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BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

Docket No. FD 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

COMMENTS REGARDING MERGER-RELATED CONCERNS AND REQUEST FOR CONDITIONS OF ARDENT MILLS, LLC

Ardent Mills, LLC ("Ardent") respectfully submits these comments regarding the proposed control transaction between Union Pacific and Norfolk Southern (collectively, "Applicants"). Ardent has significant concerns regarding the transaction, including the loss of Norfolk Southern as an independently controlled eastern Class I carrier for traffic serving three important Ardent facilities: Martins Creek, Pennsylvania; Mt. Pocono, Pennsylvania; and Culpeper, Virginia. Ardent respectfully requests that the Board conduct a complete and thorough review of the proposed transaction under the Board's revised major-merger rules and determine whether the Applicants have demonstrated that the transaction would enhance competition, preserve adequate service, protect shipper transportation alternatives, and otherwise satisfy the applicable public-interest standard. If the Board approves the transaction, Ardent requests narrowly tailored competitive-access conditions designed to protect its interests and restore the independent eastern competitive check eliminated by the transaction.

I. INTRODUCTION AND STATEMENT OF INTEREST

Ardent is a major flour-milling and grain-processing company whose operations depend on reliable and competitively priced rail transportation. Ardent receives grain and other rail traffic from multiple western Class I carriers, including BNSF Railway, Canadian Pacific Kansas

City, and Union Pacific, and uses Norfolk Southern to complete movements to several eastern facilities.

This filing focuses on Ardent facilities at Martins Creek, Pennsylvania; Mt. Pocono, Pennsylvania; and Culpeper, Virginia. Each relies on Norfolk Southern for the eastern Class I portion of rail service. Traffic originating on BNSF, CPKC, and UP moves to these facilities through various Norfolk Southern gateways. The particular gateway and route vary by origin, but the competitive structure is consistent: multiple western Class I carriers compete to originate traffic, while an independently controlled Norfolk Southern provides the eastern Class I connection and either terminating service or delivery to the regional carrier providing final-mile service.

Ardent therefore has a direct and substantial interest in the transaction. Ardent requests that the Board fully evaluate the merger-specific competitive concern described below as part of its review under the revised major-merger rules. If the Board determines that the transaction satisfies the applicable public-interest standard and approves it, Ardent requests conditions preserving a meaningful independent transportation alternative.

II. MERGER-SPECIFIC COMPETITIVE CONCERN

The competitive issue identified by Ardent is not simply a reduction in the numerical count of railroads physically connected to these facilities. The transaction would change the ownership and incentives of the railroad controlling the eastern Class I portion of traffic movements originated by competing western carriers.

These facilities depend today upon an independently controlled eastern railroad to complete the Class I portion of traffic movements originated by competing western carriers. The

transaction eliminates that independence by placing the eastern Class I carrier under the control of one of those western competitors.

Today, UP competes with BNSF, CPKC, and other carriers for originating traffic moving to Ardent's eastern mills. If the transaction is approved, UP would also control Norfolk Southern, the eastern Class I carrier responsible for completing those movements or delivering the traffic to the regional carrier providing final-mile service. The physical rail connection to each mill may not change, but the independence of the carrier controlling the eastern Class I portion of the movement would.

The loss of NS independence is not incidental to the transaction; it is the competitive harm at the center of Ardent's concerns. The existing structure separates the western carriers competing to originate Ardent's traffic from the independently controlled eastern Class I carrier responsible for completing the eastern portion of the movement. The proposed transaction would combine those roles under UP control.

Ardent has broader concerns regarding continued consolidation in the rail industry and the potential effects of further consolidation on competition, service, and shipper transportation alternatives. Those concerns inform Ardent's view of the proposed transaction but are not the primary basis for the relief requested in these comments.

Those broader concerns reinforce the need for the Board to apply the revised major-merger rules rigorously and evaluate the transaction's effects on competition, service, network reliability, and the transportation alternatives available to shippers. Ardent's requested conditions address the more specific merger-related effect described below.

Ardent's principal concern here is a more specific and identifiable merger-related effect: the loss of Norfolk Southern as an independently controlled eastern Class I carrier for traffic serving Martins Creek, Mt. Pocono, and Culpeper.

Today, UP competes with BNSF, CPKC, and other western carriers for traffic moving to these facilities, while Norfolk Southern independently controls the eastern Class I portion of those movements. The proposed transaction would combine those roles under UP control.

For Ardent, the loss of that independent eastern carrier is a material competitive concern. If the Board approves the transaction, the competitive-access conditions described below should be imposed to protect Ardent's interests and restore, to the extent practicable, the independent competitive alternative eliminated by the transaction.

III. FACILITIES FOR WHICH ARDENT REQUESTS ALTERNATIVE COMPETITIVE ACCESS

A. Martins Creek, Pennsylvania

Martins Creek is presently dependent on Norfolk Southern for its eastern or terminating rail service. Ardent has identified a preliminary concept under which CSX Transportation could potentially provide independent competitive service through an operationally practical eastern Pennsylvania interchange and limited access over the existing route to the facility.

Ardent does not presently ask the Board to prescribe a particular interchange point, mileage, or operating route. Those details should be established through carrier operating analysis and implementation discussions. Subject to operational validation, Ardent requests local trackage rights for CSX sufficient to originate and terminate traffic at Martins Creek. If direct CSX operation is not practical, Ardent requests reciprocal switching, haulage, or another arrangement that provides substantially equivalent independent commercial access.

B. Mt. Pocono, Pennsylvania

Mt. Pocono relies on Norfolk Southern for the Class I line-haul portion of its rail movements. Norfolk Southern currently moves the traffic to Taylor, Pennsylvania, where it is interchanged to Delaware-Lackawanna Railroad ("DL"). DL then performs the final delivery to Ardent's Mt. Pocono facility. Ardent does not seek to change or displace that existing DL final-mile operation.

Accordingly, Ardent requests a result-oriented condition: an independent Class I carrier must be able to make and control a commercially meaningful transportation offering to the existing DL interchange at Taylor for traffic destined to Mt. Pocono. Subject to operational validation, Ardent requests trackage rights or other necessary access for CSX sufficient to reach Taylor and interchange Ardent traffic with DL. DL would continue to perform the existing final movement from Taylor to the Mt. Pocono facility. This arrangement preserves the existing operating structure at Taylor: DL is the carrier that switches and delivers Ardent traffic to the Mt. Pocono facility; Taylor is the current NS-DL interchange point; NS controls the Class I movement to Taylor; and DL has the existing rights necessary to receive the traffic at Taylor and serve Ardent. The requested condition does not seek any change to DL's existing authority or final-mile role.

C. Culpeper, Virginia

Culpeper also relies on Norfolk Southern for terminating rail service. Ardent's preliminary network review suggests that limited competitive access involving a CSX-connected route in Virginia may warrant further operating analysis.

Ardent has not finalized a proposed interchange or route and does not represent at this stage that any specific preliminary routing is the optimal operating solution. Subject to operational validation, Ardent requests CSX local trackage rights sufficient to provide independent service to Culpeper, or reciprocal switching or haulage providing substantially equivalent competitive access.

IV. ALTERNATIVE REQUEST FOR COMPETITIVE-ACCESS CONDITIONS

The competitive concern identified above results directly from the proposed transaction and should be evaluated as part of the Board's complete review under the revised major-merger rules. If, after that review, the Board approves the transaction, Ardent respectfully requests that approval be conditioned upon Applicants providing commercially viable independent Class I competitive access for traffic serving Ardent's Martins Creek, Mt. Pocono, and Culpeper facilities.

The purpose of these alternative conditions is not to create a competitive benefit unrelated to the transaction. Rather, the conditions are intended to restore, to the extent practicable, the independent eastern competitive check that approval of the transaction would otherwise eliminate.

Ardent proposes the following condition as a framework:

As a condition of approval, Applicants shall provide commercially viable independent Class I competitive access for traffic serving Ardent Mills' Martins Creek, Pennsylvania; Mt. Pocono, Pennsylvania; and Culpeper, Virginia facilities. For Martins Creek and Culpeper, such access shall be provided through local trackage rights in favor of CSX Transportation where operationally practicable, or through reciprocal switching, commercially reasonable haulage, or another arrangement providing substantially equivalent independent competitive access where

direct CSX operation is not practicable. For Mt. Pocono, the required access shall permit CSX to reach the existing Delaware-Lackawanna interchange at Taylor, Pennsylvania, and interchange Ardent traffic for continued final-mile delivery by DL to the Mt. Pocono facility.

V. IMPLEMENTATION OF THE ALTERNATIVE CONDITION

Ardent intentionally does not ask the Board at this stage to prescribe every interchange point, mile of trackage rights, switching protocol, or operating window. If the transaction is approved, the immediate objective is to establish the competitive-access principle and an enforceable right to independent Class I access as a condition of approval. Detailed operating arrangements can then be developed through implementation discussions among the affected carriers and Ardent, subject to the Board's continuing jurisdiction. Any resulting arrangement shall permit the independent carrier to establish and control the commercial transportation offering and shall not discriminate against traffic based on originating carrier or routing.

At a minimum, any implementing arrangement should: (1) allow the independent carrier to quote and control the commercial transportation offering; (2) permit traffic originated by BNSF, CPKC, and other carriers to use the competitive route; (3) prohibit routing or interchange restrictions that would frustrate the condition; (4) provide nondiscriminatory dispatching and service; (5) establish commercially reasonable trackage-rights, switching, or haulage compensation; (6) accommodate train sizes reasonably required for Ardent's grain movements; (7) prohibit economic discrimination against traffic using the competitive-access arrangement; and (8) provide expedited Board resolution of initial implementation disputes and expedited resolution of disputes concerning subsequent performance.

Ardent recognizes that operational feasibility may differ among the three facilities. The condition should therefore preserve flexibility as to the operating mechanism while requiring a

common competitive result: a commercially viable independent eastern alternative capable of competing for Ardent's traffic.

For Mt. Pocono, implementation should preserve DL's existing final-mile service while providing CSX commercially viable access to the Taylor interchange. No change to DL's existing authority or final-mile role is requested.

VI. WHY THE ALTERNATIVE CONDITION IS NARROWLY TAILORED

The competitive-access conditions requested by Ardent are alternative relief intended to address the specific competitive concern identified in these comments.

If the Board approves the transaction, the proposed conditions are narrowly tailored to address that specific merger-created harm. They are limited to three identified Ardent traffic flows, do not seek broad CSX access to Applicants' network, and preserve flexibility to use the least operationally intrusive mechanism capable of restoring meaningful independent Class I competition.

For Mt. Pocono, the remedy is narrower still. Existing DL final-mile service would remain unchanged, and the requested condition would address only independent Class I access to the existing Taylor interchange.

VII. CONCLUSION

For the reasons described above, Ardent has significant concerns regarding the proposed UP-NS control transaction, particularly the loss of Norfolk Southern as an independently controlled eastern Class I carrier for traffic serving Martins Creek, Mt. Pocono, and Culpeper.

Ardent respectfully requests that the Board conduct a complete and thorough review of the transaction under the revised major-merger rules, including whether the transaction would

enhance competition, preserve adequate service, protect shipper transportation alternatives, and promote a competitive, efficient, and reliable rail system. If the Board approves the transaction, Ardent respectfully requests that approval be conditioned upon the establishment of commercially viable independent Class I competitive access for traffic serving those facilities.

For Martins Creek and Culpeper, Ardent requests CSX local trackage rights where operationally practicable, or reciprocal switching, commercially reasonable haulage, or another substantially equivalent arrangement where direct CSX operation is not practicable. For Mt. Pocono, Ardent requests CSX access sufficient to reach the existing Delaware-Lackawanna interchange at Taylor, Pennsylvania, while preserving DL's existing final-mile service to the mill.

Ardent further requests that the Board retain jurisdiction to resolve disputes concerning implementation, compensation, dispatching, interchange, service, or other matters necessary to ensure that any conditions imposed provide meaningful commercial competition rather than merely nominal access.

Respectfully submitted,

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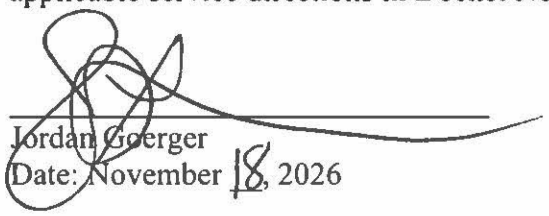
Dated: November 18 2026

CERTIFICATE OF SERVICE

I certify that I have this day served copies of the foregoing Comments Regarding Merger-Related Concerns and Request for Conditions of Ardent Mills, LLC upon all parties of record in this proceeding by a method of service consistent with 49 C.F.R. § 1104.12 and the Board's applicable service directions in Docket No. FD 36873.



Jordan Goerger
Date: November 18, 2026