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BEFORE THE SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 36873
UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

COMMENTS OF THE ASSOCIATION OF NORTH DAKOTA AGRIBUSINESS

I. INTRODUCTION AND POSITION

The Association of North Dakota Agribusiness (ANDA) is a 115-year-old voluntary membership trade organization representing the interests of commercial agribusinesses including country grain elevators in North Dakota. These elevators are the primary point of sale for grain raised by North Dakota farmers. The elevators receive, clean, condition, segregate by quality, and ship these grains to domestic and international markets.

ANDA submits these comments in opposition to the proposed acquisition of control and consolidation of Union Pacific Railroad and Norfolk Southern Railway. The proposed transaction raises substantial concerns regarding competition, transportation costs, rail service reliability, and the economic interests of North Dakota grain shippers.

North Dakota's agricultural economy depends on reliable and competitively priced rail transportation. Grain merchants, whether an agricultural cooperative or private entity, and producers rely on rail service to move substantial volumes of grain to domestic markets, processing facilities, and export gateways. Because many rural shipping locations have limited transportation alternatives, the competitive structure of the rail industry has a direct effect on the prices North Dakota producers receive and the ability of agricultural businesses to serve their customers.

The Board should not approve this transaction unless the evidentiary record demonstrates that its substantial and demonstrable public benefits outweigh its competitive and service-related risks and that any remaining harms can be addressed through effective, enforceable conditions. If the Applicants cannot make that showing, the Board should deny the application.

The relevant question is not simply whether a combined railroad could operate more efficiently. It is whether the Applicants have demonstrated that the transaction, considered as a whole, will serve the public interest without imposing unjustified competitive, economic, or operational harms on affected shippers.

II. COMPETITIVE RISKS TO NORTH DAKOTA GRAIN SHIPPERS

Most North Dakota grain shippers currently face a competitive disadvantage due to the limitation of having access to only one railroad and the lack commercially viable shipping alternatives. This transaction, while not directly affecting North Dakota shippers, could none the less further weaken North Dakota's competitiveness in the domestic and export market by creating further barriers and market constraints for those shipments which rely on a switch with UP/NS.

Where the transaction eliminates meaningful competitive constraints, affected shippers would face higher transportation costs, reduced negotiating leverage, or less favorable service arrangements. The Applicants should be required to demonstrate, with market-specific evidence, how these risks would be prevented or remedied.

III. ECONOMIC CONSEQUENCES FOR NORTH DAKOTA AGRICULTURE

Rail transportation costs are an important component of the delivered cost of North Dakota grain. An increase in freight rates or a deterioration in service can affect the price an elevator can offer a producer, the competitiveness of grain moving to particular markets, and the financial performance of agricultural businesses.

The Board should examine whether the Applicants' projected efficiencies would produce measurable benefits for shippers or primarily reduce the Applicants' own operating costs. Claimed efficiencies should be evaluated alongside potential rate increases, reduced transportation alternatives, implementation costs, and service risks.

The Applicants should also explain how projected benefits would be distributed across the network. Improvements on high-volume corridors should not be assumed to offset adverse consequences at rural grain origins without evidence demonstrating that those benefits would reach affected shippers.

IV. CONCLUSION AND REQUEST FOR RELIEF

North Dakota grain shippers need a rail transportation system that is competitive, reliable, and responsive to rural agricultural markets. The proposed Union Pacific–Norfolk Southern transaction raises significant questions about whether those objectives can be maintained following further consolidation of the Class I railroad industry.

For these reasons, ANDA respectfully requests that the Surface Transportation Board:

1. Carefully evaluate the transaction's effects on competition, transportation costs, and service reliability for grain shippers.
2. Require the Applicants to substantiate their projected public benefits and demonstrate how identified competitive and service-related harms will be prevented or remedied.
3. Deny the application if the Applicants fail to establish that the transaction satisfies the applicable public-interest standards.

4. If approval is otherwise warranted, impose effective, enforceable conditions sufficient to preserve or enhance competition and protect adequate rail service to North Dakota's agricultural shipping facilities.

The interests of rural shippers and agricultural producers must be evaluated on the basis of actual competitive alternatives and measurable service outcomes, not solely on the projected efficiencies of a larger railroad network.

Respectfully submitted,

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CC: Parties of Record

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