312905

ENTERED
Office of Chief Counsel
November 17, 2026
Part of
Public Record

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 ROBERT GRANATELLI IN OPPOSITION TO THE PROPOSED MERGER

I. INTRODUCTION AND STATEMENT OF INTEREST

I submit these comments in opposition to the proposed merger of Union Pacific and Norfolk Southern. My opposition is based on more than four decades of experience purchasing, negotiating, and managing railroad transportation, participation in previous railroad merger proceedings, and service at the Surface Transportation Board.

In my judgment, the applicants have failed to demonstrate that their proposed merger will enhance rail-to-rail competition for captive carload shippers. Projected operating efficiencies, improved single-line service, truck diversions, and transportation cost savings do not establish that the merger will improve competition between independent railroads or provide captive shippers with meaningful new competitive opportunities.

My transportation career began with International Paper in 1976. In the early 1980s, at the beginning of the Staggers Rail Act era, I served as Manager of Rail Procurement for International Paper. My career has spanned the transition from the more heavily regulated railroad industry to the substantially deregulated environment of today. I have observed firsthand the changes in railroad procurement, pricing, contract negotiations, and the practical value of competitive alternatives. I subsequently held transportation responsibilities with Himont, Montell, and Basell, including rail transportation for major chemical and plastics manufacturing facilities. I negotiated rates, contracts, service arrangements, and routing alternatives with major railroads. I retired from corporate transportation management in 2008 and have remained involved in railroad transportation matters.

I qualified as an Interstate Commerce Commission practitioner by passing the ICC practitioner examination. I testified before Congress on railroad competition issues affecting captive rail shippers. I also served as team leader of the Society of the Plastics Industry (SPI) Washington, D.C., trade organization team addressing the Union Pacific–Southern Pacific merger.

I also served for more than two years at the Surface Transportation Board in its Office of Economic Analysis. I worked on the CSX–Pan Am acquisition, served as a member of the Canadian Pacific–Kansas City Southern merger team, and worked on the reciprocal switching initiative. I also served on the mediation team addressing restoration of Amtrak passenger service along the Gulf Coast involving CSX Transportation.

During the 1996 Union Pacific–Southern Pacific merger proceeding, I was Montell's manager of transportation. Montell, Olin, and PPG jointly sought competitive railroad access for their Lake Charles,

Louisiana, facilities. I participated directly in that effort and subsequently observed the difficulties of implementing the competitive access granted.

My experience includes captive facilities, facilities served by competing railroads, and movements involving two or more carriers. I have negotiated agreements in which competitive alternatives materially influenced rates and terms and agreements in which the absence of alternatives left the shipper with substantially less bargaining power.

The transaction must be judged by what it changes in the railroad marketplace, not merely what it improves inside the combined railroad. For the reasons below, I request that the Board deny the application.

II. THE ENHANCED-COMPETITION STANDARD

The Board's 2001 Major Rail Consolidation Rules established a more demanding framework for major railroad mergers. Under 49 C.F.R. § 1180.1(a), the Board does not favor consolidations reducing transportation alternatives unless substantial and demonstrable public benefits that cannot otherwise be achieved justify the transaction. The rules recognize improved service, enhanced competition, and greater economic efficiency as distinct benefits. See also 49 C.F.R. § 1180.1(c)(1)–(2) (enhanced competition, potential competitive harm, and the need to preserve market options).

The Board's public-interest policy calls for examination of anticompetitive effects, including increased market power, and directs applicants to explain how their proposed transaction and conditions enhance competition. See 49 C.F.R. § 1180.1(c), including § 1180.1(c)(2)(iv). The Board also considers whether benefits could be achieved by joint marketing or interline partnerships rather than consolidation. Id. § 1180.1(c).

These provisions distinguish improved railroad performance from improved competition in the marketplace. Railroad terminology likewise distinguishes traffic subject to competition among transportation providers from traffic dependent on one carrier. Eliminating an interchange, improving velocity, or lowering operating expense may make the merged railroad more efficient; none necessarily gives the shipper another economically viable transportation supplier.

For a captive chemical plant, paper mill, or plastics facility, the larger system remains the sole serving railroad. Improved service does not itself give that customer the bargaining leverage associated with independent railroad competition.

Having examined the applicants' arguments, I have not identified evidence demonstrating how the merger will enhance rail-to-rail competition for captive carload shippers. The applicants' operating improvements and truck-diversion forecasts do not establish new independent rail alternatives or stronger rivalry between independent railroads for those movements.

This is central to my opposition. The Board should not treat the merged railroad's ability to compete for truck traffic as evidence of enhanced rail-to-rail competition for captive carload shippers. The applicants have not demonstrated that benefit.

III. BOTTLENECK PRICING AND THE LOSS OF EXISTING COMPETITION

A conventional two-to-one problem arises when UP and NS independently serve the same facility before the merger but only the combined railroad serves it afterward. A second, less visible form of competitive loss arises across complete origin-to-destination movements.

Consider a facility served only by UP shipping to a destination served by both NS and CSX. Before merger, the shipper may have two independently priced interline alternatives, UP–NS and UP–CSX.

Under available Rule 11 arrangements, the buyer can compare the total of separately established railroad charges. Those competing routes provide bargaining leverage even though the origin is physically captive.

After merger, UP–NS becomes single-line service. The combined railroad would control the originating segment and could provide the full movement. Under the established bottleneck decisions, a carrier able to provide the complete movement generally need not offer a separately priced bottleneck segment merely to facilitate a competitor's route, subject to the applicable legal exceptions and existing obligations. See Central Power & Light Co. v. Southern Pacific Transportation Co., 1 S.T.B. 1059 (1996) (bottleneck-rate principles).

The merged carrier could therefore withhold the originating rate component needed to construct a commercially viable UP–CSX route. CSX's physical connection could remain while the shipper loses a usable competitive alternative. This consequence depends on the particular route, contract, rate structure, and legal obligations; it must be evaluated movement by movement, not assumed away.

Short-line connections to alternative Class I railroads can face similar exposure. Conventional facility counts cannot identify this second type of two-to-one loss. The applicants' analysis must confront the effect of bottleneck pricing on existing independently priced routes. A physical connection is not the same as economic competition.

IV. GATEWAY STRUCTURE AND THE ABILITY TO EVALUATE THE MERGER

Existing interchange protocols and routing arrangements identify gateways used today. Transportation buyers can assess participating carriers, lengths of haul, interchange locations, and commercial terms. Comparable information about the post-merger gateway structure is indispensable.

An existing UP–CSX movement may interchange at New Orleans. Following merger, the combined UP–NS railroad could carry the shipment farther east before transferring it to CSX. Such a change reallocates length of haul, operating costs, and pricing opportunities. It could erode the economic value of the current UP–CSX alternative even while the New Orleans gateway technically remains open.

The issue extends beyond New Orleans. A transcontinental combination can change where traffic is interchanged with independent carriers. Without identifying the proposed post-merger gateways and the traffic expected to use them, shippers cannot determine whether the transaction improves service, reduces costs, or weakens existing commercial alternatives.

The Norfolk Southern Back Belt at New Orleans also affects connections involving BNSF and CSX. Its post-merger dispatching, interchange, and operating arrangements warrant examination because they affect routes involving carriers that remain independent.

A pledge to keep gateways physically open does not supply the missing routing and pricing information. The central issue is whether those gateways remain economically usable. The history of the Conrail proceeding, including chemical and plastics shipper concerns over gateway routing and pricing, demonstrates why changes must be assessed at the shipper level.

In my judgment, the absence of sufficiently detailed post-merger gateway information is a fundamental deficiency. Shippers cannot evaluate the promised benefits or threatened competitive losses without knowing how the new system would handle their existing routes.

V. CONSOLIDATED PRICING AUTHORITY AND THE COMPETITIVE VALUE OF RULE 11

Under Rule 11 arrangements, UP and NS can independently establish their respective transportation charges. The buyer knows the combined price; each railroad does not necessarily know the other carrier's

charge. The merger would replace independent pricing with one carrier's authority over the complete movement.

Railroad prices reflect not only cost but also alternatives, commodity characteristics, customer requirements, and bargaining leverage. Combining independent pricing organizations changes both commercial authority and access to information. The applicants' claimed single-line benefits do not answer the competitive implications of that consolidation.

The proposed Committed Gateway Pricing program uses a predetermined component for the merged railroad in a through-rate offer by a connecting carrier. That may simplify quoting, but it is not commercially equivalent to a shipper's ability to assemble independently established Rule 11 charges. Its value depends on the merged railroad's component and the continued availability of viable competing routes. See Union Pacific Corp.—Control—Norfolk Southern Corp., FD 36873, Decision No. 21, slip op. at 24 (STB served May 28, 2026) (referring to the Committed Gateway Pricing program in supplemental question PB-4).

The Board should not mistake another method of quoting transportation for preservation of the independent pricing decisions that exist today.

VI. PORTFOLIO PRICING AND THE CONSOLIDATION OF COMMERCIAL POWER

Rail transportation contracts commonly cover multiple facilities, commodities, and origin-destination movements. A single portfolio may include traffic captive to one railroad and traffic for which independent railroads compete.

I have negotiated such contracts. The buyer's ability to shift competitive movements affects the negotiation of rates, contract duration, volume commitments, and other terms. The carrier's control over captive movements likewise affects the buyer's willingness and practical ability to move the competitive portion elsewhere.

The proposed merger would combine UP's and NS's captive and competitive traffic portfolios, commercial relationships, and pricing authority. That materially increases the range of movements controlled within one commercial organization. A customer considering shifting competitive traffic must consider its continuing dependence on that same organization for captive traffic.

These dynamics have been discussed in shipper testimony before Congress and acknowledged as a feature of railroad commercial negotiations. They are not adequately captured by counting the railroads physically serving each facility.

The applicants' operating-efficiency case does not address the bargaining power created by consolidating these portfolios. That commercial consequence must be weighed against the claimed benefits, rather than treated as incidental.

VII. COMPETITIVE ACCESS: LESSONS FROM LAKE CHARLES

My experience with the 1996 UP–SP merger demonstrates the difference between granting access and delivering effective competition. Montell, Olin, and PPG sought competitive railroad access for Lake Charles facilities; they did not prescribe a particular operating mechanism in their original request. The ICC granted BNSF access. See BNSF Railway Co.—Terminal Trackage Rights—Kansas City Southern Railway Co. & Union Pacific Railroad Co., FD 32760 (Sub-No. 46), Decision No. 16 (STB served July 21, 2026) (establishing compensation terms for access).

Implementation subsequently involved operating and compensation disputes that continued for decades. See the Lake Charles access proceedings in Finance Docket No. 32760 (Sub-No. 46), including the Board's July 21, 2026 decision.

A legal right to operate over another railroad's tracks does not guarantee that the entrant can offer transportation at a competitive price. Compensation, dispatching, interchange procedures, and service obligations determine the economics.

The Board should not assume that trackage rights, switching, or open-gateway conditions automatically cure lost competition. The right is not the remedy; the economics of the right determine whether competition exists. Lake Charles demonstrates the cost of leaving those economics unresolved when the merger is approved.

VIII. SINGLE-LINE EFFICIENCIES MUST BE EVALUATED AGAINST ACTUAL OPERATIONS

The applicants emphasize the elimination of interchanges. But three fundamentally different interchange operations must be distinguished.

Chicago: Where traffic must be transferred between terminals, classified, or rebuilt into new trains, eliminating the interchange can remove substantial physical work and improve transit time. The applicants' Chicago intermodal example illustrates the potential value of eliminating a terminal transfer.

Salem, Illinois: Where cars are already assembled into blocks and the interchange principally transfers those blocks between railroads, much less physical work is eliminated. Changes in mileage and routing relative to the existing East St. Louis movement must be separated from savings caused by eliminating the interchange itself.

New Orleans: Where the interchange involves an intact train handed from one railroad to another, the train does not need to be classified and rebuilt simply because carrier responsibility changes. Eliminating the handoff can reduce coordination and other costs, but it does not eliminate a classification operation that was not performed.

These are not interchangeable examples. The Chicago terminal-transfer case cannot serve as a general measure of the benefits from eliminating UP–NS interchanges. The applicants must identify the actual work eliminated in each case.

Railroads already use run-through trains, preblocking, coordinated schedules, and joint operating arrangements. The Board's policy expressly recognizes that interline partnerships may achieve many merger efficiencies with less competitive harm. See 49 C.F.R. § 1180.1(c). The applicants must show which benefits require the disappearance of NS as an independent railroad.

IX. TRUCK-DIVERSION FORECASTS DO NOT ESTABLISH ACTUAL SHIPMENTS

The applicants forecast approximately 2.1 million annual truckload diversions to rail, including a substantial merchandise component. These forecasts should be tested against the commercial requirements for individual shipments rather than accepted as proof of actual conversions. See Union Pacific Corp.—Control—Norfolk Southern Corp., FD 36873, Decision No. 21, slip op. at 24 (STB served May 28, 2026) (describing the approximately 2.1 million truckload diversion projection and requiring additional information).

The disclosed merchandise approach uses county-to-county freight flows and broad commodity classifications, including two-digit Standard Transportation Commodity Codes. In chemicals and plastics, that level of aggregation combines products with different origins, destinations, equipment requirements,

and customers. Polyethylene and polypropylene are not commercially interchangeable simply because both appear within a broad commodity category.

County-level rail availability is not establishment-level access. A railroad serving some facilities in a county does not establish that it serves the plant generating or receiving the particular truckload.

The applicants' finished-automobile analysis examined actual assembly plants, rail connections, ramps, and commercial constraints. The disclosed merchandise analysis does not demonstrate equivalent establishment-level qualification.

As a transportation buyer, I know that a mode change depends on product, exact facilities, shipment size, equipment, inventory costs, transit reliability, customer requirements, and the total delivered economics. A modeled price advantage does not cause a shipment to move by rail.

The applicants must also distinguish traffic that could shift through improved cooperation between existing railroads from traffic requiring consolidation. In my judgment, the disclosed methodology does not establish that the projected merchandise truckloads represent commercially achievable conversions attributable to the merger.

X. MEASURING SERVICE FROM THE TRANSPORTATION BUYER'S PERSPECTIVE

Train velocity, terminal dwell, and network productivity measure aspects of railroad operations. They do not establish whether a customer's car makes its scheduled connections or arrives when promised.

For manufacturers, reliable service means that the specific shipment reaches its destination within the expected delivery period. A railroad may improve system averages while individual customers still suffer missed connections and unpredictable delivery.

Motor carriers commonly measure performance against delivery commitments. Rail merger benefits should likewise be evaluated using individual-car planned and actual connections, original and revised arrival estimates, and origin-to-destination reliability, compared with premerger baselines.

Benefits must also endure. Operating plans change; a train that initially bypasses a yard may later be rerouted. The merger is permanent, but the operating arrangements used to justify it may not be. The Board must distinguish modeled improvements from achieved and sustained customer results.

XI. POST-MERGER OVERSIGHT CANNOT RESTORE LOST INDEPENDENCE

Postapproval oversight has value but is no substitute for resolving structural competitive issues before approval. Once the two independent railroad organizations are combined, the former separation of pricing authority, customer relationships, and network decisions cannot readily be recreated.

Reporting aggregate growth cannot prove that the merger caused a particular truck diversion. Keeping a gateway physically open cannot prove it remains economically competitive. Granting an operating right cannot prove that compensation permits a viable competing service.

The decades-long Lake Charles disputes demonstrate the practical limits of relying on later proceedings to resolve fundamental access economics. The Board should not approve an irreversible consolidation on the assumption that monitoring or future conditions will necessarily restore independent alternatives that disappear.

XII. WHY THE APPLICATION SHOULD BE DENIED

First, the applicants have not demonstrated enhanced rail-to-rail competition for captive carload shippers. Operating efficiencies, single-line improvements, and truck diversions do not establish that captive shippers gain independent rail alternatives or that existing rail rivalry becomes more effective.

Second, the merger exposes existing interline competition to bottleneck-based losses that conventional two-to-one facility counts do not capture. A usable UP–CSX alternative may become unavailable even though the physical connection remains.

Third, the lack of sufficiently detailed post-merger gateway and routing information prevents shippers from evaluating changes in the economics of existing competitive routes.

Fourth, consolidation of pricing authority over captive and competitive portfolios changes bargaining power in ways not captured by the applicants' operating savings.

Fifth, generalized county-level and commodity-level truck-flow models do not establish establishment-specific, commercially feasible diversions caused by this merger.

Finally, the Lake Charles record demonstrates that legal access rights and postmerger oversight may not produce timely, economically effective competition.

These deficiencies go to the substance of the public-interest showing under the 2001 rules. They are not cured by promising additional reporting after consolidation. In my judgment, the applicants have not made the showing necessary to justify the merger.

XIII. CONCLUSION

The applicants have offered extensive projections of operating efficiencies, improved service, truck diversions, and transportation savings. Those projections do not answer the central competitive question: what new or improved rail-to-rail competition will captive carload shippers actually receive?

Having examined the applicants' arguments, I have not identified evidence demonstrating that the merger will enhance rail-to-rail competition for those shippers. At the same time, the transaction threatens existing interline alternatives, consolidates pricing authority, and leaves important questions about post-merger gateway economics unanswered.

My conclusion is informed by decades of negotiating with railroads and managing transportation for captive and competitive facilities, by participation in earlier merger proceedings, and by service at the Board. Competition is determined by whether a shipper can obtain and use an economically viable offer from an independent transportation provider. Better service from a sole supplier is not a substitute for that independent choice.

The Board's 2001 rules require examination of competitive harms, substantial and demonstrable public benefits, and alternatives to consolidation. The applicants have not justified the loss of independent railroad competition under that framework.

I respectfully request that the Surface Transportation Board DENY the proposed Union Pacific–Norfolk Southern merger application.

Respectfully submitted,

/s/ Robert Granatelli

Robert Granatelli

Individual Commenter

401 SW 4th Ave, Fort Lauderdale, FL 33315

November 16, 2026

Finance Docket No. 36873

APPENDICES TO COMMENTS IN OPPOSITION

BEFORE THE SURFACE TRANSPORTATION BOARD | FINANCE DOCKET NO. 36873

Robert Granatelli — Previously Published LinkedIn Articles

Statement Concerning the Appendices

These appendices reproduce 18 articles by the commenter, published on LinkedIn from July 15 through November 1, 2026, and recovered from the commenter's saved article texts. They provide additional context for the experience, analysis, and concerns presented in the principal comments. The articles reflect the author's views at publication and are not represented as independently verified evidence of every underlying factual proposition. The principal filing contains the requested disposition. This collection does not purport to include shorter LinkedIn posts or articles not available in the recovered source files.

Index of Appendices

Appendix A — Neither the Board Nor the Shipping Community Can Determine Whether Competition Will Be Enhanced Without Knowing the Post-Merger Gateway Structure | July 15, 2026 | Principal comments §§ IV–V

Appendix B — Rail-to-Rail Competition: The Question at the Center of the UP–NS Merger Debate | July 19, 2026 | Principal comments §§ II

Appendix C — What the CSX–Pan Am Acquisition Teaches Us About Evaluating the Proposed UP–Norfolk Southern Merger | July 21, 2026 | Principal comments §§ IV, XI

Appendix D — A Lesson About Railroad Power | July 23, 2026 | Principal comments §§ I, VI, XI

Appendix E — The Eagle Pass Agreement and the Meaning of "Enhanced Competition" | July 25, 2026 | Principal comments §§ II–IV

Appendix F — The Competitive Gateway Program: Does It Meet the Board's New "Enhance Competition" Standard? | July 28, 2026 | Principal comments §§ IV–V

Appendix G — Enhanced Competition: The View from the Rail Buyer's Desk | July 29, 2026 | Principal comments §§ II

Appendix H — Prime Shows Its Customers the Score. How Will UP–NS Measure the Service It Promises? | August 18, 2026 | Principal comments §§ X

Appendix I — Public Benefits in a Railroad Merger: Real or Imagined? | August 21, 2026 | Principal comments §§ VIII–XI

Appendix J — Public Benefits: Promised, Modeled—or Real? | August 23, 2026 | Principal comments §§ VIII–XI

Appendix K — New Orleans, the Back Belt, and Beyond: What Happens to a Gateway After UP–NS? | August 25, 2026 | Principal comments §§ IV–V

Appendix L — Merger Public Benefits: Promises, Audits, Proof—and What Happens If They Fail? | September 1, 2026 | Principal comments §§ XI

Appendix M — Taking Trucks Off the Road: A Railroad Merger Promise With a Long History | September 7, 2026 | Principal comments §§ IX

Appendix N — Railroad Bundling and the UP–NS Merger: When Two Portfolios Become One. | September 10, 2026 | Principal comments §§ VI

Appendix O — Who Knows the Total Price — and Why Does It Matter? | September 17, 2026 | Principal comments §§ V

Appendix P — Single-Line Service, Gateway Protection and the Enhanced-Competition Test in the UP–NS Merger | September 21, 2026 | Principal comments §§ IV–V

Appendix Q — A Model Is Not a Shipment | October 5, 2026 | Principal comments §§ IX

Appendix R — Enhanced Competition: What Changes for the Captive Rail Shipper? | November 1, 2026 | Principal comments §§ II

APPENDIX A

Neither the Board Nor the Shipping Community Can Determine Whether Competition Will Be Enhanced Without Knowing the Post-Merger Gateway Structure

Bob Granatelli | LinkedIn | July 15, 2026

Related principal comments: §§ IV–V

The ICC's bottleneck decisions significantly constrained a shipper's ability to purchase rail transportation by limiting access to individual railroad segments. Carrier gateway protocols imposed a second and distinct limitation. Rather than simply restricting what transportation could be purchased, they often restricted how a movement could be assembled by limiting the gateways available for many origin-destination movements.

For example Current UP Interline Routing Agreements Interline Routing Agreements | Union Pacific

The competitive significance of gateway choice is best illustrated through a simple example.

Consider a movement from Houston, Texas, to Atlanta, Georgia. Assume Houston is captive to a western railroad and Atlanta is captive to an eastern railroad. At first glance, the movement appears to lack competition because neither endpoint is served by multiple railroads. Yet meaningful competition may still exist if the shipment can move through more than one interchange gateway.

Figure 1. Alternative Gateway Competition Between Two Captive Endpoints

Article content
Suppose the shipment can move either through Memphis or New Orleans.

Under the Memphis routing, the western railroad offers a Rule 11 rate from Houston to Memphis, while the eastern railroad offers a separate Rule 11 rate from Memphis to Atlanta.

Under the New Orleans routing, the western railroad offers a Rule 11 rate from Houston to New Orleans, while the eastern railroad offers a separate Rule 11 rate from New Orleans to Atlanta.

Although both routings move the same shipment between the same origin and destination, the overall movement is of broadly comparable length regardless of whether it moves through Memphis or New Orleans. The competitive significance lies not in the total distance traveled, but in how the haul—and therefore the transportation revenue—is divided between the participating railroads. Because the western railroad receives a longer haul through Memphis, it has an economic incentive to favor that gateway. Conversely, because the eastern railroad receives a longer haul through New Orleans, it has an economic incentive to favor the New Orleans gateway. Their commercial interests therefore diverge.

That divergence is precisely what creates competition.

A transportation buyer can compare the total Rule 11 price through Memphis with the total Rule 11 price through New Orleans and select the routing offering the lowest overall transportation cost. Each railroad has an incentive to make its portion of the movement attractive enough that its preferred

gateway is selected. Competition is not occurring at the captive origin or destination. Instead, it occurs between competing railroad combinations assembled through alternative gateways.

This illustrates an important but often overlooked principle of railroad competition. A movement can remain competitively priced even when both the origin and destination are captive because multiple gateways permit competing railroad combinations to compete for the traffic.

The example also raises an important commercial question. Acting independently, the western railroad would ordinarily prefer the Memphis gateway because it receives the longer haul, while the eastern railroad would ordinarily prefer the New Orleans gateway for the same reason. Yet carrier gateway protocols ultimately establish a single preferred gateway for the movement. In doing so, at least one participating railroad necessarily accepts a shorter haul—and therefore less revenue—than it could have obtained under its individually preferred routing.

Why would a railroad voluntarily accept a less favorable division of revenue?

One explanation is that the value of an agreed gateway protocol extends beyond the revenue generated by any individual movement. By establishing preferred gateways, participating railroads reduce the transportation buyer's ability to assemble and compare competing Rule 11 combinations. The resulting reduction in gateway-based competition may provide commercial benefits that outweigh the revenue surrendered on particular movements where a carrier accepts a shorter haul. In other words, a railroad may determine that preserving the broader gateway protocol—and the reduction in competitive pressure it produces—is more valuable than maximizing revenue on every individual movement.

Viewed from this perspective, a gateway protocol is more than an agreement regarding where traffic will be interchanged. It is a commercial arrangement that balances the allocation of transportation revenue against the preservation of carrier pricing discretion across a much larger portfolio of traffic.

The next question, however, is who controls that gateway choice in practice.

For example, the CSXT Routing Guide For example, (https://www.csx.com/index.cfm/customers/resources/tools/junction-look-up/) establishes preferred interchange gateways for specific origin-destination movements and beyond carriers. As illustrated in Figure 2, the routing guide demonstrates that gateway selection is not determined solely by geography or the shortest physical route. Instead, preferred gateways vary depending upon both the destination and the beyond carrier receiving the traffic.

Figure 2. CSXT Preferred Interchange Gateways by Beyond Carrier

Origin Destination Beyond Carrier Preferred Gateway

Jacksonville, FL Denver, CO BNSF Railway Birmingham, AL

Jacksonville, FL Denver, CO Union Pacific East St. Louis, IL

Jacksonville, FL Parachute, CO BNSF Railway Chicago, IL

Jacksonville, FL Parachute, CO Union Pacific East St. Louis, IL

The railroads have frequently explained preferred gateway protocols as promoting operating efficiency and optimized network flows. This example demonstrates that efficiency, while undoubtedly an important consideration, does not by itself explain gateway selection.

For CSXT BNSF traffic originating in Jacksonville, the preferred gateway changes from Birmingham, for traffic destined to Denver, to Chicago for traffic destined to Parachute, Colorado. Yet Parachute lies farther west on the same Colorado BNSF corridor. If gateway selection were determined principally by operating efficiency or the shortest practical routing, one might reasonably expect both movements to utilize the same interchange gateway. Instead, a relatively modest change in destination results in an entirely different preferred gateway.

By contrast, Union Pacific traffic destined to both Denver and Parachute continues to utilize the East St. Louis gateway. The differing treatment of these otherwise similar movements demonstrates that preferred gateway selection reflects carrier-specific network strategies, interchange relationships, and commercial considerations in addition to operating efficiency.

The significance of this distinction extends beyond the individual movements shown in the exhibit. The example demonstrates that gateway selection is not merely an operational decision; it is also a commercial decision that determines which railroad combinations compete for a movement. A transportation buyer's practical routing options are therefore defined not only by the physical rail network but also by carrier-controlled gateway protocols.

Viewed in this light, gateways are more than operational interchange points. They are competitive decision points. They determine which railroad combinations compete for the traffic, how transportation revenue is divided between participating carriers, and whether transportation buyers retain the ability to assemble and compare competing transportation products.

This distinction becomes increasingly important when evaluating railroad mergers. If carriers already possess substantial discretion over gateway selection, expanding a railroad's network through merger necessarily expands the number of origin-destination movements over which that discretion can be exercised. The competitive question is therefore not simply whether gateways remain physically open, but whether carrier-controlled gateway protocols preserve meaningful opportunities for competing railroad combinations to compete for the movement.

Measuring Enhanced Competition

The preceding discussion demonstrates why gateway protocols are central to any evaluation of rail competition. They determine how transportation products are assembled, how transportation revenue is allocated, and which railroad combinations remain available to compete for individual movements. The remaining question is how those competitive effects should be measured when evaluating enhanced completion under a proposed major railroad merger.

One useful measure is the relationship between competitive traffic and captive traffic.

As discussed earlier, the ratio of competitive movements to captive movements underpins the commercial negotiations between railroads and their customers. Competitive traffic provides transportation buyers with bargaining leverage that extends well beyond the individual shipment. That bargaining leverage influences negotiations across an entire portfolio of traffic. Conversely, as the proportion of captive traffic increases, the transportation buyer's ability to discipline pricing through competitive alternatives may diminish.

Gateway protocols directly influence that ratio. By determining which origin-destination movements remain competitively routable, gateway decisions affect whether traffic remains subject to meaningful competition or effectively becomes captive. Consequently, changes in gateway structure can alter not only individual movements but also the overall balance between competitive and captive traffic available to a transportation buyer.

Those changed commercial incentives matter.

Railroad pricing managers naturally seek to maximize the commercial value of the traffic moving over their respective networks. As the commercial incentives of a merged network change, preferred gateway locations may also change. A merged Union Pacific–Norfolk Southern system would therefore have every incentive to evaluate whether existing gateway arrangements continue to maximize the commercial value of the combined network. Likewise, a connecting carrier whose haul is shortened by a revised gateway structure would have a commercial incentive to recover, to the extent market conditions permit, a portion of the transportation revenue previously earned on the movement through the pricing of its remaining segment.

The resulting transportation product may therefore differ substantially from the transportation product available today, even if every existing physical gateway remains open.

This creates a fundamental challenge under the Board's enhanced competition standard.

Neither the Board nor the shipping community can meaningfully evaluate whether competition will be enhanced without knowing the proposed post-merger gateway protocols and preferred interchange points. Existing routing guides reflect the commercial incentives of today's rail network. They do not reflect the commercial incentives that will exist after the creation of a merged Union Pacific–Norfolk Southern system.

Without knowing the proposed gateway structure, neither the Board nor shippers can reasonably evaluate future Rule 11 combinations, future transportation costs, or how the merger will affect the ratio of competitive traffic to captive traffic. Those are precisely the commercial relationships that determine the practical level of rail-to-rail competition following a merger.

Gateway protocols are not merely operating instructions. They are part of the competitive architecture of the rail network. If that architecture changes, the Board must evaluate the competitive consequences of the new architecture—not assume that competition will remain unchanged simply because the physical gateways continue to exist.

Accordingly, preserving today's physical gateways is not, by itself, sufficient to demonstrate that competition will be enhanced. The critical question is how the merged railroad proposes to use those gateways. Changes in preferred interchange points may alter the allocation of the haul, the allocation of transportation revenue, Rule 11 combinations, the ratio of competitive traffic to captive traffic, and ultimately the competitive alternatives available to transportation buyers.

For that reason, a merger application seeking approval under the Board's enhanced competition standard should identify the proposed post-merger gateway protocols and preferred interchange points with sufficient specificity to permit meaningful evaluation.

The enhanced competition standard requires more than the assumption that existing gateways will remain open. It requires evidence demonstrating how competition will function after the merger. If neither the Board nor the shipping community knows the proposed post-merger gateway protocols, preferred interchange points, resulting Rule 11 combinations, or the effect of those decisions on the ratio of competitive traffic to captive traffic, on what evidentiary basis can the Board conclude that the proposed transaction enhances competition?

APPENDIX B

Rail-to-Rail Competition: The Question at the Center of the UP–NS Merger Debate

Bob Granatelli | LinkedIn | July 19, 2026

Related principal comments: §§ II

In a recent Trains podcast discussing the proposed Union Pacific–Norfolk Southern merger, Marty Oberman, former Chairman of the Surface Transportation Board, focused on two issues that deserve far more attention than they have received. First, he questioned what the Surface Transportation Board actually means when its merger regulations require a transaction to "enhance competition." Second, he pointed to Union Pacific's use of the AAR embargo process to restrict service, illustrating how commercial practices can affect the competitive opportunities available to shippers.

As I listened to the discussion, it struck me that these two issues are closely related. For years, I have followed the evolution of railroad mergers, STB proceedings, commercial practices, and the changing relationships between railroads and their customers. One lesson has become increasingly clear: whether a merger enhances competition cannot be determined simply by looking at a railroad map. The more important question is whether competing railroads retain a practical and commercially viable opportunity to compete for the traffic.

The STB's own merger regulations provide the starting point for answering that question.

The Surface Transportation Board's railroad merger rules make clear that "enhanced competition" primarily refers to preserving and strengthening competition among rail carriers themselves, not merely preserving competition from trucks, barges, or other transportation modes.

Under 49 C.F.R. § 1180.1, the Board recognizes that railroads compete with motor carriers and water carriers, but it separately identifies the preservation of intramodal competition—competition between railroads—as a central concern in evaluating major rail mergers. The Board recognized that when independent rail networks are combined, shippers can lose meaningful competitive choices even if other transportation alternatives remain available.

The STB reinforced that principle in its 2001 Major Rail Consolidation Procedures. Those rules were adopted because the Board recognized that continued consolidation could reduce the number of independent rail systems and, with them, the competitive options available to rail customers. Accordingly, the merger rules emphasize preserving competitive gateways, alternative routes, access arrangements, and other mechanisms that allow one railroad to compete against another.

In other words, the merger standard is not simply about whether freight can still move. It is about whether independent railroads continue to have a meaningful opportunity to compete for that movement. That is the practical meaning of enhanced competition.

That distinction has become increasingly important as railroad networks have grown larger and commercial practices have become more sophisticated. During the past four decades, I have watched numerous situations where competition was affected not because track disappeared, but because commercial decisions changed how competing railroads could access traffic. Sometimes the issue involved gateway restrictions. Sometimes it involved Rule 11 pricing. Sometimes it involved

interchange practices, service decisions, embargoes, or compensation for mandatory trackage rights. The common thread was that the practical ability of another railroad to compete often depended as much on commercial policy as on physical infrastructure.

The examples discussed in this paper are not presented as isolated commercial disputes. Rather, they are examined through a common analytical framework. In each instance, the question is the same: did the commercial practice preserve a practical and economically viable opportunity for another railroad to compete, or did it leave competition existing only on paper? That distinction—not merely the physical existence of another route or another railroad—lies at the heart of the STB's requirement that major mergers enhance rail-to-rail competition.

The history of Union Pacific's disputes over compensation for mandatory overhead trackage rights spans several decades. It began with the Denver & Rio Grande Western proceeding involving compensation for overhead trackage rights over Union Pacific's line from Colorado to Kansas City as a condition of Union Pacific's acquisition of Missouri Pacific. It continued with the Southern Pacific compensation proceedings following SP's acquisition of the Rock Island Tucumcari Line and Southern Pacific's subsequent use of Union Pacific's Kansas City–St. Louis line under overhead trackage rights. More recently, similar compensation disputes have arisen in the ongoing UP–BNSF Tehachapi Pass proceeding and, most recently, in the Metra terminal trackage rights case in Chicago. Although each case arose under different circumstances, they share a common characteristic: disagreements over compensation for mandatory overhead trackage rights have repeatedly evolved into lengthy regulatory and judicial proceedings rather than prompt commercial resolution.

My own experience reinforced that conclusion. During a meeting with Denver & Rio Grande Western's Vice President of Pricing and Marketing, he explained that the railroad was not earning an adequate return on its Colorado–Kansas City overhead operations because the trackage rights compensation paid to Union Pacific was too high. Following the creation of Conrail, the Delaware & Hudson received mandatory overhead trackage rights over the new system. One of the railroad's senior executives later expressed a similar concern to me regarding the economics of those operations. Ultimately, D&H discontinued use of those trackage rights. Although these conversations reflect my personal recollections rather than the formal evidentiary record, they illustrate a broader commercial reality: trackage rights created by regulatory order do not necessarily provide an economically viable competitive alternative if the compensation required to use them is excessive. In both instances, the issue was not whether trackage rights existed, but whether the compensation required to exercise those rights allowed the tenant railroad to compete profitably.

The Metra proceeding is the latest chapter in that history. After Union Pacific and Metra were unable to agree on compensation for Metra's continued use of Chicago commuter lines following the expiration of their operating agreement, Metra petitioned the Surface Transportation Board for compulsory terminal trackage rights to ensure the continuation of commuter service. Although the Board granted those rights in September 2025, the compensation dispute remained unresolved while Union Pacific simultaneously challenged the Board's authority before the U.S. Court of Appeals for the Eighth Circuit. The Board's order therefore did not end the controversy; it shifted the dispute from access to compensation while simultaneously raising questions regarding the scope of the Board's authority. This history raises an important question for the proposed Union Pacific–Norfolk Southern merger. If the Board relies on trackage rights as a condition to preserve competition, what basis is there to conclude that similar compensation disputes will not again delay or diminish the practical effectiveness of those competitive remedies?

The examples that follow build upon this same principle. They include Union Pacific's efforts to limit BNSF's ability to serve a unit-train customer in Lake Charles, the Union Pacific dispute surrounding

CPKC's grain movements into Houston, the evolution of carrier-controlled gateway restrictions following earlier mergers, the CN–NITL gateway commitments that emerged after the Wisconsin Central acquisition, and the way Rule 11 pricing can influence whether a competing railroad has a realistic commercial opportunity to participate in a movement.

Standing alone, each of these events can be viewed as a separate commercial dispute. Viewed together, however, they reveal something much more significant. They illustrate how commercial practices can either preserve or frustrate the very rail-to-rail competition the STB expects major mergers to enhance.

The examples also reflect more than isolated disagreements between railroads and customers. They document a pattern that I have observed over many years following the major railroad mergers beginning in the 1980s. While the facts differ from case to case, they raise a common question: were the commercial practices that developed after these mergers consistent with the purpose of the STB's merger rules and the Board's expectation that major mergers would enhance rail-to-rail competition?

Having followed the major railroad mergers of the past four decades—and having observed many of their commercial consequences firsthand—I have come to believe that the most important lessons are found not in the merger applications themselves, but in what happened after the transactions were approved.

Ultimately, the issue before the Board is straightforward. If the historical record demonstrates that Union Pacific's post-merger commercial practices repeatedly frustrated the practical exercise of rail-to-rail competition, why should the Board expect a different outcome if an even larger network is created through the proposed Union Pacific–Norfolk Southern merger?

If enhanced competition means preserving a practical and commercially viable opportunity for one railroad to compete against another, then the proposed Union Pacific–Norfolk Southern merger should ultimately be judged not by the promises made in the merger application, but by the lessons learned from the commercial practices that followed the mergers that came before it. That brings the discussion full circle to the question Marty Oberman posed: What does it really mean for a railroad merger to "enhance competition"?

APPENDIX C

What the CSX–Pan Am Acquisition Teaches Us About Evaluating the Proposed UP–Norfolk Southern Merger

Bob Granatelli | LinkedIn | July 21, 2026

Related principal comments: §§ IV, XI

The CSX–Pan Am transaction provides an important lesson for the Surface Transportation Board (STB) as it considers future major railroad mergers. Among the principal public benefits advanced in support of the acquisition was the expectation that freight would shift from highway to rail, reducing truck traffic, congestion, emissions, and highway wear.

The question is not whether those projected benefits were reasonable when the merger was proposed. The more important question is whether they were later measured and verified. As the Board evaluates the proposed Union Pacific–Norfolk Southern merger under its enhanced merger standards, that experience raises a broader policy issue:

Should projected public benefits that help justify merger approval also be subject to measurable post-merger accountability?

The policy argument appeared at two stages of the CSX–Pan Am proceeding.

First, CSXT relied on truck-to-rail diversion as one of the public-interest benefits supporting approval of the acquisition. Like many railroad merger applications before it, the filing described the anticipated environmental and transportation benefits associated with moving freight from trucks to rail.

Second, the STB's approval decision likewise recognized those anticipated public benefits, noting that the transaction was expected to reduce highway truck traffic through increased rail service.

These observations are not intended as criticism of either CSXT or the Board. Rather, they highlight an important feature of railroad merger proceedings. The expected reduction in truck traffic was treated as a projected public benefit supporting approval of the transaction. During the merger proceeding, however, neither the application nor the Board's decision identified independently verifiable evidence demonstrating how many truck movements would actually be removed from the nation's highways because of the acquisition. Instead, the expected truck-to-rail diversion reflected projections and forecasting commonly found in major railroad merger proceedings.

The policy question therefore becomes straightforward:

Did the transaction actually reduce highway truck movements by shifting freight to rail?

That question is different from asking whether rail traffic increased. An increase in rail carloads does not necessarily mean that trucks were removed from the highway. Additional rail traffic may reflect economic growth, changes in commodity flows, or freight diverted from another railroad rather than from trucks. Demonstrating a true truck-to-rail conversion ideally requires identifying the freight movement that changed, the customer or traffic lane involved, and the corresponding reduction in highway truck movements.

For example, in CSXT/PAR-59, Second Biannual Post-Approval Report (filed June 1, 2023; Filing ID 306686), CSXT explained that there was no direct source of data identifying truck-to-rail conversions because individual transportation decisions are made by shippers and are commercially sensitive. Instead, the company developed a methodology that analyzed changes in rail traffic within markets susceptible to competition from trucking, using those changes as an indicator of potential truck-to-rail conversions.

That approach provides useful information about market opportunities and the potential for modal shift. However, it is important to distinguish between estimated conversion opportunities and independently verified reductions in highway truck traffic.

Potential conversion opportunities are not the same as demonstrated truck-to-rail conversions.

The public record indicates that CSXT analyzed freight markets where rail was capable of competing with highway transportation and reported the results of that analysis. However, the record does not appear to provide an independently verifiable measure of the number of highway truck movements that were actually eliminated as a direct result of the acquisition.

The conclusion is therefore straightforward.

The Pan Am acquisition may well have created opportunities for freight to move from highway to rail. CSXT's post-approval reporting identifies markets where such diversion may have occurred and explains the methodology used to estimate those opportunities. However, the publicly available reporting does not demonstrate, with independently verifiable outcome data, how many truck movements were actually removed from the nation's highways because of the transaction.

Based on the publicly available record, it cannot be determined how many trucks, if any, were actually removed from the nation's highways as a direct result of the acquisition. That is precisely the accountability issue. If truck-to-rail diversion is offered as a significant public benefit supporting merger approval, the Board and the public should be able to determine after approval whether that benefit was actually achieved.

That raises a broader question for future railroad mergers.

That broader question is not mine alone. As discussion of the proposed Union Pacific–Norfolk Southern merger has developed, a number of industry observers have likewise emphasized the importance of post-merger accountability. While they approach the issue from different perspectives, many have raised the same fundamental concern: if projected public benefits play a meaningful role in securing regulatory approval, should there not also be a meaningful process for determining whether those benefits were actually achieved? The CSX–Pan Am acquisition provides a useful example for examining that broader policy question.

If applicants ask the Surface Transportation Board to approve a transaction based, in part, on projected public benefits—such as reducing highway congestion, lowering emissions, improving safety, and taking trucks off the road—those projections should not simply disappear once the merger is approved. There should be accountability for the numbers presented before the transaction and for the results achieved afterward.

The Board's current major-merger regulations establish a higher standard than existed for many earlier transactions. Those enhanced standards should not rely on assumptions, generalized forecasts, or familiar boilerplate carried forward from prior merger applications. Instead, they should require that

projected public benefits be accompanied by measurable performance metrics established before approval, followed by transparent post-merger reporting using those same metrics.

Public-benefit claims should therefore be treated like any other material representation supporting a merger application. If they influence the Board's decision to approve a transaction, they should be measurable before approval, verified after approval, and subject to meaningful review if the promised results are not achieved.

Those remedies need not begin with unwinding a merger. They could include additional reporting requirements, corrective action plans, targeted operating conditions, expanded competitive access, or, in extraordinary circumstances where significant public-interest commitments are not fulfilled, consideration of structural remedies, where authorized and appropriate, such as the divestiture of particular lines or facilities if necessary to restore competition or protect the public interest.

The important point is not which remedy is ultimately chosen. The important point is that merger applicants should know, before approval, that the public benefits they present to justify a transaction are commitments that carry accountability—not simply aspirations that disappear once the merger is consummated. If the promised public benefits ultimately cannot be demonstrated, the answer should not simply be, "We're sorry." A regulatory process built on projected public benefits should also provide meaningful accountability when those projections materially influence approval but are not achieved.

Ultimately, the burden should rest with the applicants. If a practical and objectively measurable framework cannot be established before approval to verify the public benefits being promised—and if the Board cannot identify meaningful consequences should those benefits fail to materialize—then those asserted public benefits should carry little, if any, weight in the Board's decision.

In my view, if a merger depends in significant part on projected public benefits that cannot be objectively measured or meaningfully enforced after approval, the Board should seriously consider whether the transaction should be approved at all.

That conclusion is shaped by more than four decades of observing and participating in the railroad industry through successive waves of consolidation. I have seen ambitious merger projections become accepted assumptions during the approval process, only to become increasingly difficult to evaluate once the transaction was complete. Experience has convinced me that accountability should be as important as aspiration.

Alfred E. Kahn, widely recognized as the father of airline deregulation, never argued that deregulation would produce perfect markets. Indeed, he later acknowledged that the emergence of fortress hubs and increasing airline concentration were consequences more significant than many had anticipated. Yet he never abandoned his belief that deregulation was, on balance, the correct public policy. I believe the same perspective applies to railroads. Deregulation under the Staggers Rail Act revitalized an industry that desperately needed reform and has produced enormous economic benefits. But four decades of railroad mergers have also demonstrated that successful public policy can produce unexpected consequences.

Unexpected consequences are not an argument against deregulation. Nor are they an argument against mergers. They are, however, a compelling argument for accountability.

Once a major railroad merger is consummated, restoring the competitive conditions that existed before hand may be difficult or impossible. That reality makes it especially important that the public benefits

offered in support of approval be measurable, transparent, and subject to meaningful post-merger accountability.

APPENDIX D

A Lesson About Railroad Power

Bob Granatelli | LinkedIn | July 23, 2026

Related principal comments: §§ I, VI, XI

Senator Tammy Baldwin's recent letters to the Surface Transportation Board prompted me to reflect on an experience from my own career.

In those letters, Senator Baldwin expressed concern that fear of retaliation against shippers could discourage stakeholders from participating openly in the Surface Transportation Board's review of the proposed Union Pacific–Norfolk Southern merger. She observed that if participants fear adverse consequences for expressing their views, the Board cannot develop the complete and candid public record necessary to evaluate a transaction of this magnitude. She also noted that former STB Chairmen Martin Oberman and Robert Primus had previously acknowledged that fear of retaliation has long discouraged shipper participation in Board proceedings.

As I read those letters, I found myself thinking back nearly three decades to the Union Pacific–Southern Pacific merger.

The circumstances are different, and readers should draw their own conclusions. Nevertheless, Senator Baldwin's concerns immediately brought back memories of an experience that profoundly shaped my own understanding of railroad power, regulatory proceedings, and the risks that some shippers may perceive when speaking candidly during major merger reviews.

The story that follows explains why the issues raised in Senator Baldwin's letters resonate so strongly with me today.

During my career, I was actively involved in national rail transportation policy on behalf of rail shippers. I served in leadership roles within the Society of the Plastics Industry (SPI), the Chemical Manufacturers Association (now the American Chemistry Council), and the National Industrial Transportation League (NITL). I also testified before Congress on both maritime and railroad competition issues. In today's terms, I was an active voice in shaping rail transportation policy from the shipper's perspective.

My interest in rail transportation policy did not begin in Washington. It began with lessons learned in the field.

In 1976, I joined International Paper's corporate traffic group at the company's New York headquarters. At the time, the paper and wood products supply chain was heavily dependent on rail transportation, and International Paper was one of the nation's largest rail customers. Senior railroad executives regularly met with our transportation group to discuss service, rates, and industry issues. In today's terms, International Paper was an influential voice within the rail industry.

In 1978, International Paper transferred my boss and me to Portland, Oregon, to manage the transportation department for the company's Western Region sales and operations office. We quickly discovered that while International Paper's New York headquarters commanded considerable attention

from the railroads, our regional office did not enjoy the same standing within the Pacific Northwest rail community.

What surprised me even more was that several much smaller regional forest products companies appeared to have greater influence with the railroads on transportation issues than we did, despite International Paper's substantially larger rail traffic volumes and transportation spending.

That experience taught me an important lesson early in my career: influence within the rail industry was not determined solely by the size of a company's rail budget. Companies that were knowledgeable, engaged, and active in transportation policy often had a stronger voice than their freight volumes alone would suggest.

That realization ultimately led me to become deeply involved in national shipper organizations and rail transportation policy.

In 1988, I joined Himont, a producer of polypropylene resins. Rail transportation was not simply important to our business—it was fundamental. Virtually all of our finished product was loaded directly into covered hopper cars and moved by rail to customers throughout North America.

Himont operated two major manufacturing facilities with very different competitive circumstances. Our West Lake Charles, Louisiana, plant was served by multiple rail carriers, including Southern Pacific (now Union Pacific). Our Bayport, Texas, facility, however, was served exclusively by Southern Pacific.

It did not take long to recognize how those different competitive positions shaped our commercial negotiations with Southern Pacific. In my experience, the captive traffic moving from Bayport became an important factor in our broader discussions with the railroad. From Southern Pacific's perspective, these negotiations were often described as "bundled" business. From the buyer's perspective, however, they resembled a tying arrangement in which the economics of our captive traffic influenced the competitive options available for traffic moving from West Lake Charles.

I also came to another realization. Although Himont was a significant rail customer within the plastics industry, polypropylene resin was essentially our only rail-shipped product. Many of our larger competitors shipped a much broader mix of commodities—including chemicals transported in tank cars—which gave them substantially greater commercial leverage in their negotiations with the railroads. Their bargaining position extended well beyond polypropylene resin, allowing them to negotiate across a much larger portfolio of rail traffic.

I observed the same dynamic within the Washington, D.C., trade associations. The larger companies often played a leading role in shaping transportation policy priorities. Commercial influence and policy influence frequently went hand in hand.

That lesson immediately reminded me of what I had learned years earlier in Portland. Influence within the rail industry was not determined solely by transportation spend or shipment volume. Commercial leverage was not either. Companies that possessed a broader portfolio of rail traffic—and those that actively participated in transportation policy—often had a stronger voice than their freight volumes alone would suggest.

That realization reinforced my belief that if our company was going to have a stronger voice on the transportation issues affecting our business, we needed to earn a seat at the table through active participation in national rail policy and shipper organizations.

That became our strategy during the Union Pacific–Southern Pacific merger proceeding. One of our principal objectives was to obtain a more competitive transportation option for our captive Bayport facility. The merger proceeding provided an opportunity to pursue that objective and to ensure that our company's concerns were heard.

That decision ultimately placed me at the center of many of the most significant rail transportation policy debates of the era.

When Speaking Candidly Came at a Cost

Shortly after the Union Pacific–Southern Pacific merger became effective—but before the well-known service meltdown that followed—ICC Chairman Linda Morgan invited representatives of the plastics industry to participate in what was described as an informal discussion about our early experiences with the merger.

The meeting was not held at ICC headquarters. Instead, it took place in a hotel conference room across the Potomac River in Virginia. There was no formal docket, no public notice, and no hearing record. The meeting was presented as an opportunity for an open, candid fireside conversation in which shippers could freely discuss what they were observing during the early stages of the merger.

Like the other participants, I believed Chairman Morgan and her staff were genuinely interested in hearing our experiences. I spoke openly about the issues I believed were important from the perspective of a major rail customer.

Later that same day, after returning to Himont's headquarters in Wilmington, Delaware, I was summoned to my director's office. I was told, in no uncertain terms, that I should not have attended the meeting and that I should not have made the comments I did. Management was so upset that I was informed the incident would be reflected negatively in my annual performance review.

At the time, I had no idea why the reaction inside my company was so severe.

I later learned that shortly after the meeting, Union Pacific's Washington government affairs office requested a transcript of the discussion from the ICC. Because the meeting had been organized by a public agency, the agency provided the transcript.

Only later did I learn that, after obtaining the transcript, Union Pacific contacted members of Himont's senior management. As it was explained to me, Union Pacific expressed disappointment with my participation and comments, stating that it believed there had been an understanding that I would "cool my jets" following earlier discussions with the company.

Whether such an understanding actually existed between Union Pacific and my senior management was not something I could independently verify. I can only describe what was later conveyed to me.

What became clear, however, was that my participation in what I believed to be an informal discussion with regulators had become the subject of communications between Union Pacific and my company's senior leadership.

The message, as I understood it, was unmistakable. Speaking candidly about the merger had consequences that extended far beyond the meeting itself.

That experience fundamentally changed my view of the relationship between railroad mergers, regulatory oversight, and railroad power. It demonstrated, from my perspective, how vulnerable a shipper representative could become after speaking candidly about the conduct of a dominant railroad.

The consequences extended well beyond the meeting itself. They affected my standing within my company and, ultimately, my livelihood.

For me, this was more than an isolated incident. It illustrated how commercial power could extend beyond the marketplace and into the regulatory process itself. Whether intentional or not, the message I received was unmistakable: speaking candidly about the conduct of a major railroad could carry personal and professional consequences.

Nearly three decades later, as I followed Union Pacific's recent correspondence concerning critics of the proposed Union Pacific–Norfolk Southern merger, I found myself remembering that earlier experience.

The circumstances are different, and readers should draw their own conclusions. From my perspective, however, the similarities were difficult to ignore.

They reminded me that concerns about retaliation against those who openly criticize railroad issues are not new.

That is the lasting lesson I carried away from the Union Pacific–Southern Pacific merger. The issue was never simply about one meeting, one transcript, or one performance review.

It was about whether shippers could participate openly in the regulatory process without concern that doing so might adversely affect their careers or their livelihoods.

APPENDIX E

The Eagle Pass Agreement and the Meaning of "Enhanced Competition"

Bob Granatelli | LinkedIn | July 25, 2026

Related principal comments: §§ II–IV

The recent announcement that Union Pacific and Canadian National have reached an agreement providing CN access to Eagle Pass has generated considerable discussion throughout the rail industry.

Beyond its immediate commercial significance, however, the agreement raises a broader question: Does it enhance rail-to-rail competition as that term is used by the Surface Transportation Board when evaluating major railroad mergers?

Ironically, the best framework for answering that question comes from Union Pacific itself.

Part I — Union Pacific Already Explained the Economics

During the Canadian Pacific–Kansas City Southern merger proceeding, Finance Docket No. 36500, Union Pacific argued that control of one portion of a cross-border movement could be used to influence competition on another portion of that same movement.

The example presented by UP was remarkably straightforward.

Assume a shipment originates in Mexico.

The KCSM rate from the Mexican origin to Laredo is $100.

Union Pacific's rate from Laredo to the final U.S. destination is $100.

The total transportation cost using KCSM and UP is therefore $200.

UP argued that after the merger, CPKC could increase the Mexican portion of the movement from $100 to $110. UP's rate would remain $100, making the total interline movement cost $210.

At the same time, CPKC could reduce the revenue attributed to its own U.S. segment so that its single-line rate to the customer remained $200.

Nothing changed physically.

Nothing changed operationally.

Only the commercial allocation of revenue changed.

Yet the shipper would now see one routing priced at $200 and the competing routing priced at $210.

Naturally, the traffic would move via CPKC.

Result: Nothing changes physically. The tracks are the same. The service can be the same. Only the commercial allocation of revenue changes. Yet the competing UP routing becomes $10 more expensive, causing traffic to migrate to CPKC.

Union Pacific's point was not that Mexican rates were inherently unreasonable. Rather, its concern was that control of the movement created the commercial leverage to influence competition elsewhere in the transportation chain.

The important point is that this economic principle has little to do with how the railroad physically operates the movement. Whether service is provided under trackage rights, haulage rights, or some other operating arrangement is largely irrelevant to the commercial analysis.

The rail buyer does not purchase trackage rights or haulage rights.

The rail buyer purchases a transportation product.

If a railroad can market a longer single-line commercial movement, it acquires greater pricing leverage over that movement. That commercial reality—not the underlying operating arrangement—is what Union Pacific argued could influence competitive outcomes in Finance Docket No. 36500.

That discussion was not simply about Mexico or the CPKCS merger. It established a broader economic principle: when one railroad controls the longest uninterrupted commercial portion of a movement, it acquires leverage that can influence routing and pricing decisions throughout the transportation chain.

The question is whether that same principle helps explain the competitive implications of the Eagle Pass agreement.

Part II — Applying Union Pacific's Logic to the Eagle Pass Agreement
Part I explained why commercial control of one segment of a movement can influence competition on another.

Part II asks a related question:

What happens when a railroad expands the commercial transportation product it can offer to the market?

Before the Eagle Pass agreement, CN-origin Canadian traffic destined to Central Mexico required an interchange with a U.S. connecting carrier. Depending upon the destination, commercial arrangements, and preferred gateway, the movement could be assembled with:

CN → Union Pacific → Eagle Pass → Mexico
CN → BNSF → Eagle Pass → Mexico
CN → Union Pacific → Laredo → Mexico
CN → CPKC → Laredo → Mexico

Those carrier combinations represented commercially meaningful alternatives available to Canadian rail buyers.

Although bottleneck pricing and long-haul economics undoubtedly influenced those negotiations, buyers nevertheless retained multiple commercially viable ways to assemble transportation to Central Mexico.

The Eagle Pass agreement changes that commercial structure.

By creating a Canada-to-Mexico commercial transportation product through Eagle Pass, CN can now market a longer uninterrupted movement to rail buyers. Whether that product is supported by trackage rights, haulage rights, or another operating arrangement is secondary.

From the buyer's perspective, the product is offered as one continuous commercial movement.

That distinction is important.

The practical consequence is not simply that CN now has access to Eagle Pass.

However the more significant consequence is that Canadian rail buyers located on CN no longer need to assemble as many movements using competing U.S. carrier combinations.

Before the agreement, CN-origin traffic destined to Central Mexico generally required the participation of a U.S. connecting carrier through either Eagle Pass or Laredo. Those carrier and gateway combinations created opportunities for Union Pacific, BNSF, and CPKC to compete for portions of the movement.

The new commercial offering allows CN to bottleneck price longer movement from Canada to Eagle Pass. By doing so, CN gains the commercial incentive to price for the long haul.

That is the same commercial behavior seen after the Wisconsin Central–CN transaction. When a railroad expands the length of the movement under its commercial control, it naturally prices to retain that longer haul. There is nothing improper about that. It is a predictable result of railroad economics.

But it also has competitive consequences.

The longer CN-controlled movement reduces the practical importance of competing U.S. carrier combinations for many shipments. BNSF's opportunity to participate through Eagle Pass is diminished. CPKC's opportunity to compete through Laredo is affected because CN can now offer a competing Canada-to-Mexico product over Eagle Pass. Union Pacific remains involved because the movement uses its network to reach the border, but the buyer's opportunity to choose among independent U.S. carrier combinations is narrowed.

Viewed solely from the perspective of railroad networks, the agreement may appear to create another Canada-to-Mexico service offering.

Viewed through the eyes of the rail buyer, however, the effect is different.

The relevant question is not simply whether another route appears on a map.

The relevant question is whether the buyer retains the same commercially meaningful ability to choose among competing railroads and gateways.

For many CN-origin movements to Central Mexico, the answer appears to be no.

The agreement creates a longer commercial movement under CN's control. By its nature, that reduces the rail buyer options to select among competing U.S. carrier combinations over a substantial portion of the entire route.

This is precisely the type of commercial effect Union Pacific warned the Surface Transportation Board about during the CPKCS merger proceeding.

In that case, UP argued that control of the Mexican rate component could influence competition for the U.S. portion of the movement.

Here, the same principle operates in the opposite direction.

CN’s control of the long-haul commercial offering from Canada to Eagle Pass can influence which carriers retain a practical opportunity to compete for the movement.

The geography has changed.

The underlying economic principle has not.

Conclusion — Looking Through the Eyes of the Rail Buyer
The Surface Transportation Board’s merger regulations require that major mergers enhance competition—not simply create stronger railroads or longer single-line services.

That distinction is critical.

Railroads naturally seek longer hauls. Longer uninterrupted movements provide greater pricing leverage , thus stronger revenue opportunities. and increased commercial leverage. There is nothing improper about that. It is simply the economics of the railroad business.

The more difficult question is whether those same economics reduce the commercially meaningful choices available to rail buyers.

The Eagle Pass agreement illustrates why competition must be evaluated through the eyes of the buyer.

On paper, CN now has a Canada-to-Mexico single-line commercial route through Eagle Pass. That gives CN the pricing power through Bottleneck pricing. As CN controls the origin and destination, through this new arrangement they, and under the principals of bottleneck pricing, don't have to offer rates over a gateway so another carrier can participate in the movement.

That is not necessarily enhanced competition.

But strengthening one railroad’s commercial position is not the same thing as expanding the choices available to the rail buyer.

The irony is difficult to ignore.

During the CPKCS merger proceeding, Union Pacific correctly argued that control of the long-haul portion of a cross-border movement creates commercial leverage capable of influencing competitive outcomes elsewhere in the transportation chain.

The Eagle Pass agreement demonstrates that same economic principle today.

Whether one supports or opposes the agreement is almost beside the point.

The more important question is whether extending one railroad’s single-line commercial reach while reducing the number of commercially meaningful carrier and gateway combinations available to Canadian rail buyers satisfies the Surface Transportation Board’s requirement that competition be enhanced.

In my view, that question should be answered the same way Union Pacific asked the Board to answer it in Finance Docket No. 36500—by looking through the eyes of the rail buyer rather than simply through the structure of the railroad network.

Ultimately, enhanced competition is not measured by how many additional miles one railroad can serve.

It is measured by how many meaningful commercial choices remain available to the rail buyer.

APPENDIX F

The Competitive Gateway Program: Does It Meet the Board's New "Enhance Competition" Standard?

Bob Granatelli | LinkedIn | July 28, 2026

Related principal comments: §§ IV–V

A formula is not a demonstration of enhanced competition.

The proposed Union Pacific–Norfolk Southern merger is the first major railroad merger to be evaluated under the Surface Transportation Board's revised merger regulations. That is significant because the Board raised the standard for approval. Applicants must now do more than describe the traditional public benefits associated with railroad mergers. They must demonstrate that the transaction enhances rail-to-rail competition.

The Competitive Gateway Program (CGP) appears to be the applicants' principal effort to satisfy that new requirement. The question, however, is whether it does.

CGP is a formula for constructing confidential through rates. Whether that formula makes it easier to market through service is not the central issue before the Board. The Board's responsibility is to determine whether the proposed merger enhances competition. Those are not necessarily the same thing.

It is also worth noting that, as of the date of this article, I am not aware of any public filing indicating that either CSXT or BNSF has agreed to participate in the proposed CGP. If such commitments exist, they have not yet been identified in the public record. That observation does not determine whether CGP ultimately succeeds or fails. It does, however, illustrate that the Board is evaluating a proposal whose practical implementation may ultimately depend upon the commercial decisions of other railroads.

The Real Competitive Issue

For many Rule 11 rail buyers, constructing through rates has never been the difficult part. Industrial rail buyers have negotiated separate commercial agreements with multiple railroads for decades and routinely assemble complete transportation movements through individual carrier agreements.

The challenge has never been assembling a through movement.

The challenge has been preserving meaningful competitive choices.

That distinction is important because it changes how the proposed remedy should be evaluated. If the competitive issue facing rail buyers is not the ability to construct a through rate, then providing a formula for constructing one does not necessarily resolve the underlying competitive concern.

Gateway Protocols Determine Buyer Options

Today's rail marketplace is shaped by more than the physical rail network. It is equally shaped by commercial gateway protocols. Those protocols determine where traffic is interchanged, which routing options are commercially available, and ultimately the choices available to rail buyers.

As a practical matter, a buyer may have only one commercially available gateway because of the existing protocol structure, even though several physical routes exist.

For Rule 11 buyers, gateway selection is far more than an operating issue. The location of the interchange affects each carrier's portion of the movement, influences commercial negotiations, and ultimately determines the buyer's total transportation cost.

If today's gateway protocols already limit buyer options, then a formula for constructing confidential through rates does not, by itself, expand those options. It changes how a through rate may be assembled, but it does not appear to change the commercial practices that determine where traffic is actually interchanged.

That distinction is fundamental. The issue is not whether a through rate can be constructed. The issue is whether the buyer has more competitive choices after the merger than before it.

Gateway Creep

That leads to what I believe is the central competitive question before the Board.

Railroad mergers do not leave commercial routing practices frozen in time. Traffic patterns evolve, operating plans change, and interchange locations often migrate as the combined network is optimized. I have referred to this gradual process as gateway creep.

A gateway may remain technically available while traffic is increasingly routed through a different interchange that better serves the merged railroad's commercial or operating objectives.

Commercially, railroads generally seek to maximize the length of haul they retain. If gateway protocols migrate after the merger, the merged railroad may retain a longer haul while the connecting railroad's haul becomes shorter. That changes the economics of the movement, alters commercial negotiations, and may ultimately increase the buyer's total transportation cost. Railroads price for the long haul. More importantly they also practice Bottleneck pricing to eliminate competition at dual served points.

We have seen examples of this dynamic before. Following the CN–Wisconsin Central transaction, commercial routing for certain traffic shifted from Chicago to Memphis. The issue was never whether Chicago remained a technically available gateway. The issue was that changing the interchange point altered the economics of the movement for both the connecting railroad and the customer. That experience illustrates why gateway protocols matter every bit as much as gateway access.

For Rule 11 buyers, those changes are not merely operational. A buyer may technically retain access to a competing railroad while losing the commercial advantages that previously existed.

The Information Still Missing

This is where I believe the application leaves several important questions unanswered.

What will the post-merger gateway protocols actually be?

Will today's gateway practices remain in place?

Will buyers retain the same commercial routing options they have today?

Will existing interchange points continue to be used?

Or will gateway selection gradually migrate in ways that change transportation costs and reduce buyer options?

The practical scope of the proposed remedy also deserves closer examination. Based on the published eligibility criteria, certain categories of traffic—including storage-in-transit (SIT) movements—appear to fall outside the scope of CGP. That is particularly relevant for Gulf Coast plastics traffic, where SIT is often an integral part of the supply chain rather than an exception. If significant categories of plastics traffic are not eligible for the proposed remedy, then the Board should understand how much of the traffic most likely to be affected by the merger is actually covered before concluding that competition has been enhanced.

Without understanding the post-merger gateway protocols—and without understanding the practical scope of the proposed remedy—neither rail buyers nor the Surface Transportation Board can realistically determine how the economics of Rule 11 movements will change. Nor can they determine whether gateway creep will alter transportation costs, diminish buyer leverage, or reduce the practical ability of competing railroads to compete for traffic.

Why the New Merger Rules Matter

Railroad merger applications have historically emphasized anticipated public benefits. We have heard promises of trucks coming off the highway, watershed traffic growth, improved service, operating efficiencies, and other expected advantages. Those themes were common under the Board's previous merger guidelines.

The Board's revised merger regulations raised the standard. The question is no longer simply whether a merger may produce public benefits. The Board must determine whether the transaction enhances rail-to-rail competition.

CGP appears to be the applicants' principal response to that new requirement. In my view, however, a formula for constructing confidential through rates does not, standing alone, demonstrate enhanced competition. The more important competitive questions remain unanswered because they depend upon how competition will actually function after the merger.

That is particularly true if important elements of the proposal remain unresolved. As of this writing, I am not aware of any public filing indicating that either CSXT or BNSF has agreed to participate in the proposed Competitive Gateway Program. Likewise, if significant categories of traffic—such as Gulf Coast plastics traffic moving under storage-in-transit (SIT) arrangements—are outside the program's eligibility, then the Board should understand the practical scope of the proposed remedy before concluding that competition has been enhanced.

These observations illustrate that a formula for constructing confidential through rates, standing alone, cannot answer the broader competitive questions the Board's new merger rules require it to answer.

The Question Before the Surface Transportation Board

Ultimately, the issue before the Surface Transportation Board is not whether the applicants have developed a formula for constructing confidential through rates. The issue is whether they have demonstrated that rail buyers will have greater competitive opportunities after the merger than they have today.

That determination requires more than evaluating the mechanics of the CGP formula. It requires understanding how competition will actually function after the merger. It requires understanding whether today's gateway protocols will remain in place, where future gateway interchanges will occur,

whether Rule 11 buyers will retain meaningful routing options, and how those decisions will affect transportation costs and commercial leverage.

Until those questions are answered, it is difficult to measure the merger's competitive effects. More importantly, it is difficult to conclude that the proposed transaction satisfies the Board's new requirement to enhance competition.

Perhaps the central question raised by this application is this:

Has the applicant demonstrated enhanced rail-to-rail competition, or has it demonstrated a formula for constructing confidential through rates while leaving the more consequential questions about gateway protocols, gateway creep, buyer choice, and the practical scope of the proposed remedy unanswered?

APPENDIX G

Enhanced Competition: The View from the Rail Buyer's Desk

Bob Granatelli | LinkedIn | July 29, 2026

Related principal comments: §§ II

A practical look at how transportation decisions are actually made inside manufacturing companies.

The Surface Transportation Board's revised merger regulations require applicants seeking approval of a major railroad merger to demonstrate that the transaction will enhance competition. That standard lies at the heart of the Board's review process.

The applicants have presented extensive economic testimony explaining why they believe the proposed Union Pacific–Norfolk Southern merger satisfies that requirement. Their analyses rely on accepted economic tools and methodologies to evaluate competitive effects.

My perspective is somewhat different.

For more than four decades, I purchased rail transportation for major manufacturing companies. My responsibility was not to develop economic models. It was to support manufacturing operations, serve customers, negotiate transportation agreements, and balance the often competing objectives of sales, operations, finance, and logistics.

That experience leads me to ask a simple question.

Do the economic assumptions used to demonstrate enhanced competition accurately reflect how transportation decisions are actually made inside manufacturing companies?

I believe that question deserves careful consideration because competition is ultimately experienced not in an economic model, but in the day-to-day decisions made by rail transportation buyers.

The observations that follow are not intended to challenge economic theory. Rather, they are intended to complement it by examining how transportation decisions are made in the real world.

What Is a BEA—and Is It a Meaningful Measure of Rail Competition?
A Bureau of Economic Analysis (BEA) economic area is a broad regional market developed by the U.S. Department of Commerce. It is designed to measure patterns of employment, commuting, trade, and overall economic activity. In other words, a BEA describes how a metropolitan area and its surrounding communities function as a regional economy.

That can be useful for many forms of economic analysis. However, a BEA was not created to measure railroad competition.

The Surface Transportation Board's new merger regulations recognize that BEAs can be useful analytical tools. Under 49 CFR § 1180.6(b)(2), applicants may define points as individual stations or as larger geographic areas, "such as Bureau of Economic Analysis statistical areas," when relevant to their analysis. That flexibility is appropriate because BEAs can help describe regional economic activity. The question is not whether BEAs may be used—they clearly may. The question is whether a BEA, standing alone, is a meaningful measure of rail competition.

The problem is that a BEA treats businesses located within the same regional economy as though they participate in the same geographic market. For rail transportation, that assumption can be misleading. Two facilities may be located within the same BEA—and may even be only a short distance apart—yet face very different transportation circumstances.

That is why BEA-level analysis can create the appearance of competition without demonstrating that competition actually exists. It identifies businesses operating within the same economic region, but it does not establish that those businesses face comparable rail alternatives or that the transportation choices available to one meaningfully constrain the rates or service offered to another.

Simply put, rates are not made to a BEA. Rail buyers negotiate transportation agreements from a specific origin to a specific destination over a specific railroad or combination of railroads. Those agreements apply only to those specific traffic movements—not to every shipper or every facility located within the same BEA.

Simply put, facilities located on the FEC In Pompano, FL are captive to the FEC. The presence of the CSXT/TriRail corridor running immediately alongside does not mean it provides a competitive transportation option to a rail buyer.

Article content
Pompano, Florida
It is also important to recognize what a BEA does not measure. A BEA identifies a regional economy, not a competitive market. Simply because two shippers of the same product are located within the same BEA does not establish that they compete with one another or that the transportation costs of one shipper influence the transportation costs of another. Their CSXT transportation agreement and FEC transportation agreement are not linked simply because the facilities are located within the same BEA.

A BEA is an economic geography. It is not, by itself, a measure of competitive rail transportation.

Who Really Makes Transportation Decisions?
One of the biggest misconceptions about transportation is the belief that the transportation manager is the company's "master of the domain." In reality, transportation decisions are rarely made in isolation. They are the product of multiple business functions, each with its own objectives and priorities. The transportation manager's responsibility is not to override those priorities, but to develop transportation solutions that support the broader objectives of the business.

Within most manufacturing companies, transportation is only one voice at the table.

Sales and Marketing want to win and retain customers. Their priorities are customer service, dependable delivery, and growing revenue.
Manufacturing and Plant Operations have different priorities. Their success depends on uninterrupted production. That means dependable railcar supply, timely switching, and avoiding service disruptions that can idle a production line.
Finance and Accounting view transportation through another lens. They focus on total delivered cost, profitability, working capital, and return on investment. They ask whether the transportation solution makes economic sense.
Transportation and Supply Chain bring yet another perspective. Their responsibility is to develop transportation solutions that balance cost, service, equipment availability, customer requirements, and operational reliability while supporting the broader objectives of the business.

The importance of each of these perspectives varies from company to company and from industry to industry. Commercial terms of sale may determine who controls the transportation decision. Likewise,

the significance of transportation cost depends on the product being sold and the economics of the business.

Real-world experience illustrates why transportation is only one part of a much larger decision-making process.

For example, a colleague of mine joined a major food manufacturer that had historically shipped finished products by rail from its production facilities to company-owned regional distribution centers. When he visited those facilities, he noticed that the rail sidings remained in place even though the company had shifted the traffic to motor carriers.

Believing there might be an opportunity to obtain rail rates comparable to trucking, he suggested the idea after returning to headquarters. The response surprised him. He was strongly advised not to raise the issue with senior management because the existing truck-based supply chain produced smoother operations for both the manufacturing plants and the distribution centers. The operational benefits outweighed any potential transportation savings, and the plant and distribution managers would have opposed returning to rail service.

Another common example involves customer qualification. In many industries, a customer cannot simply begin receiving product from a different manufacturing location because transportation economics appear favorable. Sales must first develop the commercial opportunity, and both the supplier's and customer's quality organizations may have to qualify the product from that specific manufacturing location before shipments can begin. Transportation supports that decision—it does not make it.

It is also important to recognize that many manufacturing facilities already operate near practical capacity, and many customers already have established sources of supply. In those circumstances, serving a new customer or a new destination often does not create additional production. Instead, it reallocates existing production from one origin-destination movement to another.

For example, if a customer already receives product from an NS-served manufacturing location, and after a UP–NS merger that customer instead begins receiving the same product from a UP-served manufacturing location via a new single-line UP–NS movement, the result may simply be a shift in origin-destination traffic. One movement replaces another; it does not necessarily represent new demand or additional production. Or for that matter, an example of enhanced competition.

Transportation decisions are therefore the product of business strategy, not simply transportation opportunity. They reflect the combined objectives of sales, manufacturing, quality, finance, and supply chain management. Transportation professionals execute those decisions—they do not make them in isolation.

Where This Discussion Leads

These first two sections do not answer whether the proposed merger enhances competition. They establish the framework for evaluating that question.

My perspective is grounded in a career purchasing rail transportation and participating in the business decisions that determine how freight moves. My purpose is to examine whether the assumptions underlying the applicants' economic analysis accurately reflect the commercial realities of how transportation decisions are made inside manufacturing companies.

Only by combining sound economic analysis with an understanding of commercial decision-making can we fully evaluate whether a proposed merger satisfies the Surface Transportation Board's requirement to enhance competition.

APPENDIX H

Prime Shows Its Customers the Score. How Will UP–NS Measure the Service It Promises?

Bob Granatelli | LinkedIn | August 18, 2026

Related principal comments: §§ X

The photograph accompanying this article was taken in the lobby of Prime Inc.'s corporate headquarters in Springfield, Missouri. You don't have to ask what Prime considers important. The company's service performance is right there on the wall for employees, customers and visitors to see.

That image came to mind as I considered the service promises being made in the proposed Union Pacific–Norfolk Southern merger. The merger has generated an extraordinary amount of discussion about faster trains, fewer handoffs, frictionless gateways and the hours that could be removed from freight movements by creating the nation's first transcontinental railroad.

Those may all be legitimate operating benefits. But Prime's scoreboard raises a more fundamental question that receives surprisingly little attention: What exactly is the service product being sold to the rail customer—and how will we know whether UP–NS actually delivers it?

For many rail buyers, saving 12 or 24 hours from an average transit time is not the most important measure of service. Nor is train velocity, terminal dwell or the number of intermediate handlings. What matters is considerably simpler: When will my car arrive—and can I plan my business around that answer with a high degree of confidence?

That distinction matters because railroads are not simply transportation networks. They are service businesses operating inside increasingly sophisticated supply chains. Remarkably, the railroad industry was wrestling seriously with this very question nearly half a century ago.

Start With “Reasonable Dispatch”

To understand the problem, it helps to begin with what a railroad is actually obligated to provide.

The Uniform Straight Bill of Lading prescribed under federal regulation contains language with deep roots in railroad common-carrier law. A railroad is not bound to transport freight by any particular train or to deliver it in time for any particular market. Its obligation is to transport the shipment with “reasonable dispatch.”

That is an important legal protection, and understandably so. Railroads operate complicated networks subject to weather, mechanical failures, congestion, crew availability, derailments and countless other disruptions. No transportation company can reasonably guarantee that every shipment will arrive at a precise time.

But translate “reasonable dispatch” into the language of a modern supply-chain manager and it can sound uncomfortably close to “we will try.”

That may establish an appropriate legal floor. It is not necessarily a competitive service product.

Today's manufacturers must plan production, inventories, labor, warehouses, customer deliveries and equipment requirements. They don't necessarily need a guarantee, nor should a railroad's service target automatically become a legal commitment every time something goes wrong. But customers do need enough predictability to plan their businesses.

That is where an almost forgotten Missouri Pacific experiment becomes remarkably relevant.

Missouri Pacific Tried Something Different

During the 1970s, Missouri Pacific developed its Transportation Control System, or TCS. One of its most ambitious components was Freight Car Scheduling, or FCS.

The concept went far beyond tracing a freight car. Instead of simply telling a customer where a car had last been reported, FCS attempted to determine where that car should be. An individual freight car was given a trip plan. Its movement through the railroad was scheduled over trains and through terminals toward its destination. Contemporary technical literature defines freight-car scheduling in essentially those terms: assigning a car a trip plan describing when it should move on specific trains or jobs to destination.

That created something extraordinarily important: a benchmark against which the railroad could compare what was supposed to happen with what actually happened.

The Federal Railroad Administration considered the idea important enough to award Missouri Pacific roughly $5.5 million to help develop freight-car scheduling, in part because FRA believed the concept might have broader application throughout the railroad industry. Contemporary reporting said the federal support was intended to help develop the program so it could potentially be used by other railroads.

This was the 1970s. The computing power available to Missouri Pacific was primitive by today's standards. Yet the objective was remarkably modern: use information and scheduling to make freight transportation more reliable and more useful to the customer.

And this wasn't merely an interesting computer experiment.

FRA Asked Whether It Actually Worked

Perhaps the most important part of this history is that FRA didn't simply fund development and declare success. The system was tested.

An independent FRA-sponsored evaluation published in 1981 examined Missouri Pacific's Freight Car Scheduling program. The evaluation found improvements attributable to FCS in service reliability and transit time, along with improvements in yard detention, train miles and yard-engine hours.

In other words, FCS worked.

Not perfectly. Not magically. And not without substantial operating complexity. But nearly 50 years ago, a railroad and the federal government demonstrated that planning the movement of individual freight cars could produce measurable improvements in reliability. Later analysis of the FRA/MoPac results also reported improvement in the percentage of cars departing yards in accordance with their trip plans.

Union Pacific subsequently acquired Missouri Pacific. UP retained and expanded the broader TCS technology, but the original MoPac freight-car scheduling implementation was not carried forward in the same form. The technology survived and evolved.

The more interesting question is what happened to the philosophy.

The Hard Part Wasn't the Computer

It would be tempting to stop here and argue that modern railroads should simply recreate Missouri Pacific's FCS. That would badly underestimate the complexity of railroad operations.

A freight-car schedule is only as good as the railroad's ability to execute it. Nowhere is that more apparent than inside a classification yard.

A single-car shipment may have to move through several major terminals before reaching its destination. At each one, the car must progress through a sequence something like this:

Arrival → inspection → classification → assembly → outbound inspection → departure on the appropriate train.

Every step takes time, and every terminal creates another critical connection. The car doesn't merely need to get through the yard; it needs to get through the yard in time to make the outbound train contained in its trip plan.

That is why an important 1994 MIT study by Michael Duffy examining CSX's Radnor Yard in Nashville is so useful. Duffy didn't merely ask how long cars spent in Radnor. He studied variability.

The study calculated a predicted average processing time through Radnor of about 19 hours, but the standard deviation was almost 11 hours. Moreover, roughly 62 percent of the predicted processing time was idle time.

The problem, therefore, wasn't simply that cars spent too much time in the yard. It was that the amount of time could be highly unpredictable.

A Freight Car Lives or Dies by Its Connections

During the period Duffy examined, there were 428 scheduled connections for which data were available at Radnor. Fifty-one were missed, translating into an approximately 88 percent connection-success rate at a single terminal.

Now consider a car moving through several classification yards. If each connection introduces uncertainty, the probabilities compound. Earlier research cited by Duffy found that a car moving through three or more terminals could have less than a 75 percent probability of still being on its appropriate planned train by the time it reached its destination.

That brings the Missouri Pacific and Radnor research together.

MoPac/FRA FCS tells us that individual-car scheduling can work. Duffy/Radnor tells us what has to happen operationally inside the terminals for that schedule to be credible.

And the buyer doesn't need every terminal to process the car in the minimum possible time. The buyer needs each terminal to process the car predictably enough that the car makes the train in its trip plan.

This distinction is also important when considering today's railroad service metrics. The STB receives and publishes measures such as average terminal dwell. Those measures are useful, but average dwell does not tell us whether an individual freight car made the outbound train contained in its trip plan. A car could have relatively low terminal dwell and still miss its planned connection; another could spend considerably longer in the terminal and nevertheless depart on exactly the train contemplated by its schedule.

For Freight Car Scheduling, therefore, the more meaningful question is not simply “How long was the car in the terminal?” It is “Did the car make the connection it was planned to make?” That measures execution against the transportation plan rather than simply the average amount of time consumed by one part of the railroad's operation.

That's a much more sophisticated definition of railroad service than average velocity, average dwell or “we saved 24 hours.” And it was being studied seriously more than 30 years ago.

Duffy's work also demonstrates why terminals cannot be minimized in any serious discussion of Freight Car Scheduling. A computer can create a beautiful trip plan, but if the planned connection assumes eight hours at a terminal whose actual processing time varies wildly, the plan has little commercial value. The terminal operation is not a footnote to FCS. It is its foundation.

Reliability Is Not the Same as Speed

This distinction deserves particular attention in the proposed UP–NS merger.

The Applicants emphasize the benefits of eliminating interchange, reducing intermediate handling and creating single-line routes. Those efficiencies can undoubtedly have value. But consider two hypothetical transportation products.

One railroad offers an average four-day transit, but actual deliveries vary considerably. Another offers a six-day scheduled transit and delivers the overwhelming majority of shipments within the planned window. For a supply-chain manager, the four-day service isn't necessarily the better product.

Variability has a cost. It requires additional inventory and safety stock, increases equipment requirements and contingency planning, and can interfere with production schedules and customer commitments. For many rail buyers, a predictable six-day railroad can therefore be more valuable than an unpredictable four-day railroad.

That is why saying a merger will eliminate 24 hours of transit doesn't completely answer the customer's question. The customer wants to know whether the car will arrive when the railroad said it would arrive.

And a missed terminal connection can quickly consume the theoretical time saved somewhere else in the network.

PSR Solved a Different Problem

Precision Scheduled Railroading has brought considerable attention to railroad scheduling and operating discipline, but PSR and Freight Car Scheduling begin from different perspectives.

PSR is principally concerned with efficiently scheduling and operating the railroad—its trains, locomotives, crews, yards, network and assets. FCS begins with the customer's shipment: What is the plan for this car, and can the railroad reliably execute it?

The concepts are not incompatible. In fact, a disciplined scheduled railroad ought to make individual-car scheduling easier. But operating a scheduled railroad is not necessarily the same thing as selling the customer a scheduled transportation product.

That distinction is important. A railroad can improve its operating ratio, train length, locomotive utilization, network velocity and average terminal dwell while the customer can still be left wondering when a particular car will arrive.

Today's Technology Changes the Question

The technological limitations facing Missouri Pacific in the 1970s are almost unimaginable today.

Modern railroads have vastly cheaper computing power, sophisticated operating software, AEI car identification, enormous databases, real-time event information and increasingly powerful predictive analytics. They already generate trip plans and estimated arrival times.

The STB's modern Original ETA service metric makes the point particularly well: the Board has focused on the ETA established when the shipper tenders the car, in part because trip plans can otherwise be changed after delays occur.

So perhaps we are asking the wrong question.

It isn't whether the railroad industry can create a reliable individual-car scheduling system. Missouri Pacific and FRA demonstrated nearly 50 years ago that it could. Nor should the question be whether railroads must guarantee every arrival time. No transportation network can eliminate uncertainty, and converting every missed connection into a potential legal claim would create legitimate concerns for carriers.

The commercially relevant question is whether a railroad can provide a service expectation with enough reliability that the customer can plan around it.

The obstacles today may be cost, operating philosophy, willingness to make a measurable service commitment, or some combination of those factors. But it is increasingly difficult to argue that the principal obstacle is computing technology.

A Different Service Culture

In the lobby of Prime Inc.'s corporate headquarters in Springfield, Missouri, visitors and employees can see the company's current refrigerated service performance displayed prominently on a large screen. The photograph accompanying this article shows the board as it appeared on August 18, 2026: 96.5 percent refrigerated service and 97.9 percent refrigerated OTIF.

The message is difficult to miss: service is measured, service is visible, and service performance matters.

I visited Prime many years ago when the company was one of our important core motor carriers. I remember being struck even then by the prominence given to its on-time service performance. It sent a powerful message about the culture of the company: this is the product we sell, and this is how we measure whether we delivered it.

That is the connection to rail Freight Car Scheduling.

The lesson is not that railroads should operate like trucking companies. The operating environments are obviously different. The lesson is that a transportation company can define its service product in

terms the customer understands, measure its performance against that commitment, and make the result visible.

For a railroad, perhaps the equivalent question is remarkably simple:

Did the freight car perform according to the original trip plan the customer was given?

What Does This Mean for UP–NS?

That brings us back directly to the proposed Union Pacific–Norfolk Southern merger.

The Applicants have made improved service an important part of the case for combining the two railroads. The merger application discusses eliminating interchanges and intermediate handlings, creating new single-line routes, reducing transit times and providing faster and more reliable service. Those may all be legitimate benefits.

But they are largely descriptions of how the railroad will operate. They do not necessarily tell the rail buyer what service product will result.

For the customer, eliminating an interchange is valuable only to the extent that it produces a more dependable shipment. Saving 24 hours is valuable only if the resulting transit time is sufficiently predictable for the customer to plan around it. A car that saves 24 hours on paper but then misses its planned connection at a classification terminal may give much of that benefit right back.

That is why terminal operations cannot be minimized in evaluating these promises. A credible trip plan requires credible terminal connections, and credible terminal connections require understanding and controlling the variability inside those terminals. Duffy was studying exactly that at Radnor more than three decades ago.

The merger application therefore presents an opportunity to ask a different question about post-merger service. Rather than focusing primarily on how many hours UP–NS expects to save, how many handlings it expects to eliminate or how much interchange dwell disappears, why not also ask what those improvements will mean for the reliability of the individual customer's shipment?

And perhaps the STB could go further.

If improved service and reliability are important benefits being offered in support of this merger, the Board could consider requiring, as a merger condition, that UP–NS develop and implement a measurable Freight Car Scheduling program for appropriate carload traffic.

The objective would not be for the STB to design train schedules, establish terminal connection standards or tell the railroad how to operate its network. Those responsibilities properly belong to railroad management. Nor would FCS constitute a guarantee that every freight car will arrive at a particular time.

Instead, UP–NS could be required to develop a credible original trip plan for each covered shipment, incorporating the terminal connections necessary to move the car from origin to destination. The complexity of doing that should not be underestimated. The Radnor research demonstrates precisely why. A meaningful trip plan has to reflect what individual terminals can realistically and predictably accomplish, rather than simply inserting optimistic connection times into a computer.

Once such a program is developed and implemented, however, the measurement becomes much more straightforward: Did the car perform according to its original trip plan? Did it make its planned terminal connections? Did it arrive within the service window originally provided to the customer?

The original trip plan should matter. Otherwise, repeatedly revising the ETA as delays occur risks turning service measurement into an exercise in moving the goalposts. That concern is not merely theoretical; the STB itself has emphasized original ETA precisely because changing trip plans after delays can make nominal trip-plan compliance look better than the service the customer actually experienced.

The resulting performance could then be reported to the STB during the post-merger oversight period. That would create a direct and unusually transparent connection between a benefit promised during the merger proceeding and the service actually experienced by customers after the merger.

The Applicants would remain free to determine how best to operate the railroad. The Board would not be managing trains or yards. But rail customers, the Applicants and the Board would have an objective way to determine whether the promised improvement in service reliability actually materialized at the level where it ultimately matters: the individual shipment.

Such a condition would also acknowledge that implementing a real FCS across a combined UP–NS network would take time. It need not exist on Day One. Developing credible terminal processing and connection standards across a network of this size would be serious operational work. The STB could establish an appropriate implementation period, followed by measurement and reporting as part of its post-merger oversight.

That is not an unreasonable technological expectation.

Nearly 50 years ago, Missouri Pacific, with FRA support, developed Freight Car Scheduling using computing technology primitive by today's standards. FRA did not merely fund the experiment; its 1981 evaluation found measurable improvements in service reliability and transit time. Research at Radnor later demonstrated the other half of the equation: a computer-generated schedule means little unless terminal operations are sufficiently predictable for cars to make their planned connections.

Put those two lessons together and the expectation becomes considerably more realistic.

Nobody is asking UP–NS—or any railroad—to guarantee that every car will arrive at a precise hour. Weather happens. Equipment fails. Customers change plans. Networks become disrupted. Reasonable exceptions are part of transportation.

But there is a considerable distance between a guarantee and “reasonable dispatch.”

Today's supply chain needs something in between: a transportation product with a sufficiently high degree of reliability that the buyer can use the railroad's original trip plan to manage inventory, production, equipment and customer commitments.

That should matter when evaluating the service promises being made in support of this merger. The Applicants are asking the STB to accept predictions about the benefits a combined UP–NS network will provide after the transaction is approved. If faster and more reliable service is one of those promised benefits, post-merger accountability should not stop at train velocity, terminal dwell, handlings eliminated or average transit time.

It should ultimately reach the customer's car.

Did the car make the connections in its original trip plan? Did it arrive within the service window the customer was originally given? And, over hundreds or thousands of shipments, how reliably did the railroad deliver against those original plans?

Those are not unrealistic expectations for a railroad in 2026. We know that because a railroad, with FRA's help, demonstrated nearly 50 years ago that individual freight-car scheduling could work.

The UP–NS merger promises a more efficient and reliable railroad. A measurable Freight Car Scheduling program could provide the bridge between that pre-merger promise and the post-merger reality experienced by rail customers.

And perhaps the photograph from Prime's lobby provides the simplest way to think about the issue.

Define the service. Measure the service. Make the results visible.

If improved service is part of the case for approving the merger, the STB should have a way to measure whether customers actually received that improved service after the merger is consummated. Freight Car Scheduling could provide that measure.

APPENDIX I

Public Benefits in a Railroad Merger: Real or Imagined?

Bob Granatelli | LinkedIn | August 21, 2026

Related principal comments: §§ VIII–XI

Who actually gets the benefit when railroad efficiencies, shipper savings and enhanced competition are projected before the merger occurs?

When regulators consider a major railroad merger, one of the largest entries on the positive side of the ledger is usually labeled “public benefits.” The phrase sounds concrete. Historically, it has been anything but.

Public benefits in railroad mergers have included lower operating costs for the railroad, more efficient use of locomotives and freight cars, elimination of interchange, reduced administrative expenses, improved service, projected shipper savings, new marketing opportunities, reduced highway congestion and, more recently, enhanced competition. All can have economic value. But they do not benefit the same people in the same way, and many cannot be observed when a merger is approved because they are predictions about what will happen afterward.

That is what has troubled me as I have gone back through the history of railroad merger decisions. The public-benefits sections of many older decisions often rested on an accepted economic progression: combine the railroads, make the railroad more efficient, and those efficiencies will ultimately produce benefits for shippers and the broader public.

The theory was plausible. The connection between the theory and the commercial experience of an individual rail buyer was much less clear.

That distinction matters now because Union Pacific and Norfolk Southern are asking the Surface Transportation Board to approve a transaction under the tougher major-merger rules adopted in 2001. Before debating the billions of dollars of benefits projected in the application, it is worth asking a more basic question: What exactly is a public benefit, and how did regulators historically determine that one existed?

The Old Merger Story: Efficiency Was the Starting Point

The modern railroad merger movement can reasonably be traced to the ICC's approval of the Union Pacific–Missouri Pacific combination in 1982. It was followed over the next two decades by a succession of transactions that transformed the industry, including Burlington Northern–Santa Fe, Union Pacific–Southern Pacific, the division of Conrail between CSX and Norfolk Southern, and Canadian National–Illinois Central.

The economic case for consolidation was not difficult to understand. Railroads are enormously capital-intensive networks. Combining systems can eliminate redundant yards and facilities, improve locomotive and freight-car utilization, reduce administrative costs, eliminate interchange expense and permit traffic to move over more efficient routes.

The regulatory public-benefits theory followed naturally. A merger would make the railroad more efficient. Lower costs and better operations would then be transmitted through the marketplace in

lower rates, better service or both. The railroad benefited from efficiency, and the public was expected to share in the result.

There was nothing inherently unreasonable about that theory. In a competitive market, lower production costs can indeed be transmitted to customers. But there was an important assumption embedded within it: something had to cause the railroad's internal efficiency to reach the customer.

That something was competition.

This is why I continue to think the old public-benefits concept was, at least to some extent, amorphous. I do not mean that the efficiencies were imaginary. Many were undoubtedly real. The problem was that a benefit realized by the railroad and a benefit realized by the shipper could occupy the same public-benefits ledger even though the economic connection between the two remained partly theoretical.

Dow Raised the Same Concern Before the 2001 Rules

That concern about the amorphous nature of merger benefits is not new. During the debate that led to the STB's 2001 major-merger rules, Dow Chemical pointed Congress to the approach taken by another economic regulator, the Federal Energy Regulatory Commission.

The precise attribution is important. Dow did not originate the phrase. It cited FERC's decision to move away from relying on estimates of what FERC itself had described as “somewhat amorphous net merger benefits.” FERC said that instead of requiring such estimates and debating whether applicants had adequately substantiated them, it would focus on protecting ratepayers if expected benefits failed to materialize. FERC explicitly placed that risk on the merger applicants. FERC later reiterated that policy, explaining that controversies over whether estimates of costs and benefits were meaningful had led it to focus on specific ratepayer protections.

Dow's point was directly applicable to railroads. Its testimony argued that there was a significant gap between the benefits projected when railroad mergers were proposed and the results subsequently experienced by customers. It reviewed the experience of BN–Santa Fe, UP–SP and the Conrail transaction and questioned whether the projected savings, service improvements and competitive benefits had materialized as promised.

The testimony also quoted a particularly telling observation from Fritz R. Kahn, an attorney who had served as General Counsel of the Interstate Commerce Commission. Writing in Traffic World in 1998, Kahn questioned whether the better service, reduced costs and lower rates that had formed part of the premise for previous ICC and STB merger approvals had actually occurred. His larger point was striking: the agencies did not know because neither had systematically studied the effects of the railroad mergers and acquisitions it had approved.

The distinction in the name is worth making. Fritz R. Kahn, the former ICC General Counsel, should not be confused with Alfred E. Kahn, the celebrated economist and leading intellectual figure in transportation deregulation.

Dow summarized the historical problem as a “significant gap between expectations and results.” Its argument was not that railroad mergers could produce no benefits. Rather, customers repeatedly heard projections of large cost savings, improved service and sometimes enhanced competition when a merger was proposed, only to encounter a different reality after implementation.

That history makes amorphous particularly appropriate here—not as a suggestion that merger efficiencies are imaginary, but as a description of the difficulty in moving from a projected railroad efficiency to a measurable benefit received by the customer. The question Dow was raising before the 2001 rules is essentially the question worth asking about UP–NS today: What happens when the forecast meets the commercial marketplace?

A Railroad Saving Is Not Necessarily a Shipper Saving

Railroad pricing makes that distinction especially important. Rates are not generally established by taking the railroad's cost and adding a uniform markup. Pricing also reflects demand and the transportation alternatives available to a particular customer.

Suppose it costs a railroad $1,000 to provide a movement for which a captive shipper pays $2,500. A merger eliminates an interchange and reduces the railroad's cost to $900. Who receives the $100?

If another railroad or transportation mode can realistically take the business, competition may force some of the saving into the marketplace. If the customer has no economically practical alternative, there is no automatic mechanism requiring the railroad to reduce the rate by $100—or at all.

Interestingly, the modern regulation itself recognizes this connection. It says that “to the extent that a merged carrier continues to operate in a competitive environment,” its new efficiencies will be shared with shippers and consumers. The same rule separately recognizes that railroads may face vigorous competition from trucks or water in some markets while shippers in other markets can lose effective options, including intramodal rail competition.

Those three words—“to the extent”—deserve more attention than they usually receive. They acknowledge that efficiency and pass-through are not the same event.

What Did the Historical Record Actually Show?

There is an obvious response to this argument: Rail rates fell dramatically during the period of deregulation and railroad consolidation.

That is true, and any fair examination of public benefits should say so.

The post-Staggers transformation of the freight railroad industry produced enormous gains. Railroads cut costs, improved productivity, right-sized their networks, adopted new technology and expanded into markets such as intermodal. Their financial condition improved substantially. GAO found that industry rail rates generally declined between 1985 and 2000 and, despite an upturn beginning in 2001, remained approximately 20% below their 1985 level in nominal terms by 2004. Because general prices had risen substantially during the same period, the decline in real rates was considerably greater.

That evidence unquestionably supports part of the historical public-benefits story. A more productive railroad industry produced lower real transportation rates for many customers.

But the closer GAO looked, the more complicated the story became.

The Average Rate Concealed Very Different Markets

GAO found that rate changes were far from uniform among commodities. Between 1985 and 2004, coal rates declined substantially, while grain followed a very different path. GAO emphasized that

although rates had declined for most shippers since Staggers, they had not declined uniformly, and some shippers were paying significantly higher rates than others.

The trend also changed with time. After years of broad decline, rates began increasing in the early 2000s. GAO's 2005 update found further increases and continued to examine commodity rates separately rather than relying exclusively on the industry average.

None of this proves that railroad mergers caused those increases. GAO did not make that claim. Capacity constraints, economic growth, costs, traffic changes and other factors also affected rates. GAO did, however, identify continuing industry consolidation, changing competitive circumstances and the emergence of a capacity-constrained environment among factors that could affect pricing.

That is precisely why broad averages are unsatisfactory evidence of merger-specific public benefits. A national rate index can tell us what happened to railroad rates in the aggregate. It cannot necessarily tell us what happened to the customer whose competitive circumstances changed because of a particular merger.

Captive Traffic Told Another Part of the Story

The differences become even more significant when GAO's data are examined through the lens of market power.

The Staggers Act permits differential pricing, while retaining regulatory protection for traffic over which a railroad has market dominance. One commonly used measure is the ratio of revenue to variable cost, or R/VC. Traffic below 180% R/VC cannot be challenged as unreasonably high under the statutory rate process.

GAO found an intriguing divergence. While some measures suggested potential captivity was declining, the share of potentially captive traffic paying the highest rates—rates substantially above the statutory threshold for rate relief—was increasing. GAO was careful not to conclude that this necessarily represented an abuse of market power, but it found that competition and captivity concerns remained.

Those statistics do not prove that every high R/VC rate was unreasonable, nor does a high R/VC ratio by itself establish captivity. GAO was careful about those limitations. Differential pricing was deliberately preserved by the Staggers Act because railroads must recover substantial joint and common costs.

But the data undermine an overly simple narrative in which declining average rail rates establish that the benefits of industry restructuring were distributed similarly across the customer base.

They weren't.

UP–SP Offered an Even Better Test

GAO's examination of the Union Pacific–Southern Pacific merger is especially relevant because it attempted to isolate the effects of an actual merger rather than simply examine national rate trends.

Its analysis illustrated the difference between observing a rate after a merger and determining what portion of that result was actually caused by the merger. That distinction between what happened after the merger and what happened because of the merger goes directly to the problem of proving public benefits. A rate can decline after a transaction because of broader market forces even while the merger itself has placed upward pressure on that rate.

GAO concluded that the Board could make better post-merger judgments if it had evidence separating rate changes attributable to the merger from changes caused by other factors. It recommended that, where appropriate, the Board require information specifically identifying the merger's effects on post-merger rates, particularly in geographic areas where competition may have been reduced.

That lesson remains relevant today.

Service Was Part of the Public-Benefits Story Too

Rates were not the only promised benefit of railroad consolidation. Improved service was routinely part of the public-interest case.

Here again, the retrospective evidence was mixed. GAO's earlier work examined both rate and service-quality changes after consolidation, and the agency's subsequent reports continued to cite that work as part of the historical record requiring closer examination of competition and merger outcomes.

Those were not always econometric measurements of merger causation, and they should not be treated as such. But customer experience is still important historical evidence because improved service had been counted prospectively as a public benefit.

Once again, the forecast and the commercial experience did not always line up neatly.

And that is precisely the historical concern Dow was articulating when it told Congress there was a gap between merger expectations and subsequent results.

The Christensen Study: Competition Matters to the Rate

The STB itself eventually commissioned a much more extensive examination of railroad competition. In 2007 it hired Christensen Associates to assess competition in the U.S. freight railroad industry. Christensen conducted extensive outreach to shippers, railroads, trade associations and other stakeholders and used data from numerous sources, including the Board. Its revised study was released in 2009, followed by an update covering 2007 and 2008.

The importance of that work for this discussion is not that it declared the railroad industry either competitive or noncompetitive. The picture was considerably more nuanced. Rather, it examined rate behavior, costs, productivity, profitability and competitive circumstances at a more granular level than an industrywide average.

That distinction matters. The STB's own decision to commission such a study reflected the difficulty of evaluating competition through a single nationwide rate number.

The commercial circumstances of an intermodal container moving in fierce competition with trucks are not the same as those of a carload of grain, chemicals or forest products moving from a facility with one economically practical railroad. An aggregate index can combine them mathematically. It cannot make their competitive circumstances economically equivalent.

Additional Rate Studies Complicate the Picture

Christensen was not the only effort to understand what happened to railroad rates after deregulation and consolidation. GAO conducted a series of rate studies spanning different periods, including work in 1999, 2001, 2002, 2006 and 2007. The STB has continued the exercise with its own long-running

Rail Rate Index studies. The important point is that the closer these studies came to individual commodities, markets and competitive circumstances, the more complicated the rate story became.

GAO's 2002 study, for example, examined rates from 1997 through 2000 and found that rates generally decreased nationally and for many of the commodities and markets it studied. But the result was not universal. Long-haul wheat and short-haul coal rates stayed about the same or increased, while other commodity-and-distance combinations behaved differently. GAO also found that roughly 30% of shipments remained above the 180% R/VC jurisdictional threshold during the period, with substantial variation among commodities and markets.

That is an important finding for the public-benefits discussion because it demonstrates how much information can disappear inside an average. The statement that rail rates generally declined was true. The statement that every category of rail customer experienced declining rates was not.

The STB's own continuing rate-index work reinforces the need to distinguish the two. Its Annual Rail Rate Index uses the Confidential Carload Waybill Sample and a Tornqvist index designed to control for changing traffic characteristics over time. The Board's 1985–2022 study provides both nominal and inflation-adjusted measures rather than relying simply on average revenue per ton-mile.

That methodology matters because the traffic mix itself changed enormously. A railroad carrying more long-haul intermodal traffic, for example, can produce changes in average revenue-per-ton-mile statistics that say relatively little about what happened to the rate paid by a captive chemical or grain shipper.

The Shipper Studies Told a More Troubling Story

Shipper-sponsored research looked at the data through a different lens.

An Escalation Consultants analysis using Waybill Sample data compared rates for traffic it classified as captive and competitive across commodities including farm products, coal, chemicals, and pulp and paper. It reported that in 2003 captive traffic in the commodities examined was charged about 75% more than competitive traffic, and that by 2007 captive rates for three of the four commodity groups studied had increased much more than competitive rates. The study attributed the result to a combination of tighter capacity, energy prices and railroad market power.

That study should not be treated as interchangeable with the Christensen work. Christensen was commissioned by the STB and conducted a broad examination of the industry. The Escalation work was produced from a shipper-oriented perspective in the policy debate over railroad competition, and its definitions and methodology should be understood in that context.

But the disagreement is itself revealing.

One study can find that real railroad rates declined dramatically over the long term. Another can find that a later period of rate increases was substantially associated with rising railroad costs. A shipper study can simultaneously find that captive traffic within selected commodity and railroad combinations paid substantially more than traffic it classified as competitive.

All of those propositions can be true at the same time.

Later shipper testimony continued to make the same distinction. In congressional proceedings, the American Fuel & Petrochemical Manufacturers cited Escalation research reporting that real rates rose more than 43% while railroad costs rose only 8% between 2004 and 2019, and that revenue from traffic the study classified as noncompetitive increased much more rapidly than revenue from

competitive traffic. Those are shipper-sponsored claims rather than neutral government findings, but they belong in the historical record precisely because they challenge the proposition that aggregate rate performance tells us how customers with limited railroad alternatives fared.

Chemicals Provide a Particularly Useful Example

The commodity differences matter particularly in markets such as chemicals, where large volumes of carload traffic can be highly dependent on rail and where competitive alternatives differ dramatically from location to location.

GAO repeatedly emphasized that the 180% R/VC threshold and other proxy measures cannot by themselves establish captivity. Nevertheless, its studies found significant differences in the proportion of traffic above the statutory threshold depending on commodity, geography and competitive circumstances.

That distinction is particularly relevant to a major railroad merger. A shipper moving automobiles, an intermodal container competing with truck transportation, a unit train of coal and a carload of chemicals from a sole-served plant can all appear in national railroad statistics. They do not necessarily face remotely similar competitive circumstances.

GAO's broader conclusion was appropriately cautious. Rates had declined for most shippers after Staggers, and the railroad industry's financial health had improved substantially. At the same time, some customers were paying significantly higher rates, the industry had consolidated into far fewer Class I railroads, and competition and captivity concerns remained.

That is not a contradiction. It is the railroad market.

The Studies Do Not Give Us One Railroad Rate Story

Taken together, this larger body of research makes it difficult to tell a single story about railroad rates.

The evidence strongly supports the proposition that deregulation and enormous productivity improvements produced substantial reductions in real rail rates over the long term. That is an important part of the historical record and deserves full weight.

At the same time, GAO repeatedly found substantial differences by commodity and competitive circumstance and continuing concerns about customers lacking economically practical alternatives. Shipper-sponsored studies went further, finding large differences between captive and competitive rates within individual commodity and railroad combinations.

The correct conclusion is therefore not that the broad railroad rate studies were wrong. Nor is it that the shipper studies necessarily establish that railroad market power caused every rate increase.

The more important conclusion is that there was never just one railroad rate market in which merger efficiencies could be assumed to flow uniformly to customers.

The post-Staggers railroad industry could simultaneously produce enormous productivity gains, lower average real rates, intensely competitive intermodal pricing and substantially different outcomes for captive carload customers. The studies become more informative, not less, when those distinctions are preserved.

And that strengthens the article's central question. If UP–NS claims that a particular merger efficiency will become a public benefit, an industrywide average after the merger will not tell us whether that

happened. The Board should identify which customers are supposed to receive the benefit, which traffic is affected, what their competitive circumstances are, and whether the promised benefit actually appears in their rates after the transaction.

That is the bridge between the historical rate studies and the new “substantial and demonstrable” standard.

The Market-Basket Problem

This is where I think the historical rate studies become particularly important to understanding public benefits.

Suppose a nationwide rail-rate index contains large volumes of intermodal traffic operating under intense truck competition and carload traffic moving from captive industrial facilities. If competitive intermodal rates fall substantially while captive carload rates remain flat or rise, the combined index can still report that rail rates declined.

That statement may be perfectly accurate. But it tells the captive carload shipper very little about whether the benefits attributed to consolidation reached its market.

This does not mean the government studies simply ignored the problem. GAO increasingly disaggregated its analyses by commodity, market, shipment characteristics and competitive circumstances precisely because an industry average was insufficient. Its 2002 study, for example, separately examined commodity and distance categories and found materially different rate patterns.

The lesson is therefore more interesting than saying the studies were wrong. The more closely researchers examined railroad pricing, the less satisfactory the aggregate public-benefits story became as an explanation of what happened to individual categories of customers.

Contracts Added Another Layer

GAO returned to railroad pricing in 2016, this time examining the contract market. It found that contracts provide both shippers and railroads flexibility but that high rates remained a concern for some customers. The study is particularly useful because contracts dominate much of the actual commercial railroad marketplace and are not captured simply by looking at published tariffs.

That demonstrates something fundamental about the railroad marketplace: the competitive circumstances of the individual movement matter, even when multiple movements sit inside the same commercial relationship with the same railroad.

That is the commercial reality that can disappear when public benefits are measured too broadly.

So Did the Studies Validate the Old Public-Benefits Theory?

The answer is partly.

At the broadest level, the historical evidence strongly supports the proposition that deregulation, restructuring and productivity improvements transformed the railroad industry. The railroads became more efficient and financially healthier. Real rates fell substantially for many customers. New markets such as intermodal expanded. Those are genuine economic accomplishments, and an analysis of public benefits that ignored them would not be credible.

But the evidence does not establish the stronger proposition that merger efficiencies were uniformly passed through to customers, or that a decline in an industrywide rate index proves that a particular merger produced lower prices for the shippers affected by it.

GAO found markedly different rate experiences by commodity and market. Its merger-specific work demonstrated the importance of distinguishing post-merger rate movements from merger-caused rate effects. The Christensen study undertook a far more granular examination of competition, and shipper-sponsored studies reached considerably more troubling conclusions when they separated traffic according to competitive circumstances.

That is a much richer history than either side of the merger debate sometimes acknowledges. The evidence supports the broad railroad-efficiency story, but it also supports skepticism about automatically translating railroad efficiency into shipper realization.

Then the Industry Ran Out of Railroads to Merge

By 2000, the landscape had changed fundamentally. The earlier merger movement had rationalized enormous portions of the railroad network. There were far fewer independent Class I railroads. UP–SP had been followed by a severe service crisis, while the Conrail transaction presented its own integration challenges.

Most importantly, the Board recognized that each additional merger made the loss of rail competition progressively harder to repair. The Board later explained that its pre-2001 rules had become inadequate given the limited merger-related benefits still obtainable from eliminating excess capacity, the significant service disruptions associated with recent mergers, and the possibility that another major transaction could trigger consolidation toward only two North American transcontinental systems.

That was the setting in which the STB rewrote its major-merger rules in 2001. The Board's current major-merger materials identify the June 11, 2001 final rule as the governing Major Rail Consolidation Procedures.

The modern rule now says the Board does not favor mergers that reduce transportation alternatives unless there are “substantial and demonstrable public benefits” that cannot otherwise be achieved. Those benefits include improved service, enhanced competition and greater economic efficiency. Applicants must also address whether claimed benefits could be achieved short of merger.

That was a material change.

But Did the Public-Benefits Theory Really Change?

Yes and no.

The evidentiary burden changed substantially. Competition was elevated. Benefits must be substantial and demonstrable. Applicants must consider whether they can be achieved without consolidation. The Board also built post-merger oversight into the new framework.

But the underlying economic theory survived.

The current rule still recognizes public benefits from eliminating transaction costs, increasing productivity and achieving economies of scale, scope and density. It then says those efficiencies will be shared with shippers and consumers to the extent the merged carrier continues to operate in a competitive environment.

That is why I believe it remains fair to describe both the old and new public-benefits frameworks as theoretical to a degree.

They have to be. A regulator deciding whether to approve a merger must make predictions about the future.

The difference is not theory versus no theory. It is an older framework that placed great weight on projected efficiencies versus a modern framework that demands better evidence, greater merger specificity, more attention to competition and greater accountability for whether the predicted benefits actually occur.

In that sense, perhaps amorphous remains the right word for the historical problem, but not because public benefits lacked economic substance. The problem was the breadth of the category and the difficulty of tracing a projected railroad efficiency all the way into the commercial marketplace.

The contemporary use of FERC's “somewhat amorphous net merger benefits” formulation makes that point especially relevant. The concern existed before the new rules were written. FERC's policy was to put greater emphasis on specific ratepayer protections rather than relying principally on estimates of net merger benefits.

And the new STB rule contains an important answer to the same problem: applicants must suggest measures the Board can take if anticipated benefits fail to materialize, and the Board's formal oversight is to examine whether merger-benefit projections accepted by the Board are actually being realized.

Enhanced Competition Was Supposed to Add Something

The most important substantive addition in 2001 was the elevation of competition.

The Board was confronting an industry in which independent Class I railroads had disappeared one merger at a time. The modern rule says additional consolidation is likely to create anticompetitive effects increasingly difficult to remedy and therefore requires major-merger applications to include provisions for enhanced competition.

Truck competition remained relevant. The regulation expressly recognizes that some rail markets are disciplined by vigorous intermodal competition from motor and water carriers. But the very next part of the rule recognizes that mergers can deprive shippers of effective options, including intramodal competition, and can reduce competition even in end-to-end mergers.

That distinction is crucial to UP–NS.

A merged UP–NS may become a much stronger competitor against trucks, BNSF and CSX. Competitors may respond by lowering prices or improving service, and customers can benefit from that rivalry.

But a stronger competitor is not necessarily a more competitive market. Competition by UP–NS and competition for the rail buyer's business are two different things.

The Efficiency Question: Who Gets the Saving?

UP–NS projects substantial operating and capital efficiencies from combining the networks. There is nothing surprising about that. Eliminating interchange, coordinating operations and integrating two

systems can reduce railroad costs. The applicants' current materials project nearly $1 billion in annual cost synergies by Year 3, along with substantial capital and technology investments.

The first question is whether those efficiencies will actually occur. The second is the public-benefit question: Who receives them?

If competition is the mechanism that causes the efficiency to reach customers, the answer cannot simply be that the combined railroad operates in a highly competitive transportation environment. Competitive with whom, for which traffic?

An intermodal customer with numerous truck alternatives, a dual-served industrial plant and a sole-served chemical facility do not necessarily occupy the same competitive marketplace.

The historical rate studies make that distinction impossible to ignore.

The Single-Line Question: Show Us the Pass-Through

The applicants separately project benefits from converting thousands of existing interline movements to single-line service. Their current materials say the merger would transform approximately 10,000 existing lanes from interline to single-line service.

Part of the economic rationale is familiar: eliminating an interchange can eliminate the pricing inefficiency economists call double marginalization.

But there is still a difference between demonstrating that single-line traffic historically carries lower rates and demonstrating that a merger causes an eliminated second markup to be passed through to the customer.

My difficulty with that proposition comes from the commercial side. In decades of buying railroad transportation, I cannot recall a railroad telling me that because an interline movement had become single-line, the second markup had disappeared and my rate would therefore be reduced accordingly.

That is professional experience, not empirical proof that it has never happened. But the 2001 standard suggests the appropriate response: show us the evidence.

If previous mergers converted interline movements to single-line service and the resulting efficiency was passed through to customers, actual post-merger pricing should provide evidence of it.

The $3.5 Billion Truck-to-Rail Claim Is Different Again

The applicants project approximately $3.5 billion annually in shipper savings from shifting freight from higher-cost truck transportation to rail, associated with an estimated 2.1 million truckloads moving to the combined railroad.

If new UP–NS service genuinely allows a shipper to substitute less-expensive rail transportation for trucking, the resulting saving can be a legitimate public benefit.

But its evidentiary character is different from an internal railroad saving or an observed rate reduction. It depends upon a chain of forecasts: new service must perform as expected, truck traffic must actually divert, and the modeled difference between truck and rail costs must approximate the saving actually experienced by the customer.

It is therefore a modeled counterfactual benefit, not an observed saving.

There is another distinction. Truck-to-rail diversion may demonstrate that UP–NS has become a stronger competitor against trucking. It does not necessarily demonstrate that an existing rail buyer has gained another railroad competing for its business.

That matters because enhanced competition was added to the major-merger framework against the historical background of disappearing independent rail competitors.

Rule 11: The View From the Buyer's Chair

The distinction becomes clearer when the merger is viewed not through a network map but through the rail buyer's purchasing process.

A sophisticated buyer may negotiate portions of an interline movement separately and compare different gateway combinations. Rule 11 pricing can give the customer visibility into the separate railroad charges and, importantly, the ability to negotiate with participating railroads independently.

The modern merger rules themselves recognize the competitive importance of gateways and segment-specific commercial alternatives. They specifically require applicants at a minimum to explain how they will preserve options involving major existing gateways and the opportunity to contract for one segment of a movement separately.

That is not an abstract economic concept to a rail buyer. It is bargaining leverage.

Suppose UP controls the origin portion of a movement while NS and CSX can compete for the destination portion. Before merger, the buyer may be able to assemble competing UP–NS and UP–CSX combinations.

After merger, UP–NS controls one complete route. CSX's tracks may remain. The gateway may remain physically open. But if UP–NS does not make available a commercially usable bottleneck price for the CSX alternative, the customer's buying option can disappear without a single mile of track being removed.

The competition has disappeared through the price rather than the track. That is why bottleneck pricing belongs squarely in an analysis of enhanced competition.

CGP Must Be Tested Against What the Buyer Has Today

The applicants' Competitive Gateway Program is presented as a mechanism for creating additional competitive opportunities. Their current materials describe gateway commitments and pricing intended to extend merger benefits to customers served by BNSF and CSX.

But a proposed mechanism should not be treated as demonstrated competition merely because it exists on paper.

The commercial question is whether another railroad actually participates and whether its price and service offering constitutes a commercially effective alternative to UP–NS.

There is also a fundamental difference between an independent Rule 11 buying option and a new haulage or through-rate mechanism. A new routing possibility may have value, but it does not necessarily provide the buyer with the same independent price discovery and bargaining leverage.

The correct comparison is therefore not simply UP–NS without CGP versus UP–NS with CGP. It is the commercially usable choices available to the buyer before the merger versus after the merger.

That is the comparison a rule requiring substantial and demonstrable competitive benefits should demand.

Apply the Same Causation Standard in Both Directions

There is another important implication.

If UP–NS creates a better service and BNSF or CSX responds by lowering a rate or improving service, the applicants can reasonably argue that the competitive response is a merger-generated benefit.

But causation must work both ways.

If the merger gives UP–NS control of a bottleneck and subsequent pricing makes a BNSF or CSX alternative commercially ineffective, that too should be evaluated as a merger-generated competitive effect.

The analysis cannot use a broad causal lens to identify benefits while using a narrow physical-access test to identify harms. A gateway does not provide effective competition simply because the rails remain connected.

From an Amorphous Benefit to a Measurable One

This brings us back to where this inquiry began.

The historical public-benefits concept was broad. It combined carrier efficiencies, projected customer savings, service improvements and societal benefits, often before any of them could be observed. Subsequent rate studies showed that the broad economic success of the post-Staggers railroad industry was real, while also demonstrating that the benefits were distributed unevenly and that competition mattered greatly to individual customer outcomes.

The 2001 rules did not eliminate that theoretical problem. No prospective merger regime can. What they did was give the Board a stronger way to deal with it.

For each major benefit, the Board can ask whether the carrier actually realizes it, whether an identifiable shipper receives it, whether it could reasonably be achieved without the merger, what competitive mechanism transmits an internal saving to the customer, whether the buyer gains or retains a commercially usable independent rail alternative, and whether a claimed benefit is genuinely additional rather than another manifestation of an effect already credited elsewhere.

Post-merger oversight can then ask the same questions using actual results rather than forecasts. The regulation requires at least five years of formal oversight in a major transaction and expressly contemplates evidence showing whether accepted merger-benefit projections are being realized in a timely fashion.

If UP–NS predicts operating efficiencies, measure them. If it predicts savings on traffic converted from interline to single-line, follow that traffic and measure what customers actually pay. If it predicts $3.5 billion in truck-to-rail savings, determine whether the forecast traffic actually diverts and whether customers realize the predicted savings. If CGP is credited as enhanced competition, determine whether competing railroads actually participate and whether shippers use it. If gateways are promised to remain open, determine whether buyers can use them on commercially reasonable terms.

That would finally distinguish carrier realization from public realization.

The Question the 2001 Rules Were Designed to Answer

The historical evidence does not support the conclusion that railroad merger public benefits were fictitious. Quite the opposite: the transformation of the railroad industry produced substantial productivity improvements, stronger railroads and, for many customers, dramatically lower real rates.

But neither does the evidence support treating that broad success story as proof that every merger efficiency flowed through to every category of shipper.

Different commodities did not have the same rate experience. Competitive and captive traffic did not necessarily have the same rate experience. A rate that declined after a merger was not necessarily a rate that declined because of the merger. GAO itself concluded that merger oversight would benefit from evidence specifically separating merger-caused rate effects from all the other forces acting on rates.

The contemporary merger-policy debate was already grappling with essentially that problem. FERC described projected net merger benefits as potentially “somewhat amorphous” and shifted its emphasis toward protecting ratepayers if expected benefits failed to materialize. Railroad customers questioned the gap between merger expectations and results. And former ICC General Counsel Fritz R. Kahn asked the most basic retrospective question of all: had the promised better service, lower costs and lower rates actually occurred?

That is why the 2001 change matters.

The current rule does not simply ask applicants to enumerate public benefits. It says those benefits must be substantial and demonstrable, requires applicants to address whether they can be achieved without the merger, gives enhanced competition substantial weight, requires applicants to propose measures if anticipated benefits fail to materialize, and provides for post-merger oversight of whether accepted benefit projections actually come true.

The question in UP–NS should therefore not simply be whether combining the railroads creates efficiencies, or even whether the merged company becomes a stronger competitor against trucks and other railroads. The modern standard requires a harder inquiry into what measurable benefits the public actually receives and what happens to the commercially usable competitive choices available to rail buyers.

After more than four decades of railroad consolidation, the best public-benefits test may therefore be remarkably straightforward.

Follow the claimed benefits into the marketplace. Then look through the eyes of the rail buyer and determine whether they are actually there.

APPENDIX J

Public Benefits: Promised, Modeled—or Real?

Bob Granatelli | LinkedIn | August 23, 2026

Related principal comments: §§ VIII–XI

Every major railroad merger arrives at the Surface Transportation Board accompanied by an extensive case for its public benefits. Applicants describe faster service, more efficient operations, better equipment utilization, new single-line routes and savings from eliminating interchanges. Economists and operating experts quantify those benefits, supported by models, workpapers and verified statements.

There is nothing unusual about this. The STB must determine whether a major merger is consistent with the public interest, and because the merger has not yet occurred, much of the applicants' case necessarily depends on forecasts.

But the proposed Union Pacific–Norfolk Southern merger raises a more fundamental question: How much weight should the Board give projected public benefits when deciding whether a merger should be approved at all?

That question matters because under the STB's current major-merger rules, public benefits are not simply an interesting appendix to the application. They are part of the regulatory balance that can determine whether the answer is go or no go.

And the recently completed Canadian Pacific–Kansas City Southern merger gives the Board an opportunity to examine how projected public benefits compare with commercial reality.

A Yard in Kansas City
Before CP and KCS merged in 2023, their railroads connected at Kansas City. More significantly, they already shared a facility there: Knoche Yard, historically known as the Joint Agency.

That makes Knoche an interesting case study because one of the traditional arguments for an end-to-end railroad merger is the elimination of interchange inefficiencies. Once two railroads become one, cars no longer cross a corporate boundary. Blocking can be changed, train plans coordinated and equipment potentially moved more efficiently.

Those can be legitimate operating advantages. But CP and KCS were not operating two geographically separated Kansas City terminals that suddenly became one after the merger. They already connected there and jointly used the facility. The merger removed the corporate boundary between them, but the tracks and the joint facility were already there.

During the merger proceeding, Union Pacific challenged some of the applicants' efficiency calculations. Its witness estimated that eliminating switching associated with approximately 75 cars per day in Kansas City would produce annual savings of only about $458,000. UP also argued that the operating change could have been accomplished through an interline service agreement without merging the two companies.

The STB considered that argument. It also noted that the applicants projected much broader savings, including $52.59 million annually in a category called “Operating Metrics” and total operating savings

rising to approximately $115.7 million by Year 3. Those were systemwide projections, not Knoche-specific savings.

In evaluating the competing evidence, the Board said something worth revisiting today: “Applicants’ methodology for estimating costs underlying savings is reasonable.” It found the applicants' methodology and supporting workpapers sufficient and concluded that opponents were overlooking single-line efficiencies extending beyond Kansas City.

That may have been an understandable conclusion for a regulator evaluating a merger that had not yet occurred. But it establishes something considerably narrower than a demonstrated public benefit.

It establishes that the methodology used to estimate a future benefit was reasonable.

Those are not the same thing.

When a Regulatory Showing Meets Commercial Reality

Merger proceedings are necessarily exercises in prediction. Applicants develop operating plans, economists calculate efficiencies, consultants prepare models and opponents challenge their assumptions. The STB must then decide how much weight those forecasts deserve.

The difficulty comes when a reasonable methodology gradually becomes a proxy for the benefit itself. A model can demonstrate that a projected saving is plausible. It cannot demonstrate that the saving will occur, much less that it will ultimately benefit the shipping public.

Suppose a merger allows a railroad to eliminate an activity costing $10 million annually. If that saving occurs, it is a genuine economic efficiency. But if the entire $10 million simply becomes additional operating income, the railroad and its shareholders have benefited.

The public-benefit question requires another inquiry. Did customers receive lower transportation costs, more reliable service, greater capacity or new competitive alternatives? Did the efficiency produce something beyond the corporate income statement that the shipping public could actually experience?

That distinction can easily become obscured in a regulatory proceeding containing thousands of pages of economic testimony and operating projections. The public-benefits section of a merger application can begin to look less like a description of commercial reality and more like an exercise necessary to satisfy the requirements of the merger regulations.

That does not mean the projections are necessarily wrong. It means they should be recognized for what they are: projections offered to satisfy an important regulatory burden.

Did the Car Make the Connection?

Service provides a useful illustration.

Railroads and regulators routinely measure terminal dwell and train velocity. Both are useful measures of network performance, but neither necessarily tells a customer whether the railroad successfully executed the transportation plan for an individual shipment.

Consider a freight car scheduled to arrive at a terminal and connect with a particular outbound train. The car can arrive while the terminal's average dwell remains within an acceptable range. But if it misses its planned outbound train and the next appropriate train does not depart until the following day, the customer has lost 24 hours.

For the customer, consistency therefore comes down to a much simpler question: Did the car make its planned connection?

If an end-to-end merger is supposed to produce more reliable service by eliminating an interchange, that benefit should eventually become measurable. Compare the percentage of cars making their planned connections before the merger with the percentage afterward. If performance materially improves, the customer has received something tangible.

That looks like a public benefit.

The same test can be applied elsewhere. If equipment utilization is supposed to improve, compare actual car cycles with the projections. If single-line service is supposed to create new traffic, measure the traffic. If transit times are supposed to decline, compare actual results with the pre-merger baseline.

These are no longer theoretical questions in the case of CPKC.

The Last End-to-End Merger Gives Us a Test

CPKC has now been operating as a combined railroad since 2023. The STB imposed an unprecedented seven-year oversight period and extensive reporting requirements when it approved the transaction. The Board said at the time that it had weighed the benefits against potential harms and expected the transaction, with its conditions, to produce an overall public benefit.

That gives the Board something today that it did not possess when the application was being considered: experience.

The principal public benefits credited during the CP–KCS proceeding could be placed alongside actual post-merger results. At Knoche, what operations actually disappeared? How many cars avoided handling? How much transit time was actually eliminated? What were the realized savings, and what identifiable benefit resulted for customers?

The same comparison could be made for service reliability, equipment utilization, new single-line traffic and other measurable benefits.

This should not be an exercise designed to prove that CPKC failed. If the merger delivered what was promised, documenting those results would provide powerful evidence supporting the proposition that end-to-end railroad mergers can create genuine public benefits.

But either result would tell the Board something important before it approves another one.

CPKC and UP–NS Are Not Governed by the Same Standard

There is an important legal distinction that should not be overlooked.

The STB approved CP–KCS under the earlier major-merger regulations. The Board's own current merger materials specifically identify CPKC as having been approved under those earlier rules. UP–NS, by contrast, must satisfy the major-merger regulations adopted in 2001.

Those rules were intentionally more demanding.

When the STB adopted them, it said future applicants risked “disapproval or imposition of conditions that are not of their choosing” if they failed to convince the Board that their proposed transaction was in the public interest. The Board also expressed concern that public benefits from future mergers

might be more limited and specifically observed that there was no guarantee efficiencies would continue to be passed along to shippers if the industry became increasingly concentrated.

The Board was also concerned about overly optimistic projections. In developing the rules, it said applicants should have “no incentive to exaggerate” projected public benefits and contemplated measures that could be taken if anticipated benefits failed to materialize.

Those concerns sound remarkably contemporary.

The STB recently described its current rules as establishing requirements addressing competitive enhancement, benefit-estimate integrity, service assurance and downstream effects.

That makes the public-benefits showing much more than a paperwork requirement.

Public Benefits and the Go-or-No-Go Decision

The current major-merger rules reflect a particularly important principle: consolidation that reduces transportation alternatives should not be favored unless supported by substantial and demonstrable public benefits that cannot otherwise be achieved.

That last requirement deserves attention.

If an applicant claims a benefit from eliminating an interchange, the Board should ask not merely whether the calculation is reasonable but whether the claimed operating change reflects actual railroad practice and whether substantially the same result could be achieved without eliminating an independent railroad.

Knoche illustrates the question. CP and KCS already jointly used the facility. UP argued that the Kansas City operating change could have been achieved through an interline agreement. The Board nevertheless concluded under the earlier rules that broader benefits extended beyond Kansas City.

Under today's rules, the availability of alternatives short of merger deserves particular attention.

The same discipline should apply to UP–NS. If an operating benefit can be achieved through an interline agreement, improved blocking, coordinated schedules or another commercial arrangement, how much weight should it receive as justification for a permanent corporate consolidation?

If a claimed service improvement depends on assumptions inconsistent with actual railroad operations, should it be credited?

If substantial cost savings are projected but there is no credible mechanism showing how customers will benefit, how much of those savings should count as public benefits?

And if the benefits remaining after that scrutiny are too speculative or too small to outweigh the competitive and service risks of the transaction, the rules permit an answer considerably stronger than better oversight or additional conditions.

The answer can be no.

There is precedent for railroad regulators reaching that result. In 1986, the Interstate Commerce Commission rejected the proposed Santa Fe–Southern Pacific merger. The transaction involved different facts and was decided under a different regulatory regime, so it should not be treated as a direct precedent for UP–NS. But the principle is important: the Commission concluded that the transaction's anticompetitive effects outweighed its public benefits and refused to approve it.

Railroad merger approval has never been automatic merely because applicants can identify efficiencies.

Before We Do It Again
That is why CPKC matters now.

The Board does not have to approach the UP–NS public-benefits showing as though the benefits of an end-to-end merger remain entirely theoretical. It has a recently approved end-to-end transaction whose predictions can increasingly be tested against actual experience.

Before assigning substantial weight to another set of sophisticated projections, the STB should look backward as well as forward. What public benefits were credited in CPKC? Which were actually delivered? Which were captured principally as internal railroad efficiencies? Which could have been achieved without the merger? And where improved service was promised, did the cars actually make their planned connections more consistently?

Then apply those lessons to UP–NS.

The applicants will undoubtedly present economists, operating experts, models and workpapers. Their methodologies may be sophisticated. They may even be entirely reasonable.

But under today's major-merger rules, that should not end the inquiry.

The question before the Board is ultimately not whether UP and NS have developed a reasonable methodology for estimating public benefits. It is whether the transaction has demonstrated substantial public benefits sufficient to justify approval under the public-interest standard. And are these public benefits likely to come about.

That is a much higher bar.

And if the evidence does not clear it, “no” is not a failure of the merger-review process.

It is one of the outcomes the process was designed to permit

APPENDIX K

New Orleans, the Back Belt, and Beyond: What Happens to a Gateway After UP–NS?

Bob Granatelli | LinkedIn | August 25, 2026

Related principal comments: §§ IV–V

Union Pacific and Norfolk Southern have made an important promise in seeking approval of their proposed transcontinental merger: existing gateways will remain open for eligible traffic on commercially reasonable terms. It is an important commitment, but it raises a more difficult question than whether the tracks will remain connected.

What does it actually mean to preserve a competitive railroad gateway?

New Orleans may be one of the best places to ask that question because it is not an ordinary interchange point. It connects western railroads, principally Union Pacific and BNSF, with eastern railroads, including Norfolk Southern and CSX. A critical part of that connection is Norfolk Southern's Back Belt, which carries not only NS traffic but also movements necessary to connect other railroads across the New Orleans terminal.

The proposed merger would fundamentally change the competitive structure surrounding that infrastructure. Today, NS owns the Back Belt as an independent eastern railroad. After the merger, the same infrastructure would be controlled by UP–NS, a transcontinental railroad competing with BNSF in the West and CSX in the East.

That creates two related but distinctly different questions. The first concerns traffic that today moves UP–New Orleans–CSX. Would that traffic continue to be interchanged with CSX at New Orleans after the merger, or would UP–NS have an economic incentive to carry some of it farther east over the former NS network before delivering it to CSX? The second concerns BNSF–CSX traffic. What happens when a critical piece of infrastructure connecting two independent competitors comes under the control of their newly combined UP–NS competitor?

Neither question can be answered simply by saying that New Orleans will remain open.

Gateway Creep Without Gateway Closure

Railroad people know that the proper starting point for examining interchange is Rule 260. The industry's Junction Interchange File identifies the specific railroad pairs that interchange at particular junctions.

There is an important housekeeping point here because these industry publications can easily be confused with the physical railroad. The Open & Prepaid Station List (OPSL) is a publication, not infrastructure. Railinc publishes the OPSL as part of its interline-service publications and maintains the industry's Junction Interchange File. Rule 260 junction information published through these industry systems gives us an industry-recognized way to identify where particular carrier pairs can interchange; it does not tell us whether a gateway remains commercially or operationally competitive after the merger.

That distinction gives the Surface Transportation Board a straightforward way to investigate what might happen after the merger. It can identify the current UP–CSX Rule 260 interchange at New Orleans and then identify existing NS–CSX Rule 260 interchanges farther east. From there, the Board can determine which of those junctions are operationally and commercially plausible alternatives for traffic that today reaches CSX at New Orleans.

And there is another unusually useful piece of evidence: Union Pacific's own website.

As of today, UP's public website maintains an Interline Routing Agreements page. UP tells customers that it works with connecting railroads to find the “optimal routing” and says the agreements provide maps showing the “best gateway” based on origin area and direction of shipment. The page currently links to a UP–CSXT Routing Agreement, along with agreements involving several other connecting carriers.

Article content
August 25, 2026 UP WebSite
Article content
August 25, 2026 UP WebSite
That is important because the UP–CSXT agreement presently posted by Union Pacific is not an abstract discussion of gateways. It is a routing and blocking document. The agreement, titled “Routing and Blocking Regions — UP-CSX,”identifies New Orleans as a gateway for specified UP Gulf Coast traffic moving to CSX regions. Thus, UP's own currently published customer material demonstrates that gateway choice is tied directly to routing and blocking decisions — exactly the operational issues that matter in evaluating what happens to New Orleans after the merger.

Consider a car originating on UP in Texas and destined for a CSX-served point somewhere in the Southeast. Today it might move UP to New Orleans, where it is interchanged with CSX for the eastern portion of the haul. After the merger, UP–NS could potentially carry that same car through New Orleans and several hundred miles farther over the former NS network before delivering it to CSX at another existing Rule 260 interchange.

Nothing necessarily closes. New Orleans can remain in the interchange system. UP–NS can continue to say that CSX is available to customers. Yet something economically significant has changed: the merged railroad has captured a larger share of the movement while CSX's participation has contracted.

That is the essence of gateway creep.

It is potentially much more difficult to detect than an outright gateway closure because it need not involve a cancelled interchange, an embargo or an explicit routing restriction. Traffic can simply migrate over time from one interchange point to another, with UP–NS carrying an increasingly larger portion of the haul.

Follow the Train — Then Follow the Car

Length of haul, however, is only part of the issue. There may also be an important service consequence, and this is where the New Orleans operating arrangement deserves much closer examination.

The proper baseline is not simply that UP and CSX interchange at New Orleans. The Board should establish how that interchange operates today. The important fact is that New Orleans supports through-train movements between western and eastern railroads. Operating evidence shows a number of trains moving through the New Orleans terminal between CSX and western carriers, including

movements involving UP. These are not merely cars being interchanged at a junction; they are trains moving through the gateway as trains.

That existing through-train transportation product — not merely the existence of a Rule 260 interchange — should be the baseline against which the post-merger operating plan is measured.

The available public evidence does not appear to isolate precisely how many of those through trains are specifically UP–CSX. The applicants have that information. The Board should establish the number, frequency, blocking and handling of those trains as part of the pre-merger baseline.

That distinction matters enormously. If UP–CSX traffic today moves through New Orleans in intact trains or substantial blocks, shifting the CSX interchange farther east may not eliminate an interchange or a handling. It could require the existing through train to be broken apart, with cars reclassified into different blocks for different NS–CSX gateways farther east.

Moving an interchange farther east therefore does not necessarily eliminate handling. In some circumstances it could add handling.

Suppose a block of UP cars today moves through New Orleans as part of a CSX through-train movement and is handed to CSX with relatively little intermediate classification. If those same cars remain on UP–NS after New Orleans but are ultimately destined for several different CSX interchange points farther east, UP–NS may have to reclassify or reblock them somewhere on its network before those later interchanges can occur.

The number of carrier interchanges could remain exactly the same. The car was interchanged once before the merger and once afterward. But the number of physical car handlings, classifications and connections could increase.

That distinction is particularly important in a merger built partly around claims that eliminating interchanges will improve service. An interchange count alone cannot tell the Board whether a car is actually being handled less.

The proper comparison is operational: First establish the through-train baseline. Then follow the train. And if the merger breaks that train apart, follow the cars.

How is the traffic blocked and handled through New Orleans today, and how would those same cars be handled if their interchange with CSX moved farther east?

Does Gateway Creep Undercut a Claimed Public Benefit?

This question goes directly to one of the central public benefits asserted for the merger. UP and NS argue that creating a single-line railroad will improve service by eliminating handoffs, reducing intermediate handling and dwell, simplifying routes and reducing opportunities for missed connections.

Those benefits may well exist for traffic that becomes genuinely single-line UP–NS. But that does not answer what happens to traffic that continues to move interline with CSX after the merger.

For that traffic, gateway creep may not eliminate the interchange at all. It may simply move the interchange farther east.

Consider again traffic originating on UP and moving today to CSX through New Orleans. If that traffic arrives in a substantial CSX block or through-train movement and can be transferred at the

gateway with relatively little additional classification, New Orleans performs an important aggregation function. Traffic for numerous CSX destinations can move toward one gateway, where CSX receives it and assumes responsibility for distributing it over its eastern network.

After the merger, UP–NS would have a different economic incentive. By retaining that traffic beyond New Orleans, it could increase its own length of haul. But if different destinations are most efficiently handed to CSX at different Rule 260 junctions farther east, the large New Orleans block may have to be divided into several smaller gateway blocks somewhere on the UP–NS network.

That distinction is important. Traffic for Georgia might be destined for one later interchange, traffic for Florida another, and traffic for the Carolinas, Virginia or the Northeast might remain on UP–NS still farther. Cars that today can travel together toward a single CSX interchange may therefore have to be reclassified or reblocked before reaching their new gateways.

The result could be counterintuitive. A merger promoted partly on the basis of reducing car handling could, for some competing interline traffic, create additional classification, additional yard dwell, additional connections and additional opportunities for service failure.

And after all of that, the car still has to be interchanged with CSX.

The official interchange count could completely conceal the change. Before the merger, a UP–CSX car might have one carrier interchange at New Orleans. After the merger, a UP–NS–CSX car might still have one carrier interchange at a point farther east. On paper the comparison would be one interchange before and one interchange after.

Operationally, however, those may be very different transportation products. The post-merger car might travel hundreds of additional miles over UP–NS, pass through another classification yard, be reblocked for its new CSX gateway, incur additional dwell and then encounter the same intercarrier handoff that existed before the merger.

A merger cannot demonstrate a service benefit merely by moving an interchange farther down the railroad. The Board must follow the train and the car.

That also suggests an important distinction in evaluating the applicants' claimed public benefits. The Board should determine whether the proposed merger actually makes the transportation network more efficient or whether, for some traffic, the apparent advantage of the single-line UP–NS routing is accompanied by deterioration of the competing CSX routing.

The applicants have the traffic data and the proposed operating plan necessary to answer that question. For traffic currently moving UP–New Orleans–CSX, the Board should compare the existing and proposed routings traffic flow by traffic flow: railroad miles, train and block structure, blocking locations, classification yards, number of physical handlings, scheduled connections, interchange dwell and expected transit time.

The answer may show that some post-merger routings reduce handling. Others may show no meaningful difference. But if gateway creep results in an existing through-train movement being fragmented, with a car traveling hundreds of additional UP–NS miles, being reclassified into a new gateway block and then being interchanged with CSX anyway, the merger has not eliminated the handoff. It has moved the handoff — and may have added another handling before it.

That would not be a public benefit. It could be the opposite.

The Blocking Plan May Tell the Story

This is why the post-merger blocking plan may prove as important as the list of open gateways.

A UP train approaching New Orleans today may carry a substantial block of traffic intended for CSX at New Orleans. The existing through-train operation allows the railroad to aggregate traffic for many eastern destinations into relatively large blocks that CSX can then distribute over its own network.

Gateway creep could fragment that arrangement. If UP–NS has an incentive to maximize its own length of haul, the preferred CSX interchange might vary according to destination. Traffic for one part of the Southeast might remain on UP–NS to one NS–CSX Rule 260 junction, while traffic for another region could travel still farther before reaching CSX.

One large New Orleans CSX block could therefore become several smaller CSX interchange blocks. Those cars have to be separated somewhere, and that raises practical questions about classification yards, dwell and connections.

The Board should be able to ask a remarkably simple series of questions for traffic currently moving UP–New Orleans–CSX: How many through trains move today? Where is the traffic blocked? What are the block destinations? Where would it be blocked after the merger? At which Rule 260 junction would CSX receive it? Would an existing train or block have to be broken apart? How many yards would the car pass through, how many times would it be classified, and how many scheduled connections would be required?

The answer may show no additional handling for some traffic. For other movements, it may show one or more additional classifications. We should not prejudge the result. But the applicants should show the result.

That is particularly important because a later interchange can simultaneously increase UP–NS's length of haul and make the competing CSX routing operationally less attractive. If that occurs, the competitive effect is not merely a redistribution of railroad revenue. It affects the transportation product available to the shipper.

UP's own current customer material reinforces why the blocking plan matters. UP does not describe its interline agreements merely as a list of places where tracks connect. It expressly presents them as a means of identifying optimal routing and the best gateway, and its UP–CSXT agreement itself is organized around routing and blocking regions. The Board therefore should not evaluate the post-merger gateway commitment simply by comparing lists of interchange locations. It should compare the actual routing and blocking practices before and after the merger.

An Open Gateway Can Gradually Become a Different Gateway

Gateway creep also need not happen all at once. In fact, gradual change may be the more realistic concern.

UP–NS could continue interchanging substantial traffic with CSX at New Orleans immediately after the merger while shifting selected movements to later eastern gateways. The most economically attractive traffic to retain might be traffic for which UP–NS can capture substantial additional mileage before reaching CSX.

As New Orleans volume declines, however, the operational economics can change. Smaller CSX blocks may eventually support fewer direct movements or less frequent connections. Service can deteriorate, causing additional traffic to migrate elsewhere. The railroad may ultimately point to

declining customer use of New Orleans as justification for further operating changes, even though earlier pricing, routing or blocking decisions helped produce the decline.

This creates an important causation question for post-merger oversight. A decline in gateway traffic should not automatically be treated as evidence that customers simply preferred another route. The Board should be able to determine whether changes in pricing, blocking, train frequency, handling or connection performance preceded the traffic decline.

Aggregate gateway volumes may not be sufficient either. UP–NS could continue moving substantial CSX traffic through New Orleans while selectively moving traffic for which CSX competes most directly with the former NS network to later gateways. The total car count might look reassuring even as the competitive composition of the traffic changes.

The Board therefore needs to know not only how many cars disappeared from New Orleans, but what traffic disappeared, where it went and why.

The Special BNSF–CSX Problem

All of that concerns UP–CSX traffic and the economic incentive created by combining UP and NS. New Orleans presents a second issue that is potentially even more unusual.

The Back Belt is not used solely to connect UP with NS. Operating evidence shows that it also functions as part of the physical pathway used to transfer traffic between CSX and other New Orleans railroads. That means infrastructure controlled today by an independent NS can facilitate traffic moving between BNSF and CSX.

After the merger, that infrastructure would be controlled by UP–NS.

The competitive significance should be apparent. BNSF competes with UP in the West. CSX competes with NS in the East. A BNSF–CSX routing through New Orleans therefore represents a combination of two independent competitors to the merged UP–NS system. Yet an important part of the physical connection allowing those competitors to exchange traffic would be controlled by UP–NS.

This does not mean UP–NS would necessarily discriminate against BNSF–CSX traffic. But merger policy should not depend solely upon assurances of future good behavior. The Board should examine the ability and economic incentive created by the transaction and determine whether adequate protections exist.

For BNSF–CSX traffic, that means looking beyond whether access to the Back Belt technically remains available. The meaningful questions concern train acceptance, dispatching, dwell, interchange windows, connection reliability and the relative treatment of BNSF–CSX movements compared with UP–NS's own traffic.

This is what makes New Orleans different from a conventional gateway-creep case. The merger could affect both where UP–CSX traffic is interchanged and who controls critical infrastructure used by the competing BNSF–CSX combination.

Competitive Gateway Versus Residual Gateway

There is a useful distinction here between a competitive gateway and a residual gateway.

A competitive gateway gives the shipper a meaningful opportunity to choose between competing railroad combinations. A residual gateway is simply the place where the originating railroad finally must surrender the car because its network cannot carry it to the destination.

Both can appear as perfectly valid Rule 260 interchanges. But they do not provide the same competitive discipline.

If a Texas shipment today can reach CSX at New Orleans, CSX can compete for a substantial eastern portion of the movement. If UP–NS instead carries the car hundreds of additional miles and gives it to CSX only near a destination that UP–NS cannot serve, CSX still participates, but its competitive role has changed substantially.

That distinction also captures an often-overlooked feature of gateways: option value. A shipper does not have to use CSX every day for the availability of CSX to constrain the price or service offered by another railroad. A credible alternative has bargaining value. If gateway creep makes that alternative longer, slower, more heavily handled or commercially unattractive, some of that competitive value can disappear before traffic statistics show a dramatic change.

UP and NS Have Seen Gateway Risk From the Other Side

There is considerable irony in these questions because both Norfolk Southern and Union Pacific have recognized the competitive importance of gateway preservation when they were on the other side of a major railroad merger.

When the Surface Transportation Board reconsidered its major-merger rules following the Conrail transaction and the proposed BNSF–CN combination, Norfolk Southern specifically addressed the danger that an end-to-end merger could alter competitive routing through major gateways. In STB Ex Parte No. 582 (Sub-No. 1), Major Rail Consolidation Procedures, NS advocated protection of major gateways, including New Orleans, and warned about merger-related changes that could close efficient gateways, favor the merged railroad's longer-haul routes and extend bottlenecks. Those arguments formed part of the record considered by the Board when it adopted the substantially more demanding major-merger rules in Decision No. 11, served June 11, 2001.

The significance of that history is difficult to miss. NS was not arguing merely that the rails at New Orleans should remain physically connected. Its concern was preservation of the competitive routing alternatives that the gateway made possible.

Union Pacific has viewed gateway protection much the same way when another merger threatened its competitive position. During the Canadian Pacific–Kansas City Southern proceeding, STB Finance Docket No. 36500, UP repeatedly raised concerns about preservation of existing gateways and competitive routings, including Kansas City. The Board ultimately approved CP–KCS in its Decision No. 7, served March 15, 2023, subject to extensive conditions intended to preserve existing gateway options on commercially reasonable terms, prevent the creation of new bottlenecks and permit post-merger monitoring of gateway activity.

The Kansas City issue did not disappear with the CPKC merger. In 2025, the Board enforced a condition dating to the UP–MKT merger that protected CPKC's ability to move certain grain traffic originating north and east of Kansas City through that gateway toward Houston and Galveston. The Board described the condition in terms of preserving competitive routing options for shippers.

Taken together, these proceedings establish an important principle directly relevant to New Orleans:

The competitive value of a gateway is not simply the continued existence of the junction. It is the competitive routing option the junction makes possible.

There is therefore nothing novel or unreasonable about applying that principle to UP and NS today. The Board would simply be examining the proposed UP–NS merger against concerns NS and UP themselves have raised when consolidation by other railroads threatened their own competitive access to important gateways.

Measure What Happens After the Merger

The applicants' promise to keep gateways open should therefore be the beginning of the analysis, not its conclusion.

For UP–CSX traffic at New Orleans, post-merger reporting should identify how much traffic continues to interchange there, which traffic moves to other Rule 260 NS–CSX junctions, how UP–NS and CSX mileage changes, and whether the new routing adds classifications, yard dwell, car handling or connections.

The Board should also examine the blocking plan. If a large pre-merger CSX New Orleans block becomes several smaller blocks for more distant CSX gateways, that is a material operational change even though CSX remains available.

The baseline should include the through-train operating product itself. The Board should establish how many UP–CSX through trains operate through New Orleans today, their frequency, how they are blocked, how much classification they require and how reliably they make their scheduled connections. Post-merger oversight should then determine whether those trains continue to exist, whether they are broken apart, where any additional reclassification occurs and what happens to transit time and connection performance.

Otherwise, an apparently unchanged interchange count could conceal a materially different transportation product.

For BNSF–CSX traffic, the measurement should be different. The Board should determine whether the competing BNSF–CSX route continues to receive commercially reasonable and operationally comparable access over the Back Belt after that infrastructure comes under UP–NS control. Traffic volumes alone will not answer that question. Dwell, transit time, train acceptance and connection performance matter as well.

The objective is not to freeze railroad operations permanently in their pre-merger configuration. Networks change, customers change and efficient routings change. But when the merger itself changes both economic incentives and control of critical infrastructure, the Board should be able to distinguish genuine operating efficiencies from changes that transfer length of haul to UP–NS or degrade a competing routing.

The Part of the Iceberg Below the Water

The promise above the waterline is easy to understand: existing gateways will remain open.

The difficult questions lie underneath.

Will UP–NS continue operating the through trains and building the blocks that make New Orleans useful? Will traffic currently delivered to CSX there instead travel hundreds of additional miles over UP–NS before interchange? If so, will those routings require an existing through train to be broken

apart, with additional classifications or car handling? Will CSX gradually lose length of haul? Will reduced volume eventually weaken New Orleans service further? And will BNSF and CSX continue to have a commercially and operationally viable connection through New Orleans when a critical part of that connection is controlled by their UP–NS competitor?

Those questions are related, but they are not the same. Together they describe something much more consequential than whether a junction remains listed in an interchange directory.

The Board's test should therefore be straightforward:

Will New Orleans remain a commercially and operationally viable competitive gateway across substantially the same geographic scope that exists today, and will the competing BNSF–CSX routing receive comparable access after UP–NS controls a critical connection between them?

Rule 260 can tell the Board whether the door remains there. UP's own routing agreements can help show where the railroad directs traffic and how it blocks that traffic. The existing through trains establish part of the operating baseline. Pricing can show whether customers can economically use the gateway. Blocking plans and actual train and car movements can show whether using it still produces a competitive transportation service.

Keeping the door open is not enough if the merger changes where it leads

APPENDIX L

Merger Public Benefits: Promises, Audits, Proof—and What Happens If They Fail?

Bob Granatelli | LinkedIn | September 1, 2026

Related principal comments: §§ XI

Railroad merger applications necessarily deal in predictions. Traffic will grow. Service will improve. New single-line routes will attract business. Trucks will move off highways. Gateways will remain competitive. Efficiencies will produce benefits for customers and the public.

There is nothing unusual about that. A merger has not happened when an application is filed, so many of its claimed public benefits can only be forecasts.

The harder question comes later.

If a projected public benefit is important enough to receive weight in approving a merger, how will anyone determine after the merger whether it actually happened?

Recent Surface Transportation Board proceedings suggest that the Board has become increasingly attentive to post-merger oversight. The progression from CSX-Pan Am to Canadian Pacific-Kansas City Southern and, more recently, CN-Iowa Northern shows increasingly detailed reporting requirements and longer periods of oversight.

But reporting is only part of the answer. Our examination of these proceedings raises two additional questions: Is the information being collected capable of measuring the benefit or competitive issue it is intended to monitor? And who ultimately compares the prediction with the result?

Those questions are particularly important because of what the STB is—and what it normally is not.

An Adjudicatory Agency, Not an Auditing Organization

The STB is principally an adjudicatory agency. It develops records, evaluates evidence presented by parties and decides cases. It also has broad regulatory, investigative and oversight authority and can act on its own initiative in appropriate circumstances.

But routinely returning years after a merger to audit every projection made in the original application is not the traditional function of an adjudicatory agency.

That distinction matters when people hear the term post-merger oversight.

Oversight can mean requiring reports, monitoring service, preserving information, enforcing conditions and retaining jurisdiction to address problems that emerge. It does not necessarily mean that the Board will independently conduct a continuing audit comparing every public benefit credited at approval with the actual result several years later.

The CPKC proceeding demonstrates both the strength of modern STB oversight and this distinction.

The Board imposed an unprecedented seven-year oversight period, required extensive reporting and preserved detailed traffic information that could permit it to conduct its own analysis of post-transaction trends. The Board has also demonstrated that this oversight can lead to intervention. When certain CPKC service metrics deteriorated in 2025, the Chairman required a Service Action Plan, and Board staff monitored the railroad's progress.

That is real oversight.

But monitoring a deteriorating service metric is different from conducting a retrospective evaluation of all the public benefits used to support approval of the merger.

A predicted benefit can fail to materialize without producing a service emergency, violating a merger condition or generating a formal complaint. Nothing necessarily goes wrong. The predicted benefit simply does not happen.

CSX-Pan Am Shows the Measurement Problem

The CSX acquisition of Pan Am provides a useful example.

One anticipated benefit was that improved rail service would allow CSX to compete more effectively with long-haul trucking. In approving the transaction in 2022, the Board identified CSX's opportunity to compete for traffic moving by long-haul truck as a benefit of the transaction.

The proposition was reasonable and straightforward: improved rail service should make rail more competitive with highway transportation.

But it was largely qualitative.

There was no simple numerical benchmark in the Board's finding telling us how many truck movements, tons or carloads would need to convert to rail before the predicted benefit could be considered realized.

CSX subsequently submitted the required post-merger reports. But without a clear starting benchmark, retrospective evaluation becomes difficult.

That does not mean the original forecast was wrong or unreasonable. Forecasts are forecasts. Markets change, customers change and economic conditions change.

The problem is more basic. If a benefit is not defined in a measurable way at the beginning, it can be difficult to determine later whether it actually occurred.

Iowa Northern Raises a Different Question

CN's acquisition of Iowa Northern takes us to a different issue: even when the Board requires numerical reporting, are the numbers sufficient to evaluate the competitive question?

The Board approved that transaction subject to conditions addressing competitive concerns and established three years of oversight. Among other things, CN must report interchange volumes at Iowa Northern gateways. Public reports provide car counts by interchange partner, while more detailed commodity information is treated as confidential.

Those gateway counts tell us something useful. They show how many cars are being interchanged with particular railroads and how those volumes change over time.

But what exactly do those numbers tell us about competition?

Suppose interchange with one railroad at a gateway falls by 500 cars while interchange with another railroad increases elsewhere. The numbers establish that traffic patterns changed.

Standing alone, however, they do not establish why.

Were they the same movements? Did the origins or destinations change? Did a customer change suppliers? Was traffic rerouted? Did the shipper voluntarily choose a better route? Did one carrier obtain a longer haul? Was an alternative gateway no longer commercially attractive? Or did the customer simply ship less?

A gateway car count cannot answer those questions by itself.

To determine the competitive significance of a routing change, considerably more information may be necessary:

Origin → destination → commodity → pre-merger carrier route → pre-merger gateway → post-merger carrier route → post-merger gateway → volume.

Only after establishing those facts does it become possible to investigate rates, service, revenue divisions or other explanations for the change.

And there is another practical issue: the information has to be usable.

A modern post-merger reporting system should not require an interested party to reconstruct basic traffic movements from scattered filings or hire a third party to extract and interpret movements from the Waybill Sample.

The kind of data needed is not exotic. A useful dataset can look much like an ordinary transportation database: standardized fields for origin, destination, commodity, carrier route, interchange points, volume and relevant dates. Pre-merger and post-merger movements could then be compared directly.

Large shippers already manage transportation information in much this way. An analyst can sort movements by origin, destination, gateway, carrier or commodity and determine where traffic patterns actually changed.

The contrast with the traditional Waybill Sample process is striking. Obtaining and analyzing waybill information can require specialized knowledge and, in practice, the assistance of third parties simply to extract and organize the movements necessary for analysis. Modern computing has made storing, sorting and comparing very large transportation datasets routine. Post-merger oversight information should be capable of being used in the same way.

Confidentiality is, of course, a legitimate concern. Customer-specific traffic and pricing information should not simply be placed on a public website. But confidentiality and usability are not mutually exclusive. Parties routinely receive sensitive information subject to protective orders and confidentiality requirements.

The objective should be straightforward: a person entitled to see the information should be able to analyze it without first having to reconstruct the railroad's traffic database.

The Board may possess considerably more information than is publicly available. Some Iowa Northern reporting is confidential, and the underlying merger record contains confidential customer

and traffic information. It would therefore be inappropriate to conclude from the public reports that the Board lacks the information necessary to conduct a deeper analysis.

But the public record illustrates an important point: collecting objective numbers is not necessarily the same thing as collecting the information needed to test a particular competitive proposition. And possessing the underlying information is not the same thing as making it practically usable for analysis.

Three Pieces Are Needed

Taken together, these proceedings suggest that meaningful post-merger accountability requires three separate things.

First, a material public benefit should be defined in a way that permits later evaluation. If truck-to-rail conversion is an important benefit, there should be some way to determine whether meaningful conversion actually occurred.

Second, post-merger reporting must collect information capable of testing the particular benefit or competitive issue being examined and provide it in an analysis-ready form to those entitled to examine it.

The required information will depend upon the question. Measuring truck-to-rail conversion requires information about truck traffic actually converted to rail. Measuring service improvement requires meaningful service measures. And determining whether rail-to-rail competition was preserved may require origin, destination, routing and gateway information rather than aggregate gateway car counts alone.

The technology to do this is commonplace. The challenge is not creating another report. It is identifying the question first and then collecting the information necessary to answer it.

Third, someone must compare the result with the prediction.

That third step presents an institutional question.

The applicants know their traffic. Customers know portions of the market. Competitors know the traffic in which they participate. The Board can require information, retain jurisdiction and intervene when problems are brought before it or when its monitoring identifies a problem.

But the STB remains principally an adjudicatory body, not a permanent merger-auditing organization.

Who, then, closes the loop?

That question is more important than it may first appear. Once a merger has been approved and consummated, the proceeding has fundamentally changed. The applicants are operating the combined railroad. Customers and competitors see only portions of what is happening. Individual shippers generally know their own movements, rates and service, but not what is occurring across the entire network. Competitors know the traffic they handle or have lost, but they may not know where that traffic went or why.

The Board can possess a much broader picture through required reporting and confidential data. But possessing the information and conducting a retrospective evaluation of the merger are two different things.

And because the Board is principally an adjudicatory agency, there may be no automatic event that requires it to reopen the original public-benefit case several years later and ask whether each material prediction proved correct.

That creates a potential gap.

A benefit may have been important when the merger was approved. The railroad may subsequently file every report required by the Board. No shipper may file a complaint. No service metric may deteriorate enough to demand intervention. Every merger condition may technically be satisfied.

Yet the predicted benefit itself may never have materialized.

In that circumstance, who is responsible for identifying the difference between what was predicted and what actually occurred?

The applicant has complied by filing the required reports. A shipper may lack the systemwide information necessary to make the comparison. A competing railroad sees only part of the traffic picture. And the Board, although possessing broad oversight authority, is not ordinarily structured as a continuing auditor of completed mergers.

That is another reason the form of the data matters.

If the Board is not going to perform every analysis itself, the information should be organized so that parties entitled to receive confidential data can perform meaningful analysis and, where appropriate, bring a documented issue before the Board.

That approach also fits the Board's adjudicatory role. The STB need not become the permanent auditor of every merger. But the reporting process can make it possible for shippers, competitors and other qualified parties to identify a problem with evidence rather than suspicion—and place that evidence before the Board.

Requiring post-merger reports therefore does not, by itself, answer the accountability question.

Someone still has to take the information, return to the propositions that mattered when the merger was approved, and make the comparison.

The Board Has Been Moving in This Direction

There is good reason not to frame this as criticism of the STB.

The evolution of recent merger oversight suggests that the Board itself recognizes the importance of obtaining better post-merger information.

CSX-Pan Am included reporting requirements. CPKC went considerably further, with seven years of oversight, extensive baseline and post-merger information, and preservation of detailed traffic data. The Board expressly contemplated conducting its own analysis of post-transaction trends.

CN-Iowa Northern added targeted reporting concerning interchange volumes at gateways where competitive concerns had been raised.

Each proceeding provides the Board with more information about what happens after consummation.

The remaining question is how that information connects back to the public-benefit case upon which approval was based.

Reporting can identify a problem. Monitoring can identify a trend. A complaint can place an issue before the Board. A merger condition can provide a basis for corrective action.

But none of those necessarily answers the broader retrospective question:

Did the material public benefits credited when the merger was approved actually occur?

A Question for UP-NS

That question is particularly timely in the proposed Union Pacific-Norfolk Southern merger.

The applicants' case contains substantial predictions about traffic growth, diversion, service, efficiencies and other public benefits. The Board has not determined whether those predictions should ultimately be credited or what weight they should receive.

But the experience of earlier transactions suggests that measurement should be considered at the same time as the benefit itself.

For every material public benefit that ultimately receives weight in the Board's consideration of UP-NS, three questions could be asked before the merger is approved:

What exactly is predicted to happen?

What information will be collected afterward—in a form that can actually be analyzed—to determine whether it happened?

Who will evaluate the result against the prediction?

This does not require applicants to predict the future perfectly. Nor does it require the STB to transform itself from an adjudicatory agency into an auditing organization.

There is one final reason this matters.

A merger is a structural change. Once two competing railroad systems have been combined, the transaction cannot practically be treated like an experiment that can simply be reversed if the predicted benefits fail to appear. The rail buyer must live in the market structure that remains.

That creates an important asymmetry. If the predicted benefits occur, the public receives what was promised. If they do not occur, however, the consequences fall largely on the customers and markets operating within the new structure.

Reporting can tell us that a benefit did not occur. Oversight can identify the problem. But neither, standing alone, restores the competitive structure that existed before the merger.

For that reason, accountability may require more than measurement. If material public benefits are important enough to help justify approval, there should also be a meaningful answer to another question:

What happens if they do not occur?

That could mean enforceable conditions, meaningful corrective remedies, or consequences sufficiently strong that the benefits credited at approval are more than promises. Otherwise, the risk is asymmetric: the merger is permanent, the predicted benefit is not, and the rail buyer and the public are left to deal with the consequences.

But that raises an even more fundamental question. If the potential competitive harm from the structural change cannot readily be undone, and the public benefits necessary to justify that change remain predictions, at what point does the risk that those benefits may not materialize become a reason not to approve the merger in the first place?

Perhaps some risks can be addressed through enforceable conditions. But if the consequences of being wrong would fall principally on rail customers and cannot realistically be repaired after consummation, post-merger oversight may not be an adequate substitute for resolving that uncertainty before approval.

That is ultimately the difference between approving a structural change and relying on a behavioral promise.

APPENDIX M

Taking Trucks Off the Road: A Railroad Merger Promise With a Long History

Bob Granatelli | LinkedIn | September 7, 2026

Related principal comments: §§ IX

Union Pacific and Norfolk Southern say their proposed transcontinental merger will take approximately 2.1 million trucks off the road. The number is new. The merger argument is not.

For more than four decades, diverting freight from trucks to rail has appeared among the anticipated benefits of railroad consolidation. The terminology has changed and the claimed public benefits have expanded, but the underlying proposition has remained remarkably consistent: combine railroad networks, improve service, and freight that otherwise would move by truck will move by rail.

The regulatory record traces that proposition back at least to the 1982 Union Pacific–Missouri Pacific–Western Pacific merger. In reviewing the Interstate Commerce Commission's approval, a federal appeals court identified $7.9 million in projected net revenue gains from "intermodal (motor carrier to rail carrier) diversion." Motor-carrier diversion was included among the quantified economic benefits supporting the consolidation.

By the major merger wave of the 1990s, the theme had become more prominent. In approving Burlington Northern–Santa Fe, the ICC said the combined railroad should be better able to compete with trucks and that shifting freight from truck to rail should reduce highway congestion and fuel consumption. Union Pacific–Southern Pacific also included projected truck-to-rail diversion in its merger case.

Then came the 1997 proposal by CSX and Norfolk Southern to acquire and divide Conrail.

The Trucking Industry Had Heard It Before

The Conrail applicants projected that expanded rail operations would remove approximately one million truck movements annually from the highways. The American Trucking Associations challenged the prediction directly in the regulatory proceeding, telling the STB that "similar predictions with regard to other recent rail mergers have shown to be unjustified." ATA pointed to service problems following at least one recent merger that it said had instead increased demand for truck transportation.

The timing is important. ATA made that argument in October 1997, before the Board approved the Conrail transaction. Concern about the reliability of railroad merger truck-diversion forecasts was therefore already in the regulatory record nearly three decades ago.

The Board nevertheless credited the Conrail projection in its 1998 final decision: 1,027,000 truck trips annually—438,000 attributed to CSX and 589,000 to NS. The Board said the diversion would reduce air pollution and highway congestion and save more than 80 million gallons of diesel fuel annually.

The significance is not that the forecast was necessarily wrong. The record we have examined does not establish that. The significance is that the basic question being raised today was already before the

regulator in 1997: how much confidence should be placed in predictions that a railroad consolidation will cause large numbers of highway movements to shift to rail?

Two years later, BNSF and Canadian National proposed another major combination. BNSF Chief Executive Robert Krebs said the companies had identified $7 billion of truck and rail freight potentially available for diversion to the combined system.

Heavy Duty Trucking placed the claim in historical context: “Four recent big rail mergers all made the same promise,” identifying BN–Santa Fe, UP–Southern Pacific, the CSX/NS acquisition of Conrail and CN–Illinois Central. The publication said those mergers had instead driven some existing intermodal customers to trucks because of unreliable deliveries.

But the publication did not dismiss rail’s ability to compete. It warned motor carriers to assume that the merged railroads would eventually learn to operate their combined systems successfully and become stronger truck competitors. The distinction remains important. The question is not whether good rail service can attract freight from trucks. It is whether a particular merger will produce the amount of truck diversion being predicted.

From Merger Benefit to Board Precedent

Truck diversion also became connected to a much older ICC/STB doctrine recognizing single-line service as a merger benefit.

The lineage can be traced through UP–MKT, UP–SP and CP–DM&E. In CSX–Pan Am in 2022, the Board said it had “often recognized more efficient single-line service as a benefit of mergers,” citing CP–DM&E and UP–SP. It then discussed CSX’s contention that improved service would allow it to capture long-haul truck traffic.

Eleven months later, CP–KCS cited CSX–Pan Am. The Board said it expected new single-line service to foster rail traffic growth and then discussed the applicants’ forecast that approximately 64,000 truckloads annually would move from highways to rail.

The regulatory reasoning had developed into a recognizable sequence: merger, single-line service, improved rail service, traffic growth, truck-to-rail diversion, and public benefits. UP and NS now invoke CP–KCS and CSX–Pan Am in support of the single-line-service benefits claimed for their own merger. The 2.1-million-truck forecast is therefore the latest application of a merger-benefit theory with a long regulatory history.

Precedent can establish that a type of benefit is possible. It cannot establish that a particular forecast is reasonable.

Another Example: The Crescent Corridor

A recent investigation by Steve Blinn and Dan Bostek provides another useful example of why the history of these forecasts matters. Their article, Norfolk Southern Built It, Promised the Freight Would Follow, and Now Offers the Empty Space as a Merger Benefit, examines Norfolk Southern’s Crescent Corridor and the publicly supported intermodal infrastructure built to attract long-haul truck traffic.

The Crescent Corridor was promoted as a major domestic intermodal growth program, with a projected opportunity of as many as 1.3 million additional loads annually. Norfolk Southern’s 2012 annual report identified approximately $295 million in public capital funding commitments, alongside anticipated private spending of up to $300 million. The public-benefit case included substantial

projected savings in congestion, fuel consumption, emissions, highway maintenance and transportation costs.

Blinn and Bostek document that some of the facilities built for that program later became idle or underutilized. Greencastle, Pennsylvania, opened in 2013, was idled in 2019, reopened in 2021 and is described as idle again in the current merger operating plan. McCalla, Alabama, is described as having discontinued intermodal operations several years ago while continuing to support automotive distribution. The UP–NS Growth Plan now identifies those facilities, along with E-Rail in New Jersey, as available capacity for new intermodal service.

Their investigation also points to Rossville, Tennessee, where the operating plan assumes, for planning purposes, that intermodal activity would be consolidated into Union Pacific's Marion, Arkansas terminal. Rossville was built with substantial public participation, and the plan's workload table shows its intermodal lifts declining to zero in the optimized plan.

None of this proves that the Crescent Corridor produced no benefits or that the proposed merger's Growth Plan will fail. The infrastructure has value, and reusing existing capacity may be an efficient operating decision. But the history raises a question that deserves an answer: what happened to the traffic forecast that justified the earlier investment, and what specifically changes under common ownership that makes the new forecast more credible?

Blinn and Bostek's work is another detailed display of the same concern that has appeared in the regulatory record for decades. The capacity was built because growth was predicted. Some of that capacity is now available because the anticipated traffic did not develop at the level needed to keep the facilities in use. The applicants should explain that history before the availability of the capacity is credited as evidence supporting another large truck-diversion forecast.

Who Will Invest to Deliver the Forecast?

The Crescent Corridor history also raises a related question about the current UP–NS Growth Plan: who will make the investments necessary to turn the projected truck conversions into actual shipments?

Domestic intermodal is not simply a railroad movement between two terminals. Intermodal marketing companies and other transportation providers may be responsible for containers, chassis, drayage, customer relationships, and the first- and last-mile portions of the shipment. A railroad can improve its line-haul service, but the complete door-to-door transportation product must still be commercially competitive.

STB Filing No. 310718 raises this issue directly. The commenter argues that the applicants have provided an operating plan for the combined railroad but not a corresponding plan for prospective intermodal marketing company partners. As an illustration of the potential scale of the investment, the filing estimates that a newly created IMC handling all of the projected new intermodal traffic could require approximately $2.69 billion in capital for containers, chassis, tractors, terminals, and information technology.

That figure is the commenter's hypothetical estimate, not an established merger cost or a commitment by any operator. Existing companies may have available capacity, expand incrementally, lease equipment, or divide the projected traffic among several providers. The significance of the filing is not the precise dollar amount. It is the distinction between the railroad's operating plan and the commercial and capital commitments of the independent companies needed to deliver the complete transportation service.

Larry Gross, a longtime intermodal analyst, makes a related point in his analysis of coast-to-coast merger growth. Gross identifies genuine opportunities for domestic intermodal, particularly in underserved markets, but emphasizes that capturing them may require new terminals, new services, more complex operations, and coordination with third-party networks. Eliminating an interchange is not, by itself, a complete strategy for winning freight from the highway.

The question, therefore, is whether the independent companies needed to support the projected growth are prepared to make the necessary investments and develop the required commercial relationships. A general statement of support is not the same as a quantified commitment to provide equipment, expand drayage capacity, develop terminals, or secure customers. Hub Group has publicly supported the merger, but the material reviewed to date does not establish a detailed investment commitment or a specific volume of truck conversions attributable to that support.

The record should be revisited after the November 18, 2026, when comments, protests, request for conditions and opposition are due. That review can establish which IMCs, trucking companies, logistics providers, and other relevant operators formally participate, what they actually say about the forecast, and whether they provide concrete commercial or investment commitments. It would be premature to conclude that an operator is absent from the proceeding before those filings are complete.

The applicants have modeled the freight they expect to attract. The remaining question is what evidence establishes that the independent commercial partners needed to deliver the complete door-to-door service will make the necessary investments and support the projected growth. Without that evidence, the Board has a forecast of potential traffic, but not a demonstrated commercial plan for converting it into actual shipments.

Intermodal Growth Is Not Necessarily Truck Diversion

There is an important measurement distinction in determining whether these predictions come true.

A substantial part of railroad intermodal traffic consists of international containers moving inland from or toward seaports. Growth in that traffic can reflect changes in international trade, port volumes and ocean-carrier routings. It does not necessarily represent domestic freight converted from highway to rail.

The merger claim is more specific: freight that otherwise would have moved by truck will move by rail because the merger improves rail service. Overall intermodal growth, standing alone, cannot establish that result. Nor can the number of terminal lifts, which measures crane movements rather than unique freight shipments.

The relevant question is whether the predicted domestic truck-to-rail conversions actually occurred and whether they can reasonably be attributed to the merger.

What Happened After Approval?

The older mergers were not simply approved and forgotten. The STB conducted substantial post-merger oversight of transactions including UP–SP, CSX/NS–Conrail and CN–IC, focusing on service, competition, merger conditions and operating problems.

What I have not found in the annual oversight decisions reviewed is a systematic comparison of the original truck-diversion forecasts with actual merger-attributable truck-to-rail conversions. That is not

a claim that no diversion occurred. It is a distinction between monitoring a merger and auditing a particular benefit credited when the merger was approved.

The distinction became more important in 2001, when the STB substantially strengthened its major-merger rules. The Board was responding to an industry that had undergone extensive consolidation, leaving fewer independent Class I railroads and making some competitive harms increasingly difficult to remedy. The new rules were intended to impose a more demanding public-interest test, not simply continue the approach used during the earlier merger wave.

The Board's policy recognizes that mergers can produce benefits, including improved service, gr economic efficiency and possibly more competition. It does not reject the traditional benefits. But it requires substantial and demonstrable gains to outweigh anticompetitive effects, potential service disruptions and other harms. It also directs the Board to consider whether claimed benefits could be achieved through alternatives such as joint marketing agreements or interline partnerships, which may produce efficiencies while risking less potential harm to the public.

That is a significant distinction for the UP–NS application. The fact that single-line service has been recognized as a benefit in prior decisions does not end the inquiry. The Board must still evaluate the magnitude of the claimed benefit, whether it is caused by the merger, and whether it could be achieved through other means. A precedent establishes that a category of benefit may be legitimate; it does not establish that the applicants' particular forecast is reasonable.

The 2001 rules also require applicants to explain how their transaction and proposed conditions would enhance competition. The Board specifically recognized that consolidation can reduce competition directly and indirectly, including in product and geographic markets and even in end-to-end mergers. It warned that a combined carrier may acquire and exploit increased market power. Those concerns are separate from whether the merged railroad can compete more effectively against trucks.

The rules go further on accountability. Applicants are expected to calculate net public benefits in good faith, and the Board is to evaluate that evidence carefully. To discourage exaggerated projections, the rules expect applicants to propose additional measures the Board might take if anticipated public benefits fail to materialize in a timely manner. The Board also recognizes that market conditions change and that a merger may not be implemented precisely as planned. But applicants are to be held accountable if they do not act reasonably in light of changing circumstances to achieve promised benefits.

That is not a guarantee that every forecast must be achieved. It is a requirement that the forecast be credible when approved and that the applicants remain accountable for their efforts to achieve it.

The oversight provision makes the distinction explicit. For at least five years following approval, applicants must present evidence, no less than annually, showing that merger conditions are working, representations made in the proceeding are being followed, unforeseen harms are being addressed, and "the merger benefit projections accepted by the Board are being realized in a timely fashion." Interested parties may comment, and the Board retains jurisdiction to impose additional conditions necessary to remedy or offset adverse consequences.

In other words, a projected benefit and an achieved benefit are not the same thing. The regulatory sequence should be straightforward: a benefit is predicted, the Board credits it, the merger is approved, and the benefit is then measured after consummation.

CP–KCS provides a modern test of that approach. The Board imposed seven years of oversight, and in 2024 Vice Chairman Karen Hedlund said the Board would be "carefully tracking these truck-to-rail

diversions." The predicted conversions were therefore not merely a promotional number; they were an identifiable public-benefit projection subject to continuing regulatory review.

The Board Now Recognizes the Problem

The STB's treatment of the current UP–NS application brings the history together. In its May 28, 2026 decision, the Board stated that there is a "history of prior major mergers that have fallen short of truck-to-rail conversion projections on past applicants' timelines."

It then pointed directly to CP–KCS. Approximately three years after consummation, the Board said, the projected annual conversion of 64,000 truckloads "has not yet been realized."

Those statements are important because they come from the regulator itself. The Board is no longer evaluating a truck-diversion prediction without historical experience. It has acknowledged that previous forecasts have fallen short, and it has identified a recent merger in which the anticipated conversion has not occurred on the applicants' original timeline.

The Board also asked UP and NS to provide additional information concerning their truck-diversion analysis and the associated public benefits, including an oversight framework and what measures could be taken if the anticipated benefits fail to materialize in a timely manner. That inquiry connects the current application directly to the accountability provisions adopted in 2001.

The Board's May decision accepted the revised application for consideration but held the proceeding in abeyance while requiring supplemental information. On August 18, it removed the abeyance and established a procedural schedule. The Board expressly stated that doing so was not a ruling on the merits of the merger application or the issues raised by commenters. The applicants' benefit claims therefore remain to be tested, not accepted as established facts.

Yet the number now before the Board is not 64,000 trucks annually. UP and NS project approximately 2.1 million trucks off the road.

That does not establish that the UP–NS forecast is wrong. Nor does the history establish that truck-to-rail conversion cannot result from improved rail service. But after more than four decades of similar merger claims, the burden of persuasion should be different from what it was when the ICC credited motor-carrier diversion in 1982.

The Board's own rules provide the framework for that inquiry. The applicants should demonstrate why the forecast is reasonable, what portion of the projected traffic is genuinely merger-dependent, what evidence supports the assumed service and pricing improvements, and how the predicted conversions will be measured after approval. The Board should also consider whether the same benefits could be achieved through existing infrastructure, interline arrangements or other commercial alternatives without the same structural consequences.

The Crescent Corridor investigation by Steve Blinn and Dan Bostek adds another reason to ask those questions. It is not necessary to conclude that the earlier program failed in its entirety to ask why facilities built for forecast growth became idle, what actual truck conversions were achieved, and whether the new merger-dependent forecast rests on materially different commercial assumptions.

The regulatory history is now unusually clear. ATA challenged similar predictions in the Conrail proceeding in 1997. Heavy Duty Trucking identified the recurring promise in 1999. The STB adopted a more demanding major-merger standard in 2001. CP–KCS received seven years of oversight in

2023. And in 2026, the Board itself acknowledged a history of truck-conversion forecasts falling short of applicants' timelines.

The Question the 2001 Rules Require the Board to Answer

The history of truck-diversion promises raises a question that goes beyond whether the UP–NS forecast is reasonable. Assume, for the sake of argument, that the applicants are right. Assume the 2.1 million annual truck conversions occur, the projected shipper savings are realized, and the associated reductions in congestion, emissions and fuel consumption follow. Those would be genuine public benefits, and the Board should give them appropriate weight.

But would they establish that the merger satisfies the enhanced-competition standard adopted in 2001?

The distinction matters because the new rules did not eliminate traditional merger benefits. Improved service, greater efficiency, traffic growth and truck-to-rail diversion remain legitimate considerations. The Board must weigh substantial and demonstrable public benefits against anticompetitive effects, potential service disruptions and other harms. At the same time, the rules require applicants to explain how their transaction and proposed conditions would enhance competition, including how they would offset competitive harms that are not otherwise mitigated.

The Board also recognized that competition between railroads is not the same as competition between rail and other modes. A railroad may become a stronger competitor against trucks while the merger reduces the number of independent rail alternatives available to particular customers. The 2001 policy expressly acknowledges that consolidation can reduce competition directly and indirectly, including in product and geographic markets, and that even an end-to-end merger can increase market power.

That is the tension in the current application. The applicants' truck-diversion forecast is a claim about the merged railroad's ability to compete more effectively for freight now moving on highways. It does not, by itself, establish what happens to rail-to-rail competition for carload customers. As a rail buyer, I have not yet seen a demonstration in the record that the transaction will meaningfully enhance that competition. The applicants may offer additional evidence, and the Board will have to evaluate it. But the size of the truck-diversion forecast should not be allowed to substitute for that separate inquiry.

The harder question is how the Board should weigh exceptionally large public benefits if meaningful new rail-to-rail competition has not been demonstrated. The regulation does not categorically say that every merger must create new competition in every market, nor does it expressly prohibit approval whenever a particular form of enhanced competition is absent. It establishes a balancing framework while also imposing a distinct enhanced-competition expectation. How those provisions are reconciled in this proceeding is a question the Board should explain rather than leave implicit.

Otherwise, the enhanced-competition standard risks becoming little more than the old public-benefits test under a different name. If a merger can satisfy the new standard simply by showing that the combined railroad will compete more effectively with trucks, what additional work is the enhanced-competition requirement doing? That is not a conclusion that the rules forbid the merger. It is a question about how the Board intends to apply the more demanding policy it adopted after the consolidation experience of the 1990s.

There is also the question of alternatives. The 2001 rules direct the Board to consider whether claimed benefits could be achieved through arrangements such as joint marketing agreements or interline partnerships, which may produce efficiencies while risking less potential harm to the public. If some of the projected truck-diversion benefits can be achieved through existing infrastructure, coordinated

service or other commercial arrangements, their existence alone does not establish why permanent consolidation is necessary to obtain them.

That brings the historical record back into focus. ATA challenged similar truck-diversion predictions in the Conrail proceeding in 1997. Heavy Duty Trucking identified the recurring promise in 1999. The STB adopted a more demanding major-merger policy in 2001. CP–KCS received seven years of oversight in 2023. And in 2026, the Board itself acknowledged a history of major mergers falling short of truck-conversion projections on applicants' timelines.

The issue is therefore not whether railroads can take freight off the highway. The issue is whether a familiar category of predicted benefit, even if fully realized, is sufficient to justify a permanent structural change under the more demanding standard adopted in 2001.

The applicants have offered a forecast of extraordinary magnitude. The Board must decide how much of it is demonstrable, how much depends on the merger, what commercial commitments are necessary to achieve it, and how the results will be measured. But it must also answer the separate question that the forecast cannot resolve: what does this merger do to enhance rail-to-rail competition, and how should that requirement be weighed against the promised benefits of taking trucks off the road?

After 44 years of recurring truck-diversion predictions, that is the question the 2001 rules require the Board to confront.

APPENDIX N

Railroad Bundling and the UP–NS Merger: When Two Portfolios Become One.

Bob Granatelli | LinkedIn | September 10, 2026

Related principal comments: §§ VI

Does a Larger Portfolio Create Greater Market Power—and Shift the Balance From Choice to Leverage?

The proposed Union Pacific–Norfolk Southern merger would combine two largely end-to-end railroad networks. It would also combine something less visible on a railroad map: two enormous customer portfolios. That matters because railroads negotiate more than individual movements. They can bundle traffic across multiple plants and markets, combining business where a customer has competitive rail alternatives with business where it does not.

Bundling is not new, and it is not inherently improper. But the public record shows that captive traffic can provide leverage in negotiations over competitive traffic. The UP–NS merger therefore raises a different competition question: What happens when two independent railroad portfolios become one?

How Bundling Works

Bundling is the commercial practice of negotiating multiple rail movements as part of a larger package or customer portfolio rather than pricing each movement independently. The bundle can include sole-served traffic, where the railroad faces little or no direct rail competition, and competitive traffic at dual-served facilities, where another railroad is physically available.

That combination is important. When captive and competitive traffic are negotiated together, the railroad's control of the sole-served traffic can influence the customer's choice at the dual-served plant. The competing railroad may remain physically present, but its ability to compete for the business can be effectively constrained by the economics of the larger package. In that circumstance, bundling can effectively eliminate the competing railroad as an economically viable alternative for that traffic.

The commercial distinction is choice versus leverage.

“Give me your captive and competitive traffic and I'll give you an attractive package price” can be ordinary bundling.

“If you give the competitive traffic to the other railroad, the economics of your captive traffic will change” is a materially different commercial mechanism.

In the first situation, the shipper evaluates a package and decides whether the package produces better economics. In the second, the shipper's ability to exercise competition at the dual-served location is affected by what may happen to traffic for which it has no competitive alternative.

Put more simply: The railroad uses its monopoly position at the sole-served point to protect its competitive position at the dual-served point.

This Is Not Just a Theory

The practice has been described publicly for decades. In 2002, Dan Borne, then president of the Louisiana Chemical Association, testified before a Senate subcommittee about what he called railroad “bundling.” He described a railroad serving a chemical company at both a captive plant and a competitive plant and offering a lower captive rate if the company also contracted with that railroad at the competitive facility.

Borne provided a specific example. One chemical company, he said, rejected the bundled arrangement and signed a contract at its competitive plant with rates 15 to 25 percent below what it had been paying under the bundled contract. According to Borne, rates at the captive plant then increased by double digits. He told Congress that bundling could result in captivity being “projected onto competitive plants.” The testimony was an allegation by a shipper association, not a finding by a regulator, but the commercial mechanism he described was explicit.

Five years later, the subject arose again before the Senate, this time with both a shipper and a railroad executive at the witness table. David McGregor, then senior vice president for NAFTA logistics at BASF, was asked whether railroads used captive traffic to affect rates on noncaptive business. “That, in fact, is the case,” he responded. McGregor described negotiations in which BASF considered moving competitive traffic to another railroad. According to his testimony, the railroad responded that BASF could do so, but that it would still seek essentially the same revenue from BASF's captive business.

Senator David Vitter then put the question to Norfolk Southern Chief Executive Wick Moorman, who was testifying on behalf of the Association of American Railroads. Moorman disputed Vitter's characterization of the situation as a monopoly, but his answer on the underlying commercial practice was notable. Asked whether railroads could use less-competitive traffic in negotiations covering a customer's other business, Moorman said: “where traffic is less competitive, do we use that in negotiations with customers for their entire book of business? Yes, we could.” Moorman added that customers similarly use their more competitive traffic in negotiations with railroads.

That distinction is important. The point is not that bundling is unlawful, nor does Moorman's testimony establish that every railroad negotiates every customer relationship this way. It establishes something narrower: less-competitive traffic can be part of negotiations involving a customer's broader book of business. The practice has also been described by rail-industry consultants. RSI Logistics explained in 2017 that because rates are generally higher at captive locations and lower on competitive movements, shippers sometimes combine them in negotiations. RSI also described the reverse dynamic: a railroad can use captive traffic to obtain greater participation in competitive lanes. Taken together, these examples establish the commercial practice without requiring an inference about how any particular railroad will negotiate in the future.

What Changes When Two Railroad Portfolios Become One?

That brings the issue to the proposed UP–NS merger. Today, Union Pacific and Norfolk Southern are independent railroads. Each has its own customer relationships, competitive traffic and sole-served traffic. A large industrial company may do business with both railroads, but the UP portfolio and the NS portfolio remain commercially separate. The merger would change that boundary.

Traffic now negotiated separately with UP and NS could become part of a single, much larger railroad-customer relationship. The merger does not create bundling. It potentially changes its scale—from two separate railroad portfolios into a single transcontinental customer portfolio.

That distinction was raised recently by Roger Nober, a former chairman of the Surface Transportation Board and former chief legal officer of BNSF. Nober, who has disclosed that he has consulted for

BNSF regarding the UP–NS merger, discussed bundling while analyzing the transaction on a TrainsPRO podcast in August. His views were his own. Nober used a Gulf Coast chemical-shipper example involving plants served by different railroads and plants with competitive access. At approximately 19:16 in the discussion, he described the effect this way: “the carrier has the ability to bundle, if you will, its services and exert more market power.”

The significance of the example was not that competitive tracks disappeared. Some plants in Nober's hypothetical retained competitive access. His concern was the broader commercial relationship created when more of the shipper's facilities came under the control of one railroad. That is precisely why bundling deserves examination in an end-to-end merger.

A Larger Commercial Relationship

The chemical industry provides a useful illustration. UP has a large chemical franchise centered on the Gulf Coast and western United States. NS has its own chemical franchise across the East, including access to important industrial areas through connections, short lines and the Conrail Shared Assets territories. Today those franchises belong to separate companies.

A chemical producer could have sole-served facilities on the UP system, sole-served facilities on the NS system, competitive facilities on either network, and other plants reached through short lines or shared-access arrangements. The customer's transportation portfolio may already be national, but its relationships with UP and NS remain divided between two independent railroads. Following the merger, substantially more of that business could be negotiated within one railroad-customer relationship.

That does not establish that the combined railroad would use captive traffic to influence competitive traffic. Nothing in the record we have examined establishes that future conduct, and there is no reason to infer it. The structural change is enough to raise the question: Bundling exists today. What changes is the amount and geographic reach of traffic potentially contained within a single commercial portfolio.

Physical access alone does not necessarily answer that question. A competing railroad can remain connected to a plant and the shipper can retain the physical ability to use it. But the historical testimony on bundling shows that the economics of exercising that choice can be affected by negotiations over the customer's traffic elsewhere. The distinction is between physical competition and economically independent choice.

The 2001 Merger Rules

Neither the ICC Termination Act nor the Surface Transportation Board's major-merger regulations specifically prohibit bundling. They do not establish a regulatory test for bundled pricing. But the 2001 Major Rail Consolidation Procedures address the broader competitive issue directly.

The Board recognized that railroad consolidation can reduce competition “both directly and indirectly.” It specifically warned that competition in product and geographic markets can be reduced even by end-to-end mergers. And it included a sentence particularly relevant to the UP–NS transaction: “Any railroad combination entails a risk that the merged carrier would acquire and exploit increased market power.”

The regulations therefore require applicants to propose remedies for competitive harms and explain how competitive and market options would at least be preserved. They go further when discussing

major mergers: applications should contain provisions for enhanced competition, and proposed conditions should not simply preserve competition but also enhance it.

This is not merely historical language from a regulation written 25 years ago. In January 2026, when the STB rejected the original UP–NS application as incomplete, the Board invoked this exact provision in explaining why projected post-merger market shares were required. The Board said those projections were necessary because any railroad combination, including an end-to-end merger, presents the risk that the combined carrier could acquire and exploit increased market power.

That provides the connection between bundling and the enhanced-competition standard. Bundling does not have to be prohibited for it to matter in a merger proceeding. The relevant issue is whether combining the two systems increases the merged railroad's market power over a shipper's portfolio in a way that affects the effectiveness of existing rail-to-rail competition.

The historical record shows that captive traffic can be considered in negotiations involving competitive traffic. Moorman described negotiations over a customer's “entire book of business.” Nober has now raised bundling and increased market power while discussing the UP–NS merger itself. The merger would bring two presently independent books of business under common commercial control.

The tracks at a competitive plant may remain exactly where they are. The competing railroad may still be capable of serving the facility. But if the economics of awarding that carrier the traffic are affected by a much larger portfolio of captive business elsewhere, counting the number of railroads physically serving the plant does not necessarily describe the full competitive relationship. That is where bundling intersects with the Board's enhanced-competition requirement.

The question is not whether bundling is legal or illegal. Nor is it whether UP–NS will bundle its customers' traffic. Railroads already bundle. The merger question is whether combining two enormous portfolios of captive and competitive traffic into one nationwide commercial relationship increases market power—and, if it does, how that enhances competition.

APPENDIX O

Who Knows the Total Price — and Why Does It Matter?

Bob Granatelli | LinkedIn | September 17, 2026

Related principal comments: §§ V

Much of the proposed Union Pacific–Norfolk Southern merger is being explained in terms of what would disappear: interchanges, handoffs, separate contracts and separate invoices. But something else would disappear on thousands of existing UP–NS interline movements — the separation between two independent railroad pricing decisions.

Today, under Rule 11 pricing, Union Pacific can establish and bill its portion of a movement and Norfolk Southern can establish and bill its portion. The rail buyer receives the separate charges and knows the total transportation price. Each railroad independently establishes its own price and does not necessarily know what the other railroad has charged.

After the merger, that structure would change for movements converted to single-line service. Union Pacific says approximately 10,000 existing interline lanes would become single-line. The applicants describe a customer experience involving one commercial team, one contract and one invoice. On those movements, one railroad would establish and know the entire origin-to-destination rail price.

Price information affects bargaining power. If two independent suppliers each price only one part of a transaction, neither necessarily knows how much the customer is paying for the complete product. Combine the suppliers, and the resulting company not only sets the entire price; it can see how much the complete transaction costs the customer. In a business that practices differential pricing — pricing according to what a market can bear — that information can matter.

That is the significance of a seemingly technical question: Who knows the total price — and why does that matter?

The answer begins with how railroads price their services. Railroad pricing is not simply a calculation of the railroad's cost of moving a car from Point A to Point B. Railroads practice differential pricing. Rates can reflect costs, competitive alternatives, demand, the characteristics of the traffic and the value the transportation provides to the customer. In practical terms, railroads seek to understand what a particular movement and market can bear — and, when market conditions permit, capture a larger share of the economic value associated with that movement.

Matt Rose, then chief executive of BNSF, provided an unusually direct illustration more than two decades ago. Discussing BNSF's agricultural business, Rose told Trains magazine: "When soybeans hit $10 a bushel, we raise our rates to enjoy a part of that value stream."

The quotation appeared in Fred W. Frailey, "BNSF Reborn," Trains, Vol. 64, No. 10, October 2004, p. 42.

Rose was not discussing UP–NS, and his statement does not mean railroad rates simply follow commodity prices. It illustrates a narrower point important to the merger discussion: the economics and value of the underlying commodity can be relevant to a railroad's pricing decision.

Railroad commercial organizations are built in part around acquiring that kind of market knowledge. Class I railroads employ market managers responsible for particular commodities and industries. Their responsibilities include understanding customers, supply chains, competition and market conditions and participating in the development and execution of pricing strategies. A railroad selling transportation can therefore have substantial information about the economics of the business moving over its tracks.

Railroad executives sometimes describe this approach simply as “pricing to the market.” But that description raises an important question of its own. When a railroad says it prices “to the market,” an important question follows: In a market where the customer has little or no rail-to-rail competition, who is actually establishing that market price?

That is why the question of who knows the total price matters. Differential pricing depends on information. The better a railroad understands the market, the customer, the commodity and the available transportation alternatives, the better informed its pricing decision can be. Rule 11 leaves part of the transportation price in the hands of another independent railroad. A single-line movement does not.

The proposed merger would make that change across thousands of existing UP–NS interline lanes. Two independent pricing decisions would become one. Two commercial organizations would become one. And one railroad would establish and know the complete rail price on movements for which that price today can be divided between UP and NS.

The scale makes the question more significant. The Surface Transportation Board says the proposed combined system would encompass approximately 50,000 miles across 43 states. UP and NS also bring together commercial organizations serving major markets in agriculture, chemicals and petroleum, automotive, energy, industrial products and consumer products.

The significance is the change in the structure of the pricing transaction. On movements that become single-line, pricing information that today is divided between two independent railroad organizations would reside within one railroad.

The Merger Standard

That distinction matters because UP–NS is not being evaluated solely on whether combining the two railroads would produce operational efficiencies. The Surface Transportation Board’s major-merger rules require a broader examination. The 2001 rules placed particular emphasis on enhanced competition, along with public benefits, service and other effects of a major consolidation.

UP–NS has offered substantial claimed public benefits. Single-line service, fewer interchanges, improved transit times and truck-to-rail diversion are important parts of the applicants’ case. Those claims belong in the Board’s analysis. Railroad merger precedent recognizes that more efficient single-line service and diversion of traffic from highways can constitute public benefits.

But the pricing change examined here presents a different question. If thousands of movements that today involve two independent pricing decisions become movements in which one railroad establishes the complete origin-to-destination price, what does that change do to competition?

That question cannot be answered simply by counting eliminated interchanges or estimating hours saved. A public benefit and enhanced competition are not necessarily the same thing. A merger can make a transportation movement more efficient while separately changing the commercial relationship between the railroad and the rail buyer.

The distinction becomes particularly important in a market characterized by differential pricing. The merger would combine two commercial organizations, their customer relationships and their commodity-market knowledge while eliminating the separation between UP and NS pricing on thousands of movements. The competitive question is what that consolidation of pricing authority and information means for rail-to-rail competition — and how it fits a merger standard requiring enhanced competition.

The Board's major-merger rules recognize the broader concern. They expressly state that competition can be reduced by end-to-end mergers and that "any railroad combination entails a risk that the merged carrier would acquire and exploit increased market power."

The Board's merger precedent also recognizes the importance of distinguishing public benefits from gains produced by increased market power. In the UP–SP proceeding, the Board explained that an ability to increase rates while providing the same or reduced level of service would represent a private benefit that detracts from public benefits rather than adding to them.

That distinction is important here. Eliminating an interchange on approximately 10,000 existing interline lanes may produce an operational benefit. But converting those movements to single-line service also eliminates the separation between UP and NS pricing. Both are consequences of the same merger, and both belong in its evaluation.

And this is not an abstract question. It can be examined with evidence. The Board can identify UP–NS interline movements that would become single-line and determine how those movements are priced today, including where UP and NS independently establish their portions of the price. It can then compare that structure with the proposed single-line pricing organization and examine the competitive alternatives available to those customers.

The applicants' own pricing information could make that examination particularly useful. For representative existing interline movements, the Board could examine the UP and NS pricing components, how independently those prices are established, the market information considered in setting them and how pricing responsibility would change after the merger. It could also examine whether the disappearance of an independent pricing decision changes the alternatives or negotiating leverage available to the rail buyer.

That principle suggests another question the Board can test: When two independent railroad pricing decisions become one, what has happened to competition?

Committed Gateway Pricing adds another dimension. For certain traffic that would remain interline with BNSF or CSX, UP–NS has proposed CGP as a way for the connecting railroad to offer the customer a confidential through rate using a predetermined UP–NS price. The applicants have also said Rule 11 would remain available.

CGP and single-line pricing are different arrangements, but both make the architecture of railroad pricing worth examining. For a rail buyer, the issue is not simply whether one invoice is more convenient than two. It is who independently establishes the components of the transportation price, who knows those components, and who ultimately knows and controls the total.

Matt Rose's soybean example explains why this is more than an accounting question. If the value of the underlying traffic can be relevant to differential pricing, then information has economic value. Combining two railroads therefore combines more than tracks, terminals and trains. It also brings together pricing organizations, customer relationships and market knowledge.

The operational benefit of single-line service is that one railroad controls the entire movement. The pricing consequence is that one railroad controls the entire price.

Before the merger, on a Rule 11 UP–NS movement, the rail buyer can know something neither railroad necessarily knows: the total price. After the merger, on a single-line UP–NS movement, one railroad establishes and knows that price, backed by the combined market knowledge, customer relationships and commodity expertise of two large commercial organizations.

That brings the analysis back to the 2001 major-merger rules. Operational efficiency and enhanced competition are not the same thing. Converting approximately 10,000 interline lanes to single-line service may produce public benefits by eliminating interchanges. But those same conversions also eliminate thousands of instances in which UP and NS make independent pricing decisions.

Both consequences come from the same merger. Both belong in the merger analysis.

And that is why the question of who knows the total price matters. In a major railroad merger required to demonstrate enhanced competition, the consolidation of pricing authority and information is not simply a pricing issue. It is part of the competition issue the Board must examine.

APPENDIX P

Single-Line Service, Gateway Protection and the Enhanced-Competition Test in the UP–NS Merger

Bob Granatelli | LinkedIn | September 21, 2026

Related principal comments: §§ IV–V

How do two familiar railroad merger benefits fit a newer regulatory standard?

There is a familiar story in railroad mergers. Two railroads that interchange traffic become one railroad. The interchange disappears, the movement becomes single-line, and the combined railroad can allegedly provide faster, more reliable transportation at lower operating cost. Protecting existing gateways is another familiar part of the merger story: the combined railroad gains new routing opportunities while commitments are made to preserve the interline routes available before the transaction.

Both single-line efficiencies and gateway protections have figured prominently in earlier railroad merger decisions. They are also important elements of the public-benefits case for the proposed Union Pacific–Norfolk Southern merger. But this transaction will be considered under the major-merger rules adopted in 2001, which place greater emphasis on enhancing competition.

That change raises a question worth keeping in mind as we examine two benefits that have long been part of railroad merger proceedings: How does the Board reconcile the established public-benefits framework with the newer requirement to enhance competition?

Single-line service: Not every interchange is the same

The traditional single-line argument begins with eliminating interchange. But not all interchanges involve the same railroad work. For purposes of examining the claimed operating benefits of the UP–NS merger, it is useful to distinguish three types of interchange: classification and rebuilding, preblocked transfer, and intact-train handoff.

The first type involves classification and rebuilding. Cars arrive at a terminal, are sorted by destination and assembled into another train for the connecting railroad. If a merger eliminates that intermediate work, it may reduce switching, terminal dwell, handling costs and missed connections. This is the type of interchange most readily associated with substantial physical savings.

The second type is a preblocked transfer. Cars have already been grouped for the connecting railroad before reaching the gateway. The receiving railroad may still have to transfer those blocks or attach them to another train, but much of the classification work has already been done. A merger may improve the connection or eliminate some remaining handling, although the potential savings differ from those associated with rebuilding a train.

The third type is an intact-train handoff. A train passes from one railroad to another without its cars being classified or rebuilt at the interchange. The handoff may involve crews, locomotives, operating responsibility or coordination between the carriers. Combining ownership may improve those arrangements, but there is little intermediate car handling to eliminate if the train already moves through intact.

All three movements can become single-line after a merger, but the savings depend on the work eliminated, not simply on the change in ownership. A merger that removes an entire classification operation presents a different operating proposition from one that improves the transfer of preassembled blocks or the handoff of an intact train. That distinction is essential when comparing the applicants' claimed benefits at Chicago, Salem and New Orleans.

Chicago, Salem and New Orleans: Different operating propositions

Chicago, Salem, Illinois, and New Orleans provide a useful way to examine those differences. The applicants have identified a Chicago intermodal movement involving containers that arrive at NS's 47th Street facility and are transferred by truck to UP's Global 2 terminal. UP says the existing transfer can add as much as 36 hours. Under its proposed post-merger arrangement, the containers would move through Global 2 with a block swap, producing an estimated transit-time reduction of 20 to 24 hours.

That is a concrete example of a potentially substantial improvement. It is also an intermodal terminal-transfer example, rather than evidence that every Chicago carload movement requires extensive classification or that the same savings would apply to other gateways.

Salem,IL illustrates a different operating proposition. The applicants have described a proposed North Little Rock–Conway merchandise train that would use UP's existing route through Salem and NS's route through Sidney, Illinois. They say the proposed route would be approximately 41 miles shorter than the existing interline movement through East St. Louis and would eliminate one or two handlings for approximately 80 cars originating daily at North Little Rock. The applicants also attribute additional reductions in car handling to the new train and related changes at the St. Louis gateway. Streamlined handoffs between up and other carriers at Salem IL have been used for decades.

The Salem example is important because the claimed benefit involves a change in routing and car handling, not simply the elimination of an interchange at Salem. The applicants' comparison is with the existing movement through East St. Louis. To understand the savings, the current and proposed train plans must be compared, including where cars are classified, how they are blocked and which handling operations would no longer be required.

New Orleans presents a third question. The applicants identify it as an existing UP–NS interchange gateway and propose eliminating the interchange between the two companies there. But the identification of an interchange does not, by itself, establish whether the traffic currently requires classification, moves in preassembled blocks or passes through in intact trains. The amount of physical work eliminated must be established from the current and proposed operating plans.

These examples demonstrate why the benefits of single-line service cannot be measured simply by counting the interchanges that disappear. Chicago provides a documented example of an intermodal transfer between terminals. The proposed route, and currently used, through Salem illustrates a combination of shorter mileage and reduced handling compared with an existing route through East St. Louis. At New Orleans, the operating benefit depends on what happens to the traffic today and what would change under the combined railroad's operating plan.

There is a further consideration. Independent railroads can already coordinate schedules, preblock traffic and operate run-through trains. Some efficiencies commonly associated with single-line service may therefore be available without combining ownership. The relevant comparison is between the actual pre-merger movement and the proposed post-merger movement, including what coordinated interline service can accomplish.

For a rail buyer, the operating improvement also has to be considered in the context of the entire trip. Saving several hours at an interchange may be valuable, but its significance depends on the existing transit-time baseline and the reliability of the movement from origin to destination. A reduction in railroad operating cost, moreover, is not necessarily an equivalent reduction in the transportation price paid by the customer.

Single-line service may provide a level of genuine public benefit. The question is what improvement the merger actually produces, where it occurs and how that improvement is measured.

Gateway protection: When an open route changes economically

The second issue arises from the same change in ownership. Combining two networks may allow the new railroad to carry traffic farther over its own lines before delivering it to another carrier. The longer single-line movement may offer operating advantages, but it can also change the economics of an interline route that existed before the merger.

Consider a shipment moving from a UP-served origin to a destination served by CSX. Today, the traffic may move over UP to New Orleans, where CSX receives it for the remainder of the trip. After the merger, the combined UP–NS system could potentially carry that shipment farther east over the former NS network before delivering it to CSX at another interchange point. That is an illustrative possibility, not a claim that the applicants intend to divert this particular traffic.

In such a movement, the New Orleans gateway need not close. The physical connection can remain in place, and other traffic can continue to move through it. Nevertheless, the shipper's existing transportation arrangement may change substantially. UP–NS would have a longer haul, CSX a shorter one, and the participating railroads would face different operating costs and pricing opportunities.

The new route might be more efficient. Whether it would reduce the shipper's total transportation price is a separate question. Where two railroads establish separate rate factors under Rule 11, the total price reflects the pricing decisions of both carriers. A reduction in the combined operating cost does not, by itself, establish how the savings would be reflected in those rates.

This is the practical concern behind what might be called gateway creep: a merger creates opportunities to extend the combined railroad's haul beyond an existing interchange, potentially changing the commercial position of the route through that gateway. The issue is not whether every historical routing must be preserved or whether a longer single-line movement is necessarily harmful. It is whether the existing gateway remains a commercially effective transportation alternative.

What earlier merger decisions tell us

The competitive consequences of changing gateways were contested in the 1998 Conrail transaction. Chemical and plastics shippers, represented by CMA/SPI, raised concerns that traffic could shift from existing gateways to Memphis or New Orleans, changing the participating railroads' lengths of haul and potentially increasing the shipper's total transportation price. Their witnesses modeled a possible rate increase under specified assumptions about the railroads' pricing behavior.

The Board rejected the projected rate increase. It reasoned that more efficient through routes could reduce overall railroad costs and that lower costs could be expected to produce lower through rates. But the Board's reasoning did not stop there. In assessing the alleged gateway-related harm, it also relied on the transaction's broader competitive benefits, pointing to the applicants' showing that approximately 73,200 carloads of chemical and plastics traffic would benefit from enhanced

competition, principally through opportunities associated with the new Shared Assets Areas. The Board thus treated those competitive benefits as an offset to the alleged harm from changing gateways, even though the benefits and the potential harm did not necessarily affect the same traffic or the same shippers.

That transaction-wide offset raises a different question for an individual rail buyer. Consider a Gulf Coast resin producer with no production facilities in a Shared Assets Area and no customers whose transportation would benefit from the new competition there. If that producer faced a higher total transportation price because traffic shifted away from an existing gateway, the competitive benefits available to other shippers in the Shared Assets Areas would not offset the increase in its own transportation costs. The Board could weigh benefits and harms across the transaction as a whole, but an offset in the Board's public-benefits calculation is not necessarily an offset in the affected shipper's transportation bill.

The dispute illustrates a distinction that remains relevant today. A new routing may reduce the cost of moving freight, while the resulting transportation price depends on how the participating railroads price their respective services. Similarly, enhanced competition for one group of shippers does not establish that another group retains the economic value of an existing gateway. The Board must consider the transaction as a whole, while the transportation buyer experiences the result on particular movements.

Gateway protection received further attention when the STB adopted its major-merger rules in 2001. In its final rulemaking decision, the Board discussed Norfolk Southern's comments on gateway protection and recognized the importance of keeping major gateways open economically as well as physically. It did not adopt an automatic formula to equalize rates or require that all traffic continue moving over its historical route. Instead, it retained a framework for examining gateway issues in the circumstances of a particular merger.

The CP–KCS proceeding offers a more recent example. Union Pacific raised concerns that the combined railroad could favor longer single-line movements over existing interline routes and sought additional gateway protections. The Board did not adopt every protection UP requested, but it imposed conditions intended to preserve competitive gateway options. The CP–KCS merger was approved under the pre-2001 rules, so that decision does not determine how the current major-merger standard applies to UP–NS.

There is another limitation for the rail buyer. Gateway protections in a merger decision do not automatically protect traffic moving under transportation contracts or commodity exemptions. Contract transportation under 49 U.S.C. § 10709 is governed principally by the contract's terms, while exempt traffic is subject to a different regulatory framework. For those shippers, a general commitment to keep a gateway open does not, by itself, guarantee that an existing routing or transportation price will be preserved. Whether a shipper can invoke a particular protection depends on its terms and the legal arrangements governing the traffic.

The earlier decisions show that the operating benefits of single-line service and the commercial consequences of changing gateways have both been examined in railroad merger proceedings. Norfolk Southern's comments in the 2001 rulemaking and Union Pacific's position in CP–KCS make those issues particularly relevant to the present applicants.

Two familiar benefits under a different standard

The proposed UP–NS merger brings single-line service and gateway protection together. At Chicago, the applicants have identified an intermodal terminal-transfer improvement. Their proposed route

through Salem illustrates a different combination of shorter mileage and reduced car handling. At New Orleans, the inquiry includes both the operating work that would be eliminated and the potential effect of a longer UP–NS haul on the economics of existing interline movements.

These are legitimate subjects for the public-benefits analysis, and earlier merger decisions provide ample reason to examine them. The applicants can point to operating efficiencies that may improve service and reduce costs. They can also propose gateway commitments intended to protect transportation alternatives as their combined network creates new routing possibilities.

The 2001 rules introduce an additional consideration. They place greater emphasis on competition and require applicants to explain how a major merger and its proposed conditions would enhance competition, including where enhancement is needed to offset harms that would not otherwise be mitigated. They also require applicants to identify and, where possible, quantify public benefits from service improvements, enhanced competition, cost savings and other merger-related effects, and to discuss whether particular benefits could be achieved short of merger. The newer standard did not erase the traditional public-benefits analysis; it changed the framework in which those benefits must be considered.

Single-line service describes an improvement the combined railroad may be able to provide. Gateway protection addresses competitive consequences that may accompany the new network. Both were familiar elements of merger proceedings before the 2001 rules took effect, and both remain part of the UP–NS applicants' public-benefits case.

How does the Board reconcile that established public-benefits framework with the newer requirement to enhance competition?

The answer is not supplied simply by counting the interchanges eliminated or the gateways kept open. It lies in how the claimed operating improvements, the proposed competitive protections and how the enhanced-competition requirement fit together in the Board's consideration of this merger.

So far, in my view as a rail transportation buyer, the applicants have not made that case.

APPENDIX Q

A Model Is Not a Shipment

Bob Granatelli | LinkedIn | October 5, 2026

Related principal comments: §§ IX

What 2.1 Million Truckloads Reveal About the Distance Between Economic Theory and Transportation Reality

There is a remarkable series of pages in the economic testimony supporting the proposed Union Pacific-Norfolk Southern merger. Dr. Mark Israel begins with prices, marginal costs and demand functions, then moves through optimization equations, elasticity, pass-through rates and Bertrand competition. The appendix eventually reaches assumptions, propositions and mathematical proofs.

I spent much of my career buying rail transportation and negotiating movements involving thousands of railcars. I could not reproduce the mathematics on these pages. But I do know the questions a transportation buyer has to answer before moving a single shipment from truck to rail. That is why the mathematics deserves a closer look—not because it is complicated, but because of the commercial conclusions the applicants ask the Surface Transportation Board to draw from their economic analysis.

The mathematics in the filing is best seen rather than summarized. The following page is from Israel's supplemental appendix, “Effects of CGP on Equilibrium Through Rates.” This is but one page that moves from Rule 11 pricing equations through demand elasticity and pass-through, Bertrand competition, assumptions, a proposition and a proof. The mathematics behind the analysis is sophisticated. A page from Mark Israel’s economic model illustrates the complexity.

Article content

But mathematical precision is not the same thing as precision in the underlying freight data.

This page demonstrate the analytical sophistication being brought to the merger. But they also provide a useful contrast with a much simpler question: What freight is actually being modeled?

Israel's conclusions are consequential. He describes truck-to-rail diversions as an “unambiguous demonstration” of merger benefits and says total merger-induced truck-to-rail diversion is a particularly good measure of total merger benefits—an “all-in view” of how much more competitive the rail industry becomes after the merger.

David Hunt's diversion analysis supplies the numbers behind that proposition. The merger is projected to remove approximately 2.14 million truckloads from the highways each year, representing 3.6 billion truck-miles. Hunt calculates that replacing higher-cost truck transportation with rail would save shippers approximately $3.5 billion annually. Those are not incidental benefits. The applicants themselves rely on the projected diversions as quantitative evidence that the transaction is consistent with the public interest.

Former STB Chairman Marty Oberman has already raised the practical question. In an October speech, he noted the absence of testimony from actual truck shippers saying they would convert their freight to rail if the merger were approved. He also pointed to investments that conversion can require

—sidings, spurs, railcar fleets and loading facilities—and argued that the applicants need something more concrete than a statistical prediction that truck freight will migrate to the new railroad.

Board Member Richard Kloster has raised a different but related concern. While emphasizing that he had reached no conclusion on the merits, Kloster wrote that there had been a “lack of transparency and depth” in the application. Applicants, he said, should present their best case for the merger, and the Board “should not have to sift through vague language” to determine where deficiencies exist. He remains open-minded as the record develops.

Those observations led me back to a more basic question: What freight is actually underneath the 2.1 million-truck prediction?

The answer begins with S&P Global's TRANSEARCH database, and the commodity issue deserves more attention than the shorthand description “STCC” might suggest. TRANSEARCH is a freight-flow database that reports commodities using Standard Transportation Commodity Codes. FHWA describes the database as providing county-level flows with commodities at the four-digit STCC level.

Hunt then combines that truck information with rail information from the 100 percent Waybill data. His methodology says the Waybill data contain commodity information at the STCC 6 or STCC 7 level. For the merchandise analysis, however, the combined truck-and-rail data are ultimately organized so that each row represents a county-to-county STCC 2 level commodity lane.

That progression matters. The underlying rail information can identify commodities at six or seven digits. The TRANSEARCH truck information is available at four digits. Hunt's merchandise market ultimately operates at the broader two-digit STCC level.

The difference between four-digit and seven-digit STCC is not simply a matter of additional statistical detail. The seven-digit STCC identifies the specific commodity being shipped. A four-digit STCC is a broader grouping that can contain multiple distinct products. For a transportation buyer, those products cannot simply be treated as interchangeable freight.

Chemicals illustrate the problem. STCC 28 encompasses chemicals and allied products, while STCC 4 levels narrows the category considerably. But even four digits may not identify the actual commodity being shipped. Plastics are a good example. Polyethylene and polypropylene can fall within the same four-digit plastics grouping, but at the seven-digit level they are identified as different commodities. Commercially, that distinction is fundamental. A plant may manufacture polypropylene but not polyethylene; a customer may purchase polyethylene but not polypropylene. The existence of truck tonnage within the four-digit category therefore does not establish that the product produced at one end is the product required at the other.

Paper presents the same issue. STCC2 26 encompasses pulp, paper and allied products, and the four-digit classifications divide that broad family into narrower groups. But the actual commodity ultimately moves under a more specific STCC. Newsprint, linerboard and other paper products are not generic “paper.” They are produced at particular mills for particular customers and uses. A four-digit truck flow can therefore establish the presence of freight within a product group without necessarily identifying the seven-digit commodity that actually moved.

That distinction is critical to the diversion analysis. TRANSEARCH provides the truck data at the four-digit level, while Hunt says the rail Waybill data contain STCC 6 or STCC 7 information. Yet the merchandise market used for the lookalike analysis is ultimately aggregated still further, to STCC 2. The model is therefore estimating diversion at a commodity level broader than the specific commodity that would actually be tendered for transportation.

A railroad does not haul an STCC 2 market or an STCC 4 product group. It hauls the specific commodity tendered by the customer.

Hunt's methodology itself recognizes that not all TRANSEARCH truck tonnage should be treated as available rail freight. It applies commodity and equipment screens to eliminate traffic considered unlikely to convert to rail. That is an important qualification. But a statistical exclusion or adjustment still answers a different question from identifying the particular product represented by the remaining tonnage and the establishments at each end of the movement.

This creates the first important divide between the statistical market and the commercial one. Suppose TRANSEARCH identifies truck tonnage within a plastics category moving from one county to another. Before those tons become an addressable UP-NS rail opportunity, a market manager would ordinarily need to know what product is moving, which plant produces it and which customer receives it.

The model can identify a statistical lead. The transportation buyer still has to identify the freight.

There is a second and separate issue: geography.

Hunt explicitly conducts the merchandise analysis at the county-to-county level. His assumptions define a market as an origin county, destination county and traffic type. For a merchandise/bulk market to be eligible for diversion, at least two railcars per week of the relevant STCC 2 commodity must originate from the county. His analysis then develops representative rail-route characteristics for the county pair.

That does not mean Hunt ignores the railroad network. He does not. The model generates possible rail routes and uses representative rail-route characteristics in determining whether post-merger service would be more competitive.

But a county is not a railroad customer.

A county can contain several railroads. It can contain industrial facilities served by different carriers. It can contain plants with rail alongside them and plants with no usable rail connection at all. A UP line somewhere in an origin county does not establish that UP serves the establishment generating a particular truck shipment. An NS line somewhere in the destination county does not establish that NS serves the customer receiving it.

Commodity aggregation and geographic aggregation therefore present two different identification questions. The first is: What product is actually moving? The second is: What establishments are actually moving it, and which railroads serve them?

Solving one does not solve the other.

A model can identify truck tonnage for a commodity category between two counties and identify a feasible rail route between those counties without, by those facts alone, establishing that the particular product is produced and consumed at establishments served by the railroads on that route.

This may be where economic theory and transportation buying begin to part company.

Hunt describes his merchandise approach as a “lookalike analysis.” Its premise is that shippers' mode choices reflect factors including price, transit time, interchanges and reliability, and that shippers of a given commodity behave consistently on a national basis. Markets receiving improved post-merger rail service can therefore be compared with existing markets having similar rail-service characteristics.

That is a recognizable economic modeling exercise. But the transportation buyer approaches the problem from the other direction.

What is the product? Where is it made? Who receives it? Which railroad actually serves the producing facility? Which railroad serves the receiving facility? Is each facility capable of handling railcars? What equipment is required? What is the shipment size? What would rail service do to inventory? What rate would be required? Why does the freight move by truck today?

Only after answering those questions does the transportation buyer have a rail opportunity to price.

Interestingly, Hunt's own finished-automobile analysis demonstrates how important establishment-level qualification can be. For finished vehicles, the applicants did not rely solely on county-level commodity flows. They screened for actual assembly plants and ports, required UP or NS access to the originating OEM assembly plant, examined the appropriate destination auto ramp, considered long-term carrier contracts and manually reviewed remaining lanes. The process reduced 47.7 million tons of truck traffic to 123,000 tons across 36 county-to-BEA lanes considered realistic potential diversions.

That comparison is important. For automobiles, the statistical lead was subjected to many of the same questions a transportation professional would ask before calling something an addressable rail opportunity. What is the facility? Does the railroad actually serve it? Is there an appropriate receiving facility? Are there contractual or operating reasons the traffic may not move? The analysis did not simply assume that the presence of automobile freight in two geographic areas created an available rail movement.

I have not found a comparable establishment-level qualification in the disclosed merchandise/bulk methodology. Instead, the disclosed methodology identifies merchandise markets at the county-to-county and STCC 2 level.

That does not establish that Hunt's predicted diversions are wrong. Without the underlying lane-level work papers, I cannot responsibly make that claim.

But we do know the level at which the disclosed analysis operates. That leaves a narrower and, from a transportation buyer's perspective, very important question:

How much commercial validation lies between a county-to-county STCC 2 statistical opportunity and an actual shipment that a UP-NS market manager could solicit from a customer?

That question matters because the merchandise portion alone is substantial. Hunt projects approximately 855,000 merchandise truckloads annually shifting from highway to rail as a result of the merger.

Even identifying a commercially viable rail movement would not finish the inquiry. The next question is why that freight moves by truck today. The answer might be an interchange and slower interline service. But it could also be shipment size, frequency, equipment availability, loading and unloading capability, inventory requirements, transit-time variability, rate, customer requirements or the economics of the particular movement.

Eliminating an interchange matters only if the interchange is materially responsible for the customer's decision to use a truck.

There is then one final question: Why does the merger have to occur to capture the freight? UP and NS can already interchange traffic and participate in interline movements. The 2001 major-merger

rules require the Board to consider whether claimed benefits could be achieved by means other than consolidation.

That brings us back to Israel's equations.

Their sophistication is not the problem. An economic model can be internally rigorous and still depend on assumptions and inputs that require commercial validation. Mathematics can estimate what happens after a market has been defined. It cannot, by itself, establish that the statistical market corresponds to freight a customer can and will actually tender to the railroad.

For a rail transportation buyer, the sequence runs in the opposite direction. First identify the product. Then identify the producing plant and receiving customer. Determine the railroads actually serving both facilities, the equipment required, shipment size, rate, service and inventory consequences. Determine why the freight moves as it does today. Only then ask what would cause the customer to change modes and whether the merger is necessary to produce that change.

The applicants may ultimately demonstrate that a very large body of truck freight would move to rail because UP and NS become one railroad. But when approximately 2.1 million truckloads and billions of dollars in annual shipper savings are offered as major quantified benefits supporting approval of a transaction of this magnitude, the evidentiary foundation matters as much as the sophistication of the model built upon it.

The question is not whether the mathematics can produce an answer. The question is whether the freight underneath that answer is commercially real.

A model is not a shipment.

APPENDIX R

Enhanced Competition: What Changes for the Captive Rail Shipper?

Bob Granatelli | LinkedIn | November 1, 2026

Related principal comments: §§ II

The real railroad Vs the fictional railroad

When the Surface Transportation Board adopted its Major Rail Consolidation Rules in 2001, it raised the standard for future Class I railroad mergers. Enhanced competition was not an incidental consideration. The regulations repeatedly address improving existing competition, creating new competitive opportunities and protecting transportation alternatives available to shippers.

Under 49 CFR § 1180.6(b)(10), applicants are expected to propose conditions that enhance competition rather than merely preserve it. Section 1180.7(b)(1) calls for a detailed examination of the transaction's competition-enhancing aspects.

Competition has an established meaning in law and commerce. Black's Law Dictionary defines it as the effort of two or more commercial interests to obtain the same business from third parties. A federal regulatory proceeding does not change that fundamental commercial principle.

For the captive buyer of rail transportation, the question is straightforward: What changes as a result of the merger?

Union Pacific and Norfolk Southern claim their proposed merger will enhance competition. They cite single-line service, lower operating costs, improved reliability, truck diversion and new market opportunities. Their supplemental commitments also address gateway pricing, targeted access and protection of existing competitive alternatives.

These claims deserve examination from the perspective of the shipper purchasing rail transportation for captive rail movements.

Article content
The distinction is fundamental. A railroad may become more efficient, extend its network and compete more aggressively for traffic without changing the number of independent railroads available to a captive customer.

Railroad competition is not an abstract measure of network size or potential freight volume. It is a commercial reality involving particular customers, origins, destinations and transportation alternatives. A shipper with two economically usable rail options can seek competing offers. A shipper with only one cannot obtain that same bargaining leverage merely because its railroad becomes larger.

Two Kinds of 2-to-1
There is another potential consequence of the merger: the creation of additional effective 2-to-1 situations through railroad bottleneck pricing.

The conventional 2-to-1 problem is straightforward. A facility served by both UP and NS before the merger would be served by one combined railroad afterward.

But there is a second kind of 2-to-1 that may be less obvious.

Consider a shipper served only by UP, shipping to a destination served by both NS and CSX. Today, the shipper may have two competing interline routes: UP–NS and UP–CSX. Although the origin is captive to UP, the shipper can potentially obtain competing transportation offers for the complete movement.

After the merger, UP–NS becomes a single railroad. Under existing bottleneck pricing precedent, the merged carrier may be able to decline to provide a separately priced originating segment needed to construct the competing UP–CSX route.

If that occurs, the shipper loses its economically usable CSX alternative. What had been two competing routes becomes one. The merger would have created an additional, effective 2-to-1 situation without eliminating a single mile of track or physically closing a gateway.

This outcome is not inevitable, but it would be a mistake to dismiss it as a theoretical possibility. Having spent more than four decades purchasing and managing railroad transportation, including direct involvement in the UP–SP merger, I believe there is every reason to expect that the merged railroad will use the pricing discretion available to it under existing bottleneck precedent.

Railroads are commercial enterprises. When the ICC/STB past decisions permits a carrier to control the pricing of a route that could otherwise support a competing railroad, there is a powerful economic incentive to exercise that control.

The merger would create the opportunity. Existing bottleneck precedent could provide the means. The result could be additional effective 2-to-1 situations that are not apparent from simply counting the railroads physically serving a facility.

That is precisely why the STB should examine this consequence before approving the merger, rather than waiting for captive shippers to discover afterward that an existing competitive alternative is no longer economically available.

What Union Pacific's CEO Said About Competition

Recent public statements by Union Pacific CEO Jim Vena provide an unusually direct illustration of why the economic terms of railroad access matter.

At a September 16, 2026, investor conference, Vena discussed a competing railroad's proposal to operate over approximately 800 miles of the combined UP–NS network. He explained that UP could establish a per-car-mile charge that would make the competing railroad's service more expensive than its own.

The significance is not whether trackage rights are granted. It is whether the compensation terms allow another railroad to compete commercially. A legal right of access, priced beyond economic viability, offers little protection to the shipper.

A separate controversy arose from Vena's March 2026 address to the Southwest Association of Rail Shippers. His remarks about potentially increasing rates for customers opposing the merger prompted concerns from Senator Tammy Baldwin and a dispute over the public release of the speech's video recording. Union Pacific maintained that the remarks were taken out of context. On October 23, an STB administrative law judge ordered the recording made public.

These are separate matters, but both bring attention to a fundamental commercial question: How much bargaining power does a shipper have when its transportation alternatives depend on decisions made by the railroad controlling access?

Union Pacific's Position Among Metra's Host Railroads

Union Pacific's compensation dispute with Metra stands apart from the negotiated arrangements Metra has maintained with its other host railroads, including BNSF, Canadian Pacific, Norfolk Southern and Canadian National.

In April 2026, BNSF and Metra reached a new agreement for continued commuter service over BNSF's Chicago–Aurora line. The agreement provides for an initial five-year term with an automatic five-year extension unless either party elects to terminate. BNSF continues to operate the trains with its own employees.

On the former UP-operated Metra lines, however, Metra employees now operate the commuter trains, while UP retains ownership of the railroad corridors.

This distinction matters when comparing compensation. BNSF's agreement includes the provision of operating services, while UP's disputed compensation concerns the use of its railroad property. The two agreements therefore cannot be compared simply by looking at their total payments.

Nevertheless, UP's approach to Metra compensation appears to be an outlier among the host railroads.

The issue is not whether UP deserves fair compensation. It does. The question is whether its proposed valuation reflects the economic value of the railroad access being provided or assigns a much broader value to the underlying property.

UP's reliance on current property values, including the underlying land, raises questions about whether that approach is appropriate for determining compensation for the continued use of an existing railroad corridor.

The experience of Metra's other host railroads provides an important comparison. It also raises a question relevant to the proposed UP–NS merger: If access compensation is based on a valuation that makes another operator's service economically impractical, what meaningful competition does the access right provide?

The Lesson of Lake Charles

Competitive protections must also be judged by their commercial effectiveness.

During the UP–SP merger proceeding, I was Montell's manager of transportation. Montell, Olin and PPG jointly sought competitive railroad access at Lake Charles, Louisiana. The ICC granted BNSF access, but the subsequent operating and compensation arrangements became the subject of disputes extending across three decades.

As recently as September 2026, another decision concerning that access was appealed to the U.S. Court of Appeals for the D.C. Circuit.

The lesson is straightforward. Establishing a legal right of access is not the same as establishing the operating arrangements and compensation terms necessary to make that access commercially effective.

A merger condition should not merely promise competition. It should establish how that competition will function.

The Burden of Demonstrating Enhanced Competition

On May 28, 2026, the STB accepted the revised UP–NS application for consideration but required additional information, including on enhanced competition and access for 2-to-1 and 3-to-2 shippers. The applicants responded on July 27. The Board subsequently resumed the proceeding without ruling on the merger's merits.

The burden should not fall on captive shippers to prove that promised efficiencies will fail to produce competition. The applicants are seeking approval of the merger. It is their responsibility to demonstrate where competition will be enhanced, which customers will benefit and how those benefits will be achieved.

The applicants may establish substantial operating efficiencies, service improvements and public benefits. Those claims deserve evaluation. But they must be distinguished from evidence that captive shippers will gain meaningful competitive alternatives.

Hundreds of pages of testimony and analysis from lawyers, economists and railroad consultants describe the benefits of combining Union Pacific and Norfolk Southern. Yet for all that analysis, I have not seen a convincing demonstration of how the merger will enhance competition between independent railroads for the captive shipper.

It is almost as though there are two Union Pacific railroads.

One is the railroad that exists in the commercial marketplace, where captive customers have limited bargaining power, competing routes depend on economically viable access, and transportation prices reflect the availability of alternatives.

The other exists in the hundreds of pages in the merger application, where a larger network, operating efficiencies and new single-line routes are presented by lawyers, economist, so called railroad consultants, ex STB employees, as evidence of enhanced competition in a fictional railroad.

These are not necessarily the same thing.

The 2001 Major Rail Consolidation Rules were intended to raise the competitive standard for approving major railroad mergers. That standard cannot be satisfied merely by describing how much more efficiently the combined railroad might operate.

Where, in those hundreds of pages, is the evidence that the merger will create or improve competition between independent railroads?

And more importantly, what will actually change for the captive buyer of rail transportation?

That is the question the applicants must answer, and the Surface Transportation Board must resolve.

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

CERTIFICATE OF SERVICE — COMPLETE ONLY AFTER SERVICE

I certify that on November 17, 2026, I served a copy of the Comments of Robert Granatelli in Opposition to the Proposed Merger, including appendices, on the parties required to be served in Finance Docket No. 36873, in accordance with the applicable Board orders and 49 C.F.R. § 1104.12, by the following method(s): Electronic.

Robert Granatelli

Date: November 17, 2026

Do not sign or submit this certificate until the stated service has actually been completed. Verify the current service list and the Board's March 17, 2026 service order.