IORY-3
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Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
- CONTROL –
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

COMMENTS AND REQUESTS FOR CONDITIONS OF INDIANA & OHIO RAILWAY COMPANY

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Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523

Justin J. Marks
Maya Patel
Clark Hill PLC
601 13th Street NW, Suite 600
Washington, DC 20005
(202) 772-0916

UPNScontrol@clarkhill.com

Counsel for Indiana & Ohio Railway Company

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COMMENTS AND REQUESTS FOR CONDITIONS OF
INDIANA & OHIO RAILWAY COMPANY

In accordance with the Board's Decision No. 30 served in this proceeding on August 18, 2026, Indiana & Ohio Railway Company ("IORY") submits these comments and requests for conditions. The Comments and Requests for Conditions is supported by the Verified Statement of Martin Pohlod ("Pohlod VS"). In a separate filing, IORY is simultaneously submitting its Responsive Application for trackage rights. IORY neither supports nor opposes the Union Pacific Corporation ("UP" or "Union Pacific") Application to acquire control of Norfolk Southern Corporation ("NS" or "Norfolk Southern").[1] However, IORY respectfully requests that the Board impose IORY's requested conditions to ameliorate the competitive harm that the Transaction will cause to IORY.

The Application clearly states Union Pacific's position: single-line service is superior to interchanged service because interchanges pose onerous costs and delays.[2] Nearly 100% of short line traffic is interchanged. On a network, particularly in the Watershed,[3] where UP intends to

[1] UP's proposal to acquire control of NS is referenced to herein as the "Application" or the "Transaction".
[2] Amended Railroad Control Application, STB Finance Docket No. 36873, Vol. 1, Pg 229, (filed Apr. 30, 2026 (cited to herein as App.Vol.).
[3] The Watershed is defined as 250 miles from the four key watershed gateways, which are located in Chicago, St. Louis, Memphis, and New Orleans. App. Vol. 1, Page 13. Similarly,

substantially increase traffic, UP's statements indicate that it will prioritize single-line traffic over traffic where interchange is necessary, i.e., all short line traffic.[4]

Further, the Application states that rail moves within the Watershed market are historically unappealing to Class Is due to the shorter length of haul. Union Pacific is clearly establishing that traffic that is less than 250 miles is not as valuable as long-haul traffic. To date, Class Is, and particularly UP, have been willing partners receptive to short line/Class I cooperation to move regional traffic to the western United States.

If the Transaction is approved, UP is unlikely to provide competitive options for shorter haul rail traffic especially that which currently competes with NS considering its stated intent to focus on single service, transcontinental, long-haul business.

In order to ameliorate the anticompetitive impact and to provide an opportunity to offset at least some of the expected harms of the UP/NS Transaction on IORY customers and the market IORY serves, IORY seeks trackage rights to provide it with new alternative routings to western destinations.

I. Background

A. IORY is a "Watershed" Carrier that Relies on Union Pacific as a western gateway partner and competes against Norfolk Southern.

IORY is a Class II railroad that operates over approximately 511 miles of track primarily in western Ohio, Indiana and Michigan. It is not a standard short line with a single connection that sits far from a western gateway. Even so, like all short lines, IORY is almost entirely dependent on interchange with Class I carriers, and all traffic that UP shares with short lines is

"watershed markets" is defined as an economic region in the U.S. "where UP or NS would haul less than 250 miles before or after interchange. These markets are characterized by short-haul handoff lanes that sit right on the fault lines between the Class I railroad networks." APP.VOL. 1, Pg 228.

[4] Pohlod VS at 5.

interchanged. IORY operates on the eastern side of the geographical area that UP identifies, in its Application, as the "Watershed" with its key interchange to move traffic to and from the west located within 230 miles of Chicago. IORY competes with NS in western Ohio and on the eastern edge of the Watershed.

Historically, the majority of IORY's traffic moved east and south, serving its legacy online manufacturing facilities and agricultural elevators. As connecting Class I carriers became focused on longer-haul eastern destinations, IORY, through committed service, investment, and aggressive marketing, developed viable options for shippers to move traffic via western gateways, competing primarily with trucks and NS. The present-day IORY is a diversified short line that moves nearly [redacted] cars annually.[5] The IORY has developed a strong local base of traffic, including aggregate moves and serving the distribution and logistics supply chain. The railroad has found success marketing its position as a neutral short line rail carrier offering the regional market multiple connections: CSX and NS to the east, CN to the north, and Chicago, Fort Wayne & Eastern Railroad ("CFER"), CSX, and NS to the west. IORY is a key transportation provider for shippers in the Watershed, including western Ohio between Cincinnati and Columbus, and access to western gateways is a key element of that service.[6]

The IORY and its customers depend on UP as the key competitive outlet for their western traffic through Chicago and IORY. The IORY interchanges more volume with UP than with any other carrier in Chicago (UP, BN, CN, CPKC, or other short lines).[7] IORY reaches UP in Chicago through its connections to either CSX or CFER, which gives IORY's customers and the

[5] *Id.* at 2.
[6] *Id.* at 9.
[7] Pohlod VS at 9.

market IORY serves a competitive route to and from UP that is independent of NS.[8] If the Board approves the Transaction, UP and NS will be a single entity, and gateway routing via IORY and UP will no longer be an independent competitive option.[9]

The IORY's success in developing viable options to western destinations has resulted in significant investment along its railroad. For example, Ohio's largest certified jobs ready site is located on the IORY, known as the Fayette County Mega Site in Jeffersonville, Ohio. The Mega Site is proximate to Honda's new 2 million square foot, $3 billion battery plant. IORY expects the Mega Site and the neighboring Central Ohio Logistics Center will receive thousands of containers from west coast ports, and those containers will return west loaded with agriculture products that IORY has delivered to these locations from local online elevators. [redacted] IORY is also expanding its Sugar Street Yard in Lima, Ohio to accommodate an additional 200 cars to support the new Louis Dreyfus facility.[11] Each of these investments was made on the premise that IORY could offer shippers competitive access to western gateways.

Appreciating the benefits of connectivity, close reach to rail gateways and the service of an independent short line, industrial development at this location continues. As recently as November 2, 2026, Heniff Transportation Systems announced it was developing a high-volume sweetener transload facility exclusively for Cargill to receive and distribute products understood to be arriving from western origins. [12]

[8] Pohlod VS at 8.
[9] Pohlod VS at 13.
[10] *Id*.
[11] *Id.* at 10.
[12] *Id.* at 9.

In its market, the IORY competes directly with NS, both at the customer level, where both railroads serve some of the same customers directly, as well as in the region as a whole, serving grain elevators, terminals and transloads that compete with each other. For example, IORY and NS both directly serve North Star Blue Scope ("NSBS") steel facility in Delta, OH. IORY has won much of NSBS's business and has worked with them as they have continued to grow their facility, including an investment by IORY to its local serving yard to accommodate new traffic. IORY currently moves approximately [redacted] carloads annually for NSBS to interchange with UP in Chicago [redacted]

B. The UP/NS Transaction would competitively harm IORY, but the Application ignores the harm and offers no pro-competitive remedy.

1. The Application Predicts that Class II and Class III Rail Carriers will realize substantial opportunities, but the outlook masks uncertainty for Watershed short lines.

The Application itself appears to provide limited consideration and commentary to short lines, offering relatively generic and simplistic references. According to the UP Application, the "growth that our merger will facilitate will be a tide that rises for all, opening for short lines new opportunities to reach national and global markets."[14] It continues, "[s]hort line partners benefit from new connections and growth potential through access to new markets."[15] And the Application exclaims, a "faster, seamless, coast-to-coast network will give short lines the ability to deliver superior service to their customers and access to more markets unburdened by artificial barriers and delays." [16]

[13] Pohlod VS at 10.
[14] App. Vol. 1, Page 264.
[15] App. Vol. 1, Page 260.
[16] App. Vol. A, Page 264.

As specifically related to short lines in the Watershed, the Application states, "much of this transaction will open up new watershed markets . . . for the UP and NS; so too will opportunity be afforded to short lines, especially those with service in the heartland, unlocking new markets and truck-to-rail diversion opportunities."[17]

The rosy outlook masks uncertainty for short line rail carriers in the Watershed. If the Board approves UP's control of NS, UP—a key gateway connection for IORY—will be acquiring IORY's direct competitor. Post-Transaction, the combined UP/NS will no longer have the same incentive to offer IORY the competitive access and service that UP offers today. The combined entity will have different priorities. In its Application, UP states, "[t]he proposed transaction creates single-line service opportunities for more than 88,000 county-to-county lanes nationwide, including 45,000 lanes in the watershed, where the challenges of providing attractive interline rail service are magnified."[18] These lanes are where IORY operates and has found success competing against NS. In the case of NSBS, the diversion would not be from truck to rail; it would be a diversion of IORY-UP traffic to UP/NS single-line service.

In addition, UP had to be prodded by the Board to analyze the impacts of the transaction beyond its rosy marketing language. In Decision 21, served May 28, 2026, the Board sought additional information for each route where the UP/NS combined market share will increase and the impact on competing or alternative routes. The analysis that UP produced indicates "no meaningful impact" on IORY.[19]

IORY is not as confident. As described in the Verified Statement supporting this comment, IORY is concerned that, post-Transaction, UP/NS will divert carloads that IORY now

[17] App. Vol. 1, Page 326.
[18] App. Vol. 1, Page 38.
[19] Errata Supplemental Verified Statement of David T. Hunt at Supp. Page 359.

interchanges with UP to UP/NS single-line service. IORY is also concerned that, post-Transaction, UP will prioritize its limited network capacity for its own single-line traffic to the detriment of existing interchange traffic. UP will likely be even less interested in cooperating with a short line when UP would move the traffic fewer than 250 miles, especially when its focus is on allocating network capacity to longer-haul, single-line service.[20]

Further, statements on the record in this proceeding strongly suggest that the Application's references to short line carriers had been written merely as a form of propaganda. According to NS's Chief Strategy Officer in an email to UP, he [redacted]." [21]

2. The Union Pacific Application identifies numerous problems with the national rail network, and in each case, the solution is a UP/NS combination.

The UP Application boasts that the Transaction will provide opportunities to Watershed areas "underserved by rail."[22] It describes the Watershed as "characterized by shorter-haul routes on both sides of an interchange where rail networks meet."[23] The UP Application describes a challenge for Watershed shippers, "unattractive rate and service options because the eastern carrier(s) would receive relatively little benefit from carrying the traffic or investing to improve service."[24]

[20] Pohlod VS at 5.
[21] Letter from David L. Meyer, Attorney for CPKC to the Chief of Case Administration, Surface Transportation Board, at 3, Exhibit A, NS_00329313 (entered into the record, Nov. 6, 2026)(filing id 312810).
[22] App. Vol. 1, Page 44-45.
[23] App. Vol 1, Page 261.
[24] App. Vol. 1, Page 44-45.

"The Application describes interchange as a problem for carriers because it raises costs: "the central interchange gateways between UP and NS" are "where delays and costs accumulate." The Application also calls interchange a "burden between two railroads."[25]

In its Application, UP explains the problem with partnerships, "[t]he benefits of the UP/NS merger cannot be achieved through mere partnership arrangements between UP and NS"[26] because "joint alliances have built-in limits."[27]

The solution to each of these problems, according to the UP Application, is the UP/NS combination. UP's numerous "problem statements" raise concerns because each item that UP identifies as a problem, IORY has embraced as an opportunity. UP acknowledges that intra-Watershed moves provide little benefit to Class I carriers, but IORY is building business with carloads moving west. UP identifies interchange and partnership as problems to be solved, but as explained in the Verified Statement supporting these Comments, interchange and partnership are the cornerstone to a short line's business model.[28]

3. The Application Proposes No Conditions to Ameliorate the Harm to IORY or to Improve Competition in the IORY Market.

The Application does not specifically propose any conditions to resolve harms caused by the Transaction or to improve competition in the IORY market. Indeed, as the Board noted, UP's proposed Competitive Gateway Pricing ("CGP") is "the sole competitive enhancement Applicants propose."[29] However, CGP will not alleviate the harm caused by the combined UP/NS deprioritizing short-haul Watershed traffic or the harm caused by the combined UP/NS diverting IORY traffic to UP/NS.

[25] App. Vol. 1, Page 244.
[26] App. Vol 1, Page 231.
[27] App. Vol 1, Page 338-339.
[28] Pohlod VS at 12.
[29] *Id.* at 14.

4. Union Pacific's public statements raise questions about its intention to negotiate trackage rights agreements in good faith.

Union Pacific's CEO has made public comments indicating that UP may be unwilling to negotiate trackage rights in good faith. Mr. Vena has been quoted as saying, "[i]f you allow---if we allowed x railroad to run on our railroad for 800 miles, we would charge them a per car mile charge that actually would make it more expensive for them to get to that destination. I've thought about just [agreeing] because, guess what, we would just reset the price higher for us. Okay?"[30]

II. Legal Standard

A. Criteria for Approving the Transaction

The acquisition by a Class I rail carrier of another Class I rail carrier requires Board approval under 49 U.S.C. § 11323(a). Because the proposed transaction in this proceeding involves the merger or control of two or more Class I railroads, the Board examines the Application under 49 U.S.C. § 11324(b), which directs the Board to consider:

(1) the effect of the proposed transaction on the adequacy of transportation to the public;

(2) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction;

(3) the total fixed charges that result from the proposed transaction;

(4) the interest of rail carrier employees affected by the proposed transaction; and

(5) whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region or in the national rail system.

[30] Pohlod VS at 7-8; Letter from David L. Meyer, Attorney for CPKC to the Chief of Case Administration, Surface Transportation Board, at 4, n. 13 (entered into the record, Nov. 6, 2026)(filing id 312810).

Although the Board must consider each of these factors, the ultimate statutory inquiry is whether the transaction is consistent with the public interest.[31] In approving a transaction, the Board may impose conditions governing the transaction, including the divestiture of parallel tracks or the granting of trackage rights and access to other facilities, to alleviate anticompetitive effects.[32]

B. Public Interest Test

In 2001, the Board revised its regulations governing major rail consolidations to impose "a heavier burden to show that a major rail combination is consistent with the public interest" ("2001 Rule").[33] The 2001 Rule requires an applicant "to provide a plan for enhancing competition" so that the Board may "remedy every competitive harm that would stem from any proposal that [it] decide[s] to approve."[34]

In determining whether a proposed transaction is consistent with the public interest, the Board considers criteria set out in the governing statute using a balancing test to weigh numerous factors as established in the 2001 Rule.[35] Specifically, the Board must weigh the goals of effective competition, carrier safety and efficiency, adequate service for shippers, environmental safeguards, and fair working conditions for employees.[36] The Board must also ensure that a transaction would promote a competitive, efficient, and reliable national rail system.[37] Accordingly, a merger serves the public interest only where substantial and demonstrable gains in important public benefits, including improved service and safety, enhanced competition, and

[31] *See* 49 U.S.C. § 11324(c).
[32] *Id*.
[33] *Major Rail Consolidation Procedures*, STB Ex Parte No. 582 (Sub-No. 1), slip op. at 9 (served June 11, 2001) [hereinafter *2001 Rule*].
[34] *Id*. at 20.
[35] *Id*. at 16; 49 C.F.R. 1180.1(b)-(c); 49 U.S.C. §§ 10101, 11324(b).
[36] *Id*. at 14; 49 C.F.R. § 1180.1(b)
[37] *Id*.

greater economic efficiency, outweigh the transaction's anticompetitive effects, potential service disruptions, or other merger-related harms.[38]

The 2001 Rule requires applicants to offset potential harms of the proposed merger by proposing conditions "that would not simply preserve but also enhance competition."[39] If a proposed merger is not, on its face, consistent with the public interest, the Board "will either deny it or impose sufficient conditions to ensure that it is in the public interest."[40]

C. Treatment of Class II and III Railroads

The Board gives particular consideration to the effect of major rail consolidations on Class II and Class III railroads and identifies their interests as a key component of merger review and the balancing test in determining public interest.[41] Applicants must explain "how they would preserve competitive options for shippers and for Class II and III rail carriers."[42] Under the 2001 Rule,

> [A]pplicants must address the anticipated effects of a proposed merger on regional and shortline railroads, identify any benefits that those small railroads and their customers would realize as a result of the proposed transaction, and develop suggested remedies for any anticipated harms to the public interest by virtue of a merger's adverse impacts on regional and shortline railroads and ports.[43]

Consistent with this approach, the Board places "greater emphasis to the role of Class II and Class III carriers and ports in the broader transportation infrastructure" in conducting its balancing test.[44]

[38] *Id*. § 1180.1(c).
[39] *Id*. § 1180.1(d).
[40] *2001 Rule*, at 13.
[41] *Id*. at 57.
[42] 49 C.F.R. § 1180.6(b)(10)(i).
[43] *2001 Rule*, at 27.
[44] *Id*. at 15

Where competitive or other merger-related harms to Class II or Class III remain, the Board will impose necessary conditions "to ameliorate or redress those harms". [45]

The Board has looked closely at the adverse effects of rail consolidations on regional and short line railroads. The Board has previously noted:

> In our merger decisions we have given special consideration to shortline interests, generally providing protections similar to those afforded shippers. For example if a merger would cause a short line to lose one of its two Class I connections, it has been our practice to impose conditions where feasible to preserve a second connection. Similarly, if a shortline carrier has a build-out option to reach a second Class I carrier, we have attempted [sic] to preserve that option as well. …
>
> We are keenly aware that shortlines are an important part of the national rail transportation system. They provide a valuable service in gathering and distributing traffic that generally flows over the lines of the Class I carriers, and they are usually able to provide this type of service at a lower cost than the larger carriers can achieve. . . . Nevertheless, where conditions are warranted to protect the interests of particular shortlines, or shortlines in general, from the adverse impacts of this transaction, we will impose them as appropriate.[46]

Therefore, where the criteria for imposing conditions are satisfied, the Board has imposed appropriate conditions to protect short lines from merger-related harms.

III. Criteria for Imposing Conditions

Under 49 U.S.C. §11324(c), the Board has "broad authority to impose conditions" on a Class I merger transaction to preserve and enhance competition.[47] The Board may issue conditions when a proposed merger would reduce competition, harm essential rail services, or result in

[45] *See id*. at 27.
[46] *CSX Corp., et al.–Control and Operating Leases/Agreements–Conrail Inc., et al.*, STB Finance Docket No. 33388, 1998 WL 456510, Decision No. 89, slip op. at *54 (served July 20, 1998).
[47] 49 C.F.R. § 1180.1(d).

transitional service disruptions or other service problems.[48] The Board may exercise its conditioning authority whenever appropriate conditions would protect the public interest without unduly diminishing the public benefits of the proposed transaction.[49]

IV. Argument

A. The Board Should Grant IORY's Requested Trackage Rights to Ameliorate the Harm Caused if the Board Approves the Application.

If the Board approves the Transaction, IORY seeks trackage rights over certain NS lines to provide IORY with connectivity to western gateways as an alternative to UP. These rights will ameliorate the harm the Transaction would cause and give IORY an opportunity to rebuild revenue lost as a result of the Transaction. The Pohlod Verified Statement outlines the harms that IORY will likely experience if the Transaction is approved.

First, the Application's own statements show that Union Pacific will focus its efforts on profitable long-haul traffic and will deprioritize traffic that is less than 250 miles that requires UP to interchange. The stated purpose of the Transaction is UP's ability to offer single line service on a transcontinental scale because any rail traffic that is interchanged between carriers is a "burden."[50]Because all IORY traffic with UP is interchanged, UP is likely to de-market IORY traffic in favor of its long-haul traffic if it views interchange as a burden.[51] Further, the Application demonstrates that Union Pacific is not interested in traffic that is less than 250 miles. The UP Application explains that traffic under this range is unattractive because Class I carriers receive little benefit in carrying the traffic or investing to improve service.[52] Finally, it is evident that UP would concentrate on its transcontinental traffic because it has specifically stated that "joint

[48] *Id.* § 1180.1(c)(i)-(iii).
[49] *See id.* § 1180.1(d).
[50] App. Vol. 1, Page 244.
[51] Pohlod VS at 17.
[52] App. Vol. 1, Page 44-45.

alliances have built-in limits."[53] Given a choice between negotiated commercial agreements with IORY to build carloads that require interchange and developing UP's transcontinental single line service, UP will clearly chose the more profitable of the two.

If the transaction is approved, this fact places IORY's western gateway traffic at risk, whether interchanged with CSX, NS or the Chicago, Fort Wayne & Eastern (itself a leased Class I asset) and thus causes IORY competitive harm. This competitive harm is ameliorated by IORY's proposed trackage rights.

Second, IORY is at competitive risk because some of its traffic is in direct competition with NS. If the Board approves the transaction, what was once a short-haul for NS would become a long-haul for the combined UP/NS.

B. If The Board Grants IORY's Trackage Rights, It Should Impose Conditions to Protect IORY From Bad Faith Negotiating Tactics.

The Application promises a "rising tide" while calling interchange a burden," and its impact analysis on short lines offers conclusions, not evidence. Discovery explains why: NS's Chief Strategy Officer told UP he had [redacted] Language added to please the Commissioners are not commitments.

Union Pacific's CEO has made public comments indicating that UP may be unwilling to negotiate trackage rights in good faith. Mr. Vena has been quoted as saying, "[i]f you allow---if we allowed x railroad to run on our railroad for 800 miles, we would charge them a per car mile charge that actually would make it more expensive for them to get to that destination. I've

[53] App. Vol 1, Page 338-339.

thought about just [agreeing] because, guess what, we would just reset the price higher for us. Okay?"[54]

As such, IORY respectfully requests that the Board impose, as part of IORY's requested trackage rights, a condition that UP/NS provide equal dispatching and equal access to facilities such as sidings. Further, IORY seeks indefinite oversight to guarantee that IORY is able to return to the Board if Union Pacific exercises its market power to inhibit IORY's trackage rights granted in this proceeding.

C. IORY's Conditions are in the Public Interest

IORY's trackage rights conditions are in the public interest because the trackage rights will allow IORY to continue to be a short line within the Watershed that can provide a western option to shippers even if UP de-prioritizes IORY traffic and the trackage rights would allow IORY to potentially replace revenue it will lose as a result of the transaction.

D. Description of IORY Trackage Rights Requests

If the Board approves the Transaction, IORY respectfully requests trackage rights or amended trackage rights over the following legacy NS lines and routes:

1. Leipsic, OH - Fort Wayne, IN – Logansport, IN:

IORY seeks trackage rights over NS between Leipsic, OH, Fort Wayne, IN and Logansport, IN, a route of approximately 131.8 miles as shown in map in Exhibit B .1, allowing for continuous IORY train movements between Leipsic and Logansport, and including the right to interchange with Toledo, Peoria & Western Railway Corp ("TPW"). at Logansport, IN.

[54] Pohlod VS at 7-8; Letter from David L. Meyer, Attorney for CPKC to the Chief of Case Administration, Surface Transportation Board, at 4, n.13 (entered into the record, Nov. 6, 2026)(filing id 312810).

2. Leipsic, OH - Fort Wayne, IN – Various Points in and near Chicago, IL:

IORY seeks trackage rights over NS between Leipsic, OH, Fort Wayne, IN and Chicago, IL area gateways as shown on the map at Exhibit B. 2, and including:

a. The right to interchange with Indiana Harbor Belt Railway ("IHB") at Hammond / Osborn, IN for further access to IHB's Gibson Yard and Blue Island Yard, a route of approximately 202 miles as shown on the map at Exhibit B. 3;

b. The right to interchange with Belt Railway of Chicago ("BRC") at Pullman Junction, IL via Calumet Yard, a route of approximately 200.9 miles as shown on the map at Exhibit B. 3;

c. The right to interchange with Chicago Rail Link ("CRL") at Pullman Junction, IL via Calumet Yard, a route of approximately 200.9 miles as shown on the map at Exhibit B. 3;

d. The right to interchange with Chicago South Shore Railway ("CSS") at Kensington, IL, a route of approximately 199.4 miles as shown on the map at Exhibit B. 3; and

e. The right to interchange with Canadian National Railway Company ("CN") at Van Loon (Gary), IN (I-94 overpass just south of West 25th Avenue), a route of approximately 186.4 miles as shown on the map at Exhibit B. 3.

3. IORY Points - Columbus, OH area:

IORY seeks trackage rights over NS between:

a. CP Russ (CP 139) in Columbus OH on the IORY and the connection with CSX Transportation Inc. ("CSX") at Scioto Tower in Columbus, OH, a route of approximately 0.8 miles as shown on the map at Exhibit B. 4, including the right to interchange with CSX at Parsons Yard.

b. Springfield, OH on the IORY and Columbus, OH (CP 138 / Grant) on The Columbus and Ohio River Rail Road Company ("CUOH"), a route of approximately 46.3 miles as shown on the map at Exhibit B. 5, including the right to interchange with CUOH at CP 138.

c. Springfield, OH on the IORY and Columbus, OH (Miami Crossing) on the Camp Chase Railroad, a route of approximately 41.2 miles as shown on the map at Exhibit B. 6, including the right to interchange with Camp Chase Railroad at Miami Crossing.

4. Cincinnati, OH (NS's Berry Yard): IORY seeks trackage rights over NS in Cincinnati, OH at Bond Hill to access NS's Berry Yard, a route of approximately 0.1 miles as shown on the map at Exhibit B. 7 and use track capacity in the yard for interchange between IORY and NS.

5. Red Bank, OH – NS's Clare Yard, OH: IORY seeks trackage rights over NS between Red Bank, OH and Clare Yard, OH, a route of approximately 1.7 miles as shown on the map at Exhibit B. 8, including the right of IORY to interchange with Cincinnati Eastern Railroad in Clare Yard.

V. Conclusion

For the reasons stated above, IORY respectfully requests that the Board grant IORY's requested trackage rights in its Responsive Application and impose the conditions described above if the Board approves the Transaction.

Respectfully submitted,



Eric M. Hocky
CLARK HILL PLC
Two Commerce Square
2001 Market St. Suite 2620
Philadelphia, PA 19103
(215) 640-8523

Justin J. Marks
Maya Patel
CLARK HILL PLC
601 13th Street NW, Suite 600
Washington, DC 20005
(202) 772-0916

UPNScontrol@clarkhill.com

Counsel for Indiana & Ohio Railway Company

Dated: November 18, 2026

VERIFIED STATEMENT

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VERIFIED STATEMENT OF MARTIN POHLOD FOR THE INDIANA & OHIO RAILWAY COMPANY

I. Introduction

My name is Marty Pohlod, I am Vice President ("VP") of National Accounts and Industrial Development for Genesee & Wyoming Railroad Services, Inc. (G&W). I have 36 years in the railroad industry including time at Wheeling & Lake Erie, Southern Pacific, Ohio Central and have been supporting Genesee & Wyoming railroads since 2008. My roles have been primarily in the commercial side of the business, including Marketing & Sales, Customer Service, Revenue Accounting, Industrial Development and Real Estate. I also have operations experience and served 3 years as Region Senior VP for G&W's Midwest Region from 2017-2020, where I had full profit & loss responsibility for all departments and functions of the railroads in that region (from Wyoming east to the central Ohio). The Indiana & Ohio Railway Company ("IORY") was part of my VP of Marketing responsibilities from 2013-2017, and one of the railroads for which I was responsible as Region Senior VP thereafter. My department continues to support business growth and development on the IORY and all G&W-owned short lines. In my position, I handle large, national accounts, and I have a clear understanding of how customers with multiple facilities package and purchase their transportation needs, how Class I

rail carriers compete and co-operate to win this business and the important role short lines play to enhance competitive options.

II. About IORY and the Market it Serves

IORY is a Class II railroad that operates over approximately 511 miles of track primarily in western Ohio, Indiana and Michigan and on the eastern end of the Watershed Area (250 miles to the east and west of the Mississippi River[1])(the "Watershed"). Born out of deregulation in the mid-1980s, the history of the IORY is one of low-density branch lines cast off and assembled over time through asset purchases and leases from larger carriers, including Conrail, Chessie System, Detroit, Toledo and Ironton and CSX Transportation.

Originally serving its legacy online manufacturing facilities and agricultural elevators, the IORY of today moves almost {{ }} cars annually and is a diversified short line, having developed a strong local base of traffic, including aggregate moves and serving the distribution and logistics supply chain by aggressively marketing its position as a neutral short line carrier offering the market multiple connections (as described in greater detail later in this statement). Historically the majority of IORY's traffic moved east and south, however, as connecting Class Is became focused on longer haul eastern destinations, through committed service, investment and aggressive marketing the IORY has developed viable options for shippers to rail traffic via Western gateways, competing primarily with trucks and Norfolk Southern. The growth of a

[1] As defined in the Joint Verified Statement of Kenny Rocker and Claude E. "Ed" Elkins, page 8, paragraph 15, as part of Union Pacific Corporation and Union Pacific Railroad Company Amended Application of April 30, 2026 to control Norfolk Southern Corporation and Norfolk Southern Railway Company, Volume 1, page 282

viable service option to the west has not happened overnight and has included multiple stakeholders, including, importantly, Union Pacific.

III. Union Pacific's Proposed Acquisition of Norfolk Southern Ignores Harms to short line railroads and will specifically harm IORY.

Union Pacific's proposed acquisition of Norfolk Southern is an unprecedented undertaking that, if approved, will meaningfully transform the transportation landscape of the United States. IORY is not opposed to the Transaction, assuming there are appropriate protections for other industry participants like the IORY.IORY appreciates the potential advantages a combined Union Pacific and Norfolk Southern could create via the creation of single line, transcontinental service. However, IORY is concerned for our specific customers and the market we serve and, whether, post transaction IORY will be able to continue to provide the same level of competitive options and service levels as it doestoday so that IORY can continue to sustainably invest and grow. In evaluating the Application[2] IORY believes that the Application fails to adequately address the potential impact on certain short lines and the IORY in particular.

UP has advocated in its filing that the only meaningful avenue for volume growth is through the creation of a transcontinental railroad.[3] Yet, as widely recognized by the industry[4], the Board,[5] and UP itself, short lines have been able to grow consistently, often at double the

[2] STB Docket No. FD 36873, Union Pacific Corporation and Union Pacific Railroad Company – Control – Norfolk Southern Corporation and Norfolk Southern Railway Company
[3] Verified Statement of Mark George, page 17, paragraph 42; Union Pacific Corporation and Union Pacific Railroad Company Amended Application of April 30, 2026 to control Norfolk Southern Corporation and Norfolk Southern Railway Company, Volume 1, page 259
[4] OliverWyman, "Unleash The Short Lines", 2024
[5] Surface Transportation Board, Hearing On Growth In The Freight Rail Industry Docket No. EP 775, Day 1 (September 16, 2024), transcript pages 131, 267

growth rates of Class Is. Many reasons explain this, for example, unlike Class I railroads, short lines benefit from not having to price traffic to meet the requirements of a sophisticated, national pricing model that often limits the ability of a rail carrier to offer a differentiated rate or to haul traffic over shorter distances. Short line railroads are free of this obligation, which allows short lines to be nimble and to convert traffic from truck to rail. Nor do short lines share the economic pressures of competing to generate a sub-60% operating ratio to satisfy investors. Instead, a short line benefits from being in a position to focus purely on generating incremental business such that it will move an additional car whether it is going 2 miles, 20 miles, 200 miles or is participating in a small part of a 2,000 mile move across the country.

Whereas the Class I railroad business model is focused on how to best allocate their capacity and service plan to the traffic that generates the greatest profitability, short lines in contrast do not benefit from a similar privilege of density. For short line railroads, in almost all cases any incremental traffic is simply added to the back of an existing train and hence each additional carload makes a difference.

A. Intrinsic Harms Caused by the UP/NS Transactions that Impact all Short Line Rail Carriers.

The Union Pacific acquisition of NS creates multiple concerns to the short line industry generally and to IORY specifically. The Applicants have not acknowledged these harms nor have they proposed remedies to offset these harms. As the Board analyzes the impact of the UP/NS transaction and IORY's requested conditions, IORY respectfully requests that the Board consider the following harms that will impact IORY.

1. Union Pacific will prioritize its own single-line traffic over traffic that originates and terminates on and is interchanged with short line railroads.

The Application clearly states the catalyst for the Transaction is the ability to offer single line service on a transcontinental scale and any rail traffic that is interchanged between carriers is less efficient, higher-cost and, by definition, less desirable.[6] Short lines are almost entirely dependent on interchanging traffic with Class Is and by definition, all traffic that UP shares with short lines is interchanged. IORY is concerned that post transaction UP will prioritize its limited network capacity to its own single line traffic to the detriment of existing interchange traffic.

2. Union Pacific is not interested in traffic that they haul less than 250 miles.

UP defines the Watershed Area as 250 miles to the east and west of the Mississippi River[7]. UP states that the Watershed Area is without competitive rail service because the shorter haul portion of the move is not of interest for the Class I carrier. Short line railroads within this Watershed Area, including IORY, have been able to grow because they continually focus on moving shorter haul, regional and local traffic. Similar to our concern about the prioritization of non-interchanging traffic, our concern is that UP will be even less interested in cooperating with a short line where UP is moving the traffic less than 250 miles, especially when the focus is on allocating network capacity to even great volumes of longer-haul, single line service.

[6] Verified Statement of Mark George, page 19, paragraphs 45 and 46; Union Pacific Corporation and Union Pacific Railroad Company Amended Application of April 30, 2026 to control Norfolk Southern Corporation and Norfolk Southern Railway Company, Volume 1, page 261

[7] Union Pacific Corporation and Union Pacific Railroad Company Amended Application of April 30, 2026 to control Norfolk Southern Corporation and Norfolk Southern Railway Company, Volume 1, page 12

3. Union Pacific will act in its own interest and post-Acquisition, if approved, this self-interest will harm the customer base that IORY has built in partnership with UP.

UP's stated self-interest in acquiring NS is to establish a transcontinental railroad focused on the profitable long-haul. Post-acquisition the new UP/NS entity will no longer have the same incentive to offer the competitive access and service as UP it did pre-Transaction. The combined UP/NS will have different priorities. IORY requests that the Board adopt conditions to ensure that competitive access for customers that are not directly located on the new UP/NS system are not lost.

4. Union Pacific's does not propose any conditions to remedy the adverse impacts of the transaction on short line railroads.

Union Pacific has sought to meet the regulatory requirements to preserve and enhance competition via broad commitments to service and rates through its proposed Committed Gateway Pricing. IORY does not believe that these proposed remedies properly address and fundamentally misunderstand the role IORY and certain short lines play in the more regional and local transportation landscape.

The updated 2001 merger rules specifically require the applicants to address the impact the proposed merger might have on Class II and Class III short lines.

> Under our new rule, applicants must address the anticipated effects of a proposed merger on regional and shortline railroads, identify any benefits that those smaller railroads and their customers would realize as a result of the proposed transaction, and develop suggested remedies for any anticipated harms to the public interest by virtue of a merger's adverse impacts on regional and shortline railroads and ports.[8]

[8] *Major Rail Consolidation Procedures,* STB Ex Parte No. 582 (Sub-No. 1), slip op. at 27 (served June 11, 2001).

The Application pays little attention to short line railroads aside from claiming benefits that may accrue to UP and NS feeder lines. To the extent that the Application acknowledges harm to any specific short line railroad, UP provided limited analysis and only after prodding by the Board.

5. Any traffic loss harms short line rail carriers.

The UP Application fails to address the negative impact that lost revenue has on short line rail carriers. IORY respectfully requests that the Board grant considerable weight to evidence showing that the transaction could cause a short line to lose revenue as a reason for imposing a condition. For a short line rail carrier, any loss of traffic, even 10% or less can have an outsized impact on a short line rail carrier's service and viability. With a relatively fixed operating and capital cost base, short lines are also not able to cut costs aggressively when traffic falls. When traffic does fall and a short line rail carrier has no choice to cut service or investment, the impact of this is typically much greater than what it would be for a Class I carrier.

A forced reduction in service might mean eliminating days of service to a particular customer or branch line or reducing speeds from 25 mph to 10 mph. Eliminating service or lowering speed can cause a downward spiral to a short line rail carrier. Poor service can cause customers to switch from rail to truck, this in turn means that the short line must cut more service and investment. This limits the short line rail carrier's ability to generate the required cashflow to invest in its infrastructure, meet maintenance costs, and provide the flexible service. As service levels deteriorates, the short line carrier can lose even more business and the downward spiral continues, which impacts not only the short line carrier, but all of the local customers who depend on the short line to move their traffic.

6. Union Pacific has made statements in this proceeding that are concerning and the Board should impose conditions to protect short line rail carriers from retaliation and that if trackage rights are imposed as conditions that they are reasonable and competitive.

If the Board grants the Union Pacific application to acquire NS, the Board should use its conditioning authority to impose conditions protecting short line rail carriers that are seeking conditions in this proceeding.

Regarding the potential conditioning of trackage rights, UP's Chief Executive Officer, Mr. James Vena has also made public comments indicating that UP may be unwilling to negotiate trackage rights in good faith if the Board were to impose trackage rights as a condition. Mr. Vena has been quoted as saying, "But on top of that, this is what it would do. If you allow---if we allowed x railroad to run on our railroad for 800 miles, we would charge them a per car mile charge that actually would make it more expensive for them to get to that destination. I've thought about just [agreeing] because, guess what, we would just reset the price higher for us. Okay?" The Board should impose oversight conditions in this proceeding to ensure that any trackage rights that may be imposed include pro-competitive rates, equal dispatch, and equal access to railroad facilities (ex. sidings). Further, the Board should impose conditions that a short line rail carrier can enforce without lengthy litigation. If the Board allows this transaction to proceed, Union Pacific will be one of the largest companies in the United States. It has resources to delay the imposition of the Board's conditions through litigation that can easily outlast any short line rail carrier. The Board should not allow UP to thwart its conditions.

B. <u>The UP/NS transaction, if approved, will cause IORY competitive harm.</u>

If the Board approves the UP/NS transaction, the combination of UP and NS will cause IORY, its customers, and the market it serves competitive harm.

1. The IORY is more than a simple feeder line to any specific Class I rail carrier.

The IORY is a Class II rail carrier. It competes against NS in western Ohio and the eastern side of the Watershed. For specific customers and for the market served by the IORY in general, the IORY provides a competitive route to and from UP in Chicago, via its connections to CSX or its affiliated short line Chicago, Fort Wayne & Eastern Railroad ("CFER") or even potentially even NS. If the Board approves the transaction, gateway routing via IORY and UP will no longer be an independent competitive option as UP and NS will be a combined entity.

UP has correctly focused on the Watershed as an area historically underserved by the eastern Class I railroads for traffic coming to and from western gateways because the length of haul is not attractive to them, despite the fact that this area remains one of the fastest growing areas for industrial development in the United States.

As described above, UP has been a key partner for the IORY and its customers and this partnership has built significant traffic together. The IORY interchanges more volume with UP than with any other carrier in Chicago (UP, BN, CN, CPKC, or other short lines). The IORY has invested and positioned itself as key transportation provider for shippers in the Watershed. With connections to CSX and NS for traffic moving to and from the east, CN to the north and the CFER, CSX and NS to the west, the IORY provides its customers multiple competitive options. Access to western gateways is a key element. UP's acquisition of NS undercuts IORY's investments in developing traffic in this region and its current service.

2. Customers locate on the IORY instead of locating on a Class I because it provides them access to multiple Class Is, who then have to compete for customer business for the longer haul.

The IORY is in-the-midst-of a meaningful transformation, supported by customer investment, which will change the transportation landscape for current and future shippers. The

most significant example is the Fayette County Mega Site in Jeffersonville, Ohio and Ohio's largest certified jobs ready site. Underpinned by the proximity to Honda's new two-million square foot, $3 billion battery plant. IORY anticipates that thousands of containers will flow to this location and the neighboring Central Ohio Logistics Center from west coast ports. As part of a comprehensive logistics package, these same containers will then be railed back loaded to west coast ports, stuffed with export agriculture products IORY will rail into Jeffersonville from local online elevators.

In this same location, major logistics provider, Heniff Transportation Systems, recently announced it is developing a state-of-the-art, high volume sweetener (food product) transload facility exclusively for Cargill to receive and distribute product primarily coming in from western originations. The headline on Heniff's press release announcing the investment, "Strategic Ohio location creates significant service options for consumer-packaged goods companies", underscores the benefits of the IORY and its position close to gateways and as an independent short line with multiple rail connections.

Another key customer who benefits from competition between NS and IORY, including to western gateways and UP, is the steel producer North Star Blue Scope (NSBS). Located on the northern-end of the railroad in Delta, Ohio, the IORY recently materially increased the capacity of its serving rail yard to keep pace with NSBS's recent facility expansion.

IORY success in attracting NSBS results from IORY's infrastructure investment, committed car supply, service plan and ability to move traffic easily and competitively to interchange in Chicago and to western carriers. The connection to UP, via the contiguous short line CFER or CSX, supports the IORY hauling more than {{ }} NSBS carloads annually with UP.

Following the merger, with NS also serving NSBS directly, IORY's expectation is that 100% of this IORY-UP traffic will be converted to NS-UP and NSBS will lose a competitive option it has depended upon.

As a result, IORY will undoubtably lose important revenue that will be a direct result of the UP/NS transaction. In order to remedy this loss in revenue, IORY may need to adjust service, which will further impact other IORY traffic moving to and from western gateways and the railroad overall.

In Lima, Ohio, IORY is currently expanding its Sugar Street Yard to accommodate an additional {{[redacted]}} cars to support the new $500 million Louis Dreyfus facility being built in Upper Sandusky, Ohio. While the facility is located on the CFER, the IORY and its yard and related service will play a critical role facilitating car movement and supply, including flows to and from UP and western gateways which connection and coordination is absolutely key for competitiveness and fluidity. This yard will also support service to and from Jeffersonville as well as the key interchange point with other railroads in Lima, Ohio.

The IORY activity described above is not aspirational but current and ongoing. Investments on the IORY can be better articulated by the Ohio Rail Development Commission (ORDC) in its successful CRISI grant submission to the Federal Railroad Administration (FRA) in partnership with the IORY and the West Central Ohio Port Authority for the West Central Ohio Double Stack Clearance Project. With a $23 million grant request as part of a total $46.8 million project, the ORDC outlined in its application,

> the Project will not only enable IORY to partner with Class 1 railroads for intermodal container service between Ohio and the West Coast but also improve overall track conditions, providing better rail service reliability and more rail options for Ohio farmers and businesses. Without this Project, IORY will remain uncompetitive for the shipment of containers, limiting supply chain options for farmers and businesses.

> The Project opens the corridor to more efficient two-way container flows by enabling inbound loaded containers to reach the Central Ohio Logistics Center in Jeffersonville directly from coastal and inland ports. The empty containers can then be reloaded and shipped from the facility, which vastly improves the economics of outbound agricultural exports and other containerized shipments. IORY will be able to partner with other railroads, including Class I railroads, that do not currently serve the Springfield region. The market opportunity extends beyond the existing facility; it includes a broader market of companies that depend on competitive access to rail-served domestic and export markets throughout the Cincinnati-Dayton-Columbus triangle and the surrounding region. The Project also creates substantial public benefits by shifting freight movement from highways to rail. Based on current modeling, enabling direct double-stack service is associated with approximately 30,000 annual containers and avoids roughly 3.48 million truck vehicle-miles traveled each year that would otherwise occur through drayage (trucking of intermodal containers) between Jeffersonville and intermodal terminals in Columbus or Cincinnati. Over a 30-year period, that equates to approximately 73.8 million avoided truck vehicle-miles. Those avoided truck movements benefit surrounding communities, the motoring public, and public infrastructure through lower roadway wear, reduced congestion, fewer truck-related safety exposures, lower fuel consumption, and reduced emissions. The benefit-cost analysis conducted for the Project further indicates annual reductions of approximately 6,619 tons of CO2, 45 tons of NOx, 2.5 tons of particulate emissions, and about 589,831 gallons of diesel fuel, illustrating that the benefits of the Project accrue broadly to highway users, local communities, and the regional freight network rather than solely to rail operators…The Project is structured to ensure that the corridor is not only physically cleared for double-stack container service but also operationally capable of sustaining that service as well as all other freight traffic moving in the corridor. Carload traffic is the short line railroad's "bread and butter.

ORDC continued to explain to FRA the benefits of investing in the project including to NSBS referenced above. As ORDC further explained.

> Numerous other shippers, including North Star Bluescope (NSBS), rely on the corridor. NSBS is a steel producer operating one of the most efficient electric arc furnace flat-rolled steel mills in North America. Headquartered in Delta, Ohio, the company is a critical supplier to automotive, construction, appliance, and general manufacturing markets across the Midwest and Eastern U.S. IORY delivers raw materials such as pig iron and scrap steel, as well as transports finished steel for further processing elsewhere in the Midwest. Over 75% of rail shipments destined for NSBS move across the Project corridor, and rail transportation is a core operational dependency of NSBS' Delta facility. IORY's services play a direct role in enabling production continuity and customer fulfillment. The rail and bridge work will reduce slow orders, prevent unscheduled track outages that impact supply chain reliability, and preserve velocity for customers like NSBS… In 2018, ORDC

> was awarded a CRISI grant to rehabilitate the IORY Delta Yard and construct a siding, with the overall project totaling $7M. Ohio is the second largest steel-producing state in the nation, and the industry is significant to the economy of Northwest Ohio…Considered together, these investments preserve a strategically important regional freight corridor, expand market access for western Ohio agricultural producers and manufacturers, support supply-chain resilience, and generate measurable public returns that justify public participation in the Project.[9]

As the ORDC application illustrates, IORY and its partners are deeply invested in providing rail service in this region. However, the connection and partnership with UP and the ability to reach western gateways is critical for the IORY's success and for this project. {{[redacted]}}. With a newly combined UP/NS, UP will no longer be interested in supporting this route but instead will prioritize its own terminals in this region and these customers will lose a competitive option.

The importance of this project is recognized by ORDC, FRA – through its grant of CRISI dollars – and by the State of Ohio. The IORY corridor project and its viability to ensure optionality for shippers is also a noted element of the State of Ohio strategic rail plan.[10]

[9] West Central Ohio Clearance Project. Applicant: Ohio Rail Development Commission. Application for Funding under the Fiscal Year 2025 – 26 CRISI Program NOFO FR-CFS-26-001 CFDA Number 20.337 CRISI; pages 1, 3, 4

[10] Ohio State Rail Plan as updated and approved on Mark 19, 2026, Resolution 26-03

Honda's +$3 billion battery plant in Jeffersonville, OH



Test train of west coast containers into Jeffersonville, Central Ohio Logistics Center



IV. IORY Proposes Conditions to be Imposed if the Board Approves the Transaction to Remedy the Anti-Competitive Impacts of the Transaction.

As demonstrated above, the acquisition of NS by UP is likely to harm the customers and market served by the IORY. UP is currently a key competitive partner for the IORY in moving traffic to and from western destinations and originations. Once UP absorbs the NS network, IORY is no longer a competitive option.

The conditions proposed by UP, including Committed Gateway Pricing, fail to provide the certainty and security needed to support long-term investment and optionality. In order to remedy the Union Pacific application's failures and to protect the IORY and its customers from the negative competitive impacts of the UP/NS transaction, IORY respectfully requests that the Board adopt the following conditions.

A. Trackage Rights

IORY respectfully requests the following trackage rights to remedy the anti-competitive effects of the UP/NS transaction.

1. Connectivity to the Toledo, Peoria and Western Railway (TPW) in Logansport, IN via NS trackage rights starting on the IORY in Leipsic, OH.

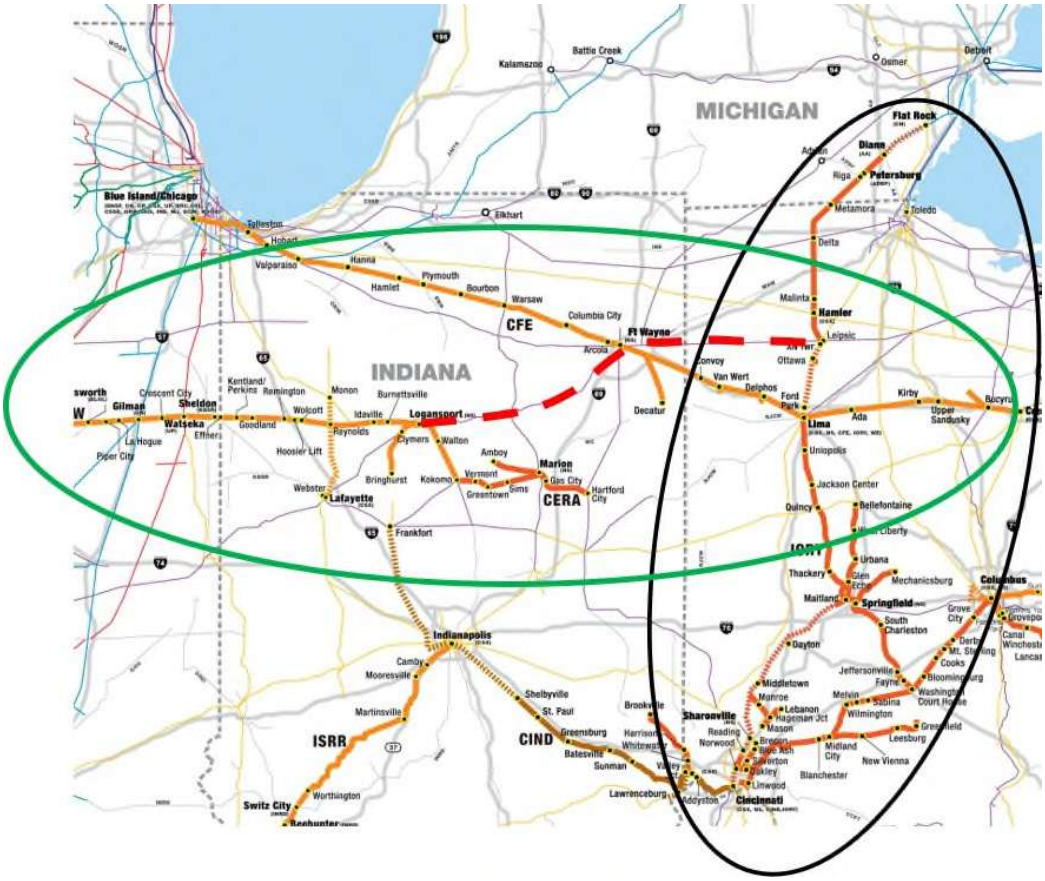
Connectivity to the TPW is an important remedy for IORY as it provides an alternative gateway option, particularly to Chicago. The TPW runs from Logansport, Indiana to the Peoria Gateway. It provides true eastern and western carrier access, connecting with all Class I rail carriers, both directly and via the Tazewell & Peoria Railroad, to CPKC via the Illinois & Midland Railroad, and to multiple short line rail carriers. Connecting to the TPW will neither replace the competitiveness of the UP connectivity to IORY traffic, nor will it ever be a true competitor to a major Class I gateway, once UP acquires NS, these trackage rights would provide additional access and capacity for IORY customers.

This is additionally critical when considering both (i) post-Acquisition, the likelihood of a follow on merger between western and eastern carriers becomes even greater, ensuring short lines in the Watershed, such as the IORY, have independent access to western gateways becomes even more important; {{[redacted]

[redacted]

[redacted]}}.

Map of IORY and proposed rights to the TPW and alternative gateway



2. Connectivity to various carriers in Chicago via NS trackage rights from Ft. Wayne.

Similar to the harm and remedies identified in #1 above, connectivity to various carriers in Chicago via NS trackage rights from Leipsic, OH ensures the IORY will maintain competitive access to gateway options and potential for incremental traffic that may offset some of the potential expected harm that will result from the UP/NS transaction.

While connections to terminal railroads in Chicago do provide connectivity, direct connections to western carriers and other short lines ensure greater competitiveness as they are

both operationally more efficient and do not require the switch fee otherwise charged to terminal movements. These direct access connections also ensure greater fluidity in the Chicago market.

3. Points in and near Columbus, OH.

These rights will (i) ensure regional, shorter haul traffic continues to grow and is not de-prioritized and de-marketed by UP-NS as the newly combined railroad focuses on single service traffic that UP/NS will prioritize to the detriment of other, shorter haul volumes requiring interchange; and (ii) offsets some of the harm caused by the combination and impact to the IORY

a) IORY Points and Columbus, OH area.

This is a re-establishment of previous rights that allowed this movement. IORY is seeking trackage rights over the Norfolk Southern rail line between CP Russ (CP 139) on the IORY and CSX at Scioto Tower (Columbus, OH). These rights will allow the IORY to directly interchange with CSX in Parsons Yard. {{[redacted]}}

b) Springfield, OH on the IORY and CP 138 on the Columbus and Ohio River Railroad (CUOH):

Springfield, OH on the IORY and CP 138 on the Columbus and Ohio River Railroad (CUOH): allows the IORY to interchange with the CUOH short line. This will promote regional traffic that a combined UP-NS will be less incentivized to handle. It also has the potential to allow the IORY and CUOH the opportunity to build additional traffic that will offsets some of

the financial harm caused by loss of traffic to a newly combined UP-NS, especially as they will have such a presence in the market.

4. Springfield, OH on the IORY and the Camp Chase Railroad in Columbus, OH at Miami Crossing:

Springfield, OH on the IORY and the Camp Chase Railroad in Columbus, OH at Miami Crossing allows interchange with the Camp Chase Railroad. This will promote regional traffic that a combined UP-NS will be less incentivized to handle. It also has the potential to allow the IORY the opportunity to build additional traffic that will offset some of the financial harm caused by loss of traffic to a newly combined UP-NS, especially as they will have such a presence in the market. Ultimately, via the requested IORY rights to the TPW, this would also provide for further regional and traffic development and provides an alternative gateway and competitive option for traffic that previously flowed to and from the CUOH with UP and NS optionality that will be impacted by the proposed Transaction.

5. IORY connectivity with Norfolk Southern in Cincinnati, OH area

a) Amend existing IORY trackage rights over Norfolk Southern between Springfield, OH and Cincinnati

Amend existing IORY trackage rights over Norfolk Southern between Springfield, OH and Cincinnati to allow access to NS's Berry Yard and require Norfolk Southern to create an interchange with IORY in Berry Yard. Currently the IORY interchanges with the NS in Sharonville, OH. As part of the proposed UP-NS transaction, the UP proposes a major terminal upgrade in Sharonville to accommodate an expected doubling of intermodal traffic, which if occurs, will negatively impact IORY's ability to interchange at that location

b) Trackage Rights over Norfolk Southern Railroad between Red Bank and Norfolk Southern's Clare Yard

Trackage rights over NS between Red Bank and Norfolk Southern's Clare Yard to interchange with the Cincinnati Eastern Railroad. This will promote regional traffic that a combined UP-NS will be less incentivized to handle. It also has the potential to allow the IORY the opportunity to build additional traffic that will offset some of the financial harm caused by loss of traffic to a newly combined UP-NS, especially as they will have such a presence in the market.

B. Reasonable terms

IORY respectfully requests that the Board impose the above-mentioned traffic rights under the reasonable terms proposed in the IORY Responsive Application. IORY is proposing it pays to Norfolk Southern the same trackage rights rate as Norfolk Southern pays to run over the Chicago, Fort Wayne & Eastern Railroad from Crestline OH, to Gary, IN as per its 6/1/1999 trackage rights agreement, currently {{[redacted]}} per car mile and {{[redacted]}} per intermodal container mile.

IORY also requests that the Board impose an obligation on the part of Union Pacific to provide equal dispatch and equal access to railroad facilities on the trackage rights lines.

C. Indefinite Oversight

IORY respectfully requests that the Board impose an oversight period to last in perpetuity to provide IORY with a remedy to ensure that the conditions requested above are enforceable now and into the future.

VERIFICATION

I, Martin Pohlod, Vice President of National Accounts and Industrial Development for Genesee & Wyoming Inc., declare under penalty of perjury that the forgoing statement is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed on this 18th day of November, 2026



CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of November 2026, the foregoing document was served by first-class mail or email upon all parties of record on the service list and the administrative law judge assigned in this proceeding.



_____

Justin J. Marks