53336 SERVICE DATE – NOVEMBER 25, 2026
OCC

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36873

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

Decision No. 50

Decided: November 25, 2026

On May 28, 2026, the Board accepted for consideration (1) the revised, primary application (the Revised Application) filed by Union Pacific Corporation (UPC), Union Pacific Railroad Company (UP) (collectively, Union Pacific), Norfolk Southern Corporation (NSC), and Norfolk Southern Railway Company (NS) (collectively, Norfolk Southern) (Union Pacific and Norfolk Southern collectively, Applicants) as well as (2) a related application in Union Pacific Corp.—Control—Peoria & Pekin Union Railway, Docket No. FD 36873 (Sub-No. 1).

On August 18, 2026, the Board issued a decision that, among other things, established the procedural schedule for these proceedings, including setting December 3, 2026, as the deadline for preliminary comments from the U.S. Department of Justice (DOJ) and the U.S. Department of Transportation (DOT). Union Pac. Corp.—Control—Norfolk S. Corp., (Decision No. 30), FD 36873 et al., slip op. at 13 (STB served Aug. 18, 2026).

On November 24, 2026, DOJ filed a motion for leave to file, on or before January 15, 2027, a supplement to its anticipated December 3 comment. DOJ represents that the additional time will allow it "sufficient time to prepare a more substantive Comment designed to aid the Board's decision-making process for this significant transaction." (DOJ Mot. 1, Nov. 24, 2026.) DOJ argues that granting its request will not cause any prejudice to other parties because the other parties will have more than 30 days to review and respond to DOJ's supplemental comment before the February 15, 2027 deadline for responsive comments. (Id. at 1.) DOJ also represents that "[c]ounsel for the Applicants do not oppose this motion." (Id. at 2.)

On November 25, 2026, DOT filed a similar motion requesting leave to file, on or before January 15, 2027, a supplement to its anticipated December 3 comment.

DOJ's and DOT's requests to file a supplemental comment on or before January 15, 2027, will be granted. Generally, requests to file out of time are permitted when good cause exists and granting the request will not prejudice any party. See, e.g., Norfolk S. Ry.—Aban.

Exemption—in Wyoming & Genesee Cntys., N.Y., AB 290 (Sub-No. 271X), slip op. at 2 (STB served Feb. 6, 2008) (accepting a late-filed request for a public use condition because no party would be prejudiced). Good cause exists here. Given DOJ's and DOT's statutory roles in this proceeding (see 49 U.S.C. § 11325(b)(1)), and the volume of the comments filed (see DOJ Mot. 2, n.2.), the requests for additional time to review and consider comments "before fully providing" their views (see id. at 2), are reasonable. DOJ and DOT have each indicated that they intend to file initial comments on December 3, and granting their request for leave to file supplemental comments will still allow Applicants and other parties more than 30 days to review and respond to the supplemental comments. Therefore, no party should be prejudiced by granting DOJ's and DOT's requests.

It is ordered:

1. DOJ's request for leave to file a supplemental comment on or before January 15, 2027, is granted.

2. DOT's request for leave to file a supplemental comment on or before January 15, 2027, is granted.

3. This decision is effective on its service date.

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