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**VIA ELECTRONIC FILING**

Surface Transportation Board  
395 E Street, SW  
Washington, DC 20423-0001

**Re: Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company - Control - Norfolk Southern Corporation and Norfolk Southern Railway Company et al.- Notice of Intent to Participate and Comments of One Transit OK in Opposition to the Proposed Transaction, or in the Alternative, Request for Conditions Protecting Passenger Rail, Transit Operations, Public Safety, and Oklahoma Communities**

To Chairman Fuchs and Members of the Surface Transportation Board:

ONE Transit (OK) hereby gives notice of its intent to participate in this proceeding as a Party of Record.

ONE Transit submits these comments in opposition to the proposed Union Pacific–Norfolk Southern transaction. At minimum, ONE Transit OK respectfully requests that the Board condition any approval of the transaction on enforceable protections for passenger rail, commuter rail public transit operations, maintenance access, emergency response, blocked crossings, and public safety in Central Oklahoma and similarly situated communities.

The proposed merger would create an unprecedented transcontinental freight railroad and further consolidate an already concentrated freight rail market. From an economic standpoint, the concern is not only whether the merged entity would be a literal monopoly in every lane, but whether the transaction would further reduce the size of an oligopoly and give the remaining carriers greater market power in corridors, gateways, shared corridors, and captive-shipper or public-agency contexts. The Applicants' claimed benefits remain speculative, while the public risks are concrete: prior Union Pacific merger failures, negative impacts to passenger and commuter rail through reduced supply availability for construction and maintenance for commuter rail systems, more disadvantage for commuter rail transit operators negotiating for access to Class I railroads for new systems or system expansion, increased safety risks, and historical evidence that major railroad consolidations can produce long-lasting harms to local communities.

**Public Interest Authority**

Under 49 U.S.C. § 11324(c), the Board may approve this transaction only if it finds that the transaction is consistent with the public interest. The Board also retains authority under 49 U.S.C. § 10101 and its major merger rules to impose conditions necessary to mitigate adverse impacts, protect adequate transportation service, preserve competition, protect employees and communities, and ensure that claimed merger benefits are real, enforceable, and not outweighed by public harm.

The Board’s own May 28, 2026, decision recognizes the seriousness of this transaction. The Board stated that this is “the first proposed merger evaluated under new rules forged following real-world consequences emanating from a 1990s wave of major mergers.” The Board further warned that such consequences “cannot be ignored, assumed away, or overlooked based on vague intentions or promises.” The Board also emphasized that the current rules establish a “heavier burden” for applicants and reflect a more skeptical “show me” attitude toward claimed merger benefits and claims that no transitional service problems will occur.

That standard should control this proceeding. The Board should not accept broad assurances of seamless integration without route-specific proof, enforceable benchmarks, local commuter rail public transit impact analysis, and meaningful remedies if service deteriorates.

### **Market Structure, Oligopoly, and Monopoly Concerns**

There is a central market-structure concern that the proposed transaction would move an already concentrated freight railroad industry toward an even smaller oligopoly. An oligopoly does not have to become a pure monopoly to create monopoly-like effects. When the number of independent carriers is reduced, the remaining firms may gain greater bargaining power, may face weaker incentives to improve service, and may find it easier to coordinate around pricing, access, operating practices, or service quality. These concerns are especially important in rail transportation because many shippers, public agencies, and passenger rail providers cannot easily substitute to another railroad when track ownership, dispatching control, terminal access, or gateway access is controlled by a limited number of Class I carriers.

That concern is consistent with the general antitrust principle that mergers can be harmful when they substantially lessen competition or tend to create a monopoly. Section 7 of the Clayton Act reflects this principle, and the U.S. Department of Justice and Federal Trade Commission Merger Guidelines recognize that mergers can harm competition when they eliminate substantial competition between firms or increase the risk of coordination among the remaining firms. In practical terms, a merger can harm the public interest even if it does not create a single national monopoly. It may still reduce competition in particular

lanes, gateways, interchange points, service territories, maintenance markets, equipment supply relationships, or public-agency access negotiations. For commuter rail and public transit agencies, the issue is not only freight rates; it is also the loss of negotiating leverage when public agencies need access to rail corridors, maintenance windows, dispatching coordination, signal work, crossing repairs, or future expansion capacity.

The economic benefits of avoiding monopoly or monopoly-like market power are significant. Competitive markets discipline prices, encourage better service, support innovation, preserve customer choice, and reduce the risk that one dominant firm can shift costs onto captive users or local communities. The Federal Trade Commission describes competition as benefiting consumers through lower prices, higher quality, greater choice, and innovation. By contrast, monopoly power is largely a net negative because the dominant firm can charge higher prices, reduce service quality, slow investment in customer-facing improvements, and capture efficiency gains rather than passing them through to users.

### **Union Pacific's Prior Merger History Demonstrates the Risk**

Union Pacific's prior major merger with Southern Pacific is one of the clearest warnings against relying on broad promises of efficiency and smooth integration. The UP/SP merger was followed by major service problems, congestion, delayed freight, emergency regulatory intervention, and harm to shippers, cities, and rail-dependent services.

That history is directly relevant here. In its May 28, 2026, decision, the Board specifically referenced the "real-world consequences" of the major railroad mergers of the 1990s and explained that those consequences "cannot be ignored, assumed away, or overlooked based on vague intentions or promises." The Board adopted its current merger rules precisely because prior transactions demonstrated that projected efficiencies and assurances of smooth integration often failed to materialize once operations were combined.

The Union Pacific–Southern Pacific merger is the most significant example. Following approval of that transaction in 1996, Union Pacific experienced widespread operational failures across large portions of its network. Rail yards became congested, trains were delayed for days or weeks, locomotives and crews were unavailable where needed, dispatching systems struggled to manage traffic flows, and freight cars accumulated in bottlenecks throughout the system. Service deteriorated so severely that major shippers reported substantial economic losses, supply chains were disrupted, and federal regulators were forced to intervene. The Surface Transportation Board ultimately issued emergency service orders and required corrective actions to address the crisis.

The consequences extended beyond freight customers. Congestion and network instability affected communities along the railroad, increased operational uncertainty, complicated maintenance scheduling, and demonstrated how a large-scale integration failure can create cascading impacts far beyond the railroad itself. What had been presented as a merger that would improve efficiency instead became one of the most widely cited examples of post-merger rail service collapse in modern U.S. railroad history.

This transaction again asks the Board to trust Union Pacific's ability to integrate a massive rail network while avoiding congestion, dispatching failures, equipment shortages, service disruptions, and local community impacts. Given the scale of the proposed combination and the lessons learned from the UP-SP experience, the Board should require detailed, verifiable evidence not just generalized assurances that similar failures will not occur again and that no commuter rail public transit service providers will be negatively impacted

Claimed systemwide efficiencies should not be allowed to obscure the operational reality that large mergers can disrupt freight service, passenger service, maintenance coordination, and public safety.

### **Passenger Rail, Transit Operations, Maintenance Access, and Parts Reliability**

Freight rail mergers can negatively affect passenger and commuter rail because passenger service often depends on freight-owned corridors, freight dispatching, shared track, shared infrastructure, maintenance windows, and negotiated access agreements.

UP and NS currently host numerous passenger and commuter operations, including Amtrak and regional passenger services. future commuter rail expansion, maintenance access to shared rail corridors, and the ability of public agencies to negotiate with a larger and more powerful freight railroad.

Commuter rail public transit reliability depends not only on train slots. It also depends on predictable access to maintenance windows, track work, signal work, crossing repairs, replacement parts, contractors, and railroad coordination. A larger merged railroad may prioritize freight integration and internal capital needs over the needs of public transportation providers and local governments.

The Board should not approve the merger based on theoretical capacity calculations. Passenger and commuter operations run on fixed schedules. Buses, paratransit vehicles, emergency responders, and passenger trains cannot simply absorb unpredictable freight delays, blocked crossings, or reduced maintenance access.

ONE Transit respectfully requests that the Board require Applicants to provide:

1. A detailed assessment of future passenger rail expansion impacts in Oklahoma;
2. Dispatching simulations showing freight and passenger train interactions;
3. Maintenance-window protections for passenger rail and transit-related infrastructure;
4. A public-agency coordination plan for track work, signal work, crossing repairs, and emergency maintenance;
5. Assurances that the merger will not impair access to rail-related parts, materials, contractors, or maintenance support needed for public transportation operations.
6. Assurances that the merger will not make it more difficult for commuter rail public transit operators to access freight railroad systems for new systems or system expansion

### **Safety Concerns from Changed Routing Patterns, Increased Freight Activity, and Longer Trains**

This merger is not simply a private business transaction. It may change how freight moves through communities, how crossings function, how emergency vehicles respond, how maintenance is scheduled, and how safety risks are distributed between a private railroad and the public.

The proposed transaction raises significant safety concerns, including:

1. Blocked at-grade crossings;
2. Emergency response delays for fire, EMS, and police;
3. Longer vehicle queues near crossings;
4. Increased pedestrian and school-zone risk;
5. Hazardous materials movement through populated areas;
6. Noise, vibration, and air quality impacts;
7. Dispatching complexity during integration;
8. Reduced maintenance windows;
9. Potential congestion from changed train routing patterns;
10. Increased risk that local communities bear the burden of systemwide freight growth.

The Board has already determined that the transaction requires environmental review because increased traffic would exceed the Board's environmental thresholds. However, blocked crossings, emergency response, and transit reliability should not be treated as secondary issues deferred to an unenforceable or after-the-fact process. These impacts go directly to whether the transaction is consistent with the public interest.

### **Prior Cases Imply Major Mergers Have a Net Negative Effect**

Historical rail merger cases show a recurring pattern: applicants claim national efficiency, but local communities often experience concentrated negative impacts.

The Union Pacific–Southern Pacific merger demonstrates that large rail consolidations can cause serious service disruptions, congestion, and post-merger regulatory intervention. Post-approval remedies may arrive only after harm has already occurred.

The CN–EJ&E transaction demonstrates that a merger may reduce congestion in one area while shifting freight traffic, blocked crossings, noise, emergency-response issues, and community impacts onto other communities.

The CP–KCS merger demonstrates that even a smaller approved merger required major oversight and conditions. The proposed UP–NS transaction is larger, more complex, and should face at least equal scrutiny.

The Conrail split between CSX and Norfolk Southern also illustrates that complex rail integrations can create serious operational disruption despite advance planning.

These examples support a cautious approach. The Board should require Applicants to prove that communities, passenger rail services, commuter rail public transit operations, and public safety will not be harmed before any approval is granted.

### **Conditions Respectfully Requested**

ONE Transit respectfully requests that the Board deny the proposed transaction unless Applicants demonstrate that the merger will not harm commuter rail, public transit operations, public safety, maintenance access, emergency response, or Oklahoma communities.

ONE Transit requests that the Board require Applicants to provide the following for impacted areas in Central Oklahoma:

1. Conduct a public field hearing in Oklahoma so affected transit providers, local officials, first responders, passengers, shippers, and residents can testify on the record.
2. Require an Oklahoma specific transit and commuter rail impact study addressing schedule reliability, dispatching priority, maintenance windows, future expansion, and corridor capacity.

3. Require crossing-by-crossing disclosure of projected post-merger train counts, train lengths, blockage frequency, blockage duration, and timing at affected Central Oklahoma at-grade crossings.
4. Require emergency-response delay modeling for fire, EMS, police, and hospitals in communities affected by UP and NS operations.
5. Require analysis of bus route, paratransit, pedestrian, and school access impacts caused by increased train activity and blocked crossings.
6. Require a formal public-agency coordination process for maintenance windows, signal repairs, crossing repairs, track work, and emergency infrastructure needs.
7. Require Applicants to provide real-time train movement and blockage information to local emergency services and 911 dispatchers in affected jurisdictions.
8. Require quarterly public reporting on train counts, train lengths, blocked crossings, passenger rail delay, and service disruptions in affected areas.
9. Require capital investment in grade separations, signal improvements, crossing upgrades, or other mitigation at locations presenting the greatest public safety risk.
10. Require a dedicated regional point of contact for Oklahoma public agencies, transit providers, emergency responders, and local governments.
11. Require enforceable performance standards, public reporting, and meaningful consequences for non-compliance.
12. Require that future passenger rail expansion not be impaired by the merger.
13. Require Applicants to provide a market-structure and public-agency access analysis showing that the transaction will not reduce competition, weaken public-agency bargaining leverage, or allow the merged carrier to capture claimed efficiencies without measurable public benefit.

## **Conclusion**

For these reasons, ONE Transit OK respectfully concludes that the proposed transaction, as currently presented, is not consistent with the public interest. The record and historical experience show that the risks are not abstract: Union Pacific's prior merger history demonstrates the danger of underestimated integration problems; the Board's own decision reflects a skeptical, "show me" standard; passenger and commuter rail operations may be impaired; maintenance access and parts availability may become less



reliable; public safety risks may increase; and further consolidation may reduce an already limited oligopoly in a way that produces monopoly-like effects for captive users and public agencies.

Accordingly, ONE Transit OK respectfully requests that the Board deny the proposed transaction unless and until Applicants provide detailed, route-specific, and enforceable proof that Central Oklahoma communities, commuter rail, emergency response, transit operations, safety, maintenance access, public infrastructure, and future passenger rail expansion will not be harmed. If the Board considers approval despite these concerns, such approval should be conditioned on the specific protections requested above, with binding performance standards, public reporting, and meaningful enforcement mechanisms.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Ferbrache", is written over a light blue horizontal line.

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cc: All Parties of Record