

SERVICE DATE – FEBRUARY 26, 2026

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 32760 (Sub-No. 50)

BNSF RAILWAY COMPANY—PETITION FOR ENFORCEMENT—
INTERCHANGE WITH SAVAGE TOOELE RAILROAD COMPANY

Decided: February 26, 2026

By decision served on January 23, 2026, the parties were directed to jointly file, by January 30, 2026, a proposed procedural schedule providing deadlines for the close of discovery, BNSF's opening submission, UP's reply, and BNSF's rebuttal. On January 30, 2026, the parties advised the Board that they were unable to agree on a proposed schedule and provided separate proposals.

BNSF argues that additional time is needed to complete discovery because it has asked UP to produce certain documents that were referenced in BNSF's recent depositions of UP witnesses (the Requests). (BNSF Filing 2.) BNSF also indicates that it may need to move to compel UP to produce documents in response to the Requests. (*Id.*) BNSF proposes that UP be required to respond to the Requests by February 17, 2026, and that discovery close on March 9, 2026.¹ (*Id.* at 1.) BNSF further proposes that BNSF's opening submission, UP's reply, and BNSF's rebuttal be due on April 8, May 8, and June 8, 2026, respectively. (*Id.*)

UP asserts that discovery closed on January 23, with the completion of UP witness depositions, and that the parties should proceed to merits briefing. (UP Filing 1-2.) UP acknowledges that BNSF propounded the Requests (which consists of only three document requests), to which UP has not provided a responsive production. (*Id.* at 2.) UP argues that BNSF has not "explain[ed] why the documents it says might exist . . . could be expected to provide any different information than the" documents UP previously produced in discovery. (*Id.*) UP claims that it "produced all the responsive documents it located through a reasonable search in August 2025" in response to BNSF's initial discovery requests and that it "has no additional responsive documents." (*Id.*) According to UP, BNSF's proposed schedule "is a thinly veiled request for additional time to prepare its opening submission." (*Id.*) UP proposes that BNSF's opening submission, UP's reply, and BNSF's rebuttal be due on February 24, March 30, and April 27, 2026, respectively. (*Id.* at 3.) UP argues that, should BNSF's opening submission be due later than February 24, UP should be given an equal amount of additional time to prepare its reply. (*See id.*)

¹ BNSF requests the 20-day window between February 17 and March 9 "to allow for any additional follow-up (or motions to compel, if necessary) before discovery closes." (BNSF Filing 2.)

Upon consideration of the arguments presented, the parties will be provided 15 days to conclude discovery before proceeding to merits briefing. Consistent with the procedural schedule initially issued in this proceeding,² BNSF's opening submission will be due 30 days after the close of discovery, UP's reply will be due 30 days thereafter, and BNSF's rebuttal will be due 30 days after UP's reply. Accordingly, the procedural schedule will be amended as follows:

- Discovery shall conclude by March 13, 2026.
- BNSF's opening submission on the merits is due by April 13, 2026.
- UP's reply submission on the merits is due by May 12, 2026.
- BNSF's rebuttal submission is due by June 11, 2026.

It is ordered:

1. The procedural schedule is amended as outlined above.
2. This decision is effective on its service date.

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

² See BNSF Ry.—Pet. for Enforcement—Interchange with Savage Tooele R.R., FD 32760 (Sub-No. 50) (STB served Apr. 28, 2025).