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November 18, 2026

Surface Transportation Board
395 E Street SW
Washington, D.C. 20423

RE: Comments on Union Pacific Corporation and Union Pacific Railroad Company, Control, Norfolk Southern Corporation and Norfolk Southern Railway Company; Docket FD 36873.

Dear Chairman Fuchs and Members Schultz, Hedlund, and Kloster:

The National Mining Association (NMA) respectfully submits these comments on the amended application seeking authority for the acquisition and control by Union Pacific Corporation of Norfolk Southern Corporation and Norfolk Southern Railway Company. Specifically, the NMA urges the Surface Transportation Board (Board) to give special consideration to the common carrier obligation as it evaluates the revised application and any proposed conditions. The NMA has a direct and substantial interest in the proposed merger, as our members conduct mining operations throughout the United States that are reliant on freight rail carriers to get mined materials to both domestic and international markets.

NMA's Statement of Interest

The NMA is the official voice of U.S. mining. Our membership includes over 250 companies and organizations involved in every aspect of mining, from producers and equipment manufacturers to service providers. The NMA represents all facets of the domestic mining industry, and the hundreds of thousands of American workers it employs, before Congress, federal agencies, the courts, and the public. The NMA advocates for public policies that will help America fully and responsibly utilize its vast natural resources. Our members work to ensure America has secure and reliable supply chains, abundant and affordable energy, and the American-sourced materials necessary for U.S. manufacturing, national security, and economic security,

all delivered under world-leading environmental, safety, and labor standards. In addition to highlighting the importance of U.S. railroads remaining at-the-ready for domestic requirements, we also want to underscore the essential role the railroads play in facilitating U.S. exports.

NMA's Comments on Preserving the Common Carrier Obligation

The common carrier obligation is a fundamental obligation of rail carriers authorized to provide rail service by the Board. The core obligation to "hold out" to serve the public provides the foundation for all of the valuable rights, powers, privileges, and immunities that the carriers enjoy, including in this matter, where Union Pacific and Norfolk Southern's proposed merger application is being reviewed and adjudicated, not by the Department of Justice or the Federal Trade Commission, where the antitrust laws of the United States would otherwise apply, but by the Board, which reviews and considers such mergers under different rules. *See* 49 U.S.C. §§ 11324, 10101.

Under 49 U.S.C. § 11101, a common carrier railroad, such as Union Pacific and Norfolk Southern, is obligated to provide service upon reasonable request to shippers. In the current market environment, common carrier service is usually a last resort for shippers who cannot reach an equitable arrangement with their carrier for rates and service terms. The market power enjoyed by the largest carriers gives them virtually unfettered control over all such terms and conditions, especially for captive shippers, such as coal and mineral producers. The combination at issue here will create an unprecedented transcontinental railroad controlling approximately 40 percent of the nation's rail traffic, further strengthening the combined railroad's power to set such terms, with no recourse except to common carrier service if commercial terms cannot be reached.

The Board should give special consideration to the preservation of the common carrier obligation in this proceeding by including in any decision approving this merger a clear policy statement that the Board expects the newly merged and other existing carriers: to honor all reasonable requests for common carrier service; to provide such service in a non-discriminatory manner consistent with applicable law; to avoid intentional demarketing of less desirable commodities; and to not retaliate against shippers when it cannot reach reasonable commercial terms with its carrier. Further, the Board's policy statement should make clear that it will swiftly review complaints, formal or informal, from shippers seeking relief from onerous common carrier terms or those for whom service is directly or effectively denied.

Conclusion

The NMA appreicates the opportunity to provide these comments. We respectfully urge the Board to consider the importance of the common carrier obligation as it conducts its review of the proposed merger between Union Pacific and Norfolk Southern. If you have any questions, please contact me at tbridgeford@nma.org.

Sincerely,



Tawny Bridgeford
General Counsel & Senior Vice President, Regulatory Affairs

CERTIFICATE OF SERVICE

This is to certify that on this 18th day of November 2026 a copy of the foregoing National Mining Association comments has been served via email upon the Parties of Record in Docket No. FD 36873 and Administrative Law Judge Soulikias.



Tawny Bridgeford
General Counsel & Senior Vice President,
Regulatory Affairs
National Mining Association