

BEFORE THE
SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 36873

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

COMMENTS OF CSX TRANSPORTATION, INC.
ON PROPOSED PROCEDURAL SCHEDULE

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CSX Transportation, Inc. (“CSXT”) respectfully submits these comments on the proposed schedule for this proceeding (“Proposed Schedule”), as published by the Board for comment on September 26, 2025. *Union Pac. Corp. —Control— Norfolk S. Corp. (Decision No. 5)*, FD 36873 (STB served Sept. 26, 2025).

As the Board rightly recognized, there is both a “high level of interest in this proceeding” as well as “the potential for numerous highly complex issues to arise.” *Id.* slip op. at 2. Applicants acknowledge their proposed merger is “unprecedented” and would “transform the U.S. supply chain.” Notice of Intent to File Application for Approval of Transaction Subject to 49 U.S.C. §§ 11323-25 at 2, FD 36873 (UP-1/NS-1) (July 30, 2025). The Board now bears the statutory responsibility to determine whether that “transformation” will be consistent with the public interest—under rules that have never been applied before. *See generally* 49 C.F.R. Part 1180; *Major Rail Consolidation Procs.*, 5 S.T.B. 539 (2001) (“New Rules”). A

procedural schedule that supports a full and fair record-building process will be essential to the Board’s ability to fulfill that responsibility.

In the midst of this intense stakeholder interest, the complexity of the anticipated issues, and the first-of-its-kind nature of this transaction, the Applicants initially proposed a highly abbreviated procedural schedule. Petition to Establish Procedural Schedule at 3, FD 36873 (UP-2/NS-2) (July 30, 2025). They proposed to close the record 270 days after the Application is accepted, *id.*, cutting short by more than three months (95 days) the 12-month record development period provided by the statute and contemplated by the New Rules. 49 U.S.C. § 11325(b)(3); 49 C.F.R. § 1180.4(e)(2). The Proposed Schedule the Board published for comment would largely embrace Applicants’ proposal to limit the record-building period. *Decision No. 5*, FD 36873, slip op. at 2-3.¹ In the latest turn of events, the Applicants have now filed comments against their own proposed schedule, asking the Board to cut an additional 45 days (for a grand total of 140), which would truncate the default 12-month evidentiary period even further, to less than 8 months. *See generally* Cmts. on the Proposed Procedural Schedule, FD 36873 (UP-7/NS-7) (Oct. 20, 2025) (hereinafter “UP/NS Cmts. on the Proposed Procedural Schedule”).

¹ The Proposed Schedule adjusts the Applicants’ original proposal by deferring scheduling of a public hearing and the close of the record. *Id.* at 2. This adjustment does provide the Board with flexibility to later extend the end of the evidentiary period. Concrete additional time will also be necessary, however, for parties to build the record in advance of the hearing, and to allow for post-hearing briefing to address evidence and arguments raised at the hearing, as discussed herein.

When it issued its New Rules, the Board resisted as premature proposals to adopt a default procedural schedule shorter than permitted under its statute.

Major Rail Consolidation Procs., 5 S.T.B. at 590. Now faced with an unprecedented proposal where many highly complex issues could arise under never-applied standards, the Board should confirm that wisdom and restore the full statutory period provided. In particular, the Board should adopt a schedule that:

- permits final post-hearing briefs to afford all parties the opportunity to address the evidence and arguments presented at the public hearing, consistent with the Board's approach in recent transactions;
- declines to impose premature pre-filing requirements on non-applicants that are not required by the New Rules, and which would shift undue burdens to non-applicants by forcing them to rush to decide on and describe any responsive applications; and
- allows a more balanced 45 days (rather than 30 days) for responsive applicants to rebut responses to any responsive applications.

In Appendix A, CSXT proposes an alternative schedule that would incorporate these changes and correct for Applicants' effort to abbreviate this proceeding. In addition, the Board should take further steps to ensure its schedule is efficient, comports with due process, and facilitates decision-making that is sound and supported by the evidence. To that end, CSXT proposes that the Board also:

- impose clear and precise temporal windows and per-party limits for ex parte communications, to ensure such communications are conducted in a fair, balanced, efficient manner that will help the Board's decision-making and not swamp its time and resources;
- direct the Applicants to explain how their choice of 2023 as the base year for analysis of the impacts of their proposed merger, when more relevant, timely data from 2024 is available, affects that analysis; and

- be prepared to impose discovery protocols to ensure swift resolution of any discovery disputes, if the parties are not able to promptly reach agreement on such a protocol to propose to the Board.

CSXT addresses its objections to the Proposed Schedule in more detail below.

I. The Proposed Schedule Does Not Allow for Full and Fair Record-building and Imposes Unnecessary Burdens on Other Parties.

A. The evidentiary period should be restored to one full year.

This will be the first transaction reviewed under the New Rules since their adoption twenty-five years ago. The New Rules reflect a significant change in the way the Board will apply its statutory public interest test and place a high burden on applicants. *Major Rail Consolidation Procs.*, 5 S.T.B. at 546 (“[W]e believe that future merger applicants should bear a heavier burden to show that a major rail merger is consistent with the public interest.”). This includes, for the first time, proving that the transaction will affirmatively enhance competition, and addressing its likely downstream effects on the industry. *Id.* at 546-47. The Board has already recognized the issues presented may be numerous and highly complex. *Decision No. 5*, FD 36873, slip op. at 2. Despite this, UP and NS now state, based on “working for more than two months” privately preparing their Application, that their proposed merger’s “end-to-end nature” means it “does not present *any* complex competitive or operating issues.” UP/NS Cmts. on the Proposed Procedural Schedule at 2 (emphasis added).

The Board adopted the New Rules’ new requirements and higher burdens with just such a transcontinental, largely end-to-end merger in mind—after a lengthy public proceeding and input from countless stakeholders. *See, e.g., Major*

Rail Consolidation Procs., 5 S.T.B. at 545, 555-56, 581-82, 589-90.² One such stakeholder was Union Pacific, which commented then against adopting an abbreviated procedural schedule, precisely because the New Rules' new requirements would take time to apply and consider. UP expressed its view that the 16-month statutory period (from application to decision, or 15 months from acceptance of an application) was necessary for the Board to "apply its new rules, consider downstream effects, and review much more detailed service and market evidence" and was therefore "reasonable for the next major Class I merger." *See* Reply Cmts. of Union Pac. at 34-35, Major Rail Consolidation Procs., STB Ex Parte No. 582 (Sub-No. 1) (Dec. 19, 2000). While UP noted that the Board should give full consideration to an application in a shorter period, if possible, it also specifically warned against prematurely expediting the schedule in the first case filed under the applicable merger guidelines. *Id.* ("[I]t would be premature to prescribe a highly expedited schedule for a Class I merger under the rules that the Board has never applied.").³

The Board ultimately rejected suggestions that it adopt a shortened schedule, expressly mindful of the risk that doing so could cut short participants' and the

² The STB recognized that "there are significant risks associated with further consolidations between any" of the then six remaining large Class I carriers, UP and NS among them. *Id.* at 552-53.

³ Applicants' revised proposal would be even shorter than the one-year (including decision) default schedule that NS proposed, and the Board rejected, in 2000. *See* Cmts. of Norfolk S. at 66, Major Rail Consolidation Procs., STB Ex Parte No. 582 (Sub-No. 1) (May 16, 2000) (suggesting that, "in light of the probable size and complexity of future major rail consolidation proposals," the "default" schedule should be open to revision by the Board only "for good cause").

Board's ability to fully assess the transformative effects of transactions like the one UP and NS propose. *Major Rail Consolidation Procs.*, 5 S.T.B. at 589-90 ("Although the statute provides for a 16-month processing period from the time of filing the application, we have endeavored to complete our review process as quickly as possible. . . . Nevertheless, 12 months [from application to decision] could be an unduly short period to build a record, allow for full public participation, and complete the necessary environmental documentation *for the large, transcontinental mergers that we may be asked to consider.*") (emphasis added).⁴

Applicants acknowledge that "interested parties should be afforded a full opportunity to review and comment on the proposed transaction." UP/NS Cmts. on the Proposed Procedural Schedule at 3. Applicants now propose, however, to cut 15 critical days from the already scant time non-applicants will have to digest, and then prepare comments, requests for conditions, and any responsive applications to, the Application (which Applicants will have had months to prepare, with no meaningful window into its contents, as discussed below). In none of the recent major merger proceedings, all involving much smaller transactions reviewed under less exacting rules, was this period shorter than 90 days after an application was accepted. *See* 49 U.S.C. §11325(b)(2).⁵

⁴ Applicants' most recent schedule proposal contemplates an application-to-decision duration of even less than 12 months (345 days). UP/NS Cmts. on the Proposed Procedural Schedule at 6.

⁵ Applicants also now propose to cut time from their original schedule for filing responses to comments and responsive applications, and preparing final briefs, on the premise that this would shorten periods that apply to their own submissions.

Applicants state that their revised proposal for an even shorter schedule is justified because they have already begun responding to discovery. But their responses to date consist primarily of objections, with minimal effort to produce discovery before their Application is filed or otherwise make effective use of this pre-Application period. *See generally* Union Pac.’s Resps. and Objs. to Grand Trunk Corp.’s First Set of Disc. Reqs., FD 36873 (Oct. 8, 2025); Norfolk S. Corp. and Norfolk S. Ry. Co. Resps. and Objs. to Grand Trunk Corp.’s First Set of Disc. Reqs. to Applicants, FD 36873 (Oct. 8, 2025). As a result, non-applicants have no way to meaningfully assess the Application’s claims and likely impacts until it is filed.⁶ Thus, Applicants’ approach to pre-Application discovery—and their choice not to utilize this period by engaging in a responsive manner—supports providing more time for record-building once the Application is filed, not less.

Ensuring an adequate schedule will be vital to the Board’s execution of its duty to determine whether the proposed UP/NS merger is in the public interest. A massive transcontinental merger like this was precisely what the Board had in

UP/NS Cmts. on the Proposed Procedural Schedule at 1-2. But this is not only their time to give; both of these periods apply to other parties as well.

⁶ Indeed, UP’s leadership has publicly questioned how stakeholders could develop positions on its proposed merger before they have even reviewed the forthcoming Application. *See, e.g.*, Union Pac. Corp, (UNP) Q3 FY2025 Earnings Call Transcript, Yahoo Finance (Oct. 23, 2025), at 40:20 (answer of UP CEO Jim Vena: “[W]e haven’t even put in our merger application that talks about all the things we’re going to do, and people are already talking about what we’re going to do. Truly amazing. They must be mind readers.”), available at https://finance.yahoo.com/quote/UNP/earnings/UNP-Q3-2025-earnings_call-366754.html.

mind when it issued its New Rules, including its default schedule.⁷ No transaction like this has ever been proposed, nor have the New Rules yet been applied. Thus, there is still no experience reviewing a similar transaction that could support expediting these proceedings faster than provided in the statute, and Applicants have not otherwise justified how a deviation from that period would support the Board's ability to carry out its duties in the face of a transcontinental merger. It remains as premature today to adopt an expedited schedule as it was in 2001.

The statutory schedule remains the appropriate framework for this first case under the New Rules. The Board should set the close of the evidentiary proceeding one year after it accepts the primary application, and thereby restore the full 16-month statutory review period, consistent with 49 U.S.C. § 11325(b)(3) and 49 C.F.R. § 1180.4(e)(2)(i).

B. The procedural schedule should be modified to support full and fair development of the record.

Several of the Proposed Schedule's specific elements would jeopardize the full and fair development of the evidentiary record. The Board should adopt a procedural schedule, as outlined below and laid out in Appendix A, that will better foster a record to support the Board's ultimate decision.

Provide for post-hearing briefs. First, the Board should keep the record open following the public hearing—which CSXT anticipates will indeed be needed here—to allow post-hearing briefs from all parties. This will ensure that all parties

⁷ In other words, this is the “next major Class I merger” that UP described in 2000.

have an opportunity to address the evidence and arguments presented at the hearing and that the Board has the benefit of that input.

Recent experience has demonstrated that such post-hearing input from the parties has been valuable to the Board’s evaluation of the public interest. In *Canadian Pac. Ry. Ltd.—Control—Kansas City S.*, the Board found that post-hearing briefs would be “beneficial” and amended the procedural schedule to allow parties to file final briefs after the hearing. *Canadian Pac. Ry.—Control—Kan. City S.*, FD 36500 et al., slip op. at 3 (STB served July 22, 2022). Similarly, in *CSX Corp. & CSX Transp., Inc. et al.—Control & Merger—Pan Am Sys.*, the Board recognized it would be aided by further submissions to address issues that had arisen at the hearing and held the record open to facilitate them. *CSX Corp. & CSX Transp., Inc. et al.—Control & Merger—Pan Am Systems, Inc. et al. (Decision No. 8)*, FD 36472 et al., slip op. at 1 (STB served Jan. 18, 2022). The scope and complexity of the evidence, arguments, and issues presented at the hearing on Applicants’ proposed merger can be expected to dwarf these recent transactions. With the benefit of the Board’s recent experience in smaller transactions, it is clear that post-hearing briefs will be helpful. The Board can facilitate planning, set expectations, and avoid uncertainty by including such post-hearing briefs in its Procedural Schedule from the start.

Decline to adopt pre-filing requirements for non-applicants. The Board should also decline Applicants’ proposed requirement that non-applicants file a description of anticipated responsive applications only 75 days after the

Application is filed. This pre-filing requirement mirrors what was required under the Board's prior rules. *See* 49 C.F.R. § 1180.4(d)(iii)(I)(3) (2000) (requiring non-applicant railroads to include an "a statement concerning whether the commenting railroad intends to file responsive applications, along with a description of the proposed transactions" within 45 days after an application is accepted). But the Board chose not to retain this requirement for proposed transactions that proceed under the New Rules. *See* 49 C.F.R. § 1180.4(d) (2025).

The Board's procedural schedules in past major mergers have included an early deadline for a written statement describing anticipated responsive applications, but in each case they did so under rules that expressly required it. And none of these past mergers were "transformative" transcontinental mergers with impacts covering the entire country. Thus, in each instance non-applicants had far less to digest and analyze before determining what may be needed to address any harmful impacts through their own responsive applications. The Application here is anticipated to be massive. It will have to address complex issues like enhanced competition and downstream effects for the first time. Imposing an early written-description requirement for responsive applications would unfairly and unnecessarily rush non-applicants' evaluation of the Application's claimed benefits, merger-related impacts and harms, and proposed conditions to enhance competition. More importantly, it would rush their own decision-making process about whether to seek conditions that may require a responsive application.

The Board should decline Applicants’ proposal to impose this early pre-filing requirement for non-applicants that is not required under the New Rules.

Extend the rebuttal period for responsive applications. Finally, the Board should ensure that non-applicants have sufficient time to rebut Applicants’ response to any responsive applications. The Procedural Schedule grants Applicants and other parties 90 days to submit responses to responsive applications, but only 30 days for responsive applicants to rebut them. This unduly tight period could compromise responsive applicants’ ability to prepare their rebuttal. The Board should provide a 45-day period for rebuttal in support of responsive applications. This would provide a more balanced opportunity for responsive applicants to address the Applicants’ and other parties’ positions on them and foster a more robust and fair process.

II. The Board Should Impose Clear and Precise Windows and Limits on the Number of Ex Parte Communications.

The Board has also invited comments that propose a time frame for ex parte communications. *Decision No. 5*, FD 36873, slip op. at 4 n.9. CSXT addressed the merits of Applicants’ Motion to Permit Ex Parte Communications in its reply to that motion filed September 22, 2025. *See generally* Response of CSX Transp., Inc. to Applicants’ Mot. to Permit Ex Parte Commn’cs, FD 36873 (Sept. 22, 2025). In that reply, CSXT recognized that permitting ex parte communications—within appropriate limits—can help the Board efficiently digest voluminous evidentiary submissions and clarify the parties’ positions. *Id.* at 2. Consistent with CSXT’s reply, the Board should place clear and precise limits on the timing, duration, and

frequency of any ex parte communications, if it allows them, as described below. These parameters will ensure that ex parte communications serve their highest purpose—facilitating the Board’s review of the parties’ respective submissions—while maintaining equal access and preventing an unwieldy free-for-all:

In short, each party should be permitted one, hour-long, ex parte communication with each member of the Board and/or its staff, during the immediate wake of that party’s principal submission.

Under this approach, the Applicants could participate in one, hour-long, ex parte communication with each Board member within 30 days of their Application’s acceptance. This provides Applicants with the opportunity to explain and address any complexities in that Application but ensures that such communications are focused and do not unduly burden the Board or disadvantage non-applicants. Moreover, this timing ensures that non-applicants will have the benefit of Applicants’ disclosures about their ex parte communications with sufficient time to fairly address them in non-applicants’ written responses.

For non-applicants, the Board should condition the availability of a single, hour-long, ex parte communication with each member on a party’s submission of comments or a responsive application. *See id.* at 1 n.1. Considering the potential for numerous non-applicants to seek ex parte communications, the Board should require any such communications occur within 60 days of their responsive submissions. This longer relative period is necessary given the likely number of parties who are expected to submit comments or responsive applications. Under

this approach, all parties will have the opportunity to explain and supplement their submissions to the Board. But as with Applicants, all such communications would occur in a confined window to minimize the overall burden on participants and the Board. Limiting their number and duration and requiring them in temporal proximity to submissions balances the need for efficient Board review with protection of procedural fairness and due process for all participants.⁸

III. The Board Should Direct Applicants to Make Appropriate Use of 2024 Data in Their Impact Analysis.

Applicants identified 2023 as the base year they intend to use for their impact analysis even though it is now eleven months into 2025. Full traffic tapes from 2024 are available—indeed, the Board has already ordered the Applicants to produce their traffic tapes for 2019 through 2024. *Decision No. 2*, FD 36873, slip op. at 2 (STB served Aug. 25, 2025). To nonetheless rely principally on 2023 for their merger impact analysis would fail to reflect the most current market realities and operational performance available, and without adequate sensitivity analyses or explanation, could render that analysis inherently flawed.

First, any shifts in traffic patterns that emerged in 2024 would not be captured in a 2023 base year. These shifts—whether attributable to commodity-

⁸ To the extent the Board determines that ex parte communications would also be useful in the wake of later evidentiary submissions—and that this usefulness is not outweighed by the additional imposition on the Board’s time and resources—it must ensure any additional communications are permitted on an equal basis and should do so consistent with CSXT’s proposal (*i.e.*, one additional hour-long communication per submitting party, in the wake of such additional submission(s)). *See id.* at 3-4.

specific market dynamics or broader regional trends—are particularly likely given the size and national geographic scope of the Applicants’ networks. Higher overall traffic volumes in 2024 continued the trend toward industry-wide restoration of pre-Covid-19 volumes. While only CSXT among Class I had returned to pre-pandemic traffic levels,⁹ the pandemic’s shocks to the supply chain were one year farther in the rear-view mirror for all railroads. Both UP and NS saw volume growth, improved operating ratios, and shifts in commodity mix. Applicants’ use of 2023 data would fail to capture these dynamics. This could bias the claims of merger-specific benefits, confound the analysis, and obscure a true calculation of the transaction’s effects.

Second, in addition to changes in traffic patterns, there were specific, known challenges that confronted the Applicants—and the entire rail industry—during 2023 that would make it a poor choice of baseline. Both UP and NS experienced notable constraints in 2023 caused by operational challenges. In particular:

- NS experienced a major derailment in East Palestine, Ohio in February 2023 that, among other impacts on its service, caused a spike in operating expenses to \$1.1 billion in 2023, before falling to \$325 million in 2024. Norfolk S. Corp., Annual Report (Form 10-K) at K25-27 (Feb. 10, 2025).
- UP issued 181 embargoes during 2023 due to congestion on its network. Though this figure was down 80% from 2022, UP’s embargoes “still exceeded the number issued by all the other Class I railroads combined” in 2023. *Oversight Hr’g Pertaining to Union Pac. R.R. Co.’s Embargoes*, EP 772, slip op. at 6 (STB served Apr. 17, 2024).

⁹ Bill Stephens, *North American rail traffic has yet to rebound to pre-pandemic levels*, TRAINS.COM (Aug. 6, 2025), available at <https://www.trains.com/pro/freight/north-american-rail-traffic-has-yet-to-rebound-to-pre-pandemic-levels/>.

- Both Applicants’ traffic volume and revenue fell significantly from 2022 to 2023. Union Pac. Corp., Annual Report (Form 10-K) at 27 (Feb. 9, 2024) (UP revenue decreased 3% in 2023 and volume declined 1% compared to 2022); Norfolk S. Corp., Annual Report (Form 10-K) at K26 (Feb. 5, 2024) (NS revenue decreased 5% in 2023 and volume declined 1% compared to 2022). Both Applicants’ volumes then rose meaningfully in 2024 compared to 2023 (UP by 3% and NS by 5%). Union Pac. Corp., Annual Report (Form 10-K) at 26 (Feb. 7, 2025); Norfolk S. Corp., Annual Report at K28.
- The entire industry also faced unique disruption during 2023, with the closing of the major merger between Canadian Pacific and Kansas City Southern that April. UP and NS’s volume growth in 2024 was consistent with the industry overall. Setting aside the newly merged CPKCS, all Class I railroads but Canadian National moved greater volumes in 2024. *See* Union Pac. Corp., Annual Report (Form 10-K) at 25 (Feb. 7, 2025); Norfolk S. Corp., Annual Report at K28; CSX Corp., Annual Report (Form 10-K) at 29 (Feb. 27, 2025); Burlington N. Sante Fe, LLC, Annual Report (Form 10-K) at 13 (Feb. 24, 2025). Industry-wide traffic mix in 2024 reflected a continued trend of shifting freight demand, with coal at its lowest volume in decades and intermodal reaching its third best year ever. *See* AM. ASS’N OF R.R., RAIL INDUSTRY OVERVIEW (Jan. 2025), <https://www.aar.org/wp-content/uploads/2025/01/AAR-RIO-January-10-FINAL.pdf>.

Given these factors, relying principally on outdated 2023 data would understate operational improvements, volume growth, and cost reductions realized in 2024, and could result in a less accurate evaluation of the merger’s effects on efficiency, competitiveness, and shipper service. Applicants provided no justification for using 2023 as the base year. Recognizing that baseline information submitted in a merger application may become part of the Board’s own findings and decision-making, the Board has previously directed that applicants explain their rationale and methodological choices for the baseline data used to support their impact analyses. *See Canadian Pac. Ry. Ltd.—Control—Kansas City S. (Decision No. 17)*, FD 36500 et al., slip op. at 4 (STB served Apr. 27, 2022). In *Canadian Pac.*

Ry. Ltd.—Control—Kansas City S., concerns raised about those applicants’ baseline data resulted in a stay of the proceedings, an order that they re-file their application, and an amended procedural schedule. *Id.* at 6-7. To forestall such inefficient delays here, the Board should require Applicants to demonstrate in their Application—through sensitivity analyses or otherwise—how their choice of 2023 as the base year affects their impact analysis.

IV. This Proceeding Will Need a Discovery Protocol to Ensure an Efficient Discovery Process and Prompt Resolution of Any Disputes.

The Board should be prepared, if necessary, to impose a protocol to govern and discipline discovery in these proceedings. A proposed transaction of this scope, provoking such complex issues and intense stakeholder interest, will require substantial discovery, which in turn will inevitably come with discovery disputes. Given the speed with which these proceedings must proceed, such disputes must be quickly raised with the Board’s appointed Administrative Law Judge and swiftly resolved. Past major transactions have included discovery protocols to facilitate prompt resolution of disputes (and preempt them where possible). CSXT fully expects that the Applicants and other parties can and will be able to swiftly discuss and jointly propose a protocol to the Board, using protocols from past proceedings as models that can be modified to reflect present circumstances. If efforts at arriving at a joint proposal are unsuccessful, CSXT intends to promptly appraise the Board and seek entry of an appropriate discovery protocol.

* * *

CSXT offers an alternative schedule for the Board's consideration that would address the concerns identified above in these comments. That proposed alternative is attached as Appendix A.

Respectfully submitted,



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Dated: November 19, 2025

APPENDIX A

CSXT'S PROPOSED PROCEDURAL SCHEDULE

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| F | Primary application and any related application(s) filed. |
| F+30 | <p>If the Application is determined to be complete, Board publishes notice of acceptance of primary application and related application published in the Federal Register, initiating schedule for further proceedings.</p> <p><i>Applicants may now engage in ex parte communications (limited to one meeting per Applicant with each Board member of one-hour each).</i></p> |
| F+45 | Notices of intent to participate due. |
| F+60 | <p>Proposed Safety Integration Plan (SIP) due.</p> <p><i>Close of window in which Applicants may engage in ex parte communications.</i></p> |
| F+75 | <p>Description of anticipated responsive, including inconsistent, applications due. Petitions for waiver or clarification with respect to responsive, including inconsistent, applications due.</p> |
| F+115 | Responsive environmental information and environmental verified statements for responsive, including inconsistent, applications due. |
| F+120 | <p>Comments, protests, requests for conditions, and any other evidence and argument in opposition to the primary application or any related application(s) due (except filings from DOJ and DOT). Responsive, including inconsistent, applications due.</p> <p><i>Non-applicants who have submitted comments, protests, or requests for conditions, or have filed responsive applications, may now engage in ex parte communications (limited to one meeting per non-applicant with each Board member of one-hour each).</i></p> |
| F+135 | Preliminary comments from DOJ and DOT, if any, due. |
| F+150 | Notice of acceptance of responsive, including inconsistent, applications, if any, published in the Federal Register. |
| F+180 | <i>Close of window in which non-applicants may engage in ex parte communications.</i> |

- F+210 Responses to comments (including those of DOJ and DOT, if any), protests, requests for conditions, and other opposition due.
- Rebuttal in support of the primary application and any related application(s) due. Responses to responsive, including inconsistent, applications due.
- F+~~240~~255 Rebuttals in support of responsive, including inconsistent, applications due.
- F+~~270~~325 ~~Final~~ Pre-hearing briefs due.¹⁰
- ~~TBD~~F+350- Public hearing ~~(if necessary).~~ ~~(Close of the record.)~~
355
- F+375 Post-hearing briefs due from all parties.
- F+395 Post-hearing reply briefs due from all parties. (Close of the record.)

¹⁰ Page limits for pre- and post-hearing briefs to be determined by the Board after the record has been more fully developed.

CERTIFICATE OF SERVICE

I hereby certify that, on this 19th day of November 2025, a true and correct copy of the foregoing CSXT's Comments on Proposed Procedural Schedule was served by first-class mail or email on all parties of record in this proceeding, the Secretary of Transportation, the Attorney General of the United States, and Administrative Law Judge Jenifer Soulikias.

/s/ Kent A. Gardiner

Kent A. Gardiner