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Chairman Patrick J. Fuchs
Vice-Chair Michelle A. Schultz
Members Karen. J. Hedlund and Richard J. Kloster
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Re: Finance Docket No. 36873, ILWU Opposition to the Union Pacific (UP) - Norfolk Southern (NS) Merger

Members of the Board:

The International Longshore and Warehouse Union (ILWU) respectfully submits these comments in opposition to the revised application of Union Pacific Corporation (UP) and Norfolk Southern Corporation (NS) (together, "Applicants") to combine their railroads. The ILWU urges the Board to deny the application.

The ILWU represents over 20,000 dockworkers in California, Oregon, and Washington and ILWU members work the ships whose cargo feeds UP's West Coast rail lines. The proposed UP-NS merger would represent the largest freight rail consolidation in modern U.S. history. Freight railroads are critical national infrastructure supporting agriculture, energy, manufacturing, intermodal commerce, and defense logistics. For ILWU, freight rail serves as an essential lifeline to our nation's ports. Further, our work depends on rail service that is competitive, reliable and growing. This merger threatens all three:

- **It removes the competition that keeps West Coast rail service competitive.** UP would own routes serving ports on both coasts, profit whichever coast handles the cargo, and lose its incentive to compete for West Coast gateways. BNSF, the only other railroad serving West Coast ports, would lose its neutral eastern connection.
- **It shifts bargaining power to UP.** Since deregulation under the Staggers Rail Act of 1980, rail intermodal service is exempt from Board regulation. As a result, West Coast ports and terminals have little recourse against a dominant carrier. UP's chief executive has already suggested raising rates on shippers who oppose the merger.
- **UP's own record is a warning.** Since COVID, UP has suspended intermodal service from West Coast ports, multiplied its embargoes, shrunk its traffic and workforce under Precision Scheduled Railroading, and cut capital spending while West Coast ports invest billions of dollars in rail capacity.

The Board's merger rules require Applicants to show that this transaction would enhance competition and serve the public interest. For West Coast ports and the workers who depend on this service, the merger would fail to deliver on either issue.

ILWU Interest in the Proposed UP-NS Merger

For ILWU members, the consequences of diminished rail competition extend beyond transportation rates. Cargo volumes directly influence available longshore work, terminal operations, and employment opportunities throughout our communities. Our members load and unload the container ships, bulk vessels and car carriers that move the nation's trans-Pacific trade. Our members work the marine terminals where cargo is handed off to trucks and trains at ports including Los Angeles, Long Beach, Oakland, Seattle, Tacoma, and Portland.

Rail is central to that work. About 26% of all cargo moving through the Port of Los Angeles uses its on-dock rail network[1], and the Port of Long Beach is building toward 35% on-dock rail capacity[2]. Cargo bound for the Midwest and the East reaches those markets by rail, and West Coast ports can compete for it only if that rail service is competitive and reliable. When rail service fails, containers back up on the docks, vessel operations slow, and cargo moves to other gateways.

The merged company would be one of the two Class I railroads serving West Coast ports, and it would also control NS's routes from the Atlantic ports that are direct competitors. Decisions about rates, service, capacity and routing would directly shape the volume of cargo our members handle and the stability of their jobs. The ILWU therefore has a direct and substantial interest in this merger proceeding.

Lack of Competition

The ILWU has concerns that the lack of competition and consolidation will result in a reduction in service and magnify some of the existing challenges with railroads along the supply chain. Further, this merger will undercut the many years of investment to local rail lines such as the Pacific Harbor Line, which facilitates the movement of cargo in the Ports of LA and Long Beach. Previous rail mergers have often been fraught with inefficiencies, confusion, service disruptions, clogged terminals, staffing shortages, terminated workers, and general malaise.

Currently, the four largest railroads (BNSF, UP, NS, and CSX) control approximately 90% of the freight rail market. [3]It already is a very concentrated market with limited competition. The combined UP-NS railroad would have a 40% market share of freight rail in the United States for most of the commodities it hauls[4], making it a de facto monopoly. That unprecedented market share would give the railroad significant leverage over its customers and the American consumers in setting prices and service.

Freight rail rates are up 44% over 20 years – after adjusting for inflation – rising 70%, far faster than trucking. The combined UP-NS company would have even greater market power in negotiating prices with customers, and prices would likely rise as a result.

Conclusion:

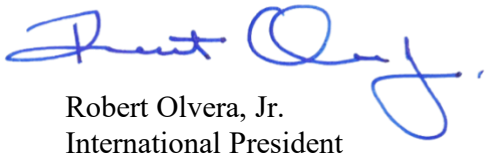
This merger would concentrate between 40% and 50% of the nation's rail freight in a single carrier. It would give one of the West Coast's only two Class I railroads control of the routes serving the Atlantic

[1] https://portoflosangeles.org/business/supply-chain/rail
[2] https://www.progressiverailroading.com/intermodal/news/Long-Beach-port-obtains-283-million-Mega-grant-for-ondock-rail-project--70880
[3] https://www.fb.org/intel/markets/proposed-rail-merger-comes-at-farmers-expense
[4] https://www.up-nstranscontinental.com/articles/rynaski-freight-competition/

ports that compete with West Coast ports for cargo, remove that railroad's incentive to compete for West Coast gateways, and deprive BNSF of its neutral eastern partner. It could also set off a final round of consolidation that would leave West Coast ports served by two coast-to-coast railroads, neither with a particular stake in their success. Further, it would hand a larger network of business to a railroad with a record of suspended port service, surging embargoes, shrinking traffic and declining investment. With that competition diminished, West Coast ports would have less leverage over rates, service and on-dock investment, and fewer options when rail service fails. The Applicants have not shown that the transaction would enhance competition or serve the public interest.

The merger is bad for West Coast ports and the dockworkers whose jobs depend on competitive, reliable rail service. For these reasons, the ILWU respectfully requests that the Board deny the revised application.

Respectfully submitted,



Robert Olvera, Jr.
International President

cc: Parties of Record

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