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BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

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

FLORIDA DEPARTMENT OF TRANSPORTATION'S COMMENTS

The Florida Department of Transportation (FDOT) provides the following Comments to the Revised Application.

COMMENTS

1. FDOT's comments are based on FDOT's present knowledge and information. FDOT reserves the right to assert additional comments, responses, and objections; and to supplement or amend those comments at any time as this proceeding continues, based on any additional facts, documents, and other evidence that it may develop or that may subsequently come to its attention.

I. The Board's Standard of Review and Its Authority to Impose Conditions

2. The proposed combination of Union Pacific and Norfolk Southern is a "major transaction" — a control or merger involving two or more Class I railroads — and is therefore subject to the Board's most rigorous level of review. 49 C.F.R. § 1180.2. The Board may approve the transaction only if it finds the transaction consistent with the public interest, and in making that determination the Board must consider, among other factors, the effect of the transaction on the adequacy of transportation to the public and whether the transaction would have an adverse effect

on competition among rail carriers in the affected region or in the national rail system. 49 U.S.C. § 11324.

3. The burden rests on the applicants. A transaction serves the public interest only where substantial and demonstrable public benefits outweigh its anticompetitive effects and potential service disruptions, and merger applications should include provisions for enhanced competition. 49 C.F.R. § 1180.1. Since 2001, the Board's rules have required applicants not merely to preserve existing competition but affirmatively to enhance it, substantially increasing the applicants' evidentiary burden. Major Rail Consolidation Procs., 5 S.T.B. 539, 2001 WL 648944 (2001). FDOT respectfully submits that the Board should hold the applicants to that burden here and should not accept generalized assurances of efficiency in place of concrete, enforceable commitments.

4. The Board possesses broad authority to approve the transaction subject to conditions, including requiring the divestiture of parallel tracks or the granting of trackage rights and access to other facilities, and will condition approval to mitigate or offset harm to the public interest. 49 U.S.C. § 11324(c); 49 C.F.R. § 1180.1(d). These tools are well within the Board's ordinary practice. In approving the 1996 Union Pacific/Southern Pacific merger, for example, the Board required extensive replacement trackage rights and related measures, subject to a five-year oversight period, to preserve competition for shippers that would otherwise have been reduced to a single carrier. See Union Pac. Corp., Union Pac. R.R. Co., & Missouri Pac. R.R. Co.--Control & Merger--S. Pac. Rail Corp., S. Pac. Transportation Co., St. Louis Sw. Ry. Co., Spcsl Corp., & the Denver & Rio Grande W. R.R. Co., 1 S.T.B. 233, 1996 WL 467636 (1996) (Requiring extensive replacement trackage rights and line sales to preserve competition for shippers that would otherwise have been reduced to a single carrier, subject to a five-year oversight period. Although

the Board subsequently heightened the showing required of applicants—now requiring that a major transaction enhance, not merely preserve, competition, see 49 C.F.R. § 1180.1(c), (d)—its authority to impose such conditions remains, and it continues to exercise it.); Union Pac. Corp., Union Pac. R.R. Co., & Missouri Pac. R.R. Co.--Control & Merger--S. Pac. Rail Corp., S. Pac. Transportation Co., St. Louis Sw. Ry. Co., Spcsl Corp., & the Denver & Rio Grande W. R.R. Co., 1 S.T.B. 233, 1996 WL 467636 (1996))

II. Interest of the State of Florida and Its Reliance on Competitive Rail Service

5. Florida's economy depends on a freight transportation system that is reliable, competitive, and capable of moving voluminous quantities of goods efficiently between our ports, industries, and markets across the country. As the Surface Transportation Board considers the proposed combination of Union Pacific and Norfolk Southern, FDOT urges the Board to give particular attention to the consequences for Florida's ports and rail-dependent industries.

6. Florida continues to make competitive and nationally significant investments in the infrastructure necessary to support the state's growth and strengthen our supply chains. FDOT's transportation work program has prioritized infrastructure investments into the multimodal freight network, including rail and seaports that connect Florida's businesses to customers across the country and around the world. In fiscal year 2027 alone, Florida committed $14.4 billion to our state transportation work program, including $155.5 million for seaport infrastructure and $85.2 million for intermodal access improvements. The Board should thoroughly analyze any potential changes to the nation's supply chain and market dynamics resulting from consolidation in the freight rail industry.

7. Florida's 16 public deepwater seaports alone support nearly 1.2 million jobs and generate approximately $195.9 billion in economic value, equal to roughly 12.2 percent of our

state's gross domestic product. Those ports connect Florida businesses to markets around the world, but their success also depends on efficient transportation connections inland. Rail is an essential part of that system.

8. Florida railroads originate approximately 31.4 million tons of freight and terminate another 54.1 million tons each year. Much of that traffic consists of the basic materials that underpin Florida's economy: minerals, chemicals, construction materials, agricultural and food products, pulp and paper, and intermodal freight.

9. Few industries demonstrate this dependence more clearly than Florida's phosphate and fertilizer industry, essential for agricultural production across the country. Florida's Department of Environmental Protection explains that after phosphate is mined and beneficiated, it is transported by rail to separate chemical processing facilities where it is converted into fertilizer and other products. That makes rail an integral part of the production process itself. That production network extends directly to Florida's ports. Port Tampa Bay handled more than 3.1 million tons of phosphate rock and phosphatic chemicals in fiscal year 2025, in addition to major volumes of sulfur, ammonia and other commodities associated with fertilizer and industrial production. Port Tampa Bay by itself is a $34.6 billion economic engine supporting more than 192,000 jobs.

10. Florida's robust construction economy is similarly dependent on bulk transportation. Railroads move millions of tons of nonmetallic minerals, crushed stone, sand, and related commodities into and across Florida each year. These are the raw materials used to build roads, homes, and infrastructure in one of the fastest-growing states in the country.

11. The competitive implications are particularly concrete in Jacksonville. JAXPORT currently offers direct switching to both CSX and Norfolk Southern, with rail serving intermodal

containers, automobiles, chemicals, farm and food products, and pulp and paper. Jacksonville's port activity supports more than 258,800 jobs statewide and approximately $44 billion in annual economic output.

12. Florida's Gulf ports, like SeaPort Manatee and Port Panama City, serve as primary ports of call for balanced, cross Gulf trade with Mexico. These supply chains serve American families along the Eastern Seaboard of the United States with food and essential home good products originating in Mexico. These balanced supply chains also serve American businesses.

13. Florida has invested heavily in making our state one of America's premier gateways for trade and commerce. PortMiami alone contributes approximately $61.4 billion in annual economic activity and supports more than 340,000 jobs. Port Everglades generates approximately $48.3 billion in economic activity and supports nearly 300,000 jobs statewide. Furthermore, Florida's regional ports, such as SeaPort Manatee, Port Panama City, and Port Pensacola, continue to expand their economic footprint, collectively generating more than $8.9 billion in economic activity and supporting roughly 53,000 jobs statewide. These gateways, together with Jacksonville, Tampa Bay and Florida's other ports, form a logistics system that, should they be broken, would have negative consequences for the state and the nation.

III. The Transaction's Potential Effects on Florida's Ports, Shippers, and Supply Chains

14. At JAXPORT, shippers today enjoy direct rail competition because the port offers direct switching to both CSX and Norfolk Southern. A combined Union Pacific/Norfolk Southern would alter Norfolk Southern's incentives at the gateways and interchanges connecting Florida traffic to the western rail network, and could diminish the independent routing and interline options on which Florida shippers now rely. The Board's regulations recognize that even an end-to-end combination can reduce competition in product and geographic markets, and they require

applicants, at a minimum, to preserve competitive options such as the use of major existing gateways, build-outs or build-ins, and the ability to contract for one segment of a movement in order to pursue rate relief on the remainder. 49 C.F.R. § 1180.1.

15. The transaction also implicates the Board's obligation to preserve essential services. The Board must ensure that essential freight services are preserved wherever feasible — a service is essential where there is sufficient public need and no adequate alternative is available — and must consider whether projected shifts in traffic patterns could undermine the ability of network links, expressly including ports and Class II and Class III rail carriers, to sustain those services. 49 C.F.R. § 1180.1(c)(2)(ii). Florida's deepwater seaports and the short-line railroads that connect them to the national network are precisely such links. Florida's phosphate and fertilizer supply chain is illustrative: because the commodity moves by rail between mine, processing facility, and port, rail is integral to the production process itself, and any degradation of service or competitive options would be felt throughout that chain and at Port Tampa Bay.

16. Network resiliency warrants the Board's attention through its environmental review. Merger-related changes in traffic volumes, routing, and densities on Florida corridors and near its ports may carry environmental, safety, and congestion consequences that the Board must consider, and the Board may impose mitigation conditions to address concerns raised by state and local entities. 49 C.F.R. § 1180.1(f)(1).

17. The Board should weigh whether the benefits the applicants claim could be achieved by means less harmful than consolidation — such as joint marketing agreements or interline partnerships — which the Board has recognized can produce many of the efficiencies of a merger while risking less harm to the public. 49 C.F.R. § 1180.1(c). A transaction of this

magnitude should be judged not merely by promised network efficiencies, but by what it means for the businesses and communities that ultimately depend on the railroad.

18. The Board should also address an ownership relationship that bears directly on competition at Florida's east coast ports. The Florida East Coast Railway (FEC) is the rail carrier serving the South Florida ports of Miami, Port Everglades, and Palm Beach, and it interchanges with CSX and Norfolk Southern at Jacksonville. FEC is wholly owned, through GMXT US, by GMéxico Transportes, S.A.B. de C.V. (GMXT). According to GMXT's most recent quarterly financial report, Union Pacific holds a direct [7.99%] equity interest in GMXT itself, in addition to Union Pacific's 26% interest in Grupo Ferroviario Mexicano and its shared control of, and board representation on, Ferromex. An applicant in this proceeding therefore holds an ownership interest in the parent of the carrier that controls exclusive rail access to Florida's east coast ports. Combined with Norfolk Southern's existing interchange with FEC at Jacksonville, this relationship could give the merged carrier the incentive or ability to favor its own routings, impair neutral interchange, or otherwise diminish competitive rail access at the Ports of Miami, Everglades, and Palm Beach — a risk the Board should examine as part of its public interest review.

IV. Conditions and Relief Requested

19. Consistent with the Board's conditioning authority, and to ensure that Florida is not subjected to diminished competition, degraded service, or new supply-chain vulnerabilities, FDOT requests that any approval of the transaction be made subject to the following conditions:

(a) Open gateways and interchanges. A requirement that the merged carrier keep the gateways and interchanges used to route Florida traffic — including the Norfolk Southern/CSX interchange and the western gateways through which Florida traffic reaches Union Pacific territory — open on commercially reasonable terms, both

financially and operationally, as the Board required in its 2023 decision approving the Canadian Pacific/Kansas City Southern combination. Canadian Pac. Ry. Limited; Canadian Pac. Ry. Company; Soo Line R.R. Company; Cent. Maine & Quebec Ry. Us Inc.; Dakota, Minnesota & E. R.R. Corporation; & Delaware & Hudson Ry. Co., Inc.-Control-Kansas City Southern; the Kansas City S. Ry. Company; Gateway E. Ry. Company; & the Texas Mexican Ry. Co., 2023 WL 2531588 (Mar. 14, 2023); Canadian Pac. Ry. Limited; Canadian Pac. Ry. Company; Soo Line R.R. Company; Cent. Maine & Quebec Ry. Us Inc.; Dakota, Minnesota & E. R.R. Corporation; & Delaware & Hudson Ry. Co., Inc.-Control-Kansas City Southern; the Kansas City S. Ry. Company; Gateway E. Ry. Company; & the Texas Mexican Ry. Co., 2023 WL 2531588 (Mar. 14, 2023)

(b) Preservation of competitive routing options. A requirement that the merged carrier preserve existing build-out, build-in, and segment-rate (bottleneck) options for Florida shippers, and propose remedies to mitigate and offset any identified competitive harm.

(c) Protection of essential port and short-line service. Conditions ensuring that projected traffic-pattern shifts do not impair the ability of Florida's ports and connecting Class II and Class III carriers to sustain essential service.

(d) Enforceable service commitments. Board scrutiny of the applicants' required Service Assurance Plan, and the adoption of specific, measurable, and enforceable service benchmarks — together with service-failure remedies and contingency plans — for the Florida lanes that carry phosphate and fertilizer, construction aggregates, chemicals, and agricultural and intermodal traffic.

(e) Florida-specific oversight reporting. Inclusion of Florida within the mandatory post-approval oversight process — which extends at least five years, requires no-less-than-annual reporting, and during which the Board retains jurisdiction to impose additional conditions — with reporting sufficient to monitor service and competitive effects in Florida.

(f) Environmental and community mitigation. Imposition, as conditions of approval, of appropriate environmental and safety mitigation and of any negotiated agreement reached between the applicants and the State of Florida or its agencies.

(g) Disclosure and examination of Union Pacific's ownership interest in the Florida East Coast Railway. Full disclosure by Union Pacific of its direct and indirect ownership and control relationships with GMXT, Grupo Ferroviario Mexicano, Ferromex, and the Florida East Coast Railway, as required by 49 C.F.R. § 1180.6(b)(8) and the corporate-chart requirement of 49 C.F.R. § 1180.6(b)(6); the Board's independent examination of whether those relationships would affect competitive rail access at Florida's east coast ports; and, to the extent the Board identifies any such risk, conditions preserving neutral, nondiscriminatory interchange and competitive access at the Ports of Miami, Everglades, and Palm Beach.

V. Conclusion

20. Florida should not be subject to diminished competition, degraded rail service, or new vulnerabilities in the supply chains serving our ports, manufacturers, farmers, construction industry, and fertilizer producers. The State of Florida respectfully urges the Board to hold the applicants to their burden of demonstrating that the transaction is consistent with the public interest

and enhances competition, to require a clear, evidence-based showing to that effect, and to impose the conditions set forth above in its consideration of Docket No. FD 36873.

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Respectfully submitted,

Signed by:
Dan Fitz-Patrick
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CERTIFICATE OF SERVICE

I hereby certify that, on this 18th day of November, 2026, I caused a true and correct copy of the foregoing Comments to be served by first-class mail or email on all parties of record in this proceeding, the Secretary of Transportation, the Attorney General of the United States, and Administrative Law Judge Jenifer Soulikias.

Signed by:
Dan Fitz-Patrick
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Dan Fitz-Patrick
Chief Strategy Officer, Assistant Secretary
Florida Department of Transportation