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September 24, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-
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ENTERED
Office of Chief Counsel
September 24, 2026
Part of
Public Record

Re: Docket No. FD 36873, *Union Pacific Corp., et al. - Control - Norfolk Southern Corp/ et al*

Dear Chief of Case Administration:

The Allied Rail Unions (BMWED, BRS, IAM #19, TCU, TWU) write to echo the concerns expressed by the non-applicant Class I railroads and the Joint Shippers Associations regarding the multiple iterations of the UP/NS Application. As described by the non-applicant Class I's and the JSA, stakeholders have had to contend with an application that is something of a moving target. Counsel for stakeholders had to review the voluminous initial filing, then review the voluminous revised filing and ascertain where there were differences, and then review a very large errata filing. As noted by the non-applicant Class I railroads, for stakeholders that cannot employ squadrons of lawyers, the need to conduct multiple reviews of the application has been time consuming and burdensome. While many of the elements of the revised application were not different from the original application, stakeholders had to perform due diligence review of the revised filing to assure themselves regarding what had changed and what hadn't (particularly as there were significant alterations in page numbering of important verified statements). Then after the Board took the proceeding out of abeyance and reactivated the procedural schedule, and well into discovery, Applicants dumped the errata filing (112 pages long) into the record.

Applicants assert that most of the errata "concerned technical issues that resulted in small changes to the outputs of the traffic diversion study sponsored by Mr. Hunt". Applicants' letter of September 15. But review of the errata filing shows changes to the Janke VS regarding asserted benefits and savings, as well as offsets for employee relocation costs, changes to the Turner VS regarding projected employee impacts and the Labor part of the Service Assurance Plan, and changes to the Parkerson VS concerning projected employee impacts. It is significant that the changes to the Janke and Turner statements came just days after the depositions of those individuals in Omaha. Those depositions were attended by ARU's counsel who asked questions about the projected cost savings and projected employee impacts. Prior to the depositions, ARU's counsel had contacted counsel for Applicants about what appeared to be an omission from the Janke work papers with regard to calculations of relocation costs. ARU's counsel questioned Mr.

Janke about those calculations and the assumptions behind them, but did not have the omitted and supplemented or corrected document to use for the questioning.

All of this supports the positions of various other parties that they have been burdened by the multiple changes to the Application and supporting documents, that the unions have also been affected, that the changes in the errata were not limited to those related to the Hunt study, and that this has affected the ability of stakeholders to engage in effective discovery. Moreover, the handling of the Application and production of Applicant declarants for depositions as the Application was changing is consistent with other actions of the Applicants ranging from plainly improper classification of the Employee Impact Exhibit as Highly Confidential, to attempting to set a cutoff for discovery on the Application at a date prior to the Board setting a procedural schedule and a due date for filing of Notices Of Intent To Participate, to responding to written discovery by reference to workpapers marked Highly Confidential so they answers were available only to counsel and could not be shared with clients. (Applicants repeatedly note how many gigabytes of data and millions of pages of documents they have produced, but cooperation and compliance in discovery are measured not only by quantity but quality and responsiveness). Again, many of these issues have greatly heightened impact and burdensomeness for stakeholders that are not mega-entities. The ARU believe the Board should be aware of these problems as it considers the revised Application.

Respectfully submitted,

/s/ Richard S. Edelman
Richard S. Edelman

Counsel for the Allied Rail Unions

CERTIFICATE OF SERVICE

I hereby certify that a copy of this letter has been served by email to current parties of record.

/s/ Richard S. Edelman
Richard S. Edelman