BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36873

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

COMMENTS AND REQUEST FOR CONDITIONS OF THE AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

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Dated: November 18, 2026

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INTRODUCTION AND REGULATORY MANDATE: THE FIRST-MILE/LAST-MILE IMPERATIVE UNDER THE 2001 MAJOR MERGER RULES

The American Short Line and Regional Railroad Association ("ASLRRA" or the "Association") submits these formal comments in response to the application filed by Union Pacific Corporation ("UP") seeking Surface Transportation Board ("Board") authorization under 49 U.S.C. §§ 11321-11326 to acquire control of Norfolk Southern Corporation and its rail carrier subsidiaries (collectively, the "Applicants"). In submitting these comments and reflecting the diverse views of its member short line railroads, ASLRRA takes no direct position in support of, or in opposition to, the Applicants' proposed transaction. Rather, the Association's focus is ensuring that any approved consolidation contains the structural protections necessary to preserve local rail service and shipper optionality, guarantee the adequacy of transportation to the public, and make certain that the transaction is consistent with the public interest.

Short line and regional railroads (collectively, "short lines") are an indispensable component of the North American rail network, preserving competitive and reliable rail service for thousands of customers who would otherwise have no access to that national railroad network. Facilitated by current 49 U.S.C. § 10901, this agency's regulatory predecessor played a major role in creating these short line connections when in 1985 it established an expedited class exemption process for the sale and lease of railroad lines to new short line railroads. Prior to that, in the early 1980's when the industry was struggling to survive it was often easier and cheaper to abandon a light-density line than to sell or lease it to a new local operator. The class exemption process facilitated line sales by streamlining the process for the formation of new short line railroads and by giving regulators discretionary authority to waive cost-prohibitive legacy transition mandates. In 1980, a small number of legacy short lines operated some 8,000 miles of track. Today there are approximately 600 short lines operating some 50,000 miles, and virtually all of those new short lines were created using the agency's expedited class exemption procedures. This is widely considered one of the agency's and the industry's modern success stories.

ASLRRA believes the conditions proposed here are critical to preserving that regulatory success if the subject consolidation application were to be approved. Today, the railroad industry is facing potential unprecedented restructuring, and short lines constitute a critical conduit through which any

consolidated Class I system must deliver its promised operational efficiencies, network fluidities, and carload traffic growth to the shipping public.

Under 49 U.S.C. § 11324(c), the Board may approve a major rail consolidation only if it finds that the proposed transaction is "consistent with the public interest," a determination governed by the statutory mandate of 49 U.S.C. § 11324(b)(1) requiring consideration of "the effect of the proposed transaction on the adequacy of transportation to the public." 49 U.S.C. § 11324(b)(1), (c). This statutory foundation is further informed by the 2001 major railroad consolidation rules set forth in 49 C.F.R. part 1180. Together, they establish that a major rail consolidation must do more than just improve single-line rail service efficiencies. Rather, the transaction must not simply preserve, but actively "enhance competition" (49 C.F.R. § 1180.1(d)), safeguard essential services (49 C.F.R. § 1180.1(c)(2)(ii)), and ensure that the consolidated Class I does not "acquire and exploit increased market power" (49 C.F.R. § 1180.1(c)(2)(i)).

The Board's rules expressly recognize the vital role of short lines in this public-interest calculus: in evaluating essential services under § 1180.1(c)(2)(ii), (d), the Board examines whether merger-driven traffic shifts could undermine the ability of network links, "including Class II and Class III rail carriers and ports," to sustain essential services; and in crafting merger conditions under § 1180.1(d), the Board's stated objective is to "enhance competition in ways that strengthen and sustain the rail network as a whole (including that portion of the network operated by Class II and III carriers)." 49 C.F.R. § 1180.1(c)(2)(ii), (d). The concept of

"adequacy of transportation" is not meaningful in the real world of rail shipping if it only measures main-line, long-haul fluidity while ignoring the health of the first- and last-mile interchange and the short line railroad network connected to the Class I main lines. A consolidation of this scale creates inherent structural risks that the merged entity, in its pursuit of network optimization, may constrain historical and prospective interline routings, push single-line routes at the expense of local access, or reapportion network costs onto vulnerable short line partners.

ASLRRA urges the Board fully to examine the structural risks that the proposed acquisition poses to shippers served by short lines. Many short lines and their customers recognize these risks, but they have been and will likely continue to be circumspect with respect to expressing their views to the Board directly, due to the natural power imbalance between short lines and their Class I partners, which would of course be exacerbated by a transaction of this scale. The Board's recent concern about possible retaliation highlights the structural vulnerabilities inherent in short lines' relationships with their Class I partners. Because the consolidated Class I would wield unprecedented market leverage, the Board must recognize that without structural protections, everyday commercial mechanisms—such as car supply, interchange windows, and pricing authority—could be used as quiet tools of retaliation against short lines that advocate for shipper optionality. On their behalf, ASLRRA seeks to reflect these concerns.

To protect the public interest and help the Applicants achieve their promises of rail growth and continued provision of competitive freight rail service

options, the Board must condition any approval upon structural, enforceable protections. The conditions set forth below are designed to establish transparent service baselines, remove anti-competitive legacy restrictions, preserve short line operational stability, and ensure that the benefits of this consolidation reach first- and last-mile rail customers.

THE INTEREST OF ASLRRA MEMBERS: THE FIRST-MILE/LAST-MILE ECONOMIC LIFELINE

ASLRRA is a non-profit trade association representing over 500 Class II and Class III freight railroads operating across North America. Operating nearly 50,000 miles of track—roughly a third of the national freight rail network—ASLRRA members serve as the critical first-mile and last-mile connection linking various communities, agricultural producers, manufacturing facilities, and industrial shippers to the national rail grid. Furthermore, the preservation of this localized track infrastructure and operational readiness is an essential component of national security and broad supply chain resilience, providing the capacity and flexibility necessary for strategic logistics and emergency mobilization.

For thousands of domestic shippers, a short line provides their sole physical access to the interstate freight rail network. In the context of this proposed transaction, short lines constitute an indispensable conduit through which a consolidated Class I system must deliver its promised operational efficiencies, network fluidities, and carload traffic growth to the shipping public. The data bears this out: from July 2025 to July 2026, short line railroads achieved an 11% year-over-year increase in carload originations, while Class I carload originations

increased by just 0.5% (3.2% excluding coal). This disparity is underscored in a comprehensive industry study by transportation management consultancy Oliver Wyman, which surveyed senior executives representing more than 300 North American short line railroads and found that while Class I carriers have experienced an ongoing erosion of freight market share to trucks and grown volumes more slowly than GDP, short line railroads are consistently achieving outsized, double-digit traffic gains and are now originating or terminating between 25% and 35% of overall Class I volume. *See* James Miller & Michelle Bowling, Oliver Wyman, *Unleash the Short Lines: Accelerating North American Rail Industry Growth* 3, 9 (Aug. 2024), https://www.oliverwyman.com/content/dam/oliver-wyman/v2/publications/2024/aug/north-american-short-line-growth-report-082024.pdf ("*Oliver Wyman Report*").

As the *Oliver Wyman Report* explains, "[a]cross the board, short line executives highlight their entrepreneurial culture and intentional focus on service reliability as the cornerstones of success in this sector of the rail industry." *Id.* at 5. Consequently, ASLRRA's railroad members are uniquely positioned to recognize that any major Class I consolidation would risk prioritizing long-haul operational efficiencies, market concentration, outsized leverage of smaller carriers, and foreclosure of shipper choice at the expense of local rail service, absent appropriate voluntary or Board-ordered protections.

OVERVIEW OF POST-TRANSACTION RISKS TO SHORT LINE OPERATIONS AND COMPETITIVE ACCESS

A consolidation of this unprecedented scale inherently alters the commercial and operational landscape of the national rail network. To satisfy the statutory mandate to protect the "adequacy of transportation" under § 11324(b)(1), the Board must ensure that the creation of an expanded single-line network does not inadvertently suppress rail-to-rail competition, degrade local service, or exploit structural market power imbalances to the detriment of connecting short lines and their shippers. If the Applicants' pursuit of long-haul synergies degrades connecting service or imposes unchecked pricing friction at the short line interchange, the resulting transportation network would be fundamentally inadequate for the shipping public.

Five post-transaction concerns drive the conditions proposed herein:

1. Foreclosure of Shipper Optionality and Competitive Routing

A newly consolidated Class I would possess an irresistible economic incentive to lock originated traffic away from connecting short lines and shift it exclusively onto its own extended long-haul network. A Class I carrier does not need to formally close a physical interchange to block an otherwise competitive interline route. Instead, a combined UP/NS could achieve this foreclosure indirectly, as operational friction and pricing disparities— such as the rigid enforcement of legacy paper barriers, the imposition of discriminatory intermediate or reciprocal switch charges, or the manipulation of joint rate-making authority— would limit the viability of alternative interline routes. As Party of Record J. Vann

Cunningham has observed, a transcontinental merger removes the dual-gateway counterparty that bridge carriers historically relied upon to negotiate favorable commercial terms. *See* Evidentiary Statement of Party of Record J. Vann Cunningham, at 1-2. Without the structural tension of competing Class I connections, short lines are exposed to unilateral dictates on through-rates and route allocations, effectively eliminating one aspect of shipper choice and reducing the most effective market regulator of all—competition. Furthermore, this pricing and operational friction need not be a broad policy; it can be deployed selectively. A consolidated Class I system could weaponize the sudden enforcement of operational constraints or discriminatory pricing as a targeted penalty against any short line that were to attempt an interline route with a competing Class I carrier.

2. Network Integration, Performance Issues, and Freight Car Supply

Historically, major Class I network integrations have generated severe, localized service disruptions. Short line connections routinely bear the brunt of these disruptions through facilities congestion, missed interchanges, and reduced interchange frequency. Without Board-mandated operational performance metrics, these localized failures remain opaque, potentially allowing a carrier of the massive size of any further-consolidated Class I system to mask degraded intercarrier service behind blended, system-wide averages. To ensure accountability, there is a need for transparent reporting on interchange health and service reliability at combined UP/NS-short line nodes. Concurrently, as the

consolidated Class I system seeks to maximize long-haul efficiencies, there is a risk of equipment shortages for the single-car manifest traffic upon which short line shippers depend, requiring affirmative capacity and car supply mandates to protect supply chains.

3. Exploitation of Geographic Entrapment and Vested Franchise Value

Short lines commit millions of precious capital dollars annually into rehabilitating track, bridges, and local customer facilities to generate new traffic and improve service for shippers. Because those physical assets cannot be moved, the short line is geographically captive. Post-transaction, a consolidated Class I system would wield an unprecedented share of the national market, creating immense asymmetric leverage during lease renewals, operating agreement negotiations, and other commercial dialogue intended to support service to shippers. *See* Evidentiary Statement of Party of Record, George Avery Grimes (Oct. 2, 2026), at 6. The consolidated Class I system could exploit this circumstance, leveraging this geographic reliance during contract negotiations to secure unilateral concessions, demand a larger portion of the shared revenue, impose arbitrary volume ratchets, or capture the franchise value of traffic developed primarily through the short line's own capital investment and marketing efforts.

4. Unilateral Cost-Shifting to Manufacture False "Synergies"

Class I consolidations generate intense corporate pressure to demonstrate immediate financial synergies. There is a persistent risk that these

efficiencies are achieved not through genuine network optimization, but by unilaterally shifting operating, administrative, and capital costs onto captive short line partners. Whether through the unilateral relocation of interchange points, the reduction of standard handling allowances, or the imposition of new ancillary fees, small railroads are highly vulnerable to post-transaction cost-shifting.

5. The Structural Revenue Squeeze and Allowance Marginalization

As Class I networks seek revenue and margin growth, they are naturally motivated to squeeze short line economic opportunity by sequestering revenue gains while enforcing margin compression on their small railroad partners. Under many standard handling line agreements with the Applicant carriers, the Class I maintains exclusive pricing authority over the joint movement, often as a precondition to the short line opportunity itself. While the Class I may implement robust rate increases on the shipper, the short line is often restricted to a fixed per-car handling allowance tied to sub-inflationary escalation factors, frequently capped at just half the rate of inflation. Over time, this creates an unsustainable revenue squeeze. The Class I captures the economic benefits of the transaction, while the short line is left struggling to survive on steadily shrinking margins. Any further consolidated Class I network (such as the combined UP/NS system) will possess even greater leverage to exploit this commercial imbalance.

. . .

The conditions proposed by the Association are directly beneficial to the public interest and do not interfere with or jeopardize the promised efficiencies

associated with the coast-to-coast single-line service at the heart of the merger application's case for approval. Rather, they directly advance the Board's core regulatory objectives under 49 C.F.R. § 1180.1(c)(2)(ii) and (d): protecting the ability of "Class II and Class III rail carriers and ports" to sustain essential services and enhancing competition in ways that "strengthen and sustain the rail network as a whole (including that portion of the network operated by Class II and III carriers)." Furthermore, because the commercial, operational, and integration impacts of a transcontinental consolidation of this unprecedented scale will unfold over many years—and because several of the remedies below require a durable minimum horizon of at least a decade—ASLRRA specifically requests that the Board establish a formal post-transaction oversight period of no less than 10 years, rather than the five-year statutory minimum under 49 U.S.C. § 11324(f).

CONDITION 1
IMPLEMENTATION OF A MODERNIZED UP-SHORT LINE PARTNER PROTOCOL

The 1998 Railroad Industry Agreement ("RIA") was originally intended to establish a collaborative, pro-competitive platform between Class I carriers and small railroads to address and resolve unnecessary restrictions on shipper choice, with the explicit goals of increasing overall rail traffic and allowing short lines to attract more freight to the rail network from competing modes of transportation. While the RIA process originally facilitated some productive negotiations, eventually many years of large railroad resistance to the RIA's concepts and exercise of market leverage to evade its objectives rendered the RIA largely a relic.

To satisfy the pro-competitive mandate of the 2001 Major Merger Rules, the Board must condition any potential approval of this transaction by requiring the Applicants' to be strictly bound to the terms of a modernized UP-Short Line Partner Protocol ("Protocol"), appended hereto as Exhibit A.

This Protocol is rooted in the structural power imbalance inherent in a consolidation of this magnitude. As a consolidated Class I system expands its single-line reach, it gathers a profound economic incentive—and the market leverage—to lock short line-originated traffic onto its own long-haul routes. Without affirmative regulatory guardrails, the consolidated Class I could utilize legacy contracts or pricing friction to capture new traffic generated by the short line, limit alternative interline options and compress short line margins. This asymmetric power imbalance extends beyond physical connections through "leverage-at-a-distance" (LAAD), wherein a dominant carrier can indirectly discipline affiliated short lines by threatening operations in otherwise unrelated markets. *See* Grimes Evidentiary Statement at 9-11. The Protocol serves as an essential counterweight to this market leverage, establishing a pro-growth framework to ensure that the merger's promised efficiencies translate into increased carload traffic and greater competitive options for shippers across the rail network.

Furthermore, the Protocol directly advances the Board's statutory mandate under the Rail Transportation Policy to "encourage and promote energy conservation" (49 U.S.C. § 10101(14)) and protect public health and safety (49

U.S.C. § 10101(8)). In their application, the Applicants have made potential truck-to-rail diversion the centerpiece of their public interest presentation, touting it as the single most significant public benefit of the proposed combination. The Board should hold the Applicants to that standard. By providing a clear mechanism to waive legacy interchange commitments or grant terminal access specifically to recapture freight from trucks, the Protocol removes structural hurdles to this promised modal shift.

If the Applicants rely on highway diversion to justify this transaction, they should not concurrently preserve legacy contract terms that strand potential rail traffic on public roads. As the *Oliver Wyman Report* concluded after surveying over 300 short lines, converting highway freight to rail requires "streamlining and de-bottlenecking rail processes to get more shippers to say 'yes' to rail," noting that large customer investments in truck-to-rail conversion require long-term contractual and operational assurances that connecting carriers will work in seamless coordination. *See Oliver Wyman Report* at 3, 10, 12. To ensure environmental and supply chain benefits are realized at the first and last mile, the Protocol establishes binding, network-wide standards governing the commercial relationship between the consolidated Class I and connecting short lines.

Furthermore, as the Board evaluates the post-transaction increase in market concentration across the national rail network, the aggregation of traffic onto a single transcontinental system must be counterbalanced by enhancing the connectivity and operational reach of the independent short line network. As

demonstrated by the anticipated responsive applications filed by various member short lines in this docket, "stitching" together the short line map by facilitating additional interchange connections among regional carriers creates vital alternative routing options for shippers. *See* Steve Blinn & Dan Bostek, *Stitching the Short Line Map* published on LinkedIn (Oct. 6, 2026), *https://www.linkedin.com/pulse/stitching-short-line-map-steve-blinn-6qpcc*. While the Association takes no specific position on any single member's pending responsive petition, it supports the overarching objective of these filings: where a major consolidation threatens to bottleneck or dominate regional commerce, supporting targeted trackage rights and expanding short-line connectivity acts as a natural, pro-competitive offset to market power, injecting necessary network redundancy with minimal adverse impact on the mainline carriers.

At a high level, the Protocol seeks to neutralize asymmetric leverage by addressing four critical commercial touchpoints:

1. Limitation of Legacy Interchange Commitments

To assure that a consolidated Class I does not reflexively deploy potentially decades-old "paper barriers" to restrict future growth, the Protocol limits the enforceability of these contractual restrictions to historical "Base Traffic Volumes." Under the Protocol, any traffic moving to or from a new, expanded, relocated, repurposed, or replaced customer facility is protected as "New Traffic," and any annual traffic volume generated by the short line above the historical Base Traffic Volume is classified as "Growth Traffic" (which is likewise deemed "New

Traffic"), all of which is automatically exempt from Interchange Commitments, blocking provisions, or economic penalties.

This ensures that newly generated traffic can move freely over the most competitive interline route, which of course increases the likelihood that there will be newly generated traffic in the first place. It also would invalidate paper barrier restrictions if such restrictions were to be shown to prevent a short line from capturing traffic that would otherwise move by truck due to non-competitive Class I service or rates. Modernizing this protocol removes a primary retaliatory tripwire. Class I carriers are more easily inclined to leave paper barriers dormant when a short line is compliant, but they may rigidly enforce these contractual penalties the moment a short line advocates for a shipper's right to use a competing rail option. Restricting these barriers to historical volumes ensures they cannot be used as an instrument of retribution, which would be counter to the public interest.

2. Clear and Objective Route Efficiency Standards

The Protocol prevents the consolidated Class I from compelling shippers into inefficient long-haul routes by establishing "Commercial Impracticability" triggers. If the consolidated Class I's route were to exceed an available alternative third-party rail route by 25% or more in total miles, 25% or more in average transit time, or 15% or more in total logistics cost to the customer, the short line-served shipper may route the traffic via the more efficient competing railroad without subjecting the serving short line to contractual penalty. Under the Protocol, the consolidated Class I has no more than 30 days to provide the

calculation of whether a route is Commercially Impracticable (subject to short line review and approval), failing which the short line may route the traffic via the third-party railroad without penalty, and any Commercially Impracticable traffic continues to count toward the short line's Base Traffic Volume.

3. Guaranteed Terminal and Yard Access for Interline Growth

Class I carriers often control the physical terminal facilities where some smaller railroads might otherwise connect with third-party railroads. Accounting for this structural imbalance, the Protocol mandates that the consolidated Class I cannot use its ownership of these terminal facilities to preclude smaller railroads from interchanging "New Traffic" with those third parties. Specifically, the consolidated Class I must grant access—either by allowing a direct connection or by handling the traffic through its terminal—when necessary to facilitate new interline movements or to recapture freight that had previously been lost to truck. Similarly, the consolidated Class I must not be permitted to use its network dominance to restrict a short line's practical access to independent rolling stock repair and maintenance facilities through prohibitive pricing, accessorial charges, or inefficient routing.

4. Protection Against Discriminatory Switching and Pricing

To prevent the consolidated Class I from using pricing friction to preclude shipper use of competing routes, the Protocol mandates that existing and future intermediate and reciprocal switching charges assessed against short lines be comparable to charges assessed between other railroads under similar

circumstances and conditions, with annual increases capped at the rate of inflation. Any existing intermediate switch charges that exceed comparable charges between Class I railroads as of the effective date of the Protocol must be modified to align with those Class I charges, and within any terminal area where a customer or station is open to reciprocal switching access by multiple carriers, the consolidated Class I may not assess a reciprocal switching charge to a short line operating in that terminal that exceeds the lowest, most favorable reciprocal switching rate afforded to any other rail carrier accessing that same customer.

CONDITION 2
MANDATED INTERCARRIER SERVICE, CAPACITY METRICS, AND CAR SUPPLY COMMITMENTS

A central justification for the transaction advanced by the Applicants is the creation of seamless single-line service and significant carload growth. However, past rail consolidations demonstrate that major network integrations frequently generate severe localized service breakdowns. As Grimes notes, the introduction of precision scheduled railroading ("PSR") operations has often resulted in lower priority and unreliability for local and industry switching jobs compared to long-haul main-line operations. *See* Grimes Evidentiary Statement, at 16. Further, independent analysis prepared for ASLRRA by transportation infrastructure consultant CPCS Transcom Inc. ("CPCS"), appended hereto as Exhibit B ("CPCS Report"), confirms that Class I locomotive power availability—reduced under PSR to maximize operating ratios—is a primary driver of interchange delays, leaving insufficient resilience when disruptions occur. Under

these circumstances, short line size and economics make them vulnerable to disproportionate supply chain impact, as they systematically lose the competition for network capacity. The Board must establish a comprehensive, mandatory service reporting and capacity monitoring regime to ensure accountability.

A data reporting condition is essential to allow the Board, ASLRRA, and the shipping public to monitor exactly how well the combined UP/NS–short line interchange operations are functioning in real-time. Transparency ensures that localized intercarrier service failures, missed interchanges, inadequate interchange facilities, and equipment shortages are not masked behind blended system-wide averages. As documented in the *Oliver Wyman Report*, because Class I railroads frequently leave short line coordination to local personnel without C-suite accountability, short line holding companies routinely experience vastly different service and communication outcomes across their properties—even across a single railroad—where one interchange location functions smoothly while at another "the two sides are failing to coordinate and their local operations managers aren't speaking to one another." *See Oliver Wyman Report* at 9, 12. Conversely, where Norfolk Southern recently elevated first- and final-mile coordination through its Short Line Performance Project to improve interchange fluidity across 40 short line partners, the initiative yielded double-digit traffic increases in less than a year. *Id.* at 9. To define these specific operational benchmarks and reporting requirements across the combined system, ASLRRA engaged CPCS to develop an empirically

grounded set of metrics to measure the healthy functioning of these vital interchange relationships, as detailed in the CPCS Report at Exhibit B.

The Board has explicitly established through *United States Rail Service Issues,* EP 724 and its progeny that robust, standardized data reporting is its primary regulatory tool for monitoring network health and deterring localized service failures. Imposing short line-specific interchange metrics as a condition of this transaction (if it were to be approved) is a necessary, targeted application of that existing data transparency mandate. Without this granular reporting, the consolidated Class I could be tempted to achieve its projected financial synergies by quietly reducing interchange frequencies and forcing short lines to absorb the resulting service challenges, while pointing to blended, system-wide averages to claim the integration is a success. We already observe that short lines frequently perform uncompensated work to meet customer demands, including sending short line crews to reach into Class I yards to retrieve or deliver cars. This transaction, without protective conditions, would threaten to exacerbate that phenomenon.

Furthermore, persistent interchange delays and systemic failures to supply railcars to short line partners may suggest a constructive breach of the consolidated Class I's statutory common carrier obligation. Under 49 U.S.C. § 11101, a rail carrier is statutorily mandated to provide transportation or service on reasonable request. When a Class I carrier severely degrades service, chronically delays interchange spots or pulls, or discriminates in allocating equipment to render connecting short line traffic uneconomical or unreliable, it functionally

denies service to the short line shipper. Permitting the consolidated Class I to achieve its projected network velocity by starving short line interchanges operates as a *de facto*, unapproved embargo (or abandonment) of those interline routes. Robust, Board-monitored performance metrics and binding Interchange Performance Agreements ("IPAs") are therefore essential to ensure the common carrier obligation is actively enforced at the first and last mile.

A. Interchange and Operating Metrics

The Board must require the consolidated Class I to track and implement a standardized performance metric framework with each connecting short line railroad, incorporated directly into mandatory Interchange Performance Agreements ("IPAs") as set forth below. To establish a baseline and ensure ongoing accountability for the duration of the Board's formal oversight period or 10 years following consummation of the transaction, whichever is longer, the consolidated Class I must begin implementing these interchange metrics within 90 days of Board approval, fully implement metric collection within 180 days of Board approval, and: (1) submit these interchange performance metrics to the Board on a weekly basis for each operating division and for the overall system beginning 180 days from Board approval (including retroactive calculation and reporting of weekly metrics covering each week from day 90 to day 180 following Board approval to establish a performance baseline), and (2) provide a comprehensive monthly performance report in a usable electronic format directly to each connecting short line railroad detailing the metrics for all interchanges with that short line. Required metrics and

data-access obligations (developed in the CPCS Report at Exhibit B and set forth in Section 2 of the IPA Template attached as Appendix 3 to the Protocol) must include:

- **Short Line Interchange Spot and Pull (SLISP):** A metric specifically designed for short line interchanges, measuring the carrier's success in performing interchange deliveries and receptions during planned service windows. While the current ISP metric reported weekly to the Board (per 49 C.F.R. § 1251.2) measures the percentage of requested spots and pulls completed within a planned window, this tailored metric specifically measures the percentage of successfully interchanged (delivered and received) cars from the total cars scheduled for interchange. Cars delivered or received and ready for transport within 3 hours before or after the specified IPA interchange time shall be considered successfully interchanged.

- **Interchange Service Window Success Rate (ISWSR):** A metric calculating the percentage of scheduled interchange events completed within the 3-hour window (calculated as: scheduled interchange events completed within the agreed window ÷ total scheduled interchange events × 100).

- **Weekly STB Reporting and Monthly Short Line Reports:** Beginning 180 days from Board approval (and including retroactive weekly metric reporting for days 90 through 180), the consolidated Class I shall file weekly division-level and system-wide SLISP and ISWSR metrics with the Board and shall deliver a monthly report to each connecting short line summarizing its location-specific interchange performance over the preceding month. ISWSR measures the proportion of time that a short line receives interchange service on the days and within the windows specified in the IPA. This treats every interchange window equally, regardless of the number of cars interchanged. Conversely, SLISP measures the proportion of cars that are interchanged successfully, which places more weight on the performance of interchanges with high volumes.

- **Individualized Data Access:** A short line may request individualized performance records for specific date ranges and interchanges, which the consolidated Class I must provide within seven (7) days of the written request. For purposes of this condition, "individualized performance records" expressly means the underlying records used to calculate the interchange performance metrics described in this section.

B. Universal and Mandatory Interchange Performance Agreements (IPAs)

General service promises are legally insufficient. To prevent the consolidated Class I from utilizing its asymmetric market power to pressure connecting short lines into waiving their service protections, the implementation of an enforceable IPA—modeled on the standardized IPA Template appended to the Protocol (Exhibit A, Appendix 3)—must be a universal, mandatory, and non-waivable condition of this transaction.

Consistent with Section II(A) of the Protocol, the Board shall require the consolidated Class I to commence working with its connecting short line partners within 90 days of Board approval of the transaction to develop and implement individual IPAs based on the standardized, Board-approved IPA Template, and to complete and execute all such IPAs within 90 days thereafter (i.e., within 180 days of Board approval). The consolidated Class I shall be expressly prohibited from demanding waivers of this requirement, attempting to negotiate out of the standard template terms, or retaliating against any short line regarding the negotiation or implementation of the mandated IPA. Each IPA must incorporate the following core operational, metric, and enforcement elements:

- **Interchange Definition, Delivery Mechanics, and Location Protection (IPA Section 1):** Explicit definition of an "interchange event" and delivery mechanics, specifying that a railcar is considered delivered and received only when placed safely on the designated interchange track (identified by station and SPLC), uncoupled, properly secured, and confirmed physically present via electronic notification or other agreed method (such as AEI readers). The IPA shall also prohibit the consolidated Class I from unilaterally closing, reconfiguring, or relocating established interchange locations where such action shifts blocking, switching, or intermediate transit

costs onto the connecting short line without additional compensation, absent mutual concurrence or prior Board authorization.

- **Agreed Interchange Schedule and Pacing (IPA Section 1.6):** Specific operational parameters governing the agreed days of the week and hourly service windows for scheduled interchanges.

- **Firm Service Baseline (May 28, 2026) (IPA Section 1.4):** Any reduction in service in an IPA, as compared to the actual service levels in effect as of May 28, 2026 (the date the Board accepted the revised major merger application), or any subsequent downward changes without mutual agreement, shall require the consolidated Class I to notify, justify, and receive prior approval from the Board before implementation.

- **Mandatory Performance Metrics and Reporting (IPA Section 2):** Binding incorporation of the SLISP and ISWSR metrics, weekly division- and system-level reporting to the Board, monthly electronic reporting to the connecting short line, and 7-day access to individualized performance records upon written request, as detailed above.

- **Escalating Dispute Resolution, Monetary Penalties, and Binding Arbitration (IPA Section 3**): Self-executing enforcement provisions to remedy material interchange performance degradation (as detailed in Condition 6 below), comprising: (i) a 15-business-day good-faith Bilateral Improvement Period upon notice of a material performance issue; (ii) mandatory per-car financial penalties (mirroring the consolidated Class I's published demurrage rates) paid on a go-forward basis if either SLISP or ISWSR falls below a 90% threshold over a rolling 15-day period following Board notification (continuing for at least 90 days or until both metrics exceed 90% for 30 consecutive days); and (iii) expedited, binding Board arbitration (with a decision within 30 days) if performance still fails to reach the 90% threshold over 30 or more days thereafter.

C. Inequitable Car Supply and Fleet Allocation

Equipment shortages are a significant risk in major consolidations. As consolidated Class Is rely on automated distribution systems to maximize system-wide velocity, empty railcars may be internally prioritized for high-volume, main-line unit trains and in times of high demand, which can occur due to harvest,

economic volatility or even network congestion which reduces turn times. This prioritization comes at the direct expense of the single-car manifest traffic upon which short line-served industries depend. This dynamic leaves local businesses waiting for basic equipment while the Class I's fleet is diverted to long-haul corridors. Furthermore, because Class I equipment allocation is opaque and largely automated, it could provide an opportunity for quiet retaliation. If a short line were to route traffic away from the combined network or file a regulatory grievance, the consolidated Class I could starve that short line of general service equipment while attributing the shortage to system-wide congestion. The Board must condition approval upon enforceable car supply covenants, integrating the Protocol:

- **Proactive Fleet Forecasting:** The consolidated Class I and connecting short lines must jointly identify car types where fleet capacity is projected to fall short of current and projected demand. The consolidated Class I must issue formal quarterly fleet evaluations to designated representatives of all connecting short lines.

- **Collaborative Fleet Initiatives:** The consolidated Class I must evaluate and implement structural equipment programs, including:

    - Sponsoring and expanding TTX pools for general service equipment;

    - In those cases where the short line is prohibited from providing its own equipment by contract with the consolidated Class I, the consolidated Class I will provide equipment to short lines on the same basis as it supplies equipment to its directly served customers;

    - Structured programs permitting short lines to purchase, refurbish, and deploy surplus Class I equipment.

- **Remedies for Supply Failures:** If a shipper or short line notifies the consolidated Class I of an equipment deficit, the consolidated Class I must be held to a mandatory 14-day cure window. If the deficit is not cured, and the short line is otherwise prohibited from supplying equipment, the short line or its customer, on its own or working in concert with the short line, must be

> allowed to supply private or short-line equipment without penalty or seek emergency Board intervention. Given the commitment a short line or customer must make to secure equipment, once the short line or customer has procured the equipment it shall be allowed to continue to use the equipment. To ensure this remedy is viable, the consolidated Class I must be strictly prohibited from imposing discriminatory handling practices or arbitrary operating restrictions on short-line supplied or privately owned equipment that otherwise complies with applicable federal and industry safety standards.

CONDITION 3
PROTECTION OF INCUMBENT LEASEHOLDS, OPERATIONAL STABILITY, AND PROTECTION AGAINST RETALIATION

A significant portion of the short line rail network operates over track leased or purchased from UP or NS. The consolidated Class I would control an unprecedented share of national carload traffic, creating an asymmetric power dynamic that could easily be wielded to coerce lease concessions or reclaim productive short line territory. As Grimes observes regarding "leverage-at-a-distance" (LAAD), a dominant carrier can exploit a short line's economic dependence in one relationship to force compliance across otherwise unrelated markets. *See* Grimes Evidentiary Statement, at 9-11. Similarly, as Cunningham notes regarding the asymmetry of scale, smaller regional carriers lack the financial and administrative resources to contest arbitrary contractual modifications imposed by a single transcontinental system. *See* Cunningham Evidentiary Statement, at 2-3.

The Association's members harbor concern that any consolidated Class I system could deploy this asymmetric leverage not merely for market advantage, but as an instrument of retaliation. Specifically, short lines that may advocate for pro-competitive measures in this proceeding, invoke the Board's protective

conditions as may be imposed, or pursue competitive interline arrangements risk consolidated Class I retaliation through the revocation, non-renewal, or punitive renegotiation of their operating leases or other retaliatory actions such as degraded service or refusal to participate in new rail service growth initiatives intended to benefit shippers.

The fear of retaliation undermines the integrity of the Board's oversight framework. If short lines fear that utilizing a modernized UP-Short Line Partner Protocol or demanding gateway pricing transparency will result in the confiscation of their leased lines or other service degradations, adoption by the Board of any of these necessary pro-competitive conditions would be mooted. Furthermore, this dynamic chills the federal policy of encouraging capital investment in the national rail network. While post-merger Class I carriers historically concentrate their capital and resources almost exclusively on high-density, long-haul corridors—often deferring maintenance on or abandoning low-density branch lines—short lines routinely pump millions of non-recoverable capital dollars into preserving and rehabilitating these exact localized routes. This investment generates new traffic, improves service for shippers, and keeps vulnerable corridors active. A short line cannot justify greenlighting major infrastructure improvements if the resulting traffic growth can simply be expropriated by a Class I threatening lease termination or other retaliation.

To protect the integrity of the regulatory process, shield short lines from retaliatory practices, and prevent the chilling of vital first- and last-mile

infrastructure investment, the Board must impose the following structural protections governing short line operating tenures (provided, however, that nothing under this proposed condition would prevent the consolidated Class I from terminating or declining to renew a leasehold arrangement where the incumbent short-line operator fails to fulfill its statutory common carrier obligations, engages in clear operational malfeasance, or commits an unmitigated material breach of its operating agreement):

1. Oversight Period Lease Extension

All existing lease, operating, and trackage rights agreements between the Applicants and short line railroads must remain in full force and effect under their current terms throughout the entirety of the Board's formal oversight period. If a lease is scheduled to expire during the oversight period, it must be automatically extended on terms no less favorable than the existing contract.

2. Evidentiary Burden for Lease Adjustments

The consolidated Class I must be prohibited from unilaterally terminating, failing to renew, or reallocating an existing leasehold without obtaining prior Board approval. In any such proceeding, the burden shall rest entirely upon the consolidated Class I to prove by clear and convincing evidence that the termination or reconfiguration is driven by genuine, compelling operational necessity rather than a desire to recapture profitable traffic or retaliate against a carrier's competitive routing efforts or regulatory participation.

3. Prohibition on Punitive Ratchet Provisions

In any lease renewal, extension, or renegotiation, the consolidated Class I shall be legally barred from exercising market leverage to exact economic retaliation by: (a) conditioning renewal on an increase in the contractual Base Traffic Volume; (b) demanding escalated rent, royalties, or penalties based upon volumes that qualify as Growth Traffic; or (c) decreasing standard handling line rates or ancillary payments paid to the short line.

4. *Vested Franchise Value*

The Board must recognize that carload volumes developed by a short line through its own capital investment and marketing efforts constitute the vested franchise value of that short line. The Board should prohibit that traffic from being subject to post-transaction recapture or confiscation by the Class I through modified contract terms, adjusted volume thresholds, or retaliatory lease terminations.

CONDITION 4
PREVENTING POST-TRANSACTION COST SHIFTING

The Board's 2001 major rail consolidation rules demand affirmative public benefits, which applicants frequently demonstrate by projecting substantial network financial synergies. However, in any integration of this scale, there is a structural risk that anticipated cost savings might be realized through the reallocation of expenses rather than true operational optimization. If a consolidated Class I achieves financial efficiencies by inadvertently or unilaterally shifting its existing switching, blocking, and yard expenses onto connecting short lines, those

savings do not represent genuine network efficiencies; they are simply a reapportionment of costs onto smaller carriers.

Critically, this cost-shifting is not limited to formal rate changes; it frequently manifests through uncompensated operational burdens. To ensure that the Applicants' claimed financial synergies reflect true, systemic improvements rather than the transfer of financial burdens onto Class II and Class III partners, the Board must establish firewalls against post-transaction cost-shifting. This includes scrutiny of institutional dynamics; the consolidated Class I will wield unprecedented voting power within industry standard-setting bodies, and the Board must ensure this outsized influence is not weaponized to adopt industry-wide car hire, repair, or interchange rules that systematically shift capital and maintenance costs onto short lines. The Board must protect against any of the following cost-shifting maneuvers in connection with Class I consolidation:

1. Unilateral Service Reductions and Interchange Bunching

Cost shifting is particularly acute when a Class I reduces its own costs through operational changes that force the short line to absorb additional expense and inefficiency. For example, short lines have reported instances where a Class I unilaterally reduced line-of-road train schedules from seven days a week to five to reduce its own operating ratio, causing a sizeable buildup of traffic. When the traffic finally moved, the Class I prioritized its own network fluidity, delaying short line-bound cars for up to a week before releasing them all at once. This "bunching"

forces the short line to absorb the sudden, chaotic influx of cars, consuming extra crew hours, locomotives, fuel, and yard capacity to untangle the backlog.

2. Offloading Yard Congestion

Similarly, member short lines report instances where a Class I carrier with constrained interchange space simply stopped making routine handoffs. Despite a scheduled five-day-a-week interchange, the Class I would make only one interchange in a given week. By doing so, the Class I avoids the capital cost of expanding its own yard or the operating cost of dispatching local crews, instead effectively converting the connecting short line's track into free storage. Here, the consolidated Class I must be prohibited from manufacturing its operational synergies by curtailing interchange frequency and forcing the short line to bear the resulting yard congestion and customer management costs.

3. Ancillary Charges and Allowances

The consolidated Class I must be prohibited from unilaterally altering or reducing standard operating allowances and ancillary agreements, including, but not limited to, car hire relief, setback charges, fuel surcharges, reporting bonus payments, and run-through locomotive power agreements and compensation.

4. Unilateral Interchange Relocation or Reconfiguration

The consolidated Class I must be barred from unilaterally closing, reconfiguring, or relocating established interchange points where such action shifts blocking, switching, or intermediate transit costs onto the connecting short line

without additional compensation. Any proposed operational interchange shift must require the mutual concurrence of the connecting short line or prior Board authorization.

CONDITION 5
PERMANENT AND EXPANSIVE INTERLINE GATEWAY PRICING

The Applicants have offered voluntary, limited commitments regarding the preservation of existing gateways through Committed Gateway Pricing ("CGP"). ASLRRA is concerned that this proposal would keep the door open to vertical foreclosure rather than preserve competitive optionality.

ASLRRA members do not seek regulatory protection from legitimate competition; if the consolidated Class I provides a genuinely more efficient or economical routing alternative post-consolidation that wins a shipper's business, that is the free market functioning as intended. The Association's concern, however, lies in the threat of vertical foreclosure—a natural outgrowth of expanded market dominance wherein the consolidated Class I possesses both the economic incentive and the structural power to secure traffic to its own long-haul routes while restricting alternative interline service options. Without rigorous, comprehensive, and permanent safeguards, the consolidated Class I could manipulate rates and interchange access to shut short lines out of the transportation equation entirely, severing critical supply chains and threatening the fundamental economic viability of the small railroads that provide essential first- and last-mile service. Moreover, preserving these interline gateways does more than just protect commercial competition; it provides critical network redundancy. Maintaining multiple,

economically viable routing options protects the shipping public and strategic national interests by allowing supply chains to bypass localized Class I congestion, natural disasters, or other systemic disruptions.

Indeed, UP is familiar with this exact threat. In *Canadian Pacific Railway—Control—Kansas City Southern*, FD 36500, UP, along with several other parties, advocated for a proportional rate condition to address competition issues related to the new single-line service that the merged railroad could offer. UP argued that to prevent market power abuse at key gateways, the Board should require the newly integrated carrier to offer proportional rates calculated as a prorate of its single-line rates. *See* UP's Comments & Request for Conditions at 69-74, FD 36500 (Feb. 28, 2022). Having forcefully advocated that proportional rate conditions are necessary to preserve competition and protect rail customers when two rival railroads consolidate to expand their single-line services, UP cannot now credibly argue against the same protective condition to prevent foreclosure across the consolidated Class I network.

Yet, the CGP proposal does not mitigate this risk. As Party of Record J. Vann Cunningham notes, the Applicants' expanded gateway pricing proposals carry significant product exclusions—expressly omitting hazardous materials and toxic-inhalation-hazard traffic frequently handled by short lines—rendering the commitments structurally deficient. *See* Cunningham Evidentiary Statement, at 3. Beyond these omissions, CGP contains a series of loopholes that would allow the

consolidated Class I to foreclose short lines from offering competitive service options to customers:

Foreclosing Future Economic Growth (The "New Business" and "Rail-Owned" Exclusions)

The Applicants' CGP proposal expressly excludes new short line customers and shipping lanes established post-consolidation. Across the industry, short lines aggressively market their territories, developing hundreds of new shipping lanes and attracting hundreds of new customers annually. As documented in the *Oliver Wyman Report*, a primary driver of modern short line volume growth is "reaching beyond the asset" by investing in new infrastructure, partnering with real estate developers to create rail-served industrial parks, and establishing transloading, warehousing, and distribution hubs to extend rail access to shippers lacking direct siding connections. *See Oliver Wyman Report* at 5–7 (Exhibit 1 & Exhibit 2).

Under CGP, this future business is unprotected. Furthermore, if a short line invests its own capital to develop new rail-served warehouses, distribution facilities, or transload/reload centers on its property, the Applicants' "rail-owned facility" exclusion strips that traffic of gateway pricing protections. This would allow the consolidated Class I to systematically vertically foreclose the exact short line-driven localized economic development that independent industry analysis identifies as essential to reversing rail market share erosion. *Id.* at 3, 6–7. Moreover, this "New Business" loophole offers a latent retaliation mechanism. If a short line were to secure competitive gateway pricing on a protected historical lane,

the consolidated Class I can retaliate by discriminatorily inflating rates on the short line's unprotected new business lanes. Because the new lanes are excluded from CGP, the short line has no recourse, allowing the Class I to punish the short line's overall franchise for exercising its rights elsewhere.

Stranding Cross-Border Supply Chains (The "Foreign Origination" Exclusion)

The CGP excludes foreign-originated traffic, such as cross-border commodities entering the U.S. from Mexico. By refusing to protect gateway pricing for these shipments, the consolidated Class I could manipulate rates to force international traffic exclusively to its own directly served facilities. Member short lines have advised that, among other things, these tailored CGP cross-border restrictions expose short line-served domestic cold storage, warehouses, and distribution facilities to immediate vertical foreclosure, severing their access to vital international supply chains.

Shielding High-Volume Commodities (The "Unit Train" Exclusion)

By entirely excluding unit trains from CGP protections, the consolidated Class I can shield its most lucrative, high-volume traffic streams—such as industrial products and frac sand—from interline competition. This massive carve-out grants the consolidated Class I the ability to favor its own directly-served mines and production facilities while artificially pricing competing short line-served origins out of the market.

Insufficient Duration, Pricing, and Enforcement

CGP provides no true short-term or long-term security. The commitment expires concurrently with the Board oversight period, which is sometimes shorter than standard customer facility leases. Furthermore, the pricing mechanism allows the Applicants to set baseline rates using their own prior-year pricing, permitting unchecked, compounding multi-year rate escalations with no defined ceiling, while doing nothing to address systemic Class I pricing delays on joint traffic. Indeed, the *Oliver Wyman Report* found that 100% of surveyed short line executives identified inadequate Class I responsiveness—specifically on joint-line pricing, interchange performance, and problem resolution—as a critical barrier to growing rail volumes, with executives noting that while "[f]or a truck, you can get a rate in 30 minutes anywhere," it routinely takes "weeks or months to get a price from a Class I." *See Oliver Wyman Report* at 10 (Exhibit 3). Finally, the CGP framework lacks any streamlined dispute resolution or challenge mechanism for shippers to contest the commercial reasonableness of CGP rates or service.

To protect the public interest and prevent unchecked vertical foreclosure, the Board must discard the Applicants' ineffective framework and impose a mandatory, permanent, and expansive gateway pricing condition:

1. Removal of Restrictions

The gateway preservation condition must be unencumbered by restrictions based on commodity type, shipment size, equipment configuration

(explicitly including unit trains), or geographic origination. It must equally protect post-merger new business and short line-owned warehouses and transload facilities.

2. Term, Rate Transparency, and Inflation Caps

The condition must remain binding for the longer of the oversight period or 10 years, continuing indefinitely thereafter unless the Applicants show that competitive conditions no longer require it. Annual gateway rate increases must be capped at the rate of inflation, and shippers must retain the permanent right to demand commercially reasonable Rule 11 or proportional rate factors.

3. Universal Application and Enforcement

The condition must apply across all physical interchanges, and any pricing or service disputes arising under it must be subject to the expedited, binding Board arbitration mechanism as set forth in Condition 6, below.

CONDITION 6
EXPEDITED DISPUTE RESOLUTION AND GLOBAL ENFORCEMENT MECHANISM

Conditions imposed by the Board are meaningless without an accessible, swift, and transparent enforcement mechanism. Small railroads do not have the financial or administrative resources to endure years of traditional, formal Board complaint litigation while their traffic is diverted or their service is compromised. As Cunningham highlights, post-merger dispute resolution frameworks that shift the administrative and financial burden of challenging anti-competitive behavior onto smaller carriers effectively insulate the merged entity, as

those remedies are available in practice only to large shippers capable of funding them. *See* Cunningham Evidentiary Statement, at 4. Accordingly, the Board shall establish a hybrid enforcement structure combining expedited agency adjudication and transparent binding arbitration.

To ensure dispute resolution mechanisms are equitable and protected against retaliatory actions, this enforcement structure shall incorporate strict evidentiary standards: in any binding arbitration or expedited Board dispute resolution brought under these conditions, the burden of proof shall rest upon the consolidated Class I to establish by clear and convincing evidence that any contested lease termination, non-renewal, unilateral interchange restriction, or material adverse contract modification is justified by objective, compelling operational necessity or documented operator malfeasance, and is entirely free of retaliatory animus arising from a short line's participation in Board proceedings, utilization of protective conditions, or pursuit of competitive interline routing options. Arbitrators shall evaluate all commercial disputes under an objective standard of commercial reasonableness, ensuring that neither party enjoys an artificial evidentiary presumption, but requiring the dominant carrier to affirmatively substantiate the non-retaliatory basis of any disputed commercial action.

The Board therefore must establish a hybrid enforcement structure combining expedited agency adjudication and transparent binding arbitration, including the necessity of a higher burden of proof on the Applicants:

- **Public, Binding Board Arbitration:** A short line must have the right to submit disputes arising under these merger conditions to binding Board arbitration. Crucially, standard commercial confidentiality rules must be waived for all merger condition disputes; arbitration awards, factual findings, and legal rationales must be published on the Board's public docket to establish clear regulatory precedent and deter systemic non-compliance. Further, Board relief under such arbitration may include the award of prospective monetary relief, penalties, or damages where appropriate, consistent with the governing condition or Protocol provision.

- **Strict Procedural Timeframes:**

    - **Interchange Commitment Waivers:** Upon receipt of a short line request to waive an Interchange Commitment, the consolidated Class I shall have 14 calendar days to either approve the request or explain in detail why the request is denied. A failure to reply within the 14-day period constitutes automatic approval of the request. The short line may appeal a denial to the Board in binding arbitration, with the Board arbiter providing a determination within 30 days.

    - **New Traffic:** The consolidated Class I may not enforce an Interchange Commitment on New Traffic. A short line may bring evidence of an Interchange Commitment enforcement on New Traffic to the Board under binding arbitration, with the Board arbiter providing a determination within 30 days.

    - **Interchange Service Failures, Penalties, and Escalation:** A performance issue becomes material when either party can provide proof of potential harm to rail shippers due to a degradation of interchange performance as shown by the SLISP and ISWSR metrics. The Board must mandate the following cure and penalty escalation process:

        - *Bilateral Improvement Period:* The initiating party must formally notify the other party of the interchange performance issue(s) and timeline, initiating a 15-business-day good-faith remedy period. If a mutually satisfactory plan or resolution is not reached after a minimum of 15 business days, the initiating party will notify the Board.

        - *Performance Penalties:* Following Board notification, if either the SLISP or ISWSR metric falls below a 90% threshold over a rolling 15-day period, the initiating party is entitled to per-car financial penalties paid on a go-forward basis for each car that

fails the SLISP or ISWSR metric, mirroring UP's published demurrage rates.

- *Binding Arbitration:* Penalties must continue for no less than 90 days, or until both the SLISP and ISWSR metrics exceed the 90% threshold for at least 30 consecutive days. If after this period SLISP and ISWSR have not reached or exceeded the 90% threshold over 30 or more consecutive days, the initiating party may formally notify the Board in writing and supply evidence of flawed interchange performance, which shall immediately initiate binding arbitration with a determination within 30 days.

- **Commercial Impracticability:** The consolidated Class I may not penalize a short line for routing traffic via a third-party railroad if a customer has informed the short line that a route is Commercially Impracticable. In compliance with the Protocol, if the consolidated Class I penalizes a short line for routing traffic via a third-party railroad after the short line has informed the consolidated Class I that the route is Commercially Impracticable, the short line may bring the issue to the Board under binding arbitration, with the Board arbiter providing a determination within 30 days.

- **Car Supply Failures:** During the oversight period established by the Board, if a customer notifies a short line that car supply is inadequate to reasonably handle its traffic volume, the short line will notify the consolidated Class I, which shall have 14 days to cure the inadequacy (supplying cars at a commercially reasonable rate if required). If the consolidated Class I fails to cure the inadequacy within 14 days, the short line or the customer may supply the cars or bring the issue to the Board under binding arbitration, with the Board arbiter providing a determination within 30 days.

- **Unfair Switching Charges:** The consolidated Class I may not assess switching charges to a short line that are not comparable to intermediate and reciprocal switching charges between the consolidated Class I and other railroads or that increase by more than the inflation rate on an annual basis. A short line may bring an action for unfair switching charges to the Board under binding arbitration, with the Board arbiter providing a determination within 30 days.

CONCLUSION

To be approved under 49 U.S.C. § 11324(c) and 49 C.F.R. part 1180, the proposed transaction must be consistent with the public interest, protect the ability of Class II and Class III railroads to sustain essential services (49 C.F.R. § 1180.1(c)(2)(ii)), and enhance competition in ways that strengthen and sustain the rail network as a whole, including the vital portion operated by short line and regional carriers (49 C.F.R. § 1180.1(d)). For the foregoing reasons, ASLRRA respectfully requests that the Surface Transportation Board condition any approval of the proposed control transaction upon: (1) the explicit, binding adoption of the conditions, protocols, and enforcement mechanisms detailed herein, and (2) the establishment of a formal post-transaction oversight period of no less than 10 years.

Respectfully submitted,

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ATTORNEYS FOR THE AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

Dated: November 18, 2026

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36873

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

COMMENTS AND REQUEST FOR CONDITIONS OF THE AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

EXHIBIT A

UP-SHORT LINE PARTNER PROTOCOL

Union Pacific and Short Line Partner Protocol

I. DEFINITIONS

For purposes of this Protocol, the following definitions apply:

"Access" means interchange, intermediate switching, haulage, or trackage rights.

- No new access to industries, shippers, or receivers not now served is granted or created; unless such access is by way of a waiver of an Interchange Commitment or pursuant to a decision by the STB in a proceeding made on a case-by-case basis regarding reciprocal switching; and
- A carrier providing interchange, switching, haulage, trackage rights, or other services will be entitled to commercially reasonable compensation for use of its facilities and/or services.

"Base Traffic Volume" means the average annual carload volume originated or terminated on the line during either (1) the three (3) years prior to the date UP (or NS) conducted the sale or original lease of the line or (2) at the last calendar year prior to the date the STB approved the UP/NS transaction, whichever is lower.

"Commercially Impracticable" means as it is defined in section II(B)(4)(b).

"Growth Traffic" means any traffic volume generated by the Short Line in a given year that exceeds the Base Traffic Volume.

"Interchange Commitment" (a/k/a Paper Barriers) means a restriction on interchange, including without limitation fees imposed to discourage interchange, or otherwise, imposed by contract.

"New Traffic" means, on a Short Line, traffic moving to or from a customer's new, expanded, relocated, repurposed, new customers on a previous customer's site, or replaced facility that has not previously moved on the Short Line, regardless of where the facility was previously located. The identification of "New Traffic" on a Short Line shall require the waiver of any Interchange Commitment if UP or any of its predecessor railroads sold or leased the line in question and has the contract or lease with the Short Line or its successors. This definition is not intended to be exhaustive, and traffic not meeting these criteria may still be considered to meet this definition as determined by individual facts and circumstances.

"Qualified Interchange Commitment" means a railroad restriction on interchange, including without limitation fees imposed to discourage interchange that does not restrict the Short Line's ability to develop New Traffic with another railroad, and applies only to traffic volumes up to the Base Traffic Volume.

"Short Line" means a Class II or Class III freight railroad.

"Transaction" means the sale or lease of the line or lines by UP or any of its predecessor railroads to a Short Line.

"Union Pacific (UP)" means Union Pacific Corporation (UPC), Union Pacific Railroad Company (UP), Norfolk Southern Corporation (NSC) and Norfolk Southern Railway Company (NS), all rail carrier subsidiaries of UP and NS, after STB approval of acquisition of control by UPC of NSC, and through NSC of NS and NS's rail carrier subsidiaries, and the resulting common control by UPC of UP and NS and the consolidation of the rail operations of UP and NS as governed by STB Docket No. FD 36873 (the merger).

II. COMMERCIAL COVENANTS

A. Interchange Performance Agreements. Within 90 days of STB approval of the merger, UP will commence working with its Short Line partners to develop and implement enforceable Interchange Performance Agreements (IPAs) with each connecting Short Line to include standards of service and measurements to be used to manage current service and improvement. All IPAs must be completed and executed within 90 days after the commencement of those discussions (i.e., within 180 days of STB approval). Within those same timeframes, UP shall begin implementing the required interchange performance metrics within 90 days of STB approval, fully implement metric collection within 180 days of STB approval, and begin weekly division-level and system-wide reporting to the STB 180 days from STB approval (including retroactive calculation and reporting of weekly metrics covering each week from day 90 to day 180 following STB approval to establish a performance baseline). Regular meetings between UP and Short Line corporate and operating personnel will be scheduled to resolve issues and improve service to customers. An IPA template is included as Appendix 3 to this Protocol.

B. Interchange Commitments

1. Interchange Commitments, trackage rights, and haulage: UP and Short Lines will work cooperatively to increase rail freight business. Joint initiatives designed to increase Short Line freight business under certain circumstances include, but are not limited to, waiver of contractual Interchange Commitments, granting of trackage rights, and UP haulage of Short Line traffic. If Access is requested by the connecting Short Line, the request shall be approved by UP as provided for in Appendix 1, Examples 1–5.

2. Limitation to Base Volume: Notwithstanding any other provision, an Interchange Commitment shall only be enforceable with respect to traffic volumes up to the Base Traffic Volume. Any Growth Traffic generated by the Short Line shall be deemed "New Traffic" and shall be automatically exempt from any Interchange Commitment, blocking provision, or economic penalty, regardless of commodity or origin/destination. If the Base Traffic Volume has been met for a year, the Interchange Commitment will not be enforced beginning on January 1 of the year following the year Base Traffic Volume was met and will continue to not be enforced unless and until there is a year in

which the Base Traffic Volume is not met. In that case, the Interchange Commitment will be reinstated beginning on January 1 of the year following the year in which the Base Traffic Volume was not met and will continue until the year after the Base Traffic Volume is once again met.

3. Presumption of Competitiveness:

   (a) An Interchange Commitment is a restriction on interchange and should not restrict a Short Line's ability to attract New Traffic.

   (b) But For Test: An Interchange Commitment is not a Qualified Interchange Commitment and shall be unenforceable if it prevents the Short Line from handling traffic that, but for the use of a third-party carrier, would not move via rail or would not move via UP due to the rate or service being non-competitive.

4. Route Efficiency and Practicability:

   (a) If a rail customer has informed a Short Line that the route is "Commercially Impracticable," a Short Line with an Interchange Commitment shall not be penalized for routing traffic via a third-party railroad. The rail customer may confer with the Short Line regarding the practicality of the current route and possible alternatives.

   (b) A UP route shall be rebuttably presumed to be "Commercially Impracticable" if, compared to the available alternative route involving a third-party railroad:

      (i) Circuity: The total rail miles of the UP route exceed the alternative route by twenty-five percent (25%) or more; or

      (ii) Transit Time: The average transit time of the UP route exceeds the alternative route by twenty-five percent (25%) or more; or

      (iii) Cost: The total logistics cost to the customer via the UP route exceeds the alternative route by fifteen percent (15%) or more.

   (c) The time limit for a calculation of whether a route is Commercially Impracticable under paragraph (b) is no more than thirty (30) days. If the calculation is not provided by UP, subject to review and approval of the Short Line, within 30 days, the Short Line shall not be penalized for routing the traffic via third-party Railroad.

   (d) Commercially Impracticable traffic counts towards Base Traffic Volume.

C. New Routes

1. UP and Short Lines will work cooperatively to increase rail traffic, including

but not limited to establishing new routes that benefit rail customers and increase rail freight business.

2. A new route may include UP providing the Short Line haulage or trackage rights. If a new route helps the Short Line provide improved service or attracts New Traffic, then the new route will be permitted by UP. UP and the Short Line shall negotiate fair compensation for the use of the facilities or services for the new route. Furthermore, UP shall not restrict a Short Line's practical access to independent rolling stock repair and maintenance facilities through prohibitive pricing, accessorial charges, or inefficient routing.

D. Lease Renewals and Ratchet Protection

1. UP and Short Lines may voluntarily agree at any time to renegotiate the terms of sale and/or lease agreements.

2. In any negotiation for the renewal, extension, or renegotiation of a lease or operating agreement, UP shall not condition such renewal, extension or renegotiation upon an increase in the Base Traffic Volume or demand new rent/royalties/penalties based on traffic volumes that qualify as Growth Traffic or reduce the rates or other charges UP pays the Short Line.

3. There shall be no reductions to ancillary charges paid to the Short Line by UP such as, but not limited to, fuel surcharges, bonus payments, setback charges, car hire relief or run through power agreements.

4. UP shall provide the same level of service in conjunction with its Short Line partner in any new or renewed, extended or renegotiated lease or operating agreement.

5. Traffic volumes developed by the Short Line in excess of the original Base Traffic Volume shall be deemed the vested property of the Short Line's franchise value and shall not be subject to recapture by UP through adjusted lease terms or volume thresholds.

E. Switch Charges:

1. UP and Short Lines agree that subject to (3) below, existing or future intermediate and reciprocal switching charges assessed by UP to the Short Lines shall be comparable to existing or future charges between other railroads under similar circumstances and conditions.

2. Any intermediate (switching between carriers) or reciprocal (switching between customer and carrier) switch charges existing between UP and a Short Line on or after the date of the merger shall not be increased more than inflation on an annual basis. Intermediate charges that are greater than existing charges between Class I Railroads in similar circumstances and conditions on the effective date of this Protocol shall be modified to be in line with said charges.

See Appendix 2, Examples 6–8.

3. This provision shall not apply with respect to any switch charges that are the subject of any administrative or judicial proceeding as of the date of the merger.

F. Car Supply. UP and Short Lines will determine opportunities where they can work together, consistent with antitrust laws, to meet customer car supply needs and New Traffic. UP and Short Lines will jointly identify car types for which existing fleets are projected to be inadequate for current and future demand, and UP will issue formal quarterly fleet evaluations to designated representatives of connecting Short Lines. Further, UP will evaluate and implement cooperative policies and structural equipment programs to enhance the ability of Short Lines to have the use of newer and used freight cars, including: (1) sponsoring and expanding TTX pools for general service equipment; (2) where a Short Line is prohibited by contract with UP from providing its own equipment, supplying equipment to the Short Line on the same basis as UP supplies equipment to its directly served customers; and (3) structured programs permitting Short Lines to purchase, refurbish, and deploy surplus UP equipment.

III. APPLICATION

Any relief available under this Protocol shall be prospective only. To the extent that relief is granted by an arbitrator pursuant to the terms of this Protocol, such relief shall be limited solely to the period commencing on or at the arbitrator's discretion, after the date that the subject arbitration proceeding was initiated.

IV. DISPUTE RESOLUTION

All disputes arising under or relating to this Protocol shall be resolved through binding arbitration before an STB-appointed arbitrator. The arbitrator shall issue a determination within thirty (30) days of submission of the dispute, consistent with the public interest and designed to enhance competition while strengthening and sustaining the rail network as a whole, including the vital role of Short Lines. Unless otherwise provided for in this Protocol, Short Lines can avail themselves of arbitration for the following matters governed by this Protocol:

A. Interchange Commitment Waivers. A Short Line may submit a request for UP to waive an Interchange Commitment, which may be based upon one of the examples in this Protocol. UP shall have fourteen (14) days to either approve the request or explain in detail why the request is denied. Failure to reply within the 14-day period constitutes approval of the request. The Short Line has the right to appeal a denial to the STB in binding arbitration. The STB arbitrator will base the decision on the request, the denial, and this Protocol.

B. New Traffic. UP may not enforce an Interchange Commitment on New Traffic. A Short Line may bring evidence of an Interchange Commitment enforcement on New Traffic to the STB under binding arbitration.

C. Interchange Performance Failures. A Short Line may bring an interchange performance failure, as defined in the IPA template (Appendix 3), to the STB following the procedures in the template.

D. Commercial Impracticability. UP may not penalize a Short Line for routing traffic via third-party railroad if a customer has informed the Short Line that a route is Commercially Impracticable. In compliance with this Protocol, if UP penalizes a Short Line for routing traffic the Short Line has informed UP is Commercially Impracticable via third-party railroad, the Short Line may bring the issue to the STB under binding arbitration.

E. Car Supply Failures. During the oversight period established by the STB, if the Customer notifies the Short Line that car supply is inadequate to reasonably handle its traffic volume, the Short Line will notify UP, and UP will have fourteen (14) days to cure the inadequacy. If required, UP will supply cars at a commercially reasonable rate to the Customer and/or Short Line. If UP fails to cure the inadequacy, the Short Line or the Customer can supply the cars (and once procured, shall be permitted to continue using such equipment without penalty, discriminatory handling practices, or arbitrary operating restrictions, provided the equipment complies with applicable federal and industry safety standards) or bring the issue to the STB under binding arbitration.

F. Unfair Switching Charges. UP may not assess switching charges to a Short Line that are not comparable to intermediate and reciprocal switching charges between UP and other railroads or that increase by more than the inflation rate on an annual basis. A Short Line may bring an action for unfair switching charges to the STB under binding arbitration.

LIST OF APPENDICES

Appendix 1: Guidelines for Contractual Obligations and New Routes

Appendix 2: Guidelines for Intermediate and Reciprocal Switching

Appendix 3: Interchange Performance Agreement Template

APPENDIX 1

GUIDELINES FOR INTERCHANGE COMMITMENT AND NEW ROUTES

Mandatory Relief

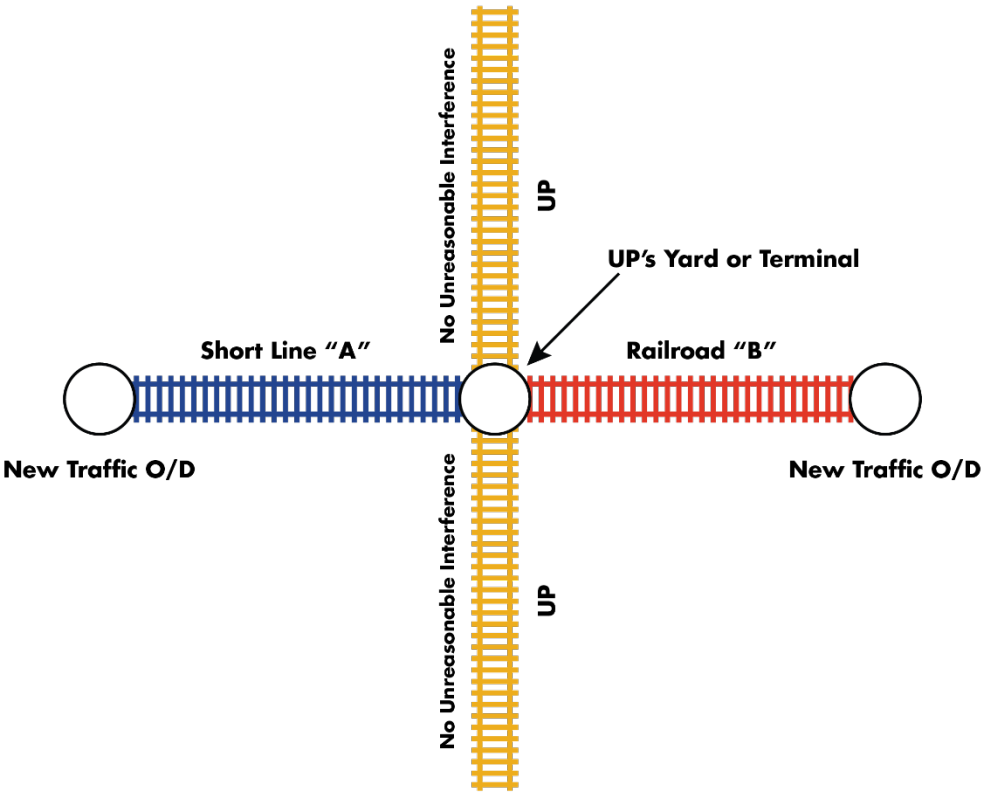
These examples are interpretive scenarios of when UP must provide relief from an Interchange Commitment. These examples are illustrative only to demonstrate how enhanced competition should be required.

Example 1

Short Line "A" (SL "A") and Railroad "B" both connect with UP either in a common yard or terminal area. There is an opportunity for New Traffic that would originate on "A" and terminate on "B," or vice versa. UP must grant Access by either allowing "A" and "B" to connect directly or by handling the traffic between "A" and "B" within the yard or terminal.

If existing movements between "A" and "B" are provided for by a commercially reasonable intermediate switch charge published by UP, "A" and "B" are already deemed to have Access.

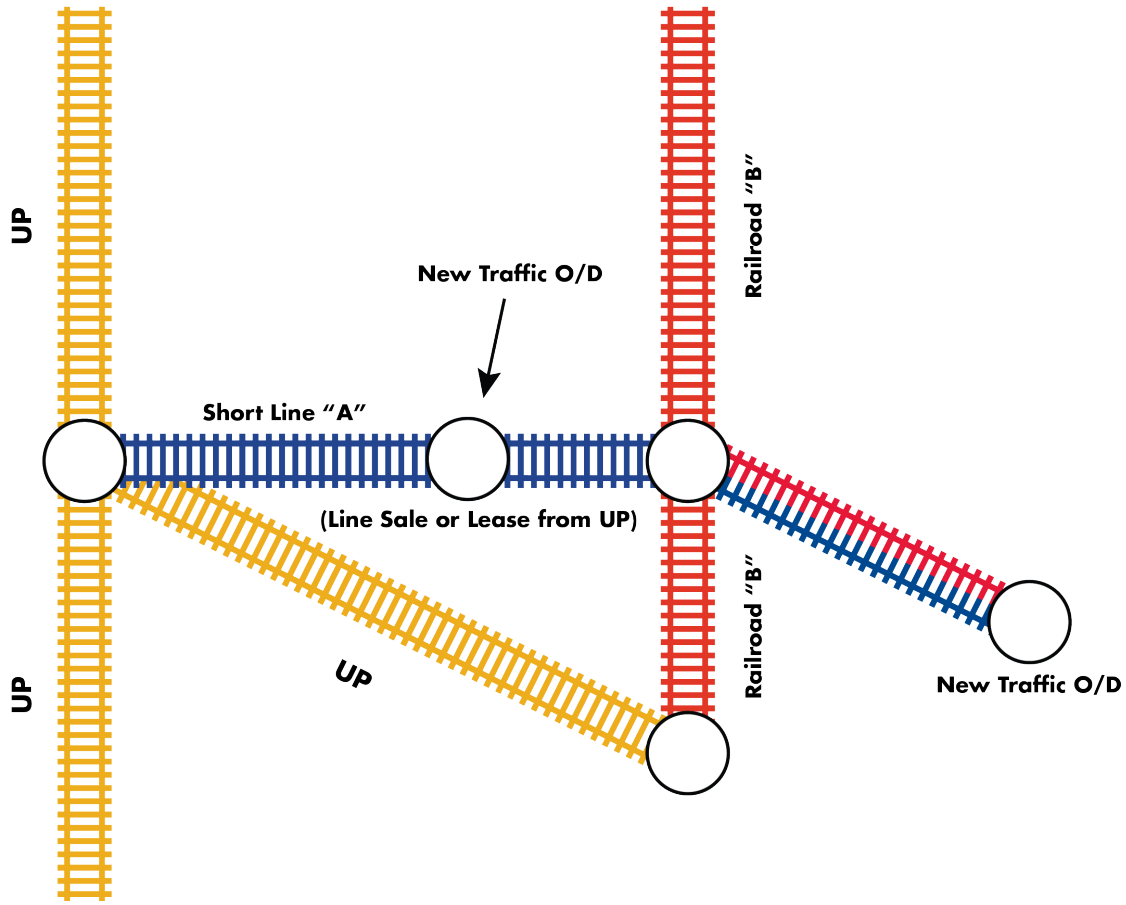
EXAMPLE 1



Example 2

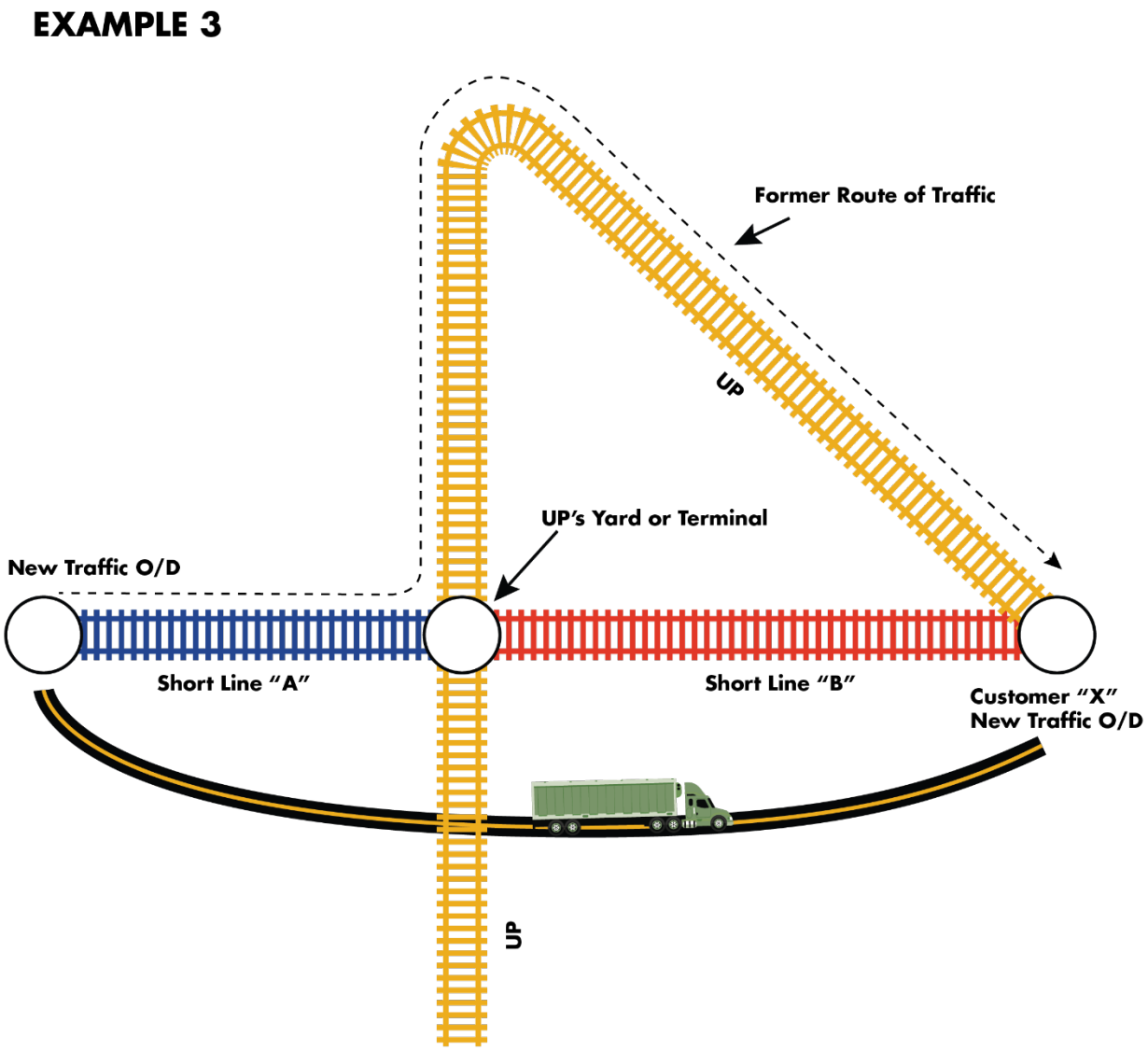
An Interchange Commitment resulting from a line sale or lease by UP to Short Line "A" that restricts "A" from interchanging with Railroad "B" will be waived to allow "A" to interchange New Traffic with "B" without penalty.

EXAMPLE 2



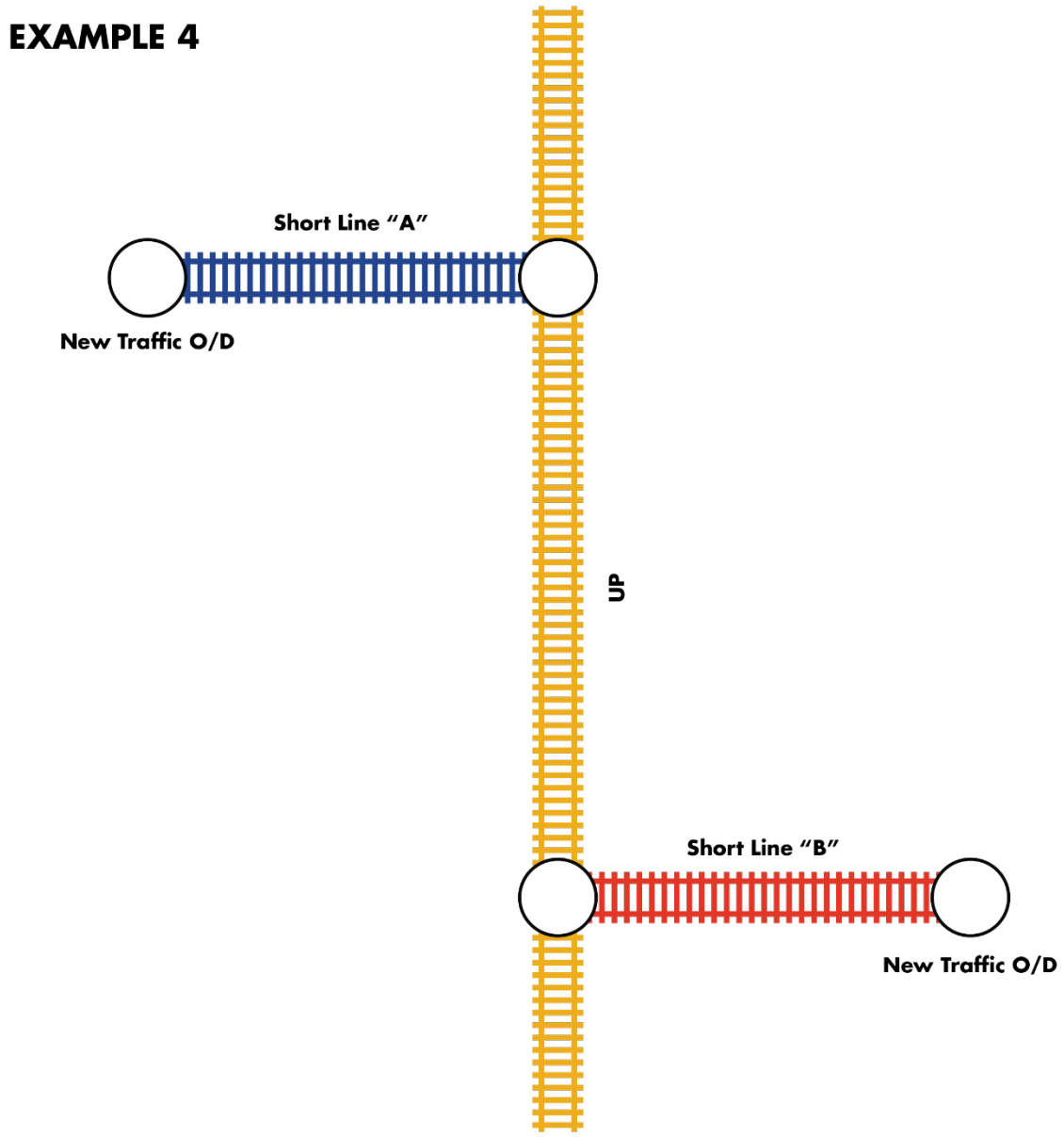
Example 3

UP/Short Line "A" traffic for Customer "X" has been lost to truck. UP must grant Access to "A" and Short Line "B" through UP's terminal or yard to redirect traffic to rail from truck (New Traffic).



Example 4

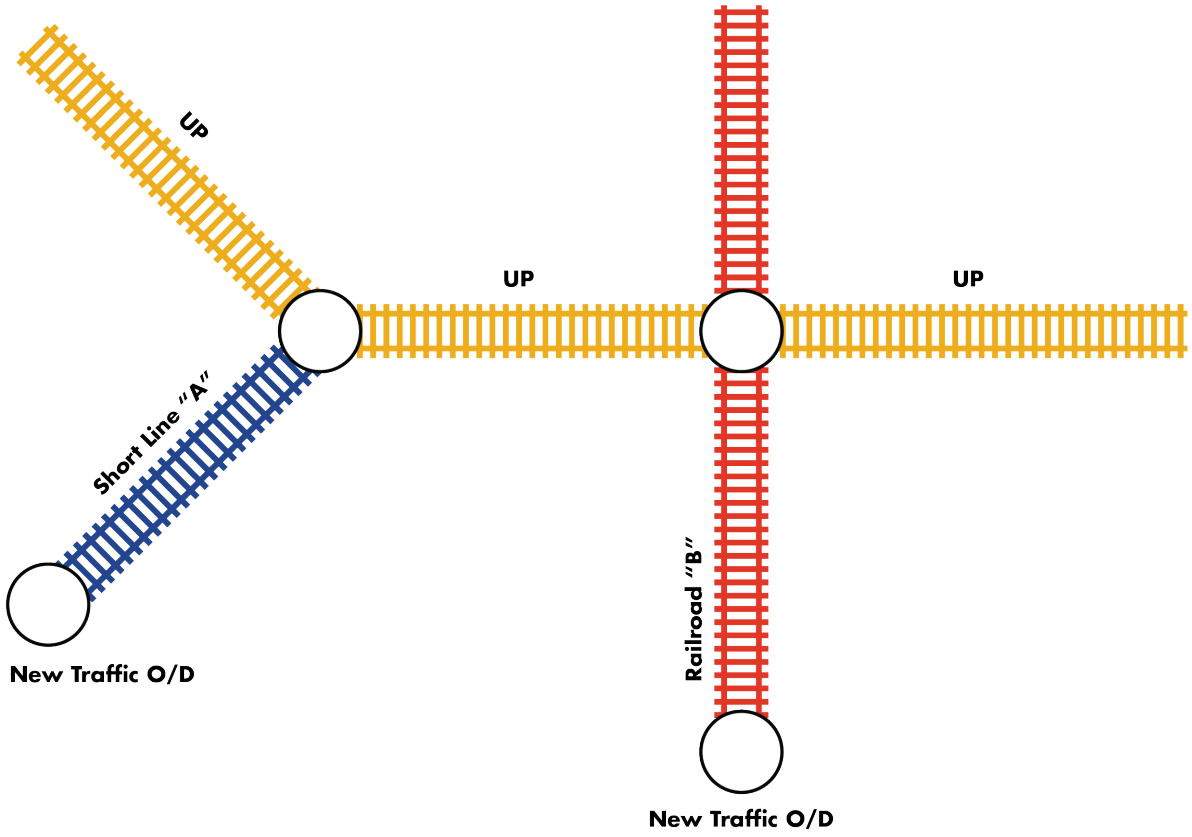
UP must grant Access via haulage (or trackage rights at UP's option) for New Traffic originating on Short Line "A" and terminating on Short Line "B," or vice versa, where UP's line connects to "B."



Example 5

UP must grant Access via haulage (or trackage rights at UP's option or if there is inadequate infrastructure at locations at Railroad "B" or Short Line "A" to allow effective, physical interchange) between Short Line "A" and Railroad "B" to move New Traffic handled by UP along UP's rail line connecting "A" and "B."

EXAMPLE 5



APPENDIX 2

GUIDELINES FOR INTERMEDIATE AND RECIPROCAL SWITCHING

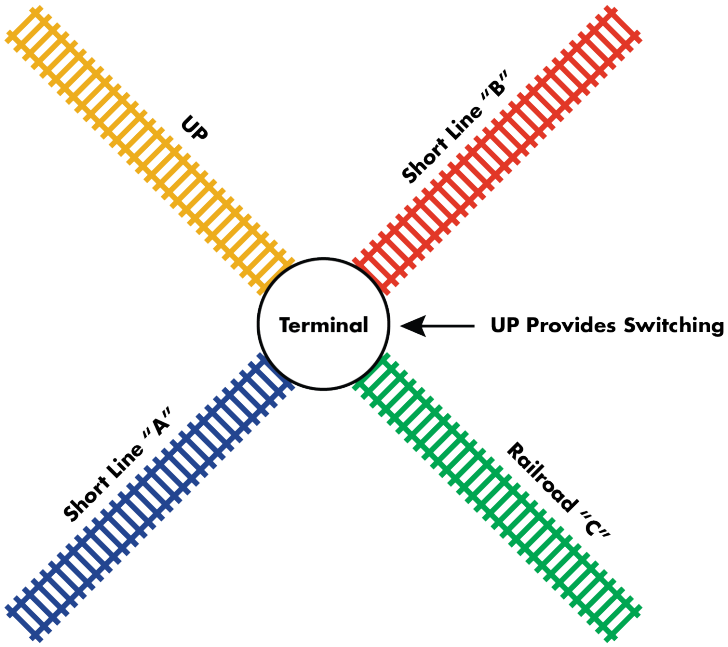
These examples are interpretive scenarios of when UP must provide intermediate terminal or reciprocal switching for existing and New Traffic.

Example 6

Intermediate Switching Charges

Short Line "A" serves a terminal where UP currently provides intermediate terminal switching between a number of carriers including Short Line "B." Short Line "B" serves the same terminal as Railroad "C". Assuming the operating conditions are similar, "A" and "B" should pay the same or similar charges as "C" for receipt of the same or similar services, unless the existing charges for "C" are greater than "A" or "B", in which case the lowest existing rate shall continue to apply and be adjusted annually by no more than an annual inflation index.

EXAMPLE 6



Example 7

Reciprocal Switching Charges

UP, Class I "A," and Short Line "B" serve a terminal. No other railroads serve the terminal. UP must charge "B" no more than it charges "A" unless the existing charges for "A" are greater than "B", in which case the charges for "B" shall continue to apply and be adjusted annually by no greater than an annual inflation index.

Example 8

Reciprocal Switching Charges

Where UP has made a customer or station located within a terminal area open to reciprocal switching access, and where a Short Line also operates in that same terminal area, UP shall provide reciprocal switching services to that Short Line on a non-discriminatory basis. Within any terminal area where multiple carriers have access to a customer or station via UP reciprocal switching service, UP shall not assess a reciprocal switching charge to the Short Line that exceeds the lowest, most favorable reciprocal switching rate afforded to any other rail carrier accessing that same customer.

APPENDIX 3

INTERCHANGE PERFORMANCE AGREEMENT TEMPLATE

INTERCHANGE PERFORMANCE AGREEMENT

THIS INTERCHANGE SERVICE AGREEMENT (IPA) is entered into this __day of _____**, 20__**, Union Pacific Railroad Company (UP) (Standard Area Alpha Code: ____ (SCAC) and [Short Line Name (Short Line)] (Standard Area Alpha Code ____ (SCAC), hereafter referred to collectively as the "Parties."

Section 1. Interchange Definition and Mechanics.

1.1 Grant of Interchange: The Parties agree to interchange loaded and empty railcars destined to or originating from points on or via their respective rail lines.

1.2 Interchange Definition: Physical interchange of railcars shall take place at [named station(s)/city, state], Standard Point Location Code _____ (SPLC) on track that permits efficient access to the interchange traffic.

1.3 Interchange Location Changes: UP may not unilaterally close, reconfigure, or relocate established interchange locations where such action shifts blocking, switching or intermediate transit costs onto the connecting Short Line without additional compensation. Any proposed operational change requires the mutual concurrence of the Short Line or prior STB authorization.

1.4 Interchange Service Level. Any reduction in service in each IPA compared to the actual service levels in effect as of May 28, 2026, or any subsequent downward changes, without mutual agreement between the parties, shall require UP to notify, justify, and receive prior approval from the STB before implementing.

1.5 Delivery Mechanics: A railcar is considered delivered by the delivering railroad and received by the receiving railroad only when it is placed safely on the designated interchange track, uncoupled from the delivering locomotive, properly secured, and confirmed physically present at the interchange location via electronic notification or another agreed-upon method (such as AEI reader data).

1.6 Interchange Event and Pacing: Interchanges shall be on an agreed upon interchange schedule between the Parties of [e.g., 4 or 5 days per week Monday through Friday] between the hours of _____ and _____, or as mutually adjusted due to volume variations or track congestion.

Section 2. Interchange Performance Metrics.

2.1 Collecting and Reporting of Interchange Performance Metrics. UP must track interchange activity, including the metrics at Sections 2.2 and 2.3, by beginning implementation of the interchange metrics within 90 days of STB approval of the

merger and fully implementing collection of the interchange metrics within 180 days of STB approval, and will submit interchange performance metrics to the STB every week for each of its operating divisions and for the overall system beginning 180 days from STB approval (including retroactive calculation and reporting of weekly interchange metrics covering each week from day 90 to day 180 following STB approval to establish a performance baseline) and continuing for the duration of the STB's formal oversight period or 10 years following consummation of the merger, whichever is longer.

2.2 Short Line Interchange Spot and Pull (SLISP): This metric will measure the Parties' success in performing interchange deliveries (in lieu of "spots") and interchange reception (in lieu of "pulls") of railcars during planned service windows. Railcars received and ready for transport within three hours before or after the interchange time specified in this IPA are considered successfully interchanged. The metric measures the percentage of successfully interchanged (delivered and received) cars from the total cars scheduled for interchange.

2.3 Interchange Service Window Success Rate (ISWSR): This metric will measure the percentage of scheduled interchange events completed within three hours before or after the interchange time specified in this IPA. The metric is calculated by quantifying scheduled interchange events completed within the agreed service window ÷ total scheduled interchange events × 100, weekly.

2.4 Reports and Individual Performance Metrics: UP will provide monthly reports in a useable electronic format to [Short Line] that include the metrics in 2.2 and 2.3. [Short Line] may request in writing individualized performance records that identify a date range and interchange(s). Within seven days of the written request, UP shall provide [Short Line] with the requested individualized performance records.

Section 3. Dispute Resolution

3.1 Material Performance Issue. A performance issue becomes material when either Party can provide proof of potential harm to rail shippers due to a degradation of interchange performance, as shown by the SLISP and ISWSR performance metrics set forth in Section 2 above.

3.2 Bilateral Improvement Period. The Parties will first attempt to remedy the material performance issue through a bilateral improvement period. The initiating party must notify the other party of the interchange performance issue(s), timeline of the issue(s), and work in good faith to identify remedies for fifteen business days. After a minimum of fifteen business days has elapsed and a mutually satisfactory plan or resolution has not been reached, the initiating party will notify the STB.

3.3 Monetary Penalties. Following STB notification, if either the SLISP or ISWSR is below a 90% threshold over a rolling fifteen-day period, the initiating party is entitled to penalties paid on a go-forward basis. Penalties are assessed for each car that fails the SLISP or ISWSR metric. The penalties assessed follow the demurrage rates outlined by

UP. Penalties continue for no less than 90 days or until the SLISP and ISWSR exceed a 90% threshold for at least thirty consecutive days.

3.4 Binding Arbitration. If after this period, SLISP and ISWSR have not reached or exceeded a 90% threshold over thirty or more days, the initiating party may notify the STB in writing of the interchange performance issue and provide evidence of flawed interchange performance. The initiating party must also supply the counterparty with STB notification and evidence. This notification to the STB initiates binding arbitration. The STB arbitrator will provide a determination within 30 days.

Section 4. Term, Termination and Modification.

4.1 Term: This IPA shall begin on the Effective Date and remain in effect for a primary term of ten (10) years or the duration of the STB's formal post-merger oversight period in Docket No. FD 36873, whichever is longer. It shall automatically renew annually thereafter unless terminated in accordance with Section 4.2.

4.2 Termination: Following the expiration of the primary term set forth in Section 4.1, this IPA may be terminated by mutual written agreement of the Parties or with prior authorization from the STB.

4.3 Modification: No amendment or modification of this IPA, or any additional obligation assumed by either Party in connection herewith, shall be binding unless evidenced by a written instrument signed by both Parties or their duly authorized representatives.

Section 5. Governing Law and Inurement.

5.1 Governing Law: The laws of the [State], without regard to its conflicts of laws principles, shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and duties of the Parties.

5.2 Inurement: This IPA will remain binding notwithstanding any sale, transfer, merger, consolidation, reorganization, change in control, or other change in the ownership, structure, or composition of either Party, and will bind each Party's successors and permitted assigns.

Section 6. Notice.

Any notice required or remitted under this Agreement shall be validly given or made to another Party if personally served, if sent by electronic transmission during regular business hours, if sent by prepaid overnight express service, or if deposited in the United States mail, certified, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice is made by electronic transmission, notice shall be deemed constructively made as reflected by time and date of the transmission.

If to [Short Line]:

[Name]
[Short Line]
[Street Address]
[City, State, Zipcode]
Telephone: [phone number]
Email: [email]

If to UP:

[Name]
Union Pacific Railroad Company
[Street Address]
[City, State, Zipcode]
Telephone: [phone number]
Email: [email]

or to such other address as either Party may from time to time notify the other.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their authorized representatives.

UNION PACIFIC RAILROAD COMPANY

Signature: _____
Title: _____
Date: _____

[SHORT LINE]

Signature: _____
Title: _____
Date: _____

BEFORE THE
SURFACE TRANSPORTATION BOARD

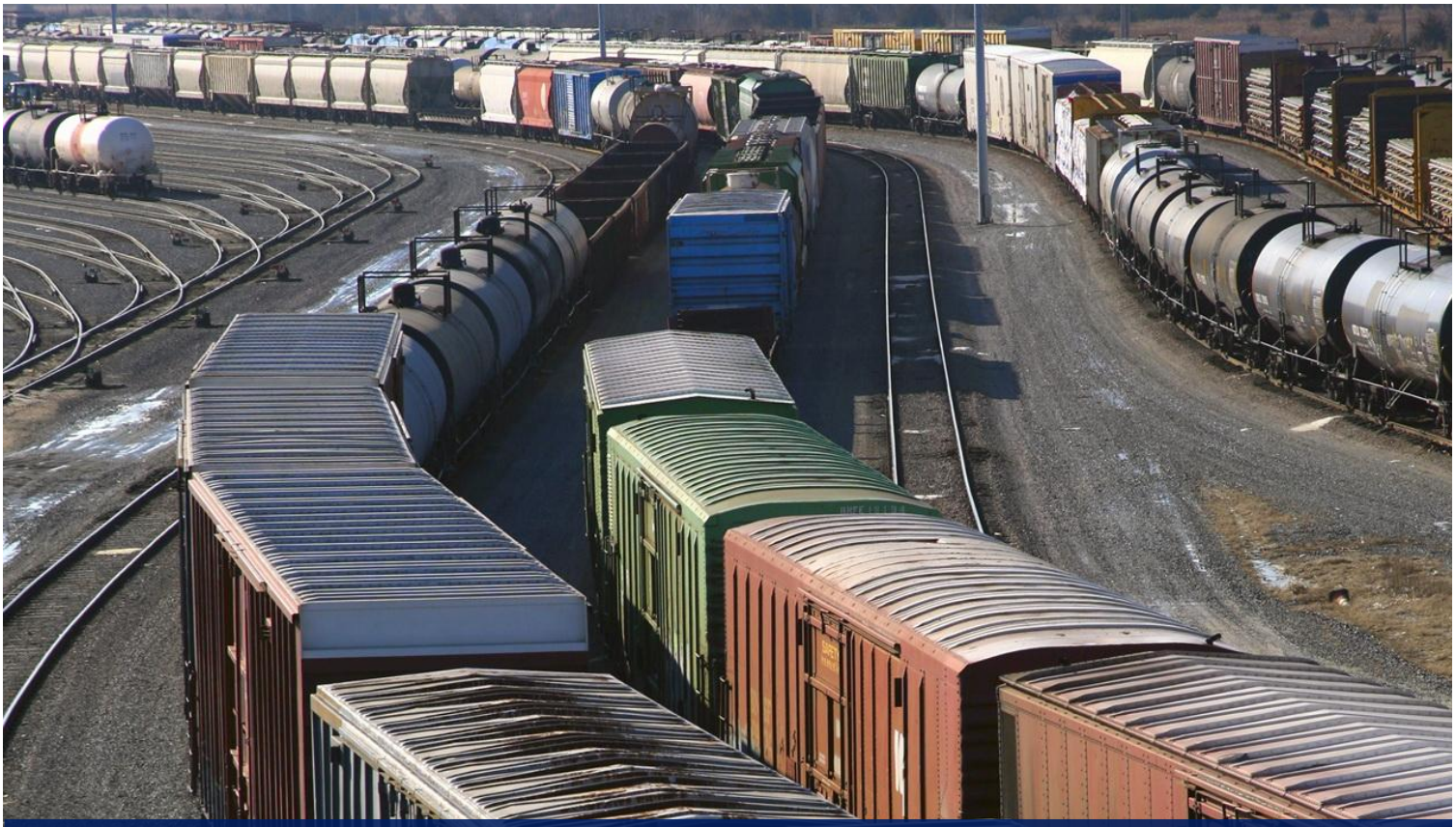
FD 36873

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

COMMENTS AND REQUEST FOR CONDITIONS OF THE AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

EXHIBIT B

CPCS REPORT



Protecting Short Line Interchange Service

Proposed Conditions for the UP-NS Transaction

Prepared for:

American Short Line and Regional Railroad Association.

Prepared by:

cpcs

November 2026 | www.cpcstrans.com

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1

Background.

Across the U.S., thousands of carloads of freight are transferred between large freight railroads (Class I railroads) and medium or small freight railroads (Class II and Class III railroads, or Short Line railroads) every day. This exchange is known as an *interchange* and for America's Short Line railroads, interchange with Class I railroads remains a high-profile challenge. Short Line railroads have identified interchange performance as a key issue that should be addressed as part of the proposed transaction.

According to Short Line railroads interviewed for this report, interchanges with Class I railroads are characterized by inconsistency, delays, missed service windows, communication lapses, and accountability issues. Persistent interchange timeliness and reliability challenges impede efficient rail operations, negatively impacting not only Short Lines, but the rail shippers that rely on them. These challenges are historically exacerbated during the integration phase of a merger or acquisition. While not all handoffs are problematic, interchange improvements would prevent the deterioration of service that can occur after a merger and enhance the performance of the entire freight rail system, benefiting large and small rail carriers, shippers, and American households.

The American Short Line and Regional Railroad Association (ASLRRA) commissioned CPCS Transcom Inc. (CPCS) to assess current practices, performance, and to recommend conditions to protect the interchange service levels to its members in the event the transaction between Union Pacific (UP) and Norfolk Southern (NS) is approved.

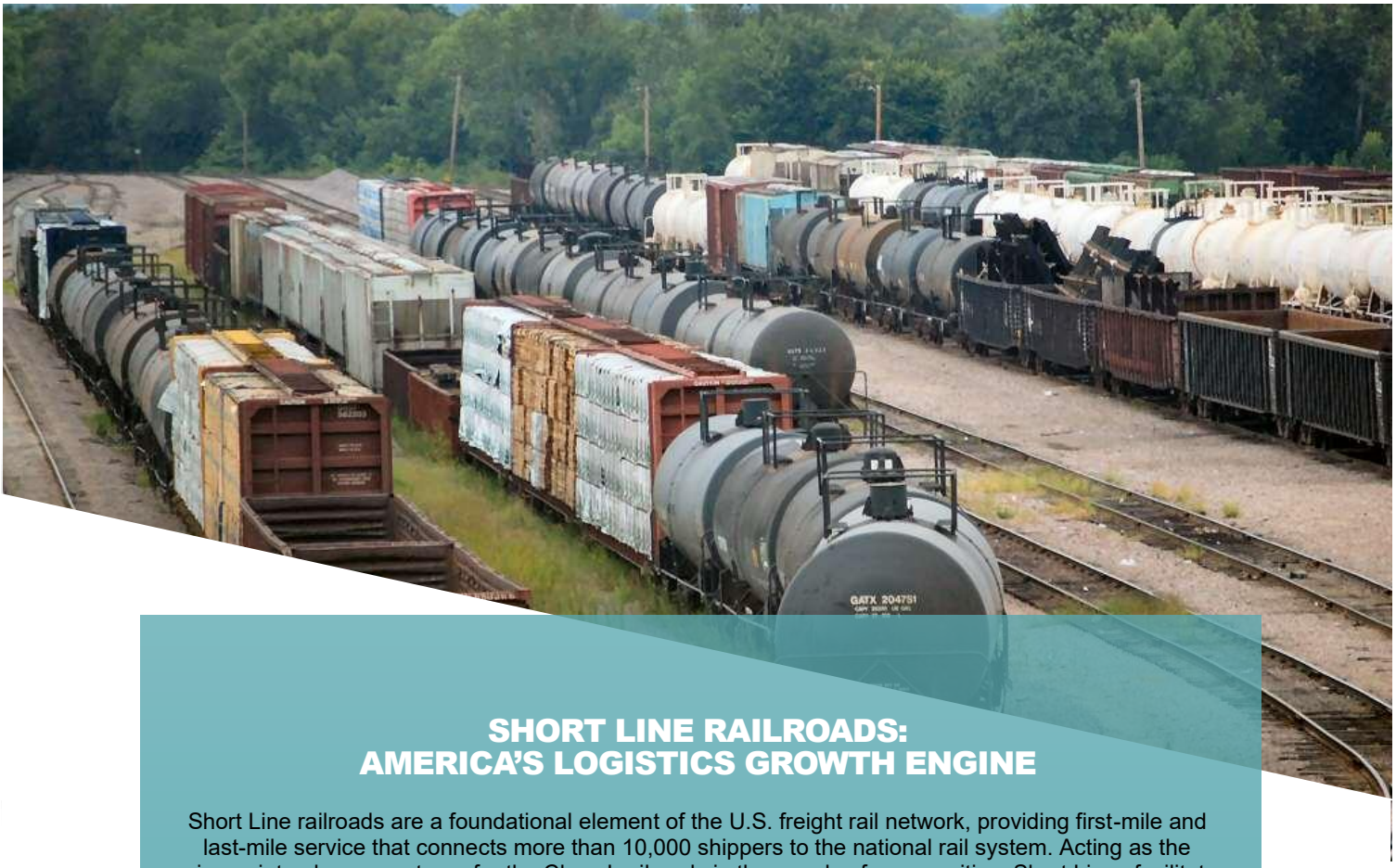
This report summarizes interchange challenges reported by ASLRRA members and outlines conditions that will protect Short Lines and their shippers if a UP-NS transaction is approved, including entering into interchange performance agreements (IPAs), recommended upgrades for data capture and performance measurement of interchanges, and an escalation framework to address persistent service failures. Although interchange is a longstanding challenge, mergers and acquisitions have the potential to amplify interchange performance issues.

WHAT IS A SHORT LINE INTERCHANGE?

Interchanges occur when carloads of freight are transferred between railroads. While transacted between all rail carrier types, the purpose of this report is to examine interchanges between large freight railroads (Class I railroads) and medium or small freight railroads (Class II and Class III railroads, or Short Line railroads).

In a competitive U.S. freight rail market, interchanges are:

- **Necessary to serve shipper needs across the entire network.** Short Line railroads preserve and expand freight rail's reach.
- **As difficult or easy as the participating railroads want to make them.** Communication, clear expectations, and mutual accountability are paramount.
- **Subject to the power imbalance between Class I and Short Lines.** This imbalance exposes Short Lines to a higher level of interchange operational variability than interchange between two Class I's.



SHORT LINE RAILROADS: AMERICA'S LOGISTICS GROWTH ENGINE

Short Line railroads are a foundational element of the U.S. freight rail network, providing first-mile and last-mile service that connects more than 10,000 shippers to the national rail system. Acting as the primary interchange partners for the Class I railroads in thousands of communities, Short Lines facilitate efficient freight movement and help sustain a rail network that carries nearly one-third of the nation's freight[1]. One in five cars on the national network is handled by a Short Line carrier.

Short Lines continue to produce carload growth because of the close connections they build and maintain with customers. From July 2025 to July 2026, Short Line railroads achieved an 11% year-over-year increase in carload originations[2], while Class I carload originations increased by 0.5% (3.2% excluding coal)[3]. Shippers depend on the seamless interchange of carloads between carriers to serve freight rail customers. Yet Class I interchange performance with Short Lines railroads is highly variable, frequently creating negative supply chain reverberations that affect the competitiveness of shippers and disadvantage rail relative to other modes. While Short Lines have added carloads despite these challenges, interchange improvements with Class I partners could unleash additional growth.

If the UP-NS merger application is approved by the STB, the merged carrier would continue to depend on Short Line railroads as a critical conduit enabling the merged carrier to deliver its promised network efficiencies and carload traffic growth to the shipping public.

Conditions to the merger should include efforts to ensure that uneven interchange performance is not exacerbated, further degrading service for America's freight rail-dependent shippers. Inaction on interchange performance may also blunt positive carload growth and force shippers to consider other logistics solutions.

[1] Ton-miles. FRA Freight Rail Overview
[2] ASLRRA Short Line Carloads Report – September 2026
[3] AAR Rail Industry Overview – August 2026

Approach.

2

The aim of the engagement was to understand current interchange practices and performance gaps between ASLRRA members and all interchanging Class I railroads nationally. The work sought to answer the following key questions:

- **Do existing railroad agreements effectively influence Class I and Short Line railroads?** What gaps or deficiencies are present in existing agreements and how can they be improved in a way that enhances interchange performance?
- **Which interchange performance issues impact Short Line railroads and their customers?** What are the root causes of these issues and how can they be constructively resolved? What obstacles are preventing the resolution of problems? What data or metrics are needed to improve accountability?
- **Which recommendations should the Surface Transportation Board (STB) apply as conditions?** How will the proposed UP-NS transaction impact interchange activity with Short Line railroads and what conditions should be put into place by the STB to safeguard and improve customer and supply chain outcomes?

2.1 Methods and Analysis

During the summer of 2026, CPCS conducted a series of meetings with ASLRRA members representing over 150 railroads operating more than 17,000 track miles in the U.S. CPCS supplemented the consultations with individual follow-up conversations to clarify participant positions and recommendations. CPCS also examined a sample of ISAs provided by participating railroads. The research team also reviewed STB regulations and decisions to inform the recommendations.

The following sections summarize the findings and rationale for why action is warranted and outline the proposed merger conditions that ASLRRA could request.



3

Findings.

The consultations and analysis identified several interchange performance issues and potential improvements. While interchange performance ranges widely across railroads and even specific interchanges, problems are more prevalent when there is limited visibility, oversight, or monitoring of interchange activity by either or both interchanging carriers. The overarching problem is inconsistent service provided by the Class I partner, an issue that could be exacerbated by an approved UP-NS transaction. While some railroads report excellent relationships and service, the majority of participants in the study report systemic interchange performance challenges.

Common Interchange Challenges

Interchange challenges most frequently cited by participants in this study include:

- A lack of visibility and poor communication with Class I partners,
- Uncompensated work performed by Short Lines in response to Class I operations,
- Scarcity of Class I power and crews driven by Precision Scheduled Railroading (PSR),
- Limited reach and enforcement of railroad agreements,
- A lack of standardized performance measurement to drive improvement, and
- The power imbalance between Class I and Short Line railroads exacerbates these performance issues and often prevents mutual improvement.

Ultimately, U.S. supply chain competitiveness is degraded, shippers are harmed, and American consumers bear the costs of inefficiencies. A prevailing risk identified by ASLRRA members is that inefficient Class I interchange with Short Lines contributes to freight rail's mode share erosion, with trucking becoming increasingly competitive when carriers fail to efficiently transfer carloads. This section of the report elaborates on the findings and are followed by recommendations to improve interchange performance.

3.1 Visibility and Communication Challenges

> *"Short Lines have become good at operating through the uncertainty and have become more nimble themselves."*
> *– Short Line Railroad*

Short Line railroads cite limited visibility and reactive communication with Class I partners as leading contributors to interchange delays and missed service windows. The root problem, according to a former railroad executive, is that Class I carriers frequently change their interchange operations without informing or consulting their Short Line partners. For example, interchange activities are frequently stymied by the inability or unwillingness of Class I partners to share information on inbound consists or interchange plans, even though most railroad agreements require sharing that information . One consultation noted that sometimes cars are late, nobody knows where they are, and the Class I's cannot be reached. Short Line railroads report that they frequently field customer calls asking when their cars will come, yet they are often unable to answer because the Class I has not provided any information. One railroad reported that they only know when the interchange will happen when they see the Class I crew with the inbound train out their window.

ASLRRA study participants say that interchange performance would improve if Class I partners would consistently provide information and visibility of inbound consists, timing, power, crew, empties, and other factors at least 24 hours in advance of the interchange window, per the train plan. One Short Line notes, that while not ideal, one of their Class I partners is “the best at this” because they provide a report 8 hours ahead of the interchange with information on the inbound consist coming into the terminal. The railroad also notes that the report comes in by ‘robofax’ and that there are no enterprise systems to scan and push this information.

3.2 Uncompensated Short Line Work and PSR

ASLRRA members described numerous examples where Short Line railroads assumed additional responsibilities to maintain service continuity when Class I railroads were unable or unwilling to perform interchange functions. In these situations, Short Lines railroads often absorb costs, operational burdens, and customer expectations without compensation. While Short Line railroads frequently accommodate these requests to preserve customer service and network fluidity, participants expressed frustration that the arrangements are often informal, difficult to formalize, and challenging to negotiate with Class I railroad partners. One railroad suggested that performance measures and data are needed to demonstrate when the Short Line or the customer have been harmed or when the Short Line has worked for no pay, other than setback charges. One example of harm to the Short Line and the customer is when the Class I decides to serve a three-day-per-week interchange only once a week, which could result in delivery delays, bunching, and other inefficiencies. Perhaps the most prevalent example of uncompensated work (or economic harm) is Short Lines accessing cars stranded in Class I yards due to lack of crews, and most commonly, lack of power.

PSR Requires Extra Work by Short Lines

A primary driver of this type of Class I behavior and the resulting uncompensated work by Short Lines is PSR. For example, when Class I’s undergo network redesign to reduce costs, often without consulting Short Line railroads or customers, the Short Lines and their customers must nimbly adapt. In one case, because the Class I railroad moved the interchange point, the Short Line had to ask for more compensation for the move. And the railroad ultimately had to threaten to escalate the issue to the STB. About Class I redesign, a Short Line railroad executive said “They just go off and do it. And then you are left dealing with the consequences.”

3.3 Other PSR Impacts on Interchange Performance

In addition to increased uncompensated work, PSR deprioritizes interchanges with Short Line railroads in several other ways. Participants realize that shareholder expectations create a tough balancing act for Class I railroads, but interchange changes due to PSR may ultimately lead rail customers, especially small and medium-sized shippers, to shift loads to trucks. Major interchange impacts of PSR include:

- **Longer Trains Require Yard-to-Yard Interchanges.** Under PSR, train length has increased and Class Is are not running as many locals. As a result, interchange is increasingly yard-to-yard instead of traditional legacy interchange. Under this scenario, each carrier comes into the yard and swaps traffic, whether it is manifest or unit train traffic. Smaller Short Lines may continue to use remote location interchange points (interchanges not occurring at a rail yard) in which case, timing is important. But in many cases, the Class I may not want to interchange for a small number of cars and may wait to interchange until there are more cars to move. This may result in customer delays if a daily delivery is missed.
- **Class I Power Availability Impairs Interchange Performance.** A Short Line railroad reported that Class I power availability, rather than crew availability, drives interchange delays. Class I railroads

have reduced locomotive fleets and staffing levels to maximize efficiency, leaving insufficient resilience when disruptions occur. Restoring locomotive capacity and maintaining adequate crew resources would improve network fluidity and reduce interchange delays with Short Line partners.

- **Class I Staff Capacity Constraints and Short Line Interchange De-Prioritization.** Class I's do not have as many crews under PSR. And with those constraints, something must give. Participants who have worked at both Class I's and Short Line railroads noted that under PSR, Short Line railroads are "not really on the radar in the big picture of Class I operations." Whether a Class I drops or picks up at a Short Line location is simply not high on the priority list, according to a large Short Line company. If a Class I is running short on time, they will not drop today and drop twice as much tomorrow, the railroad said. The outcomes of missed interchanges—whether because of power or crew shortages—are traffic, bunching, and negative customer impacts, ultimately leading rail shippers to reconsider their options and shift some loads to truck.

3.4 Limitations of Existing Agreements

"The ISA thing was a moment of mutual focus that was ignored right after they were done."
– Short Line Railroad

Interchanges occur when carloads of freight are transferred between railroads and typically happen at isolated interchange points (outside of yards), industrial interchange points (within plants), or yards (Class I or Short Line railroads). Interchanges are transacted between all rail carrier types, but the purpose of this report is to examine interchanges between large freight railroads (Class I railroads) and medium or small freight railroads (Class II and Class III railroads, or Short Line railroads). In addition to interchange agreements, railroads establish Interline Service Agreements (ISAs) to govern interchange activities. Common ISA elements are summarized in the following table:

Sample ISA Elements	Description
Interchange location	Physical location where freight is exchanged
Interchange Reporting	When the interchange reporting is completed after the event
Agreement Conflicts	Noting any agreements that may govern or supersede the ISA
Advance Consist Requirements	How and when information about composition of the inbound train will be transmitted
Temporary and Emergency Plans	Conditions and timing of schedule revisions, including advance notice, due to temporary or emergency conditions
Schedule Changes	Who and when these may be made to the ISA
Revision of ISA	Conditions through which revisions are made, including required notice and consequences of not reaching a revised agreement

Sample ISA Elements	Description
Interchange Event	Defines car placement, interchange track, and other requirements for inbound and outbound cars
Mechanical Inspection	Inspection and acceptance of equipment by receiving carrier, per AAR interchange rules
Performance Evaluation	Parameters of evaluating the performance of the ISA by the parties
Train or Traffic Restrictions	Description of operating or physical restrictions at the interchange point
Locomotive Requirements	Describes power requirements, placement, timing but often refers to Interline or Locomotive Agreement
Interchanging Trains, Blocks, Handling	The details of train movement operations, usually outlined in Train Plan Addendum
Train Plan Addendum	Usually, an attached table with details on time zone, direction of interchange (inbound to receiving carriers), train IDs, interchange location (place, state), SPLC (Standard Point Location Code, frequency (days of week), time window, weight limit (tons), feet (interchange track), power, hazardous materials permitted and Positive Train Control (PTC) requirements.

Source: CPCS analysis of sample ISAs

Railroads acknowledge that ISAs raise important issues around expectation, liability, operations in a Class I yard, reversals, damages, and responsibility. One study participant said the most important elements of ISAs that require action are consist requirements, contingency plans, how a schedule change is supposed to occur. However, ISAs and other agreements are seldomly used after they are drafted. And some railroads say they do not have agreements for every interchange. According to railroads participating in this study, ISAs are not used because 1) this is a human business and 2), ISAs frequently lack meaningful enforcement mechanisms and practical remedies when standards are not met.

ISAs and other agreements are normally only revisited when there is a change in ownership, but “Class I’s have all the leverage in the negotiation,” commented one participant. In another instance, a Class I partner changed interchange points without consulting with the Short Line.

Informal Exchange

> *“Interchange comes down to a relationship with local leaders, conductor and engineer, superintendent, train managers, and Short Lines.”*
> *– Short Line Railroad*

Interchange is frequently improvised, informal, and relationship-driven between local crews. Short Line railroads report that “ISAs are very much in the background” and interchanges rely on day-to-day coordination.

Referring to ISAs, one railroad notes "What everyone thinks happens probably doesn't happen," while another carrier added "ISA or no ISA, it boils down to local relationships." Participants emphasized the relationships between local crews is key. For example, strong interpersonal relationships fortify working relationships between Short Line and Class I crews, which, in turn, facilitate informal communication and coordination that lead to better outcomes. One railroad stated that "where we have good relationships, we have good performance." In this case, the performance is "fluid, predicable, not perfect." Bottom line: Short Line railroads that invest in relationship-building activities with their Class I counterparts report better interchange coordination, consistency, and service to rail-dependent customers.

Existing Agreements Lack Meaningful Enforcement Mechanisms and Practical Remedies

When service failures persist beyond local problem-solving, ISAs and other existing agreements lack mechanisms to support affected Short Lines as they improvise to resolve issues before customer impacts mount. Existing agreements also lack effective escalation pathways and accountability mechanisms to drive performance improvements. Participants noted that the agreements inconsistently define interchange parameters. And there are no mutually accepted performance metrics to monitor interchange performance between Class I and Short Line carriers, typically only parameters about who will be involved in evaluating performance. While there is often language around communicating about inbound carloads (advance consist requirements), these data are rarely transmitted, leaving Short Line railroads and shippers in the dark.

The recently required Industry Spot and Pull (ISP) and Original Estimated Time of Arrival (OETA) metrics reported by Class I railroads to the STB do not account for the operational impacts and costs felt by Short Lines and customers because they are masked by Class I system averages.

3.5 Improving Performance Measures

> *"If it gets worse, what data will you bring to them to prove it's getting worse?"*
> *– Short Line Railroad*

Elevation of Data Collection and Automation

A near consensus finding among participating Short Line railroads is the need to elevate performance monitoring and evaluation of interchange activity with Class I railroads. The lack of performance monitoring and standard metrics contributes to interchange challenges. Participants consistently highlighted the need for better information regarding inbound traffic, train timing, and service disruptions. Standardized visibility tools and common reporting formats were viewed as practical improvements that could significantly enhance planning and operational performance.

Most ISAs and other existing agreements are thin on performance evaluation substance. For example, ISAs do not typically define or require key performance indicators (KPIs). Going forward, participants indicated that both Class I and Short Line railroads should settle on standard KPIs to measure interchange activity. As such, the merged carrier should enter into Interchange Performance Agreements (IPAs) to reflect improved performance measurement approaches. An IPA is a new agreement that seeks to define and maintain interchange performance during and after the UP-NS transaction. The merged carrier and each Short Line would enter into an IPA.

Some ASLRRA members believe that investments in cameras, AEI readers, and other wayside detection technologies will automate and systematize the capture of interchange activities, empirically empowering Short Line railroads. In cases where the carriers are actively monitoring interchange performance and collecting data, participants say that data supported more productive discussions and resolution of

interchange problems. Larger Short Line railroads are already implementing some of these technologies. Smaller Short Lines are following suit, especially with the advent of AI-enabled cameras and other devices that can produce interchange records with near autonomy. For example, a Short Line railroad was having difficulty at a series of interchanges with Class I partners until they placed cameras at each interchange point. The cameras allowed the Short Line railroad to track interchange activity and create a record that enabled constructive discussions with the Class I partners.

Data Fungibility and a Level Playing Field

Without data, Short Line railroads are at a disadvantage when raising performance issues. For example, one participant described a scenario in which a Class I partner provided his railroad with a scorecard on interchange performance. Yet the Short Line railroad is not sure whether the scorecard is accurate because they do not have the same data.

Another participant noted that even if Class I railroads are using Automatic Equipment Identification (AEI) scanners and automation is in place, the railroad will use the systems and data to cast the most favorable light on interchange performance. There is a lot of pressure for Class Is to meet productivity measures under PSR, mentioned one Short Line. Performance results may vary depending on which reader data the railroad selects. For example, participants noted that sometimes cars are listed as interchanged, but the cars are not accessible to the Short Line.

By recording and maintaining their own data, Short Line railroads are 1) capable of identifying recurring issues, both minor and serious, with empirical evidence to back-up performance claims and 2) on equal footing with an interchanging Class I carrier when the railroads convene to evaluate an issue.

Which Measures are Most Important?

Railroads interviewed for this study believe the onus should be placed on the merged carrier for collecting data and reporting on the recommended KPIs presented in Section 3 of this report. While the CPCS team advising ASLRRA on this assignment has developed tailored KPI recommendations, the consultations with members strongly informed the suggested measures.

Traditional KPIs including dwell time and service frequency continue to be important. Other measures identified by participants include crew and power availability or fluidity. However, “some things are difficult to measure,” commented a Short Line railroad. “Bunching, inconsistency, and timing are hard to see in certain numbers. Helpful measures include dwell time and service days.” Another railroad suggested, “The facts have to be defined, including the interchange parameters, then the data collected. That would be a huge step forward by pushing automation and readers to show, for example, an interchange missed five days in a row.” Another railroad finds the concept of the STB measuring customer impacts appealing. Short Lines and their customers are impacted when two large railroads merge, the participant said. They admit that metrics are a double-edged sword because they can commit the Short Line to standards they also cannot sometimes meet.

3.6 Power Imbalance

> *“We don’t like being regulated, but if the customer is truly the end game, how do we better serve them?” – Short Line Railroad*

The elephant in the room is the power imbalance between Class I and Short Line railroads. ASLRRA members are concerned that performance issues often persist because Short Lines have limited ability to hold Class I railroads accountable for unannounced changes to interchange operations, missed commitments, or service deficiencies. Yet Short Lines are reluctant to push disputes too aggressively because maintaining productive day-to-day operating relationships is essential to serving customers. One

railroad commented, “Short Lines do not want to demonize Class Is. They want to work together to improve things.” Study participants say this imbalance manifests in different ways, including fear of retaliation if Short Line railroads elevate problems. This dynamic has a widespread chilling effect of accepting the status quo, even if interchange performance is becoming untenable for customers.

The trigger for most Short Lines to cross ‘the rubicon’ is recurring severe disruption, if unresolvable locally. That is often the only way a Short Line railroad will seek to elevate an issue within Class I leadership hierarchy. To improve leverage for Short Line railroads, participants recommended improved data collection, performance measures, common facts, and an enforceable escalation process that relies first on local resolution.

3.7 Supply Chain Implications

“We spend half our lives influencing Class I’s to get in and out of interchanges.”
– Short Line Railroad

Class I interchange service reliability issues have a disproportionate impact on Short Line railroads, shippers, and receivers as they spend time and resources to navigate the performance issues presented in this report. Delayed and missed interchanges, bunching at Short Line yards or interchange points, unpredictable labor/crew assignments and planning, and unit train delays create additional supply chain costs. Frustration with inconsistent service and economics leads shippers to rethink their transportation contracts and to hedge against freight rail service inconsistency with trucking contracts. In some cases, shippers shift freight entirely to highways.

Historic railroad consolidations have demonstrated that major rail mergers can result in significant service disruptions and operational challenges during the integration period, prompting the STB to conclude that “transitional service disruptions are likely” in future major rail consolidations[4]. This makes the benchmarking, monitoring, and improvement of interchange service imperative if the UP-NS transaction is approved. Most critically, customer service and delivery of the cost-saving and efficiency benefits claimed in the merger application must be delivered.

The recommendations section that follows presents conditions that may help mitigate continued interchange degradation and negative shipper impacts and provide an opportunity for improvement through oversight period. To be most effective, the conditions should be implemented together: IPAs underpin service expectations, improvements to communication/visibility, performance measurement, contingency planning, and escalation; tailored KPIs collected and reported by the merged carrier improve accountability and will prompt interchanging Short Lines to collect their own streams of data to improve negotiating leverage and outcomes; a defined escalation process will incentivize railroad-to-railroad resolution of issues before rising to the STB.



[4] STB final regulations governing proposals for major rail consolidations. July 2001.

4

Proposed Merger Conditions.

The following proposed conditions are designed to improve performance measurement, accountability, and provide remedies for persistent interchange issues through the establishment of Interchange Performance Agreements (IPAs). The merged carrier and each Short Line railroad partner would enter into IPAs to govern interchange performance and associated agreements (ISAs, IAs). The conditions are designed to protect interchange service for Short Lines and enable the rail system to deliver competitive service to shippers.

4.1 Interchange Performance Agreements

A. Within 90 days of STB approval of the merger, the merged carrier will work with its Short Line partners to develop and implement enforceable IPAs with each other to include standards of service and measurements to be used to manage current service and improvement. All IPAs must be completed within 180 days of STB approval. IPAs with interchanging Short Line railroads will include the following elements that define service expectations that will govern the measurement of interchange performance (referred to as the IPA):

1. A set of common definitions for events and service commitments.
    a. Definition of an “interchange event,” including the location and requirements for an interchange to be completed. Interchanged cars are required to be physically at the interchange location and accessible to the receiving carrier, also referred to as cars delivered or received and ready for transport. The IPA must specify how the merged carrier will determine that the interchanged cars are physically at the interchange location. For example, provide the location of sensors if an automatic equipment identification (AEI) reader is used to determine that a rail car is at the interchange or the process used to confirm and notify the receiving railroad that the cars are physically at the interchange.
    b. Train Plan Addendum that includes a minimum of the time zone, interchange location, train ID, Standard Point Location Code (SPLC), frequency, and interchange time.
2. Requirements for changes to service.
    a. Any Short Line-opposed reduction in service set forth in an IPA, as compared to the service levels in effect as of May 28, 2026 (the date the STB accepted the UP and NS revised major merger application), or any subsequent, post-transaction reduction in interchange frequency or in interchange facility functionality or capacity absent mutual agreement during the oversight period would require the merged carrier to notify the STB in writing in advance, justify any such change (while affording the affected Short Line a full and fair opportunity to respond to the request), and receive formal STB approval in writing before such a change may be implemented.

4.2 Collecting and Reporting Interchange Performance

A. The STB shall require the merged carrier to implement a performance metric framework that tracks interchange activity over time and in a consistent manner. Required weekly reporting to the STB shall include the following metrics:

1. A Short Line Interchange Spot and Pull (SLISP) metric designed for interchanges with Short Lines as extensions of the customers. This would measure the rail carrier's success in performing interchange deliveries (in lieu of "spots") and interchange reception (in lieu of "pulls") of cars during planned service windows. Cars delivered or received and ready for transport within 3 hours before or after the interchange time specified in the IPA are considered successfully interchanged.

   Industry Spot and Pull (ISP), as currently defined, measures the percentage of scheduled car interchange deliveries (spots) and interchange receptions (pulls), meaning those requested before the carrier's cut-off time, that are completed within the planned service window. Class I railroads report it weekly to the STB (per 49 CFR 1251.2). The proposed SLISP metric measures the percentage of successfully interchanged (delivered and received) cars from the total cars scheduled for interchange.

2. A new Interchange Service Window Success Rate (ISWSR) metric that measures the percentage of scheduled interchange events completed within 3 hours before or after the interchange time specified in the IPA. The metric is calculated by quantifying scheduled interchange events completed within the agreed service window ÷ total scheduled interchange events × 100, weekly. ISWSR measures the proportion of time that a Short Line receives interchange service on the days and within the windows specified in the IPA. This treats every interchange window equally, regardless of the number of cars interchanged. Conversely, SLISP measures the proportion of cars that are interchanged successfully, which places more weight on the performance of interchanges with high volumes.

3. The proposed timeframe for implementing the interchange metrics is 1) begin the implementation of the interchange metrics within 90 days of STB approval of the merger and fully implement the collection of interchange metrics within 180 days of STB approval. 2) Full reporting of interchange metrics with weekly division-level and system-wide reporting to the STB beginning 180 days from STB approval and will include retroactive calculation and reporting of weekly interchange metrics covering each week from day 90 to 180 following STB approval to establish a performance baseline. 3) Continued reporting from the merged carrier and Short Line partners for the duration of the Board's formal oversight period or no less than 10 years following consummation of the transaction, whichever is longer.

B. The merged carrier will provide monthly reports of the SLISP and ISWSR metrics to each Short Line that it interchanges with. Short Lines interchanging with the merged carrier may request in writing individualized performance records for specific date ranges and interchanges. The written request must identify the corresponding date range and interchange(s), and any performance measure(s) at issue.[5]

1. The request to the merged carrier must identify the performance measure(s) that demonstrate that the merged carrier is providing inadequate service, and the corresponding date range and interchange(s).

2. Within seven days of the written request, the merged carrier shall provide the Short Line with the requested individualized performance records.

[5] The process outlined in section II.B follows a similar method that shippers are afforded under 49 USC 1145.8.

3. For purposes of this section, “individualized performance records” means the records used to calculate the interchange performance metrics described in this section.

C. The merged carrier shall submit interchange performance metrics to the STB every week for each of the merged carrier's operating divisions and for the overall system, beginning 180 days from STB approval.

4.3 Resolving Interchange Performance Issues

A. The STB will require a process to cure interchange performance issues between the merged carrier and interchanging Short Line railroad:

1. A performance issue becomes material when either the merged carrier or the interchanging Short Line carrier can provide proof of potential harm to rail shippers due to a degradation of interchange performance, as shown by the SLISP and ISWSR performance metrics.

2. Before bringing the interchange performance issue to the STB, the merged carrier and the Short Line must first attempt to remedy the material performance issue through a bilateral improvement period. The initiating party must formally notify the other party of the interchange performance issue(s) and timeline, and work in good faith to identify remedies for at least 15 business days. After a minimum of 15 business days has elapsed and a mutually satisfactory plan or resolution has not been reached, the initiating party will notify the STB.

3. Following STB notification, if either the SLISP or ISWSR metric is below a 90% threshold over a rolling 15-day period, the initiating party is entitled to per-car penalties paid by the merged carrier on a go-forward basis. Penalties are assessed for each car that fails the SLISP or ISWSR metric and follow the published demurrage rates of the merged carrier (or UP/NS, as applicable).[6] Penalties continue for no less than 90 days or until both SLISP and ISWSR exceed a 90% threshold for at least 30 consecutive days.

4. If after this period, SLISP and ISWSR have not reached or exceeded a 90% threshold over 30 or more consecutive days, the initiating party may notify the STB in writing of the interchange performance issue and provide evidence of flawed interchange performance, while supplying a copy of the notification and evidence to the counterparty. This notification to the STB initiates binding arbitration, with the STB arbiter providing a determination within 30 days.

4.4 Conclusion

Short Line railroads are the growth engine of the U.S. freight rail network. CPCS’ findings shed light on the Class I interchange challenges facing America’s Short Line railroads, and those challenges have historically been amplified by mergers or acquisitions in the industry. Findings were synthesized from vast on-the-ground experience of participating ASLRRA members. Their first-hand view richly informed the findings and shaped the recommendations.

The conditions proposed in this report will work to prevent service disruptions to Short Lines and their shippers in the event that the UP-NS transaction is approved.

[6] UP and NS submitted ISP metrics that exceeded 90% for the first three months of reporting on Docket No. EP 787 (reporting period for the weeks starting on June 27, 2026 through September 26, 2026).

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CERTIFICATE OF SERVICE

I hereby certify on behalf of the American Short Line and Regional Railroad Association that I have this 18th day of November, 2026, served the foregoing Comments and Request for Conditions upon all parties of record in the FD 36873 docket and in all related sub-dockets.

/s/ *R. A. Wimbish*
Robert A. Wimbish