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Surface Transportation Board
395 E St., SW
Washington, DC 20423

Re: Docket No. 36873 – Union Pacific Corporation and Union Pacific Railroad Company – Control - Norfolk Southern Corporation and Norfolk Southern Railway Company

Dear Surface Transportation Board:

The National Propane Gas Association (NPGA), acting on behalf of its members and to assist the propane industry, respectfully submits this comment to the Surface Transportation Board regarding the Revised Major Merger Application ("Application") in Docket No. 36873: Union Pacific Railroad Corporation ("UPC") and Union Pacific Railroad Company ("UP") – Control – Norfolk Southern Corporation ("NSC") and Norfolk Southern Railway Company ("NS") (collectively, "Applicants").[1] The Surface Transportation Board's (STB) decision of August 18, 2026,[2] noted that the STB would publish a procedural schedule in the *Federal Register*.[3] The STB published the procedural schedule in the *Federal Register*[4] which directed comments, protests, requests for conditions, and any other evidence and argument in opposition to the Application are due by November 18, 2026. NPGA submits this comment and request for conditions in response to the STB's request.

NPGA is the national trade association of the propane industry which has a membership of about 2,300 companies, and 36 state and regional associations representing members in all 50 states. Membership in NPGA includes retail marketers of propane gas who deliver the fuel to the end user, propane producers, transporters and wholesalers, and manufacturers and distributors of equipment, containers, and appliances. Propane gas fuels millions of installations nationwide for home and commercial heating and cooking, in agriculture, industrial processing, and as a clean air alternative engine fuel for both over-the-road vehicles and industrial lift trucks. Roughly 75% of NPGA's members have fewer than 100 employees and are considered small businesses. NPGA members ship fuel on the UP and the NS, and as shippers, would be impacted by potential consequences of the proposed action.

NPGA Comment

[1] Hereinafter, collectively referred to as "UP" and "NS".
[2] Decision No. 30, Removing the Proceedings from Abeyance; Adopting a Procedural Schedule; Directing the Production of Certain Material; and Ruling on a Pending Procedural Request. Surface Transportation Board, August 18, 2026.
[3] *See generally,* Decision No. 30.
[4] 91 Fed. Reg. 53927 (Aug. 20, 2026).

NPGA's comments focus on particular sections of the Application. In particular, the Summary of Public Interest Considerations, the Public Interest Justifications, the Effects on Competition and the Market Impact Analysis, in addition to the supporting statements underpinning these sections.

Summary of Public Interest Considerations

The Application details a summary of public interest considerations starting on Page 18. Applicants claim they will provide faster, more reliable, and more efficient service.[5] Applicants note improvements in the number of intermodal trains and the time necessary to effect service between regions.[6] Applicants also note improved rail to truck service and the diversion of loads from other railroads to the proposed merged entity.[7] The Application claims it will not create geographic competition concerns, or reduce the capacity.[8] Further, Applicants commit in the application to a series of competition preserving conditions, such as permanent multi-railroad access for 2 to 1 shipper facilities, an open gateway commitment, a commitment to preserve access to build-ins and build-outs, and a commitment not to create new regulatory "bottlenecks."[9] However, the Applicants are not offering commitments or conditions to compensate parties who are disadvantaged by increased competition.[10] Applicants commit to committed gateway pricing until the end of the merger oversight period as well as agreements for employee protections.[11] Further, Applicants commit to environmental and safety benefits from the proposed merger.[12]

NPGA and its members support the environmental, safety, and worker benefits detailed in the application. Further, NPGA and its members are particularly in support of the improved rail to truck service, as it will have a tangible impact on our members' operations. NPGA and its members would be interested in conditions which compensate shippers disadvantaged by increased competition, as it could result in price increases and service challenges. Further, NPGA and its members would like to see a greater commitment to gateway pricing beyond the merger oversight period. NPGA and its members are also interested in contrary views about geographic competition, as the number of available railroads in certain geographic areas will be reduced. Further, the geographic competition analysis should extend beyond just the Business Economic Areas affected by both rail lines.[13] The creation of a single-line service may allow the merged entity to undercut competition and set the market by having prohibitive rates and interchange conditions.

Public Interest Justifications

Applicants state that the primary public interest justification is the creation of a single-line service on transcontinental routes, which will generate significant gains for shippers and the country as a whole.[14] Applicants claim this single-line service will eliminate operational and commercial

[5] Application at 19.
[6] *Id*.
[7] *Id*. at 19-20.
[8] *Id*. at 21.
[9] *Id.* at 22.
[10] *Id*.
[11] *Id*. at 23-24.
[12] *Id*. at 25-26.
[13] Noting the limited analysis of Dr. Bailey, *see generally* Vol. 2, P. 7-117.
[14] Application at 37.

frictions, reducing transit time and delay, improving reliability, and lowering logistics costs, which will make goods more affordable.[15] Applicants provide significant precedent from the Interstate Commerce Commission (ICC) and its successor in interest, the STB, that consumers and shippers prefer single-line service.[16] Applicants state that the proposed merger will result in the elimination of 2,550 daily handling of cars and containers, and saving more than 65,000 daily car miles.[17] Applicants also note that the proposed merger will create a single railroad potentially responsible for transcontinental transportation.[18] Applicants further state that the proposed merger will erase the east-west divide on rail transportation, and increase competition among rail carriers and trucking firms.[19] Applicants also provide a number of arguments outlining benefits to labor unions, the United States, international competition, and national defense, which NPGA and its members decline to comment on. Applicants provide arguments on improvements in safety, environmental impact, and infrastructure investment as well.[20]

While NPGA lauds Applicants' Application, it is unclear that the creation of single-line service will result in gains for shippers and consumers. Without sufficient protections, shippers and consumers may be subject to monopoly rates on this proposed single-line service, as the proposed single-line service may achieve market dominance and control. Sufficient protections to ensure shippers and consumers see actual gains from the proposed merger are necessary, as anticipated gains may go to the merged entity rather than shippers and consumers. Propane, as an industry, rarely ships products coast-to-coast, and as such, the proposed single-line railroad bridging the east-west divide would provide limited value to our industry. While single-line service may be preferred, Applicants provide no evidence that it is a *per se* public good. It is incumbent on the STB to ensure adequate protections and conditions are placed on the merged entity in order to ensure that the claimed public good will come to fruition. While the Applicants note the potential benefits of single-line service, benefits to consumers and shippers can also be achieved through effective competition, which will be reduced by this proposed merger. Therefore, assurances and protections must be put in place.

While NPGA and its members support easing the east-west divide and creating a single railroad line for nationwide transportation, we would appreciate greater specifics on why this would be in shipper's benefit. Applicants appear to take this assertion as an unqualified benefit without supplemental detail. NPGA and its members also support the asserted safety and environmental benefits, and infrastructure investment as laid out in the Application, but would like to see the STB mandate, track, and publicly report progress on each of these metrics to ensure they come to fruition.

<u>Effects on Competition</u>

[15] *Id*.
[16] *Id*. at 38-39.
[17] *Id*. at 42.
[18] *Id*. at 43.
[19] *Id*. at 44-45.
[20] *Id.* at 49.

Applicants state that their proposed merger will generate significant efficiencies and benefits including faster, safer and more reliable single-line rail service for shippers.[21] Further, they state that the merged entity will compete more effectively with other Class I railways and with truck service.[22] Applicants believe the proposed merger will divert truck traffic to a new single-line rail service with lower costs.[23] Applicants further state it will not reduce competition at shipper facilities, and that its experts did not find any geographic competition concerns.[24] Applicants also point out their voluntary open gateway commitments as evidence of their pro-competitive stance.[25] Applicants further tout the benefits and potential market share increases by shippers moving to their proposed single-line service.[26] Applicants do note that some of its anticipated market share enhancements will come at the expense of their Class I railroad competitors.[27]

NPGA and its members support Applicants' open gateway commitments, and generally support Applicants' arguments on single-line rail service. However, the stated benefits and competitive concerns could fail to materialize and the Applicants' limited appetite for post-merger monitoring creates concern. Given that this merger would create the first single-line rail service from coast to coast, there are limited relevant historical examples to draw from. NPGA and its members would be interested in enhanced monitoring and evaluation from the STB and potentially, other agencies, regarding geographic competition, reliability, and safety concerns. Should the touted benefits fail to materialize, NPGA and its members would support Federal intervention to ensure the proposed benefits come to fruition. NPGA further notes that it is unclear that the open gateway commitments and pricing would apply to Class I railroads not headquartered in the United States, which could leave certain Class I railroads (the Canadian National and the Canadian Pacific-Kansas City) at a competitive disadvantage vis-à-vis the other Class I railroads.

Market Impact Analysis

Applicants' Market Impact Analysis consists of Verified Statements from executives and experts, but does not include novel arguments or discussions beyond the Effects on Competition and Public Interests Justification. NPGA reiterates its comments on previous sections as applicable in Market Impact Analysis.

Further Comments

NPGA and its members are very concerned about staffing levels on the proposed merged railway, as adequate staffing is essential for safe, efficient operations. Rail staffing has been steadily decreasing in recent years, and the proposed merger would present another opportunity to reduce positions on the merged railway. NPGA and its members would like to see the Applicants commit to maintaining current staffing levels through the merger oversight period. While Applicants note

[21] Application at 50.
[22] *Id*.
[23] *Id.* at 51.
[24] *Id*. at 51-52.
[25] *Id*., *see also* Verified Statement of Katherine Novak.
[26] Application at 54.
[27] *Id*. at 55.

support from unions affected by the merger, enhanced protections and commitments would be in the public interest.

NPGA and its members are also concerned about existing storage agreements with Applicants. In previous mergers approved by the STB, rail storage agreements between railroads and shippers have not been protected, leading to lost investment and storage security. NPGA and its members would like to avoid similar results from the potential merger. NPGA and its members request the STB include a condition that the merged NS-UP railroad maintain all existing storage agreements until the end of their contracted term if it is specified, or ten (10) years if there is no specified end date. This stipulation will give shippers the capacity to adjust storage needs should the merged entity decide to close existing storage facilities. NPGA and its members also request a two (2) year notice of any anticipated closure of existing storage facilities.

Similarly, the STB has not preserved or protected mandatory insurance levels for shippers in previous mergers, which has led to significant increases in insurance premiums for shippers. Such adjustments lead to enormous costs on shippers, particularly propane shippers, which face the prospect of enormous cost increases at a time of increasing energy prices and affordability concerns. NPGA and its members request the STB include a condition that the merged NS-UP railroad maintain all existing insurance requirements for shippers for a minimum of ten (10) years, to avoid surprise costs and expenses on shippers. NPGA and its members also request a two (2) year notice of any anticipated increase in insurance requirements.

Conclusion

Thank you for your consideration of this letter. NPGA and its members look forward to participating in the application's corresponding proceeding.

Respectfully submitted,

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CC: Parties of Record