Transportation Update

August 2026

STB Lifts Abeyance in Union Pacific–Norfolk Southern Merger and Sets Procedural Schedule

On August 18, the Surface Transportation Board (STB) removed the Union Pacific-Norfolk Southern merger proceeding from abeyance and adopted a procedural schedule. Notices of intent to participate are due September 4. Comments, protests, and requests for conditions are due November 18. Shippers should act now to evaluate their interests in this proceeding and preserve the opportunity to participate.

Background

Union Pacific and Norfolk Southern (collectively, Applicants) seek STB approval for Union Pacific's acquisition of control of Norfolk Southern. The transaction would consolidate the operations of the two railroads and create the nation's first transcontinental railroad. This proceeding is the first time the STB will apply its more stringent 2001 merger rules, which place a heavier burden on applicants seeking to demonstrate that a proposed transaction serves the public interest.

Applicants originally filed their application on December 19, 2025, but the STB rejected it for incompleteness. Applicants filed a Revised Application on April 30, which the STB accepted on May 28, while holding the proceeding in abeyance and directing Applicants to supplement the record with additional information on several key topics, including competitive enhancements, access for captive shippers, diversion analysis, gateway issues, and downstream merger impacts. Applicants filed supplemental information in July 2026.

Earlier this month, several parties—including a coalition of trade associations representing shippers, competing Class I railroads, and a group of state attorneys general—filed motions for summary denial and submitted comments expressing concern that the Applicants have not established a prima facie case for the merger. Applicants have until August 26 to respond.

What the STB Decided

The STB lifted the abeyance, finding that Applicants' July supplements provide a sufficient record to resume proceedings. The decision expressly states that this finding "reflects no view on the merits of the Revised Application or on any matter raised in the motions and comments" by shipper groups and non-Applicant railroads seeking summary denial of the merger.

The STB also adopted a procedural schedule providing 90 days for opening comments and 90 days for responses. The STB will hold a public hearing in spring 2027, on a date to be determined. Assuming the procedural schedule holds, the statutory deadline for the STB's decision on the merger is August 28, 2027.

The Board did not decide on the outstanding motions for summary denial of the merger, stating it will address them in a separate decision. It also observed that "many" of the motions and comments "focus on merits-related issues."

Key Deadlines and Next Steps for Shippers

This decision sets critical, immediate deadlines for shipper participation in the STB's review:

- **September 4, 2026** — Notices of intent to participate due.
- **November 18, 2026** — Comments, protests, requests for conditions, and responsive/inconsistent applications due.
- **February 16, 2027** — Responses to comments, rebuttal in support of the Revised Application, and responses to responsive applications due.
- **May 28, 2027** — Final briefs due.

All rail shippers are likely to be affected by this transaction and should consider participating in the proceeding. Shippers must file a notice of intent to participate by September 4 to preserve their rights to file comments or requests for conditions.

We are closely engaged in this proceeding and are available to help you evaluate its potential impact on your business, assist with filing a notice of intent to participate, and develop a strategy for engaging in the proceeding.

FOR MORE INFORMATION

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