Transportation Update

May 2026

UP-NS Transcontinental Merger Redux

On April 30, Union Pacific (UP) and Norfolk Southern (NS) refiled their application with the Surface Transportation Board (STB) for UP to acquire NS. If approved by the STB, the merger would create the first transcontinental railroad in the United States.

UP and NS first proposed the merger in mid-2025 and filed their original application in December 2025. On January 16, the STB rejected the application as incomplete but said it would allow the applicants to refile.

Why the STB Rejected the UP-NS Application

The STB stated it had rejected the application because it was incomplete in three ways:

- Impact analyses lacked forward-looking market projections
- Portions of the application, including key merger agreement schedules, were missing
- An accompanying application to acquire TRRA was misclassified as a “minor” rather than “significant” transaction

Similar Claims in the Amended Application

The amended application makes the same core claims as the rejected December filing. The applicants continue to assert that the merger combining UP’s western network and NS’s eastern network into a single system spanning over 50,000 route miles across 43 states will promote enhanced competition. They claim the combined carrier will provide seamless, single-line service from coast to coast, eliminating 20-24 hours of transit time per interchange removed.

The headline benefits figures have been repackaged but tell a similar story. The amended application projects approximately $6.4 billion per year in quantified public benefits – up from the $3.1 billion claimed in the previous application – but the increase is largely attributable to a new $3.5 billion line item for projected shipper savings from truck-to-rail diversions. The underlying operational numbers are virtually unchanged: $965 million in operating efficiencies, $133 million in capital savings, and roughly $1.8 billion in net revenue from diverted traffic. The applicants now predict diverting approximately 1.98 million carloads and intermodal units annually – including approximately 2.1 million truckloads and 508,000 carloads from competing railroads – onto the merged system, modestly higher than the December projections.

The competition narrative is unchanged. The applicants characterize the transaction as a purely “end-to-end” merger with virtually no competitive overlap and propose the same voluntary conditions: open-gateway commitments modeled on the CP-KCS merger, protections for three facilities that would otherwise lose access to a second Class I carrier, and the Committed Gateway Pricing program.

The applicants also repeat claims that the merger will produce economic and environmental benefits, including reduced highway congestion, lower carbon emissions, support for manufacturing and reindustrialization, and strengthened national defense. But the substantive arguments are the same ones the STB has already seen.

Updates in the Amended Application

The amended application has been revised to address the three deficiencies noted by the STB but makes few changes beyond what was required.

Market share projections: The amended application includes post-merger projections incorporating anticipated traffic diversions. The applicants updated their calculations using actual 100% traffic files from all Class I carriers. The revised data yields modestly different diversion figures: total rail-to-rail diversions increased from 442,000 to 508,000 carloads and units, with BNSF now projected to lose the most carloads overall.

Missing materials: The amended application includes all disclosure schedules to the merger agreement, including Schedule 5.8 containing the applicants' view of the regulatory conditions that would be materially burdensome.

TRRA: The applicants sidestepped the STB's classification requirement entirely. Rather than file a significant transaction application, they committed not to acquire control of TRRA and offered to condition consummation on divesting sufficient ownership and governance interests so the combined company will never control TRRA, even temporarily.

Otherwise, the core expert analyses, Committed Gateway Pricing framework, voluntary gateway commitments, Service Assurance Plan, and competitive-enhancement arguments are substantively the same. The amended application is, in most material respects, the same document with procedural corrections and upgraded data.

What This Means for Shippers

If approved, this merger could transform the freight rail industry. Shippers should focus on the following risks:

- *Extended monopoly routing.* Today, shippers can use competing interline routes to keep rates in check. After the merger, the combined carrier would control both the long-haul segment and the interchange point on many routes. The applicants promise to keep gateways "open," but their commitments leave broad discretion over rates and service levels, potentially making access to competition uneconomical.
- *Competitor viability.* The applicants project diverting 508,000 carloads from competing railroads. Whether BNSF, CSX, and others can sustain service frequency and pricing after losing that volume remains uncertain. If competitors reduce service or raise rates, shippers across the rail network – not just those with traffic interlining between UP or NS and BNSF or CSX – face fewer options and higher costs.
- *Service disruptions.* Past railroad mergers have produced well-documented service failures. The applicants propose a phased, three-year integration, but the service assurance plan may lack enforceable standards, leaving shippers with no binding recourse if the merged carrier fails to deliver.
- *Further industry consolidation.* This merger would almost certainly trigger a final round of Class I consolidation. The applicants themselves acknowledge speculation about a BNSF-CSX combination. The likely endgame is a duopoly with two transcontinental carriers controlling virtually all U.S. freight rail traffic.
- *Questions about claimed benefits.* For many routes, the merged carrier may continue interchanging traffic at existing gateways much as it does today. Where interchanges are not eliminated, the promised transit time improvements would not materialize. The applicants' truck diversion claims also warrant scrutiny over whether rail is a practical alternative given transit time, first- and last-mile access, and commodity characteristics.

Next Steps and How to Participate

The refiled application triggers a new 30-day period for the STB to accept or reject it. Once it is accepted, the opportunity to request information from the railroads, submit comments, and request conditions will be subject to procedural cutoffs.

Formal deadlines will be set in a future procedural schedule. Based on proposals from the STB and the applicants, the deadline for notices of intent to participate could be June 12 and the deadline for shipper comments could be in August. The applicants are pushing for final approval by May 2027. The statutory deadline for the STB to rule (based on the April 30, 2026, filing date) is August 28, 2027.

The window for meaningful participation is limited. Rather than waiting for the STB to set a procedural schedule, interested shippers should now file a notice of intent to participate, which merely reserves their right to comment and does not require them to take a position on the merger. They also should evaluate how the merger would affect their supply chain, routing options, competitive alternatives, and rates.

FOR MORE INFORMATION

Our freight rail team advises shippers on regulatory proceedings before the STB, including merger proceedings, rate disputes, and service complaints. For more information about the UP-NS merger's potential consequences for shippers and how they can best prepare, please contact a member of our team:

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