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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Chief Counsel
September 29, 2026
Part of
Public Record

Docket No. FD 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY

—CONTROL—

NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

**COMMENTS AND PROTEST OF ANTHONY GUILIANTE
IN OPPOSITION TO THE REVISED APPLICATION**

Dated: September 29, 2026

Chief of Case Administration
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: FD 36873 — Comments of Anthony Guiliante, Electric Welder, Norfolk Southern Keystone
Division / Lewistown Subdivision (Pittsburgh Line)

I am Anthony Guiliante. I have eleven years of service with Norfolk Southern Railway Company. I work as an electric welder assigned to the Keystone Division, Lewistown Subdivision, on the Pittsburgh Line through Lewistown Junction, Mifflin County, Pennsylvania. My regular work is electric welding repair of frogs and related special trackwork. I am employed under the BMWED

Northern Agreement. I file only for myself. I am not authorized to speak for the Brotherhood of Maintenance of Way Employees Division.

I oppose the Revised Application. The Board should deny Union Pacific control of Norfolk Southern. If the Board does not deny it, it should not accept paper conditions that expire with oversight while the frogs, switches, and people who keep them in the gauge are left to absorb a transcontinental operating plan.

I. Standing and why this territory and this craft matter

Lewistown is not an abstract node in an exhibit. It is a two-track main on the former Pennsylvania Railroad Pittsburgh Line between Harrisburg/Enola and Altoona. Freight on this line is Chicago–New York corridor traffic. Amtrak’s *Pennsylvanian* uses the same rails and stops at Lewistown station. The Commonwealth and NS have already committed work at Mifflin and Hawstone so a second daily *Pennsylvanian* pair can run on this freight railroad. The Juniata Valley Railroad interchanges with NS at Lewistown and serves local metal, plastics, fertilizer, and pulp customers on the Burnham and Maitland tracks.

A merger that promises more single-line through freight, longer trains, and “efficiency” on this plant is a statement about turnout wear, frog life, work windows, and passenger-freight conflict at Lewistown—not only about intermodal decks in a national model.

I am an electric welder. I repair frogs. That work is not interchangeable with production rail gangs or thermite plug work. Frogs take the impact at every facing-point and trailing-point move. Manganese and related special-trackwork welding is done under tight windows, with preheat, controlled beads, proper buildup of the flangeway and running surface, grinding to contour, and return-to-service checks. Under 49 C.F.R. Part 213, a worn or poorly repaired frog is a gauge, flangeway, and surface defect. On a line that already carries heavy manifests, intermodal, and

passenger trains, frog condition is how you keep trains on the rail through turnouts and crossovers.

When a merger shortens work windows or thins the MW force, frog repair is among the first jobs deferred. You can hide a thin frog in a system-average “service” metric until the point or heel fails.

II. The legal standard the Applicants still have not met

This is the first major Class I control case under the 2001 Major Merger Rules. Those rules were written because the 1990s combinations produced service failure, job loss, and safety strain. 49 U.S.C. § 11324 requires a public-interest finding and consideration of adequacy of transportation, employee interests, and harm to competition. 49 C.F.R. § 1180.1 requires substantial, demonstrable public benefits that outweigh anticompetitive effects and service harm, and requires Applicants to show how the transaction **enhances** competition.

Decision No. 37 (served September 18, 2026) refused to kill the application at the threshold. It did not bless the deal. Member Kloster said the filing lacks depth on competitive harm, leans on intermodal benefits in a market that is already competitive, and looks like “letting the line out slowly.” Opening comments are where that record has to be built.

III. Competition: gateway pricing is not an eastern-and-western railroad

Committed Gateway Pricing that covers a fraction of traffic, sunsets after oversight, and can lift rates on the benchmark moves is not enhanced competition. It is a temporary product wrapped around a permanent change in who owns both ends of the map.

Geographic competition is the point on a corridor like this one. Traffic that today can be interchanged, built, or priced with an independent western connection will, after control, face

one owner of the western franchise and the Pittsburgh Line. Categorical statements about “interline traffic” are not a lane-level analysis of chemicals, metals, grain, or merchandise that actually move Harrisburg–Altoona–Pittsburgh and then west.

Downstream structure is part of the 2001 rules. Approve this combination and the remaining Class I carriers will answer. Labor made that argument in the 1990s and was told each case stands alone. The industry then shrank to regional duopoly.

Short-line spinoff risk is concrete at Lewistown. JVRR already exists because Conrail shed the Burnham and Maitland branches. A merged carrier that wants mainline density has an incentive to shed more light-density work. Job papers that protect named incumbents but not **positions**, and that do not follow work onto a short line or leased yard, are not employee protection under § 11324(b)(4).

IV. Service and safety as an electric welder sees them

Applicants sell single-line simplicity, truck diversion, and growth. On a shared passenger-freight main, growth without protected special-trackwork capacity is more wheels through the same frogs and fewer hours to weld them.

Frog repair is window-limited. You cannot build up a frog in the middle of a fleet of through trains because an integration plan added traffic and removed daylight. Longer, heavier trains increase impact cycles on the point and wing rails. More traffic through Mifflin, Hawstone, Lewistown Junction, and the JVRR connection means more facing-point moves on the same castings and fabricated frogs. Passenger frequencies on this line are increasing, not shrinking. If merger traffic eats the same windows PennDOT is buying for a second *Pennsylvanian*, either freight, passenger reliability, or the special trackwork fails.

The Service Assurance Plan described in the motions does not cover most traffic and does not read as a maintenance plan. System-average on-time figures will not tell the Board whether a frog at a Lewistown-area turnout is worn past a safe contour. I ask the Board to treat special-trackwork metrics as part of service assurance on mixed-use mains:

- frog and switch defects and repeat failures by subdivision;
- slow orders tied to special trackwork;
- programmed frog changeouts and electric-weld repairs completed versus required;
- work-window hours actually given to welders on the Pittsburgh Line through Lewistown;
- MW electric-welder headcount and contractor substitution on this territory.

Merger “synergies” in this craft usually mean fewer electric welders covering more turnouts, more emergency calls, and more frogs left in service past the point where buildup and grind can restore the contour. That is not a public benefit.

V. Benefits that exist only because of this merger have not been isolated

The rules require Applicants to identify benefits that cannot be had without control. Haulage, interline agreements, and gateway cooperation do not require one holding company. Intermodal diversion—the center of their public-benefit story—is already a competitive market. Member Kloster said as much.

What this Transaction uniquely produces is one owner of a western railroad and the NS Pittsburgh Line. That is a structural change. It is not the same thing as a repaired frog, a longer Mifflin siding, or a second *Pennsylvanian*. Those can be funded and scheduled without extinguishing NS as an independent Class I.

VI. Employee interests

I work under the BMWED Northern Agreement. BMWED and BLET have already told this Board that the protection packages offered in this deal leave holes, especially around line sales and transferred work. I support denial. I also ask that any condition—if the Board ever reaches conditions—protect **positions** on this territory, including electric-welder assignments, follow the work if NS property is leased or sold, and bar the use of merger integration to cut special-trackwork welding capacity below pre-announcement levels during oversight.

Combining UP and NS welding procedures, rod and wire practice, and frog standards is not a software cutover. A bad frog weld is a flange-climb and broken-point risk. That is a public-safety issue, not only a labor issue.

I also ask the Board to treat surveillance and remote-monitoring regimes imposed in the name of “one railroad” as working conditions under the public-interest statute.

VII. Relief requested

I respectfully request that the Board:

1. Deny the Revised Application as inconsistent with the public interest under 49 U.S.C. § 11324 and 49 C.F.R. part 1180.
2. In the alternative, refuse approval until Applicants produce (a) transaction-specific evidence of vertical foreclosure and geographic competition on eastern–western lanes that use the Pittsburgh Line, (b) a downstream-merger analysis that is more than a disclaimer, and (c) a Service Assurance Plan that includes special-trackwork and electric-welding metrics by subdivision, including the Lewistown territory.

3. If the Board nonetheless considers approval, impose springing, enforceable conditions—not Committed Gateway Pricing that expires—covering directed access if competition fails; public MW and special-trackwork metrics; a floor on Pittsburgh Line electric-welder staffing and programmed frog work during oversight; short-line and lease protections for positions and transferred work; and passenger-freight window protection consistent with the Commonwealth's second *Pennsylvanian* service.
4. Hold a public hearing at which maintenance-of-way employees from mixed passenger-freight mains, including electric welders on the Pittsburgh Line, may testify.

I will supplement with additional facts from my assignment if the Board or the assigned ALJ requests them.

Respectfully submitted,

Anthony Guiliante

Electric Welder, Norfolk Southern Railway

Keystone Division, Lewistown Subdivision (Pittsburgh Line)

BMWED Northern Agreement (individual capacity)

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Certificate of Service

I certify that on September 29, 2026 I served a copy of this filing by email upon the Secretary of Transportation; the Attorney General of the United States, Antitrust Division; Michael L. Rosenthal, counsel for Union Pacific (mrosenthal@cov.com); Raymond A. Atkins, counsel for Norfolk Southern (ratkins@sidley.com); the Hon. Jenifer Soulikias, ALJ (alj.soulikias.inbox@stb.gov); and Parties of Record on the official service list.

Anthony Guiliante