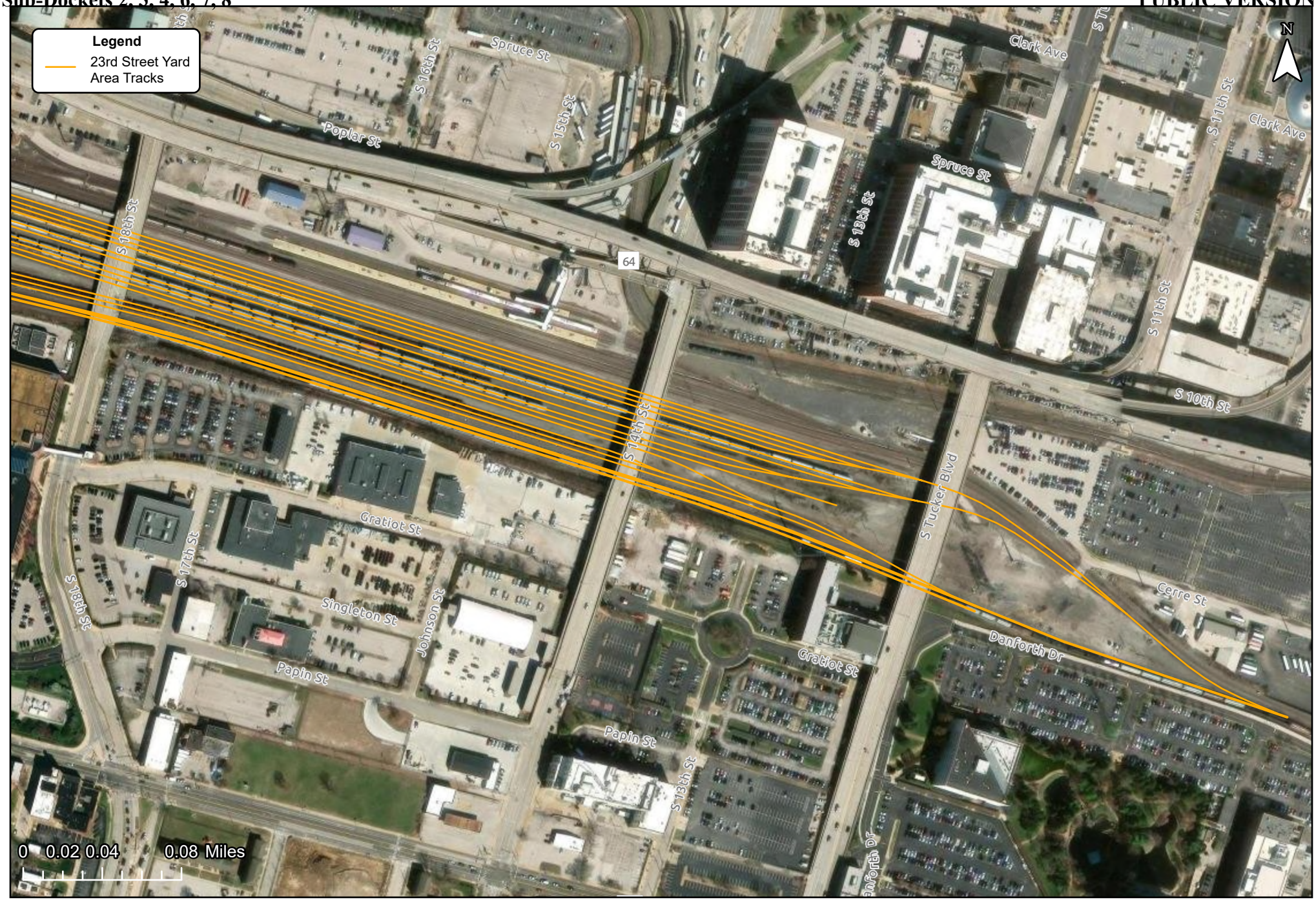
CERTIFICATE OF SERVICE

I hereby certify that, on November 13, 2026, I caused a true and correct copy of the foregoing to be served by first-class mail or email on all parties of record in this proceeding, the Secretary of Transportation, the Attorney General, and Administrative Law Judge Jenifer Soulikias.

/s/ Andrew Bernstein
Andrew Bernstein
Simpson Thacher & Bartlett LLP

Exhibit A

23rd Street Yard – East Side



Note: Based on CN's knowledge of publicly available information, Union Pacific's property ownership is primarily limited to the identified tracks themselves. At this time, CN does not anticipate making any infrastructure investments in the 23rd Street Yard.

Sources: UP-40/NS-38, "GIS Shape Files.Zip," "UP_Yard_Track" and "UP_Main" Shapefile.

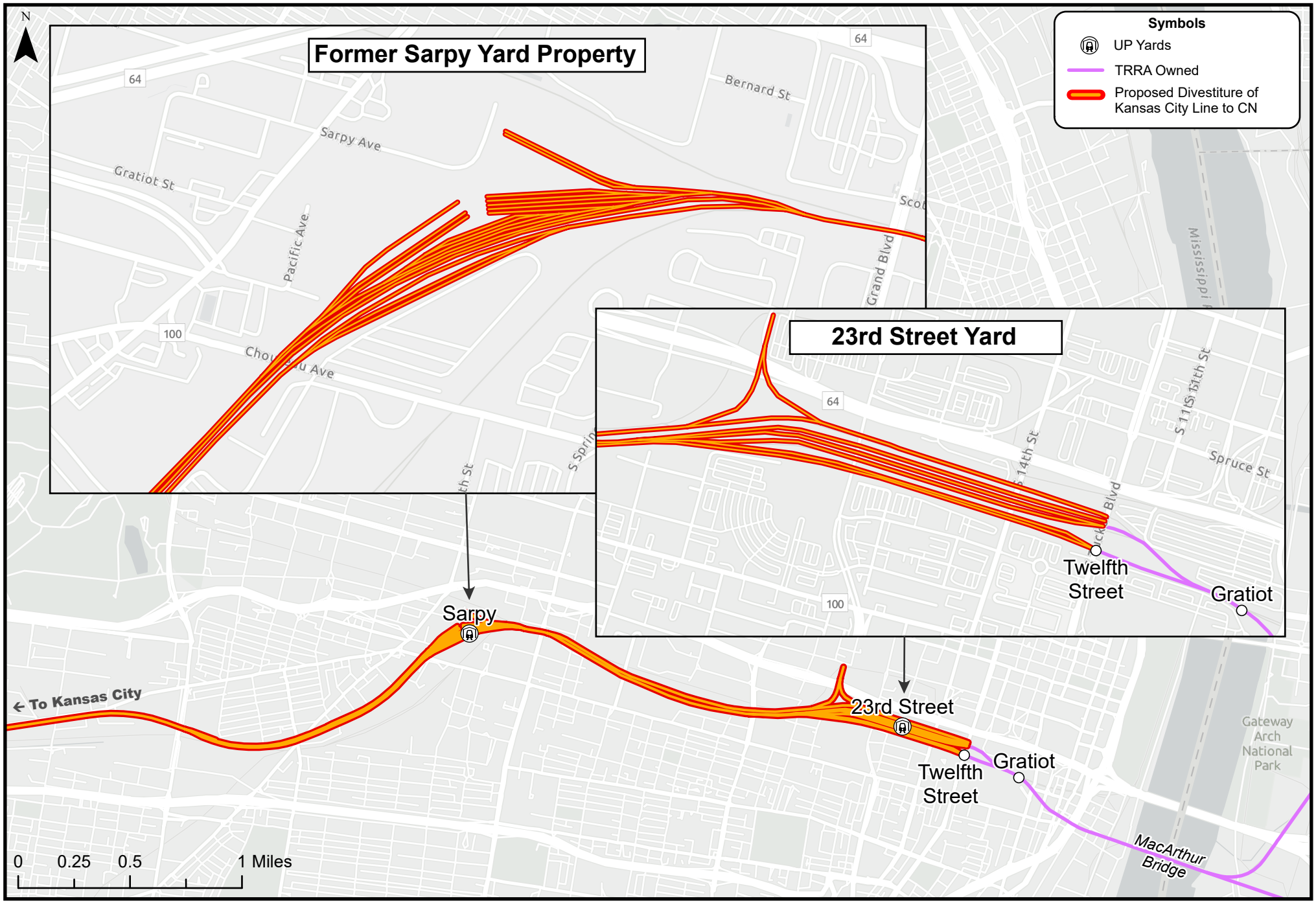
23rd Street Yard – West Side



Note: Based on CN's knowledge of publicly available information, Union Pacific's property ownership is primarily limited to the identified tracks themselves. At this time, CN does not anticipate making any infrastructure investments in the 23rd Street Yard.

Sources: UP-40/NS-38, "GIS Shape Files.Zip," "UP_Yard_Track" and "UP_Main" Shapefile.

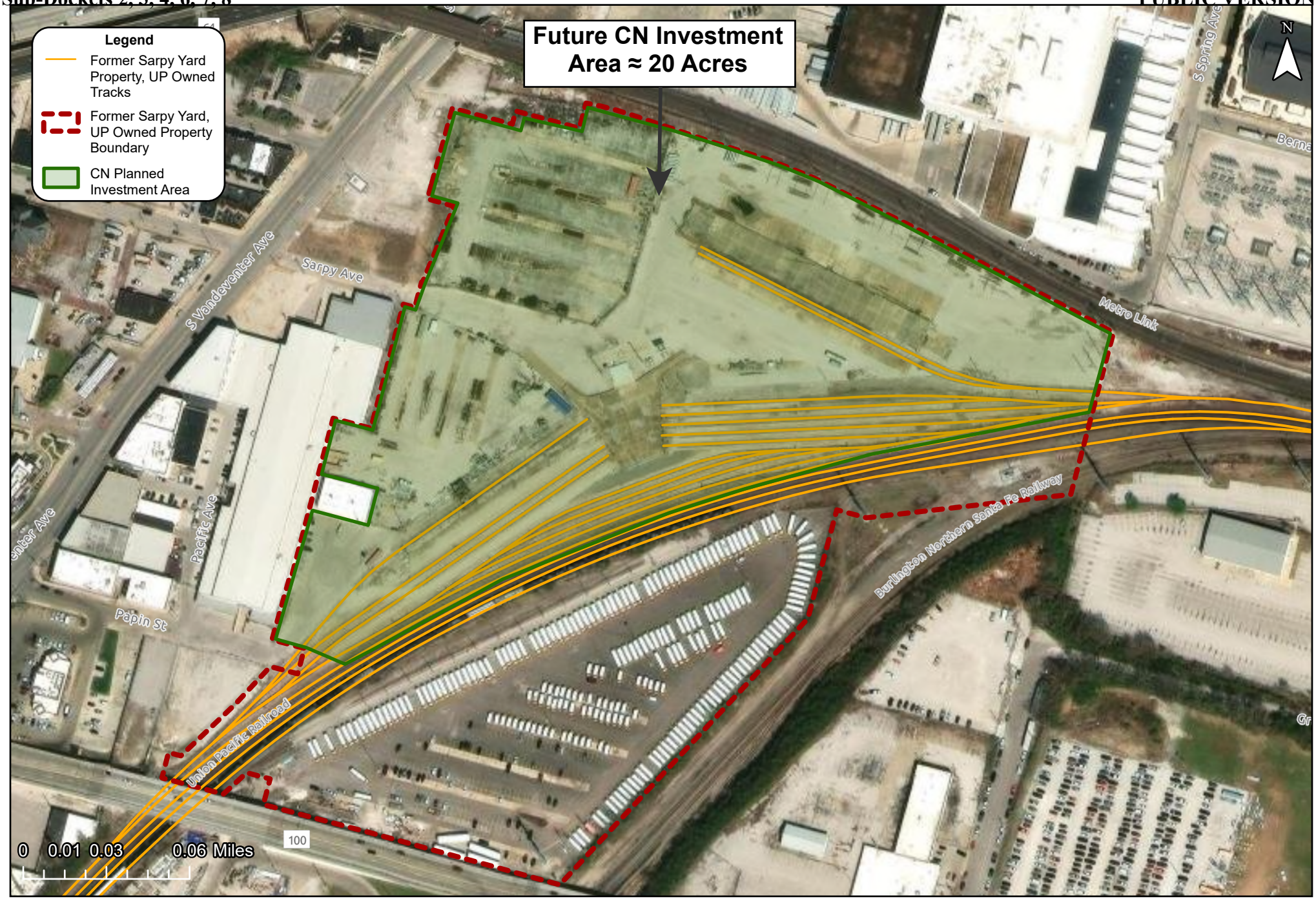
Kansas City Line, Former Sarpy Yard Property, and 23rd Street Yard



Sources: Federal Railroad Administration Shapefiles; Railinc Centralized Station Master; UP-40/NS-38, "GIS Shape Files.Zip," "UP_Yard_Track" and "UP_Main" Shapefile.

Exhibit B

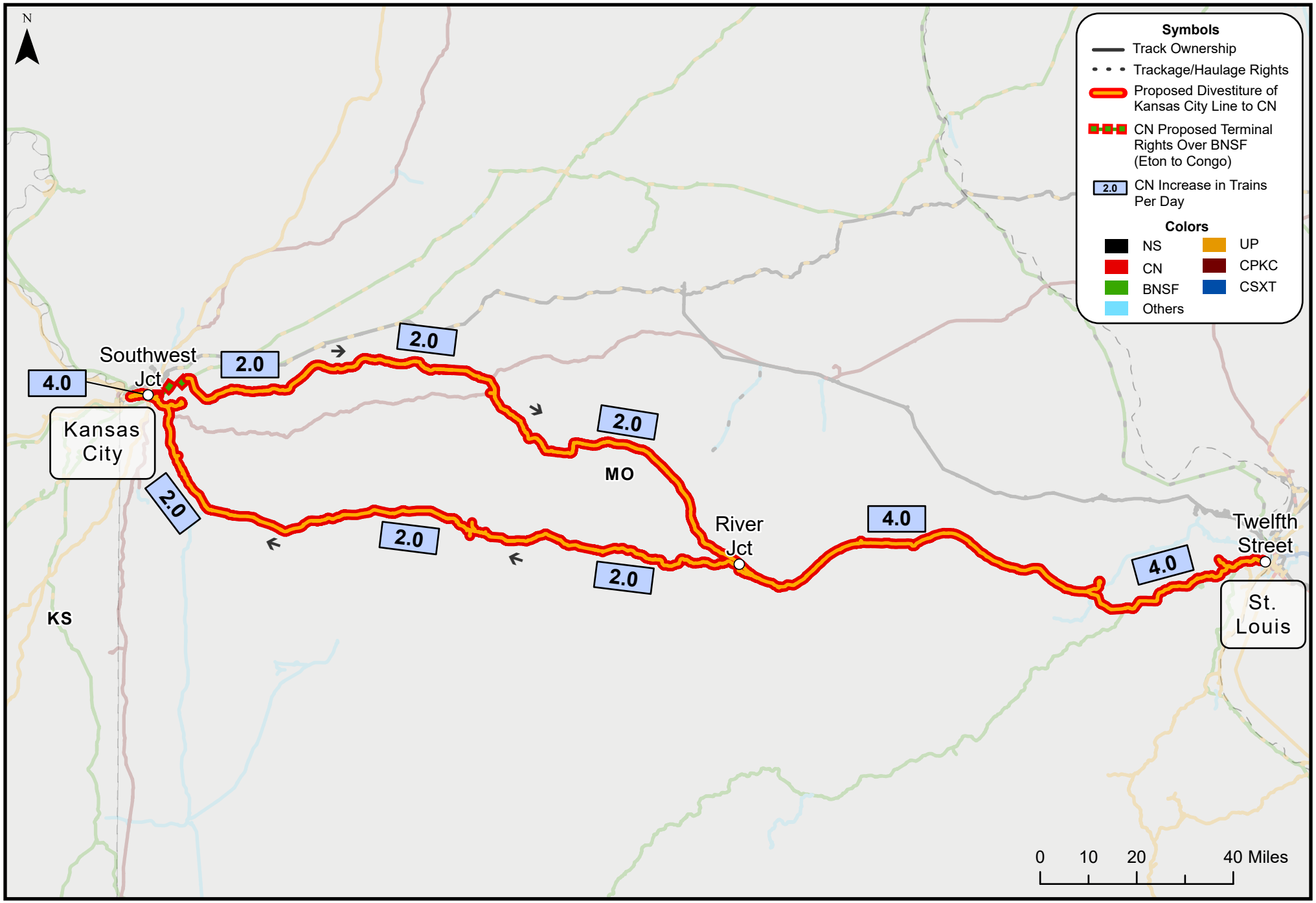
Former Sarpy Yard Property – CN Investment Area



Sources: UP-40/NS-38, "GIS Shape Files.Zip," "UP_Yard_Track" and "UP_Main" Shapefile; St. Louis, MO, Current Parcels Shapefile, www.stlouis-mo.gov/data/datasets/dataset.cfm?id=82

Exhibit C

CN Trains Per Day Increases Associated with Proposed Divestiture of Kansas City Line to CN



Sources: Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

Exhibit C-1

Rail Line Segments - Trains per Day

Segment Key	Segment Name	Trains Per Day: UP Baseline Trains Per Day (incl. Locals)	UP 5 Years Organic Growth TPD (incl. Locals)	UP Year 5 No Transaction TPD (incl. Locals)	UP/NS Transaction Growth TPD (incl. Locals)	UP/NS Year 5 with Transaction TPD (incl. Locals)	Average Current Passenger TPD	CN Transaction Growth TPD	Total Year 5 TPD (UP/NS + CN)
113601	113601-OTHER SARPYAVE MO_UP-ST LOUIS MO_UP	32.87	1.37	34.24	2.00	36.24	6.00	**4**	**40.24**
10283	10283-JEFFERSON CITY SUB	17.98	0.71	18.69	2.00	20.69	4.00	**4**	**24.69**
10284	10284-JEFFERSON CITY SUB	20.70	0.85	21.55	2.00	23.55	4.00	**4**	**27.55**
10285	10285-SEDALIA SUB	12.40	0.43	12.83	0.98	13.81	4.00	**2**	**15.81**
10286	10286-SEDALIA SUB	15.29	0.58	15.87	0.99	16.86	4.00	**2**	**18.86**
10927	10927-OTHER RIVER JCT-MARSHALL JCT	8.16	0.42	8.58	1.01	9.59	0.00	**2**	**11.59**
12232	12232-OTHER G 073_UP - G 145_UP	8.16	0.42	8.58	1.01	9.59	0.00	**2**	**11.59**
12467	12467-OTHER G 153_UP - MX276_UP	11.01	0.56	11.57	1.06	12.63	0.00	**2**	**14.63**
11864	11864-OTHER SOUTHWEST JCT-ROCK CREEK JCT	13.61	0.69	14.30	1.05	15.35	0.00	**4**	**19.35**
104111	104111-COFFEYVILLE SUB	42.18	2.15	44.33	0.00	44.33	0.00	**4**	**48.33**
12346	12346-OTHER LYDIAAVE MO_UP-KANSAS CITY MO_U	56.53	2.88	59.41	0.00	59.41	0.00	**4**	**63.41**

Source: UP-NS Response to OEA for Second Errata Filing, Master Data Table - Rail Line Segments, EI-34308 and EI-34309, FD 36873 (filed September 9, 2026).

Exhibit C-2

Rail Line Segments - Gross Ton Miles

Segment Key	Segment Name	Segment Distance (GIS miles)	Start Station	Start City/Station	Start State	Start Subdivision Name	Start Milepost	End Station	End City/Station	End State	End Subdivision Name	End Milepost
113601	113601-OTHER SARPYAVE MO_UP-ST LOUIS MO_UP	1.8	MX002	SARPYAVE	MO	MACARTHUR BRIDGE (TRRA)	2.4	MX001	ST LOUIS	MO	MACARTHUR BRIDGE (TRRA)	0.5
10283	10283-JEFFERSON CITY SUB	41.9	MX002	SARPYAVE	MO	MACARTHUR BRIDGE (TRRA)	2.4	MX044	WEST LABADIE	MO	JEFFERSON CITY SUB	43.7
10284	10284-JEFFERSON CITY SUB	80.2	MX044	WEST LABADIE	MO	JEFFERSON CITY SUB	43.7	MX128	RIVER JCT	MO	RIVER SUB	128.0
10285	10285-SEDALIA SUB	120.4	MX128	RIVER JCT	MO	RIVER SUB	128.0	MX249	PLEASANT HILL	MO	SEDALIA SUB	247.8
10286	10286-SEDALIA SUB	27.6	MX249	PLEASANT HILL	MO	SEDALIA SUB	247.8	MX276	ROCK CREEK JCT	MO	RIVER SUB	445.0
10927	10927-OTHER RIVER JCT-MARSHALL JCT	74.0	MX128	RIVER JCT	MO	RIVER SUB	128.0	G 073	MARSHALL JCT	MO	RIVER SUB	202.1
12232	12232-OTHER G 073_UP - G 145_UP	73.8	G 073	MARSHALL JCT	MO	RIVER SUB	202.1	G 145	ETON	MO	RIVER SUB	276.0
12467	12467-OTHER G 153_UP - MX276_UP	0.8	G 153	CONGO	MO	RIVER SUB	444.3	MX276	ROCK CREEK JCT	MO	RIVER SUB	445.0
11864	11864-OTHER SOUTHWEST JCT-ROCK CREEK JCT	2.6	MX277	SOUTHWEST JCT	MO	KC METRO (NEFF)	277.9	MX276	ROCK CREEK JCT	MO	RIVER SUB	445.0
104111	104111-COFFEYVILLE SUB	1.1	MX283	KANSAS CITY	MO	KC METRO (COFFEYVILLE) SUB	279.0	MX277	SOUTHWEST JCT	MO	KC METRO (COFFEYVILLE) SUB	280.0
12346	12346-OTHER LYDIAAVE MO_UP-KANSAS CITY MO_U	1.2	MX283L	LYDIAAVE	MO	KC METRO (NEFF)	281.7	MX283	KANSAS CITY	MO	RIVER SUB	445.0

Source: UP-NS Response to OEA for Second Errata Filing, Master Data Table - Rail Line Segments, EI-34308 and EI-34309, FD 36873 (filed September 9, 2026).

Note 1: Assumed additional organic growth of 3% per year on CN traffic from year 3 to year 5.

Exhibit C-2

Rail Line Segments - Gross Ton Miles

Segment Key	Segment Name	Annual Million Gross Ton Miles (mGTMs)								
		UP Baseline Annual mGTMs	UP 5 Years Organic Growth mGTMs	UP Year 5 No Transaction mGTMs	UP/ NS Transaction Growth mGTMs	UP/NS Year 5 with Transaction mGTMs	CN Transaction Growth mGTMs	CN Year 4 and 5 Organic Growth mGTMs[1]	CN Year 5 with Organic Growth mGTMs	Total Year 5 Transaction mGTMs
113601	113601-OTHER SARPYAVE MO_UP-ST LOUIS MO_UP	105.56	5.38	110.94	26.77	137.72	**15.15**	**0.92**	**16.08**	**153.79**
10283	10283-JEFFERSON CITY SUB	1,787.72	91.19	1,878.91	480.70	2,359.61	**321.03**	**19.55**	**340.58**	**2,700.19**
10284	10284-JEFFERSON CITY SUB	4,389.15	223.89	4,613.04	892.43	5,505.47	**614.48**	**37.42**	**651.90**	**6,157.37**
10285	10285-SEDALIA SUB	2,654.52	135.41	2,789.93	775.14	3,565.07	**498.26**	**30.34**	**528.60**	**4,093.67**
10286	10286-SEDALIA SUB	608.31	31.03	639.34	173.79	813.14	**114.22**	**6.96**	**121.17**	**934.31**
10927	10927-OTHER RIVER JCT-MARSHALL JCT	2,651.50	135.25	2,786.75	379.70	3,166.44	**260.74**	**15.88**	**276.62**	**3,443.06**
12232	12232-OTHER G 073_UP - G 145_UP	2,598.86	132.57	2,731.42	372.19	3,103.61	**260.04**	**15.84**	**275.87**	**3,379.48**
12467	12467-OTHER G 153_UP - MX276_UP	25.94	1.32	27.26	2.61	29.87	**2.82**	**0.17**	**2.99**	**32.86**
11864	11864-OTHER SOUTHWEST JCT-ROCK CREEK JCT	58.31	2.97	61.29	17.11	78.39	**19.92**	**1.21**	**21.13**	**99.53**
104111	104111-COFFEYVILLE SUB	121.64	6.20	127.85	12.93	140.77	**8.43**	**0.51**	**8.94**	**149.71**
12346	12346-OTHER LYDIAAVE MO_UP-KANSAS CITY MO_U	119.98	6.12	126.10	9.28	135.38	**9.19**	**0.56**	**9.75**	**145.14**

Source: UP-NS Response to OEA for Second Errata Filing, Master Data Table - Rail Line Segments, EI-34308 and EI-34309, FD 36873 (filed September 9, 2026).

Note 1: Assumed additional organic growth of 3% per year on CN traffic from year 3 to year 5.

Exhibit C-3

Rail Line Segments - Carloads

Segment Key	Segment Name	Segment Distance (GIS miles)	Start Station	Start City/Station	Start State	Start Subdivision Name	Start Milepost	End Station	End City/Station	End State	End Subdivision Name	End Milepost
113601	113601-OTHER SARPYAVE MO_UP-ST LOUIS MO_UP	1.8	MX002	SARPYAVE	MO	MACARTHUR BRIDGE (TRRA)	2.4	MX001	ST LOUIS	MO	MACARTHUR BRIDGE (TRRA)	0.5
10283	10283-JEFFERSON CITY SUB	41.9	MX002	SARPYAVE	MO	MACARTHUR BRIDGE (TRRA)	2.4	MX044	WEST LABADIE	MO	JEFFERSON CITY SUB	43.7
10284	10284-JEFFERSON CITY SUB	80.2	MX044	WEST LABADIE	MO	JEFFERSON CITY SUB	43.7	MX128	RIVER JCT	MO	RIVER SUB	128.0
10285	10285-SEDALIA SUB	120.4	MX128	RIVER JCT	MO	RIVER SUB	128.0	MX249	PLEASANT HILL	MO	SEDALIA SUB	247.8
10286	10286-SEDALIA SUB	27.6	MX249	PLEASANT HILL	MO	SEDALIA SUB	247.8	MX276	ROCK CREEK JCT	MO	RIVER SUB	445.0
10927	10927-OTHER RIVER JCT-MARSHALL JCT	74.0	MX128	RIVER JCT	MO	RIVER SUB	128.0	G 073	MARSHALL JCT	MO	RIVER SUB	202.1
12232	12232-OTHER G 073_UP - G 145_UP	73.8	G 073	MARSHALL JCT	MO	RIVER SUB	202.1	G 145	ETON	MO	RIVER SUB	276.0
12467	12467-OTHER G 153_UP - MX276_UP	0.8	G 153	CONGO	MO	RIVER SUB	444.3	MX276	ROCK CREEK JCT	MO	RIVER SUB	445.0
11864	11864-OTHER SOUTHWEST JCT-ROCK CREEK JCT	2.6	MX277	SOUTHWEST JCT	MO	KC METRO (NEFF)	277.9	MX276	ROCK CREEK JCT	MO	RIVER SUB	445.0
104111	104111-COFFEYVILLE SUB	1.1	MX283	KANSAS CITY	MO	KC METRO (COFFEYVILLE) SUB	279.0	MX277	SOUTHWEST JCT	MO	KC METRO (COFFEYVILLE) SUB	280.0
12346	12346-OTHER LYDIAAVE MO_UP-KANSAS CITY MO_U	1.2	MX283L	LYDIAAVE	MO	KC METRO (NEFF)	281.7	MX283	KANSAS CITY	MO	RIVER SUB	445.0

Source: UP-NS Response to OEA for Second Errata Filing, Master Data Table - Rail Line Segments, EI-34308 and EI-34309, FD 36873 (filed September 9, 2026).

Note 1: Assumed additional organic growth of 3% per year on CN traffic from year 3 to year 5.

Exhibit C-3

Rail Line Segments - Carloads

Segment Key	Segment Name	Annual Carloads								
		UP Baseline Annual Carloads	UP 5 Years Organic Growth Carloads	UP Year 5 No Transaction Carloads	UP/NS Transaction Growth Carloads	UP/NS Year 5 with Transaction Carloads	CN Transaction Growth Carloads	CN Year 4 and 5 Organic Growth Carloads[1]	CN 5 Years with Organic Growth Carloads[1]	Total Year 5 Transaction Carloads
113601	113601-OTHER SARPYAVE MO_UP-ST LOUIS MO_UP	462,763	23,606	486,369	104,419	590,788	**53,473**	**3,257**	**56,730**	**647,518**
10283	10283-JEFFERSON CITY SUB	427,397	21,802	449,199	104,933	554,132	**48,398**	**2,947**	**51,346**	**605,478**
10284	10284-JEFFERSON CITY SUB	589,986	30,095	620,081	104,765	724,846	**48,398**	**2,947**	**51,346**	**776,192**
10285	10285-SEDALIA SUB	287,582	14,670	302,252	63,308	365,560	**27,637**	**1,683**	**29,320**	**394,880**
10286	10286-SEDALIA SUB	312,528	15,942	328,470	63,168	391,638	**27,637**	**1,683**	**29,320**	**420,958**
10927	10927-OTHER RIVER JCT-MARSHALL JCT	313,091	15,971	329,062	41,248	370,310	**20,761**	**1,264**	**22,026**	**392,336**
12232	12232-OTHER G 073_UP - G 145_UP	313,007	15,967	328,974	41,249	370,223	**20,761**	**1,264**	**22,026**	**392,249**
12467	12467-OTHER G 153_UP - MX276_UP	375,896	19,174	395,070	33,831	428,901	**20,761**	**1,264**	**22,026**	**450,927**
11864	11864-OTHER SOUTHWEST JCT-ROCK CREEK JCT	456,112	23,266	479,378	94,584	573,962	**48,398**	**2,947**	**51,346**	**625,308**
104111	104111-COFFEYVILLE SUB	1,386,434	70,722	1,457,156	93,573	1,550,729	**48,398**	**2,947**	**51,346**	**1,602,075**
12346	12346-OTHER LYDIAAVE MO_UP-KANSAS CITY MO_U	1,820,200	92,848	1,913,048	81,118	1,994,166	**48,398**	**2,947**	**51,346**	**2,045,512**

Source: UP-NS Response to OEA for Second Errata Filing, Master Data Table - Rail Line Segments, EI-34308 and EI-34309, FD 36873 (filed September 9, 2026).

Note 1: Assumed additional organic growth of 3% per year on CN traffic from year 3 to year 5.

Exhibit D

Exhibit D-1
Sub-Dockets 2, 3, 4, 6, 7, 8
Intermodal & Auto Ramps

Yard Code	Owner Railroad	Yard Name	Latitude	Longitude	State	Type	Baseline Trucks Per Day[1]	CN Transaction Growth Trucks Per Day	CN Year 4 and 5 Organic Growth Trucks Per Day[2]	CN Year 5 Trucks Per Day with Transaction
MX283	CN	Neff	39.1235431°N	94.5215251°W	MO	Auto	0	**113.3**	**6.9**	**120.2**
MX002	CN	Sarpy	38.6294104°N	90.2421975°W	MO	Auto	0	**8.4**	**0.5**	**8.9**
MX283	CN	Neff	39.1235431°N	94.5215251°W	MO	Intermodal	0	**351.4**	**21.4**	**372.8**
MX002	CN	Sarpy	38.6294104°N	90.2421975°W	MO	Intermodal	0	**28.4**	**1.7**	**30.2**

Note 1: CN assumes a baseline of 0 trucks per day at Neff Yard.

Note 2: Assumed additional organic growth of 3% per year on CN traffic from year 3 to year 5.

Exhibit D-2

Cars per Day at Yards

Yard Code	Owner Railroad	Yard Name	Latitude	Longitude	State	Baseline Carloads Per Day[1]	CN Transaction Growth Carloads Per Day[2]	CN Year 4 and 5 Organic Growth Carloads Per Day[3]	CN Year 5 Carloads Per Day with Transaction
MX283	CN	Neff	39.1235431°N	94.5215251°W	MO	0	**188.9**	**11.5**	**200.4**
MX002	CN	Sarpy	38.6294104°N	90.2421975°W	MO	0	**8.8**	**0.5**	**9.4**
MX001	CN	23rd Street	38.6232054°N	90.2055489°W	MO	0	**10.2**	**0.6**	**10.8**

Note 1: CN assumes a baseline of 0 carloads per day at Neff Yard.

Note 2: Includes all traffic types.

Note 3: Assumed additional organic growth of 3% per year on CN traffic from year 3 to year 5.

Exhibit 8

CHANGE IN CONTROL – EXHIBIT 8

TABLE 8.1
APPLICANT CARRIER INFORMATION

ILLINOIS CENTRAL RAILROAD COMPANY		
Ownership	100% by Illinois Central Corporation	
Principal Officers	**Name**	**Title**
	Tracy Robinson	President and Chief Executive Officer
	Ghislain Houle	Executive Vice-President, Chief Financial Officer and Treasurer
	Olivier Chouc	Senior Vice-President, Chief Legal Officer and Secretary
	Nicole James	Vice-President, Transportation – Southern Region
	Paul Westman	Director, Taxation US
	Linda Coyle	Senior Counsel, US Litigation

WATERLOO RAILWAY COMPANY		
Ownership	100% by Illinois Central Railroad Company	
Principal Officers	**Name**	**Title**
	Tracy Robinson	President and Chief Executive Officer
	Ghislain Houle	Executive Vice-President, Chief Financial Officer and Treasurer
	Olivier Chouc	Senior Vice-President, Chief Legal Officer and Secretary
	Nicole James	Vice-President, Transportation – Southern Region
	Paul Westman	Director, Taxation US
	Linda Coyle	Senior Counsel, US Litigation

CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY		
Ownership	100% by Illinois Central Corporation	
Principal Officers	**Name**	**Title**
	Tracy Robinson	President and Chief Executive Officer
	Olivier Chouc	Senior Vice-President, Chief Legal Officer and Secretary
	Etienne Bourgeois	Vice-President and Treasurer
	Nicole James	Vice-President, Transportation – Southern Region
	Paul Westman	Director, Taxation US
	Linda Coyle	Senior Counsel, US Litigation

CEDAR RIVER RAILROAD COMPANY		
Ownership	100% by Illinois Central Corporation	
Principal Officers	**Name**	**Title**
	Tracy Robinson	President and Chief Executive Officer
	Ghislain Houle	Executive Vice-President, Chief Financial Officer and Treasurer
	Olivier Chouc	Senior Vice-President, Chief Legal Officer and Secretary
	Etienne Bourgeois	Vice-President
	Nicole James	Vice-President, Transportation – Southern Region
	Paul Westman	Director, Taxation US
	Linda Coyle	Senior Counsel, US Litigation

GRAND TRUNK WESTERN RAILROAD COMPANY		
Ownership	100% by Grand Trunk Corporation	
Principal Officers	**Name**	**Title**
	Tracy Robinson	President and Chief Executive Officer
	Ghislain Houle	Executive Vice-President, Chief Financial Officer and Treasurer
	Olivier Chouc	Senior Vice-President, Chief Legal Officer and Secretary
	Nicole James	Vice-President, Transportation – Southern Region
	Paul Westman	Director, Taxation US
	Linda Coyle	Senior Counsel, US Litigation

BESSEMER AND LAKE ERIE RAILROAD COMPANY		
Ownership	100% by Grand Trunk Corporation	
Principal Officers	**Name**	**Title**
	Tracy Robinson	President and Chief Executive Officer
	Ghislain Houle	Executive Vice-President, Chief Financial Officer and Treasurer
	Olivier Chouc	Senior Vice-President, Chief Legal Officer and Secretary
	Nicole James	Vice-President, Transportation – Southern Region
	Paul Westman	Director, Taxation US
	Linda Coyle	Senior Counsel, US Litigation

THE PITTSBURGH AND CONNEAUT DOCK COMPANY		
Ownership	100% by Grand Trunk Corporation	
Principal Officers	**Name**	**Title**
	Tracy Robinson	President and Chief Executive Officer
	Olivier Chouc	Senior Vice-President, Chief Legal Officer and Secretary
	Etienne Bourgeois	Vice-President and Treasurer
	Nicole James	Vice-President, Transportation – Southern Region
	Paul Westman	Director, Taxation US
	Linda Coyle	Senior Counsel, US Litigation

WISCONSIN CENTRAL LTD.		
Ownership	100% by Grand Trunk Corporation	
Principal Officers	**Name**	**Title**
	Nicole James	President
	Ghislain Houle	Executive Vice-President, Chief Financial Officer and Treasurer
	Olivier Chouc	Senior Vice-President, Chief Legal Officer and Secretary
	Paul Westman	Director, Taxation US
	Linda Coyle	Senior Counsel, US Litigation
	Brenda Gunn	Senior Manager, Risk Mitigation

SAULT STE. MARIE BRIDGE COMPANY		
Ownership	100% by Wisconsin Central Ltd.	
Principal Officers	**Name**	**Title**
	Tracy Robinson	President and Chief Executive Officer
	Olivier Chouc	Senior Vice-President, Chief Legal Officer and Secretary
	Etienne Bourgeois	Vice-President and Treasurer
	Nicole James	Vice-President, Transportation – Southern Region
	Paul Westman	Director, Taxation US
	Linda Coyle	Senior Counsel, US Litigation

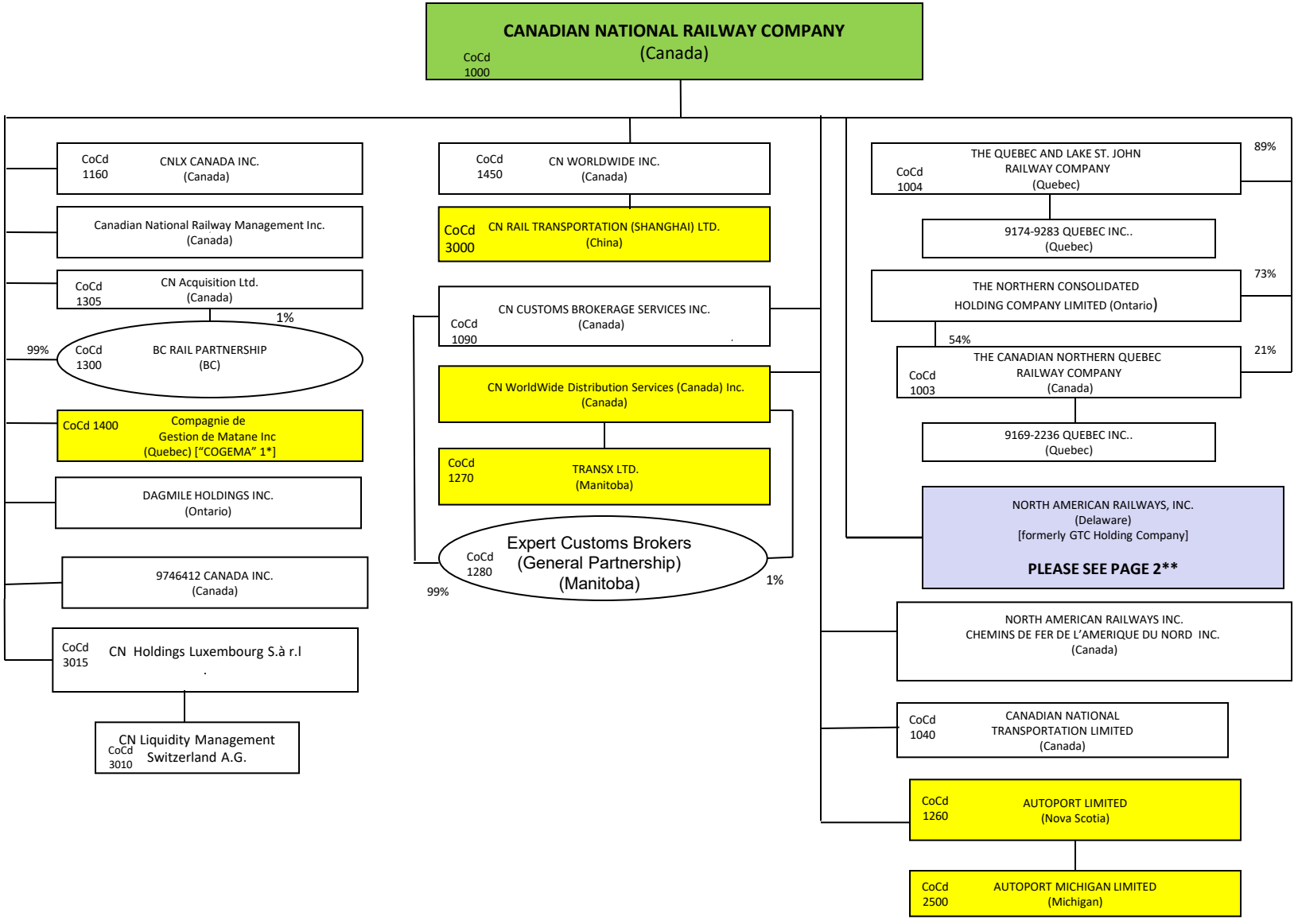
WISCONSIN CHICAGO LINK LTD.		
Ownership	100% by Wisconsin Central Ltd.	
Principal Officers	**Name**	**Title**
	Tracy Robinson	President and Chief Executive Officer
	Ghislain Houle	Executive Vice-President, Chief Financial Officer and Treasurer
	Olivier Chouc	Senior Vice-President, Chief Legal Officer and Secretary
	Nicole James	Vice-President, Transportation – Southern Region
	Paul Westman	Director, Taxation US
	Linda Coyle	Senior Counsel, US Litigation

IOWA NORTHERN RAILWAY COMPANY		
Ownership	100% by Cable & Ives, LLC.	
Principal Officers	**Name**	**Title**
	Tracy Robinson	President and Chief Executive Officer
	Ghislain Houle	Executive Vice-President, Chief Financial Officer and Treasurer
	Olivier Chouc	Senior Vice-President, Chief Legal Officer and Secretary
	Nicole James	Vice-President, Transportation – Southern Region
	Paul Westman	Director, Taxation US
	Linda Coyle	Senior Counsel, US Litigation

CANADIAN NATIONAL RAILWAY COMPANY		
Ownership	Public	
Principal Officers	**Name**	**Title**
	Tracy Robinson	President and Chief Executive Officer
	Janet Drysdale	Executive Vice-President and Chief Commercial Officer
	Ghislain Houle	Executive Vice-President and Chief Financial Officer
	Bhushan Ivaturi	Executive Vice-President and Chief Information and Technology Officer
	Patrick Whitehead	Executive Vice-President and Chief Operating Officer
	Olivier Chouc	Senior Vice-President and Chief Legal Officer
	Josee Girard	Senior Vice-President and Chief Human Resources Officer
	Patrick Lortie	Senior Vice-President and Chief Strategy and Stakeholder Relations Officer

Exhibit 11

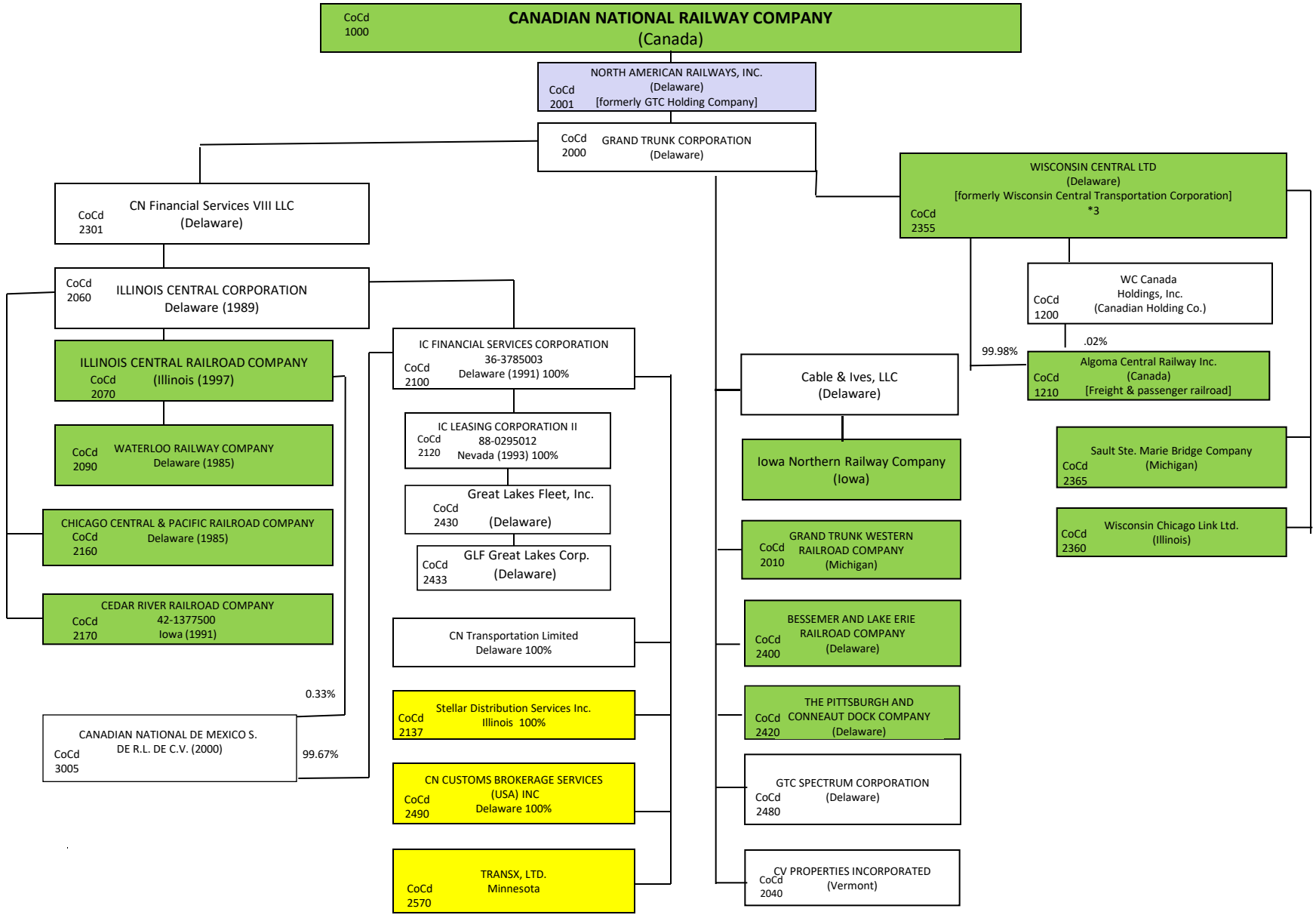
CORPORATE STRUCTURE



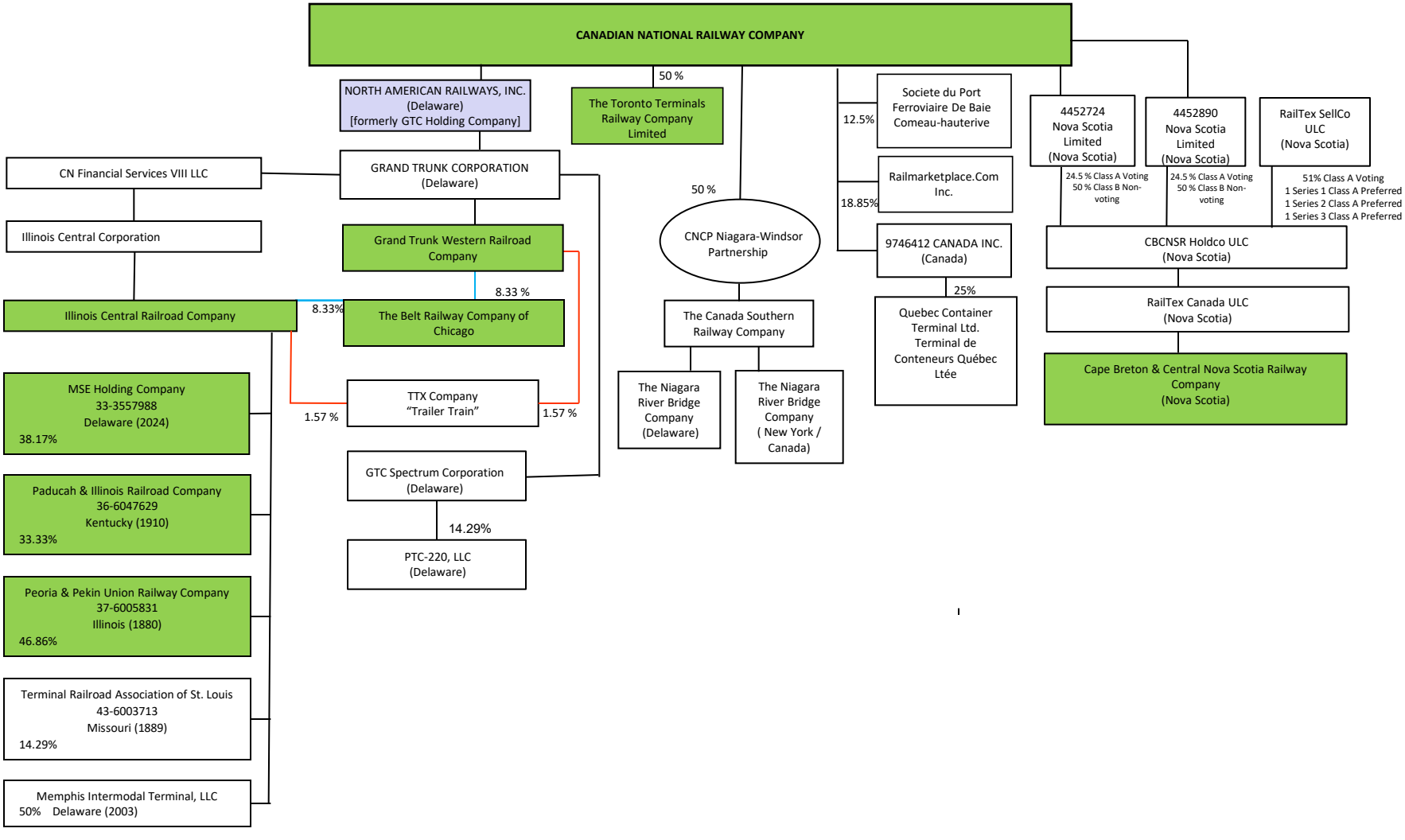
OPERATING RAILROADS SHADED GREEN

NON-RAIL OPERATING COMPANIES WITH EMPLOYEES - SHADED YELLOW

CORPORATE STRUCTURE



INVESTMENTS



OFFICER/DIRECTOR OVERLAPS BETWEEN CN CORPORATE FAMILY AND OTHER RAILROAD CORPORATE FAMILIES

TABLE 11.1

THE BELT RAILWAY COMPANY OF CHICAGO
(16.67% BNSF/16.67% IC & GTW (CN)/ 8.33% SOO (CPKC)/25% CSX/25% NS/8.33% UP)

Name	Title	Other Corporate Family
Nicole James	Director	GTW (CN) Representative
Cassandra Mullee	Director	IC (CN) Representative
Farah Lawler	Director	BNSF Representative
Michael Orilikowski	Director	BNSF Representative
Rodney Brown	Director	CSX Representative
Christopher Maffett	Director	CSX Representative
James Schwichtenberg	Director	CSX Representative
Randall Hunt	Director	NS Representative
Joseph Murphy	Director	NS Representative
Yannik Thomas	Director	NS Representative
David Hughes	Director	UP Representative
Nicholas Walker	Director	SOO (CPKC) Representative

TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS
(42.84% UP/14.29% BNSF/14.29% CSX/14.29% IC (CN)/14.29% NS)

Name	Title	Other Corporate Family
Elie Dakhoul	Director	IC (CN) Representative
Edward Boyle	Director	NS Representative
Sara Jonson	Director	BNSF Representative
Jeffrey Exline	Director	CSX Representative
Rodney Doerr	Director	UP Representative
Melissa Grosz	Director	UP Representative
Mike Santa Maria	Director	UP Representative
Brent R. Wood	President	Ex officio

PEORIA & PEKIN UNION RAILWAY COMPANY
(46.86% IC (CN)/40.64% NS/12.5% UP)

Name	Title	Other Corporate Family
James Anders	Director	IC (CN) Representative
Elie Dakhoul	Director	IC (CN) Representative
Nicole James	Director	IC (CN) Representative
Melissa Grosz	Director	UP Representative
Sarah Spiller	Director	NS Representative
Mark Woods	Director	NS Representative

PADUCAH & ILLINOIS RAILROAD COMPANY
(33.33% IC (CN)/33.33% BNSF/33.33% PADUCAH & LOUISVILLE RAILWAY, INC.)

Name	Title	Other Corporate Family
Elie Dakhoul	Director	IC (CN) Representative
Nicole James	Director	IC (CN) Representative
Sarah W. Bailiff	Director	BNSF Representative
Thomas A. Greene	Director	PAL Representative
Jason Jenkins	Director	BNSF Representative
Tim Wyatt	Director	PAL Representative

TTX COMPANY
(2.21% CPKC/0.63% FERROCARRIL MEXICANO SA DE CV ("FXE")/
3.16% CN/17.41% BNSF/19.78% CSX/19.78% NS/37.03% UP)

Name	Title	Other Corporate Family
Patrick Whitehead	Director	CN Representative
Thomas Williams	Director	BNSF Representative
Michael Foran	Director	CPKC Representative
Kevin Boone	Director	CSX Representative
Jorge Marquez Abreu	Director	FXE Representative
Claude Elkins	Director	NS Representative
Jennifer Hamann	Director	UP Representative

RAILMARKETPLACE.COM INC.
(EQUAL OWNERSHIP AMONGST BNSF/CN/CPKC/CSX/NS/UP)

Name	Title	Other Corporate Family
JJ Dratva	Director	CN Representative
Todd Podell	Director	BNSF Representative
Rhea Adama	Director	CPKC Representative
Spence Glotzbach	Director	CSX Representative
Jackie Corletto	Director	NS Representative
Wendy Whalen	Director	UP Representative
Sandy Edmundson	Director	RailMarketplace

THE TORONTO TERMINALS RAILWAY COMPANY LIMITED
(50% CN/50% CPKC)

Name	Title	Other Corporate Family
Brad Butterwick	Director	CN Representative
James Thompson	Director	CN Representative
Tina Sheaves	Director, Vice President	CPKC Representative
Greg Squires	Director	CPKC Representative

CNCP NIAGARA-WINDSOR PARTNERSHIP
(50% CN/50% CPKC OWNERSHIP)

Name	Title	Other Corporate Family
Olivier Chouc	Director, Secretary	CN Representative
Ghislain Houle	Director	CN Representative
James Thompson	Director, Vice President	CN Representative
Adolph Gameiro	Director, Chairman and President	CPKC Representative
Liam Roney	Director, General Manager	CPKC Representative
Tina Sheaves	Director	CPKC Representative

THE CANADA SOUTHERN RAILWAY COMPANY
(50% CN/50% CP)

Name	Title	Other Corporate Family
Olivier Chouc	Director, Senior Vice President, Chief Legal Officer & Secretary	CN Representative
Ghislain Houle	Director	CN Representative
James Thompson	Director, Vice-President	CN Representative
Adolph Gameiro	Director, President	CPKC Representative
Liam Roney	Director, Joint Manager	CPKC Representative
Tina Sheaves	Director	CPKC Representative

THE NIAGARA RIVER BRIDGE COMPANY
(ULTIMATE 50% CN/50% CP OWNERSHIP)

Name	Title	Other Corporate Family
Olivier Chouc	Director, Secretary-Treasurer	CN Representative
Ghislain Houle	Director	CN Representative
James Thompson	Director, President	CN Representative
Adolph Gameiro	Director, Vice President	CPKC Representative
Liam Roney	Director, Joint Manager	CPKC Representative
Tina Sheaves	Director	CPKC Representative

THE NIAGARA RIVER BRIDGE COMPANY LIMITED
(ULTIMATE 50% CN/50% CP OWNERSHIP)

Name	Title	Other Corporate Family
Olivier Chouc	Director, Secretary-Treasurer	CN Representative
Ghislain Houle	Director	CN Representative
James Thompson	Director, Vice President	CN Representative
Adolph Gameiro	Director, President	CPKC Representative
Liam Roney	Director	CPKC Representative
Tina Sheaves	Director	CPKC Representative

Exhibit 12A

BEFORE THE

SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 36873

UNION PACIFIC CORPORATION AND
UNION PACIFIC RAILROAD COMPANY

—CONTROL—

NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

- **SUB-NO. 2, ILLINOIS CENTRAL RAILROAD COMPANY—DIVESTITURE—LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.**
- **SUB-NO. 3, ILLINOIS CENTRAL RAILROAD COMPANY—TRACKAGE RIGHTS—LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.**
- **SUB-NO. 4, ILLINOIS CENTRAL RAILROAD COMPANY—OVERHEAD TRACKAGE RIGHTS—LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN LYDIA AVENUE AND BROADWAY BOULEVARD IN KANSAS CITY, MO.**
- **SUB-NO. 5, ILLINOIS CENTRAL RAILROAD COMPANY—TERMINAL TRACKAGE RIGHTS—OVER LINE OF BNSF RAILWAY COMPANY BETWEEN ETON, MO. AND CONGO, MO.**
- **SUB-NO. 6, ILLINOIS CENTRAL RAILROAD COMPANY—LEASE AND PURCHASE—UNION PACIFIC RAILROAD COMPANY NEFF YARD IN KANSAS CITY, MO.**
- **SUB-NO. 7, ILLINOIS CENTRAL RAILROAD COMPANY—OVERHEAD TRACKAGE RIGHTS—LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN TUSCOLA, ILL. AND EAST ST. LOUIS, ILL.**
- **SUB-NO. 8, ILLINOIS CENTRAL RAILROAD COMPANY—OVERHEAD TRACKAGE RIGHTS—OVER LINE OF THE ALTON & SOUTHERN RAILWAY COMPANY BETWEEN MITCHELL, ILL. AND EAST ST. LOUIS, ILL.**
- **SUB-NO. 9, ILLINOIS CENTRAL RAILROAD COMPANY—LOCAL TRACKAGE RIGHTS—LINE OF UNION PACIFIC RAILROAD COMPANY TO SERVE HILLSBORO, ILL.**

- **SUB-NO. 10, IOWA NORTHERN RAILWAY COMPANY AND CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY—TRACKAGE RIGHTS—LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN MANLY /IOWA FALLS, IOWA AND DES MOINES/AVON, IOWA**
- **SUB-NO. 34, ILLINOIS CENTRAL RAILROAD COMPANY—LOCAL TRACKAGE RIGHTS—LINE OF UNION PACIFIC RAILROAD COMPANY TO SERVE CARLINVILLE, ILL.**

Verified Statement of Dr. Mary Coleman

November 18, 2026

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I. INTRODUCTION

A. QUALIFICATIONS, ASSIGNMENT, AND SUMMARY OF CONCLUSIONS

1. My name is Mary Coleman. I am a Senior Managing Director and Head of the U.S. Antitrust Practice at Compass Lexecon, which is a division of FTI, Inc. I previously provided Verified Statements included as Exhibit 1[1] in Grand Trunk Corporation's Comments on Completeness of Union Pacific and Norfolk Southern's Application, submitted on December 29, 2025[2] and as Exhibit 1[3] in Grand Trunk Corporation's Comments on Completeness of Union Pacific and Norfolk Southern's Amended Application, submitted on May 8, 2026.[4] Briefly, I received my Ph.D. in economics from Stanford University and my B.A. in economics from Stonehill College. I have served as an advisor on antitrust and regulatory issues to many organizations, including the American Bar Association, the Department of Justice ("DOJ"), and the Federal Trade Commission ("FTC") and served as Deputy Director for Antitrust in the Bureau of Economics at the FTC during 2001-2004. My *curriculum vitae*, which includes a complete list of my publications, is attached as Appendix A. A list of the materials that I relied upon is attached as Appendix B. I reserve the right to update my opinions as I receive additional relevant information.

B. ASSIGNMENT

2. I have been asked by counsel for Grand Trunk Corporation, on behalf of itself and its U.S. rail operating subsidiaries[5] (collectively, "CN"), to evaluate the likely effects on horizontal competition as a result of the transaction detailed in the Amended Application[6] and the Second

---

1 CN-6, FD 36873 (filed Dec. 29, 2025), Verified Statement of Dr. Mary Coleman (Dec. 29, 2025) [hereinafter "Coleman Initial Application Statement"].

2 CN-6, FD 36873 (filed Dec. 29, 2025) [hereinafter "CN's Initial Completeness Comments"].

3 CN-15, FD 36873 (filed May 8, 2026), Verified Statement of Dr. Mary Coleman (May 8, 2026) [hereinafter "Coleman Amended Application Statement"].

4 CN-15, FD 36873 (filed May 8, 2026) [hereinafter "Comment on Completeness of Amended Application"].

5 Bessemer and Lake Erie Railroad Company, Cedar River Railroad Company, Chicago, Central & Pacific Railroad Company, Grand Trunk Western Railroad Company, Illinois Central Railroad Company, Iowa Northern Railway Company, The Pittsburgh & Conneaut Dock Company, and Wisconsin Central Ltd.

6 UP-39/NS-37, FD 36873 at 1–4 (filed Apr. 30, 2026) [hereinafter the "Amended Application" or "Am. Appl."].

Response to Decision No. 21[7] of Union Pacific Corporation, Union Pacific Railroad Company (together with Union Pacific Corporation, "UP" or "Union Pacific"), Norfolk Southern Corporation, and Norfolk Southern Railway Company (together with Norfolk Southern Corporation, "NS" or "Norfolk Southern") (collectively, "Applicants") seeking authority for the acquisition of control by Union Pacific Corporation of Norfolk Southern Corporation and, through it, Norfolk Southern Railway Company (the "Proposed Transaction"). Specifically, CN's counsel have asked me to evaluate the Amended Application, including the analyses of Elizabeth Bailey, Ph.D., describing potential losses of horizontal competition, and to assess any other potential losses of horizontal competition from the Proposed Transaction, focusing on individual customers' reduction in access to Class I railroads from 2-to-1 or 3-to-2 as well as any reduction in within corridor and between corridor railroad competition, or reduction in competition due to increased concentration, related to the Kansas City and St. Louis BEAs.[8, 9] Where I find potential losses of horizontal competition, CN's counsel has asked me to evaluate whether CN's Proposed Conditions will remedy these losses.

C. SUMMARY OF CONCLUSIONS

3. Absent conditions, the Proposed Transaction raises competitive concerns for 2-to-1 and 3-to-2 customers in Iowa (specifically, in Des Moines and Avon, Iowa) and throughout Illinois, and for customers that ship to, from, or through the Kansas City and St. Louis gateways.

4. Applicants' Amended Application identifies some, but not all, of the competitive concerns raised by the Proposed Transaction. I identify additional competitive concerns, which CN's Proposed Conditions remedy. Specifically, I find the following:

- **The Proposed Transaction will cause 35 customer facilities who currently have access to both UP and NS to face a reduction in Class I carrier options from 2-to-1 or 3-to-2**: Dr. Bailey's supplemental analysis of competition for customer facilities

---

7 UP-80/NS-78, FD 36873 (filed July 27, 2026) [hereinafter "Applicants' Second Supplemental Submission].

8 Am. Appl. Vol. 2, Verified Statement of Dr. Elizabeth Bailey (April 27, 2026) [hereinafter "Bailey Amended Statement"]; Applicants' Second Supplemental Submission, Supplemental Verified Statement of Dr. Elizabeth Bailey (July 17, 2026) [hereinafter "Bailey Supplemental Statement"].

9 A BEA is defined as a center of economic activity (such as a metropolitan area), together with nearby areas that are integrated with the center, where integration is determined by, e.g., worker commuting patterns. *See Final Redefinition of the BEA Economic Areas*, Bureau of Transportation Statistics, https://www.bts.gov/archive/publications/federal_register/1995/bts_19950310 (last visited Nov. 11, 2026).

identifies 35 customer facilities that will face a reduction in Class I railroad options from 2-to-1 or 3-to-2 after the Proposed Transaction. Because of the loss of competition, these customers may pay higher prices or receive poorer service. Dr. Bailey's list of affected customers largely aligns with my analysis, and based on available materials, I have not identified additional 2-to-1 or 3-to-2 customers.

- **The Proposed Transaction would result in a loss of competition in Des Moines/Avon, Iowa; Kansas City and St. Louis, Missouri; and throughout Illinois:** Dr. Bailey's BEA-level analysis is based on her unsupported assumption that every railroad within a BEA is a competitive alternative for every customer in that BEA, for all BEAs. Analyzing smaller geographic areas such as SPLCs[10] reveals multiple SPLCs (even within a single BEA) where the Proposed Transaction reduces significantly Class I rail options, including in Des Moines/Avon, Iowa; Kansas City, Missouri; St. Louis, Missouri; and throughout Illinois (including East St. Louis). Customers in these SPLCs may benefit today from actual or potential indirect access to the Applicants—through transloads, trucking, a potential buildout, or site selection for a new facility—and would lose that benefit after the Proposed Transaction, absent conditions.

- **The Proposed Transaction raises competitive concerns on 30 corridors that originate or terminate in the Kansas City and St. Louis BEAs:** I have identified 30 corridors originating or terminating in the Kansas City or St. Louis BEAs that would see rail options reduced from 2-to-1 or 3-to-2, which may result in competitive harm to customers who use these corridors, including intermodal and automotive customers. Dr. Bailey's assumptions and traffic exclusions dismiss the potential for harm on these corridors.

    - Dr. Bailey's approach to analyzing within-corridor competition and identifying corridors that will face reduced rail competition following the Proposed Transaction is reasonable. However, her assumptions that certain

[10] A SPLC at a 6-digit level is designed to identify the geographic location by State, County, and City. *Standard Point Location Code (SPLC) User Guide*, Railinc, https://public.railinc.com/sites/default/files/documents/UG_SPLC.pdf (last updated January 2026) at 1.

types of traffic are protected from competitive harm–including intermodal and automotive traffic–are unsupported. This causes her to understate (and, in some cases, reduce to zero) the total UP/NS rail traffic on these corridors that could face adverse competitive effects from the Proposed Transaction.

- Analyzing corridors that originate or terminate in the Kansas City and St. Louis BEAs, without Dr. Bailey's unsupported assumptions, I identify 30 corridors that will see a reduction in service of Class I railroads from 2-to-1 or 3-to-2, most of which use the segment between Kansas City and St. Louis for UP or NS traffic.[11] Although there are four Class I railroads serving customers in the Kansas City BEA (UP, NS, BNSF, and CPKC), and six Class I railroads serving customers in the St. Louis BEA, these results demonstrate that Applicants' Kansas City and St. Louis segments provide important competitive options for customers for many corridors.[12] Because Dr. Bailey excluded this traffic from her analysis, Applicants never study the competitive harm for customers that utilize these corridors.

- **For the Kansas City and St. Louis BEAs, 29 BEA-commodity pairs may face a reduction in destination competition and 27 BEA-commodity pairs may face a reduction in source competition**: Dozens of commodities originating or terminating in the Kansas City or St. Louis BEAs may lose source or destination competition, which Dr. Bailey's methodology fails to identify.

  - Dr. Bailey's consideration of between corridor competition (sometimes called geographic competition) is reasonable, but several of her assumptions and methods are unsupported and cause her to under-identify and dismiss traffic facing potential competitive harm. Three choices result

[11] *See* my Workpaper "Figure 10 and 11.xlsx."

[12] *See* Bailey Amended Statement Workpaper "Appendix D1, D2.xlsx."

in her understating potential harms due to loss of source and destination competition:

(1) She excludes commodities that she claims are protected from competitive harm–including intermodal and automotive traffic;

(2) she estimates shares for remaining BEA-commodity pairs using a traffic base that includes truck and water options without analyzing whether truck and water modes are competitive options for the affected commodities; and

(3) she requires that each BEA-commodity pair pass her initial screen in every year between 2019-2024.

- Each of these assumptions and methods have the effect of understating the traffic that may face competitive harm due to loss of source and destination competition in Kansas City and St. Louis. In addition, her Critical Loss Analysis does not measure whether customers would have alternatives that would mitigate potential competitive harm and thus cannot be used to dismiss source and destination competition concerns.
- Conducting the analysis without applying these assumptions and adopting her flawed Critical Loss Analysis, I find 29 BEA-commodity pairs originating in the Kansas City or St. Louis BEAs that may face reduced destination competition and 27 BEA-commodity pairs terminating in the Kansas City or St. Louis BEAs that may face reduced source competition.[13] These include some of the largest commodity groups originating or terminating in both BEAs, including Intermodal, Automotive, Petroleum and Chemicals, Grain and Fertilizer, Metals & Minerals, and Forest Products. Because Dr. Bailey's assumptions and methods understate or dismiss the potential for competitive harm, Applicants never study the harm to source or destination competition for these commodities originating or terminating in Kansas City or St. Louis.

[13] *See* Figure 15 and Figure 17.

- **CN's Proposed Conditions are an effective remedy to prevent the potential competitive harms of the Proposed Transaction that I have identified**: CN's proposed conditions, sought in its Comment and Responsive Applications[14] will be effective in preventing harms I have identified. CN's proposed conditions: (1) remedy the loss of Class I railroad options for 2-to-1 and 3-to-2 customer facilities and for the Kansas City and St. Louis SPLCs that would otherwise experience significant increases in concentration; (2) address horizontal concerns for traffic on corridors originating or terminating in the Kansas City and St. Louis BEAs; and (3) address potential source and destination competition concerns in Kansas City and St. Louis. In particular, CN's request for a divestiture of UP's line between Kansas City and St. Louis (the "Kansas City Line") would allow CN to operate independently and compete most effectively with the combined UP-NS entity in the Kansas City and St. Louis BEAs.
- **CN would be an effective remedy carrier:** CN's network extends around the areas of concern so the conditions are a natural extension of the CN network. CN also has the infrastructure and experience to handle the affected commodities and can offer source and destination competition options that can replace the competition lost due to the Proposed Transaction. CN's acquisition and integration of the Iowa Northern Railway Company, which similarly involved new market opportunities, customers, and opportunities to expand and improve operations, demonstrates that CN would be a strong remedy carrier.

II. BACKGROUND

5. On July 30, 2025 Applicants filed a Notice of Intent to File Application of Transaction to §§ 11323-25 "for the acquisition of control by UPC, through its wholly owned subsidiary Ruby Merger Sub 1 Corporation, of NSC, and through it of NS, and for the resulting common control by UPC of UP and NS."[15] On December 19, 2025, Applicants filed their Initial Application to

[14] CN-38, FD 36873 "CN's Comments on Amended Application and Request for Conditions" at 9-11 (filed Nov. 18, 2026).

[15] UP-1/NS-1, FD 36873 at 2 (filed July 30, 2025).

the Surface Transportation Board (the "Board").[16] The Board issued a decision on January 16, 2026, finding the Initial Application incomplete.[17] On April 30, 2026, Applicants filed their Amended Application to the Board.[18] The Board issued a decision on May 28, 2026 accepting the Amended Application for consideration and ordering the Applicants to submit supplemental information.[19] Applicants filed a First Response to Decision No. 21 on July 7, 2026 and a Second Response to Decision No. 21 on July 27, 2026.[20]

6. The Amended Application includes the Verified Statement of Elizabeth M. Bailey, Ph.D., dated April 27, 2026. She describes her assignment to "evaluate the potential competitive benefits from the proposed merger and to analyze potential losses of horizontal competition."[21] She analyzes the horizontal competitive effects of the Proposed Transaction, assessing access competition, competition within corridors, and competition between corridors.[22] She relies on the "combined waybill data"[23] as the basis for these competitive analyses.[24] The Analysis of Access to Customers purports to "analyze the scope for adverse competitive effects from situations where UP and NS both serve the same customer location or the same geographic area."[25] The Analysis of Competition Within Corridors purports to analyze "horizontal competition to transport freight along the same segment of specific corridors."[26] The Analysis of Competition Between Corridors purports to analyze horizontal competition related to the "ability of a customer to use alternative railroads to receive a particular product from different origins … and the ability of a shipper to use alternative railroads to ship its product to different destinations."[27]

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16 UP-13/NS-11, FD 36873 (filed Dec. 19, 2025) [hereinafter the "Initial Application" or "Init. Appl."].

17 Decision No. 9, FD 36873 (STB served Jan. 16, 2026).

18 Am. Appl. Vol. 2.

19 Decision No. 21, FD 36873 (STB served May 28, 2026).

20 UP-68/NS-66, FD 36873 (filed July 7, 2026); Applicants' Second Supplemental Submission.

21 Bailey Amended Statement at ¶ 7.

22 Bailey Amended Statement at ¶ 88 and § 4.

23 She describes the "combined waybill data" as a consolidation of the 2019-2024 traffic tapes for the six Class I railroads and 2019-2023 CWS data. Bailey Amended Statement at ¶ 96.

24 Bailey Amended Statement at ¶ 99.

25 Bailey Amended Statement at ¶ 106.

26 Bailey Amended Statement at ¶ 120.

27 Bailey Amended Statement at ¶ 158.

7. Applicants' Second Response to Decision No. 21 includes the Supplemental Verified Statement of Elizabeth M. Bailey, Ph.D., dated July 17, 2026, which "responds to portions of the requests in the STB's Decision 21."[28] This includes an analysis that identifies customer facilities that would face a reduction in access to Class I railroads from 2-to-1 and 3-to-2 as a result of the Proposed Transaction.[29] It also includes several other analyses requested by the Board in its notice of acceptance decision,[30] including analyses related to the geographic competition impact on sole-served single-line shippers.[31]

8. On July 22, 2026, CN and UP entered into a Memorandum of Understanding (Settlement MOU) to expand customer opportunities in connection with the Proposed Transaction,[32] under which:

- UP shall request that the STB designate CN as the remedy carrier at affected 2-to-1 and 3-to-2 locations where operationally and commercially feasible.[33]
- CN gains Kansas City access and expanded access to St. Louis / East St. Louis through rights between Tuscola, Illinois, and East St. Louis, Illinois, and rights between St. Louis, Missouri, and Kansas City, Missouri, with the option to lease or purchase Union Pacific's Neff Yard.[34]
- CN acquires Norfolk Southern's ownership interests in the Kansas City Terminal Railway Company (KCT),[35] a portion of Union Pacific's interest in the Peoria & Pekin Union Railway (PPU)[36] and agrees to cooperate with Union Pacific to resolve control issues related to the Terminal Railroad Association of St. Louis (TRRA).[37]

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28 Bailey Supplemental Statement at ¶ 1.

29 Bailey Supplemental Statement at § 2.

30 Decision No. 21, FD 36873 (STB served May 28, 2026).

31 Bailey Supplemental Statement at § 4.

32 Applicants' Second Supplemental Submission at 203–218; *see also* CN, *Union Pacific and CN Reach Agreement to Expand Customer Opportunities in Connection with Merger*, (July 22, 2026), https://www.cn.ca/en/news/2026/07/union-pacific-and-cn-reach-agreement-to-expand-customer-opportun/ (last visited Nov. 11, 2026).

33 Applicants' Second Supplemental Submission at 203–204.

34 Applicants' Second Supplemental Submission at 204–206.

35 Applicants' Second Supplemental Submission at 206.

36 Applicants' Second Supplemental Submission at 207–208.

37 Applicants' Second Supplemental Submission at 207.

9. CN's President and CEO Tracy Robinson described that the "framework would preserve competitive access to key markets, including Kansas City."[38] Union Pacific CEO Jim Vena described the agreement as reinforcing commitments to "preserve and enhance competitive options and create a stronger railroad industry that delivers better service for customers," "by giving expanded access and operating rights to a tough competitor."[39] Jim Vena also stated that giving CN access to Kansas City prevents UP from being "too concentrated" post-merger and "takes care of" this part "of the company where [they] have a significant overlap."[40] Norfolk Southern CEO Mark George acknowledged that the agreement with CN "resolves Kansas City for us."[41]

10. CN is seeking the following conditions ("CN's Proposed Conditions") as explained in CN's Comments on Amended Application and Request for Conditions which I quote and are summarized in Figure 1 of CN's Comments on Amended Application and Request for Condition below:[42]

- **Kansas City Access**: divestiture of the Kansas City Line to CN; the lease of Neff Yard, including the Neff intermodal terminal, in whole or in part, with an option to purchase said yard (including the terminal); terminal trackage rights over approximately 7.5 miles of BNSF Railway Company ("BNSF") track between Eton and Congo, Missouri near Kansas City; trackage rights between Lydia Avenue and Broadway Boulevard in Kansas City; sale of NS's KCT ownership interest to CN, giving CN access to Kansas City Terminal Railway Company ("KCT") for interchange and KCT customers; and access to Kansas City customers open to reciprocal switching under Applicants' tariffs;

- **Expanded St. Louis / East St. Louis Access:** overhead trackage rights for CN over the Tuscola Line; overhead trackage rights over the lines of UP's wholly

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38 *Union Pacific and CN Reach Agreement to Expand Customer Opportunities in Connection with Merger*, CN (July 22, 2026), https://www.cn.ca/en/news/2026/07/union-pacific-and-cn-reach-agreement-to-expand-customer-opportun/ (last visited Nov. 11, 2026).

39 *Union Pacific and CN Reach Agreement to Expand Customer Opportunities in Connection with Merger*, CN (July 22, 2026), https://www.cn.ca/en/news/2026/07/union-pacific-and-cn-reach-agreement-to-expand-customer-opportun/ (last visited Nov. 11, 2026).

40 Jim Vena, UP Q2 2026 Earnings Call (July 23, 2026), https://fortune.com/company/union-pacific/earnings/q2-2026/ (last visited Nov. 11, 2026).

41 David Lassen, *CEOs of UP, NS, say latest additions to merger application further enhance competitive aspects*, TrainsPro, https://www.trains.com/pro/freight/class-i/ceos-of-up-ns-say-latest-additions-to-merger-application-further-enhance-competitive-aspects/ (last visited Nov. 11, 2026).

42 CN-38, FD 36873 "CN's Comments on Amended Application and Request for Conditions" at 9-11 and Figure 1 (internal footnotes omitted) (filed Nov. 18, 2026).

owned subsidiary, The Alton & Southern Railway Company ("A&S"), between Lenox in Mitchell, Illinois and Valley Junction in East St. Louis, Illinois; and access to the former Sarpy Yard property for handling CN's intermodal and automotive traffic in St. Louis, whether via (1) divestiture of the Kansas City Line, or (2) trackage rights and a Board order requiring sale of the former Sarpy Yard property to CN;

- **Des Moines Access:** trackage rights or, in the alternative, haulage over UP's line between Manly / Iowa Falls, Iowa and Des Moines / Avon, Iowa; trackage rights to serve 2-to-1 and 3-to-2 customer facilities requiring unit train service; and switching access to the 2-to-1 and 3-to-2 customer facilities in and around Des Moines;

- **Illinois 2-to-1 and 3-to-2 Access:** (1) trackage rights to reach the Foresight Energy facilities at Hillsboro and Carlinville, Illinois (or haulage in the alternative), and (2) haulage or switching access to the remaining 2-to-1 and 3-to-2 customer facilities in Chicago, Bloomington, Mt. Vernon, Granite City, Momence, Federal/Alton, and Danville, Illinois; and

- **Robust and Enforceable Gateway Protections:** gateway protections that are robust and enforceable in practice, so that the merged carrier cannot use its control of interchange, routing, or interline pricing to foreclose competitors and the customers that depend on competitive routing options.

CN's Comments on Amended Application and Request for Conditions – Figure 1

CN's Proposed Conditions Summary	
Kansas City Access	• Divestiture of the Kansas City Line to CN; ○ In the alternative (i.e., if the Board declines to order divestiture), trackage rights and local haulage rights on the Kansas City Line. • Lease or purchase of Neff Yard, including the Neff intermodal terminal; • Terminal trackage rights over ~7.5-miles of BNSF track near Kansas City; • Trackage rights between Lydia Avenue and Broadway Boulevard in Kansas City; • Sale of NS's KCT ownership interest to CN; and • Access to Kansas City customers open to UP or NS reciprocal switching.
Expanded St. Louis / East St. Louis Access	• Overhead trackage rights over the Tuscola Line; • Overhead trackage rights over A&S; and • Former Sarpy Yard property (part of the Kansas City Line).
Des Moines 2-to-1 and 3-to-2 Customer Access	• Trackage rights over UP's line between Manly, Iowa and Des Moines and Avon, Iowa to access or serve 2-to-1 and 3-to-2 customer facilities in and around Des Moines, including direct access to two unit train customers; and • Reciprocal switching access to 2-to-1 and 3-to-2 customer facilities in the Des Moines area.

Illinois 2-to-1 and 3-to-2 Customer Access	• Trackage rights to reach the Foresight Energy facilities at Hillsboro and Carlinville, Illinois; and • Haulage or switching access to the remaining 2-to-1 and 3-to-2 customer facilities in Illinois.
Robust and Enforceable Gateway Protections	• Robust and enforceable open gateway protections.

11. CN's Proposed Conditions address likely horizontal competitive concerns for customers most impacted by the Proposed Transaction. The Proposed Conditions combat potential harm due to the loss of competition by enabling new customer options through CN. The divestiture of the Kansas City Line would provide an independent Class I railroad option to provide service between Kansas City and St. Louis, enabling service to customers in those areas and along corridors that traverse that segment. Access to 2-to-1 and 3-to-2 customers through trackage rights to Hillsboro, Carlinville, and Des Moines/Avon over UP lines, along with new haulage and switching agreements to reach other 2-to-1 and 3-to-2 customers, would ensure that if the Proposed Transaction is approved those customers have the same number of Class I options that they have today. These conditions address the competitive effects for customers that face the greatest potential harm if the Proposed Transaction is approved.

III. POTENTIAL HARMS RELATED TO THE PROPOSED TRANSACTION

12. A merger or acquisition of horizontal competitors can result in competitive harm if the transaction removes an important competitive constraint for all or a subset of customers. Loss of competition can result in higher prices, reduced quality, and/or reduced investment, all of which harm customers.

13. In its Major Rail Consolidation Procedures, the Board recognized the potential for harm from future major rail consolidations and explained key areas of concern regarding the reduction of competition:[43]

> *§ 1180.1(c)(2): Potential harm.* The Board recognizes that consolidation can impose costs as well as benefits. It can reduce competition both directly and

[43] Decision, EP 582 (Sub-No. 1) at 23-24 (STB served Jun. 11, 2001) [hereinafter "Major Rail Consolidation Procedures"].

> indirectly in particular markets, including product markets and geographic markets. Consolidation can also threaten essential services and the reliability of the rail network. In analyzing these impacts we must consider, but are not limited by, the policies embodied in the antitrust laws.
>
> *(i) Reduction of competition.* Although in specific markets railroads operate in a highly competitive environment with vigorous intermodal competition from motor and water carriers, mergers can deprive shippers of effective options. Intramodal competition can be reduced when two carriers serving the same origins or destinations merge. Competition arising from shippers' build-out, transloading, plant siting, and production shifting choices can be eliminated or reduced when two railroads serving overlapping areas merge. Competition in product and geographic markets can also be eliminated or reduced by mergers, including end-to-end mergers. Any railroad combination entails a risk that the merged carrier would acquire and exploit increased market power.

Critically, the loss of "*effective options*" for customers and the "*risk that the merged carrier would acquire and exploit increased market power*" are key issues that must be considered for a proper evaluation of the potential competitive harms of the Proposed Transaction.

14. Several approaches can be used to assess whether a merger is likely to result in competitive harm. In the first instance, it is common to look at the impact of the transaction on concentration and shares. The DOJ and FTC's 2023 Merger Guidelines also recognize this concept and explain in Guideline 1:[44]

> *Mergers Raise a Presumption of Illegality When They Significantly Increase Concentration in a Highly Concentrated Market.* Market concentration is often a useful indicator of a merger's likely effects on competition. The Agencies therefore presume, unless sufficiently disproved or rebutted, that a merger between competitors that significantly increases concentration and creates or further consolidates a highly concentrated market may substantially lessen competition.

15. The Merger Guidelines further explain that "a merger that creates a firm with a share over thirty percent is also presumed to substantially lessen competition or tend to create a monopoly if it also involves an increase in HHI of more than 100 points."[45] While combined market share and HHI changes meeting these thresholds are indicative of mergers that may

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[44] U.S. Dep't of Justice & the Fed. Trade Comm'n, *Merger Guidelines* at 2 (Dec. 18, 2023).

[45] U.S. Dep't of Justice & the Fed. Trade Comm'n, *Merger Guidelines* at 6 (Dec. 18, 2023).

lessen competition, it is necessary to review the specific facts around the merger to determine if it is likely to be anticompetitive.[46]

16. Market shares can also be used to assess the potential for unilateral effects that may result from a merger if the distribution of lost sales among competitors following a price increase by one firm is proportional to competitors' shares. Pre-merger, customers can negotiate rates with any railroad that can potentially provide the required service. The rates that each potential railroad provider offers to the customer is constrained in these negotiations by the ability of the customers to choose alternative providers—either another railroad or, in some cases, other modes of transportation—and the relative attractiveness of those options to the customer based on price and potentially other factors such as the time for transport and/or service.[47]

17. For example, consider shippers from Kansas City, and assume that UP operates with a margin of 25% on traffic associated with these shippers. If UP tried to raise negotiated rates by 10%, this would be unprofitable if the price increase caused some shippers to shift to alternatives and UP lost at least 28.5% of the traffic volume–i.e. the critical loss of output.[48] Assuming that the UP current negotiated rates are profit-maximizing, we can infer that the actual loss of output UP would face from a 10% rate increase given the current competition would be at least 28.5%.

18. The Proposed Transaction between UP and NS could alter the profitability of a UP (or NS) price increase because it reduces the independent alternatives available to shippers and thus reduces the constraints on UP (or NS). If all the lost UP traffic following a price increase would go to other railroads according to their shares of current traffic for shippers of that commodity from Kansas City, then that price increase may become profitable post-merger even though it was not profitable pre-merger. If, for example, there are currently three railroads that supply shippers in a particular area (and non-rail traffic is not a competitive constraint)–UP, NS, and BNSF, all with equal shares–then UP's lost business following a price increase would be expected to go to NS and BNSF in equal shares, i.e., 50% of UP's lost volume would go to NS

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46 Dr. Bailey relies on these Guidelines, noting that "The focus of the MG is on harm to the competitive process." *See* Bailey Amended Statement at ¶ 79.

47 These are some constraining factors but others disciplining factors could include build outs to alternative railroads and source and destination competition.

48 S*ee, e.g.*, Russell Pittman, *Three Economist's Tools for Antitrust Analysis: A Non-Technical Introduction*, at 4, https://www.justice.gov/atr/page/file/925641/dl.

and 50% to BNSF. Post-merger, if the combined firm tried to raise prices on UP service, UP would still lose at least the 28.5% volume but now half of that volume is gained by NS; post-merger, the combined entity recaptures (internalizes) half of the lost volume. If the price increase causes UP to lose, say, 30% of its volume, the merged entity loses only 15% of the UP volume because of recapture by NS, then the price increase would be profitable. As a result, in situations where UP and NS are among multiple options for a customer, the Proposed Transaction, absent appropriate conditions, provides UP and NS incentives to raise price, and the bigger are the UP and NS shares, the greater the merged carrier's incentives to raise price.

19. Another approach commonly used to assess whether a rail merger may lead to adverse competitive outcomes is to assess how many significant competitors exist pre-merger and whether the merger will result in the loss of one competitor among a small number of significant competitors.[49] For example, a transaction that results in a reduction in competitors from 2-to-1 or 3-to-2 for customers typically raises competitive concerns, absent other factors that mitigate those concerns. I discuss in more detail in Section IV.A.2 how reductions in the number of significant competitors can result in competitive harm. I also understand that different analyses have been presented to the Board in prior railroad mergers (e.g., 2-to-1 customers and corridors, 50/10 screens) for evaluation of the competitive effects of mergers in the railroad industry and I discuss those analyses in Sections IV, V, and VI.[50]

IV. ANALYSIS OF ACCESS TO CUSTOMERS

20. Railroads compete for customers that can (actually or potentially) access multiple railroad options for their shipping requirements.[51] If both UP and NS can provide (in whole or in part) railroad options for serving a customer's traffic, they may compete with each other for the

[49] *See Burlington N. Inc.—Control and Merger—Santa Fe Pac. Corp.*, 10 I.C.C.2d 661, 728 (1995) [hereinafter "*BN/SF*"] ("Where most or all of the firms in the market have sufficient capacity to serve a significant amount of total market sales, and there is no significant disadvantage in obtaining these sales, the analysis considers the number of competitors rather than their market shares."); *Union Pac. Corp.—Control & Merger—S. Pac. Rail Corp.*, 1 S.T.B. 233, 365 (1996) [hereinafter "*UP/SP*"].

[50] Traffic groups in which both UP and NS handle 10% of the shipments and combined would have more than a 50% share exceed the Merger Guidelines threshold for the presumption of substantially lessened competition.

[51] At times I may also refer to customers as shippers but my analysis also examines the impacts to customers who receive commodities shipped on rail.

customer's traffic. All else equal, competition between UP and NS is more important when there are fewer other railroad options available. The Proposed Transaction would eliminate this competition between UP and NS, reducing some customers' options, and those customers may face adverse competitive effects without appropriate conditions on the Proposed Transaction.

21. I agree with Dr. Bailey that an analysis of railroads' access to customers is needed to identify customers for which the Proposed Transaction may raise horizontal competitive concerns. In addition to analyzing railroads' direct access to customer facilities, an analysis of customer access should also consider indirect or potential access, where a customer can indirectly or potentially access railroads that are competitive options. Dr. Bailey's analysis of existing, direct railroad access to customer facilities identifies one set of affected customers that will face a 2-to-1 or 3-to-2 reduction in Class I railroad options from the Proposed Transaction. However, I disagree that her analysis of access to customer facilities at a BEA-level identifies all other customers that may face potential adverse effects from the Proposed Transaction due to a post-merger reduction in railroad access.

A. DR. BAILEY'S ANALYSIS OF CUSTOMER FACILITIES THAT WILL FACE A REDUCTION IN CLASS I RAILROAD ACCESS OPTIONS FROM 2-TO-1 OR 3-TO-2 IDENTIFIES CUSTOMERS THAT WILL FACE ADVERSE COMPETITIVE EFFECTS

1. Dr. Bailey's Supplemental Analysis of Existing Access to Specific Customer Facilities is Consistent with my Prior Approach and Identifies Thirty-Five 2-to-1 and 3-to-2 Customer Facilities Impacted by the Proposed Transaction

22. Dr. Bailey's April 27, 2026 analysis of "adverse competitive effects from situations where UP and NS both serve the same customer location or the same geographic area" focuses on "direct access to customer facilities."[52] She identifies customer facilities "where a combination of UP and NS would reduce the number of railroads accessible to the customer from 2-to-1 or from 3-to-2."[53] She identifies five and four such customer facilities, respectively.[54]

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52 Bailey Amended Statement at ¶¶ 106–107.

53 Bailey Amended Statement at ¶ 109.

54 Bailey Amended Statement at ¶ 109, Exhibit 11. In the Coleman Amended Application Statement, I identified "at least 21 customer facilities that would experience a reduction in competitive Class I rail options" omitted from Dr. Bailey's initial list. Coleman Amended Application Statement at ¶ 5.

23. In her July 17, 2026 Supplemental Statement, Dr. Bailey provides a follow-up to her initial analysis and identifies a total of 35 "customer facilities that would face a reduction in access to Class I railroads," including eight 2-to-1 and twenty-seven 3-to-2 such facilities.[55] She also determines that one of the 2-to-1 and nine of the 3-to-2 customer facilities either do not have UP and NS as serving carriers or are under line abandonment proceedings.[56]

24. The customer facilities identified by Dr. Bailey in her Supplemental Statement largely align with those I identified in my Amended Application Statement as shown in Figure 1 below.[57] I have not identified any additional customer facilities that would face a reduction in access to Class I railroads from 2-to-1 and 3-to-2 based on available materials.

[55] Bailey Supplemental Statement at ¶ 5, Exhibits 1–2.

[56] Bailey Supplemental Statement at § 2.

[57] Appendix B, Coleman Amended Application Statement. Dr. Bailey excluded a few customer facilities from my prior list on the basis that they were no longer in business or were affected by inaccurate SCRS data entries. If she has accurately described data errors, then a reclassification is appropriate.

Figure 1: Customer Facilities Facing a 2-to-1 or 3-to-2 Reduction in Class I Railroad Options as a Result of the Proposed Transaction

Customer	Stations(s)	Bailey Amended Statement	Coleman Amended Application Statement	Bailey Supplemental Statement	Access Commitment Offered
AgRail LLC	Bloomington, IL	2-to-1	2-to-1	2-to-1	Yes
Hillsboro Energy LLC	Hillsboro, IL	2-to-1	2-to-1	2-to-1	Yes
Macoupin Energy LLC	Monterey Mine Carlinville, IL	2-to-1	2-to-1	2-to-1	Yes
Midwest Salt LLC	Chicago, IL	2-to-1	2-to-1	2-to-1	Yes
Milano Metals & Recycling/Milano Railcar Services LLC/Shapiro Bros of Illinois Inc.	Mt Vernon, IL	Omitted	2-to-1	2-to-1	Yes
Titan Tire Corp.	Des Moines, IA	Omitted	2-to-1	2-to-1	Yes
US Glu-Lam Inc.	Chicago, IL	2-to-1	2-to-1	2-to-1	Yes
Stewart Grain Company Inc.	Marshfield/Stewart, IL	Omitted	Omitted	2-to-1	No[1]
Alter Metal Recycling	Des Moines, IA	Omitted	3-to-2	3-to-2	Yes
Archer Daniels Midland Co.	Des Moines, IA	Omitted	3-to-2	3-to-2	Yes
Bituminous Materials & Supply LP	Des Moines, IA	Omitted	3-to-2	3-to-2	Yes
BlueLinx Corp.	Des Moines, IA	Omitted	3-to-2	3-to-2	Yes
Bridgestone Americas Tire Operations LLC	Des Moines, IA	Omitted	3-to-2	3-to-2	Yes
Bunge Milling Inc.	Danville, IL	Omitted	3-to-2	3-to-2	Yes
Cargill Inc.	Des Moines, IA	Omitted	3-to-2	3-to-2	Yes
Des Moines Industrial LLC	Des Moines, IA	Omitted	3-to-2	3-to-2	Yes
Edmund A Allen Lumber	Momence, IL	3-to-2	3-to-2	3-to-2	Yes
Feed Energy Co.	Des Moines, IA	Omitted	3-to-2	3-to-2	Yes
General Mills Inc.	Avon, IA	Omitted	3-to-2	3-to-2	Yes
Heartland Co-op	Des Moines/Avon, IA	Omitted	3-to-2	3-to-2	Yes
Magellan Midstream Partners LP	Des Moines, IA	Omitted	Omitted	3-to-2	Yes
Mighty River Recycling LLC/Azcon Inc. (Former Owner of MRR LLC's Facility)	Federal, IL	3-to-2	3-to-2	3-to-2	Yes
Rayner Rinn Scott	Des Moines, IA	Omitted	Omitted	3-to-2	Yes
REG Danville LLC/Renewable Energy Group Inc.	Danville, IL	Omitted	3-to-2	3-to-2	Yes
The Quaker Oats Co.	Danville, IL	Omitted	3-to-2	3-to-2	Yes
USS Granite City Works	Madison/Granite City, IL	Omitted	Omitted	3-to-2	Yes
Wheeler Consolidated Inc.	Des Moines, IA	Omitted	3-to-2	3-to-2	No[2]
Intrinsic Ag LLC	Altoona, IA	Omitted	Omitted	3-to-2	No[1]
Lebanon Chemical Corp.	Danville, IL	3-to-2	3-to-2	3-to-2	No[1]
Lineage Logistics LLC/Iowa Cold Storage	Altoona, IA	Omitted	Omitted	3-to-2	No[1]
Merchants White Line Warehousing Inc.	Altoona, IA	Omitted	Omitted	3-to-2	No[1]
Viscofan USA Inc.	Danville, IL	3-to-2	3-to-2	3-to-2	No[1]
Beisser's Inc.	Grimes, IA	Omitted	Omitted	3-to-2	No[1, 2]
CB&I Storage Tank Solutions LLC	Des Moines, IA	Omitted	Omitted	3-to-2	No[1, 2]
Frontier Forest Products Inc.	Des Moines, IA	Omitted	Omitted	3-to-2	No[1, 2]

[1] Serving Carrier Not UP or NS

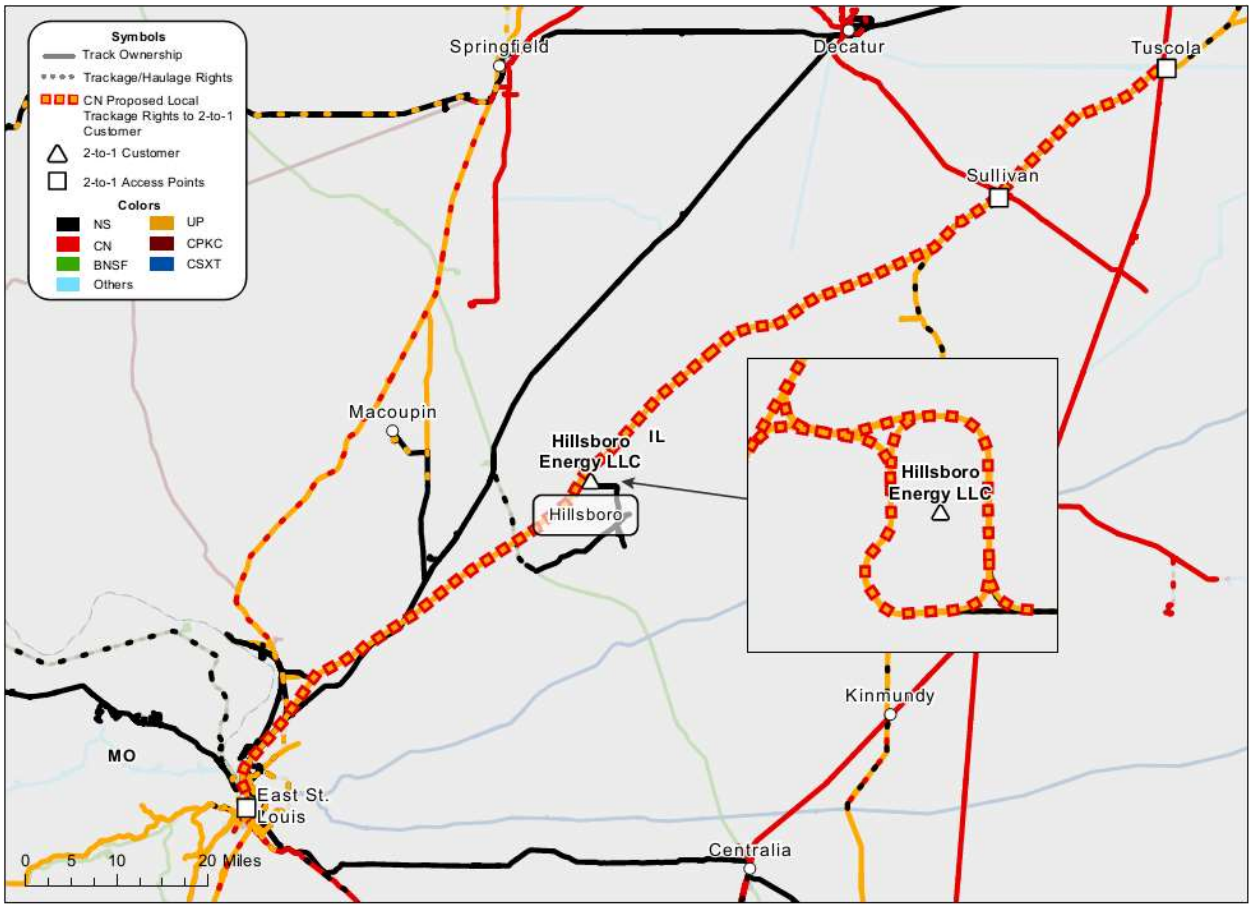
[2] Customer located on Line Abandonment

2. 2-to-1 and 3-to-2 Customer Facilities may Face Adverse Competitive Effects as a Result of the Proposed Transaction

25. The 2-to-1 and 3-to-2 customers may face adverse competitive effects as a result of the Proposed Transaction because of the loss of a Class I railroad option. Pre-merger, UP and NS compete independently for these customers and each may offer better rates or service terms to the customer to choose its railroad over the other. Depending on the customer's transportation needs, certain railroads may have advantages over others based on their own networks, operating plans, facilities, capabilities, and equipment that impact the rates and service they could economically offer to customers. When railroads compete with each other, customers may benefit from better rates and service than would be available without such competition. Following the Proposed Transaction, this competition would be lost as the combined UP-NS railroad would have a reduced incentive (or, in the case of 2-to-1 customers, no incentive) to provide better rates or service terms beyond the terms required by the Board's regulatory framework. Thus, with less railroad competition post-merger, customers may pay higher prices or be offered poorer service.

26. This is most easily demonstrated for 2-to-1 customers (meaning customers who have access to both UP and NS and no other Class I railroads before the merger), such as Hillsboro Energy LLC ("Hillsboro Energy"). Hillsboro Energy originated {{ }} shipments in 2025 – {{ }} by NS and {{ }} by UP. Of the NS originations, {{ }} shipments were delivered to {{ }} via an interline movement with the Evansville Western Railway (EVWR) in {{ }}. Another {{ }} shipments were delivered to {{ }}. Of the UP originations, {{ }} were delivered to {{ }} and {{ }} to {{ }}. Both railroads handled substantial traffic for Hillsboro Energy in 2025, showing that each is a viable and competitive option for this customer. Figure 2 depicts rail access and the area rail network for Hillsboro Energy.

Figure 2: Hillsboro Energy Rail Access



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

27. Because both UP and NS offer originating service to Hillsboro Energy, this customer has varying railroad options it can use to negotiate its terms and rates. NS can provide direct service to customers in {{ }} and UP can offer interline service; UP can provide direct service to customers in {{ }} and {{ }} and NS can offer interline service. Neither NS nor UP can provide direct service to {{ }}; NS interlines that traffic with the EVWR in {{ }}, and UP could do the same.[58] As separate railroads, UP and NS compete against each other to serve Hillsboro Energy's transportation needs (either with direct service or through interline arrangements), which may include offering attractive rates for different routes, improved service that could add costs to operations, and additional investments. As a result of the Proposed Transaction, UP and NS will no longer have to compete with each

[58] *See Evansville Western Railway*, https://evwr.com/ (last visited Nov. 11, 2026).

other for this customer's business: if Hillsboro Energy wants to utilize rail transportation, absent conditions imposed on the merger, it would be left with one post-merger option, the combined UP-NS entity.

28. The same dynamic applies beyond 2-to-1 customers.[59] For 3-to-2 customers (or any customers that have both UP and NS as railroad options), the loss of a Class I railroad option may have adverse competitive effects. Suppose a customer has three Class I railroad options it could use to originate a shipment. Railroad A has a high cost of service which may include interline operations and switching fees over a circuitous route and can economically service the shipment for $1,500. Railroad B has a medium cost of service that includes direct service over a circuitous route and can economically service the same shipment for $1,000. Railroad C has a low cost of service that includes direct service over a straight route and can economically service the same shipment for $800. When negotiating for the customer's shipment, Railroad A would offer a rate no lower than $1,500. Railroads B and C are able to profitably offer lower rates than Railroad A due to their lower costs of service. Through negotiations, Railroad C would be expected to gain the business at any rate under $1,000, at which point Railroad B could no longer match the rate in an economically profitable way. If Railroads B and C were to merge, however, they would have less incentive to agree to any rate below the $1,500 rate that Railroad A could offer. In the absence of other competitive constraints, the customer would end up paying a rate closer to $1,500, rather than a rate closer to $1,000 that would be expected if Railroads B and C were independent rail options.[60] This is illustrated in Figure 3 below.

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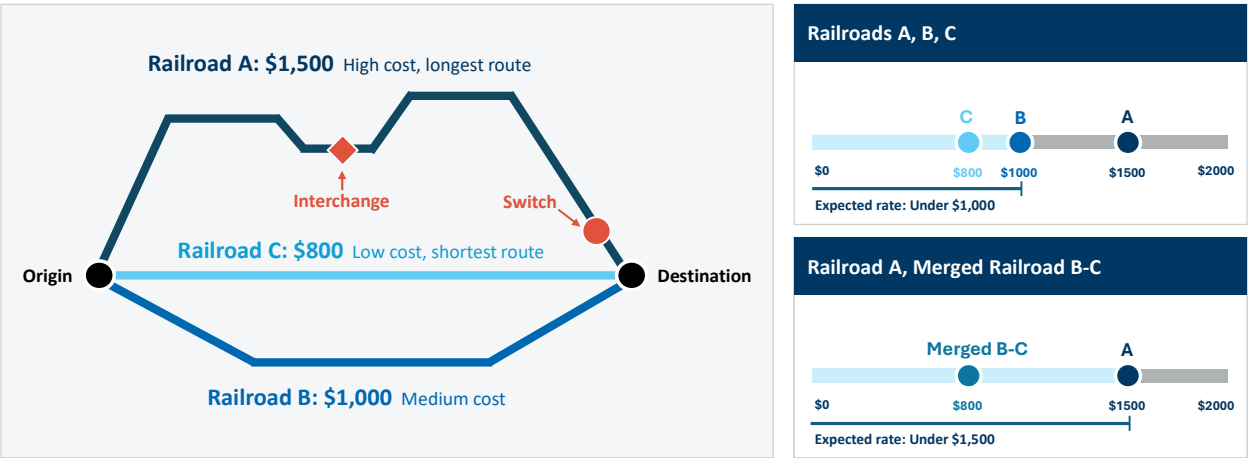
[59] This dynamic is discussed by Applicants' Expert Mark Israel, who explains that "railroads will compete until price falls to the cost of the higher-cost railroad, and then the lower cost railroad will price just under that cost and win the business because the higher cost railroad cannot profitably match that price. The winning lower-cost railroad will earn a margin roughly equal to the difference between the two railroad's costs." Am. Appl. Vol. 2, Verified Statement of Mark A. Israel, at ¶ 25 (April 24, 2026), [hereinafter "Israel V.S."].

[60] In this example, if Railroad A and C were to merge, the competitive effect may be minimal. However, Railroads A and C may compete for other traffic on their networks and a merger could generate adverse competitive effects to their customers.

Figure 3: Pricing Dynamics for a 3-to-2 Customer



29. For example, {{ }} is one of the 3-to-2 customers identified in Des Moines, IA.[61] According to the Serving Carrier/Reciprocal Switch ("SCRS") data,[62] NS is the serving carrier with open access agreements to BNSF, IAIS, and UP.[63] Through these arrangements, NS would provide the industry pull or delivery from {{ }} and then provide the traffic to BNSF, IAIS, or UP at their stations for a change fee known as "reciprocal switching" between $250 and $552 depending on the commodity and whether or not it is a grain unit train.[64] In Des Moines, {{ }} originated {{ }} shipments that went to {{ }} via UP, {{ }} shipments that went to {{ }} via NS, {{ }} shipments that went to {{ }} via UP, {{ }} shipments that went to {{ }} via UP, and {{ }} that went to {{ }} via IAIS and NS in 2025.[65] {{ }} also made shipments to {{

61 Bailey Supplemental Statement, Exhibit 2.

62 *See Serving Carrier/Reciprocal Switch*, Railinc, https://public.railinc.com/products-services/serving-carrierreciprocal-switch (last visited Nov. 11, 2026).

63 *See*, for example, "SCRS 3-to-2 and 2-to-1 customer notes.xlsx" in Dr. Bailey's Amended Application Workpapers for {{ }} in IA. As I noted in the Coleman Amended Application Statement, "[i]n addition to the limitations that IAIS faces as a Class II railroad in providing rail services to customers, IAIS's access to many of these customers is subject to certain restrictions." *See* Coleman Amended Application Statement at ¶ 22.

64 *See NS 8001 Switching and Absorption Tariff*, NS, (effective August 1, 2026), at 25 https://www.norfolksouthern.com/content/dam/nscorp/pdf/tariffs/8-1-2026/NS%208001%2008-01-26.pdf (last visited Nov. 11, 2026);*NS 8001 Section 5 - Industries Open to Switching*, NS, https://www.norfolksouthern.com/content/dam/nscorp/pdf/tariffs/8-1-2026/NS%208001%20Section%205%2008-01-26.pdf (last visited Nov. 11, 2026).

65 *See* Bailey Amended Statement Workpaper "Class 1 Reductions Carloads.xlsx."

}}. This demonstrates that both UP and NS are meaningful railroad options for {{ }}.

30. For each of these destinations, {{ }} could negotiate with UP and NS (and BNSF) to obtain rates closer to the lowest-cost rail carrier option. In addition, {{ }} may be able to leverage volume commitments to certain locations in exchange for better terms and service. If UP and NS were to merge, however, {{ }} would lose a key railroad option competing for its business in Des Moines, along with the leverage that allows it to obtain its current rates and terms, unless the Proposed Transaction is conditioned to preserve that competition. {{ }} could also be served by IAIS through its switching agreement with NS. However, as explained in my Amended Application Statement, I understand the focus on merger cases and Board precedent involve access to Class I rail options and the Board has recognized that the operational characteristics "significantly differentiate" Class I railroads and regional carriers "are heavily dependent in many critical ways on their Class I interchange partners."[66]

B. DR. BAILEY'S ANALYSIS OF CUSTOMER ACCESS AT A BEA LEVEL IS OVERLY BROAD AND FAILS TO IDENTIFY AREAS WHERE CUSTOMERS MAY FACE ADVERSE EFFECTS

1. Dr. Bailey's Analysis of Customer Access at a BEA Level is Overly Broad and Fails to Consider the Differences in Customer Access within a BEA

31. Dr. Bailey's second analysis of "Access to Customers" considers "the effect of the merger on the number of railroads that serve individual BEAs."[67] Dr. Bailey states that the Bureau of Economic Analysis designed "Economic Areas (which are referred to as BEAs in this statement) as the basis for regional and economic analysis."[68] She further states that "[a]nalyzing access at the BEA level captures potential changes in the number of options available to customers that use truck to deliver freight to an access point, so that the geographic scope of competitive rail alternatives includes more than just the customer location. It can also capture

66 Coleman Amended Application Statement at ¶ 15, n. 26.

67 Bailey Amended Statement at ¶ 117.

68 Bailey Amended Statement at ¶ 117.

some aspects of potential competition for customers that are expanding or relocating within an area and are choosing where to site their facility."[69]

32. I agree with Dr. Bailey that assessing the horizontal competitive effects of the Proposed Transaction on individual customers requires more than just analyzing the impact on current customer facility access as discussed in the previous section. This is because although some customers may not currently access a railroad's line directly they may still rely on the presence of that railroad for current or future potential needs. Dr. Bailey recognizes examples for when this may occur, including "customers that use truck to deliver freight to an access point" and "customers that are expanding or relocating within an area."[70] Another example is customers that can use the threat of building access to a nearby railroad as a competitive alternative when negotiating with the railroads they can already access.[71]

33. My disagreement with Dr. Bailey's approach is her use of BEAs for this analysis. Dr. Bailey's use of BEAs assumes that all railroads within a BEA are competitive alternatives for all customers (and all commodities) shipped by those customers within the BEA for every BEA.[72] This assumption is unsupported. The Bureau of Economic Analysis explains that the economic areas were developed to facilitate "regional economic analysis" and goes on to explain that "[f]or some analyses, government agencies and businesses need data that are more geographically detailed than EA data," citing examples such as determining plant locations and defining sales and marketing territories.[73] While the use of BEAs has been used and accepted by the Board for certain competitive analyses in prior merger matters, Dr. Bailey's use of BEAs as a basis for determining customer access is novel, and she has provided no support for its use in this manner.

34. BEAs are an inappropriate basis for determining customer access because of their size and the differences in customer access within a BEA. BEAs can encompass large areas. Across

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69 Bailey Amended Statement at ¶ 117.

70 Bailey Amended Statement at ¶ 117.

71 Major Rail Consol. Proc., 5 S.T.B. at 561 ("Competition arising from shippers' build-out, transloading, plant siting, and production shifting choices can be eliminated or reduced when two railroads serving overlapping areas merge.").

72 Bailey Amended Statement at ¶¶ 118–119.

73 *See Final Redefinition of the BEA Economic Areas*, Bureau of Transportation Statistics (January 11, 2012), https://www.bts.gov/archive/publications/federal_register/1995/bts_19950310 (last visited Nov. 11, 2026).

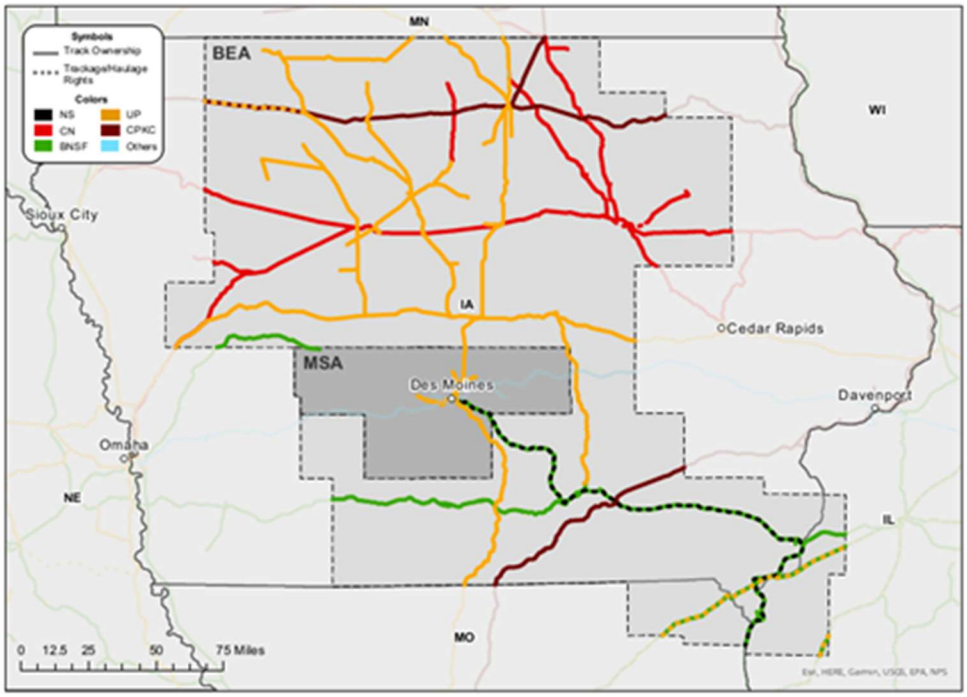
the entire United States, BEAs on average cover nearly twenty thousand square miles of land area. As shown in Figure 4, the land areas for BEAs in which both UP and NS operate range from 5,721 square miles (Peoria-Pekin, IL BEA) to 35,341 square miles (Des Moines, IA-IL-MO BEA), with an average of 16,353 square miles.

Figure 4: Land Area of Overlapping UP & NS BEAs Identified by Dr. Bailey

BEA Code	BEA Name	Land Area (Square Miles)
64	Chicago-Gary-Kenosha, IL-IN-WI	18,381
68	Champaign-Urbana, IL	8,547
73	Memphis, TN-AR-MS-KY	17,746
83	New Orleans, LA-MS	7,776
96	St. Louis, MO-IL	27,498
97	Springfield, IL-MO	8,794
98	Columbia, MO	6,285
99	Kansas City, MO-KS	27,442
100	Des Moines, IA-IL-MO	35,341
101	Peoria-Pekin, IL	5,721
	Average Land Area	**16,353**

35. Individual railroads' network, operations, and ability to serve individual customers within each BEA may vary depending on the location of the customer within the BEA, as well as customers' shipment needs; simply because two railroads operate in the same BEA does not mean that they have similar access to all of the customers within that BEA and can compete for each customer's traffic in a meaningful way. Figure 5 below identifies the rail network within the Des Moines, IA-IL-MO BEA. As described above, BEAs can cover large areas, including multiple MSAs (Metropolitan Statistical Areas) within a single BEA. For example, within the Des Moines-West Des Moines, IA MSA, only three Class I railroads – UP, NS, and BNSF – along with IAIS have access to customers. Dr. Bailey's approach would consider CPKC and CN as competitors for these customers, despite the fact that they operate nowhere in the MSA.

Figure 5: Map of Rail Network within Des Moines, IA-IL-MO BEA



Sources: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database.

2. Dr. Bailey's Analysis of Customer Access at a BEA Level is Inconsistent with Applicants' Expert David Hunt's Assumptions Regarding Competitive Rail Traffic

36. Dr. Bailey's use of BEAs in assessing customer access is also at odds with the work of Applicants' Expert David Hunt evaluating competitive rail traffic for his traffic diversion analysis.[74] As part of his rail-to-rail diversion analysis, Mr. Hunt makes the following assumptions regarding the competitiveness of rail traffic:[75]

- Merchandise and bulk were defined as competitive at an SPLC-SPLC level, based on the definitions in the Switching Carrier/Reciprocal Switching ("SCRS") data, which shows if a railroad can access or has reciprocal switching rights at a station;

- Intermodal traffic was defined as competitive at a BEA-BEA level, with a small number of adjustments to more accurately reflect real-world competition based on drayage catchment areas. A railroad requires access to an intermodal terminal in the BEA/catchment area. Thus, if a railroad can

74 Am. Appl. Vol. 2, Verified Statement of David T. Hunt (April 29, 2026) [hereinafter "Hunt Amended Statement"].

75 Hunt Amended Statement, Exhibit 6-3, internal citations omitted.

offer competitive service in both the origin and destination BEA or via interchange, then that railroad can compete for the traffic; and

- Automotive traffic was defined as competitive on an origin SPLC to destination BEA level, where a railroad requires access to the origin SPLC and an automotive ramp in the destination BEA.

Mr. Hunt also examines other factors in evaluating the ability of rail traffic to divert to another carrier, including the history of railroads moving traffic on routes for a service type and the use of "impedance" or the final "cost" of a route.[76]

37. Dr. Bailey's analysis of the number of railroads that serve individual BEAs to identify areas where customers may face a reduction in railroad options does not capture the available competitive options in a manner consistent with Mr. Hunt's approach. Specifically, Dr. Bailey's approach does not analyze the number of railroads serving SPLCs, which, under Mr. Hunt's analysis, would be relevant for (1) merchandise and bulk traffic for both the origin and destination of the movement and (2) automotive traffic at the origin of the movement. For intermodal traffic for both the origin and destination of the movement or automotive traffic at the destination of the movement, Mr. Hunt's analysis in theory could be consistent with a BEA-level approach, but he examines additional considerations before concluding that a railroad serving a BEA could serve a particular customer within that BEA; unlike Mr. Hunt's analysis, Dr. Bailey's analysis does not consider whether the other railroads in the BEA have the necessary equipment (such as intermodal or automotive ramp facilities) that would be needed to serve such traffic.

3. My Analysis Identifies Additional Customer Areas Where the Proposed Transaction Reduces Railroad Options

38. In order to evaluate whether any additional customers (not identified by Dr. Bailey) may face a 2-to-1 or 3-to-2 reduction in potential railroad options, I conduct a similar analysis to Dr. Bailey's Analysis of Access to Customers at a BEA level, but I conduct my analysis at a SPLC level rather than for the entire BEA. As I explain in Section IV.B.1, BEAs may encompass too large an area to be a useful geography in assessing customer access to railroad facilities. Defining geographies at a SPLC level may better identify areas where customers, even if they are not currently directly served, have access to additional railroad options and therefore may better

[76] Hunt Amended Statement, Exhibit 6-3.

capture the actual competitive options available to customers. This approach is also more consistent with the approach taken by Mr. Hunt.

39. To analyze the railroad originations and terminations by SPLC location, I use the combined waybill data prepared by Dr. Bailey based on the Class I railroads' 2019-2024 traffic tapes and the 2019-2023 Carload Waybill Sample data.[77] I total the traffic volume of shipments, by the originating railroad for the base year 2023 and calculate each railroad's share of all originations for the year for each SPLC.[78] I identify SPLCs with at least 365 carloads in 2023 where both UP and NS perform at least 1% of customer originations. The results of this analysis are presented in Figure 6 below. I conduct a similar analysis for shipment terminations, presented in Figure 7 below.

Figure 6: Railroad Shares of Originations, by SPLC, in Base Year 2023

Location Information				Originations			
SPLC	Station	State	BEA Name	Total Traffic	NS	UP	UP + NS
363400	HAMMOND	IN	Chicago-Gary-Kenosha, IL-IN-WI	{{ }}	{{ }}	{{ }}	{{ }}
363510	EAST CHICAGO	IN	Chicago-Gary-Kenosha, IL-IN-WI	{{ }}	{{ }}	{{ }}	{{ }}
363228	PORTAGE	IN	Chicago-Gary-Kenosha, IL-IN-WI	{{ }}	{{ }}	{{ }}	{{ }}
387440	BLOOMINGTON	IL	Chicago-Gary-Kenosha, IL-IN-WI	{{ }}	{{ }}	{{ }}	{{ }}
381376	RIVERDALE	IL	Chicago-Gary-Kenosha, IL-IN-WI	{{ }}	{{ }}	{{ }}	{{ }}
536870	DES MOINES	IA	Des Moines, IA-IL-MO	{{ }}	{{ }}	{{ }}	{{ }}
566900	KANSAS CITY	MO	Kansas City, MO-KS	{{ }}	{{ }}	{{ }}	{{ }}
439900	MEMPHIS	TN	Memphis, TN-AR-MS-KY	{{ }}	{{ }}	{{ }}	{{ }}
647000	NEW ORLEANS	LA	New Orleans, LA-MS	{{ }}	{{ }}	{{ }}	{{ }}
388260	PEORIA	IL	Peoria-Pekin, IL	{{ }}	{{ }}	{{ }}	{{ }}
392880	HILLSBORO	IL	Springfield, IL-MO	{{ }}	{{ }}	{{ }}	{{ }}
567500	ST LOUIS	MO	St. Louis, MO-IL	{{ }}	{{ }}	{{ }}	{{ }}
396292	GRANITE CITY	IL	St. Louis, MO-IL	{{ }}	{{ }}	{{ }}	{{ }}
396609	SAUGET	IL	St. Louis, MO-IL	{{ }}	{{ }}	{{ }}	{{ }}
396295	MADISON	IL	St. Louis, MO-IL	{{ }}	{{ }}	{{ }}	{{ }}
396298	VENICE	IL	St. Louis, MO-IL	{{ }}	{{ }}	{{ }}	{{ }}

[77] Bailey Amended Statement at ¶ 96.

[78] For purposes of this analysis, I group all non-Class I railroads into an "Other" category.

Figure 7: Railroad Shares of Terminations, by SPLC, in Base Year 2023

Location Information				Terminations			
SPLC	Station	State	BEA Name	Total Traffic	NS	UP	UP + NS
387650	DANVILLE	IL	Champaign-Urbana, IL	{{ }}	{{ }}	{{ }}	{{ }}
380000	CHICAGO	IL	Chicago-Gary-Kenosha, IL-IN-WI	{{ }}	{{ }}	{{ }}	{{ }}
363510	EAST CHICAGO	IN	Chicago-Gary-Kenosha, IL-IN-WI	{{ }}	{{ }}	{{ }}	{{ }}
363228	PORTAGE	IN	Chicago-Gary-Kenosha, IL-IN-WI	{{ }}	{{ }}	{{ }}	{{ }}
381376	RIVERDALE	IL	Chicago-Gary-Kenosha, IL-IN-WI	{{ }}	{{ }}	{{ }}	{{ }}
381380	BLUE ISLAND	IL	Chicago-Gary-Kenosha, IL-IN-WI	{{ }}	{{ }}	{{ }}	{{ }}
363400	HAMMOND	IN	Chicago-Gary-Kenosha, IL-IN-WI	{{ }}	{{ }}	{{ }}	{{ }}
363501	ROBY	IN	Chicago-Gary-Kenosha, IL-IN-WI	{{ }}	{{ }}	{{ }}	{{ }}
380001	CHICAGO ASHLAND AVE	IL	Chicago-Gary-Kenosha, IL-IN-WI	{{ }}	{{ }}	{{ }}	{{ }}
381417	DOLTON	IL	Chicago-Gary-Kenosha, IL-IN-WI	{{ }}	{{ }}	{{ }}	{{ }}
536870	DES MOINES	IA	Des Moines, IA-IL-MO	{{ }}	{{ }}	{{ }}	{{ }}
566900	KANSAS CITY	MO	Kansas City, MO-KS	{{ }}	{{ }}	{{ }}	{{ }}
439900	MEMPHIS	TN	Memphis, TN-AR-MS-KY	{{ }}	{{ }}	{{ }}	{{ }}
647000	NEW ORLEANS	LA	New Orleans, LA-MS	{{ }}	{{ }}	{{ }}	{{ }}
388260	PEORIA	IL	Peoria-Pekin, IL	{{ }}	{{ }}	{{ }}	{{ }}
567500	ST LOUIS	MO	St. Louis, MO-IL	{{ }}	{{ }}	{{ }}	{{ }}
396640	EAST ST LOUIS	IL	St. Louis, MO-IL	{{ }}	{{ }}	{{ }}	{{ }}
396292	GRANITE CITY	IL	St. Louis, MO-IL	{{ }}	{{ }}	{{ }}	{{ }}
396609	SAUGET	IL	St. Louis, MO-IL	{{ }}	{{ }}	{{ }}	{{ }}
396295	MADISON	IL	St. Louis, MO-IL	{{ }}	{{ }}	{{ }}	{{ }}
396250	ALTON	IL	St. Louis, MO-IL	{{ }}	{{ }}	{{ }}	{{ }}

40. Based on the approach described above, Figure 6 identifies {{ }} SPLCs where UP and NS both provide originating service to customers and Figure 7 identifies {{ }} SPLCs where UP and NS both provide terminating service to customers. The highlighted rows in the Figures are SPLCs with 2-to-1 and 3-to-2 customers (e.g., Bloomington, Hillsboro, Alton, Chicago, Madison/Granite City, Des Moines, and Danville). {{ }} of these SPLC locations would face a loss in Class I railroad options from 2-to-1 and {{ }} of these SPLC locations would face a loss in Class I railroad options from 3-to-2.[79] UP and NS combined originate the majority of railroad shipments in {{ }} SPLC locations, including {{ }} SPLC locations in which they originate more than 75% of railroad shipments. They terminate the majority of railroad shipments in {{ }} SPLC locations, including {{ }} SPLC locations in which they terminate more than 75% of railroad shipments.

[79] *See* tab "In-text Figures" in my Workpaper, "Figure 6 and 7.xlsx."

41. The largest SPLC locations where UP and NS handle more than {{ }} of originations and terminations are St. Louis, MO and Kansas City, MO. This is consistent with the overall shares for the corresponding BEAs that Dr. Bailey calculated in her Appendices, which show:[80]

- UP and NS combined performed {{ }} of originations and {{ }} of terminations across the Kansas City, MO-KS BEA, and
- UP and NS combined performed {{ }} of originations and {{ }} of terminations across the St. Louis, MO-IL BEA.

4. Customers that Could Have Utilized UP and NS Options May Face Adverse Effects after the Proposed Transaction

42. Just as customers with direct access to multiple railroads may face adverse competitive effects through the loss of a Class I railroad option, so too may customers with indirect access face adverse competitive effects. Competition through indirect access occurs when shippers can access alternative railroads by trucking their product to the rail networks, can build out track to reach an alternative rail network, or can choose among sites served by alternative railroads when building a new facility.

43. Some customers may rely on trucks to move their shipments to or from the rail network for first- and last-mile service. As discussed in § III.A.2, when a customer can choose among multiple railroad options to deliver or receive their shipments, they can use those options to negotiate for better rates and service terms. If both UP and NS are among those options for a customer, the Proposed Transaction would reduce the number of railroad options that could compete for that customer's traffic. As explained in ¶ 41 above, UP and NS have high shares in the Kansas City and St. Louis BEAs; customers in those areas may currently benefit from competition between UP and NS that would be lost after the Proposed Transaction.

44. For example, grain elevators are an important part of the supply chain for bulk grain commodities such as corn, soybeans, and wheat. Farmers not located at a rail station must first rely on truck options to transport products from their farm and may then rely on grain elevators as points to market and deliver their products. Farmers are likely to have multiple grain elevators within a reasonable trucking distance, and those grain elevators may be served by one or more

[80] *See* Bailey Amended Statement Workpaper "Appendix D1, D2.xlsx."

railroads. Products trucked to grain elevators can be marketed and delivered to areas of demand via these railroad options (or additional truck options) to the benefit of the farmers. Even though these farmers may not be located on the rail network, competition among the rail options available at accessible grain elevators may discipline the prices offered for transport from those elevators.

45. Ray-Carroll County Grain Growers, Inc. has a grain elevator in Brunswick, MO (within Chariton County) with access to both BNSF and NS.[81] Northwest Missouri Grain LLC (now the MFA Rail Facility) has grain elevators in Hamilton, MO (within Caldwell County) and access to UP.[82] Each of these railroads can access and offer competitive service to different areas of demand. Ray-Carroll and MFA compete for grain producers' business (e.g., producers in Chariton, Caldwell, and the Livingston and Carroll counties in between) to utilize their services to market and sell their products. The products are then distributed to areas of demand via the rail network or trucking options from these facilities. The facilities are located less than a 70-mile drive from each other, and producers in that region may truck their products to one or the other facility. Pre-merger, UP's service to the MFA at Hamilton competes with BNSF's and NS's service to Ray-Carroll at Brunswick. If rail rates are too high or service is poor from one facility, then farmers may choose to shift their products towards the other facility or another railroad. With the merger between UP and NS though, part of that competition is lost. This could result in reduced or limited service to one or both of the Brunswick and Hamilton grain facilities. Additionally, the combined UP-NS entity may not have the same incentive to invest in and support both facilities. As a result of the lost competition, the customers using the Brunswick and Hamilton grain elevators may face higher freight rates, reduced service, or more onerous or expensive terms on equipment.

46. Customers can also use the ability to create (or threaten to create) buildouts to another railroad option to negotiate better rates and terms from their current railroad provider. A buildout occurs when a customer develops track lines from its facility to connect with a railroad. Such a buildout provides customers with flexibility in railroad options for their traffic. A customer does

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81 *See Ray-Carroll County Grain Growers*, https://www.ray-carroll.com/index.cfm?show=10&mid=43 (last visited Nov. 11, 2026); SCRS data.

82 *See MFA Rail Facility*, http://www.mfarailfacility.com/index.cfm?show=10&mid=29 (last visited Nov. 11, 2026); SCRS data.

not need to complete a buildout, however, for a buildout option to have value. The very possibility of creating a buildout can, on its own, help discipline rates and service terms with the connecting serving rail carrier. If a customer was served by only one of the Applicants but had the option to build out to the other Applicant, the Proposed Transaction would eliminate this option and the competitive threat it provides.

47. Customers can also use competing rail options when selecting a site for a new facility. For example, if a customer was planning a new facility in the Kansas City area, it could contact railroads about potential sites along their networks and negotiate rates and service terms for its traffic. In negotiating with one railroad about a particular site, the customer can use the fact that it is considering other sites served by other railroads to press for favorable terms. If the customer's site options include one (or more) served by UP and one (or more) served by NS, the Proposed Transaction would eliminate competition between those sites and leave customers with fewer options and less ability to negotiate favorable terms.[83]

48. In each of these scenarios—whether a customer has indirect access through trucking, a potential buildout, or a choice among sites for a new facility—having multiple Class I railroad options benefits customers because the railroads compete for their transportation business. As independent competitors, UP and NS may be incentivized to offer better rates or service terms to induce customers to choose one railroad over the other. The Proposed Transaction would eliminate this competition. Just as conditions are necessary to protect customers with direct access to both UP and NS, conditions are also necessary to protect customers who rely on these indirect forms of access.

49. As I discuss in §§ V-VI, the Kansas City and St. Louis BEAs are also flagged in additional approaches identifying potential harms of the Proposed Transaction, highlighting the likelihood of potential competitive concerns for customers in these areas.

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[83] *See*, for example, *Focus Sites on the Union Pacific Network*, UP, https://www.up.com/shipping/connect-to-rail/premier (last visited Nov. 11, 2026); *Choosing a Rail Served Site*, NS, https://www.norfolksouthern.com/en/rail-development-property/industrial-rail-development/site-location-services/choosing-a-rail-served-site (last visited Nov. 11, 2026) (detailing insights regarding their marketing strategies targeted towards customers).

V. ANALYSIS OF WITHIN CORRIDOR COMPETITION IMPACTING KANSAS CITY AND ST. LOUIS

50. Railroads compete for traffic that customers want to move from a specific origin to a specific destination, which can be called a corridor. I agree with Dr. Bailey that an analysis of railroads that serve traffic along corridors is useful in identifying corridors for which the Proposed Transaction may raise horizontal concerns. If both UP and NS have lines that typically provide one of a few railroad options for some or all of the corridor, they may be strong competitors for customers' traffic along that corridor. The Proposed Transaction eliminates this competition, and customers may face adverse effects unless appropriate conditions are placed on the Proposed Transaction. At a high-level, Dr. Bailey's analysis provides a reasonable approach to identifying corridors that will face a reduction in rail competition after the Proposed Transaction. However, I disagree with several of Dr. Bailey's unsupported assumptions, including assumptions that certain types of traffic are protected from competitive harm. Dr. Bailey's assumptions have the effect of understating (and, in some cases, reducing to zero) the total rail traffic using these corridors that could face adverse competitive effects. I have been asked by Counsel to focus my analysis on within corridor competition for traffic involving corridors with origins or terminations in Kansas City or St. Louis BEAs.

A. DR. BAILEY'S ANALYSIS OF WITHIN CORRIDOR COMPETITION FAILS TO INCLUDE TRAFFIC ON CORRIDORS THAT WOULD FACE A LOSS OF RAILROAD OPTIONS

51. Dr. Bailey conducts an "Analysis of Competition Within Corridors" that she describes as "analyz[ing] horizontal competition to transport freight along the same segment of specific corridors."[84] Dr. Bailey asserts the focus of the analysis is on "potential adverse competitive effects of the merger on linehaul services between different points."[85] She claims that her "analysis shows that there is limited scope for potential horizontal harm to competition within corridors as a result of the Proposed Transaction," with "at most 15 corridors where there might be a loss of competition from a reduction from 3-to-2 in the number of railroads observed on a segment of the corridor, and only {{ }} carloads of freight in 2023 on these corridors that

[84] Bailey Amended Statement ¶ at 120 (defining corridors as bidirectional "BEA-BEA pairs."); Bailey Amended Statement, ¶¶ 123–124.

[85] Bailey Amended Statement at ¶ 120.

might be exposed to harm from horizontal competitive."[86] Of the corridors she identifies, [six] involve the St. Louis or Kansas City BEAs at one end of the corridor.

52. Dr. Bailey's Analysis of Competition Within Corridors proceeds in two steps:[87]

> The first step is an initial screen that flags a corridor based on the potential horizontal effect of the merger on the number of options available to customers on segments within that corridor that are observed in the combined waybill data. The second step is to conduct further analysis about competition on the flagged corridors to assess whether the corridor can be unflagged entirely, or whether at least some of the traffic on the corridor is protected from the risk of harm.

53. For the first step, Dr. Bailey examines corridors in bi-directional BEA-BEA pairs for all commodities, in order to "to focus attention on horizontal competitive effects on the linehaul service along the corridor."[88] She describes the goal of this step as "to provisionally flag a corridor if UP and NS are the only two railroads that both operate at the same end of the corridor or are two of only three that do so."[89]

54. Dr. Bailey describes the second step as investigating "corridors that were initially flagged to assess whether the corridor can be unflagged entirely, or whether some of the traffic on the corridor is protected from harm."[90] She describes five methods to assess whether this traffic is "protected from harm," including considering "Competition with Non-Rail Modes," "Automotive and Intermodal," "Corridors Traversing the Kansas City – St. Louis Segment," and "Additional Interline Options."[91]

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86 Bailey Amended Statement at ¶ 121.

87 Bailey Amended Statement at ¶ 120.

88 Bailey Amended Statement at ¶¶ 123–127.

89 Bailey Amended Statement at ¶ 128. Dr. Bailey also considers the possibility of an effect for routes where UP and NS both operate as a bridge carrier on the corridor but finds no competitive concern due to areas that UP and NS provide service to. Bailey Amended Statement at ¶ 129, n. 116.

90 Bailey Amended Statement at ¶ 135.

91 Bailey Amended Statement at § 4.3.4 (1), § 4.3.4 (2), § 4.3.4 (4), § 4.3.4 (5), ¶ 135. Dr. Bailey also considers the "Springfield, IL-MO – Evansville-Henderson, IN-KY Corridor." Bailey Amended Statement at § 4.3.4 (3).

55. After her analysis Dr. Bailey asserts that, at most, she finds [15] corridors where there might be a loss of competition, including [6] involving Kansas City or St. Louis.[92]

1. Dr. Bailey's Traffic Exclusions are Unsupported

56. Dr. Bailey's methods to assess whether certain traffic is "protected from harm" rely on unsupported assumptions that have the effect of removing significant volumes of traffic from consideration. Dr. Bailey excludes this traffic based on assumptions that are without empirical support. As a result, Dr. Bailey fails to analyze the competitive effects of the merger on the excluded traffic.

(a) Dr. Bailey relies on non-rail modes to exclude corridors and traffic.

57. First, Dr. Bailey considers "Competition with Non-Rail Modes." For her consideration of "Competition with Non-Rail Modes," she states:[93]

> Some customers within a flagged corridor are protected from potential horizontal anticompetitive harm because they have other competitive alternatives. Non-rail freight flows between BEAs show where customers have a viable non-rail option to move freight within a given corridor.

58. She then explains that "[t]o capture competition with non-rail modes, traffic on a flagged corridor for a particular commodity is excluded from the final carloads reported in Exhibit 12 if non-rail (truck and water) freight volume (measured in tons) accounts for 50 percent or more of the combined freight tonnage by rail and non-rail for that commodity on that corridor."[94] She cites language from an STB commodity exemption decision but provides no empirical analysis to support excluding traffic based on non-rail shares or her 50% screen.[95]

59. Dr. Bailey's basis for excluding traffic based on non-rail shares is flawed. The STB decision Dr. Bailey cites for her method to incorporate "non-rail modes" does not provide support for her claim that commodities where non-rail modes account for "50 percent or more of the combined freight tonnage by rail and non-rail for that commodity on that corridor" are

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92 Bailey Amended Statement at ¶ 121.

93 Bailey Amended Statement at ¶ 136 and § 4.3.4(1).

94 Bailey Amended Statement at ¶ 139.

95 Bailey Amended Statement at n. 124.

"protected from potential horizontal anticompetitive harm."[96] The cited decision involves a commodity exemption, in which I understand the Board is directed by 49 U.S.C. § 10502 "to exempt a transaction or service whenever continued regulation (1) is not necessary to carry out the transportation policy of section 10101 and (2) either (a) the transaction or service is of limited scope, or (b) regulation is not needed to protect shippers from the abuse of market power."[97] In this particular decision, the Board cited a number of factors that weighed in favor of exempting the hydraulic cement traffic from a specific plant, including traffic from trucks on certain routes, other railroads, geographic alternatives, R/VC ratios, and contract rates in determining that the serving railroad had "no market power to abuse."[98] The decision considered multiple factors, including the presence of other railroads, that bear on whether the traffic was protected from market power abuse and did not state that non-rail traffic of 50% or more means that rail providers have no ability to abuse market power. For additional discussion of the use of non-rail modes in Dr. Bailey's analyses, see § VI.A.2 below.

(b) Dr. Bailey excludes significant traffic through her unsupported exclusion of automotive and intermodal traffic.

60. Dr. Bailey also considers "Automotive and Intermodal" traffic to be "protected from harm." For "Automotive and Intermodal," in her Within Corridor analysis she:[99]

> …exclude[s] traffic that is carried in intermodal containers and motor vehicles (commodity code STCC 3711) and motor vehicle parts (commodity code STCC 3714). STB and Interstate Commerce Commission ("ICC") decisions have stated that there is "effective competition" in the transport of these categories of traffic.

61. Dr. Bailey cites a Board exemption decision for motor vehicle and motor vehicle parts or accessories and a Board exemption revocation decision involving traffic carried in intermodal

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96 Bailey Amended Statement at ¶¶ 136, 139, and n. 124 (describing *Rail Gen. Exemption Auth.—Exemption of Hydraulic Cement*, Ex Parte No. 346 (Sub-No. 34) (STB decided Dec. 4, 1996)) [hereinafter "STB Exemption of Hydraulic Cement"].

97 STB Exemption of Hydraulic Cement at 3.

98 STB Exemption of Hydraulic Cement at 5.

99 Bailey Amended Statement at ¶¶ 135, 140, and § 4.3.4(2).

containers as the bases for excluding these types of traffic entirely from her analysis.[100] Dr. Bailey relied exclusively on these exemption decisions to support her exclusion of this traffic and did not conduct her own analysis to evaluate whether there is "effective competition" for these commodities.[101]

62. I understand that for mergers involving two Class I railroads, 49 U.S.C. §11324 directs the Board to consider "whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region or in the national rail system."[102] This inquiry is different from the key inquiry in exemption decisions which, as described above, considers whether regulation is needed to "protect shippers from the abuse of market power" based on current market conditions for a commodity.[103] Moreover, these decisions are based on several factors, including the degree of railroad competition, which could be impacted significantly by the Proposed Transaction. To evaluate the potential horizontal competitive effects of the merger, all commodities should be evaluated. Dr. Bailey does not conduct an independent analysis of the competitive effects for automotive and intermodal traffic.[104]

63. Dr. Bailey does not exclude other exempt commodities beyond automotive and intermodal (which represent {{ }} of all exempted railroad traffic) and does not explain the reason for this selective exclusion.[105] CN's sales and marketing executives responsible for these types of shipments explain that this traffic is not protected from potential adverse effects from a reduction in rail competition. As described by CN's Assistant Vice-President for Automotive, Sarah Slazinski, "[a]utomotive customers depend on multiple competitive Class I carriers for resilient, efficient supply chains," and "[w]hen competitive options are reduced by a merger,

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100 Bailey Amended Statement at n. 127 (citing *Rail Gen. Exemption Auth.—Transp. Equip*, 9 I.C.C.2d 1, 1–2 (1992)); *WTL Rail Corp.—Petition for Partial Revocation of Exemption*, Ex Parte No. 230 (Sub-No. 9), slip op. at 1 (STB decided Feb. 15, 2006).

101 Transcript of Deposition of Elizabeth Bailey Deposition at 94:5–95:25 (October 29, 2026) [hereinafter "Bailey Dep. Tr."].

102 49 U.S.C. § 11324(b)(5).

103 STB Exemption of Hydraulic Cement at 3.

104 Bailey Dep. Tr. at 95:17–95:25{{

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105 *See* my Workpaper, "Exempt traffic.do."

automotive shippers face the risk of higher transportation costs, diminished service quality and interruptions (meaning embargoes), and fewer alternatives during supply chain disruptions."[106] CN's Vice President of Intermodal & Automotive Sales and Marketing, Girish Nair, warns of the loss of "competitive Class I railroad options available to intermodal shippers in the Kansas City-St. Louis corridor, to the detriment of those shippers and the public interest."[107] Furthermore, since exempted transportation falls outside of the authority of the Board for setting reasonable rates, common carrier obligations, and other regulatory authorities,[108] if the Proposed Transaction were to be approved, then the Board would have limited recourse to combat adverse competitive effects for exempted traffic.

64. In addition, Dr. Bailey's analysis considers "all corridors with volumes over 365 cars per year,"[109] explaining "it is difficult to form reliable conclusions about competitive options with so few observations."[110] But Dr. Bailey evaluates her 365-carload limitation after she applies her exclusions.[111] This has the effect of screening out corridors that have more than 365 carloads of total volume but less than 365 carloads after these exclusions.

(c) Dr. Bailey unsupported exclusions have a significant impact on the traffic Dr. Bailey considers for competitive harm.

65. Dr. Bailey's unsupported decisions to exclude automotive and intermodal traffic, as well as the commodities with greater than 50% non-rail shares, from her within corridor analysis substantially reduce the amount of traffic that she considers as potentially subject to competitive harm from the Proposed Transaction. As shown in Figure 8 below, these exclusions amount to {{ }} of the {{ }} rail shipments ({{ }}) on corridors originating or terminating from the Kansas City BEA and {{ }} of the {{ }} rail shipments ({{ }}) on corridors originating or terminating from the St. Louis BEA.[112] Dr. Bailey

106 Verified Statement of Sarah Slazinski (November 18, 2026) at 6–8 [hereinafter "Slazinski V.S."].

107 Verified Statement of Girish Nair (November 18, 2026) at 3 [hereinafter "Nair V.S."].

108 49 U.S.C. § 11321.

109 Bailey Amended Statement at ¶ 122.

110 Bailey Amended Statement at n. 111.

111 *See* Bailey Amended Statement, Exhibit 12.

112 The Excluded Categories can overlap, for instance some automotive commodities may be shipped in intermodal containers; therefore, the sum of the Excluded categories will not equal the "Total – Excluded Commodities."

assumes that this excluded traffic could not face adverse competitive effects from the merger. This assumption is unsupported and she has provided no empirical support for the removal of this traffic.

Figure 8: Traffic Exclusions Applied to Within Corridor Competition for Kansas City and St. Louis Corridors

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2. Dr. Bailey's Consideration of Alternative Interline Options Fails to Consider their Competitiveness

66. In addition to these exclusions, Dr. Bailey claims that corridors traversing the Kansas City – St. Louis segment "will likely retain at least three competing options on each of these corridors after the merger" despite her analyses initially identifying some of these corridors as

likely to experience competitive effects.[113] In her Verified Statement, Dr. Bailey reports that four railroads provide single-line service between these locations (UP, NS, BNSF, and CPKC) and describes the operations of Class III railroad Kansas City Terminal Railway Company (KCT) in Kansas City and Class III railroad Terminal Railroad Association of St. Louis (TRRA) and switching railroad Alton & Southern Railway (A&S, a wholly owned UP subsidiary) in St. Louis facilitating interchanges across the Class I railroads as evidence of these options.[114] She claims that "customers on the flagged corridors that traverse this segment likely have other feasible interline options."[115] These "other feasible interline options" may involve BNSF or CPKC possibly in conjunction with one of the Class III and switching railroads replacing UP or NS service because BNSF and CPKC serve other customer routes in the Kansas City and St. Louis BEAs and also interchange with other Class I railroads in St. Louis.

67. Dr. Bailey extends her analysis of these so called "feasible interline routes" as alternative options to all her flagged corridors involving interchanges at Chicago, St. Louis, New Orleans, Memphis, and Kansas City.[116] These interline options, like those traversing the Kansas City – St. Louis segment, were not utilized for any traffic in the 2019-2024 traffic data that Dr. Bailey analyzes, i.e., they maintain a 0% share of traffic for the flagged corridors for all six years. Thus, the data reflects that these alternatives were not utilized for at least a six-year period and Dr. Bailey's assumption that each railroad operating in these areas could feasibly offer a competitive alternative to the merged railroad is unsupported. As explained in § IV.B above, the ability of railroads to compete for customers' traffic within a BEA varies based on each railroad's networks and capabilities; therefore, the customers on some corridors may not have access to competitive rail options that Dr. Bailey's approach assumes. For example, in the St. Louis area, UP's Centreville facility and NS's Wentzville facility are the only railroad automotive facilities designed to serve automotive traffic and thus other railroads are not well positioned to handle automotive traffic in St. Louis.[117]

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113 Bailey Amended Statement at ¶ 142.

114 Bailey Amended Statement at ¶¶ 143–146, Exhibit 13.

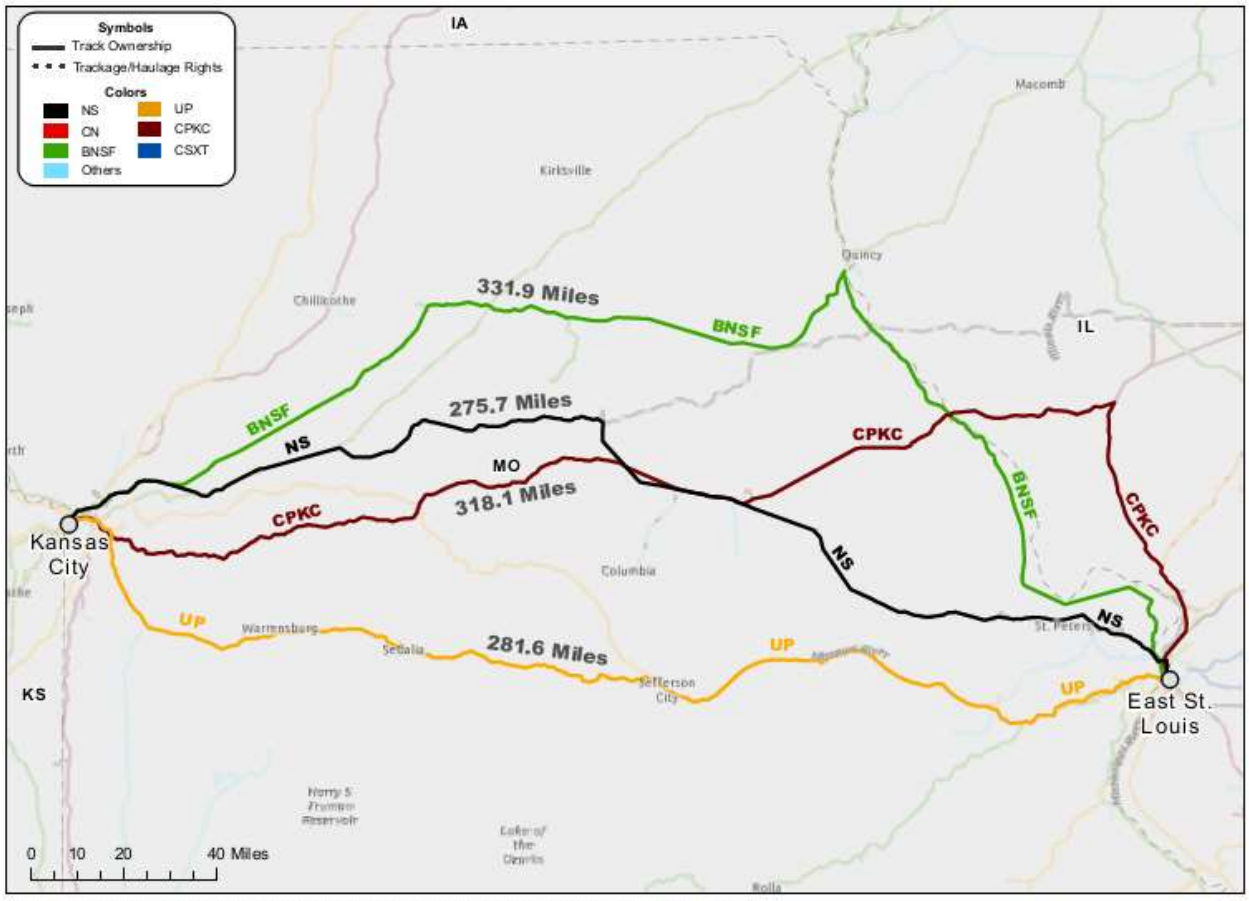
115 Bailey Amended Statement at ¶ 147.

116 Bailey Amended Statement at ¶ 149 and n. 140.

117 Slazinski V.S. at 7.

68. In addition, "feasible" options do not necessarily constitute competitive options. Using the Kansas City – St. Louis segment that Dr. Bailey also uses as an example, although BNSF and CPKC have routes between these BEAs, each railroad's route between these areas covers different areas and distances and requires different infrastructure and operations to service. Figure 9 below shows the shortest path distances between Kansas City, MO and East St. Louis, IL on each of these railroads. NS (275.7 miles) and UP (281.6 miles) have the shortest lengths of haul between these locations,[118] which provides an advantage for traffic moving between these points.

Figure 9: Each Class I Railroad's Shortest Route between Kansas City, MO and East St. Louis, IL



*Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; PC*Miler.*

[118] BNSF's actual length of haul may be longer if it does not change tracks at Quincy, IL.

69. Because of these differences, the service and underlying costs for each railroad's handling of traffic between these points varies. In some cases, these differences may not be meaningful for competition but in others they may be significant (e.g., when service time is an important factor or when rates compete largely on underlying costs). Dr. Bailey's belief that traffic interchanged at St. Louis "may as well be Kansas City" fails to recognize any differences between railroads' networks and capabilities in Kansas City (or in St. Louis for traffic interchanged in St. Louis) or those options' competitiveness with actual rail traffic.[119] Dr. Bailey has provided no analysis that suggests these "additional interline options" could meaningfully compete with those observed in the traffic data in a manner that would overcome the Proposed Transaction's adverse effect on competition.

B. AT LEAST 30 KANSAS CITY AND ST. LOUIS CORRIDORS WILL FACE A REDUCTION IN RAIL OPTIONS FROM 2-TO-1 OR 3-TO-2

70. In order to evaluate the corridors with a reduction in rail options, I conduct the same analysis as Dr. Bailey's "Analysis of Competition Within Corridors" for corridors involving the Kansas City or St. Louis BEAs, considering the effect of the Proposed Transaction on the corridors for all rail traffic, without Dr. Bailey's removal of traffic based on commodity regulatory exemptions and non-rail shares. As I explain in § IV.A, the exclusions that Dr. Bailey applied are unsupported, and examining the results for all rail traffic may more accurately highlight the corridors that could face competitive concerns.

71. My analysis uses the same approach as Dr. Bailey to analyze the traffic on bi-directional corridors and identify the number of railroads originating or terminating shipments on each end of the corridor or serving as a bridge carrier for the corridor. I use the combined waybill data prepared by Dr. Bailey based on the Class I railroads' 2019–2024 traffic tapes and the 2019–2023 Carload Waybill Sample data.[120] I use the 2019–2024 data to identify cases where the rail options would drop from 2-to-1 or 3-to-2, and I total the traffic volume of shipments in the base year, 2023, by rail carrier originating or terminating shipments on each end of the corridor.[121] Unlike Dr. Bailey, however, I do not exclude any of the traffic on these corridors and do not

[119] Bailey Amended Statement at ¶ 147.

[120] Bailey Amended Statement at ¶ 96.

[121] For purposes of this analysis, I group all non-Class I railroads into an "Other" category.

exclude corridors that utilized the Kansas City – St. Louis segment or any other "feasible" options not observed in the traffic data. I identify corridors with a minimum of 365 total shipments in the base year 2023 originating or terminating in the Kansas City or St. Louis BEAs.

72. Figure 10 below identifies the six corridors with a reduction in rail options from 2-to-1 and twenty-four corridors with a reduction in rail options from 3-to-2 in the Kansas City and St. Louis BEAs. Figure 10 also shows the total volume of shipments on these corridors and the volume of shipments considered by Dr. Bailey after her traffic exclusions.[122] The six 2-to-1 corridors total {{ }} shipments and the twenty-four 3-to-2 corridors total {{ }} shipments. UP or NS serve {{ }} shipments on these 2-to-1 corridors and {{ }} shipments on these 3-to-2 corridors, for a total of {{ }} shipments on 2-to-1 and 3-to-2 corridors. Thus, UP and NS have a {{ }} combined share of all traffic on these 2-to-1 and 3-to-2 corridors.

[122] Bailey Amended Statement, Exhibit 12.

Figure 10: Corridors involving Kansas City or St. Louis BEAs Facing a Reduction in Rail Options from 2-to-1 or 3-to-2

Bi Directional Corridor					2023 Traffic Served		Bailey Exhibit 12	
BEA	Number	BEA	Number	Reduction	Total Traffic	UP + NS	Traffic after Exclusions	After Additional Interline Options
Champaign-Urbana, IL	68	Kansas City, MO-KS	99	2-to-1	{{ }}	{{ }}	{{ }}	{{ }}
Greenville, NC	21	Kansas City, MO-KS	99	2-to-1	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	Boise City, ID-OR	150	2-to-1	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	Mexico, Mexico	195	2-to-1	{{ }}	{{ }}	{{ }}	{{ }}
Tampa-St. Petersburg-Clearwater	34	Kansas City, MO-KS	99	2-to-1	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	Idaho Falls, ID-WY	148	2-to-1	{{ }}	{{ }}	{{ }}	{{ }}
Harrisburg-Lebanon-Carlisle, PA	11	Kansas City, MO-KS	99	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	Seattle-Tacoma-Bremerton, WA	170	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Philadelphia-Wilmington-Atl. Cit	12	Kansas City, MO-KS	99	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	Salt Lake City-Ogden, UT-ID	152	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Buffalo-Niagara Falls, NY-PA	8	Kansas City, MO-KS	99	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	Wichita, KS-OK	122	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Greensboro-Winston-Salem-High	18	Kansas City, MO-KS	99	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Orlando, FL	30	Kansas City, MO-KS	99	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Miami-Fort Lauderdale, FL	31	Kansas City, MO-KS	99	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	Oklahoma City, OK	125	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Elkhart-Goshen, IN-MI	65	Kansas City, MO-KS	99	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Appleton-Oshkosh-Neenah, WI	60	St. Louis, MO-IL	96	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Toledo, OH	56	Kansas City, MO-KS	99	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Chattanooga, TN-GA	43	St. Louis, MO-IL	96	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Savannah, GA-SC	28	St. Louis, MO-IL	96	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Huntsville, AL-TN	74	Kansas City, MO-KS	99	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Richmond-Petersburg, VA	15	Kansas City, MO-KS	99	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	Phoenix-Mesa, AZ-NM	158	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	Twin Falls, ID	149	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Evansville-Henderson, IN-KY-IL	69	Kansas City, MO-KS	99	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Augusta-Aiken, GA-SC	27	St. Louis, MO-IL	96	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Pittsburgh, PA-WV	53	Kansas City, MO-KS	99	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Columbia, SC	24	Kansas City, MO-KS	99	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Chattanooga, TN-GA	43	Kansas City, MO-KS	99	3-to-2	{{ }}	{{ }}	{{ }}	{{ }}
Total					{{ }}	{{ }}	{{ }}	{{ }}

73. Figure 11 below compares the corridors I have identified through this approach with those reported in Dr. Bailey's Exhibit 12. Dr. Bailey identifies six of these 3-to-2 corridors; the other eighteen are corridors she initially identified as 3-to-2 corridors but excluded because they traverse the Kansas City to St. Louis segment or, due to her exclusion of certain traffic groups, fell below the minimum 365 shipments she required for consideration.[123] Dr. Bailey identified {{ }} shipments on these six corridors after her exclusions of certain traffic groups, which represents just {{ }} of the total rail traffic on 2-to-1 and 3-to-2 corridors identified using my approach. After further considering additional interline options, she finds only {{ }}

[123] These corridors all have more than 365 shipments when considering the full traffic volumes for 2023.

corridor as potentially facing horizontal concerns, with a total of {{ }} shipments, or {{ }} of the total rail traffic on 2-to-1 and 3-to-2 corridors identified using my approach.

Figure 11: Comparison of Kansas City and St. Louis 2-to-1 and 3-to-2 Corridors Identified

{{ }}

74. As shown in Figure 12 below, these commodities encompass a wide variety of commodities shipped on rail. Commodities on these 2-to-1 and 3-to-2 corridors include:

- Intermodal;
- Grains and Fertilizers (such as consumer goods, pet food, wheat, ethanol, feed, flour products, soybeans, and various fertilizers);
- Automotive (finished vehicles and vehicle parts);
- Petroleum and Chemicals (such as industrial chemicals, aromatics and fibers, alternative fuels, and plastic pellets);
- Metals and Minerals (such as industrial materials like cement and clinker, fly ash, and lime; construction materials like roofing materials and brick-tile; machinery equipment parts; and metals including steel products); and
- Forest Products (such as printing paper, and board-paper and pulp)

Customers relying on rail transportation along these corridors may face competitive effects due to the loss of competitive options, absent appropriate conditions.

Figure 12: UP and NS Commodities Identified on Kansas City and St. Louis 2-to-1 and 3-to-2 Corridors

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75. For both the Kansas City and St. Louis corridors, the segment between Kansas City and St. Louis is important. Most Kansas City corridors are to or from locations east (e.g. Harrisburg, Philadelphia, Buffalo) that could traverse the UP and NS segments between Kansas City and St. Louis. Similarly, most St. Louis corridors are to or from locations west (e.g. Seattle, Salt Lake City, Oklahoma City) that could traverse the UP and NS segments between St. Louis and Kansas City. I find that at least {{ }} of these 30 corridors likely utilize this segment on NS or UP.[124]

76. The fact that multiple corridors utilizing this same segment are identified as 2-to-1 or 3-to-2 in these analyses suggests that even though there are four Class I railroads serving customers in the Kansas City BEA and six Class I railroads serving customers in the St. Louis BEA, the parallel St. Louis - Kansas City segments that UP and NS operate provide important

[124] *See* tab "In-text" in my Workpaper "Figure 10 and 11.xlsx." I identify these corridors if UP or NS interchanged at East St. Louis for traffic they originated/terminated from the Kansas City BEAs or if UP or NS interchanged at Kansas City for traffic they originated/terminated from the St. Louis BEAs.

competitive options for customers for many corridors. If the overlap between Kansas City and St. Louis is left unaddressed, the Proposed Transaction could create adverse competitive effects for traffic utilizing that segment, whether identified with this particular analytical approach or not. Applicants have acknowledged this overlap[125] but not explained why the Proposed Transaction does not create competitive harm for corridors utilizing these segments.

C. REDUCTIONS IN RAILROAD OPTIONS FOR THESE CORRIDORS ARE LIKELY TO PRODUCE ADVERSE COMPETITIVE EFFECTS WITHIN THESE CORRIDORS (ABSENT CONDITIONS)

77. Customers utilizing these 2-to-1 and 3-to-2 corridors are likely to face adverse competitive effects due to the Proposed Transaction for similar reasons discussed in § IV.A.2 as to why customers with reduced rail access options are likely to face competitive effects. The corridor between Buffalo-Niagara Falls, NY-PA and Kansas City, MO-KS illustrates this point: three Class I railroads, NS, BNSF and UP, have historically served this traffic at the Kansas City end, and the Proposed Transaction would reduce the number of Class I rail options for traffic originating in or destined for Kansas City. In 2023, NS, BNSF, and UP each originated substantial traffic for customers in the Kansas City BEA to Buffalo:

- NS originated {{ }} shipments from customers in the Kansas City BEA, all of which was motor vehicle traffic from the {{ }} originating at the {{ }}. NS transports this traffic all the way to Buffalo, NY, to a {{ }} facility served by the BPRR railroad which provides open access to CN, CPKC, NS, and CSXT.[126]
- BNSF originated {{ }} shipments from customers in the Kansas City BEA, mostly intermodal traffic from {{ }} originating at the {{ }}. BNSF interlines with NS in Chicago, and NS delivers the shipments to Buffalo.[127]

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125 Jeffrey Pincock, Vice President of Corporate Development and Strategy for UP, stated that {{ }}. *See* Transcript of Jeffrey Pincock Deposition at 372:15–18 (Oct. 8, 2026) [hereinafter "Pincock Dep. Tr."].

126 *See* my Workpaper, "In-Text Figures.py".

127 *Id.*

- UP originated {{ }} shipments from customers in the Kansas City BEA, mostly Flour or Other Grain Mill Products from {{ }} originating at the {{ }}. UP has direct access to this customer in Kansas City and with open access available to BNSF, CPKC, and NS. To serve this traffic, UP interlines with CSXT in East St. Louis, which then delivers the traffic mostly to {{ }} in Buffalo, a facility with direct access to CN, NS and CSXT.[128]

NS, BNSF, and UP also performed all customer terminations in the Kansas City BEA for traffic that originated in the Buffalo-Niagara Falls, NY-PA BEA. Although the customers and commodities vary by year, NS, BNSF, and UP always perform the originations and terminations in the Kansas City BEA to and from Buffalo from 2019-2024.

78. If UP and NS were to merge, the number of Class I rail options that customers have relied on in the past for service in the Kansas City BEA on the corridor with Buffalo-Niagara Falls, NY-PA BEA would drop from 3-to-2. For the same reasons I describe in § IV.B.4 above, this loss in rail options may result in adverse competitive effects for customers, depending on their circumstances. Because the merged railroad would compete only with BNSF, rather than UP and NS competing with each other in addition to competing with BNSF, customers may face higher rates or more limited (or otherwise lower quality) service.

79. I note that Dr. Bailey's analysis did not identify the Kansas City BEA - Buffalo-Niagara Falls, NY-PA BEA corridor as a 3-to-2 corridor in her Exhibit 12 for two reasons. First, although her backup file includes a summary of the corridor and identifies the corridor as having a total volume of {{ }} shipments, Dr. Bailey evaluated whether the corridor met certain size filters *after* she removed automotive, intermodal, and other commodities from the traffic volume she totals for the corridor. After removing all of this traffic, Dr. Bailey found the corridor to be below her 365-carload threshold.[129] Second, her analysis examining additional interline options eliminates the corridor as a 3-to-2 because CPKC also serves customers in the Kansas City BEA (to or from places other than Buffalo), connecting at Chicago for interchange with NS and at

128 *Id.*

129 *See* tab "3-2 observed" in Bailey Amended Statement Workpaper "Exhibit 12.xlsx."

East St. Louis for interchange with CSXT.[130] Accordingly, Dr. Bailey identifies CPKC as part of a "feasible" alternative route that could theoretically serve the corridor.

80. But simply because CPKC serves customers in the Kansas City BEA does not make it suited to compete for the traffic along this corridor. CPKC may not have access to these corridors' customers in the Kansas City BEA. The fact that CPKC has not performed a single shipment in the 2019-2024 period for traffic on this corridor strongly suggests there are constraints to its competing for this line of traffic that may include extensive use of trackage rights, switching fees, circuitous routings, or a lack of other capabilities that the railroads that do serve the traffic possess. The Kansas City, MO-KS BEA - Buffalo-Niagara Falls, NY-PA BEA corridor is one example; the other flagged corridors likely have similar stories.

VI. ANALYSES OF BETWEEN CORRIDOR COMPETITION

81. When there are multiple shippers of a commodity and multiple receivers of that commodity, railroads can compete for customer traffic even if they do not all serve the same origins and destinations. Instead, they can compete by providing different options at the destination or source for the commodity. This is sometimes referred to collectively as geographic competition or source and destination competition. Dr. Bailey describes source competition as the "ability of a customer to use alternative railroads to receive a particular product from different origins," and destination competition as "the ability of a shipper to use alternative railroads to ship its product to different destinations."[131]

82. I agree with Dr. Bailey that analyses of source and destination competition to identify commodities and areas that may face horizontal concerns as a result of the Proposed Transaction is appropriate. UP and NS both compete in servicing various traffic groups by offering various sources or destinations to customers. Absent this competition, customers may face adverse effects due to the Proposed Transaction without appropriate conditions. At a high-level, Dr. Bailey's analyses identifying commodities that will face a reduction in rail competition due to source or destination competition provides a reasonable approach. However, I disagree with Dr. Bailey's application of several unsupported assumptions and methods in these analyses that have

[130] Bailey Amended Statement at ¶¶ 147–150, Exhibit 12.

[131] Bailey Amended Statement at ¶ 158.

the effect of under-identifying and dismissing traffic facing potential competitive harm. I have been asked by CN's Counsel to focus my analysis on traffic involving Kansas City or St. Louis as origins or destinations.

A. DR. BAILEY'S ANALYSES OF BETWEEN CORRIDOR COMPETITION FAILS TO IDENTIFY COMMODITIES ORIGINATING AND TERMINATING IN KANSAS CITY AND ST. LOUIS THAT WOULD FACE A LOSS OF RAIL COMPETITION

83. Dr. Bailey describes her "Analysis of Competition Between Corridors" as assessing "source competition" and "destination competition."[132] She explains her two-step analysis:[133]

> In the first step, origin-commodity pairs and destination-commodity pairs are flagged for additional review using what is known as a 50/10 screen based on traffic shares. The second step involves further analysis of the options available to customers using tests based on critical loss analysis ("CLA").

84. For the first step in analyzing destination competition, Dr. Bailey examines traffic by origin-commodity pairing using the traffic's originating BEA and STCC4 commodity classification.[134] She examines UP's and NS's share of originating, terminating, and participating traffic for each origin-commodity pair; if UP and NS each have at least a 10% share of traffic and combined they would have more than a 50% share, she finds they meet the 50/10 screen.[135] She then reviews the origin-commodity pairs meeting this screen to identify potential horizontal concerns.[136] She conducts a similar analysis for source competition, examining traffic by destination-commodity pairing using the traffic's destination BEA and STCC4 commodity classification and evaluating destination-commodity pairs that meet the 50/10 screen for originating, terminating, and participating traffic.[137]

85. I understand that a 50/10 screen has been used in previous merger reviews when assessing between corridor competition.[138] Despite asserting that she identified and followed the

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132 Bailey Amended Statement at ¶ 158.

133 Bailey Amended Statement at ¶ 160.

134 Bailey Amended Statement at ¶ 160.

135 Bailey Amended Statement at ¶ 163.

136 Bailey Amended Statement at ¶¶ 162–165.

137 Bailey Amended Statement at ¶ 183.

138 *See* Decision No. 11, *Canadian Pac. Ry.—Control—Dakota, Minn. & E. R.R.*, FD 35081, slip op. at n.15 (STB served Sep. 30, 2008) (concluding that the Applicants provided sufficient information for the Board

approach and methodology from these prior cases,[139] Dr. Bailey's approach differs in important ways that results in a failure to identify destination-commodity and origin-commodity pairs that may raise competitive concerns.

1. Dr. Bailey's Exclusions of Automotive, Intermodal, and Miscellaneous Product Traffic are Unsupported

86. Dr. Bailey excludes certain commodities from her analysis altogether before evaluating origin- and destination-commodity pairs in her initial 50/10 screen. Similar to her within corridor analyses, Dr. Bailey excludes automotive and certain intermodal traffic. Specifically, Dr. Bailey excludes "[a]utomotive products" and "[c]ommodities that have 50 percent or more movements in intermodal equipment," including the traffic for those commodities that does not travel in intermodal equipment.[140] Dr. Bailey does not provide any support for her exclusion of these "intermodal" commodities, and, to justify her exclusion of automotive products, Dr. Bailey refers to another section of her own report[141] discussing those commodities. As described in Section IV.A.1 above, Dr. Bailey's exclusions are unsupported.

87. Dr. Bailey also removes certain commodities that she claims "group together many miscellaneous and potentially unrelated products that do not represent a distinct 'product.'"[142] I have reviewed the traffic data of these commodities and find that they are mostly transported in intermodal containers and by major intermodal customers.[143] Dr. Bailey does not provide any support to explain why this group of traffic could not face potential horizontal effects and should be omitted from these analyses entirely, as opposed to, for example, grouping this traffic by customer types or as intermodal traffic and evaluating those groups for potential concerns.[144]

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to make a determination with respect to the likely effects of the transaction on geographic competition and competition among corridors after they performed the 50/10 screen test); *see also* Decision, *CSX Corp.—Control & Merger—Pan Am Sys., Inc.,* FD 36472, slip op. at 11 (STB served May 26, 2021) (pointing to applicants' use of the 50/10 screen test in *CP&DME* as a model of a complete analysis).

139 Bailey Dep. Tr. at 31:19–33:23.

140 Bailey Amended Statement at ¶¶ 179–180.

141 Bailey Amended Statement at ¶¶ 179–180, n. 165.

142 Bailey Amended Statement at ¶ 174.

143 *See* my workpaper, "In-Text Figures.py."

144 When asked whether she analyzed the {{ }} Dr. Bailey replied, {{ }} Bailey Dep. Tr. at 104:15-21.

88. Figure 13 below shows the impact of Dr. Bailey's exclusions of this traffic from the between corridor analysis when evaluating originating and terminating in the Kansas City and St. Louis BEAs. In total, Dr. Bailey removes from consideration {{ }} of the {{ }} rail shipments ({{ }}) originating or terminating in the Kansas City BEA, and {{ }} of the {{ }} rail shipments ({{ }}) originating or terminating in the St. Louis BEA.[145]

Figure 13: Dr. Bailey's Traffic Exclusions Applied to Between Corridor Competition for Kansas City and St. Louis Originations and Terminations

{{

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2. Dr. Bailey's Use of Non-Rail Modes Is Unsupported

89. In addition to her traffic exclusions, Dr. Bailey's approach includes "non-rail *volumes* for each commodity . . . in the calculation of UP's and NS's shares for purposes of the 50/10

[145] *See* my Workpaper, "Figure_13.xlsx", tab "Summary".

screens."[146] To implement this, when calculating the total traffic volumes (to evaluate UP and NS traffic shares) she includes all tonnages for the commodity transported from the origin (or received at the destination) including by truck and water, regardless of the route or characteristics of that transportation, with the exception of truck or water transportation entirely within the same BEA.[147] This means that in order to meet the 50/10 screen for a BEA-commodity pair in Dr. Bailey's approach, both UP and NS would need to originate, terminate, or participate in at least 10% and combine for more than 50% of *all tons* of the commodity shipped from or to that BEA – not only tons transported by rail, but also tons transported by truck or water from (or to) the BEA to (or from) anywhere outside that BEA. Incorporating non-rail modes into the 50/10 screen increases the total volume used as the denominator in the share calculation and reduces UP's and NS' individual and combined shares. As a result, traffic that would otherwise meet the 50/10 screen if shares were based solely on rail traffic is omitted from further consideration.

90. For example, consider the traffic for STCC 2042 ("Prepared or Canned Feed") originating from the Kansas City BEA as shown in Figure 14 below. This traffic is terminated at the {{ }} and {{ }} BEAs.[148] UP originates {{ }} of the rail tonnages in the Kansas City BEA and NS originated {{ }}, a total of {{ }} of the rail tonnages, which exceed the 50/10 thresholds. Dr. Bailey's approach, however, calculates the shares for the 50/10 screen using rail and non-rail tonnages. In this example, she calculates total tonnages by including truck tonnages, which are {{ }} times the rail tonnage, and water tonnages, which adds a further {{ }} to the rail tonnages. She uses these total tonnages to calculate her UP and NS shares for the 50/10 screen. By including non-rail tonnages, UP's {{ }} and NS's {{ }} shares of the rail tonnages are reduced to {{ }} and {{ }} of the rail and non-rail tonnages, which fall below the thresholds for the 50/10 screen. The BEAs receiving the most truck traffic are Fayetteville-Springdale-Rogers, AR-MO-OK; Little Rock-North Little Rock,

146 Bailey Amended Statement at ¶ 177. This is at odds with Dr. Bailey's description of source competition as the "ability of a customer to use alternative railroads to receive a particular product from different origins" and of destination competition as "the ability of a shipper to use alternative railroads to ship its product to different destinations." Bailey Amended Statement at ¶ 158.

147 Bailey Amended Statement, Appendix G, at ¶ 11 and n. 1.

148 *See* my Workpaper, "Figure 14.py".

AR; and Springfield, MO – very different from the locations where the rail traffic is destined ({{ }} and {{ }} BEAs).

Figure 14: Impact of Non-Rail Modes to Dr. Bailey's 50/10 Analysis, STCC 2042 Originating in the Kansas City BEA

Origin Carrier	Tonnage	Share of Total Rail	Share of Rail + Truck + Water
UP	{{ }}	{{ }}	{{ }}
NS	{{ }}	{{ }}	{{ }}
BNSF	{{ }}	{{ }}	{{ }}
CPKC	{{ }}	{{ }}	{{ }}
Total Rail	{{ }}	{{ }}	{{ }}
UP+NS	*{{ }}*	*{{ }}*	*{{ }}*
Additional Truck	{{ }}	{{ }}	{{ }}
Additional Water	{{ }}	{{ }}	{{ }}
Rail + Truck + Water	{{ }}		

91. Dr. Bailey cites to a verified statement from a prior railroad transaction as justification for her methodology, but the verified statement she cites—the Verified Statement of Christopher A. Vellturo in the Canadian National Railway Company and EJ&E West Company Railroad Control Application—does not support her method.[149] Dr. Vellturo does not incorporate truck modes of transportation into any analyses in his 2007 Verified Statement. Dr. Vellturo's Verified Statement for the Canadian National Railway Company and Wisconsin Central Transportation Corporation Railroad Control Application in 2001(not cited by Dr. Bailey to support her methodology) makes limited use of truck modes of transportation.[150] Unlike Dr. Bailey's analysis, Dr. Vellturo's 2001 analysis expressly applied the 50/10 screen "to rail traffic only, not taking into account truck competition."[151] Although Dr. Vellturo considers truck competition in a

149 Bailey Amended Statement at n. 148; Verified Statement of Christopher A. Vellturo, *Canadian National Railway Company and Grand Trunk Corporation – Control – EJ&E West Company*, FD 35087 (Oct. 29, 2007) [hereinafter "Vellturo 2007 Statement"].

150 Verified Statement of Christopher A. Vellturo, *Canadian National Railway Company, Grand Trunk Corporation, and WC Merger Sub, Inc. – Control – Wisconsin Central Transportation Corporation, Wisconsin Central Ltd, Fox Valley & Western Ltd, Sault Ste. Marie Bridge Company, and Wisconsin Chicago Link Ltd.*, FD 34000 (Apr. 6, 2001) [hereinafter "Vellturo 2001 Statement"].

151 Vellturo 2001 Statement at 10.

second step of his analysis, he only considers the "competitive discipline that truck competition might bring to bear on the 50/10 product/DBEA pair" to 14 BEA-commodity pairs (with a combined 2,200 carloads) meeting the 50/10 screen to examine divertible capacity.[152] Even there, Dr. Vellturo's approach limited the trucking routes included as potential alternatives to those he defined as competitive based on the route's distance.[153] Notably, Dr. Vellturo explained that he "did not draw conclusions simply from modal shares as to the potential of truck competition to constrain any post-merger price increases."[154] Dr. Vellturo's approach does not support Dr. Bailey's method of including all non-rail mode volumes in calculating shares for the 50/10 screen for every commodity.

92. In addition to failing to provide a justification based on prior analyses, Dr. Bailey has failed to provide any analytical support for her approach. Dr. Bailey's approach implicitly assumes that because some shippers within a BEA use truck and water, those modes are viable alternatives for all customers in a BEA for all routes, and that the resulting shares of traffic by mode reflect the competitive significance of each mode. However, within a single BEA, customers' ability to use different modes of transportation varies. If Customer A is located on a navigable waterway with appropriate facilities, it may be able to move its traffic by water transportation. Customer B of the same commodity may be located hundreds of miles away from a navigable waterway and only have access to rail or truck options. Aggregating the commodity to a single BEA treats Customer A choosing water transportation as evidence of an alternative mode of transportation for Customer B, even if water transportation is not a practical alternative for Customer B.

93. Dr. Bailey fails to examine whether truck and water transportation is a suitable alternative for the specific rail customers, commodities, and routes at issue. By contrast, Mr. Hunt recognizes that the substitutability of each transportation mode varies. He explains: [155]

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152 Vellturo 2001 Statement at 20, Exhibit 4.

153 Vellturo 2001 Statement, Appendix D, Exhibit 4.

154 Vellturo 2001 Statement at 14.

155 Hunt Amended Statement at 23.

> Shippers selecting freight modes and carriers consider numerous factors in their decision-making. Shippers, however, consistently report three factors as particularly important: price, reliability, and transit time.

Implicitly, this means that rail customers today enjoy certain advantages of rail transportation over other modes of transportation. Dr. Bailey's consideration of non-rail forms of transportation ignores these advantages, treating all modes as equal options to rail customers.

94. Trucking options may not be competitive for customer traffic handled by rail if, e.g., the distance traveled prevents a competitive rate; and traffic handled by truck may not be competitive for rail if, e.g., the locations cannot be reached in an economical manner by rail or lower volumes prevent a competitive rate. In an article published on the UP-NS Transcontinental website, Chuck Marias, President of the Transload Group stated that "[i]f a customer is moving freight more than 300 miles, it's usually cheaper to ship by rail with a truck leg on either end than to haul by truck the whole way."[156] The Board itself has used a 500 highway mile threshold as part of its Market Dominance Streamlined Approach to identify traffic "movements that likely lack effective trucking competition."[157] Dr. Bailey's inclusion of all traffic from these modes when evaluating competition and calculating shares assumes all customers within the BEA have the same transportation options.[158]

95. Similarly, Mr. Hunt's diversion analysis recognizes that not all traffic shipped by truck or water is suitable for transport by rail. For example, he finds that while bulk commodities are "well suited" for transport by rail for medium and longer hauls, some large vehicles like school buses and heavy-duty commercial vehicles are not.[159] Likewise, while water could be used by certain customers located near navigable waterways, it is inaccessible for customers without such access. While Mr. Hunt acknowledges such variance, Dr. Bailey's analysis ignores these important differences and instead considers truck and water to be interchangeable substitutes for

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156 Chuck Marias, *Freight Customers Will Always Have Competitive Options*, UP-NS (Oct. 20, 2026), https://www.up-nstranscontinental.com/news-details/freight-customers-will-always-have-competitive-options/ (last visited Nov. 11, 2026).

157 *Mkt. Dominance Streamlined Approach*, EP 756, slip op. at 13 (STB served Aug. 3, 2020).

158 Dr. Bailey notes that her analysis excludes non-rail shipments that remain within a single BEA. *See* Bailey Amended Statement at Appendix G, ¶ 11 and n. 1.

159 Hunt Amended Statement at 26, 50, and 144.

rail for all customers. Though her analysis relies heavily on the inclusion of truck and water transportation, Dr. Bailey conducts no empirical analysis to support this assumption.[160]

96. In fact, Mr. Hunt's analysis shows that the amount of truck traffic that could be diverted (relative to its competitiveness to rail) to rail is quite limited. He shows 6.5M truckloads (of 164M total truckloads) as potentially addressable by rail on the current domestic intermodal network.[161] He shows that of the 47,743 thousand tons of finished vehicle traffic carried by trucks, only 5,417 tons meet his screens for divertible traffic to rail, without considering the Proposed Transaction's impact.[162] He shows that of the 6.3B tons of merchandise / bulk carried by trucks, only 807M tons meet his screens for divertible traffic to rail.[163]

3. Dr. Bailey's Limitation of BEA Commodities Flagged in Every Year 2019-2024 is Unsupported

97. Dr. Bailey's analysis also requires that each BEA-commodity pair tested for source and destination competition meet the 50/10 screen in *every* year between 2019 and 2024, rather than just 2023 – the year the applicants identified for their impact analysis. This systematically reduces the number of BEA-commodity pairs that Dr. Bailey reviews for potential horizontal concerns, no matter how high the UP and NS shares are in 2023 (or over the entire period or more recently). Dr. Bailey cites the Verified Statement of Robert Majure in the CPKC merger as supporting her approach, but Dr. Majure examined the shares in other years as part of a second stage review of those commodities triggered by the initial screen and conducts an evaluation of each pair even if the 50/10 screen is not triggered in each year.[164] Thus, her approach of requiring that the screen be met in every year or otherwise the BEA-commodity pair is excluded from further analysis is unsupported by Dr. Majure's approach.

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160 When asked how she decided to include truck and water in this method, Dr. Bailey testified {{ }} and when asked if she did any analysis of whether rail, truck, and water is a relevant market for antitrust purposes, she stated {{ }} Bailey Dep. Tr. at 49:17–18, 52:22–24.

161 Hunt Amended Statement, Exhibit B-9; *see* my Workpaper, "V. Hunt_Trucks_T2R.sql".

162 Hunt Amended Statement, Exhibit B-15.

163 Hunt Amended Statement, Exhibit B-20.

164 Verified Statement of W. Robert Majure, FD 36500 (Oct. 29, 2021) [hereinafter "Majure CPKC Application Statement"], Exhibits 12 and 13.

98. Not only is Dr. Bailey's approach unsupported, but it is not defensible as a way to identify likely competitive problems. Although in theory considering additional years may be helpful in assessing the competitive options that shippers in the base year could have adopted, this requires that the additional years reviewed are a good proxy for current competition. In this case, there are reasons why this may not be true (particularly given that Dr. Bailey's analysis does not consider the 2019–2024 period as a whole but rather that the screen must be met in each year). The Board has previously characterized 2020, 2021, and 2022 as the "pandemic and supply chain crises years," [165] and impacts to railroad operations due to the pandemic and supply chain problems may distort the screens for these years. In addition, there have been several recent mergers in the rail industry which continue to shape rail transportation in the overlap areas, including the merger of Canadian Pacific and Kansas City Southern Railway in 2023,[166] CN and Iowa Northern Railway Company in 2025,[167] and CSXT and Pan Am Railways in 2022.[168] Data preceding these mergers would not reflect any shifts to rail transportation generated by these mergers. For all these reasons, Dr. Bailey's initial screens are unlikely to identify all BEA-commodity pairs that might raise horizontal concerns.

4. Dr. Bailey's Critical Loss Analysis Does Not Identify Whether the Alternative Sources of Supply and Demand Can Constrain Potential Price Increases

99. Following her initial screen analysis, Dr. Bailey includes a version of what she calls a Critical Loss Analysis (CLA) purportedly to "assess the ability of shipper and receivers to avoid potential price increases in more detail."[169] Dr. Bailey's Critical Loss Analysis of demand available to shippers (CLA1) claims to evaluate the "ability of shippers to switch to alternative

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165 *Reciprocal Switching for Inadequate Serv.,* EP 711 (Sub-No. 2), slip op. at 44–45 (STB served Apr. 30, 2024).

166 *See* CPKC, *Canadian Pacific and Kansas City Southern Combine to Create CPKC*, (Apr. 14, 2023) https://investor.cpkcr.com/news/press-release-details/2023/Canadian-Pacific-and-Kansas-City-Southern-combine-to-create-CPKC/default.aspx (last visited Nov. 11, 2026).

167 *See* CN, *CN's Acquisition of Iowa Northern Approved by STB* (Jan. 14, 2025), https://www.cn.ca/en/news/2025/01/cns-acquisition-of-iowa-northern-approved-by-stb (last visited Nov. 11, 2026).

168 *See* CSX, *CSX Completes Acquisition of Pan Am Railways* (June 1, 2022), https://www.csx.com/index.cfm/about-us/media/press-releases/csx-completes-acquisition-of-pan-am-railways (last visited Nov. 11, 2026).

169 Bailey Amended Statement at ¶ 167.

sources of demand in response to an attempted price increase."[170] Dr. Bailey's Critical Loss Analysis of supply available to receivers (CLA2) claims to evaluate the "ability of customers to switch to alternative sources of supply."[171]

100. Typically, a critical loss analysis in merger analysis has two steps. First, one estimates the amount of volume the merging firms would have to lose to render a price increase unprofitable – this is the "critical loss." Second, one estimates the actual volume the merging parties are likely to lose due to a price increase.[172] If the actual volume lost is greater than the critical loss, then the price increase would not be profitable. This means that competitive concerns are not likely because the firm would not attempt a price increase that is likely to be unprofitable.

101. Dr. Bailey's analysis, however, does not measure the profitability of a price increase. Instead, she calculates "available volumes" for that commodity at alternative origins and destinations that she claims "protect" shippers and receivers from potential transportation cost increases.[173] For the demand available to shippers (CLA1), the available volume is calculated as the amount of the commodity shipped to destinations "that shippers can reach without relying on the combined railroad."[174] For the demand available to receivers (CLA2), the available volume is calculated as the amount of the commodity shipped from origins "receivers can access without relying on the combined railroad."[175] For both the CLA1 and CLA2, Dr. Bailey includes volumes transported via truck or water modes of transportation into the available volumes.[176]

102. These volumes are compared to the reference traffic (or affected volume), i.e., the total rail traffic for the BEA-commodity meeting the 50/10 screen for source or destination

170 Bailey Amended Statement at ¶ 168.

171 Bailey Amended Statement at ¶ 170.

172 There may also be a concern that all railroads that ship the commodity from the BEA raise prices due to the merger – in that case the critical loss would equal the amount of traffic that all the railroads increasing price would need to lose to defeat the price increase.

173 Bailey Amended Statement at ¶¶ 168–171, Appendix G.

174 Bailey Amended Statement at ¶ 168.

175 Bailey Amended Statement at ¶ 170.

176 Bailey Amended Statement at ¶¶ 166, 169; Appendix G, ¶¶ 14, 19.

competition.[177] Dr. Bailey unflags BEA-commodities if either of these available volumes are larger than the affected volume.[178]

(a) Dr. Bailey's Critical Loss Analysis Fails to Consider the Costs and Profitability of a Price Increase to the Combined UP-NS Entity

103. Dr. Bailey has not explained how her approach measures the ability of customers to respond to a price increase.[179] Instead she simply assumes that "[i]f either of the available volumes are larger than the affected volume for a given origin-commodity pair then the pair is unflagged."[180] Her approach includes "available volumes" that are shipped on UP or NS and assumes that alternative sources of supply or demand, regardless of the mode of transportation they utilize, are viable substitutes for the traffic facing horizontal concerns. However, neither of the CLA1 or CLA2 approaches she employs is likely to measure actual lost volume of the commodities facing potential effects shipped from or received at the BEA and thus they do not help assess the potential competitive effects of the transaction.

104. The first approach (CLA1) assesses the ability of shippers to avoid the price increase by finding alternative destinations to those facing a price increase. Dr. Bailey's approach does identify potential destinations that shippers could theoretically use for the commodity and avoid UP or NS from/to the origin/destination at issue (although she does include shipments on UP and NS from other origins/destinations). Implicitly, her approach is that if there is enough demand for the commodity at these BEAs (no matter how it gets there) then shippers could and would shift their traffic and ship the commodity along non-UP or NS routes to or from the BEA. Dr. Bailey, however, does no analysis to show that this is likely to occur. First, Dr. Bailey entirely ignores whether there is capacity on the alternative routes to absorb the UP and NS demand. Second, she assumes that these alternative destinations or origins would be as profitable for the shippers as the UP or NS shipments, even at increased shipping prices with no assessment of the

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177 Bailey Amended Statement, Appendix G at ¶¶ 15, 20.

178 Bailey Amended Statement, Appendix G at ¶¶ 13, 18.

179 When asked whether her Critical Loss Analysis accounted for rail rates, Dr. Bailey testified {{ }} Bailey Dep. Tr. at 61:19–25.

180 Bailey Amended Statement, Appendix G at ¶ 13.

costs of shipping to those destinations from the BEA at issue, prices at the destinations, and/or whether customers at the destination are likely to shift sources of supply.

105. The second approach (CLA2) suffers from similar flaws. There she assumes that if receivers at the destination locations already purchase at least as much of the commodity from other BEAs that do not involve shipments on UP or NS, then they could increase the volumes for the other BEAs and could avoid a price increase but she does not assess whether such options are viable. Again, she does not look at whether the other options have capacity available to expand shipments, what the costs associated with those options are, and/or whether those options are attractive to receivers.

106. Further, Dr. Bailey's proposed alternative sources of supply and demand include traffic originated, terminated, and serviced by UP and NS and the other railroads that have been assumed by her approach to have raised prices. Under this methodology, Dr. Bailey treats alternative traffic that is shipped on UP and NS as well as the other railroads that she assumes raise prices as viable substitutes for affected UP and NS traffic.[181] However, in this case, some of the lost volume would be internalized by the parties raising prices and this may lessen the constraining effect of such traffic.

107. In sum, Dr. Bailey's Critical Loss Analysis fails to consider prices or margins, including those on alternative modes of transportation, including non-rail. The analysis thus cannot be used to assess the ability of alternative sources of supply or demand to constrain price increases. Dr. Bailey's approach also includes UP and NS volumes as part of the available volumes. This results in an overstatement of the available volumes that shippers and receivers could utilize to avoid using UP or NS. These issues prevent Dr. Bailey's analysis from providing a proper assessment of the "ability of shippers and receivers to avoid potential price increases."[182]

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[181] At her deposition, when asked if she treated {{ }} Dr. Bailey responded {{ }}
Bailey Dep. Tr. at 60:17–25.

[182] Bailey Amended Statement at ¶ 167.

(b) Dr. Bailey's Approach is Inconsistent with Prior CLA Analyses

108. Dr. Bailey has provided little explanation for this approach beyond her claim that it is similar to the methodology used by Dr. Majure in the CP-KCS merger proceedings.[183] However, Dr. Majure's approach involves only railroad traffic. He explicitly states that his CLA analysis evaluates whether "shippers could turn to other railroads serving other sources or destinations of the commodity in enough numbers to make the attempted price increase unprofitable."[184] He explains his approach to measuring relative volumes of railroads that shippers could turn to as the greater of "(a) alternative sources for the affected destinations or (b) alternative destinations for the affected source."[185] He then claims "that a ratio of the affected volume to the available volume that is smaller than one supports a conclusion that the hypothesized price increase would not be profitable."[186] Dr. Bailey, however, includes non-rail traffic without any empirical support.

109. Dr. Majure cites the Vellturo 2007 Statement.[187] Dr. Vellturo explained that he required "direct divertible capacity" (a measure similar to the available volume measures Dr. Bailey calculates for CLA1 and CLA2 limited to rail transportation) be at least ten times the critical loss volumes (a measure similar to the reference traffic in Dr. Bailey's approach).[188] In his 2001 VS, Dr. Vellturo included truck-based competition as "an additional consideration," but "did not draw conclusions simply from modal shares as to the potential of truck competition to constrain any post-merger price increases" by the combined railroads in that matter.[189] Rather, he limited his consideration of truck to fourteen BEA-commodity pairs, limited the universe of trucking

183 Bailey Amended Statement, Appendix G at ¶ 13 (citing Majure CPKC Application Statement at 77–80).

184 Majure CPKC Application Statement at ¶ 89.

185 Majure CPKC Application Statement at ¶ 94.

186 Majure CPKC Application Statement at ¶ 94. He adds that "[t]he price increase would likely be unprofitable if affected volume is less than available volume – that is, if the ratio of affected to available volume is less than one" in footnote 61.

187 Majure CPKC Application Statement at n. 58.

188 Vellturo 2007 Statement at 91–92.

189 Vellturo 2001 Statement at 14.

volumes considered divertible based on truck miles, and found the "the divertible capacity available through truck shipments is almost 501 times the critical loss.[190]

110. Dr. Bailey's Critical Loss Analysis thus varies from these prior approaches in critical ways. She has incorporated the use of non-rail shares into her analysis (after she's already included non-rail mode volumes in her initial 50/10 screen), with the only requirement for non-rail share inclusion being that there are at least 1,000 tons on those modes in the relevant areas.

B. TRAFFIC THAT MEETS A 50/10 SCREEN IDENTIFYING POTENTIAL CONCERNS IN RAIL COMPETITION IN KANSAS CITY AND ST. LOUIS

111. In order to evaluate source and destination competition in areas with a reduction in rail options, I conduct a similar analysis to Dr. Bailey's initial 50/10 screening analysis for Competition Between Corridors but for all rail traffic and only for rail traffic – thus I include all commodities (including automotive, intermodal, and miscellaneous product traffic) and exclude non-rail traffic. As I explain in § V.A, the commodity exclusions and the application of non-rail modes of transportation in Dr. Bailey's analysis are unsupported; examining the results for all rail traffic is more likely to accurately highlight the major commodities and regions that could face adverse competitive effects from the Proposed Transaction. I also limit my analysis to 2023 traffic to assess the state of competition in the base year.[191] In total, I find 56 BEA-commodity pairs that meet the 50/10 threshold for either Destination or Source Competition in the St. Louis or Kansas City BEAs; by contrast, Dr. Bailey identified 4 in her Amended Report.[192]

1. Destination Competition

112. To evaluate the potential impact of the Proposed Transaction on destination competition, I analyze the railroad traffic originated, terminated, and serviced by each railroad within the originating BEA for each commodity at a STCC4 level in the same manner as Dr. Bailey. I use the combined waybill data prepared by Dr. Bailey based on the Class I railroads' 2019-2024

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190 Vellturo 2001 Statement at 21, Exhibit 4.

191 These results hold when using data from 2024 instead of 2023. In 2024, there are still 29 BEA-commodity pairs in Kansas City and St. Louis meeting the 50/10 threshold for destination competition,. There are 29 BEA-commodity pairs meeting the 50/10 threshold for source competition, an increase of two relative to 2023. The specific mix of commodities varies modestly between the two years. *See* my Workpaper, "VI. 2024 Sensitivity.py."

192 See Figure 15 and Figure 17 below and Bailey Amended Statement at Exhibit 14 and Exhibit 15.

traffic tapes and the 2019-2023 Carload Waybill Sample data, limited to the base year 2023 traffic.[193] Unlike Dr. Bailey, I consider all traffic and exclude shares from non-rail modes when identifying traffic with potential concerns. I identify origin-commodity pairs where UP and NS each perform originations, terminations, or servicing of at least 10% of railroad shipments and combine for more than 50% of the total railroad volumes originating from the BEA during 2023. I identify the twenty-nine BEA-commodity pairs in Figure 15 below that meet this threshold and have more than 365 carloads during the base year for the Kansas City and St. Louis BEAs that are addressed through CN's proposed conditions.

Figure 15: BEA-Commodity Pairs Meeting 50/10 Screen for Destination Competition in Kansas City and St. Louis BEAs

Originating BEA	Number	STCC4	Description	Total	UP + NS	2023 Units 50/10 Screen			Bailey Ex. 14 Results	
						Originating Screen	Participating Screen	Terminating Screen	Pre-CLA Carloads	Post-CLA Carloads
St. Louis, MO-IL	96	4611	Fak Shipments	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	3295	Nonmetal Minerals, Processed	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	3274	Lime Or Lime Plaster	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	2399	Misc Fabricated Textile Products	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	2841	Soap Or Other Detergents	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	2041	Flour Or Other Grain Mill Products	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	2899	Chemical Preparations, Nec	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	2099	Misc Food Preparations, Nec	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	2821	Plastic Mater Or Synth Fibres	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	2911	Petroleum Refining Products	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	1441	Gravel Or Sand	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	2952	Asphalt Coatings Or Felt	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	3011	Tires Or Inner Tubes	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	4024	Paper Waste Or Scrap	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	3071	Misc Plastic Products	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	2046	Wet Corn Milling Or Milo	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	96	2047	Dog, Cat Or Other Pet Food, Nec	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	99	3711	Motor Vehicles	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	99	2399	Misc Fabricated Textile Products	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	99	2042	Prepared Or Canned Feed	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	99	2899	Chemical Preparations, Nec	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	99	3011	Tires Or Inner Tubes	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	99	4621	Mixed Shipments, Multi-Stcc	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	99	2661	Paper Or Building Board	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	99	2621	Paper	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	99	3599	Misc Machinery Or Parts	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	99	2821	Plastic Mater Or Synth Fibres	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	99	3071	Misc Plastic Products	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	99	3799	Transportation Equipment, Nec	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Total				{{ }}	{{ }}				{{ }}	{{ }}

113. In total, there are {{ }} UP and NS shipments originating in the St. Louis BEA and {{ }} UP and NS shipments originating in Kansas City that meet the 50/10 threshold. A wide group of commodities are represented, including intermodal traffic as well as carload service for automotive, metals and minerals, petroleum and chemicals, grains and fertilizers, and forest products. By contrast, Dr. Bailey identified no originating commodities in the Kansas City

[193] Bailey Amended Statement at ¶ 96.

BEA and two originating commodities in the St. Louis BEA meeting the 50/10 screen for Destination Competition, totaling {{ }}, both of which are then "unflagged" based on Dr. Bailey's Critical Loss Analyses.[194]

114. As shown in Figure 16 below, these commodities encompass a wide variety of commodities shipped on rail. These commodities include[195]:

- Intermodal,
- Automotive (finished vehicles),
- Metals and Minerals (such as construction and industrial materials, sand, and machinery and dimensional loads),
- Petroleum and Chemicals (such as industrial chemicals, aromatics and fibers, alternative fuels, plastic pellets; and asphalt),
- Grains and Fertilizers (including feed, consumer goods, and flour products like wheat and semolina)
- Forest Products (such as scrap-paper and rags and printing paper).

Customers relying on rail transportation for these products may face competitive effects due to the loss of destination competition, absent appropriate conditions.

194 Bailey Amended Statement at Exhibit 14.

195 *See* my Workpaper, "Figure_16_18.xlsx."

Figure 16: UP and NS Commodities Flagged through 50/10 Screen for Destination Competition in Kansas City and St. Louis BEAs

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2. **Source Competition**

115. To evaluate the potential impact of the Proposed Transaction on source competition, I analyze the railroad traffic originated, terminated, and serviced by each railroad within the terminating BEA for each commodity at a STCC4 level in the same manner as Dr. Bailey. I again use the combined waybill data prepared by Dr. Bailey based on the Class I railroads' 2019-2024 traffic tapes and the 2019-2023 Carload Waybill Sample data, limited to the base year 2023 traffic.[196] Unlike Dr. Bailey, I consider all traffic and exclude shares from non-rail modes when identifying traffic with potential concerns. I identify termination-commodity pairs where UP and NS each perform originations, terminations, or servicing of at least 10% of railroad shipments and combine for more than 50% of the total railroad volumes terminating at the BEA during 2023. I identify these twenty-seven BEA-commodity pairs in Figure 17 below that meet this

[196] Bailey Amended Statement at ¶ 96.

threshold and have more than 365 carloads during the base year for the Kansas City and St. Louis BEAs that are addressed through CN's proposed conditions.[197]

Figure 17: BEA-Commodity Pairs Meeting 50/10 Screen for Source Competition in Kansas City and St. Louis BEAs

Terminating BEA	Number	STCC4	Description	Total		UP + NS		2023 Units 50/10 Screen						Bailey Ex. 15 Results			
								Originating Screen		Participating Screen		Terminating Screen		Pre-CLA Carloads		Post-CLA Carloads	
St. Louis, MO-IL	96	4611	Fak Shipments	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
St. Louis, MO-IL	96	3711	Motor Vehicles	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
St. Louis, MO-IL	96	3295	Nonmetal Minerals, Processed	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
St. Louis, MO-IL	96	3071	Misc Plastic Products	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
St. Louis, MO-IL	96	2899	Chemical Preparations, Nec	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
St. Louis, MO-IL	96	3714	Motor Vehicle Parts Or Accessories	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
St. Louis, MO-IL	96	2819	Misc Indus Inorganic Chemicals	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
St. Louis, MO-IL	96	2041	Flour Or Other Grain Mill Products	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
St. Louis, MO-IL	96	2911	Petroleum Refining Products	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
St. Louis, MO-IL	96	2085	Distilled Or Blended Liquors	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
St. Louis, MO-IL	96	2399	Misc Fabricated Textile Products	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
St. Louis, MO-IL	96	2046	Wet Corn Milling Or Milo	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
St. Louis, MO-IL	96	4021	Metal Scrap Or Tailings	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
St. Louis, MO-IL	96	2871	Fertilizers	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
St. Louis, MO-IL	96	2082	Malt Liquors	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
Kansas City, MO-KS	99	2631	Fiber, Paper Or Pulpboard	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
Kansas City, MO-KS	99	3071	Misc Plastic Products	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
Kansas City, MO-KS	99	2812	Potassium Or Sodium Compound	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
Kansas City, MO-KS	99	2621	Paper	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
Kansas City, MO-KS	99	2399	Misc Fabricated Textile Products	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
Kansas City, MO-KS	99	2821	Plastic Mater Or Synth Fibres	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
Kansas City, MO-KS	99	2899	Chemical Preparations, Nec	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
Kansas City, MO-KS	99	2099	Misc Food Preparations, Nec	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
Kansas City, MO-KS	99	2871	Fertilizers	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
Kansas City, MO-KS	99	2042	Prepared Or Canned Feed	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
Kansas City, MO-KS	99	2819	Misc Indus Inorganic Chemicals	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
Kansas City, MO-KS	99	2541	Wood Lockers, Partitions, Etc.	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}	{{	}}
Total				{{	}}	{{	}}							{{	}}	{{	}}

116. In total, there are {{ }} UP and NS shipments terminating in the St. Louis BEA and {{ }} UP and NS shipments terminating in Kansas City that meet the 50/10 threshold. A wide group of commodities are represented, including intermodal traffic as well as carload service for automotive, petroleum and chemicals, metals and minerals, grains and fertilizers, and forest products. By contrast, Dr. Bailey identified: one terminating commodity in the Kansas City BEA meeting the 50/10 screen, totaling {{ }} shipments ("unflagged" based on Dr. Bailey's Critical Loss Analysis) and one terminating commodity in the St. Louis BEA meeting the 50/10 screen for Source Competition, totaling {{ }} (also then "unflagged" based on Dr. Bailey's Critical Loss Analyses).[198]

[197] When modifying this methodology to use 2024 instead of 2023, there are 5 additional BEA-commodity pairs and 3 fewer BEA-commodity pairs between Kansas City and St. Louis. This produces a net change of 2 new BEA-commodity pairs, from 27 to 29. *See* my Workpaper, "VI. 2024 Sensitivity.py".

[198] Bailey Amended Statement at Exhibit 15.

117. As shown in Figure 18 below, these commodities encompass a wide variety of commodities shipped on rail. These commodities include:[199]

- Intermodal,
- Petroleum and Chemicals (such as industrial chemicals, industrial chemical acids, soda ash, sodium products, sulphuric acid, aromatics and fibers, caustic soda, petroleum and lube oil, BTX, and plastic pellets),
- Grains and Fertilizers (such as corn meal, consumer goods, dried distiller grains, feed, potash, and dried fertilizers like ammonium sulphate)
- Automotive (finished vehicles and vehicle parts),
- Forest Products (such as printing paper and board-paper and pulp), and
- Metals and Minerals (such as roofing materials, scrap iron, and non-ferrous waste/scrap).

Customers relying on rail transportation for these products may face competitive effects due to the loss of source competition, absent appropriate conditions.

[199] *See* my Workpaper, "Figure_16_18.xlsx."

Figure 18: UP and NS Commodities Flagged through 50/10 Screen for Source Competition in Kansas City and St. Louis BEAs

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C. ADDITIONAL CONSIDERATIONS FOR TRAFFIC THAT FACES COMPETITIVE EFFECTS FOR SOURCE AND DESTINATION COMPETITION IN KANSAS CITY AND ST. LOUIS

118. For the commodities meeting the 50/10 screen for source and destination competition in the Kansas City and St. Louis BEAs, I consider whether further factors suggest that the Proposed Transaction is likely to result in adverse competitive effects for shippers or receivers of that commodity. Specifically, I consider:

- UP's and NS's share in the Kansas City and St. Louis BEAs during the base year,
- The 50/10 screen for 2024 rail traffic,
- Non-rail shares for routes that UP and NS serve, and
- UP and NS originating or terminating shares of that commodity across the United States.

119. First, I calculate the share of originating or terminating rail traffic that UP and NS carried in the base year for each BEA-commodity pair at issue. All of these BEA-commodity pairs pass the 50/10 screen, but this additional detail can show exactly how much of the traffic for each commodity is originated or terminated by UP and NS in the Kansas City and St. Louis BEAs. This approach can help distinguish between commodities where the thresholds are just met to those where the combined shares and/or changes are much higher than the threshold levels.

120. Second, I run a 50/10 screen using the 2024 traffic compiled by Dr. Bailey.[200] This test shows whether the commodity would continue to pass this threshold in the most recent year that data was included. If traffic patterns have changed such that the 50/10 threshold is no longer passed in 2024, this may reduce the potential for competitive harm to that specific BEA-commodity pair from the merger.

121. Third, I calculate the percentage of truck and water shares of traffic on UP and NS routes of the flagged commodity, weighted according to the amount of UP and NS traffic on those routes. This reflects the average share of truck and water modes of transportation that may provide some level of competition on the routes that UP and NS serve.

122. Finally, I examine the combined share of rail traffic of UP and NS in providing nationwide terminating service (for destination competition) or originating service (for source competition). These measures can help evaluate the options that customers have to combat a potential price increase. If, for example, a commodity passes the 50/10 test for destination competition, then these shares can help determine whether there are alternative rail destinations, not served by UP or NS, they could shift traffic to. Similarly, if a commodity passes the 50/10 test for source competition, then these shares can help determine whether there are alternative rail originations, not served by UP or NS, they could shift traffic from.

1. Destination Competition

123. Figure 19 below shows these additional considerations around the commodities meeting the 50/10 screen for destination competition in the Kansas City and St. Louis BEAs.

[200] Dr. Bailey notes that she was unable to incorporate the 2024 CWS data in her Amended Report. *See* Bailey Amended Statement at n. 86.

Figure 19: Additional Considerations around BEA-Commodity Pairs Meeting 50/10 Screen for Destination Competition in Kansas City and St. Louis

Destination Competition - 50/10 Commodities			*Sensitivities*		*Consideration of Other Modes*		*UP/NS Nationwide Shares of Terminations - STCC4*		
Originating BEA	**STCC4**	**Description**	**UP and NS 2023 Originating Share**	**2024 Sensitivity**	**Truck Shares on UP-NS Routes**	**Water Shares on UP-NS Routes**	**UP**	**NS**	**Combined**
St. Louis, MO-IL	4611	Fak Shipments	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	3295	Nonmetal Minerals, Processed	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	3274	Lime or Lime Plaster	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2399	Misc Fabricated Textile Products	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2841	Soap or Other Detergents	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2041	Flour or Other Grain Mill Products	{{ }}	Not 50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2899	Chemical Preparations, Nec	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2099	Misc Food Preparations, Nec	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2821	Plastic Mater or Synth Fibres	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2911	Petroleum Refining Products	{{ }}	Not 50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	1441	Gravel or Sand	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2952	Asphalt Coatings or Felt	{{ }}	Not 50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	3011	Tires or Inner Tubes	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	4024	Paper Waste or Scrap	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	3071	Misc Plastic Products	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2046	Wet Corn Milling or Milo	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2047	Dog,cat or Other Pet Food,nec	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	3711	Motor Vehicles	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2399	Misc Fabricated Textile Products	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2042	Prepared or Canned Feed	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2899	Chemical Preparations, Nec	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	3011	Tires or Inner Tubes	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	4621	Mixed Shipments, Multi-stcc	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2661	Paper or Building Board	{{ }}	Not 50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2621	Paper	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	3599	Misc Machinery or Parts	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2821	Plastic Mater or Synth Fibres	{{ }}	50/10-small	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	3071	Misc Plastic Products	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	3799	Transportation Equipment, Nec	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}

124. The results show the following for destination competition:

- The combined share of UP and NS is substantially above the threshold screens in {{ }} of the {{ }} BEA-commodity pairs. This demonstrates that UP and NS have very high combined shares in most of these BEA-commodity pairs, which further supports the possibility of adverse effects of the Proposed Transaction.
    - The combined share is above 60% in {{ }} BEA-commodity pairs.
    - The combined share is above 75% in {{ }} BEA-commodity pairs.
    - The combined share is above 90% in {{ }} BEA-commodity pairs.
- All but five BEA-commodity pairs meeting the 50/10 screen for destination competition in 2023 also pass the 50/10 screen using 2024 traffic, indicating that changes in traffic flows are not generally a reason to exclude these commodities.

  - Of those, {{ }} not pass because the 2024 volumes fall below the 365-car minimum used to identify and screen out smaller volume commodities.
  - The other {{ }} have combined UP and NS shares between 59% and 100% of the originating traffic in 2023.

- Truck and Water modes of transportation do not appear to compete significantly with the rail traffic for UP and NS routes for most of the 29 BEA-commodity pairs that meet the 50/10 screen, suggesting that competition with truck and rail is not a reason to exclude these commodities.
  - The weighted average of truck shares for UP and NS rail routes ranges is 0% for {{ }} BEA-commodity pairs; greater than 0% and less than or equal to 10% for {{ }} BEA-commodity pairs; greater than 10% and less than or equal to 30% for {{ }} BEA-commodity pairs; and >30% for only {{ }} BEA-commodity pairs. The average truck shares on UP and NS routes across these BEA-commodity pairs is only 11%.
  - The weighted average of water shares for UP and NS rail routes are 0% for {{ }} of the BEA-commodity pairs; greater than 0% and less than or equal to 5% for {{ }} of the BEA-commodity pairs; and 18% for {{ }}. The average across the BEA-commodity pairs is only 1%.

- UP and NS handle a significant amount of the terminations for these commodities across the United States, suggesting that UP and NS are important transportation options for these commodities even outside of the Kansas City and St. Louis BEAs making it harder for customers to use other rail options to constrain pricing to or from the BEA. Thus, these facts do not support excluding these commodities.
  - UP and NS have a greater than 50% share of all terminations across the United States for {{ }} of these BEA-commodity pairs.
  - For the {{ }} commodities for which UP and NS have a share of terminations less than 40%, the 2023 originating shares in the Kansas City or St. Louis BEAs

average {{ }}. While UP and NS terminate less than 40% of the commodity nationwide, their originating shares in Kansas City or St. Louis are very high, raising competitive concerns that alternative destination options may not be able to alleviate.

125. In total, I do not find evidence to support the dismissal of these commodities from those that may face competitive effects due to the loss of destination competition.

2. Source Competition

126. Figure 20 below shows these additional considerations around the commodities meeting the 50/10 screen for source competition in the Kansas City and St. Louis BEAs.

Figure 20: Additional Considerations around BEA-Commodity Pairs Meeting 50/10 Screen for Source Competition in Kansas City and St. Louis

Source Competition - 50/10 Commodities			*Sensitivities*		*Consideration of Other Modes*		*UP/NS Nationwide Shares of Originations - STCC4*		
Terminating BEA	**STCC4**	**Description**	**UP and NS 2023 Terminating Share**	**2024 Sensitivity**	**Truck Shares on UP-NS Routes**	**Water Shares on UP-NS Routes**	**UP**	**NS**	**Combined**
St. Louis, MO-IL	4611	Fak Shipments	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	3711	Motor Vehicles	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	3295	Nonmetal Minerals, Processed	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	3071	Misc Plastic Products	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2899	Chemical Preparations, Nec	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	3714	Motor Vehicle Parts or Accessories	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2819	Misc Indus Inorganic Chemicals	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2041	Flour or Other Grain Mill Products	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2911	Petroleum Refining Products	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2085	Distilled or Blended Liquors	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2399	Misc Fabricated Textile Products	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2046	Wet Corn Milling or Milo	{{ }}	Not 50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	4021	Metal Scrap or Tailings	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2871	Fertilizers	{{ }}	Not 50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2082	Malt Liquors	{{ }}	Not 50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2631	Fiber, Paper or Pulpboard	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	3071	Misc Plastic Products	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2812	Potassium or Sodium Compound	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2621	Paper	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2399	Misc Fabricated Textile Products	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2821	Plastic Mater or Synth Fibres	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2899	Chemical Preparations, Nec	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2099	Misc Food Preparations, Nec	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2871	Fertilizers	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2042	Prepared or Canned Feed	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2819	Misc Indus Inorganic Chemicals	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	2541	Wood Lockers,partitions, Etc.	{{ }}	50/10	{{ }}	{{ }}	{{ }}	{{ }}	{{ }}

127. The results show the following for source competition:

- The combined share of UP and NS is substantially above the threshold screens in {{ }} of the {{ }} BEA-commodity pairs, demonstrating that UP and NS have very high

combined shares in most of these BEA-commodity pairs, which further supports the possibility of adverse competitive effects of the Proposed Transaction.

  - The combined share is above 60% in {{ }} BEA-commodity pairs.
  - The combined share is above 75% in {{ }} BEA-commodity pairs.
  - The combined share is above 90% in {{ }} BEA-commodity pairs.

- All but three BEA-commodity pairs meeting the 50/10 screen for source competition in 2023 also pass the 50/10 screen for 2024 traffic, indicating that changes in traffic flows are not generally a reason to exclude these commodities.
  - Of those three BEA-commodity pairs, one ({{ }}) has a combined UP and NS share of {{ }} of the terminating traffic in 2023.
- Truck and Water modes of transportation do not appear to compete significantly with the rail traffic for most of the 27 BEA-commodity pairs that meet the 50/10 screen, suggesting that competition with truck and rail is not a reason to exclude these commodities.
  - The weighted average of truck shares for UP and NS rail routes ranges is 0% for {{ }} BEA-commodity pairs; greater than 0% and less than or equal to 10% for {{ }} BEA-commodity pairs; greater than 10% and less than or equal to 30% for {{ }} BEA-commodity pairs; and >30% for only {{ }} BEA-commodity pairs. The average truck shares on UP and NS routes across these BEA-commodity pairs is only {{ }}.
  - The weighted average of water shares for UP and NS rail routes is 0% for {{ }} of the BEA-commodity pairs; greater than 0% and less than or equal to 5% for {{ }} of the BEA-commodity pairs; and greater than 5% and less than or equal 25.1% for {{ }} of the BEA-commodity pairs. The average across the BEA-commodity pairs is only {{ }}.
- UP and NS handle a significant amount of the originations of these commodities across the United States, suggesting that UP and NS are important transportation options for these commodities even outside of the BEA making it harder to use other rail options to

constrain pricing to or from the BEA. Thus, these facts do not support excluding these commodities.

- UP and NS have a greater than 50% share of all originations across the United States for {{ }} of these BEA-commodity pairs.
- For the {{ }} commodities for which UP and NS's share of originations is less than 40%, the 2023 terminating shares in the Kansas City or St. Louis BEAs average {{ }}.[201]

128. In total, I do not find evidence to support removing these commodities from those that may face competitive effects due to the loss of source competition.[202]

D. Reductions in Source and Destination Competition are Likely to Produce Adverse Competitive Effects for Kansas City and St. Louis Traffic (Absent Conditions)

129. Customers of BEA-commodity pairs meeting the 50/10 threshold may be harmed by a reduction in source and destination competition, as UP and NS will control a majority of the rail transportation for those commodities in specific origins and destinations. As I discussed in § III, when a merger creates a single entity with a high market share accompanied with a significant change in market share, competition for those customers' traffic is reduced. High market shares can thus be indicative of the fact that customers may have limited alternatives to the merged entity for rail transportation, which may allow the merged entity raise prices or reduce service quality. This concern applies not only to high shares for access to particular customers, but also to high shares of BEA-commodity pairs.

130. Consider an example where UP and NS comprise the majority of shipments for specific commodities where Kansas City is the origin or destination – Motor Vehicles traffic (STCC 3711) originating in Kansas City. In 2023, NS originated {{ }} shipments, mostly from their Voltz Mixing Center station. UP originated a total of {{ }} shipments, {{ }} from Fairfax, KS and {{ }} from Muncie, KS stations. BNSF originated {{ }}

201 *See* my Workpaper, "Figure 19 and 20.xlsx", tab "In-text."

202 I note that traffic STCC 2082 Malt Liquors terminated in St. Louis did not pass the 50/10 screen using 2024 traffic and UP and NS have a combined {{ }} share of all originations across the United States. These factors may allow the St. Louis customers of this commodity to avoid some competitive effects that may result due to the Proposed Transaction.

shipments, mostly from their Kansas City, KS station. CPKC originated {{ }} shipments, mostly from their Kansas City, MO station. In total, UP and NS combined to originate {{ }} of Motor Vehicles traffic originating from the Kansas City BEA (UP originated {{ }} and NS originated {{ }} of this traffic). Because UP and NS each served at least 10% of the originations and combined served more than 50% of originations, this BEA-commodity pair meets the 50/10 screen for originations of this commodity. UP and NS also combined to terminate {{ }} of this traffic to the ultimate destination (UP terminated {{ }} and NS terminated {{ }} of this traffic), which would also meet the 50/10 screen for terminations of this commodity.[203]

131. If UP and NS were to merge, the combined railroad would serve {{ }} of railroad originations of Motor Vehicle traffic from the Kansas City BEA.[204] {{ }} is the largest Motor Vehicle shipper in the Kansas City BEA. {{Ford}} relies on NS, BNSF, CPKC, and UP for originating service to {{ }} destinations. Generally, {{ }} traffic from the Kansas City BEA uses single line service, with the originating carrier for their traffic also performing the terminating service. For example, NS originates shipments from the Kansas City BEA that they then terminate in {{ }} and {{ }} stations; BNSF originates shipments that they then terminate in {{ }} and {{ }} stations; CPKC originates shipments that they then terminate in {{ }} and {{ }}; and UP originates shipments that they then terminate in {{ }} and {{ }}.[205]

132. The destinations that {{ }} can ship to across the railroad network provide a source of destination competition that allows {{ }} to negotiate better rates and terms than it could negotiate if it had only a single destination option. Currently, UP, NS, CPKC, and BNSF must compete with each other, even if not to the same destinations, to gain {{ }} business. If UP and NS were to merge, absent conditions, they would have less incentive to compete against each other for that traffic to their destinations. If UP raised its rates and, in response, {{ }} moved volumes elsewhere, then, based on market shares, NS would be expected to gain 52% of

203 *See* my Workpaper, "In-Text Figures.py."

204 *See* my Workpaper, "Appendix C.xlsx."

205 *See* my Workpaper, "In-Text Figures.py."

this lost traffic (with BNSF and CPKC gaining 32% and 16% respectively), which could make the price increase profitable.[206]

133. Similarly, in the St. Louis BEA, if UP and NS were to merge, the combined entity would serve {{ }} of originations for STCC 2041 "Flour or Other Grain Mill Products." UP is the larger of the two, and it currently originates {{ }} of flour traffic from St. Louis and terminates {{ }} of this volume to destinations on own network. Traffic using single line service most commonly terminates in {{ }}. NS originates an additional {{ }} of flour traffic from St. Louis and relies on single-line service almost entirely with {{ }} of flour traffic from St. Louis terminating on its own network. The largest destinations for NS, by traffic volume, include {{ }}.[207]

134. Customers originating flour from St. Louis currently benefit from UP and NS competing as separate carriers, each offering access to a different set of customers and destinations. Currently BNSF, CSXT, NS, UP and CN (which originates less than {{ }} of this traffic) can offer different competitive options to customers. Absent the proposed conditions, the merged entity would face less competition as UP and NS would no longer have to compete against each other for this traffic.[208]

135. As described in these examples, when UP and NS control high shares of (origination or destination) traffic for a BEA-commodity pair, customers may be harmed by the Proposed Transaction by the loss of options for originating or terminating their traffic, i.e., by a reduction in source and destination competition.

E. ADDITIONAL COMMODITIES ORIGINATING OR TERMINATING IN KANSAS CITY AND ST. LOUIS MAY ALSO FACE ADVERSE EFFECTS

136. Many commodities originating or terminating in the Kansas City and St. Louis BEAs that do not meet the 50/10 screen still may face adverse competitive effects as a result of increased concentration due to the Proposed Transaction. For example, the U.S. DOJ and FTC Merger Guidelines identify a combined share of 30% and an increase in HHI of more than 100 points as

206 *See* my Workpaper, "In-Text Figures.py."

207 *Id.*

208 *Id.*

the thresholds to presume a merger will substantially lessen competition.[209] BEA-commodity pairs that exceed these thresholds and have at least 365 shipments of UP and NS traffic are included in Figure 21. These include commodities that do not meet all the components of the 50/10 screen but still may face adverse competitive effects if one uses the thresholds used by the U.S. Department of Justice and Federal Trade Commission when assessing mergers. For example, UP and NS terminate {{ }} of Motor Vehicles traffic (STCC 3711) in the Kansas City BEA – below the 50% threshold in the 50/10 screen – with each terminating more than {{ }} of the traffic. If UP and NS compete for the Motor Vehicle traffic to customers within the Kansas City BEA, then the Proposed Transaction would result in a loss of competition for these customers that could result in harm. Similarly, the merged entity would handle {{ }} of Motor Vehicle Parts or Accessories (STCC 3714) traffic both originating and terminating in the Kansas City BEA. UP performed {{ }} of originations and {{ }} of terminations – below the 10% threshold in the 50/10 screen, but the UP-NS combined share is very high. If the options that UP offers act as a competitive restraint on NS for certain traffic, then post-merger there may be competitive harm for that traffic. I identify shares for all BEA-commodity pairs originating or terminating in the St. Louis and Kansas City BEAs in my Appendix C workpaper.

Figure 21: Additional Commodities that Exceed Merger Guidelines Thresholds for Lessened Competition

BEA	STCC4	Commodity	Service	NS Share	UP Share	Combined	HHI Delta
Kansas City, MO-KS	2099	Misc Food Preparations, Nec	Originating	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	3714	Motor Vehicle Parts or Accessories	Originating	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	4021	Metal Scrap or Tailings	Originating	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	4611	Fak Shipments	Originating	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2818	Misc Industrial Organic Chemicals	Originating	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	3312	Primary Iron or Steel Products	Originating	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	3711	Motor Vehicles	Terminating	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	3714	Motor Vehicle Parts or Accessories	Terminating	{{ }}	{{ }}	{{ }}	{{ }}
Kansas City, MO-KS	4611	Fak Shipments	Terminating	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	0113	Grain	Terminating	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2092	Soybean Oil or By-products	Terminating	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	2812	Potassium or Sodium Compound	Terminating	{{ }}	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	3312	Primary Iron or Steel Products	Terminating	{{ }}	{{ }}	{{ }}	{{ }}

[209] See ¶ 15 above.

VII. CN'S PROPOSED CONDITIONS WILL ADDRESS CONCERNS APPLICANTS HAVE ACKNOWLEDGED AS WELL AS ADDITIONAL CONCERNS

137. CN's Proposed Conditions will remedy the loss of competition from the Proposed Transaction in key areas where UP and NS overlap. These conditions will provide a new competitive Class I option for individual affected customers around Des Moines and throughout Illinois and address competitive concerns around the Kansas City and St. Louis areas.

138. CN's Proposed Conditions request that the Board condition the merger on CN access to provide service to 2-to-1 and 3-to-2 customers. Many of these customers are located in the Des Moines, IA area where UP, NS, and BNSF are currently the only Class I options. CN will provide a new Class I option to compete with the combined UP-NS entity and BNSF to serve customers, ensuring those customers continue to have three Class I options. CN operates successfully throughout Iowa, and these rights will allow them to expand their operations to better serve the state.[210]

139. CN's Proposed Conditions will similarly preserve competition for 2-to-1 and 3-to-2 customers throughout Illinois, including Hillsboro Energy in Hillsboro, IL, Macoupin Energy LLC in Carlinville, IL, AgRail LLC in Bloomington, IL, and other customers throughout Illinois. CN already has a substantial network in Illinois that is the base of CN's U.S. operations. CN's existing presence in Illinois, combined with the additional rights requested under the Proposed Conditions, will facilitate the provision of effective access for these customers, allowing customers to benefit from competition among the combined UP-NS entity, CN, and any other serving railroads for those customers' service.

140. CN's Proposed Conditions also request that the Board condition the Proposed Transaction on UP divesting the Kansas City Line to CN. This divestiture will provide a new Class I option between those locations that will allow CN to compete for traffic that utilizes that segment and to introduce a new Class I carrier in Kansas City and expanded Class I access in St. Louis to replace the competition lost in each from the Proposed Transaction. UP and NS have the most direct routes between Kansas City and St. Louis, giving them an advantage over other railroads for service between these points (or for corridors that utilize this segment). CN's

[210] See § VIII for additional details.

acquisition of the Kansas City Line will eliminate the potential for harm to customers utilizing this segment.

141. Other aspects of CN's Proposed Conditions seek additional rights to increase CN's ability to compete for the affected traffic and will improve the effectiveness of CN's requested condition for divestiture of the Kansas City Line. CN's Proposed Conditions include overhead trackage rights on UP's line between Tuscola, IL and East St. Louis, IL. This will allow CN a direct route to East St. Louis from its mainline running through Tuscola, IL. Currently, CN must take a circuitous route into East St. Louis from locations north, limiting its competitiveness in the area. These overhead trackage rights will allow CN to more directly connect to East St. Louis, and through it to the Kansas City Line proposed for divestiture. They will also improve CN's service in St. Louis, positioning it to be able to compete for traffic in St. Louis and preserve the competition lost from the Proposed Transaction.

142. In addition, CN's Proposed Conditions request the lease or acquisition of UP's Neff Yard in Kansas City, MO. This will give CN access to a yard facility that will enable it to serve customers in the Kansas City area effectively, particularly for automotive and intermodal service, where I understand access to a yard facility is needed.[211] I understand that CN plans to invest in this facility to ensure it can compete with the other major rail carriers in and around Kansas City.[212] Similarly, CN's Proposed Conditions request the sale of the former Sarpy Yard property to CN for handling CN's intermodal and automotive traffic. This access will allow CN to serve customers in the St. Louis area more effectively.[213] The Settlement MOU will also result in CN ownership in KCT, which serves customers throughout Kansas City, allowing CN to serve these customers and interchange with other carriers. In addition, I understand that the Proposed Conditions will grant CN access to current UP and NS customers with open switching arrangements, allowing CN to directly market and compete to serve these customers' traffic. These aspects will help ensure that CN can effectively operate with KCT and the combined UP-NS entity as partners to serve customers throughout the Kansas City area.

211 Nair V.S. at 9–10; Slazinski V.S. at 9–109.

212 Nair V.S. at 9–10; Slazinski V.S. at 9–10.

213 Nair V.S. at 10–11; Slazinski V.S. at 12–13.

A. THE PROPOSED CONDITIONS PROVIDE A REMEDY FOR CUSTOMER FACILITIES FACING A 2-TO-1 OR 3-TO-2 REDUCTION IN CLASS I RAILROAD OPTIONS

143. The proposed conditions CN is seeking and that are agreed upon in the Settlement MOU[214] are designed to remedy competitive harm the Proposed Transaction otherwise would likely impose on 2-to-1 and 3-to-2 customers. The conditions would give CN access to the seven 2-to-1 and eighteen 3-to-2 customer facilities currently served by UP and NS in Des Moines, IA, Danville IL, Chicago IL, Bloomington IL, Hillsboro, IL, Carlinville IL, Mt. Vernon IL, Momence IL, Federal IL, and Granite City IL. Customers who may be harmed by the loss of competition between UP and NS will gain a new Class I railroad option. The combined UP-NS entity can continue to compete for those customers' traffic and serve them as they currently serve them; CN will be an additional Class I option, providing new routes for those customers' traffic. In instances in which one carrier experiences service disruptions, customers would retain another railroad option to serve their traffic. CN will offer a competitive constraint similar to what UP and NS currently impose on each other, while also offering additional new competitive markets, routes and interline opportunities for those customers.[215]

1. Des Moines, IA Customer Facilities

144. With the proposed conditions, CN would obtain access to the 2-to-1 and 3-to-2 customers in Des Moines and Avon, Iowa through trackage rights from Manly and Iowa Falls. These rights will allow CN to operate its own trains and crews along those segments to access the Des Moines area and access the 3-to-2 and 2-to-1 customers. Trackage rights allow CN to create and run its own operations to move that traffic to Des Moines via UP's yard via reciprocal switching. Figure 22 below illustrates CN's proposed overhead trackage rights to Des Moines and Avon.

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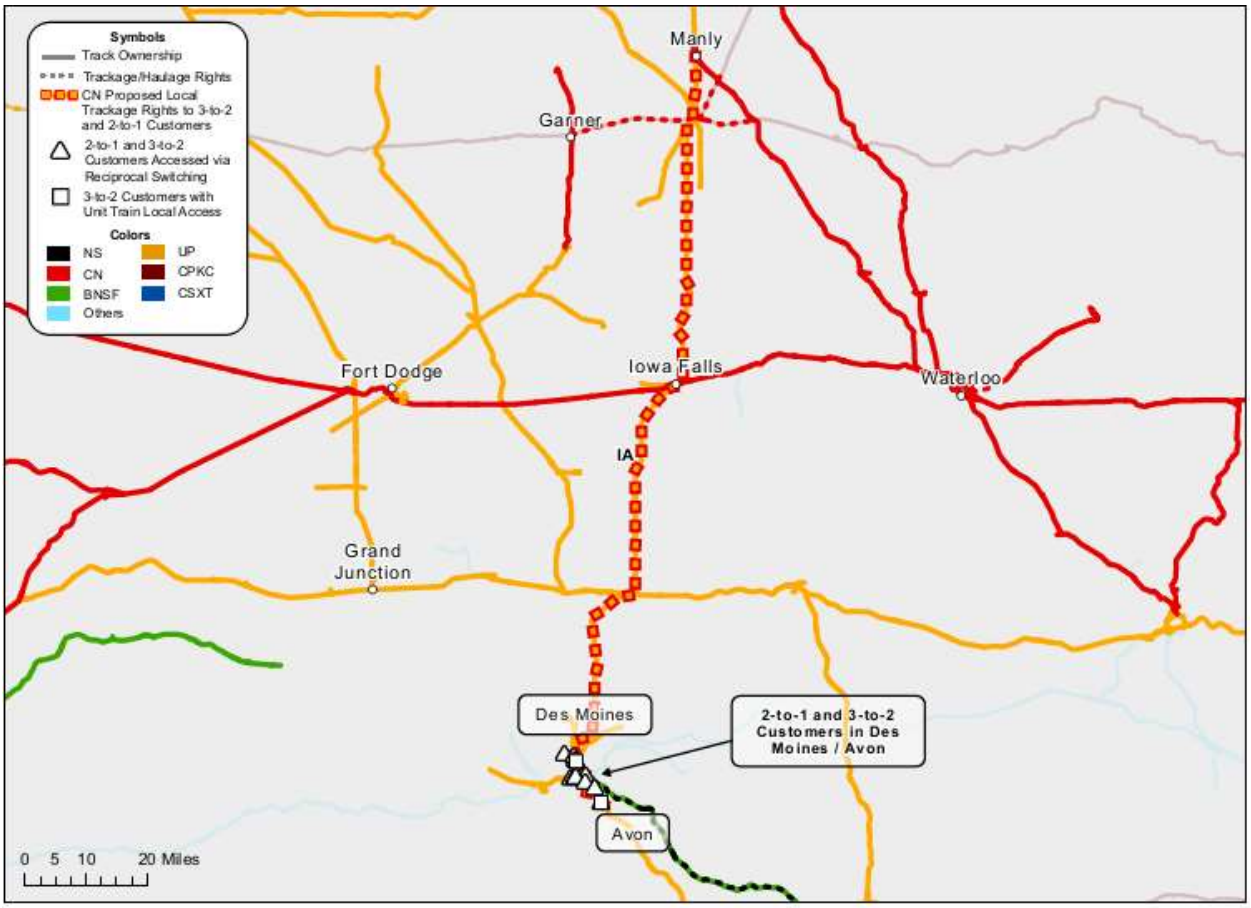
214 Applicants' Second Supplemental Submission at 202–218; Bailey Supplemental Statement at ¶¶ 7, 11.

215 CN operates largely in the overlap area of UP and NS and, as such can, impose a similar constraint that UP and NS provide on each other for customers in these areas.

Figure 22: CN Proposed Overhead Trackage Rights to Reach 3-to-2 and 2-to-1 Customers in Des Moines and Avon



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

145. Today, 3-to-2 customers in the Des Moines area have a choice of three Class I railroads (UP, NS, and BNSF) for their rail service.[216] As I discuss in § IV.A.2 above, the Proposed Transaction may produce adverse competitive effects even if the customer still has two Class I railroad options post-merger. The conditions allowing CN access to these customers would ensure they have another choice among the Class I railroads to serve their rail needs. CN already operates extensively in other areas of Iowa, with 68 stations in the state. Access through Iowa Falls and Manly will provide a connection to CN's existing network in Iowa, allowing CN to better reach the 3-to-2 customers and serve the state. CN will be able to offer competitive options

[216] In addition, Titan Tire is a 2-to-1 customer in Des Moines, IA with access to only UP and NS. The conditions allowing CN access to this customer would ensure Titan Tire maintains a second Class I railroad option. *See* Figure 1 above.

for the 3-to-2 customers, both for their existing routes and for new routes available through CN's network. In this manner, the remedy will preserve competition for the 3-to-2 customers in Des Moines that would otherwise be lost.

2. Hillsboro Energy in Hillsboro, IL and Macoupin Energy LLC in Carlinville, IL

146. In 2025, 2-to-1 customer Hillsboro Energy in Hillsboro, IL shipped traffic to:

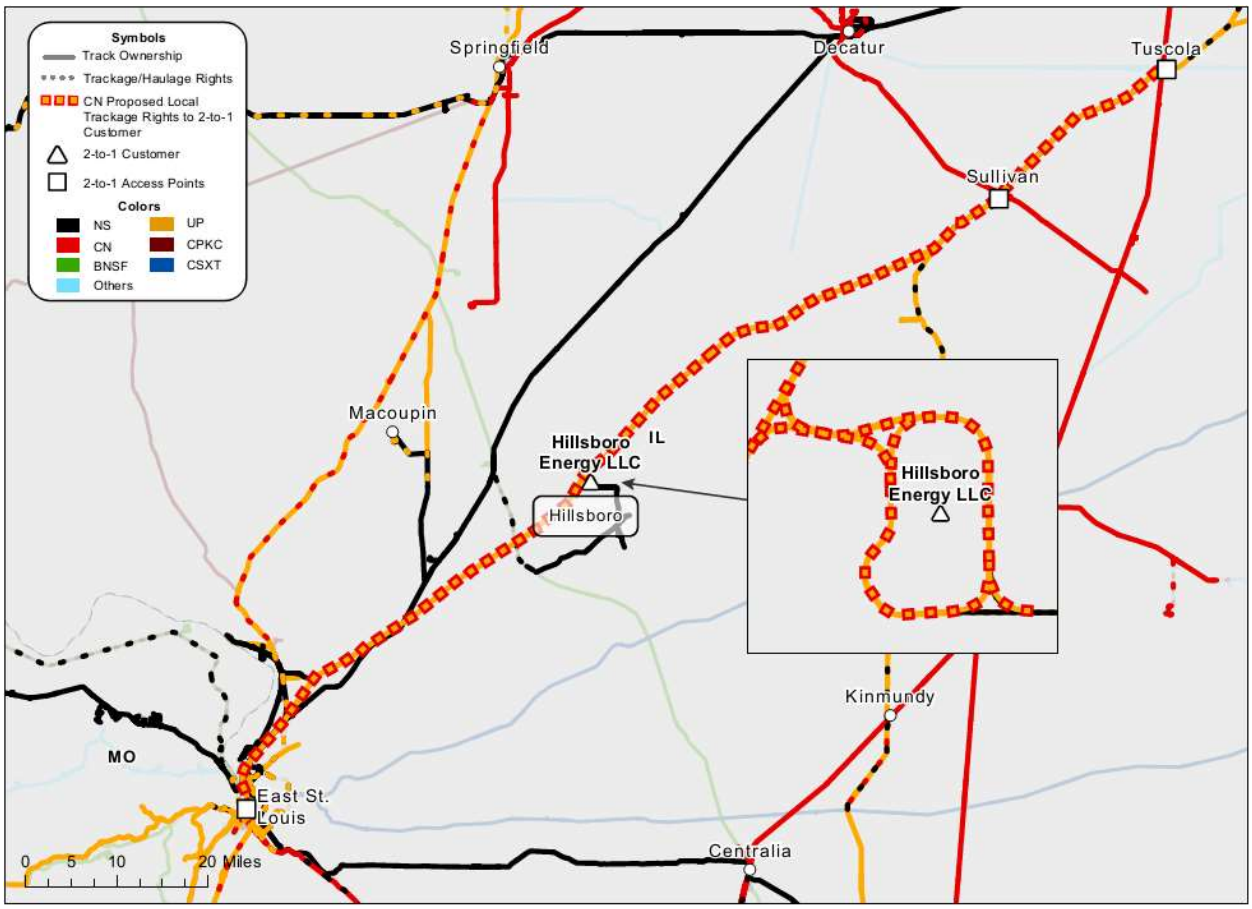
- {{ }} in {{ }} through NS and the EVWR railroads;
- {{ }} in {{ }} through NS;
- {{ }} in {{ }} through UP; and
- {{ }} in {{ }} through UP and the CIC.

147. With the proposed conditions, CN would obtain the trackage rights required to access Hillsboro Energy and can then provide service to all of these destinations. Trackage rights will allow CN to operate its own trains and crews over the trackage rights segment to reach Hillsboro facilities. I understand that coal is particularly well suited to this type of arrangement. Coal is typically shipped in unit trains to a single destination and requires the trains and crews to remain on-site while the loading process is performed. Once loaded, the train will depart from the customer location and travel along the trackage rights segment until it can connect to CN's network.

148. Once it reaches the CN network, CN will bring the traffic to its ultimate destination or interchange location: CN could offer direct service to {{ }} and {{ }} and could market these destinations to Hillsboro Energy and {{ }}; CN could access the {{ }} location in a manner similar to how NS accesses it today, by interchanging with the EVWR railroad at the {{ }} location; and for traffic to {{ }}, CN could interchange with the combined UP-NS entity at Coulterville, IL for UP-NS to provide final service to the {{ }} facilities along the existing UP network. The result is a continuous movement of the traffic over the trackage rights portion, onto CN's network to the customer or interchange point. CN would control the operations around the entire movement up to the customer or interchange point. The CN options enabled by this remedy will preserve

competition for Hillsboro Energy's traffic. In addition, CN could use these trackage rights to market new opportunities to other barge-served facilities, export facilities, and to new customers. Figure 23 below illustrates CN's proposed overhead trackage rights to these customers.

Figure 23: CN Proposed Overhead Trackage Rights for 2-to-1 Customers in Hillsboro



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

149. Similarly, CN's proposed conditions will allow it to access Macoupin Energy at Carlinville, IL via trackage rights from Springfield, IL. Although currently idle, if operations resume at the mine, CN will have the ability to serve these coal shipments to barge-served facilities, export facilities, and to customers along CN's network and throughout the railroad network via interline service.[217]

[217] *See* Foresight Energy, *Operations*, https://www.foresight.com/operations/ (last visited Nov. 17, 2026).

3. Other 2-to-1 and 3-to-2 Customer Facilities in Illinois

150. For the remaining 2-to-1 and 3-to-2 customers, with the proposed conditions, CN will obtain haulage or switching agreements with the combined UP-NS entity. Under haulage agreements, UP or NS will perform the customer originations or terminations at the customer facilities and then move the traffic to an interchange point with CN. Under switching agreements, UP or NS will also perform the customer originations or terminations and then deliver that shipment to a nearby CN yard or station to incorporate into CN's own operations. These access arrangements are well suited for shipments that go to multiple destinations or have small volumes that must be combined with other traffic to operate efficiently. Shipments received by CN via haulage or switching will need to be classified into appropriate blocks along with other traffic in forming trains according to CN's operating plan. The rates and terms for this access and service will be agreed upon if the conditions are ordered by the Board. CN will be able to negotiate directly with these customers on their potential transportation options available through CN. This will allow CN to market opportunities within their network or in combination with interline partners to meet each customer's needs. Figure 24 below details CN's proposed access to these customers.

Figure 24: CN's Proposed Access for 2-to-1 and 3-to-2

Customer	Location	Access
AgRail LLC	Bloomington, IL	Haulage Rights for CN via NS from Decatur to Bloomington
Midwest Salt LLC	Chicago, IL	Open to switching for CN in Chicago
US Glu-Lam Inc.		
Milano Metals & Recycling	Mt Vernon, IL	Haulage Rights for CN via NS from Centralia to Mt. Vernon
Bunge Milling Inc.	Danville, IL	Haulage Rights for CN via NS from Decatur and/or Tolono to Danville
REG Danville LLC		
The Quaker Oats Co.		
Edmund A Allen Lumber	Momence, IL	Haulage Rights for CN via UP from Yard Center to Momence
Mighty River Recycling LLC	Federal, IL	Open to switching for CN in St. Louis
USS Granite City Works	Granite City, IL	Open to switching for CN in St. Louis

151. For all of these customers, the conditions will preserve competition for the customers. CN's ability to serve these customers will allow for a new Class I option to replace the

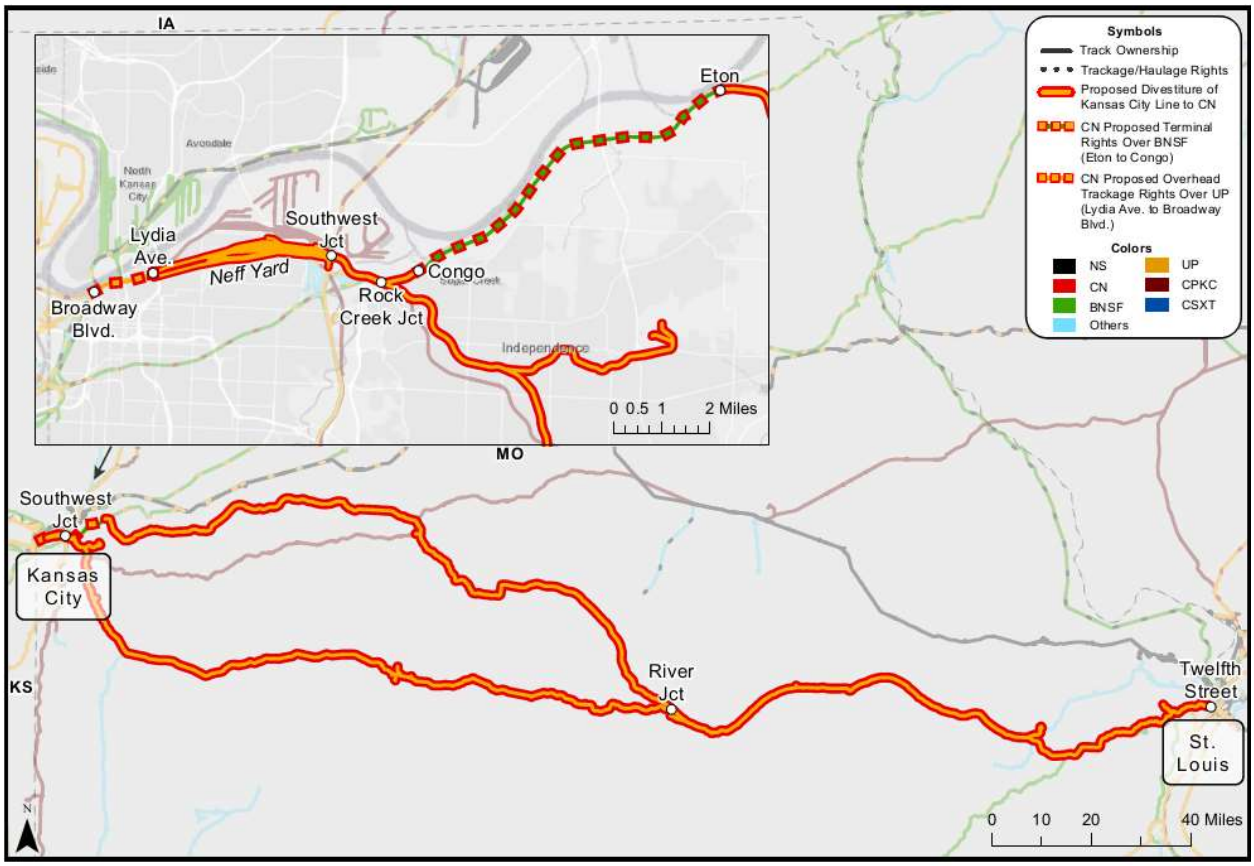
competition lost between UP and NS. CN will be able to compete to serve existing routes either directly or by interlining with additional railroads in a manner similar to how UP and NS currently compete with each other. CN will also be able to provide new customer and export options along the CN network that may not have been competitive in the past without CN having direct access to the customer.

B. THE PROPOSED CONDITIONS PROVIDE A SOLUTION TO THE KEY OVERLAPPING CORRIDOR BETWEEN ST. LOUIS AND KANSAS CITY

152. The divestiture of the Kansas City Line, coupled with CN's improved access to customers in both areas, will provide a solution to the horizontal concerns arising for traffic on corridors involving the Kansas City and St. Louis BEAs. This includes the 30 corridors involving Kansas City or St. Louis BEAs identified as 2-to-1 or 3-to-2 corridors based on the 2019 - 2024 traffic with {{ }} carloads of UP and NS traffic.[218] On these corridors, CN will be a new market entrant that can replace the competition between UP and NS that will be lost post-merger. Figure 25 below identifies the proposed divestiture of the Kansas City Line to CN.

[218] *See* my Workpaper, "Figure 10 and 11.xlsx".

Figure 25: Proposed Divestiture of Kansas City Line to CN



Sources: Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

153. As discussed above in § V.B, the St. Louis to Kansas City segment is important to traffic originating from or destined to St. Louis or Kansas City for affected corridors and/or commodities. For example, for traffic coming from customers in the St. Louis BEA through Kansas City to points west, CN would originate the traffic in St. Louis, transport it on this segment to Kansas City and then interchange with another rail carrier to take the product further west, just as NS does today. Similarly for traffic coming from customers in the Kansas City BEA through St. Louis to points east, CN would originate traffic in Kansas City, transport it on this segment to St. Louis and then interchange with another rail carrier to take the product further east, just as UP does today. As a result, these access conditions would not only replace the competition between UP and NS, but also give shippers on these corridors access to additional routings not currently available. CN could serve some traffic directly and also partner with other railroads to serve these corridors in the same manner in which they operate today.

154. Consider, for example, the Kansas City BEA to Buffalo-Niagara Falls, NY-PA BEA corridor discussed in § V.C above. In 2023, NS, BNSF, and UP originated shipments in Kansas City on this corridor from customers such as {{ }}, {{ }}, and {{ }}. The conditions CN seeks for improved access in Kansas City include access to customers covered in reciprocal switching tariffs of UP, KCT, and NS and the use of Neff Yard for the service of manifest, intermodal, and automotive traffic. With these conditions, CN will be positioned to compete for each of these customers' traffic, preserving a Class I option on the corridor.[219]

155. On this corridor, {{

}}.[220] For this corridor, and for others from Kansas City that would traverse the parallel UP or NS lines, the lost competition is most directly tied to UP and NS competing for transportation over the Kansas City to St. Louis segment. UP does not compete with NS for the entire movement to Buffalo, but rather for the service between Kansas City and its interchange point with CSXT in East St. Louis. In this case, the customer separately negotiated its terms with CSXT for transportation at interchange in East St. Louis from UP to Buffalo as Rule 11 traffic. CN's conditions for a divestiture of the Kansas City Line, coupled with CN's improved access to serve customers in those areas, will allow CN to replace the lost competition between UP and NS for corridors that use this segment.

156. A divestiture of this line from UP is the most effective remedy for this harm. If UP were to maintain ownership of the line, then it will have less incentive to maintain and invest in its capabilities, particularly if the combined UP-NS entity shifts its traffic to the NS route between Kansas City and St. Louis. A divestiture, on the other hand, would allow CN to invest in the line to compete most effectively with the combined UP-NS entity in the Kansas City BEA. In addition, CN will be less reliant on UP to perform its operations – CN can avoid entanglements related to its operating agreements which could cause disruptions. UP and CN also would share less information with each other – e.g. information about customers and service that may be

219 *See* my Workpaper, "In-Text Figures.py."

220 *See* my Workpaper, "In-Text Figures.py."

sensitive but necessary disclosures to facilitate ongoing relationships. Furthermore, as the owner of the line, CN would have full incentive to compete effectively in the markets it will serve without having to pay ongoing fees related to access.

157. In addition, I understand that if the Board believes it is necessary to preserve competition, CN is willing to jointly acquire the Kansas City Line with another Class I carrier, as long as the combined UP-NS entity does not retain any ownership stake after the Proposed Transaction. CN also plans to grant UP overhead trackage and local haulage rights over the Kansas City Line to ensure that no customers on the Kansas City Line lose an existing option.[221]

158. If CN's proposed conditions are granted, these customers will not lose any options for service–the combined UP-NS entity would now compete for these customers' traffic along the segment with CN.

C. THE PROPOSED CONDITIONS PROVIDE A SOLUTION TO TRAFFIC FACING POTENTIAL SOURCE AND DESTINATION COMPETITION CONCERNS

159. CN's access to customers in the Kansas City area, its additional access to the customers in the St. Louis area, and its improved routing options to reach these markets will provide a solution to the horizontal concerns arising from reduced source and destination competition. These include the 29 originating BEA-commodity pairs identified with potential concerns related to destination competition with {{ }} carloads of UP and NS traffic and 27 terminating BEA-commodity pairs identified with potential concerns related to source competition with {{ }} carloads of UP and NS traffic in the Kansas City and St. Louis areas. These commodities include:

- Commodities shipped using intermodal service (e.g. STCC 4611, Freight All Kinds),
- Automotive commodities (e.g. STCC 3711, Motor Vehicles and STCC 3714 Motor Vehicle Parts Or Accessories),
- Metal and mineral commodities (e.g. STCC 3274 Lime or Lime Plaster and STCC 4021 Metal Scrap or Tailings),

[221] CN-38, FD 36873 "CN's Comments on Amended Application and Request for Conditions" at 9-10 and Figure 1 (filed Nov. 18, 2026).

- Petroleum and chemical commodities (e.g., STCC 2899 Chemical Preparations, Nec and STCC 2911 Petroleum Refining Products), and
- Grain and fertilizer commodities (e.g., STCC 2041 Flour or Other Grain Mill Products, STCC 2042 Prepared Or Canned Feed, STCC 2871 Fertilizers, and STCC 2812 Potassium or Sodium Compound or Potash).[222]

160. These source and destination competition concerns arise because UP and NS each handle a significant share of this traffic and combined would handle more than 50% of the originations and terminations in these BEAs. The Proposed Transaction would eliminate competition between UP and NS to handle this traffic. An appropriate remedy should therefore provide a new rail competitor for this traffic, so that customers have options that do not rely on UP or NS, and so that a new competitive restraint replaces the one the Proposed Transaction would remove. CN's conditions are designed to do exactly that.

161. Consider, for example, the Motor Vehicles traffic (STCC 3711) originating in Kansas City discussed in § VI.D above. CN's ability to operate at Neff Yard and extensive automotive experience will allow it to compete for {{ }} rail traffic. Motor Vehicles traffic from {{ }} Kansas City plants can be driven or trucked to the Neff Yard location for origination on CN. CN can then transport that traffic across its network to customers demanding those products, including other {{ }} locations CN currently services, or to port facilities for export to overseas markets. Many of these opportunities are currently not competitive options for {{ }}, but the proposed conditions would allow CN to offer these competitive options to replace competition lost between UP and NS.

162. Similarly, for shippers of Flour or Other Grain Mill Products (STCC 2041) originating in St. Louis discussed in § VI.D above, the proposed conditions would allow for CN to offer new options within its existing grain network and capabilities that would replace competition lost between UP and NS. Customers of each of the commodities identified with potential concerns due to a loss of source and destination competition would benefit from the additional options that CN could offer them.

222 *See* my Workpaper, "Figure_15 and 17.xlsx."

VIII. CN WOULD BE AN EFFECTIVE REMEDY CARRIER TO COMBAT THESE CONCERNS

A. CN'S NETWORK EXTENDS AROUND THESE AREAS OF CONCERN AND WILL BE A NATURAL ADJACENT EXTENSION OF ITS OPERATIONS

163. CN's existing network throughout the United States encompasses the areas affected by the proposed conditions, which will allow CN to expand there with minimal disruption to their operations. CN currently operates in eight of the ten BEAs where UP and NS overlap, and the proposed conditions will allow CN to operate in all ten.[223] The proposed conditions will provide CN access to the Kansas City, MO-KS and Columbia, MO BEAs connected through St. Louis, MO, while also strengthening CN's capabilities around St. Louis. In Illinois, CN already employs 1,610 railroaders to support their operations and operates 1,245 route miles.[224] CN has 168 interchange junctions with other railroads throughout Illinois, connecting with all 5 Class I railroads and 38 regional and shortline railroads throughout the state.[225] CN's U.S. operations are centered in the Chicago area including the U.S. headquarters campus in Homewood and the U.S. mechanical hub Markham Yard and Harris Shop.[226] Since CN's base already exists in Illinois, they could readily provide crews, equipment and capacity to respond to service disruptions and unexpected capacity constraints.

164. Across the United States and Canada, CN's network spans 18,600 route miles and provides customers access to markets across seven major ports on three coasts.[227] Figure 26 below describes the volumes that CN originates and terminates in each state, along with the number of stations CN is able to serve within each state. CN extensively serves customers in the Midwest and in the overlap areas of UP and NS, including Illinois, Iowa, Tennessee, Louisiana, Wisconsin, and Michigan.

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223 *See* Bailey Amended Statement Workpaper "Appendix D1, D2.xlsx."

224 *See Network Fact Sheets (Illinois)*, CN, https://www.cn.ca/en/delivering-responsibly/community/network-and-facts (last visited Nov. 17, 2026).

225 *See* my Workpaper "VIII. CN interchanges in IL.do."

226 *See Network Fact Sheets (Illinois)*, CN, https://www.cn.ca/en/delivering-responsibly/community/network-and-facts (last visited Nov. 17, 2026).

227 *See 2026 CN Investor Fact Book*, CN, https://www.cn.ca/-/media/files/investors/investor-fact-book/2026-cn-investor-fact-book-en.pdf (last visited Nov. 17, 2026).

Figure 26: CN Customer Originations and Terminations within United States

State	CN Origination Volume	CN Termination Volume	Number of Stations
MN	{{ }}	{{ }}	{{ }}
IL	{{ }}	{{ }}	{{ }}
LA	{{ }}	{{ }}	{{ }}
WI	{{ }}	{{ }}	{{ }}
MI	{{ }}	{{ }}	{{ }}
TN	{{ }}	{{ }}	{{ }}
IA	{{ }}	{{ }}	{{ }}
MS	{{ }}	{{ }}	{{ }}
IN	{{ }}	{{ }}	{{ }}
OH	{{ }}	{{ }}	{{ }}
PA	{{ }}	{{ }}	{{ }}
AL	{{ }}	{{ }}	{{ }}
ME	{{ }}	{{ }}	{{ }}
KY	{{ }}	{{ }}	{{ }}
NY	{{ }}	{{ }}	{{ }}
MO	{{ }}	{{ }}	{{ }}
VT	{{ }}	{{ }}	{{ }}
NE	{{ }}	{{ }}	{{ }}
NH	{{ }}	{{ }}	{{ }}

B. CN SERVES MANY CUSTOMERS OF THESE COMMODITIES ON THEIR NETWORK IN CLOSE PROXIMITY

165. CN already serves many of the commodities identified as having potential horizontal concerns. The existing U.S. customers that CN serves are located throughout its U.S. network, both in and around areas that UP and NS overlap. These customers are served directly by CN and offer options for source and destination competition that can replace the competition lost between UP and NS as a result of the Proposed Transaction.

166. As described in § VI.B, 24 unique commodities exceed the 50/10 screen for originations in the Kansas City or St. Louis BEAs, and 22 exceed the 50/10 screen for terminations. For each of these commodities, the relevant question is whether the remedy railroad could offer shippers and receivers competitive alternatives to replace the competition between UP and NS. CN's existing customer base indicates that it can. For traffic flagged by the 50/10 screen originating in

the Kansas City or St. Louis BEAs, CN provides terminating service for all 24 commodities within its U.S. network. Of the 22 unique commodities exceeding the 50/10 screen for terminations in the Kansas City or St. Louis BEAs, CN provides originating service to shippers of all 22 of those commodities within its U.S. network. These options – along with CN's export capabilities, producers and receivers in their Canadian network, and partnerships with other railroads – will allow CN to compete for the traffic affected by a loss in competition from the Proposed Transaction.

167. In Figure 27 below, I identify the top 25 BEAs where CN performed the most originations and terminations of this traffic, along with the number of CN stations in each BEA that served this traffic.[228] These are areas and CN stations that could provide alternative source and destination competition for the traffic with potential source and destination competitive concerns.

[228] Figure 15 identifies the commodities I examine for CN terminating service. Figure 17 identifies the commodities I examine for CN originating service.

Figure 27: CN Originations and Terminations of Flagged Traffic

	Flagged Commodities Serviced by CN		
BEA of CN Network	**Originations**	**Terminations**	**FSACs**
Chicago-Gary-Kenosha, IL-IN-WI	{{ }}	{{ }}	{{ }}
Detroit-Ann Arbor-Flint, MI	{{ }}	{{ }}	{{ }}
Baton Rouge, LA-MS	{{ }}	{{ }}	{{ }}
Memphis, TN-AR-MS-KY	{{ }}	{{ }}	{{ }}
New Orleans, LA-MS	{{ }}	{{ }}	{{ }}
Jackson, MS-AL-LA	{{ }}	{{ }}	{{ }}
Green Bay, WI-MI	{{ }}	{{ }}	{{ }}
Indianapolis, IN-IL	{{ }}	{{ }}	{{ }}
Wausau, WI	{{ }}	{{ }}	{{ }}
Minneapolis-St. Paul, MN-WI-IA	{{ }}	{{ }}	{{ }}
Des Moines, IA-IL-MO	{{ }}	{{ }}	{{ }}
La Crosse, WI-MN	{{ }}	{{ }}	{{ }}
Champaign-Urbana, IL	{{ }}	{{ }}	{{ }}
Appleton-Oshkosh-Neenah, WI	{{ }}	{{ }}	{{ }}
Milwaukee-Racine, WI	{{ }}	{{ }}	{{ }}
St. Louis, MO-IL	{{ }}	{{ }}	{{ }}
Sioux City, IA-NE-SD	{{ }}	{{ }}	{{ }}
Toledo, OH	{{ }}	{{ }}	{{ }}
Mobile, AL	{{ }}	{{ }}	{{ }}
Grand Rapids-Muskegon-Holland, MI	{{ }}	{{ }}	{{ }}
Duluth-Superior, MN-WI	{{ }}	{{ }}	{{ }}
Cedar Rapids, IA	{{ }}	{{ }}	{{ }}
Peoria-Pekin, IL	{{ }}	{{ }}	{{ }}
Madison, WI-IA-IL	{{ }}	{{ }}	{{ }}
Bangor, ME	{{ }}	{{ }}	{{ }}

C. CN'S CAPABILITIES AROUND THESE COMMODITIES

168. The Verified Statements of CN executives describe CN's substantial experience and capabilities serving traffic with potential horizontal concerns. I highlight a few points of the Verified Statements reflecting these capabilities below. In these statements, CN officials have described CN's capabilities to be an effective remedy carrier both for the traffic identified as facing horizontal concerns and for other traffic originating or terminating in the Kansas City and St. Louis areas that the Proposed Transaction could also affect.

1. Grain Traffic

169. David Przednowek, Assistant Vice President of Grain for CN, describes how the Proposed Conditions would allow CN to efficiently service grain customers in Kansas City, St. Louis, and Des Moines areas.[229] Mr. Przednowek details examples of numerous investments that CN makes in infrastructure to support grain business and describes the success CN has serving grain customers throughout the US.[230] He explains that the Proposed Condition's access to the 2-to-1 and 3-to-2 customers and trackage rights between Manly and Des Moines will allow CN to offer service to several grain customers in the Des Moines area and connect them to CN's network.[231] These customers include grain elevators, soybean processors, and food and feed manufacturers.[232] He also explains that the access over the UP line between Tuscola and East St. Louis will provide a much more efficient routing to offer more competitive service to grain customers in the St. Louis area, included to barge facilities on the Mississippi River.[233] Additionally, Mr. Przednowek describes that, with access to Kansas City enabled by the Proposed Conditions, CN will be able to compete and offer new grain opportunities to customers in the Kansas City area.[234]

2. Coal, Potash, and Sulfur Traffic

170. Sandra Ellis, Vice President of Bulk for CN, describes how the Proposed Conditions allow CN to be an effective alternative option for 2-to-1 customers Foresight Energy in Hillsboro IL and Macoupin Energy near Carlinville, IL.[235] Ms. Ellis describes CN's existing relationship with the parent owner Foresight Energy and CN's network and capabilities to serve that coal traffic to its current destinations.[236] Ms. Ellis also describes new coal opportunities that CN could

229 Verified Statement of David Przednowek (November 18, 2026) at 3–6 [hereinafter "Przednowek V.S."].

230 Przednowek V.S. at 77–8.

231 Przednowek V.S. at 10–16.

232 Przednowek V.S. at 10.

233 Przednowek V.S. at 16–18.

234 Przednowek V.S. at 19-21.

235 Verified Statement of Sandra Ellis (November 18, 2026) at 5–10 [hereinafter "Ellis V.S."].

236 Ellis V.S. at 8–10.

competitively offer to Foresight with their access, including transportation to Gulf export terminals, river transload facilities, and utilities on the CN network.[237]

171. Ms. Ellis also describes CN's capabilities transporting potash and other fertilizers needed by customers in the Kansas City and Midwest regions.[238] The Proposed Conditions would allow CN to improve service to Kansas City and serve local customers along the Kansas City Line.[239] Trackage rights over the Tuscola Line would allow CN to offer more competitive service to customers in the St. Louis area as well.[240] Ms. Ellis also describes CN's capabilities for customers of sulfur products and similar competitive benefits to customers in the Kansas City and St. Louis areas.[241]

3. Intermodal Traffic

172. Girish Nair, Vice President of Intermodal & Automotive for CN, describes how the Proposed Conditions would allow CN to compete in the Kansas City and St. Louis areas for intermodal traffic. Mr. Nair describes CN's intermodal capabilities as covering 23 intermodal terminals across North America and three coasts, a fleet that can support a range of products, and efficient operations that are resilient to disruptions.[242] Mr. Nair describes that access to Kansas City and the use of Neff Yard, more efficient routing enabled by the trackage rights between Tuscola and East St. Louis, and the use of Sarpy Yard in St. Louis would allow CN to immediately begin intermodal operations to compete for business with the merged UP-NS entity in those areas.[243] Mr. Nair describes this as opening "new doors for intermodal customers" and identifies several opportunities CN anticipates competing for in that area.[244]

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237 Ellis V.S. at 8–9.

238 Ellis V.S. at 11–12.

239 Ellis V.S. at 13–14.

240 Ellis V.S. at 14–15.

241 Ellis V.S. at 15–16.

242 Nair V.S. at 3–6.

243 Nair V.S. at 7–11.

244 Nair V.S. at 11–15.

4. Automotive Traffic

173. Sarah Slazinski, Assistant Vice President of Automotive for CN, describes how the Proposed Conditions would allow CN to compete in the Kansas City area for automotive traffic. Ms. Slazinski describes CN's existing automotive customer base and their reach to major population centers in Canada, the U.S. Midwest, and the Gulf region.[245] She details recent investments in this business including opening a new automotive and intermodal terminal in New Richmond, WI in 2021 and opening a new automotive facility in New Orleans following a closure of NS operations.[246] She also highlights CN's extensive customer service and ability to work with customers to meet their rail needs.[247] Ms. Slazinski describes that access to Kansas City and the use of Neff Yard, along with the more efficient routing enabled by the trackage rights between Tuscola and East St. Louis, would allow CN to offer competitive options to automotive customers.[248]

5. Metals and Minerals Traffic

174. Kelly Levis, Vice President of Industrial Products for CN, describes how the Proposed Conditions would allow CN to compete for customers of metals and minerals products affected by the Proposed Transaction. She describes CN's capabilities in serving steel, aluminum, iron ore, and base metal ore products.[249] She describes that the Proposed Conditions will enable CN to access 2-to-1 and 3-to-2 customers of these products as well as other customers located in the Kansas City and St. Louis areas, allowing CN to compete for these customers' traffic. [250]

D. CN'S RECENT ACQUISITION OF IOWA NORTHERN DEMONSTRATES ITS SUCCESS WITH EXPANSIONS

175. As an example of CN's ability to compete in new markets, David Przednowek also detailed CN's success in acquiring and integrating the Iowa Northern Railway Company to the

245 Slazinski V.S. at 3–6.

246 Slazinski V.S. at 5.

247 Slazinski V.S. at 5–6.

248 Slazinski V.S. at 9–16.

249 Verified Statement of Kelly Levis (November 18, 2026) at 3–5 [hereinafter "Levis V.S."].

250 Levis V.S. at 5–8.

benefit of consumers.[251] The Proposed Conditions provide a similar opportunity to that of acquiring Iowa Northern in terms of new markets, customers, and opportunities to expand and improve operations. CN invested in infrastructure, equipment, and service quality within the legacy Iowa Northern network to provide better service and devoted additional resources to support new customers by providing options to existing and new markets at competitive prices, all while preserving access to alternative gateways.[252] As a result, grain traffic has grown while operations and transit times have improved to the benefit of the customers.[253]

E. DIVERSION RESULTS

176. I understand that Dr. Henry Kahwaty has developed a diversion model to estimate traffic that CN expects to gain as a result of the Proposed Conditions.[254] This includes traffic I have identified as likely to face competitive harms as a result of the Proposed Transaction, that the Proposed Conditions are designed to address. These results for Dr. Kahwaty's Rail-To-Rail Diversion Analysis are presented in Figure 28 below.[255]

Figure 28: Estimated Diverted Rail Traffic to CN as a Result of the Proposed Conditions[256]

Business Unit	Diverted Volume
General Merchandise	8,549
Intermodal	20,096
Bulk	6,559
Auto	8,389
Total	**43,593**

177. Dr. Kahwaty's results indicate that, as a result of the Proposed Conditions, many customers facing competitive harms due to the Proposed Transaction would choose a CN option

251 Przednowek V.S. at 8–9.

252 Przednowek V.S. at 8-9.

253 Przednowek V.S. at 9.

254 Verified Statement of Henry J. Kahwaty (November 18, 2026) [hereinafter "Kahwaty V.S."], §§ VI-VII.

255 I note that Dr. Kahwaty also identifies additional diversions likely to result from trucking modes and from the Port of Montreal as a result of the Proposed Conditions. *See* Kahwaty V.S.at Table 1 for additional details.

256 Kahwaty V.S. at Table 1.

enabled by the Proposed Conditions over the combined UP-NS entity and other railroad options. He identifies diverted traffic for various commodities that face competitive harms – including intermodal, auto, grain, potash, metals & minerals, and coal.[257]

IX. SUMMARY

178. The Proposed Transaction presents horizontal competitive concerns. It will reduce some individual customers' access to Class I railroads from 2-to-1 or 3-to-2, will reduce competition in areas where UP and NS overlap, and will reduce within corridor and between corridor railroad competition related to the Kansas City and St. Louis BEAs. The Applicants' Expert, Dr. Elizabeth Bailey, has identified some of the potential harms, but her assumptions and analytical methods cause her to under-identify harms and dismiss the potential harm to certain traffic.

179. CN's Proposed Conditions will remedy the loss of competition from the Proposed Transaction in key areas and prevent the harms I have identified. The Proposed Conditions: (1) provide a remedy for customer facilities facing a reduction in Class I railroad options from 2-to-1 or 3-to-2 and for the Kansas City and St. Louis SPLCs, which would otherwise experience significant concentration; (2) provide a solution to the horizontal concerns arising for traffic on corridors involving the Kansas City and St. Louis BEAs; and (3) provide a solution to traffic facing potential source and destination competition concerns. CN's request for a divestiture of the Kansas City Line would allow CN to independently operate and compete most effectively with the combined UP-NS entity in the Kansas City and St. Louis BEAs.

180. CN would be an effective remedy carrier. Its network extends around the areas of concern so that the conditions provide a natural extension of the CN network. In addition, CN has the infrastructure and experience handling the commodities that are at issue in the affected areas and can offer options for source and destination competition that can replace the competition lost due to the Proposed Transaction. CN's acquisition and integration of the Iowa Northern Railway Company, which similarly involved new market opportunities, customers, and opportunities to expand and improve operations, demonstrates that CN would be a strong remedy carrier to address the horizontal competitive issues.

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257 Kahwaty V.S. at ,§ VII. These include commodities discussed in § VI above facing concerns related to source and destination competition.

I, Mary Coleman, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed on this 18th day of November, 2026.

Mary Coleman, Ph.D.

Appendix A

MARY T. COLEMAN, PhD

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AREAS OF EXPERTISE

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- Building Materials
- Chemicals
- Consumer Products
- Energy
- Entertainment
- Food/Agriculture
- Healthcare/Veterinary Services
- Manufacturing
- Medical Devices
- Pharmaceuticals
- Publishing
- Retail
- Tech Hardware and Software
- Telecom
- Transportation

EDUCATION

1990, *PhD in Economics*, Stanford University

Dissertation: “Movements in the Earnings-Schooling Relationship: 1940 – 1988” Advisor: Professor John Pencavel, Department of Economics

1986, *BA in Economics, summa cum laude*, Stonehill College

PROFESSIONAL EXPERIENCE

2025 - Present, *Senior Managing Director and Head of US Antitrust Practice*, Compass Lexecon, Boston, MA 2013 - 2025, *Executive Vice President*, Compass Lexecon, Boston, MA

2009 - 2013, *Senior Vice President*, Compass Lexecon, Boston, MA

2004 - 2009, *Director/Managing Director of Mergers and Acquisitions Practices*, LECG, LLC, Washington, DC 2002 - 2004, *Deputy Director for Antitrust*, Bureau of Economics, Federal Trade Commission

2001 - 2002, *Associate Director for Competitive Analysis*, Bureau of Economics, Federal Trade Commission 2000 - 2001, *Practice Director, Mergers and Acquisitions Group*, LECG, LLC, Washington, DC

1993 - 2000, *Senior Economist/Principal*, LECG, LLC, Washington, DC

1990 - 1993, *Economist*, Bureau of Economics, Federal Trade Commission, Washington, DC

TESTIMONY

Trial and deposition testimony: *In re Carnival v. DeCurtis Corporation and DeCurtis LLC,* U.S. Dist. Court, Civil Action N. 20-22945-CIV-SCOLA, Southern District of Florida. Provided expert oral testimony regarding patent and antitrust claims, 2021. Litigation win.

Deposition testimony: *In re Online DVD Rental Antitrust Litigation*, U.S. Dist. Court, M:09-cv-2029 PJH, 2010. Case won on summary judgement.

Submission of expert affidavit in settlement hearing in *Shawn Sullivan et al v. DB Investments Inc., De Beers SA et al*, Civil Action Index No. 04-02819, United States District Court, District of New Jersey (2008).

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PUBLICATIONS AND PAPERS

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"Small Children, Small Pay: Why Child Care Pays So Little," with Victor Fuchs, *American Prospect*, Winter 1990.

MEMBERSHIPS IN PROFESSIONAL SOCIETIES

Associate Member, Antitrust Section, American Bar Association (Vice Chair, Finance Committee, Former Chair Women.Connected Committee and Economics Committee)

AWARDS AND HONORS

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Appendix B

List of Materials Considered

Applicants' Submissions

1. UP-1/NS-1, FD 36873 (filed July 30, 2025).
2. UP-13/NS-11, FD 36873 (filed Dec. 19, 2025).
3. UP-39/NS-37, FD 36873 (filed Apr. 30, 2026).
4. UP-68/NS-66, FD 36873 (filed July 7, 2026).
5. UP-80/NS-78, FD 36873 (filed July 27, 2026).

CN's Filings

1. CN-6, FD 36873 (filed Dec. 29, 2025).
2. CN-15, FD 36873 (filed May 8, 2026).
3. CN-38, FD 36873 "CN's Comments on Amended Application and Request for Conditions" (filed Nov. 18, 2026).

Verified Statements

Amended Application Verified Statements

1. Am. Appl. Vol. 2, Verified Statement of David T. Hunt (April 29, 2026).
2. Am. Appl. Vol. 2, Verified Statement of Dr. Elizabeth Bailey (April 27, 2026).
3. Am. Appl. Vol. 2, Verified Statement of Mark A. Israel (April 24, 2026).
4. Applicants' Second Supplemental Submission, Supplemental Verified Statement of Dr. Elizabeth Bailey (July 17, 2026).

CN Application Verified Statements

1. Verified Statement of Dr. Mary Coleman (December 29, 2025).
2. Verified Statement of Dr. Mary Coleman (May 8, 2026).
3. Verified Statement of David Przednowek (November 18, 2026).
4. Verified Statement of Girish Nair (November 18, 2026).
5. Verified Statement of Henry J. Kahwaty (November 18, 2026).
6. Verified Statement of Kelly Levis (November 18, 2026).
7. Verified Statement of Sandra Ellis (November 18, 2026).
8. Verified Statement of Sarah Slazinski (November 18, 2026).

Prior Verified Statements

1. Verified Statement of Christopher A. Vellturo, *Canadian National Railway Company, Grand Trunk Corporation, and WC Merger Sub, Inc. – Control – Wisconsin Central*

Transportation Corporation, Wisconsin Central Ltd, Fox Valley & Western Ltd, Sault Ste. Marie Bridge Company, and Wisconsin Chicago Link Ltd., FD 34000 (Apr. 6, 2001).
2. Verified Statement of Christopher A. Vellturo, *Canadian National Railway Company and Grand Trunk Corporation – Control – EJ&E West Company*, FD 35087 (Oct. 29, 2007).
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1. Decision No. 9, FD 36873 (STB served Jan. 16, 2026).
2. Decision No. 21, FD 36873 (STB served May 28, 2026).
3. Decision No. 11, *Canadian Pac. Ry.—Control—Dakota, Minn. & E. R.R.*, FD 35081, slip op. (STB served Sep. 30, 2008).
4. Decision, *CSX Corp.—Control & Merger—Pan Am Sys., Inc.*, FD 36472, slip op. (STB served May 26, 2021).
5. *Burlington Northern Inc.—Control and Merger—Santa Fe Pacific Corp.*, 10 I.C.C.2d 661, 728 (1995).
6. *Major Rail Consol. Proc.*, 5 S.T.B. 539, 561 (2001).
7. *Mkt. Dominance Streamlined Approach*, EP 756, slip op. (STB served Aug. 3, 2020).
8. *Rail Gen. Exemption Auth.—Exemption of Hydraulic Cement*, Ex Parte No. 346 (Sub-No. 34) (STB served Dec. 4, 1996).
9. *Rail Gen. Exemption Auth.—Transp. Equip*, 9 I.C.C.2d 1, 1–2 (1992).
10. *Reciprocal Switching for Inadequate Serv.*, EP 711 (Sub-No. 2), slip op. (STB served Apr. 30, 2024).
11. *Union Pac. Corp.—Control & Merger—S. Pac. Rail Corp.*, 1 S.T.B. 233, 365 (1996).
12. *WTL Rail Corp.—Petition for Partial Revocation of Exemption*, Ex Parte No. 230 (Sub-No. 9), slip op. (STB decided Feb. 15, 2006).

Depositions

1. Transcript of Elizabeth Bailey Deposition (Oct. 29, 2026).
2. Transcript of Jeffrey Pincock Deposition (Oct. 8, 2026).

Dr. Bailey's Amended Application Workpapers

1. Appendix D1, D2.xlsx.
2. Class 1 Reductions Carloads.xlsx.
3. Exhibit 12.xlsx.
4. SCRS 3-to-2 and 2-to-1 customer notes.xlsx.
5. UPRR_SCRS_Full_Desc_20250815.txt.

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11. *Final Redefinition of the BEA Economic Areas*, Bureau of Transportation Statistics, https://www.bts.gov/archive/publications/federal_register/1995/bts_19950310.
12. *Focus Sites on the Union Pacific Network*, UP, https://www.up.com/shipping/connect-to-rail/premier.
13. Foresight Energy, *Operations*, https://www.foresight.com/operations/.
14. *Freight Tariff (TRRA 3023-V)*, Terminal Railroad Association of St. Louis (effective January 1, 2026).
15. Jim Vena, UP Q2 2026 Earnings Call (July 23, 2026), https://fortune.com/company/union-pacific/earnings/q2-2026/.
16. *Local Switching and Terminal Tariff (KCTL 8036-A)*, Kansas City Transportation Company (effective February 1, 2026).
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19. *NS 8001 Section 5 - Industries Open to Switching*, NS, https://www.norfolksouthern.com/content/dam/nscorp/pdf/tariffs/8-1-2026/NS%208001%20Section%205%2008-01-26.pdf.
20. *NS 8001 Switching and Absorption Tariff*, NS (effective August 1, 2026), https://www.norfolksouthern.com/content/dam/nscorp/pdf/tariffs/8-1-2026/NS%208001%2008-01-26.pdf.
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3. Documents and data cited in the Amended Application.
4. Documents and data cited in Dr. Bailey's Amended Application Workpapers.

Exhibit 12B

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY

-- CONTROL --

NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

(SUB-NO. 2) ILLINOIS CENTRAL RAILROAD COMPANY – DIVESTITURE – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 3) ILLINOIS CENTRAL RAILROAD COMPANY – TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 4) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN LYDIA AVENUE AND BROADWAY BOULEVARD IN KANSAS CITY, MO.

(SUB-NO. 5) ILLINOIS CENTRAL RAILROAD COMPANY – TERMINAL TRACKAGE RIGHTS – OVER LINE OF BNSF RAILWAY COMPANY BETWEEN ETON, MO. AND CONGO, MO.

(SUB-NO. 6) ILLINOIS CENTRAL RAILROAD COMPANY – LEASE AND PURCHASE – UNION PACIFIC RAILROAD COMPANY NEFF YARD IN KANSAS CITY, MO.

(SUB-NO. 7) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN TUSCOLA, ILL. AND EAST ST. LOUIS, ILL.

(SUB-NO. 8) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – OVER LINE OF THE ALTON & SOUTHERN RAILWAY COMPANY BETWEEN MITCHELL, ILL. AND EAST ST. LOUIS, ILL.

(SUB-NO. 9) ILLINOIS CENTRAL RAILROAD COMPANY – LOCAL TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY TO SERVE HILLSBORO, ILL.

(SUB-NO. 10) IOWA NORTHERN RAILWAY COMPANY AND CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY – TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN MANLY/IOWA FALLS, IOWA AND DES MOINES/AVON, IOWA

(SUB-NO. 34) ILLINOIS CENTRAL RAILROAD COMPANY – LOCAL TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY TO SERVE CARLINVILLE, ILL.

VERIFIED STATEMENT OF HENRY J. KAHWATY, PH.D.

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I. INTRODUCTION AND SUMMARY OF CONCLUSIONS

A. Introduction

1. My name is Henry J. Kahwaty. I am a Managing Director with Berkeley Research Group, LLC ("BRG"). I have been retained by counsel for Grand Trunk Corporation on behalf of itself and its U.S. rail operating subsidiaries (collectively, "CN").[1] I filed a Verified Statement dated March 23, 2026 (the "First Kahwaty Diversion V.S.") concerning the proposed merger (the "Proposed Transaction") between Union Pacific Corporation and Union Pacific Railroad Company ("UP") (collectively, "Union Pacific") and Norfolk Southern Corporation and Norfolk Southern Railway Company ("NS") (collectively, "Norfolk Southern"). Union Pacific and Norfolk Southern are referred to collectively as "Applicants."[2] In the First Kahwaty Diversion V.S., I discussed Applicants' initial rail-to-rail diversion analysis.[3] Applicants' rail-to-rail diversion analysis has been updated several times, with the most recent update being detailed in Mr. David Hunt's Second Errata Verified Statement dated September 4, 2026, and the workpapers associated with it (the "Updated Hunt UP/NS Diversion Study").[4] That Verified Statement included both an updated rail-to-rail diversion analysis (the "Updated Hunt R2R Analysis") and an updated truck-to-rail diversion analysis (the "Updated Hunt T2R Analysis"). These analyses are referred to collectively as the "Updated Hunt Analyses." I submitted a second Verified Statement in this proceeding on May 8, 2026, related to Applicants' proposed Committed

[1] Bessemer and Lake Erie Railroad Company; Cedar River Railroad Company; Chicago, Central & Pacific Railroad Company; Grand Trunk Western Railroad Company; Illinois Central Railroad Company; Iowa Northern Railway Company; The Pittsburgh & Conneaut Dock Company; and Wisconsin Central Ltd.

[2] I incorporate by reference my qualifications, which I summarized in the First Kahwaty Diversion V.S. A copy of my curriculum vitae is provided as Attachment A to the First Kahwaty Diversion V.S. Applicants filed their initial merger application on December 19, 2025. *See* UP-13/NS-11, FD 36873 (filed Dec. 19, 2025) [hereinafter the "Initial Application" or "Init. Appl."]; UP-14/NS-12, FD 36873 (filed Dec. 19, 2025) ("Volume 2"); UP-15/NS-13, FD 36873 (filed Dec. 19, 2025) ("Volume 3"); and UP-16/NS-14, FD 36873 (filed Dec. 19, 2025) ("Volume 4"). Applicants' initial diversion analysis was detailed in the Verified Statement of David Hunt and Matthew Schabas dated December 18, 2025, Init. Appl. Vol. 2 at 309–489 [hereinafter "Hunt/Schabas December 2025 V.S."]. This analysis was updated by Mr. Hunt several times, and his most recent update was filed on September 4, 2026 (Verified Statement of David T. Hunt dated September 4,2026 [hereinafter "Hunt September 2026 V.S."]).

[3] First Kahwaty Diversion V.S. at § I.C.

[4] The workpapers associated with Hunt September 2026 V.S. were updated on October 22, 2026.

Gateway Pricing ("CGP") program. When referring to the "Kahwaty Workpapers" in this Verified Statement, I am referring to the backup material supporting this Verified Statement.

2. In its responsive applications, CN is seeking certain trackage rights and access to related facilities, among other remedies. In addition, CN is asking the Surface Transportation Board (the "Board") to impose the haulage and other remedial proposals described in CN's Comments on the Amended Application and Requests for Conditions ("Comment").[5] I refer to these remedial conditions on the proposed UP/NS merger as "CN's proposed conditions." I detail CN's proposed conditions in **Section II** of this Verified Statement, and their commercial rationale, operational feasibility, and anticipated customer benefits are discussed in the Verified Statements of Sarah Slazinski, David Przednowek, Girish Nair, Sandra Ellis, Kelly Levis, and Janet Drysdale, and the joint Verified Statement of Patrick Whitehead and Kim Hillenbrand.[6] CN's proposed conditions generally improve CN's access to the St. Louis gateway and provide access to the Kansas City gateway, a gateway which CN cannot access using its existing rail lines or rights on other carrier lines. CN's proposed conditions would also provide CN new access to certain shipper facilities whose Class I service options would drop from two to one ("2-to-1") or from three to two ("3-to-2") and that would therefore experience a loss in direct competition among independent Class I railroads as a result of the Proposed Transaction. CN's proposed conditions also seek new access to customers of Kansas City Terminal Railway Company ("KCT") as part of the KCT share transfer, and access UP and NS reciprocal switch customers in Kansas City.

[5] On July 22, 2026, CN entered into a binding Memorandum of Understanding with Union Pacific (the "Settlement MOU"). Under the Settlement MOU, Union Pacific agreed to request that the Board designate CN as the remedy carrier for various conditions. As of the date of this Comment, CN continues to cooperate with Union Pacific to finalize the numerous, complex definitive agreements required to give effect to the Settlement MOU.

[6] *See* Verified Statement of Janet Drysdale at 9–15 [hereinafter "Drysdale V.S."]; Exhibit 13, CN Responsive Applications, FD 36873 (Sub-Nos. 2–4; 6–8; 10) and Exhibit 15, CN Responsive Applications, FD 36873 (Sub-Nos. 9, 34), at 13–19, 98–105 [hereinafter the "Operating Plan"]; Verified Statement of Sarah Slazinski at 6–17 [hereinafter "Slazinski V.S."]; Verified Statement of David Przednowek at 9–11, 15–17 [hereinafter "Przednowek V.S."]; Verified Statement of Girish Nair at 7–15 [hereinafter "Nair V.S."]; Verified Statement of Sandra Ellis at 5–15 [hereinafter "Ellis V.S."]; and Verified Statement of Kelly Levis at 5–7 [hereinafter "Levis V.S."].

3. Mr. Hunt has prepared diversion analyses in other Board proceedings, including a study for CN related to its proposed acquisition of the Kansas City Southern Railway Company ("KCS") Springfield Line as a divestiture remedy associated with the proposed Canadian Pacific ("CP") merger with KCS (the "Springfield Diversion Study"). The Springfield Line connects Springfield, Illinois, with Kansas City, Missouri, and East St. Louis, Illinois. Acquiring the Springfield Line would have provided CN access to Kansas City and improved its access to East St. Louis. CN had planned to make investments in intermodal and automotive terminals in Kansas City and East St. Louis had the Board granted CN's proposed CP/KCS merger conditions.[7] Therefore, acquiring the Springfield Line would have had effects similar to certain aspects of CN's proposed conditions: providing access to the Kansas City gateway, improving access to the St. Louis gateway, and supporting automotive and intermodal customers in both areas via new facility investments (among other effects).

4. Recognizing this similarity between the effects on CN's business anticipated due to the Springfield Line divestiture in CP/KCS and CN's proposed conditions related to the Proposed Transaction, in this Verified Statement, I have been asked by counsel for CN to:

   a. Use the Springfield Diversion Study as a starting point to assess the level of traffic CN could expect to divert from other railroads due to CN's proposed conditions if they are approved by the Board and if CN invests in developing appropriate infrastructure to support its expanded businesses. Where I have made any deviations from the Springfield Diversion Study methodology, I explain those deviations and why they are sensible and consistent with commercial or economic realities.

   b. Use the Springfield Diversion Study as a starting point to assess the level of traffic CN could expect to divert from trucking companies to rail due to CN's proposed

[7] *See* CN-14, FD 36500 (Sub-Nos. 1, 2, 3, 4), at 34 (filed Feb. 28, 2022) [hereinafter "CN's CP/KCS Responsive Application"] ("CN has also committed to spend $250 million to (i) upgrade the Springfield Line and CN's adjacent line between Springfield and Gilman IL, where the new route will connect with CN's mainline to Chicago; and (ii) construct new intermodal and automotive facilities in Kansas City and East St. Louis.")

conditions if they are approved by the Board and if CN invests in infrastructure to support its expanded businesses. Where I have made any deviations from the Springfield Diversion Study methodology, I explain those deviations and why they are sensible and consistent with commercial or economic realities.

c. Assess the potential diversion of traffic to CN due to diversion of shipping volumes between ports and incorporate into my diversions estimated volumes generated by CN.

d. Consider the potential for diversion based on whether the Board requires UP to divest the Kansas City Line to CN or, in the alternative, requires UP to grant CN overhead trackage rights over the Kansas City Line, including trackage rights access to the former Sarpy Yard property.

e. Assess the extent to which the proposed acquisition by CN of rail lines, trackage rights, haulage rights, and other assets and/or rights from UP as detailed in CN's proposed conditions would resolve potential competitive concerns arising from the Proposed Transaction.

f. Identify the set of existing CN interchange traffic (based on 2023 volumes) that could shift its gateway to Kansas City as a result of CN's proposed conditions.

g. Assess whether Applicants' proposed open gateway conditions are likely to be sufficient to prevent full or partial vertical foreclosure in Kansas City and St. Louis and, if not, assess the likely impact of any such foreclosure on the proposed remedies detailed in CN's proposed conditions.

5. As detailed in the First Kahwaty Diversion V.S., the traffic projections resulting from a diversion analysis are used as an input into developing operating plans, assessing environmental impacts, and studying the financial impacts of a proposed transaction. I understand my traffic projections have been used to develop the operating plan for CN's network with CN's proposed conditions and to assess any environmental and financial implications of these conditions.

6. For consistency, I use certain definitions throughout this Verified Statement ("V.S.") and incorporate by reference the terms defined in the First Kahwaty Diversion V.S. A list of the defined terms used in this V.S. is provided as **Attachment A**.

7. Any Highly Confidential information included in this Verified Statement is enclosed in double braces {{ }} and is redacted from the public version of this V.S. filed with the Board. No material designated "Confidential" by the Protective Order is contained or addressed in this V.S.

8. To facilitate comparisons with work from Applicants, my analysis of diversion is for the 2023 Base Year. It will take time for CN to compete for shipper business and build volume using the assets and rights it seeks to acquire under its proposed conditions. Based on prior CN experience and the time estimated to build out certain facilities, I assume that building out CN's business using its new assets and rights can be accomplished within three years. Thus, while I report traffic volumes based on 2023 data, these volumes would be expected to be achieved three years after CN acquires the assets and rights requested by CN's proposed conditions. If these assets and rights, for example, are acquired on January 1, 2027, the resulting traffic volumes would be expected to be reflected in CN's and the railroad industry's performance by January 1, 2030 – three years later – though the effects of CN's proposed conditions would be reflected at least partially in the marketplace sooner. Revenues are reported in 2023 dollars.

9. My analysis utilizes several standard analytical techniques that I detail in subsequent sections of this V.S. It also utilizes various materials and data from Applicants together with information and data from CN, other railroads, and public sources. The sources used are detailed in this V.S.'s sources for Tables and Figures, footnotes, Attachments, and supporting workpapers.

B. Summary of Conclusions

10. **CN's Proposed Conditions Provide Access to Customers and Geographies to Resolve Competitive Harms.** CN proposes a series of conditions to resolve competitive concerns arising from the Proposed Transaction. These conditions would provide CN access to

customer locations in Des Moines and Avon, Iowa, and throughout Illinois that can currently be served by both UP and NS, and to traffic moving between the St. Louis and Kansas City gateways—two of the largest gateways in the country. They include the divestiture of UP's line between St. Louis and Kansas City (the "Kansas City Line"); a combination of trackage rights, haulage rights, and reciprocal switch access rights to permit CN to serve individual customer facilities; and rights to lease or purchase facilities such as the Neff Yard in Kansas City and the former Sarpy Yard property in St. Louis that CN can use to develop or expand existing intermodal and finished vehicle distribution terminals.

11. **Vertical Foreclosure Would Inhibit the Effectiveness of CN's Conditions.** CN can serve as an effective remedy carrier only if it can operate at the Kansas City gateway without facing full or partial vertical foreclosure by the merged UP/NS railroad. Partial foreclosure post-merger could include slowing interchange functions, pricing to discourage interline service, or pricing to short-haul CN that would result in a larger share of a route on the UP/NS network.

12. The Board has expressed concerns about vertical foreclosure in other merger reviews, including the most recent prior Class I railroad merger—Canadian Pacific/Kansas City Southern. The Board required open gateway conditions to prevent vertical foreclosure due to the CP/KCS merger. Applicants have offered to apply the same open gateway conditions to the Proposed Transaction.

13. **Retrospective Analysis of Prior Railroad Mergers Demonstrates the Importance of Robust and Effective Open Gateway Protections.** A common analytical tool used by economists to study the potential for competitive effects resulting from a merger is to complete a retrospective study of the results caused by a prior merger. Applicants' economic expert, Dr. Mark Israel, opines that theories of vertical harm are not well suited to the railroad industry. I test that proposition with a merger retrospective study of the CP/KCS merger at the {{ }} gateway, where UP's economic expert in that proceeding, Dr. Steven Salop, opined there was a substantial risk of foreclosure. I find evidence of partial foreclosure: the merged CP/KCS railroad increased prices for traffic from Mexico interlining at {{ }}, and its single line volumes through {{ }}

increased while volumes for other railroads and total volume through the gateway decreased. If the CP/KCS merger's effects were purely driven by efficiency gains, total volume through {{ }} would increase, not decrease. Volumes through an alternative gateway ({{ }}) increased post-transaction, indicating that some shippers shifted traffic to at least partially avoid these effects; captive shippers would not have had that option.

14. These findings demonstrate the importance of having robust and enforceable open gateway conditions, especially in the context of a merger like the Proposed Transaction, which is larger than CP/KCS and presents more opportunities for foreclosure by the merged railroad.

15. **Diversion Analysis Demonstrates CN Will Be a Strong and Effective Remedy Carrier.** Absent partial vertical foreclosure, CN's proposed conditions would provide CN access to Kansas City, a gateway it cannot directly access now, and improve its access to East St. Louis by providing a more direct route into the city from the north. My diversion analyses find that these options would draw significant traffic from other railroads and from trucks.

16. **CN estimated to divert over 43,593 carloads from other railroads because of its new service offerings.** My rail-to-rail diversion analysis finds that CN can expect to divert over 43,000 carloads of traffic from other railroads annually, including general merchandise, intermodal, bulk, and auto traffic. CN's planned new intermodal terminals in Kansas City and St. Louis are expected to result in the diversion of over 20,000 intermodal units annually, with Kansas City – Detroit and Kansas City – Chicago the highest volume lanes, and its planned finished vehicle distribution terminals are expected to result in the diversion of over 8,300 carloads of finished vehicles annually.

17. **CN estimated to divert over 62,509 carloads from trucks.** My truck-to-rail diversion analysis finds that the largest diversion estimates are in the intermodal category, with nearly 49,000 carloads diverted annually, and that the largest lanes include Kansas City – Detroit and Kansas City – Chicago.

18. **CN estimated to divert an additional 30,000 units due to port diversion.** CN's proposed conditions would provide optionality to shippers. In addition to transporting coal and grain to river terminals, CN can also ship products by rail directly to Gulf Coast ports. CN has a successful grain business, for example. St. Louis is a large hub for grains, and CN's improved access to St. Louis will give shippers improved access to river ports, while also having the option to ship grains by rail directly to U.S. Gulf Coast ports to reach export markets. Gaining access to additional, competitively priced options for the distribution of commodities and products will benefit U.S. businesses ranging from large industrial plants to smaller rural farmers.

19. CN's proposed conditions would also make new export paths available, and the resulting reduction in logistics costs would benefit U.S. manufacturers, farmers, and other shippers.

20. **CN estimated to re-route 34,542 carloads to its new hub in Kansas City.** Absent vertical foreclosure harm, CN's proposed conditions will allow CN to effectively grow its business at the Kansas City gateway, allowing it to develop its own hub to be used to interchange with other carriers. Driving traffic through Kansas City will allow CN to develop density and achieve scale economies, allowing it to improve its competitiveness with other railroads.

21. **Overall, CN estimated to divert a total of 170,643 units annually. Table 1** summarizes total estimated traffic diversion to CN's rail network resulting from CN's proposed conditions, broken out by service type and type of diversion (rail, truck, port).

Table 1
Summary of the Traffic Diversion Analysis Results
Traffic Diverted, by Service Type

Service Type	Rail-to-Rail Units		Truck-to-Rail Units	Port of Montreal Units	Total Units
	Regular Markets	Shifted Markets			
General Merchandise	8,549	13,450	-	-	21,999
Intermodal	20,096	5,460	48,751	30,000	104,307
Bulk	6,559	22	-	-	6,581
Auto	8,389	15,610	807	-	24,806
Other	-	-	12,951	-	12,951
Total Units	43,593	34,542	62,509	30,000	170,643

Source: Kahwaty Workpapers "Diversion Units (Base)."

22. In total, I estimate that diverted traffic would generate approximately $367 million in annual revenue for CN within three years of divesting the Kansas City Line to CN and implementing CN's other proposed conditions. **Table 2** presents these revenue estimates by service type and type of diversion.

Table 2
Summary of the Traffic Diversion Analysis Results
Revenue for Traffic Diverted, by Service Type

Service Type	Rail-to-Rail Revenue		Truck-to-Rail Revenue	Port of Montreal Revenue	Total Revenue Impact
	Regular Markets	Shifted Markets			
General Merchandise	$ 33,606,314	$ 42,312,960	$ -	$ -	$ 75,919,274
Intermodal	$ 12,602,490	$ 2,850,871	$ 31,987,619	$ 34,108,736	$ 81,549,717
Bulk	$ 25,317,953	$ 90,275	$ -	$ -	$ 25,408,228
Auto	$ 57,720,954	$ 58,478,219	$ 3,431,387	$ -	$ 119,630,561
Other	$ -	$ -	$ 64,298,010	$ -	$ 64,298,010
Total	$ 129,247,712	$ 103,732,326	$ 99,717,017	$ 34,108,736	$ 366,805,790

Source: Kahwaty Workpapers "Revenue Impact (Base)."
Notes: Revenue calculated using 2023 traffic data for CN shipments and applied to diverted units on a per-car-mile basis. Additional details underlying my calculation are provided in Section XI and the Kahwaty Workpapers.

23. **Diversions relate to several distinct areas and can be allocated across them.** CN's growth from its proposed conditions can be broken down into several categories:

- Request for Kansas City access via the acquisition of the Kansas City Line and gaining access to the Neff Yard (149,822 units);
- Request for improved access to East St. Louis via Tuscola Line trackage rights (2,422 units);
- The planned development of intermodal and automotive yards in St. Louis (9,509 units);
- Request for access to the Hillsboro coal mine via Hillsboro Line trackage rights (6,204 units), and
- Request for access to 3-to-2 and 2-to-1 customer locations via Des Moines Line trackage rights (1,227).

24. **CN's effectiveness as a competitor will be diminished if access to Kansas City is via trackage rights instead of acquisition of the Kansas City Line.** CN will have higher

marginal costs and lose operational control over the Kansas City Line if it gains access to Kansas City via trackage rights instead of acquiring the Kansas City Line from UP. With a 20% route impedance penalty from trackage rights, diversions fall by about 55% to 75,416 units.

II. CN'S RESPONSIVE APPLICATIONS AND PROPOSED CONDITIONS

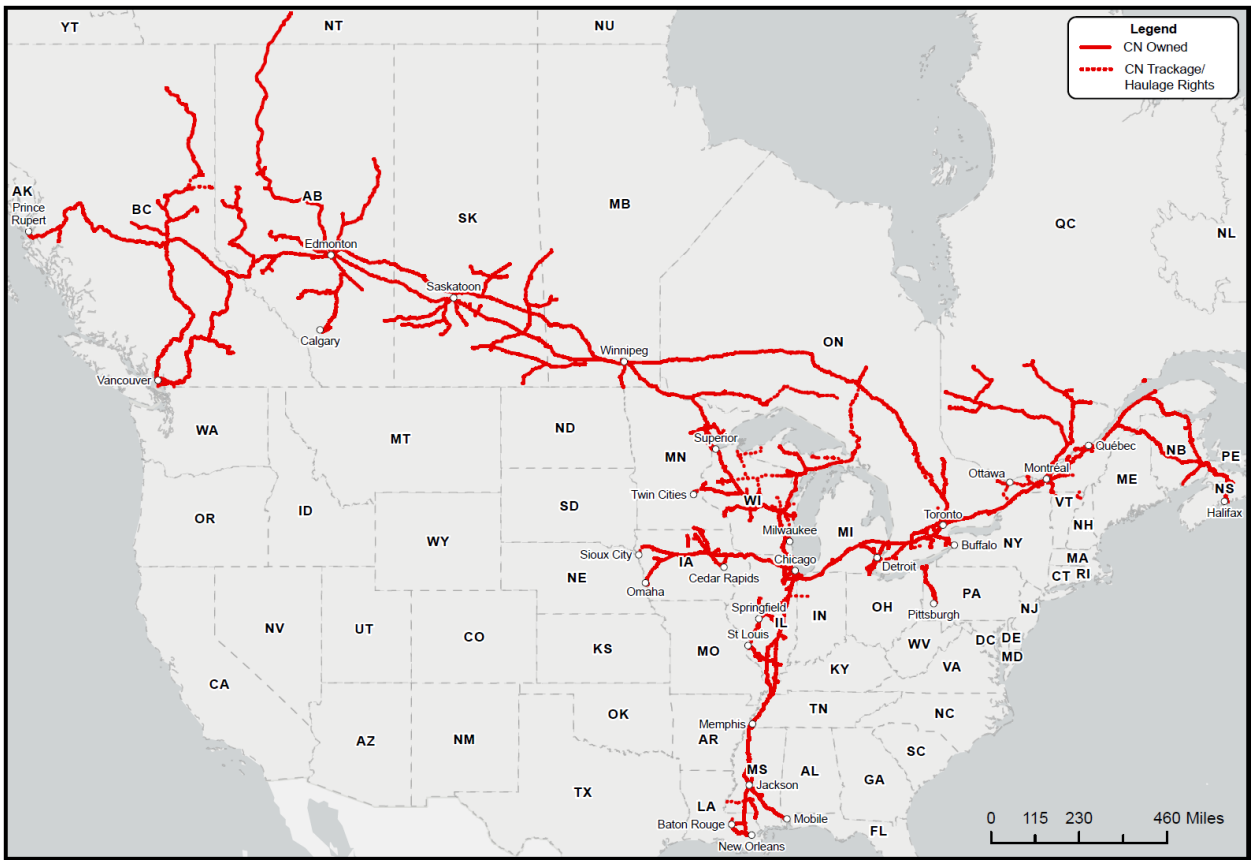
A. Background

25. CN's existing approximately 18,600 mile rail network connects nine of Canada's provinces with the U.S. Midwest and Gulf Coast.[8] It serves large U.S. urban areas, such as Detroit, Chicago, Memphis, and New Orleans, along with all the major population centers in Canada, including Montreal, Toronto, Ottawa, Quebec City, Winnipeg, Edmonton, Calgary, and Vancouver. CN handled over 300 million tons of freight in 2025, serving both manufacturing centers and resource markets.[9] It serves Atlantic, Pacific, and U.S. Gulf Coast ports. A map of CN's current rail network is provided as **Figure 1**.

[8] *See Network Efficiencies,* CN, https://www.cn.ca/en/about-cn/network-efficiencies/ (last visited Nov. 17, 2026).

[9] *CN 2025 Annual Report* at II, https://www.cn.ca/-/media/files/investors/investor-annual-report/2025-cn-annual-report.pdf (last visited Nov. 12, 2026).

Figure 1
CN's Current Rail Network



Source: Kahwaty Workpapers; *See also* Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

26. If approved, CN's proposed conditions would expand CN's network by improving CN's access to the St. Louis gateway – including both St. Louis, Missouri, and East St. Louis, Illinois – while gaining access to the Kansas City gateway, both of which are large U.S. rail hubs. CN's proposed conditions, therefore, provide a new means for U.S. Gulf Coast traffic, as well as traffic to or from eastern, western, and central Canada and the U.S. Midwest, including Chicago and Detroit, to reach Kansas City via single line service, and, via interline service, places beyond Kansas City, such as California, Arizona, and Texas. In addition, CN's proposed conditions seek to prevent the loss of competition for 2-to-1 and 3-to-2 customers.

27. On July 22, 2026, CN and UP reached a binding Memorandum of Understanding ("Settlement MOU") reflecting that UP agreed to grant CN access to certain customers and geographies.

28. As agreed in the Settlement MOU and detailed in CN's proposed conditions, UP will provide CN access to two contiguous parts of UP's network: (1) UP's line from Tuscola to East St. Louis, Illinois (the "Tuscola Line"),[10] and (2) UP's line from St. Louis to Kansas City, Missouri (the "Kansas City Line").[11] In addition, the Settlement MOU describes granting CN access to serve 2-to-1 and 3-to-2 customer locations, and sale of shares in the Kansas City Terminal ("KCT").[12]

29. CN's proposed conditions include trackage rights to serve the 3-to-2 and 2-to-1 customers acknowledged by Applicants in the Second Supplemental Submission in Response to Decision No. 21, including customer facilities located in or near Des Moines, Iowa; Hillsboro, Illinois; and Carlinville, Illinois.[13] CN also requests the Board condition its approval of the Proposed Transaction on the grant of CN access to additional 3-to-2 and 2-to-1 customer locations in Illinois, including in Chicago, Bloomington, Mt. Vernon, Granite City, Momence, Federal, Alton, and Danville.[14] Because CN is seeking only haulage and/or switching rights to access these additional 3-to-2 and 2-to-1 customer locations, they are not addressed in detail in this V.S. Nevertheless, principles detailed in this V.S. regarding maintaining competition for 2-to-1 and 3-to-2 customers, such as the pricing of haulage rights, apply equally to these other customer locations as they do to customer locations addressed in this V.S.

30. CN's Proposed Conditions are summarized in **Figure 2**.

[10] Settlement MOU at 2–3 and app. C. *See also* CN's Comments on Amended Application and Request for Conditions at 10, 49-50, FD 36873 [hereinafter the "Comment"].

[11] Settlement MOU at 2–3 and app. D. *See also* Comment at 9–10 and n. 18.

[12] Settlement MOU at 1–2.

[13] Comment at 10–11, 73–76.

[14] Comment at 10–11, 73–76]].

Figure 2

CN's Proposed Conditions Summary	
Kansas City Access	• Divestiture of the Kansas City Line to CN; o In the alternative (i.e., if the Board declines to order divestiture), trackage rights and local haulage rights on the Kansas City Line. • Lease or purchase of Neff Yard, including the Neff intermodal terminal; • Terminal trackage rights over ~7.5-miles of BNSF track near Kansas City; • Trackage rights between Lydia Avenue and Broadway Boulevard in Kansas City; • Sale of NS's KCT ownership interest to CN; and • Access to Kansas City customers open to UP or NS reciprocal switching.
Expanded St. Louis / East St. Louis Access	• Overhead trackage rights over the Tuscola Line; • Overhead trackage rights over A&S; and • Former Sarpy Yard property (part of the Kansas City Line).
Des Moines 2-to-1 and 3-to-2 Customer Access	• Trackage rights over UP's line between Manly, Iowa and Des Moines and Avon, Iowa to access or serve 2-to-1 and 3-to-2 customer facilities in and around Des Moines, including direct access to two unit train customers; and • Reciprocal switching access to 2-to-1 and 3-to-2 customer facilities in the Des Moines area.
Illinois 2-to-1 and 3-to-2 Customer Access	• Trackage rights to reach the Foresight Energy facilities at Hillsboro and Carlinville, Illinois; and • Haulage or switching access to the remaining 2-to-1 and 3-to-2 customer facilities in Illinois.
Robust and Enforceable Gateway Protections	• Robust and enforceable open gateway protections.

B. CN's Proposed Conditions for Kansas City Access

31. CN requests the Board condition any approval of the Proposed Transaction on granting CN access to serve Kansas City.[15] CN is seeking the following conditions for Kansas City access:

- The divestiture of UP's Kansas City Line to CN (the "Kansas City Line Divestiture");[16]
- In the alternative to divestiture, if the Board determines divestiture is not warranted, (i) the grant of trackage rights including access to the former Sarpy Yard property in St. Louis; (ii) local haulage rights on the Kansas City Line as well as interim overhead haulage rights on the line for use until the trackage rights are activated over the Kansas City Line (collectively, the "Kansas City Line Trackage

[15] Comment at 9–11.

[16] Comment at 9–10, 43–48.

Rights"), and (iii) a Board order requiring sale of the former Sarpy Yard property to CN;[17,18]

- The grant of terminal trackage rights over 7.5 miles of BNSF Railway Company ("BNSF") track between Eton and Congo, Missouri;[19]
- The lease of UP's Neff Yard, including the Neff intermodal terminal, in Kansas City, in whole or in part, and with the option to purchase;[20]
- The grant of trackage rights on UP's line between Lydia Avenue and Broadway Boulevard in Kansas City, Missouri;[21] and
- Access for CN to Kansas City customers in Applicants' reciprocal switching tariffs, and access to KCT's customers as part of the sale of NS's KCT ownership interest to CN.[22]

32. I refer to the Kansas City Line Divestiture, the terminal trackage rights over BNSF, and the trackage rights on the Lydia Avenue to Broadway Boulevard segment collectively as the "Kansas City Divestiture." I refer to the Kansas City Line Trackage Rights, the terminal trackage rights over BNSF, and the trackage rights on the Lydia Avenue to Broadway Boulevard segment collectively as the "Kansas City Trackage Rights."

33. An overview of CN's proposed conditions for Kansas City access is provided in **Figure 3**.

[17] Comment at 10–11 n. 18, 49; Operating Plan at 134–136.

[18] CN also seeks the sale of the former Sarpy Yard property by UP to CN for handling intermodal and automotive traffic. This property is located on the Kansas City Line but is in St. Louis and is sought by CN to support its business operations in St. Louis. Therefore, I address this property more fully in my St. Louis access discussion.

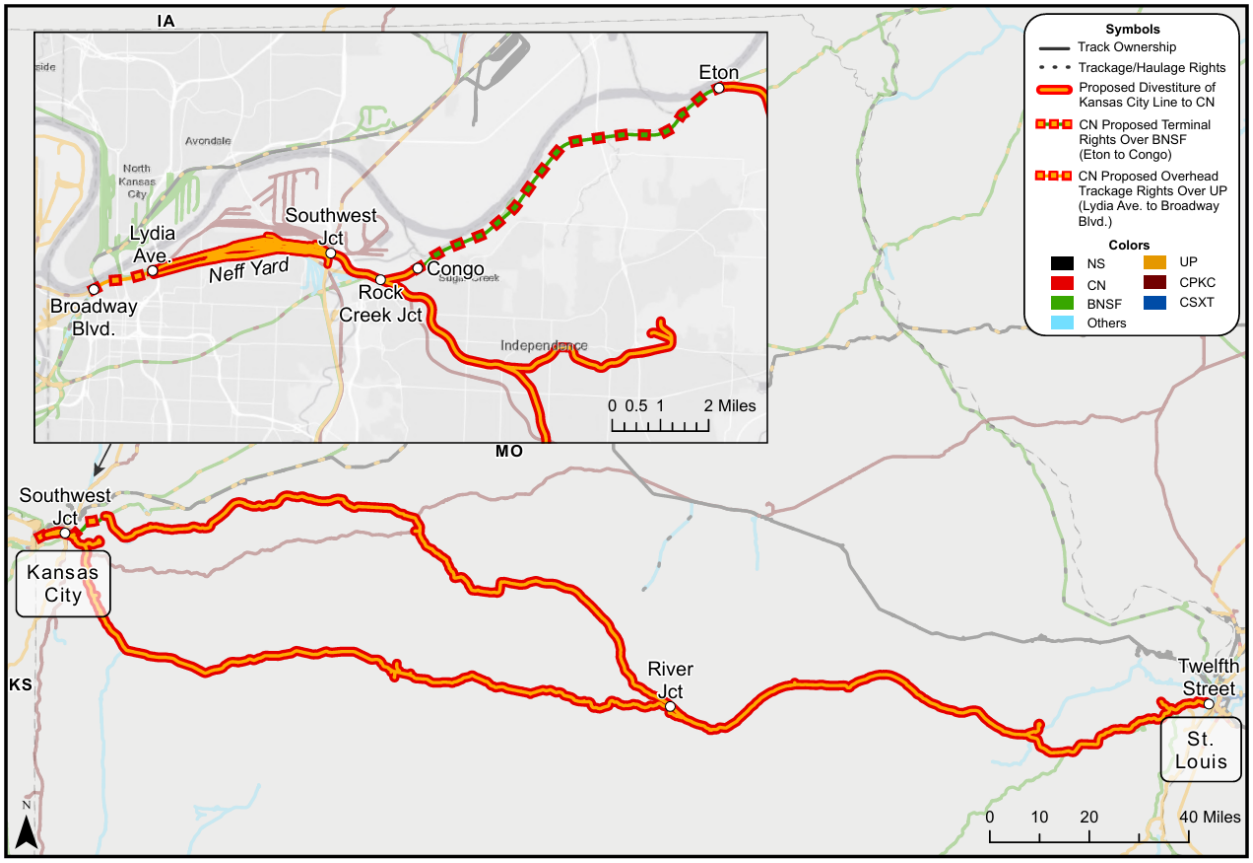
[19] Comment at 9–10, 52–54.

[20] Comment at 9–10, 51.

[21] Comment at 9–10–11, 55.

[22] Comment at 9–10, 56–57.

Figure 3
Overview of CN's Proposed Conditions for Kansas City Access



Source: Kahwaty Workpapers; *See also* Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

1. Divestiture of UP's Kansas City Line to CN

34. CN is seeking the divestiture of UP's Kansas City Line, which it proposes to purchase. UP would retain overhead trackage rights and local haulage rights on the Kansas City Line.

35. In the alternative to divestiture, CN seeks trackage rights and local haulage rights on the Kansas City Line as well as interim overhead haulage rights on the line for use until the trackage rights are activated over the Kansas City Line.[23] If divestiture is not granted, CN

[23] In my diversion analyses, I only consider the scenario in which CN is permitted to acquire the Kansas City Line or granted overhead trackage rights and local haulage rights over the Kansas City Line. I do not consider diversion for the case where CN only has local and overhead haulage rights on the Kansas City Line.

also seeks trackage rights, including access to reach the former Sarpy Yard property, and a condition requiring UP to sell the former Sarpy Yard property to CN.

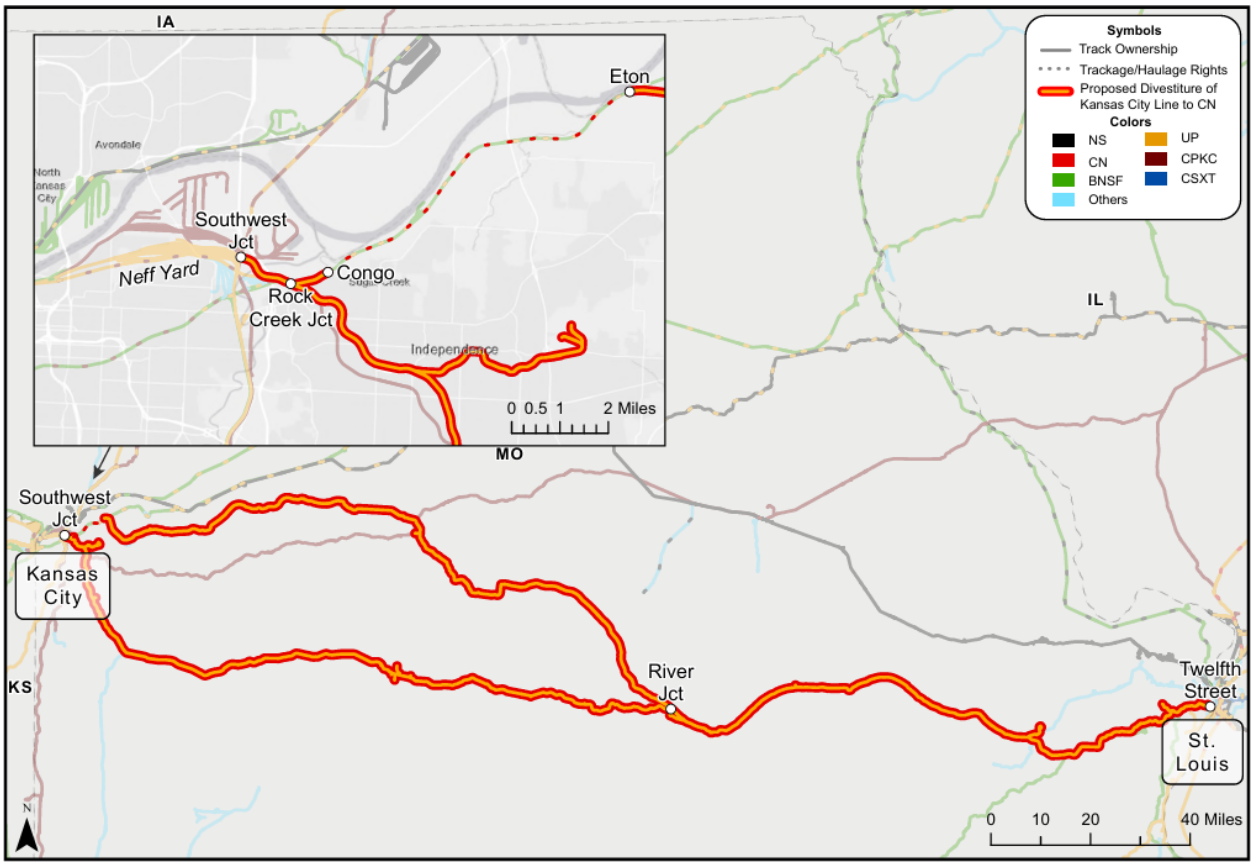
36. The Kansas City Line extends from Twelfth Street in St. Louis (MP 0.36), via 23rd Street Yard, Grand Ave., the former Sarpy Yard property, and River Junction (MP 128.0), to Rock Creek Junction (MP 276.9), Southwest Junction (MP 278.2), and Neff Yard in Kansas City. It also includes the route via Eton (UP MP 276.1/BNSF MP 436.6), continuing from Congo (BNSF MP 444.1) to Rock Creek Junction, Southwest Junction, and Neff Yard, together with all yards, sidings, and auxiliary tracks along the solely UP-owned right of way.[24] It also includes 5 industrial lead lines.[25] I understand that UP has historically operated the two segments of the Kansas City Line west of River Junction directionally, with the southern segment moving traffic east to west towards Kansas City, and the northern segment west to east towards St. Louis.[26] A map depicting the Kansas City Line is provided as **Figure 4**.

[24] Operating Plan at 42–44, 135–137.

[25] Operating Plan at 44.

[26] Operating Plan at 42–44, 110–111.

Figure 4
The Kansas City Line
CN's Proposed Condition: Divestiture or, in the Alternative, Trackage and Haulage Rights



Source: Kahwaty Workpapers; *See also* Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

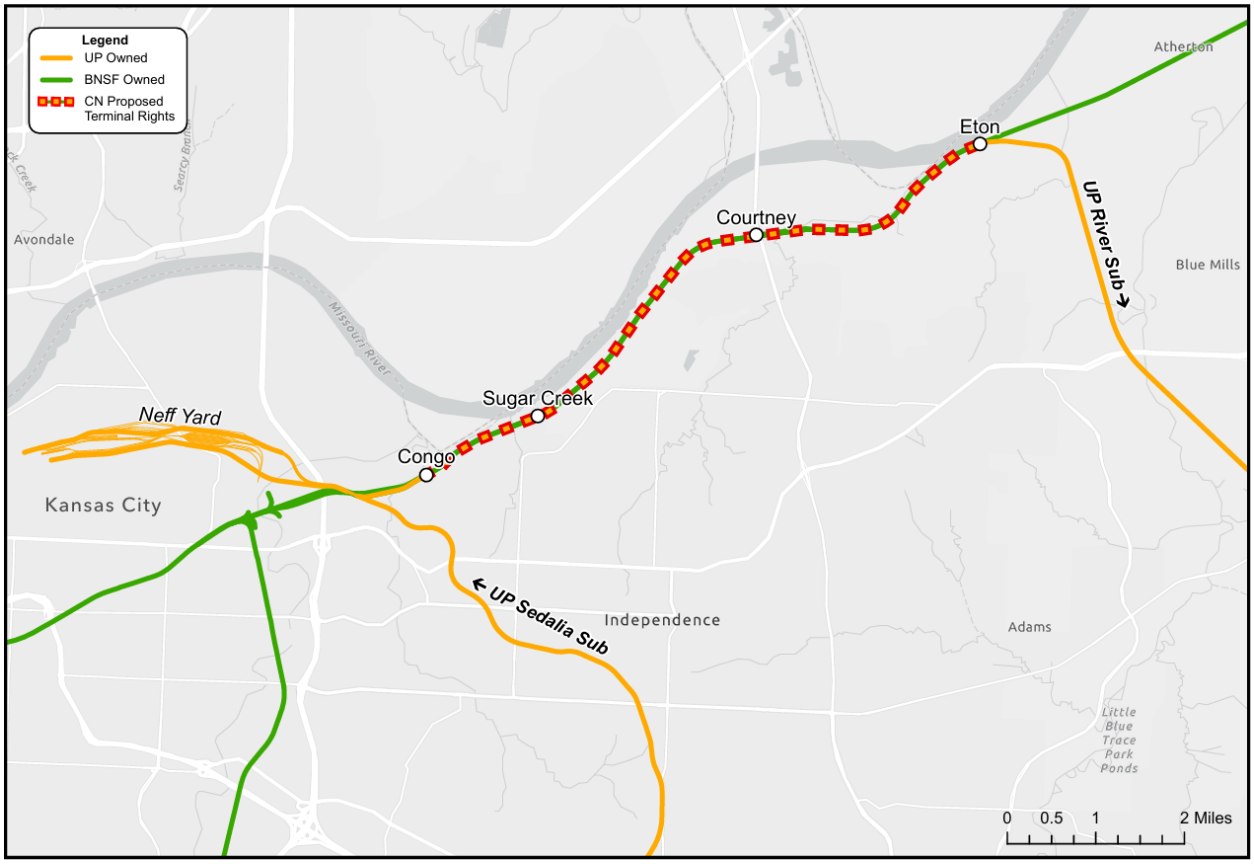
2. Terminal Trackage Rights Over the BNSF Line Between Eton and Congo, Missouri

37. In connection with Kansas City access, CN is seeking terminal trackage rights over about 7.5 miles of track owned by BNSF on BNSF's Marceline Subdivision between Eton at MP 436.6 and Congo at MP 444.1, Missouri (the "Eton to Congo Segment").[27] The track over

[27] Operating Plan at 57–58, 137.

which these rights are sought is shown in **Figure 5.** These terminal trackage rights are necessary for CN to bridge a gap in the Kansas City Line, connecting it to the Neff Yard.[28]

Figure 5
BNSF Track between Eton and Congo, Missouri
CN's Proposed Condition: Terminal Trackage Rights



Source: Kahwaty Workpapers; *See also* U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

3. The Lease or Purchase of UP's Neff Yard

38. CN is seeking to lease UP's Neff Yard, including the Neff intermodal terminal, in whole or in part, and with the option to purchase. The Neff Yard is in Kansas City, and leasing or purchasing the Neff Yard is necessary for CN to support its operations in Kansas City. CN

[28] Though they are similar, the southern branch of the Kansas City Line is shorter than the northern branch. The routing software used in my analysis, therefore, generally routes traffic over the southern branch. While it may be operationally significant, the northern branch and the line between Eton and Congo do not, therefore, have a material effect on my diversion estimates. *See also* Operating Plan at 57–58, 137; Comment at 46–49.

and UP agreed to this in the Settlement MOU.[29] Further, CN and UP agreed that "[i]f needed, UP will provide other carriers with access to Neff Yard to interchange with CN."[30] The location of the Neff Yard is shown in **Figure 3** and **Figure 4**.

4. Trackage Rights Over UP's Track Between Lydia Avenue and Broadway in Kansas City, Missouri

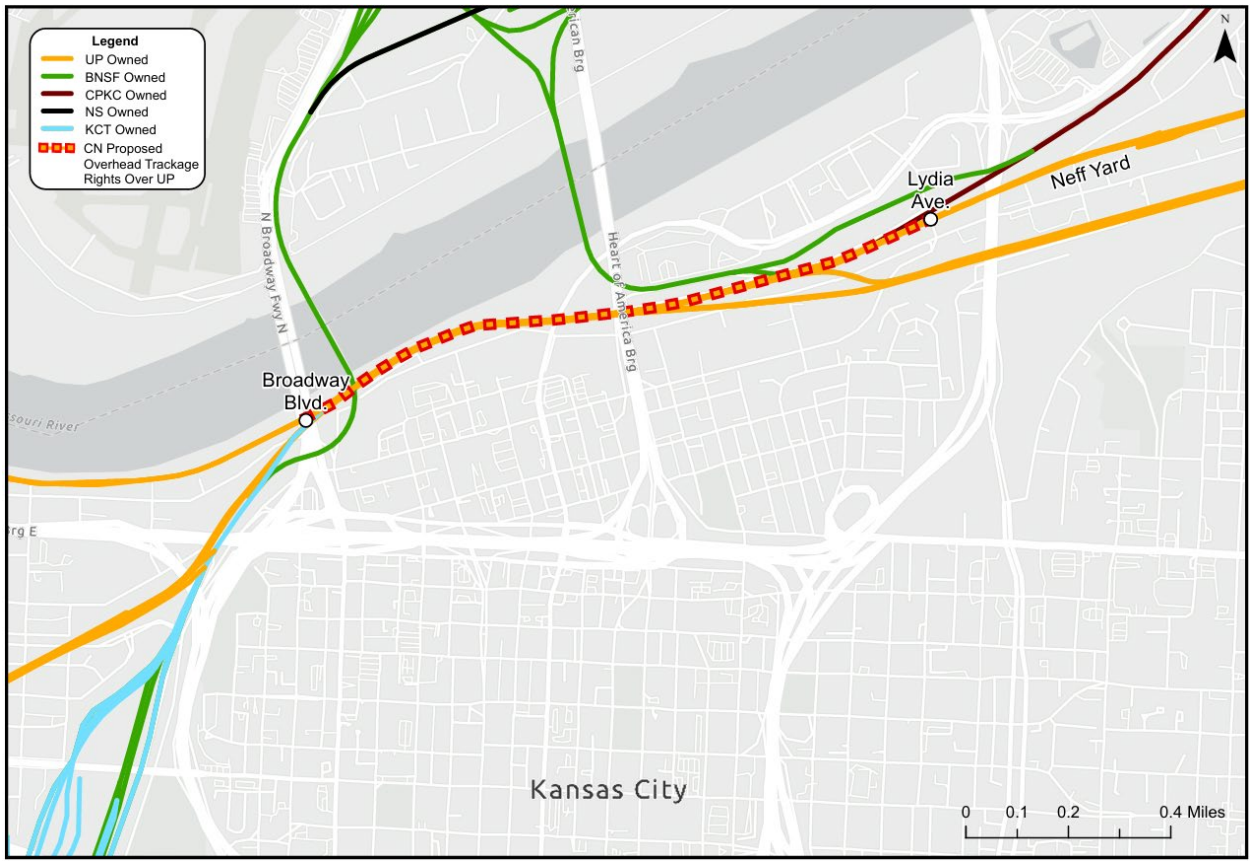
39. CN is seeking trackage rights on UP's K.C. Metro (Neff) Subdivision between Lydia Avenue at MP 281.7 and Broadway Boulevard at MP 283.1 in Kansas City, Missouri (the "Lydia Avenue to Broadway Boulevard Segment").[31] I understand that these trackage rights, which connect to the west side of the Neff Yard, are necessary for CN to access the KCT track and interchange with other carriers operating in the Kansas City gateway. This is shown in **Figure 6**.

[29] Settlement MOU at 3–4.

[30] Settlement MOU at 12, app. B.

[31] Operating Plan at 135–136. *See also* Comment at 55.

Figure 6
UP Track Between Lydia Avenue and Broadway Boulevard, Kansas City, Missouri
CN's Proposed Condition: Trackage Rights



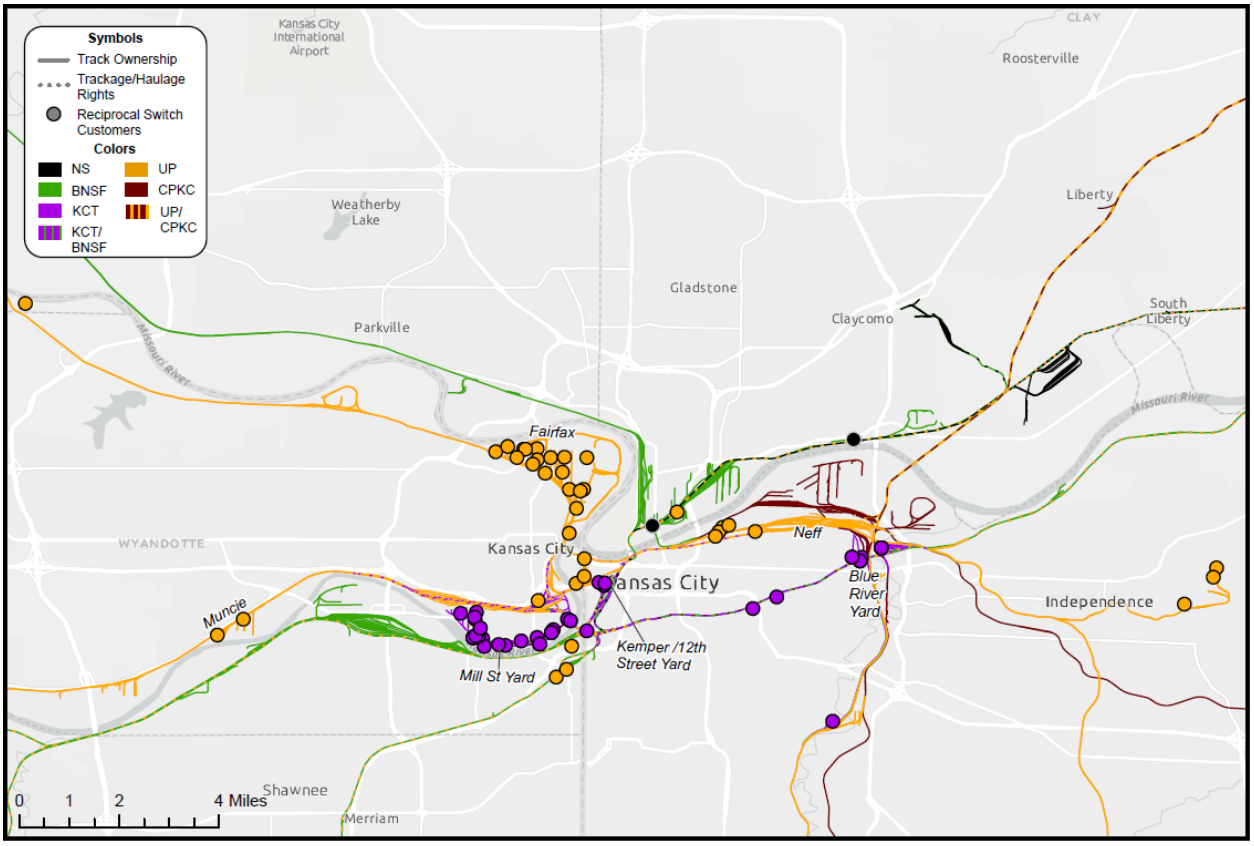
Source: Kahwaty Workpapers; *See also* U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

5. UP, NS, and KCT Customers

40. CN is requesting (i) access to KCT's customers as part of the sale of NS's ownership interest in KCT to CN, and (ii) that CN be granted reciprocal switching access to the Kansas City customers currently open to reciprocal switching under the UP and NS tariffs.[32] Access under these tariffs would allow CN to serve captive rail shippers by having UP or NS move the shippers' railcars to interchange points from which they can be provided service by CN. **Figure 7** illustrates this access.

[32] Comment at 56–57.

Figure 7
UP, NS, and KCT Customers in Kansas City
CN's Proposed Condition: Access to Serve



Source: Kahwaty Workpapers; *See also* U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

C. CN's Proposed Conditions for Improved Access to St. Louis and East St. Louis

41. CN requests the Board condition any approval of the Proposed Transaction on granting CN improved access to the St. Louis gateway, including St. Louis, Missouri, and East St. Louis, Illinois. CN's network currently only reaches East St. Louis, Illinois. CN does not have access to St. Louis, Missouri, nor does CN have any current location for handling intermodal or automotive traffic in St. Louis. CN requests the following conditions:

- The grant of overhead trackage rights over UP's Tuscola Line;[33]

[33] Comment at 10, 49–50.

- The grant of overhead trackage rights over the lines of UP's wholly owned subsidiary The Alton & Southern Railway Company ("A&S") between Lenox in Mitchell, Illinois, and Valley Junction in East St. Louis, Illinois, for connection to Terminal Railroad Association of St. Louis ("TRRA");[34] and

- The purchase of UP's former Sarpy Yard property for handling CN's intermodal traffic and automotive traffic in the St. Louis/East St. Louis area, whether through divestiture of the Kansas City Line, or alternatively, if divestiture is not granted, trackage rights on the Kansas City Line and a condition requiring the sale of said yard to CN.[35]

42. CN also requires trackage rights over the TRRA between East St. Louis, Illinois, and St. Louis, Missouri, for which CN would seek authority outside this proceeding.[36]

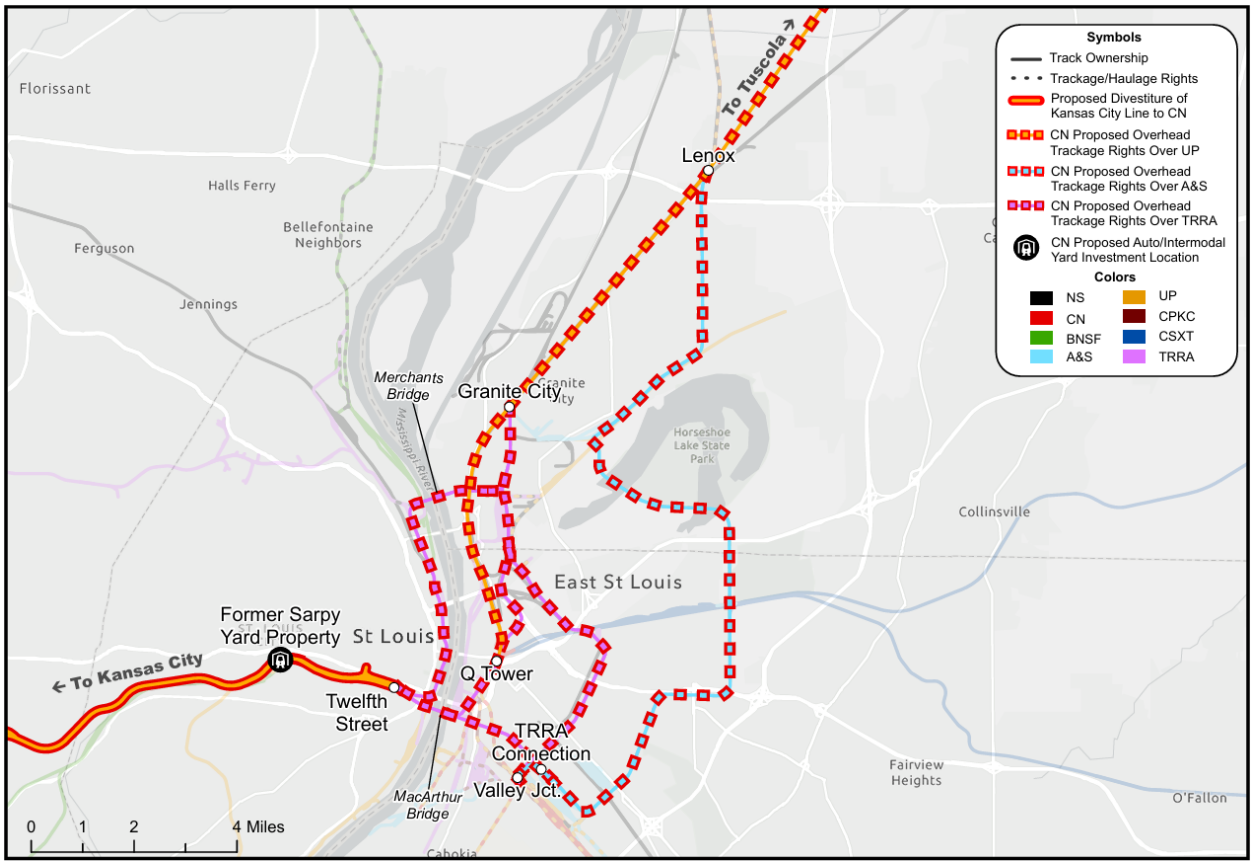
43. An overview of CN's proposed conditions for improved access to St. Louis / East St. Louis is provided in **Figure 8**.

[34] Comment at 10, 49–50.

[35] Comment at 10, 51–52; *see also* Operating Plan at 13–14, 46–47, 100–101, 135.

[36] Comment at 49–50 n. 170. I understand that, due to CN's existing ownership interest in TRRA, CN expects to seek these rights directly from the TRRA.

Figure 8
Overview of CN's Proposed Conditions for Improved Access to St. Louis and East St. Louis



Source: Kahwaty Workpapers; *See also* U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

44. CN's proposed conditions for improved access to the St. Louis gateway are also important for CN's ability to serve Kansas City. For example, trackage rights over the TRRA's bridges in St. Louis are necessary for CN to access the Kansas City Line. In addition, overhead trackage rights on UP's Tuscola Line will reduce the mileage for CN trips from or to Kansas City that originate or terminate on CN's network north of Tuscola. Mr. Nair, CN's Vice President, Intermodal & Automotive, Sales and Marketing, explains, "CN's current route from the north runs south past East St. Louis to Du Quoin, Illinois, and then doubles back to reach the St. Louis gateway, adding significant mileage and additional transit time." In addition, "[t]his more direct route would eliminate approximately 70 miles

from CN's route between Chicago and St. Louis or Chicago and Kansas City."[37] For example, overhead trackage rights on the Tuscola Line would reduce a CN single line trip from Chicago to East St. Louis by 72.8 miles (20.2%) in comparison to the same CN trip without access to the Tuscola Line.[38] This reduction in mileage will allow CN to compete more effectively with other Class I single lines connecting St. Louis with locations to the north (and connecting Kansas City with these locations).

1. Overhead Trackage Rights on the Tuscola Line

45. CN is seeking overhead trackage rights on UP's Tuscola Line (the "Tuscola Trackage Rights").[39] The Tuscola Line connects to CN's network in Tuscola and extends from Tuscola at MP 153.49 through Sullivan at MP 176.2 and Lenox in Mitchell at MP 275.4/269.70, via WR Tower in Granite City at MP 275.39, to Q Tower TRRA in East St. Louis at MP 281.00, all in Illinois.[40]

46. UP agreed to grant overhead trackage rights to CN on the Tuscola Line in the Settlement MOU, with CN being able to get on/off the Tuscola Line at the following locations in Illinois: Tuscola, Sullivan, Lenox/Mitchell, Granite City, and Q Tower.[41] A map depicting the Tuscola Line is provided in **Figure 9**.

[37] Nair V.S. at 10.

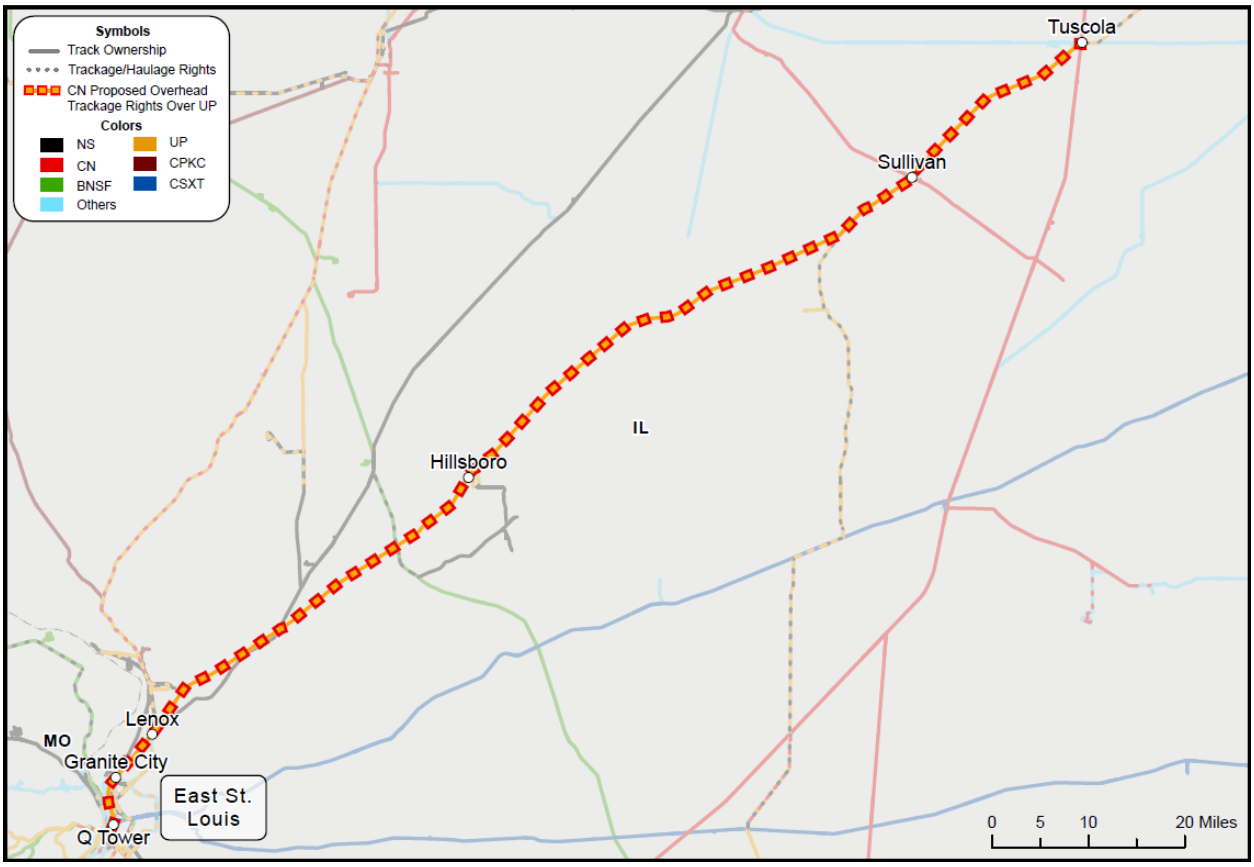
[38] Kahwaty Workpapers "Mileage_Calculations.xlsx."; *see also* Levis V.S. at 6 ("Today, CN trains from the north move south past East St. Louis to Du Quoin, Illinois, and then double back." She adds that the Tuscola Line rights will reduce transit time "by shortening the route by approximately 70 miles."); Comment at 49–50; Operating Plan at 136.

[39] Comment at 10–11, 49.

[40] Operating Plan at 66, 136.

[41] Settlement MOU at 2–3, 13, app. C.

Figure 9
The Tuscola Line
CN's Proposed Condition: Overhead Trackage Rights



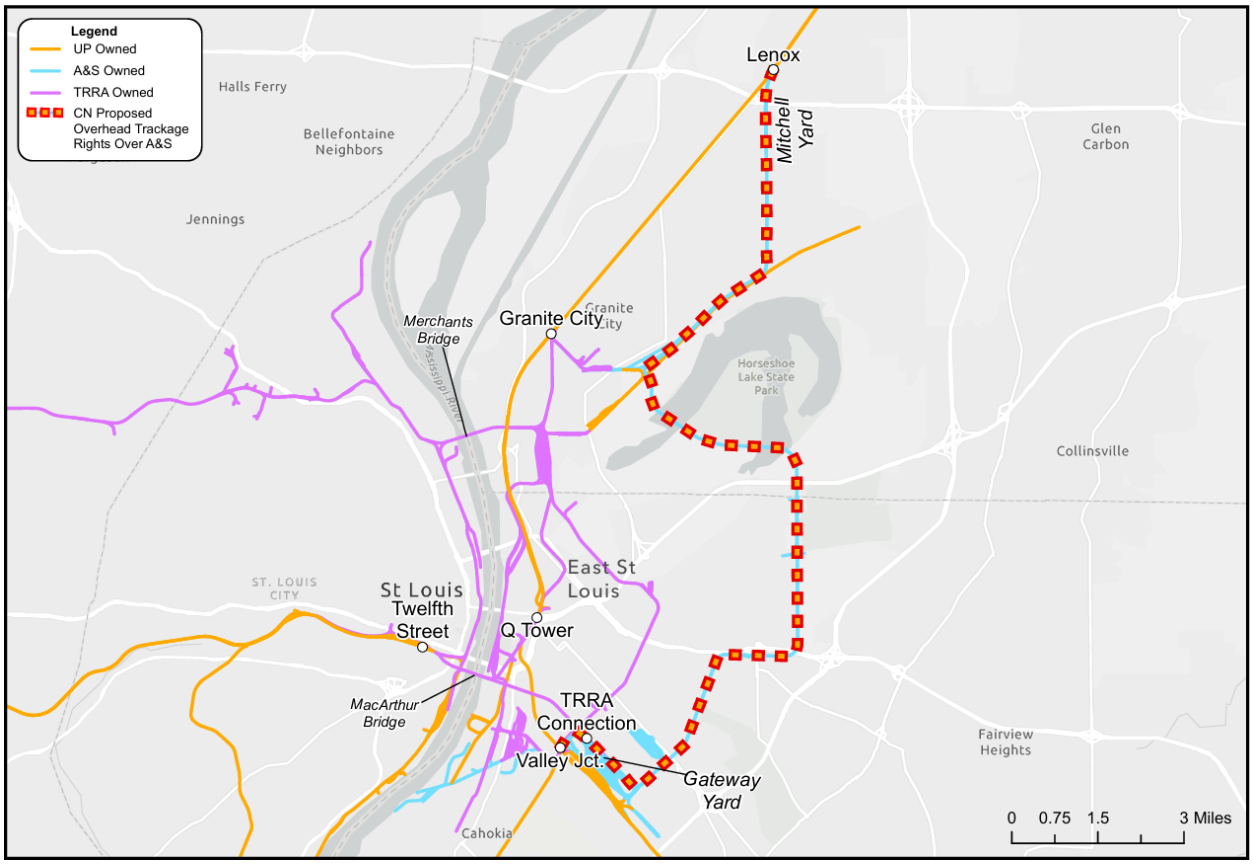
Source: Kahwaty Workpapers; *See also* U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

2. Overhead Trackage Rights on the A&S

47. CN is also seeking overhead trackage rights on the A&S between Lenox in Mitchell, Illinois, and Valley Junction in East St. Louis, Illinois (the "Lenox to East St. Louis Segment"), via Mitchell Yard, Gateway Yard, and the connection to TRRA's MacArthur Bridge route. UP agreed to give CN access to the A&S track in the Settlement MOU.[42] A&S is a wholly owned subsidiary of UP, and these trackage rights are intended for CN to connect the Tuscola Line with the TRRA in East St. Louis. A map of the relevant A&S track segment is provided as **Figure 10**.

[42] Settlement MOU at 13, app. C; *see also* Comment at 44; Operating Plan at 66, 137.

Figure 10
A&S Track Between Lenox in Mitchell, Illinois, and Valley Junction in East St. Louis
CN's Proposed Condition: Overhead Trackage Rights on the A&S



Source: Kahwaty Workpapers; *See also* U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

3. Trackage Rights Over the TRRA

48. Overhead trackage rights over the TRRA are needed by CN to access the Kansas City Line because the TRRA controls both rail bridges over the Mississippi River between East St. Louis and St. Louis. Further, CN requires overhead trackage rights over the TRRA to facilitate and improve interchanges with other railroads in the vicinity of St. Louis and East St. Louis. I understand that these requested rights will be addressed separately and that, by virtue of its existing ownership interest in TRRA, CN is entitled to such trackage rights over TRRA track.[43] The rights requested over TRRA track are critical to CN's single line

[43] Comment at 96–99 n. 170; Operating Plan at 19, 66, 71, 136–137.

access to Kansas City and will improve CN's service offering for traffic moving through the St. Louis gateway. Therefore, these trackage rights affect the ability of CN to divert traffic flowing through this gateway. For the purposes of my diversion analysis, I assume that these rights will be requested and granted so that they do not block CN's single line access to Kansas City or CN's ability to interchange in St. Louis.[44]

4. The Purchase of UP's Former Sarpy Yard Property

49. CN will require a facility or facilities in the St. Louis/East St. Louis area to handle intermodal and finished automotive traffic. If CN is granted its condition for the divestiture of the Kansas City Line, CN would utilize the existing but inactive yard along this line in St. Louis at 23rd Street and Sarpy Avenue. I understand that with investments, CN could use the former Sarpy Yard property to handle both finished automotive and intermodal traffic. If the Board does not order divestiture, CN is seeking a condition for trackage rights over the Kansas City Line, including access to the former Sarpy Yard property and a condition from the Board requiring the sale of the former Sarpy Yard property to CN. The location of the former Sarpy Yard property is shown in **Figure 8**.

D. CN Proposed Conditions for Access to Customers in Des Moines and Avon, Iowa

50. CN requests the Board condition any approval of the Proposed Transaction on granting CN trackage rights or, in the alternative, haulage over UP's line between Manly, Iowa and Des Moines and Avon, Iowa; trackage rights to access 2-to-1 and 3-to-2 customer facilities requiring unit train service; and switching access to serve the remaining 2-to-1 and 3-to-2 customer facilities in and around Des Moines from UP's Short Line Yard.[45] According to Ms. Levis, CN's Vice-President, Industrial Products, "In Des Moines, Iowa, numerous customers, including metals customers, would see their Class I options reduced from three

[44] I understand that CN expects to seek these rights directly from the TRRA as a TRRA member. *See* Comment at 49 n. 170.

[45] CN's requested trackage rights would extend from Manly to UP's Short Line Yard in Des Moines and, for unit train service, to a facility currently operated by ADM in Des Moines and a facility currently operated by Heartland Co-Op in Avon. *See* STB Docket No. FD 36873 (Sub-No. 10). For manifest service customers, CN requests a condition requiring reciprocal switching access from Short Line Yard to any 2-to-1 and 3-to-2 customer facilities in the Des Moines area. *See* STB Docket No. FD 36873 (Sub-No. 10) at 26-27.

to two or from two to one, including Alter Trading Corp./Alter Metal Recycling."[46] To serve these customers, CN is seeking trackage rights over UP's Albert Lea, Mason City and Trenton Subdivisions between Manly and Avon, and UP's Perry Subdivision to Short Line Yard in Des Moines (the "Des Moines Line"), all of which is in Iowa.

51. Trackage Rights are a more suitable remedy than haulage rights. As Mr. Przednowek, CN's Assistant Vice President – Grain, explains, "Under a haulage arrangement, CN would depend on a competitor's crews, locomotives, operating priorities, and capacity." He further states, "Trackage rights eliminate this dependency and allow CN to manage crew staffing, car supply, train frequency, and service commitments directly."[47]

52. The Des Moines Line runs for 136.4 miles and connects with CN's Iowa Northern Railway Company ("Iowa Northern") line in Manly, Iowa, with entry and exit also permitted at a future connection near Iowa Falls, Iowa.[48] As explained by Mr. Przednowek, "the existing UP-CN connection at Iowa Falls is a short, 15-car spot interchange track through the middle of a grain elevator that is not suitably configured for the movement of CN trackage rights trains." Accordingly, "Upon completion of a new connection at Iowa Falls, CN contemplates that its trackage rights trains to and from Des Moines would operate via Iowa Falls."[49] A map depicting the Des Moines Line and the locations of the 2-to-1 and 3-to-2 customers is provided as **Figure 11**.

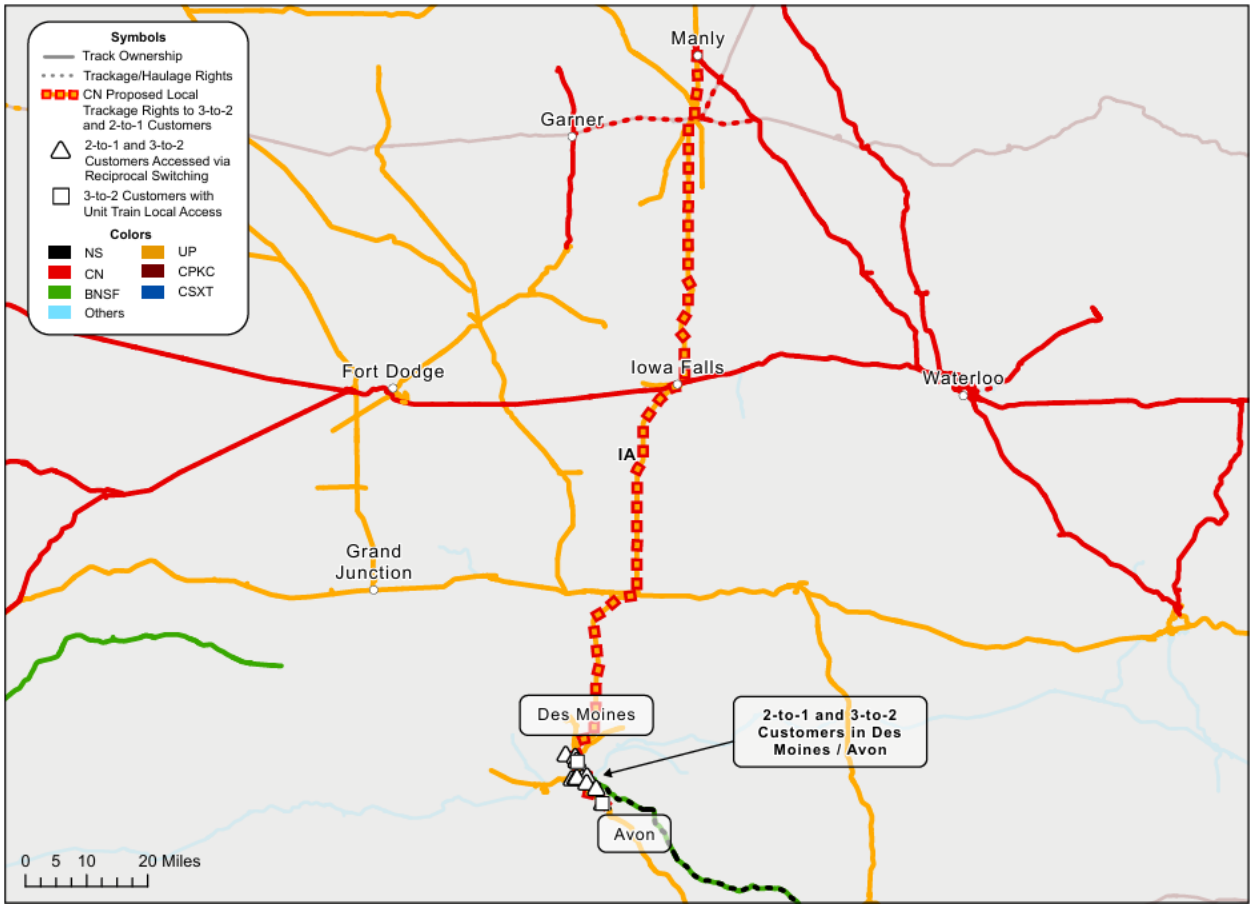
[46] Levis V.S. at 5.

[47] Przednowek V.S. at 12–13.

[48] The distance between Manly and Avon, Iowa is 136.4 miles. *See* Kahwaty Workpapers "Mileage_Calculations.xlsx" for more details on mileage for the Des Moines region.

[49] Przednowek V.S. at 13.

Figure 11
The Des Moines Line and
2-to-1 and 3-to-2 Customers in the Vicinity of Des Moines and Avon, Iowa
CN's Proposed Condition: Overhead and Limited Local Trackage Rights



Source: Kahwaty Workpapers; *See also* U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

E. CN Proposed Conditions for Access to Foresight Energy Facilities at Hillsboro and Carlinville, Illinois, and Other 2-to-1 and 3-to-2 Customer Facilities in Illinois

53. Finally, CN requests the Board condition any approval of the Proposed Transaction on granting CN trackage rights or haulage to serve the Foresight Energy facilities in Hillsboro

and Carlinville, Illinois.[50] UP agreed to grant rights to serve Foresight Energy 2-to-1 customer locations to another Class I carrier in the Second Supplemental Submission.[51]

1. Trackage Rights to Hillsboro, Illinois

54. The Foresight Energy facility in Hillsboro, Illinois (Hillsboro Energy, LLC), is located just east of the Tuscola Line and is currently served by both UP and NS. CN proposes to access this facility via local trackage rights. The "Hillsboro Line" consists of approximately 133.2 miles of UP track between Hillsboro, Illinois to Sullivan and Tuscola, and from Hillsboro through Lenox in Mitchell and WR Tower in Granite City to Q Tower TRRA in East St. Louis.[52] Granting access to CN will enable Hillsboro Energy to maintain its direct access to two Class I railroads.[53] A map depicting rail access to the Hillsboro Energy facility is provided as **Figure 12**.

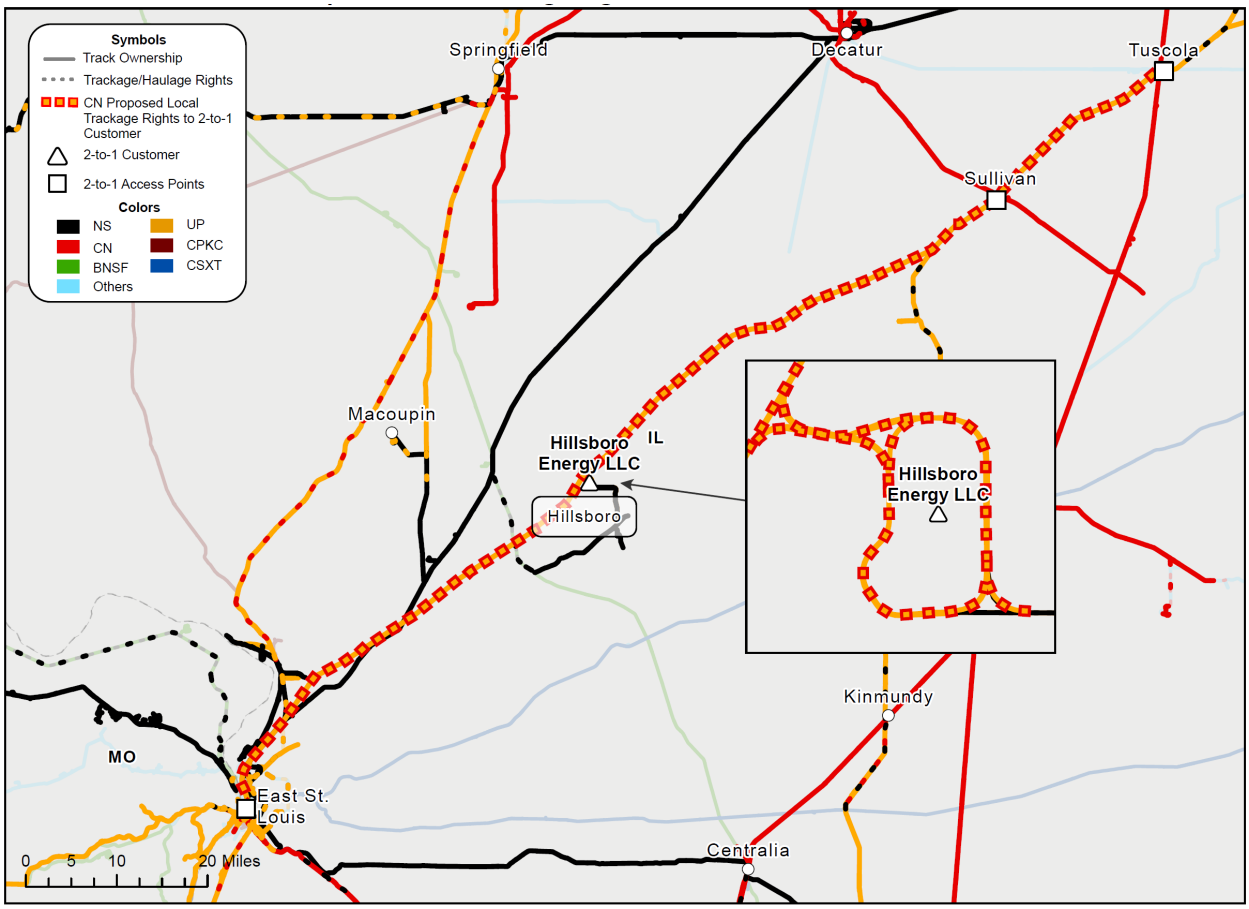
[50] Comment at 10, 103; Operating Plan at 138–139.

[51] UP-80/NS-78 at SUPP. PAGE 58, FD 36873 (filed July 27, 2026) [hereinafter "Second Supplemental Submission"]. *See also* Comment at 86–87.

[52] Kahwaty Workpapers "Mileage_Calculations.xlsx."

[53] Comment at 86–87; Operating Plan at 138.

Figure 12
Rail Access to the Hillsboro Energy Facility
CN's Proposed Condition: Local Trackage Rights



Source: Kahwaty Workpapers; *See also* U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

2. Trackage Rights to Carlinville, Illinois

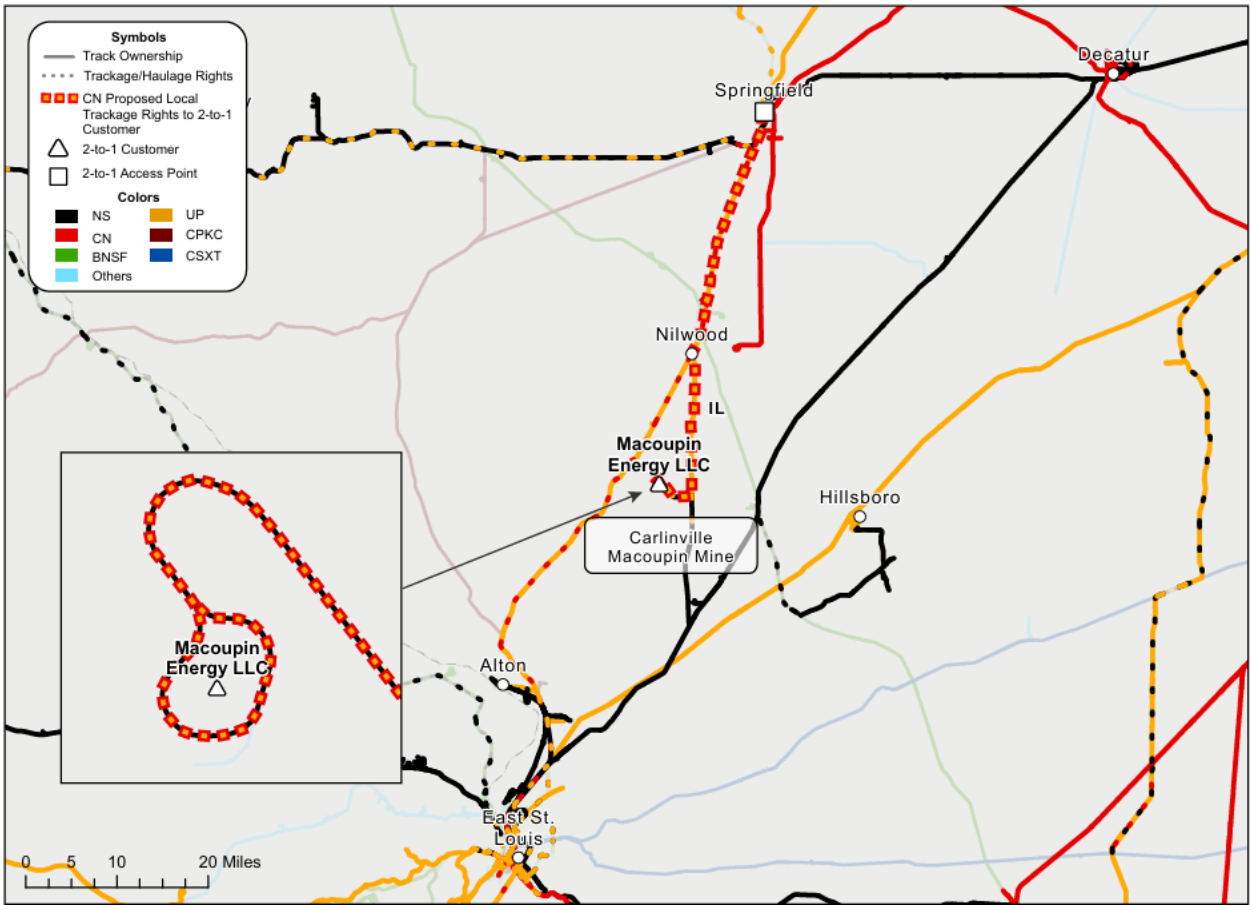
55. The Foresight Energy facility near Carlinville, Illinois (Macoupin Energy LLC, identified by Ms. Ellis, CN's Vice President, Bulk, Business & Industrial Development and Interline Relationships, as "Macoupin Energy Shay #1 Mine, formerly Monterey Mine No. 1") is between Springfield and East St. Louis, Illinois, and has rail access to UP and NS.[54] I understand that this facility is currently idle and was idle in the 2023 Base Year.[55]

[54] Ellis V.S. at 5.

[55] *Operations,* Foresight Energy, https://www.foresight.com/operations/ (last visited Nov. 17, 2026). EIA data do not report coal being delivered to generating stations from this mine in 2023; *2019 Annual Report (Form 10-K),*

Nevertheless, granting CN access to Macoupin Energy via limited local trackage rights would enable this facility to maintain its direct access to two Class I railroads in the event of a future restart to mining at this facility. It would be served by CN via limited local trackage rights from Springfield, Illinois.[56] A map depicting rail access to the Macoupin Energy facility is provided as **Figure 13**.

Figure 13
Limited Local Trackage Rights to Serve the Macoupin Energy Facility
CN's Proposed Condition: Limited Local Trackage Rights



Source: Kahwaty Workpapers; *See also* U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

Note 3, Foresight Energy LP, https://www.sec.gov/Archives/edgar/data/1540729/000156459020015553/felp-10k_20191231.htm, (last visited Nov. 17, 2026). ("In March 2020, we idled operations at our Macoupin complex, owing to the significant challenges in the thermal coal markets…")

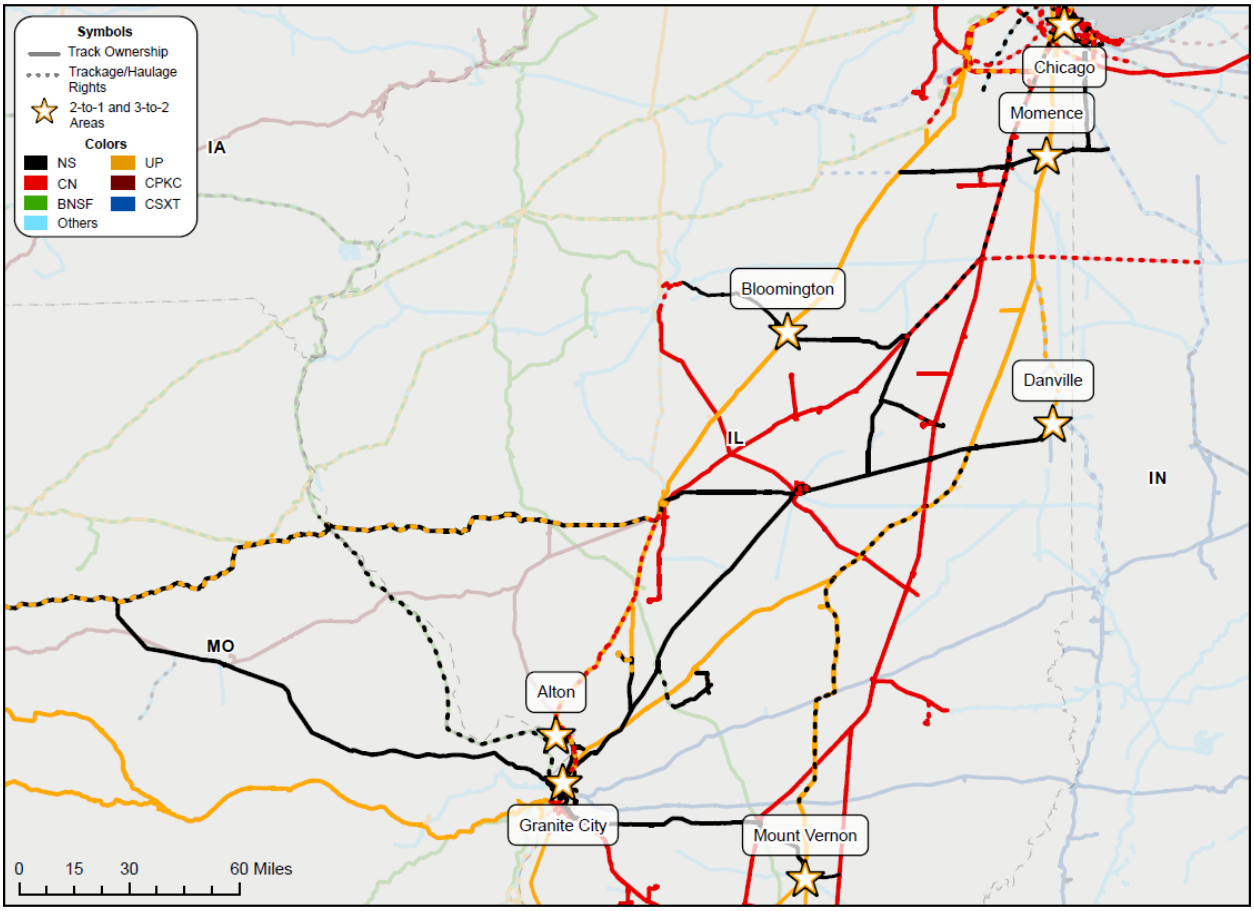
[56] Comment at 86–87; Operating Plan at 138–139.

F. Haulage or Switching Access to Remaining Illinois 2-to-1 and 3-to-2 Customer Facilities

56. There are additional 2-to-1 and 3-to-2 customer facilities in Chicago, Bloomington, Mt. Vernon, Granite City, Momence, Federal/Alton, and Danville, Illinois. CN is seeking haulage or switching access to these customers. Ms. Levis identifies a specific example, "USS Granite City Works is a 3-to-2 customer in Granite City, Illinois." She states, "CN and Union Pacific agree that the preferred remedy for this customer facility is that the facility should be opened to switching for CN in St. Louis."[57] I do not model traffic flows on Applicants' track needed for CN to provide service to these customers due to the types of access sought, but I do include the traffic diverted from Applicants to CN on track owned by CN or accessed via proposed trackage rights. A map depicting the locations of these 2-to-1 and 3-to-2 customers is provided as **Figure 14**.

[57] Levis V.S. at 5–6. Ms. Levis also states, "CN has the ability to access USS Granite City Works via a switch from the TRRA at East St. Louis, Illinois, which means CN would not be dependent on UP to effectuate the proposed remedy." (Levis V.S. at 5–6.)

Figure 14
Additional 2-to-1 and 3-to-2 Customer Facilities in Illinois

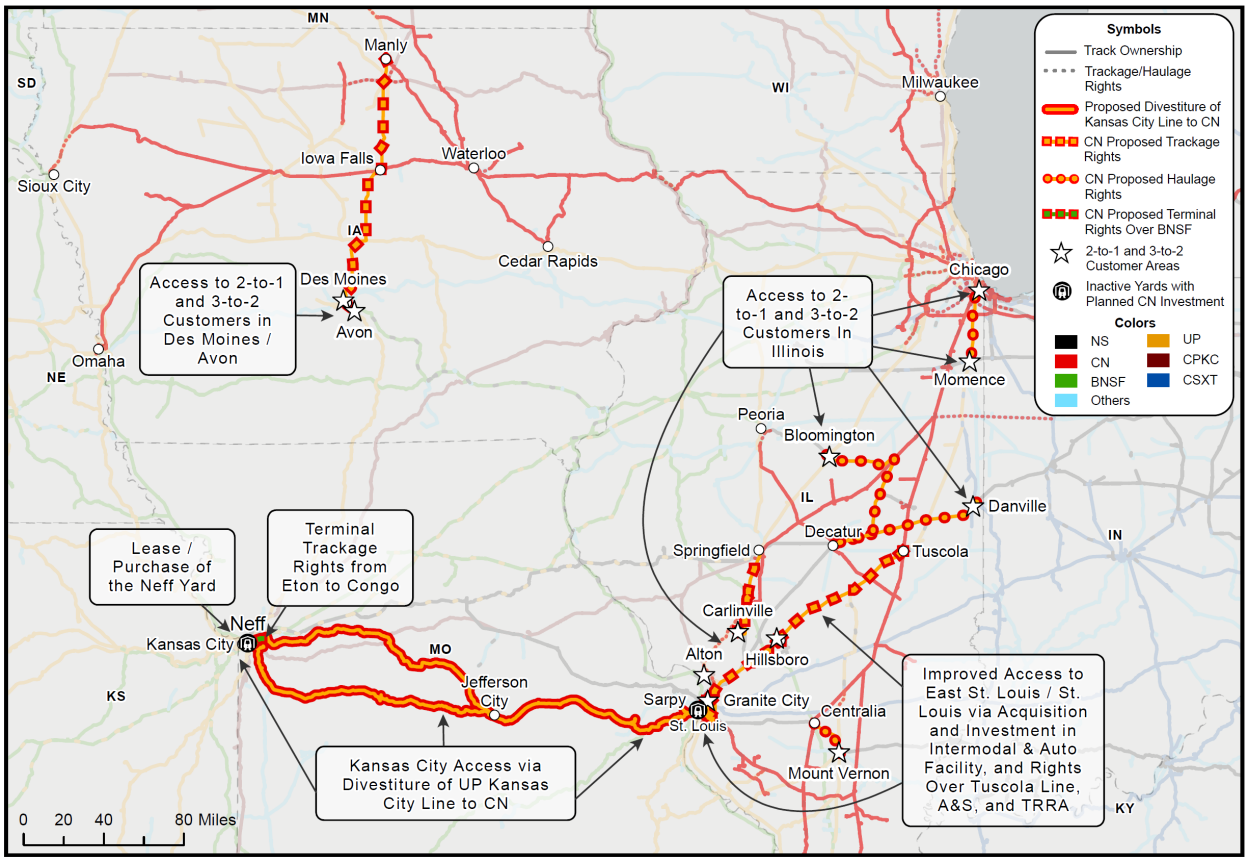


Source: Kahwaty Workpapers; *See also* U.S. Bureau of Transportation Statistics, National Transportation Atlas Database.

G. All CN's Proposed Conditions Relating to Track Access

57. A map depicting CN's network in the Midwest as augmented by the Tuscola Line, the Kansas City Line, the Des Moines Line, the Hillsboro Line, and access to Foresight Energy's Macoupin Energy facility is provided as **Figure 15.**

Figure 15
CN's Expanded Midwest Rail Network Assuming All CN's Proposed Conditions Relating to Track Access Are Approved by the Board



Source: Kahwaty Workpapers; *See also* U.S. Bureau of Transportation Statistics, National Transportation Atlas Database.

58. Overall, CN's proposed conditions would provide CN access to the Kansas City gateway, improve its access to the St. Louis gateway, and provide it with rights to serve shippers that now have access to both UP and NS, either alone or with a third Class I railroad. These are 2-to-1 and 3-to-2 shippers. Each of these shippers would otherwise lose access to a direct competitive alternative post-transaction without the proposed remedies. After the implementation of CN's proposed conditions, CN would be able to provide new or improved service between parts of both Canada and the northern and southern U.S. Midwest and the St. Louis and Kansas City areas, and via these gateways to other parts of the United States.

H. Open Gateway Conditions

59. The open gateway commitments Applicants offered in their Amended Application are based on those approved by the Board for the CP/KCS merger.[58] In CP/KCS, the Board found that open gateway commitments are an "important foundation to mitigate the potential for competitive harm."[59] As the remedy carrier, having effective open gateway requirements is important for ensuring that CN is able to maintain competition in the markets most likely to result in competitive harm due to the Proposed Transaction.

60. CN's proposed conditions request that the Board impose robust and enforceable open gateway protections.

61. In the next section, I address the potential for foreclosure resulting from the Proposed Transaction and the need for robust and enforceable open gateway protections to prevent such foreclosure. I then present my analysis of diversions.

III. OPEN GATEWAY CONDITIONS ARE CRITICAL

A. Vertical Foreclosure Concerns in the Rail Industry

62. CN plans to invest significant resources purchasing the Kansas City Line and making investments in intermodal facilities and automobile ramps in both St. Louis and Kansas City, among other investments. *See* **Section IV** and Operating Plan at 41–42, 45, 48, 57, 62, 67. To ensure that CN can preserve the competition that would be lost due to the Proposed Transaction, CN will need adequate traffic volumes to run over the Kansas City Line to make its planned investments commercially viable.

[58] UP-39/NS-37, FD 36873, Vol. 1 at 91 (filed Apr. 30, 2026) [hereinafter the "Amended Application" or "Am. Appl."]; *see also* Comment at 70.

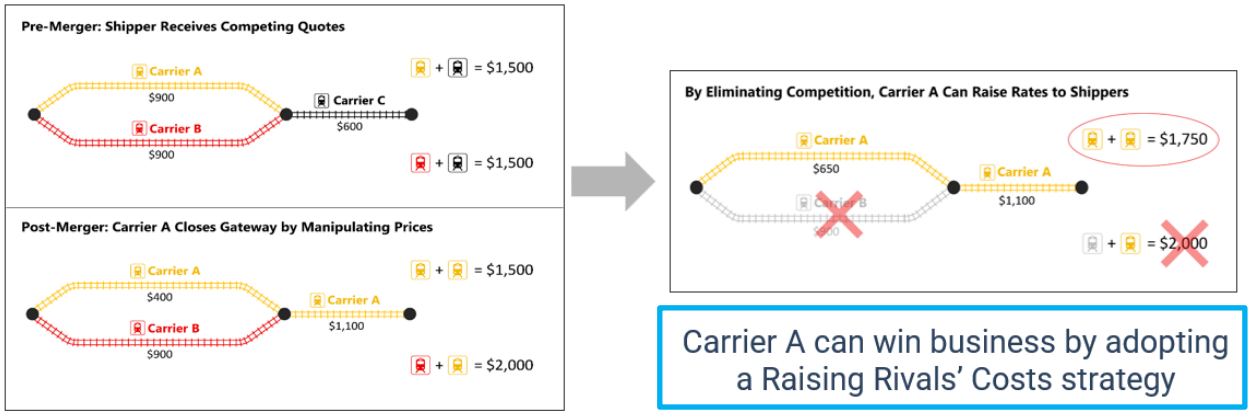
[59] Decision No. 35, *Canadian Pac. Ry.—Control—Kan. City S.*, FD 36500, slip op. at 4, 62 (STB served Mar. 15, 2023) [hereinafter "*CP/KCS*"]. ("The Board finds that these three commitments [including open gateway commitments] are an important foundation to mitigate the potential for competitive harm and will condition its approval of the Transaction on the requirements specified below, which use Applicants' core commitments as a starting point but clarify and expand on them in various ways.")

63. The diversion results reported in **Section VI** (**Table 4)** show that CN has the potential to convert substantial traffic volumes to its new and expanding businesses in St. Louis and Kansas City, including along the Kansas City Line and at the automobile and intermodal terminals in St. Louis and Kansas City. Some of CN's traffic on the Kansas City Line will terminate in Kansas City, but other traffic will be interchanged for onward conveyance to its destination.[60] Achieving these volumes of business would only be possible, however, if CN's anticipated traffic volumes are not foreclosed at gateways, preventing or inhibiting CN traffic from reaching its ultimate destination. Foreclosure of CN traffic would inhibit CN's traffic growth and could undermine CN's investments in the area as well as its ability to compete.

64. Foreclosure can be either full or partial and can involve both price and non-price elements. Suppose a firm supplies a critical input to itself to manufacture a product and to rivals that manufacture the same product. The firm supplying such an input would engage in full foreclosure if it blocked a rival's access to the input as shown in **Figure 16**. This Figure illustrates potential foreclosure in the railroad industry: if a merger between Carrier A and Carrier C enables the merged entity to close a gateway used by Carrier B via price manipulation or outright refusal to supply a downstream rival, the merged entity can raise prices to shippers. Such foreclosure can result in increased prices for shippers post-merger and have longer-term effects (e.g., reduced route density) for the disfavored carrier.

[60] I estimate that over 70% of CN's traffic to Kansas City will interchange with another carrier for onward conveyance. *See,* Kahwaty Workpapers "KCITY_Gateway_v_KCITY_Termination.ipynb".

Figure 16
Example of Full Input Foreclosure



Source: Adapted from BNSF Railway Company, *CP–KCS Merger Hearing: BNSF Presentation*, FD 36500, Exhibit 305429, at slides 16–18 (entered Oct. 5, 2022). Carrier labels and illustrative dollar amounts modified. *See also* Verified Statement of Steven Salop, *Canadian Pac. Ry.—Control—Kansas City S.*, FD 36500 [hereinafter "Salop V.S."], at 11, Figure 1.

65. A firm would engage in partial input foreclosure if it continued to supply the input to the rival but at a higher price, lower quality, or under less favorable terms. Supplying inputs to rivals at a higher price is one form of a "raising rivals' cost" strategy.[61] Non-price foreclosure involves disfavoring rivals based on input quality, features, supply assurance, or any other strategy based on factors other than price. Each of these types of foreclosure can have an adverse impact on competition.

66. Such foreclosure concerns are present in the rail industry generally, and for the proposed UP/NS merger specifically. The merged UP/NS potentially could disadvantage an interline rival without completely foreclosing an interchange point. In the railroad industry, examples of price-based partial foreclosure strategies include an increase in trackage rates charged to the rival railroad or an increase in the price of a leg on an interline movement.

67. Examples of partial foreclosure strategies include, for example, increasing the time needed to complete interchanges or reducing a rival's role in an interline movement ("short hauling"). A potential post-merger short-hauling strategy by UP/NS would affect interline

[61] Steven C. Salop and David T. Scheffman, *Raising Rivals' Costs*, American Economic Review, Vol. 73, No. 2, at 267–271 (May 1983). *See also* Adekola Oyenuga, *Vertical Mergers, Raising Rivals' Costs and Foreclosure in a Network Industry*, Modern Economy, Vol. 5, at 443–460 (2014).

rivals via pricing that effectively would compel a shipper to select an interchange point which lengthens UP/NS's portion of the haul (thereby increasing the merged railroad's miles and revenue). Other partial foreclosure tactics could include manipulating pricing to steer interchange to a less efficient location, adding cost, dwell, and handling for the shipper, or otherwise delaying rate quotes or interchange handling, or degrading the frequency and quality of interchange service. Each of these tactics would leave shippers with slower, less reliable service or otherwise increase the rival's costs and push traffic toward the merged carrier's routing. As a result, shippers lose the competitive discipline that alternatives would otherwise provide.

68. Short hauling can result from a connecting carrier's raising rivals' cost strategy. For example, the connecting carrier (e.g., the merged UP/NS) could offer the same price to a customer or interline partner for a shorter leg of an interline movement (e.g., UP/NS leg from Kansas City to Las Vegas) as it does for its preferred haul of an interline movement (e.g., UP/NS leg from Chicago to Las Vegas) to encourage the use of the longer leg offered. Since transportation costs are a function of distance, a strategy of forcing shippers onto longer UP/NS routes potentially can raise shippers' costs and increase transit times, ultimately harming both shippers and the foreclosed interline rival.

B. Economic Theory Does Not Dispel Vertical Foreclosure Concerns - Studying the CPKC Merger Empirically is Relevant

69. Dr. Israel argues, largely based on theoretical propositions, that vertical foreclosure is unlikely to occur following the Proposed Transaction due to certain railroad industry characteristics.[62] He states that "[t]he main theories of vertical foreclosure that have been

[62] Am. Appl. Vol. 2, Verified Statement of Mark Israel at 12 [hereinafter "Israel V.S."] ("However, any such theory of foreclosure would at most apply to a very limited set of cases: those where shippers do not negotiate non-linear pricing terms with railroads, where they do not obtain pricing directly from the sole-served railroad in the pre-merger case, and—at least according to any economic papers I am aware of—where they do not use Rule 11 pricing. They would also depend on restrictions on firm behavior and other assumptions that do not fit the facts of the railroad industry").

developed in the economic literature are ill-matched to this transaction and the railroad industry."[63] He elaborates on this as follows:

> In some prior vertical mergers, the STB has indicated a concern that the conditions for vertical foreclosure may be present and questioned whether the merging railroad could foreclose competition post-merger. In particular, the STB has expressed concern regarding foreclosure on routes with one sole-served segment and one competitive segment served by two or more carriers. … I perform a detailed economic analysis of the characteristics of the railroad industry to assess whether any such foreclosure concerns are valid. … I find that the economic theories of foreclosure that have been developed in the literature are ill-matched for the railroad industry.[64]

70. Just a few years ago, in March 2023, the Board approved the merger of Class I railroads CP and KCS to form Canadian Pacific Kansas City Railway Company ("CPKC"), a merger that was consummated in April 2023.[65] The potential for vertical foreclosure was a central issue in the Board's review of the CP/KCS merger.[66] UP's economic expert Dr. Salop explained in his V.S. related to that merger that there are economic incentives resulting from a vertical merger for the merged entity to engage in foreclosure and increase prices, as well as for the merged entity to reduce prices.[67] How these incentives balance out is an

[63] Israel V.S. at 6.

[64] Israel V.S. at 10 (footnote omitted, emphasis added). Similarly, Israel V.S. at 12 states, "…an economist opposing this transaction may nevertheless be able to come up with a theory under which foreclosure is possible. In the economic literature on vertical contracting, nearly anything is theoretically possible given enough restrictions on the form of contracting and firm behavior. However, any such theory of foreclosure would at most apply to a very limited set of cases: those where shippers do not negotiate non-linear pricing terms with railroads, where they do not obtain pricing directly from the sole-served railroad in the pre-merger case, and—at least according to any economic papers I am aware of—where they do not use Rule 11 pricing. They would also depend on restrictions on firm behavior and other assumptions that do not fit the facts of the railroad industry. I deal with many such "edge cases" … explaining why they are ill-suited for the railroad industry and should not raise concerns. More generally, such edge cases based on economic models that do not fit the railroad industry certainly should not serve as the basis to block such a beneficial transaction."

[65] *See Canadian Pacific and Kansas City Southern Combine to Create CPKC,* CPKC, April 14, 2023, https://investor.cpkcr.com/news/press-release-details/2023/Canadian-Pacific-and-Kansas-City-Southern-combine-to-create-CPKC/default.aspx (last visited Nov. 10, 2026).

[66] *CP/KCS*, slip op. at 66 ("Even evidence submitted by the Applicants here confirms that there is sound reason for the Board to be concerned about vertical foreclosure.").

[67] *See, for example,* Salop V.S., at ¶ 12 regarding incentives to engage in foreclosure by increasing prices ("Specifically, CPKC will have the incentive and ability to drive traffic to CPKC by raising the rates that KCSM charges for interline movements on routes where KCSM has an effective monopoly and CPKC competes with UP. As a result of the merger, foreclosure will generate incremental revenue and profits earned by the merged firm on

empirical question. However, on balance, Dr. Salop concluded that there was a substantial risk of vertical foreclosure from the proposed CP/KCS merger.[68] In addition to Dr. Salop, concerns about vertical foreclosure were also raised in the CP/KCS merger proceeding by UP's Kenny Rocker (Executive Vice President, Marketing and Sales) and John Turner (Vice President, Network Planning and Operations), as well as by NS's Michael R. McClellan (Senior Vice President and Chief Strategy Officer).[69]

71. Given the expressed concerns about the potential for vertical foreclosure due to the CP/KCS merger, including by UP's own economic expert and from industry executives, a retrospective analysis of that merger is relevant in assessing whether vertical foreclosure effects are a concern in the railroad industry generally, and whether evidence indicates that

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those routes where KCS can interline with CP, over and above what KCS would earn before the merger if it foreclosed UP and BNSF with higher rates.") and Salop V.S. at ¶ 17 regarding incentives to reduce prices ("Vertical mergers can also lead to downward pricing pressure from elimination of double marginalization (EDM)."). *See also* Salop V.S. at ¶ 47 ("But in the middle ground, the multitude of factors that enter into the determination of the impact of the merger on shippers means that it is not possible to make definitive general predictions") and more generally, Salop V.S. at ¶¶ 47–49.

[68] Salop V.S. at ¶ 13 ("The evidence presented later in this report indicates substantial foreclosure concerns from the proposed CPKC merger.").

[69] *See* UP-10, FD 36500 (filed Feb. 28, 2022), Verified Statement of Kenny Rocker and John Turner at 12. ("KCSM's rates are probably the most important factor in preserving competition at the Laredo Gateway. UP could have the most efficient routes north of the border, receive equal treatment at the Laredo Bridge, and have its traffic treated fairly in Mexico, but if the rates KCSM charges shippers for UP-KCSM movements are too high, shippers would lose the benefits of UP competition. If CP acquired control of KCS, CPKC would have the power to manipulate KCSM's rates to make competing UP-KCSM service more expensive for shippers, forcing them to switch to less desirable CPKC offerings, or at least causing them to pay more to CPKC if they continued using UP-KCSM service.").

Verified Statement of Kenny Rocker and John Turner at 14, ("Although rate-based strategies would provide the most direct opportunities for CPKC to force traffic diversions, CP control of KCS would also provide opportunities to divert traffic by making UP-KCSM transportation offerings more costly or less attractive in other ways. As explained above, today's competitive UP-KCSM service is built upon, and continues to depend upon, cooperation between the two carriers on a wide variety of operational matters. KCSM would have radically different incentives with respect to cooperation as part of CPKC. CPKC's potential strategies for making KCSM-UP service less attractive would be as broad and as simple as reducing the high level of cooperation that exists today.").

See also NS-12, FD 36500 (filed June 9, 2022), Exhibit B, Amended Verified Statement of Michael R. McClellan at 7, 9 ("**Serious Competitive Harm Is Likely to Result From the CP-KCS Transaction** …[W]ithout effective gateway protections imposed by the Board, the CP-KCS Transaction has the potential to effectively eliminate routes where NS is dependent on current KCS gateways, including the Meridian Gateway. If the combined CPKC pursues lengthening hauls instead of protecting the most efficient gateways, then non-intermodal traffic on these routes may be diverted to more circuitous CPKC routes and intermodal traffic could be diverted to trucks or longer rail routes…. Second, the CP-KCS Transaction has the unique potential to harm shippers that rely on NS intermodal service." (emphasis in original)).

vertical foreclosure effects occurred following the CP/KCS merger specifically, despite the presence of open gateway conditions. If no vertical foreclosure effects are found in a retrospective study of the CP/KCS merger, that would indicate either that vertical foreclosure effects did not emerge for economic reasons or that the open gateway conditions prevented foreclosure from emerging. On the other hand, if a merger retrospective study found evidence of vertical foreclosure effects, it would indicate both that the railroad industry could potentially experience such vertical competitive effects and that vertical foreclosure effects emerged following the CP/KCS transaction despite the open gateway conditions. A merger retrospective is particularly relevant for the Proposed Transaction because Applicants' proposed open gateway conditions are the same as those previously adopted by the Board for the CP/KCS merger.

72. Dr. Israel has conducted merger retrospective analyses in the past, including a retrospective of the litigated 2018 AT&T/Time Warner vertical merger and a study of airline mergers—an industry with characteristics substantially similar to the rail industry.[70,71] However, he conducted no such study for the Proposed Transaction, confirming in testimony that his opinions are not based on any empirical analysis of vertical foreclosure using actual rail market performance.[72] Dr. Israel stated that he did not conduct a retrospective analysis of prior mergers in this case because he did not think there was a {{ }}

[70] Dennis Carlton, Mark Israel, Ian MacSwain, and Eugene Orlov, *Are legacy airline mergers pro- or anti-competitive? Evidence from recent U.S. airline mergers,* International Journal of Industrial Organization, Vol. 62, at 58–95 (2019) [hereinafter "Carlton, Israel, MacSwain, and Orlov (2019)"]; Dennis W. Carlton, Georgi V. Giozov, Mark A. Israel, and Allan L. Shampine, *A Retrospective Analysis of the AT&T/Time Warner Merger*, Journal of Law and Economics, Vol. 65, No. 6, Article 6, at S461-S498 (2022) [hereinafter "Carlton, Giozov, Israel, and Shampine (2022)"].

[71] The rail and airline industries share many characteristics. From an industrial organization perspective, both are network industries characterized by high fixed costs, congestion, and capacity constraints; operate in an environment of imperfect competition; and face issues related to economies of scale, scope, and route density. Further, competition in both industries can occur on many levels, including on service between individual origins and destinations, and between networks, based on price and service quality measures (e.g., on-time performance). Given these common characteristics, if retrospective merger analysis techniques can usefully be applied to airline mergers, they can likely also usefully be applied to rail mergers.

[72] Deposition of Mark Israel at 206:10–16 (Oct. 15, 2026) [hereinafter "Israel Dep. Tr."] ({{ }}) *See also* Israel Dep. Tr. at 217:11–24.

and {{ }}[73] Dr. Israel testified that there were no other mergers he could study as a retrospective because the Proposed Transaction was a {{ }}[74] He further testified explicitly that he had not studied whether Dr. Salop's conclusions regarding the CP/KCS merger had merit.[75]

73. Dr. Israel's decision to ignore the CP/KCS merger on the basis that it is insufficiently comparable to test his theoretical propositions does not withstand scrutiny. The Proposed Transaction has the potential to create long, single line hauls. The CP/KCS merger did so too, allowing for hauls between Mexico and all the major population centers in Canada, along with U.S. cities such as Chicago, Detroit, and Minneapolis. The difference is that the CP/KCS merger created opportunities for long hauls that largely run north and south in the U.S., while the Proposed Transaction would create long hauls that generally run east-west. However, since pricing is lane-specific, not national, and foreclosure is possible at individual gateways, differences in haul direction and length provide no justification for concluding that a CP/KCS merger retrospective is not relevant for assessing the potential for vertical foreclosure as a result of the Proposed Transaction.

74. Furthermore, Dr. Israel agrees that the open gateway commitments offered by Applicants "mirror those imposed in the CP-KCS merger" and include:

- Keeping all existing gateways open in perpetuity on commercially reasonable terms (including both rates and service), for both existing and new traffic;

[73] Israel Dep. Tr. at 323:22–324:3 ({{ }}) Israel Dep. Tr. at 324:15–24 ({{ }}).

[74] Israel Dep. Tr. at 324:4–13 ({{ }}).

[75] Israel Dep. Tr. at 325:20–326:5 ({{ }}).

- Offering connecting carriers commercially reasonable rate divisions and negotiating in good faith regarding disagreements;
- Ensuring no new regulatory bottlenecks that could limit STB rate review;
- Providing (upon request) written justification of price increases in excess of inflation; and
- Submitting monthly reports on interchange volumes at gateways during the oversight period.[76]

The fact that the CP/KCS open gateway conditions "mirror" those for the Proposed Transaction makes a retrospective study of that merger particularly relevant.

75. Several years have passed since the CP/KCS merger was consummated, and the effects of the CP/KCS transaction—including vertical foreclosure effects—can now be evaluated by looking at market outcomes in the industry since then. Simply put, there is no basis to conclude that a retrospective study of the CP/KCS merger cannot inform an analysis of pricing or foreclosure on individual lanes or regarding individual gateways relevant to the Proposed Transaction.

76. In the following subsections, I describe my retrospective study of the CP/KCS merger. Before doing so, I note that Mr. Richard Miller, CEO of Spearpoint Logistics, an intermodal freight broker and logistics provider, submitted comments regarding his experience with foreclosure by CPKC, stating:

> Most importantly, critical competitive gateways to/from Mexico have been closed to competing railroads. I spent over a decade leading BNSF's Mexico business, in which time BNSF successfully partnered with the KCS and the KCS de Mexico to provide shippers highly efficient and competitive service offerings to/from Mexico over the Laredo, Texas gateway. At its peak, BNSF was moving more than 10,000 units over Laredo every single month. We feared that a merged CPKC would have every incentive to commercially foreclose that gateway and shift that traffic to its own single-line service, and that is exactly what happened. Even before the merger was

[76] Israel V.S. at 225.

> approved, KCS and KCS de Mexico refused to continue our highly successful interline service offerings under the terms we had in place for years. And after the merger was approved, the merged CPKC simply refused to enter into any sort of interline agreement at all. This foreclosed BNSF's ability to offer competing service over the Laredo gateway, reducing our 10,000 monthly units to zero. While BNSF has since developed alternative service with the FXE over the Eagle Pass gateway, routing over Eagle Pass is significantly disadvantaged compared to Laredo for many important Mexican markets, thus eliminating an excellent commercial option for rail shippers wanting to serve those markets.[77]

C. Merger Retrospective Methodology Studying Foreclosure at the {{ }} Interchange to Assess the Adequacy of the Proposed Open Gateway Conditions

77. Economists and other researchers often study "natural experiments" which are based on real-world events as opposed to controlled laboratory experiments.[78] A merger presents one such type of natural experiment to study. Mergers like the Proposed Transaction represent a structural change in the rail industry. If there are a relatively small number of industry participants, such a structural event can change the number of competitors vying for business, the products and services offered to customers, prices, product or service quality, and production and consumption patterns (among other effects). Markets react to such structural events, and the study of prior transactions can produce important insights regarding those reactions. In short, a merger retrospective analyzes the real-world market responses of economic variables—such as prices and output—to an event like a merger.

78. Conducting a retrospective study of the CP/KCS merger—the only recent merger among Class I railroads—is a natural economic approach to evaluate whether the CP/KCS open gateway conditions are sufficient to counteract or deter potential vertical competitive effects arising from the Proposed Transaction. One can study whether the CP/KCS merger

[77] Letter from Richard Miller to the Board dated November 11, 2026, at 2.

[78] Economists generally cannot conduct randomized controlled experiments—like those done to test the efficacy of a new drug—to analyze the effects of a given event on outcomes. They can, however, observe and study the effects of natural experiments such as unexpected plant outages, the entry or exit of key competitors, a change in the economic or regulatory environment, or, as in this case, a previous industry merger.

produced vertical foreclosure effects of the type anticipated by Dr. Salop and UP and NS executives or if there were no such effects as indicated by Dr. Israel in his V.S. submitted in the current proceeding. A finding of vertical foreclosure effects would indicate that Dr. Israel's conclusions (largely based on theoretical considerations) are inconsistent with industry facts and experience. Further, a finding of vertical foreclosure would mean that these effects emerged despite the presence of the same open gateway conditions that Applicants propose to apply to the Proposed Transaction.

79. I perform a merger retrospective of the CP/KCS merger using an analytic technique called a "difference-in-differences" or "DiD" analysis. The DiD analytical framework is a preferred methodology for analyzing the competitive effects, if any, from mergers. For example, in his expansive meta-analysis of merger retrospective studies (nearly 50 papers evaluating over 3,000 mergers), economist John Kwoka states:

> As demonstrated by this discussion and by example, difference in differences analysis substantially lessens the burden of controlling for other influences in merger and policy analysis. It has been the methodology of choice for most merger retrospectives in recent years, and those retrospectives constitute the foundation of present research.[79]

Economist Daniel Greenfield similarly states:

> Difference in differences regression is the standard methodology for estimating the effects of mergers. In its simplest form, it effectively and efficiently controls for fixed omitted variables, that is, factors that are time invariant for a given subject and factors that are fixed across subjects at a given period in time.[80]

Similarly, Applicants' economic expert, Dr. Israel, has conducted merger retrospectives including (as described above) a retrospective study of airline mergers and the 2018

[79] John Kwoka, *Mergers, Merger Control, and Remedies - A Retrospective Analysis of U.S. Policy*, MIT Press, 2015 at 51 (emphasis added).

[80] Daniel Greenfield, *Guide to Merger Analysis Using Difference in Differences*, in John Kwoka, *Mergers, Merger Control, and Remedies - A Retrospective Analysis of U.S. Policy*, MIT Press, 2015 at 69–70 (emphasis added).

AT&T/Time Warner vertical merger using the same DiD technique I use here and describe further below.[81]

80. The DiD methodology studies the impact of an intervention (or "treatment") on an outcome of interest for two groups—one that was exposed to the intervention (the "treatment group") and one that was not (the "control group") over two periods, one before and one after the treatment.[82] I use a DiD analysis to study the CP/KCS merger by comparing the changes in prices before and after the merger for a treatment group to the changes in prices before and after the merger for a control group.[83] I discuss how the treatment group and control groups are defined for the purposes of my study in the following section, which also specifies the DiD analysis I conduct and presents the results of my analysis. **Attachment B** provides a detailed description of how a DiD methodology works more

[81] Carlton, Israel, MacSwain, and Orlov (2019); Carlton, Giozov, Israel, and Shampine (2022). In the 2022 AT&T/Time Warner paper, Dr. Israel and his co-authors implement a difference-in-differences regression methodology presented by the AT&T expert (both unweighted and weighted by 2010 affiliate revenues) based on prior analysis in the Comcast/NBCU merger.

In the 2019 airline study, Dr. Israel and his co-authors analyze the effects of three airline mergers—Delta/Northwest, American/US Airways, and United/Continental—by comparing how the variables of interest changed between pre- and post-merger periods. Their analysis draws conclusions by studying routes for which the airline mergers were expected to have the strongest competitive effects (i.e., overlapping routes), and comparing the changes in certain variables seen for those routes to changes in those variables seen for routes not expected to be affected by the mergers.

[82] Though applied in various situations and under different circumstances, all DiD models share the same basic framework. That is, to investigate the impact of an event ("the treatment"), a comparison of outcomes is done between the treatment group and a control group that did not experience the event but is otherwise similar to the treatment group. Doing so ensures that, by construction, the DiD methodology (implicitly) accounts for the effect of common influences (i.e., factors affecting both the treatment and control groups) on the treatment group that would have occurred absent the event under study. For example, the basic experimental design for an investigation of the efficacy of a prescription drug involves comparing the experience of a treatment group (those who receive the test drug) and a control group (those who do not receive the test drug). The control group is structured to be similar in all significant respects to the treatment group. This allows the control group to be used as a benchmark against which to measure any effect of the drug on the treatment group. *See, for example*, Jeffrey M. Wooldridge, *Introductory Econometrics: A Modern Approach*, 6th Edition, 2016 at 410–411; and William H. Greene, *Econometric Analysis*, Pearson, Eighth Edition, 2018 at 167–175.

[83] The use of a control group allows one to study price changes in the treatment group while taking into account effects due to other, non-merger factors affecting prices (e.g., inflation, fuel prices, wage rates, etc.). These other non-merger factors may affect railroad pricing, but they affect pricing for both the treatment group and the control group. *See*, Jeffrey M. Wooldridge, *Introductory Econometrics: A Modern Approach*, 6th Edition, 2016 at 410–411; and William H. Greene, *Econometric Analysis*, Pearson, Eighth Edition, 2018 at 167–175.

generally, as well as the results of certain diagnostic tests and sensitivity analyses performed as part of my DiD study.

D. The CP/KCS Merger Retrospective Study Shows Potential Foreclosure in the Railroad Industry, Even with Open Gateway Conditions

81. Dr. Salop hypothesized that the price charged for movements from Mexico to {{ }} for onward conveyance into the U.S. would increase after the CP/KCS transaction.[84] Consider a movement from Mexico to Chicago, for example. Even if the total price for the movement were unchanged, Dr. Salop hypothesized that the merged CPKC would have incentives to increase the prices for the Mexico to {{ }} leg for interlining partners, encouraging shippers to use the merged entity's single line option.

82. My retrospective study analyzes interline pricing and volume for movements originating in Mexico and interlining at the {{ }} gateway compared with a set of comparable CPKC movements.[85] My treatment and control groups are defined as follows:

- "Treatment Group" – shipments originated in Mexico by KCS (pre-merger) or CPKC (post-merger) and interlining at the {{ }} gateway with UP.[86]
- "Control Group" – CP or KCS interline shipments (pre-merger) and CPKC interline shipments (post-merger) that do not pass through any of the 13 gateways subject to the CPKC open gateway conditions.[87]

83. An example of a carload in the Treatment Group is one that originates in Mexico City and interchanges with UP at {{ }}, for further passage to Kansas City, Missouri. An example of a carload in the Control Group is one that originates on UP in Wyoming and

[84] Salop V.S. at § 5.

[85] The traffic tape data produced in this docket regarding the Proposed Transaction allow me to calculate separately prices for different "legs" of each shipment. I calculate the relevant price related to CP and/or KCS (pre-merger) and CPKC (post-merger) as CP and/or KCS revenue divided by total carloads pre-merger and as CPKC revenue divided by total carloads post-merger.

[86] Such movements would have been handled by KCS's Mexico affiliate, Kansas City Southern de Mexico or "KCSM" pre-merger. For ease of exposition and consistency, I refer to KCSM movements as KCS movements.

[87] The gateways subject to the merger's open gateway conditions are Beaumont, Chicago, Dallas, East St. Louis, Eastport, Jackson, Kansas City, Laredo, Meridian, Minneapolis/St. Paul, New Orleans, Robstown, and Shreveport. *See CP/KCS* at 81-82.

interchanges with CPKC at Clinton, IA, for further passage to Columbia, Wisconsin. Note that I exclude shipments passing through the 13 gateways from the Control Group in my study because pricing (volume) at these gateways was subject to the open gateway conditions and so are not independent of the event defining the Treatment Group.

84. The underlying data for the merger retrospective cover the period 2019–2025. However, the CPKC merger process proceeded in several steps: the proposed merger was announced in March 2021, the merger application was filed with the Board in October 2021, the merger was approved by the Board in March 2023, and the merger was ultimately consummated in April 2023.[88] To account for the transition between the pre- and post-merger periods and potential merger-related "announcement effects" on prices, I report as my main results the findings from an analysis that excludes data from March 2021 through April 2023. I also report results using data for the entire 2019 – 2025 period in **Attachment B**.

85. This framework allows me to test Dr. Salop's vertical foreclosure concerns regarding potential price effects (and volume changes) for movements interchanging at the {{ }} gateway. Before presenting the regression results from the DiD model, I present in **Figure 17** a comparison of changes in prices in the Treatment and Control Groups between the pre-merger and post-merger periods.[89] Price is calculated for specific combinations of shipper-origin-destination. I calculate the percentage price change in these prices from the pre-merger period (January 2019–February 2021) to the post-merger period (May 2023–December 2025), a comparison which excludes the transition period.[90]

[88] *See Canadian Pacific and Kansas City Southern combine to create CPKC,* CPKC, https://www.cpkcr.com/en/media/canadian-pacific-and-kansas-city-southern-combine-to-create-cpkc (last visited Nov. 13, 2026).

[89] Kahwaty Workpapers, "CPKC Retrospective."

[90] Raw CPKC data exhibit sharp declines in revenues and carloads in December 2020 and December 2023. For December 2020, KCS reported that fourth-quarter volumes were adversely affected by service interruptions in Mexico, including an extended outage associated with protests affecting portions of its network. *Kansas City Southern Reports Fourth Quarter and Full-Year 2020 Results*, Ex. 99.1 to Form 8-K (Jan. 22, 2021). For December 2023, I observe an apparent absence of KCSM-sourced observations and therefore treat the observed decline as reflecting a data anomaly rather than underlying traffic conditions. The exchange rate coefficient used in this adjustment is based on Model 1 in **Figure B5**.

Figure 17
Price Increases after the CPKC Merger for Mexico Originated Shipments Interchanging at {{ }} Compared with a Control Distribution of Price Changes Pre-Merger to Post-Merger
{{

}}

86. **Figure 17** shows the distribution of price changes for Treatment Group shipments originating in Mexico and interchanging at the {{ }} gateway compared with shipments in the Control Group. These price change distributions show that, on average, prices for Treatment Group shipments interchanging at {{ }} experienced a larger increase than prices for Control Group shipments. While prices for movements at the shipper-origin-destination level increased by approximately {{ }} for the Control Group, prices increased by approximately {{ }} for shipments in the Treatment Group

originating in Mexico and interchanging at {{ }}.[91] This simple comparison indicates that prices for interline movements originating in Mexico and interchanging at {{ }} increased by approximately {{ }} than prices for movements in the Control Group. This difference is statistically significant at the 99% level of confidence.[92]

87. The price changes in **Figure 17** are consistent with Dr. Salop's expressed concerns about vertical foreclosure. While this direct comparison shows price increases, a formal DiD regression can test whether this differential change is attributable to the merger and whether the change is statistically significant. As described generally above, a DiD regression controls for cross-sectional differences across shipments as well as factors that impact prices over time for shipments generally. In other words, the regression accounts for price differences across shipments involving different commodities, routes, and other characteristics. In doing so, my DiD analysis estimates the change in prices for KCS or CPKC interline movements originating in Mexico and interchanging at {{ }} that are attributable to the merger while controlling for these other explanatory factors.

88. The revenues reported for KCS (pre-merger) and CPKC (post-merger) are denominated in U.S. dollars. Available documentation does not detail the extent to which reported revenues for shipments originating in Mexico may be affected by the conversion of Mexican-peso-denominated amounts into U.S. dollars. Accordingly, movements in the U.S. dollar/Mexican peso exchange rate may affect measured prices for the Treatment Group independently of changes in underlying prices. In addition, Mexican-specific events could affect interline movements originating in Mexico, thereby impacting prices in the Treatment Group in ways that are distinct from the Control Group. Because the Treatment Group consists of interline shipments originating in Mexico, I account for such factors by including a control variable for the exchange rate. Specifically, this control variable is the

[91] Kahwaty Workpapers, "CPKC Retrospective."

[92] Kahwaty Workpapers, "CPKC Retrospective."

natural logarithm of the U.S. dollar/Mexican peso exchange rate for Treatment Group observations (which might be impacted by such factors), as shown below.[93]

89. I estimate the following regression specification using monthly data:

{{

}}

90. The dependent variable in my DiD regression analysis is the natural logarithm of $price_{it}$, for route *i* in month *t* which is defined as revenue divided by carloads for CP and/or KCS (pre-merger) and CPKC (post-merger) for shipments in the Treatment Group or Control Group. The U.S. dollar/Mexican peso exchange rate measures the Mexican Peso value of one U.S. Dollar.[94] The year-month fixed effects are defined as indicator variables for each year-month, equal to 1 for observations in that year-month and 0 otherwise.[95] The shipment fixed effects are defined as separate indicator variables for each unique combination of origin, destination, car type, commodity type, shipper, railroad, intermodal status, contract type, whether the shipment is under Rule 11 pricing, whether the shipment is in the Treatment Group or Control Group, and car ownership type.[96] The inclusion of these fixed

[93] Such a control is called an interaction variable, as it is a variable (here, the exchange rate) multiplied by an indicator variable identifying observations for which the variable is relevant (here, equal to "1" for the Treatment Group and equal to "0" for the Control Group).

[94] Federal Reserve Bank of St. Louis, *Mexican Pesos to U.S. Dollar Spot Exchange Rate (DEXMXUS)*, FRED Economic Data, https://fred.stlouisfed.org/series/DEXMXUS (last visited Nov. 15, 2026).

[95] Because my model includes these separate year-month fixed effects, I do not (in fact, cannot) add a separate variable that is a post-merger indicator variable, as described in **Attachment B**. That is, my post-dummy indicator variable is subsumed in my year-month fixed effects controls.

[96] As with my post-merger variable, because I define my shipment fixed effects as whether that shipment is in the Treatment Group or Control Group, I do not (in fact, cannot) add a separate Treatment Group indicator variable in my analysis, as described in **Attachment B**. My Treatment Group indicator variable is subsumed within my shipment fixed effects controls.

effects controls for factors like commodity type (*e.g.*, higher prices for transporting hazardous chemicals), distance (*e.g.*, higher prices for longer hauls), and car ownership (*e.g.*, higher prices for rented cars). The error term, ϵ_{it}, shows the difference between the actual price and the price predicted by the regression model.[97]

91. The parameter of interest is β, which measures the average relative change in prices for Treatment Group movements relative to the average change in prices for movements in the Control Group. A positive and statistically significant estimate of β would be consistent with Dr. Salop's predicted vertical foreclosure effect in {{ }} following the CP/KCS merger. The results of my DiD analysis are reported in **Figure 18**.

Figure 18
Higher Prices Post-CP/KCS Merger for Movements Originating in Mexico and Interchanging at {{ }} Relative to Control Group
Difference-in-Differences Regression
January 2019 – February 2021 and May 2023 – December 2025
{{

}}

[97] A regression specification of this form is identical to the one presented in **Attachment B** and similar to that used in Carlton, Israel, MacSwain, and Orlov (2019).

92. In **Figure 18**, I report results for two variations of the DiD analysis – results from both unweighted and weighted regressions. The unweighted regression counts each observation as having the same level of importance, or "weight," in the regression analysis. The weighted regression uses the number of carloads as weights, thereby counting observations as having greater importance, or "weight," in the regression analysis based on the numbers of cars for each observation. The regression results show a positive and statistically significant price effect for Treatment Group movements interchanging at {{ }} relative to the Control Group for both variations of the analysis. The estimated average price effects in the weighted and unweighted regressions are approximately {{ }}, respectfully.[98,99]

93. I further study whether the observed price effects for the Treatment Group, the leg of the movement controlled by KCS (pre-merger) and CPKC (post-merger), are also observed in the leg of the movement controlled by interlining partner in the U.S. (*i.e.*, UP at {{ }}). **Figure 19** shows price indexes of these legs over the 2019 to 2025 period relative to controls. The price indexes incorporate all cross-sectional controls described in my regression analysis. Thus, this figure can be thought of as a visual representation of my DiD analysis (the red lines), though also including the leg of the interlining partner, UP.

[98] The percentage is calculated as 100 * [exp(0.0583)-1] for the unweighted regression and 100 * [exp(0.0494)-1] for the weighted regression.

[99] If this regression is estimated without the exchange rate variable, there continues to be a positive and statistically significant price effect for Treatment Group movements interlining at {{ }} relative to the Control Group in each specification, with the estimated price effect being larger than the results presented here. *See* **Attachment B** for these results.

Figure 19
Price Increases on Post-Merger CPKC Leg Higher than UP Leg for Movements Originating in Mexico, Interchanging at {{ }}
{{

}}

94. The red lines show the price indices for the CP and/or KCS (pre-merger) and CPKC (post-merger) leg of interline shipments for the Treatment Group and Control Group, calculated as revenue divided by carloads. The green lines show the price indices for the non-CP and non-KCS (pre-merger) or non-CPKC (post-merger) leg of the Treatment Group moves and non-CP or KCS (pre-merger) and non-CPKC (post-merger) for the Control Group. The dotted lines represent the Treatment Group, and the solid lines represent the Control Group.

95. As the figure shows, and consistent with my DiD analysis, legacy KCS (pre-merger) and CPKC (post-merger) prices in the Treatment Group, consisting of shipments originating in Mexico and interchanging at {{ }}, increased more than prices in the Control Group

(dotted red line compared with solid red line) post-merger. In addition, prices for the non-CP and non-KCS (pre-merger) and non-CPKC (post-merger) portion of shipments in the Treatment and Control Groups generally followed similar trends over the 2019-2025 period. Such results are consistent with the presence of partial vertical foreclosure, as prices on the CPKC (post-merger) leg of shipments originating in Mexico and interlining at {{ }} increased by substantially more than prices for the corresponding leg of these shipments in the U.S.

96. It is further instructive to examine what happened to the volume of cars passing through {{ }} before and after the CP/KCS merger. With partial vertical foreclosure, I would expect to see volumes through {{ }} increase for CPKC post-merger relative to interline CP-KCS movements pre-merger, and volumes decrease for interline movements where KCS movements to {{ }} interline with other railroads for onward transit to their destinations. **Figure 20** shows car counts in total passing through {{ }} in the dotted black line, car counts for joint KCS-CP movements (pre-merger) and CPKC single line movements (post-merger) in the red line, and car counts for movements interlining with KCS pre-merger and CPKC post-merger in the blue line. As seen in this figure, while overall volume has declined somewhat, CPKC single line movements increased substantially post-merger (red line) compared with KCS-CP interline pre-merger. At the same time, KCS (pre-merger) and CPKC (post-merger) interline movements declined markedly post-merger (blue line). These car count patterns are consistent with the emergence of partial vertical foreclosure following the CP/KCS merger.

Figure 20
Reduction in Interchanges at {{ }} and Increase in Single-Line KCS-CP (Pre-merger) and CPKC (Post-merger) Compared with Interchanges at {{ }}
{{

}}

97. **Figure 21** reports results from a DiD analysis (similar to the study above using price) using car counts as the outcome variable studied. Model 1 uses car counts as the dependent variable, while Model 2 uses the natural logarithm of car counts. The shipment fixed effects are defined as *separate indicator variables* for origin and destination, car type, commodity type, shipper, railroad, intermodal status, contract type, whether the shipment is under Rule 11 pricing, whether the shipment is in the Treatment Group or Control Group, and car ownership type.[100] The estimated treatment effect is negative and statistically significant in both specifications, consistent with the pattern in total car counts reported in **Figure 20**.

[100] Note that my DiD analysis studying price effects defines fixed effects as the unique combination of the fixed effects. In my DiD analysis studying output effects, I use each of the fixed effects included in the price regression,

Figure 21
Reduction in Car Counts Interchanging at {{ }} for
Movements Originating in Mexico Relative to Control Group
Difference-in-Differences Regression
January 2019 – February 2021 and May 2023 – December 2025
{{

}}

98. I would expect third parties to attempt to at least partially mitigate the effects of any partial foreclosure by shifting shipping patterns to use other gateways for movements out of Mexico instead of the {{ }} gateway. Interchange at {{ }} represents a potential alternative for at least some shippers as it sits on the U.S.–Mexico border approximately 100 miles northwest of {{ }} "as the crow flies." {{ }} would not be an option for a shipper captive to CPKC, and even if it were an option, it might result in suboptimal routing for shippers.

99. In examining traffic patterns at {{ }} and {{ }}, I looked at a specific category of traffic (transportation equipment) and found that volumes decreased at

but not the unique combination of each. This is to allow measurement of changes in volumes more generally rather than within routes only.

Because I define my shipment fixed effects as whether that shipment is in the Treatment Group or Control Group, I do not (in fact, cannot) add a separate Treatment Group indicator variable in my analysis, as described in **Attachment B**. My Treatment Group indicator variable is subsumed within my shipment fixed effects controls.

{{ }} and correspondingly increased at {{ }} post-merger (2024-2025). By looking at a specific product type, I rule out growth at {{ }} coming from other types of products. **Figure 22** shows transportation equipment volumes at {{ }} and {{ }}. These patterns are consistent with some transportation equipment shippers seeking alternatives to higher prices at {{ }} and shifting to {{ }} as an entry point into the U.S. However, based on my merger retrospective results addressed above, any such shipper responses were insufficient to defeat the price increases observed for traffic originating in Mexico and interlining at {{ }} after the CP/KCS merger.

Figure 22
Transportation Equipment Volumes Shifted from {{ }} to {{ }} After the CP/KCS Merger
{{

}}

100. In the absence of partial vertical foreclosure effects, I would expect to see volume at {{ }} increase for the merged railroad, decrease for third parties, and increase overall as interline shipments transition or divert to single line shipments. If the CP/KCS merger's effects were purely driven by efficiency gains, total volume through {{ }} would increase, not decrease. Instead, actual volume decreased at {{ }} and increased at {{ }} as third parties shifted volume to an alternative gateway to at least partially avoid the effects of the foreclosure for shipments through the {{ }} interchange.[101]

101. The two largest railroads in Mexico are CPKC and Ferromex. Some shippers have access to both railroads and so have the option to shift volumes away from {{ }} to {{ }}. Others, however, are captive to CPKC. Shifting volume to {{ }} is more difficult or not economically feasible for captive shippers. Shippers that continued to ship volume through {{ }} (including those captive to that option) faced price increases. All such effects are consistent with the emergence of partial vertical foreclosure following the CP/KCS merger.

E. Implications of the CP/KCS Merger Retrospective Analysis for UP/NS Merger Remedies

102. Applicants have proposed the same open gateway conditions be applied to the Proposed Transaction as were applied to the CP/KCS merger.[102] Given my CP/KCS merger retrospective analysis findings, I conclude that there is a potential for partial vertical foreclosure in the railroad industry as a result of the Proposed Transaction. Because of this risk, it is critically important that any open gateway conditions the Board imposes be strong enough to protect CN's shippers and traffic from partial foreclosure. Those protections are needed to ensure that CN has enough traffic on the Kansas City Line, and enough use of its intermodal and automotive facilities in the region, to make its acquisition of and investment in these facilities financially viable and to allow it to compete effectively. If

[101] *See* Kahwaty Workpapers "Transportation Equipment Volumes Shifted from {{ }} to {{ }} After the CP-KCS Merger.ipynb."

[102] *See* Second Supplemental Submission at 155, n.296, 208.

these facilities do not achieve sufficient volume, CN will be limited in its ability to preserve competition in the area over time.

103. Partial vertical foreclosure risks are even greater for the Proposed Transaction than the CP/KCS merger given Applicants' significant post-merger combined share of the U.S. Class I rail industry. **Table 3** summarizes the shares of the domestic Class I rail industry represented by each Class I railroad. It provides shares based on several different metrics. Based on 2025 data, the merged railroad would represent 43.2 percent of domestic Class I railroad revenue and 40.4 percent of Class I railroad revenue ton miles.[103]

Table 3
U.S. Class I Railroad Summary Statistics
2025
{{

}}

104. Furthermore, the merged UP/NS interchanges with third-party railroads at numerous gateways across the country—more gateways than the merged CP/KCS interchanges with third parties. This means that the merged UP/NS will have greater reach, more opportunities to foreclose rival railroads, and a greater ability and incentive to engage in partial vertical foreclosure than CPKC. CN and either or both of UP and NS are both present at gateways like Chicago, Memphis, New Orleans, and others. A full list of

[103] Railroad "Revenue Share" does not always sum to "UP/NS Combined Share" in the table due to rounding.

gateways and interchanges where CN overlaps with UP and/or NS is provided as **Attachment C** and includes:

- CN interchange overlap with UP and NS includes Chicago, Illinois; New Orleans, Louisiana; Memphis, Tennessee; Peoria, Illinois; and East St. Louis, Illinois.
- CN interchange overlap with UP includes Baton Rouge, Louisiana; Cedar Rapids, Iowa; Council Bluffs, Iowa; Sioux City, Iowa; Waterloo, Iowa; Superior, Wisconsin; Omaha, Nebraska; St. Louis, Missouri; Minneapolis/St. Paul, Minnesota; and Salem, Illinois, among others.
- CN interchange overlap with NS includes Toledo, Ohio; Buffalo, New York; Decatur, Illinois; Detroit, Michigan; and Mobile, Alabama, among others.

These are all potential points where the merged UP/NS can potentially foreclose CN—in addition to Kansas City—if the Board does not approve robust and enforceable open gateway protections.

105. The enhanced potential for vertical foreclosure arising from the Proposed Transaction as compared to the CP/KCS merger makes it even more important that the open gateway conditions applied are robust and enforceable to ensure that Applicants cannot exercise market power post-merger through the use of vertical foreclosure tactics.

106. Finally, the potential for partial vertical foreclosure post-merger highlights the necessity for the divestiture of the Kansas City Line as opposed to providing CN access to the Kansas City Line via trackage rights. Elevating trackage rates is one way the merged UP/NS could engage in partial foreclosure.[104] The divestiture of the Kansas City Line would prevent the merged railroad from engaging in foreclosure via the trackage rates charged to CN, in addition to removing the ability of the merged railroad to self-preference its own traffic or otherwise degrade CN service. The risk of partial vertical foreclosure necessitates

[104] UP CEO Jim Vena reportedly made comments at an investor conference indicating that if trackage rights were required, UP would just raise trackage right rates to make their use uneconomic: "If we allowed X railroad to run on our railroad for 800 miles, we would charge them a per car-mile charge that actually would make it more expensive for them to get to that destination." *Union Pacific blasts rival railroads' trackage rights requests: BNSF, CSX, CPKC seek widespread network access*, Trains.com (Sept. 18, 2026), https://www.freightwaves.com/news/union-pacific-blasts-rival-railroads-trackage-rights-requests (last visited Nov. 15, 2026).

divestiture to guard against the exercise of market power by the merged railroad and would enhance the effectiveness of the open gateway protections ordered by the Board.

IV. CN'S INVESTMENT PLANS

107. CN plans to invest substantial resources to build out its capabilities in both the St. Louis and Kansas City areas. These investments are designed to support its business plan, which is to grow its traffic at both gateways, and are detailed in multiple CN Verified Statements. CN's Operating Plan identifies that CN is proposing $81.5 million of investment over three years, which will improve transit times, expand capacity, and provide improved connections.[105] CN's investment plans include projects at the following locations:

- Neff Yard: expanded intermodal and operating capacity with track and yard upgrades.[106]
- Tuscola connection at Champaign: new connection on the Tuscola Line near milepost 153.76 – estimated investment of {{ }}.[107]
- Sullivan Station new track: connecting track added at milepost 176.2 on the Tuscola Line for coal trains – estimated investment of {{ }}.[108]
- Iowa Falls connection: new connection along the Des Moines Line at Mason City Subdivision – estimated investment of {{ }}.[109]
- Former Sarpy Yard property: improve UP's inactive former Sarpy Yard property in St. Louis for automobile operations.[110]

108. Investments relevant to my diversion analysis are summarized further below and discussed in other sections of this V.S. that detail my diversion estimates.

[105] Operating Plan at 150, Figure 52.

[106] Operating Plan at 150.

[107] Operating Plan at 151.

[108] Operating Plan at 152.

[109] Operating Plan at 153.

[110] Operating Plan at 154.

109. CN seeks to acquire the Kansas City Line, which includes about 427 miles of track.[111] At this time, no purchase price has been agreed between UP and CN for the Kansas City Line. In addition to purchasing the Kansas City Line, CN will need to invest in facilities to allow CN to access the Kansas City Line track.

110. CN expects to lease (with the option to purchase) the Neff intermodal terminal and begin using the Neff Yard to serve Kansas City and surrounding geographies immediately after the completion of the Proposed Transaction, divestiture of the Kansas City Line to CN, and commencement of CN's lease or completion of its purchase of Neff Yard.[112] CN does not expect that significant upfront investment at Neff Yard will be necessary to begin serving its intermodal traffic; however, CN does plan to make significant investments at Neff Yard to improve and expand its intermodal operations in Kansas City over time.[113] Mr. Nair states that CN anticipates adding "equipment, such as trucks and cranes."[114] CN also plans to use Neff Yard to serve automotive traffic. As detailed by Sarah Slazinski, CN's Assistant Vice-President, Automotive, "CN plans to use existing pavement and track where possible, which makes the site workable, but will otherwise invest as needed to convert the yard for automotive handling."[115] The Operating Plan identifies "track and other yard upgrades, such as equipment, fencing, repair tracks, lighting and security cameras" to expand intermodal and automotive capacity at Neff Yard.[116]

111. CN plans to develop intermodal and finished auto facilities in St. Louis as well. Specifically, CN is planning to build its own intermodal and finished auto distribution facility at UP's former Sarpy Yard property, which is in St. Louis on the Kansas City Line.[117] CN identifies an investment area of approximately 20 acres at the property and

[111] *See* Kahwaty Workpapers "Mileage_Calculations.xlsx."

[112] Nair V.S. at 8–9. *See also* Slazinski V.S. at 9–10.

[113] Nair V.S. at 9–10.

[114] Nair V.S. at 9.

[115] Slazinski V.S. at 10–11.

[116] Operating Plan at 150.

[117] Operating Plan at 101, 106–107, 154–155; Nair V.S. at 10–11; Slazinski V.S. at 12–13.

anticipates that improvements will occur within the yard's existing boundary.[118] CN plans to invest in the property to open automotive and intermodal terminals and expects intermodal capacity to become available once the planned infrastructure improvements are completed; CN can begin marketing that capacity before completion.[119] CN's five-year projections anticipate 30.2 intermodal trucks and 8.9 automotive trucks per day at the former Sarpy Yard property.[120]

112. CN has recently made and is planning additional investments in its intermodal business. Mr. Nair states that CN "is adding capacity to provide resilience" and "is also developing a Chicago logistics hub that is approximately 900 acres to reach the southwest side of the Chicago market near consumer distribution centers to address growing demand in Chicagoland and the Midwest and improve access to North American and international markets." He also states that CN is pursuing integrated logistics hubs "such as those in Grundy County, Illinois; Calgary, Alberta; and Milton, Ontario."[121] In 2019, CN added TransX, "a refrigerated intermodal specialist with a leased network of 11 distribution centers and approximately 1,400 temperature-controlled containers."[122] In its March 2026 infrastructure report to the Board, CN identified the development of a new intermodal terminal in Grundy County, Illinois, with anticipated expenditures exceeding {{ }}, major construction expected in 2027 and 2028, and completion expected in

[118] CN, Supplemental Letter to OEA at 2, § II & Exhibit B, "Former Sarpy Yard Property – CN Investment Area" (Nov. 13, 2026) [hereinafter "Supplemental OEA Letter"].

[119] Slazinski V.S. at 13 & n.11; Nair V.S. at 10–11.

[120] Supplemental OEA Letter, Exhibit D-1, "Intermodal & Auto Ramps," Sarpy rows, "CN Year 5 Trucks Per Day with Transaction."

[121] Nair V.S. at 6.

[122] Nair V.S. at 4.

2029.[123] CN is also building a new intermodal facility in Milton, Ontario, southwest of Toronto at a cost of {{ }}.[124] This facility is anticipated to open in 2027.[125]

V. TRAFFIC DIVERTIBLE TO CN

A. U.S. Shippers Would Benefit from CN's Proposed Conditions Related to New Kansas City Access and Improved St. Louis Access

113. CN's proposed conditions provide CN access to one additional gateway (Kansas City) and improve its access to another gateway (St. Louis). These are both important gateways – they are the second and third largest rail hubs in the U.S., after Chicago,[126] and they provide CN with significant improvements and expansions to its rail network and ability to serve more U.S. shippers. Large volume commodities and manufactured goods passing through the Kansas City gateway include nonmetallic minerals, coal, farm products, and food/kindred goods, among others.[127] The St. Louis gateway handles large volumes of grain, coal, chemicals, steel, aggregates and finished autos, and auto parts, and is served by

[123] *See* Christopher K. Diamond, *Rail Infrastructure Projects, 49 C.F.R. § 1250.4*, STB, Mar. 2, 2026, at 1, https://www.stb.gov/wp-content/uploads/CN-Infrastructure-Report-2026.pdf (last visited Nov. 10, 2026). ("In 2025, CN began early earthwork activities for the construction of a new intermodal terminal in Grundy County, Illinois. These activities will continue throughout 2026. CN currently anticipates major construction occurring in 2027 and 2028, with project completion expected in 2029."); *CN to Invest Approximately $170 Million in Illinois to Build Capacity and Power Sustainable Growth*, CN, June 11, 2025, https://www.cn.ca/en/news/2025/06/cn-to-invest-approximately-$170-million-in-illinois-to-build-cap/ (last visited Nov. 10, 2026) ("[CN] plans to invest approximately US$170 million in Illinois, as part of its 2025 capital investment program. This investment will support track maintenance and strategic infrastructure initiatives in the state. This includes investments towards the construction of the Chicago Logistics Hub and projects to upgrade technology and training facilities at CN's Homewood Campus, as well as network improvements"); *Chicago Logistics Hub: Intermodal Terminal and Logistics Park,* CN, https://cnchicagologisticshub.com/ (last visited Nov. 10, 2026).

[124] *See Milton Logistics Hub,* CN, https://www.cn.ca/en/about-cn/milton-logistics-hub/ (last visited Nov. 10, 2026).

[125] *See Milton Logistics Hub,* CN, https://www.cn.ca/en/about-cn/milton-logistics-hub/ (last visited Nov. 10, 2026).

[126] Ted Abernathy and Greg Payne, *Transportation 2030: Making Missouri a Leading Logistics Hub*, Missouri Chamber Foundation, 2022, at 26, https://mochamber.com/wp-content/uploads/2022/07/Transportation2030-report-DIGITAL.pdf (last visited Nov. 15, 2026) ("Kansas City and St. Louis are ranked as the second- and third-largest rail hubs in America, based on number of freight trains daily.").

[127] MoDot, *Missouri State Freight & Rail Plan: Commodity Flow Profile*, MODOT, 2022, at 42, https://www.modot.org/sites/default/files/documents/Commodity%20Flow%20Profile%20FINAL.pdf (last visited Nov. 15, 2026) ("By tonnage, nonmetallic minerals, coal, farm products and food/kindred goods rounded out the top four with more than 58 million tons.").

all six Class I railroads.[128] My analysis reflects the importance of these two gateways when identifying the extent of traffic that one could expect to be diverted to CN if the Board were to approve CN's proposed conditions.

114. In addition to new or improved access at the Kansas City and St. Louis gateways, CN's proposed conditions would provide CN with the ability to serve 3-to-2 and 2-to-1 customers in Hillsboro, Illinois, and Des Moines, Iowa. Through this new access, CN would restore lost independent competition for Foresight Energy coal traffic and Iowa customers, respectively.

115. Taken together, CN's proposed conditions would allow it to provide single-line service between Kansas City and places like Chicago, Detroit, and cities across Canada, while improving CN's access to St. Louis by shortening its route between Chicago and St. Louis by about 70 miles and offering competitive services for Iowa and the U.S. Gulf Coast.[129] As detailed in my analyses of diversion, these network improvements would provide significant benefits to U.S. shippers located both in CN's service territory and elsewhere.

B. Traffic Diversion Scenarios

116. Traffic diversion studies evaluate how a proposed rail transaction will change the routing of existing traffic and inform the operating plans, network investments, environmental analysis, and competitive analysis of a proposed rail transaction. They also assess the capabilities of a potential remedy carrier by illustrating how the remedy carrier would be able to increase traffic volumes on the new line. My diversion study finds that CN's proposed conditions would attract volume or expand the usage of CN's rail network by roughly 169,000 cars annually, currently moving with other rail carriers or with trucks, to its proposed network because of new or improved access the conditions would make available. The areas in which CN has requested new or improved access are natural

[128] AECOM Technical Services, Inc. et al., *St. Louis Regional Freight Study*, 2013 at 4-48, 8-169, https://www.ewgateway.org/transportation-planning/freight/ ("St. Louis is one of a small number of places in the U.S. where six Class I railroads connect").

[129] Kahwaty Workpapers "Mileage_Calculations.xlsx."; *see also* Nair V.S. at 10-11.

extensions of its existing network, would improve CN's competitiveness with other railroads, and provide additional optionality for rail customers in the U.S. and Canada.

117. I consider the potential for diversion under two scenarios that differ based on the specific conditions approved by the Board. The Base Case models the Kansas City Divestiture, Tuscola Trackage Rights, Des Moines Trackage Rights, Hillsboro Trackage Rights, and access to certain reciprocal switch customer facilities. I refer to the CN rail network under this set of conditions as the "Base Case CN Rail Network."

118. The alternative scenario considered modifies the Base Case by considering CN being given access to Kansas City via trackage rights over the Kansas City Line as opposed to acquiring the Kansas City Line from UP (the "Trackage Rights Alternative"). The other conditions included under the Trackage Rights Alternative scenario are unchanged (*e.g.*, the Board approves granting CN trackage rights over the Tuscola Line). CN's rail network in the Trackage Rights Alternative scenario is identical to that in the Base Case. In the alternative scenario, CN has trackage rights over the Kansas City Line instead of ownership of that line, but it would still have access to the same track and customer locations.

119. In addition to modeling and reporting results for the Base Case and the Trackage Rights Alternative scenarios, I disaggregate these scenarios and break out the diversions attributable to each of the separate requests in CN's proposed conditions.[130] I present all Trackage Rights Alternative tables in **Attachment D**.

120. I understand that additional requests for conditions are being filed contemporaneously by other Class I railroads. I do not consider these other requests for conditions in the diversion analyses detailed in this V.S.[131]

[130] *Union Pacific Corp.—Control—Norfolk Southern Corp.*, FD 36873, Decision No. 45 (STB served Nov. 4, 2026) [hereinafter "Decision No. 45"].

[131] I note that CN and UP have discussed providing each other access to parts of their networks as part of a separate commercial negotiation, though no definitive agreement has been reached related to such access to date. I understand that any such access granted to CN would not materially affect CN's business in the St. Louis and Kansas City area, and, therefore, I do not address this in my diversion analysis.

VI. DIVERSION STUDY RESULTS

121. In the next sections, I describe and apply my approach for estimating the diversion of rail (**Section VII**) and truck (**Section VIII**) traffic to CN rail service due to the changes in CN's network and service offerings that would be brought about by CN's proposed conditions. I also consider the potential for port diversion, and I address the implications of port diversion for CN's traffic (**Section IX**). Finally, I identify existing CN interchange volume that could shift its interchange gateway from locations like Chicago and Superior, Wisconsin, to Kansas City, due to the changes in traffic patterns, business strategies, and other operational planning that are anticipated to occur on CN's network once it gains access to facilities and interchange options in Kansas City **(Section X**). I refer to this eligible volume as "Interchange Shift Volume."[132] In **Section XII**, I report a disaggregation of traffic diversions across CN's proposed conditions.

122. As detailed in the summary of my assignment, counsel for CN has asked me to use the Springfield Diversion Study as the starting point for my diversion analysis because the effects on CN's business anticipated to occur due to the Springfield Line divestiture in CP/KCS and CN's proposed conditions in UP/NS are similar. Specifically, I was asked to estimate the traffic CN could divert from other railroads and trucking companies if the Board approves CN's proposed conditions and if CN invests in developing the appropriate infrastructure to support its expanded businesses. This Section summarizes the results of these diversion studies.

123. CN's current business includes several service types, including but not limited to merchandise, bulk, automotive, and intermodal traffic. Within its service type offerings, CN operates dedicated business units that manage the day-to-day marketing strategies for specific commodity groups like coal, grain, potash, finished vehicles, and vehicle parts (among others). The set-up of my rail-to-rail and truck-to-rail diversion studies follows the Springfield Diversion Study to estimate diversions for these service types and for certain

[132] Generally, when I use the term "Interchange Shift," I am referring to an existing CN interline arrangement where the interchange handoff between carriers occurs outside of Kansas City (at locations like Chicago or Superior, Wisconsin) and where, once CN's proposed conditions have been approved, CN would strive to interchange this traffic in Kansas City.

business units more granularly, though I make various adjustments to both the rail-to-rail and truck-to-rail models used to predict diversions. These adjustments are summarized in this V.S.

124. Both my rail-to-rail and truck-to-rail diversion analyses are based on models that are intended to apply broadly across the rail industry. After modeling diversions using a common or broadly applicable framework applied to the relevant traffic, I make market- and commodity-specific adjustments, where appropriate, based on CN's business plans for using the assets and rights covered by its proposed conditions, and other market- and customer-specific information relevant for traffic diversion. These commodity- and customer-specific adjustments are appropriate because the general diversion modeling frameworks cannot take into consideration, for example, the potential for existing routes to be redirected by customers from a given origin to different rail-served destinations. Rather, the models consider traffic flowing from a given origin to a given destination and consider how that traffic will be split among different railroads or between trucks and rail. In this V.S., for example, I examine CN's proposed access to Foresight Energy Facilities at Hillsboro, Illinois, outside of the general diversion modeling framework developed in the Springfield Diversion Study. Specifically, my approach considers how CN's existing relationship with Foresight Energy and its distinct single line access to Gulf ports could influence the customer to use a different mode of transportation to reach its ultimate destination in export markets.

125. Overall, CN's proposed conditions, if approved by the Board, would provide CN with opportunities to expand the business it already operates by gaining access to more customers, adding new single line services, and providing an additional opportunity to interchange at a key gateway. CN has completed other, similar expansions, such as its acquisition of Iowa Northern, which was operationally completed on March 1, 2025. The new or improved access that CN's proposed conditions would provide represents natural extensions in CN's network and business. *See* **Figure 15**. My analysis reflects these natural extensions.

126. **Table 4** provides a summary of the annual traffic expected to be diverted due to CN's proposed conditions.[133] The Base Case generates about 170,000 diverted carloads or units overall. It provides diversion information for the Base Case broken out by service type. It provides total cars or units to be diverted and reflects eligible Interchange Shift traffic.[134] **Table 5** provides CN's total revenue to be derived from the traffic reported in **Table 4**. It is also broken down by service type. The Base Case is anticipated to generate about $360 million annually for CN (measured in 2023 dollars). The analyses supporting the results summarized in these tables are presented in subsequent sections and Attachments to this V.S. The materials supporting my analyses are provided in the Kahwaty Workpapers.

Table 4
Summary of the Traffic Diversion Analysis Results
Traffic Diverted, by Service Type

Service Type	Rail-to-Rail Units		Truck-to-Rail Units	Port of Montreal Units	Total Units
	Regular Markets	Shifted Markets			
General Merchandise	7,144	13,450	-	-	20,594
Intermodal	20,096	5,460	48,751	30,000	104,307
Bulk	6,504	22	-	-	6,526
Auto	8,389	15,610	807	-	24,806
Other	-	-	12,951	-	12,951
Total Units	42,133	34,542	62,509	30,000	169,184

Source: Kahwaty Workpapers "Diversion Units (Base).xlsx"

[133] Table 4 and subsequent tables summarizing the results of my rail-to-rail diversion study and discussion of results do not include 1,459 units related to rail-to-rail grain diversion associated with Des Moines Trackage Rights and shippers ADM and Heartland. Those shippers are discussed separately below and the 1,459 incremental diverted units associated with those shippers are included in my diversion results presented in Table 1 and Table 2.

[134] Though intentional Interchange Shift routing changes may not typically be considered to be "diversions," I include them in my aggregate diversion estimates because they represent extended lengths of haul on CN's network and, correspondingly, shortened lengths of haul on other carrier networks. Correspondingly, these shifts have operational and revenue impacts.

Table 5
Summary of the Traffic Diversion Analysis Results
Revenue for Traffic Diverted, by Service Type

Service Type	Rail-to-Rail Revenue		Truck-to-Rail Revenue	Port of Montreal Revenue	Total Revenue Impact
	Regular Markets	Shifted Markets			
General Merchandise	$ 26,887,029	$ 42,312,960	$ -	$ -	$ 69,199,988
Intermodal	$ 12,602,490	$ 2,850,871	$ 31,987,619	$ 34,108,736	$ 81,549,717
Bulk	$ 25,268,199	$ 90,275	$ -	$ -	$ 25,358,475
Auto	$ 57,720,954	$ 58,478,219	$ 3,431,387	$ -	$ 119,630,561
Other	$ -	$ -	$ 64,298,010	$ -	$ 64,298,010
Total	$ 122,478,673	$ 103,732,326	$ 99,717,017	$ 34,108,736	$ 360,036,751

Source: Kahwaty Workpapers "Revenue Impact (Base).xlsx."
Notes: revenue calculated using 2023 traffic data for CN shipments and applied to diverted units on a per car-mile basis. Additional details underlying my calculation are provided in Section XI and the Kahwaty Workpapers.

127. The traffic diversion reported in **Table 4** is consistent with the anticipated benefits of the new or improved access that would be brought about by CN's proposed conditions. CN's enhanced network would provide new competitive single line service connecting Midwest intermodal and auto markets, coal traffic to the Gulf Coast, and grain customers between Kansas City and St. Louis and on other grain lanes. CN's enhanced network would also improve U.S. customer access to Canadian-origin products. For example, CN would more efficiently serve potash demand in the St. Louis area and provide a new competitive single line option connecting Kansas City with traffic diverted from East Coast ports to the Port of Montreal. As discussed in **Sections VII – X**, these estimated traffic diversions reflect an effective use of the assets under consideration to reach new customers, span multiple important CN business units, and enhance CN's rail offerings and customer service by reshaping and re-optimizing CN's rail network for the future. This all benefits U.S. shippers.

128. CN has developed an Operating Plan for the assets and rights it would acquire if CN's proposed conditions were approved.[135] CN's Base Operating Plan incorporates Applicant's

[135] Operating Plan at 29 ("The CN Operating Plan for the Kansas City Line, the Tuscola Line, Hillsboro Line, Macoupin Line, and the Des Moines Line (collectively the "Lines") was developed by a team of experienced CN operating employees, under the supervision of Mr. Whitehead, in conjunction with Kim Hillenbrand at Berkeley Research Group ("BRG"). This "Operating Plan team" focused on train scheduling, network capacity and capability,

Growth Plan as the post-transaction analytical baseline, which includes the traffic estimated by Applicants to divert to the merged UP/NS. To assess the impact of diverted traffic based on CN's proposed conditions, the CN diverted traffic is added to the CN Base Operating Plan to develop the CN Growth Plan.[136] This plan assesses the infrastructure and assets required to operate CN's network after the imposition of any of CN's proposed conditions (e.g., capacity available and levels of congestion). The assessment of any environmental concerns also depends on this aggregation of traffic.

VII. RAIL-TO-RAIL DIVERSION ANALYSIS

129. This section addresses the level of traffic CN's network can expect to attract from other railroads after the approval and implementation of CN's proposed conditions and related CN investments. In the First Kahwaty Diversion V.S., I stated: "The methodology adopted to study rail-to-rail diversions should capture the scope and effects of the proposed transaction it seeks to model while grounding the analysis in relevant market and industry facts."[137] I implement this by starting with the general modeling framework used in the Springfield Diversion Study, as tasked by CN, before adapting it and supplementing it to fit the circumstances relevant for CN's proposed conditions. In doing so, I consider CN's planned operational and commercial strategies if its proposed conditions are granted and assess market dynamics for certain key commodity groups. My analysis of these factors and the related adjustments to the general modeling framework are consistent with the types of modifications made when preparing prior rail-to-rail diversion analysis. *See Rail-to-Rail Diversion Methodology Workpaper* for additional detail on my rail-to-rail diversion analysis methodology. **Attachment E** provides detail on the baseline rail network and traffic I analyze to conduct my analysis.

yard and terminal operations, and existing plant and facilities, as well as capital improvements necessary to execute the Operating Plan and maintain fluid train service. CN's current standards for train operations, maintenance, and equipment utilization were applied in developing this Operating Plan.").

[136] Operating Plan at 36–40.

[137] First Kahwaty Diversion V.S. at 76.

130. This section is organized as follows:

- First, I present an overview of rail-to-rail diversions estimated under my Base Case scenario.
- Next, I present my estimates of Base Case rail-to-rail diversion by service type and key commodity group.
- Lastly, I estimate rail-to-rail diversions under the Trackage Rights Alternative scenario.

A. Summary of Rail-to-Rail Diversion Results

131. As previewed in **Section V**, I have studied the expected traffic diversion that can occur for two independent scenarios: (1) The Base Case, which models the Kansas City Divestiture (Sub-No. 2),[138] Tuscola Trackage Rights (Sub-No. 7), Des Moines Trackage Rights (Sub-No. 10), Hillsboro Trackage Rights (Sub-No. 9), and access to certain reciprocal switch customers; and (2) the Trackage Rights Alternative which substitutes CN trackage rights over the Kansas City Line instead of CN ownership of that line. Under this Base Case scenario, I report the diversions attributable to each of these components of the Base Case as these components relate to the sub-dockets covered in the Comment. These results can be found in **Section XII**. As detailed further in this Section, the results of my diversion analyses are consistent with my conclusion that CN is ideally situated to serve as a strong remedy carrier, and that divestiture of the Kansas City Line to CN would better preserve the competition that would otherwise be lost due to the Proposed Transaction than would CN trackage rights over that line. Trackage rights over the Kansas City Line would effectively limit CN's ability to operate as an unencumbered and independent alternative carrier for shippers. Among other factors, the per-use trackage rights fees that CN would be required to pay to UP represent a marginal cost that CN would not otherwise need to bear if it were to acquire the line. This additional cost tends to diminish CN's impact on

[138] CN's CP/KCS Responsive Application, Sub-No. 3 at 7.

the market, making it a less effective competitor and suppressing diversions relative to the Base Case.[139]

132. In the following sections, I describe my Base Case rail-to-rail diversion results for each service type studied and, in some cases, present more granular analysis of specific commodity types for which CN's responsive applications have dedicated Verified Statements.[140, 141] I first address the markets I studied within the general modeling framework described above and then describe my analysis of CN's proposed access to Foresight Energy Facilities at Hillsboro, Illinois, which extends outside of the general modeling framework developed in the Springfield Diversion Study. Lastly, I discuss the implications of trackage rights on diversions over the Kansas City Line.

B. Base Case Rail-to-Rail Diversion Study

133. I estimate that 42,133 annual rail cars or containers ("units") would divert to the CN network because of CN's new or improved competitive service offerings involving Kansas City, St. Louis, Des Moines, and Hillsboro. An additional 34,542 units may divert to CN's network as the result of interchange shifts to the Kansas City gateway, as discussed in **Section X**. Relevant lanes to and from these locations include Michigan, the Gulf Coast, and Eastern Canada (among others). These diversions would be realized in the form of either extended hauls or new traffic ("haul type") and be expected across four service types: general merchandise, intermodal, bulk, and auto.[142] **Table 6** presents estimated rail-to-rail

[139] *See* Steven C. Salop and David T. Scheffman, *Raising Rivals' Costs*, American Economic Review 73, no. 2 (May 1983): 267–271, at 269.

[140] Comment at 58 nn. 202–205.

[141] *See* Kahwaty Workpapers "R2R Diversion Analysis Charts (Non-Shifted).xlsx" for a complete tabulation of the commodities underlying the rail-to-rail diversion estimates presented in this section.

[142] The extended haul estimates in this V.S. reflect diversions that increase CN's length of haul in markets where CN already carries traffic. The extended hauls associated with Interchange Shifts to the Kansas City Gateway are a particular subset of these movements. *See* **Section X** on Kansas City as a Gateway.

Most extended hauls result when a new CN single-line enters a market currently served by CN interline service. In these cases, the rail-to-rail diversion model predicts traffic shifting from the interline to the single-line service option, increasing CN's length of haul. Extended hauls can also arise when a new or existing CN interline service attracts additional traffic. This happens, for example, when CN interline routing becomes more efficient due to the use of the Tuscola Line, allowing for shorter trips into the St. Louis area from the North.

diversion results by service type. **Table 7** disaggregates these diversions by haul type and provides the estimated impact of these diversions on other railroads. The largest source of estimated diversion is intermodal traffic, followed by similar divertible traffic amounts for automotive, general merchandise, and bulk traffic. Most of the diversion I estimate that will shift to CN's network would be diverted from UP and/or NS, consistent with the fact that CN is an ideally suited railroad competitor to preserve competition.[143]

Table 6
Estimated Rail-to-Rail Diversion by Service Type
Base Case Diversion Analysis

Service Type Label	% of Total	Diverted Volume
General Merchandise	17%	7,144
Intermodal	48%	20,096
Bulk	15%	6,504
Auto	20%	8,389
	100%	42,133

Source: Kahwaty Workpapers "CN Diversions by Carrier.xlsx."

Table 7
Traffic Diverted from Other Railroads to CN
Base Case Diversion Analysis

	Merchandise		Intermodal		Bulk		Automotive		
Carrier	New to CN	CN Extended Haul	New to CN	CN Extended Haul	New to CN	CN Extended Haul	New to CN	CN Extended Haul	Total
UPNS	2,471	1,182	14,561	1	6,341	17	1,950	3,037	29,560
BNSF	1,238	361	5,870	55	132	0	233	0	7,890
CPKC	2,771	85	176	0	42	0	3,809	0	6,883
CSXT	415	4	101	0	29	0	73	0	622
Shortlines	963	136	7	0	3,614	1	0	923	5,644

Source: Kahwaty Workpapers "CN Diversions by Carrier.xlsx."

Interchange Shifts to the Kansas City Gateway fall into the latter category but are different in that the traffic remains on the same route and with the same CN interline carrier. Instead of moving to a new CN single line service, the existing interchange point is shifted to Kansas City, for onward conveyance elsewhere by a connecting railroad. CN therefore carries the traffic farther before interchanging it to the connecting railroad, increasing CN's length of haul.

[143] Although I utilize 2023 traffic data which does not reflect UP/NS's standing as a merged railroad, I recognize UP/NS as a merged railroad in the baseline traffic period used for my diversion analysis. This is consistent with CN's proposed conditions being conditional on approval of the Proposed Transaction.

Rail-to-Rail Intermodal Traffic Diversion

134. The primary rail-to-rail diversion opportunity I identify is intermodal service. According to Mr. Nair, "CN operates 23 intermodal terminals in North America, including 10 in the United States, with facilities in Chicago and Memphis."[144] If CN's proposed conditions are approved by the Board, CN plans to add two additional U.S. intermodal terminals to its network, one at the Neff Yard in Kansas City and one at the former Sarpy Yard property in St. Louis. The largest source of diversion created by CN's new intermodal service offerings is on the lane connecting Detroit and Kansas City. Mr. Nair identifies the underlying service opportunity, "With access to Kansas City, CN would offer new single-line intermodal service to and from its existing intermodal terminals in places like Detroit and Eastern Canada."[145] Within this lane, CN would expect to serve as a competitive single line rail option for handling vehicle parts shipped from Michigan auto facilities to assembly plants in Kansas City. CN's proposed conditions also render it an effective single line option for domestic containers shipped between Kansas City and Chicago. **Figure 23** identifies the top ten divertible lanes and **Figure 24** provides a map showing the locations of CN's current and proposed two additional intermodal terminals.

[144] Nair V.S. at 3.

[145] Nair V.S. at 11.

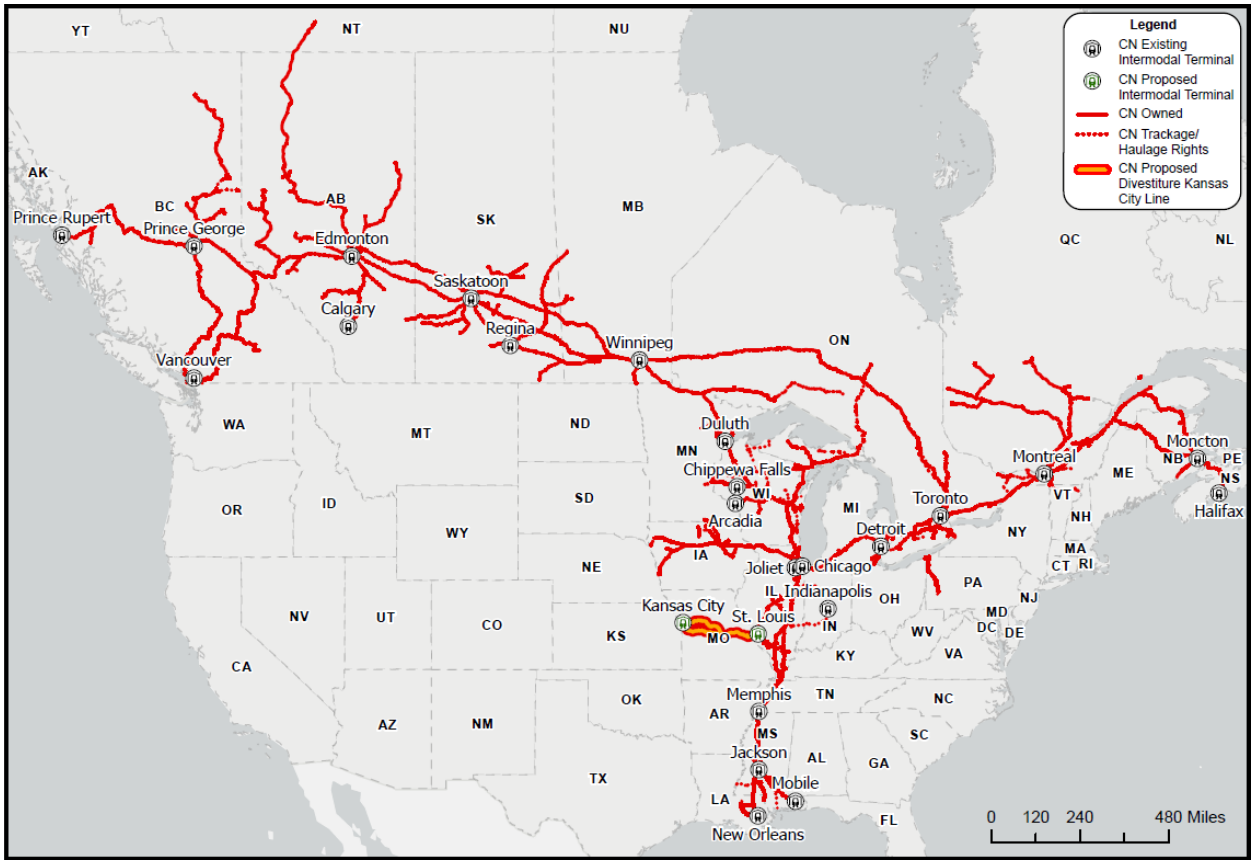
Figure 23
Intermodal Traffic Diversion, Top Lanes

Total Across All BEA/Province Origin-Destination Pairs: 20,096 Units
Top 10 BEA/Province Origin-Destination Pairs: 20,005 Units (100%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Detroit And Toledo	Kansas City, MO-KS.	7,039
Kansas City, MO-KS.	Detroit And Toledo	6,910
Chicago-Gary-Kenosha, IL-IN-WI (CMSA-14).	Kansas City, MO-KS.	3,332
Kansas City, MO-KS.	Chicago-Gary-Kenosha, IL-IN-WI (CMSA-14).	2,080
Kansas City, MO-KS.	Buffalo-Niagara Falls, NY.	314
Buffalo-Niagara Falls, NY.	Kansas City, MO-KS.	124
Atlanta, GA.	Kansas City, MO-KS.	72
St. Louis, MO-IL.	Kansas City, MO-KS.	52
Kansas City, MO-KS.	Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH.	41
Jacksonville, FL.	Kansas City, MO-KS.	41

Source: Kahwaty Workpapers "R2R Diversion Analysis Charts (Non-Shifted).xlsx."

Figure 24
CN's Current and Proposed Intermodal Terminals



Source: Kahwaty Workpapers; *See also* Federal Railroad Administration Shapefiles; Railinc Centralized Station Master.

135. I understand the Neff Yard in Kansas City to be "plug and play" for CN because CN does not anticipate needing to make significant investments or improvements at Neff Yard before beginning intermodal operations there. Thus, CN would have the ability to begin intermodal services at Neff Yard on "Day 1" following divestiture of the Kansas City Line and access to Neff Yard.[146] Mr. Nair qualifies the initial investment requirement as, "CN anticipates that it would need to add equipment, such as trucks and cranes, and expects to engage a third-party terminal operator, but does not expect significant investment to be required to begin operations."[147] However, over time, CN plans to expand its intermodal

[146] Nair V.S. at 9.

[147] Nair V.S. at 9.

operations at Neff Yard.[148] CN identifies an approximately 68-acre area within Neff Yard for future automotive and intermodal operations.[149] CN will have marketable intermodal capacity in Kansas City upon the closing of the Proposed Transaction as its lease of the Neff Yard commences or its acquisition of this yard is completed.

136. In St. Louis, the former Sarpy Yard property will provide CN intermodal capacity once CN's proposed infrastructure improvements are completed.[150] CN can start marketing its capacity at the former Sarpy Yard property in advance of the completion of the needed improvements.[151]

137. Although it is not a source of diversion recognized in my analysis, CN's proposed conditions would also give U.S. shippers in the St. Louis area new single-line intermodal service options on all routes between St. Louis and CN's Canadian intermodal terminals. The only other railroad with intermodal terminals in Canada is CPKC. CPKC does not have an intermodal terminal in St. Louis or East St. Louis. Therefore, if CN's proposed conditions are approved and CN begins operating its Sarpy intermodal terminal, CN would be the only railroad able to offer St. Louis-area shippers single-line service to and from a Canadian intermodal terminal.[152] Because there is currently very little interline intermodal service between Canada and St. Louis, these new offerings would primarily benefit U.S. shippers by providing a new rail alternative to truck transportation in these lanes. Any diversions involving St. Louis, therefore, involve truck-to-rail diversion, not rail-to-rail diversion, and are not captured in my rail-to-rail diversion analysis.[153]

[148] Nair V.S. at 7–11.

[149] CN-36, FD 36873, attached *Kansas City Line and Neff Yard Area Maps* at 5, "CN Planned Investment Area Within Neff Yard" (filed Oct. 29, 2026).

[150] Nair V.S. at 10–11.

[151] Nair V.S. at 10–11.

[152] CN also has intermodal terminals in Prince Rupert, Prince George, Saskatoon, Moncton, and Halifax. CPKC does not have intermodal terminals in these areas, and lanes between these terminals and Kansas City would also be new lanes with single line service made available by CN's proposed conditions.

[153] *See* Kahwaty Workpapers "Canada to St. Louis Intermodal Service.csv."

Rail-to-Rail Auto Traffic Diversion

138. CN ships more than 2 million finished vehicles annually and has over 5,000 multi-level railcars in its fleet to move these vehicles.[154] It currently serves 11 North American vehicle assembly plants, including GM, Ford, Stellantis, and Nissan plants.[155] According to Ms. Slazinski, CN also has direct access to six ports and serves 18 automotive facilities.[156] With CN's proposed conditions, CN plans to add automotive facilities capable of handling both vehicle parts and finished vehicles. In Kansas City, CN will use and invest in UP's Neff Yard to add Kansas City automotive capabilities to its offerings. Similarly, CN will use and invest in the former Sarpy Yard property to adapt that facility for its automotive needs.[157] If approved by the Board, CN's proposed conditions would provide CN the opportunity to compete for finished auto business from either of the two vehicle assembly plants in Kansas City: Ford's Kansas City Assembly Plant ("Ford Kansas City") and General Motors' Fairfax Assembly Plant ("GM Fairfax") and from the General Motors' Wentzville Assembly Center ("GM Wentzville"), which is northwest of St. Louis:[158]

- Ford Kansas City: NS's Voltz Yard is close to Ford Kansas City and can be reached by a short rail link from that plant (about 3 miles).[159] It can also be reached via truck via I-435 (about 10 miles). Similarly, UP's station in Muncie, Kansas, originates Ford Kansas City traffic and can be reached by rail (19 miles) or truck (21 miles).[160] Accessing a CN auto mixing center at Neff Yard would be about a 9 mile trip by truck from Ford Kansas City.

[154] Slazinski V.S. at 3–4; Jason Dunn, *Canadian National Railway appoints Tracy Robinson as new CEO*, Automotive Logistics (Feb. 1, 2022), https://www.automotivelogistics.media/regions/canadian-national-railway-appoints-tracy-robinson-as-new-ceo/187605 (last visited Nov. 13, 2026).

[155] Slazinski V.S. at 3–4.

[156] Slazinski V.S. at 3–4.

[157] Slazinski V.S. at 9–10, 13.

[158] Note that BNSF's Argentine Yard (FSAC = 62000) did not have meaningful originating volume, in 2023, terminating at locations served by CN. Thus, the Argentine Yard was not considered as part of my auto origin catchment exercise for Kansas City.

[159] Kahwaty Workpapers "Mileage_Calculations.xlsx."

[160] UP's Muncie station is FSAC 2048; Kahwaty Workpapers "Mileage_Calculations.xlsx."

- GM Fairfax: GM Fairfax is adjacent to UP's Fairfax station. Accessing a CN mixing center at the Neff Yard would be a 10-mile trip by truck from GM Fairfax.

- GM Wentzville: GM Wentzville is adjacent to NS's Wentzville facility. Accessing GM Wentzville from the former Sarpy Yard property requires drayage trips of about 40 miles.

139. CN's proposed conditions would create new finished vehicles service opportunities for domestic OEMs like GM, Ford, and Nissan. For example, CN could offer a new single line service between St. Louis and Ontario.[161] Such a single-line route is not available today because CPKC does not have an auto facility in the St. Louis area. Ms. Slazinski states that "no other railroad operates an automotive facility in the St. Louis area besides NS and UP."[162] CN's proposed conditions also enable differentiated service for OEMs in Michigan, as CN has access to five auto plants in Michigan and would provide these customers with a new independent single-line alternative.

140. To model finished vehicles diversion to CN in Kansas City consistent with CN's commercial plans, I assume that CN will have the ability to serve the Ford and GM auto plants in Kansas City (via a short and non-prohibitive drayage trip from the plants to Neff Yard). Ms. Slazinski identifies the corresponding commercial opportunity: "CN could originate finished vehicles from the GM and Ford assembly plants in Kansas City, with the traffic shuttled into CN at Neff Yard, and move in single-line service to Canada and Michigan without interchange."[163] The basis for this catchment area adjustment is the driving distance from the plants to Neff Yard which I understand, from discussions with CN's automotive team, is short enough to justify drayage to and from the plants. I make the same assumption, on the same basis, when modeling CN's ability to originate finished vehicles in St. Louis via the former Sarpy Yard property.[164] Ms. Slazinski identifies

[161] *See* Slazinski V.S. at 14–15.

[162] Slazinski V.S. at 7.

[163] Slazinski V.S. at 11.

[164] *See* Kahwaty Workpapers "Catchment Mileages."

finished vehicles originating at GM Wentzville among CN's principal rail-to-rail finished vehicle diversion opportunities.[165]

141. **Figure 25** presents top lanes where CN could divert finished vehicle traffic. The primary rail-to-rail finished vehicles diversion opportunities I identify are on movements traveling between Kansas City or St. Louis and Detroit or Eastern Canada.

Figure 25
Auto Traffic Diversion, Top Lanes
Total Across All BEA/Province Origin-Destination Pairs: 8,389 Units
Top 10 BEA/Province Origin-Destination Pairs: 7,068 Units (84%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Kansas City-Overland Park-Kansas City, MO-KS	Ontario	1,206
Kansas City-Overland Park-Kansas City, MO-KS	Quebec	1,106
St. Louis-St. Charles-Farmington, MO-IL	Ontario	853
Kansas City-Overland Park-Kansas City, MO-KS	Detroit-Warren-Flint, MI	736
Kansas City-Overland Park-Kansas City, MO-KS	Alberta	714
Detroit-Warren-Flint, MI	Kansas City-Overland Park-Kansas City, MO-KS	628
Ontario	Kansas City-Overland Park-Kansas City, MO-KS	626
Kansas City-Overland Park-Kansas City, MO-KS	Chicago-Naperville-Michigan City, IL-IN-WI	585
Lansing-East Lansing-Owosso, MI	Kansas City-Overland Park-Kansas City, MO-KS	308
Kansas City-Overland Park-Kansas City, MO-KS	British Columbia	307

Source: Kahwaty Workpapers "R2R Diversion Analysis Charts (Non-Shifted).xlsx."

Rail-to-Rail Grain and Fertilizers Traffic Diversion

142. In this section, I detail estimated rail-to-rail diversion for CN's Grain and Fertilizers business unit. The primary opportunities identified by my analysis are for soybean meal transversing the Kansas City Line and for potash traveling from Canada to St. Louis to

[165] Slazinski V.S. at 16.

serve U.S. customers. CN's proposed conditions will also impact grain and fertilizer shippers in the Des Moines economic area defined by the U.S. Bureau of Economic Analysis ("BEA"), which would otherwise experience a decrease in independent competition.

a) Rail-to-Rail Grain Traffic Diversion

143. **Figure 26** presents top lanes where CN could divert grain traffic. Top divertible grain commodities on these lanes include soybean meal, soybean oil, ethanol, corn, and wheat (among others).

Figure 26
Grain Diversion, Top Lanes
Total Across All BEA/Province Origin-Destination Pairs: 3,178 Units
Top 10 BEA/Province Origin-Destination Pairs: 2,298 Units (72%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Kansas City-Overland Park-Kansas City, MO-KS	St. Louis-St. Charles-Farmington, MO-IL	1,209
Des Moines-Newton-Pella, IA	Chicago-Naperville-Michigan City, IL-IN-WI	290
Des Moines-Newton-Pella, IA	St. Louis-St. Charles-Farmington, MO-IL	279
Kansas City-Overland Park-Kansas City, MO-KS	New Orleans-Metairie-Bogalusa, LA	119
Chicago-Gary-Kenosha, IL-IN-WI (CMSA-14).	Kansas City, MO-KS.	108
St. Louis-St. Charles-Farmington, MO-IL	Quebec	67
Buffalo-Niagara Falls, NY.	Kansas City, MO-KS.	63
Champaign-Urbana, IL	St. Louis-St. Charles-Farmington, MO-IL	56
Sioux City-Vermillion, IA-NE-SD	Des Moines-Newton-Pella, IA	54
Manitoba	Kansas City-Overland Park-Kansas City, MO-KS	52

Source: Kahwaty Workpapers "R2R Diversion Analysis Charts (Non-Shifted).xlsx."
Note: Quebec destinations refer to Montreal, including CN FSACs 33170 (Montreal) and 33380 (Montreal Wharf).

144. CN's grain opportunities and diversions arise from three primary sources. The first source is new service offerings stemming from CN's ownership of the Kansas City Line and access to the Tuscola Line. The St. Louis area represents an important demand center for grain. Indeed, a 15-mile stretch of the Mississippi River with St. Louis to the west and East

St. Louis to the east is referred to as the "Ag Coast of America" because it is home to 16 barge facilities that can handle in excess of 150 barges per day.[166] According to Mr. Przednowek, customers on A&S and TRRA "are open to all Class I carriers," and he identifies "Bunge-SCF in East St. Louis; Consolidated Grain & Barge, CHS, and Louis Dreyfus in Cahokia; ADM in Sauget; and ADM's North St. Louis facility, which completed an expansion in 2025."[167] Second, the improved access to St. Louis that would result from CN's proposed conditions would provide CN customers with a more direct route to access the barge facilities in the St. Louis area and allow CN to more effectively compete for this traffic. According to Mr. Przednowek, "the Tuscola Line would provide a routing improvement of approximately 70 miles."[168] Shippers moving soybean meal for export, for example, would benefit from a more competitive CN route into St. Louis for transfer to barge and movement to the Gulf.[169] The third primary source of diversion is Des Moines, where CN would help restore competition lost due to the Proposed Transaction. The diversion that my analysis identifies in Des Moines is consistent with the competitive dynamics described by Mr. David Przednowek:

> Grain is a commodity whose transportation economics are driven by distance, routing efficiency, car supply, and access to multiple destination markets. Grain shippers—elevators, processors, ethanol producers, renewable-fuel plants, and feed mills—rely on competitive Class I access to negotiate favorable rates, obtain adequate car supply during peak periods (specific to the type of traffic to be transported), and access the broadest possible range of domestic and export markets. A reduction from three Class I carriers to two, or from two to one, directly diminishes those competitive dynamics.[170]

145. Furthermore, especially in the Des Moines region, CN's acquisition and integration of Iowa Northern is instructive regarding diversions that CN's grain business can achieve if the

[166] *See Ag Coast of America*, St. Louis Regional Freightway, https://www.thefreightway.com/real-estate/featured-corridors/ag-coast-of-america/ (last visited Nov. 13, 2026).

[167] Przednowek V.S. at 18.

[168] Przednowek V.S. at 17.

[169] Przednowek V.S. at 18.

[170] Przednowek V.S. at 10.

Board approves CN's proposed conditions. The Board approved CN's acquisition of Iowa Northern in January 2025,[171] and the transaction closed on March 1, 2025.[172] This transaction added Iowa Northern's approximately 175 route miles to CN's rail network,[173] allowing it to offer single-line service to grains, fertilizers, renewable fuels, and other products from Iowa Northern's service area to locations across CN's rail network.

146. Though the Iowa Northern acquisition was only completed last year, CN reports significant growth in its grain business from the Iowa Northern service area. This growth has come from establishing new destination markets for its shippers through matchmaking and competitive single-line haul pricing. As described by CN's Mr. Przednowek:

> CN has attracted new grain-related traffic in the legacy Iowa Northern network by working hard to understand local market dynamics and commodity flows, as well as investing significant time on the ground meeting customers face-to-face to better understand their business and transportation needs. The amount of grain-related traffic moving by rail from the legacy Iowa Northern rail network has been growing since CN's acquisition of the Iowa Northern. CN has been able to establish new destination markets for legacy Iowa Northern customers through a combination of matchmaking and competitive single-line haul pricing while preserving customer access to alternate rail traffic gateways. {{
>
> }}[174]

[171] *See CN's Acquisition of Iowa Northern Approved by STB*, CN, https://www.cn.ca/en/news/2025/01/cns-acquisition-of-iowa-northern-approved-by-stb/ (last visited Nov. 10, 2026).

[172] *See CN and Iowa Northern Railway Officially Join their Operations*, CN, https://www.cn.ca/en/news/2025/03/cn-and-iowa-northern-railway-officially-join-their-operations (last visited Nov. 10, 2026).

[173] *See CN and Iowa Northern Railway Officially Join their Operations*, CN, https://www.cn.ca/en/news/2025/03/cn-and-iowa-northern-railway-officially-join-their-operations (last visited Nov. 10, 2026).

[174] Przednowek V.S. at 8–9.

147. The proposed Des Moines Trackage Rights would allow CN to compete for grain traffic in and around the Des Moines area. I estimate the Des Moines Trackage Rights would shift 1,227 cars onto CN's proposed network, under the general rail-to-rail modeling framework. However, I understand based on CN's commercial expectations that it may have heightened opportunities to divert traffic from certain shippers in the Des Moines area. {{

176

148.

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[175] Kahwaty Workpapers "Des_Moines_Grain_Customer_Queries.ipynb."

[176] Kahwaty Workpapers "Des_Moines_Grain_Customer_Queries.ipynb."

[177] Kahwaty Workpapers "Quad-Level BRG Diversions for New CN Services (Condensed).csv", at markets {{( )}} and {{( )}}.

[178] Kahwaty Workpapers "Des_Moines_Grain_Customer_Queries.ipynb."

[179] Przednowek V.S. at 13.

}}

Table 8
Additional Diversion Opportunity: Des Moines Grain
{{

}}

149. Kansas City is also an important grain and feed ingredient gateway. Adding Kansas City access to CN's network creates routing options for its existing grain elevator customers and would allow it to expand its grain business into wheat. Mr. Przednowek provides a specific routing comparison: "rail distance from CN-served Rantoul, Illinois to Garden City, Kansas via Memphis, Tennessee is roughly 1,228 rail miles, whereas rail distance from Rantoul, Illinois to Garden City, Kansas via the Kansas City gateway is roughly 838 rail miles (a 390-mile reduction)."[180] Kansas is the leading U.S. wheat producing state.[181] I illustrate the opportunity that CN has in using Kansas City as a gateway for onward conveyance, and there are grain wheat buyers in Kansas City as well. For example, General Mills has a large wheat mill in Kansas City that produces 2.7 million pounds of flour daily.[182] Other grain customers in Kansas City include a Cargill soybean crush plant and the three Bartlett grain terminals.[183] I understand that "most of these customers are in Union Pacific's reciprocal switching tariff and are open to Norfolk Southern."[184] As such,

[180] Przednowek V.S. at 21.

[181] *See Leading wheat producing U.S. states in 2025 (in 1,000 bushels),* Statista, https://www.statista.com/statistics/190376/top-us-states-in-wheat-production/ (last visited Nov. 10, 2026).

[182] *See The Kansas City Mill celebrates 100 years,* General Mills, https://www.generalmills.com/news-and-stories/stories/the-kansas-city-mill-celebrates-100-years (last visited Nov. 13, 2026).

[183] *See Locations,* Bartlett, https://bartlettco.com/locations/ (last visited Nov. 10, 2026); *Find a Location,* Cargill, https://www.cargillag.com/locations (last visited Nov. 10, 2026).

[184] Przednowek V.S. at 19.

as part of my analysis, I modeled CN's ability to divert traffic originating or terminating at two Kansas City {{ }} terminals open to the UP and NS reciprocal switching tariffs.[185]

b) Rail-to-Rail Potash Traffic Diversion

150. The U.S. imports more than 90% of its potash needs, and most of these imports are from Canada.[186] Given the importance of potash to U.S. agriculture, importing potash with lower-cost, more efficient logistics has the potential to benefit a broad range of the U.S. farming economy. **Figure 27** presents top lanes where CN could divert potash traffic. The largest volume origins for diverted shipments are Saskatchewan and Manitoba.

[185] As such, I have taken measures to model the amount of {{ }} reciprocal switch eligible traffic CN could divert from other carriers. My process for doing so included reviewing the reciprocal switching tariffs published by UP and NS and identifying the amount of Kansas City {{ }} traffic eligible for reciprocal switching. I considered {{ }} traffic at the listed reciprocal switching station (SPLC code: 581516) as eligible for diversion to CN when CN could serve the other end of the movement. CN was able to compete for this set of volume even though CN didn't have direct access to the reciprocal switch SPLC code. *See* Kahwaty Workpapers "kc_dest_recip_switch_cn_served.csv."

[186] *See* U.S. Geological Survey, *Mineral Commodity Summaries 2026: Potash* (2026), https://pubs.usgs.gov/periodicals/mcs2026/mcs2026-potash.pdf (last visited Nov. 13, 2026).

Figure 27
Potash Diversion, Top Lanes

Total Across All BEA/Province Origin-Destination Pairs: 1,048 Units
Top 10 BEA/Province Origin-Destination Pairs: 1,048 Units (100%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Saskatchewan	St. Louis-St. Charles-Farmington, MO-IL	758
Manitoba	St. Louis-St. Charles-Farmington, MO-IL	110
Saskatchewan	Kansas City-Overland Park-Kansas City, MO-KS	79
Saskatchewan	Columbia, MO	47
Saskatchewan	Des Moines-Newton-Pella, IA	42
Manitoba	Columbia, MO	9
St. Louis-St. Charles-Farmington, MO-IL	Elkhart-Goshen, IN	1
St. Louis-St. Charles-Farmington, MO-IL	Saginaw-Bay City-Saginaw Township North, MI	0
Saskatchewan	Jonesboro, AR	0
St. Louis-St. Charles-Farmington, MO-IL	Rochester-Batavia-Seneca Falls, NY	0

Source: Kahwaty Workpapers "R2R Diversion Analysis Charts (Non-Shifted).xlsx."

151. CN's proposed conditions would enhance its competitive potash offering to Kansas City and St. Louis customers. These customers rely heavily on Canadian potash supply. By far the largest import lane for expected diversions on CN's proposed network is potash from Canada that satisfies the demand of St. Louis customers. There are also diversions to Kansas City area customers.

152. I understand that potash is one of the commodities raising significant competitive concerns due to the Proposed Transaction.[187] Ms. Sandra Ellis states that "both UP and NS terminate large quantities of potash in Kansas City and throughout the Midwest, and after the merger, potash customers will lose a key competitive alternative for sourcing potash."[188] CN's proposed conditions would allow it to serve St. Louis's potash customers via a more

[187] Ellis V.S. at 12.

[188] Ellis V.S. at 11.

efficient single-line route (over the Tuscola Line) and would expand upon CN's already strong potash franchise. Ms. Ellis explains that "the Tuscola Line trackage rights would save approximately 70 miles, making all fertilizer traffic moving from the north into St. Louis and East St. Louis more competitive."[189] For example, I understand from Ms. Ellis that CN is a leading transporter of potash in North America, and the U.S. fertilizer segment of CN's business is driven primarily by fertilizer consumption in the Midwest.[190] With new direct access into Kansas City that eliminates existing interchange in Superior, Wisconsin, U.S. Midwest customers, especially those using private cars to transport fertilizer, will benefit from CN's proposed conditions.[191]

Rail-to-Rail Metals and Minerals Traffic Diversion

153. I estimate a total of 537 units of steel products diversion as a result of CN's proposed conditions.[192] The primary source for this diversion comes on the lanes between Chicago and Kansas City or St. Louis, where CN can offer new or improved single-line service. According to Kelly Levis, CN's VP of Industrial Products, CN's proposed Kansas City access would allow it to "carry steel and other metals and minerals traffic farther on its own network to extend its length of haul to benefit our customers." She further states: "Access to Kansas City would give CN another gateway for metals and minerals moving south and west, and an alternative to the congested Chicago interchange."[193] **Figure 28** presents the top ten lanes with estimated steel products diversion.

[189] Ellis V.S. at 13.

[190] Ellis V.S. at 11.

[191] Ellis V.S. at 12 ("Today, some potash moving on CN is interchanged with UP at Superior, Wisconsin. Under CN's proposed conditions, that traffic could instead move in CN single-line service all the way to Kansas City, eliminating the interchange and making service more efficient for customers, which is particularly important for customers using private cars to transport fertilizer.").

[192] Kahwaty Workpapers "R2R Diversion Analysis Charts (Non-Shifted).xlsx."

[193] Levis V.S. at 7.

Figure 28
Steel Diversion, Top Lanes

Total Across All BEA/Province Origin-Destination Pairs: 537 Units
Top 10 BEA/Province Origin-Destination Pairs: 516 Units (96%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Chicago-Naperville-Michigan City, IL-IN-WI	Kansas City-Overland Park-Kansas City, MO-KS	208
Chicago-Naperville-Michigan City, IL-IN-WI	St. Louis-St. Charles-Farmington, MO-IL	207
Kansas City-Overland Park-Kansas City, MO-KS	Chicago-Naperville-Michigan City, IL-IN-WI	36
Jonesboro, AR	Detroit-Warren-Flint, MI	24
St. Louis-St. Charles-Farmington, MO-IL	Chicago-Naperville-Michigan City, IL-IN-WI	15
Jonesboro, AR	Chicago-Naperville-Michigan City, IL-IN-WI	8
Alberta	Kansas City-Overland Park-Kansas City, MO-KS	6
Chicago-Naperville-Michigan City, IL-IN-WI	Little Rock-North Little Rock-Pine Bluff, AR	5
Chicago-Naperville-Michigan City, IL-IN-WI	Longview-Marshall, TX	4
Chicago-Gary-Kenosha, IL-IN-WI (CMSA-14).	Kansas City, MO-KS.	4

Source: Kahwaty Workpapers "R2R Diversion Analysis Charts (Non-Shifted).xlsx."

154. Regarding CN's ability to serve additional traffic, Ms. Levis states: "CN maintains strong relationships with car builders and lessors, and cars are readily available if customers need to ramp up." She reports that CN's fleet of railcars consists of {{ }} flatcars and {{ }} gondolas.[194]

Diversion Analysis for Foresight Energy's Hillsboro Coal Mine

155. The Hillsboro Trackage Rights would allow CN to serve the Deer Run Mine located at Foresight Energy's Hillsboro complex (the "Hillsboro Mine").[195] This mine has the

[194] Levis V.S. at 4.

[195] I do not study diversion related to Foresight Energy's Macoupin Energy Monterey Mine 1 in Carlinville, Illinois. I understand this mine was idle in 2023 and continues to be idle today. It could not, therefore, be a source of diverted traffic in the 2023 Base Year.

capacity to produce up to 9 million tons of coal per year and is accessed by both UP and NS.[196] It is, therefore, a 2-to-1 customer facility.[197]

156. The Hillsboro Mine ships coal to only a handful of locations, and most of its volume goes to marine terminals. Using data on shipments and information on specific Hillsboro Mine coal destinations, I study diversions by movement and consider whether CN's proposed conditions create lower costs or new opportunities for coal. The rail-to-rail diversion analysis in the Springfield Diversion Study is not designed to take into consideration customer-specific data and information of the type considered here. As a result, my study of Hillsboro Mine coal departs from the framework I use for my other rail-to-rail diversion analyses. I estimate diversions for Hillsboro coal based on analysis of traffic data, U.S. Energy Information Administration ("EIA") data, CN's commercial plans and existing customer relationships, and its competitive position relative to a merged UP/NS.

c) Coal Traffic Originating at the Hillsboro Mine

157. The Hillsboro Mine shipped coal to {{ }} locations in 2023: {{

}}. Hillsboro coal 2023 shipments are summarized in **Table 9**.

Table 9

{{ }}

{{

[196] *See Operations*, Foresight Energy, https://www.foresight.com/operations/ (last visited Nov. 10, 2026).

[197] Ellis V.S. at 5–6.

}}

158. I discuss each of the destinations for the Hillsboro Mine coal in order from the highest to lowest volume shipments.

a. {{ }}. Over {{ }} of Hillsboro coal from 2019 to 2025 was shipped to {{ }}, which is a transloading facility located on the Ohio River at milepost 817.5. [198] Hillsboro coal shipments to {{ }} during these years were originated on NS, and they reached {{ }} via a connection with the Evansville Western Railroad ("EVWR"). Post-merger, if CN is granted the Hillsboro Trackage Rights, both CN and UP could deliver Hillsboro Mine coal to {{ }}, with UP using the path historically used by NS.

b. {{ }}. {{ }} is a marine transload facility on the Mississippi River in Illinois. It is serviced by UP and can accommodate four 150-car unit trains.[199] Post-merger, UP would continue to serve {{ }} with single line service. Although CN cannot deliver Hillsboro Mine coal directly to {{ }}, it can provide an export route for Hillsboro Mine coal via single line service to Gulf ports.

c. {{ }}. {{ }} requires coal to run both its power and steam generation requirements at this facility.[200] NS has transported all Hillsboro coal movements to {{ }} using single line service. Under CN's proposed conditions, CN could also service the facility via single-line service.

d. {{ }}. Both UP and NS have originated movements of the Hillsboro Mine coal shipped to {{ }}. UP's movements are single-line, and NS's movements are interline with Cedar Rapids & Iowa City Railway Company ("CIC"), a Class III railroad with direct connections to both UP and CN.[201] As with {{ }}, {{ }} requires coal to meet the plant's power and steam generation requirements. I understand from discussions with CN personnel that CN may be less likely to serve {{

[198] *See* Kahwaty Workpapers "Hillsboro Coal Receivers 2019 to 2025.csv."

[199] *See Cora Marine Terminal*, Watco, https://www.watco.com/service/terminals/cora-il-3/ (last visited Nov. 10, 2026).

[200] Ms. Ellis states that ADM plans to transition away from coal at Decatur "around 2030" and that, until then, "Decatur will remain reliant on a consistent supply of coal for its power and steam generation requirements." (Ellis V.S. at 9.)

[201] *See Cedar Rapids & Iowa City Railway Company CIC #111*, Union Pacific, https://www.up.com/customers/shortline/lines/cic/ (last visited Nov. 13, 2026).

}} given the fact that it is primarily supplied by the Powder River Basin and CN does not serve long-haul Powder River Basin shipments, except for last-haul carrier for terminations to end customers like Vistra, WPS, and Southern Company to fuel power plants in Illinois, Wisconsin, Mississippi, and Kentucky. Given the relative size and likelihood of the {{ }} opportunity for CN, I do not consider it further.

e. {{ }} This plant is located at {{ }} in {{ }}. UP was both the originating and terminating carrier for this movement. CN has no reasonable prospect of directly serving this facility, and I do not consider it further.[202]

d) Hillsboro Coal Diversion Summary

159. I estimate that 6,195 units of coal originating at the Hillsboro Coal Mine are expected to divert to new CN service.[203] Over 90% of this estimated diversion is expected on movements that CN would divert away from the {{ }} and {{ }} {{ }} terminals in favor of direct CN rail service to the Gulf, which neither UP nor NS can provide today.[204] The remaining diverted units relative to the Hillsboro Coal Mine originations are on shipments terminating with {{ }} in {{ }}.[205]

160. **Table 10** provides my conversion rates and diversion estimates for the three primary divertible movements from the Hillsboro Coal Mine in 2023. In the following sub-sections, I discuss relevant traffic movements from the Hillsboro Mine and the analysis underlying my estimates.

[202] I note that there were no other volumes of Hillsboro coal shipped to this plant during 2019–2025, nor were there any other shipments of Hillsboro coal sent to California by rail.

[203] Kahwaty Workpapers "Hillsboro Coal.xlsx."

[204] Kahwaty Workpapers "Hillsboro Coal.xlsx."

[205] Note that I do model a small amount of traffic originating in Louisiana and terminating in the Hillsboro SPLC. Market # {{ }}. CN could offer new single line service on this movement, which has a fixed origin and destination.

Table 10
Rail-to-Rail Traffic Diversion for Hillsboro Mine Coal Origination
{{

}}

e) CN is Well Positioned to Serve Hillsboro Mine Export Volumes via Single Line Service to the Gulf Coast

161. CN is in a unique position to offer new single line service for export shipments via movements from the Hillsboro Mine directly to Gulf Coast export terminals. Such a move for export coal would shift the existing rail-served destination away from either or both of the Cora and Sitran river terminals to Gulf Coast terminals. As described by Ms. Ellis, "A key advantage CN can offer coal customers at the Foresight facilities is reliable service with competitive cycle times through single-line access to new destinations."[206]

162. The barge-to-rail diversions I estimate from the {{ }} and {{ }} {{ }} terminal traffic discussed above, of course, are contingent on CN coming to an agreement with Foresight Energy to serve its coal from Hillsboro direct to the Gulf.[207] Foresight Energy is already a CN customer because CN is a service provider to Foresight Energy's Williamson (Pond Creek) and Sugar Camp complexes.[208] Indeed, from discussions with CN personnel, I understand that CN already performs a coal movement from Foresight Energy's Pond Creek Mine to the Gulf. Further, Ms. Ellis identified that CN has performed

[206] Ellis V.S. at 8.

[207] CN can reach {{ }} through an interchange with EVWR but cannot serve {{ }} directly. Ellis V.S. at 8–9.

[208] *See Operations,* Foresight Energy, https://www.foresight.com/operations/ (last visited Nov. 10, 2026); *see also* Ellis V.S. at 7–8.

special moves for Foresight Energy "to keep coal flowing to customers in southern markets."[209] Access to Hillsboro would allow for expansion in CN's business relationship with Foresight Energy. The proposed movement to the Gulf also falls within CN's wheelhouse, as they already provide efficient service to Convent Marine Terminal in Louisiana and consistently execute mine-to-port movements from other mines.[210] Ms. Ellis states that "CN consistently executes the mine-to-port movement from other mines in approximately 96 hours."[211]

163. Taken together, I concur with CN that they have a realistic opportunity to divert export traffic from the Hillsboro Mine from {{ }} service to direct rail service to Gulf export terminals.[212] To estimate diversion for this traffic, I assumed that CN could divert {{ }} of the export traffic on these movements. To inform my assumption, I used data from the EIA and traffic tapes to approximate the percentage of Hillsboro Mine coal shipped to the river for export during the latest full year of data available to me.[213] Comparing volumes from the EIA data and the traffic tapes, I found that around {{ }} of the Hillsboro Mine coal sent to the river in 2025 was destined for export. As such, my final diversion percentage (expressed in terms of expected market share) on traffic CN

[209] Ellis V.S. at 7–8 (Ms. Ellis explains that when Sugar Camp experienced a fire that reduced it to roughly half capacity, "Foresight had to source coal from its other mines to meet its customer demand, and CN performed a special move to keep coal flowing to customers in southern markets.").

[210] Ellis V.S. at 8.

[211] Ellis V.S. at 8.

[212] Ellis V.S. at 8–9.

[213] I analyzed the 2025 survey Form EIA-923, which collects detailed electric power data – monthly and annually – on electricity generation, fuel consumption, fossil fuel stocks, and receipts at the power plant and prime mover level. To identify the tonnage consumed for domestic use, I used the Fuel Receipts and Cost Time Series File (Page 5) where FUEL_GROUP = "Coal" and CoalmineName = "DEER RUN MINE" and Primary Transportation Mode = "RV" (river). My analysis assumed 110 tons per railcar of coal and that the tonnage recorded by the EIA data includes Hillsboro Mine coal sent to both {{ }} and {{ }}. My analysis assumes that coal shipments in the traffic tapes, from the Hillsboro Mine to {{ }} and {{ }}, represent all Hillsboro Mine coal shipments to the river for both domestic consumption and export. *See* Kahwaty Workpapers "Hillsboro Coal for Export.xlsx."; *see also Form EIA-923 Detailed Data with Previous Form Data (EIA-906/920)*, U.S. Energy Information Administration, https://www.eia.gov/electricity/data/eia923/ (last visited Nov. 15, 2026); *Coal Rail Shipping & Logistics: Rates, Railcars, Lanes*, Steel Wheel Logistics, https://steelwheellogistics.com/commodities/coal (last visited Nov. 15, 2026)

could divert from the {{ }} and {{ }} terminals for single line service to the Gulf is {{ }} of {{ }} or {{ }}.

164. In conclusion, CN serving as the remedy carrier for the Hillsboro Mine would maintain the mine's connectivity to its ultimate destinations while, in some cases, lowering the cost of that connectivity. It would also provide the Hillsboro Mine with additional single-line connectivity to the U.S. Gulf Coast via the Convent Marine Terminal in Louisiana or the McDuffie terminal in Mobile.[214] According to a recent report prepared by the National Coal Council, these are the only two terminals in the Gulf Coast region that currently receive coal by rail.[215] CN is the only rail carrier with direct access to the Convent Marine Terminal.[216] CN's rail distance from Hillsboro to the Convent Marine Terminal would be 795.4 miles.[217] Other Class I rails, including NS, have access to the McDuffie terminal in Mobile.[218] However, CN's rail distance to the McDuffie terminal from Hillsboro would be 772 miles, compared to the UP/NS distance of at least 946.8 miles.[219] Thus, access to CN at the Hillsboro Mine would provide Foresight Energy with a more effective option for single-line trips to the Gulf than it has today.

f) CN Service for {{ }}

165. Based on conversations with CN personnel, {{ }} coal needs, and the importance of a second independent carrier in coal markets,[220] I would also expect CN to compete for and attract a fraction of the Hillsboro Mine originations terminating with {{

[214] For purposes of my diversion study, I assume the coal's final rail destination is the Convent Marine Terminal for the Hillsboro Mine coal that CN would divert and that moves to the Gulf. Ellis V.S. at 8.

[215] *See Outlook and Opportunities for U.S. Coal Exports*, National Coal Council, https://nationalcoalcouncil.energy.gov/ncc/sites/default/files/studies/2026/NCC_Coal%20Exports%20Report.pdf (last visited Nov. 10, 2026).

[216] *See Facility Description*, CMT Suncoke Energy, https://cmt.suncoke.com/facility-description (last visited Nov. 10, 2026).

[217] Kahwaty Workpapers "Mileage_Calculations.xlsx."

[218] *See Outlook and Opportunities for U.S. Coal Exports*, National Coal Council, https://nationalcoalcouncil.energy.gov/ncc/sites/default/files/studies/2026/NCC_Coal%20Exports%20Report.pdf(last visited Nov. 10, 2026).

[219] Kahwaty Workpapers "Mileage_Calculations.xlsx."

[220] Ellis V.S. at 9.

}}. CN's single line service to {{ }} would be {{ }}, while the merged UP/NS single line service would be {{ }}.[221] In this lane, CN would have a similar cost and would offer a competitive single-line service and preserve shipper optionality. However, I also acknowledge that a merged UP/NS is likely to compete hard with CN to preserve their relationship with a large shipper. As such, I assume that CN could capture {{ }} of the 2023 traffic traveling from the Hillsboro Mine to {{ }}.

C. Trackage Rights Alternative Rail-to-Rail Diversion Study

166. If the Kansas City Line were to be divested to CN, it would have access to the track with a marginal cost for serving additional traffic that depends on the costs of accessing and maintaining the track and the other marginal costs associated with providing additional rail service (*e.g.*, fuel and personnel costs). When accessing the same track via trackage rights, some of CN's marginal costs associated with providing additional rail service are likely to be largely unchanged. Examples include both fuel and personnel costs. However, instead of accessing track at cost, CN would need to pay UP a rental fee for track access in the form of per car mile trackage rates. If these rates are above the actual marginal cost of accessing and maintaining the relevant track, then access via trackage rights would diminish CN's incentives to compete as compared to the scenario in which CN owns the line outright, and CN would be unlikely fully to replace the competitive pressure lost due to the UP/NS merger.

167. CN and UP have not finalized definitive agreements. As such, I cannot assess the relationship between the agreed trackage rates and UP's marginal cost associated with serving additional traffic on the Kansas City Line. If trackage rates charged to CN mimic UP's internal costs for track access and maintenance, diversion will be similar to that in the Base Case. However, if trackage fees are above the marginal costs for track access and maintenance, CN will compete at a cost disadvantage relative to a world in which it

[221] Kahwaty Workpapers "Mileage_Calculations.xlsx."

acquires the Kansas City Line. It still may be able to achieve traffic diversion, but that diversion will be below that anticipated in the Base Case.

168. CN's proposed conditions also include requests for trackage rights over other areas of Applicants' network including the Des Moines, Hillsboro, and Tuscola lines. Over these lines, we would not expect the cost disadvantage associated with trackage rights to be as high as it would be for moving cargo over the Kansas City Line due to the scheduling and operational control issues inherent to the Kansas City Line and the role that the Kansas City Line plays in CN's proposed network. The Tuscola Line is a less constrained line on which CN would run through trains. The Des Moines and Hillsboro Lines are less constrained lines that CN would use to access specific customers that would otherwise lose a competitive option. By comparison, the Kansas City Line is a major operating corridor connecting two of the nation's largest gateways, St. Louis and Kansas City. In addition to freight volumes, the line is used by Amtrak for passenger service, and such service has priority over freight movements.

169. Under the Trackage Rights Alternative, CN would be relying on UP/NS ownership and infrastructure–and not only for reaching a discrete set of customers facing a loss of competitive options–but for an integral part of its new network. With ownership, CN would control dispatching and schedule service on the line. In comparison, with access via trackage rights, the merged UP/NS would be responsible for scheduling in addition to maintenance and capital expenditures, among other things. For the above reasons, it is reasonable to think of CN's use of the Kansas City Line as embodying a cost disadvantage if it were to operate as a tenant.

170. CN's ability to serve customers over the Kansas City Line (and beyond) is substantially more dependent on the ability for it to control dispatching, maintenance and capital investment decisions, and trackage-rights rates for third party railroads. The Comment

identifies these limitations as an important distinction between ownership of the Kansas City Line and trackage rights over the Kansas City Line.[222]

171. When modeling diversions, for the Des Moines, Hillsboro, and Tuscola Lines, my modeling assumes that trackage rights remedies would allow CN to compete on a basis sufficiently level with the incumbent carrier. As such, the rail-to-rail diversion model's measured relationship between cost and market share applies when modeling diversions under trackage rights. By comparison, for the Kansas City Line, CN would be at a disadvantage when competing for business in the Trackage Rights Alternative, for reasons discussed above.

172. In the rail-to-rail diversion model, competitive disadvantage is measured by an impedance penalty. To operationalize this penalty, I increase the impedance for CN routes utilizing the Kansas City Line. For most movements, the increase in impedance is 20% of route impedance. For auto traffic, the impedance penalty is equal to one additional interchange. [223] I extrapolate the results of the rail-to-rail analysis to truck-to-rail diversions, port diversions, and interchange shift volumes.[224] I use the 20% impedance route penalty to model CN's operational disadvantage because such a penalty represents a disadvantage that is approximately one-half of an interchange penalty for high-volume routes along the Kansas City Line.[225]

[222] Comment at 44–45.

[223] I adjust auto traffic in this way because the impedance coefficient generated in the Updated Hunt R2R Analysis, and used elsewhere in my analysis, is zero and would therefore not have the intended effect of modeling trackage rights fees on the relevant traffic.

[224] I use the service type specific ratios between the rail-to-rail Base Case and Trackage Rights Alternative scenarios to adjust truck-to-rail diversions, port diversion volumes, and interchange shift volumes.

[225] That is, in a divestiture scenario CN would have no interchange penalty. With no remedy, a CN movement would require an interchange and therefore CN would have a full interchange impedance penalty. The Trackage Rights Scenario represents one between these two outcomes. A penalty of 20% is equivalent to an impedance increase of 200 on a 1,000-mile single-line route (approximate distance from Detroit to Kansas City), or about one-half of an interchange penalty (which is assumed to be 350 for non-intermodal interchanges at East St. Louis but can be as high as 650 in the model generally). I find this a reasonable assumption in the absence of more specific information on trackage rights rates.

173. For an example illustrating the effects of my adjustment, I estimate that intermodal diversions (the largest source of diversion volume I estimate under the Base Case) would decrease from approximately 20,000 annual diverted units to approximately 7,000 annual diverted units (a 65% decrease) under the Trackage Rights Alternative scenario. These results are unsurprising and illustrate the operational disadvantage that trackage rights would bring CN, relative to divestiture.

174. A privately negotiated trackage rights agreement between UP and CN would be influenced by the rate-setting mechanism the Board would use to set trackage fee rates if they were unable to come to an agreement on their own unless the agreement stipulates a different mechanism. Regardless of the mechanism to set the trackage rights rates if the parties could not reach agreement, there is a risk that such a rate could be set or escalated in a way that it is too high for a remedy carrier to compete as effectively as in a divestiture scenario. Under the Board's "SSW Compensation" methodology, including where trackage rights are imposed as a merger condition,[226] that methodology has three components:

(a) the owner's variable cost caused by the tenant's operations over its track;

(b) the tenant's usage-based share of the track's maintenance and operating expenses; and

(c) an "interest rental" charge for the tenant's use of the owner's capital invested in the track.

175. Components (a) and (b) roughly capture the owner's marginal cost of providing access, which is the cost that should drive a competitor's pricing decisions. If component (c) is too large, then it will increase the tenant's marginal cost of providing service to shippers and inhibit the tenant's ability to compete, which would undermine the very competition the merger condition meant to preserve.

[226] Decision No. 16, *BNSF Ry. Co.—Terminal Trackage Rights—Kan. City S. Ry. Co. and Union Pac. Ry. Co.*, FD 32760 (Sub-No. 46), slip op. at 5 (STB served July 21, 2026) [hereinafter "FD 32760 Decision No. 16"].

VIII. TRUCK-TO-RAIL DIVERSION ANALYSIS

A. Introduction

176. In this section, I assess the level of traffic CN's network may attract from the trucking industry after the implementation of CN's proposed conditions. Truck-to-rail diversion can occur due to CN's proposed conditions because the extension of CN's network makes longer single-line runs available than CN currently is able to provide, making CN lanes more competitive with truck than previously available options. CN's addition of new facilities, including intermodal terminals in both Kansas City and St. Louis, will also facilitate the conversion of traffic from trucks to rail.

B. Truck-to-Rail Diversion Results

177. I estimate 62,509 annual rail cars or units would divert from the trucking industry to the CN network because of CN's new or improved access involving Kansas City and St. Louis.[227] This traffic diversion would result in the removal of 101,400 trucks from U.S. highways annually.[228] For the purposes of the analysis, all commodities were classified as either likely to ship by carload or intermodal when converted to rail, following the approach used by the Springfield Diversion Study.[229] These diversions would be expected across five service types: intermodal, auto, dry bulk, liquid gas, and flatbed. **Table 11** summarizes my truck-to-rail diversion results for the Base Case scenario. As with my rail-to-rail analysis, CN gaining access to Kansas City via trackage rights instead of the acquisition of the Kansas City Line would increase its variable costs and reduce its competitiveness, inhibiting CN's ability to compete and lessening its competitive impact. My estimate of truck-to-rail diversions for the Trackage Rights Alternative scenario is provided in **Table D5** in **Attachment D**.

[227] Given traffic flows relevant for the Hillsboro, Illinois market are coal shipments that run in unit trains and are not divertible from truck, CN's requested rights in Hillsboro are not relevant to my truck-to-rail diversion study. Given the nature of CN's new access in Des Moines and the market dynamics in the area, CN's requested rights in Des Moines are not relevant to my truck-to-rail diversion study.

[228] Kahwaty Workpapers "Rail_Units_to_Truck_Units.xlsx" for the conversion of rail units to truck units.

[229] *See Truck-to-Rail Diversion Methodology Workpaper* for a detailed discussion of the data, regression analysis, and counterfactual methodology used to estimate truck-to-rail diversion.

Table 11
Estimated Truck-to-Rail Diversion by Service Type
Base Case Diversion Analysis

Service Type	Percentage of Total	Diverted Volume
Intermodal	78%	48,751
Dry Bulk	13%	8,041
Liquid / Gas	7%	4,078
Flatbed	1%	832
Auto	1%	807
Total	***100%***	***62,509***

Source: Kahwaty Workpapers "T2R Diversions by Service Type, Commodity.xlsx."

178. Intermodal traffic is expected to account for approximately 78% of the diverted traffic that will benefit from CN's proposed conditions, including its investments in its Kansas City and St. Louis intermodal yards. Of the diverted intermodal traffic, approximately 41,000 units are expected to move through the Kansas City area and approximately 7,700 units through the St. Louis area. In total, Kansas City is expected to receive approximately 52,500 units of diverted traffic, while St. Louis is expected to receive approximately 9,850 units.

179. **Figure 29** presents the ten largest lanes for diverted traffic, and **Figure 30** presents the largest lanes for diverted intermodal traffic.[230] The results show that diverted traffic is

[230] Throughout the truck-to-rail diversion analysis, BEA refers to the geographic market areas reported in TRANSEARCH, the database used to obtain truck freight volumes and distances. In the United States, these correspond to Business Economic Areas. In Canada, the analogous TRANSEARCH areas generally correspond to major Census Metropolitan Areas ("CMAs"), with Non-CMA regions representing the remainder of each province. *See* the *Truck-to-Rail Diversion Methodology Workpaper* for additional information regarding the TRANSEARCH data and the geographic area analyzed.

concentrated in several key markets. The Kansas City–Chicago market alone is expected to account for approximately 25% of total diverted traffic. CN is particularly well positioned to serve this traffic because of its extensive intermodal capabilities in the Chicago area and the significant volume of intermodal traffic it currently moves south from Chicago to Memphis, Jackson, and New Orleans.

Figure 29
Truck-to-Rail Diversions: Overall
Top 10 BEA Origin–Destination Pairs

Total Across All BEA/Province Origin-Destination Pairs: 62,509 units
Top 10 BEA/Province Origin-Destination Pairs: 32,514 units (52%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Kansas City, MO	Chicago, IL	10,955
Chicago, IL	Kansas City, MO	5,619
Kansas City, MO	Detroit, MI	4,407
Non-CMA, ON	St. Louis, MO	2,090
Detroit, MI	Kansas City, MO	1,880
New Orleans, LA	Kansas City, MO	1,659
Detroit, MI	St. Louis, MO	1,554
Kansas City, MO	Memphis, TN	1,543
Non-CMA, QC	St. Louis, MO	1,471
St. Louis, MO	Detroit, MI	1,336

Source: Kahwaty Workpapers "T2R Diversions by Service Type, Commodity.xlsx."

Figure 30
Truck-to-Rail Diversions: Intermodal
Top 10 BEA Origin–Destination Pairs

Total Across All BEA/Province Origin-Destination Pairs: 48,751 units
Top 10 BEA/Province Origin-Destination Pairs: 31,161 units (64%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Kansas City, MO	Chicago, IL	10,494
Chicago, IL	Kansas City, MO	5,516
Kansas City, MO	Detroit, MI	4,241
Non-CMA, ON	St. Louis, MO	2,002
Detroit, MI	Kansas City, MO	1,794
New Orleans, LA	Kansas City, MO	1,659
Kansas City, MO	Memphis, TN	1,498
Non-CMA, QC	St. Louis, MO	1,417
Detroit, MI	St. Louis, MO	1,292
St. Louis, MO	Detroit, MI	1,248

Source: Kahwaty Workpapers "T2R Diversions by Service Type, Commodity.xlsx."

180. Kansas City–Detroit is expected to be the second-largest market for diversion, accounting for approximately 10% of total diverted traffic. More than 90% of the diversions in this market are expected to be intermodal. As discussed in the rail-to-rail diversion section, CN's traffic between Kansas City and Detroit is expected to increase substantially, providing additional support for increased intermodal volumes in this market. CN's ability to accommodate this growth is further supported by its large, modern Detroit intermodal hub, which handles approximately 78,000 units annually.[231]

181. The concentration of diverted traffic in the Kansas City–Chicago and Kansas City–Detroit markets is also reflected in the commodities expected to generate the diversions. Grain is expected to be the largest diverted commodity overall, accounting for more than 25,000 units, or approximately 40% of total diverted traffic. *See* **Figure 31**. Approximately 50% of the diverted traffic between Kansas City and Chicago is expected to consist of grain.

[231] CN Traffic Tapes.

Figure 31
Truck-to-Rail Diversions: Grain
Top 10 BEA Origin–Destination Pairs

Total Across All BEA/Province Origin-Destination Pairs: 25,230 units
Top 10 BEA/Province Origin-Destination Pairs: 14,786 units (59%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Kansas City, MO	Chicago, IL	7,329
Kansas City, MO	Memphis, TN	1,304
Kansas City, MO	Detroit, MI	1,037
Omaha, NE	Chicago, IL	1,009
Non-CMA, ON	St. Louis, MO	1,008
Lincoln, NE	Chicago, IL	802
Chicago, IL	Kansas City, MO	616
Detroit, MI	St. Louis, MO	594
St. Louis, MO	Detroit, MI	559
Grand Rapids, MI	St. Louis, MO	527

Source: Kahwaty Workpapers "T2R Diversions by Service Type, Commodity.xlsx."

182. Automotive traffic is expected to play a similar role in the Kansas City–Detroit market. As shown in **Figure 32**, vehicle parts are expected to be the largest diverted product in this market, accounting for approximately two-thirds of the diverted traffic. Kansas City to Chicago is the largest lane for finished vehicle diversion. *See* **Figure 33.**

Figure 32
Truck-to-Rail Diversions: Vehicle Parts
Top 3 BEA Origin–Destination Pairs

Total Across All BEA/Province Origin-Destination Pairs: 5,942 units
Top 3 BEA/Province Origin-Destination Pairs: 5,443 units (92%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Kansas City, MO	Detroit, MI	2,486
Detroit, MI	Kansas City, MO	1,672
Chicago, IL	Kansas City, MO	1,285

Source: Kahwaty Workpapers "T2R Diversions by Service Type, Commodity.xlsx."

Figure 33
Truck-to-Rail Diversions: Auto
Top 10 BEA Origin–Destination Pairs

Total Across All BEA/Province Origin-Destination Pairs: 807 units
Top 10 BEA/Province Origin-Destination Pairs: 779 units (97%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Kansas City, MO	Chicago, IL	452
Detroit, MI	St. Louis, MO	102
Toronto, ON	St. Louis, MO	91
Kansas City, MO	Detroit, MI	37
Detroit, MI	Kansas City, MO	32
Toronto, ON	Kansas City, MO	26
Non-CMA, ON	St. Louis, MO	12
Kansas City, MO	Memphis, TN	12
St. Louis, MO	Winnipeg, MB	8
Non-CMA, ON	Kansas City, MO	7

Source: Kahwaty Workpapers "T2R Diversions by Service Type, Commodity.xlsx."

C. Rail Penetration Increases with the Number of Single Line Rail Carriers in the Market

183. My truck-to-rail diversion model is motivated by several observations regarding rail penetration and its relationship to the number of single-line carriers serving a market. Below, I review the market-level data that illustrate these relationships and provide the basis for my regression analysis.

184. As shown in **Figure 34**, CN's intermodal business is dominated by single line movements. Over {{ }} of CN's intermodal movements in 2023 were single line services.[232]

[232] *See* Kahwaty Workpapers "Breakout of CN's Intermodal Business Between Single Line and Interline Service 2023.ipynb."

Figure 34
CN's Intermodal Business
Single Line and Interline Service
2023
{{

}}

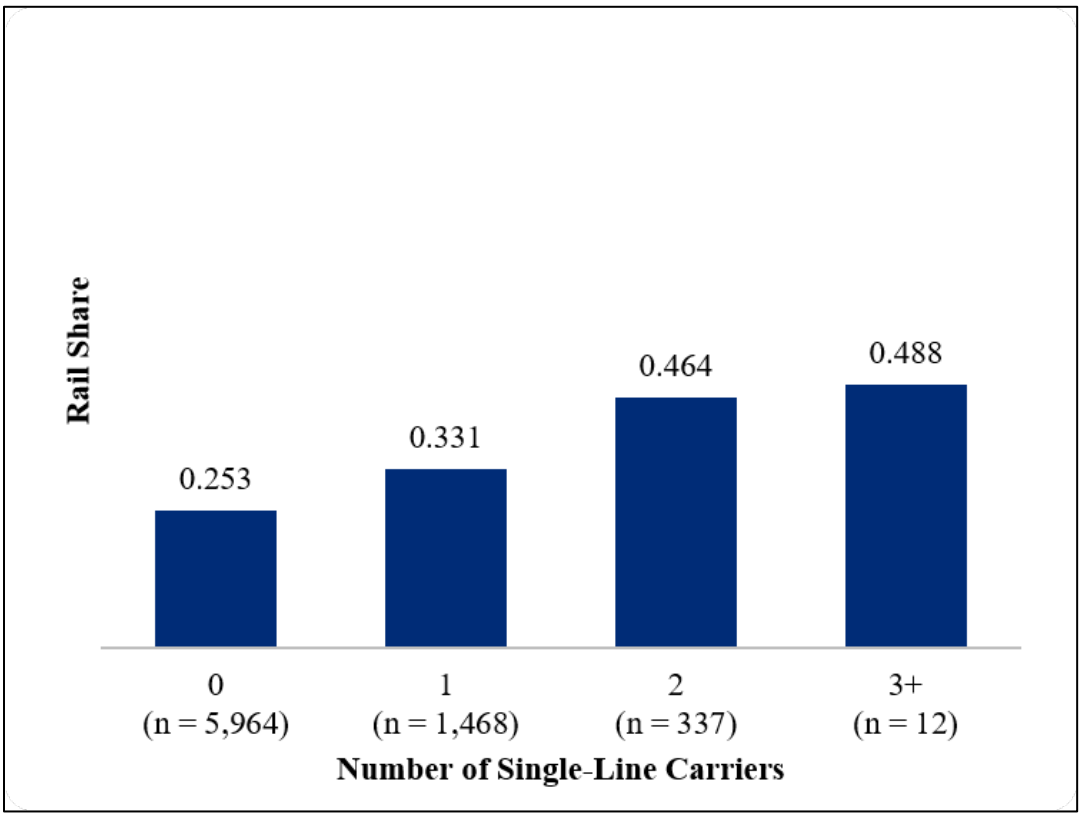
185. In addition, the vast majority of CN's intermodal movements are over 400 miles in length. Only {{ }} of CN's intermodal movements in 2023 were under 400 miles long from the originating intermodal facility to the terminating intermodal facility. *See* **Figure 35**.

Figure 35
CN's Intermodal Business by Length of Haul
2023
{{

}}

Finally, rail's share of movements between BEA pairs by service type typically increases as the number of single line rail carriers increases. For intermodal service, the increase in rail share between markets with no single line carrier and markets with one single line carrier is 7.8 percentage points, and the rail share increase when a second single line carrier is added is an additional 13.3 percentage points. This is shown in **Figure 36**. Similar figures for other service types are provided in **Attachment F**. These relationships are the basis for my regression analysis, which is detailed in the *Truck-to-Rail Diversion Methodology Workpaper*.

Figure 36
Rail Share for Intermodal Shipments Between BEA Pairs
2023



Source: Kahwaty Workpapers "T2R Rail Share by Service Type.xlsx."

IX. PORT DIVERSION ANALYSIS

186. Port diversion occurs when cargo moving between an inland location and a coastal port is re-routed so that the cargo's entry or exit occurs via a different port location than it had previously. Cargo traveling from the U.S. to Europe, for example, can transit via the ports in Philadelphia, New York/New Jersey, Charleston, Baltimore, and Savannah, among others. Canadian ports could also be an option, with the cargo traveling by truck or rail from the origin to, for example, the Port of Montreal or the Port of Halifax. Broadly speaking, port competition can be described as competition between alternative intermodal transport chains that include both the maritime port and its inland connections.[233] If

[233] Barry Zondag, Pietro Bucci, Padideh Gützkow, and Gerard de Jong, *Port competition modeling including maritime, port, and hinterland characteristics*. Maritime Policy & Management, Vol. 37, no. 3 (2010): 179–194.

granted, CN's proposed conditions would provide a new, alternative source of competition for import/export traffic moving between Kansas City and ports. Specifically, the availability of a new single line service may cause shippers to divert shipments from their original port to a new port if the single line service makes available a new, lower-cost transport chain between the origin and the destination.[234]

187. Published research finds port diversion in response to changes in relative shipping costs. Mueller et al. (2020) model European port choice decisions.[235] The authors find that hinterland transport costs are the most important factor affecting port choice.[236] Zondag et al. (2010) also find that hinterland transport and transport costs are important to competition between European ports.[237] The authors estimate that increased transport costs of between 10% and 20% can lead to a reduction in port market share of between 1% and 8%, with volume shifting to competing ports.

188. The waybill data provides additional support that port diversion arises in response to changes in relative transportation costs due to a rail merger. For example, the CP/KCS merger made available new single-line routes between Canada and the {{ }}. One such route is from {{ }}, {{ }}, to the {{ }}. {{ }} has a heavy crude oil processing facility in {{ }}. Before the CP/KCS merger, the {{ }} shipped product to the Gulf Coast via interline service originating with CP and terminating with UP at the {{ }}. It also interlined a {{ }} originating with CP and terminating with NS at the {{ }}. Post-merger, it has interlined a handful of cars originating with CPKC and terminating with BNSF at the {{ }} but

[234] The existence of port diversion is also found when there is disruption to inland transportation or port availability resulting from natural disasters. *See, e.g.,* Felix L. Friedt, *Natural Disasters, Aggregate Trade Resilience, and Local Disruptions: Evidence from Hurricane Katrina*, Review of International Economics 29, no. 5 (2021): 1081–1120.

[235] Michael A. Mueller, Bart Wiegmans, and J. H. R. Van Duin, *The geography of container port choice: modelling the impact of hinterland changes on port choice: MA Mueller et al.*, Maritime Economics & Logistics, Vol. 22, no. 1 (2020): 26–52.

[236] Hinterland transport is the movement between coastal ports and inland regions.

[237] Barry Zondag, Pietro Bucci, Padideh Gützkow, and Gerard de Jong, *Port competition modeling including maritime, port, and hinterland characteristics*, Maritime Policy & Management, Vol. 37, no. 3 (2010): 179–194.

has shipped most of its water-borne export volume via single line service on CPKC to the {{ }}. These shipments are summarized in **Table 12**. With new single line service, {{ }} shifted nearly all its {{ }} export volumes shipped by rail from the {{ }} to the {{ s}}. This is port diversion.[238]

Table 12
{{

}}

189. Port diversion is driven by changes in relative logistics costs, and CN's proposed conditions would make new single line service available for traffic originating or terminating in Kansas City, such as single line service to or from the Port of Montreal. New options that reduce logistics costs may draw traffic away from ports used previously.

190. CN business executives have considered the potential for port diversion resulting from CN's proposed conditions.[239] Their estimates and analysis are presented in the Nair V.S.[240] The Nair V.S. explains how CN will operate as a new competitive option for import and export traffic between Kansas City and the East Coast, potentially diverting up to 15,000

[238] I note that the {{ }} ships product via truck, rail, and pipeline. It serves inland destinations and did not ship product by rail to ports for export during 2021–2024. When it did resume exporting by rail to the U.S. Gulf Coast, it shifted its export modality to CPKC single line service to the Port of New Orleans.

[239] I do not model port diversion using my rail-to-rail, truck-to-rail, or other similar models. These models consider how cargo is shipped between a given origin and a given destination. With port diversion, however, the destination (for export) changes. This possibility is not captured in the other models.

[240] Nair V.S. at 13–14.

annual round-trip carloads through CN-served ports, with Montreal identified as the strongest diversion opportunity. Reductions in the logistics costs U.S. shippers need to bear to get their products to export markets benefit U.S. manufacturers and U.S. workers. This estimate uses current intermodal volumes to calculate an addressable traffic pool equal to the existing port-to-rail traffic moving between Kansas City and Los Angeles-Long Beach, New York-New Jersey, and Norfolk. To arrive at a diversion estimate, this addressable traffic pool is adjusted to account for various factors determining port-to-rail traffic flows and port entry decisions, such as rail mileage and transit time, ocean-routing feasibility, and CN's lived experience diverting traffic between ports (among other factors).[241] As stated above, this estimate is for a flow of up to approximately 15,000 annual round-trip carloads between Kansas City and CN-served ports. For purposes of counting loaded containers, I count 15,000 in both directions for a total of 30,000 loaded containers. This estimate is included in my overall traffic diversion estimates provided in **Section VI**. Because this new traffic will travel over the Kansas City Line, I also provide a Trackage Rights Alternative estimate in **Attachment D.**

X. KANSAS CITY AS A GATEWAY

191. CN views Kansas City, the second largest rail gateway in the country,[242] as a valuable hub which, with access, would reshape and enhance its network, eventually expanding its access to other origins, destinations, and markets. As discussed in **Section IV** and in various CN Verified Statements,[243] CN has detailed plans for investing in and using the Kansas City Line. These plans signal CN's intention of being a good steward of the competitive remedy, should it be permitted to acquire the line. These plans also show the

[241] Nair V.S. at 13–14 (describing the factors considered in developing CN's approximation and its experience diverting traffic from West Coast ports when entering other inland markets).

[242] *See Moving America's Heartland*, KCT, https://kctrailway.com/ (last visited Nov. 10, 2026); *Top 10 Largest Cargo and Freight Railyards in the United States,* Logos Logistics, https://www.logos3pl.com/blog/top-10-largest-cargo-and-freight-railyards-in-the-united-states/ (last visited Nov. 10, 2026); *Kansas City, MO Railyards,* UNIS, https://www.unisco.com/railyards/locations/kansas-city-mo (last visited Nov. 10, 2026); *US Rail Ramp Guide,* Indray, https://indray.com/us-rail-ramp-guide (last visited Nov. 10, 2026).

[243] Drysdale V.S. at 10, 14–16 (Janet Drysdale, CN's Executive Vice President and Chief Commercial Officer); Operating Plan at 102–107, 146–148; Nair V.S. at 8–13; Slazinski V.S. at 12, 14–17; Przednowek V.S. at 19–21; Ellis V.S. at 12; Levis V.S. at 7.

line's importance to the future of the CN rail network. As an owner of the Kansas City Line, CN would have full control over investment, maintenance, dispatch, and other critical decisions related to the line and its features that strengthen CN's east-west presence and capabilities in the United States.[244] As such, it is no surprise that CN has plans for utilizing the line to grow its business while optimizing its network operations around this asset.

192. In the near term, gaining access into Kansas City would allow CN to begin executing on the operational plans detailed in the Operating Plan. One of the strategies detailed in the Operating Plan is shifting existing CN-originated interchanges to the Kansas City Gateway. Where operationally feasible, traffic that CN today hands to western carriers at Chicago could remain on CN trains and move via CN's Champaign Subdivision and the Tuscola Line into Kansas City for onward conveyance to the south and the west by other carriers. The Interchange Shifts would reduce Chicago terminal handlings and congestion, reduce interchange handlings, and create longer CN-controlled hauls while improving CN's locomotive, equipment, and car cycle times.[245] The Operating Plan estimates that rerouting a sufficient density of 6,000-foot trains away from Chicago's Kirk Yard to Champaign could reduce shipping times by an entire day.[246] CN believes it can achieve large volumes of Interchange Shifts within three years,[247] and, as such, I model them in my diversion estimates. **Figure 37** illustrates the concept of the Interchange Shift and identifies two of the primary junctions (Chicago and Superior, Wisconsin) with existing traffic that could continue all the way to Kansas City for onward conveyance elsewhere.

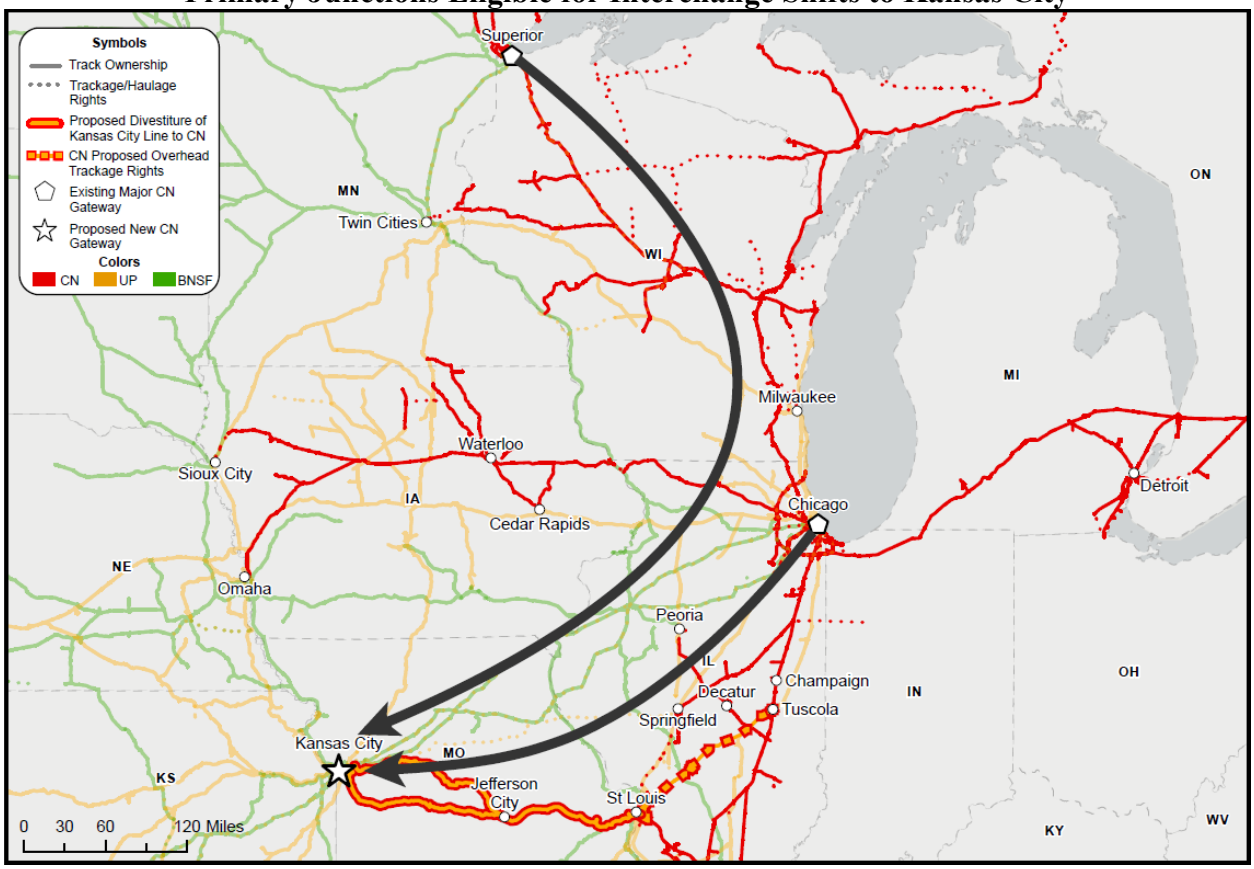
[244] Drysdale V.S. at 10.

[245] *See* Operating Plan at 96–98.

[246] Operating Plan at 96–97.

[247] Operating Plan at 97 ("Based on its operations plans, CN views these shifts as both realistic and achievable by three years post-transaction."); *ee also* Drysdale V.S. at 18–22 ("If the Board grants CN's conditions, CN is committed to investing in the Kansas City Line and related facilities within three years after the Board's approval, consummation of the Proposed Transaction, and divestiture to CN. … CN views them as realistic and achievable in the years following implementation, based on its commercial and operational plans and existing customer relationships.").

Figure 37
Primary Junctions Eligible for Interchange Shifts to Kansas City



Source: Kahwaty Workpapers; *See also* U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

193. CN's operational enhancements can be expected to generate additional traffic for CN over time. In the simplest form, rerouting traffic away from congested areas, decreasing transit times by increasing train velocity, and building density where operationally and commercially feasible allow for more frequent train service and lower per-unit shipping costs. These benefits from building line density will be available to shippers spanning an array of commodity groups across all CN's service types, including CN's Automotive, Intermodal, Grain & Fertilizers, Petroleum & Chemicals, Metals & Minerals, and Forest Products franchises.[248] For example, Ms. Levis confirms the relevance of these gateways for metals and minerals: "Today, CN interchanges much of its traffic to NS or UP at

[248] *See* Kahwaty Workpapers "R2R Diversion Analysis Charts (Shifted).xlsx." for a complete tabulation of the commodities underlying the Interchange Shift diversion estimates presented in this section.

Chicago or Superior." She states: "Chicago and Superior are key interchange locations between CN and UP for all metals and minerals traffic; the traffic in Chicago moves to and from California, New Mexico, Kansas, Georgia and Texas, and the traffic through Superior goes to and from Texas and Wisconsin."[249] I have been asked to identify the CN traffic flows (as they existed in 2023) that could be eligible for an Interchange Shift to Kansas City. Next, I detail my process for doing so, and I identify specific lanes in which the aforementioned commodity groups could, under CN's proposed conditions, eventually shift their interline interchange to Kansas City.[250]

194. I identify existing CN interchange volume that could shift its gateway from locations like Chicago and Superior, Wisconsin, to Kansas City, by first considering the structure of CN's United States rail network and evaluating the traffic tape data available to me in this proceeding. [251] Generally, this traffic is originated by CN in the north or the east of Kansas City before being interlined with another carrier.[252] Specifically, to assess the changes in traffic flows on CN's network resulting from Interchange Shifts, I reviewed traffic patterns and isolated traffic that met the following criteria, which are illustrated in **Figure 38**.[253]

- The traffic represents an existing CN-originated interchange with revenue car volume in 2023.[254]

[249] Levis V.S. at 7.

[250] My analysis of Interchange Shift volumes is not based on my rail-to-rail diversion model. Diversion involves changes in optimal routing due to changes in the rail options available to shippers (*e.g.*, the introduction of a new single line service). Interchange Shift volumes involve changing routings to achieve scale and thereby achieve efficiencies such as shorter transit times due to improved density.

[251] I also rely on the Quantanet routing software produced by Applicants.

[252] *See, for example*, Levis V.S. at 6–7.

[253] Additional guardrails were placed on the above criteria to ensure realistic results and are available for reference in my workpapers. Certain movements were excluded from consideration based on feedback from CN. *See* Kahwaty Workpapers "02 Prepare Lanes for Interchange Shifting.ipynb" and "03 Interchange Shifting.ipynb."

[254] I focus on CN-originated traffic because I understand that, under the relevant case law, the originating railroad is entitled to pick the interchange junction. *See, e.g.*, *Canexus Chem. Canada L.P. v. BNSF Ry. Co.*, NOR 42131, slip op. at 10 (STB served Feb. 8, 2012).

- The traffic did not originate in the Kansas City BEA, Iowa, Tennessee, or states south of Tennessee.[255]

- The Quantanet routing software estimated that the shipment is routed through the Kansas City BEA or along the Kansas City Line.[256]

- The 2023 interchange did not occur at Memphis, Tennessee; East Dubuque, Illinois; Peoria, Illinois; New Westminster, British Columbia; Iowa Falls, Iowa; or Council Bluffs, Iowa.[257]

- The ultimate destination was in one of the following states: Arizona, California, Colorado, Missouri or Kansas (outside of the Kansas City BEA), Nebraska, New Mexico, Nevada, Oklahoma, Texas (with restrictions),[258] or Utah.

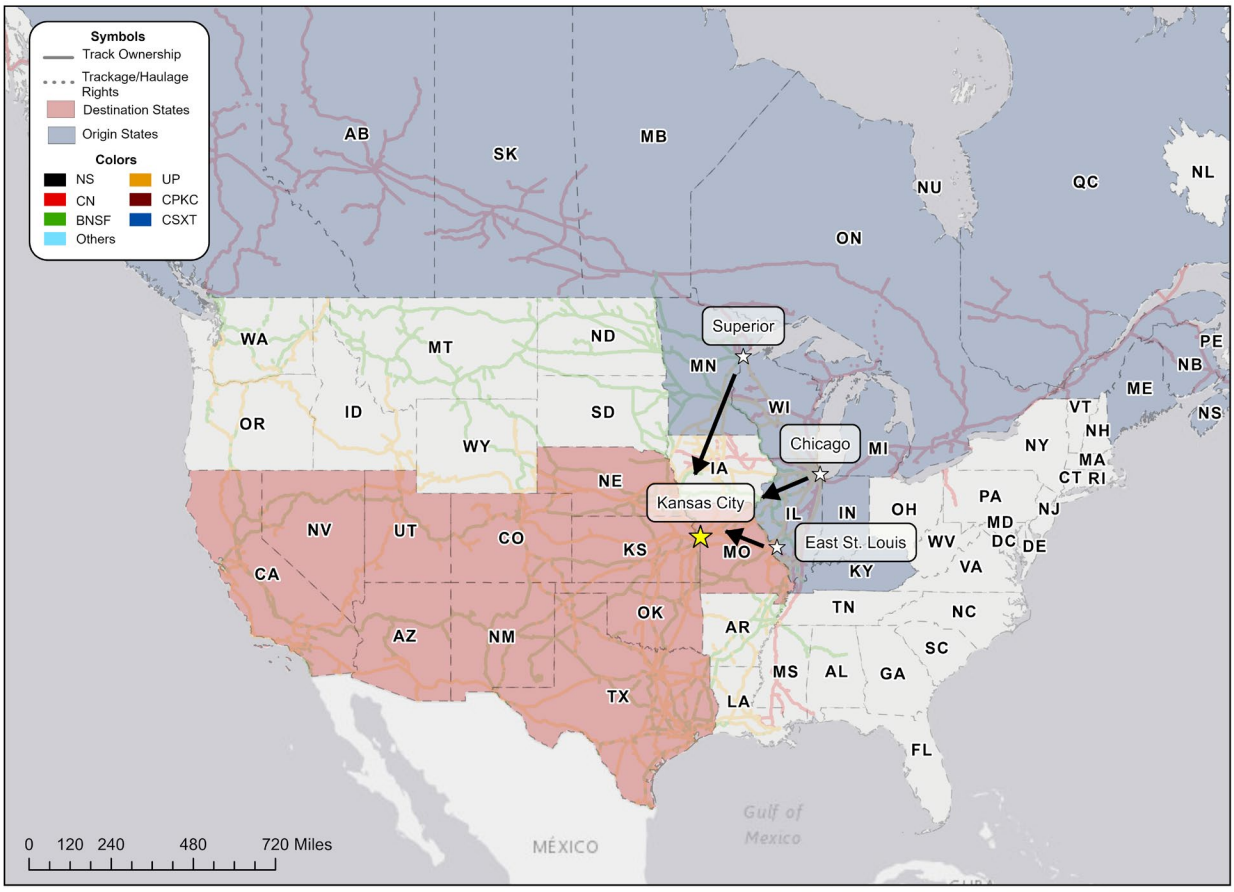
[255] Iowa originations were excluded because BNSF and UP have direct routes to Kansas City. Given its geographic positioning and the presence of UP and BNSF lines, the Memphis area is a natural boundary on the CN network for distinguishing whether a shipment is likely to travel west via Kansas City. Relatedly, originations south of Memphis would not realistically be handed to West Coast carriers in Kansas City due to the routing being more circuitous than competing options.

[256] A review of traffic flows determined that merchandise traffic was generally eligible for interchange shifts if Quantanet estimated the lowest impedance path to move through the Kansas City BEA or along the Kansas City Line. Auto and Intermodal were required to pass through the Kansas City BEA due to automotive and intermodal facility locations.

[257] Decisions regarding which existing interchange junctions to exclude were made based on eligible traffic flagged, the geographic positioning of its junction relative to Kansas City, and existing interline carrier options at those junctions.

[258] Merchandise traffic destined for the Texas panhandle (e.g., Amarillo) which CN interchanges with UP could realistically travel on CN's proposed network until Kansas City before being handed to UP for termination. BNSF, on the other hand, has a more direct route from the St. Louis area to the Texas panhandle; as a result, it is less realistic for CN to shift its gateway on interline arrangements with BNSF for merchandise traffic destined for Texas. Auto traffic destined for Texas and interlining with BNSF was considered eligible, per feedback from CN. Intermodal traffic destined for Texas wasn't relevant due to the concentration of Intermodal destinations on the West Coast.

Figure 38
Illustration of CN Traffic Flows Eligible for Interchange Shifts[259]



Source: Kahwaty Workpapers; *See also* U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master. For illustrative purposes, only BNSF, CN, and UP networks are shown.

195. **Table 13** provides the car counts for each service type with eligible Interchange Shift traffic. CN's primary Interchange Shift opportunities exist in the general merchandise, automotive (finished vehicles), and Intermodal markets. For additional visibility into the relevant general merchandise traffic flows, **Table 14** provides the eligible car counts by CN business unit. It shows Interchange Shift opportunities for CN's Petroleum & Chemicals, Metals & Minerals, Grain & Fertilizers, and Forest Products franchises.

[259] Interchange Shifts are relevant for CN-originated interline traffic only. Additional interchange junctions not shown on the map were considered.

Table 13
Interchange Shift Car Counts by Service Type
2023

Service Type	% of Total	Shifted Volume
Auto	45%	15,610
General Merchandise	39%	13,450
Intermodal	16%	5,460
Bulk	0%	22
Total	100%	34,542

Source: Kahwaty Workpapers "R2R Diversion Analysis Charts (Shifted).xlsx."

Table 14
General Merchandise Business Units with Eligible Interchange Shift Traffic
2023

Business Unit	% of Total	Shifted Volume
Petroleum and Chemicals	39%	5,312
Metals and Minerals	36%	4,783
Forest Products	15%	2,030
Grain and Fertilizers	10%	1,325
Total	100%	13,450

Source: Kahwaty Workpapers "R2R Diversion Analysis Charts (Shifted).xlsx."

196. **Figure 39** provides the car counts for the ten highest volume lanes identified by this analysis. Within these lanes, CN expects it could successfully shift the interchange gateway where it makes commercial and operational sense. For example, CN could interchange Michigan- and Ontario-origin finished vehicles traffic at Kansas City instead of Chicago, including for traffic destined for the Southwest.[260] Similar gateway shifts would be available for Petroleum & Chemicals traffic originating in Wisconsin and Ontario and landing in California, Forest Products originating in Wisconsin and terminating in the

[260] Slazinski V.S. at 11–12, 15.

Southwest, Grain & Fertilizer products traveling between Illinois and Oklahoma, or Metals & Minerals originating in the St. Louis area and Canada and terminating in states like Colorado, California, and Oklahoma.

Figure 39
Top Origin-Destination BEA Lanes with Eligible Interchange Shift Traffic
2023

Total Across All BEA/Province Origin-Destination Pairs: 34,542 Units
Top 10 BEA/Province Origin-Destination Pairs: 20,481 Units (59%)

Origin BEA/Province	Destination BEA/Province	Shifted Volume
Ontario	Los Angeles-Long Beach-Riverside, CA	6,842
Detroit-Warren-Flint, MI	Los Angeles-Long Beach-Riverside, CA	3,285
Detroit-Warren-Flint, MI	Phoenix-Mesa-Scottsdale, AZ	1,763
Ontario	Phoenix-Mesa-Scottsdale, AZ	1,579
Quebec	Los Angeles-Long Beach-Riverside, CA	1,548
Detroit-Warren-Flint, MI	Oklahoma City-Shawnee, OK	1,521
Lansing-East Lansing-Owosso, MI	Los Angeles-Long Beach-Riverside, CA	1,179
Ontario	Dallas-Fort Worth, TX	1,024
Decatur, IL	Oklahoma City-Shawnee, OK	902
Ontario	Oklahoma City-Shawnee, OK	838

Source: Kahwaty Workpapers "R2R Diversion Analysis Charts (Shifted).xlsx."

197. The resulting traffic counts by lane and carrier pair are reported with my diversion results so that they can be included in CN's operational plans for the Kansas City Line. The CN interline partners with the highest number of cars on eligible Interchange Shift routes are a merged UP/NS (CN interline partner on more than 21,000 eligible cars) and BNSF (CN interline partner on more than 12,000 eligible cars).[261]

[261] Kahwaty Workpapers "CN Diversions by Carrier (Interchange Shifts).xlsx."

XI. DIVERTED TRAFFIC IS ESTIMATED TO GENERATE AT LEAST $360M IN ANNUAL REVENUE FOR CN

198. I estimate that after Base Case traffic diversion is fully phased in, CN's proposed conditions will generate $360M in annual revenue for CN. These revenues are summarized in **Table 15.**

Table 15
CN Revenue from Base Case Diverted Traffic

Service Type	Rail-to-Rail Revenue		Truck-to-Rail Revenue	Port of Montreal Revenue	Total Revenue Impact
	Regular Markets	Shifted Markets			
General Merchandise	$ 26,887,029	$ 42,312,960	$ -	$ -	$ 69,199,988
Intermodal	$ 12,602,490	$ 2,850,871	$ 31,987,619	$ 34,108,736	$ 81,549,717
Bulk	$ 25,268,199	$ 90,275	$ -	$ -	$ 25,358,475
Auto	$ 57,720,954	$ 58,478,219	$ 3,431,387	$ -	$ 119,630,561
Other	$ -	$ -	$ 64,298,010	$ -	$ 64,298,010
Total	$ 122,478,673	$ 103,732,326	$ 99,717,017	$ 34,108,736	$ 360,036,751

Source: Kahwaty Workpapers "Revenue Impact (Base)."

199. Revenues are expressed in 2023 dollars (the Base Year) and are not adjusted for inflation. To estimate the annual revenue resulting from traffic diversion, I apply revenue per car-mile metrics to the diverted volumes and do so considering service type and whether the CN service attracting traffic is single line or interline. Note that the "Other" category for truck-to-rail diversion comprises dry bulk, liquid gas, and flatbed service types. Revenue estimates for the Trackage Rights Alternative scenario are reported in **Attachment D**, **Table D7**.

XII. DISAGGREGATION OF DIVERSIONS ACROSS CN'S PROPOSED CONDITIONS

200. Pursuant to Decision No. 46, I disaggregate the traffic diversions I estimate across sub-dockets relevant to the Comment and my diversion analysis. [262] Specifically, I focus on identifying whether traffic diversions that I estimate are attributed to:

[262] Decision No. 46, FD 36873, slip op. at 5 (STB served Nov. 4, 2026) ("…any responsive application that includes more than one sub-docket should provide sufficient clarity and detail on each individual transaction so that the Board may easily discern the impact of each transaction included in the application both on the primary transaction and the rail network generally.")

a. Sub-Nos. 2, 4, 5, 6: CN's request for Kansas City access, including UP's divestiture of the Kansas City Line and CN's acquisition of that line and access to Neff Yard;[263]

b. Sub-No. 3: CN's planned development of intermodal and automotive yards in the St. Louis area;

c. Sub-Nos. 7 and 8: CN's request for improved access to East St. Louis via the Tuscola Trackage Rights;[264]

d. Sub-No. 9: CN's request for Hillsboro Trackage Rights;[265] or

e. Sub-No. 10: CN's request for Des Moines Trackage Rights.[266]

201. **Table 16** disaggregates units of rail-to-rail, truck-to-rail, and port diversion best attributable to each of these components of CN's proposed conditions.[267] The primary source of diverted traffic is CN's request for Kansas City access, as analyzed under the assumption that CN acquires the Kansas City Line.

[263] *See* Comment at 9–11; Operating Plan at 18–23, 93–98 (divestiture of UP's line between St. Louis, Mo. and Kansas City, Mo.); Operating Plan at 14, 128–18 (overhead trackage rights over UP's line between North Lydia Avenue and Broadway Boulevard in Kansas City, Mo.); Operating Plan at 54–55, 130 (terminal trackage rights over BNSF Railway Company's line between Eton, Mo. and Congo, Mo.); and Operating Plan at 18, 129 (lease/purchase of UP's Neff Yard in Kansas City, Mo.).

[264] *See* Comment at 10–11, 41–42, 49–50; Operating Plan at 129 (overhead trackage rights over UP's line between Tuscola, Ill. and East St. Louis); and Operating Plan at 65–66, 129–139 (overhead trackage rights over The Alton & Southern Railway Company's line between Lenox/Mitchell, Ill. and East St. Louis, Ill.)

[265] Comment at 10–11, 85– 87; Operating Plan at 138 (local trackage rights for access to Foresight Energy facilities at Hillsboro, Ill.)

[266] *See* Comment at 10–11, 76–83; Operating Plan at 139 (trackage rights for UP line between Manly, Iowa/Iowa Falls, Iowa and Des Moines, Iowa).

[267] *See* Kahwaty Workpapers "01 Diversion Estimation.ipynb" and "06 Prep for Operating Plan and Revenue Impact (Regular).ipynb" at the cells labeled "Disaggregation methodology" (R2R), for detail underlying my disaggregation methodology.

Table 16
Disaggregation of Diverted Units by CN's Proposed Conditions

Condition	Rail-to-Rail Units		Truck-to-Rail Units	Port of Montreal Units	Total Units
	Regular Markets	Shifted Markets			
Kansas City Line	32,622	34,542	52,658	30,000	149,822
New St. Louis Facilities	1,549	-	7,960	-	9,509
Tuscola Line	532	-	1,890	-	2,422
Hillsboro Line	6,204	-	-	-	6,204
Des Moines Line	1,227	-	-	-	1,227
Total Units	42,133	34,542	62,509	30,000	169,184

Source: Kahwaty Workpapers "Diversion Units (Base)."
Note: The Kansas City Line and the New St. Louis Facilities diversions include traffic moving over the Tuscola Line and those volumes are not double counted on the Tuscola Line.

Table 17
Disaggregation of Diverted Units
Revenue Impact by CN's Proposed Conditions

Condition	Rail-to-Rail Revenue		Truck-to-Rail Revenue	Port of Montreal Revenue	Total Revenue Impact
	Regular Markets	Shifted Markets			
Kansas City Line	$ 88,729,775	$ 103,732,326	$ 85,106,420	$ 34,108,736	$ 311,677,257
New St. Louis Facilities	$ 4,122,126	$ -	$ 6,274,722	$ -	$ 10,396,848
Hillsboro Line	$ 24,369,793	$ -	$ -	$ -	$ 24,369,793
Tuscola Line	$ 668,936	$ -	$ 8,335,874	$ -	$ 9,004,810
Des Moines Line	$ 4,588,042	$ -	$ -	$ -	$ 4,588,042
Total	$ 122,478,673	$ 103,732,326	$ 99,717,017	$ 34,108,736	$ 360,036,751

Source: Kahwaty Workpapers "Revenue Impact (Base)."
Note: The Kansas City Line and the New St. Louis Facilities diversions include traffic moving over the Tuscola Line and those volumes are not double counted on the Tuscola Line.

202. The Kansas City Line and the New St. Louis Facilities diversions include traffic moving over the Tuscola Line and those volumes are not double counted on the Tuscola Line. I note the following regarding these results.

- CN's request for Hillsboro Trackage Rights will not result in truck-to-rail diversion. Coal moving from the Hillsboro Mine is transported via unit train service. It is not transported by truck and cannot, therefore, represent truck-to-rail diversion.

- CN's proposed Des Moines Trackage Rights are intended to remedy the loss of access to an independent, Class I railroad by 3-to-2 and 2-to-1 rail customers. Furthermore, unlike in Kansas City and St. Louis, no new intermodal or automotive facilities are planned for the Des Moines area. Any diversion due to new intermodal or automotive facilities would be captured by CN's new Kansas City and/or St. Louis facilities. Lastly, grain customers comprise many of the

customers losing access to an independent Class I railroad. Shipments of grain typically start on trucks with movements to elevators before ultimately using rail service to reach their final destinations. The diversion analysis, therefore, focuses on rail-to-rail diversions for grain and other agricultural products after their short-haul truck movements from farms.

XIII. CONCLUDING COMMENTS ON THE DIVESTITURE OF THE KANSAS CITY LINE

203. In general, divestitures are structural remedies and are preferred to the alternative of behavioral (or conduct) remedies to alleviate competition concerns related to mergers. The Federal Trade Commission ("FTC") explains that it "prefers structural relief in the form of a divestiture"[268] and that divestiture of an "autonomous, on-going business" to a viable buyer will, in the majority of cases, "immediately create a competitor comparable to the competitor that would have been or was lost after the merger."[269] In his empirical study that examined consummated mergers and remedies, Kwoka (2015) concluded that "of the two types of remedies [structural and conduct], the conduct approach has shown itself to be particularly ineffective."[270]

204. The effectiveness of a divestiture remedy depends on the buyer of the divested assets being a viable, independent competitor. A transfer of assets to a buyer without the incentive or capacity to compete effectively will not be sufficient. In a joint submission to the OECD, the U.S. Department of Justice and FTC state that "the purchaser of the divested assets must possess both the means and the incentive to preserve competition" and that the

[268] Richard Feinstein, *Negotiating Merger Remedies*, Statement of the Bureau of Competition of the Federal Trade Commission, January 2012 at 5.

[269] Richard Feinstein, *Negotiating Merger Remedies*, Statement of the Bureau of Competition of the Federal Trade Commission, January 2012 at 15.

[270] John Kwoka, *Mergers, Merger Control, and Remedies - A Retrospective Analysis of U.S. Policy*, MIT Press, 2015 at 160. *See also* John Kwoka, *Revisiting Structural Remedies*, Antitrust, Fall 2024 at 38 ("Over the past several years, the case against conduct remedies seems largely to have prevailed. Experience has shown that supposed remedies that are essentially rules seeking to prohibit profitable actions by merged companies will predictably elicit efforts to circumvent them. Both evidence and anecdotes confirm that firms routinely succeed in these efforts, resulting in failures of competition policy relying on such remedies.")

divestiture must include "all the assets, physical and intangible, necessary for the purchaser to effectively compete with the merged entity."[271]

205. To be a viable, independent competitor, CN will need to be able to build density in the areas served, and in particular along the Kansas City Line. Interchange traffic brought by CN to Kansas City is part of the pool of traffic CN will need to support its Kansas City facilities, and foreclosure has the potential to depress CN's interchange volumes in Kansas City. Having robust and enforceable open gateway protections is critical for the success of CN as the remedy carrier.

206. To be a viable, independent competitor, CN will also need to have a competitive cost structure. Giving CN access to Kansas City through trackage rights over the Kansas City Line is not a purely structural remedy. As I have already noted, UP management recognizes that it can manipulate such a remedy by raising trackage rates to reduce or eliminate use of the line. This is a classic raising rivals' costs strategy, and it would undermine the very competition that CN's proposed conditions are intended to promote. CN cannot compete if it must pay trackage or haulage rates that are cost-prohibitive. Where divestiture options are generally unavailable, the use of either trackage or haulage rights to serve customers may be the only option to restore some of the competition likely to be lost due to the Proposed Transaction. Where divestiture is feasible, however, it avoids the problems associated with behavioral solutions and is the preferred approach for competition remedies.

207. Divestiture also avoids UP being able to foreclose CN via the use of non-price vertical foreclosure strategies. If the Kansas City Line were divested to CN, CN would schedule the line, negating concerns that UP would be able to disadvantage CN by reducing CN's service quality or prioritizing the scheduling of UP's trains over CN's trains on the Kansas City Line.

[271] The Antitrust Division of the United States Department of Justice and the United States Federal Trade Commission, *Remedies in Merger Cases*, OECD, Working Party No. 3 on Co-operation and Enforcement at ¶ 10, https://www.ftc.gov/sites/default/files/attachments/us-submissions-oecd-and-other-international-competition-fora/1106usremediesmergers.pdf (last visited Nov. 13, 2026).

208. CN is well positioned to operate the Kansas City Line. It represents a natural geographic extension of CN's rail network into an adjoining region, extending CN's network several hundred miles to the west from St. Louis to Kansas City and connecting the large Kansas City gateway to CN's north-south corridor. CN's proposed conditions include all the track and associated rights needed for CN to operate the line effectively (*e.g.*, the terminal trackage rights on BNSF between Eton and Congo, Missouri).[272] CN's Operating Plan demonstrates that it has the necessary assets to compete *(e.g.*, engines, staff) or plans to develop the needed assets or capabilities (*e.g.*, making improvements to the Neff Yard to support its intermodal and finished vehicle distribution businesses). [273]

[272] Comment at 9–10, 52–54; Operating Plan at 13–14, 133–37.

[273] Operating Plan at 136, 140–145.

VERIFICATION

I, Henry J. Kahwaty, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed on this 18th day of November, 2026.

Henry J. Kahwaty, Ph.D.

Attachment A
Defined Terms

- **2-to-1 / 3-to-2** — Facilities whose Class I service options drop from two to one or from three to two as a result of the Proposed Transaction
- **A&S** — The Alton & Southern Railway Company
- }}
- }}
- **Ag Coast of America** — A 15-mile stretch of the Mississippi River with St. Louis to the west and East St. Louis to the east
- **Amended Application** – The Amended Application filed by Union Pacific to acquire control of Norfolk Southern in STB Docket No. FD 36873
- **Applicants** — Norfolk Southern together with Union Pacific, collectively
- **Base Case** — The scenario modeling the Kansas City Divestiture, Tuscola Trackage Rights, Des Moines Trackage Rights, Hillsboro Trackage Rights, and access to certain reciprocal-switch customer facilities
- **Base Case CN Rail Network** — CN's rail network under the conditions modeled in the Base Case
- **Base Case Rail Network** — The Baseline Rail Network updated to reflect the track ownership and access-right changes modeled in the Base Case
- **Base Year** — 2023
- **Baseline Rail Network** — The post-UP/NS-merger rail network before imposition of conditions or remedies requested by third parties or imposed by the Board, with no other assumed track ownership, access-right, or railroad-business changes
- **BEA** — An economic area defined by the U.S. Bureau of Economic Analysis; in the truck-to-rail analysis, a geographic market area reported in TRANSEARCH, including analogous Canadian areas
- **BNSF** — BNSF Railway Company

- **Board/STB** — Surface Transportation Board
- **BRG** — Berkeley Research Group, LLC
- **CGP** — Committed Gateway Pricing
- **CIC** — Cedar Rapids & Iowa City Railway Company
- **CMA** — Census Metropolitan Area
- **CN** — Grand Trunk Corporation, on behalf of itself and its U.S. rail operating subsidiaries
- **CN Base Operating Plan** — CN's operating plan incorporating Applicants' Growth Plan as the post-transaction analytical baseline, including post-2023 traffic adjustments and Applicants' estimated diversions to the merged UP/NS railroad
- **CN Growth Plan** — The operating plan developed by adding estimated CN diverted traffic and existing CN traffic rerouted through the Kansas City and St. Louis interchanges to the CN Base Operating Plan
- **CN's proposed conditions** — The remedial proposals described in the Comment
- **Comment** — CN's Comments on the Amended Application & Requests for Conditions
- **Control Group** — CP and/or KCS interline shipments pre-merger and CPKC interline shipments post-merger that do not pass through any of the 13 gateways subject to the CPKC open gateway conditions
- **Cora** — Watco's Cora River Terminal in Cora, Illinois
- **CP** — Canadian Pacific
- **CPKC** — Canadian Pacific Kansas City Railway Company
- **Des Moines Line** — UP's Albert Lea, Mason City and Trenton Subdivisions from MP 201.87 in Manly, Iowa to MP 66.80 at Avon, Iowa; and UP's Perry Subdivision from the connection with the Mason City Subdivision at MP 73.61/355.8 in Des Moines, Iowa to MP 354.50 at Short Line Yard in Des Moines, Iowa

- **Des Moines Trackage Rights** — The proposed overhead and limited local trackage rights or alternative haulage over the Des Moines Line, with trackage-rights access for facilities requiring unit train service and switching access for the remaining 2-to-1 and 3-to-2 customer facilities in Des Moines and Avon, Iowa
- **DiD** — Difference-in-differences
- **EIA** — U.S. Energy Information Administration
- **Eton to Congo Segment** — About 7.5 miles of BNSF's Marceline Subdivision between Eton, Missouri (MP 436.6) and Congo, Missouri (MP 444.1)
- **EVWR** — Evansville Western Railroad
- **Ford Kansas City** — Ford's Kansas City Assembly Plant
- **Former Sarpy Yard property** — UP's inactive Sarpy Yard property on the Kansas City Line
- **FRA** — Federal Railroad Administration
- **FTC** — Federal Trade Commission
- **GM Fairfax** — General Motors' Fairfax Assembly Plant
- **GM Wentzville** — General Motors' Wentzville Assembly Center, northwest of St. Louis
- **Hillsboro Line** — UP's line from Hillsboro, Illinois (MP 233) to Sullivan, Illinois (MP 176.2) and Tuscola, Illinois (MP 153.49), and from Hillsboro to Lenox in Mitchell, Illinois (MP 275.4/269.70) to WR Tower in Granite City, Illinois (MP 275.39) to Q Tower TRRA in East St. Louis, Illinois (MP 281.00)
- **Hillsboro Mine** — The Deer Run Mine at Foresight Energy's Hillsboro complex
- **Hillsboro Trackage Rights** — The proposed local trackage rights allowing CN to serve the Hillsboro Energy facility via UP's line between Tuscola and Hillsboro, Illinois
- **IANR or Iowa Northern** — Iowa Northern Railway Company

- **Impedance** — Route mileage augmented by penalties, such as additional mileage assigned to interchanges

- **Interchange Shift** — Rerouting an existing CN-originated interline movement so that the interchange handoff occurs in Kansas City instead of another gateway, such as Chicago or Superior, Wisconsin

- **Interchange Shift Volume** — Existing CN-originated interchange volume that could shift its gateway from locations like Chicago and Superior, Wisconsin, to Kansas City, due to the changes in traffic patterns, business strategies, and other operational planning that is anticipated to occur on CN's network once it gains access to facilities and interchange options in Kansas City

- **Junction Frequency** — The number of interchanges required to move a railcar from its origin to destination when handled by a given pair of origin and destination railroads

- **Kansas City Divestiture** — The Kansas City Line Divestiture together with terminal trackage rights over BNSF and trackage rights on the Lydia Avenue to Broadway Boulevard Segment

- **Kansas City Line** — UP's line from Twelfth Street, St. Louis, Missouri (MP 0.36), to 23rd Street Yard (at or near MP 0.8), to Grand Ave., St. Louis, Missouri (MP 2.5), to the former Sarpy Yard property (at or near MP 2.6), to River Junction (MP 128.0) West of Jefferson City, Missouri to Rock Creek Junction (MP 276.9) to Southwest Junction (MP 278.2) into Neff Yard, Kansas City, Missouri, or from Twelfth Street, St. Louis, Missouri (MP 0.36) to 23rd Street Yard (at or near MP 0.8), to Grand Ave., St. Louis, Missouri (MP 2.5), to the former Sarpy Yard property (at or near MP 2.6), to River Junction, Missouri (MP 128.0) to Eton, Missouri (MP 276.1 (BNSF MP 436.6)) and from Congo, Missouri (BNSF MP 444.1) to Rock Creek Junction (MP 276.9) to Southwest Junction (MP 278.2) into Neff Yard, Kansas City, Missouri including but not limited to, any and all yards, sidings, auxiliary tracks located along the UP solely owned right of way

- **Kansas City Line Divestiture** — The proposed divestiture of UP's Kansas City Line to CN if the Board orders divestiture or UP decides to sell the line

- **Kansas City Line Trackage Rights** — The proposed trackage rights and local haulage rights on UP's Kansas City Line, with interim overhead haulage rights until the trackage rights are activated, as an alternative to divestiture

- **Kansas City Trackage Rights** — The Kansas City Line Trackage Rights together with terminal trackage rights over BNSF and trackage rights on the Lydia Avenue to Broadway Boulevard Segment

- **KCS** — The Kansas City Southern Railway Company

- **KCSM** — Kansas City Southern de Mexico, KCS's Mexico affiliate before the merger

- **KCT** — Kansas City Terminal Railway Company

- **Lenox to East St. Louis Segment** — A&S's line from Lenox in Mitchell, Illinois (MP 21.09) to the connection to the Terminal Railroad Association of St. Louis's (TRRA) MacArthur Bridge route (MP 2.4) to Valley Jct. in East St. Louis, Illinois (MP 2.2), via Gateway Yard (MP 4.16) and Mitchell Yard (MP 19.9)

- **Lydia Avenue to Broadway Boulevard Segment** — UP's K.C. Metro (Neff) Subdivision from Lydia Avenue, Kansas City, Missouri (MP 281.7) to Broadway Boulevard, Kansas City, Missouri (MP 283.1)

- **MP** — Milepost

- **NARN** — North American Rail Network

- **Norfolk Southern** — Norfolk Southern Corporation and NS, collectively

- **NS** — Norfolk Southern Railway Company

- **OEA** — The Board's Office of Environmental Analysis

- **Proposed Transaction** — Union Pacific's acquisition of control of Norfolk Southern

- **PSR** — Precision scheduled railroading

- **Quantanet** — Oliver Wyman's path-finding software module used to calculate the least-impeded path between origin and destination nodes on a rail network

- **SCRS** — Serving Carrier & Reciprocal Switching
- **Settlement MOU** — Binding Memorandum of Understanding between CN and Union Pacific (July 22, 2026)
- {{ }}
- **Springfield Diversion Study** — Mr. Hunt's diversion study for CN concerning its proposed acquisition of the KCS Springfield Line as a divestiture remedy in the CP/KCS merger proceeding
- **SSW** — St. Louis Southwestern Railway Company
- **Trackage Rights Alternative** — The scenario in which CN is given access to Kansas City via trackage rights over the Kansas City Line as opposed to acquiring the Kansas City Line from UP
- **TRANSEARCH** — The database used to obtain truck freight volumes and distances for the truck-to-rail analysis
- **Treatment Group** — Shipments originated in Mexico by KCS (pre-merger) or CPKC (post-merger) and interlining at the {{ }} gateway with UP
- **TRRA** — Terminal Railroad Association of St. Louis
- **Tuscola Line** — UP's line from Tuscola, Illinois (MP 153.49) to Sullivan, Illinois (MP 176.2) to Lenox in Mitchell, Illinois (MP 275.4/269.70) to WR Tower in Granite City, Illinois (MP 275.39) to Q Tower TRRA in East St. Louis, Illinois (MP 281.00)
- **Tuscola Trackage Rights** — The proposed overhead trackage rights for CN on UP's Tuscola Line
- **Union Pacific** — Union Pacific Corporation and UP, collectively
- **UP** — Union Pacific Railroad Company
- **Units** — Rail cars or containers
- **Updated Hunt Analyses** — The Updated Hunt R2R Analysis and Updated Hunt T2R Analysis, collectively

- **Updated Hunt R2R Analysis** — The updated rail-to-rail diversion analysis included in Mr. Hunt's September 4, 2026 Second Errata Verified Statement

- **Updated Hunt T2R Analysis** — The updated truck-to-rail diversion analysis included in Mr. Hunt's September 4, 2026 Second Errata Verified Statement

- **Updated Hunt UP/NS Diversion Study** — Mr. Hunt's Second Errata Verified Statement dated September 4, 2026, and its associated workpapers

Attachment B
Difference-in-Differences Technical Discussion

1. The DiD methodology I use in **Section III.D** is an empirical tool widely used in economics (e.g., merger retrospectives, damages analysis, price-fixing cases, public policy/regulatory analysis)—as well as other disciplines—to investigate the impact of an event by comparing outcomes in a Treatment Group to a Control Group.[274]

2. **Figure B1** provides a visualization of the DiD framework used in my analysis. Let P represent the price for a Treatment Group movement and C represent the price for a Control Group movement. The subscript B refers to the price before the merger and the subscript A refers to the price after the merger. The change in the price for the Treatment Group movement over time is (P_A – P_B) and the change in the price for the Control Group movement is (C_A – C_B). The DiD estimate (sometimes referred to as the "treatment effect") is the "difference-in-differences" of (P_A - P_B) - (C_A - C_B).

[274] For applications of the type of DiD methodology I use, *see, e.g.*, R. Forrest McCluer and Martha A. Starr, *Using Difference in Differences to Estimate Damages in Healthcare Antitrust: A Case Study of Marshfield Clinic*, Int. J. of the Economics of Business, 2013, Vol. 20, No. 3 at 447–469 (a DiD model is used to estimate damages in a healthcare antitrust matter); Kai Hüschelrath, Kathrin Müller, and Tobias Veith, *Concrete Shoes for Competition: The Effect of the German Cement Cartel on Market Price*, Journal of Competition Law and Economics, 2013, 9(1) at 97–123 (data from a German cement cartel are used to analyze – in a DiD framework – the change in price for a cartelized market over time compared to the change in price in a non-cartelized, benchmark market); Graeme Hunter, Gregory K. Leonard, and G. Steven Olley, *Merger Retrospective Studies: A Review*, 2008, Vol. 23, No. 1 at 34–41 (describes the widespread use of the DiD approach for estimating price effects of a merger in a retrospective analysis); David Card and Alan B. Krueger, *Minimum Wages and Employment: A Case-Study of the Fast Food Industry in New Jersey and Pennsylvania*, American Economic Review, 1994, 84(4) at 772–793 (the effect on employment of a minimum wage increase in New Jersey is analyzed in a DiD framework relative to Pennsylvania where there was no change in the minimum wage); Ulrich Laitenberger and Florian Smuda, *Estimating Consumer Damages in Cartel Cases*, Journal of Competition Law and Economics, 2015, 11(4) at 955–974 (damage suffered by German consumers due to a detergent cartel in eight European countries is quantified using a DiD model); and Justin B. Dimick, MD, MPH and Andrew M. Ryan, PhD, *Methods for Evaluating Changes in Health Care Policy The Difference-in-Differences Approach*, JAMA Guide to Statistics and Methods, 2014, 312(22) at 2401–2402 (discusses the popularity of the DiD approach to evaluate changes in outcomes associated with health care policy implementation).

Figure B1
Difference-in-Differences Framework

	Pre-Merger Price	Post-Merger Price	Price Change
Treatment Group	P_B	P_A	$P_A - P_B$
Control Group	C_B	C_A	$C_A - C_B$
	DiD Estimate:		$(P_A\text{-}P_B) - (C_A\text{-}C_B)$

3. When analyzing the price effects (if any) due to a merger, the change in the price for the Control Group before and after the merger provides a measure of the effect on prices of factors other than the merger (*i.e.*, changes in supply, demand, costs, or other market factors). The change in the price charged by the Control Group can be subtracted from the change in the price charged by the Treatment Group, and the impact of the merger on prices can be estimated by analyzing this difference.

4. The DiD estimate is interpreted as the effect of the merger on the price for the Treatment Group "over and above" any change that would have occurred absent the merger (as proxied by the change in price for the Control Group). If the DiD estimate is positive, then prices for the Treatment Group increased relative to those for the Control Group subsequent to the merger; if it is negative, then prices for the Treatment Group decreased relative to those for the Control Group.

5. The above DiD method can be implemented in a regression model specified in its simplest form as follows:[275]

$$Price_{it} = \alpha + \beta * (Post\ Merger_{it} * Treatment_{it}) + \gamma * Post\ Merger_{it} + \delta * Treatment_{it} + \epsilon_{it}$$

[275] This basic DiD regression model can be augmented with additional explanatory variables to account for different economic and other market factors on prices between the Control and Treatment Groups should they exist and is equivalent to the regression specification in the text. As explained in **Section III.D**, I control for the cross-sectional differences across shipments using an indicator variable for each combination of origin, destination, car type, commodity type, shipper, railroad, intermodal status, contract type, and car ownership type.

Where $Treatment_{it} = 1$ if observation *i* at time *t* is a Treatment Group price and 0 if a Control Group price, and $Post\ Merger_{it} = 1$ if the price is observed after the merger (and 0 if before). The estimated coefficient β gives the DiD estimate of the effect of the merger on the Treatment Group price relative to the Control Group price. It is identical to the DiD estimate illustrated in **Figure B1**. This can be seen in **Figure B2** by substituting a 0 or 1 as appropriate in the DiD regression equation shown above.

Figure B2
Difference-in-Differences Regression Framework

	Pre-Merger Price	**Post-Merger Price**	**Price Change**
Treatment Group	$\alpha + \delta$	$\alpha + \beta + \gamma + \delta$	$\beta + \gamma$
Control Group	α	$\alpha + \gamma$	γ
Difference	δ	$\beta + \delta$	$\boldsymbol{\beta}$

6. The focus of the DiD analysis is the estimated regression coefficient β associated with the "interaction term" (*i.e.*, $Post\ Merger_{it} * Treatment_{it}$).[276] This measures the additional change in the outcome (price) for the Treatment Group relative to the Control Group pre- and post-merger. When studying the effect of a merger on prices, if β is not statistically different from zero, then there is no statistically significant difference in the prices charged to customers in the Treatment Group relative to the Control Group.

7. The underlying assumption of a DiD regression analysis is that the outcomes for the Treatment and Control Groups would have followed similar patterns but for the event under

[276] The coefficients in **Figure B2** correspond to those in the regression model in ¶ 5 above. The coefficient $\boldsymbol{\alpha}$ is the baseline pre-merger price for the Control Group. The coefficient $\boldsymbol{\delta}$ is the estimated difference in pre-merger prices between the Treatment and Control Groups, and the coefficient $\boldsymbol{\gamma}$ is the change in the post-merger and pre-merger price for the Control Group.

study, here, the CP/KCS merger. If the Control and Treatment Groups are similar in all significant respects (*i.e.*, the same market factors affect both types of movements), then significant differences in the change in pricing between the groups before and after the merger can reasonably be attributed to the merger. The DiD regression relies on the assumption that, in the absence of the treatment under study, the Treatment and Control Groups would have had similar trends in outcome. The "parallel trends" assumption is a condition for interpreting the DiD estimate as related to the event. That is, if trends in outcomes experienced by the Control and Treatment Group before the treatment are sufficiently similar, it is reasonable to assume that this relationship would have continued absent the event. If this assumption is satisfied, the trend in outcome of the Control Group after the event can serve as a reliable estimate of the counterfactual trend for the Treatment Group.

8. The price indices and total car count charts reported in **Section III** visually indicate similar trends for the Treatment and Control Groups prior to the announcement of the CP/KCS merger. The following figures report the results of formal parallel-trends tests.[277] **Figure B3** visually shows the parallel trends using all monthly prices (January 2019 to December 2025) and **Figure B4** uses car counts (January 2019 to December 2025). The results indicate that the parallel trends assumption is reasonably upheld whether using prices or volumes (car counts) in the DiD regressions.[278]

[277] For the price regression, I account for the estimated relationship between Treatment Group prices and the USD/MXN exchange rate in conducting the parallel trends test. Specifically, I adjust Treatment Group prices by multiplying them by $(\frac{USD}{MXN})^{-0.4955}$ and then perform the parallel trends test using the adjusted prices.

[278] Differences in the pre-merger period coincide with COVID-19 in Spring 2020. Differences in early 2019 coincide with periods in which KCS made substantial operational improvements such as full adoption of precision scheduled railroading (PSR) and customs process improvements at the Mexican border in early 2019.

See Ari Ashe, *Rails Work to Reduce Houston Congestion*, J. of Com., April 18, 2019 ("During first-quarter earnings calls, KCS and UP identified Houston as key to fixing their networks through precision scheduled railroading (PSR). The operating model focused on injecting speed and efficiencies into networks hinges on running fewer but longer train sets."), s*ee also* Bill Stephens, *KCS, UP Clear a Path Through Houston*, Newswire, May 14, 2019 ("KCS also is working to smooth operations at Laredo, North America's busiest international freight rail gateway. By the end of May, KCS expects customs process improvements to eliminate the current six-hour directional windows that govern movements across the International Railway Bridge that spans the Rio Grande. American and Mexican customs officials will begin sharing x-ray images of trains for trains moving in both directions…KCS has consolidated

Figure B3
Parallel Trends Test for Treatment and Control Prices
(January 2019 to December 2025)
{{

}}

southbound cross-border intermodal trains at its Sanchez Yard in Nuevo Laredo, Mexico, including traffic interchanged with UP at Laredo. Train lengths are up 30%, to 8,500 feet, as train starts were reduced by nearly a third, Fahmy says.").

Figure B4
Parallel Trends Test for Treatment and Control Car Counts
{{

}}

9. The following regression results use data for the entire 2019-2025 period, including the transition period excluded from the analysis in **Section III**. **Figure B5** reports the price DiD regression results, and **Figure B6** reports car count DiD regression results. While the estimated effects are smaller in absolute magnitude, the results remain consistent with those reported in **Section III**.

Figure B5
Price Changes for KCS or CPKC Movements Originated in Mexico and Interlining in {{ }} Relative to Control Group
Difference-in-Differences Regression Results
January 2019 – December 2025
{{

}}

Figure B6
Car Count Changes for KCS or CPKC Movements Originated in Mexico and Interlining in {{ }} Relative to the Control Group
Difference-in-Differences Regression Results
January 2019 – December 2025
{{

}}

10. The following regression results do not include a control for the US/MEX Exchange Rate variable in the price DiD regression as described in **Section III**. **Figure B7** reports the regression results where I exclude the transition period; these estimated DiD effects are consistent with (and larger than) those reported in **Section III**, at approximately 11%–12%. **Figure B8** reports the regression results using the entire period; these estimated DiD effects are also consistent with (and larger than) those reported in **Section III**, at approximately 9% to 11%.

Figure B7
Price Changes for KCS or CPKC Movements Originated in Mexico and Interchanging at {{ }} Relative to Control Group
Difference-in-Differences Regression Results (No Exchange Rate Control)
January 2019-February 2021 and May 2023 – December 2025
{{

}}

Figure B8
Price Changes for KCS or CPKC Movements Originated in Mexico and Interchanging at {{ }} Relative to Control Group
Difference-in-Differences Regression Results (no Exchange Rate Control)
January 2019 – December 2025
{{

}}

11. Finally, **Figures B9** and **B10** report corresponding DiD regressions for car counts, excluding the US/MEX Exchange Rate control for both regressions. **Figure B9** reports the regression results where I exclude the transition period and **Figure B10** reports the regression results using the entire period. These estimated DiD effects are consistent with those reported in **Section III**.

Figure B9
Car Count Changes for KCS or CPKC Movements Originated in Mexico and Interchanging at {{ }} Relative to Control Group
Difference-in-Differences Regression Results (No Exchange Rate Control)
January 2019-February 2021 and May 2023 – December 2025
{{

}}

Figure B10
Car-Count Changes for KCS or CPKC Movements Originated in Mexico and Interchanging at {{ }} Relative to Control Group
Difference-in-Differences Regression Results (No Exchange Rate Control)
January 2019-– December 2025
{{

}}

Attachment C
CN-UP/NS Gateways and Interchange Locations Subject to Gateway Protections

{{

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Attachment D
Trackage Rights Alternative Scenario

This provides traffic diversions and associated revenue impacts from the Trackage Rights Alternative Scenario discussed in **Section VII**.

Table D1
Summary of the Traffic Diversion Analysis Results
Traffic Diverted, by Service Type
Trackage Rights Alternative Scenario

Service Type	Rail-to-Rail Units		Truck-to-Rail Units	Port of Montreal Units	Total Units
	Regular Markets	Shifted Markets			
General Merchandise	5,404	9,196	-	-	14,600
Intermodal	6,708	1,823	21,431	10,015	39,976
Bulk	6,468	18	-	-	6,486
Auto	2,252	1,711	284	-	4,247
Other	-	-	10,107	-	10,107
Total Units	20,832	12,748	31,822	10,015	75,416

Source: Kahwaty Workpapers "Diversion Units (Trackage Rights).xlsx."

Table D2
Summary of the Traffic Diversion Analysis Results
Revenue for Traffic Diverted, by Service Type
Trackage Rights Alternative Scenario

Service Type	Rail-to-Rail Revenue		Truck-to-Rail Revenue	Port of Montreal Revenue	Total Revenue Impact
	Regular Markets	Shifted Markets			
General Merchandise	$ 17,748,957	$ 28,930,870	$ -	$ -	$ 46,679,827
Intermodal	$ 4,184,546	$ 951,674	$ 8,200,059	$ 11,386,133	$ 24,722,412
Bulk	$ 25,115,734	$ 72,404	$ -	$ -	$ 25,188,139
Auto	$ 7,077,499	$ 6,410,009	$ 1,086,378	$ -	$ 14,573,886
Other	$ -	$ -	$ 39,220,338	$ -	$ 39,220,338
Total	$ 54,126,736	$ 36,364,958	$ 48,506,775	$ 11,386,133	$ 150,384,602

Source: Kahwaty Workpapers "Revenue Impact (Trackage Rights).xlsx."

Table D3
Estimated Rail-to-Rail Diversion by Service Type
Trackage Rights Alternative Scenario

Service Type Label	% of Total	Diverted Volume
General Merchandise	26%	5,404
Intermodal	32%	6,708
Bulk	31%	6,468
Auto	11%	2,252
	100%	20,832

Source: Kahwaty Workpapers "CN Diversions by Carrier, TR.xlsx."

Table D4
Traffic Diverted from Other Railroads to CN
Trackage Rights Alternative Scenario

	Merchandise		Intermodal		Bulk		Automotive		
Carrier	New to CN	CN Extended Haul	New to CN	CN Extended Haul	New to CN	CN Extended Haul	New to CN	CN Extended Haul	Total
UPNS	1,808	761	4,788	0	6,327	17	380	1,813	15,893
BNSF	608	952	1,985	17	119	0	59	0	3,739
CPKC	1,806	64	167	0	30	0	321	0	2,389
CSXT	250	3	19	0	29	0	0	0	301
Shortlines	696	148	0	0	3,613	0	0	890	5,348

Source: Kahwaty Workpapers "CN Diversions by Carrier, TR.xlsx."

Table D5
Estimated Truck-to-Rail Diversion by Service Type
Trackage Rights Alternative Scenario

Service Type	Percentage of Total	Diverted Volume
Intermodal	67%	21,431
Dry Bulk	20%	6,255
Liquid / Gas	10%	3,204
Flatbed	2%	648
Auto	1%	284
	100%	31,822

Source: Kahwaty Workpapers "Diversions by Service Type (Trackage Rights).xlsx."

Table D6
Disaggregation of Diverted Units by CN's Proposed Conditions
Trackage Rights Alternative Scenario

Condition	Rail-to-Rail Units		Truck-to-Rail Units	Port of Montreal Units	Total Units
	Regular Markets	Shifted Markets			
Kansas City Line	11,347	12,748	21,971	10,015	56,080
New St. Louis Facilities	1,522	-	7,960	-	9,483
Tuscola Line	532	-	1,890	-	2,422
Hillsboro Line	6,204	-	-	-	6,204
Des Moines Line	1,227	-	-	-	1,227
Total Units	20,832	12,748	31,822	10,015	75,416

Source: Kahwaty Workpapers "Diversion Units (Trackage Rights).xlsx."

Table D7
Disaggregation of Diverted Units
Revenue Impact by CN's Proposed Conditions
Trackage Rights Alternative Scenario

Condition	Rail-to-Rail Revenue		Truck-to-Rail Revenue	Port of Montreal Revenue	Total Revenue Impact
	Regular Markets	Shifted Markets			
Kansas City Line	$ 20,384,160	$ 36,364,958	$ 33,896,179	$ 11,386,133	$ 102,031,429
New St. Louis Facilities	$ 4,115,805	$ -	$ 6,274,722	$ -	$ 10,390,527
Hillsboro Line	$ 24,369,793	$ -	$ -	$ -	$ 24,369,793
Tuscola Line	$ 668,936	$ -	$ 8,335,874	$ -	$ 9,004,810
Des Moines Line	$ 4,588,042	$ -	$ -	$ -	$ 4,588,042
Total	$ 54,126,736	$ 36,364,958	$ 48,506,775	$ 11,386,133	$ 150,384,602

Source: Kahwaty Workpapers "Revenue Impact (Trackage Rights).xlsx."

Attachment E
Rail-to-Rail Diversion: Overview of the Baseline Rail Network and Traffic Analyzed

1. This Attachment provides an overview of the baseline rail network and traffic data I analyze for modeling rail-to-rail diversion. It details the steps, data, and assumptions I used to effectuate CN's proposed conditions over the existing rail network.

2. The baseline rail network used in my analysis reflects the post-UP/NS merger rail network, and the traffic volumes and patterns considered are the 2023 actual traffic volumes and flows from the consolidated 100% traffic tapes used in the Updated Hunt UP/NS Diversion Study.[279] CN's proposed conditions are conditional on the Proposed Transaction being approved by the Board. As such, my analysis of the divertible traffic likely to result from CN's proposed conditions allows UP/NS to compete as a merged railroad. In addition, CN's proposed conditions, once approved, would be enacted at the same time as the Proposed Transaction closes. Thus, it is appropriate for the baseline rail traffic flows to exclude diverted traffic resulting from the Updated Hunt UP/NS Diversion Study, which is estimated to be realized three years after the close of the Proposed Transaction.[280] The diversions associated with CN's proposed conditions reflect changes in traffic patterns relative to this baseline.

3. The "Baseline Rail Network" assumes the Proposed Transaction has closed and does not reflect the imposition of any conditions or remedies requested by third parties or imposed by the Board on Applicants. Other than ownership changes due to the Proposed Transaction, it assumes no other track ownership or rights changes, and no changes in the businesses of other railroads. The baseline rail network I model reflects the post-merger rail network that the Updated Hunt UP/NS Diversion Study uses.[281] To model CN's

[279] Additional data sources are described in the *Rail-to-Rail Diversion Methodology Workpaper*.

[280] Hunt September 2026 V.S., Appendix C at 184–185; Second Errata Joint Verified Statement of Eric Gehringer and John F. Orr, Operating Plan (Exhibit 13), at ¶ 15 [hereinafter "Gehringer/Orr V.S."] ("Third, Applicants designed operations that would accommodate the traffic growth projected to be achieved by a fully integrated UP/NS three years after the transaction. We call this the 'Growth Plan.'")

[281] Certain adjustments were made to the markets comprising the post-merger rail network that the Updated Hunt UP/NS Diversion Study uses. However, it is consistent with the Updated Hunt UP/NS Diversion Study in that it treats UP and NS as one merged railroad.

proposed conditions, I first update the Baseline Rail Network to reflect the changes in track ownership and rights that would be brought about by these conditions. In particular, I update the rail network to reflect the Base Case scenario described in **Section VII**. I refer to this rail network as the "Base Case Rail Network."

4. Broadly, my process for effectuating the Base Case Rail Network involves using Oliver Wyman's Quantanet software and other backup materials and data produced by Mr. Hunt on behalf of Applicants. Quantanet is a "path-finding software module" that calculates the least impeded path between origin and destination nodes on a rail network built using Federal Railroad Administration ("FRA") North American Rail Network ("NARN") Rail Lines data.[282] By updating the NARN and other station access data used by the Updated Hunt UP/NS Diversion Study, I am able to model CN access at stations and over lines consistent with CN's proposed conditions included in the Base Case. In generating the Baseline Rail Network, I make the following assumptions:

    a. CN has access to route trains over UP owned NARN segments and local access to serve all UP stations along the Kansas City Line between St. Louis (Twelfth Street) and Kansas City (Broadway), including all industrial leads.

    b. CN has access to route trains over all UP owned NARN segments between Tuscola and East St. Louis and has access to serve the Foresight Energy facility at Hillsboro, Illinois.

    c. CN has access to route trains over TRRA and A&S owned NARN segments in the East. St. Louis and St. Louis area, including over the TRRA MacArthur Bridge and the A&S track between Lenox in Mitchell, Illinois to Valley Jct., Illinois.

[282] Applicants describe how Quantanet works in the Hunt September 2026 V.S. (*see e.g.*, Section A.6).

d. CN has access to route trains over UP owned NARN segments between Manly, Iowa and Des Moines, Iowa and has access to serve local customers at the Des Moines and Avon, Iowa stations.

e. CN will provide bi-directional service over the Kansas City Line.

f. CN is granted terminal trackage rights over BNSF between Eton and Congo, Missouri.

g. CN can interchange with other carriers using the KCT.

h. CN can serve A&S and TRRA traffic when moving shipments through St. Louis (either from CN's existing entry via East St. Louis or from the north via the Tuscola Line), and does not require an interchange impedance (because this interchange impedance is applicable to all carriers moving such traffic);

i. After the Kansas City Line is divested to CN, CN grants local haulage rights and overhead trackage rights to UP over this line.

j. CN will handle finished vehicles and intermodal shipments at the Neff Yard in Kansas City and will have the ability to originate traffic from Kansas City Ford and GM auto plants (via a short and non-prohibitive drayage trips from the plants to Neff Yard).

k. CN will handle finished vehicles and intermodal shipments at the former Sarpy Yard property and will have the ability to originate traffic from the Wentzville, Missouri GM auto plant (via a short and non-prohibitive drayage trips from the plant to the auto yard).[283]

[283] Note that the station data and rail network data I have access to do not indicate a precise station code (e.g., Freight Station Accounting Code or Standard Point Location Code) for the former Sarpy Yard property. As such, for purposes of modeling CN's ability, under its proposed conditions, for acquiring automotive and intermodal facilities (and serving traffic in/out of those facilities), I assign proxy access that permits CN to serve out of Grand Avenue,

l. CN can serve Kansas City customers in the KCT reciprocal switching tariffs and certain customers in the UP and NS reciprocal switching tariffs.

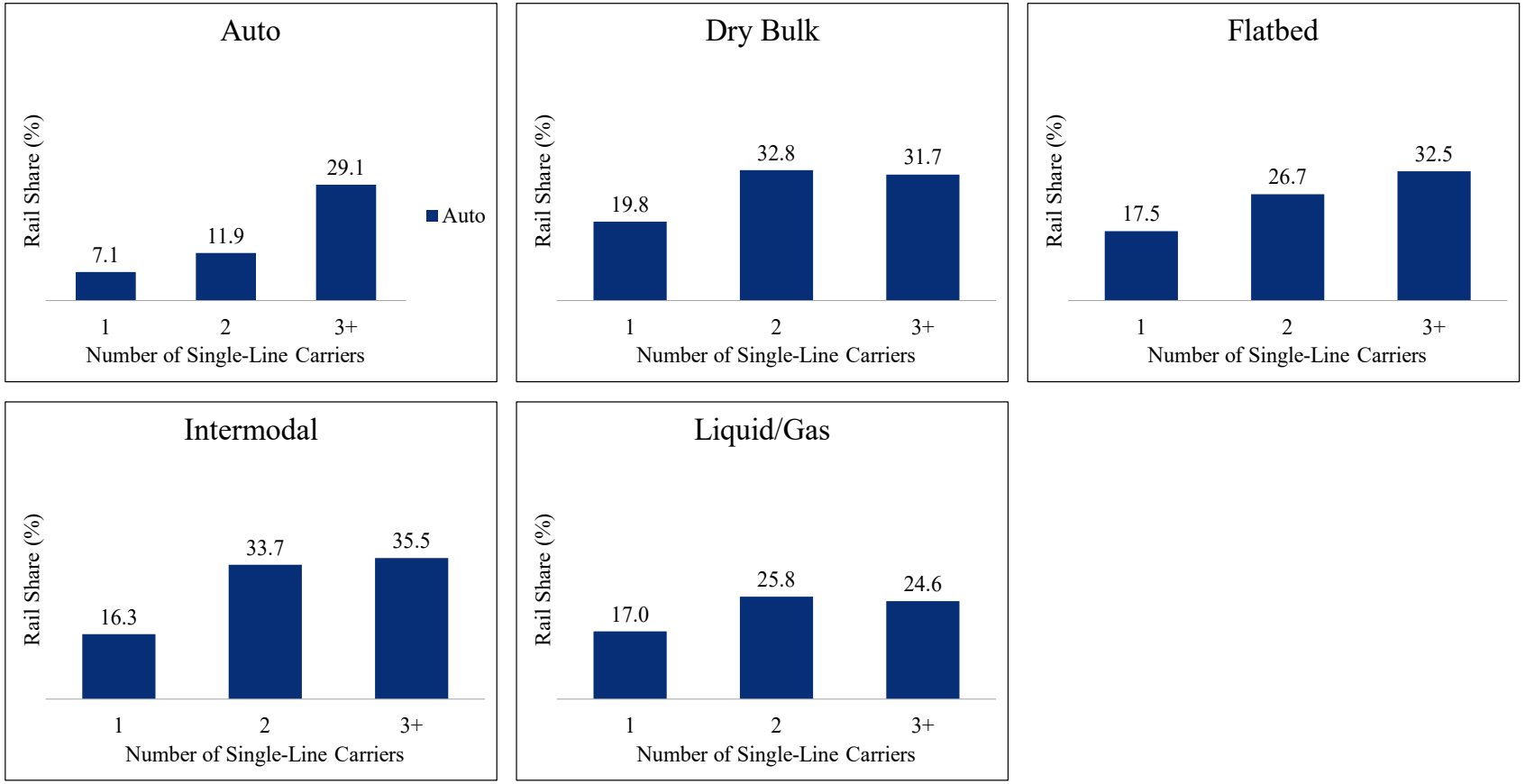
m. There are no meaningful capacity restrictions in place over any segment(s) of the rail network to which traffic is diverted to CN.

n. Once the Base Case Rail Network is constructed, I use it in my modeling of the rail-to-rail diversions anticipated to result from CN's proposed conditions.

Missouri (SPLC = 567509) and Centreville, Illinois (SPLC = 396637) for automotive traffic service and at Dupo Yard (SPLC = 396658) for intermodal traffic service.

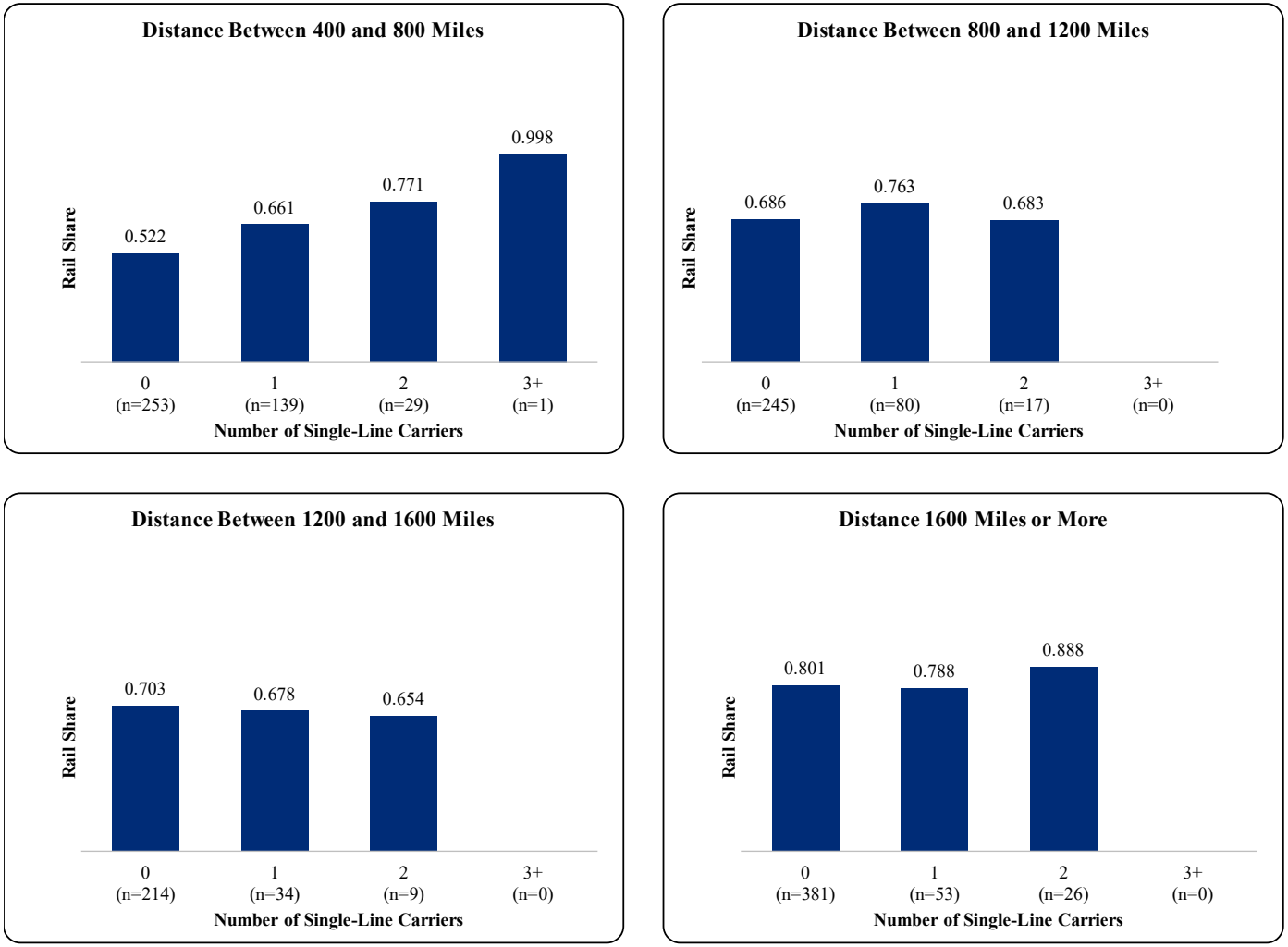
Attachment F
Additional Truck-to-Rail Share Figures

Figure F1
Rail Share for Shipments Between BEA Pairs 2023



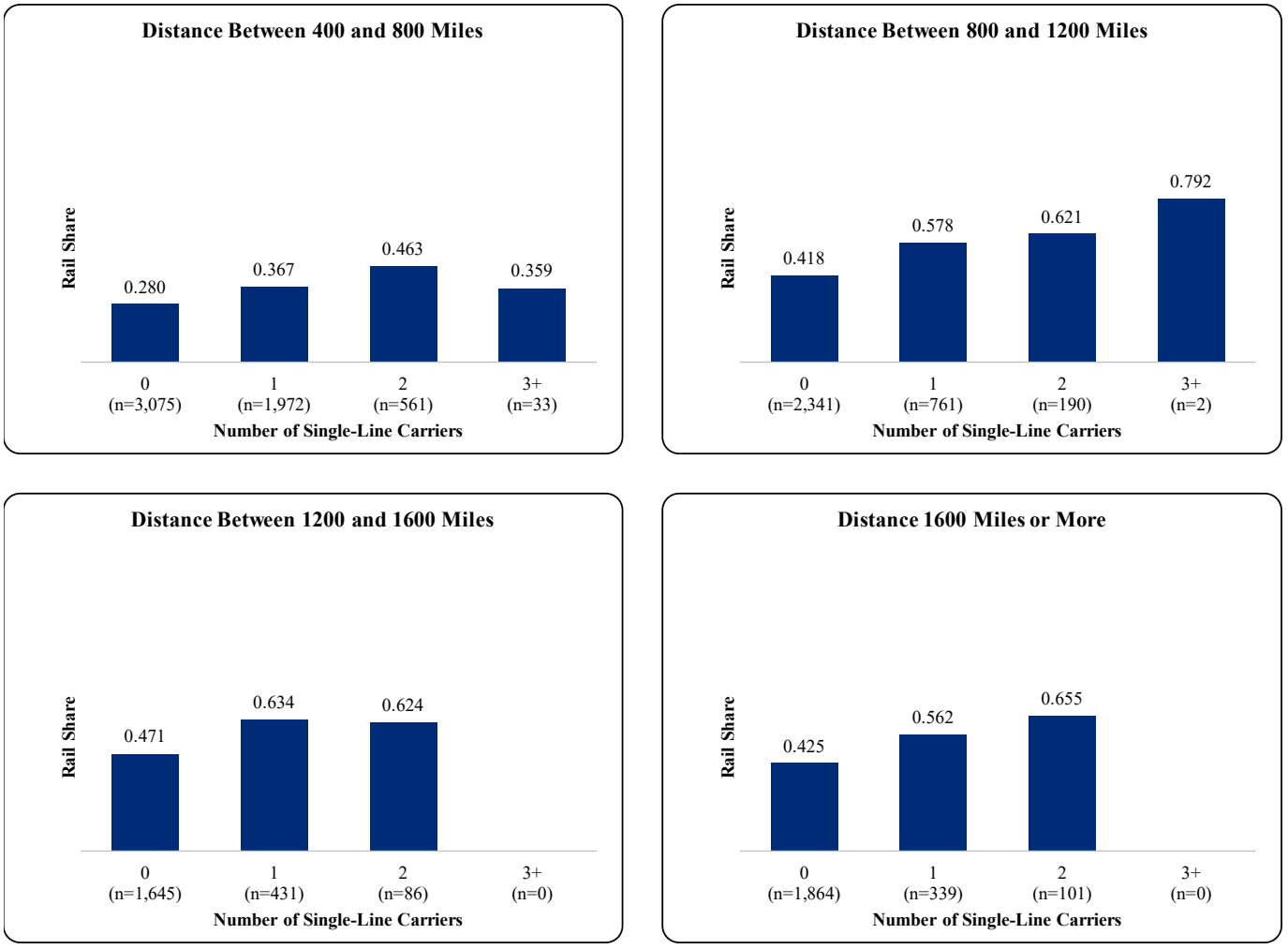
Source: Kahwaty Workpapers "T2R Marginal Effects by Service Type.xlsx."

Figure F2
Rail Share by Number of Single-Line Carriers
Auto



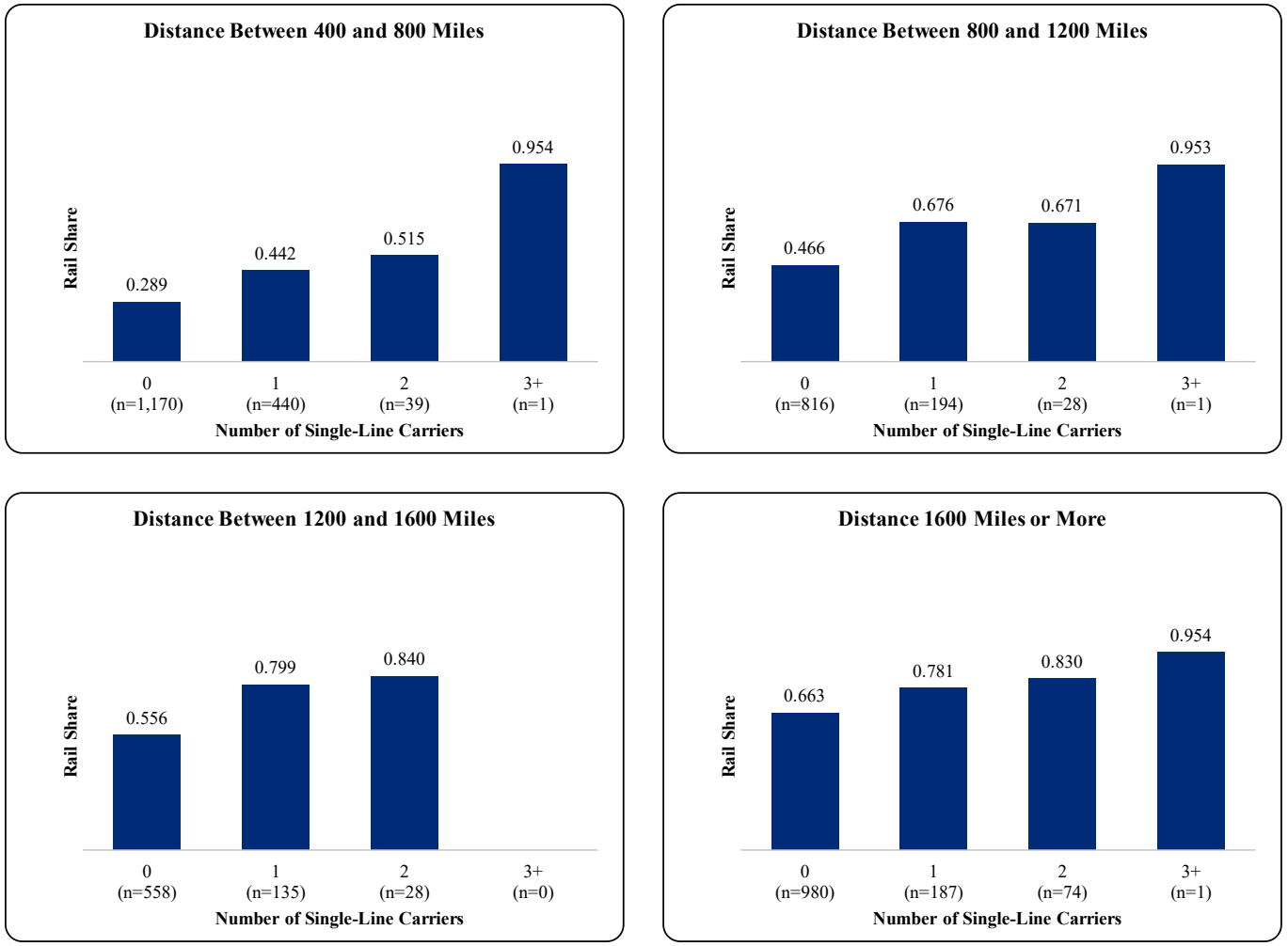
Source: Kahwaty Workpapers "T2R Rail Share by Service Type.xlsx."

Figure F3
Rail Share by Number of Single-Line Carriers
Dry Bulk



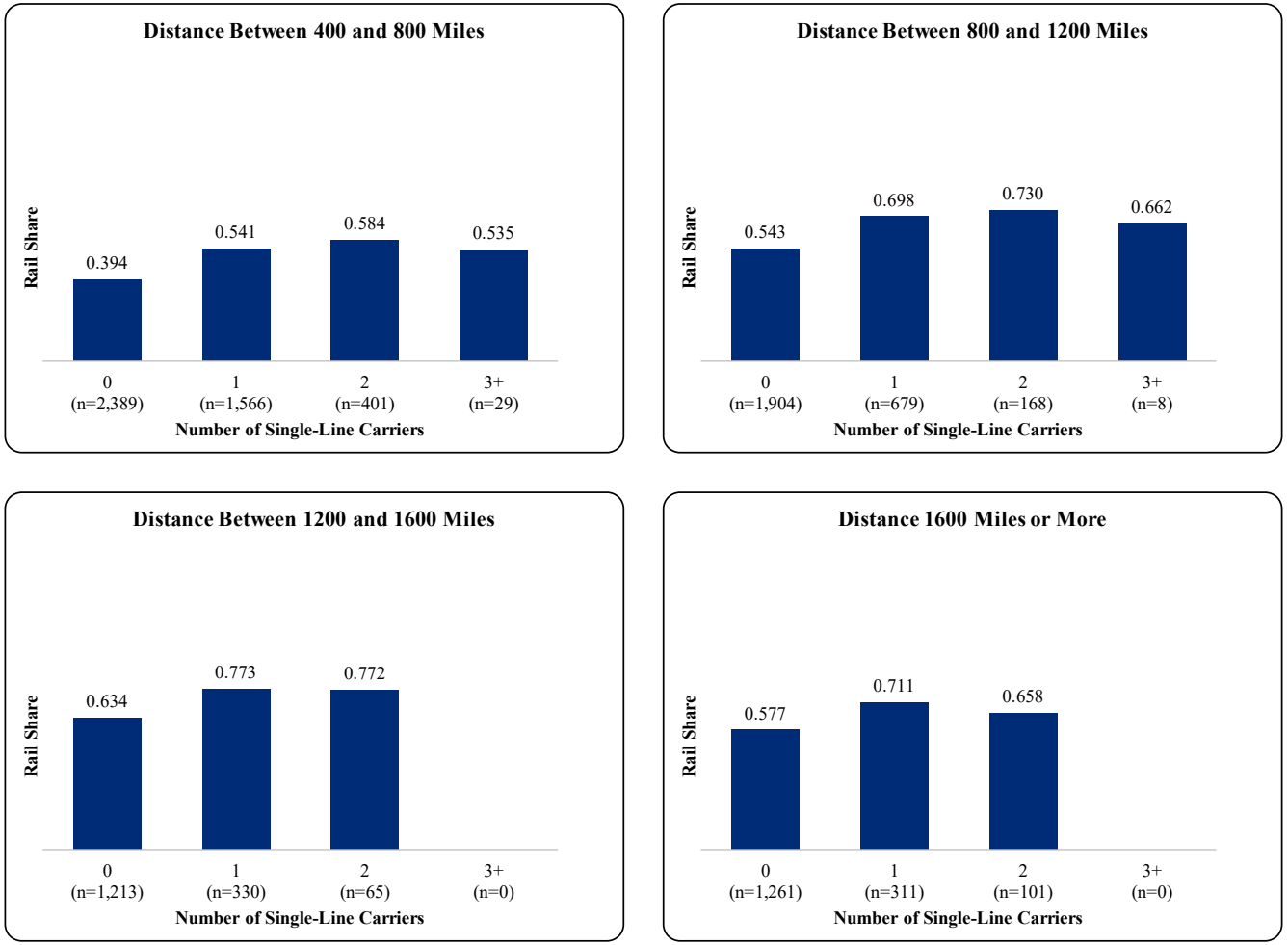
Source: Kahwaty Workpapers "T2R Rail Share by Service Type.xlsx."

Figure F4
Rail Share by Number of Single-Line Carriers
Flatbed



Source: Kahwaty Workpapers "T2R Rail Share by Service Type.xlsx."

Figure F5
Rail Share by Number of Single-Line Carriers
Liquid/Gas



Source: Kahwaty Workpapers "T2R Rail Share by Service Type.xlsx."

Figure F6
Truck-to-Rail Diversion, Dry Bulk Top 10 Lanes

Total Across All BEA/Province Origin-Destination Pairs: 8,041 units
Top 10 BEA/Province Origin-Destination Pairs: 3,288 units (41%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Omaha, NE	Chicago, IL	641
Des Moines, IA	Grand Rapids, MI	403
Omaha, NE	New Orleans, LA	351
Chicago, IL	Springfield, MO	348
Wichita, KS	New Orleans, LA	324
Des Moines, IA	Detroit, MI	316
Topeka, KS	New Orleans, LA	312
St. Louis, MO	Grand Rapids, MI	217
Omaha, NE	Grand Rapids, MI	208
Chicago, IL	Joplin, MO	168

Source: Kahwaty Workpapers "T2R Diversions by Service Type, Commodity.xlsx."

Figure F7
Truck-to-Rail Diversion, Flatbed Top 10 Lanes

Total Across All BEA/Province Origin-Destination Pairs: 832 units
Top 10 BEA/Province Origin-Destination Pairs: 458 units (55%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Chicago, IL	Omaha, NE	110
Chicago, IL	Kansas City, MO	103
Des Moines, IA	Non-CMA, ON	40
Non-CMA, AB	Des Moines, IA	38
Des Moines, IA	Winnipeg, MB	36
Non-CMA, AB	Lincoln, NE	33
Des Moines, IA	Detroit, MI	33
Edmonton, AB	Des Moines, IA	26
Milwaukee, WI	Kansas City, MO	22
Non-CMA, ON	St. Louis, MO	19

Source: Kahwaty Workpapers "T2R Diversions by Service Type, Commodity.xlsx."

Figure F8
Truck-to-Rail Diversion, Intermodal Top 10 Lanes

Total Across All BEA/Province Origin-Destination Pairs: 48,751 units
Top 10 BEA/Province Origin-Destination Pairs: 31,161 units (64%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Kansas City, MO	Chicago, IL	10,494
Chicago, IL	Kansas City, MO	5,516
Kansas City, MO	Detroit, MI	4,241
Non-CMA, ON	St. Louis, MO	2,002
Detroit, MI	Kansas City, MO	1,794
New Orleans, LA	Kansas City, MO	1,659
Kansas City, MO	Memphis, TN	1,498
Non-CMA, QC	St. Louis, MO	1,417
Detroit, MI	St. Louis, MO	1,292
St. Louis, MO	Detroit, MI	1,248

Source: Kahwaty Workpapers "T2R Diversions by Service Type, Commodity.xlsx."

Figure F9
Truck-to-Rail Diversion, Auto Top 10 Lanes

Total Across All BEA/Province Origin-Destination Pairs: 807 units
Top 10 BEA/Province Origin-Destination Pairs: 779 units (97%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Kansas City, MO	Chicago, IL	452
Detroit, MI	St. Louis, MO	102
Toronto, ON	St. Louis, MO	91
Kansas City, MO	Detroit, MI	37
Detroit, MI	Kansas City, MO	32
Toronto, ON	Kansas City, MO	26
Non-CMA, ON	St. Louis, MO	12
Kansas City, MO	Memphis, TN	12
St. Louis, MO	Winnipeg, MB	8
Non-CMA, ON	Kansas City, MO	7

Source: Kahwaty Workpapers "T2R Diversions by Service Type, Commodity.xlsx."

Figure F10
Truck-to-Rail Diversion, Liquid/Gas Top 10 Lanes

Total Across All BEA/Province Origin-Destination Pairs: 4,078 units
Top 10 BEA/Province Origin-Destination Pairs: 2,188 units (54%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Des Moines, IA	Detroit, MI	489
Des Moines, IA	Baton Rouge, LA	411
Des Moines, IA	Grand Rapids, MI	299
Omaha, NE	Baton Rouge, LA	218
Wichita, KS	Baton Rouge, LA	207
Paducah, KY	Chicago, IL	147
St. Louis, MO	Non-CMA, ON	116
Kansas City, MO	Baton Rouge, LA	112
Omaha, NE	New Orleans, LA	97
Baton Rouge, LA	Wichita, KS	92

Source: Kahwaty Workpapers "T2R Diversions by Service Type, Commodity.xlsx."

Figure F11
Truck-to-Rail Diversion, Vehicle Parts Top 3 Lanes

Total Across All BEA/Province Origin-Destination Pairs: 5,942 units
Top 3 BEA/Province Origin-Destination Pairs: 5,443 units (92%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Kansas City, MO	Detroit, MI	2,486
Detroit, MI	Kansas City, MO	1,672
Chicago, IL	Kansas City, MO	1,285

Source: Kahwaty Workpapers "T2R Diversions by Service Type, Commodity.xlsx."

Figure F12
Truck-to-Rail Diversion, Steel Top 10 Lanes

Total Across All BEA/Province Origin-Destination Pairs: 1,564 units
Top 10 BEA/Province Origin-Destination Pairs: 924 units (59%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Chicago, IL	Kansas City, MO	266
Non-CMA, ON	St. Louis, MO	152
Chicago, IL	Omaha, NE	112
Chicago, IL	Wichita, KS	75
Non-CMA, QC	St. Louis, MO	69
Kansas City, MO	Detroit, MI	57
Non-CMA, ON	Kansas City, MO	53
Kansas City, MO	Chicago, IL	49
Detroit, MI	St. Louis, MO	49
Non-CMA, ON	Omaha, NE	43

Source: Kahwaty Workpapers "T2R Diversions by Service Type, Commodity.xlsx."

Figure F13
Truck-to-Rail Diversion, Grain Top 10 Lanes

Total Across All BEA/Province Origin-Destination Pairs: 25,230 units
Top 10 BEA/Province Origin-Destination Pairs: 14,786 units (59%)

Origin BEA/Province	Destination BEA/Province	Diverted Volume
Kansas City, MO	Chicago, IL	7,329
Kansas City, MO	Memphis, TN	1,304
Kansas City, MO	Detroit, MI	1,037
Omaha, NE	Chicago, IL	1,009
Non-CMA, ON	St. Louis, MO	1,008
Lincoln, NE	Chicago, IL	802
Chicago, IL	Kansas City, MO	616
Detroit, MI	St. Louis, MO	594
St. Louis, MO	Detroit, MI	559
Grand Rapids, MI	St. Louis, MO	527

Source: Kahwaty Workpapers "T2R Diversions by Service Type, Commodity.xlsx."

Exhibit 12C

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY

-- CONTROL --

NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

(SUB-NO. 2) ILLINOIS CENTRAL RAILROAD COMPANY – DIVESTITURE – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 3) ILLINOIS CENTRAL RAILROAD COMPANY – TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 4) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN LYDIA AVENUE AND BROADWAY BOULEVARD IN KANSAS CITY, MO.

(SUB-NO. 5) ILLINOIS CENTRAL RAILROAD COMPANY – TERMINAL TRACKAGE RIGHTS – OVER LINE OF BNSF RAILWAY COMPANY BETWEEN ETON, MO. AND CONGO, MO.

(SUB-NO. 6) ILLINOIS CENTRAL RAILROAD COMPANY – LEASE AND PURCHASE – UNION PACIFIC RAILROAD COMPANY NEFF YARD IN KANSAS CITY, MO.

(SUB-NO. 7) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN TUSCOLA, ILL. AND EAST ST. LOUIS, ILL.

(SUB-NO. 8) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – OVER LINE OF THE ALTON & SOUTHERN RAILWAY COMPANY BETWEEN MITCHELL, ILL. AND EAST ST. LOUIS, ILL.

VERIFIED STATEMENT OF SARAH SLAZINSKI

My name is Sarah Slazinski. I serve as Assistant Vice-President, Automotive, for Illinois Central Railroad Company ("ICRR") in Troy, Michigan, a role I assumed in March 2021. I am submitting this statement on behalf of Grand Trunk Corporation ("GTC") and its rail carrier affiliate, ICRR (collectively, "CN"), which are indirect subsidiaries of Canadian National Railway Company. Immediately prior, I served as Director of Marketing, Director of Sales, and Account Manager for Automotive at CN, where I have worked for over a decade. Before joining CN, I worked for Union Pacific ("UP") for six years as an automotive account manager and spent five years purchasing vehicle transportation directly for a large U.S. automotive manufacturer. I earned a Bachelor of Arts in Supply Chain Management from Michigan State University and a Master of Business Administration with an emphasis on Marketing from Oakland University in Michigan.

My role at CN is to serve our customers, offer a resilient supply chain, and develop innovative solutions as the automotive industry evolves. In the automotive context, "supply chain" for CN goes beyond production parts, finished vehicles, and aftermarket parts: CN is also working with customers to transport raw materials from mines to support battery production. We are evolving our service to align strategically and sustainably with our customers' future needs.

Given my role and experience, I am familiar with CN's importance to the automotive supply chain, our work with automotive vehicle production and parts suppliers, and the general

North American and global automotive markets. I submit this Verified Statement on behalf of CN in support of its Comment on the Amended Application & Requests for Conditions ("Comment") and its concurrently filed responsive applications in Docket No. FD 36873, relating to the proposed acquisition by Union Pacific Corporation and Union Pacific Railroad Company of control of Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "Applicants") (the "Proposed Transaction").[1] The purpose of my statement is to explain, from the perspective of CN's automotive business and its customers, why the conditions set forth in the responsive applications and the binding Memorandum of Understanding between CN and UP (the "Settlement MOU")—particularly those relating to Kansas City and St. Louis/East St. Louis access—are necessary to preserve competition for automotive shippers in the region affected by the Proposed Transaction. As described in detail below, CN's proposed conditions are critical to preserving competitive options for automotive customers. Without these conditions, the Proposed Transaction would reduce the number of competitive Class I railroad options available to automotive shippers in the Kansas City-St. Louis corridor and the Kansas City and St. Louis markets, to the detriment of those shippers and the public interest.

I. CN CONNECTS THE NORTH AMERICAN AUTOMOTIVE MARKET

CN is proud to connect the North American automotive market. CN currently serves 11 vehicle assembly plants and 18 automotive facilities, and handles more than 2 million finished vehicles annually, with over 5,000 multilevel railcars in its fleet to move these vehicles. In addition, CN has direct access to six ports, handling automotive parts shipments, vehicle

[1] For the purposes of this statement, certain other terms are defined as follows: Union Pacific Railroad Company ("UP"); Union Pacific Corporation and UP (together, "Union Pacific"); Norfolk Southern Railway Company ("NS"); and Norfolk Southern Corporation and NS (together, "Norfolk Southern").

shipments, or both. CN's network reach allows us to transport finished vehicles and auto parts to major population centers in the U.S. Midwest, the Gulf region, and Canada. Our extensive network enables customers to import and export raw materials, production parts, and finished vehicles around the globe.

CN values all of our automotive customers, and we serve both vehicle assembly and parts plants for GM, Ford and Stellantis, many of which are located throughout Michigan and Ontario. We also access two assembly plants in Ohio via a short line partner. CN also directly serves a Nissan assembly plant in Mississippi, reflecting CN's reach into the Southeast. With access into Kansas City via the Kansas City Line, CN will be able to offer these customers a second direct rail option to the Kansas City gateway and local markets. With CN's expanded access to St. Louis via the Tuscola Line trackage rights, CN will be able to offer these customers another direct rail option to the St. Louis gateway and local markets.

Even beyond the directly served customers, CN's intermodal network also offers an efficient option for transporting auto parts for domestic and international suppliers. CN handles containerized auto parts through the ports at Prince Rupert, Vancouver, Montreal, Halifax, Mobile, and New Orleans, as well as inland intermodal terminals in Chicago, Memphis, and Detroit. CN offers a full suite of services to our customers, including the following:

- brokerage services for customs,
- value-added vehicle accessory options at our port and inland automotive facilities, from placing floor mats and owner's manuals to light maintenance work on vehicles, and

- customer service supporting our automotive customers by proactively managing all aspects of the supply chain—from ocean discharge to rail, truck, and transload—for a seamless service offering.

Over the years, CN has added capacity and supported customer growth. {{

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CN is frequently a go-to carrier for our automotive customers because we are solutions-based, especially when supply chains are disrupted, whether by dynamic external geopolitical factors, extreme weather, or capacity constraints. CN is recognized for our reliable service, understands the importance of time-sensitive, high-value freight, and offers dedicated proactive customer service via CN's Auto Desk. For finished vehicles, in addition to serving five Michigan vehicle assembly plants directly, based on our solid Michigan operations and proximity to Canada, CN is able to provide a reliable supply of empty multilevel railcars. Not only do we supply and serve our own plants, but at times we are also able to support other vehicle plants' production when other carriers are short of equipment through our universal automotive facility in Woodhaven, MI. This enables our customers to ship vehicles, so that they may achieve their goals and ultimately meet their dealers' and consumers' expectations.

As an example of CN's agility for production parts, during the Ambassador Bridge blockade, CN worked with an automobile manufacturer and supply chain partners to locate boxcar capacity, find transload locations on each side of the border, and line up train service and resources—all within 96 hours over Super Bowl weekend. This turnaround time demonstrates the trust automotive customers place in CN and CN's commitment and agility.

II. WITHOUT CN'S CONDITIONS, THE PROPOSED TRANSACTION WOULD REDUCE COMPETITIVE OPTIONS FOR AUTOMOTIVE CUSTOMERS IN THE KANSAS CITY–ST. LOUIS CORRIDOR

The Proposed Transaction would combine two Class I railroad networks that overlap between Kansas City and St. Louis. Kansas City is one of the few major hubs through which automotive rail traffic moves today, alongside St. Louis, Chicago, and Memphis. Memphis is limited by interchange restrictions resulting from track curvature. Without CN's proposed conditions, rail customers in these key watershed geographies would lose a competitive Class I option as a result of the Proposed Transaction.

A. Proposed Transaction's Impact on Automotive Customers

The Kansas City and St. Louis regions are important for the North American automotive industry. Kansas City is centrally located and serves as a major rail hub connecting the East, West, North, and South. It includes two assembly plants, Ford's Kansas City Claycomo assembly and GM's Fairfax assembly served directly by UP. Combined, UP and NS operate several yards and facilities equipped to handle automotive traffic in Kansas City. In addition to UP directly serving GM Fairfax Assembly, UP currently operates the Muncie automotive facility in Kansas City. However, UP's Amended Application indicates that it will "consolidate[] UP's Muncie automotive

facility into [NS's] Voltz Yard, which also has an automotive facility."[2] UP also once used its Neff Yard for intermodal traffic, but UP has since relocated those intermodal operations to its new Kansas City Intermodal Terminal and transferred switching operations out of Neff Yard.[3] NS operates an extensive automotive facility at Voltz, near Ford Kansas City Assembly.

Similarly, the St. Louis area has one vehicle assembly plant and only two automotive rail facilities—UP's Centreville facility and NS's Wentzville facility. GM Wentzville Assembly is directly served by NS, and no other railroad operates an automotive facility in the St. Louis area besides NS and UP. Yet UP's Amended Application plans to consolidate traffic by unloading auto traffic destined for NS's Wentzville automotive facility at UP's Centreville facility.[4]

In addition to preserving competitive options for auto customers, CN's access to Kansas City also creates new competition. It should be noted that only one option exists today for single-line service to and from Kansas City for two important trade routes for automotive traffic. Today, besides NS, there is no other rail carrier option that can compete with single-line service direct from Michigan to Kansas City and vice versa. In addition, there is only one rail carrier option, CPKC, with single-line service from Kansas City to Canada and vice versa. Also important to

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[2] UP-39/NS-37, FD 36873, Vol. 2 at 714 (filed Apr. 30, 2026) [hereinafter the "Amended Application" or "Am. Appl."]; *see also id*. at 1124 (in the Contingency Plan for Kansas City in the Service Assurance Plan, Applicants describe Muncie as "Idled" and "Muncie (Auto) consolidated into Voltz," and in identifying "Buffer Resources," the resource for Automotive is "Reopen Muncie").

[3] *See* Am. Appl. Vol. 2 at 683 ("UP recently relocated its intermodal operations from Neff Yard, a repurposed hump yard, to its new Kansas City Intermodal Terminal."); *see also* Bill Stephens, Union Pacific Celebrates Opening of New Kansas City Intermodal Terminal, Trains (Aug. 7, 2025), https://www.trains.com/pro/freight/intermodal/union-pacific-celebrates-opening-of-new-kansas-city-intermodal-terminal/ ("The facility, located in Armourdale Yard, has twice the capacity as the old terminal in Neff Yard.").

[4] *See* Am. Appl. Vol. 2 at 712; *see also id*. at 751 ("there will be additional activity at seven automotive terminals: Centerville (St. Louis), … and Voltz (Kan[s]as City).").

note, CPKC must ride on NS overhead trackage rights through Michigan to get to Kansas City, further reducing supply chain resiliency. Today, there are no direct competitive alternatives, which is why CN's conditions are so important for improving competition.

Without appropriate conditions, the Proposed Transaction would reduce competitive Class I railroad options for these and other automotive customers in both regions. Automotive customers depend on multiple competitive Class I carriers for resilient, efficient supply chains. In my experience, other modes are not effective, sustainable substitutes for rail for these movements, especially for high-volume, longer shipments. Barge plays no meaningful role in automotive transportation other than for international shipments. Trucking is generally used for shorter moves, and vehicle shuttles are typically driven only short distances so they can still be sold as "new." For longer-haul movements, such as those between Mississippi, Michigan or Ontario and Kansas City or St. Louis, rail is the practical and cost-effective option for auto customers. When competitive options are reduced by a merger, automotive shippers face the risk of higher transportation costs, diminished service quality and interruptions (meaning embargoes), and fewer alternatives during supply chain disruptions. In fact, NS has previously embargoed its destination automotive facilities for congestion.[5] Combining UP and NS in a corridor where both railroads have significant automotive traffic and facilities would produce exactly this harm.

[5] NS's embargoes in Missouri have included Voltz in Kansas City and Wentzville in St. Louis. *See* Embargo No. NS001024 (Voltz destination embargo on finished autos effective Apr. 10, 2024 and cancelled Apr. 19, 2024 because "congestion cleared and pipeline stabilized"); Embargo No. NS001822 (Voltz destination embargo on Ford origins in Dearborn effective June 28, 2022 and cancelled July 27, 2022); Embargo No. NS000818 (Wentzville embargo effective July 16, 2018 and cancelled Aug. 13, 2018 for "Accumulation / congestion at NS auto ramp"); Embargo No. NS000918 (Wentzville destination embargo applied to origins in Flat Rock, Sterling Heights, and Auburn, Michigan for "Accumulation / congestion at NS auto ramp" effective Sept. 3, 2018 and cancelled Mar. 14, 2019). NS has also issued embargoes for auto customers in Michigan. *See* Embargo No. NS003322 (Brownstown, MI effective Oct. 21, 2022 and cancelled Nov. 28, 2022 for auto parts); Embargo No. NS003622 (Melvindale embargo requested Dec. 28, 2022 and

III. CN'S CONDITIONS ARE NECESSARY TO PRESERVE COMPETITION FOR CN TO OFFER NEW COMPETITIVE AUTOMOTIVE OPTIONS

The Settlement MOU conditions, if implemented, will remediate potential competitive harms from the Proposed Transaction for automotive customers. CN's responsive applications ask the Board to condition any approval on these terms.

From the perspective of CN's automotive business and its customers, the most important elements are: (1) the conditions granting CN access to Kansas City, and (2) the conditions improving CN's access to East St. Louis and St. Louis. Under these conditions, CN will invest to open new automotive terminals in Kansas City and St. Louis. I address each in turn below.

A. Kansas City Access

The Settlement MOU provides CN access to Kansas City over UP's line between St. Louis, Missouri, and Kansas City, Missouri (the "Kansas City Line"), running from Neff Yard in Kansas City, Missouri, to Twelfth Street in St. Louis, Missouri, through two possible means: (1) divestiture of the Kansas City Line to CN; or (2) alternatively, if divestiture is not granted, trackage rights, including access to the former Sarpy Yard property (and overhead haulage rights), and local haulage rights. In addition, the Settlement MOU provides CN with access to UP's Neff Yard, including Neff intermodal terminal, in Kansas City, in whole or in part, through a lease with an option to purchase. CN intends to use Neff Yard for automotive and intermodal traffic.

CN also seeks terminal trackage rights pursuant to 49 U.S.C. § 11102 over approximately 7.5 miles of track owned by BNSF Railway Company ("BNSF") on its Marceline Subdivision between Eton, Missouri and Congo, Missouri in the Kansas City, Missouri terminal area (the "Eton

cancelled Dec. 29, 2022 with the embargo cancel reason as "Metering agreement"); Embargo No. NS001223 (Melvindale destination embargo for autos shipped from GM in Michigan and Wentzville, Missouri effective Aug. 7, 2023 and cancelled Sept. 22, 2023 for "Congestion relieved; pipeline has stabilized").

to Congo Segment"). The Eton to Congo Segment connects the two portions of the Kansas City Line, and without it CN could not move trains between the Kansas City Line and Neff Yard.[6] The Settlement MOU also provides overhead trackage rights between Lydia Avenue and Broadway Boulevard in Kansas City, Missouri.[7] CN would use those trackage rights to facilitate interchange with other railroads in Kansas City, including UP, BNSF, and the Kansas City Terminal Railway Company ("KCT") (as CN will acquire Norfolk Southern's shares in the KCT) to reach CPKC. These ancillary conditions are necessary for CN to effectively operate in Kansas City and effectively access customers that would otherwise lose a competitive Class I alternative after the Proposed Transaction.

Access to Kansas City is essential for CN's automotive business. Kansas City is centrally located and serves as a major rail hub and interchange connecting the North, South, East, and West. CN will use UP's Neff Yard, including through the agreed-upon lease in whole or in part with an option to purchase, and will invest at Neff Yard to offer new automotive capabilities to our customers. Neff Yard would be the fifth automotive yard in Kansas City as UP, NS, BNSF, and CPKC currently have automotive yards. CN plans to use existing pavement and track where possible, which makes the site workable, but will otherwise invest as needed to convert the yard for automotive handling. This investment would build on CN's track record of investing in automotive terminal capacity, including its 2021 investment in a new automotive and intermodal terminal in New Richmond, Wisconsin, its {{

[6] CN's request for terminal trackage rights over the Eton to Congo Segment is the subject of a separate responsive application in Sub-No. 5.

[7] The overhead trackage rights between Lydia Avenue and Broadway Boulevard are addressed in Sub-No. 4.

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The principal opportunity for better customer access is for CN's Michigan-origin vehicles and parts to move directly into the Kansas City market and for CN to open up an additional interchange option accessing an existing automotive interchange gateway with other Class I railroads as an alternative to the existing Chicago gateway we operate through today for such traffic. This provides the supply chain, and our customers, with additional competitive options and provides greater resiliency in the supply chain. With CN access to Kansas City, automotive customers—including OEMs and Tier 1 suppliers in Ontario and Michigan—would have a new competitive single-line rail option to reach Kansas City, bypassing the Chicago interchange and reducing transit time. Today, UP and NS both offer service between Michigan and Kansas City. UP must interline with CN, as NS is the only carrier offering single-line service from Michigan to Kansas City. Today, CN cannot offer single-line service from Michigan to Kansas City or Canada to Kansas City. There are also finished-vehicle opportunities in the other direction: CN could originate finished vehicles from the GM and Ford assembly plants in Kansas City, with the traffic shuttled into CN at Neff Yard, and move in single-line service to Canada and Michigan without interchange. For example, Kansas City GM traffic that currently moves through Chicago could move directly from Kansas City to Canada and Michigan. This would provide new competitive options and support U.S. domestic and export production to dealers. Both Ford's Kansas City and GM's Fairfax vehicle assembly plants are approximately 9 miles from Neff Yard.

Moreover, automotive traffic that would otherwise be interchanged in Chicago could instead use Kansas City as a gateway, and opening traffic to longer hauls invites more competitive solutions and new destinations. Bypassing the Chicago interchange builds resilience in the

network, removes congestion and could save customers time and money. Reduced transit time for customers means reduced inventory carrying costs—financial and operational expenses for the OEM vehicle producers—and improves the shared multilevel fleet cycle times because interchange options become more fluid and railcars arrive faster at destinations, benefiting customers with more available empty railcar capacity.

The agreed-upon lease of Neff Yard, with an option to purchase,[8] will allow the following benefits:

(1) CN's access to customers in Kansas City that will lose a Class I alternative if the Proposed Transaction is approved,

(2) the development of new CN direct automotive service handling capabilities at the facility, and

(3) another interchange gateway solution linking North America where there is currently no other single-line direct competitive option, to and from Michigan and Canada.

B. Improved Access to East St. Louis and St. Louis

The Settlement MOU also provides for improved CN access to East St. Louis and St. Louis through: (1) divestiture of the Kansas City Line if ordered by the Board; (2) overhead trackage rights between Tuscola, Illinois, and East St. Louis, Illinois (the "Tuscola Line");[9] and (3) overhead trackage rights over UP's wholly owned subsidiary, The Alton & Southern Railway Company ("A&S"), between Lenox in Mitchell, Illinois, and Valley Junction in East St. Louis, Illinois, for connection to the Terminal Railroad Association of St. Louis ("TRRA").[10] CN's

[8] CN's lease or purchase of Neff Yard is in Sub-No. 6.

[9] *See* Sub-No. 7.

[10] *See* Sub-No. 8.

improved access will enable CN to offer new intermodal and automotive traffic options. CN plans to open its new automotive and intermodal terminal at the former Sarpy Yard property in St. Louis, which is located on the Kansas City Line.

Trackage rights over the Tuscola Line will connect CN's existing lines in central Illinois to the St. Louis gateway on both sides of the river. This is critical for CN's automotive business because it creates a more direct route for exports to Canada, for raw materials from Canada, and for traffic between the Midwest and East St. Louis and St. Louis. CN is approximately 70 miles east of the St. Louis market, so rail access closer to the market is needed for a more sustainable, competitive product by rail, reducing longer truck miles over the road. CN's current transit to serve St. Louis is {1.5 days} longer operating via CN's line through Du Quoin (where the traffic from Michigan must go south to then go north) versus a direct Tuscola routing. Today's operating route makes it difficult for CN to offer a competitive auto product and convert over-the-road truck traffic to rail.

Access to a facility for handling CN's automotive traffic to and from the St. Louis area is essential for CN to compete effectively for automotive business in this region. Today, CN does not own any track in St. Louis, Missouri. CN does not own a rail yard in East St. Louis, Illinois, and does not own land sufficient to open an intermodal and automotive terminal that is in close enough proximity to be competitive.

In seeking divestiture of the Kansas City Line, CN will invest in the former Sarpy Yard property in St. Louis to open automotive and intermodal terminals for our customers.[11] When

[11] In Sub-No. 3, CN seeks, in the alternative to divestiture, trackage rights and local haulage rights over the Kansas City Line. As part of that condition, CN is requesting a condition from the Board ordering the sale of the former Sarpy Yard property to CN. Without access to the former Sarpy Yard property, CN would not have a location to handle this traffic in St. Louis. CN's planned

combined with the Tuscola Line trackage rights and A&S trackage rights, this route would enable CN to offer new competitive single-line and interline automotive service options to and from the St. Louis gateway—connecting directly to the existing automotive network and assembly plants and suppliers in Michigan, Canada, and the Midwest. Single-line direct service from Michigan could also allow us to compete with truck, potentially take trucks off the road, and reduce wear and tear on roadway infrastructure given the approximately 550-mile distance between the St. Louis and Michigan markets.

C. Why These Conditions Are Necessary for Automotive Customers

The Settlement MOU conditions are necessary for CN to function as an effective and sustainable competitor for automotive traffic in the Kansas City-St. Louis corridor. Introducing that competition would unlock the following benefits for automotive customers:

First, new single-line direct service to and from Kansas City and St. Louis. Directionally today, **NS is the only carrier offering single-line** service between Michigan and Kansas City, and **CPKC**—which must use NS trackage rights through Michigan—**is the only single-line option** between Eastern Canada and Kansas City. With access via the Kansas City Line, Neff Yard, and the Tuscola Line, CN could offer OEMs, suppliers, and future raw materials shippers in Michigan and Canada a second competitive single-line option into these markets. In the reverse direction, traffic from Ford's Kansas City and GM's Fairfax assembly plants could be brought to CN at Neff Yard for direct onward movement. For St. Louis, NS is the only carrier offering direct single-line service between Michigan and St. Louis; CSX has the access to do so, but it does not currently offer a spot to land automotive traffic. Similarly, no carrier offers single-line finished vehicle

investments in the former Sarpy Yard property to handle intermodal and automotive equipment are detailed in Exhibit 13 (Operating Plan).

service between St. Louis and Ontario today because CPKC does not have an automotive facility in the St. Louis area; CN's conditions would allow CN to offer that new single-line service. Single-line service eliminates interchange cost and, by avoiding a Chicago interchange, improves reliability, quality, and transit time.

Second, gateway interchange access at Kansas City and St. Louis. Kansas City is a centrally located rail hub and gateway to the western Class I railroads, the greater Missouri market, and traffic moving toward the Southwest. Access at Kansas City and St. Louis/East St. Louis, including locations for handling CN's automotive traffic, would let CN tap into the existing automotive network and interchange with other Class I railroads where CN lacks practical access today.

Third, supply chain resiliency and bypassing Chicago. Today, CN must short-haul automotive freight to Chicago and interchange there to reach western carriers, compounding Chicago congestion and adding transit time. The conditions would provide new options for CN interchange with western carriers at existing Kansas City and St. Louis gateways that auto customers currently use and to which CN does not have access. The conditions would also give customers alternative gateways that bypass Chicago, relieve congestion there, and provide a backup during disruptions. Fewer interchanges also mean fewer handling points for high-value, damage-sensitive vehicles, faster multilevel fleet cycle times, more available railcar capacity, and lower inventory carrying costs for customers. If more freight, or freight of other commodities, moves over Chicago routings, it is essential that other traffic has an option to be routed elsewhere, tapping into existing networks and providing more opportunity for Class I railroads to directly connect.

Fourth, divestiture provides a real competitive remedy, and trackage rights are inadequate. Based on my experience, trackage and haulage rights alone, as CN is seeking in the alternative in Sub-No. 3, would not allow CN to compete effectively. UP sets the rate in the market today, and as a tenant CN would be dependent on UP's trackage rights fees and dispatching. And if UP opposes CN's requested condition to purchase the former Sarpy Yard property in St. Louis as the location for CN's automotive and intermodal terminals in St. Louis, CN would have no ability to offer new automotive and intermodal services to preserve competition in St. Louis. For these reasons, CN could not offer a competitive product to or from Kansas City or St. Louis. Divestiture of the Kansas City Line would allow CN to control the line, make its own dispatching, maintenance, and investment decisions, and set its own costs and service, offering automotive customers a genuine alternative.

Consistent with CN's commercial plans, the primary rail-to-rail finished vehicle diversion opportunities created by CN's conditions are on movements between Kansas City or St. Louis and Detroit or Eastern Canada, including finished vehicles originating at Ford Kansas City, GM Fairfax, and GM Wentzville. These diversion opportunities are reflected in the Verified Statement of Dr. Henry Kahwaty.[12]

IV. THE CN CONDITIONS ARE IN THE PUBLIC INTEREST

The Settlement MOU conditions will generate substantial benefits not only for automotive customers but also for the broader public interest, extending beyond the immediate preservation of competitive options in the Kansas City-St. Louis corridor.

[12] *See* Exhibit 12B, Verified Statement of Dr. Henry Kahwaty at ¶¶ 138-140 [hereinafter "Kahwaty V.S."].

A. Supply Chain Resiliency and Competitive Options

Automotive customers want more transportation options, capacity, and competition. Given future sustainable innovation objectives in a dynamic market, driver shortages, and ongoing global network disruptions, it is critical to build resiliency into the North American automotive supply chain to maintain—rather than reduce—options. CN's entry into Kansas City and improved access to St. Louis will give automotive customers an additional competitive Class I option with a track record of innovation to benefit customers, responsiveness, and future availability of raw materials to sustain and support our automotive foundation as a world leader in automotive mobility.

CN has committed to investing substantial resources to preserve competitive routing options in Kansas City and St. Louis, including construction of the connection at Tuscola in Sub-No. 7, the addition of CN's automotive and intermodal terminals at Neff Yard in Kansas City in Sub-No. 6, and the addition of CN's automotive and intermodal terminals at the former Sarpy Yard property in St. Louis in Sub-Nos. 2 and 3. These conditions will ensure that CN can function as an effective and sustainable competitor, preventing the erosion of competition that the Proposed Transaction would otherwise cause. CN serves five Michigan auto assembly plants directly, and this will allow us to unlock single-line service that does not exist today from these plants alone.

Moreover, the automotive industry is providing solutions for a multi-pathway strategy for carbon neutrality that is transforming the automotive industry. All stages of the supply chain must be developed cohesively—from raw material extraction (copper, nickel, zinc, cobalt, and lithium used to produce batteries) to aluminum and steel, semiconductor production, and the electric vehicle ("EV") charging infrastructure. In addition to the U.S., Canada is rich in these key raw materials supporting North America's vehicle production success supporting global leadership. CN's access to Kansas City and improved access to St. Louis to implement the Settlement MOU

conditions would enable CN to offer competitive single-line rail services that benefit all stages of the automotive supply chain cycle: from Canadian mines to the automotive manufacturing hubs in Michigan and Ontario, and onward to Kansas City and St. Louis supporting these local markets and for interchange beyond to additional markets.

In addition to carbon neutrality, the industry is also entering a broader transformative period of developing driverless vehicles. It is imperative that CN remain a competitive option for automotive customers as the market changes. Divestiture of the Kansas City Line to CN would support the growing EV supply chain and expand rail's optionality and market reach throughout North America.

B. Capacity and Truck-to-Rail Diversion

CN's entry into Kansas City and improved St. Louis access will also benefit the public by enabling additional truck-to-rail diversions. Based on the market analysis presented in the Verified Statement of Dr. Henry Kahwaty, CN's new or improved access involving Kansas City, St. Louis, and Des Moines is expected to divert approximately {{ }} annual rail cars or units from truck to the CN network, with approximately {{ }} units of diverted traffic in Kansas City and approximately {{ }} units in St. Louis.[13] Kansas City–Detroit is expected to be one of the largest diversion markets, and vehicle parts are expected to account for approximately {{ }} of the diverted traffic in that market. Diverting truck traffic to rail reduces highway congestion, lowers carbon emissions, and decreases public expenditures for highway maintenance, furthering national sustainability goals. Truck-to-rail diversion also improves public safety. Large trucks account for the substantial majority of freight transportation-related injuries, while rail freight accounts for a much smaller share, and rail freight injuries have declined by approximately

[13] *See* Kahwaty V.S. at ¶¶ 177-178.

16% in recent years.[14] Every long-haul automotive shipment that moves by rail rather than over the road removes trucks from highways shared with the traveling public.

CONCLUSION

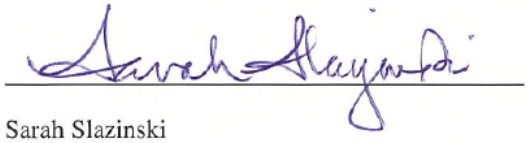
For the reasons set forth above, I respectfully urge the Board to impose CN's conditions in Sub-Nos. 2 (or in the alternative Sub-No. 3), 4, 5, 6, 7, and 8 on any approval of the Proposed Transaction. The conditions—particularly CN's access to Kansas City through divestiture of, or alternatively trackage rights and local haulage rights over, the Kansas City Line (including the former Sarpy Yard property and 23rd Street Yard); the terminal trackage rights over the Eton to Congo Segment; the overhead trackage rights between Lydia Avenue and Broadway Boulevard to interchange with other carriers; the lease, with an option to purchase, of Neff Yard; and improved access to East St. Louis and St. Louis through the Tuscola Line trackage rights and A&S trackage rights—are essential to preserve competitive Class I railroad options for automotive customers in the Kansas City–St. Louis corridor and the St. Louis and Kansas City markets. Without these conditions, the Proposed Transaction would reduce competition and harm automotive shippers who depend on multiple competitive carriers for resilient, efficient supply chains.

CN is committed to being an effective and sustainable competitor in the Kansas City to St. Louis corridor and to markets beyond via interchange with western carriers and to investing the resources necessary to offer automotive customers the competitive single-line service options, supply chain resiliency, and innovative solutions they need.

[14] *See Freight Transportation Safety*, U.S. Dep't of Transp., Bureau of Transp. Statistics, https://data.bts.gov/stories/s/Freight-Transportation-Safety/vu39-vtqh/ (last visited Nov. 17, 2026) (large trucks accounted for 95.6 percent of freight transportation injuries in 2023; rail freight injuries decreased 16.0 percent between 2019 and 2023).

VERIFICATION

I, Sarah Slazinski, declare under penalty of perjury under the laws of the United States that the foregoing information is true and correct. Further, I certify that I am qualified and authorized to file this statement. Executed on this 18th day of November, 2026.



Sarah Slazinski

Exhibit 12D

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY

-- CONTROL --

NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

(SUB-NO. 2) ILLINOIS CENTRAL RAILROAD COMPANY – DIVESTITURE – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 3) ILLINOIS CENTRAL RAILROAD COMPANY – TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 4) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN LYDIA AVENUE AND BROADWAY BOULEVARD IN KANSAS CITY, MO.

(SUB-NO. 5) ILLINOIS CENTRAL RAILROAD COMPANY – TERMINAL TRACKAGE RIGHTS – OVER LINE OF BNSF RAILWAY COMPANY BETWEEN ETON, MO. AND CONGO, MO.

(SUB-NO. 6) ILLINOIS CENTRAL RAILROAD COMPANY – LEASE AND PURCHASE – UNION PACIFIC RAILROAD COMPANY NEFF YARD IN KANSAS CITY, MO.

(SUB-NO. 7) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN TUSCOLA, ILL. AND EAST ST. LOUIS, ILL.

(SUB-NO. 8) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – OVER LINE OF THE ALTON & SOUTHERN RAILWAY COMPANY BETWEEN MITCHELL, ILL. AND EAST ST. LOUIS, ILL.

(SUB-NO. 10) IOWA NORTHERN RAILWAY COMPANY AND CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY – TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN MANLY / IOWA FALLS, IOWA AND DES MOINES / AVON, IOWA

VERIFIED STATEMENT OF DAVID PRZEDNOWEK

My name is David Przednowek. I currently serve as Assistant Vice President - Grain for Canadian National Railway Company ("CN"), a role I assumed in October 2021. Immediately prior to my current position, I served for nearly three years as Director, Sales & Marketing, and I have been with CN since October 2014. I hold a Master of Science Degree and a Bachelor of Science (Agriculture) Degree from the University of Manitoba, specializing in agricultural sciences. In my current role at CN, I lead the marketing-related activities for the carload movement of grain and processed grain products across the CN network, including carload pricing and commercial car supply products. My sales-related responsibilities are focused on U.S.-based agricultural customers involved in grain origination and trading, grain processing, and renewable fuels production and marketing. I have participated in the Surface Transportation Board's annual National Grain Car Council meeting on CN's behalf. Prior to joining CN, I was directly involved in the grain industry for 17 years, including grain trading, derivatives trading, marine and rail

logistics, vessel chartering, financial analysis and accounting, market analysis, and trade execution and management.

Given my current role and experience, I am very familiar with grain traffic flows (both within North America and globally) and CN's grain customers. I submit this Verified Statement on behalf of CN in support of its Comment and responsive applications in STB Docket No. FD 36873. The purpose of my statement is to explain, from the perspective of CN's grain business and its customers, why the conditions set forth in the responsive applications and Memorandum of Understanding between CN and Union Pacific ("Settlement MOU")—particularly those relating to Des Moines, Kansas City, and St. Louis / East St. Louis—are necessary to preserve and enhance competition for grain shippers in the region affected by the Proposed Transaction. Without these conditions, the Proposed Transaction would reduce the number of competitive Class I railroad options available to grain shippers in the Kansas City-St. Louis and Des Moines corridors, to the detriment of those shippers and the public interest.

I. CN MAINTAINS AN EXTENSIVE GRAIN AND GRAIN PRODUCTS NETWORK

CN is one of the largest transportation providers for the shipment of grain and processed grain products in North America. The heaviest originations for CN's U.S. grain business are in Iowa, Illinois, Wisconsin, and Michigan, both directly and via short line connections, with additional origination via short line connections in the Mid-South including Kentucky and Tennessee. CN performs originations or terminations of grain and processed grain products for approximately {{ }} customers in the United States.

CN's agricultural-related traffic includes commodities such as corn, soybeans, soybean meal and oil, ethanol and distillers dried grains with solubles ("DDGS"), corn meal, sweeteners, starches, animal fats, and traffic related to corn milling, barley malting, and oat processing. The

grain elevators that CN directly serves in the United States are primarily situated in Illinois, Iowa, and Wisconsin. CN also serves a wide variety of agricultural-related processing facilities—including ethanol plants and other corn processors, soybean processors, wheat mills, malt plants, and oat processors—to which CN delivers raw products or from which CN ships finished products.

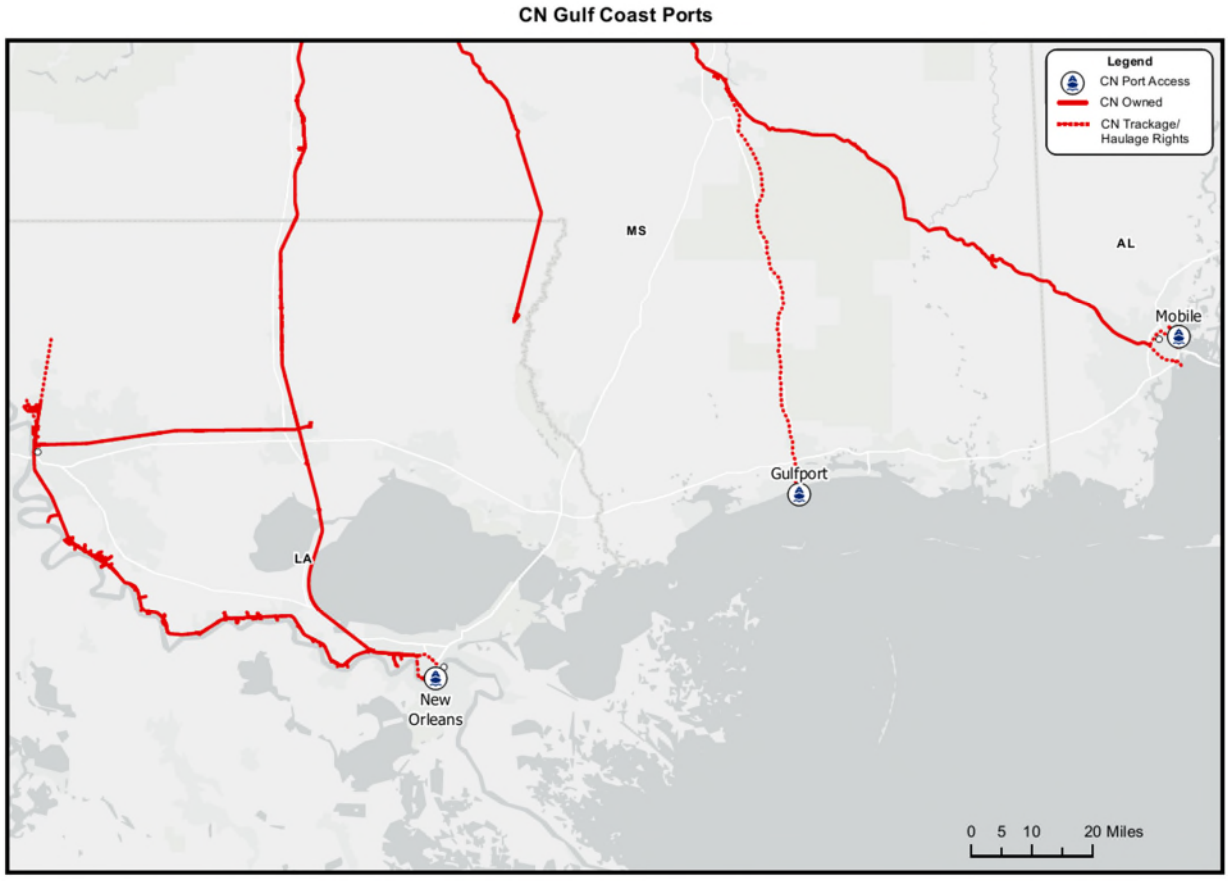
CN's grain-related traffic moves to domestic North American end-users and to overseas markets. Traffic destined to domestic North American end-users includes the movement of the following:

- Feed ingredients, such as corn, soybean meal, and DDGS to receivers in Mississippi and the Mid-South, the Midwest, and eastern Canada;
- Ethanol shipments to destinations in the United States and Canada;
- Animal fats and used cooking oil shipments to biofuels production facilities such as renewable diesel and biodiesel plants, bulk liquid terminals for trans-shipment to biofuels production facilities, and shipments (of animal fats) to oleochemical production facilities;
- Shipments of vegetable oils such as soybean oil and corn oil for human consumption in domestic North American markets, shipments to biofuels production facilities, and shipments to bulk liquid terminals for trans-shipment to biofuels production facilities or to overseas markets; and
- Bulk grain shipments to corn, soybean, wheat, oat, and barley processing facilities as well as the outbound shipment of finished processed products to various destinations in North America.

Traffic destined primarily for overseas markets moves directly by rail to export terminals across the CN network in the United States and Canada, with emphasis on export terminals in the

New Orleans and Mobile areas in the United States for CN's direct rail shipment program for its U.S. grain-centric business. From a bulk grain shipment perspective, and in addition to rail shipments moving directly to grain export terminals and liquids terminals in the Gulf Coast region, CN accesses multiple barge-loading locations along the inland waterways system, with locations stretching from southern Illinois to northeastern Iowa and northwestern Illinois. Bulk grain export terminals include Reserve, Destrehan, and Helvetia, Louisiana, and Mobile, Alabama (via the Alabama Export Railroad (ALE) and the Terminal Railway Alabama State Docks (TASD)).

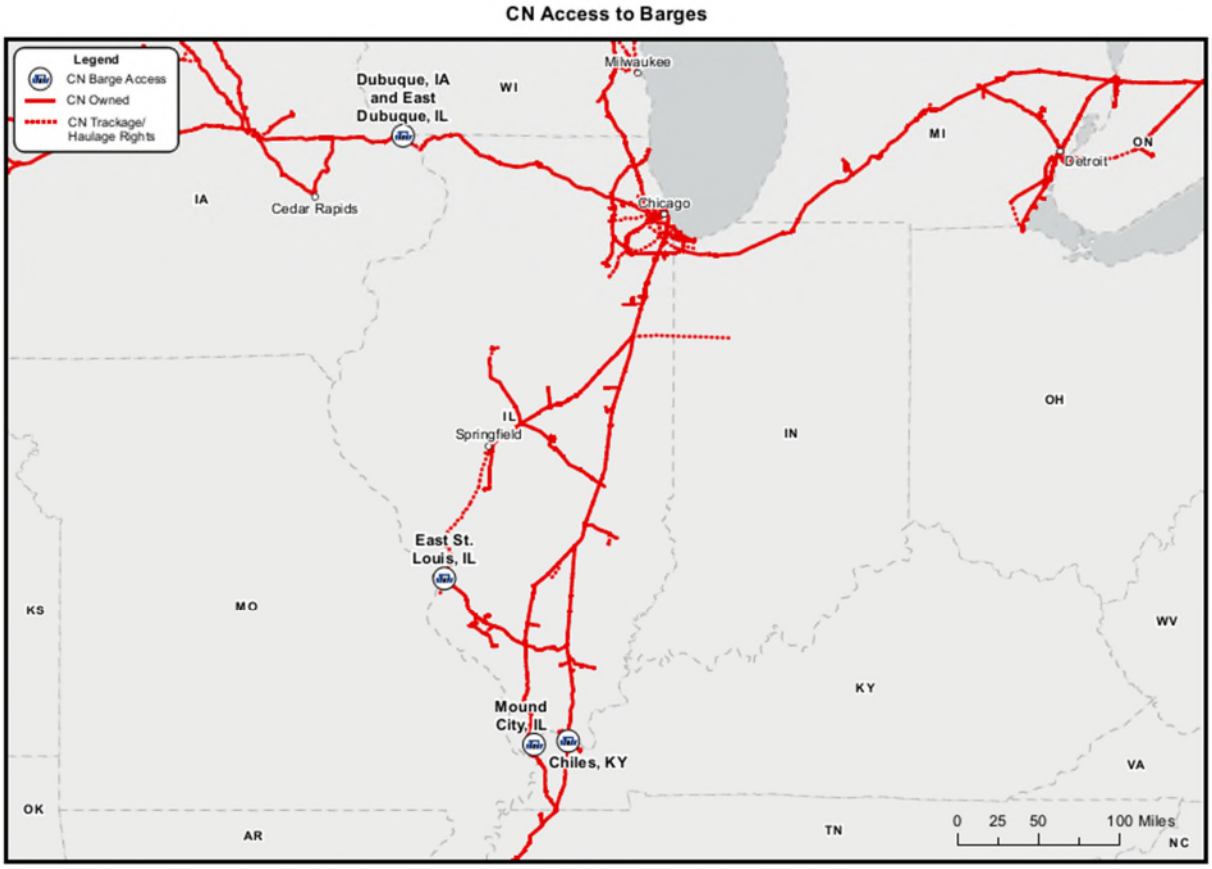
Figure 1: Map of CN Gulf Port Access



Source: CN GIS Data; U.S. Bureau of Transportation Statistics, National Transportation Atlas Database.

Barge-related movements play a dual role in CN's grain business. Because CN's rail network from the Midwest to the Gulf Coast region runs alongside the Mississippi River, there is a very dynamic and competitive relationship between rail and barge movements to the Gulf Coast. As such, barge competition features more prominently for CN than for other Class I railroads. At the same time, barge movement is also an important part of the distribution chain in which CN participates, where CN moves product by rail to river terminals for transfer to barge. CN also enhances overall supply chain resiliency by providing a direct rail solution when Mississippi River navigation is disrupted or barge movement is affected by low water levels.

Figure 2: Map of CN Access to River Terminals for Grain



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; Railinc Centralized Station Master.

A. CN Invests in Moving Grain and Grain Products

CN invests in grain infrastructure in collaboration with its customers. Most recently, CN shipped the first grain unit train from the expanded Total Grain Marketing facility in southern Illinois, which features a new unit train loader developed in partnership with the customer.[1] Much of CN's recent grain-related growth has been organic, driven by close collaboration with customers and making use of available capacity on CN's network. In Iowa specifically, CN has invested approximately $295 million over the past decade, and CN's Iowa operations support approximately 730 jobs and $133 million in GDP. Those investments in Iowa have included upgrading bridges on CN's Cedar River Railroad Company from 268k to 286k, allowing shipments by rail to fully utilize the capacity of high-capacity cars.

CN is committed to investing in network infrastructure and equipment to help grow CN's customers' businesses and the capacity of CN's network. Those capital investments included replacement of rail, installation of new ties, rebuilding road crossing surfaces, and maintenance work on bridges, culverts, signal systems, and other track infrastructure. In November 2020, for example, CN completed the reconstruction of the Bonnet Carré-McComb Spillway Bridge near New Orleans. This 2.2-mile-long bridge provides a critical U.S. transportation corridor for both freight and passenger service across the Bonnet Carré Spillway, which alleviates excess water from the Mississippi River, protecting New Orleans and other communities from flooding. This $90 million project adds to the safety, reliability, and fluidity of CN's network and ensures that CN's direct rail traffic to the Gulf can move efficiently. In addition, CN is replacing the 1.3-mile Baton

[1] *CN Ships First Grain Unit Train from Expanded Total Grain Marketing Facility in Illinois*, CN, https://www.cn.ca/en/news/2026/09/cn-ships-first-grain-unit-train-from-expanded-total-grain-market/ (last visited Nov. 15, 2026) (describing the new 115-car loop track that replaced the existing 25-car footprint).

Rouge Bridge in St. Charles Parish, Louisiana over the same spillway, with expected completion in 2027. This project is expected to cost approximately {{ }}. In the United States, CN makes available approximately 1,500 hopper cars to customers across a variety of products, and that fleet has been stable over the last several years.

CN also offers specialized supply chain solutions to help grain customers get their goods to export markets. CN offers transload services at its rail-to-container Harvey Grain Facility in the Chicagoland area, meaning that various commodities are transferred from covered hopper equipment to shipping containers for export via rail. CN spots and pulls daily from the facility and offers competitive transit times to export. CN invested in this facility in 2023 to add more storage and handling capacity. And CN added a new track auger system in 2025 to double throughput for the facility. The new auger system allows customers to transload commodities such as corn gluten meal and soybean meal more efficiently, in turn increasing the overall capacity of the facility.

B. The Iowa Northern Railway Company Success Story

CN's U.S. rail operating subsidiaries now include the Iowa Northern Railway Company ("Iowa Northern"). CN's acquisition and integration of Iowa Northern provides a concrete, real-world demonstration of CN's ability to improve grain service and market reach in Iowa. The Iowa Northern experience shows that CN does not merely seek access to new markets; CN invests in infrastructure, equipment, and service quality to deliver tangible benefits to grain customers. CN has attracted new grain-related traffic in the legacy Iowa Northern network by working hard to understand local market dynamics and commodity flows, as well as investing significant time on the ground meeting customers face-to-face to better understand their business and transportation needs. The amount of grain-related traffic moving by rail from the legacy Iowa Northern rail network has been growing since CN's acquisition of the Iowa Northern. CN has been able to

establish new destination markets for legacy Iowa Northern customers through a combination of matchmaking and competitive single-line haul pricing while preserving customer access to alternate rail traffic gateways. {{

}}

Rail traffic within the legacy Iowa Northern network has been moving more efficiently as well, creating incremental capacity for rail traffic movements. Transit times have improved significantly under CN ownership, from approximately 36-48 hours down to 16 hours for a move between Manly and Cedar Rapids, Iowa. Improved transit times increase efficiency of both customer-supplied private equipment and the hopper car supply that CN makes available to legacy Iowa Northern customers for the shipment of corn and soybeans. CN has aggressively hired additional Train and Engine employees to address the legacy Iowa Northern's staffing deficit. The permanent Train and Engine employee count has grown since CN acquired the Iowa Northern, and CN can now offer a full extra board, which the Iowa Northern could not. Replacing lower-horsepower legacy Iowa Northern locomotives with CN high-horsepower locomotives for mainline traffic has also improved overall traffic movement, because high-horsepower road locomotives can pull more tonnage, especially at speeds of 0 to 15 miles per hour when a train is just starting to move.

II. TRACKAGE RIGHTS FROM MANLY AND/OR IOWA FALLS TO DES MOINES ARE NECESSARY TO PRESERVE COMPETITION FOR DES MOINES-AREA GRAIN AND GRAIN PRODUCTS CUSTOMERS

The Proposed Transaction between Union Pacific and Norfolk Southern, if unremedied, would reduce competitive rail options for many customer facilities in and around Des Moines, Iowa (including Avon, Iowa) from three Class I carriers to two, or from two Class I carriers to one. The Des Moines area is currently accessed by only three Class I railroads (Union Pacific, Norfolk Southern, and BNSF), with Norfolk Southern reaching Des Moines via haulage and trackage rights over BNSF's line. Many of the impacted customers are grain and grain products customers. The affected 2-to-1 and 3-to-2 facilities include grain elevators, soybean processors, and food and feed manufacturers, such as Archer Daniels Midland Co./ADM Soybean Processing, Heartland Co-Op (in both Des Moines and Avon), Feed Energy Co./Kru LTD, and General Mills (Avon). Applicants themselves have acknowledged the competitive harm to these customers and have proposed that the Board remedy almost all of the Des Moines 2-to-1 and 3-to-2 facilities by giving CN access.[2]

From the perspective of grain and processed grain products customers, this loss of competitive rail options is particularly harmful. Grain is a commodity whose transportation economics are driven by distance, routing efficiency, car supply, and access to multiple destination markets. Grain shippers—elevators, processors, ethanol producers, renewable-fuel plants, and feed mills—rely on competitive Class I access to negotiate favorable rates, obtain adequate car supply during peak periods (specific to the type of traffic to be transported), and access the broadest possible range of domestic and export markets. A reduction from three Class I carriers to two, or from two to one, directly diminishes those competitive dynamics.

[2] *See* UP-80/NS-78 at 58-62, FD 36873 (filed July 27, 2026) [hereinafter the "Second Supplemental Submission"].

In my experience, significant diversion of Des Moines area grain traffic from truck to rail is unlikely as a result of CN's trackage rights between Iowa Falls/Manly and Des Moines. Shipments of grain typically begin with short-haul truck movements from farms to elevators before ultimately moving by rail to their final destinations. Because CN's proposed trackage rights are intended to restore an independent Class I option for 3-to-2 and 2-to-1 rail customers, the competitive benefit for Des Moines area grain and grain products customers lies primarily in rail-to-rail competition rather than in attracting new traffic from trucks. That view is consistent with the diversion analysis supporting CN's responsive applications, which focuses on rail-to-rail diversions for grain and other agricultural products after their short-haul truck movements from farms.

A. Trackage Rights from Manly and/or Iowa Falls to Des Moines Provide the Most Effective Remedy to Preserve Competition for Grain and Processed Grain Products Customers

CN is seeking trackage rights over UP's line from Manly and/or Iowa Falls to Des Moines to preserve competition for the impacted Des Moines and Avon customers. I understand that Applicants proposed CN haulage over BNSF's line between St. Louis, Missouri, and Des Moines, Iowa, as an alternative means to implement CN as the remedy carrier. In my professional judgment, trackage rights over UP's line between Manly and/or Iowa Falls, Iowa, and Des Moines and Avon, Iowa, would provide a far more effective and competitive remedy for grain and grain products customers than Applicants' proposed BNSF St. Louis-Des Moines haulage arrangement, for several important reasons. For example, compare the routes for shipments of soybean meal originating in Des Moines to Chicago for interchange for furtherance to destination markets in the Eastern United States. Using CN's proposed trackage rights between Des Moines and Iowa Falls and CN's network to Chicago, the route is approximately 400 miles between Des Moines and

Chicago. By contrast, soybean meal originating in Des Moines would first move over the proposed BNSF haulage through East St. Louis, over CN's proposed trackage rights over the Tuscola Line, and then CN's network to Chicago for a total route of approximately 670 miles.

CN Success Using Trackage Rights to Access Grain and Processed Grain Products Customers. CN has demonstrated its ability to access grain customers in Iowa using trackage rights. In 2023, CN obtained local trackage rights to access an ethanol plant owned by Valero Marketing & Supply that is located on CPKC.[3] {{

}}. And in 2026, CN qualified crews over Union Pacific trackage rights (where Union Pacific is a sub-tenant of Norfolk Southern) to reach ADM's unit-train grain facility at Cockrell near Springfield, Illinois.[4] And CN moved {{

}}.

Direct, Efficient Routing onto CN's Existing Iowa Network. Manly and Iowa Falls (upon construction of a new connection there) connect directly to CN's existing rail network in Iowa. This gives CN a short, direct route northward from Des Moines onto its own lines, rather than requiring a long, circuitous haulage move up from St. Louis on the railroad of a competitor that is not a party to the Proposed Transaction. For grain, where transportation cost is primarily a

[3] *See Cedar River Railroad Company and Chicago, Central & Pacific Railroad Company—Trackage Rights Exemption—Dakota, Minnesota & Eastern Railroad Corporation*, FD 36721 (STB served Sept. 15, 2023) (local trackage rights between Charles City, Iowa and the Valero ethanol facility in Floyd County, Iowa for up to seven trains per week).

[4] *See Illinois Central Railroad Company – Petition for Declaratory Order*, Docket No. FD 36892 (filed Dec. 1, 2025).

function of distance, the routing advantage is significant. A shorter, simpler route translates into better competitive options and, ultimately, better prices for farmers, end-user processors, and consumers.

Operational Control Over Train Service, Car Supply, and Scheduling. Trackage rights allow CN to operate its own trains with its own crews over the line segment between Manly and/or Iowa Falls and Des Moines. This operational control is critical for grain service. Customers need reliable car supply (specific to the type of traffic to be transported), locomotive power, predictable train schedules, and responsive service. Under a haulage arrangement, CN would depend on a competitor's crews, locomotives, operating priorities, and capacity. The competing carrier has no economic incentive to prioritize CN's grain and grain products traffic, particularly during the periods of heaviest demand when its own customers are also competing for capacity. Trackage rights eliminate this dependency and allow CN to manage crew staffing, car supply, train frequency, and service commitments directly.

CN anticipates initially operating over the trackage rights from Manly to Des Moines to serve 3-to-2 and 2-to-1 customers in Des Moines and Avon, either via UP reciprocal switch through Short Line Yard or, for unit trains, directly to (1) the Des Moines facility currently operated by ADM and (2) the Avon facility currently operated by Heartland Co-Op. CN also plans that its trains could enter and exit the trackage rights route at Iowa Falls rather than Manly, which would be a more direct connection to CN's network. However, a new connection would need to be constructed at that location to accommodate such operations, as the existing UP-CN connection at Iowa Falls is a short, 15-car spot interchange track through the middle of a grain elevator that is not suitably configured for the movement of CN trackage rights trains. Upon completion of a new

connection at Iowa Falls, CN contemplates that its trackage rights trains to and from Des Moines would operate via Iowa Falls.

An Effective Remedy Requires an Independent Competitor. An effective competitive remedy must establish CN as a truly independent competitor in the Des Moines area. Under a haulage arrangement, CN's service offerings, transit times, and costs would all be shaped by the terms of the haulage arrangement and by the host carrier's operating decisions. Trackage rights, by contrast, give CN the independence to compete on its own merits – setting its own rates, designing its own service products, and investing in service quality improvements that benefit Des Moines and Avon area grain and grain products customers.

Direct Access Connects Des Moines- and Avon-Area Grain and Grain Products Customers to CN's Full Range of Markets. Trackage rights from Manly and/or Iowa Falls to Des Moines would connect Des Moines and Avon area grain customers directly to CN's extensive network and the full range of CN destination markets. These markets include, among others:

- Gulf export terminals in the New Orleans, Louisiana and Mobile, Alabama areas;
- Multiple Mississippi River barge-loading facilities along the inland waterways, from southern Illinois to northeastern Iowa and northwestern Illinois;
- Feed mills and processing facilities across the CN network;
- Eastern Canada and Western Canada destination markets; and
- Midwest domestic end-users, including corn and soybean processors.

These additional destination options increase market arbitrage opportunities, improve market liquidity, and allow grain shippers to spread their commercial risk across a broader geography and a wider range of buyers. When grain shippers have access to more origination and destination

options, they can better manage price risk, diversify their customer base, and remain competitive even in adverse crop or market conditions.

Examples of specific agricultural-related facilities in the Des Moines/Avon area, and the CN opportunities and markets each facility could access, are as follows:

- **Archer Daniels Midland:**
    - Soybean meal to CN-served and CN-accessible Gulf export terminals and Mississippi River barge-loading facilities along the inland waterways, from southern Illinois to northeastern Iowa and northwestern Illinois;
    - Soybean meal and soy hulls to feed mills across the CN network, including soybean meal to CN's Harvey, Illinois rail-to-container transload facility described above;
    - Soybean oil to Gulf export terminals and Gulf renewable diesel production facilities, as well as CN-served and CN-accessible biodiesel production facilities in Iowa, Illinois, and elsewhere in the CN network;
    - Refined soybean oil to CN-served and CN-accessible end-users for domestic human consumption; and
    - Soybeans received from CN origins, enhancing the customer's soybean origination reach.
- **Heartland Co-Op:**
    - Soybean and corn shipments to CN-served and CN-accessible soybean processors, ethanol plants, and other corn processing facilities in the U.S. Midwest and Canada;
    - Soybean and corn shipments to CN-served and CN-accessible Gulf export terminals; and

- Soybean and corn shipments to CN-served and CN-accessible barge-loading facilities.

- **Feed Energy Co./Kru LTD:**
  - Shipments of renewable fuels-related feedstocks to CN-served and CN-accessible renewable fuels plants that can use these commodities as feedstock.

- **General Mills:**
  - Outbound shipments of bulk flour to end-users across the CN network; and
  - Inbound shipments of wheat from within the CN network.

The Iowa Northern experience demonstrates, along with CN's successes using trackage rights to access grain and grain products customers, that CN has both the capability and the commitment to serve as an effective remedy carrier for Des Moines- and Avon-area grain and grain products customers. CN's track record of investing in infrastructure, deploying modern equipment, improving service, and expanding market access for Iowa grain shippers is directly relevant to the Board's evaluation of CN as the appropriate carrier to receive trackage rights between Manly and/or Iowa Falls and Des Moines and Avon, Iowa.

III. ACCESS OVER THE TUSCOLA LINE AND KANSAS CITY AND ST. LOUIS CONDITIONS WILL BENEFIT GRAIN AND GRAIN PRODUCTS CUSTOMERS

The Proposed Transaction between Union Pacific and Norfolk Southern, if unremedied, would reduce competitive rail options for grain customers in the Midwest. Union Pacific and Norfolk Southern both serve grain and processed grain products customers in Kansas City and St. Louis / East St. Louis, and their networks directly overlap between the cities. Grain is among the top commodities that Applicants originate and terminate in the Kansas City area. Without conditions, grain and grain products shippers that today can leverage their access to both Union Pacific and Norfolk Southern (and in combination with other interline partners) in these markets

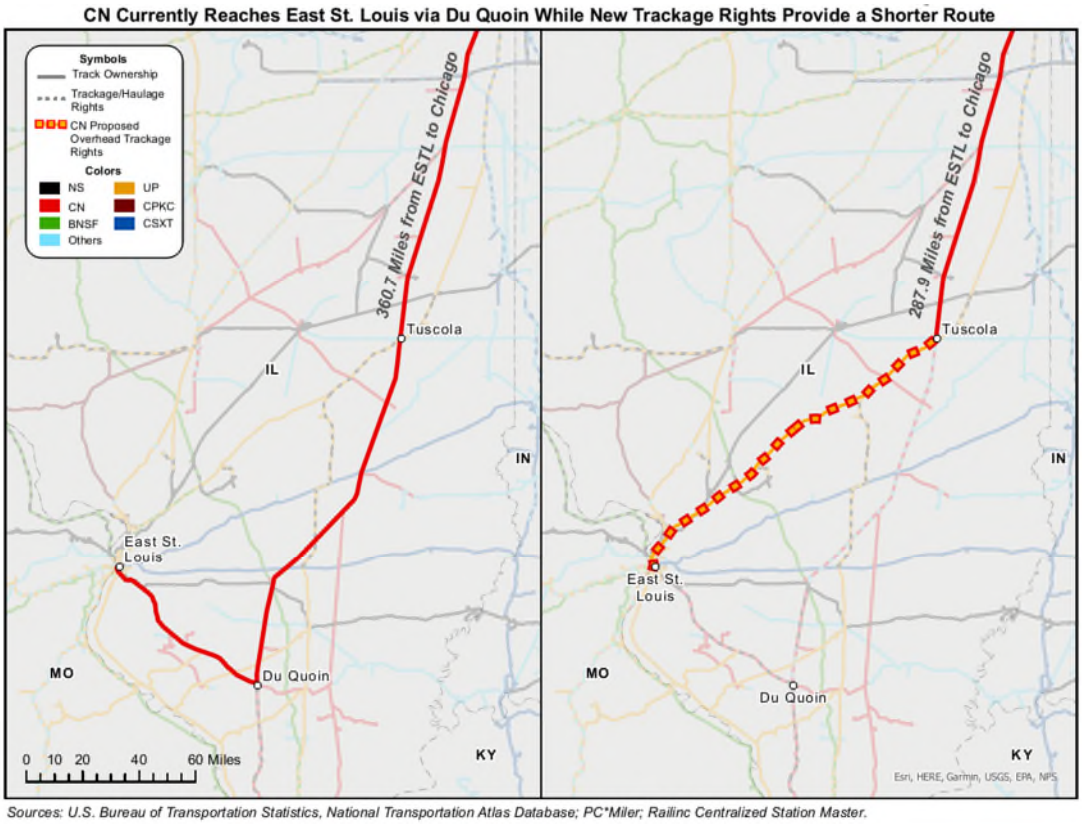
would lose that independent competitive option. The conditions described below would restore a competing Class I carrier for these grain customers by giving CN a more direct route into the St. Louis / East St. Louis gateway and new access to Kansas City and the Kansas City gateway.

A. East St. Louis Is Critical to CN Grain Customers

The conditions seeking trackage rights over UP's line between Tuscola and East St. Louis, Illinois (the "Tuscola Line") and the Alton & Southern ("A&S") line will deliver significant benefits to CN's grain and grain products customers. East St. Louis represents the single largest concentration of barge-loading facilities along the Mississippi River. It is a critically important destination market for Midwest shippers seeking to move corn, soybeans, wheat, soybean meal, DDGS, and other commodities to the export market via barge.

Today, for CN to reach East St. Louis from points in northern Illinois, Iowa, and Wisconsin, CN routes trains all the way to southern Illinois, past East St. Louis to Du Quoin, Illinois, and then routes them back up again to East St. Louis. Trackage rights over the Tuscola Line would alleviate the need for this circuitous route and connect CN's existing central Illinois lines directly to the East St. Louis / St. Louis gateway, allowing CN to more effectively compete for this grain and grain products traffic. CN currently has a more roundabout route into the East St. Louis / St. Louis area than virtually any other carrier, and the Tuscola Line would provide a routing improvement of approximately 70 miles. This reduction in distance and transit time will lower transportation costs for CN's grain and grain products customers and allow CN to compete on a more even footing with the merged UP and NS for grain and grain products traffic destined to the East St. Louis / St. Louis area, which has become an important bulk grain market because of local infrastructure investment.

Figure 3: Map of More Efficient Routing



Customers on the A&S and the Terminal Railroad Association of St. Louis ("TRRA") are open to all Class I carriers, so the improved route will allow CN to compete more effectively for rail traffic destined to facilities, such as Bunge-SCF in East St. Louis; Consolidated Grain & Barge, CHS, and Louis Dreyfus in Cahokia; ADM in Sauget; and ADM's North St. Louis facility, which completed an expansion in 2025. Shippers moving soybean meal, for example, would benefit from a more competitive CN route into East St. Louis / St. Louis for transfer to barge and onward movement to the Gulf. CN could also move wheat inbound to St. Louis, such as to ADM's St. Louis facility or to barge-loading facilities. CN could also move flour products outbound more efficiently from St. Louis to CN destination markets in Canada and the United States.

B. Access to Kansas City Will Provide Grain and Grain Products Customers with a New Gateway and a Broader Range of Markets

CN's conditions seeking access to Kansas City include purchase of UP's rail line between Kansas City and St. Louis (the "Kansas City Line") and lease or purchase of Neff Yard in Kansas City (Sub-Nos. 2 and 6). These conditions will open Kansas City as a new gateway and destination market for CN's grain and processed grain products, again allowing CN to compete more effectively with UP and NS for grain and grain products customers. Kansas City is a significant grain market, serving as a hub for grain processing, milling, feed manufacturing, and interchange with western carriers. Opportunities include Cargill's soybean crush plant, which could ship finished products into destination markets CN serves, and Bartlett's Kansas City grain terminals. Most of these customers are in Union Pacific's reciprocal switching tariff and are open to Norfolk Southern. CN is seeking access to those customers in Kansas City in Union Pacific's and Norfolk Southern's reciprocal switching tariffs that are open so that those customers do not lose a Class I option if the Proposed Transaction is approved and so CN can build density to and from Kansas City.

In addition to the Kansas City terminal, CN's purchase of the Kansas City Line will give CN access to existing local customers located along the line between Kansas City and St. Louis, which CN plans to serve directly.[5] These customers include numerous grain shippers that CN is well situated to access, like customers in Kansas City open to reciprocal switching performed by

[5] As Janet Drysdale explains, if the Board orders divestiture to CN of the Kansas City Line (Sub-No. 2), CN would provide local service to all UP stations on the line between St. Louis and Kansas City. *See* Exhibit 12H (Verified Statement of Janet Drysdale) at 16. So that customers do not lose options, CN proposes that UP would retain local haulage access to the customers as well as overhead trackage rights between Kansas City and St. Louis for through trains. *Id.* at 31. However, if the Board orders trackage rights to CN between Kansas City and St. Louis, CN would not directly serve local customers on the line. Under the Settlement MOU, CN would access those customers via local haulage performed by UP.

UP such as Bartlett, Cargill, and General Mills, as well as customers in St. Louis / East St. Louis like ADM Milling via TRRA. CN has demonstrated the ability to compete even when a reciprocal switch is performed at destination. {{

}}. By connecting these Kansas City Line customers to CN's network and origination markets, CN will be well positioned to restore competition for this traffic as well as for local customers on the Kansas City Line that would otherwise be lost as a result of the Proposed Transaction.

Kansas City would also give CN access to a new wheat footprint, providing wheat customers a new competitive option. For example, CN could newly access facilities such as General Mills' wheat mill, which is open on Union Pacific's reciprocal switching tariff. Processing plants in the area draw from wide origination areas, including substantial Missouri origination. Access to Kansas City will allow CN to offer its Midwest grain customers and short lines that connect with CN—including those in Illinois, Iowa, and Wisconsin—a new competitive routing option to Kansas City markets, further increasing origination reach, market optionality, and competitive dynamics for grain shippers across CN's network.

CN's new access to the Kansas City gateway will potentially allow CN to move corn more competitively to western carriers via interchange, giving customers originating corn moves on CN or on a short line that connects to CN another gateway option. The feed market in the Southwestern U.S. creates an opportunity to move additional corn to western carriers via interchange through the Kansas City gateway. Under the Settlement MOU, CN has agreed to purchase Norfolk Southern's shares in the Kansas City Terminal Railway, which is operated by Watco's Kaw River Railroad (KAW), giving CN the ability to interchange with other carriers in Kansas City through

KAW. In addition, CN seeks the ability to directly interchange with BNSF via its trackage rights between Lydia Avenue and Broadway Boulevard in Sub-No. 4, and CN plans to interchange with UP at Neff Yard. CN can move corn to the Southwestern U.S. via interchange in Kansas City from CN-served Illinois origins, as well as various short line-served origins that connect to CN. In Illinois, CN receives corn from Bloomer Shippers Connecting Railroad Company (BLOL) owned by Alliance Grain Company, Watco's Decatur & Eastern Illinois Railroad (DREI), and Indiana Rail Road Company (INRD). Given that distance is a major factor affecting the cost of rail transportation, the Kansas City gateway also provides reduced rail mileage from various Illinois origins to points of demand relative to current gateways. The extent of the opportunity will vary annually based on product availability within the local region. To illustrate, rail distance from CN-served Rantoul, Illinois to Garden City, Kansas via Memphis, Tennessee is roughly 1,228 rail miles, whereas rail distance from Rantoul, Illinois to Garden City, Kansas via the Kansas City gateway is roughly 838 rail miles (a 390-mile reduction).

CONCLUSION

For the reasons set forth above, the conditions sought in CN's responsive applications, particularly:

- trackage rights over UP's line between Manly and/or Iowa Falls, Iowa, and Des Moines and Avon, Iowa (Sub-No. 10);
- divestiture of UP's Kansas City Line (Sub-No. 2);
- overhead trackage rights over the Tuscola Line (Sub-No. 7);
- trackage rights over the Alton & Southern between Lenox and East St. Louis (Sub-No. 8);

- in the alternative to Sub-No. 2, trackage rights over UP's Kansas City Line (Sub-No. 3);
- trackage rights in Kansas City between Lydia and Broadway to interchange with other railroads (Sub-No. 4);
- terminal trackage rights over BNSF between Eton and Congo (Sub-No. 5) to connect UP's River Subdivision to Neff Yard in Kansas City; and
- lease or purchase of Neff Yard in Kansas City (Sub-No. 6).

These conditions are necessary to preserve competition for Des Moines area grain customers and to prevent the competitive harm that would otherwise result from the Proposed Transaction. CN's grain and grain products business, its demonstrated commitment to investing in infrastructure and service, and its successful integration of Iowa Northern all confirm that CN is the appropriate remedy carrier. The Tuscola Line and Kansas City and East St. Louis / St. Louis conditions will benefit grain and grain products customers by reducing routing distances to East St. Louis barge markets and St. Louis and East St. Louis origin and destination markets, allowing CN access to Kansas City origin and destination markets and to grain customers located on the Kansas City Line, and opening Kansas City as a new gateway for CN to interchange with western carriers. I respectfully urge the Board to grant the conditions requested in CN's responsive applications.

VERIFICATION

I, David Przednowek, declare under penalty of perjury under the laws of the United States that the foregoing information is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed on this 18th day of November, 2026.

/s/ David Przednowek
David Przednowek

Exhibit 12E

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY

-- CONTROL --

NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

(SUB-NO. 2) ILLINOIS CENTRAL RAILROAD COMPANY – DIVESTITURE – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 3) ILLINOIS CENTRAL RAILROAD COMPANY – TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 4) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN LYDIA AVENUE AND BROADWAY BOULEVARD IN KANSAS CITY, MO.

(SUB-NO. 5) ILLINOIS CENTRAL RAILROAD COMPANY – TERMINAL TRACKAGE RIGHTS – OVER LINE OF BNSF RAILWAY COMPANY BETWEEN ETON, MO. AND CONGO, MO.

(SUB-NO. 6) ILLINOIS CENTRAL RAILROAD COMPANY – LEASE AND PURCHASE – UNION PACIFIC RAILROAD COMPANY NEFF YARD IN KANSAS CITY, MO.

(SUB-NO. 7) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN TUSCOLA, ILL. AND EAST ST. LOUIS, ILL.

(SUB-NO. 8) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – OVER LINE OF THE ALTON & SOUTHERN RAILWAY COMPANY BETWEEN MITCHELL, ILL. AND EAST ST. LOUIS, ILL.

VERIFIED STATEMENT OF GIRISH NAIR

My name is Girish Nair. I currently serve as Vice President, Intermodal & Automotive, Sales and Marketing, for Canadian National Railway Company ("CNR"), a role I assumed in December 2025. Before my current role, I served as Vice President, Multimodal Operations, from December 2023 to December 2025. Throughout my nearly 15-year tenure at CNR, I have held a variety of intermodal and sales roles. I joined the company in 2012 as a Market Manager focused on refrigerated cargo, and from 2014 to 2016 I served as Commercial Manager, Cold Supply Chain, where I was responsible for developing its refrigerated cargo business across cross-border, domestic, and international corridors. Before that, I spent approximately 12 years with an international shipping company, where I held a series of sales roles with responsibility for developing new trade lanes and services, pricing, and oversight of international agents. In total, I have more than 30 years of experience in sales, marketing, and transportation, including more than 25 years in the ocean shipping and rail intermodal industries. I hold an MBA with a specialization in marketing from the University of Leicester and completed coursework in sales and marketing management at Humber College in Canada.

Given my current role and experience, I am very familiar with intermodal traffic flows (both within North America and globally) and our intermodal customers. I submit this Verified

Statement on behalf of CN, in support of CN's Comments on the Amended Application & Requests for Conditions ("Comment") and responsive applications before the Surface Transportation Board (the "Board") in Docket No. FD 36873. The purpose of my statement is to explain, from the perspective of CN's intermodal business and its customers, why the conditions set forth in the responsive applications and in the binding Memorandum of Understanding that CN entered into with Union Pacific Railroad Company ("UP") on July 22, 2026 (the "Settlement MOU") are necessary to preserve competition for intermodal shippers in the region affected by the proposed acquisition of control of Norfolk Southern Railway Company ("NS") by UP (UP and NS, collectively, "Applicants") (the "Proposed Transaction"). As described in detail below, CN's proposed conditions are critical to preserving competitive options for intermodal customers. Without these conditions, the Proposed Transaction would reduce the number of competitive Class I railroad options available to intermodal shippers in the Kansas City-St. Louis corridor, to the detriment of those shippers and the public interest.

I. CN IS THE RAIL INDUSTRY LEADER IN INTERMODAL GROWTH AND SERVICE OFFERINGS

Intermodal is CN's fastest-growing business segment. Today, intermodal volume represents roughly 40% of CN's total carload volume, and because of that volume, intermodal makes a substantial contribution to CN's business. CN operates a three-coast network serving the U.S. Gulf Coast and Canada's East Coast and West Coast, connecting customers to import and export gateways such as Mobile, Alabama; New Orleans, Louisiana; Gulfport, Mississippi (via haulage); Vancouver; Prince Rupert; Halifax; Saint John; and Montreal, and reaching key markets in CN's network and, by interchanging containers with other railroads, enabling customers to reach further in rail shipments. CN operates 23 intermodal terminals in North America, including 10 in the United States, with facilities in Chicago and Memphis. CN runs more than {{ }} weekly

scheduled intermodal trains and has daily access to approximately 1,050 trucks for first- and final-mile service. CN serves {{ }} U.S. intermodal customers and handles approximately {{ }} U.S. intermodal originations and terminations annually. CN has agreements with seven port authorities and 15 port terminals, including the Ports of New Orleans and Mobile. CN accesses the Port of Mobile through the Alabama Export Railroad and the Terminal Railway Alabama State Docks ("TASD"). CN provides a direct connection between Mobile and Chicago with second-day arrival. Through an interline service with CSX Transportation, Inc. ("CSXT"), CN also has access to the Ports of New York/New Jersey and Philadelphia, and through a haulage agreement with Canadian Pacific Kansas City Railway Company ("CPKC"), CN has access to the Port of Gulfport, Mississippi. And CN works with the Indiana Rail Road Company ("INRD") to provide interline intermodal service between Indianapolis, Indiana, and CN's ports on the Gulf, East, and West Coasts.

CN offers a wide range of intermodal products, including a door-to-door retail program, which Class I railroads in the U.S. generally do not offer. CN owns a dedicated fleet of 53-foot and 40-foot containers that support its domestic program. In 2019, CN acquired TransX, a refrigerated intermodal specialist with a leased network of 11 distribution centers and approximately 1,400 temperature-controlled containers. Today, CN's CargoCool program operates one of the largest refrigerated and insulated container fleets in North America. CN's experts provide a safe and efficient supply chain for temperature-controlled goods. With end-to-end visibility, CN offers the services needed to bring temperature-sensitive commodities safely to market, from food and beverages to pharmaceuticals and fashion apparel. CN is also a full member of the Equipment Management Pool, giving it access to a supply of approximately 40,000 containers, and it maintains its own chassis. CN operates the CNTL trucking division and a

Domestic Repositioning Program, which reloads 40-foot containers so that there is an additional loaded move within the transportation cycle, allowing CN to build efficient trains.

CN has continued to expand its intermodal offerings in recent years. CN has developed new interline products, including a product with CSXT into the Ohio Valley, which increases routing optionality for customers, and its Falcon Premium service, a partnership with UP and Grupo México Transportes/Ferromex that provides seamless access across the United States, Mexico, and Canada. In response to significant supply chain volatility over the last 18 to 24 months, and as customers diversify their supply chains to reduce exposure to supply chain disruptions, CN is adding capacity to provide resilience. CN is also developing an approximately 900-acre Chicago logistics hub to reach the southwest side of the Chicago market near consumer distribution centers, address growing demand in Chicagoland and the Midwest, and improve access to North American and international markets.

CN's intermodal operating model also differentiates it from other carriers. CN runs predominantly double-stacked trains, one of the most efficient and cost-effective ways to move intermodal freight. CN's terminals also use a grounded operation, which allows CN to be more nimble in managing capacity and less dependent on chassis availability—a significant advantage during volume spikes or land and sea disruptions, when chassis mismatches have caused congestion on other rail networks. CN also combines its international and domestic business operationally, allowing it to support domestic programs that might not otherwise have sufficient volume. When the Board examined rail service problems in 2022,[1] it identified four U.S. Class I railroads as having service issues; CN was not among them.

[1] *See Urgent Issues in Freight Rail Serv.*, EP 770, slip op. at 3 (STB served Apr. 7, 2022).

CN also offers a level of customer service and supply chain expertise that sets it apart. CN maintains its own customer service team that provides white-glove service, including booking and billing on behalf of customers—functions that in the United States are typically performed by an intermodal marketing company. CN fields specialized teams focused on perishables, specialty crops, automotive capacity, expedited services, fleet, and third- and fourth-party logistics providers, and works closely with port operators, customs brokers, and other stakeholders to drive connectivity. CN also provides a digital framework that allows customers to self-serve. CN runs its own customs brokerage division, supporting both rail and non-rail shipments, and on the West Coast, CN provides a transload product. CN is also pursuing a real estate strategy focused on developing integrated logistics hubs, such as those in Grundy County, Illinois; Calgary, Alberta; and Milton, Ontario, that generate cost savings and operational efficiencies for customers. Together, these capabilities position CN as a full supply chain provider, rather than just a transportation provider.

II. CN'S CONDITIONS WILL RETAIN INTERMODAL COMPETITION AND PROVIDE NEW CUSTOMER SERVICES

Rail competition matters for intermodal shippers. For many long-haul lanes, intermodal rail service is more cost-competitive than over-the-road trucking, and railroads frequently work together with trucking providers, which handle first- and final-mile drayage, to offer customers the most competitive end-to-end options. At the same time, railroads compete extensively with one another for intermodal traffic, on price, transit time, reliability, terminal access, and service offerings. Intermodal shippers routinely shift volumes among rail carriers in response to those factors. Intermodal traffic is therefore not immune from the effects of reduced rail competition: competitive rail options are important to efficient, resilient supply chains, and when the number of

independent Class I options in a corridor is reduced, intermodal shippers face the risk of higher rates, diminished service, and fewer alternatives during supply chain disruptions.

The networks of UP and NS directly overlap between Kansas City and St. Louis, where both move significant intermodal volumes. Kansas City and St. Louis are principal gateways at which UP and NS serve intermodal customers and interchange traffic, and Applicants' networks run four parallel lines across Missouri, including three between St. Louis and Kansas City. As a result, UP and NS currently have significant market concentration in Kansas City, and that concentration would increase if the Proposed Transaction is approved. Intermodal and automotive traffic, together with motor vehicle parts, are among the commodities most affected by the Proposed Transaction in Kansas City and St. Louis. Applicants themselves have acknowledged that this overlap requires a remedy in the Settlement MOU with CN. Absent the conditions set forth in CN's responsive applications, customers in the Kansas City-St. Louis corridor would lose a competitive Class I intermodal option. CN does not currently access Kansas City, so granting CN access would introduce a highly motivated new Class I entrant and give those customers a new, strong option for intermodal services. And granting CN trackage rights between Tuscola and East St. Louis will expand its ability to reach St. Louis/East St. Louis markets more efficiently than CN does today. CN plans to invest in new intermodal and automotive terminals in Kansas City and St. Louis, Missouri.

A. Kansas City Access and Neff Yard Will Help Customers Retain Competitive Options

The best way to prevent this competitive harm is through complete divestiture to CN of UP's line between Neff Yard in Kansas City, Missouri, and Twelfth Street in St. Louis, Missouri (the "Kansas City Line") (Sub-No. 2). Divestiture is clean, certain, and effective, and it avoids ongoing reliance between the merged UP/NS and CN as the remedy. Without divestiture of the

Kansas City Line, the Settlement MOU provides that CN would have trackage rights access. This means that CN's ability to compete for intermodal traffic would be contingent on negotiating haulage and trackage rates (Sub-No. 3) and service guarantees with the merged UP/NS, which is CN's direct rival. CN is the only railroad willing to acquire 100% of the Kansas City Line. CN proposes the following conditions:

- Divestiture of the Kansas City Line (Sub-No. 2) so CN can enter the Kansas City market and expand its access in St. Louis, Missouri / East St. Louis, Illinois;[2]
- the lease of UP's Neff Yard, including the Neff intermodal terminal, in whole or in part, with an option to purchase (Sub-No. 6);
- terminal trackage rights over approximately 7.5 miles of track owned by BNSF Railway Company ("BNSF") between Eton, Missouri, and Congo, Missouri (the "Eton to Congo Segment") (Sub-No. 5), which connects the two portions of the Kansas City Line to Neff Yard; and
- overhead trackage rights between North Lydia Avenue and Broadway Boulevard in Kansas City, Missouri (the "Lydia Avenue to Broadway Boulevard Segment") (Sub-No. 4), which connects Neff Yard and the Kansas City Terminal Railway Company ("KCT") and allows CN to interchange with BNSF and other carriers and to reach KCT customers open via reciprocal switching.[3]

These conditions would enable CN to serve as a competitive intermodal option for customers.

[2] In CN's proposed divestiture condition, CN proposes to grant UP overhead trackage and local haulage rights on the Kansas City Line so that no customer loses an existing competitive option. If the Board finds that divestiture is not warranted, CN alternatively seeks trackage rights over the Kansas City Line, together with local haulage rights to serve affected customers on the line (Sub-No. 3).

[3] Under the Settlement MOU, CN will acquire NS's shares of KCT.

To serve as an effective remedy carrier for intermodal customers, CN must also be able to build and retain sufficient traffic density on the Kansas City Line to support its planned investments in intermodal facilities in Kansas City and St. Louis. Under haulage or trackage rights alone (Sub-No. 3), the merged UP/NS could degrade CN's service or prioritize its own trains. Absent robust gateway protections, UP/NS could steer interchange to less efficient locations or short-haul CN's traffic, which could erode the density CN needs. That is why CN's requested conditions include divestiture, robust and enforceable open gateway protections, and reciprocal switching access to Kansas City customers currently open to switching under UP and NS, so that those customers do not lose a Class I option if the Proposed Transaction is approved.

CN expects to use Neff Yard (Sub-No. 6) to serve intermodal customers in Kansas City and surrounding geographies. Neff Yard is UP's former intermodal yard in Kansas City; UP has since relocated its intermodal operations to its Kansas City Intermodal Terminal, and Neff Yard is now idled as an intermodal terminal. Before UP relocated its intermodal operations, the largest share of traffic originating and terminating at Neff Yard, and its leading customers, were ocean carriers, intermodal marketing companies, perishable exporters, and trucking companies. CN understands the terminal to be largely "plug and play," meaning that UP previously operated an intermodal terminal from within Neff Yard. Because it is an existing UP rail yard, CN anticipates a smooth transition and expects to be able to use Neff Yard immediately following consummation of the Proposed Transaction and divestiture of the Kansas City Line. CN anticipates that it would need to add equipment, such as trucks and cranes, and expects to engage a third-party terminal operator, but does not expect significant investment to be required to begin operations. Over time, CN plans to make significant investments at Neff Yard to improve and expand its intermodal operations, which would put a largely idled intermodal terminal back into productive service.

In addition, the proposed overhead trackage rights over UP's line between Tuscola, Illinois, and East St. Louis, Illinois (the "Tuscola Line") (Sub-No. 7), together with overhead trackage rights over the lines of UP's wholly owned subsidiary, The Alton & Southern Railway Company ("A&S") (Sub-No. 8), between Lenox in Mitchell, Illinois, and Valley Junction in East St. Louis, Illinois, would connect CN's existing lines in central Illinois to the St. Louis gateway and, through it, to the Kansas City Line. CN's network today reaches only East St. Louis, and CN operates over a more circuitous and less efficient route: CN's current route from the north runs south past East St. Louis to Du Quoin, Illinois, and then doubles back to reach the St. Louis gateway, adding significant mileage and transit time. With trackage rights over the Tuscola Line, CN intermodal traffic from Chicago would instead move south on CN's existing line to a new connection at Tuscola, over the Tuscola Line and A&S to East St. Louis, across the Mississippi River into St. Louis, and then over the Kansas City Line to Neff Yard. This more direct route would eliminate approximately 70 miles from CN's route between Chicago and St. Louis or Chicago and Kansas City.[4] Without these rights over the Tuscola Line, CN's intermodal service to St. Louis and Kansas City would be materially longer and costlier than Applicants' single-line service.

As part of its divestiture, CN also plans to use UP's inactive former Sarpy Yard property in St. Louis, which is located on the Kansas City Line, to develop facilities to handle intermodal and automotive traffic. If the Board grants trackage rights instead of divestiture, CN is seeking trackage rights access to the former Sarpy Yard property and a condition ordering the sale of that property to CN for the same purpose. Without access to that property, CN would not have a location to handle this traffic in St. Louis. CN expects the former Sarpy Yard property to provide intermodal capacity once the planned infrastructure improvements are completed, and CN can

[4] *See* Exhibit 13 (Operating Plan) at 137.

begin marketing that capacity in advance of completion. Together, Neff Yard and the former Sarpy Yard property would add two new U.S. intermodal terminals to CN's network and create new competitive alternatives and additional intermodal capacity for customers in the St. Louis and Kansas City gateways.

The diversion analysis of Dr. Henry Kahwaty estimates that approximately {{ }} annual rail cars or units would divert from truck to the CN network because of CN's new or improved access involving Kansas City and St. Louis / East St. Louis, approximately {{ }} of which (approximately {{ }} units) would be intermodal traffic.[5] Of the diverted intermodal traffic, approximately {{ } units are expected to move through the Kansas City area and approximately {{ }} units through the St. Louis area; in total, Kansas City is expected to receive approximately {{ }} units of diverted traffic and St. Louis approximately {{ }} units.[6] The diversion analysis also reflects that CN would divert approximately {{ }} intermodal units from other railroads.[7]

B. CN's Access to Kansas City and Expanded Access to St. Louis / East St. Louis Will Open New Single-Line Options for Intermodal Customers

CN's proposed conditions will not only preserve competition that would otherwise be lost as a result of the Proposed Transaction but also open new doors for intermodal customers. With access to Kansas City, CN would offer new single-line intermodal service to and from its existing intermodal terminals in places like Detroit and Eastern Canada. Through future interline arrangements, building on effective existing interline service such as CN's interline product with

[5] *See* Exhibit 12B, Verified Statement of Dr. Henry Kahwaty at ¶ 177 & Table 11 [hereinafter "Kahwaty V.S."].

[6] *Id.* ¶ 178.

[7] *Id.* ¶ 16.

CSXT into the Ohio Valley, CN could also gain access to new markets and products, such as traffic moving with other carriers from the Southeast from Norfolk, Savannah, or Charleston to Kansas City and East St. Louis. The Kansas City–Chicago market alone is expected to account for approximately {{ }} of total diverted traffic, and CN is particularly well positioned to serve that market given its extensive Chicago-area intermodal capabilities and the significant intermodal volume it already moves south from Chicago to Memphis, Jackson, and New Orleans.[8] Kansas City–Detroit is expected to be the second-largest market, accounting for approximately {{ }} of total diverted traffic, more than {{ } of which is expected to be intermodal, including vehicle parts shipped from Michigan auto facilities to assembly plants in Kansas City.[9] CN's large, modern Detroit intermodal hub, which handles approximately {{ }} units annually, positions CN to accommodate that growth.[10]

In St. Louis, CPKC—the only other railroad with intermodal terminals in Canada—does not have an intermodal terminal in St. Louis or East St. Louis, so once CN begins intermodal operations at the former Sarpy Yard property, it would be the only railroad able to offer St. Louis area shippers single-line service to and from a Canadian intermodal terminal. Because there is currently very little interline intermodal service between Canada and St. Louis, these new offerings would primarily benefit U.S. shippers by providing a new rail alternative to truck transportation in these lanes.

Access to Kansas City would also allow CN to move intermodal traffic on its own network to Kansas City for interchange with western carriers, rather than interchanging that traffic in

[8] *Id.* ¶ 179 & Figure 30.

[9] *Id.* ¶ 180.

[10] *Id.*

Chicago. Interchange with BNSF, UP, CPKC, and other carriers would occur at or via Neff Yard. This would give CN a longer haul, allowing it to price its own leg more competitively, and would provide customers a more cost-competitive and, for some lanes, shorter routing that avoids Chicago intermodal congestion. Bypassing Chicago would also reduce terminal and interchange handlings and improve equipment cycle times. CN estimates that routing sufficient train volume away from its Kirk Yard in the Chicago area could reduce shipping times by as much as a day.[11]

Through Kansas City, CN also expects to compete for international intermodal traffic moving to and from the East Coast and Gulf Coast, and to divert existing international intermodal traffic that moves to and from Kansas City and St. Louis through from congested U.S. West Coast and East Coast ports to CN-served ports. These new routes will tie into CN's three-coast port access, including the Ports of New Orleans and Mobile. CN's best approximation is that it could divert up to approximately 15,000 annual round-trip carloads of Kansas City traffic, based on current intermodal volumes moving between Kansas City and the Ports of Los Angeles/Long Beach, New York/New Jersey, and Norfolk. In developing this approximation, CN considered (i) the volume of existing international intermodal traffic moving between Kansas City and those ports; (ii) the throughput of CN's smallest U.S. intermodal terminal and CN's share in other Midwest locations; (iii) inland rail mileage and transit time to Kansas City from CN-served ports compared with current routings; (iv) CN's cost economics; and (v) whether the overseas origins and destinations of the traffic can shift to ocean services calling at CN-served ports. Most of this volume would come from northern ports, and CN views the Port of Montreal as the strongest diversion opportunity: Montreal is closer to North European ports than the Ports of New York/New Jersey, and at approximately 1,380 rail miles to Kansas City, it is essentially equidistant with New

[11] *See* Exhibit 13 (Operating Plan) at 103.

York/New Jersey and Norfolk (approximately 1,300 miles). Customers importing Europe-origin traffic currently moving via those ports to Kansas City therefore could convert to Montreal, subject to pricing, vessel capacity, and available ocean services.[12] The Gulf ports also present a strong opportunity for international intermodal, followed by Halifax and British Columbia, which are farther by rail from Kansas City but which CN would also offer as options depending on customer and market demand, to support trade diversification and supply chain resiliency. CN has successfully launched access to similar inland markets in the past, including its Arcadia and Chippewa Falls, Wisconsin; Indianapolis, Indiana; and Ohio Valley markets, which diverted from West Coast ports, and CN will validate the addressable opportunity directly with shipping line customers as it rolls out the product.

CN's temperature-controlled intermodal service will also enable Kansas City and Omaha area protein producers to access refrigerated intermodal service for the first time on a single-line basis. Kansas City is a significant origin for protein exports, a segment CN does not access today, and major Midwest protein exporters such as {Tyson Foods, JBS, and Cargill} would gain CN as a new option. In the United States, CN offers a more advanced and evolved temperature-controlled service with its own state-of-the-art equipment that guarantees a protective service to its customers, whereas other Class I railroads expect the shipper (or exporter) to manage the responsibility of maintaining temperature integrity with its own equipment. Extending that service to Kansas City would create opportunities for Kansas City area producers to use single-line rail service to reach export markets on the East Coast and Gulf Coast. The Port of Mobile has 350 reefer plugs for

[12] *See* Exhibit 12H, Verified Statement of Janet Drysdale at 28 [hereinafter "Drysdale V.S."]; Exhibit 13 (Operating Plan) at 101; Kahwaty V.S. ¶¶ 189-190.

refrigerated containers to keep temperature-sensitive products safe.[13] No U.S. Class I railroad currently offers temperature-controlled intermodal service via ISO containers to these producers. Trucking refrigerated goods between the Midwest and Mexico or Canada costs approximately 10%–20% more and produces approximately 75% more greenhouse gas emissions than intermodal alternatives.[14] CN would save those customers time and money and take trucks off the road.

III. CONCLUSION

For the foregoing reasons, the conditions set forth in the responsive applications, including complete divestiture of the Kansas City Line to CN (Sub-No. 2), will enable CN to preserve competition that would be lost in the Kansas City and St. Louis markets if the Proposed Transaction is approved. Customers will benefit from CN's new intermodal and automotive terminal services in Kansas City and St. Louis. The related conditions, including trackage rights over the Eton to Congo Segment (Sub-No. 5), the Lydia Avenue to Broadway Boulevard Segment (Sub-No. 4), the Tuscola Line (Sub-No. 7), and A&S (Sub-No. 8), and the lease or purchase of Neff Yard (Sub-No. 6), are necessary and appropriate to address the competitive harms to intermodal customers that would otherwise result from the Proposed Transaction. The Proposed Transaction would combine UP's and NS's parallel routes between Kansas City and St. Louis, two principal rail gateways, and Applicants themselves have acknowledged that this overlap requires a remedy in the Settlement MOU. Intermodal traffic is among the commodities most affected, and it is not immune from the loss of rail competition.

Divestiture is the most effective remedy because it places CN as an independent Class I carrier in the corridor without ongoing reliance on the merged UP/NS, and CN is the only railroad

[13] *See The Port of Mobile: Reliable, Capable and Connected*, CN (Mar. 20, 2024), https://www.cn.ca/en/stories/20240320-the-port-of-mobile/ (last visited Nov. 17, 2026).

[14] *See* Drysdale V.S. at 28.

willing to acquire 100% of the Kansas City Line. CN is well positioned to compete for intermodal traffic in Kansas City and St. Louis. Neff Yard can support CN intermodal service immediately following consummation of the Proposed Transaction and divestiture of the Kansas City Line, and the former Sarpy Yard property would enable CN to open an intermodal terminal in St. Louis. Because CN would grant UP overhead trackage and local haulage rights on the Kansas City Line, no customer would lose an existing rail option over that line.

Moreover, CN's conditions will unlock new opportunities for intermodal customers that would not otherwise be available. These include new single-line service between Kansas City and St. Louis and CN's terminals in Detroit, Chicago, and Eastern Canada; the only single-line service between St. Louis and a Canadian intermodal terminal; new routings through Kansas City that bypass Chicago congestion; port alternatives through Montreal and CN's other gateways; and, for the first time, single-line refrigerated intermodal service for Kansas City area shippers to the Gulf Coast or East Coast. These offerings would divert substantial volumes from highways to rail, saving customers time and money and taking trucks off the road.

VERIFICATION

I, Girish Nair, declare under penalty of perjury under the laws of the United States that the foregoing information is true and correct. Further, I certify that I am qualified and authorized to file this statement. Executed on this 18th day of November, 2026.



Girish Nair

Exhibit 12F

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY

-- CONTROL --

NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

(SUB-NO. 2) ILLINOIS CENTRAL RAILROAD COMPANY – DIVESTITURE – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 3) ILLINOIS CENTRAL RAILROAD COMPANY – TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 4) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN LYDIA AVENUE AND BROADWAY BOULEVARD IN KANSAS CITY, MO.

(SUB-NO. 5) ILLINOIS CENTRAL RAILROAD COMPANY – TERMINAL TRACKAGE RIGHTS – OVER LINE OF BNSF RAILWAY COMPANY BETWEEN ETON, MO. AND CONGO, MO.

(SUB-NO. 6) ILLINOIS CENTRAL RAILROAD COMPANY – LEASE AND PURCHASE – UNION PACIFIC RAILROAD COMPANY NEFF YARD IN KANSAS CITY, MO.

(SUB-NO. 7) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN TUSCOLA, ILL. AND EAST ST. LOUIS, ILL.

(SUB-NO. 8) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – OVER LINE OF THE ALTON & SOUTHERN RAILWAY COMPANY BETWEEN MITCHELL, ILL. AND EAST ST. LOUIS, ILL.

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(SUB-NO. 9) ILLINOIS CENTRAL RAILROAD COMPANY – LOCAL TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY TO SERVE HILLSBORO, ILL.

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(SUB-NO. 34) ILLINOIS CENTRAL RAILROAD COMPANY – LOCAL TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY TO SERVE CARLINVILLE, ILL.

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VERIFIED STATEMENT OF SANDRA ELLIS

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My name is Sandra Ellis. I was appointed Vice President, Bulk in 2022, and am currently the Vice President, Bulk & Business Development Sales & Marketing of Canadian National Railway Company ("CN"). I am responsible for driving CN's market expansion and sales activities for bulk commodities, including grain, fertilizer, vegetable oils, ethanol, sulfur, coal, and petroleum coke, as well as Business and Industrial Development activities and Shortline and Class I relationships. Bulk commodities are those moved primarily in unit trains rather than individual carloads. My team and I support our bulk customers' growth and success. I currently serve on the Rail Energy Transportation Advisory Committee of the Surface Transportation Board ("Board") and recently became Co-Chair of that committee. I bring to my role more than 20 years of experience in the rail industry and more than 25 years in multimodal transportation, including pipelines. Prior to joining CN, I was a railroad customer. I held commercial roles, including Director, Commercial Development, NGL Processing at Inter Pipeline Ltd., where I was accountable for the negotiation of multimillion-dollar railcar purchase and lease agreements and

integrated a rail/truck transportation team and associated transportation management processes and supporting technology. My rail career started at Canadian Pacific Railway, where I held progressive Sales and Marketing management roles for more than 15 years. I have a Bachelor of Commerce from the University of Saskatchewan.

Given my current role and experience, I am very familiar with coal, fertilizer, and sulfur traffic flows (both within North America and globally) and CN's coal, fertilizer, and sulfur customers. I submit this Verified Statement on behalf of CN in support of its Comments on the Amended Application & Requests for Conditions ("Comment") and responsive applications in Docket No. FD 36873. The purpose of my statement is to explain, from the perspective of CN's bulk business and its customers, why the conditions set forth in the responsive applications and in the Binding Memorandum of Understanding between CN and Union Pacific dated July 22, 2026 ("Settlement MOU") are necessary to preserve competition for bulk shippers in the region affected by the acquisition of control of Norfolk Southern Corporation and Norfolk Southern Railway Company ("NS") by Union Pacific Corporation and Union Pacific Railroad Company ("UP") ("Proposed Transaction"). In particular, I address coal shippers in Hillsboro and Carlinville, Illinois, and potash and other fertilizer shippers and receivers, as well as sulfur shippers and receivers, in the Kansas City and St. Louis areas. As described in detail below, CN's proposed conditions are critical to preserving competitive options for coal customers served by the facilities of Foresight Energy LLC ("Foresight Energy"), and CN is the most effective remedy carrier for those customers who rely on the mines for their coal demand. CN's requested access to Kansas City and expanded access to St. Louis / East St. Louis would also address competitive harms from the Proposed Transaction related to potash and sulfur, providing potash and sulfur shippers and receivers in those markets with an efficient, competitive rail option.

I. CN'S COAL BUSINESS PROVIDES EXPANSIVE CUSTOMER ACCESS TO KEY TERMINALS

CN is a significant mover of coal traffic in the United States and across North America. CN's North American rail system spans three coasts, connecting the U.S. Midwest with lines running parallel along the Mississippi River to the Gulf Coast with Canada's Eastern and Western coasts through an approximately 18,600-mile rail network that runs through the U.S. heartland. CN's network not only reaches major metropolitan centers in the United States but also directly and indirectly serves thermal and metallurgical coal production and associated demand centers in the U.S. Midwest, Northeast, and Southeast, as well as critical ports of the West Coast and Gulf Coast within the United States and Canada. Our network enables the export through direct rail service of both thermal and metallurgical coal via the river system, the Great Lakes and St. Lawrence Seaway, and deep-water ports on all coasts. In a typical year, CN moves an average of approximately {{ }} short tons of coal. In 2025, CN performed originations or terminations of coal, petroleum coke, and metallurgical coke for approximately {{ }} carloads across {{ }} U.S. customers. CN has direct access to an expanding set of facilities, currently numbering 11 active or idled mines, 7 petroleum coke-producing facilities, and 6 high-capacity export terminals, including such terminals in Mobile, Alabama, and New Orleans, Louisiana. CN serves coal mines, petroleum coke sources, barge transload terminals, and export terminals across Illinois, Kentucky, Tennessee, Michigan, Louisiana, and Alabama, including mines in the Springfield, Illinois area and transload terminals in East St. Louis and Chicago.

CN's coal franchise is distinctive. In Canada, CN primarily moves metallurgical coal to West Coast ports for export. In the United States, CN's coal business is predominantly thermal coal used to generate electricity, consisting of short-haul rail movements to domestic power plants—often Powder River Basin coal received in interchange from BNSF Railway Company

("BNSF") or UP—or short-haul rail movements where CN originates Illinois Basin coal and moves unit trains to interchange with other rail carriers or to move via the river system. CN also moves coal from U.S. mines for export, including long-haul movements of Illinois Basin coal to the Gulf Coast and short-haul moves to Ohio River barge locations. CN's U.S. operations are focused on reliably delivering domestic coal trains to power plants. Some of these moves are short-haul rail moves; for example, CN's haul to the Weston plant in Wisconsin is approximately 30 miles from the interchange with UP for delivery of Powder River Basin coal, and its haul for the Vistra plants in Illinois is approximately 80 miles to interchange.

CN's rail lines in the United States reach Alabama, Illinois, Kentucky, Louisiana, Mississippi, Tennessee, and Wisconsin. This network gives CN single-line access from Illinois Basin coal origins to river barge loading locations on the Ohio River and the Mississippi River, Gulf export terminals, and utilities and industrial customers throughout the Mid-South and Gulf Coast regions. And CN connects indirectly to move Powder River Basin coal through interline moves from UP or BNSF.

II. CN'S CONDITIONS PRESERVE COMPETITION FOR IMPORTANT COAL FACILITIES

I understand that, as a result of the Proposed Transaction, two Foresight Energy facilities—Hillsboro Energy LLC (Deer Run Mine), located at Hillsboro, Illinois, with the capacity to produce up to 9 million tons of coal per year,[1] and Macoupin Energy LLC (Macoupin Energy Shay #1 Mine, formerly Monterey Mine No. 1), located near Carlinville, Illinois—would have their Class I carrier access reduced from two carriers to one, as both UP and NS currently have access to serve

[1] *See Operations*, Foresight Energy, https://www.foresight.com/operations/ (last visited Nov. 16, 2026).

the Foresight Energy facilities, and no other Class I carrier has access.[2] I understand that Union Pacific and Norfolk Southern (collectively, "Applicants") acknowledge that these facilities would go from two Class I carriers to one and have agreed to grant trackage rights to another Class I carrier.[3] I also understand from Applicants' public submissions that Foresight Energy has asked Applicants to grant BNSF trackage-rights access post-merger, and that Applicants would grant such a request, but that BNSF has in turn *not* submitted a description of a responsive application requesting trackage-rights access from the Board to either the Hillsboro Energy or the Macoupin Energy facility. CN, by contrast, is the only carrier that filed a description of a responsive application seeking trackage rights to serve these 2-to-1 facilities. CN views Foresight Energy as an important coal producer sourcing coal to both domestic and export markets to which CN has existing connectivity, and is willing and able to preserve competition by providing service to the Foresight Energy coal mine facilities instead. In that respect, CN would step in as a direct replacement for the competition that the Proposed Transaction would otherwise lose.

A. Coal Customers Need to Maintain Existing Competitive Rail Options

From my rail experience serving coal customers and operating bulk coal service, I understand the importance of two-carrier competition to coal shippers, especially the need to preserve such access for those mines that have it. When a facility has existing access to two Class I carriers, the shippers benefit in several ways. The presence of two carriers provides enhanced rate, market, and service optionality. Market optionality increases transportation rate competition, particularly when the facility can directly access either carrier, so service quality is maintained

[2] With respect to Macoupin Energy LLC, I understand that Foresight Energy's public website describes this facility as currently idled. *Id*.

[3] *See* UP-39/NS-37, FD 36873, Vol. 1 at 395 (filed Apr. 30, 2026) [hereinafter the "Amended Application" or "Am. Appl."]; UP-80/NS-78, FD 36873, at 58 (filed July 27, 2026) [hereinafter the "Second Supplemental Submission"].

under both options. The more optionality a facility has, the more negotiating leverage available to it across transportation, marketing, and end-market combinations. Two rail carriers give shippers, third-party marketers, and receivers a choice of options. That choice includes different routing options (whether direct or interline) that may reach different destination markets: domestic utilities or other domestic consumers in different regions, river transload terminals, and export facilities through the Gulf Coast or other ports. Competition between carriers encourages each to provide reliable rail service, including adequate locomotive supply, cycle times, and workable loading windows for unit-train operations from the mine to unloading at the destination. It also provides resilience—if one rail carrier experiences a service disruption or capacity constraint, the shipper and receiver are not wholly dependent on that carrier. In short, maintaining existing two-carrier access is a meaningful competitive benefit for both a coal mine and its customers (or destination markets). Its loss to a single rail carrier because of a merger would represent tangible harm to the coal mine and the shippers and receivers who rely on it.

Preserving competitive options for coal mines and their shippers is particularly important in the current environment. Demand for coal-fueled power generation has strengthened as electricity demand has grown, driven in large part by data centers. According to the National Coal Council's July 2026 report, *Maximizing the Value of the U.S. Coal Fleet*,[4] U.S. electricity demand has grown at over 1.6% per year since the end of the COVID-19 pandemic; the coal fleet's average capacity factor reached 50% in 2025, the highest in seven years; and coal retirements and conversions fell to 6.3 GW in 2025, the lowest level since 2013. U.S. Department of Energy orders and voluntary retirement delays have preserved more than 13 GW of coal capacity that otherwise

[4] *See* National Coal Council, *Maximizing the Value of the U.S. Coal Flee*t at 10–11, 24 (July 2026), https://nationalcoalcouncil.energy.gov/ncc/sites/default/files/studies/2026/NCC_Maximizing%20Value%20of%20US%20Coal%20Fleet.pdf (last visited Nov. 16, 2026).

would have closed. Accordingly, it is imperative that coal shippers and receivers maintain existing competitive rail options and supply-chain resilience so that market access can be preserved if a merger between rail carriers is approved, and risk can be spread across multiple options.

B. CN Is the Best Solution for Foresight Energy If the Merger Is Approved

CN already has an established relationship with Foresight Energy. CN has direct access to two other Foresight Energy mines, one served solely by CN and the other dual-served, and CN already handles a mine-to-mine movement of approximately 12 miles between Foresight Energy's Pond Creek and Sugar Camp operations. CN also currently moves coal from Foresight Energy's Pond Creek operations to the Gulf Coast. When Foresight Energy's Sugar Camp mine experienced a fire that reduced it to roughly half capacity, Foresight Energy had to source coal from its other mines to meet its customer demand, and CN performed a special move to keep coal flowing to customers in southern markets.

CN is well positioned geographically to serve the Foresight Energy coal mine facilities in Hillsboro and Carlinville. Illinois is CN's largest state in terms of operations and employees, with approximately 1,600 railroaders. CN's existing central Illinois lines provide a foundation for service. CN has the resources to support unit-train coal service at these facilities. CN has more than 2,300 locomotives across its U.S. and Canadian operations, and CN has made substantial investments to modernize its locomotive fleet. CN has the locomotives to help promote operating and cycle-time efficiencies for our bulk shippers.

A key advantage CN can offer coal customers at the Foresight Energy facilities is reliable service with competitive cycle times through single-line access and increased optionality with improved access to the export market. Via CN's Illinois Central main line, coal originating at Hillsboro or Carlinville could move in a single-line movement to Gulf export terminals, river

transload facilities, and utilities and other domestic consumers on the CN network. Export represents the most significant growth opportunity for Hillsboro coal. CN serves Convent Marine Terminal in Louisiana—a roughly 795-mile haul—and CN consistently executes the mine-to-port movement from other mines in approximately 96 hours. CN can also reach the McDuffie terminal in Mobile, Alabama. Convent Marine Terminal and the McDuffie terminal are the only two terminals in the Gulf Coast region that currently receive coal by rail, and CN is the only rail carrier with direct access to Convent Marine Terminal.

On the river, although CN could not serve the Cora terminal directly, CN can access other nearby river-based coal transload facilities, including the Calvert City, Grand Rivers, and Four Rivers Marine terminals in Kentucky. CN also can access Foresight Energy's {{

}} the Evansville Western Railroad. CN would thus both maintain Hillsboro's connectivity to its current customers and provide Gulf Coast optionality with competitive cycle times that Hillsboro does not have today.

Moreover, I understand that coal traffic from Hillsboro moves to several destinations, including {{

}} CN has direct rail access to {{ }} one of Hillsboro's principal current destinations, which I understand BNSF does not. NS currently serves the Hillsboro-to-{{ }} movement in single-line service, and under CN's proposed conditions CN could also serve {{ }} in single-line service. {{ }} integrated processing complex, currently reliant on thermal generation with coal as a primary feedstock, and a CN option would give {{ }} a competitive rail transportation alternative to the combined UP/NS from Hillsboro. {{ }}

is reached through the Cedar Rapids & Iowa City Railway Company, a short line that connects with both UP and CN via reciprocal switching. Because that facility is supplied primarily with Powder River Basin coal, and CN does not have access to the Powder River Basin movements, I expect {{ }} to be a secondary opportunity for CN, dependent upon the customer's demand for Illinois Basin coal.

I also understand that ADM Decatur is an intended user of a low-carbon gas-fired power generation project, expected to come online by 2030.[5] Until then, Decatur will remain reliant on a consistent supply of coal for its power and steam generation requirements, and the Hillsboro mine is well positioned to continue to be a source of that supply. CN is a strong remedy carrier for such domestic coal consumption to power manufacturing. Although CN's coal business is not primarily oriented toward short-haul movements, CN has built a short-haul product and supports it well. CN knows this playbook and can execute it.

C. CN's Proposed Conditions Are the Most Efficient for Customers

CN has requested trackage rights, rather than haulage, as its preferred form of access for these unit trains of coal. Operating under trackage rights would give CN operational control over its coal service, including over unit-train scheduling, car positioning, and loading-window coordination with the mine. This operational control is important to provide reliable, competitive coal service. Under haulage, CN would be dependent on UP's operations for crews, train movements, and locomotives for these unit-train moves of coal, which would limit CN's ability to compete on service plan and quality, and as such would reduce the efficacy of a CN solution for Hillsboro, thus not maintaining a competitive alternative.

[5] *See* Broadwing Energy Center, https://www.broadwingenergy.com/ (last visited Nov. 17, 2026).

CN's conditions also are designed to preserve, not disrupt, existing coal service to other customers on the affected lines. In particular, I understand that the Labadie facility receives unit trains of Powder River Basin coal over UP's line between St. Louis, Missouri and Kansas City, Missouri ("Kansas City Line"), which CN would acquire in connection with its requested divestiture. Coal is by far the largest commodity terminating on the Kansas City Line, and Union Electric Company, which I understand operates the Labadie facility, is among the major customers on the line. If CN acquires the line, CN expects that UP and BNSF would continue to have the local trackage rights necessary to bring unit trains of coal to Labadie. Labadie therefore would not lose the single-line service options it has today. At the same time, CN's bulk team, which handles approximately 45 million short tons of coal in a typical year, is well equipped to support coal customers on the Kansas City Line should they seek additional or alternative service options.

III. CN'S CONDITIONS WOULD PROVIDE A COMPETITIVE OPTION FOR POTASH SHIPPERS AND RECEIVERS IN KANSAS CITY AND ST. LOUIS

The conditions requested in CN's responsive applications would also benefit potash shippers and receivers in the Kansas City and St. Louis areas. I understand that potassium and sodium compounds, which include potash, are among the commodities moving to Kansas City and St. Louis that raise significant competitive concerns because of the Proposed Transaction. Specifically, both UP and NS terminate potash in Kansas City and throughout the Midwest, and after the merger, potash customers will lose a key competitive alternative for sourcing potash. These competitive harms extend broadly to agricultural commodities. Farmers and agricultural shippers often cannot practically use alternative means of transporting bulk inputs and products moving hundreds of miles, which makes them especially vulnerable to any loss of competitive rail options.

A. Strength of CN's Existing Fertilizer Service Offering

CN is a leading transporter of potash in North America. CN serves major producers of potash in Canada, and CN's fertilizer services include shipping potash, as well as ammonium nitrate, urea, phosphate fertilizers, ammonium sulfate, and liquid fertilizers, across Canada and the United States. CN performs approximately {{ }} U.S. grain and fertilizer originations and terminations and serves more than {{ }} U.S. grain and fertilizer customers. The U.S. fertilizer segment of CN's business is driven primarily by fertilizer consumption in the Midwest. CN's unique access—which includes access to the Gulf Coast, the river system, Western Canadian production, and Eastern Canadian import facilities—means that fertilizer distributors on CN's network are backed by responsive, cost-competitive, and primarily single-line supply chains.

B. CN's Conditions Will Restore Competition for Potash and Fertilizer Customers

Potash from Canada destined for Kansas City or St. Louis represents one of the most significant opportunities for CN to provide a competitive alternative under its proposed conditions. Fertilizer demand is highly seasonal, with distribution concentrated in the spring and fall application periods, and a competitive rail option strengthens supply-chain resilience and protects supply during these critical demand periods. Potash is critical for corn yields, and Kansas City sits in the middle of corn-growing territory that requires substantial crop nutrients. The United States imports more than 90% of its potash needs, most of it from Canada.[6] Because the potash supplying North American agriculture is produced predominantly in Canada, carriers in the eastern United States are not geographically positioned to originate this traffic.

[6] *See* U.S. Geological Survey, *Mineral Commodity Summaries 2026: Potas*h at 1 (2026), https://pubs.usgs.gov/periodicals/mcs2026/mcs2026-potash.pdf (last visited Nov. 16, 2026).

CN's conditions would give potash and other fertilizer shippers and receivers in Kansas City and St. Louis an efficient, competitive rail option, supporting economical access to crop nutrients for American farmers. For customers in Kansas City and St. Louis, CN could deliver potash in single-line service. In addition, CN can remedy the loss of competition by interchanging potash with other railroads for delivery to destinations via the Kansas City gateway.

i. CN Would Provide a New Single-Line Class I Option into and Beyond Kansas City

CN's conditions will provide a new single-line alternative to Canadian Pacific Kansas City Railway Company ("CPKC"). Today, some potash moving on CN is interchanged with UP at Superior, Wisconsin. Under CN's proposed conditions, that traffic could instead move in CN single-line service all the way to Kansas City, eliminating the interchange and making service more efficient for customers, which is particularly important for customers using private cars to transport fertilizer. A more direct routing also means fewer crews and less fuel burned. CN shippers and receivers benefit from reduced transit times from northern origins in Canada to the U.S. Corn Belt because single-line service eliminates interchange dwell and handoffs between carriers.

CN would also gain access to existing local customers on the Kansas City Line, and CN is well situated to restore competition for these customers. Grain and fertilizer traffic is one of the largest categories of local traffic on the line. These customers include grain-products shippers such as A. Zerega's Sons, Inc., which ships flour products. CN's grain and fertilizer business, which serves more than {{ }} U.S. grain and fertilizer customers, is well positioned to provide these local shippers and receivers a competitive alternative and access to CN's single-line network reaching Canada, the Midwest, the river system, and the Gulf Coast.

Potash originating in Western Canada already moves on CN's rail network to the United States, and access to Kansas City would benefit agricultural customers by allowing CN to extend its length of haul and provide a direct-haul option into the Kansas City market at scale using unit trains—introducing a competitive alternative to CPKC. From Kansas City, potash could also move on to more distant destinations, such as Texas, via a connecting carrier and a competitive rate structure. CN also serves a number of nitrogen fertilizer plants in Iowa and could provide an additional competitive source of nitrogen supply to customers in the Kansas City catchment area.

ii. CN Would Offer St. Louis Customers a Shorter, More Competitive Route

CN's expanded access in St. Louis, including via the trackage rights over UP's line from Tuscola, Illinois to East St. Louis, Illinois ("Tuscola Line"), would similarly benefit fertilizer customers there. Key potash traffic for which CN's conditions would provide a new or improved competitive option originates in Saskatchewan and terminates in the St. Louis area, where much of it is loaded onto barges on the Mississippi River. Today, CN traffic destined for St. Louis over CN's network moves south via Du Quoin and then back north; the Tuscola Line trackage rights would save approximately 70 miles, making all fertilizer traffic moving from the north into St. Louis and East St. Louis more competitive, as CN has access to the principal potash receivers in the St. Louis area. CN transports potash from mines in Saskatchewan, including the following:

- Nutrien's mines: Rocanville (CN station Sylvite); Allan, Cory, Lanigan (CN station Alwinsal), Vanscoy, and Patience Lake (via CP interswitch); and
- Mosaic's mines: Esterhazy (CN station Yarbo), from which CN moves potash for Canpotex. CN also has access to reach Belle Plaine and Colonsay.

iii. The Competitive Opportunity Will Grow as the Potash Market Evolves

CN sees opportunities both to carry additional potash for producers it already serves, such as Nutrien, whose movements would benefit from the new route into Kansas City and the shorter route to St. Louis, and to compete for new traffic as producers' multi-year rail contracts come up for renewal. In addition, I understand that BHP is expected to enter the market in 2027 as a third major potash producer and will look to place potash across North America, giving CN further potential to provide new producers a competitive, direct route into the Kansas City and St. Louis markets.

IV. CN'S CONDITIONS WOULD PROVIDE A COMPETITIVE OPTION FOR SULFUR SHIPPERS AND RECEIVERS

The conditions requested in CN's responsive applications would also benefit shippers and receivers of sulfur and sulfur-based products. CN moves sulfur in tank cars, in both manifest and unit trains, for U.S. consumption.

CN is an established transporter of sulfur in North America. Sulfur is one of the bulk commodities for which my team is responsible, and CN has direct access to sulfur supply in Canada. The principal sulfur origins are in Alberta from oil upgrading and refining, as well as from natural gas production in Alberta and British Columbia. CN also has the closest access to the sulfur blocks in Fort McMurray, which were estimated in 2025 to hold approximately 11.4 million metric tons of sulfur.[7] CN also has access to sulfur production in Eastern Canada derived from oil refining. In 2025, CN moved over {460,000} metric tons of sulfur from Canada into the United States.

Demand for sulfur has grown, and shippers and consumers are increasingly focused on how sulfur can be moved efficiently. Sulfur is closely linked to the fertilizer supply chain I describe

[7] *See* Alberta Energy Regulator, https://www.aer.ca/data-and-performance-reports/statistical-reports/st39 (last visited Nov. 17, 2026).

above. Sulfur-based products, such as ammonium sulfate and sulfuric acid, are inputs to crop nutrient production. Sulfur is needed to produce phosphate fertilizers, which are needed for root and reproductive development in crops like corn and soybeans. Sulfur is turned into sulfuric acid, which is used to process phosphate rock into phosphate fertilizers. Sulfur is also referred to as the fourth nutrient, after nitrogen, phosphorus, and potassium. Sulfur is directly applied to high-yielding corn acreage to optimize nitrogen-use efficiency and to soybean plantings to support root nodulation and seed protein. Higher-sulfur-intensity crops like canola and alfalfa occupy less acreage but are still important rotational crops in the Midwest region.

CN's requested access to Kansas City and expanded access to St. Louis would benefit both producers and users of sulfur products in the supply chain. Sulfur producers on CN's network would gain an additional outlet, or offtake, for their product to reach markets to the south and west. And receivers in those markets would gain an additional competitive source of supply. Sulfur is required in the process of extracting critical minerals such as lithium. Through CN's access to the Kansas City interchange to western carriers, CN can deliver sulfur from Eastern Canada, bypassing the congested Chicago interchange to provide a more efficient and cost-effective routing to lithium producers in Nevada. Similarly, CN could handle molten sulfur moving from Saskatchewan to Phoenix, Arizona via an extended Kansas City gateway, giving those receivers an additional competitive routing to the Southwest.

As with fertilizer, a competitive rail option for sulfur strengthens supply-chain resilience and gives shippers and receivers greater optionality, allowing them to spread risk across multiple routings and sources of supply. In short, CN's conditions would give sulfur shippers and receivers an efficient, competitive rail option and new routing alternatives to Kansas City and St. Louis markets and beyond.

V. CONCLUSION

For the reasons set forth above, I respectfully submit that the conditions requested in CN's responsive applications in Sub-Nos. 2 through 9 and Sub-No. 34 are warranted and should be granted by the Board. The conditions requested in Sub-No. 9 relating to Hillsboro and Sub-No. 34 relating to Carlinville are necessary to preserve the two-carrier competition that the Proposed Transaction would otherwise eliminate for Foresight Energy—as Applicants themselves acknowledge—and CN, the only carrier seeking trackage rights to access these facilities, is the most effective remedy carrier capable of providing meaningful competitive service to these coal shippers. CN's requested access to Kansas City and expanded access to St. Louis in Sub-Nos. 2 through 8 would also provide potash and other fertilizer shippers and receivers, as well as sulfur shippers and receivers, with a meaningful competitive rail option, while preserving the options for UP and BNSF unit-train coal service to Labadie so that Labadie does not lose its current single-line options for Powder River Basin coal.

VERIFICATION

I, Sandra Ellis, declare under penalty of perjury under the laws of the United States that the foregoing information is true and correct. Further, I certify that I am qualified and authorized to file this statement. Executed on this 18th day of November, 2026.

/s/ Sandra Ellis
Sandra Ellis

Exhibit 12G

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY

-- CONTROL --

NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

(SUB-NO. 2) ILLINOIS CENTRAL RAILROAD COMPANY – DIVESTITURE – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 3) ILLINOIS CENTRAL RAILROAD COMPANY – TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 4) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN LYDIA AVENUE AND BROADWAY BOULEVARD IN KANSAS CITY, MO.

(SUB-NO. 5) ILLINOIS CENTRAL RAILROAD COMPANY – TERMINAL TRACKAGE RIGHTS – OVER LINE OF BNSF RAILWAY COMPANY BETWEEN ETON, MO. AND CONGO, MO.

(SUB-NO. 6) ILLINOIS CENTRAL RAILROAD COMPANY – LEASE AND PURCHASE – UNION PACIFIC RAILROAD COMPANY NEFF YARD IN KANSAS CITY, MO.

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(SUB-NO. 8) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – OVER LINE OF THE ALTON & SOUTHERN RAILWAY COMPANY BETWEEN MITCHELL, ILL. AND EAST ST. LOUIS, ILL.

(SUB-NO. 10) IOWA NORTHERN RAILWAY COMPANY AND CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY – TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN MANLY / IOWA FALLS, IOWA AND DES MOINES / AVON, IOWA

VERIFIED STATEMENT OF KELLY LEVIS

My name is Kelly Levis. I am the Vice President, Industrial Products of Canadian National Railway Company ("CNR"), a role I assumed in October 2018. In my current role, I lead CN's industrial products division in Sales & Marketing for the U.S. and Canada. Within CN, Industrial Products oversees the forest products and metals and minerals markets. I am responsible for CN's marketing and sales activities for industrial products, including steel and other primary metals, aluminum, iron ore, base metal ores and concentrates, scrap, frac sand, construction materials and other minerals, and forest products. Before assuming my current role, I served as Assistant Vice President, Industrial Products from July 2015. I began my career at CN in 1997 as a commodity manager in CN's Petroleum and Chemicals business unit and moved into Sales in January 2000. I subsequently served as Director of Sales and Pricing for CN WorldWide Inc., CN's international freight forwarding subsidiary, Director of Supply Chain, and Director Sales U.S. I hold an MBA from the University of Chicago and a Bachelor of Commerce with a Major in Statistics & Decision Sciences from Concordia University in Montreal.

Given my current role and experience, I am very familiar with metals and minerals traffic flows, including steel, both within North America and globally, and with CN's metals and minerals customers. I submit this Verified Statement on behalf of CN in support of its Comment and

responsive applications in STB Docket No. FD 36873. The purpose of my statement is to explain, from the perspective of CN's metals and minerals business and in particular its steel customers, why the conditions set forth in the responsive applications and in the Memorandum of Understanding between CN and Union Pacific ("Settlement MOU") are necessary to preserve competition for steel and other metals shippers in the regions affected by the Proposed Transaction.

I. CN IS A LEADING CARRIER OF METALS AND MINERALS IN NORTH AMERICA

CN moves a large and diverse metals and minerals portfolio. That portfolio includes steel and other ferrous products, non-ferrous metals such as aluminum, iron ore, base metal ores and concentrates such as copper and zinc concentrate, lithium, cement and construction aggregates, frac sand, and dimensional and oversized loads such as heavy machinery and transformers. Metals and minerals now make up a larger share of CN's industrial products business than forest products. CN performed customer originations or terminations of approximately {{ }} metals and minerals carloads across {{ }} customers in 2025.

Year	Carloads	Revenue (incl FSC)
2025	{{ }}	{{ }}
2026 (YEO)	{{ }}	{{ }}
2027 (Forecast)	{{ }}	{{ }}

CN is one of the top movers of aluminum, iron ore, and base metal ore in North America. CN serves 10 aluminum smelters, more than any other railroad in North America, and is the only Class I railroad that serves all of the aluminum smelters in Canada. CN is also one of the top transporters of iron ore, serving four docks in Duluth, Minnesota; Two Harbors, Minnesota; and Conneaut, Ohio and moving iron ore by both rail and vessel over the Great Lakes to Conneaut, Ohio, for delivery in Pittsburgh, Pennsylvania, and Gary, Indiana. CN serves metals distribution centers in Detroit, Michigan; Chicago, Illinois; Memphis, Tennessee; and Mobile, Alabama.

CN's steel business moves in both directions across the border. CN carries ferrous products from the United States into Canada, as well as steel and other metals from Canada into the United States. Non-ferrous metals from Canada typically move south through {Toledo and Chicago}. CN's primary steel origins in Canada are in Quebec and Ontario. U.S. primary origins are centered around Indiana, Mississippi, Illinois, and Arkansas. In recent years, Canadian-produced steel has been moving primarily within Canada based on current trade policy, with main destinations located within Quebec and Ontario, as well as western Canada. U.S.-produced steel remains within the U.S. with main destinations being Mississippi, Wisconsin, Illinois, and Texas. While these flows have shifted in recent years, some cross-border moves continue, and supply chains could adjust in the future as trade policy evolves. CN's main scrap recyclers are located in Quebec and Ontario within Canada and Michigan, Ohio, Wisconsin, and Illinois in the U.S.

CN has the equipment to serve steel customers. CN's fleet ranges from covered and open coil gondolas to bulkhead flatcars that can carry loads of up to 110 tons. And as some metals move in boxcars or centerbeams, CN also has a large boxcar fleet and the largest supply of centerbeam cars in North America. CN maintains strong relationships with car builders and lessors, and cars are readily available if customers need to ramp up. CN's fleet of railcars consists of {400} flatcars and {3,000} gondolas. {Half} of CN's flatcar fleet is leased or in a TTX pool, while {two-thirds} of CN's gondola fleet is leased. CN's leases remain staggered throughout the coming years, allowing CN to scale up or down. CN recently took on a new lease for gondolas in response to increased demand.

CN also operates a large network of transload facilities, which allows CN to reach steel and metals customers that are not directly rail-served. This includes a transload facility that opened in May 2024 in Flat Rock, Michigan, for numerous steel shippers, which moves steel coils via rail

instead of by truck to serve the southeast Michigan automotive market. As of August 2025, the facility had handled more than {{ }} steel shipments per year since opening. That facility has capacity for steel, iron ore, and other dry-bulk commodities.

II. CN'S CONDITIONS WILL PRESERVE COMPETITIVE OPTIONS FOR STEEL CUSTOMERS

UP and NS both access steel and metals customers in the St. Louis area, and their networks directly overlap between Kansas City and St. Louis. Accordingly, the Proposed Transaction would reduce Class I options at specific steel and metals facilities. These include U.S. Steel Granite City Works in Granite City, Illinois, as well as several metals recyclers in Illinois, including Milano Metals & Recycling and Shapiro Bros. of Illinois in Mt. Vernon, and Mighty River Recycling and Azcon in Federal/Alton. In Des Moines, Iowa, numerous customers, including metals customers, would see their Class I options reduced from three to two or from two to one, including Alter Trading Corp./Alter Metal Recycling. Per the terms of the Settlement MOU, CN is the preferred remedy carrier for all affected 2-to-1 and 3-to-2 locations, absent a customer preference to the contrary.[1]

CN already has a long-standing relationship with U.S. Steel, moving iron ore as well as outbound steel, and CN sees potential synergies at USS Granite City Works that will preserve competition that would otherwise be lost if the Proposed Transaction is approved. USS Granite City Works is a 3-to-2 customer in Granite City, Illinois. Applicants have acknowledged this customer's 3-to-2 status and proposed that the Board condition the Proposed Transaction on CN

[1]UP-80/NS-78, FD 36873, at 203-04 (filed July 27, 2026) [hereinafter the "Second Supplemental Submission"]. CN is seeking access to Des Moines via trackage rights between Manly/Iowa Falls and Des Moines, Iowa (Sub-No. 10). For other 2-to-1 and 3-to-2 customers in Illinois, CN is seeking access via haulage, except for Foresight's coal mines, for which CN is seeking trackage rights access (Sub-Nos. 9 and 34).

being granted access to USS Granite City Works.[2] CN and Union Pacific agree that the preferred remedy for this customer facility is that the facility should be opened to switching for CN in St. Louis. Indeed, CN's expanded St. Louis access via the Tuscola Line, The Alton & Southern Railway Company ("A&S"), and the Terminal Railroad Association of St. Louis ("TRRA") would enhance its ability to reach this facility. CN has the ability to access USS Granite City Works via a switch from the TRRA at East St. Louis, Illinois, which means CN would not be dependent on UP to effectuate the proposed remedy. This location is the largest U.S. Steel location for steel loads moving with CN ({{ }} loads per year), followed by steel shipments out of Leipsic, Ohio ({{ }} loads per year). The vast majority of U.S. Steel shipments CN handles on rail are iron ore and aggregate moves into its Minnesota and Pittsburgh, Pennsylvania facilities ({{ }} loads per year). CN's Bessemer & Lake Erie subsidiary predominantly moves iron ore shipments from vessels unloaded at Conneaut, Ohio, to Pittsburgh, Pennsylvania. For the smaller metals recyclers, CN can bring its fleet and its transload network to bear. CN's fleet is ready to win new loads immediately.

The requested trackage rights over the Tuscola Line (Sub-No. 7), together with rights over the A&S (Sub-No. 8) to connect to the TRRA, would give CN a direct route from its central Illinois lines into the St. Louis gateway. Today, CN trains from the north move south past East St. Louis to Du Quoin, Illinois, and then double back. CN's trackage rights over the Tuscola Line will make it a stronger competitor in the East St. Louis and St. Louis markets and will reduce transit time for CN's customers, including USS Granite City Works, by shortening the route by approximately 70 miles.

[2] Second Supplemental Submission at 61.

CN's proposed conditions, including divestiture of the Kansas City Line (Sub-No. 2), lease or purchase of Neff Yard (Sub-No. 6), trackage rights in Kansas City (Sub-No. 4), and terminal trackage rights (Sub-No. 5) near Kansas City, will enable CN to interchange with other carriers and access customers via reciprocal switching to allow CN to carry steel and other metals and minerals traffic farther on its own network to extend its length of haul to benefit CN's customers. Today, CN interchanges much of its traffic to NS or UP at Chicago or Superior. Chicago and Superior are key interchange locations between CN and UP for all metals and minerals traffic; the traffic in Chicago moves to and from California, New Mexico, Kansas, Georgia, and Texas, and the traffic through Superior goes to and from Texas and Wisconsin. With NS, the key interchange is in Chicago, where the traffic goes to and from Ohio, Pennsylvania, Georgia, Indiana, and Mississippi. As a new entrant to the Kansas City markets and gateway, CN is seeking access to those customers in Kansas City in UP's and NS's reciprocal switching tariffs that are open so that those customers do not lose a Class I option if the Proposed Transaction is approved and so CN can build density to and from Kansas City. Phoenix Metals is open to reciprocal switching in UP's tariff and processes steel coils, sheets, and plate for industrial consumers.[3] I understand that CN's economic expert estimates that CN's proposed conditions would result in the diversion of approximately {{ }} units of steel products to CN, primarily on lanes between Chicago and Kansas City or St. Louis, where CN can offer new or improved single-line service.[4]

Access to Kansas City would give CN another gateway for metals and minerals moving south and west, and an alternative to the congested Chicago interchange. This matters for emerging supply chains. Canada is rich in the critical minerals used in defense applications, the electrical

[3] *See Services*, Phoenix Metals, https://www.phoenixmetals.com/services/ (last visited Nov. 17, 2026).

[4] *See* Exhibit 12B, Verified Statement of Dr. Henry Kahwaty at ¶ 153.

grid, automobiles, computer chips and electronics, and in electric vehicle batteries, including lithium, copper, nickel, zinc, and cobalt, and new mineral-rich mines in Canada are expected to come online in the next few years. All stages of these supply chains, from raw material extraction to aluminum and steel, must develop together. Competitive single-line and gateway options will help U.S. manufacturers access those raw material inputs.

CN's divestiture of the Kansas City Line (Sub-No. 2) will also allow CN to serve and restore competition for numerous metals and minerals customers located on that line.[5] CN plans to serve these local customers, and its existing metals and minerals fleet, sales relationships, and transload network position it well to compete for this traffic. These customers include Nucor Steel Sedalia LLC in Sedalia, which ships rebar, and U.S. Silica Co. in Pacific, Missouri, which ships industrial sand. CN looks forward to offering these and other metals and minerals shippers on the Kansas City Line competitive single-line service and gateway options. And these customers will not lose options from CN's acquisition. As Janet Drysdale explains, UP will retain access to the local customers via local haulage performed by CN.[6]

Finally, under the Settlement MOU, CN has agreed to purchase NS's shares in the Kansas City Terminal Railway Company ("KCT"), which will give CN access to the KCT customers via reciprocal switching, with first-mile and last-mile service performed by Watco's Kaw River Railroad ("KAW"). According to Watco's website for KAW, its primary commodity groups

[5] In the alternative to CN's divestiture of the Kansas City Line (Sub-No. 2), CN proposes trackage rights (including access to the former Sarpy Yard property and overhead haulage) plus local haulage in Sub-No. 3. If the Board imposed such a condition, CN would have commercial access to local customers on the Kansas City Line through local haulage performed by UP under the Settlement MOU. Second Supplemental Submission at 204–05.

[6] *See* Exhibit 12H, Verified Statement of Janet Drysdale at 16 [hereinafter "Drysdale V.S."]. In addition to retaining access to local customers on the Kansas City Line via haulage CN performs, UP will retain overhead trackage rights for trains to move between Kansas City and St. Louis and local trackage rights to reach Union Electric at Labadie. *Id.*

include scrap metal and industrial products.[7] KCT's customers open to reciprocal switching include Advantage Metals Recycling and Midwest Scrap Management.[8]

III. CONCLUSION

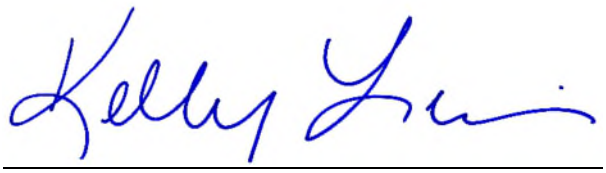
For the foregoing reasons, the conditions set forth in CN's responsive applications are necessary and appropriate to preserve competitive rail options for steel and other metals shippers that would otherwise be harmed by the Proposed Transaction. They will also allow CN to enter the Kansas City markets and gateways as an effective competitor for metals and minerals traffic, expand CN's existing access in East St. Louis / St. Louis, and serve the metals and minerals customers located on the Kansas City Line.

[7] *See Kaw River Railroad (KAW)*, Watco, https://www.watco.com/service/rail/kaw-river-railroad-kaw/ (last visited Nov. 17, 2026).

[8] *See* Kansas City Transportation Company, LLC, Local Switching and Terminal Tariff KCTL 8036-A (effective Feb. 1, 2026), *available at* https://kctrailway.com/wp-content/uploads/2025/12/KCTL-Tariff-8036-A-12.11.2025-clean.pdf (last visited Nov. 17, 2026).

VERIFICATION

I, Kelly Levis, declare under penalty of perjury under the laws of the United States that the foregoing information is true and correct. Further, I certify that I am qualified and authorized to file this statement. Executed on this 18th day of November, 2026.



Kelly Levis

Exhibit 12H

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY

-- CONTROL --

NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

(SUB-NO. 2) ILLINOIS CENTRAL RAILROAD COMPANY—DIVESTITURE—LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 3) ILLINOIS CENTRAL RAILROAD COMPANY—TRACKAGE RIGHTS—LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 4) ILLINOIS CENTRAL RAILROAD COMPANY—OVERHEAD TRACKAGE RIGHTS—LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN LYDIA AVENUE AND BROADWAY BOULEVARD IN KANSAS CITY, MO.

(SUB-NO. 5) ILLINOIS CENTRAL RAILROAD COMPANY—TERMINAL TRACKAGE RIGHTS—OVER LINE OF BNSF RAILWAY COMPANY BETWEEN ETON, MO. AND CONGO, MO.

(SUB-NO. 6) ILLINOIS CENTRAL RAILROAD COMPANY—LEASE AND PURCHASE—UNION PACIFIC RAILROAD COMPANY NEFF YARD IN KANSAS CITY, MO.

(SUB-NO. 7) ILLINOIS CENTRAL RAILROAD COMPANY—OVERHEAD TRACKAGE RIGHTS—LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN TUSCOLA, ILL. AND EAST ST. LOUIS, ILL.

(SUB-NO. 8) ILLINOIS CENTRAL RAILROAD COMPANY—OVERHEAD TRACKAGE RIGHTS—OVER LINE OF THE ALTON & SOUTHERN RAILWAY COMPANY BETWEEN MITCHELL, ILL. AND EAST ST. LOUIS, ILL.

(SUB-NO. 9) ILLINOIS CENTRAL RAILROAD COMPANY—LOCAL TRACKAGE RIGHTS—LINE OF UNION PACIFIC RAILROAD COMPANY TO SERVE HILLSBORO, ILL.

(SUB-NO. 10) IOWA NORTHERN RAILWAY COMPANY AND CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY—TRACKAGE RIGHTS—LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN MANLY/IOWA FALLS, IOWA AND DES MOINES/AVON, IOWA

(SUB-NO. 34) ILLINOIS CENTRAL RAILROAD COMPANY—LOCAL TRACKAGE RIGHTS—LINE OF UNION PACIFIC RAILROAD COMPANY TO SERVE CARLINVILLE, ILL.

VERIFIED STATEMENT OF JANET DRYSDALE

My name is Janet Drysdale. I currently serve as Executive Vice President and Chief Commercial Officer for Canadian National Railway Company ("CNR"), a role I assumed on an interim basis in July 2025 and on a permanent basis in October 2025. I have been with CN for over 30 years. I spent the first decade of my career at CN in commercial roles before moving to other positions within the company, and I have now returned to lead the commercial function. I hold a Bachelor of Science from Queen's University (Ontario, Canada) and a Master of Business Administration from McGill University (Quebec, Canada).

In my role, I am accountable for CN's full commercial team, which is organized by commodity lines. Four Vice Presidents report to me, as does CN's Canadian trucking subsidiary.

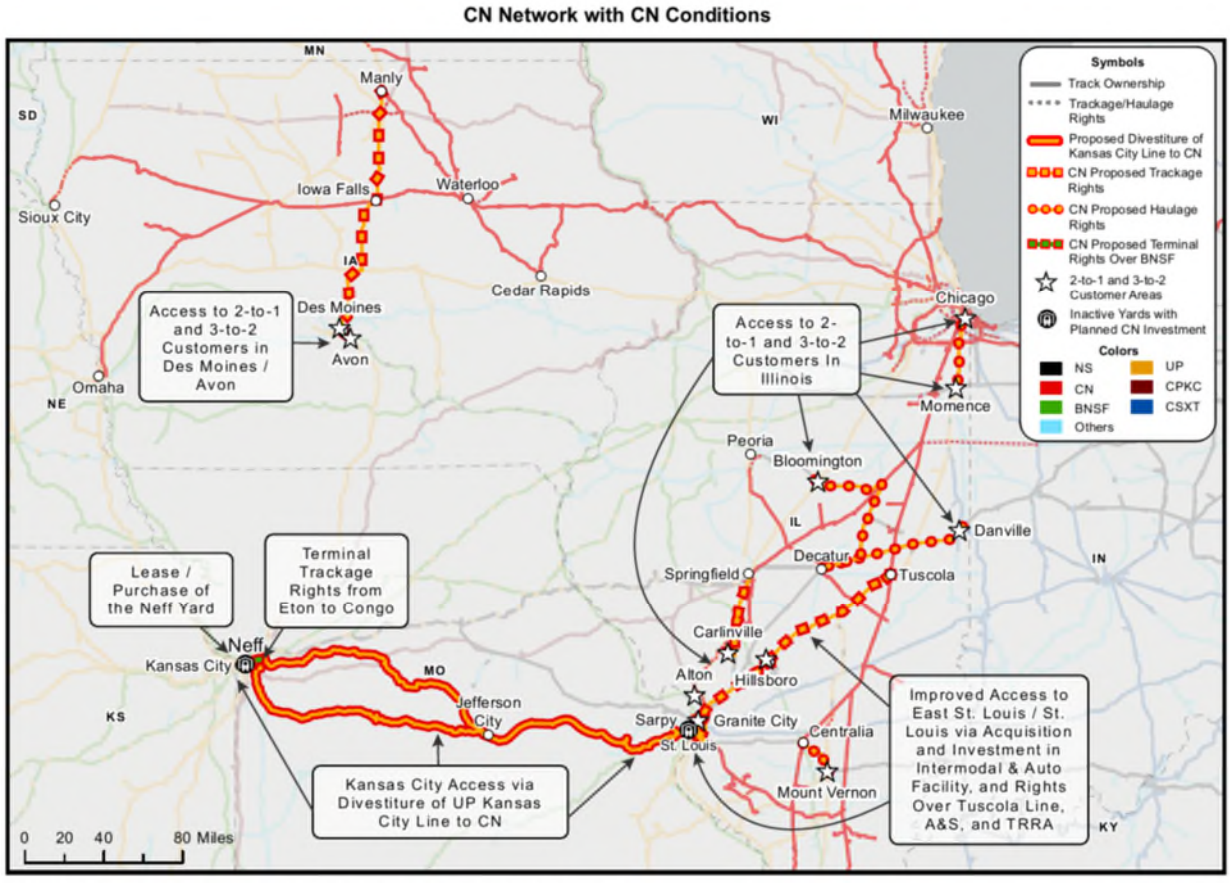
I meet formally with each of these business leaders approximately every two weeks. All large customer contracts, as well as all exceptions to standard contract terms (e.g., credit terms), come to me for approval. My role is to enable CN's commercial team to grow our volumes faster than the economy. We work together with our colleagues in Operations to provide the service that our customers need, recognizing that when our customers win in their marketplace, we win. My team is competing hard for every opportunity, no matter the size, to sell CN's available capacity. At CN, every carload counts—and when I say carload, I include intermodal units. I have challenged my team to have urgency, agility, and intensity in competing for business, including by improving the ease of doing business with CN. Over the last year, this approach has been yielding results: my team has pivoted quickly as supply chains have shifted in response to global macroeconomic and geopolitical trends, and our increased agility has enabled CN to help our customers establish new supply chains, and to capitalize on spot-market opportunities as they arise.

Given my current role and experience, I am knowledgeable about CN's network, its supply chain offerings across business segments, and its major customers. I submit this Verified Statement on behalf of CN in support of its Comment on the Amended Application & Requests for Conditions ("Comment") and its responsive applications in Surface Transportation Board ("Board") Docket No. FD 36873, in which Union Pacific Corporation and Union Pacific Railroad Company seek to acquire control of Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "Applicants") (the "Proposed Transaction").[1] The purpose of my statement is to explain, from the perspective of CN's overall supply chain business and its customers, why the

[1] For the purposes of this statement, certain other terms are defined as follows: Union Pacific Railroad Company ("UP"); Union Pacific Corporation and UP (together, "Union Pacific"); Norfolk Southern Railway Company ("NS"); and Norfolk Southern Corporation and NS (together, "Norfolk Southern").

conditions set forth in the responsive applications and in the binding Memorandum of Understanding that CN entered into with UP on July 22, 2026 (the "Settlement MOU") designating CN as UP's preferred remedy carrier are necessary to preserve competition and supply chain resiliency in the regions affected by the Proposed Transaction. As described in detail below, without these conditions the Proposed Transaction would reduce the competitive Class I railroad options available to shippers in the Kansas City–St. Louis corridor and at 2-to-1 and 3-to-2 customer facilities in Illinois and Iowa, including in and around Des Moines and Avon, Iowa, and Hillsboro and other parts of Illinois, to the detriment of those shippers and the public interest.

Figure 1: Map of CN's Conditions



Source: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database.

I. CN'S NETWORK AND SUPPLY CHAIN OFFERINGS PROVIDE CUSTOMERS WITH COMPETITIVE OPTIONS

CN operates an approximately 18,600-mile rail network, including approximately 5,400 route miles in the United States spanning 16 states, connecting the U.S. Midwest and U.S. Gulf Coast with Canada's Eastern and Western coasts. CN serves seven major ports on three coasts. In the United States, CN handles approximately 2.53 million total originations and terminations, including approximately {{ }} intermodal, {{ }} grain and fertilizer, and {{ }} automotive originations and terminations. Illinois is CN's largest state in terms of operations and employees, with approximately 1,600 railroaders. CN's U.S. headquarters, training center, and mechanical hub are in Homewood, Illinois, and CN owns and has invested in the former Elgin, Joliet & Eastern Railway bypass loop, the fastest rail route around Chicago. In Iowa, CN's operations support approximately 730 jobs and add $133 million to Iowa's GDP, and CN has invested approximately $295 million in the state over the past decade. CN has more than 2,300 locomotives across its U.S. and Canadian operations.

A. CN's Commodity Expertise Is Unrivaled

CN brings commodity expertise and services at scale across its supply chains. In intermodal, CN operates 23 intermodal terminals in North America, including 10 in the United States, runs more than {{ }} weekly scheduled intermodal trains, serves {{ }} U.S. intermodal customers, has daily access to approximately 1,050 trucks for first- and final-mile service, and has been a full member since 2022 of the Equipment Management Pool, a partnership that includes UP and NS, with a supply of approximately 40,000 containers.

In automotive, CN handles over 2 million finished vehicles annually; serves 11 vehicle assembly plants and 18 automotive facilities, including distribution centers in Detroit, Chicago, Markham, New Richmond, Memphis, and Jackson; has direct access to six ports handling

automotive parts or vehicles; and has over 5,000 multilevel railcars. CN's Auto Desk manages ocean, rail, truck, transload, and customs services for automotive customers, and CN's automotive port facilities provide value-added services such as installing floor mats and owner's manuals in vehicles.

In grain and fertilizer, CN serves more than {{ }} U.S. grain and fertilizer customers, performs originations or terminations of grain and processed grain products for approximately {{ }} U.S. customers, and makes available approximately 1,500 hopper cars to U.S. customers. In coal, CN moves an average of approximately {{ }} million short tons every year, performed originations or terminations of coal, petroleum coke, and metallurgical coke for approximately {{ }} carloads across {{ }} U.S. customers in 2025, and has direct access to 11 active or idled mines, 7 petroleum coke-producing facilities, and 6 high-capacity export terminals.

In metals and minerals, CN performed originations or terminations of approximately {{ }} carloads across {{ }} customers in 2025, serves 10 aluminum smelters, more than any other railroad in North America, and is one of the top transporters of iron ore, the foundational raw material for integrated steel mills.

CN also serves three major petrochemical centers in North America and operates 20 CargoFlo® distribution facilities for liquid transfer and bagging of bulk commodities (e.g., plastic pellets).

Beyond rail, CN offers end-to-end supply chain services, including its CargoCool® temperature-controlled program, which operates one of North America's largest refrigerated container fleets; a dedicated customer service team that performs booking and billing on behalf of customers; and a digital framework that allows customers to self-serve. CN also fields specialized teams for perishables, specialty crops, automotive capacity, and expedited service, and works with

port operators and customs brokers to drive connectivity. CN works to build a balanced book of loaded and empty flows so that empty equipment is available where customers need it, particularly in automotive, where CN participates in industry-shared equipment pools. CN's solution-oriented approach and deep expertise with temperature-controlled freight support customers such as Cedar Grove Warehouse in shipping Wisconsin cheese and butter to destinations across North America.[2]

These incremental services make CN a supply chain solution rather than just a transportation provider, helping to build deep and lasting customer relationships. CN's commercial team works hand in hand with its operating team, because CN cannot sell sustainable growth without providing sustainable service. CN also stays close to its customers, conducting a customer survey twice a year, because good service is what keeps business on the network.

B. CN Invests for Customers and Responds When Supply Chains Are Disrupted

CN has a track record of investing to expand and of successfully integrating new operations. CN invested over $20 million to open an automotive and intermodal terminal in New Richmond, Wisconsin, in 2021, opened an automotive facility in {{

}}. CN is also adding intermodal capacity for resilience and pursuing development of a 900-acre Chicagoland Logistics Hub in Grundy County, Illinois. Following its acquisition of the Iowa Northern Railway Company ("Iowa Northern"), CN has improved transit times between Manly and Cedar Rapids, Iowa from approximately 36–48 hours to 16 hours, replaced lower-horsepower locomotives with CN high-horsepower locomotives, hired additional train and engine employees

[2] *See From America's Dairyland to Markets Across North America: How CN's Freight Expertise Helps Cedar Grove Warehouse Ship Wisconsin Cheese and Butter with Care*, CN (June 18, 2026), https://www.cn.ca/en/stories/sm-20260618-from-america-dairyland-to-markets-north-america/ (last visited Nov. 17, 2026).

so that it can offer a full extra board, and increased grain-related traffic moving by rail from the legacy Iowa Northern network, including through investments in CN's legacy lines in Iowa. Customers had been well served by Iowa Northern as a short line for many years, so CN focused on preserving those relationships by communicating transparently and discussing and enabling commercial growth opportunities with customers. That experience demonstrates that CN can integrate new operations well and extend its reach in a new geography to give customers access to CN's broader network and meet their supply chain needs.

CN has also developed new interline products by working with other railroads. Those include a product with CSX Transportation, Inc. ("CSXT") into the Ohio Valley and its Falcon Premium service with UP and Grupo México Transportes/Ferromex, which provides seamless access across the United States, Mexico, and Canada. CN also reaches New York/New Jersey and Philadelphia through its interline service with CSXT and has agreements with seven port authorities and 15 ocean terminal operators, including at New Orleans, Louisiana and Mobile, Alabama.

CN also has strong experience in transloading across different commodity types. CN offers transload services for its customers shipping grain and grain products at its rail-to-container Harvey Grain Facility in the Chicagoland area.[3] CN worked with Target Steel to open a new transload for steel coils in Flat Rock, Michigan, with coils arriving by rail and transloaded to trucks for final delivery.[4] CN worked with Battle Lumber to establish two transloads in Wisconsin to

[3] *See CN Harvey Grain Facility: Expanding Capacity, Enhancing Safety, and Opening New Markets for US Grain*, CN (Oct. 10, 2025), https://www.cn.ca/en/stories/sm-20251010-cn-harvey-grain-facility/ (last visited Nov. 17, 2026).

[4] *See From Demand to Delivery: How Flat Rock Strengthens CN's Transload Network: Purpose-Built, Customer-Driven, Supply Chain Ready*, CN (Aug. 25, 2025), https://www.cn.ca/en/stories/20250825-flat-rock-strengthens-cn-transload-network/ (last visited Nov. 17, 2026).

meet demand for raw materials for investments in energy, manufacturing, and technology. CN and Battle Lumber developed a rail-to-truck transload using an existing rail site in Duplainville, Wisconsin and then established a second transload location in Fond du Lac on a former rail yard site, extending service approximately 100 miles farther in the state.[5] Battle Lumber moves lumber to CN via interchange from its sawmill in Wadley, Georgia and additional shipments from the Natchez Railroad. And CN's network also enables customers to reach transload locations on connecting short lines, such as the export facility Ray-Mont Logistics is constructing on Alabama Export Railroad property at the Port of Mobile.[6] Upon opening, the facility will increase export of plastic resins and other goods moving through the port.

In addition, CN is a go-to carrier when supply chains are disrupted. For example, in 2021, in response to congestion and vessel-unloading delays at U.S. West Coast ports, CN offered a new priority train service between the Port of Prince Rupert and Chicago, which expedited consumer products and helped relieve congestion at the ports of Los Angeles and Long Beach. During the Ambassador Bridge blockade in February 2022, when protests halted traffic on the busiest U.S.–Canada border crossing, CN set up cross-border transload service for an automaker within 96 hours. When the war in Ukraine began in 2022, CN served as a critical logistics conduit for increased exports through the U.S. Gulf for U.S. grain, while also handling increased shipments of iron ore originating in Minnesota, crude oil terminating in the Gulf, and coal originating from the Illinois Basin. In 2022, when the Board identified four U.S. Class I railroads with service

[5] *See The Materials, Network and Partnerships Behind Energy Development*, CN (Sept. 28, 2026), https://www.cn.ca/en/stories/sm-20260928-cn-and-battle-lumber-transload-solution/ (last visited Nov. 17, 2026).

[6] *See Ray-Mont Logistics Building New Export Facility at Port of Mobile*, Alabama Port Authority (June 9, 2026), https://alports.com/news/ray-mont-logistics-building-new-export-facility-at-port-of-mobile/ (last visited Nov. 17, 2026).

issues, CN was not among them.[7] CN's extensive rail network also allows CN to help customers move goods to and from the Gulf Coast when low water levels disrupt barge traffic on the Mississippi River. CN's grounded intermodal terminals avoided the chassis shortages that congested other networks, and CN's grain team recently pivoted quickly to supply soybeans to Midwest processors. And CN worked with the Grenada Railroad in 2023 to establish a reroute agreement when Grenada's bridge went out of service to ensure there was no interruption in service for customers or interchange.

II. WITHOUT CN'S CONDITIONS, THE PROPOSED TRANSACTION WOULD REDUCE COMPETITIVE OPTIONS AND SUPPLY CHAIN RESILIENCY IN KANSAS CITY AND ST. LOUIS

The networks of UP and NS overlap between Kansas City and St. Louis, where Applicants' networks run four parallel lines across Missouri, including three between St. Louis and Kansas City, and Applicants themselves have acknowledged that this overlap requires a remedy. That overlap is not a "small piece" of an otherwise end-to-end transaction: The Proposed Transaction's competitive effects in Kansas City and St. Louis / East St. Louis would affect traffic moving to, from, and through these critical gateways, across the very commodities—intermodal, automotive, and bulk—that predominate in those gateways.

Intermodal and automotive traffic, together with motor vehicle parts, are among the most affected commodities, and grain, potash, and steel shippers in those markets would also lose an independent Class I option. Customers have experienced significant supply chain volatility and are diversifying their supply chains to reduce exposure, moving from "just-in-time" toward "just-in-case" supply chain management. Since the COVID-19 pandemic, disruptions affecting the Suez Canal and the Strait of Hormuz, fuel costs, labor shortages, and weather events have driven this

[7] *See Urgent Issues in Freight Rail Serv.*, EP 770, slip op. at 3 & n.3 (STB served Apr. 7, 2022).

shift. Supply chains are more resilient when customers have more operators and more geography to choose from, and CN is adding capacity in response to this demand. Kansas City and St. Louis also serve as "valves" for the North American network as alternatives to Chicago congestion, as shown in the summer of 2021, when two Class I railroads embargoed Chicago intermodal yards. NS has also previously embargoed its Voltz and Wentzville automotive facilities for congestion. Losing a Class I option at these gateways would remove that backup during disruptions.

A. The Proposed Transaction Would Eliminate an Independent Class I Option in the Corridor

If the Proposed Transaction were approved without CN's proposed conditions, the combined UP/NS would have no incentive to invest in or utilize UP's line between Neff Yard in Kansas City, Missouri and Twelfth Street in St. Louis, Missouri (the "Kansas City Line") in a manner that would compete with its other routes between Kansas City and St. Louis. Railroads do not invest capital without traffic density; the merged carrier would have no reason to commit capital to the Kansas City Line, and over time the line would deteriorate, ultimately harming the local and overhead customers who depend on it. Simply maintaining existing track assets matters to future resiliency, and having the Kansas City Line in the hands of a carrier committed to investing in it adds exactly the type of option customers need to withstand disruptions. The combined UP/NS could also use its market concentration across a vast geography to take business from lanes that remain competitive, for example by pricing low on certain lanes or by offering bundled discounts conditioned on a customer giving UP/NS business in other lanes. That harm would reach a broader set of customers than those at 2-to-1 and 3-to-2 facilities.

Today, CN reaches Kansas City only through interline partners, including UP, NS, and BNSF Railway Company ("BNSF"). A combined UP/NS would reduce the number of independent partners available to CN for Kansas City traffic, and without the Kansas City remedy, CN and its

customers would lose routing optionality into and out of that market. Unlike Canada, where regulated interswitching provides a remedy, the United States has no comparable regulatory solution. The solution, then, is robust competition among railroads.

B. Divestiture of the Kansas City Line Is the Most Effective Remedy

The best way to preserve competition is through the divestiture to CN of the Kansas City Line, including the former Sarpy Yard property. CN is the only railroad willing to acquire 100% of the Kansas City Line. Complete divestiture is clean, certain, and effective and avoids ongoing dependence on the merged UP/NS. Line ownership is the most important tool for control: ownership would give CN control over investment, maintenance, dispatching, and capital planning, so that CN can ensure the line is maintained and provide competitive service for its manifest, intermodal, and automotive customers in Kansas City and St. Louis. Divestiture is also a remedy the parties anticipated: the UP–NS Merger Agreement specifically accounts for the possibility that the Board may condition the Proposed Transaction on divestiture of a line between Kansas City and St. Louis, and the Settlement MOU provides that if the Board orders divestiture of the Kansas City Line, CN shall have the right of first refusal to acquire it. Proposals that would leave UP with an ownership interest in the line would continue the entanglement and require ongoing oversight. If the Board believes it is necessary to provide an additional Class I carrier beyond CN access to Kansas City to preserve competition, CN is willing to jointly acquire the Kansas City Line with another Class I carrier, so long as CN obtains at least 50% ownership, and no ownership stake remains with the merged UP/NS. Divestiture would extend CN's direct market reach into Kansas City, an important market for automotive, intermodal, grain, fertilizer, and other commodities, and Kansas City would in turn serve as a gateway to other origins, destinations, and markets and strengthen CN's east–west capabilities in the United States, similar to what CN has done in Iowa.

Without divestiture, CN's ability to compete would depend on UP/NS providing dispatching, maintenance, and investment, and on negotiating haulage and trackage rates and service guarantees with the merged UP/NS, which is CN's direct rival. Under haulage or trackage rights alone, the merged UP/NS could degrade CN's service or prioritize its own trains, self-preference at St. Louis or Kansas City, short-haul CN on traffic such as automotive traffic from Detroit to Kansas City and beyond, or set haulage or trackage rates at levels that make it cost-prohibitive for CN to compete, eroding the density CN needs to ensure ongoing investment in the line. CN has experience elsewhere with trackage rights; CN recently qualified crews over a UP trackage rights segment on which UP was a subtenant of NS for CN to be able to pull trains for ADM from Cockrell outside of Springfield, Illinois to the Gulf.[8]

C. Related Access Rights and Gateway Protections Are Needed to Make the Remedy Effective

Access to the Kansas City Line alone would not allow CN to compete effectively. CN therefore also seeks the lease of UP's Neff Yard, including Neff intermodal terminal, in whole or in part, with an option to purchase; terminal trackage rights over approximately 7.5 miles of BNSF track on its Marceline Subdivision between Eton, Missouri and Congo, Missouri (the "Eton to Congo Segment"), which connects the two portions of the Kansas City Line and allows CN to move trains between the line and Neff Yard on the directional running basis UP maintains today; and overhead trackage rights between Lydia Avenue and Broadway Boulevard in Kansas City, Missouri (the "Lydia Avenue to Broadway Boulevard Segment"), which connects Neff Yard and the Kansas City Terminal Railway Company ("KCT") and allows CN to interchange with BNSF and other carriers.[9] Under the Settlement MOU, CN will also acquire NS's 8.33% ownership

[8] *See Ill. Cent. R.R. Co.—Petition for Declaratory Order*, FD 36892 (filed Dec. 1, 2025).

[9] *See* Exhibit 13 (Operating Plan) at 56-65, 136-38.

interest in KCT for nominal consideration, giving CN the ability to interchange with other carriers, including Canadian Pacific Kansas City Railway Company ("CPKC"), through KCT, and giving CN access to KCT's customers open via reciprocal switching. Also under the Settlement MOU, if the Board removes any paper barrier on the Kansas City Line or grants any exception to any paper barrier on the Kansas City Line, UP would similarly remove or grant an exception to CN for the paper barrier governing Genesee & Wyoming's Missouri & Northern Arkansas Railroad ("MNA"), as MNA connects to the Kansas City Line at Pleasant Hill and operates via interchange trackage rights over UP from Pleasant Hill to Neff Yard, where it interchanges with UP.[10] CN also seeks reciprocal switching access to Kansas City customers currently open to switching under UP and NS tariffs for Kansas City, which are among the customers whose options would be reduced if the Proposed Transaction is approved and whose traffic CN needs to build sufficient route density.

Finally, CN asks the Board to adopt robust and enforceable open gateway protections. These protections matter well beyond Kansas City and St. Louis: CN interchanges with UP and NS at dozens of gateways across its U.S. network, from Chicago, Detroit, Memphis, and New Orleans to the Twin Cities, Council Bluffs, and Buffalo, and relies on them to reach customers at key origins and destinations such as Houston, the Twin Cities, and Atlanta. Any open gateway condition the Board adopts should expressly apply to each of those locations. Figures 2 and 3 below show the top U.S. destinations CN reaches (either as origin or destination carrier, respectively) through its interline relationships.

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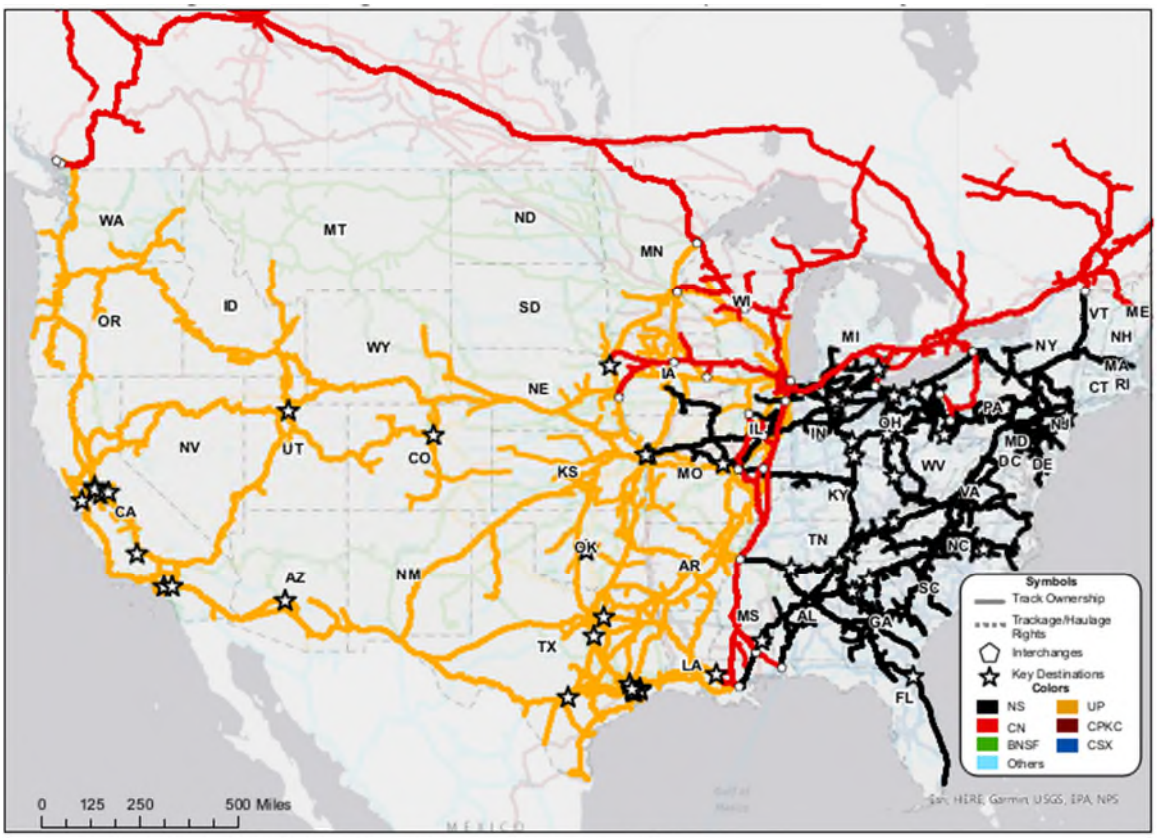
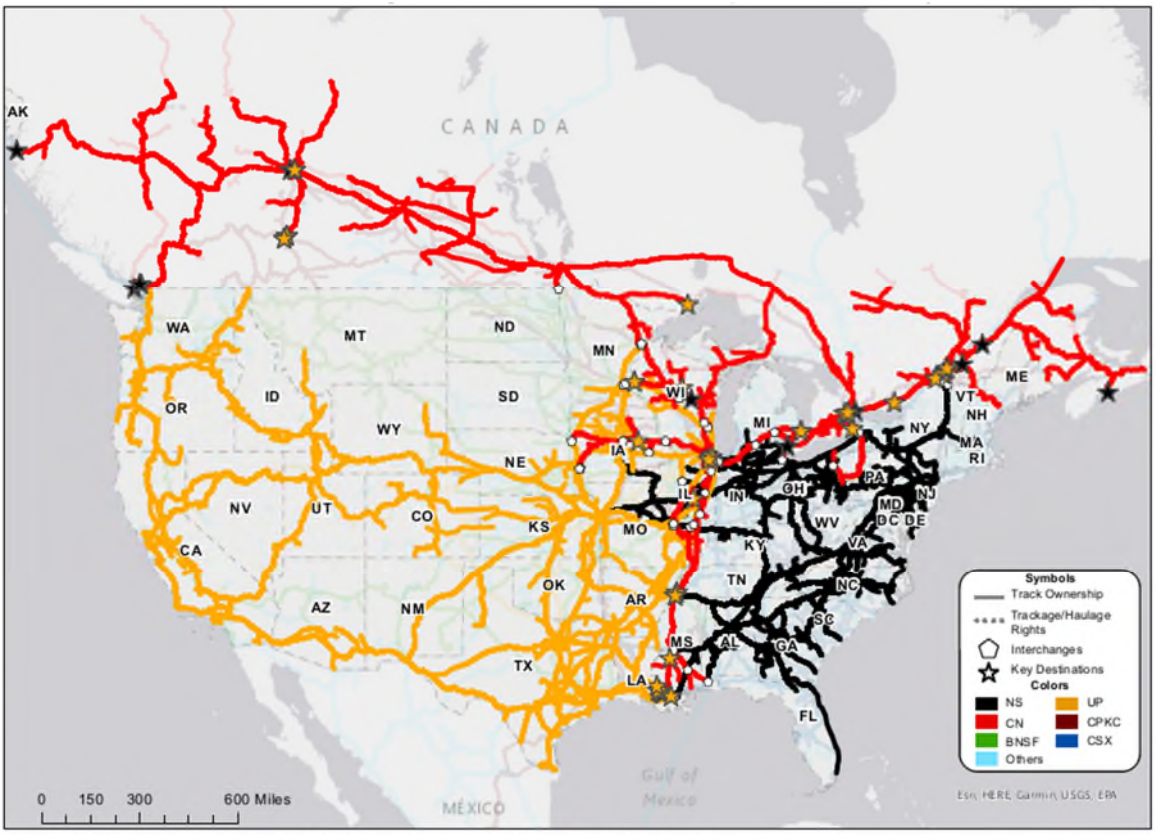
[10] *See* UP-80/NS-78 at 207-08, FD 36873 (filed July 27, 2026) [hereinafter the "Second Supplemental Submission"]. The Settlement MOU also provides that to the extent the Board requires remedies or conditions applicable in general that are more favorable than those agreed to in the Settlement MOU, CN would automatically receive the benefit of those more favorable terms. *See also* Exhibit 13 (Operating Plan) at 55.

Figure 2: CN as Origin Carrier for Interchange with UP/NS to Reach Destinations



Sources: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; CN Traffic Tapes.

Figure 3: CN as Destination Carrier for Interchange with UP/NS to Reach Destinations



Sources: U.S. Bureau of Transportation Statistics, National Transportation Atlas Database; CN Traffic Tapes.

D. CN Will Serve Kansas City Line Customers from Day One and Invest to Expand Service

CN expects to begin operating over the Kansas City Line immediately following consummation of the Proposed Transaction and divestiture of the line to CN. As owner of the line, CN will provide local service to all UP stations between Twelfth Street in St. Louis and Kansas City, including the line's industrial leads, while preserving those customers' access to UP: CN would grant UP local haulage rights so that every customer on the line remains open to UP, and overhead trackage rights so that all existing routing options are preserved.[11] CN has proposed that UP and BNSF would retain the local trackage rights necessary to deliver unit trains of Powder River Basin coal to Union Electric Company's Labadie facility, which is among the major

[11] *See* Exhibit 13 (Operating Plan) at 106-07, 110, 134-35.

customers on the line, so that Labadie would not lose the single-line service options it has today. CN also has proposed that MNA, whose line connects to the Kansas City Line at Pleasant Hill and which operates over UP from Pleasant Hill to Neff Yard, can continue to interchange traffic with UP at Neff Yard or at another mutually agreeable location, so that MNA's existing operations would not be disrupted.[12] Shippers on the Kansas City Line would gain single-line access to CN's network to Chicago, Detroit, Eastern Canada, the Mid-South, and CN's Gulf Coast ports—and many would be gaining a carrier they already know, because CN already serves other facilities of the same customers.

Only if the Board finds that divestiture is not warranted does CN request, in the alternative, trackage rights over the Kansas City Line (Sub-No. 3), together with local and overhead haulage rights to serve affected customers on the line. To the extent the Board grants CN trackage rights over the Kansas City Line, instead of divestiture, CN is also seeking trackage rights access to reach the former Sarpy Yard property for the same purpose in Sub-No. 3, and is requesting a condition from the Board ordering the sale of the former Sarpy Yard property to CN.

Consistent with how UP operates the corridor today, CN's westbound trains would generally use the Sedalia Subdivision into Kansas City and its eastbound trains the River Subdivision back toward St. Louis.[13] Under the diversion study, CN anticipates that, by the third year following the Board's approval decision, it would operate four trains per day (two train pairs) between Kansas City and St. Louis—a manifest train and a combined automotive and intermodal train in each direction.[14] In addition, CN would take over UP's existing local service on the line,

[12] *See* Exhibit 13 (Operating Plan) at 55, 65, 107, 109.

[13] *Id*. at 111, 138.

[14] *I*d. at 103, 105, 111, 129.

and CN assumes that the existing volume would continue as it does today. CN's Rail Traffic Controller modeling indicates that this traffic can be accommodated on the Kansas City Line alongside UP and other users without interfering with Amtrak service over the Sedalia Subdivision.[15]

If the Board grants CN's conditions, CN is committed to investing in the Kansas City Line and related facilities within three years after the Board's approval, consummation of the Proposed Transaction, and divestiture to CN. These capital projects include the following:[16]

- upgrades at Neff Yard to start CN's intermodal and automotive terminals;
- the acquisition and improvement of the former Sarpy Yard property, described below;
- a new connection at Tuscola from CN's existing Champaign Subdivision to UP's Pana Subdivision; and
- a new connecting track at Sullivan station on the Pana Subdivision to facilitate more efficient movements of coal and other unit trains.

These investments would support new intermodal and automotive terminal service in Kansas City and St. Louis; expanded service for grain, fertilizer, steel, and other commodities; reduced transit times to St. Louis; and greater resilience to supply chain disruptions.

i. Neff Yard in Kansas City and the Former Sarpy Yard Property in St. Louis Will Add New Intermodal and Automotive Terminal Facilities

Neff Yard is UP's former intermodal yard in Kansas City; UP has since relocated its intermodal operations to its Kansas City Intermodal Terminal, and Neff Yard is now largely idled,

[15] *See* Exhibit 13 (Operating Plan) at 22, 112-13, 145-47 & App. A (CN Line Capacity Assessment of Kansas City, St. Louis and Iowa Lines, Iron Road Software & Simulation, Inc.) [hereinafter "Iron Road study"].

[16] *See* Exhibit 13 (Operating Plan) at 24, 150-56.

although intermodal has historically been the largest share of the traffic originating and terminating there. CN expects to use Neff Yard for intermodal, automotive, and manifest/bulk traffic when it begins operating the Kansas City Line. CN understands the former intermodal terminal at Neff to be largely "plug and play": CN anticipates adding equipment such as trucks and cranes. CN does not expect significant investment to be required to begin CN's intermodal and automotive operations at Neff. Over time, CN plans to make significant investments at Neff Yard—including equipment, fencing, repair tracks, lighting, and security cameras—to expand intermodal and automotive capacity and put a largely idled yard back into productive service.[17]

CN anticipates engaging a third-party operator for Neff Yard. As Patrick Whitehead explains in Exhibit 13 (Operating Plan), a third-party operator will also facilitate operations within Neff Yard if UP retains the ability to operate through the yard pursuant to trackage rights over the Kansas City Line.[18] Manifest traffic will use the existing yard tracks, and interchange traffic will move over the Lydia Avenue to Broadway Boulevard Segment to BNSF and other railroads via KCT. We will interchange with UP at Neff Yard.[19]

For automotive traffic, CN would use the existing pavement and track at Neff Yard where possible and convert the yard as needed, making Neff Yard Kansas City's fifth automotive terminal, alongside those of UP, NS, BNSF, and CPKC.[20] As Sarah Slazinski explains, Neff Yard is conveniently located for our automotive customers.[21]

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[17] *See* Exhibit 13 (Operating Plan) at 42-43, 61-62, 105-06, 150-51.

[18] *See id.* at 106.

[19] *Id*. at 103, 107.

[20] *Id*. at 107-08, 150.

[21] *See* Exhibit 12C, Verified Statement of Sarah Slazinski at 10–11 [hereinafter "Slazinski V.S."].

In St. Louis, CN plans to invest in the former Sarpy Yard property, located on the Kansas City Line, as a new automotive and intermodal terminal. CN does not own any track in St. Louis, Missouri. Nor does CN own a rail yard or sufficient land in East St. Louis, Illinois to open a competitive automotive and intermodal terminal. Without the ability to invest in the former Sarpy Yard property, CN would have no location to handle this traffic in St. Louis as a new entrant into the markets for automotive and intermodal customers.[22]

Together, Neff Yard in Kansas City and the former Sarpy Yard property in St. Louis would add two new U.S. intermodal and automotive terminals to CN's network and provide new capacity and competitive options for customers.

ii. CN's Expanded Access to East St. Louis via the Tuscola Line Will Open New Routes for Customers

The proposed overhead trackage rights over UP's line between Tuscola, Illinois and East St. Louis, Illinois (the "Tuscola Line") would connect CN's existing lines in central Illinois to the St. Louis gateway and, through it, to the Kansas City Line. Today, for CN to reach East St. Louis from points in northern Illinois, Iowa, and Wisconsin, CN must route south past East St. Louis to Du Quoin, Illinois, and then back up, which adds approximately 1.5 days to CN's transit to St. Louis. Under Exhibit 13 (Operating Plan), traffic from Chicago and points north and east would instead move south on CN's lines to the new Tuscola connection and over the Tuscola Line to East St. Louis; from there, overhead trackage rights over UP's wholly owned subsidiary, The Alton & Southern Railway Company ("A&S"), between Lenox in Mitchell, Illinois and Valley Junction in East St. Louis would connect CN to the Terminal Railroad Association of St. Louis ("TRRA"), whose bridges carry traffic across the Mississippi River into St. Louis and onto the Kansas City

[22] *See* Exhibit 13 (Operating Plan) at 47-48, 87, 102, 107-08, 154-55; Slazinski V.S. at 13 & n.11.

Line, using trackage rights CN is separately seeking from TRRA.[23] This route would eliminate approximately 70 miles from CN's route from Chicago to St. Louis and Kansas City, reducing CN's costs and transit times, and manifest traffic from CN's lines in southern Illinois and the Mid-South would connect to the new service through East St. Louis.[24] Customers on the A&S and TRRA are open to all Class I carriers, so the improved route will allow CN to compete more effectively for traffic to facilities such as Bunge-SCF in East St. Louis; Consolidated Grain & Barge, CHS, and Louis Dreyfus in Cahokia; and ADM in Sauget and North St. Louis.[25] East St. Louis also has the single largest concentration of barge-loading facilities along the Mississippi River, giving customers access to new gateways and destinations via CN's river-adjacent network.

iii. Shifting CN's Interchange Gateways to Kansas City and St. Louis Will Create a More Efficient Network and Improve Service Offerings

CN can build a more efficient network and improve customer service offerings by changing the interchange gateway for traffic where doing so makes commercial sense. Today, across a variety of examples of different commodities and lanes, {{

[23] *See* Exhibit 13 (Operating Plan) at 20, 71-73, 99-100, 103, 111, 137.

[24] *See id*. at 65-74, 112-15, 137.

[25] *See Freight Tariff TRRA 3023-V*, TRRA (effective Jan. 1, 2026), https://terminalrailroadstl.odoo.com/web/content/4736?unique=f82e2a9a93452e26a76da5ec0ed33429e635e06c&download=true (last visited Nov. 15, 2026); *Tariff ALS 8002-O*, A&S (effective Mar. 1, 2023), https://www.altonsouthern.com/wp-content/uploads/2023/11/als8002-o-tariff.pdf (last visited Nov. 15, 2026).

}}

With the Kansas City Line, Neff Yard, the Tuscola Line, and the related Kansas City access rights, CN, as the originating carrier, could move traffic over its own network to Kansas City and interchange there with western and southern carriers, including BNSF, UP, CPKC, and carriers reached through KCT. With a longer length of haul, CN could build density, design trains more efficiently, and offer a more cost-competitive routing option, while giving customers an alternative to the congested Chicago interchange. Kansas City access would also allow CN to shift selected train building from its Kirk Yard in the Chicago area to Champaign, Illinois, so that eligible traffic bypasses Chicago area processing, which CN anticipates could shorten transit times by approximately one day for affected shipments.[26]

I expect that CN could successfully shift the interchange gateway where it makes commercial and operational sense for CN's new network—for example, for southbound and westbound traffic currently interchanged in Chicago, Illinois; Superior, Wisconsin; and East St. Louis, Illinois and destined for California, Oklahoma, Arizona, and New Mexico. This strategic commercial and operational plan spans several CN business units. For finished vehicles and vehicle parts, CN could interchange Michigan- and Ontario-origin traffic at Kansas City rather than Chicago, including traffic moving toward the Southwest; for intermodal, CN could move traffic to Kansas City, bypassing Chicago, for furtherance with western and southern carriers; and for grain, CN could move shipments through Kansas City to compete more effectively with UP and NS. CN would pursue similar opportunities in other business units, including forest products, petroleum and chemicals, and metals and minerals. As explained in Exhibit 13 (Operating Plan),

[26] *See* Exhibit 13 (Operating Plan) at 103, 112.

these shifts could be handled by adding volume to the new Chicago–Kansas City service on existing trains and are included in our diversion estimate. In the future as traffic grows organically, CN could add a train pair, and CN views them as realistic and achievable in the years following implementation, based on its commercial and operational plans and existing customer relationships.[27]

III. CN WILL PRESERVE THREE-CARRIER CLASS I COMPETITION IN DES MOINES

CN seeks trackage rights for its affiliates Iowa Northern and Chicago, Central & Pacific Railroad Company over UP's line between Manly and/or Iowa Falls and Des Moines, Iowa, and between Des Moines and Avon, Iowa (the "Des Moines Line"). The Des Moines area is accessed today by only three Class I carriers—UP, NS (via haulage and trackage rights over BNSF), and BNSF. Absent conditions, the area generally would go from three Class I options to two, and at least fifteen customer facilities would see their Class I options reduced from two to one (2-to-1) or from three to two (3-to-2). Affected customers include grain elevators, soybean processors, and food and feed manufacturers such as ADM Soybean Processing, Heartland Co-Op (Des Moines and Avon), Feed Energy Co./Kru LTD, and General Mills (Avon); metals customers such as Alter Trading/Alter Metal Recycling; and others including Cargill, Titan Tire, Bridgestone Americas Tire Operations, and Magellan Midstream Partners. Applicants themselves have proposed that CN remedy almost all of these facilities; the dispute is over the means of access.

Trackage rights from CN's Iowa network are the most effective means of access. CN's nearest lines connect with UP at Iowa Falls (approximately 73 miles from Des Moines) and Manly (approximately 130 miles). Applicants' alternative of CN haulage over BNSF from St. Louis would require the Board to override a restriction in the BNSF–NS haulage agreement, would be a

[27] *See* Exhibit 13 (Operating Plan) at 103-05, 133.

significantly longer route, and would run through the more congested St. Louis gateway; for example, soybean meal moving from Des Moines to Chicago would travel approximately 400 miles via CN's proposed trackage rights but approximately 670 miles via the BNSF haulage route. For Avon, Applicants have not detailed where their proposed UP haulage would run from. Trackage rights would also give CN operational control over crews, car supply, train frequency, and service commitments, rather than dependence on a competitor's operating priorities. CN would initially enter the Des Moines Line at Manly, serving Des Moines and Avon customers either via UP reciprocal switch through Short Line Yard or, for unit trains, directly to the ADM facility in Des Moines and the Heartland Co-Op facility in Avon.[28] Because the existing Iowa Falls interchange is a short, 15-car spot track through the middle of a grain elevator, CN would shift to Iowa Falls once a new connection is built there.[29] These rights would link Des Moines directly to CN's Iowa network, including Iowa Northern, giving shippers access to Gulf export terminals at New Orleans and Mobile, Mississippi River barge facilities, feed mills and processors across the CN network, Eastern and Western Canada, and Midwest end users; CN's three major petrochemical centers and 10 aluminum smelters are also relevant to Des Moines chemicals and metals customers. No capital investments are proposed for the Des Moines Line, other than the connection at Iowa Falls. CN would hire additional train and engine, signals, and maintenance employees in Iowa, and anticipates new traffic beginning in the second or third year after the transaction as new agreements are reached with customers.[30]

[28] *See* Exhibit 13 (Operating Plan) at 17-18, 118-19.

[29] *Id.*

[30] *See* Exhibit 13 (Operating Plan) at 24, 43, 79-85, 117-21, 140-43, 153.

IV. CN WILL REMEDY LOST COMPETITION FOR ILLINOIS CUSTOMERS

CN seeks trackage rights over UP's line between East St. Louis and Hillsboro, Illinois (the "Hillsboro Line") to serve the 2-to-1 Hillsboro Energy LLC (Deer Run Mine) facility of Foresight Energy, which has the capacity to produce up to 9 million tons of coal per year, without the right to serve other customers on the line. CN also seeks trackage rights over UP's Springfield and Monterey Subdivisions and NS's Monterey Mine Lead between Springfield and Carlinville, Illinois (the "Macoupin Line") to access Foresight Energy's 2-to-1 Macoupin Energy LLC (Shay #1) facility; although that mine is currently idled, CN seeks these rights to avoid any doubt regarding its ability and intention to serve the mine should it resume production.[31] CN is the only carrier that has requested trackage rights to serve these facilities; although Foresight Energy has requested BNSF, BNSF did not seek such rights in September as required under the Board's schedule. Because this coal moves in unit trains, only trackage rights—not haulage—would provide the operational control over scheduling, car positioning, and loading windows needed for reliable, competitive service. CN already has an established relationship with Foresight Energy: it has direct access to two other Foresight mines, handles a mine-to-mine movement between Foresight's Pond Creek and Sugar Camp operations, moves Pond Creek coal to the Gulf Coast, and performed a special move to keep coal flowing to customers when a fire reduced Sugar Camp to roughly half capacity.

CN can preserve Hillsboro's existing connectivity and add new options. Hillsboro coal moves principally to {{ }}. CN has direct rail access to {{ }}, which I understand BNSF

[31] *See* Exhibit 13 (Operating Plan) at 74-79, 115-17.

does not have, and could serve {{ }} there in single-line service, aided by a new connecting track CN plans to build at Sullivan station on UP's Pana Subdivision—the only capital investment proposed in connection with the Hillsboro Line. CN can reach Foresight's {{ }} through an interchange with the Evansville Western Railroad, and although CN could not serve the {{ }} terminal directly, CN can access other nearby river transload facilities. Export represents the most significant growth opportunity: via CN's Illinois Central main line, Hillsboro coal could move single-line to Convent Marine Terminal in Louisiana (approximately 795 miles, which CN consistently executes mine-to-port in approximately 96 hours), to which CN is the only rail carrier with direct access, and to the McDuffie terminal in Mobile, Alabama—the only two Gulf Coast terminals that currently receive coal by rail. The diversion analysis of Dr. Henry Kahwaty estimates that approximately {{ }} units of Hillsboro coal would divert to new CN service, more than {{ }} of it on export movements that CN would shift from the {{ }} river terminals to direct CN rail service to the Gulf—service neither UP nor NS can provide today—with the remainder on shipments to {{ }}.[32] Operationally, CN would reach Hillsboro through the Tuscola Line corridor and route coal either through East St. Louis, where CN could interchange with TRRA, A&S, BNSF, UP/NS, CPKC, and CSXT, or via the Sullivan or Tuscola connections onto CN's network.[33] CN would reach the Macoupin Line from its existing connection with UP at Springfield, operating over UP's Springfield and Monterey Subdivisions and NS's Monterey Mine Lead to the mine at Carlinville, should the idled mine resume production.[34]

[32] *See* Exhibit 12B, Verified Statement of Dr. Henry Kahwaty at ¶ 159 [hereinafter "Kahwaty V.S."].

[33] *See* Exhibit 13 (Operating Plan) at 21, 115-16, 151-52.

[34] *See* Exhibit 13 (Operating Plan) at 21, 76–79, 116-17, 154.

Applicants have acknowledged that other Illinois customer facilities would also lose a Class I option, but their proposed access commitments do not consistently designate CN or, in several cases, prescribe routings that would effectively preserve competition. CN therefore also seeks switching access in Chicago and St. Louis—including at U.S. Steel's Granite City Works, where CN and UP agree the facility should be opened to reciprocal switching for CN—and haulage rights to reach the affected 2-to-1 and 3-to-2 facilities at Bloomington, Mt. Vernon, Danville, and Momence, Illinois, consistent with the routes detailed in CN's Comment.[35] Together, the Kansas City, St. Louis, Des Moines, and Illinois conditions extend CN's existing network to access industries and connect them to CN's network in single-line service as well as beyond through interchange with other railroads.

V. CN'S CONDITIONS WILL BENEFIT U.S. RAIL CUSTOMERS, COMMUNITIES, AND THE ENVIRONMENT

CN's conditions would preserve competition that would otherwise be lost as a result of the Proposed Transaction and open new single-line routing options between Kansas City, St. Louis, and points on CN's network, including Detroit, Chicago, and Eastern Canada, as well as for traffic moving to and from the East Coast and Gulf Coast. Today, NS is the only carrier offering single-line service between Michigan and Kansas City or St. Louis, and CPKC—which must use NS trackage rights through Michigan—is the only single-line option between Eastern Canada and Kansas City. No carrier offers single-line finished vehicle service between St. Louis and Ontario, and CN would be the only railroad able to offer St. Louis area shippers single-line intermodal service to and from a Canadian intermodal terminal. Routes from the Port of Montreal to Kansas City and St. Louis would be available for international traffic as an alternative to congested East

[35] *See* Second Supplemental Submission at 62.

Coast ports; Montreal is closer to North European ports than the ports of New York/New Jersey, and at approximately 1,380 rail miles to Kansas City, it is essentially equidistant with New York/New Jersey and Norfolk. These routes would tie into CN's three-coast port access, including the ports of New Orleans and Mobile. Reductions in the logistics costs U.S. shippers need to bear to get their products to export markets benefit U.S. manufacturers and U.S. workers.

Moreover, CN's plan to invest in these regions would benefit local communities and the environment by taking trucks off the road. Converting freight from truck to rail for the long haul can reduce greenhouse gas emissions by up to 75%.[36] Within the rail industry, CN is a leader in fuel efficiency. CN publicly reports that its locomotives consume approximately 15% less fuel per gross ton-mile than the average of the North American Class I railroads, an efficiency advantage that reduces greenhouse gas emissions.[37] CN is building on that performance through increased use of lower-carbon fuels: in 2025, renewable fuels, such as biodiesel and renewable diesel, accounted for close to 12% of all locomotive fuel used across CN's North American network.[38] And CN tested a medium-horsepower hybrid-electric yard locomotive in 2025, including at locations in Tennessee, Mississippi, and Louisiana, and conducted cold-weather testing in Western Canada. After achieving a 50% improvement in fuel efficiency, along with reductions in engine-related failures, increased horsepower, and reduced idling, CN is now testing three locomotives.[39]

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[36] Canadian National Railway Co., *2025 Annual Report*, at XIX, https://www.cn.ca/en/-/media/files/investors/investor-annual-report/2025-cn-annual-report.pdf (last visited Nov. 17, 2026) [hereinafter "CN 2025 Annual Report"].

[37] CN 2025 Annual Report at 9.

[38] CN 2025 Annual Report at XIX.

[39] *See Watch: CN Advances Hybrid Locomotive Program*, Railway Age (Aug. 17, 2026, updated Aug. 20, 2026), https://www.railwayage.com/mechanical/locomotives/watch-cn-advances-hybrid-locomotive-program/ (last visited Nov. 17, 2026); *see also* CN 2025 Annual Report at 21.

These initiatives, combined with its industry-leading fuel efficiency, allow CN to provide customers with efficient, lower-carbon freight transportation while maintaining reliable service.

Dr. Kahwaty's diversion analysis estimates that approximately {{ }} annual rail cars or units would divert from truck to the CN network because of CN's new or improved access involving Kansas City and St. Louis. By service type, approximately {{

}}

Of the diverted intermodal traffic, approximately {{ }} units are expected to move through the Kansas City area and approximately {{ }} units through the St. Louis area; in total, Kansas City is expected to receive approximately {{ }} units of truck-to-rail diverted traffic and St. Louis approximately {{ }} units.[40] The Kansas City–Chicago market alone is expected to account for approximately {{ }} of total truck-to-rail diverted traffic, and Kansas City–Detroit, the second-largest market, for approximately {{ }}, more than {{ }} of it intermodal.[41] By commodity, grain is expected to be the largest source of truck-to-rail diversion, at approximately {{ }} units, or roughly {{ }} of the approximately {{ }} units of total truck-to-rail diverted traffic, including approximately {{ }} of the diverted traffic between Kansas City and Chicago. Truck-to-rail diversion of vehicle parts is estimated at approximately {{ }} units.[42] These truck-to-rail diversions are in addition to the traffic that Dr. Kahwaty estimates would divert to CN from other railroads. His rail-to-rail analysis estimates that approximately {{ }} units of intermodal traffic would divert to CN, principally on the

[40] *See* Kahwaty V.S. at ¶ 177 & Table 11.

[41] *Id.* at ¶¶ 178-179.

[42] *Id.* at ¶¶ 170–171 & Figure 31.

Detroit–Kansas City lane; approximately {{ }} units of potash, principally moving from Canada to St. Louis; approximately {{ }} units of Hillsboro coal; approximately {{ }} units of grain, principally soybean meal moving over the Kansas City Line; and approximately {{ }} units of steel products, principally on lanes between Chicago and Kansas City or St. Louis where CN could offer new or improved single-line service.[43] Trucking refrigerated goods between the Midwest and Mexico or Canada costs approximately 10–20% more and produces approximately 75% more greenhouse gas emissions than intermodal alternatives, and diverting truck traffic to rail reduces highway congestion and maintenance costs and improves public safety.

CN's conditions would also create jobs: CN anticipates hiring additional personnel to operate the Kansas City, Tuscola, Hillsboro, and Des Moines Lines, including train and engine employees for all of the lines and additional employees for the Kansas City Line divestiture, including dispatching, signals, and maintenance-of-way employees. CN will offer qualified UP employees currently working on the Kansas City, Tuscola, and Des Moines Lines priority hiring consideration.[44]

VI. CONCLUSION

The Proposed Transaction would combine UP's and NS's parallel lines between Kansas City and St. Louis and reduce Class I options for customers in that corridor, as well as in the Des Moines area, and at Illinois facilities including Foresight Energy's Hillsboro and Macoupin mines—harms that Applicants themselves have acknowledged. Divestiture of the Kansas City Line to CN (Sub-No. 2), the only railroad willing to acquire 100% of the line, is the clean, certain,

[43] *Id.* at ¶¶ 129–130, 144–147, 153; *see also* Exhibit 13 (Operating Plan) at 100-01.

[44] *See* Exhibit 13 (Operating Plan) at 140-45 & App. B (Labor Impact Statements).

and effective way to place an independent Class I competitor in the corridor. The related conditions are needed to make that remedy work:

- the former Sarpy Yard property in St. Louis for CN's new intermodal and automotive terminals;
- trackage rights over the Tuscola Line (Sub-No. 7) and trackage rights over A&S in East St. Louis (Sub-No. 8);
- terminal trackage rights over BNSF's Eton to Congo Segment (Sub-No. 5) to connect the River Subdivision on the Kansas City Line to Neff Yard;
- the Neff Yard lease or purchase (Sub-No. 6) where CN will handle manifest traffic and bulk trains and invest in CN's new intermodal and automotive terminals;
- reciprocal switching access in Kansas City to UP's and NS's customers open to reciprocal switching, and trackage rights over the Lydia Avenue to Broadway Boulevard Segment in Kansas City (Sub-No. 4) to interchange with other railroads, including KCT, of which CN will become a shareholder under the Settlement MOU; and
- robust and enforceable open gateway protections to extend CN's reach through the Kansas City and St. Louis / East St. Louis gateways.

Because CN would grant UP local haulage to retain access to local customers on the Kansas City Line and overhead trackage rights over that same line between Kansas City and St. Louis, no customer would lose an existing rail option.

CN's requested trackage rights to Des Moines (Sub-No. 10), Hillsboro (Sub-No. 9), and the idled mine at Carlinville (Sub-No. 34), together with switching and/or haulage access to other affected Illinois facilities, would likewise ensure that no 2-to-1 or 3-to-2 customer is left with fewer Class I options than it has today.

With its adjacent Midwest network, commodity expertise, record of investment and integration, and commitment to invest in Neff Yard, the former Sarpy Yard property, and new connections at Tuscola and Sullivan, CN is well positioned to be the remedy carrier if the Board approves the Proposed Transaction. CN's conditions would not only preserve competition but also open new single-line routes connecting Kansas City and St. Louis with Detroit, Chicago, Eastern Canada, and CN's three-coast ports, including the Port of Montreal; give customers an alternative to the congested Chicago interchange; take approximately {{ }} annual truck shipments off the highways; and create new rail jobs. For these reasons, I respectfully urge the Board to impose the conditions set forth in CN's responsive applications as part of any approval of the Proposed Transaction.

VERIFICATION

I, Janet Drysdale, declare under penalty of perjury under the laws of the United States that the foregoing information is true and correct. Further, I certify that I am qualified and authorized to file this statement. Executed on this 18th day of November, 2026.

/s/ Janet Drysdale
Janet Drysdale

Exhibit 13

BEFORE THE

SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36873

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

DOCKET NO. FD 36873 (SUB-NO. 2)

ILLINOIS CENTRAL RAILROAD COMPANY
—DIVESTITURE—
LINE OF UNION PACIFIC RAILROAD COMPANY
BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

DOCKET NO. FD 36873 (SUB-NO. 3)

ILLINOIS CENTRAL RAILROAD COMPANY
—TRACKAGE RIGHTS—
LINE OF UNION PACIFIC RAILROAD COMPANY
BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

DOCKET NO. FD 36873 (SUB-NO. 4)

ILLINOIS CENTRAL RAILROAD COMPANY
—OVERHEAD TRACKAGE RIGHTS—
LINE OF UNION PACIFIC RAILROAD COMPANY
BETWEEN LYDIA AVENUE AND BROADWAY BOULEVARD IN KANSAS CITY, MO.

DOCKET NO. FD 36873 (SUB-NO. 5)

ILLINOIS CENTRAL RAILROAD COMPANY
—TERMINAL TRACKAGE RIGHTS—
OVER LINE OF BNSF RAILWAY COMPANY
BETWEEN ETON, MO. AND CONGO, MO.

_____

DOCKET NO. FD 36873 (SUB-NO. 6)

ILLINOIS CENTRAL RAILROAD COMPANY
—LEASE AND PURCHASE—
UNION PACIFIC RAILROAD COMPANY NEFF YARD IN KANSAS CITY, MO.

_____

DOCKET NO. FD 36873 (SUB-NO. 7)

ILLINOIS CENTRAL RAILROAD COMPANY
—OVERHEAD TRACKAGE RIGHTS—
LINE OF UNION PACIFIC RAILROAD COMPANY
BETWEEN TUSCOLA, ILL. AND EAST ST. LOUIS, ILL.

_____

DOCKET NO. FD 36873 (SUB-NO. 8)

ILLINOIS CENTRAL RAILROAD COMPANY
—OVERHEAD TRACKAGE RIGHTS—
OVER LINE OF THE ALTON & SOUTHERN RAILWAY COMPANY
BETWEEN MITCHELL, ILL. AND EAST ST. LOUIS, ILL.

_____

DOCKET NO. FD 36873 (SUB-NO. 9)

ILLINOIS CENTRAL RAILROAD COMPANY
—LOCAL TRACKAGE RIGHTS—
LINE OF UNION PACIFIC RAILROAD COMPANY TO SERVE HILLSBORO, ILL.

_____

DOCKET NO. FD 36873 (SUB-NO. 10)

**IOWA NORTHERN RAILWAY COMPANY AND
CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY
—TRACKAGE RIGHTS—
LINE OF UNION PACIFIC RAILROAD COMPANY
BETWEEN MANLY/IOWA FALLS, IOWA AND DES MOINES/AVON, IOWA**

_____

DOCKET NO. FD 36873 (SUB-NO. 34)

**ILLINOIS CENTRAL RAILROAD COMPANY
—LOCAL TRACKAGE RIGHTS—
LINE OF UNION PACIFIC RAILROAD COMPANY TO SERVE CARLINVILLE, ILL.**

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VERIFIED STATEMENT OF PATRICK WHITEHEAD AND KIM HILLENBRAND (EXHIBIT 13)

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V. Introduction

Grand Trunk Corporation, on behalf of itself and its U.S. rail operating subsidiaries[1] (collectively, "CN"), respectfully submits this Operating Plan (the "CN Operating Plan") as part of the responsive application in the above captioned proceedings. CN asks the Board to condition any approval of the proposed acquisition by Union Pacific of Norfolk Southern (the "Proposed Transaction") on the following conditions reflected in its responsive applications:

1. Union Pacific's line between St. Louis, Mo. and Kansas City, Mo. (the "Kansas City Line") (Sub-No. 2), or in the alternative (i.e., if the Board declines to order divestiture), CN requests trackage rights over the Kansas City Line, including access to the former Sarpy Yard property in St. Louis (Sub-No. 3);
2. Grant of overhead trackage rights to CN over UP's line between Lydia Avenue and Broadway Boulevard in Kansas City, Mo. (Sub-No. 4);
3. Grant of terminal trackage rights to CN over BNSF Railway Company's line between Eton, Mo., and Congo, Mo. (Sub-No. 5);
4. Lease of Neff Yard in Kansas City, Mo., including the Neff intermodal terminal, in whole or in part, with an option to purchase said yard (including the terminal) (Sub-No. 6);
5. Grant of overhead trackage rights to CN over UP's line between Tuscola, Ill. and East St. Louis, Ill. (Sub-No. 7);
6. Grant of overhead trackage rights to CN over The Alton & Southern Railway Company's line between Lenox in Mitchell, Ill. and East St. Louis, Ill. (Sub-No. 8);
7. Grant of local trackage rights to CN for access to Hillsboro, Ill. (Sub-No. 9); and
8. Grant of trackage rights to CN for UP line between Manly, Iowa/Iowa Falls, Iowa and Des Moines/Avon, Iowa, including direct access to two unit train customers (Sub-No. 10); and
9. Grant of local trackage rights to CN for access to Carlinville, Ill. (Sub-No. 34).

CN additionally seeks the following conditions from the Board in its Comment on the Amended Application:

10. Sale of NS's KCT ownership interest to CN;

[1] Bessemer and Lake Erie Railroad Company, Cedar River Railroad Company, Chicago, Central & Pacific Railroad Company ("CCP"), Grand Trunk Western Railroad Company, Illinois Central Railroad Company ("ICRR"), Iowa Northern Railway Company ("IANR"), The Pittsburgh & Conneaut Dock Company, and Wisconsin Central Ltd.

11. Access to Kansas City customers open to reciprocal switching under Applicants' tariffs;
12. Reciprocal switching access from UP's Short Line Yard in Des Moines to any 2-to-1 and 3-to-2 customer facilities in the Des Moines area;
13. Haulage rights or switching access to reach remaining 2-to-1 and 3-to-2 customer facilities in Chicago, Bloomington, Mt. Vernon, Granite City, Momence, Federal/Alton, and Danville, Illinois; and
14. Robust and enforceable gateway protections.

The foregoing conditions will remedy the loss of competition from the Proposed Transaction in key watershed geographies where Applicants' networks overlap. These conditions will remediate several competitive harms from the Proposed Transaction, including by:

1. Preserving competition for 2-to-1 Customers, by granting CN rail access to customer facilities in Illinois and Iowa where Class 1 railroad options would be reduced from 2-to-1;
2. Preserving competition for 3-to-2 customers by granting CN rail access to customer facilities in Illinois and Iowa where Class I railroad options would be reduced from 3-to-2;
3. Preserving competition in Kansas City by granting CN new access that remedies the loss of Class I access in areas where the Applicants' networks overlap between Kansas City and St. Louis through (i) divestiture of UP's line between St. Louis, Mo. and Kansas City, Mo.; (ii) alternatively, if divestiture is not granted, (a) trackage rights or overhead haulage rights and (b) local haulage rights to access customers on the line between St. Louis, Mo. and Kansas City, Mo.; and (iii) access to UP's Neff Yard, including the Neff intermodal terminal, in Kansas City; and
4. Preserving competition in the St. Louis area by granting CN access to St. Louis and improved access to East St. Louis through (i) overhead trackage rights between Tuscola and East St. Louis, Illinois; (ii) overhead trackage rights with The Alton & Southern Railway Company ("A&S") between Lenox in Mitchell, Illinois and Valley Junction in East St. Louis, Illinois; (iii) sale of the former Sarpy Yard property in St. Louis for handling CN's intermodal traffic and automotive traffic (whether through divestiture of the Kansas City Line, or in the alternative trackage rights access and a condition requiring the sale of the former Sarpy Yard property to CN if divestiture is not granted).

CN's conditions, individually and collectively, will remedy loss of competition that will occur from the Proposed Transaction and will generate substantial public benefits by extending CN's reach into the affected areas. The conditions will preserve Class I access to customers and

help establish a stronger presence for CN in the Midwest, restoring competition in areas most impacted by the Proposed Transaction.

Kansas City and St. Louis are key gateways with a critical corridor running through them. Divestiture of the Kansas City Line and trackage rights running east from St. Louis will ensure customers on this corridor have a competitive choice post-transaction. The various requests interwoven with the Kansas City Line divestiture – Eton to Congo, Lydia Avenue to Broadway Boulevard, and A&S trackage rights - provide critical linkages that are used by UP today and are necessary to ensure CN's operations over the Kansas City and Tuscola Lines would be efficient and competitive. Acquisition of Neff Yard would allow for customer growth and greater competitive options in intermodal and automotive shipments in Kansas City, among other commodities.[2] Acquisition of the former Sarpy Yard property in St. Louis, an inactive UP yard, would allow CN to establish its first location for handling intermodal and automotive traffic in St. Louis, and provide increased capacity and a new competitive option for automotive and intermodal customers. CN's requests for conditions also include access to UP and NS customers open to reciprocal switching under Applicants' tariffs, including customers on KCT as a result of CN's purchase of KCT shares from NS to preserve competition for customers impacted by the merger.

CN trackage rights to reach the Foresight Energy facilities over the Hillsboro Line and the Macoupin Line will resolve the 2-to-1 and 3-to-2 competitive concerns at these locations. CN's distinctive coal franchise, including access to numerous coal receivers, along with many transloading, barge and coal export facilities, provides a highly competitive option to these

[2] Verified Statement of Sarah Slazinski at 10 [hereinafter "Slazinski V.S."]; Verified Statement of Girish Nair at 6-7 [hereinafter "Nair V.S."].

affected customers and their unit coal trains.[3] CN is the only carrier seeking trackage rights access to these 2-to-1 customer locations.

Similarly, local trackage rights from Manly/Iowa Falls, Iowa to Des Moines/Avon, Iowa including to serve two unit train customers, resolves the loss of competition for customers in the Des Moines area. The requested trackage rights would extend from Manly to UP's Short Line Yard in Des Moines and, for unit train service, to a facility currently operated by ADM in Des Moines and a facility currently operated by Heartland Co-Op in Avon. By connecting CN's strong Iowa network through its Iowa Northern subsidiary, customers in these locations will have access to a cost-effective competitor who will provide strong network access across CN's entire rail network.[4] CN connects to UP at two locations north of Des Moines – Manly and Iowa Falls, with the Iowa Falls connection point approximately 73 miles from Des Moines.[5] The current connecting track between CN and UP at Iowa Falls is a 15-car spot over track owned by a grain elevator, which is not suitably configured for the movement of CN trackage rights trains. Accordingly, CN would initially operate via Manly (approximately 130 miles from Des Moines) until it constructs a new connection with UP at Iowa Falls that can accommodate CN's trains.

CN haulage rights or switching access for CN to reach remaining 2-to-1 and 3-to-2 customers facilities in Chicago, Bloomington, Mt. Vernon, Granite City, Momence,

[3] Verified Statement of Sandra Ellis at 4 [hereinafter "Ellis V.S."].
[4] Verified Statement of David Przednowek at 14 [hereinafter "Przednowek V.S."].
[5] Applicants' proposal to address 2-to-1 and 3-to-2 competition concerns in Des Moines is to provide CN haulage over BNSF from St. Louis, via an existing NS-BNSF haulage arrangement. *See* UP-80/NS-78, FD 36873, at 60–62 (filed July 27, 2026) [hereinafter the "Second Supplemental Submission"]. This is four times the length of the trip from Iowa Falls, would force CN's Des Moines traffic through the already congested St. Louis terminal, and require the Board to override a restriction in the BNSF-NS haulage agreement. A direct route via either Manly or Iowa Falls is manifestly more efficient and competitive for shippers in Des Moines impacted by the Proposed Transaction.

Federal/Alton, and Danville, Illinois will resolve the competition concerns at these additional locations. CN's remaining requests for conditions are detailed in CN's Comments on the Amended Application.

Finally, Gateway protections that are robust and enforceable in practice will ensure that the merged carrier cannot use its control of interchange, routing, or interline pricing to foreclose competitors and the customers that depend on competitive routing options.

This Operating Plan is tailored to achieve the foregoing. It is submitted in accordance with the Board's rules as an element of CN's responsive applications, which were previewed in its Description of Anticipated Responsive Application (CN-30).[6]

Consistent with the Board's Decision No. 46[7] this Operating Plan consolidates and organizes the various sub-dockets into four groups as follows, taking into account the interwoven and overlapping nature of several of them:

Kansas City Line:

- Sub-No. 2 (divestiture of UP's line between St. Louis, Mo. and Kansas City, Mo.);
- Sub-No. 3 (alternatively, trackage rights over UP's line between St. Louis, Mo. and Kansas City, Mo. including access to Sarpy Yard);
- Sub-No. 4 (overhead trackage rights over UP's line between Lydia Avenue and Broadway Boulevard in Kansas City, Mo.);
- Sub-No. 5 (terminal trackage rights over BNSF Railway Company's line between Eton, Mo. and Congo, Mo.); and
- Sub-No. 6 (lease or purchase of UP's Neff Yard in Kansas City, Mo.)

[6] CN-30, FD 36873 (filed Sept. 9, 2026).
[7] Decision No. 46, FD 36873, slip op. at 5 (STB served Nov. 4, 2026).

Tuscola Line:

- Sub-No. 7 (overhead trackage rights over UP's line between Tuscola, Ill. and East St. Louis); and
- Sub-No. 8 (overhead trackage rights over The Alton & Southern Railway Company's line between Lenox in Mitchell, Ill. and East St. Louis, Ill.)

Des Moines Line:

- Sub-No. 10 (local trackage rights for UP line between Manly/Iowa Falls, Iowa and Des Moines, including Avon)

Foresight Energy Facilities

Hillsboro Line:

- Sub-No. 9 (local trackage rights for access to Foresight Energy facilities at Hillsboro, Ill.)

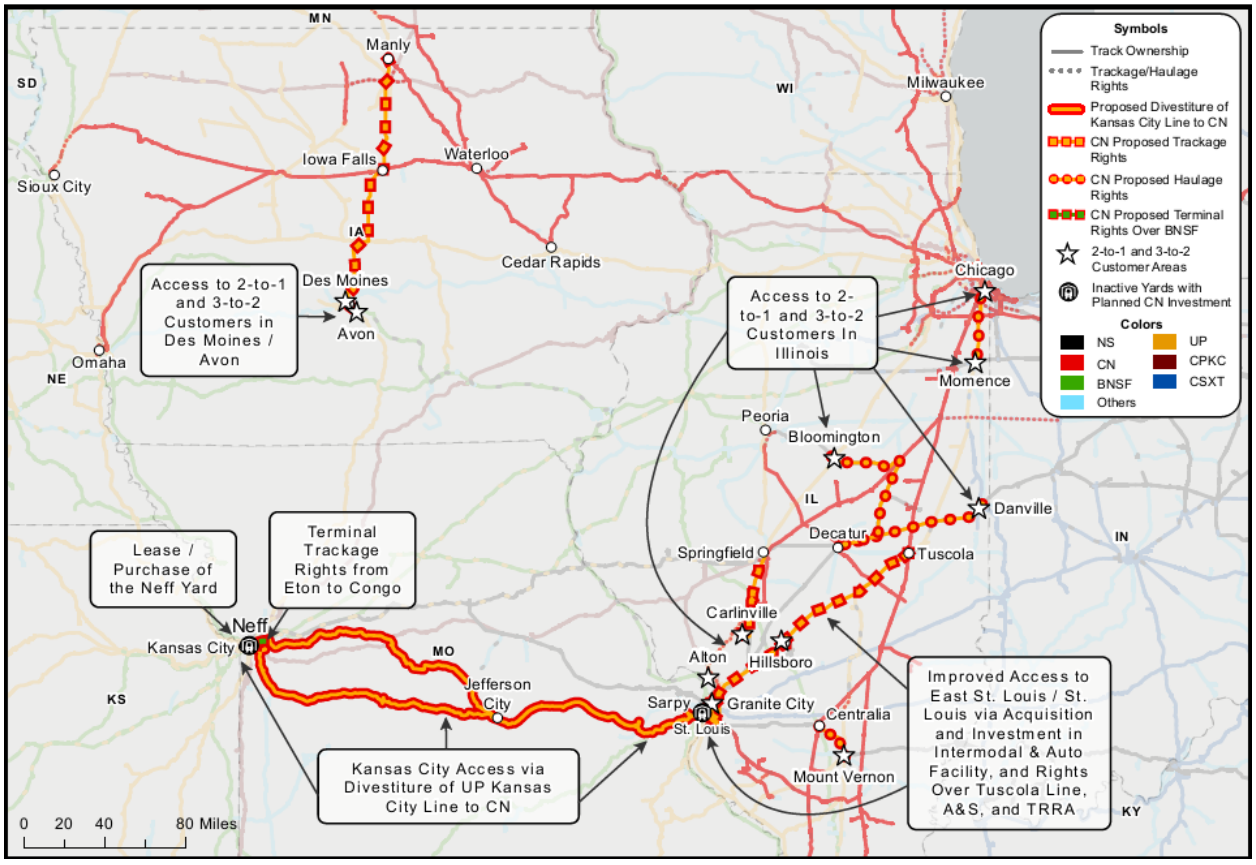
Macoupin Line:

- Sub-No. 34 (local trackage rights for access to Foresight Energy facilities at Carlinville, Ill.)

The various lines and facilities are referred to throughout as provided above and collectively referred to as the "Lines."

Figure 1 shows the Lines and CN's requested conditions.

Figure 1
Overview of CN Conditions



CN will access the Kansas City Line from the Tuscola Line as shown in **Figure 1** through trackage rights over A&S and TRRA in East St. Louis and over Mississippi River bridges owned and operated by TRRA (Merchants and MacArthur). CN will access the Tuscola Line at Tuscola from the north via a new connection from the south through a rehabilitated connection with CN's Champaign subdivision. CN will access the Des Moines Line through an existing connection at Manly, Iowa until a new connection is built at Iowa Falls, Iowa. CN will access the Macoupin Line through an existing connection to UP's Springfield subdivision in Springfield, Ill. Finally, CN will access the Hillsboro Line in the same manner as the Tuscola Line and use the existing UP connection at Hillsboro to the Foresight Energy track serving the Deer Run Mine.

The traffic diversion analysis included with this responsive application estimates that, following the grant of the requested conditions detailed in CN's Responsive Application, CN would attract more than 135,000 carloads and containers from other railroads and modes. The analysis estimates that around 44,000 carloads and containers would be diverted from other railroads to CN on the lines they are seeking conditions for. Moreover, 30,000 containers that are currently routed though congested east coast ports would shift to the Port of Montreal and move to points in the United States via CN's system. Around 46% or 62,500 of the diverted railcars or containers will be diverted from trucks. Most of the diverted shipments would be intermodal traffic. CN also anticipates that around {{ }}[8] carloads of additional traffic will move over the Kansas City Line due to CN's ability to utilize operational benefits for their customers by shifting the interchange to Kansas City for certain shipments. The anticipated traffic diversions are detailed in **Figure 2** and described more fully in the Verified Statement of Henry J. Kahwaty, Ph.D.[9]

Figure 2
Summary of the Traffic Diversion Analysis Results
Traffic Diverted, by Diversion Scenario

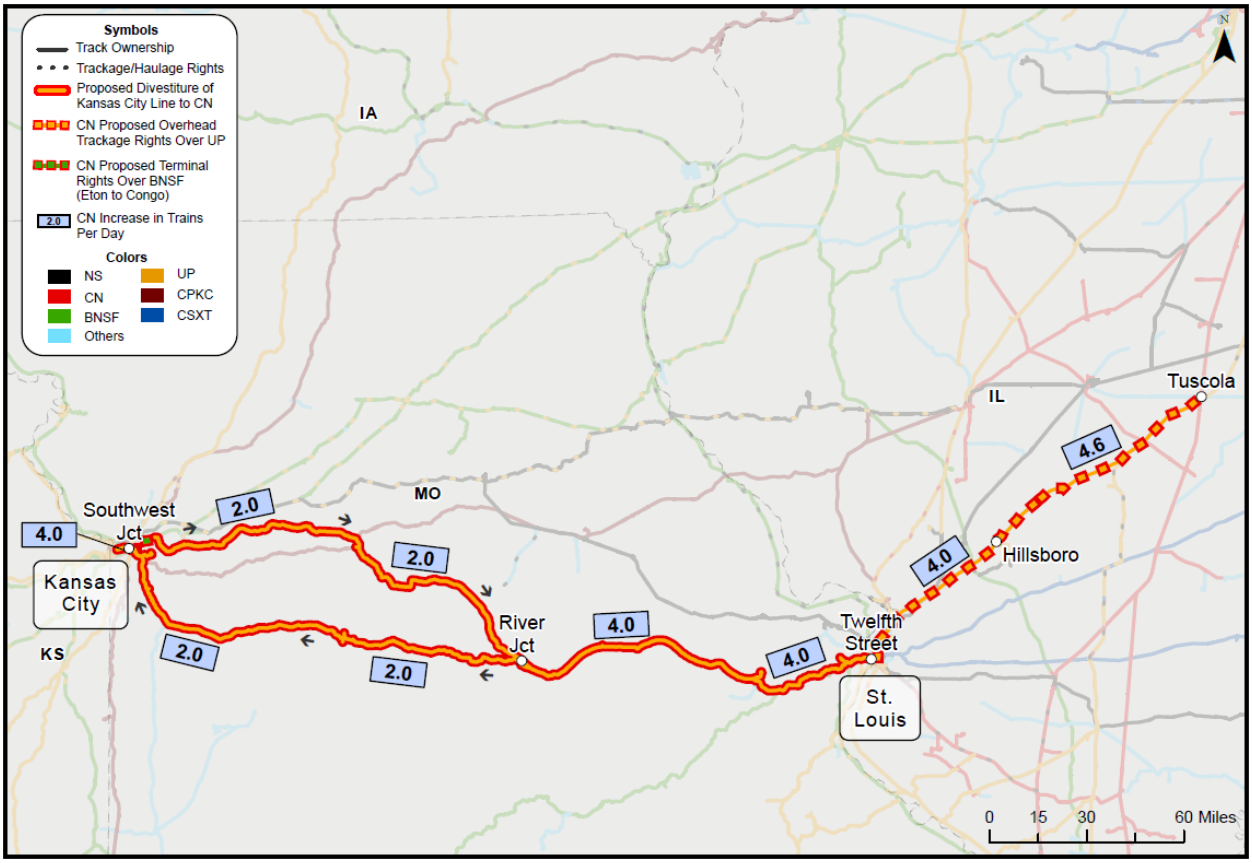
Service Type	Rail-to-Rail Units		Truck-to-Rail Units	Port of Montreal Units	Total Units
	Regular Markets	Shifted Markets			
General Merchandise	8,549	13,450	-	-	21,999
Intermodal	20,096	5,460	48,751	30,000	104,307
Bulk	6,559	22	-	-	6,581
Auto	8,389	15,610	807	-	24,806
Other	-	-	12,951	-	12,951
Total Units	43,593	34,542	62,509	30,000	170,643

Source: Kahwaty V.S., Table 1

[8] Any Highly Confidential information included in this Operating Plan is enclosed in double braces {{ }} and is redacted from the public version filed with the Board.
[9] Verified Statement of Dr. Henry Kahwaty at ¶ 76 [hereinafter "Kahwaty V.S."].

The grant of the requested conditions will reduce greenhouse gas emissions by shifting more than 100,000 trucks off the highway to more environmentally friendly rail service.[10] Although the volume of traffic on the Lines will increase, there will be no adverse impact on operations across the broader network as the projected increase represents, at its peak, only 2 new daily through trains in each direction (4 trains total) on the Kansas City Line. Negligible impacts to Amtrak service are expected.[11]

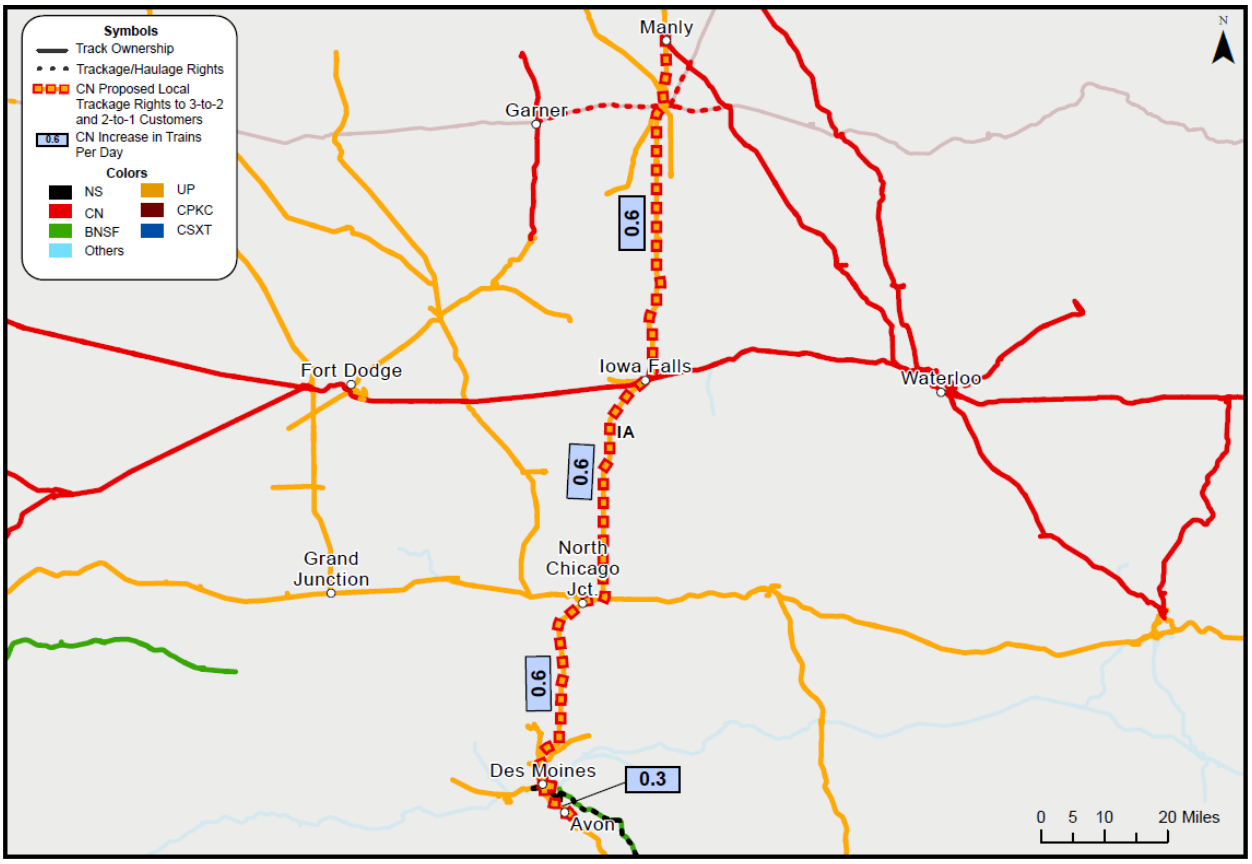
Figure 3
Transaction Related Train Increases on the Kansas City Line and Tuscola Line



[10] Workpaper "T2R Diversion Estimates_Units.xlsx"; Kahwaty V.S. at ¶ 125.
[11] Appendix A, Capacity Assessment of Kansas City, St. Louis and Iowa Lines, Iron Road Software and Simulation, Inc., at § 1.4.1 [hereinafter the "Iron Road study"].

As illustrated in the figure below, CN's proposed operations under its trackage rights over the Des Moines Line are expected to be accommodated without adversely affecting existing operations. CN plans to operate an average of 2 trains pairs per week, including unit train service.

Figure 4
Transaction Related Train Increases on the Des Moines Line



To handle the increased traffic, CN is prepared to make approximately $81.5 million in capital investments by improving existing yards and adding rail connections. These capital improvements will include upgrades to Neff Yard for improved intermodal and automotive service, a new connection at Tuscola to CN's Champaign Subdivision, a new connection at Sullivan, Illinois on the UP's Pana Subdivision to facilitate movements of coal and other unit trains, and acquisition and revitalization of UP's former Sarpy Yard property in St. Louis for

intermodal and automotive service. In addition, a new connection from CN's Waterloo Subdivision to UP at Iowa Falls, Iowa is also proposed.

This Exhibit 13 complies with the requirements for an operating plan for significant transactions set forth in 49 C.F.R. § 1180.8 (2000) for CN Sub-No. 2, Sub-No. 3, Sub-No 4, Sub-No. 5, Sub-No. 6, Sub-No. 7, Sub-No. 8, and Sub-No. 10. Specifically, 49 CFR § 1180.8(b) provides as follows:

(b) For *major* and *significant* transactions: Operating plan (exhibit 13). Submit a summary of the proposed operating plan changes, based on the impact analyses, that will result from the transaction, and their anticipated timing, allowing for any time required to complete rehabilitation, upgrading, yard construction, or other major operational changes following consummation of the proposed transaction. The plan should make clear the gains in service, operating efficiencies, and other benefits anticipated from the merger. The plan should include:

(1) The patterns of service on the properties, including the proposed principal routes, proposed consolidations of main-line operations, and the anticipated traffic density and general categories of traffic (including numbers of trains) on all main and secondary lines in the system. Identify all yards expected to have an increase in activity greater than 20 percent. Changes in operations may be summarized in a *pro forma* density chart.

(2) If commuter or other passenger services are operated over the lines of applicant carriers, detail any impacts anticipated on such services, including delays which may be occasioned because a line is scheduled to handle increased traffic due to route consolidations.

(3) The anticipated equipment requirements of the proposed system, including locomotives, rolling stock by type, and maintenance-of-way equipment; plans for acquisition and retirement of equipment; projected improvements in equipment utilization and their relation to operating changes; and how these will lead to the financial and service benefits described in the summary.

(4) A description of the effect of any deferred maintenance or delayed capital improvements on any road or equipment properties involved, the schedule for eliminating such deferrals, details of general system rehabilitation including rehabilitation relating to the transaction (including proposed yard and terminal modifications), and how these activities will lead to the service improvements or operating economies anticipated from the transaction.

(5) Density charts (exhibit 14). Gross ton-mile traffic density charts shall be filed for applicant carriers containing a map geographically showing those lines handling 1 million gross ton-miles per mile road or more per year and respective densities, expressed in gross ton-miles per year, in each direction, in segments of such lines between major freight yards and terminals, including major intramodal and intermodal interchange points, using the

> corporate or political subdivision name of the points shown as well as the railroad station name. The mileage of each segment of line shall be provided, and should be shown on the chart. Data shown in the density chart shall be for the latest available full calendar year preceding the filing of the application. At applicants' option data may be shown on the density chart or an explanatory list.[12]

In addition, this Operating Plan addresses the requirements of 49 CFR 1180.8(c) for CN Sub-No. 9 (local trackage rights for access to Foresight Energy's facility at Hillsboro, Ill.) and CN Sub-No. 34 (trackage rights for access to Foresight Energy's facility at Carlinville, Ill.), two minor transactions. [13]

Accordingly, this Operating Plan also includes the following information regarding Sub-No. 9 (Hillsboro Line) and Sub-No. 34 (Macoupin Line), which is contained in this Exhibit 13:

1180.8(c) For *minor* transactions: Operating plan-minor (exhibit 15). Discuss any significant changes in patterns or types of service as reflected by the operating plan expected to be used after consummation of the transaction. Where relevant, submit information related to the following:

(1) Traffic level density on lines proposed for joint operations.

(2) Impacts on commuter or other passenger service operated over a line which is to be downgraded, eliminated, or operated on a consolidated basis.

(3) Operating economies, which include, but are not limited to, estimated savings.

(4) Any anticipated discontinuances or abandonments.[14]

[12] 49 C.F.R. § 1180.8(b).
[13] CN's analysis of Sub-Nos. 9 and 34 is comprehensive and meets the Operating Plan requirements for a significant transaction, as well as the lesser requirements of 49 C.F.R. § 1180.8(c).
[14] 49 C.F.R. § 1180.8(c).

As provided in the regulations, the operating plan must "make clear the gains in service, operating efficiencies, and other benefits anticipated." The foregoing requirements are addressed in this Operating Plan.[15]

VI. Qualifications and Background

This Operating Plan (Exhibit 13) is sponsored by Patrick Whitehead, Chief Operating Officer of CN and Kim Hillenbrand, Director with Berkeley Research Group ("BRG"). In preparing the Operating Plan, a number of individuals, including outside experts and consultants, worked closely with each other and with marketing and operating personnel at CN. They used publicly available UP and NS data—as well as data in the UP-NS application and materials produced in discovery—to create this Operating Plan. As described further below, CN's expert network and service planning groups and consultants utilized Rail Traffic Controller ("RTC") software and other modeling approaches to develop robust post-transaction train service plans for the post-transaction CN system.

B. Patrick Whitehead

My name is Patrick Whitehead. I was appointed Chief Operating Officer of CN in October 2025. In this role, I am responsible for all aspects of CN's operations, including Transportation, Engineering, and Mechanical departments. I am a proven and experienced railroad operator with over 30 years of experience at Class I railroads, including the last five years at CN.

[15] 49 C.F.R. § 1180.8.

I joined CN as General Manager in Chicago in 2021, and was appointed to Senior Vice-President, Network Operations in June 2022 and then Executive Vice President and Chief Network Operating Officer in October 2023. Prior to joining CN, I was Vice President, Transportation for Norfolk Southern Railway.

I hold a Master of Science degree in Transportation Management from the University of Denver and have completed the Wharton School of Business' Advanced Management and Corporate Governance programs.

I am sponsoring elements of the Operating Plan that relate to CN's current and proposed future operations and CN's capital and labor plans for the Kansas City Line, the Tuscola Line, the Des Moines Line, the Hillsboro Line and the Macoupin Line.

In doing so, I have not accessed or reviewed any non-CN "Highly Confidential" information subject to the Board's protective orders. Non-CN Data sets and other Highly Confidential Information were handled solely by outside consultants under CN direction, including BRG. I relied on those outside consultants for those parts of this Operating Plan that required access to such Highly Confidential Information.

C. Kim Hillenbrand

My name is Kim N. Hillenbrand. I am a Director with Berkeley Research Group, LLC ("BRG"). BRG is an international firm providing expert analysis and management consulting services in the areas of economics, finance, accounting, and data analytics, among others. My business address is 1800 M Street, N.W., Second Floor, Washington, DC 20036.

I have more than twenty years of experience analyzing regulatory and commercial issues affecting the railroad and related network industries. My work focuses on economics, operations,

regulatory policy, and competition analysis. Before joining BRG, I served as a Section Chief in the Office of Economics at the Surface Transportation Board ("STB"), where I led economic and operational analyses and directed teams responsible for competition review, rate regulation, access pricing, passenger rail disputes, and operational issues. Before joining the Board, I worked at a boutique consulting firm specializing in expert witness and advisory services for the transportation and public utility industries. I have provided expert testimony and supported the preparation of expert testimony in proceedings before the STB, the Federal Energy Regulatory Commission, state public utility commissions, and state courts. My curriculum vitae is included in Appendix C.

I am sponsoring elements of the Operating Plan that involve the description and analysis of Applicants base, optimized and growth plan information, including data modeling and analysis. Specifically, I am sponsoring elements of the Operating Plan that relate to CN's proposed operations for the Kansas City Line, the Tuscola Line, the Des Moines Line, the Hillsboro Line and the Macoupin Line.

VII. Memorandum of Understanding

On July 22, 2026, CN entered into a Memorandum of Understanding with UP related to Applicants' Proposed Transaction ("Settlement MOU").[16] The Settlement MOU was filed by Applicants as part of their Second Supplemental Submission and reflects Applicants' acknowledgement that conditions are needed to address the overlap of Applicants' networks

[16] *See* Second Supplemental Submission at 203-211; CN-30 at 1–2.

between Kansas City and St. Louis and to preserve competition for customer facilities that would lose a Class I option as a result of the Proposed Transaction.[17]

Under the Settlement MOU, UP agreed to: (i) grant CN access to Kansas City and expanded access to St. Louis, where UP and NS operate parallel, overlapping lines, via the Kansas City Line and the Tuscola Line, together with capacity at Neff Yard; (ii) request that the Board designate CN as the remedy carrier for affected 2-to-1 and 3-to-2 customer facilities, where operationally and commercially feasible, unless the shipper has identified a preferred carrier other than CN and UP accommodates that request, in which event UP will provide CN with haulage rights to access the facility; and (iii) request that the Board impose the definitive agreements implementing the Settlement MOU as a condition of the Proposed Transaction.[18]

The Settlement MOU references divestiture of the Kansas City Line. If the Board determines that trackage or haulage rights do not constitute a sufficiently effective remedy and orders divestiture of the Kansas City Line, or if UP decides to sell the line, CN has the right of first refusal to acquire it. If divestiture is not ordered, the Settlement MOU provides for CN to receive haulage rights, convertible to overhead trackage rights at CN's election, and local haulage rights to access customers on the Kansas City Line.[19]

As of the date of this filing, CN continues to cooperate with UP to finalize the numerous complex agreements required to give effect to the Settlement MOU.

[17] *See* Second Supplemental Submission at 203–211; CN-30 at 1–3.
[18] *See* Second Supplemental Submission at 203–211; CN-30 at 1–3.
[19] *See* Second Supplemental Submission at 205; CN-30 at 1, 10.

VIII. Data Sources and Methodologies

The CN Operating Plan for the Kansas City Line, the Tuscola Line, Hillsboro Line, Macoupin Line, and the Des Moines Line (collectively the "Lines") was developed by a team of experienced CN operating employees, under the supervision of Mr. Whitehead, in conjunction with Kim Hillenbrand at BRG. This "Operating Plan team" focused on train scheduling, network capacity and capability, yard and terminal operations, and existing plant and facilities, as well as capital improvements necessary to execute the Operating Plan and maintain fluid train service. CN's current standards for train operations, maintenance, and equipment utilization were applied in developing this Operating Plan. The data sources used and methodology applied to develop the plan are described below.

B. Traffic Data Sources[20]

The traffic analysis conducted in conjunction with the operating plan for this responsive applicant uses 2023 as the base year, consistent with Applicants' approach.[21] Carload volumes, customer information and any associated revenues were derived from traffic tapes, or waybill data, developed by Applicants. In addition to UP and NS's traffic data, the data set includes traffic tapes from the four other Class I railroads.[22] This is the same data used in Applicants' diversion study presented in Mr. Hunt's verified statement[23] and in CN's diversion study

[20] As stated earlier in this Operating Plan, Highly Confidential information, including traffic data, was accessed and analyzed only by outside consultants and experts acting under the direction of Mr. Whitehead.
[21] *See* UP-1/NS-1 at 3, FD 36873 (filed July 30, 2025) [hereinafter "Applicants' Notice of Intent"]; Decision No. 3, FD 36873, slip op. at 2 (STB served Aug. 28, 2025) [hereinafter "Decision No. 3"]; Decision No. 9, FD 36873, slip op. at 4–6 (STB served Jan. 16, 2026) [hereinafter "Initial Application Rejection" or "Decision No. 9"].
[22] UP-39/NS-37, FD 36873 (filed Apr. 30, 2026) [hereinafter the "Amended Application" or "Am. Appl."] Vol. 2, Verified Statement of Elizabeth Bailey at ¶ 96 [hereinafter "Bailey V.S."].
[23] Am. Appl. Vol. 2, Verified Statement of David Hunt at 5 n.2 [hereinafter "Hunt V.S."].

presented in Dr. Kahwaty's verified statement. Applicants' operating witnesses, Eric Gehringer and John F. Orr, used this data in developing Applicants' operating plan.[24] For CN's pre-transaction operating plan, the selected traffic is traffic that traverses the Lines.

To evaluate changes in traffic following CN's proposed acquisition of ownership and operating rights over the lines at issue, we incorporated the traffic projections from both CN's and Applicants' diversion studies into the traffic analysis conducted in conjunction with the operating plan. CN's diversion study, prepared by Dr. Henry Kahwaty, estimates the additional traffic that CN would attract to each individual line.[25] The analysis also includes the traffic that Applicants' diversion study projects would be diverted to the lines at issue.

Although Applicants' operating rights may change on certain lines following the transaction, the analysis assumes that existing post-transaction traffic would remain on those lines. Accordingly, the post-transaction traffic levels used in the analysis consist of the 2023 base-year, pre-transaction carload volumes plus the additional traffic projected by both diversion studies. This assumption concerns the volume of traffic on the lines, rather than the identity of the operating carrier or the allocation of operating responsibilities. No organic growth was incorporated into the post-transaction traffic levels; the modeled increases reflect projected diversions rather than growth in the underlying traffic base.

C. Operating Plan Data Sources

In developing this Operating Plan, the Operating Plan team reviewed and relied on a range of information concerning the existing rail network, current operations, and projected post-

[24] *See* Am. Appl. Vol. 2, Joint Verified Statement of Eric Gehringer and John F. Orr at 12–14 [hereinafter "Gehringer/Orr V.S."].
[25] Kahwaty V.S. at ¶ 76.

transaction traffic levels and operations. Principal sources included the Gehringer/Orr verified statement and the underlying workpapers submitted in support of Applicants' Amended Application, including workpapers associated with the analysis performed using Oliver Wyman's MultiRail software. The team also considered other materials included in the Amended Application addressing traffic densities, projected labor impacts, and anticipated changes in traffic volumes on individual line segments and at yards. These materials provided a basis for evaluating the operating requirements associated with the projected traffic levels.

BRG supplemented the Amended Application materials with information produced by the parties in discovery, including track charts and event data, to the extent those materials were received in sufficient time to be incorporated into the analysis. Additional sources included Google Maps and other publicly available information. In reviewing and interpreting these materials, the team also drew on its members' railroad industry experience and knowledge of operations on the lines at issue. Collectively, these sources informed the team's assessment of operating conditions and the development of the Operating Plan.

The data underlying the Applicants' operating plans provides a common analytical foundation for developing the responsive operating plan for CN's proposed use of the Lines. Information concerning existing and projected traffic volumes, train operations, yard activity, infrastructure, and staffing can be used to establish baseline operating requirements and assess how those requirements would change under changed ownership, operations, and access. By incorporating the traffic changes projected in Applicants' and CN's diversion studies, the team can evaluate the train service, yard handling, crew resources, and infrastructure capacity needed to accommodate the resulting traffic levels and operational changes. Using a common data foundation also facilitates comparison with Applicants' proposed operations, while allowing the

responsive operating plan to reflect CN's anticipated service patterns and operating responsibilities.

This approach does not require adoption of all assumptions or conclusions in the Applicants' plans; rather, it uses their supporting data, supplemented by available discovery materials and the Operating Plan team's expertise, to assess the requirements and operational feasibility of CN's proposed service on the Lines.

D. Methodology

1. Operating Plan Development and Network Design

In developing the Operating Plan, the Operating Plan team drew on its extensive knowledge and expertise in rail network planning, service design, and asset management to establish an operational framework for the services proposed in this Operating Plan Responsive Application. The plans address traffic flows, train service patterns, yard and terminal activities, local service requirements, and the deployment of crews, locomotives, and other operating resources. The pre-transaction plan establishes the baseline against which the proposed post-transaction operations are evaluated, while the post-transaction plan reflects the proposed service changes and associated traffic and resource requirements. Together, these plans provide a consistent basis for assessing operational feasibility, identifying potential capacity constraints, and evaluating the ability to accommodate the proposed services while maintaining safe, reliable, and efficient operations.

2. Modeling

As part of the development of its Operating Plan for the Lines, CN retained Iron Road Software & Simulation, Inc. to model the proposed operations and assess their operational

feasibility. Because portions of the Lines also accommodate Amtrak service and operations by other railroads, the modeling was undertaken to evaluate how CN's proposed operations would interact with those services and affect operations on the shared routes.

Iron Road's complete modeling report (the "Iron Road study"), including its methodology, assumptions, and results, is attached as Appendix A to this Operating Plan. In its report, Iron Road undertakes two different modeling approaches to test the feasibility of CN's proposed operating plans:

- Rail Traffic Controller Simulations
- Line Occupancy Index/ Return grid calculations

a) Rail Traffic Controller

RTC, developed by Berkeley Simulation Software, is a rail-network simulation tool used to evaluate train operations and support transportation planning. RTC combines train-performance calculations with dispatching logic to simulate train movements, including meets, passes, and conflicts, accounting for train consists, equipment characteristics, terrain, and track conditions. The resulting outputs include time–distance diagrams, track-occupancy charts, running times, and operating statistics—allowing analysts to assess interactions among trains, identify bottlenecks, and compare alternative service patterns and infrastructure investments.

In developing and evaluating an operating plan, RTC provides a quantitative framework for testing whether proposed traffic volumes and service arrangements can be accommodated by the modeled network and for identifying operational changes or capital improvements that may be needed.

The Board has recognized the use of RTC simulations as evidence of the operational feasibility of a proposed operating plan.[26] Although planning and service-design tools such as MultiRail support the development of an operating plan, they do not replace simulation software such as RTC, which tests whether the proposed operations can be accommodated under modeled conditions.[27] Using realistic inputs and assumptions developed by CN's experts, RTC simulations and complementary modeling analyses provide a basis for evaluating the feasibility of CN's proposed operations on the lines at issue and identifying potential operating constraints.

For this Operating Plan, Iron Road based the RTC simulation's geographical scope on the River, Sedalia, and Jefferson City subdivisions as well as the MacArthur bridge up to the North Approach (Springfield sub-connection). The A&S and Pana subdivisions were not modeled in the simulation, as they do not host Amtrak operations.[28] The Des Moines Line also does not host Amtrak operations. UP's Springfield Subdivision hosts Amtrak's *Lincoln* and *Texas Eagle* passenger services but because the Macoupin mine that is accessed from the Macoupin Line is currently idled, there is no impact to be analyzed relative to passenger service. If the Macoupin mine is opened in the future, CN would resolve any potential traffic interferences with Amtrak

[26] *See Otter Tail Power Co. v. BNSF Ry. Co.*, NOR 42071, slip op. at 18–19 (STB served Jan. 27, 2006); *Pub. Serv. Co. of Colo. d/b/a Xcel Energy v. Burlington N. & Santa Fe Ry. Co.*, 7 S.T.B. 589, 613–14 (2004); *Sunbelt Chlor Alkali P'ship v. Norfolk S. Ry. Co.*, NOR 42130, slip op. at 13, 18 (STB served June 20, 2014), and slip op. at 5–6 (STB served June 30, 2016).
[27] *See E. I. DuPont de Nemours & Co. v. Norfolk S. Ry. Co.*, NOR 42125, slip op. at 41 (STB served Mar. 24, 2014; updated Oct. 3, 2014) ("MultiRail is used to help develop a comprehensive blocking and train service plan, which then establishes the requirements for the network of yards and other facilities necessary to serve the selected traffic. But it does not replace the Board's traditional RTC simulation that must still be run to confirm the feasibility of the operating plan developed, in part, using the MultiRail software.").
[28] *See* Iron Road study at § 1.2.3.

before beginning service, which is anticipated to be no more than a single train pair per day at most. CN will commit to work with Amtrak to address any issues of concern.

b) Line Occupancy Index/ Return grid calculations

While not a detailed simulation of train operations and delays, a Line Occupancy Index ("LOI") and grid-time calculations are tools for estimating how much rail traffic a line can accommodate and how close proposed operations would come to that capacity. Grid-time analysis estimates capacity from train movements between sidings; LOI expresses traffic volume relative to an estimated capacity.

An LOI estimates how much capacity is being used. An LOI analysis divides a route into segments with similar operating characteristics, estimates each segment's maximum practical capacity, and compares current or forecast train volumes with that capacity.[29]

Grid-time analysis determines how many trains can fit through a segment or bottleneck. For example, on a single line route with passing sidings, an LOI can determine how an opposing train must wait at a siding until the first train has traversed the section and cleared into another siding.

[29] *See also* Gehringer/Orr V.S. Workpaper "Line Capacity Methodology.pdf."

Taken together RTC modeling and LOIs help CN's operating team develop operating plans, allowing the screening for potential bottle necks and estimates of traffic growth and infrastructure alternatives.

3. Base Year Traffic

The starting point for the baseline traffic group used in this analysis is the traffic that moved over the Lines during 2023. Those volumes are adjusted to reflect subsequent changes in traffic levels and supplemented by the additional traffic projected in Applicants' diversion study.[30] The resulting traffic group is consistent with that used in Applicants' Growth Plan and provides a common basis for evaluating operating requirements under CN's proposed operations post-transaction. Accordingly, this baseline represents an adjusted planning scenario, rather than unadjusted 2023 traffic volumes, because it incorporates both changes since the base year and Applicants' projected diversions.

4. Evaluation of Operating Scenarios

The analysis of CN's proposed acquisition and operations over the Lines begins with the traffic and operating conditions that exist independently of those operations. Applicants submitted traffic tapes and supporting operational data provide the foundation for establishing those conditions, identifying the movements that use the line, and determining how those movements are handled within the existing railroad networks.

[30] *See* Hunt V.S.; Gehringer/Orr V.S. at 16 n.13 ("Applicants' merger-related traffic growth expectations are described in the Verified Statement of David T. Hunt. The Growth Plan also includes major changes in traffic volume that are expected to continue (e.g., large new and lost contracts) from the Base Plan traffic."); *see also* Am. Appl. Workpaper "HC-Major Traffic Wins and Losses Since 2023.pdf."

CN's pre-transaction analysis is necessary to distinguish the operating requirements of the existing traffic from changes Applicants anticipate following a merger. Without that distinction, the analysis risks attributing forecast-driven changes in traffic, routing, train service, or terminal activity to CN's proposal rather than to Applicants' assumptions about the merged railroad.

The pre-transaction analysis establishes the initial reference for evaluating a line's operating function. It addresses the traffic requiring service, the trains and switching operations used to handle that traffic, the relevant interchange arrangements, and the relationship between the line and adjoining routes and terminals.

Applicants developed three operating scenarios in connection with their proposed merger: the Base Plan, the Optimized Plan and the Growth Plan. These scenarios answer different questions and should not be treated as interchangeable baselines.[31]

The Base Plan represents the separate UP and NS railroads before integration, using the common 2023 traffic foundation and July 2025 operating designs. It provides the benchmark against which Applicants measure changes in routes, handling, train activity, and resource requirements.[32]

The Optimized Plan represents an integrated UP/NS railroad without the additional traffic Applicants expect integration to attract. For the Optimized Plan, Applicants redesigned the

[31] Gehringer/Orr V.S. at ¶¶ 9, 12–17.
[32] *Id*. at ¶¶ 12–14. The analysis does not use a single historical year for both traffic and service design. Instead, Applicants use 2023 traffic volumes with operating designs current as of July 2025. The Base Plan is therefore a modeled baseline combining historical traffic with a later operating configuration, rather than a reproduction of the railroad's actual operations during one particular year. Applicants explain that this approach incorporates operating changes made after 2023 while retaining a common traffic basis for evaluating the transaction.

service network to exploit single-line operations, remove former UP–NS interchange steps, change blocking and classification arrangements, consolidate selected terminal functions, and adjust train services.

The Growth Plan builds on the integrated Optimized Plan and introduces the traffic Applicants project the combined railroad would attract. Applicants then alter blocks, train frequencies, train starts, terminal operations, and capacity provisions to handle those flows.[33]

For purposes of evaluating CN's proposed acquisition and operation of the Lines, this analysis adopts Applicants' Growth Plan as the post-transaction analytical baseline. The comparison is the Applicants' integrated UP/NS operations under the Growth Plan compared with those same post-transaction conditions modified to reflect CN's proposed acquisition and operations.

CN's approach evaluates CN's proposal against the traffic and operating conditions Applicants themselves project for the integrated railroad over the issue lines. This avoids comparing CN's proposed post-transaction operation solely with a lower-volume, pre-transaction scenario that does not include Applicants' projected traffic gains or their corresponding service changes.

The pre-transaction data remain important for identifying existing traffic and understanding how Applicants developed their projections. However, the Growth Plan, not the

[33] Importantly, the Growth Plan is not constructed solely by adding the diversion forecast to an otherwise unchanged Optimized Plan. Applicants also identify adjustments for major business wins and losses after the traffic base year and potential reopening of idle facilities. These adjustments should be distinguished from the modeled merger-related diversions when interpreting the difference between scenarios. Gehringer/Orr V.S. at 16 nn.13–14.

pre-transaction Base Plan or Optimized Plan, is the starting point for the comparative operations analysis and modeling.

For purposes of CN's Operating Plan, Applicants' proposed Growth Plan is assumed to be operationally feasible. The analysis assumes that Applicants can implement the services, operating arrangements, and capacity provisions on which that plan depends and can accommodate the traffic assigned to it post-merger.

This assumption is adopted to establish a common comparison case. It is not an independent finding that Applicants' traffic forecasts will be realized or that each operating and capacity assumption has been validated. Nor does it resolve the adequacy of particular workpapers, local-service arrangements, or implementation schedules.

Accepting feasibility for this purpose allows for the analysis to focus on a narrower question: what incremental operational effects would result from CN's proposed acquisition and operation on the Lines, relative to Applicants' own feasible post-transaction plan?

5. Growth Plan (Post-Transaction) - Traffic and Operations

The Growth Plan supplies baseline traffic volumes, routes, train services, terminal assignments, and capacity assumptions for comparative operations analysis. CN's post transaction scenario is developed by modifying that baseline to reflect proposed ownership, operating rights, service arrangements, and associated changes in the handling of traffic including traffic diverted by CN or other railroads.

Except where a change is required based on CN's operations team judgement, the comparison holds the underlying Growth Plan, traffic demand and other unaffected assumptions

constant. This permits differences in modeled results to be attributed to CN's operations rather than to unrelated changes in traffic volume or service assumptions.

Infrastructure already assumed necessary for Applicants' Growth Plan remains part of the baseline. Additional infrastructure or operating changes required specifically by the CN proposal are evaluated as incremental requirements, avoiding double counting of improvements already embedded in Applicants' post-transaction scenario.

The analysis assumes Applicants' Growth Plan is feasible, and measures the changes associated with CN's proposed acquisition and operation against that common reference. This is the baseline used throughout the operations assessment and comparative modeling.

CN develops its Operating Plan and related modeling for the Lines using Applicants' Growth Plan traffic levels together with two categories of proposed traffic changes as its Base Case. The first consists of traffic identified in CN's diversion study that is projected to shift from other railroads or other modes of transportation to CN service over the Lines. The second consists of existing CN traffic that would be rerouted through the Kansas City and St. Louis interchanges, rather than its current interchange locations, to provide more efficient routings. Although these interchange changes would alter traffic flows over the affected routes and terminals.

Together, these traffic changes establish the projected volumes and routing patterns used to develop train service, yard and terminal activities, and associated operating resource requirements. The analysis distinguishes between traffic newly attracted to CN and existing CN traffic rerouted (or already moving) to the Lines, accounting for each traffic movement only

once. This distinction is important because both categories may increase activity on particular segments or at particular terminals, even though their effects on total network traffic differ.

The resulting traffic forecasts provide the basis for evaluating the proposed post-transaction Operating Plan and the growth scenarios. The related modeling assesses the effects of the proposed services on the existing operations represented in the base plan, identifies potential capacity constraints and resource needs, and evaluates the feasibility of accommodating the projected traffic while maintaining safe, reliable, and efficient operations.

6. Post-Transaction Operating Plan Implementation

New post-transaction operations will commence as soon as possible following a Board decision approving CN's responsive application. New CN trains operating between Kansas City to Tuscola are anticipated to commence immediately following consummation of the Proposed Transaction and divestiture of the line.[34] Neff Yard is considered largely "plug and play" and would be used immediately for intermodal service.[35] Over time, CN plans to make significant investments at Neff Yard to improve and expand its intermodal operations. CN will also make investments at Neff Yard to facilitate automotive service. Operations over the Hillsboro Line are dependent on new shipper contracts with Foresight Energy, which will not be immediately secured. New traffic on the Des Moines Line is anticipated beginning in year one and continuing until the three-year post-transaction mark, as new shipper agreements are reached. CN traffic on the Macoupin Line does not have an estimated start date because the Foresight Energy Macoupin mine served by the Line is currently idled.

[34] Verified Statement of Janet Drysdale at 14, 16–17 [hereinafter "Drysdale V.S."].
[35] Nair V.S. at 9.

Notwithstanding, the analysis in this Operating Plan addresses a full phase-in of the traffic identified in CN witness Dr. Kahwaty's diversion study and any additional traffic that may move over the issue lines.

To take this traffic into account, the new traffic movements identified in Dr. Kahwaty's diversion study were examined and how each movement flows on the CN network was identified. The post-transaction diverted traffic is primarily intermodal and automotive, with next largest opportunities being agricultural products and coal.

IX. Pre-Transaction Line and Operations

A. Overview of the Lines

UP's track from Kansas City through St. Louis to Tuscola, Illinois consists of two main segments linked in St. Louis by the Terminal Railroad Association of St. Louis ("TRRA") and A&S, a UP subsidiary railroad.

Within Kansas City, UP's K.C. Metro Subdivision includes the Neff Yard and connections to the Kansas City Terminal Railroad ("KCT") and BNSF at Broadway Boulevard. UP's K.C. Metro Subdivision connects with UP's Sedalia and River subdivisions at Rock Creek Jct.

From Kansas City to Jefferson City, UP conducts directional train service – easterly on its River subdivision and westerly on its Sedalia Subdivision. The two single-track divisions converge at River Junction near Jefferson City and a double-track main line continues east to St. Louis as the Jefferson City Subdivision, passing by Jefferson City Yard. To the west, the River Subdivision connects to the Sedalia Subdivision and K.C. Metro Subdivision via trackage rights over BNSF's triple-track route on the Eton to Congo segment.

In St. Louis, UP's Jefferson City Subdivision connects to the TRRA at or near 12th Street, where UP trains continue over trackage rights on the TRRA, including over one of TRRA's bridges over the Mississippi (Merchants or MacArthur) into East St. Louis. In East St. Louis, UP trains have options to access the UP's Pana Subdivision over trackage rights from on A&S (connecting at Lenox in Mitchell with the Pana Subdivision) or via UP's Springfield Subdivision, which also connects to UP's Pana Subdivision at Lenox in Mitchell. UP's Pana Subdivision runs east from Lenox to Tuscola and ends at Villa Grove.

The Hillsboro Line branches off the UP main line on the Pana Subdivision, connecting Foresight Energy's loop track to Deer Run Mine to the UP Pana Subdivision.

The Macoupin Line consists of a portion of UP's Springfield Subdivision from Springfield, Illinois to Nilwood, Illinois, UP's Monterey Subdivision from Nilwood to a connection with the NS Monterey Branch at Monterey Jct. and then into the Macoupin Foresight Energy facility at Carlinville.

The Des Moines Line consists of UP main track between Manly, Iowa and Des Moines, Iowa, passing through Iowa Falls, Iowa, traversing UP's Albert Lea and Mason City subdivisions to UP's Short Line Yard on the Perry Subdivision in Des Moines and continuing on UP's Trenton Subdivision to Avon, Iowa.

A. The Kansas City Line (Sub-Nos. 2 and 3)

1. Line Description

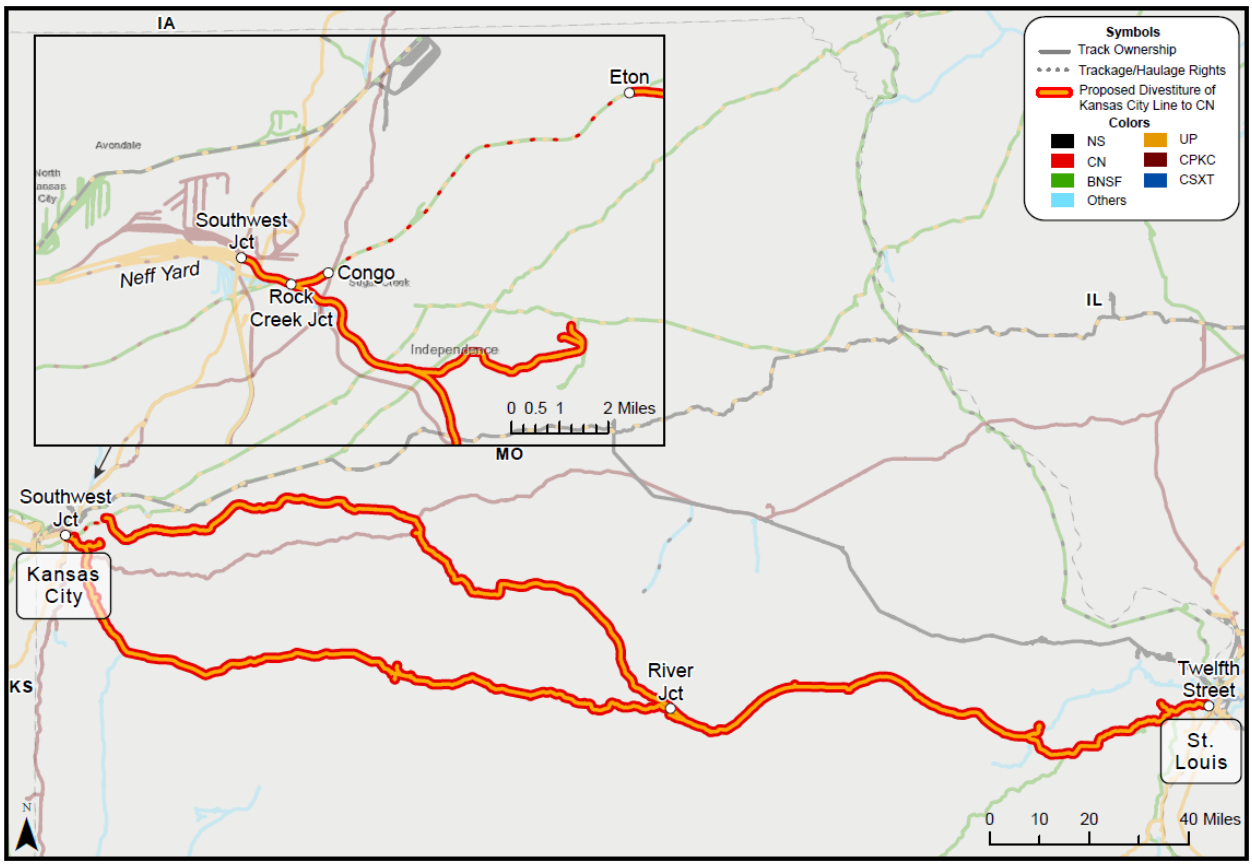
The Kansas City Line consists of approximately 426.8 route miles of rail lines between Southwest Junction in Kansas City, MO, and Twelfth Street in St. Louis. Mo.[36] Approximately 298 of the 426.8 route miles represent two directional segments – the Sedalia and River subdivisions.[37] The remaining segments consist of approximately 128 miles of bi-directional double track mainline on the Jefferson City Sub and approximately 1 mile on UP's K.C. Metro Subdivision (connecting the Sedalia and River subdivisions to the Neff Yard).[38]

The Kansas City Line is part of UP's current Heartland and Mid-America divisions and consists of the following, from west to east and north to south:

- KC Metro Subdivision (at or near MP 278.0 (Southwest Jct) to MP 276.9 (Rock Creek Jct));[39]
- River Subdivision (at or near MP 276.9 (Rock Creek Jct) to MP 128 (River Jct)), including three business tracks and the Marshall industrial lead;[40]
- Sedalia Subdivision (at or near MP 276.9 (Rock Creek Jct) to MP 127.8 (River Jct)), including 15 business tracks and the Pixley industrial lead at Independence;[41] and
- Jefferson City Subdivision (at or near MP 128 (River Jct) to MP 0.36 (Twelfth Steet), including 13 business tracks and the Lake, Labadie and Bagnell industrial leads.[42]

[36] Not including industrial leads, siding, etc. *See* CN Operating Plan Workpaper "CN Conditions Mileposts and Mileage.xlsx."
[37] *Id*.
[38] *Id.*
[39] UP Kansas City Area Timetable No. 5.
[40] *Id.*
[41] *Id.*
[42] *See* UP St. Louis Area Timetable No. 6 and UP Jefferson City Subdivision Track Chart. Note that CN understands the portion of the Jefferson City subdivision between Grand Ave (MP 2.31) and Gratiot (MP 0.17) is dispatched by the TRRA.

Figure 5
The Kansas City Line



The Sedalia and River subdivisions combine at Rock Creek Junction, which to the west becomes the KC Metro Subdivision. Access to Rock Creek Junction from the River Division occurs via trackage rights over a BNSF triple-track connection from Eton at or near MP 276.1 (BNSF MP 436.5) to Congo at or near BNSF MP 444.1.[43] Congo is immediately east of Rock Creek Junction, and UP owns the short distance of trackage between those two points. From Rock Creek Junction, there is an additional 1.1 miles over the KC Metro Subdivision to Southwest Junction, which is at the eastern boundary of the Neff Yard. Access to Neff Yard from the west is provided by connection at Broadway Boulevard (at or near milepost 283.1).[44]

[43] UP Kansas City Area Timetable No. 5.
[44] *Id.*

2. Existing Yards and Other Facilities

a) Overview of UP's KC Metro Yards

Within the UP's KC Metro Subdivision, there are four yards – 18th Street, the Kansas City Intermodal Terminal ("KCIT") (formerly Armourdale Yard), Neff Yard, and the Fairfax Automotive Yard.[45]

The KCIT is UP's new primary intermodal facility in Kansas City where UP recently relocated its intermodal operations from Neff Yard.[46] The Fairfax Automotive Yard is an automotive hub and vehicle distribution center that serves the nearby automotive industry and is positioned adjacent to General Motors' Fairfax Assembly & Stamping plant. The 18th Street yard is UP's primary manifest switching yard.[47] Neff Yard is addressed in a subsequent section.

b) Kansas City Line Yards and Facilities

On the Jefferson City Subdivision, in St. Louis, UP has two nearby yards called the 23rd Street Yard and the former Sarpy Yard property which CN understands to be inactive. The 23rd Street Yard is just west of the MacArthur Bridge and adjacent to the St. Louis Amtrak station. The 23rd Street Yard begins at or near MP 0.3 (under Tucker Blvd, previously called 12th Street) and ends at or near MP 1.3 under S Jefferson Avenue.[48] Roughly 1-mile west, the former Sarpy Yard property begins at or near MP 2.35 (under South Grand Blvd) and ends at or near MP 2.91 (under Choteau Ave).[49] As of the base year, the 23rd Street Yard handled mainly interchange

[45] *Id.*
[46] Gehringer/Orr V.S. at ¶ 167 (noting that certain types of intermodal traffic that is interchanged with NS drayed to NS's Voltz Yard).
[47] *Id.* at ¶ 168.
[48] UP-40/NS-38, "GIS Shape Files.Zip," "UP_Yard_Track" shapefile; and FRA Crossing Data.
[49] *Id.*

traffic while the area around the former Sarpy Yard property and Choteau Ave. was used primarily for block swaps.[50]

The other small yard on the Jefferson City Subdivision is located at Jefferson City at or near MP 125.5. On the Jefferson City Subdivision, crews change at primarily at the Jefferson City Yard, and to a lesser extent, St. Louis (23rd Street) and West Labadie.[51]

There are no major yards along the River or the Sedalia Subdivision.[52] Some limited crew changes take place at Pleasant Hill, MO and Lee's Summit, MO.

Applicants reported details on the originations, terminations, crew changes, and blocks made, swapped, and terminated at the yards and facilities along the Kansas City Line in their Operating Plan. **Figure 6** below summarizes this data for the Kansas City Line and also includes data on related CN Conditions for Kansas City access.

[50] *See* Figure 6 below.
[51] *See* Figure 6 below.
[52] UP Kansas City Area Timetable No. 5.

Figure 6
UP Base Plan Volumes for Yards and Facilities Along the Kansas City Line and Related Kansas City Conditions
{{

}}

Figure 6 shows that the two most significant facilities on the Kansas City Line in terms of originating and terminating traffic are {{

}} The Neff Yard (Kansas City, Mo.) volumes

also contain traffic that is unrelated to the Kansas City Line and, thus, has a higher volume than would be reported if only Kansas City Line related volumes were identifiable and listed.[53]

3. Existing Customers, Traffic and Operations

According to Applicants' Operating Plan, general categories of traffic moving over the Kansas City Line include bulk (grain, grain products, beverages), industrial (construction, metals, government shipments) and large volume of premium (international and domestic intermodal).[54]

Applicants' reported the existing trains running per day on the Kansas City Line in their workpapers.[55] On the Jefferson City Subdivision, the daily train counts (excluding locals) are between 12.28 and 25.15 trains per day.[56] On the River and Sedalia subdivisions, daily train counts (excluding locals) are between 7.30 and 10.16 trains per day.[57] On the KC Metro Subdivision, train counts (excluding locals) are between 11.90 and 43.09 trains per day.[58] The full train count data including local freight and passenger traffic is shown in **Figure 7** below. **Figure 7** includes data on the Kansas City Line segments as well as the related requests for conditions for access to Kansas City.

[53] UP consolidated Neff Yard intermodal operations into its new KCIT, effectively shuttering Neff Yard on July 15, 2025. *See New Kansas City Terminal Begins Operations July 15*, Union Pacific, https://www.up.com/customers/announcements/premium/internationalintermodalterminals/PR2025-44.html (last visited Nov. 15, 2026).
[54] Gehringer/Orr V.S. at ¶ 64.
[55] *See* Second Errata Electronic Appendices (Public), Appendix T – UP/NS Train Counts, UP-100/NS-99, FD 36873 (filed Sept. 4, 2026).
[56] *See* CN Operating Plan Workpaper "Train Counts_CN Conditions.xlsx."
[57] *Id.*
[58] *Id.*

Figure 7
Existing Trains Per Day on the Kansas City Line and Related Kansas City Conditions

CN Condition	Subdivision	Start City	End City	GIS Miles	Base Plan Freight Train Count (daily, excl. locals)	Base Plan Passenger Train Count (daily)	Base Plan Local Train Count (daily)	Base Plan Total Train Count (daily)
Kansas City Line	JEFFERSON CITY	SARPYAVE	ST LOUIS	1.8	25.15	6.00	1.72	32.87
Kansas City Line	JEFFERSON CITY	SARPYAVE	WEST LABADIE	41.9	12.28	4.00	1.70	17.98
Kansas City Line	JEFFERSON CITY	WEST LABADIE	RIVER JCT	80.2	14.61	4.00	2.09	20.70
Kansas City Line	SEDALIA	RIVER JCT	PLEASANT HILL	120.4	7.54	4.00	0.86	12.40
Kansas City Line	SEDALIA	PLEASANT HILL	ROCK CREEK JCT	27.6	9.20	4.00	2.09	15.29
Kansas City Line	RIVER	RIVER JCT	MARSHALL JCT	74	7.30	0.00	0.86	8.16
Kansas City Line	RIVER	MARSHALL JCT	ETON	73.8	7.30	0.00	0.86	8.16
Eton to Congo	MARCELINE (BNSF)	ETON	CONGO	7.7	10.16	0.00	0.85	11.01
Kansas City Line	RIVER	CONGO	ROCK CREEK JCT	0.8	10.16	0.00	0.85	11.01
Kansas City Line	KC METRO	SOUTHWEST JCT	ROCK CREEK JCT	2.6	11.90	0.00	1.71	13.61
Neff Yard	KC METRO	KANSAS CITY	SOUTHWEST JCT	1.1	36.18	0.00	6.00	42.18
Neff Yard	KC METRO	LYDIAAVE	KANSAS CITY	1.2	43.09	0.00	13.44	56.53
Lydia to Broadway	KC METRO	TROOST AVENUE	LYDIAAVE	1.1	43.09	0.00	13.44	56.53
Lydia to Broadway	KC METRO	BROADWAY	TROOST AVENUE	1.2	37.98	0.00	9.44	47.42

Source: *See* CN Operating Plan Workpaper "Train Counts_CN Conditions.xlsx."

There are existing customers on the Kansas City Line that generate originating, terminating, and interchange traffic. Based on the UP traffic tapes, shippers originated {{ }} units on the Kansas City Line in 2023.[59] This does not account for originations at the Neff Yard, which are discussed in a subsequent section. The volume originating on the Kansas City Line in 2023, broken down by CN's business unit categorization consisted of {{ }} metals & minerals, {{ }} grain and fertilizers, {{ }} petroleum and chemicals, and {{ }} forest products.[60] The top ten customers based traffic originating on the Kansas City Line in 2023 are shown in **Figure 8** below. These shippers accounted for {{ }} of the carloads originated on the Kansas City Line.[61]

[59] *See* CN Operating Plan Workpaper "HC_CN Condition Traffic Tape Tables.xlsx."
[60] *Id.*
[61] *Id.*

Figure 8
Top 10 UP Originating Customers on the Kansas City Line in 2023
{{

}}

Based on the UP traffic tapes, customers terminated {{ }} units on the Kansas City Line in 2023.[62] This does not account for terminations at the Neff Yard, which are discussed below. The volume terminating on the Kansas City Line, broken down by CN's business unit categorizations consisted of {{ }} coal, {{ }} grain and fertilizers, {{ }} petroleum and chemicals,{{ }} metals and minerals, and {{ }} forest products.[63]

The top ten customers that terminated traffic on the Kansas City Line in 2023 are shown in **Figure 9** below. These customers account for {{ }} of the carloads terminated on the Kansas City Line.[64]

[62] *See* CN Operating Plan Workpaper "HC_CN Condition Traffic Tape Tables.xlsx."
[63] *Id.*
[64] *Id.*

Figure 9
Top 10 UP Terminating Customers on the Kansas City Line in 2023
{{

}}

4. Existing Locomotive and Car Support Facilities

UP operates a repair facility at its 18th Street Yard in Kansas City, Missouri, staffed by {{ }} employees who perform a range of maintenance and repair services on both locomotives and railcars.[65]

5. Existing Track Condition

Existing main line track is governed by 30-60 mile per hour maximum speeds on the Jefferson Subdivision, classifying track as either 2, 3, or 4 in various locations.[66] The River Subdivision has track maximum speeds of 25-50, and the Sedalia Subdivision has track maximum speeds of 35-55, classifying track as Class 2, 3 and 4 in various locations.

[65] *See* Gehringer/Orr V.S. at ¶ 175; Am. Appl. Workpaper "Mechanical Locations Over 20 Employees.xlsx."
[66] UP St. Louis Area Timetable No. 6.

6. Existing Dispatch

CN assumes that the Kansas City Line is currently dispatched from the Harriman Dispatch Center ("HDC") located in Omaha, Nebraska where centralized dispatching of freight and passenger trains occurs under supervision of a Senior Director of appropriate service territory.[67]

7. Existing Labor

According to the Applicants' workpapers, UP has approximately {{ }} employees assigned to Kansas City, Mo, including {{ }} train crew members, {{ }} locomotive mechanical employees, {{ }} clerical staff, {{ }} track and signal maintainers, {{ }} union supervisors, and {{ }} communications staff.[68]

There are approximately {{ }} UP employees at other stops along the Kansas City Line, including {{ }} employees assigned to locations on the Jefferson City Subdivision (at Pacific, Washington, Hermann, Chamois, and Jefferson City. Mo.), {{ }} employees assigned to locations on the Sedalia sub (California, Sedalia, Warrensburg, and Lee's Summit, Mo.), and {{ }} employees assigned to locations on the River Subdivision (at Boonville, Marshall, and Myrick, Mo.).[69] The employees assigned to these subdivisions are predominantly signal and track maintainers, along with {{ }} train crew members assigned to Jefferson City and

[67] Am. Appl. Vol. 2, Verified Statement of John W. Turner at ¶¶ 379, 469 [hereinafter "Turner V.S."].
[68] *See* CN Operating Plan Workpaper "HC_Craft Employee Impact Report_CN Conditions.xlsx." UP also has a large number of employees assigned to Kansas City, Kansas, which are not included in these counts.
[69] *Id.*

{{ }} train crew members assigned to Lee's Summit.[70] An unknown number of management supervisors cover the subdivisions.

8. Existing Short Lines

In the Kansas City area, UP connects to KCT. KCT is a Class III railroad that owns and dispatches 95 miles of track in Missouri and Kansas.[71] KCT serves as a terminal railroad for its four Class I railroad owners (UP, BNSF, NS, and CPKC). KCT connects with UP in various locations around Kansas City including at or near Broadway and Rock Creek Jct.[72] As part of the Settlement MOU, CN will be acquiring shares in KCT. Local switching operations on the KCT are conducted by the Kaw River Railroad ("KAW"), a Watco subsidiary.[73]

UP connects with Missouri & Northern Arkansas Railroad ("MNA") in Kansas City, Mo. at Neff Yard.[74] MNA utilizes trackage rights over UP's Sedalia Subdivision from Pleasant Hill to Kansas City, Mo. (approximately 32 miles).[75] The MNA is affiliated with Genesee & Wyoming, Inc. and operates approximately 540 miles or railroad from Kansas City to Diaz, Ark. Its traffic consists of "coal, grain, frozen foods, minerals, steel, chemicals, asphalt and forest products."[76]

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[70] *Id.*
[71] *Moving America's Heartland,* Kansas City Terminal Railway, https://kctrailway.com/ (last visited Nov. 8, 2026).
[72] *Greater Kansas City Timetable and Special Instructions*, Kan. City Terminal Ry., at 9–11, 13, 16 (Aug. 14, 2026), https://kctrailway.com/wp-content/uploads/2026/08/KCT_Timetable_SI_8.14.2026.pdf [hereinafter "KCT Timetable"].
[73] *See* KAW River Railroad KAW #587, Union Pacific, https://www.up.com/shipping/short-line/lines/kaw (last visited Nov. 15, 2026).
[74] *Overview,* Missouri & Northern Arkansas Railroad (MNA), https://www.gwrr.com/railroads/missouri-and-northern-arkansas-railroad (last visited Nov. 8, 2026).
[75] *Missouri & Northern Arkansas Railroad MNA #508,* Union Pacific, https://www.up.com/shipping/short-line/lines/mna (last visited Nov. 8, 2026).
[76] *Id.*

9. Existing Passenger Service

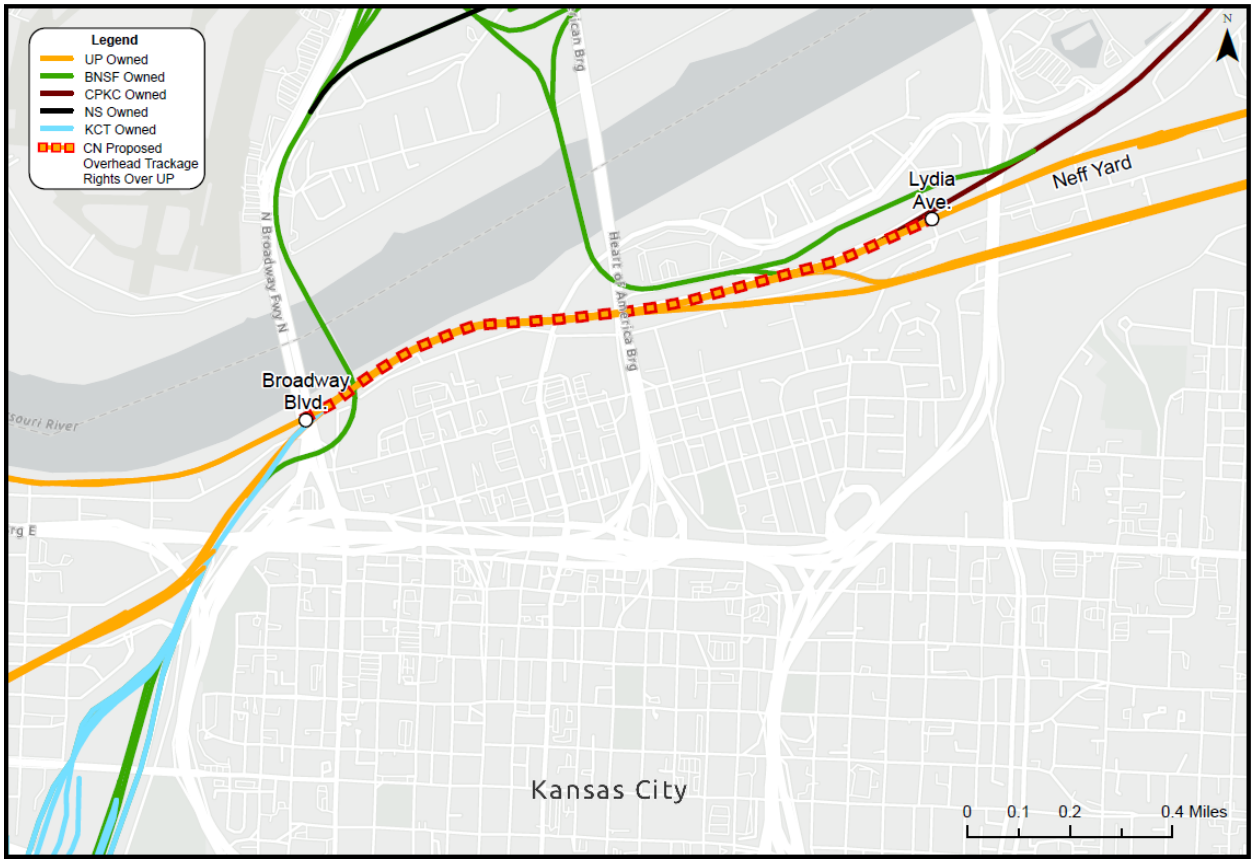
Amtrak's *Missouri River Runner* service operates one train daily in each direction between St. Louis and Rock Creek Junction, Missouri.[77] The River Runner continues on beyond St. Louis to Chicago as part of Amtrak's *Lincoln* service.[78] UP hosts these trains for 271 miles (out of the *River Runner'*s 283 total miles) between St. Louis and Rock Creek Junction.[79]

B. UP Line Between Lydia Avenue and Broadway Boulevard in Kansas City, Mo. (Sub-No. 4)

The track between Lydia Avenue and Broadway Boulevard runs for approximately one mile between approximately MP 281.7 and MP 283.1.[80] At Lydia Avenue the track connects to Neff Yard to the east. From Broadway heading west, the track connects to UP's main line track on the KC Metro Subdivision at or near MP 283.1.[81] UP reported that the total train count on this segment is between 37.98 and 43.09 trains per day (excluding locals) and between 47.42 and 56.53 per day total.[82]

[77] Gehringer/Orr V.S. at ¶ 310.
[78] *Id.* at ¶ 311.
[79] *Id.* at ¶ 310.
[80] UP Kansas City Area Timetable No. 5.
[81] *Id.*
[82] Second Errata Electronic Appendices (Public), Appendix T – UP/NS Train Counts, UP-100/NS-99, FD 36873 (filed Sept. 4, 2026); UP/NS Response to OEA for Second Errata Filing, Master Data Table - Rail Line Segments, EI-34308 and EI-34309, FD 36873 (filed Sept. 9, 2026).

Figure 10
UP Track Between Lydia Avenue and Broadway Boulevard, Kansas City, Missouri



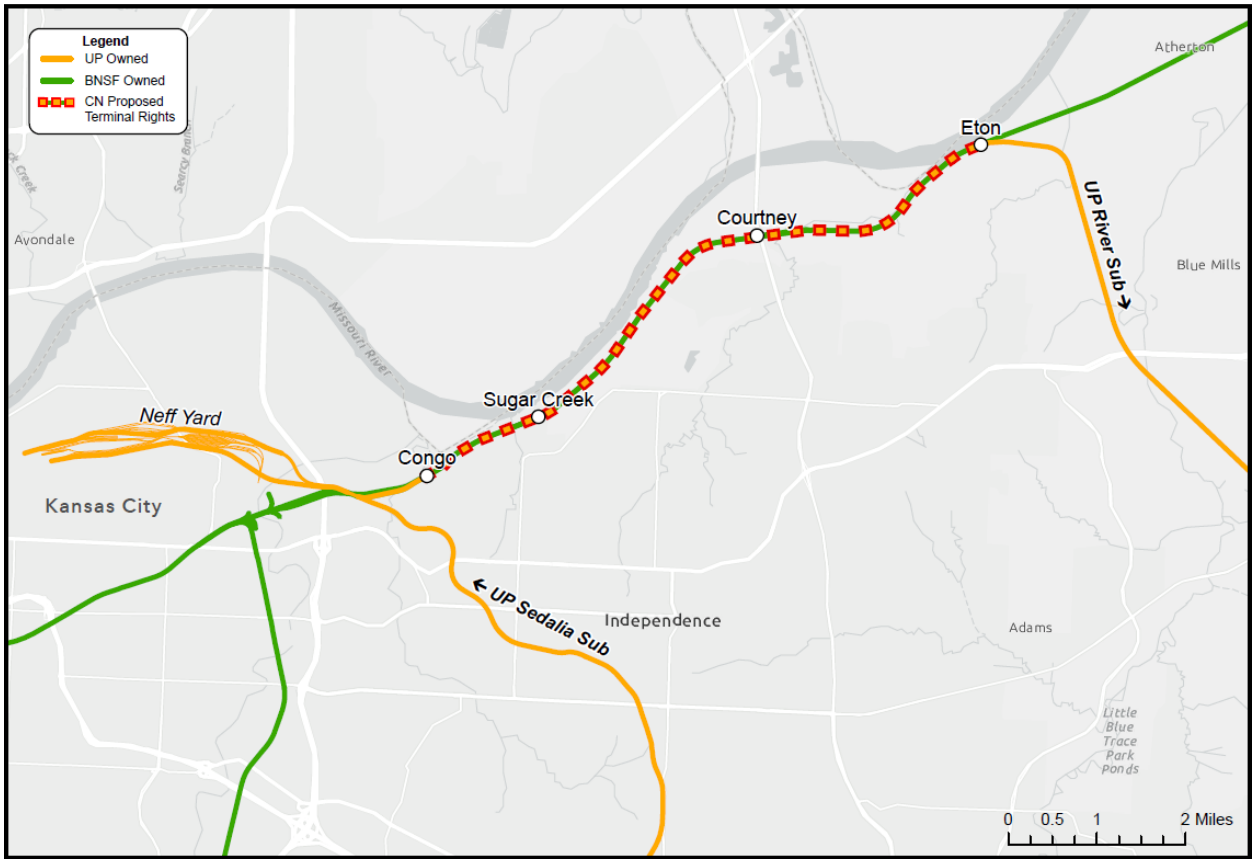
There are no readily identifiable yards, repair shops, or other major facilities on this length of track. CN assumes that the segment of track from Lydia Avenue to Broadway is dispatched from the HDC in Omaha, Nebraska.[83] Track speed is 25-40 miles per hour, indicating it is Class 2 and 3 track.[84] There is no known workforce assigned specifically to this track. Passenger operations are not known to occur on the track.

[83] *See* Turner V.S. at ¶¶ 468–469.
[84] UP Kansas City Area Timetable No. 5.

C. Eton to Congo Segment (Sub-No. 5)

In connection with Kansas City access, CN seeks CN terminal trackage rights pursuant to 49 U.S.C. § 11102 over approximately 7.5 miles of track owned by BNSF between Eton, Missouri at or near MP 276.0 (BNSF MP 436.5) and Congo, Missouri and at or near BNSF MP 444.3.[85] This track is reflected in **Figure 11** below.

Figure 11
CN Terminal Trackage Rights from Eton, Mo. to Congo, Mo.



The BNSF line running from Congo station to Eton station consists of triple track main line and is approximately 7.5 miles long.[86] UP's River Subdivision traffic connects to the line

[85] UP Kansas City Area Timetable No. 5. Note that MP 444.3 is a BNSF milepost designation. The nearest UP milepost designation is Rock Creek Junction at MP 276.9.
[86] *See* CN Operating Plan Workpaper "CN Conditions Mileposts and Mileage.xlsx."

from Rock Creek Junction and heads east to Eton Junction/Lake City, where the River Subdivision continues east until it reaches the Jefferson City Subdivision.[87] Currently UP runs 10.16 daily trains over the Eton-Congo connection (excluding locals) and 11.01 daily trains including locals.[88]

It is CN's understanding that UP trains usually run on a designated third track, operating on only one of three main line tracks that make up this portion of BNSF's Marceline Subdivision. The line is assumed to be dispatched by BNSF at its dispatching headquarters in Fort Worth, TX. There is no known UP workforce specifically assigned to this track, nor are there known repair facilities or customers.

D. Neff Yard, Kansas City, Mo. (Sub-No. 6)

1. Yard Description

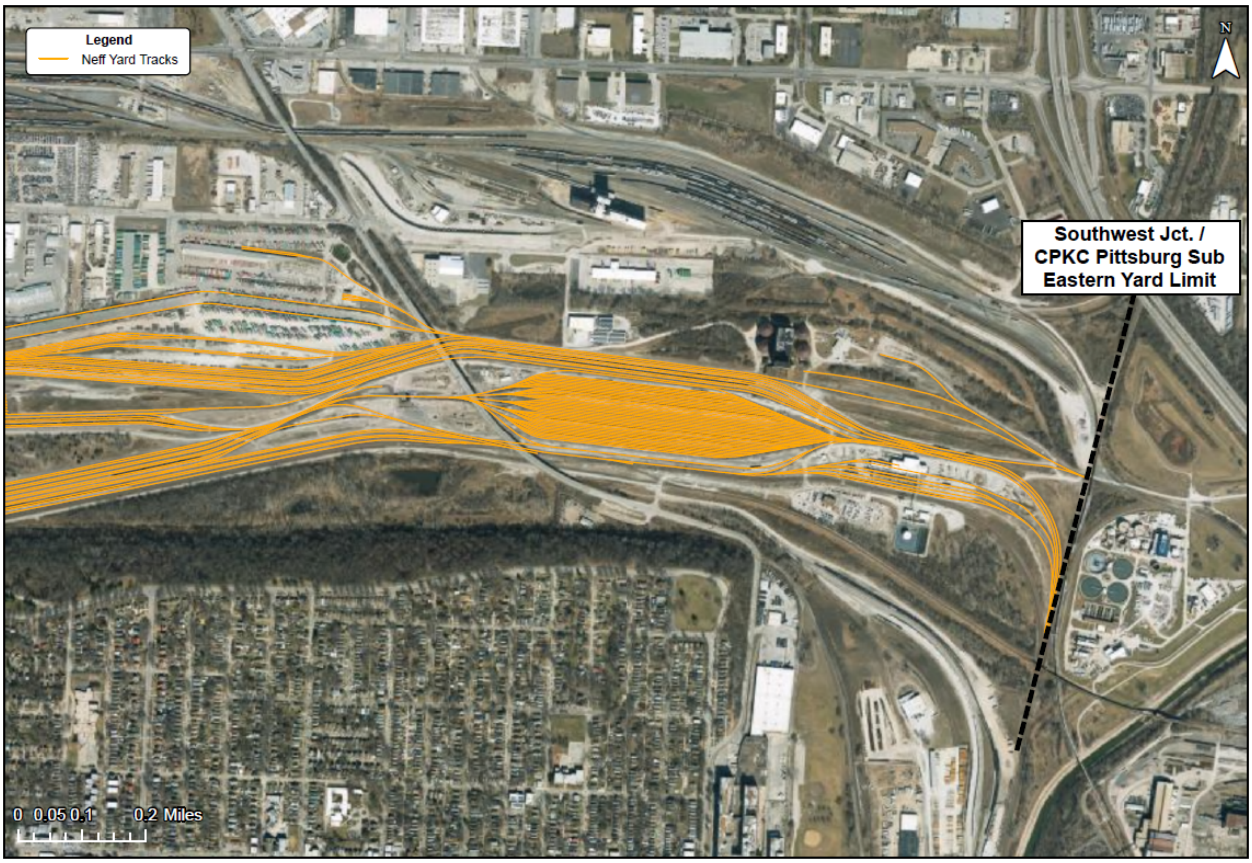
Neff Yard is a major but largely idled yard located at or near MP A279 on UP's KC Metro Subdivision. It is accessed to the west at Lydia Avenue at or near MP A281.7 and to the east at Southwest Junction at or near MP A277.8.[89]

[87] *See* CN Operating Plan Workpaper "Train Counts_CN Conditions.xlsx."
[88] Second Errata Electronic Appendices (Public), Appendix T – UP/NS Train Counts, UP-100/NS-99, FD 36873 (filed Sept. 4, 2026); UP/NS Response to OEA for Second Errata Filing, Master Data Table - Rail Line Segments, EI-34308 and EI-34309, FD 36873 (filed Sept. 9, 2026).
[89] Kansas City Area Timetable No. 5.

Figure 12
Neff Yard – West Side



Figure 13
Neff Yard – East Side



Neff is UP's former intermodal yard in Kansas City, repurposed from a major hump and classification yard but now replaced in functionality by the Kansas City Intermodal Terminal (KCIT).[90] Neff Yard was idled by UP effective July 15, 2025.[91]

Neff Yard has over 40 tracks in various configurations, supporting switching and classification operations.[92]

2. Existing Customers, Traffic and Operations

[90] Gehringer/Orr V.S. at ¶ 167.
[91] *See New Kansas City Terminal Begins Operations July 1*5, Union Pacific, https://www.up.com/customers/announcements/premium/internationalintermodalterminals/PR2025-44.html (last visited Nov. 15, 2026).
[92] *See* ZTS Workpaper "1306 Entire Book.pdf."

Details regarding the existing train counts, originations, terminations, interchanges, blocks, crew changes and other information on the Neff Yard are shown in **Figure 6** above.

As of July 2025, UP ceased intermodal operations at Neff Yard.[93] However, in 2023 Neff Yard was in operation and there were existing customers that generated originating, terminating, and interchange traffic at Neff Yard. As explained above, this traffic has since shifted to other UP terminals in Kansas City. The volume originating at Neff Yard in 2023, broken down by CN's business unit categorization consisted of {{ }} intermodal, {{ }} grain and fertilizers, {{ }} petroleum and chemicals, {{ }} metals and minerals, {{ }} forest products, and {{ }} automotive.[94] While {{ }} of the originating traffic was classified as intermodal according to CN's business unit descriptions,{{ }} of the originating traffic used intermodal equipment.[95]

The top ten customers who originated traffic at Neff Yard in 2023 are shown in **Figure 14** below. These shippers accounted for {{ }} of the units originated at Neff Yard.[96]

[93] *See New Kansas City Terminal Begins Operations July 1*5, Union Pacific, https://www.up.com/customers/announcements/premium/internationalintermodalterminals/PR2025-44.html (last visited Nov. 15, 2026).
[94] *See* CN Operating Plan Workpaper "HC_CN Condition Traffic Tape Tables.xlsx."
[95] *Id.*
[96] *Id.*

Figure 14

Top 10 UP Originating Customers at Neff Yard in 2023
{{

}}

The volume terminating at Neff Yard in 2023, broken down by CN's business unit categorization consisted of {{ }} intermodal, {{ }} grain and fertilizers, {{ }} metals and minerals, {{ }} petroleum and chemicals, {{ }} forest products, and {{ }} automotive.[97] While {{ }} of the terminating traffic was classified as intermodal according to CN's business unit descriptions, {{ }} of the terminating traffic used intermodal equipment.[98] The top ten customers who terminated traffic at Neff Yard in 2023 are shown in **Figure 15** below. These shippers accounted for {{ }} of the units terminated at Neff Yard.

[97] *See id.*
[98] *See id.*

Figure 15
Top 10 UP Terminating Customers at Neff Yard in 2023
{{

}}

3. Existing Locomotive and Car Support Facilities

Neff Yard has an active locomotive shop where employees perform a variety of maintenance and repair functions.

4. Existing Dispatch

CN assumes that the Kansas City Line is currently dispatched from the HDC located in Omaha, Nebraska.[99]

5. Existing Labor

UP has reported that it has {{ }} mechanical employees stationed in Kansas City that perform inspection, maintenance, and repair work.[100] These employees consist of {{ }} locomotive craftsmen, {{ }} rail car craftsmen, and {{ }} "non-agreement" employees who

[99] *See* Turner V.S. at ¶¶ 275, 469.
[100] Gehringer/Orr V.S. at ¶ 373; UPNS workpaper "Mechanical Locations Over 20 Employees.xlsx."

oversee the work.[101] The exact number of employees assigned to Neff Yard is not known by CN, however, some of these employees are assumed to be assigned to Neff Yard, where there are locomotive and car repair facilities.

6. Existing Short Lines

As discussed above, UP connects with the MNA and KCT at Neff Yard.

7. Existing Passenger Service

There is no passenger service that traverses through Neff Yard.

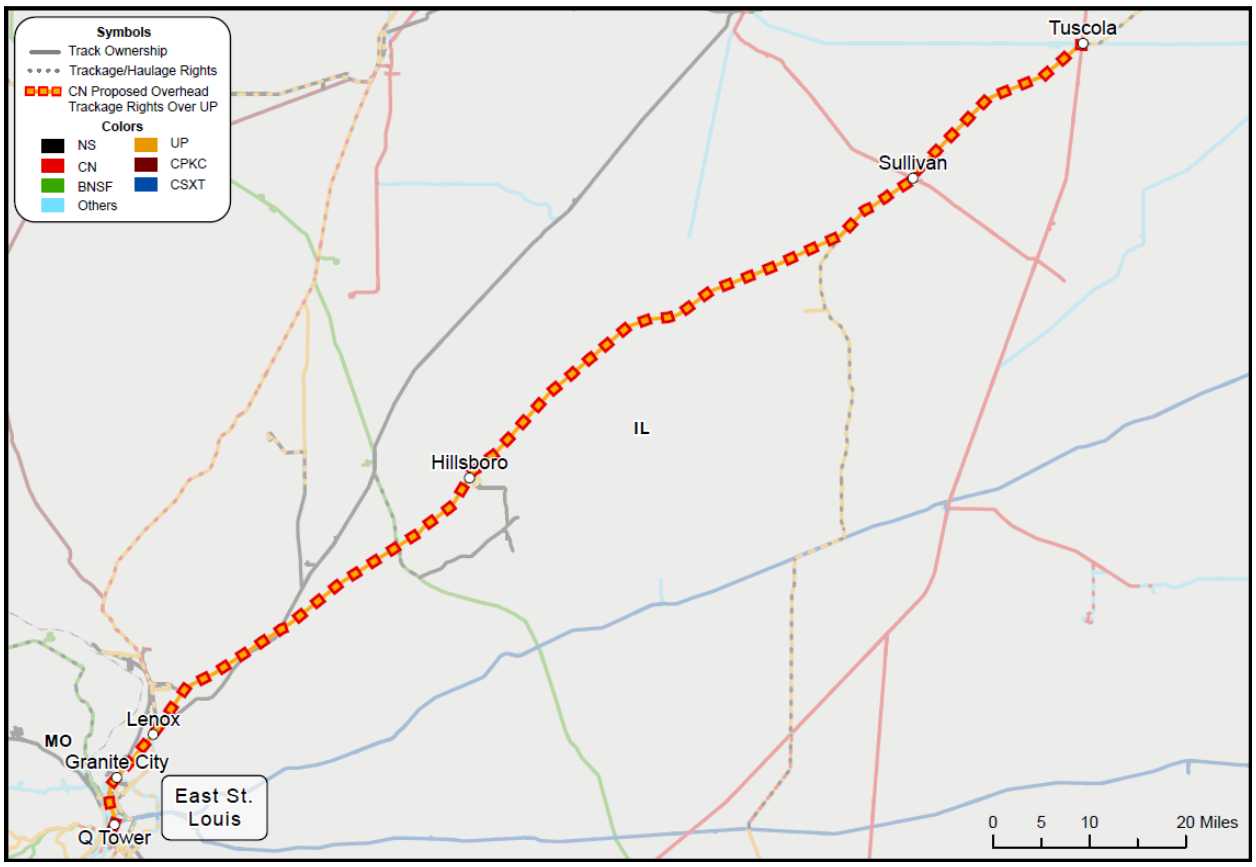
E. The Tuscola Line (Sub-No. 7)

1. Line Description

The Tuscola Line is depicted in **Figure 16** below and consists of approximately 133.2 route miles of rail lines from East St. Louis, IL to Tuscola, IL.[102]

[101] *See* Craft Employee Impact Report in UPNS Workpaper ”Craft Employee Impact Report.xlsx.”
[102] *See* CN Operating Plan Workpaper “CN Conditions Mileposts and Mileage.xlsx.”

Figure 16
The Tuscola Line



The Tuscola Line is part of UP's Mid-America Division and includes sections of UP's Pana and Springfield Subdivisions. On the UP Pana Subdivision, the Tuscola Line spans from Tuscola, IL (at or near MP 153.49) to Lenox, IL (at or near MP 275.4/269.70).[103] On the UP Springfield Subdivision, the Tuscola Line spans from Lenox, IL to Q Tower, IL (at or near MP 281.00).[104]

[103] *See* CN Operating Plan Workpaper "CN Conditions Mileposts and Mileage.xlsx."
[104] *Id.*

2. Existing Short Lines

The Tuscola Line connects with the A&S at Lenox at or near MP 275.4/269.70.[105] The A&S is discussed in more detail below. The Tuscola Line connects with the TRRA at Granite City/WR Tower (at or near MP 275.39) and at Q Tower (at or near MP 281.00).[106] The TRRA dispatches train traffic over the Merchants and MacArthur bridges across the Mississippi River into St. Louis and is discussed in more detail below. In addition, the Decatur & Eastern Illinois Railroad (DREI) connects with the Tuscola Line in Tuscola, Illinois. The Port Harbor Railroad connects with the Tuscola Line in Granite City.

3. Existing Yards and Other Facilities

There are no major yards on the Pana Subdivision. In the St. Louis area, UP has two major yards: Dupo Yard and De Soto Yard. Neither are on the Tuscola Line or the Pana Subdivision. The A&S and TRRA also have yards in the St. Louis area.

The Merchants and MacArthur bridges are significant facilities for rail traffic crossing the Mississippi River, providing important connections between St. Louis and East St. Louis. The bridges are owned and operated by the TRRA.

The industry track leading to the Foresight Energy Hillsboro facility (discussed in more detail below) connects to the Pana Subdivision at or near MP 233. There are three other business tracks and the Westville Industrial Lead on the Pana Subdivision.[107]

[105] UP St. Louis Area Timetable No. 6.
[106] *Id.*
[107] *Id.*

Applicants reported details on the originations, terminations, crew changes, and blocks made, swapped, and terminated at the yards and facilities along the Tuscola Line in their Operating Plan.[108] **Figure 17** below summarizes this data for the Tuscola Line.

Figure 17
Applicants' Base Plan Volumes for Yards and Facilities Along the Tuscola Line

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4. Existing Customers, Traffic and Operations

According to the Applicants' Operating Plan, general categories of traffic moving over the Tuscola Line include bulk (grain, grain products, beverages), industrial (construction, metals, government shipments) and large volume of premium (international and domestic intermodal).[109]

The existing trains run per day on the Tuscola Line per Applicants' workpapers are shown in **Figure 18** below. On the relevant portions Pana Subdivision, the daily train counts (excluding locals) are between 5.03 and 12.29 trains per day, depending on the segment.[110] On the relevant

[108] *See* CN Operating Plan Workpaper "HC_Yard Tables_CN Conditions.xlsx."
[109] Gehringer/Orr V.S. at ¶ 64.
[110] *See* CN Operating Plan Workpaper "Train Counts_CN Conditions.xlsx."

potion of the Springfield subdivisions, daily train counts (excluding locals) are between 9.88 and 10.23 trains per day.[111] The full train count data including local traffic is shown in **Figure 18** below.

Figure 18
Existing Trains Per Day on the Tuscola Line

Subdivision	Start City	End City	GIS Miles	Base Plan Freight Train Count (daily, excl. locals)	Base Plan Passenger Train Count (daily)	Base Plan Local Train Count (daily)	Base Plan Total Train Count (daily)
PANA	TUSCOLA	FINDLAY JCT	32.1	12.29	0.00	1.72	14.01
PANA	FINDLAY JCT	WALSH JCT	58.2	5.03	0.00	1.71	6.74
PANA	WALSH JCT	LENOX	32.1	8.27	0.00	1.18	9.45
SPRINGFIELD	VENICE	WR TOWER	1.9	9.88	10.00	0.00	19.88
SPRINGFIELD	VENICE	Q TOWER	3.4	10.23	10.00	0.00	20.23

Note: The Applicants' workpapers did not report train counts on the Lenox to WR Tower segment of the Springfield subdivison.

Source: *See* CN Operating Plan Workpaper "Train Counts_CN Conditions.xlsx."

5. Existing Track Condition

Maximum track speeds on the Pana Subdivision ranges from 30-60 miles per hour, indicating tracks classifications 2, 3 and 4 at various locations.[112]

[111] *Id.*
[112] UP St. Louis Area Timetable No. 6.

6. Existing Locomotive and Car Support Facilities

There are no significant locomotive or car support facilities on the Pana Subdivision that are known to CN. UP has {{ }} mechanical employees and {{ }} supervisors stationed in St. Louis, but their work locations are not specified.[113]

7. Existing Dispatch

CN assumes that the Pana Subdivision is currently dispatched from the HDC in Omaha, Nebraska.[114] Dispatching over the A&S and TRRA are addressed below.

8. Existing Labor

According to the Applicants' workpapers, UP has approximately {{ }} personnel assigned to St. Louis, including {{ }} train crew members, {{ }} track and signal maintainers, {{ }} locomotive mechanical employees, {{ }} union supervisors, {{ }} communications staff, and{{ }} clerical staff.[115] These employees likely cover operations other than over the Pana Subdivision and Tuscola line. In addition, there are at least {{ }} signal and track maintainers assigned to locations along the Tuscola line, including Athur and Findlay, IL.[116]

9. Existing Passenger Service

Amtrak's Lincoln (Illinois) service operates three trains per day in each direction between Chicago and St. Louis; UP hosts these trains for 241.5 miles between Wann, Illinois, and

[113] *See* CN Operating Plan Workpaper "HC_Craft Employee Impact Report_CN Conditions.xlsx."
[114] *See* Turner V.S. at ¶¶ 275, 469.
[115] *See* CN Operating Plan Workpaper "HC_Craft Employee Impact Report_CN Conditions.xlsx."
[116] *Id.*

Joliet.[117] The Lincoln service does not operate on the Pana Subdivision although it shares track with UP trains on UP's Springfield Subdivision.[118]

The full Lincoln/Missouri River Runner service runs the combined route of the Lincoln (Illinois) and Missouri River Runner services between Chicago and Kansas City once daily in each direction; it operates on UP lines for 512.5 out of 567 total miles.[119]

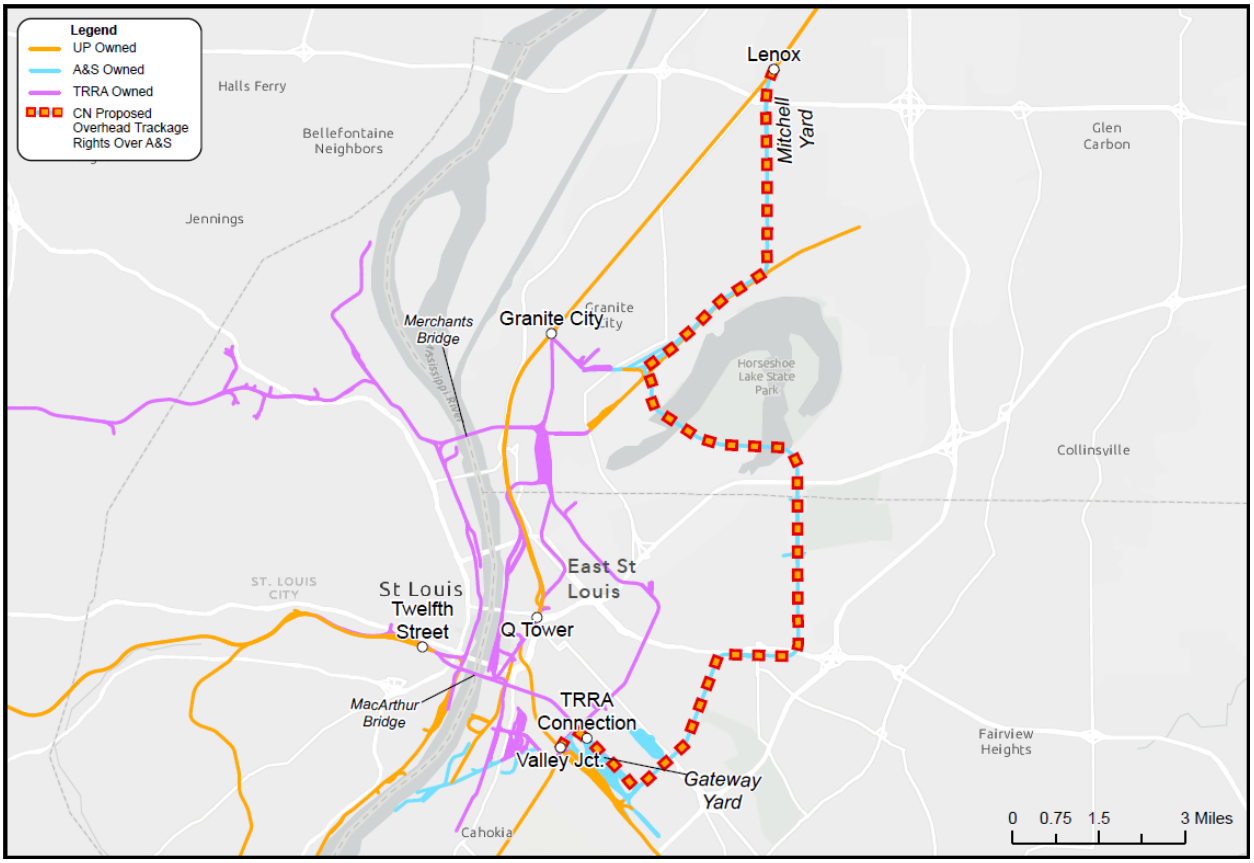
F. Alton & Southern Line Between Lenox, Ill. and East St. Louis, Ill. (Sub-No. 8)

1. Line Description

CN is seeking overhead trackage rights on the A&S between Lenox, Illinois, and Valley Junction in East St. Louis, Illinois. These rights are depicted in **Figure 19** below.

[117] Gehringer/Orr V.S. at ¶ 308.
[118] *See* route map at *Lincoln Service Missouri River Runner*, Amtrak, https://www.amtrak.com/lincoln-service-missouri-river-runner-train (last visited on Nov. 16, 2026).
[119] Gehringer/Orr V.S. at ¶¶ 310–311.

Figure 19
A&S Track Between Lenox, Ill. and Valley Junction, East St. Louis, Ill.



With respect to the Tuscola Line, the A&S track connects to the UP Pana Subdivision at Lenox, Ill. and to the TRRA at Valley Junction, East St. Louis, Ill. The A&S track has connections in several locations in East St. Louis, providing access to UP, NS, CN and the TRRA. A&S is owned by UP.[120] CN does not have information about the track classification of the A&S but assumes any A&S main line track is at least Class 3.

CN understands that A&S track is dispatched by the A&S from its local headquarters in East St. Louis, IL.

There is no known passenger service on the A&S track.

[120] *See About Alton & Southern*, Alton & Southern, https://www.altonsouthern.com/about/ (last visited on Nov. 16, 2026).

G. Terminal Railroad Association of St. Louis **(TRRA)**

1. Line Description

TRRA is an intermediate switching railroad with complex connections to all Class 1 carriers and some short lines. It owns and operates the Merchants and MacArthur bridges, providing an essential rail connection to St. Louis. TRRA's Madison Yard is a major switching and classification yard, with approximately 80 tracks. Madison Yard also has locomotive and car repair facilities. [121] TRRA track is believed dispatched locally by TRRA from Madison Yard. The TRRA has multiple connection points directly with UP.

Amtrak's *Missouri River Runner* operates one train daily in each direction between St. Louis and Rock Creek, Missouri; UP hosts these trains for 271 miles (out of the service's 283 total miles) between St. Louis and Rock Creek.[122] West of the St. Louis Gateway Center, the River Runner operates briefly over TRRA's Merchants Subdivision before connecting to UP's Jefferson City Subdivision.

Amtrak's *Texas Eagle*, which runs between Chicago and San Antonio, stops at the St. Louis Gateway center. UP hosts these trains for 1,086 miles between Joliet and San Antonio, although the UP trackage is not contiguous.[123] The Texas Eagle accesses the St. Louis Gateway Center over TRRA track, connecting from the north to UP's Springfield Subdivision and to the south to UP's DeSoto Subdivision.[124]

[121] *See* Terminal Railroad Association of St. Louis, https://terminalrailroadstl.odoo.com/ (last visited Nov. 9, 2026).
[122] Gehringer/Orr V.S. at ¶ 310.
[123] Second Errata Verified Statement of Eric Gehringer and John F. Orr, section 8.1.1.10.
[124] Gehringer/Orr V.S. at ¶ 317.

H. The Foresight Energy Facilities

1. Hillsboro Line (Sub-No. 9)

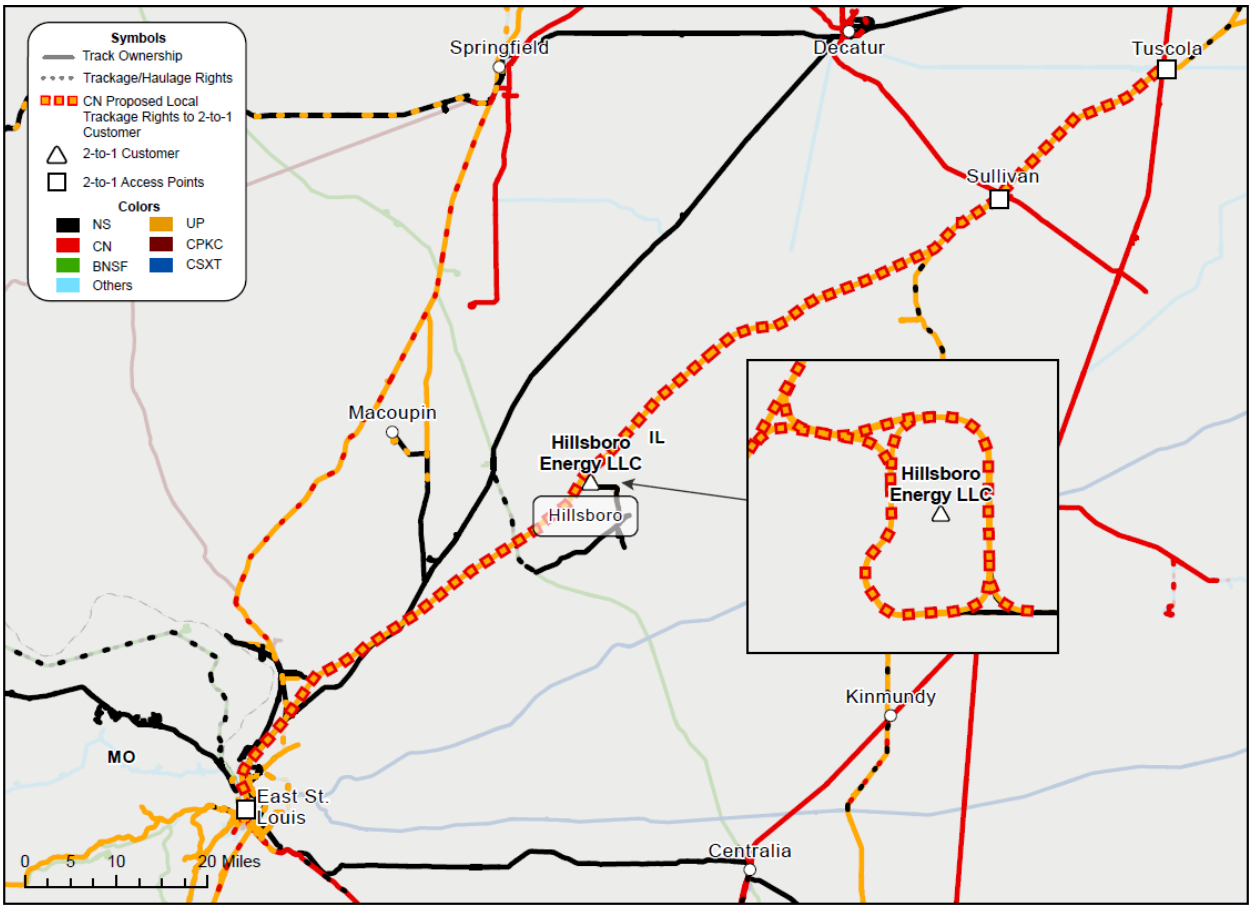
a) Line Description

Applicants each own rail lines serving Foresight Energy's ("Foresight") facility in Hillsboro, IL. CN and Applicants classify this location as a 2-to-1 customer facility.[125] UP accesses the Foresight Hillsboro facility through its Pana Subdivision at or near MP 231.4, which is just northwest of the facility.[126] In this location, UP has a wye to allow access to the Hillsboro facility from trains moving either north or south from the UP Pana Subdivision, which CN assumes is at least Class 2 track. NS accesses the Foresight Hillsboro facility through the Madison branch of its Brooklyn Subdivision. The NS Madison branch connects to its Deer Run Mine Lead near Coffeen, IL at or near MP 395.7.[127] The Deer Run Mine Lead connects to the southwest side of the Foresight Hillsboro facility.

Inside the Foresight Hillsboro facility there is a 25,000 ft single rail loop that can load 3.5 unit trains per day.[128]

[125] Second Supplemental Submission at 58.
[126] UP St. Louis Area Timetable No. 6.
[127] NS Midwest Division, Brooklyn Subdivision, Timetable Number 1 (July 15, 2023).
[128] *See Foresight Energy Invests in Illinois*, Coal Age, https://www.coalage.com/features/foresight-energy-invests-in-illinois/ (last visited Nov. 15, 2026).

Figure 20
Hillsboro Energy Facility



b) Other Details

There are no UP or NS yards located on the Hillsboro track. The track has a circular layout that terminates at the Deer Run Mine. Empty trains arrive on the loop at a coal load-out silo and depart headed in the same direction.[129]

The only customer on the Hillsboro Line is the Foresight's Deer Run Mine. The receiving customers as of 2023 are shown in **Figure 21** below.

[129] *See Operations*, Foresight Energy, https://www.foresight.com/operations/ (last visited Nov. 14, 2026).

Figure 21
2023 Hillsboro Coal Shipments

{{

}}

There are no known locomotive or car support facility, nor is there passenger service or other rail operators on the Line.

UP has {{ }} existing track maintainers and {{ }} signal maintainer that are assigned to Hillsboro.[130]

CN assumes that the traffic to the Hillsboro Line is currently dispatched from the HDC in Omaha, Nebraska.[131] CN understands NS dispatches its traffic to these facilities from its dispatching center in Atlanta, Georgia.

2. The Macoupin Line (Sub-No. 34)

a) Line Description

Applicants each operate rail lines that serve Foresight Energy's currently idled Macoupin mine near Carlinville, Illinois. CN and Applicants classify this location as a 2-to-1 customer facility.[132]

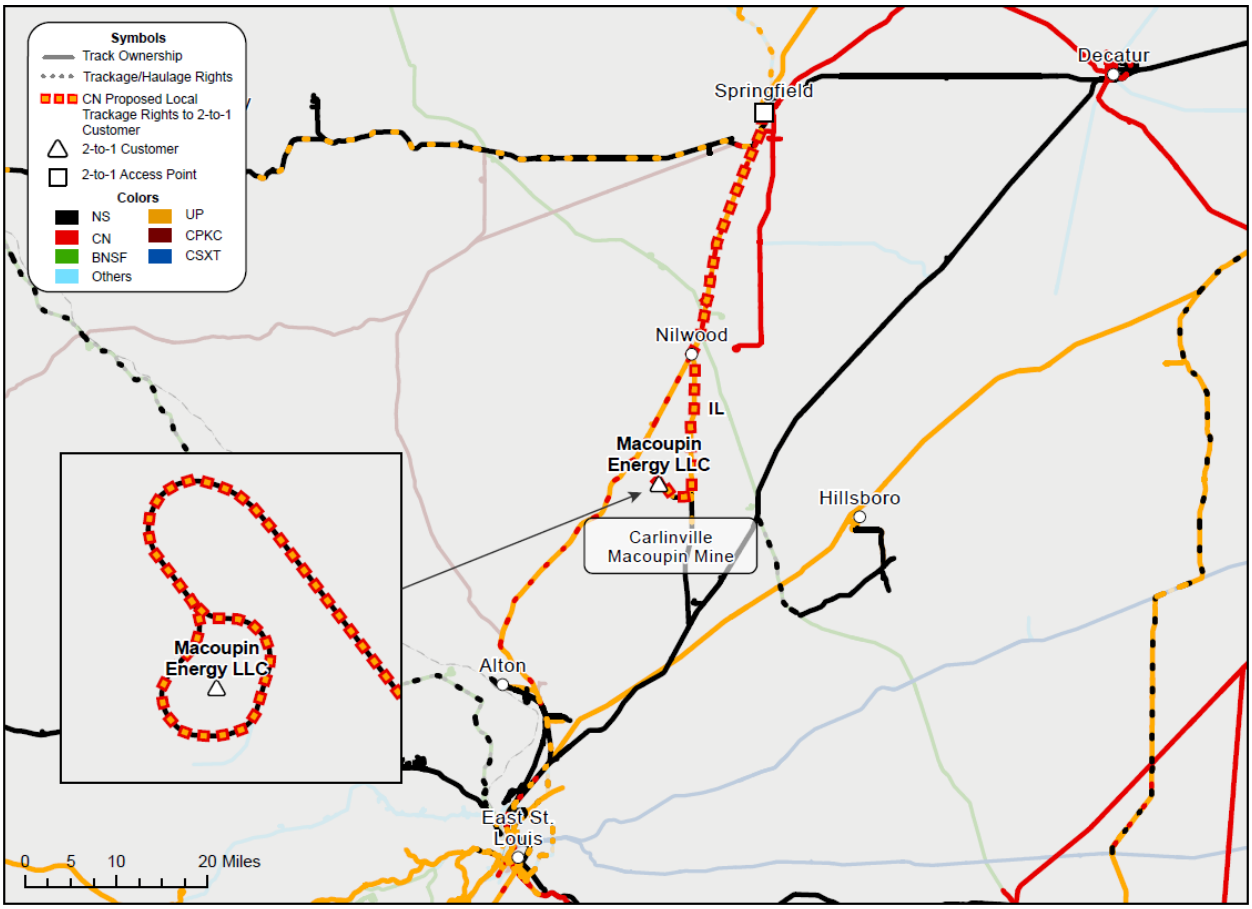
[130] *See* CN Operating Plan Workpaper "HC_Craft Employee Impact Report_CN Conditions.xlsx."
[131] *See* Turner V.S. at ¶¶ 275, 469.
[132] Second Supplemental Submission at 58.

UP accesses the Macoupin mine on its Monterey Subdivision from the north. UP's Springfield Subdivision connects with its Monterey Subdivision at or near MP 213.08 at Nilwood. The Monterey Subdivision is a 15.76-mile access track that runs from Nilwood to Monterey Jct. (at or near MP 104.88).[133] At Monterey Junction the UP track connects with the NS Monterey branch which runs from MP 0.0 at Monterey Jct. to MP 4.4 at the connection to the Macoupin mine.

NS accesses the Macoupin mine from the south, through the Monterey branch of its Brooklyn Subdivision. The NS Brooklyn Subdivision connects with the Monterey branch near Staunton, IL (at or near 451.6).[134] The Monterey branch runs from MP 0 near Staunton to Monterey Jct. at or near MP 14.0, and then from Monterey Jct. to MP 4.4 at the connection to the Macoupin mine.

[133] UP St. Louis Area Timetable No. 6.
[134] NS Midwest Division, Brooklyn Subdivision, Timetable Number 1 (July 15, 2023).

Figure 22
Macoupin Mine, Carlinville, IL Facility



b) Other Details

There are no yards located on the Monterey Subdivision. The only customer on the Macoupin Line would be the Foresight Energy Macoupin mine, if it were still operating. UP did not report any trains (local or otherwise) on its Monterey Subdivision in 2023.[135] There are no known locomotive or car support facility on the Line. Amtrak's *Lincoln* and *Texas Eagle* train services operate on UP's Springfield Subdivision, including between Springfield and Nilwood station.

[135] *See* Second Errata Electronic Appendices (Public), Appendix T – UP/NS Train Counts, UP-100/NS-99, FD 36873 (filed Sept. 4, 2026).

CN assumes that traffic to the Macoupin mine would be dispatched from the HDC in Omaha, Nebraska.[136] CN understands NS would dispatch its traffic to these facilities from its dispatching center in Atlanta, Georgia.

I. The Des Moines Line (Sub-No. 10)

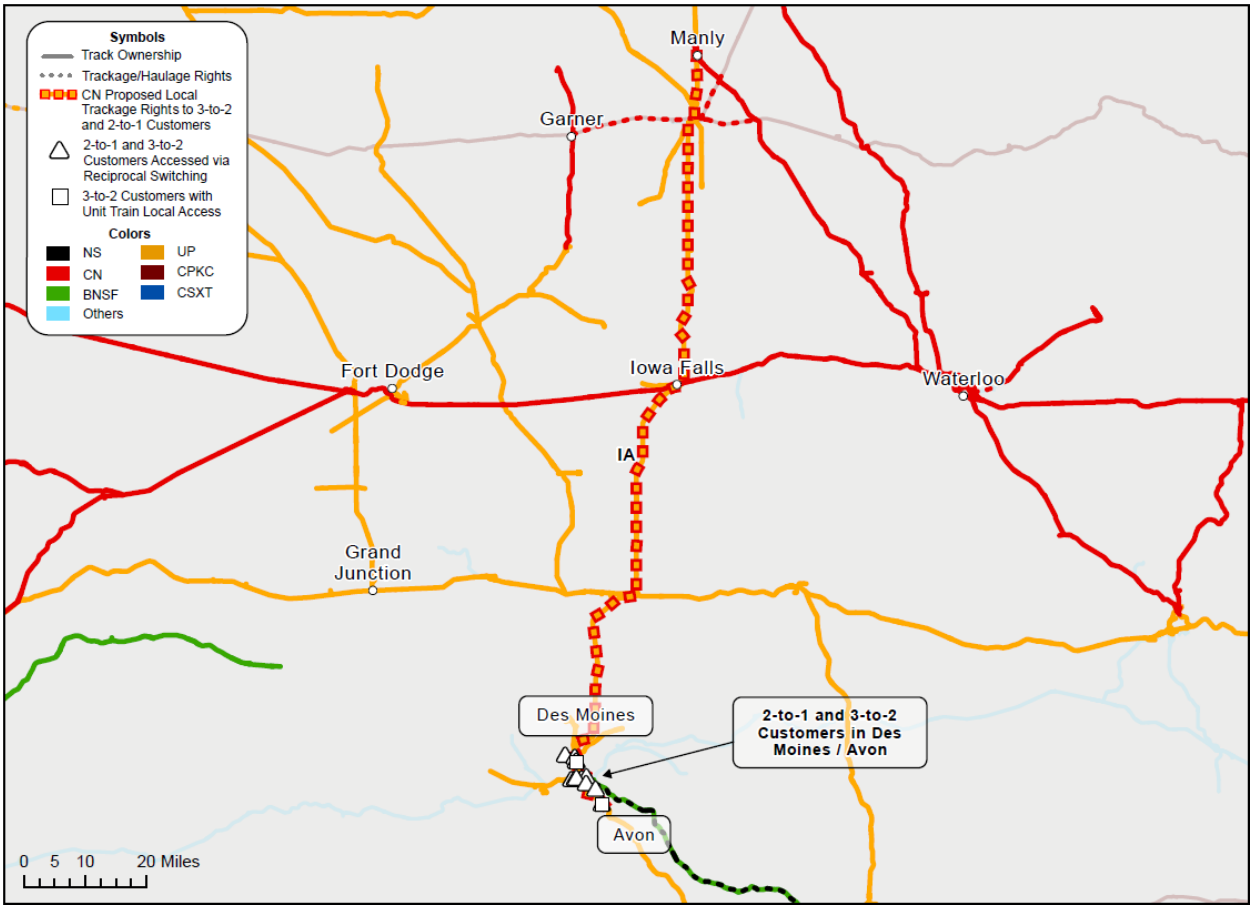
The Des Moines Line consists of two main segments: (1) UP's main line running north to south from Manly, Iowa through Iowa Falls to Des Moines and further south to Avon, Iowa and (2) track within the Des Moines Terminal area owned by NS, in part, and UP, in part, that provides access to numerous 3-to-2 and 2-to-1 customers in Des Moines, including ADM at or near Hull Avenue Yard and Heartland Co-Op in Avon. UP's main line track is in four subdivisions. Manly station is at or near MP 201.87 on the Albert Lea Subdivision.[137] The Albert Lea Subdivision terminates at Mason City station (at or near MP 192.60), where it connects to UP's Mason City Subdivision. The Mason City Subdivision terminates in Des Moines at or near MP 73.61 and connects to the Perry Subdivision and Short Line Yard and Avon.[138] Hull Avenue Yard is at or near MP 75.2 on the Mason City Subdivision.[139] Heartland Co-op is at or near MP 66.80 in Avon on the Trenton Subdivision.[140] Track speed on the Albert Lea Subdivision from Manly to Mason City is 20-25 miles per hour, indicating Class 2 track.[141] Track speed over the entire Mason City Subdivision ranges from 20-60 miles per hour, with a 50 mile per hour limit covering most, indicating most rack is Class 3. Track speed on the Perry Subdivision indicates it may be Class 1 or 2 track.[142] Track speed near MP 66.80 in Avon is

[136] *See* Turner V.S. at ¶¶ 275, 469.
[137] UP Twin Cities Area Timetable No. 6.
[138] UP Iowa Division Timetable No. 6.
[139] *Id.*
[140] UP Kansas City Area Timetable No. 5.
[141] UP Twin Cities Area Timetable No. 6.
[142] UP Iowa Division Timetable No. 6.

Class 3 track.[143] There are numerous business tracks and industrial leads on the Albert Lea, Mason City, Perry and Trenton subdivisions.

NS accesses Des Moines from St. Louis over haulage rights on BNSF, connecting Des Moines to the rest of NS's system. NS owns a small number of tracks serving customers in Des Moines, in addition to Glake Yard.[144]

Figure 23
Des Moines, IA



1. Existing Yards and Other Facilities

[143] UP Kansas City Area Timetable No. 5.
[144] *See* Gehringer/Orr V.S. at ¶ 142.

UP and NS both have yards in the Des Moines area. UP's Short Line Yard is located on its Perry Subdivision at or near milepost 354.50 and is the largest rail yard in Des Moines. UP's Hull Avenue Yard is a smaller support and overflow yard about 1.5 miles north of Short Line Yard. NS's Glake Yard is a small 7-track switching and interchange yard located on NS's Des Moines Subdivision at or near milepost 66.5.

Applicants reported details in their Operating Plan work papers on the originations, terminations, crew changes, and blocks made, swapped, and terminated at the yards and facilities along the Des Moines Line in their Operating Plan. **Figure 24** below summarizes this data for the Des Moines Line.

Figure 24
UP/NS Base Plan Volumes for Yards and Facilities Along the Des Moines Line
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2. Existing Customers, Traffic and Operations

The existing trains run per day on the Des Moines Line are shown in **Figure 25** below. On the relevant portion of the Albert Lea Subdivision, there are 5.56 trains per day (excluding locals).[145] On the Mason City Subdivision, daily train counts (excluding locals) are between 7.54 and 7.88 trains per day.[146] On the relevant portion of the Trenton Subdivision, there are 5.87 trains per day (excluding locals).[147] The full train count data including local traffic is shown in **Figure 25** below.

Figure 25
Existing Trains Per Day on the Des Moines Line

Subdivision	Start City	End City	Miles	Base Plan Freight Train Count (daily, excl. locals)	Base Plan Passenger Train Count (daily)	Base Plan Local Train Count (daily)	Base Plan Total Train Count (daily)
ALBERT LEA	MANLY	MASON CITY	9.27	5.56	0	0.86	6.42
MASON CITY	HAMPTON	MASON CITY	29.9	7.54	0	0.89	8.43
MASON CITY	NORTH CHICAGO JCT	HAMPTON	56.7	7.85	0	1.09	8.94
MASON CITY	DES MOINES	NORTH CHICAGO JCT	33.6	7.88	0	2.43	10.31
TRENTON	AVON	DES MOINES	6.81	5.87	0	0.13	6

Source: *See* CN Operating Plan Workpaper "Train Counts_CN Conditions.xlsx."

There are existing customers in Des Moines and Avon that generate originating, terminating, and interchange traffic. Based on the UP and NS traffic tapes, shippers originated {{ }} units from Des Moines and Avon in 2023.[148] The volume originating in Des Moines and Avon in 2023, broken down by CN's business unit categorization consisted of {{ }} grain and fertilizers, {{ }} metals & minerals, {{ }} petroleum and chemicals, and {{ }}

[145] *See* CN Operating Plan Workpaper "Train Counts_CN Conditions.xlsx."
[146] *Id.*
[147] *Id.*
[148] *See* CN Operating Plan Workpaper "HC_CN Condition Traffic Tape Tables.xlsx."

forest products.[149] The top ten customers based traffic originating in Des Moines and Avon in 2023 are shown in **Figure 26** below. These shippers accounted for {{ }} of the carloads originated in Des Moines and Avon.[150]

Figure 26
Top 10 Originating Customers in Des Moines and Avon, Iowa in 2023

}}

Based on the UP and NS traffic tapes, customers terminated {{ }} units in Des Moines and Avon in 2023.[151] The volume terminating in Des Moines and Avon, broken down by CN's business unit categorizations consisted of {{ }} metals and minerals, {{ }} grain and fertilizers, {{ }} petroleum and chemicals, and {{ }} forest products.[152] The top ten customers that terminated traffic in Des Moines and Avon 2023 are shown in **Figure 27** below. These customers account for {{ }} of the UP and NS carloads terminated in Des Moines and Avon.[153]

[149] *Id.*
[150] *Id.*
[151] *See* CN Operating Plan Workpaper "HC_CN Condition Traffic Tape Tables.xlsx."
[152] *Id.*
[153] *Id.*

Figure 27
Top 10 Terminating Customers in Des Moines and Avon, Iowa in 2023
{{

}}

3. Existing Locomotive and Car Support Facilities

There are locomotive and car repair operations at Short Line Yard. However, Short Line Yard does not have 20 or more mechanical employees assigned to it.[154]

4. Existing Dispatch

CN assumes that the Des Moines traffic is currently dispatched from the HDC located in Omaha, Nebraska. CN understands NS dispatches its traffic within the Des Moines area from its dispatching center in Atlanta, Georgia.

5. Existing Labor

UP has approximately {{ }} employees assigned to Des Moines, including {{ }} train and engine personnel, {{ }} communications and signals employees, {{ }} mechanical

[154] *See* CN Operating Plan Workpaper "HC_Craft Employee Impact Report_CN Conditions.xlsx."

employees, and {{ }} track maintainers.[155] In addition, currently has an additional {{ }} train and engine personnel assigned to Des Moines.[156]

UP has additional craftsmen assigned to other areas on the Des Moines Line. There are {{ }} train and engine personnel, {{ }} mechanical employees, {{ }} communications and signals employees, and {{ }} track maintainers currently assigned to Mason City.[157] There are {{ }} train and engine personnel, {{ }} signal maintainer, and {{ }} track maintainers based in Iowa Falls.[158]

6. Existing Short Lines

The Des Moines Line connects at Mason City with the Iowa Traction Railroad and in Des Moines with the Iowa Interstate Railroad.

7. Existing Passenger Service

There is no passenger service in the Des Moines area.

X. CN's Current Operations

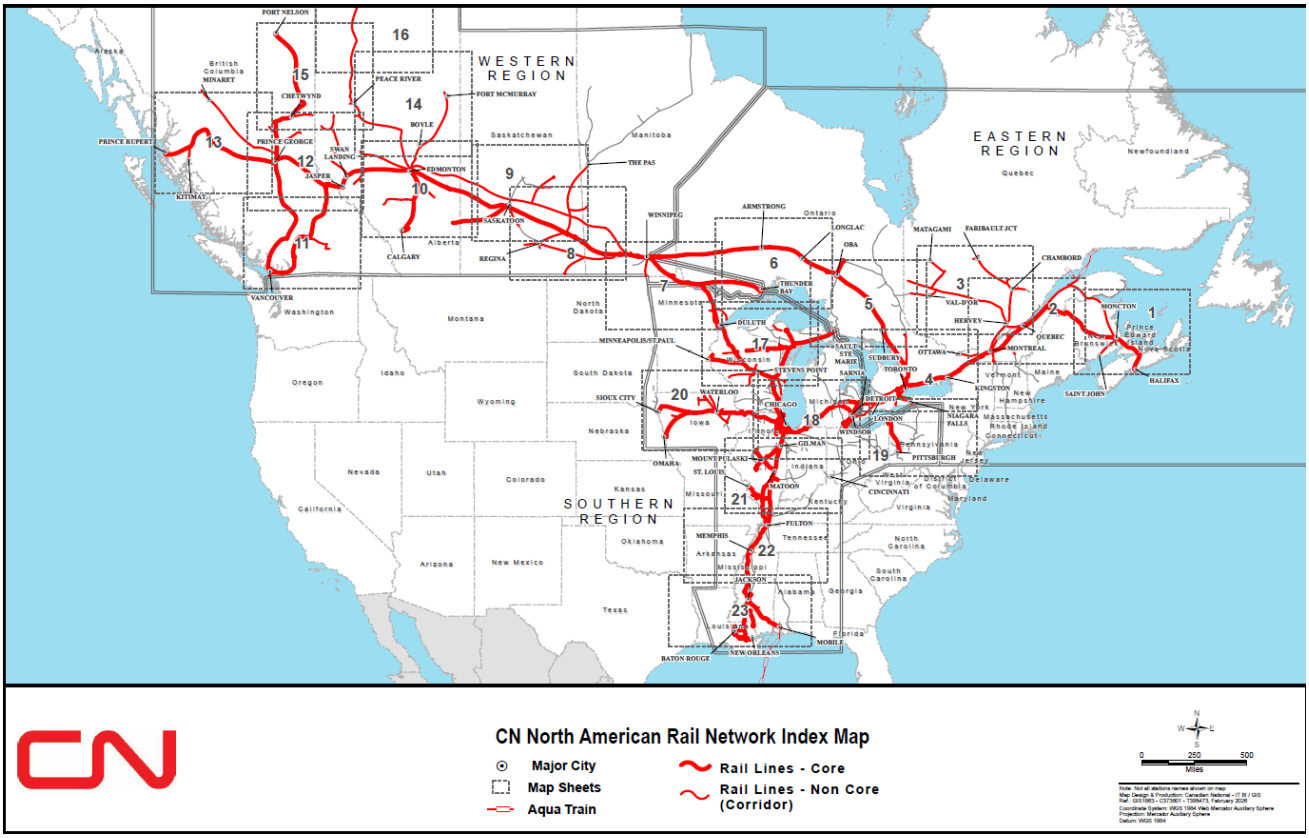
1. Line Description

CN's current network is extensive, with access to customers across 18,600 route miles and service to seven major ports in 17 U.S. states and eight Canadian provinces, covering approximately 5,453 miles in the United States. CN has lines linking the Atlantic, Pacific, and Gulf Coasts of North America. CN has approximately 2,310 locomotives, 51,974 railcars, and

[155] *See* CN Operating Plan Workpaper "HC_Craft Employee Impact Report_CN Conditions.xlsx."
[156] *Id.*
[157] *Id.*
[158] *Id.*

25,975 employees across its U.S. and Canadian system. CN currently operates an average of 479 freight trains per day (including 224 road trains and 255 local and switching assignments).

Figure 28
CN's Existing Network



CN's network is organized into three regions: Western (Western Canada), Eastern (Eastern Canada) and Southern (United States). In the United States, CN's network is organized into three divisions: Midwest, Central, and Gulf. For purposes of this Responsive Application, detail is provided about the portions of CN's network that will be most affected by CN's acquisition of the Kansas City Line and operating rights over the Tuscola Line, the Hillsboro Line, the Macoupin Line, and the Des Moines Line.

Importantly, CN's existing network does not directly reach Kansas City or St. Louis, Missouri. Its St. Louis Subdivision terminates in East St. Louis, Illinois with access to East St. Louis from the south through Du Quoin, Illinois.

In Eastern Canada, some transaction-related impact will occur between Sarnia and Montreal, including Toronto because of increased volume of intermodal traffic to and from the Port of Montreal. In the United States, the increased traffic from the projected diversions will primarily affect CN's Central and Gulf Divisions. The additional trains and cars by segment are described further below.

CN's Gulf Division includes 25 subdivisions, running from Otto, Ill. through Illinois, Kentucky, and Tennessee to Memphis, Tenn., and south to Jackson, Miss. At Jackson, CN's lines split with one line extending southeast to Mobile, Ala. and a second line running south to New Orleans, La. An additional main line extends northwest from New Orleans to Baton Rouge, La. In Illinois, CN lines extend to several western points.

CN's Central Division has 32 subdivisions. It includes CN's line between Conneaut, Ohio and Wallace Junction, Pa. to North Bessemer, Pa. It runs south from Port Huron, Mich. to Toledo, Ohio, then west from Port Huron through Battle Creek, Mich., then onto Griffith, Ind. The Central Division includes Detroit, runs west through and around Chicago, and through to Illinois and Iowa to the most western parts of the CN Southern region, reaching Sioux City, Iowa and Omaha, Neb. The most northern part of the Central Division is Glenville, Minnesota. The Central Division contain the entirety of the Iowa Northern Railway which was acquired by CN in 2025.

CN's Chicago Subdivision between Chicago, Ill. and Tuscola, Ill. is CTC/PTC and permits operating speeds of 60 MPH and 79 MPH for passenger. It is a single-track railroad with passing sidings and has 10 scheduled freight trains and six passenger trains per day.

There are numerous points of interchange along CN's lines between Memphis and Chicago. Non-unit train interchanges of significance include the interchange with CSXT at Effingham, Ill. (daily interchange); Indiana Railroad ("INRD") at Newton, Ill. (interchange six days per week); UP at Salem, Ill. (two daily interchange trains, a finished vehicles/part train and a manifest train); TRRA at East St. Louis (six day turn local interchange); and Paducah & Louisville Railway ("PAL") at Paducah, Ky. (six day turn local interchange). Smaller volume interchanges take place with NS and the Decatur & Eastern Illinois Railroad at Decatur, Ill.; TZPR in Peoria, Ill.; and TPW at Gilman, Ill. The interchange volumes for the five highest volume interchanges as of the base year 2023 are shown in **Figure 29** below.

Figure 29
2023 Interchange Volumes for Most Significant Interchanges Between Chicago and Memphis
{{

}}

2. Existing Yards and Other Facilities

CN operates numerous yards and facilities throughout the United States. Relevant to this Responsive Application, there are five existing major CN yards that serve hump, intermodal, and automotive traffic in the vicinity of Chicago and Memphis. Traffic to and from the Lines will generally traverse one or more of these yards.

a) Greater Chicago Area

Kirk Yard is CN's hump yard in Gary, Ind., southeast of Chicago. The yard consistently processes 2,000–2,200 cars per day. The yard hosts 13 core train departures per day, three core train turn locals departure/arrivals per day, and 16 core train arrivals per day. Additional train movements include interchange with the Gary Rail Works three times daily, the Chicago South Shore & South Bend Railroad ("CSS") short line five days a week in and out, CSXT manifest trains daily in and out, CSXT unit coke and coal trains, and a limited number of NS unit coke trains. The yard's fluid capacity is 3,500 cars, but it can accommodate up to 4,300 cars per day on a short-term basis if necessary.

Kirk Yard has eight receiving tracks, 11 departure tracks, and 53 classification tracks which allow it to classify numerous cars and trains at any given time.

Markham Automotive Yard in Hazel Crest, Ill., south of Chicago, is CN's automotive yard. Markham Yard has two 1,300-foot unloading tracks. It hosts four automotive trains per day, including NS, UP, and the Indiana Harbor Belt Railroad ("IHB") that interchange finished vehicles to CN at this location daily.

CN's Chicago Intermodal Terminal or CIT is in Harvey, Ill., south of Chicago, is CN's largest intermodal yard in the United States. The yard has two tracks of 7,200 feet, two tracks of

6,000 feet, and three tracks of 2500 feet, all with asphalt pad to accommodate chassis movements. The Harvey facility currently hosts 10 intermodal trains per day in and/or out, four automotive trains per day in and/or out, two switching jobs, and two industry jobs. NS, UP, CSXT, and the IHB can all interchange intermodal traffic with CN at Harvey. The yard can flat-switch about 300 cars per day. It also has a small, four-track support yard. CN has a dried distillers' grains ("DDG") transload facility at Harvey that receives product from Iowa and Wisconsin, where it is off-loaded into containers and shipped to Asia.

b) Memphis

Harrison Yard is CN's hump yard in Memphis. The yard consists of eight receiving tracks, four departure tracks, 45 classification tracks and a single pull back on the single hump. The yard uses dowdy retarders and is not a traditional hump yard. The 45 classification tracks come off two separate long leads that are equal in length. Harrison Yard's fluid capacity is about 2,600 cars. The yard consistently processes 1,100–1,300 cars per day. The yard currently hosts 16 core train arrivals and departures daily, including interchange traffic. The yard workload also includes 10–12 bulk trains per day (a number that increases during peak grain harvest season) three transfers per day in and out, four hump assignments, five pull-down trim assignments, and two industry assignments. CN interchanges traffic daily with CSXT, UP, NS, BNSF, and the Grenada Railway short line at Harrison Yard.

CN's Memphis intermodal yard is co-located with CSXT with separated rail operations. CN has two pad tracks (about 6,200 feet each), and CSX has two pad tracks (about 5,500 feet each). Each railroad has an 8,000-foot running track without loading pad. Two CN intermodal trains operate daily out of the yard, with two more operating four days per week. CSXT operates

a daily pair of trains from the facility. CN's Memphis automotive compound is located at a small satellite yard and has two 725-foot unloading tracks.

3. Existing Traffic and Customers

CN has 2.53 million total U.S. originations and terminations (including 534,000 intermodal, 353,000 grain and fertilizer, and 137,000 automotive), existing service to numerous automotive assembly and parts plants, ten intermodal terminals in the United States, and 1,500 high-efficiency hopper cars that can handle up to 40% more grain per train.[159]

Systemwide, CN's traffic is divided into seven commodity groups. **Figure 30** shows the carload breakdown for each commodity group for the Base Year 2023. As noted previously, the most significant commodities for purposes of this Responsive Application are intermodal and automotive traffic.

Figure 30
CN 2023 U.S. Business by Carloads

Business Unit	Carloads
Intermodal	500,693
Automotive	183,800
Grain and Fertilizers	376,988
Metals and Minerals	878,254
Petroleum And Chemicals	432,750
Forest Products	219,316
Coal	208,447
Total	**2,800,248**

Note: Limited to traffic that involes the U.S. Excludes intra-Canada traffic and traffic between Canada and Mexico.

Source: *See* CN Operating Plan Workpaper "2023 CN Carloads by Business Unit Table.xlsx."

[159] Drysdale V.S. at 5; Nair V.S. at 4; Slazinski V.S. at 3; Przednowek V.S. at 8.

a) Intermodal

CN's intermodal commodity business includes rail and trucking services and is comprised of two markets: domestic intermodal and international intermodal. In 2025, CN handled approximately 534,000 U.S. intermodal originations and terminations, representing approximately 40% of CNs total carload volume.[160]

Domestic intermodal transports consumer products and manufactured goods, serving retail, wholesale, and logistics-provider channels, both domestically in Canada and the United States, and cross-border shipments. International intermodal handles import and export container traffic to and from overseas markets, serving the major ports of Vancouver, Prince Rupert, Montreal, and Halifax in Canada, as well as the U.S. ports of New Orleans and Mobile. CN's network of inland intermodal terminals, located near ports and large urban centers, connects customers to major markets in North America and overseas.

CN operates 23 intermodal terminals in North America, including 10 in the United States, with facilities in Chicago and Memphis. CN runs more than {{ }} weekly scheduled intermodal trains and has daily access to approximately 1,050 trucks for first- and final-mile service. CN serves {{ }} U.S. intermodal customers and has agreements with eight port authorities and 15 port terminals, including the ports of New Orleans and Mobile. Through a partnership with CSX, CN also has access to the ports of New York/New Jersey and Philadelphia, and through a partnership with CPKC, CN has access to the Gulfport facility in Mississippi that services Midwest markets.[161]

[160] Nair V.S. at 3–4.
[161] *Id.* at 3–4.

b) Automotive

CN's automotive commodity group moves both domestic finished vehicles and vehicle parts throughout North America, providing service to vehicle assembly plants in Ontario, Michigan, and Mississippi. CN currently serves 11 vehicle assembly plants and 18 automotive facilities, has direct access to six ports, and handles more than 2 million finished vehicles annually.[162] This includes vehicle distribution facilities in Canada and the United States, as well as parts production facilities in Michigan and Ontario. CN also serves automotive shippers via the ports of Halifax and Vancouver, and through interchange with other railroads. CN's network of automotive facilities is used to distribute vehicles throughout Canada and the U.S. Midwest.

c) Grain and Fertilizers

CN is one of the largest transportation providers for the shipment of grain and grain product in North America. CN performs originations and terminations of grain for approximately {{ }} customers in the United States, including numerous Iowa locations.[163] The grain and fertilizers commodity group primarily includes crops grown and fertilizers processed in Western Canada and the U.S. Midwest.

Grain products transported by CN include wheat, oats, barley, flaxseed, rye, peas, lentils, corn, ethanol, dried distillers grain, canola seed and canola products, soybeans, and soybean products. CN also serves major producers of potash in Canada, as well as producers of ammonium nitrate, urea, and other fertilizers across Canada and the United States.[164]

[162] Slazinski V.S. at 3.
[163] Przednowek V.S. at 3.
[164] Ellis V.S. at 12.

CN's grain-related traffic moves to domestic end-users and to international markets. Traffic destined to domestic end-users includes the movement of feed ingredients such as corn and soybean meal to receivers in Mississippi and the Mid-South, the Midwest, and eastern Canada; ethanol shipments to destinations in Canada and the United States; and bulk grain to corn, soybean, wheat, oat, and barley processing facilities. U.S. traffic destined primarily for overseas markets moves directly by rail to grain terminals in the New Orleans and Mobile areas. In addition to rail shipments moving directly to grain export terminals in the U.S. Gulf region, CN accesses multiple barge-loading locations along the inland waterways system, with locations stretching from southern Illinois to northeastern Iowa and northwestern Illinois.[165]

d) Metals and Minerals

CN is a leading carrier of metals and minerals in North America, moving a large and diverse portfolio that includes steel and other ferrous products, non-ferrous metals such as aluminum, base metal ores and concentrates such as copper and zinc concentrate, lithium, cement and construction aggregates, frac sand, and dimensional and oversized loads such as heavy machinery and transformers. Metals and minerals make up a larger share of CN's industrial products business than forest products.[166]

CN serves 10 aluminum smelters, more than any other railroad in North America. CN is also a top transporter of iron ore, serving docks in Duluth, Minnesota, Two Harbors, Minnesota and Conneaut, Ohio, and moving iron ore by both rail and vessel over the Great Lakes to Gary, Indiana, Cleveland, Ohio, Detroit, Michigan and the CN docks at Conneaut, Ohio for delivery in Pittsburgh, Pennsylvania. In addition, CN moves iron ore from the Upper Peninsula of Michigan

[165] Przednowek V.S. at 4–5.
[166] Verified Statement of Kelly Levis at 3 [hereinafter "Levis V.S."].

to Toledo, Ohio for interchange with CSXT. CN serves metals distribution centers in Detroit, Michigan, Chicago, Illinois, Memphis, Tennessee and Mobile, Alabama.[167]

CN's steel business moves in both directions over the border. U.S. primary origins are centered around Indiana, Mississippi, Illinois and Arkansas.[168]

e) Coal

CN is a significant mover of coal traffic in the U.S. and across North America. CN's North American rail system spans three coasts, connecting the U.S. Midwest with lines running parallel along the Mississippi River to the Gulf Coast with Canada's Eastern and Western coast through an approximately 18,600-mile network that runs through the U.S. heartland.[169]

CN's network directly and indirectly serves thermal and metallurgical coal production and associated demand centers in the U.S. Midwest, Northeast, and Southeast, as well as critical ports of the West Coast and Gulf Coast within Canada and the United States, enabling the export of both thermal and metallurgical coal via river, the Great Lakes and St. Lawrence Seaway, and deep-water ports on all coasts. CN moves an average of approximately 45 million short tons of coal every year. In 2025, CN performed originations or terminations of coal, petroleum coke, and metallurgical coke for approximately {{ }} carloads across {{ }} U.S. customers. CN has direct access to an expanding set of facilities, currently numbering 11 active or idled mines, seven petroleum coke-producing facilities, and six high-capacity export terminals, and serves coal mines, petroleum coke sources, barge transload terminals, and export terminals across

[167] *Id.* at 3.
[168] *Id.* at 4.
[169] Ellis V.S. at 4.

Illinois, Kentucky, Tennessee, Michigan, Louisiana, and Alabama, including mines in the Springfield, Illinois area and transload terminals in East St. Louis and Chicago.[170]

CN's rail lines in the United States reach Alabama, Illinois, Kentucky, Louisiana, Mississippi, Tennessee, and Wisconsin. This network gives CN single-line access from Illinois Basin coal origins to river barge loading locations on the Ohio River and the Mississippi River, Gulf export terminals, and utilities and industrial customers throughout the Mid-South and Gulf Coast regions. CN connects indirectly to move Powder River Basin coal through interline moves from UP or BNSF.[171]

4. Existing Dispatch

In the United States, CN dispatches trains from a dispatching center at Homewood, Ill. This dispatching facility operates 24/7, 365 days per year with approximately 90 employees—predominantly rail traffic controllers—and dispatches all CN lines in the United States. Homewood uses Precision Dispatch System ("PDS") as its dispatch system. CN operates 11 dispatch desks at Homewood each shift, seven days a week. The Homewood rail traffic controllers are responsible for dispatching an average of 108 trains per day across 92 subdivisions in the United States.

5. Existing Labor

CN has approximately 25,975 employees across its U.S. and Canadian operations, representing all railroad crafts as well as management.

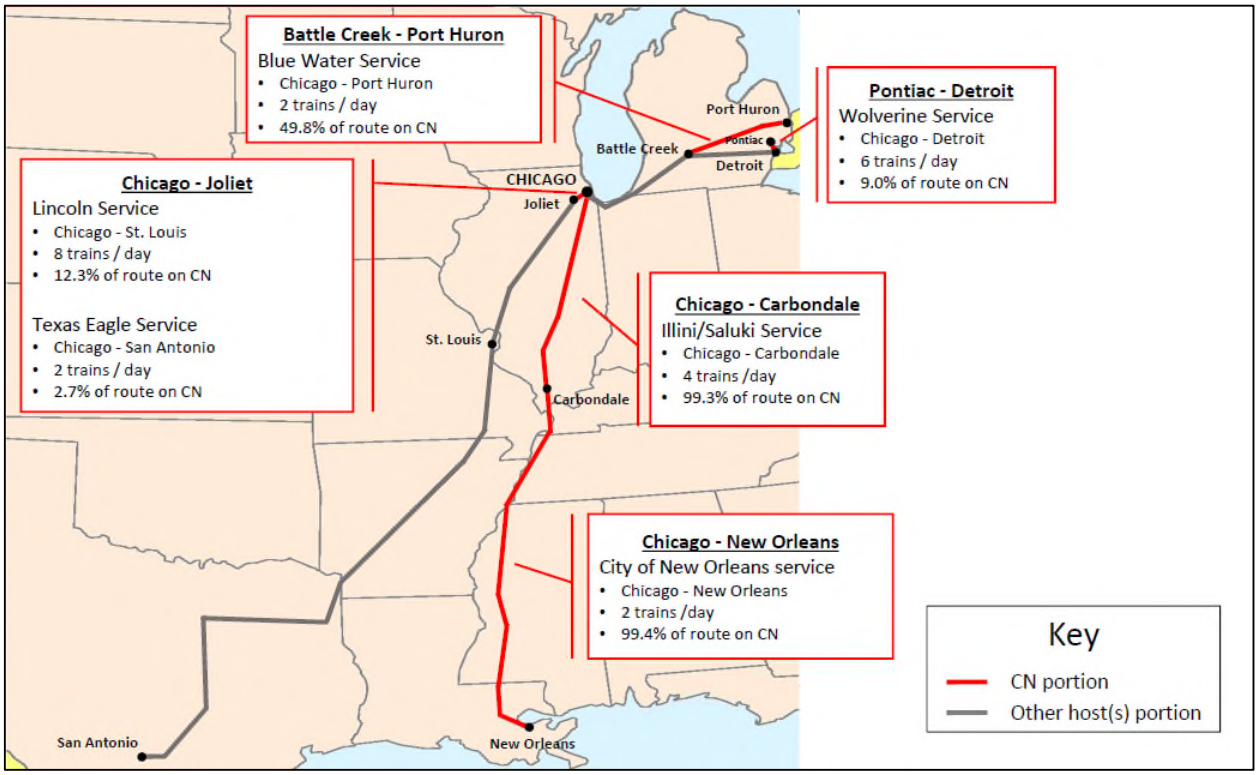
[170] *Id.* at 4–5.
[171] *Id.* at 5.

6. Existing Passenger Service

a) Existing Intercity Service on CN (Amtrak)

Figure 31 is a visual representation of Amtrak routes on CN's current network. Details are provided below by state regarding the depicted routes.

Figure 31
Amtrak Routes on CN



(1) Michigan

Pontiac, Mich., to West Detroit, Mich.: Amtrak's Wolverine service is a Michigan state-sponsored service that operates three daily train pairs between Pontiac, Detroit, and Chicago.[172] The Wolverine service operates on CN lines for 15 miles between Pontiac and West Detroit.

[172] *See Wolverine Route Timetable*, Amtrak, https://content.amtrak.com/content/timetable/Wolverine.pdf (last visited Nov. 17, 2026).

Port Huron, Mich., and Battle Creek, Mich.: Amtrak's Blue Water service is another Michigan state-supported service with one daily train pair operating between Chicago and Port Huron, Mich.[173] The Blue Water service utilizes CN trackage between Battle Creek and Port Huron, and also operates over other freight rail lines to reach Chicago.

Battle Creek, Mich.: In addition to the Blue Water service running on CN lines into Battle Creek, the Wolverine service operates on the CN main line through Battle Creek between Baron and Gord, a distance of 1.2 miles.

(2) Illinois

Chicago to New Orleans: The City of New Orleans is a long-distance service operating between Chicago and New Orleans. A single train pair currently operates seven days per week.[174]

Chicago to Carbondale, Ill.: The Illini and Saluki trains are Illinois state-supported services that operate between Chicago and Carbondale, Ill. Currently, the Illini and Saluki services collectively operate two trains each direction seven days a week.[175]

Chicago, IL to St. Louis, MO: Amtrak currently schedules three daily Illinois-supported Lincoln Service train pairs (6 trains total, 3 each way).[176] There is also one daily long-distance

[173] *See Blue Water Route Timetable*, Amtrak, https://content.amtrak.com/content/timetable/Blue%20Water.pdf (last visited Nov. 17, 2026).
[174] *See City of New Orleans Route Timetable*, Amtrak https://content.amtrak.com/content/timetable/City%20of%20New%20Orleans.pdf (last visited Nov. 17, 2026).
[175] *See Saluki Route Timetable*, Amtrak, https://content.amtrak.com/content/timetable/Saluki.pdf (last visited Nov. 17, 2026); *Illini Route Timetabl*e, Amtrak, https://content.amtrak.com/content/timetable/Illini.pdf (last visited Nov. 17, 2026).
[176] *See Lincoln Service Route Timetabl*e, Amtrak, https://content.amtrak.com/content/timetable/Lincoln%20Service.pdf (last visited Nov. 17, 2026).

train pair, the Texas Eagle.[177] The Lincoln Service trains operate from Chicago to St. Louis, while the Texas Eagle traverses the same corridor on its journey between Chicago and San Antonio, which includes operating across the same CN route as the Lincoln Service into and out of Chicago.

b) Existing Commuter Service

Metra, the commuter rail division of Chicago's Regional Transportation Authority, operates over several CN lines. Those lines are not impacted by this Responsive Application. While the Metra Electric Line runs near Markham Yard, Metra's tracks are dedicated and adjacent to CN's north-south main line.

XI. Post-Transaction Operations

A. Summary of Post Transaction Network

By acquiring the Kansas City Line and having trackage rights over the Tuscola Line, Hillsboro Line, Macoupin Line, and Des Moines Line, CN will remedy competitive harms from the Proposed Transaction where UP and NS's networks overlap, including where they overlap between Kansas City and St. Louis. The acquisition of the Kansas City Line and other requested trackage rights will improve the single line service capabilities of the CN system and its existing customers, preserving competition between St. Louis and Kansas City, and create new gateway opportunities for CN's customers. Importantly, the acquisition and trackage rights protect 2-to-1 and 3-to-2 customers impacted by the Applicants' proposed transaction.

[177] *See Texas Eagle Route Timetabl*e, Amtrak, https://content.amtrak.com/content/timetable/Texas%20Eagle.pdf (last visited Nov. 17, 2026).

Acquiring the Kansas City Line will give CN new access to Kansas City, and the Tuscola Line provides CN with expanded access to St. Louis and East St. Louis, providing a more efficient route from Chicago to serve customers in both Kansas City and St. Louis/East St. Louis. These rights will create new single-line rail automotive and intermodal service between Michigan/Eastern Canada and Kansas City. It also will establish a more direct route for traffic from the Midwest and Kansas City, because traffic moving to East St. Louis via CN's current route from northern locations must move south of East St. Louis to Du Quoin, Ill., before heading north for East St. Louis Yard; and traverses the same longer route on trips from East St. Louis to northern destinations. In addition, acquiring the Kansas City Line will allow CN to shift interchange traffic to the Kansas City gateway for manifest, intermodal and automotive traffic, thus avoiding the congested Chicago gateway.

Trackage rights over the Hillsboro Line, Macoupin Line and the Des Moines Line will preserve competition for 2-to-1 and 3-to-2 customers in Illinois and Iowa.

In addition, more than 100,000 trucks will be removed from the highways each year, producing public benefits, including reduced carbon emissions, reduced highway congestion, and reduced public expenditures for highway maintenance. The trucks that will be diverted to CN include approximately 48,000 dry vans and containers that will divert from highway to rail intermodal service, approximately 1,200 car transporters carrying assembled automobiles that will divert to multilevel railcars ("multilevels"), and 32,000 trucks with cargoes that can move via transload service (i.e., bulk commodities such as plastic pellets and cement that use rail for

linehaul and transfer to/from truck for first/last mile pickups and deliveries) that will divert to covered hoppers and other types of railcars.[178]

A total of approximately 44,000 railcars will be diverted from other railroads due to the preservation of a competitive alternative between Kansas City and St. Louis/East St. Louis, the creation of new competitive rail routes via the Tuscola Line, and the new facilities that CN will construct in St. Louis and upgrade in Kansas City.[179] The traffic diverted from other railroads includes approximately 20,000 intermodal containers, approximately 8,300 multilevel cars carrying finished automobiles, and approximately {{ }} carloads of grain.[180]

An additional 30,000 (15,000 each way) containers that currently move via congested East Coast ports to/from Kansas City and East St. Louis by rail or truck are projected to be diverted to and from the Port of Montreal, leveraging CN's new single-line service via the Kansas City Line, benefitting U.S. shippers by creating a new competitive export option.[181]

The proposed post-transaction operations on the Lines are straightforward, and the scope of the transaction is not operationally complex. The transaction will add approximately 426.8 route miles and 343 trackage rights miles to CN's existing 5,453 mile United States network, becoming an important and economically beneficial component of CN's national rail network.[182]

As discussed below in Section XI.M, CN plans to make capital investments at several locations to ensure that the growth can be absorbed.

[178] *See* CN Operating Plan Workpaper "T2R Diversion Estimates_Units.xlsx."
[179] Kahwaty V.S. at ¶ 16.
[180] *Id.* at ¶ 16; Drysdale V.S. at 28.
[181] *Id.* at ¶ 189.
[182] *See* CN Operating Plan Workpaper "CN Conditions Mileposts and Mileage.xlsx."

B. Operations

1. Kansas City Line

CN's acquisition of the Kansas City Line will provide shippers two primary benefits:

- The new single-line CN service between Kansas City and destinations in Michigan, Ohio, and Eastern Canada, which will cross the "watershed" (a north-south area of the United States extending up to 300-400 miles east and west of the Mississippi River where trucks have an unusually high share of freight shipments), offering shippers a new rail alternative; and
- Preserving competition in this location. CN anticipates that this new service will attract more than 85,000 truckloads per year from busy highways to CN's new service on the Kansas City Line.[183]

CN will lease UP's Neff Yard in Kansas City with a right to purchase, and as part of the proposed divestiture of the Kansas City Line, will acquire the former Sarpy Yard property in St. Louis (located directly on the Kansas City Line).[184] CN plans to develop new intermodal and automotive facilities at these locations, investing approximately $81.5 million collectively at these Yards. These investments would provide terminal capacity to support CN's proposed post-transaction services and are intended to improve transit times, shorten equipment cycle times, enhance asset utilization, and capture operating efficiencies associated with the proposed single-line service. Neff Yard in Kansas City and the former Sarpy Yard property and 23rd Street Yard in St. Louis will see more than a 20% increase in activity following CN's acquisition of them.[185]

The new facilities would accommodate intermodal shipments and automotive traffic moving in multilevel railcars between points on CN's network, the Kansas City and St. Louis

[183] *See* Workpaper "T2R Diversion Estimates_Units.xlsx."
[184] If CN only obtains trackage rights over the Kansas City Line, CN has requested a condition that the former Sarpy Yard property be conveyed to it.
[185] No other CN yards are expected to see an increase in activity of more than 20% post-transaction.

markets, and markets served by other railroads. Their development would support the origination and termination of this traffic and the associated loading, unloading, switching, and staging activities. The Operating Plan would integrate these terminal functions with the proposed train schedules and connecting services, accounting for facility capacity, anticipated traffic volumes, and operating resource requirements.

a) Shifting Interchange to the Kansas City Gateway.

From an operating perspective, traffic that CN today hands to western carriers at Chicago instead could remain on CN trains and move via CN's Champaign Subdivision and the new Tuscola connection, over the Tuscola Line, southern part of the Springfield Line or the A&S, and to the TRRA through East St. Louis, and then over Mississippi River bridges to reach the Kansas City Line to Neff Yard. Interchange with BNSF, UP, CPKC, and other carriers would occur at or via Neff Yard and over the Lydia Avenue–Broadway segment to BNSF and the KCT.

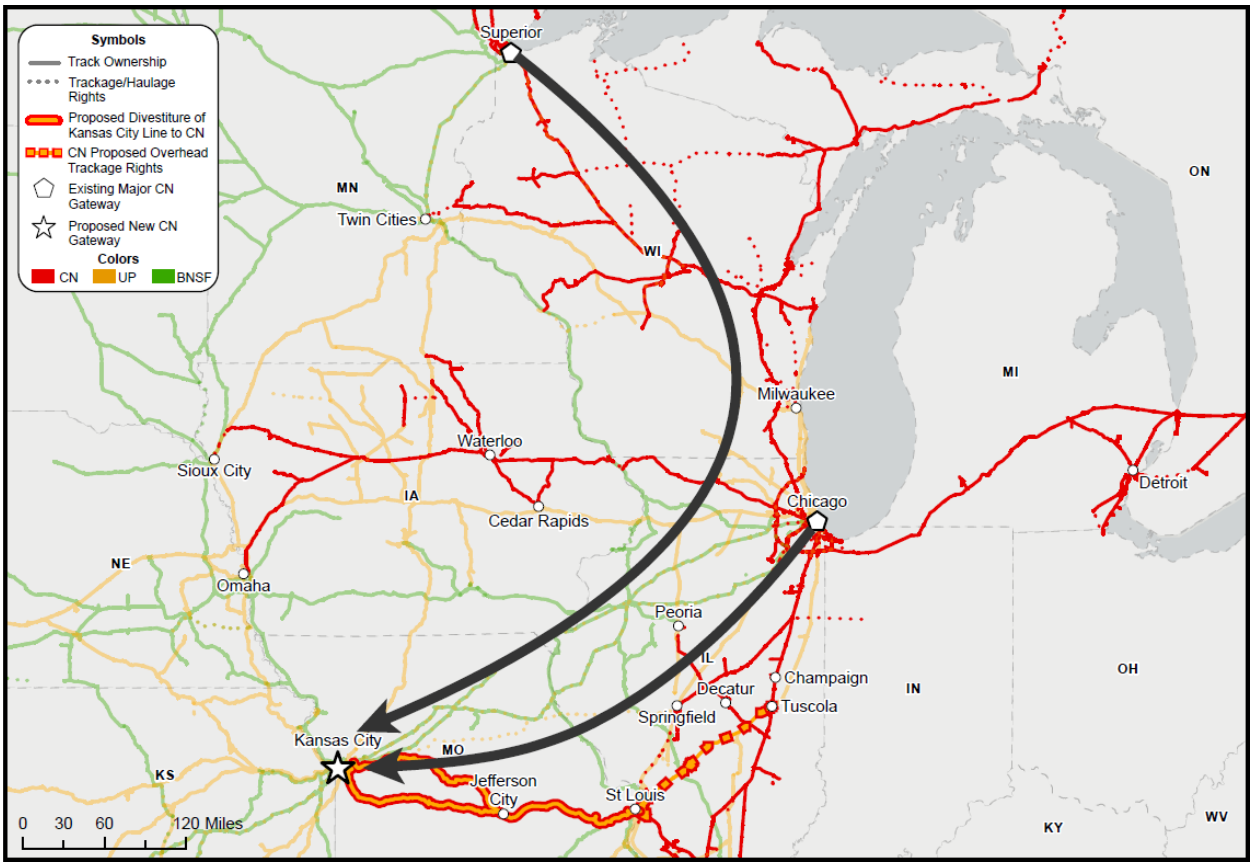
This shift would reduce Chicago terminal handlings and congestion, and reduce interchange handlings, and create a longer CN-controlled haul, with CN dispatching from Homewood, Illinois. It would also improve locomotive, equipment, and car cycle times. For example, CN estimates that rerouting a sufficient density of 6,000 foot trains away from Chicago's Kirk Yard to Champaign could reduce shipping times by an entire day. These reduced customer shipping times would help offset any expected increases in shipping times arising from CN's new route being longer than the current UP line.

From a business and operational perspective, the expectation is that CN will shift the interchange from Chicago to Kansas City for the following categories of traffic: automotive, intermodal, grain, petroleum & chemicals, metals & minerals, and forest products moving west through Chicago, Superior (WI), and East St. Louis and destined for states such as California,

Colorado, Nebraska, Utah, Oklahoma, Texas, Arizona, New Mexico, Missouri, or Kansas (outside of Kansas City). Based on its operations plans, CN views these shifts as both realistic and achievable by three years post-transaction.

The diversion study estimates that about {{ }} carloads meeting the criteria above could shift their interchange location to Kansas City.[186]

Figure 32
Primary Locations Eligible for Interchange Shifts to Kansas City



As the originating carrier, CN could offer customers a more cost-competitive routing with time and velocity improvements, while simultaneously giving customers a routing that avoids the congested Chicago interchange. These shifts can be accommodated within the train service and

[186] *See* CN Operating Plan Workpaper "Diversion Summary.xlsx."; Kahwaty V.S. at ¶ 20.

train capacities described in this Operating Plan, either by adding volume to the new Chicago–Kansas City service and existing trains or including an additional train pair.[187] They are achievable within the 3-year Growth Plan timeframe.[188]

b) Kansas City Operations

Operations over the Kansas City Line would comprise three principal components: (1) local service to customers along the line; (2) CN overhead service connecting Kansas City and St. Louis with the broader CN network, including traffic originating, terminating, or interchanging at those locations; and (3) operations by other railroads exercising overhead or other trackage rights over the line, including UP and potentially another Class I carrier if required by the Board to preserve competition.[189] The Operating Plan accounts for, and is validated by the Iron Road study, the combined requirements of these services, including their use of shared main-line and terminal capacity, to evaluate whether the proposed traffic and service levels could be accommodated safely, reliably, and efficiently. After acquisition, CN would dispatch the Line.[190]

CN expects that Neff Yard will support this intermodal and automotive service to Kansas City and surrounding geographies as well as interchange traffic with UP/NS and other carriers.[191] Because it is an existing UP rail yard that was in use for intermodal service by UP until recently, CN anticipates a smooth transition, meaning that CN can use Neff Yard immediately

[187] *See* Iron Road study.
[188] *See* Drysdale V.S. at 8, 17; Nair V.S. at 8; Slazinski V.S. at 9, 12.
[189] As explained in CN's Comment, CN is willing to jointly acquire the Kansas City Line with another Class I carrier if the Board believes it necessary to preserve competition, as long as CN obtains at least 50% ownership and no ownership stake remains with the merged UP/NS.
[190] If not divested, UP is expected to continue to dispatch the Line.
[191] Drysdale V.S. at 13.

following consummation of the Proposed Transaction and divestiture of the Kansas City Line to CN. Because UP may continue limited use of Neff Yard post transaction[192], CN expects to engage a third-party terminal operator[193] upon acquisition (or sub-lease it upon leasing it from UP) and will add necessary equipment, such as trucks and cranes, along with long-term investments to further improve and expand its intermodal operations.[194]

c) Local Service

In the event of divestiture, CN's proposed Operating Plan would maintain and seek to improve upon the local service currently provided by UP to existing customers on the Kansas City Line. CN would provide local switching and customer service, including the movement of cars to and from interchange locations with other railroads along the line. The plan would coordinate local service with connecting train operations to support reliable pickups and deliveries and the efficient movement of customer traffic.

Customers on the Kansas City Line would gain access to single-line service between their facilities and destinations on CN's broader network. For traffic that would otherwise require an interchange between carriers, this service could reduce intermediate handlings, improve transit-time consistency, and simplify shipment coordination. Customers would also retain access to UP service through the proposed local haulage and overhead trackage arrangements, preserving that routing option alongside CN's new service offerings.

[192] If another Class I carrier is granted rights over the Kansas City Line, it may also require use of Neff Yard.
[193] CN would assign local management in connection with the third-party operation.
[194] Nair V.S. at 9.

Taken together, CN's local service, expanded single-line reach, connections with other railroads, and continued access to UP would provide customers with additional competitive options for accessing the rail network following the transaction.

In the event divestiture is not ordered and CN receives trackage rights over the Kansas City Line, UP will continue to provide local service. Pursuant to the Settlement MOU, CN would gain access to those customers through local haulage service by UP. [195]

d) Existing Customers

CN's proposed investments in the Kansas City and St. Louis terminal areas would provide shippers, particularly automotive and intermodal customers, with additional transportation options. The redevelopment of Neff Yard in Kansas City and construction of a new intermodal and automotive facility at the former Sarpy Yard property in St. Louis would support the origination and termination of traffic moving between these markets and CN's broader network. These facilities would complement CN's train services over the Kansas City Line, providing the terminal infrastructure needed to support the new service offerings.

For customers using these facilities, access to CN's single-line service could reduce reliance on intermediate interchanges, simplify shipment coordination, and improve transit-time consistency. CN's planned terminal investments and connecting train services would expand shippers' routing and service choices while supporting the efficient handling of projected automotive and intermodal volumes. Neff Yard will facilitate interchange with Class I partners (BNSF, CPKC, UP), short lines (Missouri & Northern Arkansas Railroad), and terminal railroads (KCT)), and CN's proposed ownership and operation of the Kansas City Line would provide

[195] If divestiture is not ordered, CN would be able to commence service over the Kansas City Line via UP overhead haulage rights until such time as CN's trackage rights are activated.

U.S. automotive shippers in the Kansas City region with an additional single-line service option from Michigan and Ontario. Under the pre-transaction service configuration, NS is the only railroad providing single-line service between Detroit and Kansas City. CN's proposed service would introduce a second single-line alternative, expanding shippers' routing and carrier choices and reducing reliance on a single service provider. This additional option could also improve supply-chain resilience by giving customers greater flexibility to respond to service disruptions or changes in transportation requirements.

CN's proposed investments in Neff Yard in Kansas City and the former Sarpy Yard property in St. Louis would complement these service improvements by providing additional automotive loading and unloading facilities. In St. Louis, the proposed facility would offer an alternative to the existing UP-served automotive ramp, introducing an additional terminal and carrier option in a market otherwise served by a single ramp. Together, the new facilities and connecting single-line services would expand automotive shippers' transportation choices and create opportunities to improve equipment utilization, shipment coordination, and service consistency.

The diversion study estimates that approximately 115,000 carloads and intermodal units would be diverted to services operating over the Kansas City Line. Intermodal traffic represents the largest category, accounting for approximately 91,000 units.[196] This traffic would be attracted from competing rail services, truck transportation, and alternative port routings. Truck-to-rail conversion represents the largest identified source of potential intermodal diversions, while

[196] *See* CN Operating Plan Workpaper "Diversion Summary.xlsx."

movements between Kansas City and the Port of Montreal constitute a major market opportunity. Merchandise and automotive traffic represent the next-largest categories of projected diversions.

These findings support the rationale for CN's proposed terminal investments in Kansas City, particularly the development of facilities capable of handling intermodal and automotive traffic. The projected traffic mix indicates that these facilities would serve important components of the anticipated demand for CN's proposed services. The diversion forecasts would also inform terminal capacity planning, train service design, and the allocation of equipment and other operating resources.

The projected intermodal diversions reflect the opportunities created by extending CN's single-line reach into Kansas City. As Mr. Nair explains, "With access to Kansas City, CN would offer new single-line intermodal service to and from its existing intermodal terminals in places like Detroit and Eastern Canada."[197] After the Kansas City–Port of Montreal market, Kansas City–Detroit represents the next-largest identified intermodal market using the Kansas City Line, with projected volumes broadly balanced between the two directions. This directional balance could support more efficient equipment utilization and reduce empty repositioning requirements, subject to equipment compatibility and service schedules.

Under CN's proposed Operating Plan, UP and BNSF will be able to deliver unit trains of coal via UP's retained trackage rights from Pacific, Missouri and BNSF's existing trackage rights to Ameren's Labadie Power Plant over 11.5 miles of the Kansas City Line. CN's diversion analysis and operating plan anticipate that BNSF and UP will handle such coal traffic.

[197] Nair V.S. at 11.

e) Overhead

CN would provide overhead train service between Kansas City and St. Louis to move traffic to and from its broader network and to connect with other railroads at interchange locations. This service would form part of CN's proposed operations over the Kansas City Line and would be coordinated with local service and terminal activities to support the efficient movement of both CN and interchange traffic.

If the Kansas City Line is divested, CN would also provide UP with overhead trackage rights over the Kansas City Line, allowing UP to continue operating through trains over the route. Granting UP overhead trackage rights over the Kansas City Line would benefit customers by enabling the Applicants to continue their existing service offerings and implement proposed services that depend on use of the route. These rights would preserve the line's availability for the Applicants' operations following its acquisition by CN, supporting continuity of service while allowing customers to benefit from CN's additional service offerings.

One other carrier in the case, CSXT, has sought a partial divestiture of the Kansas City Line that would leave Union Pacific with 50% ownership.[198] As explained in CN's Comment, if the Board finds it necessary to preserve competition, CN is also willing to jointly acquire the Kansas City Line with another Class I carrier, as long as CN obtains at least 50% ownership, and no ownership stake remains with the merged UP/NS.[199]

In case the Board finds that joint ownership of the Kansas City Line between CN and another Class I carrier is necessary to preserve competition, the Operating Plan would account

[198] CSXT-25 at 6, FD 36873 (filed Sept. 9, 2026).
[199] Under the 50% ownership scenario, CN would seek to dispatch and maintain the Line, subject to appropriate reimbursement from other operators on the Line.

for the combined use of the line by CN, UP, and, if authorized, joint ownership with CSXT. This assessment would consider anticipated train frequencies, operating schedules, interchange requirements, and shared capacity needs to evaluate whether, based on projected traffic volumes, there are any impacts.

This Operating Plan provides for two CN trains per day in each direction over the Kansas City Line: one manifest train and one combined automotive/intermodal train. CN would retain UP's existing directional-running arrangement west of Jefferson City, using the Sedalia Subdivision for westbound movements into Kansas City and the River Subdivision for eastbound movements towards Jefferson City. Maintaining this arrangement would provide continuity in the use of the route and support the integration of CN's proposed services with other operations over the line.

Manifest traffic moving from points north of Champaign would be assembled at CN's Champaign Yard. Westbound trains would operate over CN's line from Champaign to Tuscola, where CN proposes to construct a new connection to UP's Pana Subdivision. From Tuscola, trains would proceed southwest on the Pana Subdivision toward the St. Louis terminal area.

CN could use two routing options through the St. Louis terminal area. Heading westbound, the first would use the A&S to reach and cross the TRRA's MacArthur Bridge, providing access to UP's Jefferson City Subdivision. The second would use UP's Springfield Subdivision through Q Tower and connect with the TRRA for movement over the MacArthur Bridge. After reaching the Jefferson City Subdivision, westbound trains would continue to River Junction near Jefferson City and then use the Sedalia Subdivision into Kansas City.

Eastbound trains departing Kansas City would operate over UP's River Subdivision to River Junction, including over the BNSF Eton to Congo segment, continue over the Jefferson City Subdivision, and cross the MacArthur Bridge via the TRRA. East of the bridge, trains would use one of the two St. Louis terminal routings described above to connect with the route toward Tuscola and CN's network.

For manifest traffic originating south of Centralia, Illinois, CN has two alternative arrangements for connecting that traffic with its Kansas City Line service. After movement on CN's existing lines to East St. Louis, one option would involve a transfer movement via the TRRA to the A&S, where the manifest train operating via Tuscola would pick up the Kansas City-bound traffic and set out traffic destined for East St. Louis. An alternative would involve a more direct routing via the A&S.

The proposed automotive/intermodal service would originate in the Chicago area and operate over CN's network to the new Tuscola connection, continuing through to Kansas City over the Kansas City Line.

Acquisition of the Kansas City Line would also create opportunities for CN to consolidate traffic flows and shift selected train assembly and classification activities from Kirk Yard to Champaign Yard. For eligible traffic that would otherwise be processed in the Chicago terminal area, this change would allow CN to bypass that processing and provide a more direct routing. CN anticipates that the resulting reduction in intermediate handling and terminal dwell could shorten transit times by approximately one day for affected shipments. The proposed service structure could also create opportunities to reroute other traffic on CN's network to avoid Chicago-area processing, with the extent of those benefits depending on shipment

origins/destinations and service connections. CN believes that the final operating arrangements services can be accommodated safely, reliably, and efficiently.

CN's RTC modeling in the Iron Road study attached as Appendix A indicates that the additional traffic associated with its proposed Operating Plan can be accommodated on the Kansas City Line without interfering with Amtrak operations. Under the traffic levels and operating assumptions evaluated, the modeling supports the feasibility of CN's proposed service plan (including the possibility of at least 50% CN ownership in a joint ownership arrangement where no ownership stake remains with the merged UP/NS) and indicates that all additional freight movements can be integrated with existing passenger service.[200]

The RTC simulation results indicate that the Kansas City Line has sufficient capacity to accommodate the proposed additional CN and CSX freight traffic under the modeled operating conditions. Freight train velocities do not decline materially across the traffic categories evaluated. On the single-track Sedalia Subdivision, additional freight trains operating with the directional flow produce a modest, gradual reduction in average velocity as train meets increase. Directional running explains why this effect is modest: only the westbound portion of the additional freight traffic would use the Sedalia Subdivision, while eastbound trains would operate over the River Subdivision. The limited changes in operating performance indicate that the modeled traffic increases do not approach the corridor's practical capacity constraints and support the operational feasibility of the proposed services.

The RTC results provide a basis for assessing the combined demands placed on the line, rather than evaluating CN's additional traffic in isolation. They support the conclusion that,

[200] *See* Iron Road study.

under the modeled conditions, CN's proposed operations would not impair Amtrak's ability to operate its scheduled services.

2. Tuscola Line

As part of its proposed post-transaction operating plan, CN would operate two trains per day in each direction over the Tuscola Line using overhead trackage rights, for a total of four additional daily train movements.[201] The Iron Road study indicates that the line has sufficient capacity to accommodate these operations.[202] Between Tuscola and Findlay Junction, IL, Applicants project an increase of 1 train per day following the transaction, with approximately 15 trains per day, including an average of 1.72 local trains per day.[203]Adding CN's four daily trains would bring the combined volume to approximately 19 trains per day. This volume would remain below both the UP/NS Merger Fluid Capacity Midpoint of 24.5 trains per day and Iron Road's assessed capacity of 29.8 trains per day, supporting the conclusion that this segment could accommodate CN's proposed service.[204]

The Iron Road study likewise indicates sufficient capacity for CN's proposed operations on the remaining two segments of the Pana Subdivision: Findlay Junction–Walsh Junction and Walsh Junction–Lenox, Illinois.[205] On each segment, Applicants project a reduction of about one train per day following the transaction, {{

}}.[206] With the

[201] UP would dispatch the Tuscola Line.
[202] *See* Iron Road study at § 1.4.2.
[203] *See* CN Operating Plan Workpaper "Train Counts_CN Conditions.xlsx."
[204] *See* Iron Road study at § 1.2.2.
[205] *Id*. at § 1.4.2.
[206] *See* CN Operating Plan Workpaper "Train Counts_CN Conditions.xlsx."

addition of CN's four daily trains, the combined volume on each segment would therefore represent a net increase of three trains per day relative to pre-transaction levels. Taken together, these capacity assessments support the feasibility of accommodating CN's proposed overhead service alongside Applicants' planned operations, including their projected local service, under the assumptions evaluated in the Iron Road study.

Westbound trains would operate over CN's line from Champaign to Tuscola, Illinois, where CN proposes to construct a new connection linking its network to UP's Pana Subdivision. Trains would then proceed southwest over the Pana Subdivision toward the St. Louis terminal area.

3. Hillsboro Line

CN's proposed ability to serve Hillsboro would preserve rail competition for Foresight Energy and its customers, while the associated trackage rights would provide operational alternatives for moving Hillsboro coal.[207] For traffic destined to the {{

}}, CN would have two potential routings. The first would operate via East St. Louis, with an anticipated routing over UP and TRRA, rather than the A&S, before continuing over CN to interchange with the Evansville Western Railway ("EVWR") at Sugar Camp. The second would operate via Tuscola, using a rehabilitated connection in the southwest quadrant and then continue over CN to the same EVWR interchange at Sugar Camp. These alternatives would provide routing flexibility in developing the operating plan once the planned investments are made.

[207] *See* Ellis V.S. at 7–9.

CN service would also expand the rail transportation options available to Hillsboro coal and the terminals and customers handling that traffic, providing competitive single-line routes to a number of locations that would facilitate export growth opportunities for this customer.[208] {{ }} would gain direct rail options to CN-served coal terminals, including, Convent, Louisiana.[209] In addition, {{ }} would have a second rail carrier capable of supplying them with Hillsboro coal.[210] Collectively, these service options would preserve a competitive alternative for existing movements while creating additional routing and market-access opportunities for Foresight Energy and its customers.

The diversion study, together with input from CN personnel, indicates that CN could attract approximately {{ }} carloads of Hillsboro coal to its system.[211] This would equate to about {{ }} unit trains a year or about {{ }} train a week each direction. CN would move this traffic over the Tuscola Line using the proposed trackage rights.[212] Applicants' base plan provides for approximately 12.29 trains per day, or 14.01 trains per day including local trains, over the highest used segment on the Tuscola Line relevant to Hillsboro traffic.[213] In the growth plan, Applicants project a one train per day increase on this segment.[214] Based on the modeling results, these segments would have sufficient capacity to accommodate CN's projected coal traffic in addition to Applicants' planned operations.[215] The post transaction plan, based on the

[208] *Id.*
[209] Coal from Hillsboro destined to the {{ }} for export would now have a rail alternative through CN's route to the Gulf.
[210] Ellis V.S. at 9–10.
[211] Kahwaty V.S. at ¶ 158.
[212] The Hillsboro Line would continue to be dispatched by UP.
[213] *See* CN Operating Plan Workpaper "Train Counts_CN Conditions.xlsx."
[214] *Id.*
[215] *See* Iron Road study at §§ 1.2.2, 1.4.2.

projected volumes, would have {{ }} train pairs moving over the corridor on a weekly basis. Based on the capacity analysis, there is capacity to handle the anticipated volume.

4. Macoupin Line

The Macoupin mine is currently idled; accordingly there is no coal traffic on the Monterey Junction line or rail service to the mine.[216] If the mine were to reopen, CN's proposed ability to serve the Macoupin mine would preserve rail competition for Foresight Energy and its customers, while the associated trackage rights would provide operational alternatives for moving Macoupin mine coal. Because the Macoupin mine is currently idled, the diversion study did not evaluate potential diversion opportunities, and CN did not analyze how it would serve the mine and its customers, including potential routing options and growth opportunities.

5. Des Moines Line

CN's acquisition and integration of the Iowa Northern Railway provides a concrete, real-world demonstration of CN's ability to improve grain service and market reach in Iowa. The Iowa Northern experience shows that CN does not merely seek access to new markets; CN invests in infrastructure, equipment, and service quality to deliver tangible benefits to grain customers.

CN has attracted new grain-related traffic in the legacy Iowa Northern network by working hard to understand local market dynamics and commodity flows, as well as investing significant time on the ground meeting customers face-to-face to better understand their business and transportation needs. The amount of grain-related traffic moving by rail from the legacy Iowa Northern rail network has been growing since CN's acquisition of the Iowa Northern. CN

[216] Ellis V.S. at 3 n.2.

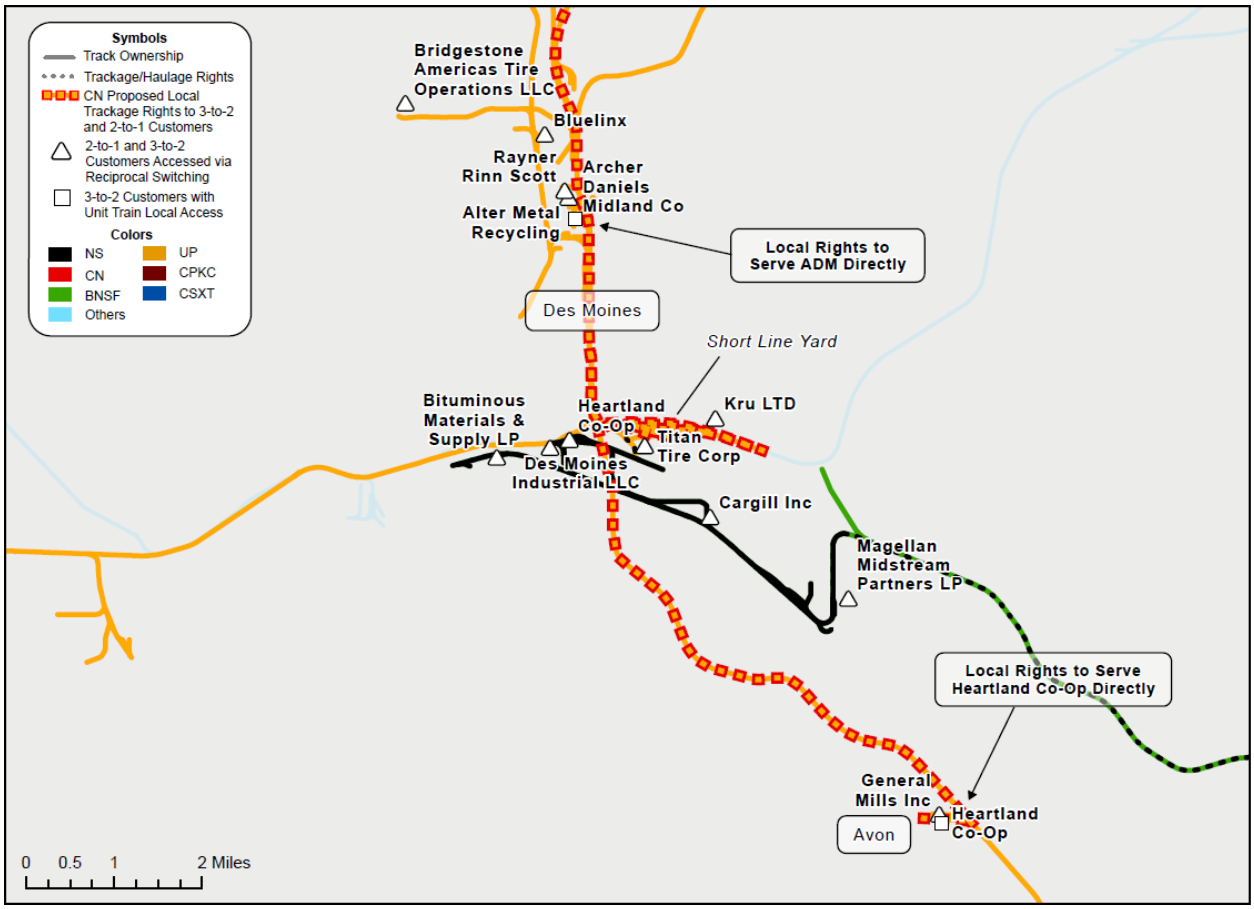
has been able to establish new destination markets for legacy Iowa Northern customers through a combination of matchmaking and competitive single-line haul pricing while preserving customer access to alternate rail traffic gateways.[217]

Rail traffic within the legacy Iowa Northern network has been moving more efficiently as well, creating incremental capacity for rail traffic movement. Transit times have improved significantly under CN ownership, increasing efficiency of both customer-supplied private equipment and the hopper car supply that CN makes available to legacy Iowa Northern customers for the shipment of corn and soybeans.[218]

CN is therefore well-positioned to provide competitive service for Des Moines area customers and plans to exercise trackage rights over the Des Moines line between Iowa Falls and Des Moines and Avon upon construction of a new connection at Iowa Falls. Until the connection is built, CN's plan is for trackage rights from an existing connection in Manly, Iowa to access Short Line Yard and Hull Avenue Yard in Des Moines, and Avon, Iowa, including the ability to enter and exit the trackage rights at the future Iowa Falls connection. These rights would allow CN to provide a competitive alternative for 3-to-2 and 2-to-1 customers in Des Moines and Avon, either via UP reciprocal switch through Short Line Yard or for unit trains directly to (1) the Des Moines facility currently operated by ADM and (2) the Avon facility currently operated by Heartland Co-Op. Such rights would also potentially expand service options for other customers accessible through reciprocal switching.[219]

[217] Przednowek V.S. at 8–9.
[218] Przednowek V.S. at 9.
[219] CN intends that its rights to provide direct unit train service would extend to other affected customers in the Des Moines area that could receive unit train service in the future.

Figure 33
2-to-1 and 3-to-2 Customers in Des Moines and Avon, Iowa



CN would operate no more than one train, whether manifest or unit train service, in each direction per day between Manly/Iowa Falls and Des Moines, accessing the line initially from Manly, Iowa until a new connection at Iowa Falls is constructed. The connection at Iowa Falls is currently a short, 15-car spot interchange track through the middle of a grain elevator that is not suitably configured for the movement of CN trackage rights trains. CN would deliver traffic to Short Line Yard for subsequent handling by Applicants, including local delivery through reciprocal switching. CN would use its own crews from its subdivision to operate trains over

this line and would add additional personnel in train and engine service as needed to operate safely and effectively.[220]

Based on its diversion study, CN expects to divert approximately 1,227 manifest carloads and at least 1,459 unit train carloads of grain from existing rail routings to the line.[221] The majority of the diverted traffic is agricultural traffic levering CN's strong grain operations and franchise in Iowa.

Following the merger, the Des Moines line would have sufficient capacity to accommodate CN's projected traffic as well as the Applicants. The capacity analysis indicates that adding CN's trains between Iowa Falls and Des Moines would not adversely affect the Applicants' operations.[222] Because most of the diverted volume is expected to consist of existing rail traffic, the incremental impact on capacity on the line is expected to be minimal.

CN's projected traffic on the Albert Lea and Mason City subdivisions is approximately {{ }} cars per day, representing only a fraction of a train, supporting no more than one CN train per day. UP/NS estimated capacity of 13.5 trains per day and the corridor's estimated capacity of 9 trains per day based on 9,000-foot trains provides headroom above the current operating level of 7.8 trains per day. [223] Even under this conservative assumption, the projected traffic is expected to have a negligible effect on corridor capacity and operating performance.

Applicants do not project post-transaction growth in daily train counts on the Des Moines Line.[224] The Des Moines Line comprises five segments: (1) Manly to Mason City, (2) Mason

[220] UP would continue to dispatch the Des Moines Line.
[221] *See* Kahwaty V.S. at Table 8.
[222] *See* Iron Road study at § 1.2.2.
[223] *Id.*
[224] *See* CN Operating Plan Workpaper "Train Counts_CN Conditions.xlsx."

City to Hampton, (3) Hampton to North Chicago Junction, Iowa, (4) North Chicago Junction to Des Moines, and (5) Des Moines to Avon. Local train activity per the base plan varies from 0.13 trains per day between Des Moines and Avon to a high of 2.43 trains per day on the North Chicago Junction–Des Moines segment.[225] {{

}}[226]

6. Eton to Congo Segment

UP projects that, following the merger, it would operate approximately one additional train per day over the triple-tracked BNSF Eton to Congo Segment, increasing its average daily train count to 11.22.[227] Under its proposed operating plan, CN would operate two eastbound trains per day on the River Subdivision and across the Eton to Congo Segment. A portion of the traffic carried by CN would be diverted from existing UP movements over the line.[228] Thus, while this diversion would change the carrier handling the traffic, it would not represent an equivalent increase in the total freight volume moving over the affected route.

UP's projected daily train count is 11.22 and CN's is two.[229] However, total daily train counts should include any local operations CN would assume for the remainder of the River Subdivision and any supported adjustments to UP's operations resulting from diverted traffic. At the same time, diversion of existing freight volume would not necessarily eliminate a corresponding number of UP trains, because those trains could continue to operate with fewer cars. The RTC analysis reflects the combined operating plan which includes UP's projected

[225] *Id.*
[226] *Id.*
[227] *Id.*
[228] BNSF would continue to dispatch the Eton to Congo segment.
[229] *See* CN Operating Plan Workpaper "Train Counts_CN Conditions.xlsx."

additional train, CN's two daily eastbound trains, and the transfer of UP's local service to CN. The results show that CN's additional traffic does not have an adverse impact on the line's capacity and operating performance.

C. Haulage and/or Switching Access to Additional 2-to-1 and 3-to-2 Customers in Illinois

Under the Settlement MOU, UP agreed to request that the Board designate CN as the remedy carrier for affected 2-to-1 and 3-to-2 customer facilities where operationally and commercially feasible.[230] In addition to the trackage rights requested in CN's responsive applications and described in this Operating Plan, Applicants have proposed haulage or switching remedies for several Illinois shippers that would lose an independent rail option as a result of the Proposed Transaction.[231] CN has reviewed those proposals and the routes they would require CN to use. Several of Applicants' proposed routes for CN would limit CN's ability to offer competitive service to the impacted 2-to-1 and 3-to-2 customer facilities. For example, certain of Applicants' proposed routes would require CN traffic to go through congested terminals, add miles and handlings, or make CN's service dependent on the operations of competing carriers.

For each affected customer, CN proposes an operationally feasible haulage route from a point on CN's existing network, or switching access. Several of CN's proposed alternatives are shorter and more direct than the access commitments proposed by Applicants, and each would allow CN to offer competitive transit times, service reliability and rates. Because CN is not seeking trackage rights for access to these customers, these rights are not modeled in the

[230] Second Supplemental Submission at 203–204.
[231] *Id.* at 58–59.

Operating Plan, but CN offers the below to explain its requested haulage and/or switching access to reach these customers and why CN's proposed access via haulage rights (or switching)—based on its assessment of what is most operationally feasible—provides a competitive alternative for those customers.

(1) AgRail LLC (Bloomington, Ill.)

Applicants propose to remedy the loss of competition for AgRail, a 2-to-1 customer, by granting CN haulage rights over UP's line from East St. Louis.[232] That route would require CN to hand traffic to UP in the heavily congested St. Louis terminal and to take it back there. CN cars routed through St. Louis would compete for yard and track capacity with the traffic of several other carriers, including UP and NS. This would add time, variability and handling to every move. CN's network already connects with NS at Decatur, Illinois, an established CN-NS interchange point (see Section X above). Haulage via NS from Decatur would give CN a route to AgRail that is substantially shorter and more direct than the East St. Louis route. With fewer miles, fewer terminal handlings and no St. Louis interchange, CN could offer shorter transit times, more consistent service and lower costs per car, providing a far more competitive option than Applicants' proposal would provide.

(2) Milano Metals & Recycling, Milano Railcar Services, and Shapiro Bros. of Illinois Inc. (Mt. Vernon, Ill.)

To remedy the loss of competition for these 2-to-1 customers in Mt. Vernon, Illinois, Applicants propose to grant haulage rights to CSXT (rather than CN) from Princeton.[233] CN

[232] *Id.* at 58.
[233] *Id.* at 59.

requests that the Board instead grant CN haulage rights via NS from Centralia, Illinois, where NS connects with CN's existing network close to Mt. Vernon. Because CN's network already connects at Centralia, CN could serve these shippers with a short haulage move from its own line rather than a long move from a distant connection. This would allow CN to offer competitive transit times and rates. It would also build on CN's existing service and customer relationships in southern Illinois. CN would handle the Mt. Vernon haulage traffic using its Centralia crews, which already work in the area, providing a more efficient alternative than the Applicants' proposal for CSXT.

(3) Bunge Milling Inc., REG Danville LLC, Renewable Energy Group Inc., and The Quaker Oats Co. (Danville, Ill.)

For the 3-to-2 customers in Danville, Illinois, Applicants propose to grant CN access via haulage on CSXT's line from Chicago, under a CSXT-UP haulage agreement.[234] That proposal would route CN's Danville traffic through Chicago, the most congested rail hub in North America, where traffic is routinely subject to delays and unreliable service. CN requests that the Board instead grant CN access to Danville via haulage rights over NS's line from Decatur and/or Tolono, Illinois, where CN's network already connects for interchange. CN expects that Danville haulage would initially move physically via Decatur, but if Danville volumes warrant, or if customers located near Tolono justify it, CN and NS could restore the Tolono switch to provide an even shorter connection. Designating both Decatur and Tolono as connection points gives CN operating flexibility without requiring new interchange infrastructure at the outset. Access over

[234] *Id.*

NS from Decatur and/or Tolono would avoid Chicago entirely and give CN a shorter, more direct and more reliable route than Applicants' proposal.

(4) Edmund A. Allen Lumber (Momence, IL)

Applicants propose haulage for CN via a joint UP/CSXT local train from Chicago.[235] That arrangement would make CN's service dependent on the operations of two of its competitors. UP and CSXT would set train schedules, car handling, frequency, and priority. Both compete with CN for this traffic and have little reason to make CN's service competitive. Because the remedy would depend on coordination between three carriers, any service failure would also be difficult to attribute to either carrier or to correct. CN requests that the Board instead grant CN haulage via UP from Yard Center in Dolton, Illinois. A single-carrier haulage move from Yard Center would give CN a more direct and more independent route to Momence. With CN's service dependent on one other carrier rather than two, CN could offer more reliable service and competitive rates to this customer.

(5) Midwest Salt LLC and US Glu-Lam Inc. (Chicago, IL)

Applicants have proposed remedying the loss in competitive options for Midwest Salt LLC and US Glu-Lam Inc., acknowledged 2-to-1 customers in Chicago, IL, by opening the customers to switching for all Class I railroads in the Chicago Switching District.[236] CN supports this proposed remedy and agrees that it is operationally feasible.

[235] *Id.* at 59–60.
[236] *Id.* at 58–59.

(6) Mighty River Recycling LLC / Azcon Inc. (Federal, IL)

Applicants have proposed remedying the reduction in competitive options for Mighty River Recycling, an acknowledged 3-to-2 customer in Federal, IL, by providing reciprocal switching to CN via a connection with Applicants in St. Louis.[237] CN supports this proposed remedy and agrees that it is operationally feasible.

(7) USS Granite City Works (Granite City, IL)

Applicants have proposed remedying the reduction in competitive options for USS Granite City Works, an acknowledged 3-to-2 customer in Granite City, IL, by opening this facility to switching for CN in St. Louis.[238] CN supports this proposed remedy and agrees that it is operationally feasible.

D. Comparison of Operating Statistics

1. Changes in Yard Volume

CN's proposed operating plan would change the volume and handling of traffic at several yards along the Lines.

These increases should be evaluated in the context of each yard's baseline activity and role in CN's proposed operations. At facilities with low baseline volumes, a relatively modest increase in the number of cars handled can produce a substantial percentage increase. Where a yard handled no traffic during the study period, a percentage increase cannot be meaningfully calculated; the relevant measure is the absolute increase in daily car volume. Accordingly, exceeding either threshold does not, by itself, establish that a yard would experience capacity

[237] *Id.* at 59.
[238] *Id.* at 62.

constraints or operational impairment. The operational assessment should consider the projected number of cars handled, the nature and frequency of the proposed switching activities, and the yard's available track capacity, configuration, staffing, and connections to the main line.

On the Kansas City Line, CN proposes to acquire and use yards in the Kansas City and St. Louis regions that handled little or no traffic during the study period. The introduction of CN's proposed operations at these facilities is therefore expected to increase yard volumes by more than 25 cars per day or by more than 20 percent relative to pre-transaction levels.

The yards and related investments will enable attract over 70,000 new intermodal units, 9,000 new automotive shipments and over 19,000 new manifest loads to its network in the timeframe addressed in the UP/NS Growth Plan.

Figure 34 below shows the impacts on the Neff Yard, 23rd Street Yard, and former Sarpy Yard property based on CN's operating plan.

Figure 34
Impacts on Kansas City Line Yards
{{

}}

The principal effect of CN's proposed operations over the Des Moines Line on Applicants' planned yard operations would occur at Short Line Yard in Iowa. CN would deliver

traffic to the yard for subsequent handling by UP through reciprocal switching. These changes should be evaluated in light of the traffic already included in Applicants' projections, distinguishing between existing traffic diverted to CN and new traffic attracted to rail, to avoid treating all CN-delivered cars as incremental yard volume. According to UP, in 2023, the Short Line Yard handled {{ }} combined train originations and terminations {{ }}.[239] CN currently anticipates running no more than 2 train pairs a week to/from the Short Line Yard, which would only increase the total train originations and terminations by {{ }}.

CN's Operating Plan does not expect impacts on other yards along the Lines.

2. Changes In Trains Per Day by Segment

CN's traffic growth (including diverted traffic) and Applicants' Growth Plan is expected to increase the number of trains operating each day over the Lines. The table below presents the potential changes in average daily train counts under the growth scenarios evaluated. These projections provide a basis for assessing the combined effects of anticipated traffic growth and CN's proposed operations on the capacity of line and operating performance. The extent to which additional traffic translates into additional trains will depend on the operating assumptions underlying each scenario, including train size, service frequency, and the ability to accommodate additional volume on existing trains.

The projected increase in traffic volumes in the timeframe addressed by Applicants' Growth Plan will result in an increase in trains per day on the Kansas City Line, as shown below.

[239] *See* Second Errata Electronic Appendices (Highly Confidential), Appendix F – Base Plan Yard and Other Facility Details and Appendix N - Growth Plan Yard and Other Facility Details, UP-100/NS-99, FD 36873 (filed Sept. 4, 2026).

Figure 35
Trains Per Day Increase on the Kansas City Line and Related Conditions

CN Condition	Start City/Station	Start Milepost	End City/Station	End Milepost	GIS Miles	Train Counts Per Day					
						UP/NS Base Plan (excl. Locals)	UP/NS Growth from Base (excl. Locals)	UP/NS Growth Plan (excl. Locals)	UP/NS Base Plan Locals	CN Growth	Total
Kansas City Line	SARPYAVE	2.41	ST LOUIS	0.5	1.8	31.15	1.99	33.14	1.72	4.00	38.86
Kansas City Line	SARPYAVE	2.41	WEST LABADIE	43.7	41.9	16.28	1.99	18.27	1.7	4.00	23.97
Kansas City Line	WEST LABADIE	43.7	RIVER JCT	128	80.2	18.61	1.99	20.6	2.09	4.00	26.69
Kansas City Line	RIVER JCT	128	PLEASANT HILL	247.8	120.4	11.54	0.99	12.53	0.86	2.00	15.39
Kansas City Line	PLEASANT HILL	247.8	ROCK CREEK JCT	445.01	27.6	13.2	0.98	14.18	2.09	2.00	18.27
Kansas City Line	RIVER JCT	128	MARSHALL JCT	202.1	74	7.3	1.01	8.31	0.86	2.00	11.17
Kansas City Line	MARSHALL JCT	202.1	ETON	276	73.8	7.3	1.01	8.31	0.86	2.00	11.17
Eton to Congo	ETON	276	CONGO	444.25	7.7	10.16	1.06	11.22	0.85	2.00	14.07
Kansas City Line	CONGO	444.25	ROCK CREEK JCT	445.01	0.8	10.16	1.06	11.22	0.85	2.00	14.07
Kansas City Line	SOUTHWEST JCT	277.87	ROCK CREEK JCT	445.01	2.6	11.9	1.04	12.94	1.71	4.00	18.65
Neff Yard	KANSAS CITY	279	SOUTHWEST JCT	280	1.1	36.18	-2.66	33.52	6.00	4.00	43.52
Neff Yard	LYDIAAVE	281.73	KANSAS CITY	445.01	1.2	43.09	-2.65	40.44	13.44	4.00	57.88
Lydia to Broadway	TROOST AVENUE	282	LYDIAAVE	281.73	1.1	43.09	-2.65	40.44	13.44	4.00	57.88
Lydia to Broadway	BROADWAY	284.71	TROOST AVENUE	282	1.2	37.98	2.36	40.34	9.44	4.00	53.78

Note: Applicants did not publicly report local train counts for their Growth Plan. {

} CN anticipates operating the same number of local trains as UP operates now.

Source: *See* CN Operating Plan Workpaper "Train Counts_CN Conditions.xlsx."

The projected increase in traffic volumes in the timeframe addressed by Applicants' Growth Plan will result in an increase in trains per day on the Tuscola Line, as shown below.

Figure 36
Trains Per Day Increase on the Tuscola Line

Start City/Station	Start Milepost	End City/Station	End Milepost	GIS Miles	Train Counts Per Day					
					UP/NS Base Plan (excl. Locals)	UP/NS Growth from Base (excl. Locals)	UP/NS Growth Plan (excl. Locals)	UP/NS Base Plan Locals	CN Growth	Total
TUSCOLA	153.8	FINDLAY JCT	185.5	32.1	12.29	1.00	13.29	1.72	4.57	19.58
FINDLAY JCT	185.5	WALSH JCT	243.7	58.2	5.03	-0.99	4.04	1.71	4.57	10.32
WALSH JCT	243.7	LENOX	269.73	32.1	8.27	-0.90	7.37	1.18	4.00	12.55
LENOX	269.73	WR TOWER	275.61	5.88	19.88	0.01	19.89	0.00	4.00	23.89
WR TOWER	275.61	VENICE	278.4	1.9	19.88	0.01	19.89	0.00	4.00	23.89
VENICE	278.4	Q TOWER	281	3.4	20.23	0.01	20.24	0.00	4.00	24.24

Notes: (1) The combined Tuscola to Walsh Junction segments account for additional traffic ({{ }}) associated with expected traffic from the Hillsboro Mine. (2) Applicants did not report publicly report local train counts for their Growth Plan. { } (3) Applicants did not report train counts on the Lenox to WR Tower segment of the Springfield subdivison. The UP/NS train count reported was assumed to be the same as Venice to WR Tower, which is the subsequent segment on the same subdivision.

Source: *See* CN Operating Plan Workpaper "Train Counts_CN Conditions.xlsx."

The projected increase in traffic volumes in the timeframe addressed by Applicants' Growth Plan will result in an increase in trains per day on the Des Moines Line, as shown below.

Figure 37
Trains Per Day Increase on the Des Moines Line

Start City/Station	Start Milepost	End City/Station	End Milepost	GIS Miles	Train Counts Per Day					
					UP/NS Base Plan (excl. Locals)	UP/NS Growth from Base (excl. Locals)	UP/NS Growth Plan (excl. Locals)	UP/NS Base Plan Locals	CN Growth	Total
MANLY	201.87	MASON CITY	193.1	36.8	5.56	0	5.56	0.86	0.57	6.99
HAMPTON	163.3	MASON CITY	193.1	29.9	7.54	0	7.54	0.89	0.57	9.00
NORTH CHICAGO JCT	106.47	HAMPTON	163.3	56.7	7.85	-0.01	7.84	1.09	0.57	9.50
DES MOINES	73.6	NORTH CHICAGO JCT	106.47	33.6	7.88	0	7.88	2.43	0.57	10.88
AVON	66.8	DES MOINES	73.6	169	5.87	0	5.87	0.13	0.29	6.29

Notes: (1) Assumes that CN runs 2 train pairs per week between Manly and Des Moines, including 1 train pair per week between Manly and Avon. After the completion of the Iowa Falls connection, CN's trains per day would decrease over the segments between Manly and Hampton. (2) Applicants did not publicly report local train counts for their Growth Plan. { }

Source: *See* CN Operating Plan Workpaper "Train Counts_CN Conditions.xlsx."

3. Changes in GTMs by Line Segment

Figure 38 below shows the impact of post-transaction traffic growth projections of the Kansas City Line and related conditions in terms of annual Million Gross Ton Miles ("mGTMs") by segment.

Figure 38
Annual mGTM Increase on the Kansas City Line and Related Conditions

CN Condition	Start City/Station	Start Milepost	End City/Station	End Milepost	GIS Miles	Annual Million Gross Ton Miles (mGTMs)		
						UP/NS Growth Plan	CN Transaction Growth	Total
Kansas City Line	SARPYAVE	2.41	ST LOUIS	0.5	1.8	137.72	14.99	152.71
Kansas City Line	SARPYAVE	2.41	WEST LABADIE	43.7	41.9	2,359.61	318.94	2,678.55
Kansas City Line	WEST LABADIE	43.7	RIVER JCT	128	80.2	5,505.47	610.48	6,115.95
Kansas City Line	RIVER JCT	128	PLEASANT HILL	247.8	120.4	3,565.07	495.07	4,060.14
Kansas City Line	PLEASANT HILL	247.8	ROCK CREEK JCT	445.01	27.6	813.14	113.49	926.62
Kansas City Line	RIVER JCT	128	MARSHALL JCT	202.1	74	3,166.44	259.01	3,425.45
Kansas City Line	MARSHALL JCT	202.1	ETON	276	73.8	3,103.61	258.31	3,361.92
Eton to Congo	ETON	276	CONGO	444.25	7.7	378.32	26.95	405.27
Kansas City Line	CONGO	444.25	ROCK CREEK JCT	445.01	0.8	29.87	2.80	32.67
Kansas City Line	SOUTHWEST JCT	277.87	ROCK CREEK JCT	445.01	2.6	78.39	19.79	98.19
Neff Yard	KANSAS CITY	279	SOUTHWEST JCT	280	1.1	140.77	8.37	149.15
Neff Yard	LYDIAAVE	281.73	KANSAS CITY	445.01	1.2	135.38	9.13	144.52
Lydia to Broadway	TROOST AVENUE	282	LYDIAAVE	281.73	1.1	164.75	8.37	173.12
Lydia to Broadway	BROADWAY	284.71	TROOST AVENUE	282	1.2	170.88	9.13	180.01

Note: The mGTMs are calculated based on the diversion estimates under the scenario where CN is granted divestiture of the Kansas City Line. Tables based on the "alternative" scenario where CN is granted trackage/haulage rights in lieu of divestiture are presented in the Operating Plan Workpapers.

Source: *See* CN Operating Plan Workpaper "mGTM Calculations.xlsx."

Figure 39 below shows the impact of post-transaction traffic growth projections of the Tuscola Line and related conditions in terms of annual Million Gross Ton Miles ("mGTMs") by segment.

Figure 39
Annual mGTM Increase on the Tuscola Line

Start City/Station	Start Milepost	End City/Station	End Milepost	GIS Miles	Annual Million Gross Ton Miles (mGTMs)		
					UP/NS Growth Plan	CN Transaction Growth	Total
TUSCOLA	153.8	FINDLAY JCT	185.5	32.1	1,370.98	358.52	1,729.50
FINDLAY JCT	185.5	WALSH JCT	243.7	58.2	1,105.28	650.03	1,755.31
WALSH JCT	243.7	LENOX	269.73	32.1	646.01	257.44	903.45
LENOX	269.73	WR TOWER	275.61	5.88	105.14	47.16	152.30
WR TOWER	275.61	VENICE	278.4	1.9	33.97	15.24	49.21
VENICE	278.4	Q TOWER	281	3.4	127.91	27.27	155.18

Notes: (1) Applicants did not report train counts on the Lenox to WR Tower segment of the Springfield subdivison. The UP/NS gross tons reported was assumed to be the same as Venice to WR Tower, which is the subsequent segment on the same subdivision. (2) The CN transaction growth assumes all volume is moved through over the UP track between Lenox and Q Tower, however CN will have the option to move traffic over the A&S as an alternative.

Source: *See* CN Operating Plan Workpaper "mGTM Calculations.xlsx."

Figure 40 below shows the impact of post-transaction manifest traffic growth projections of the Des Moines Line and related conditions in terms of annual Million Gross Ton Miles ("mGTMs") by segment.

Figure 40
Annual Manifest mGTM Increase on the Des Moines Line

Start City/Station	Start Milepost	End City/Station	End Milepost	GIS Miles	Annual Million Gross Ton Miles (mGTMs)		
					UP/NS Growth Plan	CN Transaction Growth	Total
MANLY	201.87	MASON CITY	193.1	8.77	831.92	1.72	833.65
HAMPTON	163.3	MASON CITY	193.1	29.9	1,025.52	5.55	1,031.07
NORTH CHICAGO JCT	106.47	HAMPTON	163.3	56.7	2,144.78	10.52	2,155.30
DES MOINES	73.6	NORTH CHICAGO JCT	106.47	33.6	1,190.20	6.24	1,196.43
AVON	66.8	DES MOINES	73.6	169	5,450.28	0.08	5,450.37

Source: *See* CN Operating Plan Workpaper "mGTM Calculations.xlsx."

4. Changes in Intermodal Lifts and Auto Loading/Unloadings by Terminal

Figure 41 below shows the increase in trucks per day at Neff Yard and the former Sarpy Yard property following commencement of CN service over the Kansas City Line.

Figure 41
Increase in Trucks Per Day at Auto/Intermodal Yards

Yard Code	Yard Name	Latitude	Longitude	State	Type	Baseline Trucks Per Day	CN Transaction Growth Trucks Per Day
MX283	Neff	39.1235431°N	94.5215251°W	MO	Auto	0	**113.3**
MX002	Former Sarpy Yard	38.6294104°N	90.2421975°W	MO	Auto	0	**8.4**
MX283	Neff	39.1235431°N	94.5215251°W	MO	Intermodal	0	**351.4**
MX002	Former Sarpy Yard	38.6294104°N	90.2421975°W	MO	Intermodal	0	**28.4**

Source: *See* CN Operating Plan Workpaper "mGTM Calculations.xlsx."

5. Downstream Impacts on CN's Network

The proposed intermodal services linking Kansas City with the Port of Montreal and Detroit are projected to add approximately 41 cars per day in each direction in the Kansas City–Montreal market and 19 cars per day in each direction in the Kansas City–Detroit market. Together, these volumes represent approximately 60 cars per day in each direction, or 120 cars per day across both directions. Because these traffic flows would use portions of the same connecting routes, their combined effects should be considered in assessing main-line capacity, train service requirements, and terminal activity.

The Operating Plan would accommodate these changes through a combination of new train service and increased volumes on existing trains. Specifically, the plan provides for a new Chicago–Kansas City train pair and the movement of projected increases in intermodal and automotive traffic between Chicago and Detroit, Toronto, and the Port of Montreal on existing connecting trains. Increased manifest volumes would be accommodated on CN's existing trains linking East St. Louis with Chicago and Memphis, as well as on the new manifest trains operating between St. Louis and Kansas City.

Although these changes would increase traffic volumes on certain routes, the resulting concentration of traffic could support more efficient train operations, improved asset utilization,

and opportunities for alternative routings or service patterns. The operating assessment should evaluate these potential efficiencies alongside the capacity and resource requirements of the new train pair and the ability of existing services to accommodate additional cars without adversely affecting operating performance. For additional detail please see Iron Road study at Appendix A.

E. Relevant Agreements

CN's responsive applications include several agreements that will be needed to execute this Operating Plan. The rights CN requests through its responsive applications are intended to serve as a comprehensive package that preserves competition in key watershed geographies which would otherwise be diminished by the Proposed Transaction. These agreements are summarized here.

1. Asset Purchase Agreement for Kansas City Line (Sub-No. 2)

The draft Asset Purchase Agreement between UP and CN contemplates the divestiture of the lines of railroad extending from Twelfth Street in St. Louis, Missouri at or near the MacArthur Bridge to Southwest Junction, Kansas City, Missouri, into Neff Yard, Kansas City, Missouri, including the Sedalia Subdivision and the River Subdivision, pursuant to an order of the Board.[240]

2. Local Haulage Agreement for Union Pacific on the Kansas City Line (Sub-No. 2)

If the Kansas City Line is divested to CN pursuant to the proposed Asset Purchase Agreement for the Kansas City Line, CN anticipates granting UP local haulage rights over the

[240] *See* Asset Purchase Agreement between UP and IC, Recitals, § 4.03(g) (Exhibit 2A) [hereinafter "Asset Purchase Agreement"].

Kansas City Line so that every customer on the line retains access to UP following the divestiture. These haulage rights will ensure that existing customers on the Kansas City Line do not lose a competitive option as a result of the divestiture. The proposed form of the agreement is attached as Exhibit 2H to CN's Kansas City Responsive Application (Sub-Nos. 2, 3, 4, 6, 7, and 8).

3. Agreement for UP Overhead Trackage Rights Over Kansas City Line (Sub-No. 2)

If the Kansas City Line is divested to CN, UP would retain access to the Kansas City Line through overhead trackage rights granted by CN. These overhead trackage rights will permit UP to continue to operate over the line following the divestiture, so that the Proposed Transaction's efficiencies are preserved while CN operates the line as an independent competitor. Under the draft Asset Purchase Agreement, any such trackage rights would be non-exclusive overhead rights over only the portions of the line specified by the Board, and would not grant UP local service rights, dispatching control, or operating priority.[241] The proposed form of the agreement is attached as Exhibit 2I to CN's Kansas City Responsive Application (Sub-Nos. 2, 3, 4, 6, 7, and 8).

4. Trackage Rights on the Kansas City Line (Sub-No. 3)

In the alternative to divestiture of the Kansas City Line (Sub-No. 2), CN seeks overhead trackage rights over the Kansas City Line between Twelfth Street in St. Louis, Missouri and Southwest Junction (Neff Yard) in Kansas City, Missouri via the UP Jefferson City, Sedalia and River subdivisions, including access to the former Sarpy Yard property for handling CN's

[241] *See* Comment at 38–39; Asset Purchase Agreement § 4.03(f).

intermodal and automotive traffic.[242] The trackage rights would permit the movement of traffic from any origin or to any destination and of all commodities, equipment, and train types. CN also seeks local haulage rights on the Kansas City Line to serve affected customers. These rights would allow CN to operate its own trains between Kansas City and St. Louis and to serve customers on the line, providing a competitive Class I alternative in the corridor where Applicants' parallel lines overlap if the Board declines to order divestiture.[243] The proposed form of the agreement is attached as Exhibit 2B to CN's Kansas City Responsive Application (Sub-Nos. 2, 3, 4, 6, 7, and 8).

5. Trackage Rights between Lydia Avenue and Broadway in Kansas City (Sub-No. 4)

In connection with its Kansas City access, CN seeks overhead trackage rights between Lydia Avenue in Kansas City, Missouri at MP 281.7 and Broadway in Kansas City, Missouri at MP 283.1, for the movement of traffic from any origin or to any destination, for all commodities, equipment, and train types. This segment connects Neff Yard with KCT and BNSF and is necessary for CN to interchange with other carriers in Kansas City at or via Neff Yard, which is essential to CN's ability to serve as an effective remedy carrier and to open new interline routes through the Kansas City gateway. The proposed form of the agreement is attached as Exhibit 2D to CN's Kansas City Responsive Application (Sub-Nos. 2, 3, 4, 6, 7, and 8).

[242] If the Board orders divestiture of the Kansas City Line to CN, CN would gain access to UP's former Sarpy Yard property and plans to invest in developing the yard to handle CN's automotive and intermodal traffic at that location.
[243] *See* CN-30 at 10; Kansas City Line Trackage Rights Agreement, Recitals, § 1 (Exhibit 2B).

6. Lease and Purchase of Neff Yard (Sub-No. 6)

CN seeks the lease or acquisition of UP's Neff Yard, including the Neff intermodal terminal, in Kansas City, Missouri, in whole or in part, with an option to purchase, to support this Operating Plan. Access to Neff Yard will provide CN with the terminal capacity needed to load and unload containers and finished vehicles and to handle merchandise traffic, allowing CN to effectively serve intermodal, automotive, and other customers in Kansas City that would otherwise lose a Class I alternative as a result of the Proposed Transaction.[244] The proposed form of the agreement is attached as Exhibit 2E to CN's Kansas City Responsive Application (Sub-Nos. 2, 3, 4, 6, 7, and 8).

7. Trackage Rights between Tuscola and East St. Louis (Sub-No. 7)

CN seeks overhead trackage rights over UP's line between Tuscola, Illinois and East St. Louis, Illinois (the Tuscola Line), for the movement of any traffic between Tuscola and Q Tower TRRA, Illinois. These rights will connect CN's existing lines in central Illinois to the St. Louis area and eliminate approximately 70 miles from CN's route from Chicago to St. Louis and Kansas City.[245] The proposed form of the agreement is attached as Exhibit 2F to CN's Kansas City Responsive Application (Sub-Nos. 2, 3, 4, 6, 7, and 8).

8. Agreement for Trackage Rights Between Lenox in Mitchell, Ill. and East St. Louis, Ill. (Sub-No. 8)

CN seeks overhead trackage rights over the lines of A&S, UP's wholly owned subsidiary, between Lenox in Mitchell, Illinois and Valley Junction in East St. Louis, Illinois, for connection

[244] *See* CN-30 at 2, 8, 10.
[245] *See id.* at 8–11; Overhead Trackage Rights Agreement (Tuscola, IL to St. Louis, MO), Recitals, § 1 (Exhibit 2F).

to TRRA, for the movement of empty and loaded railcars. Together with the Tuscola Line rights and trackage rights over TRRA between East St. Louis, Illinois and St. Louis, Missouri, these rights will give CN a continuous route into St. Louis, expanding CN's access beyond East St. Louis and allowing CN to compete for more customers in the St. Louis area.[246] The proposed form of the agreement is attached as Exhibit 2F to CN's Kansas City Responsive Application (Sub-Nos. 2, 3, 4, 6, 7, and 8).

9. Terminal Trackage Rights over BNSF between Eton and Congo (Sub-No. 5)

CN seeks terminal trackage rights pursuant to 49 U.S.C. § 11102 over 7.5 miles of track owned by BNSF between Eton, Missouri at MP 276.1 (BNSF MP 436.6) and Congo, Missouri at BNSF MP 444.1. This segment lies within the Kansas City terminal area and is needed to connect the Kansas City Line to Neff Yard and the Kansas City terminal over the River Subdivision, allowing CN to reach Neff Yard and serve affected customers in Kansas City in an operationally feasible manner. CN's operations over the segment would be consistent with UP's current use, running directionally.[247] The proposed form of the agreement is attached as Exhibit 2A to CN's BNSF Terminal Trackage Rights Application (Sub-No. 5).

10. Local Trackage Rights to serve Hillsboro, Ill. (Sub-No. 9)

CN seeks trackage rights over UP's line to reach Hillsboro, Illinois to serve the affected 2-to-1 customer facility (Hillsboro Energy LLC), from Tuscola, Illinois and/or East St. Louis, Illinois. Applicants have acknowledged that this Foresight Energy facility would have its Class I

[246] *See* CN-30 at 2, 11; Overhead Trackage Rights Agreement (Lenox, IL to East St. Louis, IL), Recitals (Exhibit 2G).
[247] *See* CN-30 at 10.

access reduced from two carriers to one as a result of the Proposed Transaction.[248] Because the coal served at the facility moves in unit trains, trackage rights (rather than haulage) are needed for CN to serve the facility in an operationally and commercially feasible manner and preserve competition.[249] The proposed form of the agreement is attached as Exhibit 2A to CN's Hillsboro / Carlinville Responsive Application (Sub-Nos. 9 and 34).

11. Local Trackage Rights to Serve Carlinville, Ill. (Sub-No. 34)

CN seeks trackage rights between Springfield, Illinois and Macoupin mine/ Carlinville, Illinois to access the 2-to-1 customer facility there (Macoupin Energy LLC). Foresight's website describes Macoupin mine as idled.[250] Applicants have acknowledged that this Foresight Energy facility would have its Class I access reduced from two carriers to one as a result of the Proposed Transaction.[251] Because the coal served at the facility moves in unit trains, trackage rights (rather than haulage) are needed for CN to serve the facility in an operationally and commercially feasible manner and preserve competition.[252] The proposed form of the agreement is attached as Exhibit 2A to CN's Hillsboro / Carlinville Responsive Application (Sub-Nos. 9 and 34).

12. Trackage Rights between Manly/Iowa Falls, Iowa and Des Moines/Avon, Iowa (Sub-No. 10)

CN seeks trackage rights over UP's line between Manly and/or Iowa Falls, Iowa and Des Moines and Avon, Iowa, including access to the 2-to-1 and 3-to-2 customer facilities in and

[248] *See* Comment at 71–73.
[249] *See* CN-30 at 3, 6, 11; Ellis V.S. at 10.
[250] *See Operations*, Foresight Energy, https://www.foresight.com/operations/ (last visited Nov. 15, 2026).
[251] Second Supplemental Submission at 58; Iron Road study.
[252] *See* CN-30 at 3, 6, 11; Ellis V.S. at 10–11.

around Des Moines. CN's network connects with UP at Iowa Falls, approximately 73 miles from Des Moines.[253] These rights will ensure that Des Moines area customers, which are currently served by only three Class I carriers, retain three competing Class I options following the Proposed Transaction, via a direct route from CN's Iowa lines rather than a substantially longer route through the St. Louis terminal.[254] The proposed form of the agreement is attached as Exhibit 2A to CN's Des Moines Responsive Application (Sub-No. 10).

F. Dispatching Changes

The train dispatching function is of central importance to both the efficiency and safety of rail operations. As explained above, CN's United States dispatching is centralized at Homewood, Illinois where it has approximately 90 employees and 11 desks. CN would dispatch the Kansas City Line to St. Louis from there by creating another dispatching desk and adding four additional, trained rail traffic controllers (dispatchers). UP dispatchers would continue to control train movements on UP lines from their centralized dispatching centers.

G. Labor Impact

CN anticipates hiring additional personnel in Kansas and Missouri to operate the Kansas City Line to St. Louis, as well as in Illinois for the trackage rights over the Tuscola and Hillsboro Lines and in Iowa to operate over the Des Moines Line, including employees in the train and engine crew, signals, and maintenance crafts. CN will hire the number of employees at the time of acquisition that is needed to operate safely and effectively. CN will offer qualified UP

[253] UP has proposed CN be provided haulage over BNSF from St. Louis, via an existing NS-BNSF haulage arrangement, to access Des Moines to address 2-to-1 and 3-to-2 customer concerns. As discussed above, this would require a significantly longer and more congested service route than CN's proposed remedy. *See supra* note 5.
[254] *See* CN-30 at 3, 7, 13.

employees currently working on the Kansas City, Tuscola Lines, Hillsboro and Des Moines Line priority hiring consideration during the hiring process.

Figure 42
Kansas City Line Divestiture/Trackage Rights Anticipated Hiring

Illinois Central Railroad Company (ICRR)		
Craft or Class	**Anticipated Jobs Created Divestiture**	**Anticipated Jobs Created Trackage Rights**
BLET Locomotive Engineers	**26**	**14**
BMWED Engineering and Track Maintenance	**73**	**0**
BRS Signalmen	**16**	**0**
SMART-TD Conductors	**26**	**14**
IBEW Electrician	**4**	**0**
IAM Machinist	**0**	**0**
BRC Car Mechanic	**0**	**0**
ATDA Dispatchers	**4**	**0**
Craft Total	**149**	**28**
Management – Transportation	**2**	**2**
Management – Engineering	**8**	**0**
Management Total	**10**	**0**
GRAND TOTAL	**159**	**30**

Figure 43
Tuscola Lines Trackage Rights Anticipated Hiring

Illinois Central Railroad Company (ICRR)	
Craft or Class	**Anticipated Jobs Created on the Tuscola Line**
BLET Locomotive Engineers	**6**
BMWED Engineering and Track Maintenance	**0**
BRS Signalmen	**0**
SMART-TD Conductors	**8**
IBEW Electrician	**0**
IAM Machinist	**0**
BRC Car Mechanic	**0**
Craft Total	**14**
Management	**Anticipated Jobs Created**
Management – Transportation	**1**
Management – Engineering	**0**
Management Total	**1**
GRAND TOTAL	**15**

Figure 44
Des Moines Line Trackage Rights Anticipated Hiring

Illinois Central Railroad Company (ICRR)	
Craft or Class	**Anticipated Jobs Created on the Tuscola Line**
BLET Locomotive Engineers	**4**
BMWED Engineering and Track Maintenance	**0**
BRS Signalmen	**0**
SMART-TD Conductors	**4**
IBEW Electrician	**0**
IAM Machinist	**0**
BRC Car Mechanic	**0**
Craft Total	**8**
Management	**Anticipated Jobs Created**
Management – Transportation	**0**
Management – Engineering	**0**
Management Total	**0**
GRAND TOTAL	**8**

Figure 45

Hillsboro Trackage Rights Anticipated Hiring[255]

Illinois Central Railroad Company (ICRR)	
Craft or Class	**Anticipated Jobs Created**
BLET Locomotive Engineers	**2**
BMWED Engineering and Track Maintenance	**0**
BRS Signalmen	**0**
SMART-TD Conductors	**2**
IBEW Electrician	**0**
IAM Machinist	**0**
BRC Car Mechanic	**0**
Craft Total	**4**
Management	**Anticipated Jobs Created**
Management – Transportation	**0**
Management – Engineering	**0**
Management Total	**0**

[255] The Macoupin mine served by the Macoupin Line is currently idled. Thus, CN will have no anticipated hiring needs for the Macoupin Line unless and until the mine is put in production.

GRAND TOTAL	**4**

Estimated post-transaction manpower needs include a T&E workforce conventional type assignments. The total T&E number, however, will not change if an assignment is run remote with two trainmen instead of a trainman and engineer.

For mechanical forces, there is a locomotive shop but not a mechanical shop in Neff Yard. As CN does for bad ordered cars in Kirk Yard, CN employees would repair any bad order cars in designated RIP tracks at Neff Yard and as needed along the line. CN's car repair shop in Woodcrest, Illinois would handle scheduled repairs. TRRA also has car shop facilities in Madison Yard in Venice, Illinois.[256]

Maintenance of way staff will be added to maintain the Kansas City Line as shown above in **Figure 42** if divestiture is approved. The improved connections at Sullivan and Tuscola will be handled by CN maintenance of way forces assigned from its Champaign and Peoria subdivisions.

Further details are provided in the labor impact statements included in Appendix B.

H. Passenger Rail Service Impact

The proposed divestiture transaction and grant of trackage rights will have no impact on passenger rail service.

[256] *See Our Capabilitie*s, Terminal Railroad Association of St. Louis, https://terminalrailroadstl.odoo.com/ (last visited Nov. 15, 2026).

As discussed above, Amtrak service overlaps the Kansas City and Tuscola Lines in only two areas. CN's proposed operations would add four daily train movements between the MacArthur Bridge and River Junction. West of River Junction, directional running would reduce CN's contribution to two daily trains on the segment extending to Southwest Junction, as only westbound CN trains would use that route. Where the eastbound and westbound routes converge in the Kansas City terminal area, CN's proposed service would again total four daily train movements. The effects on Amtrak should therefore be assessed by segment, accounting for the distribution of CN's trains under the proposed directional-running arrangement.

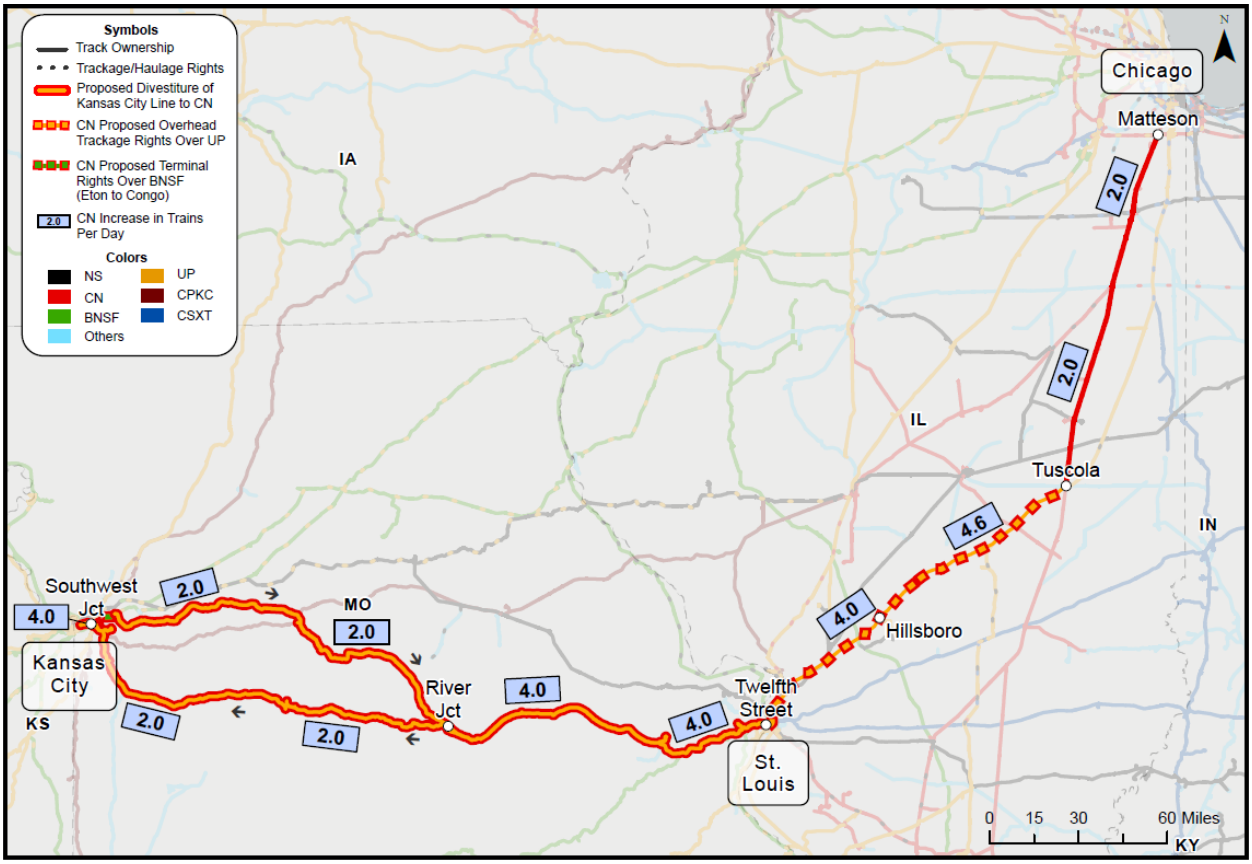
These minimal increases will have no impact on Amtrak service; nevertheless, CN will commit to work with Amtrak to address any issues of concern.

The RTC passenger-train simulation results indicate that the proposed additional CN and CSXT freight services would have a minor effect on Amtrak operations under the modeled conditions. At the MacArthur Bridge and surrounding approaches, the reported impact is negligible, with a worst-case delay increase of approximately 10 minutes over the 10-day simulation period. The Jefferson City and Sedalia subdivisions should be evaluated together because randomized freight departure times can shift the location of Amtrak delays between the two subdivisions. Viewed across the combined corridor, Amtrak delays increase only slightly and gradually as freight traffic is added. These results support the conclusion that the proposed freight services can be accommodated without materially impairing Amtrak's operating performance.

As shown in **Figure 46**, there is an existing section of the CN network between Chicago, Illinois and Tuscola, Illinois that will see one new train pair per day. This segment is used by Amtrak's *City of New Orleans* and *Illini* and *Saluki* services between Chicago and Carbondale,

IL, which operate daily in each direction. The Chicago – Tuscola line has ample capacity to handle two additional freight trains.

Figure 46
Transaction Related Train Increases on CN Chicago to Tuscola Line



Finally, there are portions of the existing CN lines in Michigan—described above— that will experience an increase in daily cars (but not trains), and which host the Amtrak *Wolverine* and *Blue Water* services. Because there will be no additional trains on those lines, there will be no impact on Amtrak service. To the extent any concern is raised about train length, CN will commit to work with Amtrak to address any issues of concern.

In summary, the anticipated increase in traffic and trains resulting from the proposed divestiture and trackage rights transaction is minimal, and is not likely to cause any disruption to Amtrak service. CN stands ready to work with Amtrak to ensure that is the case.

I. Discontinuances or Abandonments

No line abandonments or discontinuances are planned as a consequence of this transaction.

J. Deferred maintenance or delayed capital improvements on the involved property or equipment

CN is not aware of any deferred maintenance or delayed capital improvements on the Kansas City Line, which CN proposes to acquire in Sub-No. 2. Improvements are proposed for Neff Yard and the former Sarpy Yard property as described below in Section XI.M. These improvements are necessary to achieve the service benefits described in this Operating Plan by facilitating diverted intermodal and automotive traffic.

K. Yards expected to have an increase of activity greater than 20 percent.

Neff Yard in Kansas City and the former Sarpy Yard property and 23rd Street Yard in St. Louis will see more than a 20% increase in activity following CN's acquisition of them. Except for Champaign Yard, no existing CN yards are expected to see an increase in activity of more than 20%.

L. Requirements for additional locomotives, cars, and other equipment

To provide the services contemplated by this Operating Plan, CN will need additional cars and locomotives. The amount of additional equipment has been estimated for locomotives based on the percent increase in CN's systemwide post- transaction GTM's; and for intermodal platform and automotive multilevel cars based on the calculations described below, with results as follows:

Locomotives:

- An estimated 14 high-horsepower road locomotives (including a bad order and inspection factor) will be required for (i) the new Chicago-Kansas City train pair, (ii) movement of the projected increase in intermodal and automotive traffic between Chicago and Detroit/Toronto/Port of Montreal on existing trains; (iii) for the movement of increased volumes on CN's existing manifest trains moving between Chicago and Memphis, on the one hand, and East St. Louis; and (iv) increased volumes on the manifest trains operating between St. Louis and Kansas City.
- An estimated eleven (11) mid/low horsepower units will be required for local assignments at St. Louis/Jefferson City/Neff Yard (including a bad order and inspection factor)

Cars: CN as needed will acquire additional intermodal and multilevel cars to meet the requirements of additional traffic moving over the line. Currently, CN anticipates acquiring approximately 350 multi-level cars to support the additional automotive traffic.

Fueling, servicing and repairing of the road locomotives and rail cars will take place at Neff Yard, Centralia Yard in Centralia, Illinois, and CN's Harris Shops in Chicago. Locomotives at Jefferson City would be fueled locally using truck fueling and repaired as needed at either Centralia Yard or Neff Yard. Yard switchers will be fueled and repaired at their normal assigned locations using truck fueling and light repair services, with heavy repairs taking place at Centralia Yard or Neff Yard. Scheduled inspections would be handled at CN's Woodcrest light repair center in Chicago or at Neff Yard. Any bad order rail cars would be made safe to move to a repair facility depending on location or, if not safe to move, but a road repair truck.

The same types of Maintenance of Way equipment (and supporting manpower, for production gang rail and tie renewals) used on UP networks network will be deployed as needed to maintain and renew the track on the Kansas City Line.

CN will acquire and retire such equipment in accordance with its internal policies and procedures.

M. Capital Investment

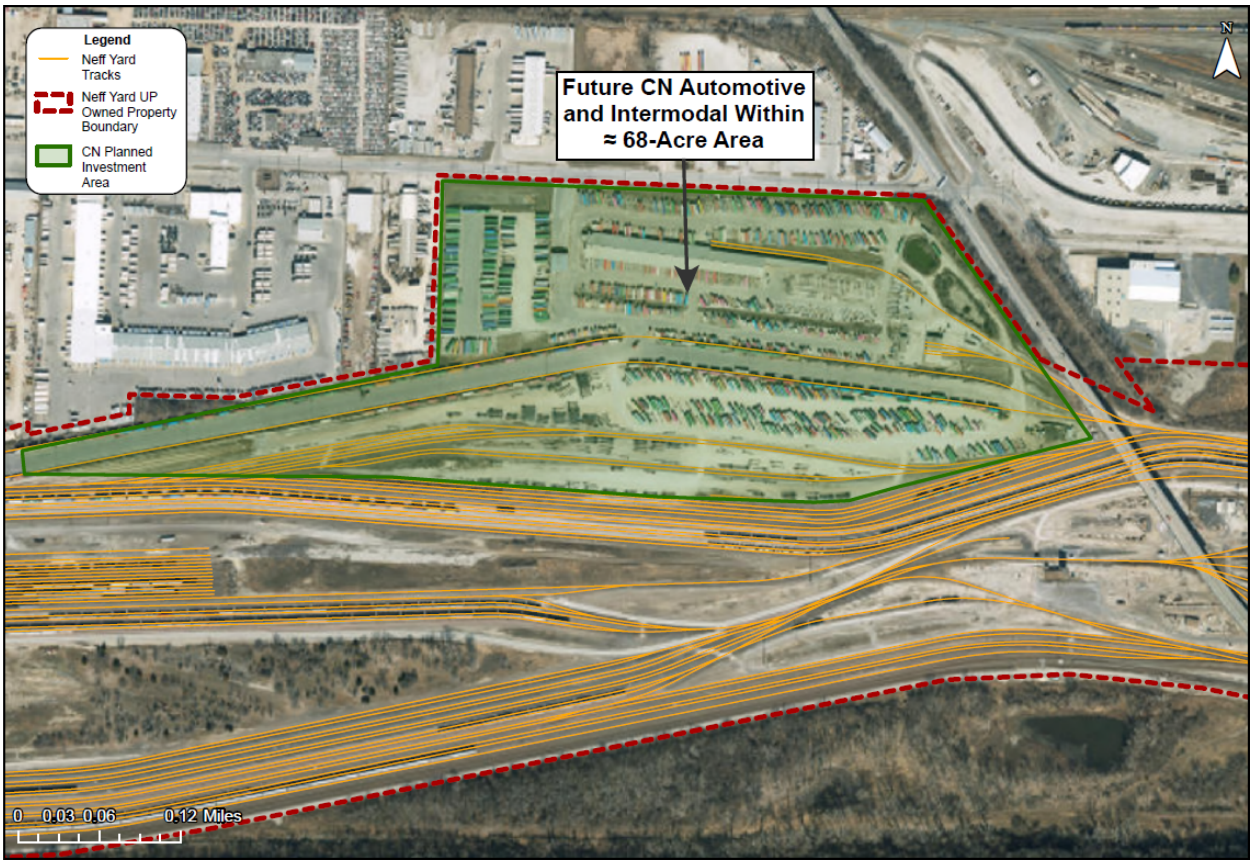
CN proposes to invest significant resources, totaling approximately $81.5 million over three years following the transaction, focused primarily on the Kansas City Line as a divested asset and the Tuscola Line at connection points with CN's existing track.[257] As explained above, a detailed physical inspection has not occurred and may result as of the date the Operating Plan was finalized and such physical inspection may result in adjustments to the capital investment program.

The capital investments described herein will improve transit times for customers who rely on the Kansas City and Tuscola Lines and add intermodal and automotive capacity at Kansas City and St. Louis, as well as improved connections for coal and other unit trains. To determine the necessary capital investment, CN evaluated the Kansas City and the Tuscola Line based on the assumptions in the Operating Plan and a minimum assumed maximum track speed of 40 miles per hour.

CN will use its capital investment to integrate the Kansas City Line's operations into its Operating Plan, expanding intermodal and automotive capacity at Neff Yard through track and other yard upgrades, such as equipment, fencing, repair tracks, lighting and security cameras. The estimated investment in Neff Yard is {{ }} million.

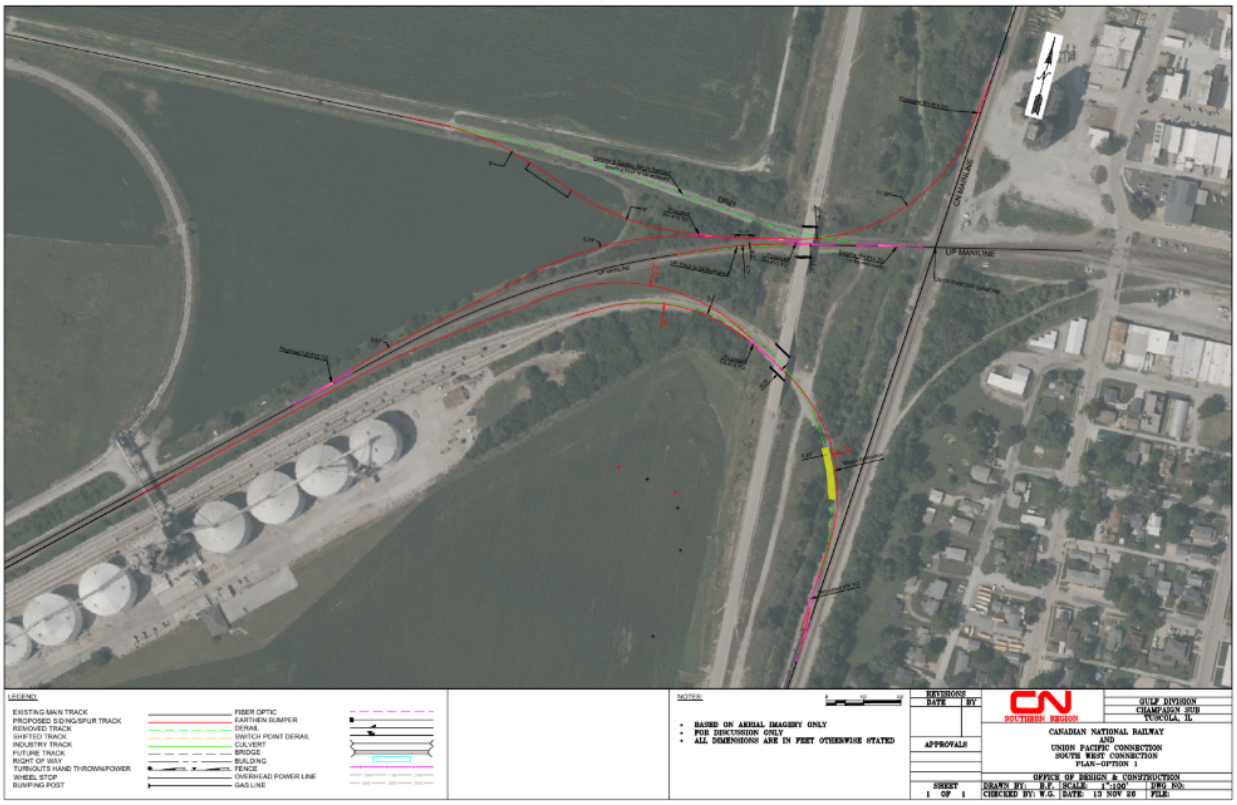
[257] Drysdale V.S. at 18–19.

Figure 47
CN Planned Initial Investment Area Within Neff Yard



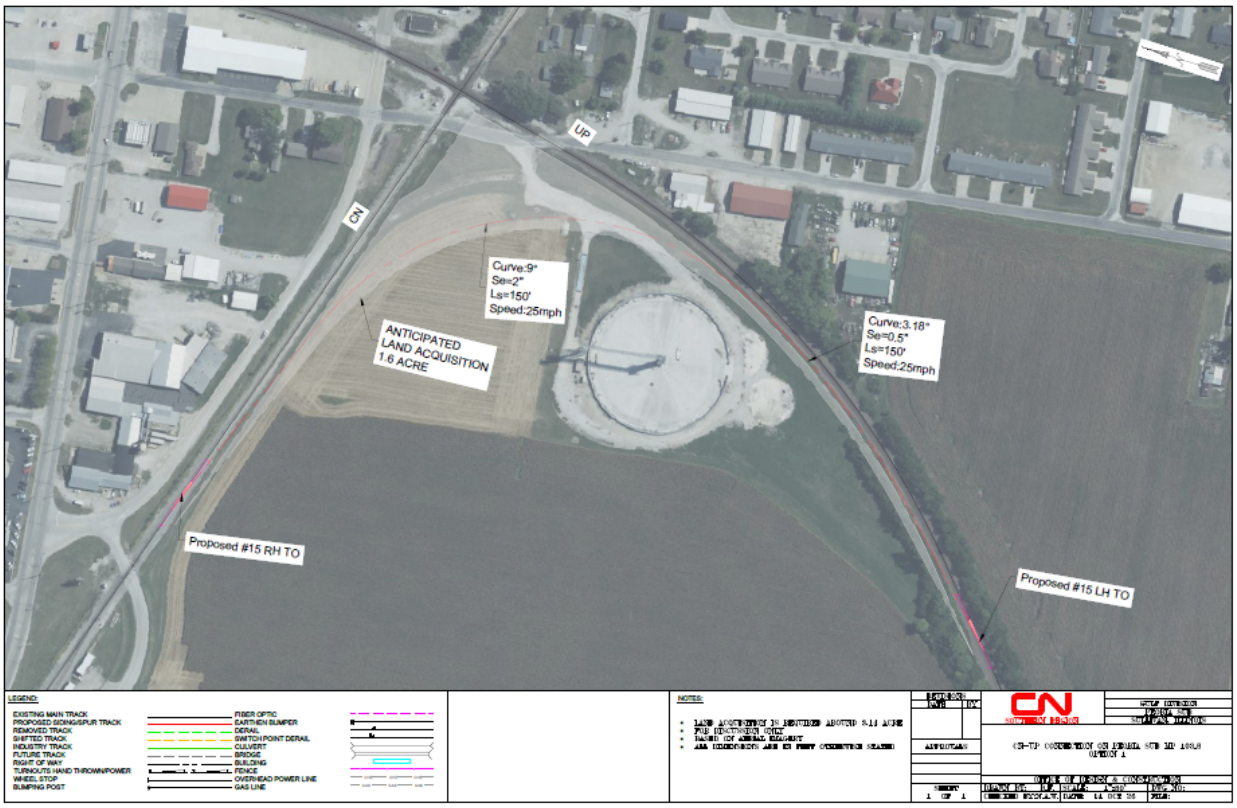
As shown in **Figure 48**, CN will also invest in a new connection at Tuscola from CN's existing Champaign Subdivision at or near Pana Subdivision milepost 153.76, to provide direct access from Champaign for CN trains to UP's Pana Subdivision. That project will also include rehabilitation of an existing connection at Tuscola that will allow CN trains from the UP Pana Subdivision to proceed south on CN's Champaign Subdivision. The estimated cost of the new and rehabilitated connections is {{ }} million.

Figure 48
Proposed Tuscola Connection



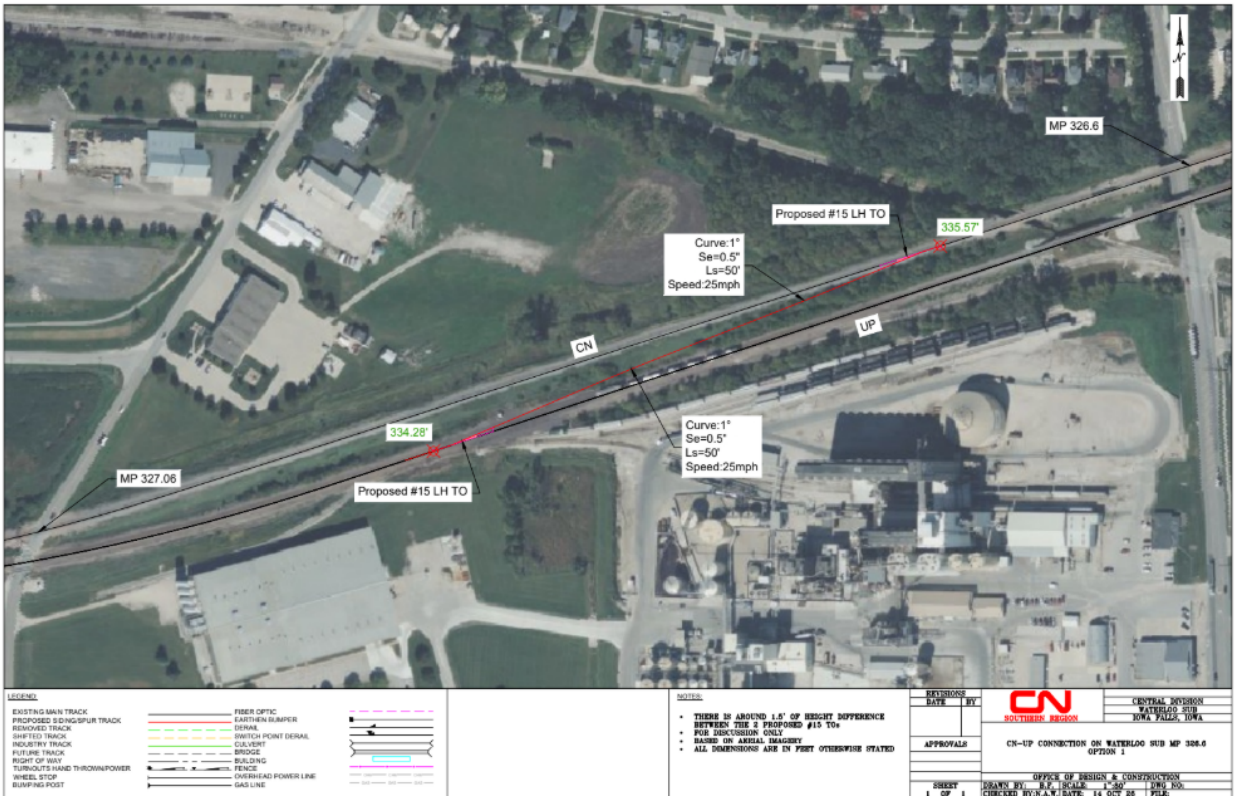
As shown in **Figure 49,** CN will also invest in new connecting track at Sullivan station on the UP's Pana Subdivision at or near milepost 176.2 to facilitate more efficient access for coal trains originating on the Hillsboro Line and the Foresight facilities. The estimated cost of the new connecting track is approximately {{ }} million.

Figure 49
Proposed Connection Track at Sullivan Station



CN will also invest in a new connection at Iowa Falls, Iowa for connection to UP's Mason City Subdivision and further access to Des Moines to serve 2-to-1 and 3-to-2 customers, as shown in **Figure 50**. Until the new connection is constructed, CN will access the Mason City Subdivision by an existing connection at Manly, Iowa, which is the basis for requesting trackage rights to Manly, Iowa. The estimated cost of the new Iowa Falls connection is {{ }} million.

Figure 50
Proposed Iowa Falls Connection



Finally, CN would acquire rights to and improve UP's existing but defunct former Sarpy Yard property in St. Louis for expansion of its intermodal and automotive operations. The estimated cost of this investment is {{ }} million.

No investments are proposed directly for the Hillsboro Line or the Macoupin Line, other than the new connection at Tuscola already described above.

Figure 51
CN Planned Investment Area Within the Former Sarpy Yard Property

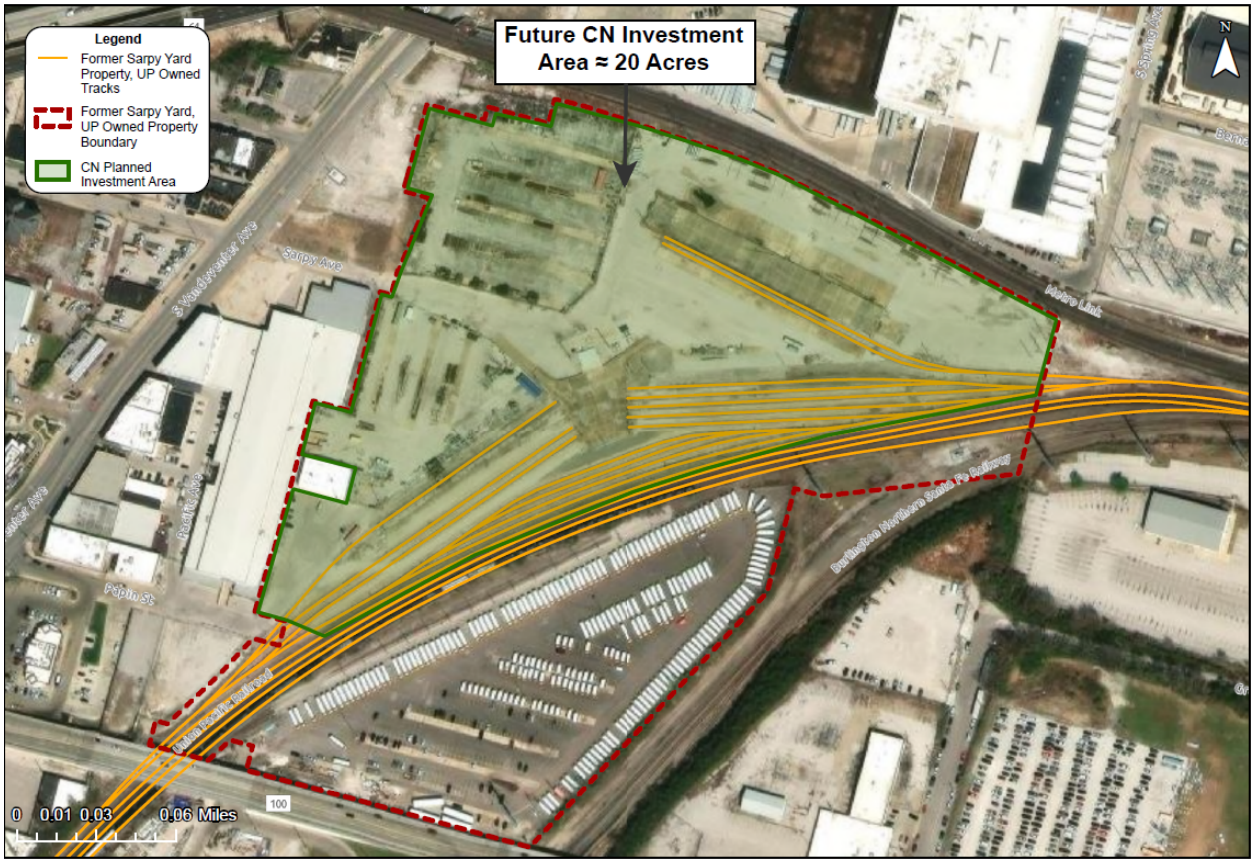


Figure 52
CN Proposed Investments in the Lines

CN Investments (Estimated)		
Neff Yard	{{	}}
Tuscola Connection Track	{{	}}
Sullivan Connection Track	{{	}}
Iowa Falls Connection Track	{{	}}
Former Sarpy Yard Property	{{	}}
TOTAL	$81.5 M	

With these investments, CN will increase train velocity and improve performance of trains and supporting yard activities on the Kansas City and Tuscola Lines, benefiting operations on both. Going forward, CN will implement its standard asset replacement cycles.

N. Safety Impact

Nothing is more important to CN than operating safely. CN recognizes that safety is not a static "program"; it is a dynamic process focused on continuously improving its corporate safety culture. CN's culture is built on a fundamental commitment to safety that begins at the top. CN is dedicated to providing the leadership, training, organizational structure, technology, and resources necessary to support its goal of eliminating fatalities, preventing catastrophic events, and reducing injuries/illnesses, making it the safest provider of transportation services in North America. CN's Safety Policy emphasizes a continuous commitment built on four key enablers: (1) Leadership & Culture; (2) Critical Risks & Controls; (3) Learning & Communications; and (4) Systems & Technology.[258]

CN is committed to integrating the Kansas City Line and operations on the Tuscola, Hillsboro. Macoupin and Des Moines Lines in a manner that will not compromise safety. As stated above, the Kansas City Line would be dispatched from Homewood, IL, like the rest of CN's United States network. To the extent employees who have not previously worked on the Lines are assigned to work on the Lines, CN will comply with all applicable FRA regulations including those relating to territorial qualification. CN's investment in CTC where appropriate at

[258] *See Be A Leader in Safety,* CN, https://www.cn.ca/en/safety/employee-safety/ (last visited Nov. 17, 2026).

new connection points enhances safety and efficiency because it gives the RTC the ability to control the signals and switches remotely from the dispatch center in Homewood, IL.

CN's PTC technology is fully interoperable with UP and NS, so no significant change in PTC infrastructure would be required. CN will consult with FRA to update CN's system PTC Implementation Plan and PTC Safety Plan, as well as coordinate any necessary PTC testing or other FRA-required information. CN would work with FRA to ensure compliance with all requirements and PTC would continue to protect all PTC regulated track as it does today.

XII. Conclusion

The additional traffic, both rail and truck, that CN will divert by virtue of divestiture of the Kansas City Line in combination with trackage rights through to Tuscola and Des Moines, in combination with the major investments CN will make to handle that traffic safely and efficiently, will be a great benefit to the national rail network and to the environment.

The requested divestiture and trackage rights will preserve competition in Kansas City and St. Louis, and protect numerous 2-to-1 and 3-to-2 shippers, who will lose competitive rail options by virtue of the Proposed Transaction, by providing new competitive service for rail traffic. It will also shift traffic from the congested Chicago Gateway, creating significant operating efficiencies and more timely service for shippers.

VERIFICATION

I, Patrick Whitehead, declare under penalty of perjury under the laws of the United States that the forgoing is true and correct. Further, I certify that I am qualified and authorized to file this statement. Executed on this 18th day of November, 2026.

/s/ Patrick Whitehead

Patrick Whitehead

VERIFICATION

I, Kim N. Hillenbrand, declare under penalty of perjury under the laws of the United States that the forgoing is true and correct. Further, I certify that I am qualified and authorized to file this statement. Executed on this 18th day of November, 2026.

/s/ Kim N. Hillenbrand

Kim N. Hillenbrand

Appendix A

PAGES 941-963
WITHHELD FROM
PUBLIC VERSION

Appendix B

BEFORE THE

SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY

-- CONTROL --

NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

(SUB-NO. 2) ILLINOIS CENTRAL RAILROAD COMPANY – DIVESTITURE – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 3) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN ST. LOUIS, MO. AND KANSAS CITY, MO.

(SUB-NO. 4) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN LYDIA AVENUE AND BROADWAY IN KANSAS CITY, MO.

(SUB-NO. 5) ILLINOIS CENTRAL RAILROAD COMPANY – TERMINAL TRACKAGE RIGHTS – OVER LINE OF BNSF RAILWAY COMPANY BETWEEN ETON, MO. AND CONGO, MO.

(SUB-NO. 6) ILLINOIS CENTRAL RAILROAD COMPANY – LEASE AND PURCHASE – UNION PACIFIC RAILROAD COMPANY NEFF YARD IN KANSAS CITY, MO.

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(SUB-NO. 8) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – OVER LINE OF THE ALTON & SOUTHERN RAILWAY COMPANY BETWEEN LENOX/MITCHELL, ILL. AND EAST ST. LOUIS, ILL.

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APPLICATION AND EXHIBITS

1180.6(a)(2)(v) ***The effect of the proposed transaction upon applicant carriers' employees (by class or craft), the geographic points where the impact will occur, the time frame of the impact (for at least 3 years after consolidation), and whether any employee protection agreements have been reached.***

Divestiture, or alternatively grant of trackage rights, of the Kansas City Line is not anticipated to have any adverse impact on the current employees of CN or any of its US rail subsidiaries. The anticipated hiring detailed below is based on limited information currently available. CN's likely staffing locations include the following:

Engineers/conductors: Missouri (Jefferson City, St. Louis)

Maintenance of way/engineering: Missouri (Jefferson City, Pacific, Washington, Hermann, Sedalia, Warrensburg, Lee's Summit, Boonton, Lexington).

Dispatchers: Illinois (Homewood)

CN anticipates hiring in Year 1 after consummation. No employee protection agreements have been reached.

The summary of the anticipated labor impacts is attached to the Operating Plan at Appendix B and is included below. ICRR will be hiring new employees to operate the Kansas City Line after consummation.

ICRR plans to offer qualified UP employees currently working on the Kansas City Line priority hiring consideration during ICRR's hiring process. As summarized below, CN estimates that it will hire 159 new employees in Missouri and Illinois (identified as "Anticipated Jobs Created" in the summary of anticipated labor impacts) to operate the Kansas City Line, if divested. Those employees will include 149 craft employees and 10 managers. If trackage rights are granted, CN estimates that it will hire 30 new employees. Those employee will include 28 craft employees and 2 managers.

KANSAS CITY LINE DIVESTITURE

Summary of Anticipated Labor Impacts - Docket No. FD 36873 (Sub-No. 2)

Illinois Central Railroad Company (ICRR)	
Craft or Class	**Anticipated Jobs Created**
BLET Locomotive Engineers	**26**
BMWED Engineering and Track Maintenance	**73**
BRS Signalmen	**16**
SMART-TD Conductors	**26**
IBEW Electrician	**4**

IAM Machinist	**0**
BRC Car Mechanic	**0**
ATDA Dispatchers	**4**
Craft Total	**149**
Management	**Anticipated Jobs Created**
Management – Transportation	**2**
Management – Engineering	**8**
Management Total	**10**
GRAND TOTAL	**159**

KANSAS CITY LINE TRACKAGE

Summary of Anticipated Labor Impacts - Docket No. FD 36873 (Sub-No. 3)

Illinois Central Railroad Company (ICRR)	
Craft or Class	**Anticipated Jobs Created**
BLET Locomotive Engineers	**14**
BMWED Engineering and Track Maintenance	**0**

BRS Signalmen	**0**
SMART-TD Conductors	**14**
IBEW Electrician	**0**
IAM Machinist	**0**
BRC Car Mechanic	**0**
Craft Total	**28**
Management	**Anticipated Jobs Created**
Management – Transportation	**2**
Management – Engineering	**0**
Management Total	**2**
GRAND TOTAL	**30**

For the line sale divestiture in Docket No. FD 36873 (Sub-No. 2), employees adversely affected by the Transaction will be entitled to the employee protective conditions and other procedures adopted in *New York Dock—Control—Brooklyn Eastern District Terminal*, 360 I.C.C. 60, *aff'd sub nom. New York Dock Ry. v. United States*, 609 F.2d 83 (2d Cir. 1979), *as modified by Wilmington Terminal Railroad—Purchase & Lease—CSX Transportation Inc.*, 6 I.C.C.2d 799, 814–26 (1990), *aff'd sub nom. Railway Labor Executives' Ass'n v. ICC*, 930 F.2d 511 (6th Cir. (1991).

The trackage rights transactions in Docket No. FD 36873 (Sub-Nos. 3, 4, and 5) are subject to the employee protective conditions established in *Norfolk & Western Ry.—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry.—Lease & Operate*, 360 I.C.C. 653 (1980). ICRR does not anticipate that the trackage rights transactions proposed in those sub-dockets will adversely affect any rail employees.

For the lease and potential acquisition transaction in Docket No. FD 36873 (Sub-No. 6), employees adversely affected by the transaction will be entitled to the employee protective conditions and other procedures adopted in *New York Dock—Control—Brooklyn Eastern District Terminal*, 360 I.C.C. 60 (1979), *aff'd sub nom. New York Dock Ry. v. United States*, 609 F.2d 83 (2d Cir. 1979).

BEFORE THE

SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 36873

_____

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY

-- CONTROL --

NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

_____

(SUB-NO. 10) IOWA NORTHERN RAILWAY COMPANY AND CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY – TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN MANLY, IOWA / IOWA FALLS, IOWA AND DES MOINES, IOWA

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1180.6(a)(2)(v) ***The effect of the proposed transaction upon applicant carriers' employees (by class or craft), the geographic points where the impact will occur, the time frame of the impact (for at least 3 years after consolidation), and whether any employee protection agreements have been reached.***

The proposed Des Moines trackage rights are not anticipated to have any adverse impact on the current employees of CN or any of its U.S. rail subsidiaries. The anticipated hiring is based

on limited information currently available. IANR/CCP's likely staffing locations include the following: Manley, Iowa and Iowa Falls, Iowa. IANR/CCP anticipates hiring in Year 1 after consummation. No employee protection agreements have been reached.

The summary of the anticipated labor impacts is attached to the Operating Plan at Appendix B and is included below. As summarized below, IANR/CCP estimates that it would hire 8 new employees in Iowa (identified as "Anticipated Jobs Created" in the summary of anticipated labor impacts) to operate over the Des Moines Line. Those employees would include 8 craft employees and 0 managers.

DES MOINES TRACKAGE RIGHTS

Summary of Anticipated Labor Impacts

Iowa Northern Railway Company (IANR) and Chicago, Central & Pacific Railroad Company (CCP)	
Craft or Class	**Anticipated Jobs Created**
BLET Locomotive Engineers	**4**
BMWED Engineering and Track Maintenance	**0**
BRS Signalmen	**0**
SMART-TD Conductors	**4**
IBEW Electrician	**0**
IAM Machinist	**0**
BRC Car Mechanic	**0**

Craft Total	**8**
Management	**Anticipated Jobs Created**
Management – Transportation	**0**
Management – Engineering	**0**
Management Total	**0**
GRAND TOTAL	**8**

The trackage rights transaction in Docket No. FD 36873 (Sub-No. 10) is subject to the employee protective conditions established in *Norfolk & Western Ry.—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry.—Lease & Operate*, 360 I.C.C. 653 (1980). IANR/CCP does not anticipate that the trackage rights transaction proposed in this sub-docket would adversely affect any rail employees

(SUB-NO. 9) ILLINOIS CENTRAL RAILROAD COMPANY – LOCAL TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY TO SERVE HILLSBORO, ILL.

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(SUB-NO. 34) ILLINOIS CENTRAL RAILROAD COMPANY – LOCAL TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY TO SERVE CARLINVILLE, ILL.

_____

The proposed Hillsboro Line and Carlinville Line trackage rights are not anticipated to have any adverse impact on the current employees of CN or any of its US rail subsidiaries. The anticipated hiring is based on limited information currently available. CN's likely staffing locations include the following: Illinois (Champaign). CN anticipates hiring in Year 1 after consummation. Because the Carlinville Macoupin Energy facility is currently idled, CN does not anticipate any hiring or other labor impacts in connection with the proposed Macoupin trackage rights unless and until the mine resumes production. No employee protection agreements have been reached.

The summary of the anticipated labor impacts is attached to the Operating Plan at Appendix B and is included below. As summarized below, ICRR estimates that it would hire 4 new employees in Illinois (identified as "Anticipated Jobs Created" in the summary of anticipated labor impacts) to operate over the Hillsboro Line. Those employees would include 4 craft employees and 0 managers.

HILLSBORO TRACKAGE RIGHTS

Summary of Anticipated Labor Impacts

Illinois Central Railroad Company (ICRR)	
Craft or Class	**Anticipated Jobs Created**
BLET Locomotive Engineers	**2**
BMWED Engineering and Track Maintenance	**0**
BRS Signalmen	**0**
SMART-TD Conductors	**2**
IBEW Electrician	**0**
IAM Machinist	**0**
BRC Car Mechanic	**0**
Craft Total	**4**
Management	**Anticipated Jobs Created**
Management – Transportation	**0**
Management – Engineering	**0**
Management Total	**0**
GRAND TOTAL	**4**

The trackage rights transactions in Docket No. FD 36873 (Sub-No. 9) and Docket No. FD 36873 (Sub-No. 34) are subject to the employee protective conditions established in *Norfolk & Western Ry.—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry.—Lease & Operate*, 360 I.C.C. 653 (1980). ICRR does not anticipate that the trackage rights transactions proposed in those sub-dockets would adversely affect any rail employees.

BEFORE THE

SURFACE TRANSPORTATION BOARD

_____

DOCKET NO. FD 36873

_____

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY

-- CONTROL --

NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

_____

(SUB-NO. 7) ILLINOIS CENTRAL RAILROAD COMPANY – OVERHEAD TRACKAGE RIGHTS – LINE OF UNION PACIFIC RAILROAD COMPANY BETWEEN TUSCOLA, ILL. AND EAST ST. LOUIS, ILL.

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The grant of trackage rights to the Divestiture of the Tuscola Line is not anticipated to have any adverse impact on the current employees of CN or any of its US rail subsidiaries. The anticipated hiring detailed below is based on limited information currently available. CN's likely staffing locations include the following: Illinois (Champaign). CN anticipates hiring in Year 1 after consummation. No employee protection agreements have been reached.

The summary of the anticipated labor impacts is attached to the Operating Plan at Appendix B and is included below. ICRR will be hiring new employees to operate the Tuscola Line after consummation.

ICRR plans to offer qualified UP employees currently working on the Tuscola Line priority hiring consideration during ICRR's hiring process. As summarized below, CN estimates that it will hire 15 new employees in Illinois (identified as "Anticipated Jobs Created" in the summary of anticipated labor impacts) to operate the Tuscola Line. Those employees will include 14 craft employees and 1 manager.

Illinois Central Railroad Company (ICRR)	
Craft or Class	**Anticipated Jobs Created on the Tuscola Line**
BLET Locomotive Engineers	**6**
BMWED Engineering and Track Maintenance	**0**
BRS Signalmen	**0**
SMART-TD Conductors	**8**
IBEW Electrician	**0**
IAM Machinist	**0**
BRC Car Mechanic	**0**
Craft Total	**14**

Management	Anticipated Jobs Created
Management – Transportation	**1**
Management – Engineering	**0**
Management Total	**1**
GRAND TOTAL	**15**

The trackage rights transactions in Docket No. FD 36873 (Sub-No. 7) is subject to the employee protective conditions established in *Norfolk & Western Ry.—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry.—Lease & Operate*, 360 I.C.C. 653 (1980). ICRR does not anticipate that the trackage rights transactions proposed in this sub-dockets will adversely affect any rail employees.

Appendix C

BRG
INTELLIGENCE THAT WORKS

Curriculum Vitae

Kim Hillenbrand

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SUMMARY

Kim Hillenbrand than twenty years of experience analyzing regulatory and commercial issues affecting the railroads and related network industries. My work focuses on economics, operations, regulatory policy, and competition analysis. Before joining BRG, I served as a Section Chief in the Office of Economics at the Surface Transportation Board ("STB"), where I led economic and operational analyses and directed teams responsible for competition review, rate regulation, access pricing, passenger rail disputes, and operational issues. Before joining the Board, I worked at a boutique consulting firm specializing in expert witness and advisory services for the transportation and public utility industries. I have provided expert testimony and supported the preparation of expert testimony in proceedings before the STB, the Federal Energy Regulatory Commission, state public utility commissions, and state courts.

PRESENT EMPLOYMENT

2025 – Present, Director, BRG

PREVIOUS POSITIONS

2017-2025, Section Chief, US Surface Transportation Board
2012-2016, Transportation Industry Analyst, US Surface Transportation Board
2008-2012, Consultant, Snavely King Majoros & Connor, Inc.
2005-2008, Senior Analyst, Snavely King Majoros & Connor, Inc.
2003-2005, Analyst, Snavely King Majoros & Connor, Inc.

EDUCATION

BA, Economics, International Relations	Connecticut College

EXPERT TESTIMONY

Surface Transportation Board

April 27, 2006	Ex Parte 661, Rail Fuel Surcharges
May 1, 2006	Ex Parte 657 (Sub-No.1), Major Issues in Rail Rate Cases
October 2, 2006	Ex Parte 661, Rail Fuel Surcharges
October 24, 2006	Ex Parte 646 (Sub-No.1), Simplified Standards for Rail Rate Cases
November 22, 2006	NOR 42098, Williams Olefins LLC v Grand Trunk Corporation and Union Pacific Railroad Company
November 30, 2006	Ex Parte 646 (Sub-No.1), Simplified Standards for Rail Rate Cases
January 11, 2007	Ex Parte 646 (Sub-No.1), Simplified Standards for Rail Rate Cases
February 26, 2007	Ex Parte 646 (Sub-No.1), Simplified Standards for Rail Rate Cases
April 2, 2007	Ex Parte 661, Rail Fuel Surcharges
August 24, 2009	NOR 42114, U.S. Magnesium, LLC v. Union Pacific Railroad Company
September 22, 2009	NOR 42114, U.S. Magnesium, LLC v. Union Pacific Railroad Company
October 24, 2009	NOR 42114, U.S. Magnesium, LLC v. Union Pacific Railroad Company

PROFESSIONAL EXPERIENCE

- Lead the Office of Economics' analysis of recent railroad service and labor issues. Project consists of developing and delivering weekly reports to the Surface Transportation Board's (Board) commissioners and staff on service and employment metrics and briefing members on findings to assist in developing policy positions. This also includes preparing members for speeches and meetings with Congress, the Executive Branch, and media.
- Supervise the Office of Economics' review of railroad and motor carrier merger and acquisition transactions at the Board. The review compromised of managing and conducting competition and operational analyses including traffic diversion studies, developing policy recommendations that

are in the public interest, applying economic theory, setting access and trackage rights fees, coordinating with other offices, briefing Board members, and preparing for public hearings and meetings with external stakeholders. Led the team that approved within the statutory time frame for the most expensive rail merger to date.

- Lead the Office of Economics team that analyzed disputes between Amtrak and freight railroads which ranged from Amtrak's proposal to restart service on the Gulf Coast to contract disputes and the setting of new terms and conditions between parties.
- Successfully led the Office of Economics transformation into a data-driven organization, developing new analytical methods and data visualization techniques to improve the quality and timeliness of analyses. Headed the creation of the Section of Data Analytics that has transformed the Board's ability to collect, analyze, and use data.
- Co-chaired the Rate Reform Task Force, which developed recommendations to reform the Board's rate reasonableness methodologies. The task force report led to three rulemakings and two petitions for rulemakings from stakeholders.
- Provided expert witness testimony in a case using the Board's Three Benchmark Methodology resulting in a win for the client, US Magnesium versus the Union Pacific Railroad.
- Developed a cost model simulating costs of movements of Medicaid service vans used in a successful state court class action antitrust proceeding.
- Spearheaded a major government agency project analyzing costs of wireless devices and designed a strategy leading to 20 percent cost reduction for client.
- Authored research paper, in collaboration with economics experts, on cost of capital methodology and railroad industry cost issues to guide two Canadian provinces in a Canadian Transportation Agency (CTA) rulemaking.
- Conceptualized and wrote business plans and market strategies for an emergency response software company and a startup human resources/payroll processing company.
- Manage a team of economists, subject matter experts, and engineers made up of nine direct reports, one contractor, one detailed staff member, and indirect reports in the Office of Economics, responsible for conducting economic analysis on transportation issues, including rate cases, mergers, and rulemakings.
- Determine resource requirements and policy guidance for projects and assign project team leaders and staff to best-suited roles. Goal is to ensure success and on-time delivery through coordinating project goals and deliverables with other Offices and Board Members.
- Develop and mentor a team of highly skilled economists, subject matter experts, and engineers, creating a positive and productive work environment where respect, value, and growth are the highest priority.
- Build strong relationships with other offices within the Board, as well as external stakeholders such as Congress, the Executive branch, industry representatives, and media.
- Perform analyses on rate reasonableness, competition analysis, and revenue adequacy and make recommendations to ensure Board decisions are supported by fact and established economic theory, accounting principles, and existing laws. This role involves leading a team of

economists to analyze complex economic data and develop recommendations to promote competition and efficiency in the rail transportation industry.

- Led team consisting of analysts, economists, and engineers from multiple sections who worked in cross-functional teams with other offices to complete several large Stand-Alone Cost (SAC) rate cases ahead of schedule while working with teams, briefing the Boards' Commissioners and Office Directors on the parties' filings, issues, and policy recommendations.
- Manage the Office of Economics passenger rail team, responsible for developing policy recommendations, setting contract terms, performance standards, and evaluating the feasibility of new passenger rail services.
- Meet with stakeholders from the railroad industry, customer groups, and other government agencies to develop and draft policy proposals and final rules aimed at improving and streamlining the Board's rate reasonableness processes.
- Led a project to review and test the Board's Simplified Stand-Alone Cost (SSAC) Methodology at the request of the Board's Chairman.
- Assisted the Board's Rate Case Project Manager in developing and implementing recommendations from the Price Waterhouse Copper C Rate Case Processing Guidelines Report. This project led to more efficient processing of SAC cases in a timely fashion.
- Reviewed and helped draft Board decisions regarding discovery issues, motions to strike, supplemental evidence, compliance orders, technical conferences, technical corrections, petitions for reconsideration, and final merits decisions.
- Reviewed and set final rates for depreciation studies and reviewed impact of accounting rule makings on depreciation issues.
- Worked on costing issues involving Uniform Rail Costing System (URCS), including the make whole adjustment, linking factor SSAC operating costs, revenues allocation methodologies, and the impact on rate reasonableness calculations.
- Reviewed and researched issues concerning the Board's Revenue Allocation, Traffic Group selection, Discounted Cash Flow, Rate Prescription, and Cross Subsidy methodologies in deciding SAC cases.
- Cross-functional collaboration between Board offices to develop decisions and policy recommendations.
- Mentored and coached junior staff on rate case analysis and regulatory research.
- Developed and implemented new methodologies for calculating revenue allocation, Traffic Troup selection, and discounted cash flow in SAC cases.
- Analyzed the financial impact of proposed mergers and acquisitions on railroads and their customers.
- Developed policy recommendations to promote economic competition and efficiency in the surface transportation industry.
- Performed benchmark and market analysis of rail transportation for more than 50 companies, analyzing railroad variable costs and revenue data to determine optimal shipping rates and

competitors' transportation costs. This resulted in our clients reducing their transportation costs and improving their bottom line.

- Conducted underlying analysis, managed complex report preparation, and witness testimony for use in State and Federal regulatory commissions on depreciation, rate of return, rate design, cost allocation, financial viability of infrastructure investments, and revenue requirement issues.
- Advised clients and counsel regarding the mechanics, of rulemakings, and the ability to utilize the Board's rate reasonable methodologies.
- Performed studies evaluating transportation costs and options of plant site location of coal-fired power plant and bio-fuels refinery, including acquisition cost of rail cars and estimation of transit times.
- Created models that utilize components of the Board's URCS model for use in various applications ranging from the computation of trackage rights fees to the calculation of movement specific variable costs for unit train and high and wide rail movements.
- Successfully led multiple project teams, including the team that calculated road property investment costs, operating costs, and revenue divisions using the for use in a SSAC case at the Board.
- Conducted extensive analyses of rail freight logistics to create databases used in rate negotiations and transportation strategies.
- Created tactics used by clients in successful commercial negotiations, mediation, arbitration, and litigation.
- Managed and wrote reports for the chemical industry's main trade association on rail transportation pricing and fuel surcharges, representing the interests of a broad coalition of stakeholders.
- Analyzed the flow of toxic inhalation hazarded rail shipments based on shipper data and railroad traffic tapes for use in stakeholder's discussions with the Federal Railroad Administration and railroads.
- On behalf of a third-Party logistics provider (3PL), evaluated acquisition and growth strategies including mergers and divestitures.
- Examined transportation reengineering strategies for debtor in possession for bankrupt chemical companies.
- Analyzed proposed railroad line abandonment filings to develop strategies to oppose the proposed abandonment and feasibility of acquiring the issue line, including evaluation of operations cost and valuation of the rail line. Resulted in preserving rail service for affected communities.
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Appendix D

APPENDIX D

PRO FORMA DENSITY CHARTS

Projected Increase in Carloads Per Day Based on Diversion Estimates By CN Subdivision[1]

Subdivision	Diverted Carloads Per Day by Subdivision		
	Northbound	Southbound	Total
CHAMPAIGN	45.61	101.99	147.60
CHICAGO	45.61	84.96	130.57
FLINT	31.15	23.35	54.50
SOUTH BEND	31.15	23.35	54.50
STRATHROY	17.31	13.33	30.63
DUNDAS	11.55	9.78	21.32
HALTON	11.55	9.78	21.32
OAKVILLE	11.55	9.78	21.32
HOLLY	11.93	9.06	20.99
KINGSTON EAST	10.97	9.78	20.75
KINGSTON WEST	10.97	9.78	20.75
YORK	10.97	9.78	20.75
FULTON	2.77	17.39	20.16
CAIRO	1.79	17.39	19.18
CENTRALIA	1.79	17.39	19.18
SHELBY	2.77	16.23	19.00
MCCOMB	1.79	16.23	18.02
YAZOO	1.79	16.23	18.02
BATON ROUGE	-	16.23	16.23
ST LOUIS	7.07	5.00	12.07
LEITHTON	1.96	2.11	4.07
MATTESON	1.96	2.11	4.07
NEENAH	1.96	2.11	4.07
WAUKESHA	1.96	2.11	4.07
FORT FRANCES	1.96	2.11	4.07
RIVERS	1.96	2.11	4.07
SPRAGUE	1.96	2.11	4.07
SUPERIOR	1.96	2.11	4.07
WATROUS	1.96	2.11	4.07
RAINY	1.96	2.11	4.07
WAINWRIGHT	1.96	-	1.96
MEMPHIS	-	1.16	1.16

[1] Based on the top 50 BEA to BEA lanes of diverted units, which account for 70% of the total carloads. *See* CN Operating Plan Workpaper "US Subdivision MGT 2023-2025.xlsx."

Exhibit 14

EXHIBIT 14-A

DENSITY MAP

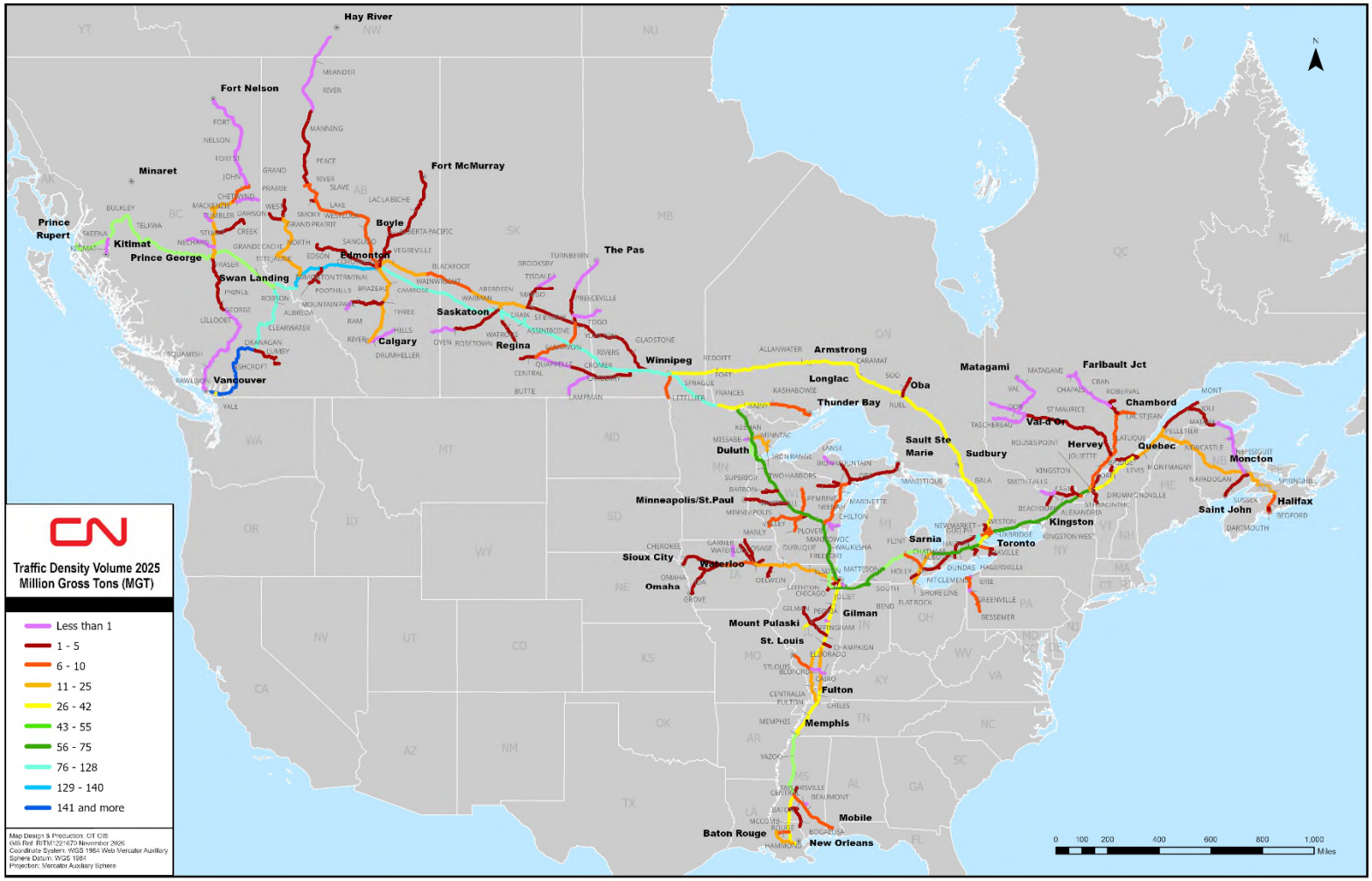


EXHIBIT 14-B

DENSITY CHARTS

CN Historic Traffic Density (2023 – 2025)[1]

Subdivision	Segment	Route Miles	Gross tons per miles (000,000)		
			2023	2024	2025
BARRON	LADYSMITH - POSKIN	44.2	2.11	1.43	1.26
BARRON	CAMERON - RICLAKE	6.1	2.50	1.23	0.98
BATON ROUGE	UNIVERSITY - GEISMAR	20.4	14.72	15.71	12.93
BATON ROUGE	RESERVE - KENNER	21.2	33.04	33.41	34.66
BATON ROUGE	SCOTLAND - MARYLAND	1.5	2.87	5.94	6.04
BATON ROUGE	GEISMAR - RESERVE	31.9	20.27	20.66	20.41
BATON ROUGE	BATON ROUGE J - UNIVERSITY	8.4	5.11	7.19	7.32
BEAUMONT	BELT JCT - BAY SHORE JCT	2.4	3.37	2.87	2.62
BEAUMONT	HATTIESBURG - BELT JCT	99.8	4.48	3.88	3.87
BEAUMONT	SARATOGA - HATTIESBURG	37.4	9.61	8.28	8.67
BEAUMONT	BAY SHORE JCT - MOBILE	2	3.37	2.87	2.62
BEAUMONT	STAR - SARATOGA	29.5	8.79	7.80	7.99
BEAUMONT	JACKSON - STAR	18.88	8.45	7.47	7.56
BESSEMER	GROVE CITY - BRANCHTON	9	5.84	6.10	6.20
BESSEMER	BRANCHTON - BUTLER	18.1	5.84	6.10	6.20
BESSEMER	CONNEAUT - CONNEAUT JCT	13.1	5.68	6.00	6.08
BESSEMER	KELSEY - GROVE CITY	20.1	5.83	6.09	6.20
BESSEMER	SANDY JCT - KELSEY	10.9	4.63	4.88	4.96
BESSEMER	BUTLER - N BESSEMER	35.4	5.78	6.08	6.18
BESSEMER	CONNEAUT JCT - SANDY JCT	33.9	5.69	6.00	6.08
BLUFORD	DIANA - AKIN JCT	6.6	24.04	22.62	23.55
BLUFORD	EDGEWOOD - BLUFORD	41.6	23.51	22.26	23.13
BLUFORD	METROPOLIS - CHILES	3.1	33.31	31.66	31.43
BLUFORD	BLUFORD - DIANA	14.7	23.78	22.42	23.19
BLUFORD	AKIN JCT - METROPOLIS	79.23	24.13	22.85	22.95
BOGALUSA	MORGANTOWN - BOGALUSA	44.1	1.02	1.07	1.09
BOGALUSA	WANILLA - MORGANTOWN	28	1.18	1.24	1.27
BRADLEY	BRADLEY - ARGONNE	46.5	0.00	0.00	0.00
BRADLEY	PRENTICE - BRADLEY	27.4	0.00	0.00	0.00
BRADLEY	LADYSMITH - PRENTICE	6.1	0.00	0.03	0.05
CAIRO	WICKLIFFE - BUDA	33.04	18.97	17.75	17.01
CAIRO	BUDA - FULTON	5.4	9.57	8.92	8.54
CAIRO	CAIRO - WICKLIFFE	16.72	9.35	8.74	8.36
CEDAR RAPIDS	MARION JCT - MARION	5.04	1.33	1.40	1.40
CEDAR RAPIDS	MANCHESTER - MARION JCT	39	1.45	1.60	1.64

[1] Table excludes segments that are within Canada. *See* CN Operating Plan Workpaper "US Subdivision MGT 2023-2025 Table.xlsx."

Subdivision	Segment	Route Miles	Gross tons per miles (000,000)		
			2023	2024	2025
CEDAR RAPIDS	MARION JCT - SHAVER	5.2	0.85	0.90	1.02
CENTRAL	SILVER CREEK - BROOKHAVEN	26.2	2.00	2.30	2.15
CENTRALIA	RICHVIEW - BOIS	10.5	31.83	31.28	29.39
CENTRALIA	MOUNDS - CAIRO	10.2	10.49	9.98	9.01
CENTRALIA	DESOTO - CARBONDALE	6.4	10.39	10.10	9.38
CENTRALIA	ELKVILLE - CARBONDALE	9.4	20.78	20.21	18.76
CENTRALIA	CARBONDALE - COBDEN	15.3	20.78	20.19	18.75
CENTRALIA	TAMAROA - DOWELL	15.6	7.95	7.78	7.27
CENTRALIA	TAMAROA - DU QUOIN	5.7	31.84	31.27	29.40
CENTRALIA	DOWELL - ELKVILLE	5.1	20.77	20.21	18.76
CENTRALIA	CENTRALIA - IRVINGTON	12.4	15.91	15.64	14.70
CENTRALIA	COBDEN - MOUNDS	28.9	20.77	20.19	18.75
CENTRALIA	MOUNDS - PULASKI	8	10.39	10.09	9.37
CENTRALIA	IRVINGTON - RICHVIEW	4.7	31.83	31.28	29.39
CENTRALIA	BOIS - TAMAROA	6	31.83	31.28	29.41
CHAMPAIGN	CHAMPAIGN - ANDERSONS	0.2	1.41	1.62	1.13
CHAMPAIGN	TUSCOLA - ARCOLA	8.1	47.70	44.90	45.43
CHAMPAIGN	EFFINGHAM - BRICKYARD JCT	3	7.10	6.21	5.08
CHAMPAIGN	SANDOVAL JCT - CENTRALIA	10.4	14.25	13.32	12.38
CHAMPAIGN	HUMBOLDT - DORANS	3.8	47.73	44.90	45.48
CHAMPAIGN	NEOGA - EFFINGHAM	14.9	54.24	50.91	50.88
CHAMPAIGN	ARCOLA - HUMBOLDT	5.7	47.73	44.91	45.45
CHAMPAIGN	DORANS - MATTOON	5	47.71	44.92	45.51
CHAMPAIGN	MATTOON - NEOGA	11.9	53.49	50.32	50.22
CHAMPAIGN	TOLONO - PESOTUM	4.8	47.11	44.48	44.19
CHAMPAIGN	WATSON - SANDOVAL JCT	41.7	38.19	35.71	34.21
CHAMPAIGN	LEVERETT JCT - TOLONO	13.15	47.19	44.59	44.24
CHAMPAIGN	PESOTUM - TUSCOLA	7.9	47.11	44.48	44.19
CHAMPAIGN	EFFINGHAM - WATSON	4.6	59.91	55.95	55.29
CHAMPAIGN TERM	CHAMPAIGN - SEYMOUR	7.1	0.24	0.28	0.15
CHEROKEE	STORM LAKE - ALTA	5.6	4.39	4.83	5.97
CHEROKEE	ALTA - AURELIA	7.4	4.30	3.96	4.28
CHEROKEE	MANSON - FONDA	16.2	4.40	4.84	5.98
CHEROKEE	MARCUS - LE MARS	18.8	3.09	2.68	3.10
CHEROKEE	TARA - MANSON	12.56	5.24	5.75	6.87
CHEROKEE	AURELIA - MARCUS	24.5	4.22	3.88	4.27
CHEROKEE	FONDA - NEWELL	8.1	4.39	4.83	5.98
CHEROKEE	LE MARS - SIOUX CITY	23.9	3.18	2.75	3.18
CHEROKEE	NEWELL - STORM LAKE	10.5	4.39	4.83	5.98
CHICAGO	GILMAN - DEL REY	12.3	23.11	21.78	21.64
CHICAGO	STUENKEL - GILMAN	49.55	44.36	42.39	41.28
CHICAGO	KENSINGTON - HOMEWOOD	41.32	7.37	7.34	7.39
CHICAGO	CHGO 82ND ST - KENSINGTON	32.16	2.62	2.74	2.94
CHICAGO	LODA - LEVERETT JCT	25.3	46.98	44.32	43.93
CHICAGO	DEL REY - LODA	11	46.21	43.56	43.28
CHICAGO	HOMEWOOD - STUENKEL	15.6	23.99	23.13	22.52
CHILES	MAXON - FULTON	40.2	34.21	33.06	33.27

Subdivision	Segment	Route Miles	Gross tons per miles (000,000)		
			2023	2024	2025
CHILES	CR JUNCTION - MAXON	0.05	3.17	3.22	3.57
CHILES	CHILES - MAXON	2	31.02	29.84	29.74
CHILTON	KIEL - HILBERT JCT	18.1	0.26	0.16	0.17
DEARBORN	FORDHAVEN - WOODHAVEN	1	9.15	8.54	8.17
DUBUQUE	ARCCO - DUBUQUE JCT	0.8	13.25	13.84	15.77
DUBUQUE	DUBUQUE JCT - JULIEN	10.5	8.58	13.49	18.92
DUBUQUE	JULIEN - MANCHESTER	37.6	12.18	13.06	14.92
DUBUQUE	WEST JUNCTION - PORTAGE	52	12.99	13.63	15.69
DUBUQUE	MANCHESTER - WATERLOO	48.6	10.24	11.15	13.22
DUBUQUE	EAST JCT - WEST JUNCTION	3.8	6.15	6.63	8.05
EFFINGHAM	EFFINGHAM YD - NEWTON	23.5	6.14	5.49	4.43
ELDORADO	BENTON - AKIN JCT	10.3	0.10	0.16	0.10
ELDORADO	SESSER - BENTON	7.77	0.10	0.16	0.10
ELDORADO	ELDJCT - CHRISTOPH	11	0.10	0.16	0.10
ELDORADO	FERBER - ELDORADO	19.3	0.09	0.20	0.10
ELSDON	HAYFORD - BLUE ISLAND	15	1.57	1.34	1.22
ELSDON	THORNTON JCT - GRIFFITH	22.4	3.86	3.16	2.82
ELSDON	BLUE ISLAND - HARVEY	7.8	0.60	0.14	0.15
ELSDON	HARVEY - THORNTON JCT	4	2.14	1.42	1.50
ERIE	WALLACE JCT - CONNEAUT JCT	8	0.04	0.06	0.03
FLAT ROCK	MAYBEE - DIANN	8.4	0.00	0.00	0.00
FLAT ROCK	FN - FLAT ROCK	6.1	14.02	13.44	13.96
FLAT ROCK	FLAT ROCK - MAYBEE	14	0.00	0.00	0.00
FLINT	FLINT - DAVISON	10	42.96	43.00	46.38
FLINT	MORRICE - DURAND	22.2	25.31	24.78	26.74
FLINT	DAVISON - EMMETT	37.9	42.96	42.99	46.43
FLINT	DURAND - FLINT	9.4	51.62	50.38	54.21
FLINT	DURAND - FLINT 2 TRK	14.6	25.81	25.19	27.11
FLINT	POTTERVILLE - LANSING	16.2	25.83	25.47	27.73
FLINT	LANSING - MORRICE	50.8	25.31	24.78	26.74
FLINT	BATTLE CREEK - OLIVET	42.2	25.83	25.46	27.73
FLINT	TAPPAN - PORT HURON	7.6	14.48	14.48	15.14
FLINT	OLIVET - POTTERVILLE	8.8	51.66	50.93	55.46
FLINT	TAPPAN - PT HURON 2TRK	0.4	28.96	28.96	30.28
FLINT	PORT HURON - SARNIA	0.2	28.57	28.48	29.61
FLINT	PORT HURON - SARNIA 1 TRK	1	57.14	56.95	59.22
FLINT	EMMETT - TAPPAN	14.2	42.97	42.99	46.45
FOX RIVER	NEENAH WI - APPLETON	4.9	11.69	11.21	10.92
FOX RIVER	GREEN BAY - DENMARK	15.5	0.00	0.00	0.00
FOX RIVER	APPLETON - GREEN BAY	30	10.62	10.07	9.73
FOX RIVER	GREEN BAY - LUXEMBURG	16.7	0.00	0.00	0.00
FREEPORT	PARKWAY - BROADVIEW	5.08	3.90	3.96	5.26
FREEPORT	HAWTHORNE - BROADVIEW	10.92	6.16	6.70	7.26
FREEPORT	ROCKFORD - EAST JCT	26.8	12.38	13.24	16.11
FREEPORT	BROADVIEW - MUNGER	21.1	12.17	13.15	15.87
FREEPORT	MUNGER - ROCKFORD	51	12.27	13.15	16.01
FULTON	MEM HOL YARD - AULON	2.6	50.25	49.53	48.43

Subdivision	Segment	Route Miles	Gross tons per miles (000,000)		
			2023	2024	2025
FULTON	NEWBERN - CURVE	24.5	51.44	49.67	48.58
FULTON	AULON - EAST JCT	4	50.48	51.53	50.95
FULTON	WOODSTOCK - MEM HOL YARD	7	49.76	47.86	46.53
FULTON	WOODSTOCK - MEMPHIS	20.4	1.99	2.16	2.31
FULTON	CURVE - MILLINGTON	43.9	51.32	49.55	48.38
FULTON	RIVES - NEWBERN	21.7	51.91	50.09	49.18
FULTON	ONARGA SPUR - RIVES	1.5	52.39	50.35	49.67
FULTON	MILLINGTON - WOODSTOCK	13.06	25.68	24.79	24.19
GARNER	GARNER - FORCITY	10.7	0.00	0.00	0.03
GARNER	BELMOND - GARNER	16.3	0.00	0.00	0.03
GILMAN	MT PULASKI - BRICKYARD JCT	25	0.18	0.13	0.19
GILMAN	GIBSON CITY - CLINTON	38.6	1.47	1.38	1.23
GILMAN	BRICKYARD JCT - CROWN 3	25.7	0.00	0.00	0.00
GILMAN	GILMAN - GIBSON CITY	29.05	2.25	2.15	2.44
GILMAN	CLINTON - MT PULASKI	21.7	1.86	1.79	1.70
GREENVILLE	SHENANGO - OSGOOD	10.8	0.02	0.03	0.02
GREENVILLE	KELSEY - SHENANGO	4.2	0.17	0.13	0.13
GRENADA	CANTON - JACKSON	25.7	2.49	2.57	1.98
GRENADA	EAST JCT - WATER VALLEY	2.7	0.00	0.00	0.00
HAMMOND	HAMMOND - BATON ROUGE J	46.6	4.92	6.25	6.99
HAWAKEYE	PALO - CEDRAPIDS	9.7	0.00	0.00	2.40
HAWAKEYE	WASHBURN - PALO	36	0.00	0.00	2.43
HAWAKEYE	BRYYARD - WASHBURN	4.9	0.00	0.00	2.33
HOLLY	PONTIAC - DETINTTER	45	3.17	2.73	2.79
HOLLY	DETINTTER - MILWAUKEE JCT	32.2	2.00	1.64	1.73
HOLLY	WATERFORD - PONTIAC	12.6	4.70	3.97	4.10
HOLLY	DURAND - WATERFORD	28.5	11.58	9.74	10.02
IDA GROVE	IDA GROVE JCT - IDA GROVE	25	1.27	1.39	1.63
ILLINOIS RIVER	RIVER - BEVEN	16.6	1.92	1.76	1.92
ILLINOIS RIVER	BEVEN - DIVINE	0.6	0.89	0.86	1.45
ILLINOIS RIVER	BEVEN - EMORRIS	1.1	2.55	2.34	2.97
ILLINOIS RIVER	MINOOKA - EMORRIS	6.2	0.00	0.00	0.01
IRON MOUNTAIN	QUINNESEC - ANTOINE	5	0.00	0.00	0.00
IRON MOUNTAIN	HERMANSVILLE - QUINNESEC	20.7	1.42	1.38	1.52
IRON RANGE	MESABA - EMCO	1.75	0.03	0.02	0.05
IRON RANGE	WALDO - IRON JCT	70.2	25.08	24.05	20.19
IRON RANGE	WALES - JORDAN	13.3	0.26	0.28	0.25
IRON RANGE	TWO HARBORS - WALDO	4.4	20.58	19.95	16.95
JOLIET	BRIDGEPOR - BRIPARK	19	2.34	2.34	2.41
JOLIET	HAWTHORNE - GLENN YARD	2	0.00	0.00	0.00
JOLIET	SUMMIT - JOLIET	50.4	0.73	0.69	0.81
JOLIET	JOLIET - PLAINES	1.2	1.61	1.20	1.48
JOLIET	LEMOYNE - SUMMIT	6.8	4.22	4.08	3.95
KEENAN	IRON JCT - HIBBING	16.1	0.25	0.12	0.13
LAKEFRONT	KIRYARD - BUFFINGTO	1	0.71	0.40	0.38
LAKEFRONT	INDHARBOR - HAMLAKFRO	4.5	0.95	0.57	0.54
LAKEFRONT	BUFFINGTO - INDHARBOR	2.6	1.35	0.86	0.84

Subdivision	Segment	Route Miles	Gross tons per miles (000,000)		
			2023	2024	2025
LAKEFRONT	HAMLAKFRO - SCHICAGO	1.9	0.95	0.57	0.54
LAKEFRONT	BUFFINGTO - STOCKTON	1.6	2.79	2.20	1.95
LANSE	BARAGA - CHAMPION	37.1	0.21	0.22	0.17
LEITHTON	WBRIJCT - EBRIJCT	0.75	75.46	72.89	72.98
LEITHTON	PHOENIX - EBRIJCT	1.3	0.39	0.45	0.32
LEITHTON	WROMEO - EBRIJCT	2.9	0.05	0.06	0.07
LEITHTON	WCHICAGO - EOLA	8.4	64.87	62.06	62.22
LEITHTON	RONDOUT - LEITHTON	5.4	0.23	0.26	0.25
LEITHTON	SPAULDING - MUNGER	1.8	61.98	60.35	60.65
LEITHTON	WBRIJCT - PHOENIX	0.55	0.01	0.00	0.00
LEITHTON	EOLA - RIVER	11.5	73.43	71.03	70.97
LEITHTON	WAUKEGAN - RONDOUT	7.5	0.13	0.13	0.14
LEITHTON	LEITHTON - SPAULDING	28.3	61.88	60.33	57.93
LEITHTON	RIVER - WBRIJCT	7.35	75.47	72.90	72.97
LEITHTON	MUNGER - WCHICAGO	5.8	61.81	60.21	60.31
LEITHTON	WBRIJCT - WROMEO	2.15	0.00	0.00	0.00
MANISTIQUE	GLADSTONE - MANISTIQUE	44	6.09	5.44	2.61
MANISTIQUE	S STE MARI ON - ODENA	2	0.00	0.00	0.00
MANISTIQUE	S STE MARI WI - S STE MARI ON	3.8	5.43	4.87	2.09
MANISTIQUE	TROUT LAKE - S STE MARI WI	43.6	5.52	5.04	2.30
MANISTIQUE	MANISTIQUE - TROUT LAKE	63	5.98	5.38	2.55
MANITOWOC	MANITOWOC - HILBERT JCT	28.1	0.58	0.36	0.59
MANITOWOC	CLEVELAND - MANITOWOC	6.1	0.07	0.02	0.00
MANITOWOC	HILBERT JCT - NEENAH	17.2	0.87	0.59	0.87
MANLY	SHEROCK - CDEFALJCT	14.7	0.00	0.00	2.11
MANLY	PACKARD - CLARKSVIL	5.9	0.00	0.00	1.08
MANLY	STOFFER - NORSPRING	2.1	0.00	0.00	1.05
MANLY	ROCKFORD - PACKARD	18.5	0.00	0.00	1.07
MANLY	MANLY - REINDL	2.1	0.00	0.00	0.68
MANLY	REINDL - ROCKFALLS	7.4	0.00	0.00	0.68
MANLY	NORSPRING - ROCKFORD	7.2	0.00	0.00	1.05
MANLY	CLARKSVIL - SHEROCK	7	0.00	0.00	1.64
MANLY	ROCKFALLS - STOFFER	3.4	0.00	0.00	0.96
MARINETTE	POWERS - ESCANABA	22.2	7.27	6.66	6.74
MARINETTE	ESCANABA - GLADSTONE	6.2	10.98	10.08	7.64
MARINETTE	GREEN BAY - MENOMINEE	48.2	7.01	6.42	6.40
MARINETTE	MENOMINEE - POWERS	42.6	6.74	6.26	6.28
MASON CITY	NORSPRING - GARNER	30.2	0.00	0.00	0.08
MATTESON	KIRYARD - BUFFINGTO	5	0.35	0.20	0.19
MATTESON	IVANHOE - CAVANAUGH	2.6	57.76	56.05	56.29
MATTESON	MATTESON - CHIHEIGHT	5.2	54.84	52.98	54.09
MATTESON	KIRYARD - GARY	5.62	2.53	2.67	2.61
MATTESON	STOCKTON - GOFF	6.5	4.89	4.81	4.43
MATTESON	CHIHEIGHT - GRIFFITH	19.4	55.05	53.11	54.22
MATTESON	GRIFFITH - IVANHOE	12.8	57.67	56.03	56.03
MATTESON	EBRIJCT - JOLYARD	1.7	75.90	73.39	73.34
MATTESON	JOLIET - JOLYARD	3.5	2.82	0.92	0.55

Subdivision	Segment	Route Miles	Gross tons per miles (000,000)		
			2023	2024	2025
MATTESON	STOCKTON - KIRYARD	4.2	60.94	59.60	59.20
MATTESON	JOLYARD - MATTESON	22.1	73.26	70.88	71.99
MATTESON	KIRYARD - PINE	3.2	0.00	0.00	0.00
MATTESON	CAVANAUGH - STOCKTON	2.6	56.90	55.53	55.54
MATTESON	CAVANAUGH - WHITING	4.7	1.85	1.13	1.59
MCCOMB	WESSON - CENJCA	15.8	17.27	17.78	18.45
MCCOMB	ELTON - CRYSTAL SPRIN	17.4	34.25	35.13	36.42
MCCOMB	JACKSON - ELTON	17.6	21.80	21.16	22.86
MCCOMB	SUMMIT - FERNWOOD	27.6	16.59	17.10	17.80
MCCOMB	JACKSON - FLOWOOD	6.9	0.60	0.83	0.44
MCCOMB	FERNWOOD - FRENIER	86.5	29.91	30.32	30.91
MCCOMB	ORLEANS JCT - KENNER	2	9.56	9.16	7.56
MCCOMB	HARAHAN - MAYS YARD	0.6	0.00	0.00	0.00
MCCOMB	KENNER - MAYS YARD	5.2	9.54	9.16	7.56
MCCOMB	MAYS YARD - NEW ORLEANS	8.37	0.84	1.10	0.02
MCCOMB	FRENIER - ORLEANS JCT	4.4	13.56	13.41	13.44
MCCOMB	CENJCA - SUMMIT	24.4	19.27	19.89	20.54
MCCOMB	CRYSTAL SPRIN - WESSON	22	34.52	35.50	36.78
MEMPHIS	MEMPHIS - EAST JCT	7.4	25.75	25.76	25.48
MEMPHIS	DENIE - MEMPHIS	1.7	52.27	51.53	50.96
MEMPHIS	WOODSTOCK - MEMPHIS	6.54	0.72	0.68	0.60
MEMPHIS	MEMPHIS - WEST JCT	1	57.21	56.30	55.08
MINNEAPOLIS	OWEN - WITHROW	123.6	5.03	4.75	4.34
MINNTAC	WOLF - MOUNTAIN IRON	5	30.67	29.48	27.51
MISSABE	DULUTH - ADOLPH	10.7	23.83	23.16	20.66
MISSABE	ADOLPH - FAIRLANE	48.2	54.08	54.36	50.32
MISSABE	KEENAN - IRON JCT	2.5	69.54	70.06	65.07
MISSABE	FAIRLANE - KEENAN	2	70.94	70.52	65.34
MISSABE	WOLF - SHELTON JCT	2.8	65.99	66.33	58.82
MISSABE	IRON JCT - WOLF	2.2	95.36	94.66	85.39
MT CLEMENS	MILWAUKEE JCT - DOUBLE TRACK	13.3	11.95	11.88	11.02
MT CLEMENS	DOUBLE TRACK - RICHMOND	22.7	11.59	11.44	10.69
MT CLEMENS	RICHMOND - TAPPAN	17.4	14.77	14.68	13.65
NEENAH	VAN DYNE - BLACK WOLF	11.2	35.17	34.34	34.27
NEENAH	BLACK WOLF - NEENAH	17.6	70.65	69.00	68.80
NEENAH	NEENAH - STOCKTON	60.9	66.64	65.33	65.31
NEENAH	FOND DU LAC - VAN DYNE	4.3	70.34	68.69	68.53
OELWEIN	FAIRBANK - ARMOUR	14.3	0.00	0.00	1.08
OELWEIN	LYNYARD - BYYARD	1.2	0.00	0.00	3.76
OELWEIN	OELWEIN - FAIRBANK	7.2	0.00	0.00	1.07
OELWEIN	ARMOUR - LYNYARD	3.3	0.00	0.00	1.16
OMAHA	FT DODGE - IDA GROVE JCT	44.9	2.99	3.16	3.48
OMAHA	IDA GROVE JCT - OMAHA	97	0.86	0.87	0.64
ORE	ESCANABA - LARCH	3.5	4.90	4.47	1.06
ORE	LARCH - PARTRIDGE	59.9	3.89	3.61	1.01
OSAGE	JANESVILL - CEDFALLS	7.2	0.00	0.73	3.41
OSAGE	STAJCT - LYLE	4	0.51	0.50	0.99

Subdivision	Segment	Route Miles	Gross tons per miles (000,000)		
			2023	2024	2025
OSAGE	MONA JUNCTION - STAJCT	64.39	0.80	0.92	2.41
PEMBINE	PEMBINE - HERMANSVILLE	21.4	0.93	0.85	1.08
PEMBINE	ARGONNE - PEMBINE	20.2	1.06	1.00	1.21
PEMBINE	HERMANSVILLE - POWERS	3.5	2.25	2.12	2.50
PEORIA	MATTOON - DECATUR	41.8	6.19	5.69	5.20
PEORIA	DECATUR - MT PULASKI	19.7	4.45	3.90	3.97
PEORIA	MT PULASKI - PEORIA	60	2.52	2.31	2.13
PLOVER	STEVENS POINT - PLOVER	4.7	2.60	2.54	2.65
PLOVER	PLOVER - WISCONSIN RAP	14.8	2.55	2.42	2.62
RAINY	RANIER - ASH LAKE	36.9	72.46	72.50	72.57
RAINY	ORR - GLENDALE	1.4	72.44	72.51	72.56
RAINY	GLENDALE - HALEY	10.4	72.44	72.51	72.59
RAINY	PEARY - MELRUDE	10.2	40.13	38.91	39.98
RAINY	ASH LAKE - ORR	7.6	72.44	72.51	72.56
RAINY	VIRGINIA - PEARY	11.5	49.48	48.51	47.92
RAINY	INTERNATNL BO - RANIER	1.3	71.33	71.28	71.35
RAINY	PEARY - SIMAR	30.6	34.46	33.43	34.27
RAINY	HALEY - VIRGINIA	31	72.48	72.52	72.60
SHORE LINE	VINEWOOD - ECORSE	16	0.27	0.11	0.02
SHORE LINE	ECORSE - FN	5.9	23.64	21.84	20.63
SHORE LINE	FN - LANG	35.3	11.58	11.23	10.03
SHORE LINE	MILWAUKEE JCT - VINEWOOD	1.1	8.52	8.07	8.02
SHORE LINE	AVERY - WOODWARD AVE	1	21.92	20.52	19.85
SHORE LINE	FN - WYANDOTTE	20.2	8.67	8.17	7.91
SOUTH BEND	PAVILION - BATTLE CREEK	38.2	26.99	26.09	27.74
SOUTH BEND	SOUTH BEND - ELKHART	3.2	6.43	6.52	6.04
SOUTH BEND	SOUTH BEND - MARCELLUS	64.2	26.41	25.50	27.27
SOUTH BEND	SCHOOLCRAFT - PAVILION	20.8	26.40	25.50	27.25
SOUTH BEND	STILLWELL - SBEND V FLWRS	38	33.19	32.46	33.39
SOUTH BEND	CASSOPOLIS - SCHOOLCRAFT	14.6	52.80	50.99	54.50
SOUTH BEND	GRIFFITH - SEDLEY	28.6	32.37	31.56	32.83
SOUTH BEND	VALPARAISO - STILLWELL	46	32.84	32.11	33.12
SOUTH BEND	SEDLEY - VALPARAISO	6.9	64.73	63.13	65.67
STLOUIS	PINCKNEYVILLE - COULTERVILLE	14.6	10.95	10.81	10.63
STLOUIS	WILDERMAN - EAST ST LOUIS	11.4	3.53	2.97	2.88
STLOUIS	LENZBURG - FREEBURG	11.4	3.86	3.26	3.49
STLOUIS	COULTERVILLE - LENZBURG	19.6	10.56	9.68	10.23
STLOUIS	DU QUOIN - PINCKNEYVILLE	8.9	10.98	10.82	10.63
STLOUIS	FREEBURG - WILDERMAN	4.2	3.54	2.98	2.89
SUPERIOR	NOPEMING JCT - ADOLPH	5.8	36.46	37.40	36.16
SUPERIOR	AMBRIDGE - BREWER	6.4	69.74	70.19	70.10
SUPERIOR	LADYSMITH - HAYWARD JCT	47.2	68.45	68.84	68.18
SUPERIOR	STEVENS POINT - JUNCTION CITY	13	74.22	73.19	71.38
SUPERIOR	OWEN - LADYSMITH	44.8	66.68	66.79	65.28
SUPERIOR	STEELTON - NOPEMING JCT	3.2	77.96	77.59	77.44
SUPERIOR	SPENCER - OWEN	19.1	72.10	72.10	70.42
SUPERIOR	SOUTH ITASCA - SAUNDERS	5.9	69.97	75.05	75.91

Subdivision	Segment	Route Miles	Gross tons per miles (000,000)		
			2023	2024	2025
SUPERIOR	HAYWARD JCT - SOUTH ITASCA	54.4	67.90	68.10	67.25
SUPERIOR	JUNCTION CITY - SPENCER	29.4	72.31	72.22	70.49
SUPERIOR	SAUNDERS - STEELTON	4.7	107.04	108.05	107.82
TAYLORSVILLE	SARATOGA - TAYLORSVILLE	18.98	0.28	0.26	0.26
TWO HARBORS	TWO HARBORS - DIVERT	1.9	6.10	5.70	4.70
VALLEY	JUNCTION CITY - BRADLEY	20.4	6.70	8.26	8.81
VALLEY	WISCONSIN RAP - JUNCTION CITY	13.4	18.88	19.27	19.35
VALLEY	NEW LISBON - WISCONSIN RAP	49.9	0.99	1.09	1.04
WATERLOO	WATERLOO - ACKLEY	53	6.87	7.33	9.02
WATERLOO	ACKLEY - FT DODGE	59.8	6.73	7.36	8.49
WATERLOO	WATERLOO - LINYARD	3	0.00	0.00	2.43
WAUKESHA	LOMIRA - BYRON	3.2	72.86	71.55	71.39
WAUKESHA	ROSEMONT - DES PLAINES	8.4	7.92	8.04	7.81
WAUKESHA	LAKE VILLA - DUPLAINVILLE	50.3	71.11	69.64	69.45
WAUKESHA	FOND DU LAC - EDEN	8.3	0.00	0.00	0.00
WAUKESHA	BYRON - FOND DU LAC	2	72.86	71.55	71.40
WAUKESHA	LOMIRA - FOND DU LAC	16.2	36.43	35.77	35.70
WAUKESHA	MUNDELEIN - GRAYS LAKE	8	70.85	69.36	69.12
WAUKESHA	GRAYS LAKE - LAKE VILLA	7.6	35.44	34.68	34.56
WAUKESHA	DES PLAINES - LEITHTON	14.9	8.84	8.91	8.66
WAUKESHA	RUGBY JCT - LOMIRA	25.1	72.15	70.81	70.64
WAUKESHA	LEITHTON - MUNDELEIN	5.2	35.51	34.77	34.66
WAUKESHA	FOREST PARK - ROSEMONT	7.8	3.13	3.37	3.26
WAUKESHA	SUSSEX - RUGBY JCT	11.1	71.61	70.21	70.09
WAUKESHA	DUPLAINVILLE - SUSSEX	4	72.31	70.96	70.82
WHITEHALL	MERRILLAN - EAST WINONA	63.8	2.92	3.42	3.51
WHITEHALL	WISCONSIN RAP - MERRILLAN	52.1	8.65	10.12	10.11
YAZOO	MARKS - BANKS	41.6	54.99	52.74	51.44
YAZOO	BANKS - LAKEVIEW	12.76	54.93	52.70	51.40
YAZOO	SWAN LAKE - MARKS	26.3	55.02	52.77	51.46
YAZOO	YAZOO CITY - SWAN LAKE	80.9	54.77	52.64	51.32
YAZOO	LAKEVIEW - WEST JCT	21.2	20.52	20.06	19.59
YAZOO	JACKSON - YAZOO CITY	44.4	52.89	50.96	49.81

Appendices

Appendix A

OPINION OF COUNSEL FOR APPLICANTS
[SECTION 1180.6(a)(4)]

ILLINOIS CENTRAL RAILROAD COMPANY

As counsel for Illinois Central Railroad Company ("ICRR"), we are generally familiar with the proposed Transaction and have reviewed the foregoing Application.

It is our opinion that the Transaction, to the extent it involves ICRR, meets the requirements of law, is within the corporate powers of ICRR, and will be legally authorized and valid, if approved by the Surface Transportation Board and the other requirements set forth in the agreement governing the Transaction are satisfied or waived.

Capitalized terms used and not otherwise defined in this opinion shall have the meanings specified in the foregoing Application.

Executed this 18th day of November, 2026.

/s/ Olivier Chouc
Olivier Chouc
Senior Vice-President, Chief Legal Officer and Secretary

Executed this 18th day of November, 2026.

/s/ Kathryn Gainey
Kathryn Gainey
Senior Director, Head of Global Regulatory Affairs

SIGNATURES, OATHS, AND CERTIFICATIONS OF EXECUTIVE OFFICERS
[SECTION 1180.4(c)(2)(i)]

ILLINOIS CENTRAL RAILROAD COMPANY

I, Nicole James, declare under penalty of perjury under the laws of the United States that I am Vice-President, Transportation, Southern Region of Illinois Central Railroad Company, Applicant herein; that I am one of the executive officers duly authorized to sign, to verify, and to file this Application on behalf of the foregoing; that I have knowledge of the matters contained in this Application to the extent they relate to the foregoing; and that the statements made in this Application are true and correct to the best of my knowledge and belief.

/s/ Nicole James
Nicole James
Vice-President, Transportation, Southern Region
Illinois Central Railroad Company

Executed this 18th day of November, 2026.

SIGNATURES, OATHS, AND CERTIFICATIONS OF EXECUTIVE OFFICERS
[SECTION 1180.4(c)(2)(i)]

ILLINOIS CENTRAL RAILROAD COMPANY

I, Olivier Chouc, certify that I am Senior Vice-President, Chief Legal Officer and Secretary of Illinois Central Railroad Company, Applicant herein, and that Nicole James, Vice-President, Transportation, Southern Regionof Illinois Central Railroad Company, is duly authorized to sign, to verify, and to file this Application on behalf of the foregoing.

/s/ Olivier Chouc
Olivier Chouc
Senior Vice-President, Chief Legal Officer and Secretary
Illinois Central Railroad Company

Executed this 18th day of November, 2026.

SIGNATURES, OATHS, AND CERTIFICATIONS OF EXECUTIVE OFFICERS
[SECTION 1180.4(c)(2)(i)]

CANADIAN NATIONAL RAILWAY COMPANY

I, Patrick Whitehead, declare under penalty of perjury under the laws of the United States that I am Executive Vice-President and Chief Operating Officer of Canadian National Railway Company, which controls the Applicants herein; that I am one of the executive officers duly authorized to sign, to verify, and to file this Application on behalf of the foregoing; that I have knowledge of the matters contained in this Application to the extent they relate to the foregoing; and that the statements made in this Application are true and correct to the best of my knowledge and belief.

/s/ Patrick Whitehead
Patrick Whitehead
Executive Vice-President and Chief Operating Officer
Canadian National Railway Company

Executed this 18th day of November, 2026.

SIGNATURES, OATHS, AND CERTIFICATIONS OF EXECUTIVE OFFICERS
[SECTION 1180.4(c)(2)(i)]

CANADIAN NATIONAL RAILWAY COMPANY

I, Jessica Syms, certify that I am Assistant Vice-President and Corporate Secretary of Canadian National Railway Company, which controls the Applicants herein, and that Patrick Whitehead, Executive Vice-President and Chief Operating Officer of Canadian National Railway Company, is duly authorized to sign, to verify, and to file this Application on behalf of the foregoing.

/s/s Jessica Syms
Jessica Syms
Assistant Vice-President, Corporate Secretary
Canadian National Railway Company

Executed this 18th day of November, 2026.

OPINION OF COUNSEL
[SECTION 1180.6(a)(4)]

IOWA NORTHERN RAILWAY COMPANY

As counsel for Iowa Northern Railway Company ("IANR"), we are generally familiar with the proposed Transaction and have reviewed the foregoing Application.

It is our opinion that the Transaction, to the extent it involves IANR, meets the requirements of law, is within the corporate powers of IANR, and will be legally authorized and valid, if approved by the Surface Transportation Board and the other requirements set forth in the agreement governing the Transaction are satisfied or waived.

Capitalized terms used and not otherwise defined in this opinion shall have the meanings specified in the foregoing Application.

Executed this 18th day of November, 2026.

/s/ Olivier Chouc
Olivier Chouc
Senior Vice-President, Chief Legal Officer and Secretary

Executed this 18th day of November, 2026.

/s/ Kathryn Gainey
Kathryn Gainey
Senior Director, Head of Global Regulatory Affairs

SIGNATURES, OATHS, AND CERTIFICATIONS OF EXECUTIVE OFFICERS
[SECTION 1180.4(c)(2)(i)]

IOWA NORTHERN RAILWAY COMPANY

I, Nicole James, declare under penalty of perjury under the laws of the United States that I am Vice-President, Transportation, Southern Region of Iowa Northern Railway Company, Applicant herein; that I am one of the executive officers duly authorized to sign, to verify, and to file this Application on behalf of the foregoing; that I have knowledge of the matters contained in this Application to the extent they relate to the foregoing; and that the statements made in this Application are true and correct to the best of my knowledge and belief.

/s/ Nicole James
Nicole James
Vice-President, Transportation, Southern Region
Iowa Northern Railway Company

Executed this 18th day of November, 2026.

SIGNATURES, OATHS, AND CERTIFICATIONS OF EXECUTIVE OFFICERS
[SECTION 1180.4(c)(2)(i)]

IOWA NORTHERN RAILWAY COMPANY

I, Olivier Chouc, certify that I am Senior Vice-President, Chief Legal Officer and Secretary of Iowa Northern Railway Company, Applicant herein, and that Nicole James, Vice-President, Transportation, Southern Region of Iowa Northern Railway Company, is duly authorized to sign, to verify, and to file this Application on behalf of the foregoing.

/s/ Olivier Chouc
Olivier Chouc
Senior Vice-President, Chief Legal Officer and Secretary
Iowa Northern Railway Company

Executed this 18th day of November, 2026.

OPINION OF COUNSEL
[SECTION 1180.6(a)(4)]

CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY

As counsel for Chicago, Central & Pacific Railroad Company (collectively "CC"), we are generally familiar with the proposed Transaction and have reviewed the foregoing Application.

It is our opinion that the Transaction, to the extent it involves CC, meets the requirements of law, is within the corporate powers of CC, and will be legally authorized and valid, if approved by the Surface Transportation Board and the other requirements set forth in the agreement governing the Transaction are satisfied or waived.

Capitalized terms used and not otherwise defined in this opinion shall have the meanings specified in the foregoing Application.

Executed this 18th day of November, 2026.

/s/ Olivier Chouc
Olivier Chouc
Senior Vice-President, Chief Legal Officer and Secretary

Executed this 18th day of November, 2026.

/s/ Kathryn Gainey
Kathryn Gainey
Senior Director, Head of Global Regulatory Affairs

SIGNATURES, OATHS, AND CERTIFICATIONS OF EXECUTIVE OFFICERS
[SECTION 1180.4(c)(2)(i)]

CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY

I, Nicole James, declare under penalty of perjury under the laws of the United States that I am Vice-President, Transportation, Southern Region of Chicago, Central & Pacific Railroad Company, Applicant herein; that I am one of the executive officers duly authorized to sign, to verify, and to file this Application on behalf of the foregoing; that I have knowledge of the matters contained in this Application to the extent they relate to the foregoing; and that the statements made in this Application are true and correct to the best of my knowledge and belief.

/s/ Nicole James
Nicole James
Vice-President, Transportation, Southern Region
Chicago, Central & Pacific Railroad Company

Executed this 18th day of November, 2026.

SIGNATURES, OATHS, AND CERTIFICATIONS OF EXECUTIVE OFFICERS
[SECTION 1180.4(c)(2)(i)]

CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY

I, Olivier Chouc, certify that I am Senior Vice-President, Chief Legal Officer and Secretary of Chicago, Central & Pacific Railroad Company, Applicant herein, and that Nicole James, Vice-President, Transportation, Southern Region of Chicago, Central & Pacific Railroad Company, is duly authorized to sign, to verify, and to file this Application on behalf of the foregoing.

/s/ Olivier Chouc
Olivier Chouc
Senior Vice-President, Chief Legal Officer and Secretary
Chicago, Central & Pacific Railroad Company

Executed this 18th day of November, 2026.

Appendix B

ALABAMA STATE SENATE
ALABAMA STATE HOUSE
11 South Union Street, Room 730B
MONTGOMERY, ALABAMA 36130-4600

ALABAMA

TOM BUTLER
STATE SENATOR 2nd DISTRICT
P.O. BOX 653
MADISON, AL 35758

State House Office 334-261-0884
Fax 256-539-5444
Athens Office 256-262-9038
Fax 256-262-9035

COMMITTEES
State Governmental Affairs, Chairman
Transportation & Energy, Vice Chairman
Healthcare
Finance & Taxation Education
Fiscal Responsibility & Economic Development
Education Policy
Madison County Legislation

November 9, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company - Control - Norfolk Southern Corporation and Norfolk Southern Railway Company

Dear Chief of Case Administration:

As a member of the Alabama Legislature, I am writing in support of the conditions requested by Canadian National ("CN") as part of the Surface Transportation Board's ("STB") review of Union Pacific's ("UP") proposed acquisition of Norfolk Southern ("NS").

My legislative district is proud of its strong economic and community ties with CN. I represent residents, farmers, manufacturers, and other businesses that depend on competitive, reliable rail service to move goods to domestic and international markets. Rail competition is critical to protecting our constituents, supporting economic development and jobs, and keeping trucks off congested highways in Alabama. Preserving meaningful rail choices helps businesses control transportation costs, reach customers and compete in regional and national markets.

The proposed merger of UP and NS would create a railroad controlling more than 40 percent of U.S. rail traffic. UP's and NS's networks overlap in key Midwest gateway regions, including between Missouri and Illinois. In parts of Illinois and Iowa, the two railroads are among the only two or three Class I rail options currently available for customers. Without adequate remedies, the merger could eliminate a competitive Class I option, leaving shippers with fewer choices and increasing the risk of higher costs or degraded service. These outcomes could affect businesses, consumers, and communities not only in Alabama but in other states that buy from those shippers or source to those locations.

CN's proposed conditions--including access to Kansas City, improved access to St. Louis and East St. Louis, and rights to serve impacted customer facilities in Illinois and Iowa that would otherwise lose a Class I rail shipping option--would help preserve meaningful competition in the region. By enabling CN to act as an effective competitor, these conditions could protect shippers' routing options and promote customer choice across the Midwest and beyond.

CN's requested conditions are important to preserving key rail options for shippers and supporting a strong, competitive state economy. I encourage the STB to work with state and local officials, CN, and other relevant parties to protect constituents and promote regional competition and customer choice in the broader public interest.

Sincerely,



Tom Butler
State Senator
Alabama State Legislature

cc: Parties of Record

ALABAMA
HOUSE OF REPRESENTATIVES
11 SOUTH UNION STREET, MONTGOMERY, ALABAMA 36130

REP. BEN HARRISON
DISTRICT 2
POST OFFICE BOX 357
ROGERSVILLE, ALABAMA 35652

STATE HOUSE: 334-261-0476
EMAIL: ben.harrison@alhouse.gov

November 6, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company

Dear Chief of Case Administration:

As a member of the Alabama Legislature, I am writing in support of the conditions requested by Canadian National ("CN") as part of the Surface Transportation Board's ("STB") review of Union Pacific's ("UP") proposed acquisition of Norfolk Southern ("NS").

My legislative district is proud of its strong economic and community ties with CN. I represent residents, farmers, manufacturers, and other businesses that depend on competitive, reliable rail service to move goods to domestic and international markets. Rail competition is critical to protecting our constituents, supporting economic development and jobs, and keeping trucks off congested highways in Alabama. Preserving meaningful rail choices helps businesses control transportation costs, reach customers and compete in regional and national markets.

The proposed merger of UP and NS would create a railroad controlling more than 40 percent of U.S. rail traffic. UP's and NS's networks overlap in key Midwest gateway regions, including between Missouri and Illinois. In parts of Illinois and Iowa, the two railroads are among the only two or three Class I rail options currently available for customers. Without adequate remedies, the merger could eliminate a competitive Class I option, leaving shippers with fewer choices and increasing the risk of higher costs or degraded service. These outcomes could affect businesses, consumers, and communities not only in Alabama but in other states that buy from those shippers or source to those locations.

CN's proposed conditions—including access to Kansas City, improved access to St. Louis and East St. Louis, and rights to serve impacted customer facilities in Illinois and Iowa that would otherwise lose a Class I rail shipping option—would help preserve meaningful competition in the region. By enabling CN to act as an effective competitor, these conditions could protect shippers' routing options and promote customer choice across the Midwest and beyond.

CN's requested conditions are important to preserving key rail options for shippers and supporting a strong, competitive state economy. I encourage the STB to work with state and local officials, CN, and other relevant parties to protect constituents and promote regional competition and customer choice in the broader public interest.

Sincerely,

Benjamin E. Harrison

Ben Harrison
State Representative
Alabama State Legislature

cc: Parties of Record

ALABAMA
HOUSE OF REPRESENTATIVES
11 S. UNION STREET, MONTGOMERY ALABAMA 36130

REP. STEVE HURST
DISTRICT NO. 35
155 QUAIL RUN TRAIL
MUNFORD, ALABAMA 36268

STATE HOUSE: 334-353-9215
DISTRICT: 256-761-1935
EMAIL: repstevehurst@att.net

November 4, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief of Case Administration:

As a member of the Alabama Legislature, I am writing in support of the conditions requested by Canadian National ("CN") as part of the Surface Transportation Board's ("STB") review of Union Pacific's ("UP") proposed acquisition of Norfolk Southern ("NS").

My legislative district is proud of its strong economic and community ties with CN. I represent residents, farmers, manufacturers and other businesses that depend on competitive, reliable rail service to move goods to domestic and international markets. Rail competition is critical to protecting our constituents, supporting economic development and jobs, and keeping trucks off congested highways in east Alabama. Preserving meaningful rail choices helps businesses control transportation costs, reach customers and compete in regional and national markets.

The proposed merger of UP and NS would create a railroad controlling more than 40 percent of U.S. rail traffic. UP's and NS's networks overlap in key Midwest gateway regions, including between Missouri and Illinois. In parts of Illinois and Iowa, the two railroads are among the only two or three Class I rail options

currently available for customers. Without adequate remedies, the merger could

CN's proposed conditions—including access to Kansas City, improved access to St.

CN's requested conditions are important to preserving key rail options for

promote customer choice across the Midwest and beyond.

broader public interest.

Sincerely,

Steve Hurst
State Representative
Alabama State Legislature

cc: Parties of Record

GAYLE R. DUITSMAN
2268 COUNTY ROAD 2200 E
ST. JOSEPH, IL 61873

November 11, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief Case of Administration:

I am a fourth-generation farmer in Illinois and I am writing to the Surface Transportation Board ("STB") to express concerns about the competitive impacts of the proposed merger between Union Pacific ("UP") and Norfolk Southern ("NS") and ask the STB to address those concerns through conditions that preserve competition.

For agricultural producers and rural communities, access to competitive transportation is essential. It's how we connect products with markets and support local economies. We operate in a marketplace where many of the prices we pay and receive are shaped by forces beyond our control. Input costs, commodity prices and demand can change quickly, leaving us with limited flexibility to protect our margins.

Competitive rail access matters to us, which is why farmers like me are concerned about two of the country's biggest railroads becoming one company. Fewer rail transportation options mean higher rates, fewer alternatives when disruptions occur and even more uncertainty when planning for the next harvest season.

Farmers should be able to choose how their goods move to market. Reducing rail transportation options increases our costs. The STB should look at how the transaction would change competitive options for customers and whether any conditions would help protect competition and choice.

CN's requested conditions, submitted to the STB in relation to their review of UP's proposed acquisition of NS, are necessary to address competitive harms and preserve meaningful rail options. CN is working to preserve competition by seeking new and improved access to important Midwest gateways in Kansas City and St. Louis and competitive service options for customers in parts of Illinois and Iowa. These conditions should be assessed by whether they enable a competing railroad to provide reliable service and give affected customers a solid alternative.

A competitive freight rail network supports the farmers who grow our food, the businesses that sustain rural communities and the consumers who rely on goods moving efficiently through the economy.

Sincerely,

Gayle Duitsman

Gayle R. Duitsman
Fourth-generation farmer

cc: Parties of Record

HILTI FARMS
19055 County Road 3000 East
Cullom, IL 60929
Marvin B. Hilti, Owner
815.674.9200

November 11, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief Case of Administration:

On behalf of Hilti Farms, in Illinois, I am writing to the Surface Transportation Board ("STB") to express concerns about the competitive impacts of the proposed merger between Union Pacific ("UP") and Norfolk Southern ("NS") and ask the STB to address those concerns through conditions that preserve competition.

For agricultural producers and rural communities, access to competitive transportation is essential. It's how we connect products with markets and support local economies. We operate in a marketplace where many of the prices we pay and receive are shaped by forces beyond our control. Input costs, commodity prices and demand can change quickly, leaving us with limited flexibility to protect our margins.

Competitive rail access matters to us, which is why farmers like me are concerned about two of the country's biggest railroads becoming one company. Fewer rail transportation options mean higher rates, fewer alternatives when disruptions occur and even more uncertainty when planning for the next harvest season.

Farmers should be able to choose how their goods move to market. Reducing rail transportation options increases our costs. The STB should look at how the transaction would change competitive options for customers and whether any conditions would help protect competition and choice.

CN's requested conditions, submitted to the STB in relation to their review of UP's proposed acquisition of NS, are necessary to address competitive harms and preserve meaningful rail options. CN is working to preserve competition by seeking new and improved access to important Midwest gateways in Kansas City and St. Louis and competitive service options for customers in parts of Illinois and Iowa. These conditions should be assessed by whether they enable a competing railroad to provide reliable service and give affected customers a solid alternative.

A competitive freight rail network supports the farmers who grow our food, the businesses that sustain rural communities and the consumers who rely on goods moving efficiently through the economy.

Sincerely,

Marvin Hilti
Owner/Farmer, Hilti Farms

cc: Parties of Record

Friday, November 13, 2026

Chief of Case Administration

Office of Chief Counsel

Surface Transportation Board

395 E Street, S.W.

Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief Case of Administration:

I am writing to the Surface Transportation Board (STB) to express my concerns about the competitive impacts of the proposed merger between Union Pacific (UP) and Norfolk Southern (NS). As a banking professional who works to support community banks and rural economies across Iowa, I believe it is important that the STB carefully consider how this merger could affect businesses, agricultural producers and the communities that depend on them.

Rural Iowa communities rely on a strong network of local businesses, farms and industries to sustain their economies. Reliable and competitive transportation is an important part of that foundation. Businesses need dependable ways to move products, reach customers and manage operating costs. When transportation options are limited, the effects can reach far beyond the companies shipping goods, impacting local employers, workers and the overall economic health of rural communities.

Allowing two of the country's largest railroads to become one company raises legitimate concerns about reduced competition, higher transportation costs and fewer alternatives when service disruptions occur. For agricultural producers and businesses throughout Iowa, fewer transportation options could make it harder to compete, grow and invest in their operations. These challenges can create additional uncertainty for the rural communities and local economies that depend on them.

As someone who has spent time supporting community banks and rural economic development, I understand how interconnected the success of local businesses and the financial health of our communities can be. Community banks play an important role in helping businesses and agricultural operations grow, invest and create opportunities close to home. Maintaining a competitive transportation network helps support that broader economic foundation.

The STB should carefully evaluate how this transaction would affect competitive options for customers and what conditions are necessary to protect competition and choice.

CN's requested conditions, submitted to the STB as part of its review of UP's proposed acquisition of NS, deserve serious consideration. These conditions are important to preserving competition by seeking new and improved access to key Midwest gateways in Kansas City and St. Louis, as well as competitive service options for customers in parts of Iowa and Illinois. Any conditions should be evaluated based on whether they allow a competing railroad to provide reliable service and give affected customers a meaningful alternative.

During my time as a Cherokee County supervisor, I worked to put taxpayers first, support local communities and bring commonsense leadership to county government. I understand the importance of making decisions that consider the long-term interests of the people and businesses that make our communities strong. The future of our freight rail network is one of those important decisions.

A competitive freight rail network benefits more than just the companies moving goods. It supports agricultural producers, local businesses, community banks and the rural economies that are an important part of Iowa's future. I urge the STB to ensure this proposed merger does not come at the expense of competition and economic opportunity for Iowa communities.

Sincerely,

Shane Bellefy
Southern O’Brien County, Iowa

Friday, November 13, 2026

Chief of Case Administration

Office of Chief Counsel

Surface Transportation Board

395 E Street, S.W.

Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief Case of Administration:

As a fourth-generation family farmer in northern Tama County, Iowa, I am writing to the Surface Transportation Board (STB) to express my concerns about the competitive impacts of the proposed merger between Union Pacific (UP) and Norfolk Southern (NS). I urge the STB to address these concerns through conditions that preserve competition and meaningful transportation options for agricultural producers.

My family has farmed in Iowa for generations. Today, I raise corn, soybeans and cattle, and work alongside my brother and father in our family farming operation. I also custom farm and sell Hoegemeyer Seeds, giving me an appreciation for the many factors that affect agricultural producers and the businesses that support them. From input costs to commodity prices and transportation, farmers operate in a marketplace where we have little control over many of the costs that affect our bottom line.

Reliable, competitive rail transportation is essential to getting agricultural products to market and supporting rural communities. Farmers already face plenty of uncertainty when planning for the next growing season and managing their operations. Allowing two of the country's largest railroads to become one company raises legitimate concerns about fewer transportation options, higher shipping costs and less flexibility when service disruptions occur.

Farmers should have choices in how their products reach domestic and international markets. When competition decreases, agricultural producers can be left with fewer alternatives and less leverage when negotiating transportation rates and service. The STB should carefully evaluate how this transaction would affect competitive options for customers and what conditions are necessary to protect competition and choice.

CN's requested conditions, submitted to the STB as part of its review of UP's proposed acquisition of NS, deserve serious consideration. These conditions are important to preserving competition by seeking new and improved access to key Midwest gateways in Kansas City and St. Louis, as well as competitive service options for customers in parts of Iowa and Illinois. Any

conditions should be evaluated based on whether they allow a competing railroad to provide reliable service and give affected customers a meaningful alternative.

Through my involvement with the Iowa Farm Bureau and opportunities to advocate for agriculture at the national level, including meetings in Washington, D.C., I have seen firsthand how important it is to make sure the interests of farmers are represented in decisions that affect our industry. This merger is one of those decisions, and the voices of agricultural producers deserve to be heard.

A competitive freight rail network is important not only to farmers like me, but also to the businesses that support agriculture, the rural communities that depend on it and the consumers who rely on an efficient supply chain. I urge the STB to ensure this proposed merger does not come at the expense of competition and choice for Iowa farmers.

Sincerely,

Cordt Holub
Northern Tama County, Iowa

O'NEILL GROUP LLC
ATTORNEYS AT LAW
53 W. JACKSON BLVD. · SUITE 1115 · CHICAGO, IL 60604
TELEPHONE (312) 588-5000

Anthony J. O'Neill
Direct: (312) 971-1450
aoneill@oneillgrp.com

November 12, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief of Case Administration:

As the managing member of O'Neill Group LLC, a small business in Chicago, Illinois, I am writing in support of the conditions requested by Canadian National ("CN") as part of the Surface Transportation Board's ("STB") review of Union Pacific's ("UP") proposed acquisition of Norfolk Southern ("NS"). Small businesses depend on competitive markets to keep costs manageable, serve customers and compete with larger companies. Preserving meaningful competition in freight rail is an important part of that equation.

At O'Neill Group, we understand that the cost of getting products and materials to market affects the prices businesses charge and the choices they can offer customers. Transportation costs are part of a much larger chain of expenses that small businesses must manage, often with less flexibility than larger companies. When competition is limited, businesses have fewer transportation alternatives and less leverage to negotiate reasonable prices and reliable service. Those pressures can ultimately reach consumers through higher prices and fewer choices.

The proposed merger raises important questions about the future of competition across the freight rail network. Combining two major railroads could reduce options for some shippers unless meaningful conditions are put in place to preserve competition. A healthy marketplace requires more than a promise that freight will continue moving. Businesses need practical alternatives that allow them to compare service, manage costs, and reach customers efficiently. CN's proposed conditions offer a way to address these concerns. They include improved access to key Midwest rail gateways, including Kansas City, St. Louis and East St. Louis, as well as rights to serve customers in parts of Illinois and Iowa that, because of the merger, would otherwise

O'NEILL GROUP LLC
ATTORNEYS AT LAW
53 W. JACKSON BLVD. · SUITE 1115 · CHICAGO, IL 60604
TELEPHONE (312) 588-5000

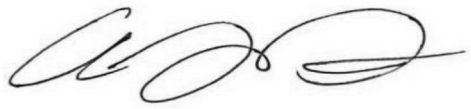
have limited competitive rail options. These measures would help preserve alternatives for shippers and enable CN to compete more effectively in areas where the merger could reduce competition.

For small businesses like mine, the principle is straightforward: competition creates options, and options matter. When businesses have alternatives, they are better positioned to respond to changing market conditions and deliver value to their customers. When those alternatives disappear, the effects can extend beyond the companies shipping freight to the communities and consumers that depend on affordable goods.

The STB should carefully evaluate whether the proposed merger will preserve meaningful competition for affected shippers. Any remedy should give competing railroads the practical ability to access customers and provide a viable alternative.

A strong marketplace depends on businesses having the opportunity to compete, control costs and meet the needs of their customers. Protecting those principles is essential not only for rail shippers, but also for small businesses and consumers across the country.

Sincerely,



Anthony J. O'Neill
Managing Member
O'Neill Group LLC

cc: Parties of Record

Illinois Association of Aggregate Producers
1115 S. 2nd Street • Springfield, Illinois 62704
Phone (217)241-1639 Fax (217)241-1641 www.iaap-aggregates.org

Dan Eichholz, Executive Director dan@iaap-aggregates.org
Jess Hawkins, Assistant Director jess@iaap-aggregates.org
Jodi Crowe, Administrative Director jodi@iaap-aggregates.org

November 16, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief of Case Administration:

As the Executive Director of the Illinois Association of Aggregate Producers, an association located in Illinois, I am writing in support of the conditions requested by Canadian National ("CN"), or similar conditions that would address its concerns, as part of the Surface Transportation Board's ("STB") review of Union Pacific's ("UP") proposed acquisition of Norfolk Southern ("NS"). Our members depend on competitive markets to keep costs manageable, serve customers and compete with larger companies. Preserving meaningful competition in freight rail is an important part of that equation.

At our Association, we understand that the cost of getting products and materials to market affects the prices businesses charge and the choices they can offer customers. Transportation costs are part of a much larger chain of expenses that our members must manage, often with less flexibility than larger companies. When competition is limited, businesses have fewer transportation alternatives and less leverage to negotiate reasonable prices and reliable service. Those pressures can ultimately reach consumers through higher prices and fewer choices.

The proposed merger raises important questions about the future of competition across the freight rail network. Combining two major railroads could reduce options for some shippers unless meaningful conditions are put in place to preserve competition. A healthy marketplace requires more than a promise that freight will continue moving. Businesses need practical alternatives that allow them to compare service, manage costs, and reach customers efficiently. CN's proposed conditions offer a way to address these concerns. They include improved access to key Midwest rail gateways, including Kansas City, St. Louis and East St. Louis, as well as rights to serve customers in parts of Illinois and Iowa that, because of the merger, would otherwise have limited competitive rail options. These measures would help preserve alternatives for shippers and enable CN to compete more effectively in areas where the merger could reduce competition.

For groups like mine, the principle is straightforward: competition creates options, and options matter. When businesses have alternatives, they are better positioned to respond to changing market conditions and deliver value to their customers. When those alternatives disappear, the effects can extend beyond the companies shipping freight to the communities and consumers that depend on affordable goods.

The STB should carefully evaluate whether the proposed merger will preserve meaningful competition for affected shippers. Any remedy should give competing railroads the practical ability to access customers and provide a viable alternative.

A strong marketplace depends on businesses having the opportunity to compete, control costs and meet the needs of their customers. Protecting those principles is essential not only for rail shippers, but also for small businesses and consumers across the country.

Sincerely,



Dan Eichholz
Executive Director
Illinois Association of Aggregate Producers

cc: Parties of Record

Frerichs Farms
2737 County Road 2700 East
Penfield, IL 61862

November 13, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company

Dear Chief Case of Administration:

I am a fourth-generation farmer in Champaign County, Illinois, and I am writing to the Surface Transportation Board ("STB") to express concerns about the competitive impacts of the proposed merger between Union Pacific ("UP") and Norfolk Southern ("NS") and ask the STB to address those concerns through conditions that preserve competition.

For agricultural producers and rural communities, access to competitive transportation is essential. It's how we connect products with markets and support local economies. We operate in a marketplace where many of the prices we pay and receive are shaped by forces beyond our control. Input costs, commodity prices and demand can change quickly, leaving us with limited flexibility to protect our margins.

Competitive rail access matters to us, which is why farmers like me are concerned about two of the country's biggest railroads becoming one company. Fewer rail transportation options mean higher rates, fewer alternatives when disruptions occur and even more uncertainty when planning for the next harvest season.

Farmers should be able to choose how their goods move to market. Reducing rail transportation options increases our costs. The STB should look at how the transaction would change competitive options for customers and whether any conditions would help protect competition and choice.

CN's requested conditions, submitted to the STB in relation to their review of UP's proposed acquisition of NS, are necessary to address competitive harms and preserve meaningful rail options. CN is working to preserve competition by seeking new and improved access to important Midwest gateways in Kansas City and St. Louis and competitive service options for customers in parts of Illinois and Iowa. These conditions should be assessed by whether they enable a competing railroad to provide reliable service and give affected customers a solid alternative.

A competitive freight rail network supports the farmers who grow our food, the businesses that sustain rural communities and the consumers who rely on goods moving efficiently through the economy.

Sincerely,

Jason Frerichs
Fourth-generation farmer

cc: Parties of Record

ILLINOIS FUEL & RETAIL ASSOCIATION
112 West Cook Street · Springfield, IL 62704
Phone: 217-544-4609 | Fax: 217-789-0222
www.fuelingillinois.com

November 16, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief of Case Administration:

As the Chief Executive Officer of the Illinois Fuel & Retail Association, a trade association located in Illinois, I am writing in support of the conditions requested by Canadian National ("CN") as part of the Surface Transportation Board's ("STB") review of Union Pacific's ("UP") proposed acquisition of Norfolk Southern ("NS"). Our members depend on competitive markets to keep costs manageable, serve customers and compete with larger companies. Preserving meaningful competition in freight rail is an important part of that equation.

At our Association, we understand that the cost of getting products and materials to market affects the prices businesses charge and the choices they can offer customers. Transportation costs are part of a much larger chain of expenses that our members must manage, often with less flexibility than larger companies. When competition is limited, businesses have fewer transportation alternatives and less leverage to negotiate reasonable prices and reliable service. Those pressures can ultimately reach consumers through higher prices and fewer choices.

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The STB should carefully evaluate whether the proposed merger will preserve meaningful competition for affected shippers. Any remedy should give competing railroads the practical ability to access customers and provide a viable alternative.

A strong marketplace depends on businesses having the opportunity to compete, control costs and meet the needs of their customers. Protecting those principles is essential not only for rail shippers, but also for small businesses and consumers across the country.

Sincerely,

/s/ Nate Harris

Chief Executive Officer
Illinois Fuel & Retail Association

cc: Parties of Record

Gerald Earing
28318 N 3200 East Road
Dwight, IL 60420-8079

November 13, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company

Dear Chief Case of Administration:

I am a fourth-generation farmer in Livingston County, Illinois, and I'm writing to the Surface Transportation Board ("STB") to express concerns about the competitive impacts of the proposed merger between Union Pacific ("UP") and Norfolk Southern ("NS") and ask the STB to address those concerns through conditions that preserve competition.

For agricultural producers and rural communities, access to competitive transportation is essential. It's how we connect products with markets and support local economies. We operate in a marketplace where many of the prices we pay and receive are shaped by forces beyond our control. Input costs, commodity prices and demand can change quickly, leaving us with limited flexibility to protect our margins.

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A competitive freight rail network supports the farmers who grow our food, the businesses that sustain rural communities and the consumers who rely on goods moving efficiently through the economy.

Sincerely,

Gerald L. Earing

Gerald Earing
Fourth-generation farmer

cc: Parties of Record

HAAG FARMS INC.

22134 N 3200 E Road
Emington, IL 60934

November 13, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company

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Sincerely,

Michael Haag
Fourth-generation farmer

cc: Parties of Record

HANLON FARMS
29356 E 2400 N RD
EMINGTON, IL 60934

November 13, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company

Dear Chief Case of Administration:

I am a third-generation farmer in Livingston County, Illinois, and I'm writing to the Surface Transportation Board ("STB") to express concerns about the competitive impacts of the proposed merger between Union Pacific ("UP") and Norfolk Southern ("NS") and ask the STB to address those concerns through conditions that preserve competition.

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Sincerely,

John T. Hanlon

John T. Hanlon
Owner/Operator, Hanlon Farms

cc: Parties of Record

JC and Karen Reitmeier
2217 County Road 2200 E
St. Joseph, IL 61873

November 15, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company

Dear Chief Case of Administration:

We are fourth-generation farmers in Champaign County, Illinois, and are writing to the Surface Transportation Board ("STB") to express concerns about the competitive impacts of the proposed merger between Union Pacific ("UP") and Norfolk Southern ("NS") and ask the STB to address those concerns through conditions that preserve competition.

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Sincerely,

JC and Karen Reitmeier
Fourth-generation farmers

cc: Parties of Record

JEFFREY G. HAMILTON
17387 BILLET ROAD
PONTIAC, IL 61764

November 15, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company

Dear Chief Case of Administration:

I am a third-generation farmer in Livingston County, Illinois, and I'm writing to the Surface Transportation Board ("STB") to express concerns about the competitive impacts of the proposed merger between Union Pacific ("UP") and Norfolk Southern ("NS") and ask the STB to address those concerns through conditions that preserve competition.

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A competitive freight rail network supports the farmers who grow our food, the businesses that sustain rural communities and the consumers who rely on goods moving efficiently through the economy.

Sincerely,

Jeffrey G. Hamilton
Third-generation farmer, Livingston County, IL

cc: Parties of Record

STALTER RENTALS
MICHAEL STALTER, OWNER

November 13, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company

Dear Chief Case of Administration:

I am a small business owner and third-generation farmer in Illinois and I am writing to the Surface Transportation Board ("STB") to express concerns about the competitive impacts of the proposed merger between Union Pacific ("UP") and Norfolk Southern ("NS") and ask the STB to address those concerns through conditions that preserve competition.

For agricultural producers and rural communities, access to competitive transportation is essential. It's how we connect products with markets and support local economies. We operate in a marketplace where many of the prices we pay and receive are shaped by forces beyond our control. Input costs, commodity prices and demand can change quickly, leaving us with limited flexibility to protect our margins.

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A competitive freight rail network supports the farmers who grow our food, the businesses that sustain rural communities and the consumers who rely on goods moving efficiently through the economy.

Sincerely,

Michael Stalter
Small business owner and third-generation farmer

cc: Parties of Record

825 N. HAZEL STREET, PONTIAC, IL 61764
T (815) 844-6285 E MDSTALTER@AOL.COM

MITCH J. OSTERBUR FARMS

November 15, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company

Dear Chief Case of Administration:

We are fourth-generation farmers in Champaign County, Illinois, and are writing to the Surface Transportation Board ("STB") to express concerns about the competitive impacts of the proposed merger between Union Pacific ("UP") and Norfolk Southern ("NS") and ask the STB to address those concerns through conditions that preserve competition.

For agricultural producers and rural communities, access to competitive transportation is essential. It's how we connect products with markets and support local economies. We operate in a marketplace where many of the prices we pay and receive are shaped by forces beyond our control. Input costs, commodity prices and demand can change quickly, leaving us with limited flexibility to protect our margins.

Competitive rail access matters to us, which is why farmers like me are concerned about two of the country's biggest railroads becoming one company. Fewer rail transportation options mean higher rates, fewer alternatives when disruptions occur and even more uncertainty when planning for the next harvest season.

Farmers should be able to choose how their goods move to market. Reducing rail transportation options increases our costs. The STB should look at how the transaction would change competitive options for customers and whether any conditions would help protect competition and choice.

CN's requested conditions, submitted to the STB in relation to their review of UP's proposed acquisition of NS, are necessary to address competitive harms and preserve meaningful rail options. CN is working to preserve competition by seeking new and improved access to important Midwest gateways in Kansas City and St. Louis and competitive service options for customers in parts of Illinois and Iowa. These conditions should be assessed by whether they enable a competing railroad to provide reliable service and give affected customers a solid alternative.

A competitive freight rail network supports the farmers who grow our food, the businesses that sustain rural communities and the consumers who rely on goods moving efficiently through the economy.

Sincerely,

Mitchell & Marsha Osterbur
Fourth-generation farmers

cc: Parties of Record

2235 County Road 2300 E • St. Joseph, IL 61873 • (217) 694-4349

RODNEY W. CARLSON
31664 E 2700 N RD
CAMPUS, IL 60920

November 13, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company

Dear Chief Case of Administration:

I am a fourth-generation farmer in Livingston County, Illinois, and I'm writing to the Surface Transportation Board ("STB") to express concerns about the competitive impacts of the proposed merger between Union Pacific ("UP") and Norfolk Southern ("NS") and ask the STB to address those concerns through conditions that preserve competition.

For agricultural producers and rural communities, access to competitive transportation is essential. It's how we connect products with markets and support local economies. We operate in a marketplace where many of the prices we pay and receive are shaped by forces beyond our control. Input costs, commodity prices and demand can change quickly, leaving us with limited flexibility to protect our margins.

Competitive rail access matters to us, which is why farmers like me are concerned about two of the country's biggest railroads becoming one company. Fewer rail transportation options mean higher rates, fewer alternatives when disruptions occur and even more uncertainty when planning for the next harvest season.

Farmers should be able to choose how their goods move to market. Reducing rail transportation options increases our costs. The STB should look at how the transaction would change competitive options for customers and whether any conditions would help protect competition and choice.

CN's requested conditions, submitted to the STB in relation to their review of UP's proposed acquisition of NS, are necessary to address competitive harms and preserve meaningful rail options. CN is working to preserve competition by seeking new and improved access to important Midwest gateways in Kansas City and St. Louis and competitive service options for customers in parts of Illinois and Iowa. These conditions should be assessed by whether they enable a competing railroad to provide reliable service and give affected customers a solid alternative.

A competitive freight rail network supports the farmers who grow our food, the businesses that sustain rural communities and the consumers who rely on goods moving efficiently through the economy.

Sincerely,

Rodney W. Carlson

Rodney W. Carlson
Fourth-generation farmer, Livingston County, IL

cc: Parties of Record

November 4, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief of Case Administration:

As the owner of CW Strategies, a small business in Chicago, Illinois, I am writing in support of the conditions requested by Canadian National ("CN") as part of the Surface Transportation Board's ("STB") review of Union Pacific's ("UP") proposed acquisition of Norfolk Southern ("NS"). Small businesses depend on competitive markets to keep costs manageable, serve customers and compete with larger companies. Preserving meaningful competition in freight rail is an important part of that equation.

At CW Strategies, we understand that the cost of getting products and materials to market affects the prices businesses charge and the choices they can offer customers. Transportation costs are part of a much larger chain of expenses that small businesses must manage, often with less flexibility than larger companies. When competition is limited, businesses have fewer transportation alternatives and less leverage to negotiate reasonable prices and reliable service. Those pressures can ultimately reach consumers through higher prices and fewer choices.

The proposed merger raises important questions about the future of competition across the freight rail network. Combining two major railroads could reduce options for some shippers unless meaningful conditions are put in place to preserve competition. A healthy marketplace requires more than a promise that freight will continue moving. Businesses need practical alternatives that allow them to compare service, manage costs, and reach customers efficiently. CN's proposed conditions offer a way to address these concerns. They include improved access to key Midwest rail gateways, including Kansas City, St. Louis and East St. Louis, as well as rights to serve customers in parts of Illinois and Iowa that, because of the merger, would otherwise have limited competitive rail options. These measures would

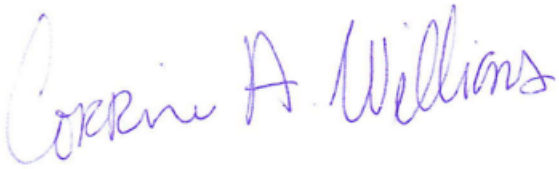
help preserve alternatives for shippers and enable CN to compete more effectively in areas where the merger could reduce competition.

For small businesses like mine, the principle is straightforward: competition creates options, and options matter. When businesses have alternatives, they are better positioned to respond to changing market conditions and deliver value to their customers. When those alternatives disappear, the effects can extend beyond the companies shipping freight to the communities and consumers that depend on affordable goods.

The STB should carefully evaluate whether the proposed merger will preserve meaningful competition for affected shippers. Any remedy should give competing railroads the practical ability to access customers and provide a viable alternative.

A strong marketplace depends on businesses having the opportunity to compete, control costs and meet the needs of their customers. Protecting those principles is essential not only for rail shippers, but also for small businesses and consumers across the country.

Sincerely,



Corrine Ann Williams
President
CW Strategies

cc: Parties of Record

ALEC MESSINA
LICENSED IN ILLINOIS
DIRECT DIAL: 217-993-6088
ALEC.MESSINA@HEPLERBROOM.COM

HEPLERBROOM LLC
EDWARDSVILLE (Madison County), IL
SAINT LOUIS, MO ▪ CHICAGO, IL
SPRINGFIELD, IL ▪ CRYSTAL LAKE, IL
HAMMOND (Lake County), IN
www.heplerbroom.com

4340 ACER GROVE DRIVE
SPRINGFIELD, IL 62711
PH: 217-528-3674
FX: 217-528-3964

November 16, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief of Case Administration:

As a Partner at Hepler Broom LLC, a firm which represents clients engaged in all aspects of commerce, I am writing in support of the conditions requested by Canadian National ("CN") as part of the Surface Transportation Board's ("STB") review of Union Pacific's ("UP") proposed acquisition of Norfolk Southern ("NS"). Our clients depend on competitive markets to keep costs manageable, serve customers and compete with larger companies. Preserving meaningful competition in freight rail is an important part of that equation.

At Hepler Broom, LLC, we understand that the cost of getting products and materials to market affects the prices businesses charge and the choices they can offer customers. Transportation costs are part of a much larger chain of expenses that our clients must manage, often with less flexibility than larger companies. When competition is limited, businesses have fewer transportation alternatives and less leverage to negotiate reasonable prices and reliable service. Those pressures can ultimately reach consumers through higher prices and fewer choices.

The proposed merger raises important questions about the future of competition across the freight rail network. Combining two major railroads could reduce options for some shippers unless meaningful conditions are put in place to preserve competition. A healthy marketplace requires more than a promise that freight will continue moving. Businesses need practical alternatives that allow them to compare service, manage costs, and reach customers efficiently. CN's proposed conditions offer a way to address these concerns. They include improved access to key Midwest rail gateways, including Kansas City, St. Louis and East St. Louis, as well as rights to serve customers in parts of Illinois and Iowa that, because of the merger, would otherwise have limited competitive rail options. These measures would help preserve alternatives for

shippers and enable CN to compete more effectively in areas where the merger could reduce competition.

For businesses like those we represent, the principle is straightforward: competition creates options, and options matter. When businesses have alternatives, they are better positioned to respond to changing market conditions and deliver value to their customers. When those alternatives disappear, the effects can extend beyond the companies shipping freight to the communities and consumers that depend on affordable goods.

The STB should carefully evaluate whether the proposed merger will preserve meaningful competition for affected shippers. Any remedy should give competing railroads the practical ability to access customers and provide a viable alternative.

A strong marketplace depends on businesses having the opportunity to compete, control costs and meet the needs of their customers. Protecting those principles is essential not only for rail shippers, but also for small businesses and consumers across the country.

Sincerely,

/s/ Alec Messina

Partner
Hepler Broom LLC

cc: Parties of Record



November 13, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief of Case Administration:

As the manager at The Gallery Hair Salon, a small business in Springfield, Illinois, I am writing in support of the conditions requested by Canadian National ("CN") as part of the Surface Transportation Board's ("STB") review of Union Pacific's ("UP") proposed acquisition of Norfolk Southern ("NS"). Small businesses depend on competitive markets to keep costs manageable, serve customers and compete with larger companies. Preserving meaningful competition in freight rail is an important part of that equation.

At The Gallery, we understand that the cost of getting products and materials to market affects the prices businesses charge and the choices they can offer customers. Transportation costs are part of a much larger chain of expenses that small businesses must manage, often with less flexibility than larger companies. When competition is limited, businesses have fewer transportation alternatives and less leverage to negotiate reasonable prices and reliable service. Those pressures can ultimately reach consumers through higher prices and fewer choices.

The proposed merger raises important questions about the future of competition across the freight rail network. Combining two major railroads could reduce options for some shippers unless meaningful conditions are put in place to preserve competition. A healthy marketplace requires more than a promise that freight will continue moving. Businesses need practical alternatives that allow them to compare service, manage costs, and reach customers efficiently. CN's proposed conditions offer a way to address these concerns. They include improved access to key Midwest rail gateways, including Kansas City, St. Louis and East St. Louis, as well as rights to serve customers in parts of Illinois and Iowa that, because of the merger, would otherwise have limited competitive rail options. These measures would help preserve alternatives for shippers and enable CN to compete more effectively in areas where the merger could reduce competition.

For small businesses like mine, the principle is straightforward: competition creates options, and options matter. When businesses have alternatives, they are better positioned to respond to changing market conditions and deliver value to

their customers. When those alternatives disappear, the effects can extend beyond the companies shipping freight to the communities and consumers that depend on affordable goods.

The STB should carefully evaluate whether the proposed merger will preserve meaningful competition for affected shippers. Any remedy should give competing railroads the practical ability to access customers and provide a viable alternative.

A strong marketplace depends on businesses having the opportunity to compete, control costs and meet the needs of their customers. Protecting those principles is essential not only for rail shippers, but also for small businesses and consumers across the country.

Sincerely,

/s/ Elly Messina

Manager
The Gallery Hair Salon

cc: Parties of Record

Friday, November 13, 2026

Chief of Case Administration

Office of Chief Counsel

Surface Transportation Board

395 E Street, S.W.

Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief Case of Administration:

As a farmer in western Iowa, I am writing to the Surface Transportation Board (STB) to express my concerns about the competitive impacts of the proposed merger between Union Pacific (UP) and Norfolk Southern (NS). I urge the STB to address these concerns through conditions that preserve competition and meaningful transportation options for agricultural producers.

Farming is an industry where many of the costs we pay and prices we receive are shaped by forces beyond our control. Input costs, commodity prices and market demand can change quickly, leaving farmers with limited flexibility to protect our margins. Transportation is another important piece of that equation. Access to reliable and competitive freight rail service helps ensure agricultural products can reach markets efficiently and keeps our rural economies moving.

Allowing two of the country's largest railroads to become one company raises legitimate concerns for farmers. Fewer rail transportation options could mean higher shipping costs, fewer alternatives when service disruptions occur and even more uncertainty when planning for future growing seasons. Farmers already face enough challenges without having to worry about whether they will have access to competitive transportation.

Farmers should have choices in how their products reach domestic and international markets. When competition decreases, agricultural producers can be left with fewer alternatives and less leverage when negotiating transportation rates and service. The STB should carefully evaluate how this transaction would affect competitive options for customers and what conditions are necessary to protect competition and choice.

CN's requested conditions, submitted to the STB as part of its review of UP's proposed acquisition of NS, deserve serious consideration. These conditions are important to preserving competition by seeking new and improved access to key Midwest gateways in Kansas City and St. Louis, as well as competitive service options for customers in parts of Iowa and Illinois. Any

conditions should be evaluated based on whether they allow a competing railroad to provide reliable service and give affected customers a meaningful alternative.

A competitive freight rail network supports Iowa farmers, the businesses that sustain rural communities and the consumers who rely on goods moving efficiently through the economy. I urge the STB to ensure this proposed merger does not come at the expense of competition and choice for agricultural producers.

Sincerely,

Scott Corrie
Western Iowa

The Honorable Jim Buchy
281 Dogwood Drive, Greenville, Ohio 45331

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief of Case Administration:

As a past State Representative in Ohio, I am writing in support of the conditions requested by Canadian National ("CN") as part of the Surface Transportation Board's ("STB") review of Union Pacific's ("UP") proposed acquisition of Norfolk Southern ("NS").

I served from 1983 to 2000 and 2011 to 2016 representing various portions of West Central Ohio. During that time, I built meaningful relationships with leaders in Ohio and remain in constant contact with them as they make determinations for Ohio. I was Assistant Director of Agriculture in between my time in the Ohio House and I represented business interest while at the National Federation of Independent Business. To put it bluntly, I understand the need for a rail system that is secure and accessible to small business and agriculture in Ohio.

I am proud of its strong economic and community ties with CN. I represented residents, farmers, manufacturers and other businesses that depend on competitive, reliable rail service to move goods to domestic and international markets. Rail competition is critical to protecting our constituents, supporting economic development and jobs, and keeping trucks off congested highways in Ohio. Preserving meaningful rail choices helps businesses control transportation costs, reach customers and compete in regional and national markets.

The proposed merger of UP and NS would create a railroad controlling more than 40 percent of U.S. rail traffic. UP's and NS's networks overlap in key Midwest gateway regions, including between Missouri and Illinois. In parts of Illinois and Iowa, the two railroads are among the only two or three Class I rail options currently available for customers. Without adequate remedies, the merger could eliminate a competitive Class I option, leaving shippers with fewer choices and increasing the risk of higher costs or degraded service. These outcomes could affect businesses, consumers and communities not only in Ohio but in other states that buy from those shippers or source to those locations.

CN's proposed conditions—including access to Kansas City, improved access to St. Louis and East St. Louis, and rights to serve impacted customer facilities in Illinois and Iowa that would otherwise lose a Class I rail shipping option—would help preserve meaningful competition in the region. By enabling CN to act as an effective competitor, these conditions could protect shippers' routing options and promote customer choice across the Midwest and beyond.

CN's requested conditions are important to preserving key rail options for shippers and supporting a strong, competitive state economy. I encourage the STB to work with state and local officials, CN and other relevant parties to protect constituents and promote regional competition and customer choice in the broader public interest.

Sincerely,

/s/ Jim Buchy
Former Ohio State Representative

cc: Parties of Record

November 11, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief Case of Administration:

On behalf of Opa's Organics, in Illinois, I am writing to the Surface Transportation Board ("STB") to express concerns about the competitive impacts of the proposed merger between Union Pacific ("UP") and Norfolk Southern ("NS") and ask the STB to address those concerns through conditions that preserve competition.

For agricultural producers and rural communities, access to competitive transportation is essential. It's how we connect products with markets and support local economies. We operate in a marketplace where many of the prices we pay and receive are shaped by forces beyond our control. Input costs, commodity prices and demand can change quickly, leaving us with limited flexibility to protect our margins.

Competitive rail access matters to us, which is why farmers like me are concerned about two of the country's biggest railroads becoming one company. Fewer rail transportation options mean higher rates, fewer alternatives when disruptions occur and even more uncertainty when planning for the next harvest season.

Farmers should be able to choose how their goods move to market. Reducing rail transportation options increases our costs. The STB should look at how the transaction would change competitive options for customers and whether any conditions would help protect competition and choice.

CN's requested conditions, submitted to the STB in relation to their review of UP's proposed acquisition of NS, are necessary to address competitive harms and preserve meaningful rail options. CN is working to preserve competition by seeking new and improved access to important Midwest gateways in Kansas City and St. Louis and competitive service options for customers in parts of Illinois and Iowa. These conditions should be assessed by whether they enable a competing railroad to provide reliable service and give affected customers a solid alternative.

A competitive freight rail network supports the farmers who grow our food, the businesses that sustain rural communities and the consumers who rely on goods moving efficiently through the economy.

Sincerely,

Angela D. Coxworth
Owner/Operator, Opa's Organics

cc: Parties of Record

Farm:
10330 IL-23
Waterman, IL 60556

(630) 561-7927
www.opasorganics.com

Admin Offices:
405 South 1st Street
Saint Charles, IL 60174

Eric P. Matthews

288 Ridge Rd
Athens, PA 18810
570-423-7190 • ericpmatthews@gmail.com

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company

Dear Chief Case of Administration:

I am writing to the Surface Transportation Board ("STB") to express concerns about the competitive impacts of the proposed merger between Union Pacific ("UP") and Norfolk Southern ("NS") and ask the STB to address those concerns through conditions that preserve competition.

For agricultural producers and rural communities, access to competitive transportation is essential. It's how we connect products with markets and support local economies. We operate in a marketplace where many of the prices we pay and receive are shaped by forces beyond our control. Input costs, commodity prices and demand can change quickly, leaving us with limited flexibility to protect our margins.

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CN's requested conditions, submitted to the STB in relation to their review of UP's proposed acquisition of NS, are necessary to address competitive harms and preserve meaningful rail options. CN is working to preserve competition by seeking new and improved access to important Midwest gateways in Kansas City and St. Louis and competitive service options for customers in parts of Illinois and Iowa. These conditions should be assessed by whether they enable a competing railroad to provide reliable service and give affected customers a solid alternative.

A competitive freight rail network supports the farmers who grow our food, the businesses that sustain rural communities and the consumers who rely on goods moving efficiently through the economy.

Sincerely,
Respectfully,

E. P. Matthews

cc: Parties of Record

Pennsylvania State Grange
26 CJEMS Lane
Mifflintown, PA 17059-8334
www.pagrange.org
Matt Espenshade, President
email: mespenshade@pagrange.org
P 717-737-8855
November 6, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief Case of Administration:

On behalf of the members of the Pennsylvania State Grange and as an owner/operator of a dairy farm in Pennsylvania, I am writing to the Surface Transportation Board ("STB") to express concerns about the competitive impacts of the proposed merger between Union Pacific ("UP") and Norfolk Southern ("NS") and ask the STB to address those concerns through conditions that preserve competition.

For agricultural producers and rural communities, access to competitive transportation is essential. It's how we connect products with markets and support local economies. We operate in a marketplace where many of the prices we pay and receive are shaped by forces beyond our control. Input costs, commodity prices and demand can change quickly, leaving us with limited flexibility to protect our margins.

Competitive rail access matters to us, which is why farmers like me are concerned about two of the country's biggest railroads becoming one company. Fewer rail transportation options mean higher rates, fewer alternatives when disruptions occur and even more uncertainty when planning for the next harvest season.

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CN's requested conditions, submitted to the STB in relation to their review of UP's proposed acquisition of NS, are necessary to address competitive harm and preserve meaningful rail options. CN is working to preserve competition by seeking new and improved access to important Midwest gateways in Kansas City and St. Louis and competitive service options for customers in parts of Illinois and Iowa. These conditions should be assessed by whether they enable a competing railroad to provide reliable service and give affected customers a solid alternative.

A competitive freight rail network supports the farmers who grow our food, the businesses that sustain rural communities and the consumers who rely on goods are moving efficiently through the economy.

Respectfully,

Matthew D. Espenshade

Matthew D. Espenshade – President
PA State Grange

Richard Harris
5495 Leisure Lakes Road
Stevensville, PA 18845

11/10/2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief Case of Administration:

I am writing to the Surface Transportation Board ("STB") to express concerns about the competitive impacts of the proposed merger between Union Pacific ("UP") and Norfolk Southern ("NS") and ask the STB to address those concerns through conditions that preserve competition.

For agricultural producers and rural communities, access to competitive transportation is essential. It's how we connect products with markets and support local economies. We operate in a marketplace where many of the prices we pay and receive are shaped by forces beyond our control. Input costs, commodity prices and demand can change quickly, leaving us with limited flexibility to protect our margins.

Competitive rail access matters to us, which is why farmers like me are concerned about two of the country's biggest railroads becoming one company. Fewer rail transportation options mean higher rates, fewer alternatives when disruptions occur and even more uncertainty when planning for the next harvest season.

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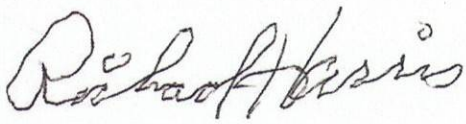
A competitive freight rail network supports the farmers who grow our food, the businesses that sustain rural communities and the consumers who rely on goods moving efficiently through the economy.

Sincerely,



Richard Harris

cc: Parties of Record

November 12, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief of Case Administration:

As someone who spent his career in logistics for PPG (subsequently Vitro) in Pittsburgh, Pennsylvania, I am writing in support of the conditions requested by Canadian National ("CN") as part of the Surface Transportation Board's ("STB") review of Union Pacific's ("UP") proposed acquisition of Norfolk Southern ("NS"). Businesses depend on competitive markets to keep costs manageable, serve customers and compete with larger companies. Preserving meaningful competition in freight rail is an important part of that equation.

At PPG, we understood that the cost of getting products and materials to market affects the prices businesses charge and the choices they can offer customers. Transportation costs are part of a much larger chain of expenses that businesses must manage. When competition is limited, businesses have fewer transportation alternatives and less leverage to negotiate reasonable prices and reliable service. Those pressures can ultimately reach consumers through higher prices and fewer choices.

The proposed merger raises important questions about the future of competition across the freight rail network. Combining two major railroads could reduce options for some shippers unless meaningful conditions are put in place to preserve competition. A healthy marketplace requires more than a promise that freight will continue moving. Businesses need practical alternatives that allow them to compare service, manage costs, and reach customers efficiently. CN's proposed conditions offer a way to address these concerns. They include improved access to key Midwest rail gateways, including Kansas City, St. Louis and East St. Louis, as well as rights to serve customers in parts of Illinois and Iowa that, because of the merger, would otherwise have limited competitive rail options. These measures would help preserve alternatives for shippers and enable CN to compete more effectively in areas where the merger could reduce competition.

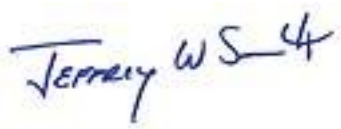
For businesses where rail transportation is critical, the principle is straightforward: competition creates options, and options matter. When businesses have alternatives, they

are better positioned to respond to changing market conditions and deliver value to their customers. When those alternatives disappear, the effects can extend beyond the companies shipping freight to the communities and consumers that depend on affordable goods.

The STB should carefully evaluate whether the proposed merger will preserve meaningful competition for affected shippers. Any remedy should give competing railroads the practical ability to access customers and provide a viable alternative.

A strong marketplace depends on businesses having the opportunity to compete, control costs and meet the needs of their customers. Protecting those principles is essential not only for rail shippers, but also for small businesses and consumers across the country.

Sincerely,



Jeffrey W. Smith
Retired Supply Chain Manager
PPG / Vitro Architectural Glass

Askew Houser
FUNERAL HOME INC.

November 9, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief of Case Administration:

As the owner of Askew-Houser Funeral Homes inc, a small business in Ebensburg ,Pennsylvania, I am writing in support of the conditions requested by Canadian National ("CN") as part of the Surface Transportation Board's ("STB") review of Union Pacific's ("UP") proposed acquisition of Norfolk Southern ("NS"). Small businesses depend on competitive markets to keep costs manageable, serve customers and compete with larger companies. Preserving meaningful competition in freight rail is an important part of that equation.

At Askew-Houser Funeral Homes inc, we understand that the cost of getting products and materials to market affects the prices businesses charge and the choices they can offer customers. Transportation costs are part of a much larger chain of expenses that small businesses must manage, often with less flexibility than larger companies. When competition is limited, businesses have fewer transportation alternatives and less leverage to negotiate reasonable prices and reliable service. Those pressures can ultimately reach consumers through higher prices and fewer choices.

The proposed merger raises important questions about the future of competition across the freight rail network. Combining two major railroads could reduce options for some shippers unless meaningful conditions are put in place to preserve competition. A healthy marketplace requires more than a promise that freight will continue moving. Businesses need practical alternatives that allow them to compare service, manage costs, and reach customers efficiently. CN's proposed conditions offer a way to address these concerns. They include improved access to key Midwest rail gateways, including Kansas City, St.

Louis and East St. Louis, as well as rights to serve customers in parts of Illinois and Iowa that, because of the merger, would otherwise have limited competitive rail options. These measures would help preserve alternatives for shippers and enable CN to compete more effectively in areas where the merger could reduce competition.

For small businesses like mine, the principle is straightforward: competition creates options, and options matter. When businesses have alternatives, they are better positioned to respond to changing market conditions and deliver value to their customers. When those alternatives disappear, the effects can extend beyond the companies shipping freight to the communities and consumers that depend on affordable goods.

The STB should carefully evaluate whether the proposed merger will preserve meaningful competition for affected shippers. Any remedy should give competing railroads the practical ability to access customers and provide a viable alternative.

A strong marketplace depends on businesses having the opportunity to compete, control costs and meet the needs of their customers. Protecting those principles is essential not only for rail shippers, but also for small businesses and consumers across the country.

Sincerely,

John Paul Houser
President
Gibbons-Houser Funeral Homes, inc

cc: Parties of Record

November 9, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief Case of Administration:

On behalf of The Cambria County Farm Bureau in Pennsylvania, I am writing to the "STB" to express concerns about the competitive impacts of the proposed merger between "UP" and "NS" and ask the STB to address those concerns through conditions that preserve competition.

For agricultural producers and rural communities, access to competitive transportation is essential. We operate in a marketplace where many of the prices we pay and receive are shaped by forces beyond our control. Competitive rail access matters to farmers like me. That's why we're concerned about the two biggest railroad companies merging. Fewer rail transportation options mean higher rates, fewer alternatives when disruptions occur and even more uncertainty when planning for the next harvest season.

We should be able to choose how our goods move to market. Reducing rail options increase our costs. The STB should look how the transaction would change competitive options for customers and whether any conditions would help protect competition and choice. CN's requested conditions are essential to addressing competitive concerns and preserving meaningful rail options. By securing improved access to key Midwest gateways and competitive service alternatives in Illinois and Iowa, CN seeks to ensure reliable service and meaningful choices for affected customers.

A competitive freight rail network supports the farmers who grow our food, the businesses that sustain rural communities and the consumers who rely on goods moving efficiently through the economy.

Sincerely,

Martin Yahner

Martin Yahner
President
Cambria County Farm Bureau
Yahner Brothers Farm

Michael McKinley
6727 State Route 38
Cranberry, PA 16319

November 3, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief of Case Administration:

As an employee of Brookville Locomotive that is dependent on rail transport, I am writing in support of the conditions requested by Canadian National ("CN") as part of the Surface Transportation Board's ("STB") review of Union Pacific's ("UP") proposed acquisition of Norfolk Southern ("NS"). Small businesses depend on competitive markets to keep costs manageable, serve customers and compete with larger companies. Preserving meaningful competition in freight rail is an important part of that equation.

At Brookville Locomotive, we understand that the cost of getting products and materials to market affects the prices businesses charge and the choices they can offer customers. Transportation costs are part of a much larger chain of expenses that small businesses must manage, often with less flexibility than larger companies. When competition is limited, businesses have fewer transportation alternatives and less leverage to negotiate reasonable prices and reliable service. Those pressures can ultimately reach consumers through higher prices and fewer choices.

The proposed merger raises important questions about the future of competition across the freight rail network. Combining two major railroads could reduce options for some shippers unless meaningful conditions are put in place to preserve competition. A healthy marketplace requires more than a promise that freight will continue moving. Businesses need practical alternatives that allow them to compare service, manage costs, and reach customers efficiently. CN's proposed conditions offer a way to address these concerns. They include improved access to key Midwest rail gateways, including Kansas City, St. Louis and East St. Louis, as well as rights to serve customers in parts of Illinois and Iowa that, because of the merger, would otherwise have limited competitive rail options. These measures would help preserve alternatives for shippers and enable CN to compete more effectively in areas where the merger could reduce competition.

For small businesses like mine, the principle is straightforward: competition creates options, and options matter. When businesses have alternatives, they are better positioned to respond to changing market conditions and deliver value to their customers. When those alternatives disappear, the effects can extend beyond the companies shipping freight to the communities and consumers that depend on affordable goods.

The STB should carefully evaluate whether the proposed merger will preserve meaningful competition for affected shippers. Any remedy should give competing railroads the practical ability to access customers and provide a viable alternative.

A strong marketplace depends on businesses having the opportunity to compete, control costs and meet the needs of their customers. Protecting those principles is essential not only for rail shippers, but also for small businesses and consumers across the country.

Sincerely,



Michael McKinley

cc: Parties of Record

Perfectly Pennsylvania
Suite 202, One Terminal drive
Middletown PA 17057

October 31, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Chief of Case Administration:

As the owner of Perfectly Pennsylvania a small business in Middletown, PA I am writing in support of the conditions requested by Canadian National ("CN") as part of the Surface Transportation Board's ("STB") review of Union Pacific's ("UP") proposed acquisition of Norfolk Southern ("NS"). Small businesses depend on competitive markets to keep costs manageable, serve customers and compete with larger companies. Preserving meaningful competition in freight rail is an important part of that equation.

At Perfectly Pennsylvania, we understand that the cost of getting products and materials to market affects the prices businesses charge and the choices they can offer customers. Transportation costs are part of a much larger chain of expenses that small businesses must manage, often with less flexibility than larger companies. When competition is limited, businesses have fewer transportation alternatives and less leverage to negotiate reasonable prices and reliable service. Those pressures can ultimately reach consumers through higher prices and fewer choices.

The proposed merger raises important questions about the future of competition across the freight rail network. Combining two major railroads could reduce options for some shippers unless meaningful conditions are put in place to preserve competition. A healthy marketplace requires more than a promise that freight will continue moving. Businesses need practical alternatives that allow them to compare service, manage costs, and reach customers efficiently. CN's proposed conditions offer a way to address these concerns. They include improved access to key Midwest rail gateways, including Kansas City, St. Louis and East St. Louis, as well as rights to serve customers in parts of Illinois and Iowa that, because of the merger, would otherwise have limited

competitive rail options. These measures would help preserve alternatives for shippers and enable CN to compete more effectively in areas where the merger could reduce competition.

For small businesses like mine, the principle is straightforward: competition creates options, and options matter. When businesses have alternatives, they are better positioned to respond to changing market conditions and deliver value to their customers. When those alternatives disappear, the effects can extend beyond the companies shipping freight to the communities and consumers that depend on affordable goods.

The STB should carefully evaluate whether the proposed merger will preserve meaningful competition for affected shippers. Any remedy should give competing railroads the practical ability to access customers and provide a viable alternative.

A strong marketplace depends on businesses having the opportunity to compete, control costs and meet the needs of their customers. Protecting those principles is essential not only for rail shippers, but also for small businesses and consumers across the country.

Sincerely,

Karen Deklinski
Owner
Perfectly Pennsylvania

CORBIN HOLDINGS LLC

PAUL CORBIN, CEO
5200 ALLENS MILLS ROAD
REYNOLDSVILLE, PA 15851

October 30, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company

Dear Chief Case of Administration:

As a Pennsylvania based agri-business owner, I am writing to the Surface Transportation Board ("STB") to express concerns about the competitive impacts of the proposed merger between Union Pacific ("UP") and Norfolk Southern ("NS") and ask the STB to address those concerns through conditions that preserve competition.

For agricultural producers and rural communities, access to competitive transportation is essential. It's how we connect products with markets and support local economies. We operate in a marketplace where many of the prices we pay and receive are shaped by forces beyond our control. Input costs, commodity prices and demand can change quickly, leaving us with limited flexibility to protect our margins.

Competitive rail access matters to us, which is why farmers like me are concerned about two of the country's biggest railroads becoming one company. Fewer rail transportation options mean higher rates, fewer alternatives when disruptions occur and even more uncertainty when planning for the next harvest season.

Farmers should be able to choose how their goods move to market. Reducing rail transportation options increases our costs. The STB should look at how the transaction would change competitive options for customers and whether any conditions would help protect competition and choice.

CN's requested conditions, submitted to the STB in relation to their review of UP's proposed acquisition of NS, are necessary to address competitive harms and preserve meaningful rail options. CN is working to preserve competition by seeking new and improved access to important Midwest gateways in Kansas City and St. Louis and competitive service options for customers in parts of Illinois and Iowa. These conditions should be assessed by whether they enable a competing railroad to provide reliable service and give affected customers a solid alternative.

A competitive freight rail network supports the farmers who grow our food, the businesses that sustain rural communities and the consumers who rely on goods moving efficiently through the economy.

Sincerely,

Paul Corbin, Owner
Corbin Holdings LLP

cc: Parties of Record

Appendix C

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