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October 19, 2026

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Chief, Section of Administration

Office of Proceedings

Surface Transportation Board

395 E Street, S.W.

Washington, D.C. 20423

Re: Docket No. FD 36873 – Union Pacific Corporation, et al.—Control—Norfolk Southern Corporation, et al.

Submission of Statement of Position and Request to Supplement the Record

Dear Chief, Section of Administration, Office of Proceedings:

The undersigned respectfully submits the attached document titled *Neutral Conrail Governance Proposal* in the above-captioned proceeding. The purpose of this submission is to provide the Board with an approach that will help unlock trapped value within existing underutilized assets by supporting competitive access, terminal fluidity, and redevelopment-driven freight growth in complex multi-carrier environments.

The concepts described reflect governance and operational principles intended to promote nondiscriminatory local service, support port and industrial development, and align distribution-level functions with the long-haul economic incentives of Class I carriers. This framework is offered to assist the Board in evaluating potential effects of the proposed common control of Union Pacific Railroad Company and Norfolk Southern Railway Company on shared-asset territories, and to provide context should the Board determine that additional safeguards or governance refinements are warranted.

Please advise if any additional information would be of assistance.

Respectfully submitted,

/s/ Richard A. Cornell, P.E.

Livingston, New Jersey

BEFORE THE SURFACE TRANSPORTATION BOARD

Docket No. FD 36873

Union Pacific Corporation, et al.—Control—Norfolk Southern Corporation, et al.

Neutral Conrail Governance Proposal

STATEMENT OF POSITION AND REQUEST TO SUPPLEMENT THE RECORD

Submitted by:

Richard A. Cornell, P.E.

Livingston, New Jersey

I. Introduction

The undersigned respectfully submits this Statement of Position and Request to Supplement the Record in the above-captioned proceeding. This submission synthesizes practices observed across terminal governance, shared-asset operations, and distribution-level utility models. The purpose is to present a framework—referred to herein as Neutral Conrail—that reflects principles intended to preserve competitive access, maintain terminal fluidity, and support local service in multi-carrier environments. These practices may assist the Board in evaluating governance considerations should common control of Union Pacific Railroad Company (“UP”) and Norfolk Southern Railway Company (“NS”) be approved.

Neutral Conrail is grounded in a distinction familiar to the natural gas industry: the separation of transmission and distribution functions. In the natural gas sector, interstate transmission pipelines move large volumes over long distances, while local distribution companies provide last-mile service, industrial connections, and customer access within defined territories. Transmission companies do not perform local service, and distribution companies do not perform interstate service; each performs a distinct and complementary role. Both functions are economically viable and well understood by investors.

A parallel structure exists in freight railroading. Class I railroads such as UP and NS operate long-haul transmission-equivalent networks, moving traffic hundreds of miles across states and regions in relatively large blocks of cars. Conrail Shared Assets (“CRSA”), by contrast, performs distribution-equivalent functions: local switching, terminal operations, industrial lead service, and neutral interchange within dense shared-asset territories. CRSA does not compete in long-haul markets; it provides nondiscriminatory local access that enables NS and CSX to reach customers, ports, and short lines.

This analogy is instructive for the Board’s analysis. Just as the natural gas industry relies on neutral distribution utilities to preserve access and allow new connections shared-asset territories rely on neutral terminal operators to maintain competitive routing and ensure that local service is not influenced by upstream commercial interests. Neutral Conrail formalizes this principle by strengthening governance independence, operational neutrality, and transparency within CRSA territories while leaving ownership structures unchanged.

By enabling short lines, ports, and redevelopment districts to originate new freight, Neutral Conrail increases the volume entering the Class I long-haul networks. This enhances network utilization and long-haul revenue without requiring new capital investment by the parent carriers and aligns the shared-asset territory with the economic and operational incentives of the merged system.

This submission is provided to assist the Board by articulating established practices relevant to terminal neutrality and distribution-level operations. It is drafted in a manner that allows short line railroads, shipper organizations, port authorities, and elected officials to support the principles described herein without requiring those parties to take a position on the underlying merger application or on any other aspect of the proceedings. The intent is to provide the Board with a technically rigorous, commercially neutral, and economically grounded description of a governance structure that may be adopted, in whole or in part, as a condition of approval should the Board determine that additional safeguards are warranted, or evaluated independently in any future proceeding where terminal neutrality or shared-asset governance is at issue.

This submission offers a perspective not previously presented in this docket or in prior Shared Assets proceedings. While past filings have focused on operational, transactional, or service-assurance matters, this proposal addresses the structural alignment between terminal governance, network incentives, and land-use patterns. The Neutral Conrail framework is intended to assist the Board by providing a systems-level analysis of how shared-asset territories can support redevelopment-driven freight growth, short-haul innovation, and nondiscriminatory access without requiring divestiture or changes to ownership interests.

II. Background and Purpose

The North Jersey Shared Assets Area (“NJSA”) contains some of the most strategically important freight infrastructure in the United States, including the National Docks Secondary, the Greenville Yard float bridge, and the port-adjacent industrial leads serving Port Newark and Elizabeth and the surrounding counties. These assets were designed and upgraded to support high-capacity freight

movements, including intermodal traffic, barge-rail transfers, and short-haul industrial service. Despite this, multiple lines and facilities within the Shared Assets territory remain significantly underutilized.

The central purpose of this filing is to explain how oligopolistic behavior among Class I carriers has contributed to this underutilization. In concentrated network industries such as freight rail, carriers often prioritize long-haul revenue, network simplification, and terminal protection over the development of short-haul or utility-style services. This is a predictable outcome of network economics in which a small number of carriers control access to key terminals, interchange points, and shared-asset gateways.

This dynamic is reinforced by the industry's longstanding focus on Operating Ratio (OR) as the primary measure of financial performance. OR rewards carriers for reducing costs relative to revenue, and it disproportionately favors:

- long-haul movements over short-haul service,
- unit trains over loose-car manifests,
- simplified networks over complex interchange patterns,
- and terminal prioritization that maximizes velocity for high-revenue lanes.

Loose-car shipments — which require classification, yard handling, local service, and switching — raise measured costs without producing proportionate revenue under OR accounting. As a result, Class I carriers have strong financial incentives to shed**,** discourage**,** or de-prioritize loose-car traffic, even when such traffic is profitable on an average or marginal cost basis and valuable to shippers, short lines and the community.

In the CRSA, this OR-driven behavior has produced several consequences. First, Class I carriers have not developed or supported short-haul intermodal services within the port district, even where physical capacity exists. Second, interchange windows, yard sequencing, and terminal priorities have evolved in ways that favor long-haul traffic over local or port-adjacent movements. Third, the absence of neutral governance has limited the ability of short line railroads to offer innovative services that would benefit shippers, ports, and the public.

One impact of this dynamic is the effective foreclosure of overweight ISO ocean-container movements within the port district, even though such containers represent a clear public-interest opportunity, as rail is not subject to truck axle-weight limits. Existing infrastructure including the National Docks Secondary and Greenville float bridge is fully capable of accommodating overweight single-stack intermodal cars, enabling short lines to offer services that reduce truck traffic, improve port fluidity, and expand competitive options for shippers.

However, under current governance, short lines are unable to obtain the necessary terminal windows, interchange paths, or yard sequencing to operate these moves even though physical connections exist. OR-driven incentives systematically disfavor short-haul, switching-intensive movements that would increase measured operating costs. This is a textbook example of how oligopolistic commercial incentives, reinforced by OR-based performance metrics, can suppress innovation and foreclose the

utilization of shared-asset infrastructure preventing value from being released from underutilized assets.

Neutral Conrail is intended to address this problem. By strengthening governance independence and ensuring nondiscriminatory access to terminal capacity, Neutral Conrail would allow short lines to develop overweight ISO container services using the National Docks Secondary and the Greenville float bridge, along with other last-mile services. Because overweight ISO containers can carry an additional 10,000 to 20,000 pounds of cargo—nearly a full truckload—rail movement of these units effectively restores much of the capacity normally achieved through double-stacking, but within Plate C and Plate F clearance restrictions where double-stack operations are not possible. Enabling these moves would unlock latent capacity, reduce truck congestion, and provide shippers with new routing options, all without requiring structural divestiture or changes to ownership interests.

III. Engineering and Planning Rationale: Aligning Land Use, Terminal Governance, and Rail System Function

The engineering and planning rationale for Neutral Conrail draws on a systems-level distinction developed in prior analytical work examining the rail–auto divide in American land-use patterns. Modern zoning codes have long prioritized automobile access over rail-oriented industrial development, producing land-use patterns that isolate housing from employment centers and disconnect freight customers from rail infrastructure. This misalignment has created significant “trapped value” in underutilized rail corridors, particularly in dense metropolitan regions where rail-served industrial districts have been displaced or fragmented by auto-centric zoning. As a result, rail infrastructure designed for high-capacity freight movements cannot fully function because the surrounding land uses no longer support rail-oriented economic activity or the housing patterns that sustain well-paying jobs in manufacturing and distribution. Transit-oriented redevelopment can reverse these dynamics by reducing the combined cost of housing and transportation and enabling more affordable, connected community life. Many of these corridors are physically capable of supporting integrated freight and transit-level passenger service, but the land-use and governance misalignments described above prevent such multimodal functionality from emerging.

Within the North Jersey Shared Assets Area (“NJSA”), this land-use misalignment interacts directly with governance misalignment. Shared-asset territories are distribution-level systems intended to provide neutral terminal access, industrial lead service, and last-mile freight connectivity. However, their operations are influenced by transmission-level incentives of the Class I parents, whose commercial priorities emphasize long-haul revenue, OR reduction, and network simplification. The combined effect of auto-centric zoning and transmission-driven terminal governance is that rail-oriented freight opportunities—such as short-haul industrial service, port-adjacent movements, overweight ISO container operations, and redevelopment of rail-served districts—cannot materialize even where physical infrastructure exists.

Neutral Conrail is necessary to correct this dual misalignment. By strengthening governance independence within shared-asset territories, Neutral Conrail ensures that distribution-level operations are managed according to engineering and planning requirements rather than long-haul commercial incentives. This alignment allows rail-oriented freight uses to reemerge in districts where zoning reform or redevelopment efforts seek to reconnect housing, employment, and industrial activity to existing rail corridors. It also enables short lines to develop services—such as overweight ISO container movements within the port district—that unlock latent capacity and support land-use patterns that reduce auto dependence.

In this manner, Neutral Conrail provides the governance structure required for rail infrastructure to function as intended within evolving urban land-use environments. It restores the operational neutrality necessary for shared-asset territories to support both freight innovation and rail-adjacent redevelopment, including corridors capable of integrated freight and transit-level passenger service, thereby unlocking value in underutilized corridors and advancing the public interest without requiring structural divestiture or modification of ownership interests.

IV. Definition of Neutral Conrail

For purposes of this filing, *Neutral Conrail* is defined as a governance and operational framework under which Conrail Shared Assets (“CRSA”) continues to provide terminal, switching, and local freight service on a nondiscriminatory basis, independent of any influence arising from common control of UP, NS, or CSX. Neutral Conrail is not a structural divestiture and does not require modification of ownership interests. Instead, it consists of specific operational and governance safeguards designed to ensure that CRSA is a neutral provider of terminal services and last-mile freight connectivity.

Neutral Conrail comprises the following elements:

A. Neutral Terminal Operations

CRSA shall conduct dispatching, yard operations, terminal switching, and industrial lead service without preference to any carrier willing to cover the marginal cost of a connection and its operation. Decisions affecting terminal access, service windows, and interchange timing shall be made solely by CRSA management and not by UP, NS, or CSX. Neutral terminal operations ensure that distribution-level functions are governed by engineering and service requirements rather than transmission-level commercial incentives.

B. Equal Access Rights

All carriers currently entitled to access CRSA facilities—including NS, CSX, and short line railroads—shall retain nondiscriminatory access. Short line carriers shall receive equal treatment with respect to interchange scheduling, car handling, and industrial service. Access decisions shall be based solely on operational feasibility and the ability of the requesting carrier or shipper to cover marginal capital and operating costs.

C. Preservation of Competitive Routing

Neutral Conrail shall maintain access and routing options available to shippers and allow movements that are currently foreclosed but technically and economically feasible. Traffic originating on short lines or at CRSA-served industries shall be handled without discrimination based on the destination carrier. New shipper connections shall be permitted where the shipper or connecting carrier can cover marginal capital and operating costs, including a competitive return to investors. Capacity shall be provided until marginal cost—including cost of capital—equals marginal revenue, ensuring economically efficient expansion of service.

D. Independent Governance

CRSA shall operate under a governance structure that ensures independence from UP, NS, and CSX with respect to terminal access, service decisions, and operational priorities. A neutral management board—with advisory participation from short lines, ports, shipper organizations, and county and state planners—shall oversee compliance with neutrality obligations and ensure that distribution-level functions are managed according to engineering, planning, and service requirements.

E. Transparency and Oversight

Neutral Conrail shall provide periodic reports to the Board regarding terminal fluidity, interchange performance, access-related complaints, and service metrics relevant to competitive conditions. CRSA shall also provide licensed engineers and planners with network diagrams, clearance information, and operating plans necessary to evaluate the marginal cost and feasibility of new business opportunities, including movements constrained by Plate C and Plate F clearances. CRSA shall maintain a neutrally approved list of contractors for industrial track connections, clearance improvements, and last-mile infrastructure upgrades. This transparency enables the Board and interested parties to monitor compliance and identify opportunities for freight innovation and corridor redevelopment.

V. Implementation of Neutral Conrail

Implementation of Neutral Conrail consists of applying the governance principles described in Section IV to the operational, engineering, and planning functions of the Shared Assets Area. This implementation is conceptual rather than prescriptive and is intended to provide the Board with a clear understanding of how neutrality safeguards would function in practice without altering ownership interests or imposing structural divestiture.

Neutral Conrail would be implemented through the following mechanisms:

A. Governance Application

CRSA management would apply neutrality obligations to terminal access, service windows, interchange timing, and industrial lead operations. Decisions would be made according to engineering feasibility, marginal-cost evaluation, and nondiscriminatory access principles rather than transmission-level commercial incentives of the parent carriers.

B. Engineering and Corridor Assessment

CRSA would maintain and provide the engineering information necessary to evaluate new service proposals, including clearance data, network diagrams, and operating envelopes for movements constrained by Plate C and Plate F restrictions. This enables short lines, ports, engineers and planners to identify feasible freight and multimodal opportunities—including corridors capable of supporting integrated freight and transit-level passenger service.

C. Marginal-Cost Evaluation

New shipper connections or service proposals would be evaluated using a transparent marginal-cost framework. Carriers or shippers proposing new connections would cover marginal capital and operating costs, including a competitive return to investors. Capacity would be expanded until marginal cost equals marginal revenue, ensuring economically efficient development of new services.

D. Neutral Contractor Access

CRSA would maintain a neutrally approved list of contractors for industrial track connections, clearance improvements, and last-mile infrastructure upgrades. This ensures that engineering work supporting new business opportunities is not influenced by carrier preference or commercial incentives.

E. Transparency and Reporting

CRSA would provide periodic reports to the Board and interested parties regarding terminal fluidity, interchange performance, access-related complaints, and the status of new service proposals. This transparency enables oversight and ensures that neutrality obligations are being implemented consistently.

This conceptual implementation framework ensures that Neutral Conrail functions as a practical, enforceable governance mechanism while preserving carrier autonomy and avoiding prescriptive operational mandates.

VI. Relevance to the Present Proceeding

Under 49 U.S.C. § 11324(b), the Board must consider the effect of a proposed consolidation on competition, the adequacy of transportation to the public, and the public interest. Under the current governance structure, terminal access within the North Jersey Shared Assets Area functions in practice as preferential to NS and CSX, with short lines and other carriers unable to obtain equivalent access, service windows, or interchange opportunities. This operational asymmetry reflects governance incentives rather than physical constraints and prevents the shared-asset territory from functioning as a neutral terminal environment.

The Neutral Conrail proposal directly addresses these statutory factors by ensuring that terminal access remains nondiscriminatory, that shippers retain multiple routing options, and that short line railroads continue to receive reliable interchange service while new service options can be added.

Neutral Conrail does not require the Board to reject or approve the underlying merger application. Rather, it provides a governance mechanism that may be adopted as a condition of approval should the Board determine that additional safeguards are necessary to protect competition and the public interest.

VII. Request for Board Consideration of Additional Input

The undersigned respectfully submits that the issues described herein may be of interest to short line railroads, shipper organizations, port authorities, and state or local governments that rely on the neutrality of shared-asset territories. The Board may determine, in its discretion, that seeking additional views from interested parties would assist in its evaluation of competitive-access conditions in this proceeding.

Nothing in this filing is intended to request or require that any carrier, short line railroad, shipper, port authority, or public official take a position on the underlying transaction or on the matters described herein. The undersigned does not solicit comment from any party and does not seek to place any entity in a position requiring public endorsement or opposition. The request is directed solely to the Board, which retains full discretion to determine whether additional comments would be beneficial.

VII. Conclusion

Neutral Conrail provides a governance structure that unlocks trapped value in underutilized rail corridors by preserving competitive access and ensuring fluid terminal operations. This framework enables freight activity to return to corridors where infrastructure exists but is not fully utilized, supporting redevelopment, industrial reinvestment, and lower regional logistics costs

The undersigned respectfully submits this proposal for the Board’s consideration.

Respectfully submitted,

/s/ Richard A. Cornell, P.E.

Licensed Professional Engineer (NJ License No. 24GE03117400)

Engineer and Economist

Livingston, New Jersey

October 9, 2026

Certificate of Service

I hereby certify that on this 19th day of October, 2026, I served a copy of the foregoing Statement of Position on all Parties of Record in Docket No. FD 36873.

Service was made by electronic mail to all Parties of Record for whom an email address is listed on the official service list maintained by the Surface Transportation Board. Parties of Record for whom no email address is listed were served by First-Class Mail, postage prepaid.

Respectfully submitted,

/s/ Richard A. Cornell, P.E.
Licensed Professional Engineer (NJ License No. 24GE03117400)
Livingston, New Jersey
October 19, 2026