FR-4

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36873]

Union Pacific Corporation and Union Pacific Railroad Company—Control—

Norfolk Southern Corporation and Norfolk Southern Railway Company

AGENCY: Surface Transportation Board.

ACTION: Decision No. 3 in Docket No. FD 36873; Notice of Receipt of Prefiling Notification.

SUMMARY: Union Pacific Corporation (UPC) and Union Pacific Railroad Company (UP) (collectively, Union Pacific) and Norfolk Southern Corporation (NSC) and Norfolk Southern Railway Company (NS) (collectively, Norfolk Southern) (Union Pacific and Norfolk Southern collectively, Applicants) have notified the Surface Transportation Board (Board) of their intent to file an application seeking authority for the acquisition of control by UPC, through its wholly owned subsidiary Ruby Merger Sub 1 Corporation, of NSC and, through it, NS, and for the resulting common control by UPC of UP and NS. Applicants have indicated that 2023 will be the base year for their impact analysis and that they anticipate filing their application on or before January 29, 2026.

ADDRESSES: Any filing submitted in this proceeding, referring to Docket No. 36873, must be filed with the Board either via e-filing on the Board's website or in writing addressed to: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each filing must be sent (and may be sent by email only, if service by email is acceptable to the recipient) to each of the following: (1) Secretary of Transportation, 1200 New Jersey Avenue, S.E., Washington, DC 20590; (2) Attorney General of the United States, c/o Assistant Attorney General, Antitrust Division, Room 3109, Department of Justice, Washington, DC 20530; (3) UP's representative, Michael L. Rosenthal, Covington & Burling LLP, One CityCenter, 850 Tenth Street, N.W.,

Washington, DC 20001; (4) NS's representative, Raymond A. Atkins, Sidley Austin LLP, 1501 K Street, N.W., Washington, DC 20005; (5) any other person designated as a Party of Record on the service list; and, as noted below, (6) the administrative law judge assigned in this proceeding.

FOR FURTHER INFORMATION CONTACT: Nathaniel Bawcombe at (202) 915-3555. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

SUPPLEMENTARY INFORMATION: Applicants state that UPC and NSC entered into an Agreement and Plan of Merger dated July 28, 2025, under which UPC, through its wholly owned subsidiary, Ruby Merger Sub 1 Corporation, would acquire all outstanding shares of NSC for consideration consisting of shares of UPC common stock and cash. (Notice of Intent 3.) Specifically, Applicants state that upon receipt of approval by the shareholders of UPC and NSC, a decision by the Board approving the proposed transaction, and the satisfaction of other customary closing conditions, Ruby Merger Sub 1 Corporation would merge with and into NSC, and NSC would become a directly and wholly owned subsidiary of UPC. (Id.) NSC would then be merged with and into Ruby Merger Sub 2 LLC, another wholly owned subsidiary of UPC. (Id.)

Applicants indicate that they will use 2023 as the base year for the impact analysis in the application and that they anticipate filing their application on or before January 29, 2026.[1] (Id. at 2.)

Major Transaction Status. The Board finds that this is a major transaction under 49 CFR 1180.2(a), as it is a control transaction involving two or more Class I railroads.

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[1] If Applicants anticipate filing their application earlier than January 29, 2026, they should amend their filing date pursuant to 49 CFR 1180.4(b)(3). Such an amendment would not change the three-to-six-month window in which the application can be filed.

UPC presently controls UP, a Class I railroad, and proposes to acquire common control of NS, also a Class I railroad.

Protective Order. By motion filed July 30, 2025, Applicants requested a protective order to protect confidential, highly confidential, and proprietary information to be submitted in connection with the control application. By decision served August 5, 2025 (Decision No. 1), Applicants' motion for a protective order was granted.

Proposed Procedural Schedule. Also on July 30, 2025, Applicants filed a petition to establish a procedural schedule. The Board will solicit comments on the proposed procedural schedule in a subsequent decision.

Administrative Law Judge. The Board has signed a Memorandum of Understanding with the U.S. Department of Health and Human Services Office of Medicare Hearings and Appeals to employ the services of administrative law judges (ALJs) on a case-by-case basis to perform discrete, Board-assigned functions such as adjudicating discovery disputes in cases pending before the Board. The Board hereby assigns and authorizes Administrative Law Judge Jenifer Soulikias to entertain and rule upon discovery matters and to resolve initially all disputes concerning discovery in this proceeding. Parties are directed to send copies of all their filings and documents in this proceeding to Judge Soulikias at alj.soulikias.inbox@stb.gov.

Board Staff Liaison. The Board staff liaison assigned to this matter, Nathaniel Bawcombe, will provide informal opinions and interpretations, which are not binding on the Board, regarding the format of or information to be included in the application. 49 CFR 1180.4(c)(6)(iii).

Waiver of First-Class Service Requirement. The Board will waive the requirement that Applicants shall serve a conformed copy of an application by first-class mail upon all persons requesting a copy under 49 CFR 1180.4(c)(5)(v). All such persons

may access the application on the Board's website. Applicants must comply with mailing requirements for those entities specifically identified in 49 CFR 1180.4(c)(5)(i)-(iv).

Statement of Additional Information. As provided for in 49 CFR 1180.4(c)(2)(v), and pursuant to the Board's authority in 49 U.S.C. 1321(b), the Board will require, in advance of the application, that Applicants file the following additional information by September 29, 2025:

Timetables, Station Lists, and Track Charts

- Operating timetables (including special instructions and/or operating rule books), station lists or station books, and track charts or "track profiles" (including schematics that provide the number, length, and ownership status (i.e., whether railroad-owned or privately-owned)) of the tracks on the entire UP system and the entire NS system.
- These documents must be in machine-readable format to the extent available (including all necessary documentation). If current versions of any of the requested documents are not available, the most recent versions available should be submitted.

Geospatial Information System (GIS) Maps

- GIS maps for the entire UP system and the entire NS system. These maps may include information used in the carriers' Positive Train Control (PTC) systems such as the track database file maintained in accordance with the Interoperable Train Control GIS.
- The maps must include, at minimum:
    - Track centerline points;
    - Operating division;
    - Operating subdivision;
    - Integer mileposts;

    - Crossings, including grade crossings;
    - Switches (turnout leg, switch orientation);
    - Permanent speed restrictions;
    - And the joint facilities layer for all geolocated joint facilities.
- For lines that do not have PTC installed, GIS maps that contain analogous information to the extent it is maintained in the normal course of business.
- All requested GIS documents must be in machine-readable format (e.g., kml, kmz, shapefile, GeoJSON) to the extent available (including all necessary documentation). If current versions of any of the requested data are not available, the most recent versions available should be submitted.

Joint Facilities

- A list of joint facilities and joint use arrangements (including but not limited to tracks, trackage rights agreements, haulage agreements, yards, terminals, joint or common ownership agreements, and lease agreements) on the entire UP system and the entire NS system.
- For each joint facility listed, Applicants must specify the joint facility type (e.g., joint ownership, landlord-tenant, etc.) and the involved carrier(s).
- To the extent that these facilities are geolocated on a GIS map, provide a GIS layer in the manner and format requested above.
- Applicants must also address whether any such joint use arrangements by their terms would no longer be operative following the proposed change in control.

Interchange Commitments

- A list of interchange commitments—agreements that limit or may limit interchange with a third-party connecting carrier, whether by outright

prohibition, per-car penalty, adjustment in financial terms, positive economic inducement, or other means—involving UP or NS.

- The list must specify the location of the interchange(s) and the involved carrier(s).

Any additional information required to support the application may be requested by the Board at a later date.

To support the Board's efficient processing of the additional information, the Board is providing technical procedures in the Appendix to this decision. These procedures shall apply to all evidentiary submissions filed in this proceeding.

It is ordered:

1. The Board hereby ratifies the loan of Administrative Law Judge Soulikias to the office of administrative law judge in the Surface Transportation Board, under terms and conditions prescribed in 5 U.S.C. 3344 and 5 CFR 930.208, and the Board today approves her appointment as the Board's own action under the Constitution. This proceeding is assigned to Judge Soulikias for the handling of all discovery matters and initial resolution of all discovery disputes.

2. In addition to filing pleadings with the Board and serving copies on the Secretary of Transportation, the Attorney General of the United States, Applicants' representatives, and other parties of record, parties must send a copy of all filings and documents, including submissions already filed with the Board, to Judge Soulikias at alj.soulikias.inbox@stb.gov.

3. Judge Soulikias will be added to the service list in this proceeding and a copy of this decision will be served upon her.

4. A copy of this decision will be served on the U.S. Office of Personnel Management (OPM), at Human Resource Solutions, Administrative Law Judge Program,

1900 E Street N.W., Suite 2469, Washington, DC 20415-9400 and electronically at lenor.thompson-watkins@opm.gov. Judge Soulikias shall send a copy of the notice or order that constitutes the final disposition of her assignment of this case to OPM at the above address.

5. The requirement that Applicants shall serve a conformed copy of an application by first-class mail upon all persons requesting a copy under 49 CFR 1180.4(c)(5)(v) is waived.

6. Applicants must submit the additional information described above by September 29, 2025.

7. This decision is effective on its service date.

Decided: August 26, 2025.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz.

Tammy Lowery,

Clearance Clerk.

APPENDIX

1. All documents and evidence referenced in a filing must be specifically cited and included in the electronic workpapers.
2. All data and claims referenced in a filing should have citations to the relevant spreadsheet or document. These citations should be as specific as possible (e.g., to the relevant record, or variable (i.e., column) within a record, spreadsheet cell, or page number in which the data or claim is found).
3. Each filing's analytical workpapers should be able to stand on their own, and not merely reference evidence from prior rounds of evidence (e.g., referenced documents or spreadsheets from prior evidence should all be included in the workpaper submission).
4. No narrative information/argument should be included in the exhibits or the workpapers. All narrative information/argument should be consolidated and confined to the narrative.
5. Within each spreadsheet, provide a clear description of what that spreadsheet represents and a clear description of the rows and columns. For example, the top row should be headers with labels. Each row under that is a single record. Each column is a single variable. Do not leave cells empty: have a method for noting "No Answer," "Null," or "Missing" values so these cells are not mistaken as zeros or otherwise misinterpreted.
6. Raw data should be accompanied by a data dictionary with: (i) a list of field names and a definition for each field contained in the data set; (ii) the meaning of each encoded value (e.g., P = Platform, RR3 = Class III Railroad, etc.) that appears as a field value in the data set; (iii) the primary key in the data set or table that defines a

unique observation, and (iv) the data encoding type used in each column (e.g., UTF-8, ASCII, ANSI, or some other standard).

7. Spreadsheets which contain raw or tabular data sets (i.e., data that is presented in the record format outlined in requirement six above) should only display the data and associated headers. No analyses, aggregation tables, or similarly constructed analytical or visual aids should be included on the same spreadsheet tab (they can be included on separate tabs within a workbook) as the relational data. All spreadsheets should be submitted in their native format (e.g., spreadsheets should not be submitted solely in PDF format, they should be submitted in .csv, .xlsx, or similar).
8. A workpaper index describing the contents of each file and the direction of data flowing between files should be included (e.g., provide a clear description of how workpapers are linked, either in a separate document or in summary tabs within the spreadsheets). In addition to the workpaper index, the source of any evidence (e.g., the sources for traffic volumes, annual frequency, etc.) used in calculations should be noted in the spreadsheet in which the calculation is made.
9. Include an explanation for any metric calculated for use and cited in the narrative or an analytical work paper. The explanation can be written in the narrative or analysis itself, in a footnote, or by some other clear method of notation. The explanation should include the name of the relevant data file(s) and the names of variables used in the calculation and outline the mathematical formulae used to calculate the metric. This requirement pertains only to source narrative or work papers where the calculation originates. References to calculations made in other work papers or analysis should cite the subject work paper.
10. In subsequent evidentiary rounds, when using another party's calculation or workpaper as a starting point, corrections or modifications to values, methodologies, or calculations should be clearly indicated and explained. Changes to numbers

submitted in prior rounds of evidence must be clearly explained and supported, and include any formula used to calculate those changes. File names of modified files should use the original filename and be appended with appropriate modification designation (e.g., "…_STB.csv, _STB.xlsx") or placed in a separate folder directory.

11. To the maximum extent practicable, links between spreadsheets should be used. If links are not practicable, hard-coded numbers may be used, but parties must include references to the relevant source document or method of calculation. In derivative (non-base) spreadsheets, numbers derived by formula and subsequently hard-coded should be clearly and consistently designated as hard-coded.
12. Use consistent corporate names, financial quarters, and conversion factors across workpapers and the narrative.
13. Avoid using colors and comments which may not migrate into new files. Instead, add another column with the information that needs to be conveyed. If there is a compelling need to employ color coding within workpapers, color coding should be consistent and fully explained with a color-coding key and follow Section 508 guidelines.[2]
14. Submissions may include a password protected filing (e.g., a protected ZIP archive transmitted via Secure File Transfer Protocol), but no files contained within the filing should be restricted or password protected. All files and data should be fully accessible and modifiable by anyone authorized to view the evidence of the case.
15. Indicate the version number of any software, packages, or software add-ons used to generate the evidence (e.g. "R version 4.5.1 (2025-06-13) – "Great Square Root" Copyright (C) 2025 The R Foundation for Statistical Computing Platform: x86_64-w64-mingw32/x64 (64-bit)" or "dplyr_1.1.4" or a .yaml file containing the exact

[2] See https://www.section508.gov/create/spreadsheets/.

Python build and all package dependencies like “numpy==2.32”. These R and Python dependency files can be created using widely adopted package management tools like “conda,” “venv,” RStudio, etc. Similarly, parties should indicate the build specification for any server engine used (e.g., SQL Server 2022 build number 16.0.4210.1).

16. Any raw tabular data or database tables used for traffic analysis should be provided, including a step-by-step guide (to include visual snapshots that capture manual steps) used to load those data into a database format (e.g., SQL code, R code, Python code) and any subsequent steps taken to summarize, manipulate, or otherwise restructure those data for analysis.

17. Maps and illustrations (e.g., track charts, timetables, schematics, ZTS diagrams, flow charts, system maps, density maps, etc.) included in the narrative or as exhibits should be accompanied by the stand-alone file format used to render the image. For example, maps rendered using GIS software should be accompanied by ESRI shapefiles and/or geodatabases used to render the file image. Maps and illustrations in the narrative should also be provided as a stand-alone image file.

18. Use machine-readable and open-source formats, when practicable, to help support downstream interoperability between information systems and the dissemination of information to the public, as appropriate, without the need for costly retrofitting. Python and SQL are the preferred software packages for data analysis.[3] Electronic databases placed in evidence or offered as support for spreadsheet calculations must be compatible with the Microsoft Open Database Connectivity and Java Database Connectivity standards. All databases must be supported with adequate documentation on data attributes and SQL queries.

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[3] If using these programs will cause undue burden to parties submitting evidence, data analysis may also be submitted in Excel, R, or other statistical and analytical tools.

19. As a best practice, all empirical work should be submitted in enough detail so that Board staff can identify the methodology used to conduct the analysis and can review the results of the analysis.

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